

MEDICO - LEGAL COMPLEXITIES

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- 1. Surrogacy
- 2. Virginity test
- 3. LGBT health issues
(Lesbians)



SURROGACY

- Surrogacy-an arrangement in which a woman carries and delivers a child for another couple or person
- **Surrogacy** or **Surrogate** means substitute. In medical parlance, the term surrogacy means using of a substitute mother in the place of the natural mother.

Kinds

- Traditional Surrogacy
- Gestational surrogacy



TRADITIONAL SURROGACY (ALSO KNOWN AS THE *STRAIGHT* METHOD)

- the surrogate is pregnant with her own biological child, but this child was conceived with the intention of relinquishing the child to be raised by others such as the biological father and possibly his spouse or partner.
- The child may be conceived via sexual intercourse (NI), home artificial insemination using fresh or frozen sperm or impregnated via IUI (intrauterine insemination), or ICI (intracervical insemination) which is performed at a fertility clinic. Sperm from the male partner of the 'commissioning couple' may be used, or alternatively, sperm from a sperm donor can be used. Donor sperm will, for example, be used if the 'commissioning couple' are both female or where the child is commissioned by a single woman.



GESTATIONAL SURROGACY

- With gestational surrogacy, the surrogate's eggs are not used at all. Therefore, the child will not be related to the surrogate biologically. Using the gestational type of surrogacy, the embryo is actually created by using both the biological father's sperm and the biological mother's egg through a process called in vitro fertilization.
- It is not until after the biological mother's egg is fertilized that the embryo is transferred to the uterus of the surrogate using the process of in vitro fertilization. In most cases, it will take between three and five days for the embryos to develop in the laboratory prior to transferring them to the surrogate. Then, once the embryo has successfully been placed into the surrogate's uterus, the surrogate will carry the embryo through the pregnancy term until its birth.



- **The Assisted Reproductive Technologies (Regulation) Bill, 2016:**
- The major objectives of the Bill are to regulate surrogacy services in the country, to provide altruistic ethical surrogacy to the needy infertile Indian couples, to prohibit commercial surrogacy including sale and purchase of human embryo and gametes, to prevent commercialization of surrogacy, to prohibit potential exploitation of surrogate mothers and protect the rights of children born through surrogacy.



- ❑ should be legally married for at least five years and should be To allow altruistic ethical surrogacy to intending infertile couple between the age of 23-50 years and 26-55 years for female and male respectively.
- ❑ The Intending couples Indian citizens.
- ❑ The intending couples have not had any surviving child biologically or through adoption or through surrogacy earlier except when they have a child and who is mentally or physically challenged or suffer from life threatening disorder with no permanent cure.



- ❑ The intending couples shall not abandon the child, born out of a surrogacy procedure under any condition.
- ❑ The child born through surrogacy will have the same rights as are available for the Biological child.
- ❑ The surrogate mother should be a close relative of the intending couple and should be between the age of 25-35 years. She can act as surrogate mother only once.
- ❑ The surrogate mother will carry a child which is genetically related to the Intending Couple.



- ❑ An order concerning the parentage and custody of the child to be born through surrogacy, is to be passed by a court of the Magistrate of the first class.
- ❑ An insurance coverage of reasonable and adequate amount shall be ensured in favour of the surrogate mother.
- ❑ National Surrogacy Board shall exercise the powers and shall perform functions conferred on the Board under this Act.



- ❑ The Board shall consist of the Minister in-charge of the Ministry of Health and Family Welfare, as the Chairperson, Secretary to the Government of India in-charge of the Department dealing with the surrogacy matter, as Vice-Chairperson and three women Members of Parliament, of whom two shall be elected by the House of the People and one by the Council of State as Members.
- ❑ The national Surrogacy board and State Surrogacy board shall be the Policy making bodies and Appropriate Authority will be the Implementation body for the Act.



- ❑ The appropriate authority shall comprise of an officer of or above the rank of the Joint Director of Health and Family Welfare Department, as Chairperson, an eminent woman representing women's organization, as member, an officer of Law Department of the State or the Union territory concerned not below the rank of a Deputy secretary, as member and an eminent registered medical practitioner, as a member.
- ❑ The surrogacy clinics shall have to maintain all records for a period of 25 years.



- ❑ The surrogacy clinics shall be registered under this Act after the Appropriate Authority is satisfied that such clinics are in a position to provide facilities and can maintain equipment and standards including specialized manpower, physical infrastructure and diagnostic facilities as may be prescribed in the rules and regulations.
- ❑ Transitional provision-Subject to the provisions of this Act, there shall be provided a gestation period of ten months from the date of coming into force of this act to protect the wellbeing of already existing surrogate mothers.



- No person, organization, surrogacy clinic, laboratory or clinical establishment of any kind shall undertake commercial surrogacy, abandon the child, exploit the surrogate mother, sell human embryo or import for the purpose of surrogacy,

Violation to the said provision shall be an offence punishable with imprisonment for a term which shall not be less than ten years and with fine which may extend to ten lakh rupees.



VIRGINITY TEST

- A virginity test is the practice and process of determining whether a person, usually a girl or woman, is a virgin; i.e., whether she has never engaged in sexual intercourse. The test typically involves a check for the presence of an intact hymen, on the assumption that it can only be torn as a result of sexual intercourse



4 TYPES OF TRAUMATISING ‘VIRGINITY TESTS ON WOMEN’ STILL PREVALENT IN MANY PARTS OF INDIA:

- **1. Pani-ki-Dheej (purity by water)**
- To ensure a woman is virgin, certain communities make woman hold her breath under water while someone walks a hundred steps. The International Rehabilitation Centre for Torture victims describes it as a “gross violation of women’s rights and one that may amount to ill-treatment and torture under international law.”



- **Agnipariksha (trial by fire)**
- In agnipariksha, the bride has to carry a red-hot iron in her hand. Woman who are unable to do the task or leave it in mid-way are considered impure. The woman who fail virginity test are forced to disclose the name of their partners. In some cases, female doctors are asked conduct the test.



- **3. Kukri ki rasam (stained bed-sheet)**
- To make sure, the woman is virgin, on the first night of the marriage a white thread is placed on the bed, when the couple consummate their marriage. The following morning, elders of the family locate traces of blood on it. While in some communities, members of their community wait outside the room in which the couple have sex. They are expected to show a blood-stained bedsheet which will prove that the girl was a virgin.



○ 4. **Two-finger test**

- Another commonly known virginity test is the two-finger test. This was earlier generally used to check rape victims. The Supreme Court of India has held the test on a rape victim in the past. Human Rights Watch criticised the test as ‘degrading and unscientific’. In two-finger test, often older women search for a hymen using their fingers. However, it is unscientific as there is no accurate way to check the laxity of vaginal muscles if a girl is habituate to intercourse.



- **Does a Woman Need to Prove That she is Pure and Pious?**
- Well, is there a need to justify a loss of virginity to appear pure and pious? Do you think she is acting sane when instead she should be suing the man and the community caste Panchayat for cheating and defaming her? How on earth she can be happy with such a guy who abandoned her by labeling her as “used” in front of everybody, insulting not just her but also her family?



Man divorces wife for failing ‘virginity test’, women’s panel seeks probe

- Placing a high value on virginity in women, members of the caste panchayat wait outside after the wedding, while the couple has intercourse on a plain white cloth. This is supposedly a ‘test’ to prove that the woman is a virgin



- Female Genital Mutilation
Bohra communities and tribal
communities
- Vaginal Circumcision



LGBT

L.G.B.T. stands for :

- - lesbian
- - gay
- - bisexual
- - transgender



Supreme Court reversed the July 2009 ruling of the Delhi High Court **decriminalizing gay sex between consenting adults** in private

Section 377 of the Indian Penal Code (IPC), of the Indian constitution is a descendant of an archaic law from the colonial British rule,

which **described homosexual acts as “unnatural”**. It was incorporated into the IPC in 1860.

The section reads: “377. Unnatural offences — Whoever voluntarily has carnal intercourse against the order of nature with any man, woman or animal, shall be punished with imprisonment for life, or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.”



- **Lesbian prone diseases**

- Chlamydia

- One of the most common sexually transmitted illnesses is chlamydia, and lesbian women can contract it just like heterosexual women can.

This STD is caused by bacteria, and is spread through oral, vaginal or anal sex.

- Bacterial Vaginosis (or BV)

- Bacterial vaginosis is more common among lesbians than other women, and doctors are still unsure why. Typically, BV infects both women of couples.



- HPV (Human Papillomavirus)
- HPV is a disease with no cure, and it can lead to genital herpes. While there is no treatment for this illness, a healthy immune system can fight off an HPV infection
- Genital Herpes
- Lesbians are just as much at risk for genital herpes as heterosexual women. Herpes can be caused by HSV-1 or HSV-2, but most cases are caused by HSV-2. HSV-1 can also cause genital herpes, but it's more common to develop sores on the mouth and lips.



- Trichomoniasis
- Also known as “Trich,” this disease is actually caused by a parasite that is spread during sexual contact. It can also be contracted through simple contact with moist objects, like towels and wet clothes.

Others

- Hepatitis
- Gonorrhea
- HIV/AIDS



**THANK YOU
FOR YOUR PATIENCE
LISTENING**

