

To analyze and compare two countries with different views and laws on surrogacy

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Abstract. With the continuous innovation of human science and technology, the term surrogacy has become a new concept and trend. But there are still concerns, and even discussions among countries about raising surrogacy to the legal level. This paper Based on online survey and research data, two countries (China and the United States) with different views on surrogacy were analyzed and a solution was set up. The study found that the United States is a friendly country for surrogacy, while China strictly prohibits surrogacy. These differences are due to the different cultural environments and legal systems between the countries. There are different solutions for them; The preferred option in China is to strengthen penalties on surrogacy, popularize the dangers of surrogacy, and provide subsidies to couples who cannot have children. It is difficult to ban surrogacy under the national conditions of the United States, otherwise it is likely to produce an underground industrial chain that will affect the life safety of babies and surrogate mothers.

Keywords: Surrogacy, nation, compare

1. Introduction

Recently, it was revealed that Chinese actress Zheng Shuang had a surrogate baby in the United States and planned to give it up. The incident has sparked controversy over the phenomenon and the topic of surrogacy has been trending again. Surrogacy is defined as the use of modern technology to implant a fertilized egg into the womb of a fertile woman to carry out a pregnancy for the client (Tetsuya, 2018). Due to the continuous progress of science and technology, surrogacy technology will gradually mature, which can solve the fertility problems of infertility groups from the medical aspect. It is undeniable that the emergence of this technology also brings some spiritual comfort to them.

In fact, surrogacy can be divided into two types [1], one is to pay a corresponding fee to provide surrogacy, and the other is to help others for free. However, most fertile women do not want to carry a baby for free, and pregnancy is a pain unless it comes with a huge amount of money. Over the past three decades, surrogacy has spread to all parts of the world, and the number of surrogate babies is increasing. In the face of this huge potential demand, the surrogacy industry chain is also born, and the emergence of surrogacy companies makes surrogacy more and more commercialized. This industry chain consists of huge demand side (consignor), surrogacy companies and surrogate mothers. The growing demand for surrogacy stems from desire and money. When the surrogacy industry gradually expands, some women with fertility ability and good family background will choose surrogacy, on the one hand, they do not have to bear the pain and pressure of carrying a child, on the other hand, there is no risk that the boss will quit their job because of pregnancy. But why is surrogacy considered unethical by some? Countries have different laws regarding surrogacy [2]. Surrogacy is illegal in China and punishable by between three years and 10 years in prison and a fine. Surrogacy is not legal throughout the United States, only some states allow legal commercial surrogacy, so now most of the surrogacy companies are concentrated in California, because surrogacy is legal here, and from the past decade, the company's customers have rapidly increased from China, there is a good market in California.

In this essay, I want to discuss the hot topic of surrogacy, discuss the attitudes of China and the United States towards different surrogacy laws, and make a set of solutions.

2. Main body

2.1. Analysis of the situation

There are countries in the world that recognize surrogacy and countries that prohibit it. In China, surrogacy in any form is explicitly prohibited [2], while surrogacy is recognized by some states in the United States. Regardless of the legal system in the two countries, the idea of surrogacy is not different because of the different laws, and the debate between two groups of people with different views often leads to the attention of each country on the international surrogacy market.

the United States is a country of surrogacy, and surrogacy is very mature, it can be used for all types of prospective parents. This is despite the fact that only some states allow surrogacy and it can be very expensive. In the 1970s, more than 35,000 babies were born through surrogacy in the United States [3]. Surrogacy industry from that time to now, has been a very large-scale. The United States is still the world's most popular country for surrogacy. Due to the rapid development of the surrogacy industry and the improvement of laws and policies, more and more couples from other countries are flocking to the United States to seek surrogacy. At the same time, the price of surrogacy has a lot to do with national conditions. Before the pandemic, surrogates were typically paid about \$35,000, often at the discretion of the surrogate and the agency, but this year, they raised the offer to \$50,000 [4]. In addition, the rapid development of surrogacy is also closely related to national conditions. For example, homosexuality is legal in the United States, and as gay people, they are eager to have a child. Besides adopting a child, surrogacy is also a good choice for this group.

In countries where surrogacy is not legal, such as China. China, the world's most populous country, has a huge underground surrogacy market. Similar to the United States, couples who are unable to have children for various reasons have to turn to the surrogacy market to have a baby. In addition, due to the national conditions, in the 1970s, in order to control the population growth rate, the government made the one-child policy, that is, a couple can only have one child, this policy was cancelled in 2016, but living in the one-child policy period, couples also faced hesitancy and struggle [5]. They also want to have more children after the policy is lifted, but because they are too old to have children naturally, more and more couples are resorting to surrogacy.

2.2. Analysis of American advantages and disadvantages

(1) The surrogacy industry chain is complete and closely supervised

In the United States, the way they handle is open to allow a surrogate, surrogate motherhood is a legal business practices, and within the allowed states, a surrogate all process in legal permission range, it can be more standardized management chain, better protection and rights of participation in a surrogate, benefit society, and has a professional team responsible for the management of all processes and complete the contract, Also accompanied by lawyers to protect, in addition to surrogacy technology is advanced. There is no denying that the legalization of surrogacy certainly has its advantages, especially the risk reduction under the protection of the law.

(2) The legalization of surrogacy equalizes the interests of all parties

the benefits are interchangeable under commercial surrogacy, and surrogacy is currently the most effective option for parents who are unable to have children naturally. Surrogate mothers can also get a good pay since enrich your own real life, due to the policies of the United States do not allow for women to grant as a surrogate mother, under the rule of law, a surrogate mother must come from the healthy and harmonious family, and there is no financial crisis, so most of the surrogate mother is help a family will also get happiness. Meanwhile, women who use surrogacy will not be discriminated against in the workplace. In the United States, pregnant women have been unceremoniously fired, and women have fought legal battles for years over such cases. There is no labor law in the United States that requires companies to arrange easy jobs for pregnant women, so some pregnant women have to quit their jobs voluntarily for the sake of health, and finding a surrogate can just avoid such incidents. Surrogacy seems to be a win-win.

(3) It cause a series of safety problems for surrogate women

However, surrogacy in the United States still causes a series of social problems, legal does not mean that there is no controversy. A 2017 Fertility and Sterility study of 124 pregnant mothers showed that surrogates were more likely to develop gestational diabetes, high blood pressure and complications of placenta previa than mothers who conceived naturally [6].

(4) Increase the risk of commercialization of surrogate women

In addition, the Indian Journal of Public Health published that surrogate mothers need to use a lot of drugs and hormones to maintain the pregnancy, which can lead to a higher risk of miscarriage and premature birth, which can affect their health to a certain extent. In addition to health factors, many people believe that the legalization of surrogacy objectifies women, treating women's uterus as production tools and their lives as commodities, and even discarding them at will. Therefore, the surrogacy market will bring harm to vulnerable women.

Surrogacy is a very cost-effective thing for the rich. Surrogacy always benefits the rich. Many celebrities in the United States choose surrogacy, which not only does not have to bear the pain of 10 months of pregnancy, but also can not delay the development of their career [7]. However, the rights of the lowest class of surrogates are not protected. Putting a price on a woman's uterus could harm women as a whole, possibly pushing back the status of all women. While surrogates get paid to fill their lives, most of the benefits of surrogacy go to agencies, leaving surrogates with little in return.

2.3. Analysis of China's advantages and disadvantages

(1) Social and ethical constraints

Since any surrogacy process in China is illegal, there are only two possibilities for surrogacy in China: one is to go to a foreign country where surrogacy is legal, the other is to go to a local "underground hospital" without a business license, for example, going to the United States is the first choice for some Chinese citizens who want to be a surrogate. They have a well-developed system, including visa application, doctor appointment, airport pick-up and accommodation to see doctors. If a Chinese citizen goes overseas for surrogacy, he or she will not be held legally responsible and the government has no right to regulate it. As a result, Chinese surrogacy in the United States accounts for the vast majority. Chinese who want to find a surrogate can still find a surrogate in non-illegal ways, but if exposed, they will be condemned by the society. So why Chinese law considers surrogacy illegal may be primarily due to ethical and social concerns. If agree to surrogacy, the woman's uterus, the baby is a commodity.

(2) Increase the risk of commercialization of surrogate women

Without open surrogacy women will not be commoditized. Beyond that, Surrogacy a form of exploitation of poor women. Study reports that in 2021, the per capita disposable income of Chinese residents was 35,128 yuan [8]. Under the conditions of developing countries to open a surrogate, accept a surrogate for remuneration in order to enhance their quality of life of poor women probability will be very big, but most of the earnings or into the surrogate surrogacy agencies and industry, Women are likely to be harmed by this, and banning surrogacy can avoid many of these black chains. In China, it is difficult for women from ordinary income families to become surrogate mothers. In the eyes of poor women and their families, surrogacy is a huge fortune. Even if a poor woman does not want to, she may be forced to be a surrogate mother under the pressure of her family, and she have no right to choose [9].

(3) Increase the risk of human trafficking

As we all know, China is a populous country, and opening up surrogacy may lead to social unrest. In order to make more money, some places may abduct women to steal eggs or use the trafficked women as surrogate mothers. This will add another factor for women to be trafficked, and women in the society are likely to feel unsafe.

In addition, in fact, advertisements for selling ovum are sometimes seen in the streets and toilets of some universities or other public places in China. The remuneration above is so attractive that some women, especially college students, can hardly resist the temptation of money. However, these advertisements come from underground surrogacy agencies and are not formal. However, some

college students may be potentially affected by these advertisements, which obscure the harm and risk of ovum retrieval and think it is an easy and convenient way to make money. Therefore, the harm of popularizing ovum retrieval is also very important [10].

Therefore, because surrogacy may raise a series of legal, reproductive, moral and other issues, China has chosen to oppose all forms of surrogacy.

3. Conclusion

The attitude towards surrogacy in different countries should depend on the national conditions of each country.

Because surrogacy has been legal in the United States for a long time, banning it would be difficult and likely do more harm than good. After surrogacy is banned by law, there may be underground industry chains and surrogacy agencies established illegally, which will make the babies and surrogate mothers born from underground illegal surrogacy agencies lose the protection of national or state laws, and their safety is not guaranteed in addition. In Nevada, for example, the agreement states that after a surrogate becomes pregnant, the parents using the surrogate cannot change their plans and are obligated to support the child with or without illness. If the surrogacy parents have the idea of abandonment, they will be convicted of abandonment. The government should establish such a law for every state where surrogacy is legal and where it may be in the future to punish abandoned persons. This creates a deterrent effect, making couples think long and hard about the risks before going to a surrogacy agency, thus reducing the likelihood of abandonment. In some countries where surrogacy is not legal, such as China, the best solution is to strengthen the punishment of surrogacy, involving the surrogate mother, the agency and the parents.

The second is to strengthen education and publicity, popular knowledge of the risks of surrogacy and the physical harm to the surrogate mother. Increase subsidies for couples unable to have children and provide psychological counseling. Special benefits, such as subsidies, tuition and health insurance, will be given to couples who are willing to adopt a child and cannot have children naturally, until the child reaches adulthood.

Surrogacy is not the ultimate solution to poverty. It cannot eradicate poverty at its root. Women's poverty is caused by invisible inequalities and prejudices, poverty can only be eliminated by improving the most basic conditions.

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