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ANALYSIS
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What is altruistic surrogacy? : On Surrogacy Regulation Bill

Context:-

- Recently Lok Sabha passed Surrogacy (Regulation) Bill.
- The Bill **prohibits commercial surrogacy**, and **allows only altruistic surrogacy**.
- Altruistic Surrogacy according the bill includes contracting a 'close relative' as a surrogate by a heterosexual married couple who have been childless for five years of their marriage.

Why The Bill Needed:-

- Surrogate's exploitation- There is a huge rise in incidents concerning exploitation in terms of health, financial and postnatal care of surrogate mothers, where surrogates have died as a result of complications during pregnancy and the unavailability of good postnatal care.
- Commercialisation of Surrogacy- According to a study by CII, the size of India's surrogate motherhood industry was \$2.3 billion a year and irony is that the surrogate mother get very meager amount out of this who born all the labour, risk etc.
 - It also changing the motives for creating children not for their own sakes but for another's benefit.

- **Improper Contracts and Abandonment of Surrogate Babies**-Contracts are biased against the surrogate who often poor. And there are cases of babies born with disabilities or an unplanned twin being abandoned by the intend parents.
 - **Baby Manji Yamada vs. Union of India case** highlighted the lack of regulation for surrogacy in India.
- **Law commission Report-** In 2009, the Law Commission of India observed that surrogacy arrangements in India were being used by foreign nationals, and the lack of a comprehensive legal framework addressing surrogacy could lead to exploitation of poor women acting as surrogate mothers.
 - It has recommended against commercial surrogacy.

Highlight of the Bill:-

- The intending couple must be Indian citizens and married for at least five years with at least one of them being infertile.
- The surrogate mother has to be **a close relative** who has been married and has had a child of her own.
- No payment other than reasonable medical expenses can be made to the surrogate mother.
- The surrogate child will be deemed to be the **biological child** of the intending couple.

- **National and State Surrogacy Boards-** Central and state governments will appoint appropriate authorities to grant eligibility certificates to the intending couple and the surrogate mother. These authorities will also regulate surrogacy clinics.
- Undertaking surrogacy for a fee, advertising it or exploiting the surrogate mother will be punishable with imprisonment for 5 years and a fine of up to Rs 10 lakh.

Analysis Of the Bill:-

- **No Definition of Close Relative-** The surrogate mother must be a 'close relative' of the intending couple. The Bill does not define the term 'close relative'.
 - This loopholes with total ban on commercial surrogacy may push the **industry underground and further create more exploitation of poor women.**
 - Further, the surrogate mother (close relative) may donate her own egg for the pregnancy. This may lead to negative health consequences for the surrogate baby.
 - With the structure of Indian Patriarchal Society, there could be the possibility of **coercion of daughters in laws in families.**

- **Does not Cater need of the Modern Social Reality-** Despite exempting gay couples, single men and women, and live-in couples from seeking surrogacy, not clearly defining the regulative mechanisms within altruistic surrogacy
 - the very regressive approval for couples with differently-abled children to opt for surrogacy
 - The Bill permits surrogacy only for couples who cannot conceive a child. This procedure is not allowed in case of any other medical conditions which could prevent a woman from giving birth to a child.
- **Time Bound Period for Eligibility Certificates-** The bill states that the appropriate authority should consider and grant or reject these applications within a period of 90 days.
- **Promotion of Adoption-** The push towards adoption is very welcome, as is the waiting period of five years.
- **Prohibits on Successive Surrogacy-** Bill states that the surrogate mother can only bear one surrogate child, it is a welcome steps as seen in past, there are multiple surrogacy is carried out by a single women affecting her health and child health too.

Way Ahead:-

- Though Surrogacy is **conquering the bridge between biological infertility as well as social infertility**, however the popularity of IVF and other assisted reproductive technologies stems from a problematic conceptualisation of infertility itself, pushing couples to opt for **invasive intervention** within a year of unprotected coitus.
- Government should address the **social stigma of consanguinity** where Indian society who are **seeking surrogates for consanguinity and not taking path of adoption for child need**, by focusing on behavioural change and information and education drive
- Government should also **address the state of poor women who are taking path to be a surrogate due to their dire condition.**

THANK YOU

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