

Religio-ethical Perception to Surrogacy and its Applicability to Infertility in the 21st Century

Bolarinwa Adebayo Oluwasegun, PhD

*Department of Religious Studies and Philosophy,
Redeemer's University, Ede, Osun State*

Abstract

In contemporary times, infertility has become the order of the day in some marriages. This has led to hard time and hard life for young couples in Nigeria. The existence of this conundrum has led to various heartbrokenness and shattered homes. This is not unrelated to the typical African belief system where fertility is considered to be a cogent part of a marriage contract and it is seen as divine blessing in the home and failure of a marriage to be fertile about the fruit of the womb is a sign of being cursed or being annoying to God. The act of surrogacy, which is not a modern initiative, traced back to the Old Testament narrations shows that the act has been adopted in time past to solve the problem of infertility in marriages. This paper embarks on an analytical type of research to investigate the subject of focus in this study. In examining the modern realities of infertility in Nigeria with the peculiarity of the African culture, this paper closely considers the religious and ethical perspective to surrogacy and how it can be rightly applied in the modern marriages experiencing setback in their fertility endeavours as couples, since fertility needs to be given prevalence. This paper will therefore recommend the right ways of practicing surrogacy in such a way that is biblically not neglectable and ethically adoptable for the Christian society.

Introduction

One of the main purposes that is dominant for marriage especially the most important in the African setting is the act of procreation. Averagely, Africans expect a new couple to have an offspring within nine months of coming together as a couple and anything outside a year of cohabitation without a child is termed as being barren. This situation calls for serious attention because it had been a long-time scenario and has led to complications in various homes and marriages.

The need for solving some of these situations led to the practice of surrogacy which could both be seen in light of traditional practices and in light of technological advancement. The approach of surrogacy has led to solving some of the obvious emblem of being barren that some families had been tagged with in the African society. Abbasi-Shavazi and others (72) explained that in some countries and societies, having children is a social obligation of a

woman (wife) which she directly owes to the family of her husband. Some couples have the plan of having children in order to quickly inject them into their life plan and schedule and for those children to fulfill their wish (Lasker, 2). In identifying the challenge of infertility and to create a progressive solution to the situation, surrogacy is therefore to be examined as a way out in addressing the psychological and physical pains of couple observed to be infertile in conceiving and having their own babies.

This paper therefore examines the practice of surrogacy as it could be traceable to biblical practices and also to establish the religious and ethical view of the practice especially as it concerns the African society as much as it relates to providing a lasting solution to the challenge of infertility among couples.

Concept of Surrogacy

Surrogacy is not a new practice of the 21st century, it is traceable back to the narratives in the Old Testament which implies that it is an ancient practice. The idea is therefore seen to be ancient though it is not literally referred to as surrogacy in the modern understanding of the practice, it portrays the same goal and the practice from the biblical narration fit in to a type of surrogacy which does not necessarily requires a technological gadget or apparatuses. While the practice of surrogacy is seen to be traceable to ancient times, the mode of practice differs slightly from the way it is practiced in contemporary time and this will be clearly discussed in the course of this paper.

As rightly expressed by Appleton (37) in citing British Medical Association (1996), that surrogacy is to be described as an emotional and ethical minefield which puts the human nature to pressure. According to Lasker (2), surrogate literally means “substitute”. The term is used in describing a substituted mother in the sense that, it refers to a woman who carries the pregnancy of a child that is not actually for her on behalf of another couple, who then takes over ownership at the end of the successful carriage of the pregnancy. The surrogate is therefore the bearer of the pain of pregnancy on behalf of another woman, who is infertile and which they have a legal agreement about the child that is to be born which will be transferred to the custody of the infertile woman at delivery. The couple who contracts another woman to help in carrying their baby is referred to as the “contracting parent” in a surrogate deal while the woman who bears the child in her womb is referred to as “surrogate mother”.

Surrogacy is adopted as a way out for couples having difficulty in conception probably as a result of a challenge or deficiency from the man or as a result of deficiency from the woman. The peculiar situation will then warrant the form of surrogacy to be adopted by a given couple facing such challenging situation. This third party at the end of the contract

submits total ownership and possession of the child to the couple. Therefore, surrogacy is clearly perceived as a means of treatment which is promising and to combat the challenge of infertility among contemporary couples. It can potentially deal with the difficulties encountered by infertile couples and save them from ridicule publicly or save their face from family embarrassments that could evolve if they have no child of their own (Lasker, 1).

Surrogacy generally is also seen in contemporary time to be a means to an end for gay couples who are both male and cannot have conception as a result of absence of womb. They could opt for a surrogate to help in bearing their child as long as there is a legal backings for their act and the agreement between the gay couple and the surrogate mother. This kind of situation is much obtainable in some western society where gay marriages are welcomed because, a society which does not accommodate gay marriage will definitely kick against the act of surrogacy for a gay couple.

It is essential to establish that, surrogacy is not without its disadvantages and effect on both the contracting parents and the surrogate mother. This effect ranges from psychological effect and future implications where the surrogate finds it difficult to be totally detached emotionally from the fact that she carried a baby for nine months and she has no right to claim the living child. But usually, in the case of surrogacy, there is usually the legal backing because of future implications and complications that could emerge.

The form of acceptance and popularity of surrogacy varies from one country to another. In the contemporary Nigeria, surrogacy is not well pronounced as a result of the value placed on individuals directly conceiving and birthing their own children. The submission to giving in for surrogacy will appear as a state of giving up totally on one's self to have a child of their own which will still remain a public reference at some point when describing the couples. As such, the practice is not given high attention or popular support by Nigerians and by extension to African societies.

Types of Surrogacy

Basically, there are two types of surrogacy when it comes to the methodology at which they are observed or carried out. They are gestational surrogacy and traditional surrogacy. These two types of surrogacy are based on the methods at which it is being achieved. While in another way, types of surrogacy could be based on the gains and benefits attached to the practice which implies that, it could be commercial surrogacy or altruistic surrogacy, where the former gets involve with surrogacy for monetary gains while the latter has no direct monetary agreement for the process, simply because she is probably a relation, friend or loved one of the contracting couple and she is willing to render the assistance to the couple

by helping them to carry their baby (Lasker, 3). This section will therefore focus basically on the basic types of surrogacy based on the methods by which they are being achieved.

Traditional Surrogacy

This is the ancient format of surrogacy traceable from biblical narratives found in the Old Testament. Historically, before the advent of assisted reproductive technology (ART) in modern times, the traditional surrogacy has always been the means of aiding infertile couple to have children of their own. This surrogacy makes the child genetically related to the surrogate mother as her ovaries would directly be responsible for formation of the child through the sperm of the contracting father. The traditional surrogacy is also referred to as natural or straight surrogacy and this is because, it needs no technological assistance before it is experimented or achieved. It appears to be the oldest form of surrogacy as it is traced to have been contained in the Abraham and Sarah's story of the Old Testament. Abraham was approached by Sarah to have intimacy with her maid, Hagar, owing to their inability to conceive after a very long time of marriage and in order to preserve the lineage of her husband, she came up with the suggestion in order to make Hagar a surrogate who will bear the Abrahamic seed on her behalf (Genesis 16), this child eventually was Ishamel, who Hagar did not later give up to Sarah after series of jealousy and misconduct from Hagar to her mistress. Another narrative is found in the grandson of Abraham, Jacob. Jacob was well blessed with children already, through his first wife, Leah. But his favorite wife, Rachael had no babies and she made Jacob to have sexual relationship with her maid, Bilhah. This maid was also to bear the child on behalf of Rachael and by that Rachael was to be the commissioning mother of Dan and Naphtali. The same scenario was adopted by Leah as a result of jealousy of her sister.

The levirate marriage is another precedence that is found in the Mosaic Law about surrogate as stated by Lasker (3). This is a type of marriage with a custom by which a widow marries her deceased husband's brother for the purpose of raising a son for the deceased and to ensure the protection and care of the widow (Olanisebe, 25). An example of this was seen in the Boaz and Ruth narrative (Ruth 4) and also in the narrative of Onan, son of Judah (Genesis 38). This explains that, the traditional surrogacy is an ancient idea which had been adopted as a means of sorting the challenge of infertility. A recognition of this shows that, humans have been making various attempts for a very long time to sort the challenge of infertility as the role of child(ren) in a marriage can be overemphasized especially in cultural and traditional setting where priority is given to expansion and increment of the clan and lineage.

Gestational Surrogacy

This type of surrogacy is the surrogacy that basically makes the surrogate mother and the child genetically unrelated. The surrogate is fully serving as a “container” to bear the child for the duration of pregnancy, of which at birth, she fully hands over ownership of the child to the contracting couple. The gestational surrogacy, which according to Abiola (3) referred to as modern surrogacy) is a technology inclined type of surrogacy which is done mainly by In-Vitro Fertilisation (IVF), this is confirmed in the explanation of Carter (150) that the pregnancy in gestational surrogacy is as a result of an embryo created through the process known as in-vitro fertilisation in such a way that the child that comes out does not bear any genetic affiliation with the surrogate mother. This is done in such a way that the egg of the contracting woman and the sperm of the man is joined in a laboratory dish and this combination is inserted into the surrogate woman through IVF and as such, the surrogate mother is only related to the child by birth and not by gene. This form of surrogacy is the popular form of surrogacy in modern world with the availability of various boosters that could help in increasing the fertility of either the man’s sperm or the genetic combination of the woman who is unable to conceive on her own.

Infertility in the Modern Times

Infertility is a disease that could either affect the male or the female reproductive system which leads to failure to successfully have conception after a period of twelve (12) months of involvement in unprotected sexual relations (Borrero, np). This problem is a challenge that affects a lot of people in contemporary time which could be as a result of poor dieting or natural. Borrero (np) explained that about one of six people that constitute the reproductive age worldwide have an experience of infertility. This implies that, the challenge of infertility is a serious one that should be given attention, it rates of growing rampant in the society today is alarming and as such a factor relegating joy and happiness for couples in such situation.

In contemporary times, infertility is usually caused by various problems ranging from low sperm count or total absence of sperm counts, abnormal motility of the sperm in the male while the female cases of infertility are usually caused by abnormalities of the ovaries, fallopian tubes, uterus among other reproductive organs in the female system (WHO). These challenges vary from one person to the other and in some cases, there are no factors that could be pointed as main causes for the challenge of infertility in some people. This implies that not all cases of infertility among couples can be medical or scientifically be diagnosed or interpreted (Borrero, np). In enumerating the factors responsible for the female reproductive infertility, Rutstein and Shah (53) expressed their thoughts that, various contributing factors lead to infertility in women. The first discussed was tubal disorders;

which is in operation as in blocked fallopian tubes, a product of untreated sexually transmitted infections (STIs) or as a result of unsafe abortions, postpartum sepsis or abdominal/pelvic surgery. The second factor enumerated by Rutstein and Shah (53) is that uterine disorders is another factor that could lead to infertility, this could be inflammatory in nature (for example endometriosis), it could be congenital in nature (for example septate uterus), or it could be benign in nature (such as fibroids). These forms of uterine disorders reveal that there cannot be an avenue to hold a baby as a result of either of these factors.

Rutsein and Shah further discussed that disorders in ovaries is another militating factor that leads to infertility in women. Factors like polycystic ovarian syndrome and other follicular disorders. And lastly in their discourse is the disorder in the endocrine system which leads to imbalances in the reproductive hormones; this system includes the pituitary glands and the hypothalamus. These are much complicated factors as it could include cancers and hypopituitarism.

Gore, Chappell, and Fenton (122) considered and enumerated the causative factors for infertility in men and they presented the first as blockage of the reproductive system leading to abnormalities in semen ejection. Semen-carrying tubes (such as ejaculatory ducts and seminal vesicles) may become blocked as a result of this condition. Blockages are frequently brought on by genital tract injuries or infections. The second discussed by their research is the hormonal issues that result in deviations in pituitary, hypothalamic, and testicular hormone production. The generation of sperm is controlled by hormones like testosterone. Examples of conditions that cause hormonal imbalance include testicular or pituitary tumors.

They (Gore, Chappell and Fenton, 122) further explained the third causative factor as the failure of the testicles to make sperm, such as those caused by varicoceles or medical procedures that damage sperm-producing cells (such chemotherapy). And lastly, they posited that, abnormal sperm quality and performance. Fertility is adversely affected by circumstances or conditions that result in defective sperm morphology and motility. For instance, the usage of anabolic steroids might result in abnormalities in the sperm count and morphology of the semen. Very essential to take note of is the fact that, some lifestyles can further contribute to infertility for men. Lifestyles such as; excessive alcohol intake, smoking and obesity can be a contributing factor to this malady. Additionally, exposure to chemicals and pollutants in the environment can be directly hazardous to gametes (eggs and sperm), leading to a decline in their quantity and poor quality. It thus behooves that, the choice of lifestyle of a man can be a major factor in his ability to being productive when it comes to fertility matters, which goes a long way to alert men to be conscious of the choice of lifestyle they inculcate in order to avoid unwanted delay in making babies.

Lasker (2) lamented that despite the fact that around 50% of infertility cases are due to male infertility, women bear a disproportionate share of the social hardship. In some cultures, a woman's ability to reproduce within her own family and within society as a whole is directly correlated with her social standing, dignity, and self-esteem. Birthing and raising children are seen as family responsibilities rather than just biological and social obligations. This is obtainable as successive traditions especially within the African contest in the time past and even in the contemporary times.

Surrogacy in African Countries

The performance of a very personal service, parental rights, consent to medical procedures, and monetary remuneration are all governed by the terms of the surrogacy agreement. Therefore, it is crucial that nations pass laws governing the practice on their soil in order to safeguard the rights and interests of both the state and its inhabitants. There is no legislative structure in place in Nigeria to control the surrogacy industry. Although the legitimacy of such activities is still in question given the lack of a legislation or judicial ruling on the practice itself, it is accepted in some areas of the country. There is a widely used method of planned third-party reproduction, which, despite the shame still attached to the practice, is gaining ground (Piersanti *et al*, p.35). Many organizations help infertile couples by providing surrogacy services, but because there is no legislation, intended parents and surrogate mothers are at risk of inadequate medical oversight, inadequate psychological care, and excessive caesarean sections.

The Law strongly advises that the gametes for the process come from at least one of the prospective parents. After speaking with and informing the commissioning parents, the surrogate mother has the right to end the pregnancy unilaterally; but, if she does so for a non-medical cause, she might be required to return any medical reimbursements she had received (Abiola, p.9). In Sub-Saharan African nations including the Congo, Ivory Coast, Cameroon, Sudan, Mali, Senegal, and Togo, there are no laws governing surrogacy. In Kenya, there are no surrogacy-related legislation or regulations. In Algeria, people who are legally married and unable to procreate naturally must formally request access to medically assisted reproductive technology. Law No. 18-11, dated July 2, 2018, provides out core rules, purposes, and principles to give effect to the rights and duties of the public in health problems even though there are no surrogacy laws in place at this time.

The only nation in Africa with an organized and sophisticated legal and regulatory framework for surrogacy practice is South Africa. Only charitable surrogacy is permitted, even for single people and couples of the same sex. Surrogate mothers are only permitted to receive payment for pregnancy-related costs, and access to surrogacy is only permitted for residents. On April 1st, 2010, Section 19 of the Children's Act, which governs surrogacy

in South Africa, went into effect (Sloth-Nielsen and Van Heerden, p.100). This tells that, most African countries have to visit the topic of surrogacy and take a position that fit into their context rather than making the act totally done away with or a thing of total shame when it has no legal backing in the society that each individual belong.

Surrogacy in Other Continents of the World

Different perspectives on surrogacy in general and the regulation of all related concerns are held by legislators around the world. Parentage, informed consent, and other relevant topics are matters of keen interest across various countries of the world and in the various continents (Shakargy, 138). As such, this section of the paper addresses the matter of interest which is surrogacy and the perceptions of various other countries of the world to the subject matter.

According to Alghrani and Griffiths (165) as the first nation to provide a thorough regulatory framework to oversee Assisted Reproductive Technologies (ARTs), the United Kingdom (UK) is leading the globe in this regard. The Surrogacy Arrangements Act 1985 was the first piece of legislation to be passed in the UK to regulate surrogacy. While commercial surrogacy is forbidden in the UK, altruistic surrogacy is permitted. Clearly presented by Piersanti *et al* (57) that, in France, surrogacy is prohibited. Brokering agreements on procreation or gestation on behalf of third parties is a crime, according to Article 16-7 of the Civil Code established by Law No. 94-653 of July 29, 1994—Article 3, July 30, 1994. Surrogacy is not permitted in Germany. The 13th of December 1990 saw the enactment of the "Law for the Protection of the Embryo" (*Embryonenschutzgesetz*), which declares that social, biological, and genetic motherhood are inexorably linked.

Italy forbids surrogacy, sometimes known as "uterus for rental." The use of medically assisted procreation (MAP) to assist in the resolution of reproductive issues is permitted under Italian law. Surrogacy is illegal in Spain, although it is permitted in Greece for heterosexual couples or female singles. Surrogacy for charitable purposes is permitted in the Netherlands, however commercial surrogacy is not. Denmark allows altruistic surrogacy, but only if the surrogate mother uses her own eggs and no assisted reproductive technologies are employed. This indicates that gestational or complete surrogacy is prohibited, leaving only traditional or partial surrogacy lawful (Piersanti *et al*, p. 57).

As documented also by Abiola (6), surrogacy is currently allowed in the Czech Republic in its charitable form, but there is no regulation overseeing it. Portugal has a statute that forbids surrogacy after a constitutional court ruling that found the practice to be unlawful. In terms of surrogacy legal regulation, Russia is flexible. A genetic connection between the surrogate mother and the surrogate child is prohibited in full or gestational surrogacy, which is lawful.

Additionally legal is commercial surrogacy. All forms of surrogacy are acceptable in Ukraine. Any surrogacy contract established in Lithuania is void because the practice of surrogacy is prohibited there.

There is no surrogacy-specific national legislation in the United States of America. State and territorial laws, respectively, govern surrogacy. The majority of states permit surrogacy without any specific legislation governing its use; fourteen (14) states have targeted surrogacy legislation in place; twelve (12) states have strict restrictions that render surrogacy contracts void; and only three (3) states (Louisiana, Nebraska, and Michigan) outright prohibit surrogacy. A new law was passed in New York that permits compensated surrogacy agreements and offers a pre-birth order that verifies the intended parents' legal parenthood at the time of the surrogate child's birth (Abiola, p.6).

Altruistic surrogacy is authorized in Canada. Canada's Commercial Surrogacy Act of 2004 makes it illegal to use surrogates for commercial purposes. Provincial laws regulate the legality of surrogacy contracts and the procedure for determining the child's parentage. There are no recognized surrogacy agreements in Quebec. In Canada, British Columbia has the most lax surrogacy regulations. The extent to which provinces cover costs associated with surrogacy, such as IVF operations, varies as well. Bill S-216, intended "to decriminalize, in certain circumstances, the payment of sperm or egg donors and surrogate mothers," was submitted by Canadian legislators on February 20, 2020 (Piersanti *et al*, p. 57).

According to Article 199(4) of the Brazilian Federal Constitution, which views the practice as a kind of human organ trafficking, commercial surrogacy is outlawed in Brazil. However, charitable surrogacy is restricted, in accordance with medical recommendations. Argentine politicians attempted to establish a surrogacy law in 2017, but they were unsuccessful. As a result, there is presently no surrogacy law in existence in Argentina. The Civil Code Provisions, which was revised in 2014, govern surrogacy contracts (Abiola, p.7). In the People's Republic of China, surrogacy is forbidden in all forms, although it is nonetheless common and accepted. Only opposite sex married couples who are Thai citizens are permitted to enter into a commercial surrogacy contract. In the past, Thailand was a popular destination for surrogacy arrangements. However, on February 19, 2015, the Thai Parliament passed a law to control surrogacy on its soil that severely restricts the practice. Although there is no specific law governing surrogacy in Japan, professional associations and government organizations have issued legal views and guidance based on strongly held cultural and societal ideas that have historically stigmatized and discouraged the practice. Due to this, those who choose to employ surrogacy now tend to look for foreign surrogates, which puts the surrogate children born as a consequence of such an arrangement at a significant danger of statelessness when they arrive in Japan. Although surrogacy was once

frowned upon in Japan, it is now widely accepted in contemporary Japanese society (Abiola, p.7).

Commercial surrogacy in India was previously permitted, but the Surrogacy Bill of 2016 outright outlawed it (Rozee, Unisa and Rochebrochard, p.1). The prohibition came about as a result of other nations criticizing India for becoming into a "baby factory" over the previous ten years (Gola, 17). Despite the fact that altruistic surrogacy is now legal in India, not everyone can use it; groupings of people such as same-sex couples, international residents, and single people.

The examination of some of these countries help to ascertain their understanding and regulatory means of practicing the act of surrogacy rather than being totally silent about the practice in their various territories. By doing this, the society and citizens know how to move about practicing it within the legal frame of the society they belong and based on their individual convictions.

Religio-ethical Perception on Surrogacy

The act of surrogacy as examined in the course of this paper can both be seen as a traditionally inclined practice and could also be seen as a technological induced practice with the goal of rectifying the situation and complications of infertility especially for the preservation and sanctity of the marriage of such couple and their mental wellbeing. The Roman Catholic Church condemned all forms of artificial conception. In 1949, Pope Pius XII forbade artificial insemination, even when it used the husband's sperm. (Zilch, 15). A kid should never be desired or the outcome of a biological or medical operation, according to the Vatican, which has restated its disapproval of all artificial reproductive techniques. The Vatican condemned the wickedness of modern surrogacy with these declarations. The use of assisted reproductive technologies triggers varying moral views in various religions; even within one religion, there are differences of opinion. The moral foundation for using assisted reproductive technologies is essentially spiritual in nature (Abiola, 10). From the biblical point of view, as it had been discussed in the course of this paper, the act of surrogacy is traced to be an acceptable practice in the Old Testament as it was not kicked against in preservation of the lineage of an individual. It grew to become a practice of the Jews and this was to be properly done and in an adequate manner which must go through the proper procedure of getting married to the concerned woman in order to raise offspring for the demised brother. But the challenge of contracting a surrogate to bear the burden of pregnancy is not biblically established and this could make it more challenging to hold a position concerning validating the practice among couples or totally condemning the act. This paper therefore meddles between two positions by stating some situations where surrogacy is right and some situations where surrogacy is ethically wrong. There are factors

to be considered in taking a position in order to hold a safe and reasonable support concerning the discourse of surrogacy.

The main source of worries ethically and religiously seems to be a woman's ability to conceive for someone else. (Armour, 231). The following inquiries are also pertinent; Is it right to have children for other people? Is having children something a woman chooses? Is it morally wrong to put money before altruism? Does a genetic resemblance to the surrogate mother, surrogate father, or intended parents lead to conflict? Should a donor be guaranteed privacy if a child is produced using the DNA they provided? Does a surrogate-born child without a genetic medical history subsequently face moral issues like unintentionally mating with a half-sibling? Do surrogate children have the right to know who their biological parents are?

To start with, surrogacy should not be seen as a means of exploitation of the surrogate mother. This could happen when the contract is being breached from the side of the contracting parents. Owing to the fact that, either one or both of the parents (contracting parents) have a genetic contribution to the formation of the child, they have a strong hold on the child, but clarity of agreement should be reached with the surrogate mother, in order to reduce the mental or psychological detachment from the child she bear through the period of nine months.

Furthermore, surrogacy could be seen as right practice if it does not lead to adultery on the part of either of the parents. In modern times and as it has been discussed in the course of this paper, technological advancement has supported the move for transfer of semen into another vessel (surrogate mother), without literally having sexual intercourse. When this is well utilised, it can aid by meeting the expected desire of the waiting couple and they will not have also contradicted the biblical principle of having illicit affair outside of conjugal bliss.

It is worthy to be emphasize that, surrogacy is a practice that should only be encouraged for waiting and infertile couples and not for the unmarried. This is because, when it is encouraged among unmarried persons, it can lead to contradicting the biblical injunction of marriage which naturally leads to procreation. In doing such, on the one hand, ladies will rather opt for promiscuous living and having children outside wedlock without a desire to settle down martially with a man. On the other hand, young men who love to have babies will opt for contracting a surrogate rather than being responsible men in the society especially in the African society. This paper as a matter of emphasis posits that surrogacy is a tenable way to aid couples that are infertile since it will help in solving their situation in the right manner. This is because, many couples eventually grew old that they were unable to neither conceive nor have children of their own, but with the idea of surrogacy,

couples can be sure that they will have a child of their own and the societal emblem will be lifted on them. The child will be known as their child with little or no one knowing how they got the child, and since the society in some cases basically focuses on the presence of children in a home, the emblem fades away in bits. If the idea of surrogacy had been utilised by some couples, they might have eventually held their own children which must have had genetic connection and linkage to them rather than losing all means. The only difference would have been that, the wife was not the bearer of the child during pregnancy, but the child bears their name and is genetically related with one of them.

The desire of couples to have a child of their own is not a bad desire and since they are naturally incapacitated as a result of factors beyond their control, seeking a right means to have their children is not bad altogether. This is much to be viewed in line with the biblical injunction that man should increase and multiply.

Surrogacy as a Way Out for Infertility

Surrogacy is observed majorly to curb the malady of infertility and as such surrogacy could be seen as a promising potential means of treating many intolerable challenges that comes with infertility (Lasker, 1). Without infertility in the first place, there would not have been a need for talking about surrogacy. Many marriages are faced with the challenge of infertility not as a result of the woman's promiscuity or some intentional acts by the man. Some of the infertility challenges just evolved naturally and calls for serious concern in the society. The call to this attention has led to various means by scientist to improve on technology in order to alleviate the obvious challenges that are being faced by this category of couples. A lot of couples across the globe have benefitted from the practice of surrogacy either through the traditional means or through the gestational surrogacy. In either way, the focus has always been to address the challenge that is being faced by infertile couple. As such, since the practice of surrogacy is discovered to have led to solving the problem of infertility for some couples, there is the major need to put it in perception by leadership in various African countries, Nigeria inclusive and to aid the direct practices of the act of surrogacy.

Precautionary measures ought to be taken in consenting to the deal of surrogacy by both the contracting parents and the surrogate. This is in order to avoid future complications which are probable to happen. Issues like finding it difficult to let go of the child by the surrogate, or failure to settle the agreement on the part of the contracting parents among other issues are to be well sorted out and taken note of before the act of surrogacy is being executed. The practice of surrogacy in ancient and modern times are verified as one of the means of addressing the challenge of infertility in the marriage as the child grows to know

that his or her parents were actually the ones that nurtured him or her. The societal emblem is halted or reduced drastically on the couple.

Conclusion

As reiterated in the cause of the paper, infertility is a malady in the society and the problem is found in almost every country of the world. With the uniqueness of the problem which has been in existence from the ancient times, to which extra marital affairs has usually been the only escape route to have children in the ancient world, new ways ought to be encouraged in the society in order to regulate some of the heart pains experienced by the infertile couples. This paper charges that the Nigerian government are to look into the matter of surrogacy and come up with a reasonable position that suit the context of Nigerian based on the heterogeneous nature of the country both culturally and religiously in order to establish a basic position and to permit legally the practice of the act of surrogacy, owing to the fact that it is a means of solving the problem of infertility as discovered. If properly situated in the right ethical and religious conduct, surrogacy will go a long way in alleviating the mental pains experienced by the married couples in Nigeria.

References

- Abiola, A.O. (2022). "Surrogacy Versus reproductive Rights: A Legal Perspective" in *SSRN*
- Algharani, A. and Griffiths, D. (2017). "The Regulation of Surrogacy in the United Kingdom: The Case for Reform" in *Child and Family Law Quarterly*.
- Appleton, Timothy (2002). "Surrogacy" in *Eshere Monographic: Guidelines for Counselling in Infertility* 37-38. <https://watermark.silverchair.com/> (Accessed on September 11, 2023)
- Armour, K.L. (2012). "An Overview of Surrogacy Around the World: Trends, Questions and Ethical Issues" in *Nursing for Women's Health*
- Boivin, J.; Bunting, L.; and Collins J.A. (2007). "International Estimates of Infertility Prevalence and Treatment-seeking: Potential Need and Demand for infertility Medical Care". In *Human Reproduction* 22(6) doi:10.1093/humrep/dem046.com Online Publication (Accessed September 15, 2023).
- Borrero, G. (2023). "Father Providing Kangaroo Mother Care in Da Nang Hospital for Women and Children: Infertility" <https://www.who.int/news-room/fact-sheets/detail/infertility> Accessed on September 15, 2023).

- Gola, S. (2021) “One Step Forward or One Step Back? Autonomy, Agency and Surrogates in the Indian Surrogacy (Regulation) Bill 2019” in *International Journal of Law in Context*
- Gore A.C., Chappell, V.A., and Fenton S.E. (2015). “The Endocrine Society’s Second Scientific Statement on Endocrine-Disrupting Chemicals. In *Endocrine Reviews* 36(6) doi:10.1210/er2015-1010
- Olanisebe J. (2015). The Plights of Widows and Widowhood in Nigeria: Reflections on 2 Kings 4:1-7 in *Ilorin Journal of Religious Studies, (IJOURELS) Vol.5 No.1.*
- Piersanti, V. *et al* (2021). “Surrogacy and ‘Procreative Tourism’. What does the Future Hold from the Ethical and Legal Perspectives?” in *Medicina (Lithuania)*.
- Rozee, V.; Unisa S. and Rochebrochard, E. (2020). “The Social Paradoxes of Commercial Surrogacy in Developing Countries: India before the New Law of 2018” in *BMC Women’s Health*
- Rutstein, S.O. and Shah I.H. (2004). *Infecundity Infertility and Childlessness in Developing Countries* Geneva: World Health Organisation.
- Shakargy, S. (2020). “Choice of Law for Surrogacy Around the World: Trends, Questions and Ethical Issues” in *Journal of Private International Law*.
- Sloth-Nielsen, J. and Van Heerden, B. (2014). “The ‘Constitutional Family’ Developments in South African Child and Family Law 2003-2013” in *International Journal of Law, policy and Family*
- World Health Organisation (WHO). International Classification of Diseases, 11th Revision (ICD-11) Geneva: WHO 2018
- Zegers-Hochschild, F.; Dickens B.M., Dughman-Manzur S. “Human Rights to In-Vitro Fertilization” in *International Journal of Gynecology & Obstetrics* 112(4) 613-621