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Megha Middha, is working as an Assistant Professor of Law in Mody University of Science and Technology, Lakshmangarh, Sikar (Rajasthan). She has an experience in the teaching of almost 3 years. She has completed her graduation in BBA LL.B (H) from Amity University, Rajasthan (Gold Medalist) and did her post-graduation (LL.M in Business Laws) from NLSIU, Bengaluru. Currently, she is enrolled in a Ph.D. course in the Department of Law at Mohanlal Sukhadia University, Udaipur (Rajasthan). She wishes to excel in academics and research and contribute as much as she can to society. Through her interactions with the students, she tries to inculcate a sense of deep thinking power in her students and enlighten and guide them to the fact how they can bring a change to the society

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Assistant professor of Law

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Avinash Kumar



Avinash Kumar has completed his Ph.D. in International Investment Law from the Dept. of Law & Governance, Central University of South Bihar. His research work is on "International Investment Agreement and State's right to regulate Foreign Investment." He qualified UGC-NET and has been selected for the prestigious ICSSR Doctoral Fellowship. He is an alumnus of the Faculty of Law, University of Delhi. Formerly he has been elected as Students Union President of Law Centre-1, University of Delhi. Moreover, he completed his LL.M. from the University of Delhi (2014-16), dissertation on "Cross-border Merger & Acquisition"; LL.B. from the University of Delhi (2011-14), and B.A. (Hons.) from Maharaja Agrasen College, University of Delhi. He has also obtained P.G. Diploma in IPR from the Indian Society of International Law, New Delhi. He has qualified UGC – NET examination and has been awarded ICSSR – Doctoral Fellowship. He has published six-plus articles and presented 9 plus papers in national and international seminars/conferences. He participated in several workshops on research methodology and teaching and learning.

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FOREIGN ADOPTION AND **SURROGACY**

AUTHORED BY - ARJIT MITTAL
MANAV RACHNA UNIVERSITY
BCOM LLB (H)
10TH SEMESTER

Foreign adoption and surrogacy involve the process of adopting or having a child through a surrogate mother from a foreign country. While these options provide couples and individuals with alternative ways to build their family, they also come with unique challenges and considerations. In this article, we will explore the legalities, benefits, and challenges of foreign adoption and surrogacy, as well as the factors to consider when choosing an agency. We will also discuss the role of cultural and language differences, share success stories, and examine the ethical considerations surrounding foreign adoption and surrogacy. By the end of this article, readers will have a deeper understanding of foreign adoption and surrogacy and how these options can help them build the family they have always dreamed of.

Foreign adoption and surrogacy in India have become a popular option for individuals and couples seeking fertility treatments. India has emerged as a hub for reproductive tourism, with a large number of foreign nationals coming to the country for surrogacy and adoption services. However, the legal and ethical landscape surrounding foreign adoption and surrogacy in India is complex and often controversial. This article aims to provide an overview of the current state of foreign adoption and surrogacy in India, including the legal framework, benefits, challenges, controversies, and future prospects.

Introduction to Foreign Adoption and Surrogacy

Foreign adoption and surrogacy have become increasingly popular in recent years as more couples and individuals opt to expand their families through non-traditional means. These options can provide a path to parenthood for those who may not be able to conceive or give birth to a child, or who want to offer a home and a better life to a child in need. However, foreign adoption and

surrogacy can also be complex and challenging processes with legal, financial, and emotional implications.

Definition of Foreign Adoption and Surrogacy

Foreign adoption is the process of adopting a child from a country other than one's own. Surrogacy, on the other hand, involves using a surrogate mother to carry a pregnancy to term, either through traditional surrogacy, where the surrogate's own eggs are used, or gestational surrogacy, where the surrogate carries an embryo created using the intended parent(s) or donor's genetic material.

Overview of Foreign Adoption and Surrogacy Trends

According to the U.S. Department of State, Americans adopt over 4,000 children from foreign countries each year. The most popular countries for international adoption are China, Ethiopia, and South Korea. Surrogacy is also on the rise, with a growing number of intended parents seeking surrogates abroad due to lower costs and more flexible laws.

Understanding the Legalities of Foreign Adoption and Surrogacy

International Laws and Regulations on Adoption and Surrogacy

International adoption and surrogacy are subject to various laws and regulations that vary widely from country to country. The Hague Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption is an international treaty that establishes safeguards and procedures for intercountry adoptions. The United States is a signatory of the Convention, meaning that adoptions between the U.S. and other Convention countries are subject to the Convention's rules. Surrogacy laws also vary widely, with surrogacy being illegal in several countries, including France, Germany, and Italy.

Legal Challenges in Foreign Adoption and Surrogacy

Legal challenges can arise in foreign adoption and surrogacy, including issues related to citizenship, immigration, and custody. For example, some countries may not recognize the parental rights of intended parents in a surrogacy arrangement, or may require extensive legal proceedings to establish

parentage. It is important to consult with legal experts who specialize in foreign adoption and surrogacy to navigate these legal complexities.

Benefits and Challenges of Foreign Adoption and Surrogacy

Advantages of Foreign Adoption and Surrogacy

Foreign adoption and surrogacy offer many advantages, including giving parents access to a wider pool of children or surrogates, lower costs, and more flexible legal frameworks. Additionally, foreign adoption can provide a home and a better life for children who may not have the same opportunities in their home country.

Disadvantages and Challenges of Foreign Adoption and Surrogacy

Foreign adoption and surrogacy also come with challenges and potential risks, including legal and regulatory issues, language and cultural barriers, and potential exploitation of vulnerable populations such as birth mothers and surrogate mothers. It is important for parents to be fully aware of the potential challenges and risks before pursuing international adoption or surrogacy.

Factors to Consider When Choosing a Foreign Adoption or Surrogacy Agency

Accreditation and Licensing of Adoption and Surrogacy Agencies

When choosing a foreign adoption or surrogacy agency, it is important to ensure that the agency is accredited and licensed and has a good reputation. Accreditation ensures that the agency meets certain standards for ethical and professional conduct, while licensing requirements vary by state and country.

Agency's Expertise in Foreign Adoption and Surrogacy

It is also important to choose an agency with expertise in foreign adoption and surrogacy, including knowledge of the legal, cultural, and logistical challenges associated with international adoption and surrogacy. Agencies with international offices or partnerships may have a better understanding of the specific challenges associated with the country or region where the adoption or surrogacy is taking place.

Cost of Foreign Adoption and Surrogacy

Cost is also a significant factor when choosing a foreign adoption or surrogacy agency, as these processes can be expensive. It is important to obtain a clear understanding of all costs associated with the process, including legal fees, travel expenses, and medical expenses, as well as any potential additional costs that may arise. It is also important to understand the agency's refund and cancellation policies in case the adoption or surrogacy process does not go as planned.

The Role of Cultural and Language Differences in Foreign Adoption and Surrogacy

Cultural and Language Barriers in Foreign Adoption and Surrogacy

Foreign adoption and surrogacy are often complicated by cultural and language barriers. Adopting or surrogating a child from a different country means bringing them into a new culture, with different values, norms, and behaviours. This can be a challenging adjustment for the child and their new family.

Language barriers can also complicate the process, making communication difficult and potentially leading to miscommunications and misunderstandings between the parties involved.

Methods for Addressing Cultural and Language Differences

To address cultural and language differences in foreign adoption and surrogacy, it is important for adoptive parents and surrogates to educate themselves about the culture and language of the child they are adopting or surrogating. This can include language classes, cultural sensitivity training, and consulting with local experts.

It is also important for adoptive parents and surrogates to communicate openly and regularly with the child's birth family, if possible, to gain a better understanding of the child's cultural background and ensure that the child's needs are being met.

Stories of Successful Foreign Adoption and Surrogacy Cases

Real-life Examples of Successful Foreign Adoption and Surrogacy Stories

There are many heart-warming and inspiring stories of successful foreign adoption and surrogacy

cases. One example is the story of the "Tibetan boys," two brothers who were adopted from Tibet by a family in the United States. Despite the challenges of adjusting to a new culture and language, the boys thrived in their new home and were able to maintain their connection to their Tibetan heritage.

Another example is the story of a same-sex couple who turned to surrogacy to start a family. Through the help of a surrogate in India, the couple was able to welcome two beautiful twin boys into their lives.

Lessons Learned from Successful Foreign Adoption and Surrogacy Cases

Successful foreign adoption and surrogacy cases highlight the importance of cultural sensitivity, communication, and openness in the process. By educating themselves about the child's culture and background and maintaining regular communication with the child's birth family, adoptive parents and surrogates can create a positive and nurturing environment for the child.

Ethical Considerations in Foreign Adoption and Surrogacy

Ethical Issues in Foreign Adoption and Surrogacy

Foreign adoption and surrogacy are not without ethical considerations. For example, there have been cases of unethical adoption agencies engaging in child trafficking and exploitation. Similarly, there have been concerns raised about surrogacy arrangements that potentially exploit vulnerable women in developing countries.

Importance of Ethical Standards in Foreign Adoption and Surrogacy

It is critical for foreign adoption and surrogacy to adhere to ethical standards and guidelines to ensure the safety and well-being of all parties involved. These standards should include safeguards against child trafficking and exploitation, as well as protections for surrogates and their rights. Additionally, ethical adoption agencies and surrogacy providers should prioritize transparency and open communication throughout the process.

Foreign Adoption and Surrogacy in India

Overview of Foreign Adoption and Surrogacy

Foreign adoption and surrogacy involve the process of foreigners seeking to adopt or have a child through a surrogate mother in India. India has become a popular destination for those seeking surrogacy services due to its relatively low cost of medical procedures and the wide availability of surrogate mothers.

History of Foreign Adoption and Surrogacy in India

Foreign adoption and surrogacy in India started gaining popularity in the early 2000s as a result of advancements in fertility treatments and technology. The Indian government initially provided a relatively relaxed regulatory environment that enabled the surrogacy industry to grow rapidly. However, over the years, the industry has faced various controversies and legal challenges.

Legal Framework and Regulations Governing Foreign Adoption and Surrogacy in India

Current Legal Framework for Foreign Adoption and Surrogacy

In 2015, the Indian government passed the Surrogacy (Regulation) Bill, which prohibits commercial surrogacy by foreigners. It also restricts surrogacy to only those who are married and have been married for a minimum of five years, and it only allows altruistic surrogacy for Indian citizens who are unable to conceive.

Regulations for Foreigners Seeking Surrogacy in India

Foreigners seeking surrogacy in India must have a medical visa, which is only granted to those who have been married for a minimum of two years. They must also provide a letter from their embassy stating that the child will be granted citizenship in their home country and that the country recognizes surrogacy.

The Indian Contract Act and Foreign Surrogacy Arrangements

The Indian Contract Act governs the agreements made between foreign couples and surrogates in India. It requires that all contracts be in writing, and the surrogate mother must consent to all the

terms of the agreement before entering into it. The contract must also be registered with the appropriate authorities.

Pros and Cons of Foreign Adoption and Surrogacy in India

Benefits of Foreign Adoption and Surrogacy in India

One of the main benefits of foreign adoption and surrogacy in India is the relatively low cost compared to other countries. It enables couples who may not be able to afford surrogacy in their home country to have a child. Additionally, it provides employment opportunities for surrogate mothers in India who may not have other sources of income.

Challenges of Foreign Adoption and Surrogacy in India

One of the significant challenges of foreign adoption and surrogacy in India is the lack of proper regulations and oversight. This has led to allegations of exploitation of surrogate mothers, including instances where they are underpaid, and their rights are not protected. There are also ethical concerns regarding the use of surrogacy, which some people believe devalues motherhood and reduces children to commodities.

Ethical Concerns Regarding Foreign Adoption and Surrogacy in India

Foreign adoption and surrogacy raise various ethical concerns, including the exploitation of poor women who become surrogate mothers due to financial difficulties. Additionally, there are concerns regarding the commodification of women's bodies and the potential for the child to suffer identity issues.

Challenges and Controversies Surrounding Foreign Adoption and Surrogacy in India

Issues with Regulation and Oversight

One of the main challenges surrounding foreign adoption and surrogacy in India is the lack of proper regulations and oversight. This has led to allegations of exploitation of surrogate mothers and the need for a more robust legal framework.

Exploitation of Indian Surrogates

There have been instances of Indian surrogates being underpaid, denied their rights, and even forced to become surrogates against their will. These unethical practices have raised concerns about the need for proper regulation and oversight.

Social Stigma and Discrimination Against Surrogacy and Foreign Adoption

Surrogacy and foreign adoption face social stigma and discrimination in India due to cultural and religious beliefs. Some view surrogacy as a taboo, and others believe that it devalues motherhood. Additionally, the government's restrictions on foreign adoption and surrogacy have led to discrimination against international couples seeking these services in India.

Success Stories and Best Practices in Foreign Adoption and Surrogacy in India

Case Studies of Successful Foreign Adoption and Surrogacy Arrangements in India

India has become a popular destination for foreign couples seeking to adopt or have a child through surrogacy. Many successful adoptions and surrogacy arrangements have taken place in India over the years, offering hope and happiness to couples who have struggled with infertility or other challenges.

One such case involves a couple from the UK who had been trying to conceive for years without success. They decided to explore surrogacy as an option and found a reputable clinic in India. The surrogate mother was screened thoroughly, and the pregnancy was successful, resulting in the couple having a healthy baby girl.

Another success story involves a couple from the US who adopted a child from India. The adoption process was smooth, and the couple received excellent support and guidance from their adoption agency and the Indian authorities.

These success stories highlight the potential benefits of foreign adoptions and surrogacy in India when the right protocols and safeguards are in place.

Best Practices for Ensuring Ethical and Fair Foreign Adoption and Surrogacy in India

To ensure ethical and fair foreign adoptions and surrogacy arrangements in India, it is important to follow best practices that protect the interests of all parties involved.

The Indian government has established guidelines for foreign adoptions and surrogacy arrangements, which include extensive screening of potential parents and surrogates, thorough medical evaluations, and legal documentation to protect the rights of all parties involved.

Other best practices for ethical and fair foreign adoptions and surrogacy arrangements might include:

- Partnering with reputable agencies and clinics that are transparent about their practices and have a track record of success
- Providing adequate support and counselling to potential parents and surrogates throughout the process
- Ensuring that all financial arrangements are fair and transparent, with no exploitation or coercion
 - Offering long-term support and resources to adopted children or surrogate mothers, as needed

Future of Foreign Adoption and Surrogacy in India:

Opportunities and Threats

Potential Opportunities for Foreign Adoption and Surrogacy in India

Despite the challenges and controversies surrounding foreign adoptions and surrogacy in India, there are still opportunities for growth and development in this field.

India has a large population of potential surrogates who are willing and able to carry children for couples from around the world. With the right protocols and safeguards in place, this could continue to be a viable option for couples struggling with infertility or other challenges.

There is also potential for growth in the area of foreign adoptions, as many children in India are in need of loving homes. If the adoption process is streamlined and made more transparent, this could be a win-win situation for both potential parents and children in need.

Threats to the Future of Foreign Adoption and Surrogacy in India

There are several threats to the future of foreign adoptions and surrogacy in India. One of the main concerns is the potential for exploitation of surrogates and adoptive parents, particularly in cases where financial incentives may be driving the process.

Another concern is the lack of regulation and oversight in some parts of the industry, which could lead to unethical or unsafe practices. This is why it is so important to have clear guidelines and protocols in place to protect the rights and interests of all parties involved.

Finally, there is also the risk of cultural misunderstandings or clashes between the parents and the surrogate or adopted child. It is important to ensure that all parties are aware of the cultural differences and respect each other's beliefs and practices.

Surrogacy Laws in India

Surrogacy is a process by which a woman carries a child for another couple or individual who cannot conceive or carry a pregnancy to term. Surrogacy laws in India have been in place since 2002, making it one of the most popular destinations for surrogacy globally. India has become a hub for surrogacy because of its economical and favourable legal structure for surrogacy.

Overview

Surrogacy is a method of assisted reproduction that is gaining increasing importance among infertile couples. Surrogacy in India is a well-established and successful process that has been regulated since 2002. With the right legal framework in place, surrogacy has transformed the lives of many couples in India and overseas.

History of surrogacy in India

India has a long history of traditional surrogacy, also known as "Aunts' pregnancy." However, commercial surrogacy is a relatively new concept that was made legal in India in 2002. It started as a means for Indian women to earn some extra money by offering to carry a child for a couple who was struggling with infertility. However, it soon gained global popularity and became a lucrative business for many surrogacy clinics in India.

Eligibility Criteria for Surrogacy in India

Couples who are eligible for surrogacy in India

Couples who have been married for at least two years and have a medical condition that prevents them from conceiving a child are eligible for surrogacy in India. They must be heterosexual and unable to conceive through other fertility treatments.

Medical conditions where surrogacy is allowed in India

Surrogacy is allowed in India for couples who have medical conditions such as blocked fallopian tubes, polycystic ovarian syndrome (PCOS), premature ovarian failure (POF), or genetic disorders that may make it difficult for them to conceive.

Rights and Responsibilities of Surrogates and Intended Parents in India

Rights of surrogates in India

In India, surrogates have certain rights that must be protected at all times. Firstly, they have the right to proper medical care and attention during the entire surrogacy process. They also have the right to proper nutrition and living conditions, and to be treated with dignity and respect. Additionally, surrogates have the right to make decisions about their own health and well-being during the surrogacy process. This includes the right to refuse any medical procedures that they do not wish to undergo.

Rights of intended parents in India

Intended parents in India have the right to pursue surrogacy as a means of having a child, provided they meet certain legal requirements. They also have the right to be involved in the surrogacy process, including the selection of a surrogate and any medical decisions related to the pregnancy. Furthermore, intended parents have the right to a child who is genetically related to them, provided the surrogacy agreement is executed legally and ethically.

Responsibilities of surrogates in India

Surrogates in India have several important responsibilities during the surrogacy process. Firstly, they

must take care of their own health and well-being to ensure a healthy pregnancy and delivery. They must also follow all medical advice and instructions to maintain the health of the baby they are carrying.

Additionally, surrogates have a responsibility to maintain open and honest communication with the intended parents throughout the process. This includes discussing any concerns or issues that may arise during the surrogacy journey.

Responsibilities of intended parents in India

Intended parents in India have a number of responsibilities during the surrogacy process as well. Firstly, they must ensure that the surrogate they choose is healthy and capable of carrying a baby to term. They must also provide financial and emotional support to the surrogate throughout the pregnancy.

Furthermore, intended parents have a responsibility to be involved in important medical decisions related to the pregnancy, in consultation with the surrogate and medical professionals. They also have a responsibility to comply with all legal and ethical requirements related to surrogacy in India.

Controversies and Debates Surrounding Surrogacy in India

Ethical issues surrounding surrogacy in India

Surrogacy in India has been subject to criticism and controversy due to ethical concerns. Some argue that it is unethical to use a woman's body for the purpose of carrying a child for someone else, and that it can lead to exploitation of vulnerable women.

Others argue that surrogacy can be a valid means of providing infertile couples with the opportunity to have a child, and that it can provide financial benefits to surrogates.

Commercial surrogacy and exploitation in India

One of the main ethical concerns surrounding surrogacy in India is the issue of commercial surrogacy and the potential for exploitation of surrogates. Some argue that surrogates may be coerced into participating in surrogacy due to financial need, and that they may not fully understand the risks involved.

Furthermore, there have been cases of surrogates being exploited by unscrupulous surrogacy agencies, who may not provide them with proper medical care or compensation.

Future Prospects of Surrogacy Laws in India

Reforms in surrogacy laws in India

In recent years, there have been calls for reforms to surrogacy laws in India to address some of the ethical concerns surrounding the practice. In 2016, the government of India passed the Surrogacy (Regulation) Bill, which aims to regulate commercial surrogacy in India and protect the rights of surrogates.

The bill includes provisions to prohibit commercial surrogacy, and to restrict surrogacy to Indian citizens who are married and unable to conceive a child naturally. It also includes provisions to protect the health and well-being of surrogates, and to prevent exploitation.

Future of surrogacy in India

The future of surrogacy in India remains uncertain, as the government continues to grapple with the ethical issues surrounding the practice. However, it is clear that any future reforms to surrogacy laws in India must prioritize the health and well-being of surrogates, and must address the potential for exploitation and abuse. In conclusion, surrogacy laws in India have created a regulated and safe environment for surrogates and intended parents. Despite some controversies, India has become a popular destination for surrogacy due to its lower costs and legal status. With recent reforms and changes in surrogacy laws, the future of surrogacy in India seems promising. It is important for individuals interested in surrogacy to fully understand the laws and guidelines in place and to work with reputable clinics and attorneys to ensure a smooth surrogacy process.

Conclusion and Future of Foreign Adoption and Surrogacy

Summary of Key Points

Foreign adoption and surrogacy are complex processes that involve cultural and language differences, ethical considerations, and the potential for heartwarming success stories. To navigate these complexities, it is important for adoptive parents and surrogates to prioritize cultural sensitivity, communication, and ethical standards.

Future of Foreign Adoption and Surrogacy

As technology and globalization continue to connect people across the world, the future of foreign adoption and surrogacy will likely involve more cross-cultural and international connections. However, it will be important for these processes to prioritize the safety, well-being, and rights of all parties involved. With careful consideration and ethical guidelines, foreign adoption and surrogacy can continue to bring joy and fulfilment to families around the world. In conclusion, foreign adoption and surrogacy can be a viable option for those looking to expand their family. However, it is crucial to carefully consider all the legal, cultural, and ethical considerations. By working with reputable agencies and being aware of the challenges and benefits, prospective parents can take steps to make the process as smooth and successful as possible. Above all, it is important to approach foreign adoption and surrogacy with an open heart and mind, and to be prepared for whatever joys and challenges may come with building your family through these methods.

Recommendations for Improving Foreign Adoption and Surrogacy in India

To improve the process of foreign adoptions and surrogacy in India, we recommend the following:

- Strengthening regulation and oversight to prevent unethical or unsafe practices
- Partnering with reputable agencies and clinics that prioritize the well-being of all parties involved
- Providing adequate support and counselling to potential parents and surrogates throughout the process
- Ensuring that financial arrangements are fair and transparent, with no exploitation or coercion
- Offering long-term support and resources to adopted children or surrogate mothers, as needed

By implementing these recommendations, we can help ensure that foreign adoptions and surrogacy arrangements in India are safe, ethical, and fair for all parties involved. In conclusion, foreign adoption and surrogacy in India have opened up new possibilities for individuals and couples facing infertility issues. While there are benefits to this practice, it is important to address the ethical and legal concerns surrounding these arrangements. As India moves forward with regulating and overseeing foreign adoption and surrogacy, it is crucial to prioritize the well-being of all parties involved and ensure that these practices are conducted in a fair and ethical manner.