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# Surrogacy and Surrogate Mother's Claim to Guardianship of Surrogate Child

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## Abstract

In the modern era, the inventions and innovations in the medical science has made several miracles and surrogacy is one of them. Surrogacy allows a couple who are unable to have a baby due to infertility or any other medical complication through a surrogate, where a surrogate mother carries a baby in her uterus until its birth and gives the baby to the intending parents after its birth. This paper explains the procedure of surrogacy and role of the surrogate & the intending parents. It also sheds light on the types of surrogacy options available to the intending parents based on genetic material and monetary compensation. Doctrinal research methodology has been employed in this paper to carry out research with the help of secondary data sources.

Many times, because of emotional attachment to the baby, surrogate mother might want to keep the baby for herself and refuse to handover the baby to intending parents. Surrogate's claim to guardianship of the surrogate child has been discussed in this paper. Surrogacy has been criticized by many scholars because of the social, legal and ethical issues that result from using a woman to produce babies. The researcher has attempted to address these issues and how it affects the surrogate mother and the child. Due to such issues, many countries have banned surrogacy; surrogacy is legal in India, however in the recent developments, commercial surrogacy has been banned in India. Several attempts have been made to regulate surrogacy in India, that has also been looked into in the present paper. The present paper is concluded with some recommendations to improvise the present situation of surrogacy.

## Introduction

Family is a social unit. At a certain point of time almost every couple intends to start their own family, but sometimes due to some complications that might not be possible. In such cases the couple may look for other options to have a baby such as In-Vitro Fertilization (IVF), Artificial Reproductive Technology (ART), Intra-Uterine Injections (IUI), etc. which are like a ray of hope for the infertile couples. With the advancement in medicine and technology especially in ART, as donor insemination, embryo transfer technique etc. has revolutionized the reproductive methods such as Surrogacy.<sup>1</sup>

Surrogacy gained spotlight for the first time in mid-1970s when the 1<sup>st</sup> "official" agreement

<sup>1</sup> Ranjana Kumari, *Surrogate Motherhood – Ethical or Commercial*, CENTRE FOR SOCIAL RESEARCH (2010)

on surrogacy was made. During the same period, world's 1<sup>st</sup> ever 'test-tube baby' was born because of which surrogacy became global news.<sup>2</sup> Though this wasn't an actual case of surrogacy, it paved a way for gestational surrogacy. The first ever country to legalize commercial surrogacy was India in 2002 after India's first ever In-vitro fertilization (IVF) baby (World's 2<sup>nd</sup> IVF baby).<sup>3</sup>

The ART (Regulation) Bill describes surrogacy to be "*arrangement in which a woman agrees to a pregnancy, achieved through assisted reproductive technology, in which neither of the gametes belong to her or her husband, with the intention to carry it to full term of pregnancy and hand over the child to the person or persons for whom she is acting as a surrogate*"<sup>4</sup> An agreement will be made between the couple and the surrogate mother called as 'Surrogate Parenting Agreement', in which the surrogate agrees to carry the child (embryo formed from the sperm of the intending father and another intending mother's egg) in her uterus for full term and deliver the baby and give it to the biological parents.

Since the time Surrogacy has gained recognition, it has received immense support as well as serious backlash. Some social activists contends that surrogate mothers are exploited, subjected to violence and their rights are violated; it is often compared to 'adultery', 'baby-selling', 'prostitution'.<sup>5</sup>

In certain cases, the surrogate mother will want to keep the baby or tries to claim guardianship of the baby. Such situations create serious complications and question the possibility or legality of such claim. Hence, it is very important to have clear and stringent laws to govern surrogacy so as to safeguard rights of the baby, surrogate and the biological parents. Though surrogacy has been legally recognized in India in 2002, the laws governing surrogacy aren't really soundproof. Initiatives have been taken but bringing them into effect is yet to be done.

The methodology used to carry out research for this study is Doctrinal Research Methodology. It centers around analysis of case laws, judgments, articles, statutes, legal sources, etc. The data gathered for this research is from secondary data sources.

## **Research Questions**

The research questions pertaining to the present paper are:

- What are the different types of surrogacy?
- Can a surrogate mother claim guardianship of the surrogate child?
- Are there any ethical issues that arise regarding surrogacy?
- Does India have strong set of laws to govern surrogacy?

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<sup>2</sup> *The History of Surrogacy: A Legal Timeline, Worldwide Surrogacy* (Feb. 12, 2018 10:50 PM) <https://info.worldwidesurrogacy.org/blog/the-history-of-surrogacy-a-legal-timeline>

<sup>3</sup> Chandru Maya, *Legitimacy of Surrogacy in India*, LEGAL SERVICE INDIA (Apr. 3, 9:00 PM), <http://www.legalserviceindia.com/legal/article-2778-legitimacy-of-surrogacy-in-india.html>

<sup>4</sup> The Assisted Reproductive Technology (Regulation) Bill, 2008

<sup>5</sup> Aditya Kumar, *Problems of Commercial Surrogacy In India*, SSRN (Apr. 3, 9:10 PM), [https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=3625804](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3625804)

## **Research Objectives**

The present research has the following research objectives:

- To learn the options that is available to a couple to have a baby through surrogacy
- To interpret circumstances in which the surrogate can claim the guardianship of surrogate child
- To check the validity of surrogacy contract
- To analyze the concerns regarding commercialization of surrogacy
- To shed light on laws governing surrogacy in India

## **Literature Review**

- Usha Rengarchy Smerdon has expressed her opinion regarding international surrogacy in her article “Crossing Bodies, Crossing Borders: International Surrogacy between the United States and India”. Due to the unethicity of surrogacy and potential harm that the surrogate mothers and children are exposed to, it is suggested that international surrogacy is banned. Because if it is not banned, then international surrogacy opens door for wide black market, which results in abuse and exploitation of women as well as children due to lack of laws and regulations on international surrogacy.<sup>6</sup>
- The article “Surrogacy: The Psychological Issues” which is written by R. J. Edelmann addresses that there is lack of research regarding psychological issues that result from surrogacy. It discusses how the separation from the surrogate child impacts the surrogate mother, it has been noted from several research that the separation doesn't impact the surrogate mother or the child largely and they are well adjusted.<sup>7</sup>
- “Surrogacy and the Politics of Commodification” written by Elizabeth Scott states that there will always be debates regarding the morality of surrogacy, but regulating surrogacy can help in handling the problems faced by women and children in a better manner and minimise the potential harm they are exposed. This is a suggested way to deal with an issue like surrogacy where the society does not see eye to eye.<sup>8</sup>
- R. S. Sharma in his article “Social, Ethical, Medical & Legal Aspects of Surrogacy: An Indian Scenario” suggests that surrogacy by ART(Regulation) Bill, should be available only for those women who are infertile and for those for whom it is medically and physically impossible or undesirable to carry a baby till the end of gestation period.<sup>9</sup>
- In the article “Buying a Newborn: Globalization and the Lack of Federal Regulation of Commercial Surrogacy Contracts” the writer Brock A. Patton is of the opinion that

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<sup>6</sup> Usha Rengachary Smerdon, *Crossing Bodies, Crossing Borders: International Surrogacy between the United States and India*, 39 CUMB. L. REV. 15 (2008)

<sup>7</sup> Robert Edelmann, *Surrogacy: The Psychological Issues*, 22 JOURNAL OF REPRODUCTIVE AND INFANT PSYCHOLOGY, 123 (2004)

<sup>8</sup> Elizabeth S. Scott, *Surrogacy and the Politics of Commodification*, 72 LAW & CONTEMP. Probs. 109 (2009)

<sup>9</sup> R. S. Sharma, *Social, Ethical, Medical & Legal Aspects of Surrogacy: An Indian Scenario*, INDIAN J MED RES. S13-S16 (2014)

surrogacy has become an emerging concern, and states that the government needs to take an initiative to regulate the “emerging market”. A failure to enact a substantive legislation will just result in complicated custody battles.<sup>10</sup>

- The article “Mama’s Baby, Daddy’s Maybe: A State-by-State Survey of Surrogacy Laws and Their Disparate Gender Impact” is written by Darra L. Hofman in the year 2009. The writer explains that surrogacy has opened up an option for infertile women and their spouses, which has been available for infertile men in several ways. Technique that resolves men’s infertility, even if it results in a baby that isn’t genetically linked to its “father” will not receive that much of scrutiny, it is the same if the “mother” isn’t genetically linked to the baby, as far as the “mother” carries the baby through the gestation period.<sup>11</sup>
- Robert D. Arenstein in his article “Is Surrogacy Against Public Policy? The Answer is Yes” states that one of the main reasons why the couples who are unable to have children opt for surrogacy is because that the adoption process is a lengthy & complicated process and there is a dearth of adoptable children, and everyone is not granted the right to adopt. Hence, many people turn to surrogacy as an alternative.<sup>12</sup>

### **Types of Surrogacy**

The intended parents have several options to choose from even in surrogacy. The categorization of the types of surrogacy depends on the genetic material that will be chosen, the way surrogate is chosen, the procedure adopted to impregnate the surrogate, if the surrogate mother is going to be residing in the home country or the couple’s country, etc.<sup>13</sup> However, the two main types of surrogacy are based on genetic material and payment considerations.

The two most common and sought-after type of surrogacy based on genetic material are:

- Traditional Surrogacy
- Gestational Surrogacy

In Traditional Surrogacy, the egg of the surrogate is fertilized by artificially inseminated sperm of a man who is the intended father of the baby. The baby will be genetically linked to the surrogate mother and the intended father. This type of surrogacy is subjected to a lot of criticism because of the genetic connection of the surrogate mother to the child. If the surrogate mother is related to the child it will make it even harder for her to give the child to the intended parents.<sup>14</sup>

<sup>10</sup> Brock A. Patton, *Buying a Newborn: Globalization and the Lack of Federal Regulation of Commercial Surrogacy Contracts*, 79 UMKC L. REV. 507 (2010)

<sup>11</sup> Darra L. Hofman, *Mama's Baby, Daddy's Maybe: A State-by-State Survey of Surrogacy Laws and Their Disparate Gender Impact*, 35 WM. MITCHELL L. REV. 449 (2009)

<sup>12</sup> Robert D. Arenstein, *Is Surrogacy Against Public Policy? The Answer is Yes*, 18 SETON HALL L. REV. 831 (1988)

<sup>13</sup> Surrogacy: What is it? The Different Types of Surrogacy Options Available, Ilaya (Mar. 12, 2018 8:50 PM), <https://ivf.ilaya.com/surrogacy-different-types-surrogacy-options-available/>

<sup>14</sup> *Supra* note 1

Gestational Surrogacy is the most preferable and advised type of surrogacy. Intended mother's egg and intended father's sperm will be fertilized in a lab & the resulting embryo will be planted in the uterus of the surrogate. The technique used in this process is called In-vitro fertilization. After planting embryo in the surrogate's uterus, she carries the child for a full term of pregnancy and once the baby is born, it will be given to the biological parents.<sup>15</sup> In this type of pregnancy, the baby is genetically related to both the intended parents and the surrogate is just carrying the baby in her womb and is not related to the baby.

Two type of surrogacy based on payment consideration are:

- Commercial Surrogacy
- Altruistic Surrogacy

When a surrogate mother is paid financial benefit apart from medical expenses, it is called Commercial Surrogacy. This the most controversial type of surrogacy because it exposes the surrogate mother and child to potential risk of exploitation, abuse and trafficking. Hence, this type of surrogacy is banned in India.<sup>16</sup>

In Altruistic Surrogacy, the surrogate will not be paid any financial benefit apart from the medical expenses incurred during the pregnancy. In this type of surrogacy, usually a close relative or a friend acts as a surrogate mother. In India, this is the suggested and allowed type of surrogacy.<sup>17</sup>

### **Surrogate mother's claim to guardianship of the surrogate child**

During surrogacy, there will be a slight possibility where the surrogate might get attached to the child and might want to keep it and refuse to hand it over to the intended parents. The question that arises is that, is it possible? If the surrogate declines to give-up the baby, the biological parents can go to the court to enforce their rights and get back their baby, only after the court takes all the circumstances into consideration.

One of the landmark cases and the first ever surrogacy case contested, where the surrogate declined to give-up the baby and fought to claim the custody of the baby is Baby M case. In this case, Sterns, the intended parents, approached Mary Beth Whitehead to be a surrogate for traditional surrogacy, in which she will be inseminated with the intended father's sperm to fertilize her egg. Whitehead agreed to be their surrogate and to relinquish her legal rights to Elizabeth Stern, who was the intended mother for consideration amount of \$10,000. However, after the birth of the baby, Whitehead could not give up the baby, hence, she kidnapped the baby and fled. Considering best interests of the baby, Sterns were given the primary custody and the surrogate mother, Whitehead was given visitation rights and in the birth certificate she was identified as the legal mother.<sup>18</sup>

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<sup>15</sup> Aruna Nigam, *Surrogacy: An Indian Perspective*, 1 TROPICAL CLINICS OF OBSTETRICS AND GYNAECOLOGY (2013)

<sup>16</sup> Priyanka Maut, S. S. Das, *Commercialization of Surrogacy in India: A Critical Analysis*, JCC LAW REVIEW (2014)

<sup>17</sup> *Ibid*

<sup>18</sup> *Re Baby M*, 537 A.2d 1227, 109 (N.J. 02/03/1998)

In Re TT case, the surrogate had entered into a surrogate agreement with biological parents to give the baby and the custody to them after its birth. But subsequently, the surrogate got attached to the baby and refused to give the baby. The UK court held that the surrogacy agreement was neither binding nor enforceable. Hence, it did not consider surrogate's unwillingness to hand over the baby to the biological parents as breach of agreement; she was also granted the custody of the baby as she was capable of taking care and meet the emotional needs of the baby.<sup>19</sup>

In Johnson v. Calvert, the surrogate and the biological parents made a contract, where the surrogate agreed to carry their baby for consideration amount of \$10,000. She was implanted with the embryo which resulted from the intended father's sperm and the intended mother's egg. After the delivery of the baby, the surrogate declined to give-up the baby to its biological parents, she fought for the custody of the baby who was not genetically related to her. The court upheld the legality of surrogacy contract and gave the custody of the baby to the biological parents. It also stated that surrogacy contracts will be held valid irrespective of if the surrogate mother has provided the egg or not.<sup>20</sup>

In India, to ascertain the legality of surrogacy contracts, Indian Contract Act, 1872 would be applied and the enforceability of such contract would come under Civil Procedure Code. In an event of refusal by the surrogate to hand over the baby to the intended parents after its birth, intended parents have several laws which favors them to obtain the guardianship of the baby, such as Guardianship and Wards Act, 1890 and ICMR Guidelines 2005.<sup>21</sup> However, the options available to the surrogate mother to claim guardianship of the baby are almost nil, it might be possible only if it is in the best interest of the baby, which will differ from case to case.

### **Legal, Ethical and Social Issues in Surrogacy**

Surrogacy has significantly improved the chances of reproduction available to infertile couples. This reproductive innovation like any other medical innovations comes with pros as well as cons. Some of the complications that come along with Surrogacy are: The surrogate mother might abort the baby without permission of the biological parents, she might refuse to abort the child even after suggestion from the doctor due to pregnancy complications, she might refuse to handover the baby after delivery, the biological parents might decline to keep the baby after it is born, they might refuse to pay the consideration amount after the delivery of the child.<sup>22</sup>

Surrogacy raises a number of social and ethical concerns as well. Even though both the parties are at risk of the other party defaulting, the majority of risk is faced by the surrogate mother. In Commercial Surrogacy, there is a risk of women being exploited, especially those

<sup>19</sup> Re TT (Surrogacy) [2011] EWHC 33 (Fam) [2011] 2 FLR 392

<sup>20</sup> John v. Calvert, 5 Cal. 4<sup>th</sup> 84, 19 Cal. Rptr. 2d 494, P.2d 776 (1993)

<sup>21</sup> Need For Legislation To Regulate Assisted Reproductive Technology Clinics As Well As Rights And Obligations Of Parties To A Surrogacy, Law Commission Report – 228 (2009)

<sup>22</sup> Md. Sahabuddin Mondal, *Problems And Issues of Surrogate Mother and Her Child*, LEGAL SERVICES INDIA (Apr. 3, 10:55 PM), <http://www.legalservicesindia.com/article/2310/Problems-And-Issues-of-Surrogate-Mother-and-Her-Child.html>

who are suffering from poverty and are trying to make money by “renting their womb”. And many of the women who agree to become a surrogate are illiterate and are not aware of their rights.<sup>23</sup>

Several activists consider surrogacy to be in violation of human rights, which has gained international focus on this issue. Surrogacy opens a worldwide black-market of women and children for prostitution, human trafficking, embryos as well as gametes. It might result in commoditization of babies as if they are some goods & not human beings.<sup>24</sup> And treating a woman as a baby producing machine, to just carry a baby for 9 months and handing it over to the intending parents after its birth and expect the surrogate mother not to be emotionally attached to the baby is very cruel.

## **Validity of Surrogacy Contracts**

One of the most contested topics regarding surrogacy is the legality and validity of Surrogacy Contracts. Activists argue that if surrogacy contracts are made enforceable, then it would mean giving a free pass to commodification of women and babies and that would be against the public policy. However, if surrogacy contracts are made enforceable, then it will help protecting the rights of surrogate mother, baby as well as the intending parents.<sup>25</sup>

The validity of surrogacy contracts has been questioned in courts around the world. The validity of surrogacy contract was first time questioned in Baby M case. Since then, this issue has come up in several surrogacy cases. Though several countries have made surrogacy legal, only in few countries surrogacy contract can be enforced in court. Countries take different approaches when it comes to validating surrogacy contracts. India does not have a separate legislation to deal with surrogacy contracts, in such case, surrogacy contracts fall under Indian Contract Act, 1872. As per this Act, every contract which consists of all essential ingredients of a valid contract is legal as well as enforceable.<sup>26</sup>

## **Laws governing Surrogacy in India**

As previously discussed, Surrogacy is a very sensitive issue that needs to be governed very carefully and keenly to avoid violation of rights of all the parties involved. Several issues pop up regarding surrogacy, such as, parental rights, rights of surrogate, guardianship, citizenship of the baby (if the surrogate mother is from a different country), etc. To address all such issues a country needs to have strong legislation regarding Surrogacy.

Though India has legalized surrogacy in 2002, it still does not have legislation which

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<sup>23</sup> *Supra* note 4

<sup>24</sup> *Surrogate Motherhood: A Violation of Human Rights*, EUROPEAN INSTITUTE OF BIOETHICS (Apr. 3, 10:50 PM), <https://www.ieb-eib.org/docs/pdf/2013-04/doc-1554801438-35.pdf>

<sup>25</sup> Neha Meena, *Surrogacy Contracts in India*, LEGAL SERVICE INDIA (Apr. 4, 12:00 AM), <http://www.legalserviceindia.com/article/1434-Surrogacy-Contracts.html>

<sup>26</sup> Aneesh V. Pillai, *Surrogacy Contracts: Issues and Challenges*, RESEARCHGATE (Apr. 4, 12:10 AM), [https://www.researchgate.net/publication/340755352\\_SURROGACY\\_CONTRACTS\\_ISSUES\\_AND\\_CHALLENGES](https://www.researchgate.net/publication/340755352_SURROGACY_CONTRACTS_ISSUES_AND_CHALLENGES)

specifically deals with surrogacy. First initiative to regulate surrogacy was taken by Indian Council of Medical Research in 2005. Since these guidelines were not backed by any legislation, surrogacy remained an unregulated domain in India. In 2008, ICMR attempted to regulate & legitimize various types of reproductive techniques which included commercial surrogacy as well through Assisted Reproductive Technology Bill, 2008. Despite its attempts to regulate surrogacy, the ART bill was opposed by several people as it was promoting medico-business interests by attempting to legalize commercial surrogacy, it also did not provide sufficient rights to surrogate mothers and babies.<sup>27</sup>

Law Commission of India in 228<sup>th</sup> report pointed out the requirement to regulate ART clinics and to safeguard the rights of all the parties involved in surrogacy. It also recommended to ban commercial surrogacy & only altruistic surrogacy to be allowed so as to put an end to commodification of babies.<sup>28</sup> As per the recommendations of Law Commission of India, ART (Regulation) Bill 2010 was drafted, it provided a national policy which prevents the ART techniques from being misused and to ensure that they are used safely. However, there were some gaps in this bill, including a lack of coverage of significant surrogacy implications. After several much-needed amendments, an updated version of bill was presented as ART (Regulation) 2014, which provided information about ART clinics, services offered, the consequences of those services etc., but most of the recommendation of this bill were ignored and it met the same fate as ART Bill 2008.<sup>29</sup>

Subsequently, the Surrogacy (Regulation) Bill, 2016 was introduced in Lok Sabha, it was based on guidelines of Human Fertilization and Embryology Authority and consisted of several recommendation given in 228<sup>th</sup> Law commission report 2009. This bill was passed by the Lower House, but it was not introduced in Upper House. In 2019, this bill was re-introduced in Lower House as Surrogacy (Regulation) Bill, 2019. This bill put a ban on commercial surrogacy and allowed only altruistic surrogacy. Some of the important conditions set by this bill with regards to altruistic surrogacy:

- Altruistic Surrogacy is available to only those couples who have been married for 5 years.
- The infertile couple needs to provide infertility certificate provided by District Medical Board.
- Age of wife should be between 23-50 years; Age of husband should be 26-55 years.
- The couple should not have a living child. (Exception – mentally & physically challenged child; child suffering from fatal illness)
- Surrogate mother should be a close relative of the intending parents. Her age should be within 25-35 years. She should have children of her own. She can be surrogate just once in her life.<sup>30</sup>

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<sup>27</sup> *Supra* note 15

<sup>28</sup> Manish Arora, Sanjeevani Dixit, *Demystifying the Journey of Surrogacy Laws in India: Surrogate Motherhood on the Anvil?*, 1 INTERNATIONAL JOURNAL OF ADVANCED LEGAL RESEARCH (2020)

<sup>29</sup> B. Asvini, C. Renuga, *Legality of Surrogacy with Special Reference to Surrogacy Bill 2019*, 8

INTERNATIONAL JOURNAL OF INNOVATIVE TECHNOLOGY AND EXPLORING ENGINEERING, 2302-2306 (2019)

<sup>30</sup> *Supra* note 27

Some of the conditions set in the Surrogacy Bill, 2019 were considered unreasonable, therefore with fifteen major changes, Surrogacy (Regulation) Bill 2020 was presented. This bill reduced the waiting period for the couple from five years to 1 year. It suggested removing the 'close relative' as a criteria. It also permits a 'willing' woman to be a surrogate, this will allow divorced and single women to have baby through altruistic surrogacy. After incorporating the recommendations by Upper House, the Surrogacy (Regulation) Bill 2020 was approved by Union Cabinet.<sup>31</sup>

## **Conclusion and Recommendations**

Surrogacy has opened a door for all the couples that yearn for a child but are unable to conceive due to some medical complications. However, along with surrogacy several problems also creep up. Due to lack of proper regulation, surrogacy is surrounded by several legal, ethical, social and moral issues. Since surrogacy agreements are difficult to enforce, in several cases parental right is in question when the surrogate mother claims the guardianship of the child. Commercial surrogacy has been criticized to result in baby selling, renting womb, human trafficking and prostitution. Hence, India has banned commercial surrogacy and has also banned foreigners from using Indian surrogate mothers. Lack of legislation on surrogacy has resulted in a lot of confusion and complication, it also risks the rights of all the parties involved. If surrogacy is not regulated soon, then even altruistic surrogacy will lead to exploitation, surrogates can be coerced or harassed into being surrogate mothers. Therefore, there is a dire need to regulate surrogacy at the earliest.

In majority of the cases, when the intending parents and the surrogate mother fight for the custody of the surrogate baby, the court has given the custody to the intending parents. Even in cases where there was matrimonial discord, the custody of the baby was given to the grandmother. In cases where during or after surrogacy it is found that the intending couple has been found guilty in criminal cases, or found to be violent, or found guilty in a rape case, or has intentions of trafficking the child after birth, or any other unforeseen events, the person who will acquire the guardianship of the baby should be mentioned in the Surrogacy contracts. The Surrogacy (Regulation) Bill, 2020 inhibits gay couples from having baby through surrogacy, this amounts to discrimination, provisions should be made to allow gay couple to have babies through surrogacy. This bill is silent on how close the relative has to be to become a surrogate to the intending parents. The biological parents need to cover the expenses of post-natal care of the surrogate mother, she shouldn't be left high and dry after the birth of the baby to take care of herself during post-partum. The parliament needs to act fast and make a detailed legislation specifically on surrogacy, which covers all aspects of surrogacy like parental rights, rights and duties of the surrogate as well as intending parents, medical expenses coverage by the intending parents, guardianship of the surrogate child in unlikely circumstances, role of ART clinics, etc. As long as surrogacy is left unregulated, surrogate mothers and children are exposed to potential harm. Hence, a detailed legislation on surrogacy is need of the hour.

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<sup>31</sup> Ayush Verma, *Surrogacy (Regulation) Bill, 2020: The Way Forward*, IPLEADERS (Apr.5, 12 :05 PM) <https://blog.ipleaders.in/surrogacy-regulation-bill-2020-way-forward/>

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