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Surrogacy and its Socio – Legal Implications in India

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Abstract

Surrogacy And Its Socio-Legal Implications in India” is the main topic of the paper. Following a brief introduction to the subject, it explains what surrogacy is and how it works. Subsequently, the document has presented many interpretations of surrogacy. The three basic types of surrogacies are also covered, and then its historical background is discussed. The paper first discusses the history in the context of India and the rest of the world before mentioning a debate on the commercialization of surrogacy in India. After then, a number of moral and ethical concerns around surrogacy were covered. It also covers Indian legislation pertaining to surrogacy. The legal concerns surrounding surrogacy have been examined after the judicial response to the practice in India. Consequently, the study concludes with a few recommendations and ideas on surrogacy.

Keywords: *Egg Donor, Gestational Mother, Surrogate Mother, Surrogacy, Genetic Surrogacy, Total Surrogacy, etc.*

Introduction

Motherhood is a treasured experience for all women, since nature has endowed them with the exquisite ability to have children. An individual's natural right is the ability to procreate. Couples' desire to have children is a global occurrence. Being a parent is a forever gratifying and life-changing experience. The indescribable suffering and misery that accompany not realizing one's desire of parenting. The field of infertility therapy has advanced dramatically in recent years. Every civilization on the planet has placed a high value on the institution of the family. A new family is created when two people get married and form a marital tie; this family is then completed by the birth of children. Since ancient times, parents have valued having children as a source of happiness and as essential to the future of the family line. Psychologists note that having a child strengthens the marriage between a couple, which might assist troubled couples in remaining intact over time.

However, a sizable portion of the population is incapable of becoming parents for a variety of reasons. According to research, one in six couples have these issues. The lack of a kid is viewed as a mark against the family. In several cases, the incapacity to conceive resulted in the dissolution of marriage. Infertility, the medical name for the inability to conceive a child, is a widespread issue. The WHO Report states that between 10 and 15 percent of people worldwide, including those in India, are infertile.

Certain types of infertility that were once thought to be incurable now have straightforward treatments. Adoption was the only option available to childless couples until recently. Scientific progress in medicine, especially in the area of Artificial Human Reproduction Technology (ART) have saved these people and given them a number of ways to have a child that is genetically related. ART offers a range of alternatives, including embryo transfer, in-vitro fertilization, and artificial insemination. Out of all the techniques, surrogacy has grown in popularity.

Meaning and Concept of Surrogacy

Surrogacy represents a significant breakthrough in reproductive science since it involves using a woman's womb to carry a child for another woman. One of the best strategies for overcoming infertility, both social and biological, is "surrogacy". Couples who are unable to conceive naturally or through in vitro fertilization now have the chance to have a genetically related child through surrogacy. An increasingly popular option for people and couples who want to have a biological kid of their own is surrogacy.

Around the world, surrogacy has gained widespread recognition. Infertile couples view surrogate birth as a blessing since it offers them a revolutionary chance to become parents.

The word "surrogate" comes from the Latin word "surrogatus", which means "substitute", or "person designated to act on behalf of another". The traditional definition of surrogate motherhood is "an agreement between a married couple who is unable to have a child." A fertile woman agrees to carry her husband's child to term via artificial insemination in exchange for giving up all parental rights to the child and the wife because of her infertility.

Definitions of Surrogacy

According to Black's Law Dictionary, "an agreement wherein a woman agrees to be artificially inseminated with the semen of another woman's husband".

The New Encyclopaedia Britannica defines- 'Surrogate motherhood' as the practice in which a woman bears a child for the couple to produce children in the usual way.

In Medical parlance - the term surrogacy means using of a substitute in place of natural mother.

The ART Bill has defined surrogacy as 'an arrangement in which a woman agrees to a pregnancy, achieved through assisted reproductive technology, in which neither of the gametes belong to her or to her husband, with the intention to carry it to the term and hand over the child to the person or persons for whom she is acting as a surrogate'.

Types of Surrogacies

There are three types of surrogacies. These three types of surrogacies include Partial/Genetic Surrogacy, Gestational Surrogacy, and Mandatory Surrogacy.

In Genetic or Partial surrogacy, a woman's egg is used either by artificial insemination the male partner of the pair who desires the kid (the commissioning father) fertilizes the egg less frequently through natural sexual activity. The biological mother of the child in this case is the surrogate mother, while the commissioning mother fulfills the roles of social and legal mother. Traditional surrogacy and partial surrogacy are other names for this kind of surrogacy. Complete surrogacy involves fertilizing the surrogate's egg with either the commissioning father's or the donor's sperm.

In gestational surrogacy, the commissioning couple's (or anonymous donors') egg and semen are obtained, and the resulting embryo is then placed into the surrogate or bearing mother. In this instance, the surrogate mother and the child are not related genetically. This type of surrogacy is also known as full surrogacy.

Two types of surrogacies can be distinguished based on the money involved.

Altruistic surrogacy comes first, followed by commercial surrogacy. Altruistic surrogacy does not provide the surrogate mother with monetary remuneration; however, the fees and expenses incurred by the surrogate mother in carrying an embryo to term may be covered by the commissioning parent. Most often, this kind of surrogacy occurs between close friends or family members. The standard reason for the lack of a financial need is that participation in this type of surrogacy is driven more by love than by greed or even self-interest. Though the word "generosity" is often used in this context, in the other type of surrogacy, referred regarded as "commercial surrogacy," the surrogate receives monetary remuneration in addition to pregnancy-related costs. In other words, the surrogate receives compensation for her gestational services.

The Historical Context of Surrogacy

The surrogacy business is not a recent one. It's a very old custom. This custom has its roots in biblical times. The first surrogate mother in history is believed to have lived in the Canaanite region two millennia before Christ was born. In order to become a mother, Sarah Abraham's infertile wife persuades her maid Hager to share her bed with Abraham. Abraham was 86 years old at the time. Nevertheless, in spite of his elderly age, he managed to conceive. About 1910 BC, Hager gave birth to a child who was named Ishmael. Ishmael was the first kid to be born as a consequence of the so-called traditional surrogacy program. In the middle of the eighteenth-century BC, in Summer Mesopotamia, took place the second surrogacy program. By forcing Billah, Rachel's maid, to share a bed, Jacob's wife convinced Billah to become a mother.

In ancient Egypt, surrogacy was highly commonplace. Numerous Pharaohs of Egypt requested assistance from their concubines in order to procreate. It was widely held that the Sun Ra God was the immediate ancestor of the ancient Egyptian monarchs. A study has been done on artificial insemination for a number of centuries already.

The Dutch scientist A. Leeuwenhoek, who invented the microscope, studied seven human beings in 1677 and made the first discovery of spermatozoa. According to his theory, a spermatozoon is a type of seed that sprouts when it finds a favourable environment in a woman's uterus. In 1790, Scottish surgeon and venerologist John Hunter artificially inseminated a woman, marking the first known instance of artificial insemination in history. In 1880, the first IVF attempt was recorded using guinea pigs. In 1891, Heape, a French scientist, successfully carried out the first IVF surgery by transferring an embryo from one guinea rabbit to another.

Since 1920, artificial insemination with the husband's or a selected donor's sperm has been a widely used infertility treatment. On July 25, 1978, Louise Brown, the world's first IVF baby, was born in the UK as a result of Dr. Robert G. Edwards' and Patrick Steptoe, D.O.'s efforts. 67 days after the world's second and India's first IVF baby was born, on October 3, 1978, Kanupriya, commonly known as Durga, was born in Kolkata, thanks to the efforts of Dr. Subhas Mukherjee and his two colleagues. The United States' first program for gestational surrogacy was introduced in Ann Arbor, Michigan, in April 1986. The first family surrogacy program was launched in South Africa in 1987 when 48-year-old Pat Anthony carried and delivered three grandchildren for her own 25-year-old daughter Karen Ferreira Jorge.

The History of Surrogacy In India

Hindu mythology also portrays surrogacy and the continued secrecy surrounding the surrogacy business. In the Bhagavata Purana, Vasude begged Kansa not to kill every son born, and Vishnu heard him. Following receipt of these pleas, Vishnu arranged for the transfer of an embryo from Devaki's womb to Rohini, Vasudev's second wife. When Balaram, Krishna's sibling, was born, Rohini secretly raised him while Vasudev and Devki told Kansa the baby had died.

In the Mahabharat, Gandhari did not give birth to a child; instead, she produced a semisolid substance which Maharishi Vyas divided into 100 pieces and planted in different pans. And thus the 100 Kauravas were born. Similarly, Maharishi Bhardwaj saw a celestial nymph emerge from the water after a bath and

felt he had to cast his semen into the Darona pot used for yagna. The name of the vessel was given to Dron Acharya, who was born here.

Many thousand years after the biblical events of 599 AD, the 24th Tirthankara, Mahavira, was born through the transplantation of an embryo from one woman's womb to another. Among the most significant figures in Jain mythology is him. The Brahmin Rishab deva's wife, Devananda, conceived him. The gods deftly transferred the embryo to Trishala's womb.

67 days later, on October 3, 1978, Dr. Subhas Mukherjee and his two colleagues in Kolkata successfully carried out the world's second IVF baby, and India's first, Kanupriya, also known as Durga. The way the story depicted the birth of Kanupriya, also called the Durga process, drew a lot of criticism.

Commercialization of Surrogacy in India

It is difficult to see the child as a product. After all, love, not money, is the source of a baby's conception, which happens independently of any business activity. Historically, poor parents have viewed their children as potential financial assets, weighing the costs of rearing them in their early years against the ultimate financial assistance they might provide—in the shape of a rice field, industry, or manor. Similar to this, surrogacy has grown to be a profitable sector in countries like India, bringing up a number of challenges that have spurred political debate. Legal experts have investigated the contractual and jurisdictional difficulties, while feminists have debated about the alienability of women's bodies. The surrogacy industry is sizable and expanding. Thousands of people all over the world have the desire and financial means to pay a different lady to bear their children.

In India, the market for “wombs for rent”, or commercial surrogacy, is expanding. Critics have labeled the rapidly growing surrogacy industry in India as "baby booming business," "parenthood by proxy," "womb on hire," and "baby firm." Because of surrogacy, a woman's body's biologically normal function has turned into a financial venture. Running agencies make good money by recruiting surrogates, advertising surrogate services, and recruiting surrogates. The commercialization of surrogacy raises concerns about a black market, baby-selling, breeding farms, turning impoverished women into surrogate moms, and the possibility of paid selective breeding.

Because surrogate moms are readily available and the total cost of this approach is significantly lower than in other nations, surrogacy is rapidly growing in popularity in India. Due to the relative ease with which foreigners can locate surrogate moms, India has seen a significant demand for surrogates. The lack of legal intervention had made surrogacy in India a complex matter. Currently, surrogate motherhood in India is a \$445 billion industry and is under intense criticism from various social concerns. The only nation in the world to allow commercial surrogacy is India. After being made legal in India in 2002, surrogacy has grown to be a half-billion-dollar industry with at least 350 facilities providing the practice.

Most Indian surrogate moms receive payment in instalments over a nine-month period on average. They are sometimes not paid at all if they are unable to conceive, and if they miscarry, they may have to forfeit some of their fee. Practically speaking, the sum of money offered to an Indian surrogate mother might not

seem like much, but since it will be used for their basic needs (housing, children's education, and medical treatment), it might actually be the families' lifeline. Indian clinics are becoming increasingly competitive at the same time, both in terms of price and in terms of luring and retaining Indian women as surrogates. The entire cost of the package, which ranges from \$10,000 to \$28,000 for patients, includes fertilization, the surrogate's fee, and hospital delivery of the child. When all expenses for travel, medical care, and lodging are taken into account, the total cost is about one-third that of having the surgery done in the UK. about the last few years, the number of surrogacy cases in India has increased by about 150%. The most sought-after places in India to locate surrogate mothers are Anand town in Gujarat State, Indore city in Madhya Pradesh, Pune, Mumbai in Maharashtra State, Delhi, Kolkata, and Thiruvananthapuram. In private clinics located in Anand, Surat, Pune, and Indore, mushrooming has been observed. These clinics serve as go-betweens for the international couples and the willing surrogate moms. Childless couples from all over the world are flocking to India in search of surrogate moms because of the inexpensive cost of poor Indian surrogates. Many American, Russian, and British ladies have duly enrolled for the surgery at the Akankshya Clinic in Anand and the Bhopal Test Tube Baby Centre. Surrogacy agreements are typically drafted arbitrarily and have the potential to be exploitative, particularly as the majority of surrogates come from lower socioeconomic groups. In India, the practice of commercial surrogacy itself exploits impoverished and vulnerable surrogate mothers by placing them in needless and undesirable risk situations.

If they are unable to conceive and do not have a grace period after giving birth, they are not entitled to any compensation. In addition, they have no rights under the terms of the contract and no legal representation. The surrogacy industry in India is expected to be worth between Rs 1,000 and Rs 5,000 crore, which is a substantial reduction from what it would cost in the United States. This has once more raised foreigners' confidence in seeking surrogacy in India.

The lower middle class, aware of their social standing, is turning to surrogacy to meet their material and financial requirements. From the roughly 50 cases in 2004 to 158 cases in 2005, the National ART (Artificial Reproductive Techniques) Registry of India (NARI) has gathered data indicating an over 300 percent increase in cases. Of these cases, 75 are from Gujarat alone; the remaining cases were reported from other major Indian cities, including Hyderabad, Chennai, and Hyderabad 15 times.

Surprisingly, surrogate womb employment persists in India despite the Transplantation of Human Organs Act, 1994's limitations on the sale, loan, and commercialization of the trade in human organs. Moreover, although same-sex partnerships are prohibited in India, single parents, gay persons, and unmarried partners have no other access to surrogates like they do. Reproductive tourism in India has grown as a result of the desire to have a biological child of one's own flesh, blood, and DNA, as well as the opportunity to buy goods because of technology and the country's strong entrepreneurial culture.

Ethical and Moral Issues Concerning Surrogacy

The noble notion that underpins surrogacy is the altruistic notion of one woman aiding another, or one woman being of assistance to another woman. Both Christian and Hindu religious books make reference to the ancient practice of surrogacy. The following are some moral and ethical concerns around surrogacy:

Damage to Surrogate Mother: Most Indian women become surrogate moms due to financial hardships or other circumstances. However, there may be hazards associated with surrogacy technologies that put the surrogate mother's life and health at jeopardy. This raises the important issue of who bears liability for any injuries or damages a surrogate mother may incur. If the doctors and other medical professionals had not engaged in medical negligence, it would be difficult to determine culpability and provide the surrogate mother with compensation for her loss.

Surrogacy Degrades the Dignity of Woman - One of every person's most fundamental and beloved rights is the right to dignity. There is a claim that surrogacy diminishes a woman's natural dignity. The process of surrogacy is using a woman's body to create a child who is then given to the intended parents. The surrogate mother is not allowed to make any decisions regarding her body while she is pregnant and must follow the terms specified in the contract. Additionally, the surrogate mother attempts to avoid forming a unique attachment with the child in her womb and views pregnancy as a way to make money. As a result, the procedure is viewed as a business transaction and the normal mother-child relationship is either totally absent or drastically reduced. Critics claim that when the female body is reduced to an incubator or breeding machine, this lowers the dignity of women.

Attachment with the Gestational Mother: In a surrogacy scenario, the woman who bears the child to term is referred to as the gestational mother. Physically and mentally, this can be an extremely taxing experience. It's unique in that after giving birth, the surrogate mother has to emotionally and physically distance herself from the child.

The practice of surrogacy has been likened to the exploitation of impoverished women in India, where women with limited financial resources have adopted this quick money-making tactic to provide for their families. India is quickly rising to the top of the surrogacy outsourcing list as a result of its easy availability to reasonably priced surrogate mothers and first-rate healthcare facilities. As a result, childless couples from around the globe are traveling to India to utilize surrogacy as a way to conceive at a far lower cost. Many reasons have been made against outsourcing, including "slavery of women," "neocolonialism," "exploitation of poor women," and other issues.

Interest of the Child - The surrogate mother typically receives monetary compensation for carrying and delivering the child to the commissioning parents. For this reason, it is criticized for being analogous to buying and selling a child. Some argue that it would lead to the creation of "designer babies" or the selecting of a child's sex and traits. As a result, using surrogacy would be morally and ethically abhorrent because it would amount to treating a child like a product. It has also been observed that the in vitro fertilization procedure utilized in surrogacy usually results in the birth of triplets or quadruplets. Since the commissioning parents might not be able to care for so many children who were born against their will, the child may suffer as a result.

It is also asserted that surrogate children might be born defective. The process also involves determining who is the child's parent and who has custody. The process of surrogacy requires the involvement of three, four, or five persons. Therefore, it is challenging to ascertain the child's parentage.

Indian Law Governing Surrogacy

The surrogacy legal framework varies depending on the jurisdiction. Three aspects comprise the global surrogacy approach: free market, regulated, and prohibited. While some jurisdictions outright forbid surrogacy and classify it as a criminal offense, others permit it under strict conditions pertaining to charitable purposes. Different jurisdictions have different laws pertaining to surrogacy.

Certain jurisdictions outright prohibit surrogacy and classify it as a criminal offense; conversely, certain jurisdictions permit surrogacy under specific conditions pertaining to charitable purposes.

The only nation where surrogacy is neither outlawed nor fully controlled is India. As of right now, India has no legislation governing surrogacy. It is considered to be enforceable and completely lawful because the law hasn't expressly proclaimed it to be unenforceable. After years of discussion and debate, primarily among the ICMR, the National Academy of Medical Sciences, and ART practitioners, the Ministry of Health and Family Welfare released the non-binding National Guidelines for Accreditation, Supervision & Regulation of ART Clinics in India in 2005. In the event that surrogacy arrangements are not specifically governed by legislation, the country's general civil law would take effect. This is because surrogacy arrangements are governed by the current situation solely. The Assisted Reproductive Technologies Bill, 2008 was written by the Indian Council of Medical Research with the intention of legalizing and regularizing various reproductive technologies, including commercial surrogacy. The Law Commission of India provided justification for the necessity of surrogacy legislation in its 228th Report. Despite the ART Bill's attempt to regulate surrogacy, a number of academics have opposed it, arguing that it fails to sufficiently protect the rights of surrogate mothers and their children and instead favors the interests of the medical-business lobby.

The most recent draft is the Draft Assisted Reproductive Technology Bill and Rules 2010, which includes amendments and additions to the 2008 draft. Although the previous Draft attempted to cover topics related to assisted reproductive technologies (ARTs), it had a number of shortcomings, and it was anticipated that the revised Draft would fill in these gaps. With additions and changes, the current Draft attempts to address some of the issues raised by the earlier version. Even though there are some improvements, the Draft is still far from being an inclusive text in its current state. If the proposed law is to successfully regulate the quickly growing surrogacy and ART sectors in India, these flaws will need to be remedied.

According to the Assisted Reproductive Technology (Regulation) Bill, 2013, a woman cannot be a surrogate mother if she is younger than 35 or older than 21. The law establishes criteria for foreign couples wishing to use Indian surrogates for the first time. The 2013 plan states that surrogate moms and commissioning parents will negotiate in secret to decide surrogate compensation. IVF centers and ART banks have no place in this.

According to the New Indian Medical Visa Regulations, 2012, only married individuals who have been together for a minimum of two years are qualified to apply for medical visas for surrogacy. This bill prevents live-in couples, international singles, and homosexual couples from using Indian surrogate moms to conceive their children. The law as it stands now is insufficient to protect the rights and health of women having IVF treatments, women who are chosen to be surrogates, and children born via commercial surrogacy. Additionally, it fails to establish guidelines for medical practice and pays no attention to the regulation of intermediary agents like surrogacy agencies, travel agencies, and surrogacy homes that are crucial in the surrogacy arrangement process.

Judicial Response to Surrogacy in India

In the case of Baby Manji Yamada, the Supreme Court of India was presented with the significant problem of surrogate arrangement. In this instance, an Indian surrogate mother gave birth to Baby Manji after a Japanese couple signed a surrogacy contract. Mr. Yamada, the commissioning father, made every effort to obtain a travel document so he could bring the child to Japan. However, because surrogate children are not recognized by the Japanese Civil Code, the Japanese Embassy in India declined to provide Manji a Japanese passport or visa. Then, Mr. Yamada attempted to apply for an Indian passport for Manji, which needs to be issued with a birth certificate. Furthermore, the names of the mother and father must appear on a birth certificate in accordance with Indian law. In this instance, Mr. Yamada was Baby Manji's genetic father; but, because Baby Manji had three mothers—the surrogate, the anonymous egg donor, and the commissioning mother—the authorities were unsure of Baby Manji's mother's identity. Because the legal mother's status was unclear, authorities thus refuse to provide the grandmother of a born baby's certificate to the National Commission for Protection of Child Rights for additional instructions. As a result, the Indian passport was also turned down. Ultimately, the baby's maternal grandmother, the petitioner, requested further guidance from the National Commission for Protection of Child Rights, rather than the court making a ruling. When Dan Goldberg and Arnon Angel, an Israeli gay couple, had twin boys in Mumbai in 2010, their Indian surrogate mother abandoned them, leaving them alone in India. The Jerusalem Family Court had denied their request for a paternity test, which would have started the twins' process of obtaining Israeli citizenship. Prime Minister Benjamin Netanyahu had to step in during the Knesset (Israeli Parliament) debate on the matter in order to allow the infants to be transferred to Israel in accordance with the law. Ultimately, the appeal was granted by the Jerusalem District Court, which decided that a DNA test should be performed to verify Dan Goldberg's paternity for the twin boys Itai and Liron. It was found that Goldberg was the twins' father when DNA samples from Goldberg and the twins were transferred to the Sheeba Medical Center in Israel. Goldberg and his twin baby boys were granted Israeli passports, allowing them to return to Israel in May 2010 after being stuck in Mumbai for more than three months.

Concluding Observation

Surrogacy has been a means of procreation since ancient times. However, as science and technology advance, this approach is now utilized to conceive children not only by infertile couples but by anybody who wants a kid. A market developed to meet the need for contraception after technology made it more

accessible and affordable. Thus, as surrogacy becomes more and more common, debates over moral, legal, ethical, and religious matters are triggered globally. Since more than two parties are involved in surrogacy agreements, each of them has the legal right to claim parenthood of the kid. As a result, disputes regarding who has parental rights and obligations for the kid may occur. As a result, disagreements may surface regarding who has parental rights and obligations with regard to the child. This is an issue that is specific to surrogacy, and there is no guarantee that it won't come up. Surrogacy is a helpful option for infertile couples, but it has also led to the commercialization of the practice, which has created a number of issues. While commercial surrogacy safeguards infertile women's reproductive rights, it is against human rights to criminalize it.

Even Nevertheless, developing countries that allow commercial surrogacy may be better able to safeguard the residents' negative reproductive rights. One important step is to regulate the surrogate practice in a way that benefits both parties. Insufficient regulation will support the continuation of the illicit global surrogacy market, which carries significant risks and exposes women to coercion, exploitation, and trafficking.

In order to protect surrogate mothers' rights, legal contracts must adapt to the unavoidable fact that surrogacy decisions are made under specific, sometimes-changing personal circumstances. Conditions pertaining to the surrogate mother's emergency requirements and health insurance should be included in surrogacy agreements.

The lack of comprehensive legislation has resulted in a number of attendant problems and an enigmatic impact on society as the surrogacy industry in India grows. Adopting specialized laws is required to control surrogacy and safeguard surrogate mothers in India. The interests of the infant born via surrogacy must be shielded from exploitation.

Because there is a lack of appropriate legislation, intermediaries and commercial agencies profit from the exploitation of intended parents as well as surrogate mothers. The entire system lacks transparency, and the erratic laws that control surrogacy in India increase the likelihood of running afoul of the law. Legal advice and psychiatric assessment are not provided in India; in the USA, they are required.

It is now time for India to assess, consider, decide how best to proceed with surrogacy in the future. The Parliament needs to pass a clear legislation regarding surrogacy. The government needs the help of the medical community in crafting a new surrogacy draft law that includes sufficient safety measures, protections, inspections, and precautions to prevent the negative effects of the commercial surrogacy industry. The foreign nationals must no longer be misled. A good law needs to control all parties involved. It is necessary to develop legislation controlling ART facilities and the rights and obligations of all parties participating in a surrogacy, including the surrogate child. Both benefits and drawbacks might be associated with surrogacy. Millions of couples would be happy if it were used sensibly. However, it would be detrimental to society if it were used carelessly and as a tool for trade.

Suggestions/Recommendations

The negative reproductive rights of its female inhabitants may be better protected by developing countries that allow commercial surrogacy. The state that permits commercial surrogacy may and should address abuses of negative rights by fortifying its commitment to women's empowerment and lowering the conditions of vulnerability that make it so difficult for female citizens to refuse such offers.

In order to ensure that all women have the social, material, and potential resources necessary to make truly independent reproductive decisions, positive reproductive rights must be implemented. Because of ethical dilemmas brought about by persons who have taken part in international surrogacy agreements (sometimes in violation of local laws), domestic laws should not be changed to permit commercial surrogacy in those states where it is now prohibited. The legislative should provide recommendations about what should happen in these situations, or the courts should handle them case-by-case. Before consenting to and executing a contract, the infertile couple and the surrogate should both consult with legal advice. To prevent unjustified scrutiny, the surrogate relationship should only be disclosed in limited detail, and the requirements for being a surrogate should be made explicit. This unethical aspect could be eliminated by establishing ways to regulate surrogacy payment and turning it into an altruistic deed rather than a business. To safeguard the rights of women and children, laws that address grey areas should be drafted and put into effect. It's imperative that the Indian Parliament thoroughly examines global viewpoints on surrogacy in general and Indian policy in specific in order to fully comprehend the issue and supply our nation with several laws and regulations following giving considerable thought to how society views and accepts this surrogacy practice. India should prioritize outlawing commercial surrogacy and allowing charitable surrogacy. Laws being drafted in India to control and oversee surrogacy ought to take into account the moral, social, religious, and ethical standards of the community. The surrogate mother needs to be closely watched and should not go through more than three trials. A copy of the contract should be given to the surrogate mother since she is a party to the agreement and her interests should be taken into account. The intended parents and the clinic frequently make decisions, and the surrogate mother has little influence over these choices. Likewise, although we want to embrace and promote diverse family structures, commercial surrogacy must not to be "marketed" as the ideal choice for individuals wishing to have a family.

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