

LEGAL TREND OF JUDICIAL RIGHTS IN THE PROCESS OF SURROGACY

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ABSTRACT

Surrogate mothers are women who agree to carry a child to term and give birth on behalf of intended adoptive parents. Surrogacy procedures include cycling and embryo transfer. Because of India's low costs and easy accessibility, intended parents from developed nations have flocked to Indian surrogates. The goals of this study are to explain the need for newlinesurrogacy and to identify the ethical, moral, and legal issues that arise from it. The various parties involved in newline surrogacy, as well as the steps that may be taken to control it and protect their interests, are examined.

Keywords: Adoption, Procreation, Right to Procreation and ART, Surrogacy

INTRODUCTION

Women who agree to be surrogates carry and give birth to children for other people, who subsequently officially adopt the child. When a couple does not want to carry a pregnancy themselves, when a pregnancy is physically impossible, Surrogacy arrangements are considered when a pregnancy offers significant risks to the intended mother, or when a single man or a male couple want to have a family. Monetary compensation is optional in surrogacy agreements. When a woman is compensated to bear a child for another family, this practise is known as commercial surrogacy. Problematic international or interstate surrogacy agreements might arise because of the large disparity in the legality and expense of surrogacy across different nations. When surrogacy is illegal in a couple's own country, they may look to other countries or regions that do allow it.

Third-party organizations may help intended parents locate a surrogate and negotiate a surrogacy agreement in jurisdictions where commercial surrogacy is permitted. In order to guarantee a successful pregnancy and birth, these organizations routinely check surrogates' psychological and other medical testing. They also aid in the legal proceedings between the prospective parents and the surrogate. Intended parents from industrialized countries flocked to surrogacy in India and Indian surrogates due to the service's growing popularity and the cheap expenses associated with it. Fertilization, the surrogate's pay, and hospital delivery were all included in the \$10,000 to \$28,000 price tag that clinics charged their consumers. This was about a third of the cost of the treatment in the United Kingdom and a fifth of the cost in the United States, including airfare, medical care, and lodging. Surrogacy agreements ensured that the surrogate mothers got proper medical, nutritional, and general health care.

The Indian government issued the National Guidelines for the Accreditation, Supervision, and Regulation of ART Clinics in 2005, although they had been in the works since 2002. Prior to its ban in 2015, India was a popular surrogacy destination. Surrogacy in India generates an unknown yearly income, although a UN-funded

research in July 2012 estimated it to be over \$400 million, and the nation is home to more than 3,000 fertility facilities. The use of surrogate mothers by homosexual couples and single parents internationally became outlawed in 2013. In 2015, India passed a legislation criminalising commercial surrogacy and restricting the import of embryos for any purpose other than research. Soon after, in 2016, the Surrogacy (Regulation) Bill was passed by the Lok Sabha, India's lower house of parliament, with the intention of further banning commercial surrogacy and limiting access to infertility treatment through surrogacy to heterosexual Indian couples who have been married for at least five years. Due to the parliament session being adjourned sine die, the 2016 law has now expired. In 2019, the Lok Sabha approved the legislation after it had been reintroduced. Before it may become law, In order to become law, the bill needs to be passed by the Rajya Sabha, the Indian parliament's upper chamber, and then signed by the country's president.

According to India's constitution, the country's top court, known as the Supreme Court of India, is responsible for interpreting and applying the law across the country. The Supreme Court is the highest court in the land and has ultimate say on all questions of common law, yet it cannot legislate in the area of personal laws due to its position as the highest court in the land. It may also conduct a judicial review.

LITERATURE REVIEW

Manali Singh (2020) This study explores the business case for surrogacy in India. With foreign couples spending an estimated \$400 million, India has become a fertility tourism hotspot, raising red flags among Indian lawmakers. In response to India's booming surrogacy industry, the Lok Sabha passed the Surrogacy (Regulation) Bill, 2016 to criminalise commercial surrogacy in the nation. After setting the stage, the paper defines surrogacy, describes its different types, and explains its historical context. It then attempts to trace the evolution of commercial surrogacy in India, from its legalization in 2002 under the legislation of CGS to its proposed ban under the Surrogacy (Regulation) Bill, 2016. In addition, this research seeks to critically examine the factors that have led to India's status as a haven for childless couples from across the world.

Pranav Rao (2018) The act of a woman carrying a child for another couple and then giving up the newborn is known as surrogacy. Commercial surrogacy has expanded rapidly in India during the last decade. By 2020, this industry is projected to be worth \$2 billion. Until the government instituted a ban in November 2015, foreigners performed 80% of all surrogate births in the country. Many public interest lawsuits have been filed with the Supreme Court to regulate commercial surrogacy due to the blatant disrespect for the rights of the surrogate mother and child involved. The Surrogacy Regulatory Bill of 2016 was proposed as a solution to this issue. The measure seems to cause more problems than it solves. While it was created to prevent the exploitation of women and the trafficking of minors, it is another example of the state's overall strategy of outright prohibiting or suppressing an activity rather than exploring methods to utilize legislation to govern and improve the problem

Pooja Yadav (2018) Several legal and theological concerns about surrogacy were reflected in the current research. This study examines the differences and similarities between Indian law and the legislation of other nations pertaining to surrogacy. Despite the fact that many nations have passed or are considering passing surrogacy-

related legislation, those who stand to benefit the most from these regulations remain in the dark. This was clearly seen in numerous locations throughout the globe. One example is China's strict regulation on surrogacy.

Suketu v. Shah (2016) The act of a woman agreeing to carry a child for another couple is known as a surrogacy arrangement or surrogacy agreement. Gestational surrogacy and traditional surrogacy are the two most common methods. Several issues related to surrogacy and the rights of women are covered in this study. In addition, it addresses many surrogacy-related concerns. Other topics covered in this study include legal, psychological, religious, ethical, general, and health-related concerns. This article provides information about various surrogacy arrangements. Yet, the surrogate mothers and child's rights, as well as government initiatives aimed at strengthening surrogacy and these rights, are also the subject of this study. In this study, Given that surrogacy is a relatively new idea in India and is often frowned upon there, I not only imagine the events surrounding it and the legal concerns on a worldwide scale, but I also imagine the landscape of surrogacy in India. Thus, I also investigated the social and economic factors that have led to surrogacy's broad acceptability in India.

P. M. Aarthi (2019) After two decades of debate, the Surrogacy (Regulation) Act of 2018 was passed during the winter session of the Parliament and legalized surrogacy in India. Commercial surrogacy has been made illegal in an effort to protect the rights of surrogate-born children and to end the exploitation of surrogate mothers. The Legislation restricts surrogacy to cases of "ethical altruism." Criticizing the false premise of the legislative understanding of identifying the patriarchal family structure as exploitation free, this commentary argues that a total ban on commercial surrogacy is not the solution to the exploitation of women who act as surrogates in the current Indian political economy. Surrogacy law reform, according to the author, represents a new phase of Hindutva morality in which the state plays the role of benevolent lord to hide the violence and exploitation that permeate patriarchal families.

THE SURROGACY PROCESS

The decision to use a surrogate is a significant one for the intended parents. It's a difficult and subjective choice to make. Many people are first intimidated by the complexities of the surrogacy process, and this outline should help create a clear sense of what to expect when getting started. Check to see whether surrogacy is the way to go first. Potential parents may choose this path if they are dealing with infertility, are single, or are a member of an LGBT relationship. You need to know the ins and outs of the finances involved, the length and possible uncertainty of the process, and the pros and cons of making a decision either way. Prospective surrogates need to undergo extensive screening, including medical and psychological exams, before they are accepted into the program.

Each prospective surrogate should investigate the surrogacy legislation of their own state before beginning the procedure. Emotions shouldn't be the only factor in making this choice. Hence, it might be useful to consult with experts in the area to figure out whether or not surrogacy is the best choice for their specific circumstances.

Preparation

Conventional surrogacy entails the medical procedure of intrauterine insemination, in which the surrogate's egg is fertilised by the sperm of the biological (intended) father. The surrogate mother and the intended father will have genetic ties to the kid. In most cases, an adoption procedure is required for the intended mother to gain legal custody of the child. Surrogacy during pregnancy is unique. To have a child via a gestational surrogate, a couple simply obtains eggs from the biological (intended) mother or a donor, fertilises them in a lab using the sperm of the intended father or a donor, and transfers the embryos to the surrogate to carry to term. The surrogate's genetic material is not passed on to the child.

- A surrogate mother may be a relative, but in most cases, she is a complete stranger to the expecting parents.
- During the pre-fertilization stages of gestational surrogacy, the intended parents and intended parents' surrogate will do the following:
 - fill out an application with a surrogacy agency
 - Making an appointment for a checkup You should choose a surrogacy lawyer or surrogacy agency with experience in the legal procedure.
 - Searching for a possible surrogate screening includes an interview, assessment of medical records, criminal history check, and social work evaluation before a match is made.
 - The surrogacy goals of both parties are taken into account while making matches. The firm creates profiles of both parties in order to provide prospective matches to them. After prospective surrogates have been vetted, a meeting may be set up with them. Before a couple and a surrogate are matched, the surrogate has a medical and a mental health evaluation with the intended parents' chosen IVF physician.
 - Surrogates and parents-to-be may choose one other according to factors such as their race, religion, age, sexual orientation, personality, and desired level of interaction.
 - A conclusive choice is made.

Legal Process

Both parties are required to have legal counsel, which they may either get independently or with the help of a referral from 3 Sisters Surrogacy. The attorneys will go at the procedure from a legal standpoint. The surrogate's legal representation will go through the contract drawn out by the intending parents' legal representation. Prospective parents hear from a counsel about their rights, surrogate pay, and hazards involved. They prepare a pre-birth order in the first trimester that names each of them as the child's legal parents. If an agreement is reached and signed by both the agency and the IVF clinic, fertilisation may commence.

Cycling and Embryo Transfer

When the pregnancy contract has been signed, preparations may begin for cycling. It might be a couple of months after the game before this happens. A course of medicine will be started to stimulate the ovaries of the egg donor, also known as the intended mother. A technique to retrieve eggs is done at a hospital or fertility clinic. When viable eggs are collected, they are sent to a lab where they are fertilized with sperm. After completing genetic testing, embryos are typically stored until they are ready to be utilised by the surrogate. The clinic will provide the surrogate with a medication schedule outlining precisely which drugs are to be taken on which days. Embryo transfer will occur between three and five weeks after the surrogate starts taking her meds. Using a lengthy catheter, a physician will insert one or two embryos chosen by the IVF lab personnel into the surrogate.

Around two to three days following the embryo transfer, the embryo will begin to implant. The viability of the surrogate's pregnancy will be confirmed by a blood test taken 10-14 days after the embryo transfer. Around two weeks after that, we'll do an ultrasound. After an ultrasound detects a heartbeat, regular pay and benefits will begin.

Procedures for would-be parents might vary depending on whether a donor egg or a partner's eggs are used. Similarly, to how surrogate mothers, embryos are nurtured in a lab before being implanted. Embryo transfer is a non-invasive process that doesn't need any kind of anesthetic. Pregnancy may be confirmed by a visit to the doctor's office a few weeks later.

Child Birth

After the baby is born and the surrogate is released from the hospital, the surrogacy procedure is complete. The baby is delivered in the presence of the intended parents. The surrogate and her new family then go back to their own residence. Because of the trust that has been built up over the years, the agency is usually able to continue helping the family in any way that is necessary even as the child becomes older.

Working with 3 Sisters Surrogacy

Prior to joining our team, all applicants are interviewed. We employ a method that is more in-depth and precise than randomly selecting surrogates and Intended Parents. When Intended Parents and Surrogates make their first mutual choice, we have a near-perfect first match rate of over 90%. The agency's charge schedule must be followed by the client.

If you want to work with 3 Sisters Surrogacy, this is how your payments will break down:

- An upfront, non-refundable payment to reserve prospective surrogates throughout the screening process.
- Payment to the surrogate should be deposited into an escrow account.
- Payment in full, including travel costs, is due seven days before the scheduled ride date.

3 Sisters Surrogacy provides comprehensive support to egg donors, individuals, and intended parents at every stage of the surrogacy process. We follow a strict protocol for selecting surrogate moms and staff our organization with qualified experts in the area of in vitro fertilization.

SURROGACY IN INDIA AND THE LEGAL RESPONSE

Surrogacy has become more common across the globe as a way to have a biological kid. Unfortunately, not every country provides the same facilities or has the same legal restrictions concerning surrogacy. Surrogacy arrangements may be prohibitively expensive in some countries, subject to stringent legal controls in others, and outright illegal in still others. Thus, intended parents looking for nations that provide surrogacy at reasonable cost and with few administrative hurdles are always on the lookout. However, it's important to note that many international parents see India as the best option for having a child through surrogacy. This is because, in comparison to other nations, the expense of a surrogacy agreement in India is quite small.

In comparison to wealthy nations like the United States of America¹³⁸, the cost of surrogacy in India is rather low, coming in about \$25,000 to \$300,000. According to 2012¹⁴⁰ research from the Centre for Social Research (CSR) in New Delhi, surrogate mothers in India may expect to be paid anywhere from \$2,500 to \$7,000. Overall, surrogacy agreements can cost anywhere from \$10,000 to \$35,000. That's a lot less than the \$59,000-\$80,000¹⁴¹ that American parents spend to legally adopt a child. According to available data, the average cost of a surrogacy agreement in India is about Rs. 5,00,000 whereas in the USA, the cost of surrogacy alone, excluding ART expenditures, is over \$15,000. (Rs 6,75,000). Just like in the US, the average cost of an IVF cycle in the UK is about £7,000 while the average cost of a surrogacy is over £10,000. It's estimated that in Canada, the cost of gestational surrogacy ranges from \$29,600 to \$68,500, while the cost of conventional surrogacy is from \$19,600 to \$68,500¹⁴³. Costs for surrogacy arrangements in Russia start at about \$35,000. This illustrates that, as compared to other nations, the expense of surrogacy agreements in India is rather little. In addition, there are few rules concerning surrogacy, and prospective parents may be anybody they like, thanks to a lack of identification requirements. So, those who are unable to have children at home for a variety of reasons may go to India and have a kid via surrogacy. So, the comparatively cheap expenses and the restricted legal requirements are most likely to be the main motivation for foreigners to visit to India.

While the surrogacy sector in India is growing in popularity and size, the government has been reluctant to adapt to the new realities. Ethical guidelines for regulating assisted human reproductive technologies in general, including surrogacy activities, have been prepared by the Indian Council for Medical Research, in the lack of legal legislation. When it came time to address ART generally, the ICMR developed Ethical Guidelines for Biomedical Research on Human Subjects in 2000. Moreover, ICMR issued a statement in 2000 titled "Statement of Particular Principles for Assisted Reproductive Technologies."

In addition, In 2002, the ICMR sent the Ministry of Health and Family Welfare¹⁶² a copy of their proposed National Guidelines for Accreditation, Oversight, and Regulation of ART Clinics. Several authors have interpreted this action by ICMR as a green light for commercial surrogacy in India. Unfortunately, the Government of

India did not formally accept this Draft in 2002, therefore it was not a legislative step toward legalizing surrogacy in India. After receiving feedback from the National Academy of Medicine, ART professionals, and the Ministry of Health and Family Welfare, the ICMR revised and formally endorsed this draft in 2005.

ICMR Guidelines, 2005 and Surrogacy

The development of the ICMR Guidelines, 2005 was largely driven by the need to standardise India's ethical supervision of assisted reproductive technology (ART) institutions. Nonetheless, there are provisions in these rules that address surrogacy. According to the rules, surrogacy is "an arrangement wherein a woman undertakes to carry a pregnancy that is genetically unrelated to her and her husband with the goal to bring the pregnancy to term and pass over the child to the genetic parents for whom she is serving as a surrogate". The guidelines specify that patients for whom it is medically impossible or unsuitable to carry a child to term should only be considered for surrogacy via assisted conception. If a married woman uses ART with her husband's approval, neither she nor the donor is committing adultery. Yet, using artificial contraception without the husband's consent might lead to legal consequences.

The minimum age a woman must be to function as a surrogate, the number of prior pregnancies, and the maximum number of children are not addressed in the rules. It just states that a woman may only serve as a surrogate mother three times. A woman may have two or more biological children during a marriage and three or more surrogate births in her lifetime. Women's health might be jeopardized by these types of pregnancies. In addition, the rules say nothing about who is responsible if the surrogate mother is hurt over the course of the pregnancy. There is also no mention of what to do if the biological parents refuse to accept the kid after the birth in the guidelines.

As the necessity to control ART procedures and surrogacy in India grew, the government made moves to create a legally enforceable framework. The consequence was the creation of the Assisted Reproductive Technologies (Regulation) Law and Regulations, 2008. A 15-person group comprised of ICMR experts, Ministry of Health and Family Welfare members, and ART experts prepared the Law and the Regulations. But the Parliament hasn't passed it yet. Lawmakers in India debated the increasing need of regulating assisted reproductive technology (ART) procedures, in particular surrogacy.

The Report of Law Commission of India

After much deliberation, the Law Commission of India delivered its findings to the Indian government in August 2009. Titled "Need for Law to Control Assisted Reproductive Technology Clinics and the Rights and Duties of Parties to a Surrogacy," this paper aims to do just that. In its report, the Law Commission noted That

Surrogacy raises a number of complicated legal questions that need to be addressed in a new law. There are competing interests in surrogacy, and its effects on the family, the basic social unit, are unclear. At a time when the law is supposed to be an enthusiastic protector of human liberty and an instrument of distribution of positive

entitlements, it would be inappropriate for the law to remain uninvolved in this thorny matter. Therefore, it would be unreasonable to ban surrogacy on the basis of some undefined morality without first determining the societal good that it can provide. The current situation calls for a pragmatic solution, which would include recognising altruistic surrogacy agreements while outlawing commercial ones.

- Taking into mind the existing condition of surrogacy in India, the Law Commission has offered the following recommendations in its report.
- The surrogate child should be financially supported by the commissioning couple or individual in the event that they pass away before to the child's birth, or in the event that the intended parents divorce and neither is willing to take custody of the child.
- It is customary for the intended parents to provide the surrogate mother with a policy of life insurance, with the premiums being covered by the surrogacy agreement.
- The donor and surrogate mother should each be given their privacy.
- It's immoral to use surrogacy as a means of selective sex.
- Why The Medical Termination of Pregnancy Act of 1971 is the sole law that should govern abortions.

In light of this, the Law Commission has proposed that the current, shielded approach to legalizing surrogacy be abandoned in favor of more open debate and legislative action about appropriate uses of assisted reproductive technology (ART). Similar issues have been raised by the Indian judicial system in the case of *Jan Balaz v. Anand Municipality*.

The ART (Regulation) Bill, 2010 vis-a-vis Surrogacy

To prevent the abuse of ART, ensure the safe and ethical provision of ART services, and address other concerns related thereto, this bill was drafted to establish a uniform system for the accreditation, regulation, and monitoring of ART clinics throughout the country. The Bill defines surrogacy as "an arrangement in which a woman agrees to a pregnancy achieved through assisted reproductive technology in which neither the gametes belong to her or her husband, with the intention to carry it and hand over the child to the person or persons for whom she is acting as a surrogate." In order to carry out the authority and responsibility bestowed upon or imposed upon the Boards by or under this Act, the Bill establishes a National Advisory Board as well as State Boards.

The Bill creates a legal framework for surrogacy in India by requiring a couple or single individual seeking surrogacy via ART to execute a legally enforceable surrogacy agreement with a surrogate mother. In accordance with the terms of this Act and the regulations promulgated thereto, the Bill would make assisted reproductive technology accessible to all individuals, whether they are single or in a committed relationship. This means that couples and individuals in India may take use of surrogacy whether they have viable or infertile sperm or eggs. An ART bank is a place where people may go to hire the services of a surrogate mother. Nevertheless, no information on the caste, ethnicity, or ancestry of any of the individuals participating in the surrogacy arrangement must be included in any such advertising. Nonetheless, the legislation prohibits ART centres from actively advertising for surrogates on behalf of their clients.

The Law also safeguards the kid's right to find out where he came from. When the kid reaches the age of 18, they are allowed to request any information about the donor or surrogate mother other than identifying information. Surrogate mothers and genetic parents' identities remain confidential until life-threatening medical issues necessitate testing on the genetic parents or surrogate mother's biological samples. Nonetheless, with the approval of the genetic parent(s) or surrogate mother, these identifiers may be shared.

The Assisted Reproductive Technology Act stipulates that intended parents must accept a child born to a surrogate mother. The Bill, however, makes clear that the local guardian chosen by the couple in the event that they decline to receive the child would be held responsible for the adoption, reducing the deterrent impact of this provision in such cases. Therefore, the true perpetrators, i.e., the one who conceived through surrogacy, can avoid responsibility by rejecting the child. Also, while there is a crime of refusal to accept, it would be impossible to enforce punishment in such circumstances as the people are in other nations. Another flaw in the Bill is that it does not include any mechanism to require the folks to remain back in India till the birth of the kid, even though the majority of people using surrogacy in India are not Indian citizens.

SURROGATE CHILD: LEGAL AND HUMAN RIGHTS ISSUES

When considering the interests of all parties involved in a surrogacy relationship, the child's are the most at risk. Before and after birth, up until the kid reaches adulthood, it is impossible for the infant to communicate its desires and goals for its life. Hence, in any surrogacy agreement, the child's best interests must be prioritized to the greatest degree feasible. Both the parents-to-be and the surrogate mother might have their own reasons for entering into a surrogacy partnership. Both humanitarian and financial motivations might motivate the surrogate mother to bear the kid for the intending parents, and the intended parents have a strong desire to have a family of their own. After the kid is delivered and the surrogate mother hands her over to the parents, the surrogacy agreement is terminated. Yet, the intended parents' involvement in the child starts before conception and does not cease after the kid is born and transferred from the surrogate mother.

Refusal to Accept the Child

The primary duty of the prospective parents is to love and accept the child as their own. Refusing to adopt would be counterproductive to the child's welfare and best interests. This is because the decision to use a surrogate and the subsequent birth of a child are entirely the product of the prospective parents. Hence, such a rejection is a breach of their duty¹⁹, and in the event of a surrogacy agreement, a breach of that agreement.

Legal Status of Surrogate

Child Whether or not a kid born via a surrogate is legally recognized as the biological parent of the child is one of the most contentious issues surrounding the child. A child's status is crucial since it determines many of the child's rights, including those to custody and support, inheritance, and more. Those who turn to surrogacy because they cannot have children themselves are overjoyed to finally be parents. It would be

unfair to the surrogate mother, the surrogate father, and the child born via surrogacy if the infant were to be labeled illegitimate.

Parentage of Surrogate

Parenthood is a legal or social connection between adults⁵² who create a kid or children. Having both mothers and fathers on record is necessary for exercising parental authority, and it also determines which surname the child will use for the rest of his life. Inheritance rights, a responsibility to provide for dependent relatives, and other legal responsibilities are all created automatically when two people are legally recognized as parents and children⁵³. Hence, any disagreement about a child's paternity will have a negative impact on the child's interests and welfare and must be settled.

SURROGACY AND THE RIGHTS OF THE SURROGATE

Child The welfare and rights of children is a multifaceted and interconnected problem. It includes dealing with concerns like maintenance, inheritance, citizenship, and the right to maintain one's identity without being separated from one's parents. Protecting children's rights is a top issue in international law. In 1989, the United Nations adopted the Convention on the Rights of the Child, which addresses issues related to children's rights and welfare under international law. These documents outline a number of protections for children, including the right to life (article 117), the right to survival and development (article 118), the right to equality before the law (article 119), the right to have one's feelings and opinions taken into account (article 120), the right to privacy (article 121), the right to remain with one's family (article 122) and the right to have one's best interests given priority over those of adults (article 122).

Right to Know his Origin

The right to know one's own lineage is among the most basic of all human rights. The UNICEF Hague Conference emphasises a child's right to have contact with both parents and to be cared for by them. In the same way that Article 7 (1) of the CRC indicates a child's right to know where he or she came from, it also means that authorities must keep this information safe and provide the kid access to it. So, it is the right of every child born through surrogacy to know his or her biological parents. Not only is it necessary for a kid to know where he came from socially and emotionally, but there are also three more crucial reasons why knowing one's biological background is a fundamental human right.

Right to Maintenance

A child's needs and vulnerabilities necessitate that they be provided for, and parents are the ones most equipped by nature to fulfill this role. The rules and customs of every civilization throughout history have consistently supported this guiding concept. Until the kid is financially independent, the parent has an ongoing commitment to provide for him or her.

Right to Inheritance

After a person's death, their legal heirs or descendants are entitled to inherit all of their possessions, both movable and immovable. Children have the legal right to inherit from their parents in most communities and legal systems across the globe. The issue of whether a kid conceived via surrogacy has the same rights to inheritance as a child conceived through sexual intercourse in matrimony arises.

A Child's Right to Preserve Identity and Right Not to be Separated from Parents

Individuals place great value on their sense of self. True existence presupposes having a unique identity. Parents are crucial in shaping their child's sense of self. An individual's right to maintain anonymity as a minor is protected under international law. Children shall be permitted to keep their nationality, name, and family connections as defined by law, as outlined in Article 8.1 of the Convention on the Rights of the Child, 1989, without any unlawful intervention from other states parties. Critics of surrogacy say it denies children that right. This is because the surrogate mother or the donor(s) in a surrogacy agreement might potentially cause conflict. This means that a surrogate baby might potentially have two or even three biological parents. As a result, questions about the paternity of the kid arise.

Right to Citizenship

One's civil and political liberties rest on the foundation of his or her right to citizenship. The term "citizenship" is often used to describe the bond between a person and their country of origin. The connection between them and local ordinances. A citizen has all political and civil rights. Consequently, it is crucial for every person to get a citizenship. The question of a surrogate child's citizenship is getting more problematic in situations of international surrogacy.

CONCLUSION

The practice of using a surrogate to have a biological child is popular worldwide, but it is particularly common in India. Surrogacy has been met with both support and criticism. Academics, legislators, judges, scientists, and even religious leaders are arguing what it means to be family and kin in light of the current surrogate pregnancy scandal. Issues with ending solutions are exacerbated by the absence of targeted regulation. In light of India's meteoric emergence as a surrogacy hub, it is crucial that these issues be addressed without delay. No reliable estimates of the overall number of surrogacies organized in India are also available. This raises a number of ethical and legal questions about surrogacy arrangements in India. The birth of the surrogate child is when these worries first arise. Even if the surrogate and the intended parents are in complete agreement, complications might arise after the birth of the child. For example, the surrogate may refuse to give up the child, or the parents may alter their views due to factors like as a divorce or the child's handicap. The surrogate and the biological parents must act in the child's best interest at all times. Surrogate mothers may be motivated by financial gain or a desire to help others, even if the major goal for the intended parents entering into the surrogacy agreement is to have a family.

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