

Globalisation, Gender and Commercial Surrogacy in India

Meenakshi Rao

Ph.D. Scholar, Faculty of Law, University of Delhi

ABSTRACT

Surrogacy is beneficial for those parents who is not capable to conceive a pregnancy. In surrogacy a married couple can hire a woman's womb to have children. The advancements in medical science and technology have proved to be a boon newline to making. The medical science has made it possible for individual to get a genetically related child with the help of third party and without sexual intercourse. There can be many reasons behind getting a child from surrogacy.

The surrogacy is become a business in now days therefore many crimes are emerging through this issue most important poor families are suffering by these professions. Scarcity of essential things that is helpful to survive a human life compel to human being kneel down front of the rich peoples and their big amount proposals.

The paper is centred on how the legal jurisprudence of commercial surrogacy has evolved in India vis-à-vis globalisation and global justice.

Keywords: Commercial surrogacy, Globalisation, Global Justice

1. Introduction

Every human being has an innate desire to have a natural offspring. The reasons are many, to love and to be loved, for performing the religious rituals at funeral pyre, for carrying the tradition of a family, to preserve a particular community and so on. The significance and need of a child are also emphasized in almost all the religions of the world. Traditional reproduction is an unambiguous three-dimensional phenomenon involving natural mother, natural father and natural child sharing amongst them the entire natural biological process, without intervention from any other external agencies except for minimal medical expertise. A child is seen to be a natural product of the procreative act of its parents. For most couples, the procreation of a child is one of the simplest tasks. However, unfortunately a large number of people due to various reasons are unable to fulfil this very biological process fruitfully and beget a child. The major reason for childlessness is infertility which may be either medical or social. It is well-known that in many couple's childlessness due to infertility causes serious strain in their interpersonal relationships, and often leads to personal distress and periods of existential crisis. One of the important challenges faced by a childless couple is learning how to manage the childlessness with oneself, with the partner and with the society. Couples often feel frustrated, angry or guilty after such a diagnosis. Women may feel unfeminine and men may feel powerless and un- masculine. In some cases, the inability to have children is one of the main causes for divorce. The treatment for medical infertility also involves stress, because some treatments may be painful, and there may be fear that the treatment will not work. Further, the side effects of the medications, and the necessity of going through procedures several times, can test

a couple's patience and create a strain on their relationship. Thus, childlessness has a serious impact. With the growth of society and legal systems the method of adoption was developed to enable childless couples to have a child. Adoption provided an opportunity to have a child and fulfils the desire of an individual to raise a child; however, it failed to fulfil the natural innate desire of individuals to have a child genetically related to them. The desire to beget a genetically related child led to various experiments and research in the field of human reproduction and resulted in development of various techniques. The technological advancements in the field of human reproduction and medical science helped to develop various methods such as Artificial Insemination, In-vitro Fertilization, Surrogacy, etc¹, for assisting a couple to beget a genetically related child. These technologies are collectively known as Assisted Human Reproductive Technologies or Artificial Human Reproductive Technologies². These technologies have helped couples and individuals to overcome obstacles to reproduction arising from infertility, medical complications, and threat of harm to mother or child, personal choice, biological limitations of same-sex couples, death of a partner, and the risk of transmission of genetic diseases to the child³.

SURROGACY: AN OVERVIEW

Surrogacy is generally defined as an arrangement in which the surrogate or birth mother agrees to bear a child and permanently hand over the responsibility for the rearing of that child to another person or couple, referred to as the intending parents⁴. In most of the surrogacy arrangements the intended parents contribute the genetic material and the child is carried by the surrogate⁵. In certain cases, the surrogate woman may contribute the genetic material⁶ and in very rare situations both the egg and sperm may be taken from donors and the resultant embryo is implanted in the surrogate⁷.

Surrogacy arrangements can be formal on the basis of a contract or can be informal based on mere understanding between the parties. Further, surrogacy arrangements can be altruistic or commercial.

An altruistic surrogacy is one in which the birth mother does not receive any financial or material gain from the arrangement. In contrast, commercial surrogacy is where the birth mother receives a fee or some other monetary gain in return for acting as the surrogate and may also involve the presence of a broker who receives a fee for arranging the surrogacy⁸.

Surrogacy has also been criticized on the ground that, it violates the human rights and dignity of surrogate

¹ See, John A. Robertson, Assisted Reproductive Technology and the Family, 47 *Hastings Law Journal*, 911 (1995-1996).

² Lars Noah, Assisted Reproductive Technologies and the Pitfalls of Unregulated Biomedical Innovation, 55 *Florida Law Review*, 608 (2003).

³ Charles P. Kindregan, Jr., —Thinking About the Law of Assisted Reproductive Technology, 27 *Wis. J. Fam. L.* 123 (2007).

⁴ Catherine Brown, —The Queensland Investigation into the Decriminalization of Altruistic Surrogacy, 29 (2) *Queensland Lawyer*, 78-83 (2008).

⁵ Such type of surrogacy arrangements are known as Gestational Surrogacy or Full Surrogacy. See, Peter R.Brinsden, —Gestational Surrogacy, 9 *Human Reproduction Update*, 483 (2003).

⁶ Such type of surrogacy arrangements known as Traditional Surrogacy or Partial Surrogacy. See generally, Paula M. Barbaruolo, —The Public Policy Considerations of Surrogate Motherhood Contracts: An Analysis of Three Jurisdictions, 3 *Alb. L.J. Sci. & Tech.* 41 (1993).

⁷ Andrew Bainham & Martin Richards, *What is a Parent? A Socio-Legal Analysis* 125 (Hart Publishing, Oxford, U.K., 1999).

⁸ *Supra* note 4.

women⁹ and it would lead to commodification of women¹⁰, exploitation¹¹, prostitution¹² and slavery¹³. Further, it is said that surrogacy would have an adverse impact on the rights of the child and lead to baby selling¹⁴, sex selection¹⁵ and creation of designer babies¹⁶. However, the proponents of surrogacy argue that right to procreation is a basic human right and it includes the right to procreate with the help of another. So also, every individual has the right to benefit from the developments in science and technology. Further, every woman has a right to reproductive autonomy which includes the right to act as a surrogate for another. Therefore, any restriction on the practice of surrogacy would violate the basic human rights of intended parents as well as the surrogate woman.

The approach of various countries towards surrogacy also differs depending upon their social, economic, cultural, religious and political views. As a result, the law relating to surrogacy all over the world also differs. Hence there is no consensus among the countries who have adopted specific legislations or legal provisions to deal with surrogacy. For example, some countries like South Africa, India, Georgia (Country), Russia, Ukraine, Armenia, Iran, Bahrain, New Zealand, Lebanon, Saudi Arabia¹⁷, etc. and some of the states in USA¹⁸, allow both commercial and altruistic surrogacy. In other countries like Canada, Hungary, Hong Kong, United Kingdom, Greece, Denmark, Netherlands, Belgium, Philippines, Queensland¹⁹, New South Wales²⁰, Western Australia²¹, etc. and some of the states in USA, only altruistic surrogacy is allowed. In some countries like Austria, Germany, Sweden, Norway, Switzerland, Italy, Iceland, Japan, Spain, Vietnam and some of the states in USA, all forms of surrogacy are prohibited.

Due to this varying approach the concept of procreative tourism has emerged and is becoming very popular. India is rapidly developing as a major destination for surrogacy practices.

2. PRE 2002: REPRODUCTIVE RIGHTS UNDER INTERNATIONAL LAW AND INDIA

Article 16 of UDHR, 1948 states that,

⁹ Judith Hendrick, *Law and Ethics in Nursing and Health Care*, 157 (Stanly Thomes Ltd., U.K., 2000).

¹⁰ Pamela Laufer-Ukeles, *Approaching Surrogate Motherhood: Reconsidering Differencel*, 26 *Vt. L. Rev.* 417 (2001-2002).

¹¹ Sara K. Alexander, —Who is Georgia's Mother? Gestational Surrogacy: A Formulation for Georgia's Legislature, 38 *Georgia Law Review* 400 (2003-2004).

¹² Kathryn Venturatos Lorio, *Alternative Means of Reproduction: Virgin Territory for Legislation*, 44 *Louisiana Law Review*, 1657 (1984); Erika Hessenthaler, —Gestational Surrogacy: Legal Implications of Reproductive Technology, 21 *N.C.Cent.L.J.* 177 (1995).

¹³ Ayesha Hasan, *Surrogacy: Enhancement or Restriction of a Woman's Autonomy?* 6 *U.C.L. Juris. Rev.* 115 (1999).

¹⁴ Martha A. Field, *Surrogacy Contracts-Gestational and Traditional: The Argument for Non- Enforcement*, 31 *Washburn Law Journal*, 7 (1991-1992); Richard A. Posner, *The Ethics and Economics of Enforcing Contracts of Surrogate Motherhood*, 5 *J. Contemp. Health L. & Pol'y* 21 (1989).

¹⁵ E. Scott Sills and Gianpiero D. Palermo, *Preimplantation Genetic Diagnosis for Elective Sex Selection, the IVF Market Economy, and the Child- Another Long Day's Journey into Night?*, 19(9) *Journal of Assisted Reproduction and Genetics*, 433-437 (2002); Joseph G. Schenker, *Gender Selection: Cultural and Religious Perspectives*, 19(9) *Journal of Assisted Reproduction and Genetics*, 400 - 410 (2002).

¹⁶ Sheila McLean, *First Do No Harm: Law, Ethics and Healthcare*, 399-400 (Ashgate Publishing Ltd., London 2006).

¹⁷ Solomon Davis, *Surrogacy Laws*, Available at <http://www.surrogatemarket.com/data/>

¹⁸ The States such as Maryland, Ohio, Oklahoma, Illinois, Utah, Arkansas, Florida, New Hampshire, Nevada, Texas, and Virginia.

¹⁹ Queensland is the second-largest and third - most populous state, situated in the northeast of Australia.

²⁰ New South Wales is a state in the east of Australia

²¹ Western Australia is a state occupying the entire western third of Australia.

Men and women of full age, without any limitation due to race, nationality or religion, have the right to marry and to found a family. Family is the natural and fundamental group unit of society and is entitled to protection by society and the state.

This right lays the foundation for the reproductive rights in UDHR. Article 12 which ensures the right to privacy and non-interference by others to every individual can be interpreted to include the individual's rights to determine the number and spacing of their children. Further, right to information²², Right to health²³, Right to education²⁴, Right to benefit from advancements of sciences²⁵, can be considered as the repository for the use of modern scientific technologies for the enjoyment of reproductive rights.

In ICCPR also there is no express provision regarding the right to reproduction. But the provisions relating to right to family and privacy are considered as the foundation for reproductive rights in ICCPR.

Article 23 of the ICCPR, 1966 provides protection for the right to found a family. The Human Rights Committee, the adjudicative body for the enforcement of ICCPR, states that Art. 23 should be interpreted not only to protect the right to cohabit and procreate, but also as a codification of national obligations to enact non-discriminatory family-planning policies. The Covenant, Article 17 provides that no person shall be subjected to illegal or arbitrary interference into their right to privacy²⁶. This right can be interpreted as protecting family autonomy and the right to decide on the number and spacing of children. Further, Article 19(2) can be interpreted as protecting the rights to family planning information under the rubric of the freedoms of expression and information. The interpretation of Article 23 provided by the Human Rights Committee confirms a positive right to non-discriminatory access to reproductive technologies.

The ICESCR, recognizes the right of everyone to the enjoyment of the highest attainable standard of physical and mental health²⁷. This right includes the right to treatment for maternal and infant mortality and the promotion of children's health within the rights to medical treatment for illness²⁸. According to Pecker, the right to decide the number and spacing of children and the right to access family-planning services has been found to exist in this right²⁹. Further, the right to education and personal development³⁰ mentioned in this Covenant can be interpreted to include one of the elements of reproductive right i.e. right to information relating to family planning, access to technologies and other relevant information 's related to reproduction. This Covenant also confers a right to enjoy the benefits of scientific progress and its application to everyone³¹. This right is having a significant impact over reproductive rights, because with the help of this right an individual can take recourse to modern scientific technologies for reproduction.

Article 12 of CEDAW, 1979 states as follows:

1. States Parties shall take all appropriate measures to eliminate discrimination against women in the

²² UDHR, art 19

²³ *Id.* art 25

²⁴ *Id.* art 26

²⁵ *Id.* art. 27.

²⁶ ICCPR, Art. 17.

²⁷ *Id.* Art. 12.

²⁸ *Id.* Art 12(2)

²⁹ Corinne A.A. Packer, *The Right to Reproductive Choice* 38 (Abo Arkademi University Institute for Human Rights Publication, Finland (1996)).

³⁰ ICESCR, Art 13

³¹ *Id.* Art 15

field of health care in order to ensure, on a basis of equality of men and women, access to health care services, including those related to family planning.

2. Notwithstanding the provisions of paragraph I of this Article, State Parties shall ensure to women appropriate services in connection with pregnancy, confinement and the post-natal period, granting free services where necessary, as well as adequate nutrition during pregnancy and lactation.

The Committee on the Elimination of All Forms of Discrimination against Women has made it very clear in its General Recommendation No. 24³² that Article 12 must be interpreted broadly. The Committee recommended that policies related to reproductive issues should be undertaken from -the perspective of women 's need or, as it has been developed in the literature, adopting a -women-centred approach. This is the very central notion in the way reproductive rights are approached today.

The reproductive rights were specifically addressed also in various international human rights conferences. In respect to India, The Constitution of India came into effect on January 26, 1950. The Constitution doesn't provide any explicit provision for 'reproductive rights. But it has wide scope for the materialization of this type of rights. Many Constitutional provisions can be invoked for this purpose. To begin with, the preamble comprises paramount objectives of the Constitution. It can be meant in a way that reproductive rights are also integral parts of the basic human rights and without their protection and promotion the paramount goal of social justice cannot be secured. The Fundamental Rights which are mentioned in Part III of the Constitution form the basis for incorporating a globally recognized reproductive rights framework into the Indian context.

The first reported surrogacy in India, took place in 1994 in Chennai. In 1997, an Indian woman acted as a surrogate for money and this is considered as the first reported instance of commercial surrogacy in India. It is pertinent to point out that the first case of commercial surrogacy in India that occurred in 1997 generated a huge debate on the legality of surrogacy practices. In this case, Nirmala the surrogate woman agreed to act as a surrogate for a couple from Chandigarh due to reasons of financial necessity. This incident received a lot of public attention and generated various debates on the issues surrounding surrogacy practices. However, the response of the legal system to the issue of surrogacy has been very slow rights.

3. 2002-2016

The Law Commission of India in its report points out that the surrogacy costs in India is about \$25000 to \$30000 which is around 1/3rd of the costs in developed countries like United States of America³³.

The popularity of surrogacy as a means for begetting a genetically related child has increased tremendously all over the world. However, facilities offered by the countries as well as the legal regulations of surrogacy are not uniform everywhere. In certain countries the cost of surrogacy arrangements is very high while in some countries the legal regulations are very strict and in others surrogacy practices are even banned. Therefore, the couples and individuals who wish to beget a child through surrogacy often search for countries which offer surrogacy at an affordable cost and with minimum legal complications. In this context, India is considered as the most favourable nation by foreigners to beget a child through surrogacy. This is because the cost of surrogacy arrangement in India is very low when compared to other countries.

³² CEDAW/C/1999/I/WG.II/WP.2/Rev.1.

³³ Law Commission of India, Need for Legislation to Regulate Assisted Reproductive Technology Clinics as well as Rights and Obligations of Parties to a Surrogacy, Report No. 228, (August 2009), p.11.

Reasons for growth of Surrogacy in India:

1. The cost of surrogacy arrangements in India is very low when compared to other countries.
2. The regulations that deal with surrogacy are also minimal and there are no restrictions with respect to who can be the intended parents.
3. The unmarried, divorced, aged, gays and lesbians who may be prohibited in their country to use surrogacy can come to India and fulfil their dream of begetting a child.
4. India offers the advantages of well qualified and experienced doctors, world class private health care providers, English speaking doctors and staffs to facilitate such process, and more importantly easy access to surrogate women.
5. The Indians show a great commitment in handing over the new born to their intended parents immediately after birth and till now no dispute is reported regarding refusal of surrogate to hand over the baby to the intended parents.
6. When compared to foreign women the Indian women have a more methodical lifestyle and most of them do not indulge in drinking, smoking, use of drugs and narcotics.
7. The cost of living in India is economical and the foreign couples or individuals who come to India can also enjoy visiting world-famous tourist destination and then go back with the baby once the surrogacy arrangement is over.
8. The success rates of surrogacy in India are also considered as very high.

In India, though surrogacy is gaining popularity and is rapidly developing as an industry, the Government has been very slow in responding to the changing situations.

However, the women who chose to become surrogates were subjected to exploitation, poor living conditions, and unethical treatment. It was only after the controversial case of *Baby Manji Yamada v. Union of India*³⁴, that the ethical side of commercial surrogacy came into public scrutiny.

In 2002, the Indian Council of Medical Research (hereinafter ICMR) proposed its draft national guidelines for the accreditation, supervision, and regulation of Artificial Reproductive Technology (ART) clinics in India. These guidelines received the approval of the Ministry of Health and Family Welfare in 2005. It must be highlighted that commercial arrangements were not prohibited under these guidelines. In any case, these guidelines were only applicable to the medical fraternity involved in ARTs. With the aim of providing a comprehensive legal framework for the regulation of this medical procedure, and for defining the rights and duties of stakeholders in a surrogacy arrangement, the draft ART Bill 2008 was initiated, which, apart from laying down provisions for the regulation of ART clinics, also for the first time, enumerated the rights and duties of patients, donors, surrogates and children born through ART. Interestingly, the original draft of the ART bill allowed the surrogate mother to receive monetary compensation from the intending parents for agreeing to act as a surrogate. The ART bill also allowed the commissioning parents to advertise seeking surrogacy arrangements and there was no requirement of the surrogate mother being a close relative. Although the bill has not been enacted the draft indicates that till 2008, the legislative intent was to regulate but not to prohibit commercial surrogacy.

However, this opinion changed and the first regulatory intent for banning commercial surrogacy can be found in the Report 228 of the Law Commission of India. The Ministry of Home Affairs issued notifications in 2012 and 2014 that restricted the grant of medical visa for commissioning of surrogacy only to certain categories of “eligible” commissioning parents.

³⁴ (2008) 13 SCC 518.

Considering, the ground realities of surrogacy practices in India, the Law Commission in its report gave the recommendations:

Consequently, attempts were made from 2008 – 2014 to pass legislation regulating surrogacy, however, none of these materialized. Activist and lawyer Jayashree Wad also moved the Supreme Court highlighting the pitfalls of the surrogacy industry. Though she was unable to get relief from the Court, her petition shaped public opinion and created significant pressure upon the Government to pass legislation. Resultantly, the Surrogacy (Regulation) Bill, 2016 was introduced and passed by the Lok Sabha. However, the Rajya Sabha did not pass the bill and asked a Parliamentary Standing Committee to examine its provisions. This exercise culminated in the 102nd Report in 2017, which suggested progressive changes to the 2016 Bill.

4. POST 2016

The Standing Committee, Surrogacy (Regulation) Bill, 2019 looked into the scenario of Surrogacy at the world level. The Committee was informed that in countries like Finland, France, Hong Kong, Hungary, Iceland, Ireland, Italy, Japan, Nepal, Pakistan, Saudi Arabia, Serbia, Spain, Sweden and Switzerland, all types of Surrogacies (both commercial and altruistic) was illegal. She, further, apprised the Committee of the countries where commercial Surrogacy was banned and only altruistic Surrogacy was allowed in countries like Australia, Canada, Georgia, Greece, Israel, Netherlands, Belgium, New Zealand, Portugal, South Africa, Thailand, United Kingdom and Vietnam. There were only few countries in the world where commercial Surrogacy was allowed like Russian Federation, Colombia, Ukraine and some states of USA like California, Illinois, Arkansas, Maryland, and New Hampshire.

The reasons cited by various countries for the regulation of Surrogacy were also highlighted.

- Great Britain's ban on commercial Surrogacy arrangements was in part a reaction to Americans' use of English women as surrogate mothers.
- Thailand banned commercial Surrogacy after Baby Gammy case where Down's syndrome child was left behind with an unmarried surrogate mother.
- UK did not allow for anonymous donors as it was believed that a child had a right to know his/her origin and this was in consistence with the Convention on the Rights of the Child (Article 8).
- In *R.R. vs. M. H.*, the Massachusetts Supreme Court looked into Massachusetts's adoption laws, which prohibit the payment of money in connection with an adoption beyond adoption-related expenses. Finding the policy underlying these statutes persuasive in a Surrogacy context, the Court held that "eliminating any financial rewards... is the only way to assure that... economic pressure will not influence a woman to be a surrogate mother".
- European Parliament in its resolution of 17th December, 2015 condemned the practice of Surrogacy which undermined the human dignity of the women since her body and its reproductive functions were used as a commodity. 13th Law commission of UK proposed revision of the UK Surrogacy Act and emphasized that the most important aspect would be to safeguard the children born as a result of Surrogacy arrangements. Many countries have banned Surrogacy altogether.
- Further, during the 37th session of the United Nations Human Rights Council (UNHRC) in March 2018, the Special Rapporteur Maud de Boer-Buquicchio, presented a report on surrogacy and the sale of children.

The report made a clear assertion that commercial surrogacy as it is currently practiced usually constitutes the sale of children under international human right law.

The report advised States, regardless of their perspectives on surrogacy, to create safeguards to prevent the sale of or traffic in children in the context of surrogacy. It also included some much-needed suggestions for reforms. It was recommended that clear and comprehensive legislation that prohibit sale of children in the context of surrogacy, both commercially and altruistically, should be brought into force.

However, the Surrogacy (Regulation) Bill, 2019, in author's opinion stands on the footing and guidelines provided. It only bars the commercial surrogacy but ensure that the protection of surrogate mother in terms of insurance cover, medical covers, basic needs during pregnancy to be fulfilled. The approach and the legislative intent of the bill is only to reduce the commercialisation of surrogacy and not to ban it altogether. The bill lays a comprehensive framework for regulating the surrogacy practice in the country.

CONCLUSION

In more recent years, surrogate pregnancy has ignited a maelstrom of controversy in which scholars, politicians, judges, scientists, and religious authorities debate the definition of family and kinship.

Surrogacy raises various legal issues such as those relating to 1) the surrogate mothers; 2) women generally (by spill over effects of surrogacy; 3) the children born out of the transaction; 4) the siblings who see or later hear of the transfer of the child; 5) the hiring parents; 6) children available for adoption who might be adopted but for surrogacy transactions³⁵; 7) other parties involved or keenly interested in the transaction, such as grandparents and other relatives, brokers, lawyers and counsellors³⁶.

Since the ancient times, surrogacy has been a method for begetting a child. But with the development in science and technology, this method is being used for begetting a child not only by the infertile couples but also by anyone who wishes to have a child. A technology made contraception easier and less expensive; a market emerged to fulfil this demand. On one hand, surrogacy is a boon to the infertile couples but on the other hand it has led to the commercialization of this method posing various problems. Commercial surrogacy protects the reproductive entitlements of infertile women but its criminalization violates the human right. Developing nations that permit commercial surrogacy might nonetheless better protect the negative reproductive rights of female citizens. Regulating the surrogate practice towards mutually beneficial ends is a key direction. Lack of adequate regulation will contribute to the maintenance of a global black market of surrogacy services, with considerable risks and exposure of women to trafficking, exploitation, coercion. Legal contracts need to evolve as to safeguard the interests of surrogate mothers, taking into consideration the inescapable fact that surrogacy decisions are taken under certain personal circumstances, which might change over time. Surrogacy contracts should include clauses on medical insurance and emergency needs of the surrogate mother. As India is becoming a booming industry for surrogacy, it has brought in various attendant complexities and inscrutable impact on the society due to the lack of comprehensive piece of legislation. There is a need to adopt a specific legislation for the regulation of surrogacy and protection of surrogate mothers in India. There is a need to protect the interest of the baby child born out of surrogacy from exploitation.

If it is used wisely, it would rather bring happiness to millions of childless couples. But if it is used in a careless way and as a means of commerce, it would have an adverse impact on the society and would result in the degradation of human relationships and values.

³⁵ Richard A. Posner, The Ethics and Economics of Enforcing Contracts of Surrogate Motherhood, 5 *J. Contemp. Health L. & Pol'y* 24 (1989).

³⁶ Michael H. Shapiro, How (Not) to Think About Surrogacy and Other Reproductive Innovations, 28 *U.S.F. L. Rev.* 647 (1993-1994).

If this practice keeps growing the way it is, it would rather change from medical necessity of infertile couples to the convenience of rich and wealthy couples, who do not want to face the pain and stress of a natural birth.

It's now time for India to take stock, evaluate, access and decide the future course of surrogacy. A clear-cut law on surrogacy enacted by the Parliament in form of Surrogacy (Regulation) Bill, 2019 provides a draft law on surrogacy, with proper checks, safeguards, safety measures and adequate precautions to ward off the ills of the commercial overtones of surrogacy.

BIBLIOGRAPHY

1. John A. Robertson, Assisted Reproductive Technology and the Family, 47 Hastings Law Journal, 911 (1995-1996).
2. Lars Noah, Assisted Reproductive Technologies and the Pitfalls of Unregulated Biomedical Innovation, 55 Florida Law Review, 608 (2003).
3. Charles P. Kindregan, Jr., —Thinking About the Law of Assisted Reproductive Technology, 27 Wis. J. Fam. L. 123 (2007).
4. Catherine Brown, —The Queensland Investigation into the Decriminalization of Altruistic Surrogacy, 29 (2) Queensland Lawyer, 78-83 (2008).
5. Such type of surrogacy arrangements are known as Gestational Surrogacy or Full Surrogacy. See, Peter R. Brinsden, —Gestational Surrogacy, 9 Human Reproduction Update, 483 (2003).
6. Such type of surrogacy arrangements known as Traditional Surrogacy or Partial Surrogacy. See generally, Paula M. Barbaruolo, —The Public Policy Considerations of Surrogate Motherhood Contracts: An Analysis of Three Jurisdictions, 3 Alb. L.J. Sci. & Tech. 41 (1993).
7. Andrew Bainham & Martin Richards, What is a Parent? A Socio-Legal Analysis 125 (Hart Publishing, Oxford, U.K., 1999).
8. Judith Hendrick, Law and Ethics in Nursing and Health Care, 157 (Stanly Thomes Ltd., U.K., 2000).
9. Pamela Laufer-Ukeles, Approaching Surrogate Motherhood: Reconsidering Differences, 26 Vt. L. Rev. 417 (2001-2002).
10. Sara K. Alexander, —Who is Georgia's Mother? Gestational Surrogacy: A Formulation for Georgia's Legislature, 38 Georgia Law Review 400 (2003-2004).
11. Kathryn Venturatos Lorio, Alternative Means of Reproduction: Virgin Territory for Legislation, 44 Louisiana Law Review, 1657 (1984); Erika Hessenthaler, —Gestational Surrogacy: Legal Implications of Reproductive Technology, 21 N.C. Cent. L.J. 177 (1995).
12. Ayesha Hasan, Surrogacy: Enhancement or Restriction of a Woman's Autonomy? 6 U.C.L. Juris. Rev. 115 (1999).
13. Martha A. Field, Surrogacy Contracts-Gestational and Traditional: The Argument for Non-Enforcement, 31 Washburn Law Journal, 7 (1991-1992); Richard A. Posner, The Ethics and Economics of Enforcing Contracts of Surrogate Motherhood, 5 J. Contemp. Health L. & Pol'y 21 (1989).
14. E. Scott Sills and Gianpiero D. Palermo, Preimplantation Genetic Diagnosis for Elective Sex Selection, the IVF Market Economy, and the Child- Another Long Day's Journey into Night?, 19(9) Journal of Assisted Reproduction and Genetics, 433-437 (2002); Joseph G. Schenker, Gender Selection: Cultural and Religious Perspectives, 19(9) Journal of Assisted Reproduction and Genetics, 400 - 410 (2002).

15. Sheila McLean, *First Do No Harm: Law, Ethics and Healthcare*, 399-400 (Ashgate Publishing Ltd., London 2006).
16. Corinne A.A. Packer, *The Right to Reproductive Choice* 38 (Abo Arkademi University Institute for Human Rights Publication, Finland (1996)).
17. Sudha Ramachandran, *India 's New Outsourcing Business – Wombs*, Asia Times Online, June 16, 2006, Available at http://www.atimes.com/atimes/south_asia/hf16df03.html
18. Kritivas Mukherjee, *Rent-a-Womb in India Fuels Surrogate Motherhood Debate*, Reuters, Feb. 12, 2007, Available at www.reuters.com/article/latestCrisis/idUSDEL298735; See also, Alifiya Khan, *Surrogacy is Soaring in India*, Hindustan Times, Sept. 18, 2008, Available at <http://www.hindustantimes.com/StoryPage/>>
19. Neeta Lal, *A Labour of Love*, Khaleej Times, Feb. 29, 2008, Available at <http://www.khaleejtimes.com/DisplayArticle.asp?xfile=data/weekend/2008/Febr>
20. Law Commission of India, *Need for Legislation to Regulate Assisted Reproductive Technology Clinics as well as Rights and Obligations of Parties to a Surrogacy*, Report No. 228, (August 2009), p.11.
21. Centre for Social Research is a non-profit, non-governmental organization established in the year 1983 in New Delhi. See for more, the official website of CSR <http://www.csrindia.org>