

**SOCIETAL, MORAL & ETHICAL INTRICACIES RELATED TO SURROGACY:
LEGAL IMPLICATIONS AND CONTEMPORARY LEGISLATIVE ADVANCES IN
INDIA**

Manvi Gupta*

"What's beautiful about the journey of surrogacy is that relationship you build with your surrogate, when it's done in places with good law. These aren't women you stop speaking to once your child is born, this is someone who's part of your family."

—Dustin Lance Black¹

"However motherhood comes to you, it's a miracle."

—Valerie Harper²

A deep study of ancient Indian Vedic texts and modern scientific advancements in molecular biology, genes and DNA reveals that motherhood is a unique physiological phenomenon. This instinctual urge towards motherhood is deeply ingrained in all living creatures, including humans and animals. According to ancient Indian philosophy, life's main biological purpose is transmitting one's genetic traits and characteristics to one's future generations.³ The reproduction henceforth, becomes the fundamental core regulating the continuity of life on earth and motherhood is inextricably linked to it.

Motherhood is a very special phenomena that is considered one of the most precious experiences occurring to a woman. However, often this very unforgettable phenomena becomes a traumatic experience for a woman. It is not about the physical pain and trauma suffered by a female body but the innumerable amount of insults and sufferings she has to face by the Indian society on not being able to conceive.

In Indian culture, infertility has become a significant social stigma. It is accompanied by a multiplicity of emotions like frustration, anguish, anger, helplessness etc faced by a couple. The emotional turmoil and sufferings experienced by infertile couples are uniquely

*BBA LLB, SECOND YEAR, BENNETT UNIVERSITY.

¹ https://www.brainyquote.com/quotes/dustin_lance_black_1067930

² <https://www.goodreads.com/quotes/7796156-however-motherhood-comes-to-you-it-s-a-miracle>

³ Gupta PD, Lino A. Bikaner: Capricorn Publishing House; 2010. Mothering a cause: practical knowledge of reproduction and motherhood.

expressed and understood by those who are directly affected. Though infertility itself does not threaten physical life, it ultimately impacts individuals by impeding their zeal to become a parent, a role that is considered biologically fundamental by society. Moreover, Indian society stands out for its heavy emphasis on stable and healthy family structures and a profound desire for having male offspring i.e. sons to be able to carry forward their legacies or more appropriately 'vansh.'

This desire to have male children often leads such people to opt for unethical, illegal or immoral practices. But nowadays, new options and technologies have developed that allow couples to have the utmost need to have a child to be able to become parents by way of surrogacy, adoption, ART technologies etc. Such new concepts like surrogacy are gaining prominence these days and more and more couples are looking forward to them.

SURROGACY: MEANING AND DEFINITION

The concept of surrogacy is a recent phenomena that has been adopted in India. It is more of a Western concept that has gradually been accepted by many countries in the world. The Latin term "Surrogatus" refers to a substitute, typically a person appointed to act on behalf of another.⁴ According to Black's Law Dictionary, surrogacy is a practice wherein a woman carries and gives birth to a child for another couple.⁵ The New Encyclopaedia Britannica defines surrogacy as the act of a woman carrying a child for a couple who are unable to conceive naturally.⁶

Another definition of 'surrogacy', according to the American Law Reports,

Involves a contractual agreement where the surrogate mother agrees, for a fee, to conceive a child through artificial insemination using the biological father's sperm. She undertakes to carry and deliver the child to the biological father and subsequently waive all parental rights after the child's birth.⁷

Surrogacy can be categorised broadly into 2 forms i.e. altruistic and commercial. In

⁴ Surrogacy in Latin. [accessed on October 10, 2014]. Available from: <http://www.latindictionary.org/surrogatus>, <http://en.wiktionary.org/wiki/surrogatus> .

⁵ Oliphant RE. New York: Aspen Publishers; 2007. Surrogacy in Black law dictionary, family law; p. 349. [[Google Scholar](#)]

⁶ Surrogacy in New Encyclopedia, Britannica. [accessed on October 10, 2014]. Available from: <http://www.britannica.com/EBchecked/topic/575390/surrogate-motherhood>

⁷ Surrogacy: Is it your Right? Available at <iskarasmith.blogspot.com>

Altruistic surrogacy, no financial compensation is given to the surrogate mother apart from the insurance and taking care of the medical expenses of the surrogate whereas in commercial surrogacy financial payment is also given apart from the above two. Compensated surrogacy, meanwhile, covers the surrogate's expenses and lost wages incurred by her during the pregnancy and childbirth.

Surrogacy becomes a very viable option for couples who are not able to conceive and are looking forward to becoming biological parents of the child. It is bliss for women who are suffering from infertility. In surrogacy, a woman who is able to conceive engages another woman to bear a child for her. The one who makes this arrangement is known as the 'Commissioning Mother', while the woman who carries the child for another is called as the 'Carrying Mother'. The commissioning mother may or may not provide the egg, accordingly if she provides it, she is also known as 'Genetic Mother'. The genetic father refers to the commissioning mother's husband, who could also be an anonymous donor in some cases⁸.

SOCIAL, MORAL & ETHICAL DILEMMAS OF SURROGACY

Surrogacy has emerged as one of the best solutions for infertile couples, providing them with an opportunity to have children biologically. However, the high demand for surrogacy all around the world has led to various debates and legal disputes. These conflicts often take the form of huge controversies related to the legality of surrogacy arrangements. The controversy has been brought into the limelight by numerous amounts of surrogacy cases globally and the points put forth by legal scholars and commentators, stressing the importance of this discussion for forming the legal framework for surrogacy.⁹

Criticisms of surrogacy are frequently rooted in ethical, moral, religious, and legal considerations. These parameters play a crucial role in shaping societal attitudes towards legal issues and form the framework of many legal systems. The major ethical and moral objections to surrogacy are based on the argument that God is the one who gives life i.e. it is a divine creation and human intervention in natural processes is unethical. Furthermore, the process of surrogacy itself includes multiple trials using male or female genetic material and human embryos, which is equated as the killing of human life as many scholars and

⁸ Walter Wadlington, —Artificial Conception: The Challenge for Family Lawl 69 Virginia Law Review, 465 (1983), at p.475

⁹ Anonymous, —Developments —Medical Technology and the Lawl, 103 Harvard Law Review 1519 (1990), at p.1556.

people believe that life begins at fertilization.

Apart from this, another objection comes in the form of the requirement for a woman to serve as a surrogate. Commentators assert that surrogate motherhood exposes women to numerous risks such as physical, psychological, and symbolic risks including objectification and commodification. Carl Schneider specifically says that *"some surrogate mothers will become sick or even die."*¹⁰ Additionally, it is often argued that surrogates are highly susceptible to psychological harm, similar to the trauma and pain experienced by biological mothers who give in their children for adoption. Certain instances wherein surrogates have refused to hand over the child to the intending parents underscore this psychological impact.¹¹

Critics also caution that such types of surrogacy contracts and agreements consider women as meagre tools of reproduction. The Royal Commission and the Quebec Council for the Status of Women in Canada have warned that reproductive technologies *"risk fragmenting the reproductive process and alienating women from their own reproductive functions"*¹². Surrogacy leads to the division of motherhood into gestational, genetic, and intended categories, which some argue is unnatural and unethical. Once the surrogate arrangement is made, the surrogate becomes bound by the contract's terms and must relinquish all her parental rights to the child post-birth.

Symbolically, the harm associated with surrogacy leads to a discussion of another concept of baby-selling, which is against the core principles and values of a civilized society. Some scholars assert that surrogacy commodifies not only women but also children, treating them as objects of sale and purchase similar to common goods. Some also argue that surrogacy should be prohibited for similar reasons for which the sale of organs for transplantation is banned. Critics compare surrogacy to prostitution, adultery, or slavery, highlighting that it causes degradation of the human dignity of women. Moreover, there are views that even a surrogate child may suffer from significant psychological harm if the child comes to know about their parentage or origin. Also, currently, there is a recent trend developing among

¹⁰ See Carl E. Schneider, "Surrogate Motherhood from the Perspective of Family Law", 13 Harv. LJ & Pub. Pol'y, 135(1990), at p. 125.

¹¹ See, Scott B. Rae, "Parental Rights and the Definition of Motherhood in Surrogate Motherhood", 3 S. Cal. Rev. L & Women's Stud. 219 (1994), at p.242.

¹² Rakhi Ruparelia, "Giving Away the Gift of Life: Surrogacy and the Canadian Assisted Human Reproduction Act", 23 Canadian Journal of Family Law, 11 (2007), at p.26.

couples to have perfect children having all the desired traits as required by them which is ultimately leading to the commodification of children.

Still, despite these criticisms and controversies, surrogacy is one of the most desirable and hopeful options for individuals/ couples who have exhausted all other avenues for having a child. It presents an opportunity for such couples to have a biological child regardless of their reproductive health. So it can be inferred that surrogacy is a boon for infertile couples and one of the best developments of science done till now which cannot be ignored because of the ethical, legal and moral issues as discussed above.

RECENT LEGISLATIVE ADVANCES OF SURROGACY IN INDIA

In India, various policies, acts and guidelines have been passed for the regulation of surrogacy and assisted reproductive technologies (ART). All of such guidelines and enactments which have formed the foundation for the surrogacy laws in India are as follows:

ICMR Guidelines, 2016¹³

The Indian Council of Medical Research (ICMR) passed guidelines in 2006 for the accreditation, supervision, and control of ART clinics. These guidelines were promulgated to protect and preserve the rights of surrogates, though they did not impose any sort of restrictions on commercial surrogacy or the surrogacy occurring across borders. Moreover, the guidelines did not specify any particular offences or penalties for such offences.

Assisted Reproductive Technology(Regulation) Bill, 2008¹⁴

The Assisted Reproductive Technology (Regulation) Bill of 2008 provided a comprehensive regulatory framework, describing the in-depth physical infrastructure and manpower requirements for infertility clinics, as well as ART procedures and also specified all the necessary criteria for selection of right surrogates and sperm donors. It mandated the confidentiality of records and mentioned the rights and duties of donors, surrogate mothers, and subsequent children.

¹³ Jaiswal, S. (2012). Commercial surrogacy in India: An ethical assessment of existing legal scenario from the perspective of women's autonomy and reproductive rights. *Gender, Technology and Development*, 16(1), 1-28 [Internet].

¹⁴ Surrogacy in India- Wikipedia, the free encyclopedia [Internet]. [cited 2020 Feb 25]. Available from: https://en.wikipedia.org/wiki/Surrogacy_in_India

Draft Assisted Reproductive Technology(Regulation) Bill, 2014¹⁵

In 2014, the Draft Assisted Reproductive Technology (Regulation) Bill mandated the establishment of national and state boards to regulate and monitor ART clinics. This draft proposed to forbid foreign nationals from accessing surrogacy services within India and thereby sought to resolve all the issues related to complications, disabilities, the death of surrogate mothers, and the abandonment of children born that are born out of surrogacy.

Surrogacy (Regulation) Bill, 2016¹⁶

The Surrogacy (Regulation) Bill of 2016 further gave direction to the above regulatory efforts. It was introduced in the Lok Sabha on November 21, 2016, it was referred to a standing committee on January 12, 2017, and the committee's report was presented on August 10, 2017. But the bill ultimately lapsed. However, the key provisions of the 2016 bill included:

- It authorised ethical altruistic surrogacy for infertile Indian married couples aged 23-50 for women and 26-55 for men and made a 5-year valid marriage a legal requirement for the couple.
- The bill restricted foreign nationals from accessing surrogacy services by mandating all couples to be Indian citizens, and the bill further specified that children born out of surrogacy would have similar rights and privileges as biological children.
- The bill also clarified that the surrogate mother should be a close relative of the intending couple, herself a married woman with a child of her own, aged 25-35 years, and she will be permitted to act as a surrogate only once during her lifetime.
- The bill proposed the establishment and maintenance of Surrogacy Boards at both national and state levels to supervise the regulation of surrogacy practices.

¹⁵ The Assisted Reproductive Technology (Regulation) Bill,2014. Government of India, Ministry of Health and Family Welfare. Press Information Bureau. [Internet]. [Cited 2020 May 08]. Available from: [https://www.prsindia.org/uploads/media/draft/Draft%20Assisted%20Reproductive%20Technology%20\(Regulation\)%20Bill,%202014](https://www.prsindia.org/uploads/media/draft/Draft%20Assisted%20Reproductive%20Technology%20(Regulation)%20Bill,%202014).

¹⁶ The Surrogacy (Regulation) Bill,2016. Government of India, Ministry of Health and Family Welfare. Press Information Bureau. [Internet]. [Cited 2020 May 08]. Available from: <https://www.prsindia.org/billtrack/surrogacy-regulation-bill-2016>

- The bill expressly prohibited commercial surrogacy, advertisements related to surrogacy services, exploitation and deterioration of the health of surrogate mothers, and the sale of human embryos. It allowed only altruistic surrogacy. Violations of such provisions would result in strict penalties and punishments, including imprisonment for a term not less than ten years and fines extending up to ten lakh rupees.

SURROGACY REGULATION ACT, 2021

The surrogacy regulation bill was finally passed in the Indian parliament in 2021 and it took some remarkable steps in the direction of regulation and administering of all the surrogacy practices in India, therefore it played a crucial role in solving many of the issues that were not addressed by earlier regulations.

The Surrogacy Regulation Act defines an "intending couple" as follows:¹⁷

- It must be an infertile married couple of Indian nationality
- The age of the female partner is between 23 to 50 years and the male partner is between 26 to 55 years.
- The couple should have no living children, provided their child suffers from a mental or physical disability or a life-threatening condition.
- The Act also applies to Indian widows, divorcees, and married couples of Indian origin residing abroad, who want to become biological parents through altruistic surrogacy. The age for an Indian widow or divorcee is specified to be between 35-45 years in the act.

The Act also specifies the requirements and criteria to be a "surrogate mother."

- A surrogate must be a willing and married woman of 25-35 years, having at least one biological child.
- She is allowed to participate in surrogacy only once, but the act allows up to three attempts are permitted if embryo transfer is unsuccessful.

¹⁷ Ministry of Law and Justice, Government of India. The Surrogacy (Regulation) Act. [Apr; 2023]. 2021. <https://dhr.gov.in/document/acts-circulars/surrogacy-regulation-act-2021>

- A physical and mental fitness certificate is required by a medical practitioner.
- The surrogate is forbidden from using her own ovums and is allowed compensation only up to insurance and medical expenses.
- Insurance coverage extends for 36 months to cover any sort of complications related to delivery, such as postpartum issues and potential death.
- Further, the surrogate has the absolute right to withdraw her consent until the embryo is implanted in her womb, and pregnancy can be terminated under the Medical Termination of Pregnancy Act, 2019.

The Act enumerates that surrogacy is allowed under some specified conditions, with the issuance of a certificate by the District Medical Board on the existence of the following parameters:

- a) The intended parents are of Indian origin.
- b) The intended mother is a divorcee or widow.
- c) The surrogacy is for altruistic purposes.
- d) The surrogacy is not for financial gain.

Journal of Legal Research and Juridical Sciences

The Surrogacy Regulation Act, of 2021, has significantly tried to address many ethical, social, and legal considerations associated with pregnancy. It aims to prevent the exploitation of surrogate women by eliminating intermediaries and protecting the sanctity of motherhood and potential parental rights. However, the act prohibits commercial surrogacy while allowing only altruistic surrogacy, the Act transitions from a rights-based to a needs-based approach, severely infringing on individual autonomy regarding reproductive decisions.

The Act further excludes many groups from accessing surrogacy services such as couples with one child, foreign nationals, individuals in live-in relationships, single men and women, homosexual couples, and widowers. While the act aims to avoid gender bias, it ignores the complexities associated with parentage, potentially reiterating patriarchal and heteronormative norms. Though the act has addressed many of the existing issues related to

surrogacy still it is incomplete in various other aspects like

CRITICAL ANALYSIS OF SURROGACY ACT, 2021

Exclusion of Live-in Relationships from Surrogacy Regulations

The Surrogacy Regulation Act excludes live-in partners from its regulatory ambit. This exclusion is not consistent with the legal and judicial stance on live-in relationships in India. The Supreme Court, in 'Lata Singh v. State of UP' (2006), upheld the legality of live-in relationships.¹⁸ Similarly, in 'S. Khushboo v. Kanniammal', the Court affirmed that the individual's right to be in a live-in relationship is guaranteed under Article 21¹⁹, which guarantees the right to life and personal liberty. Further, long-term live-in relationships were also legalised by the court in 'Badri Prasad v. Director of Consolidation' wherein the court conferred legal status to a 50-year-old live-in relationship²⁰. The Allahabad High Court in 'Payal Sharma v. Superintendent Nari Niketan' ruled that consensual live-in relationships are lawful²¹. Despite these landmark judicial precedents, the Act fails to extend surrogacy rights to live-in couples, a legislative lacunae that remains unfilled.

Furthermore, the Medical Termination of Pregnancy Amendment Act, 2021, substitutes the term "husband" with "partner," and allows any woman, irrespective of her marital status, to get access to abortion services for unintended pregnancies²². This progressive stance on reproductive rights for women is in stark contrast to the restrictive provisions of the Surrogacy Regulation Act on live-in relationships.

Concerns over the Altruistic Model and Forced Labor

The Surrogacy Act prohibits commercial surrogacy which has raised significant concerns about the rise of illegal or covert surrogacy practices in the country. The profit-driven nature

¹⁸ Lata Singh v. State of U.P & Another. Writ Petition (Criminal) No. 208 of 2004. [Jul; 2022];<https://indiankanoon.org/doc/1364215/> Lata Singh v. State of U.P & Another. Writ Petition (Criminal) No. 2006 208:2004

¹⁹ S. Khushboo v. Kanniammal & Anr. Criminal Apellate No. 4010 of 2008. [Jul; 2022];<https://indiankanoon.org/doc/1327342/> S.Khushboo v. Kanniammal & Anr. Criminal Apellate. 2010 4010:2008

²⁰ Badri Prasad vs Dy. Director of Consolidation. No. 1978 AIR 1557, 1979 SCR (1) 1. No. [Jul; 2022]. 1978. <https://indiankanoon.org/doc/215649/>

²¹ Talawar N. Legal status of live-in relationship in India. [Jul; 2022]. 2021. <https://www.legalbites.in/legal-status-of-live-in-relationship-in-india/#:~:text=In%20Payal%20Sharma%20v.%20Superintendent%2C%20Nari%20Niketan%20the>

²² The Medical Termination of Pregnancy (Amendment) Act, 2021. [Jul; 2022]. 2022. <https://egazette.nic.in/WriteReadData/2021/226130.pdf>

of the infertility healthcare industry often results in exploitation and corruption, as is supported by several instances of coercion, such as minors being forced to sell their eggs.²³

Further, it is argued that a blanket ban on commercial surrogacy violates Article 19(1)(g), which protects the right to practice any profession, business or trade. Such prohibitions result in forced labour, considered in the context of existing poverty and socioeconomic pressures. A regulated compensatory surrogacy framework, where costs and compensation are overseen by qualified authorities, will safeguard human rights while at the same time addressing these concerns.²⁴

Long-term Health Implications for Surrogate Mothers and Fetus

One of the major challenges in the act is the unaddressed long-term health implications of surrogacy on surrogate mothers and fetuses. Issues like estrogen exposure and maternal drug abuse pose significant risks to fetal health. The existing Act fails to look into the potential consequences that may arise for surrogate mothers in cases of accidental or intentional drug overuse, and also it does not consider the risk of venereal diseases that may affect the fetus. Comprehensive and detailed screening of intending parents is a potential solution to mitigate these risks²⁵.

Mental Health Implications for Surrogate Mothers

While the Act mandates psychological fitness to be a surrogate mother, it does not recognise the potential onset of psychiatric disorders post-implantation. Such type of unaddressed mental health issues in surrogate mothers can pose risks to the fetus. The Act requires psychological fitness for the surrogates but it does not entail any provisions for formal psychiatric assessments by mental health practitioners and doctors, underscoring the gap in addressing mental health for healthcare delivery.

²³ 6 hospitals, 4 in Tamil Nadu, flouted rules while harvesting eggs of Erode girl. [Jul; 2022]. 2022. <https://timesofindia.indiatimes.com/city/erode/6-hospitals-4-in-tn-flouted-rules-while-harvesting-eggs-of-erode-girl/articleshow/92760238.cms>

²⁴ 6 hospitals, 4 in Tamil Nadu, flouted rules while harvesting eggs of Erode girl. [Jul; 2022]. 2022. <https://timesofindia.indiatimes.com/city/erode/6-hospitals-4-in-tn-flouted-rules-while-harvesting-eggs-of-erode-girl/articleshow/92760238.cms>

²⁵ Medical and mental health implications of gestational surrogacy. Yau A, Friedlander RL, Petrini A, et al. *Am J Obstet Gynecol.* 2021;225:264–269.

Impact on Procreative Medical Tourism

Previously, the legalization of surrogacy in India facilitated "procreative medical tourism," attracting many due to low treatment costs and advanced reproductive techniques. However, the basis of judgement in cases such as 'Baby Manji Yamada v. Union of India' and 'Jan Balaz v. Anand Municipality led to increased scrutiny of surrogacy provisions, particularly regarding custodianship and citizenship of children born to foreign nationals²⁶. To protect these child rights, the Act forbids foreigners from accessing surrogacy services in India, resulting in a significant decline in cross-border fertility tourism.

Restriction on reproductive autonomy

In contrast to the 2021 amendment of the Medical Termination of Pregnancy Act, 1971, which allows unmarried women to seek abortions, the Surrogacy Act prohibits unmarried women from availing of surrogacy services. This restriction is seen by many as a violation of reproductive autonomy, a right guaranteed as part of the right to life under Article 21 of the Indian Constitution. Also, fixing the age limits for surrogates and intending couples further sought to restrict fundamental reproductive rights.

Discrimination against the LGBTQIA+ community

The Act further discriminates against the LGBTQIA+ community by excluding homosexual couples from availing altruistic surrogacy, thus reinforcing the stereotypical and heteronormative stable family structures. This exclusion explains a broad base societal and legal bias, despite allowing ART and surrogacy services for widowed and divorced women, thereby highlighting inconsistencies and lacunae within the contemporary legal framework.

STATUS OF SURROGACY ACROSS VARIOUS COUNTRIES

The delicate and sensitive nature of surrogacy, considering its moral, ethical, and legal implications, necessitates the formulation of regulatory policies or guidelines. However, on a global scale, there is no consensus on the legal frameworks for surrogacy. Different countries have made various regulations, guidelines and legislation based on their country-

²⁶ Sahabuddin Mondal MD. Problems and issues of surrogate mother and her child. [Jul; 2022]. 2021. <https://www.legalservicesindia.com/article/2310/Problems-And-Issues-of-Surrogate-Mother-and-Her-Child.html>

specific social, economic, cultural, religious, and legal contexts.

Israel

Israel is a trailblazer in surrogacy regulation, which made the Surrogate Motherhood Agreements Law as early as 1996, as per the recommendations of the Aloni Commission²⁷. These laws have positioned Israel as a leading country to regulate and administer surrogacy via proper laws. However, the country has allowed only gestational surrogacy, implicitly banning traditional surrogacy. Further, the law clearly states that the sperm must be of the intended father and not some other donor.

Canada

In Canada, the Assisted Human Reproduction Act of 2004 governs surrogacy-related services. This Act does not enumerate who can enter into a surrogacy arrangement but it strictly forbids any sort of financial compensation to a surrogate. This is specifically mentioned in Section 2(f) of the Act, which states that "*trade in the reproductive capabilities of women and the exploitation of women for commercial purposes raises health and ethical concerns that justify their prohibition.*"²⁸ Moreover, the Act prohibits payments to third parties/ middlemen as their commission for arranging surrogate services.

United States Of America

The United States of America does not have a federal law governing surrogacy, which has resulted in a diverse legal landscape across different states of the country. Some states have enacted laws prohibiting surrogacy as well as making them void and unenforceable, while others have explicitly authorised surrogacy agreements. Typically, in the majority of states, altruistic surrogacy arrangements are allowed, whereas commercial surrogacy is more often restricted or banned.

These varied approaches across various countries underscore the complexity and diversity of societal, cultural, ethnic and religious values that have a major influence on surrogacy laws worldwide, with each country crafting regulations to balance its unique considerations

²⁷ See, Israel Ministry of Justice, Report of The Public-Professional Commission in The Matter of In Vitro Fertilization, July, (1994)

²⁸ The Assisted Human Reproduction Act, 2004 (Canada), S. 6(2)

with the rights and interests of all parties involved in the arrangement.

Apart from the above-mentioned countries, the position of surrogacy across other countries of the world has been depicted in the table below:

Country	India Surrogacy Bill, 2021	Netherlands	United Kingdom	South Africa	Greece	Russia
Type of surrogacy allowed (altruistic or commercial)	• Altruistic (Commercial prohibited)	• Altruistic (Commercial prohibited)	• Altruistic (Commercial prohibited)	• Altruistic (Commercial prohibited)	• Altruistic (Commercial prohibited)	• Commercial surrogacy allowed

CONCLUSION

The Surrogacy (regulation) Bill, 2021 has taken some revolutionary steps in the context of regulating surrogacy laws in India but there are various aspects and parameters wherein the act has failed to make an impact such as it indirectly enforces societal orthodoxy, excludes certain communities like LGBTQIA+ from availing the surrogacy services and does not consider post-delivery health conditions likely to arise for the surrogate and the newborn child etc.

There is an urgent need to make holistic and comprehensive legislation in this regard which will cover the various aspects related to surrogacy and fill the lacuna's present in the current legislation.

Not only the Surrogacy Regulation Act, 2021 but various regulations have been enacted to

regulate and administer surrogacy and assisted reproductive technology practices in India but still the issue remains unaddressed and the potential couples are looking for a more process-friendly and detailed legalisation that will be able to cater all such repercussions.

