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## **BABIES FOR OTHERS: LAW IS GUARDING**

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### **ABSTRACT**

India has been swaying between validation and invalidation of commercial surrogacy. Finally, commercial surrogacy is banned in India via Surrogacy (Regulation) Act 2021. Intellectuals again are divided in two groups. One group is in favour of altruistic surrogacy and others are those who raised the issue of reproductive autonomy and reproductive labour being in favour of commercial surrogacy. Surrogacy is one of such technologies which is highly practiced and preferred by both medical practitioners and the intended parents, without the barriers of the territories of the Nations. Some developed countries allow commercial surrogacy legally and some allow only altruistic surrogacy. Even in some country, surrogacy is practiced without any legal regulations. India was not an exception to it. India being a developing country, evolved as the biggest supplier of the surrogates and a hub for the process of surrogacy for the foreigners. This process of surrogacy had been unregulated in India. Therefore, exploitation of the surrogates and violation of the rights of children born through surrogacy had been reported in various socio-legal studies. Since 2002, commercial surrogacy was allowed in India. Reproductive tourism provides an opportunity to the foreign couples to get surrogates in India easily with least expenses. Within a decade, India became the hub to provide surrogates to the whole world. In absence of legal protections, these women were exploited, denied their dues, sometimes died. In response, debate for regulation of surrogacy began in India. It took more than decade to prepare enactment. On 25<sup>th</sup>December, 2021 Surrogacy (Regulation) Act, 2021 (SRA) came into force. In this paper author has attempted to critically analyze the features of the Act and discuss in details some other issues which are concerned with it”.

**Keywords:** Surrogacy, Regulations, Women, Intended Parents, Willing women, Children.

## I. Introduction

*“Married couples are blessed  
 They can give birth or arrange surrogates  
 Same as intended women, either divorcee or widow  
 Intended men are not, though divorcee or widower  
 Neither for those, who are others  
 Not those, who are in ‘live-in’  
 Mind it ‘with this’ and lot more  
 SRA came in to force”.*

Three years back when Surrogacy Regulation Act, 2021 has been enforced in India, far away in California, a celebrity couple welcomes their surrogate child<sup>1</sup>. Point of difference is, Surrogacy (Regulation) Act, 2021 prohibits Commercial Surrogacy in India, while California is a State known for liberal surrogacy laws that allows commercial surrogacy. Debate on the prohibition or regulation of Surrogacy in its either form i.e. altruistic<sup>2</sup> or commercial<sup>3</sup>, traditional<sup>4</sup> or gestational<sup>5</sup> is still on. Surrogacy has different perspectives in accordance to its applicable mode (altruistic or commercial, traditional or gestational), places where it is applied (prohibited, permitted or regulated legally), persons who are intended to be parents are married couples, single person, homosexuals, live in partners etc. Not only that, when it comes to

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<sup>1</sup> ‘As Priyanka Chopra Jonas welcomes her baby through surrogacy, here is what it means and why families opt for it’, Timesofindia.Com Last updated on -Jan 22, 2022, 17:30 IST, [cited 2023 June 23]. Available From: <https://timesofindia.indiatimes.com/life-style/parenting/pregnancy/as-priyanka-chopra-jonas-welcomes-her-baby-through-surrogacy-here-is-what-it-means-and-why-families>

<sup>2</sup>An arrangement between intending parent(s) and surrogate without any payment other than usual expenses of process of surrogacy. In such arrangement surrogate often is relative to intending parent(s) or friend or known. From the glossary of ‘Preliminary Report on the issues arising from the International Surrogacy Arrangements’ [Cited 2023 Feb 2023]. Available From: <https://assets.hcch.net/docs/d4ff8ecd-f747-46da-86c3-61074e9b17fe.pdf>

<sup>3</sup>An Arrangement between intended parent(s) and surrogate financial remuneration beyond her usual expenses. From the glossary of ‘Preliminary Report on the issues arising from the International Surrogacy Arrangements’ [cited 2023 June 20]. Available From: <https://assets.hcch.net/docs/d4ff8ecd-f747-46da-86c3-61074e9b17fe.pdf>

<sup>4</sup>When surrogate is genetically related to the child born through the surrogacy arrangement because she provide her gametes for the process. From the glossary of ‘Preliminary Report on the issues arising from the International Surrogacy Arrangements’ [Cited 2023 Feb 2023]. Available From: <https://assets.hcch.net/docs/d4ff8ecd-f747-46da-86c3-61074e9b17fe.pdf>

<sup>5</sup> When surrogate is not related to child born through the surrogacy arrangement because she does not provide her genetic material for the process but act as carrier only. From the glossary of ‘Preliminary Report on the issues arising from the International Surrogacy Arrangements’ [Cited 2023 Feb 2023]. Available From: <https://assets.hcch.net/docs/d4ff8ecd-f747-46da-86c3-61074e9b17fe.pdf>

woman who is going to be surrogate, with her mental, physical and psychological health, her economic status is also important equally. Various researches in last decades shows, status and reasons for being surrogate for a woman in developed countries and developing countries is different and distinct. Surrogates from developed countries are more confident, informed, and secured, in surrogacy process. On the other hand, surrogates in developing countries are using the surrogacy process, as one of measure to fight with their poverty.<sup>6</sup>As in last three decades reproductive tourism provides an opportunity to the developing countries to earn by facilitating foreigners in reproductive services. In Asian countries, especially in last five years 'Commercial Surrogacy' has been banned through law<sup>7</sup>, it was reported the glaring cases of exploitation of surrogates, baby selling and buying, baby farming and forced surrogacy, etc. India is one of such countries that evolved as a hub for gestational surrogacy procedure after 2002. It was estimated that India was the largest provider of the surrogacy services in the world in lowest rates than the United States or other developed Countries. A, 2012 report by the Confederation of Indian Industry(CII) pegged it at \$2billion industry.<sup>8</sup> It was claimed in researches that women from economically deprived backgrounds would be paid to carry and bear the child of the parents who could afford to pay of Rs.15 to 20 lakhs on average for the procedure<sup>9</sup>. Therefore, a surrogate would be paid Rs. 5 lakhs, with bonus if it turned out to be twins.<sup>10</sup> It is not only the economic status of surrogates, which is important to decide that surrogacy should be permitted or prohibited. In International Surrogacy Arrangements, welfare of children born out of such arrangements, their nationality, their custody, and human rights are also equally important issues. Here in India, prohibition on commercial surrogacy was need of hour. The various reports and researches on the status of surrogates in India has suggested regulation on Surrogacy<sup>11</sup>. In 2009, Law Commission of India in its report has mentioned the

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<sup>6</sup> See, 'Birthing a market: A study on Commercial Surrogacy, SAMA-Resource Group for Women and Health, available at <http://feministlawarchives.pldindia.org/wp-content/uploads/SAMA-birthing-a-market-.pdf?visited> on Oct 11 2020, Amrita Pandey, Commercial Surrogacy in India The University of Chicago Press Journal, vol. 35. No 4(summer 2010): 35(4); 969-992, [Cited 2023Sep 2023]. Available From:<https://www.jstor.org/stable/10.1086/651043>;Pandey, AmritaWombs In Labour' Transnational Commercial Surrogacy In India', Columbia University Press, 2014

<sup>7</sup> India, ban commercial surrogacy since 2012, Thailand Government passed The Protection of Child born through Assisted Reproductive Technology Act 2015, to ban commercial surrogacy. Nepal Supreme Court since December 12, 2016 ban commercial surrogacy in Nepal

<sup>8</sup>Arvinda Indulekha 'Pregnant Pause: how a ban on commercial surrogacy could drive it underground', The Economic Times, 30 Jan 2022

<sup>9</sup> *Ibid*

<sup>10</sup>*Ibid*

<sup>11</sup>See, 'Birthing a market: A study on Commercial Surrogacy, SAMA-Resource Group for Women and Health, [Cited 2023 Sep 2023]. Available From:<http://feministlawarchives.pldindia.org/wp-content/uploads/SAMA-birthing-a-market-.pdf?;>;Pandey, Amrita,Commercial surrogacy in India' U. Chi Press J., (Summer 2010); 35(4):

rights and obligations of the parties of the Surrogacy.<sup>12</sup> In fact, debate over surrogacy in India started in 2002, when ICMR legalized commercial Surrogacy in India. In 2008, in *Baby Manjhi Yamanda v. Union of India*<sup>13</sup>, Supreme Court of India, highlighted the need of law.<sup>14</sup> In 2014, on exploitation of surrogate mothers a study was published by the Centre for Social Research.<sup>15</sup> In 2015, ICMR regulation banned surrogacy for foreign couples. In 2016, Surrogacy Regulation Bill was introduced in the Lok Sabha. It was reintroduced in 2019, and in 2020 sent to the Select Committee of the Rajya Sabha. All the recommendations of the Rajya Sabha Committee were accepted and Surrogacy Regulation Act, 2021 has been passed by the Parliament of India and it received the assent of the President on 24<sup>th</sup> December, 2021.

## II. Features of Surrogacy Regulation Act 2021

The SRA is a regulatory law. Its preamble goes like this; “It is an Act to constitute National Assisted Reproductive Technology and Surrogacy Board, State Assisted Reproductive Technology and Surrogacy Boards and appointment of appropriate authorities for regulation of the practice and process of surrogacy and for matters connected therewith or incidental thereto”<sup>16</sup>

### *(a) Mode of Surrogacy*

Commercial Surrogacy is prohibited in India under the Act.<sup>17</sup> In all of its form, surrogacy for the commercial purposes, or commercialization of surrogacy, production of children for sale through surrogacy or prostitution is prohibited and punishable<sup>18</sup>. Only altruistic form of surrogacy is allowed. It means surrogate mother will not receive any payment other than her medical expenses, insurance cover of thirty-six months for post-partum complications and any other prescribed amount. Surrogacy is allowed only for specific purposes, as mentioned in the

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969-992, [Cited 2023 Sep 2023]. Available From: <https://www.jstor.org/stable/10.1086/651043>, visited on October 10, 2020; Pandey, Amrita wombs in labour’ transnational commercial surrogacy in India’, Columbia University Press, 2014

<sup>12</sup> 228<sup>th</sup> Law Commission Report on Need for Legislation to Regulate Assisted Reproductive Technology Clinics as well as rights and Obligations of Parties to a Surrogacy

<sup>13</sup> (2008) 13 SCC 518

<sup>14</sup> In the fact of a case a girl born in India through Surrogacy of Japanese Couple, who were separated before baby was born. The girl was left in ‘limbo’ due to conflicts of law in India and Japan.

<sup>15</sup> Report on the National Conference on ‘A Policy Dialogue on Issues around Surrogacy in India’, [Cited 2023 Sep 2023]. Available From: <https://www.csrindia.org>.

<sup>16</sup> Preamble of the Surrogacy Regulation Act, 2021

<sup>17</sup> Sec 4(c), Ibid

<sup>18</sup> Sec 38

Act, for intending couple on medical indication and for intending women necessitating gestational surrogacy.

***(b) Is Surrogacy not for all?***

Only married couple of Indian origin and intending woman on getting ‘Certificate of Recommendation’ from board are allowed for surrogacy. Foreigners are not allowed for Surrogacy in India. ‘Certificate of Essentiality’ and ‘Certificate of Eligibility’ is required by the Intended couple or intending women. ‘Certificate of Essentiality’ is issued by the District Medical Board to the intended couple;

(a) On indication of medical necessity to both or the either of the couple, and to intending women necessitating gestational surrogacy;

(b) On order of parentage and custody of child born through surrogacy;

(c) On insurance coverage for the surrogate mother of the thirty-six months for the post-partum delivery complications and other prescribed expenses.

‘Certificate of eligibility’ issued to the intended couple by the appropriate authority on the fulfillment of following conditions;

(a) To the Indian citizens married for five years;

(b) Wife age range between 23 to 50 years and for husband age range is 26 to 55 years;

(c) They must not have surviving child (biological, adopted or surrogate);

(d) Surviving child does not include mentally or physically challenged child or a child suffering from life threatening disease.

***(c) Surrogate Mother***

A married woman, being an age of 25 to 35 years, having child of her own, genetically related to intending couple or intending women with a certificate of medical fitness for surrogacy process may act as a surrogate mother. A willing woman may also act as surrogate mother, if intending couple or the intending woman approached along with her to the appropriate

authority for the surrogacy process. A surrogate is not allowed under the Act to use her own gametes<sup>19</sup>. A woman is allowed to be surrogate once only in her life-time<sup>20</sup>.

***(d) Parentage of the Child Born out of Surrogacy***

A child born out of surrogacy is biological child of the intended couple or intending woman.<sup>21</sup> Intended couple or intending woman is not allowed to abandon such child.<sup>22</sup>

***(e) Registration of the Surrogacy Clinics***

Registration of Surrogacy clinics is mandatory<sup>23</sup>. The Act says that there shall be establishment of National Assisted Reproductive Technology and Surrogacy Registry under the Act<sup>24</sup> for the registration of the Surrogacy clinics. Certificate of registration of surrogacy clinics would be valid for three years and on expiry it has to renew.<sup>25</sup> Appropriate Authority has to be appointed by the Central and State Government for granting, suspending or cancelling registration of surrogacy clinics.

***(f) National and State Surrogacy Boards***

National and State surrogacy board has to be constituted under the Act. The main functions of the board is to advice government on policy matters concerning with surrogacy, to review and monitor the implementation of the Act, to set minimum standards of required infrastructure for the surrogacy process and to supervise the other authorities concerned with the issues<sup>26</sup>.

***(g) Offences and Penalties***

Any contravention to the prohibition of commercial surrogacy under the Act, exploitation of surrogate mothers and children born to surrogacy is punishable with imprisonment which may

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<sup>19</sup>Sec 4(iii)(b)(III) of Surrogacy Regulation Act 2021

<sup>20</sup>Sec 4(iii)(b)(IV), Ibid

<sup>21</sup>Sec 8, Ibid

<sup>22</sup>Sec 7, Ibid

<sup>23</sup>Sec 11, Ibid

<sup>24</sup>Sec 15, Ibid

<sup>25</sup>Sec 12(3), Ibid

<sup>26</sup>Sec 25 Ibid

extend to ten years' imprisonment and fine which may extend to Rs. ten lakhs rupees<sup>27</sup>. Medical professionals, or others who own surrogacy clinics or laboratory etc., on contravention of the provisions of the Act would be liable for maximum punishment up to five years' imprisonment and maximum fine up to Rs. ten lakhs<sup>28</sup>. On subsequent or continuous offence, suspension of registration shall be for the five years<sup>29</sup>. Intended parents, if involved in commercial surrogacy would be punishable for the maximum punishment of five years' imprisonment and fine up to Rs. five lakhs rupees.<sup>30</sup> Offences under the Act is cognizable, non-bailable, and compoundable<sup>31</sup>.

### III. Other Issues in Surrogacy Regulation Act, 2021

#### *(a) Willing women in altruistic surrogacy*

*“Does it make difference that you are allowed for once in life?*

*Or twice, thrice, or many more*

*Does it make difference that you may bargain once in life?*

*Or twice, thrice or many times*

*Does it make difference that you are allowed to bargain openly?*

*Or once in life, with one secretly....”*

A willing woman is a woman, who is brought by the intended couple or intending woman to the appropriate authority for the surrogacy process. Surrogacy clinics and others are prohibited to arrange paid 'surrogates' for the commercial use and for the intending couple or intending woman. Under the Act such an opportunity is provided, once in life to the willing woman. She is approached by the intending couple or woman. It is not known to appropriate authorities, not to anyone else, that on what terms and condition she has agreed to be a surrogate. If something is given in consideration once, it may not be commercial, but it may be price or value. It should be inquired that why a woman, not genetically related to intended couple or intended woman, is carrying such act. Would it be easy for the intending couple or intending woman to find a

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<sup>27</sup>Sec 38 of the Surrogacy Regulation Act 2021

<sup>28</sup>Sec 39(1), Ibid

<sup>29</sup>Sec 39(2), Ibid

<sup>30</sup>Sec 4(iii)(b)(IV), Ibid

<sup>31</sup>Sec 43, Ibid

woman who is a friend or close enough to give birth to their child? If not, such ‘willing woman’ is someone working for some hidden object, which may be her need or greed. Secondly, it would not be strange, if services of such ‘willing woman’ would be restricted to so called affluent class of the society.

### **(b) Marriage and Surrogacy**

Marriage and Surrogacy go hand in hand. First, those who are married only can opt surrogacy. Live in partners, LGBTQ Couples, same-sex couples, single male, single unmarried female, are not allowed to opt surrogacy for child in the Act in India. Though, live in relations<sup>32</sup> and LGBTQ<sup>33</sup>, relations are recognized by the Courts. It is argued here, that an intended woman may be divorcee or widow, but not unmarried single woman. An intended woman, who is a widow, not restricted to use only preserved sperm of her husband. A divorcee is allowed to use donor’s sperms in gestational surrogacy. Therefore, why not an unmarried single woman can opt surrogacy for a child. Both married and unmarried woman have equal right to get motherhood. How marriage in case of divorcee and widow would work? Such distinction between married and unmarried woman is violative to article 14 (Right to equality) of the Constitution. Recently Delhi High Court<sup>34</sup> has ‘questioned the rationale behind associating the marital status of woman with eligibility to opt for surrogacy.’<sup>35</sup> Supreme Court has asked to the Central Government in response to petition of a unmarried woman who has frozen her eggs and is not being allowed to opt surrogacy under section 2(1)(s) of the this Act.<sup>36</sup> It was argued by the petitioner, Nehha Nagpal, that the ‘law impacts the right to reproduction and motherhood of a woman and denies them right to have a meaningful family life’<sup>37</sup>. On the other hand, in case of surrogate or willing women, ‘condition of being married and child of her own’ has been made a condition to reduce the possibility of denial form surrendering child after birth. Supreme Court on February 5 observed, “You cannot have everything in life” and denied a

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<sup>32</sup>S. *Khusboo v Kanniamal* (2010) CrLJ 2828, *Indira Sharma v VKV Sharma*, (2013) 15 SCC 755; *Payal Sharma v Supt. Nari Niketan Kalindri Bihar Agra* AIR 2001 ALL254, *Lata Singh v State of UP* AIR 2006 SC 2522

<sup>33</sup>*Navtej Singh Johar v Union of India* AIR 2018 SC 4321

<sup>34</sup>*Karan Balraj Mehta and Anr. vs. Union of India*, Case No. Writ Petition (Civil) No. 8448 of 2022

<sup>35</sup>Garg, Abhinav *Why can't unmarried women go for surrogacy* [Cited 2023 Sep 2023]. Available From: <https://timesofindia.indiatimes.com/india/hc-why-cant-unmarried-women-go-for-surrogacy/articleshow/104478009.cms?from=mdr>.

<sup>36</sup>Thomas, Abraham *Supreme Court seeks Centre's response on denial of surrogacy to unmarried woman*, 5 Dec 2023, Hindustan Times.

<sup>37</sup>*Ibid*.



single woman to have a child via surrogacy<sup>38</sup>. However, ART Rules, 2022 which has been amended in 2023 has allowed single woman to make transfer of gametes (Sperms and oocyte or embryos)<sup>39</sup>. This conflict of legal and jural process is creating a lot of confusion and it needs immediate intervention by judiciary and legislature collectively.

***(c) Intended Woman but not intended Man***

*“Female has right to get child with surrogacy male does not have.”*

An intended woman, either divorcee or widow can opt for surrogacy for child but not an intended man. A male either he is single unmarried male, divorcee or widower cannot get child through surrogacy. What makes a difference to female get a child and a male get a child? Under Article 21 every one has right of parenthood. If it is for the welfare of the child, then for those male, whose wife either dies or he is divorcee, are not allowed to keep their children with them, unless they marry again.

While responding both the issues of making female eligible for surrogacy and not male and such female must be ever married and have children of her own not to unmarried women, Central Government responded in Karan Balraj Mehta case, that Surrogacy (Regulation) Act, 2021 and Assisted Reproductive Technology (Regulation) 2021, Act are not violative to Article 14 and 21 of the constitution<sup>40</sup>.

***(e) For all or for few***

*“Infertility is unfortunate, personally and socially both”*

The expenses of surrogacy are very high, so are the infertility rate too. The provisions of the Act, at one end ban commercial surrogacy, and on other allows ‘willing woman’ to be a surrogate. It affects the availability of surrogates for the genuine demands. The whole process would be limited to very few people who can afford both expenses and willing woman. A

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<sup>38</sup>Chaudhary, Amit Anand Can't go West's way, need to save institution of Marriage: Supreme Court, Times of India, 8<sup>th</sup>February, 2024.

<sup>39</sup> Assisted Reproductive Technology (Regulation) Rules, 2022,

<sup>40</sup> Centre opposes plea in Delhi High Court against certain clauses of surrogacy law, [Cited 2023 Sep 2023]. Available From: <https://www.newindianexpress.com/cities/delhi/2022/nov/08/centre-opposes-plea-in-delhi-high-courtagainst-certain-clauses-of-surrogacy-law-2516112.html>

milestone step has been taken by the State of Goa, while providing free IVF treatment<sup>41</sup>. That may help to reduce the cost of Surrogacy in future too.

#### ***(f) Only Gestational Surrogacy not Traditional Surrogacy***

The question is “If child is not genetically related to intended couple or intending woman, then why surrogacy”?

If a surrogate woman or willing woman not allowed to use her gametes, in those cases where intending couple or intending woman have failed to provide their gametes, donors’ are allowed. In gestational surrogacy embryo implanted to surrogate. Embryo may be of intended couple or intended woman through donor sperm. If it is from donors, genetic related concerns totally failed. In that case, why not adoption, over surrogacy. It would serve two purpose, a child, who is in this world would get parents and parents gets parenthood.

#### **IV. Other Side of Coin**

The next question is whether Non -Compensation to surrogates for her services amounts to exploitation? One of the reasonable apprehension is raised with the ban of commercial surrogacy that it promotes surrogacy behind the veil. Ranjana Kumari, Director of Centre for Social Research said clearly that protection of surrogates cannot be ensured through outright ban. Dr Naina Patel, said *‘for anything for which there is demand and there is no legal supply, it goes underground, because there are suppliers’*<sup>42</sup>The protection which is provided under the Act to the surrogate is insufficient. A surrogate is only liable for the insurance coverage for the thirty-six-month post pregnancy complication. Prabha Kotiswaran, said that *“The Act ignores the fact the surrogate is mother with the commitments towards her family, is a worker who may lose her job or have to take a break from her job during the pregnancy, thereby losing income, with the pregnancy culminating in a C-section, a scar of life. She is not compensated for any of these inconveniences (to put it mildly) in her life”*.<sup>43</sup>

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<sup>41</sup>Mrari Shete, ‘Goa becomes first state to provide IV free at Goa Hospital’, TOI, 14 August 2023,[Cited 2023 Sep 2023]. Available From:<https://timesofindia.indiatimes.com/city/goa/goa-becomes-first-state-to-provide-ivf-free-at-govt-hospital/articleshow/102730330.cms>.

<sup>42</sup>Ketki Desai, ‘New Surrogacy Law ignores the labour involved in birthing a baby’ TOI, 30 Jan 2022

<sup>43</sup> Ibid.

One other approach which supports that ‘payment to surrogate’ for reproductive labour “*is moral way to impoverished women to earn money they would otherwise never be able to. Young women would opt for it to clear debt to fund their children’s education to build a house*”.<sup>44</sup>

In absence of compensation it would be difficult for the intending couple to get ‘willing woman’. In case of celebrity and others who has sufficient money has an option to get surrogacy process in abroad. But for those genuine intending couples or intending woman who can’t bear expenses of such process in abroad, nor has surrogate who is relative to them or her respectively, or willing woman, has no option to get child through surrogacy.

## V. Practical Issues in Implementation of Act

Onerous paper work is required for the Surrogacy under Surrogacy (Regulation) Act 2021. Dr. Kedar Ganla, Sion Hospital Mumbai, mentioned that ‘*multiple certifications from district or municipal authorities, clearance, from magistrate for the surrogate and a final nod from the newly setup central agency is required*’.<sup>45</sup> Such paper work become more tedious if parties like intended parents are native of some other State as couple prefer to undergo surrogacy process in other State and For example, if a women native of Uttar Pradesh is married and she lives in Pune, freezes her embryo in Mumbai, she would require health certificate from the place she was borne.

## V. Conclusion

A decade has been taken to understand that poor surrogates are exploited in commercial surrogacy. Reproduction is turned in to production and child becomes a commodity especially in developing countries like India. Another half decade has been taken to decide; it should be regulated or prohibited. Next half decade has been taken to enact legislation. Surrogacy Regulation Act, 2021 has come into force since December, 2021. With all issues and apprehensions mentioned above, it seems that very soon it would be challenged in Court on the ground of discrimination between married and unmarried, female are allowed and male are not<sup>46</sup>. Procedural requisites are also hurdles to get the surrogates, approvals, etc. In past 23

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<sup>44</sup>Dr. Divakar Reddy, CEO of Padmaja Fertility Centre, Hyderabad, Pregnancy Pause’, The Economic Times, 30 Jan 2022, The Economic Times

<sup>45</sup>Malathy Iyer, ‘Dreams of Surrogacy ‘buried’ under mounds of paperwork’, Times of India, 11 Dec 2023.

<sup>46</sup>Karan Balraj Mehta and Anr. v. Union of India, Case No. Writ Petition (Civil) No. 8448 of 2022

months, most states are yet to put new mechanism at place.<sup>47</sup> Onerous paperwork, and multiple certificates are required at municipal and district authorities is under Surrogacy Act, 2021. It is suggested that process should be made more simple<sup>48</sup>.

Further, those who are in need to get baby by the help of third parties due to social or biological infertility are not entertained in the Act(same-sex couple, transgender etc.). On the other side, it has to find out that payment to surrogate is value of 'reproductive labour' and is it really concerned with 'reproductive autonomy'. We should think again, as it is as heinous as being allowed a poor woman to sale her body, and if not possible to her womb. One thing we always should keep in mind that surrogacy is not the treatment of the infertility, it is an alternative to get the parenthood with the help of third party. Therefore, it should always use as an 'exception' not as a 'replacement of procreation'. Therefore, it can be concluded as;

*“Surrogacy is blessings for those who can't give birth, naturally*

*It is not the matter of convenience to avoid pain of birth*

*Nothing is commercial in it*

*It is concerns of surrogate to others*

*Take it as her 'gratefulness'*

*She is doing 'rare' 'unusual' and 'invaluable'*

*As an alternative, not as commonly done*

*Ensure, at least she would not be exploited*

*And child is not abandoned”*

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<sup>47</sup>Malathy Iyer, 'Dreams of Surrogacy 'buried' under mounds of Paperwork', Dec 10 2023, TOI, [Cited 2023 Sep 2023]. Available From:<https://timesofindia.indiatimes.com/city/mumbai/dreams-of-surrogacy-buried-under-mounds-of-paperwork-in-mumbai/articleshow/105871401.cms>.

<sup>48</sup>*Ibid.*