

“Regulated Re-Instatement of Commercial Surrogacy in India”

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ABSTRACT

Surrogacy is the process of giving birth to a child for any another person as a surrogate mother or of arranging such a birth. It refers to a contract in which a woman carries a pregnancy for any infertile couple. After introducing the topic briefly, it clarifies the meaning, concept and types of Surrogacy. It also discusses the Commercialization of Surrogacy in India. Further, it looks upon the Surrogacy (Regulation) Bill, 2019 which has been presented by the Ministry of Health and Family Welfare and accepted in the Lok Sabha. The bill proposes a ban on Commercial Surrogacy and legitimize Altruistic Surrogacy, hence the paper discusses to re-instate or remove the ban from commercial surrogacy in India and legalize the same. The main purpose of proposing the Surrogacy (Regulation) Bill, 2019 was to regulate the practice of surrogacy in India, and all the crimes involved in the process of surrogacy, but it failed to do so. The paper further discusses as to why the commercial surrogacy should be reinstated. It also discusses this issue on moral, ethical and medical ground. It will not explore the bioethical or medical dimensions but rather the legal arrangements as to how the Fundamental Rights of the surrogate mothers as well as the commissioning parents are being violated due the ban proposed on the commercial surrogacy. The paper further gives suggestions as to how the process of surrogacy can be regulated in a country like India. It suggests that how Central Adoption Resource Authority (CARA) can help provide a big hand to this billion industry, by regulating surrogacy arrangements in India, how a proper check can be made for exploitation of any of the stakeholders involved in this process, how the economy can grow rapidly in this field and lastly how it is a WIN-WIN situation for everyone, i.e., economy as well as the stakeholders involved in this process.

INTRODUCTION

Surrogacy is that topic which is in talks from the ancient times and is been known to almost every societies of the world. Surrogacy is a method or agreement whereby a woman consents to give birth to a child in her womb for another person, who will become the newborn child's parents after birth. The word surrogate has been derived from the Latin word ‘surrogatus’ which denotes chosen to act on behalf of or a ‘substitute’¹. The Supreme Court of India has defined surrogacy as a method of reproduction, whereby a woman agrees to become pregnant for the purpose of gestating and giving birth to a child she will not raise but hand over to a

¹ Aishwarya. Gupta, *Surrogacy: Enablement or Exploitation?* 3 ELENCHUS LAW REVIEW, 108, 108-109, (2017).

contracting party.² Such a situation of adopting surrogacy may arise when wife might be infertile or physically incapable of carrying an evolving fetus.³

The mother who carries the child in her womb and gives birth is known as surrogate or biological mother and the couple for whom she is giving birth to that child is known as intending or commissioning parents. Surrogacy means something different to each person it touches. For intended parents, it is the chance to finally complete their family and realize their dreams of parenthood. For surrogate mothers, it is the chance of a lifetime to give selflessly to another family who needs them.

Broadly, there are two types of surrogacy, i.e., Traditional Surrogacy and Gestational Surrogacy. When such a situation arises, the surrogate mother acts like the biological mother and provides the fetus, which has been conceived through artificial insemination with the sperm that has been donated from the intending couple, the required care and nutrition. This is known as Traditional Surrogacy. Alternatively, there are situations when the wife despite being fertile is unable to carry a developing fetus because of conditions like multiple sclerosis that might endanger her life if she happens to become pregnant. In such scenarios, an embryo is implanted in the surrogate mother's uterus which is the culmination of the infusion of the wife's eggs and her husband's sperm conceived by in-vitro-fertilization. This is known as Gestational Surrogacy.⁴

With the growth of knowledge and understanding regarding surrogacy, more number of legal and moral issues have come to the surface which has led to dire and urgent need of regulation and speculation in this field.

Surrogacy in its modern avatar has its roots originating from ancient Egypt, where infertile women were allowed to undertake the practice of allowing another woman bear the biological child of her husband in order to avoid divorce.

Until 2015, international commercial surrogacy was legal in India and because of the same India had become a destination for surrogacy-related fertility tourism because of the relatively low cost. It was in the year 1978 that in the United Kingdom, the first successful IVF procedure was carried out and resulted in the birth of baby Mary Louise. This gave a new hope for childless couples as well as ushering in a new branch of science⁵ and in the same year the world's second surrogate child, by the way of *In Vitro Fertilization (IVF)*, was born in Kolkata, India. This did however also raise a multitude of questions in morality, law and ethics with regards to the field of assisted reproductive techniques.⁶ India being the second largest hub of surrogacy in the world and a multi-millionaire industry, is no stranger

² Baby Manji Yamada vs Union of India, (2008) 13 S.C.C. 518 (India).

³ Gupta, *Supra* note 1.

⁴ *Id.*

⁵ Dr. Somshekhar Sharma, Dr. Vinod Kumar & Dr. Rajesh Chandra Sharma, *Comparative Review of Surrogacy Laws in India and Abroad*, 4 International Journal of Science and Research (2015).

⁶ *Id.*

to surrogacy and its roots can be found in Indian history as well. Since then, the field of Assisted Reproductive Technology (ART) has grown exponentially.

There are two types of surrogacy, namely Commercial Surrogacy and Altruistic Surrogacy. {Commercial surrogacy is a complicated and often controversial topic. The term generally refers to any surrogacy arrangement in which the surrogate mother is paid a fair amount of compensation for her services beyond reimbursement of medical expenses. Whereas, Altruistic surrogacy refers to those surrogacy agreements where the surrogate does not get any amount of compensation, other than few medical expenses. In altruistic surrogacy, the surrogate mother should be in a close relation to the intended parents, i.e., family member/ close friend. However, in altruistic surrogacy in a close relation, many complications or unforeseen expenses may arise which may be unforeseen and unpredictable at any moment. The main difference between both is the monetary compensation to be provided to the surrogate mother.

INDIAN LEGAL ASPECTS OF COMMERCIAL SURROGACY IN INDIA

Commercial surrogacy was legalized in 2002 in India but it has not got any legal status in the country by the legislature. But, the Apex court in the case of *Baby Manji Yamada vs Union of India*⁷, by giving a positive response in the field of surrogacy held that commercial surrogacy should be legalized in India. Since the date commercial surrogacy has been legalized in India, it has been a vital question that how far it has been accepted by the Indian society. There is a great social stigma attached to the practice of surrogacy. Surrogate mothers face high levels of social stigma and are treated as they are excluded from the society.

[The Indian Council of Medical Research (ICMR), in 2005, had attempted to regulate the act of surrogacy by drafting the National Guidelines for Accreditation, Supervision and Regulation of Assisted Reproductive Technology (ART) Clinics in India. This prompted drafting of the ART Bill in 2008, 2010 and 2014, however was never passed by the Parliament. Then, in the year 2009, Law Commission of India took it up recognizing the need for regulating ART clinics and providing for rights and obligations of parties to surrogacy and by the way of 228th Law Commission Report, it recommended allowing only altruistic surrogacy and a ban on commercial surrogacy. What followed, however, was the Surrogacy (Regulation) Bill of 2016.

SURROGACY (REGULATION) BILL, 2016 & 2019 (A CASUAL APPROACH TO A SERIOUS CONCERN)

Since in 2008, the Supreme Court of India in the *Baby Manji case*⁸ highlighted the lack of regulation for surrogacy in India, the Surrogacy (Regulation) Bill, 2016 was introduced on 21st November, 2016 and was passed in the Lok Sabha. The main purpose of the bill was to regulate the practice of surrogacy, but it did not do so. Instead of regulating surrogacy, it put

⁷ Baby Manji, *supra* Note 2.

⁸ *Id.*

a ban on commercial surrogacy and also, further added more points to it, making the process and practice of Surrogacy more difficult and monotonous in a country like India. After facing many criticisms, the bill however lapsed in the Rajya Sabha as cannot be accepted in country like India. However, the bill was again presented on July 15, 2019 by the Minister of Health and Family Welfare, Dr. Harsh Vardhan, with same contentions and got passed in Lok Sabha but is still pending in the Rajya Sabha till date.

The paper aims to re-instate or remove the ban from commercial surrogacy in India, and legalize the same, by giving arguments in favor of this.

The Union Cabinet, in the Bill of 2019 contended that since there is no regulation regarding commercial surrogacy, it has to be banned and stop its practice in total even if this is one of the majorly growing business in India.⁹ It is a million- dollar industry in India, on which government has put a ban for practicing it. Commercial Surrogacy, in one way can benefit the whole society and economy as well. It even benefits all the parties involved in the process of surrogacy.

Since, commercial surrogacy allows women to be compensated fairly for their hard and tough commitment to the commissioning/ intended parents as well as the physical and emotional demands of pregnancy. The compensation will be provided to the poor women of the country who wanted to help all those infertile couples and further that money which is provided in this process can be used by them to raise their own child and families and can live on their own and they can be independent in this world. It can be *WIN- WIN* situation for both the parties, i.e., the surrogate mother as well as the commissioning parents, as it is benefitting all of them. By proposing a ban on commercial surrogacy, it would be very difficult for all those women outside to live and take care of their children and families and they again have to be dependent on their parents and in-laws.

Many people considering surrogacy as a social stigma are concerned that by ‘renting a womb’ the women’s body have been converted into a ‘baby making machine’. The proper solution to this problem is not to put a ban on commercial surrogacy, but putting a cap on number of children a particular woman can give birth to by the way of surrogacy and strictly regulate this practice, rather than putting a ban on such practice, which would further decrease the harmful effects on the body of a surrogate mother.

Putting a complete ban on commercial surrogacy and regulating and legalising Altruistic Surrogacy, would lead the people nowhere. In the process of altruistic surrogacy, the surrogate mother should be a ‘close relative’. The Bill¹⁰, nowhere defines the word ‘close relative’. It imposes a great difficulty on commissioning parents to find and convince a close relative or family member or any close friend, even in that matter, to be a surrogate mother for them and give birth to their child. It becomes very awkward and difficult to convince

⁹ Surrogate Motherhood in India, (2008), (last visited at Jan 6, 2020) <https://web.stanford.edu/group/womenscourage/Surrogacy/>

¹⁰ The Surrogacy (Regulation) Bill, 2019 (India).

them to make do such a work, in a country with such a social and conservative nature. In a country where surrogacy comes with the social stigma, how can one think of having a baby with some another woman (in his close family), who is not his wife. Commercial surrogacy is an option for intended parents who do not want to pressure close friends or family members to make the sacrifices required in altruistic surrogacy. Altruistic surrogacy has many disadvantages in itself. If in case, a women with same blood relative or with same genes is ready to be a surrogate, and a child is born out of that arrangement, the same child which is born would be as very complicated situation. The child will suffer from very much diseases. There is a higher risk of disease and birth defects, stillbirths, infant mortality and a shorter life expectancy.¹¹ So bringing that child into this world is better than no giving birth to that child at all, which will be a great loss to all those infertile parents who dreamt of having their own child and become great parents.

The same Bill¹² does not provide for any alternative, if in case the parents would not be able to find any surrogate mother within close friends or family members, which ultimately hinders the purpose behind surrogacy and shall remain unfulfilled if it is banned.¹³

If we go by all the provisions of the bill¹⁴; In a country like India, it will be very difficult to find a surrogate mother. There are few condition imposed on a surrogate

- Surrogate mother should be married.
- Surrogate mother should have a child of her own.
- The surrogate mother need eligibility certificate from the appropriate authority.

At the very first place, finding a surrogate in a close friend or family member is very hard and above all imposing all these conditions mentioned above, makes the process of finding a surrogate mother next to impossible. Thinking in a practical way, it leaves a person with a very less scope to find a surrogate mother who would satisfy all the above mentioned conditions in a conservative culture, like India. Even if not thinking of surrogate mothers, but also of commissioning parents, it would be very difficult for them to even think of having a baby by such process.

In Altruistic surrogacy, there may exists many social problems before and after the birth of the child. If a intended parent finds a surrogate mother who is ready to deliver a child for them, the Indian society to which a social stigma is attached would never accept this kind of action and will ever be against this. They will not accept the surrogate mother and the child who is going to come in this world. Thus, it will finally create a mental and societal pressure on the commissioning parents, surrogate mother and off course the child in the near future.

¹¹Having Children when Parents are Blood Relatives, (last visited Sept 8, 2019) <https://helsenorge.no/SiteCollectionDocuments/Having%20children%20when%20the%20parents%20are%20blood%20relatives.pdf>.

¹² Surrogacy Bill, *supra* note 10.

¹³ *Supra* note 1, at 117.

¹⁴ Surrogacy Bill, *supra* note 10.

Sometimes, adoption is related with surrogacy. It is said that people can also adopt a child, instead of going through the process of surrogacy. It is the wish of every parent, whether fertile or infertile, to have their own baby in this world, whom they can grow up and make like them. By the way of adoption, the child will not at all be biologically related to any of the parent and it is someone else's child. But, surrogacy provides an option to the parents to have their own child who have their own genes, i.e., genes of at least one parent. Thus, every parent think of having a child by the process of surrogacy rather than adopting a child, which has become very difficult to do so

LEGAL PERSPECTIVE TO THE SURROGACY (REGULATION) BILL, 2019

The above mentioned arguments were on moral, ethical and medical grounds. Talking about the its legal perspective, the Surrogacy Bill¹⁵ neglects to adhere to the “Golden Triangle” test as conceived by the Supreme Court of India. This test of perusing equality, liberty, and freedom of rights conjunctively experts to guarantee the basic fundamental rights of individuals are violated by the State itself.

Firstly, the bill proposed violates Article 14 of the Indian Constitution¹⁶ which guarantees equality before the law and equal protection of laws to all persons, as puts a restriction on practice of Altruistic surrogacy on single parents, homosexuals and unmarried partners and just restricting it to married Indian couples, with more than 5 year of marriage. Such proposition of the bill, disqualifying others on the grounds of nationality, marital status, and sexuality violates the right to equality and without any reasonable classification. There is absence of intelligible differentia of restricting the practice of surrogacy to all the above-mentioned persons. It is very important to note that in a country like India, where a person being a homosexual¹⁷ is decriminalised by declaring Section 377,¹⁸ IPC as unconstitutional and live-in relationships¹⁹ as legal, but restricting them from surrogacy is a clear instance of discrimination under Article 14 of the Indian Constitution.

Secondly, putting a ban on commercial surrogacy, where the surrogate mothers from outside come to help to all those parents who are unable to reproduce or are infertile, violates Article 19 (1) (g) of the Constitution of India.²⁰ Article 19 (1) (g) states that All citizens shall have right to practice any profession, or carry on any occupation, trade or business. However, it can be restricted and regulated by any authority of law, only if there exists a reasonable restriction. As discussed above, there is no reasonable classification in putting a ban on commercial surrogacy, therefore it is violating Article 19(1) (g) by not allowing citizens as well as various surrogacy clinics to carry on any occupation, trade or business. The surrogacy industry is the source of income for not only the surrogate mothers but also the number of surrogacy clinics in India and prohibiting the practice of commercial surrogacy

¹⁵ Surrogacy Bill, *supra* note 10.

¹⁶ INDIA CONST., art. 14.

¹⁷ Suresh Kumar Koushal & Anr. v. Naz Foundation & Ors., (2014) 1 S.C.C. 1 (India).

¹⁸ Section 377, Indian Penal Code, 1860 (India).

¹⁹ Indra Sarma vs V.K.V.Sarma, (2013) 15 S.C.C. 755 (India).

²⁰ INDIA CONST., art. 19, cl. 1.

cannot be supported as a reasonable restriction as it takes away the general interest of the public and multiple stakeholders in this billion-dollar industry.

Thirdly, this bill further violates Article 21 of the Indian Constitution.²¹ As per the decisions of the Supreme Court of India, ‘Right to livelihood’²² and ‘Right to reproductive autonomy’²³ comes under the broad framework of Article 21. The ban on commercial surrogacy has taken away the livelihood of many poor and dependent women in the country who have been earning fair amount by helping other couples, fighting their infertility problems and have been able to educate their children and families as well. Many of the women must also have been the breadwinners of the family, from whom their job has been snatched unreasonably. They do not have to dependent on anyone for their living but by putting a ban, it will snatch their right to livelihood and right to reproductive autonomy.

The Supreme Court in *B. K. Parthasarathi v. Government of Andhra Pradesh*, the Andhra Pradesh High Court upheld “the right of reproductive autonomy” of an individual as a facet of his “right to privacy” and agreed with the decision of the U.S. Supreme Court in *Jack T. Skinner v. State of Oklahoma*²⁴, which characterised the right to reproduce as “one of the basic civil rights of man”.²⁵ Further in the case of *Javed v. State of Haryana*²⁶, though the Supreme Court upheld the two living children norm to debar a person from contesting a Panchayati Raj election it refrained from stating that the right to procreation is not a basic human right.²⁷ Thus, the Indian Supreme Court has interpreted the right to reproductive autonomy to mean that the parents have the prerogative to choose the mode of parenthood, either naturally or through surrogacy in the case of *Suchita Srivastava & Anr. v. Chandigarh Administration*.²⁸ Normatively and constitutionally, the way of procreation and parenthood does not lie with the state, and any type of interference in this choice will be considered as an infringement of fundamental right.

Commercial surrogacy, when completed legally and ethically, can be a wonderful way for people to come together to help hopeful parents add to their families. So, putting a ban on commercial surrogacy and legitimizing altruistic surrogacy in India is a lost opportunity/chance and an exercise of moral crusading.

REGULATING SURROGACY IN AN EFFICIENT MANNER IN INDIA

Any kind of surrogacy, whether be it Altruistic or Commercial, Traditional or Gestational, in any country is full of controversies and loopholes. So, there is an urgent and dire need for the country to provide with an enormous regulation and to provide a mechanism that regulates

²¹ INDIA CONST., art. 21.

²² *Olga Tellis & Ors. v. Bombay Municipal Corporation & Ors.*, (1986) 3 S.C.C. 545 (India).

²³ *Suchita Srivastava & Anr. v. Chandigarh Administration*, (2009) 9 S.C.C. 1 (India).

²⁴ 316 U.S. 535 (1942).

²⁵ 228th Law Commission Report, 2009 (India).

²⁶ (2003) 8 S.C.C. 369.

²⁷ *Supra* note 25.

²⁸ *Supra* note 23.

and keeps a check on it. In today's era, what is needed is a set of robust laws a perfect monitoring system.

There are many offences attached to the practice of surrogacy. The world has witnessed a lot no. of child trafficking cases, child sex offences, abandoning, exploiting or disowning a surrogate child, selling or importing human embryo or gametes for surrogacy, exploitation of surrogate mother (in terms of payment of the services) by intended parents as well as surrogacy clinics, refusing to hand over the child to the commissioning parents, abortion of the child without any permission.

The main purpose of introduction of The Surrogacy (Regulation) Bill, 2019 was to regulate the practice of surrogacy, which is prevalent in India, in every manner possible, but it has failed to honour any aspect of it. The bill, in spite of regulating surrogacy, has given a new facet to the world of surrogacy. It banned commercial surrogacy, which is an unreasonable action taken by the Ministry of Health and Family Welfare. Thus, a much-needed reform fails the test.

The National and State Surrogacy Boards which have been constituted by the way of this bill is in order to act as an advisory body to the Central Government, to review and monitor the implementation of the Act, lay down code of conduct, set minimum standards for ART clinics, to supervise the functioning of State Surrogacy Boards.²⁹ Also an appropriate authority has been constructed for the purpose to supervise the surrogacy clinics in every manner.³⁰

Also, one of the main problem attached to this practice is towards the legal parents of the child produced out of this process and the nationality of the child. The Apex Court in *Baby Manji case* has ruled out that the nationality of the child will be as of the commissioning parents and they will be only considered as the legal parents of that child.

Just imposing penalties and punishments on the defaulters will not serve the purpose of regulating a particular thing. A proper regulatory body has to be constructed which can have a camera- look upon all the activities which are going under their nose. The body should be such that, it can take proper actions towards them and try to regulate the activities of any registered medical practitioner, gynaecologists, paediatrician, embryologists or any person who owns a surrogacy clinic or employed with such a clinic or centre or laboratory.

In spite of knowing all the crimes related to this process which is prevalent in India, no action or no efforts has been taken made by the Ministry of Health and Family Welfare in order to try to curb all such issues.

The paper herein seeks to provide the solution to this major problem as how all the activities can be regulated, and an effort can be made to curb the problems attached to the surrogacy

²⁹ Surrogacy Bill, *supra* note 10.

³⁰ *Id.*

arrangement. India may adopt the approach, which is more of a pragmatic and holistic approach to regulate, rather than putting a ban on it altogether.

The author would like to suggest that Central Adoption Resource Authority (CARA) which comes under the Ministry Of Women & Child Development should be chosen as an appropriate regulatory body to regulate the practice of surrogacy throughout the country. CARA functions as the nodal body for adoption of Indian children and is mandated to monitor and regulate in-country and inter-country adoptions.³¹ It is designated as the Central Authority to deal with inter-country adoptions in accordance with the provisions of the Hague Convention on Inter-country Adoption, 1993, ratified by Government of India in 2003.³² CARA primarily deals with adoption of orphan, abandoned and surrendered children through its associated /recognised adoption agencies.³³

Under CARA, it has several committees and authorities constituted which perform several functions in the field of adoption in India. In the very same way, it would be an easier job for the Central Adoption Resource Authority (CARA) to handle all the matters relating to surrogacy in India. Adoption and surrogacy cannot be said to be same, but there are many functions which both of them have to perform, such as, birth certificate to the child born out of surrogacy, child protection and welfare unit, regulating adoption agencies as well as surrogacy clinics and many others. Thus, making the job easier and efficient. Other than the boards or committees which have been already constituted, CARA must constitute few more committee to regulate surrogacy, wherein it act as a proper supervisory body can keep a regular check on the practice of surrogacy.

At present in India, the surrogates do not charge anything, but they are commanded by the private surrogacy clinics to ask for a particular amount as a fee. Also, in this process the clinics keep their own commission and only those women know how much they get at final stage. So, in this situation, the authority should intervene and set a minimum and lay down guidelines as to the minimum amount that should be paid to the surrogate mother, so that their rights do not get exploited. Also, a committee should be given a charge for reviewing and keeping a check on all the surrogacy clinics and the surrogates as well in order to check whether the surrogates are getting the minimum set amount at least.

Many people criticize the commercial surrogacy stating that it affects the standard of living of the surrogate mothers. For this, the best possible solution can be that a committee or a panel should be present in every state of the country with regard to the screening and counselling of the surrogate mothers. All the surrogate mother should be involved in programs like providing skill development training, educational services and jobs in order to empower such women from the poor strata of society, during the time of pregnancy which

³¹ Central Adoption Resource Authority, Ministry of Women & Child Development, Government of India, (last visited at Feb 11, 2020)

<http://cara.nic.in/>.

³² *Id.*

³³ *Id.*

would further help them in their overall personality development. This will not only protect the interest of the surrogate mothers but will also help them in their overall development.

Some also criticize that the number of children surrogate mothers are producing are very high and have considered them as ‘baby producing machines’. The best way to curb this problem is to bring a cap on number of children one surrogate mother could produce in her life by the process of surrogacy.

The most important aspect, which is the contract, known as surrogacy contracts between the surrogate mothers and surrogacy clinics and between the surrogate mothers and intended parents, has become a joke and none of the stakeholders consider it serious. An effort should be made by the committee set up by the CARA, so that all the parties involved in that contract honor the conditions of the contract and make it enforceable in the eyes of the law, finally protecting the surrogate mothers from exploitation. Making this enforceable, would not only help the surrogate mothers from getting exploited, but also protect the interest of the commissioning parents where the surrogate mothers refuse to hand over the child to the intended parents.

The author also suggests the registration of all the surrogate mothers to get registered themselves with the CARA and will be the authority which will be having all the records of those surrogate mothers. By this way, none of the parties involved in the process of surrogacy will get exploited.

In the abovementioned solution, the stakeholders in the process of surrogacy gets benefitted. But if once commercial surrogacy gets a green flag India, then the government should charge a particular percentage on income earned by such individual and surrogacy clinics as tax. Since as of today, surrogacy in India is a billion-dollar industry, thus a charging tax from such a huge industry would increase the government revenue at a very high level. Also, the amount which is collected as tax from all the clinics throughout the country can be further utilized in the personal development of surrogate mothers and making this industry a huge success. By taking such an action, this would benefit both the government, economy and the stakeholders, thus becoming a *WIN-WIN* situation.

CONCLUSION

In India, there still exists many legal disputes in the field of surrogacy. The Union Cabinet is trying too hard to achieve its goals in the field of surrogacy but has failed to do so till date. In spite of knowing all the crimes which are prevalent in India in such process, the Ministry of Health and Family Welfare has been failed in even curbing such problems. In the word of regulating, it has just given a new facet but not regulating it. Surrogacy is the only way in which the commissioning parents can fulfill their dream of having their own child. By proposing a ban on the commercial surrogacy and not putting an effort towards regulation of surrogacy has led towards decline in the society, putting a full-stop on a million-dollar industry and not benefitting even one party involved in the process of surrogacy. The bill

introduced even violates the fundamental rights of the people. There exists a dire need of reinstating and regulating the activity of commercial surrogacy but, there does not exist any single legislation in this field. All the arguments against the commercial surrogacy are mostly related to the problems faced by the surrogate mothers and towards their interest in the society. Altruistic Surrogacy has its own disadvantages and can even be harmful for the upcoming generations to this world. Thus, legitimizing altruistic surrogacy and putting a ban on the commercial surrogacy will lead this economy nowhere, but to downfall and even the purpose of surrogacy may remain unfulfilled or get defeated. It can be truly said that there exists a social stigma with surrogacy but it will automatically vanish with the passing of the new legislation and will change the whole perspective of the surrogacy in the minds of the Indians who consider it as a bane to the society. Thus, introducing a new legislation and appointing an authority as Central Adoption Resource Authority (CARA) which can regulate the wholesome process of surrogacy and can protect the interest of the surrogate mothers, economy as well as all the stakeholders.