



# Commercial Surrogacy In India: Legal Evolution, Socio-Economic Impact And Ethical Dilemmas

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## Abstract

Surrogacy is one of the most effective ways to overcome both biological and social infertility. Commercial surrogacy is an excellent way for intended parents can grow their families. Moreover, commercial surrogacy respects the bodily integrity and personal autonomy of surrogate mothers. Surrogate mothers have the right to bodily integrity and personal autonomy to decide whether they want to give birth to a child or not. It is through exercising the right to personal autonomy and bodily integrity that the surrogate mother chooses to give birth to a child for the intended parents and earn money. It is the choice of the surrogate mother to allow the procedures in her body and make economic value out of it. And, this right, the right of personal autonomy and bodily integrity, can never be diminished or deprived by any law, as these are the fundamental rights without which life would be devoid.

The personal autonomy and physical integrity of surrogate mothers are flagrantly violated when commercial surrogacy is prohibited while altruistic surrogacy is permitted. Therefore, the Act's prohibition on commercial surrogacy is unconstitutional due to the violation of physical integrity and personal autonomy. The purpose of this study is to better comprehend the concept of surrogacy in the current context of commercial surrogacy. To that end, the author attempts to list the various enacted laws passed so far that have the potential to legalise surrogacy.

**Keywords:** surrogacy, commercial surrogacy, statutory provision and ethical Dilema

## INTRODUCTION

Surrogacy has been a way of childbearing since ancient times. However, due to advancements in science and technology, this approach is now utilised by anybody who wants to have children, not just infertile couples. A market developed to meet the need for contraception after a technological advancement made it simpler and less costly. Consequently, the growing prevalence of surrogacy has sparked discussions about law, ethics, morality, and religion worldwide. Surrogacy is a productive method for people who want children of their own but are unable to conceive or do not have children of their own due to other personal reasons. However, due to the absolute lack of express laws laid down in the country, surrogacy is still far from reality. This is because there are no laws in India to regulate the same and set down a standard procedure.<sup>1</sup>

An assisted reproduction method known as surrogacy involves a third person agreeing to bear a child on behalf of another couple who will subsequently become the child's parents. Surrogacy has been practised in India since 1978. The country is also well-known for having a high rate of "reproductive tourism" and for being a developing hub for the fertility industry. Given the long history of surrogacy, more work needs to be done before surrogacy regulations are beneficial and accessible to everyone.<sup>2</sup> In the past, the only alternative for childless couples was adoption; but, as medical facilities, infertility treatments, and artificial human reproductive technology have advanced, surrogacy has become a feasible option. These days, in vitro fertilisation, insemination, and embryo transfer are the methods available for artificial human reproduction. Surrogacy has turned out to be the most popular of these methods.<sup>3</sup>

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## MEANING AND CONCEPT OF SURROGACY

According to Black's Law Dictionary, surrogacy means the process of carrying and delivering a child for another person.

Surrogacy, which uses a woman's womb to make children for another woman, has become a new technological achievement in reproduction. Surrogacy has emerged as a desirable option for people and couples who want to have a biologically linked child. Around the world, the idea of surrogacy has gained widespread acceptance. Because surrogate motherhood is a revolutionary possibility for having a child, infertile couples view it as a blessing.<sup>4</sup>

The word "surrogate" comes from the Latin word "surrogatus," which means "a substitute," or someone designated to act on behalf of another. Surrogate motherhood is traditionally defined as "an agreement between a married couple who are unable to have a child due to the infertility of the wife, and a fertile woman who agrees to conceive the husband's child through artificial insemination, carry it to term, and surrender all parental rights in the child."

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<sup>1</sup> adoption v. surrogacy: an Indian comparative legal analysis author: kanika satyan

<sup>2</sup> . <https://timesofindia.Surrogacy in India-A long Journey for the Nation>.

<sup>3</sup> <https://blog.iplayers.in/surrogacy-under-framework-of-the-indian-constitution/Surrogacy under framework of the Indian Constitution> July 5, 2025.

<sup>4</sup> Kusum Jain, 'Surrogate Motherhood : Some Legal and Moral Problems in Bio Ethics', Vol 25 Issue 4, 1983 Journal of Indian Law Institute( 546 to 558) at 547

According to the Report of the Committee of Inquiry into Human Fertilisation and Embryology, also known as the Warnock Report (1984), surrogacy is the practice of one woman carrying a child on behalf of another to give the child away once it is born.

According to The New Encyclopaedia Britannica, surrogacy is defined as the practice of a woman bearing a child for another couple to have children naturally. Surrogacy, as used in medical terminology, refers to the use of a surrogate in place of the biological mother.

Surrogacy, as defined by the Assisted Reproductive Technology Bill, is an arrangement whereby a woman consents to a pregnancy that is achieved through assisted reproductive technology, in which neither the gametes belong to her or her husband, intending to carry the pregnancy to term and give the child to the person or people for whom she is serving as a surrogate.

### **TYPES OF SURROGACY**

Surrogacy can be classified into three categories they are Genetic surrogacy/partial surrogacy, Total surrogacy and Gustatory/Gestational surrogacy.

In Genetic/Partial surrogacy (also known as traditional or straight surrogacy), the sperm of the commissioning father, the male partner of the couple who wants the child, fertilizes the woman's egg either artificially or, less frequently, through natural sexual contact. In this case, the commissioning mother serves as the child's social and legal mother, while the surrogate mother is the child's genetic mother. Traditional surrogacy and partial surrogacy are other names for this kind of surrogacy. In whole surrogacy, the ~~commissioning father's or donor's sperm are used to fertilize the surrogate's egg.~~

Gustatory/Gestational Surrogacy (also called IVF surrogacy, complete surrogacy, or host surrogacy) involves sending the egg and semen from the commissioning couple (or anonymous donors) to the surrogate or bearing mother, who subsequently implants the resulting embryo. The child and the surrogate mother in this instance are genetically unrelated. Other names for this type of surrogacy include full surrogacy.

Based on monetary compensation, surrogacy can be further classified into two categories. Commercial surrogacy comes in second, followed by altruistic surrogacy. Although the commissioning parent may pay fees and expenses to the surrogate mother to bring an embryo to term, the surrogate mother in altruistic surrogacy does not receive monetary remuneration. Most often, intimate friends or family members engage in this kind of surrogacy. The usual justification for not requiring monetary payment is that, in this kind of surrogacy, the choice to become a surrogate is motivated by love rather than selfishness or even greed. Although commercial surrogacy, the other form of surrogacy, sometimes uses the rhetoric of giving, the surrogate receives cash compensation in addition to pregnancy-related costs. In other words, the surrogate receives compensation for her labor.

## EVOLUTION OF SURROGACY LAW

In India, surrogacy has been practised since 1978. Moreover, the nation is renowned for its high rate of "reproductive tourism" and its status as a growing centre for the fertility sector. Given the long history of surrogacy, more work needs to be done until surrogacy regulations are beneficial and accessible to all. In India, surrogacy has long been practised, but because of unclear regulations, it was previously unregulated. The Indian people began to have hope for surrogacy as an alternative reproductive method (ART) on October 3, 1978, when Kanupriya, also known as Durga, the first IVF child, was successfully delivered in Kolkata. Even though commercial surrogacy was legalised, no specific regulations or legislation were developed and implemented, which resulted in a large number of impoverished women and a dramatic increase in unregulated surrogacy in India by low-cost reproductive clinics.

In India, the illegal "Rent a Womb" industry, also known as commercial surrogacy, was legalized in 2002. This law, intended to encourage medical travel to Pakistan, turned India into "the hub of surrogacy." Additionally, it was anticipated that over 3,000 fertility clinics nationwide would be involved in this operation. The unregulated surrogacy industry sparked worries about unethical practices like the exploitation of surrogate mothers, the desertion of surrogate children, and fraud, which included the importation of embryos and the sale of organs, which primarily benefited commercial agencies and middlemen. This resulted in the country's surrogacy laws being put into effect.<sup>5</sup>

~~In 2008 Assisted Reproductive Technology Bill was drafted by the Indian Council of Medical Research to legalise and regulate commercial surrogacy as well as other reproductive technologies. The Indian Law Commission provides an explanation of the necessity of surrogacy in India in its 228<sup>th</sup> report. No woman under 21 or over 35 may act as a surrogate mother, according to the Assisted Reproductive Technology (ART) bill of 2013. This measure places restrictions on foreign couples renting a womb, something that was initially done by the ART bill in 2013. The surrogate mother's salary will be negotiated in private between the commissioning couples and the surrogate mother, according to the guidelines in the 2013 draft of the ART bill. Gay couples, foreign singles, and cohabiting couples are prohibited from utilising surrogate mothers to have children in India. India became the hub of surrogacy when so many foreigners looked there for the perfect surrogate.~~

In 2015, following much debate, the Indian government decided to make surrogacy for foreigners illegal. A new piece of legislation known as the Surrogacy (Regulation) Bill of 2016 was enacted, giving surrogacy a completely new definition and imposing regulations on it. The primary effect of this strategy was that the couple could not adopt a surrogate child until their "infertility" was verified. The bill defines infertility as the inability to conceive five years after unprotected coitus or after another medical condition that prohibits a couple from becoming pregnant. This definition does not cover every situation in which a couple cannot conceive, such as some medical conditions that might cause miscarriages after the child is conceived.

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<sup>5</sup><https://www.jagranjosh.com/general-knowledge/surrogacy-in-india-1597665040-1> Surrogacy in India: History, Impact on poor and facts.

## THE SURROGACY REGULATION ACT, 2021

The Surrogacy Regulation Act, 2021, which regulates all forms of surrogacy in India, went into force on January 25, 2022. The Act made altruistic surrogacy legal while outright prohibiting commercial surrogacy. The Act that was created today regulates unethical acts that existed previously, since there was no legislation on surrogacy. This is a positive move, but outlawing commercial surrogacy is not. The purpose of the Act was to shield the surrogate mother and child from unethical behaviour. It strongly encourages altruistic surrogacy and outlaws commercial surrogacy. Under the Act, altruistic surrogacy is only permitted for Indian infertile married couples. The Act emphasises that in surrogacy, no sex identification or selection may be given.

Commercial surrogacy and altruistic surrogacy are quite different. Altruistic surrogacy involves the intending parents choosing a surrogate mother who has a connection to their friends or family. Aside from medical costs, the surrogate mother in this type of surrogacy receives no payment.

### A PATH TO LEGALIZING COMMERCIAL SURROGACY

As earlier understood, commercial surrogacy is a way through which couples can grow their family that otherwise could not be possible due to various factors, it could be as infertility or the woman's choice to have a child via surrogacy, underlining her medical conditions. Essentially, the surrogate mothers are paid and taken care of afterwards, after giving birth to the intended parents. However, the controversial issues surrounding commercial surrogacy are extremely patriarchal and target to impinging upon the personal right to autonomy and bodily integrity of surrogate mothers. By banning commercial surrogacy, the Bill does not take into account the intersectional aspects of how the law would impact women's right to their bodies.<sup>6</sup> It is prominently highlighted that the altruistic surrogacy model expects the women to go through the physical and emotional pain and labor of giving birth to a child, only out of compassion which is far removed from the existing reality.<sup>7</sup> Having such unrealistic expectations reinforces the patriarchal attitude of the society and controls the autonomy of people with reproductive organs.<sup>8</sup>

Personal autonomy and bodily integrity are essential to every human being, and surrogate mothers can never be devoid of this right. In India, there exists a conservative ideology that commercial surrogacy aims to sell newborn babies in place of monetary interests, but in actuality, commercial surrogacy helps couples in growing their families essentially, the intended parents have the due obligation to reimburse the medical expenses along with it after the delivery of the child. The surrogate mother is taken care of diligently by the intended parents. The concept of selling newborn babies is constructed by Indian society. But in the true sense of commercial surrogacy, it is not the baby who is being sold but the services, reproductive labor, discomfort and other pregnancy-related stuff that is sold, and that's what intended parents or individuals will

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<sup>6</sup> Sanvi Bhatia, India's New Surrogacy Regulations Bill fall short of protecting bodily autonomy and guaranteeing reproductive liberty, LSE, (August 11, 2025),

<sup>7</sup> Karan Babbar, *The Surrogacy Act 2021: Another Attempt to Reproduce A Heteronormative Patriarchal Society?* FEMINISIMINDIA, (July. 2, 2025)

<sup>8</sup> Ibid

be paying for.<sup>9</sup> The right of a woman or girl to make autonomous decisions about her own body and reproductive functions is at the very core of her fundamental right to equality and privacy, concerning intimate matters of physical and psychological integrity.<sup>10</sup>

The other prime reason for the legalisation of commercial surrogacy is that surrogate mothers choose to alleviate their financial circumstances. Commercial surrogacy is an agreement entered into between a surrogate mother and intended parents in pursuance of achieving a goal. The surrogate mother acts out of her obligation enshrined under the Act and in return gets economic value. A ban on commercial surrogacy would lead to deprive the jobs surrogate mothers of and harden their poor financial circumstances. The Act can make the situation worse for surrogates, as a ban on commercial surrogacy can forge a black market wherein commercial surrogacy may run underground. Poor women will be inclined to go for commercial surrogacy due to their socio-economic status. Banning commercial surrogacy, some critics point out, could create a black market akin to the one in organ trade and prostitution, with the additional risks of poor women being trafficked or foreigners abandoning children born through surrogates.<sup>11</sup> If commercial surrogacy is legalised, then women, with their full consent, undergo the process of surrogacy, helping them alleviate their financial crisis.

Also, by legalising commercial surrogacy, the surrogate mother's right to reproductive health will be secured. For instance, after pregnancy, if any health issue occurs, then by virtue of the contract, intended parents will be obligated to provide treatment of the highest attainable standard to the surrogate mother, thereby ensuring the right to health of the highest attainable standard for the surrogate mother. A ban on commercial surrogacy would deprive the surrogate right to health, and in altruistic surrogacy, the intended parents would not be obligated to secure the right to health of the surrogate mother. Also, a legalised commercial surrogacy with open and accessible information will give similar rights to children born to know their parentage and identity, and they will be protected by law as well. It will also protect the rights of intended parents and surrogate mothers.<sup>12</sup>

The Act was formulated under the impression that altruistic surrogacy may help in the reduction of exploitation of surrogate mothers, but that is not the case. Even in altruistic surrogacy, the surrogate mothers have a high probability of getting coerced by family members to undergo the process of surrogacy. Whereas a well-drafted contract will reduce the exploitation of surrogate mothers. Thus, the ban on commercial surrogacy is proving to be a predicament to the surrogate mothers' right to personal autonomy, bodily integrity, free consent, and right to health. Commercial surrogacy is not unethical, but it primarily helps intended parents to grow their family and surrogate mothers to make a living out of it legitimately.

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<sup>9</sup> Sanjana Dwivedi, Requisites for Legalisation of Commercial Surrogacy in India: Small Reference to Surrogacy in the United States, IPLEADERS, (September 10, 2025),

<sup>10</sup> Articles 3 and 17 of the ICCPR

<sup>11</sup> Neeta Lal, Commentary: India's ban on Commercial Surrogacy is no fix to Legal, Moral Complexities, CNA, (Dec 7, 2019)

<sup>12</sup> Supra note 6, sanjana.

## LANDMARK MEDICAL DEVELOPMENTS ON GESTATIONAL & COMMERCIAL SURROGACY IN INDIA

India's first IVF and the world's second IVF baby, Kanupriya alias Durga, was born in Kolkata on October 3, 1978, at the hands of Dr Subhash Mukhopadhyay, a Kolkata-based doctor is credited with the first ever successful delivery of India's first Test Tube Baby and posthumously honoured by the Indian Council of Medical Research (ICMR) India for the same<sup>13</sup>. Though India delivered its first IVF child in the year 1978, only six months after the birth of the world's first surrogate child in the UK but the growth of IVF has been rather sporadic.

In 1986, India's second and Mumbai's first test tube baby, named Harsha Shah, a baby girl, was born on August 16, 1986, at K.E.M. Hospital in Mumbai at the hands of Dr Indira Hinduja and Dr Kusum Zaveri<sup>14</sup>. In 1994, India's first gestational surrogacy took place at GG Hospital, Chennai, at the hands of Dr Kamala Selvaraj<sup>15</sup>. In 1997, a woman named Nirmala from Chandigarh acted as the gestational surrogate for monetary compensation of around 50,000 for an anonymous couple to meet medical expenses for her paralysed husband<sup>16</sup>. In 2002, An anonymous Indian couple from the UK commissioned surrogacy with the help of the girl's mother, who acted as a surrogate mother using the male gametes from the husband, resulting in the birth of surrogate twins at Akanksha IVF clinic in Anand in Gujarat at the hands of Dr Nayana Patel.<sup>17</sup> This was hailed as the first humanitarian gestational surrogacy and mostly reported as grandmother surrogacy. Thus, these developments facilitated the practice of gestational commercial surrogacy in India.

### JUDICIAL RESPONSE TOWARDS SURROGACY IN INDIA

Surrogacy did not have any kind of legal status in India. But in 2008, the Superior Court of India, in the case of **Baby Manji Yamada vs Union of India and Another**,<sup>18</sup> shed light on surrogacy to create a legal structure in the country by making a favourable judgment in favour of surrogacy. In this example, Patel, who works at the Akanksha Infertility Clinic, arranged for Ikufumi and Yuki Yamada, a Japanese couple, to get a substitute child using Pritiben Mehta. Yamada's sperm and an unnamed Indian woman's egg were used to conceive. Yamada and his wife, on the other hand, filed for divorce soon after the pregnancy. None of the Indian laws addressed who was responsible for the infant (Manji), whether it was the lady who contributed the egg, Pritiben, or Yuki Yamada. Additionally, a court petition was then filed stating that Dr Patel was running a kid-smuggling operation by exploiting the absence of substitution legislation and generating quick money by legalising substitution. Although the situation was remedied and Baby Manji was handed over to her grandmother Emiko, the booming substitution market, the easy cessation of toddlers, and the mistreatment of ladies who were compelled into becoming substitutes numerous times to help their families

<sup>13</sup> Times News Network, Test-tube Durga creator honoured, TNN, Oct 15, 2003.

<sup>14</sup> Special correspondent, India's first test tube baby now a mother, the Hindu, MUMBAI: MARCH 08, 2016 .

<sup>15</sup> Geeta Padmanabhan, "Hope in the Test Tube", The Hindu, Jan 19, 2006

<sup>16</sup> Srinivasan, Sandhya: Surrogacy Comes Out of the Closet. Sunday Times of India. Review. July 6, 1997

<sup>17</sup> P C Vinoj Kumar, Giving a new life to many a childless couple and a livelihood for women renting their womb, the weekend leader, Vol 6 Issue 4219 Oct 2015, Anand (Gujarat)

<sup>18</sup> Jan Balaz vs Anand Municipality 2009,Guj.HC

led to the passage of the Substitution Bill, 2016, which was passed by the Lok Sabha in 2018 and outlawed substitution entirely.

Shortly after that, when it comes to **Jan Balaz vs Anand Municipality**,<sup>19</sup> significant questions regarding substitution arrangements and their legal validity, as well as the child born as a result, were determined by the Gujarat High Court. The court emphasised the regulatory gap in this region, noting that in India, there is no law prohibiting artificial insemination, egg donation, lending a womb, or surrogacy agreements. The court continued by stating that, under the current legal system, we have no choice but to hold that the babies born in India to the gestational surrogate are citizens of this country, regardless of whether the commissioned parents were both foreign nationals. The reproductive liberty of humans has been recognised as a core human right by the Indian judiciary.

As an example, shortly after that, when it comes to **Jan Balaz vs Anand Municipality**,<sup>20</sup> significant questions regarding substitution arrangements and their legal validity, as well as the child born as a result, were determined by the Gujarat High Court. The court emphasised the regulatory gap in this region, noting that in India, there is no law prohibiting artificial insemination, egg donation, lending a womb, or surrogacy agreements. The court continued by stating that, under the current legal system, we have no choice but to hold that the babies born in India to the gestational surrogate are citizens of this country, regardless of whether the commissioned parents were both foreign nationals. The reproductive liberty of humans has been recognised as a core human right by the Indian judiciary of "right to privacy," and approved the judgment of the United States Supreme Court in **Jack T. Skinner vs The State of Oklahoma**,<sup>21</sup> where "One of man's core civil rights" is described as the right to generate.

In **Javed vs The State of Haryana**,<sup>22</sup> though the two existing children rule was maintained by the Supreme Court for disqualifying an individual from running in a Panchayati Raj election, it did not state that breeding is not an essential human right. If the constitution guarantees reproductive rights, substitution, which allows a barren couple to exercise that privilege, is also protected by the constitution. In **Devika Biswas vs Union of India**,<sup>23</sup> the Apex Court accepted the reproduction right as a necessary component of Article 21's 'right to life'. Women's reproductive rights comprise the right to bring a foetus to full span of time, deliver a child, and bring up children. The privacy rights, decency, and inviolability are also included. Article 21 is violated by limiting substitution to married couples and widowed or divorced individuals when women of a specific age range refuse reproductive alternatives to LGBT persons, individuals, and elderly couples.

In **K S Puttaswamy vs Union of India**,<sup>24</sup> interference by the state in procreation is a direct infringement on one's right to procreate and right to privacy, and Article 21 recognises it as a component of one's right to life. The Indian legal system has never permitted surrogacy. There is no legislation for substitution, apart

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<sup>19</sup> AIR 2000 AP 156

<sup>20</sup> AIR 2000 AP 156

<sup>21</sup> AIR 2003 SC 3057

<sup>22</sup> Devika Biswas v. Union of India, (2016) 10 SCC 726

<sup>23</sup> Ibid

<sup>24</sup> AIR 2009 SC 84

from a Bill of 2019 which is in wait list in the legislature due to various legal issues, even though the Indian judiciary has approved surrogacy in many cases.

## CONCLUSION AND SUGGESTION

Surrogacy agreements involve more than two individuals, each of whom has the right to claim parental rights to the child. As a result, there may be disagreements over who should take on the parental duties and rights for the child. This is an inherent issue in surrogacy, and it is impossible to guarantee that it won't occur.

While surrogacy can help infertile couples, it has also led to the commercialisation of the practice, which has created some issues. Infertile women's reproductive rights are protected by commercial surrogacy; however, it is against human rights to criminalise it. However, developing countries that allow commercial surrogacy may be better able to safeguard the reproductive rights of their female populations. One important direction is to regulate surrogacy in a way that benefits both parties. A global illicit market for surrogacy services will continue to exist due in part to inadequate regulation, putting women at danger of exploitation, coercion, and trafficking.

Given the unavoidable reality that surrogacy decisions are made under specific human circumstances that may change over time, legal contracts must adapt to protect surrogate mothers' interests. Surrogacy contracts should contain provisions on the surrogate mother's emergency requirements and health insurance. Due to a lack of comprehensive legislation, the surrogacy sector in India is experiencing significant growth, bringing with it many attendant problems and an inexplicable impact on society. The interests of the child born through surrogacy must be shielded from exploitation. Due to a lack of appropriate laws, middlemen and commercial agencies profit from the exploitation of intended parents as well as surrogate mothers. The entire system lacks transparency, and the erratic laws regarding surrogacy in India increase the likelihood of running afoul of the law.

Surrogacy offers advantages and disadvantages, just like any other technology. Millions of childless couples would be happier if it were used properly. However, technology would have a negative effect on society and lead to the deterioration of human connections and values if it were used carelessly and as a commercial tool. If this practice continues to proliferate, it will likely shift from being a medical need for infertile couples to being a convenience for wealthy couples who do not want to deal with the stress and suffering of a natural birth.

It's time for India to assess, consider, and make a decision regarding surrogacy's future. An unambiguous surrogacy law must be passed by Parliament. Medical professionals must help the government create a new surrogacy law that includes appropriate safeguards, checks, and safety procedures to prevent the negative effects of commercial surrogacy. The foreign nationals must no longer be misinformed. Everyone involved must be restrained by a suitable law. Legislation governing ART clinics, as well as the rights and responsibilities of all parties involved in a surrogacy, including the surrogate child's rights, must be prepared. There are advantages and disadvantages to surrogacy. Millions of couples would be happy if it were used properly. However, it might negatively affect society if it were utilised carelessly and as a commercial tool.

## SUGGESTION

1. To settle any disagreements about substitution or associated contracts, states must set up a specialised court composed of legal and medical experts.

2. The right to procreate, private autonomy, privacy, the ability to start a family, the ability to choose the number and spacing of children, and the ability to benefit from scientific and technological advancements should all be acknowledged as part of the right of a prospective parent. The state may, however, impose reasonable restrictions on people's ability to exercise their rights.

3. The eligibility requirements for intended parents must be spelled out in the legal framework governing surrogacy. Generally speaking, married couples who are unable to conceive will be permitted to use surrogacy to conceive. However, married sterile couples must only be allowed to employ a surrogate for delivery if the pregnancy poses a health risk to the mother or child, or if at least one spouse can contribute genetic material to the child.

4. Gay couples may be permitted to be suggested parents if at least one of the partners contributes genetic material for the child. If a single person provides the genetic material, they can be a potential parent. If their disability does not interfere with their ability to raise and interact with the child, they can also be a prospective parent.

~~5. Expectant parents' rights must be recognised and expressly outlined in legislation. The following rights of prospective parents have been recognized as essential: (a) the freedom to choose their own substitute mother, subject to restrictions imposed by the government in the public interest; (b) the right to impose reasonable restrictions on the substitute mother to ensure the child's healthy development; and (c) the right to communicate with and obtain information from the surrogate mother during the prenatal period.~~

6. Outlining the expected roles of parents is crucial. (a) Preventing sex discrimination and enhancing non-medical characteristics; (b) Covering the necessary medical expenses of the surrogacy pregnancy, insurance policy costs, and agreed-upon compensation; and (c) Most importantly, the intended parents will need to identify the child even if there are multiple births or if the child is born with birth defects.

7. The freedom to act as a stand-in for someone else must be part of a woman's right to personal freedom and privacy. Nonetheless, a woman's right to act as a substitute may be rather limited. These reasonable restrictions are necessary to stop women from arbitrarily using their rights and from exercising them for purely business-related purposes, like a firm.

8. The legal system that oversees surrogacy agreements needs to specify precisely who is eligible to serve as a surrogate. While societal, moral, legal, and civil rights considerations are taken into consideration, the State will establish the eligibility conditions. Women who are not married are not allowed to act as surrogates.

9. The duties of a substitute mother must be established to guarantee the fulfilment of surrogacy agreements and to protect the interests of the intended parents and substitute child. must not interfere with the bond between the proposed parents and the substitute child.

Although surrogacy is not specifically illegal in India, the laws need to be changed to protect surrogate mothers, expectant parents, and children born through surrogacy. India's current surrogacy laws may incorporate several of the above-mentioned recommendations. The administration must reevaluate the legal system and pass new legislation to address the emerging concerns in a time when technology is developing and human rights law is evolving.

