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## Surrogate Mother: A Legal Aspect

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### ABSTRACT

Surrogacy is an arrangement in which a woman carries a pregnancy and gives birth to a baby for another woman. Surrogate motherhood is one of many currently available forms of Assisted Reproductive Technologies (ARTs) that have developed in response to the increasing number of individuals/couples who find themselves unable to conceive a child on their own. The main aim of this study is to give an overview of legal aspect of surrogate mother. Surrogacy is gaining popularity as this may be the only method for a couple to have their own child and also because adoption process may be long. India is leading in this business because of the easy availability of surrogates at comparatively less cost. Many agencies have come forward with the intention of outsourcing pregnancy to foreign countries. In India this process had been regulated by the law from 2002. Though the regulation have been initiated, they are not so stringent when compare to other countries hence many foreigners are coming to India for surrogate mother. It may be concluded that Assisted Reproductive Technology (ART) Bill 2010 has provided for single parenthood by allowing “unmarried couples” and “single persons” from India and abroad to have children using ART procedure and surrogate mothers in India.

**Keywords:** Surrogacy Agency, Assisted Reproductive Technology (ART), IVF (In-Vitro Fertilization), Egg Donation, Commercial surrogacy, Gestational Surrogacy.

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## INTRODUCTION

Surrogacy is an arrangement in which a woman carries and delivers a child for another couple or person. Women or couples who choose surrogacy often do so because they are unable to conceive due to a missing or abnormal uterus, have experienced multiple pregnancy losses, or have had multiple in vitro fertilization attempts that have failed. The social parents (that is, those that intend to raise the child) may arrange a surrogate pregnancy because of homosexuality, female infertility, or other medical issues which may make the pregnancy or delivery impossible, risky or otherwise undesirable. The social mother could also be fertile and healthy, and prefer the convenience of someone else undergoing pregnancy, labor, and delivery for her. The intended parent could also be a single man or woman wishing to have his/her own biological child. There are various forms of surrogacy, some of which have been used historically, while others are more modern. Surrogacy has been around for centuries, although it was not widely discussed until the twentieth century, since some women felt ashamed because they could not bear children<sup>1,2</sup>.

### History

Until the 1960s, surrogacy was usually carried out by a friend or relative, as a favor to someone in need. In the 1960s, European couples began contracting with third parties, setting up surrogacy agreements and sometimes compensating the surrogate mother for her trouble. The history of commercial surrogacy started in the US in the late 70's in the twentieth century when Noel Keane (a lawyer) started to create the first agency of surrogacy. He defined the legislative power in Michigan and after that he decided to move to open additional agencies where he carried out surrogacy arrangements laws. In 1976, the first formal surrogacy arrangement was set up in the United States, and within a few decades, surrogacy had become socially acceptable. Intra-family surrogacy is a situation when parents are related to the surrogate mother genetically; unlike this situation in commercial surrogacy mother may carry a baby for someone (even if surrogate mother and future parents have never met before). Surrogate mother agrees to undergo IVF (In-Vitro Fertilization) treatment or to be artificially inseminated to bear a baby and after the lying-in hand the baby to the new parent(s)<sup>3,4</sup>.

Since the late 1980s, surrogacy has been more common: between 1987 and 1992, an estimated 5,000 surrogate births occurred in the United States. In 1987 the New Jersey Superior Court upheld the Stern-Whitehead contract (in re baby m. 217 N.J. Super. 313, 525 A.2d 1128). The court took all parental and visitation rights away from Whitehead and permitted the Sterns to

legally adopt the baby, whom they named Melissa Stern. A year later, the New Jersey Supreme Court reversed much of this decision (*In re Baby M.*, 109 N.J. 396, 537 A.2d 1227). That court declared the contract unenforceable but allowed the Sterns to retain physical custody of the child. The court also restored some of Whitehead's parental rights, including visitation rights, and voided the adoption by the Sterns. Most important, the decision voided all surrogacy contracts on the ground that they conflict with state public policy. However, the court still permitted voluntary surrogacy arrangements.

In 1989 the American Bar Association (ABA) drafted two alternative model laws involving surrogate motherhood. These laws are not binding but are intended to guide states as they formulate their own laws. One legalizes the practice of surrogate motherhood and makes surrogacy contracts enforceable in court; the other bars the enforcement of contracts in which a surrogate mother is paid to have a child and then give up any claim to the child. Under either ABA model, states legalizing surrogate contracts limit them to agreements between a surrogate mother and a married couple. A genetic link must be established between the couple and the child, by the husband's supplying sperm or the wife's contributing an egg, or both. To be valid, the contract must be approved by a judge before conception takes place, and it must be accompanied by proof that the wife is unable to bear a child. The surrogate mother has the right to repudiate the contract up to 180 days after conception, in which case she may keep the child. If she does not repudiate the contract during that time, the couple becomes the child's legal parents 180 days after conception.

In 1993 the California Supreme Court issued a landmark ruling declaring surrogacy contracts legal in California. The case, *Johnson v. Calvert*, 5 Cal. 4th 84, 19 Cal. Rptr. 2d 494, 851 P.2d 776, involved a surrogacy contract between a married couple, Mark Calvert and Crispina Calvert, and Anna L. Johnson. Crispina Calvert was unable to bear children. In 1990 the Calverts and Johnson signed a surrogacy contract in which the Calverts agreed to pay Johnson \$10,000 to carry an embryo created from the Calverts' ovum and sperm. Disagreements ensued, and later that year, Johnson became the first surrogate mother to seek custody of a child to whom she was not genetically related. After the child's birth, the Calverts were awarded custody. Johnson appealed the decision. The state supreme court finally upheld the legality of surrogacy contracts under both the state and federal constitutions. The court held such contracts valid whether or not the surrogate mother provides the egg. The U.S. Supreme Court declined to hear Johnson's appeal. Then in a 1998 case, *Buzzanca v. Buzzanca*, the court ruled that the child was lawfully to

go to the intended parents even though there was no genetic link to the child by either of them (surrogate mothers egg & anonymous sperm donor)<sup>5</sup>.

In **2005** the California Supreme Court decided 3 cases together that had to do with lesbian couples who had reproduced using surrogacy. The court ruled that under the Uniform Parentage Act, two women can be the legal parents of a child produced through surrogate mother. This ruling presumably applies to gay surrogacy. This makes California the land of opportunity for infertile couples seeking surrogate mother along with lesbian surrogacy and gay surrogacy-same sex parenting. Your name is arranged to be placed on the birth certificate. Your child is automatically a US citizen! 25 states have laws on surrogacy. In June of 2009 celebrity couple Mathew Broderick (Ferris Bueller's Day Off) and Sara Jessica Parker (Sex in the City) announced publicly that they had twins delivered via surrogate mother<sup>6</sup>.

### **Who might OPT for surrogate?**

Some women are unable to carry a child to term. A variety of causes account for this, including failure of the embryo to implant, repeated miscarriage, hysterectomy or a pelvic disorder. Some women experience problems such as dangerously high blood pressure, a heart condition or liver disease, so that pregnancy would entail a serious health risk for them. Some people may come to terms with their childlessness. Others may find adoption or fostering an acceptable alternative, although this option is limited by the number of babies and children offered for adoption.

For others surrogacy may be seen as a possible solution. Because surrogacy involves another person taking on the risks of pregnancy, it is only acceptable as a last resort, where it is impossible or very dangerous for the intended mother to carry a child herself. Sometimes people speculate about women taking part in surrogacy arrangements, although capable of bearing children themselves, because they wish to avoid the physical, social, psychological or financial drawbacks of bearing a child themselves. There is no evidence to suggest that this happens in Britain and it would not be seen as an acceptable use of a surrogacy arrangement<sup>7</sup>.

### **TYPES OF SURROGACY**

While there are two Different types of surrogacy, gestational surrogacy and traditional, there are also different types of arrangements, agency arranged and independently arranged. Also surrogacy may be done between strangers who never meet, persons who meet only a few times, persons who meet and become quite close over the course and often after the surrogacy, and those who are friends before ever entering a surrogacy arrangement or are family members.

### **Gestational Surrogacy**

Most intended parents prefer gestational surrogacy because they feel more secure in knowing the chances of the surrogate being able to keep their baby is slim to none. They also feel more in control of the surrogacy and pregnancy in general because they are choosing the genetics of their baby. An advantage to having an egg used by an ovum donor or the intended mother is that for the surrogate mother, it separates the complex emotional issues of being a gestational and genetic donor/mother. Many surrogate mothers find that their friends and family are more receptive to their participation in a surrogacy because they more easily view the child the surrogate carries as belonging to the intended parents due to its genetic makeup.

### **Using an Egg Donor**

Often parents who choose to have a gestational surrogate carry their child cannot genetically contribute to their offspring nor do they wish to have their surrogate mother be the genetic mother. Intended parents in these situations usually rely on outside assistance via sperm and or egg donation. While sperm donation has been around for hundreds of years egg donation is relatively new. In this process a screened egg donor undergoes hormone therapy (usually injections) over the course of many weeks which cause her ovaries to release more than one egg. Between one and fifteen eggs are usually harvested during a surgical procedure. They are then inspected for quality and either frozen for use later or immediately mixed with sperm for the intended father or a sperm donor.

### **Altruistic surrogacy**

It is a situation where the surrogate receives no financial reward for her pregnancy or the relinquishment of the child (although usually all expenses related to the pregnancy and birth are paid by the intended parents such as medical expenses, maternity clothing, and other related expenses)

### **Commercial surrogacy**

It is a form of surrogacy in which a gestational carrier is paid to carry a child to maturity in her womb and is usually resorted to by well off infertile couples who can afford the cost involved or people who save and borrow in order to complete their dream of being parents. This procedure is legal in several countries including in India where due to excellent medical infrastructure, high international demand and ready availability of poor surrogates it is reaching industry proportions. Commercial surrogacy is sometimes referred to by the emotionally charged and potentially offensive terms "wombs for rent", "outsourced pregnancies" or "baby farms"<sup>9</sup>.

WHAT IS EGG DONATION?

In egg donation, eggs are borrowed from a young woman called the donor, with her consent. These eggs are then fertilized with the sperms of the husband of the recipient woman and the resultant embryo is inserted into the womb of the recipient. The success rate of this procedure is in the region of 50-60%. Many women till the age of 50-55 have become pregnant by this technique and DELHI-IVF helped US doctor for 55 year old women to get pregnant. This is probably the oldest woman to have become pregnant, in India.

#### WHO NEED EGG DONATION?

Due to life style and late marriage now women after 35 have less chances and have poor ovarian response and they sometime do not have capacity to carry the pregnancy. Women who are more than 37-40 years of age then resort to treatment of infertility by their gynecologist. If they still do not become pregnant they take help of newer technologies like IVF - in vitro fertilization (test-tube baby) or ICSI - intra cytoplasmic sperm injection. Women after the age of 40 tend to have fewer eggs in their ovaries or the quality of the eggs they produce may be poor. Thus, even new technologies like IVF and ICSI may not ensure a successful pregnancy. In India, preference is given to younger couples to adopt children. Couples over the age of 45 can adopt, but find it difficult to do so, because of Governmental preference for younger parents. Such couples can tremendously benefit by egg donation.

Women who have had multiple cycles of test-tube baby (IVF or ICSI) and have still failed to conceive and become pregnant. Besides elderly or menopausal women, egg donation can be done in younger women whose ovaries have prematurely failed or in young women who have undergone radiation or chemotherapy for cancer. Radiation or chemotherapy destroys the eggs and hence these women have a failure of their ovaries. Egg donation is also used in patients who are carrying major chromosomal defects so that they do not pass the genetic defect to their children. Patients suffering from severe Tuberculosis and severe Endometriosis may also produce poor quality eggs and hence can be treated by egg donation.

#### WHAT IS CHECKED BEFORE EGG DONATION TREATMENT?

##### **Provide information of egg donors like:**

- Physical characteristics
- Age
- Height
- Weight
- Complexion

- Blood group.

**Also checked for:**

- Marital status
- Education Occupation
- Medical problem
- Blood transfusions
- Surgeries
- Allergies Medications

Any diseases in the family Like Diabetes, Hypertension etc & Parents Siblings, Past Pregnancies, Abortions, Miscarriages etc.

**Fear of Baby May Not Look Like Parents**

Normally donors are screened on the basis of recipient physical lookout. Eggs are borrowed from healthy women less than 30-35 years of age and who are not suffering from any illness or genetic disorders. These young women, also called donors, are specially screened for AIDS and Hepatitis<sup>9</sup>.

**Criteria for becoming a surrogate mother**

A potential surrogate mother must be in good overall health and be able to undergo a pregnancy with the minimum amount of risk to her own health. Some medical conditions will prevent a woman becoming a surrogate mother, for example, if there are any known medical problems which could lead to complications with the pregnancy, or put the woman at risk. Also those who are considerably over-weight, are heavy smokers, drinkers or substance abusers are not suitable as surrogate mothers because of the associated risks both to the woman and the baby.

Being a surrogate mother is an emotionally and physically demanding task. It is important that a woman considering this option has the backing of a partner, family or friends to provide emotional support and practical help throughout and after the pregnancy. Surrogacy is not something to enter into lightly. Careful consideration must be given to the medical, emotional, legal and practical issues, and to the implications of surrendering the child at birth. Thought must also be given to the effect on any existing children, the potential surrogate mother's partner, family and friends.

A woman wanting to act as a surrogate mother is required to fulfill each of these conditions found in Section 56 of the Act.

- (a) She is at least twenty-one years of age.

- (b) As the risks of illness and problems are much higher in the first pregnancy it is strongly recommended that surrogate mothers should have borne at least one child previously and preferably have completed her own family.
- (c) She has not previously acted as a surrogate for compensation more than once.
- (d) She has completed a medical evaluation and the evaluating physician has determined that there is no known reason why she would not be capable of carrying a child to term without endangering her health or the health of the child.
- (e) In the case of a surrogacy involving in vitro fertilization or similar technology involving fertilization outside the uterus, is informed consent to the medical procedures associated with the establishment of a pregnancy through embryo transfer. She must have provided the written consent.
- (f) She has completed a mental health evaluation by a mental health.
- (g) She has undergone legal consultation with independent legal counsel regarding the terms of the surrogacy contract and the potential legal consequences of the surrogacy<sup>10</sup>.

### **Procedure**

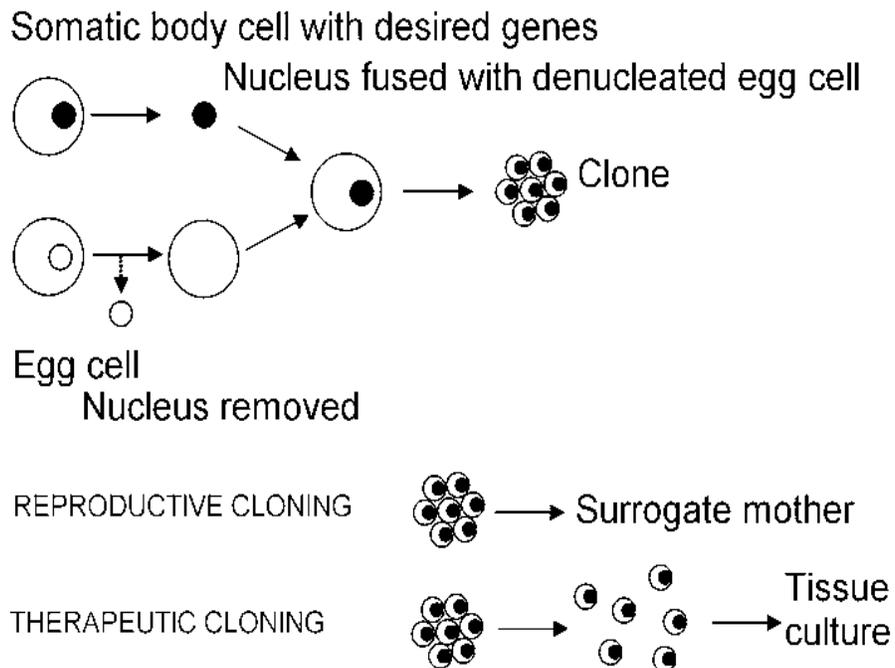
The couple undergoes IVF + ICSI treatment in the usual way. When embryos are ready, the best embryos are selected for transfer. The embryos are transferred into the uterus of a host – surrogate mother, rather than that of the female partner of the couple. Hundred percent genetic material will be from the couple i.e. the child will have 100 % genetic inheritance from the couple. The surrogate will act as host mother till the time of birth of the child. She then hands over the child to the couple.

### **Selection of the surrogate based on:**

- A married lady with the consent of her husband and if needed, of all family members only becomes a surrogate mother.
- They usually come from known source
- They come with a reference from a reliable person
- The couple may appoint a coordinator to supervise and coordinate the whole treatment till handing over the child.
- The couple is informed about the background of the surrogate mother.
- If the couple finds her suitable, a couple surrogates meeting are organized.
- The couple interacts with the surrogate mother and her husband.
- If both the parties are satisfied, the treatment is started.

### Pre treatment evaluation for surrogate

- Detailed history is taken.
- Detailed family history of genetic disorder and diseases is taken.
- Complete clinical examination and fitness evaluation is done.
- Surrogate is screened for routine blood tests, infective diseases like HIV, Hepatitis B, venereal diseases etc.
- Her endometrium is prepared to receive embryos, with estrogen hormone.
- When embryos of the couple are ready, they are transferred in the uterus of the surrogate mother.
- The mother is given medicines, which help implantation of embryos and their development.
- The medicines support pregnancy also if she conceives in that attempt. Blood of surrogate is checked for presence of pregnancy on day13 and 15after embryo transfer.
- If pregnancy test is positive, pregnancy support drugs are continued. Mother is regularly observed and treated for pregnancy care.
- If pregnancy is negative, the drugs are stopped. The surrogate gets her period. Same attempt is repeated.
- If the couple had their embryos frozen, the frozen embryos can be used. If there are no frozen embryos, the couple has to undergo a fresh IVF cycle (Figure 1).



**Figure 1: Procedure for transfer of Embryos to the Surrogate Mother**

### **Advantages of Surrogate Mother Treatment**

The couple gets a child with 100% their own genetic inheritance. It can be a blessing for a couple where female partner cannot bear pregnancy herself due to problems with their: Formal consents are taken for the treatment.

#### **Actual treatment for surrogate mother**

- She is put on oral contraceptive pills to prevent spontaneous pregnancy. The mother is down regulated:
- To match her menstrual cycles and endometrial development with that of female partner ( genetic mother )
- To achieve complete control of cycle and achieve optimum outcome.

#### **Mother Treatment**

It is difficult to find surrogate mother with good background, health, understanding, cooperation and persistence. Any pregnancy can have complications if surrogate mother develops any complications, the responsibility of treatment and expenses involved in it, lies with the couple. It is relatively an expensive treatment.

Bavishi Fertility Institute has very strict selection criteria for selecting the 'to be surrogate'. The couples are given relevant information on surrogate mother. If the couple is satisfied a face-to-face meeting is arranged between surrogate and the couple. Once both parties are satisfied then only the treatment is initiated. The couple is encouraged to keep in touch with the surrogate. If couple cannot manage to keep in touch and supervise surrogate mother's treatment, Bavishi Fertility Institute tries to arrange a coordinator who can coordinate with the couple and the mother.

All financial dealings are done directly between the couple and the surrogate. It ensures complete transparency. Legal paper work is also done directly between the couple and the surrogate, it ensure complete safety of the couple. Surrogate mother treatment is technically a very simple and successful treatment but it requires a lot of complex management and time. We consider it a privilege to offer you the option of surrogate mother treatment so that BAVISHI FERTILITY INSTITUTE can offer complete fertility solution under one roof<sup>11</sup>.

### **LEGAL ASPECT OF SURROGACY IN INDIA**

#### **Is Surrogacy Legal In India?**

Commercial surrogacy has been legal in India since 2002. India is emerging as a leader in international surrogacy. Indian surrogates have been increasingly popular with fertile couples in

industrialized nations because of the relatively low cost. Indian clinics are at the same time becoming more competitive, not just in the pricing, but in the hiring and retention of Indian females as surrogates. Clinics charge patients between \$10,000 and \$28,000 for the complete package, including fertilization, the surrogate's fee, and delivery of the baby at a hospital.

Surrogacy in India is much simpler and cost effective than anywhere else in the world. There is an increasing amount of Intended Parents who choose India as their surrogacy destination. The main reason for this increase is the less costly surrogacy and better flexible laws. In 2008, the Supreme Court of India has held that commercial surrogacy is permitted in India. That has again increased the international confidence in going in for surrogacy in India.

Intended Parents from all over the world come down to India with great dreams and hopes for attaining the joy of parenthood by opting surrogacy. Intended parents contact hospitals over the internet mainly and to come across hospitals/agencies which do not provide complete information about the surrogacy procedures, time factors and more importantly the cost factor.

### **Services Provided in India**

- Pre Surrogacy Legal Counseling
- Representing Intended Parents
- Sourcing of Surrogate Mothers
- Counseling for Surrogate Mothers
- Help in Surrogacy Agreement
- Help to Review of Contract
- Surrogacy Arrangement Contract <sup>12</sup>

### **Why India for surrogate?**

Many people globally are now choosing India a destination for Surrogacy. There are many reasons like:

- Surrogacy Treatment is Economical In India
- Best Of IVF Doctor
- Easy to find Surrogate Mother In India
- Legal Aspect of Surrogacy as law is in favor of surrogacy treatment.

It is estimated that in the United States, the payment for a surrogate mother ranges between US\$15,000 and \$30,000; the whole procedure can cost \$45,000 to \$60,000+. The fees for the rest of the process- including fertility clinics; lawyers; medical fees; and agencies and/or egg donors (if they're used) generally cost more than the fee going to the surrogate. Gestational

surrogacy costs more than traditional surrogacy, since more complicated medical procedures are required. Surrogates who carry a baby for a family member (i.e., sister or daughter) usually do so for expenses only.

India is foremost in surrogacy because of the low cost treatment and availability of women opting to be surrogate for childless couples. In India Surrogacy costs about \$ 12,000 compared to US where it is \$70,000. Moreover laws in US and UK do not allow the surrogate woman to charge the childless couple; whereas in India there are no laws preventing a surrogate woman in accepting compensation for renting her womb. A childless couples offer Rs.3, 00,000 to Rs.4, 00, 000 or more and sometimes even funds for education to the surrogate woman and there should be laws in India protecting not just the couple but also the woman opting to be surrogate keeping in mind the economic compensation and help that it offers to not just the illiterate women but also their families in India.

Surrogates may be relatives, friends, or previous strangers. Many surrogate arrangements are made through agencies that help match up intended parents with women who want to be surrogates for a fee. The agencies often help manage the complex medical and legal aspects involved. Surrogacy arrangements can also be made independently. In compensated surrogacies the amount a surrogate receives varies widely from almost nothing above expenses to over \$30,000 Careful screening is needed to assure their health as the gestational carrier incurs potential obstetrical risks<sup>13</sup>.

### PROTECTING THE RIGHTS OF SURROGATE MOTHERS IN INDIA

The plot of the Marathi-language film “Mala Aai Vhhaychy” (“I Want to Be a Mother”) asks a deceptively simple question: Does Yashoda, a woman turning to surrogate motherhood as an escape from poverty, have any claim on the child she is under contract to bear for Mary, an American fertility tourist? In the melodramatic world of Indian cinema, the answer is a heartwarming yes. In real life, it may not be that easy to script a happy ending.

Since 2002, when commercial surrogacy was legalized in India, the surrogacy industry has boomed, becoming a key part of the country’s lucrative medical tourism market. The cost of surrogacy for prospective parents is about \$14,000 in India, compared with an estimated \$70,000 in the United States. A 2008 study valued the assisted reproductive industry in India at \$450 million a year.

Across India, fertility clinics attempt to replicate the success of Akanksha and other clinics in the small town of Anand in the western state of Gujarat, which was the country’s first surrogacy hub.

But the boom masks growing concerns about the rights of the women, many of them from poor homes and sometimes illiterate, who choose to become surrogate mothers.

Up to now, India's laws have not addressed directly the complexities of surrogacy, though an assisted reproductive technology bill is before Parliament and expected to be ratified by early next year. But a team of researchers from Sama, a nongovernmental women's health organization, has raised concerns about the bill in a recent paper. "The many ethical issues that are emerging out of unrestrained spread of the technologies remain," the researchers write.

The legislation attempts to regulate the clinics and doctors' engaged in reproductive technologies and their relationship with prospective surrogate mothers. While Sama welcomes this attempt to govern the industry, it fears the legislation favours the rights of the commissioning couple over those of the surrogate mother. The bill makes it clear that women engaged in commercial surrogacy will have no rights over the child they have contracted to bear. The proposed law does not spell out what a surrogate mother would be paid in the case of a miscarriage or other complications during pregnancy.

Its provisions would stipulate that only women between the ages of 21 and 35 can be surrogates. It sets the maximum number of times a woman can contract her womb for surrogacy at five live births, in contrast to three in an earlier draft. But Sama notes that it does not address the number of assisted reproductive cycles a woman can experience, an important issue for the women's health. When the first clinics opened their doors in Gujarat, Akanksha's founder, Dr. Nayna H. Patel, said in a much-repeated quote that surrogacy was a win-win situation for all. Many Indian doctors agree, arguing that it is in the interest of clinics to take good care of the women involved in commercial surrogacy.

"Most clinics provide protection to the woman in many ways, looking after her health, nutrition, daily needs, and some will even offer to take care of her family," Dr. Ruma Satwik, associate consultant at Sir Ganga Ram Hospital in Delhi, said in an interview. But currently, the responsibility for taking care of the women is left to individual doctors and clinics. "We have all kinds of legal documents to protect the commissioning couple," Dr. Satwik said. "The surrogate mother stands to lose in the absence of concrete laws to protect her, and the provisions of the ART Bill are probably not enough."

In 2008, Dr. Sadhna Arya, a gynaecologist in Jaipur, was part of the team of doctors involved in the complex case of a baby who was born to an Indian surrogate mother after the contracting couple, from Japan, decided to divorce. At the time, Dr. Arya spoke out against the way in which surrogate mothers were treated in India: "You have treated the surrogate mother like an object,

used her as a factory.” Today, Dr. Arya says bluntly, “Surrogate mothers are from poor backgrounds and are hardly aware of their rights. The ART law is trying to find a balance between the legal and the unethical, but unethical practices still remain.” The U.S. journalist Scott Carney investigated surrogacy clinics in Anand for his book, “The Red Market,” on the hidden trade in human bodies and body parts.

“Before India, only the American upper classes could afford a surrogate,” he wrote. “Now it’s almost within reach of the middle class. While surrogacy has always raised ethical questions, the increasing scale of the industry makes the issue far more urgent. With hundreds of new clinics poised to open, the economics of surrogate pregnancy are moving faster than our understanding of its implications.”

Manju, 29, a domestic helper in Delhi who asked that her full name not be used, said she had thought about surrogacy ever since her sister-in-law gave birth to a surrogate baby two years ago. “She went off to Gujarat, and the family kept it very quiet,” said Manju, alluding to the stigma that sometimes attaches to surrogate mothers in India. “But she made a lot of cash, much more than my income for a year.” A month ago, Manju was approached by the representative of an unlicensed surrogacy clinic in the northern state of Haryana looking for surrogate mothers. She said she might take them up on their offer. “It’s good money,” she said. “Risks. What risks? Any fool can have a baby; it takes a smart woman to get paid for it<sup>14</sup>.

## SURROGATE MOTHER AGENCIES IN INDIA

Surrogate mothers in India are woman who get paid to become pregnant with children of couples who cannot conceive on their own. While commercial surrogacy (or Outsourcing Pregnancy) is a growing industry in India where the embryo is transferred to the womb of the surrogate woman via in vitro fertilization or IVF method, an NPR report has expressed certain concerns. Another fear is that rich couples from foreign countries, who for lack of time, will come here looking for surrogate mothers and will simply outsource their pregnancy jobs to Indian girls at a price that is a fraction of what they have to pay in their own countries. “You have no idea if your surrogate mother is smoking, drinking alcohol, doing drugs. You don’t know what she’s doing. You have a third-party Surrogate Mother Agency as a mediator between the two of you, but there’s no one policing her in the sense that you don’t know what’s going on.”<sup>15</sup>

The Surrogacy Agencies shall have team of qualified specialists whose main objective is to make possible realization of the married couple’s dream to obtain their own child when the reproductive function of one or both spouses is perturbed.

First, this is information of the Surrogate Motherhood Program participants on all the aspects of the supporting reproductive medicine process, which its participants – genetic parents and surrogate mother have to deal with. It is a high qualification of specialists and managers of the surrogacy agency that makes it possible to take into consideration various “underwater stones”, predict them, help the genetic parents and surrogate mother to overcome them successfully. The said information also consists in provision the genetic parents with the list of potential surrogate mothers taken from the database of the Surrogacy Agency, in order they are able to make their choice.

Second, here the customers (genetic parents) and the performer (surrogate mother) may get, if required, a comprehensive on correction of psychological state of the program participants and an efficient settlement of the legal and organizational problems.

And third, the Centre surrogate motherhood carries out coordination i.e., agreement of knowledge, skills, abilities and efforts of all the program participants: genetic parents, surrogate mother, specialists and medical base of “SANA-MED” Reproduction Clinic, the Centre specialists: psychologists, legal experts, translators, curators, couriers, managers, to achieve the common purpose – birth of a healthy, long-awaited and so longed-for child, your DEAR CHILD.

### **Services**

- Selection of surrogate mothers basing on psychological, medical, legal, age, ethnic, religious, financial and individual criteria; forming surrogate mothers database and giving it to the customers.
- Full range of the required legal services, help in preparation contracts and required documents.
- Psychological diagnostics of surrogate mothers, psychological advice and support during the entire program realization.
- Translation of documentation in foreign languages, official legalization of translations.
- Qualified medical supervision – care and control of a surrogate mother during the entire pregnancy period.
- Railway- and air tickets reservations, meetings in airport and railway stations, booking rooms in hotels and other accommodation places.
- Continuous monitoring of all program participants, protection of interest of each participant, provision of strict observance of undertaken contract obligations<sup>16</sup>.

### **Address of Surrogacy Clinics**

The addresses of various clinics are given in Table 1<sup>17, 18, 19, 20, 21</sup>

Table 1: Surrogacy Clinics in Delhi, Gujarat &amp; Mumbai

Surrogacy Clinics in Delhi				
Clinic	Doctor	Address	Phone	Email id
<b>Delhi IVF, Fertility Research Centre, Test Tube Baby Clinic</b>	<b>Dr. Anoop Gupta</b> Director of Delhi IVF & Fertility Clinic. "The first of its kind in Delhi since 1993"	23, Todar Mal Lane, Bengali Market (Opp. Nathu's Sweets) New Delhi-110001, INDIA (Near Cannought Place)	+91-11-23716427, 23716428, 23730797, 41044001	<a href="mailto:anoopg@ndb.vsnl.net.in">anoopg@ndb.vsnl.net.in</a> <a href="mailto:anoop@dranoo.org">anoop@dranoo.org</a>
<b>Bavishi Bhagat Fertility Institute</b>	<b>Dr. Upasana Bhagat</b>	RZ-F1/1, Mahavir Enclave, Near Dwarka Palam Flyover, New Delhi-110045. India.	+91-79-26574901/02/03, Toll Free : 1800 233 3434	<a href="http://www.ivfclinic.com">www.ivfclinic.com</a> <a href="http://bavishibhagvatiiivf@yahoo.com">bavishibhagvatiiivf@yahoo.com</a>
Surrogacy Clinics in Gujarat				
Clinic	Doctor	Address	Phone	Email id
<b>Art Consultant</b>	<b>Dr. Ajit Raval</b> M.D., D.G.O.	Proff. N.H.L. Medical College.	9327002652	
	<b>Dr. Tushar Shah</b> M.D., D.G.O.	Asso. Proff. N.H.L. Medical College.	Mobile 9825007667	
	<b>Dr. Parul Kotadawala</b> M.D., F.I.C.O.G. Diploma Endoscopy (Germany)	Associate Proffesor, Kesar Sal Medical College,	Mobile 9426725267	<a href="mailto:kotdawala@yahoo.com">kotdawala@yahoo.com</a> , <a href="http://kotdawala@dataone.in">kotdawala@dataone.in</a>
	<b>Dr. Mehul Damani</b> M.D., D.G.O.	Ex A.P., N.H.L. Medical College.	Mobile 9825050020	<a href="mailto:mehuldamani1@yahoo.co.in">mehuldamani1@yahoo.co.in</a>
<b>Sushrusha Hospital</b>	<b>Dr. Dharmesh Kapadia</b> MBBS, EMBRYOLOGIST Master in Clinical Embryology	Opp. Sardar Patel Sewa Samaj Hall, In lane Opp. Navrangpura Telephone Exchange, Navrangpura Ahmedabad-380009. Gujarat (INDIA)	Mobile 9879030295, (H) 0091-79-26460600, 26468693	<a href="mailto:kapadiadharmesh@rediffmail.com">kapadiadharmesh@rediffmail.com</a> , <a href="http://gynotech@infertilityindia.net">gynotech@infertilityindia.net</a>
<b>Bavishi Fertility Institute</b>	<b>Dr. Himanshu Bavishi</b> Dr. Falguni Bavishi	Next to Adani CNG & Gajarawala Flats, Paldi # Roads, Paldi, Ahmedabad-380007 India.	091-79-26574901-02-03, 98795 72298, 98795 72264,	<a href="mailto:drbavishi@ivfclinic.com">drbavishi@ivfclinic.com</a>
Surrogacy Clinics in Mumbai				
Clinic	Doctor	Address	Phone	Email id
<b>Bavishi Fertility</b>	<b>DR Nilesh Jain</b>	<b>GHATKOPAR</b> 1st Floor, Jayant Arcade,	091- 022 - 67412222,	

<b>Institute</b>		Rajawadi Signal, M.G Road, Ghatkopar(E), Mumbai-77, India.	<b>Cell No.</b> +91 91672 04018,	
<b>Bavishi Fertility Institute</b>		<b>BORIVALI</b> M.M Medical Center Ankur, Nr. Marry Imm School, L.M Road, Shivajinagar, Borivali (W), Mumbai-03, India.	+91 91672 04019	
<b>Bavishi Fertility Institute</b>		<b>VILLE PARLE</b> Surya Hospital Nr. Vallabhpark, Lalubhai Park Road, Ville Parle (W), Mumbai-49, India.	+91 91672 04019	

## CONCLUSION

It may be concluded that Assisted Reproductive Technology (ART) Bill 2010 has provided for single parenthood by allowing “unmarried couples” and “single persons” from India and abroad to have children using ART procedure and surrogate mothers in India.

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