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## Surrogacy: An Analysis

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*The right of every existence to replicate their youthful bone is a dark right. Parenting is a life-changing and enduringly rewarding experience. In the realm of technology, the knowledge of gravity medication has advanced by leaps and bounds. When two men or women form a nuptial tie, the reality of a new family emerges, and this family is deemed complete once they have been blessed with the birth of children. There are still some couples who are unable to conceive children of their own. According to studies, one out of every six couples has comparable issues. A kid's absence is regarded as a stain on the family's reputation. There are several instances where the inability to have a kid is a factor. Gravity is a medical term for the inability to have a child. It is a worldwide issue. According to a WHO report, the global prevalence of gravity, which includes India, is roughly 10-15%. Surrogacy was once the only option for couples who couldn't have children, but because of advancements in medical technology, gravity areas, and artificial mortal reproductive technologies, surrogacy is now a viable option. Nowadays, artificial mortal reproductive technologies such as copulation, in-vitro fertilization, embryo transfer, and so on offer a variety of options. Surrogacy has been the most popular of all of these options.*

**Keywords:** *gravity, nuptial ties, conceive, surrogacy, in-vitro fertilization.*

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## INTRODUCTION

Surrogacy is a pregnancy in which a woman carries and gives birth to a kid on behalf of someone unable to have children. Eggs from the woman who will carry the baby or from an

egg donor are<sup>1</sup> fertilized with sperm from a sperm donor to create an embryo in a surrogate pregnancy. The embryo is deposited in the surrogate mother's uterus, and she carries the baby until it is born. Surrogacy may be a possibility for men and women who wish to start a family but have had infertility as a result of anticancer therapies like chemotherapy or radiation therapy. Surrogacy is one of the most contentious operations in the field of assisted reproduction, in which one woman bears a child for another woman. The 'Baby M' case in the United States, where the surrogate mother refused to relinquish the kid, has tended to focus media attention on the negative sides of surrogacy arrangements (New Jersey Supreme Court, 1987). Surrogacy is divided into two types: partial (genetic) and full (organic) (gestational). The surrogate mother is also the child's genetic mother in partial surrogacy, and conception is normally achieved through artificial insemination with the commissioning father's sperm. The commissioning couple is the kid's genetic parents in complete surrogacy, and the child is conceived in a clinic using IVF. According to the requirements, anyone interested in being a surrogate mother must be married (at least once in her life) and have a child. She should be between the ages of 25 and 35 and a close relative of the couple who is considering surrogacy. Any woman who agrees to be a surrogate cannot do it more than once in her life, and she must be medically and psychologically fit at the time. As of 2020, the surrogacy treatment in India might bring you anywhere between INR 9 - 15 lakhs, the average quantum being INR 10 lakhs. This is generally the cost of the entire package which might involve freights, legal freights, surrogate work over, delivery charges, surrogate's compensation, copulation, and IVF costs, and some further or lower depending on your agency. The cost will surely differ from state to state and agency to agency

## TYPES OF SURROGACY

Surrogacy is divided into two types: <sup>2</sup>gestational surrogacy and traditional surrogacy. When a couple contributes their eggs and sperm for fertilization or receives it from a donor, it is

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<sup>1</sup> Kaunain Sheriff M, 'What's in ART, Surrogacy Bills' (*Indian Express*, 3 December 2021) <<https://indianexpress.com/article/explained/explained-whats-in-art-surrogacy-bills-7653374/>> accessed 19 April 2022

<sup>2</sup> 'Surrogacy regulation in India and world' (*Clear IAS*, 9 February 2022) <<https://www.clearias.com/surrogacy/>> accessed 18 April 2022

referred to as gestational surrogacy. Surrogacy, on the other hand, is when the woman who is carrying the kid donates her egg for fertilization. Many women and men struggle with infertility and other health difficulties, making childbirth difficult for them. However, they have a strong desire to have children, so they seek out other choices. We live in a time where technology has improved and the number of possibilities available has grown. Almost all improbable technologies evolve. However, this does not eliminate the controversies surrounding it. Similarly, surrogacy is a contentious issue rather than a more arguable one. It is divisive because of the nature of the process and the people involved. Couples who want to have a child through surrogacy may be aware of the realities, but they may not accept the people in their lives. Those who believe in traditional pregnancy but are unable to give birth are not only marginalized but also blamed for the rest of their lives.

#### **INDIAN COUNCIL FOR MEDICAL RESEARCH GUIDELINES FOR SURROGACY**

In 2002, the Indian Council for Medical Research issued guidelines governing Assisted Reproductive Technology treatments, which were approved by the government in 2005. [7] The Indian Law Commission has released its 228th report on Assisted Reproductive Technology processes, which discusses the importance and necessity of surrogacy as well as the actions taken to regulate surrogacy agreements.<sup>3</sup>The Law Commission had made the subsequent observations:

- Surrogacy will continue to be governed by a contract between the parties, which will include all terms requiring the surrogate mother's consent to bear child, agreement of her husband and other family members for the same, medical procedures for artificial insemination, reimbursement of all reasonable expenses for carrying a child to full term, willingness to hand over the child born to the commissioning parent(s), and so on. However, such a deal should not be made for profit.
- A surrogacy agreement should include financial assistance for the surrogate kid if the commissioning couple or individual dies before the kid is delivered, or if the intended parents divorce and nobody want to require the kid.

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<sup>3</sup> Surrogacy (Regulation) Bill, 2019

- A surrogacy contract must provide life insurance coverage for the surrogate mother.
- A surrogacy contract should necessarily look out for life assurance to protect the mother.
- One among the intended parents should be a donor also because the bond of affection and affection with a toddler primarily emanates from a biological relationship. Also, the probabilities of varied sorts of child abuse, which are noticed in cases of adoptions, are going to be reduced. Just in case the intended parent is single, he or she should be a donor to be ready to have a surrogate child. Otherwise, adoption is the thanks to having a toddler which is resorted to if biological (natural) parents and adoptive parents are different.
- The legislation itself should recognize a surrogate child to be the legitimate child of the commissioning parent(s) without there being needing for adoption or maybe a declaration of guardian.
- The certificate of the surrogate child should contain the name(s) of the commissioning parent(s) only.
- The right to privacy of the donor also as a mother should be protected.
- Sex-selective surrogacy should be prohibited
- Abortion cases should be controlled solely by the Medical Termination of Pregnancy Act of 1971.

#### ADVANTAGES<sup>4</sup>

The benefits of surrogacy are obvious to the hundreds of families that have been formed this way. Here are a few advantages of surrogacy for intended parents:

- Surrogacy enables infertile couples, single persons, and members of the LGBT community to become parents when they would otherwise be unable to.
- Gestational surrogacy allows one or both parents to be biologically connected to their kid in the majority of circumstances.

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<sup>4</sup> 'Surrogacy in India : issues and way forward' (IAS Score , 28 December 2018)

<<https://iasscore.in/current-affairs/mains/surrogacy-in-india-issues-and-way-forward>> accessed 19 April 2022

- Surrogacy allows hopeful parents to raise a kid from conception through birth.
- Intended parents are involved throughout the pregnancy and are usually able to attend to many key milestones, such as the embryo transfer and the birth of their child.
- Surrogacy allows intended parents to meet and build a particular bond with their child.

Here are just a few of the ways surrogacy can help these incredible women and their families: Surrogates experience a deep sense of personal fulfillment and pride in knowing that they have assisted another family in such a miraculous and life-changing way.

- Surrogate mothers can share their pregnancy journey with the intended parents and form a deep bond with them during the process.
- Many surrogates form lifelong bonds with the families they help to form
- Surrogates make it possible for women who like being pregnant to do so again, even if their own families are complete.

## DISADVANTAGES

- (1) It is a very contentious issue with several legal ramifications.
- (2) Some surrogates struggle to let go of the baby.
- (3) Surrogates may experience medical or obstetric issues during pregnancy, adding to the commissioning couple's financial burden.
- (4) Surrogacy in India, while inexpensive, may entail long-distance travel.
- (5) Surrogacy necessitates a lot of effort on the part of the surrogate You will need to undergo extra exams, checkups, <sup>5</sup>fertility treatments, and other procedures in addition to the physical obstacles of pregnancy.

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<sup>5</sup> 'International comparison of surrogacy laws' (PRS India) <<https://prsindia.org/billtrack/prs-products/international-comparison-of-surrogacy-laws-2713>> accessed 19 April 2022

(6) Surrogacy is a difficult decision to make emotionally. It's difficult enough to be pregnant, but it's even more so when you're carrying someone else's child. If you need emotional support while going through this procedure, Southern Surrogacy can help.

(7) Surrogacy necessitates a substantial amount of time. Surrogacy can take a long time to complete, what with screening appointments, meetings with intended parents, and the legal and medical processes.

## MYTHS ABOUT SURROGACY

- **Myth: Only Rich People Can Afford Surrogacy**

While it's true that wealthy people and celebrities are counting on surrogacy in the present day, it doesn't justify this myth. The main reason behind this misconception is that the value of surrogacy isn't static or determinable. The expenses surrounding a successful surrogacy depend on several factors. Whether it's a standard procedure, the agency fees, the surrogate mother's charges, the insurance coverage, and a couple of other factors. Several surrogate mothers have everything covered by their insurance, during which case the oldsters wouldn't need to pay extra charges for birth. So, to fact check, surrogacy isn't necessarily a wealthy affair but requires systemic planning.

- **Myth: it'll be Difficult to Bond with the Baby**

While it's true that pregnancy creates a singular bond between the mother and therefore the child, who is to mention that an equivalent bond cannot be established once the baby is born? When talking about surrogacy facts, it's one of the foremost talked-about pointers. Once the kid is born through surrogacy, they're immediately handed over to the intended parents for the skin to skin contact and every one of the bonding exercises that are needed to assist the kid to recognize its actual parents.

- **Myth: What if the mother wants to stay with the Baby?**

Pregnancy is a particularly emotional ride, especially when you are a mother growing a toddler within the womb. While it's common for these mothers to feel connected to the kid they deliver, they do not deduct the child from their intended parents.

The majority of the clinics that conduct surrogacy often make the mother and therefore the intended parents undergo a radical clinical also as a psychological assessment to make sure that both parties can commit and not back out from it. If required, you'll also draw up contracts with an attorney's help to make sure that nothing takes a turn for the more severe at the top of the pregnancy.

- **Myth Surrogate mom will be the Biological Mother of the Child**

No, not always. As we mentioned in the beginning, there are two types of surrogacy. Gravid surrogacy uses the sperm and egg from the intended parents and also transfers the same into the womb of the surrogate. However, also the intended mom is the baby's natural mom and not the surrogate mom, indeed if she has carried them in her womb, it's gravid surrogacy. Still, in traditional surrogacy, the sperm is recaptured from the intended father while the surrogate donates her egg for the gestation. In that case, yes, the surrogate will be the natural mom of the child.

- **Myth Surrogacy is for Women Who Want to maintain their Figure**

The maturity of the women who choose surrogacy over carrying their baby is likely floundering with gravidity. While the experience of gestation and getting a mama is a private feeling, several women believe that they would rather give birth rather than get a surrogate. But, if their body is not able of making that possible, concluding 'surrogacy isn't a bad option at all. It allows them to witness the process of gestation and have their child at the end of the gestation term.

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<sup>6</sup> 'Cabinet Approves Bill to Regulate Surrogacy' (*Drishti IAS*, 27 February 2020)

<<https://www.drishtiiias.com/daily-updates/daily-news-analysis/cabinet-approves-bill-to-regulate-surrogacy>>  
accessed 19 April 2022

## CONCLUSION

Surrogacy appears to be an odd practise given the fact that approximately 12 million Indian children are orphans. Adopting a kid in India is a difficult and time-consuming process for childless couples who want to provide a home for these children. Even after 60 years of independence, India still lacks a comprehensive adoption law that applies to all people, regardless of religion or country of residence, whether they are Non-Resident Indians (NRIs), Persons of Indian Origin (PIOs), or Overseas Citizens of India (OCIs) (OCIS). As a result, they turn to IVF or surrogacy as choices. Guardianship, not adoption, is permitted under the Guardian and Wards Act of 1890. The Hindu Adoption and Maintenance Act of 1956 prohibits non-Hindus from adopting a Hindu child. There is a great need to change and simplify the adoption process for everyone. Surrogacy rates will decrease as a result of this. Surrogacy should be pushed for altruistic reasons rather than for profit. To cover the grey areas and defend the rights of women and children, laws should be drafted and executed.