



## MATERNITY BENEFITS AND SURROGACY: A CASE FOR THE RECOGNITION OF COMMERCIAL SURROGACY

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### Introduction:

Women have always faced discrimination in the economic sphere and one of the reasons behind this can be attributed to their biological roles such as child bearing and child birth.<sup>1</sup> In order to protect the rights of female employees and to help create a healthy balance between their productive and reproductive lives, maternity benefits are provided to women for the period preceding and succeeding child birth.<sup>2</sup> Provision of maternity benefits ensures the well-being of the child as well as the mother.<sup>3</sup>

However, the provision of such benefits becomes uncertain in the context of childbirth through surrogacy. Surrogacy uproots the traditional notions of reproduction. It comprises of three parts

wherein there is a surrogate mother that gives birth to the child, a set of social parents who become the parents of the child once the baby is born and the genetic matter of the social parents which is often implanted in the womb of the surrogate mother through In-Vitro Fertilization (IVF).<sup>4</sup>

The provision of maternity benefits therefore becomes a two-fold issue, i.e. maternity benefits to the surrogate mother and benefits to the social mother or the commissioning mother. The surrogate mother must be entitled to maternity benefits for her well-being during pregnancy, safe recovery post childbirth and any postpartum depression or isolation that she may experience.<sup>5</sup> The commissioning mother on the other hand, requires maternity leave keeping in mind the welfare of the child.<sup>6</sup>

The provision of such benefits becomes increasingly relevant in the contemporary scenario with the increasing dependence on altruistic as well as commercial surrogacy for rearing children. This paper will thus analyse the maternity benefit provisions applicable to surrogate and commissioning mothers under the Indian legal regime. It will further discuss

<sup>1</sup> Richa Jhanwar, 'The Need for Maternity Benefits for Women Employee' (*Academike*, 16 November 2014) <<https://www.lawctopus.com/academike/the-need-for-maternity-benefits-for-women-employee/>> accessed 04 December 2020.

<sup>2</sup> Neil Borate, 'The Benefits Women are Entitled to and the Rights they can Claim under Maternity' (*Mint*, 12 May 2019) <<https://www.livemint.com/money/personal-finance/the-benefits-women-are-entitled-to-and-the-rights-they-can-claim-under-maternity-1557655754106.html>> accessed 04 December 2020.

<sup>3</sup> Laura Addati, 'Maternity and Paternity at Work: Law and Practice Across the World' (*International Labour Organisation*, 01 March 2013) <[https://www.ilo.org/wcmsp5/groups/public/---dgreports/---dcomm/---publ/documents/publication/wcms\\_242615.pdf](https://www.ilo.org/wcmsp5/groups/public/---dgreports/---dcomm/---publ/documents/publication/wcms_242615.pdf)> accessed 04 December 2020.

<sup>4</sup> Imrana Qadeer, 'The Business and Ethics of Surrogacy' (2009) 44 (2) *Economic and Political Weekly* <<https://www.jstor.org/stable/40278374>> accessed 04 December 2020.

<sup>5</sup> Raywat Deonandan, 'Ethical Concerns for Maternal Surrogacy and Reproductive Tourism' (2012) 38 (12) *Journal of Medical Ethics* <<https://www.jstor.org/stable/43282629>> accessed 04 December 2020.

<sup>6</sup> Rama Pandey v. Union of India 2015 SCC OnLine Del 10484.



the consequences of non-recognition of surrogacy under law and make comparisons with various legal regimes across the world to comprehend their understanding of surrogacy and the provision of maternity provisions thereof. It will also analyse the proposed Surrogacy (Regulation) Bill, 2020 particularly in the context of maternity benefits.

**Surrogacy and Maternity Benefits in India-  
The Current Status:**

Maternity benefits with respect to surrogacy were first included in the Maternity Benefit Act, 1961 through the Maternity Benefit (Amendment) Act, 2017. It was through this Maternity Benefit (Amendment) Act, 2017 that the concept of ‘commissioning mothers’ was first introduced into the Maternity Benefit Act, 1961 and a twelve week maternity leave was allowed to the commissioning mother from the date on which the child was handed over to her.<sup>7</sup>

The Maternity Benefits Act, 1961 has now been repealed and the maternity benefits provisions are included in The Code on Social Security, 2020 but this provision regarding maternity benefits for commissioning mothers remains intact in the new code as well.<sup>8</sup> Neither of the statutes

however discuss the role of the surrogate mother, i.e. the gestational mother and the provision of maternity benefits in her interest. Generally, maternity benefits depend upon the number of surviving children of the mother. But since in the case of surrogate mothers, the custody of the child is given away at birth it leaves a grey area in the law for a maternity leave for the mother to maintain her health after pregnancy and childbirth.<sup>9</sup>

The statutes are also silent on whether India permits altruistic as well as commercial surrogacies. Altruistic surrogacy defines a case where the surrogate mother carries the child without any profit-making objective and can only be paid ‘reasonable expenses’.<sup>10</sup> Commercial surrogacy on the other hand is where surrogates provide a womb to the baby in exchange for a payment.<sup>11</sup> With the introduction of the National Guidelines for the Accreditation, Supervision and Regulation of ART Clinics in India in 2002, India opened up to commercial surrogacy and since then, has transformed into a multi-million dollar industry in the country.<sup>12</sup> Since then however, the legislature has made various attempts to impose a ban on the commercial surrogacy industry through the Surrogacy (Regulation) Bill, 2016, which was amended and introduced again in 2019

<sup>7</sup> Maternity Benefit Act 1961, Section 5(4).

<sup>8</sup> The Code on Social Security, Section 60(4).

<sup>9</sup> Kriti, ‘The Uncertainty Surrounding the Availability of Maternity Benefits to Surrogate Mothers’ (*The Labour and Employment Law Blog*, 05 August 2020) <<https://cll.nliu.ac.in/the-uncertainty-surrounding-the-availability-of-maternity-benefits-to-surrogate-mothers/>> accessed 04 December 2020.

<sup>10</sup> Anindita Majumdar, ‘What is altruistic Surrogacy?’ (*The Hindu*, 23 December 2018) <<https://www.thehindu.com/opinion/op-ed/what-is-altruistic-surrogacy/article25814445.ece>> accessed 04 December 2020.

<sup>11</sup> Shonotra Kumar, ‘India’s Proposed Commercial Surrogacy Ban is an Assault on Women’s Rights’ (*The Wire*, 09 November 2019) <<https://thewire.in/law/surrogacy-ban-assault>> accessed 04 December 2020.

<sup>12</sup> Nita Bhalla, ‘India Seeks to Regulate its Booming ‘Rent-a-Womb’ Industry’ (*Reuters*, 30 September 2013) <<https://www.reuters.com/article/us-india-surrogates/india-seeks-to-regulate-its-booming-rent-a-womb-industry-idUSBRE98T07F20130930>> accessed 04 December 2020.



and once again in 2020. The details of the Surrogacy (Regulation) Bill, 2020 and its effects on maternity provisions and commercial surrogacy is discussed later in this paper.

**Consequence of Non-Regulation of Surrogacy by Law:**

Over the last few decades, the market for surrogacy, and particularly commercial surrogacy has picked up pace. It is seen as a boon for infertile couples who are now enabled to have a child of their 'own' through IVF in surrogates.<sup>13</sup> Thousands of women engage in commercial surrogacy each year by carrying someone else's child in their womb to create a market of 'reproductive outsourcing' worth thousands of crores.<sup>14</sup> In most cases, it is observed that the motivating factor encouraging women to engage in surrogacy is economic and not altruistic, especially in the Indian context where most Indian surrogates are observed to belong to the lower rung of the social strata.<sup>15</sup> Surrogate mothers choose to participate in commercial surrogacy due to socio-economic considerations since acting as a surrogate mother pays more than most other underpaid domestic services.<sup>16</sup>

The surrogacy market however has seen a very slow evolution of the laws determining the rights, obligation and arrangements for surrogate mothers and social parents and is still widely unregulated. This culminates from the perception that surrogacy belittles the dignity of the reproductive capabilities of women and leads to commodification of the child thus born.<sup>17</sup> Arrangements of commercial surrogacy has often been observed to be exploitative as they require women to give up their legal and moral claims to her pregnancy and her newborn. The fundamental issue for the legislatures is to balance the leverage that poverty has in promoting commercial surrogacy with moral and political considerations.

Non-regulation of commercial and altruistic surrogacies does not imply non-participation of women and intended parents in this industry. Rather, it makes the surrogacy industry arduous for the surrogate mothers, since the surrogacy agreements they enter into are either unenforceable or illegal.<sup>18</sup> Non-existent regulations and lack of transparency in this regard puts both the surrogate mother and the intended parents at compromising position and at a risk of exploitation, while acting to the benefit of the middlemen engaged in such transaction.<sup>19</sup>

<sup>13</sup> Sneha Banerjee, 'Emergence of the Surrogacy Industry' (2012) 47 (11) Economic and Political Weekly <<https://www.jstor.org/stable/23214649>> accessed 04 December 2020.

<sup>14</sup> Namita Kohli, 'Moms Market' (*Hindustan Times*, 13 March 2011) <<https://www.hindustantimes.com/india/moms-market/story-4V8X4IoEqLMRO82K3x50XI.html>> accessed 04 December 2020.

<sup>15</sup> Deonandan (n 5).

<sup>16</sup> Gargi Mishra, 'Commercial Surrogacy is Women's Agency, and They are Exercising it for Their Benefit' (*The Print*, 16 July 2019) <[https://theprint.in/talk-point/commercial-surrogacy-prone-to-misuse-or-](https://theprint.in/talk-point/commercial-surrogacy-prone-to-misuse-or-should-be-allowed-with-regulations/263710/)

[should-be-allowed-with-regulations/263710/](https://theprint.in/talk-point/commercial-surrogacy-prone-to-misuse-or-should-be-allowed-with-regulations/263710/)> accessed 04 December 2020.

<sup>17</sup> Amrita Pande, 'Commercial Surrogacy in India: Manufacturing a Perfect Mother-Worker' (2010) 35 (4) The University of Chicago Press <<https://www.jstor.org/stable/10.1086/651043>> accessed 04 December 2020.

<sup>18</sup> Debora L Spar, 'For Love and Money: The Political Economy of Commercial Surrogacy' (2005) 12 (2) Review of International Political Economy <<https://www.jstor.org/stable/25124020>> accessed 04 December 2020.

<sup>19</sup> Pikee Saxena, 'Surrogacy: Ethical and Legal Issues' (2012) 37 (4) Indian Journal of Community Medicine



In India, commercial surrogacy is treated like a survival strategy for many rural and poor women who are recruited by fertility clinics for intended parents in India and abroad.<sup>20</sup> This creates a surrogacy industry with the surrogate mother doing the labour. Such labour, due to the inherent nature of the job and non-regulation of the sector is subject to immense exploitation and unfair practices. In commercial surrogacy transactions, surrogate mothers are often underpaid in comparison to the benefit that is being acquired from their labour as well as the risk undertaken by them to engaged in such work.<sup>21</sup> Additionally, questions of absent or defective consent become particularly relevant.<sup>22</sup> Thus, it becomes increasingly important to recognise the labour that goes into surrogacy and the exploitation that follows.

### **The International Picture:**

“When it comes to commercial surrogacy our laws are a bodge job or worse”.<sup>23</sup> Unlike other international law regimes related to children such as adoption and abduction, there are no international treaties, laws and conventions for the regulation and

recognition of commercial surrogacy in the international arena. This flows from the diverse understandings of the existence and righteousness of surrogacy in different states. It is often pointed out that it is not the right of the mother to give away her child as a gift, in cases of both altruistic and commercial surrogacies.<sup>24</sup> Further, the risk of exploitation and reduced autonomy of the surrogate mother coupled with the health risks that come attached with pregnancy and medical procedures such as IVF, create apprehension about surrogacy related debates and discussions.<sup>25</sup>

With the lack of any international law in this regard, surrogacy related regulations vary from country to country. There are very few countries such as Georgia, South Africa and Ukraine that allow all kinds of surrogacy agreements to be enforced.<sup>26</sup> United Kingdom recognises unpaid altruistic surrogacy but has imposed a ban on commercial surrogacy.<sup>27</sup> Surrogacy laws in Australia are a patchwork of judicial decisions with no clear stance on their view of surrogacy. There is however, a distinct prohibition on commercial surrogacy in the country.<sup>28</sup> In Canada, while commercial

<<https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3531011/>> accessed 04 December 2020.

<sup>20</sup> Pande (n 17).

<sup>21</sup> Stephen Wilkinson, ‘Exploitation in International Paid Surrogacy Arrangements’ (2016) 33 (2) *Journal of Applied Philosophy* <<https://onlinelibrary.wiley.com/doi/pdf/10.1111/jap.p.12138>> accessed 04 December 2020.

<sup>22</sup> Stephen Wilkinson, *Bodies for Sale: Ethics and Exploitation in the Human Body Trade* (Routledge, 2003).

<sup>23</sup> Sally Howard, ‘Taming the International Commercial Surrogacy Industry’ (2014) 349 *BMJ: British Medical Journal*

<<https://www.jstor.org/stable/10.2307/26517675>> accessed 04 December 2020.

<sup>24</sup> Minister of Government Services Canada, *Proceed with Care: Final Report of the Royal Commission on New Reproductive Technologies* (1993).

<sup>25</sup> Brenda M. Baker, ‘A Case for Altruistic Surrogacy’ (1996) 11 (2) *Hypatia* <<https://www.jstor.org/stable/3810263>> accessed 04 December 2020.

<sup>26</sup> Howard (n 23).

<sup>27</sup> Harjeet Marway, ‘Surrogacy Laws: Why a Global Approach is Needed to Stop Exploitation of Women’

<sup>28</sup> Ronli Sifris, ‘Commercial Surrogacy: What Role for Law in Australia’ (2015) 23 (2) *Journal of Law and*



surrogacy is limited by statute, altruistic surrogacy is largely unregulated.<sup>29</sup> Law and policy relating to surrogacy varies from state to state in the United States of America. Some states like California allow surrogacy with some form of compensation and also allows for pre-birth parentage orders that come into effect when the baby is born.<sup>30</sup> In other states such as New York, there is an express prohibition on all forms of surrogacy.<sup>31</sup> But largely, even in states where surrogacy is permitted, compensation based commercial surrogacy is prohibited.

Such domestic bans on commercial surrogacy make countries like in India and Thailand the international hubs of commercial surrogacy, thus subjecting the economically dependent surrogate mothers in these countries to massive exploitation. The United Nations Development Programme had in 2009 warned the international community that such varied laws would gradually lead to trafficking of women for commercial surrogacy.<sup>32</sup>

Switzerland, Italy and France on the other hand adopt a stark opposite position and

prohibit surrogacy in all forms to such an extent that children born through international commercial surrogacy are not even recognised as legal citizens in that country.<sup>33</sup> The absence of recognition of commercial surrogacy leads to creation of opportunity for indulging in illegal surrogacy, thus preventing surrogate mothers from benefiting from the maternity benefit provisions that are otherwise provided to prospective mothers in those countries.

It has thus becomes crucial to regulate surrogacy, with particular emphasis on commercial surrogacy in the international context. Such global recognition and uniformity of laws is essential in order to protect the surrogate mother and preventing them from being put in a vulnerable position as well as the health and well-being of the child.<sup>34</sup>

### **The Surrogacy (Regulation) Bill, 2020:**

After deliberation and alteration of the Surrogacy (Regulation) Bill proposed in 2019 and based on the recommendations of the Rajya Sabha, the cabinet brought forward

Medicine

<[https://www.researchgate.net/publication/296488716\\_Guest\\_editorial\\_COMMERCIAL\\_SURROGACY\\_WHAT\\_ROLE\\_FOR\\_LAW\\_IN\\_AUSTRALIA](https://www.researchgate.net/publication/296488716_Guest_editorial_COMMERCIAL_SURROGACY_WHAT_ROLE_FOR_LAW_IN_AUSTRALIA)> accessed 04 December 2020.

<sup>29</sup> Dave Snow & Rainer Knopff, 'Assisted Reproduction Policy in Federal States: What Canada Should Learn From Australia' (2012) 5 (12) University of Calgary The School of Public Policy <<https://www.policyschool.ca/wp-content/uploads/2016/03/dave-snow-art-final.pdf>> accessed 04 December 2020.

<sup>30</sup> Elizabeth S Scott, 'Surrogacy and the Politics of Commodification' (2009) 72 (3) Duke University School of Law <<https://www.jstor.org/stable/40647246>> accessed 04 December 2020.

<sup>31</sup> Alex Finkelstein, 'Surrogacy Law and Policy in the U.S.: A National Conversation Informed by Global Lawmaking' (2016) Columbia Law School Gender and Sexuality Clinic <[https://web.law.columbia.edu/sites/default/files/microsites/gender-sexuality/files/columbia\\_sexuality\\_and\\_gender\\_law\\_clinic\\_-\\_surrogacy\\_law\\_and\\_policy\\_report\\_-\\_june\\_2016.pdf](https://web.law.columbia.edu/sites/default/files/microsites/gender-sexuality/files/columbia_sexuality_and_gender_law_clinic_-_surrogacy_law_and_policy_report_-_june_2016.pdf)> accessed 04 December 2020.

<sup>32</sup> United Nations Development Programme, 'Human Development Report 2009- Overcoming Barriers: Human Mobility and Development' (2009).

<sup>33</sup> Howard (n 23).

<sup>34</sup> Karen Smith Rotabi, 'Regulating Commercial Global Surrogacy: The Best Interests of the Child' (2017) 2 Journal of Human Rights and Social Work <<https://rdcu.be/cbJ5j>> accessed 04 December 2020.



the Surrogacy (Regulation) Bill, 2020 in February 2020. This Bill is a social legislation that seeks to incorporate and tend to the rights of all involved parties, i.e. the surrogate mother, the intended parents and the child.<sup>35</sup> Certain key provisions of the Bill in the context of maternity benefit provisions are highlighted:

> Proposed Ban on Commercial Surrogacy:

The Surrogacy (Regulation) Bill, 2020 defines a express prohibition on the practice of commercial surrogacy in the country.<sup>36</sup> Such a ban is proposed to put a stop to the commercial surrogacy industry that has developed in the country since the early 2000s.<sup>37</sup>

While the law aims to prevent exploitation of surrogate mothers who resort to commercial surrogacy as a source of income, it also opens a floodgate of possibility for the emergence of illegal and off-the-books commercial surrogacy.<sup>38</sup> Such illegal surrogacy will in fact increase exploitation of surrogate mothers as they will be left with no legal recourse to protect them, thus destroying the intent behind the ban on commercial surrogacy. Such pregnant women will therefore also not be entitled to any form of maternity benefits under the Code on Social

Security, 2020 and the Surrogacy (Regulation) Bill, 2020.

> Surrogacy at 'Will':

Under the Surrogacy (Regulation) Bill, 2020 any woman who is 'willing' to be a surrogate mother can act as one.<sup>39</sup> Unlike the Surrogacy (Regulation) Bill, 2019 where only relatives were allowed to undertake the labour of being a surrogate mother,<sup>40</sup> the new provision is more inclusive and provides the opportunity for any woman to indulge in altruistic surrogacy and avail the benefits of the insurance as provided in the Surrogacy (Regulation) Bill, 2020.

> Insurance to the Surrogate Mother:

The Surrogacy (Regulation) Bill, 2020 includes a provision for insurance to be provided to the surrogate mother for a period of thirty-six months,<sup>41</sup> for any injury, loss or damage caused to the surrogate woman.<sup>42</sup> This is a commendable measure taken by the government to protect the surrogate women from any complications that may be arise during the course of the pregnancy and post-partum. It is for the first time that the legislature has appreciated the risk that the surrogate mother undertakes in giving birth to the child belonging to the intended parents.

<sup>35</sup> Ranjit Malhotra, 'Highlights and Brief Analysis of the Surrogacy (Regulation) Bill, 2020 and Suggested Potential Safeguards' (*International Bar Association*, 26 June 2020) <<https://www.ibanet.org/Article/NewDetail.aspx?ArticleUid=B5C65969-4901-49A9-82CF-8DC4C8BEB1E2>> accessed 04 December 2020.

<sup>36</sup> Surrogacy (Regulation) Bill 2020, Section 35.

<sup>37</sup> Sasha Mishra, 'Ban on Commercial Surrogacy' (2020) 55 (41) *Economic and Political Weekly* <<https://www.epw.in/journal/2020/41/letters/ban-commercial-surrogacy.html>> accessed 04 December 2020.

<sup>38</sup> Francesca Nardi, 'Two Sides to Every Coin: India's New Ban on Commercial Surrogacy' (*O'Neill Institute for National and Global Health Law*, 15 August 2019) <<https://oneill.law.georgetown.edu/two-sides-to-every-coin-indias-new-ban-on-commercial-surrogacy/>> accessed 04 December 2020.

<sup>39</sup> Surrogacy (Regulation) Bill 2020, Section 4(iii)(b).

<sup>40</sup> Surrogacy (Regulation) Bill 2019, Section 4(iii)(b).

<sup>41</sup> Surrogacy (Regulation) Bill 2020, Section 4(iii)(a).

<sup>42</sup> Surrogacy (Regulation) Bill 2020, Section 2(q).



While the Surrogacy (Regulation) Bill, 2020 takes a step in the right direction towards protection of rights of surrogate mothers, it does not suffice. The provision of insurance under the Bill is a positive change, but it does not compensate for the absence of maternity benefits for the surrogate woman under the Code on Social Security, 2020. Insurance is only applicable to injuries and damages, and cannot replace the maternity benefits such as leave from work and salary for the period of absence during pregnancy and following delivery of the newborn child.

Moreover, even the insurance thus provided is not mandatory. Section 4 of the Bill states that insurance 'may' be provided thus implying that there is mandate for provision of insurance to the surrogate mother.<sup>43</sup> Such ambiguity with respect to insurance leaves the matter at the dispense of the negotiation between the parties.

The prohibition on surrogacy clearly indicates the intention of the government to address the social and physical harms connected with commercial surrogacy.<sup>44</sup> However, a more effective measure would be to regulate commercial surrogacy in the country through legal mechanism instead of imposing a complete ban on it. This would ensure that the market for commercial surrogacy remains within the lens of the government, thus helping in preventing exploitation of surrogate mothers and promoting the well-being of the child.

<sup>43</sup> Surrogacy (Regulation) Bill 2020, Section 4(iii)(a).

<sup>44</sup> Olinda Timms, 'Ending Commercial Surrogacy in India: Significance of the Surrogacy (Regulation) Bill 2016' (2018) 3 (2) Indian Journal of Medical Ethics <<http://ijme.in/articles/ending-commercial-surrogacy-in-india-significance-of-the-surrogacy-regulation-bill-2016/?galley=html>> accessed 04 December 2020.

<sup>45</sup> Spar (n 18).

### Conclusion:

The question of prohibition of commercial surrogacy is of a political nature. "It involves an economic relationship that sits within a deeply political calculus".<sup>45</sup> While on one hand there is danger of exploitation of surrogate women due to the absence of a legal framework, over-regulation can lead also lead to a similar result by removing the safeguards available for both commissioning mothers as well as surrogate mothers.<sup>46</sup>

In the Indian context for example, the Code on Social Security, 2020 does not provide for maternity benefits to surrogate mothers. Even if the Surrogacy (Regulation) Bill, 2020 comes into effect after being passed by both houses of the parliament, it does not answer this question of availability of maternity benefits for surrogate mothers. Moreover, prohibition of commercial surrogacy leaves a lot of women outside the ambit of the Code on Social Security, 2020 and the Surrogacy (Regulation) Bill, 2020. These women are then exploited as per the whims and fancies of the fertility clinics and middlemen involved in the transaction.

It has been a step by step process for the Indian legislature to incorporate surrogacy into the legal jurisprudence. The first step in this process was the inclusion of 'commissioning mothers' in the Maternity Benefit Act, 1961 through the Maternity

<sup>46</sup> Louise Anna Helena Ramskold, 'Commercial surrogacy: How Provisions of Monetary Remuneration and Powers of International Law can Prevent Exploitation of Gestational Surrogates' (2013) 39 (6) Journal of Medical Ethics <<https://www.jstor.org/stable/43282765>> accessed 04 December 2020.

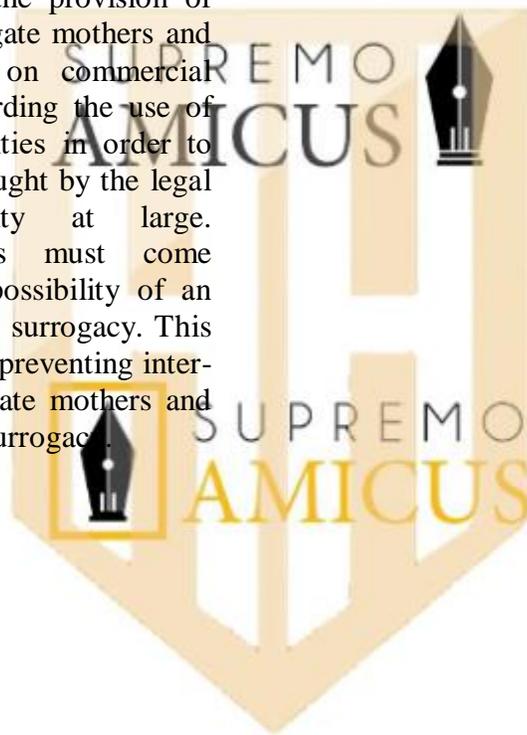


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Benefit (Amendment) Act, 2017 and provision of maternity benefits to commissioning mothers as well.<sup>47</sup> The next has been the various attempts of legislature of bringing about a legislation to regulate surrogacy, including the recent efforts through the Surrogacy (Regulation) Bill, 2020. This bill now also recognises the rights of ‘surrogate mothers’ into the legal framework. It confers on them the right to insurance and other benefits and protections.<sup>48</sup>

The next step should be the provision of maternity benefits to surrogate mothers and the removal of the ban on commercial surrogacy. The taboo regarding the use of one’s reproductive capabilities in order to earn a living must be rethought by the legal and political community at large. Additionally, nation-states must come together and discuss the possibility of an international law relating to surrogacy. This will help women by further preventing interstate exploitation of surrogate mothers and trans-national commercial surrogacy.

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<sup>47</sup> Maternity Benefit Act 1961, Section 5(4).

<sup>48</sup> Surrogacy (Regulation) Bill 2020, Section 4.