CHAPTER - III
PRESENT LEGAL REGIME
FOR SURROGACY AT
NATIONAL AND
INTERNATIONAL LEVEL
Surrogacy though it seems to be a simple process in documentation but of-course it is not; it is very composite and a very elaborate process. The surrogacy that builds a relationship between the two parties can be stressful, with full exertion, overwhelming and obviously intense. The two characteristics for the involved persons are must i. e. patience and perseverance, for this lengthy process.

Surrogacy the process is absolutely not a new and advanced reproductive practice. It is commonly accepted by the interested public. Now-a-days it is becoming a growing development of prevalent happenings. The current survey about the surrogacy has declared a speedy a rise in its practice. Mostly the surrogacy arrangements are through crossing the national borders.

1. Specific statistical report finding thoroughly through the surrogacy sector are definitely tough to evaluate. This is one among the number of key reasons.

2. At first both traditional surrogacy and gestational surrogacy does not essentially necessitate the medical interference and so it can be initially arranged with proper and accurate informal basis. This is done between the two concerned parties. In the second issue, the gestational surrogacy needs a very accurate and a proper medical intervention and officially reported and processed often through the only IVF productivity procedure.

3. The Third is that in many so-called developed or the underdeveloped nations on simple terms there is unavailability of the legal provision for regulation or licensing regime. This is either for the fertility treatment or for the surrogacy treatment with the inclusion of commercial surrogacy. Otherwise in many countries it is not prohibited on the legal terms. With the simple meaning of this procedure is that there are no followed formalities for any reporting mechanisms that can lead to either an ad hoc collection of statistics matters by any individual organizations. This is possible only if they are available easily through all the possible sources. In the end, the countries where surrogacy has its legal prohibition, sometimes although the involved can surely face criminal prosecution, thus
then this becoming the great obstruction with full of difficulties of collecting relevant and accurate data.

There are three scenarios by any country at the first step for surrogacy, the country either prohibits surrogacy or makes no express or has a special provision. After the child is born through the surrogacy proceedings, at the very initial list of general rules is relating to attributing the legal parenthood i.e. motherhood and fatherhood. The second, can be called as an arguably more complex and lengthy scenario is a formal involvement and not so casual recognition to the following a cross-border surrogacy. This process includes the travelling of the intended parents from their hometown to another country in search of having baby by surrogacy arrangements where this setting are more readily and easily proceeded and is the final resort of the productive services. Facilitated or available at a very low pricing and the expenses held through the whole process of surrogacy treatment is must. Considering this issues for fertility treatment then IVF treatment for a gestational surrogacy and traditional surrogacy even stands as the cheaper one because the compensation paid to the surrogate mother is at a very lower level in comparison with the other foreign countries. Going through all this structure of the process of surrogacy, we find that, it necessitates both the parties to go through the typical counsel about the ‘yes’ and ‘no’ from both angles and then agree for signing the contract between them.

This effort does clearly carry an importance for studying and of course shall be used throughout their study period about various laws for surrogacy in India. It is a private international center that has destined a predictable maneuver towards the promise or conducting the cross-border surrogacy on the legal quarrels and then attentiveness on administering the legal and contractual consequences of cross-border surrogacy arrangements. This will not be right in commenting that proposed models of legal and judicial regulation for surrogacy at both international and national level do not look for to give confidence satisfactory at international standards, be it any type of surrogacy. Rather, the available private international law and the national law both does not offer a continued rendezvous with a number of important policy deliberations that the legal regulation of surrogacy must necessarily be informed through proper channel.
A significant purpose of the law is to act in response to specified events and work in the betterment of the willing people. But this have happened and managed through disputes. This is also apparent that the role played by the law at the social level is much extensive and significant. This must be utilized as a anticipatory, normative or authoritarian tool for the needed justice. When surrogacy, one social controversy oriented issue, are addressed by law, it is vital to imitate on the eventual and proper rationale of any legal approach and the broad consequences of surrogacy.

It is beneficial to be well communicated with your rights and responsibility before taking the decision of being a surrogate for an intended couple. Hence, looking for lawful guidance is must and very needy. The lawyer will help the surrogate in explaining her right that it only belongs to signing any document through all the rules and regulations. It is must for the surrogate mother to be acknowledged with all her rights, duties and responsibilities and also the same terms to be followed by the infertile couple. As the contract gets signed by and is agreed between both the parties, a lot of the hidden privacy is followed through all concern with the agreement. In this case it is must that the spouse to be included in full agreement otherwise all the contested legal and judicial proceeding for it, may be considered as not a legal documentation.

Past two decades, progress and research in the area of medical fertility treatment have progressed with speedy increase. This has made available different medical treatment options to infertile couples. One of these is the surrogate mother. Here the female partner of a couple is not able to carry or conceive a child because may be of her physical problems. An increasing number of couples without child from the western nations travel to places like India, Eastern Europe and South America with the approach of hiring a surrogate mother for giving birth to the child they are intended with.

These surrogate arrangements are totally unprincipled and unregulated, so now this led to the concern that surrogate mothers do not have ample legal protection for their surrogacy and the surrogate child. There is also jeopardy of a unnecessary development of “black market” and child selling market in surrogacy that might exploit women's emotional or financial requirements.

Map No. 1
How is regulation of surrogacy in India?

India system of surrogacy is much easier and with a very low pricing compared to other nations. There large counts of intended parents who do commissioning for surrogacy normally choose India as their final destination. The reason for this is the surrogacy in India is less cost effective when compared to foreign countries with the more flexibility in the legalities concern with it, right from documentation to the judicial. The Supreme Court of India, in 2002, declared about the legality towards commercial surrogacy and had been permitted. This is also one more reason for intended parents’ tourism to India because this consent had grown international confidence level.

Intended couple/couples generally visit India because of the more opportunity available for the treatment of surrogacy. It even ends the search of surrogate who shall give birth to their child. They come with huge imaginings and expectations for enjoying the parenthood and its happiness. The general process followed by the intended parents from the other nation is through internet. After finding the exact clinic of surrogacy in India, they contact them and get in touch with them directly rather than finding any agency. Sometimes it does happen in the findings that they meet agents or the hospitals with no complete information given by them, here they lose their time and money both. Indian surrogacy law centre is India’s finest authorized mentor with proficient and expertise in national and international surrogacy laws. India has been pioneers and very basic in the laws relating to modern human reproductive sciences and techniques. This has made India to help hundreds of couple without any child almost from all over the world to find the simplest possible walk through of the dark and more emotionality towards surrogacy, egg donation and embryo donation referring the surrogacy laws. Excellent medical facilities improved medical techniques convenience in approach, and availability of more information surfing through the Internet.

As the time had passed, India has been pioneers and very basic in the laws relating to modern human reproductive sciences and techniques. This has made India to help hundreds of couple without any child almost from all over the world India has designated itself as an initial, feasible and easily available market for International Surrogacy Arrangements. The procedural fact of surrogacy is on the current factors is no more closed and complicated as it was in olden days. Now we find lots of information shared by the ART through internet.
Becoming so desirous in reproducing the child is a very common and a basic need of human race and religion. We find many sad reasons where the parent /parents are denied with the pleasure of parenthood. These reasons are varied like biological, physical, etc. The innovative improvements in the technologies related to reproductive system had crossed all the obstacles for surrogacy as they were in the earlier days. Going through the years together, now we find that the surrogacy has become a very preferable and one of the easiest method or mode you can say to expose the new baby born to this surprising world. India, with its special consideration and the interest has seen a drastic developing change in the recourse to surrogacy. This, in near future, could be called as an ideal technique for parenthood. Now the surrogacy treatment has evolved to a stage that is safe and secured in bringing the child to show this beautiful world. We find the huge rise in the recourse for surrogacy. This surrogacy is now of course one of the ideal and most developed method run especially for any couple without child so that they can enjoy the parenthood.

**Indian Surrogacy laws**

Indian Surrogacy Law Centre in comparison with the other available in different regions can be called as the pioneer. It expertises itself in Surrogacy Law in India compared with international surrogacy laws. This is the foremost authorized consultant and an advisor in the country. Going through the exclusive practice of the surrogacy and the Laws made for it in India and foreign countries even, we have find that there is enormous and deep knowledge be relevant to International and national Surrogacy Laws and Surrogacy Laws in India. Mentioning about the tragic experience of over of 100 years, the team has gone through; also we are available with fully equipped and developed machineries for the successful surrogacy.

Surrogacy treatment and the laws it is attached with, in India, have to undergo a remarkable and instant change though being a bit late. The house of parliament or the Union of India is working on the heavy and disciplined steps to designate India as a legally risk-free destination for surrogacy when it is compared with the international surrogacy arrangements. The Government of India is getting a bit faster in implementing legal and judicial mechanisms for the assurance of the baby child born through surrogacy arrangement. It should be on the safer and secured place when planed to go back home. The legal issues remain absent from our mind.
that making surrogacy in India is a very simple, low priced and a very happy journey in holding the hands of your biological child. The intended parent/parents are well aware of the service provide for surrogacy in India. The clinics in India look over the legalities concern with three phases of surrogacy i.e. pre-surrogacy, during surrogacy and post surrogacy. Pre-surrogacy phase assess the risks and problems related with the surrogacy and also the needs. This phase also includes counselling provision to the intended Parents and the surrogates. In addition to it, this also has processes like going through the terminologies defined in the reviewed surrogacy agreements or contracts. Post delivery phase covers laws stated by the different nations and their own specifications towards the treatment of surrogacy, finally, its implementation. It does have provision in advising us on how to get an order from the Indian Courts and judiciary for helping you to take your child with you to your homeland.

**Government Initiatives**

While addressing such an important and a social and then implementing the rules prepared for its better administration, the Government of India has designed well set and very important process. This starts with the introduction and then its right execution of National Guidelines suggested for Accreditation, Supervision, and Regulation of Assisted Reproductive Technology (ART) Clinics. The guidelines referred here have been issued by the Indian Council of Medical Research (ICMR) under the Ministry of Health and Family Welfare. This has been passed by Government of India especially for the good will of the people.

Until the day today, there is no any availability of any law under which the surrogacy shall be supervised. Assistant Reproductive Technique (ART) Regulation Bill, 2010 have put in the few procedural activities for the surrogacy treatment that are mentioned and discussed below:

**Following are the given rights and rules to be followed relation with the treatment of surrogacy**
1. The intended couple and an individual lady ready for surrogacy are the two parties that take help from Assisted Reproductive Technology.

2. Expenses throughout the process that includes are firstly in relation with the insurance policy available for the of the lady surrogate throughout her period of conceiving the baby child and then delivering it. Secondly the expenses required after delivery as suggested by medicinal advices relating with the surrogate’s treatment and general expenses; in addition the expenses until the baby child is ready to be delivered as per medical advice.

3. A lady who is surrogate mother is surely be surrendering and living all her parental rights over the baby born through surrogacy.

4. The age limit for conceiving and becoming a surrogate should be between minimum of 21 years old and maximum of 35 years old. Else the woman is not eligible. There is also a limit for the lady being under surrogacy that she will not go only for five successful live births, her own children are an inclusion to it.

5. Any lady looking for to act as a surrogate mother must undergo the required medical test checking whether she is suffering from any diseases that can sexually be transmitted to others or any other diseases that might hurt the safe health of the child. This must also be declared through legal documentation that she has not received a blood transfusion or a blood product in the last six months.

6. An ART bank provides the service to an individual or couples for surrogacy. ART, while publishing should be aware that there is no any bifurcation done in relation with caste, tribes, ethnic identity or descent is it any party involved in such surrogacy.

7. Any of the Assisted Reproductive Technology clinics shall not advertise commercially for attracting any client.

8. With respect to all the medical treatments or medical procedures that are necessarily related to the concerned surrogacy child, the surrogate mother needs to make registration of her own name. She should perfectly clarify about her readiness for being a surrogate mother. It is must for her to provide the name or names and addresses of the person or persons she is in relation with her for the surrogacy project. Finally the documentation should be along with a copy of the certificate needed as per the clause.
9. If in case, the first transfer of the embryo fails in this process of surrogacy, then the surrogate only with her own wish in terms of the mutually agreed financial settings can accept the other transfer or she can deny. These transfers of embryo are done at most for the two successful chances. Any lady for being a surrogate mother can not does have a limitation of only three times of transferring an embryo for the same intended couple.

10. The birth certificate issued to the baby born through surrogacy must consist of all the information of the name or names of an individual or individuals who are going to commission the surrogacy treatment as intended parents.

11. The couple/couples that are showing their interest into the services of a surrogate mother should lawfully be bonded in acceptance of the custody of the born be it a child or children. This is again followed through under any of the physical or mental abnormality baby child or children born with. Refusing this shall take the intended parent/parents to constitute an offence under this Act.

12. Any single information irrespective of the intensity it has must have the safety and security. This information can be disclosed only when the central database of the Department of Health Research needs it and that too by an order of a court of given competent jurisdiction.

13. A lady being a surrogate mother shall not act as a biological oocyte donor.

14. Assisted Reproductive Technology clinic, any among the list, shall not expose any information about surrogate mothers.

15. All ART clinics must be under the contravention of sub-section 14.

16. If the surrogate is a married lady then there is much importance given to the permission from her husband before the surrogacy treatment starts.

17. A surrogate mother shall be awarded with legal certificate stating about the demand of the intended parent for her services as a surrogate mother.

18. Any person, known or unknown or any relative of the intended couple may act as a surrogate mother. Here the relative involved should be from the similar age that the lady desiring to become.

19. The couple from overseas or an NRI individual or couples, is/are interested to become intended parent /parents through surrogacy treatment that too in India. Needs to have a native guardian taking all legal responsibility about the care needed to be taken of a
surrogate mother while she is pregnant and also after her delivery. This is mentioned in clause no 34.2. The period of responsibility by the guardian is up to the baby child or children are delivered for the intended parent/parents from other nation. In future, the party interested in surrogacy treatment, it is compulsory for to guarantee and ascertain in connection with Assisted Reproductive Technology clinic. This should be done through legal documentation in support of the certificate from either the embassy or any famous person of the respective nation. The letter should have clear wordings mentioning unambiguously about legal permission from the country for surrogacy treatment. The second phase should clarify about the baby child born through the arrangement of surrogacy in India. The baby born shall be permitted for an entry into the homeland of the intended parents who is declared as a biological child of the commissioning couple or individual. If the commissioned party or their legal representative for the Surrogate Motherhood, Ethical or Commercial Centre for Social Research (CSR) fails to claim the custody child within one months of the birth of the child. Through the whole period from the conceiving to delivery and after delivery until the well being of the surrogate and the baby, the local guardian of children shall be totally responsible with these entire related factors. In case of an adoption of the child or the legal guardian of the surrogate child is wishing to raise the child, then in such case the child will be provided with the Indian citizenship.

20. Service of surrogacy shall not be given for more than 1 to the same intended parent.

21. A couple shall not have continuous and similar transfer of embryos into the womb of the surrogate.

22. For internal surrogacy treatment in India, only an Indian citizen has the right to act as a surrogate. There is also a limit to all the ART banks and ART clinics that they will not send an Indian to the foreign countries for arrangement of surrogacy.

**Determination of status of the child:**

1. A married couple having a child from Assisted Reproductive Technology or through the surrogacy arrangement then the baby is presumed as the legal child of the couple.
2. An unmarried couple living together regularly has a child from Assisted Reproductive Technology.

3. The case with single woman, the legitimacy of the born child shall be given to her. The case with single man, the legitimacy of the child is given to that man.

4. The case with married or unmarried couple who are living separately by divorce or by any other reason, or through any other condition, after seeking permission from both the parties to the Assisted Reproductive Technology treatment or the surrogacy treatment, it is must to complete the procedure before the birth of a child; the child will be the legitimate child of the couple either or.

5. The lady delivers the baby through artificially insemination. This is with the long time or short time stored sperm from her dead husband, the legitimacy of the child shall be given to the couple.

6. The case, the donated ovum found in the ooplasm from the other donor ovum, both the donors must undergo a medical test for any disease that can be transmitted sexually or otherwise with respect to the prescribed and explained writings. Because this sufferings of surrogate may be dangerous for the health of the child born and also for both the donors. Ooplasm and the ovum shall surrender all parental privileges in relation to the born baby in such condition.

7. The birth certificate awarded to the baby born either through surrogacy treatment or by Assisted Reproductive Technology must be containing the name or names of the parent or parents, who gone through this process.

8. Person or a couple from the other nation in search of the sperm donor or the egg donor and surrogacy treatment in India finally gets a child through surrogacy shall not be given an Indian citizenship.

Right of surrogate child to get information about donors or surrogates:
1. The baby child born through surrogacy after having reached the age of 18 years can or should ask for any of the information he/she interested in. This seeking of information must be excluding his/her identification.

2. The legal appointed guardian who had taken responsibility during the surrogacy period of both, the surrogate and the surrogacy child can apply for any relative information, relating to his/her birth. This depends on his/her requirement to some limited necessities.

3. The information needed about the genetic parent or parents or surrogate mother can be given to the child only at such situation where the life is totally under the threat that too after proper medical checks up.

**Surrogacy in India:**

**Indian Council of Medical Research (ICMR) Guidelines**

As in the current condition also the commercial surrogacy arrangement is been fully unregulated because of unavailability of the official and compulsory legislation controlling all types of surrogacy processes and methods. The Indian Council of Medical Research (ICMR) that in the absence of government regulation; has published newly the ‘national guidelines’ to regulate surrogacy. In small collection of words it says that, these guidelines helps in regulating Assisted Reproductive Technology treatments.

**They include in the following manner**

The contract or an agreement made for the arrangement of surrogacy will continue through governing it within the parties. This contract will focus on terms like permission totally free of cost from the lady getting surrogated and ready for conceiving the baby child in the womb from. This permission should mainly be taken from her husband and other family members also should reply ‘yes’ to her decision. Also the medical procedures of surrogacy like inclusion of artificial insemination and financial compensation for surrogacy from all the sources of the expenses bear for carrying child to the full term and finally the non-emotional will to be shown to the commissioning parents while in the activity of handling over.
The arrangement and the agreement made in response to the surrogacy at initiative phase of the documentation must endow with the financial and monetary funds for the baby child born through surrogacy in the incidents like death, divorce, etc.

The contract or an agreement to be signed for the surrogacy must have the inclusion of taking care of life and all kinds of insurance and security specially meant for surrogate mother and surrogate child.

Intended parent is a single person in some cases then he or she must be a donor for birth of the child and must be able in having a surrogate child. If not, then adoption stands as another path in having a child.

So called the legislation, itself should distinguish the legitimacy towards the child of the biological parents or single parent.

Certification awarded to the surrogate child must mention only name/names of the parents commissioning. It should not disclose any information about surrogate mother. ‘Right to privacy’, for donor of the child or about the surrogate mother must be kept safe and secured especially from gender-selective surrogacy prohibition. Medical Termination of Pregnancy Act 1971 shall be referring for the cases of abortions kept under observation.

Until the day today, Indian Council of Medical Research and its guidelines do have an existence for accreditation of surrogacy arrangement that supervises and regulates ART Clinics in India. The practicing code for their operations is as per the guidelines are as mentioned below:

The Assisted Reproductive Technology Clinics, in any dealings during the surrogacy treatment should not involve themselves in commercial arrangement in the donor programmes or the type called as gestational surrogacy.

1. Without the permission from the spouse’s or the, not even an initial step of an ART procedure to be done. Gender selection of the baby taking birth, at any stage, either before fertilization or after fertilization or during abortion of the embryos should not be permitted for any particular sex determination and selection. It can be only when there are findings like circumventing the risk factor of transmission of a genetic abnormality to the baby born through surrogacy.
2. While surrogacy treatment, the use of sperm donated by either by a relative or by a known friend or person from both either from the wife’s side or from the husband’s side should not be given any permission. Because then ART will be the responsible body that can make available the sperm from suitable banks.

3. The committees monitoring the surrogacy arrangements have specifically suggested accepting the needed semen only from the registered Semen Bank. It had also mentioned that it should not be taken from an individual. If an ART clinic itself had set up the bank then it should operate with a different identity.

4. Arranging surrogacy by the concept of the ART treatment with the help from the recent and the developed medical science must be considered only for persons or a patient that are physically or medically un-affordable and is not possible for them to carry a baby for a the natural period of nine months and they can not even bear the obstacle that are to be crossed while in the process.

5. The genetically putting, the concern biological intended parents should agree in accepting the child born through surrogacy.

6. There must be prohibition and legal limitations to the selling human embryos or any part of the human body.

7. There should be a total ban on human cloning for delivering replicas because it is very easily possible.

8. There should be a built up inspiration for the research on subject like cloning of stem cell or on embryos that are not more than 15 days old.

9. The baby born through ART treatment should be accepted as the legal one with all the legitimacy with the intended couple.

10. We see that there is no any legal control over an unmarried or single woman under going the AID (Artificial insemination with donor). It is now globally accepted about AID, should be applied on the married woman. This should also have a written permission from her husband.

Ever since the surrogacy came into existence, many of NRIs or the people from other nations mostly tour India. So now it has become very important for the Union of India to provide the legal and judicial mandatory documentation for the safety and security to the involved
parties. Many of the NRIs or the other nation’s residents are visiting India for adopting the surrogacy treatment.

The drafted bill in the surrogacy concern reads as Assisted Reproductive Technologies (Regulation) Bill, 2010. As the process is, it is essential to have a thorough debate on the subject of the Bill to be passed presented in the House of Parliament. January 2008, when was this issue of Surrogacy had encountered India. As an example, it is the German couple who had two children born through the process of surrogacy with an Indian surrogate mother. Both these children were not provided with the citizenship of neither India nor Germany. At the end, the Supreme Court of India had given them legal exit permission after two years in May 2010. Second example with the same morale is of a child born to a gay Israeli couple by surrogacy treatment in India. They had already passed through all the legalities needed for getting the Israeli passport. But only after DNA test or the paternal content test mentioned that the baby child was of the couple’s. The question is what happened later? Was the child allowed in India or out of India?

While discussing on the social issues, the surrogacy is one among them. Ethically speaking the question is why any lady with her interest towards getting surrogated be compensated for it? And the other question is how does the right given to surrogate mother and surrogate child be given its protection?

The salient features of the draft bill given are as follows-

1. India supports the process of renting the womb with all the legalities. But as such these legalities with the proceedings are not supported with the constitutional law for regulating surrogacy treatment. House of Parliament, after having the considerable discussion, passes the Assisted Reproductive Technology (ART) Bill then the process of ‘womb on rent’ shall definitely be hassle free and lack of legal importance.
2. The ready drafted Bill in response to the surrogacy provides gays and singles the legal right for having babies through surrogacy treatment. ‘Couple’, the term means that the two different persons of two different genders are living with each other with enough sexual relationship. The two gay men can declare about them being couple because they
fully satisfy all these requirements. This was the verdict on homosexuality, Delhi High Court had stated. The surrogate mother has an age limit between 21 years to 35 years, only then she can be a surrogate mother. She will be allowed only for five or less than five live births. These five births are included with her children. Her sixth donation of the oocyte can be taken as a crime throughout her life.

3. When a man or a woman claiming for surrogacy, the baby born through it will be his or her legitimate child. An unmarried couple accepts a born child through surrogacy and that too with the proper permission from the both, will be the legitimate child of both. This has been prescribed. While in the period of gestation or the pregnancy, the intended couple will look through total surrogate’s expenses and shall provide her with all monetary funds mentioned or required. It is always better that the intended couple must enter into an agreement with the surrogate.

4. Submission of two certificates to the government by the foreign couple is a necessary part of the process. Off this, one clears us about their native nation’s surrogacy policy and the second guarantees us about their country’s citizenship given to the child.

5. Local guardian is to be nominated by the intended foreign couples who will take care of the surrogate during whole gestation period.

6. Maintain of the data base about the forthcoming surrogates and also the storing of semen and eggs, additionally with the details of the donor must be maintained by ART banks mandatorily accredited by the government.

7. The accreditation passed by the State boards will only be given to the ART banks that are privately run and run by the government. These state boards will carry authority only up to the registration of the banks. Then they obviously shall maintain a list of all In-vitro Fertilization treatment and (IVF) centers and supervise their professional functioning.

8. The Law Commission of India (2009) described had stated that an ART when thought as an industry is worth Rs 25,000-crore turnover to the nation. This number refers only about the treatment of altruistic surrogacy and it no more relates us to the treatment of commercial surrogacy. The Drafted Bill presented legalizes the commercial surrogacy as well. This makes drafted bill to raise many issues which will not only legalize surrogacy but also have a wordings on the commercial surrogacy with needed compensation economically. The other defining terms would tell India as the baby farming nation.
Children born through this method of surrogacy will be subjected to negligence and abuses because of emotional bondage will not be carried by the commissioning parents. This is suggesting us that the commercial surrogacy should be pushed out irrespective of the intended commissioning parent/parents from foreign parents or from the domestic couples. Couple or a person who are seeking for the treatments altruistic surrogacy or gestational surrogacy should be permitted for one chance in life. The age limits 21 years to 35 years. Considering the lesbian or gay couple, for them the surrogacy should not be allowed because the surrogacy treatment is known as the unnatural source or method of possessing a child. The relation within the gays or lesbians is incomplete and they can form a family. Family when simply defined explains that it is being together with father, mother, brother or sister.

Indian lady surrogating the child is never a legal mother to the child born. The ICMR Guidelines 2005 has a statement about having no any hereditary connection of the surrogate mother with the child. At the initial phase itself, she is legally as well as psychologically counseled about all types of bindings to over the legal rules and regulations with the child born from her womb. Gestational surrogacy and the traditional surrogacy treatments specifically apply on the words over the Surrogate’s rights and the responsibility towards the intended parents.

Indian Council of Medical Research (ICMR) with its guidelines about the surrogacy writes clearly that the surrogate mother should never be biologically and legally connected to the child (Guideline 1.2.33). The Indian Law with its profile recognizes surrogate mother as the legal and legislative mother. ICMR guidelines 3.10.1 and 3.16.1 clarifies clearly that the intended or commissioning parents are the only legal parents of the child. Guideline 3.5.4, reads that the surrogate mother shall not be the legal mother and birth certificate must put up the name of the genetic parents. Guidelines 3.5.5 read about handling the child with all the parental rights over the child. For India, there is no time left for endorsing its legislation with respect to the Assisted Reproductive Technology. The proposed act also has the same favorable requirements for surrogacy arrangements.
There is no need to knock the doors of court whether it is for pre-birth order or post-birth order. If anybody wants to go to the court in search of justice for their need then they obtain the same by applying to Indian Courts under the Code of Civil Procedure 1908.

However such illustrations have not been observed in the Indian scenario but still if in case the condition faces this situation then the proper savior for them is only the contract they have signed between each other. The contract or an agreement must have already mentioned in the statement about the child/children born through surrogacy will be the legal child/children of the intended parents. In addition the surrogate will not have any legal/illegal rights over the child/children. ICMR Guidelines also support the intended parents only as the legal parents, or the biological parents of the surrogate child.

The customary ICMR guidelines have some statements to be followed by the interested persons in surrogacy. A child had completed 18 years of age can demand for the information about his/her surrogate mother.

Through The Indian Law, it is compulsory that the intended parents should possess the liability of the child born. This had begun with the view that why shouldn’t the intended parents agree to take the child for whom they had to face so many obstacles. Sometimes the responsibility of child is not taken by the intended parents then this can be challenged in the court. The surrogacy contract signed by them stands as the morale basis for the challenge. ICMR Guidelines which at present are the governing guidelines for assisted reproductive technologies had made no any specific provision for the surrogacy. This however the new proposed Assisted Reproductive Technology Act 2008 under Sec 34(11), under which it is mandatory for the intended parents to accept the child irrespective of any irregularities.

ICMR guidelines with its accordance; surrogacy and assisted conception should be considered only for those candidates for whom it is physically or medically not possible to conceive a baby to a natural term of 9 months. Mostly the concentration should be on giving legal, emotional, medical and psychological counseling to both the parties. Guardian and Wards Act, under this act the intended parents can only apply for adoption or surrogacy. The provisions made for the foreigners and NRIs primarily are subject to the Guardian and Wards Act of 1890.
Under this act, the adoptive parent is only the guardian of the surrogate child until he/she reaches 18 years of age (age of understanding).

Kanupriya alias Durga, born in Kolkata on 3rd Oct. 1978, she is the world’s second and India’s first IVF (In Vitro Fertilization) baby. The successful birth of Kanupriya made the field of Assisted Reproductive Technology (ART) to gain confidence and grow with the great speed. But when we compare this industry with the legal aspects then it is still in the futuristic promising stage. Today, it is only the ART and the ICMR guidelines that stand as the guiding force for both the parties. We still need to have patience about the codified law, its adoption and then implementation. With the heavy growth in the number of intended parents opting for surrogacy, India has become the more faithful destination for the treatment of surrogacy.

The trend reflecting towards the community of gays or lesbians marriages or their active unions and the recognition of the basic human rights demands for having the family and children. This is now a new turn to the surrogacy manifold.

**Indian law offices**

Considering India as the market for fertility then we find it as growing at very fast speed and booming in all respect. It is now a most likely centre of a fertility market although partially it is surreptitious. The survey talks about having more than 200,000 clinics across the country that offers services for artificial insemination, IVF and surrogacy treatment. These clinics are named as Assisted Reproductive Technology (ART). Now the only need is the entire process must progress through regulation of legislation prescribed by the given data of analysis given for it.

1. As the day may be, we find no absolute law specifying the process of surrogacy in India. Occasionally and as a substitute the activity called ‘renting a womb’ is followed through. It is done for the commercial or traditional or gestational surrogacy considered being legitimate.

2. Indian Council of Medical Research (ICMR), 2005 had issued guidelines for accreditation that has done only in the absence of the any law or legislative enactment concern with surrogacy. The rest of the responsibilities like support system for supervision and regulation of special ART clinics in India had been still to be enacted on
the proper path. But the requirement for legislation, India became imperative with the guidelines set by ICMR.

The very easy availability of the surrogacy treatment and then renting of wombs at comparatively very cheaper rates in India compared to the other nations had been the features attracting the foreigners as well as NRIs for surrogacy in India.

1. Practically speaking, most of the countries have no permission for surrogacy by law. The intended parent needs to cross the obstacles or there is a legal battle to be fought with government for legitimacy and legal importance and citizenship rights of the surrogate children.

2. Nikolas and Leonard, the two babies had born to an Indian surrogate mother with the intended parents from German in January 2008. But after their birth both had no citizenship either from India or Germany. Then the Supreme Court of India stood for their safety. They allowed them after two years in May 2010 to live India and go to Germany.

**Bill for Legalizing Surrogacy in India in the year 2010**

The committee formed with the experts has drafted a new Bill known as Assisted Reproductive Technology (Regulation) Bill, 2010. This is meant for legalizing surrogacy in India. This has been done by Indian government after waiting the approval of the two bills remaining.

The proposed legislation earlier floated in the year 2008. This had focused on legalizing the commercial surrogacy in India as soon as possible. The law under the proposal suggests the intended foreign couples especially the NRIs approaching India for the surrogacy that they need to submit two certificates – first stating that their country recognizes surrogacy as legal and second stating about surrogate child after his/her birth would get their country’s citizenship. This is with the reason that the obstacle that needs to face while processing becomes easy to cross.
The Indian Law Commission stated in its report that there is necessity of special legislation to regulate Assisted Reproductive Technology clinics. These ART clinics offer for the surrogacy treatment and also the rights and obligations of parties to a surrogacy.

Many experts with their legality and importance are having the opinion about the drafted Bill that, the Bill is really working with the right direction and surely it will help in regulating and organizing the functioning of the IVF surrogacy centers.

**Required documents by foreign couple for taking surrogated child outside India**

In some cases, the nation does not accept the surrogated child from the intended or biological parents or it strictly it does not believe in the concept of surrogacy. India plays very flexible role into this. The baby child through surrogacy with proper documentation on the applicable and needed papers, the child will surely been given the certificate of Indian citizenship. In addition he /she will be given an Indian Passport with the support and permission from court working on it. The country that recognizes the surrogated baby child from the intended parents, here they get the proper support from their concern law with treatment of surrogacy treatment. The authority relating to issuing the identity passport easily permits the child for travelling outside India.

The important documents required:

1. The agreement or the contract signed by the two parties along with the prescribed mode of affidavit.
2. Birth Certificate of the surrogate child
4. Original Passport and original marriage certificate.
5. Surrogacy contract or agreement made between parties.
6. Passport size photographs of the child with eyes open.
7. Different documents required depending on the different facts and the circumstances taken place as per the case.
**Surrogacy bill in India**

‘Reproductive tourism’ the term suggests India as the most booming and a very famous centre for it for many years together. An example suggests us to think over because it was into very complications and lengthy. The case is of a Manji, a Japanese baby, was born to an Indian surrogate mother.

For getting the relief from the process the law is still not supporting, managing and adjusting to catch up with the growing surrogacy industry. Now the situation is walking over the new track and it’s absolutely on changing mode. India is the only country that has legalized the commercial surrogacy. So-called ‘womb on rent’ law, if this passes in the parliamentary through the legal session and the debate needed shall definitely clarify about it being one of the friendliest and urgent laws on surrogacy in the world.

Connecting India and the Surrogacy industry is now most booming, famous and much publicized. The drafted Bill of 35 pages on surrogacy is on the verge of regulating and managing the fertility driven industry of India. And also shall definitely been introducing number of policies.

Some factors worthy to be noticed in Indian Surrogacy Bill, which the bill formally includes, mentioned below-

1. If the patient is normal and can proceed through the term of pregnancy, for them, surrogacy strictly shall not be available.

2. The contracts or the agreements signed will shall be legally and lawfully enforceable.

3. Married women if ready to be a surrogate mother needs the free consent from their husband for becoming a surrogate.

4. Surrogates are not allowed to undergo embryo transfer for more than three times for the same intended couple.

5. It is mandatory to keep Egg donor identification fully confidential.

6. The fertility clinics and gamete donor banks must give the detailed information to the needy.
7. The Department of Health Research must maintain the “national ART registry.”

8. The only those “couples” having heterosexual relationship are eligible for surrogacy. The gay or lesbian couples are excluded from this.

9. Intended parents from the foreign countries seeking for surrogacy services and treatments in India, needs to provide written proof about the information of their home country stating whether they permit surrogacy or not. Couple from Canada and lots of European countries is excluded from these statements because these nations specifically prohibit the commercial surrogacy or not.

10. The Drafted Bill demands for information of national, international and state advisory boards. This board is composed of Health Department. Co-workers, industry representatives, scientists, and other civil society common members are among the team of advisory board. These charged boards with operational and non rational dynamism and implements many guidelines enumerated in the bill.

11. ICMR’s ART Bill, 2010, carries lots of importance. This has already put in place many important provisions. It firstly state about the age limit. It is between 21 years to 35 years. And also she cannot go for more than five live births attempts including her own children.

12. It is mandatory for the intended couple to appoint the local guardian.

As on the current condition the proposed drafted bill is not having clearance about what has been mentioned with the government regime. There is lot of importance to be given in it understanding; execution and modification as well as enforcement if passed. This will surely be addressing things that are in need of social justice. The medical tourism especially for reproduction sector of India is reaching to the peak. This will be needed to be monitored through international comercial ART/surrogacy agencies, rights groups, and other civil society voices.

The drafted bill and its implications for some groups, especially LGBT communities and parallely the foreigners looking out for surrogacy in India are surely turning their heads. It fully has the dependence on the rules irrespective of the surrogacy which is understood and imposed
with the proper strength. The gays and the lesbians are surely be prohibited whether they from other nations or from India. The individuals or couples especially from the developed countries like the UK, Canada and Germany or any other developed countries, we see that the commercial surrogacy is fully illegal and is respectively banned through some terms. This is an important step taken in India. India, the commercial epicenter is now turning and orienting towards the global business of surrogacy. This is sure that it would certainly affect the global politics and international politics in relation with the child reproduction “on hire.”

The ART clinics make it mandatory that the couples from other nations must go through the prescribed documentation from their respective embassy. This shall focus on the citizenship given to the child born through surrogacy with respect to the concern country of the intended parents. This document does have importance in case of the security of the surrogacy agreement with respect to any ART clinic.

The laws mentioned by the Government of India concern with the the surrogacy is not at all noticeable and inactive to the kind hopes. As the time is heading to the technological future, with its respect, the government of India has a plan to pass the Assisted Reproductive Technology (ART) bill. This then shall be helping in finding uncertainty changes in the rules and regulations. The ART clinics will also follow through the proper regulation of the In-Vitro Fertilization (IVF), obviously shall exclude gays or lesbians and their registered couples from hiring the needed lady as the surrogates. India, the developing nation, is still to legalize the relations among the gays or lesbians. Delhi High Court is in support of this issue but is still to be implemente as per the need. Only when the gays or lesbians relationship is legally registered, shall be taken as the better option for adopting the surrogated child. The drafted bill states about prohibiting the ART clinics from going through IVF treatment to be given as well as for any surrogacy transactions.

The drafted bill does mention about who is suitable and legally responsible to use Assisted Reproductive Technique and its corresponding services. It concentrates strictly on the ART, whether they are married, unmarried or an individual. Definition of the word “couple” means two different genders having a heterosexual relation between them. “Married” and “unmarried” couples even are termed as the legal relatives for each other. In the respective
accordance, the unclear wordings makes it fully unaware that the Assisted Reproductive 
Technologie is available for gay couples or not and that too for an India couples.

All the available media sources throughout the world seems to target mainly on the
decision that shall declare that whether the progressing legislation in India shall have effective
prohibition for gay couples from becoming parents through the process of surrogacy. The
question remains unanswered. Bill with the title Assisted Reproductive Technology (Regulation)
Bill 2010, which has been under the progressing work since 2008. This Bill is including the
suggestions and propositions for surrogacy which is dating back to the year 2005. Even it has not
unambiguously written or had explained in some direction about the couple with same sex are
liable or not.

The Drafted Bill has not included the precise and appropriate provisions about gay
couples been allowed to become parents through surrogacy agreement.

This Bill related to the ART also make it mandatory that the foreign couples obtaining a
proper documentation from their embassy. This shall content the certificate mentioning that the
surrogate child will easily be given relative citizenship of the nation.

**Surrogacy Agreement**

Surrogacy at the International level is now acting as a progressively budding business
since the starting of the 21st century. The world with the quick increased global mobility and the
source of surfing through internet allows users from around the world. The parents wanting to
take the benefit of parenthood are definitly in search of the concern facilities. May be these
facilities are related with any legalities or judicial concern. The modern technology with the
various innovations like gestational surrogacy, here the differentiation of legal matters does not
have the needed speed.

The surrogacy from one nation and the needy from the other nation generate an
innumerable of legal and problematic obstacles frequently not predictable. This is not tolerable
especially by the persons involved during artificial conception of surrogacy. The commercialized
look out of the different cases related with surrogacy especially from the international market is
difficult because of the variety of the jurisdictions. This in turn creates number of legal facets that
may keep the child born without any citizenship or parents.
Generating the proper background for the international surrogacy, the problems created shall be examined as the below. This will have the connection with the analysis report to the different issues involved in international surrogacy.

Surrogacy, an agreement is defined as the connection between the intended parent and Surrogate lady. This agreement mentions about the requirements of both the parties during or after the Assisted Reproductive Technique of the surrogacy treatment.

‘Surrogacy agreement’ this is the only legal documents that bound the two parties in the surrogacy process. Hence, for the Intended Parents it is mandatory to fully concentrate on the proper agreement writing for the surrogacy treatment they will be involved with. This will never give invalidity to the undergoing surrogacy.

Surrogacy in India is totally legitimate because of the absence of the particular Indian law prohibiting Surrogacy. To resolve the authority and legal significance of the surrogacy agreements, the Indian Contract Act affects on arrangement of surrogacy and then the enforcement of any such agreement would be within the domain of the given section 9 of the Code of Civil Procedure (CPC). There is Guardians and Wards Act 1890, with its support the biological parents can claim for there needs.

In India surrogacy arrangement is done only through the mere agreement or contract between the surrogate mother as well as biological parents. The surrogacy arrangement only takes the help of the act i.e. Indian Contract Act 1872. The Performa of the surrogacy agreement or contract is not static and perfect and has been prescribed by any legal and judicial authority or not prescribed any procedural or any other code for surrogacy. In India though there is increase in the no. of surrogacies the legislation is silent and blank in the perfect and fixes proforma of the surrogacy arrangements. The surrogacy arrangement is not having the fix source. In national and international surrogacy arrangement the proforma is not fix and accurate. The guidelines are only available for the surrogacy arrangement, which is not static also. In the surrogacy contract, the parties are involved named surrogate mother and intended parents. The doctors are not involved in these kinds of contracts. If we look towards the forms of the surrogacy arrangements, no uniformity is there. Legitimacy of commercial surrogacy is big problem in front of the India.
That also making instant need of the static and fix law for the surrogacy format, to give protection for all the parties involved in these kinds of the arrangements.

The major trouble with these guidelines is that there is nothing to say that they should be followed or not followed undeniably, what will happen if in case any indenture you might have is breached. Since surrogacy can be legally multifaceted or intricate, it is prudent to have a lawyer on all side to make sure all parties appreciate the legal rules and regulations, and do not go wrong in such an important step.

In India, there is no stagnant law in legislation governing surrogacy agreements. The Assisted Reproductive Technology (ART) Bill 2010 is still under the process of passing through the parliament. During the current procedures of the surrogacy agreements, are done under Indian contract law. “It is not very different from a contract between tenant and a landlord that much easy. There is no uniform in the procedure involved. And just like rent of flat varies on the different depending on location and amenities, there is no fixed amount paid to surrogate mothers, like we pay the rent to the house. The said Enact Gangly of HAQ Centre who works for Child Rights. As it is surrogacy and not procedure of adoption, the basic Central Adoption Resource Agency, which is the formation of union government’s nodal agency to supervise and control adoption of Indian children, has no role. However not all countries give direct citizenship rights to overseas children.

**International Surrogacy Agreement**

An international surrogacy treatment, this is one such agreement that commercially endorses more than one nation. The factor that is considering more is the routine residence, nationality or domicile of the commissioning parents, egg donors and the gestational mothers. As the current situation tells us that there is no any international harmonization when thinking of the laws. Definitely there is as such no any apparatus which allows for the acknowledgment of international surrogacy arrangements, following an organizational or judicial process in a state where such arrangements are lawful.

When the intended parents wishes to have rights of parentage then they need to follow through the procedure defined by their native nation. Barring this process there is no any other resource by which they can posses the rights of parentage. The legal permission from the native
nation or their current residential nation is must. There are other factors also like the legitimacy of the child, parental compulsiton toards the child, etc. These are some of the commitments to be followed by the intended parents. England and Wales are the nations that have a very different view towards the adult relationship. There must be a sort of limitations towards the approach of the state to surrogacy treatment. We can say that the time we are going through is best ever for the accomplishment of international and national standards.

All the government regimes available through different nations specify more towards the mother who gives birth to a child. It is irrespecti ve that whether she has any biological connection with the child or not. Lady showing readiness for being surrogates whether for for altruistic or commercial methods generally focuses on the legal rights of parentage given to them?

In June 2011, the International Surrogacy agreement forum was formed. This had no motive towards any profit making but with the social attitude. It was formed by two members with the basic reason that its formation shall create specialist in the field of international surrogacy agreement. Legally analyzing the status of child born through surrogacy at the international level is precisely multifaceted, doubtful and incomplete. The Forum intends to work towards establishing similar harmonized international recognition of the legal parentage of children born through such surrogacy arrangements.

The usefulness of private and public international law to resolve disputes arising out of surrogacy is similarly problematic. Fundamental considerations for the judicial comity, in which the courts of one state to another defer to the judgment of another, are trumped by public policy in this context too. Thus, notwithstanding the virtually and universally concern for the children produced through surrogacy agreement. Some states prohibiting surrogacy refuse to grant such children citizenship of the particular country, because they fear that doing so would only encourage the prohibited practice of commercial surrogacy. As the Permanent Bureau notes, this plainly calls for further study for surrogacy. While the range of applicable laws regarding surrogacy making complicates and may even preclude the static harmonization, it should be noted that the legality of surrogacy does not necessarily correspond and manage to its prevalence in a particular state.
SURROGACY LAWS IN DIFFERENT COUNTRIES

Mentioned below are the laws for surrogacy in different countries. Surrogacy is active in all the countries. Some of them have adopted the procedure of surrogacy. Every country is having a bit of difference in the laws for surrogacy. Some of the laws for surrogacy from some countries are as follows-

**In Australia**

Considering every government regime, altruistic surrogacy is recently been accepted on the legal terms and had been permitted to operate with the rules and regulations prescribed. The capital area of the Australia finds commercial surrogacy as the crime but the Northern area gives no any legal consideration to the same. the concern states have gone through such an arrangement for the intended parents with defined rights. Victoria had changed their legislation on 1\textsuperscript{st} Jan 2010, under the special Act reading Assisted Reproductive Treatment Act 2008. This made altruistic surrogacy as the legal treatment at the state level and the national level. But even with the same facts commercial surrogacy with the considered responses stands as illegal.

On 1\textsuperscript{st} June 2010, at Queensland, the legality is given to altruistic surrogacy in support of the Surrogacy Act 2010. But even with this respect, the commercial surrogacy is considered as an illegal method under the legislation of surrogacy treatment.

On the similar terms, in nations named New South Wales and the Australian Capital Territory, here the method of altruistic surrogacy is considered legal under the Surrogacy Act 2010 No 102 and the Parentage Act 2004, respectively.

Surrogacy Act 2008 – In Western Australia and Special Family Relationships Act 1975 – in South Australia; both these method of altruistic surrogacy is accepted legally for the couples having heterosexual relationship (gays, lesbians and the singles have ban on altruistic surrogacy).

In the year 2012, two main legislative terms allowed altruistic surrogacy had been passed by Tasmania. These are recognized as ‘the Surrogacy Act No 34’ and ‘the Surrogacy consistency of Consequential Amendments Act No 31’. These both propose altruistic surrogacy with a very strict legislation. This was survey only after the review of the Surrogacy Contracts Act 1993 No 4. The surrogate should be of minimum 25 years old and it should have an experience of the
pregnancy as it is mentioned under the altruistic surrogacy arrangement, legislation. From 1st Jan, 2013, the new altruistic surrogacy laws are coming for implementation.

**In Arkansas**

It was one of the primary nations that enacted and accepted surrogacy friendly laws. The then Governor in 1989, Mr Bill Clinton had passed the Bill under the Act 647. This bill had mentioned that in any surrogacy arrangement, the biological and commissioning parent/parents are the one who will be recognized as the baby child born through surrogacy as the legal and biological parents since its birth. This shall be followed even if one among the couple is neither genetically nor biologically in relation with the baby child born through surrogacy. This generally is under the method of traditional surrogacy arrangement. As long the child is conceived not with anonymous donor sperm, the woman will be known as the legal mother to the child born through surrogacy. The contrary side, it is totally unclear and troubling that how or whether the same gendered couples can be benefitted by these laws.

**In Canada**

The only one Act that however controls the surrogacy arrangements is ‘The Assisted Human Reproduction Act (AHRC)’. This only gives permission for the altruistic surrogacy. The surrogate mother may be funded financially or can claim for spent finance on the medical treatments. The payment under any kind of structured fees is fully on to the illegal terms.

**In China**

Surrogacy is grey area, means all kind of surrogacy arrangement are prohibited. In recent years China has made strict laws in relation with the child birth. There was one incidence have happened that, three young surrogate mother was found, Govt. strictly compel them for abortion, so all kinds of surrogacy arrangements airs ban in China. The total survey report presented by the Southern Metropolis Weekly, estimated that around 25,000 surrogate children have been born in China per year (Reuters2009). Probable surrogate mothers are being explicitly conscripted via
In France

Although it is commercial or altruistic arrangements for surrogacy, is stated as an illegal or unlawful source. It is since 1994, the terms are followed and on the assurance basis the same is not sanctioned by the law of France (art 16-7 of the Code Civil). The French Courts had specifically pointed the rule in the year 1991. It had stated that the case where the parties signed an agreement for the treatment of surrogacy all the expected rules and regulations is absolutely not permitted to adopt that child born through the surrogacy. The court had declared its judgment ordering that the related agreement is fully illegal with reference to articles 6 & 1128 of the Civil Code together with article 353 of the same code.

In Georgia

Let that be any type of surrogacy, it is permitted in the states of Georgia. It has been made legal in the country Georgia right since the year 1992. The donation ovum and sperm is also legal with the surrogacy arrangements. But with this there is no any parental rights given to surrogate mother for the surrogate child she delivers. Under the applicable law, a donor or the surrogate mother of the child has no parental rights over the child born through the surrogacy treatment.

In Greece

In the year 2002 the Law 3089 was enacted. This law allows only gestational surrogacy via a court order. There is a written agreement issued before the embryo transfer provided with the agreement especially on the basis of monitory funds between parties like the intended parents and the surrogate mother. It is must to have a written consent from the husband if the surrogate is married. And the intended woman should submit the medically attested certificate stating about her inability to gestate the child for the whole term.
In Hong Kong, Human Reproductive Technology Ordinance 2000 states commercial surrogacy as the crime. This law for commercial surrogacy is sentenced in proper manner that under any circumstances no payment is given to the surrogates.

October 2010, Peter Lee, the eldest son is also the one who was beneficiary of billionaire. Lee Shau Kee obtained son through a surrogate mother from California. Because the Lee Jr. is single, the news regarding this attracted for criticism on both moral and legal and legislative grounds. December, the relative case was reportedly given to the police for questioning Lee.

In Hungary

In Hungary Commercial surrogacy is totally presumed to be illegal and is fully prohibited.

In Iceland

In Iceland, all types of surrogacy arrangements whether commercial or altruistic are illegal and totally banned in the state.

In India

Commercial surrogacy is very much legal in India with respect to the Art and the ICMR guidelines. The nation is speedily growing on the verge of becoming the head oince for treatment of surrogacy arrangement at the international market. This seems to be the most favourite and the final destination with respect to the fertility tourism as for the surrogacy. Indian surrogates are getting very much popular and having the enormous growth with the visits of infertile couples especially from the most industrialized and the developed nations. The basic reason behind this is the relatively low costings for surrogacy treatment compared with other nations and then the
success ratio. At the same time the clinics in India are becoming more competitive and favorite not just in the pricing section but in the hiring of the surrogates as well as retention of Indian females as surrogates. Clinics charge the patients between $10,000 and $28,000 for the complete surrogacy package. This package includes fertilization treatment and also remuneration paid to the surrogate mother, and delivery of the baby at a hospital treatment. There is compensation given for the costs of flight tickets, medical and total giving procedures and hotels, it comes to roughly and fairly a third of the price compared with totally going through the procedure of surrogacy in the UK and other listed developed countries. The Honorable Supreme Court of India has given the statement of verdict that the citizenship of the child will go by the citizenship of its surrogate mother when there is some issue of no acceptance by the other party. In the year 2013 India introduced the legislation which is banning surrogacy to unmarried couples or single persons and other gay groups.

In Ireland

There is as such no any law mentioned about governing surrogacy in Ireland. The concern Government formed a special Commission and published a very comprehensive report on Assisted Human Reproduction, in 2005. As a support of this publication, the nation had designed a proper legislation. This ultimately affects on the area kept totally remaining unregulated. With the pressurized behaviour from Irish citizens crossing borders in search of the surrogates, the Minister for Justice as well as Equality and Defense published guidelines for them on the 21st February 2012.

In Israel

March 1996, the Israeli government legalized the gestational surrogacy under the "Embryo Carrying Agreements and contract Law." Israel is now only nation following the implementation of the state-controlled surrogacy. Every contract needed is approved either directly or indirectly by the states of Israel. Ther is one state-appointed committee that permits for surrogacy arrangements. Moreover the rule is mending only for the Israeli citizens who are needed to be from the same religion. Surrogates they are dealing with must be single, widowed
or divorced and only infertile and childless. There is total hiring acceptance given to the Heterosexual couples.

**In Italy**

In Italy all types of surrogacy arrangements be it commercial or altruistic surrogacy arrangements are illegal and prohibited by law.

**In Japan**

In Japan, on March, 2008, the Science Council of Japan projected a ban on surrogacy and declared that the doctors or agents and their related clients shall be punished for commercial surrogacy arrangements.

**In Netherlands and Belgium**

Altruistic surrogacy is a legal in Belgium and the Netherlands both. But the commercial surrogacy is fully illegal type of surrogacy in Belgium and the Netherlands both. Even the altruistic surrogacy is legal in Netherland and Belgium, we find only one hospital that is taking all the responsibility of the processing in advancing couples and there are extremely strict rules to get in that at hospital. This treatment then suggests the couples to cross the border seeking for surrogacy.

**In Pakistan**

In Pakistan, Surrogacy under any circumstances is illegal. There is full ban and prohibition on any type of surrogacy. Commercial, Gestational, traditional surrogacy all these are absolutely prohibited in Pakistan.

**In Quebec**
The Quebec Civil Code allows all types of the surrogacy contracts whether it is commercial or altruistic. The law developed interprets to mean for the gestational surrogacy about the genetic or biological mother of a child born shall not be recognized as the legal mother.

In Russia

When there is question of artificial insemination, Russia is considered as the unique reproductive paradise. No any particular legislation are ruled over. Even for assisted reproductive technique and its operations no any rules and regulations are followed. Russian law says that any of the adult women also has the right to get through the pregnancy by the method implantation of embryo. No specific permission is required from any regulatory board or court. It is the nation that had more interest towards legislation for intended and commissioning parents. The baby child experiences the commercial surrogacy with all the legal aspect in legislation of the Russia. No special indications has been specifically provided for the surrogate motherhood in Russia The surrogate mother can be offer from a social websites and could be form a contract for the surrogacy arrangements. Single woman, married woman are treated same. Surrogacy programme can be arranged for the single men also. It can be done for single parents but it creates many issues in giving the name of their parenthood. In Russia, we find that there is absolute absence of right to fatherhood, then also both the parents are treated same.

Article 35 of the Basic Law of the real Russian Federation according to for Citizens’ Health Protection given (22.07.1993 No. 5487-I). In Russia, there is absolutely no specific at the initial level the requirement of permission from any regulatory board or court. Children born through surrogacy treatment are summarized in the current legislation and rule of the Russian Federation under the Clause 4, Article 51, Clause 3, Article 52 of the Russian Federation’s Family Code and Clause 5, Article 16 of the federal law on the specific civil status records, No. 143-FZ, enacted on November 15, 1997.

Registration of children born through surrogacy is regulated by the Family Code of Russia under the art. 51-52 and the Law on Acts on Civil Status which comes under the art. 16. Children born through heterosexual couples who are not officially married or single intended parents through gestational and traditional surrogacy are registered in accordance to analogy of
justice article 5 under the Family Code. A surrogate’s legal permission is needed for that procedure.

The legal aspects of surrogate motherhood as well as the pleasures of parenthood with the registration of child born through surrogacy is summarized in the current legislation and rule of the Russian Federation as mentioned in above paragraph.

According to Order No. 67 of the Russian Ministry for Health security and welfare there is necessity of having all the medical indications before the treatment of surrogacy. 2 or 3 embryos are naturally transferred for the concern surrogate. Websites are the popular source through which a surrogate can be searched and can get connected with the ART clinics. To some locations the same work is done by the surrogacy agencies. The age limits given to surrogate is between 20–35 years old. Her mental and physical fitness is an addition to it. There is irrelevancy about surrogate relationship in Russia because the natives do have the strong concept of a stable relationship within themselves.

5th August, 2009, a St. Petersburg court ordered over the quarrels due to surrogacy in Russia allowing even a single woman for the surrogacy treatment. The court obliged and compel the State Registration Authority to register the surrogate must be maximum 35-year-old single woman.

Natalia Gorskaya from Russia, a very well known example of surrogacy treatment, had become the first Russian stand to defend her right to become a surrogate mother.

3rd November, 2009, a Moscow district court had agreed with the similar decision with the same conditional case for the surrogacy treatment.

On August 4, 2010, the Babushka kinsky District Court in Moscow state ruled that any male individual applied for gestational surrogacy through donor eggs, can be a registered biological parent to the baby child born through the surrogacy. The intended father was listed as the only biological parent with the name on the birth certificate but the same was not done to a female individual with same needs and acts in relation with the surrogacy treatments. These decisions had then authoritiesed in following the registration process of surrogate children born to single women without any court follow through structure.

There is no any legality mentioning about the genetical and biological connection between the commissioning parents and the baby child. United Kingdom does follow the same rulings under Human Fertilization and Embryology Authority Act, 2009. The other side is state
of Ukraine that has the Order No. 771 of the Ukrainian Health Ministry, demands for the written permission from both the parties. This is 100% mandatory to both.

United Kingdom considered with the surrogacy and its regular procedures, they lose all rights to the surrogate child meaning the child born through the surrogacy treatment is prioritise as the first person to think over with any kind of decision. Children born to the heterosexual couples with no any official and legal connection between them then gestational surrogacy should be registered in accordance with analogy of just (Article 5 of the Russian Federation’s Family Code).

There is no any prohibition made for the Commercial surrogacy, so the surrogate can be compensated with the practical expenses like medical, travelling, babysitting and any of the missed work time of the period. The surrogate can be paid amount of remuneration for her services after the birth of the child. This normally varies from the US$15,000 to US$30,000, with a top and uncertain limit to be known of US$100,000. A written surrogate-parenting contract or agreement between parties is not mandatory and compulsory but according to Article 161 of the particular Russian Federation’s Civil Code, this transaction of gestational surrogacy being considered as such given must be concluded in a simple written form with the 13.5 of the commercial surrogacy of 157 no notary or certified fix certification needed if the surrogate’s compensation exceeds ten times as much as near the amount of the minimum monthly wage established by the particular law. Nevertheless, failure to conform to a simple written form of this decided transaction shall not render it invalid but would weaken the positions of the parties in the event of a dispute, resolution.

Registration of children born through surrogacy is regulated by the Family Code of Russia under the art. 51-52 and the Law on Acts on Civil Status which comes under the art. 16. A surrogate’s consent is needed for that procedure. Apart from that consent, no adoption as well as nor court decision is required. The surrogate’s name is never listed on the birth certificate of the child. There is no requirement for the child to be genetically or biologically related to at least one of the commissioning parents.

Children born through heterosexual couples who are not officially married or single intended parents through gestational and traditional surrogacy are registered in accordance to analogy of justice art. 5 under the Family Code. A court decision might be needed for that. On August 5, 2009 a St. Petersburg court definitely resolved a surrogacy dispute whether single
women or men could apply for surrogacy and obliged the State Registration Authority to register a 35 year old single intended mother for surrogacy. Natalia Gorskaya as the mother of her son arising from the treatment called as “surrogate” son.

On 4 August 2010, a Moscow court ruled that a single man who applied for gestational and traditional surrogacy using donor eggs for surrogacy could be registered as the only parent of his son, becoming the first man in Russia to defend his legal right to become a father through a complicated court procedure. The surrogate mother’s name was not listed on the birth certificate; the father was listed as the only parent of the surrogate child. After that a few more identical decisions concerning single men who became fathers through surrogacy treatment were adopted by different courts in Russia listing men as the only parents of their “surrogate” children and confirming that prospective single parents of the surrogate child, regardless of their sex or sexual orientation, can exercise their right to as well as motherhood and fatherhood, through surrogacy in Russia.

**In Saudi Arabia**

All kinds of surrogacy arrangements are illegal. Each and every kind of surrogacy i.e. gestational, traditional, commercial is illegal. The spiritual or the religion base influences in this nation does not allow the method to practice of surrogate mothers or any intended remedial trials wherein the female fertility is restored and also her ability to conceive and deliver the child. But additionally mentioning, the Saudi authorities had already sanctioned the world’s first uterus transplant in an infertile woman we can say this as the biggest ever achievement into the technicality of medical science.

**In Serbia**

All surrogacy arrangements both the commercial and gestational and traditional kind of altruistic surrogacy is illegal. All kinds of surrogacy are prohibited.

**In South Africa**
The South Africa Children's Act of 2005 (in 2010) stated about the commissioning parents or the biological parents and the surrogate to have their surrogacy agreement signed by both to be validated by the High Court almost before the fertilization. This helps in recognizing the commissioning parents to be legal parents. Because if not then there are chances of prevention for the happening uncertainty. If the surrogate mother or the surrogate woman is the genetic mother she has until 60 days after the birth of the child to change her mind. The law permits single woman and men and gay couples to be commissioning parents.

Only those domiciled in South Africa gets benefitted from the protection of the law, no non-contracts and agreements will be enforced for and agreements must be altruistic rather than commercial agreement. If there is only one commissioning parent, she or he must be genetically related to the child born. If there are two, they must both be genetically related to the child unless that is physically and emotionally impossible due to infertility or sex as in the some case of a same sex couple.

In Sweden

The term and the method of surrogacy has not been defined by the Swedish law. The only ruled and a legal method stands very equivalent to it is nothing but adopting the baby child from the so called surrogate mother. If there is kind of difference in the attitude of the surrogate mother and her mentality then surely she can keep the child until the complete procedure of the adoption.

In Switzerland

In this nation the surrogacy is operated through different languages "Bundesgesetz tuber die medizinisch unterstützte Fortpflanzung (Fortpflanzungsmedizingesetz, FMedG) vom 18. December 1998". This justify that in Switzerland all the different types of commercial agreements are totally illegal. Article 4 forbid surrogacy, Article 31 regulate the savior punishment of clinicians who apply in vitro fertilization for surrogacy treatment or persons who arrange surrogacy. The surrogate mother is not punished by authority of law. She only will be the legal mother of the child.
In Ukraine

Since 2002, surrogacy and the concern terms like egg donation or sperm donation has been absolutely legalised in Ukraine. The concern law with Ukrainian base of the surrogacy are very easy and fully supporting the individual's reproductive rights. Surrogacy is officially or by law regulated by Clause 123 of the Family Code of Ukraine and Order 771 of the Health Ministry of Ukraine. You can also choose between Gestational Surrogacy, Egg or sperm Donation, special Embryo adoption programs and their combinations also. Single women can be treated by known as well as anonymous donor insemination. Gestational surrogacy is an option for officially married couples and also to the single women. There is no such concept as gay or lesbian marriage in Ukraine; meanwhile such patients can be treated as single women or men.

In United Kingdom

Commercial surrogacy arrangements are having ban. It is strictly prohibited inspite of having no legalities to the surrogacy in the United Kingdom. These arrangements of surrogacy are prohibited under the Act Surrogacy Arrangements Act 1985. It is absolutely illegal in the UK for paying extra funds. Because then this payment is recognized under the section 30 of the particular Act, Human Fertilization and Embryology Act 1990. Regardless of contractual or financial consideration for expenses of surrogacy, surrogacy arrangements are not legally enforceable within the United Kingdom. A surrogate mother still maintains all the legal right of determination for the child bearing, even if they are genetically unrelated to the child. Unless a parental order or procedure and order are made the surrogate mother remains the legal mother of the surrogate child.

In United States

Surrogacy and its necessary laws differ from one country to the other country. The few states follow the written legislation related with it, while others does have their own developed authorized government for considering the surrogacy as one legal issue. Nations that are feasible with the surrogacy be likely to impose commercial surrogacy and altruistic surrogacy contracts.
Sometimes the commercial surrogacy is penalized. Healthy support is given to the married couples only in some of the states and off which some does support only for the traditional surrogacy. California, Illinois, Arkansas and Maryland are so called surrogacy friendly states among the many existing. States generally considered as the feasible and friendly towards surrogacy that means no rules for surrogacy includes, mainly are California, Illinois, Arkansas, and Maryland, among others.

Surrogacy and its legal issues at the initial phase fall under state jurisdiction. The legal and judicial has a varied structure from a state to the different also from the country to the other. Some states have a written legislation for the surrogacy while others possess the improved common law procedure regimes through the government. Some states facilitate surrogacy and surrogacy contracts, others simply refuse to enforce and tackle them, and some penalize commercial surrogacy arrangements. The state that are defined as the surrogacy friendly and are more feasible in its operative proceedings does tend to enforce both commercial and altruistic surrogacy contracts. There is even the process of facilitating the straight forward ways for the intended or commissioning parents to be recognized as the child's legal and judicial parents. Some relatively surrogacy friendly states only offer such a support for married heterosexual couples. Generally, only gestational surrogacy is only supported and traditional surrogacy finds little to no legal and legislative support.

In California

All kinds of surrogacy are accepted. California is very well known as the surrogacy friendly nation. This nation does allow the commercial surrogacy. It has feasibility over the agreements for gestational surrogacy. It gives all rights to the intended parents over the surrogate child.

In Michigan

This nation prevents all the treatments related with surrogacy. Simply it will be called as the crime if anybody follows these kinds of surrogacy arrangements. The law makes all surrogacy arrangements unenforceable. The people who are making preparations or arrangements for these kind if contracts, they are liable to get punished in the eyes of law.
**In New York**

All kinds of surrogacy arrangements are ban. It holds that all commercial surrogacy arrangements contravene to the public policy. The method of surrogacy named as Altruistic surrogacy when undergoes through an agreement are neither punished nor enforced. New York, a very well known nation, demands for the orders from other nations that too before the birth of a child and New York also facilitates with an alternative of adoption of the child for gestational parents and traditional parents. This is done with the support of the orders of maternal and paternal filiations.

**Conclusion**

There are many nations that have taken versatile and varying legislative approaches to commercial surrogacy arrangements. The methodology and the proceedings of the commercial surrogacy are combined with a lack of international and national regulation. This is the reason that helps in creating a number of lawful problems and disagreement of law with many other related issues. Countries named France, Italy and Germany, China and Japan also have prohibition on surrogacy arrangements altogether. These countries do have no any presence of commercial agreement. Other countries like the United Kingdom and Australia, New Zealand, Israel, Holland allows only the altruistic surrogacy. There are only countable and the selected countries where there legal permit given for the commercial surrogacy is totally allowed. Also the concerned surrogacy agreements are legal and enforced during the implementation of treatment surrogacy. These countries are India, Ukraine and Russia and some of the American states and California, Florida. These nations have consequently become destinations for intended parents in need of a child through surrogacy treatments.

Commercial surrogacy arrangements are illegal and have the criminal form in most of the European countries. With this reason the European intending parents often visits to the United States looking for commercialized surrogacy treatments. In United States itself, the different states do follow different surrogacy laws in relation to surrogacy agreement. So this irregularity
make even the American intending parents and couples to cross borders over their home states for the jurisdictions such as California, Florida in the need to complete surrogacy arrangements.

Many of the nations have legislations that generally bans or have no any properly implied regulations into the practice of surrogacy. Some of them have designed the same in such a way that it concentrates towards addressing international and cross boundary commercial surrogacy. This market of commercial surrogacy does have some exceptions to follow like in the New South Wales, where the Surrogacy Act 2010 makes it illegal and ban for New South Wales residents to enter into a commercial surrogacy agreement, whether the agreement is preceded in Australia or in any other nations.

India, the nation with no any doubt called as most common destination for the commercial surrogacy market. Other developing nations like Panama and Thailand are also reaching towards the popular destinations. Similarly, the flexible and authoritarian regimes are found in the nations like Ukraine and Russia. They afford European intending or biological parents an option that is closer to home than Asia or South America.

Indian courts are precisely taking a fair enough and applicable compassionate response to international and national surrogacy. India is a large country with different states, lower regional courts and judiciary seem to occasionally take a conventional appropriate approach. Higher courts that including the Apex and Supreme Courts, have done the practice of international and cross-boundary surrogacy and are prepared to recognize commissioning or biological parents as legal parents of surrogate child. However, they do express concern that the unregulated nature of the industry leaves surrogates vulnerable and towards exploitation.

There has disposed the recent proposal that international surrogacy must be banned, but at the same time national commercial surrogacy should be made legitimate and conventional to meet the demand for surrogacy domestically. In Australia, Chief Magistrate John Pascoe proposed a very new scheme; he argues with the thought that the surrounding would evade the parentage percentage and nationality problems that are created by the international surrogacy. It would also guarantee that surrogacy could operate within national and international regulation, which would prevent the human rights abuses and exploitation.