CHAPTER VI
DATA COLLECTION AND ANALYSIS
CHAPTER NO. VI

DATA COLLECTION AND ANALYSIS

This study as a research is taken up with the need of special legislative enactment for surrogacy laws. This whole concept of the topic and trend is totally fresh. Only few are aware of this concept of surrogacy. The topic though being very social but is found very much personal and generally people find themselves shy and keep hidden in commenting frankly over the topic. Hence for this research there is no as such area limits. The most of the initial data is composed from state of Maharashtra. The researcher had found himself/herself to reach every possible area with the thought of collecting information. Below mentioned is the original scope of the study. This includes-

1. Most of the information for study purpose is collected from different medical institutions and hospitals.
2. Survey through different hospitals, courts and N.G.O.s.
3. Conducted interviews with people living in rural and urban areas, District judges, other co-operative judges, Law students, Doctors, Directors of various I.V.F clinics, lawyers, etc.
4. Study of case laws related with the surrogacy cases.
5. Study of the surrogacy laws in various countries.

The research study is supported by the current laws followed with respect to surrogacy in India. We find the comparative analytical study made between the laws in India and the laws in some selected nations. Otherwise the statistical data published in different articles also helps us in understanding the increasing trends of surrogacy in India.

METHODOLOGY ADOPTED

Doctrinal and Non Doctrinal are the two different methods that are composed with this research method.
DOCTRINAL

This method of collecting the data had helped the researcher in finding the recent legal position for enforcement of surrogacy in overall world. This surely is very supportive in understanding the legal response given by judiciary with its landmark judgment and guidelines. The basic and medically defined surrogacy terms had become easier in understanding because of the doctrinal data collected. This has also simplified in understanding different types of surrogacy treatments followed and experts opinion over versatile sectors involved in surrogacy. At the legal level it has a highest importance because then it becomes easy for getting the knowledge of the recent and previous case laws. The doctrinal data and the method involved in studying so became very much useful for me. Doctrinal data was very helpful & practical to understand the recent legal governments look over available for surrogacy in India and also in selected different nations. The different magazines and articles on surrogacy were useful in getting information of statistical data regarding rate of surrogacy, the types of surrogacy in India and other countries. The various articles have been published in various countries through the e-world it was possible to go through from matter explained in those articles.

Ultimately the sources of secondary data lines are found in:

- Law Books,
- Journals,
- Legal Articles and case laws.
- Research Papers,
- News Papers,
- Dictionaries, Websites etc.

Researcher had also gone through the articles published in different newspapers.

The Surrogacy treatment is with all the safety and the security found to be done at national levels or at international levels. Researcher had also referred to different surrogacy laws in consideration with different nations for the studies. Though surrogacy is totally a new concept in India but is growing faster with great awareness with the current situation. Many of the persons, literate or illiterate are unknown about surrogacy and issues relating to it. India is on the verge of becoming the center for surrogacy that too for Commercial surrogacy. Researcher had
focused on finding the reasons behind this help to the national treasury. Researcher compels the laws of India with the laws of various selected countries in the world.

TABLE NO. 4
LEGAL AND ILLEGAL KINDS OF SURROGACY

<table>
<thead>
<tr>
<th>No.</th>
<th>Name Of The Country</th>
<th>Kind Of Surrogacy</th>
<th>Legal</th>
<th>Illegal</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Australia</td>
<td>Altruistic</td>
<td></td>
<td>Commercial</td>
</tr>
<tr>
<td>2</td>
<td>Canada</td>
<td>Altruistic</td>
<td></td>
<td>Commercial</td>
</tr>
<tr>
<td>3</td>
<td>Quebec</td>
<td>-----------------</td>
<td></td>
<td>None</td>
</tr>
<tr>
<td>4</td>
<td>France</td>
<td>-----------------</td>
<td></td>
<td>None</td>
</tr>
<tr>
<td>5</td>
<td>Georgia</td>
<td>Gestational</td>
<td></td>
<td>Commercial</td>
</tr>
<tr>
<td>6</td>
<td>Hong-Kong</td>
<td>None</td>
<td></td>
<td>Commercial</td>
</tr>
<tr>
<td>7</td>
<td>Hungary</td>
<td>Altruistic</td>
<td></td>
<td>Commercial</td>
</tr>
<tr>
<td>8</td>
<td>Iceland</td>
<td>None</td>
<td></td>
<td>Commercial</td>
</tr>
<tr>
<td>9</td>
<td>India</td>
<td>All</td>
<td></td>
<td>None</td>
</tr>
<tr>
<td>10</td>
<td>Ireland</td>
<td>Gestational</td>
<td></td>
<td>Traditional</td>
</tr>
<tr>
<td>11</td>
<td>Israel</td>
<td>Gestational</td>
<td></td>
<td>Cross-Boundary</td>
</tr>
<tr>
<td>12</td>
<td>Italy</td>
<td>None</td>
<td></td>
<td>All</td>
</tr>
</tbody>
</table>
The table briefs us about the assisted legal concern with the laws in different countries in the world. It easily notifies that whether the nation allows for the commercial surrogacy or it doesn’t and also it focuses on different types of surrogacy, its permission, restriction, prohibition or acceptance.

<table>
<thead>
<tr>
<th></th>
<th>Country</th>
<th>Commercial</th>
<th>Gestational, Gestational,</th>
<th>Traditional</th>
</tr>
</thead>
<tbody>
<tr>
<td>13</td>
<td>Japan</td>
<td>None</td>
<td>All</td>
<td></td>
</tr>
<tr>
<td>14</td>
<td>Netherlands and Belgium</td>
<td>No Laws</td>
<td>No Laws</td>
<td></td>
</tr>
<tr>
<td>15</td>
<td>Pakistan</td>
<td>None</td>
<td>All</td>
<td></td>
</tr>
<tr>
<td>16</td>
<td>Russia</td>
<td>Gestational, Commercial</td>
<td>Traditional</td>
<td></td>
</tr>
<tr>
<td>17</td>
<td>Saudi Arabia</td>
<td>None</td>
<td>All</td>
<td></td>
</tr>
<tr>
<td>18</td>
<td>Serbia</td>
<td>None</td>
<td>All</td>
<td></td>
</tr>
<tr>
<td>19</td>
<td>South Africa</td>
<td>Altruistic</td>
<td>Commercial</td>
<td></td>
</tr>
<tr>
<td>20</td>
<td>Sweden</td>
<td>All</td>
<td>None</td>
<td></td>
</tr>
<tr>
<td>21</td>
<td>Switzerland</td>
<td>None</td>
<td>All</td>
<td></td>
</tr>
<tr>
<td>22</td>
<td>Ukraine</td>
<td>All</td>
<td>None</td>
<td></td>
</tr>
<tr>
<td>23</td>
<td>United Kingdom</td>
<td>Altruistic, Gestational</td>
<td>Commercial</td>
<td></td>
</tr>
<tr>
<td>24</td>
<td>Arkansas</td>
<td>All</td>
<td>None</td>
<td></td>
</tr>
<tr>
<td>25</td>
<td>California</td>
<td>Commercial, Gestational</td>
<td>None</td>
<td></td>
</tr>
<tr>
<td>26</td>
<td>Michigan</td>
<td>None</td>
<td>All</td>
<td></td>
</tr>
<tr>
<td>27</td>
<td>New York</td>
<td>None</td>
<td>Commercial</td>
<td></td>
</tr>
<tr>
<td>28</td>
<td>Greece</td>
<td>All</td>
<td>None</td>
<td></td>
</tr>
<tr>
<td>29</td>
<td>China</td>
<td>Gestational</td>
<td>International Arrangement</td>
<td></td>
</tr>
</tbody>
</table>
In Australia, the altruistic surrogacy is permitted as the legal surrogacy. It only has been permitted but not yet implemented. There is total ban on the commercial surrogacy. If in case any of the party enters into the commercial surrogacy treatment at an international level then the penalty is imprisonment for maximum 2 years.

In Arkansas, here all the types of surrogacy treatments are considered legal and are permitted through laws. Ballot in 2008 declared that the surrogacy arrangement for unmarried, cohabiting individuals to adopt or provide surrogacy treatment is totally illegal.

In Canada, the altruistic surrogacy is the legal surrogacy. Commercial surrogacy is strictly prohibited in Canada. Surrogate mothers may be recovering the expenses of the treatment but any consideration or fee is illegal.

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 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.

In France, any surrogacy arrangement whether altruistic or commercial is totally ban in France. All surrogacy arrangements not sanctioned by law. The couple who is making this arrangement is not allowed to adopt the child arised from the surrogacy treatment.
In Georgia, let that be any type of surrogacy, it is permitted in the states of Georgia. 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.

In Greece, the gestational surrogacy is only permitted in Greece. If the surrogate mother is married prior permission of her husband is required. In addition to the intended parents and the surrogate mother must reside Greece only. No international surrogacy arrangements are allowed in Greece.

In Hong Kong, the gestational and traditional surrogacy are permitted commercial surrogacy is strictly prohibited by rule of law. Nobody should pay surrogates or no surrogate should receive money from the intended couple. It is also declared as the criminal act.

In Hungry, traditional as well as gestational surrogacy is allowed in Hungry. No any kind of commercial surrogacy is allowed or permitted by the rule of law.

In Iceland, both the commercial and altruistic surrogacy arrangement is illegal in the Iceland.

In Ireland, all types of surrogacy are accepted in Ireland. No specific laws are there to whether the surrogacy arrangement is legal or illegal. All kinds surrogacy arrangements are accepted buy the rule of law.
In Israel, the concept of gestational surrogacy is on the legal side but the concept of Traditional surrogacy is fully controlled through strict prohibition. As per the commercial arrangements with all its different types are concerned are all permitted but without crossing the nation borders. Israel national law has encouraged some of the intended parents to follow through the surrogacy intentionally out of the nation.

In Italy, in this nation whether it is traditional or gestational or commercial surrogacy, all these types are illegal in its operations. These all types of surrogacy arrangements are legalized with the hard prohibition.

In Japan, in the year 2008, month of March, the council of Japan about the science had projected a total stop to the surrogacy arrangements and said that if any commercial arrangement is done through doctors, agents, Clients then criminal charge will be lie on the relevant party.

In Netherlands and Belgium, altruistic surrogacy has a legal approach in both nations i.e. in Belgium and in the Netherlands. Commercial surrogacy and its operatives are put on the illegal terms. The other two types of surrogacy i.e. traditional surrogacy and gestational surrogacy has a legal look over but there is only single clinic which provides this treatment. The entry in this hospital is supported by various strict rules and regulation for getting treatment in the hospital. After verifying all the documents and other relevant parts then the treatment is given to the patient.

In Pakistan, surrogacy is illegal in Pakistan. All kinds of surrogacy whether altruistic or traditional totally prohibited in the Pakistan.
In Quebec, the nation has The Quebec Civil Code for surrogacy. This submits all types of surrogacy agreements either it commercial or altruistic, unenforceable and not permitted by rule. Total surrogacy concept is illegal and strict rules are there to prohibit surrogacy arrangements.

In Russia, when there is question of artificial reproduction Russia is considered as the assort of reproductive paradise. No specific legislations are there. There are no rules for assisted reproductive technique. Russian law says that any adult woman also having right to became pregnant through the way implantation of embryo. No specific permission is required from any regulatory board or court. The baby child experiences the commercial surrogacy has a 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.

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 remedial trials wherein the female fertility is restored and 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, both the process of surrogacy arrangements altruistic and the commercial are illegitimate. All the treatments are illegal and strictly prohibited by rule of law. The Govt. of Serbia does not allow any kind of national or international surrogacy arrangements.

In South Africa, altruistic surrogacy is permitted but there is ban on the commercial surrogacy. The legislation does not provide the any kind of the legal support to the commercial arrangements. The natives of the South Africa had to act only under the protection of the law. The one of the genetic links should be there from the biological parents. The surrogate mother must have one own pregnancy before surrogacy.

In Sweden, the term and the method of surrogacy has not been defined by the swinish law. The only ruled and a legal method stands very equivalent to it is nothing but adopting the baby child from 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, all kinds of surrogacy arrangements are illegal. The legislation has been provided with the punishment to the clients who just only apply for the fertilization under the surrogacy followings or parent/parents that find a solution to their infertility as the surrogacy. The law relieves the surrogate mother from the punishment by the law. Surrogate mother will now be the legal mother of the baby born, as per the law statements.

In Ukraine, all the relative process of surrogacy and the other concern combinations like the egg or sperm donation is
absolutely on the legal basis under the laws defined in Ukraine. The law for the surrogacy considering the relation between both the ends speaks that a donor or a surrogate mother is absolutely free from the parental rights once the child is born. Also when the child had taken birth is the baby of the biological and the intended couple on the legal terms. There is no any obstruction of taking precise permission from any regulatory body for it. The written consent of all the parties is required or participating in the surrogacy program is mandatory. Biological parents have their name on the birth certificate. The child is considered legally “Belonging” to the prospective parents.

**In United Kingdom,** only gestational and traditional surrogacy is permitted, Commercial surrogacy is strictly prohibited. In the UK, it is stated unlawful that amount to be paid is more than the actual expenses spent on the treatment of surrogacy. But on to the other side, the concern surrogate mother surely maintains the legality in her rights of fortitude for the baby child although they are genetically not related with each other.

**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.
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.

Finally in India, all kinds of surrogacy arrangements are legal in India. In the year 2002, India made legalize commercial surrogacy, and other kinds of surrogacy are also legal in India. Compare to other nation the rate of commercial surrogacy in high in India. The Law of Contract and mere agreement is sufficient in India.

This data clearly shows that availability of laws in different countries and which kind of surrogacy is allowed in these states. From this data researcher have made the different categories of the countries under different headings
TABLE NO. 5
ANALYSIS OF COUNTRIES ON DIFFERENT BASIS
The data is analyzed in the way given below

<table>
<thead>
<tr>
<th>No.</th>
<th>Point of Analysis</th>
<th>Name of the countries</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>Countries having specific Acts or rules for surrogacy</td>
<td>Australia, Arkansas, Canada, France, Greece, Hong-Kong, Ireland, Israel, Japan, Quebec, South Africa, Switzerland, Ukraine, United Kingdom</td>
</tr>
<tr>
<td>2.</td>
<td>Countries in which specific laws are not available</td>
<td>California, China, Hungary, Georgia, India, Italy, Netherlands and Belgium, Pakistan, Russia, Saudi Arabia, Serbia, Sweden, United States, Michigan, New-York, Greece</td>
</tr>
<tr>
<td>3.</td>
<td>Traditional and Gestational surrogacies are allowed</td>
<td>Australia, Arkansas, France, India, Ireland, Japan, Pakistan, Serbia, South Africa, Switzerland, Ukraine, United States,</td>
</tr>
<tr>
<td>4.</td>
<td>Commercial surrogacy is strictly prohibited</td>
<td>Australia, Quebec, France, Hong-Kong, Hungary, Iceland, Israel, Italy, Japan, Netherlands and Belgium, Pakistan, Saudi Arabia, Serbia, South Africa, Switzerland, United Kingdom, Arkansas, California</td>
</tr>
<tr>
<td>5.</td>
<td>Commercial surrogacy is allowed</td>
<td>France, India, Ireland, Israel, Netherlands and Belgium, Russia, Sweden, Ukraine, United States, Arkansas, California</td>
</tr>
<tr>
<td>6.</td>
<td>Countries in which all kind of surrogacy are accepted</td>
<td>India, Netherlands and Belgium, Russia, Sweden, Ukraine, United States, Greece,</td>
</tr>
<tr>
<td>7.</td>
<td>Countries in which each and every kind of surrogacy is ban</td>
<td>Quebec, France, Iceland, Italy, Japan, Pakistan, Saudi Arabia, Serbia, Switzerland, Michigan</td>
</tr>
<tr>
<td>8.</td>
<td>Countries prescribed punishment for breaching laws on surrogacy</td>
<td>Australia, Hong-Kong, Switzerland, Michigan, New-York</td>
</tr>
<tr>
<td>9.</td>
<td>Countries adopted different rule for surrogacy arrangement</td>
<td>Israel, China, Netherlands</td>
</tr>
</tbody>
</table>
The name of countries which has framed a specific acts or rules for surrogacy

There are many countries in the world those have created a law for the surrogacy.

Some of the countries i.e. Australia, Arkansas, Canada, France, Greece, Hong-Kong, Ireland, Israel, Japan, Quebec, South Africa, Switzerland, Ukraine, United Kingdom are the some of the states which has been created a laws on the surrogacy in India. Some countries have not made some specific Acts but legal rules have made which specifically explains the legality and illegality of the every kind of surrogacy.

The name of the countries which are silent on surrogacy

Some countries are blank on the concept of surrogacy. No special acts or laws are available to tackle the increasing trend of surrogacy. California, China, Hungary, Italy, Netherlands and Belgium, Pakistan, Russia, Serbia, Sweden and some states in United States i.e. Michigan, New York, Saudi Arabia and Georgia. Nearly 46% countries are silent on the surrogacy. Nearly 54% countries have been prescribed some acts or law or rule for surrogacy. No any special act or law has been prescribed anywhere. These are the states some of them have declared the surrogacy illegal, some of them have made it legal for gestational or traditional surrogacy but specific name of the acts have not been given. It’s not mean that this state is blank on surrogacy but researcher could not get the proper names of the acts or rules.

The name of the countries in which Traditional and Gestational surrogacy are allowed

There are some countries in the world in which traditional and gestational surrogacy is allowed. The traditional and gestational surrogacy is having a historical background also. These countries have been accepted only these kind of surrogacy arrangements which comes under the heading of traditional or gestational surrogacy. The name of the countries is as follows. The Australia, Canada, Georgia, Ireland, Israel, Netherlands and Belgium, Russia, South Africa, Sweden, Ukraine, United Kingdom ,Arkansas, California, China and finally India. Nearly in 53% countries gestational and traditional surrogacy is allowed. Nearly 47% countries mot allowed these kinds of surrogacy are in these given countries traditional and gestational surrogacy are legal.
The name of the countries in which Commercial surrogacy is strictly prohibited by law

The commercial surrogacy is also known as the surrogacy is done only due to getting some amount of money. The commercialization of surrogacy creating and making some countries as fertility tourism. Some states called it as a womb selling business; some called it as baby marketing. So, and many countries are prohibiting the commercialization of surrogacy. In Australia, Quebec, France, Hong-Kong, Hungary, Iceland, Israel, Italy, Japan, Netherlands and Belgium, Pakistan, Saudi Arabia, Serbia, South Africa, Switzerland, United Kingdom, Michigan, New York. Nearly in 60% countries strictly prohibited the commercial surrogacy. Remaining 40% countries are silent on the issues of surrogacy; in these countries commercial surrogacy is allowed. In these countries commercial surrogacy is strictly prohibited and the in some countries punishment has been prescribed for the commercial surrogacy. This commercialization of surrogacy the India is the highest liking country in the world. In the state of Gujrat there is tremendous increase in the commercial surrogacy in India.

The name of the countries in which commercial surrogacy is allowed or not prohibited by rule of law

The commercial surrogacy is allowed in many countries. As people think it is the gift of the medical science that if no any woman becomes pregnant by natural process then they adopt the procedure of the surrogacy. If nobody in their family gets ready to adopt this treatment then they appoint a commercial woman who gets ready to carry the child. It is the positive view of the surrogacy and therefore the commercial surrogacy treatment is allowed in following countries that are Georgia, India, Ireland, Israel, Netherland and Belgium, Russia, Sweden, in United States, Arkansas and California. In 40% countries commercial surrogacy is allowed. Commercial surrogacy is legal in these countries. Remaining 60% countries strictly prohibits the arrangement of commercial surrogacy. In these states the commercial surrogacy is allowed and not prohibited by the rule of law. The commercial surrogacy is comparably accepted by the minimum countries and therefore the rate is very less of the countries who are accepting the commercial surrogacy.
The name of the countries where all kind of surrogacy is accepted

There are many countries in the world which are accepting all kinds of surrogacy arrangements. These countries are surrogacy friendly countries. These countries have adopted all kinds of surrogacy and have framed many laws, rules and regulations for surrogacy the name of those countries are mainly India, Netherlands and Belgium, Russia, Some United States and Greece these are the name of the countries where all kinds of surrogacy are accepted. In 20% of the country all kinds of surrogacy is allowed. In remaining 80% of the countries other related laws are available. If we make comparison between these entire no’s these quantity is very much less means these countries should think over their decision that is this proper view of legislation or not.

The name of the countries where each and every kind of surrogacy is ban

There are some countries where each and every kind of surrogacy is ban. No c country is accepted any kind of surrogacy arrangement. In the surrogacy arrangement, lots of issues are there and therefore to avoid these kinds of problems and tragedies some countries have avoid the surrogacy treatment. In Quebec, France, Iceland, Italy, Japan, Pakistan, Saudi Arabia, Serbia, Switzerland and Michigan are the name of the countries which have been prohibited the all kinds of surrogacy arrangements. Nearly in 33% of the countries all kinds of surrogacy are ban. In 67% of the countries different laws are available for surrogacy.

The name of the countries in which punishment has been prescribed for breaching the laws of surrogacy prescribed by rule of law

Most of the countries have prescribed the punishment for breaching of the contract. Most of the countries prohibited the commercial arrangements. In Australia commercial surrogacy is illegal and the parties who make this arrangement will punish for 2 years imprisonment. In Hong-Kong the commercial surrogacy arrangements are illegal and the parties who made this arrangement should have to face the punishment prescribed by the legislation of the Hong-Kong. In Switzerland commercial surrogacy is ban and the people who make this arrangement punished has been prescribed by Switzerland Govt. the punishments have been prescribed strictly. In
Michigan all kinds of surrogacy are crime and for the surrogacy arrangement fine and punishment is also prescribed in the laws of the Michigan. The punishment is the imprisonment.

In New-York all kinds of surrogacy are ban and therefore the punishment has been prescribed. The punishment is fine in the prescribed in the laws of New York country. Nearly in 16% of the country the penal attributes have been stated for surrogacy. Punishment has been prescribed for making any kind of surrogacy arrangement. Remaining 84% countries have not prescribed any kind of punishment for surrogacy arrangement.

**Name of the countries which has adopted certain different rules for surrogacy arrangement**

In Israel only within the country surrogacy is accepted. The law in Israel reads that any lady being a surrogate must be an individual, widowed or divorced. Moreover the couples that have an infertile heterosexual relation with themselves are permitted for accepting the child born from the treatment of the surrogacy. There are few more laws saying about having prohibitions on surrogacy. These Israel laws have permitted some intended parents to approach the surrogates but should be outside the country. The laws over the treatment of surrogacy are really strict in these countries. The state has also formed a committee that works over permitting the surrogacy treatments only for the Israel citizens that too with the same religion. It means out of religion surrogacy is not allowed.

In China International surrogacy arrangements are not allowed. International surrogacy arrangements are called as a illegal only with in the country surrogacy is allowed.

In Netherland and Belgium only altruistic surrogacy arrangement is allowed. Commercial surrogacy is ban and therefore there is no private organization which handles all this arrangement. The only one hospital is there which make these type of surrogacy arrangements and none other hospital has been permitted to organize all kinds of surrogacy arrangements. Netherland is only one country where these rules prevails.

These paragraphs explain the laws available in various countries that either they are accepting the concept of surrogacy or not whether they are accepting commercial surrogacy or not? Whether they are accepting the gestational and traditional surrogacy or not? Is any is available to control the commercial surrogacy or not? Is there any special legislative arrangement
which is existed for all kinds of surrogacy. The various countries have various laws to arrange the surrogacy.

### TABLE NO 6
**LAWS AVAILABLE IN VARIOUS COUNTRIES FOR SURROGACY**

<table>
<thead>
<tr>
<th>No.</th>
<th>Name of Country</th>
<th>Available laws for surrogacy</th>
</tr>
</thead>
</table>
| 1   | Australia      | i) Surrogacy Act 2010, No.102  
     |                | ii) Parentage Act 2004,  
     |                | iii) Surrogacy Act 2004  
     |                | iv) Family relationship Act 1975,  
     |                | v) Surrogacy Act no.34,  
     |                | vi) S. Consequential Amendments Act-1993 No.4,  
     |                | vii) Altruistic Surrogacy Law 2013 |
| 2   | Arkansas       | i) Surrogacy Act 647         |
| 3   | Canada         | ii) Assisted Human Reproduction Act |
| 4   | France         | i) Ar.16-7 of the Code Of Civil,  
     |                | ii) Ar.6 & 1128 of the code civil  
     |                | iii) Ar.353 of the code civil |
| 5   | Greece         | i) Greece Law 3089, ii) Article-1458cc of the Greek Civil Code. |
| 6   | Hong-Kong      | i) Human Reproductive Technology Ordinance-2000 |
| 7   | Ireland        | i) Equality & defense published guidelines |
| 8   | Israel         | i) Embryo carrying Agreements law |
| 9   | Japan          | i) Science Council Of Japan |
| 10  | Quebec         | i) Quebec Civil Code |
We can analyze from the above table that, there are many countries those have adopted the laws for surrogacy and the laws have specifically mentioned in their existing terms. All the countries have accepted the laws for surrogacy is not the basic fact. Some of them are silent and some are very possessive when concerning with the comments to pass on the laws for surrogacy. Below mentioned is the information that clearly defines us about the availability of laws and respective names they are known with. These laws created has been framed either to have control over the commercial surrogacy or to protect the rights of the significant parties involved in the surrogacy arrangement. These relevant parties are surrogate mother onto the one side and surrogate child and biological parents onto the other side.

Below mentioned is the initial analysis or the study of the table that will clarify us about the laws and rules available in the different countries through out the world.

**Firstly in Australia**, the concern states have gone through such an arrangement for the intended parents with defined rights. Victoria had changed their legislation on 1\(^{st}\) 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\(^{st}\) 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.

<table>
<thead>
<tr>
<th></th>
<th>Country</th>
<th>Laws</th>
</tr>
</thead>
<tbody>
<tr>
<td>11</td>
<td>South Africa</td>
<td>i) South Africa Children’s Act of 2005</td>
</tr>
<tr>
<td>12</td>
<td>Switzerland</td>
<td>i) Vol-18 dez 1998 Art-4 Art-31</td>
</tr>
</tbody>
</table>
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**, 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 France**, though 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 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 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 behavior 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 Japan, March 2008, the Science Council of Japan had declared the total bann on surrogacy and had ordered all the concern doctors, agents and their clients that they shall be punished for commercial surrogacy arrangements.

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, artificial reproduction and fertility is concerned as the Russian reproductive paradise. It is the nation that had more interest towards legislation for intended and commissioning parents. There is no any specific law made in regulating any of the aspect of assisted reproduction technology. 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.

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.

In Switzerland, here 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.
Other related information

The countries that are very silent on the issues of surrogacy are California, China, Georgia, Hungary, Italy, Netherlands and Belgium, Pakistan, Saudi Arabia and Sweden. This does not mean that in the enlisted countries the process of surrogacy is not allowed but the concern fellow researcher may not get the exact name of the Act or the corresponding provision. This helps us in analyzing or easy for us to know that which state allows or restricts the surrogacy arrangement. United State of America, considered as the most developed countries in the world but it is surprising that USA is also very silent on the issue of surrogacy.

This silence by the most developed countries on the concept of surrogacy is just because there has not yet entered the issues of commercial surrogacy as it is run in the state of India. In India, all the settings of the surrogacy arrangements are controlled so it finds no necessity to think over the issue of Surrogacy. Most of the intended couples visits India are from Canada, Australia, California and United States. The intended couple commented the views about surrogacy in India on a video telecasted on the internet website ‘youtube.com’. It says that the expenditure of surrogacy in India is only one third of the amount of expenditures in their hometown nation.

The data scripted in the above paragraphs helps the data researcher in knowing the present rules and regulations about surrogacy available in the foreign countries. It is easy in finding the answer to some questions like – How many countries are in favour of surrogacy. In what matters India should think about it?

Map No. 2

Map of State of Gujrat
Statistical analysis of no of surrogacy made in India during these recent years

There is as such no any official or estimated number count on how large the fertility industry and its turnover is? U.N survey in July 2012 and estimated the surrogacy business is at more than $400 million a year, with over nearly 3,000 fertility clinics across India.

The Akansha clinic in Anand, Gujrat, is the well known ART in India and abroad also. This has given the small town in Gujarat state an international reputation as the surrogacy capital of India. Patel, who appeared for on U.S. celebrity also Oprah Winfrey's talk show in 2007, has produced more than nearly 500 surrogate babies, two-thirds of them for the foreigners and people of Indian and foreign origin living in over 30 countries.
Charging to the couples like Rekha and Daniel an average of to the $25,000 to $30,000, a fraction of the cost nearly in the United States also Patel pays her surrogates around 400,000 rupees ($6,500).

It is only the given statistical data of the one hospital in Gujrat. Like this 3000 clinics in India make the I.V.F. and surrogacy treatments. Then we should get the idea of increasing commercial surrogacy arrangements in India, from which most of the surrogacies are done for the foreign couples.

No any country has been declared that no. of surrogacies in one year. After analyzing the various articles, researcher find out that rate of commercial surrogacy whether national or international, India has declared the highest quantity of surrogacies in one year. No any hospital or clinic has provided or published that amount of surrogacies in whole world except India.

**NON-DOCTRINAL**

The study is based on the doctrinal as well as non-doctrinal i.e. empirical method of data collection. The researcher collected the primary data through the conversation. Observation, interview, and questionnaire method of data collection. The detail of primary data collection is as follows-

The surrogacy is a socio-legal concept. So, it is very important to take the opinion of the respondents that has been selected through the random sampling method. The laws frame to sequare the rights of the people in the country. This research is made to study various issues arise from the surrogacy arrangement. For e.g. psychological, physical, ethical, social and like many other issues. The study is made to make focus on the need of special legislative enactment for surrogacy laws in India.

An interview technique for data collection by Non Doctrinal method was applied using pre-tested Interview Schedule and Questionnaires as a tool considering the object of present legal research and hypothesis. The data is collected through the telephonic conversation also, according to management of the respondent.

A] **Universe**
Universe of the study consisted of Advocates, Doctors, law students, N.G.O’S, Judges and common people in society. The surrogacy treatment is not the published by its name “Surrogacy” It is known as the I.V.F treatment. Due to many issues and lack of availability of the any legislation, many respondents do not wants to disclose their identity even some doctors and lawyers also. The researcher also studies the laws in various developed and other countries also. The selection of countries is also made by random sampling method. Since the researcher select the people by random sampling method from Maharashtra. The concept of surrogacy is new and most of the people are not aware of this treatment. So researcher selected any particular area. People in India are well cultured and they don’t get ready to discuss about this personal matter. So, the no. of respondents was so limited because it was very difficult to collect data on very personal and emotional matter.

B) Sampling design-

The researcher interviewed selected samples of 300 respondents from the universe in following categories by using simple random sampling techniques.

<table>
<thead>
<tr>
<th>No.</th>
<th>Category of respondents</th>
<th>Numbers</th>
</tr>
</thead>
<tbody>
<tr>
<td>1)</td>
<td>Advocates</td>
<td>65</td>
</tr>
<tr>
<td>2)</td>
<td>Doctors</td>
<td>25</td>
</tr>
<tr>
<td>3)</td>
<td>N.G.O</td>
<td>5</td>
</tr>
<tr>
<td>4)</td>
<td>Judges</td>
<td>5</td>
</tr>
<tr>
<td>5)</td>
<td>Common people in society</td>
<td>150</td>
</tr>
<tr>
<td>6)</td>
<td>Law students</td>
<td>50</td>
</tr>
<tr>
<td></td>
<td>Total</td>
<td>300</td>
</tr>
</tbody>
</table>

C) Tools of Data Collection
A set of two pretested Interview schedule and a Questionnaires were used as a tool to collect the pertinent data and apart from this observation and discussion methods were also used to illicit relevant data.

D] Pre-testing of Interview Schedule and Questionnaire:

An interview schedule and questionnaire with a set of questions was prepared based on the objectives and hypothesis of the study and pre tested with few respondents its clarity and meaning of the questions properly worded. Finalized after necessary corrections and modifications, after discussion with the guide.

E] Field work:

Researcher visited the following places to collect primary data from the selected respondents for a period of 7 months and as per convenience of respondents taking them into, confidence and the data will be used for academic purpose. This subject is very personal as well as very new so it takes a lot of time for gaining the faith of common people in society. Mostly woman is society is so much uncomfortable to answer. Youths are so actively took part in the conversation; though they were not deeply know the concept of surrogacy.

Mostly girls asked so many questions and resolve all the queries of surrogacy and by heart reply all questionnaire.

1] Courts
2] Law colleges
3] Hospitals
4] Other colleges
5] Advocate chambers
6] N.G.O
7] Other necessary places
F] **Analysis and Interpretation of data**

The collected data was tabulated, coded, analyzed and interpreted using appropriate statistical tools and presented in simple, tabular pictorial, and Graphical formats. Graphs have been made by simple techniques and method that any common people could also understands the data researcher wants to elaborate.

Researcher has categorized respondents in following categories

<table>
<thead>
<tr>
<th></th>
<th>Advocates, law students, Judges</th>
<th>120</th>
</tr>
</thead>
<tbody>
<tr>
<td>2</td>
<td>Doctors and N.G.O</td>
<td>30</td>
</tr>
<tr>
<td>3</td>
<td>Common people in society</td>
<td>150</td>
</tr>
</tbody>
</table>

Researcher has analyzed data and reached to the final conclusions.

G] **Limitations:**

The process of completing study however had some limitations

1. This study is limited to ‘’ Need of special legislative enactment for surrogacy laws in India [With special reference to surrogacy laws in various countries]. The data is collected from the random samples in Maharashtra.

2. Since the research work is purely legal and sensitive many respondents especially those who were from non legal background were totally not aware, the researcher ad to spend more time in convincing and giving information about concept of surrogacy and relevant information with it.

3. Even the legal and Para-legal practitioners were not aware about many constitutional provisions.
4. Time was major constraint as the researcher had to meet the respondents at their conveniences of time and locations.

5. However, the researcher in spite of all these hindrances put in his efforts and managed to collect relevant data.

An interview technique for data collection by non doctrinal method was applied using pre-tested Interview Schedule and Questionnaires as a tool considering the object of present legal research and hypothesis. The researcher interviewed selected sample of 300 respondents from the universe. An interview schedule and questionnaire with the set of questions was prepared based on the objectives and hypothesis of the study and pre tested with few respondents. The purpose was to check from the respondents its clarity and meaning of the questions properly worded.

**Personal information**

In this section researcher has tried to describe the respondents in terms of Name, Age, gender, education, occupation and area i.e. rural or urban, etc. to know the behavior and attitude. All these categories effect on the thinking of the people. The common people are also choosing from various urban and rural areas. So the researcher tried to understand the personal details.

The majority of the respondents from legal and paralegal field are in the age group 21 to 50 majorities of law students are in age group 20 to 25. Doctors are in the age group 30 to 60. From the 30 doctors, 25 doctors are gynecologist, and 5 psychiatrists. N.G.O’s have been selected as a category of respondents. N.G.O does not have any conditions, rather they should be registered.

The last very important point is the categories the Common people have been divided. There are 4 main categories.

[1] Woman age group up to 20


[3] Woman age group 40 onwards

Common people are from various fields like Medical, Engineering, Interior Designer, Businessman, house wives, literate, illiterate, aged, working women economically backward etc. From the common people respondents are men, women from the age group upto 20, from the age group 20-40, from the age group 40 onwards.

**Legal awareness of the respondents**

Majority of the respondents are not aware of the concept of surrogacy. Especially Advocates, law professors and law college students are well aware about the concept and provisions about surrogacy. Woman respondents partly know about surrogacy concept but they took active part in conversation. 35% people were not aware about concept and laws for surrogacy arrangements. Even some advocates and law students also was not deeply know about this concept they had only knowledge of hearing some cases like people in higher profile.

98% of respondents were replied for the need of special legislative enactments for surrogacy laws in India. Only 2% people were not at all concern with laws, rules regulations society. They were not concern about their legal prospective. These 2% people are totally ignore the conversation and totally against the surrogacy arrangements. Following are the graphs indicating total reply of the respondents for the questionnaire.

The graphs have been made by analyzing the collected data in concern with the fulfillment of the aims and objectives of the research problems. The following data and graphs are made by analyzing all the collected from the respondents. The results are as follows.

Five tables and graphs are there first table and graph indicates those hoes many people are aware of the concept of surrogacy. Second table and graph indicates that how many people replies on the need of special legislative enactment for surrogacy laws in India. Third table and graph indicates that how many people replied that India is becoming the commercial tourism for surrogacy arrangements for table indicates that does Present laws are sufficient to tackle the issues related with surrogacy such as legal emotional, social, ethical, economical & psychological.

Following is the first table which indicates that how many people are familiar with the concept of surrogacy.
Table No. 7

Familiar with the concept of surrogacy

<table>
<thead>
<tr>
<th>No.</th>
<th>Opinion</th>
<th>Frequency</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Yes</td>
<td>50</td>
<td>30%</td>
</tr>
<tr>
<td>2</td>
<td>Partly</td>
<td>20</td>
<td>40%</td>
</tr>
<tr>
<td>3</td>
<td>No</td>
<td>30</td>
<td>30%</td>
</tr>
</tbody>
</table>

Graph No. 1

Familiar with the concept of surrogacy

Explanation of the Graph-

Majority of respondents i.e. 30% are familiar with the concept of surrogacy. 40% people are partly know about surrogacy. 30% people are not at all known about the concept, and surrogacy laws in India.
The people having detail knowledge regarding the concept of surrogacy are from the educated background i.e. doctors, lawyers’ law students and women and men from the common people in the society. The young girls i.e. from the age group upto 20 and women from the age group 20-40 are mostly aware from this concept. The women are educated or actively knowing the incidents in the society. Some educated people also not aware of the concept. Experiences were different from categories of respondents. Totally 70% people were known fully and partly of the surrogacy concept. These category mostly include the educated and the social working people.

The second category i.e. second table and graph indicates the how many people are in favors that there is the need of special legislative enactment for surrogacy laws in India.

**Table No. 8**

**Need of special legislative enactment for surrogacy laws in India.**

<table>
<thead>
<tr>
<th>No.</th>
<th>Opinion</th>
<th>Frequency</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Yes</td>
<td>98</td>
<td>98%</td>
</tr>
<tr>
<td>2</td>
<td>No</td>
<td>2</td>
<td>2%</td>
</tr>
</tbody>
</table>

**Graph No.2**

Need of special legislative enactment for surrogacy laws in India.
Explanation of the graph-

Above graph clearly indicates that 98% of the respondents opinioned positively, i.e. there is need of special legislative enactment for surrogacy and 2% of the respondents opinioned blank or negative about the same.

Many respondents which were not totally aware of the concept, respondent took one meeting and conversation of all those people, and gave them total information regarding the concept of surrogacy. Researcher also aware them from various issues of surrogacy, and availability of the present rules and regulations for surrogacy. Then took the opinion of the respondents for the questionnaire that is there need of special legislative enactment for surrogacy laws in India. Most of people reply in positive way. Some people i.e. only 2% people were replied in negative way. That people ignore the facts and not at all ready to understand the details about surrogacy and said that if there is no need of surrogacy, then no need to laws. It is not our culture and tradition.

The following table and graph indicates that how many people opined that India is becoming reproductive tourism for commercial surrogacy.

Table No. 9

<table>
<thead>
<tr>
<th>Opinion of the total respondents</th>
</tr>
</thead>
<tbody>
<tr>
<td>Category 1</td>
</tr>
</tbody>
</table>

India is becoming reproductive tourism for commercial surrogacy.
<table>
<thead>
<tr>
<th>No.</th>
<th>Opinion</th>
<th>Frequency</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Yes</td>
<td>90</td>
<td>90%</td>
</tr>
<tr>
<td>2</td>
<td>No</td>
<td>10</td>
<td>10%</td>
</tr>
</tbody>
</table>

**Graph No.3**

**India is becoming reproductive tourism for commercial surrogacy.**

**Explanation of the graph:**

The above graph explains that 90% of the respondents say that India is becoming reproductive tourism for commercial surrogacy. Remaining 10% are silent about this issue. The people from second category are mostly from rural areas, less educated and poor.

The graph indicates that there is positive response from the people that most of the people think that India is becoming world’s most favorite place for surrogacy. The statistical presentations explain the increasing trend of surrogacy in India, compare to the other countries. The respondents who were aware of this fact explain in positive way. The remaining respondents who did not know about all these facts researcher made aware of that fact to the respondents and then reply was gain from all of them.

The next table indicates the reply of respondents for Present laws are sufficient to tackle the issues related with surrogacy such as legal emotional, social, ethical, economical & psychological.

**Table No.10**
Present laws are sufficient to tackle the issues related with surrogacy such as legal, emotional, Social, Ethical, Economical & Psychological.

<table>
<thead>
<tr>
<th>No.</th>
<th>Opinion</th>
<th>Frequency</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Yes</td>
<td>25</td>
<td>25%</td>
</tr>
<tr>
<td>2</td>
<td>No</td>
<td>75</td>
<td>75%</td>
</tr>
</tbody>
</table>

Graph No. 4

Present laws are sufficient to tackle the issues related with surrogacy such as legal, emotional, Social, Ethical, Economical & Psychological.

Exploration of the graph-

The above graph explains that 85% of the respondents opinioned that the present rules and regulations are not sufficient to tackle the issues regarding surrogacy. 15% think that present rules are sufficient to tackle issues of surrogacy. Present laws do not have any legal enforcement which will sort out all the issues relating to surrogacy.

The above graph indicates that most of the people are replied in negative way that no present rules and guidelines are sufficient to tackle the problem of increasing commercial surrogacy or issues in relation with the surrogacy. Most of the issues are related with the ethical and economic section. Mostly poor and needy people adopt the surrogacy treatment. Yet in India ethical importance is given more. So, surrogacy is mostly not accepted in the Indian culture.

Table No. 11

**Adoption Is Better Option than Surrogacy**
Adoption Is Better Option than a surrogacy

Beyond these measure findings the researcher studied the mentality of each of the respondents for many issues.

The most of women respondents were not against surrogacy, but they are not ready to suggest their childless friends for going to this treatment. Most of the women are not ready to accept this concept ethically. Some women assume it as this is only for the celebrities and we could not also think for that. The women at the age more than 40 favor adoption more than surrogacy. It is a very lengthy process and we could not faith on any one.

30% respondents suggest the surrogacy better than adoption because the biological relationship of both the parents and at least one parent could be created. This response was mostly from youths, doctors, lawyers and people from the urban areas.

When it was to respondents that which women should go for the surrogacy treatment, 85% respondents replied that the physically disabled woman should go for surrogacy and 15%...

<table>
<thead>
<tr>
<th>No.</th>
<th>Opinion</th>
<th>Frequency</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Yes</td>
<td>70</td>
<td>70%</td>
</tr>
<tr>
<td>2</td>
<td>No</td>
<td>30</td>
<td>30%</td>
</tr>
</tbody>
</table>

Graph No. 5
Adoption Is Better Option than a surrogacy

Explanation of the Graph

Beyond these measure findings the researcher studied the mentality of each of the respondents for many issues.

The most of women respondents were not against surrogacy, but they are not ready to suggest their childless friends for going to this treatment. Most of the women are not ready to accept this concept ethically. Some women assume it as this is only for the celebrities and we could not also think for that. The women at the age more than 40 favor adoption more than surrogacy. It is a very lengthy process and we could not faith on any one.

30% respondents suggest the surrogacy better than adoption because the biological relationship of both the parents and at least one parent could be created. This response was mostly from youths, doctors, lawyers and people from the urban areas.

When it was to respondents that which women should go for the surrogacy treatment, 85% respondents replied that the physically disabled woman should go for surrogacy and 15%...
replied that due to lack of time or physically conscious woman could also go for surrogacy. The world is of competition and we should go with it. This reply was mostly from nearly age group 20 both girls and boys.

The one issue was also discussed during the interviews that whether they will accept the surrogate mother and surrogate child by heart in society, or they will treated differently, the 60% people were replied that they will accept them but if something is different we automatically attract towards it, so, for some time effect would be there. The remaining 40% respondents were replied that this is sin and unethical to bear the men’s child so, not only women but men, also replied in this way. Some youths also accepting this concept, but not confirm that they should accept these kinds of women in society by heart or not.

N.G.O’s took proper and deeply part during conversation yet they have not tackle these kinds of issues but they replied that if this situation prevails so likely then it could create many issues. Many were in favour of surrogacy because they have seen many cases of cruelty to childless woman. They thought that it is better to adopt the surrogacy rather than divorce, second marriage, adultery, extra marital affairs. This treatment would give that woman new life and joy of parenthood.

Judges were extremely favour of the surrogacy laws because they are aware of the concept of commercial tourism and disadvantage of this increasing trend which making India world’s most favorite center for surrogacy. They did not face any surrogacy cases yet, but if this trend will be like increasing then India should make one special court for the cases of reproduction.

Mostly lawyers did not have deep knowledge of process of surrogacy. They did not learn any of the acts for reproduction. Lawyers are aware this concept that India should make laws on the surrogacy. Lawyers are the executives of the legislations. They are the protectors of the laws. They replied that India is silent on the issue of surrogacy. All the options and issues on which laws should be made that have been selected by the respondents.

Many doctors do not declared the clinic directly as a surrogacy centre they define it as I.V.F. treatment. Most of doctors did not gave direct response. They answered through the juniors. Some doctors suggested to refer their websites and answered you. Local doctors i.e. gynecologist treated well, but they were much disturbed to answer the questions to the law
researcher. Much psychiatrist tat not experienced these surrogacy sessions or patients. They state its importance to prepare one woman mentally ready to follow this lengthy and complicated pre surrogacy, during surrogacy and after surrogacy treatment and procedure. They also states the importance of the fit mental condition is important for surrogacy cause after bearing a child for 9 months in womb and then deliver it to the another family is not that much emotionally possible for surrogates. Therefore sessions are important for surrogate mother and the intended couple also to make prepare for the surrogacy treatment.

Due to more importance is given to ethics and culture many people are not ready to accept this concept. The lack of deep knowledge of surrogacy treatment, they assumed physical relationship of the intended father and surrogate mother. Lack of awareness of people is responsible.

In the interview section the researcher analyzed some more things. The questionnaire is included more things that explains some more things also which answered the various hypothesis of the research problem.

**Most important findings of the study**-

Present hospital rules, regulations and surrogacy agreements are not sufficient to tackle the problem of surrogacy. Researcher studies the present hospital rules and regulations for the surrogacy treatment. The researcher studies the various hospitals rules and regulations and compares the homogeneity of the rules and laws follows during the treatment of surrogacy. The role of hospitals in the total surrogacy arrangement. Hospital rules and regulation are different from the hospital to hospital. The surrogacy arrangement is based on the surrogacy agreement between the intended party and surrogate mother. Researcher tried to find out the fix proforma of the surrogacy arrangements, but there is no any documentary evidence which shows the particular proforma of the surrogacy agreement.

Every hospital provides the different agreement proforma. The most surprising thing is it is written on the agreement that it is not enforceable in the court of law and hospitals are not at all responsible for any quarrels then what is the legal aspect of this surrogacy. In some cases the
hospital themselves the surrogate mother, in some cases the intended parents find the surrogate mother. The agents and advertise in the newspaper provides surrogate mothers to the intended parents.

If we look toward the security or insurance of the surrogate mother or surrogate child no any security is given to the both of the risk bears. No assurance or security is provided to the intended couple except the surrogacy agreement. In most of the countries international surrogacy arrangements are not allowed but in India all types of surrogacy arrangements are allowed whether national or international. Most of the hospitals are not declaring directly for the surrogacy treatment but it is mostly known for the I.V.F, Donor I.V.F. etc. Most of his declaring surrogacy are make in the Aanand, Gujrat. Researcher wanted to make spot visit to the one of the hospital but no any of the hospital permitted to do so. Through the mails and telephone researcher asked for the same, but researcher does not get the permission. They only provide me the information through the telephonic conversation and mails?

Existing rules are not sufficient to face the problem of surrogacy. India is becoming the famous surrogacy centre in all over the world. Most of countries had framed the strict and particular laws on surrogacy. In some developed and developing countries. As researcher has explained before most of the countries like Australia, Russia, United Kingdom, and Canada have framed laws and regulations for surrogacy treatment. But in India, situation is different no any law is framed for surrogacy in India. Though the rate of surrogacy is highest in India. The trend of commercial surrogacy in increasing, international surrogacy arrangements are increasing in India. This situation is becoming very critical. In India, is we look toward the legal regime available for surrogacy, and then we get the information that only Law of Contract is available for surrogacy. An agreement is made between the intended parents and surrogate mother. I.C.M.R. [Indian Council of Medical Research] Guidelines have provided various guidelines which does not have any legal regime. Neither strict law not any rules; in addition to that commercialization of surrogacy is legal in India. Since 2002. This attract people due to availability of the surrogates and comparably low than any cost of surrogacy expenditures. Indian currency is comparably very low than any other country in this world. Introduction and implementation of National Guidelines for Accreditation, Supervision, and Regulation of Assisted Reproductive Technology (ART) Clinics in 2006, and guidelines have been issued by the Indian Council of Medical Research (ICMR) under the Ministry of Health and Family
Welfare, Government of India. Nonetheless, Assistant Reproductive Technique (ART) Regulation Bill, 2010 lays down few guidelines which are only discussed and not regulated in India.

Why India? The answer is low cost of surrogacy treatment, easy availability of the surrogates, no legislative support, foreigners are treated very respectively, economic condition is not that much strong like other countries, alcohol consumption rate of women is very low compare to other countries, the definition of the motherhood is different. The woman carries her child very love fully and carefully. The food in India is nutritious and good for the health of the baby in the womb. Like this many reasons are their which developing India for surrogacy and commercial surrogacy.

The current example of surrogacy is Shahrukh Khan, Aamir Khan, and Saroj Khan. These are the published examples of surrogacy. All these people are from bollywood industry of India. In case of Aamir Khan the physical incapacity of his child was there but in case of Shahrukh Khan he already has two children one girl and one boy, then also he gave birth to the third child. In one track we are trying to control our increasing population and other side these famous people are giving birth to the third child, and those people to whom people are assuming their ideal. These people creating bad impression over the people. Some of the female celebrities also going for this treatment due to non availability of the time and figure consciousness. This are not the definition of the motherhood. This trend is increasing and disturbing the culture and ethics of India.

In India, special laws for surrogacy are not available. Present rules are not satisfactory for the increasing commercial rate in India. Only guidelines are not accepted in any court of law. Strict legislative enactment should be there to tackle the issues of surrogacy. Researcher does not get any mandatory laws on surrogacy. No strict hospital rules are available not the condition of the surrogates are that are that much better.

Global phenomenon ultimately demands a global solution. International surrogacy arrangements have not given satisfactory solution and yet they are in need of more enactments. In India the concept of surrogacy is not familiar to all Indians. Some people know exactly about surrogacy and surrogacy arrangements and types of surrogacy. In India more than thousands tribes and caste are there, thousands are languages speaks in India. The culture and traditions are
important than lives in India. The trend of surrogacy has historical background also. In history many examples are there which gives evidence of it. Then also this was done very secretly and not issued to all people.

In present era, the situation is different. Surrogates are making advertisements for selling of their wombs and people also accepting and making arrangements for surrogacy. In India rate of commercial surrogacy arrangements are more than the within nation arrangements. In India in many cases and tribes surrogacy is not allowed. Bearing the child of the another man is not accepting in tradition of India. The rate of international surrogacy arrangements are high than the national surrogacy arrangements. There are no different laws and regulations available for international arrangement. With in the nation surrogacy and international surrogacy legal regimes are same. Though only 10% arrangement is within India and 90% arrangements are making for foreign couples no special laws are available for surrogacy.

International surrogacy arrangements are prohibited in many countries e.g. Australia and many other. To avoid the foreigners for surrogacy this arrangement is made. Within the caste surrogacy is also available in many countries. International surrogacy arrangement creates issues regarding birth certificate of child, nationality of child, name of the parents, citizenships, right to know his parents, right to milk many of the issues are there. No international law is there to tackle the issues of surrogacy in India.

Available acts are not serving its purpose entirely. The purpose behind surrogacy is mainly to give smile on the face of the childless couple. One child brings lots of happiness in the life of the childless couple and in the whole family. The purpose of the medical science was to tackle the problem of the parenthood, for some reason of physical incapacity somebody could not enjoy it. The way that they choose was right but the people who went on that way was wrong and the purpose was also not that much decent. If no laws are there then purpose serving matter is useless.

In 2002 India made commercial surrogacy legal and in 2013 only rule is made that single woman, gays are not allowed to make surrogacy arrangements. Beyond this no any rule was made for surrogacy in India. So, it has proved that present rules are not serving the entire purpose of surrogacy.
Special legislative provisions for surrogacy in India are must. In surrogacy treatment lots of issues are there like physical, emotional, ethical, and economical. No special legislative provision is available for surrogacy in India. In many countries special laws are available for surrogacy which deeply explains the type of surrogacy they accept or type of surrogacy they reject. Whether international surrogacy is allowed or not whether commercial surrogacy is allowed or not, regarding guardianship of children, their nationality, name of the parents on their birth certificates etc. In India, no special provision is made for surrogacy in India. Only Law of Contract is available in India. Only importance to the agreement is being given which is also not enforceable in the eyes of law.

The study explains that there are no legislative provisions which explain surrogacy arrangements in India. Only according to rule in 2002, commercial surrogacy is legal in India. Only single woman and gay couples are prohibited to make surrogacy arrangements.

The India is becoming the most developing tourism for commercial surrogacy. From the above data it is clear that India is silent on the laws of surrogacy. Commercial surrogacy is legal in India. No special provision is there for surrogacy. No homogeneity in surrogacy agreements are there. Each and every hospital has their different laws on surrogacy arrangements. In India every surrogacy is made in different way. No homogeneity is there in selecting a woman as a surrogate, her heath condition, her mental condition, no. of surrogacy, no. of pregnancies before. In India no legislative provision is there for surrogacy.

These issues are studied by the researcher and have made analysis in the given way. From the doctrinal study the data is collected only for the availability of the laws rules regulations, various articles published in the news paper, on internet websites.

The empirical study is based on the data is collected by various respondents i.e. lawyers, doctors, judges, common people i.e. men and women in society, future of nation youths are included in the category of respondents.

From the above data it is clear that India is in need of special legislative enactment for surrogacy laws.

The articles published in the news paper on surrogacy
Mr. Shesha Bhatia stated that, though the sex determination is offence in India, the Mumbai clinic send a email to the couple that through the treatment of pregnancy the surrogate mother has became pregnant and she has one boy and one girl in her womb. Through the surrogacy treatment if we could determine the sex of the child then this treatment should be declared as illegal and opposed to Indian law. At one place India is taking strict steps towards the make ban on sex determination and in other way making legalization of commercial surrogacy these two things will definitely crosses each other in future.

Many experts have been stated that surrogacy is not a business it’s a need of this decade. In this 21st century everyone wants to win the race of the success, due to this the physical and psychological standard of the health is rapidly decreasing. Many couple could not enjoy the joy of the parenthood. The surrogacy is a way to bring the smile on their faces. The childless couple mostly woman faces many issues in society. The woman in some cases could not become mother due to some physical problems. This treatment is medical science’s gift to those couple and hope of their life, because in India life is nothing without a child.
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<td>3</td>
<td>Medical fraternity backs surrogacy Bill</td>
<td>Times of India</td>
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Aditi Utpat has been stated that the rate of fertility through the surrogacy treatment is increasing. The statistical data showing the rapid increase in the no. of surrogacies made through the Indian surrogate mother. The previous bill is yet in progress and not framed any legal rules regarding commercial surrogacy. The protection of the all parties concern to surrogacy is yet behind the curtains. So, by taking into consideration the severity of this issue the bill has been made by I.C.M.R.

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<td>4</td>
<td>Warning to couples on Indian surrogacy law</td>
<td>Indian Express</td>
<td>26/01/2009</td>
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Matt Wade has been stated that, the main reason behind the infertility is the increasing age of the youths and not ready for baby in the starting age of their career. If in proper age the woman use contraceptives more than a particular limit then it is hazardous to them in future pregnancy. Not only the woman but also the men are not ready to handle the responsibility of the child. Due to consumption of the alcohols, cigarettes effects badly on the conceiving power of the woman. So, if you not go with the nature, also speaks.
Vidya Krishnan has been defined that India is becoming the baby business center. Legalizing the commercial surrogacy in India increases the trend of commercial surrogacy and attracts the many infertile couples of the foreign countries. The India was well known of its tradition, culture, love and affection to their families and children. The commercial surrogacy changes the face of the ideal India. The increasing international surrogacy is a sign that Indian set to trumb global surrogacy laws.

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<td>6</td>
<td>Law to regulate surrogacy a long way from delivery</td>
<td>Indian Express</td>
<td>08/08/2008</td>
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Maneesh Chhibber stated that, India is still very far away than the regulation of the surrogacy. Yet the bills are pending and so, it is not the very near place that India is going to frame the strict laws for surrogacy. The foreign couples are visiting India in search of surrogate mothers. Indian legislation should think that why India? Only due to low cost or availability of the surrogates. To controlling the condition of the increasing commercial surrogacy in India. The strict regulation is required.

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<td>7</td>
<td>India law stands in way of this baby and her Japanese father</td>
<td>Indian Express</td>
<td>06/08/2008</td>
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Apurve has been stated one case of a baby and her Japanese father. How the Indian legislature stands for the girl and her Japanese father. International surrogacy is increasing. And it is making various issues within the boundaries and beyond the boundaries. In this situation various cases has been make a laud mark cases for surrogacy and they are also explaining the coming problems in case of surrogacy in these coming decades.

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<td>8</td>
<td>The Fertility Tourists</td>
<td>The Guardian</td>
<td>30/07/2008</td>
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Rekha Prasad focused on the increasing commercial trend of surrogacy in India. Due to low cost and easy availability of the surrogate mothers and hospitals the trend of commercial surrogacy is increasing. In India employment opportunities for women is very low and therefore many women adopt this profession only due to lack of family income to satisfy their basic needs and family requirements. The India is developing but it is developing in fertility factor. This development will be hazardous for the ethical and social values of India.

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<td>9</td>
<td>Govt. to come up with guidelines for surrogate mothers</td>
<td>Times of India</td>
<td>23/06/2008</td>
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Though the surrogacy is creating many issues Govt. of India is silent on this issue. No any laws have been framed on surrogacy. Surrogacy is creating a question against the secularity of the surrogate mother, biological parents, surrogate child etc. There are only certain guidelines have been given by the I.C.M.R. These are the guidelines given by the Medical Association and not by the India Legislature. The legislature should make the strict laws for surrogacy. Then only the human rights of the all the parties will protect.
Radha Sharma stated that, in the beginning the Anand was known for the milk capital. It was known for the milk and milk product. Now a day from where in 2002 the India made commercial surrogacy legal in India, from that year the Anand is known for the Fertility centre. The Akansha Clinic is well known for the surrogacy. The foreigner’s first choice for commercial surrogacy is the same. So; this journey is very much complicated, from milk capital to fertility tourism.

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