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Preface

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REGULATING SURROGACY IN INDIA: REPRODUCTIVE AUTONOMY AND CONSTITUTIONAL CHALLENGES

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Abstract

In the last two decades, the landscape of surrogacy law in India has shifted from a liberal and commercially driven model, which was notably lucrative, to a framework that is now strictly regulated by altruistic principles, specific eligibility requirements, and the criminalization of certain arrangements. The State's distinctive viewpoint on surrogacy has been influenced by genuine concerns aimed at preventing exploitation, ensuring ethical reproduction, and protecting child welfare, all of which are reflected in this evolution. However, the current legislative framework also poses significant constitutional challenges. These challenges stem from the stringent eligibility criteria of the law, which exclude a considerable number of prospective parents, as well as its apparent preference for a limited family structure. This study not only delineates the judicial role in the absence of a singular enacted statute to date but also critically examines the legislative history related to surrogacy regulation in India, highlighting the constitutional tensions between equality, privacy, and dignity (reproductive autonomy) alongside issues of non-discrimination. Additionally, it discusses recent developments expected through 2025, including a ban on the retroactive enforcement of age-related restrictions and ongoing legal disputes concerning the exclusion of divorced and unmarried men from participation. In summary, while regulation is crucial, a constitutionally sound framework should promote family choice and bodily autonomy, achieving a balance between protective measures against exploitation and the prevention of restrictive gatekeeping.[1]

[1] **The Surrogacy (Regulation) Act, 2021**, No. 47, Acts of Parliament, 2021 (India).

***Keywords**: Surrogacy, Reproductive autonomy, Constitutional rights, Article 14, Article 21, Judicial scrutiny, Legislative evolution*

1. Introduction

The term surrogacy has shifted from denoting a private reproductive agreement between a couple and a woman willing to carry a pregnancy. In India, issues surrounding family dynamics, equality, reproductive freedom, bodily autonomy, dignity, and the government's involvement in regulating assisted reproductive technologies have transformed into constitutional and policy matters. The Indian legal framework's stance on surrogacy has progressed through various phases, including administrative guidance, judicial uncertainty, legislative proposals, and ultimately the statutory enactment of the Surrogacy (Regulation) Act, 2021.[2]

The significance of surrogacy in India is profound and cannot be diminished. For numerous intended parents, it represents the sole medical avenue to achieve biological parenthood. Nevertheless, the State has linked surrogacy to an industry characterized by a legacy of exploitation, transnational reproduction, and unethical economic practices. Historically, India earned the titles of "surrogacy hub" or "surrogacy capital" due to its permissive legal framework and comparatively lower costs for treatment. Consequently, the regulatory measures were motivated by genuine concerns; however, the selected approach has not been free from critique. By imposing stringent limitations on access to surrogacy and mandating altruistic relationships, the legislation may have substituted economic exploitation with constitutional exclusion.[3]

This review research investigates the evolution of surrogacy law in India through judicial and legislative lenses, while also assessing the alignment of the existing framework with constitutional mandates. We contend that the current system is vulnerable due to its enforcement of exclusions based on status, which may not be logically connected to the protective objectives of the law, despite its justification in terms of preventing exploitation. The analytical framework encompasses three key issues: judicial review, legislative evolution, and constitutional evaluation.[4]

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[2] Id.

[3] **Agarwal, J., & Bindra, G.** (2020, April 15). *A critical appraisal of the Surrogacy Regulation Bill, 2020*. Indian Legal Solution. https://journal.indianlegalsolution.com/2020/04/15/a-critical-appraisal-of-the-surrogacy-regulation-bill-2020-jalaj-agarwal-gracy-bindra/

[4] **Dubey, B., & Tiwari, Y.** (2020). *Analysis of Surrogacy Regulation Bill, 2020*. India Law Journal. https://www.indialawjournal.org/analysis-of-the-surrogacy-regulation-bill.php

2. Conceptual Framework

A surrogate is a woman who agrees to carry and deliver a child for another person or couple. In traditional surrogacy, the surrogate may also be the biological mother of the child, whereas this is not the case in gestational surrogacy. Furthermore, the literature on surrogacy differentiates between commercial and altruistic surrogacy. Altruistic surrogacy allows for limited reimbursement without any profit motive, while commercial surrogacy entails compensation that exceeds mere reimbursement for medical and incidental costs.[5]

Surrogacy's constitutional significance stems from its relationship to reproductive autonomy. Whether or not to use medical aid for reproduction or become pregnant is one of the most personal choices a person can make. In Suchita Srivastava v. Chandigarh Administration, the Supreme Court recognised reproductive choice as a part of a woman's personal liberty under Article 21. Later privacy law, particularly *Justice K.S. Puttaswamy v. Union of India*, reiterated the idea that decision-making autonomy over private concerns is part of the protected area of privacy.[6] These cases give the constitutional foundation for analysing governmental restrictions on surrogacy access.

Another issue brought up by surrogacy is gender justice. While regulation of surrogacy may be justified in order to protect women from exploitation and coercion, an unduly restrictive legal framework for women's reproductive tasks may also become paternalistic. As a result, every legislation dealing to surrogacy must strike a compromise between competing values including public interest, liberty and welfare, autonomy and protection, and family choice.[7]

3. Legislative Evolution

3.1 Early regulatory background

India's first major regulatory involvement in this area was achieved through expert recommendations rather than legislation. National Guidelines for Accreditation, Supervision, and Regulation of ART Clinics in India were released in 2005 by the Indian Council of Medical Research (ICMR). These suggestions were intended to govern assisted reproductive technology

[5] **Warnock, M.** (1984). *Report of the Committee of Inquiry into Human Fertilisation and Embryology*. Her Majesty's Stationery Office.
[6] ***Suchita Srivastava v. Chandigarh Administration***, (2009) 9 S.C.C. 1 (India); ***Justice K. S. Puttaswamy (Retd.) v. Union of India***, (2017) 10 S.C.C. 1 (India).
[7] **Challa, K.** (2012). Contentious issues in surrogacy: Legal and ethical perspective in India. *Christ University Law Journal, 1*(1), 123–138.

(ART) facilities and provide ethical and procedural requirements for clinics that offer surrogacy-related services and infertility treatments. The regulations were important as a first step, but they overlooked more general issues like parentage, consent, compensation, and enforceability and had little legal significance.[8]

In the lack of legislation, surrogacy agreements were primarily relied on contracts and clinic practices. This led to the development of a commercial market in addition to causing uncertainty. Both domestic and foreign intended parents have been drawn to India by its professional medical infrastructure, cheaper treatment prices, and liberal laws. Concerns regarding the exploitation of financially weak women, insufficient consent, and the monetisation of reproduction emerged as the market grew. These concerns ultimately led to official parliamentary intervention.[9]

3.2 Law Commission's intervention

The 228th Report of the Legislation Commission of India (2009) was a key document in the creation of surrogacy laws in India. The study recommended strict legislation to regulate assisted reproductive technologies and surrogacy contracts. It acknowledged that the parties' rights and responsibilities should still be governed by the surrogacy contracts, but it required a number of protections, including reimbursement for expenses, the consent of the surrogate's spouse, life insurance for the surrogate, a prohibition on commercial exploitation, the child's legal legitimacy, and the inclusion of the intending parents' names on the child's birth certificate.[10]

This report holds considerable importance as it perceives surrogacy as a valid practice that necessitates regulation, rather than advocating for its prohibition. It recognizes the importance of maintaining the option for assisted parenthood while also safeguarding the rights of women and children. Consequently, it adopts a more equitable position compared to legislative proposals that have increasingly leaned towards moralistic family norms and restrictive eligibility criteria.[11]

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[8] **Indian Council of Medical Research.** (2005). *National guidelines for accreditation, supervision and regulation of ART clinics in India*. Ministry of Health and Family Welfare, Government of India.
[9] **Das, S. S., & Maut, P.** (2014). Commercialization of surrogacy in India: A critical analysis. *JCC Law Review, 14*(1), 29–42.
[10] **Law Commission of India.** (2009). *Need for legislation to regulate assisted reproductive technology clinics as well as rights and obligations of parties to a surrogacy* (Report No. 228). Government of India. https://lawcommissionofindia.nic.in/reports/report228.pdf
[11] Id.

3.3 Judicial pressure and public controversy

The judicial intervention underscored the necessity for statutory regulation. In the case of *Baby Manji Yamada v. Union of India*, the Supreme Court addressed the situation of a child born through surrogacy to Japanese intended parents in India. This case primarily revolved around issues of custody, nationality, and exit documentation, yet it exposed the lack of a cohesive legal framework. The Court emphasized that the paramount concern was the child's welfare rather than the theoretical legality of surrogacy itself. Nonetheless, the case propelled surrogacy into the domain of public law with considerable intensity.[12]

The Gujarat High Court examined the citizenship status of a child born through surrogacy in India to foreign intended parents in the case of *Jan Balaz v. Anand Municipality*. The Court tackled the legal challenges associated with cross-border surrogacy and highlighted the insufficiency of current legal frameworks. This case determined that surrogacy cannot solely rely on private agreements, as it brings forth concerns regarding nationality, legitimacy, and the rights of children.[13]

The accumulation of these incidents has heightened the urgency for lawmakers to take action. Furthermore, they have illuminated a significant constitutional dilemma: in the absence of legal clarity, private agreements are susceptible to vagueness; conversely, when the government responds excessively, it risks becoming exclusionary and limited.

3.4 The 2016 Bill

The Surrogacy Regulation Bill of 2016 was the first effort at comprehensive surrogacy legislation. Only altruistic surrogacy for infertile married Indian couples was allowed, and commercial surrogacy was outlawed. In addition to being a close relative of the intended couple, the surrogate mother had to be married for at least five years.[14]

Almost immediately, this bill was denounced for being unduly restrictive. Single individuals, unmarried couples, divorced individuals, and non-heteronormative households were all excluded. Additionally, the requirement for a "close relative" was often regarded as unrealistic and socially backward. Many observers believed that the Bill was trying to change the social definition of parenthood in addition to regulating surrogacy.[15]

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[12] ***Baby Manji Yamada v. Union of India***, (2008) 13 S.C.C. 518 (India).
[13] ***Jan Balaz v. Anand Municipality***, A.I.R. 2010 Guj. 21 (India).
[14] **The Surrogacy (Regulation) Bill, 2016**, Bill No. 257 of 2016, Lok Sabha (India).
[15] **Singh, P. K.** (2017). Critical evaluation of draft Surrogacy (Regulation) Bill, 2016. *Jamia Law Journal, 2*, 161–175.

The 102nd Report of the Parliamentary Standing Committee on the 2016 Bill revealed some of these shortcomings. It supported eliminating the "close relative" limitation, expanding the pool of qualified intended parents, reducing the amount of time needed to become pregnant, and re-examining the prohibition on compensation. Even with institutional supervision, there were worries that the Bill's prohibitions were too broad and not responsive to real-world situations, which is reflected in the Committee's recommendations.[16]

3.5 The 2019 and 2020 Bills

In several ways, the Surrogacy Regulation Bill, 2019 broadened the range of qualified intended parents while upholding the anti-commercial position. Several specific recommendations had been made by the Select Committee that was reviewing the Bill. It proposed that any woman wishing to serve as a surrogate, rather than just a close relative, be allowed to do so, requested greater access for widows and divorcees, and promised to improve insurance coverage and shorten the time required to prove infertility.[17]

While the framework remained focused on altruistic surrogacy, the majority of these recommendations were included in the later Surrogacy Regulation Bill, 2020. In defining surrogacy, the Bill also highlighted a narrow interpretation of gender and family norms. While it did relax some of its previous limitations, it maintained the fundamental principles of status-based access. This debate over these bills shows that Indian surrogacy law was moving toward a system of controlled and limited authorisation rather than toward broad reproductive freedom.[18]

3.6 The Surrogacy (Regulation) Act, 2021

The Surrogacy (Regulation) Act, 2021 was enacted as the governing statute. This legislation prohibits commercial surrogacy, requires the registration of clinics, establishes relevant authorities and boards, mandates informed consent, and outlines penalties for non-compliance. It allows altruistic surrogacy under specific conditions. The statutory language of the Act broadly defines commercial surrogacy to encompass the sale or purchase of embryos or gametes, as well as the commercialization of related services or procedures. Additionally, it

[16] **Parliamentary Standing Committee on Health and Family Welfare.** (2017). *102nd report on the Surrogacy (Regulation) Bill, 2016*. Rajya Sabha Secretariat. https://prsindia.org/files/bills_acts/bills_parliament/Select%20Comm%20Report-%20Surrogacy%20Bill.pdf

[17] **Select Committee of Rajya Sabha on Surrogacy.** (2020). *109th report on the Surrogacy (Regulation) Bill, 2019*. Rajya Sabha Secretariat.

[18] **The Surrogacy (Regulation) Bill, 2020**, Lok Sabha / Rajya Sabha Select Committee Report (India).

stipulates age criteria, indicating that intended women should be aged between 23 and 50 years, while intended men must be between 26 and 55 years, contingent upon certification requirements.[19]

The 2021 Act can be primarily regarded as a protectionist law. Its objective is to limit exploitation, avert child abandonment, and regulate an unmonitored market up to the present time. The principal constitutional challenge has arisen from its narrow eligibility criteria and numerous exclusions. Detractors argue that the Act encompasses more than merely overseeing reproduction; it also pertains to determining who possesses the rightful claim to seek parenthood via medical means.[20]

3.7 Rules and subsequent amendments

The Surrogacy (Regulation) Rules, 2022 established the prerequisites for the registration and certification of clinics and procedures, thereby implementing the Act. Changes and policy revisions that occurred in 2023 and 2024 suggested that the government recognized certain practical difficulties associated with the original system. Reports have shown that the criteria were modified to permit the use of donor gametes in specific situations where one partner faced medical infertility, and additional clarifications were provided regarding the standards for eligibility and the administrative enforcement of these limitations. By 2024, the framework had become more nuanced and internally comprehensive. These amendments continue to demonstrate that the law is in a state of ongoing evolution in practice, indicating that the State has yet to establish a definitive equilibrium between protection and accessibility.[21]

4. Judicial Scrutiny

The Indian judiciary has played two roles in the evolution of surrogacy law: it has challenged the constitutionality of the statutory framework and resolved immediate problems in the absence of legislation.

In Baby Manji, the Supreme Court's primary concern was humanity. The Court did not rule that surrogacy was unlawful or unconstitutional. Rather, it approached the child's custody and documentation difficulties in a practical manner. Although the law has not yet caught up, this

[19] *Surrogacy (Regulation) Act*, *supra* note 1.
[20] **Debnath, D.** (2020). The Surrogacy (Regulation) Bill, 2020: A critical analysis of the provisions in light of procreative choice of surrogate mother. *International Journal of Creative Research Thoughts*, *8*(5), 1680–1688.
[21] **Ministry of Health and Family Welfare.** (2023). *Notification amending Rule 7 of the Surrogacy (Regulation) Rules, 2022 regarding donor gametes*. Gazette of India.

decision is significant because it indirectly acknowledged surrogacy as a social practice that is legally cognisable.[22]

In the Jan Balaz case, the Gujarat High Court had to address a more fundamental question: could children born through surrogacy to foreign parents in India be left in limbo due to a lack of statutory legislation? The Court's argument was centred on the legal ambiguities surrounding nationality and paternity. Crucially, the ruling emphasised how important the child's interests are.[23]

The discussion has shifted toward universal access as a result of more recent constitutional lawsuits. A challenge to section 2(1)(s) of the 2021 Act, which prohibits divorced and single men from becoming parents through surrogacy, was reportedly being considered by the Supreme Court. According to the petition, the Act breaches the right to reproductive autonomy under Article 21 and discriminates on the basis of sex and marital status. According to public sources, there are still concerns about age restrictions and the rules' retroactive application to couples who started the process prior to their implementation.[24]

These developments are significant because they show that the focus of judicial discourse has shifted from child welfare to constitutional equality. Not only is it difficult to safeguard surrogacy participants, but it is also difficult to determine whether the state may bar entire groups of adults from becoming parents via surrogacy.[25]

5. Constitutional Analysis

5.1 Article 14: equality and non-arbitrariness

Article 14 of the Constitution prohibits the State from acting arbitrarily and requires that the categorisation have a clear distinction and a logical connection to the purpose of the law. It is clear that the State's goals under the Surrogacy Act—preventing exploitation, protecting women, and protecting children—are justified. The legal classification of eligible and ineligible individuals is a constitutionally valid question. [26]

There are significant reasoning issues with a legislation that permits married women but no single males, or widows and divorcees but not divorced men. It is unclear why marital status

[22] *Baby Manji Yamada*, (2008) 13 S.C.C. 518.
[23] *Jan Balaz*, A.I.R. 2010 Guj. at 21.
[24] **Supreme Court of India.** (2025). *Pending constitutional challenges to Section 2(1)(s) and age-based restrictions under the Surrogacy (Regulation) Act, 2021* [Writ Petitions]. Supreme Court of India.
[25] **Amar, A., & Aggarwal, A.** (2018). The emerging laws relating surrogacy: A procreational right for single parent, transgenders and foreigners. *SCC OnLine Blog*. http://www.scconline.com/blog/post/2018/04/10/the-emerging-laws-relating-surrogacy-a-procreational-right-for-single-parent-transgenders-and-foreigners/
[26] ***R. K. Garg v. Union of India***, (1981) 4 S.C.C. 675 (India).

should be the only factor used to determine eligibility for child welfare or protection against exploitation. The law is more vulnerable to an Article 14 challenge the more it relies on family stereotypes. While not all categories are forbidden under the equal protection principle, those that are overly strict, insufficiently inclusive, or motivated more by moral preference than by legal necessity are. [27]

5.2 Article 21: privacy, dignity, and reproductive autonomy

Article 21 is the subject of the strongest constitutional objection. The Indian Constitutional law now includes decision-making liberty in personal matters as a component of privacy. Dignity and bodily integrity are directly related to reproductive choice, especially the decision to conceive or use assisted reproduction. Therefore, the ability to build a family may be restricted by a policy that only allows surrogacy for specific categories of people. [28]

The right to reproductive autonomy is not unqualified. The state has the authority to control medical practices, require medical certification, and provide protection from compulsion. However, the boundaries have to be reasonable. Reproductive liberty is challenged as a conditional privilege rather than a fundamental right by a law that discriminates based on marital status, divorce, singledom, or non-preferred family structure. The 2025 lawsuit against single and divorced men demonstrates that the issue is now being handled by the courts.[29]

5.3 Article 15: discrimination on gender and family status

Article 15 forbids discrimination based on a number of factors, including sex. A legislation that allows divorced women but not divorced men to use surrogacy may be challenged on the grounds of sex-based discrimination, particularly if there isn't a strong case for the law's benefits to children. The exclusion of LGBTQ+ individuals, live-in partners, and other non-traditional families raises equity concerns as well. Over time, the Supreme Court has broadened the definition of equality and dignity to include sexual orientation and personal preference. Surrogacy restrictions must be considered in the context of these broader fundamental principles.[30]

[27] ***Subramanian Swamy v. Central Bureau of Investigation***, (2014) 8 S.C.C. 682 (India).
[28] ***Devika Biswas v. Union of India***, (2016) 10 S.C.C. 726 (India).
[29] ***B. K. Parthasarathi v. State of Andhra Pradesh***, A.I.R. 2000 A.P. 156 (India).
[30] ***National Legal Services Authority v. Union of India***, (2014) 5 S.C.C. 438 (India).

5.4 Article 19 and economic activity

Clinics and other parties participating in reproductive services may be affected by Article 19(1)(g) of the Constitution, which guarantees the right to practise any profession or to engage in any occupation. However, that is not the primary constitutional basis for appeal. Articles 14 and 21-based claims remain more potent. Public health and morality may justify reasonable limitations on commercial surrogacy, including outright prohibition. However, the law's practical implications and proportionality must be considered. The goal of regulation may be undermined if restriction pushes activity underground or into unofficial channels.[31]

5.5 Proportionality and legislative design

In contemporary constitutional inquiry, it is becoming more and more important to consider whether the State has a legitimate goal as well as if the actions taken are appropriate and essential.1 This kind of abstract moral uneasiness should not be used to evaluate surrogacy law. It needs to be evaluated based on the actual harms it aims to stop. Strong consent processes, independent counselling, medical supervision, insurance, and compensation laws may be more effective than outright excluding entire classes of intended parents if exploitation is the issue.[32]

6. Comparative and Ethical Perspectives

Comparative law suggests that surrogacy is not a universally recognized concept. Certain nations ban surrogacy altogether, while others permit it solely on an altruistic basis, and some have established regulations for compensated arrangements. The United Kingdom and Canada are commonly identified as altruistic-surrogacy jurisdictions, in contrast to various U.S. states that allow commercial contracts as per state legislation. India's existing framework is comparatively more accommodating, yet it imposes more stringent eligibility criteria than numerous other programs.[33]

The discourse surrounding ethics is deeply divided. Opponents of commercial surrogacy argue that it leads to the commodification of women's bodies and the exploitation of those in economically vulnerable positions. They assert that a properly regulated form of compensation honours women's labour and autonomy. In the context of the Indian Act literature for 2025, the Act is perceived as protective by some, while others view it as exclusionary. A recent report

[31] ***State of Maharashtra v. Indian Hotel and Restaurant Association***, (2013) 8 S.C.C. 519 (India).
[32] ***Modern Dental College and Research Centre v. State of Madhya Pradesh***, (2016) 7 S.C.C. 353 (India).
[33] **Surrogacy Arrangements Act 1985**, c. 49 (United Kingdom); **Assisted Human Reproduction Act 2004**, S.C. 2004, c. 2 (Canada).

indicated that the Act excludes single individuals, live-in partners, and members of the LGBTQ+ community, resulting in significant constitutional controversy under Articles 14 and 21.[34]

The question is not whether the law can create conditions in which consent is real, coercion is minimal and reproductive choices are not u

7. Critical Evaluation

The current framework's biggest strength is its attempt to protect vulnerable women and children from the excesses of commercial surrogacy. The pre-2021 market often operated with insufficient safeguards. There was a real risk that poor women would be sucked into surrogacy arrangements without the benefit of proper counselling, health protection or legal representation. Therefore, the Act's emphasis on registration, consent, insurance and child welfare is important and should not be ignored.[35]

8. Conclusion

The conflicting demands of protecting disadvantaged women, preventing commercialisation, ensuring the welfare of children, and maintaining reproductive autonomy have shaped the development of surrogacy laws in India. From the early administrative guidelines of the Indian Council of Medical Research to the Law Commission's proposal for comprehensive legislation to the Surrogacy (Regulation) Act, 2021, the Indian state has really moved from a permissive to a more restrictive regulatory stance. However, this was not a coincidence. Serious concerns about exploitation, international reproductive markets, illegal clinic operations, and the monetisation of women's reproductive labour gave rise to it. Even with the best of intentions, a law may be unconstitutional if its methods are out of proportion to its goals.

The commercial surrogacy era comes to an end with the 2021 Act. By prohibiting commercial partnerships and mandating altruistic surrogacy, the Act clearly supports non-market reproduction. Because the State has a clear interest in eliminating coercion, unfair bargaining, and financial exploitation, such a perspective is sustainable on the basis of public policy. However, the Act's exemptions are more problematic than its anti-commercialism. The law is based on strict eligibility requirements, a narrow conception of true family structures, and a

[34] **Weis, C.** (2025). Comparative ethical and constitutional paradigms in Asian surrogacy regulation. *Journal of Law and Biosciences*, *12*(1), 45–67.
[35] *Surrogacy (Regulation) Act*, *supra* note 1.

certification gatekeeping system that may exclude individuals with real reproductive needs who don't fit the state's ideal social model.

From a constitutional perspective, Articles 14 and 21 are the more significant problems. According to Article 14, classification must be sensible, non-arbitrary, and connected to the purpose of the law. This test may not be passed by a system that allows some people to access surrogacy while denying others due to marital status, gendered presumptions, or conventional family structures. In contrast, Article 21 safeguards bodily integrity, privacy, dignity, and autonomy in making decisions. Since Indian constitutional law now firmly upholds the right to reproductive choice, any regulations restricting access to assisted reproduction must show proportionality rather than just paternalistic preference. A solid constitutional foundation for challenging strict surrogacy laws is provided by the recognition of the right to privacy in *Justice K.S. Puttaswamy v. Union of India* and reproductive autonomy in *Suchita Srivastava v. Chandigarh Administration.*

The judicial record makes it evident that Indian courts have long been cognisant of the moral and legal ramifications of surrogacy. The Supreme Court implicitly recognised the need for a consistent legal framework in *Baby Manji Yamada v. Union of India*, which addressed the pressing issue of the welfare and custody of a child born through surrogacy. In *Jan Balaz v. Anand Municipality*, the Gujarat High Court highlighted the legislative void and the ambiguities surrounding citizenship and parentage raised by cross-border surrogacy. More recently, litigation from 2025 suggests that the constitutionality of denying divorced and single men access to surrogacy is still up for debate. Additionally, the courts are being urged to determine whether the Act's age limits apply retroactively. These developments show that the constitutional debate over surrogacy is still ongoing and is shifting in the direction of a more rights-based and understanding attitude to various family structures.

Neither returning to unlimited commercial surrogacy nor insisting solely on altruistic surrogacy is the best course of action. India needs a more balanced regulatory strategy that upholds the statute's protective objectives while getting rid of exclusions that aren't supported by the law's declared goals. Informed consent, medical safety, independent advice, insurance, enforceable contractual protections, and protection from coercion must all be covered by the law. In a way that is constitutionally justifiable, it must simultaneously grant access to those individuals and family structures that are currently denied access without a valid basis. In addition to recognising that becoming a parent is a very personal and constitutionally protected decision, a rights-based surrogacy policy would guarantee that surrogate women' bodies and interests are

not abused. Such a model would be more consistent with the fundamental principles of the Indian Constitution—autonomy, equality, and dignity.

Therefore, there is a constant struggle between protection and liberty as a result of the constitutional aspects of surrogacy law in India. Although the current plan encourages the trade-off of inclusiveness and autonomy, the legislation has made an effort to protect against exploitation. Therefore, the focus of future reform must shift from categorical restriction to calibrated regulation. Only then will India's surrogacy policy properly strike a balance between social ethics, reproductive freedom, and constitutional fairness.

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