
FROM MYTHOLOGY TO MODERNITY: THE EVOLVING LANDSCAPE OF SURROGACY IN INDIA

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ABSTRACT

Surrogacy laws in India have emerged as a profit-making industry, with more than thousands of women renting their wombs to childless couples. This paper examines the evolution of surrogacy in India as surrogacy in India is now a booming industry with thousands of women offering their wombs to infertile couples. This article analysis how surrogacy has been redefined over time in India as today we know it compared to what it used to be in ancient India. These practices could be traced back to the Hindu mythology and caste system. A divine intervention was the first form of surrogacy according to these myths. The article also reviews the history of surrogacy from the days when it was only legal for heterosexual couples through to its current state whereby even commercial agents can arrange for surrogate mothers. This paper relies on a critical analysis of historical documents, legal frameworks, and ethnographic research to illustrate how tradition, technology, and globalization intersected in the making of India's surrogacy industry. The paper goes on to discuss the ethical social and legal consequences of surrogacy involving problems like exploitation consent and citizenship. Surrogacy has been an integral part of discussions in the broader Indian social, cultural, and political landscape. This piece hopes to make a little nuanced understanding of this complex and multifaceted phenomenon but shall finally try to engender a critical dialogue on what may happen to surrogacy in India under a framework that endeavours to meet the needs and rights of all relevant parties.

Keywords: Surrogacy in India, Ancient mythology, Modern practices, Commercial surrogacy, Ethical implications, Legal frameworks, Globalization, Reproductive rights, Citizenship.

1.0.Introduction

With the advancement of technology and medical sciences, surrogacy has been seen as a boon and bane simultaneously because it has posed numerous challenges and gaps in the legal framework across the world. One major development that has posed many challenges is assisted human reproduction technologies, of which surrogacy is an integral part. Surrogacy is an advancement that has wrought many wonders in the reproductive world. Through surrogacy, third-party assistance enables people to have a genetically related child without any sexual intercourse involved.

People have different reasons for wanting children some want love, tradition, community, or religious rituals. Children are vital for society's survival. Surrogacy is when a woman carries a baby for intended parents. In full surrogacy, she has no genetic link to the child. In partial surrogacy, she provides the egg, creating a genetic connection. In both cases, she gives the baby to the intended parents.

Amidst all the assisted human reproductive technologies around the world, the practice of Surrogacy, where a woman must agree to have their body used to undergo a pregnancy and deliver a baby for someone else, has raised many legal and human rights controversies and diverse legal responses from all over the world. India has become a top point of disembarkation for individuals to conceive a child through surrogacy and thus it is crucial for the Indian government to address the challenges posed by surrogacy. This study is an attempt to examine the need and importance legal and human rights consideration given to the surrogate mother and to examine the adequacy of existing legal framework in India and attempts to provide solutions for regulating surrogacy practice and protecting the interest of all the people involved in surrogacy.

1.1. Evolution And Development of Surrogacy

Infertility affects married couples socially and emotionally. Assisted reproductive technologies (ART) help those unable to conceive, overcoming heartbreak and barriers. ART enables reproduction without sexual intercourse, with surrogacy being the most debated technique. While many wish for genetically related children, ART provides hope to those struggling with infertility, which impacts over 15% of people worldwide.

Then, as a result, most of the couples and individuals who need aiding in human reproduction restored to assisted reproductive technique at the end. In one research conducted by the Centre for Disease Control and Prevention (CDC), roughly 8.5 million women aged 15-45 are hindered by infertility in the United States alone. For many couples across the globe, surrogacy becomes a miracle, helping them to gain a second chance at starting a family.

As such, innovations in technology and scientific development have made possible the Assisted Reproductive Techniques (ARTs) and through this system, childless couples can have their own genetic related children.

1.2. Surrogacy: Meaning And Definition

Surrogacy is an alternate method adopted for human procreation for people who cannot or for some personal reason, designate not to reproduce or procreate in conventional way, as many intended mothers choose not to gestate and opt for surrogacy due to their career and lifestyle. In this process, the surrogate mother agrees to be artificially inseminated to carry the foetus to full term, and then she will relinquish the resulting child to the commissioning parents, with all the parental rights and obligations. Generally, the sperm is that of a married man whose wife is infertile or donor sperm.

The word ‘Surrogacy’ comes from ‘Surrogates’ which simply means “chosen in place of another,” “a substitute” which clearly explains the role of surrogate mothers in the arrangements of surrogacy. Surrogacy is conventionally known as a method where couples enter contract with a consented woman also called surrogate mother, to carry a child for them and in return considerations will be given to her.

The **ART Bill** has defined surrogacy as ‘an arrangement where a woman agrees to a pregnancy, achieved through assisted reproductive technology, in which neither of the gametes belong to her or to her husband, with the intention to carry it to the term and hand over the child to the person or persons for whom she is acting as a surrogate.’¹

¹ Dilemma,” Vol. II. Issue 1, 2011, Journal of Law Teachers of India (83 to 92) at 85

1.3.Surrogacy in Ancient Indian Mythology

Ancient India offers many instances of surrogacy and reflects the secrecy that still surrounds surrogacy practice. In Bhagavata Purana, when Vishnu heard Vasuda's prayers beseeching Kansa not to kill all sons being born, these prayers and had an embryo from Devaki's womb transferred to the womb of Rohini, another wife of Vasudev. Rohini who gave birth to a baby Balaram, brother of Krishna, secretly raised the child while Vasudev and Devki told Kansa that the child was born dead.²

In Mahabharat, Gandhari did not deliver child rather delivered a semi solid material which was divided by Maharishi Vyas into 100 pieces and planted them in different pans. Thus, the 100 Kauravas were born. The world's second and India's first IVF baby, Kanupriya, alias Durga, was born 67 days later October 3, 1978, through the efforts of Dr. Subhas Mukherjee and his two colleagues in Kolkata. The birth of baby Kanupriya (also known as Durga), through the novel procedure was marked by tremendous controversy.

In ancient Hindu society there existed a practice known as *Niyog Pratha*, wherein a woman who was childless because her husband was impotent was allowed to conceive through her brother-in-law. The child belonged to the couple and the brother-in-law had no claim over it. *Niyog Pratha* was surrogate fatherhood. It was much less complicated, legally, and emotionally, than surrogate motherhood. The scholars of Islam have pronounced a Fatwa regarding surrogacy where it considered illegal and immoral for a woman to carry the child of any man other than the husbands. The bible promotes the idea of surrogate motherhood.³ However, as far as earlier law of Christians is concerned it promotes surrogate fatherhood.⁴

The god of battle, Kartikey, who is ironically also known as the god of fertility, was created through surrogacy using Shiva rather than Parvati's womb; Ganga served as the surrogate mother.⁵

King Pandu urged Kunti to practice Niyog, where a woman designates someone to father a child if her husband is impotent or deceased. Monarch Saudasa had a son, Ashmak, through

² Bhattacharyya, S. (2006). Magical progeny, modern technology: Hindu bioethics of assisted reproductive technology. Albany: State University of New York Press

³ Genesis 16:2 So she said Abraham, "the Lord has kept me from having children. Go, sleep with my slave; perhaps I can build a family through her."

⁴ Deuteronomy (5th book of Hebrew Bibles, chapter 25 verse 5).

⁵ Kavita Kane writes about surrogacy in mythology, <https://www.shethepeople.tv/news/surrogacy-in-mythology/>.

Queen Madayanti and Rishi Vasisht. Rishi Vyas performed Niyog for Queen Satyawati's widowed daughters-in-law, resulting in the births of Dhritarashtra and Pandu. When done with consent, Niyog produced strong heirs, as seen with Kunti's sons Arjun, Yudhistir, and Bhim, and Madri's twins Nakul and Sahadev.

The story of Madhavi, the lovely daughter of the King Yayati, who was endowed with the unique gift of being able to bear emperors and regaining her virginity after each childbirth, exemplifies the traditional womb-on-rent. King Yayati gave her to a Rishi Galav since he was unable to fulfil the rishi's peculiar requested 800 white horses with black ears, which was his guru Dakshina for Vishwamitra. Galav offered Madhavi to three kings, Haryasva of Ikshvaku race of Ayodhya, King Divodasa of Kashi, and King Ushinara of Bhojanagari, who each gave him two hundred Ashvamedha horses for exchange for an heir. In the end, Vishwamitra gave up his claim to the remaining 200 horses by agreeing to Madhavi, and Galav's obligation was paid off. Since many suitors were eager to wed Madhavi, including the three monarchs who had kids with her, Yayati sets up her swayamvar. However, Madhavi declines to live as an ascetic in the forest because she has no interest in getting married or having children.⁶

1.4.Surrogacy in Ancient Mesopotamia

Surrogacy is not at all a new practice. It is an ancient practice. This practice dates to biblical times. In the Ancient Mesopotamia surrogacy is a fascinating topic. While the concept of surrogacy as we know it today did not exist, there are records of practices that resemble surrogacy in ancient Mesopotamian societies. During the last 30 years, the practice of surrogate motherhood through the support of a third person in the family nucleus has increased.

Adoption has been practiced throughout history with legal, social, and ethical considerations. Today, rising illegitimate births have made adoption a social issue. In ancient Mesopotamia, orphans were abandoned due to poverty, war, famine, and disease. Laws and conventions protected both adopters and adoptees, with adoption agreements recorded on sealed tablets.

Surrogacy has roots in ancient civilizations such as Mesopotamia, Greece, and Rome. In these societies, infertile couples often used surrogacy to have children and ensure an heir. In ancient Babylon, for example, surrogates were employed to birth children on behalf of infertile wives

⁶ Kavita Kane writes about surrogacy in mythology, <https://www.shethepeople.tv/news/surrogacy-in-mythology/>

of wealthy men.⁷ The story of Bilhah and Zilpah were handmaids (servant women) given to Jacob by his wives, Rachel, and Leah. In biblical times, it was common for a barren wife to give her maidservant to her husband as a concubine to produce children, who would then be considered the wife's own. Rachel who was Jacob's beloved wife, she was barren and unable to conceive. So, in desperation, she gave her handmaid Bilhah to Jacob as a wife, following the customs of the time, who bore two sons- Dan and Naphtali. These children were considered Rachel's, as Bilhah was merely a surrogate.⁸

Leah, Jacob's first wife, had already given birth to several sons but temporarily stopped conceiving, wanting to continue producing children for Jacob, she gave her handmaid Zilpah to him as a wife. She bore two sons- Gad and Asher. These children were considered Leah's, just as Bilhah's sons were considered Rachel's. While Bilhah and Zilpah's stories resemble surrogacy, their role was more of concubinage rather than modern gestational surrogacy. In today's terms, surrogates do not typically have a personal or marital relationship with the father, whereas in the biblical case, the handmaids became Jacob's secondary wives.⁹ In an ancient Nuzi marriage contract it stipulated that a woman whose servant bore the children of her husband "should have full authority over the offspring."¹⁰

1.4.1. Babylon¹¹

The first surrogate mother in history is believed to have lived somewhere near the city of Hebron, the land of Canaan, two thousand years before the birth of Christ. The biblical story of Hagar is well known. Abraham's wife, Sarah, was not able to bear a child and had reached an old age. Knowing God's promise of a son, yet doubting the means, she offered her handmaid Hagar to Abraham to serve as a surrogate mother. Sarah who's unable to bear children, gave her maid Hagar to Abraham as a surrogate. Hagar conceived Ishmael, but tensions arose, leading Hagar to flee before returning to give birth. Later, Sarah bore Isaac and, feeling threatened, urged Abraham to send Hagar and Ishmael away. God directed Abraham to comply,

⁷ <https://www.tammuz.com/the-history-of-surrogacy/>

⁸ https://www.chabad.org/library/article_cdo/aid/4936938/jewish/Who-Were-Bilhah-and-Zilpah.htm

⁹ L. Delaporte, *Mesopotamia: The Babylonian and Assyrian Civilization*, trans. V. Gordon Childe (Reprint, London: Routledge and Kegan Paul, 1970), 289

¹⁰ https://resources.finalsite.net/images/v1635808093/wbtlaorg/e87dolrrg9swjw4zhyy0/Bilhah_and_Zilpah_womens_torah_study

¹¹ Caroline Waerzeggers, *Changing Marriage Practices in Babylonia from the Late Assyrian to the Persian Period*, *Journal of Ancient Near Eastern History* 7, no. 2 (2020): 101–131, published online September 15, 2020

and Hagar and Ishmael survived in the wilderness under divine care.

1.4.2. Assyria¹²

A tablet, written in ancient cuneiform Assyrian script, was recently discovered in Kültepe-Kanesh, Turkey, dating roughly around 2000 B.C.E. right around the time Abraham was on the scene. The tablet is in the form of a marriage contract, stating that if couple cannot produce a child after two years, then a slave will be brought in as surrogate mother to produce a male descendant for the husband and wife. The slave-mother was then to be set free after giving birth to a male.¹³

1.4.3. Code of Hammurabi

The Code of Hammurabi (circa 1754 BCE), a Babylonian legal code, contains provisions related to surrogacy-like practices. In the Code of Hammurabi, infertile women were allowed by law and custom to provide a surrogate to maintain marriage and provide children for the lineage. In some instances, becoming a traditional surrogate elevated a woman's place in society, offering some social guarantees that they be provided for by the family, especially if they successfully given birth to a son.¹⁴ If a married couple is unable to have children, they can arrange for a surrogate, known as a "sukkallu," to bear child on their behalf. The surrogate has the right to be treated as a member of the family and to receive support and care during and after the pregnancy.¹⁵ The child born through surrogacy has the right to inherit property and assets from the intended parents, just like any other child. If the intended parents' divorce or the surrogacy arrangement is dissolved, the surrogate is entitled to support and care for herself and the child.¹⁶

1.6. Surrogacy in Ancient Greece and Rome

In ancient Greece and Rome, surrogacy-like practices existed, often driven by social,

¹² Dr. Robert Paulissian, "Adoption in Ancient Assyria and Babylonia", *Journal of Assyrian Academic Studies*

¹³ Hagar and Mesopotamian Surrogacy: What a New Discovery Says, "A new tablet confirms precedent for the biblical account, By Christopher Eames, November 13, 2017

¹⁴ Surrogacy <https://surrogacydecision.com/blog/history-origin-surrogate-motherhood/> visited on 12.03.2025

¹⁵ Martha T. Roth, "The Neo-Babylonian Widow," *Journal of Cuneiform Studies*, 43/45 (1991-1993): 1-26; also see Martha T. Roth, "Women in Transition and the BIT MAR BANS, *Revue d'assyriologie et d'archéologie orientale*, 82 (1988): 131-138.

¹⁶ When the Mesopotamian honeymoon ends: the code of Hammurabi's assumptions about the roles of spouses and problem-solving approach to regulating marriage by Lars J. Nelson

economic, and political factors. In Greece, surrogacy is legally permitted under specific conditions, allowing for altruistic surrogacy arrangements primarily for international heterosexual couples, while in Rome, surrogacy is completely banned, including seeking surrogacy abroad, making it illegal for couples to travel to other countries to utilize this practice; this ban is considered particularly restrictive for same-sex couples.

1.6.1. Ancient Greece (8th century BCE - 146 CE)

In ancient Greece, family and lineage were very important. Childlessness was considered a personal tragedy and a threat to the continuation of the family. Women's only role was supposed to be in bearing children; thus, women who could not bear children were blamed for this. In some city-states, the temples owned slaves who were used as concubines or surrogates. Children born from these slaves could be adopted by childless couples or used to strengthen alliances between families. Educated, high-status courtesans, Hetaera might bear children for rich patrons. Though not exactly surrogates, they sometimes bore children with their patrons, whom the latter would then adopt or raise. Greeks practiced adoption and fosterage, where children were raised by families other than their biological parents. This could be considered a type of surrogacy, as the adoptive or foster family provided care and support.¹⁷

1.6.1.1. Greek Mythology

Greek mythology highlights non-traditional family arrangements. Heracles was born to a mortal but fathered by Zeus. Zeus carried Dionysus to term in his thigh after removing him from Semele's womb. Hera, jealous of Semele, birthed Hephaestus alone. Apollo entrusted his child with nymphs instead of raising him, and Demeter, after losing Iasion, did the same for her child.

1.6.1.2. Homer's Iliad and Odyssey

These epic poems feature characters who were raised by families other than their biological parents, highlighting the practice of adoption and fosterage. Achilles' mother, Thetis, was a sea-nymph who married King Peleus. However, Thetis tried to make Achilles invulnerable by

¹⁷ <https://www.tammuz.com/the-history-of-surrogacy/>

dipping him in the River Styx. This mythological story can be seen as a form of surrogacy, where Thetis uses her divine powers to give birth to a demigod.¹⁸

Hector, the Trojan prince, had a wife, Andromache, and a son, Astyanax. However, Hector's father, King Priam, had many other children with various women, including concubines and servants. This reflects the common practice of having children with multiple partners in ancient Greek society. Telemachus, the son of Odysseus and Penelope, was raised by his mother and the servant, Eurycleia. This can be seen as a form of surrogacy or co-parenting, where Eurycleia plays a maternal role in Telemachus' upbringing. Calypso, the goddess, kept Odysseus captive on her island for seven years.

1.6.2. Ancient Rome (8th century BCE - 476 CE)

Family and social status were deeply intertwined in ancient Rome. The growth and expansion of the Roman Empire brought new social and economic opportunities, but increased the pressure to produce heirs. Concubines often provided for the male Roman, and the concubine might bear him children. Though not strictly surrogates, concubines made it possible for childless couples to have children or allow men to produce heirs outside of the marriage bond. Wet nurses were hired by rich Roman families to take care of their children. In some cases, wet nurses could also be surrogates, as they would provide milk and care to children born from other women.¹⁹ Like the Greeks, Romans practiced adoption and fosterage. This allowed childless couples to raise children and provided opportunities for social mobility.

1.7. Surrogacy in Ancient China and Japan

Both ancient Chinese and Japanese societies practiced forms of surrogacy or assisted reproduction, often linked to social status, succession, and the desire for male heirs. However, the historical records and cultural contexts differ significantly between the two civilizations:

The historical documentation related to surrogacy in ancient China is less clear and detailed. In ancient China, although records reflect various cultural and social practices linked to family and

¹⁸ Schol. A. Atheteses. Bolling 1994.

¹⁹ Kavita Kane writes about surrogacy in mythology, <https://www.shethepeople.tv/news/surrogacy-in-mythology/>

reproduction, explicit evidence of surrogacy as we understand it today is limited. It is plausible that surrogacy-like practices existed but were not extensively documented in historical texts.

The Zhou Dynasty was a remarkable period in ancient China that ran from 1046 to 256 BCE, seeing numerous social and cultural as well as economic revolutions. Here, surrogacy became common practice among royal families and nobles as a means of producing heirs. For example, the ancient text, compiled in the Western Zhou period, 1046–771 BCE is contained in the Bamboo Annals. It contains records of royal births amongst other things, whose mothers were surrogates. This is further elaborated upon in Records of the Grand Historian which is written by Sima Qian (145–86 BCE). It gives Zhou Dynasty and its references to the practice of surrogacy.

Surrogacy in ancient Japan is not as well-documented as in ancient China, but there are records of practices that resemble surrogacy. During this period, Japan's imperial family and nobility practiced polygamy and concubinage, which sometimes involved the use of surrogates. The Yayoi Period, spanning from 300 BCE to 300 CE, marked a significant era in Japan's history, characterized by the introduction of rice agriculture, iron tools, and new social structures. During this period, surrogacy began to emerge as a practice among Japan's imperial family and nobility. Kojiki (Record of Ancient Matters) is compiled in 712 CE, this text contains Japan's oldest historical records, including references to the Yayoi Period and the use of surrogates.

In conclusion, while surrogacy in ancient China and Japan shares some similarities, the historical context, cultural acceptance, and specific practices surrounding surrogacy and assisted reproduction were unique to each civilization.

1.8. Marital and Relationship Status Consideration

A person's marital status can affect all sorts of legal issues. Marital and relationship status is an important factor in surrogacy contracts since it determines the legal, ethical, and practical implications of the contract. In most jurisdictions, surrogacy laws have certain requirements for intended parents depending on their marital status. Some states or countries only approve surrogacy for legally married heterosexual couples, while others will allow single parents or same-sex couples to participate in such arrangements. Furthermore, where the surrogate is married, the consent of her husband may be needed, given that in some legal systems the husband is presumed to be the legal father of the child unless a contrary provision in the contract is made.

Such legal aspects provide certainty regarding parental rights and responsibilities, minimizing the likelihood of future conflict regarding custody and parentage. Contractually and medically, the delineation of the role and responsibilities of the parties to the agreement is vital in surrogacy arrangements. If the surrogate is in a relationship, her partner can have decision-making power over some medical interventions, which must be clearly stated in the contract to avoid disputes. Where the intended parents are married but become separated during the process of surrogacy, there may be legal issues about who keeps parental rights and duties. Therefore, surrogacy arrangements need to provide detailed provisions for all potential relationship situations so that the interests of the child, surrogate, and intended parents are safeguarded in the process.

1.8.1. LGBTQ+ Rights and Surrogacy

In India, the LGBTQ+ community has an extremely difficult time accessing surrogacy services because of current law and social stigma. Neither the Surrogacy (Regulation) Act, 2021, nor the ART (Regulation) Act, 2021, mentions anything about the rights of LGBTQ+ couples or individuals to undergo surrogacy procedures.

Surrogacy is sometimes legal only for heterosexual, married couples, effectively closing off the option to LGBTQ+ individuals. Even where surrogacy is legal for same-sex couples, other legal obstacles might remain, like challenges to parental rights, prohibitions on who can act as a surrogate, or commercial surrogacy prohibitions. Certain jurisdictions mandate a genetic connection between at least one of the intended parents and the child, which would pose difficulties for same-sex female couples who both want to be legally recognized as parents. Intended parents might also experience difficulties in having their parental status legally confirmed, particularly where they reside in a nation that does not accept same-sex marriage or parental status.²⁰

Surrogacy's legal recognition and access are patchy around the world.²¹ Whereas certain nations have comprehensive support for LGBTQ+ surrogacy, including explicit legal safeguards and parentage rights, others place limitations or bans, based on customary family standards or ethical reasons.

²⁰ Perna Bharti, *Surrogacy Rights of the LGBTQ Community*, Journal of Legal Research and Juridical Sciences, VOL. 3 ISSUE 4

²¹ Historical Origin, https://blog.ipleaders.in/surrogacy-a-battle-of-law-and-ethics/#Historical_origin (last visited on 03.04.2025)

1.8.2. Citizenship and Nationality Concerns in Surrogacy

Citizenship and nationality are two of the most intricate legal problems in international surrogacy arrangements. Most nations have stringent nationality legislation that stipulates citizenship through birthplace (*jus soli*) or parentage (*jus sanguinis*), making it challenging for the legal status of children born via surrogacy. Unless they are properly dealt with, such problems may lead to a child being born stateless or delayed in acquiring citizenship, with the result that they have no legal protection and cannot access vital rights like health and education.²²

The largest dangers of surrogacy abroad is that a child may be born stateless neither country accepts them as a citizen. This occurs when the country where the birth takes place does not automatically grant citizenship, and the home country of the parents refuses to acknowledge surrogacy births. Statelessness denies the child a legal identity, access to healthcare, and the right to travel. To avoid this, most prospective parents consult attorneys prior to going abroad for surrogacy so that their child will have an established nationality and legal parentage. Governments have also implemented policies to make citizenship easy for children born through surrogacy, particularly where delay might expose the child to risk.

1.9. Development of Modern Surrogacy

However, the first formal, lawful surrogacy agreement was passed in the middle of the 1970s, which is when the modern idea of surrogacy originated. The first surrogacy contract was written by a lawyer by the name of Noel Keane. Additionally, he established the Infertility Centre, which to this day arranges several surrogate births annually. However, the first paid surrogacy deal took place in 1980. Under this agreement, a 37-year-old woman served as a surrogate mother and received \$10,000 following a successful delivery. In the year 1984, the world's first testified Gestational Surrogacy took place. In this surrogacy, a woman, who did not have a uterus, transferred her eggs into her friend's uterus, who gave birth to a baby, who was genetically unrelated to the woman.

The first legal issue surrounding surrogacy arose in 1986 when a traditional surrogate mother refused to provide the kid to intended couple after giving birth. Following a two-year court

²² Gay fathers' motivations for and feelings about surrogacy as a path to parenthood, <https://pmc.ncbi.nlm.nih.gov/articles/PMC5400050/> (visited on 03.04.2025)

battle, the intended parents were granted custody after surrogate mother was overthrown. This historic case, known as the Baby M case, raised numerous legal concerns about surrogacy in many nations worldwide as the practice grew. Today, commercial surrogacy is permitted in most U.S. states and a few other nations, such as India, Russia, and Ukraine. However, intended parents from nations where surrogacy is prohibited are permitted to travel outside to lawfully become parents.

The Special Program of Assisted Reproduction (SPAR), which enables an HIV-positive man to become the biological father of his children without spreading the virus through sperm washing and HIV semen testing, helped advance surrogacy in 1999. The first gestational surrogacy in India was performed in 1994 in Chennai, the state capital of Tamil Nadu. A woman from Chandigarh, India, consented to have a kid in 1997 in exchange for 50,000 rupees because she needed the money for her husband's medical care.

In fact, in 2005, a woman aged 58 years acted as surrogate mother and delivered twin granddaughters. Thus, nowadays, surrogacy has become highly fashionable. Not long ago, many instances of surrogacy were reported including last when the oldest-surrogate mother ever, of 61 years, whose daughter is infertile, carried her grandchild. Ever since the good old days, surrogacy has been working as a ray of hope for an infertile couple or an individual who were incapable of conceiving a baby. It could, therefore be said that the scientific advancement and the technological innervations have enabled the transmission of genetic qualities from an otherwise barren couple to the children without having either of the spouse to fraternize carnally with the third person, the surrogate mother. Genetic dis-involved and implementation of the contracted arrangements have made the custodial transfer of the child as soon as he/she is born quite smooth. It has, in the past, given rise to many legal battles between the parties involved. This technological solution has certainly saved a lot of heartaches for many families.

1.5. Conclusion

The surrogacy process has been in existence for thousands of years. This is a traditional approach practiced since the Biblical Era where a maid bears a child for Sarah, Abraham's wife, due to her infertility. In the Hindu Mythologies, Bhagavata Purana, Lord Vishnu heard Vasudev's prayers and transferred an embryo from Devaki's womb to Rohin's womb. Thus, it clearly states that surrogacy is not a new concept, and it has been practiced since ages. The only change is the methodology or the medical treatments being more advanced in the modern

scenario. In addition, the gendered dynamics of surrogacy cannot be ignored. Women's bodies are commodified in the process, being reduced to mere reproductive vessels. This creates important questions regarding agency, consent, and the wider societal view of women's roles in reproduction. The socio-economic and cultural context of India makes these issues worse, as surrogate women are often from marginalized groups with little access to education and healthcare.

In short, although surrogacy can be a redemptive practice, its practice in India at present tends to disempower women. It is necessary immediately to institute a more balanced legal framework that will keep the health, dignity, and autonomy of surrogate women in mind. This would involve providing just compensation, access to medical care, and informed consent, as well as addressing the structures of inequality that push women into surrogacy. It can be practiced ethically and justly only by keeping the rights and welfare of surrogate women at the centre, reconciling the interests of all the stakeholders involved. Future policy interventions and research will have to create an inclusive and rights-oriented framework for surrogacy, which enables and does not exploit women in India.

Thus, throughout the process of the past and the present, that ranges from Hindu Mythology to egg donation, we find that surrogacy was deep-rooted within the society if wombs have been existing. The technique, intention, and phases may have undergone alterations, but it will not remove the evidence of or fact that surrogacy has existed since the good old times. One cannot chart the exact time when “it all started,” but one thing we can deduce is that surrogacy has been acting as a ray of hope for an infertile couple or an individual, who were incapable to conceive a baby.