
SURROGACY AND CROSS-BORDER PARENTAGE DISPUTES

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ABSTRACT

Surrogacy is a reproductive method in which a woman carries and gives birth to a child on behalf of another couple who are unable to conceive naturally. In India, surrogacy is regulated by law and certain conditions must be fulfilled, such as the requirement that the couple must be married for a specific period and must prove infertility. After fulfilling these conditions, a surrogate mother may be chosen either from relatives or through medical institutions. Although surrogacy helps many couples to build families, the situation becomes more complicated when the arrangement takes place between different countries, which is known as cross-border surrogacy.

Cross-border surrogacy raises several legal challenges. One of the main problems is determining legal parentage. In some countries, the surrogate mother is legally recognized as the child's mother, while in other countries the intended parents are recognized as the legal parents. This difference in legal systems creates conflicts and uncertainty. Another major issue is citizenship. A child born in one country to parents from another country may face difficulties in obtaining nationality, which can sometimes lead to the risk of statelessness. Jurisdictional issues also arise when courts must decide which country has the authority to resolve disputes related to surrogacy agreements.

The absence of a strong international legal framework further complicates the situation. Currently, there is no binding international treaty that specifically regulates cross-border surrogacy, although international organizations have been studying the issue. Because of this gap, courts often rely on case law to resolve disputes and to protect the interests of the child and the parties involved.

From a human rights perspective, cross-border surrogacy affects the rights of the intended parents, the surrogate mother, and the child. Therefore, clear national laws, international cooperation, and proper safeguards are necessary to ensure fairness, protect human dignity, and prioritize the best interests of the child.

INTRODUCTION:

Surrogacy means when a couple is unable to have a child, they choose a surrogate. There are certain criteria in India for this. One main criterion is that the couple must be married for at least five years as per law. After that, they must provide a certificate proving infertility. Only then are they allowed to choose a surrogate.

The surrogate can be someone from their relatives, or they can choose someone through a hospital. After selecting the surrogate, the child can be conceived by inserting the father's sperm into the surrogate, or by using the mother's egg and the father's sperm and implanting it into the surrogate. The surrogate carries the pregnancy for full duration and delivers the baby. After the birth of the child. The child handed it over to the intended parents. In simple terms, a child born through another woman on behalf of the intended parents is called surrogacy.¹

In cross-border surrogacy, one major issue is determining legal parentage. The country where the child is born may recognize the surrogate as the legal mother, while the intended parents' country may recognize the commissioning parents as the legal parents. This creates a conflict of laws. Another important aspect is jurisdiction over citizenship. The child may be born in one country but intended to live in another, which makes nationality and passport rights complicated, as different countries follow different rules for granting citizenship.²

Courts also face challenges in deciding which country has the authority to resolve disputes. Jurisdiction may depend on factors such as the place of birth of the child, the residence of the intended parents, or the place where the surrogacy agreement was made. Therefore, jurisdictional issues in cross-border surrogacy create legal uncertainty and require clear international cooperation and uniform laws to protect the rights of the child, the surrogate, and the intended parents.

JURISDICTIONAL CHALLENGES

Jurisdictional challenges arise in cross-border surrogacy because different countries follow different legal systems and rules. When a dispute occurs, it becomes difficult to determine

¹Surrogacy, Better Health Channel, <https://www.betterhealth.vic.gov.au/health/healthyliving/surrogacy> (last reviewed Oct. 11, 2023) (last visited Mar. 7, 2026).

² Surrogacy Laws by Countries With Mother Legal Framework, World Fertility Services, <https://worldfertilityservices.com/blog/surrogacy-mother-legal-in-countries/> (last visited Mar. 7, 2026).

which country's court has the authority to hear and decide the case. Each country may claim that its laws should apply to the situation. Because of this, confusion often arises about which court has the proper jurisdiction to resolve the dispute. This lack of clarity is one of the major legal problems in cross-border surrogacy arrangements.

Another important issue concerns the question of legal parentage. In some countries, the law recognizes the woman who gives birth to the child as the legal mother. Therefore, the surrogate mother may be considered the child's legal parent in that country. However, in other countries the law may recognize the intended parents, who arranged the surrogacy and planned to raise the child, as the legal parents. When two countries apply different rules, disagreements may arise about who the legal parents of the child are. In such situations, it becomes very difficult to decide which country's legal decision should be accepted as final.³

Citizenship is another major concern in cross-border surrogacy cases. A child may be born in one country, while the intended parents may be citizens of another country. Some countries grant citizenship based on the place of birth, while others grant citizenship based on the nationality of the parents. When these rules do not match or when neither country clearly recognizes the child as a citizen, the child may face the risk of becoming stateless. This means the child may not legally belong to any country, which can create serious problems related to identity, travel documents, and legal rights.

To resolve such disputes, some cases may consider alternative dispute resolution methods such as arbitration or other legal processes. While trying to resolve the issue, authorities usually examine several important factors. These may include the place where the child was born, the country where the intended parents normally live, and the location where the surrogacy agreement was signed. Since many different factors must be considered, reaching a clear and final decision can be very complicated. Because of these reasons, jurisdictional challenges continue to be a significant issue in cross-border surrogacy cases.⁴

³ Surrogacy Abroad: Legal Pathways and Challenges for Indian Couples Seeking Parenthood Beyond Borders, International Bar Association, <https://www.ibanet.org> (last updated 2013) (last visited Mar. 7, 2026).

⁴ Surrogacy Abroad: Legal Pathways and Challenges for Indian Couples Seeking Parenthood Beyond Borders, International Bar Association, <https://www.ibanet.org> (last updated 2013) (last visited Mar. 7, 2026).

PARENTAGE LAWS ACROSS BORDERS

Parentage laws related to surrogacy are not the same in every country, and this creates many legal problems in cross-border surrogacy arrangements. Some countries follow what is called a mixed approach. In such systems, the surrogate mother, who gives birth to the child, is initially considered the legal mother according to the law. After the birth of the child, the intended parents must approach the court and apply for a parental order.⁵ Once the court grants this order, the legal status of the parents is transferred from the surrogate mother to the intended parents. This procedure is often lengthy and involves several legal requirements, documents, and approvals before the intended parents are officially recognized as the child's legal parents.

Due to these different legal systems, confusion frequently arises in cross-border surrogacy situations. A child may be born in one country where the law considers the surrogate mother as the legal parent. However, the country where the intended parents live may legally recognize the intended parents as the true parents of the child. When two different countries apply different legal rules regarding parentage, it becomes difficult to determine whose decision should prevail. This situation may lead to disputes and legal uncertainty about the actual legal parents of the child.

Another difficulty appears when donors are involved in the surrogacy process. In some cases, the egg or sperm used for fertilization may come from donors rather than from the intended parents themselves. As a result, three different individuals may be connected to the child: the genetic parent who provides the egg or sperm, the surrogate mother who carries and delivers the baby, and the intended parents who wish to raise the child. When multiple parties are involved in the reproductive process, identifying the legal parents becomes even more complicated.

These legal differences also affect several practical matters concerning the child. Questions related to custody, passport applications, birth certificate entries, and inheritance rights may become difficult to resolve. For instance, in certain countries the surrogate mother's name is recorded first on the birth certificate because she is the woman who gave birth to the child. The intended parents can later be recognized as the legal parents only after obtaining a court order.

⁵ Parentage / Surrogacy Project, Hague Conference on Private International Law, <https://www.hcch.net/en/projects/legislative-projects/parentage-surrogacy> (last reviewed Oct. 11, 2023) (last visited Mar. 7, 2026).

Because of these varying legal rules across countries, parentage issues remain one of the most complex aspects of cross-border surrogacy arrangements.

CASE LAWS

Recent judicial decisions have played an important role in shaping the legal discussion on cross-border surrogacy. In particular, the judgment of the Italian Supreme Court (No. 38162, 30 December 2022) and several decisions of the European Court of Human Rights over the last decade have been closely examined by legal scholars and courts.⁶ These judgments highlight the complex legal questions that arise when children are born through surrogacy arrangements in a country different from the one where the intended parents live. They also show how courts are attempting to deal with the gaps that exist in national laws.

At present, the legal framework governing cross-border surrogacy is still developing, and many aspects remain unclear.⁷ In several countries, the law does not clearly define the legal status of surrogacy arrangements made abroad. Because of this lack of clear legislation, the rights of the child, the surrogate mother, and the intended parents may sometimes become uncertain. In many situations, courts have had to step in and interpret existing laws in order to resolve disputes and provide legal guidance. Judicial decisions have therefore become an important source in shaping the understanding of cross-border surrogacy issues.

Even with these court rulings, the legal position of children born through international surrogacy arrangements is not always fully settled. Questions related to parentage recognition, nationality, and citizenship may still arise when the child moves from the country of birth to the country of the intended parents. Differences between national laws often create difficulties in recognizing parental relationships or granting legal documentation such as birth certificates and passports.

INTERNATIONAL TREATIES AND GAPS:

At the international level, there is currently no single comprehensive treaty that directly regulates cross-border surrogacy.⁸ In other words, there is no binding international agreement

⁶ The Legally Charged Issue of Cross-Border Surrogacy: Current Regulatory Challenges and Future Prospects, PubMed, <https://pubmed.ncbi.nlm.nih.gov> (last reviewed Oct. 11, 2023) (last visited Mar. 7, 2026).

⁷ The Legally Charged Issue of Cross-Border Surrogacy: Current Regulatory Challenges and Future Prospects, ScienceDirect, <https://www.sciencedirect.com> (last reviewed Oct. 11, 2023) (last visited Mar. 7, 2026).

⁸ Towards an International Consensus on Cross-Border Surrogacy: The Role of the European Court of Human

that clearly addresses important issues such as legal parentage, citizenship of the child, and the rights and responsibilities of the surrogate mother and the intended parents. This absence of a clear global framework creates a significant gap in international law.

The Hague Conference on Private International Law has been examining this issue for several years, particularly in relation to legal parentage and the recognition of personal status across borders.⁹ The organization has produced a number of research papers, consultations, and discussions on the topic. However, these efforts have not yet resulted in a final international convention that countries are legally required to follow. As a result, there is still no universal rule that governs how cross-border surrogacy cases should be handled.

Some existing international instruments can offer limited guidance, especially those connected with children's rights. For example, principles contained in the United Nations Convention on the Rights of the Child emphasize the protection of children and their best interests.¹⁰ However, such frameworks do not contain specific rules dealing with surrogacy arrangements. Because of this limitation, countries mainly rely on their own domestic laws when dealing with surrogacy cases.

Different countries have adopted very different approaches to surrogacy. Some nations permit surrogacy only on an altruistic basis, meaning the surrogate mother cannot receive financial compensation beyond medical expenses. Other countries allow commercial surrogacy arrangements, while a number of states have completely prohibited surrogacy. These differences create serious legal difficulties when a surrogacy arrangement involves more than one country.

Due to these variations, a surrogacy agreement that is legally valid in one country may not be recognized in another country. For instance, a child may be born in a country where surrogacy is permitted, but the intended parents may come from a country where surrogacy is restricted or banned. In such situations, the legal recognition of parentage may become uncertain. Problems may also arise with respect to citizenship, travel documents, and birth registration.

Rights?, *Medical Law Review*, Oxford Academic, <https://academic.oup.com> (last reviewed Oct. 11, 2023) (last visited Mar. 7, 2026).

⁹ Parentage / Surrogacy Project, Hague Conference on Private International Law, <https://www.hcch.net/en/projects/legislative-projects/parentage-surrogacy> (last reviewed Oct. 11, 2023) (last visited Mar. 7, 2026).

¹⁰ General Assembly, United Nations, <https://www.un.org/en/ga/> (last reviewed Oct. 11, 2023) (last visited Mar. 7, 2026).

In some extreme situations, the child may even face the risk of statelessness if neither country clearly grants nationality.

Another major gap in international regulation is the lack of mutual recognition of legal decisions between countries. Even when a court in one country issues an order recognizing the intended parents as the legal parents, another country may refuse to recognize that decision. This weakens the effectiveness of cross-border legal enforcement and creates additional legal uncertainty for the families involved.

There are also broader ethical concerns linked to the absence of strong international standards. Without clear global regulation, there is a possibility that economically vulnerable women may be exploited in commercial surrogacy arrangements. In some regions, financial pressure may influence women to become surrogates without adequate protection or support. Because of these concerns, many scholars and policymakers believe that the development of common international standards is necessary to ensure fairness, protect the dignity of surrogate mothers, and safeguard the rights of children born through cross-border surrogacy.

ENFORCEMENT OF SURROGACY AGREEMENTS:

Enforcement of surrogacy agreements refers to the question of whether the terms written in a surrogacy contract can be legally applied when a dispute takes place. In cases of cross-border surrogacy, this issue becomes particularly complicated because different countries follow different legal systems and policies regarding surrogacy.

A surrogacy agreement may be legally valid in one country, especially in places where surrogacy is permitted and properly regulated by law. However, the same agreement may not be accepted as valid in the country where the intended parents live. This situation is common when the intended parents' country has strict restrictions on surrogacy or when commercial surrogacy is prohibited. As a result, if a dispute arises, it becomes difficult to determine which country's law should govern the agreement.

There may be situations where the surrogate mother decides not to hand over the child after the baby is born. In such cases, the intended parents may rely on the surrogacy of contract and claim their parental rights based on the agreement. However, the court handling the matter will normally apply to the law of the country where the surrogate mother resides or where the child

was born. If the law in that country gives stronger legal protection to the surrogate mother, the intended parents may face difficulty in obtaining immediate custody of the child.

On the other hand, disputes may also arise from the side of the intended parents. There have been situations where intended parents refuse to accept the child after birth, for example when the child is born with a medical condition or disability. In such circumstances, the responsibility of caring for the child may fall on the surrogate mother. Even though a contract exists between the parties, the agreement may not always be legally enforceable in every country.

Another difficulty is that surrogacy contracts are not standardized across the world. A contract that is carefully prepared and legally ¹¹acceptable in one jurisdiction may not be recognized in another. Courts in some countries may reject the agreement entirely if it conflicts with their public policy. For example, if commercial surrogacy is considered unethical or against public interest in a particular country, the courts there may refuse to enforce such agreements.

HUMAN RIGHTS PERSPECTIVE:

From a human rights perspective, cross-border surrogacy should not be viewed only as a contractual arrangement between parties. It also involves important human rights concerns. The process directly affects the intended parents, the surrogate mother, and most importantly the child who is born through the arrangement. Therefore¹², when discussing cross-border surrogacy, it is necessary to consider the basic human rights principles that apply to all individuals involved.

One of the most important aspects is the right to family life. Every individual has the freedom to establish and enjoy family life. Couples who are unable to have children naturally may choose surrogacy as a way to build their family. For them, the use of surrogacy becomes part of their private and family life. At the same time, the child who is born through surrogacy also has the right to have their family relationship legally recognized. If the law delays or refuses to recognize the intended parents as the legal parents, it may affect the child's identity and sense of belonging, which can also impact emotional stability.

¹¹ Civil Law Document,

<https://share.google/5w5aqhTS15UiBQdm> (last reviewed Oct. 11, 2023) (last visited Mar. 7, 2026).

¹² Violence Against Women and Children in India,

<https://share.google/6TVvtZg7TwiNUjGWg> (last reviewed Oct. 11, 2023) (last visited Mar. 7, 2026).

Another important principle is the right to dignity. A surrogate mother should never be treated merely as a person who carries a pregnancy for someone else. She must be respected as an individual with rights and personal dignity. It is essential that she gives her consent freely and with full understanding of the process. Her health, safety, and emotional well-being must be properly protected throughout the pregnancy. In situations involving commercial surrogacy, women from economically weaker backgrounds may sometimes face pressure or exploitation. For this reason, legal systems must ensure that the dignity of surrogate mothers is protected at every stage.

The dignity of the child is equally significant. A child born through cross-border surrogacy should not face uncertainty regarding identity or legal status. If the child does not receive clear citizenship, lacks a proper birth certificate, or encounters problems in obtaining travel documents such as a passport, it can negatively affect the child's rights¹³ and future. Therefore, the law must ensure that the child's legal recognition and protection are provided without unnecessary delay.

Another relevant concept is reproductive autonomy. This principle recognizes that individuals have the right to make personal decisions about reproduction and having children. The use of medical technology, including surrogacy, can be considered part of this freedom. However, this right is not absolute. Governments are allowed to introduce regulations to prevent exploitation, maintain ethical standards, and protect public interest. As a result, the law must maintain a balance between individual freedom and necessary legal regulations.

Finally, courts generally follow the principle of the "best interests of the child." Even though the intended parents and the surrogate mother have their own rights, the welfare and future of the child remain the most important consideration. Whenever disputes arise in cross-border surrogacy cases, courts tend to focus on what decision will best protect the child's safety, stability, and well-being. For this reason, proper and well-structured laws are necessary to balance the rights of the child, the surrogate mother, and the intended parents.

Mennesson v. France

Court: European Court of Human Rights

¹³Children's Rights and Surrogacy, Humanium, <https://www.humanium.org/en/childrens-rights-and-surrogacy/> (last reviewed Oct. 11, 2023) (last visited Mar. 7, 2026).

Year: 2014

Mennesson v. France (2014) is an important case related to cross-border surrogacy. In this case, a French couple went to the United States for surrogacy because it was not allowed in France. Twins were born through a surrogate mother, and the birth certificate in the United States recognized the couple as the legal parents. However, when they returned to France, the French authorities refused to recognize the children's legal parentage because surrogacy was illegal there. The case was taken to the European Court of Human Rights. The Court held that even if a country does not allow surrogacy, it must still protect the rights and identity of the child. The Court decided that refusing to recognize the children's legal status violated their right to private life under Article 8 of the European Convention on Human Rights. The judgment emphasized that the best interests and legal identity of the child must be protected in cross-border surrogacy cases.

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¹⁴*Mennesson v. France*, App. No. 65192/11, HUDOC – European Court of Human Rights, <https://hudoc.echr.coe.int> (last visited Mar. 7, 2026).

RECOMMENDED CHANGES:

Clear national legislation is essential for regulating surrogacy practices. Every country should establish detailed and well-defined laws that clearly explain how surrogacy should be carried out. Although several countries permit surrogacy, the absence of precise legal rules¹⁵ often leads to confusion and disputes. Therefore, governments must clearly state whether surrogacy is permitted or prohibited within their legal system. In addition, the law should specifically clarify whether commercial surrogacy is allowed or whether only altruistic surrogacy is permitted, where the surrogate receives no financial benefit other than reimbursement for medical expenses. When legal rules are vague or incomplete, it may lead to misunderstandings and future legal conflicts between the parties involved.

Another important issue that needs clear legal regulation is the determination of legal parentage. After a child is born through surrogacy, the law must clearly identify who will be recognized as the legal parents of the child. In some situations, there may be uncertainty about whether the surrogate mother or the intended parents should be treated as the legal parents. If the law does not clearly define this matter, it can create confusion and lead to lengthy court disputes. For this reason, legislation should clearly state who will obtain legal parentage immediately after the birth of the child.

The law should also clearly define the rights and responsibilities of both the surrogate mother and the intended parents. A surrogate mother must receive proper medical treatment, health care, and insurance protection throughout the pregnancy.¹⁶ At the same time, her consent must be fully informed and given voluntarily without pressure. On the other hand, the intended parents should be responsible for covering medical expenses, following the required legal procedures, and accepting responsibility for the child after birth. When the legal system clearly outlines these duties and rights, it helps ensure that both parties feel secure and protected during the surrogacy process.

It is equally important for the law to provide clear guidance on how disputes should be resolved if problems arise. Situations may occur where the intended parents refuse to accept the child

¹⁵Amendment to Surrogacy Rules, Government of India, <https://share.google/QdrNR88pBhsRM4JWT> (last reviewed Oct. 11, 2023) (last visited Mar. 7, 2026).

¹⁶Towards an International Consensus on Cross-Border Surrogacy: The Role of the European Court of Human Rights?, PubMed Central (PMC), <https://www.ncbi.nlm.nih.gov/pmc> (last reviewed Oct. 11, 2023) (last visited Mar. 7, 2026).

after birth, or the surrogate mother may refuse to hand over the baby. Without clear legal procedures to handle such situations, these disputes can lead to emotional distress and complicated legal battles. Therefore, the legal framework should clearly describe the steps that must be followed in case of disagreements, so that conflicts can be resolved fairly and efficiently.

International Cooperation and Common Standards

International cooperation refers to the need for different countries to work together in creating shared rules and principles for regulating cross-border surrogacy. In recent years, many couples have chosen to travel to other countries to pursue surrogacy arrangements because the legal regulations in those places may be less restrictive or more supportive. However, the laws governing surrogacy differ greatly from one country to another. These differences often create legal complications after the child is born, particularly when the intended parents return to their home country.

One common problem arises when the country where the child is born recognizes the intended parents as the legal parents, but the parents' home country does not accept that recognition. This situation creates uncertainty regarding the legal status of the parents. In addition, citizenship issues may arise. A child born through cross-border surrogacy may not automatically receive citizenship from the country of birth or from the country of the intended parents. In such circumstances, the child may face serious difficulties related to nationality, legal identity, and travel documents.

To reduce these problems, countries should cooperate to develop common principles or adopt an international agreement dealing specifically with cross-border surrogacy. If nations follow similar legal standards, it will become easier to recognize parentage decisions and court orders across different jurisdictions. Establishing shared standards can also strengthen the protection of surrogate mothers by ensuring that their consent is properly obtained, that they receive appropriate medical care, and that they are safeguarded from exploitation regardless of the country in which the surrogacy takes place.

Protection of the Child's Rights

Protecting the rights of a child born through surrogacy means ensuring that the child receives

full legal protection from the moment of birth. In situations involving cross-border surrogacy, one of the most serious concerns is the possibility that the child may become stateless. Statelessness means that the child is not granted citizenship by any country. When this happens, the child may face many long-term difficulties, such as problems in obtaining a passport, accessing education, receiving healthcare services, and establishing a clear legal identity in society.

The law must therefore ensure that the child's legal parentage is clearly recognized as soon as the child is born. When the intended parents have been legally approved through the proper procedures, they should be recognized as the child's legal parents without unnecessary delay. Immediate recognition helps prevent confusion and reduces the chances of legal disputes between the parties involved.

Citizenship is another important issue that requires careful legal attention. A child born through surrogacy should be able to obtain citizenship either from the country where the birth takes place or from the country of the intended parents. Legal systems should be designed in such a way that a child is never left without nationality due to differences in national laws. Clear rules on citizenship can protect the child from legal uncertainty and ensure a stable future.

Most importantly, in every surrogacy arrangement, the welfare of the child must remain the primary concern. Even when disagreements arise between the surrogate mother and the intended parents, courts must always focus on what is best for the child. The child's safety, emotional stability, and long-term well-being should guide every legal decision related to surrogacy arrangements.

Safeguards Against Exploitation

Safeguards against exploitation refer to the legal protections that must exist to ensure that surrogate mothers are not treated unfairly or taken advantage of. In certain situations, particularly in commercial or cross-border surrogacy arrangements, women from economically weaker backgrounds may agree to become surrogates mainly because of financial difficulties. Such circumstances can sometimes expose them to exploitation. For this reason, it is necessary for the law to establish strict rules and clear regulatory mechanisms that safeguard the interests and rights of surrogate mothers.

Proper medical care is an essential requirement in any surrogacy arrangement. A surrogate mother must receive regular medical examinations throughout the pregnancy to monitor her health and the health of the developing child. She should also have access to safe and well-equipped hospital facilities, along with immediate emergency medical support if any complications arise during pregnancy or delivery. Since pregnancy naturally involves certain health risks, the physical safety and well-being of the surrogate mother must always be given the highest priority. In addition, medical support should continue even after childbirth so that her recovery and long-term health are properly monitored.¹⁷

Informed consent is another important protection that must be ensured. The surrogate mother must fully understand every aspect of the surrogacy process before agreeing to participate. This includes being aware of possible medical risks, emotional consequences, and the legal implications involved in the arrangement. Her decision must be made freely and voluntarily, without pressure or influence from family members, intermediaries, agents, or financial hardship. The agreement should be clearly written and explained in a language she understands, and she should have the opportunity to obtain independent legal advice before signing any contract.

Legal and financial security must also be guaranteed. The surrogacy agreement should clearly outline all important matters such as medical expenses, insurance coverage, and any agreed compensation. The terms should be transparent and fair, without hidden clauses or conditions that could disadvantage the surrogate mother. Government supervision and regulation are necessary to prevent agents or middlemen from exploiting the situation for personal profit.

Above all, the dignity and rights of the surrogate mother must always be respected. She should never be treated merely as a means to produce a child for others. Her physical health, emotional condition, and social well-being must be properly protected at every stage of the process. When appropriate legal safeguards are in place, surrogacy arrangements can function in a manner that is ethical, fair, and respectful to all the parties involved.

CONCLUSION

Cross-border surrogacy presents several legal challenges because each country follows its own

¹⁷ FIGO Position Statement on Surrogacy: Ethical Considerations, PubMed Central (PMC), <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC12553094/> (last visited Mar. 7, 2026).

laws and policies regarding surrogacy. As a result, conflicts often arise when a surrogacy arrangement involves more than one country. These conflicts may relate to important matters such as the determination of legal parentage, the citizenship of the child, the jurisdiction of courts, and the enforcement of surrogacy agreements. Since many countries do not have clear or uniform rules governing cross-border surrogacy, legal uncertainty frequently arises. The absence of a common international framework makes it difficult to resolve disputes in a consistent manner.

In all surrogacy arrangements, the welfare and protection of the child must remain the central concern. A child born through cross-border surrogacy should never face the risk of becoming stateless or lacking a clear legal identity. Immediate recognition of the child's legal status and parentage is necessary to ensure stability and protection of the child's rights. At the same time, the rights and dignity of the surrogate mother must also be respected. She should not be subjected to unfair treatment or exploitation during the surrogacy process. Her health, safety, and voluntary consent must be properly protected through effective legal safeguards.

To address these challenges, it is essential for countries to develop clear and well-defined national laws regarding surrogacy. Such laws should clearly explain the rights and responsibilities of all parties involved and provide proper procedures to handle disputes. In addition to national regulation, stronger international cooperation is also necessary. Countries should attempt to create common standards or guiding principles so that decisions related to parentage and legal status can be recognized across borders without unnecessary conflict.