

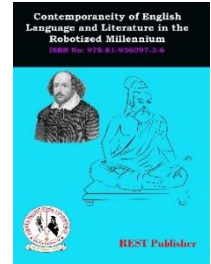


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Ethical and Legal Aspects of Surrogacy

S. Sravanthi, N. Shailaja

Aditya Institute of Technology and Management, Tekkali, Srikakulam, Andhra Pradesh, India.

Abstract: Surrogacy is a complex and increasingly utilized reproductive method that allows individuals or couples to have children when they are unable to carry a pregnancy to term. However, surrogacy raises a wide range of ethical and legal challenges. Ethically, it prompts questions about the exploitation of women, the autonomy of surrogates, and the rights of the child. Legal issues encompass the regulation of surrogacy agreements, parental rights, and the varying laws governing surrogacy across different jurisdictions. This paper examines the ethical concerns surrounding the commercialization of surrogacy, informed consent, and the balance between the rights of the surrogate and the intended parents. It also discusses the legal implications of cross-border surrogacy, the need for uniform international laws, and the protection of the welfare of all parties involved. Understanding these aspects is essential to ensuring that surrogacy practices are ethically sound and legally fair for all parties, including the children born from such arrangement.

Keywords: Reproductive rights, Exploitation, Informed consent, International surrogacy laws, Child welfare.

1. INTRODUCTION

Overview of Surrogacy: Surrogacy is a reproductive arrangement where a woman, known as the surrogate, carries and gives birth to a child on behalf of another individual or couple, referred to as the intended parents. This arrangement typically occurs when the intended parents are unable to conceive or carry a pregnancy to term due to medical or personal reasons. Surrogacy can be either traditional, where the surrogate provides her own egg, or gestational, where an embryo created through in vitro fertilization (IVF) is implanted in the surrogate's uterus. Surrogacy offers a pathway to parenthood for individuals and couples, including those facing infertility, same-sex couples, and single individuals who wish to have children but cannot carry a pregnancy themselves.

Growing Popularity and Global Context: In recent decades, surrogacy has gained increasing popularity as advancements in reproductive technologies have made the process more accessible. This growing demand has led to the development of a global surrogacy market, with countries like the United States, India, Ukraine, and Georgia becoming prominent hubs for commercial surrogacy. While surrogacy provides a solution for many, it has also given rise to complex ethical and legal questions. Different countries have varying laws and regulations surrounding surrogacy, with some nations offering legal frameworks that support and regulate the practice, while others impose restrictions or outright bans. The rise of international surrogacy, where intended parents travel across borders to find a surrogate, has further complicated the ethical and legal landscape.

Purpose of the Paper: The purpose of this paper is to explore the ethical and legal aspects of surrogacy, focusing on the challenges and considerations that arise in both the domestic and international contexts. This paper will examine the ethical dilemmas related to autonomy, exploitation, and the welfare of the child, as well as the legal complexities surrounding surrogacy agreements, parental rights, and cross-border surrogacy. By analyzing the current landscape of surrogacy, this paper aims to provide a comprehensive understanding of the multifaceted issues that shape the practice and to discuss potential legal reforms and ethical standards that could improve the regulation of surrogacy globally.

2. ETHICAL CONSIDERATIONS IN SURROGACY

Surrogacy raises numerous ethical concerns, particularly regarding the autonomy and well-being of all parties involved, including the surrogate, the intended parents, and the child. These concerns touch on issues of consent, exploitation, rights, and the psychological impact on everyone participating in the arrangement. Ethical framework must be considered to ensure surrogacy is practiced in a way that respects the dignity and rights of all parties.

Autonomy and Consent: Informed Consent of Surrogates Informed consent is a foundational ethical principle in any medical procedure, and this is particularly critical in surrogacy arrangements. The surrogate mother must fully understand the medical, emotional, and legal implications of the process before agreeing to participate. Informed consent means that the surrogate is provided with comprehensive information regarding the risks of the pregnancy, her legal rights, the nature of her contractual obligations, and the potential psychological effects post-birth. Ethical surrogacy practices require that the surrogate's decision be voluntary and based on clear, honest, and unbiased information.

Autonomy of Intended Parents: The autonomy of intended parents is another key ethical consideration. Intended parents must have the freedom to make decisions about their reproductive futures, including whether to pursue surrogacy as a means of having children. However, this autonomy must be balanced with the rights and welfare of the surrogate and the child. While intended parents may have a deep emotional desire to become parents, their autonomy should not come at the expense of the surrogate's well-being or the child's best interests. Therefore, ethical surrogacy agreements should be transparent, mutually respectful, and protect the autonomy of both the surrogate and the intended parents.

3. EXPLOITATION AND COERCION

Economic Exploitation of Surrogates: One of the most significant ethical concerns in surrogacy is the potential for the exploitation of the surrogate, particularly in commercial surrogacy arrangements. Surrogates, especially those from economically disadvantaged backgrounds, may be financially incentivized to carry a child for another family. In such cases, there is a risk that the surrogate's decision could be influenced by financial pressures rather than genuine personal choice. Exploitation may occur when surrogates are not adequately compensated for their health risks, or when the financial compensation becomes a primary motivation that overshadows the surrogate's emotional and physical well-being.

Ethical Concerns Around Financial Compensation: The ethics of financial compensation in surrogacy remain debated. While intended parents may offer compensation to the surrogate for her time, medical expenses, and inconvenience, it raises concerns about turning the act of carrying a child into a commercial transaction. This transactional nature can dehumanize the process, reducing the surrogate's role to that of a mere "vessel." Ethical surrogacy arrangements should carefully consider how much compensation is fair and whether it might create undue pressure on the surrogate to participate in the process. Fair compensation should take into account the emotional, physical, and psychological burden of pregnancy and childbirth.

The Rights of the Child: Best Interests of the Child: The child born through surrogacy must always be considered in terms of their best interests. This ethical principle stipulates that decisions made regarding surrogacy arrangements should prioritize the well-being, safety, and emotional health of the child. There are concerns about the child's emotional identity, especially in cases where surrogacy involves egg or sperm donation, as the child may have complex relationships with biological and social parents. Ethical surrogacy practices ensure that the child is protected legally, emotionally, and socially, with clear and stable parental recognition from birth.

Genetic and Legal Parentage: The issue of genetic and legal parentage is complex in surrogacy, particularly in gestational surrogacy where the surrogate may not have a genetic link to the child. Ethically, it is important to clarify the legal parentage before the birth to avoid future disputes regarding custody or parental rights. The legal recognition of the intended parents as the child's legal parents, even when the surrogate carries the child biologically unrelated to her, is critical to protecting the child's rights and preventing possible exploitation. Furthermore, the child's identity should be respected in terms of access to information about their genetic heritage, where legally and ethically appropriate.

Psychological and Social Impact: Emotional Well-being of the Surrogate The emotional well-being of the surrogate is often overlooked in discussions about surrogacy. Pregnancy and childbirth are profound experiences, and for a surrogate, the emotional process can be intense, especially when she carries the child of another family. After giving birth, the surrogate may experience psychological challenges such as attachment to the child, post-partum depression, or feelings of loss. Ethical surrogacy practices require that surrogates receive adequate emotional and psychological support before, during, and after the pregnancy to ensure their well-being and help them navigate any emotional difficulties that may arise.

Impact on the Child and Intended Parents Surrogacy can also have significant emotional and psychological impacts on the child and the intended parents. Children born through surrogacy may face identity issues or psychological confusion about their origins, especially if there is a lack of clarity about their biological parentage. For intended parents, the experience of surrogacy can be both joyous and stressful, as they may feel anxious about the process or experience difficulties in forming an emotional bond with the child if the surrogate has been

involved in the birth process for a significant period. Ethical considerations demand that intended parents, children, and surrogates are provided with proper counseling and emotional support to ensure that all parties are prepared for the long-term psychological effects of surrogacy.

4. LEGAL FRAMEWORK OF SURROGACY

The legal aspects of surrogacy are multifaceted and vary significantly across jurisdictions. The legal framework governing surrogacy is crucial for protecting the rights of all parties involved—surrogates, intended parents, and children. The complexity of surrogacy arrangements, especially in international contexts, has prompted legal scholars, policymakers, and courts to address numerous issues regarding parental rights, the validity of surrogacy agreements, and the regulation of surrogacy practices across borders.

Parental Rights and Legal Recognize: One of the central legal issues in surrogacy is the establishment of legal parenthood. In many surrogacy cases, especially gestational surrogacy where the surrogate has no genetic link to the child, determining who the legal parents are can be complex. Some jurisdictions automatically recognize the intended parents as the legal parents once the child is born, while others may require a court order to establish parental rights. Legal recognition is essential for matters such as custody, inheritance, and healthcare. The legal parentage must be clearly defined to avoid future disputes and ensure that the child's best interests are safeguarded.

Custody Disputes and Legal Challenges: Custody disputes are common in surrogacy arrangements, particularly when surrogates or intended parents contest their roles in the child's life. Legal challenges may arise when the surrogate changes her mind after giving birth or when the intended parents' relationship breaks down. Jurisdictional differences complicate these issues, especially in cases of international surrogacy where parental rights in one country may not be recognized in another. Legal frameworks must provide clarity to protect the child's welfare and resolve any potential disputes regarding custody.

Surrogacy Contracts and Enforcement: Legal Validity of Surrogacy Agreements Surrogacy agreements are legally binding contracts that outline the rights and responsibilities of all parties involved. These contracts typically cover compensation, the surrogate's medical and emotional support, parental rights, and the procedure for relinquishing the child after birth. However, the legal validity of surrogacy contracts can vary significantly across jurisdictions. Some countries or states may enforce these contracts rigorously, while others may find certain terms unenforceable, particularly when they violate the rights of the surrogate or the child. For a surrogacy agreement to be legally enforceable, it must be in compliance with the local laws, especially regarding the surrogate's rights and the child's welfare.

Jurisdictional Challenges in Cross-Border Surrogacy: Cross-border surrogacy—where intended parents from one country seek surrogacy services in another—raises complex jurisdictional issues. Different countries have varying laws concerning surrogacy, and when these laws conflict, it can lead to legal challenges in determining parentage, custody, and the child's citizenship. For instance, countries that prohibit surrogacy may not recognize the parental rights of intended parents from countries where surrogacy is legal. This creates a legal vacuum in which children born through international surrogacy may face citizenship issues or become stateless. Jurisdictional conflicts can further complicate enforcement of surrogacy contracts and affect the legal status of the child.

National and International Regulations: Surrogacy Laws Across Different Countries

The regulation of surrogacy varies widely from one country to another. In some countries, such as the United States, surrogacy is legal and well-regulated in certain states, with specific laws governing the process, financial compensation, and parental rights. In contrast, countries like France, Germany, and Italy have outright bans on surrogacy, viewing it as unethical or exploitative. Some nations, such as Canada and the United Kingdom, allow only altruistic surrogacy, where the surrogate receives no financial compensation beyond medical expenses. These national differences create challenges for international surrogacy arrangements, where intended parents may seek surrogates in countries with more permissive laws.

Countries with Prohibition vs. Regulation: The global landscape of surrogacy is marked by stark contrasts between countries that prohibit the practice and those that regulate it. For example, in India, once a hub for commercial surrogacy, the government has introduced legislation restricting commercial surrogacy and limiting it to altruistic surrogacy for Indian citizens. On the other hand, countries like the United States and Ukraine maintain relatively flexible regulations that permit both altruistic and commercial surrogacy. In contrast, countries like Denmark and Sweden regulate surrogacy practices through strict ethical guidelines to avoid exploitation while still permitting the practice. This divergence in regulations leads to a "surrogacy tourism" phenomenon, where intended parents travel to countries with more favourable laws, sometimes facing legal complications upon returning home.

D. Case Studies of Legal Precedents

High-Profile Legal Cases in Surrogacy: Several high-profile legal cases have shaped the legal landscape of surrogacy. For instance, the “Baby M” case in the United States (1986) brought significant attention to the legal complexities of surrogacy agreements. In that case, the surrogate mother sought to retain custody of the child after giving birth, despite having signed a contract to relinquish parental rights. The court ultimately ruled in favour of the intended parents, but the case set important precedents regarding the enforceability of surrogacy contracts and the rights of surrogates. Another notable case is that of the "Australian Surrogacy Case" (2011), in which an Australian couple who had entered into a surrogacy agreement in India faced legal challenges over parental rights once they returned to Australia.

Evolution of Legal Frameworks: The legal frameworks surrounding surrogacy have evolved in response to these and other legal precedents. In many jurisdictions, laws have been reformed or introduced to provide clearer guidelines for surrogacy agreements, parental rights, and protections for surrogates. For example, the legal reforms in the United Kingdom now include specific provisions for the parental rights of intended parents, ensuring that surrogacy contracts do not violate the surrogate's right to change her mind after birth. In other countries, such as Canada, surrogacy is strictly regulated to prevent commercial exploitation while allowing for altruistic surrogacy arrangements. The evolution of legal frameworks continues as more countries address the ethical and legal issues raised by surrogacy in an increasingly globalized world.

5. COMMERCIAL VS. ALTRUISTIC SURROGACY

The ethical and legal considerations of surrogacy become even more complex when distinguishing between altruistic and commercial surrogacy. These two models represent opposing ends of a spectrum, with altruistic surrogacy focusing on non-financial motivations and commercial surrogacy involving financial compensation for the surrogate's services. Both models raise important ethical questions, particularly regarding the potential for exploitation, the autonomy of the surrogate, and the commodification of human reproduction. This section will explore the ethical and legal aspects of both altruistic and commercial surrogacy, as well as the global differences in how these models are regulated and practiced.

Altruistic Surrogacy: Ethical and Legal Considerations Altruistic surrogacy is typically defined as a practice in which the surrogate carries the child for the intended parents without receiving financial compensation beyond reimbursement for medical expenses and other costs directly associated with the pregnancy. The primary ethical argument in favour of altruistic surrogacy is that it is less likely to exploit the surrogate mother, as her motivation is typically rooted in a desire to help others rather than financial gain. However, ethical questions still arise, particularly regarding whether it is truly possible to remove all forms of coercion. The surrogate's emotional attachment to the child, for example, can complicate the arrangement. Legally, altruistic surrogacy often involves clear regulations that aim to ensure the welfare of both the surrogate and the child, but there may still be challenges in protecting the rights of all parties involved.

Practical Challenges: Despite the ethical appeal of altruistic surrogacy, it faces several practical challenges. These include a limited pool of potential surrogates, the logistical complexities of ensuring the surrogate's well-being, and the difficulties in addressing emotional and psychological concerns before, during, and after the pregnancy. The absence of financial compensation means that the surrogate may have to endure physical and emotional burdens without adequate support. Furthermore, altruistic surrogacy often depends on the personal relationships between the surrogate and the intended parents, which can lead to complications in the event of disputes or changes in the relationship. Legal frameworks for altruistic surrogacy must be robust enough to address these practical challenges and protect the rights of the surrogate, the intended parents, and the child.

Commercial Surrogacy: Pros and Cons of Financial Compensation Commercial surrogacy involves compensating the surrogate beyond the reimbursement of medical expenses, often with a significant payment for her services. Proponents argue that financial compensation acknowledges the physical, emotional, and psychological burdens that surrogates endure during the pregnancy and childbirth. It also ensures that surrogacy is not based solely on altruistic motives, which could be limiting and lead to potential exploitation of those who feel compelled to participate due to financial need. From a legal perspective, commercial surrogacy contracts are more detailed and clearer in terms of the rights and responsibilities of all parties, making them easier to enforce. On the other hand, the ethical concern with commercial surrogacy lies in the risk of commodifying reproduction. The surrogate's role can be reduced to that of a "womb for hire," which may diminish the human dignity of the surrogacy process. There is also the risk that vulnerable women may be coerced into surrogacy out of financial desperation, raising significant questions about autonomy and consent. Financial compensation in commercial surrogacy arrangements may also lead to an imbalance of power between the surrogate and intended parents, potentially resulting in exploitation.

Risks of Commercialization in Reproductive Rights: The commercialization of surrogacy has raised concerns about the commodification of human life, with critics arguing that it reduces the process of reproduction to a transaction. This commercialization can lead to ethical issues related to the treatment of surrogates as mere providers of a service, stripping away the human dignity and emotional complexities that come with pregnancy and childbirth. In addition, commercial surrogacy introduces a market-driven approach to reproduction, which can lead to exploitative practices, particularly in less regulated environments. There is also the potential for the child to be viewed as a product, creating ethical concerns regarding the child's best interests, identity, and legal parentage. In some countries, commercialization of surrogacy has led to the development of a "surrogacy industry," with significant financial incentives. This can result in unregulated practices, where surrogates may not receive adequate healthcare, emotional support, or post-pregnancy care. There are also risks that commercial surrogacy may lead to international "surrogacy tourism," where intended parents from countries with strict surrogacy laws go to countries with more lenient regulations, potentially exploiting women in poorer regions.

Comparison of Approaches in Developed vs. Developing Countries: The regulation of surrogacy varies significantly between developed and developing countries. In many developed countries, there are clear regulations that govern both altruistic and commercial surrogacy. In the United States, for example, surrogacy is legal in some states, where both altruistic and commercial surrogacy models are practiced. However, states like California have strong legal protections for surrogates, while others may have no regulations at all. Countries like the United Kingdom allow only altruistic surrogacy, and there are strict laws governing the process to prevent exploitation. In contrast, in developing countries, surrogacy is often less regulated, leading to the exploitation of surrogates and the commodification of reproduction. India, for many years, was a popular destination for commercial surrogacy due to its lower costs and more lenient regulations. However, after concerns about exploitation, India passed legislation to restrict surrogacy to Indian citizens and prohibit commercial surrogacy. Other countries in Southeast Asia and Eastern Europe, such as Ukraine and Georgia, have become popular surrogacy hubs, but these countries also face criticism for insufficient legal protections for surrogates. While surrogacy is increasingly regulated in many countries, the disparity between developed and developing countries remains a critical issue. In developed countries, legal frameworks often prioritize the rights and welfare of surrogates and intended parents, whereas developing countries may lack the necessary protections, leading to unethical practices. The lack of international legal frameworks addressing surrogacy further complicates this disparity, particularly when intended parents travel abroad to find a surrogate.

6. ETHICAL AND LEGAL CHALLENGES IN CROSS-BORDER SURROGACY

Cross-border surrogacy, where intended parents seek surrogacy services in a country different from their own, introduces complex ethical and legal challenges. While it offers a solution for individuals in countries with restrictive surrogacy laws, it also brings to light significant concerns about legal recognition, exploitation, and the protection of all parties involved. This section will explore the legal loopholes and jurisdictional issues that arise in cross-border surrogacy arrangements, as well as the ethical dilemmas related to the exploitation risks faced by surrogates in developing countries.

Legal Loopholes and Jurisdictional Issues: Surrogacy in Countries with Varying Laws One of the main challenges in cross-border surrogacy arises from the lack of international harmonization in surrogacy laws. Surrogacy regulations differ widely across countries—some countries have robust legal frameworks governing surrogacy, while others have little or no regulation at all. In countries like the United States, Canada, and the United Kingdom, surrogacy is either well-regulated or subject to strict ethical guidelines. However, many countries—especially in the developing world—lack comprehensive legal frameworks for surrogacy, creating potential legal uncertainties for intended parents and surrogates alike. The divergence in laws can result in difficulties in establishing legal parentage, particularly in cases of international surrogacy. For instance, a child born through surrogacy in a country with lenient laws may face legal challenges in the parents' home country, where surrogacy is prohibited or heavily regulated. In such cases, intended parents might struggle to establish their legal parentage or obtain citizenship for the child. Similarly, the surrogate mother may face legal ambiguity concerning her rights and the responsibilities of the intended parents.

The Role of International Treaties: International treaties and agreements play a vital role in addressing jurisdictional issues in cross-border surrogacy. However, there is currently no universal treaty governing surrogacy practices. The lack of a binding international agreement means that the legal recognition of parentage or the enforcement of surrogacy contracts depends on the individual laws of each country. While some countries have bilateral agreements that address cross-border legal issues related to surrogacy, these agreements are often insufficient to protect all parties involved, particularly surrogates. International legal frameworks, such as the Hague Convention on the Protection of Children, could offer a solution for cross-border surrogacy cases by providing a common legal standard for determining parentage and child protection. However, the lack of

agreement on surrogacy-specific provisions means that many cross-border surrogacy arrangements operate in a legal grey area, leading to increased risks of exploitation and legal challenges.

Exploitation Risks in Developing Countries: Ethical Dilemmas of International Surrogacy Cross-border surrogacy often involves intended parents from wealthy, developed countries seeking surrogates in less affluent, developing countries. The primary ethical dilemma in such cases revolves around the potential for exploitation. Surrogates in developing countries are often economically disadvantaged, and surrogacy arrangements may be seen as a way for them to improve their financial situation. Critics argue that this economic vulnerability can lead to coerced or incentivized decisions, where surrogates may feel pressured to participate in surrogacy due to financial desperation rather than a genuine desire to help others. Moreover, the commercialization of surrogacy in developing countries often results in surrogates being treated as commodities rather than individuals with autonomy and dignity. The ethical concerns of such practices are compounded by the fact that surrogates in these countries may lack access to adequate healthcare, legal protections, and emotional support. The commodification of human life and the exploitation of vulnerable women raise significant ethical concerns about the integrity of cross-border surrogacy arrangements.

Addressing Health and Welfare Concerns: Health and welfare concerns are significant in cross-border surrogacy arrangements, particularly in developing countries where medical standards may not meet international expectations. Surrogates in such countries may not have access to the best prenatal care, which could put both their health and the health of the child at risk. In addition, there may be limited access to post-birth care for surrogates, which raises concerns about their physical and emotional well-being. Furthermore, surrogates may not have adequate access to legal support or recourse in cases where their rights are violated. The lack of enforceable contracts and the absence of clear legal frameworks for surrogacy in many developing countries mean that surrogates may face exploitation or mistreatment without legal protections. These risks are exacerbated when intended parents seek surrogates in countries with lax regulations or minimal oversight, leading to potential harm to both the surrogate and the child. To mitigate these risks, it is essential to ensure that surrogates are provided with proper healthcare, legal protections, and psychological support throughout the surrogacy process. This includes ensuring that surrogates are fully informed about their rights, that they receive appropriate medical care, and that they have access to legal recourse if necessary. Ethical cross-border surrogacy requires that the welfare and dignity of the surrogate be prioritized, and that all parties involved—surrogates, intended parents, and the child—are treated fairly and with respect.

Proposals for Legal Reform: Uniformity in International Laws One of the most pressing issues surrounding surrogacy, particularly in cross-border arrangements, is the lack of uniformity in international laws. The absence of a standardized set of legal guidelines for surrogacy creates a legal grey area, making it difficult for intended parents, surrogates, and children to navigate the complex and often conflicting legal landscapes. Proposals for legal reform call for the establishment of international conventions or treaties that create harmonized regulations on surrogacy. These reforms would aim to standardize the recognition of parental rights, the rights of surrogates, and the welfare of children born through surrogacy, regardless of the country in which the surrogacy takes place. Such international legal frameworks would also provide clarity regarding the enforcement of surrogacy contracts and the legal parentage of children born through surrogacy. By creating clear, universally recognized guidelines for surrogacy arrangements, international law can help protect the rights of all parties and reduce the risks of exploitation or legal challenges.

Safeguards for Surrogates and Children: Legal reforms should also focus on introducing comprehensive safeguards for both surrogates and children involved in surrogacy. For surrogates, this includes ensuring that they receive adequate medical care, psychological support, and protection against exploitation or coercion. Furthermore, surrogates must be fully informed of their rights, the risks associated with surrogacy, and the potential psychological and physical impacts of pregnancy. Legal frameworks should also ensure that surrogates are provided with legal recourse in cases of mistreatment, non-compliance with contract terms, or failure to provide necessary healthcare. For children born through surrogacy, legal reforms should ensure that their best interests are prioritized, especially in terms of legal parentage, citizenship, and identity. This includes clearly defining the legal rights of the child and ensuring that there is no ambiguity about their parentage, particularly in cases of international surrogacy. The welfare of the child should be guaranteed, including access to both physical and emotional care, and protection from being treated as a commodity. Legal frameworks should also address issues related to the child's right to know their biological and legal parentage when they reach an appropriate age.

Ethical Standards and Global Consensus: Building Ethical Guidelines for Surrogacy Practices Ethical standards for surrogacy practices must be developed in such a way that they respect the dignity and rights of all involved parties—the surrogate, the intended parents, and the child. To achieve this, a global consensus on ethical guidelines is essential. These guidelines should address concerns such as informed consent, autonomy, and the prevention of exploitation, while also ensuring that the emotional, physical, and psychological well-being of the

surrogate and the child are protected. In addition, ethical standards should require that surrogates are not coerced or financially exploited, and that they are provided with appropriate support throughout the surrogacy process, including counseling before, during, and after the pregnancy. These standards must also focus on ensuring that the process of surrogacy is not driven by commercial incentives that reduce the human aspect of reproduction. Ethical guidelines should set clear expectations for the treatment of surrogates, including fair compensation in commercial surrogacy, and transparency regarding the medical, psychological, and legal aspects of the arrangement. Moreover, ethical guidelines should ensure that intended parents are fully aware of the responsibilities and potential challenges of surrogacy, both before and after the child is born. Building comprehensive, standardized ethical guidelines would not only create a more balanced and fair approach to surrogacy but would also ensure that surrogacy arrangements are conducted in a way that prioritizes the welfare and dignity of all individuals involved.

Role of International Bodies in Regulation: International bodies such as the United Nations, the World Health Organization (WHO), and other global health and human rights organizations can play a pivotal role in the regulation of surrogacy. These organizations are well-placed to help develop and promote ethical and legal standards for surrogacy practices worldwide. By working together, international bodies can encourage the adoption of consistent regulations and guidelines that ensure the protection of surrogates, children, and intended parents, while also preventing the exploitation of vulnerable women and children. International bodies can also support the creation of a global registry to track surrogacy arrangements, ensuring that they comply with ethical standards and legal frameworks. Additionally, these organizations can foster cooperation among governments to standardize surrogacy laws, address jurisdictional challenges in cross-border surrogacy, and promote best practices for surrogacy programs globally. Through the leadership of international bodies, a more unified approach to surrogacy regulation could emerge, facilitating safer and more ethical surrogacy practices around the world.

7. CONCLUSION

Surrogacy, as an evolving practice, presents a multitude of ethical and legal challenges that require careful examination and regulation. Ethically, surrogacy raises concerns about the autonomy and consent of surrogates, with the risk of exploitation, particularly in economically disadvantaged populations. Financial compensation in commercial surrogacy, while necessary in some cases, also poses ethical dilemmas around the commodification of human reproduction and the potential for coercion. The emotional and psychological impacts on surrogates, intended parents, and children are significant factors that must be addressed within ethical frameworks. From a legal perspective, surrogacy arrangements face jurisdictional complexities, especially in cross-border cases where surrogacy laws differ drastically from country to country. This leads to challenges in establishing legal parentage, custody disputes, and the enforcement of surrogacy contracts. Many countries operate in legal grey areas, with insufficient or conflicting regulations that leave surrogates and intended parents vulnerable to exploitation and legal uncertainties. Additionally, health and welfare concerns for surrogates and children need to be at the forefront of legal frameworks to ensure that all parties involved are protected. Given the ethical and legal complexities, there is a clear need for balanced regulation of surrogacy that ensures the protection of all parties while respecting the autonomy and rights of individuals. This balance is crucial to avoid exploitation, especially of economically disadvantaged women who may be more vulnerable to coercion, while also acknowledging the legitimate needs and desires of intended parents. Regulation should not only focus on the financial aspects but also address psychological, emotional, and healthcare considerations. Furthermore, regulations should ensure that surrogacy arrangements are carried out with full transparency, respect, and legal.

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