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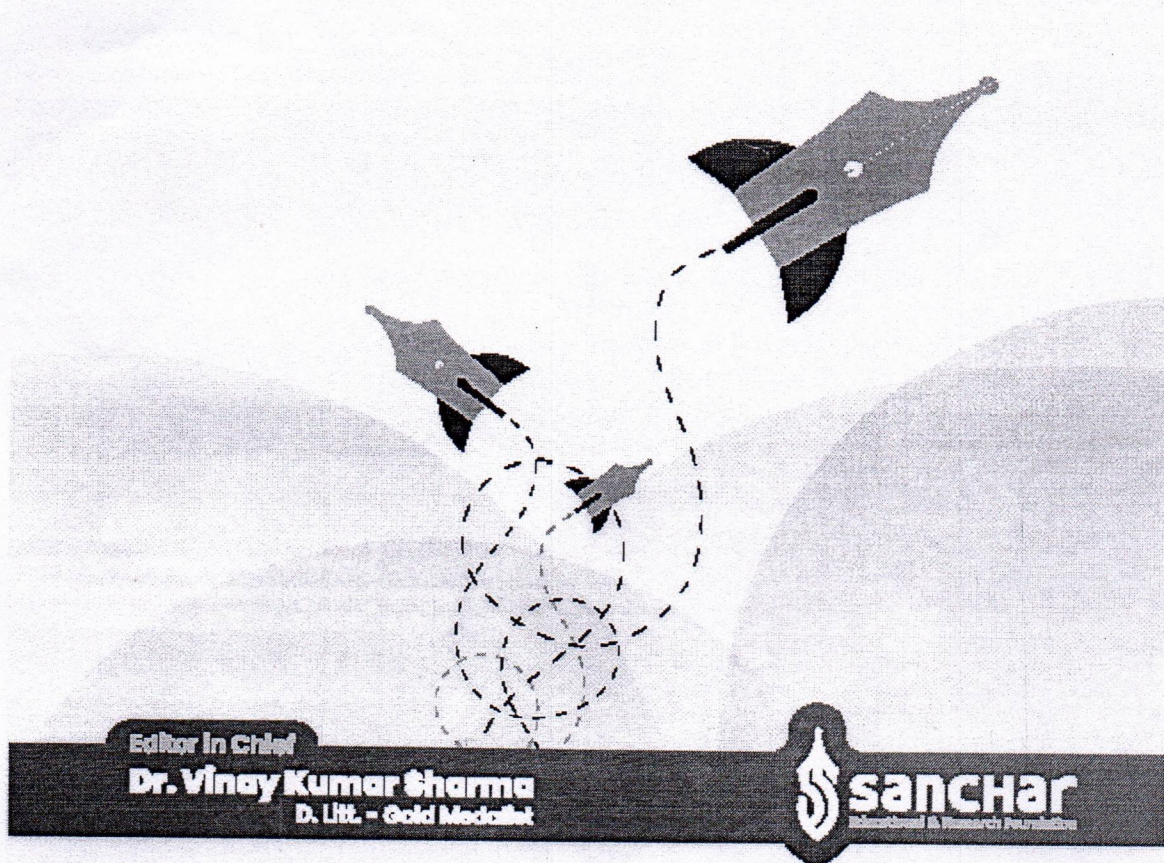
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## EMERGING FACETS OF SURROGACY LAWS IN INDIA

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## ABSTRACT

India is considered as the surrogacy capital of the world. In the past few decades, commercial surrogacy has grown tremendously in India which resulted in exploitation and infringement of rights of surrogate woman and child. A number of PILs have been filed in the Supreme Court for protecting the rights of surrogate mother and child as a result of which the Surrogacy Regulation Bill, 2016 was introduced in Lok Sabha but got lapsed then it was again passed in 2019 which prohibited commercial surrogacy and only allows altruistic surrogacy but this bill has received severe backlash being discriminating and criticized on the ground that it is banning surrogacy rather than regulating it. In this article the researcher has studied the various facets of development of surrogacy laws in India. This article gives an overview of salient features of the Surrogacy Bill 2019 and also critically analysis the Bill.

**Keywords:** Surrogacy, Surrogacy Regulation Bill, 2019, Assisted Reproductive

## 1.1 Introduction

In India infertility is considered as a social stigma, because in the Indian social context, children are considered a kind of old age insurance. Infertility is one of the most highly prevalent medical problems. The magnitude of the infertility problem also has enormous social implications. Besides the fact that every couple has the right to have a child. With the enormous advances in medicine and medical technologies, today 85 percent of the cases of infertility can be taken care of through medical Assistant ines, surgery or through the new medical technologies such as IVF & surrogacy. A standard definition of 'surrogacy' is offered by the American Law Reports in the following manner: "...a contractual undertaking whereby the natural or surrogate mother, for a fee, agrees to conceive a child through artificial insemination with the sperm of the natural father, to bear and deliver the child to the natural father, and to terminate all of her parental rights subsequent to the child's birth."

Surrogacy" can be termed as Outsourcing of Motherhood especially in reference of India. Surrogacy is that kind of an arrangement where a single parent or a childless couple takes the services

of a woman to carry and delivers a child for them

The concept of Surrogacy has turned a normal biological function of a woman's body into a commercial contract. Surrogate services are advertised. Surrogates are recruited, and operating agencies make huge profits. Surrogate Mother's have been called "Baby Factories," conjuring up images of poor, illiterate women packed into bunks and forced by their husbands to bear Surrogate children for Westerners. The Commercialization of Surrogacy has raised fears of a black market and of baby selling and breeding farms; turning impoverished women into baby producers and the possibility of selective breeding at a price. Surrogacy degrades a pregnancy to a service and a baby to a product. An experience shows that has with any other commercial dealing, the customer lays down his/ her conditions before purchasing the goods. And hence, the legal aspects surrounding Surrogacy have become very complex, diverse and are mostly unsettled. In most of the countries world over, the woman giving birth to a child is considered as the Child's legal mother. However, in very few countries, the Intended Parents are be recognized as the legal parents from birth by the virtue of the fact that the Surrogate has contracted to give the birth of

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