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**THE REPRODUCTIVE AUTONOMY OF WOMEN UNDER
THE SURROGACY (REGULATION) ACT, 2021: A CRITICAL
STUDY OF WOMEN'S BODILY FREEDOM IN INDIA**

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ABSTRACT

Surrogacy (Regulation) Act, 2021 represents the most consequential legislative intervention in India's assisted reproductive technology landscape, restricting surrogacy exclusively to altruistic arrangements and dismantling the largely unregulated commercial surrogacy industry that had made India one of the world's most prominent surrogacy destinations. Enacted ostensibly to eliminate the exploitation of economically vulnerable women, the Act carries profound constitutional implications for the reproductive freedom and bodily integrity of women under Articles 14 and 21 of the Constitution of India. This paper critically examines whether the Act strikes a constitutionally defensible balance between protection and autonomy, or whether it imposes unreasonable and discriminatory restrictions upon women's reproductive choices under the guise of welfare. Adopting a doctrinal methodology grounded in statutory analysis, constitutional interpretation, judicial pronouncement, and comparative legal study, the paper argues that the Act's categorical ban on commercial surrogacy, its exclusionary eligibility framework, and its paternalistic conditions upon surrogate mothers collectively compromise the equality and bodily autonomy that the Constitution guarantees. The paper concludes that regulation is necessary to address exploitation, but that such regulation must not be purchased at the cost of the fundamental rights of women, and proposes legislative reforms directed at restoring the balance between protection and reproductive freedom.

Keywords: Surrogacy (Regulation) Act, 2021; Reproductive Autonomy; Bodily Integrity; Constitutional Rights (Articles 14 and 21); Gender Equality; Altruistic Surrogacy

I. Introduction

Surrogacy is a reproductive arrangement in which a woman carries and delivers a child on behalf of intended parents, relinquishing all parental rights upon birth. In India, this practice has been comprehensively regulated by the Surrogacy (Regulation) Act, 2021 (hereinafter 'the Act' or 'the Surrogacy Act'), which came into force on 25 January 2022 following its notification in the Official Gazette.¹ The Act permits only gestational surrogacy, wherein the surrogate carries an embryo formed from the gametes of the intending couple or intending woman and a donor, but may not contribute her own oocytes, ensuring the absence of any genetic link between the surrogate and the child.² The Act lays down stringent eligibility conditions: the intending couple must be legally married, with the woman aged between twenty-three and fifty years and the man between twenty- six and fifty-five years, and must not have a surviving biological, adopted, or surrogate child.³ An intending woman must be an Indian widow or divorcee between thirty-five and forty-five years of age, and the surrogate mother must be a married woman aged twenty-five to thirty-five, who already has a biological child of her own and is a close relative of the intending couple or woman.⁴ While the Act's stated purpose is to prevent exploitation and commercialisation of surrogacy, its rigid framework excludes several groups — single parents, LGBTQIA+ individuals, foreign nationals, live-in partners, and widows or divorcees outside prescribed age brackets — from accessing surrogacy as a reproductive option. By narrowly defining 'intending couple' and 'intending woman', the legislature has discriminated on grounds of marital status, gender, and sexual orientation in ways that raise critical constitutional concerns, particularly with respect to Articles 14 and 21, which guarantee equality before law and the right to life and personal liberty respectively.⁵ This paper interrogates those concerns through a structural analysis of the Act's provisions, an examination of the relevant constitutional jurisprudence, and a comparative survey of international regulatory models.

II. Conceptual and Historical Background

As a form of assisted reproductive technology, surrogacy has evolved dramatically over the past five decades, transforming from a practice rooted in informal cultural arrangements into one of the most contested bio-legal questions of contemporary governance. The concept is not historically novel: across various cultures and religious traditions, women have borne pregnancies on behalf of others unable to conceive. What distinguishes the twenty-first century iteration is the degree of medical sophistication involved, the contractual apparatus surrounding

it, and the intensity of global legal and ethical debate it has generated.

Two principal models of surrogacy have dominated international discourse. Commercial surrogacy involves monetary compensation to the surrogate mother beyond reimbursement of medical and incidental expenses, treating reproductive capacity as a contractual service. Though it has offered economic empowerment to some women, commercial surrogacy has generated persistent ethical concerns regarding the commodification of the female body, the risk of exploitation of economically vulnerable women, and the objectification of children as contractual products. Altruistic surrogacy involves no payment beyond reasonable cost reimbursement and is typically performed by a close friend or family member as an act of generosity. Critics of the altruistic model note, however, that it inadequately accounts for the physical and emotional labour of surrogacy and that it unjustly assumes women should perform reproductive work gratuitously, reinforcing rather than dismantling patriarchal expectations.⁶

India's experience with surrogacy has been particularly significant. By the early 2000s, the country had emerged as a global hub for commercial surrogacy, attracting intended parents from across the world.⁷ Contributing factors included the availability of skilled reproductive medicine practitioners at comparatively low cost, the absence of effective regulatory oversight, and a large population of economically disadvantaged women willing to undertake surrogacy arrangements. By the mid-2000s, India's surrogacy industry was estimated at approximately two billion dollars annually, with cities such as Delhi, Mumbai, and Anand in Gujarat emerging as principal centres.⁸ The unregulated nature of the industry, however, generated serious problems, including exploitation of surrogate mothers, inadequate medical aftercare, legal ambiguity surrounding the status of surrogate children, and complex cross-border disputes. The Supreme Court's engagement with *Baby Manji Yamada v. Union of India* (2008) starkly illustrated these difficulties, as a child born through surrogacy to Japanese parents in India was rendered legally stateless due to conflicting nationality laws.⁹

The philosophical dimensions of surrogacy complicate the regulatory debate considerably. Kantian ethics, which demand that persons be treated as ends in themselves and never merely as means, counsel strongly against arrangements in which surrogate mothers are reduced to instruments of reproduction or in which children are treated as commodities of a contractual exchange.¹⁰ Utilitarian analysis, by contrast, might sanction surrogacy where the aggregate welfare gains, including the fulfilment of parental aspirations and the birth of a healthy child,

outweigh the costs. Feminist theory is internally divided: radical feminist scholars argue that surrogacy, particularly in its commercial form, commodifies and patriarchalises women's bodies and reinforces economic exploitation; liberal feminist scholars, however, insist that the proper response to such risks is not prohibition but regulation that respects and centres women's autonomous choice.¹¹

The Law Commission of India, in its 228th Report (2009), recommended the prohibition of commercial surrogacy and the regulation of altruistic surrogacy under a structured legislative framework.¹² This recommendation set in motion the legislative process that culminated, after draft bills in 2016 and 2019, in the enactment of the Surrogacy (Regulation) Act, 2021.

III. The Statutory Framework: Provisions and Constitutional Implications

The Surrogacy (Regulation) Act, 2021 is premised on an absolute prohibition of commercial surrogacy. Section 3 of the Act categorically prohibits any payment, remuneration, or monetary incentive to a surrogate mother, permitting only reimbursement of medical expenses and insurance coverage.¹³ The rationale articulated for this prohibition is the prevention of the commercialisation of reproductive capacity and the protection of children from being reduced to contractual objects. While these concerns carry genuine weight, especially in light of India's documented history of surrogacy-related exploitation, the legislative response is disproportionate in its consequences. The blanket prohibition eliminates the possibility of a regulated compensated model that could, with appropriate safeguards, simultaneously protect women from coercion and honour their autonomous choice to undertake reproductive labour in exchange for remuneration. As New York's Gestational Surrogacy Act of 2020 demonstrates, compensated surrogacy can be legalised with robust protective infrastructure, including mandatory counselling, enforceable contracts, and judicial oversight, without generating the exploitative conditions that rightly animated the Indian legislature's concerns.¹⁴

The Act's definition of altruistic surrogacy under Section 2(1)(zd), whereby a surrogate receives no compensation beyond medical expenses and insurance, entrenches a false and ideologically laden dichotomy between altruism and commerce.¹⁵ By designating altruism as the only morally acceptable paradigm for surrogacy, the legislature romanticises pregnancy as a selfless gift and refuses to acknowledge the physical, emotional, and temporal labour that surrogate mothers undertake. Feminist scholars have long argued that care labour, of which

pregnancy is among the most demanding forms, constitutes real work deserving recognition and compensation.¹⁶ The Act's altruistic model not only denies this recognition but also imposes the burden of reproductive labour without adequate material support, thereby reinforcing rather than challenging patriarchal structures that expect women's bodies to be available for the benefit of others at personal cost.

Perhaps the most constitutionally contentious provisions are the eligibility conditions imposed upon intending parents under Section 4 of the Act. Access to surrogacy is restricted to heterosexual married couples who have been married for at least five years, within prescribed age limits, and who do not have a surviving biological, adopted, or surrogate child. This framework categorically excludes single men and women, live-in couples, same-sex couples, LGBTQIA+ individuals, foreign nationals, and Persons of Indian Origin from accessing surrogacy as a reproductive option. These exclusions are not incidental but structural, reflecting a heteronormative and marriage-centric conception of family that is increasingly inconsistent with India's evolving constitutional jurisprudence.¹⁷ The Supreme Court's recognition in *Navej Singh Johar v. Union of India* (2018) of the autonomy of individuals in intimate decisions and the dignity of non-normative relationships renders the Act's rigid eligibility framework constitutionally suspect.¹⁸ The discriminatory exclusion of non-traditional family structures on the basis of marital status, gender, and sexual orientation violates the guarantee of equality before law under Article 14 and the right to dignity and personal liberty under Article 21.

The conditions imposed upon surrogate mothers under the Act are equally problematic. Section 4 requires that a surrogate be a married woman aged between twenty-five and thirty-five who has already given birth to a biological child of her own and who is a close relative of the intending couple or intending woman.¹⁹ The requirement that a surrogate be both married and already a mother before she can validly consent to a surrogacy arrangement encodes a paternalistic assumption that unmarried or childless women lack the maturity or capacity to make informed reproductive decisions. This is a direct impairment of the autonomy that Article 21 guarantees to all persons. The limitation of surrogacy to close relatives, far from providing protection, renders the practical availability of surrogacy arrangements extremely narrow, particularly for intending couples who may have no willing or eligible close relatives. Together, these conditions do not protect women; they restrict them, substituting legislative paternalism for individual judgment.

IV. Judicial Approach: Constitutional Jurisprudence on Reproductive

Autonomy

Indian constitutional courts have, over several decades, developed a rich and expansive jurisprudence on reproductive autonomy that provides a powerful normative framework against which the Surrogacy Act's restrictions must be measured.

The foundational pronouncement in this domain is the Supreme Court's decision in *Suchita Srivastava v. Chandigarh Administration* (2009), in which the Court unambiguously held that the right of a woman to make reproductive choices, including the choice to carry a pregnancy to term or to terminate it, is an inseparable component of the personal liberty guaranteed by Article 21.²⁰

The Court's recognition that reproductive autonomy is not a peripheral but a central aspect individual freedom provides direct constitutional authority for the proposition that legislative restrictions upon reproductive decision-making must satisfy the standards of reasonableness and proportionality that Article 21 demands. The legal status of surrogacy as a practice was directly implicated in *Baby Manji Yamada v. Union of India* (2008), in which the Supreme Court was called upon to address a custody and citizenship dispute arising from a surrogacy arrangement between a Japanese couple and an Indian surrogate.²¹ The Court's intervention, which prioritised the welfare of the child and implicitly acknowledged the validity of surrogacy arrangements in the absence of specific legislation, demonstrated the judiciary's awareness of both the reproductive significance of surrogacy and the urgent need for a principled regulatory framework. The case remains a touchstone for the proposition that judicial recognition of surrogacy as a legitimate reproductive practice predated and informed the legislative framework eventually enacted.

In *Devika Biswas v. Union of India* (2016), the Supreme Court significantly expanded the concept of reproductive rights, linking them inextricably to health, dignity, and the state's positive obligations.²² The Court held that reproductive autonomy encompasses not merely the absence of coercive interference but also the affirmative right to access healthcare and to make reproductive decisions in conditions of genuine informed consent. This expansive reading of Article 21 directly challenges the Surrogacy Act's restrictive architecture, which, by limiting access to surrogacy and imposing conditions that effectively remove meaningful choice, fails

to create the conditions of genuine reproductive freedom. The constitutional foundations of bodily autonomy were most comprehensively articulated in Justice K.S. Puttaswamy v. Union of India (2017), in which a nine-judge bench of the Supreme Court unanimously held that the right to privacy is a fundamental right protected under Article 21.²³

The Court's recognition that privacy encompasses bodily integrity and decisional autonomy, that is, the freedom of individuals to make intimate choices concerning their own persons without unjustified state interference, provides the most robust constitutional foundation for challenging the Surrogacy Act's restrictions. Surrogacy is paradigmatically a matter of bodily integrity and intimate reproductive decision-making, and its regulation must be no more restrictive than is necessary to achieve a legitimate state objective.

V. Comparative Perspectives: Regulatory Models from Other Jurisdictions

A comparative survey of surrogacy regulation in other jurisdictions reveals that the protections the Indian legislature seeks to achieve are attainable without the degree of restriction the Surrogacy Act imposes, and that many comparable legal systems have adopted more inclusive and autonomy-respecting frameworks.

In the United Kingdom, surrogacy is regulated primarily by the Surrogacy Arrangements Act 1985, under which commercial surrogacy arrangements are unenforceable and commercial intermediaries are prohibited.²⁴ However, altruistic surrogacy is legally recognised, and intended parents may obtain parental orders under the Human Fertilisation and Embryology Act 2008 with the surrogate's post-birth consent, transferring legal parenthood to the intended parents.²⁵ Crucially, the United Kingdom model does not restrict eligibility on grounds of marital status or sexual orientation: same-sex couples, single individuals, and unmarried partners have all successfully obtained parental orders. This approach demonstrates that the regulation of commercial exploitation is achievable without discriminatory eligibility restrictions and that the law can accommodate diverse family formations without compromising the protection of surrogate mothers.

The United States presents a pluralistic, state-level regulatory model. California, widely regarded as among the most progressive surrogacy jurisdictions globally, permits compensated surrogacy, treats surrogacy contracts as legally enforceable, and allows intended parents

regardless of sex, gender, or marital status to obtain pre-birth parentage orders.²⁶ The California model has been extensively studied as an example of how compensated surrogacy can be regulated in a manner that protects surrogate mothers through mandatory independent legal representation, medical counselling, and judicial oversight, while respecting the autonomy of all parties. The contrast with India's approach is instructive: California demonstrates that compensation and protection are not mutually exclusive, and that regulatory design rather than prohibition is the appropriate legislative response to the risks of exploitation.

Ireland's Health (Assisted Human Reproduction) Act 2024 legalises altruistic surrogacy for domestic arrangements and extends eligibility to same-sex couples and single persons, reflecting the global trend toward inclusive reproductive rights frameworks.²⁷ India's Surrogacy Act stands in sharp contrast to these models. While the United Kingdom permits altruistic surrogacy for all family types and California permits compensated surrogacy under regulatory oversight, India has adopted an approach that is simultaneously more restrictive in its eligibility framework and less protective in its enforcement mechanisms than the international comparators suggest is necessary. The Act prohibits commercial surrogacy without creating an effective regulated alternative, limits access to altruistic surrogacy without ensuring that the altruistic model is genuinely accessible, and imposes conditions upon surrogate mothers without providing mechanisms for the enforcement of their rights or the resolution of disputes arising from surrogacy arrangements.

VI. Critical Analysis: Protection or Paternalism?

The central tension of the Surrogacy (Regulation) Act, 2021 is between its stated objective of protecting women and its actual effect of restricting them. This tension is not a legislative accident but a structural consequence of the paternalistic assumptions that animate the Act's design. The legislation proceeds from the premise that economically marginalised women cannot make genuinely free choices about surrogacy, and that the appropriate response to this vulnerability is to remove the choice entirely rather than to create conditions under which informed, uncoerced choice becomes genuinely possible.

This premise is constitutionally and analytically unsound. Reproductive autonomy, as established in *Suchita Srivastava* and reinforced in *Puttaswamy*, is not contingent upon economic status. The constitutional guarantee of personal liberty under Article 21 does not

permit the state to deprive individuals of choice on the ground that they might exercise it in ways the state disapproves of. If the concern is that economic desperation renders consent to commercial surrogacy less than fully voluntary, the proportionate legislative response is to address the conditions of economic vulnerability through minimum contractual protections, mandatory counselling, enforceable rights to medical care and insurance, and independent legal representation, not to deny the choice altogether.²⁸ A complete prohibition of commercial surrogacy does not empower women; it silences them.

The exclusionary eligibility framework compounds this constitutional problem. By restricting surrogacy to heterosexual married Indian couples, the Act privileges one model of family formation over all others, in direct tension with the constitutional guarantees of equality under Article 14 and dignity under Article 21. The Supreme Court's evolving jurisprudence, from Navtej Singh Johar's recognition of same-sex relationships to the broader principle in Puttaswamy that intimate choices belong to the individual rather than the state, points unambiguously toward a constitutional framework that cannot sustain the Act's discriminatory exclusions. The Act's eligibility conditions are not tailored to the prevention of exploitation; they are tailored to the enforcement of a particular vision of family, which is precisely the kind of legislative purpose that Articles 14 and 21 prohibit the state from pursuing through discriminatory means.

VII. Conclusion and Recommendations

The Surrogacy (Regulation) Act, 2021 fails to achieve the constitutional balance that its stated objectives demand. By categorically banning commercial surrogacy, imposing exclusionary eligibility conditions that discriminate on grounds of marital status, gender, and sexual orientation, and placing paternalistic restrictions upon the eligibility and autonomy of surrogate mothers, the Act restricts rather than protects the reproductive autonomy of women. The constitutional jurisprudence established in Suchita Srivastava, Baby Manji Yamada, Devika Biswas, and Puttaswamy collectively affirms that reproductive choice, bodily integrity, and decisional privacy are fundamental rights under Article 21, and that restrictions upon those rights must be proportionate, non-discriminatory, and directed at genuine rather than assumed vulnerabilities.

The comparative survey further confirms that the protections the Indian legislature sought to achieve are attainable without the degree of restriction the Act imposes. The United Kingdom,

California, and Ireland each demonstrate that surrogacy can be regulated in ways that protect surrogate mothers from exploitation, provide legal certainty for intended parents, and respect the diversity of family formations, without categorical prohibition and without discriminatory eligibility conditions.

On the basis of this analysis, the following reforms are recommended. First, the legislature should consider introducing a regulated compensated surrogacy model, with mandatory minimum protections including independent legal representation for surrogate mothers, enforceable contractual rights, comprehensive medical insurance, and post-surrogacy healthcare entitlements. Second, the eligibility framework should be amended to extend access to surrogacy to single individuals, same-sex couples, live-in partners, and foreign nationals, consistent with the constitutional guarantee of equality under Article 14 and India's evolving jurisprudence on family and intimate life. Third, the requirement that surrogate mothers be married and already biological mothers should be repealed, as it encodes paternalistic assumptions inconsistent with Article 21's guarantee of personal liberty and decisional autonomy. Fourth, a dedicated statutory adjudicatory mechanism should be established to resolve disputes arising from surrogacy arrangements, providing accessible and low-cost redress for surrogate mothers whose rights are violated. Finally, Parliament should undertake a comprehensive review of the Act's interaction with the Assisted Reproductive Technology (Regulation) Act, 2021 and the Medical Termination of Pregnancy (Amendment) Act, 2021, with a view to resolving the jurisdictional ambiguities and rights conflicts that the current legislative framework leaves unaddressed.

Regulation of surrogacy is not only permissible but necessary. The exploitation that occurred in India's unregulated commercial surrogacy industry was real, and the state has a legitimate interest in preventing its recurrence. But protection and autonomy are not opposites. A legal framework that genuinely protects surrogate mothers will do so by ensuring their informed consent, their access to healthcare, and their enforceable legal rights, not by removing their capacity to choose. The Surrogacy (Regulation) Act, 2021 must be reformed so that it serves the reproductive freedom it currently suppresses.

¹ Surrogacy (Regulation) Act, 2021, No. 47, Acts of Parliament (India), notified in the Gazette of India, Extraordinary, Part II, Section 1, dated 25 December 2021, brought into force on 25 January 2022.

² Id. § 2(1)(zb) (defining 'gestational surrogacy' as a surrogacy arrangement in which the surrogate mother carries a

child genetically unrelated to her, conceived through in vitro fertilization using the gametes of the intending couple or intending woman and a donor).

³ Id. § 4(iii)(b) (prescribing eligibility conditions for intending couples, including legal marriage, prescribed age ranges, and absence of a surviving biological, adopted, or surrogate child).

⁴ Id. § 4(iii)(c) (prescribing eligibility conditions for surrogate mothers, including age, marital status, existing biological child, and close-relative relationship with the intending couple or intending woman).

⁵ Constitution of India arts. 14, 21 (guaranteeing equality before law and protection against arbitrary state action, and the right to life and personal liberty, respectively).

⁶ Rosemarie Tong, *Feminist Thought: A More Comprehensive Introduction* 195–210 (3rd ed. Westview Press 2009) (surveying liberal, radical, and socialist feminist perspectives on surrogacy and the commodification of reproductive labour).

⁷ Law Commission of India, *Need for Legislation to Regulate Assisted Reproductive Technology Clinics as Well as Rights and Obligations of Parties to a Surrogacy*, Report No. 228, at 3–5 (2009) (documenting India's emergence as a global surrogacy destination and the regulatory vacuum that characterised the industry in the early 2000s).

⁸ Id. at 6 (estimating the commercial surrogacy industry in India at approximately two billion dollars annually by the mid-2000s).

⁹ *Baby Manji Yamada v. Union of India*, (2008) 13 SCC 518 (addressing the legal status of a child born through surrogacy to Japanese parents in India, who was rendered stateless due to conflicting nationality laws, and directing authorities to issue a passport to enable the child to travel to Japan).

¹⁰ Thomas E. Hill, *Virtue, Rules, and Justice: Kantian Aspirations* 45–62 (Oxford Univ. Press 2012) (applying Kantian ethics to reproductive technologies and arguing that arrangements which reduce persons to instruments of another's reproductive purposes are morally impermissible).

¹¹ Tong, *supra* note 6, at 220–35 (contrasting radical feminist opposition to surrogacy as an institution of patriarchal exploitation with liberal feminist arguments for regulated surrogacy as an expression of women's reproductive autonomy).

¹² Law Commission of India, *supra* note 7, at 50–55 (recommending the prohibition of commercial surrogacy and the enactment of legislation permitting altruistic surrogacy subject to regulatory conditions).

¹³ *Surrogacy (Regulation) Act, 2021*, *supra* note 1, § 3 (prohibiting any payment, remuneration, reward, or monetary incentive to a surrogate mother, other than medical expenses and prescribed insurance coverage, and rendering violations punishable with imprisonment and fine).

¹⁴ *New York Gestational Surrogacy Act, 2021*, N.Y. Fam. Ct. Act §§ 581-101 to 581-413 (2021) (legalising compensated gestational surrogacy in New York with mandatory protective requirements including independent legal representation, psychological evaluation, and judicial approval of surrogacy agreements).

¹⁵ *Surrogacy (Regulation) Act, 2021*, *supra* note 1, § 2(1)(zd) (defining 'altruistic surrogacy' as a surrogacy arrangement in which no monetary compensation other than medical expenses and insurance is paid to the surrogate mother).

¹⁶ Tong, *supra* note 6, at 200–05 (arguing that the designation of surrogacy as 'altruistic' obscures the material reality of pregnancy as labour and reinforces patriarchal expectations that women's reproductive capacity should be available for the benefit of others without compensation).

¹⁷ *Surrogacy (Regulation) Act, 2021*, *supra* note 1, § 4(ii) (limiting eligibility to 'intending couples', defined as legally married heterosexual Indian couples, and 'intending women', defined as Indian widows or divorcees within specified age brackets).

¹⁸ *Navtej Singh Johar v. Union of India*, (2018) 10 SCC 1 (unanimously decriminalising consensual same-sex relations and affirming the constitutional right of all individuals to dignity, identity, and autonomy in intimate life).

¹⁹ *Surrogacy (Regulation) Act, 2021*, *supra* note 1, § 4(iii)(c)(I)–(VI) (specifying that a surrogate mother must be a married woman, aged twenty-five to thirty-five, with a biological child of her own, who is a close relative of the intending couple or intending woman, and who has not previously acted as a surrogate mother).

²⁰ *Suchita Srivastava v. Chandigarh Administration*, (2009) 9 SCC 1, ¶ 11 (holding that a woman's right to make reproductive choices is a component of the personal liberty guaranteed by Article 21 of the Constitution).

²¹ *Baby Manji Yamada v. Union of India*, *supra* note 9 (intervening to protect the welfare of a child born through surrogacy and implicitly acknowledging the validity of surrogacy arrangements in the absence of specific legislation).

²² *Devika Biswas v. Union of India*, (2016) 10 SCC 726 (expanding the scope of reproductive rights under Article 21 to encompass access to healthcare, informed consent, and freedom from coercion).

²³ *Justice K.S. Puttaswamy v. Union of India*, (2017) 10 SCC 1 (nine-judge bench unanimously holding that the right to privacy is a fundamental right under Article 21, encompassing bodily integrity and decisional autonomy).

²⁴ *Surrogacy Arrangements Act 1985 (UK)* § 2 (prohibiting commercial surrogacy arrangements and the activities

of commercial

surrogacy intermediaries, while not prohibiting altruistic surrogacy arrangements entered into privately).

²⁵ Human Fertilisation and Embryology Act 2008 (UK) § 54 (providing for parental orders transferring legal parenthood from the surrogate to the intended parents upon application to the Family Court, subject to the surrogate's informed post-birth consent).

²⁶ Cal. Fam. Code §§ 7960–7962 (West 2023) (regulating gestational carrier agreements in California and permitting pre-birth parentage orders for intended parents regardless of sex, gender, or marital status).

²⁷ Health (Assisted Human Reproduction) Act 2024 (Ireland) (legalising altruistic surrogacy for domestic arrangements and extending eligibility to same-sex couples and single persons).

²⁸ Rajya Sabha Select Committee on the Surrogacy (Regulation) Bill, 2019, Report, at 15–22 (2020) (recommending enhanced protections for surrogate mothers and expressing concern that certain eligibility restrictions were disproportionate to the Act's protective objectives).

