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GLOBAL PERSPECTIVES ON ALTRUISTIC SURROGACY: ANALYSING THE PROHIBITION IN SELECTED COUNTRIES AND RECOMMENDATIONS FOR LEGALIZATION

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I. ABSTRACT

The study employs a comparative legal analysis, examining surrogacy laws across various jurisdictions, including India, Iceland, Australia, and certain European countries. It also integrates policy analysis and ethical evaluation to assess the impact of bans on altruistic surrogacy. The research likely utilizes qualitative methods, drawing on legal texts, ethical arguments, and case studies to explore the motivations behind these prohibitions. The laws regarding surrogacy vary considerably worldwide, with areas such as India allowing for altruistic surrogacy but banning commercial surrogacy, and countries like Germany, Sweden, Italy, Spain, Norway, and France forbidding both types. This article investigates the ban on altruistic surrogacy in certain jurisdictions, as well as the reasons behind its prohibition, advocating for pushback against such laws in favour of altruistic surrogacy as a necessary ethical alternative to unregulated commercial practices. Despite the significant negative public health consequences³ Of such policies, altruistic surrogacy is subject to blanket bans, even though evidence suggests that prohibitive policies.⁴ Not only fail to reduce the demand for altruistic surrogacy, but they also exacerbate the issues they seek to address by fuelling cross-border reproductive tourism and ethical risks. The article argues that banning altruistic surrogacy does not eliminate demand but instead drives intended parents toward unregulated international surrogacy, leading to ethical and public health risks. It challenges such prohibitions, advocating for altruistic surrogacy as a regulated and ethical alternative to commercial surrogacy. The study highlights how fears of commodification, exploitation, and

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³ Baby Manji Yamada v. Union of India & Anr., (2008) 13 SCC 518

⁴ Mennesson v. France, Application no. 65192/11, ECtHR (2014)

moral concerns shape restrictive policies while failing to address the realities of surrogacy demand.

II. KEYWORDS

Altruistic Surrogacy, Ethical, Legal Analysis, Commodification of Women's Body, Unregulated Practices.

III. INTRODUCTION

The worldwide ban on altruistic surrogacy ignores the complex moral, legal, and human realities of intended parents and surrogates and is frequently motivated by concern about exploitation and commodification. This essay makes the case that outright prohibiting altruistic surrogacy is unethical and ineffective from a legal point of view because it increases the hazards of cross-border reproductive tourism and fails to reduce demand. This study promotes the legalization and regulation of altruistic surrogacy as a necessary and moral substitute for unregulated commercial surrogacy in legal systems of places like Germany, France, Spain, Italy, where the practice is still illegal, with more progressive regulatory models in nations like Canada, New Zealand, and the UK.

Advancements in assisted reproductive technology have fundamentally contested conventional notions of parenthood. Surrogacy, especially altruistic surrogacy, provides a compassionate route to parenthood for individuals and couples confronting infertility, medical risks, or other obstacles to gestation. In many European countries, though, like Germany, France, Spain, and Italy, even altruistic surrogacy is against the law. This shows how strictly people follow old ethical rules and how afraid they are of being taken advantage of. This study shows that these bans don't stop surrogacy; they just move it to places with less strict laws, which makes the law unclear and puts the health of both children and surrogates at risk. This paper makes a strong case for why legalizing altruistic surrogacy with clear, enforceable safeguards is both a practical necessity and a moral imperative by comparing these strict regimes to more ethically sound regulatory systems in contemporary reproductive law.

The intended parents can create an embryo using their gametes (either a fresh or frozen embryo transfer) or use IVF.⁵ (intrauterine insemination) In a fertility clinic, or, if needed, replace one or both intended parents' gametes with a donor egg or spermatozoa to create a surrogate pregnancy. The surrogate and the resulting child will not share any genetic ancestry in either scenario. The most popular type of surrogacy nowadays is IVF surrogacy, also referred to as "gestational" or "host" surrogacy. Gestational surrogacy entails a surrogate who gestates a child conceived via in vitro fertilization (IVF) utilizing the gametes of the intended parents or donors, indicating that the surrogate lacks any genetic affiliation with the child.

In traditional surrogacy, the surrogate's own egg is used, making her the biological mother. This usually happens through artificial insemination. Legally, gestational surrogacy is generally less complicated and more widely accepted, as courts are more inclined to acknowledge the intended parents as the legal parents due to the absence of genetic connections with the surrogate. Traditional surrogacy, on the other hand, often leads to disagreements about parental rights because the surrogate is also the genetic mother. In many places, this type of surrogacy is either limited or discouraged because of its emotional

Surrogacy is a way for same-sex⁶ couples or infertile heterosexual couples to start a family, frequently following a protracted and agonising IVF process and/or experiencing repeated miscarriages. Women who have undergone fertility-ending cancer treatment, who were born with a congenital condition like Mayer-Rokitansky-Küster-Hauser⁷ syndrome, which means they are always unable to conceive, who have tokophobia, or who are otherwise medically advised against getting pregnant, single persons can use it.

⁵ Practice Committee of the American Society for Reproductive Medicine. (2022). *Gestational carrier: a committee opinion*. Fertility and Sterility, 117(3), 507–516.

⁶ "4,800 single women received in vitro fertilisation (IVF) or donor insemination (DI) treatment in 2022, up significantly from 1,400 in 2012. Female same-sex couples also saw an increase, with 3,300 receiving treatment in 2022 compared to 1,300 in 2012.

⁷ "The Mayer-Rokitansky-Küster-Hauser syndrome (congenital absence of uterus and vagina)—Phenotypic manifestations and genetic approaches." Journal of Negative Results in Biomedicine, 5, Article 1.

Surrogacy is a common topic of discussion in the media, in science, in society, and in regulations and policies. Surrogacy frequently elicits strong emotions, especially in situations where there is a chance of exploitation, even though it is, for many, a recognised method of assisted reproduction for those who would not otherwise be able to have children. As a result, opinions on how to regulate it are divided. Although surrogacy is illegal in some nations, this does not deter people from using it. In other places, it is practiced despite being unregulated. It is governed under either a "commercial" or an "altruistic" model in some countries.

IV. COMMERCIAL SURROGACY

The phrase "commercial surrogacy" refers to a system where profit-making organizations are involved.⁸—such as agencies, brokers, etc.—are involved in the surrogacy process and profit from setting up, negotiating, facilitating, and/or overseeing surrogacy agreements. It is also common for the surrogate to be paid under such regimes, though the amounts she may get and how they relate to local living expenses vary greatly. Although the degree of enforceability varies, it is also common for intended parents to be able to enforce surrogacy agreements. International intended parents can use surrogacy in many countries where commercial surrogacy is common. While some commercial surrogacy systems are regulated, others have emerged specifically because of a lack of regulation.

The Child-Parent Security Act⁹, Gestational Surrogacy Agreements, Acknowledgement of Parentage and Orders of Parentage 2021 in New York is a recent example. It legalised gestational surrogacy and offers intended parents a straightforward way to establish legal parental rights in the context of licensed surrogacy agencies and in conjunction with a "Gestational Surrogates' Bill of Rights." Commercial surrogacy, however, can raise ethical questions because of the dual risk that profit-making organisations will act primarily to further their own advantage and that paying a woman to have a child leaves her open to exploitation by more powerful

⁸ <https://pmc.ncbi.nlm.nih.gov/articles/PMC4946802/>

⁹ Child-Parent Security Act, *N.Y. Laws* 2020, ch. 158 (effective Feb. 15, 2021)

and wealthy intended parents or third parties. This is especially true in low- or middle-income countries.¹⁰

V. ALTRUISTIC SURROGACY

Altruistic surrogacy means systems in which no profit-making intermediaries are involved in brokering or managing arrangements, and where surrogates are typically not formally compensated but are reimbursed for expenses they incur connected to the surrogate pregnancy. There will undoubtedly be other parties in these systems who receive compensation for their services, such as providers of fertility treatments and solicitors or counsellors who offer advice to surrogate mothers. Accordingly, some contend that it is unjust that the surrogate is the only one who does not profit monetarily.¹¹

A lot of countries that allow altruistic surrogacy have made special laws to protect and control everyone involved. The Surrogacy Arrangements Act 1985 and the Human Fertilisation and Embryology Act 2008 are two laws that govern altruistic surrogacy in the United Kingdom.¹² These laws make it illegal to pay someone to be a surrogate and say that a court must issue a Parental Order to transfer parental rights after the child is born. The Assisted Human Reproduction Act¹³, also allows altruistic surrogacy in Canada. This law says that surrogates can't be paid more than their expenses and that they must give informed consent and sign legal agreements to protect their rights and the child's rights.

Altruistic surrogacy is when the surrogate does not get paid money other than for pregnancy-related costs, and when intermediaries who are only in it for the money aren't allowed. But you can pay other professionals, like fertility specialists, lawyers, and counsellors, for their services. This makes people worry about fairness because

¹⁰ de Boer-Buquicchio, M. , Report of the Special Rapporteur on the sale and sexual exploitation of children, including child prostitution, child pornography and other child sexual abuse material ,(2018)

¹¹ A. Alghrani, D. Griffiths , The regulation of surrogacy in the United Kingdom: the case for reform *Child and Family Law Quarterly*, (2017)

¹² *Surrogacy Arrangements Act 1985*, c. 49, amended by *Human Fertilisation and Embryology Act 2008*, c. 22.

¹³ *Assisted Human Reproduction Act*, S.C. 2004, c. 2

surrogates are often the only people who do not get paid for their work beyond expenses.

The UK places a greater priority on the legal transition to becoming parents after birth through court orders, while Canada incorporates broader protections through criminal law and informed consent procedures. Both nations prioritize the welfare of the child and the surrogate and uphold the altruistic principle of surrogacy. Although both frameworks show a dedication to moral surrogacy, the question of why the surrogate, who takes on the emotional and physical strain, is the only one not compensated still stands.

VI. ANALYSIS OF GLOBAL LAWS

The analysis of the global laws related to commercial surrogacy and altruistic surrogacy has been interpreted.

As of 2025, all forms of surrogacy, including altruistic surrogacy, remain illegal in Germany. The legal framework governing this prohibition is primarily established by the Embryo Protection Act (Embryonenschutzgesetz – ESchG) and the Adoption Placement Act (Adoptionsvermittlungsgesetz – AdVermiG).

- **Embryo Protection Act (ESchG)**¹⁴ Enacted in 1991, the ESchG criminalizes various reproductive practices associated with surrogacy. Specifically, Section 1, Paragraph 1, No. 7, makes it a criminal offense to perform in vitro fertilization on a woman who intends to become a surrogate mother. Medical professionals found guilty of facilitating such procedures can face imprisonment ranging from three to five years. This stringent measure reflects the German legislature's stance that surrogacy violates ethical and moral principles.
- **Adoption Placement Act (AdVermiG)**¹⁵: The AdVermiG further reinforces the prohibition of surrogacy arrangements. Sections 13b and 13c explicitly forbid the facilitation of surrogacy placements, and Section 14b stipulates that individuals involved in surrogacy arrangements, including intermediaries and

¹⁴ Embryonenschutzgesetz (ESchG) of December 13, 1990, BGBl. I S. 2746

¹⁵ Adoptionsvermittlungsgesetz (AdVermiG), BGBl. I S. 2950 (2021)

commissioning parents, may face criminal charges with penalties of up to one year's imprisonment or a fine. However, the surrogate mother and the commissioning parents themselves are exempt from punishment under Section 14b, Paragraph 3.

The ban on surrogacy has been continuously enforced by German courts. The Federal Court of Justice (Bundesgerichtshof, BGH) decision from March 20, 2019 (Docket No XII ZB 530/17) is a noteworthy case. The surrogate mother in this instance gave birth to a child conceived using the commissioning father's sperm and the commissioning mother's egg after a German couple signed a surrogacy contract in Ukraine. The BGH decided that, under German law, the surrogate mother is the legal mother because German law establishes parentage based on the woman who gives birth to the child, even though Ukrainian authorities acknowledged the commissioning parents as the legal parents. The court stressed that in matters of parentage, German statutes are not superseded by foreign legal recognitions.¹⁶

German citizens considering surrogacy arrangements in countries where the practice is legal should be aware of significant legal challenges upon returning to Germany. The German Federal Foreign Office explicitly states that surrogacy contracts are considered void, and the commissioning mother is not recognized as the legal mother. Consequently, children born through surrogacy abroad do not automatically acquire German citizenship through the commissioning parents, and bringing such children into Germany may face legal obstacles.

Surrogacy raises significant concerns in Germany, particularly regarding the potential financial exploitation of women's reproductive capacities. Ethical debates center around the commercialization of human reproduction, with critics arguing that it risks commodifying childbirth and turning reproductive services into marketable goods, thereby increasing the likelihood of surrogate mothers being exploited.¹⁷

¹⁶ Bundesgerichtshof [BGH], Judgment of March 20, 2019, Case No. XII ZB 530/17

¹⁷ Dina Reis, *Albert-Ludwigs-University Freiburg, German Federal Court of Justice on Surrogacy and German Public Policy* (2015)

From a feminist perspective, surrogacy is often criticized for reinforcing traditional gender roles, placing a disproportionate reproductive burden on women. There are also concerns about the exploitation of economically disadvantaged women who may feel pressured into surrogacy due to financial hardship.

Public opinion has played a key role in shaping Germany's strict regulatory stance on surrogacy. Moral values, societal views on family structures, and apprehensions about the broader social impact of surrogacy arrangements have all contributed to the ongoing debate.¹⁸

Moreover, German law places strong emphasis on genetic and biological connections in determining legal parenthood. Surrogacy, particularly gestational surrogacy, where the surrogate has no genetic link to the child, challenges these traditional notions, leading to legal complexities and limitations in acknowledging parenthood.¹⁹

In 2004, Italy prohibited commercial surrogacy, and recently, the Italian parliament passed a law on October 16, 2024, making it illegal to look for surrogacy overseas, extending the country's 2004 surrogacy ban.²⁰ Supported by Prime Minister Giorgia Meloni's right-wing coalition, this law punishes Italian nationals who seek surrogacy in nations where it is legal, like the US or Canada, with up to two years in prison and fines of up to €1 million. Because of the law's designation of surrogacy as a "universal crime," Italian authorities have the authority to prosecute citizens for surrogacy agreements made abroad, regardless of whether or not such arrangements are lawful in the host nation.

As of 2025, all forms of surrogacy, including altruistic surrogacy, remain illegal in France. This prohibition is rooted in the French Civil Code and reinforced by the Bioethics Law of 1994. Under the French Civil Code, Article 16-7²¹ declares that "any

¹⁸ Saskia Lettmaier, *Adoption and Assisted Reproduction in Germany: Legal Framework and Current Issues*, (2016)

¹⁹ *Surrogacy in Germany : What you need to know ?*, Global Star Surrogacy , (2024)

²⁰ <https://politicalnetworkforvalues.org/en/2024/10/italy-approves-law-that-considers-surrogacy-a-universal-crime/>

²¹ Code civil, art. 16-7: "Toute convention portant sur la procréation ou la gestation pour le compte d'autrui est nulle."

agreement concerning procreation or gestation for the benefit of another person is null and void."

Bioethics Law of 1994 prohibits all forms of surrogacy, including both traditional and gestational surrogacy, based on principles such as the inviolability of the human body and concerns about potential exploitation, and engaging in surrogacy arrangements can lead to criminal convictions, including up to six months' imprisonment and fines up to €7,500. Intermediaries facilitating surrogacy may face harsher penalties, with imprisonment up to one year and fines up to €15,000. However, despite the domestic prohibition, French courts have addressed the recognition of parentage for children born abroad through surrogacy.

As of 2025, both commercial and non-commercial altruistic surrogacy remain illegal in Spain. Spain has a strict legal framework in place for surrogacy, which is based on the Spanish Assisted Reproduction Law and is reinforced by judicial precedents. According to Law 14/2006 on Assisted Human Reproduction Techniques, Article 10 specifically states that "The contract by which a gestation is agreed upon, with or without price, by a woman who renounces maternal affiliation in favor of the contracting party or a third party, is null and void." This clause voids any surrogacy agreement, regardless of compensation. Both commercial and altruistic surrogacy are considered legally ineffective in Spain.

Recognition of Children Born Through Surrogacy Abroad, Spain does not automatically recognise the intended parents of children born through international surrogacy. However, in some exceptional circumstances, registration has been based on the child's best interests; however, these are restricted and case-specific.

In the case of STS 277/2022²² The Spanish Supreme Court²³ Approved the registration of a surrogate child born in the United States. Though surrogacy arrangements are illegal in Spain, the child's right to identify and legal certainty were prioritised after several years of living in Spain and becoming part of a family.

²² Tribunal Supremo, Sentencia núm. 277/2022, de 31 de marzo de 2022, Recurso de Casación núm. 907/2021.

²³ Ley 14/2006, de 26 de mayo, sobre técnicas de reproducción humana asistida, art. 10

Spain is part of the Convention on the Rights of the Child (1989) focuses on the child's best interests. Article 8 of the European Convention on Human Rights provides the right to privacy and family life. This legal framework demonstrates Spain's commitment to upholding the dignity and rights of both the surrogate mother and the child.

The Spanish Supreme Court has repeatedly upheld this rule. In a landmark decision on December 9, 2024, the Court emphasised that surrogacy arrangements violate fundamental rights, claiming that such agreements commodify both the surrogate mother and the child, treating them like ordinary things. The Court raised concerns about the exploitation of women, particularly those in vulnerable situations, as well as the possible harm to children's rights, such as the right to know their biological origins.

Furthermore, Spanish law regards surrogacy as a kind of aggression against women. The Organic Law 2/2010 on Sexual and Reproductive Health and the Voluntary Interruption of Pregnancy, as revised by Organic Law 1/2023, describes surrogacy as exploitative, confirming the country's opposition to the practice.

The notion of 'orden público' (public order) is fundamental in this setting. Spanish courts have refused to recognise foreign judicial decisions approving surrogacy agreements, claiming inconsistencies with local public policy. This strategy tries to avoid Spanish laws from being broken by entering into surrogacy arrangements overseas, while also ensuring that the country's ethical and legal criteria are met.

A positive development is occurring in various jurisdictions where there is a growing recognition that permitting and regulating domestic surrogacy is advantageous, including serving as a deterrent for individuals seeking surrogacy options abroad²⁴. This shift could help alleviate some challenges that intended parents often face when returning home after international arrangements²⁵. Interestingly, nearly all newly

²⁴ C. Fenton-Glynn , Outsourcing ethical dilemmas: Regulating international surrogacy arrangements *Med. Law Rev.*, 24 (2016)

²⁵ E. Kneebone, K. Beilby, K. Hammarberg , Experiences of surrogates and intended parents of surrogacy arrangements: a systematic review *Reprod Biomed Online*, (2022)

proposed regulatory models are based on altruistic principles, with the notable exception of New York's recently enacted law that permits surrogacy under strict conditions within a commercial framework, allowing payments to surrogates (Child-Parent Security Act 2021).

Currently, altruistic surrogacy is already regulated in the UK, Canada, Greece, Israel, South Africa, Thailand, Portugal, and some states in Australia and the USA.²⁶ Among these, only Canada and Greece permit intended parents from other jurisdictions to access surrogacy. New Zealand has regulated altruistic gestational surrogacy since 2004, but its laws render all surrogacy agreements unenforceable, and 'traditional' surrogacy remains unregulated.

At birth, the surrogate (and her partner, if applicable) is regarded as the legal mother, requiring intended parents to adopt the child to gain legal parenthood. Each surrogacy arrangement must be assessed and approved on a case-by-case basis by the national ethics committee, the Ethics Committee on Assisted Reproductive Technology (ECART), prior to conception. This process includes medical evaluations, independent legal advice for both intended parents and surrogates, and comprehensive counseling for all parties, including their existing children. ECART also considers the opinions of gamete donors and extended family members, as well as various ethical and cultural factors. Uniquely, ECART publishes anonymized minutes of its proceedings.

While this approach could be viewed as a model of best practices²⁷, it incurs significant costs in terms of time and money, reflecting New Zealand's relatively small population. Given the increasing demand for surrogacy, ECART has experienced pressure, and intended parents now face lengthy wait times for decisions. Consequently, New Zealand has been undergoing a process of legal reform. A recent review by the New Zealand Law Commission resulted in proposals that share similarities with those from the UK's Law Commissions but also incorporate

²⁶ Surrogacy 360. Recommended Principles and Standards for Engaging in International Commercial Surrogacy Arrangements.(2023)

²⁷ forthcoming.D. Wilson,Regulating Ethics: Potential Lessons from New Zealand
K. Horsey, Z. Mahmoud, K. Wade (Eds.), Future Directions in Surrogacy Law, Bristol University Press, Bristol (2024)

considerations specific to the indigenous Māori population²⁸. The review recommended maintaining ECART's role as a 'proactive safeguard' in the surrogacy process while suggesting changes to various aspects, including expanding coverage to all clinically performed surrogacy and creating a new 'administrative pathway' to parenthood, eliminating the need for intended parents to adopt. As of now, a government response to these recommendations is pending.

Under current Irish law, intended parents do not automatically gain legal recognition of their parenthood when returning to Ireland, regardless of whether their names appear on the original birth certificate. To establish a legal relationship with the child, they must navigate Irish family law, which allows only the genetic father to obtain a court declaration of parentage to confirm he is the father. After this, he can apply for a guardianship order. However, the second intended parent (whether male or female, including intended mothers who used their own eggs) must wait two years before applying for guardianship, and this guardianship ends when the child turns 18.

The proposed Bill outlines changes to be made before and after conception: surrogacy arrangements will need pre-approval from a new state regulatory body known as the Assisted Human Reproduction Regulatory Authority (AHRRA), and upon the child's birth, legal parenthood will shift from the surrogate to the intended parents via a parental order. This pre-approval process involves medical assessments, capacity evaluations, legal advice, and appropriate counseling for the surrogate.

In December 2022, the Irish Government approved draft policy and legislative proposals regarding international surrogacy and the retrospective recognition of past surrogacy arrangements (both domestic and international). It is expected that the Minister for Health will introduce relevant amendments to the Bill as it advances. A similar two-step process is being proposed for recognizing parenthood following international surrogacy, necessitating both AHRRA pre-approval and post-birth parental orders to transfer legal parenthood. This process will include safeguards to protect the rights and welfare of all involved, including the children's identity rights.

²⁸ Te Aka Matua o te Ture | New Zealand Law Commission, (2022) 'Te Kōpū Whāngai: He Arotake Review of Surrogacy'

However, while this legislation has been promised, the Bill, along with any recommendations from the Oireachtas Committee, has yet to be enacted, meaning that Ireland currently lacks any form of regulation for surrogacy.

In Belgium, the national Advisory Committee on Bioethics, where surrogacy is tolerated but lacks a legal framework, has also suggested guidelines to support domestic altruistic surrogacy.²⁹ The Committee's report advocates for a ban on commercial surrogacy, including payments to surrogates, and emphasizes that intended parents should be recognized as the legal parents, asserting that the woman carrying the child should not be considered the mother. The report reiterates that surrogates would always retain bodily autonomy, although there remains no consensus on whether surrogates should be permitted to use their own eggs. The Netherlands has adopted a similar stance.

A. India's Legal Position

With the passage of the Surrogacy (Regulation) Act, 2021, India's surrogacy laws have undergone substantial change. This Act specifically forbids commercial surrogacy arrangements and mainly only allows altruistic surrogacy. The law excludes foreign nationals, same-sex couples, and single people by limiting eligibility to married Indian couples who have been legally married for at least five years and who have a medical certification of infertility. In order to ensure that surrogacy is carried out in an ethical and regulated manner, the legislation attempts to shield surrogate mothers from exploitation and commodification. It clearly lays out requirements for surrogacy contracts, such as the surrogate mother's informed consent and provisions for her insurance and medical treatment. Additionally, the Act has severe penalties for infractions, including criminal penalties for agencies or intermediaries involved. With the passage of the Surrogacy (Regulation) Act, 2021, India's surrogacy laws have undergone substantial change. This Act specifically forbids commercial surrogacy arrangements and mainly only allows altruistic surrogacy. The law excludes foreign nationals, same-sex couples, and single people by limiting eligibility to married Indian

²⁹ CNE News, 'Belgian ethics body asks for legalisation of surrogacy' 8 June 2023

couples who have been legally married for at least five years and who have a medical certificate.

B. International Law Perspective

Surrogacy agreements touch on several important international human rights treaties, chief among them the European Convention on Human Rights (ECHR) and the Convention on the Rights of the Child (CRC, 1989). The CRC places a strong emphasis on children's rights to family relationships, identity, and protection from exploitation. In surrogacy cases, complicated issues regarding parentage and legal recognition across jurisdictions arise because Articles 7 and 8 of the CRC guarantee the child's right to know and be cared for by their parents. The right to respect for private and family life is further enshrined in the ECHR under Article 8, which courts have construed to recognize surrogate parent-child relationships. But in order to regulate surrogacy practices, the state's interests must be weighed against these rights.

C. Hague Conference Developments

The Hague Conference on Private International Law has been actively working to harmonize international legal standards governing surrogacy arrangements in recognition of the cross-border complexity of surrogacy. Determining legal parentage, recognizing foreign surrogacy orders, and defending the rights of surrogate-born children and all parties involved are some of the issues that this initiative aims to address. The goal of the Hague Conference is to draft a model law or multilateral treaty that would establish predictable, unambiguous guidelines that protect children's best interests while avoiding exploitation and legal disputes. Given the growth of international or "reproductive" tourism, where intended parents travel overseas to countries with more lenient surrogacy laws, these initiatives are especially important.

VII. RECOMMENDATIONS

- **Comprehensive Legal Framework and Regulation:** Introduce clear and specific legislation governing altruistic surrogacy, including model provisions to safeguard the rights of intended parents, surrogate mothers,

and the child. The legal framework should address custody rights, enforceability of surrogacy agreements, and the procedure for establishing legal parentage. To prevent exploitation, commercial surrogacy should be expressly prohibited, while allowing fair reimbursement for medical and prenatal expenses.

- **Robust Enforcement and Monitoring Mechanisms:** Establish regulatory bodies to oversee surrogacy arrangements, ensuring compliance with legal provisions. These bodies should be empowered to register surrogacy contracts, monitor compliance through periodic inspections, and impose penalties for violations. A centralized national registry of surrogacy cases may aid in transparency and accountability.
- **Awareness and Public Education:** Launch nationwide awareness campaigns to destigmatize surrogacy and promote altruistic surrogacy as a compassionate solution for infertile couples. Provide accessible information regarding the medical, legal, and ethical aspects of surrogacy through educational programs, community outreach, and digital platforms.
- **Psychological Screening and Support Services:** Ensure mandatory psychological assessments for all surrogate mothers and intended parents to determine emotional readiness. In addition, offer continuous counselling services before, during, and after the surrogacy process to address the emotional and mental health needs of all parties involved.
- **Financial Support and Government Assistance:** Offer financial assistance such as insurance coverage, medical reimbursement, and maternity support for surrogate mothers. Government-funded schemes or subsidies should be created to reduce the financial burden on altruistic surrogates and encourage ethical participation in the process.
- **Ethical Screening and Matching Procedures:** Implement stringent screening procedures to assess the health, age, and social circumstances of potential surrogates. Promote recognized or known surrogacy – where the surrogate is a relative or friend – to build trust and reduce misunderstandings. Ethics

committees at the institutional or regional level should supervise surrogate matching processes to ensure fairness and consent.

- **Expert Involvement and Capacity Building:** Engage specialized surrogacy professionals and accredited agencies to manage the legal, medical, and administrative aspects of altruistic surrogacy. Additionally, provide training for healthcare providers on ethical surrogacy practices, legal guidelines, and sensitive patient handling.
- **Promotion of Ethical Oversight Bodies:** Establish independent ethics committees and oversight bodies at both state and national levels to review surrogacy arrangements, address ethical dilemmas, and protect the interests of all stakeholders. These bodies should develop and update ethical standards and conduct periodic audits.
- **Cross-Border Recognition and International Cooperation:** Develop protocols for the international recognition of altruistic surrogacy arrangements to address issues arising from cross-border surrogacy. Encourage bilateral or multilateral agreements that uphold ethical standards and protect the rights of the child and parties involved in international cases.
- **Policy Advocacy for Ethical Reforms:** Advocate for legislative and policy reforms that support altruistic surrogacy while deterring commercial exploitation. Recommendations should include banning commercial surrogacy advertisements, enforcing transparency in surrogacy procedures, and promoting community-led initiatives that uphold altruistic values.

VIII. CONCLUSION

Altruistic surrogacy represents a more ethical and humane approach to family formation, grounded in empathy, mutual trust, and the voluntary spirit of caregiving. Unlike commercial surrogacy, which often raises concerns about the commodification and exploitation of women, particularly those from vulnerable socioeconomic backgrounds, altruistic surrogacy prioritizes the surrogate's autonomy and well-being by excluding financial incentives beyond reasonable medical and pregnancy-related expenses.

From a legal standpoint, the formal recognition and regulation of altruistic surrogacy are essential to safeguard the rights and interests of all parties involved. Legally binding contracts must be enforceable to protect surrogate mothers, intended parents, and most importantly, the child. Addressing concerns such as custody, parentage, informed consent, and contractual validity would provide much-needed clarity and reduce legal ambiguities. Moreover, critics who argue that any form of surrogacy risks commodifying women's bodies can be countered by demonstrating how a robust regulatory framework, centered on informed consent, ethical oversight, and non-commercial intent, mitigates such risks effectively.

On a broader policy level, legalizing altruistic surrogacy aligns with evolving reproductive rights and reflects a progressive shift in family law towards recognizing diverse family structures. It also reinforces the principles of dignity, bodily autonomy, and freedom of reproductive choice, which are foundational to a rights-based legal framework. As such, enabling altruistic surrogacy can become a powerful policy tool to support infertile couples while maintaining ethical safeguards.

However, practical challenges remain, such as the difficulty of finding willing surrogates within personal networks, which may limit access for some prospective parents. To address this, future legal and policy frameworks must explore mechanisms to facilitate ethical surrogate recruitment without crossing into commercial territory.

Further research is necessary to assess the long-term implications of altruistic surrogacy on child welfare, cross-border legal recognition, and enforcement effectiveness. Comparative studies on jurisdictions where altruistic surrogacy has been successfully implemented could offer valuable insights into best practices and potential pitfalls.

In conclusion, while altruistic surrogacy is not without its practical complexities, its moral and legal justifications present a compelling case for legalization. With well-defined regulations, ethical oversight, and broader policy support, altruistic surrogacy

can emerge as a legally sound and socially responsible alternative for family creation, anchored in compassion, choice, and justice.

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