

Select committee report on Surrogacy Bill tabled in Parliament, single women included

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The chairman of the Select Committee on the Surrogacy (Regulation) Bill, 2019, Bhupender Yadav, presented the report on the bill in Rajya Sabha that endorses ban on commercial surrogacy while recommending that surrogate mother need not be a ‘close relative’, omission

of five-year wait period before opting for surrogacy, and allowing single women and all Indian origin couple to avail surrogacy.

The committee also recommended increasing the insurance cover for surrogate mothers from 16 months to 36 months.

While commercial surrogacy ban has been endorsed, the committee has recommended keeping an option for compensating the surrogate mother beyond medical expenses and insurance coverage that includes taking care of her nutritional food requirements, maternity wear, etc. that is vital for the wellbeing and upkeep of the surrogate mother.

The controversial clause of “close relative” has been done away with and instead the committee has recommended the term to be replaced with a “willing woman”.

“...the term “close relative” potentially restricts the availability of surrogate mothers and may affect the genuinely needy persons. The Committee is, therefore, of the view that it may be removed,” says the report.

Single women, including a widow and divorcee, between the age of 35 and 45 years, should be able to opt for surrogacy, it said.

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The committee held nine sittings for detailed examination of the bill that included discussions with various key stakeholders such as the department of health research, National Human Rights Commission, National Commission for Protection of Child Rights etc.

“Surrogacy per se and The Surrogacy (Regulation) Bill, 2019, in particular, is a unique amalgamation of social, ethical, moral, legal and scientific issues and it is necessary to harmonise the conflicting interests inherent in the process of surrogacy to ensure betterment of child while protecting rights of surrogate mother,” the committee observed in their report.

“It is a step in that direction which seeks to regulate surrogacy procedure in such a way as to stop exploitation of poor vulnerable women; to ensure protection of rights of the child born out of surrogacy and to facilitate only needy infertile couple and widow and divorced women to have child to complete their family.”

The bill provides to prohibit commercial surrogacy and allow only altruistic surrogacy. Australia, Canada, Israel, Netherlands, New Zealand, South Africa, United Kingdom, Vietnam, etc. are some of the countries where similar surrogacy practices exist.

The Department of Health Research, responsible for drafting the bill, submitted that the 228th Report (2009) of Law Commission of India strongly recommended for prohibiting commercial Surrogacy and allowing ethical altruistic Surrogacy services by enacting a suitable legislation.

According to a 2015 Ernst and Young study, around 27.5 million couples in the reproductive age group are infertile and about 1% (about 270,000 infertile couples) seek infertility evaluation.

Of the people seeking remedy for infertility, 20-25% undergo IVF treatment and of that small group, one percent may require surrogacy.

Ten to Twelve per cent of surrogacy is commissioned because of irreversible destruction of uterus due to TB, 8% because of absence of uterus, 12% because of multiple failed IVF cycles, 12% because of multiple miscarriages, 10% because of removal of uterus due to cancers, fibroids, etc.