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## Commercial surrogate motherhood is moving to Nepal because of restrictions in India

Binita Dahal



After India tightened rules on [commercial surrogacy](#) two years ago, foreigners seeking such services have started trickling into Nepal where rules are murky and regulation weak.

Nepal's cabinet decided recently to allow foreigners to have surrogate babies as long as the mother is also a foreigner, arguing that this would promote medical tourism in the country. Since then the Department of Immigration records show that many foreigners, including 20 Israelis, have had surrogate babies in private hospitals in Nepal.

Senior Advocate and Activist [Sapana Pradhan Malla](#) says many Nepali parents seek her legal advice on surrogacy. "I have no answer for them because there are no laws," she told Nepali Times. "But I find it really suspicious that foreigners are allowed to have surrogate babies here when there is no provision for Nepalis."

Activists are worried that in the absence of laws, the cabinet decision on surrogate babies can easily be circumvented. Nepali women could be exploited by unscrupulous middlemen and male relatives to carry and deliver babies for foreigners.

Compensated surrogacy is a process under which a woman rents her womb to another couple to have their baby delivered. There are two methods: one where the sperm is artificially inseminated into a surrogate mother, and in the other the sperm and egg from the parents first go through [in-vitro fertilisation](#) and the embryo is inserted into the uterus of the surrogate mother.

Doctors say both methods are done in fertility clinics in Nepal, but they don't want to be quoted saying it. The lack of laws haven't deterred many Nepali parents without children to secretly use surrogacy to have children in hospitals in Nepal and India, while Indian mothers routinely come to Nepal to give birth (see adjoining box).

After cases of fraud and exploitation, India's Assisted Reproductive Technology Bill is now in parliament and will allow surrogacy only for married, infertile and Indian Origin couples.

“Many people think the act of surrogacy involves sexual intercourse so they are hesitant to talk about it,” says advocate Sadeep Kharel. “Doctors and hospitals keep quiet because surrogacy is illegal for Nepalis.”

The cabinet decision makes it easy for foreigners to be surrogate parents by processing exit permits for their babies born in Nepal: the Health Ministry writes a recommendation based on the birth certificate with DNA proof issued by hospitals to apply for a passport at the resident embassy.



According to sources, the cabinet hurriedly decided last year on a draft on surrogacy prepared by the Health Ministry. Cabinet decisions are supposed to be in the public domain, but lawyers say the Health Ministry is reluctant to divulge details and provide a copy of the decision.

Praveen Mishra was secretary at the Ministry of Health in the previous government when the draft first came up for debate, and remembers facing intense political pressure to pass it. Mishra and Minister Bidhyadhar Mallik stood their ground, but with the new government the cabinet quickly approved it last August.

Sources say surrogacy in India and Nepal are managed by middlemen working with political protection, and there is a nexus between them and private hospitals. It is a question of supply and demand: there is a demand in rich countries for babies, and there is a supply of poor families in developing countries willing, and sometimes forcing, their women to become surrogate mothers.

Many European countries have banned surrogacy and it is strictly regulated and expensive in the United States. While it can cost up to \$150,000 to have a surrogate baby in the West, in India and Nepal it can cost as little as \$6,000 with the surrogate mother often not getting the money that her husband is paid as fee.

Commercialisation of motherhood through surrogacy is lucrative, but raises cultural, social, economic and political questions which are probably why Nepal's private hospitals and the government are so hush-hush about it. "We must be careful not to allow surrogate mothers to be exploited as baby producers," Sapana Pradhan Malla warns, "there must be laws in case mothers don't want to give babies to parents, if babies are disabled, and about the legal status of the baby."

There is one case of surrogacy which is sub-judice in the Supreme Court in a dispute about whether the baby born from a Nepali surrogate mother will get the parent's property or not. This could be a landmark case in which the Court may direct the government to pass a new law for Nepali surrogate mothers.

But till then it will be women who will be more vulnerable to exploitation.

"Surrogacy is needed," says Renu Adhikari of [WOREC](#) (Women's Rehabilitation Centre), "but in the absence of proper laws it can lead to trafficking and women can be forced to go through with it for the money."

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## **Nargis' baby**

Twenty-seven year old Nargis came to Nepal six months ago from the slums of Mumbai. Her husband had left her after she gave birth to their first child after which she moved in with her parents. After her father died, she had to take care of the whole family.

"We were so poor there was no money to even feed my baby," Nargis remembers. One day, her mother told her that she could make money renting her womb for nine months. She was introduced to a middleman who assured her there was no sexual intercourse involved, and she would earn \$6,000 carrying and giving birth to someone else's baby.

After she was convinced to go through with the procedure, she stayed in a Mumbai hospital for a month for her insemination procedure, and was discharged after she got pregnant. She was paid INR 6,000 per month for the duration of the pregnancy.

Nargis came to Nepal in her fourth month of pregnancy along with her own first born. She stayed at a hotel in Thamel with other surrogates like her who had come to give birth in Nepal because of restrictions in India.

Their agent advised them not to get emotionally attached to their babies as they had to be given away. Nargis gave birth via caesarean in a private hospital in Kathmandu, and was paid only \$3,000. Still, she told us she will go through it again so she can send her own child to school.

Middlemen look for women between 25-30 in Mumbai's slums, and convince their families to go through with surrogacy. The Indian agents get a \$1,000 fee for every successful birth in Nepal.

"I don't care if surrogacy is legal or illegal in India, but it is easier for a woman like me to deliver a baby in Nepal so no one finds out in Mumbai," Nargis admitted. "Sometimes when I am alone, I look at the baby's picture that the agent gave me. I never had the chance to be with him or breastfeed him. Still, I have less of an attachment to this baby than my own first child."

*Binita Dahal*

*Nargis is a pseudonym.*

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### **"I'll have your baby"**



Radha and Rajesh moved into a new apartment in Gongabu. Radha was seven months pregnant, and since Rajesh had to travel frequently for work he got Radha's mother to stay with her. They hired a nurse named Urmila to look after Radha.

Urmila had worked with pregnant women before but this one did not seem quite right. She told us Radha was not as careful or cautious about her diet or health. The mother and daughter had strange dynamics, it was as if they had been forced to be together.

Nurse Urmila commented on Radha's strange habit of eating chalk and Radha's response was, "It's not like the baby is mine."

Urmila had heard of surrogacy but never met a surrogate mother. As it turned out, the husband was actually an agent who recruited Radha, and the mother was a hired caretaker.

“I don’t pay for anything and soon I will have more money,” Radha would tell Urmila. Radha went into labour in her eighth month and was rushed to hospital where her ‘husband’ reminded the doctor several times that Radha should have a baby via caesarean because she was too weak to give birth naturally. When the baby was born, Urmila was shocked to see that it was fair-skinned with light-grey eyes.

Radha is among many surrogate mothers in Nepal who were induced or forced to have surrogate babies for foreign parents. Shristi Pradhan of the [National Alliance of Women Human Rights Defenders \(NAWHRD\)](#) who has researched the subject said: “We know commercial surrogacy is practiced but no one wants to talk.”

*Anjana Rajbhandary*

*Radha, Rajesh and Urmila are pseudonyms.*