



The regulation of surrogacy in the United Kingdom: the case for reform

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Abstract

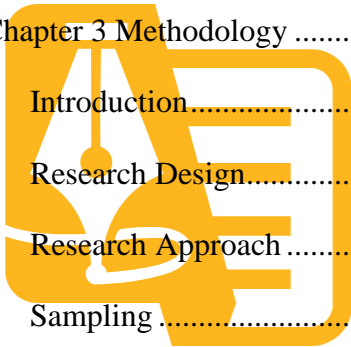
This research looks at the evolution of surrogacy legislation in the United Kingdom over the last three decades, including the introduction of new statutes and the establishment of landmark cases. Commercial surrogacy is prohibited by law in the United Kingdom. Surrogacy arrangements between persons who are not motivated by financial gain are legal. Although a surrogacy agreement is not legally binding, it is advisable to put major provisions in writing for clarity. As a result, both parties must have faith that the agreement will be honoured. It is in the best interests of both the surrogate and the intended parents to have open channels of communication and trust in one another throughout the pregnancy and child handover. We believe that this complex situation necessitates new law, and we propose three legislative amendments to handle it. The traditional two-parent household will give way to more flexible family arrangements, and there will be requirements to meet before having a child, as well as the option to accept minimum compensation.



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Chapter 1 Introduction

Background to the Study

While the UK was ahead of the curve in regulating other types of assisted reproduction, surrogacy regulation has grown in a disorderly way since 1985, with adjustments made here and there that are inconsistent with one another and cause major uncertainty¹. While surrogacy has increased in popularity as a means to start a family, the law has lagged behind. The law has been chastised for failing to safeguard the privacy of the parents and children who are participating in these arrangements². The High Court's decision that a rule limiting the issuing of a parental order to an individual (rather than a couple) is incompatible with the Human Rights Act of 1998 is the most recent motivation to strengthen regulation in this area. Following this pronouncement, as well as the Legal Commission's recent classification of surrogacy as requiring legislative revision in the 13th Programme consultations, it is envisaged that reform will be possible in this area in the near future³.

After the government agreed to support the research, the Law Commissions of England, Wales, and Scotland began updating the appropriate surrogacy legislation. Simply defined, this is a case of surrogacy, in which a woman gives birth on behalf of a couple who are not the gestating parents.

The Commissions, on the other hand, have discovered fundamental flaws in the regulations that control this procedure. The procedure for granting parental orders may add confusion to medical decision-making for a child born to newly intended parents. Surrogacy regulations must

¹ Collier RB, Dubal VB and Carter CL, 'Disrupting Regulation, Regulating Disruption: The Politics of Uber in the United States' (2018) 16 Perspectives on Politics 919

² Auch RF and others, 'Conterminous United States Land-Cover Change (1985–2016): New Insights from Annual Time Series' (2022) 11 Land 298

³ Feldman EA, 'Baby M Turns 30: The Law and Policy of Surrogate Motherhood' (2018) 44 American Journal of Law & Medicine 7

also be improved to ensure uniform quality. Non-profit organisations aiming to modernise UK law will make an attempt to bring the country's surrogacy rules up to date with fresh government financing. Professor Nick Hopkins, the Law Commissioner for England and Wales⁴, stated, "Our culture has evolved since surrogacy legislation were first enacted 30 years ago, and they are no longer fit for purpose." Birth is one of life's greatest miracles, and for others, surrogacy is their only chance to have a biological relationship to their kid. Because there is no easy answer to these problems, we are asking to anybody who is interested in assisting us in modernising the law to reflect the current.

Aims and Objective of the Study

The study focuses on local legislation since it has the ability to lower the number of people/couples from this jurisdiction engaging in offshore surrogacy agreements. Second, because the UK's system of regulating assisted reproduction has been adopted as a model elsewhere, the current legal structure must be made appropriate for its original purpose and provide certainty and clarity for all parties⁵.

Research Questions

- How to get the contended regulations in founding the families with the context of Surrogacy?
- What will be the legislation for protecting vulnerable parties?
- How UK government will form the current stances in assisting the reproduction of the warrants?

Chapter 2 Literature Review

⁴ —, 'Traffic Related Air Pollution and the Burden of Childhood Asthma in the Contiguous United States in 2000 and 2010' (2019) 127 Environment international 858

⁵ Johnson DM, 'Using the Landsat Archive to Map Crop Cover History across the United States' (2019) 232 Remote Sensing of Environment 111286

The regulatory framework

Commercial surrogacy is illegal in the United Kingdom, according to the law. A surrogacy contract may be lawful if there is no intention of financially exploiting the surrogate. A formal contract for surrogacy arrangements is not required by law, however it is strongly recommended for clarity's sake. As a result, having trust in the other party's ability to fulfil their agreements is critical. The parties are deeply divided about the surrogate's medical expenses and pay for her time and efforts. A surrogate who gives birth on behalf of another couple is legally considered the child's mother. If the surrogate's husband or partner cannot deny giving approval for the pregnancy, he or she is believed to be the other legal parent. If the surrogate is married but her spouse is opposed to the surrogacy arrangement, the parents must sign documents defining who will have parental rights prior to conception. If no documentation contesting paternity are produced, the biological father will be regarded the parent. To begin a biological family, a court must first issue a parental order (or other order where the criteria for a parental order cannot be met). The court's judgement on a parent's custody request is final and cannot be challenged. This basically removes all legal protections from the surrogate and her spouse or civil partner. A parental order can take four to nine months to get, and the surrogate and her spouse or civil partner must ponder the option for at least six weeks.

Paying a surrogate in the United Kingdom is not unlawful, contrary to popular belief and the Surrogacy Arrangements Act of 1985. That is not the case; in fact, the opposite is true. In most circumstances, the intended parents will cover all of the costs associated with a surrogate pregnancy. Because the term "fair costs" lacks a commonly accepted definition, the court must decide what is suitable and authorise the spending each time a parental order is made. It is extremely unusual for a court to refuse to obtain a parental order on the basis that the intended parents paid the surrogate too much. In the United Kingdom, paying a third party to arrange a surrogacy remains unlawful.

In 1985, Congress passed the Surrogacy Arrangements Act to address this issue. These guidelines are based on the Committee of Inquiry into Human Fertilization and Embryology's 1984 report. The 22nd Warnock Committee recommended that "legislation be introduced to make criminal the creation or operation in the UK of agencies whose purposes include recruiting women for surrogate pregnancy or making arrangements for individuals or couples who wish to use the

services of a carrying mother." Commercial surrogacy was a method of increasing families that the Warnock Committee sharply criticised, and rightly so⁶. They also agreed that "the danger of exploitation of one human being by another seemed to the majority of us far to outweigh the projected advantages, in nearly every scenario," with the possible exception of life-or-death medical emergency. The Report's conservative tone had a significant effect on the Surrogacy Act of 1985 (SAA 1985), the main legislation governing surrogacy in the UK for the past 32 years. Businesses are not permitted to aid the establishment, negotiation, or promotion of surrogacy arrangements under the Surrogacy Act of 1985. (the "SAA")⁷. Both the Warnock Report and the 1985 Act endorsed the practise, but neither prioritised the child's wellbeing (it was only mentioned once, in passing, in the Report)⁸. The Human Fertilisation and Embryology Act of 1990, which established legal fatherhood for babies born by assisted reproduction, was approved five years after the SAA 1985. If the commissioning parents have parental orders in place, the surrogate (and her spouse, if she has one) can sign over their legal parental rights to the commissioning parents more readily. You must satisfy the following prerequisites before filing for a parental order: Surrogates should be rewarded solely for real expenditures made on behalf of the child, the child should live with the commissioning parents, the child's current legal parents must consent to the parental order, and the application must be completed within six months of the child's birth. This is due to a clause in the 1990 Act that stated that neither party may enforce such an agreement against the other⁹.

⁶ Mullock A, Romanis EC and Begović D, 'Surrogacy and Uterus Transplantation Using Live Donors: Examining the Options from the Perspective of "Womb-Givers"' (2021) 35 Bioethics 820

⁷ Schuster Bruce C and others, 'The Use of Validated and Nonvalidated Surrogate Endpoints in Two European Medicines Agency Expedited Approval Pathways: A Cross-Sectional Study of Products Authorised 2011–2018' (2019) 16 PLoS medicine e1002873

⁸ Vreman RA and others, 'Decision Making under Uncertainty: Comparing Regulatory and Health Technology Assessment Reviews of Medicines in the United States and Europe' (2020) 108 Clinical Pharmacology & Therapeutics 350

⁹ Mousavi ES and others, 'Performance Analysis of Portable HEPA Filters and Temporary Plastic Anterooms on the Spread of Surrogate Coronavirus' (2020) 183 Building and environment 107186

When a surrogacy business located in the United States applied for authorization to operate in the United Kingdom, it appeared that a "recognition of the need for reform" had occurred. After three decades of disregarding the moral issues of surrogacy, federal officials began scrutinising the practise in 1998. Nothing was done in response to its suggestions. It was proposed that a new Surrogacy Act be enacted, along with a Code of Practice, to assist couples and surrogates with issues such as lowering the frequency with which surrogacy is used and promoting open communication. The first plan specified that surrogate mothers should be paid only what is necessary to meet their own pregnancy-related expenses. According to Freeman's piece, the Surrogacy Review is unaware that eliminating surrogate payment will just send potential surrogates away from regulated surrogacy and into an underground, unregulated market where regulators behave more like pimps than adoption agencies. The concept of "legal parent" was modified by the Human Fertilization and Embryology Act of 2008 to include parents who utilised assisted reproductive technologies. If both parents are the same sex, "living as partners in a stable family connection," and are not "within the forbidden degrees of closeness" to one other, a protection order might be filed against one of them. Section 1 of the Adoption and Children Act (ACA) 2002 is retroactively applied to applications for parental orders under the Human Fertilization and Embryology (Parental Orders) Regulations 2010³⁶. This suggests that the welfare checklist is a criterion that the court must examine while making a decision about a minor's best interests. The judgement of the court should be based on what is best for the child, not merely what is best for the adolescents involved.

Prevalence and incidence of surrogacy

Surrogacy data is extremely scarce in the United Kingdom. In England and Wales, the General Registry Office (GRO) is the appropriate department to approach for the purpose of registering new citizens. According to a research using GRO data, the frequency of parental orders doubled between 1995 and 2013¹⁰. According to official figures, the government granted parental orders for a total of 272 children in 2014, with international surrogacy accounting for 39% of the total. Significant increase from 2008, when abroad surrogates were used in just 2% of deliveries.

¹⁰ Alotaibi R and others, 'Traffic Related Air Pollution and the Burden of Childhood Asthma in the Contiguous United States in 2000 and 2010' (2019) 127 Environment international 858

The scarcity of public statistics on the increase of surrogacy is concerning, but the lack of more substantial data is a much greater issue. The Surrogacy UK Working Group on Surrogacy Law Reform wants to "emphasise the reality of surrogacy practise in the UK in 2015," while also acknowledging the possible issues posed by international surrogacy agreements. published a research in November 2015 debunking misunderstandings about surrogacy in the United Kingdom and advocating improvements¹¹. According to their findings, "parental order records alone are not a true indicator of how many surrogacy agreements are entered into, or where they take place," because "there is no requirement to apply for a PO and there are limits on who may do so." Despite general opinion that the number of domestic and international surrogacy agreements has increased significantly in recent years, the precise number, as well as the nature of these arrangements, remain largely unknown. This is concerning because, as we will see below, the difficulty in obtaining a parental order jeopardises the child's best interests when a foreign surrogacy arrangement is involved. As a result of the statute, the children were "marooned, stateless, and parentless," as one court put it. However, we lack adequate evidence to form solid judgments about the nature of the problem¹².

Second, there is the psychological and physical toll of getting a parental order. Any parent may file a petition for a parental rights order after the child is born. The order cannot be submitted until at least six weeks have passed following the birth of the surrogate's kid. In practise, prospective parents may have to wait up to six months or more for the legal process. The kid must live with the prospective parents in order for the court to grant a parental order. In most cases, the emotional concerns originate from the fact that both the intended parents and the surrogate want the child to be legally recognised as a member of the intended family as soon as possible after delivery. For example, challenges arise when a baby is critically unwell. Surrogates, not biological

¹¹ Attawet J, Wang A and Sullivan E, 'Womb for Work' experiences of Thai Women and Gestational Surrogacy Practice in Thailand' [2021] Human Fertility 1

¹² Auch RF and others, 'Conterminous United States Land-Cover Change (1985–2016): New Insights from Annual Time Series' (2022) 11 Land 298

parents, are the legal guardians of the kid¹³. At least one surrogate was hesitant to sign off on the arrangement due to communication issues with the intended parents. Even after the intended parents were granted parental rights under a different legislation, the surrogate was still deemed the child's legal parent.

Third, current regulation requires at least one of the prospective parents to have a biological relationship with the kid. While both traditional and gestational surrogacy are permitted, gestational surrogacy, including the use of donor eggs and sperm, is not permitted. As a result, infertile couples and people who want to establish a family but do not have acceptable gametes are unable to explore surrogacy. To top it all off, the present payment laws are murky. The court will not grant parental orders if the surrogate was paid for anything other than "lawfully incurred expenditures." However, by the time the court rules, the kid will have been delivered and handed to the parents who want him or her. The court should not delve deeper into the issue of payment if doing so is not in the best interests of the kid¹⁴. According to the law commissioners, courts have consistently accepted payments in excess of what is widely perceived as expenditures, notably in the context of expensive offshore surrogacy agreements, despite the lack of a legally defined term for "costs legitimately incurred."

Attaining Parenthood Through Surrogacy

To become a commissioning parent, you must meet the conditions provided in Section 54 of the HFEA 2008 and adhere to the processes outlined in Part 13 of the Family Procedure Rules 2010. The law is often a pretty straightforward topic of study. Unless a court rules otherwise, a woman who gives birth via surrogacy is instantly regarded the child's legal mother and is entitled to all parental rights and responsibilities in any nation where the child is born. Regardless of who the biological father of a surrogate mother's child is, the surrogate mother's spouse will be recognised as the child's legal father. After the kid is born, the surrogate mother and her civil

¹³ Dawoud D and others, 'Raising the Bar for Using Surrogate Endpoints in Drug Regulation and Health Technology Assessment' (2021) 374 *bmj*

¹⁴ Iuliano AD and others, 'Trends in Disease Severity and Health Care Utilization during the Early Omicron Variant Period Compared with Previous SARS-CoV-2 High Transmission Periods—United States, December 2020–January 2022' (2022) 71 *Morbidity and Mortality Weekly Report* 146

spouse, if she has one, will be the child's legal parents. If the surrogate mother and commissioning father are related, but the surrogate mother is single and without a civil spouse, the commissioning father will be recognised as the legal father. He may be unable to start a family under current legislation. If he is identified as the kid's father on the birth certificate or if he and the mother sign a document certifying paternity, he is legally compelled to pay for the child.



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Chapter 3 Methodology

Introduction

The research process includes data gathering and analysis methodologies, as well as the study's design and sample. The researcher has also taken care to account for ethical considerations, ensuring that the research is carried out in a morally sound manner. This article deconstructs each of these components:

Research Design

The "research design" of a study refers to the overall approach used to attain its objectives. In research, quantitative and qualitative methodologies are employed equally. According to Neuman (2013), normative (generalizable) outcomes are more likely to emerge from qualitative research than substantive (particularly relevant to the study's issue) results (relevant to different areas and levels). Quantitative research aims to predict behaviour by analysing the causes of behaviour. The underlying assumptions about the nature of reality (ontology), the nature of knowledge (epistemology), the concepts that motivate and guide scientific inquiry (methodology), and the processes and instruments used in scientific inquiry differ between quantitative and qualitative research approaches (research methods and techniques). The researcher picked a qualitative study design over a quantitative research approach due to the lower admission criteria and shorter time commitment.

Research Approach

Researchers can use both inductive and deductive methodologies. Deductive research is highly reliant on quantitative studies aimed to test the researcher's working hypothesis. Inductive research prioritises qualitative investigations above quantitative ones in order to strengthen theory development, whereas deductive research prioritises the latter (Taylor, et al., 2015). Due to a lack of supporting evidence from a reliable test or appropriate statistical data, this investigation does not lend itself to the deductive research technique. Because of the inclusion of rules in providing explanations for assertions, the deductive approach is ideally suited to the social sciences. Because the goal of this study is to control or avoid future occurrences of this type, we call it "predictive" research. Inductive tactics make the most sense for this qualitative investigation.

Sampling

The capacity to pick from the entire population and examine a more manageable subset of it is why sampling is such a crucial component of every research effort. Lewis contends that sampling is necessary since researchers cannot interview every single member of a group (2015). The notion is that researchers may extrapolate findings from a small sample to the full population¹⁵.

Sampling has been employed throughout the study for the same purpose. The researchers anticipate that this sample will include all relevant material on UK surrogacy legislation. Because researchers cannot possibly incorporate all of the articles that have looked into the issue, they must select a good sample. This validates the use of non-probability sampling as the primary data collection approach in this study. This novel randomization strategy substitutes random sample selection with data collecting driven by study issues (Lewis, 2015). Exclusion and inclusion criteria in the systematic review will guarantee that only current studies (those published within the previous five years) are included in the research.

Data Collection

Secondary data was obtained by the researcher and analysed in the same way as primary data. Rather than conducting their own survey or interview, the researcher relied on the work of others, particularly in the context of UK surrogacy legislation¹⁶. The researcher gathered her data from trustworthy sources such as EBSCOhost, Science Direct, Emerald, Wiley, and others. The researcher used the following inclusion and exclusion criteria to collect credible data from more manageable sources.

Data Analysis

The goal of data analysis is to help researchers derive meaningful conclusions from their research by revealing hidden patterns and trends. To get to the root of the problem, the researcher

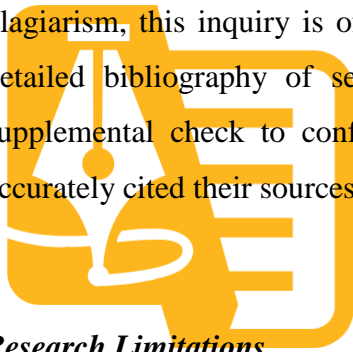
¹⁵ Johnson DM, 'Using the Landsat Archive to Map Crop Cover History across the United States' (2019) 232 Remote Sensing of Environment 111286

¹⁶ Mousavi ES and others, 'Performance Analysis of Portable HEPA Filters and Temporary Plastic Anterooms on the Spread of Surrogate Coronavirus' (2020) 183 Building and environment 107186

employed theme analysis to go through archives from several environmental organisations. The table's most essential and conclusive facts will be examined in light of the literature review. Finally, the key issues and objectives of the study have been identified.

Ethical Consideration

According to Silverman (2016), researchers are required to follow research ethics in order to deal with any ethical problems that may develop throughout the course of a study, regardless of whether these concerns were brought up on purpose. As we have seen, the researcher paid close attention to both methodological and ethical issues, ensuring that the study adhered to all applicable ethical regulations. Because the investigator is using a tried-and-true strategy to avoid plagiarism, this inquiry is off to a solid start. Meanwhile, the addition of an author list and a detailed bibliography of secondary sources would boost the study's credibility. This is a supplemental check to confirm that the researcher followed all necessary requirements and accurately cited their sources¹⁷



Research Limitations

Future research should consider a number of study constraints. This study has no quantitative data gathering or analysis; instead, the researcher use qualitative approaches. This study relies entirely on publicly available secondary sources. As a result, it's possible that the researcher won't make any groundbreaking findings and will instead extrapolate from Shell's performance during the previous five years¹⁸. Another disadvantage of sampling is that the researcher may only gather and present the five papers in a systematic review for comparison in order to answer the research topic. This may imply that the researcher will never have hands-on experience with data collection and will instead have to rely on the results and interpretations of

¹⁷ Schuster Bruce C and others, 'The Use of Validated and Nonvalidated Surrogate Endpoints in Two European Medicines Agency Expedited Approval Pathways: A Cross-Sectional Study of Products Authorised 2011–2018' (2019) 16 PLoS medicine e1002873

¹⁸ Segalen MT, 'Deconstructing Social Anthropology Discourses in Their Support of Surrogacy: The Case of France' (2021) 69 Current Sociology 176

their predecessors. As a result, future researchers should keep these constraints in mind as they acquire additional knowledge and data on the issue at hand, allowing for a more precise assessment of the problem and a more appropriate solution¹⁹.

Chapter 4 Results and Discussion

In response to the 1984 Warnock committee report, the United Kingdom passed the Surrogacy Arrangements Act in 1985, which established a legal framework for surrogacy. Many aspects of the Act make it unlawful to advertise for or as a surrogate, make surrogacy for financial benefit illegal, and null and void any past surrogacy contracts. Several amendments to the Act's provisions have been proposed since its establishment in 1985²⁰. According to the Human Fertilization and Embryology Act of 1990, the woman who gives birth to a child created with the assistance of any type of assisted reproductive technology is the child's lawful mother. The current legal quandary is that a surrogate who bears a kid with no genetic connection to them is considered the mother at birth, yet the intended parents, who may have 100% genetic kinship to that child, are not. The surrogate's spouse is considered the legal father under the 1990 Act, even though he had nothing to do with the surrogacy. Legal paternity can be transferred postnatally under specific instances, hence parental orders are being established to address this need. However, it is common for this to take longer than six to nine months.

Surrogacy legislation has grown and altered throughout time. In response to a human rights court challenge, Parliament has just passed corrective legislation. Prior to that decision, it was illegal for unmarried people to function as surrogates, but that has since changed. As previously stated, the difficulty with parent orders is the most serious flaw in the concept²¹. While surrogates,

¹⁹ Johnson DM, 'Using the Landsat Archive to Map Crop Cover History across the United States' (2019) 232 Remote Sensing of Environment 111286

²⁰ Feldman EA, 'Baby M Turns 30: The Law and Policy of Surrogate Motherhood' (2018) 44 American Journal of Law & Medicine 7

²¹ Iuliano AD and others, 'Trends in Disease Severity and Health Care Utilization during the Early Omicron Variant Period Compared with Previous SARS-CoV-2 High Transmission Periods—United States, December 2020–January 2022' (2022) 71 Morbidity and Mortality Weekly Report 146

intended parents, and everyone else involved only want what is best for the child, the existing legal framework can force them to make decisions that are not in the best interests of the child. While the surrogate's relationship with the intended parent is exceedingly unusual, a surrogate who is the legal parent at the time of birth can prevent the children from ever being legally deemed to be the surrogate's legal parent, even if there is no genetic tie between the two²².

It's uncommon for us to have any disagreements. Many surrogates carry a child for others out of goodwill, and the subsequent ties between the surrogate, the parents, and the child are frequently significant and can last a lifetime. Legal parentage may never be transferred in circumstances when parental connections fail, such as the well-known case of *Re AB* (Surrogacy: Consent). This would imply that the in-law parent would never match the parents in actuality. The surrogacy community applauds the Law Commissions' ideas on this topic because it is not in the best interests of the child. Persons seeking to formalise such an arrangement now confront a Catch-22: they cannot rely on it later in law since surrogacy agreements are no longer binding.

The Genetic Link

For the petition to be considered for a parental order under Section 54, at least one petitioner must be the minor's parent, stepparent, stepchild, or stepgrandparent. This contradicts the aims of other assisted reproduction technologies, such as IVF, which allows a woman to become a parent to a kid created with the help of donor gametes to which she and her partner have no genetic links. 83 A parent cannot be given to someone who used a surrogate or a donor's gametes to conceive a kid under this legislation. According to the Surrogacy Law Reform Project, this clause was designed to safeguard women from being "coerced" into being surrogates in order to "throw away" their children (harkening back to previous links made between surrogacy and "baby selling").

Ninety-five percent of birth moms who have communicated with their children's adoptive parents expressed positive feelings toward them. Surrogate mothers were compensated less than

²² Jin S and others, 'Overall Methodology Design for the United States National Land Cover Database 2016 Products' (2019) 11 Remote Sensing 2971

\$15,000 for their services in more than 95% of cases. Even with the recent legislative reform permitting businesses to offer surrogates with maternity pay (though some still do not), rent or mortgage payments, money for the surrogate's current children (which many surrogates have), and travel costs, there is a distinct lack of discretion over these payments. Prospective surrogates commonly contact Surrogacy UK to request access to a surrogacy calculator, which will allow them and the intended parents to better plan for the financial implications of the surrogacy procedure. They opted to be surrogates in order to help childless couples realise their goal of beginning a family. Most of the time, people don't need to be educated that money isn't their primary motivation.

Time Limits

The court will grant a parental order if "the application is lodged within six months of the child's birth." According to Eleanor King J's decision in *JP v LP*, this clause is intended to help the primary carers of a child born through a surrogacy arrangement acquire legal recognition as the kid's parents as soon as possible after the child's birth (*Surrogacy Arrangement: Wardship*). In *Re X (A Child) (Surrogacy: Time Limit)*, a parental order was sought 2 years and 2 months after the child's birth, and the provision was finally refused by the High Court. Many Indians who utilised surrogacy or in vitro fertilisation (IVF) reported they discovered they required a parental order after the birth of their kid. Trimmings believes that this decision "reaffirms the trend toward a broader and more accommodating attitude toward parental order applications" and demonstrates that the court is "willing to continue bending the statutory bounds of section." She did, however, concede that the court "attempted to ameliorate the commissioning parents' position in the present instance" by doing things like "shelving the apparently absolute character of the six-month time limitation." However, the question of how much discretion the court should have in using the law to do what is appropriate in a certain situation remains.

Chapter 5 Conclusion

The legal structure actively attempts to discourage surrogacy and make it a dangerous operation for all parties involved, thus it is not unexpected that there is a lack of surrogates in the United Kingdom. Surrogates are not fairly compensated for their altruistic commitment, and the legal framework around surrogacy is, at best, hazy. Many non-profit surrogacy organisations in the United Kingdom are now at capacity and unable to accept any new intended parents due to a scarcity of appropriate surrogates. Despite the lack of a solid legal foundation, these organisations have provided vital help to intended parents and surrogates for years²³. As a result, an increasing number of British parents are entering into surrogacy agreements with strangers over the internet and travelling to countries where the practise is legal. Most individuals in the UK are left to fend for themselves before having a child, which can lead to dangerous and stressful situations. Although surrogacy is legal and moral in certain countries, the great majority of parents are unable to afford the process because to its high cost. Babies born abroad via international surrogacy are not legally protected and are labelled as "stateless and parentless" by the international community. Attempts to keep up with the ever-increasing numbers are putting a strain on the present legal structure. On many occasions, a High Court judge has urged for "greater regulation" of surrogacy in the United Kingdom, calling the present legal system "irreconcilably discordant" and "the polar opposite of logical."

The Law Commissions of England and Wales, as well as Scotland, are now investigating surrogacy legislation in the United Kingdom²⁴. The Law Commissions have been hard at work on a surrogacy project since 2018, and they are now having public hearings on their preliminary recommendations before publishing their final report in the spring of 2023. If successful, the intended parents would be granted paternity at birth and hence all parental rights and obligations.

²³ —, 'Trends in Disease Severity and Health Care Utilization during the Early Omicron Variant Period Compared with Previous SARS-CoV-2 High Periods—United States, December 2020–January 2022' (2022) 71 *Morbidity and Mortality Weekly Report* 146

²⁴ Jin S and others, 'Overall Methodology Design for the United States National Land Cover Database 2016 Products' (2019) 11 *Remote Sensing* 2971

All families that have adopted children through surrogacy require a globally relevant, globally recognised standard. The UK government should encourage surrogacy agreements and give additional preconceptional precautions whenever possible. Citizenship should be awarded immediately in order to permit the early repatriation of children born through surrogacy. If it were widely accepted that surrogates can be compensated under UK law, perhaps a more upfront and honest approach might be taken. In family court, the best interests of the children take precedence. In the current model of non-profit UK surrogacy arrangement firms, more realistic requirements and loosened advertising limitations are required. Surrogate-born children in the United Kingdom and elsewhere have the right to know the specifics of their parents' decision to employ a surrogate mother once they reach the age of majority.



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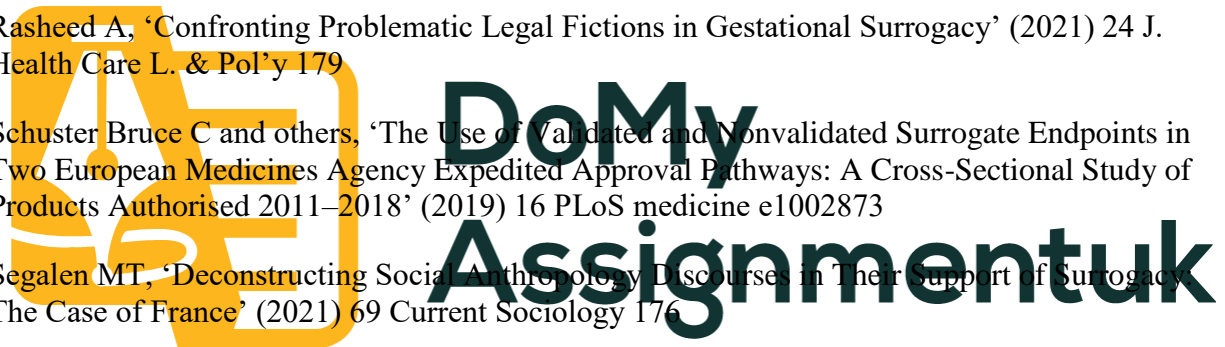
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