

**Renting The Womb: The Legal Analysis of the Act of Surrogacy and Right to Be a Parent
in Sri Lanka in Comparison to India and United States of America**

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Abstract

As a country where the cultural constraints are profound in shaping the society, at times more so than the laws, Sri Lanka holds a prominent destination for the surrogacy for various nationals, amidst the cultural taboo of renting out the womb and the complete blind eye of the legislations governing the matter. The main reasoning behind this floodgate is the lack of regulations and restraints from the Sri Lanka government on the matter of surrogacy. The wealthy western intended parents are reaching for the poverty felt women fulfil their desire of having a child. It is a common notion that when money is involved that exploitation begins. Another side of this argument is the intended parents in Sri Lanka, who may have biological impediments preventing them from becoming parents who have limited options as to the right to be parents, in Sri Lanka, confined to the adoption of a child, mostly a child with no biological connection to the adopting parents. Surrogacy can provide a solution for this inability. However, in Sri Lanka, the legislature holds a deaf ear to this matter. The protection to the surrogate mother is confined to a contract, a mere agreement. To make the matters worse, Sri Lanka considers abortions an illegal act, hence in case of a default in the said contract, the woman will be left in the country with a child. In comparison the USA practices various laws state-wise without a consensus, while states such as Michigan had criminalized surrogacy contracts, California through various judicial pronouncements had taken a more favourable stance on such contracts. This paper seeks to address and analyze these issues using the black letter approach and comparative research methodology with the United States of America and India. Further, this paper uses qualitative analysis of legislative enactments and case law as primary data and books and journal articles as secondary data. The research concludes with the view that in Sri Lanka legislative enactment is insufficient to address the issues arising out of surrogacy, which warrants amendments to the penal law and legislations to cater to the requirements of the growing amount of surrogacy contracts.

Keywords: *Surrogacy, law in Sri Lanka, right to be a parent*

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