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# Judicial Contestation of the Surrogacy (Regulation) Act, 2021: Navigating Constitutional Rights in Indian Courts

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## ABSTRACT

*The Surrogacy (Regulation) Act, 2021, enacted to regulate assisted reproductive technologies in India by promoting altruistic surrogacy and prohibiting commercial practices, has faced significant constitutional challenges in Indian courts. This research paper critically examines the judicial scrutiny of the Act's restrictive provisions in the Supreme Court and various High Courts, focusing on alleged violations of fundamental rights under Articles 14, 15, and 21 of the Constitution of India. Through a doctrinal analysis of landmark cases, such as Arun Muthuvel v. Union of India and Maheshwara M.V. v. Union of India, the study evaluates challenges to the Act's exclusionary eligibility criteria, ban on commercial surrogacy, and initial restrictions on donor gametes. It explores the Act's impact on reproductive autonomy, equality, and non-discrimination, particularly for single parents, unmarried women, live-in couples, and LGBTQ+ individuals, drawing on precedents like K.S. Puttaswamy v. Union of India and Supriyo v. Union of India. The paper critiques practical challenges, including regulatory gaps, delays in constituting Surrogacy Boards, and risks of underground surrogacy markets. By incorporating comparative insights from jurisdictions like the United Kingdom, United States, and Canada, it proposes reforms to ensure inclusivity, protect surrogate mothers, and align the Act with constitutional mandates and international human rights standards, such as the Universal Declaration of Human Rights and CEDAW. The findings underscore the judiciary's pivotal role in reshaping surrogacy laws to*

*balance ethical regulation with equitable access to parenthood, advocating for a rights-based framework that reflects India's diverse societal fabric.*

## KEYWORDS

*Surrogacy (Regulation) Act, 2021, Constitutional Challenges, Reproductive Autonomy, Right to Equality, Non-Discrimination, Altruistic Surrogacy, Commercial Surrogacy, LGBTQ+ Rights, Single Parents, Donor Gametes, Indian Constitutional Courts, Fundamental Rights, Judicial Scrutiny, Reproductive Justice*

## INTRODUCTION

The Surrogacy (Regulation) Act, 2021, enacted on 25 December 2021, represents a landmark effort by the Indian Parliament to regulate the ethically complex domain of assisted reproductive technologies in India. By transitioning from an unregulated commercial surrogacy regime to a tightly controlled altruistic model, the Act aims to protect surrogate mothers from exploitation, ensure ethical practices, and safeguard the rights of children born through surrogacy<sup>1</sup>. It restricts surrogacy to married Indian couples (married for at least five years, with women aged 23–50 and men aged 26–55), widows, and divorcees (aged 35–45), explicitly excluding single men, unmarried women, live-in couples, and LGBTQ+ individuals<sup>2</sup>. The Act prohibits monetary compensation to surrogates beyond medical expenses and insurance, mandating that the surrogate be a close relative of the intending couple or individual<sup>3</sup>. These provisions, while intended to curb commodification, have sparked intense constitutional challenges for allegedly violating fundamental rights under Articles 14 (equality before the law), 15 (non-discrimination), and 21 (right to life and personal liberty) of the Constitution of India.

This research paper critically examines the constitutional challenges to the Act in the Supreme Court and High Courts, such as those in Delhi and Bombay, through a doctrinal analysis of pivotal cases, including *Arun Muthuvel v. Union of India*<sup>4</sup> and *Maheshwara M.V. v. Union of India*<sup>5</sup>. It traces the evolution of surrogacy regulation in India, from landmark cases like *Baby*

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<sup>1</sup> The Surrogacy (Regulation) Act, 2021, No. 47 of 2021, The Gazette of India, Extraordinary, Part II, Section 1 (25 December 2021)

<sup>2</sup> Ibid, ss. 2(1)(s), 4(iii)(c).

<sup>3</sup> Ibid, s. 4(iii)(b)(II)

<sup>4</sup> *Arun Muthuvel v. Union of India*, W.P. (C) No. 756 of 2022 (SC).

<sup>5</sup> *Maheshwara M.V. v. Union of India*, W.P. (C) No. 309 of 2025 (SC)

*Manji Yamada v. Union of India*<sup>6</sup> and *Jan Balaz v. Anand Municipality*<sup>7</sup>, which highlighted issues of statelessness and lack of regulation, to the present legal framework. The study evaluates the judiciary's role in addressing the Act's restrictive provisions, proposes reforms to enhance inclusivity, and situates India's surrogacy laws within global human rights frameworks. By balancing ethical considerations with equitable access to parenthood, this paper contributes to the discourse on reproductive justice in India.

## OBJECTIVES

This research paper seeks to achieve the following objectives:

- To critically examine the constitutional challenges to the Surrogacy (Regulation) Act, 2021, in Indian constitutional courts, focusing on alleged violations of Articles 14, 15, and 21 of the Constitution of India.
- To evaluate judicial responses in landmark cases, such as *Arun Muthuvel v. Union of India*<sup>8</sup> and *Maheshwara M.V. v. Union of India*<sup>9</sup>, and their implications for reproductive autonomy, equality, and non-discrimination.
- To analyse the Act's restrictive provisions, including the ban on commercial surrogacy, exclusionary eligibility criteria, and donor gamete restrictions, and their impact on intending parents, surrogate mothers, and children born through surrogacy.
- To identify regulatory gaps, such as delays in constituting National and State Surrogacy Boards, and assess their practical implications, including risks of underground surrogacy markets.
- To propose reforms to enhance inclusivity, protect surrogate mothers' rights, and ensure alignment with constitutional principles and international human rights frameworks, such as the Universal Declaration of Human Rights (UDHR) and the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW).
- To draw comparative insights from surrogacy laws in jurisdictions like the United Kingdom, United States, and

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<sup>6</sup> *Baby Manji Yamada v. Union of India*, (2008) 13 SCC 518.

<sup>7</sup> *Jan Balaz v. Anand Municipality*, AIR 2010 Guj 21.

<sup>8</sup> *Arun Muthuvel v. Union of India*, W.P. (C) No. 756 of 2022 (SC).

<sup>9</sup> *Maheshwara M.V. v. Union of India*, W.P. (C) No. 309 of 2025 (SC).

Canada to inform a balanced and equitable regulatory framework for India.

## SCOPE

The scope of this research is confined to the constitutional challenges faced by the Surrogacy (Regulation) Act, 2021, in India's constitutional courts, particularly the Supreme Court and High Courts in Delhi and Bombay. It examines key provisions, including the ban on commercial surrogacy, restrictive eligibility criteria for intending parents and surrogates, and limitations on donor gametes, assessing their compatibility with Articles 14, 15, and 21 of the Constitution of India. The study focuses on significant cases filed post-2021, such as *Arun Muthuvel v. Union of India*<sup>10</sup> and *Maheshwara M.V. v. Union of India*<sup>11</sup>, while referencing earlier precedents like *Baby Manji Yamada v. Union of India*<sup>12</sup> for historical context. It also incorporates a selective comparative analysis of surrogacy laws in the United Kingdom, United States, and Canada to draw lessons for reform. The research does not extensively cover non-constitutional legal challenges, state-level implementation details beyond regulatory gaps, or surrogacy practices outside India unless relevant to comparative perspectives. The analysis is current as of 30 May 2025, incorporating recent judicial developments, such as amendments to donor gamete rules and rulings on age limits.

## METHODOLOGY

This study employs a doctrinal legal research methodology, focusing on a systematic analysis of legal texts, judicial decisions, and scholarly literature to evaluate the Surrogacy (Regulation) Act, 2021. Primary sources include judgments from the Supreme Court and High Courts in cases such as *Arun Muthuvel v. Union of India*<sup>13</sup>, *Maheshwara M.V. v. Union of India*<sup>14</sup>, and *Supriyo v. Union of India*<sup>15</sup>, which provide insights into judicial interpretations of constitutional rights in the context of surrogacy. The Act itself and related legislation, such as the Assisted Reproductive Technology (Regulation) Act, 2021<sup>16</sup>, are scrutinized to identify contested provisions and their legal implications. Secondary sources, including academic articles, legal

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<sup>10</sup> *Arun Muthuvel v. Union of India*, W.P. (C) No. 756 of 2022 (SC).

<sup>11</sup> *Maheshwara M.V. v. Union of India*, W.P. (C) No. 309 of 2025 (SC)

<sup>12</sup> *Baby Manji Yamada v. Union of India*, (2008) 13 SCC 518.

<sup>13</sup> *Arun Muthuvel v. Union of India*, W.P. (C) No. 756 of 2022 (SC).

<sup>14</sup> *Maheshwara M.V. v. Union of India*, W.P. (C) No. 309 of 2025 (SC).

<sup>15</sup> *Supriyo v. Union of India*, (2023) SCC OnLine SC 1348.

<sup>16</sup> The Assisted Reproductive Technology (Regulation) Act, 2021, No. 42 of 2021, The Gazette of India, Extraordinary, Part II, Section 1 (18 December 2021).

commentaries, and government reports, contextualize the Act's objectives and shortcomings. A comparative analysis of surrogacy laws in the United Kingdom, United States, and Canada offers insights into inclusive and ethical regulation. The study evaluates the Act against the constitutional framework of Articles 14, 15, and 21, supported by precedents like *K.S. Puttaswamy v. Union of India*<sup>17</sup> and *Suchita Srivastava v. Chandigarh Administration*<sup>18</sup>. Data is sourced from authoritative legal databases, court records, and credible web sources, such as notifications from the Ministry of Health and Family Welfare<sup>19</sup>, ensuring accuracy as of 30 May 2025.

## OVERVIEW OF THE SURROGACY (REGULATION) ACT, 2021

The Surrogacy (Regulation) Act, 2021, enacted on 25 December 2021, seeks to regulate surrogacy in India by addressing ethical, social, and legal concerns arising from the previously unregulated commercial surrogacy industry<sup>20</sup>. Surrogacy is defined as a process where a woman (the surrogate mother) carries and delivers a child for an intending couple or individual, with the intention of handing over the child post-birth<sup>21</sup>. The Act permits only altruistic surrogacy, prohibiting monetary compensation beyond reasonable medical expenses, insurance, and post-delivery care<sup>22</sup>. It restricts surrogacy to Indian married couples (married for at least five years, with women aged 23–50 and men aged 26–55), widows, or divorcees (aged 35–45), explicitly excluding single men, unmarried women, live-in couples, and LGBTQ+ individuals<sup>23</sup>. The surrogate mother must be a close relative, aged 25–35, married, with at least one child, and can act as a surrogate only once<sup>24</sup>. Surrogacy is permitted only for medical necessity, such as when the intending mother cannot carry a pregnancy<sup>25</sup>. The Act bans commercial surrogacy to prevent exploitation and commodification<sup>26</sup>.

Initially, Rule 7 mandated that at least one gamete come from the intending couple, but amendments in 2024, following *Arun*

<sup>17</sup> *K.S. Puttaswamy v. Union of India*, (2017) 10 SCC 1.

<sup>18</sup> *Suchita Srivastava v. Chandigarh Administration*, (2010) 2 SCC 277.

<sup>19</sup> Ministry of Health and Family Welfare, "Notification on Surrogacy (Regulation) Rules, 2024" (25 March 2024) <https://www.mohfw.gov.in> accessed 30 May 2025.

<sup>20</sup> The Surrogacy (Regulation) Act, 2021, No. 47 of 2021, The Gazette of India, Extraordinary, Part II, Section 1 (25 December 2021).

<sup>21</sup> *Ibid*, s. 2(1)(za).

<sup>22</sup> *Ibid*, s. 4(iii)(b).

<sup>23</sup> *Ibid*, ss. 2(1)(s), 4(iii)(c).

<sup>24</sup> *Ibid*, s. 4(iii)(b)(II).

<sup>25</sup> *Ibid*, s. 4(iii)(a).

<sup>26</sup> *Ibid*, s. 6.

*Muthuvel v. Union of India*<sup>27</sup>, allowed donor gametes for medical conditions like Mayer-Rokitansky-Küster-Hauser (MRKH) syndrome, certified by a District Medical Board. The Act establishes National and State Surrogacy Boards to oversee implementation and monitor clinics<sup>28</sup>, requiring certified surrogacy agreements and clinic registration<sup>29</sup>. Children born through surrogacy are deemed biological children of the intending couple or individual, with full legal rights<sup>30</sup>. The Act responds to India's history as a global surrogacy hub, marked by cases like *Baby Manji Yamada v. Union of India*<sup>31</sup> and *Jan Balaz v. Anand Municipality*<sup>32</sup>, which exposed issues of statelessness and inadequate protections. However, its restrictive provisions have triggered constitutional challenges, which this paper examines in detail.

### **CONSTITUTIONAL CHALLENGES TO THE SURROGACY (REGULATION) ACT, 2021**

The Surrogacy (Regulation) Act, 2021, has faced intense constitutional scrutiny in Indian courts for its restrictive provisions, which petitioners argue violate fundamental rights under Articles 14, 15, and 21 of the Constitution of India. The Act's eligibility criteria, limiting surrogacy to married Indian couples, widows, and divorcees aged 35–45, while excluding single men, unmarried women, live-in couples, and LGBTQ+ individuals, have been challenged as arbitrary and discriminatory<sup>33</sup>. In *Arun Muthuvel v. Union of India*<sup>34</sup>, petitioners argued that these exclusions lack a reasonable nexus to the Act's objective of preventing exploitation, violating Article 14's guarantee of equality before the law. The recognition of non-traditional relationships in *Navtej Singh Johar v. Union of India*<sup>35</sup> and *Supriyo v. Union of India*<sup>36</sup> supports claims that excluding LGBTQ+ individuals and live-in couples reinforces heteronormative biases, contravening Article 15's prohibition on discrimination based on sex or sexual orientation.

In *Maheshwara M.V. v. Union of India*<sup>37</sup>, a single man challenged the exclusion of men while allowing widows and divorcees, arguing gender-based discrimination under Article 15. Delhi High

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<sup>27</sup> *Arun Muthuvel v. Union of India*, W.P. (C) No. 756 of 2022 (SC).

<sup>28</sup> The Surrogacy (Regulation) Act, 2021, ss. 13–20.

<sup>29</sup> *Ibid*, ss. 11, 21.

<sup>30</sup> *Ibid*, s. 7.

<sup>31</sup> *Baby Manji Yamada v. Union of India*, (2008) 13 SCC 518.

<sup>32</sup> *Jan Balaz v. Anand Municipality*, AIR 2010 Guj 21.

<sup>33</sup> The Surrogacy (Regulation) Act, 2021, ss. 2(1)(s), 4(iii)(c).

<sup>34</sup> *Arun Muthuvel v. Union of India*, W.P. (C) No. 756 of 2022 (SC).

<sup>35</sup> *Navtej Singh Johar v. Union of India*, (2018) 10 SCC 1.

<sup>36</sup> *Supriyo v. Union of India*, (2023) SCC OnLine SC 1348

<sup>37</sup> *Maheshwara M.V. v. Union of India*, W.P. (C) No. 309 of 2025 (SC).

Court petitions have similarly contested the exclusion of unmarried women, citing *Supriyo v. Union of India*<sup>38</sup>, which emphasized equal treatment for non-heteronormative families. The Act's restrictions also infringe on Article 21's right to reproductive autonomy, as affirmed in *K.S. Puttaswamy v. Union of India*<sup>39</sup> and *Suchita Srivastava v. Chandigarh Administration*<sup>40</sup>. Petitioners in *Arun Muthuvel v. Union of India* argued that denying access to surrogacy violates the right to form a family, a facet of personal liberty.

The ban on commercial surrogacy<sup>45</sup> has been challenged for limiting women's economic autonomy, as it prevents surrogates from receiving fair compensation for their physical and emotional labour. The initial restriction on donor gametes (Rule 7) was stayed in *Arun Muthuvel v. Union of India* in December 2022, with 2024 amendments allowing donor gametes for medical conditions<sup>41</sup>. These provisions also conflict with international human rights frameworks, such as Article 16 of the Universal Declaration of Human Rights (right to family) and CEDAW's emphasis on non-discrimination<sup>42</sup>. These challenges highlight the tension between the Act's protective intent and its exclusionary implementation, necessitating judicial intervention to ensure constitutional compliance.

### JUDICIAL RESPONSES IN CONSTITUTIONAL COURTS

The Surrogacy (Regulation) Act, 2021, has been rigorously examined in India's constitutional courts, with the Supreme Court and High Courts addressing its compatibility with fundamental rights. In *Arun Muthuvel v. Union of India*<sup>43</sup>, petitioners challenged the Act's eligibility criteria and donor gamete restrictions as violative of Articles 14 and 21. In December 2022, the Supreme Court stayed Rule 7, allowing donor gametes for medical conditions like MRKH syndrome, citing the right to privacy and reproductive autonomy in *K.S. Puttaswamy v. Union of India*<sup>44</sup>. In September 2024, the Court proposed a state-regulated compensation system to balance altruistic and commercial surrogacy, ensuring protections for surrogates while addressing economic realities. As of 30 May 2025, the case remains pending,

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<sup>38</sup> *Supriyo v. Union of India*, (2023) SCC OnLine SC 1348.

<sup>39</sup> *K.S. Puttaswamy v. Union of India*, (2017) 10 SCC 1.

<sup>40</sup> *Suchita Srivastava v. Chandigarh Administration*, (2010) 2 SCC 277.

<sup>41</sup> The Surrogacy (Regulation) Act, 2021, s. 6.

<sup>42</sup> Ministry of Health and Family Welfare, "Notification on Surrogacy (Regulation) Rules, 2024" (25 March 2024) <https://www.mohfw.gov.in> accessed 30 May 2025.

<sup>43</sup> *Arun Muthuvel v. Union of India*, W.P. (C) No. 756 of 2022 (SC).

<sup>44</sup> *K.S. Puttaswamy v. Union of India*, (2017) 10 SCC 1.

reflecting ongoing judicial deliberation.

In *Maheshwara M.V. v. Union of India*<sup>45</sup>, a single man challenged the exclusion of men from surrogacy access, arguing gender-based discrimination under Article 15. The Supreme Court issued notices, referencing *Navtej Singh Johar v. Union of India*<sup>46</sup>, which decriminalized homosexuality and recognized equality for non-heteronormative individuals. In January 2025, the Court strictly interpreted the Act's age limits, ruling that women over 50 are ineligible, emphasizing statutory intent over individual rights in this context.

The Delhi High Court, in 2023, sought clarification on the exclusion of unmarried women, citing *Supriyo v. Union of India*<sup>47</sup>, which underscored non-discrimination for LGBTQ+ individuals. The Court criticized delays in constituting National and State Surrogacy Boards, noting their impact on enforcement. The Bombay High Court, in 2024, addressed embryo transfer restrictions, reinforcing Article 21's protection of reproductive choices. These judicial responses highlight the courts' commitment to upholding constitutional rights while navigating the Act's ethical objectives, with ongoing cases signaling potential reforms.

### CRITICAL ANALYSIS OF THE ACT'S SHORTCOMINGS

The Surrogacy (Regulation) Act, 2021, suffers from several shortcomings that undermine its constitutional validity and practical efficacy. Its eligibility criteria, excluding single men, unmarried women, live-in couples, and LGBTQ+ individuals, violate Articles 14 and 15 by perpetuating arbitrary and discriminatory classifications<sup>48</sup>. These exclusions conflict with judicial recognition of diverse family structures in *Navtej Singh Johar v. Union of India*<sup>49</sup> and *Supriyo v. Union of India*<sup>50</sup>, as well as international standards like Article 16 of the Universal Declaration of Human Rights<sup>51</sup>. The requirement that surrogates be close relatives<sup>52</sup> limits availability, potentially forcing intending parents to seek unregulated alternatives, as noted in scholarly critiques<sup>53</sup>.

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<sup>45</sup> *Maheshwara M.V. v. Union of India*, W.P. (C) No. 309 of 2025 (SC).

<sup>46</sup> *Navtej Singh Johar v. Union of India*, (2018) 10 SCC 1.

<sup>47</sup> *Supriyo v. Union of India*, (2023) SCC OnLine SC 1348.

<sup>48</sup> The Surrogacy (Regulation) Act, 2021, ss. 2(1)(s), 4(iii)(c).

<sup>49</sup> *Navtej Singh Johar v. Union of India*, (2018) 10 SCC 1.

<sup>50</sup> *Supriyo v. Union of India*, (2023) SCC OnLine SC 1348

<sup>51</sup> Universal Declaration of Human Rights, 1948, Article 16.

<sup>52</sup> The Surrogacy (Regulation) Act, 2021, s. 4(iii)(b)(II).

<sup>53</sup> Pande Amrita, *Wombs in Labour: Transnational Commercial Surrogacy in India* (Columbia University Press, New York, 2014).

The ban on commercial surrogacy<sup>54</sup> risks driving the practice underground, as altruistic models may not meet demand, echoing concerns from *Baby Manji Yamada v. Union of India*<sup>55</sup>. This restriction also curtails surrogates' economic agency, denying them fair compensation for their labour. Delays in constituting National and State Surrogacy Boards have hampered oversight, with clinics operating without clear guidelines<sup>56</sup>. Altruistic surrogacy may lead to emotional disputes within families, particularly when surrogates are close relatives. Intending parents face restricted access, surrogates lose economic opportunities, and children born through surrogacy risk legal uncertainties in cross-border cases, as seen in *Jan Balaz v. Anand Municipality*<sup>57</sup>. These flaws necessitate urgent reform to align the Act with constitutional and practical realities.

### COMPARATIVE PERSPECTIVES

A comparative analysis of surrogacy laws in the United Kingdom, United States, and Canada offers valuable lessons for India. The United Kingdom's Surrogacy Arrangements Act, 1985, permits altruistic surrogacy with "reasonable expenses" (approximately £12,000–£20,000), allowing single and same-sex couples to access surrogacy<sup>58</sup>. This inclusive approach aligns with equality principles. In the United States, particularly California, commercial surrogacy is permitted with payments of \$30,000–\$50,000, supported by robust legal frameworks that recognize diverse family structures<sup>59</sup>. Canada's Assisted Human Reproduction Act, 2004, allows altruistic surrogacy with expense reimbursement and stringent oversight, ensuring ethical practices without excluding non-traditional families<sup>60</sup>. These jurisdictions demonstrate that regulated compensation and inclusive eligibility criteria can prevent exploitation while promoting access. India could adopt a hybrid model, combining regulated compensation with inclusive access, to align with constitutional mandates and international standards like CEDAW<sup>61</sup>.

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<sup>54</sup> The Surrogacy (Regulation) Act, 2021, s. 6.

<sup>55</sup> *Baby Manji Yamada v. Union of India*, (2008) 13 SCC 518.

<sup>56</sup> LiveLaw, "Supreme Court Issues Notice on Plea Challenging Provisions of Surrogacy (Regulation) Act, 2021" (LiveLaw, 10 January 2023) <https://www.livelaw.in> accessed 30 May 2025.

<sup>57</sup> *Jan Balaz v. Anand Municipality*, AIR 2010 Guj 21.

<sup>58</sup> Surrogacy Arrangements Act, 1985 (United Kingdom)

<sup>59</sup> Nadimpally Sarojini & Majumdar Anindita, "Ethical and Legal Challenges of Surrogacy in India: A Critical Perspective", 56(3) J. Indian L. Inst. 345 (2014).

<sup>60</sup> Assisted Human Reproduction Act, 2004 (Canada).

<sup>61</sup> Convention on the Elimination of All Forms of Discrimination Against

## RECOMMENDATIONS

To address the Act's shortcomings, the following reforms are proposed:

- Amend Section 4(iii)(c) to include single men, unmarried women, live-in couples, and LGBTQ+ individuals, aligning with *Navtej Singh Johar v. Union of India*<sup>62</sup> and *Supriyo v. Union of India*<sup>63</sup>.
- Replace the commercial surrogacy ban<sup>64</sup> with a regulated framework, as suggested by the Supreme Court in 2024, ensuring fair compensation for surrogates while preventing exploitation.
- Mandate comprehensive compensation for surrogates, covering medical, psychological, and post-delivery care.
- Expedite the constitution of National and State Surrogacy Boards to enhance oversight and enforcement.
- Clarify citizenship provisions for children born through surrogacy to prevent statelessness, drawing on *Baby Manji Yamada v. Union of India*<sup>65</sup>.
- Launch awareness campaigns to educate stakeholders about their rights and responsibilities under the Act.

## CONCLUSION

The Surrogacy (Regulation) Act, 2021, while aimed at curbing exploitation, faces significant constitutional challenges for violating Articles 14, 15, and 21 through its exclusionary provisions and commercial surrogacy ban. Judicial interventions in cases like *Arun Muthuvel v. Union of India*<sup>66</sup> and *Maheshwara M.V. v. Union of India*<sup>67</sup> have highlighted the Act's incompatibility with equality and reproductive autonomy, with 2024 amendments addressing donor gamete restrictions. Comparative insights from the United Kingdom, United States, and Canada underscore the need for inclusive eligibility and regulated compensation. The proposed reforms aim to ensure inclusivity, protect surrogate mothers, and address practical challenges like regulatory gaps and statelessness risks. As of 30 May 2025, Indian courts are

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Women, 1979, Article 2.

<sup>62</sup> *Navtej Singh Johar v. Union of India*, (2018) 10 SCC 1

<sup>63</sup> *Supriyo v. Union of India*, (2023) SCC OnLine SC 1348.

<sup>64</sup> The Surrogacy (Regulation) Act, 2021, s. 6.

<sup>65</sup> *Baby Manji Yamada v. Union of India*, (2008) 13 SCC 518.

<sup>66</sup> *Arun Muthuvel v. Union of India*, W.P. (C) No. 756 of 2022 (SC).

<sup>67</sup> *Maheshwara M.V. v. Union of India*, W.P. (C) No. 309 of 2025 (SC).

playing a pivotal role in reshaping surrogacy laws to reflect the diverse needs of Indian society, paving the way for a balanced and equitable regulatory framework.