



Mains Practice Question

Case Studies

An IAS officer, Mr. Sharma, is working in the Ministry of Health and Family Welfare as a Joint Secretary. He is responsible for drafting a policy on surrogacy, which aims to regulate the practice of assisted reproductive technology (ART) and protect the rights and interests of the surrogate mothers, the intended parents, and the children born through surrogacy.

Mr. Sharma is married to Mrs. Sharma, who is a successful lawyer and a partner in a reputed law firm. They have been trying to have a child for the past 10 years, but have failed due to medical reasons. They have also explored the option of adoption, but have faced many hurdles and delays in the process.

One day, Mrs. Sharma informs Mr. Sharma that she has found a surrogate mother through an online platform, who is willing to carry their child for a reasonable amount of money. She also tells him that she has consulted her law firm and they have assured her that they can handle the legal formalities and paperwork for the surrogacy arrangement. She urges Mr. Sharma to agree to this option, as it is their last chance to have a biological child of their own. However, the current law prohibits commercial surrogacy and allows only altruistic surrogacy for eligible couples.

1. What are the ethical issues involved in this case?
2. What are the possible options available to Mr. Sharma?
3. What should Mr. Sharma do in this situation? Justify your answer with suitable arguments. (250 words)

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Approach

- Begin with a brief Introduction to the case.
- Discuss ethical challenges involved in the case and the possible options that Mr Sharma has to deal with the situation.
- Recommend an appropriate course of action which Mr Sharma should take and justify your answer.
- Conclude by summarizing the key points.

Introduction

The case involves Mr. Sharma, a Joint Secretary in the Ministry of Health and Family Welfare tasked with drafting a surrogacy policy. His wife, Mrs. Sharma, a lawyer, proposes engaging in commercial surrogacy despite legal restrictions.

Body

Ethical Issues

- **Conflict of Interest:**
 - Mr. Sharma's role as Joint Secretary in the Ministry of Health and Family Welfare involves

drafting surrogacy policies.

- Conflict arises as his decisions impact his personal life, compromising impartiality in regulating surrogacy.

▪ **Potential Abuse of Power:**

- Risk of Mr. Sharma manipulating policy-making to favor personal interests.
- Policies benefiting him and his wife may not align with public or regulatory goals.

▪ **Commercial vs. Altruistic Surrogacy:**

- The Sharmas, despite legal restrictions, consider commercial surrogacy, challenging adherence to existing laws.
- Ethical concerns about prioritizing personal desires over legal frameworks.

▪ **Exploitation of Surrogate Mother:**

- Financial transactions in commercial surrogacy may create a power dynamic leading to surrogate exploitation.
- Ethical concerns about potential coercion due to the financial relationship.

▪ **Transparency and Accountability:**

- Mr. Sharma's pursuit of surrogacy against regulations questions transparency and accountability.
- Raises concerns about public trust in government decision-making processes.

Possible Options:

- **Recusal:** Mr. Sharma could recuse himself from the drafting process of the surrogacy policy to maintain impartiality and avoid any conflict of interest.
- **Seek Legal Advice:** Mr. Sharma may consult legal experts within the Ministry or external legal counsel to understand the implications of engaging in commercial surrogacy.
- **Advocate for Policy Amendments:** Mr. Sharma could use his position to advocate for changes in surrogacy laws that align with his personal situation, but this should be done transparently and ethically.
- **Consider Altruistic Surrogacy:** Instead of commercial surrogacy, Mr. Sharma and his wife could explore altruistic surrogacy, which is legally permitted and aligns with the current policy framework.

Recommended Course of Action:

- Mr. Sharma should **prioritize ethical conduct, adherence to the law**, and the public interest.
- **Recusing himself from the drafting process** would be the most appropriate action to maintain integrity and impartiality.
 - By doing so, he avoids any potential conflict of interest and ensures that the surrogacy policy is crafted objectively without being influenced by personal circumstances.
- Simultaneously, Mr. Sharma should **explore alternative options** within the legal framework, such as altruistic surrogacy, to fulfill his and his wife's desire for parenthood without violating existing laws.
- This approach upholds the principles of fairness, legality, and public trust in the civil service.
- If Mr. Sharma believes that policy amendments are necessary, he should pursue them through proper channels, advocating for changes transparently and without compromising his professional integrity.

Conclusion

Mr. Sharma must prioritize policy-making integrity over personal desires. Adhering to laws, recusing from drafting, and seeking ethical guidance ensures transparency, fairness, and upholds public service principles, enhancing surrogacy policy credibility.

