Submisssion by letter to the Australian Law Reform Commission

Professor Dr Robyn Rowland AO
Retired
[redacted]
July 8th, 2025

Dear ALRC Commissioner,

I am writing to you to lodge my objections to any increase in so-called altruistic surrogacy in Australia, and to the introduction of 'compensated' or 'commercial' surrogacy. Surrogacy is a human rights violation of women and children.

I am sending you a simple letter because the research available is being covered by many others. I worked in the field of Adoption, then critique of In vitro Fertilisation and Genetic Engineering as Foundation Head and Professor of Social Inquiry at Deakin University, and Director of the Australian Women's Research Centre at Deakin. (See further details at the end of this letter.)

I also made representation by invitation to many State and Federal bodies and served on the Law Reform Committee's investigations into reproductive technology and surrogacy. I addressed, by invitation, a meeting of the House of Lords and MPs in London on the issue of embryo experimentation and made invited representations to the Government of Quebec. I wrote ***Living Laboratories. Women and Reproductive Technologies*** (Australia, USA and UK, 1992), which in many ways foretold some of the issues which arise today, including the commercialisation of surrogacy. Even at that time, folios advertising women to bear children were available through commercial enterprises in the US. These resembled sale catalogues for real estate. Women and children should not be for sale.

In 1996, I was made an Officer in the Order of Australia for national and international contributions to women's health and higher education.

From my doctorate in psychology and experience in this area, I make the following points:

1. Language: the word 'surrogate' (substitute) is a misnomer. The Birth Mother who carries a child begins an experience of motherhood after conception. This is because motherhood and fatherhood are relationships, not necessarily biological as adoption has shown us. The woman carrying a foetus to term is already linked physiologically and emotionally to the growing child. Whether for family or friends (so-called 'altruistic' surrogacy) or for other purposes such as financial need, no-one has grounds on which to decide that the birth mother is disconnected from the process during which she creates a child. She is not a 'suitcase'.

The use of the term 'traditional surrogacy' hides the fact that there is nothing 'traditional' involved. Using the term 'traditional' implies strongly that this breeding of children for others is centuries old and therefore, normal and a good thing. It is neither.

Likewise, 'commercial surrogacy' implies a simple commercial relationship (I pay money to someone selling something and we go our own ways), devoid of connection between birth mother, her partner, her own existing children, the purchasing couple (if, in fact, it is a couple?). This is rarely the case, evidenced by the stories of birth mothers in countries where commercial transactions are taking place, experiencing regret, guilt and grief.

In a commercial interaction, the 'buyer' is not screened. Buying a washing machine, even a pet, does not involve checking if the buyer is suitable. In the case of 'baby buying' and 'womb renting' which is what 'surrogacy' is, will there be controls over the purchaser? Would the Australian state endorse children going to parents about whom the birth mother has doubts as she comes to know them? Will trans people be able to rent a woman for a birth? Will the sperm of the dead be excluded? (e.g. *Reuters* reported that in April 5, 2024, the 68-year-old Spanish TV star Ana Obregon had revealed that her newly adopted baby daughter, born to an unidentified surrogate mother, was conceived using the frozen sperm of Obregon's son, who had died of cancer three years previously)

2. Altruistic and Commercial breeding. Various research and experiential accounts indicate that where a process of 'surrogacy' begins with altruism, it often ends in the courts. This is particularly true in the US where various legislatures have tried to grapple with these issues and yet still, cases continue to come before them of procuring couples trying to legally enforce the relinquishing of a baby in spite of the wishes of the birth mother. The cases are variably successful for either party. But no-one really wins in these situations.

In other countries closer to Australia, a continuing 'traffic' scenario is established, where poor women are encouraged/cajoled into breeding for an income. This situation cannot be guarded against in Australia at any point, because many women who begin with altruistic feelings then prefer to keep the child. In a commercial interaction, they would be forced to yield a child. How? Physically? Legally? (See the upsetting stories in *Broken Bonds: Surrogate Mothers Speak Out*, Eds. Jennifer Lahl, Melinda Tankard Reist, Renate Klein (Spinifex Press, 2019) and *Birth Mother* by Elizabeth Kane (MacMillan 1990.)

An adult born from a 'surrogate', [redacted], and a 'surrogate' mother, [redacted] made representations to the Albanian government when there was an attempt to allow surrogacy. They wrote of their experiences about 'this new form of modern slavery'. They support the Casablanca Declaration: 'The Casablanca Declaration for the universal abolition of surrogacy, signed by 100 experts (lawyers, doctors, psychologists, philosophers etc.) of 75 nationalities, was made public in Casablanca (Morocco) on March 3, 2023. (Please see attachment below.)

3. Offspring and Origins: I began my work in the 1970s with people who decided to be child-free, then moved into adoption and further into reproductive technology. Always I have two groups in mind. Women and children. But it is important that we remember that offspring born do not remain children. We infantilise offspring in these situations. In reality they grow up and develop very clear ideas about how they should have been created, born, familied. We know that for many people in adoption, results have been tragic: for relinquishing mothers, adoptees, adopted families. Have we learned nothing from the adoption experiences?

To date there is little information on the impact of the development of children given away by 'surrogates' ('The Research on Surrogacy's Impact on Children', Emma Waters, *Institute of Family Studies*, March 21, 2024,<https://ifstudies.org/blog/inconclusive-the-research-on-surrogacys-impact-on-children>.)

And there is little knowledge at this point of what impact surrogacy is having on adults who were born from that situation. In 'Surrogacy is a new form of human trafficking', [redacted], born of a 'surrogate', campaigns against it, writing: "Through my story, I try to make people aware of what surrogacy is: a new form of human trafficking" (Interview with Javier García Herrería, *Omnes*, February 17, 2025).

We do know that donor insemination adults and adopted adults have had hard struggles to find out about their origins and often feel angry about firstly, their being given away/not wanted (in their minds), and secondly, angry about having been lied to about their origin. There is often a deep grief.

Belgian psychologist Dr Anne Schaub-Thomas with over 25 years of practice, has accompanied and treated hundreds of women and couples who have not been able to fulfill their desire to have a child naturally.

She has written extensively on this work: see also *The Secret Cry of a Child Surrogacy – and the rights of those born*, Lindau Editions, 2024, Italy. In interview in *Omnes* with Maria José Atienza-June 24, 2024 (*A Child's Secret Cry: Mother-Child Attachment, Early Memories, Separation-Abandonment*), she says:

> (Quote): 'In fact, any situation that imposes on the newborn, even involuntarily, the separation from the mother who has carried him/her for nine months, provokes, depending on the context and to varying degrees, a wound of abandonment that can go as far as the anguish of death."
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> If a woman, a mother, for whatever reason, can decide not to bond with the baby she is expecting, the child cannot. The process that creates this attachment bond between the baby and the mother is a programmed survival 'reflex'. It is a biophysiological and psychological mechanism that cannot be ignored.
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> No contract between intended parents and a surrogate mother, no adult thought, even if it desires wholeheartedly the expected child, but from a distance, has the power to diminish or erase, on the one hand, this human experience of gestational attachment, fundamental for the child's future and which is woven with great subtlety in the foetus for nine months, and, on the other hand, the distressing experience of the baby's estrangement from its biological mother.
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> The deepest wound that the child born from surrogacy - and which does not exist in the adopted child - will undoubtedly have to resolve is the realization, one day, that it is his or her parents who have themselves created the situation of dissociation and rupture with the birth mother.
>
> This intrapsychic conflict is likely to remain with the child throughout his or her life, with overwhelming identity and existential questions. All the more so since society as a whole will have allowed this to happen, will have supported and avoided recognizing at the state level the various risks and sufferings that GPA entails for the most vulnerable: the child.'
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> The psychological wounds caused by the unforeseeable separations at birth or caused by the miseries and misfortunes of life are situations of suffering that are well known today. Working on prevention to avoid them and then attending to these life situations that have caused various losses and human uprooting in early childhood, is a work of humanity that every State has the duty to implement and support in its country.
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> On the contrary, any state that allows wealthy and influential promoters of the human reproduction market to work tirelessly to promote and legalize the sale of children through surrogate mothers is complicit in the medical, psychological and economic violence inflicted on women and children.' *(end quote)*

In addition, in the 'surrogacy' scenario, there are often existing children in the family of the birth mother. Their experience of seeing their mother pregnant and keeping one child, but then pregnant and giving away another, leaves potential life-long damage. 'Surrogate' [redacted] wrote of her experience in *Birth Mother* as early as 1990. Her daughter at age asked: 'will you give me away too Mummy, if I am naughty'. No studies have even been conducted on the grief of existing children. So, possibly, they experience anxiety about their mother's ability to give up a child (are they next?), grief and sadness, loss, guilt, anger.

We have a responsibility to stop situations where we as a state assist in creating this kind of emotional damage. If commercial arrangements are are created in Australia, the state will be at risk of damage payouts after a period of decades.

In the 80s I tried to bring about legislative change to code all birth certificates so that a person could actually know the process of their birth after the age of 18. This is simple and means a code for each form of conception. If proper records are actually kept, the adult should then be able to track their reproductive and birth origins. But this is still an unresolved issue, and legislation on this should be enacted as soon as possible. Identity confusion may follow such a lack of accurate knowledge.

From experience I know that issues of choice and control will arise. I wrote a body of work on this. I refer you to the Law Reform Commission Symposia 1986, and the document on Informed Consent, Medicine, Science and the Law, chaired by the excellent Professor Louis Waller. These issues are still relevant.

4. Rights/Responsibilites: As a feminist I support women's right to 'control' our own bodies, but I do not agree that just because 'women want it' we need, as a community, to supply all needs. My underlying philosophy is that there needs to be a balance between 'rights' and 'responsibilities' and in the case of surrogacy, the desires/want of a couple to have a child should not rest on the possible coercion of another woman, through pressure towards altruism or through financial need or gain. Indeed, as Elizabeth Kane points out in her book, using one woman as a birth mother does not solve the issue of infertility for another.

And, as Olivia Maurel says:

> 'There is no right to have a child or to have offspring: it does not exist in any legal text, in any country in the world. What does exist are the rights of children that are specifically recognized in the UN Convention on the Rights of the Child, and surrogacy violates many of these rights.

There is a basic problem with the concept of rights in general in that it is a static concept abstracted from social conditions. It does not challenge social structures of inequality, nor the relations of production and reproduction. Through its stress on individual rights, liberalism places these rights in the private sphere. Only through a sense of community, can we create loving arrangements for children. When the state enters into any construction of families, it has a responsibility way beyond the concept of individual rights.

Finally, in all the committees on which I have served we learned an important lesson. We must hear from those with lived experience in these matters. Committees should be inclusive of them, both for and against any issues being considered. In reproductive medicine, the scenario is so commercialised at present, that IVF doctors should only be heard through their submissions and not become decision-makers on these matters. There is too much vested interest and recently as we have been shown at Monash IVF, their overseeing of their own processes is still horrifyingly weak.

To conclude, I believe it is important to look at the social inequalities in our societies and not reinforce them by allowing Australia (unlike Europe and many other countries) to commercialise a breeding programme where women's bodies are rented out and children become products. As Olivia Maurel says: "*The slave market was a colossal market at the time, and it took almost 100 years to abolish it completely, but today it seems incredible that it could have happened! I think it will be the same with surrogacy: it will take a long time and one day future generations will wonder how we have been able to allow women and children to be rented and bought as if it were nothing.*

Sincerely,

Dr Robyn Rowland AO

Attachment 1: CV (abbreviated)

Professor Dr Robyn Rowland Academic Summary
As Professor Rowland, Robyn was Foundation Head of the School of Social Inquiry at Deakin University (1993 - 1996) where she had worked since 1981, and Foundation Director of the Australian Women's Research Centre (1990 - 1996) which she founded. Her doctorate is in social psychology but she has also taught community psychology, aging and death. Her work in women's studies initially and then bioethics and feminist ethics necessitated a transdisciplinary approach to infertility and the technological interventions in medicine and since as well as an economic assessment.

She has taught social psychology, medical ethics and cross-disciplinary women's studies, founding transdisciplinary programmes at three universities in Australia (Deakin University, Murdoch University and the University of Wollongong) and New Zealand (Waikato University). Deakin University's initial programme was the first Australian off-campus degree, offered in collaboration with Murdoch and Queensland universities. In 1988, Oxford University Press published her second book *Woman Herself. A transdisciplinary perspective on women's identity*, the first of its kind and used continuously as a textbook until 2000.

The School of Social Inquiry encompassed ten areas of study including Sociology, Women's Studies, Religious Studies, Performing Art, Literary Studies, Social studies of science, Philosophy, Police Studies and Social Work, the latter two introduced and developed by Professor Rowland. The School of Social Inquiry was one of the first to introduce postgraduate degrees by exegesis and the submission of creative work in Art, Performing Arts and Literary Studies.

Dr Rowland carried out the first research into child-free choices and later into donor insemination and the social and personal impact of in vitro fertilisation, as well as the medical and psychological impact of superovulation drugs.

In the social sciences alone, Robyn has delivered over 100 conference papers and written 60 book chapters and journal articles on human rights, women's' issues, women's health, mothering sons, psychology of childfree choice, infertility and reproductive and genetic engineering. She wrote three academic texts. She has numerous editorial positions to her credit, including being an international board member, and Australian, Pacific and Asian editor (1983-1996) of *Women's Studies International Forum*, the longest running women's studies journal in the world, published by Pergamon Press. With

Pergamon and co-editors, she founded the journal *Issues in Reproductive Technology: Journal of International Feminist Analysis.*

In 1996. Robyn was diagnosed with breast cancer and burnout. Prior to that date Professor Rowland had been involved in international debates concerning reproductive technology and genetic engineering for 18 years. She was a well-known public critic who brought the debates about the ethics of reproductive technology into the public arena with her extensive press work, including on television and radio.

Professor Rowland published the ground-breaking book *Living Laboratories. Women and Reproductive Technology* in 1992 (Pan MacMillan, Australia; Indiana University Press, USA; Limetree and Cedar, U.K.), still the definitive work of its kind. Her most recent academic work which was published in this area appears in the *Encyclopaedia of Reproductive Technologies* (ed Annette Burfoot, Westview Press, USA 1999); in *Altered Genes. Reconstructing Nature: the Debate* (Eds. Hindmarsh, Lawrence, Norton, Allen and Unwin, Australia 1998), and in *Altered Genes II: The Future?* **(**Eds. Hindmarsh, R. and Lawrence, G., Scribe Publications, Carlton, Australia 2001).

Dr Rowland had addressed, among others, a meeting of Lords and MPs in the House of Lords, London, on embryo experimentation, and Trinity College Dublin, Ireland, on issues of reproductive technology and medical ethics. She was a Guest of the Quebec Government at its gathering on legislation in these areas, and various governments, internationally and nationally, have used her work in the development of legislation on topics such as the keeping of donor records, surrogate motherhood, genetic screening and in vitro fertilisation. She served on a number of government committees relating to this topic. She was invited to speak in Australia to the Federal and all State governments on regulation and legislation, as well as in Greece, Ireland, England, Portugal and America on these issues. In 2000, she was invited to Portugal by the *Luso Americana Foundation* as an international specialist in a select gathering to address the issue 'The Human Condition 2000'.

In the 1996 Honours List Professor Rowland was made an **Officer in the Order of Australia** by the Governor General on behalf of the Australian Government, for her outstanding and distinguished achievement in her contribution to women's health and higher education and her contributions nationally and internationally in her field.

Attachment 2

We, signatories of this Declaration,

Aware of

• the suffering of the people who may not conceive
• the attractiveness of the reproductive technologies
• and of the international issue of an efficient protection for human dignity

Convinced that the contract through which one or several orderers agree with a woman that she will carry one or several children for the purpose of their delivery upon birth, regardless to the name and terms and conditions of such contract, here below called surrogacy,

• violates human dignity
• and contributes to the commodification of women and children

Require from the States the prohibition of surrogacy in every modalities and kinds, whether remunerated or not, and the implementation of measures to fight such practice.

For this purpose, we make the following recommendations to the States:

- prohibit surrogacy on their territory
- deny any legal validity to contracts bearing the undertaking from a woman to carry and deliver a child
- punish individuals and corporations acting as intermediaries between the surrogacy mothers and the orderers
- prosecute individuals who have recourse to a surrogate mother on their territory
- prosecute their nationals who have recourse to a surrogate mother outside their territory
- act in favor of the implementation of a legal instrument bearing global prohibition of the surrogacy.

  Attached to this Declaration, is a proposal for an international Convention, freely available to the States wishing to commit themselves in such process.

The Casablanca Declaration for the universal abolition of surrogacy, signed by 100 experts (lawyers, doctors, psychologists, philosophers etc.) of 75 nationalities, was made public in Casablanca (Morocco) on March 3, 2023.

This text is not the property of any structure. The text is available to any State, organization or person who wishes to save humanity from the scourge of surrogacy.

No authorization is required from anyone to use the content of the Declaration or the proposal for an international Convention appended thereto.

The Casablanca Declaration is the contribution that the signatories experts are happy to offer to humanity, to each and everyone need it.

http://declaration-surrogacy-casablanca.org/

INTERNATIONAL CONVENTION

FOR THE GLOBAL PROHIBITION OF SURROGACY

The signatory States to this Convention,

Aware of

• the suffering of the people who may not conceive
• the attractiveness of the reproductive technologies
• and of the international issue of an efficient protection for human dignity

Convinced that the contract through which on or several orderers agree with a woman that she will carry one or several children for their delivery upon birth, whatever name and terms and conditions of such contract, here below called surrogacy,

• violates human dignity
• and contributes to the commodification of women and children

Denounce surrogacy in any modalities and kinds, whether remunerated or not.
Undertake to fight against such practice to protect and preserve human dignity and women's and

children's rights, through the implementation of effective measures, including by :

- prohibiting surrogacy on their territory
- denying any legal validity to contracts bearing the undertaking from a woman to carry and deliver a child
- punishing individuals and corporations acting as intermediaries between the surrogacy mothers and the orderers
- prosecuting individuals who have recourse to a surrogate mother on their territory
- prosecuting their nationals who have recourse to a surrogate mother outside their territory

http://declaration-surrogacy-casablanca.org/