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December 11, 2025

Australian Law Reform Commission
PO Box 209
Flinders Lane
Victoria 8009, Australia

RE: Response to Review of Surrogacy Laws Discussion Paper

Dear Commissioners:

On behalf of Dr. John D. Camillo, PhD, BeL, President of The National Catholic Bioethics Center (NCBC), I am writing to provide updated public comment in response to the twenty-four (24) questions presented in the second round and the **Review of Surrogacy Laws Discussion Paper** being considered by your Commission**.**

While NCBC does not have personal experience with surrogacy (as asked of those providing public comment) we provide hundreds of consultations nationally and internationally on issues of bioethical concern, including the numerous challenges in addressing infertility, which would include surrogacy. Thus, based on our informed experiences, our attached submission of August 30, 2025 states:

> …[In] consideration of a model national legal framework for surrogacy arrangement, [we affirm that] such policies put women and babies, as well as families at risk physically, psychologically, as well as sociologically. In other words, rather than advancing the common good, relaxing the provisions of existing law will harm women, their children, and families, as well as societal wellbeing. Thus, rather than relaxing the provisions of the Surrogacy Act 2010 and the Assisted Reproductive Technology Act 2007, such existing law should be strengthened to enhance restrictions against IVF and surrogacy, and to protect both the human embryo and his or her parents from the inherent threats to human life and dignity.

We reiterate this position. Furthermore, we endorse the attached comments submitted by the Australian Catholic Bishops Conference (July 9, 2025).

We thank you for this opportunity to provide comment on this most important topic, with its critical implications for the wellbeing of children, women, and society,

Sincerely Yours,

[redacted]

Dr. Marie T. Hilliard, PhD, JCL, MS (Maternal Child Health Nursing), MA, RN
Senior Ethicist

Encl.: Public comment of July 9, 2025, of the Australian Catholic Bishops Conference
Public comment of August 30, 2025, of The National Catholic Bioethics Center

AUSTRALIAN
CATHOLIC BISHOPS
CONFERENCE

General Secretariat

Bishops Commission for Life, Family and Public Engagement

9 July 2025

The Hon Justice Mordecai Bromberg
President
Australian Law Reform Commission

Associate Professor Ronli Sifris
Assistant Commissioner
Australian Law Reform Commission

surrogacy@alrc.gov.au

Dear Justice Bromberg and Associate Professor Sifris

Review of Surrogacy Laws

This submission from the Australian Catholic Bishops Conference is made to contribute to the Review of Surrogacy Laws (the Review). This submission can be made public.

The Australian Catholic Bishops Conference (the Conference) is a permanent institution of the Catholic Church in Australia and the instrumentality used by the Australian Catholic Bishops to act nationally and address issues of national significance.

The Bishops Commission for Life, Family and Public Engagement (the Commission) is one of several commissions established by the Conference to address important issues both within the Church and in the broader Australian community. The Commission has responsibility for commenting on the regulation of surrogacy.

One in five Australians identify as Catholic. The Catholic Church and its agencies contribute in numerous ways across the spectrum of Australian society. As an integral part of its core mission, the Church seeks to assist people to experience the fullness of life. It is concerned with all that impacts on human dignity and wellbeing for the common good.

I would be happy to answer any questions the Law Reform Commission may have regarding this submission. I can be contacted via Mr Jeremy Stuparich, Deputy General Secretary at the Conference on 02 6201 9863 or policy@catholic.org.au

Yours sincerely

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Executive Summary

Surrogacy, in all its forms, undermines the dignity of women and children by commodifying human life and turning pregnancy into a transaction. At its core, surrogacy treats women as instruments to be used and children as products to be commissioned. Every child has the right to be conceived, carried, and raised within the stable, loving bond of its biological mother and father. To deliberately bypass this context is to violate the child's inherent dignity and best interests.

While the pain of infertility is real and deserving of compassion, not all responses to suffering are just. Surrogacy introduces new and profound harms. It places women and children at heightened medical risk, causes enduring emotional trauma, and opens the door to exploitation. For children, it breaches core human rights, including identity, parentage, and protection from commodification, which are rights affirmed by the *United Nations Convention on the Rights of the Child*.

The Australian Catholic Bishops Conference calls on the Law Reform Commission to recommend the prohibition of all forms of surrogacy in Australia. Australian law should, as far as possible, preserve the inherent dignity of every human person by giving paramount importance to the rights of children, and protect vulnerable women from exploitation and harm. Children have no voice in these arrangements, yet it is they who bear the most profound consequences. The law must protect their right to be conceived, carried, and raised in a context where they are received in love, not produced as part of a contractual arrangement.

We call for stronger enforcement of Australia's ban on commercial surrogacy, especially in relation to overseas arrangements that effectively circumvent domestic laws and protections.

There is no regulatory framework that can eliminate the inherent harms of surrogacy.

Preliminary note

We are deeply concerned that the Terms of Reference for this Inquiry appear to prioritise easier access to surrogacy, presented in Question 1 as improving navigation and access, rather than upholding the fundamental rights and dignity of women and children. This framing risks placing adult desires ahead of children's rights. We reject the idea that expanding surrogacy serves the best interests of children or respects human dignity. Any legal reform must begin with a clear commitment to protect children from commodification, women from exploitation, and society from the normalisation of contract-based human reproduction.

In this submission, we have responded to select questions in the Issues Paper. As we hold that all forms of surrogacy are ethically unacceptable, we have not addressed questions that proceed from the assumption that surrogacy is a legitimate or desirable practice.

Conference response to Questions posed in Issues Paper

Reform Principles

Question 2: What reform principles should guide this Inquiry?

The human rights of children should be the primary principle guiding the inquiry.

Every child is a unique human being with inherent dignity and rights, who deserves to be conceived, carried, and raised within the stable, loving bond of their biological mother and father. Their rights to identity, connection, and care must be upheld as primary and inviolable, not contingent on the desires or arrangements of adults.

No human being should come into existence as the product of a transaction. While society rightly rejects the buying and selling of persons, surrogacy permits the commissioning of a child to satisfy adult desires. Whether or not money changes hands, the underlying reality remains: the child is created to fulfil a contract or agreement, not welcomed as the fruit of a loving union.

As one commentator argues:

> …in commercial surrogacy, the child is de facto turned into a product. A few thousand dollars are paid to the mother when she delivers the newborn baby. This, by all definitions, constitutes baby trade. It is the buying and selling of children. But even in altruistic surrogacy, there is a drastic change in the way we look at children: as products to be exchanged through contracts.[1]

The *United Nations Convention on the Rights of the Child*[2] affirms that in all actions concerning children, "the best interests of the child shall be a primary consideration"[3]. The Convention recognises children not as the property of adults, but as persons with inherent rights that must be upheld and protected.

These include the right to:

- An identity and family relations[4]
- As far as possible, know and be cared for by their parents[5]
- Not be separated from their parents against their will, except in certain specified circumstances[6], and

[1] Ekman, K E, Stop Surrogacy Before it is Too Late. *Festival of Dangerous Ideas*. 19 August 2014. See: https://medium.com/festival-of-dangerous-ideas/stop-surrogacy-before-it-is-too-late-9910035a63f0#.ma2g0si1u
[2] UN General Assembly, Convention on the Rights of the Child, 20 November 1989, United Nations, Treaty Series, vol. 1577.
[3] Ibid Art 3
[4] Ibid Art 8
[5] Ibid Art 7
[6] Ibid Art 9

- Maintain personal relations and direct contact with both parents, except if it is contrary to the child's best interests[7].

In addition, Article 35 provides that member states must "take all appropriate national, bilateral and multilateral measures to prevent the abduction of, the sale of or traffic in children for any purpose or in any form"[8]. The reality is that the practice of surrogacy can create conditions that bear concerning similarities to the sale and trafficking of children, where infants are commissioned, transferred across borders, and handed over to unrelated adults in exchange for payment. The risk for children is extremely high.

Surrogacy, by design, denies a child their rightful identity, origin, and connection to the woman who bore them. It is a systemic violation of the child's human rights—one that no legal workaround can justify.

It is concerning that although commercial surrogacy is banned in Australia, including overseas arrangements in several jurisdictions, these laws are rarely enforced.[9] As a result, Australians are continuing to commission children through international commercial surrogacy with little scrutiny or consequence, undermining the intent of the legal prohibitions which are to protect children.

Human Rights

Question 3: What do you think are the key human rights issues raised by domestic and/or international surrogacy arrangements? How should these be addressed?

The human rights of children who are at risk of being commissioned as part of surrogacy arrangements should be the key consideration for the Commission in this inquiry.

Domestic and international surrogacy arrangements raise significant concerns under the *Convention on the Rights of the Child*, which recognises that children are bearers of inherent rights, rather than commodities or objects of adult desire.

Surrogacy, by its nature, risks violating several key rights enshrined in the Convention:

1. The right to know and be cared for by one's parents[10]. The Convention affirms that every child has the right, "as far as possible, to know and be cared for by his or her parents." Surrogacy arrangements, by design, intentionally sever the biological and gestational

[7] Ibid Art 9.
[8] Ibid Art 35.
[9] Australian Law Reform Commission *Issues Paper: Review of Surrogacy Laws*, Issues Paper 52, June 2025 at paragraph 80.
[10] UN General Assembly, Convention on the Rights of the Child, 20 November 1989, United Nations, Treaty Series, vol. 1577, Art 7

connection between the child and at least one — often both — of their natural parents. This deprives the child of the very relationships the Convention recognises as foundational.

2. The right to preserve identity and family relations[11]. Surrogacy can obscure or legally erase the child's identity and origins, particularly when birth certificates are altered or gestational mothers are omitted from official records. This undermines the child's right to preserve their identity, nationality, and family relationships without unlawful interference.

3. The principle of the child's best interests[12]. The best interests of the child must be "a primary consideration in all actions concerning children." Yet surrogacy is often justified primarily by reference to the desires of intended parents, not the long-term welfare or developmental needs of the child. The emotional, psychological, and identity-related consequences of being born via surrogacy are seldom considered in policy debates.

4. The right not to be separated from parents against their will[13]. While this article allows for separation in limited circumstances, surrogacy creates a scenario in which separation is planned and executed from conception. The child is deliberately removed from the woman who carried and gave birth to them, regardless of the child's emotional or biological bond.

5. Protection from sale and trafficking[14]. United Nations member states are obliged to take action to prevent the abduction, sale or traffic in children "for any purpose or in any form." Commercial surrogacy arrangements, especially those involving international travel and payment, closely resemble the commercial transfer of children. The commissioning, contractual delivery, and transfer of a child in exchange for payment raises serious concerns under this article.

The rights of children must be central in any legal or policy response to surrogacy. This involves:

- Upholding and enforcing existing bans on commercial surrogacy, including overseas arrangements, to prevent the commodification and cross-border transfer of children.
- Resisting any policy or legal framework that would legitimise practices inherently in tension with the rights outlined in the *Convention on the Rights of the Child*.
- Prioritising the right of children to their identity, family relations and as far as possible to be known and cared for by their parents, above the desires of adults seeking to become parents.
- Ensuring that any legal arrangements involving children uphold the child's best interests in both principle and practice and not merely in contractual terms.

[11] Ibid Art 8
[12] Ibid Art 3
[13] Ibid Art 9
[14] Ibid Art 35

Ultimately, children are not products to be commissioned or delivered. They are persons with inherent dignity and rights that must be respected, protected, and fulfilled.

In addition, the human rights of women, who are at risk of exploitation and trafficking as a result of surrogacy arrangements, should also be a key consideration of the Review.

The stories of surrogate mothers reveal deep emotional, physical, and spiritual harm that surrogacy can inflict. Many women who have given birth to babies as surrogates experience profound grief, anxiety, and trauma after surrendering the child they carried.

Cathy, a former surrogate mother, reflects on the enduring impact:

> "The pain never goes away. I am still an emotional basket case and struggle every day with this… When I signed the paper, I thought I could do it. I did not realise it would break my heart. The pain and emptiness I feel have been unbearable."[15]

Another woman, Sherrie, shares her profound grief:

> "I can't describe the depth of sadness I felt when I came home without the child I loved, carried within me, and gave birth to. It was as if I had a child die… I just couldn't help but love this child like my own, because it was my own … As I watched their car driving away that day on the gravel road, I felt like the dust left behind to scatter in the corn fields."[16]

Many women report lasting psychological distress, including grief, anxiety, depression, and ongoing separation trauma. In some cases, the impact extends to their own children, who express fear that they too might be given away.

In a study[17]which found that surrogate mothers often form deep emotional bonds with the babies they carry, researchers warned that surrogacy "should be considered a high-risk emotional experience" because of the distressing psychological effects these women face.

At its core, surrogacy requires the intentional suppression of the natural maternal bond that develops during pregnancy — a bond grounded not only in biology, but in the spiritual and emotional reality of motherhood.

As Chief Justice Thackray of the Family Court of Western Australia noted:

> [S]urrogate mothers are not baby-growing machines, or "gestational carriers". They are flesh and blood women who can develop bonds with their unborn children.[18]

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[15] Jennifer Lahl, Melinda Tankard Reist, Renate Klein (eds), *Broken Bonds: Surrogate Mothers Speak Out*, Spinifex Press, Australia, 2019, p.5.
[16] Ibid p.16
[17] Ahmari Tehran H, Tashi S, Mehran N, Eskandari N, Dadkhah Tehrani T. Emotional experiences in surrogate mothers: A qualitative study. *Iran J Reprod Med*. 2014 Jul;12(7):471-80. PMID: 25114669; PMCID: PMC4126251. Accessed here https://pmc.ncbi.nlm.nih.gov/articles/PMC4126251/
[18] *Farnell & Anor and Chanbua* [2016] FCWA 17 at 757.

Surrogacy also places women and babies at significant physical risk.[19]A 2024 Canadian study[20] published in the *Annals of Internal Medicine* examined over 860,000 single-baby births, including 806 gestational surrogacy cases. Women acting as gestational surrogates experienced severe maternal complications at a rate of 7.8 per cent, more than three times the risk of women who conceived naturally (2.3 per cent) and nearly double the risk of those who conceived through IVF (4.3 per cent). Complications included postpartum haemorrhage, severe pre-eclampsia, infection, and increased risk of premature birth.

Beyond individual cases, there is a broader pattern of commodification and exploitation. Surrogacy disproportionately affects financially vulnerable women, who are often recruited into arrangements with limited legal or medical protections. The risk of exploitation increases significantly in international arrangements where oversight is weak and cross-border enforcement is minimal.

The role of the criminal law

Question 24: Should the law have a role in discouraging or prohibiting certain forms of surrogacy?

The law should prohibit all forms of surrogacy, especially commercial surrogacy, because it violates the inherent dignity of the human person and breaches key principles of international human rights law.

Surrogacy reduces the child to an object of adult desire and turns pregnancy into a service that can be arranged or purchased.

It fails to protect the most vulnerable party involved: the child. A child has no voice in decisions governing their conception, gestation, and separation from the mother who carried them. Surrogacy intentionally severs the natural maternal bond and replaces it with contractual arrangements designed to satisfy adult intentions. This undermines the child's fundamental rights under the *Convention on the Rights of the Child*, including the right to identity, to know and be cared for by their parents, and not to be separated from them except where absolutely necessary.

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[19] Lahl, Jennifer; Fell, Kallie; Bassett, Kate; Broghammer, Frances H.; and Briggs, William M. (2022) "A Comparison of American Women's Experiences with Both Gestational Surrogate Pregnancies and Spontaneous Pregnancies," *Dignity: A Journal of Analysis of Exploitation and Violence*: Vol. 7: Iss. 3, Article 1. https://doi.org/10.23860/dignity.2022.07.03.01

[20] Velez MP, Ivanova M, Shellenberger J, Pudwell J, Ray JG. "Severe Maternal and Neonatal Morbidity Among Gestational Carriers : A Cohort Study". *Ann Intern Med*. 2024 Nov;177(11):1482-1488. doi: 10.7326/M24-0417. Epub 2024 Sep 24. Erratum in: Ann Intern Med. 2025 Mar;178(3):456. doi: 10.7326/ANNALS-25-00347. PMID: 39312777. Accessed here: https://pubmed.ncbi.nlm.nih.gov/39312777/

Commercial surrogacy in particular risks turning children into commodities, transferred across borders, handed to unrelated adults, and often exchanged for money. These practices closely resemble child trafficking.

Beyond legal violations lies a deeper moral truth: every human life is a gift, not a product to be commissioned or controlled.

There is no form of regulation that can remedy the fundamental injustice at the heart of surrogacy, which is that it treats human beings, especially children, not as persons to be loved and protected, but as objects to be commissioned, exchanged, and delivered according to contract.

Other insights

Question 27: Are there any important issues with regulating surrogacy that we have not identified in the Issues Paper? Do you have any other ideas for reforming how surrogacy is regulated?

We offer the Church's profound vision for the human person, one that is grounded in God's plan of love and freedom for every human being. It considers[21] every child to be a gift, not "an object to which one has a right",[22] and motherhood as a personal and embodied vocation that cannot be reduced to a function or outsourced.

Every human being is made in the image and likeness of God (Genesis 1:27) and thus has inalienable worth and dignity.

> We were conceived in the heart of God, and for this reason each of us is the result of a thought of God. Each of us is willed, each of us is loved, each of us is necessary.[23]

As Pope Francis[24] asserted, surrogacy is "a grave violation of the dignity of the woman and the child based on the exploitation of situations of the mother's material needs". A child, he reminds us, "is always a gift and never the basis of a commercial contract".

The Church's teaching on human freedom and the dignity of the human person stands in direct opposition to this commodification of women. A woman is not a machine for reproduction; she is a person made in the image of God, called to bear life with love,

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[21] *Donum Vitae* ("The Gift of Life"), published in 1987 by the Congregation for the Doctrine of the Faith, is the foundational Church document addressing bioethical questions around procreation, particularly in response to the rise of in vitro fertilization (IVF) and surrogacy. It affirms that human life is a sacred gift from the moment of conception and must never be treated as an object or product.

[22] Ibid at part 8.

[23] Encyclical Letter *Laudato Si* of the Holy Father Francis on Care for our Common Home, at 65.

[24] Christopher White, "Pope Francis calls for global ban on surrogate motherhood: Kids not 'commercial contract', *National Catholic Reporter*, 8 January 2024.

freedom, and dignity. Surrogacy reduces this sacred role to a service contract—an arrangement that denies the woman's full humanity.

Surrogacy also directly contradicts a vision of motherhood as a sacred vocation grounded in the full personal dignity of the woman. Motherhood is not merely a physical or biological process, it is a profound act of self-giving that unites the woman's body, heart, and soul in openness to new life.[25] It is within this communion that a woman discovers a unique capacity to nurture, protect, and love the child she carries, forming a bond that shapes both her own identity and the child's. To sever this bond by design is emotionally damaging and spiritually disordered. Surrogacy attempts to divide a woman's body from her identity, as though she could be a vessel without being a mother.

[25] Apostolic Letter *Mulieris Dignitatem* of the Supreme Pontiff John Paul II On The Dignity and Vocation of Women on the Occasion of the Marian Year, accessed here https://www.vatican.va/content/john-paul-ii/en/apost_letters/1988/documents/hf_jp-ii_apl_19880815_mulieris-dignitatem.html

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August 30, 2025

The Hon. Sarah Mitchell, MLC (NAT, LC Member)
Select Committee on Fertility Support and Assisted Reproductive Treatment
Parliament House
Macquarie Street
SYDNEY NSW 2000

[redacted]

RE: Response to Inquiry into Fertility Support and Assisted Reproductive Treatment.

Dear Chairperson Mitchell:

The National Catholic Bioethics Center (NCBC), which I represent, is a non-profit research and educational institute committed to applying the moral teachings of the Catholic Church to ethical issues arising in health care and the life sciences. It was established in 1972 to address the ethical issues arising in health care and the life sciences, as technological advances, including assisted reproductive technologies (ART), were outpacing the ethical analysis needed to assure the protection of vulnerable populations. Its educational programing, leading to two graduate degrees, publications, and most importantly its consultation services attest to the fact that persons have struggled with the consequences of certain methods of ART.

Introduction

NCBC serves numerous healthcare professionals and healthcare agencies in their development and analysis of policies and protocols. NCBC has 510 members throughout the United States of America and internationally and provides consultations to thousands of institutions and individuals. Increasingly such constituents are seeking its opinion on ethical matters in the delivery of healthcare such as infertility, including referrals for Fertility Awareness Based Methods (FABM). Such consultations are sought by those struggling with infertility, even after they have invested in years of struggle and thousands of American dollars in assisted reproductive technologies (ART) that do not address the underlying causes of the infertility, resulting in failure and futility. Numerous scientifically proven methods to promote successful pregnancies have been developed known as Fertility Awareness Programs. Fertility Awareness Based Methods (FABMs) avoid the risks and side effects, not only to women but also to the

children engendered, especially by *in vitro* fertilization (IVF).[1] One of the most used FABMs, The Billings Ovulation Method, was developed by scientists in Australia. In the USA, *Fertility Appreciation Collaborative to Teach The Science* (FACTS), has proven highly effective and much less costly than other methods of overcoming infertility.[2] These advances avoid the toll on the dignity of the human person, especially women who usually for financial reasons are the victims of a commodification through surrogacy, which is a form of human trafficking, which any civilized society should condemn.

NCBC understands that there are efforts to amend current law to allow for the commercialization of the human person, specifically women, currently prohibited by existing law: the *Surrogacy Act 2010*;[3] and the *Assisted Reproductive Technology Act 2007.*[4] We wish to identify the hazards to individuals and society by the expansion of *in vitro* fertilization access and the legalization of commercial surrogacy, and recommend FABM as alternatives, that are more effective, less costly, and maintain the human dignity to both the mother and father seeking such assistance.

It is our understanding that the "Terms of Reference" pertaining to the *Inquiry into fertility support and assisted reproductive treatment* (*Inquiry*) have been identified. NCBC wishes to focus on three:

(f) barriers to accessing assisted reproductive treatment including in vitro fertilization (IVF) technology and surrogacy;

(i) changes to New South Wales government policies and procedures to better support families and surrogates through surrogacy; and

(j) relevant national and international laws that impact on surrogacy arrangements in New South Wales, including consideration of a model national legal framework for surrogacy arrangements….

Terms of Reference

- (f) barriers to accessing assisted reproductive treatment including in vitro fertilization (IVF) technology and surrogacy. [Surrogacy addressed below]:

Both IVF and Surrogacy should be heavily regulated, if not restricted. While we oppose methods that separate the sacred unity of a husband and wife in achieving procreation, we wish to comment on the need for rigorous government regulation when such manipulation of human reproduction is occurring.

Drugs to stimulate ovulation used in IVF and surrogacy (including Clomiphene, Letrozole, and long-acting Follicle Stimulating Hormone - FSH) can have significant negative consequences.

[1] Facts about Fertility (FACTS, Re-vitalizing Women's Health Care Together). Last viewed January 25, 2024. https://www.factsaboutfertility.org/.
[2] Dr. Marguerite Duane and Dr. Bob Motley, "Facts about Fertility," *Fertility Appreciation Collaborative to Teach The Science* (April 1, 2025). https://www.factsaboutfertility.org/who-is-facts/.
[3] https://legislation.nsw.gov.au/view/html/inforce/current/act-2010-102.
[4] https://legislation.nsw.gov.au/view/whole/html/inforce/current/act-2007-069.

FSH, regardless of protocol, has documented risks. Side effects of ovarian stimulation include ovarian hyperstimulation syndrome (swollen and painful ovaries); and the risks of in vitro fertilization include: ectopic pregnancy; multiple births; a slightly higher risk of a baby being born with heart issues, digestive problems, or other conditions; and the risk that the baby will be born early or with a low birth weight.[5] Also, while earlier studies found a link to a specific type of ovarian tumor, more recent studies do not support these findings. However, some studies have found that the use of clomiphene citrate (Clomid) for at least a year may increase risk for ovarian tumors. The risk was highest among women who did not get pregnant, so it remains unclear if the risk is due to infertility or the drug.[6] This is significant since ovarian cancer grows quickly and can progress from early stages to advanced stages within a year.[7]

- (i) changes to New South Wales government policies and procedures to better support families and surrogates through surrogacy; and (j) relevant national and international laws that impact on surrogacy arrangements in New South Wales, including consideration of a model national legal framework for surrogacy arrangements:

Gestational surrogacy, defined as a reproductive arrangement where a woman (the surrogate) carries and gives birth to a baby for another person or couple (the commissioning or intended parents), is a very controversial practice. Several countries ban all forms of surrogacy. In the United Kingdom and Commonwealth of Nations only altruistic surrogacy, where one can only provide reimbursement for expenses, is permitted.[8] Australia, as a Commonwealth country, currently has similar legislation to Canada, South Africa, etc. allowing altruistic surrogacy but banning commercial surrogacy.[9]

Commercial surrogacy, where the surrogate mother is paid for carrying the child of the contracting parties, is rightfully illegal in almost every country. There are numerous ethical reasons for these legal bans. Making the delivery of a human being the object of a commercial contract is extremely disquieting and includes hallmarks of human trafficking and forced reproductive labour. The commodification of the bodies of women for the purpose of carrying pregnancies is an abuse of human rights. It tends to reinforce exploitation and unequal power dynamics where individuals and entities with greater financial means exert control over the ability of females to become pregnant and deliver a healthy baby. The lack of respect for the women subjected to surrogacy contracts can be seen in the terms frequently used to refer to the surrogate mothers. At times they are designated as “gestational carriers” or even “hosts.”

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[5] Mayo Clinic, “In vitro Fertilization: Risks” (Sept. 1, 2023). https://www.mayoclinic.org/tests-procedures/in-vitro-fertilization/about/pac-20384716.
[6] Roswell Park Comprehensive Cancer Center, *Ovarian Cancer Risk Factors.* Accessed January 25, 2024. https://www.roswellpark.org/cancer/ovarian/what-ovarian-cancer/risk-factors#:~:text=Some%20studies%20found%20that%20women,to%20infertility%20or%20the%20drug..
[7] The University of Kansas Cancer Center, *What Is Ovarian Cancer: Symptoms, Detection and Treatment.* Accessed January 25, 2024. https://www.kucancercenter.org/news-room/blog/2020/08/what-is-ovarian-cancer-symptoms-treatment#:~:text=Ovarian%20cancer%20grows%20quickly%20and,spread%20in%20weeks%20or%20months.
[8] Surrogacy laws by country, Accessed August 29, 2025. https://en.wikipedia.org/wiki/Surrogacy_laws_by_country
[9] Ibid;

Surrogacy involves turning human life into a commodity on multiple levels, as Kathleen Sloan described in testimony given to a government commission studying the issue in the U.S. State of Minnesota. Sloan is a feminist and director of the National Organization for Women in Connecticut. On commercial gestational surrogacy, she says it involves "children intentionally severed from genetic and biological sources of identity, human rights be damned. In essence, it is the ultimate manifestation of the neoliberal project of capitalist commodification of all life to create profit and fulfill the narcissistic desires of an entitled elite."[10]

Reem Alsalem, the United Nations (UN) special rapporteur on violence against women and girls, issued an official report focusing on gestational surrogacy from a human rights perspective. We urge the committee members to read and carefully consider this important and recent United Nations report. The report states that globally, in 2023, surrogacy was a $14.95 billion industry, and it is projected to reach $99.75 billion by 2033. Most of that money goes to intermediaries, not surrogates who usually receive only 10% to 27.5% of the whole payment. [11] In other words, the conception, gestation, and delivery of human beings is becoming a major for-profit commercial enterprise. Many of those serving as commercial surrogate mothers are vulnerable persons, frequently indebted or from low-income backgrounds.

Many human rights abuses are a major concern with commercial gestational surrogacy. If the surrogates miscarry or don't fully comply with the contract, the surrogates may not receive payment, and if they can't become pregnant, some have been required to pay for fertility medications. Some surrogacy contracts have stipulated that the contracting intended parents were allowed to constantly monitor a surrogate mother with surveillance cameras and restrict her movement. It is not infrequent for commercial surrogacy contracts to contain clauses that require the surrogate to submit to an unwanted abortion if the commissioning parties decide they no longer want the child. "Surrogacy arrangements can amount to or resemble slavery, as they place surrogate mothers in a position in which any or all of the attributes of the right of ownership are exercised over them."[12] Reports of sex offenders using commercial surrogacy to commission children point to the incredible abuse that can be perpetrated through surrogacy.

Surrogate pregnancies have been shown to suffer from greater medical risks than other pregnancies. "Studies indicate that children born through surrogacy have lower mean gestational age at delivery, higher rates of preterm birth and higher rates of low birth weight. Assisted reproductive technology and multifetal pregnancy have reportedly been associated with an increased risk of birth defects."[13] The UN report highlighted elevated risks of maternal gestational diabetes, hypertension, pre-eclampsia, and placenta previa as particularly concerning issues.[14] According to accounts from India, Mexico, and Nepal, caesarean section

[10] Cited in Tad Pacholzyck, "The Multiple Moral Problems of Surrogacy," (October 30, 2016). https://www.ncbcenter.org/making-sense-of-bioethics-cms/column-136-the-multiple-moral-problems-of-surrogacy
[11] Reem Alsalem, "Violence against women and girls, its causes and consequences," United Nations General Assembly Eightieth Session Item 26 of the provisional agenda, Advancement of women (July 14, 2005). https://docs.un.org/en/A/80/158.
[12] Ibid;
[13] Ibid;
[14] Ibid;

birth is often mandated in surrogacy contracts, even if it's not medically necessary or the surrogate mother doesn't want it.[15]

The UN report also points out that the distinctions between altruistic and commercial surrogacy "are often blurred, particularly in jurisdictions where commercial surrogacy is formally prohibited but where reimbursement is so high that it effectively constitutes commercial payment."[16] It states the following.

> Reducing women to their reproductive function also contravenes article 5 of the Convention on the Elimination of All Forms of Discrimination Against Women, under which States are obliged to modify social and cultural patterns of conduct based on stereotyped roles for men and women.[17]
>
> Consent alone does not render surrogacy ethical. It is widely recognized that consent alone cannot justify human rights violations, including those associated with human trafficking, the sale of organs, slavery or torture.[18]
>
> The irrelevance of consent in such circumstances served a protective purpose for persons at risk. For example, some impoverished surrogate mothers become repeatedly pregnant without having sufficient time to recover from a previous birth or miscarriage.[19]

We especially draw the committee's attention to the conclusions of this UN report. "The practice of surrogacy is characterized by exploitation and violence against women and children, including girls. It reinforces patriarchal norms by commodifying and objectifying women's bodies and exposing surrogate mothers and children to serious human rights violations."[20] The report asks UN Member States to "work towards adopting an international legally binding instrument prohibiting all forms of surrogacy."[21]

Among the many leaders calling for an international ban on gestational surrogacy was Pope Francis, notably on January 8, 2024: "I deem deplorable the practice of so-called surrogate motherhood, which represents a grave violation of the dignity of the woman and the child, based on the exploitation of situations of the mother's material needs. A child is always a gift and never the basis of a commercial contract. Consequently, I express my hope for an effort by the international community to prohibit this practice universally."[22]

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[15] Ibid;
[16] Ibid;
[17] Ibid;
[18] Ibid;
[19] Ibid;
[20] Ibid;
[21] Ibid;
[22] Pope Francis, "Address of His Holiness Pope Francis to Members of the Diplomatic Corps Accredited to the Holy See," (January 8, 2024). https://www.vatican.va/content/francesco/en/speeches/2024/january/documents/20240108-corpo-diplomatico.html

Official Catholic Church teaching on the unacceptability of all forms of gestational surrogacy is clear. The instruction from the Congregation for the Doctrine of the Faith, *Donum Vitae*, states the following. "Surrogate motherhood represents an objective failure to meet the obligations of maternal love, of conjugal fidelity and of responsible motherhood; it offends the dignity and the right of the child to be conceived, carried in the womb, brought into the world and brought up by his own parents; it sets up, to the detriment of families, a division between the physical, psychological and moral elements which constitute those families."[23]

Thus, there needs to be strong regulation surrogacy, not less, to prevent the abuse of women as "gestational carriers," which is an afront to the women and the children who are considered a commodity by these very procedures. This is especially true if the ART involves recent technologies such as "three person embryos" by mitochondrial donation.[24] Thus, such processes if not banned need to be well regulated. There are significant risks to the embryos engendered, and potentially to the egg or embryo donor, and the potential negative effects to the gene pool.[25]

Furthermore, the whole area of uterus transplants raises ethical questions concerning the wellbeing of the mother and the risks to which the embryo or fetus is subjected. There is a fine line between fertility treatments and research, and there is a need for reporting on these specific issues.

In conclusion, gestational surrogacy is condemned as unethical by a very wide range of individuals and institutions from the United Nations to the Catholic Church. Acknowledging the deep suffering of infertility and searching for ethical approaches, such as FABM to resolve this growing societal problem is praiseworthy. Gestational surrogacy, especially commercial surrogacy, creates more problems and injustices than existed before.

Conclusion

Thank you for this opportunity to provide public comments regarding possible changes to New South Wales government policies and procedures to better support families who struggle with infertility. While the Terms of Reference request support for policies that advance surrogacy in New South Wales, including consideration of a model national legal framework for surrogacy arrangement, such policies put women and babies, as well as families at risk physically, psychologically, as well as sociologically. In other words, rather than advancing the common good, relaxing the provisions of existing law will harm women, their children, and families, as

[23] Congregation for the Doctrine of the Faith, "Instruction on Respect for Human Life in its Origin and on the Dignity of Procreation," (February 22, 1987). https://www.vatican.va/roman_curia/congregations/cfaith/documents/rc_con_cfaith_doc_19870222_respect-for-human-life_en.html

[24] Hana Carolina Moreira Farnezi, "Three-parent babies: Mitochondrial replacement therapies," *JBRA Assist Reprod.* (2020 Apr-Jun; 24(2)): 189–196. https://www.ncbi.nlm.nih.gov/pmc/articles/PMC7169912/.

[25] Vicente Javier Clemente-Suárez, et al., "Mitochondrial Transfer as a Novel Therapeutic Approach in Disease Diagnosis and Treatment," *Int J Mol Sci.* (2023 May; 24(10)): 8848. https://www.ncbi.nlm.nih.gov/pmc/articles/PMC10218908/#:~:text=Mitochondrial%20transfer%20involves%20the%20exchange,types%20%5B1%2C13%5D.

well as societal wellbeing. Thus, rather than relaxing the provisions of the *Surrogacy Act 2010* and the *Assisted Reproductive Technology Act 2007*, such existing law should be strengthened to enhance restrictions against IVF and surrogacy, and to protect both the human embryo and his or her parents from the inherent threats to human life and dignity.

Sincerely yours,

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