



International Coalition
for the Abolition of Surrogate Motherhood

It is true

**Surrogacy violates
international treaties**

It undermines human dignity and equality, compromises the best interests of children and leads to human trafficking, eugenics and violence against women.

ICAMS's 50 member organizations operate in 16 countries: Austria, Australia, Belgium, Canada, Colombia, France, Italy, Ireland, Japan, Romania, South Korea, Spain, Sweden, Ukraine, the United Kingdom, and the United States.

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This article explains how surrogacy violates all the international treaties and the very concepts of universal human right

DIGNITY

The “Charter of the United Nations”¹ reaffirms faith in fundamental human rights, in the dignity and worth of the human person and in the equal rights of men and women.

The “Universal Declaration of Human Rights”² states that all human beings are born free and equal in dignity and rights, and that it emphasizes in its preamble that recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world, and that disregard and contempt for human rights have led to barbaric acts that have outraged the conscience of mankind.

Surrogate motherhood is a violation of the primacy of the human person, of the integrity and the non-patrimoniaity of the human body, since it is based on the instrumentalisation and exploitation of women’s bodies and their reproductive capacities for the benefit of third parties, with no other objective than the satisfaction of their individual desires.

By opening up the possibility of instrumentalising and exploiting women for their reproductive capacity, surrogacy humiliates women, undermines the very notion of human dignity and undermines it for our societies as a whole.

EQUALITY BETWEEN MEN AND WOMEN

In its Article 3, the “Convention on the Elimination of All Forms of Discrimination against Women”³ calls upon States to *“to ensure the full development and advancement of women, for the purpose of guaranteeing them the exercise and enjoyment of human rights and fundamental freedoms on a basis of equality with men”*.

Surrogate motherhood, which leads to the specific appropriation of women’s reproductive capacities and entails, and psychological risks, constitutes a violation of the principle of equality between women and men and reinforces and perpetuates this inequality.

TRAFFICKING

The “Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organised Crime”⁴ defines trafficking in persons and calls upon States to prevent and combat trafficking in persons, paying particular attention to women and children.

Reproductive surrogacy meets the three criteria set out in the Protocol to qualify the offence of trafficking in persons according to which consent is irrelevant: Surrogate mothers are **recruited** (criterion 1), by means of three lies, **fraud or deception** (criterion 2): that her child will not be sold, that she is not the mother, that the child she gives birth to is not her own or the purpose of reproductive **exploitation** (criterion 3).

The “Slavery Convention of 26 September 1926”⁵ defines slavery, in Article 1, as “*the status or condition of a person over whom any or all of the attributes of the right of ownership are exercised*”. In surrogacy, the “clients” acquire both, the right to take the “fruits” of the surrogacy, one or more children and a real right of use over the person of the surrogate mother once the contract is concluded, or a court decision is taken in accordance with local practice or legislation, in so far as she is made to relinquish her most fundamental rights over bodily autonomy in accordance with the requirements of the commissioning parents and of the surrogacy industry.

CHILD’S BEST INTERESTS

The “Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption”⁶ which, in order to prevent the abduction, sale or trafficking of children, requires in its Article 4 that the consent of the parents at birth, and in particular that of the mother, be obtained after the birth of the child.

The “Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography”⁷ provides in Article 2 that the sale of a child is defined as “*any act or transaction whereby a child is transferred by one person or group of persons to another person or group of persons for payment or other consideration*”.

The “Convention on the Rights of the Child”⁸, in Articles 7 and 9, “*guarantees the right of the child to know his or her parents as far as possible and to be cared for by them*” and that “*States Parties shall ensure that the child shall not be separated from his or her parents against their will*”.

The surrogate mother who becomes pregnant and gives birth to the child is excluded by contract, law or court order from the relationship with the child. The real and scientifically established maternal-foetal epigenetic link is abruptly severed to the detriment of the surrogate mother’s psychological well-being and erased from the child’s genealogy, as is the genetic contribution of the egg donor.

The United Nations Special Rapporteur “on the sale and sexual exploitation of children, including child prostitution, child pornography and other content”⁹, in her study on surrogacy in her 2018 progress report, acknowledged that (a 42) “*surrogacy arrangements constitute sale of children whenever the surrogate mother or a third party receives “remuneration or any other consideration” in exchange for transferring the child. There are three elements in the definition of sale of children: (a) “remuneration or any other*

consideration” (payment); (b) transfer of a child (transfer); and (c) the exchange of “(a)” for “(b)” (payment for transfer)”.

Pre-arrangements and/or financial compensation prior to birth of the child is the very principle of surrogacy, which constitutes a violation of the above-mentioned international conventions drawn up to protect children.

VIOLENCE AGAINST WOMEN

The “Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence”, known as the “Istanbul Convention”¹⁰, defines the concept of violence against women in Article 3 as (b) *“all acts of gender-based violence that result in, or are likely to result, physical, sexual, psychological or economic harm or suffering to women”* and (d) *“gender-based violence against women” shall mean violence that is directed against a woman because she is a woman or that affects women disproportionately”*.

The Article 3 of the “Charter of Fundamental Rights of the European Union”¹¹ states that *“everyone has the right to respect for her or his physical and mental integrity”*.

Surrogacy is a form of violence, especially medical violence inflicted on women, in so far as the deliberate acts, performed on the body and person of a woman, (a woman in good health and without desire for a child) necessarily cause damage to her physical integrity and are likely to deteriorate her health and lead to physical and/or psychological suffering, surrogacy contracts subordinate the woman to the commissioning parents and that medical acts carried out in the context of the pregnancy favour the interests of the commissioning parents to the detriment of the woman bearing the child.

EUGENICS

The “Convention on Human Rights and Biomedicine”, known as the “Oviedo Convention”¹², establishes in Article 2 that *“the interests and welfare of the human being shall prevail over the sole interest of society or science”* and in Article 14 that *“the use of techniques of medically assisted procreation shall not be allowed for the purpose of choosing a future child’s sex, except where serious hereditary sex-related disease is to be avoided”*.

Surrogacy is contrary to the principle of the primacy of the human being as defined by the Oviedo Convention, in the sense that the use of a surrogate mother to procure a child is tantamount to subjecting a woman to the desires of others through the use of invasive medical acts and treatments that have nothing to do with health care.

The choice of the sex of the commissioned child, and the genetic selection of embryos, are among the “services” offered and openly advertised by surrogacy companies.

INTERNATIONAL AND NATIONAL CONDEMNATIONS

In the name of human rights and the protection of women and children, surrogacy is condemned and banned in many countries around the world.

Several countries, concerned about the extent to which their women citizens are being exploited by wealthy third-country nationals, have begun to take steps to try to put an end to this international trafficking system.

Other countries have sought to ban and punish the use of cross-border surrogacy, which is nothing more than the exploitation of women outside their own country. In Australia, it is a crime offence for residents of Queensland, New South Wales and the Australian Capital Territory to engage in commercial surrogacy especially abroad¹³. In Spain, the Criminal Code Article 221, paragraph 1 & 2 ¹⁴ includes provisions to punish anyone who gives a child to another person for “*financial consideration*”, “*even if the delivery may have taken place in a foreign country*”. In Italy a draft law was introduced in 2023 to criminalise cross-border surrogacy. Unfortunately, none of these provisions have yet been put into practice.

The European Union has clearly condemned the use of surrogacy from 2015 onwards in its annual report “on human rights and democracy in the world and the European Union’s policy on the matter”¹⁵, specifying that “*the practice of surrogacy, undermines the human dignity of the woman since her body and its reproductive functions are used as a commodity; considers that the practice of gestational surrogacy which involves reproductive exploitation and use of the human body for financial or other gain, in particular in the case of vulnerable women in developing countries, shall be prohibited and treated as a matter of urgency in human rights instruments*”,

However, countries that prohibit the use of surrogacy have not yet made provisions for cross-border surrogacy, creating serious discrimination and a de facto hierarchy between women citizens protected on their national territory and women in countries that allow the practice, thus creating categories of women vulnerable to instrumentalisation and exploitation,

The development of surrogate motherhood is the result of a commercial and industrial system that has organised a very lucrative market bringing together a considerable number of actors whose main interest is profit-, operating under false humanitarian arguments and the banner of individual freedom and disregarding the principles that safeguard our humanity.

¹ <https://www.un.org/en/about-us/un-charter/full-text>

² <https://www.ohchr.org/EN/UDHR/Pages/Language.aspx?LangID=eng>

³ <https://www.un.org/womenwatch/daw/cedaw/cedaw.htm>

⁴ Palermo Protocole https://treaties.un.org/doc/Treaties/2000/11/20001115%2011-38%20AM/Ch_XVIII_12_ap.pdf

⁵ <https://www.ohchr.org/en/instruments-mechanisms/instruments/slavery-convention>

⁶ <https://www.hcch.net/en/instruments/conventions/full-text/?cid=69>

⁷ https://treaties.un.org/doc/Treaties/2000/05/20000525%2003-16%20AM/Ch_IV_11_cp.pdf

⁸ https://treaties.un.org/doc/Treaties/1990/09/19900902%2003-14%20AM/Ch_IV_11p.pdf

⁹ <https://www.ohchr.org/en/special-procedures/sr-sale-of-children/surrogacy>

<https://undocs.org/Home/Mobile?FinalSymbol=A%2FHRC%2F37%2F60&Language=E&DeviceType=Desktop&LangRequested=False>

¹⁰ <https://rm.coe.int/168008482e>

¹¹ https://www.europarl.europa.eu/charter/pdf/text_en.pdf

¹² <https://rm.coe.int/168007cf98>

¹³ <https://www.surrogacy.gov.au/surrogacy-overseas/risks-commissioning-parents>

¹⁴ .113

https://www.mjusticia.gob.es/es/AreaTematica/DocumentacionPublicaciones/Documents/Criminal_Cod_e_2016.pdf

¹⁵ https://www.europarl.europa.eu/doceo/document/TA-8-2015-0470_EN.html



INTERNATIONAL COALITION FOR THE ABOLITION OF SURROGATE MOTHERHOOD

ICASM is an international feminist umbrella organisation, working to eradicate surrogacy on national and international levels.

We oppose surrogacy as it exploits women's bodies and reproductive capacities, treats children as commodities, and ultimately undermines the rights of both women and children.

Through a global network of organisations and activists, we strive to end this harmful practice.



WHY OPPOSE SURROGACY?

- It turns women's bodies into profit-making machines, reducing children to mere objects of exchange.
- By exploiting vulnerable women as breeders for the wealthy, it perpetuates a cruel system that strips women of their agency and dignity.

ICASM' GOALS

- Promote equality between women and men.
- Advocate for the recognition of surrogacy as a form of violence against women and human trafficking.
- Support laws and policies protecting women's and children's rights.
- Ban all forms of surrogacy globally.

TAKE ACTION

- **Volunteer your skills:** Lend your expertise to our campaigns.
- **Spread the word:** Raise awareness about the dangers of surrogacy.
- **Share our message:** Promote our stance and arguments.
- **Donate:** Support our fight against exploitation.

Join ICASM for a world without reproductive surrogacy and child commodification.



Contact ICASM

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