

NMN input to the UNSRVAW on surrogacy

About us

[Nordic Model Now!](#) (NMN) is a UK-based secular feminist grassroots women's group campaigning for the abolition of prostitution and related practices, including surrogacy. We receive no institutional or public funding and all our members are unpaid activists.

Q1.

Surrogacy involves a woman being impregnated, becoming pregnant and carrying a child, with the sole aim of handing that child over to another person (the commissioners) – typically soon or immediately after the birth.

This requires the woman:

- To risk her fertility, physical and mental health and even her life for the benefit of the commissioners.
- To dissociate from the child she is carrying and from her own self and natural instincts.
- To give the baby away and then act like nothing significant has happened. She must carry on as before and not make a fuss. If she feels grief at the loss of the child, she must swallow it down, suck it up.

This is inherently violent to: the women concerned; the child who is denied a mother; and society which as a result sees children as commodities, and women as reproductive resources for other people's benefit. It is the instrumentalisation of women and a violation of their dignity.

Surrogacy is not “work”, in which a woman uses her body and mind to do or create something for herself and family or employment. Rather surrogacy is the use of her bodily functions by someone else. Someone who by some means has obtained control over her. This suggests that surrogacy has more in common with slavery than any recognised and valid form of labour.

The means by which others obtain control over her are many and varied and include: taking advantage of her poverty and marginalisation; manipulation by offers of payment; exploiting her innate generosity and socialisation to put everyone else's needs before her own; and direct coercion, force, and abuse of power or position of vulnerability.

All of this is made easier by the success of the fertility industrial complex ('Big Fertility') and its colonisation of the media and culture. Scarcely a day goes by in the UK without the publication of yet another story of a celebrity or gay male couple celebrating the birth of “their” child “via surrogate”, undisturbed by any concern for the welfare of the woman who carried the child under her heart for nine long months and must now swallow down her natural grief at the loss of that child.

I grew up on a farm and will never forget the sound of a cow after her calf was taken away, an unbearable bellowing of total anguish that continued for days. It was unlike any other sound. It was intolerable because her pain and distress was intolerable. That is the natural response of a higher mammalian mother to losing her infant. But if the “surrogate” mother dares to express such grief and anguish, she is likely to be diagnosed with “post-natal depression”, “postpartum psychosis”, some

other psychiatric disorder, or berated for “giving her baby away”. Like the cow on the farm, she has no resolution apart from a lifetime of grief or a deliberate deadening of her soul.

Big Fertility has manipulated the culture through language for decades. First, they chose to call the birth mother the “surrogate”, in contravention of the definition of “surrogate” which means someone who deputises for another. The birth mother is not deputising for anyone. Without her, the baby wouldn’t exist. By definition she is the mother. It is the commissioners who deputise for her – purporting to take over her role as mother of the child. By insisting the birth mother is the surrogate, Big Fertility manipulates and confuses everyone into thinking that she is dispensable and the commissioners are not. Now they go even further and call her the carrier or similar. This manipulation of the language grooms us all to accept a brutal and inhumane practice.

Surrogacy cannot be seen as anything other than a form of violence against women, children and the community.

Q2.

Surrogacy is intrinsically exploitative.

Exploitation has two key meanings in the English language:

1. The action or fact of treating someone unfairly in order to benefit from their work.
2. The action of making use of and benefiting from resources.

This question seems to be referring to the first meaning – which implies that surrogacy is a form of work and that “surrogate” mothers are sometimes treated in a way that is not exploitative. But this is not possible, because surrogacy is **inherently** exploitative. It is violent even when the woman and baby are superficially treated with some degree of consideration.

It is of immense concern that exploiting (i.e. profiting from) women’s surrogacy is now big business (i.e. the second meaning of exploitation). It is a multibillion-dollar business with a market size estimated at \$14 billion in 2022 and expected to grow to \$129 billion by 2032. This colossal industry is engaged in the sale of babies and profiting from women’s reproductive capacities for profit. This is abhorrent.

[CEDAW Article 6](#) requires ratifying states to suppress the exploitation of women’s prostitution – in other words banning third parties from profiting from women’s prostitution. Sex industry lobbyists argue this doesn’t mean a blanket ban on pimping, just a ban on treating women involved in prostitution unfairly. Of course they would! To acknowledge that the one correct reading of the English would mean a blanket ban on pimping would devastate their business model.

CEDAW was adopted by the UN in 1979, a year after the first IVF baby was born and before the modern surrogacy industry came into being. Had it existed in the 1970s as it does now, it is probable that the CEDAW drafters would have included a ban on the exploitation of women’s surrogacy. And no doubt like the pimps, Big Fertility would be arguing that it means a ban on treating women unfairly.

But they are wrong. It is unconscionable for third parties to profit from a practice that is a fundamental violation of women’s inalienable human rights.

Q3.

The international definition of human trafficking in the [Palermo Protocol](#) defines four forms of exploitation: “the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs”.

The Palermo Protocol was adopted by the UN in 2000, when the global surrogacy industry was still in its infancy. Had it been the size that it is now, it is probable that it would have included the exploitation of women’s surrogacy alongside women’s prostitution.

As organ removal is already included, we believe there is strong justification for adding the exploitation of women’s surrogacy as an additional form of exploitation. It cannot be considered “forced labour” because, as we explained earlier, impregnation, pregnancy and birth are not and never should be considered labour in the sense of a form of ordinary work.

There is almost total global consensus that payments for live kidney donations are unethical and should be banned. Giving up a kidney carries substantial health risks, including premature death. It is always the poorest people who come forward to sell their kidneys, and when money is involved, it affects health professionals’ decision-making and undermines their dispassionate care of patients – and commercialises human life itself.

Like live kidney donations, surrogacy carries [substantial health risks](#) for the birth mother, including premature death. So why is there a global consensus that paying for harvesting kidneys is always unethical but paying women to undergo surrogacy isn’t? This discrepancy is hard to explain given the parallels – until you remember that men have kidneys but can never get pregnant and we live in a world that almost always prioritises men’s well-being at the expense of women.

The acceptance of payment for women’s surrogacy but not of payment for kidney harvesting can only be seen as sex discrimination and we suggest that this is the main reason that the exploitation of women’s surrogacy has not already been added to the Palermo Protocol as a form of exploitation.

Q4.

In countries where surrogacy is tolerated, there are seldom any mechanisms that provide redress and protection for women and children who are harmed by the practice of surrogacy. We are not aware of any such mechanisms in the UK.

Q6.

Surrogacy instrumentalises women, plays on their socialisation to put everyone else’s needs before their own, and uses them as human incubators for the benefit of someone else. This reinforces stereotypes of women as servants, as second class, as lesser than men and not worthy of resources in their own right. Surrogacy therefore strengthens stereotypes of men as fully human and women as subordinate.

Q7.

Big Fertility and its colonisation of the media, rising infertility, a growing and worrying trend that sees having a child as a “right”, particularly among gay men and wealthy heterosexual couples, and a growing tendency among privileged women to be reluctant to undergo pregnancy because of potential harms to career and figure.

Q9.

Current law in England and Wales

There's a ban on advertising surrogacy (although it is not strictly enforced). Theoretically only 'altruistic' surrogacy is allowed and when the child is born, the birth mother is the legal mother. The commissioners then have to apply for a 'parental order' from the courts. This involves the Children and Family Court Advisory and Support Service (CAFCASS) undertaking an assessment of their suitability and a judge ruling in the child's 'best interests'.

Women can be paid "reasonable expenses", which currently average between £12,000 and £20,000 – more than many women earn in a year. The amounts involved can be considerably more when the child is born under a commercial arrangement overseas.

The payments must be approved by the judge who deals with the parental order. In practice receipts are not required and to our knowledge, judges have never refused a parental order on the basis of excessive payments.

So, in reality it's not true that only altruistic surrogacy is allowed. Women are already being paid to be 'surrogate' mothers – and in many cases, agencies are making a handsome income out of it.

But even when surrogacy is truly altruistic – there's no guarantee it will go well. We know several women who've been altruistic "surrogate" mothers for family or close friends, for whom it went terribly wrong.¹ These women's stories illustrate two major problems with the reality of surrogacy – (a) how easily women are enticed into doing it, and (b) that it generates a profound conflict of interests between the birth mother and the commissioners, who invariably have a sense of entitlement and ownership over the foetus (and hence the birth mother) before it is born. Commercial surrogacy systems invariably strengthen the position of the commissioners and weaken that of the birth mother.

Proposals for change

The UK [Law Commission](#) (LC) has presented recommendations for a [commercial-style system](#) and a draft bill to Parliament. While it doesn't appear on the Government's immediate agenda, we believe it is likely to take it up at some point. The leader of the LC project was Professor Nicholas Hopkins, whose area of expertise is property law, a man with no known expertise in women's and children's welfare and rights.

Key recommendations include a "new pathway to parenthood", tighter restrictions on what can be paid to birth mothers, an end to the advertising ban, regulated "not for profit" agencies, and a national register of surrogacy arrangements.

There will be some restrictions on who can qualify for the new pathway, but those who don't will be able to use something akin to the current system. The new pathway is broken into three phases.

1. **Preconception:** This involves the parties finding each other, usually facilitated by an agency, followed by basic health and criminal record checks, independent legal advice and "implications

¹ For example, see: <https://nordicmodelnow.org/2023/07/17/my-surrogacy-story-i-was-lied-to-manipulated-and-exposed-to-cruel-behaviours-by-public-institutions-and-people-i-thought-i-could-trust/>, <https://nordicmodelnow.org/2023/07/19/women-are-not-microwaves-a-surrogate-mother-and-a-midwife-speak-of-the-havoc-that-surrogacy-causes/> and <https://nordicmodelnow.org/2020/01/29/i-was-an-altruistic-surrogate-and-am-now-against-all-surrogacy/>

counselling”. This won’t be therapeutic counselling looking at why the woman wants to undergo such a dangerous procedure for someone else’s benefit but will inevitably be more a rubber-stamping exercise. There will also be a very shallow assessment of the welfare of any child born of the arrangement, but this won’t be comparable with pre-adoption assessments. Lawyers will then draw up a written agreement. This will specify what the birth mother will be paid – and this will be the only legally binding part of the agreement.

2. **Conception, pregnancy and birth:** Most surrogate pregnancies are now based on ‘donor’ eggs. This is preferred by the industry because it ensures there’s no genetic link between the birth mother and the child, which weakens any claim she may subsequently make to the child. So commercial surrogacy is predicated on [harvesting eggs](#) from healthy young women. This is risky and can lead to serious health complications, and even death. The LC made no recommendations for measures to reduce the risks for the women involved.

Donor egg pregnancies are also at [significantly greater risk](#) of complications, some of which are life threatening. These additional risks are thought to be due to the mother’s immune response to the foetus because it doesn’t share her DNA. The LC didn’t recommend measures that would reduce these risks – such as allowing only one embryo to be transferred, introducing an upper age limit for surrogate mothers, and limiting the number of surrogate pregnancies a woman can undertake. Their only concession was a lower age limit of 21.

The [Animal Welfare Act](#) places many restrictions on dog breeding, including limits on age and the number of pregnancies – which means more legal protections for dogs than for women under the LC’s proposals.

3. **Post-birth:** The commissioners automatically become the legal parents of the child at the moment of birth. This is what all the vested interests want – **certainty** that the commissioning parents get to legally own the baby and the gravy train gets their fees.

If the birth mother has second thoughts, she must take action within six weeks and then apply to the courts for a parental order. But even if the child was conceived from her own egg, the commissioning parents are likely to have custody and the support of the brokers and lawyers. So she’s unlikely to be granted a parental order even if she has the wherewithal to pursue one.

Much of this is justified by the claim that one or both the commissioners are the biological parent because they supplied the sperm or egg. This disappears the role and the relationship of the birth mother. Without her, eggs and sperm are waste products.

Removing the birth mother’s automatic right to be the legal mother would not only remove an important safeguard to the child’s welfare but would also set a precedent that will inevitably impact all women down the line – because it reduces the enormous biological and psychological investment of pregnancy and childbirth to the equivalence of a man’s ejaculation or a wad of cash.

The LC recommends strictly limiting what birth mothers can be paid to the actual costs she incurs and “modest” gifts – along with a mechanism for enforcing this. This purports to ensure that she is not coerced into it for financial gain and to reduce the risk of women being exploited. This would be admirable, if they weren’t also sanctioning an entire feeding chain of NGOs, lawyers, counsellors, fertility clinics, and health professionals who will financially benefit from the arrangement – in other words a commercial system for everyone apart from the one person without whom it could not exist.

This reveals the contradictions in the idea that altruistic surrogacy is possible at mass scale. It simply is not.

The proposed ending of the advertising ban will lead to more people wanting to take advantage of surrogacy – and even thinking they have a right to it. Young women are already [bombarded by online adverts](#) from fertility clinics seeking to harvest their eggs. The ads present a rosy picture and don't mention the grave risks – and they play on women's socialisation and generosity. No doubt advertisements seeking women to act as “surrogate” mothers will be run along similar lines.

It also exposes the hypocrisy of Big Fertility – the egg donor is considered the mother when it suits them but not when it doesn't. It all depends on who is paying for what. If the egg donor is a commissioner, she's considered the biological mother and the woman who carries and births the child is dismissed as an irrelevance. But if the egg is implanted into a woman who will keep the child, that woman is considered the biological mother and the egg donor is dismissed as an irrelevance.

Q10.

In the UK, the judge who oversees the parental order is required to act in the child's “best interests”. In theory this is of course correct but in practice it means that there is pressure to allow a parental order even when a child was born under exploitative conditions overseas and the commissioners are very old or unsuitable in some other way.² We question whether it is ever in a child's best interest to be raised by people who have essentially bought the child. By allowing the parental order, the judge legitimises the sale of children and so increases the likelihood that more children will suffer the same fate. We believe that the greater good needs to take priority over the purported best interests of an individual child.

Q11.

This right is simply ignored by Big Fertility and this is facilitated by the euphemistic terminology used. By calling the child's mother the “surrogate” and the commissioners the “parents”, they have managed to convince nearly everyone that a massive violation of the child's rights is not taking place right under all our noses.

Q15.

We believe that surrogacy is always a human rights violation and therefore we advocate for a total ban.

Q17.

We recommend that CEDAW is extended to include a ban on the “exploitation of (i.e. profiting from) women's reproductive capacities (egg harvesting and “surrogate” pregnancies).

We also recommend that Article 3 of the Palermo Protocol is similarly extended to include the exploitation of a woman's surrogacy and egg harvesting as a fifth recognised form of exploitation in the context of human trafficking.

² For example, see: <https://scotcourts.gov.uk/media/ee5pjazb/2024scedin29-petition-for-a-parental-order-in-relation-to-a.pdf> and <https://www.judiciary.uk/wp-content/uploads/2025/02/Re-Z-Unlawful-Foreign-Surrogacy-.pdf>

Q19.

Any international instrument should focus on banning surrogacy because it is a violation of the human rights of women and children.