



Sunday 13 April 2025

Sent by email to: hrc-sr-vaw@un.org

Dear Special Rapporteur on Violence against Women and Girls,

**Re: Input to the thematic report of the Special Rapporteur to the General Assembly
80th session on surrogacy and violence against women and girls**

Please accept the below 6 research points as input in your deliberations (*2836 words not including “answers to key questions” and endnotes*):

1. Scientific proof that mother-baby separation severely distresses infants

The practice of separating gestational mothers and their babies at or near to birth is intrinsic to all forms of surrogacy.

The twentieth century unsubstantiated belief that removal of babies from their gestational mothers makes a “clean break” of the gestational mother/infant bond without damage to either mother or child cannot be sustained.

We have known “scientifically” that mother-baby separation causes babies both short- and long-term trauma since at least the 1940s and we knew a long time before that, if not always.

Both primate and human studies show that maternal separation isn’t only stressful to babiesⁱ but is a stressor the human neonate is not well evolved to cope with.ⁱⁱ

Human studies have shown that even short-term maternal-neonate separation is stressful to babies, associating it with a dramatic increase in heart rate variability and a profoundly negative impact on quiet sleep duration, with an 86% decrease compared to when skin-to-skin with their mothers.ⁱⁱⁱ

Preterm babies kept separate from their gestational mothers in humidity cribs have been shown to have bonding difficulties regardless of subsequent parental sensitivity.^{iv} It is now practice in hospitals that these babies are touched and held by the woman who gave birth to them – ‘kangaroo care’ – because it is recognised how much better these babies do compared to being kept away from their mothers after birth.

In animal research, separation from mother is a common way of creating stress in order to study its damaging effects on the developing newborn brain.^v

Dr. Barak Morgan, the author of a 2011 study, claims his research is a step towards understanding exactly why babies do better when nursed in skin-to-skin contact with their mothers. Dr. John Krystal, editor of *Biological Psychiatry*, states that **Dr. Morgan's paper highlights the profound impact of maternal separation on the infant.**

"We knew that this was stressful, but the current study suggests that this is a *major physiological stressor for the infant*," he says.^{vi}

2. Scientific proof that early childhood stress has been shown to have long-term neurodevelopmental effects.

Early childhood stress has been shown to have long-term neurodevelopmental effects.^{vii}

The National Child Traumatic Stress Network, established by the US Congress, warns that many people wrongly assume that young age protects children from the impact of traumatic experiences.^{viii} They claim a "growing body of research has established that... infants - may be affected by events that threaten their safety or the safety of their parents/caregivers, and their symptoms have been well documented" and they note that **traumatic stress may be a response to "the sudden loss of a parent/caregiver."**^{ix}

The National Scientific Council on the Developing Child at Harvard University agrees that "[s]cience does not support the claim that infants and young children are too young to be affected by significant stresses,"^x noting that "[h]uman studies with infants and children as well as animal studies have shown that **adverse early infant experiences... can lead to short-term neurobehavioral and neurohormonal changes in offspring that may have long-term adverse effects on memory, learning, and behaviour throughout life.**"^{xi}

In this way, early separation trauma is biologically embedded, influencing learning, behaviour and health for decades to come^{xii} and perhaps beyond, as research in epigenetics has shown that stress in infancy can have intergenerational impacts on gene transcription.^{xiii}

To suggest that in these many and various scientific studies performed over decades, the provision of a caregiver as a substitute for the gestational mother, related by DNA to the neonate or not, would completely prevent the impacts of separation on the neonate is both unsubstantiated and unreasonable. A substitute mother, a donor, or a father, may perform damage control, the relationship formed perhaps minimizing some of the impacts of mother-loss, but it cannot prevent them, *because the impacts occur because of the loss of the gestational mother.*

And is it not simply unethical even to just intentionally distress a baby if it is not required by life-saving medical or child protection reasons?

To date, there are no studies at all that prove that separation from the gestational mother does not affect the neonate adversely.

And yet this must be the premise upon which any ethical acceptance of child removal for the purposes of any form of surrogacy is based.

3. Scientific proof of the importance of intrauterine and post-partum gestational mother-infant interactions.

The importance of intrauterine and **post-partum gestational mother-infant interactions in mammals has been demonstrated by over half a century of converging clinical and animal research.**^{xiv}

During the last phase of gestation, a baby can recognize her or his mother's voice and heartbeat and the smell of her placenta. Both foetuses and newborns react preferentially to their mother's voice over that of other females.^{xv} Postpartum babies respond to maternal odours shortly after birth^{xvi} and search for eye contact with the gestational mother.^{xvii} Skin-to-skin contact for 25 to 120 minutes after birth, early suckling, or both positively influences mother-infant interaction one year later when compared with routines involving separation of mother and infant.^{xviii} Breastfeeding gives babies the best possible start in life.^{xix} The World Health Organization provides a comprehensive list of studies proving its benefits,^{xx} recommending colostrum "as the perfect food for the newborn" with feeding to be "initiated within the first hour after birth," exclusive breastfeeding "up to six months of age, and continued breastfeeding along with appropriate complementary foods up to two years of age or beyond".^{xxi}

Babies enact searching and rooting (nuzzling) behaviours and, when placed on their mother's body after birth, wriggle up their mother's body using their 5 senses to locate her nipple (known as the "breast crawl"). The mother's nipple has the same smell as the placenta, and the baby recognises the mother's heartbeat, smell and sound.

The above is the most minimalist summary of the mountains of research that has been done proving the importance of post-partum gestational mother-infant interactions.

4. Historical testimony of lived experience as proof that mother-baby separation caused trauma to babies

The legislation and rise of twentieth century adoption which escalated in the 50s, 60s and early 70s, which mostly separated mothers and babies because of the mothers' single status, produced a demographic of hundreds of thousands of people who have experienced separation from their mothers at or near to birth.

Today these people are known as "Adoptees".

Adoptees (along with the mothers they were taken from), gave up, and continue to give up, significant time and energy to campaign for a Commonwealth Senate Enquiry and National Apology, as well as for apologies from State governments, hospitals and religious institutions for the trauma they continue to experience as a direct result of their separation from their mothers at or near to birth.

The National Apology was delivered by the then Prime Minister Julia Gillard in 2013 and in that speech Ms Gillard states that the Commonwealth Government resolved to do all in its power to make sure **“these practices” are never repeated and that “the lessons of family separation” are remembered:**

“We resolve, as a nation, to do all in our power to make sure these practices are never repeated. In facing future challenges, we will remember the lessons of family separation. Our focus will be on protecting the fundamental rights of children and on the importance of the child’s right to know and be cared for by his or her parents.”

Surrogacy is the practice of conceiving of babies for the purpose of separating them from their mothers and goes directly against the above publicly stated intention of the Commonwealth of Australia.

There is nothing in the world that gives any indication whatsoever that a baby removed from their mother for the purposes of a surrogacy contract will be any less traumatised by the loss than those removed for the purposes of adoption.

This is because neonates don’t understand that they have been implanted, that their DNA may differ from that of the woman with whom they are symbiotically growing, nor that the woman in whom they gestate isn’t considered their mother but merely a surrogate for their mother under a surrogacy contract. Nor is it likely a neonate would use their five senses to wriggle toward a nipple of their donor in the hours after birth.^{xxii}

This proves the falsity of the argument that egg or embryo donors are the natural parents of babies gestated and birthed by other women. Regardless of the feelings and intentions of the gestational mother, and regardless of the desires of donors or commissioning parents, the will and need of all babies is to remain with their gestational mothers. There is nothing in the world that has ever suggested otherwise.

5. Surrogacy is not only cruel to babies but violates their human rights

Human rights are a body of legal rights that apply to every person as soon as they are born.

The right not to be separated from one’s mother at birth is enshrined in international law by Article 9(1) of the UNCRC:

“Article 9(1). States Parties shall ensure that a child shall not be separated from his or her parents against their will...”

The will of every baby is to be placed on the breast of the woman who gave birth to them and to remain with her.

To pretend that we do not know the will of babies in this regard is an abnegation of their humanity and dignity.

A quick scroll through the UNCRC reveals that surrogacy violates the large majority of child rights enshrined in that international instrument.

In Australia, children continue to be purchased via surrogacy from overseas and yet not a single person has been prosecuted under the laws that outlaw cross-border surrogacy in this country. The man mentioned below was convicted under anti-trafficking laws. What is the use of these overseas surrogacy laws if nobody is interested in enforcing them? Abolishing all forms of surrogacy is the only answer to protect children. Black market surrogacy hardly exists in countries that have abolished legalised surrogacy.^{xxiii}

Surrogacy violates UN Conventions and other international treaties including the *UN Slavery Convention* and the *UN Convention on the Rights of the Child* as well as CEDAW (the *Convention of the Elimination of All Forms of Discrimination against Women*). The last time we combed through the UNCRC we must have identified at least 60 percent of its human rights are violated by all forms of surrogacy.

Furthermore, in terms of the rights of children, surrogacy falls into the category of “cruel and unusual punishments” which has been condemned under common law and in bills of human rights ever since the *English bill of Rights* 1689 and is now in a multitude of human rights charters including in Article 3 of the *European Convention on Human Rights* (1950), Article 7 of the *International Covenant on Civil and Political Rights* (1966), in Article 16 of the *Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment* (1984) and in Article 4 of the *Charter of Fundamental Rights of the European Union* (2000).

However, patriarchal governments have failed to fully express these instruments in domestic legislation and while there are regulations that prevent us taking puppies and kittens too early from the mothers who gave birth to them, the human rights and wellbeing human neonates are ignored.

Adoptees were being punished for being born of single mothers – we do not know for what the children born under surrogacy contracts are being punished for.

6. Surrogacy facilitates child trafficking and the black market in baby trade

Legalised surrogacy increases black market practices rather than reduce them^{xxiv} as it signals to the public that baby trade is acceptable and should be tolerated.

Australia has already had convictions for child abuse and child pornography in Australia, of people who have procured their baby victims via the legalised trafficking that is surrogacy.

In one case, the Australian federal police stated that the sexual exploitation of twin girls born via surrogacy was the worse they had ever seen.

A man had commissioned and purchased twin girls, who had been created and born overseas using his sperm, a donor egg from the Ukraine, and a mother in Asia, after the man's wife suggested surrogacy after 26 years of failed natural conception and IVF, and were not considered suitable foster parent candidates.

"The fear I saw in the eyes of an unknown very young child ... made a deep impression on me that will be very hard to forget," Judge Cohen said.^{xxv}

We are already seeing victims of surrogacy taking to the media: Jessica Kearn in the US and Olivia Maurel in Europe. Part of a traumatised cohort – the commodified child - that will continue to grow if any forms of surrogacy is tolerated.

Input from:

The civil society organization ***Abolish Surrogacy Australia (ABSA)*** including lawyers **Dr Catherine Lynch JD** and **Ms Anna Kerr LLB**(Feminist Legal Clinic) and researcher, publisher and former academic **Dr. Renate Klein**.
Contact us for further details at <https://www.facebook.com/AbolishSurrogacyAustralia/>

Key questions and types of input/comments sought

Forms of violence against women and girls

1. What specific forms of violence are women and girls subjected to in the context of surrogacy?
 - **Coercive control or controlling behaviour.**
 - **Physical violence.**
 - **Sexual violence.**
 - **Emotional and psychological abuse.**
 - **Verbal abuse.**
 - **Social abuse.**
 - **Spiritual, religious or cultural abuse.**
2. How prevalent is the exploitation of women and girls in the practice of surrogacy? **As surrogacy is intrinsically exploitative, like prostitution and slavery is intrinsically exploitative, the exploitation of women and girls in the practice of surrogacy is as prevalent as surrogacy.**
3. To what extent does surrogacy intersect with human trafficking, including for the purposes of exploitation, sale of children, or forced reproductive labour? **Surrogacy intersects entirely with human trafficking and is a sub-set of human trafficking which is unethically “legal” in some jurisdictions. However, surrogacy cannot be distinguished from the sale of children because it involves the elements of mother baby separation which violates the human rights of infant and mother; human exchange whereby if a live baby is birthed she or he is then removed from her or his mother to whom it is connected and “handed over” to others; is intrinsically exploitative as no amount of money can untraumatise the mother and baby; and invites forced reproductive labour and promotes reproductive prostitution. They are legalised human trafficking. Surrogacy is legalised child trafficking because children are created for the very purpose of removing them from their mothers. Surrogacy cannot be distinguished from the buying and selling of children. It is state-sanctioned baby trade, as was adoption in the twentieth century.**
4. What accountability mechanisms exist to provide redress and protection for women and children who are victims or at risk of violence, coercion, or abuse in the context of surrogacy? **There are no mechanisms to protect women and children in the context of surrogacy because surrogacy is by definition violence against women and children and the only way to protect women and children is to outlaw it entirely.**
5. What are the consequences of surrogacy for all parties involved? What are the gendered risks for surrogacy-born children particularly girls? **The consequences of surrogacy, among many other negatives, is the traumatising of mother and baby. A century of mother baby separation for the purposes of adoption from single mothers has evidenced a traumatised cohort of mothers and adoptees who – by their own sacrifice and campaigning – managed to win a senate enquiry and national apology for the trauma caused to them which they still live every day.**
6. What link exists between surrogacy and stereotypes against women? How can surrogacy influence the image of women in society? **Surrogacy is linked to the stereotype of women as breeders and as not profoundly and physiologically connected and linked with the babies**

they birth. Surrogacy can influence the image of women in society by further deteriorating and objecting the stereotype of women as less than human.

Drivers of surrogacy

7. What are the main factors driving the demand for surrogacy? **The desire to procure babies form their mothers to benefit the self. Having children is not a “need” that the state or any individual is obligated to fulfil. Children are human beings in their own rights and human rights immediately attach to them at birth and they have a right to the protection of all human rights instruments including the UNCRC. Why should legislation meet the “needs” of any adult to procure a child off her or his mother. All babies not only consider the mother who birthed them as their mother they consider her as part of their own self as distinguishing themselves as separate does not happen until months after birth. Therefore, loss of the mother at birth causes the loss of part of the self, which is a state of terror, and it causes a primal foundational psychological and emotional wound in the baby that never heals.**
8. What is the demographic and socioeconomic profile of women who become surrogate mothers in your country? Please provide disaggregated data where possible. **They are vulnerable women who do not understand the trauma that they and their baby will suffer and oftentimes it is women who themselves have been taken off their own mothers at birth such as adopted people.**

Legal frameworks, safeguards, and jurisprudence

9. What are the legal, policy or regulatory frameworks governing surrogacy in your country? **Apparently, surrogacy is allowed as long as it is not for money but money will always exchange hands so one cannot distinguish between so-called “altruistic” surrogacy and so-called “compensational” commercial surrogacy.**
10. How is the requirement to consider the child’s best interests reflected and implemented in relevant laws, policies and regulations concerning surrogacy? **If there is a requirement to consider the child’s best interests and if it was actually considered, prioritised and acted on then there would be no surrogacy as losing a mother at birth is absolutely devastating.**
11. How is the child's right, wherever possible, to know and be cared for by his or her parents (Article 7.1 of the UN Convention on the Rights of the Child) taken into account in relevant laws, policies and regulations regarding surrogacy? **It is not taken into account with any real intention of protecting or upholding this right as it is actively violated by all forms of surrogacy. A baby’s mother is the mother who births her or him and the baby does “the breast crawl” purely by instinct towards that mother’s breast – she or he does not cry for or seek out a donor....**
12. In countries where surrogacy is permitted or otherwise tolerated, what safeguards exist to prevent violence against surrogate mothers and children born through surrogacy? **Surrogacy is intrinsically violent towards mothers and babies so no safeguards exist wherever there is legal surrogacy.**
13. How effective have legislative, policy and regulatory frameworks been in preventing and responding to violence against women and children in the context of surrogacy? **Completely ineffective as surrogacy contravenes human rights, child rights and the principle of the “best**

interests of the child” and should be classed as inhuman and degrading treatment of children.

14. What legal precedents, rulings, or judicial interpretations have influenced States’ approach to surrogacy and its impact on women’s and children’s rights? **A century of removing babies from their single mothers has paved the way as grooming of a society to accept being a “birthmother” as a profession despite there being a senate enquiry and national apology to victims of mother baby separation for the purposes of adoption in the twentieth century.**

Recommendations

15. What steps should States, regional bodies, and international institutions take to address violence and other human rights violations and abuses linked to surrogacy?
The Surrogacy Act never ensure the best interests of the child are paramount as all forms of surrogacy violate child rights and cause infant suffering. The only way a Surrogacy Act can ensure the best interest of the child are paramount is to abolish all forms of surrogacy.
16. How can international cooperation be improved to prevent, investigate, and hold perpetrators to account for violence and other human rights violations and abuses in connection with surrogacy? **Outlaw it, just as slavery has been outlawed.**
17. How can existing international human rights instruments be leveraged to address the human rights concerns related to surrogacy? **Surrogacy violate almost every article of the UNCRC, and also CEDAW and other human rights instruments.**
18. Should the possibility of developing a dedicated international instrument governing surrogacy be explored, and if so, what form should it take? **It should take a similar form of the outlawing of slavery.**
19. Should a specific international instrument focus on banning or regulating surrogacy? **The UNCRC already implicitly bans surrogacy by granting to every human born, the right to not be separated from her or his mother so it this instrument could be amended to explicitly ban surrogacy.**

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- ⁱ Xiaoli Fenga et al., “Maternal separation produces lasting changes in cortisol and behavior in rhesus monkeys,” in *Proceedings of the National Academy of Sciences of the United States of America*, ed. Charles Gross, 108, no. 34 (2011): 14312-17, <https://doi.org/10.1073/pnas.1010943108>; A. Dettling, J. Feldon, and C. Pryce, “Repeated parental deprivation in the infant common marmoset (*Callithrix jacchus*, primates) and analysis of its effects on early development,” *Biological Psychiatry* 52 (2002): 1037–46, [https://doi.org/10.1016/S0006-3223\(02\)01460-9](https://doi.org/10.1016/S0006-3223(02)01460-9); Seymour Levine, “Developmental determinants of sensitivity and resistance to stress,” *Psychoneuroendocrinology* 30, no. 10 (2005): 939–46, <https://doi.org/10.1016/j.psyneuen.2005.03.013>; Luisa Diehl et al., “Long-lasting effects of maternal separation on an animal model of post-traumatic stress disorder: effects on memory and hippocampal oxidative stress,” *Neurochemical Research* 37, no. 4 (2012): 700–707, <https://doi.org/10.1007/s11064-011-0660-6>.
- ⁱⁱ Barak Morgan, Alan Horn, and Nils Bergman, “Should Neonates Sleep Alone?” *Biological Psychiatry* 70, no. 9 (2011): 817–25, <https://doi.org/10.1016/j.biopsych.2011.06.018>.
- ⁱⁱⁱ Morgan, Horn, and Bergman, 817.
- ^{iv} Dieta Wolke, Suna Eryigit-Madzwamuse, and Tina Gutbrod, “Very preterm/very low birthweight infants’ attachment: infant and maternal characteristics,” *Archives of Disease in Childhood - Fetal and Neonatal Edition* 99 (2014): F70–75, <https://doi.org/10.1136/archdischild-2013-303788>.
- ^v Elsevier, “Maternal separation stresses the baby, research finds,” *ScienceDaily*, last modified 2 November, 2011, www.sciencedaily.com/releases/2011/11/111102124955.htm.
- ^{vi} Elsevier.
- ^{vii} Jack Shonkoff et al., “The lifelong effects of early childhood adversity and toxic stress,” *Pediatrics* 129, no.1 (2012): e232–46, <http://pediatrics.aappublications.org/content/early/2011/12/21/peds.2011-2663>.
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- ^{ix} Zero to Six, 2.
- ^x National Scientific Council on the Developing Child, *Excessive Stress Disrupts the Architecture of the Developing Brain: Working Paper 3*, (Harvard University: Centre on the Developing Child, 2014), 5, http://developingchild.harvard.edu/wp-content/uploads/2005/05/Stress_Disrupts_Architecture_Developing_Brain-1.pdf.
- ^{xi} National Scientific Council, 5; Megan Gunnar, “Integrating Neuroscience and Psychological Approaches in the Study of Early Experiences,” *Annals of the New York Academy of Sciences* 1008 (2003): 238–47, <https://doi.org/10.1196/annals.1301.024>.
- ^{xii} American Academy of Paediatrics, *Helping Foster and Adoptive Families Cope With Trauma*, American Academy of Pediatrics and Dave Thomas Foundation for Adoption, 2015, 1, <https://www.aap.org/en-us/advocacy-and-policy/aap-health-initiatives/healthy-foster-care-america/Documents/Guide.pdf>.
- ^{xiii} Tamara Franklin et al., “Epigenetic Transmission of the Impact of Early Stress Across Generations,” *Biological Psychiatry* 68, no.5 (2010): 408–15, <https://doi.org/10.1016/j.biopsych.2010.05.036>.
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Fifer, "Of Human Bonding," 1174-76; Beauchemin et al., "Mother and Stranger," 1705-11; D. Querleu et al. "Reaction of the newborn infant less than 2 hours after birth to the maternal voice," *Journal de Gynécologie Obstétrique et Biologie de la Reproduction* 13, no. 2 (1984): 125-34; E. Ockleford et al., "Responses of neonates to parents' and others' voices," *Early Human Development* 18, no. 1 (1988): 27-36.

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^{xx} Bernardo Horta and Cesar Victora, "Long-term effects of breastfeeding: a systematic review," World Health Organization, last modified 2013, http://apps.who.int/iris/bitstream/10665/79198/1/9789241505307_eng.pdf?ua=1.

^{xxi} World Health Organization, "Breastfeeding," last modified 2017, <http://www.who.int/topics/breastfeeding/en/>.

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^{xxiii} Kajsa Ekis Ekman. *Being and Being Bought: Prostitution, Surrogacy and the Split Self*. Spinifex Press 2013.

^{xxiv} Kajsa Ekis Ekman. *Being and Being Bought: Prostitution, Surrogacy and the Split Self*. Spinifex Press 2013.

^{xxv} Bucci, Nino. "22 years in jail for man who abused his surrogate baby twins" *The Age*. Updated May 19, 2016. <https://www.theage.com.au/national/victoria/22-years-in-jail-for-man-who-abused-his-surrogate-baby-twins-20160519-goyn2h.html>