

Submission to the Call for input to the report of the Special Rapporteur on violence against women and girls to the Human Rights Council on surrogacy and violence against women and girls

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This submission is presented in response to the Special Rapporteur’s call for input on surrogacy and violence against women and girls. It draws on legal analysis, public records, media reports, and firsthand advocacy experience within the Israeli context. While Israel has a comprehensive regulatory framework for domestic surrogacy, this submission highlights significant gaps, power imbalances, and risks of harm—especially for women. Particular attention is given to the lack of oversight in international surrogacy, the silencing of critical voices, and the structural inequalities embedded in the law.

9) What are the legal, policy or regulatory frameworks governing surrogacy in your country?

The Embryo Carrying Agreements Law (Approval of Agreement and Status of the Newborn), 1996, regulates surrogacy in Israel—the carrying of a fetus, originating from the implantation of a fertilized egg, by a woman until birth, for the purpose of transferring the newborn to the intended parents. A detailed overview of the law and its legislative history will be provided later in the document.

Table 1: Surrogacy – Updated Data for the Years 1996–2024. Number of Applications Submitted to the Committee for the Approval of Embryo Carrying Agreements and Number of Births¹

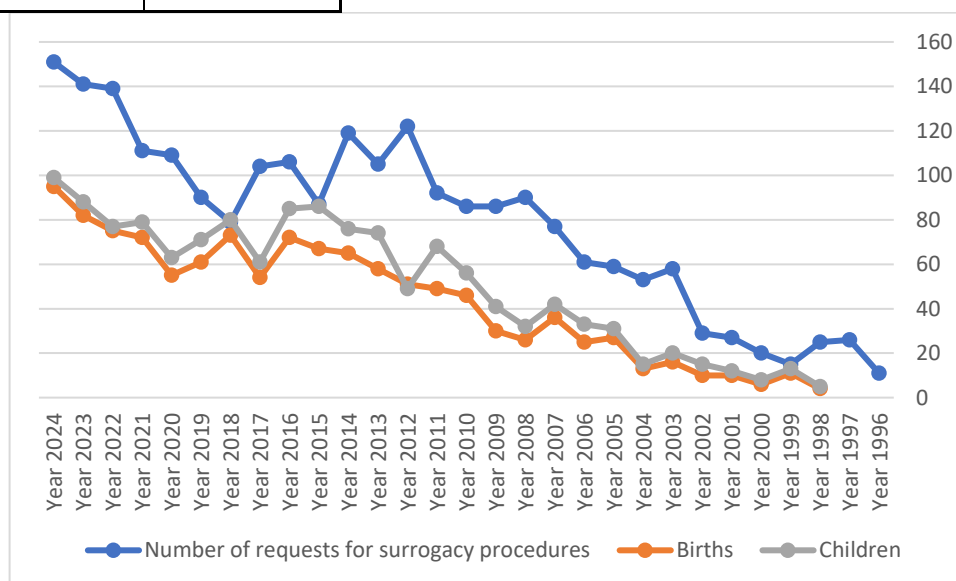
Year	Number of requests for surrogacy procedures	Births	Children
1996	11		
1997	26		
1998	25	4	5
1999	15	11	13
2000	20	6	8

¹ http://www.gov.il/BlobFolder/service/embryo-carrying/he/services_embryo_carrying_mispar-pniot.pdf

2001	27	10	12
2002	29	10	15
2003	58	16	20
2004	53	13	15
2005	59	27	31
2006	61	25	33
2007	77	36	42
2008	90	26	32
2009	86	30	41
2010	86	46	56
2011	92	49	68
2012	122	51	49
2013	105	58	74
2014	119	65	76
2015	87	67	86
2016	106	72	85
2017	104	54	61
2018	79	73	80
2019	90	61	71
2020	109	55	63
2021	111	72	79
2022	139	75	77
2023	141	82	88
2024	151	95	99
Total	2270	1179	1379

Chart 1: Surrogacy – Updated Data for the Years 1996–2024. Number of Applications Submitted to the Committee for the Approval of Embryo Carrying Agreements and Number of Births

	Surrogacy Births in Israel	Surrogacy Births Abroad
Year 2013	58	83
Year 2014	65	230
Year 2015	67	192
Year 2016	72	106



Between 1996 and 2024, there was a significant increase in the number of surrogacy applications, births, and children born through surrogacy in Israel. While only 11 applications were submitted in 1996, the number rose steadily to 151 in 2024. Similarly, the number of births grew from fewer than 10 per year in the late 1990s to over 90 by 2024, reflecting a growing reliance on surrogacy.

Table 2: Comparison of Surrogacy Births in Israel and Abroad (2013–2016)²

² <https://yodaat.org/item/dataset/16c7ab034b9f2a57>

Unlike surrogacy births in Israel, there is very limited data on surrogacy conducted abroad. A 2014 position paper mentioned 11 surrogacy agencies that matched Israeli clients with foreign surrogates. Information obtained through a Freedom of Information request indicated that between 2013 and 2016, the number of surrogacy births abroad was significantly higher than in Israel. However, this cannot be taken as indicative of the current situation. A new Freedom of Information request has yet to yield a response.

In Israel, a surrogate typically receives between 160,000 to 185,000 shekels (€40,000–€46,000) as compensation. This amount is part of a broader surrogacy process that totals around 250,000 shekels (€63,000), including legal, psychological, and medical expenses (estimated at 65,000 to 90,000 shekels). Importantly, all payments are strictly regulated and must be approved by the state-appointed Approvals Committee to prevent the commercialization of surrogacy and ensure that the process remains ethical and non-exploitative.

14) What legal precedents, rulings, or judicial interpretations have influenced States' approach to surrogacy and its impact on women's and children's rights?

Prior to 1996, Regulations 11 and 13 of the Public Health (In Vitro Fertilization) Regulations, 1987, enacted under the Public Health Ordinance of 1940, effectively prohibited surrogacy agreements in Israel. Following a petition to the High Court of Justice by several couples seeking to enter into surrogacy arrangements (HCJ 5087/94)³, the Court ruled on July 17, 1995—with the state's consent—that these regulations would be annulled on January 1, 1996.

Following the recommendations of the committee, the **Embryo Carrying Agreements Law (Approval of the Agreement and Status of the Newborn), 1996**⁴ was enacted. As part of this law, the Women's Employment Law, which grants various parenthood-related rights, was amended to extend these rights—including the right to maternity leave—to a female employee who receives custody of a child as an intended parent. The National Insurance Law was also amended to provide maternity benefits, under standard conditions, to an intended mother who takes maternity leave⁵.

The Israeli surrogacy law initially permitted access only to heterosexual couples—a man and a woman who are married or in a stable relationship. The Mor-Yosef Committee, appointed in

³ <https://hamishpatworldarchive.github.io/Courses/99597/597-verdict-5087-94-zebro.htm>

⁴ https://fs.knesset.gov.il/13/law/13_lsr_211736.PDF

⁵ https://www.nevo.co.il/law_html/law00/71741.htm

2010 to review fertility and childbirth policies in Israel, submitted its recommendations in 2012. Regarding surrogacy, the committee acknowledged the desire of single women and single men to become parents but opposed allowing paid surrogacy for single men. The committee argued that unlike women with medical infertility—who typically turn to surrogacy as a last resort—men's use of surrogacy is not driven by medical necessity. It warned that expanding access could reduce availability for women with medical needs, turn surrogacy into an option only for the wealthy, and increase pressure to lower eligibility standards for surrogates. Additional recommendations focused on safeguarding the well-being of the child and the surrogate, including limits on the number of surrogacy procedures a woman may undergo.

The Arad-Pinkas v. The Approvals Committee for Embryo Carrying Agreements case (HCJ 781/15)⁶ was a landmark petition submitted in 2015, challenging the constitutionality of Israel's surrogacy law, which at the time excluded same-sex male couples and single men from accessing surrogacy. In a partial judgment issued in August 2017, the High Court of Justice ruled that the law's exclusion of same-sex couples constituted unlawful discrimination under the Basic Law: Human Dignity and Liberty. However, the Court refrained from striking down the law immediately, choosing instead to give the Knesset time to complete ongoing legislative reforms.

The 2018 surrogacy strike, organized by The Association for LGBTQ Equality in Israel in response to the exclusion of men—specifically same-sex male couples and single men—from access to surrogacy in Israel, was framed as a fight for "equality for the LGBTQ+ community." However, the protest was manipulative in nature, using misleading slogans to suggest broad-based discrimination. In reality, the law distinguished access to surrogacy based on sex, not sexual orientation: all women, regardless of orientation—including single women and lesbians—were permitted access, while men were not. The demonstration therefore centered on gaining access to surrogacy for male couples and single men, rather than addressing systemic discrimination against the LGBTQ+ community as a whole⁷. In a follow-up decision in February 2020, the Court unanimously declared that the continued exclusion of single men and male couples from surrogacy was unconstitutional and gave the state one year to amend the law⁸.

Important to note that the interpretation of the law by the Supreme Court effectively results in discrimination against women de facto. While the current law explicitly requires a woman—whether single or part of a heterosexual couple—to provide medical proof of infertility or a

⁶<https://supremedecisions.court.gov.il/Home/Download?path=HebrewVerdicts\15/810/007/h29&fileName=15007810.h29&type=4>

⁷ <https://www.mako.co.il/pride-news/local/Article-530a21c9e6da461006.htm>

⁸

<https://supremedecisions.court.gov.il/Home/Download?path=HebrewVerdicts\15/810/007/V58&fileName=15007810.V58&type=4>

serious health risk associated with pregnancy, as stated in Section 4(a)(2), single men and male couples are not required to demonstrate any form of infertility or medical necessity in order to access surrogacy. This unequal application creates a sex-based disparity in access to parenthood through surrogacy. Moreover, this approach directly contradicts the recommendations of the abovementioned Mor-Yosef Committee, which emphasized that surrogacy should remain primarily a medical solution for women facing infertility, and cautioned against expanding eligibility to men without medical need, warning it would divert limited resources away from those the law was originally intended to help.

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?

The Israeli Embryo Carrying Agreements Law (Approval of Agreement and Status of the Newborn), 1996, was designed to regulate surrogacy in a way that aims to protect both the surrogate mother and the intended parents. It establishes a tightly controlled legal framework, in which surrogacy agreements are only valid if approved by a designated Approvals Committee. This multidisciplinary committee—composed of medical professionals, a psychologist, a social worker, a legal expert, and a religious representative—ensures that all parties act voluntarily, are medically and psychologically fit, and understand the legal and emotional implications of the process. The law strictly limits eligibility, requiring that surrogate not be genetically related to the child, not have given birth as a surrogate more than once, and be between the ages of 22 and 39. Intended parents must also meet age and parental status conditions, and undergo background checks.

To further safeguard the surrogate, the law prohibits any commercial exchange beyond pre-approved compensation for direct expenses, loss of income, and pain and suffering. Medical procedures must be performed in officially recognized medical facilities, and a maximum of six embryo transfer attempts is allowed. The law also guarantees the surrogate's autonomy by affirming her right to make medical decisions during the pregnancy, including the option to terminate. Importantly, any agreement made under coercion, with discriminatory conditions, or without informed consent is considered invalid. In rare cases, the surrogate may petition the court to retain custody of the child if a significant change in circumstances has occurred, and only if it aligns with the best interests of the child.

For the intended parents, the law provides a clear pathway to parenthood through a legal parenthood order issued shortly after birth, which grants them full custody and legal status as the child's parents. The newborn is transferred to their care in the presence of a social worker, and formal registration procedures ensure the child's legal identity is aligned with the intended parents. Additional protections are embedded through amendments to labor and social security laws, including maternity leave and child benefits for intended mothers. Through this extensive

and multilayered regulation, the law aspires to maintain ethical boundaries and provide legal, medical, and emotional safeguards for all parties involved in the surrogacy arrangement.

However, the Israeli legislature has no mandate to oversee or regulate surrogacy arrangements conducted abroad. While the domestic legal framework offers safeguards for women and children involved in surrogacy within Israel, these protections do not extend to cross-border surrogacy. As a result, Israeli intended parents who engage in international surrogacy arrangements operate outside the scope of Israeli law, often in jurisdictions with weaker regulatory oversight. This legal gap creates significant risks of exploitation, coercion, and abuse, particularly for women in vulnerable socio-economic positions in the countries where such surrogacy takes place. From time to time, media reports in Israel reveal cases of harm suffered by surrogate women, showing that even the strict regulatory framework has not fully prevented such outcomes.

7) What is the demographic and socioeconomic profile of women who become surrogate mothers in your country? Please provide disaggregated data where possible.

According to data collected by the Israeli Ministry of Health for the years 2022–2023, most surrogate mothers were married (72.6%), with others being divorced (13.7%), known in public records or with partners (7.1%), and single (6.6%). In terms of education, 66% held an academic degree, 12% had a vocational certificate, 14% completed high school, and 8% had less than 12 years of schooling. The rate of academic degree holders among surrogates is significantly higher than in the general population, where it stands at just 38%. A similar trend appears in employment: in 2023, only 2.5% of surrogates were unemployed, compared to 25% in 2010.

According to a Ministry of Health recent sample of 156 surrogate mothers, the primary motivation for entering surrogacy was altruism (51%), followed by empowerment and self-fulfillment (43%), and financial need (6%)⁹.

2) How prevalent is the exploitation of women and girls in the practice of surrogacy?

In Israel, the narrative of surrogacy as a path to altruism and self-fulfillment is actively reinforced by a group of activist surrogates who regularly speak to the media, run a Facebook support group on surrogacy, and promote the experience as empowering. These women are highly accomplished by all standards—among them are engineers, PhDs, university lecturers, school principals, lawyers, and nurses. It is reasonable to assume that many of them entered

⁹ <https://www.themarker.com/weekend/2024-06-28/ty-article-magazine/.highlight/00000190-5309-de5e-abd0-fb7b072b0000?lts=1745163875142>

surrogacy motivated by a genuine desire to help others and a sense of personal growth. However, this narrative may not reflect the full picture.

Occasionally, other stories surface in the media. One such case is Einav, a mother of two, who shared her painful experience on national television in 2022. She entered surrogacy hoping to earn enough money to improve her family's living conditions. Instead, the process led to the collapse of her relationship with a partner who strongly opposed her decision, forcing her to flee their home with her children. Following the surrogacy, her health deteriorated, and she now lives on disability benefits. Deep in debt, with frozen bank accounts, Einav struggles with severe deprivation—her children, one of whom is on the autism spectrum, are also affected. She is unlikely to receive compensation from the Ministry of Health, as she has not been able to prove a direct link between her condition and surrogacy. That same TV documentary featured other troubling testimonies: Michal and Chen spoke of being pressured to take risky hormones and conceal personal details from the approvals committee; Shlomit described being asked to sign a medically dangerous contract allowing unlimited embryo transfers for a couple, with financial incentives. Another participant was the mother of Roni Perag, a surrogate who ended her life years after completing a surrogacy through the agency "New Life." As with Einav, no official connection has been acknowledged between the tragic outcome and the surrogacy process.

In 2020 /2021, a group of six Israeli surrogates was sued for defamation by the surrogacy agency "New Life" and its directors. The lawsuit, filed for 600,000 NIS and placed under a gag order, alleged that the women made defamatory statements regarding the agency's treatment of surrogates. The defendants stated that their criticisms related to troubling conduct toward surrogates, and were motivated by a desire to promote transparency and better ethical standards within the surrogacy system in Israel¹⁰. After a prolonged legal process, the court ruled in favor of the plaintiffs, and three of the defendants were ordered to pay approximately 120,000 NIS in damages.

Despite their activism and strong public standing, the defendants found themselves in a financially vulnerable position. One was in insolvency proceedings, and the group had to launch multiple crowdfunding campaigns to cover their legal expenses. Their experience highlights the personal and economic risks faced even by empowered women when they seek to challenge powerful institutions in defense of collective rights. The case raises important concerns about freedom of expression, the power imbalance between commercial actors and individual surrogates, and the need to protect those who speak about systemic issues within the fertility industry.

In an atmosphere of silencing and intimidation, it is unlikely that we will hear many stories of exploitation or harm within surrogacy. The women most affected are often in vulnerable positions, and those who dare to speak out are quickly silenced. This is even more true for cross-

¹⁰ <https://www.ha-makom.co.il/post-sharon-galit-surrogacy/>

border surrogacy, where neither intended parents nor agencies have an interest in exposing potential abuses.

Recommendations

Despite Israel's strict regulation of surrogacy, a misleading and potentially dangerous situation has developed. On the surface, the practice appears to involve a small, altruistic community of empowered, educated women—often portrayed in media and social networks as voluntarily choosing to help others. This carefully curated image normalizes surrogacy and blinds the public to the risks associated with its expansion and commercialization. As a result, we have very limited understanding of how many women may have been harmed by the process, even within Israel—let alone in countries where oversight is minimal.

Public discourse tends to focus solely on the narrative of the "kind-hearted surrogate helping desperate would-be parents," while the commercial role and financial interests of surrogacy agencies are rarely scrutinized. Even after an Israeli agency sued surrogates for defamation and left them financially devastated, the agencies' profit-driven nature and influence over the industry remained largely undiscussed. At the same time, the near-total lack of transparency surrounding international surrogacy—particularly in countries like Georgia, Ukraine, or the U.S.—means that Israeli society projects its limited knowledge of local surrogacy onto vastly different global contexts. We heavily regulate surrogacy at home yet effectively outsource the associated risks abroad.

There is also a glaring sex disparity embedded in the legal framework: women must prove medical infertility to qualify for surrogacy, while men—whether single or in same-sex partnerships—need only demonstrate their biological sex. Though surrogacy in Israel is defined as altruistic, the financial costs are substantial, and there is little capacity to prevent unreported payments. Also, we have no data on how many women undergo multiple failed embryo transfers and suffer harm without receiving adequate compensation. In the end, I do not believe surrogacy can ever exist without causing some degree of harm. Ideally, the practice should not exist at all. But at the very least, we should not allow international surrogacy when we have no knowledge—and no oversight—of the exploitation it may entail.

