

## **Submission to the UN Special Rapporteur on Violence Against Women and Girls**

Thematic Report: “Forms of Sex-Based Violence Against Women and Girls: New Frontiers and Emerging Issues”

**Submitted by: World Youth Alliance (WYA)**

### **Question 1: What specific forms of violence are women and girls subjected to in the context of surrogacy?**

The World Youth Alliance (WYA) identifies surrogacy in all its forms, both commercial and so-called altruistic, as an emerging and underrecognized form of exploitation of women and girls that violates their human rights. While commercial surrogacy is more overtly associated with financial coercion, altruistic surrogacy also raises deep concerns from a human rights, legal, and ethical perspective.

At its core, surrogacy treats the female body as a tool for reproductive services, separating a woman’s identity from her biological and relational connection to the child she carries. This commodification of the female body and reproductive function, even when done “altruistically”, harms women in various ways.

In so-called altruistic arrangements, women are often pressured by family members or communities to “donate” their reproductive services for others. This pressure may not be financial in nature, but can be rooted in emotional manipulation, cultural expectations, or a desire for acceptance. The surrogate is expected to endure the physical and psychological burden of pregnancy without acknowledgment of her maternal bond or legal rights. The altruistic label does not remove the power dynamics, expectations, or loss of autonomy that characterize these arrangements.

Surrogacy of any kind imposes serious health risks on the surrogate, including complications from hormone treatments, multiple embryo transfers, gestational diabetes, pre-eclampsia, and cesarean sections. These are not hypothetical dangers, they are common outcomes, particularly in IVF-driven pregnancies.

Surrogacy also imposes consequences on the children born from such arrangements. These children are often deprived of the right to know their biological origins or to be raised by their birth mothers. They are instead delivered according to a pre-birth contract—an arrangement that prioritizes adult desires over the child’s best interests. This violates the child’s right, enshrined in Article 7 of the Convention on the Rights of the Child, to know and be cared for by their parents as far as possible, as well as to be registered and have a name and nationality immediately after birth.

The consequences of surrogacy extend beyond the individual surrogate or child; they affect society's understanding of motherhood, parenthood, and human dignity. Surrogacy separates biological and gestational motherhood from legal and social parenthood, fracturing the maternal identity and reducing women's reproductive labor to a service that can be contracted and monetized, or gifted under the altruistic model.

Formal consent to a surrogacy agreement is not a shield against exploitation. For these reasons, WYA affirms that surrogacy in any form, commercial or altruistic, constitutes a violation of women's dignity, bodily autonomy, and fundamental rights, and must be recognized as such in international human rights discourse.

Surrogacy is often under-recognized as a form of exploitation or violation of women's human rights, particularly when it is framed as a consensual agreement. While some surrogates may voluntarily participate, many women enter into surrogacy arrangements under significant economic duress, with limited legal protections and little autonomy over the terms of the arrangement.

In many cases, surrogates face coercion, either directly or indirectly, due to financial pressures or lack of alternative options. This exploitation is exacerbated by a lack of legal safeguards to ensure their well-being and rights throughout the process. Furthermore, surrogates often have limited involvement or say in the decision-making regarding their own bodies, the medical procedures they undergo, and the terms of the contract. This can contribute to a sense of disempowerment and a violation of their dignity.

The emotional and psychological toll of surrogacy can also be profound, particularly after the birth of the child. The separation from the child post-birth often results in significant psychological distress, including feelings of guilt, loss, and depression. These emotional challenges are heightened when surrogates lack social support or are excluded from the child's life entirely. Without adequate post-birth care and counseling, surrogates may struggle with unresolved emotional trauma.

Moreover, surrogacy often involves women who are socially or economically vulnerable. In the absence of strong legal protections and ethical guidelines, surrogacy can lead to violations of women's human rights, particularly when they are not fully informed or when they are pressured into these arrangements due to financial hardship.

## **Question 2: How prevalent is the exploitation of women and girls in the practice of surrogacy?**

Exploitation of women and girls in surrogacy is a widespread and persistent concern, particularly in countries and regions where legal protections and oversight are weak or absent. Multiple studies and investigative reports indicate that surrogacy often targets economically vulnerable women, especially migrants, rural populations, and those facing financial hardship - placing them at significant risk of exploitation. To illustrate this point, we will show examples from different parts of the world.

In Mexico's Tabasco region, for example, surrogacy has been legalized since 1997, but research shows it has resulted in the reproductive exploitation of impoverished rural women. Qualitative studies, including interviews with surrogates, lawyers, and health professionals, reveal strong economic interests, dangerous legal loopholes, and negative physical and emotional health consequences for the women involved. The lack of clear regulation led to [widespread abuses](#): clinics operated without licenses, unqualified doctors practiced, and some agencies kept surrogates in poor, even captive, conditions. In response to mounting scandals and international criticism, Tabasco reformed its civil code in January 2016, banning intermediaries and restricting surrogacy to Mexican heterosexual couples with certified fertility problems, thereby excluding foreigners, single individuals, and same-sex couples. The new law also required intended parents to provide health insurance for surrogates and proof of infertility, and imposed age limits on both intended mothers and surrogates. As a result, the surrogacy industry in Tabasco collapsed. However, legal uncertainty persisted because in June 2021, Mexico's Supreme Court ruled that Tabasco's restrictive 2016 law was unconstitutional and this decision reopened the possibility for commercial surrogacy in Tabasco and other Mexican states.

Reports from Ukraine when surrogacy was a thriving business before the 2022 Russian invasion, attracting 150 women to apply each month, [document cases](#) of underpayment, forced abortions, unsafe living conditions, and psychological harm, with surrogates often relinquishing all control over their pregnancies to agencies or clients.

In Greece, [networks have trafficked](#) women from Eastern Europe for surrogacy and egg donation, subjecting them to coercion, repeated medical procedures, which was uncovered in 2019. Similar to that, again [in 2023](#), Greek authorities dismantled a network exploiting women as surrogate mothers and egg donors. The operation involved recruiting vulnerable foreign women, including those from Moldova, Ukraine, Georgia, Romania, and Bulgaria, offering them minimal compensation of 300 to 600 euros monthly. These women were subjected to unethical medical procedures, including repeated egg harvests, under coercive conditions.

India was once considered the world's hub for commercial surrogacy, with thousands of clinics operating and many foreign couples seeking surrogates there. However, widespread reports of abuse, including cases where surrogate mothers were abandoned without payment, pressured into selective abortions, or subjected to unsafe medical practices, prompted national and international concern. Investigations revealed that many surrogates, often from impoverished backgrounds, were exploited by agencies and intermediaries who profited from their vulnerability, sometimes keeping women in poor living conditions and providing little postnatal support. In response, the Indian government enacted the Surrogacy (Regulation) Act, 2021, which came into effect at the end of 2021 and has since been amended. The law now strictly prohibits commercial surrogacy, allowing only altruistic surrogacy for married Indian heterosexual couples and certain single women (widowed or divorced, aged 35-45) with proven medical need. Surrogates may receive only reimbursement for medical expenses and insurance, not monetary compensation, and must meet strict eligibility criteria. The law aims to protect women from exploitation by excluding

foreigners and same-sex couples from surrogacy arrangements and requiring all surrogacy procedures to be conducted in registered clinics and by establishing regulatory oversight, with significant penalties for violations.

**Question 3: 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?**

Most surrogacy laws and policies fail to fully protect the child's right, under Article 7.1 of the UN Convention on the Rights of the Child, to know and be cared for by his or her parents. International surrogacy arrangements, in particular, often result in complex and ambiguous parentage, with children sometimes having a contracting mother, a gestational surrogate, and an egg donor, as seen in the [case of Baby Manji](#). In that instance, a Japanese couple arranged for an Indian surrogate to carry a child using the husband's sperm and a donor egg. When the intended parents separated before the birth, the intended mother—who was not biologically related—no longer wished to raise the child, leaving the newborn with three potential mothers and undetermined nationality. Such cases reveal how surrogacy can undermine a child's right to legal identity, nationality, and knowledge of their origins, especially when poor record-keeping or donor anonymity is involved.

Surrogacy agreements also typically prioritize the intentions and desires of adults over the child's best interests, and unlike adoption, lack the legal protections designed to safeguard children's rights. For example, international law prohibits the surrender of a child before birth in adoption, but surrogacy contracts often require this, disregarding the child's need for stable, legally recognized parentage. Furthermore, surrogacy may violate the legal principle *mater semper certa est* ("the mother is always certain"), as the woman who gives birth is not recognized as the legal parent, creating further confusion and risk for the child's right to know and be cared for by his or her parents.

These gaps demonstrate that, in practice, surrogacy laws and policies frequently fail to guarantee the child's fundamental rights as set out in Article 7.1, placing children born through surrogacy at risk of legal limbo, discrimination, and loss of identity.

**Question 4: What legal precedents, rulings, or judicial interpretations have influenced States' approach to surrogacy and its impact on women's and children's rights?**

The Spanish Supreme Court has ruled that surrogacy contracts are contrary to Spanish public policy, as they commodify both the surrogate mother and the child, violating their dignity and fundamental rights. In a [recent case](#), the Court dismissed a lawsuit seeking to recognize the woman who provided the egg as the legal mother instead of the surrogate who carried and gave birth to the child. The Court held that, under Spanish law, maternity is determined by gestation and childbirth, not by genetic contribution. The ruling emphasized that surrogacy agreements, even those validated by foreign courts, cannot establish legal parentage in Spain because they require the surrogate to relinquish the child before birth, depriving both mother and child of their

rights and treating them as objects of a contract. The Court further stated that such agreements exploit women, harm children's rights (including the right to know their origins), and are fundamentally incompatible with the Spanish Constitution and international human rights standards. As a result, Spain does not recognize foreign surrogacy arrangements, and legal filiation is based on the woman who gives birth, regardless of genetic ties.

In Italy, both gestational and traditional surrogacy has been explicitly prohibited under Law No. 40/2004, with severe penalties including fines of up to €1 million and imprisonment for up to two years for all parties involved, including intermediaries and intended parents. In October 2024, the Italian Senate further tightened these restrictions by passing a law that criminalizes surrogacy as a “universal crime.” This means Italian citizens can now be prosecuted for engaging in surrogacy abroad, even in countries where the practice is legal, and face the same penalties as if the act were committed in Italy. The law aims to uphold a strong legal and ethical stance against the commodification of women and children by eliminating the previous requirement for “double incrimination” and allows for prosecution without the need for the Minister of Justice's request.

**Question 5: What steps should States, regional bodies, and international institutions take to address violence and other human rights violations and abuses linked to surrogacy?**

To combat the systemic exploitation and human rights violations inherent in surrogacy, States, regional bodies, and international institutions must prioritize a comprehensive ban on all forms of surrogacy, particularly commercial arrangements. This could include:

- enacting legislation banning commercial surrogacy to eliminate financial incentives that commodify women and children. For example, India's Surrogacy (Regulation) Act (2021) prohibits commercial surrogacy, allowing only altruistic arrangements under strict conditions
- criminalizing cross-border surrogacy tourism, as Italy has done by declaring surrogacy a “universal crime” punishable even when conducted abroad
- developing binding treaties to prohibit surrogacy globally, akin to the UN Trafficking Protocol, to address transnational exploitation. The EU's fragmented approach, where surrogacy is banned e.g. in Bulgaria, Croatia, and Germany but permitted in Greece and Portugal, highlights the need for harmonized regional laws
- prioritizing the rights of surrogate-born children by mandating birth registration with accurate parental information (genetic, gestational, and social), as urged by UNICEF
- investing in adoption reform and infertility treatments, such as the Fertility Education and Medical Management Program ([FEMM Foundation](#)) that

uphold human dignity, rather than commodifying women's bodies

- enforcing existing human rights instruments, such as the UN Convention on the Rights of the Child (CRC), which obligates states to protect children from sale, trafficking, and statelessness
- providing support for vulnerable women targeted by surrogacy industries, including economic alternatives, healthcare, and legal aid, as recommended by human rights advocates
- educating the public on the harms of surrogacy, emphasizing how even “altruistic” arrangements perpetuate gender inequality and child commodification

**Question 6 and 7: Should the possibility of developing a dedicated international instrument governing surrogacy be explored, and if so, what form should it take? Should a specific international instrument focus on banning or regulating surrogacy?**

The development of a dedicated international instrument on surrogacy is needed to address the global proliferation of exploitative practices and legal gaps in cross-border arrangements. However, the instrument's focus should be abolishing surrogacy, not regulating it, as even “regulated” frameworks fail to eliminate systemic violence, commodification, and human rights violations against women and children.

A treaty banning surrogacy globally (a proposal is given in the [Casablanca Declaration](#)), would be the approach that aligns with human dignity of the women being exploited by surrogacy, as well as the fundamental rights of the child and international human rights law.