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Introduction

1. Alliance Defending Freedom (ADF) International is a faith-based legal advocacy organisation that protects fundamental freedoms and promotes the inherent dignity of all people.
2. This report addresses the human rights violations and abuses that arise from the practice of surrogacy in Uganda and highlights the urgent need to prohibit the practice in all its forms.

1. Surrogacy

1.1 BACKGROUND

3. Surrogacy in Uganda is a rapidly growing industry operating in a legal grey area: no specific law either permits or prohibits the practice. In the absence of explicit legislation, surrogacy arrangements are governed entirely by private contracts between the parties. Surrogacy is practiced through private clinics and agencies.¹
4. Although no official statistical breakdown of commercial versus so-called ‘altruistic’ surrogacy arrangements appears to be publicly available, reports indicate that commercial arrangements predominate.² Commercial surrogacy has been described as ‘flourishing,’ with the industry expanding on the strength of financial incentives perceived by surrogate mothers, characterised by one source as among ‘the easier ways to climb out of poverty now.’³ For many Ugandan women involved in surrogacy, it is their main source of income.⁴

1.2 LEGAL FRAMEWORK

5. Article 31(4) of the Constitution of Uganda provides that ‘it is the right and duty of parents to care for and bring up their children.’ Article 31(5) states that ‘children may not be separated from their families or the persons entitled to bring them up against the will of their families or of those persons, except in accordance with the

¹ Coalition Internationale pour L’Abolition de la Maternité de Substitution ‘Will Uganda become a popular destination for surrogacy?’ (November 2023) available at <https://abolition-ms.org/en/surrogacy-observatory/africa/uganda/>.

Ninsiima Irene ‘Legal Aspects of a Surrogacy Contract in Uganda’ (13 February 2024) available at <https://www.lawyers-uganda.com/legal-aspects-of-a-surrogacy-contract-in-uganda/>.

² Ahimbisibwe Innocent Benjamin ‘A Study on the Concept of Surrogacy in Relation to the Children’s Act Cap 59 and Relevant Legislation’ (October 2021) available at <https://www.studocu.com/row/document/nkumba-university/law/surrogacy-in-uganda-the-law-and-practice/40160232?sid=ae3b01f5-745b-45f5-8125-f536e1c855f71783612242>.

New Vision ‘Born of a Surrogate Mother’ (27 December 2012) available at <https://www.newvision.co.ug/news/1311947/born-surrogate-mother>.

³ Beatrice Nakibuuka ‘Is the surrogacy industry a reproductive venture?’ (18 October 2024) Monitor, available at <https://www.monitor.co.ug/uganda/special-reports/is-the-surrogacy-industry-a-reproductive-venture--4797408>.

⁴ Id.

law.’⁵ Article 34(1) further recognises that ‘children shall have the right to know and be cared for by their parents or those entitled by law to bring them up.’⁶

6. Article 33(3) enshrines the State’s obligation to ‘protect women and their rights, taking into account their unique status and natural maternal functions in society.’⁷
7. Uganda’s Children Act, the primary legal framework protecting children's rights and welfare, defines ‘parent’ as ‘the biological mother or father or adoptive mother or father of a child.’⁸ Notably, the law recognises no form of parentage arising from surrogacy, whether expressly or by implication.

1.3 THE HUMAN ASSISTED REPRODUCTIVE TECHNOLOGY BILL

8. The Human Assisted Reproductive Technology Bill (hereinafter the ‘Bill’) was introduced in Parliament on 17 October 2023,⁹ one of its objectives being to establish a formal regulatory framework for surrogacy.¹⁰ On 12 March 2026, however, Uganda’s Attorney General informed Parliament that the Government, through the Ministry of Health, intended to introduce its own bill regulating in vitro fertilisation, surrogacy, and embryo storage,¹¹ and accordingly requested that the bill be withdrawn or allowed to elapse.¹² To date, the Government has not presented its announced bill.
9. Article 21 of the Bill permits surrogacy where a registered medical practitioner has, on examination, established that a commissioning party suffers from infertility or from health challenges affecting their ability to reproduce.¹³
10. Article 24 provides that the commissioning party shall be the parent of a child born through surrogacy. It effectively forecloses any ability of the woman serving as surrogate mother to claim parental rights by expressly stipulating that ‘[F]or avoidance of doubt, where a surrogate mother gives birth to a child under a

⁵ Parliament of the Republic of Uganda ‘The Constitution of the Republic of Uganda’ (1995) available at <https://cmis.parliament.go.ug/cmis/views/933ebdd9-61ff-48ae-bebd-d961ff98ae0d%253B1.0>, art 31.

⁶ Id., art 34.

⁷ Id., art 33(3).

⁸ Blackhall Publishing ‘Children Act’ (as amended in 2016) available at <https://www.ugandalaws.com/statutes/principle-legislation/children-act>.

⁹ Parliament of the Republic of Uganda ‘Bill Progress – The Human Assisted Reproductive Technology Bill’ (2023) available at https://bills.parliament.ug/user_bill_stage.php?billid=474.

¹⁰ Human Assisted Reproductive Technology Bill (17 October 2023) *The Uganda Gazette* No. 68, Volume CXVI, available at <https://bills.parliament.ug/uploads/0826Human-Assisted-Reproductive-Technology-Bill-2023.pdf>.

¹¹ Prisca Wanyenya ‘Parliament Pauses Fertility Bill for Gov’t Overhaul’ (12 March 2026) Parliament Watch Uganda, available at <https://www.parliamentwatch.ug/hot-in-parliament/parliament-pauses-fertility-bill-for-govt-overhaul>.

¹² Id.

¹³ Parliament of the Republic of Uganda (n 9) art 21.

surrogacy agreement, the surrogate mother shall not be a parent of the child born through surrogacy.’¹⁴

11. Article 32 prohibits the advertisement of surrogacy.¹⁵
12. Critically, the Bill portrays children as commodities rather than rights-bearing human beings. By proposing a framework in which a child's separation from his or her parents is deliberately planned, and in which woman who gives birth to him or her is divested of all parental rights, it reduces the child to the object of an arrangement—a deliverable to be transferred upon fulfilment of contractual terms.
13. If adopted, the Bill would simultaneously entrench the commodification and exploitation of women's reproductive functions, treating them as a service to be contracted for and governed by a written agreement specifying medical procedures, behavioural requirements, and the terms of relinquishment. The prohibition on advertising or arranging surrogacy is, in this light, a superficial safeguard that leaves untouched the system of violence inherent in surrogacy itself.

1.4 SURROGACY'S INCOMPATIBILITY WITH INTERNATIONAL HUMAN RIGHTS LAW

14. Uganda is a State Party to the Convention on the Rights of the Child (CRC), the Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution, and Child Pornography (OPSC) and the Convention on the Elimination of Discrimination Against Women (CEDAW).¹⁶ Accordingly, it is bound to safeguard the rights of the child and ensure the protection of women in all contexts, including against exploitative reproductive practices.
15. At its core, surrogacy violates human dignity through the commodification of the human body and person. By requiring surrogate mothers to alienate themselves from their own bodies and reproductive capacities and to submit them to external control for the benefit of a third party, surrogacy reduces women to instruments of reproduction. At the same time, by predetermining the transfer of the children they bear, surrogacy treats them as the product of a process designed to satisfy another's interests. These arrangements subordinate the dignity, autonomy, and well-being of both mothers and children to the desires of the commissioning parties, leaving them vulnerable to harm. Even so-called 'altruistic' surrogacy, where commodification may appear less overt, leaves the child embedded within a transactional framework.
16. Surrogacy in all its forms violates the child's right not to be sold. Article 2(a) of the OPSC defines the sale of children as 'any act or transaction whereby a child is

¹⁴ Id.

¹⁵ Id., art 32.

¹⁶ OHCHR 'Status of Ratification Interactive Dashboard: Uganda' available at <https://indicators.ohchr.org/>.

transferred by any person or group of persons to another for remuneration or any other consideration.’¹⁷ The phrase ‘any other consideration’ is designed to close any loophole permitting the transfer of a child absent direct monetary exchange — as is claimed of ‘altruistic’ surrogacy — and captures in-kind benefits such as accommodation, household or grocery costs, and medical and medication expenses. Even where direct payment is prohibited, compensation, reimbursement, agency fees and other indirect benefits continue to create incentives for the use of vulnerable women as ‘reproductive intermediaries.’

17. Surrogacy also violates the best interests of the child. Article 3(1) of the CRC establishes the best interests of the child as a primary consideration in all actions concerning children.¹⁸ The Committee on the Rights of the Child has emphasised that this principle must be interpreted consistently with the Convention as a whole — including the obligation to protect children from all forms of violence — and cannot be invoked to justify practices that conflict with the child's dignity and right to physical integrity.¹⁹ Surrogacy cannot be justified under this principle.
18. Surrogacy further violates the child's right, as far as possible, to know and be cared for by his or her parents. Article 7(1) of the CRC recognises that right,²⁰ and the qualification ‘as far as possible’ makes it the general rule, to be displaced only in exceptional circumstances such as parental loss, abuse or neglect.²¹ Both commercial and ‘altruistic’ surrogacy deny this right a priori, by deliberately predetermining, without necessity, the child's separation from the mother who bears him or her — subordinating the child's rights to the commissioning party's desire for parenthood.
19. Surrogacy violates the right of both women and children to the highest attainable standard of physical and mental health. For surrogate mothers, the risks are acute: caesarean sections are reportedly performed under general anaesthetic or heavy sedation so that she does not hear the child's cry,²² with two to three times the risk of complications such as postpartum haemorrhage, pre-eclampsia and serious postpartum depression. Comparative studies have also found higher rates of postpartum depression after surrogate births and elevated depression both during

¹⁷ Optional Protocol to the Convention on the Right of the Child on the Sale of Children, Child Prostitution and Child Pornography (adopted 25th May 2000, entered into force 18th January 2002, A/RES/54/263) art 2(a).

¹⁸ Convention on the Rights of the Child (adopted 20 November 1989, entered into force 2 September 1990) 1577 UNTS 3 (CRC) art 3(1).

¹⁹ UN Committee on the Rights of the Child, General comment no. 13 (2011): The right of the child to freedom from all forms of violence, 61.

²⁰ CRC, art 7(1).

²¹ See e.g. CRC art 9(1).

²² Rosana Triviño-Caballero ‘Ethical Conflicts in Surrogate Pregnancy’ *Hypatia* (2023), 38, 531–548 Cambridge University Press (16 August 2021) available at https://www.cambridge.org/core/services/aop-cambridge-core/content/view/750ACDADEC9F9E43132B9B035D82873B/S0887536723000673a.pdf/caring_for_delivery_healthcare_professionals_ethical_conflicts_in_surrogate_pregnancy.pdf.

pregnancy and afterwards.²³ These harms are aggravated by a model in which the commissioning party is legally entitled to make life-altering medical decisions that subordinate the mother's well-being to the demand for a successful delivery and transfer.

20. For the child, surrogacy is associated with a significantly higher risk of premature birth,²⁴ and the deliberate severance of the gestational bond—through which the child comes to recognise the mother's voice, scent and heartbeat²⁵—is linked to later adjustment difficulties²⁶ and to disruption of healthy development, including brain development.²⁷ These risks to mother and child engage not only Article 12 of the ICESCR²⁸ but also Article 4 of CEDAW, which provides for special measures to protect maternity,²⁹ and Article 24 of the CRC, which requires States to ensure appropriate pre-natal and post-natal health care for mothers.³⁰
21. Surrogacy also constitutes a form of violence against both women and children. As noted by the Special Rapporteur on violence against women and girls, its causes and consequences, all forms of surrogacy are predicated on a system of violence—economic, psychological, physical and reproductive—frequently bound up with trafficking, exploitation, and practices akin to slavery.³¹ In this context, women are frequently pressured into surrogacy through its framing as an act of 'love' and 'solidarity,' which discourages them from seeking help or voicing dissent because they are made to feel bound to hand over the child to commissioning parents with whom they may have formed emotional ties.³²
22. The separation of the woman who gives birth from the child she has carried, the suppression of maternal contact, the medicalisation of childbirth for the commissioning party's benefit, and the treatment of birth as a mere transfer event

²³ Maria P. Velez, Marina Ivanova, Jonas Shellenberger, et al, 'Severe Maternal and Neonatal Morbidity Among Gestational Carriers: A Cohort Study' *Ann Intern Med.* (Epub 24 September 2024), available at <https://www.acpjournals.org/doi/10.7326/M24-0417>.

²⁴ Velez and others (n 23).

²⁵ Sullivan et.al., 'Infant bonding and attachment to the caregiver: Insights from basic and clinical science' (2011) 38, 4 *Clinics in Perinatology*, 644.

²⁶ Susan Golombok et al., 'Children born through reproductive donation: a longitudinal study of psychological adjustment' (2013) 54, 6 *Journal of Child Psychology and Psychiatry* 653.

²⁷ Sara Mejía-Chávez et al, 'Maternal Separation Modifies the Activity of Social Processing Brain Nuclei Upon Social Novelty Exposure' (2021) *Frontiers in Behavioural Neuroscience* 15: 651263.

²⁸ International Covenant on Economic, Social and Cultural Rights (adopted 16 December 1966, entered into force 3 January 1976) 993 UNTS 3 (ICESCR), art 12.

²⁹ Convention on the Elimination of All Forms of Discrimination Against Women (adopted 18 December 1979, entered into force 3 September 1989) 1249 UNTS 13 (CEDAW) art 4.

³⁰ CRC, art 24(2).

³¹ Report of the Special Rapporteur on violence against women and girls, its causes and consequences 'The different manifestations of violence against women and girls in the context of surrogacy' A/80/158 (14 July 2025) available at <https://docs.un.org/en/A/80/158>.

³² *Id.*, 29.

rather than a human relationship of legal and moral significance: no amount of regulation can eliminate these harms, as they are inherent in surrogacy itself.

23. Whether so-called 'altruistic' or commercial, the absence of a legal framework prohibiting surrogacy leaves Uganda unable to fully discharge its obligations to respect and protect the rights of women and children. In view of the Ugandan Government's stated intention to legislate, and while the Human Assisted Reproductive Technology Bill remains under parliamentary consideration, ADF International submits that the appropriate response is prohibition rather than regulation, as a regulatory framework would effectively normalise the severe human rights concerns the practice engenders.

2. Recommendations

24. In light of the aforementioned, ADF International suggests the following recommendations be made to Uganda:
- a. Prohibit surrogacy in all its forms; and
 - b. Pending its complete abolition, establish a moratorium on surrogacy.

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