

OBJECT

**Women Not
Sex Objects**

SURROGACY

KILLER AND ORPHAN MAKER

harms women and children in 60 ways.



OBJECT SURROGACY CONSULTATION 2020-I

#BigFertility

#StopSurrogacy

Dedication

This report is dedicated to

Crystal Wilhite

Michelle Reaves

Brooke Brown,

the only [three women](#) whose names we know who lost their lives to surrogacy but whose death records only state that they died from consequences of pregnancy. The effects of surrogacy are erased. There will be many more such deaths.

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A - EXECUTIVE SUMMARY:

LAW COMMISSION IN WONDERLAND

The British Law Commission's 2019 surrogacy consultation ignored the industrial nature and scale of surrogacy, contravened ALL its own declared values, was not fit for purpose and was a waste of public money. This stemmed from its origins with lobby group/trade organisation Surrogacy UK.

OBJECT's alternative consultation found no fewer than 60 serious problems with surrogacy which the Law Commission had missed. Over 17,000 representatives of the women's sector agreed wholeheartedly with OBJECT. [Surrogacy is a killer and an orphan maker.](#)

B - INTRODUCTION

OBJECT is a tiny unfunded, volunteer-run radical feminist organisation which campaigns against sexual objectification of women. We currently focus on 5 interlinked systems which sexually exploit, kill and povertise women and girls: prostitution, pornography, sex clubs, surrogacy and transgenderism. We work collaboratively and base our work on evidence and science.

Surrogacy has been around for ever and is mentioned in the bible. Many people therefore regard it as acceptable. Slavery also goes unquestioned in the bible yet we now have laws against it. We also inhabit a technocratic global capitalist society where any abuse can and will be replicated on an industrial scale to generate huge profits in countries prepared to tolerate the consequences. This is why many countries have allowed, and then banned surrogacy on seeing the harm it does. Surrogacy agencies, even those who claim to do good, are businesses and may take no responsibility for the consequences of surrogacy. Yet the UK with all this information available, plans to go blindly down this dangerous route.

Research for OBJECT by Lauren Hamstead uncovered how [surrogacy is being sneaked into law by the Law Commission](#), and the blindly pro-industry focus of the consultation the Law Commission had carried out in cahoots with lobby group Surrogacy UK. Surrogacy was, according to the British Medical Journal, a [\\$6bn industry in 2014](#) and will reach [\\$27.5 billion by 2025](#). Clearly many organisations and individuals have financial interests in promoting it.

C - WHERE THE LAW COMMISSION WENT WRONG

The Law Commission is a statutory independent body created to review the law of England and Wales and recommend reform where needed to make it **'fair, modern, simple and cost-effective'**.

The [Law Commission](#) was asked to review surrogacy by the Department for Health and Social Care. On the Commission's website Professor Elizabeth Cook states that from the start, a Law Commission consultation gives 'a truly **independent** viewpoint': 'We do listen, we are not bound by government policy'. Yet the Law Commission consultation said about a possible ban on surrogacy that they 'do not think this position is tenable or achievable' (p.14). Surrogacy is banned in many countries worldwide, including comparable ones like France, Germany and Spain. No reasons were given why prohibition 'wouldn't work' in the UK, but tellingly what came next was '[restriction of surrogacy] is not what most stakeholders, or government, have said they would want'. Clearly the consultation was biased from the start: government guidance compromised the Law Commission's vaunted independence. The Law Commission's approach may have stemmed from a misinterpretation of the Human Rights Act (Article 12): the right to marry and to found a family, yet to assume that this includes surrogacy is wrong. A presumption of regularity has been accorded to the Law Commission, yet it is acting outside its brief

Similarly the All-Party Parliamentary Group (APPG) on surrogacy (representing only 2 parties) gives one of its stated aims as 'to encourage domestic surrogacy'. Surrogacy UK provide secretarial support and describe it as 'our APPG'. It is clearly not independent.

These contradictions led OBJECT to re-examine how the Law Commission works. We found that **it had contravened ALL its own declared values** in its Surrogacy Consultation:

1. Main stakeholders were ignored, consultation was not 'wide'

The Law Commission claims to consult 'widely', including the voluntary sector, and to take account of (not just listen to) the views of those affected by its proposals. Yet women whose bodies perform the conception, pregnancy and birth in surrogacy and children who are produced by surrogacy were not counted as stakeholders and their representatives were not consulted.

2. Independence compromised from the start

If the government suspected that a ban on surrogacy was undesirable, despite this being the law in many countries, why did it not consult on it and let the evidence speak for itself? Clearly either no opposition was expected or else the issue was deliberately avoided.

3. NOT 'searching' or 'genuine'

Prof Elizabeth Cook says that Law Commission consultations are 'searching and genuine'. This cannot apply when ignoring issues as important as:

- impact on the National Health Service,
- impact on Social Services,
- impact on children awaiting adoption,
- multiple conflicts with the UN Convention on the Rights of the Child which the UK has signed,
- impact on employers
- payments issues
- legal cases to be brought by women and children harmed by surrogacy, plus
- 53 other major problems.

4. **NOT fair to women OR to children**

The Law Commission claims to be fair. Why then did it ignore the blindingly obvious fact that it is **women's bodies** that do all the arduous, dangerous work of conception, gestation and birthing in surrogacy. Sexism is a particularly egregious form of unfairness for the Law Commission to engage in: its every employee must know that women are already regularly disadvantaged because of their sex, still do not have parity in pay or promotion opportunities, and are continually disproportionately harmed by sexual violence and [exploitation](#) and [femicide](#). Yet UKLC did not consult women's groups until tipped off by another group, and even then it only [consulted a few as an afterthought](#).

Even if the Law Commission takes seriously the views of the few women's groups it consulted so late, the information imparted in a few short meetings cannot compare with the depth the commission went into in its 'consultation'. Women's viewpoint as the most affected group is still bound to be under-represented. The same goes for children who are even more vulnerable as they must rely on adults to speak for them. UKLC ignored children completely.

5. **Even more unfair - biased in favour of a tiny well-off minority**

As well as ignoring women and children, the consultation focused narrowly on how industry lobby groups want the process made easier for their own benefit. So it ignored the interests of 63% of the population ([women 51%, children 12%](#)) in favour not of the remaining 47% but of a tiny, moneyed superminority within that minority: infertile women and male-bodied trans people who want (and can afford to pay to get) children, probably no more than 2-3%.

This is like reviewing animal rights without consulting animal charities, or reviewing the law on tobacco by talking only to the tobacco industry and smokers. The OBJECT consultation refocused the consultation back onto the rights of those most affected: women and children.

6. **NOT simple, open or genuine**

The Law Commission aims for 'simplicity in law and open and genuine consultation'. Yet its consultation document was opaque, long, complex, biased and impenetrable, full of legalistic terminology. One respondent said it took her 100 hours to read and complete.

7. NOT cost-effective

The Law Commission aims for cost-effectiveness. The surrogacy consultation was a costly fiasco. Who is accountable for this predictable waste of public money? It is also not cost-effective in the forward-looking sense that if the proposals become law there will be huge costs to the NHS in treating women and children whose health has been damaged by surrogacy. These costs need to be counted. If we rush ahead of science without long-term studies the costs to remedy mistakes will be huge before we even know what they are.

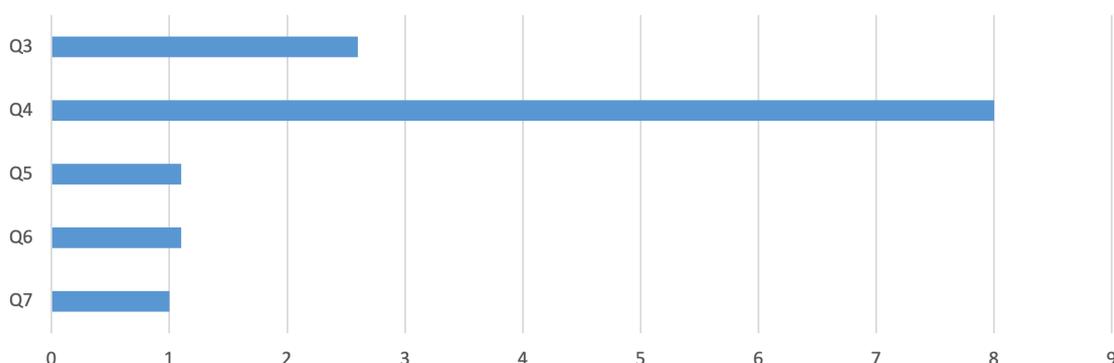
8. NOT modern

The Law Commission claims to propose law that is modern. Women have had the vote and maternity rights for some time. It is old-fashioned, even antiquated, for the Law Commission to ignore us. Children's rights are enshrined in, for example, the Children Act. The Law Commission consulted as if children's rights did not matter.

9. NOT fit for purpose

Section 1 of OBJECT's questionnaire evaluated the Law Commission consultation. It was filled in by the 7 individuals and 6 organizations who had completed it. NONE found the UKLC consultation user-friendly, half giving the lowest possible score (Q3). Almost all said it took far too much time to complete (Q4) and did not adequately consider the specific needs of women OR children (Qs 5, 6). All found the UKLC consultation unfit for purpose: it did not identify the key issues of surrogacy and seek views on them (Q7).

Responses about Law Commission consultation



Comments are in italics. Semicolons (;) separate comments from different responders.

Completely impenetrable; clumsy; complicated;

Lots of jargon, leading questions; could have been designed by a Surrogacy Agency

Written in a way to deliberately exclude the views of normal women and children

Very focussed on gay media to the exclusion of mainstream; was not made public enough

It is no surprise that the lead Law Commissioner Nick Hopkins is a property law specialist. This was the approach to obtaining a baby through surrogacy.

No consideration of the safety and well-being of the woman providing this service or of the medical risks or impact on the NHS.

Child Protection is barely considered; it felt like consumer law - the customer is always right.

D - OBJECT'S CONSULTATION

FILLING THE GAPING HOLES

OBJECT's committee members who completed the Law Commission consultation were shocked that the serious, life-threatening implications for women and children were ignored, and that the surrogacy business was being promoted as if it were a social service, not a profitable, exploitative global business available only to those who can pay.

OBJECT decided to take corrective action. Using free software we designed a clear, simple consultation (Appendix 1 p21) to collect views on the Law Commission's consultation and on problems with surrogacy from women's and children's points of view. The questions were grouped into 3 sections:

1. Opinions of the Law Commission's consultation
2. Women: the political, social, economic, physical, medical & psychological impacts
3. Children: the physical, medical and psychological impacts

We distributed the questionnaire, chased people to complete it, extended the deadline, collected and analysed the data, investigated further issues raised by respondents (see p9) and wrote this report.

OBJECT found over **90% agreement** among consultees that each and every one of the problems we identified mattered. No one argued with any of the issues we raised.

WHO DID WE CONSULT?

The OBJECT Consultation was emailed to a geographically wide range of 88 small, medium and large UK women's organisations. We sought out groups representing ethnic and religious minorities, national women's groups within the UK and professional organisations, approaching organisations we had no connection with. We also sent it to 49 individuals (including 2 men): women's rights activists, published authors on the subject, senior NHS professionals, and interested members of Parliament and the Lords.

As surrogacy is so controversial, often wrongly seen as a gay rights issue (though no real human right depends on the ability to pay [£20-30,000](#)), we promised anonymity to respondents.

Some organisations had no policy on surrogacy, so responders answered as individuals. Hence we had more individual responses than expected: 19 organisations and 61 individuals gave their views on surrogacy. Geographically, Wales and the north and west of England were the best represented. Surprisingly, some prominent women's rights organisations said they had no view on surrogacy, for example the Fawcett Society, whom we contacted multiple times to no avail.

We asked organisations how many women members/affiliates they had, aware that many gender critical women's organisations have, like OBJECT, suspended formal membership

because of transactivist entryism. Of those who replied, the top 3 represented 12,700, 3,000 and 1,600 women, so the views of over 17,300 women are represented.

Grassroots groups comprised 47% of group respondents, of which 33% were campaigning groups, and 19% charities. Thus we had managed to reach a good cross-section of women's organisations. Appendix 2 (p22) lists some invitees who did not respond after 2 contacts.

E - FINDINGS

What women think about surrogacy

There was an **extremely high degree of consensus** among consultees that surrogacy is harmful to women economically, physically, medically, psychologically and generally.

My answers are so uniform because the practice IS abhorrent. When poor countries like India are banning it, why is the UK pressing ahead?

Section 2 – Almost all respondents thought the impact of surrogacy on women would be disastrous:

Women and girls have the right to physical and reproductive integrity. Article 3 of the [Declaration on Women's Sex-based Human Rights](#): Surrogacy is a form of sex-based discrimination and contravenes CEDAW principles.

Q9 The risk of exploitation is real: the underlying principle of surrogacy is that a woman's reproductive capacity may be used for the benefit of others.

Women may feel guilt & regret after surrogacy yet have no way to find the child.

Q10 Relaxing regulation on surrogacy will make things **worse for women.**

In surrogacy women lose autonomy over medical decisions that affect their health.

It's a visible and material example of women's lower social and economic status.

Surrogacy treats women as breeding farm animals - this can only harm ALL women.

It exacerbates the imbalance of power between the sexes, already too great. Women and children are not guinea pigs for men's desires/fantasies and should not be made so.

Q11 Stereotypes of women as altruistic and self-sacrificing are prevalent in surrogacy and harmful to women.

Women are seen as objects, breeders, incubators, disposable. Only their uterus matters, not they as whole persons. Surrogacy normalises the unspoken assumption that women are bodies to be utilised for others' desires; it represents total commodification of women's bodies and children.

Q12 Advertising surrogacy will normalise it and thus increase demand for it.

Q13 Women already **marginalised** because of poverty, race, class, lack of education etc, are more likely to be exploited in surrogacy.

Many women have low self-esteem based on their second class status (low pay, sexual exploitation etc) and often been abused. This shows in women's reluctance to leave abusive relationships, or to apply for jobs, promotions etc., penalising them economically so that surrogacy can seem a valid choice. It will often be a woman's least bad choice.

Q14 It is worrying that a gestational **mother's parental rights** could be removed BEFORE birth, removing the legal principle that every woman who gives birth is the child's mother.

Q15 The **principle of assumed consent** to losing parental rights at birth is worrying.

Q16 Women in abusive relationships will be **forced into surrogacy** for the benefit of others, just as women are pimped into prostitution.

Q17 Women will be **coerced, trafficked, imprisoned, controlled, emotionally blackmailed, subjected to violence and/or exploited** in surrogacy.

Q18 **Refugee women, asylum-seeking women, women with uncertain immigration status and trafficked women are particularly vulnerable** to being pressured or coerced into surrogacy.

If women wanted to be surrogates because it is so great, we would already choose to. We don't because we don't want to. This would disproportionately exploit vulnerable and desperate women.

Economic impact

Q19 The introduction of **for-profit** (commercial) surrogacy in the UK is worrying.

Q20 The current 'expense payments' system means women may be coerced/pressured into what is really **poorly paid for-profit surrogacy**.

Q21 **Third parties** (law firms, clinics, agencies) **generate income by instrumentalising** a woman's body, often under the auspices of not-for-profit status. Thus they are motivated to set aside ethical considerations and support the business.

Q22 Single parents (90% of whom are women) who have to combine working for a living with looking after their children will be **forced into surrogacy** because they have a limited choice of ways to balance these two demands.

Q23 Women, disproportionately affected by **poverty** and government austerity policies, will be forced into surrogacy to survive.

Physical and Medical impact

Assumptions that this is low risk are ridiculous.

*Using donated eggs with no mother-baby genetic link greatly increases the risks of pregnancy and of life-threatening complications. Surrogacy is presented as no riskier than any pregnancy, yet these are **high risk pregnancies** even more so if twins are chosen by the buyers.*

Q24 Women as young as 18 who haven't had their own children may **compromise their health and/or fertility** through surrogacy.

Q25 Older women and their babies are more at risk during pregnancy because of the mother's age AND because gestational surrogacy always produces higher risk pregnancies, so it is doubly worrying that **no upper age limit is proposed** for women doing surrogacy.

Q26 Multiple pregnancy alone increases risks of complications during pregnancy and birth, yet multiple embryos are often transferred in surrogacy, leading to twin/triplet pregnancies.

Q27 The physical, emotional and psychological **welfare of egg donors** is a concern.

Q28 It is worrying that **egg donors** may be treated multiple times to stimulate and collect multiple eggs, yet we have **no evidence** on how safe this is apart from known negative consequences like OHSS (Ovarian Hyperstimulation Syndrome) and raised risk of sterility.

Q29 Payment for **eggs** (currently £750) may be against women's best interests.

Q30 The involvement of surrogacy commissioners in prenatal care (eg scans and the birth) will compromise the gestational mother's ability to make autonomous decisions and/or may create conflicts of interest for medical staff.

Psychological impact

They may suffer pressure from their family or social group to become a surrogate in ways that can affect future relationships.

Q31 **Abortion** issues (eg aborting one of twins or triplets) in pregnancy are a concern.

Q32 The proposed **information sessions** are a concern as so little is known about the risks.

Q33 The unlimited number of surrogate pregnancies a woman can undertake is a more liberal regime than the Kennel Club imposes for breeding bitches.

Q34 Similarly, the unlimited number of surrogate caesarean sections a woman can undertake is a more liberal regime than the Kennel Club imposes for breeding bitches.

Q35 **An 18-year-old cannot fully understand** the full emotional impact and long-term consequences of surrogate pregnancy.

Q36 Women with no experience of pregnancy and childbirth may **underestimate what is involved** and later regret surrogacy.

Q37 **Setting aside well-established research** findings on the importance of the mother-child bond, eg Attachment Theory, usually considered axiomatic, is a concern.

Q38 The long-term effects of dissociation caused by surrogacy may harm the mental health of gestational mothers.

Q39 Gestational mothers may **regret** surrogacy, negatively impacting their mental health.

Surrogacy can be an ongoing trauma for a mother. Often she still grieves and wonders about the child years later. Often during pregnancy she develops concerns about the suitability of the 'new parents'. Her anguish at having to hand over a child she suspects will have an awful life should not be underestimated and will not fade.

Q40 Women who are already **emotionally vulnerable** may be harmed by surrogacy.

Q41 Women may sign up to surrogacy unaware of its full implications owing to **language or literacy issues, learning difficulties/disability, mental health problems etc.**

Q42 Proposed reforms **do not adequately protect** women who may go into surrogacy. Overall impact and other issues

Q43 The Law Commission's proposals represent a **step back for women's rights.**

I am concerned about maternity rights - women fought for these, now they are to be given to people who haven't even gone through childbirth; the word mother ceases to mean anything. The word 'surrogate' is used. She is the 'surrogate mother'. A mother. A woman. This must not be forgotten.

Q44 asked for any other important ways in which women may be impacted by surrogacy.

F - 6 new issues ignored by the Law Commission:

I. Influence of media representations of surrogacy

Surrogacy is much covered in mainstream media. The public rely on the media to bring surrogacy into public awareness eg uncollected surrogate-born babies in Kiev hotels.

The Law Commission stated that they relied mainly on media coverage to share news of their public consultation. Yet a Freedom of Information request revealed a plan to get the message out specifically via 'gay' media. This gave rise to the disastrous biases outlined in Section C (p5).

Apart from a few 'baby factory' articles, mainstream media coverage is mostly uncritical of surrogacy. In 2019, before the consultation, we had Surrogacy: Why the world needs rules for 'selling' babies - BBC News, which at least mentioned the need for regulation. Recently we are more likely to see articles like IVF: How one single man hopes to become a father - BBC News.

By changing the focus from the mother and child onto the purchasing commissioner, we switch attention from the more physically, mentally and emotionally vulnerable participants to adopt the viewpoint of the more powerful partner, who, even if they get no baby, suffer no personal damage or trauma except not to get what they want.

The media shape or even control how we think about surrogacy, yet soaps and dramas rarely look below the surface. **Presentation is simplistic**, focused on the happy moment of acquiring the wanted child. Similarly, early media portrayals of trans children tended to focus on the happy moment post-surgery of 'becoming' a boy/girl until detransitioners became news and the Keira Bell case forced a longer-term consideration of the issues.

Occasionally coverage is more realistic, as in the BBC's 'The Nest'. This excellent series by Nicole Taylor explored issues around the youth, poverty, deprivation and traumatic background of a surrogate mother and how little real choice she had while being motivated, housed, coerced and taken over by a wealthy, childless couple. It asked how far

a woman's body is her own when she is carrying a human being 'owned' by another, and how far her motives (conscious or not) stem from early or ongoing trauma or abuse. The Nest also featured **safeguarding issues and errors in fertility clinics**.

In BBC3's 'real-life' [The Surrogates](#) each surrogate mother only briefly touched on her motives for surrogacy (and why her mental health and wellbeing might be an issue), yet the unequal balance between her and the commissioning parents was clear.

Even [children's books](#) fudge the truth to sell surrogacy, often featuring furry animals so we see the issue one-sidedly, through a soft filter, at a remove from reality.

2. **Impact on the NHS**

The impact of UKLC's proposals on the NHS will be huge and complex. The procedures to be made easier are risk-intensive. When they go wrong, the NHS will be left to pick up the pieces at great cost. Over time deregulation will be seen to have been wrong.

Why should the NHS pay for women to put themselves and their children at unnecessary risk of harm not because they have any disease or illness but in order to produce babies for others? This is **more like manufacturing than medicine**. It may mean expensive treatment to correct the resultant problems or to treat both women and children for life if recovery is not possible. Why should we deliberately create, without a proper research base, wide demand for expensive, unproven drugs and treatments to be funded by the taxpayer? The **motives do not bear scrutiny**: technical advances and profit for investors in and employees of surrogacy companies, and questionable prioritisation of the wishes of the rich over the health of poor women. **How will the NHS prioritise** between the 'natural' pregnancies of UK citizens and more dangerous surrogate pregnancies of migrants or visitors from abroad? Will another **crisis engineered by short-term thinking** like the 2008 banking crash and the PPE provision scandal, again use taxpayers' money to subsidise those who already have more than enough?

Dozens of non-negligible harms can arise from [surrogacy](#). The lax regulation regime proposed is likely to cause a **huge rise** in the business as commissioning parents seek the safety of clinics supported by a National Health System. With no minimum or maximum age and no limit on the number of surrogate pregnancies, women (some coerced, trafficked or gaslighted into it) may **surrogate again and again**, each time raising the risk of a sudden emergency and damage to the health of mother and baby. Even if a woman is not strictly eligible for NHS treatment, **can a hospital turn away a birth emergency?** Will not NHS consultants doing private work manage, as the unequalled experts, manage to justify NHS treatment when private care reaches its limit?

[Egg collection](#) particularly requires expensive drugs and risks Ovarian Hyperstimulation Syndrome ([OHSS](#)). 1% of such cases will be severe and bring 11 different risks, 3 of them long term and potentially fatal. The Centre for Bioethics and Culture in Canada has, with some detective work, found the names of 4 women who have died from complications of surrogate pregnancies. This report is dedicated to them. The fact that their death is surrogacy-related is not recorded on their death certificate, on the child's or children's birth certificate (if the child/ren survive) - these deaths are only recorded as stemming from pregnancy complications. The NHS collects **no data** on this at present because numbers are too low. Imagine the scandal when, under these reforms, many more women become egg donors and surrogates, guinea-pigs in an experiment, and we 'find' that the dangers are greater than we know, as happened with lobotomy, ECT, insulin coma therapy,

vaginal mesh, replacement joints, breast implants, puberty blockers etc. Surrogacy is even worse because of the extra risks to the surrogated child and the existing children of the surrogated woman, as well as to her personally and consequences could be lasting. **The risks are real, multiple and high.** The NHS will pick up the pieces and legal cases are likely to follow, like Keira Bell's case about puberty blockers.

All pregnancies carry a risk of numerous harms and complications. Even minor harms (eg back pain) can be long-lasting and disabling; more serious risks can be life-changing or fatal. It is all more unnecessary work for the NHS, work deliberately created in the interests of others who will have paid and gone home with their babies.

There is always a risk of maternal [death](#) in pregnancy, currently 9.2 per hundred thousand. It is a risk surrogated women take to benefit someone else. Every [maternal death](#) is a tragedy which devastates her family and orphans her existing children. What if, as is likely with a huge increase in surrogacy after these reforms, **maternal mortality rises?**

Gestational surrogated mothers embark on a **pregnancy significantly** riskier than their previous ones. They **cannot meaningfully consent** to an experience so markedly different from what they have undergone before. Multiple births (10% of births in 2017), are more likely with egg donation, further significantly raising the risks: the risk of death is 2.5 times higher. In surrogacy, twins are an optional extra, and decisions by commissioning parents to abort a twin must be an emotional nightmare for the mother. **Will the NHS pay for her counselling later on?**

Any birth emergency creates a **sudden need for multiple staff all at once**: anaesthetists, obstetricians, midwives, theatre staff, haematologists, lab staff for blood supplies, ICU. The cost and impact on other cases is high: **staff attending one emergency must neglect another.**

With more high-risk cases, NHS staffing levels will be unable to cope, over-stretched neonatal ICUs will mean babies transported long distances for care, and the care that ordinary mothers and babies get will reduce. Just as Covid-19 impacted horrendously on cancer diagnosis and care, **surrogacy reform is likely to impact disastrously on maternal and neonatal care.**

More intensive and widespread surrogacy, with women surrogating again and again under procedures which are basically experimental, may well create a **rise in babies rejected or abandoned** because of birth defects. Sadly these may have to be cared for by the NHS and Social Services at cost to the taxpayer.

There is a world of difference between health emergencies that are accidental and unforeseeable, and health emergencies which are deliberately engineered, fostered, encouraged and facilitated. The new surrogacy emergencies will be of the latter sort. We will have deliberately created them.

3. Impact on children needing adoption and on Social Services

Promoting surrogacy reduces the chances of vulnerable children awaiting adoption. Many surrogacy commissioners would consider adoption if surrogacy were not open to them. To promote surrogacy is to put the desires of paying commissioners and the life chances of as yet non-existent children above those of living, breathing children who badly need a good family home and will have to continue to be cared for by Social Services. To one of our respondents, herself adopted and an adopter and friend to many other adoptive children and parents, this seems little short of criminal.

4. Impact on employers

In one media portrayal of surrogacy, two women at the same workplace decide that one will surrogate for the other. While this may be unusual, it is perfectly possible, and the Law Commission must consider how maternity leave will be dealt with when an employee decides, perhaps several times, to surrogate for a third party. This has the potential to set women's rights (already precarious and partial) back: employers may become even more reluctant to employ women of child-bearing age.

5. Payment issues

The proposals duck the issue of payment and suggest no proper checks on 'expenses payments' although what these might be in a country like the UK with NHS provision is hard to imagine. The law needs to clarify the status of these payments, what they cover and, whether a woman can claim them while working or on benefits during the pregnancy. The current typical expense claim is £15-20,000, well above what many women earn in a job. Thus a 9-month surrogacy may look to some women like secure 'employment' in these times of casual part-time work in the 'gig economy'. This will encourage participation, but at the cost of all the problems outlined in this report. Without a proper check, all surrogated women will tend to claim the full amount; with proper checks, less women will come forward, defeating the object of the reforms. 'Altruistic' surrogacy is likely to be in reality just poorly-paid surrogacy, leaving the woman slightly better off financially if all goes well, but with nothing on her CV to increase her employability, and a greater likelihood of health problems which will hinder her further employment. Is this really what we want surrogacy reform to achieve? We say no.

6. Further legal issues

Surrogacy tourism, surrogacy immigration and the citizenship status accorded to the children of surrogacy need to be considered, as do abandonment and disability of children following the failure of medical techniques. Legal claims from surrogate mothers and from children (see below) whose rights have been infringed are also likely. Oliver Bullough reports in 'Moneyland' (2019) 86 Chinese children born via surrogacy agencies in Japan for purposes of citizenship and asset concealment and living in 'childcare centres'. The same could happen here.

G - Findings

Impact of surrogacy on Children

Respondents strongly agreed that surrogacy deliberately and knowingly puts children at risk physically, medically and psychologically.

[The UN Convention on the Rights of the Child \(UNCRC\)](#), ratified by the UK, is based on four core principles, two of which are violated by the very concept of surrogacy:

Devotion to the best interests of the child: surrogacy prioritises the wishes of the commissioning parents.

Respect for the views of the child: no one can tell the views of a child at birth.

Children have later come forward objecting to having been created via surrogacy. We cannot imagine any advantages a child might gain from being created in this way.

There's no right to a child. Narcissism plays a huge role. All policy must put the child first.

Q45 In surrogacy we deliberately and knowingly, solely for the benefit of paying commissioning parents, subject children to the mental and emotional pain of genealogical bewilderment: a child deprived of connection to her/his biological origins may struggle with identity and place in the world, causing **lasting emotional and identity difficulties**.

A growing number of surrogacy children are asking “Where’s my mum?”, “Where’s my dad?”, “Where am I from? “Who am I?” Like adopted or orphaned children but far worse, this bewildered child has been deliberately, planfully created via surrogacy, whereas adoption is something children need because something unplanned has gone wrong.

Q46 The proposals **contravene Article 3** of UNCRC whereby the UK undertook to ensure the child ‘such **protection and care** as is necessary for her/his well-being’.

Untethering the rights of the mother to be the mother to the baby removes the most basic and most important safeguard for children, that of the mother’s personal investment in and protection of the child her body has nurtured and birthed.

Q47 The proposals infringe the UNCRC proviso that every child shall have, from birth, as far as possible, the **right to know and be cared for by his or her parents**.

Q48 Under the proposals, the **mother who births the child will not be named on the birth certificate**, which may later exacerbate the child’s genealogical bewilderment.

Q49 **The welfare of children born from multiple surrogacy contracts** is a concern, since NO limit is proposed on the number of surrogacies a person can commission. People have commissioned multiple children by surrogacy: a Japanese man commissioned at least 16 surrogate babies via different clinics.

Q50 The reforms give children of surrogacy no **right to identifying information** on egg/sperm donors or their gestational mother **until they reach adulthood**. This **contravenes Article 8** of UNCRC where the UK undertook to respect the child’s right to preserve his or her identity, including nationality, name and family relations as recognized by law without unlawful interference. Article 8 also says that where a child is illegally deprived of some or all of the elements of his or her identity, states shall provide appropriate assistance and protection, with a view to speedily re-establishing his/her identity. This could give rise to **legal cases against signatory states by children born of surrogacy**.

Q51 In surrogacy the child is **deliberately separated** from his/her birth mother straight after birth following surrogacy commissioners' wish for exclusive parental rights. This **contravenes Article 9** of UNCRC which says 'states shall ensure that **a child shall not be separated from his/her parents** against their will, except when competent authorities subject to judicial review determine, in accordance with applicable law and procedures, that such separation is necessary for the best interests of the child.'

It also says that states shall respect the **right of the child who is separated from one or both parents to maintain personal relations and direct contact with both parents on a regular basis**, unless this is contrary to the child's best interests.

Q52 Children conceived via surrogacy are vulnerable to abuse; the preconception criminal record check proposed by the Law Commission is an **inadequate safeguard contravening Article 19** of UNCRC.

This says that states shall take all appropriate legislative, administrative, social and educational measures to **protect the child** from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse, while in the care of any other person. Sadly there have been cases when children born via surrogacy have been sexually abused or even killed by surrogacy commissioners/ 'intended parents'. Allowing surrogacy itself could be seen as a failure to protect the child.

As in the Ukraine and other popular surrogacy centres, what happens when the child is no longer wanted by 'commissioning parents' or is born with an undetected disability?

Q53 The risk is real that children may be **abused and/or trafficked** in surrogacy, since the proposals allow 'double donation' (of both egg and sperm) where medically 'necessary', producing (as in adoption) a child with no genetic link to the surrogacy commissioners/ 'intended parents'. 'Necessary' here clearly means 'desired by paying commissioning parents' as there is never a real necessity for surrogacy.

Q54 The reforms may **cause a rise in infant mortality**, contravening UNCRC whereby states must take steps to diminish infant and child mortality. Surrogacy is riskier than ordinary child-bearing (see p 11). Children of surrogacy have a higher risk of low birth weight and preterm birth which may lead to later health issues eg accelerated ageing and to legal cases against the state.

Q55 The proposals suggest NO sanctions for excess payments and thus tacitly permit the **sale of children** in contravention of Article 35 of UNCRC: 'states shall take all appropriate measures to prevent the abduction of, sale of or traffic in children for any purpose or in any form. The UN Special Rapporteur on the Sale and Sexual Exploitation of Children stated in 2018 that **the essence of surrogacy is transfer of a child, in cases where payment is above out-of-pocket expenses amount to the sale of a child.**

Q56 The **impact of surrogacy on the families** of women doing surrogacy has not been adequately considered or researched. Surrogated women often already have children. Some reports say that these children may worry lest their parents 'give them away too', and may mourn the deliberate loss of a sibling. Aunts, uncles, cousins and grandparents may also have concerns. If a mother's health is damaged by surrogacy, relatives including minor siblings may need to help raise her children, so the impact of this is very real psychologically, physically and financially.

Maternal death, birth injury, and the general impact of pregnancy could seriously damage family lives and lead to relationship breakdown of relationships.

Q57 Under the proposals, human babies will be **treated worse than puppies** in regard to **time with mother**. The Kennel Club requires puppies to stay with their mother for at least **8 weeks** until weaned. In surrogacy babies are taken from their mother straight after birth.

H - CONCLUSIONS

Apparently 'policy captured' by Surrogacy UK, **The Law Commission failed on its own terms** so devastatingly that the law on surrogacy must remain unchanged unless the consultation is repeated properly, investigating all the issues identified here.

The dozens of major problems with surrogacy which the Law Commission ignored relate to women and children, who jointly compose 63% of the UK population. The Law Commission did not scratch the surface of these weighty health, welfare, legal and ethical challenges. It did not consult medical professionals. Nor did it consider the competing claims of international agreements the UK has ratified, eg the UN Convention on the Rights of the Child.

As OBJECT's respondents pointed out, there is no right to pay to have a child, especially when the financial outlay amounts to the annual income of many, and when it comes at such cost to women doing the work and the children it brings into life.

It is crucial that we see the difference between medical procedures developed to help when matters go unavoidably wrong (eg adoption when a parent dies) and the **deliberate creation of likely problems** because we choose to believe, without evidence, that we have the required (still experimental) technology and because people wish to pay for the result. The courts will see the difference even if the government doesn't.

As a society we must properly consider and take responsibility for the potential consequences of experimental procedures. Participants must be well enough informed to give real consent. We must not rush willy-nilly into promoting surrogacy just because

there is money to be made and poor women available for exploitation. We need qualitatively and quantitatively adequate long-term research findings before we can justify any liberalization of the current surrogacy regime, and right now we don't have them. Research first, and profit from procedures found to be safe afterwards.

J - RECOMMENDATIONS

1. The Law Commission proposals on surrogacy should be formally set aside on the grounds that its research was invalid because it contravened all its own values.
2. Until we have both realistic solutions to all issues identified here, and proper peer-reviewed controlled long-term studies on the techniques proposed, we should not think of relaxing the law on surrogacy.
3. Future proposals must be consulted on fairly, including women's and children's groups and all relevant medical professionals.
4. Many countries who used to permit surrogacy have now banned it, so we must look seriously at this option. Disappointing to lobby groups, it is in the interests of UK citizens as a whole. The Law Commission should look seriously at the International Coalition for the Abolition of Surrogate Motherhood, whose petition was signed by 280 women's rights organizations from 56 countries. We women see surrogacy more clearly than others because we are the ones doing the work.
5. Measures should be put in place to accurately record child and maternal deaths arising in the course of or after surrogate pregnancies as such. This would enable collection of important data and facilitate better judgments on public policy.
6. Measures must be put in place to prevent APPGs, the Law Commission and other similar groups and organisations from undue influence by lobby groups with business interests like Surrogacy UK. This view is supported by The Times' recent investigations which concluded that ['parliament is too permeable to business interests'](#).

Appendix I

The OBJECT Questionnaire - Introduction

The rest of the consultation can be viewed online at www.objectnow.org.

SURROGACY CONSULTATION

OBJECT campaigns on all issues of objectification of women. We responded to the 2019 UK Law Commission's Surrogacy Consultation and had reservations about its quality and fitness for purpose, particularly its fundamental failure to identify women (a disadvantaged group worldwide) as key stakeholders in surrogacy law reform. This led to a failure both to consider the needs and rights of women and children in surrogacy, and to provide a space to discuss these rights and needs.

In surrogacy a woman gets pregnant with and births a child, who is passed to the surrogacy commissioners (called 'intended parents' in the trade) based on a contract. So a woman ('gestational mother') and her child are the heart and centre of every surrogacy contract, although they are often erased, e.g. by the media.

There is no evidence of a surplus of women wishing to be 'gestational mothers' in the UK. So facilitating access to surrogacy as the Law Commission proposes will mean active recruitment of women, taking us into new territory e.g. advertising for 'surrogates'.

This consultation aims to examine the Law Commission's proposals (the 'New Pathway') for reform of UK surrogacy law from the perspective of women. We also want to find out how women's groups experienced the LC's public consultation, what they think about their proposals and key issues for women and children in surrogacy.

Some questions give hyperlinks to important information you may be unaware of.

You may be surprised to see comparisons with conditions laid down for the health and welfare of dogs. This is because some of the Law Commission proposals feature worse conditions for women in surrogacy than are laid down by the UK Kennel Club for breeding animals. You may or may not consider this relevant.

This consultation should take around an hour to complete. There are 4 sections:

- 1) The UK Law Commission Consultation
- 2) Impact of Surrogacy on Women in the UK
- 3) Impact of Surrogacy on Children in the UK
- 4) Additional topics you wish to raise, or further comments you wish to make

Most questions are either yes/no or ask you to answer using a 1-10 scale. This will allow us to produce simple statistics on the level of concern (if any) about each issue. At the end of each section there is space for your comments.

The data gathered via this consultation will be anonymised, publicised, shared with participants, shared with the Law Commission and may be used to lobby MPs.

Please submit your response by November 18th 2020 (deadline later extended to January 2021)

Appendix 2

Some organizations who did not respond

in some cases after several requests and reminders:

Fawcett Society	Catholic Women's League
Women's Aid	Hopscotch Asian Women's Project
Southall Black Sisters	Apna Haq
Royal College of Nursing	Royal College of Midwives
Royal Institute of Health Visitors	National Childbirth Trust
Royal College of Obstetricians & Gynaecologists	
Alliance of Jewish Women	

We include these to show that we tried to consult widely. We also targeted some people who have publicly expressed different views from us on surrogacy but they did not respond.

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