

The Melbourne Declaration to Abolish Surrogacy

7 September 2026

A national conference on surrogacy, 'In the Name of the Child', was held in Melbourne on 21 and 22 August 2026, bringing together surrogate mothers; mothers separated from their children by adoption; adults born through surrogacy or donor conception; adopted people; and the UN Special Rapporteur on violence against women and girls, its causes and consequences. Over two days, delegates considered the social, ethical and human-rights consequences of surrogacy for women and for children born through surrogacy arrangements. The Conference reached the following resolution.

Resolution

This Conference calls on Federal, State and Territory governments to

1. Abolish all forms of surrogacy, recognising that no woman should be recruited, induced, pressured, coerced, or enabled to carry a child for transfer to others, and that no person should be permitted to commission or acquire a child through a surrogacy arrangement.
2. Ensure, in deciding whether to make any decision with regard to the welfare of a child, that the best interests of the child are the paramount consideration. It is in the best interests of a child not to be separated from their mother, except in exceptional circumstances.
3. Ensure that existing international human-rights obligations are implemented so that children are not treated as objects of contract, transfer or ownership, and are not denied their rights to identity or origins.
4. Recognise that there is no right to a child. No adult's desire to be a parent can create an entitlement to obtain a child, to require a woman to carry a child for others or to separate a child from their mother.
5. Recognise the life-long harm and trauma caused to mothers and children by the planned separation of babies from their mothers following birth, and reject legal or contractual arrangements that require, anticipate or facilitate such separation.
6. Uphold the rights of children already born through surrogacy arrangements, including rights to care, identity, knowledge of origins, nationality and legal protection, while acknowledging that upholding these rights cannot remedy or justify the harms caused by surrogacy, nor validate the arrangements through which children were born.
7. Recognise the mother who gives birth to the child as the legal mother of the child, and ensure that no pre-birth agreement, commissioning arrangement or payment can displace that legal relationship. Any later transfer of parental responsibility must occur only through judicial processes that assess parental suitability and apply safeguards.
8. Prohibit and prevent all forms of surrogacy, whether described as commercial, compensated, altruistic, reimbursed or otherwise, because surrogacy exploits and commodifies women and

children; creates conditions in which children may be acquired by others; and is incompatible with the human rights of mothers and babies, and with human dignity.

9. Strengthen and enforce laws preventing Australian citizens and permanent residents from participating in, commissioning, facilitating, advertising, brokering or obtaining children through surrogacy arrangements across borders, irrespective of whether those arrangements are described as commercial, compensated, altruistic, reimbursed or otherwise.
10. Prohibit the advertising, brokering, recruitment, agency activity and other facilitation of surrogacy, and take effective action to prohibit reproductive markets, trafficking networks and cross-border arrangements that use women and/or transfer children.
11. Join international efforts to abolish all forms of surrogacy, including the joint initiative led by Italy, Chile, Cameroon and the Holy See; adopt immediate interim measures, including a moratorium on new surrogacy arrangements; and work towards an international legal instrument prohibiting surrogacy, while recognising and upholding the legal rights of women and individuals already affected by surrogacy arrangements.

Basis for the resolution

This Conference acknowledges that

- Australian States and Territories have constitutional power to legislate with respect to child welfare, including child protection, child and family welfare services, out-of-home care, juvenile justice, adoption, the status of children, and children born through assisted reproductive technology and surrogacy.
- In deciding whether to make a particular parenting order under the Family Law Act 1975 (Cth), a court must regard the child's best interests as the paramount consideration. A parenting order concerns care and parental responsibility; it is distinct from a State or Territory parentage order, which may transfer legal parentage from the mother who gave birth and alter the child's birth record. The best-interests principle must not be used to license the commissioning or transfer of future children. In decisions concerning children already born through surrogacy arrangements, governments should give primary consideration to their best interests.
- Australia is a party to the United Nations Convention on the Rights of the Child (CRC) and the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), and voted in favour of the Universal Declaration of Human Rights (UDHR). These international instruments inform Australia's human-rights commitments.
- Women and children are entitled to protection from exploitation, commodification, trafficking and violence. There is no right to acquire a child, and no child should be the subject of a contract, commission, transfer or other such arrangement.
- The prohibition of surrogacy is necessary to protect women and children from exploitation, commodification and separation. The wrong in surrogacy is not confined to arrangements described as commercial or compensated, or to practices involving commissioning, facilitating, advertising, brokering or obtaining children. An arrangement in which a woman is expected to carry and relinquish a child for others is exploitative irrespective of the language used.

- The rights of individuals already born through surrogacy arrangements must be recognised and upheld, including rights to care, identity, knowledge of origins, nationality, family connection and legal protection. Recognition of these rights cannot eliminate, remedy or justify the irreversible harms caused by surrogacy, and must not be treated as validation or endorsement of the arrangements through which children were born.

This Conference notes that

- In Australia, up to the 1980s an estimated 250,000 babies were taken from their mothers following birth and permanently separated from them through adoption.
- In recognition of the lifelong legacy of pain and suffering of mothers and adoptees affected by forced adoptions, formal apologies were issued by Australian State governments, beginning with Western Australia in 2010 and continuing through 2012, and by the Australian Prime Minister on behalf of the Commonwealth on 21 March 2013.
- A redress scheme was introduced by the Victorian Government in October 2023 to provide financial redress, counselling and support to mothers living with the serious and ongoing effects of forced separation from their children. The Tasmanian Government announced a redress scheme in October 2025, with applications opening on 15 June 2026. Other State governments are understood to be considering similar schemes.
- The Federal Government, through the Department of Social Services, continues to fund specialised Forced Adoption Support Services (FASS) for those affected by forced adoptions, in recognition of the grief, loss and trauma resulting from those practices involving the separation of babies from their mothers.
- The history of forced adoption demonstrates the profound and lifelong consequences of separating children from their mothers and of treating the interests of adults seeking children as capable of overriding the relationship between a mother and her baby.
- Surrogacy depends upon the planned separation of a child from their mother and the transfer of the child to others. The fact that a separation is anticipated, contracted for or arranged before birth does not remove the potential for harm to mothers and children.
- Laws and policies directed only at commercial surrogacy leave intact the practice of ‘altruistic’ surrogacy, despite the same fundamental harms: the commissioning of a child, the expectation that a mother will relinquish her baby, and the displacement of the mother’s relationship with the child.
- Governments must not repeat the errors of past practices by permitting arrangements that plan for the separation and transfer of children at birth.

Signed

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