



Motherhood as an exclusively female status

Article 2 of the Declaration on Women's Sex-Based Rights

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Article 2 - Reaffirming the nature of motherhood as an exclusively female status

(a) The CEDAW emphasises the “social significance of maternity”, and Article 12 (2) states that “States Parties shall ensure to women the appropriate services in connection with pregnancy, confinement and the post-natal period”.

(b) Maternal rights and services are based on women’s unique capacity to gestate and give birth to children. The physical and biological characteristics that distinguish males and females mean that women’s reproductive capacity cannot be shared by men who claim a female ‘gender identity’. States should understand that the inclusion of men who claim a female ‘gender identity’ into the legal category of mother in law, policies and practice, and the corresponding inclusion of women who claim a male ‘gender identity’ into the category of father, constitute discrimination against women by seeking to eliminate women’s unique status and sex-based rights as mothers.

(c) States should ensure that the word ‘mother’, and other words traditionally used to refer to women’s reproductive capacities on the basis of sex, continue to be used in constitutional acts, legislation, in the provision of maternal services, and in policy documents when referring to mothers and motherhood. The meaning of the word ‘mother’ shall not be changed to include men.

The Erasure of Mothers – mere semantics?

- Changes to language – eg: ANU Style Guide is advising the use of “pregnant person” and “chestfeeding” in place of “mother” and “breastfeeding”.
- Legislation to decriminalize abortion in NSW and SA does not use the word woman or mother.



UK legal battle to register a mother as a child's father on birth certificate

- Freddy McConnell, a 34-year-old freelance journalist who works for the Guardian, gave birth in 2018 after suspending hormone treatment.
- McConnell had hoped to challenge an appeal court ruling that motherhood is defined as being pregnant and giving birth, regardless of whether the person who does so was considered a man or a woman in law.
- McConnell was refused leave to appeal and is planning to apply to the European court of human rights to hear the case



Removing children from their mothers

- Removal of children from socio-economically disadvantaged mothers to meet growing demand, including by gay male couples.
- Contractual rights, as in surrogacy agreements, are overriding human rights of women and children.
- Global trend toward removal of children from mothers and placing them with fathers, including where there is DV and child abuse.
- Other excuses to separate mother and babies have included immigration and Covid.



Dispensing with mothers altogether

- Surrogacy reduces women gestational carriers and egg donors who receive inadequate compensation for the physical and emotional risks involved.
- Large amounts of money is being invested by men in alternatives to mothers including artificial wombs, womb transplants to males and cloning technologies.



Why does it matter?

- Mother-child attachment is physiological and constitutes a crucial bond in the child's development. Disruption to this attachment results in a primal wound.
- Mothers play an essential safeguarding role protecting children from male violence. Increased risk of abuse in out of home care.
- Removal of a child from its mother is a cruel and usual punishment and major infringement of human rights of both mother and child.



Are maternal rights protected?

- Article 12 of CEDAW requires that States ensure that women have *equal rights* with men in relation to family planning despite the fact that women have a far greater exposure to risk and investment in having a child.
- Human rights instruments recognise the family as the fundamental unit of society and extend little protection to the unique bond between a mother and child.



‘Family’ as a euphemism for men’s rights

- Protecting the “family” is a euphemism for protecting the rights of fathers. (eg: ABF) Men have the protection of family laws even if they are a rapist or are otherwise abusive and uncommitted.
- On the basis of their mere ejaculation our current family laws place men in a position to exercise control over every aspect of a woman’s and a child’s life, including controlling where they can live, their activities and decisions in relation to health care, education etc. This applies even if he is failing, like so many, to pay child support.



Why motherhood matters?

- While its true that not all women are mothers, all mothers are women.
- Giving birth has a very significant physical and psychological impact for a woman.
- The same does not apply to men who may conceive a child and never know its born or suffer any feeling of loss.
- A child will not miss its genetic father if separated at birth but will suffer significant distress if removed from its mother.
- Mothers also continue on to be primary caregivers for children in the vast majority of cases. Women should think carefully before trading motherhood for flimsy promises of equality.

