Review of Surrogacy Laws
Answers to questions in the Issues Paper
Submission by Abolish Surrogacy Australia (ABSA)

Insights from people with personal experience of surrogacy

Question 1

If you or someone close to you has had personal experience of surrogacy.

Intrinsic to all forms of surrogacy is the separation of gestational mother and baby at or near to birth.

In this regard, while adult adopted people may not be products of surrogacy, they are a major demographic of people who have experienced gestational mother/baby separation at or near to birth.

In this regard it may be said that adult adopted people have experience of an intrinsic aspect of surrogacy: maternal-neonatal separation (MNS).

- **What parts of your experience were positive?** None
- **What parts of your experience were negative?** All parts are negative. When babies are removed from gestational mothers they cry, refuse food, have disrupted sleep and go into a state of shock which soon turns to despair and grief. The opportunity to breastfeed from their gestational mothers – giving them the best start in life – is stolen from them.
- This foundational experience of loss remains with the child throughout her life and causes depression and other mental health issues.
- To ensure they are not abandoned and wounded again in this way, the baby and child will do all in their power to act as happy and pleasing as possible so they will not have to endure abandonment again. This is a natural evolutionary reaction of self-defense.
- This means babies who are separated from their gestational mothers at birth, are already working hard to ensure attachment as a defensive mechanism, and they do not get the chance to live their authentic selves until they are adults, when they have guts to take the risk and speak out about their trauma.
- These children will not be able to speak out about their trauma while they are growing as it puts their closest familial relationships at risk and so they are effectively silenced until late into adulthood when their procuring parents are deceased, or they feel the risk of rejection and disinheritance, and hurting those parents, has sufficiently decreased for them to speak out.
- The trauma of being separated from your gestational mother at or near to birth is just this devastating and its negative impacts life-long.
- Some of our members have experienced this themselves, the writer being one of them, and being removed from my mother at or near to birth prevented the natural physiological regulation with my gestational mother's body, causing my heart rate to increase as I suffered the stress. My hospital records record me "screaming all night"

"refusing food" and "glucose offered to little effect." I had no medical conditions and my distress was caused by the separation from my gestational mother. All my normal calling and rooting behaviours, when the baby nuzzles and does the "breast crawl" up the mother's body to reach the nipple, which smells like the gestational mother's placenta, helping orientate baby to the location of its sustenance so it can access the Colustrum, which the WHO states is "the perfect food for baby", soon turned to panic and despair when my mother was kept from me.

- A 2011 study showed that heart rate variability increases with separation. This dysregulation is a trauma response and remains into adulthood to cause CPTSD. Much of today's population's experience with depression, anxiety and CPTSD was caused by separation at birth – either for adoption, or within a humidity crib for premature babies.
- To this day I feel being separated from my gestational mother at birth took away my reasons for living. It would make no difference if I had been created in a petri dish with foreign DNA as babies do not understand this difference and their natural mammalian reaction to mother loss – that it is life-threatening – would be exactly the same for babies separated for the purposes of surrogacy as they were separated for purposes of adoption.
- Therefore, the trauma of thousands of adopted people should be enough evidence for this enquiry to prove to you that maternal neonatal separation is a cruel and inhuman punishment for human young.
- **What could be improved and how?** The way to improve things is to introduce laws that protect the unique, vital, and necessary relationship between gestational mothers and their babies – puppies and kittens have this protection but you do not offer this protection to the next generation of human beings. SHAME on all of you who promote this disgusting cruelty to human neonates. You would not have wanted removal done to you – but you think its ok to be done to other people.

Reform principles

Question 2 What reform principles should guide this Inquiry?

Response: The prevention of cruelty to babies (and women and mothers). The pre-existing relationship of a baby in utero with the mother whom it is part of, regardless of the mother's consent and which continues after birth. The baby is also a human being with human rights and the capacity to feel loss, sadness, grief and despair. The feelings the baby has towards it's gestational mother is called LOVE. Taking a baby's mother away – the one she already knows and loves – devastates that baby's love, and sets them up for a life of grief, no matter how much they will hide that to ensure they are never harmed in this profound way every again.

Human rights

Question 3 What do you think are the key human rights issues raised by domestic and/or international surrogacy arrangements? How should these be addressed?

Response: The key human rights issues raised are the harms caused to babies and their gestational mothers. Separation at or near to birth is a stress that human neonates are not designed to cope with. We have laws and regulations that protect other mammals and we need laws to protect our own young. It is simply not to be tolerated that we stress a baby for any reason that is not necessary, and the experience of people who have experienced

removal is that it is not just stressful to babies but is terribly traumatic with devastating long-term impacts that are even intergenerational. We know now from the study of epigenetics that trauma when young effects gene transcription that is passed down to the next generation.

Question 4 What information about the circumstances of their birth do you think children born through surrogacy should have access to? How should this be provided or facilitated?

Response: Why are you even asking whether or not children should have access to information about their birth?? How dare you consider creating yet another generation of people damaged by secrets and lies and state control of their own personal information? The Prime Minister of Australia apologised to the Australian Nation for the separation of mothers and babies in her speech apologising for the Commonwealth's Role in Forced Adoptions. And yet here you are calmly debating whether or not you will not only allow and facilitate future MNS (maternal neonatal separation) but you even consider repeating the secrets and lies of the Forced Adoption Era where our true identities were kept under lock and key for the duration of our lifetimes until the 1991 laws opened records. SHAME on you asking this question.

Insights about the key issues and potential reform options

Barriers to domestic surrogacy

Question 5 What do you think are the main barriers that prevent people from entering surrogacy arrangements in Australia? How could these be overcome?

You might want to consider the experiences of any groups who may face greater barriers to accessing domestic surrogacy than others, such as LGBTIQA+ people, people who are financially disadvantaged, or people from culturally and linguistically diverse backgrounds.

Response: The main barriers that prevent people from entering into surrogacy arrangements is that it is entirely unethical and cruel to treat women and children in this way, regardless of the status of a woman's consent.

Eligibility requirements for surrogacy

Question 6 Should there be eligibility requirements for surrogacy? If so, what should those requirements be?

Response: Surrogacy must and will be outlawed, it is only a matter of time. Unfortunately, in the meantime all the lawyers and doctors involved who are greedy for the money they are making out of this exploitative industry will grab as much money as possible, before abolishment – on the basis of the best interests of children and with the help of people born of surrogacy who are already living this hell – will be successful.

We already saw with the adoption boom of the 1950s, 60s and 70s that it was a business in babies and many religious organisations thrived on our trade.

This is simply history repeating – but instead of nuns it is fertility doctors, lawyers and clinics (although lawyers and doctors did ok out of forced adoptions too).

Question 7 Are there any eligibility requirements which should be introduced, changed, or removed?

Response: The baby trade and the sale of children which is all forms of surrogacy must be outlawed, and the laws enforced, or you will be seeing more and more child trafficking and exploitation cases (as we have already seen so far!). You will have to give a National Apology in 30 years-time after a Senate Enquiry or even a Royal Commission. Opposition to surrogacy is only growing over time and if there is a chance for children of surrogacy to sue the Commonwealth or State governments there is a massive cohort of adopted people and other people who have ethics who will support them in every way and demand a redress scheme – just as the separated babies got in the Stolen Generation royal commission – just as the separated babies are demanding after the Forced Adoption senate enquiry. We have had a whole century of testimony as to the trauma of separating gestational mothers from their babies at or near to birth – with or without their so-called consent – and Australian governments have NO EXCUSE to say they do no know the harms of maternal neonatal separation. Decades of animal and sleep studies confirm the stress caused which has long-term impacts because it is enacted on the very young. The Australian Prime Minister said in her speech that Australia has learnt the lesson of family separation and will not do it again. And here you are doing just that. SHAME.

Surrogacy agreements — validity and enforceability

Question 8 Are there any requirements for a valid surrogacy agreement you think should be introduced, removed, or changed?

Response: All surrogacy agreements, which are in fact contracts of trade, are null and void because they violate human rights especially the rights of the child as contained in the UNCRC and other instruments. All forms of surrogacy are unethical and cruel because they involve taking babies of their gestational mothers.

Question 9 Should surrogacy agreements be enforceable? You might want to consider:

a. if all parts of the agreement should be enforceable;

b. who should be able to enforce the agreement; and

c. how agreements could be enforced.

Response: No. All surrogacy agreements (we know they are contracts) should not be enforceable and, indeed, the conspirators involved in trading/exchanging that baby should be prosecuted.

Process requirements for surrogacy

Question 10 What process requirements should be in place for surrogacy arrangements? You might want to consider:

a. if counselling should also be available after the child's birth;

b. what should happen if legal advice and counselling are not provided before entering a surrogacy agreement; and

c. if parentage applications should require proof of legal advice and/or counselling.

Response: Surrogacy – like slavery – like child exploitation – needs to be outlawed immediately. There is no such thing as “altruistic” surrogacy as babies suffer so it is insult to them to call it that and they will not be grateful once they are adults, and will come after you all, hopefully. Jessica Kearn and Olivia Maurel are wonderful examples of people born from surrogacy who risk everything in their own lives to try to stop it happening to others.

Professional services, including legal and counselling services

Question 11 What are the gaps in professional services for surrogacy in Australia? You might want to consider:

a. if surrogacy agencies should operate in Australia; and

b. the availability, accessibility, and subject matter to be covered in legal advice and counselling sessions.

Response: Surrogacy is not a service. It is a trade and it is a trade in human beings. I’m sure all those thoughts of legal advice and counselling are making the lawyers salivate with greed at the money they make.

Question 12 How should professional services operate in Australia? You might want to consider:

a. what their role should be;

b. if they should be for-profit or not-for-profit, or how they should be funded;

c. if different types of services should operate together or separately, for example, whether counselling services should be independent or integrated within agencies or fertility clinics; and

d. how they could best meet the diverse needs and experiences of people involved in a surrogacy arrangement.

Response: Taking babies off their gestational mothers is not a professional service. How disgusting. Have you forgotten you are not talking about a Porsche or a priceless painting? You are talking about a human being that grows into a fully formed and very angry adult.

Limits on advertising

Question 13 How should surrogacy advertising be regulated? You might want to consider:

a. if advertising should be allowed;

b. who should be allowed to advertise;

c. what advertising content should be allowed; and

d. where advertising should be allowed, for example via newspapers, social media, or by establishing a surrogacy register.

Response: Surrogacy should not be regulated but should be outlawed. How disgusting that you ask this question about the commodification of human beings? They will not be grateful. No advertising should be applied to children or their creation in any way, shape or form. It is trafficking.

Access to Medicare and parental leave

Question 14 What entitlements, if any, should be available to surrogates and intended parents? You might want to consider:

a. Medicare rebates for fertility treatments;

b. access by surrogates to paid or unpaid parental leave, including through enterprise agreement terms; and

c. if it is desirable to make surrogacy arrangements generally more affordable, and how this could be achieved.

Response: No entitlements, - just prosecution for cruelty to children and child trade.

Reimbursing and compensating surrogates

Question 15 How could the process for reimbursing surrogates for reasonable expenses be improved? You might want to consider:

a. what expenses should be reimbursable;

b. how payment should be calculated;

c. if there should be limits on any amounts;

d. the process for reimbursement (for example, whether money should be kept in trust, whether there should be a requirement to produce receipts, etc); and

e. any jurisdictions (either within Australia or overseas) that have processes for reimbursement worth learning from.

Response: You are asking if a price should be paid for the handover of a child. How much would you dock the mother's pay if the child dies at birth? No reimbursements, and no reasonable expenses should be paid, as it should be a crime in the first place.

Question 16 Do you support a) *compensated* surrogacy and/or b) '*commercial*' surrogacy? You might want to consider whether you agree with how we have described compensated and 'commercial' surrogacy.

Response: No we do not support compensated and/or commercial surrogacy because it is legalised trafficking along similar lines as the forced adoption era, except this time it is sometimes the child's own DNA donor who is cruelly taking them off their mother, instead of a stranger. We can't imagine which betrayal is the worse.

As allowing any forms of surrogacy – let alone the full business model of baby trade which is compensated or commercial surrogacy – is an abomination we will not lower ourselves to reply to the remaining questions except the following:

The role of the criminal law

Question 24 Should the law have a role in discouraging or prohibiting certain forms of surrogacy? You may wish to consider:

a. if engaging in or facilitating certain forms of surrogacy, whether in Australia or overseas, should be sanctioned or criminalised;

b. the effect of using the criminal law to regulate certain forms of surrogacy; and

c. whether there are regulatory approaches preferable to the criminal law.

Response: ALL SURROGACE MUST BE OUTLAWED and offenders prosecuted.

Other insights

Question 27 Are there any important issues with regulating surrogacy that we have not identified in the Issues Paper? Do you have any other ideas for reforming how surrogacy is regulated?

Response:

Money, Money, Money. Follow the money. Surrogacy is predatory on women and human young. It makes babies cry a lot.

And congratulations on avoiding using the term "WOMAN" in your entire issues paper – so clever!

Without women there would be no surrogacy.

Without babies you would have nothing to trade.

Abolish Surrogacy Australia (ABSA)