THE UNIVERSITY OF MELBOURNE

Submission to the Australian Law Reform Commission

Response to invitation for submissions to the Review of Surrogacy Laws

To: Australian Law Reform Commission

By: Peter McMullin Centre on Statelessness

Date: 10.07.2025

Dear Secretary,

Review of Surrogacy Laws Issues Paper 52

Thank you for the opportunity to provide this submission in response to the issues paper on the review of surrogacy laws.

The Peter McMullin Centre on Statelessness (PMCS) is an expert centre at the University of Melbourne's Law School that undertakes research, teaching, and public policy engagement and outreach activities aimed at reducing statelessness and protecting the rights of stateless people in Australia, the Asia Pacific, and as appropriate more broadly.

PMCS is concerned about the potential risk of statelessness in the case of international surrogacy in contexts wherein a child is born outside of Australia to an Australian parent/s who is themselves in Australia. A grant of citizenship by descent under s 16(2) of the *Australian Citizenship Act 2007* (Cth) is never automatic and requires Ministerial approval. Further, PMCS expresses concern regarding the additional administrative steps parents are required to take to prove their parentage before citizenship by descent is granted in the context of international surrogacy arrangements. Finally, concern is raised as children who are born outside of the country lack the protections of Australian laws designed to prevent statelessness.

Following some background commentary, this submission responds to two key questions posed by the Australian Law Reform Commission (ALRC) in the Issues Paper – Review of Surrogacy Laws:

- Question 2: What reform principles should guide this Inquiry?
- Question 20: What, if any, are the main problems with obtaining Australian Citizenship for a child born through international surrogacy?

In our response to Question 20 we have specifically focused on statelessness that may also arise where there are barriers to acquiring citizenship.

1. Background

Australia has been party to both the 1954 Convention relating to the Status of Stateless Persons ('1954 Statelessness Convention') and the 1961 Convention on the Reduction of Statelessness ('1961 Statelessness Convention') since 1973.[1] These are the key international treaties to protect

[1] *Convention Relating to the Status of Stateless* Persons, opened for signature 28 September 1954, 360 UNTS 117 (entered into force 6 June 1950) article 1 ('*1954 Statelessness Convention*'); *Convention on*

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stateless people and to prevent and reduce statelessness. The term 'stateless' is defined in Article 1(1) of the 1954 Convention as a person 'who is not considered as a national by any State under the operation of its law.' There is an implied obligation that states must identify stateless persons in their jurisdiction through a statelessness determination procedure (SDP). To date Australia has not developed or implemented such a procedure.

This submission follows the terminology used in the ALRC Issues Paper Review of Surrogacy laws and considers 'international surrogacy' to refer to

> Surrogacy arrangements that take place while the intended parent/s reside in a different country from the surrogate. In the Australian context, it refers to any arrangement where the intended parent/s usually reside in Australia and the surrogate resides outside Australia[2]

While international surrogacy arrangements are not automatically commercial, the Australian Human Rights Commission noted in a 2016 report that almost all international surrogacy arrangements entered into by Australians were commercial in nature.[3] Similarly, the Australian government's own website regarding surrogacy notes that 'the majority' of international surrogacy arrangements are commercial in nature.[4]

Risks of statelessness arising in the context of international surrogacy arrangements are well documented globally, these risks arise where neither the country of a child's birth nor the country of the parent's nationality recognise the child as a citizen.[5] In the Australia context, while evidence of statelessness having arisen through international surrogacy arrangements is limited to date, a risk of statelessness remains.

Based on available data, more than 2,200 applications for citizenship by descent were lodged for children born through international surrogacy arrangement in the decade between 2012 and 2022 (no data appears to be available for births in the last three years).[6] These applications cover

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the Reduction of Statelessness, opened for signature 30 August 1961, 989 UNTS 175 (entered into force 13 December 1975).

[2] Australian Law Reform Commission, Review of Surrogacy Laws: Issues Paper (2025) 3.

[3] Australian Human Rights Commission, 'Inquiry into the Regulatory and Legislative Aspects of Surrogacy Arrangements' (17 February 2016) [12][109]<https://humanrights.gov.au/sites/default/files/20160217_AHRC_SurrogacySubmission.pdf>.

[4] See 'Terminology, *Surrogacy Australia* (accessed 03 July 2025) <https://www.surrogacy.gov.au/terminology#commercial-surrogacy>.

[5] See Adam Weiss, '*Menneson v France* and *Advisory Opinion Concerning the Recognition in Domestic Law of a Legal Parent-Child Relationship Between a Child Born Through a Gestational Surrogacy Arrangement Abroad and the Intended Mother'* (2019) 1(2) *Statelessness & Citizenship Review* 343; Katja Swider, 'The Statelessness Case Law Database: LGBTQ+ Families, Surrogacy and the Legal Identity of Unsanctioned Babies', *European Network on Statelessness* (7 October 2021) <https://www.statelessness.eu/updates/blog/statelessness-case-law-database-lgbtq-families-surrogacy-and-legal-identity>.

[6] See Department of Home Affairs, 'FOI Request: FA 22/08/00210 Number of applications for Australian citizenship by descent received by the Department relating to children born through international surrogacy arrangements by country of birth for the 2021-22 financial year' (7 September 2022) <https://www.homeaffairs.gov.au/foi/files/2022/fa-220800210-document-released.PDF>; Department of Home Affairs, 'Freedom of Information Request FA 21/22/01191: Number of applications for citizenship by Descent, lodged for children born through surrogacy arrangements, by country of birth (1 July 2020 to 30 June 2021); and for the period from 1 July 2021 to 31 October 2021' (21 December 2021) <https://www.homeaffairs.gov.au/foi/files/2021/fa-211101191-document-

children born in at least 45 different countries globally, with the most common countries of birth being the United States (715), India (441), Thailand (286), Ukraine (241), Canada (144) and Georgia (87).[7] Table 1 below provides a summary of the number of births in each of the above countries over the decade in question. As is evident from Table 1, the prominence of certain birth countries has changed over the last decade in response to changing laws and policies in those countries.[8]

Country	2012/13	2013/14	2014/15	2015/16	2016/17	2017/18	2018/19	2019/20	2020/21	2021/22	Total
USA	27	57	57	49	66	67	95	120	78	99	715
India	191	108	74	54	14	<5	<5	<5	<5	<5	441
Thailand	23	91	97	19	12	9	10	11	8	6	286
Ukraine	0	<10	<5	<5	11	32	61	50	38	49	241
Canada	<10	<10	<5	5	16	26	14	34	28	21	144
Georgia	0	0	0	<5	8	9	16	20	27	7	87
Other	3	7	18	74	27	27	27	40	44	31	323

This fluctuation along with the breadth of countries chosen means that Australian laws surrounding the grant of citizenship to children born via surrogacy arrangements need to be broad and clear in order to reduce the risk of statelessness. For example, prior to the prohibition of commercial surrogacy in India in 2016, a series of laws existed that did not adequately deal with the issue of parentage or provide for children born through surrogacy arrangements to acquire the citizenship of their intended parents; these laws offered only limited protection from

released.PDF>; Department of Home Affairs, 'Freedom of Information Request FA 20/12/00522: Number of applications for citizenship by Descent, lodged for children born through surrogacy arrangements, by country of birth (1 July 2019 to 30 June 2020).' (15 February 2021) <https://www.homeaffairs.gov.au/foi/files/2021/fa-201200522-document-released.PDF>; Department of Home Affairs, 'Freedom of Information Request FA 20/50/00749: Number of citizenship applications received relating to children born through international surrogacy arrangements by country of birth for the following five financial years: 2014/15 2015/16 2016/17 2017/18 2018/19' (4 June 2020) <https://www.homeaffairs.gov.au/foi/files/2016/20160701-FA160502461-Documents-Released.pdf>.

[7] FOI documents note countries of birth including Argentina, Bangladesh, Belarus, Brazil, Cambodia, Canada, China, Colombia, Cyprus, Czech Republic, Georgia, Ghana, Greece, Ethiopia, Hungary, India, Iran, Iraq, Italy, Jamaica, Lebanon, Kazakhstan, Kenya, Malaysia, Mexico, Nepal, New Zealand, Nigeria, Pakistan, Panama, Papua New Guinea, Poland, Russia, South Africa, South Korea, South Sudan, Sri Lanka, Switzerland, Thailand, Turkey, Ukraine, United Arab Emirates, United Kingdom, United States of America and Vietnam.

[8] See for example, Australian Associated Press, 'Thailand Bans Commercial Surrogacy', *The Guardian* (online, 20 February 2015) <https://www.theguardian.com/world/2015/feb/20/thailand-bans-commercial-surrogacy>; AFP New Delhi, 'India Bans Foreigners from Hiring Surrogate Mothers', *The Guardian* (online, 29 October 2015) <https://www.theguardian.com/world/2015/oct/28/india-bans-foreigners-from-hiring-surrogate-mothers>.

statelessness in cases where the child was abandoned.[9] A high profile 2015 case concerning the abandonment of a child born to Australian parents brought the gaps in laws to light.[10] Concerns have further been raised about the impacts of the Trump administration's executive order limiting birthright citizenship on the citizenship of children born in the United States through international surrogacy arrangements.[11] Notably these changing laws and policies regarding surrogacy frequently disproportionately impact LGBTQI+ parents.[12]

2. What reform principles should guide this Inquiry?

PMCS recommends that the overarching principles proposed by the ALRC for reforming Australia's surrogacy laws, policies, and practices are expanded to explicitly ensure greater respect for the right to a nationality, principles of equality and non-discrimination and the right to life with dignity. Embedding these principles aligns with the aim of protecting children born through international surrogacy arrangements and preventing the potential risk of statelessness.

'Human Rights': The principle on human rights should be expanded to include the right to a nationality.

The right to a nationality is a fundamental human right, meaning everyone is entitled to a nationality, and no one should be arbitrarily deprived of their nationality or denied the right to change it. This right is recognized in the *Universal Declaration of Human Rights*, the *Convention on the Rights of the Child* ('CRC') and the *International Covenant on Civil and Political Rights* ('ICCPR').[13] Article 24 of the ICCPR stipulates that every child shall be registered immediately after birth and shall have a name and that every child has the right to acquire a nationality. Article 7 of the CRC provides that children should be registered immediately after birth and have the right from birth to, inter alia, acquire a nationality, and that states parties should ensure the implementation of these rights in accordance with national law and international obligations, in particular where the child would otherwise be stateless.

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[9] See Sanoj Rajan, 'Ending Statelessness arising out of Surrogacy in India: The Latest Developments', *European Network on Statelessness* (online, 21 April 2017) <https://www.statelessness.eu/updates/blog/ending-statelessness-arising-out-surrogacy-india-latest-developments#:~:text=The%20most%20remarkable%20feature%20of,their%20parents%2C%20including%20intended%20parents>.

[10] See Samantha Hawley, Suzanne Smith and Michael McKinnon, India Surrogacy Case: Documents Show New South Wales Couple Abandoned Baby Boy Despite Warnings', *ABC News* (online, 13 April 2015) <https://www.abc.net.au/news/2015-04-13/australian-couple-abandon-baby-boy-in-india-surrogacy-case/6387206>.

[11] Ashley Mantha-Hollands and Jelena Džankić, 'Ending US Birthright Citizenship Could have Consequences for LGBTQ+ Couples, Lower-Income Parents and the Surrogacy Market', *The Convresation* (6 March 2025) <https://theconversation.com/ending-us-birthright-citizenship-could-have-consequences-for-lgbtq-couples-lower-income-parents-and-the-surrogacy-market-250846>.

[12] Ibid; See also Thomas McGee, '"We are Taboo Everywhere": How LGBTIQ+ People, and their Children, Become Stateless', *The Conversation* (online, 13 August 2020) < https://theconversation.com/we-are-taboo-everywhere-how-lgbtiq-people-and-their-children-become-stateless-141987>; Kerry Brewster, 'Surrogacy Laws May Leave Australian Babies Stateless', *ABC News* (online, 3 March 2013) <https://www.abc.net.au/news/2013-03-05/surrogacy-laws-could-leave-australian-babies-stateless/4552460>.

[13] *Universal Declaration of Human Rights*, GA Res 217A (III), UN GAOR, UN Doc A/810 (10 December 1948) article 15 ('UDHR'); *International Covenant on Civil and Political Rights*, opened for signature 19 December 1966, 999 UNTS 14668 (entered into force 23 March 1976) article 24 ('ICCPR'); *Convention on the Rights of the Child*, opened for signature 20 November 1989, 1577 UNTS 3 (entered into force 2 September 1990) article 7 ('CRC');

The 1961 Statelessness Convention calls for states to implement safeguards in nationality laws to prevent statelessness at birth.[14] Article 1 of the 1961 Statelessness Convention requires states to provide nationality to children born on their territories who would otherwise be stateless. While there is no general obligation on states to prevent statelessness, states should endeavour to prevent statelessness by establishing robust legal frameworks for acquisition of nationality for children born through international surrogacy in instances where their country of birth does not recognise them as citizens.

'Respect and Dignity': The principle on respect and dignity functions to ensure that all parties involved in a surrogacy arrangement are treated with respect and dignity. PMCS recommends that this principle be further expanded to explicitly respect the particular rights of the child.

The right to life with dignity requires that individuals are not arbitrarily or unlawfully deprived of life and are able to live in a manner that respects their inherent value.[15] This means that individuals are entitled to live in a way that respects their autonomy, cultural identity, and human rights. The CRC recognises the importance for a child to know their origins in order to respect their sense of identity and belonging; this includes the right to access information regarding one's legal, genetic and social parentage.[16] Governments are thus obliged to preserve the identity, nationality and family ties of children conceived via international commercial surrogacy.

'Accessibility': It is recommended that the principle governing accessibility should explicitly include the right to non-discrimination and equality of children born through surrogacy.

Equality and non-discrimination are key principles that require that all human beings be treated equally, and that no one faces discrimination based on protected attributes.[17] The right to equality means providing equal access to rights, resources and opportunities to all persons. Given that discrimination is both a major underlying cause and consequence of statelessness, our recommendations draw attention to situations wherein international surrogacy has the potential to disproportionately affect the right to a nationality without discrimination, including for children born to same-sex or LGBTQI+ parents.

3. What, if any, are the main problems with obtaining Australian Citizenship for a child born through international surrogacy?

a) Current Legal Framework

Domestically, s 16(2) of the *Australian Citizenship Act 2007* (Cth) (*'Citizenship* Act') provides that a child born outside of Australia is eligible to become Australian citizens if a parent of that

[14] 1961 Statelessness Convention (n 1).
[15] Preambles of the UDHR (n13) and the ICCPR (n 13). International Law Commission, 'Draft Articles on the Protection of Persons in the Event of Disasters', *Yearbook of the International Law Commission* (2016) UN Doc A/71/10, article 4; African *Charter of Human and Peoples' Rights,* opened for signature 27 June 1981, 1520, UNTS 217 (entered into force 21 October 1986) article 5. See further UN Human Rights Committee ('UNHRC'), 'General Comment No.36: Article 6: Right to Life' (3 September 2019) UN Doc CCPR/C/GC/36 ('General Comment No. 36').
[16] CRC (n 13) article 7(1).
[17] ICCPR (n 13) article 2; *Convention on the Elimination of All Forms of Discrimination Against Women*, opened for signature 18 December 1979, 1249 UNTS 13 (entered into force 3 September 1961) article 2; CRC (n 13) article 2; *International Convention on the Elimination of Racial Discrimination*, opened for signature 7 March 1966, 660 UNTS 195 (entered into force 4 January 1969) article 2; Convention *on the rights of Persons with Disabilities*, opened for signature 13 December 2006, 2515 UNTS 3 (entered into force 3 May 2008) article 5.

child was an Australian citizen at the time of the birth. Such a process is not automatic; an application must be made to the Minister for approval, and the Minister must be satisfied as to the identity of the child and that the child does not raise security concerns.[18] By contrast, s 12(1) of the *Citizenship Act* provides that children born in Australia to an Australian parent or permanent resident will automatically be considered a citizen of Australian. PMCS recommends the ALRC considers a proposal for amending the *Citizenship Act* to align s 16(2) concerning citizenship by descent for children born outside of Australia with those under s 12(1) to make this process automatic and remove administrative discretion.

The definition of 'parent' under the *Citizenship Act* is reasonably broad. As held by the Full Court of the Federal Court held in *H v Minister for Immigration and Citizenship* the term 'parent' as used in s 16(2) of the *Citizenship Act* is not limited to biological parents and should be interpreted in alignment with its general usage which recognises that 'not all parents become parents in the same way'.[19] The *Citizenship Act* provides that a child born through surrogacy arrangement may be considered a child of a person and their spouse or de facto partner where that person has been recognised under ss 60H or 60HB of the *Family Law Act 1975* (Cth) as a parent/s of the child and their spouse or partner is a biological parent of the child or also recognised as a parent under the same provisions. Under s 60HB of the *Family Law Act,* a child born to surrogacy arrangements will be considered a child of a parent/s if a court has made an order under the laws of the relevant state or territory to the effect that either the child is a child of one or more of the parents or that in the alternative either or both of the parents are a parent of the child. This process is further complicated by the illegality of commercial surrogacy arrangements – even those undertaken internationally – in New South Wales, Queensland and the ACT,[20] leaving parents who attempt to have legal parentage recognised in one of these states or territories vulnerable to criminal sanctions.[21]

However, cases, academic publications and reports have shown that many parents who have had their children recognised as citizens by descent have sought recognition of parentage through applications to the Minister for Home Affairs without a declaration of legal parentage under the *Family Law Act* by a court of a state or territory.[22] This division of processes leave children in a position where they may be recognised as Australian citizens by descent by the Department

[18] *Australian Citizenship Act 2007* (Cth) s 17.

[19] *H v Minister for Immigration and Citizenship* (2010) 188 FCR 393 [128]. As the Australian Human Rights Commission has recognised: 'The Court observed that the term is used today to signify a social relationship to another person and reflected a widespread contemporary awareness of families that include non-biological parent-child relationships. The Court considered that being a parent within the ordinary meaning of the word was a question of fact and may depend on various factors, including social, legal and biological factors.' Australian Human Rights Commission, 'Inquiry into the Regulatory and Legislative Aspects of Surrogacy Arrangements' (17 February 2016) [123] <https://humanrights.gov.au/sites/default/files/20160217_AHRC_SurrogacySubmission.pdf>.

[20] Parentage Act 2004 (ACT) s 45; Surrogacy Act 2010 (NSW) s 11; Surrogacy Act 2010 (Qld) s 54.

[21] See for example *Lloyd v Compton* [2025] FedFam CIF 28 [73]-[74].

[22] See for example *Bernieres v Dhopal* (2017) 324 FLR 21 [8]; *Mason v Mason* [2013] FamCA 424 [7]; *Re Allan* [2018] FamCA 1063 [7]; *Sigley v Sigley* [2018] FamCA 3 [17]; Australian Human Rights Commission, 'Inquiry into the Regulatory and Legislative Aspects of Surrogacy Arrangements' (17 February 2016) [121] <https://humanrights.gov.au/sites/default/files/20160217_AHRC_SurrogacySubmission.pdf>. See further Jenni Mllbank, 'Resolving the Dilemma of Legal Parentage for Australians Engaged in International Surrogacy' (2013) 27 *Australian Journal of Family Law* 135.

of Home Affairs, but legal parenthood is not recognised.[23] While this division raises concerns, recommendations for reform that would require recognition of legal parentage to acquire citizenship would lead to a heightened risk of statelessness. As instances in Europe have shown, where a higher standard is required for citizenship to be granted to a child (such as that needed for the recognition of legal parentage), the risk of statelessness is increased. This is particularly relevant when other policy considerations – especially prohibitions on commercial surrogacy arrangements – create barriers to the recognition of legal parentage before the court. As such PMCS recommends that any proposed reforms do not increase the burden on parents seeking to have the citizenship of their children recognised or require them to meet the higher standard of legal parentage.

b) *Policy and Guidance*

Determination of citizenship by descent already places onerous administrative burdens on intended parents. Several policy instruments guide the Department of Home Affairs' decision-making;[24] however they are not publicly available. Instead, the Department provides guidance via their website as to the processes required to be followed by parents in support of an application for citizenship by descent for a child born through surrogacy arrangements. While the information provided by the Department of Home Affairs is detailed, following principles of transparency and clarity, we propose the ALRC recommends the Department makes public and accessible the specific policy instruments that guide department decision-making as to the grant of citizenship.

The Department of Home Affairs websites outlines that applicants must provide: 'written and signed consent to the application from the surrogate mother; a certified copy of identity documentation for the surrogate mother showing her photo and signature; a certified copy of the surrogacy contract signed by the surrogate mother and commissioning parent(s) and medical reports including evidence of embryo creation and transfer.'[25] Surrogacy contracts must be detailed and contain not only information concerning the identity and consent of both parties but further provide detailed medical information along with providing reference to surrogacy laws of the relevant country. Additional documentation including evidence of power of attorney and certified copies of identity documents are required if commissioning parents were represented by a third party.

The Department of Home Affairs notes that in certain circumstances DNA testing may be used however the Department explicitly states that '[e]vidence of a biological relationship between the commissioning parent(s) and the child might not be sufficient if other evidence to support the claim of a surrogacy arrangement is absent.'[26] The requirements for additional documentation regarding the contractual relationship between the parties is due to concerns regarding the risks of false arrangements acting as a cover for trafficking, abduction or other

[23] See for example *Bernieres v Dhopal* (2017) 324 FLR 21 [8]; *Mason v Mason* [2013] FamCA 424 [7]; *Re Allan* [2018] FamCA 1063 [7]; *Sigley v Sigley* [2018] FamCA 3 [17].
[24] The Department of Home Affairs, 'Australian Citizenship: Policy Statement' (8 October 2020) <https://www.homeaffairs.gov.au/foi/files/2022/fa-220100994-document-released.PDF>; specifically lists CPI 21 - Australian Citizenship by Descent - VM-5297 and CPI 23 - Determining Parent-Child Relationship for the Purposes of the Citizenship Act - VM-5299 as relevant documents, both of which have been referred to be relevant courts and tribunals in their decision making.
[25] See Department of Home Affairs, 'International Surrogacy Arrangements' (online, accessed 19th June 2025) <International surrogacy arrangements>.
[26] Ibid.

illegal acts.[27] Where an application for citizenship by descent is made for a child under 16 years of age, their application must be signed by the responsible parent. In many countries the responsible parent will be the birth mother of the child, who may also be required to attend an interview with the department.[28]

c) Gaps and Further Risks

As the details above make clear, the process for an application for citizenship for children born through international surrogacy arrangements is arduous and complex. The conferral of nationality is not automatic and in some cases evidence of a biological relationship will not be sufficient to grant citizenship via descent. This complicates the ability of children born through international surrogacy arrangement to be recognised as citizens via descent and leave them vulnerable to statelessness in instances where their country of birth also does not recognise them as citizens.

Furthermore, since children born through international surrogacy arrangements are born outside of Australia, in instances where they do become stateless, they are not protected by provisions under s 20(8) of *Citizenship Act* that provide pathways to citizenship by conferral for stateless persons born within the territory of Australia. When combined with the fact that citizenship by descent is not automatic, as Foster, McAdam and Wadley have shown, 'Australian citizenship law does not prevent children born to Australian citizens overseas from becoming stateless.'[29]

A process of pre-registration of intended international surrogacy arrangement as proposed by the ALRC in Issues Paper may further reduce the risk of children being rendered stateless. A pre-registration process may provide a dual purpose of ensuring that the Department of Home Affairs can adequately process applications from citizenship by descent and to reduce the risk of children being abandoned by parents due to either unexpected medical conditions arising or the breakdown of relationships. However, any pre-registration process must not impose too high of an additional administrative burden on intended parents. Failure to undertake pre-registration must not hinder or bar the recognition of citizenship by descent.

3. Conclusion

PMCS reiterates concerns regarding the currently burdensome administrative requirements for the recognition of citizenship by descent for children born through international surrogacy arrangements. We express concern regarding the risk that reform may increase the burden by requiring the recognition of legal parentage for the grant of citizenship by descent. While we recognise the competing policy interests at hand, we reiterate the importance of respecting key principles including the child's right to a nationality. We call for greater recognition of this right along with the best interest of the child, the right to life with dignity and the principles of non-discrimination and equality. We express concern regarding the lack of pathways or protections under the *Citizenship Act* for children who may be rendered stateless through international surrogacy arrangement to acquire Australian citizenship when they are born outside of the territory.

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[27] Ibid.
[28] Ibid.
[29] Michelle Foster, Jane McAdam and Davina Wadley, 'Part Two: The Prevention and Reduction of Statelessness in Australia — An Ongoing Challenge' (2016) 40 *Melbourne University Law Review* 456, 479.

In summary, PMCS provides the following recommendations to the ALRC in response to the Issues Paper:

- Expand the guiding principles included in the Issues Paper as follows:
    - The guiding principle on human rights to explicitly include the right to a nationality.
    - The guiding principle on accessibility to explicitly include the right to non-discrimination and equality.
    - The guiding principle on respect and dignity to explicitly reflect the rights of the child.
- Avoid any reform measures concerning international surrogacy arrangement requiring the recognition of legal parenthood for the grant of citizenship by descent.
- Recommend to the Department of Home Affairs to make public and accessible relevant policy instruments guiding determinations of the grant of citizenship by descent.
- Support the provision of greater protection from statelessness to children born to Australian citizen parent/s as follows:
    - Recommend amending the *Australian Citizenship Act (2007)* Cth to align s 16(2) concerning citizenship by descent for children born outside of Australia with those under s 12(1) to make this process automatic and remove administrative discretion.
    - Recommend the introduction of a process of pre-registration of international surrogacy arrangements prior to birth and travel overseas.

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