Australian Law Reform Commission: Adolescent & Young Adult Feedback

I am making this submission to contribute to the Australian Law Reform Commission's review of Australian surrogacy laws, policies, and practices.

1. I am 18 years old.

2. I was born via surrogacy:
   - ○ in Australia
   - ◉ Overseas

3. I was born with the help of:
   - ◉ Egg Donor
   - ○ Sperm Donor
   - ○ Both
   - ○ Neither

4. What are some good things about being born through surrogacy?

   Surrogacy has given me a big extended family, both here in Australia and in the USA. It has given me an appreciation of how important it is for parents to create their families when there is no other options available. It is a village that creates and raises the child.

5. Describe any tricky or difficult times you've had because you were born through surrogacy?

   The lack of education of others. It is sometimes difficult or annoying having to explain what surrogacy is (and isn't) to other people. Most people have some sort of idea but you have to constantly explain how your family came into being and how you were born.

6. Should there be more education about surrogacy in schools and the media? Why?

   Yes! Education is important. Surrogacy is only one way a family is created. Using IVF, is part of surrogacy but it is also a separate way of creating a family. Education needs to be broad and cover all ways families are created, whether that be by adoption, fostering, surrogacy, IVF, donor sperm, kinship, co-parenting or other ways. More education means an easier path for children as the go through life.

7. When a child is born through surrogacy, should their parents be legally recognised straight away (currently they are not)? Explain why.

   Yes they should. My dads have never been my legal parents. Whilst I am now 18 & it is not so much an issue, the lack of legal recognition means that risks exist. Whether it be if I was to get sick or if one or both of my parents die. Even things like inheritance are problems. Recognition of parents also means recognition of siblings & grand parents too. Recognition provides legal certainty where none exists.

8. In Australia, a surrogate is allowed to change their mind about handing over the baby to the parents. What do you think of that?

   I think this is a complex issue. Whilst it is not relevant to me as I was born in the USA, I think the issue of surrogates changing their mind is a risk.

9. In Australia, surrogates and donors are not allowed to be paid. What do you think of that?

   It seems a silly restriction. Every one else is paid. The doctors, the lawyers, the fertility specialists, the psychologists, the government. Everyone who does some work in the process which is heavily regulated gets paid. The woman who does the most is not. Woman deserve and should be entitled to agency over their body. They should be compensated at a fair rate.

10. Is there anything else you want to share about surrogacy and the rules around it?

    I am here, as an 18 year old man because of Surrogacy. I have 2 loving & wonderful dads who have raised me to be a contributing member of the society. They raised me in an extended & loving family & the law should recognise that the act of surrogacy is born out of love & commitment. It is hard work & costly & without a strong legal framework, it only adds stress & risk where there should be none. Please see attached submission

As part of my Victorian VCE exams in 2024, I wrote and spoke about surrogacy and my personal experience. In addition to the PDF I submitted, I wanted to share this with the committee.

Regards
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You know those routine questions that arise in conversation when trying to get to know someone. "If you could had any superpower, what would it be? What's your favourite movie? Where did you grow up? What do your mum and dad do for work?"

I believed I had the perfect answer for all those questions, **except one.**

You see, I don't have a mum. What I have is what is called a “surrogate”. A surrogate is a woman who carries and gives birth to a child on behalf of another person or couple. They allow many people who are unable to have a child on their own, such as my dads, to have one, to create a family, and to be parents.

However, *particularly in Australia*, there is a very limited number of women who are willing to be surrogates. This is because in Australia, surrogacy is **solely altruistic**. Meaning that the woman who is willing to carry a baby for 9 months **cannot** be paid under Australian law. They also can not be found through advertising. The woman who wants to help create a family for someone else, is willing to put in her effort and time into the process, and the woman who is willing to *risk her own life* through giving birth, cannot be compensated for any of this.

As I have grown up and wanted to learn more about how I actually got here, I spoke to my Aunty, who is my surrogate. I asked her why people want to carry a baby who won’t be theirs. She said that the reason some women want to be surrogates is about the relationships that are built between the intended parents and their family. They want to feel to joy that they get when they know they have helped a family, and hand over a baby to the new parents. They do it for the lifelong joy of seeing them grow up and turn into adults. However, she also mentioned that in countries like Australia where commercial surrogacy is illegal and the number of available surrogates is very limited, many women who want to be surrogates, simply can’t. This is because many of them cannot afford the expenses that come with pregnancy.

In countries like America where surrogacy is both altruistic *and* compensated, the willingness of women to be surrogates is dramatically higher than it is in Australia - allowing for more aspiring parents to actually have children. Research has shown that in America between the years of 1999 and 2013, there was an average of over 2000 births via surrogacy each year. This is in **stark contras**t to the average 100 surrogate births each year in Australia. For many people, it is their dream to have children, but this just shows that there are thousands of people in Australia who **simply can’t** because of a lack of surrogate availability. Many people cannot afford the expenses to go overseas to countries like America as well as the expenses that come with having a child. And if the intended parents *do* end up seeking international commercial surrogacy arrangements, a range of multiple other legal problems can arise, such as the citizenship of the child and adherence to international laws.

It is critical that we introduce a compensation model of surrogacy within Australia along the lines that exist in America. This will not only lead to more couples and individuals being able to live their dream of growing a family, but it also is an ethical approach such that it is compensating the women for the 9 months of intensive work that they are doing.

Having a child via surrogacy involves many individuals and organisations working together to allow it to happen. Do we expect nurses to do their work without getting paid? Do we expect the IVF doctors, the lawyers, the psychologists and the medical professionals to all *do their* work without getting paid? So why do we expect the individual who plays the most **vital role in the process** to

do their work without getting compensated? **No**. **It is only fair**, **it is only right**, to pay surrogates for the work that they do in the process. Compensation to the surrogacy is also a form of respect.

Surrogates just like most people, have their own family, have their own jobs and commitments. Her choice to wanting to be a surrogate is about wanting to help childless couples - but given the work that is required to do this, the absence of compensation can make pursuing this choice a difficult proposition.

Compensation will serve as a form of recognition for the immense emotional and psychological challenges that they face throughout the process. It will serve as a form of recognition for their willingness to be a surrogate despite the inherent medical, physical and financial risks that pregnancy comes with. It also provides a degree of respect for their role and choices.

When people hear of things being commercialised, they often see it as a dehumanising process in which the desired outcome is ultimately financial gain.

However, the commercialisation of surrogacy does **not** eliminate the human connection, trust, and love that is made along the way with having a baby. *And I know this. I know this because I have experienced this.*

I do **not** see my surrogate as simply someone who just carried me for 9 months. I do **not** see her as solely a transaction that my dads made in order to have me, no. I see her as a part of my family, a part of my history, a part of my future. I call her my aunty. She made an informed choice to help my dads create a family, and I am eternally grateful that she did.

Some people may call their surrogate, their surrogate mother, their aunty, or just a good friend. But whatever one may call them, *there is in no case, in no circumstance*, an absence of love, respect and human connection.

I mean, we as Australia boast one of the world's best healthcare systems, yet it's as if our laws treat surrogates as lesser citizens. *It's about time* we started looking after those who want so desperately to be parents and by no fault of their own, can't. and *it's about time* we recognise the sacrifices that these women make - and the generosity and selflessness that they uphold to help couples live their dream of having children. Respecting women in this process who choose to act as surrogate requires adequately and appropriately compensating them, just as every other person in the process is paid.

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