

The Commissioner
Australian Law Reform Commission
GPO Box 3708
Sydney NSW 2001
Australia

July 2nd, 2025

Re: Submission on the Review of Surrogacy Laws

To the Commissioner,

I am writing in response to the ALRC's *Surrogacy Reform Issues Paper (IP 49)*. The Center for Bioethics and Culture (CBC) opposes the legal facilitation and normalization of surrogacy in Australia. This submission is structured in response to the 27 questions outlined in the paper and reflects our position that surrogacy, in any form, risks commodifying women's bodies and children, and undermines core principles of human dignity, bodily autonomy, and child welfare. As an organization, we have been working in the space of bioethics, specifically third-party conception for the last 25 years and have had a global impact.

1. Personal experience

While I personally have had no direct involvement with surrogacy, in my career at the CBC, I have heard from countless women and children who have been harmed by the practice around the globe. Due to these personal testimonies, we hold deep concerns about its social, ethical, and legal implications—particularly for the women who become surrogate mother and the children born from these arrangements. In California, we have had women die and surrogate children taken into custody from the “intended parents” in such arrangements.

2. Principles for reform

Any reform should be guided by:

- The protection of vulnerable women from coercion or exploitation. Financial incentives blur true informed consent.
- The prioritization of a child's right to identity and connection to birth origins. Children who are donor conceived struggle with loss of medical records, identity confusion, and other psychological stressors. The child born from a surrogate mother knows her on a primal level. It is well established that a mother's emotions, heartbeat, voice all impact fetal development. Not to mention, the health risks children are subjected to when they are born from assisted reproductive technologies, like surrogacy.
- A refusal to treat reproduction or children as commodities.
- The ethical principle that human life should not be subject to contracts or market forces.

3. Human rights concerns

Surrogacy arrangements—especially commercial and cross-border forms—pose significant and

often irreparable threats to basic human rights. Women are routinely instrumentalized as gestational vessels, reducing their bodies to reproductive functions in service of third-party adults. But beyond the harm to women, the most enduring human rights violations are suffered by the children born of these arrangements.

Children have a right to know their biological origins, to have a relationship with their birth mother, and to not be the object of a transaction. These rights are grounded in international law:

- The United Nations Convention on the Rights of the Child (UNCRC)—to which Australia is a signatory—explicitly states in Article 7 that every child has "the right to know and be cared for by his or her parents." Surrogacy often circumvents or outright severs this right by design. When a child is removed at birth and handed over to commissioning adults, their right to know and be raised by their biological mother is treated as expendable.
- The UN Committee on the Rights of the Child has raised serious concerns about international surrogacy. In its 2023 concluding observations to multiple countries, the Committee warned that surrogacy arrangements can lead to "the sale of children" as defined in the Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography.
- The European Parliament, in a 2015 resolution, explicitly condemned surrogacy, stating that it "undermines the human dignity of the woman since her body and its reproductive functions are used as a commodity." The resolution further expressed concern about "the exploitation of women in vulnerable situations" and emphasized that surrogacy violates the rights of the child by treating children as products that can be commissioned and delivered.
- The Permanent Bureau of the Hague Conference on Private International Law, in its 2014 study on the legal parentage of children born from international surrogacy arrangements, highlighted the lack of international legal safeguards for children's welfare in such arrangements. It emphasized the danger of children being left stateless, parentless, or in legal limbo—with no mechanisms of accountability when commissioning adults abandon the child or become unable to care for them.

Who is responsible if a child is abandoned, trafficked, or born with disabilities and rejected by commissioning parents? There have already been documented cases—including in Thailand, India, and Ukraine—where babies born through surrogacy have been abandoned or stranded, either because they were born with health issues or because the commissioning parents' relationship ended. In such cases, surrogates, hospitals, and state institutions are left to manage the consequences—while the child becomes an unintended victim of a legal grey zone and a fractured origin.

The Swiss Federal Council, in a 2013 report on surrogacy, concluded that the practice raises insurmountable ethical problems, particularly regarding children's rights and identity. Swiss law continues to prohibit all forms of surrogacy on these grounds.

Ultimately, there is no international human right to a child, and no adult's desire or infertility can justify violating the rights of the child or the dignity of the woman. Legal frameworks must affirm that children are rights-holders, not commodities to be commissioned, transferred, or negotiated over in private contracts.

Any surrogacy model that treats the child as an end-product of a contractual agreement—especially in commercial or cross-border cases—is *incompatible with basic principles of human rights law* and should be prohibited outright.

4. Access to birth information

Children must have lifelong access to their full birth history—including information about the surrogate mother and any donors involved. However, the fact that this access must be “granted” reveals the ethical problem inherent in separating children from their origins. At a minimum, children should have access to the identity (and medical history) of their birth mother and any donor involved and these names should be present on the child's birth certificate.

5. Barriers to domestic surrogacy

The barriers in domestic surrogacy law are appropriate and necessary. Rather than lowering them, they should remain or be strengthened to ensure that surrogacy is not incentivized or normalized.

6. Eligibility requirements

I oppose any broadening of eligibility. Limiting surrogacy helps prevent abuse and the emergence of a commercial surrogacy industry under the guise of altruism.

7. Requirements for surrogates and intended parents

Tight requirements are essential to protect all parties—especially surrogate mothers. Loosening these opens the door to coercion, unsafe practices, and harm to women's and children's welfare. In the United States, there are no background checks on the men and woman that buy babies. We have stricter requirements for those that wish to adopt a puppy than for those that hire a surrogate mother to have a child.

8. Validity of surrogacy agreements

Surrogacy agreements should remain legally unenforceable to protect women's right to change their minds about relinquishing a child they have carried and birthed. Contracts cannot protect a surrogate mother or the children she carries from adverse health outcomes (it has been documented that surrogate pregnancies are high-risk in nature, resulting in: preterm birth, low birth weight for the baby, increased possibility of c-section delivery, severe high blood pressure, placental abnormalities, postpartum depression, blood loss, to name just a few). Further, contracts cannot outline every possible outcome, putting the surrogate mother in situations where she lacks full autonomy. Most recently I spoke to a surrogate mother that had to vacate her apartment with her two small children due to mold infestation. She was homeless, living in her car. When she requested to move out of state to be with caring family, her request was denied. To put it bluntly, surrogacy contracts are a form of modern-day slavery.

9. Enforceability of agreements

No contractual obligations should override a woman's maternal rights or force her to surrender a child. The enforceability of such agreements would reduce the surrogate to a womb-for-hire.

10. Counselling and legal advice requirements

These are currently insufficient. If surrogacy remains legal at all, counselling must be extensive, independent, and long-term. However, our preferred position is that surrogacy be prohibited outright. Even with counselling, surrogate mothers are more likely to develop postpartum depression.

11. Role of professionals and organizations

There should be no encouragement or legitimization of professional surrogacy services. Agencies inherently shift the practice toward commercialism and profit motives. The fertility industry in the US is a multi-billion-dollar industry that only cares about profit. When a state in the United States legalizes surrogacy, they open the door for agencies and clinics to profit off of their own citizens.

12. Use of professional services

Rather than improve access to professionals, Australia should prohibit businesses or organizations from operating in the surrogacy space. This reinforces that birth is not a service to be bought or sold.

13. Advertising

All advertising—online or otherwise—should remain illegal. It commodifies both women and babies, turning human life into a transaction. If surrogacy is legalized and advertising is permitted, it should explicitly state all short and long-term risks. We would like to point out that long-term risks are largely unknown, but that does not mean that they don't exist. The industry has failed to perform any longitudinal studies on surrogate mothers or the children they birth. They simply do not care about the long-term health and wellbeing of a woman or child.

14. Medicare and parental leave

Taxpayer funds should not be used to support surrogacy. Public funding for IVF or parental leave in surrogacy arrangements effectively subsidizes the commodification of reproduction. Surrogacy and related procedures involve invasive medical interventions and serious risks to otherwise healthy women, especially when financial incentives are involved. These risks include: increased rates of preeclampsia, placenta previa, gestational diabetes, and preterm labor, psychological distress and heightened risk for postpartum depression among gestational mothers, other less-known long-term risks from repeated hormone treatments and egg retrievals—many of which remain unstudied due to insufficient longitudinal data. These health risks don't go away after a pregnancy, instead they can create chronic health conditions in a woman and child. Overall healthcare costs will increase. Again, it is important to note here that California women have died while acting as surrogate mothers, leaving their own children motherless. Mandating coverage for procedures that expose women—often financially vulnerable—to such risks raises profound bioethical concerns.

15. Reimbursement of expenses

Even reimbursements introduce financial incentives and a pathway toward commercial surrogacy. They should be strictly limited or eliminated.

16. Compensated surrogacy

Compensation—no matter how framed—introduces a market logic into what should never be a transactional relationship. Once financial reward is introduced, the dynamics of consent, autonomy, and motivation become irrevocably distorted.

Compensation blurs the line between choice and coercion. A woman in financial hardship may feel pressured to enter into an arrangement she would otherwise reject, particularly if the payments are positioned as life-changing or essential. This is not authentic consent—it is economic coercion disguised as empowerment. The language of “choice” in this context is deeply misleading, as the choices of women in precarious financial situations are inherently constrained. Introducing money into the equation effectively creates a spectrum of inducement rather than voluntary service.

Moreover, compensated surrogacy lays the legal and moral groundwork for full commercial surrogacy. Once a woman’s reproductive capacity becomes something for which she is paid, we are no longer operating within the realm of altruism but within a commodified reproductive economy. Even capped or state-sanctioned payments open the door to competition, exploitation, and profit-seeking intermediaries. There is no clean or enforceable distinction between “altruistic compensation” and veiled commercialization.

Critically, compensation also compromises the validity of consent over time. A woman agreeing to relinquish a child under financial terms may feel legally and morally bound to follow through—not because it remains her genuine desire, but because money has changed hands. This converts maternal surrender into a contractual obligation rather than a free and evolving choice, undermining bodily autonomy and emotional integrity.

Finally, compensating surrogates reduces the child to a purchased outcome, whether or not money changes hands directly for the child. A system in which adults pay another person to carry and deliver a baby invites the perception—and often the reality—that children are being commissioned, bought, and delivered. This is incompatible with human dignity, with children's rights under international law, and with any ethical framework that rejects the commodification of human life.

For these reasons, compensated surrogacy should be categorically rejected in Australian law, regardless of how carefully framed or limited the payment structures may be.

17. Commercial surrogacy

Commercial surrogacy should remain criminalized. Introducing profit motives inevitably leads to exploitation, particularly of low-income women or those in developing nations.

18. Transfer of parentage

Current parentage laws rightly reflect truth: the woman who gives birth to a child is, and should be, presumed the legal mother. This foundational principle upholds both bodily integrity and the lived reality of gestation, childbirth, and maternal connection. Any departure from this framework—particularly through mechanisms like pre-birth parentage orders—risks converting the child into the object of a contract, rather than a subject of human rights.

Allowing legal parentage to transfer before birth obscures the child's origin and identity. When birth certificates list commissioning parents instead of the birth mother, the result is a legal fiction—one that deprives the child of a truthful record of their own history. Birth certificates are not simply administrative documents; they are identity instruments that serve lifelong legal, cultural, and psychological functions. To erase the surrogate from this document is to erase the existence of the woman who carried, birthed, and nurtured the child in utero.

Moreover, pre-birth orders subordinate the surrogate's rights to the intentions of the commissioning adults—effectively predetermining that the child will be handed over, regardless of the surrogate's physical, emotional, or ethical considerations after birth. This is especially problematic because it implies that legal parentage can be assigned by contract, not by lived relational and biological reality. Such orders invert the moral hierarchy of care, reducing the surrogate to a service provider and the child to a deliverable outcome.

Children have a right to know the truth of their origins, including who gave birth to them and under what circumstances. Transfer of parentage, especially pre-birth, violates this right and institutionalizes deception at the very beginning of life. If transfer is permitted at all, it must only occur post-birth, after the surrogate has had full opportunity—free from pressure—to assert or relinquish her rights as a mother, and only after judicial review prioritizing the welfare of the child above all contractual arrangements.

19. Dispute resolution

The law should never compel a woman to hand over a child. Disputes must be resolved with the child's welfare as paramount—but legal safeguards should heavily favor the surrogate mother's rights.

20. Citizenship and passports for international surrogacy

Reducing barriers to citizenship, passports, or other identity documents for children born via international surrogacy arrangements would amount to de facto recognition and legitimization of cross-border surrogacy—effectively endorsing international child procurement. It would incentivize Australians to circumvent domestic regulations by commissioning surrogacy in countries with weaker human rights protections, often where women are economically vulnerable and subject to exploitative reproductive labor conditions.

In such arrangements, the child becomes the product of a commercial contract, and Australia risks becoming complicit in global baby markets. The provision of automatic citizenship not only

facilitates this practice, but undermines the principle that human beings should never be subject to commercial exchange, regardless of how “consensual” the arrangement appears on paper.

For example, in the United States, particularly in states like California, intended parents from overseas can easily obtain pre-birth court orders declaring them the legal parents—even before the child is born. The surrogate mother’s name may never appear on the birth certificate, and the contract is often upheld without meaningful review of coercion, consent, or postnatal realities. If Australia were to follow suit by streamlining citizenship and travel documentation for babies born into such arrangements, it would enable Australians to exploit foreign legal systems to bypass domestic protections—a form of reproductive tourism that should be categorically condemned.

Australia must maintain strict immigration, parentage, and documentation hurdles in such cases to send a clear legal and ethical message: we do not condone international surrogacy arrangements, especially those that commodify women and children and outsource legal and ethical complexity to jurisdictions with less rigorous oversight.

21. Parentage recognition in international surrogacy

Parentage should not be recognized automatically in international surrogacy. Doing so would create incentives for Australians to exploit legal loopholes in countries with weaker protections.

22. National consistency

National consistency must not mean legalization or deregulation. If harmonization is pursued, it should harmonize prohibition and restrictions, not facilitation.

23. Oversight body

There should be no national surrogacy body, registry, or facilitator. Such structures would promote surrogacy as a legitimate pathway rather than discourage it. However, if surrogacy is to be allowed, the development of independent ethics review boards; long-term tracking of health outcomes for surrogate mothers, egg donors, or ART-conceived children; or informed consent tailored to the physical and emotional risks involved in surrogacy and egg donation must be a priority. This lack of accountability is unacceptable for legislation with such far-reaching implications.

24. Role of criminal law

Criminal law must continue to prohibit and penalize commercial surrogacy, including international arrangements and advertising. Strong enforcement is necessary to prevent backdoor markets.

25. Education and awareness

Public education should emphasize the ethical and legal concerns around surrogacy—not promote it. It should advocate for alternatives that do not involve the commodification of life. Education instead should be focused on reproductive biology at a young age and restorative reproductive health practices for those facing infertility.

26. Additional issues

The psychological impact on surrogate mother and children over time deserves greater attention and cannot be stressed enough. Mental health studies show lasting complications, particularly for children born through transactional arrangements.

27. Other relevant matters

Other issues include:

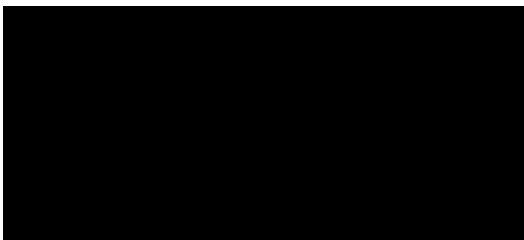
- Socioeconomic pressure on women to “volunteer” for financial reasons.
- Normalization of surrogacy through pop culture and media.
- The creation of legal markets for children, however unintended.
- Robust restorative reproductive medicine should be offered to families struggling with infertility.

This submission strongly opposes any expansion or facilitation of surrogacy—domestic or international, compensated or “altruistic.” The risks—exploitation of women, complex child welfare issues, and commercialization of human reproduction—far outweigh any argued benefits. The law should instead:

1. Strengthen prohibitions and maintenance of legal barriers
2. Invoke criminal sanctions for violations
3. Resist normalization by preserving barriers in parentage, compensation, and access to services
4. Promote awareness of alternatives

Let the law emphasize respect for women's bodies, children's rights, and non-commercial reproductive ethics.

Respectfully,



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