The Commissioner
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Submission to the Review of Surrogacy Laws, Policies and Practices

I wish to express my profound concerns about the prospect of any expansion of surrogacy both within and outside of Australia, with the ALRC asked to consider "how to reduce barriers to domestic altruistic surrogacy" while also aiming to "protect and promote the human rights of children."

It is impossible to engage in this exercise as these two aims cannot co-exist. Surrogacy is inherently detrimental to the wellbeing of children as it requires the separation of a child from her/his mother, if not at birth, shortly afterwards.

I was an employee at the Parliament of Victoria at the time when the Apology for Forced Adoption was belatedly given. I witnessed at first hand both the trauma experienced by women who were separated from children at birth, and the trauma experienced by the adults who were removed from their mothers when they were children.

The effects of being removed from one's mother at birth (and culture, language, community and extended family, too) had and continues to have lifelong devastating consequences on those involved. Growing up without knowledge of one's natural origins is a gross denial of human rights.

Despite the attempts by the Surrogacy Industry (and it various arms, including lawyers, medical firms, surrogacy agencies and other profiteering agencies) to characterise surrogacy in a different way, as being a 'choice' that selfless women make, the parallels between the two cannot be so easily dismissed.

Surrogacy is an option available to wealthy people and those women who perform this 'service' are never of that same ilk. As author Kajsa Ekis Ekman argued in her profound book *Being and Being Bought*, and as she explained during her visit to the Parliament of Victoria a decade ago, the one who is able to claim the title 'mother' with the child who is born as a result of a surrogacy arrangement *is the one who pays.* Surrogacy exploits the fact there are desperate women in the world who want to escape from poverty; who want to be able to feed and house their children, to educate them and keep them healthy. It is not a 'choice' any woman would want her own daughter to make. The power discrepancy between baby buyers and the women who give birth to babies for them is stark and cannot be ignored by anyone with a modicum of understanding of social justice, exploitation of the vulnerable and the struggles of feminism.

Justification for the practice of forced adoption was done under the guise of altruism. The fact that a child may enjoy a more materially wealthy upbringing as compared to the modest circumstances of often single and unmarried mothers was used as sufficient reason for what was baby-stealing. This same argument is being employed again in the practice of surrogacy, as baby buyers ('prospective parents') often lay out the reasons why a child would enjoy such

a great life with them. The overriding fact that the child is deprived of its natural mother does not seem to enter their minds.

Of course, pro-surrogacy activists/investors, who stand to gain enormous amounts of money from the commercialisation and legalisation of the baby trade, argue that women are 'carriers' or 'egg donors' rather than mothers. This appalling and misogynistic attitude reduces women to their body parts and somehow dismisses the entire pregnancy in surrogacy as a process unconnected to motherhood on the part of the woman who grows a baby inside her.

We need to ensure we don't repeat the errors of forced adoption in the case of surrogacy by reducing women to their technical function as 'wombs' and discounting that they have feelings and needs of their own. Women are not functioning body parts to be used and discarded at will. They cannot be bought off or made silent or compliant with money.
As Ekman argues, surrogacy involves the split of the self: the body/womb becomes an object or tool, to service the need of providing a baby for someone else. Yet somehow, the use of the female body in this way is not meant to compromise her 'real' self; her inner self. Surrogacy is not portrayed as a woman selling herself but just as a temporary hire of parts of her body. The self and the body as seen as two different things.

Surrogacy therefore relies on a movement away from the accepted theory of body/mind/self as one integrated whole and returns to an outdated, defunct anti-feminist dualism that separates body and mind. Surrogacy investors suggest that somehow a woman can nurture a baby in her womb for nine months and then emerge unscathed emotionally, hand over a baby without regrets, and move on, grateful for either a wad of cash in her pocket or feeling a gush of self-worth (which women are notoriously short of in our patriarchal society) through an act of selflessness.

This is a false mythology already disproven by the heartaches of forced adoption. We should not be creating another stolen generation of babies, through an arrangement that demeans women by reducing them to the function of their bodily parts.

I am further concerned that despite laws in various jurisdictions in Australia (NSW, QLD and ACT) that make it a criminal offence for their residents to travel overseas and engage in commercial surrogacy, it seems that these laws are ignored and legislated penalties including fines or imprisonment never imposed. Throughout the country, seminars by surrogacy investors are held which encourage and assist people to break existing laws and engage in illegal surrogacy arrangements. I strongly believe these laws need to be enforced and in fact extended to all other states and to the Northern Territory.

I am loathe to see any relaxation of laws or expansion of an industry which already shows total disregard for legislation.

The National Health and Medical Research Council's *Ethical Guidelines on the Use of Assisted Reproductive Technology in Clinical Practice and Research* stipulates among its guiding principles that "the interests and wellbeing of the person who may be born as a result of an ART activity must be an important consideration" and "ART must recognise and take into account the biological connections and social relationships that exist." Yet in most cases of surrogacy, not only are biological connections intentionally concealed, social relationships are actively prevented and a child is denied connection with its mother.

In the Age of Entitlement, Narcissism, Competitiveness and Consumerism in which we currently live, with social media rampant and everyone striving for 'likes', never before have children been such a must-have accessory, the currency of success for people with wealth sufficient to buy them anything.

This is a trend we must oppose. Part of this opposition must be strengthening, not weakening laws against surrogacy, which is a misogynistic practice that deserves to be called out as such. We should be focusing on developing a society where every single person is valued as they are, whether they have children or not. Instead of bowing to pressure from surrogacy investor groups to develop a trade in babies, we should be defending the rights of women not to be exploited and defending the right of children not to be created as designer babies, denied knowledge of their natural origins and deprived of their rights to know their mothers.

Commodification of women's bodies and commodification of babies is a treacherous path to embark upon and I implore the ALRC to consider this before daring to repeat the terrible mistakes of the past in a twenty-first century version of misogyny. So-called altruistic surrogacy must not be expanded, and 'compensated' and 'commercial' surrogacy both inside and outside Australia must most definitely continue to be prohibited.

Yours sincerely