Submission to the
Australian Law Reform Commission (ALRC)

Review of Surrogacy Laws

on behalf of the

New South Wales Council of Churches

10 July 2025
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[redacted]

We thank you for the opportunity of making a submission to this Review.

The New South Wales Council of Churches (NSWCC) has served as the peak body for major Protestant churches on matters of public interest since its inception in 1925. The NSWCC comprises their "Heads of Churches" plus representatives of the eight evangelical Christian denominations: Anglican, Baptist, Reformed, Churches of Christ, Congregational, Presbyterian, Salvation Army, Missionary Alliance of Australian Churches. NSWCC Board and Executive are charged with keeping abreast of social issues, legislative changes and matters that can benefit or adversely harm their communities. As a group we also have a vested interest in secular broadcasting which in itself leads to podcasts and other digital outlets. (NSWCC Broadcasting Committee)

We would like to address several of the issues noted in the published Issues Paper for the Review of Surrogacy Laws.

What reform principles should guide this inquiry?

We would stress International Law on Human Rights, the common good, and Christian human rights. They affirm that the best interests of all children should be of utmost importance. Our laws need to continue to ensure that our society does not become a ready market for vulnerable living children, or children to be born. The Inquiry should also be guided by the relevant articles of the Conviction of the Rights of the Child (CRC), including the Articles mentioned in the Issues Paper (Articles 7, 8 and 16) and additional relevant CRC articles not mentioned, including Articles 9, 11, 21 and 35.

Further, in a submission from the Sydney Anglican Social Issues Committee, written by medical ethics expert, Dr Megan Best and endorsed by the then current Archbishop, the Christian view on family was presented and this, we believe should guide any reform principles. *"Marriage (lifelong commitment between a man and woman) is the ideal foundation for a family, whereby through the act of sexual intercourse, the child is conceived by a mother and begotten by a father, creating continuity between biological and social roles. While the vicissitudes of life can prevent this ideal from being realised, we nonetheless believe this should be the aim in the creation of new families."* (Standing Committee on Social Policy and Legal Affairs inquiry into surrogacy tabled 4 May 2016.)

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

- Australia should continue to prohibit all forms of commercial surrogacy, including domestic and cross-border arrangements.
- The law should affirm that the welfare and rights of the child are paramount and cannot be overridden by adult desires or contracts. This should include the right of any children born through surrogacy to know their biological parents and the circumstances of the conception and birth.
- Where surrogacy does occur, legal frameworks must provide rigorous protections for surrogate mothers, including independent legal and psychological support. There should also be strong protections to ensure they are not subject to modern slavery arrangements.

- The Submission from the Sydney Anglican Social Issues Committee (as referred to above), argued that commercial surrogacy could not be justified in any context. *"It commodifies children. Second, it exploits financially needy women, who may engage in surrogacy for profit when they would not do so otherwise." the submission said. "Such concerns are evident in developing countries involved in the international surrogacy trade. The socio-economic disparity between commissioning parents and surrogates is often great, leading to unequal bargaining power between the two, and reports of unfair and dangerous treatment of vulnerable women in some overseas countries."* The submission went on to say, *"We believe that parenthood is a blessing, not a right, and that children are not commodities to be commissioned at will."* Further, it said, *"We believe that human life begins at fertilisation (joining of the male and female gametes) and that it should be respected from that time onwards."*

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

Surrogacy arrangements pose considerable human rights concerns. The current law and protections provide significant safeguards and should remain in place. These are the likely barriers.

How should surrogacy advertising be regulated?

Surrogacy advertising should not be allowed. It risks commodification of the bodies of women and children. It also risks normalising this practice and increasing the prevalence of surrogacy within society. If allowed at all, only government-regulated, not-for-profit registries with strict oversight should be permitted to advertise.

If Australia was to allow for compensated or commercial surrogacy, how could this be implemented?

Commercial surrogacy and both commercial and compensated arrangements should continue to be illegal in Australia. It could be argued, commercial surrogacy arrangements are outside the Terms of Reference provided by the Federal Government, which were limited to altruistic surrogacy.

How could the process for obtaining these documents be improved?

International surrogacy should remain illegal due to the rights of the child and of the birth mother. With respect to obtaining said documents, the focus should be on why the current practice is not working.

Should the law have a role in discouraging or prohibiting certain forms of surrogacy?

Yes, see above. With respect to altruistic surrogacy, the Anglican submission concurred that there needs to be legal clarity, a developing of the regulatory regime of State & Federal governments in non-commercial surrogacy, as well as the paramount role of the welfare of the child.

Conclusion

We refer the Commission to the *Joint submission of Faith Leaders to the NSW Department of Communities and Justice: Review of the Surrogacy Act 2010 and the Status of Children Act 1996 (2 August 2024)* which would inform the Inquiry of the position of Christian churches of NSW. We would be confident that their position has not changed in any significant way. It's introduction states,

> *As representatives of faith communities comprising close to half the population of NSW and 80% of religious believers in this state, we are pleased to provide this submission to the NSW Department of Communities and Justice review of the Surrogacy Act 2010 (Act) and the Status of Children Act 1996.*
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> *While the view of surrogacy within our faith communities differs, we are united in our rejection of any liberalisation of surrogacy laws within the state. In particular, we oppose any proposals to permit commercial surrogacy arrangements, either domestic or international.*
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> *The risk of exploitation and abuse of women and children due to commercial surrogacy is well known. While we strongly agree with the principle that, in any decision-making relating to children, the best interests of the child must be paramount, we are also united in our shared concern for women who may be made vulnerable and mistreated through the practice of surrogacy. The welfare of both parties therefore requires that commercial surrogacy continue to be illegal in NSW and that any proposals to amend the Act do not expand the availability of surrogacy in this state.*

Further, we refer the Commission to the extensive submission by the Australian Christian Lobby (ACL). It raises questions with respect to jurisdiction, the basis for surrogacy, the priority of children and women and best safe guards.

We are open to any further involvement the Commission might deem appropriate.

Yours sincerely,

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