You Gave Me A Voice

Joyce Westerman & Vivienne Timmermans
Advocates for Mothers of Lost Adopted Children
"You Gave Me A Voice"
[redacted]

Dear Attorney General Rowland

We are writing to express our concern about what is expressed in the Current ALRC Issues Paper from the Surrogacy Reference Group provided by Minister Mark Dreyfus. We request that you consider our viewpoints expressed below. We write as facilitators of a support group for women who have lost children historically to forced adoption and the children they lost who havc not had positive experiences in adoption. Our concerns result from the expressed opoinions by our members from their own lived experience. Our principal concerns follow:

- Apparent ignoring of the terms of reference provided by Minister Dreyfus in forming a framework for the work of this committee
- Lack of summary of previous reports to be used to frame its considerations, as well as a lack of assessment, comment or direction about the way these have been taken into consideration. It does not appear that the content of the Issues Paper informed the rationale for the thinking of the ALRC.
- The paper completely ignores the reference to 'how to reduce barriers to domestic altruistic surrogacy arrangement in Australia'
- The paper does not address through the questions provided the broader considerations about whether commercial considerations or institutionalising surrogacy is in the interests of a child born through surrogacy
- Discussion needs to be provided about whether commercial surrogacy should be introduced into Australia, merely assuming that it should, and then providing information about how this should be legislated and regulated
- The impact of surrogacy on the mother, the child, and the Australian society's openness to accepting surrogacy, through addressing current experiences of surrogacy world wide or in Australia is not addressed
- Regard needs to be made to the medical or emotional nature of surrogacy arrangements for any of the parties mentioned in the Terms of Reference.

We draw to your attention that critical references provided by Minister Dreyfus in the Terms of Reference which are not addressed by the ALRC. In particular:

- '... that the ALRC have regard for the medically, emotionally, financially and legally complex nature of surrogacy arrangements;
- that the human rights of children born of surrogacy, their surrogate mothers and intended parents, and the risks commercial surrogacy can pose to vulnerable women and children;
- consideration be given in particular to ways to reduce the barriers to domestic altruistic surrogacy arrangements in Australia, including by ensuring

surrogates are adequately reimbursed for legal, medical and other expenses incurred as a consequence of surrogancy.'

Key matters that have not been addressed include how to respond to matters of informed consent and guidance about situations where a mother ultimately decides that she cannot hand over the baby to the commissioning couple. A clear consent process is needed. Aspects that need consideration include the giving of sufficient time for the surrogate mother to consider if she wishes to revoke the consent.

A further important consideration is what constitutes the best interests of the child. This would include acknowledgement that the purpose of reproductive technology is to create a child, which requires significant public resources, as well as the fact that there is clear potential for conflict between the interests of the child created and those of the surrogate mother, the commissioning couple and fertility clinics. This includes that the expressed guiding principle of surrogacy being in the best interests of the child is the paramount element rather than simply embodying the wishes of the commissioning adults and the surrogate mother to satisfy their own wishes. These are all factors that must be taken into account when considering the introduction of surrogacy in Australia.

A further concern is the belief that processes used in commercial surrogancy, i.e. superovulation and the attendant drugs used are known to cause cancer in the surrogate mother. This issue has not been considered, despite the breadth of research undertaken in this areas over the past 40 years. This is part of the matters that need to be considered by potential surrogate mothers. There is no doubt that the psychological wellbeing of a surrogate mother must be ensured to positively affect the wellbeing of the foetus she carries. This is intrinsic to the wellbeing of the baby in utero. Conflict between the surrogate mother's feelings of connection to the baby prior to birth and the need to surrender the baby to the commissioning parents may adversely affect the developing foetus and the child when born. The mother's hopes, needs and expectations may be conflicted during the pregnancy. Surrogacy may be an emotional experience for all concerned, which needs thorough consideration.

We believe that the develping public policy to facilitate the procurement of a baby through surrogacy is likely to have deleterious and injurious consequences on one or all of the parties involved. This would bring negative impacts on the values and quality of our society, particulary taking into consideration the negative emotional impact that past forced adoption practices have had on mothers who gave up their babies for adoption, albeit against their will. These experiences provide valuable lessons for those who consider the ramifications of legalising commercial or private surrogancy in Australia. We pray that you will take the above points into consideration when reviewing current surrogacy laws in Australia with a view to legalising it in this country.

Yours faithfully,

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