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02.07.2025

The Commissioner
Australian Law Reform Commission
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Flinders Lane
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Email: surrogacy@alrc.gov.au

Dear Commissioner,

SUBMISSION TO THE AUSTRALIAN LAW REFORM COMMISSION – REVIEW OF AUSTRALIA'S SURROGACY LAWS

I am making this submission to contribute to the Australian Law Reform Commission's review of Australia's surrogacy laws. I am an Intended Parent (IP), hoping to embark on a surrogacy journey here in Australia in the coming years. I underwent an emergency hysterectomy at the birth of my son. This meant that surrogacy was the only option for growing our family, with children of our own. When my specialist first discussed surrogacy as an option, I immediately froze. I didn't know anyone who had ever embarked or completed a surrogacy journey. The process was so foreign, with the only stories being shared in the media are ones of overseas tragedy. Therefore, I decided that we needed to make an informed decision prior to 'giving up' on having more children of our own. So, I write this submission from an IPs point of view, who is just embarking on, what I hope is a surrogacy journey.

I have read the Issues Paper and have responded to the questions posed in the paper below.

I seek that my submission be published but de-identified

1. **If you or someone close to you has had personal experience of surrogacy, please describe:**

We are just commencing our surrogacy journey, and let me put it bluntly, it is a very meek reality for intended parents (IP) here in Australia. After listening to podcasts

and reading what resources are available, the reality is for most IPs, an international journey is the more realistic option. The main barrier for surrogates and IPs to meet are the current Australian laws which are outdated and uninformed, and restrict the ability of us, and many others, to grow or start their families.

Finding a surrogate here in Australia seems to be the most challenging component of the process, with most people unaware that it is legal to use a surrogate within Australia. The lack of positive media attention, the lack of access to resources often means people intending to be surrogates are uninformed or unsure of where to access accurate, unbiased information.

- What parts of your experience were positive?

The community that has erupted due to the lack of information and support within the surrogacy space, is incredible. The surrogacy process is incredibly isolating and overwhelming. Different members of the community have compiled resources of their lived experiences, which can outline some of the costs, process challenges, and steps required to complete a surrogacy journey. However, as I have since learned, surrogacy is state based and the laws within each state make it a little confusing to understand the exact financial cost of surrogacy, and therefore budget this as a family.

- What parts of your experience were negative?

The current process is somewhat helpless for IPs. You can post your private struggle on social media, you can openly discuss it with family, friends, and the community, but at the end of the day, that's about it! This leaves IPs with two options: 1) overseas surrogacy agreements, most of which are illegal and very costly or 2) not having a child! That's it, that's our options!

As a private person, I am more than happy for my close friends and family to know my struggles and medical history, but the rest of the world, I would prefer to keep it private. This restricts my ability to find and link with a surrogate.

- What could be improved and how?

The current laws are too restrictive and to be honest, somewhat unethical.

1) At the end of the day, in my opinion, making commercial surrogacy illegal is unethical. If a surrogate chooses to not get reimbursed for the physical 'work' of undergoing fertility treatments, pregnancy and post partum, that is completely her and her partners decision. However, to make it illegal that she receives compensation for this work, that is so very wrong. I do believe pregnancy, not to mention 'getting pregnant' is work. It is really difficult work. Its challenging for the surrogate, her family and friends. It has repercussions on her energy levels, her body, her mind not to mention her job and ultimately her career. I don't believe it should be given away for

'free'. I think more women would become surrogates if they were rightfully reimbursed for their time and energy to grow a human being in their bodies.

2) The laws currently restrict ways people can access assistance to have a family through surrogacy. There is no central place a surrogate or IP can access each other. They rely on family members/ friend or social media to 'meet' an appropriate match. If there was a current central contact point (ie agency) in which people would register their interest and access information, then would make the whole process more transparent and accessible for most Australians.

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

As stated above, I think making a surrogate go through fertility and pregnancy, without financial compensation is unethical. A surrogate and her family sacrifice a lot for IPs. There are not many situations we expect people to complete 'work' without being financially reimbursed, but yet this is asked of a surrogate and her family.

I think as a nation, our current surrogacy laws are leaving people no option but to access international surrogacy, as it is cheaper and has a more transparent process. The women, families and children born through this process may or may not have access to their birth information, appropriate healthcare, and may or may not have consented to the surrogacy process. As a country, our surrogacy laws are forcing families to seek these options to start or build their family.

Lastly, we have great health care in this country. If I had a baby born with complications, I would want them here, in Australia., not in another country, where I/ my family are isolated from support networks and good medical care.

There are many challenges with surrogacy here in Australia, however I feel that the legalisation of commercial surrogacy, reducing the laws on advertising surrogacy and allowing organisations to link surrogates and IPs will enable more transparent, streamlines and ethical surrogacy practice.

2. What information about the circumstances of their birth do you think children born through surrogacy should have access to? How should this be provided / facilitated?

Children born through surrogacy should have access to the surrogate (and partners) details at the age of 18 years.

3. **What do you think are the main barriers that prevent people from entering into surrogacy arrangements in Australia, and how could these be overcome?**

Although 'pregnancy related costs' are covered by IPs in a surrogacy agreement, anyone who has ever been pregnant (or partnered someone who has been pregnant) knows that pregnancy takes an immense toll on a women's mind, body, energy levels and so much more. I believe Surrogates should be reimbursed for their time and energy associated with the surrogacy process and pregnancy. I believe this is a major barrier.

4. **Should there be eligibility criteria for surrogacy? If so, what should those requirements be?**

Absolutely! I think a surrogate should be safe and healthy. They need to be medically and psychologically cleared.

5. **Are there any current requirements which should be changed or removed?**

6. **Are there any requirements for a valid surrogacy agreement you think should be added, removed or changed?**

No, I do believe the process needs to be streamlined across Australia. It also should be easily accessible and easy to understand.

7. **Should surrogacy agreements be enforceable?**

The surrogate should always be able to maintain body autonomy. The surrogate should be financially compensated for the time she is pregnant/ undergoing fertility treatment and pregnancy related costs, which should be enforceable. If the surrogate chooses to keep the infant at the end of the pregnancy, then the intended parents should have the costs paid to the surrogate reimbursed by the surrogate. Again, this should be enforceable by law.

8. **What process requirements should be in place for surrogacy arrangements?**

It should be standarised across Australian, not state/ territory based.

9. **What are the gaps in professional services for surrogacy in Australia?**

   A professional organization/ organisations who can co-ordinate appropriate matches of surrogates with Intended parents. This includes providing information to the two groups on the process of surrogacy. Currently it is difficult for both a surrogate and Intended Parent/s to find a 'good match'. Often flying 'blind' with what makes a good match.

10. What is the best way for professional services for surrogacy to operate?

11. How should surrogacy advertising be regulated?

12. **What entitlements, if any, should be available to surrogates and intended parents?**

Fertility and especially surrogacy are very expensive (both locally within Australia and internationally). I can imagine that people spend so much money on the process that they often cannot afford a significant period of unpaid leave following the birth of the baby. Yet, anyone who has either been involved in birthing a baby, or looked after a newborn knows, both are not conducive with paid work for a period of 12 weeks (minimum). Therefore, I feel that both parties (the surrogate and IP) should be entitled to paid parental leave, so too should both partners. This is to ensure the surrogate (and her family) and the intended parent/s (and their family) are supported with the challenges of navigating the post-partum period.

13. **How could the process for reimbursing surrogates for reasonable expenses be improved?**

Having not gone through this myself, I feel an escrow account managed by a surrogacy co-ordination company could be an option, however I don't believe this would be 'mandatory'.

14. **Do you support a) *compensated* surrogacy and/or b) '*commercial*' surrogacy? You might want to consider whether you agree with how we have described compensated and 'commercial' surrogacy?**

I am very supportive of Australia legalising commercial/ compensated surrogacy.

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

I don't feel the 'wheel' needs to be re-invented. There are countries, like USA, who currently run a process like this.

16. What are the main problems with the requirements and processes for obtaining legal parentage for a child born through domestic and/or international surrogacy?

17. How could the process for intended parents to become the legal parents of children born through surrogacy be improved?

18. What, if any, are the main problems with obtaining the following documents for a child born through international surrogacy:

19. How could the process for obtaining these documents be improved?

20. What is the best way to approach differences in surrogacy regulation between or within jurisdictions?

The surrogacy process should be national, not state based, making it a streamlines process for interstate arrangements.

21. Is it appropriate for surrogacy arrangements to be subject to oversight? If so, what is the best approach?

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

23. Do you think there is a need to improve awareness and understanding of surrogacy laws, policies, and practices?

Yes, most people believe that surrogacy is illegal in Australia, and unethical overseas. More accurate and available information should be available on Australian laws and the process.

Thank you for considering my submission.

Yours Faithfully,

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