June 11th, 2025
Submission to the Australian Law Reform Commission
Review of Surrogacy Laws in Australia (2025)

[redacted]: Recommendations from a couple experiencing infertility

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Executive Summary

Australia's restrictive, fragmented surrogacy framework is driving thousands of citizens offshore, exposing families and surrogates to needless financial, legal, and medical risk while depriving Australia of the social and economic benefits of domestic fertility care. Our lived experience—six IVF cycles, embryos lost in Ukraine's war, a Georgian ban on foreigners, looming U.S. citizenship hurdles—illustrates how current laws can convert the dream of parenthood into an arduous, often perilous odyssey. We urge the ALRC to create a nationally consistent, ethically robust system that authorises regulated, well-compensated domestic surrogacy and offers clear, timely parentage recognition.

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1. Background & Personal Context

- **Medical journey:** Six IVF rounds (2018-2024) have yielded only two viable embryos. Maternal age (52) makes self-gestation medically hazardous despite clinical clearance.
- **Offshore setbacks:**
    - **Ukraine:** Our surrogate agency collapsed when war erupted; embryo transfer was cancelled, embryos trapped in Kyiv and ultimately destroyed in a power outage.
    - **Georgia (2024):** Parliament moved to bar foreign surrogacy from 1 January 2024, voiding our legally executed contract. NGA Law
    - **United States (2025):** Current estimates place each surrogacy at AUD 180,000+ and—for non-citizens—raise complex questions over automatic citizenship of the child. surrogacy4all.com completesurrogacy.com
- **Resource depletion:** Out-of-pocket fertility costs now exceed AUD 420,000, eroding retirement savings and incurring personal loans.
- **Emotional toll:** As a health-sector executive who long envisaged pregnancy, exclusion from routine milestones—ultrasounds, obstetric visits, feeling the first kicks—has amplified grief and isolation.

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2. Systemic Problems with the Current Regime

Issue	Consequences for Intending Parents & Surrogates
Altruistic-only model	Scarcity of willing surrogates; reliance on fragile informal networks; average match time > 2 years.

Issue	Consequences for Intending Parents & Surrogates
State patchwork	Eight legal regimes + Commonwealth citizenship rules = delays, legal fees, risk of forum shopping. ABC
No national register	Surrogates undergo duplicate counselling/medical screening in each jurisdiction; inconsistent protections.
Prohibition on reimbursement beyond "reasonable expenses"	Surrogates bear hidden costs (lost earnings, childcare); potential exploitation via undercompensation.
Overseas deflection	Australians undertake ~75 % of surrogacy abroad; for every domestic surrogate birth, three occur overseas, exporting ~$120–150 million annually and exposing families to wars, bans, passport limbo, and alarming neonatal evacuation stories.

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3. Why Reform Is Urgent

1. **Human-rights alignment.** Uniform, transparent laws are essential to safeguard the best interests of the child, the bodily autonomy and welfare of surrogates, and the dignity of infertile couples, consistent with Australia's treaty obligations. ALRC
2. **Economic retention.** Enabling regulated compensated surrogacy at home will keep high-skill medical jobs, research investment and associated spending within Australia rather than Georgia, Mexico or the U.S.
3. **Health-system excellence.** Australia's world-class ART clinics offer superior obstetric and neonatal outcomes compared with many offshore settings, reducing morbidity for surrogates and children.
4. **Risk mitigation.** Domestic oversight eliminates exposure to geopolitical shocks (e.g., Ukraine) and abrupt legislative reversals (e.g., Georgia).

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4. Recommendations

Recommendation	Key Features
4.1 National Surrogacy Act	Replace the current patchwork with a single Commonwealth statute governing eligibility, informed consent, counselling, medical screening, and parentage.
4.2 Regulated Compensated Surrogacy	Allow reasonable, standardised compensation beyond expenses (akin to Canada/UK models) to fully recognise surrogates' time, risk, and opportunity cost, while banning profit-driven brokerage.

Recommendation	Key Features
4.3 Central Register & Licensing	Establish an independent national authority to license clinics, match programs, and maintain a secure register of surrogates/intending parents; require annual audits.
4.4 Streamlined Parentage Orders	Introduce an administrative (non-court) pathway issuing parentage orders within 30 days of birth where pre-approval criteria are satisfied, ensuring immediate access to Medicare and citizenship.
4.5 Embryo & Gamete Portability	Permit cross-border movement of embryos/gametes under strict chain-of-custody rules to avoid asset loss in crises and support continuity of care.
4.6 Comprehensive Surrogate Support	Mandate independent legal representation, psychological support, life-insurance cover, and postpartum care for all surrogates. Costs are borne by intending parents via a regulated fee schedule.
4.7 Transparent Cost Disclosure	Require clinics/agencies to publish indicative total costs and success rates, enabling informed financial planning and reducing exploitative mark-ups.
4.8 Data Collection & Reporting	Annual public report on domestic vs. offshore surrogacy numbers, outcomes, and complications to guide continual policy refinement.

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5. Conclusion

Our experience—mirroring that of many Australian couples—demonstrates the human cost of legislative fragmentation: emotional trauma, financial exhaustion, and exposure to conflict zones and shifting foreign statutes. As healthcare (executive) professionals ourselves, we are committed to ethically sound, surrogate-centred practice. A coherent national framework permitting regulated, compensated surrogacy would:

- Protect women and infertile couples / intended parents from exploitation through transparent oversight rather than blanket prohibition.
- Keep Australian families—and their economic contribution—onshore.
- Uphold children's rights by ensuring immediate legal parentage and citizenship.

We commend the ALRC for undertaking this review and respectfully urge adoption of the recommendations above to restore hope, dignity, and safety to Australian families pursuing surrogacy.

Submitted by:

[redacted]

Melbourne, July 2025

Friday 11th June 2025.

Submission to ALRC Review of Surrogacy Laws from an Australian Couple

[redacted]

Submission to the Australian Law Reform Commission – Surrogacy Law Reform

Introduction

We write as a heterosexual couple who have endured and continue to endure a long and heartbreaking journey to parenthood. After **six rounds of IVF** treatments over several years, we were left emotionally drained and financially stretched, with no successful pregnancy. As a woman, I always imagined experiencing pregnancy and carrying my child; coming to terms with infertility has been devastating. The inability to share in the small milestones of pregnancy – attending ultrasound scans, feeling the baby kick – has been a profound loss. We are making this submission to the Australian Law Reform Commission's Review of Surrogacy Laws to highlight the personal, financial, and ethical challenges faced by couples like us and to urge **urgent reform** that will allow safe, ethical, and accessible surrogacy within Australia.

Our Personal Journey and the Toll of Infertility

Like many couples, we pursued **IVF (in vitro fertilisation)** with hope and determination. Over six IVF cycles, we invested tens of thousands of dollars of our savings, endured invasive medical procedures, and rode an emotional rollercoaster of hope and despair with each failed attempt. (For context, a single IVF cycle in Australia can cost around **$10,000-$12,000**, with out-of-pocket expenses averaging $5,000-$6,000 even after Medicare rebates canstar.com.au.) Each negative result compounded our grief and anxiety. By the time we considered surrogacy, our **emotional and financial resources were nearly depleted**. This is a common scenario – research indicates many infertile couples undergo multiple IVF cycles and years of treatment before turning to surrogacy, often feeling physically and emotionally exhausted.

Beyond the financial cost, infertility exacts an **immense emotional toll**. A sense of grief accompanies the heartbreak of repeated IVF failure for the pregnancy experience we couldn't have. As a woman longing to carry my own child, I felt a deep personal loss and even guilt for not being able to carry the baby myself, and for needing to ask another woman to undergo pregnancy on our behalf. My husband and I have leaned on each other through this difficult period, but despite being excellently resourced and supported, it has tested our mental health and resilience. We share this personal context to underscore that by the time couples turn to surrogacy, they are often **desperate for a solution**, yet nearly **bankrupt in both finances and spirit**. Any surrogacy framework must recognize and support intended parents who have already been through such hardship.

Seeking Surrogacy Abroad – and the Challenges We Faced

Faced with the reality that I could not carry a pregnancy, due to infertility from endometriosis, we began exploring **surrogacy**. We quickly discovered that pursuing surrogacy within Australia would be extremely difficult under current laws. While altruistic (unpaid) surrogacy is legal in some Australian states, **commercial surrogacy (paying a surrogate beyond reimbursement of expenses) is banned nationwide**, and there is a severe shortage of altruistic surrogates. In online support groups we joined, it was common to see **dozens of intended parents vying for every one potential surrogate**. In fact, only about **130-150 babies are born via surrogacy within Australia each year**, whereas **three times as many (around 376 in 2023/24) are born overseas for Australian parents,** progress.org.uk. This

stark imbalance is because most Australians **prefer a domestic surrogacy** arrangement, but find it **too long, complex, and unworkable under current conditions,** progress.org.uk. With heavy hearts, we realized that our best chance to have a child was to **seek surrogacy abroad**, despite our resolve to undertake this journey at home.

Overseas surrogacy: Whilst we were well-resourced and are both highly educated individuals trained in navigating medical and legal frameworks, the process has proven to be a fraught path filled with uncertainty and risk. We want to detail our experiences in multiple countries to illustrate the challenges Australian couples face and why domestic surrogacy law reform is urgently needed:

- **Ukraine (Thwarted by War):** In 2021, we engaged a surrogacy agency in Ukraine, which at the time was one of the world's most popular surrogacy destinations (second only to the United States, with an estimated 2,500 surrogate births annually). Ukraine allowed commercial surrogacy for foreign married heterosexual couples like us, and the cost (approximately AUD 70,000) seemed achievable compared to other countries. We were matched with a kind surrogate mother in Ukraine and began the process with cautious optimism. However, in early 2022, **Russia invaded Ukraine** – a horrific development that upended our surrogacy plans overnight. We had an embryo ready to transfer, but suddenly the clinic suspended operations due to the war. We watched in anguish as the news showed Kyiv under attack, knowing our surrogate (who was early in pregnancy with our embryo) was in danger. We later learned that **20 to 40 Australian couples had surrogacy arrangements underway in Ukraine when the war broke out**, leaving many babies and surrogates stranded in a conflict zone. We ultimately had to abandon our Ukraine plan due to the ongoing conflict. The war not only put innocent lives at risk, but it also **destroyed our carefully laid surrogacy plans**, along with those of many other Australian families. This experience left us traumatized, with a financial loss of 40,000 AUD that was irretrievable, and back to square one in our quest to become parents.

- **Georgia (Law Changes):** After Ukraine became unviable, we turned to **Georgia**, another country known for foreign surrogacy. Georgia had a thriving surrogacy sector, partly because it absorbed demand after Ukraine's war disrupted services, aljazeera.com. We initiated a surrogacy arrangement in Tbilisi in 2023. However, partway through our process, the Georgian government announced a **sudden change in law**: a ban on commercial surrogacy for foreigners, to take effect from **1 January 2024,** aljazeera.com. The draft law allowed surrogacy only for Georgian citizens on an altruistic basis, shutting out international couples aljazeera.com. This news was devastating for us – it meant that unless our surrogate became pregnant and gave birth before the end of 2023 (an impossible timeline by then), we would not be able to proceed. We faced the agonizing decision of whether to rush forward under uncertainty or halt the process entirely. Ultimately, we had to withdraw from Georgia, losing a significant portion of the funds we had already spent on medical and agency fees. The Georgian ban (driven by concerns about protecting women and children, and preventing trafficking) may have been well-intentioned, but it **left surrogate mothers and foreign intended parents in limbo** aljazeera.comaljazeera.com. For us, it was yet another **heartbreaking derailment** of our hopes.

- **United States (Citizenship and Legal Doubts):** Having been thwarted twice, we considered the **United States** as a surrogacy destination – a country with well-established surrogacy programs (albeit at a very high cost). At this point, whilst being well resourced, the costs to date have seen us dip into superannuation. In preparation for the costs in the US, we are selling a residential property asset that was intended for long-term security in retirement. We had no other choice. We connected with a reputable surrogacy agency in the U.S., matched with a

surrogate in a surrogacy-friendly state, but found the abortion laws and mixed regulations difficult to navigate – we hired a specialist lawyer abreast of US reproductive health legislation that would ensure support for our ethical preferences. The process in the U.S. has been smoother in many ways: surrogacy contracts are legally enforceable, the surrogate is compensated and has her own legal and counseling support, and we have been able to be involved in decisions and updates throughout the pregnancy. However, new challenges have emerged. The **costs in the U.S. are enormous** – we were quoted around **AUD 250,000** for a comprehensive surrogacy program, not including travel and other expenses (we personally know Australian couples who **re-mortgaged their homes and dipped into retirement savings to afford U.S. surrogacy**). We have had to sell assets, dip into superannuation, and tighten our belts in ways we never imagined to finance this last chance at a family. Moreover, we now face **legal and citizenship complexities** once the baby is born. Until recently, it was an assurance that a child born in the U.S. would automatically be a U.S. citizen by birth; that is no longer the case. In addition, we need to ensure they can also become an Australian citizen and come home with us. This is yet another huge hurdle Australian citizens are enduring because we can not access legal, compensated surrogacy in our own country. Currently, **Australian parents of children born via international surrogacy often face delays obtaining citizenship and passports for their newborns**, leaving families stranded abroad for weeks or months sarahjefford.com. In some cases, if neither intended parent has a genetic link to the child (for example, if donor eggs and sperm were used), the baby can even be **at risk of statelessness**, as Australian law does not automatically recognize the parentage sarahjefford.com. We are anxiously preparing paperwork and consulting lawyers to avoid such nightmares, but the uncertainty weighs on us. We are essentially placing our child's future in the hands of bureaucratic and legal processes that are not guaranteed, all because we had to pursue surrogacy in a foreign jurisdiction.

In summary, pursuing surrogacy abroad has been an arduous journey through **war zones, legal upheavals, immense expenses, and constant uncertainty**. Each country we turned to – Ukraine, Georgia, the United States – came with its own unpredictable barriers. We know other Australian couples who traveled to places like **Mexico, Georgia, Canada, Greece, and beyond** in search of surrogates, each with mixed results and sometimes harrowing stories of **exploitation or legal trouble**. One high-profile Queensland case recently highlighted that Australians who undertake commercial surrogacy overseas (in violation of their home state laws) can even face **criminal investigation back home**, compounding the stress on families surrogacy-lawyer.com. It is clear to us that the current patchwork of Australian surrogacy laws, which bans compensated surrogacy and in some states punishes residents for going abroad, is **pushing ordinary couples into risky situations overseas** surrogacy-lawyer.com. We felt we had no choice but to go overseas, yet in doing so, we encountered risks to our safety, finances, and even potential legal standing as parents. **No family should have to go through this**. We urge the Commission to recognize that without meaningful reform, Australians will continue to be forced into these dangerous and emotionally taxing cross-border arrangements.

Emotional, Physical, and Financial Difficulties of Overseas Surrogacy

The challenges we face are not just political and legal – they were also deeply **personal, emotional, and physical**. We want to highlight some of the often-overlooked hardships that intended parents endure when surrogacy must be done abroad:

- **Emotional Strain and Distance:** Not being able to carry our child has been emotionally painful, but having a surrogate thousands of kilometres away adds an extra layer of anxiety. We lie awake at night worrying about the health and well-being of our surrogate and baby, knowing

we cannot be by their side. We missed out on attending key medical appointments in person – we could not accompany our surrogate to **ultrasound scans or prenatal checkups**, except via occasional video calls. Every update from overseas is treasured, yet we constantly fear that something might go wrong and we would not be there in time. The distance robbed us of sharing the journey in real-time; for example, we wake up to text messages about the pregnancy progress, small moments that hopeful parents normally cherish in person. This **emotional distance** has been heartbreaking for me as an aspiring mother. I yearned to feel connected to the pregnancy, but instead, I feel like an outsider looking in on my own child's development. The significant distance also creates emotional complexity in our relationship with the surrogate – we are grateful beyond words to her, yet building a bond across different social norms, cultures, languages, and distance was challenging. The overlay with medical practices that were often different from standard expectations in Australia. We need to place tremendous trust in people abroad, which is emotionally daunting when your future child's life is at stake.

- **Physical and Health Concerns:** Undergoing **multiple IVF cycles** took a significant physical toll on me – the hormone injections, egg retrieval surgeries, and side effects left lasting impacts. By the time we pursued surrogacy, I was dealing with the aftermath of these treatments (weight fluctuations, hormonal imbalances, and other health issues) on top of emotional trauma. While the physical burden of pregnancy shifted to the surrogate, I found that the stress affected my own health, including chronic anxiety, sleeplessness, and even stress-related illnesses while navigating the process overseas. There's also a **lack of control over medical decisions** when you are in a different country. In one instance, our overseas surrogate had a health scare, and we felt helpless waiting for second-hand reports from doctors we'd never met. We recognize that surrogacy inherently involves another woman carrying the pregnancy, but if this had occurred in Australia, we could have directly communicated with her doctors and perhaps been present to support our surrogate. Instead, we feel physically and medically disconnected.

- **Financial Hardship:** We have touched on costs, but it deserves emphasis that **the financial burden of overseas surrogacy is crushing**. In our case, the cumulative cost of failed IVF and multiple surrogacy attempts across different countries is staggering – we have spent well into the six figures. As mentioned, U.S. surrogacy can cost over **AUD 300,000** by the time you account for agency fees, IVF, surrogate compensation, travel and accommodation for months, legal fees, and so on. Even "cheaper" countries like Ukraine or Georgia often run **AUD 50,000+ per attempt**, and those costs can double if complications arise (for example, medical emergencies, extra travel due to legal issues, or needing to repeat cycles). Most heterosexual couples like us are not wealthy; by the time we come to surrogacy, we have often **exhausted our savings on fertility treatments**. The financial stress is immense – it affects our work performance, our mental health, and our future security. We also realize that for many Australians, such costs make surrogacy **simply unattainable**, effectively denying them a chance to have a child at all. It is a cruel reality that **only those who can raise a small fortune or incur major debt have the option of becoming parents through surrogacy under the current regime**. This situation is inequitable and deeply upsetting. No one should have to **pay the price of a house or take on crippling debt** to have a family, especially when a safer, regulated domestic alternative could be possible.

- **Legal and Logistical Stress:** Undertaking surrogacy abroad involves navigating foreign laws, visa requirements, and complex paperwork. After our baby is born in the U.S., we will need to

apply for an Australian citizenship by descent and a passport for the baby. During that time, we must remain in the U.S. (away from home and work) for potentially 4-6 weeks or more. If any paperwork is incorrect or delayed, we could be stuck longer, which is a logistical nightmare and additional expense. We have heard of cases where Australian parents waited months in foreign countries sorting out their baby's citizenship – an incredibly stressful situation with a newborn. Additionally, because commercial surrogacy is banned in Australia, **we have had to be discreet about our plans**. In some states (like NSW and QLD, where paying for surrogacy overseas is a criminal offense, surrogacy-lawyer.com), intended parents live with the **fear of legal repercussions** for simply pursuing their dream of a child abroad. This fear and secrecy add another layer of stress and isolation – we couldn't openly seek support or share our story without worrying about judgment or legal risk.

In sharing these difficulties, we want to convey that **the current surrogacy framework essentially externalizes all these hardships onto desperate couples**. Instead of being supported at home, people like us are pushed into emotionally and physically draining situations across the world. The **human toll** is enormous. Surrogacy is not an "easy" way out of infertility – it is often a last resort undertaken at great personal cost. We urge policymakers to consider these human factors: the tears, trauma, and turmoil behind the statistics. Every overseas surrogacy baby represents a family that had to climb a mountain of obstacles to bring that child into the world.

Ethical Considerations – Protecting Surrogates and Children

I work in healthcare as a medical research executive, and my husband is a healthcare lawyer; we are deeply committed to **medical ethics and the appropriate treatment of surrogates**. One reason we desperately want surrogacy to be available in Australia is so that surrogates and babies can be cared for under our **world-class healthcare system and ethical framework**. Australia has high medical standards and **robust guidelines to safeguard all parties in surrogacy**, for example, requiring that surrogates and intended parents undergo counselling and independent legal advice, and ensuring any child's welfare is paramount. progress.org.uk. In domestic arrangements here, surrogacy clinics and practitioners must adhere to strict protocols (as set out in state laws and NHMRC ethical guidelines) to ensure that the surrogate is volunteering informed consent without coercion, and that she has access to psychological support. These **safeguards create a transparent and safe process** for everyone involved at progress.org.uk. Unfortunately, when Australians go overseas, we **cannot guarantee the same level of protection and care**. Other countries may not require thorough medical screening, counselling, or long-term support for surrogates. In less regulated jurisdictions, there are frequent reports of **surrogate exploitation and even human trafficking** – cases where impoverished women are pressured by intermediaries to become surrogates, or where babies have been left stateless due to legal loopholesprogress.org.uk. There is also **evidence of worse health outcomes** in some international surrogacy cases – for instance, higher rates of premature births – often attributed to lower standards of fertility care or prenatal care compared to Australia progress.org.uk.

As intended parents, we felt a moral responsibility to ensure our surrogate was treated well and was not exploited. We researched agencies carefully and chose countries (like Ukraine and the U.S.) that purported to have good practices. Even so, being so far away, we had limited ability to verify her day-to-day treatment or conditions. In one instance, we were concerned whether our surrogate in Eastern Europe was getting adequate nutrition and rest, but we had to rely on the agency's assurances. This powerlessness is an awful feeling, knowing that another woman is undergoing risk on our behalf and not being able to directly oversee that she's cared for. **If surrogacy were available in Australia, we could participate closely in ensuring our surrogate partner's well-being** – attending medical appointments together, helping her through any pregnancy difficulties, and making sure she is

comfortable with the arrangements at all times. We could also be confident that she's covered by Australian healthcare, which would manage any pregnancy complications effectively. The current situation forced us to entrust our child and our surrogate to a foreign system; thankfully, our experiences have been ethical, but we know this is not guaranteed across the board. We are aware of disreputable operators: **third-party brokers who profit from matching vulnerable women in poor countries with foreign couples**, without adequate safeguards sarahjefford.com. Some Australian-based "consultants" even market surrogacy in countries with dubious records, and when things go wrong (e.g., legal trouble or medical emergencies), they charge additional fees to "rescue" the parents – essentially profiting at every stage sarahjefford.com. This unregulated industry thrives in the shadows of Australia's restrictive laws, and **Australian couples and surrogate mothers are the ones who suffer** when unscrupulous intermediaries behave poorly.

By reforming surrogacy laws to allow **ethical, regulated arrangements domestically**, Australia can **set high standards** that protect surrogates from exploitation both at home and abroad. If intended parents have a viable option at home, they won't be driving demand in overseas markets that may exploit women. Moreover, with a **national surrogacy framework**, Australian authorities could more effectively crack down on the exploitative surrogacy "black market" agencies, because people wouldn't need to resort to them. We firmly believe – and I say this as a healthcare professional – that **Australian women acting as surrogates would be far better protected under Australian law than foreign surrogates are under theirs**. We also believe that **infertile and childless couples can fulfill their dreams without compromising their ethics**. Right now, many well-intentioned Australians grapple with guilt about whether their pursuit of a child might hurt a surrogate in a less developed country. Bringing surrogacy into the open here would alleviate that moral conflict by ensuring **surrogacy is done "the right way" – with informed consent, appropriate compensation, and excellent medical care** for the surrogate.

Finally, we must emphasize the **rights and welfare of the children born via surrogacy**. Every child deserves a clear legal status and citizenship. The current legal vacuum often means children born overseas have complicated or delayed recognition in Australia, sarahjefford.com. These children can start their lives in a legal grey area, which is fundamentally unfair. If those same children were born in Australia under a legal surrogacy agreement, their parentage would be recognized smoothly via court orders, and they would have Australian citizenship from birth. Moreover, having the birth occur here could allow the child, as they grow, to have access to information about their origins in a regulated way (for instance, knowing who the surrogate was, and any donor information), which aligns with Australia's commitments under the Convention on the Rights of the Child alrc.gov.au. In short, **doing surrogacy ethically in Australia safeguards the child's rights, the surrogate's rights, and the intended parents' rights far better than the status quo.**

The Case for Surrogacy Law Reform in Australia

Our experiences and observations lead to one conclusion: **Australia urgently needs to reform its surrogacy laws** to create a more accessible, compassionate, and safe framework. We are encouraged that the Attorney-General has commissioned the ALRC to review Australian surrogacy laws, policies, and practices, with a mandate to **reduce barriers to domestic surrogacy and address how international arrangements are handled** alrc.gov.au. We wholeheartedly support this inquiry and offer our story as evidence of the need for change. Below, we outline key areas for reform and our specific recommendations, drawing on our journey and the evidence we've gathered:

1. Enable Regulated, Compassionate Surrogacy at Home

First and foremost, the law should **allow surrogacy within Australia to be more accessible**. This may include establishing a system for **reasonable compensation for surrogates** under strict regulation. The reality is that expecting women to bear all the physical risk and effort of pregnancy with zero remuneration (beyond out-of-pocket costs) has severely limited the pool of surrogates. Altruism alone is not yielding enough surrogates to meet the need, as noted, only ~130 babies are born here annually vs. 300+ overseas, sarahjefford.com. Australia's fertility industry is a $700 million per year sector, sarahjefford.com; it seems both fair and pragmatic that the women who make surrogacy possible should be **acknowledged for their labor in a reasonable way**. We understand concerns about commercialization, but a **carefully regulated model of compensatory surrogacy** can be implemented to prevent exploitation. Other jurisdictions (such as certain U.S. states, Canada, and recently **Michigan, USA, which legalized compensated surrogacy in 2025** surrogacy-lawyer.com) have shown that it is possible to pay surrogates in a way that respects their altruistic intent while not commodifying children. The ALRC review itself acknowledges the need to ensure surrogates can be *"adequately reimbursed for legal, medical and other expenses"* alrc.gov.au; we would urge going a step further to allow an **honorarium or compensation** that reflects the time, discomfort, and health risks a surrogate undertakes. This change would likely **attract more willing surrogates** and thus reduce the current **90:1 imbalance** of intending parents to surrogates.

In addition to compensation, we need a more **efficient and uniform process** for domestic surrogacy. Right now, each state and territory has its own surrogacy laws, creating confusion and inequality. We have personally spoken to couples who *moved interstate* or engaged in "**surrogacy tourism**" within Australia – for example, residents of NSW (where advertising for a surrogate is illegal) traveling to Queensland or Victoria to find a surrogate or do IVF, to exploit slight differences in laws sarahjefford.com. A national approach would eliminate these inconsistencies. We echo the call of surrogacy advocates for **one national surrogacy law** or at least harmonized laws across states sarahjefford.com. This national framework should streamline approval processes (such as ethics committee or court approvals for surrogacy agreements) and ideally establish a **central register or service to match surrogates with intended parents** in a transparent way. Right now, intended parents often must **trawl social media** or rely on word-of-mouth to find a surrogate, which is neither efficient nor entirely safe. Removing or relaxing the prohibitions on advertising (while still preventing coercive or commercial ads) would allow intended parents and potential surrogates to connect more easily. **Public education** is also crucial – many Australians are unsure if surrogacy is even legal heresarahjefford.com. A government-sponsored awareness campaign could inform people about surrogacy and perhaps inspire more women to consider being altruistic surrogates if they were supported appropriately. Overall, by cutting red tape and standardizing the rules, we can make domestic surrogacy a more viable and appealing path.

2. Recognize and Support the Needs of Intended Parents

Intended parents like us are the often-overlooked stakeholders in this equation. We urge law reform that **compassionately supports couples suffering infertility**. Infertility is recognized by the World Health Organization as a medical condition, and those affected deserve support and treatment options. Surrogacy is a legitimate family-building method for those who cannot carry a pregnancy – it should not be treated with suspicion or moral panic. We ask the Commission to recommend policies that **reduce the financial burden** on intended parents. For example, Medicare or government grants could help cover some surrogacy-related medical costs (as is already done for IVF to some extent). Perhaps a loan scheme or tax deduction could be offered for domestic surrogacy expenses, recognizing that these are health-related costs. While we are primarily focusing on legal changes, any

measures that mitigate the enormous cost will reduce the need for couples to seek "cheaper" but riskier options abroad.

Legally, intended parents need certainty that if they do surrogacy in Australia, **they will be recognized as the legal parents of their child without undue hurdles**. This means creating a clear pathway for transfer of parentage on birth certificates, ideally via a pre-birth court order or a simplified administrative process immediately after birth. Currently, in altruistic surrogacy here, the surrogate (and her partner, if she has one) is listed on the birth certificate initially, and the intended parents must apply to court for a parentage order weeks or months later. This is an unsettling period for parents. We recommend exploring a **pre-birth parentage order model**, where the intended parents are recognized at or even before the birth, with the surrogate's informed consent formalized during pregnancy. This model works effectively in some U.S. jurisdictions and could be adapted with safeguards. It would alleviate the fear (however rare in reality) of a surrogate choosing to keep the baby – a fear that drives some Australians overseas, where contracts are enforceable, honey.nine.com.au. In short, the law should **trust and support the surrogate-intended parent relationship**, rather than treat intended parents as potential criminals or surrogates as likely to renege. By removing the spectre of legal uncertainty, more people would feel comfortable pursuing surrogacy at home.

Additionally, we propose that the government **establish counselling and peer support programs** for intended parents going through surrogacy. The journey is emotionally taxing, and having access to psychologists or support groups (perhaps funded or facilitated by public hospitals or non-profits) would help couples cope with the stress. We personally would have greatly benefited from such support, instead of having to seek it privately. A formalized support system could also ensure intended parents are well-educated about ethical considerations and their responsibilities, creating better outcomes for all parties.

3. Protect Surrogate Mothers with Ethical Frameworks

Any surrogacy law reform must prioritize the **health, autonomy, and dignity of surrogate mothers**. As we have emphasized, a domestic surrogacy system can and should be designed to **prevent exploitation** and ensure surrogates volunteer for the right reasons. We recommend that reforms include:

- **Comprehensive Screening and Counselling** for all surrogates to ensure they are physically healthy and mentally prepared for the process. This is already standard in Australian fertility clinics, but a national law could mandate it uniformly. Surrogates should also have independent legal advice so they fully understand their rights and the implications.

- **Fair Compensation and Support**: If compensated surrogacy is permitted, the compensation should be set at a level that is fair but not so high as to be coercive. It should compensate for lost wages (if any), discomfort, medical risk, and the surrogate's time and commitment. Surrogates should never be out-of-pocket for any expense. We also suggest establishing a **surrogate support fund** – perhaps a portion of intended parents' payments could go into a fund for surrogate wellness (covering things like additional counseling, or even a modest life insurance or medical insurance beyond what Medicare covers, given pregnancy risks). This would underline that surrogates are valued and cared for, not just a means to an end.

- **Post-Birth Care**: After the birth, surrogates should be offered continued counselling and health checks, and the arrangement should allow for mutually agreed contact if desired. Our surrogate in the U.S. has expressed that she feels proud to have helped us, but we also know

surrogacy can be an emotional experience for the birth mother. A reformed system should have **clear post-birth protocols** to ensure the surrogate's emotional well-being is monitored and that she has support as she recovers from the pregnancy.

- **Protection from Exploitation**: We should make it illegal for any party to pressure or coerce a woman into surrogacy. This includes banning surrogacy brokers who charge large commissions. Any agencies or matching services that operate should be **licensed and regulated** so that there is oversight on how surrogates are recruited and treated. If Australia opens the door to compensated surrogacy, it must do so with strong regulatory oversight to prevent the very exploitation opponents fear. This could involve an ethics board reviewing each arrangement or accrediting agencies that meet high standards. By formalizing the industry, shady operators will be pushed out, and intended parents will have safer options to choose from. Essentially, **we can take the best practices from overseas and implement them with an Australian standard of ethics**.

Our perspective as intended parents in healthcare is that surrogacy can be done ethically and win-win: surrogates can be respected partners in the process, properly supported and rewarded, while not being treated as mere "wombs for hire." It is possible – we have seen surrogates in the U.S. who report positive experiences because of the support and respect they received. Australia can replicate and improve on those models.

4. Keep Australian Families and Resources in Australia

One often overlooked aspect is the **economic impact**. Because domestic surrogacy options are so limited, **Australian couples are spending huge sums of money overseas**. By one estimate, Australians spend anywhere from **$65,000 in countries like Georgia to over $230,000 in the USA per surrogacy journey** honey.nine.com.au. With hundreds of babies born overseas for Australians each year, this translates to tens of millions of dollars flowing out of Australia annually. If even a fraction of that expenditure happened here, it would stimulate our own economy – money would go to Australian doctors, nurses, psychologists, lawyers, and surrogate mothers who, in turn, spend in their communities. As one commentator noted recently, *"imagine if people like [the intended parents] were spending all that cash with local surrogacy agencies, instead of organisations abroad"* honey.nine.com.au. Not only would it benefit our GDP and tax base, but it would likely **cost families less** overall due to reduced travel and international middleman fees. In our case, we paid large sums to agencies in Eastern Europe and the US – those are funds that could have supported Australian professionals and services if we had done surrogacy here.

Furthermore, by keeping these activities in Australia, we also potentially **positively grow our population and workforce**. Infertile couples who become parents will raise children who become the next generation of Australians. There is an economic argument that facilitating family formation for those who want children will have long-term benefits: increased population in a controlled manner, more future taxpayers and contributors to society, and reduced health costs related to depression or mental health issues that often plague those who remain involuntarily childless. While we would pursue parenthood regardless of these macroeconomic factors, it's worth noting that countries with declining birth rates often seek ways to encourage stable family growth. Helping infertile couples have children is part of that picture – it's essentially turning would-be parents into actual parents who then invest in the country's future. Rather than spending our money on hospitals and hotels in California or Kyiv, we could be investing in local hospitals, and even the surrogate's compensation could go towards her family's wellbeing in Australia.

In short, there is a **national interest in reforming surrogacy laws**: it keeps Australian money and medical innovation at home, it prevents the offshoring of both economic and human risks, and it aligns with Australia's reputation as a country with world-class medical care and human rights standards. Australia has the opportunity to become a **leading example of ethical surrogacy** rather than a country that drives its citizens to other places in desperation. We stand ready, as potential parents, to contribute economically – we will gladly spend our remaining resources here if given the chance, and in doing so, support Australian jobs and services. It's a far better proposition than the status quo, which sees our life savings wired overseas with no benefit to our own society.

Conclusion and Recommendations

Our story is just one of many, but it encapsulates the **urgent need for surrogacy law reform in Australia**. We urge the Commission and lawmakers to act swiftly and boldly to create a legal framework that **brings hope to childless couples** while **upholding the rights and well-being of surrogates and children**. Based on our experience, we respectfully make the following key recommendations:

- **Adopt a Uniform National Surrogacy Framework:** Develop consistent laws across all states and territories (or a federal law if feasible) that permit and regulate surrogacy arrangements in a clear, accessible way. Remove undue barriers such as advertising bans and interstate inconsistencies. A national system should simplify the process for altruistic surrogacy and consider a model for **compensated surrogacy** with ethical safeguards, as discussed above.

- **Allow Reasonable Compensation for Surrogates:** In order to attract enough surrogates and acknowledge their contribution, Australian law should move beyond pure altruism. Introduce a tightly regulated compensation model that **protects surrogates from exploitation while respecting their right to be paid for their reproductive labor**. This will make domestic surrogacy a more realistic option and reduce the exodus of intended parents overseas. As surrogacy experts have noted, introducing a regulated compensation system could make surrogacy **"easier, safer and cheaper" for Australians and even *"benefit the national economy."***honey.nine.com.au

- **Enhance Support and Protections for Surrogates:** Enshrine in law the requirement for health and psychological screening, independent legal advice, and ongoing support for surrogate mothers. Ensure that surrogates have access to Medicare (or that intended parents cover all private medical costs) so that no surrogate is left with bills. Provide frameworks for robust informed consent and allow surrogates to withdraw up to a certain point. After birth, ensure the surrogate's postpartum health (mental and physical) is monitored and cared for. Essentially, treat surrogates as **patients and partners** in the process whose health and dignity are priorities.

- **Streamline Parentage and Citizenship for Children Born via Surrogacy:** Implement legal mechanisms for intended parents to be recognized swiftly as the legal parents of a child born through surrogacy, whether domestic or international. This could involve pre-birth orders or expedited court processes. Also, update citizenship laws so that children born overseas via surrogacy to Australian parents can obtain citizenship **quickly and without risk of statelessness**sarahjefford.com. Align federal law to automatically recognize such children as eligible for Australian citizenship by descent (provided at least one parent is an Australian citizen), and ensure passport issuance can happen on an urgent basis. No child should be

caught in legal limbo due to the circumstances of their birth. Clarifying these matters in legislation will relieve enormous anxiety for parents and uphold the rights of the child.

- **Address International Surrogacy in Law and Policy:** We recognize that even with improved domestic options, some Australians may still engage in international surrogacy. Australian law should provide sensible regulation here too. Rather than criminalising parents who go overseas (which is punitive and ineffective), the law could focus on **safeguarding the children and preventing exploitation**. For example, require that, for an overseas surrogacy to be recognized, it must be carried out in a country with a certain minimum standard of regulation or under certain guidelines. The government might also negotiate bilateral agreements or understandings with popular surrogacy destinations to ensure smoother cooperation on citizenship and legal parentage. Additionally, outlaw the involvement of any Australian-based agencies or individuals in facilitating surrogacy in countries with known human rights issues. In other words, tackle the **exploitative practices** (the "supply side" problems) rather than penalizing desperate parents. By having legal domestic avenues and cracking down on unethical operators, Australia can significantly reduce the problematic aspects of international surrogacy.

- **Promote Education, Transparency, and Community Input:** The surrogacy reform process should include public education campaigns to dispel myths and reduce stigma around surrogacy. It should also encourage community and stakeholder input, including from former surrogates, children born via surrogacy, and intended parents, to ensure the laws meet real-world needs. We commend the ALRC for inviting submissions and urge policymakers to truly listen to those with lived experience. As noted by commentators, *"strong community input"* will be needed to generate the political will for change progress.org.uk. We add our voices to that input, hoping to inspire understanding and empathy for families like ours.

In closing, we want to re-emphasize the **human aspect** of this issue. We are just an ordinary Australian couple who want what so many others have – the joy of raising a child. We have been through a painful journey that no one would undertake by choice. Our dream of becoming parents has kept us going through six IVF cycles and several failed surrogacy attempts across the globe. We have endured loss, fear, and uncertainty that will leave lasting scars. But we continue because the hope of holding our child one day makes it all worth it. We implore you to **change Australia's surrogacy laws** so that this hope can be realized not just for us, but for countless other couples in our shoes. The current system is **broken** – it forces vulnerable people (intended parents and surrogates alike) into risky situations and often ends in heartache or hardship. We have the knowledge, evidence, and ethical framework to do better. A reformed surrogacy system in Australia can uphold our nation's values of fairness, compassion, and safety while helping create loving families.

Thank you for considering our submission. We are available to provide further details or participate in any hearings or consultations that would be useful. We make these points with humility and urgency, hoping that no other Australian couple will have to go through what we did abroad, and that instead they can pursue parenthood here at home in a supportive environment. **Reforming surrogacy law is not just a legal adjustment – it is a profound human and ethical imperative to ease suffering and fulfill the dreams of families waiting to be.**

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