

Dear ALRC,

I am writing as a supportive family member of a same-sex couple who recently became parents through surrogacy. Witnessing their journey has been a powerful, emotional experience. However, it was marred by legal hurdles that no family should have to endure.

Despite their preparedness and deep desire to become parents, they encountered significant barriers due to Australia's outdated and inconsistent surrogacy laws. The process involved legal discrepancies, non-recognition of legal parentage, and an overwhelming lack of certainty. Worse, because they had to pursue surrogacy overseas (due to limited local options), they faced fear of criminalisation and stigma, even while acting ethically and in the best interests of the child.

These experiences echo key concerns raised in the ALRC's Issues Paper, particularly regarding access, eligibility, legal parentage, and the lack of national consistency. The current legal framework disadvantages LGBTQ+ families and undermines the principle of equality before the law. It also jeopardises children's rights to certainty, identity, and legal protection from birth.

I urge the Commission to consider the following reforms I have been made aware of:

1. A National Surrogacy Framework: Establish uniform legislation across Australia that is inclusive of all family types, regardless of sexual orientation, gender identity, relationship status, or state of residence.
2. Automatic Legal Parent Recognition at Birth: Intended parents should be recognised as legal parents at birth, avoiding the distressing delays and legal grey zones that currently affect non-biological parents.
3. Decriminalisation of International Commercial Surrogacy: Criminal penalties only drive people underground or overseas, often into less regulated systems. Regulation and support, not punishment, are the appropriate responses.
4. Clear Guidelines on Reimbursable Expenses: Surrogates should be fairly and transparently reimbursed for out-of-pocket costs, with national rules to protect all parties and avoid confusion or exploitation.
5. A National Registry for Donor and Surrogacy Information: Children have a right to access information about their origins. A centralised, accessible registry would support lifelong wellbeing and identity.
6. Investment in Education and Professional Training: All professionals involved in surrogacy, healthcare workers, lawyers, counsellors, should receive training grounded in human rights, inclusion, and best practice. Public education would also reduce stigma and misinformation.

In short, surrogacy in Australia must centre the best interests of children while respecting the rights of all families, regardless of how they are formed. I hope the ALRC's final recommendations help bring clarity, compassion, and national consistency to this vital area of law.

Sincerely,

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