Submission to Australian Law Reform Commission
Stop Surrogacy Now UK and Surrogacy Concern
18th July 2025

Introduction

Stop Surrogacy Now UK is a grassroots campaign which launched in direct response to proposed law reform of the UK's 1985 Surrogacy Act. Launching in 2019, we challenge proposed UK law reform, the media narrative on surrogacy and seek to contribute to international conversations on surrogacy. For example we submitted to the consultation on surrogacy in New South Wales, worked with members of the Legislative Council for the recently passed Western Australia ART & Surrogacy Bill and made representations to the Joint Special Committee on International Surrogacy in Ireland in 2023. We work closely with surrogate mothers from around the world to have their voices heard.

Surrogacy Concern is a volunteer-led group of feminist campaigners on the centre left, founded in 2023 following proposals to liberalise domestic surrogacy law by the Law Commission for England and Wales, with the Scottish Law Commission. They campaign to raise awareness of the harms of surrogacy and egg donation, and the negative impact of these industries on women and children. They work in the UK and with international groups of women's and children's rights campaigners.

Together we are deeply concerned that the Australian Law Reform Commission's approach is one of removing or reducing "barriers to domestic altruistic surrogacy arrangements in Australia". As we explained in our submission to the Issues Paper, we examine what impact this has for human rights, the exploitation of women and the commodification of children. We have already outlined our recommendations for the guiding principles for reform of surrogacy laws in Australia in that submission and include further recommendations in this submission to the Discussions Paper.

Submission to Issues Paper

We do not reiterate our points in our submission for the Issues Paper, however we are pleased that ALRC have received submissions that are opposed to surrogacy "from a moral or ethical standpoint" and that the ALRC plan to "canvass these different views in more detail". We welcome contact from the ALRC and if you would like to get in contact please email stopsurrogacynowuk@gmail.com.

Update on International Action

The UN Special Rapporteur for Violence Against Women and Girls published the first UN report on surrogacy three days later after our Issues Paper submission. The report unequivocally calls for the eradication and prohibition of surrogacy globally. In a side meeting at the General Assembly on 8th October, Reem Alsalem confirmed:

“There is no international human right to have a child, as part of reproductive rights under international law”.

The following month at the European Parliament on 19th November, Ms Alsalem made it explicitly clear that women involved in surrogacy should be treated as victims and there is no ‘meaningful distinction’ between commercial surrogacy and ‘altruistic’ (reasonable expenses only) surrogacy.

The Special Rapporteur also issued a report on Consent this year which said on surrogacy:

“In situations where grave and irreversible harm is inflicted, including in the context of surrogacy, human trafficking, prostitution, pornography, child marriage, and “gender transition” of minors any alleged consent should be considred legally invalid. Women and girls subjected to such practices must be recognised as victims entitled to remedies.”

Discussion Paper: Current problems with proposals

We understand that this review seeks to gather all current state law into a national reform to remove inconsistencies and make a fragmented, ‘patchwork’ law more cohesive but we believe that this is being approached from the wrong position and that States should have authority to determine their own laws.

The ALRC seeks to liberalise the law to make it easier for commissioning parents to undertake surrogacy agreements, at home and abroad. This prioritises the desires of the commissioning parents and deprioritises the rights and needs of children and dehumanises women. A national ban would protect women and children, both domestically and internationally..

We explain why liberalisation, as detailed in the Discussions Paper, is the wrong approach.

1. Limited availability of Australian women to act as ‘surrogates’

This suggests that cross-border surrogacy must be permitted as the ‘supply’ of women engaging with surrogacy domestically will not meet the ‘demand’, so women in other countries must be permitted to act as the providers of babies for Australian citizens to satisfy the market.

Data from both the UK and Canada, which both apply the ‘altruistic’ model, shows that demand is not being met. Only 810 women in Ontario, Canada had surrogacy pregnancies for others over a nine year period of study and over half of UK parental orders applications are for children born overseas. Babies born through arranged pregnancies overseas come from poorer countries like Georgia, Ukraine, Mexico, Colombia, India and Nigeria and are being moved across borders for British commissioning parents to secure parental rights in England and Wales.

If there is a ‘shortage’ of Australian women willing to have a baby for someone else then low-income women abroad will be encouraged to participate in surrogacy for the benefit of Australia’s citizens. Australia’s government cannot act outside of their jurisdiction and there will be no practical methods to ensure that women in other countries are being treated with dignity and are not manipulated, coerced or financially incentivised and exploited.

Recommendation 1: Allow State laws to be applied without reform and strictly prohibit international surrogacy, with a view to adopting the UN Special Rapporteur’s recommendations.

2. Strict reimbursement prohibitions create financial disadvantages for surrogate mothers.

This suggests that ‘expenses’ should be liberalised to allow for non-categorised payments. As with the UK, a National Health Service in Australia means the cost of peri and post maternal care is free at the point of service.

Care of dependents and ‘wellbeing’ expenses are not clearly defined and loss of earnings from attending appointments during or after the birth is generally accommodated by employers with no impact to an income.

If a surrogate mother is unemployed and using surrogacy as a way to increase her income or financially manage her bills, we question the ethics of exploiting her situation.The Canadian study mentioned in our earlier submission highlights that surrogate mothers were more likely to be living in poorer areas with pre-existing health issues:

“Before weighting, gestational carriers were more likely to be parous, reside in a lower-income area, and have higher rates of obesity and chronic hypertension.”

In circumstances where a pregnant employee cannot perform their job safely and no alternatives are available, they can access "No Safe Job Leave," which is paid by the employer if the employee qualifies for unpaid parental leave. ‘Expenses’ relating to legal fees, insurance, wills, independent or private healthcare or birth support (such as a Doula) would be paid for directly and would not require a reimbursement.

Where a liberalisation of ‘reasonable expenses’ applies, non-related pregnancy related expenses could be included. The same model is applied in the UK and we are aware of charges for gardening services, home utilities and car maintenance being included in pregnancy ‘expenses’. The UK Law Commission does not determine categories in their proposals but in their consultation food was categorised as pregnancy expenses and mobile phone and rental payments were categorised as “other”.

As monthly payments are suggested we note our submission to the UK House of Lords Committee on the Modern Slavery Act which highlights that UK surrogacy involves significant ‘expenses’ being paid to surrogate mothers, who may be unknown to the commissioning parents before an informal introduction by a surrogacy agency (or SSO in these terms applied here). The average expenses payment is £15,000-£20,000 over the course of the pregnancy, often paid monthly like a salary. A regular payment or boost to monthly income that can be

relied upon, would clearly incentivise women from lower income backgrounds into undertaking surrogacy arrangements they may later regret.

The UK Telegraph found five examples in 2018 of women in the UK receiving as much as £60,000 in “expenses”. Exchanging money, even when billed as “compensation” for a child, reduces the child to a commodity. In addition to non-pregnancy related ‘expenses’ the Law Commission of England and Wales and the Scottish Law Commission propose that ‘recuperative holidays’ and ‘modest gifts’ would be permitted by law, though no monetary limits were applied.

Recommendation 2: We recommend that the ALRC commission research to gather data on the financial status of surrogate mothers in Australia to explore their motivations and examine similar research outside of their jurisdiction.

3. Definition of Altruistic Surrogacy

Without a clear definition the issue of what constitutes ‘expenses’ leads to confusion and we notice that ‘altruistic’ and ‘commercial’ surrogacy were not terms included in the Glossary. We also noticed a proposal to remove the distinction between ‘altruistic’ and commercial surrogacy in the statement from the ALRC. One agency in the UK suggests that up to £35,000 can be charged under the ‘reasonable expenses' only model.

Recommendation 2: We urge the ALRC to be explicitly detailed in their language.

4. Late-stage oversight

The Discussion Paper notes that most assessments occur after childbirth, allowing inappropriate arrangements to proceed, however, this suggests that pre-conception checks would prevent harm.

We refer again to the medical risks noted in our submission to the Issues Paper to confirm that harm cannot be prevented with medical screening and by completing forms. Pregnancy is an area of medicine that is unpredictable. Women who have had children and then go on to have a surrogacy pregnancy observe the difference in pregnancy.

The study by Woo et al. (2017) looked at pregnancy outcomes of gestational surrogate pregnancies alone. It examined the records of 124 surrogate mothers and found a significant difference in physical outcomes between their own spontaneous pregnancies and their gestational surrogate pregnancies, particularly in instances of a cesarean section delivery which was higher, multiples pregnancy was more likely and a lower mean gestational age at delivery was more common in surrogacy.

The authors concluded that that there was adverse outcomes for babies **“born from commissioned embryos and carried by gestational surrogates have increased adverse perinatal outcomes, including preterm birth,low birth weight, hypertension, maternal**

gestational diabetes, and placenta previa, compared with singletons conceived spontaneously and carried by the same woman."

We highlight that women's organisations were not consulted early in the process; late-stage involvement restricts meaningful democratic participation and does not allow for substantial input.

Recommendation 4: We suggest that the ALRC meet with women's organisations and individuals who have been at the forefront of surrogacy reform in Australia at the earliest opportunity as the ALRC would benefit from their expertise. (Names are provided in our Issues Paper submission.)

5. Barriers to Legal Parentage

The ALRC refers to surrogacy having a complex, time-consuming, and costly process for recognising legal parentage, particularly for overseas arrangements. This suggests that 'red-tape' should be removed to make surrogacy easier domestically and internationally and it's clear that the commissioning parents are being prioritised in this review, above the safeguarding of children. We urge caution and draw attention to existing laws in Australia for Human Trafficking and Modern Slavery as well as the 1984 Adoption Act and the 1989 Children and Young Persons Act.

The first legislation in Victoria introduced the concept of open adoption and established the principle that the best interests of the child are paramount. This act also granted adopted people the right to access their original birth information (subject to initial mandatory counselling). These concepts are central to the best interests of the child and the UN Convention on the Rights of the Child.

Recommendation 5: We suggest that the ALRC prioritises safeguarding of children and refers to existing laws that may be brought into conflict should reform with this current approach proceed.

6. Proposed age of Surrogate Mothers

We noticed a loophole regarding the fixed minimum age of 25 years old. This could be bypassed if an accredited counsellor approves the surrogacy arrangement. If the basis of the approval is made on the capacity to consent, there is a risk that younger women and even teenagers could be approved to enter a surrogacy agreement. Though the requirement for a surrogate mother to have experienced pregnancy and birth remains in the proposals, the parliament of Western Australia removed this requirement by voting down an amendment and the minimum age has been set at 18.

We share the language from the UK All Party Parliamentary Group on Surrogacy and their report which included details of discussions from Evidence Sessions, shown below. The discussion mentions a capacity test and whether a 16 year old girl could have the capacity to consent to becoming a surrogate mother.

There was some discussion that there should be proper debate about the criteria for becoming a surrogate. For example, could someone be a surrogate aged 16? Should there be a capacity test? Should someone be prevented from being a surrogate if they had their own health difficulties? Or if they have never had a child before? Having open and honest (public) debate about these issues may go some way to protect women and to ensure legitimacy of the whole process, thus positively influencing public perceptions. If any such rules were to be put in place, this should be enforced before an agreement is entered into, rather than presenting situations to the courts post-birth, when the welfare of the child becomes paramount.

Recommendation 6: We suggest that the ALRC commission a study to review the ages of women who undertake surrogacy pregnancies in Australia before reconsidering this fixed age.

Approach to Reform is claimed as a Human Rights Focus

This is claimed to prioritise the best interests of the child by introducing safeguards and an approval process instead of relying solely on criminal prohibitions. As seen in Western Australia on 3rd December, proposed and anticipated critical safeguards failed at the amendment stage.

- Establish a National Regulator responsible for developing standards for cost recovery, licensing and monitoring Surrogacy Support Organisations (SSOs), maintaining a national surrogacy register and public information and education. Reviewing complex approval applications.
- Surrogacy Support Organisations would allow private SSOs to provide support commissioning parents and surrogate mothers and facilitate introductions and coordinate services.
- The approval process appears to be ‘presumed approval’ if requirements are met and this will be conducted primarily 'on the papers.'

Like the proposed Regulated Surrogacy Agencies in the UK, this is a rebranding of Surrogacy Agencies who ‘match’ people seeking a baby with a woman willing to provide one. These agents would approve agreements, manage trust accounts for surrogate mothers and the pre-conception Approval Process. We note there is no mention of the training and experience that will be required nor how SSOs will manage disputes when they occur.

With the removal of social services, no home visits will be required, as is mandatory in adoption. As a state-sanctioned form of 'family building’, children born through surrogacy should receive equal treatment and safeguarding as those who are fostered or adopted.

Threshold Requirements

Parties must meet several threshold requirements for approval. Eligibility criteria for intended parents and surrogates mothers includes:

- Medical screenings and psychological assessments.

A 2025 mental health study revealed that despite pre-conception assessments of mental health, 19 women proceeded with surrogacy arrangements despite having been admitted to hospital for emergency mental health support.

“In the current study, 19.0% of gestational carriers had a documented diagnosis of mental illness before pregnancy. Among these, 10.7% had a prior history of mental illness diagnosed through an emergency department encounter or a hospitalization, which might have precluded them from being an eligible gestational carrier.”

This suggests that psychological assessments for surrogate mothers are not thorough and may be more of a ‘tick-box exercise’ to assess if the natural mother is capable of relinquishing the child at birth.

- Independent legal advice for all parties.

We are concerned that independent legal advice would not put the best interest of the surrogate mother at the heart of the arrangements when her lawyers are being paid for by another party. This may come into play in situations where she changes her mind and legal disputes occur post-birth.

- Counselling for informed consent.

If the counselling fails to involve explorative therapy to assess why a woman is engaging with surrogacy and inform a woman of all the known risks then this will not constitute informed consent. Proposals suggest that a surrogate mother receive counselling from the Australian and New Zealand Infertility Counsellors Association, however a surrogate mother would not be attending appointments due to infertility. We know from our experience in the UK that surrogate mothers are not provided with adequate mental health support during or after the birth and we are not confident that ANZICA will have the expertise to support them under this category of counselling.

Surrogacy Support Organisations and Advertising

A National Regulator that issues licenses to Surrogacy Support Organisations (like that of proposed Regulated Surrogacy Organisations in the UK) creates an industry to facilitate surrogacy arrangements. Not only is this harmful practice to be sanctioned by the government, a private industry with privately-operated entities will be permitted to be established and advertise their services to compete in an open market.

By industrialising surrogacy in Australia a new market will be built on women’s bodies, both at home and abroad. Issues that are managed at the federal level are wide-ranging and usually affect the entire population. Surrogacy only affects a small number of Australia’s citizens who would be prioritised under this approach to reform, as it is elevated to be an issue of national importance.

We draw attention to a scandal in America involving Surrogacy Escrow Account Management (SEAM). The FBI investigated SEAM which was run by Dominique Side who stole around $10 million from commissioning parents to purchase personal luxury items, real estate, and to support her other businesses ventures.

At the time of writing this submission another scandal is emerging with US agency owner Megan Hall-Greenberg. The FBI are investigating the closure of Surro Connections and the missing $5 million under similar circumstances.

Legal Parentage

As with the UK law reform proposals, commissioning parents are to be recognised as legal parents at birth, under approved arrangements.

We are concerned that Birth Certificates will be falsified in the naming of a female social parent as 'mother' who has not given birth to the child. A birth certificate should prioritise the child as is an identity document for the child, not a receipt for purchase for a commissioning parent. Children have rights to know genetic and gestational origins but there is no clear process given for how surrogate-born children will find their mothers, in Australia or from overseas arrangements, and there is no exploration of the therapeutic support provision which should be made available for surrogate-born children. We are concerned that the erasure of the natural mother will be felt most by the children.

It is claimed that commissioning parents will be required to register for overseas arrangements to mitigate exploitation risks. We are not confident that overseas arrangements made to meet the demand of commissioning parents in Australia can be *guaranteed* not to be exploitative. Please refer to the recent surrogacy human trafficking scandals in Greece, Vietnam, Spain, Argentina, Kenya, the Philippines, Cambodia, and China. Earlier this year a new human trafficking scandal was exposed in the USA, involving 21 infants in a mansion in Arcadia, California. Investigations revealed child abuse and the owners of Marks Agency were linked to gambling and drugs.

Recommendation 7: The ALRC should consult in depth with adults who are donor conceived and adult adoptees.

Egg donation

It is not possible to extricate surrogacy from egg donation as commissioning couples will seek both, whether this is same sex male couples or opposite sex couples.

We refer you to the OVADO study from Dr Diane Tober and her book "Eggonomics: The Global Market in Human Eggs and the Donors Who Supply Them," for detailed personal accounts and evidence of risk and impact in her unprecedented study conducted in America and Spain. This

five-year study (from 2018 to 2023) is the only long-term research available on egg donation. The study surveyed 989 women, primarily from the US and Spain, revealing demographic differences in donors. In the US, most donors were single, often students or recent graduates, while in Spain many were young mothers or individuals in low-wage jobs. Some women travel to the US for higher compensation or to bypass local regulations.

Donors' ages ranged from 17 to 39, with some starting the process as young as 16. Concerns have been raised about the risks of egg donation, as many women remain uninformed about the long-term consequences. Current practices do not require enhanced genetic screening for donors, which raises concerns about passing on genetic conditions.

The ALRC should consider the lack of long term research in this field of medicine and the increasing importance for better tracking of health outcomes for women who donate their eggs to ensure their safety and informed decision-making.

Recommendation 8: We recommend that the ALRC conduct an Impact Risk Assessment before proceeding further as liberalising surrogacy across Australia will have a significant impact on the market by increasing demand for human eggs.

Other concerns and observations:

The advisory committee

Members of this committee have direct interests in surrogacy which could lead to a conflict of interest and questions of 'structural capture.' A similar panel has been established in Ireland 2024 law and involves a commissioning mother and the owner of a fertility clinic. A transparent, evidence-based and impartial approach is crucial to law reform.

Recommendation 9: We call for the Commission to clarify the selection process of the advisory committee

CEDAW

Australia must adhere to CEDAW, which requires women's full participation in decision-making and a thorough analysis of potential discrimination and exploitation associated with surrogacy. The Discussion Paper fails to address how surrogacy might endanger economically vulnerable women and does not analyse the implications of monetising their reproductive capacities, potentially reinforcing stereotypes. Signatories to CEDAW are explicitly asked to avoid reinforcing stereotypes.

Recommendation 10: The ALRC should consider the international obligations for Australia's government before proceeding further.

Conclusion

Globally there are growing concerns about the exploitation of women, children's rights, and the ethical implications of surrogacy, in it’s current form and specifically in the expansion and liberalisation of existing laws. National and international groups are growing in number and are calling for a global ban.

A regulatory framework adds legitimacy to a harmful practice that is inherently exploitative and dehumanising. We remain deeply concerned for the lack of curiosity and data collection for surrogacy and the limits regarding existing research that relies on small cohorts, self-reporting surveys and the absence of comparative groups to form baseline understanding.

The ALRC should focus on the rights and best interests of children and the respect and the dignity of women, not be seeking to “reduce barriers” through regulatory frameworks. Regulation risks legitimising surrogacy and delegitimising human dignity, which in itself presents a moral line in the sand for society at large.