

Submission to the Legislation
Committee: New Inquiry into the
Human Reproductive Technology and
Surrogacy Legislation Amendment Bill
2018

From:

Association of Relinquishing Mothers (Vic)

PO Box 645

Deepdene 3103



arms@armsvic.org.au

May 3 2019



**Association of Relinquishing Mothers (Vic) Inc.
A0040803Y**

ABN 58 139 269 250

P O Box 645 Deepdene Vic. 3103

Telephone: [REDACTED]

Email: arms@armsvic.org.au

ARMS (Vic) is a not for profit organisation which was formed in 1982 by a group of women who had lost their children to adoption and who realised they (and many other women) had all had similar experiences of being denied the right to mother the children to whom they had given birth.

ARMS has supported mothers ever since, holding support group meetings each month in Melbourne for the past thirty-five years, and more recently in Victorian regional areas as well. We well know the experience of grief and trauma that follows the taking or 'giving' of a child, and as an organisation, are extremely concerned with the parallels between adoption and

surrogacy. Both are made to appear "normal" and acceptable within a society where one part of the community covets that which another part of the community has, in this instance, a child.

The media, and indeed the community in general, talk about surrogacy as a way to *have* children, not as a way to *lose* them, even though this is exactly what is happening. People speak of their 'need' to have a child. It is not a need but a desire. They declare their 'right' to have a child. Nowhere in the UN Convention on the Rights of the Child does it say that adults have a right to a child. Article 7 states that each child has the right to his or her parents. They also have the right to know about the circumstances of their birth. Therefore, surrogacy, rather than assisting an adult to achieve this 'right', actually violates the right of the child by taking the child from its mother. The European Parliament "condemns the practice of surrogacy, which undermines the human dignity of women, since their bodies and reproductive functions are used as commodities."

A human being should not be bought or sold. Even in "altruistic" surrogacy the baby is being bought - money changes hands and a contract is signed. The surrogate is told that she is generous and noble, an 'angel', and is giving the gift of parenthood to a deserving couple who otherwise would live their lives childless. Some websites even tell her that "many women consider becoming a surrogate mother not only to give the gift of parenthood, but to benefit her own family too." "Make someone's dream of family a reality." "The gold at the end of the process is seeing the look on the parents' faces as they gaze at their baby for the first time." Emotional statements and feel-good proclamations are made - but the emotional and

physical perils are barely mentioned. In fact the emotional issues are not mentioned at all. Why would they tell a woman her body and mind will miss this baby once she has handed him/her over to the commissioning couple? Why would they tell her that her and the baby's cells have been intricately intertwined for nine months and will be thus for an indeterminate period of time?

The argument put forth that not allowing single sex couples and single men access to surrogacy is discriminatory and somehow homophobic is a furphy. There are many homosexual individuals and groups who are against surrogacy. They, as we, see it as the buying and selling of babies, and a violation of women's bodies.

Members of ARMS recently listened to young women speaking at a conference on surrogacy held in Melbourne - to the physical, medical, financial and emotional trauma they endured, and are still living with every day. They were altruistic surrogates in Australia, believing they were doing the right thing, for close relatives or friends, giving the gift of love, being 'angels'. Their emotional scars will never heal. Those who advocate pushing the boundaries of surrogacy, whether altruistic or commercial, generally either have a financial interest in the industry or believe they have a right to a child. And it is a hugely commercially profitable industry. Altruistic surrogacy is the thin edge of the wedge. Push the boundaries and we will eventually end up like countries such as the US, which is awash with people buying and selling babies and bodies through surrogacy. We have already seen trafficking of

young women in other countries who are forced to act as surrogates multiple times. To say these things won't happen here is naïve.

Following is a presentation made to the surrogacy conference aforementioned by the secretary of ARMS, Jo Fraser.

**Broken Bonds and Big Money: an International Conference
on Surrogacy**

Melbourne, 15 – 16 March, 2019

A “Relinquishing” Mother’s Perception of Surrogacy

Jo Fraser, Secretary of ARMS(Vic)

“There is no such thing as a baby..” Nancy Verrier opened her presentation to the American Adoption Congress International Convention in April 1991 with these words. “When (paediatrician and psychoanalyst) Donald Winnicott said those words, what he meant was that there is instead a mother/baby – an emotional, psychological, spiritual unit, where knowing comes from intuition and where energy is exchanged. The baby and mother, although separated physiologically are psychologically one. Needless to say, for the child separated from his mother at birth or soon after, such an idea has tremendous importance. But has anyone been paying attention to this?”

It has been more than 25 years since ARMS first called the community to recognise that surrogacy would produce the new generation of grieving women. Since then we have seen an explosion of prospective commissioning couples desperate to secure a child, especially as the pool of babies available to be adopted has dramatically reduced. Surrogacy is even more attractive than adoption because it offers the possibility of either one or both of the commissioning couple to be genetically connected to the child. It also enables the commissioning couple to negate any meaningful role that the carrying mother plays by dismissing it as the incubation of “their” child. While traditional surrogacy is not a recent

phenomenon, fertility clinic assisted surrogacy is, and this brings serious policy ramifications.

Since its inception, ARMS has been extremely concerned with the parallels between adoption and surrogacy. Both are made to appear normal and acceptable within society where one part of the community covets that which another part of the community has ie. a child. Surrogacy reduces children to being created *specifically* as a desired end product.

ARMS women in the late 1980s had the privilege of meeting several of the first women to undertake to carry a child on behalf of a commissioning couple, without payment. Elizabeth Kane became the pin up woman of the pro-surrogacy movement for several years, until she started living the consequences of her act of altruism – deep depression, her previous children suffering profound emotional disturbances and her marriage on the brink of disintegration. Elizabeth, Mary-Beth Whitehead and Lori-Jean are women ARMS members met who told of their experiences of being a so-called 'surrogate'. In truth, they were mothers – but language is used to diminish status when society is doing something unconscionable.

All three women spoke eloquently of the impact on their families of their decision to relinquish the child they carried to the commissioning couple. It had far reaching and ongoing negative consequences for their children and their marriages. Women who become birth mothers for a commissioning couple are in a nightmare predicament because of the contradictory

views of society. Just as it has been for the mother who has apparently relinquished in adoption, on one hand the woman is applauded for giving her child to a 'deserving' couple, who can provide a two parent environment for the child, but on the other she is treated with suspicion because she has 'given away' her child. This irony and nightmare for women is best exemplified by a court case in the late 1980s where a woman who was carrying a child in a surrogacy arrangement lost custody of her previous three children in a divorce proceedings because the Judge was convinced by her husband that she was, as a consequence of the surrogacy, an unfit mother because she was prepared to give away the unborn child. He was convinced by her husband that she was, ***as a consequence of the surrogacy***, an unfit mother.

The field of reproductive technology abounds with secrets, lies and myths. I want to address one of the current myths in this discussion – the idea that there is little to be learned from the past adoption model when considering surrogacy. The adoption experience is dismissed because babies were taken from mothers by a system that forced that outcome. Mothers in adoption generally didn't choose to become pregnant, where women offering to carry for a commissioning couple do choose. The complex grief experienced by mothers in adoption was compounded by the secrecy, and surrogacy doesn't occur in secret. (although there are some exceptions to this) The mothers in a surrogate arrangement aren't carrying their own biological child, and that difference appears to make it an incomparable experience.

It is convenient to focus on the forced nature of the loss because it diverts attention from the central connection between adoption and surrogacy. The unavoidable truth is that in both situations, a woman carries a child in her womb, creating it with every day that goes by, having her blood and her being flow in and out of her womb, resulting in a human being who is deeply connected and attached to that mother. The baby is unaware that it doesn't share its mother's genetic material. The mother has no less knowledge and engagement in her pregnancy, or with that growing foetus, whether or not they are her gametes – she is completely aware of and connected to her child. She gives birth – a seminal experience for both mother and child and one that is forgotten by neither. That knowledge sits in a conscious and unconscious place for both, for the rest of their lives. It is this separation from each other that is the core connection between the experience of the mothers whose child is either taken or given.

Why did we ever think it was doable to give a child to another because its arrival wasn't timely in our lives? Did we really believe that, or was it just a seduction, to achieve another end – that of a child for a married couple who deserved one. As Marian Quartly, Shurlee Swain and Denise Cuthbert laid bare in their book in 2013, there was truly a Market in Babies, shaped by supply and demand.

I want to explore another connection. It is about how a social norm is constructed and how, through that construction, an act that is profoundly counter-cultural, becomes accepted. As a

brief parallel, consider the situation where a couple is married and in the early years of that marriage. The wife becomes pregnant to another man. Society frowns on her. Her husband most typically insists she have a termination. In many cases he ends the marriage, believing that it was she who ended the marriage by her action. Generally, society agrees with him. In many cases, she may have the termination and the marriage falters anyway.

Now, let's put that situation in a different context. The husband is infertile. Hopefully, they BOTH want a child. Now a new social norm is being created. It is no longer explosive that his wife is carrying another man's child. Both see this as the beginning of them becoming a family. What we know now about this situation is that even though it is socially 'acceptable', some men do feel resentful, experience the child as a reminder of their infertility and some women do feel they have betrayed something profound in their marriage. They didn't expect to feel like that. They might not have even known it was a possibility that they would feel that way. Some marriages end because of the circumstances of the conception of that child. But how could they have known how they would respond? After all, this had the imprimatur of the state. It had been legislated for. There was money to support this public policy and there was a whole framework of doctors, nurses, scientists – and there was the protection of secrecy around it. How could it go wrong? And all that before we even begin to consider the experience of the child.

As with donor conceptions, so also with adoption. In normal society a woman who 'gave away her child', claiming that she just walked away without a backward glance and got on with her life, didn't ever really think about that child again, would be considered to be suffering some kind of pathology. We know from the last 100 years of adoption practice that this possibility was a social construct, created by legislation, doctors, adoption agencies and a society that wanted a 'fix' for infertile couples. It was also a handy way of punishing women who broke society's rules about sexuality and ensured that marriage continued to protect men from the possibility that the progeny of the marriage might not be their offspring. The truth is that not raising a child of one's own body causes lifelong complex grief and damages both mother and child. What we don't know yet, is what impact is felt by the child who is the biological child of the commissioning couple. But there are certainly fewer of those children who are born with the support of the medical profession, the state and a mother who carries the child to term. The large majority have at least one donor involved. Either way, that child still experiences all the negative impact of being separated from his or her mother.

What makes it possible for our community to think that there will be little or no impact on mother or child? It is several fold. It is a blind or thoughtless acceptance by the broader community that comes about because the science exists; the medical profession sees a way to make money; the government on our behalf, legislates for it, thus giving it legitimacy; and one wealthy sector of the community uses its power, influence and

cash to bring about a social construction that meets their needs.

In surrogacy we have the equivalent perfect storm. It started with commissioning couples who wanted a child. The medical profession sees the possibility for rivers of gold financially; the scientists love being able to push the boundaries and be financed to develop new technologies. And with all three pushing, a government, fearful of the implications of an unregulated new frontier, legislates, and in doing so, both protects and enables. And then the community comes on board – because it looks like it is okay with all those knowledgeable, important, powerful people saying so. And what was once unthinkable becomes a norm. And those women who are ensnared by the system believe it is possible to do the unthinkable without cost. What the years of adoption experience tells us – governments, medical profession, the community – is that it is not without cost: that the cost is measured in lifetimes – the mothers and the children and all the family members who are connected to the event.

It is worthwhile noting that, as in adoption, some women walk away from the birth of their child without regret, but none that we have spoken to have looked back without pain and a true sense of loss. Knowing this it presses us to ask the question – what price the provision of a child to a commissioning couple? We can't look back in 20 years and offer an apology based on claiming that we didn't know the cost to the child, or the mother, or the community through the health budget. **We**

have to face squarely the truth that we are saying we are prepared to do this to members of our society, knowing full well the impact. Will it become the next royal commission, the next round of reparation, because it is convenient to ignore the negative impact in the interests of meeting the requirements of commissioning couples? Are we willing to be as brazen at that? Are we saying that we are prepared to go ahead with creating the next generation of grieving women and disenfranchised, harmed children who become adults?

What are the other lessons we can learn from the adoption experience?

It is impossible to know how we will live any experience until we begin to live it. We were seduced into believing what we were told: that we are doing a good thing; that it will be alright; that we will have 'a child of our own' later. For the mother in a surrogate arrangement those lies are about the inherent goodness of altruism; or the familial obligation to the infertile one; or that it isn't really your child (because it is donated gametes); or that you won't bond with 'it' because you know you're not planning to raise the baby. In reality all the ways in which a woman can be convinced by mealy-mouthed words that this will not be an experience of loss; that the same connection she experienced in her previous pregnancies will not occur. The truth is that those assurances last until we have done the act, given over the child. Then we begin to live life without the child; and only then will we know the extent to which we experience it as a greater or lesser loss.

What does being forced into something look like? Altruistic surrogacy is a classic example of feeling obligated to do something. Women are no longer being forced to place an ex nuptial child into adoption due to shame. The forces are now poverty, family dysfunction (however transitory) and in the case of altruistic surrogacy, helping a sister/ friend, cousin.

There is something that is so utterly unique about the in utero experience and the mothering that attends that experience. Babies remember the timbre of the mother's voice, the rhythm of her speech, the beating of her heart. The impact of the transfer of that baby to another "mother" is at best a psychological trauma, and at worst, an entirely unknown quantity that has been left to the future to manage.

As Marie Meggitt, the founder of ARMS, pointed out in an article in *The Age* in July 1993, when the Kennett Government was set to legislate to allow surrogacy between sisters, cousins and close friends, there had been ten federal and state committees of inquiry in Australia into surrogacy, and nine of them recommended against it.

Those who advocate for surrogacy fail to recognise the trauma of separation of mother and child. Australia's Federal and State Governments have apologised for past wrongs with regard to adoption practices. It is important that we learn from the past and not repeat those mistakes.

We can be dismissed because it looks like we were forced into it, but no-one undertakes the deeply personal task of carrying a child to full term and relinquishing the baby without lifelong

impact. No amount of money can compensate for that loss. The truth is that at the centre of every surrogacy is a relinquishment and it is not a woman's role to produce a baby because someone else wants one.

Marie Meggitt founder of ARMS(Vic)

Jo Fraser secretary of ARMS(Vic)