



NEW SOUTH WALES WOMEN'S ACTION ALLIANCE (NSWWAA)

**Review of the *Surrogacy Act 2010* and
Status of Children Act 1996
Department of Communities and Justice
New South Wales Government**

**Submission from the
New South Wales Women's Action Alliance (NSWWAA)
A member of the
Affiliation of Australian Women's Action Alliances
(AAWAA)**

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The NSW Women's Action Alliance (NSWWAA) is a member of the Affiliation of Australian Women's Action Alliances (AAWAA), which represents women's liberation groups from seven of the eight states and territories in Australia. NSWWAA is secular, independent, and unaligned with any political party. We advocate for women and girls, especially in domains where we face discrimination or vulnerability because of our sex. NSWWAA's membership includes mothers, grandmothers, teachers, public servants, researchers, professionals, business women, retirees, and medical professionals all from a diversity of backgrounds.

We thank the NSW Government for this opportunity to comment on the review of the *Surrogacy Act 2010* and the *Status of Children Act 1996*. Surrogacy is a sensitive topic that calls for understanding, compassion, and humility in regard to the very personal desire for a family. It also requires an honest and open acknowledgement of surrogacy as a practice that systemically exploits women and children at the population level, and one that inflicts very real harms on women and children at the individual level.

We acknowledge the sadness that can come with not being able to have children, and that this applies to both females and males. But these individual griefs must not outweigh society's imperative to prevent women and children from being exploited as commodities, as tradable; as such, surrogacy should not be allowed as an option for family formation.

NSWWAA understands that this review has come in response to an inquiry¹ into an omnibus bill that seeks to amend twenty different laws all at once in NSW, and includes the removal of bans on commercial surrogacy for NSW residents and allowing courts more discretion to grant parentage orders. NSWWAA wishes to foreground our opposition to the proposed amendments. We are not alone in our dismay at these proposals, with a survey on the matter showing that allowing the purchase of children in commercial arrangements outside of NSW would go against the vast majority of what NSW residents want, with 79.93% opposed.²

We note that the NSW Government in its consultation summary³ states explicitly that it is committed to consulting with LGBTIQ+ family organisations and advocacy groups on the complexities of family formation through surrogacy arrangements. We hope that the Government also sees women as stakeholders in this debate. In this submission, NSWWAA advocates for the right of women to be treated as a class requiring protection from reproductive exploitation on account of our sex being the one with the capacity to bear children.

A. WOMEN

NSWWAA holds that in any individual surrogacy arrangement, the best interests of the resulting child must be paramount; however, even before that consideration the best interests of women as a population must be considered, as without a mother to bear a child, there can be no child to relinquish. We view surrogacy as a form of reproductive exploitation of women.

Surrogacy is a population-level issue for women

An important protection for women and girls in any society is one against our exploitation and commodification, both as a population and as individuals. But because surrogacy arrangements treat women – both as a population and individually – as bodies to be subordinated to the production and relinquishment of a child, NSWWAA asserts that the

¹ [Equality Legislation Amendment \(LGBTIQ+\) Bill 2023](#), NSW Legislative Assembly, Committee on Community Services, inquiry report.

² [Equality Legislation Amendment \(LGBTIQ+\) Bill 2023](#), NSW Legislative Assembly, Committee on Community Services, inquiry report, p. 66.

³ See [Discussion Paper, Review of Surrogacy Act 2010 and Status of Children Act 1996](#), 'Summary,' June 2024.

practice should not be condoned or permitted or tacitly endorsed in any form, commercial or altruistic.

Whilst we note that the discussion paper seeks views on whether or not the *Surrogacy Act* offers sufficient protection for birth mothers, we are disappointed that the consultation⁴ does not outline as a purpose the consideration of women's protections as a social group. We do not dispute that it is fair that those seeking to obtain a child through a surrogacy arrangement be recognised as an interest group in the consultation, just as it is obviously right that the best interests of such children should be considered paramount; however, to only refer to women in the role of an individual birth mother – and not as an identifiable population whose vulnerability to exploitation requires state protection – points to a worrying imbalance in the representation of the rights of the parties involved.

Any social system that allows the use and exploitation of women's bodies as commodities to be traded makes it possible for *all* women – not just individual women – to be seen as objects to be traded, whether it be in prostitution, pornography, or surrogacy. Surrogacy, therefore, cannot be confined to an individual woman's 'choices': if women and our bodies are treated at the population level as commodities, then this enables the 'choice' of surrogacy at the individual level. Further to this, sub-populations of women – women of colour, vulnerable women, and poor women – are particularly at risk of reproductive exploitation, as the NSW Government notes in the discussion paper, as do others.⁵

To treat surrogacy as a 'choice' for individual women is to ignore the broader social structures and systems that license prejudice towards, and the abuse of, women and girls and that reduce us to a reproductive or sexual function. In other words, women exist firstly together within our sex class before we exist separately as individuals.

But doesn't 'altruistic surrogacy' stop exploitation of women?

NSWWAA is opposed to so-called 'altruistic surrogacy,' which notion we call into question because in any kind of reproductive contract to relinquish a child, exploitation is baked-in to the arrangement. Women's socialised kindness and compassion and 'service-orientation'⁶ in addition to our unique reproductive capacity – is taken advantage of in altruistic surrogacy. The practice capitalises on women's emotional and physical labour.

Women who find themselves in a reproductive contract of altruistic surrogacy that they do not wish to follow through on, risk ridicule, rancour, and hostility from those wanting to obtain the child – even more difficult when family (sisters, brothers, cousins) might be involved and there is a danger of being shunned or ostracised.⁷

We also question whether consent can ever be "freely and voluntarily" given by each of the affected parties as the current *Surrogacy Act* imagines (s.31).⁸ Aside from the obvious fact

⁴ See [Discussion Paper, Review of Surrogacy Act 2010 and Status of Children Act 1996](#), 'Purpose of this consultation,' June 2024.

⁵ [Paid surrogacy makes disadvantaged women into walking wombs – an unacceptable solution to infertility](#), *New Statesman*, February 2016; [Damaged babies and broken hearts: Ukraine's commercial surrogacy industry leaves a trail of disasters](#), ABC News, August 2019; [Ukraine's 'baby factories': The human cost of surrogacy](#), Al Jazeera, September 2018; [Lessons from Ukraine: Shifting international surrogacy policy to protect women and children](#), *Journal of Public and International Affairs*, May 2020; [Sleepwalking through the minefield: Commercial surrogacy and the global response](#), the 2018 Blackburn Lecture, delivered by The Hon John Pascoe AC CVO, Chief Justice of the Family Court of Australia, ACT Law Society, May 2018. Evidence of white-collar, white-skinned, professional, educated women being used as surrogates for poor, dark-skinned, illiterate women is lacking (see [Surrogacy. A human rights violation](#) by Renate Klein, 2017, p. 7).

⁶ See [Global care chains and emotional surplus value](#) by Arlie Russel Hochschild in *Justice, Politics, and the Family*, 2014.

⁷ See [Surrogacy. A human rights violation](#), by Renate Klein, 2017, pp 7-8.

⁸ [NSW Surrogacy Act 2010 No 102](#), Section 31.

that the child party lacks capacity,⁹ as an inherently coercive and exploitative practice surrogacy does not align with ‘consent.’ Indeed, all States and Territories recognise that exploitation of women is possible and must be prevented in surrogacy arrangements, even in altruistic arrangements – which is why it is regulated.¹⁰ Of growing concern, and now recognised at law, are the many different forms of social control of women that find expression in individual situations as well as in everyday socio-cultural practices. Neither social nor individual coercion can ever be discounted in altruistic surrogacy.

Serious attention must also be given to any evidence of ‘rewards,’ ‘gifts,’ or ‘other benefits’ being given to birth mothers in altruistic arrangements. Such ‘rewards’ may include holidays, beauty treatments, and entertainment and would come under the definition of a commercial arrangement, that is, one that provides a “fee, reward or other material benefit or advantage.”¹¹ We note that something does not have to be paid for in order to be commodified: it need only be traded – and this is what is occurring in such arrangements, making this commercial surrogacy by another name.

Adding advertising into this already complex environment only increases the danger that commercial surrogacy arrangements could be passed off as altruistic. There are, of course, screening standards currently in place for altruistic surrogacy, but the reality is that these standards do not meet the screening standards for adopting or fostering children in NSW.

B. COMMERCIAL SURROGACY

The possibility that it would no longer be a criminal offence for NSW residents to use women in overseas commercial surrogacy arrangements is, in NSWVAA’s opinion, extremely concerning in its implications for human rights abuses and human trafficking.¹²

Exploitation of women and girls

Exploitation of women and girls through surrogacy occurs even in regulated environments

The NSW 2018 Statutory Review of the *Surrogacy Act*,¹³ the 2016 Surrogacy Matters Report¹⁴ published by the Commonwealth Parliament, and the UN Special Rapporteur on the sale and sexual exploitation of children¹⁵ all speak with one voice when it comes to preventing the commercialisation of human reproduction:¹⁶ there are power imbalances between wealthy customers and poor women that commodify both the woman and her child in such surrogacy arrangements. And this exploitation can penetrate even regulated environments. Indeed, the proposed combination of making it no longer a criminal offence to purchase a child through a commercial surrogacy arrangement in another jurisdiction with allowing courts more discretion in the granting of parentage orders would effectively incentivise NSW residents to pursue reproductive contracts overseas. This would be to play

⁹ We note that the resulting child cannot give their consent to this arrangement being made about them.

¹⁰ See [Discussion Paper, Review of Surrogacy Act 2010 and Status of Children Act 1996](#), ‘Background to the Surrogacy Act,’ June 2024.

¹¹ See [Discussion Paper, Review of Surrogacy Act 2010 and Status of Children Act 1996](#), ‘Commercial surrogacy arrangements,’ June 2024.

¹² [Women’s bodies, international relations, and surrogacy: Private lives made public](#), Australian Institute of International Affairs, March 2023; [Key considerations: children’s rights and surrogacy – briefing note](#), UNICEF, February, 2022; [Fight against human trafficking: Council and European Parliament strike deal to strengthen rules](#), Council of the EU, January 2023; [Surrogacy and the sale of children](#), Special Rapporteur on the sale and sexual exploitation of children, March 2018.

¹³ [Report on the Statutory Review of the Surrogacy Act 2010](#), Parliament of New South Wales, June 2018.

¹⁴ [Surrogacy Matters Report](#), Parliament of Australia, 2016.

¹⁵ [Surrogacy and the sale of children](#), Special Rapporteur on the sale and sexual exploitation of children, March 2018.

¹⁶ See [Discussion Paper, Review of Surrogacy Act 2010 and Status of Children Act 1996](#), ‘Commercial surrogacy arrangements,’ June 2024.

on the sympathy of the courts here to legitimise the outcome upon returning home. Most surrogacy in Australia is already organised through commercial surrogacy overseas,¹⁷ so the knock-on effect would be that even more intending parents would be emboldened to pursue the purchase of children from overseas irrespective of its legality in NSW.

The evidence of surrogacy in commercial arrangements overwhelmingly shows that women and girls in overseas jurisdictions – particularly in poorer countries – are being coerced into commercial surrogacy for the benefit of wealthy buyers in the West. We are informed in this view by various international reports that detail baby trading and human trafficking¹⁸ and by the fact that many of those poorer countries have recognised the exploitation that occurs in commercial surrogacy and have imposed bans on it.¹⁹ We urge the legislature to reflect upon the hidden violence and coercion that attends these arrangements, and to question the motivations of companies and dealers who broker commercial arrangements.

The thin end of the wedge: commercial surrogacy in Australia

Although the primary intention of the proposal to remove the ban on commercial surrogacy would be to facilitate NSW residents to purchase a child overseas, this does not mean that the purchase of children in Australian States and Territories might not yet become possible and sought. There is no commercial surrogacy in Australia only because no state *currently* allows women in their jurisdiction to be used in this way. If NSW were to weaken its existing prohibitions the other states would surely follow, to harmonise law within our federated nation. The proposed legislative changes form the thin end of a wedge. It would push into the frail boundary of the laws that presently prohibit the trade in women and children in surrogacy Australia-wide. Although we hope it would never happen, the ultimate outcome could well be the lifting of commercial surrogacy bans in Australia and the ultimate legalising of commercial surrogacy in NSW and elsewhere, encouraging the trade and trafficking of women and children within this country.²⁰

Children and commercial surrogacy

The best interests of children

The danger of surrogacy arrangements of any kind is that through the commodification of women comes the necessary and inseparable commodification of the progeny of those arrangements: children. Children are not just individuals or individual ‘products,’ but they constitute a class of person on their own – and being a vulnerable class of person we afford them protections.

A foundational protection in this regard is protection from the assumption of a ‘right’ to a child. Rights must, of course, be balanced against each other, but a child’s right to *not* be traded trumps easily any form in which a ‘right’ could be asserted to not be childless. Even if the attitude of a ‘right’ to a child is not overtly articulated by purchasing adults, it may nevertheless form part of the reasoning for wanting to enter into a surrogacy arrangement – commercial or otherwise – in the first place. As this mentality widens in our society, children become a tradeable class (alongside women) if only one has the means, and if only the

¹⁷ [Surrogacy Matters Report](#), Parliament of Australia, 2016, para 170; There were 213 recorded instances overseas in 2021 ([Number of applications for Australian citizenship by descent received by the Department relating to children born through international surrogacy arrangements by country of birth for the 2021-22 financial year](#), Department of Home Affairs,) versus 100 recorded domestic local births, [Assisted reproductive technology in Australia and New Zealand 2021](#), University of New South Wales, 2023, p. 45.

¹⁸ [Women’s bodies, international relations, and surrogacy: Private lives made public](#), Australian Institute of International Affairs, March 2023; [Key considerations: children’s rights and surrogacy – briefing note](#), UNICEF, February, 2022; [Fight against human trafficking: Council and European Parliament strike deal to strengthen rules](#), Council of the EU, January 2023; [Surrogacy and the sale of children](#), Special Rapporteur on the sale and sexual exploitation of children, March 2018.

¹⁹ See, for example, Cambodia, India, Nepal, and Thailand.

²⁰ [Equality Legislation Amendment \(LGBTIQ+\) Bill 2023](#), NSW Legislative Assembly, Committee on Community Services, inquiry report, pp 55-6.

legislature allows it. Our society must never condone one class of person to purchase another class of person.

Specific dangers for individual children born through commercial surrogacy arrangements overseas

Drilling down from the impacts that surrogacy has on all children, we see that individual children born through commercial surrogacy arrangements made overseas face very distinct dangers and are at risk of a number of specific human rights violations. These include²¹

- their right to an identity, including name, nationality, family relations and access to origins;
- the right to the enjoyment of the highest attainable standard of health;
- and the right to not be sold.

Commercial surrogacy arrangements place the first two in peril and the last in direct conflict with the best interests of a child.

In addition to this, and as UNICEF makes clear, one of the fundamental rights of a child is to the “maintenance of family ties.”²² This continuity of family is almost impossible when women overseas who are entered into commercial surrogacy arrangements – often by unscrupulous dealers – hand over their children to people from and in another country who have little self-interest in maintaining contact with the birth mother. In this way, children obtained through surrogacy arrangements potentially face severe challenges, some of which may not become apparent until they reach adulthood when the transactional circumstances of their conception become apparent to them, maybe impacting their psychological and emotional wellbeing.²³

Changes to parentage orders for commercial surrogacy would make the trade in children easier

NSWWAA acknowledges the complexities that matters relating to surrogacy pose for the judiciary in regards to establishing legal parentage. From the perspective of the courts responsible for determining parentage orders for children brought into NSW through overseas commercial surrogacy arrangements, it is not in the best interests of the child to be without legal parents, or to have the only parents she or he has known subjected to criminal investigation as a deterrence to others. Nonetheless, any easing in the restrictions on parentage orders would serve to further undermine an individual child’s personal best interests to not be born through a surrogacy arrangement in the first place.

Even outside this fundamental moral imperative to not be conceived as a reproductive contract, there are any number of places where the rights of the child can be undermined through breaks in the chain of legal parentage. UNICEF points to the following as some minimum standards for ensuring this chain, and which become difficult – perhaps impossible – to uphold in relation to overseas commercial surrogacy:

- pre-surrogacy safeguards
- best interest determinations
- consents of all parties to the arrangement, and
- protecting the child’s right to access their origins.²⁴

NSWWAA asserts that there can be no safeguards in place to ensure that adults intending to obtain a child by an overseas surrogacy arrangement meet any or all such minimum standards.

²¹ [Key considerations: children’s rights and surrogacy – briefing note](#), UNICEF, February, 2022.

²² [Key considerations: children’s rights and surrogacy – briefing note](#), UNICEF, February, 2022.

²³ See, for example, [Children born through reproductive donation: a longitudinal study of psychological adjustment](#), *Journal of Child Psychology and Psychiatry*, November 2012.

²⁴ [Key considerations: children’s rights and surrogacy – briefing note](#), UNICEF, February, 2022.

As a result, courts, in being delegated more discretion in granting parentage orders, would be placed increasingly frequently in the position of having to establish and protect a child's legal parentage. Whilst this is in the best interests of the child at the time that the intending parents lay claim to legal parentage, the full previous circumstances of the birth and purchase of the child may not be available to the Court, resulting in a tacit ratification of arrangements that will not have been in the best interests of the woman engaged in the arrangement or her child. Courts in NSW would be placed in the invidious position of providing post hoc legal sanction for the exploitation of women and children overseas.²⁵ Our laws must not be manipulated to veil a child's origin in exploitation.

Motivations of intending parents

Although it is a topic that most would rather not think about, we must, sadly, also consider the fact that effective decriminalisation of commercial overseas surrogacy for NSW residents might attract intending parents whose primary motivations are not in the best interests of a child. These include those who see having a child as the fulfilment of their personal desires – that is, 'child as right' – and those who purchase children for abuse,²⁶ or whose backgrounds may involve sexual predation upon children.²⁷ Children purchased under these circumstances are being brought into environments that are not in the child's personal best interests. Regrettably, this has been demonstrated time and again, as in the setting of overseas commercial surrogacy there is minimal opportunity to screen intended parents and birth mothers at the standards currently required in NSW for fostering, adoption, or even for domestic altruistic surrogacy.

C. REMOVAL AND RELINQUISHMENT OF CHILDREN

Surrogacy by its very nature facilitates the removal of children from their mothers. This stands in stark contrast to the enormous efforts we otherwise make in our society to keep children with their mother or parent(s) and to avoid a break in the mother-child relationship.

Relinquishment is a last resort and not a first choice in our society

When a woman relinquishes her child in Australia, our society provides support through the traditional processes of guardianship and adoption, and the state's *parens patriae* jurisdiction to protect the child's interests in unfortunate circumstances. Nonetheless, the state's intervention to transfer full parenting responsibilities away from the birth mother does not always, or perhaps even often, lead to substantially better human outcomes. Relinquishment is considered a last resort and not a first choice in our society, and that balance should not be undermined by prioritising the wishes of those seeking family through the exploitation of women through reproductive contracts.

To this end, the social experience of family should not be turned into a calculable form using models of contract or risk, and it would be wrong of the state to facilitate the status of a child born outside of the parentage presumptions already recognised in NSW.²⁸ Permitting NSW residents to obtain a child through any form of surrogacy, and then allowing courts greater discretion in giving parentage orders, would be a significant step backwards.

Australia's painful history of forced adoption and forcible removal of children must be acknowledged

The removal or separation of children from their mothers is an issue of particular sensitivity in Australia, even when accompanied by claims of good intentions. Forced adoption was Australian policy for many years and an abhorrent practice for which we have now made a

²⁵ This point is also made in the [UN surrogacy report](#), A/74/162, Special Rapporteur on the sale and sexual exploitation of children, July 2019.

²⁶ [Meet 5 accused pedophiles who bought kids through surrogacy](#), Them Before Us, March 2024.

²⁷ [Baby Gammy: Court documents reveal father of surrogacy babies has been convicted of more than 20 child sex offences](#), ABC News, August 2014.

²⁸ [Status of Children Act 1996 No 76](#), Division 1.

significant apology.²⁹ The forcible removal of Aboriginal and Torres Strait Islander children was, similarly, Australian policy for many years, and an equally abhorrent practice for which we have likewise made profound apology and for which we continue to bear enduring shame as a nation.³⁰

The individualising of 'altruistic' surrogacy by laissez-faire 'choice' that is divorced from women's general condition as a class disguises the basic reality of pregnancy: there is a birth mother and that fact cannot be altered. The separation of the child from their natural mother is not something we take lightly in this country because Australians are conscious of the paternalistic assumptions, and potential damage, that may be clothed in good intentions. We have learnt this at great cost.

D. INTERNATIONAL OBLIGATIONS: CEDAW AND THE CRC

NSWWAA is very aware that legislative change in Australia – including at the state level – that engages issues of human dignity and human rights involves reinforcing our commitment to human rights internationally and the major human rights treaties to which we are a party.

We submit that several articles of both the UN Convention on the Elimination of Discrimination against Women (CEDAW),³¹ and the UN Convention on the Rights of the Child (CRC)³² are relevant to the exploitation, abuse, and trafficking of women and children in surrogacy and that these articles become even more relevant to Australia should the ban on NSW residents using women in overseas commercial surrogacy be lifted. The UN surrogacy report³³ by the UN Special Rapporteur on the sale and sexual exploitation of children is also relevant, here. Applicable are the following:

- CEDAW, Article 6, which requires States Parties to take all appropriate measures, including through legislation, to suppress all forms of traffic in women.
- UN surrogacy report, which recommends the creation of safeguards to prevent commercial surrogacy, especially when the contractual and other conditions of the commerce cannot be scrutinised. This report also recommends safeguards to prevent the sale of children in altruistic surrogacy.
- CRC, Article 7, which states a child's right to know and be cared for by their parents, and that surrogacy complicates.
- CRC, Article 8, which provides children with the right to preserve identity, including nationality, name, and family relations, and that surrogacy arrangements disrupt.
- CRC, Article 35, which calls for measures to prevent the sale or traffic of children, and that are relevant to all surrogacy arrangements.

NSWWAA strongly urges the NSW Government to include amongst its expert consultants the UN Special Rapporteur on the sale and sexual exploitation of children to address how problems – as identified in the UN surrogacy report³⁴ – could be regulated. Although NSWWAA is firmly against any form of surrogacy arrangement on the grounds of the exploitative nature of surrogacy, we point to these practical elements should NSW residents engage commercial surrogacy arrangements in other jurisdictions:

²⁹ [National Apology for Forced Adoptions](#), Australian Government, Attorney-General's Department, March 2013.

³⁰ [Bringing them home report](#), Australian Human Rights Commission, April 1997; [Apology to Australia's Indigenous Peoples](#), Parliament of Australia, February 2008.

³¹ [Convention on the Elimination of All Forms of Discrimination against Women](#), UN General Assembly, December 1979.

³² [Convention on the Rights of the Child](#), UN General Assembly, November, 1989.

³³ [UN surrogacy report](#), A/74/162, Special Rapporteur on the sale and sexual exploitation of children, July 2019.

³⁴ [UN surrogacy report](#), A/74/162, Special Rapporteur on the sale and sexual exploitation of children, July 2019.

- How would consent voluntarily and freely given be determined and monitored?
- How would NSW “strictly regulate” commercial surrogacy in other jurisdictions?
- How would the NSW Government monitor that both birth mother and child impacted by commercial surrogacy arrangements overseas have health insurance coverage?
- What processes would the NSW Government put in place to guarantee that intending parents do not engage in discriminatory selection practices of children on the grounds of sex, disability, race, ethnicity, religion, beliefs, etc.?
- How would financial arrangements be monitored and limited?
- Who in NSW would monitor all reimbursements and payments to birth mothers and intermediaries to ensure that they are reasonable and itemised and are subject to oversight by a court or other competent authority?
- How would the NSW Government regulate intermediaries involved in surrogacy arrangements, in regard to the financial aspects, relevant competencies, use of contractual arrangements, and ethical standards outside of NSW?
- What kind of post-birth review to assess the compliance of surrogacy arrangements would be implemented and resourced by the NSW Government?
- How would the NSW Government regulate the collection of data on intermediaries and fertility clinics and others facilitating surrogacy arrangements?
- What training programs would the NSW Government support and run to ensure that “the judiciary, legislative bodies, consulate services overseas and immigration officers, policymakers and decision makers involved directly or indirectly in decisions impacting surrogate-born children” understand how to determine and apply minimum safeguards?
- What mechanisms would the NSW Government put in place so that children born of commercial surrogacy overseas have access to all information relating to their birth heritage, including genetic origins, including the origin of donor gestational gametes?
- How would the NSW Government register and closely regulate the operation of intermediaries in commercial surrogacy arrangements to ensure that the commodification of children and sale of children do not occur?

CONCLUSION

We acknowledge the heartbreak of those who encounter difficulties in establishing a natal family, but their individual desires should not come at the expense of women as a class or at the expense of an individual woman and her individual child. We note and appreciate the problems, complexities, and complications that have arisen on account of current laws that permit surrogacy, but we also suggest that these problems disappear when surrogacy is banned, and not allowed as an option.

Short of such a ban, NSWAA holds that NSW at the very least should maintain the prohibitions on commercial surrogacy; retain safeguards that allow for birth mothers to change their minds up to the making of parentage orders; not water down the preconditions for parentage orders; and not provide the courts greater discretion in granting parentage orders.