



Cairns Community Legal Centre Inc

11 June 2008

EXPRESS POST

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The Research Director
Investigation into Altruistic Surrogacy Committee
Parliament House
George Street
BRISBANE Q 4000

INVESTIGATION INTO ALTRUISTIC SURROGACY: SUBMISSION

We refer to letter from Linda Lavarch MP, Chair of Investigation into Altruistic Surrogacy Committee (the Committee) dated 6 May 2008.

BACKGROUND AND EXPERIENCE OF THE CAIRNS COMMUNITY LEGAL CENTRE INC

The Cairns Community Legal Centre Inc (the Centre) is a not for profit community organisation. The Centre, which has been operating since approximately 1991, is funded by Commonwealth and State governments.

The Centre provides legal services for the benefit of socially and financially disadvantaged members of the community. The objects of the Centre include provision of free and accessible legal services; and development of self-help strategies.

The Centre provides legal advice, referrals, information; casework; community legal education; and law reform work including in the areas of criminal law, family law and a range of civil law matters including discrimination, consumer, debt and employment law matters.

Through its experience in providing the above criminal and civil law matters the Centre is acutely aware of the effect which dealings with the criminal justice system has on both the defendant as well as the community in general. While the Centre has experience in the area of family law matters however it does not however have specific experience in relation to surrogacy matters. We believe that the issues and circumstances surrounding altruistic surrogacy are somewhat different in nature to those we commonly experience in the area of family law.

In the circumstances we only make brief submissions in relation to the first issue raised by the Committee in its discussion paper and have refrained from expanding on the issues 2 – 17 relating to altruistic surrogacy as raised by the discussion paper provided under cover of the Committee's letter dated 6 May 2008 (the discussion paper).

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SUBMISSION RE ISSUE: SHOULD THE LEGAL RESTRICTIONS AND CRIMINAL PENALTIES AGAINST ALTRUISTIC SURROGACY BE REMOVED FROM THE SURROGATE PARENTHOOD ACT 1988 ?

Effect of criminal justice system

Given the broad reaching effects which contact with the criminal justice system can have, we consider that it is appropriate that altruistic surrogacy be decriminalised.

Potential to draw families into the criminal justice system

As noted by the discussion paper, despite minimal penalties the criminal prohibition of surrogacy still has the potential to draw families into the criminal justice system.

Indeed the very process of being charged and going through the court processes and systems can be both very draining for those concerned in terms of both time and energy as well as financially. These financial and non financial resources may be better applied by those concerned in caring for the child or children relevant to such cases. It is not in the best interests of those child/ren for such valuable resources to be re-diverted away from their needs.

There is also the issue of costs to the community in having these matters go through the court system. Again we consider that those resources would be better applied elsewhere.

Issue of stigmatising and criminalising people who seek to have a family through altruistic surrogacy

Also as noted by the discussion paper, there is also the issue of stigmatising and criminalising people who seek to have a family through altruistic surrogacy.

In our view it is unnecessary to stigmatise and criminalise people who seek to have a family through altruistic surrogacy. The effects of stigmatisation and criminalisation has an impact on the way the community treats those people often marginalising them. This can have an effect of those people obtaining employment. This in turn has consequential effects on those people's ability to maintain debts and / or obtain credit, set up a home and maintain other essential living standards. The financial implications of stigmatisation and criminalisation can therefore be destructive to families. This in turn has an adverse impact on the needs of innocent children.

Law in other States and Territories

We note that decriminalisation of altruistic surrogacy would also bring Queensland in line with other Australian states and territories.

CONCLUSION

In view of the above we consider that altruistic surrogacy be decriminalised in Queensland. We hope that this matter may be considered in the best interests of the community as a whole.

We thank the Committee for the opportunity to make submissions in this matter and look forward to the outcome of the Committee's investigations in due course.

Regards

CAIRNS COMMUNITY LEGAL CENTRE INC

Per:
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(Principal Solicitor / Co-ordinator)