



**VANISH**

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12<sup>th</sup> August 2014

Legal and Constitutional Affairs Legislation Committee  
PO Box 6100  
Parliament House  
Canberra ACT 2600

Dear Sir/Madam

**Re: Unregulated Surrogacy and *Australian Citizenship Amendment (Inter-country Adoption) Bill 2014***

VANISH Inc. is a non-sectarian, community organisation that has been funded by the Department of Human Services Victoria for the past 25 years to provide information, search and individual as well as group support services to those with an adoption experience across Victoria and reaching people living in other States of Australia and overseas.

As an organisation that works with the complexity of the lived experience for all members of the adoption circle, those who are Forgotten Australians and those who are donor conceived, we are aware of the impact that disruptions to identity can have for the individual and their family, the lifelong distress that this causes and the burden that this leaves on the nation's health and mental health budgets over a life time.

Every child has the right to know the full and complete identity of their parents and be able to have a loving connection to those who nurture them through childhood to adulthood, as well as transparent knowledge about those who provide their genetic inheritance and we would encourage legislators and policy makers to keep at the forefront of their thinking 'what is in the best interests of every child.'

On 5<sup>th</sup> August 2014 a letter to the editor of The Age newspaper commented that 'baby Gammy has torn at the heartstrings of many Australians and is bringing to our attention the terrible plight of many babies born under unprincipled and unregulated surrogacy.' The situation of this infant adds another dimension to the matter that VANISH brought to your attention in our letter dated 18<sup>th</sup> July 2014, regarding the proposed changes to the *Australian Citizenship Amendment (Inter-country Adoption) Bill 2014*.

In this letter we expressed our concern that the proposed changes to the legislation have 'the potential to place children at risk in unintended ways that may result in social, physical and psychological harm.' Baby Gammy's situation is a sad yet timely example of how the procurement of children in a manner that falls well below the ethical principles outlined in guides such as the Hague Convention and the United Nations Declaration of the Rights of the Child, can allow children to be treated as commodities and permit the exploitation of members of resource poor countries. And yet again leaves us as a nation, open to the potential allegation of being a party to a form of child trafficking.

As with the concerns expressed in our previous letter regarding the checks and balances needed to ensure that vulnerable children are free from exploitation, the baby Gammy situation also highlights that there is no guarantee that the intended Australian parents of children born overseas to surrogate mothers have undergone a standard of assessment and education that is acceptable within this country, or that they will have access to the appropriate supports on returning to Australia.

Baby Gammy also raises several questions with respect to record keeping, as does the proposed *Australian Citizenship Amendment (Inter-country Adoption) Bill 2014*. Will there be any requirement for notifying the Australian Government of the surrogacy status of children? What are the future implications for children 'carried' under such arrangements when they apply for their records and other information? Issues such as

these have been well documented in relation to adopted people in the recent 'Commonwealth Contribution to Former Forced Adoption Policies and Practice Report' as matters to be addressed by government, and have similar relevance for those born of surrogacy.

Already we hear the voices of donor conceived adults with no recourse to records about themselves who consider themselves a hidden group within Australian society, and whose needs have not been adequately met or understood by government sanctioned practices. Those who are born of surrogate mothers can now be added to this list.

We also wish to express our extreme concern for the plight of those women who are being exploited and commoditised as 'wombs to rent' when we have little or no understanding of the long term social, physical and psychological harm being done. We are aware that many such women are being unfairly and inhumanely treated.

### **Our Recommendations**

It is therefore recommended by VANISH that:

- commercial surrogacy is illegal for all Australian Citizens;
- the best interests of children subject to surrogacy arrangements are always held as paramount in order to avoid social, physical and psychological hurt;
- research occurs into the social, physical and psychological harm caused to so-called 'carrier-mothers';
- all children have the right to live with their parents as set out in the United Nations Convention on the Rights of the Child;
- all surrogate arrangements are recorded in Australia including the names of the surrogate mother and full identification of sperm and egg donors;
- all parents are included on a child's birth certificate;
- there are retrospective rights to complete information about the full identity for those who have already been carried by a surrogate mother domestically or overseas, be fully available.

Yours sincerely



Coleen Clare  
Manager VANISH Inc

cc: Hon Scott Morrison MP  
Hon Richard Marles MP  
Hon Julie Bishop MP  
Hon Tanya Plibersek MP  
Hon Kevin Andrews MP  
Hon Bernie Ripoll MP  
Hon. Matthew Guy  
Hon Michelle Rowland MP  
Hon George Brandis QC  
Hon Mark Dreyfus QC MP  
Hon. Mary Wooldridge MP  
Hon Daniel Andrews  
Hon Dr Denis Napthine (Premier)  
Hon Bill Shorten Leader of the Opposition  
Prof. The Hon Nahum Mushin, Chair, Forced Adoption Implementation Working Group  
Senator Rachel Siewert, Australian Greens  
Senator Christine Milne, Leader of the Australian Greens  
Senator Claire Moore, Labour Party Senator for Queensland  
Mr Clive Palmer MP, Palmer United Party