



# Jacquie Petrusma MP

Member for Franklin

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John D Harrower OAM  
Bishop of Tasmania  
Anglican Diocese of Tasmania  
GPO Box 748  
HOBART TAS 7001

**RE: Euthanasia**

Dear Mr. Harrower

Thank you for your recent letter outlining Tasmania's Anglican communities beliefs towards euthanasia and assisted suicide.

Let me assure you that I share your beliefs and will continue to do all I can as a politician and community advocate to promote this fact.

For your information I have attached with this letter a copy of a recent speech I did in Parliament on surrogacy. Whilst this is different topic, I hope that it may provide an insight as to what I believe around some of these sensitive but serious community concerns.

Yours sincerely,

Jacquie Petrusma MP  
**State Liberal Member for Franklin**  
**Shadow Minister for Children**  
**Shadow Minister for Cost of Living**  
**Shadow Minister for Human Services**

Enc. Surrogacy Speech

**Electorate Office:** Shop 6, 27 South Arm Road, Rokeby TAS 7019  
PH:(03) 6214 6000 F:(03) 6214 6002  
E: [jacquie.petrusma@parliament.tas.gov.au](mailto:jacquie.petrusma@parliament.tas.gov.au)  
[www.jacquiepetrusma.com.au](http://www.jacquiepetrusma.com.au)

Tasmanian  
**Liberals**

3.33 p.m. House of Assembly – Surrogacy Bill 2011

Ms PETRUSMA (Franklin) - Madam Deputy Speaker, I rise to speak on the Surrogacy Bill. I acknowledge that it is inevitable that this legislation comes before the House so as to be consistent with model law developed by the Standing Committee of Attorneys-General, SCAG. However, I also wish to point out that there were a number of matters on which SCAG was unable to reach a consensus and, as a result, the surrogacy provisions differ widely across the States and Territories. The Government has stated that the aim of this bill is to be:

'that the wellbeing and best interests of a child born as a result of a surrogacy arrangement, both through childhood and the rest of his or her life, are paramount.'

Therefore I am amazed that the Attorney-General has brought in a bill which is so far to the extremes of this debate in terms of protection for the parties involved, particularly the child, that the wellbeing and best interests of the child are certainly not paramount. Instead this bill is far beyond where the other States in Australia have dared to go. Thus I have considerable concerns with the bill similar to what my colleagues have already stated. For example, concern that anyone would be allowed to be the intending parents with no medical or social need to be demonstrated, that overseas surrogates are to be permitted, that there are no specified minimum ages of either intended parents or surrogates, as well as no requirement for a stable, ongoing relationship.

The bill also differs markedly from our adoption laws. Surely people wanting to use surrogacy should go through just as rigorous a process as adoption to ensure that they are suitable parents and that the interests of the child will be met.

I also want to point out that when out doorknocking I have never had anyone say to me that there was an urgent need for this legislation. Instead, cost of living issues, jobs and, as my colleague Adam Brooks just stated, the economy have been at the forefront of people's minds. People in Tasmania are today simply struggling to survive which is something to which this Government is turning a blind eye.

Mr Deputy Speaker, I wish to acknowledge the large number of letters and e-mails that I have received lately from constituents and organisations on surrogacy. Many had ethical concerns that include:

(1) That surrogacy legislation cannot avoid a risk of harm towards all the parties involved. In particular the child and the surrogate mother, both of whom are the most vulnerable to exploitation and objectification. These problems are more acute when children born through surrogacy arrangements are deliberately denied either a mother or a father.

(2) In other jurisdictions surrogacy arrangements have led to logistical and legal complications, in particular, litigation and custody disputes. There are inherent problems with surrogacy that will remain regardless of the legislation.

(3) Gestational surrogacy involves assisted reproductive technology or ART and increases the relational complexities.

Mr Best - Do you come from the extremist party?

Ms Archer - How rude.

Mr DEPUTY SPEAKER - Order.

Ms PETRUSMA - It is possible for the egg and sperm to be provided by both, one or neither of the commissioning couple or for donor egg and/or sperm to be used. This means that the child could be genetically related to the commissioning male and female, to the commissioning male and donor female, to the commissioning female and donor male or to the donor female and donor male and possibly to the surrogate herself. I will continue with their concerns:

(4) As a result of the above relational complexities, there are real concerns that surrogacy may, like adoption, also lead to an identity crisis for the child. Adopted children as they grow up often have a strong desire to know their biological parentage.

Mr Brooks - No wonder he gets thrown out of nightclubs.

Mr DEPUTY SPEAKER - Order.

Mr Best - When you swear like that it goes to the microphones.

Ms PETRUSMA - You may learn something if you listen.

Mr Best - I doubt it. Not from extremists like you.

Mr DEPUTY SPEAKER - Order.

Ms PETRUSMA - They do not feel whole without this information. Instead they often feel cheated and empty. This identity crisis would be the same with surrogacy. Children need and have a right to know their biological parentage, therefore there are valid concerns that children in the future would be unable to access information on their biological parentage. To overcome this issue a recent Senate committee report on donor conception practices recommended that, like adoptees, donor-conceived children should have the right to track their biological parents through a national register that I encourage the State Government to help facilitate. Comments provided to the Senate committee include - 'I cannot begin to describe how dehumanising and powerless I am to know that the name and details of my biological father and my entire paternal family sits somewhere in a filing cabinet with no means to access it.' As well 'information about my own family, my roots, my identity, I am told I have no right to know.'

The pain of donor-conceived children, therefore, I believe also needs to be heard in this debate as the focus is too easily on the pain of infertile adults only. Consider as well this comment - 'My surname ties me to one family yet my blood ties me to another. I feel as though I have three families but that I do not wholly belong to any of them; that I exist in a limbo torn between the expectations of who and what should or should not matter to me. I feel as though my paternity was split down the middle, that I am a branch grafted onto a different tree. I have flourished but my fruit is not the same and my roots lie elsewhere. I feel a loss from knowing that I have three unknown half sisters out there somewhere. It is difficult to articulate how deep emotions run in me. I do know that just thinking about it brings me to tears.'

Therefore, Mr Deputy Speaker, deliberately creating family structures that are confused, as in surrogacy, has the potential to produce bewilderment as the child attempts to reconcile the unique circumstances within their family structure, potentially leading to long-term psychological and behaviour problems. The concerns also included:

(5) At the heart of surrogacy is the fracturing of motherhood into its biological, gestational and social elements. Where this happens by misfortune society does all it can to remedy the problem, with the paramount goal being to protect children. Legal surrogacy intentionally causes fracturing, placing the desires of the commissioning couple above the rights of the child and the surrogate mother.

(6) Principle 6 of the Declaration of the Rights of the Child states that: 'A child of tender years shall not, save in exceptional circumstances, be separated from his mother.'

Surrogacy entails a contractual arrangement before the child is conceived that he or she will be separated from its mother at or soon after birth. Such a contract represents a serious violation of the child's natural rights.

(7) The essence of surrogacy is that a child is gestated by one woman and handed over to others at birth or soon after. This means that the bonding that has occurred between the gestating woman and the child she is carrying is fractured by surrogacy. This bonding occurs during pregnancy and immediately after birth. The extent of the possible harm to the child may depend to some extent upon the time the child spends with the surrogate after birth - that is, before relinquishment - but that is currently unknown.

(8) It is difficult for a potential surrogate mother to give properly informed consent. This may be due to the possibility of emotional coercion, especially when the surrogate is a relative of the commissioning parents. Studies have also revealed that the motivation behind the alleged altruism of surrogates is questionable.

(9) There are psychological and physiological health risks that the surrogate mother cannot be fully aware of prior to entering into a surrogacy arrangement. ART itself carries significant health risks to both the child and the surrogate. How a surrogate may respond to relinquishment is unknown. There are consistent reports every year of surrogate mothers refusing to hand over their babies due to this powerful bond between mother and child. What regulations are going to be put in place in Tasmania, for example, where for a surrogacy contract to be honoured a child may have to be forcibly removed from the surrogate?

(10) A diagnosis of disability or disease could lead to serious problems with a surrogacy arrangement. For example, a prenatal diagnosis of disability or perceived imperfection could result in the commissioning parents renegeing on the contract. In the case of a diagnosis of disability, the option of abortion could be considered by the surrogate. However, differing moral perspectives on abortion have the potential to result in an irresolvable stalemate. The commissioning parents may no longer want the child or, alternatively, the surrogate may choose an abortion contrary to the wishes of the commissioning parents.

(11) It is often acknowledged that a surrogate should receive money for expenses associated with the pregnancy and birth, out-of-pocket costs such as health insurance, counselling and legal advice, and lost earnings. However, it is difficult to calculate costs due to lost time, lost income or psychological distress. That could not only result in coercion but also generate tension between the intending parents and the surrogate, which could affect the outcome of later arrangements. Where payment constituted compensation rather than reimbursement of out-of-pocket expenses, the risk of exploitation of those from lower socioeconomic groups could exist. If compensation for lost earnings is permitted as part of a contract, the agreement may in effect become commercial because it would be viewed as unfair for a higher wage-earner to be compensated in accordance with her higher wage, and a low wage-earner in accordance with hers, when both undergo the same procedure. Possibly the only way to circumvent this would be to reimburse in accordance with average wages, but this will create a windfall for the lower wage-earner and a disincentive for the higher wage-earner. The result could only be exploitation of the lower wage-earner.

This brings me to my last and what I believe is a very major concern that has not been examined in this House:

(12) That surrogacy objectifies and exploits women. Surrogacy essentially amounts to a woman offering her body as an incubator for another couple. Typical responses given by surrogate mothers with regard to how they felt about their relationship with the foetus were as follows: 'I don't think of the baby as mine'; 'I donated an egg I wasn't going to be using'; 'The baby isn't mine'; and 'I am only carrying the baby and I'm strictly a hotel'. Having effectively denied that the surrogate is the mother of the child, the only logical outcome is to view the relationship as one of ownership, with the surrogate as a human incubator and the child as the product who bears no relationship to the surrogate other than partly being the result of her physical labour.

Mr Deputy Speaker, surrogacy is an experiment with the lives of the surrogate and the child. It represents a social experiment with uncertain outcomes with every reason to expect significant harm to all parties and perhaps to the community in the longer term. Therefore any bill that comes before this Parliament need to be rigorous that the wellbeing and best interest of a child born as a result of a surrogacy arrangement, both through childhood and the rest of his or her life, are paramount. However, this bill is so extreme that, despite the Liberals having varying views, we all found it fundamentally flawed. Therefore I will not be supporting this bill when we vote shortly, as certainly in its present form it does not adequately protect future generations of children.