



The Hon. Christine Robertson, Chair
Law and Justice Committee
Legislative Council of NSW
Macquarie Street
Sydney NSW 2000

2 April, 2009

Dear Ms Robertson,

Please find below our responses to further Questions on notice from the hearing of the Altruistic Surrogacy Inquiry.

Yours sincerely,

Rev. Dr Andrew Ford
on behalf of the Social Issues Executive
Anglican Church Diocese of Sydney

ALTRUISTIC SURROGACY INQUIRY – QUESTIONS ON NOTICE

RE. Dr Best's comments about the research on parenting.

It is widely accepted that it is good practice for government policy to be evidence based. However in the vast area of family studies, particularly studies on the effect of family structure on child well-being, there are some inherent difficulties in making good use of the research to inform policy.

In the area of same-sex parenting there is a growing body of research with positive findings about outcomes for children.¹ However the backdrop to this is an even larger body of research, conducted over decades, supporting the benefits of being parented by a mother and a father.² Both bodies of research include some high quality studies with competing findings, along with other inconclusive or poorly conducted studies which make highly contestable claims.

As we have reviewed some of this research, (an ongoing interest), some important points have arisen which we think are worth mentioning in the context of this inquiry.

There is acknowledgment within the research community of the difficulties in gathering and analyzing evidence in relation to parenting, family structure and child well-being.³ In a recent OECD analysis of child well-being and sole-parent family structure a major difficulty of research in this field was described in the following way: “The gold standard to establish causality of particular family structures on child well-being would be a randomized allocation of children to different family structures. Randomised control trials in this area are impossible for ethical reasons”.⁴ And so a range of alternative ways of analyzing the effect of different family structure on children have been utilized, each with their own limitations.

One of the complexities in measuring child well-being is that there is no single accepted measure, rather a range of measures of different outcomes for children, typically measuring well-being deficits. The challenge in reviewing the literature therefore is immense, not the least of which is because the research cuts across academic disciplines, methodologies, and social contexts, making comparisons extremely difficult. Add to this the overlay of ideology and values and it becomes increasingly difficult to find many consistent, objective truths in the research literature. Interestingly, an analysis of a vast number of studies on child well-being and sole-parent family structure conducted by the OECD⁵ concluded that, while policy makers should keep a close eye on the changes in family structure and the developing research literature, in the absence of a clear consensus about the causal effect of family structure on child well-being, there is an insufficient basis to advocate radical policy change.

The authors of a literature review of research on LGBT families make an important point when they state that “the family factors that are important for children’s outcomes and well-being are family processes and the quality of interactions and relationships”.⁶ However, this does not necessitate discarding other relevant factors from consideration, such as family structure, for this remains important not only for the well being of children, but also to society as a whole.

Like researcher, Stephen Hicks who states “I do not believe that the topic of lesbian and gay parenting can or should be assessed on the basis of the evidence alone, that evidence is too thin, too equivocal and, more importantly, does not represent the facts of the matter, for these are moral as well as epistemological questions”⁷, we too have concerns about policy being based solely on a research literature that is quite divided and arguably an evidentiary quagmire.

We contend that while there may still be more to be learned from ongoing research in this expanding field, in the absence of a consensus in the literature or indeed in the community about the causal effects of family structure on child well being, policy makers should take a cautious and conservative approach.

We assert that in the context of surrogacy and same-sex parenting, the public debate needs to encompass more than a discussion about the research evidence but also ethical and moral considerations. As we indicated in our written submission, although there are enormous positives to result from the advances in medical research into reproductive technologies, there has to date been very little discussion about the broader ethical basis of these practices, and in particular surrogacy. As society moves further away from the 'natural order' of reproduction, so too do ethically complicated situations arise.

“You touched on the point about the different nature of mothering and fathering with respect to the development of a child. Are you able to elaborate on that in more detail or provide it in writing?”

– The Hon Greg Donnelly

In a chapter in a book about the nature of fathering, Robin Sullivan suggests that “continuing changes to the family, together with the evolving nature of fatherhood and motherhood, leads to ongoing negotiation and renegotiation of roles and relationships”.⁸ Fathers and mothers through the ages have had to adapt their parenting role to the social and economic conditions which they inhabit. So too can parenting roles vary across cultures, religions and class. However we contend that whatever the contextual variations, there is something distinctive and special about the way mothers and fathers approach parenting.

Numerous studies have been done showing the positive link for example, between a father's attachment to his children and the well-being, cognitive development, social competence and even academic achievement of the children.⁹ Yet given the diversity between couples, it is difficult to pin down an exact set of behaviours on the part of fathers and mothers. Men and women bring their own unique set of family experiences and traditions, personalities and values to the task of raising a child. So in fact there may be many differences between all women and how they mother their children. Similarly there may be enormous variation between men and how they father their children. Yet, we suggest that on average, across a range of behaviours, the differences between women as a group and men as a group are significant.

Differences in physiology, particularly the effect of hormonal differences on brain function, mean that men will often approach relationships, social situations or problem solving tasks in ways that will differ to women. By being exposed to these differences, we believe that children being raised in households with a mother and a father will become well rounded individuals and learn different understandings about life and relationships from their mother and their father.

We acknowledge that children may thrive in single-parent households or in same-sex families, but we argue that the optimum upbringing for children is where they are raised by opposite sex parents who can provide for them a complementary model of couple relationship and diversity in the nature of their parenting and sexuality.

***Regarding the transfer of legal parentage – “Do you feel the same about same-sex couples?”
- The Hon John Ajaka***

We would like to reaffirm our general concern about the problematic nature of altruistic surrogacy as a means of achieving a family, whether it is for opposite sex couples or same sex couples. Our central concern is over the fundamental basis of the practice of surrogacy which creates a situation where a child is knowingly conceived only to be separated from the birth mother, and with the expectation of having more ‘parents’ than their two biological parents and possible separation from the biological parents. (At this point we see surrogacy as inherently different to adoption which is fundamentally a response to a need that has arisen, for a child who is in need of a family).

In the context of surrogacy, our driving concern is based on a belief that it is a child’s relationship with both biological mother and father that is the cornerstone of a strong society and ought to underpin social policy. So the way in which surrogacy arrangements break this tie with a child’s genetic family (whether involving single parents, opposite-sex parents or same-sex parents) is of critical concern to us. For this reason we urge the state to act cautiously and conservatively in the area of surrogacy, in the interests of current and future generations.

It is nevertheless clear that even in the absence of state sanction of the practice of surrogacy, such arrangements do take place privately. Arising from these arrangements is the real possibility that children may be in the permanent care of parents with whom they have no legal relationship, which is an undesirable and uncertain situation for the child.

While not wishing to see altruistic surrogacy expanded, we nevertheless recognise the need for the state to navigate a course of providing some legal certainty for those children, already in the care of social parents, and at the same time not sending a signal that altruistic surrogacy is being legitimized or encouraged. While the exact legal mechanism that is needed is outside our expertise, we suggest that ideally some kind of court order that is exclusive to surrogacy, that builds in principles of ‘transparency’ about the genetic heritage of the child, and ‘informed choice’ particularly of the surrogate mother, but also for all those directly affected by the arrangement (such as the partner of the surrogate mother).

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