

**A Critical Analysis of Sperm Donation  
Practices:  
The Personal and Social Effects of Disrupting the  
Unity of Biological and Social Relatedness for the  
Offspring**

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## Abstract

This thesis critically analyses sperm donation practices from a child-centred perspective. It examines the effects, both personal and social, of disrupting the unity of biological and social relatedness in families affected by donor conception. It examines how disruption is facilitated by a process of mediation which is detailed using a model provided by Sunderland (2002). This model identifies mediating movements - alienation, translation, re-contextualisation and absorption - which help to explain the powerful and dominating material, and social and political processes which occur in biotechnology, or in reproductive technology in this case. The understanding of such movements and mediation of meanings is inspired by the complementary work of Silverstone (1999) and Sunderland. This model allows for a more critical appreciation of the movement of meaning from previously inalienable aspects of life to alienable products through biotechnology (Sunderland, 2002). Once this mediation in donor conception is subjected to critical examination here, it is then approached from different angles of investigation.

The thesis posits that two conflicting notions of the self are being applied to fertility-frustrated adults and the offspring of reproductive interventions. Adults using reproductive interventions receive support to maximise their genetic continuity, but in so doing they create and dismiss the corresponding genetic discontinuity produced for the offspring. The offspring's kinship and identity are then framed through an experimental postmodernist notion, presenting them as social rather than innate constructs. The adults using the reproductive intervention, on the other hand, have their identity and kinship continuity framed and supported as normative, innate, and based on genetic connection. This use of shifting frameworks is presented as unjust and harmful, creating double standards and a corrosion of kinship values, connection and intelligibility between generations; indeed, it is put forward as adult-centric.

The analysis of other forms of human kinship dislocation provided by this thesis explores an under-utilised resource which is used to counter the commonly held opinion that any disruption of social and genetic relatedness for donor offspring is insignificant. The experiences of adoption and the stolen generations are used to inform understanding of the personal and social effects of such kinship disruption and potential reunion for donor offspring. These examples, along with laws governing international human rights, further strengthen the appeal here for normative principles and protections based on collective knowledge and standards to be applied to children of reproductive technology.

The thesis presents the argument that the framing and regulation of reproductive technology is excessively influenced by industry providers and users. The interests of these parties collide with and corrode any accurate assessments and protections afforded to the children of reproductive technology. The thesis seeks to counter such encroachments and concludes by presenting these protections, frameworks, and human experiences as resources which can help to address the problems created for the offspring of such reproductive interventions, thereby illustrating why these reproductive interventions should be discontinued.

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## **List of abbreviations**

AID	Artificial Insemination by Donor
ART	Assisted Reproductive Technology
CRC	Convention on the Rights of the Child
DI	Donor Insemination
HFEA	Human Fertilisation and Embryology Authority
PET	Progress Educational Trust

### **Statement of Original Authorship**

The work contained in this thesis has not been previously submitted for a degree or diploma at any other higher education institution. To the best of my knowledge and belief, the thesis contains no material previously published or written by another person except where due reference is made.

Signed: 13/11/09

Date: Rose



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## **Introduction**

The purpose of this thesis is to provide a critical analysis of the ethics of sperm donation practices. The particular and original aspect of this is to frame and analyse this issue specifically in relation to the personal and social effects of disrupting the normative unity of social and biological relatedness for the offspring.

The thesis both demonstrates and resists the dominant adult infertility-centric perspective which prevails over the lives and interests of the child in reproductive technology. The best interests of the child of reproductive technology are argued currently to reside within a type of social and legal quagmire which is utilized by the infertility industry and its users to pursue the particular interests of those seeking reproductive interventions. The thesis proposes that a more appropriate way for the child's interests to be defined and protected is by extrapolating from the collective normative standards which are recognized for children outside of reproductive technology. These standards and insights should then be applied systemically, philosophically, legally, and morally to the child of reproductive technology. The argument presented in the thesis favours the normative presumption that the child's best interests should be paramount – and that the child does have a recognized and legitimate interest, in the first instance, of being known and cared for by their genetic parents. This interest in the child to being known and cared for by their genetic parents is presented and defended as the rightful *initial* presumption for all children, across the board. Therefore all forms of assisted reproductive technology (ART) that by design disrupt or disregard genetic belonging for the child, for reasons of child production and opposed to child protection, should no longer be treated as benign and in the child's best interests.

This thesis argues against the State's role and complicity in creating this loss and complexity artificially for the child of reproductive technology. By demonstrating that fracturing and fragmenting the unity of social and genetic kinship tends to be resisted and lamented in numerous other contexts, most notably in infertility itself, the hypocrisy and double standards of the practice are drawn to light. Thus, by showing such intergenerational incoherence, as well as by providing other normative

examples of loss and complexity found in adoption and the Stolen Generations<sup>1</sup>, the thesis provides grounds for review and redress of the positive presentation, encouragement and facilitation of gamete donation. The thesis then proposes that such reproductive interventions should not continue to be encouraged, funded or facilitated by governments and institutions.

Also drawn to attention are the discriminatory genetic identity and kinship absences and difficulties thus far created and maintained for the donor offspring. Different age cohorts and geographic demarcations provide a cacophony of legislative prohibitions and protections for the variously affected offspring, leading to unreasonable discrimination. This discriminatory legislation is also presented as requiring reappraisal and redress.

The thesis supports the recognition and protection of the social significance of biological relatedness for all persons. The premise supports the growth of greater awareness and collective authority to protect the biological kinship of specifically targeted groups, groups targeted for kinship separation for reasons other than that of legitimate child protection. Despite the meaning and language projected and used in different contexts of kinship loss, there is too strong a shared human relationship and resonance found amongst the groups affected to be dismissed. These are common issues of loss, complexity and burdens to human identity that can be life-long and with intergenerational impacts.

The introduction provides the initial literature review compiled at the time of commencing the thesis. This demonstrates something of the social climate and view of donor conception when the thesis began. The aim of including the initial literature review is to set the scene and highlight the themes and areas that have dominated the topic of donor conception. The literature review also positions the original interjection and contribution to the debate provided by this thesis.

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<sup>1</sup> The term Stolen Generations (also Stolen Generation or Stolen Children) refers to the children of Aboriginal and Torres Strait Island descent who were removed from their families through the design of State policies, state agencies and church missions. Their removals were enforced during the period 1868-1969.

This thesis is divided into three sections. The first comprises the introduction and literature review, followed by a discussion and analysis of sperm donation and paternity from the perspective of the mediation of kinship and identity. The final chapter in this section demonstrates the double standards and contradictions found in the attribution of significance to genetic continuity for the users of the industry as opposed to those conceived from it.

The second section examines in more depth the issues of identity harms and the best interests of the child. The first of these chapters relates to adoption and identity harms, drawing lessons learnt from adoption for donor insemination (DI). This is followed by a closer investigation of identity harm and the lessons learnt from the Stolen Generations for DI. The section provides normative contexts and the benefit of human experience from which to understand the significant and ongoing impacts of kinship disruption and in some cases reconnection.

The third section has three chapters which draw attention to some of the institutions and authorities involved in relevant kinship considerations. The first chapter considers human rights, the focus of which is to draw out the philosophical thrust behind the definitions and protections accorded to the best interests of the child, again seeking normative contexts and general principles in which to frame reproductive technology. This chapter also showcases the complexity and explores the debate around the issues. This leads into the following chapter which critically analyses the influence of power and premise in relation to the definition and protections accorded to the child produced through ART. The thesis then provides a more specific focus on the UK and Australian context. However, this again relates to management of the ethical, social and moral issues; there is therefore an international aspect to the topics being addressed. This is followed by a concluding chapter, drawing the points made by the thesis together for their final representation.

## **Section One**

### **Chapter 1**

#### **Donor Insemination: Setting the Scene**

##### **Introduction**

This chapter incorporates the original literature review, commenced at the start of the thesis. This is included to provide the reader with a brief overview of some of the pertinent literature on the history of, as well as the social and ethical implications and justifications for, DI at that time. It also tracks the historical development of DI and examines issues of truth and privacy. Next the chapter investigates research on DI families, compares adoption and DI, and considers voice and narrative.

Due to the nature of the thesis, the collection of further relevant literature, insights and themes continues throughout this document. However, the literature review aims to provide a point of entry for the reader, from which to launch into greater depth and focus on the specific areas in subsequent chapters. This chapter demonstrates that there has been considerable debate about the topic of donor conception and how it should be practised. Consequently, concern is voiced regarding the lack of conformity in its legislation, affecting this practice worldwide. This review does not aim to focus directly on different legislative regimes, but highlights more specifically the moral, social and ethical considerations that underlie the theories that motivate and shape its regulation.

At the time of writing this literature review, a consultation process was underway in Australia that had the capacity to draw to a close the practice of donor anonymity (notably only for those conceived in the future) in all of the States. This would be in the form of guidelines from the National Health and Medical Research Council (Australian Health Ethics Committee & National Health & Medical Research Council, 2003, p. 4). However, while donor anonymity has since been decreased by the

NHMRC guidelines in various states, it has still not been completely abandoned to date.

### **The historical development of DI**

Despite its appearance as a recent scientific breakthrough, DI is the oldest and most common form of “assisted conception” (Daniels & Haines, 1998a, preface). Its origins are found in the farming industry with the prevailing attitudes described by Baran (2001, p. 10) as “The better the bull, the better the calves. The better the beef, the greater the price, the happier the farmer”. During the 1800s, the technique was transferred to humans, without the meticulous record-keeping, instead being treated as an extremely secretive ‘medical’ service. The shift from animal farming practice to human reproductive practice is still acknowledged and supported in some formal contexts: “AID [artificial insemination by donor] has been used in cattle for many years, and has been accepted as a useful procedure in an agricultural context, it surely cannot be against the grain of nature to use it to overcome human male infertility in this way?” (Warnock, 2002, p. 74).

The first recorded case of donor insemination was carried out on a couple who did not know of, nor give consent to, the procedure. The woman was anaesthetised, with the justification that this would spare the couple the discomfort of knowing what was taking place. The couple were encouraged to assume that the man was the fertile and natural father (Jonsen, 1996). This type of *deception towards the parents* did not, however, prevail in the practice of DI, yet the *deception towards the offspring* in terms of their conception and parentage remains the norm.

The numbers of people who have been produced from these procedures is also unknown, and there has been very little regulation or record-keeping; indeed, “there has never been a consistent method of tracking insemination, pregnancies, births or number of offspring per donor” (Franz & Allen, 2001, p. 8). However, whatever the numbers are, they are not small. For example, since a regulatory body called the Human Fertilisation and Embryo Authority (HFEA) was established in the UK in 1990, it is estimated that in 2002 some 18000 people have been produced in this way (Dyer, 2002). With the freezing and international trading of sperm, there is now

even less ability to regulate or provide information on the numbers or welfare of the people resulting from this practice. Additionally, there are those conceived from self-insemination (Blyth, Crawshaw, Hasse, & Speirs, 2001).

### **Central themes**

Central themes on DI families have been identified from the literature review. These are: Research on DI families, adoption and DI, and issues that can be classified as voice and narrative. However, the first theme to be addressed in this review concerns the issue of secrecy, or 'truth and privacy'.

### **Truth and privacy**

Disagreement runs rife concerning the parental, legal and industry-based obligations towards the resultant child's/adult's 'right to know', when conceived by donated gametes (Klock, 1997, p. 378). This issue is presented as a parent's freedom to choose whether to tell ("Rights of offspring at issue," 2001, p. 11), or as an unknown issue with no *reliable* evidence to support the importance of 'telling' (Broderick & Walker, 1995).

Shenfield and Steele (1997) support the notion that 'telling' or 'not telling' should be a private parental decision, not to be interfered with. Further, they express concern that the consequence of telling the offspring may result in a rupture in the relationship with the social father, although they provide no evidence for this (Shenfield & Steele, 1997, p. 394).

Cook, Golombeck, Bish, and Murray (1995, p. 549) present their research which shows that most of these donor conception parents do not tell the offspring. The reasons they provide for this are that they do not want to expose the social father's infertility; they do not know how or when to tell; and that the lack of information on the donors for offspring deters them. Cook et al. conclude that a call for openness may be unjustified and would also require more support for the parents than is currently available.

Snowdon, Mitchell and Snowdon (1983, p. 102) note the hypocrisy in the moral outcry against DI being carried out without one or both of the infertile couple's knowledge as compared to the continued deception of the offspring. Indeed, the need for consistent ethical principles, including that of truth being applied to all affected has an appeal which will be made explicit throughout this thesis. Baran and Pannor (1989) have compiled interviews with parents, donors and offspring who have been affected by donation, using case examples to expose an array of serious difficulties for the individuals and families that have been adversely affected by such secrecy. Finally, they state that it is a professional duty to ensure that such damage is now learnt from and avoided (Baran & Pannor, 1989). More recently, Baran (2001) referred to the secrecy surrounding this practice as equivalent to the secrecy in the development of the atomic bomb, clearly in strong opposition to it.

Other documented experiences have accumulated that testify to the difficulty faced by family members involved in such secrecy. Noble (1987), a DI mother, dedicates a chapter of her book to "The burden of secrecy" and inserts the interesting point that DI is, in effect, seeking to replicate a biological family between the infertile couple, and as such is designed to encourage such secrecy. Blizzard (1977), a social father through DI, refers to this family secrecy as a type of psychological and social 'dungeon' that prevented his access to necessary support and consultation about it with his family and friends. Blum (1996), a psychoanalyst, also draws attention to a family he has worked with, having dysfunctional dynamics that revolved around DI and secrecy. He refers to this as the source of a 'secret seed of hatred' for the fifteen-year-old boy in the family. Yet there are those in the medical community who assert that no problems have been reported as a result of such secrecy in families (Weil, 1997).

Blyth, Crawshore and Speirs (1998) debate secrecy in DI from a variety of angles, dedicating book chapters to sociological, legal, genetic, health, rights and psychiatric aspects, again using interviews to demonstrate multiple and complex reasons to be 'open' in the practice. However, despite arguments from lived experience against such secrecy (Turner & Coyle, 2000b), Klock (1997, p.379) found that 77-100% of couples still do not tell.



Daniels (1997) tried to add a different spin to the debate, attempting to change the language from 'secrecy and openness' in DI to that of "information sharing" (p. 373). However, when writing in defence of the child's right to know about the means of their conception, he reneges on his previous conviction, passionately arguing against a 'policy of secrecy' towards the child. He claims that such secrecy has become institutionalised by laws, parental behaviour, professional standards and practices, and damns this as unethical (Daniels, 1998, p. 146). This leads Daniels (1998, p. 146) to reflect on the dignity and power of the person raised in such a situation, believing this to be eroded by this process of denial and exclusionary knowledge.

A significant observation is provided by Maranto (1996), that there are, overall, two opposing camps in the debate, each with differing perspectives and claims: "those within the medical and scientific communities down-play the possible ill effects of the practice, while those within the philosophical, religious, and psychological communities continue to voice misgivings about it" (p. 170). Lord Winston (cited in McWhinnie, 2001, p. 814), a highly influential member of the medical community, provides one such example, stating "I am not convinced from my professional experience that such children are disadvantaged". Winston is apparently ignoring donor offspring themselves, who have appealed against family relationships being "built around a foundation of deliberate lies" (Rowland, 1992, p. 193). Interestingly, in a recent call to monitor the physical as opposed to the psychosocial health of people produced from IVF, Lord Winston (cited in Connor, 2002) has taken exactly the opposite position, stating:

We must be more vigorous in our surveillance of all these technologies...Patient desperation, medical hubris and commercial pressures should not be allowed to be the key determining features on this generation of humans...We cannot ignore the clouds lowering over these valuable therapies.

Perhaps it is unsurprising that those in the medical community appear to be more concerned by the increased risk of physical harm raised by such reproductive interventions than by non-physical harms, such as social or psychological injury. However, the provision of incorrect medical history to those kept ignorant of their

donor conception is squarely placed within the remit of medicine, producing a reasonable expectation that the medical profession would present a fairly ardent and collective opposition to the practice of donor anonymity. However, this is not the case. From this it appears that the best interest of the child so affected does not seem to be well considered nor defended.

### **Research on DI families**

On the issues pertaining to research and the welfare of the individuals and families involved in reproductive technologies, there are considerable contestations and contradictory results. Such contradictory results range from providing confirmation that: the offspring and families are fine, if not more than fine, to the conclusion they are not at all fine and that there is serious reason for concern. However, the most important feature of the issue of research is the scarcity of it. Reproductive technology has consequently been described as “an uncontrolled and unmonitored social experiment” (used with consent of Dr Laura Shanner, personal communication, March 3, 2002). Such an observation comes from an Associate Professor at the School of Public Health and Ethics at the University of Alberta. Indeed, this is not an unqualified or unconsidered statement.

Broderick and Walker (1995), Kovacs, Mushin, Kane, and Baker (1993), Chan, Raboy, and Patterson (1998), and Klock, Jacob and Maier (1994) contend that there is little reason for concern about how these families and individuals are faring, and that their research can reassure us of this. However, there are certain characteristics that raise suspicion and are common to studies with such persuasions: (i) none directly asks the people produced from these technologies, (ii) all focus on the parents’ representations of the experience, and then mostly only on those of the mothers rather than the social fathers, (iii) the children in the family are most commonly under the age of ten, and are unaware of, or intentionally misinformed about, the nature of the study.

Such research is generally supportive of secrecy and the practice of anonymous DI. Klock et al. (1994, p. 477) conclude from their research that a high proportion of parents do not intend to tell the offspring of their donor status. They argue that to

stress the importance of disclosure would act to alienate most of the parents, making it very inadvisable. McWhinnie (2000b, p. 14) also demonstrates some of the difficulties in researching or even contacting families that are likely to be treating this issue as a secret.

Arguing against this secrecy, Whipp (1998, p. 62), again a donor offspring, offers her reflections on such studies: "Testimony from parents who have kept their DI secret, lied to their families, to the authorities, to the child, and ultimately to themselves cannot be trusted to give an accurate unbiased account of their true situation". Indeed, McWhinnie (2000a, 2000b) and Turner and Coyle (2000b) claim that their research reveals great reason for concern, particularly in regard to (i) the impact of secrecy on the individuals, (ii) the impact of secrecy on the family dynamics, and (iii) the impact of secrecy on the adults who find out at a later stage in life of their donor conception.

Donor-conceived adults who have had their donor conception revealed to them, and were willing to contribute to the debate, have warned against such secrecy, which they consider to be deeply damaging. Additionally, regardless of the age at which they discovered that they were donor conceived, they overwhelmingly expressed a need for more information about either or both their genetic background and their 'donor' relatives (Cordray, Ariel, Plemmons, & Probasco, 2001; Lauren, 1998; Rushbrooke & Whipp, 2000; Turner & Coyle, 2000a; Whipp, 1998). Turner and Coyle's (2000, p. 2050) research of 16 donor-conceived adults also found common feelings of abandonment among the donor offspring in respect to their protection and welfare – this was felt to be an abandonment both by their biological fathers and by the medical profession in terms of protecting them and their interests. Those claiming the success and simplicity of the practice tend not to engage with or refer to studies such as these.

Dietrich (National Bioethics Consultative Committee (Australia), 1990) expresses distaste for the development of reproductive interventions which are a form of social experimentation, the champions of which demand conclusive research to slow down the prevalence of an intervention as opposed to taking a more considered and tentative approach. Dietrich argues in preference for the "Wish to err on the side of

caution...rather than wait until the evidence exists of lives thus created. This risks a population of social guinea-pigs which is not something I would want to recommend as a National Policy” (National Bioethics Consultative Committee (Australia), 1990, p. 64). Importantly, adding to this is the question of how much evidence would be expected in order to prove the need to stem the tide or type of reproductive intervention. For those who state they are unaware of harms, or significant magnitude of harm, there is a characteristic absence of a benchmark as to how much harm would be considered cause for alarm. Rushbrooke (1999) reasons that the onus of proof should be on the other side, that those wishing to experiment in kinship and reproduction should have to prove that it is not harmful to others before commencing institutionalised policies and procedures in support of this. This debate is further explored throughout the chapters of this thesis.

### **Adoption and DI**

Another significant component pertains to a rift in the appropriateness of comparisons being made between DI and adoption. Shenfield and Steele (1997, p. 558), Cook et al. (1995) and Klock (1997) strongly reject and discourage these comparisons. This is a common response made by the medical practitioners involved. This dismissal is often coupled with the argument that such similarities cannot be drawn, due to donor offspring being particularly wanted and loved. Some consider that there is an objectionable and underlying implication of such reasoning: that adoptees are not equally loved and wanted by their adoptive parents (Blyth et al., 2001). Unfortunately, speculation and misinformation without the benefit of interviews or dialogue with donor-conceived adults runs rife. Mays (1998, p. 50) and Klock (1997, p. 379) announce that feelings of abandonment found amongst many adoptees are not an issue for DI adults (Blyth, Crawshaw, & Speirs, 1998). Ariel (cited in Cordray et al., 2001), on the other hand, articulates a heightened sense of abandonment from her experience as a donor offspring, owing to the fact that her father (donor) had no *intention* of keeping her, instead intending abandonment from the time before she was even conceived. She unfavourably compares this to adoptees whose biological parents may have at some stage *intended or wanted* to keep and look after their children, but surrendered them as a last resort.

Many with experience from the field of adoption (Ley, 1992; McWhinnie, 1998; Pertman, 2000; Rushbrooke, 1999; Winkler & Mitford, 1986) find similarities within donor practices. They strongly refute protection or promotion of secrecy within the families, and warn of identity problems for the offspring, known as genealogical bewilderment (Glazer, 1999), a term first coined by Sants (1964).

Almond (1998) points to the loss for the offspring not only of a relationship with their biological father, but to a loss also of the “wider kinship network of grandparents, siblings, cousins and aunts and others – a network of connections that constitutes social space within which they [or ‘one’] find their original identities” (p. 142). Such considerations of relational losses, as well as informational losses, are rarely found in the DI debate. Further, the blood kinship network is likely to be far more complicated for donor offspring as compared to adoptees. Whereas birth parents may relinquish “one child or a small sibling group, gamete donors may have numerous [in some cases hundreds of] genetic children, each with different other genetic parents” (Blyth et al., 2001, p. 298), raising extraordinary kinship identity issues for the donor offspring.

For those who do find connections between adoption and DI, the appeal of ‘openness’ within these practices and families can be shared. Issues such as how and when to tell the child then tend to be treated with mutual importance (Hewitt & Hewitt, 1998; Mitford, 1988). However, some important differences between adoption and DI have been detailed by Benward (1999), regarding the provision or recognition of laws, rights, counselling and medical control, which do not augur well for DI practice. Brandon and Warner (1977, pp. 339-340) point to the added complication for donor offspring (as compared to adoptees) in that their conception is clinical as opposed to sexual, and also involves masturbation, making the ‘telling’ to a young child perhaps more difficult. Another aspect to be explored in this thesis is the intentionality of the donor offspring’s kinship loss as a means to the infertile parent’s kinship gain. This is a consideration that distinguishes it from current adoption practice.

## **Voice and narrative**

Brandon and Warner (1977, p. 340) refer to the lack of a 'script' or norms for reference when 'telling' the child. Benward (1999) agrees and states that added to this is a "great fear that biology will trump family ties" (p. 54). Perhaps this insecurity would be implicit rather than explicit in expression, as has been found to be the case within adoptive families (Rushbrooke, 1999). O'Donovan's (1990) concern is directed towards the lack of continuity and consistency created by reproductive interventions, with the genetic, social and gestational parents being ascribed importance at the request of the 'commissioning' parents: "Arbitrariness is what we have wished upon ourselves. In the natural order we were given to know what a parent was" (p. 48). These issues of arbitrariness and kinship commissioning are pursued in greater depth in this thesis, in particular in chapter three.

Stories of 'normality' are characteristically portrayed by researchers and parents regarding DI families, but Cordray (as cited in Rushbrooke & Whipp, 2000) illuminates a serious lack of consultation or confirmation of this portrayal from DI adults themselves. One such adult conversely describes deep discomfort in her experience, explaining that she feels like an experimental guinea pig to the doctors, rather than a person (Lauren, 1998, p. 237). Whipp (cited in Blyth et al., 1998, p. 63) also objects to these frequently projected images of 'happy families' created through these reproductive interventions and says that in her experience she "grew up feeling unwanted and unloved....[c]heated out of [having] a proper family". Rubin (cited in Rowland, 1992), another DI adult, warns "Artificial insemination sounds wonderful in the text-books, but what it can do to human lives is something else" (p. 192).

It is notable that while 'the need to know/tell' is now being recognised in the literature and in some policy developments, this is mostly framed as the need for 'information'. The complicated relational difficulties faced by the donor-conceived children and adults have not been addressed. Issues raised but unattended to for such offspring include the process of trying to obtain information from various clinics or reluctant parents, needing to acquire gene tests to establish blood relations, and the significance of the actual meeting of family members, separated through donation,

and the ongoing challenges of maintaining relationships for all these affected kin. All constitute examples of the more neglected areas in the literature, representation, focus and acknowledgement. Consequently, this thesis wishes to direct more attention to these aspects.

Through Turner and Coyle's (2000) study, it has become clear that donor-conceived adults can feel considerable 'loss' and 'negative distinctiveness', and that these experiences of difference may lead to the lack of a sense of narrative. The most significant narrative lack is the absence of stories from the donors/biological fathers. For many of the donor offspring, these stories, and importantly the lack of them, impact on their own identity as "the link...[between genetic father/family and offspring] does not stop at the time of... conception" (Lauren, 1998, p. 66). Rushbrooke (1999) comments on the significance of this narrative connection in providing one with a "familiarity and belonging on a level that nourishes...like food" (p. 30). Himself an adoptee, Rushbrooke comments on the significance to him of gaining knowledge of such stories from his birth family. If such narratives are indeed like a type of identity food, it could be said that their intentional absence could be construed as a type of identity starvation and their continuing absence as a form of identity torture.

It is precisely as a result of this genetic and narrative connection that attempts have been made to render these stories as separate, through "a ritual of 'de-paternalizing sperm' in which the doctor has performed his priestly function, de-blessed the sperm, and [has] gotten rid of its paternity" (Laqueur cited in Morawski, 1998, p. 242). For Beeney (1999), who as a young medical student, experienced such partitioning in the language and environment of clinics in relation to his donations and paternity, found that this led to his lack of comprehension regarding the true meaning of his 'donations'. The issues later came back to haunt him as he pondered his several hundred offspring, their whereabouts, welfare, and the significance of his actions, raising concerns about unintentional consanguinity (the interbreeding of relatives).

Such an example raises serious concerns over the quality of the informed consent process that a potential donor may have when considering whether or not to 'donate'. While it is fair to claim that the men are aware of their donations being used to create children, Edmond and Scheib (1998) describe an important distancing

aspect for such men: “the connection between DI and reproduction may be too far removed and the mechanisms underlying such an association might not be geared to this context” (p. 317). It is important to consider the intentionality behind the coaxing of such men to donate and the encouragement for them to dissociate from the reproductive consequences of this. It is arguable that those infertile couples who use the reproductive services would experience the clinical context quite differently: for them it is conversely designed to encourage precisely this connection between DI and reproduction. Research indicates that for the young men targeted for donation, the “results suggested...it is possible that the connection between donating sperm at a clinic and producing children may be too abstract” (Edmond & Scheib, 1998, p. 317). The vulnerability of such young men starts to fall into sharper relief in light of the increasing demands for sperm by infertile people and the burgeoning business that has grown in response to this. Chapter two will investigate these and related issues in more detail.

Carey (cited in Hindmarsh & Lawrence, 2001, p. 39) refers to “setting the terms of the debate” and highlights that it is in this setting of the terms of the debate that the power lies. This is well exemplified in the common practice of referring to ‘donors’ rather than fathers, focusing on ‘sperm’ or ‘gametes’ rather than children or people, and ‘children’, despite the age of the resulting donor-conceived adults. Rowland (1992) comments on this use of language, stating that such terms prepare “people for ideas or technologies which would otherwise be unacceptable” (p. 230). This apparent ‘whitewashing’ of the language used in reproductive technology, is thereby likely to prejudice the ethics (Rushbrooke, 1998), creating a ‘slippery factor’ in terms of pinning down the issues. Rushbrooke (1999) adds:

I think there is a serious problem with the industry’s terminology...[the term donations implies]...the processes concerned are just about sperm or eggs, and are no different to donating organs, money or blood. It is implied that the identity of the natural father or mother is not important. I would rather assume that they are important, unless it is proved otherwise (p. 30)

This consideration and analysis of the implications, power and use of language in reproductive technology is another area that is critically analysed in this thesis.



Moreover, the power dynamics involved are affected not only by the language used in the debate, but also by a pressure to conform to parents', onlookers' and researchers' positive expectations of the practice (Rose, 1999, p. 220). Accordingly, the pressure to be grateful for being 'given life' is also a dominant force affecting donor offspring self-exploration and expression.

## **Conclusion**

The launching point from the introduction and literature review has been established. The complexity, contention and themes that have been elucidated demonstrate that this thesis can provide an original contribution to this context.

This thesis and investigation offers an alternative to that which has been most commonly found in the literature, while remaining relevant to it. There are two ways that this alternative view is provided: firstly by collecting and injecting reflections and experiences that counter the dominant themes. Secondly, I am also a donor-conceived adult and will interweave my own reflections and critical analysis throughout this thesis while applying a synthesis of ethical principles, alongside social science models and insights. Thus I hope to provide an eclectic and original contribution to the analysis and understanding of the personal and social effects of reproductive technology, in particular of donor conception, for the offspring. While the ultimate truth and authority are not claimed in such an endeavour, this thesis hopes to add momentum to the recognition and protection of some aspects of human identity and kinship. Indeed, the thesis supports the development of a greater awareness and understanding of the significance of intentionally targeting and disrupting the unity of social and biological relatedness for any group of people, including the donor offspring.

## **Chapter 2**

### **Sperm Donation: The Mediation of Kinship and Identity**

#### **Introduction**

The aim of this chapter is to critically analyse the way sperm donation is currently being presented and justified. While egg and embryo donation are also touched upon, the primary focus is the implications behind sperm donation in particular, for individuals and society as a whole. The process of questioning, analysing and contesting biotechnology from a transdisciplinary angle, including that of seeing it as a new media, is an emerging and significant field of scholarship (Sunderland, Graham, Isaacs, & McKenna, 2008, p. 5).

Sunderland (2003, 2008) has provided relevant contributions to this scholarship, in particular on biotechnology. Her framework (Sunderland, 2003, p. 35) has been chosen for this chapter because it is helpful in explaining the seemingly invisible process whereby biotechnology engages with and impacts on various social and biological functions. In this case, the framework illuminates the way in which biotechnology is engaging in and affecting the social and biological functions of reproduction, kinship and identity.

The chapter shows that the practice of sperm donation is predominantly presented as a simple, good and altruistic act. The 'good' arises from responding to the psychosocial pain experienced by people who cannot conceive children within their sexual relationships. Primarily, attention is accorded to "the trauma of infertility" (National Gamete Donation Trust, 2000, p. 8) with sperm donation being advanced and promoted as one of the ways in which infertile people can achieve pregnancy. "[F]or some it may be the only way" (National Gamete Donation Trust, 2000, p. 1). In brief, the pain of infertility and its rightful appeasement through donor conception is showcased as providing an overall justification for this form of reproductive intervention by its adherents.

Sunderland (2003) shows the process described as the mediation of meanings to illuminate biotechnology's impact in narrowing down the inclusion and broadening the exclusion of analysis about biotechnology's implications and their desirability. The processes of meaning transfer that are detailed by Sunderland are inspired by the work of Silverstone (Silverstone, 1999) who presents the shifting and politicising of meanings as a type of mediation. The narrowing effects detailed from this mediation of biotechnology, in this case of the reproductive and kinship arena, are described in this chapter. The critical analysis and insights drawn from the work of Silverstone (1999) and consequently by Sunderland (2003) are then applied to provide a broader critique of the desirability and implications of sperm donation and the mediation of kinship and identity.

The chapter proposes that the aforementioned presentation of sperm donation is part of this mediated process which presents an unbalanced and ill-considered picture. The chapter asserts that the practice has important long-term implications and consequences that warrant greater attention. Further, these implications affect a broad range of people, many of whom are made less 'visible', and hence these aspects and people are not given their proper weighting or consideration in the usual ethical analysis of this practice. It is contended that when these additional issues, points and people are properly taken into account, such donation can be seen to be a deeply complex, unethical, and inherently problematic.

Following from this application of Sunderland's Framework is a discussion of the significance of this process in relation to the social and biological unity of paternity. Thus the aim is to illuminate and then challenge this commonly promoted presentation of sperm donation as a simple and benign medical intervention for infertility.

This chapter proposes that the practice and promotion of sperm donation has implicit and explicit impacts on how we as individuals, and as a society see paternity and reproductive relationships. Here it is argued that sperm donation promotes a destructive notion of paternity that is decisional, contractual, alienable, instrumental, fractured, and even commercial. The alternative is that the historic unity of social and

genetic paternity is supported and promoted; indeed that it is fundamental and inalienable to recognising the full and healthy nature of humanity and paternity.

The chapter follows a line of enquiry, asking what is sperm donation? It then presents the clinic as a site of mediation for the alienation, translation, recontextualisation and absorption of kinship and identity. This is followed by a discussion of the issues raised by the model in relation to fathers.

### **What is sperm donation?**

Sperm donation is a process involving masturbation by the donor to produce a semen sample. The collected semen is then subject to the “transfer of parental rights” (National Bioethics Consultative Committee (Australia), 1990, p. 32), away from the donor to the person or persons who plan to conceive using this sperm and raise the resultant offspring. Such a transfer of parental rights involves the abrogation of normative and socially recognised kinship rights, roles and duties that would be expected to exist, reciprocally, between the genetic parent and offspring, and between the genetic parents themselves. However, other ties which are commonly recognised as a result of this parental connection include a broader kinship network, that of grandparents, siblings, aunties, uncles and cousins, indeed that of a cultural and genetic inheritance. Almond (1998) reflects on the significance of this and contends that the relational substance of this transfer has not been given its due recognition:

If gametes are regarded as being no more than raw material for the medical manufacture of children, a whole dimension of human reproduction is lost – in particular, the network of kinship relations that provides the key to an understanding of society’s culture and practices. (p. 142)

In the context of reproductive donation, sperm comes to be seen and presented as a raw, abstract “genetic material” (Merricks, 2004). Terms and notions are thus adopted which avoid kinship, and sexual associations. For example donor insemination is commonly described as a treatment in the following way: “Insemination using donor sperm (D.I.) is a treatment used in male infertility. D.I.

involves the use of semen from carefully screened and tested sperm donors. The thawed semen is placed in the cervical canal at the fertile time (ovulation) of the female partner's menstrual cycle" (Melbourne IVF, 2002a). However, the resultant transfer of parental rights from donor conception places the offspring from such a conception outside their genetic context and into a non-genetic one. This is the case either partially, as in sperm or egg donation, or fully, as is found with embryo adoption. A question this practice raises is: how does sperm come to be so alienated that it can be viewed as a 'raw medical material' without the usual recognition of its kinship and sexual encumbrance? The model offered by Sunderland (2003) aids in explaining how this occurs.

A further ethical question raised by some donor offspring is: should such alienation be encouraged as part of a service for infertile clients? Whipp (cited in BBC, 2003b) reflects on her own donor conception and responds:

I do feel that children need, all their life to know who they are, their real identity and to have the opportunity to mix with their real kin folk. It seems wrong to me to deliberately set up a situation in which children can be deliberately parted from their biological parents.

The issues of kinship and identity complexity and loss will be pursued in greater depth in subsequent chapters. Nonetheless, the issue is introduced here, in the context of the model provided by Sunderland (2003).

### **The clinic as a site of mediation**

Sunderland (2003) explains that "framing biotechnology as a media allows us to analyse biotechnology not as a set of static, objective techniques or technologies but rather, as a means of producing, reproducing, and shifting meanings" (p. 50). While much has been detailed about the technicalities of the process donor conception, the transfer of meaning of kinship and identity that are found in this practice, have not been invested with such attention. Through this framework, the clinics, as the site of donation and conception, can be viewed as the site of such a transfer, producing, reproducing, and shifting kinship meanings. Thus the clinic is the site of mediation.

At this site specific stages of mediation occur. To provide an explanation of these stages of the framework, it is best to turn to Sunderland (2003, p. 35), who states:

I have identified four primary mediating processes...*Alienation, Translation, Recontextualisation, and Absorption*...[these are] mediating processes via which aspects of 'life' are technologically alienated from their origin; commodified and translated into, and interpreted using, existing technocratic discourses; recontextualised from living organisms and ecosystems, to the laboratory, to the computer, to markets of exchange, and once again to living organisms through consumption; then finally absorbed into everyday invisibility of the productive apparatus, the lives of citizens, and ecosystems [*italics added*].

This model which incorporates alienation, translation, recontextualisation and absorption thus provides the framework for this chapter. Using this framework, the chapter then demonstrates and makes explicit the processes by which meanings, reproductive materials and people are influenced and mediated by biotechnology. Sunderland (2003, p. 74) explains that all the processes of mediation can occur in varying orders and even at the same time, yet there are distinct stages of mediation, the first of which is alienation.

### **Alienation: The kinship association with sperm is stripped away**

Alienation is depicted in this model with the work of Thompson (Thompson, 1995). Sunderland (2003) details this as follows:

the process of *alienation* – as Thompson would describe it – in the context of this thesis is where the biotechnology as a technological medium function is most concentrated: Humans use modern genetic technologies to dissociate biological materials from one 'owner' (plant, animal, human, or other living organism) or context to another 'owner' (in the form of 'intellectual property') or context (for example, DNA shifted from the context of the body to a laboratory setting or computer database). (p. 60)

In the case of sperm donation the biological material, that is sperm, is dissociated from the 'owner' (human), and context (that of the paternal genetic family), to go to a new 'owner' and context, the family receiving 'treatment'. Thus both the donor father and his sperm (with its associated kinship) become alienated to be instrumentalised by reproductive technology. This is a common process in biotechnology, Sunderland explains: "Biotechnology is founded on instrumental relationships between some humans and other life forms, or parts of them" (p. 30).

Laqueur (cited in Morawski, 1998 p. 242) has also noticed the alienation of paternity found in sperm donation and draws attention to it. As noted previously, he describes the process taking place at the clinic as involving "a ritual of 'de-paternalizing sperm' in which the doctor has performed his priestly function, de-blessed the sperm, and gotten rid of its paternity" (p. 242). Of course, there may be no explicit ritual, though there could be implicit ones, to give the effect of depaternalising 'donated' sperm. This is because it is precisely the paternal function of sperm for which it is desired by the clinic and its clients: that of creating a child. So sperm cannot really be wiped clean of paternity without making it infertile and therefore useless as a treatment. However, in terms of the social recognition of the paternal significance of the creation of life, there does seem to be an assertion that this component has been neatly removed from the donated sperm. Indeed, in most instances, legally paternity has been deleted.

One way for the clinics to encourage the alienation of the kinship significance attached to sperm and conception is to target people who have not yet fully comprehended it. In one of a number of UK-based studies, notably funded by the Department of Health in 1999, to establish the most effective ways to target and recruit donors, the author stated that her research indicated that those men who have had direct experience of being a father "may give more thought to the implications of donating semen and consequently decide not to go through with it" (National Gamete Donation Trust, 1999, p. 121). It would be reasonable to assume that the reverse would also be true and that those men who have had no direct experience of being a father give less thought to the implications of donating sperm and so are more likely to donate.

Some of the suggestions which arose from another UK government funded study, also aimed at increasing the numbers of donors, advised that methods to be employed in the future should include more publicity, selective targeting, national or centralised banks, clinic open days, greater compensation, and personalising adverts to foster empathy (National Gamete Donation Trust, 2000, pp. 16-17). Clearly, on the whole, men are not readily donating nor engaging with such paternal alienation without such proactive 'encouragement'.

Another report, again for the partly UK government-funded charity, National Gamete Donation Trust, in a section titled 'Factors that deter donors', also found that older men who have had children of their own tended to be deterred from donating, for several reasons. These included:

recognising the strength of the bonds with their own children, and so not wanting to give their sperm to someone else, to concerns that their own children might marry someone who was the result of their sperm donation – consanguinity. (National Gamete Donation Trust, 1999, p. 12)

Again it is clear that those men who do not recognise the strength of such bonds, or who have not considered the consanguinity risks are more likely to be 'successfully recruited'. Further, as will be explored later in this text, such a practice can actually reinforce this paternal insignificance and discourage such long-term foresight.

In support of the hypothesis that there is invariably a naivety in potential donors being recruited for paternal alienation, the report (National Gamete Donation Trust, 1999) showed that young students were the most successful people to target for sperm donation. The clinic staff stated "they're nice lads and don't give us any hassle" (National Gamete Donation Trust, 1999, p. 116). Another said that the students "don't ask too many questions" (National Gamete Donation Trust, 1999, p. 116). For those who do not attach relational significance to the act of donation, it is not surprising that they see it as an act that raises no great concern or need for scrupulous questioning. An author who interviewed 16 donors, noted of them "they simply weren't interested in the repercussion for the children; they focused only on the rights of the mothers" (Arndt, 2004, p. 29). Another observation of them was:



“Man after man – all convinced males are irrelevant to children’s upbringing” (Arndt, 2004, p. 29). At the time of recruitment such men are clearly not concerned by their own alienation or relevance to their genetic child’s upbringing (Arndt, 2004).

Such considerations may result from aspects of male maturity. For some this is a maturity that has not yet fully developed at the time of being targeted and recruited as donors. Indeed, it is possible that for some it will never develop. Callahan (1992, p. 741) reflects that it is as though “everyone argued: look males have always been fathering anonymously and irresponsibly; why not put this otherwise noxious trait to good use?” Yet Callahan (1992, p. 741) laments the social sanctioning and support for such irresponsible siring. Beeney’s (1999) experience as a young donor concurs with this notion that he was naïve about the long-term impacts of donation. Beeney has since written a semi-fictional book about his later reflections and the possible consequences of the sperm donations he made as a young medical student.

It seems that Beeney has matured in his understanding of the relational consequences of his actions. In this book, the protagonist, ‘coincidentally’ a man who donated sperm as a young medical student, subsequently meets his genetic child, though he is unaware at the time that they are related. They proceed to have a sexual relationship resulting in the conception of a child. The romantically involved father and daughter then discover the nature of their genetic relationship, following which their child is found to have abnormalities from this consanguinity. They decide to abort the child; the plight of the characters continues with further trauma. In the final chapter, the donor father is then present at the wedding of two of his donor offspring who again, unaware of their genetic relationship, go on to marry each other. The donor father witnesses this wedding in mute horror (Beeney, 1999).

Clearly, such traumatic concerns and consequences were not presented to him when, as a young man, he made his decision to make many sperm donations. Indeed, the attitude promoted to these young men was that “once the donation was over they could forget all about it since it carried no legal, financial or other responsibilities” (Merricks, 2004). But was this type of alienation responsible? Should donors forget all about their actions and the responsibilities held between father and offspring? For Beeney, his sense of moral responsibility and connection to his

genetic children re-surfaced to trouble him. It is notable that Beeney later expresses feeling a deep affection for the offspring that he has fathered yet still does not know. To him, after this time of reflection and maturity, the donated offspring are the carriers of “his own genetic contribution to the human race” (Beeney, 1999, on back cover of his book) a description unlikely to be used by those canvassing to recruit sperm donors.

Subsequent to his donations, another donor has been described as “in search of the other half of his brood” (Wyld, 2004). He states that he would love to meet his offspring and describes the genetic children he has raised as wonderful. He therefore concludes that the donated ones must be equally wonderful and equally worthy of trying to find. Again, this donor is also concerned about the prospect of what he calls “unconscious incest” (Wyld, 2004), which is not an impossibility. Donor offspring Stevens reports on such real dangers of consanguinity: “I know a Canadian social worker who is desperately concerned that two couples who are close friends both have children from the same clinic, but neither knows it” (Stevens, 2004). Another donor, Peter Brown, defined his experience after finding one of his donated offspring as having “gone a long way towards validating my whole existence” (Arndt, 2004, p. 26). While some men may lose interest in perpetuating this alienation and dissociation from their offspring, others may feel that its continuation is appropriate and desirable.

Bayne (2003) argues in favour of the right to alienate one’s gametes, and sees it as an issue of autonomy. He says it simply “involves the transfer of reproductive autonomy from gamete donor to gamete recipient” (Bayne, 2003, p. 80). Bayne (2003, p. 80) states that “gametes are fairly easily replaced” and that people are ordinarily ‘cavalier’ about how they treat their gametes. Thus to oppose alienation through gamete donation is to act extraordinarily towards gametes, and to act as though gametes themselves deserve respect and reverence (Bayne, 2003, p. 80). This is a common representation of the ‘the right to alienate’ ones gametes. Yet the relational consequences of discarding gametes in a *non-reproductive* manner, has no serious impact for other people. It is very unlikely to impact on others’ sense identity or kinship. Conversely, to alienate gametes while allowing them to be used for reproduction does impact on other people. Bayne (2003, p. 81) is, however,

doubtful that the identity-determining role of a gamete donor should be a serious deterrent to such gamete alienation. He compares the genetic siring by a 'donor' with medical staff performing interventions on patients. Bayne (2003, p. 81) argues that both have some identity-determining role on others, but that neither the medical staff nor the donor should consequently acquire parental responsibilities as a result of this.

In contrast, Whipp and Perry are donor offspring who exemplify some of the long-term impacts of the alienation between the offspring and the donor father and also between the genetic parents, indeed the parents who conceive together yet remain strangers. Perry (cited in Mann, 2007, p. 66) describes with anguish the alienation between her parents. The article describing her experience is fittingly titled "*My mother and father have never met*". Perry (cited in Mann, 2007, p. 66) states that her mother "knew virtually nothing about the sperm donor who had made her pregnant. My biological father was a total stranger. 'Please don't be too upset she [her mother] begged'". Perry goes on to describe plummeting into deep depression: "I dropped out of college, stopped eating and began to self harm" (Perry cited in Mann, 2007, p. 66). These issues have also struck deeply for Whipp. She decided to return to the site of her kinship alienation, the clinic. On visiting, she reflected:

this is the only place that I know that my donor father has probably been. It is the only point of contact that I have with him, where he and my mother, not necessarily at the same time but probably the same day [would have been].  
(Whipp cited in "Sperm and egg donation," 2003)

Whipp is resisting the alienation and seeking to trace back through the process to find a point of connection for her with her donor father, and between her donor father and mother. This brings her to the site of kinship loss (or mediation): the clinic. That someone might reasonably have a similar depth of feeling and attribution of identity towards either the clinic or staff involved in a non-reproductive medical intervention, as postulated by Bayne (2003, p. 81), is arguably an inappropriate and insensitive comparison to make. Bayne knows the latter is a less reasonable fixation and by placing the two examples together, he seeks to extend the accusation of unreasonableness to the former pursuit of knowing one's paternity.

Whipp (cited in “Sperm and egg donation”, 2003), along with the experiences of the belated reflection of donors previously described, raises questions about the extent to which the paternal alienation and dissociation has rightfully taken place in relation to ownership and kinship. This is relevant to the insights of Thompson (1995) who states “A good or the right to enjoy the good is alienable to the extent that it can be dissociated from the owner of the good and transferred to another” (p. 278). Whipp (cited in “Sperm and egg donation”, 2003) considers there to be a significant association between herself and her donor father, and does not consent for this to be dissociated and transferred away. The result is that she tries to resist this alienation and mediation of her own kinship and identity.

In light of Thompson’s (1995) description of what is an alienable ‘good’ or a ‘right’ to be enjoyed, and in support of Whipp’s argument, it is notable that genetic paternity is non-transferable, despite its presentation as such through donation. The connection between alienation and kinship transfer is represented in this chapter through alienation and then the other stages of mediation. Nonetheless, the transferable aspect raised by Thompson is clearly relevant to the process of alienation. As it is only the social component to sperm and conception that can be transferred amongst people, this can be questioned by all the parties involved, most obviously by the resultant ‘good’ to be transferred: the offspring. Like Whipp, other offspring have and are likely to seek to bring about an end to this formal dissociation and alienation, seeking contact with their donor father and kin.

Thompson (1995) describes inalienability as something that “cannot be transferred to and enjoyed by another....Alienability of a good is thus a necessary condition for regarding it as exchangeable property” (p. 278). The assumption behind sperm donation is that sperm, kinship and the identity of the offspring are alienable goods; consequently, the offspring are treated, through such alienation, as exchangeable properties. The problem is that this may, at least for some involved in such kinship transfer, be regarded and experienced as inherently wrong. The result is that those involved in such a transfer can then be viewed as harming and distorting the kinship and identity of others. This thesis seeks to make this contention explicit by exploring the ethical and/or unethical alienation of genetic kin, asking who it is that defines the

terms used for this, under what circumstances it should occur and asking whose best interests are, and should be, paramount in this process.

Scorsone (2004) appeals against propagating kinship disconnection, in reference to motherhood. Interestingly, motherhood appears to raise more concerns in terms of its reproductive alienation than fatherhood:

Preconception arrangements exploit the generative capacity of the mother, a *fundamental and inalienable aspect of her humanity* [italics added]. Taking advantage of her economic vulnerability....the effect on the child cannot help but have a *great cost in a ruptured relationship* [italics added] with the genetic mother". (Scorsone, 2004)

This leads us to consider whether paternity is also a fundamental and inalienable aspect to male humanity, and whether its severance equally carries with it great cost. Indeed, is the rupture of a child's relationship with its genetic father less important than that which can be lost with a genetic mother? These issues will receive further attention in this chapter.

While some donor offspring resist this paternal alienation, it is important to acknowledge some donor offspring do appear to embrace the instrumental treatment of their genetic paternity. Merrick (cited in Evans, 2003) refers to his donor father as "someone that was important in me coming round to being" yet states that he does not "care about them [the donors]". He describes his fantasy as being "one day I get a letter through the post saying 'well done your biological father had no heirs so he has left you 20 million'" (Merrick cited in Evans, 2003). Merrick's musings show no relational or emotional concern towards the imagined death of his donor father. His fanciful imagining indicates no overt interest in him, instead following the instrumental trajectory, purely of providing him with financial benefits.

It appears that at least for the moment Merrick has accepted and is embracing his genetic father's alienation, also seeing him as purely a means to an end. Hence Merrick accepts his attributed kinship context as that which he has known, and claims "if you have known it your whole life you never have to question it" (Montuschi

cited in Evans, 2003). As will be shown in greater detail in the following chapters, this representation does not match with a significant range of kinship loss experiences, or with many of the reactions from other donor offspring.

There is no way of predicting which offspring or donors will, at some stage 'question it', and respond for or against such genetic paternal alienation. For those that do question their paternal and kinship alienation, sooner or later, emotions and social dynamics are likely to become turbulent. This section of the model interrelates with all the others, but most particularly that of absorption, the final stage.

However, regardless of the acceptance of kinship alienation by individual donor offspring, the ethical question of whether gametes, kinship and relationships should be treated as intentionally transferable remains. Velleman (2008) argues on the side of not intentionally doing this: "Here then is the fundamental reason why parental obligations are non-transferable. They are non-transferable because they arise in the context of a personal relationship. A fugitive father may think that he has no personal relationship with his unknown children, but they are vividly having a personal relationship with him" (Velleman, 2008, p. 18). Thus the consent of the offspring cannot be taken for granted and indeed, the loss felt if consent was assumed incorrectly is arguably ethically prohibitive.

Nonetheless, the acceptance of the alienation of sperm and paternity from the individuals concerned continues to be presumed. As internet sale of sperm increases it also reinforces this trend. Indeed, arguably internet access to sperm makes such alienation easier. It is seen as "easier, safer and much more classy to go online than cruise a bar looking for sperm" (Dwyer, 2005, p. 23).

The factor of paternal alienation is implicitly recognised by the Scandinavian Cryobank, as they now provide limits to the paternal alienation and dispersion of offspring amongst clients. To provide such limits, restrictions on the use of sperm is sold back to the clients for a significantly higher price. The Danish internet sperm bank Cryos argues it is not economically feasible to limit the sale of its sperm. It admits to selling the sperm of one donor to over a hundred patients, resulting in 101 pregnancies in more than 20 countries. If you want sole use of your donor's sperm,

its daughter company, Scandinavian Cryobank, can sell you the exclusive worldwide rights, but it will cost you a hefty \$US75,000 (Dwyer, 2005, p. 24)

The arguments presented in favour of this commercialisation and alienation of paternity are followed throughout this chapter and thesis. Indeed, these positions are presented alongside those of other authors who resist this trend. The counter argument proposes that those who believe this alienation to be a moral good, along with those who argue for anonymity, do not have the moral authority to make such claims. Indeed, they do not have the moral authority to “dictate that parental rights must be deemed commercially alienable” (Allen, 1990, p. 149), at least not on behalf of all the affected offspring. Thus the thrust of this chapter joins those who are cautious about the underlying issues raised by the promotion of donating gametes and joins with those that ask the question “*should* we view it as a positive good for people to give away or sell the genetic products for others to raise?” (Bartholet, 1993, p. 225).

The final component of the alienation to be mentioned here is the alienation of the offspring from themselves. Velleman’s (2008, p. 14) understanding of the impact of the alienation of one’s father from one’s self is likely to be helpful to those needing the comfort of being understood. He writes “To be human in a human body is thus to be susceptible to alienation from it. We are probably the only animals capable of feeling uncomfortable in our own bodies....those who do not know their parents can only wonder who they are becoming. Hence they can only wonder how someone like them came to be living in a body like *this*” (Velleman, 2008, p. 14). The strangeness of one’s own reflection in the mirror, the searching for an unfamiliar donor father’s features, combined with having features that are not reflected by those who raise them, can result in a sense of bodily alienation for the offspring. This has been described by Perry (cited in Mann, 2007), who on discovering her donor conception said “I remember looking in the mirror and seeing a total stranger staring back” (Mann, 2007, p. 68). Gresch also states “It is one of the most de-humanising experiences I have had to face in my life. To look in the mirror on a day to day basis and question so much” (Gresch, cited in Blankenhorn, 2005).

This experience of alienation from one's own body is very different from the reassuring familiarity found in the "inter-generational déjà vu" that Velleman (2008, p. 14) explains in genetic families: "In infancy we learn to love the human faces whose features will eventually be blended in the face that emerges in the mirror as we reach adulthood". More coverage of this issue will take place in other chapters, particularly regarding the identity complications, though they are flagged here for the offspring. However, alienation and its impacts reverberate from this initial foundation.

This section has sought to demonstrate that the stage of alienation, recognised as an aspect of the mediation of meaning in biotechnology (Sunderland, 2003), is a relevant insight in relation to sperm donation, kinship and identity. After alienation, the next stage of mediation is that of translation.

### **Translation: Sperm becomes a medical substance**

Sunderland (2003, p. 61) takes her lead in defining 'translation' from Silverstone (1999, p. 15) explaining that this involves moving both meaning and value of a given thing and fixing it elsewhere. They concur that this is a movement that involves claiming ownership of the thing that has been given a new meaning and then holding this new ascribed meaning as fixed (Silverstone, 1999, p. 15; Sunderland, 2003, p. 61). Silverstone (1999, p.16) proposes that to enquire into the process of translation is to "enquire into the instabilities and flux of meanings and into their transformations, but also into the politics of their fixing".

Both authors acknowledged that while translation can involve physical and practical processes, this is also an "aesthetic and an ethical activity" (Silverstone cited in Sunderland, 2003, p.61). The translation process involves discourses that take what has been alienated "into technocratic scientific discourses and modes of representation" regardless of "ethical and moral aspects" and their proper consideration (Sunderland, 2003, p. 64). Indeed, Silverstone (1999, p. 15) explains that the process of translation carries with it an act of "authorship" that disrupts and diminishes the "fidelity to the image or event" that had previously existed. This notion of translation is applied to this section to show how the meaning and value of sperm is claimed anew and fixed in a technocratic scientific discourse, fixing yet diminishing



the meaning originally held. These discourses and values position sperm as a medical substance, regardless of ethical and moral aspects that may be mown down in the process. “Hence *the process of translation is enacted once again at the point of capital exchange and consumption*” (Sunderland, 2003, p. 65) at the clinic.

Despite the general acceptance and understanding of sperm as a personal emission from a sexual act, in donation, sperm is translated and ‘medicalised’ to give the impression that it has literally been turned into a medicine. Examples of this type of reframing can be found in the Melbourne IVF (2002b) web site which states “anonymous sperm samples are always quarantined.... the sperm is thawed and used for insemination”. The words and practices found here, such as that of ‘quarantining’ and ‘thawing’ and ‘using’ sperm are not normal in reference to sperm or sexual reproduction. In this instance, after its alienation from the source, it is translated into a medical substance, with this scientific discourse. Sperm is then presented as a ‘clean’ non-sexual product, and a ‘necessary’ part of a medical treatment.

Callahan (1992) draws attention to the fact that this notion of sperm is both inaccurate and unusual. It carries unusual notions of need that are applied to medical rather than sexual understandings. Sperm he says: “does not cure anyone’s disease ....what is cured, so to speak, is a couple’s desire to have a child; but medicine does not ordinarily treat relational problems (save in psychotherapy). So there is no reason to call this a medical matter at all” (Callahan, 1992, p. 740).

In relation to this medicalised perception of the need for sperm, it is common for potential donors to consider sperm donation as associated with and akin to blood donation, this association being distinctly absent in those men who choose not to donate sperm (Edmond & Scheib, 1998). Such conflation between sperm and blood donation has been publicly encouraged, for example by the acting UK Minister for the Department of Health (Johnson, 2004). However, the consequences of providing blood as opposed to sperm in terms of the long term procreative and relational impacts are inaccurate and incompatible.

Such encouragement for young men to consider blood and sperm donation as comparable continues in many ways. In 2004, the UK National Blood Service distributed 10,000 leaflets in its blood donor magazine to help raise awareness of sperm donation (Moss, 2004). This was part of a “Nationwide Campaign to Boost Egg and Sperm Donation” (Moss, 2004). The medicalisation of sperm is made particularly lucid in this context. While people may literally *need* blood and could *die* without it, suggesting that sperm is comparable in being either *needed or life saving* is contestable and arguably a misrepresentation.

The translation of the meaning associated with sperm from the sexual to the medical has been noted by Novaes (cited in Daniels & Haimes, 1998b, p. 105) who writes:

The use of assisted conception transfers the act of fertilisation to a medical setting, where relationships are primarily defined in therapeutic terms....in a context which dissociates issues relating to fertility and the family from sexual intercourse.

A television interview with Dr Mc Bain (cited in Cleary & Gaitz, 2004), the Melbourne IVF chairman, further demonstrated this dissociation and slippage of meaning. When Dr McBain was asked whether donor insemination was a social experiment, he stated: “No, donor insemination isn’t a social experiment. It is a *valid and appropriate medical treatment* [italics added] to overcome a deficiency” (cited in Cleary & Gaitz, 2004). Thus the question being presented to McBain, of his recognition of the largely unexplored social impact of the practice, has been completely evaded by his response. It seems that by shifting emphasis from the topic raised for discussion, away from the social consequences, back to the medical/scientific issue of infertility, an attempt is made to eclipse these other issues. This evasion is further accompanied by the emotive assertion of the *need* to respond to and *treat* this loss through donation.

In ethical terms, this type of argument can be recognised as an ‘informal fallacy’ (Curtler, 1993, p. 79). Indeed, McBain has provided an example of a ‘red herring’ in ethical reasoning. Curtler identifies such red herrings as resulting “from the fact that the premise stated introduces an irrelevant issue to the main concern” (p. 84). The

main concern that McBain was asked to address was the social risks involved with donor conception. Furthermore, Cutler explains, it is common to complement such red herrings with “a fallacy of appeal to emotion” (p. 81), such as the shifting the emphasis to that of the pain of infertility, as demonstrated by McBain.

In the same television interview, Michael Linden was asked about his understanding of his sperm donation. The difference in how he felt about it at the time, as a young student, and later through meeting one of his resultant progeny, is very apparent. It appears that the process of alienation and translation did affect his perception of the social and moral act of donating his sperm: “I was being paid for giving them my sperm, that is all I thought I was doing” (Cleary & Gaitz, 2004). Linden explains that at the time of donation, his sperm was seen as devoid of its paternal element, and the payment may have been more evident to him than the consequences of his actions. These consequences were only to be truly realised when he later met his donor daughter. He states “I saw my daughter. I saw an instant recognition” (Cleary & Gaitz, 2004). When asked if this ‘blew him away’, and shocked him, he answered “It did. I’ve described it, I’ve paralleled it with having a baby come in, a new baby come into your life” (Cleary & Gaitz, 2004). In another interview he retrospectively describes the act of donating sperm as “an act of stupidity” (Arndt, 2004), and has since set up a blog site called ‘donor against donation’. This expresses a personal exploration of:

the unacknowledged reasons why I was no doubt amenable to giving my children away in the first place and, later, my meeting with two of those children and, later still, how - once the initial euphoria of that meeting had worn off - I came to realise the folly of gamete donation and, ultimately, how we all became campaigners for its abolition (Linden, 2006b).

Again this example reaffirms that through alienation and translation, such young men can be rendered vulnerable to being enticed into donating their sperm. Another donor who was interviewed after meeting his daughter spoke with delight about meeting her and introducing her to his immediate family. Yet this donor also spoke about the stress the situation had placed on his family and their fears about how the relationship might develop in the future (Australian Broadcasting Corporation (ABC),

2004). Another said “we’re still getting to know each other but I really care about her – I do love her” (ABC, 2004).

Such complexities can re-emerge years after what appeared to be a simple act, much like blood donation, at the time. The effects of sperm donation on the partners, known children, and extended families of the donors in terms of potential stress and disruption is something which has also received little consideration or attention. Vanderstand (cited in Arndt, 2004) described her experiences as a wife of the above donor when he met his donated offspring. She describes this as traumatic: “I really love Michael’s kids but it was such an invasion” (Vanderstand cited in Arndt, 2004, p. 27). Vanderstand (cited in Arndt, 2004, p. 27) reports that the meeting, despite this love, still created a “very rocky period in their marriage”. Again, the simple medical intervention that sperm donation is translated into, does not encompass, forewarn, nor address such long-term relational complexity.

This lack of comprehension for the men involved in sperm donation, has been further explored by Edmond and Scheib (1998). They conducted research that helps to illuminate the lack of association in the act of ‘donating’ sperm. They found that the absence of what they described as ‘proximal mechanisms’ between donation and reproduction affected the young men’s judgement of this activity, thus making “that connection between donating sperm at a clinic and producing children...too abstract” (Edmond & Scheib, 1998, p. 317).

There is an overlap between alienation and translation to be found here; the men are susceptible to being alienated from their reproductive actions and then seduced by the act being translated into a scientific, medical and financial framework. While the donors obviously do have some notion, on a social level, of what it is they are doing by donating, at a deeper level, as with the case of Beeney and Linden, they often do not really understand or envision the consequences. These men are unlikely to be helped in this process of understanding by those eager for their sperm. Thus, invariably such donors can become shocked and confronted by their subsequent deeper understanding, after the act.

Edmond and Scheib (1998, p. 317) explain the lack of comprehension being experienced as:

partly attributed to the atypical association between masturbating on demand and producing a child. Many of the typical cues associated with the opportunity for sexual intercourse (and distally, reproducing) may be lacking from the context of DI. If such an argument holds, then it also begins to inform us about the specificity of the male sexual psychologies.

It appears that this aspect may render men vulnerable and naive about donation due to the abstract and disconnected nature of the act of donation from this form of procreation. Flemming (1980, p. 14) also highlights a case of naivety resulting in shock paternity realisations after donation:

The girl in the lab said 'we've had a success'. Wow! I didn't think of myself in terms of being a father. At the time you don't think that way. It was just, Wow! Later you'd be sitting down and wondering 'how many times have I been a father'.

This translation of the representation of the act of donation into something other than a reproductive act can occur in the form of many tangible things. There is the financial incentive and even in some cases holidays, where airfares, accommodation and expenses will be covered as an incentive to donate. For example, "a free trip to Australia in return for sperm: that's the offer exciting male students at Canada's University of Calgary" (Hiscock, 2003). There is something predatory about this quote: "The Reproductive Medicine Centre in Albury was simply hoping to live up to the motto of the Canadian Mountains: 'We always get our man'" (Hiscock, 2003).

The tangible rewards for donating are likely to reinforce the cognitive blindness that some men experience. The vision of such young men who are 'targeted' is at least partially obscured by such incentives, rendering faint or fuzzy the kinship sacrifices and long-term consequences and complications. Other forms of incentive can be in the form of pressures, for example workplace pressures. In "Bucharest: Workers at a Romanian car factory have decided to donate sperm to help debt-ridden plant"

("Donors pull together," 2002, p. 7). The young men may also be responding to pressure in the media to do something altruistic to help others 'in need' (Choy, 2003). Articles often use terms like 'appeal' and 'chivalry' to encourage this type of understanding, or arguably misunderstanding, of reproductive donation: "Victorian men have chivalrously responded to an appeal for sperm" (Nader, 2005).

There is a notable character to the appeals made for sperm donors, with donation being presented as a simple, finite and altruistic act, especially for those who are youthful, 'sporty' and 'manly'. Moreover, as will be exemplified more fully in the following section, this understanding is typically reinforced through the prioritised presentation of infertility. Responding to the kinship absence of infertile people then translates onto types of reward, in the form of both positive reinforcement, and/or financial or material payment. Pressure continues to be exerted through the media presenting sperm donation as altruistic, helping others 'in need' (Choy, 2003).

Another attempt to appeal to young men; to entice them to take the bait, is the initiative taken by the UK National Donor Gamete Trust (NGDT), a "government-funded charity set up to raise awareness of sperm and egg donation. And to encourage blokes to put more of their little swimmers to good use" (NGDT, 2007b). The NDGT launched an integrated internet campaign designed to appeal to, and grab the attention of, young men, with a number of games, for example a "Toss-O-Meter" (NGDT, 2007b) to measure the effectiveness of their masturbatory hand movements. This site featured a young woman wearing a tight t-shirt while pointing through the screen with 'Britain wants your sperm' next to her image (NGDT, 2007a).

This portrayal alludes to the nationalistic appeal to fight in either of the two world wars, as the famous caption of the times was 'Your Country Needs You'. Such an approach to recruitment certainly provides the pretext that sperm donation is a national duty. The recruitment poster phrase "your country needs you" was so popular that the design was used in many different versions. Similarly depicted, pointing out from the poster, was Lord Kitchener, who "was the most respected military man in England, long admired as one of the leaders of British expansionism and imperialism" (Rusche, 2007).

In addition to the nationalistic innuendoes is the somewhat pornographic style of this site, with information about the taste of sperm after consuming various foods or drinks, which simultaneously floats across the screen next to the women. The woman with the tight fitting t-shirt is winking and has written across her breasts “we want your sperm”. Witjens (cited in McVeigh, 2007) who chairs the Trust, epitomizes the predatory nature of the campaign when she says “we thought, in the end, the benefits outweigh the risks. The problem is we do need to target a new audience of donors and we need to hit them right between the eyes”.

It is apparent that in such examples there is interplay between the stages of alienation and translation. This creates a sliding effect between one and the other, resulting in the reciprocal reinforcement of the two mechanisms. The sliding effect blurs the boundaries between the alienation of the paternal kinship aspect of sperm and its relinquishment, and the translation into the context of the medical treatment of infertility or the aforementioned pornographic parallel with national service. This interplay of the stages is in consonance with Sunderland’s (2003, p. 74) expectations.

This section is concerned with demonstrating the relevance and applicability of Sunderland’s (2003) model in the mediation of kinship in reproductive technology discourse and presentation. “The point is, that in modern biotechnological processes, something so wondrous as the foundations of life somehow are translated into the form of a product” (Sunderland, 2003, p. 69). In this case, the foundations of life, sperm, are translated into a medical product.

This translation “is not merely a linguistic phenomenon: translation in biotechnology is coupled with movements in space and substance, within this conceptual framework” (Sunderland, 2003, p. 85). In this case, the expectations and loyalties of kinship and identity are being translated. The translation becomes the translation from one kinship meaning and person to another. Once these translations are made visible, is it necessary to ask whether it is really possible to translate or mediate human identity and kinship as a matter of medical assignment? If so, is this concept to be applied to all members of society or just those to be produced and mediated through reproductive technology? Silverstone (1999, p. 17) acknowledges that the

issue of trust is centrally involved in mediation and translation and he seeks “ways of preserving and protecting it” (p. 18). However, with so many ethical issues unaddressed, the offspring’s ability to trust the mediators and the translations involved are arguably left vulnerable to disappointment. These issues will also be further examined in the following chapters. Next is the exploration of what happens after alienation and translation have occurred.

### **Recontextualisation: People with infertility take centre stage in a medicalised context**

the durable materialities of biotechnology recontextualisation are not merely ‘products’ such as a particular diagnostic kit or vaccine, they are also living plants, animals, humans, and other organisms such as bacteria. (Sunderland, 2003, p. 76)

The next stage of mediation is that of recontextualisation and as stated by Sunderland (2003, p. 76), this recontextualisation affects more than just products; it affects people too. From sperm to people, the mediation process makes its impact. Sunderland (2003, p. 69) explains that the recontextualisation that follows causes the substance, in this case sperm, to lose its “meaning and value by being diluted and subsumed under the commodity logic into which it is currently being recontextualised” (Sunderland, 2003, p. 69). The direct result of this is that the kinship and identity that are attached to genetic paternity are recontextualised, at least in appearance, by this mediation process: “when something, or someone, is subject to mediation and recontextualising movements, things change. The original values that were attributed to the thing, process, whatever do not remain constant” (Sunderland, 2003, p. 70).

The description provided by Sunderland is relevant to the recontextualisation of donated sperm. For the sperm and the genetic donor parent, the relationship and kinship impact of creating a child is an important aspect that does not remain constant. Siring a child loses its meaning and value, as does the sexual act of masturbation and insemination of the collected semen. As a result, these factors are relegated to back-stage positions.



The infertile client is then placed centre stage and all issues are recontextualised from this view point. This domination of the infertile people's interests provides reinforcement of a momentum for the collection of gametes, in this case sperm. Pressure follows in the form of emotional appeals, for example in the following quote: "Many of those who are unable to be treated [i.e. to use someone else's sperm], because of a lack of donors, face *profound psychological and emotional strain*" [italics added] (NGDT, 2000, p. 16). The donor and his sperm are seen as a necessary part of this 'treatment' and the child as the 'successful outcome' of the 'treatment'. The infertile person or couple and their feelings of 'profound psychological strain' are the central concern and focus.

The use of the word 'treated' in this context provides an example of how the 'donor father', and his sperm, are recontextualised to become the medical 'treatment' for the infertile couple. Consequently, the donor father and offspring are positioned as other people's solutions, with little, and certainly not equal, regard for the 'profound psychological strain' that may later result for either of them. Thus, through being recontextualised, all other parties and kinship losses involved are to be defined and positioned according to the wants, and pains of infertility.

This medicalising of desire, and with this the attempt to legitimise it, has been recognised by Fukuyama (2002):

the desire on the part of ordinary persons to medicalize as much of their behaviour as possible and thereby reduce their responsibility for their own actions....[Flowing] from the attempt to medicalize everything, is the tendency to expand the therapeutic realm to cover an ever larger number of conditions. It will always be possible to get a doctor somewhere to agree that someone's unpleasant or distressing situation constitutes a pathology, and it is only a matter of time before the larger community comes to regard such a condition as a legal disability subject to compensatory public intervention. (p. 53)

Infertility is strongly being projected as demanding intervention and compensation. This is the case even to the extent of expecting others to give their own genetic children, or that which will constitute them, and to conceive with strangers.

The donor offspring are also primarily taught to understand and interpret the meaning and impact of their own situation from within this recontextualised perspective. Their social parents' sensitivities are placed as primary, and their sensitivities then tend to frame the offspring's considerations. An example of this follows:

Mummy and Daddy were very sad when no baby began to grow. Then the doctor said there was a way for them to have a baby. Some very kind men give their sperm so people like Mummy and Daddy could have a baby. At last Mummy and Daddy had a baby and that was me! (Donor Conception Network Library, 2004).

This example is not, as might be expected, a child talking on its own behalf. It is written by DI parents to be internalised and presumably repeated by the donor-conceived child. It can be seen that the child is taught of his/her parents' inability to have a child and the sadness surrounding this as central to contemplation about the meaning of donor conception for him/herself.

Another example of the typical communication about which parties are central, and whose feelings are paramount, can be found on the Melbourne IVF (2002b) site, interestingly titled 'personal impacts'. Regarding such personal impacts, all 8 testimonies on offer, are from infertile clients (Melbourne IVF, 2002b). No personal impacts of any other affected parties are even mentioned.

Clearly, the personal impacts being considered here are only those of the couple wanting a child. Again the child will only have his/her predicaments explained within these terms: "Our child will know us as Mum and Dad, but from early on we will explain that we needed a bit of extra help to make him" (Dudzick, 2002). In the section titled 'At long last a happy ending', a two-page piece, is filled with personal anguish regarding infertility exclusively: "I carried with me an almost constant sense of grief

and loss....the sense of loss was never ending....words cannot even begin to convey the devastation....I had given up hope....it was soul destroying I could barely cope” (Dudzik, 2002). The emotional impact of such a description is weighty. It powerfully recontextualises the donor offspring’s predicament within, and in response to, this type of pain.

This experience can be so intense for the offspring that some may even feel responsible for trying to keep their parents’ pain appeased. The effect of this is exemplified in an extract from a fifteen year-old DI offspring. While seeking to explore the meaning of her donor conception in terms of the kinship impact on her, she unsurprisingly finds the sadness of her social father’s infertility impeding her ability to think or talk about the issue from her own perspective. She states

If I was my Dad, especially, I would kind of feel a bit upset that I didn’t have my own children, if you know what I mean, like biological children. I don’t want to say that I really want to find my biological father because he might get a bit hurt....I think he knows that I would quite like to see my real father but I don’t want to talk about it too much” (offspring cited in Evans, 2003).

This young woman’s identity considerations have been recontextualised and dominated by considerations about the absence of her social father’s genetic continuity. Rather than discussing her own genetic discontinuity, she felt it legitimate to state “I would feel a bit upset that I didn’t have my own children” on behalf of her social father. She did not demonstrate the same ability and freedom to state that *she* may feel a bit upset that she did not have her own biological father; indeed, she delicately alludes to having difficulty in talking about the issues affecting her personally. With this subtle training, the few donor offspring who know of their donor conception have largely been taught to think of their own genetic kinship loss from within the primary perspective and constraints of their parents’ infertility and sensitivities.

This stage of mediation and recontextualisation again shows its impact on another donor offspring, Liam Markus (Cleary & Gaitz, 2004), who, when asked about his donor conception, also automatically focused away from the direct implications for

him. Instead he shifted attention back to the primary consideration of his parents. He responded “They’ve obviously gone through a lot of pain and trouble to bring me into the world” (Cleary & Gaitz, 2004). Thus the parents and their infertility enjoy primary consideration, displacing a broader and child-centric approach.

Such recontextualisation could be seen as a type of mental conditioning. One donor offspring has described it as a form of Stockholm Syndrome and names it ‘Repressed parentage syndrome’ (Whipp, 2006, p. 25). Repressed parentage syndrome is a type of conditioning that would take time to identify and work through. It takes time to work out that the issues involved in one’s donor conception could and should be viewed from angles that do not place the infertile parents as primary and central. Stevens (2004) states “I was 18 when my mother told us *her secret*” [italics added]. Again it is of interest that this donor offspring refers to and obviously perceived the ‘secret’ and ‘issue’ of donor conception as his mother’s exclusively. He then states “for a while we were both in shock. Then curiosity took over. But mum said we would never find our biological father, so we let it lie for 30 years”. For Stevens, the process of working free of his recontextualised kinship and the accompanying demand for acceptance of his kinship alienation took thirty years. Eventually, the perceived ‘impossibility’ of finding answers to his genetic paternity were re-evaluated as an improbability and then claimed as deeply personal, and worthy of passion and pursuit. Clearly, this reframing of the ‘issue’ has been a process which has taken decades, eventually allowing Stevens to take ownership of his situation, kinship, and feelings. Thus, the re-evaluation has enabled Stevens to take a contrary position to the one of indifference and acquiescence that had been expected of him for so long.

Sunderland (2003) explains that the contributions that counter the recontextualisation process are important in resisting the narrowing effect of the stages of mediation. Those insights, people and ethical issues that have been removed from view by mediation can be brought back for attention.

These persons, whose lives have been directly manipulated by biotechnological mediation, may choose to contribute their own ‘lived experience’ evaluations of these technologies to public discourse. This is

where the notion of alternative voice in heteroglossia and ethics becomes perhaps most important. (Sunderland, 2003, p. 76)

However, the impact of this recontextualisation on the offspring is likely to result in there being a lag in their ability to take ownership of donor conception for themselves. This is due to the strength of the mediating processes the offspring have to work against. The effects of alienation, followed by translation and recontextualisation make the journey for such self discovery one that is very much against the tide, in opposition to their social context and its expectations. This mediation disregards the social and moral significance of the offspring's donated kin. This insignificance is re-enforced by a complicated process of deception, evasion and of foreclosing the issue.

The aim of this section has been to exemplify “the way that biotechnology promotes particular voices and particular ways of seeing and being, and describing while actively subverting others” (Sunderland, 2003, p. 38), and is in consonance with Sunderland's model. The absorption phase interrelates with this process. Again the model elucidates the powerful forces involved. Together the processes coerce and cajole for compliance, absorption and then for invisibility and acceptance as everyday families.

### **Absorption: Being normal and familiar and everyday families**

“The key aspect of absorption, as distinct from the other movements of mediation, is that it deals specifically with these processes of rendering new technologies familiar, invisible, and part of the ‘everyday’”. (Sunderland, 2003, p. 78)

Absorption is the last process in Sunderland's framework. She explains that “biotechnology products and services, and manifestations of biotechnology as media, are literally *absorbed* via consumption into the everyday lives of members of the public” (Sunderland, 2003, p. 82). The concept of absorption which is being used by Sunderland draws on the work of the Marxist author, Marcuse (1964). Both these theorists have important insights to add to the donor conception analysis. They highlight the fact that the “absorbent power” of mediation (Sunderland, 2003, p. 76)

makes taking a different position to the recontextualised one particularly difficult (Marcuse, 1964, p. 61). The offspring is therefore mediated into the position of absorption. Understanding this part of the model and how it affects the donor offspring can raise their awareness and critical consciousness. The importance of disrupting the invisibility of the processes and raising such awareness is recognised by Sunderland (2003, p. 78).

Marcuse (1964) wrote on themes of alienation, translation and absorption. His work has interesting parallels for donor conception. Marcuse writes:

In this transformation, they find their home in everyday living. What has been invalidated is their subversive force, their destructive content - their truth...the new totalitarianism manifests itself precisely in a harmonising pluralism, where the most contradictory works and truths peacefully coexist in indifference. (Marcuse, 1964, p. 61)

In the case of the donor offspring and the aforementioned 'repressed parentage syndrome' (Whipp, 2006, p. 25), this phenomenon could be interpreted to mean that the truth of the offspring's genetic kinship and the subversive, destructive and contradictory content of this are invalidated with indifference by the harmonising pluralism of their constructed family. While there is the appearance of normality within such families, and indeed the demand for acceptance as such, it is posited here that there are destructive forces and contradictory truths in such families which lie just beneath the surface.

The following anthropological research supports the notion that there is a subversive and destructive content to the donor offspring's kinship, owing to the fact that it is different to that of the social father. The paternal impact of non-genetic paternity outside of DI has been found in relation to the amount that men are predisposed to invest in the children. Paternal resemblance in the offspring has been shown to directly correlate with, indeed it can be used to predict, the amount of investment (in terms of time, money, attention and so on) that men accord to a child (Apicella & Marlowe, 2004).

Further research outside of DI, by Platek et al. (2004) also found the importance of kinship resemblance, in particular between father and child as opposed to mother and child (Platek et al., 2004). Such facial resemblance “may activate neural substances associated with the negative responses in males” (Platek et al., 2004, p. 402). Indeed, MRI scans were found to show this increase in neural processing and reactivity to children that looked like them, thus inhibiting negative responses to such children (Platek et al., 2004, p. 402). To further support that there is such a subversive or destructive force to the child’s genetic paternity in DI, there has been found to be an increase in domestic violence towards children and their mothers when this paternal resemblance is absent

Fifty-five men participating in a domestic violence treatment program agreed to complete a questionnaire and rate the degree to which their children looked like them. Ratings of paternal resemblance were positively correlated with the self-reported quality of the men's relationships with their children and inversely proportional to the severity of injuries suffered by their spouses. Analogous results were also found for the men's experience with their parents. We suggest that these results reflect men's use of paternal resemblance to assess paternity. (Burch & Gallup, 2000, p. 429)

Such research indicates that the parents of a donor-conceived child may have both social and biological interests in trying to evade negative issues arising from the child’s donor kinship. It is unsurprising that research on such families shows that they commonly promote the similarities these offspring have with their social father, while concurrently avoiding discussion in relation to the traits acquired from the donor parent (Bressan, 2002). In this way, they try to absorb the offspring as though they were related only to the immediate ‘social’ family. However, the aforementioned research indicates that encouraging the dynamics of this intentional cuckolding in families is risky. The research contexts outside donor conception found that non-genetic paternity can result in the politicising of the child’s traits. The relevance of such research for donor offspring and the politicising of their traits is another important issue which is further discussed in chapter four, but Bressan’s (2002) research highlights that this is, indeed, a tendency.

This phase of absorption, in the mediation of the donor offspring's identity is helpful in understanding the processes involved that seek to 'manage' the offspring's kinship. There is an expectation that the offspring will both be absorbed by and themselves absorb, the kinship context that has been accorded to them by the clinic and its clients. There is an implicit notion that genetic kinship can be dispatched, indeed that the clinics can claim a type of ownership and placement for the offspring. In some instances this ownership is made overt in the language used by these donor offspring themselves. The following offspring refers to being "part of the 'Barton Brood', some 500 children born as a result of donor inseminations by Dr Mary Barton" (Stevens, 2004). As products of the clinic, in this case as 'the Barton brood', the offspring are to be absorbed via commission and consumption into the assigned families. This gives the appearance of a medical intervention, resulting in the production of 'normal families', having been successfully 'treated' for infertility.

Blood (2004b) provides an example: "just my parents, myself, my son and a journey home. *Nothing remarkable* [italics added] about us but it was an incredible journey against almost impossible odds",. Here is another presentation of 'normalness': "Seth doesn't seem to be a particularly inconceivable person. I suppose, in our eyes, he has left his strange beginnings behind" (Davies & Davies, 2003). In relation to the absorption phases, Blood and Davies and Davies convey a notion that the extraordinary family and identity issues are not to be treated as continuous, particularly for the children from these reproductive interventions. Instead, the parents merely underwent a reproductive procedure that has now ended. Thus they have created a normal family, and they have left the strangeness behind.

However, as recognised by Sunderland (2003, p. 91), people affected by this mediation may contribute positions that counter this. The offspring and others in this kinship mediation may at any time find the will and ability to dispute the values and meanings mediated by the clinic. Marcuse (1964) refers to "the Great Refusal – the protest against that which is" (p. 63), which he applied to other forms of social alienation and absorption. This concept is a useful one. The donor offspring, Stevens (2004), demonstrates a revisionist stand against the expectation that he be a 'problem free' solution to infertility. He writes "the doctors who advocated it [DI] as a



problem free solution to infertility were mistaken” (Stevens, 2004). The motivation for donor offspring to resist being ‘problem free’ is complex. Whether this refusal is a conscious decision, as opposed to its being in response to an innate drive, is unclear, and is to be explored more in chapter four. However, it does appear that such issues can and do arise to challenge and contradict the pretensions of donor conception a simple, medical solution.

### **The great refusal**

It is contended that the notion of mediation and absorption that is applied in these kinship contexts relies heavily on unstable assumptions. Omitted from recognition is that donor-conceived offspring, like other parties affected by this kinship mediation, are cognisant humans, not products that can be easily predicted or manipulated. Consequently, the social compliance of all those affected by such kinship mediation, those people shifted into and out of proscribed ‘family’ significance, are able to reject these allocated positions. Furthermore, this ‘Great Refusal’ (Marcuse, 1964, p. 63) may occur at any time, and within any generation.

For example, a man may, in principle, agree to his wife’s donor insemination, and with that to the social fathering of a child with no genetic relation to him. But he may then grow troubled and estranged by this intervention, only later to become disturbed by the lack of genetic connection and even disinherit the offspring [author’s note: I know of at least three donor offspring who believe their donor conception to be the underlying reason for their social fathers’ disinheriting of them]. One DI father has written, under a pseudonym, of serious difficulties after the donor conception, with “push[ing] aside the recollection of stainless steel instruments, numbered semen bottles, and the alien worlds and strange encounters of others’ chromosomes, which have intruded too much and too often” (Blizzard, 1977, p. 128). It is likely that the aforementioned biological mechanisms to recognise and positively favour genetic offspring may well explain some of this difficulty described by Blizzard. The use of the word intruded is important here: the donor offspring carries the other’s chromosomes intergenerationally and they cannot shed what the social father finds so uncomfortable and confronting. This is also likely to be the case in the following problem explained by a DI mother.

In this instance, a mother described in confidence her 'misconception', which she regretted and considered illegitimate. This misconception resulted in her son, then a fifteen-year-old boy, also needing therapy. The mother regarded her donor conception as "an act of adultery which doubtless injured and angered her husband" (Blum, 1996, p. 41) and also her son. These admissions have been made in private contexts and it is unlikely that such difficulties would be stated openly. Importantly, Blum, the psychologist in the above case, notes this conflict as "lying underneath social amenities and ritualistic acts" (Blum, 1996, p. 41) of family normality and cohesion. Indeed, at least for some donor families, underneath the appearance of absorption, there is an experience which is less visible or acknowledged, and that is one of non-absorption or ambivalence within the ascribed kinship contexts.

Familial breakdown and lack of secure bonding may occur in families that are not affected by donor insemination. However, the instability of the significance of familial attachments found in donor-affected families arguably increases this risk. This increased vulnerability is due to the likelihood of conflict or contestation resulting from these social and biological severances. In this instance, kinship is being treated as decisional and relational as opposed to innate. An additional difficulty of this is that if relationships do break down or become embittered or strained over a lifetime, there is no continuous genetic connection to fall back on. Such a genetic connection in our society retains significance regardless of the presence or absence of friendship within it. This is the underlying meaning behind the cultural term 'blood is thicker than water' which means that "Our loyalty to our family – that is, to our blood relations - is stronger no matter how we may feel about them" (Hirsch, Kett, & Trefil, 2002).

While some may wish to contest this significance in terms of their own experience, it is nevertheless a commonly understood term and as such would impact on those families and individuals attempting to operate outside of this norm. An important distinction of such personal connections from social relationships is that the latter are decisional and based on how we feel about people as opposed to being innate

regardless of feeling. Hence the saying 'you can choose your friends but you can't choose your family'. If family becomes a matter of choice rather than inherent blood connection, the endurance of the blood connection is likely to be lost, and family is arguably left with the less durable aspect of choice normally found in friendships.

Velleman (2008) explains this with this insight: "Most people – not all but most – feel a need for a secure connection to the world...a need for a non-elective bond with something more stable than the self. Such a bond is needed to steady the self against the uncertainties of the human will and human embodiment" (p. 12). The security of inherent belonging in kinship has been replaced with little thought in reproductive donation.

There is no reliable information on the percentage of relationships that do break down in donor conceived families over a lifetime. However, there is related research that is important to consider. Kimbrell (1993, p. 102) has found evidence in relation to surrogacy that:

Several infants born of surrogate arrangements have been abandoned because they were the wrong sex; other babies have become the focus of lengthy highly publicised legal battles; still others have been left in legal limbo because they were born handicapped or ill.

Velleman (2008) confronts the vulnerability found in the actions of abandonment described above:

having been chosen by their parents is the very last thing that children want. Choosers can always change their minds. What children want are parents who are stuck with them and with whom they are stuck, bound by a tie that is non-elective and nondissoluble. (p. 13)

It may be that when there is a medical or social difficulty and relationships are under strain, the non-genetic aspect further weakens the social bonds. Clearly, this would not be the case in all donor-conceived families, but it is a risk. When marital relationships break down, research shows that the investment men make in their children is predisposed to decrease alongside the breakdown of the relationship with the child's mother's (Apicella & Marlowe, 2004). Again, the level of genetic resemblance between the child and father act as a predictor of the investment the

father will have in the child of the estranged mother (Apicella & Marlowe, 2004, p. 376). This type of research and insight may indicate further that there is particular risk in the donor conception experiment.

The resultant property and kinship transfer can affect a myriad of people and create emotional burdens, complexities and complications, in particular for the offspring. Whipp ("Why I need to find my father," 2004, p. 8), a donor offspring, describes "a rising awareness and communication between donor offspring, who have identified many uncomfortable issues with which we must deal as a result of the choices made by our parents....and the indescribable emotional burdens which we carry as part of an inherited compromise".

However, in order for the offspring to think of those not included in their mediated kinship context, they must first be able to think of the issue in abstract terms. They must be able to imagine beyond the environment that they have been absorbed into, and be able to think of those they have never seen. Such thoughts beyond this known realm can be triggered by events, dreams, and feelings, producing the effect described by one donor offspring as like 'falling through a trap door' (used with consent, name withheld, personal communication, March 8, 2003).

Some offspring may have a fear that knowledge of, or acknowledgement of their donor/genetic kin and origins could somehow rupture their belonging within the kinship network they have known, resulting in the opposite of absorption: rejection.

I have never asked anyone about my donor or been incredibly interested. Both of my parents are clever and good at most things and I would hate to find out that my biological father was some tramp on the streets somewhere just because I would feel that part of me was that and what if I turned out like that? (Evans, 2003)

This offspring expresses an admiration for the genetic and scholastic attributes of the parents who raised him and he reveals a fear that his own inherited predispositions from his donor could render him ill-suited and inferior to this environment. This is a

disturbing thought, hence, at least for the time being he understandably wants to keep the issue under wraps. Indeed, when the donor parents are not talked about, it is quite likely that many offspring will develop either demonised or angelic pictures of them in their minds. They are left to such imaginings without guidance or normal and positive references.

Another rationale for at least temporary compliance with their kinship absorption is provided by this offspring: “My real Dad does not actually want to be my Dad, even if he knew me, he doesn’t actually want to be part of my life, or be my Dad” (Evans, 2003). This may not actually be the case, as the donor father, or ‘real Dad’ may have developed an interest in knowing his offspring. It is quite possible that her donor father would want to be part of her life and perhaps even to be her Dad after reappraising the significance of their relationship. However, from this offspring’s logic comes the rationale: you are the only Dad I know and so the only Dad I have got, so let’s get on with it. This is an understandable position to take, for fear of losing the relationship with her social father too. But by doing this, the offspring adopts a position that consequently disinherits her from showing a legitimate interest in her whole genetic identity. As will be discussed in the following chapter, the inability to integrate this whole genetic and social identity is nonetheless important.

Another fear for offspring, which can result in apparent compliance and absorption is the fear of exposing the mother: “I was, and remain, under the shadow of my mother’s intense self-consciousness regarding my origins, and I walk a tightrope between expressing my own emotions and respecting her fear of exposure” (Jamieson, 2006, p. 34). Clearly, there are numerous reasons and pressures affecting the offspring’s compliance and appearance of kinship absorption.

### **The refusal is refused**

Sunderland (2003, p. 54) describes Marcuse’s influence in her understanding of the biotechnology: “My understanding of the political and economic orientations of biotechnology as media is particularly influenced by Marcuse’s (1964) analysis of the ways that modern societies can work to dilute and devalue any form of ‘antagonistic’

or 'subversive' public opinion (p. 9)". Such insight is of importance in relation to enhancing an understanding of the dilution of counter-currents within reproductive technology as well. While some donor offspring do resist the notion of absorption, they are resisting an enormous force, and the kinship network that the offspring has been recontextualised into is the only one that is familiar or visible to them. In Marcuse's (1964, p. 63) terms, the result can be that:

the great refusal is in turn refused; the 'other dimension' is absorbed into the prevailing state of affairs. The works of alienation are themselves incorporated into this society and circulate as part and parcel of the equipment which adorns and psychoanalyses the prevailing state of affairs. Thus they become commercials – that sell, comfort or excite.

Indeed, there is a considerable hype about the novelty of such conceptions, perhaps presented in the form of 'miracle babies' or similar notions. Offspring from reproductive technology can become commercials for the type of reproductive intervention used in their conception and they can literally 'sell, comfort or excite' those who crave and desire this intervention and reassurance. There is notoriety in this role and a usefulness that has attractive qualities. One offspring is reported to have charged the media for their interest in him. Reportedly, Doron Blake (cited in Plotz, 2005, p. 247) "turned the media interests into a nice income stream. Any reporter wanting to talk to him had to pay". Plotz writes of him "Doron told me in 2001 that he had performed his sperm-and-pony show for more than a hundred reporters" (Plotz, 2005, p. 248). Doron's mother is described as having a hand in turning Doron's life into a real life "Truman Show" (Plotz, 2005, p. 249).

The components that drive such offspring to assume a position of compliance or non-compliance regarding their recontextualisation and absorption are not fixed but are moving targets in time and lives. While wanting to draw attention to this topic, clearly this is an issue which affects individual donor offspring throughout their life spans. This is certainly not an issue that is claimed to be entirely captured and

defined here. It is, however, necessary to give more consideration to the absorbent pressures that invariably confront donor offspring.

### **Pressures to be 'absorbed': Following the script**

The difficulty in resisting this absorbent process of mediation cannot be underestimated: Sunderland (2003) writes “The potential to be other than what *is* and to effect consciousness of, or desire for, something other than the current path of mediation – is depleted by ‘the absorbent power’ and more or less ‘everyday’ status of a particular media form” (p. 92). This is certainly the case in terms of resisting the expectations for the donor offspring. Donor offspring obviously do become accustomed to the only family that they have come to know. Their immediate social environment is their normality, no matter how abnormal their kinship situation is.

Due to the process of mediation and the pressure from kinship, alienation, translation, recontextualisation and absorption, the consequence is the development of a type of ‘script’ for the offspring to follow. The ‘script’ supports these mediating processes and results in the offspring knowing what to say and what not to say through the familiar occurrence of such parents demarking emotional boundaries in relation to this. Beyond these boundaries, in general, the offspring may understandably fear to tread. By complying with the boundaries and expectations, the offspring are absorbed, at least in appearance, into everyday normality.

Kirkman (2002b, p. 63) describes the outcome of her research, and says she found a predisposition for some infertile parents to still be “living their narrative of infertility” while others “were hopeful of a happy ending” (Kirkman, 2002b, p. 63). Such research indicates that specifically with donor conception there is uncertainty as to whether the parents still remain infertile when they acquire a child. The confusion exists because despite the fact that the nurturing parents do in fact remain infertile as a couple, the provision of a child has circumvented this, giving an illusory

quality. For those that take the perspective that their infertility has been cured, the offspring are consequently expected to conform, and to be the happy ending to the parents' difficult story of infertility. An example follows: "At long last a happy ending...I cried with joy, we were finally the parents of a perfect little boy" (Dudzik, 2002).

Being referred to as 'perfect' and being perceived to be the 'end to infertility' would make a powerful emotional entrapment from which it would be difficult for the offspring to distance him or herself from and to question. Indeed, there could be a resultant fear created that to question these parental notions could result in the implosion of such fragile perfection, perhaps even the collapse of an apparent 'house of cards' of a family. Thus this fragility could result in the offspring avoiding the exposure of reawakening the grief and loss beneath this cure.

While acknowledging the subtle pressures regarding the boundaries that impact on the offspring, there are also the less subtle disincentives awaiting donor offspring who tread beyond these boundaries. Such pressures can be described as creating emotional landmines. These emotional landmines can raise fear in relation to talking about or pursuing their kinship issues, a concern that this could create a potentially explosive emotional trauma, of a real or feared imbalance for individuals and relationships within their known family. The fear of treading on these emotional landmines in the pursuit of one's own kinship meaning can keep offspring within the defined boundaries of expectations. This, arguably, would be particularly so while the offspring are financially, emotionally and practically dependent on those who raise them, during childhood and teenage years.

Thus most commonly the script is laid down, as are emotional landmines in relation to given kinship placements and the corresponding expectation of being the happy conclusions to the sad story of infertility. Of course, if the offspring accept and embrace this account, there is positive feedback; if not, then it is negative. An example of such public positive feedback for kinship compliance and absorption is provided by the following radio interviewer. The interviewer stated about a compliant



donor offspring to his social father: “Walter I have just had the most fantastic interview with your son, William who sounds to me the most well balanced young man I have ever met. He sounds totally un-fazed” (BBC, 2002).

The correlation between the offspring appearing to be ‘unfazed’ by his donor conception, and being ‘the most well-balanced young man’ acts to reward this position, providing a social carrot for compliance and absorption. Thus there is a fusion being made, between being balanced with being unfazed in this commentary on the issue. The implication is that offspring who are fazed by their donor conception would be unbalanced. A resultant judgement is then cast on the offspring’s mental health, rather than paying attention to their assessment, response and concerns arising from their situation.

There is also the social ‘cane’ to be aware of; this comes in the form of serious public derision for those offspring who do step outside these boundaries, in relation to their failure to be easily absorbed into their ascribed kinship. Part of this derision is termed as being accused of being ungrateful, indeed of being ungrateful for being given life, or being ungrateful for being ‘So wanted and loved’. Rushbrooke (2004, p. 20) explains the use of the term ‘existential debt’ in the context of conception. This acts as an important aspect which demands absorption from the offspring: “everyone is indebted to their creators for their existence and cannot object to any of the conditions without which they would not have been conceived at all. The only exceptions are therefore people whose lives are unbearable” (Rushbrooke, 2004, p. 20). This section also relates to the one on harms and denial, but these are explored at greater length in later chapters. Existential debt will also receive further attention in chapter three. The pressures for compliance and absorption for the donor offspring are hence acknowledged here, but further extrapolated throughout this thesis.

Once all the stages of mediation have taken place, the mediation process is complete. Thus this mediation gives the impression of having transformed the meaning and value of sperm, siring, kinship and identity. These things have been mediated through the processes of alienation, translation, recontextualisation and

finally absorption. The entire process has been brokered through the clinic, which provides the site of mediation. The model provided throws light on what has taken place, exposing issues to be explored, such as what this type of mediation means for the significance of siring, human relationships and manhood. This will be discussed in the following section.

### **Fathers: A discussion of issues raised by the model**

The model provided by Sunderland (2003) has been useful in helping to make explicit the processes involved in the movement of meaning found in biotechnology. The model illuminates that an assertion is being made in donor conception, indeed that there has been a transition in the meaning behind the act of siring a child, from that of fathering a child to one of 'donating material'.

A metaphor for Sunderland's (2003) model is that she has described the vehicle being used by the industry for this translation and commodification of life. Following from this metaphor, the next section describes the power of the engine that drives this industry. This engine and its motivating force is created from the merger of science and industry, combined with the ever increasing demand for reproductive interventions by various fertility frustrated clients. Other chapters will also be of relevance in describing the momentous force behind such interventions; however, the following is provided as an incentive to pursue such enquiries.

Evidently sperm has now become a commodity, and the one which is currently the most sought and used component in the reproductive technology industry (Kimbrell, 1993, p. 74). With this demand and commodification of sperm, comes enormous profit. This is an issue which is now gaining increasing public attention. In the UK the Independent newspaper informed its readers that "fertility doctors have become Britain's new millionaires, according to new figures outranking even plastic surgeons in the high-earners league" (Goodchild & Owen, 2006).

The sale of sperm through the internet is also a booming business: “In the United States an estimated \$US20 million changes hands in the sale of sperm and related products each year” (Dwyer, 2005, p. 19) The consequence of such clamorous business is that men, their sperm and their paternity, are central to the provisions that are offered, and so are hotly pursued. Men’s ‘reproductive capital’ has become something which the market and the infertile clients want, and are evidently focused on acquiring. As a consequence, men have become the sites of sperm production for the reproductive industry, much as cows are the sites of milk production for the dairy industry. However, unlike cows and milk, the social issues involved in this production have psychosocial consequences that hinge on the meaning of paternity and the extent to which it can or should be alienated and commercialised.

The moral significance of such conundrums in relation to the alienation of paternity from sperm is apparently far from the minds of those who seek its utility. Indeed, for many it runs counter to this. ‘Entrepreneur’ Nigel Woodforth, an ex-printer in the UK describes his fresh, anonymous semen delivery service as simply an exciting business enterprise, like the enterprise that came up with door-to-door delivery of fresh milk:

I got the idea from overhearing a conversation in the Slug and Lettuce pub...two women were talking about getting pregnant, and one of them said she wished she could cut out the man and just have it delivered like milk (“I deliver sperm to the door for 400 pounds: Ex-printer's DIY baby kit," 2005).

The delivery of fresh, rather than frozen, sperm means that the new laws banning donor anonymity in the UK are also (at the time of writing) circumvented by Mr Woodforth and those who pursue this business option. Comedian George H Davies reflects on the irony of sperm donation and its significance for paternity, contrasting concerns about fathers being present at the birth of their children with “The way events are shaping they’ll be lucky to be present at the conception” (Davies, 2005). Indeed, Davies’ comedy strikes at the heart of the issue regarding the conflicted and ambiguous messages being sent about the social significance of siring a child.

The managing director of Cryos International (the largest sperm bank in the world) (Alvarez, 2004, p. A4) has referred to men as providing parts for the industry: "It was difficult for them [Spain, Paraguay, Kenya, Hong Kong and the USA] to get pure Scandinavian spare parts...We could see there was a market". The spare parts being referred to here are Scandinavian students' sperm. The market he is acknowledging is the internet trade of sperm for "fertility tourists" (Alvarez, 2004). There is no doubt that there is a large and demanding market for donated sperm. Furthermore, as this vociferous market for sperm exists, there is an equally significant momentum to view sperm (and fatherhood) purely as that mediated substance which 'cures' infertility.

While there may be a growing awareness that at least the child may have a right and legitimate interest in knowing something of his or her paternity and heritage, the market has a tendency to be at the helm, driving the ethics, as is reflected in the following statement: "The dilemma is that it is not possible to hire enough non-anonymous semen donors to cover the demand" (Cryos International Sperm Bank Ltd, 2004). The framing of the dilemma is notably not whether this is an appropriate practice to facilitate and promote, nor what to do if the demand cannot be ethically met.

Not only are the market and industry creating a momentum which is adversely affecting the ethical reflection taking place, but there is the further thrust in this direction created by the various publicly funded public relations campaigns, as exemplified in Give A Toss.com and the NGDT (2007a, 2007b). All of this then interacts with a larger social phenomenon of providing confused messages around the value and meaning of paternity.

Front page newspaper articles refer to a Millennium Cohort Study that found one in five babies grow up with no father (Keirnan & Smith, 2003) as "alarming" (Doughty, 2004, p. 1). This concern contrasts sharply with: "debate over whether IVF children need a father", which is described as "controversial" (Hinsliff, 2004, p. 1). This leaves two options in terms of what is implied: either that such children have different needs

to children conceived outside of the industry, or the industry is perpetuating a concept of fatherhood which extends and affects broader society. This alternative notion presents paternity as decisional as opposed to innate, and something that can be replaced by a 'father figure' and that even this is optional.

The momentum and thrust which are powering the reproductive technology industry are engaging with important cultural values and beliefs about paternity. In 2004 the then UK Minister for Health publicly stated on behalf of her department their collective intention to engage with that culture: "We aim to change the culture, so that people recognise the need and importance of helping others to have families, so that people assume it is the right thing to do" (Johnson, 2004). Johnson is referring to reproductive donation and she aims to encourage this in British culture. However, one must question whether such influence and action for reproductive donation is really the right thing to do. The question this raises is: Is encouraging the intentional creation of a genetic child that one intends to have no responsibility for, a healthy paternal (or maternal) culture for government ministers and medical authorities to promote? Fisher (1989) observes that there is a concurrent erosion of the social recognition of the importance of the genetic parents in the act and promotion of donating gametes:

A concern must be the abrogation by the donor of all responsibility for his/her own natural children (in both gamete and embryo donation). The effect this will have on the donor (in attitudes to family, sexuality, etc) is hard to assess, but the whole procedure certainly runs contrary to our tradition that natural parents should ordinarily take moral, social and economic responsibility for their children. (Fisher, 1989, p. 98)

Currently this tradition of connection between biological siring and responsibility still carries some cultural importance. Coupled with this is the normative recognition and expectation that unless there are circumstances that jeopardise the wellbeing of the child, natural parents should be supported to take this responsibility seriously. Yet the cultural influences described by Johnson contradict and erode such a culture of responsibility.

This cultural influence stated by Johnson (Johnson, 2004). contrasts sharply with appeals to increase fathers' interaction and input into child-rearing, indeed to raise the role of the father (Flood, 2003; Monasso, 2001). Monasso is seeking equity in the support given to 'good fathering' as compared with 'good mothering' but for this he urges "a great deal more effort has to be invested in helping fathers to naturally fulfil their fathering roles" (Monasso, 2001, p. 10).

It is likely that those men who do reject the option of donating their sperm are doing this for reasons which are in unison with such initiatives, perceiving this to be a natural role for them to fulfil if they are to become genetic parents. This reasoning is arguably worthy of support, not least by people in authority such as government ministers. Close (2003) writes of his reasoning behind rejecting a request to donate his sperm:

Perpetuating the attitude that babies are women's business disempowers men and allows us - men and women both - to abdicate responsibilities to the child. It perpetuates the cycle of under-involved and emotionally under-responsible men - and most tragically, children grow up without getting the good fathering they deserve. (p. 59)

Interestingly, to further this concept of a degenerative cycle, the director of the Engaging Fathers project at Newcastle University (UK) observes that many who are involved in such absent fathering are people who have also grown up with absent fathers themselves. Consequently, these men are faced with a conscious or subconscious choice: "they are forced to either conclude that they must themselves be damaged or else decide it doesn't really matter" (Arndt, 2004, p. 30). If the latter conclusion is reached, it is unsurprising that such men then perpetuate this scenario by becoming absent fathers themselves.

Edmond and Scheib's (1998) research found men who declined sperm donation frequently cited the following reason: "the knowledge that it might produce children that I may never meet was most frequently chosen (ticked by 51% of subjects)" (p. 316). It is this correlation between genetic siring role and relationship, connected to paternal rights and responsibilities that is either reinforced or eroded for individuals

and also for our culture. In initiatives described by the aforementioned minister for health, the latter is apparently being pursued.

This contradictory culture is thrown into sharp relief by the irony that the Government then claims to be providing “[c]lear messages of expectation” (Department for Work and Pensions, 2007, p. 6) in relation to paternity. The following initiative in response to disengaged and unwilling genetic fathers is of interest and claims that the government aims to “help to embed a cultural norm that fathers should reach the birth of their child with an expectation that they have clear responsibility for their child” (Department for Work and Pensions, 2007, p. 6). The obvious clashes with the aforementioned attempt to change the culture in favour of reproductive abandonment through donation “so that people assume it is the right thing to do” (Johnson, 2004), could be seen as funny if it were not serious; indeed, it is seriously laughable. It is certainly hard to see how the claims of providing ‘clear messages’ of expectation regarding the roles and responsibilities of siring children can be substantiated by the UK Government (in this instance).

Such contradictory messages regarding cultural influence on the significance of fathering deserves further exploration and so will be quoted at length. The same Government that is seeking to remove the recognition of the child's need for a father in relation to reproductive technology states the following:

Parents and the home environment they create are the most important factors in shaping their children’s well being, achievements and prospects. Fathers and mothers matter to children’s development. Father-child relationships, be they positive, negative or lacking, have profound and wide ranging impacts on children that last a lifetime. (Department for Work and Pensions, 2007, p. 5)

The juxtaposition of this statement with the intention of removing recognition of the child’s need for a father from consideration in reproductive technology provides cause for reflection. This removal of the child’s need for a father regarding the child’s welfare is justified by the new Minister for Health, Caroline Flint (cited in BBC

News/Health, 2006) as: "The current law, which has served us well, is in need of revision. Technology has changed, and so have attitudes." However the attitudes that result in declining paternal involvement in child rearing, was identified by the Rt Hon John Hutton as a problem to be tackled by the Government and policy making. Paternal absence was described by him as creating a deficit rather than it being a positive or benign cultural evolution. Hutton warns of a potential for this having profound and wide-ranging impacts on child development that could last a lifetime. From the point of view presented by Hutton for the Secretary of State for Work and Pensions, the increase in paternal absence was not a change or attitude to be supported or promoted; indeed, he was using the law to try to reverse this.

The following statements by this same government department declare that it has a committed directive for 'Changing Culture'. Here it is stated that "[t]here is clearly a significant public policy interest in encouraging parents, fathers as well as mothers, to play a major role in their children's lives" (Department for Work and Pensions, 2007, p. 6). Apparently by encouraging such parental responsibility "The Government recognises that it has an important role to play in setting out the rights and responsibilities that parents have towards their children and should ensure that parents are made fully aware of these" (Department for Work and Pensions, 2007, p. 6).

Evidently in both instances, the Department of Health and the Department for Work and Pensions are representing the UK Government. Yet they are supporting opposite positions and aiming to influence the culture of paternal investment in ways that clash. There are undeniable financial incentives for both departments that could provide public policy interest in each instance. The provision of these contrary messages about the significance or insignificance of paternity is, however, an important personal and social issue that begs consistency.

Callahan (1992, p. 741) comments on the social beacon that sperm donation presents for the moral bond of biological fathering "As a symbol of male irresponsibility – and a socially sanctioned symbol at that - one could hardly ask for anything better than artificial insemination with the sperm of anonymous donors". Sperm donation presents genetic siring as an act of irrelevance and the moral duties



of siring are presented as inconsequential. Callahan continues to comment on the corrosive effect of the intersection of donor conception with broader issues relating to fatherhood and fatherlessness: “It is hard to see why, in our world where the problem of feckless and irresponsible male procreators is far more of a social crisis, society let that one pass” (Callahan, 1992, p. 741).

Thus, we are at a stage where there is intense controversy over the legal and social recognition of fatherhood. Reproductive technology and its mediating framework and driving motivations intersect with this. Some describe this cultural conflict as at a “pivotal moment” in time (Flood, 2003, p. 1). Undeniably this cultural conflict is occurring, the way that biotechnology intersects with the cultural meaning of paternity and genetic kinship must therefore not be overlooked. The power of reproductive technology to engage with and influence the outcome of these polemical struggles arguably adds the ‘cultural riskiness’ of biotechnology. Crook (cited in Hindmarsh & Lawrence, 2001) notes that:

We usually think of risk management as something to do with calculations performed by scientific experts and with regulations put in place by governments. However, there is another less obvious site at which the risks of biotechnology are managed: the site of rhetorical struggles over cultural meaning and what we might term the cultural riskiness of biotechnology. (p. 126)

That biotechnology is engaged, sleek and powerful in this process is an important risk and influence to be acknowledged.

Sir Bob Geldof (2003) has become a prominent figure to engage in cultural and legal debate regarding the significance of paternity. When describing his reason for this public position, he states:

For two years I shut up while I heard the presumption in favour of a mother’s love. Finally I began to articulate the real love that dare not speak its name – that of a father for his child. No law should stand that serves to stifle this. (Geldof, 2003)

In case there is any doubt about whether Geldof is referring to purely social fathering, he adds “Children are genetically 50% of the man and that selfish gene which drove him to express genetic infinity...cannot just conveniently disappear in some legalistic, Stalinist coup de theatre” (Geldof, 2003). The ‘Stalinist coup de theatre’ referred to here is the apparent eradication and disregarding of the significance of the biological father, which is at its most vociferous in donor conception.

It is common for those who support donor conception to frame the separation of the social from the biological role of fathering as unproblematic, thus taking competing and uncomplimentary positions towards the role played by biological/social fathers as exemplified in the following: “Normally a man puts 15 minutes effort into creating a child. Michael has already done more for this child than most fathers” (Dudzik, 2002). The above DI mother is justifying the replacement of the genetic with the social father by using a defamatory generalisation that genetic fathers are ‘normally’ absent and that they put little effort into raising their children. Accompanying this is the claim that the replacement of the biological father with a social one is generally an improvement in the paternal care of the child.

Again, if there is a need to reinforce the importance of genetic fathers taking social responsibility for their children, it seems that this type of justification undermines this. Yet such justification for the removal of the genetic father from fathering the child is relatively common in donor conception. Another donor offspring retorts with a similar line of reasoning: “It is so easy to make a baby, it may take you 5 minutes, 20 mins half an hour, I don’t know, but it’s not the hard work of being a dad is it? You know the hardest thing is to stick around and be there” (Evans, 2003). However, donation runs contrary to this; it discourages the genetic fathers from ‘sticking around’. Importantly, as previously stated, there is research which shows that non-genetic fathers are less likely to invest - ‘stick around’ - than genetic ones (Apicella & Marlowe, 2004).

Thus statements such as these in support of donor conception encourage a devaluing of the social and genetic unity of fatherhood. Indeed, they imply that those

men who are biologically parents tend to be bad nurturers and that the better nurturers do not biologically parent. The ideal of the unity of the two aspects of fathering is eclipsed from recognition and is certainly not being supported in relation to the best interests of the child, let alone in the interests of the father. Such reasoning which seeks to validate donor conception is thus concerned to absolve the parties involved in fracturing this unity from resultant discomfort or guilt when replacing this relationship for their own ends.

Rowland (2003) helps draw attention, through the work of MacIntyre, to the need for greater awareness of the layers of meaning “within human practices, and the manner in which the identity of any participant in a practice is formed through his or her relations with other persons” (p. 111). This raises the question of how donation affects the identity of the donor father. It is through considering the biological relationship and lack of social relationship with both the child created and the person he conceives with, that concern resides. This practice of gamete donation denies the social significance of biological connection, fuelling an ethos in which these things are to be considered unimportant:

The emphasis of the MacIntyre project is on understanding the social processes which are significant for moral formation, in particular, the manner in which the *ethos* of a given community influences the acquisition of virtues necessary for the making of prudential judgements. (Rowland, 2003, p. 142)

Such an ethos then affects the prudence of, in this case, reproductive judgements within the culture itself.

Irving (1999) writes with concern, similarly outlining that the ethical theory we as individuals and societies hold, results in actions that lead to our fulfilment or harm:

Indeed, the ethical theory we choose will be the starting point for these complicated decisions. As such, it can cause us to reach conclusions and perform actions that are harmful and destructive - or those, which will enrich, fortify and strengthen all of us.

The ethical theory behind donation and its mediation clearly does not promote the value and unity of the social and genetic relationship between those who conceive together and the child so conceived.

This propagation of the insignificance of such connection and meaning which is found in sperm donation appears to be primarily driven by a market demand for the utility of sperm when alienated from its source. Kimbrell (1993, pp. 77-78) notes a type of ethical dormancy about DI and sperm sale which he refers to as “puzzling”. Yet with the use of the framework provided by Sunderland, such puzzlement recedes, as the machinations by which this is achieved are made understandable. What remains, and is left stark, is the unanswered ethical question raised by this practice and its presentation. Callahan (1992) asks and answers one such question in relation to the moral significance of biological fathers: “what social conditions are necessary to have the responsibility of fatherhood taken seriously? The most obvious, it would seem, is a clear, powerful, and consistent social message to fathers” (p. 740), remembering that donors are fathers too. It can be seen that the ethical theory behind donation and its mediation does not promote the value and unity of the social and genetic relationship between those who conceive together and those so conceived.

Arguably the impact of the new culture of reproductive technology is not only fragmenting the social and genetic unity of paternity but also the unity of men and women in reproduction and *child rearing*. The following single mother by choice says she believes “that a two parent household is ‘best’ for a child” (Morrissette, 2005, p. 125). Yet, Morrissette consoles herself, and other single mothers by choice, stating that every “child would benefit from having many things that the universe does not provide” (Morrissette, 2005, p. 126).

As Morrissette presents it, the intentionality found in trading the child’s paternity to satiate her own maternity is an action that should somehow be regarded as a type of ‘universal misfortune’. It is towards such universal misfortune that Morrissette seems to suggest the child might direct their anger and loss. Certainly, Morrissette appears to view this intentional kinship rupture and loss that is created for the child as insignificant enough not to inhibit the intentional creation of single parents by choice:

“Yes there are issues of... fatherlessness, biological identity....But what it all boils down to is whether each one of us has the heart to raise a child” (Morrissette, 2005, p. 341).

The following is an example presented by the National Institute of Justice on the effects of the absence of fathers. According to them, fatherlessness is having a serious effect on the welfare of offspring, and of young men in particular. They describe a scene in the USA where:

Sixty-three percent of youth suicides are from fatherless homes.

Ninety percent of all homeless and runaway youths are from fatherless homes.

Eighty-five percent of children who exhibit behavioral disorders are from fatherless homes.

Seventy-one percent of high school dropouts are from fatherless homes.

Seventy percent of youths in State institutions are from fatherless homes.

Seventy-five percent of adolescent patients in substance abuse centres are from fatherless homes.

Eighty-five percent of rapists motivated by displaced anger are from fatherless homes.

(National Institute of Justice & Executive Office for Weed and Seed, 1998, p. 11)

Indeed the DHHS report (US Department of Health and Human Service (DHHS) & Bureau of Justice Statistics (BJS), 2007) contains what it describes as “clear and undeniable evidence” that the majority of child abuse is committed by mothers, the most vulnerable children being in single-mother households. The report includes the following items:

- Table 5-3 shows that children in mother-only households are almost 4 times more likely to be fatally abused [read: *murdered*] than children in father-only households.
- Table 5-4 shows that children in mother-only households are 40% more likely to be sexually abused than children in father-only households.
- Table 6-4 shows that females are 78% of the perpetrators of fatal child abuse [read: child murder], 81% of natural parents who seriously abuse their children, 72% of natural parents who moderately abuse their children, and 65% of natural parents who are inferred to have abused their children.
- Table 6-3 shows that natural mothers are the perpetrators of 93% of physical neglect, 86% of educational neglect, 78% of emotional neglect, 60% of physical abuse, and 55% of emotional abuse. (US Department of Health and Human Service (DHHS) & Bureau of Justice Statistics (BJS), 2007)

Undoubtedly, such statistics are controversial and different representations and explanations may be provided. However, the point that would be very hard (and indeed uncommon) to present, would be that the absence of a father is a positive thing to be encouraged and facilitated by the State, or that it is a good thing in general. Clearly it would be very hard to assert this through statistical analysis of outcomes for the affected offspring.

The point I wish to specifically draw attention to, is that the absence of one’s father tends only to be painted in a positive light, or indeed in an irrelevant light, if it is pragmatically necessary to do so as part of the justification for the intentional creation of such absence. Notably such paternal absence is not advocated as a

*good in general*, and for good reasons: because it is not generally considered to be good.

An example of an appeal being made to the normative importance of proactive fathers and two-parent families can be found in a recent court ruling. This ruling was in relation to a request made for the intentional and State-facilitated insemination of a woman with her still imprisoned husband's sperm. The hearing was at the European Court of Human Rights. In this case, an important principle that was applied and used to reject this creation of parenthood was that "It was undesirable as a general rule, for children to be brought up in single parent families" (Dickson v. United Kingdom, 2006, at IIB16). In the above-mentioned case, important normative ethical principles about the significance of fathers to their children were made explicit and applied in the judgement. Such principles and general ethical rules are nonetheless then dismissed in the creation of single parents by choice and in general by the infertility industry.

Again there is a contradictory ethical rationale, one that is normative and, as will be seen later in chapter six, one that seems to be reflected in universal human rights, which is that:

At least as fundamental as the right of a woman to be a mother, is the dogma of the supreme interest of the children. In conflicts where the interests of a child are an issue, the ethic guiding domestic courts and this Court has been that the 'protection of the rights of the child' should be paramount. I see no reason to depart from this hierarchy in the present case....The debt of life in a one-parent family, deprived of the presence of a father and of a father-figure [is]....a conception in unpromising conditions which the State is being asked to become an active accomplice and participant in. (Dickson v. United Kingdom, 2006, at 6-9)

Notably, the court did not accept this conception as a 'good' to be facilitated by the State.

There is also the less common creation of single fathers by choice. An example can be found in the 58-year-old British businessman Ian Mucklegion who commissioned a surrogate in the USA to carry embryos from donated eggs and his sperm. The commissioning of both the genetic and gestational mothers cost him 50, 000 pounds. "Despite being very close to his own mother, he does not believe his sons are missing out because the concept of 'mother' plays no part in their daily existence" (Winterman, 2006).

Again empathy in relation to the children's commissioned maternal absence is evaded. The issue of the mother's absence is instead framed as purely beneficial, as seen from Mucklegion's perspective because of the consequent security of his custody over the children. He "decided that what was missing in his life was children. He could have found a woman just to have a baby with but...if the relationship broke up, the mother would get custody" (Winterman, 2006) Interestingly, Mucklegion's logic is self-defeating; he refers to noticing that his life was missing children, which would have happened before they could have played a part in his daily existence, and indeed this absence appears to have been his driving force in seeking to have children in the first place. Yet the resultant children are not expected to miss the presence of their genetic, gestational mothers nor social mothering purely because this has not played a part in their daily existence thus far. Why the father is permitted to feel kinship absences that the children are not is not made clear. Furthermore, Mucklegion believes he provides both the mothering and fathering for the children himself: "I knew I could combine both genders, and do constantly with the boys. I give them lots of cuddles and then play football with them in the garden" (Winterman, 2006). It is evident from this father's rationale that he does not recognise the children's loss of a mother, as he sees himself as both. The mother is concurrently denied by his claims to be mother and father rolled up in one.

A final note on this goes to Parker (2008, p. 106) who warns that if the complementarity between men and women in both reproduction and child rearing is intentionally abrogated for men, then in time, it is likely that this trend will cut both ways, and women will also be excluded from this:



If men are no longer needed in a world of sperm banks, women become unnecessary in a world of artificial wombs. More to the point, men weary of being used as sperm donors and human ATM's finally could enjoy a level playing field in the reproductive sweepstakes, rid at last of the plague of paternal uncertainty. Fake wombs don't mess around. (Parker, 2008, p. 106)

## **Conclusion**

This chapter has sought to draw attention to the way in which the meaning of sperm, kinship, and identity are being mediated by reproductive technology. In the process, the interests of people with infertility are forefronted, gaining primary and invariably exclusive attention. The way in which this occurs has been demonstrated through the use of the Sunderland (2003) model. The chapter exposes how this is done at expense of the interests of others, those affected by reproductive interventions, yet displaced from view. The inequity in the presentation of people and issues involved creates an imbalance in the way these matters have commonly been considered: "through looking for and focusing only on the good that did or could come out of the conduct" (Somerville, 2004, p. 300). There is an identifiable ethical flaw and myopia in the approach being taken. Thus the creation of a child for the childless is spotlighted while the alienation of the 'donor' parent from the offspring is overshadowed. With this occlusion comes the obfuscation of the issues raised by the intentional partitioning of genetic from social paternity. Thus the common presentation and ethical evaluation of donor conception does not address this.

The driving force is the market demand for the utility of sperm, alienated from its paternity, and this force is momentous. The "technological revolution... simply increases the range of natural human and non human life forms that are subject to productive exploitation" (Sunderland, 2003, p. 73), as does the 'reproductive revolution'. In this case, the potential for the exploitation of men (particularly young men) has been demonstrated. While this industry is currently predominantly affecting men, it is likely that women will be alienated from both reproduction and rearing of offspring in a similar way if reproductive technology continues to expand based on the arguably unbridled desires of the fertility frustrated.

There is a strong possibility that this impetus to mediate paternity is reinforcing values and behaviours that are not in the child's, the donors', their families', nor society's best interests. Certainly, confusion and contradiction are being created in relation to the significance of genetic paternity as a result of the propagation of donor conception. Indeed, the laws and their underlying cultural influences are moving in conflicting directions, giving double messages about the significance of biological fatherhood and paternity. The general legal thrust outside of donor conception is to increase this recognition of paternal significance and responsibility, while in donor conception the contrary is promoted (Smart, 1987, p. 114).

While seeking to expose this imbalance, this chapter has also sought to redress the imbalance. This has been achieved by making more visible the interests and issues that are commonly obscured, by highlighting the moral and relational significance of the intentional fracturing and loss of the unity of relational and biological reproduction, between men and women, for individuals and society at large.

The next chapter describes the contradictory meanings found in families constructed through reproductive technology. These contradictory meanings would go through the same processes of mediation and are presented alongside the demands for acceptance as normal. The chapter shows how existential debt arguments are used to bolster these demands for acceptance in this context.

## Chapter 3

### Technologies of hope and despair: Contradictions and inequities in reproductive technology

#### Introduction

Following from the logical inconsistencies and double standards identified in the previous chapter on sperm donation, this chapter identifies and critically analyses similar double standards and contradictions amongst the families created through various forms of reproductive intervention. By identifying and engaging with these issues, the chapter elucidates and actively addresses the “major struggle over meaning”, which is central to “the definition of family” (Ryan, 2002, p. 238).

The chapter illustrates that there are two conflicting notions of the ‘self’ being used by the reproductive technology industry and its clients. The ‘normative’ notion of the self is readily applied to the clients, while a post-modern view is then applied to the offspring, resulting in the creation of contradiction and inequity which are then dodged by the framework shifts.

The argument is pursued by demonstrating that infertility is viewed and experienced as a serious loss. Central to this recognition of loss is the lack of normative genetic continuity which is appreciated to impact significantly on people with infertility (Clarke, Martin-Matthews, & Matthews, 2006). Further the chapter shows that the importance of maximising genetic continuity is a consistently supported notion which is shared between those providing and using the service. The norms being selected for the parents tend to be drawn from broader “canonomic norms”; these are the Western norms of “families based on genetic connection” (Kirkman, 2002a, p. 11). Consequently, emphasis is placed on the continuity that can be provided to those who approach the infertility industry, yet there is also a broad-ranging dismissal and evasion of the relational and genetic discontinuity that is subsequently created from such interventions for the offspring and other affected parties. The chapter illustrates the way in which parents and the infertility industry are discriminately selecting and emphasising particular norms and ideologies *that suit them at the time*.

When viewed from an ethical perspective, such inconsistency can be described as “reasonableness with blinders on” or a form of “immoral choice” which can be seen to be “exclusivistic” (Grisez & Shaw, 1988, p. 101). This chapter adds momentum to the charge that there is an instrumental use of logic and principles being applied to kinship, both by the industry and by parents whereby “adults are very ready to disparage children’s needs for generational continuity while at the same time asserting their own” (Bartholet, 1993, p. 228).

Such “reasonableness with blinders on” (Grisez & Shaw, 1988, p. 101) is, however supported by contemporary dialogue. For example, by calling this instrumental rationale a “dynamic process of narrative revision” which is situated “within contemporary discourses” of motherhood and fatherhood, contributing “to their modification” (Kirkman, 2003, p. 2), the inconsistency is presented as unproblematic. Within these discourses is the common assertion that such reproductive arrangements and their consequent evasions of loss “should be embraced as they are part of the broad range of ‘diverse family types’” (McNair, 2004, p. 4). Indeed, the acceptance of reproductive technology and arguably its plethora of contradictions, is frequently presented as imperative for a socially progressive and tolerant society (McNair, 2004, p. 4).

The outline of this chapter follows subheadings. This is initiated by a section on serious hypocrisy, which compares posthumous conception with donor conception, using Diane Blood as a case example. Next, the relational significance of the genetic/donor parent is critically analysed along with the politicising of the child’s genetic traits. Following from this consideration of the politicising of the offspring traits is a discussion of offspring compliance with being ‘normal’ and foreclosed in this regard. Next is an exploration of the resulting tension in kinship interpretation in the broader context. Two subsections then examine the subject of hope, first for the offspring, as a result of utilising passivity, subjectivity and disconnection, and then for the adults, who are utilising reproductive interventions as an active effort to maximise their own genetic connection. Existential debt, is identified as a coercive force resulting in the offspring being made to feel grateful for being alive and so pressured to be uncritical of the means of their conception. Whether this is a private matter or a matter of business is analysed under the next three subheadings on experimentation

and expectations focussing on the child's education and medical history in terms of genetics and power. The elucidation of double standards and inconsistencies provided by this chapter are then reflected on in Intergenerational coherence: Intrinsic/extrinsic kinship, ethics and justice

### **Serious hypocrisy**

Here it is asserted that there are two conflicting notions of the 'self' being used by the reproductive technology industry and its clients. These notions of the self have been identified as part of an ongoing debate both within anthropology and the social sciences (Becker, 1994, p. 387). Currently contested is the 'normative' perspective of the self, as compared to a post-modern view which suggests that the self is socially constructed, making a cohesive notion of the self illusory (Becker, 1994, p. 387).

Hypocrisy can be identified in the reasoning found in reproductive technology: while infertility is framed and experienced as shattering previously held perceptions "of the body and self as healthy, whole and normal" (Clarke et al., 2006, p. 110), the metaphor of a dysfunctional machine is used to signal the distress of infertility and the frustration of natural expectations for continuity (Clarke et al., 2006, p. 96). In the meantime the offspring of the industry are being treated as part machine, as a cyborg, not wanting nor expecting such continuity or normality. Thus the offspring are treated as though they have been produced with, and then have been educated to use conceptual kinship implants. This leads to the expectation of the offspring's compliance and acceptance of the varying kinship programs. The offspring are thus degraded as not fully human; they are not positioned to have similar interests in being healthy, whole and normal.

Ryan (2002) acknowledges that there is a problematic and complex kinship generated by reproductive technology, and blatantly proposes that the solution to this is for the offspring to view their kinship with a cyborg metaphor. The use of a cyborg metaphor is post-modern rather than normative. This way around the confusion is presented by such authors as adequate and exciting for the offspring. It is, however, unlike the "predictable, coherent, linear paths" (Becker, 1994, p. 391) that are craved and strongly supported for people with infertility in relation to their

“body, identity and self in relation to the social order” (Becker, 1994, p. 391). It is apparent that the offspring of reproductive technology are expected to embrace the opposite: “In order to overcome the paradoxes and contradictions inherent in this new situation, a new type of thinking on kinship is required [of them]” (Ryan, 2002, p. 228).

However, the promotion of these ideological and theoretical solutions for the offspring of reproductive technology is rejected as inadequate and unfair. Indeed, this is not only rejected but also reasoned to be harmful and incoherent for individual and intergenerational frameworks of familial kinship, meaning and justice. Research has elucidated that infertile couples have a deep desire for life to be “predictable, knowable and continuous” (Becker, 1994, p. 390), and for kinship to be normative and based on genetic connection (Clarke et al., 2006). Such qualities are advanced in this chapter as equally important, yet threatened and damaged by forms of reproductive intervention for the resultant offspring.

MacIntyre (1984) explains that one should “Try to conjure up a set of consistent principles behind [a practice]... and integrity may or may not allow you to find...[those involved] guilty of formal inconsistency” (p. 253 ). This chapter hopes to prove the case of formal inconsistency in the use of principles, resulting in a lack of integrity in reproductive technology. This inconsistency is also related to *intrinsic* values being appealed to as of kinship significance for the fertility frustrated, which are then degraded and treated as *extrinsic* for those created for these families.

Examples are provided to make explicit that such intrinsic appeals about the nature of kinship for the adults are being made. These are:

- Infertility is treated as a significant and objective loss
- infertility is recognised specifically as a loss in relation to genetic kinship and continuity
- the provision and use of reproductive technology itself
- the maximising of genetic parenthood as a primary value in the reproductive technology

- the drop in the use of donor gametes when new technologies enabled clients to have *their own* genetic children
- the services promoted and offered to cancer and AIDS sufferers which seek to support them to have *their own* genetic children
- the strong and highly emotive response to IVF blunders.

The chapter proposes that to be consistent or well reasoned in valuing the interests of the child appropriately, the conclusions are clear: either intrinsic kinship value is consistently applied and respected across the board, or it is necessary to drop the appeals for all those concerned. The indignity and inequity of the failure to do so thus far is demonstrably corrosive to the interests, welfare and ineligibility for the child produced.

Case examples will be used to help make explicit the contradiction and hypocrisy found in these reproductive interventions and their justifications. A first case example is found in posthumous conception (sperm taken from a dead man and then used to create a child). The justifications for this type of reproductive intervention are of particular interest when placed alongside the justifications for donor conception.

### **Posthumous conception and Diane Blood: A case example**

Diane Blood had a prominent public case in the UK, which drew attention to the issue of posthumous conception (Blood, 2004b). This attention occurred through various highly publicised High Court battles. Blood fought first to use her dead husband's sperm to become pregnant and second to document her husband as the children's father on their birth certificates. The justification for this form of artificial insemination has become familiar; it involves placing emphasis on:

- The love and relationship between the couple, and any consequent child being the extension of this love and relationship
- The significance of the genetic continuity and traits of the father through the child
- The paternal family's involvement in the child's rearing

- The pride and love the father would have had towards the child

The following provides an example of this implicit justification of the conception of Blood's two children after her husband's death:

Remember that I am a real human being, I am flesh and blood. My husband and I were one flesh. We have two wondrous children, Liam and Joel Blood. They are our flesh. They are our blood, both in name and through the genetic ties that bind us. (Blood, 2004a, p. 304)

In this example it is asserted that to conceive a child together 'binds' the parties in 'flesh and blood' even though the parties did not conceive through sexual intercourse or raise the resultant offspring together. Notably this notion of binding the genetic parents in flesh and blood through asexual conception is commonly avoided, or absent in donor conception.

The following is a further example of the attribution of such significance for the resultant offspring: "Liam and Joel are assured that their parents loved one another deeply and we have the full support of loving paternal relations" (Blood, 2004a, p. 299). The significance of the paternal grandparents is regularly included in the appeals for the benefits available for the offspring of posthumous conception:

Gill cried with happiness when she was assured that the baby just needed a little help for now and would be OK. Nothing could replace her son, but here was the child he had wished for – her third grandson. (Blood, 2004a, p. 227)

The following Guardian article implicitly supports such justification by delicately placing such intimate details for the reader's appreciation:

She [Mrs Blood] is 38 and lives in the same bungalow in Worksop that she and Stephen lived in after they were married...Stephen worked for her father in the kitchen – and bathroom –fitting business. There are photos of him displayed around the living room. (Blood, 2004b)



While such details are placed to attract the reader's attention, what is omitted in these texts is acknowledgement of the potentially adverse impact on the child/adult created from posthumous conception; for the offspring who will have to live with, and assimilate the fact that they have been conceived from the sperm of a dead man, a man who was dead at the time of their conception, and clearly to be physically absent for the rest of their lives. Arguably, it is necessary to acknowledge that for some this would be experienced as a profoundly disturbing relational loss, and quite literally they might view themselves as unwilling participants in a bizarre and morbid experiment.

In such texts the justification for posthumous conception shows scant consideration for the reactions and loss for the offspring regarding the absence of their father in their nurturing and development. The issue of having to cope with this intentionally created loss was raised with Blood. Her opposition told her that they "felt it was wrong to deliberately bring a child into the world without a father, as well as to create a living memorial to a deceased loved one in the form of a child" (Blood, 2004a, p. 123). However, despite the issue being clearly framed for attention it was not then directly addressed by her.

Noticeably in Blood's autobiography, frequent reference is made to the significance of her own father and the support he provides for her even when she is now an adult. This was particularly prominent at times when she felt most troubled: "I felt personally attacked. My father was seething and decided to take issue" (Blood, 2004a, p. 292). It is remarkable that there is an absence of acknowledgement or concern for the fact that her children will not also benefit from such paternal support throughout their lives.

It is not that loss, *per se*, is evaded as a worthy topic. It is more specifically the loss for the child that is unattended to. The loss for Blood is clearly taken on board, as exemplified below. Blood describes specific events, such as Joel's baptism where she says she "suffered that same sense of loss that I have experienced immediately after Liam's. For about a week afterwards, I really missed being able to talk about that day with my husband" (Blood, 2004a, p. 288). In relation to her husband Steven,

she states “I really missed having Steven’s support. My emotions were in turmoil” (Blood, 2004a, p. 202).

The paternal losses for the offspring, along with issues associated with being conceived from a dead man, also have the capacity to place the offspring’s ‘emotions in turmoil’, and to be heightened as a result of the premeditated aspect of their situation, potentially compounding the grief to be experienced. This intentionality in the mother’s actions is specifically in relation to the children’s paternal loss. Others who could also be held complicit and accountable for this are the people and institutions that facilitated this conception in such a situation. The difference is that the mother’s loss of her husband was not intentional. However, the mother’s choice to conceive a child in the absence of a living, nurturing father is pre-designed and a fully intentional act.

Interestingly, Blood does reflect on the way and times loss occurs, and how this then results in differing levels of emotional and psychological impact, but again this raises no particular concerns for her, regarding her own actions:

I was sorry for Steph [abbreviation of Steven, her late husband], not myself. I had taken on our child with no expectation of a husband’s support, so I didn’t feel cheated in the same way as I imagine I might have if we had conceived in the natural way and then he had tragically died. (Blood, 2004a, p. 218)

Blood does not acknowledge the potential for her children to feel cheated of their father as a result of her choice to conceive them without him. Instead she draws comfort from distant news of one young man of twenty, whom she had heard of and who was conceived in the same way. Despite acknowledging that no one had directly asked him if he had concerns and/or nightmares from the nature of his conception she appears to consider the matter adequately investigated: “I am sure he would have said if the circumstances of his birth left him mentally scarred” (Blood, 2004a, p. 137). It is apparent that Blood is not about to delve further into this area. However, even if this one adult did not feel such disturbance, the notion that others might, including her planned children, is not allowed to occlude or obstruct her interests in attaining motherhood.

It is clear that, for Blood, the use of her free will to achieve pregnancy in the face of loss provides solace. This free will is not something that can be found for the offspring, nor their loss in this context:

Obviously, I would have preferred to have been going with my husband [to antenatal classes], like most other expectant mothers, but I had known Steph would not be there from before my child was conceived so that wasn't too upsetting. (Blood, 2004a, p. 213)

O'Neill (1985) provides reflection on the selectivity of humans in fulfilling their own aims. This is phrased in relation to its impacts on others: "Although love and beneficence are unavoidably selective [humans are fallible], this does not mean...we can neglect all the central projects of lives with which ours are closely involved" (O'Neill, 1985, p. 266). When applied to this case, this can be interpreted to mean that it is not ethical to turn a blind eye to the loss that the offspring may experience without having a living father.

The above justifications for posthumous conception provide an attribution of familial meaning that can be placed in sharp contrast to donor conception for a heterosexual couple. As explored in the previous two chapters, in such heterosexual donor conception, commonly there is no emphasis on conjugal love, paternal genetic continuity, or the genetic paternal family's involvement in the children's life. Instead, the emphasis seems to shift exclusively to the importance of social fathering and nurturing, thus disregarding that which is important in posthumous artificial insemination.

### **The relational significance of the genetic/donor parent**

Blood (2004b) describes a dream, in which the dead father of the child expresses his love for his genetic progeny:

He took a piece of paper and drew on it. First an 'I' and then a heart. I expected him to continue with a 'u', but he drew a person. I thought he must be drawing me but it was a boy.

In this dream the husband's drawing of a heart is seen to convey and symbolise his love for the child of their conception. It is this ascribed significance that I draw specific attention to. Indeed the focus is on the significance attributed to the child by the absent parent, and implicit in this is the significance of the child being loved by the absent genetic parent.

Perhaps it is hoped that the audience will warm to this attribution of paternal love within the family, and feel glad that this reproductive intervention was made available, particularly for the child and mother concerned. Yet this genetic father is also in literal terms a 'gamete provider'. In this, there is a similar relational absence found in a genetic parent who is treated as a gamete donor. However, the attribution of significance and emotion found here in relation to the absent gamete provider, through posthumous conception, is directly contrary to the unacknowledged blood ties from donor gametes. Blood (2004a, p. 279) explains that she wanted her children to be "recognised as full brothers or brother and sister...I wanted their blood ties properly acknowledged".

It is apparent that there is a polar shift in emphasis in donor conception; consider the following examples: The first donor (cited in Kirkman, 2003, p. 10) regards the provision of gametes as "not a child but a tool to help someone else have a child". Another says "a child from a donated egg is nothing more than just that: an egg. One that would have been wasted during a monthly cycle had it not been donated. On this issue, for me, there is no gray. Just black and white" (donor cited in Kirkman, 2003, p. 12). In these responses there is an obvious absence of emotional attachment to the gametes and the child produced from the genetic donor parent. "[T]hat's starting to cross over the line from unattached to emotional attachment" (Kirkman, 2002a, p. 13) and such emotional attachment in this context is now presented and perceived to be unhealthy.

The following is a telling remark from Helen Egan (cited in N. Johnson, 2003), a gestational, though not genetic mother:

It's quite a difficult thing initially to imagine yourself carrying a child who is not yours in a genetic sense, but we sort of face it by saying, well there's a contribution from Tony and the strong fact that I carried the children.

The feeling of 'strangeness' described by Egan is followed up by another example of selective recognition and rationalisation. Through this particular rationalisation, the importance of the genetic father is emphasised along with that of gestation; however, the significance of the genetic mother is now swept aside.

The 'sort of facing it' described by Egan, could also be described as 'sort of not facing it at all', and of avoiding the unfamiliar aspects of this reality. This could be seen as an evasion which is aided by applying less attention to the genetic realities that they feel uncomfortable about. Thus the importance of the genetic father is emphasised along with the 'strong fact' of gestation, while the significance of the genetic meaning of the egg is diminished, to be treated as a 'weak fact'.

The notion of 'strong facts' and 'weak facts' is not compatible with our current understanding of genetics. This presentation of 'strong' and 'weak facts' is of critical interest when faced again with Blood's 'blatantly obvious' facts, when referring to the significance of the genetic father necessitating his acknowledgment on the child's birth certificate:

They asked me why it was important, which seemed blatantly obvious to me. A birth certificate should be the truth. It was important to my late husband's family and myself that they were given due recognition for their biological ties and that my son should not be discriminated against due to the circumstances of his birth. (Blood, 2004a, p. 264)

For those who did not recognise this significance of *the truth* Blood was irate: "I accused him of effectively calling my son 'a bastard'" (Blood, 2004a, p. 270). Interestingly, even Blood does not distribute this significance to genetic ties evenly amongst the offspring of reproductive interventions. Compare the frame shift in: "I wanted to combine my genetic material with that of the man I loved" (Blood, 2004a, p. 195) as she rejects the possibility of using "the sperm of a stranger" (Blood,

2004a, p. 174) with the following: “one lady asked me if I would donate eggs...I told her about egg-sharing, where she could pay for another woman’s treatment cycle, in return for half her eggs” (Blood, 2004a, p. 297).

Blood does not appear to flinch in advising an option that would render absent exactly what she has fought for: parental genetic kinship significance not just for herself but for her immediate and extended family. The resultant child from such an egg donation would not have had the previously much valued *truth or due recognition of their biological ties on their birth certificate*, nor would they be able to relate to their genetic donor family, or even be conceived from a loving relationship between their genetic parents. Those children from such egg donations have birth certificates that record only the parents that commissioned and raised them, and the genetic parents are absolute strangers to each other. The moment to reflect on the collision of ideologies, and losses and gains for the variously produced children is lost on Blood, who forges forward unhindered by this contradictory attribution of significance and value, indeed in the name of the ‘blatant truth’.

In the following example, the significance of the genetic kinship conveyed though the woman’s eggs receives the converse treatment to that of the previous dismissal, provided by Egan (cited in N. Johnson, 2003), the gestational mother. In this next situation the genetic mother is the social mother’s sister. Note the ‘sensitivity’ which is applied, and positively represented when supporting this genetic selectivity for the social parents. Following on from this is an exuberant and enthusiastic description, and recognition of behaviours and traits, shared and conveyed by their female lineage. Such conveyance and sharing is described as ‘beautifully simple’ in relation to the use of the sister’s egg:

Emma [the genetic mother, and social mother’s sister] dealt sensitively and generously with the prospect of having a baby. Saying that the donated egg was ancestral, common heritage not an individual one... For me, it has made it beautifully simple: we share the same genetic pool – the way Flora does things is familiar – her cooking (which we both assimilated from our mother), the chaos we share in our separate houses, ideas about a good day out – and I know her great sense of humour, her outspokenness, her great pleasure in

things ... [Emma, the genetic mother, and social aunty describes Seth, the child ] looks very like his father and now shares his dad's dashing, eccentric style in clothes and sense of humour; nevertheless, he reminds us all of my son Peter when he was Seth's age...Still, after Seth was born and for his first couple of years, I stood back a little more than I might have done had I not thought there was a danger of Flora feeling I was hovering about too much [i.e. to allay concerns for her having competing maternal significance to Seth]. (Davies & Davies, 2003)

The emphasis provided here and indeed the 'sensitivity' being shown, directs attention to those aspects of ancestral connection: the similarities of the genetic features of the father and the child to its genetic brother but social cousin, these aspects are treated as being of importance. Emphasis is placed on the genetic connection and similarities shared by the sisters in order to appeal to their unity. Yet Emma's acknowledgment evades reference to her own genetic contribution to the child as its genetic mother. Absent from comment is how this direct and significant relationship could be recognisable in the child's features and traits.

In the examples thus far provided, the child's genes and traits become selectively highlighted and others evaded in order to protect others' sensitivities. This observation of such selectivity within families created by reproductive intervention has been supported in anthropological research on donor conceived families (Becker, Butler, & Nachtigall, 2006).

In the previous example of Emma, as was the case in that provided by Blood, there is yet again no mention of the potential loss for the child. There is no reference made to the potential for the child to feel loss in not having its genetic mother fulfil her normal role as his social mother, as opposed to treating him like a nephew. It would not be unreasonable or irrational for the child to feel loss in having been treated in this way and thereby having the unity of his genetic and gestational mother fractured. Nor would it be illogical for him to resent or feel burdened by the unusual social and emotional complications this could create for him.

In the parental attitudes described, there appears to be no room for further grief or questioning in relation to the importance of the variously selected or rejected norms and connections. The child and all other familial parties involved are expected to respond 'sensitively' by being specifically directed according to the losses and preferences of the infertile parties. There is no reference to any emotional riskiness or difficulty for the child or the genetic donor parent in this exchange. Instead, it is more common to find empathy and emphasis applied to the physical aspects of such an exchange, thus providing a smokescreen for the psychosocial issues, indeed "All the physical trauma of donation was poor Emma's" (Davies & Davies, 2003).

Evidently, differing and contradictory representations of the significance of the connection between the gamete provider/genetic parent and the resultant offspring survive and are perpetuated in separate narrative bubbles. Such differences have been described by one interviewer as "subtleties" of relationships "conveyed by accounts of the boundaries defined" (Kirkman, 2002a, p. 13). Such differences are portrayed as individual and personal and a matter to be handled between the donors and recipients. These contradictory attributions of significance are thereby not appreciated as serious areas for conflict and discrepancy for the offspring, instead being treated as lighter in nature, revolving in the deeply personal sphere of the infertile family. Indeed, it seems to be expected that this issue and 'sensitivity' should not be judged nor commented on, unless positively, by anyone other than those who are infertile and their supporters.

### **The politicising of genetic traits**

However, underlying such 'narrative interpretation' (Kirkman, 2003, p. 12) there are implicit and explicit forms of enfranchisement or disenfranchisement, in particular for the child. What is conveyed through the process of selectively asserting or denying genetic significance is that the children themselves, along with their genetic features and traits, can become objects to be enfranchised or disenfranchised in this process. Thus the offspring of reproductive technology have inheritable factors: traits, mannerisms, interests, features, and kin that become intensely and unusually politicised.



An example is provided by Blood who draws attention to the features of the child and their resemblance to those of the father. His features are said to evoke memories of his genetic parent's relational history. These features and the corresponding memories are regarded with such significance in this context that they direct his mother's choice of name for him:

His lips were a vibrant red and slightly pouting. He had a mass of dark hair and he looked at me briefly with big blue eyes veiled by long dark lashes. He looked a lot like my husband. I thought he also looked a bit Celtic. When Stephen and I had gone on our last holiday together to a wedding in Ireland, the groom had been called Liam. Stephen had liked the name so that is what I chose – Liam Stephen. (Blood, 2004b)

In this example provided by Blood, there is the notion that genetic conveyance is touching, and that it is endearing and good to be reminded of the continuity and connection between genetic relatives.

In comparison, an example of genetic denial is provided by Joni, a woman who donated her eggs to her sister (thus, she is the genetic mother but the social auntie of the child, who's name is Charlie). Her behaviour is observed by her sister, the social mother of Charlie. Evidently Joni responds in a way that is totally contrary to the previous example provided by Blood. Instead, she prefers not even to notice attributes that might have been passed on as a result of being his genetic mother:

When Charlie was first grabbing things, I said 'Oh, it looks like Charlie's left-handed', and Joni [the genetic mother] said, 'well that is strange, because you're right-handed and Dave is right-handed'. Deidre had to remind her donor that *she* was left-handed; Joni responded, 'I don't even think he is a part of me. (Kirkman, 2003, p. 11)

Thus the connection and the attachment between this genetic parent and child (in this example, of the potential to inherit left-handedness) is deemed either unmentionable or something to be discarded as unimportant. In this case the genetic parent is choosing to see her connection with the child in the terms that do not

acknowledge the genetic relationship of mother and child, in preference to that which has been socially arranged as auntie and nephew.

The following social father of two DI offspring describes how he asserts influence on the children he is raising. There appears to be an inherent dislike of the fact that they are not genetically his, leading to efforts to subdue the traits that remind him of this. The social father is seeking to tame his ambivalence towards the children by maximising his influence on their behaviour and thus increasing his sense of ownership of them. The children's traits thereby become politicised by the parent's sensitivities as they are trained to become more like the social parents in a subconscious bartering for acceptance; indeed there are territorial undertones to this process:

I can just say...that's me saying coldly 'they are not my kids'. They are very much my kids. I am developing their personalities. I am influencing their personalities as they grow up, so they are very much my kids, have always been my kids, but you have got this wee cold hard fact at the end; they are not my kids, which is getting lesser and lesser and lesser, and they are getting my kids more and more. It is part of the process. (Andrew, cited in Hargreaves, 2006, p. 271)

It is perhaps not surprising to discover adult offspring who have found that they share similar traits, which they believe to have come from their donor. In the following case of genetic half sisters conceived by different mothers from an anonymous donor, when united they found they shared a love of the piano and had a particular interest in Italy. The sisters continue to wonder if this is the result of their anonymous genetic father's predispositions and lamented that each had been discouraged in these respects by the parents who raised them (Gloger & Sanderson, 2006, pp. 54- 55).

The following text on donor conception encourages this process of selective genetic trait recognition. The key phrase has been identified in italics:

It is important not to become immobilised or panicked by fears of the unknown, such as wondering if your child will always remind you of the donor....*It is important not to view her as like her donor* [italics added]....Her genetic influences don't determine her. (Vercollone, Moss, & Moss, 1997, pp. 148-149)

The following social father of a donor offspring describes the way he blocks out the donor father's contribution to the child by describing the child instead as being solely under the genetic influence of the mother:

The fact of the matter was, she was very much like Annie, no one else but Annie. So that insemination was dominated by Annie, which to me has been comforting. If the kid had come out with strong tendencies to the other person, that wouldn't have been so comfortable. (Becker et al., 2006, p. 275)

The potential for parents to become "immobilised or panicked by fears" (Vercollone et al., 1997, pp. 148-149) or to feel "uncomfortable" about the child's traits and their connection to the donor shows the emotional tension many parents have around these issues and children they are raising. As a result, various aspects of the child's traits readily become an inconvenient disruption to particular social arrangements of family. These alien traits, from the donor represent and remind of the complexity of the family situation and can be seen as a threat to the attributed roles and insecurities the adults have. Such traits are frequently 'dominated' by the aspects that are more comfortable for the parents. Thus there is a tendency for adults to attempt to circumvent the issues and to turn a blind eye to the child's donated traits and origins.

One DI mother appears unable to turn such a blind eye, and admits to being deeply confronted by her twins' genetic traits which she thinks have come from the donor; she describes the children as having "appearance issues" and laments:

Its unlike any other purchase where if persuaded to buy something unsuitable you can just return the item or chalk the mistake up to experience. In the case

of donor sperm there's no return of the baby! ("Sperm bank accountability: Why sperm banks need more morals than second hand car salesmen," 2006)

In this case it is apparent that the mother cannot do as many other parents do, and ignore the donated traits that they feel threatened, alienated or dislike towards. The consequence is that she is troubled by the children, presumably because she sees the donor and her children as 'less than normally attractive'. In relation to their donor father the DI mother says the following:

From my experience I would say that the ...[clinic] seriously scrapes the barrel. But why should you accept a donor who is less than normally attractive? ... Of course there is more to life than looks and my experience is that the NECC will gladly fail you with the other attributes as well! ("Sperm bank accountability: Why sperm banks need more morals than second hand car salesmen," 2006)

NECC is the clinic that this mother used in order to get pregnant and the place she is directing her disappointment and fury towards.

### **Offspring compliance: Being 'normal' and foreclosed**

Those adult offspring that continue, in efforts to comply with their selectively recognised traits, oblige by drawing attention to the aspects of themselves that are comfortable for those who have raised them. In the following example it is the nurture aspect of kinship that is forefronted: "I share loads of traits with my Dad just because I have grown up with him. It is the nurture over nature argument" (Montuschi, cited in Evans, 2003). Some offspring not only draw attention to what they have assimilated from their upbringing but some up the stakes and advance points and aspects that they are 'glad' they have not inherited from their non biological parent: "There are times when I am absolutely glad I have not inherited things from my Dad [affectionate, humorous examples given]....It is a shame I have inherited some things from Mum" (Alice Kirkman, cited in Jones & Kirkman, 2005b).

The donor offspring, Alice Kirkman, seems to walk carefully around the sensitivities of those who raised her, obligingly referring to her donor father as “no big deal” (Alice Kirkman, cited in Jones & Kirkman, 2005b). This donor offspring knows her donor father, and yet provides no details or references (in the statement provided) to the traits she recognises in herself as having come from him. Kirkman clearly engages in comparing and contrasting her traits with those around her selectively, the evasions of which are likely to be created and supported by her nurturing environment from the time of her conception.

Arguably, what is occurring is a continuation of the themes that have been identified in chapter two: infertility and the primary sensitivities of the social parents continue to take priority, in this case over the offspring’s psyche, body and even traits. This prioritisation of the pain of infertility is likely to have started from the time of diagnosis. As explained, “Professionals need to recognise the devastating effects on the couple when they discover their infertility” (Daniels, 2004, p. 34). Helpful responses are familiarly advanced as “Tread lightly when discussing our infertility” (Daniels, 2004, p. 43). However, there appears to be no designated time when such light treading should stop, or when the emphasis is expected to shift from this exclusivity in order to become a level playing field for the other affected parties. Thus a context is created for the child to be reared and primed for a position of continuous ‘light-footed walking’ in relation to even their own genetic kinship, traits and the feelings elicited by their predicament.

For donor offspring such as Alice Kirkman, it is possible that they are responding to, and are inhibited by, such discomfort. This is a discomfort which Alice Kirkman’s mother vividly describes in her research. Note the use of the word ‘providers’: “recipients’ representations of providers [genetic parents/donors] were found to mix gratitude with resentment, embarrassment and anxiety” (Kirkman, 2004b, p. 319). Indeed the author identifies an “ambivalence” in the meaning and interpretation of ‘sperm provision’ (Kirkman, 2004b, p. 319), thus one can presume this familial ambivalence exists towards the significance of Alice’s genetic father as well.

Jamieson (Idreos Educational Trust, 2006, p. 36; Jamieson, 2006, p. 36) contemplates her experience of this maternal attribution of her donor’s insignificance;

indeed she thinks it possibly affected her entire world: “My entire world was so anonymous. I am not merely referring to the protected anonymity of donors: I mean the physical absence of my natural father. How much in this I was picking up my mother’s own feelings of confusion and ambivalence about my conception I shall never know” (Jamieson, 2006, p. 36).

Clearly, in such an ambivalent familial context it would be harder and undoubtedly less encouraged for the offspring to either elucidate or lament the traits or genes that they have not inherited from their non-genetic parent. Similarly it would be far more difficult to illustrate, celebrate and associate those traits that have been inherited from their biological donor lineage.

Another interesting counter to the example provided by William Merrick and his argument that it is ‘nurture over nature’ is from his social father in reference to his infertility:

Feelings about inheritance are born and bred in us. We inherit our fathers’ names because we inherit our fathers’ blood. The simplest family tree tracks the blood line. There is going to be something missing and it is going to be my genes that have gone missing. I’m going to be the end of the line. (Letter from Walter to would-be DI Dads, cited in Daniels, 2004, p. 31)

To William’s social father, this loss of paternal genetic continuity was at least at the time of writing treated as deeply significant. Such genetic continuity is also highly valued by his mother who says they chose donor conception over adoption precisely because they valued having at least one of the parents being “genetically connected” to the offspring (Woolf, 2006). Yet such paternal genetic continuity and 50% of William’s genetic connection is now missing for him, due to the intentional use of an anonymous donor. Made absent for William is what was sought and valued as of significance for his parents, including the loss of the conveyance of one’s paternal genes and name. Furthermore, a notable difference is that, for William, this loss has been created and its significance has been disregarded, whereas infertility is not intentionally and systemically created, and the resultant loss is more readily recognised and empathised with.

In the two previous examples provided by donor offspring Kirkman and Montuchie, when compared with their parents, there is a direct correlation to be found. The very things that the parents grieve or state a discomfort about are the precise things that the offspring appear to deflect attention from. It is possible that these offspring may be protecting their parents' feelings and losses, and doing so at the expense of exploring their own. Of course it is also possible that they genuinely only see or value what is more comfortable to the parents through happy coincidence.

### **Tension in kinship interpretation: The broader context**

This chapter has selected a small range of examples from an extensive range of possibilities, in order to demonstrate that the familial models in reproductive technology are being used differently. It is hoped that this selection has been sufficient to demonstrate that there is inherent contradiction and utility to be found in the configuration of families being constructed from such reproductive interventions.

Next, the focus is expanded outwards, beyond such individual interpretations and attributions of family meaning. The aim is to direct attention away from the individual parent's presentations of their children and attributes in order to contextualise the issues in a broader reproductive technology arena. It is in this broader context that it can be seen there are further grounds for serious contention in the various forms of kinship interpretation.

Thus collisions between meaning models results from these varying familial narrative bubbles. It is here that the seeds of conflict lie, not only between different sets of donors and recipients, regarding their interpretations, but also between the many other people involved in this kinship, intergenerationally.

The contention and contradiction expands to extended families, where there is a similar struggle to attribute and command meaning over the offspring. Now entering the scene are potential grandparents seeking to commission children through posthumous insemination and surrogacy (Somerville, 2004, p. 44). The relational significance that such would-be grandparents appeal to contrasts sharply with the genetic grandparents rendered absent and irrelevant through donor conception. The

genetic/donor insignificance is again supported by social and genetic grandparents of donor offspring, who through research also have also been found to collude with ascribed rather than inherent significance (Hargreaves, 2006).

The point to be underscored is that underlying such contradictory assignments of family meaning and connection is a serious and ongoing tension. This is because kinship is best understood and approached as shared social experience, rather than an individual interpretation or construction. It is “an intersubjectively shared ‘we’ – perspective which enables...value [and] orientations *which can be generalized* [italics added]” (Habermas, 2003, p. 55). If kinship were to be left up to individual interpretations, then these individuals would invariably hold contrary notions and expectations from each other. In this, there is ample room for disappointment unless one is expected to have kinship relationships and expectations with oneself only.

Indeed, some would argue that it is this consciously shared understanding or rules, order and responsibility for each other that defines and protects us as humans with dignity, rather than as animals:

Animals benefit *for their own sake*.... Nevertheless, they do not belong to the universe of members who address intersubjectively accepted rules and orders *to one and other*. ‘Human dignity’...is in a strict moral and legal sense connected with this relational symmetry. (Habermas, 2003, p. 33)

It is this relational symmetry and order which is so lacking from reproductive interventions. Instead there is a relational asymmetry. It is likely that such human dignity is indeed related to moral and legal symmetry and that affronts to the dignity of others results from this imbalance. Indeed, there is much in this concept that this thesis supports, in particular this notion is further supported in the chapter that considers human rights in relation to reproductive technology.

Arguably, roles and expectations are best understood and responded to in consonance with others. Thus there is a need for consistency within communities, in order to provide personal and relational orientation: “The individual self will only emerge through the course of social externalisation, and can only be *stabilized* within



the network of undamaged relations of mutual recognition” (Habermas, 2003, p. 34). It is this stabilization of undamaged roles and relations which is necessary, resulting in a need for consistency in terms of either their recognition or disregard. Again, anthropological research sheds some light on this, indicating that such social and cultural predictability and order is also craved and regarded as desirable, even by infertile clients (Becker, 1994).

Having such attachment and investment in social and cultural predictability, order and continuity is undoubtedly important. Without this, is the creation of a type of social narrative bumper-car collision course, where the parties involved take their varying positions (get in their bumper-cars) regarding the significance or lack of significance and bump and clash away with their interpretations and consequent coercions, hurts, and disappointments from failed expectations.

While some choose to describe the potential for conflict between the involved parties as creating a type of ambiguity, such ambiguity tends to be interpreted and presented as benign, if not exciting and interesting. However, this ambiguity has a potential to be individually and socially malignant. It should be recognised that there are inherently “ambiguous relationships between various parties to donor conception, for example between donor and offspring, donor and recipient, donor’s family and offspring’s family and half siblings from different families” (Ryan, 2002, pp. 238-239). Reproductive technology has given “rise to practices intervening in a spectacular way in intergenerational relations, that is the conventional relationship of biological descent” (Habermas, 2003, p. 16). Such confusion and tensions are potentially corrosive and disturbing to normal patterns of responsibility and attachment.

Not least disturbing is the inherent sense of authorship, control and mastery that is given to those who approach the reproductive industry, to mix fiction with fact. Thus there is a narrative authorship taken over the lives of the children and extended family members concerning who is related to whom, yet:

no one can have the privileged perspective on his own life that an author has on her fictional creations; the enacted narrative of my life meshes too finely

with the narratives of other lives (themselves similarly meshed) for it to be subject to my sole construction. (Dunne, 1996, pp. 146-147)

And this is the issue: the consumers of the reproductive technology industry are given the sole construction to others' kinship narratives, as if there is no genetic 'truth', only the client's social interpretations and stories. Thus the child is given no authorship but must only perform the ascribed part.

One area that has been forced to recognise the serious nature of the tensions and disharmony that can result from narrative collisions and resistances has been the courts. Such ambiguities have resulted in battles over legal parenthood which have spotlighted the problem: "legal judgements made in... previous cases this year, highlighted legal parenthood following assisted reproduction treatments (ARTs) as a problematic area of the law" (Horsey, 2003). However, it is not only legal parenthood that is rendered a problematic area, but also the social and moral aspects of parenthood and kinship as well. Fuscaldo (2002, p. 20) observes "The development of IVF and the enormous growth in reproductive technologies... has confused our understanding of who is a parent and what constitutes a family" (Fuscaldo, 2002, p. 20).

A similar confusion and debate also exists in society at large (Finkler, 2005), but the clashing ideologies play themselves out in reality, most forcefully in families from assisted reproductive technology. Indeed, what is at stake in the debate surrounding assisted reproduction are:

many of the central conundrums of the period, including those associated with apparent choices about community and autonomy, about tradition and modernity, and most concretely, about the dimensions and meaning of actual relationships between parents and their child. (Dolgin, 1997, p. x)

It must be acknowledged that the offspring are delivered into an inherently, unresolved, contested and unstable situation. The difficulty raised by various family constructions is likely to be amplified for those who find themselves living within relationships they are powerless to undo or rearrange. These are the people who are

“closely involved in or affected by a proposal [but yet] have no genuine possibility of dissent unless they can avert or modify the action by withholding consent and collaboration” (O'Neill, 1985, p. 259). The offspring cannot easily withhold consent or collaboration in relation to the pre-designed destruction and construction of their families.

The offspring thus affected can reasonably assert that they have been used, a definition of which is to think and act towards others in ways: “that would always preclude genuine consent or dissent” (O'Neill, 1985, p. 259). The absence of these options results in an affront on one's sense of personhood (O'Neill, 1985, p. 259). As with a cyborg or a genetically manipulated person, there is an extreme and unusual power imbalance for the donor offspring in relation to the parents. Like a child created with manipulated genes:

The parent's choice of genetic program for their child is associated with intentions which later take on the form of expectations addressed to the child, without, however, providing the addressee with an opportunity to take a *revisionist* stand. (Habermas, 2003, p. 51)

Admittedly those who might be conceived with genetic splicing have even less chance to make a critical appraisal or to take a revisionist stance of their situation. However, for those conceived from other types of reproductive intervention, the force of both conviction and time makes a revisionist stance of familial meaning and significance at best a major challenge. Indeed, all the variously affected familial members would have difficulty readdressing the dynamics and interpretations previously selected. This would be particularly difficult for the offspring, most crucially in childhood, when such relationships are at their most strongly affecting and influential.

An example of a serious disagreement in the interpretation of reproductive significance is provided by a case which resulted in a divorce between a donor and his wife:

Ian donated while his wife was pregnant and did not discuss it with her at the time ‘...she didn’t react very well actually. When the time came *she made a mountain out of a mole hill*. It’s all history now; she held it against me, and four or five years after that we were divorced [italics added]. (Lorbach, 2003, p. 79)

For the child who will consequentially live between divorced parents, the concrete reality of the disagreement in the significance of donating sperm cannot fail to impact on her. Further, if told the source of the contention, the daughter’s position on whether the issue was a ‘mountain’ or a ‘mole hill’ has the potential to affect her alignment and moral assessment of her parents and their actions.

Such personal and legal battles continue to mount, as we grasp at differing criteria offered for the discernment of such disputes:

Courts, in considering and resolving concrete disputes involving reproductive technology, are providing a potential laboratory, whose results legislators may review when, as must eventually occur, states respond to the conundrums presented by the new reproductive technologies and surrogacy with comprehensive rules. (Dolgin, 1997, p. 176)

The task of developing comprehensive rules for individual interpretations of kinship appears to be self-defeating contradiction in terms. Indeed, there have been examples in court of genetic parents changing their own rules and interpretations of the significance of genetic kinship halfway through the case. Kimbrell (1993) refers to the ‘Cavis case’, where a divorced couple engaged in a legal dispute about the status and use of their frozen embryos. All litigants changed their positions and argued the opposite to that which they had previously. This was as a result of their next marriages, and the consequent absence or presence of reproductive alternatives provided by these. Their new positions seem to be related to whether they were in a relationship that either advanced or thwarted their future genetic continuity (Kimbrell, 1993, pp. 95-96):

Their new marriages led both Junior and Mary Sue to change their original positions on the frozen embryos. Mrs Stowe no longer wanted to use the

embryos for herself. 'if I am going to have children, it's going to be with my new husband', she stated in a press interview. 'I still believe that the embryos are life and should be given a chance to be born, maybe to an anonymous couple'....But Junior had now revised his position. He now wanted custody of the embryos. His new wife was incapable of having children. 'If the court rules that these things are to be implanted, then I want to be their father', ....Davis was prepared to hire a surrogate mother to gestate the embryos if necessary.

Kirkman (2003, p. 11) describes a "dynamic tension" in relation to the various attributions of meaning from "Gestation, genetic connection, and parent-child relationships" in reproductive technology. The serious nature of this is not captured by such a post-modern description of "narrative interpretation ...of familial relationships" (Kirkman, 2003, p. 12). The need for consistency of meaning attribution, rather than this vague and ephemeral representation, can be better understood when applied to the real life examples of relational breakdowns. This has been exemplified and experienced by the disputes described above. While the parents involved appeal to these flexible and unstable interpretations of parenthood, there is also the inherent dichotomy that research indicates that such parents tend to prefer for themselves, life and kinship to be "knowable, orderly, and predictable" (Becker, 1994, p. 404).

Cross-cultural analysis of child abuse supports the importance of cultural coherence. It has found that:

The impact that a particular behaviour has on a child may depend on whether or not it is an idiosyncratic behaviour performed only by his/her own parents or whether it is a culturally accepted behaviour to which all children are subjected. (Lenington, 1982, p. 107)

This again supports the importance of *meaning* within a cultural context being consistent rather than idiosyncratic. Thus the intentional loss of genetic continuity for a child needs to be viewed alongside the broader context in which it is raised. That children are being subjected to idiosyncrasy in relation to this continuity, in isolation

from their broader context, indicates problematic and possibly even abusive dynamics.

### **Existential debt and hope: Utilising passivity and subjectivity for the offspring**

A common justification which helps evade critical reflection about the consequences of asymmetric relations from reproductive interventions is existential debt. Existential debt is a pressure in reproductive technology that has been identified and framed by Rushbrooke (2004, p. 20). Rushbrooke explains that the term in this context means: “everyone is indebted to their creators for their existence and cannot object to any of the conditions without which they would not have been conceived at all. The only exceptions are therefore people whose lives are unbearable” (Rushbrooke, 2004, p. 20). Such indebtedness, indeed existential debt, is an issue of importance because it results in the offspring perceiving themselves to be more in debt for their existence than the average person. Hence they are expected to be unquestioning and grateful as opposed to critical and reflective about their intentional creation and to show only gratitude towards the humans and circumstances involved.

The following are examples of offspring grappling with the fusion of the means of their conception with their present and future existence. Italics have been added to indicate the specific comments that hinge on existential debt: “*I’d rather be here than not here and I am actually, I am very grateful to the person who gave me life* [italics added] and made it possible for my parents to have children” (offspring cited in Evans, 2003). For this offspring, the logic is that if he currently prefers existence over non-existence or life as opposed to death, he *must* support the means of his conception. Another donor offspring states: “I am glad I have my parents and *I am glad I exist* [italics added] I suppose and so it was what they, they wanted a child so I am happy *I can provide that service* [italics added]” (offspring cited in Evans, 2003). It is unusual, though not for DI offspring, to feel the need to publicly confirm being grateful to exist. Furthermore, the underlying understanding here is that his existence constitutes a service to his parents.

Some such offspring not only subscribe to the notion of existential debt but also propagate the idea that others are ignorant of the precious nature of life itself if they do not:

People have heard about quite a few donor insemination kids saying how horrible being born through donor insemination was...if you think that this story is going to be like one of those, think again because if I were given a choice, *I'd choose life with out knowing my sperm donor over total non-existence* [italics added]. Call me strange and shmaltzy, but life is precious no matter how it is made. (Kirkman, 2005a, p. 182)

The absence of choice for such offspring remains unaddressed. This argument can be applied to almost anything undesirable when compared to non-existence, for example being abused, denied democratic voting, being crossbred with animals, or mutant genes. If all were performed and termed as contingent on existence, then all would have to be accepted and embraced. The moral questions which are raised by harmful forms of reproduction are ignored.

The following are examples of reprimands of those donor offspring who express a contrary position to existential debt, the author included:

Well there was no doubt about just who you thought were weird, and ungrateful and selfish.....[letter read out] 'I was absolutely appalled to see the two young women whining about how they were created. For goodness sake they were created because they were wanted and probably desperately so'...'And that is the real point here... *These two young women were given life. My view, how dare they seek to deny it to others* [italics added] both the bearers and the beneficiaries'. (Harvey, cited in Cleary & Gaitz, 2004)

Such reprimands leave no question about where donor offspring must go or where they must fear to tread if they want to avoid public derision. There is also the weighty implication behind the notion of being given life, which is that life could be taken away from the undeserving, conveying sinister threats and undertones.

Another example of harsh backlash if existential debt is not embraced can be found in the ethical issues section of the website for the world's largest sperm bank:

Other people do not have this explanation (scapegoat) to their problems...These DI children, who plead injustice to their persons, *would not have existed at all had it not been for the anonymous donor. Their demand is thus contradictory. The alternative is not to exist* [italics added]. (Cryos International Sperm Bank Ltd, 2004)

As can be seen, there is a clear insinuation that the offspring are more indebted to their genetic and social parents than those not conceived from such interventions. There is the implication that for the offspring to question the way their life began is to meddle with what is fused. Thus, embracing the method of their conception becomes implicitly contingent on their current and future existence, which acts as a powerful silencer.

Even DI mothers who belatedly recognise the harms of donor anonymity can be pressured by these claims of existential debt, as exemplified by the following head of a sperm bank: "Mothers have forgotten about the goal that had once been their priority: giving birth. She signed the paper. She knew what anonymity was. And she knew that our donors wanted anonymity and trusted they would receive anonymity. Here is a question: Ask Wendy Kramer [a DI mother] and Ryan [her donor offspring] if they would take their kind of 'openness' if it meant Ryan would never have been born?" (Leahy, 2005).

An example of existential debt being used to justify the posthumous conception is provided by Winston (Foreword in Blood, 2004a, p. 8):

Liam Blood, a delightful little boy, is now five years old. And his younger brother born just two years ago...Nobody can doubt the wonder of the existence of these children, nor the delight they give to Stephen Blood's whole family. Very few people now feel that Dianne's resolve to pursue treatment was other than totally justified.



Being quashed by Winston is the idea that the children can both be delightful, bring happiness to the deceased's family and still have been conceived in an unethical manner. This option is obscured by Winston who conflates the issues of the apparent happiness of the children at the time he views them with the morality of their artificial conception. Ironically, the significance of the children's interaction with the paternal family is something that Winston has also characteristically abandoned and dismissed when considering the ethics of donor conception.

The following is another adult donor offspring who demonstrates the separate moral issues of wanting to be alive and happy with having disdain for the artificial means of his conception. Nevertheless, in doing so, Ellis reports that he confronts difficulty in being understood and accepted by others:

It is difficult to say this in a way that doesn't shock people or make me sound psychologically damaged, but I don't think I should have been born. I can't compare living under these conditions and not living at all, but nobody should ever be created under these circumstances. (Ellis, cited in Guest, 2006)

This type of expression of complexity and difficulty for the offspring tends to be evaded by those advancing the pursuit of the industry.

Blood adds her comments on the issue stating that the "arguments for protecting the interests of a child that doesn't exist was, at times, a little tortuous....[how can one] protect 'someone' who might not even get the opportunity to be conceived" (Blood, 2004a, p. 74). The concept of being given an 'opportunity to be conceived' is not one commonly applied to others who come into existence in less drastic ways. This 'opportunity' to be conceived is likely to place the expectation of gratitude on the child, prior to the child having the ability to question whether this expectation is reasonable.

However the foreclosure of this issue is still being reinforced and it is done so by people such as Lord Winston. He stated in relation to the posthumous family "It is clear to all that it has ended happily" (Lord Winston, cited in Blood, 2004a, p. 8). At the time this assertion was made, the posthumously conceived children were only

five and two, and were hardly in a position to have an independent perspective on this, and they are apparently not expected to.

Arguably, emotional leverage has been used to divert the consideration and serious ethical debate on the rights and wrongs of, in this case, posthumous conception, i.e. the ethics of the act. Instead, by flooding the scene with emotion, the ethical dimension is effectively removed from discussion. The case against this type of conception method is foreclosed and the serious issues that the children must live with are curtailed out of sight, denying discussion or further consideration. This is a technique that is commonly applied in discussion on reproductive interventions.

Such infusion of emotion can be viewed in subjective/objective terms when considered for ethical evaluation. “The subjective and relative factors in ethical claims usually take the form of ignorance, fear, superstition, bigotry, prejudice, emotional attachment, and bias, both personal and cultural” (Curtler, 1993, p. 6). Cutler advises that ethical judgements are better made without such infusion. In preference, he suggests: “try to find reasons and evidence that will appeal to all persons of rational capacity and good will – regardless of the time and place in which those persons live” (Curtler, 1993, p. 6). Yet if this criterion were to be applied to genetic kinship, the justifications provided in these different contexts fall short. The justifications and interpretations of kinship and meaning do not appeal to all persons at all times in reproductive interventions. Instead, they are applied in isolation, to *specific persons at those specific times*. Curtler (1993) describes “attempts to justify” as rationalization, indeed such “rationalisation is held on grounds of strong feelings and prejudice, not reason” (Curtler, 1993, p. 92).

It appears that there is the expectation that contrary rationalisation, when fused with existential debt and appeals to emotion, will result in the offspring being passive towards this. However, it is possible that such assumed passivity could be an affront to their personhood. O’Neill (1985) explains that “To treat human being as persons ...we must not only not use them but we must take their particular capacities for autonomy and rationality into account” (p. 264). Rather than the offspring having inquiring or rational minds, minds sensitive to contradictions and inconsistencies, the expectation from the industry and its users is that the offspring should have blind

loyalty to the kinship and people that they have been directed towards. Rather like ducklings, they are to hatch and follow behind the parents they see before them without doubt or a second thought. But the story of the ugly duckling shows this to be an unfulfilling expectation. Further, it is pertinent to ask if this passivity is likely to have a positive effect on the offspring.

Fromm (1974) analysed technocratic systems, particularly in relation to biotechnology, that have created passivity in people. The resultant insight is that this passivity arises as a result of individuals succumbing to being manipulated, indeed, specifically when bureaucratically manipulated as objects (Fromm, 1974, p. 156). He added that the result of this passivity is a lack of critical engagement from those affected. Fromm warned that being objectified, and being passive results in a lack of critical engagement in an individual, which then erodes their sense of hope. He further asserted that to create the lack of hope and critical engagement then has a degenerative effect on society as a whole (Fromm, 1974p.156). Since writing this, I have discovered reference being made to Fromm in relation to loss and hope in a bereavement support group: "To spare oneself from grief at all costs can be achieved only at the price of total detachment, which excludes the ability to experience happiness (Fromm, cited in Bereaved Families of Ontario, 2006). Interestingly, this is advice being made available to people experiencing the grief of infertility, the loss of pregnancy and indeed that lack of genetic familial continuity, yet again for those adults affected.

The relationship between full and authentic personal engagement and hope is worthy of further consideration for reproductive technology. For people with infertility, the issue of maximising genetic continuity and control has been explored and has been found to correlate with them having an increased sense of hope (Becker, 1994, p. 397). However, passivity to being produced with resultant genetic discontinuity appears to be the underlying requirement and assumption being directed towards the offspring. This is likely to result in the absence of hope along with a lack of critical engagement for them. Indeed, possibly this is the unacknowledged price of accepting the loss of genetic continuity for such offspring. However, this issue has not received the same level of attention and research as that employed by Becker

(Becker, 1994, p. 397) for those people with infertility. This would certainly be worthy of further investigation.

Another way of framing the problematic dynamic is explained in the writing of Dunne. Dunne (1996, p. 145) describes the differences between active and dependent modes of exchange between parents and children. The dependent is much like the passive, previously described by Fromm. According to Dunne (1996, p. 145), the overemphasis on the dependent results in a loss for the child. It is a loss, in language and roles that estranges the child from his/her own experience (Dunne, 1996, p. 145). Dunn expresses a preference “for a person to be a speaker in a field of meaning but also an agent seeking bearings in relation to value, or good” (Dunne, 1996, pp. 145-146). Note that being an *agent* in relation to value and meaning is difficult for the offspring of reproductive interventions, especially in relation to having consistent bearings about what is or is not valued as ‘good’.

These themes resonate as Blood unconvincingly, but familiarly claims that her ‘research’ indicates that offspring from ‘unconventional circumstances’ (including those from various forms of reproductive technology) had little to say on the topic. This statement implies such passivity “as it wasn’t something that they’d ever considered ‘it is a bit like asking how you feel about being English is how one producer put it... What is, is’” (Blood, 2004a, p. 251). Blood is not alone in making such assertions and correlations; she is only provided as an example. Yet the same logic could be applied to any inequity or loss one was intentionally born into: what is, is. Apparently that is where the issue is expected to end.

As has been demonstrated, there are offspring from reproductive technology who do not respond in the anticipated passive manner. It is difficult for them to question these assertions, but private groups provide an easier place to share concerns. The following donor offspring was distressed and seeking confirmation from others like her that she is not alone in thinking beyond the constraints of her situation. She had been actively comparing and contrasting the various interventions, only to find that the contradictions and inconsistency grip her:

It all gets so complicated, does anyone else think of different things, different situations? In each one the importance of DNA and the importance of bringing the child into the world are twisted around to suit the people. Like... there is never one aspect which is constant. I can't really explain this very well, but one minute DNA matters when a couple can't conceive, the next minute DNA doesn't matter when you want to know your parent. It's twisted around to contradict and get what the parents want. (Used with consent, personal communication with Emma, DI offspring, 26<sup>th</sup> April, 2005)

With such critical reflection, the expression of anger is a likely reaction. Here is an example written by a young man of 18 years who describes himself as a son of a surrogate. Again it is written regarding genetic kinship contradictions on a blog site. Perhaps he felt it to be a safer place to say this:

And what about this I hear about not separating twins because they have an in utero bond? That they have bonded for those 9 months and it would be a tragedy to split them up? Well what the heck about the mother that carried them inside of her? How much more personal can you get? Isn't the mom bonded to those babies just as much as the twins are bonded to each other? Those kids may be brother and sister, but they are being carried by THEIR MOTHER. How much closer can you be? It doesn't make sense and it sounds very hypocritical to me! (Brian C., 2005)

Lebech (1997) has pondered the issue:

even if we thought we had a right to have a child, we could hardly claim in all honesty that we have at the same time the right to determine what the child thinks of us. And we cannot force a child to think it is ours. (pp. 339-340)

Like those genetically modified, resentment is a possible and reasonable reaction for "someone who learns that his genetic makeup was programmed without his virtual consent, so to speak, according to the sole preferences of a third person" (Habermas, 2003, p. 52). The position being argued can be brought to focus by

considering the application of similar 'contractual' and 'decisional' relationships being applied in other directions, to the other family members.

As such, it is possible to envision the appeals that might be made if the adult donor offspring turned the tables. For example, when they themselves have children, the donor offspring can also decide that their families will also be 'decisional' and that the parents who raised them will not be included as grandparents for their children. The adult donor offspring may decide either to disregard the significance of grandparent's altogether, or to replace them with different people of their choosing. It is doubtful that the predominant response from the excluded grandparent would elucidate the subjective and flexible nature of kinship and identity, even though they themselves applied this to the donor-related grandparents that they excluded from the lives of the donor offspring.

Callahan (1992) explains the issue well:

Once a father, always a father. Because the relationship is biological rather than contractual, the natural bond cannot be abrogated or put aside. I conclude that just as society cannot put aside the biological bond, so neither ought it put aside the moral bond, the set of obligations that go with that biological bond. If there are to be moral duties at all, then the biological bond is as fundamental and unavoidable as any that can be imagined. (p. 738)

Thus for the donor offspring, the issues can be placed into stark relief. *If there are to be moral duties connected with biological bonds at all*, then they surely exist for all; if not, then they can be discarded for all, according to their own, rather than others' terms.

For the donor offspring, the observation made by Fisher (2004) is relevant:

the crisis of confidence in the intelligibility and liveability of the truth among many [results in] the temptation to put the truth out of our minds when it is threatening and go for something more comfortable...many people today seem to live in a kind of permanent moral sedation, even anaesthesia -

whether induced by those literal narcotics so readily available....or by the umpteen equally effective means of mind-numbing available. 'Don't worry be happy, says the pop culture...Thinking hard will only give you a headache. (p. 284)

This chapter has attempted to show the resultant headache from thinking hard, particularly facing the children of reproductive interventions. Indeed, the crisis of confidence in the intelligibility of the truth is likely to cause a major migraine for them. Parenti (1999) describes a similar aptitude of culture to act as a sedative, and once again he relates critical engagement with this, as important for those seeking meaning. Parenti (1999) describes the invigorating strength of countering this sedative, to walk against the tide when going with it is corrosive of something meaningful and worthy of protection. Parenti (1999, p. 18) states "after a while sedatives can become suffocating and irritants can enliven. People sometimes hunger for the uncomfortable critical perspective that gives them a more meaningful explanation of things". The donor offspring are likely to become irritating to others just when they feel most personally engaged and enlivened with exploring or defending their own kinship, identity and existential meaning.

In summary the argument thus far demonstrates that there is a problematic lack of structure and logic to the lives of the offspring of reproductive technology. It has shown that they are collectively placed in a type of kinship disarray. This situation is being institutionally supported and facilitated. This continues despite the fact that anthropological research has identified a consistent need for structure and logic in people's lives: "In all culture, the life cycle is structured by expectations about each phase of life, and meaning is assigned to specific life events and the roles that accompany them" (Becker, 1994, p. 383). Children of reproductive technology are unrealistically expected to be satisfied and fulfilled when immersed instead in uncertainty and contradiction, sedated and desensitized to the corrosion of their own genetic kinship and its normative meaning.

The offspring are born into an infertility industry culture with strong expectations that "the babies love you, they need you... But an adult may have to grapple with the

idea of 'how' am I going to love this little baby that I am not physically connected to? It's more of a problem looking at it from the adult angle" (Susan, cited in Daniels, 2004, p. 66). Exactly why this unequal attribution of genetic discontinuity would be more of a problem for the adult is inherently contestable. Unlike those conceived in other circumstances that are readily recognised as unfavourable, such as one-night stands, affairs, incest, or even rape, or from failed contraceptives, those conceived from reproductive technology are regrettably encouraged to assess their own value as being inseparable from the circumstances of their conception. This thesis hopes to create space for thought, allowing for refutation and freedom from this type of restriction.

### **Hope for the adults: Utilising reproductive interventions to maximise genetic connection**

This section will continue to emphasise the point that subjectivity and passivity in relation to genetic kinship continuity (or the lack thereof), is not expected from the clients of reproductive technology. Indeed, this section further illustrates the reverse: that genetic continuity is treated as an objective issue to be perused with the hope of fulfilment.

Infertility is understood as occurring when a shared genetic child has been sought to no avail (Becker, 1994, p. 391). A literature review on infertility describes "considerable research on the emotional pain and psychological distress" (Clarke et al., 2006, p. 96) which then results for people with infertility. The nature of the distress of infertility is framed and experienced in relation to the *norms and values of the biological parents' role and identity* (Clarke et al., 2006, p. 97).

The loss of genetic continuity is thus predominantly considered to be "devastating and difficult to reconcile" in relation to "dominant social constructions" and expectations (Clarke et al., 2006, p. 109). For those seeking 'treatment', it is described as creating experiences of 'chaos' and 'limbo' (Becker, 1994, p. 383). Meanwhile infertility is encouraged to be understood to be very significant and indeed a lifelong hurt (Daniels, 2004, p. 47).



A leading author in the field demonstrates the ease with which emphasis is varied in relation to genetic significance for parents and then valued as less significant for offspring:

Some people have said that it is a question of coming to terms with infertility, but I doubt whether people ever come to terms with infertility, you may adjust to it, but the loss is so significant that there is always likely to be a gap, and a pain associated with this gap. (Daniels, 2004, pp. 47- 48)

This is a 'gap' likened to a bereavement and the pain and loss are understood and explained as originating from genetic loss (Daniels, 2004, pp. 47- 48). Daniels is a consultant on policy development in New Zealand and a counsellor for parents and families, yet he also presents the donor offspring and their loss as far less problematic: "Echoing the views of these parents, offspring are usually very clear about who is their one and only father, and a lack of genetic connection attachment does not alter that" (Daniels, 2004, p. 65). In this example, the asymmetry of genetic significance and loss is gilded by this associate professor's authority. Thus, deep contradictions pervade through the resulting families. O'Donovan (1985) laments that "arbitrariness is what we have wished upon ourselves" (p. 48). Yet it is clear that the arbitrary aspect of kinship significance that is created in reproductive technology is most specifically attributed to the offspring.

Wasserman and Wachbroit (1992) also identify that the reproductive technology industry has been founded on fulfilling desires, the most important of which is the desire to have a child that is 'essentially one's own'. The object of the industry is to satisfy this as much as is possible, bearing in mind, the various biological impediments. As stated, such a desire:

can only be satisfied by some form of biological involvement in the creation of a child: to have children that are *essentially one's own* [italics added]. Until the advent of reproductive technologies, that desire could only be satisfied by

couples able to conceive and gestate children without assistance. (Wasserman & Wachbroit, 1992, p. 433)

Thus, the reproductive technology industry does recognise the ultimate significance of genetic and social parenting and, importantly, for these things to being unified as much as is possible. Not only is the industry aware of and greatly valuing this genetic significance, the clients are too. Ryan (2002) recognises that the genetic entwinement with social significance is something that acts as a driving force for those who approach the industry when seeking redresses for infertility:

I contend that the biomedical model of kinship is so powerful symbolically that it directs the choice of infertile people towards the ARTs [Artificial Reproductive Technology]. These technologies [were] developed in order to produce as close an approximation of the biological nuclear family as possible. (Ryan, 2002, pp. 229-230)

Ryan goes as far as to add the insight that this genetic significance is also deeply relevant to the 'openness versus privacy' debate over whether or not to tell the offspring of their donor origins. This debate has been described in the 'truth and privacy' section of the literature review in the first chapter. Ryan explains that this debate is founded on each side having differing responses to this issue of primary significance. Both sides attribute intense importance to genetic kinship but disagree about how this issue should best be 'managed' (Ryan, 2002, p. 230). He illuminates that from both openness and privacy responses, "the tensions arise from the ideological attachment to the biogenetic concept of the nuclear family" (Ryan, 2002, p. 230). If the issue were actually immaterial, as is frequently claimed from both positions, such vehement concern and tension about it could not be explained or understood.

Smart (1987) believes that reproductive technology contains the possibility of "rendering biological or 'blood' ties immaterial" (p. 117) and is very enthusiastic to do so. She laments that, as yet, reproductive technology does not adequately challenge the foundations of this. Smart (1987) sees reproductive technology as disappointingly attached to the opposite ideology, that being the "celebration of the

biological nuclear family” (p. 117). In making this observation, Smart also finds the claims of the industry to be illusionary.

Other examples such as the treatment of reproductive implications from cancer, HIV and IVF blunders provide further illustrations of specific interests being pursued in the potential parents having genetically related children. These adult interests can be seen to be supported within the IVF industry when responding to the call for HIV positive couples to have access to assisted reproductive technology, as exemplified by Charles and Spriggs (2003). The argument for the provision of a technique known as ‘washed’ sperm, which decreases the chance of HIV contamination while providing such couples with genetically related children, is treated as compelling (Spriggs & Charles, 2003).

The importance of social and practical support being given to aid people to have genetically related children is also the justification in the provision of IVF services and techniques that are presented as ‘progressive break throughs’ (British Fertility Society, 2002, p. 5). In the next case what is being advanced for cancer sufferers is “the unlimited aim of enabling an individual to become a parent of a genetically related child” (British Fertility Society, 2002, p. 5). Clearly the aim being pursued is not just that of having a *child*, but quite specifically to enable people to have a *genetically related child*.

There are also increasing provisions being made for people with genetically transmitted diseases and sperm motility problems which aim to increase their chances of having genetically related children as well. For example, there is ICSI (Intracytoplasmic sperm injection) combined with pre-implantation diagnosis which is designed specifically to help people to “father *their own genetically* healthy children” (Vernaeeve et al., 2005, p. 26). Here, few are asking why having such children genetically related really matters or are referring to this desire as either contestable or subjective. Indeed, that would probably be perceived as being ‘insensitive’. On the contrary, these advances “may leave little room for AID as a means of alleviating infertility in many couples” (Vernaeeve et al., 2005, p. 26). Evidently, AID (now known as donor conception) is seen and used primarily as a last resort.

The research by Vermaeue et al. (2005, p. 22) which documents the reproductive decisions made by 128 couples with a male partner who was oligozoospermic again strongly indicates that donor conceptions is a last resort. The research found that 36 of the couples had AID without trying ICSI because this was before ICSI was made available. However, once ICSI was on offer "Ninety-two patients opted for AID after an ICSI attempt, mainly because the procedure had failed" (Vermaeue et al., 2005, p. 22). Such examples demonstrate that AID is acting as a form of consolation prize for those unable to be full genetic parents as a couple. While reproductive technology advances in the hope of providing new methods of creating biological children for infertile people, AID acts as a stand-in, with a view to being discarded when it has been bettered.

Importantly for those seeking parenthood, whether cancer sufferers or those advancing the use of 'washed sperm', genetic and social continuity is treated as a normal desire which society should understand, support and fund. The pursuit of such continuity is treated as a worthy cause for science to direct time and resources towards.

It is evident that the infertility industry is responding to a demand, this being the pursuit of maximal genetic parenthood. A poignant example of passionate pursuit of this matter of parental genetic continuity in IVF is provided by Natalie Evans (BBC News, 2005). Evans has engaged in a court battle (at the time of writing) which is proceeding to the European Court of Human Rights in order to use the IVF embryos created prior to her divorce from the genetic father. Since then she has had cancer and has become infertile from her cancer treatment. The ex-husband, and the embryo's biological father has however, withdrawn his consent to the use of the embryos created before their marital breakdown.

The withdrawal of the genetic father's consent for her to use these embryos has resulted in the legal blocking of Ms Evans' access them. Evans' lawyers have argued that she has been left with "no choice other than to take the case to Europe ....They represent her last chance to have a natural child of her own" (BBC News, 2005). Once again genetic continuity is presented as worth fighting for, and even taking to the European Court of Human Rights.

To add to the contradictions provided by the industry and its users, another facet worthy of reflection is in response to IVF blunders. Clinics which have experienced such blunders have been accused of being 'chaotic', with the clinicians referring to these incidents as 'mistakes'. The resultant conceptions deemed to be mistakes have then been serious enough to lead to the suspension of staff (Halle & Rosser, 2002). The fact that such blunders in conception are even considered to be blunders or mistakes adds further ammunition to the point that the biological component of kinship is considered of significant importance, even by those who later treat premeditated genetic discontinuity as trivial for the offspring.

Another such incident has been referred to as a 'colossal mix-up' (Valdez, 2006). The emotive language and reaction to these blunders shows that they are considered to be disastrous. Rather than genetic continuity being treated as subjective, IVF blunders are instead accompanied by emotion and furore:

Meanwhile, a furious couple today described their treatment at the St George's fertility clinic as 'a disgrace'... after the blunder ...[which] led to the two women receiving the wrong embryos. Both patients *had to* undergo emergency operations to prevent them becoming pregnant once the error was realised. (Halle & Rosser, 2002)

Even the journalist reporting on the issue implicitly supports the notion that the resultant non-genetic parenting from the bungle would be serious and intolerable. This position was made evident by Halle and Rosser (2002) stating that the women '*had to*' undergo 'emergency' abortions once they discovered that the child was not genetically theirs. Halle and Rosser provide no suggestion that treating genetic continuity as irrelevant could, or should be entertained in this context. In this case, having a child that is not genetically related is presented as horrendous.

When Hayes (a pseudo-name) had his sperm used by mistake, his adverse reaction is of interest in relation to sperm donation: "They put my sperm into a stranger's vagina" he says. Valdez (2006) describes this man as "normally confident, [but] he crumbles easily these days. When asked about the common assumption that men

regard their sperm as expendable, he begins to cry” (Valdez, 2006). Hayes has filed two law suits in response to this, seeking knowledge as to whether this blunder has resulted in him unwillingly becoming a genetic father, and hoping to be declared the legal father if this is the case. He is also suing the fertility clinic for \$2 million, for malpractice causing “worry and distress” (Valdez, 2006).

Another mix up occurred in Leeds Teaching Hospital NHS Trust. Sperm was accidentally mixed between couples of different races, and resulted in the conception of twins. Six years after the event the genetic mother and social father [under the name of Mr and Mrs A] continue to speak of this as a ‘nightmare’. Mrs A said that the distress at learning of the mistake made her ‘physically sick’:

‘The thought that I’d had children with a stranger felt like a violation in itself. All we wanted was a family. Instead we were landed with a nightmare that will last forever’. Mr A said that the strain had threatened the couple's marriage. (Horsey, 2006a)

The couple have sought advice on the issue and received a warning that “the issue raised by the children and others might become even more difficult as they get older, and that there could be long-term psychological effects on the children” (Horsey, 2006a). In this instance the expectation of foreclosure and this becoming a ‘normal, happy’ family now, is notably absent. Instead, quite the contrary is occurring. Incidents of IVF blunders are being taken particularly seriously, not just on an individual level but also on a systemic one. In the UK, this serious attention has led to the setting up of a ‘blunder alert system’ (BBC, 2003a). Suzi Leather (cited in HFE A, 2005c), reporting as the chair of the HFEA, said: “We hope that the speed of the alert system will reduce incidents happening and all the distress that incurs”. The HFEA refers to such blunders or mix ups as “adverse incidents” (HFEA, 2005f). But if such distress is created by these blunders, it is necessary to ask what exactly is causing this deep distress and with this its recognition? It appears that the origins of the distress are of having one’s genetic kinship ruptured, not as a last resort, but against one’s will or control. Yet, this must be considered a comparably distressing situation to that created for the donor offspring.

The growing concern and awareness of such IVF blunders, has resulted in new DNA testing clinics opening. The following private clinic provides DNA testing “for women who have had IVF treatment to reassure them that their own eggs had been used in their procedure” (BBC News, 2006b). They offer support and counselling, psychotherapy “for those who need it... counselling because results of such tests can often be life changing” (BBC News, 2006b).

Unlike the experience of donor offspring, however, in IVF blunders, there is support and institutional recognition that their kinship continuity and its loss matter significantly. When commenting on another reported IVF bungle, “A spokesman for the Wellington Hospital told BBC News Online: ‘No-one who looks at a case like this can fail to have sympathy with those involved’”(BBC News, 2003). In such cases, it is also apparently expected that such bumbles are likely to be experienced as ‘distressing’ for the offspring. One lawyer involved in a similar IVF blunder case confirms and articulates the expectation of this distress for the offspring; he explains “that the man he had grown up with was not his real father would raise psychological and emotional issues for the teenager” (BBC News, 2003). The use of the phrase *real father*, let alone the recognition of such complexity for the offspring, is commonly reacted to with amazement for the donor offspring.

However, should one expect more distress for IVF bungle offspring than for the child conceived from reproductive donation? The offspring of both experience comparable situations in terms of their genetic and non-genetic family dynamics. So, one must ask why there is the expectation of distress for the child of the bungle and not so for the child of donor conception.

Currently biotechnology is doing its best to apply its knowledge and time to pursue further mechanisms to help avoid such mix-ups. The latest is an attempt to use electronic markers in reproductive interventions. This involves a system with patients wearing electronic tags containing a personal code. All samples of sperm, eggs and embryos would then also be tagged with a matching code. “If unmatching tags are brought together during any procedure then alarms will sound” (Nicholl, 2006).

An ironic exercise is to envision the following response being applied to parents involved in a bungle: Perhaps the couples affected by this would be less concerned

“if attempts were made to acknowledge that genetic parents are just one type of parent and genetic heritage only one way to understand identity and history” (Fuscaldo & Savulescu, 2005, p. 166). If such retorts were given to fraught couples affected by IVF blunders or to their lawyers or media representatives, the likely result would be even greater outrage, and foreseeably accusations of extreme insensitivity.

Starkly contradictory meaning attribution to genetic kinship by the practitioners of reproductive technology has been beautifully exemplified by Savulescu (2005). The above statement referring to multiple types of parentage and identity previously provided, with genetic parenthood being just one of these, is used to dismiss concerns about the rupture of genetic from social continuity for the offspring. This dismissal of grounds for concern can be compared to another article in which Savulescu appeals to the significance of genetic parenthood in order to argue for reproductive cloning: “Cloning could allow a new and important option for people...to create a child genetically related to them” (Savulescu, 2005). Indeed the inconstancy of the importance and then the disregard of genetic continuity is blatant; however, what is consistent is the prioritisation of the parents and the maximisation of their interests.

Another example to show that the infertility industry and its users do not commonly agree with the notion that genetic continuity is unimportant becomes evident when considering the issues shrouding the embryos referred to as spare [sic]. Yet again this research illuminates the existence of double standards: “90% of couples choose to discard their spare embryos” (Fuscaldo & Savulescu, 2005). “Surveys show that one reason that so few embryos are donated is that couples attach great significance to genetic parenthood” (Fuscaldo & Savulescu, 2005, p. 194). “According to a 2003 American Society for reproductive medicine survey, only 2% of the 400,000 frozen embryos in the United States were earmarked for donation, with the majority of them being stored indefinitely” (Reproductive Health Services, 2005).

In reflecting on the importance of genetic relatedness in reproductive intervention, Fuscaldo (2002) demonstrates the capacity to re-evaluate the moral value she has previously been attached to in seeking to preserve biological connection: “if the preservation of biological connection is morally valuable, then the practice of sperm,



egg and embryo donation may be morally weightier than we currently acknowledge” (Fuscaldo, 2002, p. 20). Yet Fuscaldo is specifically writing about IVF clients; there are further steps for Fuscaldo to make in order to incorporate all equally in relation to fully considering the moral value of genetic relatedness for the other parties affected. Without this full and equal consideration for all, there continues to be a ‘cut and paste’ application of the significance of genetic relatedness, with inconsistent and inequitable attributions of meaning being accorded to the child.

The following donor offspring reflects on some of the social ties that are severed in the act of donation. This genetic connection and significance is pivotal in why he would not donate himself:

I could not deprive this child [from donation] and my own children [from within marriage] the right to know who their siblings are. Not only that but they all should have the right to grow up together, not separated. They are brothers and sisters, not cousins or some other more distant relation. Not only should all children know who their genetic parents are, but I also believe (being a father myself) that all parents should know, love and nurture all of the children that are unmistakably connected to them. (Adams, 2006)

Thus if one accepts the kinship fragmentation identified by Adams (2006), the only consistent options would be to embrace the inevitable inequality created, to turn a blind eye to such inequity, or alternatively to give up the practice. The approach most frequently chosen is that of turning a blind eye’ to such inequity, and thus the practice is deceptive. As observed by bio-ethicist Meilaender (1998), there is a propensity for such self deception by the parents in using such reproductive interventions: “In the name of having a child of their own, of biological connection, of kinship and descent” (Meilaender, 1998). The industry thus provides and perpetuates hope for the clients in having maximal genetic fulfilment, but at a price to others.

## **A private matter or big business**

However, there continues to be an unquestioning acceptance of this genetic kinship inequity. This results in a type of schizophrenia in relation to the attribution of moral values to genetic relatedness. Inevitably such schizophrenic self-deception is aided by the mediation process described in chapter two, along with various other contending forces, such as the steeply accelerating demand and profit incentives in the IVF context. Harvard business professor Spar clearly names these forces involved and notes that they produce a “Baby business: How money, science and politics drive the commerce of conception” (Spar, 2006), a particularly unregulated business in the USA.

It is worth noting that in Australia, the IVF industry is worth at least \$170 million with a rate of growth of 8-10% a year (Abboud, 2005). A “willingness-to pay study suggests that to have a healthy child, couples would accept a 20% risk of death and would give up 29% of their income” (Abboud, 2005). With such momentous forces occurring world wide of profit and demand in the infertility business, the inequality of the moral value of biological connection is displaced from vision and accountability. The following is an example of a medical ethics researcher in the UK arguing in favour of the continuing erosion, or as he describes it ‘demystifying’ the value accorded to genetic connection. He provides the following example in order to advance the creation of artificial gametes:

The embryos on which stem-cell scientists experiment are usually donated by fertility patients. Yet if used to create artificial eggs and sperm, their DNA could be passed on to another generation — a big disincentive to donation. If we are to realise the potential of artificial gametes, we must demystify our idea of genes and parenthood. (Smajdor, 2006)

Yet again there is a motive for the industry to realise the potential, not excluding the financial potential of artificial gametes, creating an incentive to continue to erode the significance of genetic connection. This significance is readily devalued, in this case to increase the supply of gametes.

In this instance, instead of the usual appeals being made, which are grounded in genetic continuity as a worthy and cherished norm, as demonstrated for those wanting genetic continuity for cancer or AIDS sufferers, and other forms of infertility, with a motive, the contrary is readily advanced. Arguably such sophistry is most particularly the case for the donor offspring as the following examples will continue to demonstrate.

### **Experimentation and expectations: Focusing on children**

Smajdor (2006) contends that the offspring of artificial gametes would not have an interest in the motives or personality of their genetic parents, if they were conceived from artificial gametes. Apparently, it just would not occur to them. Instead, “such children may just regard the adults who bring them up as their parents” (Smajdor, 2006). Note again the experimental nature of the proposition that the offspring ‘might consider’ their genetic parent insignificant. Despite using his authority as a scientist to make this speculation, he provides no research and a dubious rationale to validate his idea.

The next example provides another less than normal explanation of the kinship and identity for donor offspring: “The meaning of these newly acknowledged kin-like (or cyborg) relations is yet to be negotiated, as it is the same as, yet different from, blood relations” (Ryan, 2002, pp. 238-239). Such terminology and imaginings are extraordinarily bizarre. Again these experimental notions for the offspring are presented as exciting and progressive, like the advances of going to the moon. Unacknowledged in these imaginings are the moral issues raised by the fact that offspring involved are not given the choice as to whether they would like to join such a cyborg kinship and identity experiment. One mother of a donor conceived son states:

I wish for our cyborg babies, my cyborg son, less fear of bio-technology and more wisdom about its uses.... I imagine a template for families that grows and grows until it encompasses all manner of mutations and permutations.  
(Jones, 2005, p. 48)

Perhaps this visualisation is reassuring for the mother but, dubious in its calming qualities for the child.

Absent from consideration is the fact that some parties in these experiments find themselves to be involuntarily involved. They are trapped, unable to leave the parameters and effects of the experiment behind. Indeed, as previously explained, such an experience is similar, in having a lack of control and ruptured genetic kinship, for parents involved in IVF blunders, who similarly stated “we were landed with a nightmare that will last forever” (Horsey, 2006a). The difference for the couple affected by a blunder, is that their nightmare is recognised. For the offspring it is intentionally created and the horror of its effects on them are invariably silenced but far-reaching, resulting in potentially hundreds of siblings and genetic step-families.

Finkler (2001) observes that the post-modern family is “characterised by uncertainty, insecurity, and doubt, its arrangements are diverse, fluid and unresolved” (Finkler, 2001, pp. 237-238). This is perhaps no more the case than for the offspring of reproductive technology. Finkler states this as an academic observation. Yet there is scant regard shown for the distress of those offspring who are affected and entwined in such relations, those who concur with this being an unresolved and insecure entanglement – indeed a lamentable mess that is their life.

Undeterred by such concerns, new research continues to frame family with post-modern, experimental enthusiasm: “My research can speak to the processes that operate in the construction of ‘familiness’...to the new imaginings of ‘Family’ as they drift away from the normative ideal” (Foor, 2002, p. 2). In reproductive technology rhetoric gusto for the post-modern family abounds:

You are entering a social process, not just a biological one or even a parenting process. I think you should be proud of it, as it is almost post-modern parentage. Parenting is changing and evolving. We have the children we have and we chose that way. We can see this as a positive step. (Male from focus group, cited in Daniels, 2004, p. 67)

Again no thought is spared for the offspring who did not and would not choose to live with such kinship configurations and absences. No time is given for those who consider kinship to be innate rather than decisional and fractured prior to being constructed, and normative rather than experimental. Indeed little thought goes to the offspring who are adversely affected by such experiments, such as the following man who expresses the damning impact of donor conception on his wellbeing:

There is a saying that there are two lasting bequests we can give our children: one is roots and the other is wings. I think that donor-conception denies a child both of these. I feel like a tree that has half of its roots missing. And without them, I can hardly stand. (Ellis, cited in Guest, 2006)

These feelings and harms do not generally elicit empathy or caution in new kinship musings to conjure up new configurations. Distasteful as it may be, the idea of the post-modern cyborg kinship system is a metaphor which provides a good description of the cut and paste notion which continues to be presented to the offspring. I have sought to explain this cut and paste of kinship in the following text. This includes the expectation that:

your loyalties and your response to genetic responsibilities and connection can be re-programmed at will. The idea is that you can cut out any attachments that are inconvenient and paste in new ones that feel nice [for the parents]. It is as though a person's mind and their genetic connections are totally malleable. The hope underlying this is that if you explain to the child what happened and familiarise them with the story, then they will erase the biological connections. It is totally illogical. (Rose cited in Moore, 2003, pp. 151-152)

Post-modern kinship is not logical, although perhaps it needs to be.

### **'Education'**

To aid the child in concurring with the erasure of their biological connections there is a range of books to help. They explain the parents' expectations of kinship significance, and insignificance to the child whilst claiming to fill them with a

'progressive understanding' of knowing 'no differently'. The information about their kinship:

can then be given in a factual, non-emotional, matter-of-fact way. By reading these books to a child from infancy through early childhood, the child then develops a progressive understanding and grows up knowing 'no differently'. It is our hope that these books will be helpful to parents. (Grimes, 2005)

The emotional and psychological room for the child to have an understanding that differs to this is again drained away. The eventuality of the offspring having a different attribution to their kinship meaning is rendered unlikely as a result of their early education for acceptance. Indeed, the pressure for the child to conform is exemplified in the framing of this understanding as progressive. Thus, for the child to take a contrary position is by implication regressive. At least one thing is clear: the authors state exactly who this book is designed to help: the parents. Certainly, one wonders how helpful this type of book would be for the psychological and emotional freedom of the offspring.

Thus there is a kinship in reproductive technology, with commissioners who design the kinship programming and clinics that help to bring the design to life. The offspring, along with the others affected, through familial recognition or disregard, are expected to live by these designs. This kinship by commissioning intention, like the cyborg notion, is also being advanced to help justify such projects: "Perhaps a better determinate of legal parenthood in these situations [of conflict] (and for all of ART treatments) is one based on the intention of the [commissioning] parties" (Horsey, 2003). That someone paid for and designed one's existence and kinship is a degrading notion of family and identity, which does not seem to concern those who advocate it.

### **Medical history: Genetics and power**

The aim of this next section is not to explore in depth scientific knowledge about the nature of the intergenerational transfer and expression of genes. What is shown is that medical history, genetics and power have become so closely aligned within the

infertility industry and the families created, that various lacunas and evasions of cultural and scientific knowledge have developed. These ideologies with such lacunas and evasions are being advanced and projected onto offspring. This merging of genetics and power has created shadows, to block out aspects from that which they wish to divert attention; the offspring grow with and within these shadows.

What is being 'cut and pasted' by the post-modern cyborg constructions? It is the attachment and commissioned detachment of the significance for various aspects of genetic kinship. The cyborg notion and its accompanying education provide a vehicle for the parents to promote or demote aspects of the child's genetic identity and kinship that suit them. The following comments exemplify this: "It's the sperm of somebody else. But I think that's not so important. What does it mean? Not much! They are my children" (Sven, cited in Daniels, 2004, p. 65). 'What does it mean?' the child might well ask, and receive this answer: "We have the idea of life that 80% is environment and 20% genes" (Bettina, cited in Daniels, 2004, p. 64), "over and over again, it is not about genetics, it is not about physical biological makeup" (Ali, cited in Daniels, 2004, p. 64).

Even those revered as experts and practitioners in the field commonly support and bolster this form of genetic pragmatism. For example, Daniels (2004) writes "most parents of children conceived by DI agree that it is the relationship they build with their children once they are born that is the most important" (p. 64), and that "love is what holds a family together not genetics" (p. 66). Less well known is that Daniels is also an adoptive father. It is arguable that Daniels' experience of non-genetic parenting and his lack of experience of genetic parenting himself could have influenced his ranking of nature over nurture as being the most important.

It is critical to note that espousing with confidence the demarcation and interplay between genetics and environmental influence goes against current scientific knowledge. Furthermore, by ranking the importance of nurture over nature, this claim runs contrary to the cultural context and accumulated knowledge found in the broader community. The field of genetics has recently "seen remarkable advances but in many ways the advances show us what we do not know" (Hall, 2005, p. 427). The confidence and assertions found in relation to the kinship significance and

insignificance in reproductive technology is out of step with this humility and knowledge. A major new advancement in genetic research is in the field of epigenetics (Harper, 2005). Epigenetic inheritance and the intergenerational transfer of experience show that environmental experience can influence the transfer and expression of genes across many subsequent generations. While “Genetic inheritance is not altered, gene expression is” (Harper, 2005, p. 340). “The ‘take home’ message about epigenetics is that the mechanisms by which cells ‘turn on and off’ gene expressions are being unravelled, but it is very complex” (Hall, 2005, p. 278).

In the cultural context, outside of donor conception, the ‘ideal’ is that of the biological nuclear family and biological parents are conceptualised as the ‘real’ parents (Hargreaves, 2006, p. 280). In the broader culture, beyond donor conception, the disregard of genetic significance is reversed. Research and interest in genetics and genetic inheritance are dramatically increasing in western societies, particularly in the last few decades. For example, research into one’s family tree is ranked as the second most popular hobby in America (Finkler, 2005, p. 1060). Clearly this nature aspect to *who* we are and *how* we are is valued.

From a medical perspective, to further the difficulty raised by presuming that donated genes are unimportant to the offspring, is the connection found between genes and conventional western medicine. This connection between genetic make up may inform diagnosis, treatment and prognosis of many conditions. When this medical connection is related back to culture from an anthropological perspective, this has been described as “the answer to the question ‘Why me?’ rests [in many instances] in one’s family medical history” (Finkler, 2001, p. 245).

Thus to render certain genetic relations irrelevant or flexible to interpretation is counter to this understanding in important ways (Finkler, 2005). Lost with the donated genes, assigned to insignificance or less significance, is the knowledge which accompanies social interaction amongst genetic kin. Such interaction provides opportunities to share information that enables people to avoid behaviours that increase or decrease susceptibility to shared predispositions and vulnerabilities. Particularly in western societies such knowledge creates a sense of control and is



considered of importance (Finkler, 2005, p. 1066). Indeed, outside of reproductive technology the trends we find regarding the significance of genetics are opposite to those being applied to the donor offspring. This increased interest in genetic knowledge and its presumed importance is suggested to be creating a new sense of moral obligation, which is the obligation to alert other family members of genetic medical information that may be pertinent to them (Finkler, 2005, p. 1066).

The kinship alienation that is endemic to donor conception frustrates or amputates these usual channels for this communication, abandoning, discouraging, if not forbidding this moral obligation and sharing between kin. Contained in the cyborg metaphor is the instruction that many donor offspring are raised with: “Genes don't matter” (Merricks, cited in Moorhead, 2004). Or more to the point, certain donated genes do not matter; thus donor offspring are predominantly encouraged to support the pitting of their own nurture against their nature. Responding to this demand to do so is seen as an act of loyalty and as responding to their conception in a ‘balanced and sensitive way’. In this way the donor offspring are covertly being asked to be at war with themselves, to trump the significance of their nurture over that of their nature. Compliance with this notion has been exemplified by the following offspring of an anonymous donor: “Genes don't matter....What matters is how happy your upbringing has been, how you've been raised, not whose genes you share”. (Moorhead, 2004)

The following donor offspring also disregards her donated genetic significance:

The genetics matter less than the relationships when it comes to mum, dad and child...The donor did not play a big role; that part's no big deal for me. But I am glad I know who it is. (Alice Kirkman, cited in Jones & Kirkman, 2005b)

While some such offspring do appear to support this disregard, the issue of ethical perplexity is that this insignificance has been assumed for them, and it has been forced upon the lives of others similarly conceived. This is the problem with

intergenerational effect. Furthermore, this expectation to the offspring is contrary to the prevailing medical (Finkler, 2001) and social culture (Hargreaves, 2006).

The donor offspring are growing in a cultural environment in which the untimely death of celebrity actor and father of a two-year-old girl is discussed with the following imbuelement of meaning for his daughter:

Talking about fatherhood two months ago Ledger said he felt 'good about dying' because he would live on through his daughter.

'I think you also look at death differently,' he said.

'It's like a Catch-22 - I feel good about dying now because I feel like I'm alive in her'.

'But at the same time you don't want to die because you want to be around for the rest of her life. It's kind of like an interesting kind of little set-up.'  
(Pendlebury, 2008)

Such a cultural environment is captured in this quote. The example is provided in reference to the tragic and untimely death of Heath Ledger and shared in relation to his significance to his daughter. Such a culture surrounds the donor offspring and infuses their understanding of genetic parenthood. Even when the genetic parent is absent, in this case through death, the relationship between parent and child is imbued with significance, indeed perhaps even more significance in having a type of transcendental continuity, lasting even beyond death. At a time of bereavement this comment was quoted innumerable times in various news and magazine items. The donor offspring are simultaneously encouraged to reflect on such significance for others while being discouraged from reflecting or attaching similar feelings of significance for themselves, indeed that their genetic father might also live on and in them.

Finkler (2001) describes the juxtaposition of this social versus genetic determinism as providing an "interesting contradiction" (Finkler, 2001, p. 45), acknowledging the inherent conflict in post-modern family constructs versus the significance given to

genetic kinship (Finkler, 2005). Despite such a contradiction being interesting in an academic sense, it is better described as painfully conflicting for many who are created and forced to live within the social strains which result. Through his interaction with adoptees, Finkler engaged with this conflicted human experience, of pitted loyalties being placed on those raised by non-genetic parents. He acknowledged that in such dynamics, the loyalty that is demanded can be tragically obstructive to the adoptee's need for wholeness. Such opposition acts to inhibit the expression and recognition of *both* the *nature* and the *nurture* of their identity and kinship.

This enforced rift between one's nature and nurture can result in lifelong struggles for those managing the gravitational pulling apart of the integrity of the two aspects of the self. Torn between cultural ideologies, for many this can result in a sense of profound and complicated contradiction in their experience: The power of the medicalization of family and kinship, pitted against their experience of love and solidarity with their adoptive families. (Finkler, 2001, p. 246)

Those affected offspring who do engage in the search for completeness by seeking acknowledgement of both their nature and nurture, are readily perceived to be threatening to the non-genetic relatives, including extended family members (Hargreaves, 2006, p. 270). Thus the complexity and emotional charge confronted in this search for integrity is draining and demanding for those placed with this expectation. This issue is further addressed in chapter four.

A DI grandmother inadvertently illustrates the discomfort she has about the DI offspring's full genetic composition; she says she would encourage the parents to:

not really look for the other person [the donor]...in the family tree when it comes along. But surely the donor *gives*, so they haven't got another offspring for their family tree. They give to a couple so that it's *their* child...it's not a somebody- else-in -the-wings. (Joanne cited in Hargreaves, 2006, p. 278)

The child's genetic medical history challenges this denial with accompanying claims of exclusive ownership over the child's kinship. Thus even the child's medical history would be a probable source of discomfort for this grandmother, and likely many others.

The following is an example of the impact on adoptees when faced with incentives that promote community awareness of the genetic and medical importance for those who are kept in the dark about their own medical history. The following was written in response to the reported setting up of: "Software... to help track medical information about our parents, grandparents and other relatives, [complimented by a] National Family Health History Day" (Pertman, 2005), as advertised in the Baltimore Press. The responder to this incentive tried to raise awareness of those adoptees who are unable to access this information, those whom Pertman describes as having "a special, less privileged class of citizenship" (Pertman, 2005). Inevitably various donor offspring also fall into this special, less privileged class, along with others created from an assortment of reproductive interventions. Pertman (2005) describes such well-intentioned software and incentives as acting, for those without this knowledge or contact with their genetic kin, as "nothing more than a mirage, an enticing glimpse of water in the desert that they know they cannot reach" (Pertman, 2005).

The post-modern interpretation of "an understanding of 'family' not so much as a thing...but as a continuing process of negotiation...within specific encounters between individuals and institutions in relations of power" (Foor, 2002, p. 2) continues to assert its projects on the offspring. Interestingly, the power inequalities created from this approach, to which it claims to be sensitive, are most forcibly imposed on those with least power: the offspring:

My son is all flesh and blood....He is not part machine yet he has cyborg under his skin just as I have ART's under mine. This does not reduce his humanity, but it is a part of the power relations that mark his body and mine and the social realm. (Jones, 2005, p. 47)

Even if the offspring did accept this cyborg positioning, to suggest that being treated as part machine is not an erosion of someone's humanity is a contradiction in terms.

It has been observed that “to resist the medicalization of the family and kinship one would have to reject biomedical treatment” (Finkler, 2001, p. 240). Therefore, at least to a certain degree, this is a detrimental and inequitable position for the offspring even if this ascription is accepted by them.

Finkler (2001) convincingly argues the inescapable fact of our connectedness, albeit by our dysfunction and disorders through DNA. “DNA joins the compartmentalised fragmented post-modern individuals to their ancestors” (Finkler, 2001, p. 149). From the concern with genetic family medical history, consciousness is raised in relation to ancestors “uniting the person with them on the basis of common genetic heritage” (Finkler, 2005, p. 1065). This link of family medical history leads to an inevitable slide into the thoughts of the unknown genetic kin. But in reproductive technology, the notion that family can be designed, commissioned and viewed according to certain preferences continues, as the following quotation exemplifies: “Monica could be viewed as Cecilia’s baby and my granddaughter. But we don’t look at it that way” (Smith, 2004, p. 42), thus refusing and refuting the normative dimension to the child’s genetic kinship.

Still this authoritative delineation of who is to be ‘in’ and ‘out’ of ‘families’ is continuously backed by various academics alongside systemic and legal enforcements. In the following quotation, those included are described as being in an ART (artificial reproductive technology) household. Thus what is being implicitly supported is the family as constructed, with others being on the outside of such families, according to the expectations of ART:

Families created through ART may consist of a household with:

- Both biological parents;
- One biological parent;
- One biological parent and a non-biological parent of the opposite sex;
- One biological parent and a non-biological parent of the same sex;
- Two lesbian parents, each of whom has a biological child within their relationship;

- Two parents neither of whom is a biological parent, if the child was conceived using both donor ovum and sperm; or
- More than two parents. (McNair, 2004, pp. 1-2 )

In most cases the genetic relatives not included in the household are correspondingly not included in the family or in the child's medical or social history. It is rare in such situations for the disassociated relatives even to be able to exchange information, blood, bone marrow and so on, unless a known donor has been used, and this is far less common. Yet:

a genetic map of family and kin cannot be easily adjusted. A genetic map is more enduring than any recorded text and in contrast to a text that singles out some and forgets others, a genealogy constructed through DNA attempts to include everyone. (Finkler, 2005, p. 1067)

Thus there is a selective amnesia to genetics as a result of the over-assertion of the significance of social arrangements as opposed to the genetic realities. These social arrangements have been accepted and "appended to medical innovation....a misunderstanding which may lead to much human sorrow" (Sister Regis Dunne, cited in National Bioethics Consultative Committee (Australia), 1990, p. 53). Indeed, human sorrow can infuse and complicate many relationships and can also lead to incorrect medical diagnosis and treatment. Finkler (2001) observed the sad effects on one adoptee:

She lamented that she had not learned sooner that she originated from a family with Lupus, because it would have explained her circulatory problems, such as her cold fingers and toes, especially in winter time. Had she known that this condition was part of her family heritage, she said, she would have been assured sooner that she was not crazy; the doctors had not taken her symptoms seriously until she was able to show that others in her family had suffered from the disorder.... I would have been prepared emotionally. (p. 242).

While maximum genetic continuity is something generally promoted and supported for the clients, a side-effect of this attachment is that there is a frustration as a result of IVF clients not donating their 'spare' embryos (Fuscaldo & Savulescu, 2005). The motive of seeking to free up spare embryos has led to surveys to find out why people are not handing them over; these show "one reason that so few embryos are donated is that couples attach great significance to genetic parenthood" (Fuscaldo & Savulescu, 2005), as has been previously stated. The researchers have reflected upon this, and conclude that; there is "a need to consider educational programs to encourage people to donate embryos" (Fuscaldo & Savulescu, 2005); thus they propose "reasons to rethink the significance of genetic relatedness" (Fuscaldo & Savulescu, 2005). This attachment to genetics, which has been supported for the IVF clients, is less positively favoured when there is a motive to discourage it.

Another study found that a large percentage of the clients who did plan to donate their embryos, then decided not to when they experienced parenthood. The researchers noted a change in the symbolism used by the parents in relation to the embryo: "from representing a chance to become pregnant to representing a 'virtual' child in cryo-storage. The meaning of embryo donation was likened to child relinquishment" (Lacey, 2005, p. 1661). This is admitted to be a "source of frustration and curiosity" by the researchers (Lacey, 2005, p. 1661). Once again the researchers focused on trying to loosen the grasp of genetic significance at this point, so they could then have access to the embryos for various other purposes. This is delicately framed as "to plan effective counselling practices, it is important to understand the dynamics" (Lacey, 2005, p. 1661). The use of the word 'effective' is the greatest indicator of this persuasive intention.

### **Intergenerational coherence: Intrinsic/extrinsic kinship, ethics and justice**

The ethical issues raised by an apparently instrumental support of genetic attachment can be identified from the broader ethical observations below: the first is in reference to such instrumental rationalisation "in anticipating a benefit to themselves their choices fetter reason by abusing one of its practical principles" (Grisez & Shaw, 1988, p. 101). Arguably in this case, the practical principle is that of

genetic continuity and its moral and social value; indeed, this is the practical principle which is then being contradicted.

MacIntyre (1984, p. 256) sharpens our focus on the issue of moral arbitrariness. He explained that when moral cohesion is abandoned, it is swapped for more instrumental and fragmentary rationalisation:

Morality today is in a state of grave disorder. That disorder arises from the prevailing cultural power of an idiom in which ill assorted conceptual frameworks from various parts of our past are deployed together in private and public debates which are notable chiefly for the unseizable character of the controversies thus carried on the apparent arbitrariness of each of the contending parties. (MacIntyre, 1984, p. 256)

This assessment by MacIntyre (1984) of a general state of moral arbitrariness provides some explanation for the apparent apathy shown to the inconsistent attributions of meaning given to genetic kinship in the reproductive technology industry.

When considering the justifications behind the call for reproductive technology interventions and their kinship constructions, it is apparent that there is considerable disparity in the intrinsic and extrinsic values that are attached to kinship. “The intrinsic value of something is said to be the value that the thing has ‘in itself’ or ‘for its own sake’, or ‘as such’, or ‘in its own right’” (Zimmerman, 2004). Consequently, extrinsic value is that which is given, rather than one possessed regardless of recognition.

Throughout this chapter it has become apparent that the appeals advanced by those utilising and providing the kinship services rest on notions of *intrinsic* human kinship concerns and desires. Appeals for empathy, funding, and gametes are not presented as being merely driven by kinship ‘whims’ or ‘wants’ but rather as much more than that, requiring and demanding intervention. Such desire is exhibited as intrinsic in terms of wanting to have children, to have a family, to be a parent, and the appeals inherently legitimise those interested in maximising the client’s genetic continuity to



have their own child. Without the weight of some form of authoritative kinship appeal, such as the appeal to the intrinsic value of this, there would be great difficulty in justifying reproductive technology at all, particularly in terms of State funding, legislative provisions and specifically not for the appeal for reproductive donation. “Indeed, if we could not appeal to authority to establish many of our truth claims, we would be able to make very few claims at all” (Curtler, 1993, p. 80).

Examples in this text that make explicit that such intrinsic appeals about the nature of kinship for the adults are being made are:

- the treatment of infertility is a significant and objective loss
- infertility being recognised specifically as a loss in relation to genetic kinship and continuity
- the provision and use of reproductive technology itself
- the maximising of genetic parenthood as a primary value in the reproductive technology
- the drop in the use of donor gametes when new technologies enabled clients to have *their own* genetic children
- the services promoted and offered to cancer and AIDS sufferers which seek to support them to have *their own* genetic children
- the strong and highly emotive response to IVF blunders.

Indeed, Zimmerman (2004) explains the relationship between intrinsic value in relation to judgements about *moral justice* “insofar as it is good that justice is done and bad that justice is denied, in ways that appear intimately tied to intrinsic value”. The pervasive emotion found in the above examples shows that there is a correlation between reproductive technology and concepts of moral justice. In fact the notion of reproductive justice is found in reproductive technology responding to, and providing the maximal reproductive continuity that is attainable for the clients. There is also the notion of reproductive injustice found in cases of IVF blunders. This reproductive injustice is conveyed when reproductive continuity has not been maximised for the client but instead has been thwarted, skewed or placed in disarray. Such notions of justice and injustice are, however, based on shared values and principles about genetic kinship and morality.

Another example related to the intertwining of the intrinsic value of genetic kinship with moral justice can be found in the moral outcry elicited by involuntary sterilisation. Far from being treated as a banal issue, “Laws that prohibit competent persons' choices for their own sterilization are comparably oppressive and violative of human rights to decide whether and how often to have children” (Cook & Dickens, 2000, p. 61). Furthermore, coercion occurring in this context heightens this moral repulsion (Cook & Dickens, 2000, p. 67).

Thus being able to have and raise a genetic child is presented as an intrinsic and natural desire in relation to moral justice. It is a desire which is supported and protected systemically and intentionally. Yet for the donor offspring of reproductive technology, the value of being raised by one's genetic parents is not accorded the same intrinsic value in relation to moral justice and protection. For them, this kinship value is not deemed worthy of support nor protection and there is a limpness and an arbitrariness in moral reaction to its intentional and systemic removal without due cause. The following single DI mother provides an example of such thought: “boundaries between the child's needs to a father and the father's right to parent are permeable as *if* [italics added] the two needs are identical or at least interchangeable” (Jones, 2005, p. 45). “As if” shows the author's disregard for the equal moral valuing of these things; indeed, she appears to see no need to explain what she pronounces as a *fait accompli*, they are not accorded the same value. For the offspring, the regard for their father is apparently treated as arbitrary, not intrinsic.

Post-modern prescriptions of kinship and meaning are subsequently applied to the offspring, diminishing and implicitly rejecting the value of intrinsic genetic kinship for them. The notion is replaced by ‘constructed’, ‘negotiated’ and ‘built’ families. These are families in which what is good for the parent is certainly not thought good for the offspring.

Perhaps this inequity in the attachment of kinship value is related to the fact that those who approach the industry have been begotten while the offspring have been constructed (O. O'Donovan, 1985). Those who approach the industry ‘just are’, those

who are made by the industry have been 'created', each respectively carrying intrinsic and extrinsic value. Underlying this exchange and creation, it has been observed that "the radical equality of parents and child is wrongly contradicted when the child is brought into being precisely as a product of mastery over materials" (Finnis & Fisher, 1993, p. 36).

It is possible that the problem lies in the underlying logic that is applied that at the time of production. The following is a quote from university lecture material "a person has intrinsic value whereas the embryo has mainly extrinsic value" ("Bioethics Lecture 6: Cloning," 2005) and at the time of their production in reproductive technology the offspring are only potential people, arguably seen as even more extrinsic than the embryo in terms of their utility, kinship and identity. Thus a power dynamic is set, to be lived by, with potential people being contrived to live with potential people's kinships expectations, different to those of the 'real people' and their real kinship recognition.

Making people, particularly through donation, causes intergenerational equity to be disrupted. The equality of kinship, of intrinsic connection to others and consequently the values and rules of the people concerned, become differently placed in terms of their recognition. Thus the following observation can be seen to be dramatic but yet insightful: "in the name of parental or scientific autonomy, [lie] new forms of human domination and subjection" (Finnis & Fisher, 1993, p. 36). Certainly, for some donor offspring, this notion rings true:

I personally believe that the very act of commissioning a donor child fundamentally and irreparably alters something within the parent-child relationship dynamic. The only parallel that I can draw by way of illustration is that of a marriage between a man and a mail-order foreign bride, by which nobody would automatically assume that the marriage would be as mutually fulfilling for either party as a marriage between two people who had met, courted and married in the time-honoured fashion. (Personal communication, used with consent of C. Whipp, May 17, 2005)

Such inconsistency and inequity of values is, however, part of the call for procreative autonomy. It is framed as a requirement of respect “for procreative autonomy – the autonomy of couples to decide for themselves how to procreate, and what children to have” is apparently required (Savulescu, 1999, p. 373). In the desire to support the autonomy of the kinship commissioners, there is a conflation between the various types of family circumstances. With that conflation comes the question as to which family circumstances should be intentionally created and endorsed: “Families in Australian society are heterogenous...these families contribute to the pluralistic nature of our society...ART services have also contributed to the increasing diversity in families” (McNair, 2004, p. 1). Similarly, diversity in society in terms of race and gender is conflated with diversity for reproductive production:

Negative attitudes towards clones would be a new form of discrimination ‘clonism’ against a group of humans who are different in a non-morally significant way. To say that creating a clone is an affront to human dignity is like saying that deliberately creating a black person, or a woman, affronts human dignity. The statement itself affronts the dignity of cloned people. Misinformed bigotry is not a reason to prevent cloning, rather a reason to drop the attitudes. (Savulescu, 2005)

Such is the nature of the autonomy being advanced, that it has been described as without restraint or conscience, and as perilous. Furthermore, it is the “only acceptable orthodoxy...few bother to ask, the important question of whether society actually knows where unbridled autonomy leads” (Neville, 2005, p. 61). Indeed, the challenge of confronting, let alone inhibiting, this autonomy is to engage in a war with “crusades as well as battles over territory” (Jones & Kirkman, 2005a, p. 4), and it carries with it a warning: “We don’t think disapproval is going to...cause people to remain childless without a fight” (Jones & Kirkman, 2005a, p. 2).

These assortments of kinship intervention have demanded acceptance and validation in the name of ‘tolerance’. In the following example, a doctor is actually accusing those who do *not just accept but also embrace* all such types of family construction (and destruction) of being responsible for bad outcomes, and thus of injustice.

The reality of the increasing number of diverse families, and the prevalence of adverse outcomes related to their stigmatisation, combine to provide ample evidence of the need to accept, validate and embrace families that include child-parent relationships that are not purely biological. Only then can we claim to be a socially progressive and tolerant society. (McNair, 2004, p. 4)

The accusation of intolerance has a powerful impact, bringing with it all sorts of unpleasant associations. Curtler (1993) explains: “the word smacks of authoritarianism and intolerance, of invasions by armies or, at the very least, by missionaries” (p. 29). However, as illustrated by the deliberate destruction of kinship and the following examples, the total embracing of ‘tolerance’ is not always an ethical position to assume:

as when onlookers tolerate the frantic cries of a stabbing victim. Furthermore, it may be nothing more than another word for ‘indifference’, which is hardly laudable from an ethical point of view. (Curtler, 1993, p. 29)

Yet the tolerance of all such kinship constructions and destructions is framed in a positive light, with subsequent challenges and pressures thrown down, challenging onlookers to keep “pace with increasing diversity in family form arising from social change and new birth technologies” (New Zealand Law Commission, 2005, p. xvi) . Alongside this is a growing awareness of the precarious nature of these families, not least from the legal challenges that have been mounting. The “open-ended potential for change in the field of assisted human reproduction means that a coherent and principled framework is needed” (New Zealand Law Commission, 2005, p. xv). By omission, what is acknowledged in this statement is that there is currently no coherent principled framework. In this context the observation is made in relation to New Zealand, but it is arguably a fair assessment for much of the world.

It appears that in order to have a coherent, principled framework there needs to be consistency as to what is intrinsic and extrinsic to kinship for all, and further, whether through creating a person there is anything less intrinsic to be accorded to those so produced.

Without this equity in the underlying intrinsic value of the people and their relationships, there is a restlessness, a seeking to make sense and a resolve to adjust but not dismantle the industry that creates and promotes this inequity. The inconsistency and restlessness are demonstrated below:

One current finding was that each clinic has a different approach to the welfare of the child assessment. Although most clinics have a team meeting or an ethics committee to which they refer difficult cases, the protocols for handling welfare of the child assessments vary enormously from one clinic to the next. (HFEA, 2005f)

## **Conclusion**

Evidently conflicting intrinsic arguments are being used within the discourse on family creation in reproductive technology. Arguments and values are not applied logically in both directions with regard to the significance of losses and gains of genetic kinship for both parents and the offspring. Thus the following question is raised: are those who endorse these kinship fragmenting procedures pragmatists who are merely using intrinsic arguments and appeals to moral values for their emotive leverage? If they are not pragmatists, then they must be individuals and institutions that shy away from considering the full moral implications of the grounds on which they justify their own kinship meaning.

As stated at the beginning of the chapter, MacIntyre (1984) explained that one should “Try to conjure up a set of consistent principles behind... a decision and integrity may or may not allow you to find...[those involved] guilty of formal inconsistency” (p. 253 ). This chapter has demonstrated that such formal inconsistency does exist. The provision of reproductive technology rests on inconsistently applied intrinsic moral principles and justifications.

Such contradiction exists while the goal of operating from within a framework which is concerned with the “concrete task of taking the welfare of the child born into account...in a manner which is ethically consistent and well-reasoned” (HFEA, 2005f) is characteristically common. As will be argued later in this thesis, a better

ideal than taking the child's welfare into account, is to place the child's welfare and interests as "a primary consideration" (Office of the High Commissioner for Human Rights (OHCHR), 1989), or indeed *the* primary consideration. However, to be either consistent and well reasoned or to truly value the interests of the child, the conclusions are clear: in order to have moral and intergenerational consistency, intelligibility, equality and justice, either intrinsic kinship value should be consistently applied or it is necessary to drop the appeals made to intrinsic kinship, holistically, for all those concerned.

Presently, reproductive technology is advancing intergenerational injustice where one generation expands its continuity at the expense of a corresponding loss of this for the next. During the process of writing this chapter there has been an increasing momentum of this, predominantly by industry providers, for example in favour of reproductive cloning, particularly for infertile people. The reasoning behind the appeals for this are familiar and typically framed as "cases of infertile couples who choose cloning as a way to have a genetically-related child" (Strong, 2005, p. 45). Again the pursuit of genetic continuity through reproductive intervention is not slowing down but expanding in the range of interventions being appealed for, on both medical and moral grounds. Developments in scientific technique to minimise the physical risks for the offspring are likely to increase the demand for reproductive cloning, 'artificial gametes' and many other experimental reproductive interventions, including multiple genetic parenting, as part of reproductive services to be made available in the near future. A case for cloning clearly argued on these grounds, in the name of 'reproductive freedom' is advanced by Strong (2005, p. 45). The pursuit of parenthood at the price of unprecedented psychosocial experimentation on the child is relentless.

Thus the issues raised by this chapter, rather than petering out, are increasing, making their need for recognition and redress all the more urgent. This chapter has demonstrated the inequity currently created by the one-sided pursuit of genetic continuity for people with infertility . It aimed to show that the relational, ethical issues, inconsistencies and contradictions created for the offspring and others affected have been neglected.

The next chapter seeks to continue to help redress this neglect and considers the significance of genetic continuity more closely, in relation to issues of loss and complexity, in particular but not exclusively for the offspring. This present chapter concludes with a call for consistency in the values accorded to the clients of reproductive technology with that which is applied to those created by it. Meanwhile intergenerational justice (a concept used in relation to environmental issues) is gaining recognition as being pertinent to reproductive technology (Doyal & McLean, 2005, p. 119). In contrast to Doyal and McLean's argument, this is not proposed here in advance of extraordinary technical interventions for reproduction, but in fact, quite the contrary. The quote by Alice Paul, who sought individual and systemic equality for women has some resonance in relation to the themes of this chapter, and indeed for the next: "I never doubted that equal rights was the right direction. Most reforms, most problems are complicated. But to me there is nothing complicated about ordinary equality" (Alice Paul Institute, 2008).



## **Section Two**

### **Chapter 4**

#### **Identity Harm: Lessons from Adoption for DI**

##### **Introduction**

This chapter aims to show that there is a history that is pertinent to donor conception found in adoption. The chapter asserts that the harms identified as a result of both donor conception and adoption are worthy of comparison and analysis. The history of adoption and the mounting identifications of harms along with the trajectory of claims of openness are of interest in relation to the intentional disruption of biological relatedness. The significance of medical history and the prevalence of denial are also informative, providing a starting point for making such comparisons.

The chapter first explores issues which relate to openness and medical history. Then there is a section on adoption and donor conception which addresses the problem of denial and disregard of relational loss. Following this is a critical examination of the phrase “Love makes a family”. The chapter proceeds by asking about the reasons for loss. This is followed by a critical examination of the conceptual immaturity of donor conception. The related assertion of there being ‘big elephants in the living room’ is then pursued. Next the impact of DI on personal and social integration is highlighted, along with the limbo of loss. The ‘family systems’ framework is then applied in order to gain an understanding of DI and its long-term impacts on family systems. Therapeutic support networks are then considered in light of the issues raised by the preceding subsections.

## Openness

The combined chapters in section one have established first, that the most commonly discussed harm to the offspring recognised in the discourse on reproductive technology is that of dishonesty in relation to the nature of their conception. This issue is discussed in the context of a call for greater openness. Such openness is a growing trend in the practice, and is encouraged both by many professionals and the predominant donor conception support groups as “In our view... the best advice” (Donor Conception Network, 2005). Yet here it is argued that the common representations of donor conception as being progressive when providing openness and medical information do not properly address nor respond to the depth of the moral and social issues that are raised in relation to the donor offspring's identity and kinship.

It has been noted that in the UK even the HFEA has closed up its lacuna in relation to this interest by removing the word ‘potential’ from the child's need to know of its donor conception. This has resulted in claims, at least in theory, (and arguably not in practice due to the birth certificates still not recording the nature of their donor conception) of there being a statutory requirement in the UK in support of such openness (Montuschi, 2005a).

However, experience in adoption shows that openness can have differing interpretations. Treseliotis et al.'s (2005, p. 18) description of the historical and legislative developments of adoption in the UK, shows that openness has resulted in a variety of practical outcomes affecting kinship and identity. For example, Treseliotis et al. describe a stage in adoption practice during the late 70's that involved older children with special needs. A twist to the idea of openness resulted in a ‘clean break’ policy of total severance between the child and their birth family. This total severance was simultaneously applied with concurrent claims of openness (Triseliotis et al., 2005, p. 18). In such instances “the fact that it might be in the interests of the child to maintain existing emotional links, went largely unrecognised till the topic was publicly aired” (Triseliotis et al., 2005, p. 18).

It seems that openness was advanced in relation to the fact of adoption but not with the simultaneous exploration of its meaning for the child. An American Government Public Affairs pamphlet from 1969, titled "You and Your Adopted Child", exemplifies this type of advice. The pamphlet stated:

Instances of extreme curiosity and concern almost never happen... However, should a youngster ever raise the question [Who are my birth-parents?], it is important, of course, to make it very clear that a search is unrealistic and can lead to unhappiness and disillusionment. ("The genesis of adoption: Conspiracy of secrets," 1969).

Eventually in adoption, research and public airing of the topic have led to this form of openness being challenged, overturned, and found to be harmful over subsequent decades.

Current research into donor-conceived families reveals that similarly, there is prolific complexity in terms of the application of openness towards the children of donor conception. In UK-based research involving 46 DI families, with children between 4 and 8 years of age, it was found that "39% were inclined to openness and 61% were not. Thirteen per cent had already told their child, 26% intended to in the future, 43% had decided against telling their child and 17% were still uncertain" (Lycett, Daniels, Curson, & Golombok, 2005, p. 810). While openness in donor conception is the current and popular theory, in practice this is stunted, and there appears to be a predomination of fear that the biological connection may represent more significance for the child than the DI parents are comfortable with. For some DI parents this discomfort may be fuelled by the fear that the child may favour their genetic parents. Nearly 30% also felt that openness might affect the relationship between the father and child. Some feared the child might reject them with some fathers being concerned they would be rejected in favour of the biological father (Lycett et al., 2005).

It is apparent that there is a tendency in DI families to experience discomfort towards the child's genetic donor origins. This discomfort may exist concurrently with parents being open in telling the child of the *nature of their conception*. Consequently,

openness in donor conception is predisposed to become adult-centric and be interpreted to mean open about the *method* of conception only, not an openness about the subsequent *kinship meaning and connection this might hold for the offspring*.

While the issues of commonality with adoption will be considered in more depth in this chapter shortly, it is worth noting that it is common for adoptive parents to find comfort in sticking to the issue of such adult-centric openness in adoption experience also. While withholding the fact of adoption from the child is now virtually eradicated from adoption, “people like to talk about this one because it is one small aspect of adoption information which is well known and many have previously thought about...[such openness] seems to gather a huge amount of attention that distracts from the pressing problems of the other 99 point something percent of people in distress” (Rickarby, 1997). This chapter will illustrate that there is much more complexity and loss in adoption and donor conception that can be revealed and this lies beyond the confines of such a popular concept of parental ‘openness’.

The blocking off and/or provision of misleading access to genetic/medical history is a harm to receive some attention in relation to openness. For some parents, once they are open about the means of conception, the issue of needing access to medical history becomes apparent. Concern is particularly raised for offspring who are not informed of their donor conception and hence are both ignorant of and misled about their medical history. However, this is also an area of active discussion in relation to the requirements of screening, record keeping and information to be collected and transmitted in future practice between donors and recipients, and potentially vice versa as types of openness are envisaged.

Somerville (2004) describes a contemporary sluggishness to aspire for consensus to avoid anything other than physical risks, leaving individuals and society perilously unprotected from risks of all other forms (Somerville, 2004, p. 294). Kass (2006), former chairman of the President’s Council for Bioethics (USA) also identifies a similar type of blindness to the assessment of harm: “we are slow to recognise threats to human dignity, to ways of doing and feeling and being in the world that make life rich, deep and fulfilling....the first trouble with ‘dignity’ is that it is an

abstract, and soft one at that. The harm of a broken bone, a burned-down house...are easily recognised". What is less tangible but equally important for protection, Kass (2006) explains, are aspects of human dignity such as "the worthiness of embodied human life... of our natural desires and passions, our natural origins and attachments". Kass is equally concerned that reproductive technology seems perilously lacking in such sensitivity and protection and submits that "we must consider the deep anthropology – both natural and social – of sexual reproduction" (Kass, 2006).

It may well be too little, but some thought has been given to the complexities of kinship in reproductive technology, and to the nature of this experimental context. Such thought has occurred in isolated pockets, and it is in these isolated pockets that resultant concern has been expressed. The following exemplifies the less typical expression of concern in relation to reproductive technologies:

ability to further melt down previously understood elements of the nuclear family...rather than enabling the [technologically constructed] reproductive family to settle down and mature, [instead] they are likely to ensure continuing turbulent developments. (Morgan & Lee, 2003, p. 74)

This phase of enquiry now intends to facilitate more depth in understanding both the harms and complexities that such meltdown and turbulence might cause. Thus it is a response to the call to "become familiar with the...potential risks and harms of a new scientific development... at the level of its potential impact on values, norms, traditions, customs, culture, beliefs and attitudes" (Somerville, 2004, p. 281). Indeed, there has been a call "for an ethical account of human flourishing based on a biological account of human life as lived, not just physically, but also psychically, socially and even spiritually. In the absence of such an account we shall not be able to meet the dehumanizing challenges of the Brave New Biotechnology" (Kass, 2006), in this case, in relation to kinship and identity.

Triseliotis (2000) has extensively researched identity impacts for the offspring raised in a range of contexts: adoption, foster care and residential care. He points to the commonalities found in the loss experienced and warns of the inadequacy of the

radical postmodernist ideology of kinship and identity as that displayed in chapter three: “In postmodernist language nothing seems more positive than fractured and disunited identities and a belief in ‘dynamic instability’...However, anyone who has worked with or interviewed people who lack a core identity and feel fragmented know how stressful this can be for them. With this in mind, adopted people possibly have the best script for the construction of self” (Triseliotis, 2000, p. 95). Thus this is the area of pursuit in the next phase of this investigation.

### **Adoption and donor conception: Denial, it’s not a problem**

The social history of adoption is complex and has been tugged in different directions due to the practice falling under sharply contrasting auspices. Such auspices affecting adoption have been described as those of commercial, sentimental and professional control (Herman, 2002, p. 339) although the influence of each would vary in different countries and States. In this legacy of adoption there has been a long struggle with “chronic uncertainty about what appropriate adoption standards should be” (Herman, 2002, p. 341). In this history of the management and mismanagement of adoption, both abuse and denial can be found. Indeed, particularly evident, in its history, is a denial of the intrinsic loss and complexity now more commonly recognised as inherent to adoption.

Such time and struggle in adoption has eventually affected the practice; it has developed through this uncertainty and difficulty. The practice has journeyed through from times with baby farms that were accepted and promoted by some, while such practices brought shock and horror to others (Herman, 2002, p. 339). In its dark history, adoption has even been used to supplement household labour, and this continued even after slavery had been abolished (Herman, 2002, p. 342). It is through grappling with this turbulent and muddied history that eventually the current professional policies and standards were arrived at. While adoption practice and experience will continue to evolve and are not at a static point of development, this history, struggle and the standards that have been achieved so far, can shed light on donor conception, leading to their exploration in this chapter.

Through focusing on the harms caused by the outdated practices of family separation in adoption (and as we shall see later, when looking at the Australian Indigenous Stolen Generations), it is apparent that a particular type of denial has been common in the initial establishment of these practices. This denial relates to the significance of relational loss that continues to affect all these groups intergenerationally.

There have been government inquiries and efforts to bring to light the complexities and losses that have been created from the earlier and zealous forms of adoption practice. Calls for:

public account of major and common effects of past adoption practices, specifically addressing the power and coercion applied to the helplessness of those who lost their baby....education about the difficulties faced by adoptive parents...with special difficulties of the adoptive relationship at each stage of development. (Rickarby, 1997)

Treacher (cited in Treacher & Katz, 2000) details the inadequacy of adoption which historically rendered a “rather simplistic view of adoption lead[ing] to a denial of its difficulties and complexities. The call for ‘love’ as if it will simply repair and make good the losses and absences of the human condition in general, and the adoptions situation in particular, is no longer feasible or realistic” (Treacher, cited in Treacher & Katz, 2000, p. 11). Left unaddressed, and later identified as a deficiency of this highly romanticised initial version, was the inherent pain of adoption (Reitz & Watson, 1992, p. 4).

Such denial and simplistic viewing of adoption has been identified as occurring as a result of early adoption practice having primarily focused on and prioritised the needs and interests of those adopting (Reitz & Watson, 1992, p. 3). In adoption, such prioritisation and lopsided framework for the practice is now less common. The lopsidedness has been replaced by an expansion of understanding and recognition of the lifelong impacts of kinship and identity loss and complexity for *all the members* affected. Key texts currently identify and address the specific developmental tasks

associated for all the members with such loss, influencing people throughout their *lifetimes*, in for example, “The adoption life cycle” (Rosenberg, 1992).

Such recognition of lifelong feelings of loss and rejection for adoptees has been supported by studies. One such recent UK study summarised the issue by stating “The experience of loss is endemic to being adopted” (Howe, Feast, & Coster, 2000, p. 197). The study found that feelings of loss and rejection in relation to their birth family were not inevitable for all adoptees at all times, but yet that it is a predominant theme for them. Almost half of the adoptees in the study stated that they either always or sometimes felt this loss and rejection, with a significant number feeling this ‘very strongly’ ( Triseliotis et al., 2005, p. 154).

A haunting similarity is found between the now outdated ‘perfect solution’ in adoptions history and that of the current mediated framework shown to function in donor conception (in chapter two). Indeed, the identification of such a similarity has led to some professionals from the adoption field to try to warn of the repetition of mistakes:

From our experience we know of the additional complications that families built through adoption face. And we sadly know how many mistakes we have made in adoption in the past, largely as a result of racing ahead into what appeared to be a marvellous solution to a problem without thinking through the new problems the ‘solution’ would generate....We thus approach the world of new reproductive technologies with concern based on our experience. (Reitz & Watson, 1992, p. 317)

The idea of the perfect solution alongside kinship loss has now largely been recognised and abandoned within the adoption community as a myth: “The myth of the perfect solution” (Rosenberg, 1992, ch. 1 title). In adoption, unlike donor conception, this discarded notion has since been replaced with a more common acknowledgment that:

adoption inherently involves loss for all the triad members. The birth parent loses a child, the adoptee loses biological ties, and the adoptive parent loses



the hope of having a biological child. Acknowledgement of losses of adoption and the grieving for these losses is crucial for all the triad members. (Russell, 1996, p. 39).

Importantly, the losses described by Russell as commonly experienced by *all the parties* in adoption, are generally *only* recognised for the *parents* in the case of donor conception. An example of this follows: “those of us who have used donor conception (DC) to create our families as well as those who have made the decision to do so, have faced considerable disappointment and loss. Loss of our dreams as well as the children we might have conceived in a loving act with our partner” (Montuschi, 2005b). This extract has been written by Montuschi, mother of two donor conceived offspring, and founding member of the UK-based Donor Conception Network. Notably, despite being influential as a counsellor, parenting educator and trainer, Montuschi does not appear to give equal consideration to the relational loss for the donor offspring – that of their donated biological ties. Indeed it is doubtful that Montuschi fully recognises the equivalent array of loss as being equally affecting for all the involved parties. Instead, when referring to the donor offspring, the issue is typically reframed as being the potential for sadness as a result of having access to genetic donor information blocked. In another section about the ethical issues, Montuschi states:

Walt and I assume that at some point both our children will go through a range of feelings about their inability to know more about one half of their genetic inheritance. These feelings may range from sadness to real anger at having this information denied them. (Montuschi, 2000)

These quotations exemplify that it is the loss of information which is receiving overt recognition for the offspring, rather than the relational loss which then becomes covert. Walker (used with consent, personal communication, November 10, 2006) describes the relational loss as affecting her in the following way:

when I met my biological father and realised that knowing him had a hell of a lot more to do with *knowing* him than it had to do with information or a photo,

and I feel a deep loss of having not known him for most of my life and his daughters and my other donor conceived half siblings.

Such denial of the intrinsic relational kinship losses and complexities for the offspring is still the norm in donor conception. It is most common for DI parents to deny the use of donor conception *per se* let alone the need for information about their children's origins. Researchers from adoption continue to remark on the incongruence that exists between adoption and donor conception:

lessons learnt from the needs and experiences of adopted people appear to have had minimal influence on the attitudes and practices of donor assisted conceptions and the legislation that allows it. (Howe et al., 2000, p. 198)

Thus, unaffected by these lessons found in adoption, legislation and parents such as DI mother Sally Morgan continue unabated, further exemplifying the continuing presence of the notion of the perfect solution found in donor conception: "I would have thought that....if you're happy with your existence as is and your mother and your upbringing that you wouldn't feel that need to go searching because everything you have around you is fulfilled" (Cohen, 2005).

Low (2005, p. 110) presents the following DI father's reflections which treats the offspring's relational loss as being different:

I acknowledge that a child who is conceived from different genetic material to that of their birth mother and father may well feel different, but whether they consider such difference as being acceptable, technologically and socially, will depend on how well adjusted the child is. In this respect the question of identity, acceptance and diversity are crucial issues that may arise.

Inherent in such a position and un-questioned in the surrounding text, is that any difficulty that might be experienced by the offspring in relation to their identity or kinship loss is best defined as 'diversity' and 'difference', presumably to be subsumed in the acceptance of this.

In a further study by Kirkman (2004a), 'Alison' said of the offspring created from eggs she donated to her sister, and also in relation to the genetic offspring she raises "Let's hope we all raise happy, healthy, well-adjusted children who will always know how special they are and how desperately they were all wanted" (Kirkman, 2004a, p. 16). In this example Kirkman (2004a) did refer to and acknowledge a "dynamic tension", as previously noted in chapter three, yet this tension regarding genes and relationships, and the consequent adverse pressure on the offspring from this, still remains largely unaddressed.

Numerous examples can be found of parents through donor conception disregarding the kinship and identity loss for the donor offspring. Another example can be found in the creation of 'single mothers by choice' (Feinsod, interviewed by Ashbrook, 2006). One such mother, Feinsod spoke publicly about a memorable night with her two-year-old who was inconsolably crying for his donor father. She explained that the donor child had seen other children at his playschool with their fathers, and desperately wanted his own. Feinsod described her response to her son. She asserted and reasserted to him that his family was comprised of his mother, himself and their dog (Feinsod, interviewed by Ashbrook, 2006). In so doing, Feinsod evaded the existence and absence of the child's genetic father. Thus she was truncating and dominating the child's expression of grief for his lost genetic, paternal family members.

This dynamic of domination relates to the section in chapter three which described the passivity that is expected of the offspring. Thus the pain expressed by the child is being immobilised from articulation and recognition. Dunne (1996) describes the process that occurs from such domination over children as their grief becomes "not just expressible and hence comprehensible unhappiness, but rather an inarticulate ache or a vague sense of missing or lost meaning" (Dunne, 1996, p. 145). This results in obstacles and difficulties for the offspring in making sense of their lives: "for we make sense – or fail to make sense – of our lives by the kind of stories we can or cannot – tell about it" (Dunne, 1996, p. 146).

An important aspect of the loss which is frequently created and side-stepped for many donor offspring, is the *intentional loss* created by single mothers by choice.

Such single mothers by choice are women who have decided to reproduce with the lack of either a genetic or social father. A contemporary text called 'A thinking woman's guide' to choosing single motherhood states that in the event that this kinship loss does impinge on the wellbeing of the offspring, such adversely-affected offspring could and should seek a therapist. Morrissette (2005) suggests the offspring might do this in their thirties, and "ideally work through their issues - after all, kids are responsible for moving past whatever weaknesses they grew up with" (p. 116).

Somerville (2004) sees that an ethical omission tends to occur in such analysis and highlights "a major ethical difference between the decisions and actions of individuals resulting in children not having a mother and a father and the State or society becoming complicit in creating such circumstances for children" (Somerville, 2004, p. 4). This omission seems to occur when priority and power are given to those who claim to trump the significance of kinship loss by appealing that they have 'the heart' to raise a child.

### **Love makes a family**

Alongside justifications for the intentional creation of single-parent families are other examples that demonstrate the enduring appeal of myths in donor conception. Another common myth is the notion that 'love makes a family'. This idea is readily and enthusiastically applied to reproductive technology and the families subsequently produced. This again, is particularly asserted when denying the significance of genetic kinship loss for the child, let alone the intentionality of this loss. The prevalence of this notion can be found by placing the phrase 'love makes a family' in a Google search. This search produces books, sites and symposiums on gay and single parent families by choice, all proclaiming this catchcry to constitute the core significance of the child's kinship and well-being.

Undeniably love is important to human relations, including towards children conceived from artificial interventions. However, the notion that love (alone) makes a family, and that this love totally protects a child from all conflicting interests and harms is something which should be questioned and re-examined in relation to its

historic inadequacy in other relevant kinship examples. Patently, adoptees have not been claiming that they were all raised without love, although some have been. Predominantly adoptees are passionate to convey the contrary, as is represented by research (Triseliotis et al., 2005, p. 133).

Lovelessness has not been found through research in adoption to be the dominant theme or loss identified as problematic for adoptees. In fact, 77% of the searchers in the latest study by Triseliotis reported that they felt loved by their adoptive mothers (Triseliotis et al., 2005, p. 133). Instead, what is found to be significant and more problematic for them, are the issues raised by the absence of their genetic family. This absence, rather than the absence of love, is what causes the predominant issues and complications throughout their lives. Such ignorance about the inadequacy of the assertion that love alone makes a family continues in reproductive technology despite the fact that experience in adoption and (as we shall see later in this section) also in the *Stolen Generations* shows that recourse to such a myth is misinformed. Moreover, this notion is a myth which cannot be supported by relevant human experience. Thus, unsurprisingly, donor offspring are now stating that despite feeling loved, they have experienced difficulties from feeling genetically displaced or misunderstood: “I always felt loved and cared for but I felt I didn’t quite fit in” (Keeley, cited in Gloger & Sanderson, 2006).

Another example of this appeal to love being used to trump and drown out other concerns about the interests of the child can be found in the media statement given regarding the IVF pregnancy (with donated eggs – possibly also with donated sperm) of a 63-year-old woman. The woman’s statement is familiar, and underpinned with existential debt notions: “we are very happy to give life to an already much-loved baby” (BBC News, 2006a), as if to say ‘if it is a much-loved baby, that would not be here otherwise, there can be no problems to discuss’. The love between the post-menopausal couple was also used by Dr Antinori as justification, stating “when the couple love each other they naturally want to have a baby. Age isn’t important in this decision – what’s important is the physical condition of the mother” (BBC News, 2006a). Of course, the physical condition of the mother is directly related to her age, and is why she was infertile in the first place, but the doctor chose to override this woman’s natural condition.

The justification of love for intentional parental absence was also used in defence of the previously-mentioned single father by choice: “As long as the children have a loving home it shouldn’t matter whether they have a Mom and Dad” (cited in comments by Geddes, in Winterman, 2006). The same argument is put by another person who wrote in solidarity “the important thing is that the children are wanted and loved and you can’t ask for more than that” (cited in comments by Asha, in Winterman, 2006). Yet a donor offspring refutes this justification: “I had been taught by my parents, and at school, that any family is OK so long as somebody loves you. It is not. I wish it were....You can’t put a child or an adult into a situation like this and tell them that all you need is love and care, because it is not true. You need the genetic links, too” (Ellis, cited in Guest, 2006).

Thus the appeal of myths and the notion that love alone makes a family are being used to drown out well-reasoned deliberation and concern about responsible standards for various forms of facilitated conception with reproductive technology. Grisez and Shaw (1988) wrote about ethical issues that are as relevant now as they were then. They help to focus on the matters involved in the ethics of love and explain that it is:

necessary to make the distinction between the rightness or wrongness of what we do and our individual guilt or innocence in choosing to do it. It is possible to commit atrocities with a good heart, just as it is possible to cause genuine benefits with evil intentions. In the first case the goodness of the intention has no effect on the badness of what is done; just as in the second the goodness of what is done has no effect on the badness of the intention. The intention and the action are and remain distinct, and each must be considered in making judgements about the morality of one’s own or other people’s actions. (Grisez & Shaw, 1988, p. 73)

Grisez and Shaw (1988) identified an ethical problem with appeals to the ethics of love, stating that this invariably leads to the concealment of harm, as those making such appeals “do not sufficiently consider the enormous ambiguities involved in the use of the word”, indeed that the issue is not that one loves but “*how* one loves”

(Grisez & Shaw, 1988, p. 115). They explained the need for recognition of the complexities that are involved in making moral judgements, and confrontation of this complexity inevitably leads to the need for standards, and to a degree of discipline in setting these, and therein is the need for ethics. Grisez and Shaw explained that it is through having the “conflict of loves” that is invariably at the heart of moral problems:

Because our conflicting loves make conflicting claims ...we are forced to seek a standard for making moral judgements, and this seeking is the beginning of ethics. To say ‘follow love’ is not an ethics at all but a refusal to take ethical problems seriously....For those whose love is more or less imperfect the advice to follow love only amounts to saying ‘do what you please’....But in the end to do what one pleases is to do what one pleases . It is not an ethical position; it is ethical nonsense and moral chaos. (Grisez & Shaw, 1988, p. 114)

Grisez and Shaw showed that such a criterion of love, in the absence of standards, and indeed of ethics, “turns out upon further examination to be no more than a source of confusion at best and, at worst an excuse for shirking the hard work of judging and acting morally” (Grisez & Shaw, 1988, p.108). While technology introduces continuous changes, it appears that some ethical reflections hold fast.

### **Why: At a loss for a reason**

This chapter hopes to elucidate that in order to understand or predict the subsequent impact of kinship loss, it is of critical importance to look not only at the nature of the loss but also of considerable importance is the reasons *why* such loss has occurred. The reflections of the author and mother Morrissette (2005) have provided a poignant example of the absence of such depth in her consideration of this issue. She has not reflected on the moral and legal differences found due to the intentionality of loss caused to another. Ironically, Morrissette (2005) neglects this significance while claiming, even in the title of her book, to provide the ‘thinking woman’s guide’ (Morrissette, 2005).

The aforementioned single father by choice also appears unperturbed by his actions in deliberately creating an absent mother or mothers (genetic, gestational and social). Interestingly, he states that finding “a woman to just have a baby with” would be something troubling to him as he “didn’t think that would have been ethical or morally justifiable” (Winterman, 2006). He appears to consider his actions as morally different to this, although he does not explain why, certainly not in relation to the intentional maternal loss for the children.

Attention to the issue of intentionality reveals that:

there is a fundamental distinction in both legal and moral theory between what one does and what happens to one; between creating a problem and a problem’s happening....it is one thing to allow adoption in order to minimise harm; it is another altogether to create an institution that traffics in human life (whether money is exchanged or not).....there is a world of juridical and moral difference between mere death and homicide. (Laing & Oderberg, 2005, p. 334)

There is an important distinction to be drawn between what the ‘universe does not provide’ as a matter of chance or misfortune, and condoning the intentional creation of loss for another, particularly when created as part of the bargaining for another’s gain. In these cases, the loss created for the child, caused by a parent’s pre-arranged separation from half of its genetic family, suits the other parent’s interest in experiencing parenthood, free from the unwanted legal and social encumbrances normally associated with this.

The significance found in the intentionality of the consequent kinship loss is worthy of further attention. While adoption is currently described as “a way of providing a family for children who are not able to remain in their family of origin” (Howe et al., 2000, p. 199), it is important to note that adoption is not now driven by the desire to provide children for people who cannot have one between themselves. The primary purpose of current adoption practice and policy is instead that of providing a family for children who by necessity cannot remain with their family of origin. Thus if the need for a family by a displaced child intersects with, and is subsequently met by, an



infertile couple who desire to raise such a child, this is a bitter-sweet coincidence. The infertile couple's desires have not, however, been the driving force behind the child's genetic kinship loss and realignment.

Donor conception creates similar dynamics of kinship realignment, transferring the social recognition of the child's connection away from the donor/genetic parent and family and onto the non-genetic parent and extended family, as is found in adoption. However, the important difference is that the above philosophy and ethic have been reversed in so doing: donor conception provides adults with a child, as a last resort for them, when they cannot have one between themselves from within the family of origin.

Velleman (2005) a professor of philosophy, is similarly struck by the inherent difference found between the deliberate nature of the loss of the donor child's genetic 'donated' family, found in donor conception, and adoption:

Surely, we would be horrified at the thought of intentionally creating abandoned children in order to satisfy the desires of prospective adopters. This scenario is of course a macabre fiction. But the current reality is that we intentionally create children who have been abandoned by one biological parent, in order to satisfy the desires of the other. Isn't this scenario at least half-macabre?

Velleman explains that the rationalisation behind such intentional abandonment is framed by the implicit assertion and ideological claim that genetic kinship ties are irrelevant; specifically, it is the donor – donor offspring ties of genetic parent and child which are treated as irrelevant: “that ties of blood do not matter -- that a child born already estranged from a biological parent is not born significantly deprived” (Velleman, 2005). This is a claim which Velleman describes as macabre in terms of its conflict with normative frameworks and understandings of the significance of kinship. Such normative understandings are found in adoption, and indeed have been spotlighted in chapter three as highly significant for those who seek to maximise their own genetic continuity through reproductive technology.

So it is pertinent to ask: why the disparity in relation to the significance of genetic kinship loss shown to the offspring of reproductive technology? For example, “If adopted people and donor offspring have various needs around matters of identity and connectedness, as seems likely to be the case, the manner of meeting those needs is likely to require similar legislation and professional practice” (Howe et al., 2000, p. 199).

Not only have research and experience in adoption shown that issues arise from the absence of the family of origin in adoption which often result in the adoptee having a heightened propensity for feeling loss and rejection (Howe et al., 2000). Importantly it has been found to be crucial in the processing of this loss, for the adoptee to establish the reasons as to *why* this loss has occurred – indeed to establish ‘*why*’ has been found to be one of the driving reasons adoptees had for establishing contact with their estranged kin, along with the need to establish their roots (Triseliotis et al., 2005, p. 158).

It appears that it is pivotal for adoptees to know and believe that their relinquishment was as a result of a painfully arrived at, last resort. Between half and two-thirds of the adoptees in the 2005 Triseliotis study stated that learning of the dire reasons behind their relinquishment lessened their feelings of rejection (Triseliotis et al., 2005, p. 176). Anger was found to be more likely to arise when the adopted person found the explanation as to ‘why adoption’ had occurred, was unsatisfactory to him/her (Triseliotis et al., 2005, p. 179).

This important insight from the experience of adoption has not been adequately applied to donor conception. Such anger and righteous indignation as a result of the intentional creation of kinship loss for the donor offspring appears to have been dismissed as neither legitimate, nor likely. Such dismissal is exemplified by Montuschi (2005b) in the following extract. In this, Montuschi seems to imply that there is no reason for concern about the deliberate kinship loss and its replacement for donor offspring: “as far as blame is concerned...it is highly unlikely that their method of conception will feature”. There appears to be little expectation that donor offspring will recognise let alone seek adequate reasons or accountability for ‘why’

there has been the loss of their relationship with a genetic parent and all associated kin.

This issue has received little attention, yet some research shows that donor offspring do feel significantly affected by loss, abandonment or rejection as one piece of rare research indicates (Turner & Coyle, 2000a). Indeed since such questions are rarely asked, clearly the answers are less likely to be attained. Furthermore, for those donor offspring who do ask 'why' their loss has occurred, there is not the same hope of their finding adequate explanation, as the loss was intentionally created. Unlike the adoptee, the donor offspring is confronted with the knowledge that their kinship rupture was a means to an end, indeed for the ends of the parents who wished to raise them as their own. Their kinship loss occurred to satiate their parents who could not have their own from within their own sexual relationship. Ellis (cited in Guest, 2006) shows how such anger is in fact deeply affecting his relationship with his DI mother:

the relationship with my mum has been very difficult too....she deliberately put me in a situation where I have little hope of ever knowing my father. It is a terrible and cruel thing to do to somebody, to create somebody, and bring them into existence, with that intention. I think now that she didn't understand what she was doing, and wasn't very well informed, but it was still a selfish act.

Indeed in reproductive technology there is a propensity for role reversal in terms of children meeting the adults' needs and interests, as such "an adult's need to be a parent may jeopardize the long-range best interests of the child whose role it is to meet that need" (Reitz & Watson, 1992, p. 318). The following is from a 'blog' written by a woman who describes herself as 'half adopted' due to surrogacy. She was raised by her biological father and social mother. When expressing deeply felt loss as a result of this arrangement it is clear that various people have tried to appease her, particularly other surrogate mothers and parents through surrogacy. Evidently she has experienced the expression and acceptance of kinship needs and losses to be one-sided and dismissive of her own. Her indignation and anger are palpable. Another self- titled 'son of a surrogate' follows with similar sentiments:

You are not sorry about how *I* feel, you are only sorry about how I make *you* feel.... I don't like being your amums' [adoptive/surrogate/egg donor mum's] emotional nappy. The one you piss and shit all over and then in turn I am supposed to soak it all up just to keep you dry and happy. Bugger that. And since we are at it, Bugger you. The whole lot of you. (Willoughby, 2006)

And again this is a son of a surrogate who is expressing anger:

I am angry with my father that he did not have the balls to tell their families the truth and how he was so selfish about wanting a biological baby. I am mad at them both for not thinking about how I would feel about being taken away from my bio mother and family and having my biology separated like this. I am angry with my mother for denying me and treated me like nothing but an egg and a \$8000 paycheck (Brian C., 2005)

While not the purpose of this chapter, further enquiry and reflection on the intentional losses for those conceived from other forms of reproductive intervention, such as surrogacy, is also deeply needed.

Evidently while adoption is described as “a second choice for all the triad members” (Russell, 1996, p. 35), donation cannot easily fit within such a description; to donate can hardly be described as a ‘need’ or a ‘second choice’. A practical reason why it cannot be a need, is because for donation to be performed under a situation of duress would run counter to it being presented as an altruistic and un-coerced act of free will. For the parents who commissioned donor conception, it would be disingenuous for them to state that they regret the fact that the child was not raised amongst their donated kin, unless of course they had radically re-evaluated their own actions. Such parents have, by asking for the service, commissioned this loss in order to gain, unattached to the donor and donor family, a child which they had wanted to raise as entirely theirs.

The intractable culpability found in manufacturing kinship dislocations is not, however, unintelligible for at least a percentage of such offspring. Nor is the

response of anger unintelligible. Similar to those adoptees confronted by unsatisfactory explanations for their loss, some donor offspring do regard their situation and its manufacture to be similarly unsatisfactory. Furthermore, there are grounds for indignation and objection directed towards the State's role and complicity in creating this loss artificially. Such donor offspring may support others within the community who reject donor conception with "the thesis that Artificial reproduction is illegitimate for reasons of public policy and common good" (Laing & Oderberg, 2005, p. 331). The offspring may readily agree with the "point about calculation and systematicity is that it is a harm which is freely chosen and hence avoidable. This is not the case with adoption, where typically this practice is a damage-limitation exercise" (Laing & Oderberg, 2005, p. 334)

This chapter wishes to draw explicit attention to the specific ethical, legal and experiential difference between adoption and donor conception, that is, in DI kinship, loss and complexity are readily and systemically created for the offspring. It is then not acknowledged, nor is the relational loss and its ramifications even regarded as an issue for the offspring:

The sperm donor throws his offspring into the human predicament willy-nilly, on the basis of a positive intention to default on the obligations that he thereby undertakes. I don't think that he is morally entitled to bank on their forgiveness in this way, even if they do eventually forgive him. (Velleman, 2008, p. 20)

Velleman provides refreshing moral reflection on this key area of importance, one which has been overwhelmingly neglected.

The depth of the sadness caused by the kinship loss and replacement has been reported to be a surprise to some birthparents when meeting their biological child (Russell, 1996, p. 85). It appears that as a result of this evasion of the depth and sadness (which is a real risk from such intentional parental replacement), some donor offspring will also be responded to with similar surprise by their social and biological parents. Such complexity and its impact is something that could, and arguably should, have received more attention and foresight.

A lesson learnt from unscrupulous adoption practice that can also be applied to reproductive technology is that “Society must stop teaching infertile couples to covet other people's children. It is not healthy” (McEnor, 2004). As such, the loss of children’s relationships and connection to their genetic family is not rightfully created as a means to an end in order to provide parental fulfilment for people with infertility.

### **Conceptual immaturity of donor conception: The consequences**

In 2006 there was finally a quietly mounting concern that “insight into the *consequences* of reproductive technology is still in its infancy” (van den Akker, 2006, p. 98). The conceptual understanding of the relational and identity consequences of donor conception appears to be immature and lacking in insight and understanding, certainly in comparison to adoption.

Brodzinsky and Schechter (1990, p. 74) explain that the search for birthparents in adoption can be best understood as occurring as a result of a deeply driven need, driven by feelings of disconnectedness and disadvantage. In relation to the psyche of the adoptee, this is described as “an attempt to repair aspects of the self that have to do with the sense of disconnectedness from the human race and with the sense of disadvantage vis-a-vis people who are 'born rather than adopted'” (Brodzinsky & Schechter, 1990, p. 74).

Kinship and identity loss and its exploration appear to be motivated by more than just curiosity, at least for some. In adoption, its pursuit has been described as integral to the requirements of healthy psychological and social integration. For the donor offspring, a similar type of drive for psychological repair along with the attempt to come to terms with a disadvantage to their identity and kinship is also likely. However, this is also made more difficult for the donor offspring.

Some professionals with experience in adoption warn of likely psychosocial complexity for donor offspring. Thus they warn of “genetic confusion, difficulty in identity formation (especially, perhaps sexual identity formation), and poor self-esteem” (Reitz & Watson, 1992, p. 320). Reitz and Watson understand and warn that the complexity of kinship loss and replacement, as with adoption, is bound to

impact on family systems and life cycles (Reitz & Watson, 1992, p. 320). Such complexity and difficulty must be approached alongside the intentional nature of it.

The experience in adoption has brought with it a type of maturity, an understanding that “To create an adoptive family, a birth family must be separated. This is one of the emotional and logistical laws of adoption. There is no getting around this fact...the original family is disrupted and the adoptee is displaced” (Russell, 1996, p. 34). Perhaps an analogy can be drawn with organ transplantation to help explain the causal relationship: in order to provide vital organs for transplant, a loss must occur, that is, another person must first die. In normal practice this death is not in response to the patient requiring a transplant; the death is not as a service for this - it is independent of it. If the need for the organ were the reason behind the person’s death, this would be grossly unethical: it would be murder. Adoption practice, when properly performed, has this separation in terms of the delineation between the regretful causes behind the loss. In this case, instead of the tragic loss of the life of the person providing the organs, there is the tragic loss of the relationship between the adoptee and their natural family, resulting in the provision of the child to a subsequent adoptive parent. Donor conception, by its very nature and design, does not have this delineation in relation to the loss created, and so is arguably better suited to the murder for organs analogy.

It is possible that the lack of delineation between the recipient’s needs/or interests in creating the loss and the cause of the loss has resulted in a conceptual immaturity for donor conception. This places donor conception in a conceptual state of arrested development. The arrested development impedes the proper range and depth of understanding of the consequences of the loss and of intentionally creating it, indeed from the psychosocial consequences for those affected. The attainment of such maturity in donor conception appears to be blocked, precisely because there is also no getting round the fact that to create a donor conceived family, the biological donor family must be separated and dispersed and the donor offspring must also be displaced from their biological donor kin. This loss and the deliberate nature of it, is the ethical problem, ethical omission and one of the biggest elephants in the living room of donor conception.

## **Big elephants in the living room**

In this chapter it is asserted that, as with adoption (in fact even more so), there is an “elephant in the living room that no one talks about. Everyone walks around it and pretends it isn’t there even though it’s in the way of everything” (Russell, 1996, p. 43). Many of these ‘elephants’ of adoption have been identified and exposed, for example by Russell (1996, p. 43), but this has taken time and experience.

These ‘elephants’ are thus the issues that were avoided in the initial enthusiasm to give a child to an infertile couple. Lessons are available to those who examine the wreckage found in the historical trail of adoption. In this trail are the implications and lessons of viewing adoption as inconsequential for the child or the family in terms of their subsequent development (Reitz & Watson, 1992, p. 5). Worryingly, there appears to be a propensity for an even larger breed of elephant in donor conception. It seems that the elephants of donor conception continue to grow ever bigger precisely because it would be incongruous to acknowledge such loss, without regret and cessation of the intentional creation of it.

An ‘elephant trap’ has been identified for the parents in donor conception, but this term was not used in reference to the same recognition. The term was used only in relation to a DI mother stating that DI parents must not strive to unreasonable standards of parental perfection, as this created an elephant trap of having impossibly high standards (Montuschi, 2000). However, that DI parents are not reaching perfection is hardly the issue when viewed from the ethical parameters this chapter is highlighting.

For those who do try to reconcile the significant elephants of donor conception, there are many people to be taken into account. It is here that we are likely to find the grieving process impaired by the intentional and reckless creation of its cause. These complications created by donor conception are likely to have impacts not just for the nuclear, but also for extended, family relationships (Reitz & Watson, 1992, p. 319), also impacting on the extended family of the donor.



Indeed little attention has been focused on the impacts and implications for the donor (van den Akker, 2006) nor for the broader network of people affected, such as the biological grandparents who are created and separated from their genetic kin through donor conception. Such people may well also find donor conception to have significant consequences in terms of their own kinship and identity. The following example shows not only the grief a biological grandparent feels about the relinquishment of their grandchild through adoption, but also the poignancy that the grief could be eased by knowledge that, at the time, they could find no alternative to adoption “‘I lost my first grandchild. We just couldn’t see any other way to handle the situation. I still cry about it sometimes’ (Birth Grandparent, cited in Russell, 1996, p. 41). Indeed it is not just for the adoptees that there is comfort to be found in the knowledge that “the decision to choose adoption is usually reached after all the other options have been considered” (Russell, 1996, p. 84), but at least for some grandparents as well. It is notable that one mother of an egg donor states that her “gut reaction was ‘Do not sell my grandchildren’” (Nurturing mother, 2008) when confronted with the idea of her daughter donating eggs.

Such relational connection and disconnection is evident for others, including genetic grandparents affected by donation, and for those others affected, the reasons for the loss, whether it is for financial gain or any other incentive, will be significant. Such a ‘last resort’ for the relinquishment of the genetic grandchild is a source of comfort which is also unavailable to soothe the donor offspring’s grandparents. Again there is no last resort for the relational relinquishment for any other biological family member affected by donor conception, not the genetic aunts, uncles, cousins nor siblings. The comfort of the intervention being a last resort can only be relevant for those who commission it.

### **Personal and social integration**

It is common for adoptive parents to find it difficult to talk about adoption in their family (Russell, 1996, p. 102). This difficulty or subsequent ability for the adoptive parents to attribute significance to the birth family of the adoptee has been found respectively either to hinder or to aid the integration of the social and genetic identity for the adoptee. In effect this hinders or aids the adoptee “to embrace all that he or

she is” (Russell, 1996, p. 105). What is being referred to as ‘all’ that a person is, encompasses both the genetic *and* the social aspects of the adoptee’s kinship and identity.

This type of aversion by family to the whole genetic identity of the offspring can result in hindrance in the personal integration for the offspring, including the integration of the discordant traits of the child. As discussed in chapter three, this hindrance also appears to be highly prevalent for the donor offspring. Certainly research is elucidating that most parents have difficulty informing the child of their donor conception, let alone embracing continuity and kinship with the donor and kin (Gottlieb, Lalos, & Lindblad, 2000).

The following example is of a husband reassuring a gestational mother, using a sister’s egg. What heals and affirms the parents in this case is likely to wound and undermine the full identity integrity of the offspring. The father is ‘helping’ the social mother to sideline the relevance of the donor parent. He reassured her “This is going to be more you than your sister...the only thing that helps from your sister is the fact that she was a DNA model” (Becker, 1994, p. 399). The gestational mother concerned states that she embraced and “adapted that philosophy and [I] have said it to other people, like an affirmation to myself, to try to convince myself that I believe that. And it’s part of my healing process” (Becker, 1994, p. 399).

This is saddening yet unsurprising, especially when donor conception is essentially framed in a medical rather than a relational way (as found in chapter two). The predominance of the discomfort that such parents have with the genetic donor aspect of the offspring’s identity is easy to comprehend, when the majority of parents fail to tell the offspring of their donor conception (Klock, 1997, p. 379). It is evident that they generally prefer to live as though all the family members are genetically related (Gottlieb et al., 2000).

Willoughby (2006) describes a similar difficulty in her identity and kinship integration as a result of surrogacy. The difficulty is:

I've spent my days being used for the adults' needs and having my needs put behind and away because they were not as important. I've spent my life being expected to live as a person I am not, the person who my amum wanted me to be. She wanted me to be "her" daughter and to have all of "her" interests and traits. But I am not just "her" daughter, I am my bmother's daughter, too, however I was not allowed that. She was not allowed to exist in my world and in my heart because I was being treated as if I was born to amum. I was not born to her. I had another mother before she "got" me.

And now I am not allowed to speak and have feelings because it threatens the fantasies you've built or it shakes the foundation upon which the lies you were told and want to believe was built because it makes you feel good about the loveliness of adoption and eternally grateful (lest we not forget happy!).

The difficulty in discussing the genetic truth within the family is partly due to the various uncomfortable confrontations that such discussion can raise. Some of this discomfort in donor conception is described as being due to such a conception being viewed to be a subversive act of bringing an illegitimate child into a family, both by the family and by the broader community (Pfeffer, 1987, p. 94). Thus this difficulty is then entangled with the concern that exposing the parents' infertility would compound social stigma and embarrassment for the parents (Pfeffer, 1987, p. 82).

The majority of such parents therefore seek to avoid this discomfort, and hope to maintain an image of familial integrity. The method employed has been to assert the pretence that the donor offspring belongs genetically to the social parent (Taylor, 2005, p. 192). Thus to maintain the desired social integrity of the family, the identity integrity of both social and genetic inheritance of the offspring is placed in conflict with this. For some DI Dads, researchers have noted that even discussing issues about the family construct and function can be deeply uncomfortable for them: Tim "was uncomfortable with constant reminders about his infertility, and appeared ambivalent about participating in research" (Hargreaves, 2006, p. 265).

Adult DI offspring Ellis (cited in Guest, 2006) reflects on his social father "It must be difficult for a man to accept that he is infertile, and that another man has given his

wife children when he could not....he wanted it to be a secret, as he didn't want anyone to know he was infertile. He obviously found it difficult to deal with, and by being honest about it, he would have had to deal with it". Becker found that male infertility has connotations of sexual inadequacy. Men equate virility with potency and he describes the difficulty men have in "separating their sexuality from their ability to procreate" seeing their infertility as "emasculating" (Becker, 1994, p. 395).

The emotional content which is raised by infertility is something that heterosexual parents through DI are likely to want to subdue, again at the cost of the offspring's full integrity. "The uncomfortable truth is that very few of us would have chosen to have a child in this way. We would have preferred to have the child of the person we love and live with. The delight and joy at being pregnant/giving birth/raising the child is likely to be tempered at one time or another by sadness that this is not the child of the person we love" (Montuschi, 2003).

For the donor offspring to be supported to integrate 'all that he or she is', in relation to both the biological and social aspects of their kinship and identity (as adoptive parents are now encouraged to do), it is apparent that there are these additional barriers and resistances in their way. This is partly because adoptive families do not experience pregnancy and so are less likely to see the option of denial of their non-genetic parenthood as realistic, let alone advisable. As can be seen, the situation bodes ill for donor offspring and their families, because such support, acknowledgement and integration is now recognised as critical for the wellbeing and outcomes of adoptive families (Reitz & Watson, 1992, p. 319), and there is no reason to believe it is not equally important for the donor offspring.

While such knowledge of biological and social integration is more readily translated into practice in adoption, research is illuminating to note how strong the resistance is against such full kinship recognition for donor offspring. Research in Sweden elucidates that despite changes in the law and efforts to encourage DI parents to acknowledge the donor offspring's genetic (donor) origins and rights, most DI parents nonetheless continue to resist this, preferring to keeping the nature of their conception, and with this their origins, secret from the offspring. These parents have

done so despite many such parents sharing the secret of donor conception with others (Gottlieb et al., 2000).

There is a slow dawning that here lies cause for concern, that such integration and acceptance of the donor offspring's whole genetic identity is not being properly recognised nor understood, even by mental health professionals at large (Malave, 2006, p. 6). Malave refers to the donor, in this case the egg donor, as a becoming the "Shadow figure" within the donor conceived family. This shadow figure is explained by Malave, to be internalised by the family, regardless of determined attempts to disregard the donor. Malave concurs that the integration of this shadow donor figure is likely to be greatly complicated for individuals and family systems and that this is likely to adversely affect the capacity of the donor offspring to integrate their genetic origins (Malave, 2006, p. 6).

Louise Jameson poignantly details the effects the lack of such integration has had on her. In an interview with Dreaper (2006), donor offspring Jameson describes herself as having felt like an 'Ugly Duckling' as she grew up (Alluding to the story by Hans Christian Anderson). She explains that the cause of this was a deep discomfort with her appearance, as it was evidently very different from those around her. This unacknowledged difference resulted in her living with a predominant theme of not belonging (Dreaper, 2006). However, when in her forties Jameson did discover information and made contact with her donor kin, her sense of self-integration was aided. Jameson describes its liberating effects on her sense of identity:

'Even just having a name, having a face, having somebody solid - just that information, that knowledge - it just puts a concreteness into me.... I felt shame just come off me - and I never knew that I felt ashamed,' she said. 'It was literally like something physical leaving me. I just felt I was holding my head up higher' (Louise Jameson cited in, Dreaper, 2006)

That Jameson experienced a sense of tangible shame about her identity is understandable and to be expected in donor offspring. This shame was largely subconscious, yet she became more aware of the burdensome effect of this when she was able to contrast it with having concrete information and acknowledgement of her donor father and ethnicity liberating her. This description by Jameson is

informative of the real impact of impediments found in donor conception for proper social integration. However, the resultant shame, expressed by Jameson in the lowering of her head, is primarily unexpected and unacknowledged and its cause remains common in relation to donor offspring.

This goal and journey of social and genetic acceptance and integration has been further described and pursued in relation to adoption. Often it can involve the adoptee wondering what it would have been like to have been raised by their genetic parents (Russell, 1996, p. 46), and mourning this loss. As previously stated, it is natural and important in this process to seek to understand *why* this absence occurred (Triseliotis et al., 2005, pp. 176-177). The goal of acceptance is important in enabling the adoptee to integrate this aspect of their identity. Such knowledge is sadly ignored in the world of donor conception. Adoptive experience shows that “questions about what could have been and fantasies about the possibility of a future are sometimes entertained when relationships are severed” (Russell, 1996, p. 47). Such processing seems to be recognized as a normal human response in adoption and kinship severing.

Of course, at least some donor offspring will reflect on and lament their severed genetic relationships. It is reasonable to assume that this processing is likely to be similar, both in wondering what it would have been like to have been raised by the absent kin and also in mourning this. The frequency of such reflection and mourning for the offspring is perhaps to be measured as part of this distasteful social experiment.

In adoption there is now recognition that:

There are some general issues that may affect an adoptee’s passage into adulthood. The extra emotional burdens of adoption [of loss, dual heritage, identity issues] can cause adoptees to lag developmentally. Even when they are functioning well and on schedule in dealing with their adult role competence, adoptees may experience more anxiety than is typical. (Reitz & Watson, 1992, p. 221)

Similar recognition of extra emotional burdens having the potential to cause lags in development for the donor offspring, is noticeably absent. Instead, the lack of recognition of social and genetic integration is the norm surrounding them, particularly in relation to questions about why this kinship and identity loss has occurred. The following is another extract to exemplify the attention that is frequently given to donor offspring. It comes from the parent, counsellor parent trainer and educator:

Attachment Theory tells us that if a baby's basic needs for food, comfort, warmth and security are met in a consistent way then the baby and growing child will develop a sense of trust that their future needs can be met....Parents in families created through donor conception are much more likely to provide good or what is often referred to as 'good enough' parenting for their children....It is, therefore, much less likely that a DC young person, particularly one who has been brought up in an open household where qualities of trust and respect have been nurtured, would blame parents for their method of conception or bringing them into the world at all. They are much more likely to want to make the best of their lives, whatever the circumstances of their beginning. (Montuschi, 2005b)

Again, the experience of adoption, if applied to the simplistic enthusiasm found in donor conception, would indicate the inherent predisposition for problems at many levels. Adoption workers attest that “our experience with adoption suggests that often the people who are most driven, and who have the resources to pursue their drive, are the most successful in achieving their ends; it also suggests that these people are not necessarily the ones who are best equipped to fill the unique parenting role that adoption requires” (Reitz & Watson, 1992, p. 318). Indeed being successful, driven and resourceful in relation to pursuing and achieving personal satisfaction is not a precursor to kindness, good parenting, truthfulness, insightfulness, nor the ability to meet the needs of others, specifically the needs of those children with complex kinship and identity hurdles to negotiate. The donor offspring are surrounded with this cognitive omission as “almost without exception, research has failed to draw on appropriate psychological theory and has failed to

predict not only the behavior, but also the expectations and underlying cognitions of those involved” (van den Akker, 2006, p. 93) .

Because of the impact of donation on the kinship and identity of the offspring, it is reasonable to surmise that, like adoptees, similarly unique parenting would also be needed, yet unlikely. In the previous example provided by Montuschi, the depth of the complexities for the donor offspring have been side-stepped, instead focusing on the importance of a baby's basic needs for food, comfort, warmth, security and ‘good enough’ parenting. Such good enough parenting does not address the challenges raised for the offspring in integrating their full identity. However, in another excerpt, Montuschi (2000) does reflect more closely on the complexities she has encountered in her parenting through donor conception. In relation to her donor conceived son, she stated:

When he was seven or eight I went through a period of finding it very difficult to relate to him. It was only when I realised that it was because he wasn't living up to my fantasy of what I wanted our child to be like - he wasn't displaying the qualities and talents I had wanted a child to inherit from Walter - that I was able to mourn the child we couldn't have together and accept our son for the truly lovely person he really is. (Montuschi, 2000)

This recognition is important and unusual. While the insight is still deeply adult-centric, the public figure that Montucshi holds in the field of donor conception amplifies hope that this self-reflection and acknowledgement will progress in the future. Hopefully this issue will eventually also be embraced from the offspring's perspective.

However, the challenges of such integration, recognition and complexity, have mainly been disregarded, even by professionals in the field. The following advice to DI parents provides a good example of such omission, from an ‘expert’ in DI families; she informs us: “difficulties would not necessarily be expected for the child” (Golombok, 1998, p. 2343). Instead the total disregard of the donor offspring's genetic parents is supported by Golombok as one of the attractions and advantages



of this means of conception. She enthuses that donor conception is conception without the 'involvement' of the unwanted party (Golombok, 1998, p. 2342).

Kirkman (2005a), the mother of a donor offspring, and researcher on donor conception issues, confesses: "Even today, many heterosexual patients with or without their doctor's encouragement, rely on the chance that a stray sperm from the father may have overtaken the donor's contribution. The possibility of concealment, which was difficult with adoption, was part of the attraction" (Kirkman, 2005b, p. 155). Thus the pragmatic denial of the donor component of the child's existence is the norm (van den Akker, 2006).

For the donor offspring who explains that "I have questions about my history constantly looming in my head" (Narelle, 2005, p. 173), the parents may be unsupportive and have their own heads in the sand about this issue. Thus the donor offspring may carry this burden unaided. In comparison, again in adoption, it is noted that "there can be a constant craving for information about the person being sought. Continually thinking about someone is a way to keep them alive in one's heart and mind" (Russell, 1996, p. 120). This is a similar craving to that described by Narelle and others like her. Yet understanding of such cravings is not carried through from adoption into donor conception, and while relevant, such recognition and support is unlikely to be offered by parents or professionals.

The qualities that are advanced as important to donor insemination parenting such as 'good enough parenting', and "a combination of warmth and control" (Golombok, 1998, p. 2343), like those identified by Montuschi (2005b) are undisputedly of importance to parenting on the whole. Nonetheless, such aspects of parenting should not be advanced while denying the challenges that are integral to genetic kinship displacement. Much like sunlight and water to life, one cannot replace the other for growth and development. Indeed both the nurture of good enough parenting and the nature of kinship and identity have been found to be significant factors for healthy integration and development of a child. Importantly, donor conception parenting is interwoven with complicity in relation to the creation of loss and complexity in the absence of its recognition for the donor offspring. Russell (1996) states that the nature, nurture debate has "special significance" in adoption and

advises that “Perhaps the most useful way to look at the nature versus nurture question is to understand that both parts are important and contribute to the personality of each individual” (Russell, 1996, p. 38).

The impact on parenting after assisted conception is increasingly being understood to have “lasting psychological effects and render women more vulnerable to psychological adjustment and difficulties” after birth (Fisher, Baker, & Blood, 2006). Despite expectations of joyous and problem-free pregnancy and parenthood after ART, such mothers have been found to be six-fold over-represented in Australian specialist residential early parenting services with infant sleeping and feeding disturbances or maternal exhaustion and anxiety (Fisher, Feekery, Amir, & Sneddon, 2002). Negative impacts are only just being acknowledged and discovered. The impacts of such difficulties on the child do not require a leap in imagination.

For the donor offspring who do pursue their genetic and social integration, there is a ‘coming out process’ that may be challenging for the parents. Like the adoptees described as confronting “issues and conflict that tore them apart” by seeking to feel ‘whole’ (Finkler, 2001, p. 246), Jamieson (2006, p. 34) has described her difficulties with her search, and her struggle in gaining help with it. Reflecting on this in her thirties and forties she sought people and groups that:

have listened to me, authenticated my feelings and experiences, and helped me acknowledge and process different facets of donor conception....I have fleeting but ever more frequent glimpses of a new me, grounded in self-acceptance and able to relate to my parents as a more integrated person. (Jamieson, 2006, p. 36)

Such personal and social integration is likely to be an ongoing struggle for donor offspring. The fact that donor conception is framed as a medical procedure means that the outcomes of this practice on the sense of integrity for the offspring could be described as a medical experiment, in particular as a medical experiment on the offspring. The Declaration of Helsinki is a statement of ethical principles to provide guidance to physicians and other participants in medical research involving human subjects. This has been developed by The World Medical Association (2004), which

is the global representative body for physicians. The following is of interest regarding the principles relating to integrity, including the mental integrity of the research subject. Number 21 of their basic principles for research states:

The right of research subjects to safeguard their integrity must always be respected. Every precaution should be taken to respect the privacy of the subject, the confidentiality of the patient's information and to minimize the impact of the study on the subject's physical and mental integrity and on the personality of the subject. (World Medical Association, 2004)

Whether this is a social or a medical experiment, the ethics of the practice appear to be falling under ineffective criteria for the protection and promotion of the full mental and social integrity of the donor offspring.

### **The limbo of loss**

The loss of genetic continuity for those facing infertility and seeking treatment has been described as creating experiences of “chaos” and “limbo” (Becker, 1994, p. 383). Acknowledged through such research is that those affected “felt unable to proceed to the next phase of life. Their culturally propelled sense of motion though time has stopped. They felt trapped in the present” (Becker, 1994, p. 396). Such research makes it evident that the limbo of loss in relation to this genetic continuity is not unfamiliar to the infertile parents and those supporting and treating them. They define “the pursuit of fertility, itself [as] a symbol of continuity” (Becker, 1994, p. 397). Yet this pursuit has an unrecognised domino effect for others impacted by it.

The inability to resolve, or integrate such aspects of kinship and the self have been understood in adoption as detrimental for those affected. The limbo is created by there being “no death, no ending. In adoption, a state of limbo exists that is similar to the dynamics of mourning someone who is missing in action. Not knowing where the person is or if they are alive blocks the grieving process. It is difficult to mourn someone who is alive but unavailable” (Russell, 1996, pp. 46-47). The limbo of loss has also been experienced by some birth parents who find similar trouble in finding resolution to their situations (Russell, 1996, p. 129). Such a limbo can also be

expected for some donors. This is the limbo created from being unable to know of, contact or integrate, their absent genetic children. For many this lack of resolution will be exacerbated, as many donors will not ever know the precise number of children that they have fathered. This alone is a haunting thought.

The previously noted research which was conducted to establish the reasons why most people changed their mind about donating spare embryos after they have achieved an IVF pregnancy is showing that there is a tendency for such parents to develop an increased awareness and fear of such limbo or lack of closure from resultant pregnancies with others using their spares (de Lacey, 2005, p. 1666). It is important to note that this new understanding of such limbo is deterring the IVF parents who had previously planned to donate spare embryos. They developed a fear that “they would always be wondering where the child is” (de Lacey, 2005, p. 1666). Indeed it is striking that this concern about the risk of such limbo was not tangible to them until they had developed the experiential and philosophical maturity to foresee it.

A notable frame shift can be seen in the way such parents view the consequences of their reproductive actions. Despite intending to donate, the frame shift meant that “altruistic values of well-meaning participants were ‘trumped’ by values concerning the relinquishment of genetic offspring” (de Lacey, 2005, p. 1667). Such a frame shift has been described as also being experienced by gamete donors in various discussion groups. The following example is worth quoting extensively. It is written from one donor to another:

I am also a past donor who has, however, also had the edifying and salutary experience of meeting and establishing an on-going relationship with two of my ‘ceded’ children. Perhaps if you are ever also as fortunate you might change your mind about the value of genetic bonds: and especially when you see that your donated child – despite being separated from its biological father- acts like you, walks like you, shares your disposition, mannerisms and numerous other traits. And perhaps you might also have the monumentally life-changing experience of inescapably bonding with that person both

instantaneously and profoundly despite the fact that hitherto you were as strangers to each other. (Linden, 2006a)

This donor father is still searching for his other 'ceded' children; the limbo experienced from their absence is likely to be ongoing and unresolved if he cannot find them. It is also notable that another donor has responded to this post, commenting "I have found myself in the same position that you describe below, I cannot find fault with anything you have said" (Donor White cited in Linden, 2006a). From the experience of adoption, it has been discovered that for those who seek resolution to lost relationships, where this contact is hindered, the limbo can become chronic: "How can a person say goodbye if there has never been a hello" (Russell, 1996, p. 93). When grief is arrested at one phase and denied, "that severe protracted grief has been consistently shown in research to be associated with major poor health outcomes" (Rickarby, 1997).

Donor conceptions are likely to be swamped by this type of relational limbo, particularly for donors and donor offspring as so few separated kin will be able to access records, relatives or information. Few affected will find support in attempts to integrate their whole kinship and identity. Adding to this difficulty is the likelihood of very considerable numbers of relatives being displaced, and that "for those of us produced by DI or any other method of reproduction where we have been purposefully cut off from our biological roots, it means living with a wounded heart that will never heal" (Suzanne Ariel cited in, Franz & Allen, 2001, p. 14).

Indeed of the kin that can be found, some will have died, others will also be unwilling to acknowledge the seeker, and some will have language barriers. Additionally there is a high potential for such contact to place strain on the family dynamics which have formed and sealed without the approaching member within it. There is potential for resentment at the destabilisation caused by the request for acknowledgment of a new family member. Thus the 'hello', prior to 'goodbye' of death can be lost or out of reach for the seeker. Again this has the capacity to result in the continuation of a state of kinship limbo and loss for them.

The pain of this relational blockage, especially when its significance is denied by others, can lead to depression. This negative impact on the welfare of those affected by such depression is explained thus: “the death rate among the depressed is of a similar order to that from heart disease” (Rickarby, 1997). Rickarby draws attention to this in relation to adoption but its insights are also applicable to donor conception. Experience from infertility and adoption has shown that there can be a craving for one’s genetic kin, despite there being no prior social interaction with them. Nonetheless, the lack of relationship with absent relatives can be used to dismiss their significance, thereby exacerbating such grief and invalidation for the isolated family member.

Current research reveals the importance of objects in the lives of the bereaved; these objects memorialize mourning (Gibson, 2004, p. 286). Indeed objects can be used to help in the process of “meditating, and signifying an absence” (Gibson, 2004, p. 286). For those mourning their kin made absent through donor conception, there is a dearth of objects and tangible matter that could act as transitional objects. There is nothing concretely available to help to mediate this form of irreversible absence. For those in mourning, it has been found that such objects can stimulate the senses, bridging the gap of “space/time and separation, things that have been imprinted with the missing person’s shape, size” (Gibson, 2004, p. 290), “both photos and clothing mark time just as they are marked by time” (Gibson, 2004, p. 290), giving comfort. There is a timeless frozen nature to relationships marked by the absence of objects or contact, leaving nothing to feed or bridge the senses or craving.

It is noted that “through experiencing aging, and witnessing death, human beings come to know the metamorphosis of their own and others’ material existence” (Gibson, 2004, p. 290). However, the absence of such ‘knowing’ of genetic relatives, including the absence of sensory or narrative accounts of them, may have the opposite effect as that described above, in effect stimulating doubt and anxiety in relation their own, and others’ material existence. The haunting effect of such absence can be revealed as “shadow figures” (Malave, 2006, p. 6) or experienced as living in “invisible cages” (Rickarby, 1997). These are further described later in this chapter.

As is found to be the case in adoption, such an experience of loss and limbo is commonly exacerbated on significant events that represent this loss for the grieving person. In adoption it is known that exacerbation or inflammation of the loss may well be on a birthday or father's day (if it is the biological father that is absent). "It can be said that an adoptee's birthday is the anniversary of a traumatic event. Some adoptees feel sad around their birthdays or remember birthdays as a time when they acted out or got in trouble" (Russell, 1996, p. 76).

For those separated, even when their grief is relatively suppressed, this grief is understood to be volatile and predisposed to eruption on such occasions: "suppressed grief where the person keeps their grief in secrecy, but fully conscious, distraught, and has their weeping times when alone, and their breakdowns on anniversaries or special days" (Rickarby, 1997). Donor offspring are likely to also have times that represent their loss for them. Many are likely to have times of inflamed feelings, accompanied by intense craving for resolution. At such times some offspring will also reflect on this burden, its lack of recognition, the intentionality and complicity of its creation, further intensifying this raw and painful experience.

For those donor offspring who are unable to contact relatives and who are unsupported in their loss, there is no research to show the long-term effects on them. However, "there are more obvious links between unresolvable grief via the cigarettes, alcohol, benzodiazepines....Eating disorders and dietary problems are common" as are "risk taking behaviors" associated with unresolved grief (Rickarby, 1997). With such knowledge available, it is still the case that this part of the social experiment on donor offspring has not been monitored. Indeed the general focus of research into their welfare is on their medical and psychological status (van den Akker, 2006). At a deeper level some have stated concern that there are "no mechanisms in place ensuring donor children's needs are met" (van den Akker, 2006, p. 94).

It is possible that the grief experienced by some adult donor offspring may adversely affect their ability to form relationships in the future, as relating "in an intimate and trusting manner is difficult indeed when there is any element of grief overlaying

personal development” (Rickarby, 1997). Personal communication with various offspring has heightened the author’s awareness of particular donor offspring who are intensely isolated and vulnerable in their grief. This has been exemplified by the following donor offspring:

sometimes I feel so isolated as apart from the occasional emails I have with Pauline [an adoptee and post adoption counselor in Australia] I don't talk about DI and no one who is physically around me understands and so I don't talk to them. I think I have gone backwards with dealing with DI, it feels so big again that I'm scared to confront my feelings of anger and hurt about it. During Easter there was something in a soap about a boy with 2 mothers and conceived through DI, I was with mum and I just couldn't handle even watching it so left the room and then soon after left the house, didn't talk to mum, she got angry with me and just said in an angry tone 'I won't keep apologising'. We didn't talk about it again. I don't want her to apologise I want her to try to accept what she has done, saying sorry is easy, accepting part of the responsibility and understanding that I will have to deal with this for the whole of my life, that's more difficult and I think it's something mum is not prepared to do.

I've been thinking and feeling that I just don't belong here in the world, I don't think I should of been born, it doesn't feel right. I won't be doing anything to not be in the world, it's just how I feel. Like I first did when I found out, that I'm not natural, that somehow naturally I shouldn't be alive. (personal communication, used with consent of Vicky Perry, May 3, 2006)

This chapter seeks to illuminate the intangible nature for the grief in donor conception, intangible because of the dearth of either sensory stimulus, or social support to validate the existence or significance of the absent genetic kin. While such grief and loss continues to be well recognised as affecting those experiencing infertility, and the lost kin of genetic children who are unattainable though infertility, the offspring are partitioned from this understanding and empathy. Research by Becker (1994) reveals infertile respondents have described their experiences of “infertility as a critical disruption” referring to metaphors of “life and death, order and



disorder” and indeed “efforts they described to ‘stop living in limbo’” (Becker, 1994, p. 384). Evidently this critical disruption, death-like disorder and limbo are capable of being silently transferred and sustained, passing from one generation to the next through donor conception.

### **Family systems**

The consequence of realigning kinship is recognised as both linking and impacting on the family systems of both the birth family and adoptive family (Reitz & Watson, 1992, p. 12). Donor conception practice has trivialised this insight, instead introducing the pretence that reproductive technology “challenges”, “redefines” and “brings about new constructions to kinship” (Taylor, 2005, p. 189). The notion is that a license has been granted, or taken, that presumes to be able to dismiss and recreate the time-honoured rules of human kinship and identity.

Anonymity appears to have provided the backbone to these evasions. For Taylor (2005), the removal of anonymity is described as the key that “re-establishes” the connection between donor and offspring, and effectively re-entangling all the family systems involved. She describes the worry that this may “threaten the bonds between grandparent, sibling, aunts and uncles” (Taylor, 2005, 194). Yet the notion that this connection is not present and lived with, till laws “re-establish” it, is misguided. It is not the laws that create genetic links but the genetic facts themselves, with or without such legal acknowledgement.

Despite imaginings and avoidances, the psychosocial landscapes of those involved in donor conception are, nonetheless, likely to incorporate shadow figures and insecurities relating to missing kin, regardless of anonymity. These shadow figures are likely to influence donor-affected individuals and their family interactions (Malave, 2006, p. 6). Blizzard (1977), the social father of two donor offspring, describes his experiences of ghosts from donor conception and describes his preoccupation “to dispel the ghosts which haunted me and threatened to destroy” (Blizzard, 1977, p. 36). These very ghosts that this DI father wants to dispel and sees as monumentally threatening are those that the offspring may crave and need acknowledgement of.

A similar dynamic has been described in adoption, where adoptive parents may insist on being the only real parents, placing the adoptee under pressure to support this. However, such a dynamic has been noted to be inherently unhealthy for them. The offspring who continue to support such notions are then unable to progress developmentally to the tasks recognised in adoption of “forming an identity that integrates biology and upbringing”, nor are they capable of the conscious recognition of issues of “abandonment”, “self-esteem” or “ambivalence/splitting regarding two sets of parents” (Rosenberg, 1992, p. 197). Indeed the offspring’s self-understanding becomes stunted by their parents’ preoccupations.

Still unacknowledged in the public face of donor conception such as that of ‘family building’ (Daniels, 2004), is this covert linking of the family systems involved. Indeed, the problematic potential of such dynamics within donor conception to impinge on and seriously complicate such family systems remains side-stepped by the simplistic notion of ‘openness’ or the suppression found in ‘secrecy’. The following egg donor shares the surprise she experienced as she started to view her egg donation in relational terms, as opposed to ‘just a bunch of cells’. It is evident that she feels unsure how this new understanding will affect her husband and their future offspring. She expresses difficulty in knowing how to integrate the family systems: “I unexpectedly started to have maternal feelings towards this child...In addition, years later...should you disclose this donation to your partner and your future children?” (Clark, 2006).

The following donor’s wife explains the impact of her, for which she said she had “absolutely no preparation for the emotions we felt when asked for contact between David and a recipient. Talk about stomach-lurching stuff.... My initial anxiety, however, was soon replaced by absolute antagonism, intense dislike and complete jealousy” (Sandra, 2005). The destabilisation one contacting family has had on this donor’s wife causes her to think of the other families to have used her husband’s sperm that will likely also follow in their wake. She dreads this: “I know I shall go through the same emotions as each relationship develops” (Sandra, 2005). The donor unsurprisingly describes himself as feeling guilty, and contact caused him to feel “a state somewhere between physical and emotional exhaustion” (David, cited in Fromm, 1974; Jacqueline, Sarah, & David, 2005, p. 139). This is the donor family’s

reaction. The recipients may also have intense feelings, for example the need to be in control, due to having underlying feelings of threat: “We did not want anonymity to be removed from an egg that I used. We wanted control of information, we’ll just explain to our child that a nice lady helped mummy have a baby” (Evans, cited in Graham, 2005, p. 8).

The conflicting needs of the family systems within donor conception are evidently worthy of greater appreciation, beyond the simplicity provided by either secrecy or openness. Despite the pretensions of donor conception being a simple and momentary medical intervention, instead there are countless family systems indelibly linked by shared blood and kinship. In the case of double donation - that of a donated egg, possibly mixed with donated sperm that can then be implanted in a non-genetic parent (surrogates), for other intended parents again - the complexities and interlinking creates a dense enmeshment of kinship. In reproductive technology there is an interlinking and complexity of kinship of previously unknown proportions. This, multiplied by tens to even hundreds of families which may have used the same donor, also deserves to be fully appreciated.

One author optimistically suggests that we may need to “develop ways of coping with high-volume genetic connection, potentially embracing the families of the donors and the ‘donor siblings’ that have no parallel in contemporary western culture” (Blyth, 2002, p. 191). It is striking that with such a realisation, the intentional creation of this situation is not presented by Blyth as cause for alarm, nor moratorium. Instead, the onus is on ‘developing ways of coping’ and primarily those most affected by this monumental and extraordinary demand are the offspring. The position presented in this chapter is that the intentional creation of such a cacophony of kinship, by one generation, for the next to find ways’ to ‘cope with, is ethically unjustifiable and irresponsible. While Blyth appears to accept ‘what is’, Somerville is one of the few authors to engage in what she describes as “an ethically relevant difference between conceiving a child naturally and helping people to do so through the use of technology. Ethically, we have an obligation not to interfere with naturally occurring reproduction. In contrast, physicians and others who provide access to reproductive technology have a moral responsibility to use them ethically” (Somerville, 2004, p. 44). The cacophony of kinship is not just something that happened, nor are the

problems that result just a universal misfortune, they are instead situations and adversities that people are responsible for creating.

Donor offspring, Myfanwy Walker (cited by Johnson, 2003) explains some of the complexity from her experience of donor conception: "I just think that it's not really an ideal way of forming a family....I've got my father, I've got my dad, I've got my biological grandparents, I've got my half sisters. I've got so many relationships that I have to define using a different terminology to protect other members of my family and their feelings. I didn't have a choice in everything that I have to deal with now".

New studies have started to address the ambiguity and sensitivities Myfanway is seeking to describe: the "notion of the destabilisation of the analytical opposition between 'biological' and 'social' kinship" (Hargreaves, 2006, p. 262). In 2006 there were efforts to make a "unique contribution to the field by including interviews not only with parents but also with extended family members, thereby making an argument that experiences of parenting and forming a family though DI are inextricably embedded in wider kin relations" (Hargreaves, 2006, p. 262) but notably such issues are only just starting to be probed and explored.

There is also the difficulty of publicly stating and sharing these problems without further exacerbating the complexities and sensitivities encountered. The problems within such DI families have been described as a "complex, contested, on-going negotiation" (Hargreaves, 2006, p. 265). Also of interest is the primary responsibility Myfanwy expresses in feeling the driving necessity to protect the adults' sensitivities. Again this reflects the adult-centric nature of donor conception (as seen in chapter two), and its impact on the offspring. Indeed "insight into the *consequences* of donor conception is still in its infancy" (van den Akker, 2006, p. 98). The prioritisation that extended family members show towards the sensitivities of the infertile family member is also a complicating factor in the expression and recognition of the child's genetic reality (Hargreaves, 2006). Strains and constraints placed on the family systems and offspring in particular bear the need for far greater reflection and concern.

Adoptees can struggle post reunion with family systems that have different perceptions of the adoptee and their origins (Reitz & Watson, 1992, p. 242). For the donor offspring experiencing reunion, such struggles are also to be expected (Reitz & Watson, 1992, p. 242).

Donor offspring Walker describes limbo, the complicated enmeshment of family systems and the strains it imposes on her. Again, it is worth quoting from her extensively as she injects humanity into the explanation of the difficult and painful dynamic:

I feel as though I have three families, but that I don't belong wholly to any of them; that I exist in a limbo, torn between the *expectations of who and what should or shouldn't 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 great loss of not being genetically related to my Dad, and of not having known Michael and his family for the first twenty years of my life. I feel a loss from knowing that I have three unknown half-sisters out there somewhere. It's difficult to articulate exactly how deep that emotion runs in me. I do know that just thinking about it almost always brings me to tears (Walker, 2006, p. 24).

### **Therapeutic support networks**

This chapter has demonstrated that the difficulties found in families affected by adoption are recognised, and common. "While there are a minority of secure adoptive families, the vast majority are highly insecure and have dealt with their insecurity by establishing family myths" (Rickarby, 1997). In fact, it is not unusual for the insecurities of such adoptive parents to result in their undermining the adoptee, in a misdirected effort to secure their attachments: "there are many binding behaviors: fostering dependency, undermining confidence and the young person's sense of capability, and by developing 'gratitude' and guilt" (Rickarby, 1997). Clearly the types of difficulties experienced by such individuals and family systems are not always superficially evident, but time and evidence have enabled mental health

professionals to know what to look for in finding unhealthy binding behaviors in such families.

Such difficulties are recognised as important for families and individuals who seek help through the therapeutic encounter (Reitz & Watson, 1992, p. 12). With the accumulation of time and experience, adoption has gained greater understanding, which has been applied within therapeutic communities. The propensity for the dynamics of adoption to create difficulties for the developmental tasks of both family systems and of individuals has consequently been recognised. Unlike donor conception, adoption is now presented as “a factor that therapists would do well to explore routinely as they gather family history and formulate assessments” (Reitz & Watson, 1992, p. 12). The disregard of the genetic parents by the adoptive parents is no longer supported but is instead understood to be harmful to the adoptees, “creating an invisible cage around the adoptee” (Rickarby, 1997). It is known that there is a defensive propensity for genetic and social parents to partition the others off: “In birth families there may be an unspoken rule that the adoptive family is not to be thought about, much less mentioned. Similarly, there may be clear messages given in the adoptive home that expressing thoughts and feelings about birth parents is out of bounds” (Rosenberg, 1992, pp. 128-129). The strain for the offspring seeking integration while negotiating these demands leads to exhaustion and humiliation from such suppression.

Donor conceived families are likely to create similar invisible cages for the donor offspring, disregarding their full genetic identity. Such disregard is still commonly encouraged by professionals. Indeed, research in the UK extols the notion that the donor offspring and families are ‘ok’, with titles such as “the kids are ok” (BioNews, 2001), and “ART children are doing fine” (BioNews, 2002), even when a significant percentage of those families in the various studies referred to have not even been told that they are donor offspring (in these cases most of these offspring are now entering their early teenage years). In such instances, the tensions and avoidance of the implications of the child’s whole genetic and social identity is off the radar for assessment. Additionally, such concern is also commonly absent in those who then report on this research.

The therapeutic community has a few people who are warning that it is not prepared for the impact from the added complexity of donor-affected relationships (Malave, 2006, p. 6). With donor conception a change has been introduced: the two-way relationship between a parent and child becomes triadic. Malave (2006) describes this as a “change that is a dramatic, historical, psychological event which necessarily has some very specific consequences” (Malave, 2006, p. 6). Still, the more popular research commonly presents this parent-child relationship with the simplicity of didactic relationships, colluding with the denial of complexity, and referring to this type of relationship based on such denial as “well-adjusted” (BioNews, 2006).

It is this triangulation of the child's origins which complicates the ability to integrate “a cohesive self identity and self image” which is necessary (Malave, 2006, p. 6). It seems that even the professionals are at loggerheads about the impacts on the child's identity and whether this should be treated as an added complexity worthy of attention. Some argue that such families are ‘fine’ (BioNews, 2006) while others argue that the impact from this triangulation is inevitable and of critical importance, despite currently being mostly unacknowledged and unrecognised (Malave, 2006, p. 6).

As previously stated, it is the removal of anonymity that seems to engage broader consideration of the relational impact and kinship ramifications of experimental family systems. It seems that those who understand the potential for trouble and complexity are those who continue to argue against such openness, as opposed to the simplicity generally expected by those who advocate openness. The following is an example of such concern and advocacy, in relation keeping donor anonymity:

It is no answer to say that the donor knew that this might happen when he donated his sperm. How could he know what he would feel like in 18 years' time, what his life would be like then, whether he would be overjoyed or traumatised by the emergence of his child, whether there would be a wife and family who might object to the sudden appearance of a stranger in their midst?

If, as is claimed, psychological harm can be caused to a child who knows not his father, is there not at least an equal argument about the harm that can be done to the father and those close to him? (Berlins, 2006)

The position advocated by this thesis instead recognises the need for the contemporary fashion of openness advanced by many, yet it also concurs with the damning consequences likely to afflict so many as is the concern of those who advocate secrecy. Another such example follows. Dr John McBain (cited in Kyriakopoulos, 1995, p. 31), a Melbourne IVF clinician wary of the new more open legislation, states:

They are running an enormous social experiment in Victoria. No one has any experience of what will happen to families or children or donors 18 years down the track. I think it will force people not to tell their children; people who don't want another person coming into their lives and family dynamics, particularly if all the children are born from the same donor.

Therein lays the argument against the continuation of the practice *per se*, and the need for better support services for those already affected and afflicted.

To deepen concern about donation-affected families and individuals today is the fact that donor conception has no such comparable ready and waiting support network. On rare occasions, this absence has been acknowledged but without the alarm that would seem appropriate. For example, a doctor of clinical psychology describes this absence and the need for appropriate support networks and then states "in the meantime, we are at a frontier" (Malave, 2006, p. 6). If so, this is a serious and dangerous frontier. Currently, in donor conception, there is no ready and waiting team to count the wounded, nor to heal and specialise in the various themes that may be persistent and problematic. It has been noted with concern that there is still not even a framework presently available within such a therapeutic community to deal with the complexities of donor conception (Malave, 2006).

Further inhibiting the likelihood of attaining appropriate therapeutic help and intervention for people adversely affected by donor conception is that while there



may be such developmental problems affecting offspring and their family systems, they may also suffer from a type of 'false self' or 'artificial self', as is known and recognized in adoption (Lifton, 1994, pp. 51-56; Russell, 1996, p. 72). It is worth noting that false selves are part of a method of self defense for people who fear the enormity of embracing the true complexity of their identity and kinship situation. It is a way of "shutting down in a situation that feels overwhelming" (Russell, 1996, p. 77).

The false or artificial self is understood to be a response to a deep-seated fear of rejection or disapproval, whereby adoptees suppress their own feelings and development and become more familiar and comfortable being false (Russell, 1996, p. 72). Those contemplating the human impact of reproductive technology would do well to take heed of the understanding that:

the artificial self is artificially created. It is a social constriction, an *as if* self living *as if* in a natural family. Wanting to fit in at any cost ...afraid to express its real feelings, such as sadness or anger, for fear of losing the only family it has....the artificial self may behave like a perfect child but feels empty within. It may look real to others but does not feel real. Having cut off a vital part of itself, it sometimes feels dead. (Lifton, 1994, pp. 52-53)

As expected, this sort of difficulty has been described by some donor offspring to date, for example:

I think there is something not exactly right about how I react to things as most of the time I don't react. I don't have any strong reactions and don't really have much of a weak reaction either. During Easter I witnessed a car accident where a bloke on a motor bike was knocked off his bike, landing some distance from the car and the bike finishing up even further away. We called for an ambulance but I didn't really feel anything, no shock or surprise, just a calm acceptance of it. Just like I seem to do with DI stuff most of the time. The fight, anger and hurt are inside me, I sometimes feel them for a short time, it's so big though, welling up inside of me. It's like I have a fuse inside of me and if something will overload my emotions it breaks and I feel a dulled down

weaker version of my true feelings. (personal communication, used with consent of Vicky Perry, May 4, 2006)

Whipp (cited in Moore, 2003, p. 139) explains of her childhood experience “I was with the wrong people in the wrong place” (Whipp, cited in Moore, 2003, p. 139). Moore interviewed Whipp and expands on this: “even so, the thought was so uncomfortable that she deliberately shut it out of her mind....Even though she felt uncomfortable with herself, she didn’t want to discover that she did not belong” (Moore, 2003, p. 139). Thus an insight for those interested in ‘opening the can of worms’ of donor conception is that such denial and false selves may be consciously or subconsciously acting as an obstacle, and a source of self-protection to be aware of.

## **Conclusion**

There is knowledge and a trail of destruction that has been recognised for the individuals and family systems in adoption. Sadly, the trail has much in common with the practice and trajectory of donor conception. This chapter has sought to elucidate this history, knowledge and its applicability to donor conception. The historic pattern of initial denial and then acceptance of the relevance and significance of the loss from adoption has been placed alongside donor conception to show the disparity and immaturity found in the depth of processing of the identity and kinship issues raised by donor conception.

At present it seems that such issues lie amidst the shadows of donor conception, and are overlooked. For many there is something bright and alluring to myths of the perfect solution. Enchanted by the simplicity of kinship replacement through love, infertile parents tend to receive support to embrace this notion. Contrary to the more commonly found acknowledgment of loss and complexity found in adoption, collectively there is a failure to demonstrate or give evidence as to why a different criterion is used to frame and understand the identity and kinship for the child of donor conception and the family systems involved.

This chapter has shown that donor conception has not been conceptualised by human experience. Collectively the proponents support the disregard of this in favour of a wide-eyed 'wait and see' approach to the rupturing and replacement of kinship and identity in this context. Without this, prioritisations, protection and recognition, the subsequent kinship loss and identity issues are compounded by being both avoidable and systemically created.

Thus this thesis asserts that donor conception and surrogacy, with its intentional loss should not be accepted and institutionally supported. It may be refuted that donor conception is going to happen anyway, and that not supporting it will drive it underground. The ethical response to this is well explained by Curtler (1993): "We must continue to focus on the ethical reasoning process itself, rather than on the practical problems of actually doing the right thing. Saying that an action is not practical does not mean it is not right" (p. 70). Thus to focus on what might be difficult, indeed to confront the practical problems of donor conceptions, current acceptance and perpetuation, are to be supported. To avoid this moral and social call on the basis of it being too difficult or impractical is arguably not an ethically valid response. In light of the lesson learnt from adoption, our human responsibility is to do what is right, not what is easy.

The following chapter supports this argument and draws from the experience of the Australian Stolen Generations to raise awareness of this ethical and social responsibility. It is contended that the human experience of the Stolen Generations further supports the thesis that the rupture and replacement of kinship has profound and disturbing long-term consequences. This further strengthens the prioritisation of the principle that the primary definition of the best interests of the child, including those from potential forms of reproductive technology, is to be known and cared for by their biological family in the first instance.

## **Chapter 5**

### **Identity Harms: The Lessons from the Stolen Generations and the Commonality of Kinship Loss for DI**

#### **Introduction**

To complement and reinforce the lessons for reproductive donation brought to attention from the adoption experience, the case of the Australian Stolen Generations provides further human experience worthy of appeal. The trajectory and impact of the Stolen Generations shows that the personal and social effects of disrupting the unity of social and biological relatedness are devastating. This chapter demonstrates that the impacts of such separation cannot be dismissed or easily resolved at a later date by facilitating a simple information exchange between separated kin. This chapter presents the argument that an important lesson to be gleaned from the Stolen Generations is that such disruption should not be endorsed by states and institutions unless used very sparingly and as a last resort, for child protection. However, the justifications, processes and indeed the efforts to provide support and reconnection between such kin are informative to this critical analysis for donor-affected kin.

This chapter is organised in the following way: first it considers the Stolen Generation and DI and goes on to ask: What is the point? What is the problem? Then it introduces the reunion service: Link-Up. Next the commonality of identity and kinship loss and complexity are explored, as is the commonality of services to reunite. The experience of reunion and continuity follows on from this, drawing on the common experiences previously discussed, and this is followed by a conclusion. The chapter posits that donor conception is a form of kinship destruction and discrimination which is different but relevant to the Stolen Generations, and as such there are lessons from the Stolen Generations that are apposite to the current practice of donor conception.

## **The Stolen Generations and DI**

'The Stolen Generations' is a term used to describe a group of Australian Indigenous people affected by a government policy that involved the systematic removal of Indigenous children from their families and the substitution of these primary care relationships. A National Inquiry concluded that between one in three and one in ten Indigenous children were forcibly removed from their families and communities between about 1910 and 1970 (Human Rights and Equal Opportunity Commission (HREOC), 1997b, p. 37).

However, it is important to acknowledge that the reasons for this removal and the exact number of people affected remains controversial and contested (Manne, 2001). As with donor conception, inadequate data were kept on the number of children affected by this practice, making it impossible to quantify accurately the number of Aboriginal children who were removed from their families, and thereby hindering detailed statistical analysis of the outcome (Hall, 1998, p. 18). This chapter instead details the principles and trends associated with this practice.

The reasons for the removal and practice of Aboriginal kinship separation has been explained as an attempt at social engineering, to aid/force Indigenous assimilation into Western culture (Buti, 2004, pp. 62-63). It has also been described as an effort to provide better educational opportunities (Barbaram, 1997). However, perhaps a more credible explanation is offered by Williams-Mozley (1997), a member of the Stolen Generations, who suggested "the separation of Aboriginal children, first from their family, then from their land, was nothing more, and nothing less than a further strategy to attempt to delimit the number or circumstance of Aboriginal people who would at law, be considered traditional owners". Indeed, Williams-Mozley described the practice as little more than an extension of the colonial conquest and domination over the original inhabitants of Australian land.

Regardless of the motives driving the subsequent separations, the kinship rupture was publicly presented as justifiable at the time, and in the 'best interests of the child'. Notably, this was the same justification for the kinship separation of the zealous and now discarded adoption practices that were discussed in the previous

chapter. As with adoption, the justification provided for creating the Stolen Generations, used at the time, has since been overturned and rejected. Replacing this is the recognition that such kinship fracturing is directly against a child's best interests, unless as a last resort, and necessary to protect their safety and welfare.

A policy which shows the solidification of such recognition and change is the Aboriginal Child Placement Principle, which was implemented in 1983 (Hall, 1998, p. 19). The principle effectively reversed the previous policy of child removal and instead placed in law the protection and prioritisation of keeping Aboriginal children with their biological families. This recognition of the value of such kinship continuity is now regarded as an important aspect to maintaining the child's sense of identity (Community Care Division, 2002, p. 3).

Unsurprisingly, testimonies from members of the Stolen Generations have detailed the adversity experienced as a result of the previous policy of removal and separation: "I think after the experiment I've lost my identity, culture, loss of family, loss of land; just in general everything" (Barbaram, 1997). The reference to the policies behind the separation being a type of experiment resonates with the present day postmodern experiment of donor conception. As in adoption, such kinship experimentation has led to the separated family members providing testimony of experiencing profound loss and burden: "My identity resides somewhere in the hyphen in the middle of my name. In every respect, that is nowhere. Three generations of my family, beginning with my mother and continuing with my sister's children, were removed over the last forty years and either placed in institutions or adopted in the name of Assimilation. We were not allowed to grow up with each other or within our families. Consequently, we do not know each other. We can, in all honesty, be described as 'dysfunctional'" (Williams-Mozley, 1997).

The discontinuation of the policies of separation and the subsequent implementation of the Child Placement Principle were in part in response to mounting public concern and growing awareness of the vandalism this was causing to Aboriginal families and identities. One result of this mounting pressure was the spearheading of a National Inquiry into the separation of Aboriginal and Torres Strait Islander children from their families (HREOC, 1997b). The Inquiry found the need to highlight that there is an important lesson to be learnt from this practice; this lesson is that "the initial

presumption is that the best interests of the child is to remain within his or her indigenous family, community and culture” (HREOC, 1997a, p. 46). Indeed the inquiry found that the omission of this principle has led to “the continuing devastation of the lives of Indigenous Australians [which]...cannot be addressed until the whole community listens with an open heart and mind to what happened” (HREOC, 1997a, p. 4).

As with adoption, it should be noted that grief and loss were found to be prominent themes that resulted from this kinship separation (HREOC, 1997b, p. 3). It is also important to appreciate that the resultant harm of this separation continues, and is having a significant negative impact across subsequent generations (Hall, 1998, p. 23; HREOC, 1997b, p. 3).

In harmony with the experiences previously described in adoption, such loss in relation to kinship and identity has been experienced despite various members of the Stolen Generations stating that some of the children were nevertheless raised with love. Read (1999) describes a gradual dawning of loss, which occurs for some people as they mature. For these people, reflection and time led to an awareness not only of the loving encounters that they had experienced, but also of the negative effects of the relational absences from their genetic kin and culture that they had not (Read, 1999, p. 124). Read describes the challenges and personal dissonance that many members of the Stolen Generation feel, having both love for those who raised them and anger at their removal. He explains that “Part of that complexity is that while the children suffered traumas, in some cases they came into contact with loving and caring individuals who nurtured them and for whom they maintain a life-long respect and affection. While they might see the system as evil, individuals within it might be good” (Read, 1999, p. 125). The emotional complexity inherent in such systemic rupturing has meant that “Very few of the removed children had arrived at any kind of synthesis” (Read, 1999, p. 149). The following donor offspring indicates a similar phenomenon of loss, despite being loved. For them there are identity issues that cannot be resolved by love alone “I know I was still loved. But I think like ‘who am I’” (Participant 43, cited in Hewitt, 2001, p. 18).

Nevertheless, donor conception seeks to evade confronting and acknowledging such lessons, stating; “Negative claims are not grounded in evidence that anything actually does go wrong as a result of severing the genetic link between parent and child” (Bartholet, 1993, p. 174). The previous chapter has detailed the common notion expounded in donor conception that ‘love is enough’, indeed, that love is enough to disregard the significance of the State-sanctioned intentional severing of relationships between genetic relatives.

Both in the philosophical and physical conception of the child from donation, the process begins with the absence of the presumption of a significant connection between the gamete donor and the kin produced. Nor is there proper reflection on the importance of such a child being raised with that which is attached to their donated kin, namely their ancestral and cultural origins and heritage. The following donor offspring demonstrates her resistance to this: “The vast majority of people know who their mothers and fathers are. We’re saying we’re entitled to that too. Nobody had the right to give away parts of our heritage” (Suzanne Ariel cited in, Franz & Allen, 2001, p. 15).

This positive presentation of kinship fracturing is to be found in the actions of the UK government when it helped to set up the “Give life give hope” campaign, the aim of which was to encourage more people to donate their eggs and sperm, to satisfy the demand. Such encouragement costs taxpayer money: “each new sperm donor recruited so far has cost the Government [£] 6, 250 (US \$11,000)” (BioNews, 2005). A stark contrast can be drawn between such a UK government incentive and the implicit disregard shown to the kinship and identity of the child of donation, when compared with the following contemporary guide, appealing to International Human Rights Standards, on the appropriate focus for Indigenous children and their best interests.

The guide to the current Aboriginal Child Placement Principle draws attention to the significance of the 1989 United Nations Convention on the Rights of the Child. This is presented as providing the appropriate criteria to be used in assessing the best interests of the child (Community Care Division, 2002, p. 5). Attention is focused towards the fact that The Convention refers to the best interests of the child being



*the primary* consideration when a government intervenes in family life. This reminds and reasserts the importance of the government respecting and supporting these responsibilities, rights and duties of parents in relation to their children and their children's identities (Community Care Division, 2002, p. 5).

One question the resultant discrepancy raises is whether, in light of the continuing devastation from the kinship fracturing experienced by the Stolen Generations, it would not be more appropriate for the Australian government, and indeed governments and States collectively, to avoid further practices that intentionally disintegrate and disregard a certain group's kinship connection and continuity.

This chapter presents the argument that governments should not provide support to policies and practices that lead to forms of separation that are driven by motives unrelated to child safety. It is posited that a more appropriate response for governments would be to avoid sanctioning kinship disruption to appease any particular cause or group, which is unrelated to child protection, in this case the driving force of frustrated fertility and its industry.

### **What is the point? What was the problem?**

Instead the common presentation of donor conception, professionally and within families, is that DI is a progressive practice. DI proponents particularly see their created system as progressive as a result of concessions being made towards openness, allowing access to certain genetic origin information and, in some rare instances, potentially leading to the reunion of genetic relatives at some stage later in their lives.

The following is an example of such self-viewing, provided by Dr Miles, a DI mother (Miles, cited in Jenkins, 2005). Miles draws attention to the present injustice for some donor offspring as a result of being denied 'information about their identity'. Thus the injustice identified relates to the absence or presence of information, rather than the absence of kinship relationships that might entail more relational depth and emotional infusion. Interestingly, Miles nevertheless still draws comparisons between injustices for donor offspring and members of the Stolen Generations.

Although the focus of Miles's involvement appears to be directed towards lobbying the Australian government to introduce legislation to better manage such information (Jenkins, 2005), she, along with other parents lobbying with Australian Donor Conception Support Group, presents the issue as being about information management in particular. Thus it is this information management and its accessibility which is the commonality being drawn between donor offspring and the Stolen Generations.

Miles is not alone in this somewhat bureaucratic interpretation of the impact of kinship separation and reunion. Miles and the Donor Conception Support Group (Australia) have been accompanied by significant figures, such as the Australian Democrats Senator for New South Wales. Senator Ridgeway also finds a connection to be drawn between the policies affecting the Stolen Generations and those affecting donor offspring. In so doing, Ridgeway supports the right of a donor offspring to "pursue his or her genetic origins" through "lifting the veil of secrecy" (Australian Democrats, 2002), in other words supporting openness. The Senator believes that lifting the veil of secrecy is crucial to providing "the essential restoration of identity, for belonging and connection for the individual born from donor conception" (Australian Democrats, 2002).

The Senator seems to have missed the point that even with access to information about kin and origins, the Inquiry by the HREOC (1997) still found that this separation has meant that many members of the Stolen Generations have "lost their cultures, their languages, their heritage and their lands, as well as their families and communities" (HREOC, 1997a, p. 20). They have faced a "complex emotional journey with an uncertain outcome. The Inquiry was told that many children will never go home. The pathways have been lost; parents and families died. Language barriers can inhibit reunions... Those who do go home experience a variety of emotions including anxiety and fear" (HREOC, 1997a, p. 22). Furthermore, the Inquiry has found that "forcible removal has left people with nowhere to belong, no sense of identity" (HREOC, 1997a, p. 21). Such problems are not resolved by continuing with policies of relational severance and accompanying them with more openness about kinship information and its management at a later date.

The Senator appears to have been selectively impassioned by finding limited commonalities between the experiences of the Stolen Generations and those of donor offspring. Clearly, through his experience with the Stolen Generations and the subsequent inquiry of 1995, Ridgeway has come to believe that there is “a compulsion in every human being to know what they are the sum of..... the Stolen Generations who were removed from their families and communities have undertaken a journey to discover themselves and their family history” (Australian Democrats, 2002).

Despite their intentions of improving the situation for donor offspring, both Miles and Ridgeway have missed the point or have only found half of it. They have not understood that this loss incurred in relation to identity, family and history cannot be solely attributed to the provision or absence of biological information. Nor does accessing such information always result in the simple and speedy restoration of identity. Of course, once kin are displaced, information and services to help achieve reunions is extremely important. However, the grievance and difficulties run far deeper, and are more enduring and complex than Ridgeway and Miles appear to give credit for.

First there is the loss incurred by preventing children from knowing and being raised by their kin; second there is the grievance which is related to the cause of this loss: the government’s complicity in this intentional and unnecessary rupture. The consequence of these kinship separations has led to loss of identity-forming relationships and the lack of opportunities for these children to assimilate their full identity. It has caused disruption to relationships and processes that would have fed this identity formation intergenerationally, thus there are intergenerational consequences and harms.

One minister for the Uniting Church describes this intentional rupture for members of the Stolen Generations succinctly: “there has been so clearly an abrogation of the rights of the children to their own identity and heritage - the right to grow up without doubt about who you are” (Barbaram, 1997). The doubting of ‘who you are’, which is being referred to here, causes similar identity assimilation problems to those previously described in adoption. Such identity assimilation usually occurs during a

lifetime for those who grow up with, and around, their own genetic kin (Telfer, 2000). This is a type of identity assimilation that has been impeded for those separated from their kin. Instead there have been major obstacles to the intergenerational conveyance and recognition of genetic and social identity and heritage for all those who are raised with non-biological parents. This affects adoptees, members of the Stolen Generations, donor offspring, and of course those affected by other forms of kinship rupture and replacement.

Such hurdles have the potential to impact and impinge upon the development and life cycle of those who are displaced: “In non-adoptive families, it is not considered odd to discuss who resembles who in the family and to comment on similarities” (Russell, 1996, p. 112). However, in non-genetic families it is more common for the topic of origins to “become a twisted and secret subject” (Russell, 1996, p. 112). Thus frequently the child is left to wonder who they are like and who they look like in isolation. For those separated, the ability to conceptualise oneself visually and socially in the broader context of their origins has been erased.

This can lead genetically displaced children to feel so different from those who surround them, that despite feeling loyalty and love for those who raised them, they may nonetheless feel as though they have arrived from outer space: “Part of the sense of being from outer space is not knowing anyone who looks like you” (Russell, 1996, p. 70). As with the Stolen Generations, what is often lost for children who lose contact with their genetic community is the chance to be part of the continuity of their own culture. Indeed also lost is the symbiosis of such a relationship which allows that community to perpetuate itself, through its children (HREOC, 1997b, p. 218).

The consequence of this absence in childhood is that those who are separated from and then introduced to their relatives, identity-affecting information, and cultures later in life, are subject to a complex and emotional voyage that can be underestimated by those who have not directly experienced it (Telfer, 2000). Terms such as the provision of information do a disservice to those faced with the ongoing complexity involved in this process.

In relation to considering the best interests of the child, the Stolen Generations demonstrate poignantly that the government and those who have acted for it in positions of guardianship, did not heed their duty to the maintenance of a child's wellbeing and education in relation to their origins, in terms of religion and culture (Buti, 2004, p. 188). They created laws that disregarded such fundamental personal interests of a child, and his/her connection to their Aboriginal family (Buti, 2004, p. 190). There is a subsequent duty not to repeat this mistake, to take measures to prevent the recurrence of such violations as part of a larger package of reparations for the consequent damages incurred by members of the Stolen Generations (Buti, 2004, p. 206).

Sadly, there have been decades of struggle to receive appropriate reparations for the damage incurred by the Stolen Generations, including an apology by the commonwealth parliament and a compensation tribunal (Buti, 2004, pp. 207-208). However, the current government, led by Prime Minister Kevin Rudd, has now given an official apology. The importance and significance of this for Indigenous, and indeed non-Indigenous, people who have fought for this recognition intergenerationally cannot be over-estimated. The standing ovation from the members of the Stolen Generations, who were present in parliament to hear this formal yet heart-felt recognition, was momentous in its own right:

We apologise for the laws and policies of successive Parliaments and governments that have inflicted profound grief, suffering and loss on these our fellow Australians.

We apologise especially for the removal of Aboriginal and Torres Strait Islander children from their families, their communities and their country.

For the pain, suffering and hurt of these Stolen Generations, their descendants and for their families left behind, we say sorry.

To the mothers and the fathers, the brothers and the sisters, for the breaking up of families and communities, we say sorry.

And for the indignity and degradation thus inflicted on a proud people and a proud culture, we say sorry. (Rudd, 2008)

It is important to note the commitment made to “A future where this Parliament resolves that the injustices of the past must never, never happen again” (Rudd, 2008). There is further to go in terms of appropriate reparations in response to this loss. Nonetheless, the fact of a National Sorry Day, the Government apology, the ground already covered to date, is worthy of respect. This recognition came as a result of those affected having a deep commitment and faith in inherent justice, when faced with injustice. Indeed, it is a credit to those who heard and responded to such appeals.

The appeals for systemic education and training in relation to the loss that has been created for Indigenous families now leaks into the relational absences that continue to be created for donor offspring; the aftermath of the Stolen Generations leaves an echo: “Decision-makers must become aware of the beliefs which continue to underwrite decisions to separate, must acknowledge the ongoing harm caused by separation” (Link-Up (NSW) & Wilson, 1997, p. 228). While community values and government policies have had to acknowledge the need to break the cycle of separation that has been caused to Indigenous children and families (Link-Up (NSW) & Wilson, 1997, p. 228), donor offspring continue to be conjured into situations of similar separation and kinship and identity loss.

The turn-around in providing such recognition to members of the Stolen Generations is now being applied to government policies involving the best interests of the child. The Aboriginal Child Placement Principle thus seeks to apply the *reversal* of the previous separation policies. This principle has been adopted by all Australian States and territories (Richardson, 2005). Thereby the policy implements a new and core principle: the removal of children from their family is *only as a last resort*, when legally deemed unavoidable in relation to the safety of the child. The policy makes explicit that the “order of priority of placement” (Community Care Division, 2002, p. 7) is to keep children within their family; if this is not possible, then within their extended family; and finally within their community and culture, because “placement must ensure the maintenance of the child’s culture and identity” (Community Care

Division, 2002, p. 7). The loss cannot be undone but it can be learnt from and lived with, despite the impact and pain that will unfortunately still be endured.

Now at least in principal, the prioritizing of European education or assimilation, nor more sinister motives could be used to trump this prioritization of kinship for Indigenous children. Indeed the contemporary policy directive aims to protect against unnecessary separation from being experienced.

### **Link-Up**

The lessons provided for DI by this context of kinship disruption are particularly rich when considering the services and supports available for those affected. Link-Up is an Indigenous service that was established to respond to the complexity and loss of kinship separation that has been endemic for Indigenous people prior to the enactment of the Child Placement Principle. Link-Up (Aboriginal Support Group, 2005) explains that “Most children who were separated grew up knowing very little of their Aboriginal families, culture, heritage or identity. The issues involved in assisting people to find their way home are overwhelming”. Again, this description of the experience of separation and reunion runs counter to the notion that this is a simple process of information retrieval, as implied by Miles (cited in Jenkins, 2005) and Senator Ridegeway (Australian Democrats, 2002).

Link-Up workers reflect on the familiar cause of the loss the service is now seeking to respond to. The loss is attributed to the prevalence of the “belief that it is in the best interests of Aboriginal children to be separated from their family and community” (Link-Up (NSW) & Wilson, 1997, p. 1). Link-Up is run by and for Indigenous people and many of those who work for the service have also been directly affected by the separation. They detail the effect of separation and the support needed, that they are “profoundly affected by separation and we struggle to find our way home – home to our family, country, community and home to our Aboriginal identities” (Link-Up (NSW) & Wilson, 1997, p. 2).

As with adoption, there can be anger or righteous indignation when the loss was avoidable and has been dismissed. Jean Carter (cited in Edwards, 1989) describes

her experience of being a member of the Stolen Generations and of needing to go through a healing process for her anger: "It's sorta like, I can never bring my family back, no matter how much hate and sorrow that I feel....maybe because I'm getting older too, there must be some time in your life when you come to terms with things...I haven't got aggression now like I had" (Carter, cited in Edwards, 1989, p. 160).

It is possible that both Miles and Senator Ridgeway believe that the problem experienced by the Stolen Generations was predominantly about the management and access to documented information about their kinship and identity. If so, this is worrying. The cause and extent of the pain and loss for members of the Stolen Generations has been richly detailed within the recommendations made by the HREOC (1997a, p. 46), providing ample evidence that this is not a proper representation of the issues raised. On the other hand, if the gravity of this loss is understood, there is no explanation as to why Miles and Ridgeway have failed to transfer this understanding to the issues of *donor* kinship and identity loss. Surely, even if kinship information is better managed, once separation occurs, a greater emphasis on information management would not address the relational ruptures and the resultant and often lifelong grief that the Link-up workers are responding to.

The experience of reunion which is mediated and supported by the Link-Up service is a complex human process, rather than a bureaucratic endeavour. Edwards (1989) describes the experience:

When you go home, you are setting out on two journeys. First is the physical journey which is sitting in a car and driving to meet long-lost relatives. The second journey may take longer. By coming home you are not just coming home to your family, you're coming home to yourself, to the self that is your birthright. It's a coming home to the realisation of the person you really are, so you can finally stand up and know inside: this is me.

Do you even arrive? Some people say not, I say yes. (p. xxiv)

This coming 'home to yourself' can be seen to relate to the integration referred to in adoption.



Somerville (cited in Barabram, 1997) (notably a different person to the ethicist cited earlier), is a former Methodist missionary who was involved in implementing practices which resulted in the Stolen Generations. Somerville exemplifies the dismissal of the pain and complexity that have been caused to the Stolen Generations as she states “we are all Australians- the colour of your skin does not matter one little bit” (Barabram, 1997). This is similar to the benevolent and paternalistic motives that drove the policies of separation with the plan to divert the Indigenous children’s identities to those of mainstream society (Buti, 2004, p. 202). This statement exposes the disregard that can still be expressed towards the loss of culture and personal identity that has resulted from the policy and practice towards the Stolen Generations. In so doing, the loss of these people’s culture and personal identity is collectively disregarded through such a self-perceived benevolence, and a combination of enthusiasm, discrimination and ignorance.

In conducting her interview with Miles, Jenkins (2005) states that lobbying and experience have brought Miles into contact with “Stolen Generation identity issues”. Although there is research to show that offspring of donor conception are already saying that they are also adversely affected by identity issues (Cordray et al., 2001; Hewitt, 2001; Turner & Coyle, 2000a), Miles, along with many others, including the State government, appears to reflect no further on the lamentable commonalities of the cause: the intentional, State-sanctioned, premeditated, unnecessary kinship and identity loss.

There is symmetry to be found between the pioneering treatment given to donor offspring and the causal roots that created the inequity and travesty of the Stolen Generations. Both groups have experienced a kinship and identity loss that has been dismissed and substituted with a preferred alternative. Just as donor offspring are intentionally and systemically denied the relationships that feed their full kinship identity, Indigenous kinship was “systematically denied... as a result of the specifically targeted policies of separating...children from their families” (Link-Up (NSW) & Wilson, 1997, p. 44).

In retrospect, such inequity tends to be viewed as an ethical and legal omission, a form of unacceptable discrimination:

separation of children from their families was considered to be a measure of last resort under mainstream child welfare policy. This was not the case for Aboriginal children. This is because the policy of Aboriginal separation was, at its most basic, founded on a racist ideology – specifically, the inferiority of the Aboriginal culture. (Buti, 2004, pp. 202-203).

Yet practices continue whereby specific people and groups have their kinship targeted as expendable and replaceable, in this case through the practice of donor conception. It is likely that the trajectory of resistance and testimony of harm from the offspring and donors will eventually lead to similar retrospective viewing of this as distasteful and harmful prejudice in the future.

The human cost of this pattern is that large groups and cohorts of people have been burdened with significant issues of kinship and identity loss which were avoidable and yet created. This has eventually resulted in the need for large-scale services being provided to try to address the aftermath of the ideologies that created and disregarded this loss.

During my undergraduate studies I was very fortunate to be given the opportunity to work with members of the Stolen Generations at the Queensland Link-Up office. Indeed my tutor from the university was the aforementioned member of the Stolen Generations, Williams-Mozely, quoted at the start of this chapter. The exchange that occurred between us in relation to grief recognition and kinship loss was deeply moving and formative for me. The spirit of determination, grief, and humour that was so evident in those so deeply affected, and in particular from the support groups and its elders, along with my tutor's influence, combined to make this a truly inspirational experience.

## **The commonality of identity and kinship loss and complexity**

It is wrong to treat naturally rooted social practices as mere cultural constructs...that we can alter with little human cost. For what would kinship be without its clear natural grounding? And what would identity be without kinship? We must resist those who have begun to refer to sexual reproduction as the 'traditional' method of reproduction, who would have us regard merely traditional, and by implication arbitrary, what is in truth not only natural but certainly profound. (Kass, 2006)

The common experience of kinship loss and the resultant themes of psychosocial complexity are worthy of further attention. Reproductive technology is advancing with an ideology that is blinkered to such human loss. Although the legal aspects of adoption and kinship separation are time limited, being aware of the emotional issues can be of aid more broadly (Russell, 1996, p. 33). Ignoring this wisdom appears to be resulting in the creation and repetition of cycles of loss.

This chapter has sought to respond to an ethical call, to construct a conceptual space "in such a way that it can accommodate and foster both theoretical and experiential knowledge and allow us to use the knowledge to generate the full range of insights necessary in doing ethics" (Somerville, 2004, p. 284). As has been described by Triseliotis (2000), "In postmodernist language nothing seems more positive than fractured and disunited identities and a belief in 'dynamic instability'" (Triseliotis, 2000, p. 95). This thesis contends that the playful object of post-modern experimentation is more brittle, painful and fragile than appears to be understood. This thesis is part of an effort to assert that when creating human life through reproductive technology, "we must not begin with the laboratory technique and questions of safety, or questions of reproductive freedom" (Kass, 2006).

Delving into issues of kinship loss and complexity can foster an understanding of the destruction that can be done to selfhood and its integrity. Some researchers are drawing on the commonality and humanity of such loss. One such example is provided by Rushbrooke (2001). As a result of analysing UK adoption statistics, Rushbrooke reflects on identity and kinship, and its significance. He elucidates that

“patterns in the statistics are consistent with the theory that adoption causes deep-seated problems for at least a significant proportion of adoptees. These conclusions raise the question of whether we are witnessing an event that tells us something very profound about the nature of the human psyche” (Rushbrooke, 2001, pp. 33-34).

Rushbrooke’s (2001) awareness of “deep-seated problems for at least a significant proportion of adoptees” (Rushbrooke, 2001, pp. 33-34) has led to his concern about deep-seated problems being created for at least a significant proportion of offspring of reproductive technology: “new technologies have been introduced [and continue to be introduced] that are also predicated on the notion that blood relationships are trivial, the number of people damaged by this industry will be even greater and the effects may take the form of social, as much as individual, problems” (Rushbrooke, 2004, p. 20). Rushbrooke is raising the alarm about this notion or driving ideology. He is ringing alarm bells not just in relation to the severity of the loss and its capacity to impact and impinge on the lives of individuals and families, he is also warning of the impact of such a notion on society as a whole.

A report by Marquardt (2006) has been released which also complements the points raised about the commonality of kinship loss, highlighting serious concerns in relation to its intentional creation through reproductive technology. Appeals to greater understanding of the “inner experience of the children” and “the future of parenthood” have led to calls for “a moratorium or ‘time-out’ lasting five years until we better understand and prioritize the needs of children” (Marquardt, 2006, p. 33). This chapter contributes to this call, both in support of this resistance and the pursuit of learning about the inner experiences created.

### **The commonality of services to reunite**

The momentum for such recognition is starting to have some impacts on services for those affected by kinship loss. In Australia there have been national conferences on the mental health of persons affected by family separation (Mental Health Association (Qld) Inc., 2004; Origins, 2002). These conferences showcased papers and presentations that drew together commonalities, themes and complexities found in the experiences of family separation and reunion in these diverse but analogous

situations. Numerous forms of family separation have been represented from donor conception, to British child migrants, Stolen Generations, adoption, care leavers and many more. The propensity for adverse mental health effects from such forms of family separation was common knowledge in such a forum (Adoption Australia Origins Inc., 2002).

To complement such understanding, services are also drawing on the interconnection of these experiences and needs between the various groups. One such service is provided by the Post Adoption Resource Centre (PARK). This service is based in Sydney. PARK is aware of and seeking to respond to the common issues raised by such loss, by offering an “Intermediary service in post adoption reunion: a resource for counsellors assisting in family reunion....the resource will be relevant for those working in family separation in the fields of: post adoption, out-of-home care, in relation to Stolen Generation, Donor Conception and self-help groups” (PARK, 2005).

In Western Australia, the Adoption, Research and Counselling Service, known as ARCS, is also drawing on such similarities and seeking to respond to the needs of those whose kinship and identity are affected by donor conception (Adoption Research and Counseling Service, 2006). Indeed, such services are also readily being established in various other States. Vanish, is a State government-funded service in Victoria, Australia, which now provides “advice, search and support to any member of the community who has experienced separation from the family of origin primarily through adoption, being *placed in an institution or foster care or through donor conception* [italics added]” (VANISH, n.d.). This thesis applauds such objectives and actions of “Pooling resources, knowledge, information and skills with others who have a common experience” (VANISH, n.d.).

In the UK, this commonality of kinship and identity loss has also lead to the establishment of a service for donor-affected kin which is run by After Adoption Yorkshire (AAY). AAY is a post adoption support service that is currently in charge of aiding donors and donor offspring to reunite and/or share information through a pilot service known as DonorLink (UK DonorLink, 2008). An important mechanism to aid this genetic kinship matching is the use of a gene library, because of the blocked

access to relevant records through their destruction, or the lack of collection or access to them. Interestingly, despite the apparent public disregard for the connection between donor-separated genetic kin, the story of such reconnection appears to be newsworthy (Chong, 2005).

In the UK, the Donorlink service is partially government-funded, but it is also funded by charging a fee for services. Thus the donor offspring are placed in the anomalous situation of having to pay for knowledge which has been intentionally rendered absent to them. Also anomalous is the initial disregard of their kinship connection followed by the phenomenalisation of this through the media. Again, this shows the ambivalence and conflicting attitudes that seem so prevalently displayed to donor offspring's genetic kinship. That which has been systemically disregarded can then be sensationalised with headlines such as "Day the daughters of Donor X finally met" (Gloger & Sanderson, 2006).

It appears that the patterns recognised in other forms of kinship separation - is a pattern now being followed by some of those affected by donor conception. Thus there is the perpetuation of the cycle of creating loss and then belatedly establishing services to respond to it. Further, it is noted that the Donorlink service is only a pilot with very limited funding rather than a stable and reliable source of acknowledgment and help for those who need it.

### **The experience of reunion and continuity**

For adoptees, members of the Stolen Generations and donor-affected relatives, there is a propensity to seek familiarity and connection with found relatives. Thus such an endeavour can take on monumental significance through discovering "mutual physical characteristics, creative talents, personality styles, distinctive mannerisms, and idiosyncrasies. Particularly surprising are the incidents of intuition and synchronicity that are common in post-reunion reports....suggesting a continuance of the family system that transcends space and time" (Stiffler, 1992, p. 3). Finding such continuity and connection, in this case with estranged genetic relatives can represent the affirmation of the spatio-temporal continuity and indeed the survival of the identity which is shared by those who have been separated

(Borowski, 1976, p. 502). Thus there is an intense personal experience for those involved in reunion that few appreciate, but which is shared by those affected by such separation and reunion (Rickarby, 1997). This commonality of experience can pivot on the attachment and meaning which can spring from the apparently unimportant (Stiffler, 1992, p. 4). In this case, it is their familial identity that has survived.

An example that might add insight to this experience can be found in imagining that the road running outside of one's own house is found to run outside the house of the person you are in an unrelated conversation with. When surprisingly finding this commonality, there is the reinforcement of a shared identity found in what would appear to be a trivial fact to onlookers (Borowski, 1976, p. 484). For the following half-siblings through donor conception, there are more significant discoveries to make; by looking for shared similarities, they can try to establish more about their mysterious donor, and genetic and cultural ancestry: "From the things we have in common we have started building a picture of our father in our heads. We think he's probably about average height, as Elizabeth is 170 cm and I am just over 167 cm. We both imagine him to be slim, maybe with mousy hair, and possibly an academic, although our mothers were both told he was a medical student. We are both passionate about the piano, so we can't help wondering if he's musical. He might like drama, and if there's a gene for Italy, he has definitely got that" (Gloger & Sanderson, 2006). For these donor offspring, the significance of their meeting and processing in relation to finding similarities and seeking to establish from these a picture of their absent father and concealed heritage, are interesting to them.

The reasons provided for the synchronicity or for the attainment of connection and meaning for reunited kin can take on various forms. Explanations are often sought by those seeking to understand or reinforce the significance of the commonalities that they have discovered. For some this might be explicable by believing in a type of magnetic homing device that draws people back to their kin and origins:

Magnetite has been known to be present in the tissue of certain migratory animals, ranging from bees to salmon, acting as a kind of biological compass permanently sensitive to the earth's geomagnetic fields....Might the human

homing mechanism be tuned to persons as well as to locations? (Stiffler, 1992, p. 8)

For others, different forms of understanding, or indeed no explanation, may be sought.

For the services involved in this type of reunion and support, hurdles and complexities are often found. Those involved in donor-affected reunion would do well to access and heed the experience of such reunions. Examples of knowledge that the post-adoptive world can supply include the potential outcomes from these meetings. Such experience has found that these can result in:

- Denial of being the person the searcher is looking for
- Outright rejection
- Found person will give information but otherwise refuses contact
- Found person needs time to adjust
- Negotiation of some form of exchange between the two parties begins immediately
- Both parties desire contact and arrange a reunion with positive results
- Both parties desire contact and arrange a reunion, but problems emerge. (Armstrong & Ormerod, 2005, p. 29)

Difficulties are often compounded when kin meet so late in their lives. While not an exhaustive list, some of the problems which have been found to emerge from reunion include:

- one side leaves all the initiative to the other side
- one side is disappointed by major differences
- a sexual attraction develops
- family members are upset by the contact
- one side seeks an intensity that the other side does not want. (Armstrong & Ormerod, 2005, p. 37)



To be forearmed and even forewarned of such difficulties by people who facilitate and support reunions is likely to be beneficial. Indeed, understanding these difficulties as potentially affecting all those involved in separation and reunion is likely to make the process easier, contextualising them in human experience.

Thus the consequences of technological conception, when using donated gametes, falls into a world of experience and human knowledge. “What matters are the relational interests that ultimately result. And there is simply no evidence that technological conception is creating genuinely new forms of families” (Garrison, 2000, p. 881). However, it is clear that most families and individuals affected by donor conception are not accessing such knowledge.

The difficulties in adoption described above do offer insight into donor kinship reunions. The following donor offspring states “I have an image of my real father sweeping me into his arms, but it’s not likely. These men signed up for a bit of cash, not to be presented 34 years later with two grown up daughters” (Elizabeth, cited in Gloger & Sanderson, 2006) It is predictable that many such kin will be overwhelmed by finding potentially unconsidered numbers of relatives. This is relevant not only to donor offspring and donors but also and to all of the extended families connected to them. The reunited donor offspring, Keeley, having just met Elizabeth, shows her concern about this: “Discovering even more siblings might be a bit much right now. It’s enough taking all this in”, and as the journalist describes it, “in fact just how many children a single sperm donor could have is anybody’s guess” (Gloger & Sanderson, 2006).

The calls from Somerville (2004, p. 49) for greater depth of ethical inquiry and concern in relation to biotechnology are in harmony with the purpose of this section of the chapter, as is (and will be further pursued) the principle of placing the best interests of the child as paramount in the considerations of reproductive technology. However, this unity with Somerville was lost when she advanced in a direction that appeared to contradict this principle by asserting that “those who want to prohibit women from using a reproductive technology should have the burden of proving that this prohibition is justified” (Somerville, 2004, p. 41). This lack of consonance led to the author engaging in personal communication with Somerville on the issue. Her

comments are reflective of some change in her position and also indicate a realignment of ethical positions we seek to defend. Somerville (used with consent, personal communication, June 14, 2006) explained “I can see now, especially from your perfectly plausible interpretation of what I said, that I didn't make the basis of my analysis clear enough. I regret that”. She also stated that “I've learnt more, especially from donor conceived persons about what they feel, I've become much more protective of children's rights to biological knowledge and bonds. Second, legalizing same-sex marriage has completely changed the context. That changes the nature of the primary bond of children to their parents from a natural (biological) bond to a legal (social) bond” (used with consent personal communication, Margaret Somerville, June 14, 2006).

The postmodernists and those advancing gay rights and the many other causes that have led to intentional kinship destruction would do well to heed the advice of Tonti-Filipini (2000). He compares the fragility and seriousness of kinship tampering as akin to a boy dismantling a clock:

Inherently, the members of the species [and grouping is further broken down into families] belong together to each other through closely sharing genetic, social and cultural inheritance. The mistake is that of reductionism. The analogy I would draw is to that of a boy who dismantles a clock in order to find out what it essentially is. By the time he has dismantled it, it is no longer essentially a clock. Connectedness to others is part of what a human being essentially is. We cannot separate the individual from his or her antecedents for they in part constitute who he or she is...This connectedness, I claim, is biological and social and the two are interrelated. (Tonti-Filipini, 2000, p. 205)

Such wisdom is beautifully articulated, and apparently seldom heeded.

## **Conclusion**

This section has drawn on the commonalities found in various forms of kinship and identity loss and reconnection. This experience is characteristically significant, profound and painful when broken; it must not be treated as a plaything for social

experimentation, but used only in extreme circumstances as a last resort to protect the welfare of the child. It is important that the burden of proof should, when seeking to rupture the next generation's genetic kinship, fall on those who advocate such separation as a means to their own ends. In reproductive technology the burden of proof should be deflected back to the industry and those with the desire to become parents by such interventions. Thus the advocates for assorted forms of kinship and identity separation should be asked to confront the historic patterns of human loss and complexity that such separation tends to create. It is contended that without this positioning of the burden of proof, the notion of the child's best interests being either paramount or appropriately protected, cannot be convincingly asserted or grounded.

Some still argue that "Negative claims are not grounded in evidence that anything actually does go wrong as a result of severing the genetic link between parent and child" (Bartholet, 1993, p. 174). Claims such as these should be responded to with the moral indignation reserved for those who are apathetic about the wrongs inflicted upon the Stolen Generations, and unscrupulous adoption practices. It is important to draw comparison with those who have avoided showing humility, honesty and regret in relation to other practices that have corroded the sense of wellbeing of a select group of people. In 2008 the Australian government sought to publicly address such apathy and in response to the human and cultural devastation that created the Stolen Generations, committed to "A future where this Parliament resolves that the injustices of the past must never, never happen again" (Rudd, 2008).

The position advanced here is that genetic relatedness for the donor offspring is currently positioned differently and inequitably in relation to the broader community, so that a relevant and related injustice is happening again. This inequity is driven by the explicit and implicit assertion that "genetic unrelatedness has a different meaning for children conceived by gamete donation than for children in adoptive families or in stepfamilies" (Golombok, 1998, p. 2344). This thesis posits that a similar attribution of 'different meaning' has occurred for members of the Stolen Generations at great cost. The position argued is that this is unjustifiable, unacceptable, and indeed untrue. The pain of other relevant practices of institutionally-sanctioned loss provides guidance on how to frame and protect the interests of all children. To do justice to the lessons and commonalities from the Stolen Generations and other relevant

human experience, kinship severing must not be advanced through the degradation of it being given a different meaning for some. Despite different contexts and terminology being used, the resultant loss and pain have too strong a relationship and resonance to be dismissed.

To further this line of argument the next chapter advances human rights as providing a normative context worthy of philosophical and ethical appeal for donor offspring. Human rights also appear to invest significance and regard for genetic kinship and with this, the appropriate definition of the best interests of the child. However, as will become evident, the legal climate in relation to such protection and its direct applicability to donor offspring is, as usual muddy, slippery and difficult to apply.

## **Section Three**

### **Chapter 6**

#### **Human Rights: The Best Interests of the Child**

##### **Introduction**

This chapter appeals for the use of normative standards and in particular, legal frameworks in formulating and protecting the best interests or welfare of the child. The chapter illustrates that this is not currently the case in reproductive technology; indeed these normative standards and frameworks are abandoned in favour of an experimental viewpoint. This chapter presents human rights as an important resource which has been neglected in establishing appropriate foundations for considerations regarding the child of reproductive technology. The chapter presents these standards as critical in attaining an equitable philosophical and ethical benchmark from which to assess the appropriateness of protections for the best interests of children created from reproductive interventions. Such normative benchmarks are argued to be necessary, in particular acting as a counterweight to the intentional parental *and institutional* harms that could be inflicted on the offspring of reproductive technology.

While drawing attention to these various standards and human rights laws affecting donor offspring, this chapter does not seek to provide a comprehensive legal overview or definition of parenthood, nor even for the legal definition of parenthood in donor conception. Instead, the purpose of the chapter is to illustrate that underlying these issues there are philosophical and ethical discrepancies, particularly in relation to the protections accorded to donor offspring. The chapter demonstrates that despite these normative standards, there is a growing legal complexity associated with the definition of parenthood that is leading to discriminatory standards being used, and that donor conception in particular, falls within this discriminatory quagmire. It is hoped that through highlighting these normative standards, discrepancies, and perplexities, this research will aid further consideration and re-evaluation of the legislation surrounding this practice.

The chapter is aligned with those who support the connection between being known and cared for by one's genetic parents with the protection of the welfare and best interests of the child, including those who are created from reproductive technology. This is presented as the rightful initial presumption, only to be deviated from as a last resort for the protection of a child, when their wellbeing is endangered and protective intervention is needed. Thus, the chapter aims to add momentum and recognition to the supplication that: "Individuals and society should typically refrain from creating genetic orphans, or children who do not and cannot know their natural origins" (Blankenhorn, 2005). The chapter promotes the concept that "the child does have a recognized interest in knowing its genetic parents" (Lebech, 1997, p. 339), and that there is a strong "case against the State contriving to deprive the child of the right to be cared for by his or her parents, the right to his or her identity, and the right to family relations. That means that there should be no legal approval given to DC [donor conception]" (Fleming, 2004, p. 15).

It is from this standpoint that this chapter presents donor conception as an unnecessary, systemic erosion of this primary assumption and legal right in relation to the best interests of the child. It does this by presenting the argument that donor conception is founded on a disregard for a child's legitimate interests in being known and *cared for* by his/her genetic parents in the first instance. The chapter asserts the argument that the relational absence of a genetic parent who becomes a donor does not occur as a last resort for the protection of a child, nor through unforeseen tragedy or family breakdown; instead, it occurs intentionally, as a last resort for the production of a child, throwing donor conception ethically and philosophically out of this normative context.

The human rights Articles to be identified in this chapter will not follow numerical order; instead, the sub-sections present the Articles to accompany the descriptive content of my line of reasoning. The chapter begins by introducing: *The Convention on the Rights of the Child and the European Convention on Human Rights* which is explained in terms of its relevance and importance. This is followed by an analysis of *Human Rights in Relation to Reproductive Technology*. Some of the complexity in the application of human rights in the context of reproductive technology is then

discussed through examining *Ambiguity: The Meaning of Parent and Prioritisation of the Rights of the Child in Light of Articles 7 and 21*. The following Articles are then highlighted for their directive content in relation to the offspring of donor conception: *Article 3, Article 7.1 in light of Article 2, Article 8, Article 14*. Next the chapter analyses *The Evasive Applicability*, which precedes: *Reservations, Redefinitions and the General Principles in the Convention. Article 12 and the Right to Found a Family*, introduce the demands made in terms of access to assisted reproduction. A section on: *Other Articles of relevance Articles 5, 9, 18 and 27* then follows. Finally the argument is summarised in the *Conclusion*.

### **The Convention on the Rights of the Child and the European Convention on Human Rights**

The Convention on the Rights of the Child (CRC) is an international treaty that defines and recognises the human rights of children (children are defined as people under the age of 18 years) in international law (UNICEF, 2006a). CRC is of pivotal importance because it is “the most universally accepted human rights instrument in history” (UNICEF Turkey, 2006). The Convention is set up in recognition of the need for special protection and assistance to be given to the rights of children, without discrimination of any form, thus setting universal standards for States Parties to observe and ensure they are met and adhered to (UNICEF, 2006a).

The rights in the CRC have been established through negotiation with “governments, non-governmental organizations, human rights advocates, lawyers, health specialists, social workers, educators, child development experts and religious leaders from all over the world, over a 10-year period” (UNICEF, 2006a). It is a consensus document that focuses on the promotion and protection of the harmonious development of the child, in recognition of tradition, cultural systems and the principle legal systems of the world (UNICEF, 2006a).

The CRC contains Articles that have been arrived at by extrapolating from other international instruments which have provided the guiding principles as to how children are viewed and protected by law (UNICEF, 2006b). Thus, the CRC seeks to

provide enduring ethical principles and standards at international and systemic levels.

The preamble of the CRC states that the family is “the fundamental group of society and the natural environment for the growth and well-being of all its members and particularly the child” (OHCHR, 1989, preamble). It states the aim to aspire to provide the necessary protection and assistance to promote “the full and harmonious development” (OHCHR, 1989) of children. The inspiration for this part of the preamble was drawn from the Universal Declaration of Human Rights. Indeed, this Declaration has provided the moral framework for much of the human rights movement and laws (OHCHR, 1948).

The European Convention on Human Rights (ECHR) is also discussed in this chapter. The ECHR represents the cohesive European commitment to “take the first steps for the collective enforcement of certain of the rights stated in the Universal Declaration” (Council of Europe, 1950). It is the legal mechanism by which the countries of Europe are bound to universal human rights standards.

The CRC and the ECHR are complementary to each other and have preambles followed by Articles, some of which will be drawn to attention as worthy of specific appeal. Numerous other factors and Articles would be fruitful to investigate in relation to children conceived from reproductive technology but are not mentioned here; for example, in the CRC and the ECHR and also in the International Covenant on Civil and Political Rights, and the International Convention on Economic, the Social and Cultural Rights in relation to its notion of family life and of rights to health. Such pursuits are respectfully left for those who are legally trained to explore. As previously stated, this chapter does not seek to provide an exhaustive outline of these avenues, nor of the legal debates that could ensue from such pursuit, but rather the aim is to show that this area is worthy of more investigation and application regarding the rights and protections for the child of reproductive technology. Indeed, it hopes to fuel and encourage such expertise for this pursuit.



## **Human rights in relation to reproductive technology**

There is mounting concern in the area of human rights that there has been an explosion of growth in the field of reproductive technology, resulting in an adult-centric implementation and expansion of human rights. This concern comes not only from isolated commentators but has also been alluded to by the United Nations Committee on the Rights of the Child, in relation to reproductive technology. The following quotation is from the United Nations Committee on the Rights of the Child, formed from a special consortium of appointed international human rights experts to monitor the level of implementation of the CRC by States Parties (Article 43, CRC). The CRC was highlighted as being of importance by Blyth and Farrand (2004, p. 99):

The committee is concerned that the general principle of the best interests of the child (art. 3) is not fully applied and duly integrated in the implementation of policies and programmes of the State Party. In this regard, the Committee notes that the rights of parents are often found to be more important than the best interests of the child.

Blankenhorn (2005) also describes reproductive technology as having taken on a skewed development. He attributes this, at least in part, to human rights theorists providing disproportionate attention and prioritisation to the expansion of the rights claims with respect to marriage and the family, of adults, as opposed to such rights claims for the children (Blankenhorn, 2005). The identification of an imbalance has been accompanied by an appeal to human rights proponents: “today and in the future to work creatively to develop and expand, particularly in light of new medical and technological developments, the rights claims of children with respect to marriage and the family” (Blankenhorn, 2005).

Blyth and Farrand (2004) offer the following explanation as to why there has been this lopsided growth and neglect in the law:

we concede that, in the overall scheme of disadvantage and discrimination to which the world’s children may be subject...a donor-conceived person’s lack of knowledge about their genetic origins is unlikely to emerge as a major

global priority...we consider that there is a case for this to be given a more significant profile (p. 99).

Thus, we find the familiar charge of adult-centric practice in donor conception creating ambiguous recognition and an unresolved legal tussle in relation to the rights given to donor offspring.

### **Ambiguity: The meaning of parent and the prioritisation of the rights of the child in light of Articles 7 and 21**

This section analyses the intended meaning of parent in the CRC and presents an argument of this being a genetic parent in the first instance. Article 21 is of particular importance to this proposition. The UNICEF Implementation Handbook (Hodgkin & Newell, 2002) states that the intended meaning for the CRC did attribute importance to the genetic parents, this was the original and intended meaning of 'parent', prior to the placement of restrictions. Indeed it was the purpose of the handbook to provide such clarity in the interpretation of the CRC, to aid in the implementation of human rights. Velleman (2005) refers to this intended meaning and describes his puzzlement at its unexplored relevance to donor conception. Velleman argues that the rights enunciated in this provision strike him as important and incompatible in relation to donor conception and in the footnotes to his text he also cites the Hodgkin and Newell implementation handbook and states that the book "makes clear that the term 'parents' in this clause includes biological parents in the first instance" (Velleman, 2005).

The handbook peruses the historic underpinning for the drafting of Article 7 of the CRC, and explains that previous drafts stated that "The child shall have the right from his birth to know and *belong* [italics added] to his parents" (Hodgkin & Newell, 2002, p. 119). Hodgkin and Newell explain that the word 'belong' was only replaced because of concerns about this being misinterpreted as a negative form of ownership, as opposed to that of relational belonging. The stipulation 'from birth' supported biological parentage, as non-genetic surrogacy was not yet a mounting issue. The reference made to the plural 'parents', in the CRC, rather than just the 'parent', further confirms that the intended meaning and recognition should be given

not only to the genetic mother, but also to the genetic father in the first instance. Indeed to give lifelong priority to the significance of genetic mothers and to dismiss the lifelong significance of genetic fathers would appear to contravene the conventional underpinnings against such a form of discrimination.

Hodgkin and Newell (2002) observed that this intended right of the child to belong to their parents in article 7 was qualified by the words “as far as possible” (p. 119). They explain that the purpose of this proviso “as far as possible” is self-evident: the proviso makes explicit that while “It may not be possible if the parents are dead or have repudiated the child.... the onus is on the State to prove this; the right upholds *a general principle running through the convention - that in ordinary circumstances, children are best off with their parents*” [italics added]” (Hodgkin & Newell, 2002, p. 119). It is important to take note that the implication of this is that there is a directive for the States parties to the CRC to support the general principle of children being best off with their genetic parents in the first instance.

This general principle, which was identified and referred to in the Convention, is of particular importance to donors and donor offspring as there is a general unwillingness to apply this principle to them. Instead, the converse prioritisation is applied and donors are encouraged by the State to repudiate their biological children through conception by donation. Such explicit encouragement is an apparent aberration of this general standard in favour of supporting the unity of genetic and social parenting.

In support of this general principle and the recognition of the significance of genetic parenthood is the fact that there is an Article that specifically identifies adoption (that of legal rather than genetic parenthood), which the Convention treats quite differently. This indicates that non-genetic parenting is viewed as being significantly different, hence the practices and policies related to this are deemed worthy of particular attention and scrutiny under a different Article in the Convention (Article 21).

Hodgkin and Newell (2002) further pursue the argument in favour of the recognition of the importance and prioritisation of genetic parents in relation to the child’s

wellbeing. They explain that for medical reasons alone, this genetic relationship supplies knowledge, which is of ever-increasing importance to the child (Hodgkin & Newell, 2002, p. 118).

The rights and indeed the prioritisation of the parties involved in reproductive technology are given some clarity by the implementation handbook. The handbook states that the law on “artificial forms of fertilization, as with adoption should be framed to protect the rights and well-being of children, not to meet the needs of childless couples” (Hodgkin & Newell, 2002, pp. 118-119). Notably this does not simply imply a careful and equal balancing of the rights of all the parties; instead what is being stipulated is the prioritisation and protection of the child created from these procedures.

The previously stated, Article 21 of CRC, which refers specifically to adoption, appears to be in support of this prioritisation. It is important to note that Article 21 raises the best interests of the child to the position of being *the* primary consideration, as opposed to *a* primary consideration, as it is in Article 3 of the CRC. Article 21 of CRC requires that “States Parties that recognize and/or permit the system of adoption shall ensure that the best interests of the child shall be the paramount consideration” (OHCHR, 1989). This change in prioritisation highlights the appreciable significance of non-biological parenting in relation to the child’s best interests, giving explicit attention and directives to this in human rights standards.

Tobin (2004a) seeks to make the directives for this prioritisation crystal clear:

In other words, the best interests of a child are not merely to be balanced as a central consideration against other competing interests, including for example a person’s desire to have a child. Rather the best interests of the child are to be the overriding consideration from which the entire process of adoption is to be assessed. (Tobin, 2004a, pp. 5-6)

While Hodgkin and Newell do not directly state that donor conception is incompatible with the Convention and with the ‘as far as possible’ requirements of these Articles, they do raise awareness that donor anonymity is a particularly controversial

interpretation of the 'as far as possible' stipulation. Hodgkin and Newell highlight donor anonymity as appearing to be an "unnecessary breach of the children's right to know their genetic parents" (Hodgkin & Newell, 2002, p. 117). More attention will be given to Article 7 in due course, but first Article 3 is presented as of interest.

### **Article 3**

Article three provides the appropriate premise for governing and framing actions and considerations concerning the responsible care and protection of children. The significance of Article 3.3 is flagged here, as it requires suitable and competent staff for the institutions, services and facilities responsible for children's care and protection. Attention is drawn to this because of the predominance of the interests of people with infertility and the infertility industry in such decision-making in relation to reproductive technology. This issue will be exemplified in the later section on power and premise in this thesis.

The section on power and premise demonstrates with examples how the providers and users of the service tend to have disproportionate representation, control and management of reproductive technology, as is found in the composition of the HFEA. The lack of such child-centred experts and the predominance of those with a conflict of interests must be viewed sceptically in light of these requirements. Arguably a more appropriate composition, in accordance with this Article, to govern and oversee reproductive technology would be a group comprised of experts on child welfare, along with paediatricians. Those with no specific expertise in this regard, and with conflicting interests are likely to seek to maximise the services and minimise legislative restrictions made on it, are inappropriate members. Article 3 is quoted below in full. As previously stated, the implications for practice will receive more attention later in the thesis.

1. In all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration.

2. States Parties undertake to ensure the child such protection and care as is necessary for his or her well-being, taking into account the rights and duties of his or her parents, legal guardians, or other individuals legally responsible for him or her, and, to this end, shall take all appropriate legislative and administrative measures.

3. States Parties shall ensure that the institutions, services and facilities responsible for the care or protection of children shall conform with the standards established by competent authorities, particularly in the areas of safety, health, in the number and suitability of their staff, as well as competent supervision. (OHCHR, 1989)

### **Article 7.1 in relation to Article 2**

Article 7.1 of CRC (OHCHR, 1989) is also noteworthy. As stated, this Article is of particular relevance because of the stipulation to accord the child with “as far as possible, the right to know and be cared for by his or her parents” (OHCHR, 1989). The case is further advanced that this Article is significant because ‘as far as possible’ is incompatible with the intentional parental abandonment found in donor conception, which by design rather than duress, transfers the child’s rearing away from the genetic/donor parent and associated kin to those who become the legal parents.

In relation to the interpretation of Article 7.1, it has been asserted that “there is nothing in the drafting history of the Convention to suggest that the term ‘parents’ was necessarily to be defined or indeed confined to man and woman, or to the child’s biological parents” (Tobin, 2004b, p. 8 ). However, if this was the case then there would be no need for reservations to be made in favour of a legal re-definition and such reservations have been made, for example by the UK. These reservations will receive further attention later in the chapter.

Admittedly, such an Article does state that this right is to be enacted after birth: “The child shall be registered immediately after birth and shall have the right from birth to...” (OHCHR, 1989). Yet, to avoid discrimination and different standards from being intentionally applied and enforced on the offspring of reproductive technologies,

before as opposed to after birth, it is important that the original theory underlying this convention is extrapolated and evenly used. The need for such even usage is because, while these decisions are made before birth, indeed even before conception, the lived consequences for these offspring will either be in accordance with the normative standards that surround them or provide stark aberrations of the attitudes and values that they live amongst.

Indeed the Convention was brought about specifically in order to proclaim and agree “that everyone is entitled to all the rights and freedoms set forth therein, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status” (OHCHR, 1989). Thus it is reasonable to assert that those produced by reproductive technology must also not be thwarted in the protection of their rights and interests because of the nature of their conception, nor given distinction to justify this. The Convention proclaims that “special care and assistance” in particular should be shown towards childhood (OHCHR, 1989), thus providing momentum to the appeal for such special protection for the children of reproductive technology as opposed to the special absence of this protection. This formulation to particularly protect children from discrimination has been adopted by Article 2 which provides this as a legal right:

1. States Parties shall respect and ensure the rights set forth in the present Convention to each child within their jurisdiction without discrimination of any kind, irrespective of the child's or his or her parent's or legal guardian's race, colour, sex, language, religion, political or other opinion, national, ethnic or social origin, property, disability, birth or other status.
2. States Parties shall take all appropriate measures to ensure that the child is protected against all forms of discrimination or punishment on the basis of the status, activities, expressed opinions, or beliefs of the child's parents, legal guardians, or family members. (OHCHR, 1989)

If this protection from discrimination were applied to children of reproductive technology it would then have far-reaching effects. However, the opposite is currently the case. The issue of what, if any protection at all should be accorded to

such offspring is the source of controversy. Such contention is described, with aspects refuted by Tobin (2004a):

In the context of ART there remains a threshold issue as to whether the Convention has any relevance to a child who is not only yet to be conceived but remains merely in contemplation. In such circumstances it is doubtful that such a child could be said to have any rights. The reality is that if that child is born he or she will have rights under the Convention. It is thus incumbent upon policy makers to accommodate this prospect in designing laws that address the various issues relating to ART. (p. 3)

By considering Article 7.1 in relation to donor conception, a philosophical and ethical problem (and possibly a legal one yet to be tested in court) becomes apparent. The problem is that to encourage the institutional production of children who will not be known nor cared for by their genetic parents is, in effect, to apply the extreme opposite to that intended by the Article. Such a systemic application of discrimination towards the child of donor conception, as compared to those standards accorded to the broader community, is again raised. Notably this inequity is being systemically created and enforced, particularly in relation to the identity and kinship destruction and construction of the donor offspring.

This significance given to the child's parents in the Convention is supported by the fact that 'as far as possible' is clear in that the "children's rights to know their parentage could only be refused on the grounds of best interests in the most extreme and unambiguous circumstances" (Hodgkin & Newell, 2002, p. 119). Again with this general principle it is hard to justify the State taking a contrary, discriminatory, position in relation to the donor parent in relation to the best interests of the donor offspring.

This thesis highlights the normative principle that in the first instance, it is the genetic parents who should know and care for their genetic children. This is a principle that has been transgressed by the State, at great cost. Such transgression in past practices of kinship separation has been demonstrated in the previous two chapters. In terms of the primary care relationship, government incentive now rightly fosters



the replacement or substitution of this parental care only as a last resort, as is the case with the Aboriginal child placement principle (Community Care Division, 2002). This is also the current wisdom and practice in adoption (Triseliotis et al., 2005, p. 20). This chapter argues that the primacy of genetic parents is also supported by human rights.

These three examples show the common important precedent being applied: that it is only as *a last resort for the protection of the child* that this separation should be encouraged and supported by the State. This chapter therefore argues that the creation of a child's genetic kinship separation in reproductive interventions is wrongly motivated, that the motivation is for the production of parenthood rather than for the protection of the child, and that this State-sanctioned practice does not follow the normative principle of such separation being a last resort for the child.

The UK Government's aforementioned involvement in the "Give life give hope campaign" provides a poignant example of a government initiative that directly contradicts this normative principle. This campaign involves the UK Government funding the targeting, recruitment and acquisition of donors (BioNews, 2005). Still these donors are, nonetheless, encouraged to become genetic parents who through donation intentionally create children they will not know nor be involved in caring for. Further, these genetic donor parents are encouraged to cede their parental duties, relationships and responsibilities by their own government. The government encouragement to donate contrasts sharply and problematically when considered from the normative legal and social context and as recommended by Article 7.1 (OHCHR, 1989).

The double standards inherent in such actions were also explored in chapter two in relation to government initiatives to have the names of unmarried fathers routinely placed on birth certificates and thereby making unwilling fathers more easily pursued for maintenance payments. This is being advanced as the Government providing a "Clear messages of expectation" and to "help to embed a cultural norm that fathers should reach the birth of their child with an expectation that they have clear responsibility for their child" (Department for Work and Pensions, 2007, p 6).

Both the UK and Australia are signatories to the CRC. Britain is, however, also now legally bound to the European Court of Human Rights and is thereby under greater legal pressure to act in alignment with human rights Articles. Despite both countries having these human rights affiliations, there is a significant difference found between Article 7.1 and the disregard attributed to the disconnection of the child from the genetic donor parents. Indeed such disparity is found in government policies that explicitly *embody the minimisation* of the “significance of the biological relationship between the donor and child” (Mumford, Corrigan, & Hull, 1998, p. 2352). It appears that the United Kingdom has recognised that it does wish to act outside of these sanctions in relation to the legal significance accorded to the prioritisation of genetic parenthood as it has entered CRC with the following reservations: "The United Kingdom reserves the right to formulate, upon ratifying the Convention, any reservations or interpretative declarations which it might consider necessary" (United Nations, 2001).

Declarations upon ratification:

- (a) The United Kingdom interprets the Convention as applicable only following a live birth.
- (b) The United Kingdom interprets the references in the Convention to ‘parents’ to mean only those persons who, as a matter of national law, are treated as parents. This includes cases where the law regards a child as having only one parent, for example where a child has been adopted by one person only and in certain cases where a child is conceived other than as a result of sexual intercourse by the woman who gives birth to it and she is treated as the only parent. (OHCHR, 2008)

However, it is unlikely that this disregard towards the significance of genetic parentage will be applied to all families outside of reproductive technology by the UK government. Statements about children conceived ‘other than by sexual intercourse’ indicate that reproductive technology is the primary area intended for the applications of such reservations. The contrary message has been exemplified by the aforementioned attempts to send “clear message of expectation” to “help to

embed a cultural norm that fathers should reach the birth of their child with an expectation that they have clear responsibility for their child” (Department for Works and Pensions, United Kingdom, 2007, p. 6) found in recent government policy. In the Government incentive to have genetic fathers placed on birth certificates and made more accountable for maintenance payments the intention or absence of intention of such men to become fathers is not treated as a relevant factor. Instead, the appeal is for inherent responsibility attached to this genetic, paternal relationship.

In Australia such policies and anomalies of genetic minimisation found in donor conception can be compared with the following guide on the appropriate prioritisation to be accorded to Indigenous children, and the working definition of their best interests. According to the Victorian Department of Human Services, the Convention is a reminder of the importance of a government respecting and providing support towards the responsibilities, rights and duties of parents. It is re-enforced by the Victorian Department, that by the government supporting parents to do this there is a positive flow-on effect for the child, that of providing them with the right to *their own* identity (Community Care Division, 2002, p. 5). This specific reference to the Indigenous child’s own identity is clear in the regard being shown for this genetic and cultural significance.

The Victoria Department of Human Services draws attention to the fact that The United Nations Conventions on the Rights of the Child has been ratified and that the Convention refers to the best interests of the child being the primary consideration when a government intervenes in family life (Community Care Division, 2002, p. 5). In contrast, donor conception rather than being a medical intervention can also be seen to be a government intervention in family life. Nonetheless, the above primary considerations have not been accorded; hence the charge of creating an unjust omission and an unacceptable disparity.

### **Article 8**

The ratification of the Convention of Human Rights and the European Court of Human Rights are optional yet binding for the signatories that decide to enter into this protocol (Council of Europe, 2006). The European Court of Human Rights was

established as a legal mechanism for the enforcement of human rights in Europe. The Articles enforced are derived from the Convention for the Protection of Human Rights and Fundamental Freedoms (Council of Europe, 2006). Under this European ruling some human rights have been tested in relation to donor conception.

Further strengthening the charge of systemic discrimination in relation to the standards accorded to donor offspring's welfare and best interests, is a High Court ruling on this issue ("Rose and Another v. Secretary of State for Health and Human Fertilisation and Embryology Authority," 2002). The above human rights ruling provides some recognition of the significance of human rights arguments and laws for the protection of donor offspring and the definition of their identity. This judicial review judgment was a landmark as it established that a right to one's identity is integral to respect for private and family life found in Article 8 (OHCHR, 1989). It has been noted that with this test case, donor-conceived people now have Article 8 which recognises the right to an identity as a legal precedent to aid and advance their appeal for their rights in relation to their genetic history and kin (Kirkman, 2005b, p. 163).

This provided a human rights ruling that the donor offspring's identity is indeed connected with their genetic donor kin, as it is more generally understood to be with other members of the broader community. After ruling on this issue in a case where the author of this thesis was the plaintiff, the disconnection between the donor offspring's welfare and identity from her genetic donor kin was successfully challenged in the UK High Court. Justice Scott-Baker ruled that the donor offspring's access to information about a biological parent "goes to the very heart of their identity, and to their makeup as people", and indeed that "an AID child is entitled to establish a picture of his [her] identity as much as anyone else" ("Rose and Another v. Secretary of State for Health and Human Fertilisation and Embryology Authority," 2002).

The significance of Article 8 in relation to donor offspring is also now receiving more attention in Australia. While not legally bound by the rulings of the European Court of Human Rights, Australia is nonetheless a signatory to the CRC, and non-compliance therefore creates a significant issue for public pressure and embarrassment. Non-

governmental submissions to the United Nations Committee on the Rights of the Child regarding Australia's compliance with the Convention has consequently highlighted that "Australian children whose right to identity is not widely recognised are children born as a result of assisted reproductive technologies" (National Children's and Youth Law Centre, 2005, p. 14). Again, the lack of identity rights for donor offspring is being flagged as problematic and in need of redress, albeit through less accelerated means than are provided by the European Court of Human Rights.

The Australian Democrats are also recognising the significance of human rights in light of donor conception and are pushing to influence legislation to give greater recognition to donor offspring under Article 8 (Australian Democrats, 2002). This mounting call for action is being joined by the Donor Conception Support Group of Australia which is now asking for a senate inquiry; "will be pushing for this committee to hold the enquiry on the basis that the right to know who you are related to is a basic human right" (Donor Conception Support Group, 2003).

Again the momentum towards donor offspring gaining such human rights and kinship recognition is a step in the right direction. However, worthy of exploration, but beyond the scope of this chapter, is an examination of the effects of cohorts of genetic and social parents having had complicity in neglecting to protect this basic human right for the offspring they then raise. An investigation into the effect on individuals and family systems of subsequent guilt and/or conflict arising from opposing views on this as a human rights issue would be worthwhile. From personal experience, and from anecdotal evidence provided by other adult offspring, this situation certainly does have the capacity to make family relations feel like a hornets' nest at times

### **Article 14**

The second legal component to the case involving the author ("Rose and Another v. Secretary of State for Health and Human Fertilisation and Embryology Authority," 2002) was Article 14. This is the anti-discrimination provision as described by Liberty (2002), the non-governmental body in charge of defending the case. Liberty describes these two Articles, 8 and 14, as important in application and appeal for

donor offspring; indeed they have been used to “defend the rights of individuals to information necessary for an understanding of their personal identity” (Liberty, 2002). Clearly, on the basis of this appeal, the charge of discrimination towards the donor offspring has carried some legal weight in order to win the aforementioned case. However, the full extent and application of such identity rights and anti-discriminatory legislation towards donor offspring is yet to be tested to its full effect.

### **The evasive applicability**

While the above court ruling does provide a significant foothold for future legal action to be taken by, or on behalf of, donor offspring, there are countries such as the USA that are notably not signatories to the CRC. However, for the countries that are accountable to these standards, there continues to be an elusive and evasive quality about the correct application of human rights law, in particular in relation to the rights of donor offspring. Not only are there conflicting applications, but also there are conflicting interests from even those who have sought to represent and protect the interests of the donor offspring. For example, Liberty’s investment in other legal actions in relation to the right to found a family appear to support the more conservative application of the rights of the child in relation to its right to be known and cared for by its biological family (Liberty, 2004). Indeed it could be interpreted from this ruling (“Rose and Another v. Secretary of State for Health and Human Fertilisation and Embryology Authority,” 2002), that this is merely the right of the donor offspring to obtain certain non-identifying information, or that the right to identifying information should only be made available to future donor offspring. Concern about the supply of donated gametes meeting the growing demand, including by transgender, single and gay couples, is likely to provide impetus for conservative applications being given to the rights of the child unless these rights are given overriding, as opposed to competing prioritisation.

As a result of the various interpretations and the reticence towards the recognition of the rights of the donor offspring there is need for further legal test cases to be taken on their behalf. There is a need to challenge the application of different laws from being implemented in relation to the collection and access to donor and offspring information. For example, there are differences found in the collection and access to

information in each State in Australia (National Children's and Youth Law Centre, 2005, p. 14). Indeed in relation to the rights and identities of the donor offspring there is also considerable legal discrepancy, affected by geographic location and age cohorts worldwide.

As opposed to the there being universal standards and rights for donor offspring, legal discrepancies continue to separate and divide the rights and recognition accorded to them, sometimes even within families, and certainly within countries throughout the world. Leonie Hewitt (cited in SBS, 2006), head of the Donor Conception Support Group of Australia, describes a situation in her own family whereby all three children have different donor fathers, with two having recognised rights to information about half-siblings and donors and the potential for contact, but one offspring is left bereft of this. The complexity and disparity of this lived experience is extraordinary, while this one offspring is denied such identifying information and contact, another has discovered they have twenty-nine siblings (SBS, 2006). The likelihood of tension and difficulty resulting from this blatant disparity is high.

As can be seen, there is much legal mileage yet to be covered. "In some jurisdictions, donor-conceived people have an explicit right, legitimated and enforced by statute, to information identifying their donor. Elsewhere, donor-conceived people can only argue their case for a moral right or appeal to an overarching human rights code" (Blyth, 2002, p. 186). There is legal ground to be made up in relation to offspring having equity among themselves, let alone having parity with the broader community in terms of identity provisions. There is much legal time and distance between donor offspring gaining *universal rights* to establish identifying information. Further away again is the right to be known and cared for by their genetic parents from being recognised by the State as a legitimate interest worthy of support and protection.

Since this case (*Rose and Another v. Secretary of State for Health and HFEA*, 2002), the UK has banned anonymous donor conception (HFEA, 2005b). It is likely that Australia will be legally pressured to follow in all States. At the time of writing, Victoria has stopped the further use of anonymous donation since 1998 (Infertility

Treatment Authority, 1995). Furthermore, in Australia both Victoria and Western Australia, have set up retrospective voluntary contact registers, as have the UK and New Zealand. These are part of a collective effort to respond to the identity rights of the offspring thus far produced. The registers and their implications will gain further attention in the following chapter. Still, it is evident that there is much that remains to be contested in terms of the application and interpretation of these human rights Articles. The battle is far from conceded or concluded.

In the UK the HFEA has noted that there is a propensity for donor offspring to engage in such a legal battle in relation to their rights. They observe “there has been a perceptible development in attitudes to individual human rights and a similar growth in willingness to claim those rights through legal action” (HFEA, 2002, p. 7). While this is true, it is unfortunate that donor offspring have been born into a state of inequitable, legal mess. It is lamentable that donor offspring are intentionally created in situations that produce the need to engage in such battles against the actions and inactions of their own government and parents. Achieving one’s rights this way is burdensome; it comes at a psychological and practical price. This is stated from the personal experience of what has been an exhausting seven - year legal battle to date! Even this effort had only incremental, ratchet improvements, with different legislative protections still being accorded to the offspring. That one must oppose one’s own government and parental decisions in order to access the legal recognition of one’s human rights to one’s own identity, medical social and cultural history and kin is an ongoing and profound assault and a deeply objectionable situation from which to launch into adulthood.

### **Reservations, redefinitions and general principles in the convention**

Further attention will now be given to the particularly unresolved tensions of the State definitions of parenthood and the prioritisation of the right to be known and cared for by one’s genetic parents, supported by Article 7.1. As stated, a complicating factor is that “Countries have entered declarations and reservations in relation to this right” (Hodgkin & Newell, 2002, p. 116). As also stated, an example is provided by the United Kingdom which interprets parents as solely the people who are treated as parents as a matter of law.



In 2005 Canada introduced the Civil Marriage Act that also changes the primary basis of parenthood from the biological to the legal (Department of Justice Canada, 2005). This legal change is in response to demands to give greater equity and recognition to homosexual unions, but in so doing it has been observed that children's rights to their genetic parents are more broadly disrupted as "disconnecting marriage from procreation, compromises this right for all children, not just those brought into same-sex marriages" (Somerville, 2005, p. 18).

The redefinition of parenthood by countries such as the UK and Canada, with these legal rather than biological definitions, has been identified and discussed with concern at human rights forums. It has been described as:

a fundamental redefinition of what it means to be a parent and how we decide who are a child's parents. Specifically, I am referring to the phenomenon of erasing the biological basis of parenthood from law and replacing it with the idea of the State-defined legal parent. This erasure...is also, I believe, contrary to the best interests of the child...in so far as possible, to know and be raised by its two natural parents. (Blankenhorn, 2005)

Blankenhorn appears also to be appealing to Article 7.1 and its apparent incompatibility with the current trend for the legal redefinition of parenthood.

Somerville (2007a, p.190) describes a fundamental power shift from the natural to the legal definition of family. The consequence she identified is that with this change, rather than the State supporting families, it is actually creating them (Somerville, 2007a, p. 190). In an effort to accommodate sensitivities and preferences from gay and reproductive technology users, new laws tend to institutionalise family fragmentation as the "new societal norm" (Somerville, 2006, p. 191). In relation to the legal as opposed to natural families, she says "the danger is that what the law creates, it can take away. Rights established by law are far more fragile than those just recognised by law, because the latter exist independently of the law" (Somerville, 2007a, p. 190).

For some there is alarm: “We stand on the edge of a probable explosion in IVF embryo adoptions and other IVF involvement in the splitting of biological from social parenting. The time to figure out whether we want to continue in this direction is now” (Bartholet, 1993, p. 223). Indeed, both Bartholet and Somerville are right in making explicit that while the splitting of the social from the biological has targeted the kinship of those created from reproductive technology, the legal and cultural repercussions are likely to be more broadly affecting, as was discussed in chapter two.

### **Article 12: The right to found a family**

There is growing tension and legal challenge about the interpretation and application of Article 12 which covers the right to found a family (Liberty, 2004). A lobby comprising of gay, single, and transgender people are thus asserting that the right to found a family applies to them, without discrimination under Article 14 and that this would lead to a positive content right to have the State aid them in having a child, through reproductive intervention. At this stage in the UK, the right to found a family has not been established for gay or transgender couples; however, there appears to be an interest in testing and seeking to change this (Liberty, 2004).

Since Canada introduced its Civil Marriage Act 2005 (Department of Justice Canada, 2005), this legal change is being used as leverage to test the UK law in relation to the recognition of the union of a gay couple who were married in Canada (Liberty, 2006). Evidently the pressure is on, and the correlation of equality and non-discrimination in the eyes of the law is being fused with the concept that the State must provide those who desire a child with one. This is being asserted regardless of whether the child would be fully genetically theirs, or even if the conception to be facilitated would occur outside of either their intimate or sexual relationships.

Alongside such claims are the additional claims made by people who are above the natural reproductive years to found a family. A 63-year-old woman who used IVF to become pregnant (with donated ova which are likely to be from an anonymous donor) states “We take our responsibilities very seriously and regard the best interests of the child as paramount....what we would wish now is to be allowed the

right to pursue our family life in private” (BBC News, 2006a). The language used here alludes to human rights standards being in support of this reproductive anomaly.

Clearly the extent to which it is a positive content right to pursue family life, and how this equates with the rights of the child are in a state of tension. Somerville (2007b) advances that this right to have a child, or to found a family, must be recognised as a negative content right as opposed to a positive one. She clarifies that the resultant difference to the outcome is very important:

The right to bear children is much more accurately described as the right not to be prevented from, or interfered with in, bearing children through natural reproduction – a negative content right. That right does not include a positive content right to bear children in any way one wants and to have assistance, especially society’s assistance, in doing so. In particular, it certainly does not include any right to bear children who will be denied their rights. (Somerville, 2007b, p. 154)

The positive or negative content right interpretation of Article 12 is indeed an important distinction, still in debate and yet to be made clear. Fisher (2006) describes with horror that the knock-on effect of this right being interpreted as a positive content right and this is the resultant creation of a duty to donate. This issue will receive more attention in this thesis in the section on power and premise, where the resultant complexities are further unravelled.

The following judgement, briefly discussed in chapter two, refers to a guiding ethic in the architecture of the Convention (in this case the European Convention):

In the architecture of the Convention, at least as fundamental as the right of a woman to be a mother [or a man to be a father], is the dogma of the supreme interest of children. In conflicts where the interests of a child are an issue, the ethic guiding domestic courts and this Court has been that the ‘protection of the rights of the child’ should be paramount. I see no reason to depart from this hierarchy in the present case. (Dickson v. United Kingdom, 2006, at 6)

The guiding ethic identified does seem to correlate with there being a negative as opposed to a positive content interpretation of this Article. This is that when a conflict of interests between intending parents and a child arises, the State prioritises the protection of the child over the right to found a family. Judge Bonello was referring to a particular appeal for the State provision of donor conception to a prisoner, in the European human rights context. However, the *guiding ethic* that has been applied to this judgement is of particular relevance, and could also be applied to all cases of State-sanctioned and facilitated donor conception, and this could impede the continuation of the practice. Since writing this, the aforementioned judgement has been overturned, again throwing the issue of the State's position when confronted by clashing rights between intending parents and the best interests of the child into further turbulence and likely servitude.

### **Articles 5, 9, 18 and 27**

Regarding the protection of the best interests of the child and the right 'as far as possible' to be cared for by his or her parents, Hodgkin and Newell (2002) suggest this right must be read in the context of other Articles. These are grouped as Articles 5, 9, 18, and 27 (Hodgkin & Newell, 2002, p. 119). Indeed, these Articles are certainly of interest to the approach advanced in this chapter. As will be shown, they further bolster the case that the general principles found in the Convention are ill-suited to the general principles found in donor conception. These rights are therefore outlined to complement the Article that explicitly deals with the identity rights of the child: Article 8 of the CRC.

Article 5 acknowledges, alongside the primacy of parents, that support be shown to members of the extended family or community as provided for by local custom (OHCHR, 1989). However, there appears to be no such existing prioritisation in relation to the extended family, community or custom shown towards the donor offspring. This is particularly the case for the children created as a result of the extensive and frequent international trade in donor gametes.

Proving that there is appropriate regard for community custom shown towards the child in donor conception is problematic, as it is known that western society prioritises blood kinship (Taylor, 2005). As anthropological research has explained, western culture accords its greatest kinship significance to the connection of genetic parents, siblings, grandparents, aunts and uncles and so on (Taylor, 2005). Donor offspring are nonetheless placed with families regardless of the primacy of these genetic, cultural and social factors. The only attention paid to the intended family regarding the race, culture or the compatibility of the donor/s with that of the intended child's social family, is based on the preference or lack of preference of those approaching the service, or those providing it. No paramountcy is given to the donated extended family, community or custom for the child.

Attention is also drawn to Article 9, which requires that "the child shall not be separated from his or her parents against their will, except when...such separation is necessary for the best interests of the child" (OHCHR, 1989). Article 9 also stipulates that the State shall respect the right of the "child who is separated from one or both parents to maintain personal relations and direct contact with both parents on a regular basis" (OHCHR, 1989). While this may be rejected as not directly relevant to donor offspring, the general principle is still of interest. Again there is the notion that only in *extreme* circumstances should such separation be enacted by the State, and if this does arise, that contact be kept between separated relatives during the offspring's childhood rather than after they reach the age of legal maturity. Again Article 9 supports the significance of this connection as being directly related to the child's best interests. Notably it is not 'love' that is being used to justify the protection being accorded to these relationships and their maintenance; it is their *inherent significance*.

In donor conception, particularly anonymous donor conception, arguably neither the will of the child, nor the necessity of separation, or even the lack of contact, can be rightfully assumed to be in the child's best interests. By supporting this 'donor service' it is hard for the State to justify the intentional inability of the child to have regular contact with a parent, in this case a donor parent, nor half-siblings or other family members. Such separation and anonymity are even more difficult to justify as being in that child's best interests when confronted by a donor-conceived child/adult

who fervently disagrees, attesting that their best interests are seriously compromised by the enforcement of anonymity. An example of such contestation is found in the aforementioned legal challenge (*Rose and Another v. Secretary of State for Health and HFEA*, 2002).

To strengthen this case, the largest known study to date, which includes the willing feedback of donor offspring on the topic, indicates that they are suffering from adverse identity effects from such anonymity (Hewitt, 2001, p. 32). Notably the above research was conducted by a school-age donor offspring. Together the donor offspring are mounting evidence and testimony that they do not support the choices made on their behalf.

Donor offspring Myfanwy Walker (cited in Johnson, 2003) describes her familial structure and laments that despite having contact with her donor father, she “didn’t have a choice”. Clearly, if given the choice, Walker would not have chosen the situation that was created for her. In chapter three of this thesis Whipp (used with consent, personal communication, May 17, 2005) draws parallels with being a donor offspring and being “a mail-order foreign bride”. The author has been published as feeling treated like a battery animal, in being bred for a purpose, including the acceptance of our less than optimal kinship treatment (Rose cited in Moore, 2003, p. 151).

To continue this position let us turn back to the Convention. Of further importance in Article 9 is the declaration that states:

Where such separation results from any action initiated by a State Party... of one or both parents or of the child, that State Party shall, upon request, provide the parents, the child or, if appropriate, another member of the family with the essential information concerning the whereabouts of the absent member(s) of the family unless the provision of the information would be detrimental to the well-being of the child. (OHCHR, 1989)

It can also be argued that donor conception is an action initiated by the State, particularly when they fund the recruitment of donors and provide and legislate for

insemination as a service. Thus there lies a positive obligation with the State to provide such information about the whereabouts of genetic donor family members. Clearly, contact with family members is prioritised within the Convention, and so the disregard for the donor offspring's contact with relatives is anomalous with this.

Article 18 (OHCHR, 1989) is identified because it endorses the principle that both parents have joint responsibility for caring for their children, and that this responsibility must be appropriately supported by the State. However, the State's support for donor conception, and the intentional abandonment of rights and responsibilities towards the child by the donor parent, again is incompatible in theory, if not in law, with Article 18. Clearly, in such a normative context of human rights, the declaration of the child being 'wanted' and 'loved' by others, has nothing to do with the State's recognition, which is accorded to these intrinsic kinship rights.

The next Article which requires attention is Article 27, directing States to assist parents in their material responsibilities in caring for their children (OHCHR, 1989). This is also relevant and unfavourable in the light of donor conception. The handbook to aid interpretation explains that the right to be cared for by both parents implies a more active involvement in the child's life than simply paying the other parent or the State money to support the child (Hodgkin & Newell, 2002, p. 119). At the very least the State could support the intention of donor parents to have active involvement with their genetic offspring in order to provide some compatibility with this Article. But as yet this is not even a proviso, in fact quite the reverse: the intended absence of the donor parent from the child's life is a principle behind the practice, which is encouraged and enforced by the State. Indeed, the intention is well described by the name of this type of siring 'donation' is usually associated with 'no strings attached' and 'gifting for a cause'.

The next chapter will illustrate that without the benchmark for the welfare and interests of the child of reproductive technology being in consonance with the normative principles applied to children outside of reproductive technology, there is substantial cause for alarm. Outside of this normative context, there appears to be no anchor point for such a benchmark that cannot be debated and repositioned in order to suit the persistently incremental interests of people with infertility and their

industry. Thus we are left bereft of obvious limits as to how such welfare, or lack of it, might be applied to this specifically targeted group of offspring.

Without such normative principles, there is instead a moral morass, leaving soggy ground where “The welfare principle is devoid of any normative context specifying just what a child’s welfare consists in” (Laing & Oderberg, 2005, p. 330). This issue is given further deliberation in the following chapter in relation to the competing interests that are involved in the definition of the best interests or welfare of the child from reproductive technologies. The chapter posits that the pressure and power of these interests have a highly corrosive effect on such a benchmark.

## **Conclusion**

There is much that remains to be ascertained in relation to the correct application of the best interests of the child and the legal protection this would necessitate for the child of reproductive technology, specifically in donor conception. The ambiguity and resultant contesting of such protection and of the definition of the child’s best interests has been shown to be particularly extreme in reproductive technology.

The ethical and philosophical foundations of the Convention on the Rights of the Child and the European Convention of Human Rights appear to support normative principles of protecting and valuing genetic kinship. Indeed, this proves only an example of the legal recourse yet to be mined for application to the rights of the child in reproductive technology. These normative legal standards are worth appealing to, in seeking parity in relation to future considerations of the practice of donor conception and the offspring created. When seen in this light, there is cause for review of the positive presentation and encouragement of attitudes and values surrounding reproductive donation by the government and its institutions. There are also grounds for redress, specifically in relation to the genetic identity and kinship absences created through legal omission and discrimination against donor offspring.

This chapter has highlighted the significant resource of human rights and particular Articles. This chapter has focused on children from donor conception in particular to show that such human rights and relevant Articles do appear to have been neglected



in establishing appropriate foundations for the considerations in relation to children of reproductive technology. This chapter has sought to demonstrate that despite these normative standards, there is a growing legal complexity associated with the definition of parenthood, and that donor conception exacerbates and falls into this quagmire. It is hoped that through highlighting these normative standards and discrepancies, this research will aid further consideration and re-evaluation of such legislation, strengthening the protection and eradicating the discrimination created for the child through reproductive technology.

## **Chapter 7**

### **Best Interests/Welfare of the Child: Paramount, Taken into Consideration or irrelevant?**

#### **Introduction**

This thesis has shown thus far that it is presently beyond a normative context that we find the core of current policy, law and debate about the best interests of the child or at a less protective level, the welfare of the child from reproductive technology. This chapter takes a closer look at the powers and players and the intersection of their interests in the arena where such decisions are made. It makes the argument that there are two major premises engaged in this topic and it details the significance of these in terms of their cause and effect.

This chapter aims to use the UK to exemplify the competing claims and authorities that are presently engaged in and in conflict over these issues, to illuminate what is causing such ambiguous ground. These are shown to result in conflicts in relation to how to define the best interests, or the welfare of the child from reproductive technology and, along with this, if and how to protect such welfare or interests altogether. Further, the chapter seeks to demonstrate that much of this contention relates to there being these two identifiable and different starting premises from which to consider these issues. These two differing premises are detailed and then shown to be attractive to those with specific interests. The chapter demonstrates how these interrelated premises and interests are particularly influential in the ethical assessments and definitions that are being advanced and applied to the offspring created from reproductive interventions.

An examination of the interests and their representation helps to show that too strong a correlation exists between the industry and its users and that this undermines there being appropriately representative boundaries, or equitable power and debate on these issues. The dynamic created is instead argued to be corrosive to the protections accorded to the welfare and interests of the child of reproductive technology, and also harmful to the processes of democratic and informed debate.

This chapter first identifies two premises: *A Critique* and *A Preference*. Then there is an exploration of *Principle and Practice*, and *Principles in Practice*. This is followed by *Power and Premise* and an examination of *The HFEA, an Example of the Intersection of Power and Premise*. Next there is a critique of UK government consultations in: *Consult or Insult - The Donor Offspring in Light of Fiduciary Duty*. This is then followed by a conclusion.

### **The first premise – A critique**

The first premise to be identified for this chapter appears to be the most commonly held in the field of reproductive technology and is well represented by Jackson. This position leans on the familiar existential debt notion, which attributes to the offspring that “Regardless of whether the child’s welfare is described as a medical or social outcome...if the alternative is non-existence, it will in fact invariably be in a particular future child’s best interests to be conceived” (Jackson, 2002, p. 193). Jackson argues that it is “tautologous and unjust” and “simply illogical” for the HFEA (the legal body responsible for legislation in relation to reproductive technology in the United Kingdom) to take a different position to this (Jackson, 2002, p. 193).

From this premise, the intentional and institutional creation of life carries with it a diminished level of caution about the potential long-term harms, in particular for the child/person created. This premise sits comfortably with representing reproductive technology as a medical treatment or service for infertility as described in chapter two. This medical presentation is dominant despite the fact that in many cases infertility is not treated but merely circumvented; either it is the fertile partner who is treated or alternatively the service is given to fertile gay or single people and even to some seeking to conceive with dead partners. In other words, it is the fertile who are commonly supported to access non-conventional forms of reproduction in order to avoid fertile sex with others, while still presenting this as a medical treatment for infertility. Furthermore, there is an implication that such infertility is *the primary*, if not *the only* issue to be considered pertinent and requiring redress, through the provision of reproductive intervention.

This propagation of exclusive concern towards those deemed infertile specifically excludes the other members affected by and involved in this intervention. Concerns about the familial outcome, specifically for the child or donors, are framed as alarmist and not the business of the State or any other commentator – certainly not an issue of equal or greater social responsibility. Thus it is presented as distasteful and judgemental to show specific unease and consideration in relation to family outcomes from reproductive interventions. Instead it is encouraged that reproductive technology should be respected as a ‘private’ and ‘medical’ matter, relating to the diversity of family types.

This appeal for the facilitation of what is arguably a radical intervention, in relation to infertility, is fuelled by the assertion that the State has positive obligations under the right to found a family (as discussed in relation to human rights, Articles 12 and 14). This positive obligation is advanced regardless of whether this implies a duty to provide a child that is not biologically related, or only partially related, to those who raise it. It also draws support from legal cases and arguments about ‘wrongful life’ and rationalises that, in any event, “applying the welfare principle prior to conception is essentially meaningless” (Jackson, 2002, p. 197), again harking back to existential debt. By appealing to these other legal contexts, Jackson and those in support of this position tend to argue that there is a legal precedent that “existence must always be judged preferable to non-existence” (Jackson, 2002, p. 202). In this way the production of life is prioritised and used to trump other concerns.

However, there is something troublingly contradictory about this position, as Jackson (n.d., para 16) also argues that “it is hard to see how society in general could be harmed by the wider availability of abortion”. Evidently the significance of existence in that instance is disregarded, showing that such appeals are being made to principles that are not consistently applied. Yet it appears that from within this position such contradiction tends to be treated as less important than providing flexibility and choice through facilitating reproductive autonomy. Thus Jackson implies that to be created by whatever means is preferable to the option of not being created at all, regardless of the resultant impairments and burdens borne by the offspring as a consequence. From this premise, the notion of responsible and

irresponsible reproduction is displaced as unwanted and paternalistic; indeed, it is seen as illogical.

The foundations of this premise, and those who advocate it, can be seen to have the assumption that being a parent (either genetic or non-genetic) and exercising the autonomy to become a parent goes “to the heart of what makes life worth living” (Jackson, 2002, p. 188). Thus the creation of parenthood is elevated to a level of enthusiasm for such autonomy that would be hard to substantiate, despite this being presented as an objective description of the central *meaning* to individual and social life.

This notion is problematic for various reasons: this premise rests on unstable assumptions which release a cascade of questions that remain unanswered: How would one assess what goes to the heart of what makes ‘life worth living’? Does this change over a life span? What happens if what makes life worth living for some is corrosive to the well-being of others, including future generations? Is the ‘heart of what makes life worth living’, the same for everyone, even when embracing diversity? Is this a scientific or moral claim? Is this an objective or subjective statement? Is this statement hinged on a belief in there being innate and intrinsic kinship needs, at least for those people with infertility? If so, would the offspring from reproductive technology not also have innate and intrinsic kinship needs too? What innate kinship needs or interests are recognised as important for the offspring, if unrelated to their genetic kin? But Jackson purposefully strides on, apparently unperturbed by such questions, professing that “becoming a parent is one of the most momentous events in a person’s life” (Jackson, 2002, p. 185).

Undisputedly, parenting is deeply significant to people and their lives, including non-genetic parents. However, the claim that unbridled autonomy in the production of parenthood should be treated, as *the foundation* of ‘what makes life worth living’ needs refuting. Indeed, as stated, this premise does not address the question of whom such autonomous parenthood is supposed to make life worth living for. The enthusiasm for unbridled reproductive autonomy in reproductive technology presumes no conflict of interests in terms of the vulnerability of the child produced. It also does not address the possibility that such autonomy can have a corrosive effect

more broadly on the donor, on extended families, on the child created, or on society at large. One side of the coin, that of infertility, may be experienced as a sense of “loss and void” with the production of a child representing to parents “growth and fulfilment” (Becker, 1994, p. 393). As has been described in earlier chapters, there is little consideration for the other side of this coin: the consequent loss and void that can be created for the child, or donor, through interventions which seek to address these issues for people with infertility.

When responding to this premise, it is appropriate to demand evidence to back up these foundational assumptions, which are coupled with the exclusive compassion for infertile people in relation to such growth and fulfilment, or loss and void. It is appropriate to request the type of evidence that is commonly demanded, prior to any respect being accorded to the significance and kinship loss for the donor offspring, indeed, to say that the burden of proof rests with those who demand such extraordinary technical intervention for their infertility.

The potential for a conflict of interest between those seeking to be parents through reproductive intervention and the child acquired has been recognised and described (Blyth, 2002, p. 186). This first premise carries with it a perception that does not address this conflict, leading to the assertion that there is a right to have a child, even a *right* to have a child originating from others, even in the absence of a sexual or personal relationship to consummate this. As described previously, this notion has a disturbing momentum, leading to the “invention of a new social duty, to give one’s eggs, sperm and embryos to others” (Fisher et al., 2006).

This problem has been referred to in the previous chapter and is identified as stemming from the lack of distinction between people with infertility having negative content or positive content rights (Somerville, 2007b). Somerville (2007a, p. 188) advises recognising the delineation between the ‘negative content right’ “not to be interfered with in conceiving and bearing children naturally”, thus showing that this is very different from having the ‘positive content right’ “to bear children and have access to NRT’s to do so” (Somerville, 2007a, p. 188). However, those within this first premise appear to be interested in asserting the positive content right to found a

family by such means, regardless of the potential for adverse effects and risks to others.

Obviously, the idea of having a *positive content right* to found a family, including a non-genetic one, can powerfully clash with the interests of other parties affected by this assertion. As stated, a positive content right, could include the resultant creation of a duty to donate gametes, and with that, a demand that the State should proactively educate and encourage people to respond to this duty. An example of this is the aforementioned UK government action of launching nationwide campaigns at targeted audiences for this cause (Moss, 2004). The momentum created by the perception that there is a positive content right to have a child continues, escalating towards what could be described as a type of reproductive frenzy. An example of this cause to help people with infertility being taken to increasing and unreasonable extremes is in the stealing of women's eggs for fertility treatment. This has occurred when uninformed women have been under general anaesthetic for other, unrelated procedures. This has already occurred in a criminal attempt to harvest and impregnate infertile women, as was demonstrated by the Californian Irvine fertility clinic scandal of the 1990s (Berthelsen, 2008).

As we have seen, a similar unbridled momentum to satiate childlessness drove adoption into problematic areas in terms of failing to protect the interests of the child and its genetic parents. In some cases this resulted in illegal and unscrupulous removal of children from their genetic families. This devastating practice occurred as a result of seeking to satisfy the interests of infertile people above other ethical, and in some cases legal considerations. Such conflicts in relation to the interests of the various parties has been recognised and identified in adoption, (Rickarby, 1997). While there may still continue to be the danger of such problems in adoption, the fact that this occurs is 'out of the closet', it has been recognised. Yet the assertion and prioritisation of parental creation and autonomy has a momentum that remains markedly unrestrained, and unrecognised in reproductive technology, particularly from within this premise.

There are even claims made by professionals involved in reproductive technology that a conflict of interests is impossible within donor-conceived families, as a result of

an apparent “interdependency” of the parent and child (Brewaeys, 1998, p. 2348). One wonders if this is meant to imply that there is no interdependency between other parents and children, for example in adoptive families. This is the implication, regardless of the author’s intention. Clearly the experience and complexities of adoption have not tainted the momentous and naïve optimism directed to reproductive technology from within this premise.

From this premise, the kinship losses such as in the experience of adoption and the Stolen Generations, are not treated as being of relevance or ‘objective’ significance regarding the framing of infertility and its treatment in reproductive technology. This dissonance is applied despite experience demonstrating that losing contact with one’s parents and kin is generally a deeply affecting and significant loss. Such evidence and relevance in relation to donor affected families is dismissed as speculation, as exemplified in: “instead of uninformed opinions, what is needed are systematic studies to establish what actually happens to the children and their parents in their new family forms” (Golombok, 1998, p. 2346).

While the evidence gained from other forms of kinship loss is readily disregarded, also disregarded are the various studies and appeals that have been presented by and with the donor offspring themselves (such as Cordray et al., 2001; Hewitt, 2001; Turner & Coyle, 2000a). Such sources of information do not typically receive attention from within this premise.

Thus the primary focus from this premise is to respond to the perceived kinship significance of making parents from people with infertility, which is presented alongside the asserted kinship insignificance of making children without one or both of their genetic parents. The former claim is argued to be self-evident, the latter as a loss that is subjective and contestable. The kinship losses for those, other than those with infertility, are ‘muddied’ and said to require a substantial and undefined quantity of scientific, quantitative research.

This premise therefore carries with it a momentum towards the experimental production of children. The collateral damage of this is to be viewed in retrospect. This is framed in the following way: “objective statements about the best interests of



the child are hard to make, due to the lack of empirical knowledge about the long term physical and psychological development of the child” (Brewaeys, 1998, p. 2349). There is little or no precautionary principle evident in this premise for the child because “if it is always better to be alive than not to live, then all assisted conceptions would have to be allowed” (Mumford et al., 1998, p. 2353). Thus there are no stringent breaks to apply to the practice. Empirical knowledge of harm, even if gained, would then, at best, be likely to be assessed and balanced against the benefit from such reproductive autonomy and its satisfaction. Indeed when the best interests of the child are not paramount, there is no certainty as to what position of inferiority any such acknowledgement or balancing will eventually be accorded in relation to such harms and benefits.

It is notable that the level and type of research frequently demanded from this premise, in order to show harm done from donor kinship loss, is unattainable. “There is limited information that might be accepted by sceptics as constituting empirical evidence” (Blyth, 2002, p. 187). Due to the anonymity, secrecy and lack of record keeping upon which donor conception has been founded, the evidence called for from this premise is actually impossible to obtain (Rushbrooke, 2004). As a result, donor conception has been identified to be a secret experiment (Rushbrooke, 2004). The consequence of this is that the assessment of the welfare of the child becomes “a slippery slippery concept” (Blyth & Cameron, 1998, p. 2341). Indeed, the inability to pin this concept down is likely to be intentional. What is presented as concrete, however, as opposed to nebulous or slippery is “necessarily centred entirely on the merits of the parents-to-be” (Mumford et al., 1998, p. 2353).

This premise refers to, and favours, the limited studies that have been conducted on very young donor offspring. Favour is shown by ignoring or disregarding other evidence, testimony or experience. Attention is willingly given to studies performed on donor offspring who are predominantly ignorant of their status and are consequently ignorant of the real nature of the experiment and research being performed on them.

Indeed such ethical principles are encroached upon, and yet evaded as even relevant considerations. In relation to such secrecy, the research can be seen to be

colluding with and supporting adult secrecy towards children. The researchers enter a pact of secrecy with these parents. The researchers can be seen to be both supporting secrecy on the whole and creating even more relevant information that is to be kept from the children, information not only about their donor conception and hidden origins but the real reasons for the research being performed on them. This type of involvement arguably does not adequately distance the researchers from ethical complicity, if not complacency, about the provision of misleading identity, kinship, medical, genetic, racial and cultural information being given to the donor offspring. Along with such serious ethical omissions are the issues raised by conducting potentially harmful research on uninformed, and therefore unwilling, human subjects.

The results obtained by these extraordinarily dubious experimental means are familiarly presented and used to assert the argument that “we should also bear in mind that the fact that these non-disclosing families are producing well-adjusted adolescents shows that there is more to parenting than sharing information about genetic origins” (MacCallum, 2006). If this type of research continues to be accepted, then other potentially harmful research can also be performed on uninformed human subjects of different ages and cohorts. Why stop with just the children of reproductive technology? The point I wish to raise is that if truth, trust and informed consent are no longer treated as the ethical parameters for relationships and research, then the dimensions into which this idea can be replicated are many and varied. They can and perhaps should be extended with out distinction. However, this approach appears to be perilous and worth avoiding, indeed avoiding for all.

Thus it is the creation of parents from those who are infertile that is found to be the centre of concern from this premise. From this premise, the practical consequences of changes being introduced to give normative rights to the child created from reproductive technology are evaluated in light of whether they are favourable or unfavourable in how they might affect those wanting reproductive interventions (Blyth, 2002, p. 187).

This position predominantly resists normative rights from being accorded to the child in relation to the ethics of human experimentation. The significance of genetic

kinship and identity is also not framed within a normative context, instead preferring to frame the issues as uncharted and exciting new territory. For the next generations this is described as new territory which is yet to be pioneered with 'open minds' in relation to kinship and identity. This premise gives a fairly open reign to scientists and people with infertility to 'brave', 'colonise' and 'tame the unknown'. The position characteristically demands empirical evidence of risks and harms to the child, which could only be gleaned retrospectively, as is asked for by Golombok (1998, p. 2346). The refutation of this is impossible within the terms and demands set by this position, as has been demonstrated by Rushbrooke (2004). However, the founding principles being applied and appealed to, in relation to these reproductive interventions, also remain lopsided and value-laden rather than scientifically proven. These central values and ascriptions on which donor conception has been founded are not subject to the same level of scrutiny as has been demanded in relation to the offspring, prior to protections being accorded to them and the significance of their genetic identities.

This first premise relates well to the inequities explained in the previous chapters. The primary focus is on the interests of those people with infertility, at the expense of a more inclusive vision. The words, principles and frameworks from this premise expound an experimental kinship vision for the generations produced, while relying on and appealing to the maximisation of the normative notions of kinship for infertile people. The concern for the offspring produced is minimal and disputed, to the point that many from within this premise disregard the need to protect them from harm, particularly psychosocial harm. Appeals are made to the notion of existential debt for the child, and to family-type diversity for the adults. Appeals such as these are made in the name of tolerance, thus bolstering and characterising this lack of protection.

### **The second premise – A preference**

The second of these premises focuses and applies its knowledge, interest and concern more broadly; towards the creation of the child and family in relation to their long-term welfare and identity. This is as opposed to the exclusive focus being on the immediate creation of parents as described in the previous premise. From this second premise more caution is evident in relation to the possible and avoidable

harms to the children and families created. Such focus and concern for the child are conveyed with both implicit and explicit prioritisation, as evident in this statement:

The production of children in ways which carry risks to those children needs to be evaluated ....More risks can be justified in the attempt to benefit an existing individual...than can be justified in the attempt to produce an individual who is only produced because a certain procedure is on offer. (Watt, 2002, p. 37)

As can be seen, this is very different from the “existence must always be judged preferable to non-existence” (Jackson, 2002, p. 202) argument which is so common in the first premise.

Thus there is an emphasis on having caution regarding the institutional involvement in some forms of reproductive technology. Such concern encompasses the notion that there is an inherent responsibility held by the State to avoid complicity in the systematic creation of children in potentially unfavourable conditions. This is distinctly different to policing all forms of unfavourable conception on the streets.

While a broad spectrum of positions are defined and defended within this premise, Judge Bonello (Dickson v. United Kingdom, 2006, at 9), who was referred to earlier in this thesis, exemplifies one way in which this can be argued:

I am not particularly impressed by the argument that society regularly allows children to be born in similar or worse circumstances. The present is not a case in which society would be ‘allowing’ a conception in unpromising conditions, but one in which the State is being asked to become an active accomplice and participant in this future conception. I believe a responsible State to be right to require of itself standards higher than those beyond its control in the free procreation market.

Although Judge Bonello was referring to a specific instance of donor insemination for a prisoner, his appeals and reasoning complement the second premise. Thus, there

is a capacity and interest in being able to confront and apply the brakes to the perpetual momentum generated from the first premise.

From the second premise support is given to the point that the welfare and, indeed the interests, of the child of reproductive technology should not be treated as a purely speculative and scientific issue to be explored. Instead they are more readily incorporated in a holistic and long-term sense of responsibility for the child's welfare, and related interests. Such welfare and interests are no longer seen or framed as exclusively in relation to the child's medical creation and survival. In harmony with this thesis, there is an interest in having a normative moral dimension from which to frame the concern and protection for the child to be produced, as well as a readiness to draw from the experience of other forms kinship and identity loss (Triseliotis, 2000, p. 84).

Thus the issue of kinship loss in donor conception is reframed, and an entirely different view of the matter becomes apparent; there are losses and risks that happen to a child, as opposed to those designed as a means to someone else's ends:

In short, there are wrongful ways to bring people into the world, and the fact that such people exist cannot be used to justify the means adopted to bring them about...The law already prohibits certain classes of reproductive relationship, irrespective of whether in a particular case a child may suffer. What the law presumes is an intrinsic tendency to produce harm in these classes of relationship. Artificial reproduction, we contend, is no different. (Laing & Oderberg, 2005, p. 348)

Examples of such legal prohibition and systematic avoidance of certain types of reproductive relationship can be found in incest or reproductive cloning. This legislation has an underpinning that embraces and accepts the conviction that some forms of reproduction have an intrinsic tendency to produce harm. This type of conviction is not unusual, and was also recently applied in the aforementioned case in the ruling by Judge Bonello. The relevant case went to the European Court of Human Rights and resulted in a rejection of appeals for the State to facilitate the

insemination of a wife with her imprisoned (for murder) husband's sperm (Dickson v. United Kingdom, 2006).

This second premise reflects more concern for the welfare and interests of the child from novel and State-facilitated forms of conception. This concern for the physical and psychosocial well-being of the child shows sensitivity towards the long-term impacts that experimental forms of family configuration can create. These proponents are willing to make connections with the benchmarks for protecting the child's interests by drawing upon normative frameworks, unlike those from the first premise who are less inclined to frame concern as either normative or long-term for anyone other than those with infertility. The range of positions adopted within this premise are still broadly dispersed and hotly debated despite falling within these more general descriptive criteria.

### **Principle and practice**

It is clear that the contenders for each of the two premises that have been described are appealing to differing, conflicting common law principles. These principles have respectively provided anchor points from which to launch, frame and assess pitfalls and merits. In the above case, from the second premise, types of reproductive relationship have been shown to be prohibited, regardless of the creation of life. This has been highlighted to demonstrate that there are legal precedents worthy of appeal when questioning the State support of donor conception, as well as other experimental forms of family production. In the previous premise, the common ground being appealed to was the opposite of this, instead highlighting the value attributed to life, regardless of claims of wrongful birth. This premise also relied on explicitly and implicitly asserting a 'positive obligation' in relation to the right to found a family, including the right to found a family beyond one's intimate personal or sexual relationships.

The phrase used when providing examples against various forms of State-sanctioned reproduction in the second premise illuminated that this involved an enactment of principle regardless of '*whether a particular child may suffer*' [italics added] (Laing & Oderberg, 2005, p. 348). Thus there is direction given from the

authors to promote the contemplation and application of *principles* in relation to the State-sanctioning, endorsement or facilitation of various forms of reproduction. This is as opposed to the alternative of framing issues within competing or subjective narratives, or calling for future research on the consequent collateral damage or harmful impact on those humans being experimented upon.

Thus the principle being asserted most forcefully at the extreme end of the second premise is that donor conception has an “intrinsic tendency to fragment the child’s biological origins” (Laing & Oderberg, 2005, p. 348). The point being drawn to attention is that there is a *principle* or intrinsic tendency in this type of conception which leads to the intrinsic fragmentation of origins. This principle which results in the intrinsic fragmentation of origins, is the issue which is found to be problematic. Donor conception involves “procreation with no sexual intimacy” (Somerville, 2007a, p. 189) and it is at this point that the acceptance of intentional relational fragmentation begins.

Singer (2005, p. 93) summarises the position asserted by TangledWebs, a group comprised of people affected by donor conceptions, adoptees and philosophers including the author. The members collectively describe “egg and sperm donation as deliberate and dangerous forms of family disintegration” (Singer, 2005, p. 93). Thus this type of fragmentation of origins and biological family is responded to as significant and unacceptable in principle, regardless of individual offspring being showcased who state their acceptance of this in practice. Yet from within the second premise, more broadly speaking, just how tolerated or problematic this form of fragmentation is has not been agreed upon. It is, however more collectively seen as a worthy issue to at least acknowledge.

An example of an offspring being presented who refutes that this intentional kinship rupture is problematic in principle follows. DI offspring Ryan (cited in Morrisette, 2005) states in response to discussion about ‘single mothers by choice’:

I don’t understand why some people would consider it selfish for a single woman to want a child. Perhaps the thought that it is not fair to the child to

subject him/her to a life without a father figure.... I believe it to be preposterous to think that. (pp. 327-328)

Notably Ryan is keen to allow for services to encourage reconnection of donor-separated kin later in life, but he does not currently oppose its fragmentation earlier on. Thus he would be placed as the moderate in this premise.

However, such testimony alone is not enough to convince those who appeal to the significance of such principles in order to frame the practice:

like-wise, a slave may be both willing and content in her current state.... Even the contented and willing slave suffers a debasement of her dignity...it is possible for such undermining to occur without anyone's violating autonomy or causing measurable, quantifiable harm. (Laing & Oderberg, 2005, p. 336)

Whether the individuals being showcased are happy or supportive of the practice, or not, it is important to give consideration to *how* such an issue should be properly judged. As referred to earlier, the option of seeking feedback from offspring may be met with some inhibition. The experience from adoption confirms that at least in some cases, denial is a common defence mechanism, as it offers "protection against all the feeling that could arise if the adoptees 'opened that can of worms'. For some denial is a natural way of shutting down in a situation that feels overwhelming" (Russell, 1996, p. 77). Bearing all these issues in mind it is arguably reasonable and preferable for the reproductive industry to be constrained by normative principles rather than by weighing up the outcomes from less principled practice.

In refutation of the latter option, the same use of weighing up principle and practice could also be played in reverse, on others involved. This could involve, for example, pitting those infertile people who have not resorted to donor conception, against those who demand this radical reproductive intervention. Taking a similar format to the arguments used against the donor offspring who oppose the practice, those infertile people who have accepted their infertility, who equally describe themselves as happy, and wanted and loved within their existing social network, could be presented to dismiss the demands for this reproductive intervention.



Indeed, when taken to an extreme, it is possible to showcase people who choose infertility through vasectomies, or those who are deliberately childless to present an argument for the creation of *involuntary* infertility, also to be measured and constrained *retrospectively from measuring harmful outcome*. Of course, this is an extreme and inadvisable example, but certainly one that could be used to justify no longer funding infertility support groups or the resources given to overcome or circumvent it. Clearly such examples should temper those who assert the necessity of radical intervention to infertility as an imperative service that must be provided by the State, by the use of such a rationale.

Even the most basic principles to be applied to the child of reproductive technology still remain in a state of deep tension and flux from within either premise; for example, there is a deeply rooted disagreement as to whether the welfare of the child should be taken into consideration or whether the best interests of the child should be placed as *the*, or (at least) as a primary, consideration. The wrangle continues, with different applications of these principles in different States and countries impacting on donor offspring.

### **Principles in practice**

While terms and principles are constantly debated even within the two apparent premises, the meaning or interpretation of the terms and principles in practice are also unstable. Combining the uncertainty of which principles to use with how they should be applied has resulted in the proliferation of vexed and ambiguous ground for the protections that should be expected and accorded for the offspring.

McWhinnie (2001) can be placed in the second premise as she actively countenances the pursuit of normative principles in relation to children of reproductive technology in the UK. She highlights other points of contention in relation to the subjective interpretation of the 'welfare of the child' clause currently being applied by the HFEA Act (1990). Notably, such a clause requires that the 'welfare of the child being taken into consideration' is less sharply defined or less legally binding than the *best interests of the child*, being primary or *paramount*. In comparison, the Infertility Treatment Authority for Victoria Australia (The Infertility

Treatment Authority, 1995) currently [at the time of writing, there are rumours of this changing] state that their first guiding principle is that “The welfare and interest of any person born or to be born as a result of a treatment procedure are paramount”. Clearly there is a considerable difference between just taking the child’s welfare into consideration as opposed to the application of the paramount interests of the child. Indeed, in the former option no guidance is provided as to how the welfare of the child should be prioritised in such considerations or in fact if merely considered, they may not be prioritised at all.

Another issue to be raised by McWhinnie (2001, p. 808) is whether normative standards and interest are to be applied *lifelong* to any potential child from reproductive technology, pre and post-conception and birth. Thus the question is: should policy and practice be “following the well-established principle in child care legislation in the UK that paramount consideration should be given to the welfare of the child throughout his/her growing up years?” (McWhinnie, 2001, p. 808).

McWhinnie’s position urges the importance of such considerations, appealing for a change in focus from “concentration on the unhappiness of the infertile couple to a consideration of the long-term outcome and consequences for the children created” (McWhinnie, 2001, p. 807). From the perspective of this chapter, McWhinnie is supporting a systemic change in premise to that which is being implemented in the UK, encouraging a swing from the first to the second premise.

McWhinnie’s suggestion that reproductive technology also has a responsibility to provide long-term considerations and counselling for parents and offspring (McWhinnie, 2001, p. 807) is likely to be seen as an improvement by the donor offspring currently in dialogue on such issues. Such offspring have observed that predominantly the current balancing of State support and resources attribute “more support services for the infertile couple than for the donor offspring...to the best of my knowledge donor offspring are not provided with counselling services by the clinics and hospitals where they were conceived and/or born, to help them deal with the long- term impact that donor insemination will have on their life” (Hewitt, 2001, p 31). The parents’ immediate interests are thus catered for, with the domino effect on

the child's needs being treated as a by-product, yet as also irrelevant to the service providers.

An earlier section of this thesis describing 'services to reunite showed that there has been some sprouting of counselling and support services for donor offspring. Such services have been through the expansion of establishments designed to reunite other disconnected kin, as provided by Vanish, PARK and Donor Link. In Australia and the UK respectively it is services such as these, rather than the institutions that provide donor conception, that are showing concern and responsiveness to the long-term needs and welfare of those created. Clearly the organisations which respond to kinship separations are better equipped to attend to the specific issues related to the welfare of donor offspring. However, the moral duty to respond to these issues is evaded by the clinics, and thus the industry that created such issues has excluded those produced from the vast loop of funding that is circulating within the reproductive technology industry itself.

Another registry and service which has been established outside of this funding is an online site created by a DI mother and her above-mentioned DI son, Ryan. This online register was brought about in order to help aid matches between donor-separated relatives. However, it must be noted that an annual fee of \$50 is also charged to those who join, donors and donor offspring alike. The extent to which this prevents donors or offspring from joining or remaining accessible is an important consideration, as is the fact that the fee that is charged can be increased however and whenever by those who run it; it is not a State-funded provision. At the time of writing, the registry website reports that since its inception in 2000, "membership in the Donor Sibling Registry has since grown to 6756 with matches between more than 1351 half-siblings (and/or donors) facilitated" (Goldenberg, 2006). Support and repatriation of genetic kin is the growing requirement from services to the donor offspring, yet on the whole, this is scantily responded to, let alone funded appropriately on a systemic level, by either the industry or the State. It is left to private enterprise.

With this drive for meetings between unfamiliar kin, is hard to rebuff the importance of accessing and applying relevant experience and knowledge, and this is found

from adoption and/or the Stolen Generations. The second premise is likely to draw on such similarities; however, yet again there is no collective recognition within this premise as to how much similarity will be acknowledged. This division was demonstrated in the earlier exploration in relation to the ethical issue of intentionally creating this.

With the services to reunite, complexities are also likely to transpire from such interactions. An example of some of the complications that have been found as a result of potential reunion include, for the donor, what has been described as the “fear of causing damage to their own family” (Goldenberg, 2006). The discovery and contact of donor kin can also result in the donor offspring, and the donor’s acknowledged offspring, experiencing a type of personal disorientation. It is a type of kinship and identity disorientation as a result of having altered kinship and identity knowledge to that upon which they had previously founded their self-concept, such as suddenly shifting from being an only child to one of perhaps 27 offspring.

An example of this type of impact for the donor offspring is provided by Justin, who before the summer of 2005 had no knowledge that he was the offspring of a sperm donor. “But with a few clicks of his computer, he went from being an only child to the middle child of a large family” (Goldenberg, 2006). Thus the positioning in one’s family and, indeed one’s whole genealogical tree can take on sudden and dramatic changes, rocking, removing and re-establishing one’s existential stabilising supports. However, they may feel insecure due to the ambivalence of roles and relationships inherent in the practice.

The same shock is inevitable for some offspring raised by their genetic father who donated. Their place in relation to the number and positioning of siblings (i.e. being a ‘middle child, the youngest and so on) could also suffer from being disorientated and rearranged. This is particularly the case if they consider their kinship as a genetic rather than a legal construct, as is the norm in western society (Finkler, 2001).

Such recognition and concern are, however, more likely to occur within the second premise, as opposed to the first. The extent of such support and recognition in relation to these issues and complexities nonetheless remains contested.

## **Power and premise**

Of the two premises that have been identified, there is a notable struggle for power. An example of the systemic nature of the ongoing and intense tussle over the conflicting premises is well demonstrated in a legal dispute between a now separated, lesbian couple. This UK case example involves a legal brawl over the custody of the two donor offspring conceived within their relationship. Lord Justice Thorpe, in what was hailed at the time as a landmark ruling for same-sex relationships, said "in the eyes of a child the natural parent may not be a biological one", giving custody to the non-genetic mother (Herman, 2006).

However, since that time five law Lords at the House of Lords have reversed the decision that was made in favour of the non-genetic mother, by both the Court of Appeal and of a High Court Family Division judge. Instead, the Lords ruled in favour of the biological mother having the predominant custody of the children. The comments made by Baroness Hale of Richmond are of interest because they make explicit that the prior judgements, which gave favour to the non-genetic mother, had not followed normative principles. Indeed the lead judge described this as the precise reason for overturning the decision stating that she was "driven to the conclusion that the court below have allowed the unusual context of this case to distract them from principles which are of universal application" (Herman, 2006).

Lord Nicholls of Birkenhead also explained in reversing the decisions of both the Court of Appeal and of a High Court Family Division judge, that the welfare of the child should be the court's paramount consideration, this being the normative conception of welfare of the child in relation to being cared for by their genetic parents:

In reaching its decision the court should always have in mind that, in the ordinary way, the rearing of a child by his or her biological parent can be expected to be in the child's best interest, both in the short term and also, importantly, in the longer term... I decry any tendency to diminish the significance of this factor. A child should not be removed from the primary care of his or her biological parents without compelling reason. (Lord Nicholls

of Birkenhead, cited in "Mother wins back daughters from ex-lesbian lover," 2006)

This thesis has elucidated that such universal principles which usually apply to the best interests of the child are consistently evaded and eroded in relation to the children of reproductive technology. This is particularly the case in relation to those who operate from within the first premise. This belated effort by the Lords to bring the child within this normative framework in relation to the evaluation of their best interests is a welcome redress, and is more closely aligned to the second premise. However, in the case of donor conception, the initial systemic support of the premeditated loss of a biological parent/donor from providing such primary care of donor offspring has been overlooked. The fact that this disregard of a primary care relationship from a biological parent was about to be extended to the loss of the remaining genetic parent is perhaps, a foreseeable continuation of this logic.

### **The HFEA - An example of the intersection of premise and power**

While the courts appear to be less decided on the issue of which premise predominates, in the UK it seems that it is Jackson, and the first premise that she represents, which has the greatest influence on legislation, particularly due to her subsequent appointment with the HFEA. The HFEA (2006) is, as previously stated, the statutory body overseeing reproductive technology in the UK.

The ministerial announcement of the appointment of Jackson described her future position and its associated expectations thus:

The HFEA faces new ethical and scientific challenges each day as technology and understanding in the field of reproductive medicine develop. I am confident that Emily Jackson will make a significant contribution towards the HFEA's important work of regulating clinics and assuring patients' safety. (HFEA, 2003)

Observed with unease in relation to Jackson's appointment is first her appointment itself, but secondly that such confidence in Jackson is publicly encouraged and presented as unproblematic. In the two years prior to joining the HFEA Jackson has

made her position on the welfare of the child known, as described earlier in this chapter, much can be ascertained from the title of her article: “Conception and the irrelevance of the welfare principle” (Jackson, 2002). Indeed, in her track history one finds that Jackson has also been an advocate for reproductive cloning, despite this being contrary to the European Convention on Human Rights and Biomedicine, which she concedes, specifically prohibits it (Jackson, 2001).

Notably, it was not the protection of the welfare of the child, nor assuring the child’s safety that was advanced with such confidence by the ministerial announcement. Jackson’s commitment to legislative protection for the child was interestingly absent in her press release introduction (HFEA, 2003). This absence is despite the protection of the welfare of the child having been declared as the Authority’s primary function (HFEA, 1990). Nonetheless, such protection of the welfare and interests of the child does not appear to be Jackson’s area of particular concern or speciality. Publicly and professionally Jackson has, in preference to fighting for the welfare of the child, fought for the removal of legislative restriction being placed on the reproductive choices made available to make those with infertility into parents.

The Authority has, since this appointment, revised its guidelines on the protection of the welfare of the child, to that of a “general presumption in favour of providing treatment unless” it is “judged that the child is likely to experience serious harm” (HFEA, 1990). Indeed the HFEA make it clear that it is only factors that are “likely to cause serious physical, psychological or medical harm” (HFEA, 1990), that should prevent the reproductive intervention from being performed. Further, there is the explicit and telling statement that this harm should be foreseeable, not just assumed (House of Commons, 2006).

In the UK this is the primary stipulation now available to constrain the practice of reproductive technology in relation to the welfare or best interests of the child. Note through merely according protection to a child of reproductive technology from *likely serious harm*, exhibits that major erosion has occurred to the protection that is expected for the child. It conveys an acceptance that, moderate to quite a lot of harm can be caused to the child, or even serious harm, if it was not deemed to have been likely. The use of the word ‘likely’ and ‘foreseeable’ again acts to protect those

who might be held to account for serious harms being caused to a child of reproductive technology. 'Likely' and 'foreseeable' are slippery terms to pin down and prove. They may well provide legal buffers if legal action is taken as a result of such harms. The intention to protect the patients of reproductive technology from a spectrum of harms is certainly not framed as loosely as this. Conversely, there is the expectation of "assuring patients' safety" (Human Fertilisation and Embryology Authority, 2003). This mirrors the inequities between the treatment of infertile people and the offspring demonstrated in the chapters thus far.

Jackson's prior actions and publications reveal the regard she has shown towards the prioritisation of the systemic protection for the welfare of the child conceived from reproductive interventions. Jackson's ideological position towards the welfare of the child from reproductive technology is likely to have been both known and attractive to those that employed her; it appears that Jackson has joined like-minded colleagues.

In the UK there still remains a vocal concern about the lack of a normative framework being directed towards the child of reproductive technology; the British Association of Social Workers sought to focus attention on the legal climate surrounding reproductive technology as a result of the HFEA. It states: "The Human Fertilisation & Embryology Act, 1990 (HFE Act) *does not* give paramountcy to the welfare of children born or affected, putting it out of step with almost all current UK children's legislation" [Italics added] (Project Group on Assisted Reproduction (PROGAR), 2003).

This is where the human rights Article 3.1 of CRC (OHCHR, 1989) is of particular relevance, as it stipulates that: "In all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration".

In addressing the anomaly identified by PROGAR and in light of the above-mentioned human rights Article, it is pertinent to more closely scrutinise the parties and interests that currently have power to be represented, indeed those who influence the legislative processes. It is important to ask who is contemplating the



adequacy or need for reform for legislation and directives that promote or constrain the infertility industry's practices.

Article 3.3 of CRC stipulates the following (OHCHR, 1989) "States Parties shall ensure that the institutions, services and facilities responsible for the care or protection of children shall conform with the standards established by competent authorities, particularly in the areas of safety, health, in the number and suitability of their staff, as well as competent supervision". A closer look at the composition of the HFEA is interesting in light of this requirement, in particular for their 'interests', 'number' and 'suitability'. Of those responsible for assessing such questions, an inquiry into the composition of the HFEA serves to illuminate some serious issues. Joining Jackson we find two 'patients' from reproductive technology who are also employed on the HFEA. Notably in 2005 no identified donors and no donor offspring were represented among the 18 members of the HFEA (HFEA, 2005).

The HFEA proudly states that "at least half of the HFEA members are neither doctors nor scientists involved in human embryo research or providing infertility treatment" (HFEA, 2005a). Thus just under half of the members of the HFEA can represent the industry directly. With the industry providers making up half of the governing body, governing its own industry, one wonders how many of the users and advocates of the industry make up the other half. With such a composition, one is left to ask, what exactly is left to "ensure that the HFEA has an objective and independent view" (HFEA, 2005a), as is claimed. The composition of the HFEA appears to be tipping it towards a position of least restraint and inherently in favour of the industry. This raises serious questions, some of which are being asked: "Parliament is effectively continuing to delegate this kind of moral authority to an unelected body? Do you think that is a sustainable position?" (Q60 Dr Turner, cited in House of Commons, 2006).

There is mileage for refutation as to how the HFEA might have an objective and independent view, and how many parties, interests groups and advocates would need to be properly represented in order to command confidence in making such a claim. To allow up to *half* of the HFEA to be made up of industry providers raises serious anomalies; the HFEA is not representative of the general community nor is it

even representative of the interest groups specifically involved in and affected by the practices. Most notably absent are those willing to be identified as donors and the offspring themselves, and their advocates. Furthermore, those appointed are not the usual people to govern over the legal and social definition, demarcation or protection of the welfare of the child, particularly in relation to their psychosocial welfare.

While doctors are the usual professionals sought to provide advice and expertise on the physical wellbeing of a child, such expertise is not usually accorded to those directly represented on the HFEA but rather from paediatricians as opposed to gynaecologists and scientists. Thus the members of the HFEA appear to be inappropriate for such expertise to adequately foresee the need for, and provide protection for, the psychological, or physical wellbeing of children, nor, in the long term, for their families, as it is not their area of training, concern or experience.

Perhaps unsurprisingly, the HFEA has been supportive of anonymous donation, the cause of deep pain for many donor offspring. They sought to continue the anonymous donation of gametes until legally challenged. During that legal challenge, the HFEA argued against the acceptance of such information from being provided or even of it being relevant to the welfare of donor offspring until overturned by the High Court (*Rose and Another v. Secretary of State for Health and HFEA*, 2002). The pressures of the industry may well be affecting the decision-making surrounding its regulation, not just in the HFEA but even in influencing ministers. For example, if donor numbers in the UK continue to fall, the Minister for Health has indicated a willingness to reintroduce anonymity to gamete donation (House of Commons, 2006). Again in this example, the interests of the industry and its clients, as opposed to concern over protection of the interests and welfare of the child, appear to be leading such decision-making, and the HFEA is unlikely to counter such prioritisation.

To add to concern is the fact that the competent protection and assessment of the welfare of the child is not a simple matter. It takes the ability to know what to look for, indeed to have the knowledge that there are complexities being managed by such offspring that require a degree of sensitivity and preferably experience. As has been crystallised by donor offspring Ellis (cited in Guest, 2006). He explains that it is not

the external, superficial accomplishments or the lack thereof, which should be used to inform others of one's wellbeing. Ellis exemplifies the distress arising from such faulty forms of measurement, of for example judging his wellbeing on his external success, as opposed to understanding the torturous impediments that have been made on his identity: "I have done a masters degree at Cambridge and am reasonably successful, but it does not make me feel better about not knowing who I am" (Ellis cited in Guest, 2006). In relation to the possibility of not finding his donor father he states "I do hope that I might find my father - I hope so because the alternative doesn't bear thinking about. It is torturous to go on living without knowing half of who you are" (Ellis cited in Guest, 2006).

The suitability of the composition of the HFEA has raised concern. The following extract from the minutes of evidence from the House of Commons shows the expression of such concern, again raising issues of trust and guardianship:

735 Bob Spink: ....Is the HFEA membership representative or biased? Is it accountable, or are its processes very obscure and not transparent? Does it reflect public opinion in its decisions, and, if so, how does it gauge what public opinion is before taking those decisions? Could I have your responses to that proposition?

*Dr Watt:* Unaccountable, secretive, unrepresentative—everything you have said really.

*Rev Dr Fleming:* That says it really. Bias is too strong a word for me. I would say that there are strong interests of the people who are on it, which are not necessarily representative of the community as a whole, and issues of conflict of interest are not well handled. (House of Commons: Select Committee on Science and Technology, 2004)

The main thrust of the concern being raised in an uncorrected transcript of oral evidence from the UK parliament was that there was a dearth of *active* parliamentary involvement in the making of legislation in relation to reproductive technology, and again that those making such legislation, the *members of the HFEA are not democratically elected* (House of Commons, 2006). Consequently, the HFEA are

making some decisions that the democratically elected parliament would oppose. An example of this is the latest indication by the Minister of State for Public Health in the UK to drop the stipulation of regarding the welfare of the child including the child's need for a father in relation to the welfare of the child clause. The impending erasure of this has been indicated despite the continuation of this provision being strongly supported by parliament (House of Commons, 2006). This issue receives more attention later in this chapter.

The HFEA's leanings in relation to the protection and recognition of the interests of the child from reproductive technology appear to follow the most conservative application possible. Indeed the HFEA could be described as a committee of the self-selected. The configuration of the HFEA remains unchanged with this skewed representation of interests, regardless of the fact that there are numerous adult donor offspring who have been publicly involved and interested in the issues. Such people could have been employed, and also represented on the HFEA. The author applied for a position on the HFEA and was not even interviewed for one of seven vacancies. The reasons given for this were that "The panel did not consider that your application sufficiently demonstrated high level analytical skills or the ability to be a good team player, able to play a full part in discussions" (Appointments Manager, Central Government Appointments, personal communication, July 22, 2008). Concern for my level of analytical skills was stated despite the application detailing the analytical nature of this PhD and regardless of the application being for a position as a lay member. The advocacy role taken by the author, it was conceded, showed "excellent communication skills" (Christine Hope, personal communication, July 22, 2008) leaving the question of what being a good team player for the HFEA requires. Sadly, this raises the concern as to whether the HFEA is truly interested, equipped or designed to protect the best interests or welfare of the child, in practical application. For example in the above court case and in relation to the application of a donor offspring to become a member of their team, helping to alert them to some of the interests of the donor offspring, it has been actively resistant and even slippery and hostile.

Unsurprisingly, also brought into question are the concern and prioritisation held by the HFEA towards the interests and welfare of the donors. For example, due to the

apparent shortage of donors in the UK, one way the HFEA has sought to meet the demand for sperm has been to introduce another set of laws in 2006, with the result that “a donor’s sperm can be used by up to 10 families instead of being limited to 10 children” (Woolf, 2006). Bearing in mind that each family can have numerous children by this single donor, and have a tendency to want to use the same donor for this, the number of offspring distributed in 10 different families, all of whom may contact him in the future, is again cause for alarm in relation to the long-term psychosocial implications for the donor, his wife and immediate family. In 2008 there is again renewed pressure to increase the number of families that can use a single identifiable donor to twenty or more families (Hope, 2008). The amount now paid for ‘lost earnings’ as compensation for making a sperm donation is £250. Indeed, the line between compensation and incitement appears elusive to those in charge.

In late 2006 an interim chair of the HFEA was appointed, Lord Richard Harries of Pentregarth, as detailed by the HFEA in 2006. Unsurprisingly, Lord Richard Harries appeared to adopt a position most easily recognised as falling within the first premise with his enthusiasm in particular to serve those with infertility and to “engage in scientific research to improve people’s chances of having children, and of having healthier children” (Rumbelow & Miles, 2006). Again the focus on infertility and the physical rather than psychosocial health of the child is evident. In an interview with the Times, Lord Richard Harries was described as “typically, progressive....he was in favour of completely reforming the law so that the State’s role in judgements about who makes a good parent is almost nonexistent” (Rumbelow & Miles, 2006) . Lord Harris was reported as wanting to remove the legal clause that emphasised the presence of a father before treatment of a woman (Rumbelow & Miles, 2006). He also favoured there being no legal age limit on access to fertility treatment, saying that he respected the choice of the 62-year-old mother, Patricia Rashbrook, who during 2006 became the oldest woman to have a baby through reproductive intervention (Rumbelow & Miles, 2006).

The Chair appointed to the HFEA in 2007 was Shirley Harrison. Harrison has a professional career background in “marketing and public relations”, and has also been notably involved in “Her health-related activities [which] include patient representation on a number of local, regional and national bodies” (HFEA, 2007).

Again the HFEA, and in this case the then appointed Chair, shows explicit alignment and experience with patient welfare and marketing and notably not in child welfare representation and expertise.

The HFEA was set up in 1991. In November 2005, Ruth Fasht OBE joined the committee, having previously been responsible for the setting up of the Adoption Register for England and Wales (HFEA, 2005e). The appointment summary for the Authority in 2006 gave Ruth Fasht as the only member to be described specifically with a child welfare background on the HFEA at that time (HFEA, 2006).

However, even this solitary representative for child welfare is nonetheless presented on the HFEA website in light of her “understanding of the emotional, social and cultural impact of infertility” (HFEA, 2005d). Such concern about the emotional and cultural impact of genetic severance for the identity and welfare of the offspring or donor is yet again notably absent. In relation to Facht’s experience and background in adoption, even that is not unproblematic in its track history. For example, the Adoption Register for England and Wales which she directed, has been reported to have been badly run and has been described as a ‘costly irrelevance’: “adoption professionals have told the Guardian that the majority of the problems stem from the way Norwood has run the register rather than with the concept itself” and “Confidence in the national register has fallen so low that some adoption teams now regard it as a costly irrelevance” (Millar, 2004). Nonetheless, “Ruth Fasht, the register’s director, failed to respond to a request for a statement” (Millar, 2004).

It is unsurprising that as recently as 2007 a criticism to be noted by the Joint Committee on the Draft Human Tissues and Embryos Bill is about the HFEA’s “current approach to ethics in decision making” (House of Lords and the House of Commons, 2007, p. 19). The Committee acknowledged that “a particular criticism was of the breadth of ethical representation within the HFEA” (House of Lords and the House of Commons, 2007, p. 19). This aforementioned Committee also reported that they disagreed with a merger that had been planned between the HFEA and the HTA (Human Tissues Authority). This is a merger that the HFEA and the then Chair, Shirley Harris, advocated (House of Lords and the House of Commons, 2007, p. 24). Again, the decisions being made within and for the HFEA, appear to be cause for

concern. Unlike the HFEA and its Chair, the Committee “found the evidence against establishing RATE overwhelming and convincing” (House of Lords and the House of Commons, 2007, p. 31) and strongly opposed the joining of the two authorities into a single organisation. It is notable that this merger was not only embraced in theory but in practice by the HFEA when it appointed Shirley Harrison as joint chair of both the HFEA and HTA on January 2007 in preparation for this merger (HFEA, 2007). Also of interest is that the majority of the concern placed before the Committee in response to this, by those not employed by the HFEA, was that such a merger would bring tissues and embryos together in an unsatisfactory and unsavoury way, implying a moral equivalence to what was significantly different (House of Lords and the House of Commons, 2007, p. 26-27). For those embracing the first premise described in this chapter, the conflation between embryos and tissues is perhaps less alarming. That the HFEA, as opposed to the Committee, saw it as such informs us of the difference in perspective and perhaps premise being applied by each.

In 2007 the Joint Committee on the Draft Human Tissue and Embryos Bill (House of Lords and the House of Commons, 2007) set out their concerns in relation to regulation of reproductive technology; they had reached the conclusion that in important areas the Government has shown a “shifting approach to... regulation” (House of Lords and the House of Commons, 2007). Such shifting regulation has resulted in “mixed messages from its approach to parenthood and the welfare of the child” (House of Lords and the House of Commons, 2007). Indeed the Committee was concerned that such regulation was lacking an explicit ethical framework (House of Lords and the House of Commons, 2007). It seems that alarm bells are ringing in relation to the HFEA but what action, if any, this arm will result in remains to be seen.

This section of the chapter has sought to show an example of the intersection of premise and power, in this case affecting the HFEA. The first premise correlates with the mediated framework found in chapter two and thus it is arguably not well-predisposed to best consider, define and defend the interests of the child. The aim has been to show the way that a predominant representation of the first premise within power structures can and does occur. Further the chapter aimed to demonstrate that this then strongly influences how issues are presented to the public and managed in legislation. Consequently, it is possible that the constitution of the

HFEA could be found inappropriate in relation to Article 3.3 of the CRC (OHCHR, 1989) in that it does not “conform with the standards established by competent authorities, particularly in the areas of safety, health, in the number and suitability of their staff, as well as competent supervision” (OHCHR, 1989).

The next section further demonstrates this relationship between power and premise, and it is provided again as an example of the representation, or arguably the misrepresentation, of the issues surrounding donor conception in the UK.

### **Consult/insult- donor offspring: In light of fiduciary duty**

Fiduciary duty is a legal term normally applied to duties of trust and guardianship in relation to economic interests. Both Somerville (2004, p. 293) and Buti (2004, p. 190) have urged the inclusion of fiduciary duty to incorporate a legal obligation, not just for this financial aspect of guardianship and trust but for social aspects too. Indeed, they believe that guardianship and trust should be recognized as inclusive of non-economic interests (Buti, 2004, p. 190). Similarly the violation of fiduciary obligation was part of the argument presented by Buti (2004) in relation to the Stolen Generations. Somerville (2004, p. 293) asks related questions concerning reproductive technology: “Should we regard scientists as having fiduciary obligations to the public and to future generations and, if so what would this mean?” This thesis supports such fiduciary obligations being recognized, particularly with non-economic aspects of significant power relationships that entail guardianship and trust, affecting the public and future generations.

The concept of fiduciary guardianship and trust can then be used to evaluate their fulfilment or dearth and indeed to hold those responsible to account. Such duties can be assessed in relationships of trust and guardianship, for example in the government fulfilment of its duty to provide well-balanced public consultations and duties in matters affecting the welfare and interests of future generations. It is important to look at who is in place to control and frame such consultations and forums. Moreover, it is pertinent to ask the familiar question: from which premise are words and principles being used to present issues to the public? In light of this



concept and such questioning it is informative to examine the following consultation on the welfare of the child.

Tizzard was placed as the policy manager of the 2005 UK government consultation on the welfare of the child (HFEA, 2005f). Her background prior to this appointment is illuminating, as shall be seen. Tizzard was made another member of the HFEA; her appointment was made despite the fact that she had also publicly promoted concepts that appear to run counter to contemporary understandings of identity rights of the donor offspring. For example, in 2002, Tizzard responded to the above-mentioned high court case involving the author, putting in print that despite this ruling she personally opposed the inevitable outcome of ending future donor anonymity in the UK. Instead of supporting such an end to anonymity, Tizzard said she would “favour the double track system, not because it is a compromise position, but because it reflects the autonomy that prospective parents ought to be granted when it comes to making decisions about their reproductive lives” (Tizzard, 2002). Tizzard’s remarks show an apparently myopic concern for the parents.

Such a double track system would provide a choice between identifiable or anonymous donors, but only for some of the parties affected by that choice. Such choice would be made available for the infertile parents, and potential donors, yet notably there is no choice for the person whose identity is most affected, namely the donor offspring. The resultant offspring created for the parents who chose donor anonymity would effectively have their genetic identity and kinship constrained by this double track provision. The donor offspring would be powerless about such anonymity, regardless of its potential ongoing impingement on their welfare. Such a constraint would be imposed on the identity and kinship of the offspring throughout their lives and would inevitably have intergenerational impacts. This would occur while other donor offspring, whose parents chose to use an identifiable donor, could flaunt their freedoms in front of other offspring thus constrained. Tizzard’s enthusiasm for this type of parental autonomy, to be enforced and supported systemically would, by its construct, create inequity among the offspring and impinge on, frustrate and truncate the autonomy of many donor offspring. The prioritisation of such choice effectively excludes the offspring from having any choice themselves about accessing knowledge or making contact with their own genetic identity,

medical history and kin. As previously described, this type of restriction is not usually placed on citizens, both intentionally and systemically.

Such prioritisation of parental autonomy demonstrates that Tizzard is recognisable as best positioned within the first premise. Tizzard is familiarly prioritising the interests of those with infertility and the connected industry with an enthusiasm for policies that some offspring continue to experience as 'tortuous' (Ellis, cited in Guest, 2006).

Yet again, the public prioritisation of the autonomy of those with infertility over the interests of the offspring did not deter those who appointed Tizzard to be *in charge of the consultation on the child's welfare*, despite the fact that it was doubtful whether her interests and allegiances were best suited for this. Indeed, those who did feel disquiet about her appropriateness for this position were ironically directed to send comments back to Tizzard herself: "If you have any questions regarding the content of this document, or any other aspect of the welfare of the child review, please contact Juliet Tizzard, Policy Manager, using the contact details above" (HFEA, 2005f, p. 14). In this respect, even the complaints mechanism for this consultation breeds cynicism. Tizzard's impartiality on the issue of her own appropriateness for the position she has adopted is hard to assume.

Tizzard's background does not demonstrate an affiliation with other projects involved with defining or protecting the identity and welfare of the child. Instead, her academic background is identified by Lobbywatch as concerning, and with specific association to pharmaceutical companies and the advancement of biotechnology (Lobbywatch, 2006). Furthermore, Tizzard's prior position was as director of Progress Educational Trust (PET). This organisation originated as Progress and their self-described origins are: a "coalition of patients, doctors, scientists and parliamentarians, PROGRESS had one aim: to make sure that human embryo research was protected by law so that IVF treatment could continue" (PET, 2005).

Indeed the naming and self-description of Progress illustrates that it has pursued its 'one aim', that being the advancement of reproductive technology and research. This aim does not imply that its members, or indeed Tizzard, have a deep commitment to

an “objective and independent view”, in particular when other interests compete with the interests inherent in that one aim, despite such an “objective and independent view” being claimed by the authority (HFEA, 2005a). Instead, Progress appears to show a commitment to persuading others of a very particular view and its advancement. The belief that the HFEA would be compatible, as opposed to threatening of Progress’s ‘one’ commitment appears to have been strong from the time of its inception. This is surmised from the fact that PET (2005) documented that “members of PROGRESS were relieved when, in 1990, the Human Fertilisation and Embryology Act finally came into being”. ‘Relieved’ is a telling word in this case, as PET clearly did not feel that their ‘one aim’ was going to be vigorously challenged, but rather represented. It would be of interest to ascertain how many members of the HFEA are from the original Progress group, as well as the input Progress had on who was selected to go on the HFEA.

It seems there is an alliance between the industry and the government, one that raises questions about the impartiality of those considering the welfare of the child from reproductive technology, even in relation to conducting a consultation on this issue. This sort of concerning alliance between industry and the government is reportedly not uncommon (Monbiot, 2003).

It is useful to consider the consultation process further, as it provides an interesting case example to consider the nature of this alliance in more detail. It is notable that the HFEA ran consultative workshops in 2005, “aiming to create the opportunity for dialogue between the HFEA and different stakeholder groups” (HFEA, 2005f, p. 3). Those stakeholders have been detailed to include “professional societies; individual professionals working in clinics or laboratories; patients and patient representatives; general practitioners; relevant academics and interest groups” (HFEA, 2005f, p. 3). Notably, donor offspring and donors are not even named as relevant stakeholders, in relation to this consultation, unlike the patients, *and* their representatives along with doctors.

McWhinnie (1998) makes this general comment on the omission of consideration of donor offspring as significant stakeholders in the debate on reproductive technology:

it is more than time that the voices and experiences of DI offspring should be recognised and listened to. They are as much 'stakeholders' in the contemporary debate as clinicians, scientists and would-be parents. In fact, it can be argued that their experience and views should be given paramount consideration, since they carry for a life time the consequences of ART intervention: intervention which they did not choose or consent to. (McWhinnie, 1998, pp. 60-61)

Arguably this stakeholder representation was not reflected appropriately in the consultation.

To add to concern, this government-funded consultation publicly represented the research on the issue exactly as has been outlined in the first premise (previously described in this chapter). Sadly, but unsurprisingly, it stated that:

There is a growing body of research on the psychological welfare of children born to a number of different types of assisted conception families. This research is beginning to show that many early concerns about psychological harm to children were unfounded. Instead, studies suggest that where there are problems, they relate to factors such as poor family relationships or low household income, rather than to the structure of the family. What seems to count is the quality of family life. (HFEA, 2005f, p. 6)

This governmental representation of research to the public omitted due regard from being given to the studies run by and with adult donor offspring who have described more complex and fraught lived experiences, a grievous omission. McWhinnie (1998) outlines two types of research: social and interpersonal relationship studies and she identifies a reliance of the overt behaviour of the child and self-report questionnaires:

the finding from the social and interpersonal relationship studies certainly show a very different and much more complex picture, suggesting that reliance on overt behaviour in childhood and self-report questionnaires about

couples and their personal relationships do not reflect the real complexity and dynamics of these families. (McWhinnie, 1998, p. 55)

It appears that the government consultation that has presented such research is also guilty of such lopsided representation to the public, with the result that the consultation has not provided the full body of research currently available on this topic. This representation of research has in effect concealed the real complexity for families.

Such an omission can be viewed in light of fiduciary responsibilities held by the HFEA to fairly represent the issues and research. When exposed, such omissions are likely to be corrosive of levels of trust in the guardianship from such authorities for the offspring of reproductive technology and for society at large.

Another example of such corrosive consultation processes follows. This is again to be viewed in light of fiduciary duties of trust and guardianship for the offspring and society. On 16 August 2005, the UK's Department of Health (DoH) launched a consultation on the review of the HFEA Act 1990 – that of the law regulating fertility treatment, gamete donation, and embryo research in the UK. The Department of Health funded none other than PET to run an online discussion forum (PET, 2005), supposedly to encourage informal comment and debate, to complement the formal public consultation process. However, the capacity for this forum to make all feel equally welcome “to comment on any area relevant to the review” (PET, 2005) is questionable because of the discomfort created by the allegiances PET has.

An example of the PET's activities is BioNews which is published under its auspices. GMwatch is keen to point out that one finds a very close link “with the pharmaceutical industry. For instance, AstraZeneca sponsors BioNews - its free weekly digest of news covering IVF, cloning, embryo research, preimplantation genetic diagnosis (pgd), gene therapy and prenatal genetic diagnosis” (GMWatch, 2006). An example of this BioNews presentation of issues relating to the welfare of the child from reproductive technology can be found in an article concerning the physical outcome for children conceived from ICSI (Intracytoplasmic Sperm Injection). The article stated: “And, even though major malformations were found

more frequently in the ICSI children, most of these were able to be easily corrected by minor surgery" (Horsey, 2006b). The title that the article ran under does not accurately reflect this finding of more frequent major malformation; on the contrary, it states "No Physical Health Problems For ICSI Children" (Horsey, 2006b). It is apparent that the article puts a positive, if not biased spin on the findings and problems for the wellbeing of the offspring that have been found to date.

Such spin is not necessarily seen as negative by Tizzard and her associates. While she was a director of Progress Educational Trust, Tizzard expounded enthusiasm for this. She stated "perhaps instead of spin doctors, what we need is spin scientists!" (Tizzard, 2000). When referring to the media coverage of cloned pigs in the UK she said "Three cheers for PPL Therapeutics! Not for their success in cloning pigs (although this is worth at least three cheers), but for their success with the media coverage of those five little piggies. Press coverage in the United Kingdom of the cloned pigs was almost universally positive... Perhaps PPL Therapeutics is just good at media spin" (Tizzard, 2000). Tizzard's three cheers for success in getting almost universally positive media coverage of an issue does not show an inherent commitment to informed debate nor balanced representation of issues. The selective representation of the research and issues raised by the aforementioned consultation of which Tizzard was in charge also indicates another version of such a lack of interest in balance, instead favouring positive spin. Such spin has again directed public attention away from the risks to the psychosocial interests and welfare of the child from reproductive technology.

In an uncorrected Parliamentary transcript, the quality of the aforementioned consultation on the welfare of the child was raised, indicating some serious issues. One such issue was directed by the chairman to the minister of State for Public Health in the UK: "But with respect, the consultation, which was responded to by a self-selecting group of people or organisations, there was no methodology towards an analysis of the responses; there was no weighting to different responses, so I do not see what that has been? done in terms of bringing government thinking forward" (Q12 Chairman, House of Commons, 2006). Some disquiet is being indicated, but a question raised is, for how long will such concern appear to be so well-founded?

To add consternation to the trust placed in the appropriate protections being accorded to the best interests/welfare of the child of reproductive interventions, there continue to be strong pressures eroding these already weak structures. Another example of this is the continuing push for and likely removal of, the child's need for a father clause in UK deliberations for the Human Fertilisation and Embryology Bill 2007. This would effectively remove any consideration of a potential child's interest in having not only their own father but even a father figure at all, specifically for the children of such facilitated interventions. This momentum continues despite there being a compilation of 113 items of evidence in research that support the uniqueness and importance of fathers to the interests and development of the offspring (Wilson Thomas, Taylor, Mayerd, & Boucher, 2007). The research has been compiled specifically for those making these deliberations, yet it is unlikely to stem the tide in the rush and demand for more liberal industry regulation. All this is currently being discussed during the writing of this thesis. The protection accorded to the welfare of the child continues to be corroded due to pressure to provide for those with infertility, particularly now single and gay people. This compilation of research would have provided ample further information for chapter two, both in terms of highlighting the pressures to increase stocks and access to alienated sperm and in providing a rich source of psychosocial data to back up the importance of children having their own fathers, and secondly of having a father in their upbringing.

Indeed, in the UK, since first writing this paragraph this protection for the welfare of the child has now been removed. In line with the calls from the gay and single parent lobbyists, the birth certificates of the child from reproductive donation has been changed to facilitate any person nominated by the legal mother to be inserted on this certificate. This arguably results in a non gender-specific, ungenetically related god-parent like position being created in place of and instead of the father. In relation to the birth certificates of these offspring the HFEA explains that as of April 6, 2009:

**Does the father or second parent need to be the partner of the woman receiving treatment?**

No, the woman receiving treatment with donor sperm (or embryos created with donor sperm) can consent to any man or woman being the father or

second parent as long as they are not 'within prohibited degrees of relationship in relation to each other' as outlined in the law (HFEA, 2008). For example, a close relation such as a brother or aunt.

While this change may be viewed as progressive by many, this is arguably regressive for the identity rights and best interests of the child. The HFEA can be accused of insensitivity and biases by then providing websites under a section titled: 'Other sources of information about this legal change'. The HFEA placed Stone Wall and Pink Parents as the top two sites followed by infertility support groups to find out more about these law changes. The first two were both gay advocacy rights sites, and none of the sites offered was specifically independent of competing interests and purely concerned with child welfare or advocacy (HFEA, 2009b).

In the examples provided in this chapter, the representation of the welfare of the child of reproductive technology is looking transparently problematic. This chapter has also sought to make apparent the problem of how related issues are represented and responded to while claiming to be open to the public for deliberation.

Transparent corruption is doubtless an improvement upon opaque corruption, but it seems only to have dissuaded people from pressing the case for no corruption at all. If there is one job which should command a person's undivided loyalties, it is surely the job of representing us (Monbiot, 2005)

## **Conclusion**

This chapter has sought to show that there is a tendency for too strong a correlation to exist between the industry and its users. Obviously there will be different dynamics at play worldwide, according to differing styles of governance. However, the problem identified through the case examples is that significant and relevant interests involved in reproductive technology have been subsumed by the over-representation of the industry and its users, creating a domineering effect on the discussion and regulation of reproductive technology, in this instance in the UK. An issue for further



research would be the extent to which such power and premises interplay with the governance of reproductive technology in other jurisdictions and States.

By progressing through the topics in the subheadings of this chapter, the main aspects of various current debates relevant to reproductive technology have been highlighted. These debates have been described as originating from particular premises which have been shown to be dominated by two specific orientations. The first is most represented in terms of having power, in particular in the UK, and this premise correlates most strongly with the mediated framework found in chapter two, placing the needs and interests of infertile people at the forefront at the expense of others. By showing examples of such power and premise in the UK, this dynamic of dominance has been demonstrated to have a corrosive effect, undermining legislation regarding the paramountcy of the welfare and interests of the child of reproductive technology. Indeed such domination is seen to be a threat to genuinely democratic and informed debate. The fiduciary duty of trust and guardianship held by parents to future generations, the government and medical professions to donors, their families the offspring and society at large are apparently bereft of their appropriate fulfilment.

## **Conclusion**

The conclusions to be drawn from this thesis are as follows: Despite the seductive nature of its presentation and mediation, sperm donation cannot be credibly seen as simply a medical intervention for people with infertility. First it does not provide 'treatment' to the infertile person but to the fertile, thus the infertility is circumvented as opposed to being 'treated'. Second, as exemplified by the critical analysis in chapter two, it must be acknowledged that this type of intervention is not simple due to the fact that it fractures and divides the normally united entities of social and genetic parenting. These fractured entities have long term significance for other people affected, the impacts of which fall outside of medical expertise and experiences. These impacts create social and moral issues which have not received proper attention due to the medicalisation of this practice.

Chapter two demonstrated that the increasing expansion of the infertility industry is founded on the availability of donated sperm. The mediation and alienation of gametes and genetic relatives were shown to be inherent to the framework in use in this context. This alienating aspect to paternity is strongly motivated and driven by a persistently growing market and demands. The efforts to fulfil such demands render young fertile men vulnerable to being targeted to provide this much sought after raw product. The literature review and second chapter demonstrate the way that the interests of the infertile are fore fronted and mediated it also demonstrated the naivety of the men being targeted. The thesis argues that there is an inequity in the presentation of the people and the issues involved in sperm donor conception rendering such men vulnerable to making unformed decisions regarding their involvement in this type of reproduction. The mediation processes along with financial and social enticements to donate were shown to occlude long-term insight about the consequences of donor conception. Both anonymous and known donor conception were shown to have, different legal, social, and moral issues.

Stakeholders of both the industry and its users have commandeered frameworks, language and presentation, dominating the expression of the issues involved. Thus the other stakeholders, such as donors and donor offspring, have been rendered

less potent in their representation and recognition. The thesis has sought to contribute to the articulation and appreciation of such underrepresented, yet significant issues and interests.

As a whole this thesis has sought to expose and redress this imbalance in stakeholder representation. The thesis has highlighted the moral and relational significance of the intentional fracturing of the unity between relational and biological reproduction. The social and moral evaluation of this intentional rupture has been shown to be more than an individual issue, preference or decision for the infertile, but deeply affecting the offspring, donor, extended families and influencing polemic arguments about the significance of paternity and genetic relationships. The thesis argued that process of sperm donation renders these things; decisional, contractual, alienable, instrumental, fractured and commercial, in short it is de humanising. The alternative approach to such paternal relationships is supported, regarding them as fundamental aspects to the humanity and integrity of paternity, worthy of special protection.

Collectively the chapters demonstrated the need to respect and protect human kinship systems, as reflected in life cycles. Much as there is a growing concern to protect the ecosystems of plant and animal life the social ecology of kinship and identity needs similar protection and concern. It is important to respect the natural components to kinship and identity and to guard against their destruction, commercialisation and alienation.

Chapters three, four and five demonstrated how; connection, responsibility, continuity and identity are intergenerationally linked and recognised. These interlinking and interdependent relationships connect people to their social and physical environments. From this interdependence, families and cultures develop a shared sense of meaning and identity. An important aspect to this connection and identity within kinship is that it's symmetrical; equally attributing significance to genetic kinship intergenerationally. Traditionally this sense of mutuality and order has been shared between generations, creating coherent and equal relationships to kin and land through time; past present and future. This intergenerational connection

to kinship and land has been maintained and celebrated through traditional notions of inheritance and ancestry worldwide amongst cultures and families.

The chapters demonstrate that this know-ability and predictability to tradition through genetic kinship is lamented when thwarted by infertility. In western society this kinship order is binding and hinged on the understanding that reproduction includes the social and genetic unity of a man and woman. With this social and genetic unity of paternity (and maternity) comes extended families and networks which accompany such reproductive union. Resemblance talk reflects and affirms this tradition and continuity within families, yet within donor conceived family's, resemblance talk can do the opposite, arousing feelings of discontinuity and insecurity.

Chapter three particularly demonstrated the innumerable conflicts to be found in the appeals made by the parents of reproductive technology. Such appeals made by the industry and its users, have been compared and contrasted, demonstrating the attachments and irrelevances being attributed to genetic kinship in different family types. Such examples have shown that the attributions to genetic kinship significance are inconsistent and adult centric within the families created from reproductive technology. These comparisons have illuminated profound incoherence in the frameworks and principles being appealed to.

Chapter three demonstrated that the lack of normative genetic continuity has been shown to be appreciated for the infertile and attempts have been made through reproductive technology to maximize the genetic continuity that can be gained for them. The normative framework applied to such understanding and aspirations contrast with the absence of such a framework from being applied to the offspring and their subsequent normative losses. The offspring's normative genetic identity, kinship complexities and losses are thus created and dismissed. The offspring's kinship, identity and its absences evade recognition by being reframed, and viewed as "constructed". The chapter shows the use of shifting frameworks from "normative" to "constructed" for the fertility frustrated adults as compared to the offspring. The point raised is that this frame shift facilitates ignoring the intentionally created loss for the offspring by the parents and industry. Consequently these family constructions

become ethically unjust and unsustainable owing to the incoherence and inequity created intergenerationally.

The thesis, in particular chapters three, four and five present reasons to apply greater awareness and appreciation of the propensity for conflicting needs and interests in the newly constructed family systems. The complexities demonstrated in these chapters cover areas affected within donor conception along with other forms of reproductive intervention and also forms of identity and kinship loss. Such complexities and losses are shown to be beyond the scope and illusionary simplicity provided by either “secrecy” or “openness”. Such commissioned attachment and detachment have nonetheless unwittingly resulted in the enmeshed family systems. Within reproductive technology these enmeshments have extended in unprecedented and in some cases unknown proportions (from multiple donations), resulting in what is argued to be a ‘cacophony of kinship’.

The conclusions drawn from this critical analysis is that; either intrinsic kinship value is consistently applied and respected across the board and generations, including for those conceived with in reproductive technology, or the notion of its intrinsic significance needs to be dropped in appeals for all. The failure to do either is demonstrated by this thesis as creating a glaring inequity.

The current provision of reproductive technology has been shown to rest on these inconsistently applied justifications and frameworks. Indeed if such equal application of framework and genetic significance were applied in either direction it would cancel the industry out; if genetic continuity mattered for all then the losses inherent to donation place unacceptable burdens on those intentionally created. On the other hand, if genetic continuity is not important, then there is no need to provide a service that facilitates the aim of one adult becoming a genetic parent.

As such, the thesis posits that the support and promotion of such services by our institutions and laws perpetuate the intergenerational injustice that is created by one generation expanding its continuity at the expense of the next. This inequity has been neglected and needs urgent attention and redress.

The thesis demonstrates in chapters four and five that it is by treating these normative interests as legitimate, that we honor the experiences of adoption and the stolen generations. Both adoption and the stolen generations contextualize and make relevant the human experience of the moral and social significance of kinship losses and needs. The unbalanced and skewed representation of stake holders and interests that has been found in reproductive donation need be to be confronted. These harms and lessons identified in these chapters are worthy of further cogent comparison and analysis in relation to donor conception.

The impact on individuals and family systems in adoption has a historic pattern of denial and foreclosure. This pattern is in particular, regarding the impact on the child and the interconnection of the families affected. Such interconnection and the complexities of reunion are not bureaucratic issues, but instead deeply emotional and social challenges. Resultant impacts and challenges have a lucid history, providing knowledge which is applicable to donor conception. Conceptualizing the issues found in donor conception within human experience is appropriate and informative. These other forms of kinship disruption detail long and complex journeys rather than the acquisition and absorption of information. The thesis appeals against continuing the cycles of rupturing and replacing kinship without due regard being given for such relevant consequences and comparisons.

Indeed the legacy of such cycles shown in adoption and the stolen generation in chapters four and five, demonstrate the profound and disturbing long-term consequences of their miss management. These chapters establish that there is a stark moral and social responsibility to learn from this, and the prevention of the continuation of such cycles of avoidable kinship rupture, replacement and its minimization must be pursued. These forms of identity and kinship loss provide compelling appeal for humility, honesty and regret in relation to practices that have corroded to the heart the wellbeing, dignity and integrity of a select group of people. They demonstrate the need for concerted efforts to protect the identity and kinship integrity for future generations. The knowledge gleaned from this human experience of loss and reconnection, is that it is shown to be characteristically painful when broken. The examples establish that genetic kinship rupture and replacement is not

rightfully the stuff for social experimentation, and must only be ventured into in circumstances of last resort for child protection.

Confronting and adapting to the position presented in this thesis is acknowledged to be difficult in light of the current practice and acceptance found in donor conception. However, the thesis recommends that the social and moral responsibility presented, is to do what is informed and responsible rather than what is easy. Indeed the thesis argues that such advocates for the industry must be challenged in their attribution of different and lesser meaning to the kinship of a targeted group of people. The burden of proof is placed on those who advocate this discriminatory treatment. The thesis rebukes the use of power to place the kinship of others with less meaning than their own. Such inequitable dynamics of power and kinship recognition are identified as; abusive, unjustifiable and unacceptable.

The thesis makes apparent that there does need to be the recognition and protection of some aspects of collective authority, thus providing a greater awareness of the ethical, moral and social significance of biological relatedness for all persons. Despite the meaning and language projected and used in different contexts of kinship loss, there is too strong a shared human relationship and resonance found amongst these different groups to be dismissed.

Instead of the current legal quagmire the best interests of the child must be normative and paramount – systemically, philosophically, legally, and morally. The presumption, across the board in terms of the best interests of the child should be that the child has a legitimate interest in being known and cared for by their genetic parents in the first instance.

When seen from this light, there lie the grounds for review and redress of the positive presentation, encouragement and facilitation of donation from the government and its institutions. Indeed there are also grounds for redress in relation to the genetic identity and kinship absences and difficulties thus far created through legal omission and discrimination for the donor offspring.

The immensely important resource of human rights conventions has been highlighted in chapter six, as having been grossly neglected in establishing appropriate foundations for the considerations in relation to the interests/welfare of the child from reproductive technology. These conventions are shown to support the normative principle of protecting and valuing the child's genetic kinship and that this is rightly inseparable from the recognition of their interests. Such human rights instruments supply an as yet, underutilized resource for appeal and redress; however their application is more commonly being advanced in terms of the infertility-centric right to found a family, and so not without its difficulties.

The skewed representation of interests found in donor conception is mirrored in the fact that it is unrepresentative right down to the point of its governance. Chapters six and seven argue that there is the illusionary notion of there being authoritative principals and foresight found in the presentation of issues regarding reproductive technology and its governance in relation to the welfare and best interests of the child. These safeguards are shown to be often purely nominal. The appearance of having such child protections in place provides a false sense of confidence, occluding the transparent assessment of harms that may be inflicted on the child conceived.

Given closer inspection through the chapters, the clamor of words, ideas and policies was exposed for the protection of the welfare and interests of the child from reproductive technology. These definitions and protections were characteristically vacuous and indistinct. Importantly there is little conformity internationally and in many cases nationally about any of these; words, meanings, principles, nor their legal applications. The thesis indentified the need for greater clarity in determining what such words and principles really mean. Further, it proposed that such definitions should be grounded in normative understandings, and frameworks and aim to be applied internationally and intergenerationally with due consistency.

This thesis has presented a strong argument for the definition and protection of the welfare, and better still, the best interests of the child being rightly grounded in being known and cared for by their genetic kin, in the first instance. Indeed, this aspect of



the offspring's identity and kinship is a very important and legitimate component to their interests, which needs proper protection.

Chapter seven elucidated that to date too strong and dominating a coalition exists between the industry and its users and this coalition undermines there being appropriate, representative, and equitable power and boundaries in the debate on these issues and regulation. An issue worthy of further research is the extent to which this dominance does interplay with the governance of reproductive technology in auspices and States other than those drawn to attention in this thesis. The current domination of the interests and needs of the infertile has been shown to have a corrosive effect, undermining legislation regarding the paramount, welfare and interests of the child of reproductive technology. This domination is positioned to impede democratic and informed debate and action on such issues. The fiduciary duty of trust and guardianship held by parents of future generations are identified as to date being unfulfilled.

### **Future areas of concern and recommendations**

This thesis hopes to add momentum to the collection of minds and skills to continue to identify the areas of concern in reproductive technology and to encourage their application in helping to address them. The following suggestions relate to the conclusions drawn from this thesis. However, this list is not definitive:

The current secular and scientific domination of the social and moral considerations related to family and identity cannot continue unabated. They are neither impartial nor elected, and they are not representative. Broader debate and multidisciplinary application of expertise is needed, to make the practice; informed, transparent and accountable. Sociology, social science, psychiatry, psychology, anthropology, law, human rights, ethics, medicine are but a few of the disciplines with insight to share regarding issues raised by reproductive technology.

There is a need for an international and concerted effort from such multidisciplinary teams to address the issues and problems identified. This includes the establishment of such teams being committed to political, social and legal action to protect future

generations from potential harms from all forms of reproductive technology. Such teamwork should include professionals specialised in understanding the child's best interests and the long term issues and complexities of kinship separation, reunion and loss. This action would aim to counterbalance the conflict of interests that arises from the powerfully represented interests from the infertility industry and its proponents.

Religion, and the authorities which continue to provide central aspects to shared meanings, traditions and life cycles for union and reproduction, birth, life and death, should also be re-incorporated back into the deliberation about reproductive intervention and family formations. This would also give recognition to the spiritual dimension for many of the people affected.

The coalition between the industry and its clients through reproductive technology is creating interventions and changes that are proceeding at such an exponential pace that the consequences and problems introduced cannot be predicted. This can only be counterbalanced by the application of International laws to constrain these rapid changes and complications and to address the fertility tourists. Such international efforts would seek to apply consistent standards of international human rights to protect the vulnerable from this industry, in particular the offspring and those targeted for their reproductive capital. There is also a resultant need for international accountability, retribution and redress for the violation of normative and collective protections and standards so far.

Birth certificates should continue to be produced in the spirit in which they have been intended: that is of providing accurate genealogical information about kinship and ancestry. States Parties should seek to protect the function of this historic and important means of tracking personal and shared heritage. If non-genetic parenting takes place, the legal means for ensuring the transfer of responsibility for a child must not be used to replace this, but be provided in addition to this biological record. Birth certificates should be amended to recognise the genetic kinship for those already created, at their request.

Reproductive technology must be forced through national and international legislation to apply the precautionary principle - with the burden of proof protecting against the harm to the most vulnerable, that being the child. This burden of proof is rightly placed on the infertile and on the industry when seeking to produce people from novel forms of human production. The enlisting of third parties, medical and scientific authorities and resources to facilitate such novel forms of reproduction must also be directed to appeal to independent gatekeepers and legal and ethical committees. Such gate-keeping committees would have membership that does not have a direct conflict of interest in seeking the liberalisation of these practices.

There is a demand for greater enquiry and reflection on the social and moral significance of the intentional creation of loss and kinship separation. This reflection should occur within reproductive technology and also be directed towards other forms of kinship loss that have occurred outside of the infertility industry. It is arguably reasonable to apply a moratorium on donor conception in light of the recognition of the intentional nature of kinship loss.

For those already conceived and living in situations of kinship disarray, reparations, apology and support are important responses for the harm created thus far. Another imperative is the requirement for the collection and immediate protection of records relating to kinship. These records should be used to enforce and facilitate retrospective rights to identifying info for the offspring. Commitment to continuous funding for gen libraries is necessary for those with information missing alongside counseling, grief and reunion support services. Such funding is needed to extend into appropriate advertising and public awareness campaigns.

A campaign to inform offspring of their donor conception or conception using novel techniques of third parties is needed to both encourage the parents to provide their offspring with information relevant to their health and welfare, and to ensure that this is known to them on reaching adulthood if this duty is reneged. Such funding and campaigns would support the service and its expansion and inform of the issues of absent or incorrect medical histories and the dangers of consanguinity amongst the offspring. The public awareness campaign would also aim to inform those donors

already enlisted by the industry of the health and welfare issues for the offspring, and to support them in coming to their donor offspring's aid.

To appropriately validate and provide solace to those affected by this kinship rupture, monuments, art works, conferences, public events, media and the use of creative and practical resources are some of the methods that could be employed. Such loss and systemic complicity needs redress, and donor offspring must be considered as primary stakeholders in this issue and consulted first and foremost in relation to their future needs. Public awareness campaigns can also forewarn people of the predatory nature and clamour for reproductive capital and the vulnerabilities of those being targeted. Government resources should support this form of public awareness and desist from acting on behalf of the industry and in becoming complicit in recruiting donors and people to be enmeshed in these kinship-fracturing techniques.

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