

## **Submission to the Legal and Constitutional Affairs References Committee of The Australian Senate.**

**The past and present practices of donor conception in Australia, with particular reference to:**

### **a) Donor conception regulation and legislation across Federal and State jurisdictions;**

#### **1) Types of Sperm Donor,**

Previously, the politically correct paradigm was, “sperm donors could only donate as an 'Unknown' donor who were NEVER to be known”. Additionally, medical records of the use of donor sperm were destroyed or never kept in many clinics. Additionally, there was NO obligation on parents to report successful births. *{This was the situation imposed upon me when I donated at Royal North Shore Hospital Clinic 20 donor code ACL. My sperm was used in 1978-79 and there is no record of how many children were conceived from my donations}*.

Currently, the politically correct paradigm is “IVF Clinic donors MUST be identified when the child turns 18 'Identity release’”. Therefore, children are prevented from forming a relationship with their donor until they are themselves adults. This is much too late for children in their formative years, to know their male parent or their paternal grandparents. This is one of the worst Donor/Child situations where the child is in limbo for its whole childhood and has to wait for Christmas in 18 years to know who they are and where they came from.

There are more Australian donors donating through unregulated international internet web sites than there are in Australian IVF clinics. Government regulations have totally driven donors away from regulation and monitoring. Donors on these sites are not regulated by regulations covering STD status, Fertility, Consanguinity & contact between donors and children. *{I belong to 3 main sites operating from overseas in Australia “Free Sperm Donors Worldwide”, “Co-parentmatch.com” & “Co-parents.net”. There are also many minor sites operating within Australia. I currently have 12 little children from 10 different women and families (The NSW IVF Clinic limit is 5 women). Several of these families have reserved me for future pregnancies for either themselves or their lesbian partners}*.

There are currently 4 types of donor advertising & donating “Free Lance”. These are:

a) “Co-parenting” where both the donor and the mother/s share in differing amounts of parental personal and financial input and control of the child. Donors of this type generally have a limited number of children. They often has a quasi legal agreement between the male and female parents. The current birth certificate only has the capacity to record 2 parents. However, some children that I know of, have 4 parents of whom only 2 can be legally recognised on the Birth Certificate.

b) “Known” Donors”, like myself, where the donor is known to the child from birth but does not exercise any parental role in the child's life. This also allows the many donor conceived children to have a relationship whilst they are growing up with their donor, his family and their siblings from the donor. This almost a “Clan” situation. This type of relationship generally has no written agreement and is easily abrogated by the mother to the exclusion of the donor. Some of my ex nuptial adult children are known to my little “Rainbow” babies and their lesbian mums. Mothers of some of my little “Rainbow Babies” are in internet contact with their children's sibling's mothers. “Rainbow Babies” refers to the children of gay and lesbian parents.

c) “Identity release” donors, this is the current politically correct, IVF Clinic and legal

paradigm. This is where the child meets their donor when the child is age 18 and becomes an adult. Many children desire & deserve to know and to have a relationship with their donor and his extended ancestral and descended family well before age 18.

d) “Unknown” donors where both the donor and the mother do not desire to either maintain a relationship with each other and more importantly to disallow the child from knowing their genetic heritage. This can permanently excludes the child from knowing their genetic heritage “to the Third and Forth generation”. This is the only donor type where consanguinity (inbreeding) is an issue.

Generally with “Free Lance” donors, like myself, the sperm is transferred to the mother in a bottle & self inserted via a 5ml syringe. This process is called AI (Artificial Insemination). However, a few women and some donors prefer NI (Sex). The law on paternity, property & payments is unclear about paternity and legal & financial obligations for AI for us “Free Lance” donors and it has never been tested in Court nor with Centrelink and the Child Support Agency, CSA. These agencies may become intrusive over such casual arrangements.

## 2) Past donors.

These are the problems with the heritage of unknown donors from IVF Clinics:

a) The number of children from donors especially where a donor joins more than one IVF Clinic. There is no crossreferencing of donors across a medicare card or photo ID and there is no national database of past donors. *{IVF Clinic donors like myself may still be donating. The probability of intergenerational consanguinity across over a donor's chhort is probably statistically zero but there has been no actuary study.}*

b) Possibility of (or fear of) consanguinity (inbreeding) between donor decendants in first or subsequent generations. This includes children (conceived from long term sperm storage) where siblings may have a 30 year age difference.

c) Loss of relationship between grandparents, donors & siblings.

d) Genetic and medical tracking of donors & decendants for the prevention and identification of disease & syndromes. This includes the passing of newly acquired medical information not known at the time of donation.

e) Limited opportunity for donors, offspring and parents to change their mind and make family contact. Many donors, mothers and donor offspring may earnestly desire to redress the injustice foisted upon them by the “Unknown Donor” paradigm to change their status from “Unknown” to “Known”. The Donor Sibling Register, DSR in the USA was founded for just this purpose.

## 3) National regulations.

There are many vastly different 'politically correct' ideas. Lobby groups are very vocal and want to determine “The ONE correct donor paradigm” which is to apply to all people.

National regulation is excellent but if this discourages choice by parents & donors then the regulations will cause chaos and anarchy. Over regulation by government will actually reduce the effect of regulation (prohibition seldom works consider the honey/vinegar analogy). NSW introduced “Directed donations” whereby the donor is able to exercise “Quasy ownership” & specify who will and who will not receive their “Gift children” this idea was resisted by many politicians and lobby groups.

Ownership of the sperm is not currently specified in any legislation in any country. There needs to be regulation as to whom the sperm belongs prior to conception. Consider such

situations:

- a) Donor death. Is the sperm part of the wife or donor's parent's right to harvest from a dead donor to conceive children after he has died along the lines of Deuteronomy 25:5-10. This also applies equally to IVF Clinic frozen donations. Do clinics have an obligation to ensure that the donor is alive at the time of conception? Should clinic authorisations carry a last will and testament provision?
- b) Retrieval of sperm or revocation for its use especially where subsequent children are agreed upon between the donor and the mother/s. Is the stored frozen sperm a living contract between a dead donor and his children's mothers for subsequent 'full sibling' children? Do the parents or a spouse of a dead donor have the right seize his frozen donated sperm?
- c) "Directed donations" from the donor to a class of people or withholding sperm from a class of people. This applies only in NSW in the world.
- d) Fertility tourism. Many people will go overseas to obtain sperm to satisfy their needs for children if suitable sperm is not available in the home country. Sperm is an international commodity sold and shipped openly mainly from the USA and Denmark and needs to be regulated/treated as such. If Australian donors are prepared to donate to foreigners then their wish should be paramount and directed as such.
- e) Donor Databases. There needs to be a national donor database for both IVF Clinic and "free lance" sperm donations. This will help prevent consanguinity in the first generation (brother/sister even if over 30 years age gap) and subsequent generations (Grandfather/Granddaughter or Uncle/Niece). This will also allow identification of transmitted genetic diseases and syndromes.
- f) Limits on donors. With "Co-parenting", "Known" donors and "Identity release @18" donors there should be NO limits on the number of offspring as those 'clans' will know their sibling members if information is accurate and available. *{This currently happens with most of my adult and infant children where some of the mothers either have a full list of my offspring or are in direct contact with the other mothers or my adult children have visited my infant children}*. If a donor has 100+ children but they all know each other then there can be no possibility of accidental consanguinity.

#### 4) National database.

A national database should also include Australian children conceived from foreign sperm and where possible all overseas children from an Australian donor. It should also include all overseas children of Australian donors conceived overseas. Many Aussie backpackers have become sperm donors in the UK and the USA to finance their holiday. *{I have one 2yo daughter conceived in Australia but living overseas}*. One Australian IVF clinic offered holidays to Canadian men to donate in Australia.

Where possible past data should be retrieved from clinic & Medicare payment records and submitted to parents for inclusion permission. Clinic data should be mandatory and donors on Internet sites and in magazines should be encouraged to register.

#### 5) Clinic assisted conceptions.

Many clinics are a full service full price organisation. The mother MUST purchase the complete package of multiple units of frozen sperm, transport, storage and the clinic thawing of the sperm. Additionally any fertility treatment for the mother as well as sperm washing & insertion.

Many women have or could have a BYO donor and are happy to use his fresh sperm from their BYO Donor. They just need the clinic for the female side of conception. That is Ovulation tracking, Egg stimulation and sperm preparation and insertion. Freezing of sperm and many IVF procedures significantly alter the gamete/embryo's DNA and cause genetic and developmental problems with the child.

Many women and couples cannot afford multiple cycles of a "Full Service" IVF procedure. IVF has become a procedure for the wealthy or those who are prepared to impoverish themselves to achieve a child. This money should be retained within the family to raise the child and to fund subsequent children.

#### **6) Intrusion & privacy.**

Knowledge is needed in this new human endeavour but privacy is a basic human right. The problem is the balance of the 2 rights. Children may be traumatised by grandparents or sibling making contact where the child has not be forewarned about their genetic status. This should be part of the parental counselling program.

### **b) The conduct of clinics and medical services, including:**

#### **(i) Payments for donors,**

Australia being an english speaking country, we have a phobia about payment for services and an elevation of the amateur as a higher species (Typified in the olympics and the Red Cross Blood Service).

I am a blood donor with 225 free donation of blood and plasma/platelets. I have given many sperm donations in 1978-79 only receiving travel money. I have never felt the need to be paid.

Seeing the desperate & critical need for sperm I would recommend generous payment for donations to satisfy need. The total cost for better fresh sperm would be less than the cost of using frozen sperm and ensure children had fewer genetic problems. Genetic problems in children involve massive cost to parents and governments for many generations.

Generous payment of donors would result in cost savings to parents and to the Government.

#### **(ii) Management of data relating to donor conception, and**

It is as imperative that parents report the birth of donor conceived children as it is to record both donations and inseminations. This is true for both clinic and web group donations.

Data should be only accessible to select people and only at certain ages. This must be agreed prior to donation and conception.

#### **(iii) Provision of appropriate counselling and support services;**

All donors and recipients should receive adequate counselling.

### **(c) the number of offspring born from each donor with reference to the risk of consanguine relationships; and**

Limits on donors. With "Co-parenting", "Known" and "Identity release @18" donors there should be NO limits on offspring as the "clans" from those donors will or can know their sibling members. *{This currently happens with most of my adult and infant children where the*

*mothers either have a full list of my offspring or more importantly are in direct contact with the other mothers or my adult children have visited my infant children}. If a donor has 100+ children but they all know each other then there can be no inbreeding.*

### **(d) the rights of the donor conceived.**

All donor conceived people have the right to know FROM BIRTH their ancestors including their donors and ALL of their siblings. The use of “Unknown” donors should be discouraged. However, there are some women and donors who still prefer an unknown donor and deliberately exclude future contact between donors and their offspring. Legislation will not address this problem only education and an advocacy of the benefits of knowledge.

## **RECOMMENDATIONS**

### **1 REGISTER ALL DONORS.**

Registration to include the following benefits as an encouragement:

- 1) Free quarterly STD tests for all registered donors.
- 2) Free annual sperm tests.
- 3) Photo “Sperm Donor ID card”.
- 4) Internet database of sperm donors and their offspring. But with limited and stringent controls on access.
- 5) Contact all previous IVF and “Free Lance” donors to offer inclusion on the database.
- 6) IVF clinics to be able to contact future database donors for fresh sperm.
- 7) NO LIMIT on offspring for “Known” and “Identity Release @18” donors.
- 8) Free genetic questionnaire and genetic testing for all donors.
- 9) Proforma standard legal contract for 4 types of donor. “Co-parent”, “Known”, ID Release@18” & “Unknown”.
- 10) “Unknown” donors discouraged but not prohibited.

### **2 FROZEN SPERM Vs BYO FRESH SPERM**

- 1) Frozen sperm and IVF induces Genetic degradation of the DNA in the gametes and embryo. Promotion of the use of “Fresh” sperm.
- 2) Fresh sperm is cheaper to users and to Medibank. Promote the use of fresh sperm from registered donors.
- 3) Costs of IVF for BYO donors are fully covered by medibank.
- 4) Ban on imports of frozen sperm.

### **3 LEGAL**

- 1) Nationally consistent laws on Gamete (egg & sperm) donation.
- 2) Centrelink and The Child Support Agency CSA, grant automatic financial waivers for AI from Registered Donors.
- 3) Birth certificates modified to be able to include up to 4 parents, both genetic and relational.
- 4) 4 types of binding legal contracts be promoted for “Co-parents”, “Known Donors”, “ID

**Release@18” and “Unknown Donors”.**

#### **4 FERTILITY TOURISM**

**1) oreign women admitted at Australian IVF clinics.**

#### **IVF COSTS, ID RELEASE & DONOR LIMITS**

**The cost of IVF (about \$4,000/cycle with limited refunds from Medibank) and having to wait 18 years to know their child's heritage makes “Free lance” donors a much more viable propersition for many socially infertile women like lesbians and Single Mothers by Choice SMCs. Donors who have reached their 5 mother limit in NSW are precluded from becoming donors for a lesbian's partner so that their children have common genes.**

**Costs for “Full IVF Service and Government regulation**

**The temptation of all regulatory regimens is to apply too much vinegar and not enough honey.**

**If Parliament brings in more draconian regulations or does not relax the current regulations then they will drive donors and prospective mothers underground to offshore internet sites. This will further fracture a totally deregulated industry. However, if parliament accepts that this 'industry' of women seeking to become mothers without a housemale and men seeking to help them then parliament will facilitate them and so bring the process under arms length control.**

**I am prepared to attend committee hearings to answer questions.**