Flinders
UNIVERSITY

Dr. Damien W. Riggs
Lecturer

Department of Social Work & Social Policy
Faculty of Social and Behavioural Sciences
GPO Box 2100
Adelaide SA 5001

http://www.flinders.edu.au/people/damien.riggs

CRICOS Provider No. 00114A

23/07/10

Dear Secretary,

I am writing in regard to the *Inquiry into Donor Conception in Australia* currently being convened by the *Senate Legal and Constitutional Committee* of the Australian Parliament. As a researcher in the field of sperm donation in Australia, I make below specific comments in response to all points in the terms of reference, based primarily upon the findings of my own research.

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.

Whilst ideally all recipients of donor sperm should access sperm through clinics, this is unlikely to ever be the case in practice. As a result, my research findings indicate a need for the regulation not only of reproductive health clinics (as is already the case), but also the regulation of private arrangements that give rise to sperm donation. Specifically, my research on sperm donation in private arrangements (i.e., outside of clinics) suggests that without some form of regulation over such arrangements, significant negative consequences may potentially occur. These could include, a lack of 1) adequate consideration by all parties of the ramifications of sperm donation via private arrangements, 2) legal protection for all parties, 3) guaranteed access to information for donor-conceived children, and 4) health services for all parties (including the screening of donor sperm). Many of the necessary responses to these four issues are presented below in response to the remaining points of the terms of reference, however two must be mentioned here, namely that:

1. Contracts between donors and recipients in private arrangements currently do not *a priori* carry with them any legal weight. The sector and all parties would thus benefit from the introduction of legislation mandating that such contracts (duly witnessed and appropriately worded), should be recognised within law, and that services should be provided (either in the form of self-administered documents or access to legal information) that ensure such contracts are completed by all parties prior to donation.

2. All legal impediments to full access to reproductive health services, regardless of relationship status or sexual orientation, should be removed in order to increase the likelihood that the majority of recipients of donor sperm will access this through clinics.

inspiring
achievement

(b) the conduct of clinics and medical services, including:

(i) payments for donors,

My research did not directly address any possible benefit of paying donors, however my research did find that almost all of the participants acted as sperm donors out of genuine altruism or the desire to support a known recipient. International research suggests that payment can negatively effect such motivations, and further that payment can result in donors treating sperm donation as a one-off service, following which they have little willingness to be contacted by children conceived of their donations. Any factor that reduces the capacity of children to, in the future, make contact with their donor, should be avoided. And of course, any factor that is likely to reduce the willingness of men to act as sperm donors in any context (i.e., private or public) should be avoided.

(ii) management of data relating to donor conception, and

To return to the points made above in response to (a) in regard to private arrangements for sperm donation, such arrangements are fraught by the individual decisions of all parties, precisely because such arrangements are largely unregulated. Whilst the majority of the participants in my research indicated willingness to be identified by children conceived of their donations, such willingness cannot be relied upon, and certainly not 18 or more years after the donation is made. Legislating for the recording of donor information in private arrangements in a public registry that can be accessed by donor-conceived children after the age of 18 would thus help to protect the rights of such children to access information about their genetic history at the very least.

(iii) provision of appropriate counselling and support services;

A key finding of my research was that many of the men who donated sperm in private arrangements did not appear to have given adequate consideration to the emotional consequences of sperm donation, particularly any desire to have contact with children (a desire that may conflict with that of recipients). Making available resources for those considering entering into private arrangements to access counselling prior to donation (as well as support following donation) would appear an appropriate use of resources to ensure that the best interests of all parties are met.

Another aspect of private arrangements requiring attention is access to screening for donor sperm. At present there are no guaranteed mechanisms for those accessing donor sperm in private arrangements to ensure that such sperm is free from transmittable disease. Whilst, for those recipients who are afforded access to reproductive health clinics, it is possible to have donor sperm that is privately sourced to be screened, access to such services is not guaranteed for all. Obviously ensuring that all potential recipients can make use of reproductive health services would be ideal, but failing this it would seem vital that at the very least those utilising donor sperm in private arrangements have the right to screening of donor sperm at minimal cost. Considering the fact that screening for STDs is freely available across Australia, screening of sperm for such diseases in the context of sperm donation would seem both appropriate and relatively easy to implement.

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

Whilst only evidenced in a small number of participants, my research identified the fact that some men were donating sperm in private arrangements to numbers of recipients exceeding the limit currently adopted by reproductive health clinics in Australia. Bringing private arrangements into a legislative framework may help to address this (and thus the risk of consanguinity) by setting a legal limit to the number of recipients that any man can donate to regardless of the donation context (i.e., private or public). Furthermore, the aforementioned suggestion for legislated access to a public registry for those undertaking private arrangements would help to ensure that donor-conceived children can track any potential biological siblings.

(d) the rights of donor conceived individuals.

Whilst my research did not involve speaking with donor-conceived children, it certainly raised implications for such individuals. Primarily, it suggested that donor-conceived children must be accorded full recognition of rights prior to conception, in terms of ensuring that they can access information about all of their genetic history. Ensuring this will require the aforementioned legislation aimed at keeping records and providing counselling and support for all parties who undertake private arrangements for sperm donation.

To conclude, my research on Australian sperm donors (and primarily those who negotiated to donate sperm in private arrangements) indicates a number of necessary legislative changes to best protect all parties. Please do not hesitate in contacting me for copies of my publications which outline in detail the findings and their justification for the recommendations presented here.

Sincerely,

Dr. Damien W. Riggs

References

Riggs, D.W. (2009). The health implications of emotion work undertaken by gay sperm donors. *Feminism & Psychology, 19*, 517-533.

Riggs, D.W. (2008). Using multinomial logistic regression analysis to develop a model of Australian gay and heterosexual sperm donors' motivations and beliefs. *International Journal of Emerging Technologies and Society,* 6, 106-123.

Riggs, D.W. (2008). Lesbian mothers, gay sperm donors, and community: Ensuring the well-being of children and families. *Health Sociology Review, 17,* 232-240.

Riggs, D.W. & Russell, L. (under review). Characteristics of sperm donors in the context of identity-release legislation. *Human Reproduction.*

Riggs, D.W. & Scholz, B. (in-press 2011). The value and meaning attached to genetic relatedness amongst Australian sperm donors. *New Genetics and Society.*

Scholz, B. & Riggs, D.W. (in-press 2010). Australian sperm donors' narratives about the 'best interests' of donor-conceived children. *Social Research and Social Policy.*