# Submission to the Senate Legal and Constitutional Affairs References Committee: a Federal Inquiry into Donor Conception

I have expressed views which have been formed by being a parent of a donor conceived person, a founding member of Tangled Webs: an organisation which challenges donor conception, a past Coordinator of the Donor Conception Support Group-Victorian Branch for many years and a member of Vanish. I have also participated in research in this field. This experience has brought me into contact with hundreds of people from the donor conception community. I have listened and heard the stories of many of these people and this has helped me to form these opinions. Mostly though I have listened to courageous donor conceived people who tell us that being denied knowledge of and access to their biological family, hurts them.

The medical profession, governments and our society conspire against the rights of DC persons. Most parents who have donor offspring do not tell their children about their real identity and the few who do, most allow the donor to have only a shadowy existence of "some nice man/woman". Others deny that their child will need to know their family. My husband and I thought like this too, at the beginning. Our awakening in this matter was gradual; we thought at first that our only job with regards to donor conception was that we would tell our son about his donor origins and that would be enough but we soon realized that it was not enough.

We did not know what the future would hold, but my husband and I agree that we have a duty of care for our son that goes beyond nurturing and parental love. Most people want to believe because our children are wanted and loved that this is enough. But duty of care is much broader than that. My husband and I wanted to ensure that his true identity is openly accepted and embraced and that we do not make decisions that preclude any choice he may wish to make in the future. And make no mistake, when parents make the decision not to tell their children of their donor origins, and/or more importantly they deny their children their biological family from birth, they are precluding choices that their children would otherwise have. We came to realise that fundamentally the donor conception process is flawed because it deprives people of their biological family. It is nearly impossible to form a parental/child relationship with someone you meet in adulthood. The donor conception community likes to believe that biology does not matter; we really want to believe that it is the nurturing and love that counts but we do not love enough to include the biological family.
I understand now the complexities of Donor Conception in ways that were not understood or explained to me at the time we created our son. We will always put his best interests and rights before our own; and it is why his social father (my husband) and I have made available to him, as early as possible in his life, his biological father and paternal relatives. Most DC persons are denied this option, and even our son has still been denied information and access to his siblings (there are 5 sisters). However, Donor Conception is still a difficult journey for a young man and one which presents many challenges

throughout our lifetimes.

Terms of Reference:

(d) The rights of Donor Conceived (DC) individuals:

I have started with this term of reference because if one begins and ends here all other terms will be self-evident. The rights of DC people are always last on the list when dealing with issues of donor conception.

Donor Conception today is in the same awful state as adoption was thirty years ago. The adoption experience has taught our community the horrors of unknown genetic origins, secrecy and depriving people of their genetic family. Donor Conception is perceived as a medical procedure when in fact, like adoption, it should be heavily regulated by legislation and run by social workers who have been trained in this area. Treating donor conception as an adoption would return some of the rights that donor conceived persons are not given because of the nature of their conception.
Currently the practice comes under the umbrella of a medical procedure to solve the medical problem of infertility. The enormous leap to acknowledging that donor conception is similar to adoption is difficult for us who use it to create our children; first of all the child does not exist when one enters into treatment so how can that person have rights, and secondly there is no relinquishing of a fully viable human being like in adoption, just a few gametes. Furthermore usually one parent is related. But, the end result to the people born from these procedures is emotionally the journey of adoption: someone has relinquished their genetic code to create that person, but does not parent. The donor-conceived person is denied access to their biological family and as the long history of adoption informs us, the repercussions are profound. I believe that if we are going to use a technology or process that creates a human being then at least, as a righteous community, we should give them the basic right to know their biological family from birth. Our nation recognised the importance of being raised by one's family when we recently acknowledged the tragedy of taking children away from their families by apologising to the Stolen Generation.

At minimum, I would like all the members of the donor conception community to have the same benefits, rights and obligations as the adoption community: These are:

1.That all DC people have the right to identifying information about their biological family and that this right be retrospective so that all donor conceived persons can access identifying information no matter when and where they were conceived. Victorian adoptees have this right. There were many protests about rights of birth parents to anonymity and the right of adoptive parents to not have interference from birth parents, b ut all of these rights put adults' rights as paramount. Adoption legislation changed this; the rights of adopted people to know their family became paramount. Donor conception legislation needs to do the same. There is always talk about 'the knock on the door' and how uncomfortable this is for the adults involved. But it is not the fault of the child relinquished for adoption or conceived through donated gametes that adults involved are uncomfortable or had been told that their donation was anonymous and that they would never be in a position to hear that knock on the door. At the time it was the practice to encourage secrecy and protection of privacy, but as a community we know more now about the long-term effects on DC people of not knowing their family. We can no longer condone the practice of denying DC people the right to know their family no matter when or where they were born. And it should be noted that there are no closed adoptions in Australia because we recognise as a community that people need to know all of their family from the beginning.

2.All names of parents on the birth certificate.

Victorian adoptees have truthful birth certificates that reflect their adoption. The fact that donor-conceived persons do not have this means that it is easier for parents to follow the advice of many medical professionals who tell them "If you want to, you can go home and forget about this (the fact that they used donor gametes)". Most parents do not tell their DC children about their origins. Truthful birth certificates would encourage parents to tell the truth to their DC children about their origins.

Current birth certificates of donor conceived people are false and do not reflect the truth of their parentage/identity. As a person's sole primary document of identity, birth certificates must be a truthful representation of a person's identity and must list the identities of the genetic parents in addition to the recipient parent(s). For practical purposes the use of a birth extract which does not contain the record of a donor conception if this information is considered sensitive, could be used. A similar framework already exists for adoptions in Victoria.

Furthermore, all recipient parents who use a donor outside of the clinical system should be obliged to provide the donor's identity when registering the birth of a child with the Registry of Births Deaths and Marriages. Unless the disclosure of the donor's identity is made obligatory it is most likely the DC person will be unable to trace their genetic parent(s) if they wish to do so in the future.

3.Visitation rights

Many DC persons express great distress at not being raised by their biological family and on missing out on this important relationship. Visitation rights for the donor conceived person with their biological family would alleviate some of this pain. The adoption experience has shown that it is nearly impossible to have a parental/ child relationship with someone you meet in adulthood. Many adopted and donor conceived persons express great distress at not being raised by their biological family and on missing out on this important relationship. Dr. Joanna Rose of Brisbane speaks of 'fractured kinship relations' and this is a succinct phrase which describes the outcome of donor conception.

4.Taking the process away of selection and counseling from the medical fraternity and giving it over to an independent government bureaucracy who has facilitated reunions and who had the expertise to deal with the lifelong issues of donor conception. It is important that it is not the institution that is in the business of providing the service. The medical profession has a vested interest in allowing candidates to enter their programs, often very unprepared for the process. There is a conflict of interest. (I would like to know how many perspective parents have been rejected by the clinics in the last 30 years). I have met couples that have been rejected by the adoption process and therefore chose to use donor conception because of the lack of screening. These couples were rejected because the adoption workers felt that these couples had not come to terms with their infertility and would therefore make poor candidates to raising children not biologically related to them. Other couples did not seek adoption because in Australia all adoptions are open and these couples did not want interference from another party. These couples have DC children.

5.The same rigorous selection, education and counseling as the adoption process:
I can attest personally to the fact the counseling process is grossly inadequate and follow up is non-existent. Infertility counselors do not have any training in the post -adoption field and do not have a sound understanding of the lifelong problems associated with donor conception. Their strengths lie in dealing with the grief of infertility prior to giving birth. The clinics are focused only on treatment and success is measured in terms of having a baby not dealing with what happens afterwards. The counseling is parent oriented, not child centric. Often their clients are in treatment before the counseling begins. There is no follow-up upon birth of the child and there is no regulation regarding reporting of pregnancy and births. When we wanted to meet our son's biological father, the social worker said to us, 'we have never done this before… ' My husband and I are very grateful that she facilitated our first meeting with the biological father despite a complete lack of protocols for this process. Fortunately we were able to turn to the adoption community for our answers.

The adoption process is highly bureaucratic because our society understands that the needs of the relinquished child are great and the difficulty of raising a child that is not biologically related to a parent/s. In the end I would like to say that if the counseling available at clinics were truly adequate there would be no donor conception practices, as the infertile couple would be helped to come to terms with their infertility. Donor Conception is not the cure for infertility. The child born from donor conception is not the child of the couple and the couple remains infertile. This also applies to single parents and same sex couples that access donor conception treatment.

Potential recipients and donors should attend an extensive and mandatory education programs that confronts the issues.

6.Ongoing support like the kind offered in the adoption community and at Vanish, grief counseling and support groups.

(a) Donor conception regulation and legislation across federal and state jurisdictions:

Once it is recognised that donor conception is an adoption of a kind it is easy to legislate along the lines of adoption legislation to make certain that DC people's rights are paramount. Legislators do  not have to re-invent the wheel. It can use current adoption legislation in Victoria as a model. Legislation has to be universal across all states. The transport of donor gametes is common across states and overseas and differing laws will create different classes of people in terms of their rights. National legislation and regulations that places the rights of DC people as paramount would be helpful at addressing this inequity.

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

(i) Payments to donors.

All donations must be altruistic. Giving monetary value to the donation commodifies the human beings that it creates as well as exploiting people who donate because of financial hardship. It was important to our son and his biological father that his biological father did not accept the fee available to him for the donation. Altruistic donation gives the transaction a dignity that is lost when money changes hands.

(ii) Management of data relating to donor conception:

A federal independent body such as the Infertility Treatment Authority to keep all records safe and secure. A central national registry would keep all records together and make it easier to cross reference data. There should also be a voluntary register for people to access their family when records have been destroyed or lost. DC people should also have access to identifying siblings. Compulsory reporting of all births of DC people. Currently in Victoria it is only a guideline. Parents are under no obligation to inform anyone about the fact that their child is donor conceived. All records must be found, obtained, preserved and centralised.

(iii) Provision of appropriate counselling and support services.

As stated above it is a conflict of interest to have clinics provide counselling as well as providing the service. Clinics should only be allowed to provide the service of the procedure. Counselling and selection should be handled by an independent organisation. As well all infertility counsellors as part of their accreditation should have a placement in an adoption reunion department so that they can understand the life long issues of donor conception.

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

One donor per family.

Besides consanguinity another important issue for minimising donations is that it takes enormous effort to be a good biological father/mother and family. I have personally seen the effort that is needed by our son's biological father (donor) to make sure that our son's needs are being met and the fact that some donors will have many children places a burden on everyone. It should also be taken into account that the donor's family is not part of the consent process and I have seen the emotions that our son's grandparents and extended family have encountered. No one asked them what they thought about the donation. It should be noted that they did not have a say about the donation and they have a strong need to know our son (and his siblings) and have him in their lives. Our son is rightfully their grandchild, nephew and cousin.

Conclusion:

Donor conception is a process that intentionally creates a class of people whose rights to be loved and raised by their biological family are denied. Donor Conception intentionally removes people from their families. Years ago at a forum organized by the Infertility Treatment Authority, Dr. John McBain an infertility specialist, named DC people who were vocal in their distress about the nature of their conception as "the disgruntled few". I can attest to this committee that DC people are not disgruntled; they are distressed that the medical profession, society and legislators do not understand their need to know their family and that they have 'to prove' that they have been harmed by the nature of their conception. Furthermore, they are not 'few'; I have spoken to many DC people and not one has ever told me that they are happy about being created in this manner; they have described being harmed by their conception. In creating legislation it is paramount to put the needs of DC people before us, their parents and the business of the infertility industry.

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30 JULY 2010

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I would like to be part of any public hearings that occur in my state.