

MANAGING INFORMATION RELATED TO DONOR CONCEPTION

Name: The Hon Greg Donnelly MLC

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LEGISLATIVE COUNCIL

The Honourable Greg Donnelly MLC

15th February 2013

Mr John Barilaro MP
Committee Chair
Committee on Law and Safety
Parliament House
Macquarie Street
SYDNEY NSW 2000

Dear Mr Barilaro,

RE: Inquiry into managing information related to donor conception

Thank you for the opportunity to make a submission to the inquiry. I wish to draw to your attention two opinion pieces by John M. Smoot that appeared in the e-journal Public Discourse on 12th and 13th February 2013. I have attached them for your reference and distribution to committee members. The first piece in particular contains links to the websites Anonymous Us, Connect It, TangledWebs UK and Confessions of a Cryokid. These websites contain a lot of information about adult donors-conceived children with anonymous parents. Useful references and links to reports and court rulings are available from the websites.

I also attach for your reference a copy of a media release from TangledWebs Au (the Australian chapter of TangledWebs) dated 28th March 2012. I thought that the committee would find it of interest.

I wish the committee well in its deliberations on this important matter. I hope that the information provided will be of assistance. If you would like to discuss any matters further,

Yours sincerely,

Greg Donnelly MLC
Parliament of New South Wales

Why Sperm Donation is Bad for Dads and Kids

by John M. Smoot

February 12th, 2013

Commercialized sperm “donation” degrades and objectifies men, promotes a culture of irresponsible parenting, and hurts children conceived through donation. The first of a two-part series.

In 2006, as a Probate and Family Court judge in Boston, I began hearing a case filed by a self-represented woman who requested an order that a sperm facility disclose the identity of the father of her two young daughters. She gave as her primary reason that the children suffered from health issues and needed a complete medical history from their father. As a secondary ground, she cited the children’s need for financial support. After multiple hearings and several trips between the Probate and Family Court and the Massachusetts Appeals Court, the complaint was dismissed in 2011. (The first decision of the Appeals Court can be found [here](#).)

By the end of the case, the process of *anonymous* sperm “donation” struck me as inhumane, and sperm “donation” in general as thoughtless, even though many of the individuals involved behave in understandably human ways. In today’s article I explain the problems for fathers and children created by sperm donation. Tomorrow I address the role of money as a problematic incentive for “donation” and offer suggestions for how we can slow the growth of the sperm-sale industry.

Harms Arising from the Sale of Sperm

When we focus on the friend, relative, or child who may have ties to sperm donation, we avoid seeing certain realities, or if we glimpse them, we often keep quiet in order not to offend. I know wonderful women who are kind and loving mothers to their children conceived through sperm donation. But the impact of a billion-dollar gamete industry reaches well beyond them.

Advertisements for sperm and egg donations are ubiquitous. We currently sugarcoat the process with euphemistic language, labeling “selling” as “donating” to make adults feel good about their “altruistic” donation. And who will want to say otherwise?

In August 2011, Rene Almeling, an assistant professor of sociology at Yale University, released a carefully researched book called *Sex Cells: The Medical Market for Eggs and Sperm*. Almeling interviewed staff from clinics as well as sperm and egg donors. Her *factual* findings prove useful for showing the ills of commercial sperm donation.

First, the process of providing sperm degrades and objectifies men. Men report to a facility where they are directed to a room containing pornography. There, they masturbate until they ejaculate into a cup, and then they deliver the cup to a staff member. The contents may be split up into as many as nine vials and frozen with liquid nitrogen. If the man's sperm quality is good enough, he will get paid. Almeling writes that the founder of one facility "proudly showed off what he called 'masturbatoriums,' small rooms with erotic pictures on the walls and flat-screen televisions for watching pornographic movies."

Almeling also records the following comments from sperm sellers:

Ethan: What's weird about it is going into a doctor's office and jerking off. It's kind of like a sexual thing you're using in a totally nonsexual way. It's not the privacy of your own bedroom, and it's not whenever else you might choose to masturbate. This is like masturbation on demand. You're a lab rat. You can go in and smile and say all the nice things you want every morning, but they really want you for one thing. You are a walking sperm donor.

Ben: I felt like a piece of meat almost. I felt like a cow. I'm being milked for something that I can provide.

Dennis: You're sort of like an asset to them, and if you're not performing, they don't want to have any part of you. I finished giving my sample, and they were like, "So you've had three bad samples. I don't know what's going on. I don't know what the problem is, but you really need to fix this." I was like, "Yikes. Okay!"

The men's profiles are then paraded on the internet like cattle at an auction and women shop for sperm based on features like height, weight, eye color, SAT scores, and athleticism.

Second, selling sperm corrupts our society's concept of fatherhood. Humans should care for their children. It has always been considered a tragedy when they fail to do so. Our society already suffers from an absentee father crisis. What message does it send to children when men so obviously don't care when, where, or to whom their children are born? The boom in the sperm sale business will damage children's perception of what it means to be a man and a father. As anthropologist Margaret Mead has written, "the supreme task of any society is to teach its men to be good fathers."

Third, the sperm sale industry deliberately creates fatherless children. Thanks to better treatments for male infertility, fewer heterosexual *couples* are purchasing commercial sperm. Instead, the buyers are primarily *single* heterosexual women and lesbian couples. Single heterosexual women who want marriage and children are giving up on men swamped by a culture antithetical to male maturity. An excess of recreational sex, pornography, and video games has fostered male self-absorption.

Lesbian couples more often choose to purchase sperm over adoption, in part because the countries whose children U.S. couples most frequently adopt—Guatemala, China, Ethiopia, South Korea, and Russia—explicitly ban gay and lesbian couples from adopting. Single gays and lesbians can try to skirt these policies by not identifying their sexual orientation unless asked. But married same-sex couples must reveal their marriage. Still, the shift from adoption to buying sperm is more likely due to lesbian women's wish to have their own biological children, the same desire that motivates single heterosexual women.

Fourth, sperm sales encourage the commodification of children. As improbable as it may seem, some children born are not fully accepted and loved because they fail to develop as advertised. In other words, a mother who pays for looks, intelligence, and athleticism but sees none of those in her child may not love the child unconditionally. In consumer terms, this would be called purchasing a "lemon."

We all want to believe that no one would ever do this. But we need to remember that as the sperm is shipped around the world, nobody checks on who is getting it. Nobody checks child abuse records. Nobody checks mental health history. Nobody checks *anything* about the buyers.

Fifth, while the harms I've discussed apply to both "identity release" sellers of sperm—sellers who agree to let conceived children access their biological information once they turn eighteen—and anonymous sellers, anonymous sperm sale is particularly inhumane. Thanks to the efforts of adult commercially conceived children, buyers can now learn more easily that donor anonymity is often painful for the child conceived to endure. Olivia Pratten, who is donor-conceived, wrote in 2010:

If biological roots didn't matter, we wouldn't have a whole fertility industry whose priority is to maximize the genetic continuity of the parents using the technologies. If it didn't matter, no one would care about having their own biological children. People who are infertile grieve not being able to pass on their lineage to their children. I grieve the same thing: not knowing the person who gave me mine.

In May 2011, Pratten won a landmark victory in a Canadian court, which ruled that “assisted reproduction using an anonymous gamete donor is harmful to the child, and is not in the best interests of donor offspring.” Unfortunately, in November 2012, an Appeals Court reversed the lower court decision. Pratten plans to appeal the most recent decision to the Supreme Court of Canada. Britain, Sweden, Norway, the Netherlands, Switzerland, and parts of New Zealand and Australia have already banned anonymous sperm “donation” on humanitarian grounds.

“Cryokids” Speaking Out

If you read the stories of adult donor-conceived children with anonymous parents on websites such as [Anonymous Us](#), [Connect It](#), [Tangled Webs UK](#), and [Confessions of a Cryokid](#), you will feel the deep pain many of these adults experience. One study found that among donor-conceived offspring:

65% agreed that the sperm donor is half of who they are.

45% were bothered by the circumstances of their conception.

Almost 50% report that they think about donor conception at least a few times a week or more often.

58% agreed that when they see someone who resembles them, they wonder if they are related.

46% agreed that they have worried that someone they are physically attracted to could be related to them.

One donor-conceived adult wrote that

this ground swell of questions and loss from one group has resulted in another group responding with answers in the media—the parents and donors. It’s as if Hollywood is telling the story the way everyone would like to hear it, especially donors and parents worried they might have made a poor decision. The witty romantic comedy or the quirky indie film provides a happy ending so we all can know, yes it’s ok, “The Kids Are Alright.” Yet, the kids aren’t alright, they are usually pretty upset and in many ways they haven’t really been truly heard.

It is not uncommon for donor-conceived children who speak against sperm and egg donation to be faulted for being “ungrateful.” Donor-conceived filmmaker Barry Stevens has

responded, “if that were true, then anyone who is the product of a rape would have to endorse rape . . . It’s quite possible to be grateful for your life and question aspects of your conception.”

Both sperm donors and their children are harmed by the sperm-sale industry. The money paid to donors especially fosters the irresponsibility to which donors are already prone—but more on that tomorrow.

John M. Smoot served as a trial court judge of Boston’s Probate and Family Court from 1990 to 2012.

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Why and How We Should Tackle the Sperm-Sale Industry

by John M. Smoot

February 13th, 2013

With money as the biggest incentive for sperm donation, donors are set up to be absent fathers. Politicians, charitable organizations, academics, and donors themselves should counter the ills of sperm donation through law, journalism, and funding for anti-sperm donation advocacy. The second of a two-part series.

Yesterday I explained the problems that arise from commercialized sperm donation—namely degraded men who are absent fathers to children disturbed by the circumstances of their birth. Today I explore more closely the role that money plays as men's greatest motive for donating sperm, and its impact on future children. I conclude by proposing how we can challenge the sperm-sale industry.

Money Matters

Many people in the assisted reproductive technology world want adult-conceived donor children to hush their complaints and ignore their own suffering. But some new buyers are listening to them. Sperm banks now offer more financial compensation to donors who are willing to be identified when a child turns eighteen. According to Rene Almeling, one sperm facility now pays 55 percent more to donors willing to be identified (\$100 per donation) than it pays to anonymous donors (\$65 per donation). At three cups per week, four weeks per month, \$100 per sample creates a monthly income of \$1200.

This money is the primary incentive for identification, not a sense of responsibility or a desire to know one's children. To increase sales, men sometimes are prompted by facility staff members to beef up their stated motives for donating. One staff member explained to Almeling that if a profile is negative, the man may be further queried:

“Do you really mean that money is the only thing for you?” And if it is, we are honest enough to just leave it that way. But a lot of times [donors] say, “Well, it's not just the money, it's also. . . .” [So the staff will say,] “Why don't you rewrite this little portion to reflect that also?”

The facilities do not invest money in these men without expecting a substantial profit from the sale of their sperm. So they have every reason to make donor profiles as appealing as possible. Altruism is an appealing motive to sperm buyers. Avarice is not.

If men were not paid \$50 to \$100 per donation, how many would show up at the clinic each week? The commonsense answer is very few, if any. In contrast, millions of men go out of their way to donate blood every year for no fee. They are willing to undergo discomfort and inconvenience without reimbursement.

Like sperm donors, blood donors don't know where or how their blood will be used, but blood does not create children. The reality is that selling sperm is nearly always a selfish act done for money with no regard for the wellbeing of the children produced. When men sell their sperm knowing it will be used to create children but don't know where, when, by whom, or under what circumstances their children will be born, it is hard to make a case for altruism.

While some men (e.g., Ben in Almeling's book) claim to sell their sperm because they think the world will be a better place with more of their genes in circulation, most sellers acknowledge the money factor. Consider this passage from a recent [article](#) in *The Guardian* on Simon, age 24, who is an anonymous donor in Denmark.

"I moved to Aarhus four years ago and I couldn't find a job. I didn't have any money, but I had an apartment I couldn't afford and that was how I came to be a donor." Simon would sometimes visit Cryos five days a week, but he has now cut it down to twice-weekly. "It's such a weird experience," he says. "You go in and everyone knows exactly what you are doing." Simon earns around 2000 kroner a month and he uses the money to buy treats such as an Xbox.

The same article reports that Simon probably has more than 100 children and quotes him saying, "My parents don't know I do this. My mother would find it hard to know she had grandchildren she would never meet—that would upset her."

Where is Dad?

When Almeling asked a past president of the American Society for Reproductive Medicine, "What happens to the donors? Do they forget it, or is it part of their life for the rest of their lives?" the physician answered: "The sperm donors probably couldn't give a hoot about what happened to those kids. They did it for the money. It was easy to collect the sperm and [then] good-bye."

Betsy Cairo, a University of Northern Colorado professor who founded the CryoGam Colorado sperm bank in Greeley, Colorado, has observed to the *Pittsburgh Post-Gazette* that “sometimes these donors are 19 or 20. They don't think that far down the road. Some might even forget they were a donor in college.”

Ultimately, these men are creating children with strangers around the world about whom they know nothing. Is the recipient capable? Will the children be safe, fed, loved? What country are the children in? They have no idea. There are no background checks, no criminal record checks, and no home studies. There are no testimonials in support of the sperm buyers, who often arrange through a doctor for the sperm to be shipped directly to their homes.

Moreover, no one knows how many children are born through sperm donation. There are more than 150 commercial sperm facilities in the United States. One facility cited in Almeling's book ships approximately 2,500 vials of sperm around the world each month. There is no requirement that the purchasers report a successful birth back to the facility. It is estimated that only 20 percent to 40 percent of births are reported back. So there is no way to measure how many children are conceived each year with purchased sperm or how most of these children are doing.

Suggestions for Action

What can be done? Here are some suggestions.

Donors: If you have already donated sperm, but have second thoughts, regrets, or simply don't want more children conceived through the use of your sperm, consider sending a letter (return receipt requested) to the sperm facility, unequivocally withdrawing your consent to the use of your sperm and demanding that it be destroyed. A strong argument can be made that a person cannot contract away the right to decide that no (more) children be conceived with his sperm. This is not about the sale of widgets. This is about creating human life. In responding to your request, the sperm facility may have to consider the emotional, psychological, and financial damage that may be caused by choosing to ignore an unequivocal demand from you that your sperm not be used.

Charitable Institutions, Non-Profits, and Foundations: Consider funding a professionally designed website that promotes the case against sperm donation. The site could post articles, stories from adult-donor-conceived children, and appropriate links to other sites such as Anonymous Us. It could serve as a referral resource for parents, professors, university staff, and friends of potential donors. These men could be encouraged or asked to review the site before making their decision.

Colleges and Universities: Proponents of sperm donation can promote it by showing thousands of young smiling children with their mothers but as I've stated already, it's unclear how many children have been conceived through donation (60 percent to 80 percent do not have their births reported to the facility), and how well they are faring. It's likely that many of them, especially those who are adults, are bothered by their birth circumstances.

Professors, administrators, coaches, and campus ministry staff could counter the billion-dollar gamete industry, Hollywood, and pro-donation colleagues with newspaper articles, op-eds, letters to the editor, forums on fatherhood, mentoring services, and possibly, small counter-ads: "Thinking about sperm donation? Think again! Contact A, or go to website B, or send an email to C address."

Politicians: Since last year, Washington state now allows children conceived through sperm purchased from in-state facilities to access donor medical histories and, unless a donor specifically opts out, donor identification when the children turn eighteen. If Britain, Sweden, Norway, the Netherlands, Switzerland, and parts of New Zealand and Australia have been able to ban anonymous sperm "donation" on humanitarian grounds, then such progress on a state-by-state basis in the United States is certainly possible.

Truth Be Not Drowned

G.K. Chesterton wrote that Aldous Huxley "lit up the whole loathsome landscape of . . . synthetic humanity and manufactured men and women" by naming his satirical utopia *Brave New World*. He said it would take a "certain amount of bravery, as well as brutality" and "some courage, and even self-sacrifice, to establish anything so utterly disgusting . . . in the world of fact." *Yet here we are.*

John M. Smoot served as a trial court judge of Boston's Probate and Family Court from 1990 to 2012.

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Justice at Last for Donor-Conceived Victorians

TangledWebs Inc.

Press Release

Wednesday 28 March 2012

The final report of the Law Reform Committee of the Parliament of Victoria's inquiry into access by donor-conceived people to information about donors has recommended changes to the law to enable all donor-conceived Victorians to apply for information about their genetic identity regardless of when they were born – a world first.

The issue was referred to the Law Reform Committee in the wake of the passage of the Assisted Reproductive Treatment Act in 2008. The inquiry was prompted by concerns raised by donor-conceived people about the impact on their day-to-day lives of the law that denies them basic information about their medical, social and cultural backgrounds as they shared their stories of grief and loss from being denied knowledge of their full identity.

"I am overwhelmed that donor-conceived people will finally have the chance to know who they are. It has been such a long and tiresome struggle for many, but there is now hope that this has not all been in vain. I commend the committee for their dedication with respect to this issue," says Kimberley Turner, a 28 year old donor-conceived person. "They truly listened to those involved, and recognised the imperative need for change. I cannot thank them enough for standing up for what is right and just. I look forward to discovering the missing pieces of myself and my heritage, and to passing this on to my own children."

"I am so relieved and happy that the committee has recommended a change to the cruel laws which denied people like me who were born before the arbitrary date of 1988 the right to information, even though it was recognised that people born after 1988 should have it," says Lauren Burns, a 28 year old donor-conceived person. "Before this inquiry we had no rights and faced a bureaucratic black hole if we wanted to know where we came from. It was horrible being treated as a second class citizen."

The overwhelming majority of public submissions to the inquiry supported the removal of secrecy provisions. In the course of extensive public hearings the committee heard from donor-conceived people, donors, parents of donor-conceived people, counsellors and doctors. Contrary to popular opinion, testimony showed that many donors care about the wellbeing of the people they helped create and are willing to provide information. Donors currently outnumber donor-conceived people on the pre-1988 voluntary register set up to facilitate mutually desired contact, which is administered by Births Deaths and Marriages.

"This issue is about people. The donors who, by making their sperm or eggs available to help others, have created lives and the people who have been born from the donations of sperm and eggs. As a sperm donor from the mid 1980's I welcome the recommendations of this inquiry – which recognise the fundamental human rights of donor-conceived people to have

access to information about their biological parents and their genetic and familial heritage. It is true that as sperm donors 25 years ago we were promised anonymity. However, the interests of the donor-conceived people should, in my view be paramount. I support changes to legislation and practice which will enable donor-conceived people to have knowledge of their genetic heritage. I believe that can and should be achieved in such a way as to best respect the rights of all parties concerned,” says Ian Smith, a sperm donor from Prince Henry’s Hospital.

Myfanwy Cummerford, a 31 year old donor-conceived person welcomed the changes. “We’ve fought for so long for something that most people can take for granted. The ability to answer the most basic questions – Who am I? Where do I come from? We are the only group of people in Australia discriminated against on the basis of how we were conceived and when we were born. This is a human rights issue and I cannot thank the Law Reform committee enough for not only listening to us but having the guts to take action and recommend these changes.”

Currently donor-conceived people born prior to 1988 have no mechanism to directly apply for information about their biological identity. The recommendations of the committee will bring the rights of donor-conceived people born prior to 1988 into line with adopted people, who received the right to apply for information about their biological parents in 1984. Back then Victoria led the world by reforming adoption law, changes which were systematically replicated in subsequent adoption law reform both in Australia and internationally.

“I’ve been waiting for this day for 15 years and I am so thrilled that the Law Reform Committee has truly listened to the voice of the donor-conceived person. We are elated that these recommendations finally afford us the ability to be treated as equal citizens of our community with the recognition of the truth, which is rightfully ours,” says 29 year old donor-conceived woman Narelle Grech.

TangledWebs urges the Victorian government to legislate the recommendations of the Law Reform Committee as soon as possible, in recognition of the lengthy time that pre-1988 donor-conceived Victorians have waited their turn for equality and justice.

TangledWebs also implores past donors to register their details on the voluntary register because in some cases where records have been lost or destroyed this will be the only way information can be shared. Donors can lodge their details on the voluntary register by contacting the Victorian Registry of Births Deaths Marriages (www.bdm.vic.gov.au) or they can discuss their options further by contacting the Victorian Assisted Reproductive Treatment Authority (www.varta.org.au).

Contact
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