

**INQUIRY INTO INCLUSION OF DONOR DETAILS ON
THE REGISTER OF BIRTHS**

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Submission

The NSW Parliamentary Law and Safety Committee Inquiry into inclusion of donor details on the Register of Births

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1. The **Life, Marriage and Family Centre** is an agency of the Catholic Archdiocese of Sydney and has been established to extend the research, policy, educational and pastoral activities the Church undertakes with respect to marriage and family issues. The Catholic Church has a long and ongoing tradition of caring for children and their families and is a major provider of pregnancy support services, maternity, counselling and adoption services.
2. Catholic agencies dedicate significant resources to assisting with the pre-natal care, birth, education and ongoing nurturing of children, based on the principles of respect for the inherent human dignity of the child, and the child's right to know and be raised by their natural parents, as far as possible. These principles of respect for the dignity of children and their family origins are fundamental values of our society and affirmed by international¹ and domestic² law.
3. A child's birth certificate is a crucial expression of the child's identity and as such should contain all known information about his or her parentage. The birth certificate is intended to be a service rendered by the state primarily for the *child*,³ and not for the parent.
4. Regrettably, with the passage of the *Miscellaneous Acts Amendment (Same Sex Relationships) Act 2008*, the NSW parliament chose to displace the traditional child-centred understanding of the birth certificate. The birth certificate became a vehicle for affirming the desire of lesbian partners to be recognised as the legal parent of their partner's child, at the expense of the child's biological father. As the Attorney-General explained during the bill's second reading:

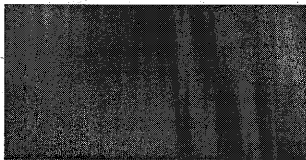
“The Government emphasises here that these provisions...only apply where the child was conceived through artificial fertilisation and the man is not entitled to be recognised as the parent...for instance, if the man was the sperm donor and had no relationship with the birth mother.”⁴

5. This law⁵ allows a child’s birth mother to identify a second woman’s name on her child’s birth certificate in place of the name of her child’s biological father, if her child was conceived through an artificial fertilisation procedure and the father involved was not her partner. In this way society presumes and accepts that the other woman is essentially the child’s “father” or other parent. This is a clear injustice to the child, who is denied the right to have their origins and their real father identified on their birth certificate. The rationale for this law, that a child conceived through donor sperm is “not entitled” to have their father named on their birth certificate, is clear and unacceptable discrimination against children based on the method of their conception. It sets such children apart from all other children in New South Wales whose biological fathers are identified on their birth certificates.
6. The birth certificate expresses a child’s biological heritage and is a key social vehicle for establishing paternity and a child’s relationship to his or her biological father. Historically, the absence of the father’s name from a child’s birth certificate has been a tragic exception, and not the norm.
7. The testimony of adult children of donors overwhelmingly demonstrates support for the inclusion of their biological origins in donor registers and on their birth certificates.⁶ Children have a basic right to information about their genetic heritage for their health and medical care, the right to their identity and family history, and the right to know any siblings they may have.⁷
8. It is essential that Parliament remedy the injustice done to donor-conceived children by the elimination or omission of known information of fatherhood from their birth certificates. The deliberate removal or omission of this information infers that biological origins are only an incidental, not an essential, aspect of a child’s identity. This assumption is unjust and deeply inhuman. It violates established principles of domestic⁸ and international⁹ law, which affirm the importance of children knowing who they are and where they have come from, and the responsibility of the state to remedy any injustice to children in this regard.
9. **The birth certificate is intended to be a service for the child and is the traditional and fundamental vehicle in our society for recognising a child’s identity.** The current law must be amended as quickly as possible to make provision for the mandatory recording of the biological father’s name and details, where these are known, on a child’s birth certificate. Although the law unfortunately allows a

mother's lesbian partner to be listed as a "parent" on the birth certificate, the price for such inclusion should never be the deliberate denial of a child's biological origins. In the words of an adult child of a donor father, "*Birth certificates were brought in to enable people to say who they were, and to know where they came from...if this information had been on my birth certificate, I could have traced my real father.*"¹⁰

Thank you for the opportunity to make a submission on this important matter. Please contact me on [REDACTED] if I can be of further assistance.

Yours sincerely,



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¹ *UN Convention on the Rights of the Child* (CRC) Article 7(1): "The child shall be registered immediately after birth and shall have the right from birth to a name, the right to acquire a nationality and, as far as possible, the right to know and be cared for by his or her parents."

² *Family Law Act*, Section 60B(2A): "Children have the right to know and be cared for by both their parents, regardless of whether their parents are married, separated, have never married or have never lived together."

³ CRC, article 7(1), op cit.

⁴ Hansard, NSW Parliament, 7 May 2008.

⁵ [http://www.parliament.nsw.gov.au/prod/parliament/nswbills.nsf/0/6190e964d5cf2f57ca257441001d3330c/\\$FILE/LC%202308.pdf](http://www.parliament.nsw.gov.au/prod/parliament/nswbills.nsf/0/6190e964d5cf2f57ca257441001d3330c/$FILE/LC%202308.pdf)

⁶ Recently upheld by the District Court in *AA v Registrar of Births Deaths and Marriages and BB* [2011] NSW DC 100.

⁷ Elizabeth Marquardt et al, *My Daddy's Name is Donor: A New Study of Adults Conceived through Sperm Donation*. Institute for American Values, New York, 2010, Executive Summary, pp. 5-14.

⁸ http://www.familyscholars.org/assets/Donor_FINAL.pdf

⁹ Ibid.

¹⁰ *Family Law Act*, Section 60B(2A), op cit.

¹¹ *Convention on the Rights of the Child*, Article 8(1): "States Parties undertake to respect the right of the child to preserve his or her identity, including nationality, name and family relations as recognized by law without unlawful interference; (2) Where a child is illegally deprived of some or all of the elements of his or her identity, States Parties shall provide appropriate assistance and protection, with a view to re-establishing speedily his or her identity."

¹² *Daily Mail*, 19 March 2009. <http://www.dailymail.co.uk/femail/article-1163032/A-generation-sperm-donor-children-discovering-father-know-love-NOT-father-all.html>.