



Law Reform Committee
Parliament House, Spring St
East Melbourne 3002

www.tangledwebs.org.au

10 August 2011

Re: Access by donor-conceived people to information about donors

TangledWebs is an action group, challenging Donor Conception (DC) practices in Australia and internationally.

Members have personal and/or professional experience that relates to DC or adoption. TW provides an alternative voice to Assisted Reproductive Technology (ART) through greater recognition of the complex, lifelong issues that affect the person created through DC. It's our view that there are significant moral, social & legal issues that arise from DC practices that have intergenerational consequences for the wider community.

TW advocates equal rights and protection for all DC people, as defined in the UN Convention on the Rights of the Child. We believe that currently almost all DC practices throughout the world contravene the rights of the child/adult who is created in these circumstances.

TW is committed to ensuring that future legislation be enacted to provide all DC adults with retrospective access to information concerning their biological/genealogical parentage.

1. Some of our Victorian Members

- a. Narelle Grech: donor conceived, recently diagnosed as suffering from a serious illness, possibly with hereditary implications. Her long-felt, deep sense of deprivation at not being able to have access to identity information about her father and possible siblings, has been dramatically and tragically compounded by her inability to provide genetic information to her doctors and to inform possible siblings of the risk to them.
- b. Kimberley Springfield: also donor conceived. She felt strongly enough about her need to have information about her family, to take legal action against the Registrar of Birth Deaths and Marriages, which expended part of its budget on

sending a legal team to resist Kimberley's case in VCAT. In a victory for bureaucracy, VCAT concluded that it did not have jurisdiction to rule on whether or not the Registrar had acted legally in denying Kimberley's application:

"In the same way that Parliament had provided in the Relationships Act for review of decisions by the Registrar made under that Act, Parliament could easily have provided in the ART Act for review of decisions by the Registrar made under the ART Act but Parliament did not do that. VCAT concluded that it did not have jurisdiction."

- c. Lauren Burns: although the law denied Lauren access to information, she was resourceful enough to obtain by other means this fundamental information through the intervention of the Governor of Victoria. She has met her genealogical father, which has been a great source of satisfaction, both to Lauren and her father (and other members of the families of both). She still has not been able to obtain information about half siblings.
- d. Ian Smith: a sperm donor from the mid 1980's. He has nine biological children – two children of his marriage and seven donor offspring he has never met. A strong supporter of the rights of the donor conceived to information about their genetic and familial heritage, Ian has shared information with one of his donor offspring via the Voluntary Register. He hopes that more of his children will come forward to seek that that information, and potentially to meet him, if and when they choose to do so.
- e. Myf Cumberford: donor conceived, made several unsuccessful attempts to contact her father via the clinic. She subsequently made contact with him serendipitously after he recognized her photo on the front page of The Australian newspaper. She knows she has three other donor conceived siblings.
- f. Romana Rossi: mother of a donor-conceived son. Romana's son met his biological father when he was six years old, thanks to the actions of his determined mother and one brave social worker from the Royal Women's Hospital who facilitated contact despite the murky legal issues and at the time there being no precedent for such an undertaking in Victoria.

These personal stories represent the tip of the iceberg. There is a long list of other Victorians who are adversely affected by this legislation (which we recognise is a product of the previous government). Thousands of people are affected, including donor conceived people, their families, donors and children of donors.

2. TangledWebs urges the Committee to make the following recommendations
 - a. immediate implementation of Recommendation 1 of the interim report from the Victorian Parliament Law Reform Committee (Sept 2010) which calls for urgent protection of donor conception records;
 - b. remove the legal roadblock to people obtaining information about their genetic relatives using the model introduced for changes to the adoption law in Victoria in 1984.
3. In the 5 years since 2007, this single issue (the rights of offspring to have access to whatever information exists about the identity of his/her natural father and siblings) has already been extensively canvassed, at the instigation of the previous government, as follows:

- a. 2007 Victorian Law Reform Commission Inquiry Into ART and Adoption final report;
 - b. extensive debate on this issue in both Houses on the ART Act (culminating in refusal by government to implement widely requested reform on this issue because of promised referral to Vic Parliament Law Reform Committee);
 - c. reference by Victoria to Standing Committee of Attorneys General;
 - d. Senate Legal and Constitutional Affairs Committee report;
 - e. September 2010 report of Vic Parliament Law Reform Committee
4. It must surely be significant that none of these bodies/inquiries has uncovered evidence sufficient to justify the continued denial to significant numbers of Victorians of access to records containing fundamental personal information. We are of the view that whoever is opposed to this reform has had adequate opportunity to make their case.
 5. The issue is not sufficiently controversial to warrant yet further introspection before action. There are indeed more controversial issues which were dealt with by the ART Act, implemented in 2008, despite protest (because they were judged to be good policy).
 6. Nobody is seeking to invade someone's "privacy": we just want to know the identity of close members of our genetic family. This surely is our information. If family members who are identified do not wish to meet, that is their right.
 7. In adoption, in respect of which Victoria was world leader in 1984, it is no longer controversial to allow any adoptee (whenever born) access to birth information. The opening of adoption records may reveal truly tragic situations (of a type which do not occur with donor conception). Despite this, the adoption experience in this regard has been a true success and has been copied in many other jurisdictions around the world.
 8. The fact that the "secrecy provisions" of donor conception may still apply to some children being born now, and indefinitely into the future (if pre-1988 gametes are used) is an anomaly which illustrates the urgent need for reform on this issue.

TangledWebs looks forward to hearing of progress on this issue in the near future.