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Dear Associate Professor Allan,

I write in regards to the review of the operation and effectiveness of the changes made in 2010 to the South Australian *Assisted Reproductive Treatment Act 1988*. I write as someone who has conducted empirical research in two interrelated areas of relevance to the review: lesbian mothers in South Australia, and sperm donors. My comments below in response to questions raised as part of the review are based on my research findings.

1. Section 4A of the Act, the paramountcy of the welfare of the child in assisted reproductive treatment.

At present, the paramountcy of the welfare of the child does not appear to be upheld in all instances, specifically in relation to children conceived in the context of a lesbian relationship. The operations of the Act intersect with the South Australian *Family Relationships Act 1975*, which requires that a couple that uses an assisted reproductive technology have been in a relationship for three years prior to conception in order for both parents to appear on the child's birth certificate. This requirement represents discrimination at law, given there is no requirement that a heterosexual couple be in a relationship for three years prior to conceiving a children via intercourse in order for both parents to appear on the child's birth certificate.

Exclusion from having both parents appear on the child's birth certificate has both legal and psychological impacts. My research suggests that mothers who are prevented from being named on a birth certificate may experience this non-recognition as a barrier to their involvement in healthcare and educational contexts (i.e., if they are not seen as able to make decisions about their child's wellbeing). Given the discrimination that lesbian mother families continue to face, lack of recognition further compounds this.

I thus propose that the review needs to make comment on the necessity of revisions to the *Family Relationships Act 1975*, so as to ensure that the focus on the paramountcy of the welfare of the child in the *Assisted Reproductive Treatment Act 1988* is ensured.

2. Access to assisted reproductive treatment

At present, access to such treatment is premised upon proof of infertility. This burden of proof, however, is arguably premised upon male or female factor infertility in the context

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of heterosexual relationships. This fails to take into account what has been referred to as 'social infertility'. Whilst this label is something of a misnomer, it draws attention to the fact that the requirement to prove *medical* infertility is a barrier to access to services for lesbian couples. Further, it would seem to be an unnecessarily onerous barrier to such couples, given the fact that whether one or both women are medically infertile is to a certain degree moot. The point is that for most lesbian couples donor sperm is needed in order to conceive a child, and thus access to services should be made on this basis, not on the fertility (or otherwise) of the couple.

My research (and that of others) has found that the burden of proof that rests upon lesbian couples is experienced as burdensome. For some women it may lead them to attempt to source donor sperm through private networks in order to determine fertility. This clearly brings with it health risks (i.e., using sperm that has not been screened). It is also fraught for some people given it requires a relationship in most cases between the donor and recipient, a relationship that is not protected under the law. For women who wish to be assessed for potential infertility in the context of a clinic, this is a costly process to prove something that is already a given (i.e., social infertility). Clinic resources would be better spent on assessing couples where fertility is likely (i.e., male factor infertility) and which may be responsive to treatment.

I thus propose that the *Assisted Reproductive Treatment Act 1988* requires revisions in terms of this requirement. Whether or not a distinction can be made in regards to the nature of the relationship is a matter for the review to consider (i.e., whether the Act can differentiate between medical and social infertility, and include both within its definition of eligibility).

3. Donor conception: Access to information

To date, my research has taken as a given that donor-conceived children have the right to information about all involved in their conception. My research has not, however, focused on the experiences of donor-conceived children themselves, so I cannot comment on that, nor on the nature of the specific information that donor conceived children might wish to have recorded for potential future access. What I can comment on, however, are the views of sperm donors, and more broadly public discourses about donor conception.

With regard to sperm donors, my research has found that a majority of sperm donors are willing to be identified to children conceived of their donations, and a majority are happy to meet children conceived of their donations. Importantly, however, some donors have reported something of a possessive investment in children conceived of their donations. Here we are thus presented with something of a conflict: children's right to know all involved in their conception, but the right of the family to be respected as such. Donors who may be especially invested in playing a role in the lives of children conceived of their donations, regardless of the wishes of the child or their parents, are thus a sticking point in this potential conflict.

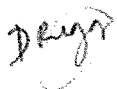
I thus propose that whilst a donor conception registry is vital, that access to it is restricted to donor conceived children. Whilst the review may find the need for a clause warranting that in exceptional cases either parents or donors may access information (i.e., in the case of genetic diseases or organ donation), as a general principle I would advocate for parties other than the child being restricted in their access to information. This is not to deny the important role that sperm donation plays, but rather to mitigate potential conflict between adult parties who did not enter into a binding relationship to one another at the point of conception, other than if a relationship is later sought by the child themselves.

In terms of public discourses about donor conception, my research has found that secrecy over donor conception can drive some donor conceived people to seek out a donor, when otherwise they may not have. Whilst such searching is fruitful and rewarding for some people, for others it is not.

I thus propose that if the Act is amended to mandate for a donor conception registry, that this must be accompanied by two things. First, a public dissemination strategy should be developed that advocates for disclosure to donor conceived children. The point here is not to dissuade children from seeking out information about a donor if they choose. Rather, it is to mitigate the apparent relationship between secrecy and distress about being donor conceived. Second, it would seem vital that counselling is available to donor conceived people wishing to access information about a donor. This should not be a form of gatekeeping, but rather a supportive service that allows donor conceived people to work through concerns they may have. Such a service should also be available as needed in the context of facilitating meetings with donors and following such meetings (i.e., it should not be limited to providing the information).

In sum, I hope that this submission is of use to the review. I am happy to provide more information about my research findings on request, though most are readily available in the publications listed below.

Yours Sincerely,



Dr Damien W. Riggs

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. (2011). Characteristics of men willing to act as sperm donors in the context of identity-release legislation. *Human Reproduction*, 26, 266-272.

Riggs, D.W. & Scholz, B. (2011). The value and meaning attached to genetic relatedness amongst Australian sperm donors. *New Genetics and Society*, 30, 41-58.

Riggs, D.W. & Willing, I. (2013). 'They're all just little bits, aren't they?': South Australian lesbian mothers' experiences of marginalisation in primary schools. *Journal of Australian Studies*, 37, 364-377.

Scholz, B. & Riggs, D.W. (2014). Sperm donors' account of lesbian recipients: Heterosexualisation as a tool for warranting claims to children's 'best interests'. *Psychology and Sexuality*, 5, 247-257.

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