

IS ANONYMITY NECESSARY?

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Olivia Pratten is a 28-year old woman from Nanaimo, a small fishing city half-way up the east side of Vancouver Island. She has pursued a life-long dream that has taken her from the Columbia School of Journalism, then a burgeoning career as a reporter for The Canadian Press, and finally as a plaintiff in a landmark case before the Supreme Court of British Columbia, which wrapped up testimony on November 5, 2010. I met her 17 years ago, when she was eleven, at an American Adoption Congress conference here in Salt Lake City where I first heard her speak of her dream to know the identity of her genetic father. As a person conceived through donor insemination at a Vancouver clinic, she is seeking the right for herself and all other donor conceived people in British Columbia to have access to the identity of their unknown genetic parents. The thousands of adopted people in BC won their access to genetic parents in 1996 and vice-versa, although both are subject to an information veto. Olivia's suit follows a pattern worldwide where governments that grant the recognition of identity rights for adopted people also extend this equal protection further. Eight European countries that have opened access to previously sealed adoption records. Six of these have also enacted legislation granting the same access for people created through the use of third-party gametes in donor insemination, egg donation and embryo donation. New Zealand and four states in Australia have also allowed donor conceived people open access to their genealogy, following earlier legislation granting identity rights to adopted people. If Ms. Pratten wins her case, her victory will likely inspire donor conceived people to seek the right to know their genetic fathers in Canadian Provinces, as well as in the five states in the USA where adopted people have the liberty to reconnect with their original parents.

The basis for Olivia Pratten bases her claim on the grounds that the government should not sanction the anonymity of genetic parents, whether it is through adoption laws or the policies of the infertility profession.

Is the use of anonymous parents ethically justified in the practice of Assisted Reproductive Medicine, either in donor insemination, surrogacy, egg donation or embryo donation (or “adoption” as some pro-life groups call it)? I will examine this issue in terms of moral reasoning. I will also discuss the consequentialist rationale behind the infertility profession’s use of anonymity, arguments that support it and arguments against it. I will also suggest a different approach to third-party reproduction that respects the interests of those conceived, the parents who raise them, the genetic parents who give or sell their gametes, and the professionals who make such families possible.

Essential to my arguments is the correlation between ART and adoption, another form of family creation that has historically relied on anonymity and secrecy. The two forms share common ethical rationales for a claim to a right to an identity. These claims are international in scope and I will show that countries which recognize the identity rights of adopted people have also progressed to the same recognition for donor conceived people. Although these two classes of people have been created through different methods and under different social institutions, I will demonstrate that the core issue of identity rights makes an analogy a compelling argument for equal treatment under the law. Both suggest ethical imperatives in the way society ought to treat the interests of people intentionally separated from their unknown parents by state actions.

Why did anonymous fatherhood become an inherent ingredient in donor insemination, the oldest form of assisted reproductive technology? From the start, at least as far as we can tell from the first purported use of donor insemination in 1884 by Dr. William Pancoast (The Medical World, April 1909 pp. 163-164: Letter to the Editor), it appears that one of his unknown medical students, jokingly

called the "Hired Hand," was used in order to deceive the wife about the process and to encourage her to believe that her husband was the father. There was no informed consent and the husband was told only after the wife became pregnant. Professor Pancoast then set up an "association for the purpose of producing artificial impregnation of women who may for any reason give a written consent to such a proceeding" [ibid. Medical World]. It is implied that the business of donor insemination then began and followed informed consent but nothing is said about anonymity. The inference from this article is that the "impregnator" is not significant since the mother is the "is the complete builder of the child." The writer then goes on to add that "the origin of the spermatozoa,, is of no more importance than the personality of the finger which pulls the trigger of a gun... (and therefore)... artificial impregnation [should] become recognized as a race-uplifting procedure." [Cite Medical World].

From the tone of the letter it seems clear that the writer advocates the use of artificial insemination using "carefully selected seed." In other words, this first use of DI is touted as a way for society to become the "master in the affairs of the human race." As reported in an article called "The Impregnators" in "Fertility and Sterility" (A. T. Gregoire, PhD and Robert C. Mayer, MD; F&S vol.16, no. 6, 1965, p. 130 - 134) the 1909 letter caused a debate between those who felt DI violated the laws of God, "ridiculously criminal," "neither honest nor moral," and those who support the eugenic idea that artificial impregnation "could improve the genetic stock of America." The moral criticisms of the act were dismissed by the latter group "since the question of morals belonged in the theological journal, not a scientific publication." "Doctors have enough of the laws of God when they are young..." and "without disrespect to Nature and Nature's God, they (doctors) modify creation and improve it with intelligence." After this brief uproar the practice went underground so that we know very little about the early years of donor insemination. Discussion of artificial reproduction occasionally appeared in various journals and lectures as early as 1910(Herman Muller) and in articles in *Scientific American* in the 1930s. DI is also implied in literature such as Buck Mulligan's proposal for a "fertilising farm to be named Omphalos with an obelisk" erected (phallic pun intended by Joyce) in the "Oxen of the Sun" episode of *Ulysses* (1922;

14: lines 651 to 737) as well as Aldous Huxley's Brave New World (1932). Actual mention of DI as an ongoing practice is rarely mentioned, although we can't assume that it didn't continue. If it was practiced, then it survived under a cloak of secrecy reinforced with instructions to recipients to refrain from telling their children.

By the mid-twentieth century, excerpts from various early guides for fertility often stress that the identity of the donors must obviously remain anonymous. For example, W. J. Finegold wrote (Artificial Insemination; Springfield Illinois, Charles C. Thomas; 1964) that "the donors should be veiled in absolute obscurity." M. Glezerman ('Two hundred and seventy cases of artificial donor insemination,' *Fertility and Sterility* 1981:35:180-7) wrote "the donor semen should be regarded as 'material from an anonymous testis'" and that the genetic father is actually a "non-person." Although 1982 marked the first break from anonymous donors through the Sperm Bank of California, a non-profit feminist clinic, Sherman Silber (How To Get Pregnant; Little, Brown and Company; 2005, p. 415) wrote that "the majority of physicians still oppose identity release donors, with the [unsubstantiated] claim that the vast majority of couples prefer anonymous sperm." Many accounts from DI parents on infertility web sites relate conversations that doctors had with them about donor insemination. Many infertile couples went for treatment for infertility without having any prior knowledge about donor insemination. When presented with the idea, the couples' initial response was negative and they relate how the doctor persuaded them, through guarantees of privacy, guarantees that the donor would not be a part of the family, relatives would not question the child's origins, and that the child should not be told. Reasons for non-disclosure were the fear that the father would not be able to bond with the child and vice versa, that the child would reject the father as legitimate, and that the child would likely suffer stigma among his friends as well as spend its life wondering about the genetic father with no chance to ever find out who he was.

If these fears were part of the original rationale for anonymity, it could be said that such a plan served definite utilitarian justifications. The following arguments, listed under Moral Justifications, are given for the use of anonymous sperm based on consequentialist reasoning. Keep in mind that this stance relies on presumptions and speculation without analyzing actual data from studies of families. There are no records of any practitioner ever investigating the social or psychological effects of their “infertility therapy” on families, or the people that DI created. Doctors measured success by the purely medical outcome of a live birth.

It is also important to remember that the reason for the practice is to create a human being. That human being is not present in the discussions between the doctor and the man chosen to contribute sperm. That person is also not present in the discussions between the doctor and the infertile couple. In addition, the couple never meets the man who helps them. Do any of the people involved in the decision think of the person created as anything other than a baby? In that sense, the focus of the practice is primarily the infertile couple. In the history of adoption, as we will see, the focus has also been on the infertile couple. After decades of reform in both fields, the focus has changed to the family unit, with the “best interests of the child” as the ideal. Practitioners now stress the family unit and its importance for healthy child development but rarely considered beyond that. These “children” become adults, leave their family homes and form their own families. Olivia Pratten’s suit is just one more step toward “the best interests of the adults” as they become autonomous from their families.

Like many other donor conceived people, I did not learn about my conception until I was an adult, at age 37 when my mother finally told me after my father died. When she revealed this surprising truth, I began researching the history of donor insemination and the literature about infertility. I was struck with the question, “why does everyone assume that the sperm donor has to be anonymous?” My mother told me that those were the rules by which she had to play in order to be a mother. Her

gynecologist didn't bother to explain and she did not have the courage to ask, out of fear of appearing ungrateful. So I began looking for an explanation. Although there are hints to the reasons, it wasn't until I found a 1987 book called "Having Your Baby through Donor Insemination," by Elizabeth Noble, that I finally received some clear answers. Ms. Noble is unique in that she was the first woman I had heard of who actually chose her own donor, an older colleague that she and her husband both admired. This book is a critique of the current practice and offers a new way to look at the process that would be equitable to all persons involved. It still strikes me as the clearest rationale for an ethical practice in ART, even though it has been mostly shunned due to the peculiar personality of the author, and her subsequent history. I will return to her vision of equity in ART at the end this paper.

Noble explored the rationale for anonymity in sociological terms. Like my parents, most infertile people come to an infertility specialist as a last resort in getting pregnant. Of course, adoption is available but many women want to have "their own" child with at least half the genes of the couple. Of course, there is an inherent paradox involved with this reasoning: "If the desire for a biological connection is strong enough to make adults choose donor conception over adoption, then it is the ultimate double standard to imagine that the desire for a biological connection will not be felt just as strongly by the donor-conceived person that results." (Donor-conceived adult Rebecca Hamilton, "Open Parents, Closed System." in Voices of Donor Conception, Behind Closed Doors: Moving Beyond Secrecy and Shame, ed. Mikki Morrisette [Voices of Donor Conception Series Volume 1, 2006, p. 82]). DI is easier, quicker, much less expensive, and less fraught with concern over the possibility that a birth parent will change their mind about relinquishment. In DI, the anonymity of the genetic father ensures that paternity will not be challenged and that the child will not try to locate him (if he is told at all). The gynecologist or sperm bank assured infertile couples that the genetic father had an excellent medical history and a superior intellect. The infertility specialists often contrasted DI with adoption, citing the possibility that the original parents in adoption might be drug users, of poor intelligence, or carry unknown hereditary

diseases. They also stressed that the visible pregnancy will raise no suspicions among family and friends that DI is used, while adopting a child is more obvious, leading to the possibility of stigma for the child.

Moral Justifications for the use of anonymity in ART in the early years, coupled with secrecy about the practice.

Protection of the infertile couple

Infertility has been a source of personal shame throughout history. Couples often face questions from friends and family about “their problem.” In earlier cultures, society stigmatized infertile couples as somehow unworthy or even cursed by God for moral failures. They were pitied and ostracized. An infertile man would have been ridiculed, if others found out, since his sterility would be equated with a lack of virility. So DI gave him the public proof of his masculinity through the pregnancy of his wife. As donor insemination began in such an atmosphere, it is no surprise that it would be practiced in secrecy since it would have been considered adultery (and had been attacked as such by the Archbishop of Canterbury when one British DI practitioner, Mary Barton, publicized her work in 1952). It also involved masturbation, which would have also been condemned in the strict religious atmosphere of early twentieth century. No laws existed that would have protected the child from an illegitimate status. Fear that the child could be disinherited reinforced the use of anonymity. As long as the child is not told, there would have been no reason for a formal guarantee of anonymity.

The protection of the man whose sperm was used to create the child

Another reason for anonymity could be that the gynecologist may have felt that it is just simpler to separate the genetic father from the recipient couple so that he could control the emotional dynamics of the relationship. As shown in the quotes above, the reality of the genetic father became reduced to a mere abstraction: the sperm donor, the impregnator, the hired hand. With this

manipulation of language, the doctor could reassure the couple that the process was merely the use of genetic material, erasing the meaning of the genetic father as a human being with a significant relationship to the potential child. The doctor, by separating the genetic father from the recipient couple, could protect the man from the unlikely claims of the parents or child for financial support. Freed from being identified by either the recipient parents or the child himself, the genetic father could hide this activity from his future spouse and marital children. His privacy as a genetic father would never be revealed to the press or general public so that he would be free from criticisms of immorality as an “adulterer” or “masturbator.”

Protection of the family

If the genetic father and the recipient couple are strangers to each other then the family is free from his interference. The parents can maintain the image of normality as if they never had infertility. Indeed, the idea that this is a “medical treatment” feeds the delusion that their infertility is actually cured. As long as the secret is kept, not only from the child but from family and friends as well, then they can feel as normal as other families. Practitioners, such as Finegold, mentioned above, assured the couple that they would eventually forget about the origins of the child. Since donor insemination was virtually unknown to the general population for decades, it was unlikely that they would ever be confronted with social criticisms of its morality. I am often amazed that people assume that donor insemination is a “new technology” that began only twenty or thirty years ago. This has been a problem for the profession since the public ignorance of the existence of DI has perpetuated the lack of legal protection for the legitimacy of the child.

Protection of the child

If the child is protected by the anonymity of the genetic father and the continued secrecy of parents, then no one knew about the child's origins. Legislatures would not have enacted legitimacy laws similar to those in adoption since they were unaware these children even existed. Of course, the lack of legal protection meant that secrecy tended to be maintained. Gynecologists would recommend non-disclosure out of the belief that the child would be confused about his identity and his role in the family. Anonymity of the genetic father made it seem that there was really no point in telling anyway since the child would likely be curious and want to know him but would feel anger that his identity is unknowable. Potential parents who could not accept the requirement of anonymity had no choice. Those who reluctantly did so usually felt it would be better to deceive the child. To do so required resolving the dilemma by adjusting their definitions of deception to include justifiable reasons to make it morally acceptable to them. Of course, we now recognize this as paternalism, withholding information from someone in order to protect them from the inevitable harm of "brutal" honesty.

Protection of the gynecologist

I use the term gynecologist since these were the primary professionals involved in the early history of donor insemination. Today, of course, there are various other actors in DI and other forms of assisted reproduction using anonymous parents. Early DI practitioners did not advertize their services or conduct media interviews for the sake of public education about DI. The couples who came to them with infertility problems most likely never had heard of donor insemination. I have been active on various infertility web sites for over ten years, as an advocate for disclosure. Over those years, it became obvious that most couples first learned about the option of DI from their fertility specialist. This method of promoting DI on an individual confidential level helped to limit public awareness and criticism. If DI had been a public topic of discussion in the culture of the early twentieth century, it would have likely been more contentious then, maybe as controversial as abortion, divorce, and euthanasia are today. I

understand that the intentions of doctors were good, that providing infertile couples with the chance to have a family is laudable. Protecting the confidentiality of these couples has legitimate social value. Extending that confidentiality to the genetic father, someone who is not a patient, does not seem legitimate to me. More than anyone else in this business, anonymity serves the interests of a profession that is trained in medical science and is not equipped to understand the social, psychological, and ethical responsibilities for the people they create.

Ethicist Sisela Bok says “The word confidentiality has now become a means of covering up a multitude of questionable and often dangerous practices.” (Secrets, On the Ethics of Concealment and Revelation; p. 139; Vintage Books Edition, 1989). When the protection of secrecy extends beyond the patient’s interests to include what professionals hide from the public at large, then it “no longer serves the purpose for which it was intended; it has become, rather a means for deflecting legitimate public attention.” In donor insemination, the genetic father is not a patient but anonymity does protect his legitimate personal identity from unnecessary exposure to the public. However, that personal identity is also a genetic property belonging to his ancestors, siblings, and his posterity. When a doctor presumes the authority to block that information on the basis of all the premises involved in DI, then I feel such an act is a paternalistic misuse of his confidentiality privileges.

What are the moral dilemmas of using anonymous parents? A Kantian would not be concerned with the consequences of secrecy, anonymity, and non-disclosure. It would be enough to say that withholding information from Olivia Pratten and others like her would be detrimental to her if she could make a legitimate claim that knowledge of her genetic father’s identity is a human right. The procreative liberties of her parents, including the unknown father, carry duties of respect for her interests, as she defines these. Her interests are not the property of any paternalistic authority. No one else should deny her autonomy, her right to decide her own interests. Social values have now evolved in the direction of

openness. Deceiving children is not permissible since no one would be able to will that such an action should be a universal law. Such a will would be inconsistent with natural law. Keeping vital secrets from children is no less than lying to them, a violation of Kantian imperatives.

A Utilitarian would examine the consequences and evaluate whether these create the greatest good for everyone involved. Does anonymity serve the happiness of the anonymous father, the legal parents, the child, and this child as a future autonomous adult? Certainly the creation of life is a good, but do the means to this end justify the use of deception, secrecy and anonymity? In order to evaluate the consequences we must first learn whether they are consistent with projected consequences this system purported to prevent. We cannot know the consequences because secrecy creates ignorance of who these people are and what they have experienced. We do not have any knowledge of the benefits or harms of these actions.

We can, however, learn from the experiences of adoption. From the start of World War 2 until the late 1970s, adoption acted under the same principles as anonymous artificial insemination. In the first extensively researched history of the system of closed records in adoption, Elizabeth J. Samuels of the University of Baltimore School of Law ([Adoption in America: Historical Perspectives](#). Edited by E. Wayne Carp: Ann Arbor, University of Michigan Press, 2002) wrote “In the 1940s and 1950s, many states followed the recommendation of adoption and vital statistics experts to make adoption court records and original birth certificates generally available only by court order, but to keep original birth records available on demand to adult adoptees. This was the recommendation of the first Uniform Adoption Act, promulgated in 1953.” Before this period, adoption was relatively free from regulations concerning records and original parent confidentiality. However, as the adoption profession organized into a national system of laws, the identity of original parents were deemed to be protected for the sake of the privacy of adoptive families. The social impact of those changes created an era of nondisclosure among

adoptive parents, despite the 1953 recommendations of the U. S. Children's Bureau that an adopted adult has a "right to know who he is and who his people were." Pressure from various groups, particularly church based adoption agencies led to laws that made these records permanently closed to adopted people. Lawmakers acted on the presumption that the original parents desired absolute privacy, despite a study that showed "secrecy was not offered her, it was *required* . . . as a condition of the adoption."

The correlation between adoption and donor insemination, during this period, is identical concerning attitudes about anonymity, secrecy and disclosure. The focus of the profession was not on the child's interests but on the infertile couple, much like that of donor insemination. The problems that resulted from this can be analyzed since social changes have made the consequences known in adoption. The stress of secrecy on marriages and the children broke the determination of parents and they began to inform their children. Adopted people began to write about their experiences and to advocate for the right to know their original parents. (*The Search for Anna Fisher*, Florence Fisher, 1973; *The Adopted Break Silence*, Jean M. Paton 1954; *Lost & Found: The Adoption Experience*, Betty Jean Lifton; 1979). Powerful narratives like these were critical in persuading the public. Stories rooted in personal experience contribute profoundly to moral argumentation in ways that unemotional statistics, surveys, and the scientific method cannot succeed. They show the very human consequences of paternalistic protection, even those with the best intentions. As this era of new awareness of the impact of secrecy developed, the best interests of the child came once more into primacy.

Adoption activists however, began to stress that the new focus on the child merely as part of the family was also a limited perspective. The adopted adult must also become a part of the ethical picture. The lifelong impacts of adoption, emerging from the narratives of relinquishing parents and adopted adults, now meant that sociologists could study the consequences of the closed records system of

adoption more completely, (*In Search of Origins: The Experience of Adopted People*; John Triseliotis; Routledge and Kegan Paul, 1973). The findings of these studies show that secrecy does not work for the happiness of the child, the family, or the parents who surrendered their children. Adoptive parents do not forget that their child came from anonymous roots just as DI parents do not forget about the existence of an anonymous father. Secrets fall apart under the burden of deception. Children sense the presence of a secret within the family, again in donor insemination as in adoption. A child's sense of identity is fractured and tentative, even before disclosure, due to numerous clues and strong differences from their parents in personalities and traits. The important point is that these issues do not disappear in adulthood. Relinquishing parents mourn the loss of their child just as anonymous fathers do not forget the children they helped to create through DI. New Zealand Sociologist Ken Daniels showed in extensive studies that former donors think about their children and desire to meet them, ("Secrecy and openness in donor insemination," *Politics and the Life Sciences* 12(2); 1993 also "Information sharing in semen donation: the views of donors," *Social Science and Medicine* 44(5): 673-80; 1997).

As the adoption liberation movement progressed over the last few decades, we are now at the point that openness, disclosure, and unrestricted access to genealogical identity are becoming the norm worldwide. Utilitarian policies are rapidly being replaced with egalitarian-based legislation, recognizing that market values of early adoption practices were wrong. Now agencies don't treat children as commodities, as means for creating families for infertile people. Utilitarian market values are now regarded as subsidiary to the duties of society to respect the identity interests of autonomous adopted adults. These laws acknowledge their right to connect with their original parents. The duties of adopted children towards their adoptive parents are preserved until the age of autonomy is reached. Although the family remains a part of their life, the pursuit of their own interests should not be thwarted by protections that no longer apply to independent adults. The duties of adopted adults are also dependent on the freedom of their original parents to control the degree of contact. Such control should not extend to denying adopted adults the right to know their identity. The legislation that has developed worldwide reflects the Children's Bureau statement that an adopted adult has the "right to know who he is and who

his people were.” The State of Victoria adopted this in their Adoption Act of 1984, stating that contracts that would deny access between people and their children were inherently unjust.

Agency protection of the identity of original parents also began to fall apart as adopted adults created support networks for searching. Professional searchers found legal means to ferret out identifying information. Public sympathy for the adopted also rose when original parent groups also formed coalitions to support open records. Contrary to popular belief, original parents are not afraid of their children reconnecting with them. When the Oregon Measure 58 ballot initiative for open access to adoption records was passed in 1998, only six “first mothers” could be found to join a suit to challenge it. In reality it was an organization of such women (Concerned United Birthmothers) and adopted adults (Bastard Nation) who wrote, sponsored, and won the battle against the suit, despite the monetary power of their opponents. The suit was not brought by these six first mothers but by Baptist, Catholic, and LDS adoption agencies. Oregon State Judge Lipscomb dismissed the suit saying “Even assuming birth records to be an intimate personal matter, the effect of Ballot Measure 58 is only to give access to the person born, not to the general public.” (<http://www.plumsite.com/oregon/summary-judgment.html>)

Advocates have shown that the consequences of anonymity have been negative for adoption. They expose the premises that both infertility practitioners and adoption agencies had used to justify the systems of closed records and guarantees of anonymity. They demonstrate how many respected groups, besides the parties to adoption, are challenging the status quo of paternalism.

Does the change in societies around the world with respect to adoption apply to donor insemination? A significant number of interest groups agree that it does. As in adoption, these groups include anonymous parents (<http://health.groups.yahoo.com/group/SpermDonors>), parents of donor conceived people (<http://www.donorsiblingregistry.com/> ; <http://www.dcsq.org.au/> ; <http://www.dcnetwork.org/>), family law attorneys, sociologists, bioethicists, as well as allies in adoption reform (<http://www.adoptioninstitute.org/publications/#adoptionnew>; <http://www.americanadoptioncongress.org/>). The American Adoption Congress has supported reform in ART since I first joined ten years ago. They have also donated generously to support Olivia Pratten’s suit.

The first public criticism of anonymity in DI actually came from two adopted women in Melbourne in 1978, long before they even knew any donor conceived adults.

The Futility of Anonymity

As in adoption, where secrecy and anonymity have proven untenable, it has also shown to be true in the last two decades of DI since the Internet has connected thousands of people involved as parents or DI conceived who had been isolated from each other in the past. Secrecy began to break down earlier of course as many families found that the burden of secrecy intensified as their children grew into their teenage years and displayed the kind of identity confusion typical of adopted teens. For many DI parents, observing the social changes towards openness in adoption has made them question the validity of not informing their DI children about their origins. I've read many accounts, from DI mothers especially, who became more inclined toward disclosure as they learned that disclosure in adoption was becoming the socially (and ethically) correct approach. It has taken DI fathers longer to accept this perspective, often leading to intense marital discord. The public shame of male infertility that non-disclosure protected became a personal sense of shame about deceiving their children. When TSBC, The Sperm Bank of California, (<http://www.thespermbankofca.org>) began offering identity release donors to their recipients, many DI parents online regretted that this was not available at the time they used DI. As the rest of the infertility profession attacked TSBC as irresponsible in the early years, a lot of infertile couples began to see that the profession did not respond to their own requests for a similar choice. The lack of flexibility among established ASRM clinics led some recipients to reassess their experiences. For many couples, having an identity release donor would have made it easier to disclose, knowing that they could assure their child that he could eventually meet his genetic father as an adult. Of course, some legal fathers were more threatened by this.

Sperm banks finally began to see that their business might lose clients to TSBC, so several began attempts at similar offers but never fully identifiable donors. They began to create more elaborate descriptions of their donors so that he would become someone human to the couple and also to the child, although still marginally anonymous. When gynecologists and infertility specialists began to cede control

over donor selection to private sperm banks, they gave increased choice to infertile patients. Sperm bank web sites now offer catalogues of numbered donors, with long descriptions of their traits and backgrounds. The veil of “absolute obscurity” of these “non-persons” is becoming nearly transparent.

This trend encouraged one enterprising DI mother, Wendy Kramer, to create the Donor Sibling Registry Web Site (linked above). DSR allows DI parents (predominantly women) to list their donor numbers, clinics, dates of conceptions, etc. on an online registry. They can then make links with other parents who used the same donor, allowing half-siblings to meet. The first four years were slow and memberships were low but after founder Wendy Kramer appeared on the “Oprah Winfrey Show” with her teenaged son Ryan, the web site has grown phenomenally and now represents an influential force for change in the profession through its sheer numbers. After eleven years, its discussion board reveals the culture of DI families, previously unknown over the past hundred years. Sperm donors themselves are breaking their silence. More than a thousand genetic fathers are now registered and are making connections with their DI children, even before age 18. This threatens the wall of anonymity created over the last hundred years of DI and makes it likely that more clinics and sperm banks will have to adapt to the pressures from new recipients who have been emboldened by the sense of choice that this web site gives to DI families.

An even more interesting change is coming through the miracle of the Internet. The growth of DNA genealogical web sites now makes it possible for male children to locate their anonymous genetic fathers, simply by linking the y-chromosome and last name of a most recent shared ancestor, seven generations back. For females conceived through DI, it is more difficult but not impossible. One of these sites is run by a former sperm donor (<http://www.cabrined.org>). With this DNA information in hand, genetic fathers can be identified by additional search methods pioneered by adoption reformers, as well as through links on DSR. Several donor-conceived adults I know have already successfully completed their search and have met their genetic fathers.

Some would argue that there are many adopted people and donor conceived people who have no interest in knowing their heritage. This is not a matter of granting access only if the majority wants it,

however. No one would force anyone else to search and those who do not search should have no voice in denying that choice to others who do. Giving genetic fathers a choice of anonymous conception is a different matter altogether. Their choice of anonymity should not trump their children's interests in their mutual intimate connection as kin.

Naomi R. Cahn, professor of Family Law at George Washington University Law School, published a challenge to the power of non-legislative actors to deny access to identifying information. Test Tube Families, Why the Fertility Market Needs Legal Regulation (New York University Press, 2009) proposes a mandatory registry of all gamete providers, banishing anonymity. Her history of the market shows that no legislature or court has determined that a doctor or a private sperm bank has the presumptive authority to create a special classification of people who have no right to know their genetic kinships. Laws that create legal parentage for adoptive or ART families are a legitimate use of constitutional police powers for the protection of minor children. That does not mean that these children cannot claim a fundamental liberty to know their origins. I concur with the opinion of Supreme Court Justice William Brennan in *Cooper v. Aaron*, 358 U.S. 1, 78 S.Ct. 1401 (1959), that "...no agency of the State, or of the officers or agents by whom its powers are exerted, shall deny to any person within its jurisdiction the equal protection of the laws." We all have a property right to our thoughts and personhood as we forge our sense of identity. We share our identity and kinship with our ancestors and posterity. To paraphrase Judge Lipscomb's decision on the suit against Oregon Initiative 58, kinship information is private, not to be given to the general public, controlled by the arbitrary power of state agents, or subject to the will of majority rule. Descendants should be given access to their ancestry as a legitimate record of their personal identity.

The rapid social changes occurring in adoption and ART advocacy make it seem inevitable to me that anonymity will soon become an anachronism. No clinic or sperm bank can be comfortable saying they can guarantee anonymity. Perhaps it will soon be accepted as futile by the people who created it and therefore will be abandoned. A pragmatic utilitarian approach should now be directed at redesigning the policies to ensure that the interests of everyone involved are protected. Otherwise, those who cling to the tenets of anonymity will become futilitarians.

Elizabeth Noble's Bill of Rights and Responsibilities (abbreviated to donor conceived people and genetic fathers)

Donor conceived people have the right to:

- know about their conception.
- a birth certificate that lists both legal and biological fathers (if mother married)
- legal access to medical records of the genetic father
- updated information about the genetic father
- supports in contacting genetic father at age eighteen
- the status of legitimacy

Donor conceived people have the duty to:

- acknowledge his legal father
- respect the privacy of the genetic father and his marital family and not intrude unless invited
- refrain from claims against the genetic father or DI physician
- file regular medical updates for the benefit of half-siblings
- permit mutual agreed contact with genetic father's parents and family
- consider requests for research into the DI experience
- press for legislative changes for ethical regulation of DI

Genetic fathers have the right to:

- information about the use and outcome of sperm contributions
- information about or mutually agreed contact with the prospective mother or couple
- privacy
- protection from suits for custody or maintenance
- periodic details about the child's development
- contact with the child at the age of majority, or before, if mutually agreed

Genetic fathers have the duty to:

- supply a complete medical and social history and to update this regularly
- respect the privacy of the DFI parent(s) and child
- contact the parents, or an intermediary, rather than approaching the child directly
- be available for contact with the child at the age of majority, or before, if mutually agreed
- reveal the identity of any half-siblings of the DI child