

Annual Appeal 2016

Following the success of last year's annual appeal featuring prominent Australians wearing a Castan Centre tee shirt, we followed up with a similar approach to raise awareness in 2016.

The 2015 appeal raised a record amount, with many more individual donors than ever before, and this year's appeal had the added benefit of a custom made tee shirt featuring a fun image drawn by Guardian Australia's political cartoonist, the much beloved First Dog of the Moon.

Those to "don the tee" in 2016 included former rocker Mark Holden, broadcasters Jon Faine and Raf Epstein, authors Tara Moss and Peter FitzSimons, comedians Claire Hooper and Corinne Grant and former president of the Australian Human Rights Commission, Catherine Branson.

Our Annual Appeal is the most important fundraising event on the Castan Centre calendar and we try to have fun while raising money for a serious cause. This year, we also highlighted the positive impact we have on human rights by producing a **2015 Impact Report**. The report was a chance to reflect

on the contribution we make to the human rights landscape in Australia and beyond. Key outcomes in 2015 included:

- We worked with other groups to improve or protect a number of vital state and federal laws, including laws about donor-conceived people, adoption by same-sex couples, the expungement of convictions for consensual homosexual sex and the protection of asylum seekers from being returned to danger.
- We were quoted or mentioned in almost 650 media reports that were read, viewed or listened to hundreds of millions of times around the world, according to independent monitors.
- We combine our events with live social media commentary and video to create a "halo effect" that extends well beyond those in the room, often to tens of thousands of other people, both on the day and afterwards.
- Our previous global interns are becoming the human rights leaders we envisioned they would, working all over the world and employing the skills they learned during their placements.



The celebrity faces who heart human rights and support the Castan Centre

In the course of the year, we also contributed to other important political debates, including death penalty abolition, decriminalisation of homosexual conduct in the Pacific, offshore detention of asylum seekers and the Federal Government's 'traditional rights and freedoms' inquiry.

We have had a great response from our supporters again in 2016, but we still need more support to ensure that we can achieve our goals this year and beyond. If you would like to make a tax-deductible donation, you can go to monash.edu/law/donatecastan.

Donor conceived children and the right to know your parents

Most of us take knowing where we come from for granted. However, for donor-conceived children it is not a given. For example, those born in Victoria before 1988 have not been able to access any information about their donors.

The Victorian government recently introduced a scheme to regulate contact between a donor-conceived person and their donor. The new scheme permits all donor conceived people to access information about their donor and potentially make contact. This scheme is very much in line with human rights principles and the recommendations in a Castan Centre submission to the Victorian Parliament, with one exception.

The *Inquiry into Access by Donor-Conceived People to Information About Donors* led to welcome proposals to implement more stringent regulation of contact/attempted contact between children and donors. The Inquiry recommended that a veto scheme be put in place to stop or deter donor-conceived people from contacting donors. This scheme was not intended to stop donor-conceived people from accessing "identifying information" about donors, but would make it an offence to contact them where the donor had expressly forbidden contact. The Inquiry suggested that any donor-conceived child that broke

the rules of the scheme would be criminally punished, **facing a fine of up to \$9,000**.

In her submission on behalf of the Centre, Paula Gerber raised concerns with the proposal to criminalise contact. As well as going against the Convention on the Rights of the Child, the scheme would be inconsistent with similar Victorian laws such as laws regulating contact between adopted children and their birth mother. It is also too punitive in its nature.

Paula argued that, despite the general benefit of the proposed changes to the *Assisted Reproductive Treatment Act 2008*, a criminal provision was contrary to the human rights of donor conceived children. Australia has ratified the Convention on the Rights of the Child (CRC), although it has not been explicitly incorporated into domestic law. This means that our laws should comply with the CRC.

Two Articles of the CRC are relevant to this issue, namely, Article 3 which states that 'in all actions concerning children ... the best interests of the child shall be a primary consideration' and Article 7 which protects a child's right to know their parents. This has been interpreted by the Committee on the Rights of the Child (an independent body that reports on how countries implement the CRC) to include donor-conceived

children searching for the identity of their parents. The effect of these two provisions is that if there is any conflict between a donor-conceived child and a donor, the child's interests should be prioritised.

It is Paula's view that criminalising contact would be a breach of both Articles 3 and 7 of the CRC.

Making unwanted contact a criminal offence is also inconsistent with other Victorian laws relating to the same issue but for adopted persons. *The Adoption Act 1984* (Vic) currently honours the wishes of people who have stipulated a certain kind of contact, however there is no offence committed if these wishes are not adhered to. We submitted that for the sake of consistency, the *Assisted Reproductive Treatment Act* should follow the *Adoption Act*.

Despite this, our submission agreed mostly with the suggested veto scheme and how it regulates the method of contact between parties. We found it to be largely in line with international human rights norms.

In January 2016, we were pleased to see the proposed legislation passed into law despite being disappointed that criminal penalties were included for donor-conceived people who contact donors.