



# Universalizing anonymity anxiety

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The empirical study by Margaret Nelson, Rosanna Hertz, and Wendy Kramer on stakeholder attitudes toward gamete donor anonymity and limits on gamete donation, ‘Gamete Donor Anonymity and Limits on Numbers of Offspring: The Views of Three Stakeholders’ (hereafter *Gamete Donor Anonymity*),<sup>1</sup> is commendably particular on one level yet noticeably vague on another. It approaches the anonymity issue<sup>2</sup> at a level of particularity not typically seen in discussions about anonymity but does not identify with sufficient granularity either the harm of anonymity or the precise meaning of anonymity’s antidote: non-anonymity. In addition, ‘Gamete Donor Anonymity’ does not raise what this commentary argues is a central question: whether the law ought to regulate a marginal reproductive practice in order to fulfill a normative ideal—genealogical knowledge, familial connection, or both—that is by no means guaranteed for any of us, *regardless of the mode of our conception*.

Part I offers some general observations about ‘Gamete Donor Anonymity’s’ treatment of anonymity. Part II then turns to this commentary’s principal observation regarding anonymity, namely, that anonymity anxiety might be part and parcel of a larger apparent phenomenon—origins anxiety, which denotes the fantasies, curiosity, and anxiety that many individuals appear to have about their roots—even as it emerges in discussions about anonymous gamete donation as the distinct discourse of a minority group. Part III uses the observation made in Part II to question the desirability and constitutional validity of regulating the practices of alternative reproduction in order to fulfill normative ideals about family, identity, and their interrelationship.

## I. ‘GAMETE DONOR ANONYMITY’ ON ANONYMITY: GENERAL OBSERVATIONS

‘Gamete Donor Anonymity’ addresses the issue of anonymity at a refreshing level of particularity with respect to the group with which anonymity opponents and

<sup>1</sup> Margaret K. Nelson, Rosanna Hertz & Wendy Kramer, *Gamete Donor Anonymity and Limits on Numbers of Offspring: The Views of Three Stakeholders*, 1 J. L. & BIOSCI. 1 (2016).

<sup>2</sup> ‘Gamete Donor Anonymity’ also considers the issue of mandatory limits on the number of offspring produced by a single donor, but this commentary focuses only on the anonymity issue.

disclosure proponents are primarily concerned: donor offspring. Existing critiques of anonymity tend to conceptualize donor offspring in monolithic terms, viewing that group as an undifferentiated class—the ‘donor conceived’—whose members uniformly yearn to know their genealogical roots and/or gain access to identifying information about their biological progenitors.<sup>3</sup> By contrast, ‘Gamete Donor Anonymity’ appraises anonymity’s effects on donor offspring with a much sharper instrument by dividing that group into several subgroups, including younger versus older donor offspring and donor offspring from traditional, heterosexual families versus those from non-traditional families (eg gay/bisexual and/or unmarried).<sup>4</sup>

‘Gamete Donor Anonymity’s’ granular approach to the question of anonymity vis-à-vis donor offspring yields telling results with important regulatory implications. The authors found that donor-conceived offspring who were both older and born to heterosexual couples were more likely to agree with the statement that ‘donors should not be anonymous’<sup>5</sup> than were those who were both younger and born into a different family form—designated as ‘other’.<sup>6</sup> If, as is the case, the ‘major consumers of gamete donation’ today are non-traditional parents (or ‘other’),<sup>7</sup> then calls to eliminate anonymity in ways that would impose debilitating costs on alternative procreators<sup>8</sup> are ill-advised, especially if the children of those consumers are less opposed to, and even support, anonymity. The authors conclude: ‘[T]he data here suggest that the debate in the USA might have overstated the extent to which donor-conceived offspring uniformly prefer openness.’<sup>9</sup>

But where ‘Gamete Donor Anonymity’ is precise as to one important dimension of anonymity, it is, by its own admission, vague as to another: the meanings of anonymity and its presumed antidote, non-anonymity. The authors’ survey asked respondents the extent to which they agreed with the statement that ‘donors should not be anonymous’.<sup>10</sup> It did not, however, define ‘anonymous’ or ‘anonymity’ with any particularity;<sup>11</sup> as the authors acknowledge: ‘Of course, it is impossible to know with these data precisely what kinds of interactions and relationships respondents believed

<sup>3</sup> See eg Naomi Cahn, [hereafter *The New Kinship*], 100 GEO. L.J. 367, 373 (2012) (referring in general terms to ‘donor-conceived people’); Naomi Cahn, *Necessary Subjects: The Need for a Mandatory National Donor Gamete Databank*, 12 DEPAUL J. HEALTH CARE L. 203 (2009) (advocating a mandatory registry for all donor conception, regardless of whether the children are born into same-sex or opposite-sex families, and referring in more general terms to the interests of donor offspring in biological ‘connection’ and in ‘knowing where they came from’); Naomi Cahn, *Children’s Interests and Information Disclosure: Who Provided the Egg and Sperm? Or Mommy, Where (and Whom) Do I Come From?*, 2 GEO. J. GENDER & L. 1, 26 (2000) (recognizing a distinction between donor-conceived children born to same-sex parents and those born to heterosexual parents but nevertheless advocating for a mandatory disclosure regime that respects donor-conceived individuals’ ‘right’ to ‘receive information about the people who helped to create’ them).

<sup>4</sup> See *Gamete Donor Anonymity*, *supra* note 1, at 16. The authors also separately surveyed the attitudes of different classes of donors (men/women; gay/straight; younger/older, etc.) and different classes of parents (men/women; gay/straight; single/married/partnered but unmarried, etc.). See *id.* at 9.

<sup>5</sup> See *id.* at 10.

<sup>6</sup> *Id.* at 16.

<sup>7</sup> *Id.*

<sup>8</sup> For an examination of these costs, including an under-supply problem, see Courtney Megan Cahill, *The Oedipus Hex: Regulating Family After Marriage Equality*, 49 U.C. DAVIS L. REV. 183, 203–06 (2015).

<sup>9</sup> *Gamete Donor Anonymity*, *supra* note 1, at 27 (emphasis added).

<sup>10</sup> *Id.* at 10.

<sup>11</sup> A forthcoming paper by the authors explores ‘the kinds of contacts respondents in each group [parents, donors, and offspring] prefer’. *Id.* at 10 n. 53.

would be possible and desirable if there were no anonymity.<sup>12</sup> A non-anonymous donor might be one whose nominal identity is disclosed to donor offspring—the literal meaning of non-anonymous. It might be one whose health history or family’s health history is made available to donor offspring.<sup>13</sup> Or, it might be one who over time develops a familial connection with his or her donor offspring. Without more context, it is impossible to know which aspects of anonymity troubled those respondents who viewed it negatively and which aspects of non-anonymity those respondents desired.

## II. ANONYMITY ANXIETY: MINORITY DISCOURSE, UNIVERSAL PHENOMENON

Not only are the meanings of anonymity and non-anonymity—in this survey as in debates over gamete donor anonymity more generally—vague and imprecise, but the phenomenon with which they are associated, anonymity anxiety, is under-inclusive.<sup>14</sup> The critical commentary surrounding anonymous donation, including this study, tends to assume that anonymity anxiety and its associated feelings of identity confusion and familial disorientation are the peculiar consequence of non-traditional family formation, like anonymous donation.<sup>15</sup> At the very least, that commentary never explicitly considers whether anonymity anxiety is uniquely tied to alternative reproduction.

<sup>12</sup> *Id.* at 10.

<sup>13</sup> If this is the meaning of non-anonymity—disclosure of either (or both) the donor’s health history or her family’s health history—then gamete donation is already largely ‘non-anonymous’, as the major gamete banks screen their donors in accordance with the guidelines issued by the American Society for Reproductive Medicine, which recommends not only that banks thoroughly screen donors for communicable diseases but also that they obtain detailed health histories on both donors and their families. See AMERICAN SOCIETY FOR REPRODUCTIVE MEDICINE, *Third-Party Reproduction: A Guide for Patients*, [https://www.asrm.org/uploadedFiles/ASRM\\_Content/Resources/Patient\\_Resources/Fact\\_Sheets\\_and\\_Info\\_Booklets/thirdparty.pdf](https://www.asrm.org/uploadedFiles/ASRM_Content/Resources/Patient_Resources/Fact_Sheets_and_Info_Booklets/thirdparty.pdf) (last accessed August 21, 2015). Considered from this point of view, anonymous gamete donation is at least theoretically less ‘anonymous’ than sexual procreation, which could easily occur (and likely does occur in some cases) in the absence of much, if any, health information about the participants or their families. While the United States Food and Drug Administration requires all gamete banks to test donors for communicable diseases, it does not require them to screen donors for genetic diseases. See Lauren Gill, *Who’s Your Daddy?: Defining Paternity in the Context of Free, Private Sperm Donation*, 54 WM. & MARY L. REV. 1715, 1732 (2013).

<sup>14</sup> It also bears brief mention that the alleged psychological ‘condition’ associated with anonymity anxiety—genealogical bewilderment—has in some circles been roundly critiqued and discredited. Genealogical bewilderment posits that children, including adoptees and donor-conceived children, ‘suffer from not knowing—and not being raised by—their “real parents”’. Kimberly Leighton, *Addressing the Harms of Not Knowing One’s Heredity: Lessons from Genealogical Bewilderment*, 3 ADOPTION & CULTURE 64, 65 (2012). Leighton and others have argued that genealogical bewilderment not only lacks empirical support but is likely generative of the very condition that it is thought to diagnose. See *id.* (proposing that ‘the concept of genealogical bewilderment and the reality ascribed to it are actually part of the cause of the distress people experience rather than a means to alleviate that distress’); see also John Lawrence Hill, *What Does It Mean to Be a “Parent”? The Claims of Biology as the Basis for Parental Rights*, 66 N.Y.U. L. REV. 353, 404 (1991) (arguing that the claim that children are harmed when they lack information about their genetic identity is ‘not only dubious empirically but also an atavistic throwback to the priority of blood ties over all else as a determinant of one’s sense of self’); Iain Walker & Pia Broderick, *The Psychology of Assisted Reproduction — or Psychology Assisting Its Reproduction?*, 34 AUSTRALIAN PSYCHOLOGIST 38, 39–40 (1999).

<sup>15</sup> Many participants in this debate observe that adoptees struggle with a similar anxiety over their origins. See Cahn, *The New Kinship*, *supra* note 3, at 372 (noting this connection).

But what if anonymity anxiety and its attendant feelings of kinship obsession and alienation derive from something that is not unique to alternative reproduction?<sup>16</sup> What if the very anxiety that has come to be linked to alternative reproduction in critical commentary about alternative reproduction—and why it ought to be regulated more stringently than it currently is in the United States—is a more widespread feature of the human condition? What if many of us, *whether traditionally or alternatively conceived*, at one time or another fantasized about our familial origins and even experienced the feelings of rootlessness, alienation, and disorientation that have come to be identified over the past few years with a particular minority: the donor conceived?<sup>17</sup>

Consider in this regard some of the interpretations of the family offered by disciplines like psychoanalysis and literary criticism. To be sure, some of these disciplines, like Freudian psychoanalysis, have been sharply criticized in certain circles as promoting empirically unverifiable theories.<sup>18</sup> But the purported psychological condition associated with anonymity anxiety, ‘genealogical bewilderment’, has been critiqued on similar grounds.<sup>19</sup> Indeed, the sheer diversity of the ‘family’ as an institution would seem to guarantee that many of the theories on which commentators rely to explain it are incomplete. At the very least, then, psychoanalysis and other disciplines offer alternative narratives about the family that broaden our perspective of it. Most important here, those narratives offer a counterpoint to the critical discourse that surrounds anonymous gamete donation by suggesting that its perceived harms are not necessarily unique to families that are conceived in alternative ways.

For instance, in his 1909 essay ‘Family Romances’, Freud theorizes that most children, whether adopted or not, fantasize at some point in their psychological development that the parents who are raising them are not, in fact, their ‘real’ parents.<sup>20</sup> Children, Freud posits, imagine a narrative or ‘romance’ in which ‘both [of their] parents are replaced by others of better birth’<sup>21</sup> in order to liberate themselves ‘from the authority of [their] parents’.<sup>22</sup> That ‘liberation’, he continues, is ‘one of the most painful results brought about by the course of [children’s] development’.<sup>23</sup> Psychoanalyst and Freud’s daughter, Anna Freud, explained it thus: ‘Most children of early school age (6–10) possess a secret daydream (the “family romance”) which deals with their descent from royal or lordly parents who have only entrusted them to their real more humble

<sup>16</sup> This is assuming, of course, that such feelings associated with ‘genealogical bewilderment’ do in fact exist, a question on which this commentary remains agnostic and which has been subject to thoughtful critique. See *supra* note 14.

<sup>17</sup> On this possibility, see Gill, *supra* note 13, at 1731 (observing that the ‘need for genealogical and historical connections is the same for all people, no matter how one was conceived’).

<sup>18</sup> See eg Patricia Cohen, *Freud is Widely Taught at Universities, Except in the Psychology Department*, N.Y. TIMES, Nov. 25, 2007, <http://www.nytimes.com/2007/11/25/weekinreview/25cohen.html> (last accessed August 21, 2015) (summarizing and citing the finding of a 2007 report by the American Psychoanalytic Association that ‘while psychoanalysis . . . is alive and well in literature, film, history and just about every other subject in the humanities, psychology departments, and textbooks treat it as “desiccated and dead”, a historical artifact instead of “an ongoing movement and a living, evolving process”’).

<sup>19</sup> See generally *supra* note 14.

<sup>20</sup> Sigmund Freud, *Family Romances*, in THE FREUD READER 297 (Peter Gay ed., 1989).

<sup>21</sup> *Id.* at 299.

<sup>22</sup> *Id.* at 298.

<sup>23</sup> *Id.*

families ... On the part of the child these fantasies are attempts to deal with the whole range of conflicting emotions toward the parents.<sup>24</sup>

Modern psychoanalysis views Freud's theory of the 'family romance' as one that describes a phenomenon that is nearly 'universal' for adoptees but common even for those who know and were raised by their biological parents: the 'child's [natural] curiosity about growth'<sup>25</sup> and '[t]he expectable inquiries children routinely make of their parents concerning the past'.<sup>26</sup> For 'both adopted and unadopted children', scholars write, 'beginning between ages 8 and 11, family romances represent not only fantasies but also conjectures about the existence and location of, as well as possible reunions with, "real" biological parents'.<sup>27</sup> While an outlet for children who have been dislocated 'from [their] families of origin'<sup>28</sup>—eg abandoned children, adoptees—family romances are also present, as Freud speculated, for children who are raised in families where biological paternity and maternity are certain:

In the current generation, the re-established practice of open adoptions and the emergence of sperm banking, surrogate mothering, and the conspicuous public appeals for help in locating missing children, pose new adaptive challenges to adoptive families and children. Indeed, they constitute the modern analogues of the tales, legends, and other romances about the fates of displaced children and adults that have been delivered across generations. However, these practices affect the unadopted child, too, who must not be taken to be so oblivious to social and societal themes and preoccupations.<sup>29</sup>

The preceding remarks suggest that origins anxiety is particularly acute in an age where families are dislocated for social and economic reasons, and where advances in the reproductive arena render possible the separation of biological and social parenthood. They also suggest that many people are touched by origins anxiety, even if certain cohorts, like adoptees and donor offspring, ostensibly feel its pang to a greater degree. Indeed, 'there is something universal about rootedness',<sup>30</sup> cultural and literary critic Christy Wampole writes, and the idea of rootedness 'appeals to people [today]... now more than ever',<sup>31</sup> especially given the increasing alienation and isolation that individuals feel in a society dominated by virtual networks. '[T]he greater the level of alienation,' Wampole notes, 'the more precious roots become.'<sup>32</sup>

At the same time, it is important to note that origins anxiety is not a distinctly modern phenomenon. Literary scholar Rachel Bowlby observes that the traditional biological family comprised of father, mother, and their sexually-conceived children—the kind

<sup>24</sup> Anna Freud, *Annual Report*, in III THE WRITINGS OF ANNA FREUD 142 (1973) (emphasis added).

<sup>25</sup> Phyllis Greenacre, *The Family Romance of the Artist*, 13 PSYCHOANALYTIC STUDY OF THE CHILD 9, 35 (1958).

<sup>26</sup> Thomas M. Horner & Elinor B. Rosenberg, *The Family Romance: A Developmental-Historical Perspective*, 8 PSYCHOANALYTIC PSYCH. 131, 132 (1991).

<sup>27</sup> *Id.* at 142.

<sup>28</sup> *Id.*

<sup>29</sup> *Id.* at 144 (emphasis added).

<sup>30</sup> Christy Wampole, *Clinging to Our 'Roots'*, N.Y. TIMES, May 30, 2016, <http://www.nytimes.com/2016/05/30/opinion/clinging-to-our-roots.html?smprod=nytcore-iphone&smid=nytcore-iphone-share&r=0> (last accessed August 21, 2015).

<sup>31</sup> *Id.*

<sup>32</sup> *Id.* A related point here is that if the harm of donor anonymity is that it prevents donor offspring from receiving information about their 'genetic history', then genealogical websites like Ancestry.com, which are available to all paying customers who desire information about their origins, would appear to alleviate that concern.

of family purportedly immune from origins anxiety—was a brief, and now fading, blip on the American family scene.<sup>33</sup> Even more, Bowlby reminds us that origins anxiety has been the subject of some of the Western canon's oldest texts, including the text whose eponymous figure was converted by Freud 'into a modern name for Everyman—or Everybody': Oedipus Rex.<sup>34</sup> 'Sophocles' Oedipus,' she says, 'is not at all about the desires or hatreds of a small child in relation to its parents. It is, however, about an older or grown child's need to know his origins.'<sup>35</sup> While part of Oedipus' appeal lies in the psychosexual drama that Freud distilled from Sophocles' tragedy, it also lies, as Bowlby shows, in its compelling treatment of origins anxiety: an emotion felt by most of us—by 'Everyman'—no less in the past than today.

Psychoanalysis and literary criticism provide a perspective on anonymity anxiety that even the most nuanced work on gamete donor anonymity overlooks. Critical discourse on anonymity anxiety tends to assume that anonymity anxiety and its related symptoms are uniquely associated with non-traditional methods of family formation, like anonymous gamete donation; at the very least, that discourse never acknowledges the possibility that anonymity anxiety might be part and parcel of a nearly universal human condition: origins anxiety. Unlike that discourse, the texts briefly surveyed here suggest that the donor conceived are not alone in feeling anxiety over their origins. To the contrary, those texts suggest that such anxiety, and corresponding need for familial connection, might affect many of us.

### III. RETHINKING ANONYMITY REGULATION

The observations made in Part II suggest a range of problems with abolishing gamete donor anonymity beyond those already identified by the authors of 'Gamete Donor Anonymity'. In the interest of brevity, I here mention two.

First, if it is true that the symptoms of anonymity anxiety are felt, to varying degrees, by most individuals regardless of the origin of their conception, then eliminating donor anonymity for non-sexual procreators might very well be ineffective. If even sexually-conceived offspring who know their progenitors feel many of the same emotions associated in critical discourse with anonymous donation—familial fantasizing, alienation, rootlessness, disorientation, and genealogical confusion—then eliminating donor anonymity is not guaranteed to achieve the professed objectives of those who desire it. What it is very likely to do, though, is reduce the overall donor pool and thereby burden alternative procreators who rely on that pool in order to create families.<sup>36</sup>

Second, regulating alternative reproduction in order to alleviate harms that are nearly universally felt represents a normatively and constitutionally problematic example of what I have elsewhere termed 'regulating at the margins'.<sup>37</sup> Regulating at the margins occurs, I argue, when the law uses a marginal kinship practice like same-sex marriage or alternative reproduction as an occasion to imagine what the ideal family ought

<sup>33</sup> Rachel Bowlby, *After Freud: Sophocles' Oedipus in the Twenty-First Century*, in *TRADITION, TRANSLATION, TRAUMA: THE CLASSIC AND THE MODERN* 130 (Jan Parker & Timothy Mathews eds., 2011).

<sup>34</sup> *Id.* at 129.

<sup>35</sup> *Id.* at 136.

<sup>36</sup> For a discussion of the costs associated with laws eliminating gamete donor anonymity, see Cahill, *Oedipus Hex*, *supra* note 8, *passim* (last accessed August 21, 2015).

<sup>37</sup> Courtney Megan Cahill, *Regulating at the Margins: Non-Traditional Kinship and the Legal Regulation of Intimate and Family Life*, 54 *ARIZ. L. REV.* 43 (2012).



to look like for everyone. The procreation rationale for exclusionary marriage laws<sup>38</sup> was a problematic—and, according to the Supreme Court in *Obergefell v Hodges*, unconstitutional<sup>39</sup>—example of ‘regulating at the margins’ because it subjected same-sex couples, and only same-sex couples,<sup>40</sup> to the government’s normative ideal of procreative marriage.<sup>41</sup>

As with same-sex marriage prohibitions, laws that eliminate donor anonymity in order to alleviate anonymity anxiety and its associated harms are a constitutionally deficient example of regulating at the margins. Many progenitors of children who are sexually conceived are not legally compelled to reveal their identity to those children.<sup>42</sup> Moreover, no children of sexual procreators are guaranteed a familial connection with their progenitors, or at least the kind of familial connection that some donor offspring appear to desire. Laws eliminating donor anonymity, however, attempt to impose those normative ideals on alternative procreators—and only on alternative procreators—even though sexual procreators create children who also search, often in vain, to satisfy those ideals. Moreover, laws eliminating donor anonymity would impose those ideals on alternative procreators *without any guarantee that many of those ideals would, in fact, be achieved.*

#### IV. CONCLUSION

Along with the fact that most respondents who took Nelson, Hertz, and Kramer’s survey were close to ‘neutral’ on the issue of donor anonymity,<sup>43</sup> the ambiguity surrounding the meanings of anonymity and non-anonymity both in this survey specifically and in debates about donor anonymity more generally suggest that regulators ought to

<sup>38</sup> The procreation rationale for same-sex marriage prohibitions posited that same-sex couples could be denied the right to marry because they could not sexually procreate with each other. For an analysis of the procreation rationale and its evolution over a 50-year period, see Douglas NeJaime, *Marriage, Biology, and Gender*, 98 IOWA L. REV. BULL. 83, 89 (2013); Julie A. Nice, *The Descent of Responsible Procreation: A Genealogy of an Ideology*, 45 LOY. L.A. L. REV. 781, 789–90 (2012); Courtney Megan Cahill, *The Genuine Article: A Subversive Economic Perspective on the Law’s Procreationist Vision of Marriage*, 64 WASH. & LEE L. REV. 393 (2007).

<sup>39</sup> 135 S. Ct. 2584, 2606 (2015) (rejecting the procreation rationale for exclusionary marriage laws).

<sup>40</sup> States denied same-sex couples the right to marry for decades because of their inability to (sexually) procreate with each other, but never required opposite-sex couples to procreate in order either to get or to remain married. See generally Lawrence Drew Borten, Note, *Sex, Procreation, and the State Interest in Marriage*, 102 COLUM. L. REV. 1089 (2002).

<sup>41</sup> Justice Cordy’s dissent in *Goodridge v. Department of Public Health*, the country’s first pro-marriage-equality decision suggested that it was constitutional for the state to burden a marginal group (there, same-sex couples) in order to send a message to all of its citizens about what an institution (there, marriage) should be for everyone. See *Goodridge v. Dep’t of Pub. Health*, 798 N.E.2d 941, 1002 (Mass. 2003) (Cordy J., dissenting) (stating that ‘[a]s long as marriage is limited to opposite-sex couples who can at least theoretically procreate, ‘society is able to communicate a consistent message to its citizens’ that marriage is a (normatively) necessary part of their procreative endeavor’) (emphasis added).

<sup>42</sup> See eg Marsha Garrison, *Law-Making for Baby-Making: An Interpretive Approach for Determination of Legal Parentage*, 113 HARV. L. REV. 835, 912 (2000) (stating that ‘contemporary family law strongly encourages unmarried women [who sexually conceive] to establish the paternity of their children, but does not mandate it’) (emphasis added). Professor Glenn Cohen plays on this disjunction—between the current legal treatment of sexual procreators and the recommended legal treatment of non-sexual procreators—by proposing, in jest, a ‘one-night-stand registry’ for potential sexual conceivers in order to guarantee known paternity for all children, regardless of their mode of conception. I. Glenn Cohen, *Response: Rethinking Sperm-Donor Anonymity: Of Changed Selves, Non-Identity, and One-Night Stands*, 100 GEO. L.J. 431, 443 (2012).

<sup>43</sup> See *Gamete Donor Anonymity*, *supra* note 1, at 10.

proceed with caution before altering the *status quo* of donor anonymity. Even more, the potential universality of the purported harms associated with donor anonymity might give regulators and mandatory disclosure proponents pause before eliminating anonymity. Anonymity anxiety, this commentary suggests, shares much in common with the ‘family romances’ and origins anxiety that we all are thought to have to varying degrees—‘romances’ and anxieties that arise even when we know our progenitors and are in a relationship with them. If that is right, then it is by no means clear that mandatory non-anonymity will achieve the result that so many donor offspring desire.

In addition, if the anxiety that is often uniquely linked to donor anonymity in discussions about that practice is one that we all feel to one extent or another, then we must consider whether it is fair (and constitutional) to target the so-called problem of origins anxiety ‘at the margins’. Subjecting a marginal reproductive practice (alternative reproduction) to regulatory burdens from which a central reproductive practice (sexual reproduction) is largely, if not completely, exempt is constitutionally problematic if the right to procreate is shared equally by sexual and non-sexual procreators<sup>44</sup>—and especially problematic if those regulatory burdens are unlikely to achieve their desired result. ‘Regulating at the margins’ was rejected by courts as constitutionally deficient in the same-sex marriage context and is no less objectionable here.

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<sup>44</sup> For the argument that the right to procreate does not depend on procreative mechanics, see Courtney Megan Cahill, *Reproduction Reconceived*, 101 MINN. L. REV. 43–47 (forthcoming 2016) (unpublished manuscript on file with author).