

From Stranger to Family or Something in Between: Donor Linking in an Era of Retrospective Access to Anonymous Sperm Donor Records in Victoria, Australia

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ABSTRACT

In June 2015, the state of Victoria, Australia retrospectively opened its sperm and egg donors' records, becoming only the second jurisdiction in the world to do so and the first where substantial pre-legislative records are available and stored in a central register. The new legislation gave donor-conceived adults and donors who were conceived or donated under conditions of anonymity (ie prior to 1988) the right to apply to the state's Central Register for each other's identifying information, which is released to them if the subject of the application consents. Between the introduction of the law and its further amendment in March 2017, more than 100 applications were made. Through a thematic analysis of donor-conceived adults' and donors' Statements of Reasons – a written document applicants were required to complete when they applied – the article explores applicants' motivations for applying, the information they sought, and their goals with regard to contact. The study found that most applicants were driven by curiosity and a desire for personal information about the other party. They also expressed a strong desire to meet and have an ongoing relationship with the subject of their application. The study also revealed an unanticipated desire on the part of previously anonymous *donors* for information about their offspring, suggesting future research could explore the emotional needs of donors in greater depth.

I. INTRODUCTION

In 2014, driven by a concerted campaign by donor-conceived adults over several years, the state of Victoria, Australia passed the most comprehensive donor linking laws in the world. The Assisted Reproductive Treatment Further Amendment Act 2014 (Vic) ushered in a new era of retrospective openness in the field of assisted reproduction, permitting donor-conceived people who were conceived using sperm

from anonymous donors access to identifying information at a level that is globally unique.¹ The Act, which came into force on 29 June 2015, gave donor-conceived adults and donors who were conceived or donated under conditions of anonymity (ie before 1988 in Victoria) the right to apply to the state's Central Register for each other's identifying information, which would be released to them, provided the subject of the application consents. To ensure that all historical records were preserved, any registered assisted reproductive treatment provider or other person who had records relating to pre-1988 donor treatment was required to provide the information contained in those records to the Victorian Assisted Reproductive Treatment Authority (VARTA), the independent statutory authority with responsibility for donor linking in Victoria. Unlike many jurisdictions, a significant number of Victoria's historical donor records are still available and in reasonably good condition (Kelly and Dempsey, 2018).

Between 29 June 2015 and 28 February 2017, when the law was further amended to remove the requirement that the donors provide consent before identifying information is released, more than 100 applications for identifying information were made to Victoria's Central Register, more than half of which were made by donor-conceived adults or donors (VARTA Annual Reports, 2016/2017).² Through analysis of donor-conceived adults' and donors' Statements of Reasons (SORs) – a written document that register applicants complete in cases where consent is required for information exchange – this article explores applicants' motivations for applying, what information they sought, and what goals they had, if any, with regard to contact. This study represents the first research in the world on a statutory system of donor linking that permits both prospective and retrospective access to identifying information. It offers important insights for the significant number of countries currently grappling with whether to introduce, and/or how to facilitate, statutory donor linking, including those considering retrospective laws.

The article begins by providing a historical overview of Victoria's unique donor conceptions laws. It then addresses the genesis of the 2015 reforms, focusing in particular on the arguments used to support the introduction of retrospective legislation. The article then turns to post-reform Register applications to consider the motivations and expectations of donor-conceived adults and donors who have made applications since the amendments came into force. Through thematic analysis of 25 SORs submitted by donor-conceived people and donors, we explore applicants' motivations for engaging in donor linking, the types of information sought, and their goals with regard to contact.

II. A HISTORY OF DONOR CONCEPTION LAWS IN VICTORIA

Victoria has always been at the international forefront of the legal regulation of assisted reproduction, including provision for donor linking. In 1984, Victoria became the first jurisdiction in the world to enact legislation regulating donor conception and IVF. A key feature of the Infertility (Medical Procedures) Act 1984 (Vic), which came into force in 1988, was a Central Register, which served as a repository for information about parties engaged in donor conception. The *Act* mandated that identifying information about donors, recipients, and children conceived through

donor conception be recorded in the Register so that children could access information about their donor(s) when they reached adulthood. As a condition of donating, donors had to agree to their identifying information being recorded on the Register. However, release of the donor's information to offspring required his or her consent. Donors were also given rights under the legislation. Donors who provided gametes after 1 July 1988 could obtain non-identifying information about their donor offspring or identifying information if offspring consented. Where the offspring was a minor, identifying information could be released with the consent of the child's parent(s) or guardian.

In 1998, the Infertility Treatment Act 1995 (Vic) abolished donor anonymity altogether in Victoria. From 1998 onwards, donors were required to consent at the time they donated to having their identity released to offspring when they turned 18 years of age. If a donor-conceived adult wished to learn the identity of their donor, they could apply to the Central Register and the information would be supplied as of right. Those who were conceived (or who donated) prior to 1998 did not have the same legal entitlement. However, they could put their name on the new Voluntary Register. The Voluntary Register enabled 'matches' where both parties had registered and agreed to information exchange. The right of donors to apply for identifying information remained unchanged under the 1998 legislation; offspring consent was still required for information release.

Victoria has always been a global leader in donor linking. However, the Assisted Reproductive Treatment Further Amendment Act 2015 (Vic) marked a significant departure from both previous reforms and international trends due to its retrospective application. By 2015, close to 20 jurisdictions, including the UK, Norway, and Finland, had introduced *prospective* donor linking laws that abolished donor anonymity and extended a legal right to identifying information to those conceived after commencement of the law. In many of these jurisdictions, records were held in a centralized register that was managed by statutory authority, such as the Donor Conceived Register (formerly DonorLink) in the UK and FIOM in the Netherlands. Some of those jurisdictions, including the UK, New Zealand and several other states in Australia, had also introduced voluntary mutual consent registers for those conceived prior to the commencement of the law. However, with the exception of Switzerland, none had introduced a *retrospective* right to identifying information that enabled individuals conceived prior to the abolition of anonymity to access their donor's identity. It is also notable that while post-1988 donors in Victoria had always had the right to apply for identifying information about their offspring, which could be released if offspring consented, the new law also extended retrospective information rights to previously anonymous *donors*. To support donor-linking participants throughout the process, the legislation also provided for free expert counselling and other support services through the Victorian Assisted Reproductive Treatment Authority.

While Victoria's retrospective donor-linking framework is unique, the rapid increase in donor-linking legislation internationally suggests there is increasing consensus that donor-conceived people may benefit from having access to information about their genetic identity and that the state has a role to play in providing that information (Freeman, 2009; Nuffield Council on Bioethics, 2013; Crawshaw

et al, 2015). However, we have only a limited understanding of how statutory donor linking is practised, in part because most jurisdictions do not yet have children old enough to apply for their donor's identity. There is a growing body of mostly quantitative research on non-statutory donor linking, such as via online mutual consent registers, clinic-based registers, and direct-to-consumer genetic testing services, and this research informs our analysis (Jadva et al, 2010; Beeson et al, 2011; Hertz et al, 2013). However, Victoria's comprehensive statutory approach to donor linking represents a unique and valuable case study. Examination of the Victorian experience offers critical insights for jurisdictions grappling with how to serve the needs of the growing number of donor-conceived adults and donors who want to know each other's identity and to potentially to have contact.

III. WHY RETROSPECTIVE LEGISLATION? THE VICTORIAN LAW REFORM PROCESS

The Victorian reform process began in 2010 when the Parliamentary Law Reform Committee (LRC) conducted an inquiry into access by donor-conceived people to information about their donors (Parliament of Victoria, 2012). A growing number of donor-conceived Victorians had begun speaking publicly about their dissatisfaction with the legal status quo and, in particular, the differential treatment of donor-conceived people depending on when they were conceived. The 1998 reforms had created three categories of donor-conceived Victorians: (i) those born before 1 July 1988 who were not entitled to any information about their donor; (ii) those born between 1 July 1988 and 1 January 1998 who could access their donor's identity with his or her consent; and (iii) those born after 1 January 1998 who had a legal right to their donor's identity when they turned 18 years of age or earlier if the donor consented. It was argued before the Committee that if donor-conceived people had a right to know their genetic heritage, then that right should apply no matter when they were conceived.

At its public hearings, the LRC heard from a wide range of stakeholders, including fertility doctors, parents of donor-conceived children, donors, academics, representatives of government agencies, and parents of donor-conceived children. However, it was the testimony of donor-conceived adults that captured the Committee's imagination and drove the recommendations for reform. Many spoke of the considerable distress experienced as a result of not knowing their donor's identity, characterizing the absence of kinship knowledge as a 'lack of agency' over their own origins and past. As one donor-conceived adult explained:

I've been actively speaking out about donor conception for a number of years, and it's taken its toll on me emotionally and within my family. It's personally quite taxing to have to recount my story and to have to plead for information that I feel I should already have. The lack of control around this is very disempowering, the secrecy and withholding of information about who I am and my conception leads me to feel like a second-class citizen. I believe that the truth will set me free, so to speak, and I ask for access to my records for this reason. I want answers so that I can move forward in life without these feelings of loss

and grief and I don't think anyone should have to endure this, especially when the records do exist. ([Parliament of Victoria, 2012](#))

Arguments of this type resonated with the Committee members. Though they were concerned about the potential harms caused by breaching the privacy interests of donors, they concluded that donor-conceived adults were already suffering.

While the release of identifying information to donor-conceived people may *potentially* cause discomfort and distress to donors (although this will not always be the case), it is certain that donor-conceived people are *actually* suffering from their lack of knowledge about donors. ([Parliament of Victoria, 2012](#))

The Committee was also persuaded by arguments made by donor-conceived adults about the importance of having access to their donor's medical information, particularly as society's understanding of the influence of genes on disease increases. The Committee was particularly moved by the submission of donor-conceived adult Narelle Grech, who had been diagnosed with Stage 4 bowel cancer and later died 5 weeks after being united with her sperm donor. Narelle recounted how the already distressing experience of her diagnosis was exacerbated by not knowing her paternal heritage:

The first thing the doctors and surgeons asked me was: is there any family history of cancer in your family? You can imagine how upsetting it was to not only be told of this diagnosis by to then have to wonder whether I've inherited this from my paternal family. I must say that my sister and I both were really angry and upset and in tears about this at hospital. I'm sure there was no family history of illness at the time that T5 [the donor] donated but who is to say he simply did not know this at the time? What if he or someone else has developed cancer since 1981? What if he died from cancer himself? What if they my eight [unknown] half siblings are also at risk of cancer? What if they have children whose aunty has bowel cancer? It's really important that they should know this if they're at risk. It's believed that in most cases where a person is diagnosed with bowel cancer under the age of 30 that there is a genetic link. ([Parliament of Victoria, 2012](#))

The Committee also heard from 10 donors, 6 of whom supported retrospective access to pre-1988 information for both donor-conceived adults *and* donors. With regard to the information rights of donors, the Committee expressed concern about the possible trauma that might occur if a donor's application led to a donor-conceived adult being informed of their conception status by the state and not their parents. As noted in the report:

The Committee considers it imperative to ensure that the state does not facilitate causing trauma to donor-conceived people and disruption to their families. The Committee believes that the best way for children to find out that they are donor-conceived is for their parents to tell them. ([Parliament of Victoria, 2012](#))

The Committee also heard from academics and policy experts who argued that the law's primary concern should be the interests and well-being of donor-conceived children and that 'the wishes of the donors should be secondary'. The LRC agreed with the general proposition that donor linking should be driven by offspring not donors. However, it was concluded that because of the low number of donor applications under the existing legislation – between 1 January 2007 and 30 June 2011, only eight donors had made an application requesting their offspring's identifying information – and 'donors' hesitance to initiate contact', it was 'unlikely that a significant number of donor-conceived people would learn about their conception by extending [the right to request information] to pre-1988 donors' ([Parliament of Victoria, 2012](#)). It was also argued that if rights were extended to pre-1988 donors, it 'may encourage parents to tell their children about their conception'.

A number of fertility doctors and four donors made submissions that opposed retrospective legislation. They argued that the opening of records was a violation of the donor's privacy and potentially a breach of contract. The Committee acknowledged the legitimacy of these concerns but concluded that where the rights of donors and donor-conceived people conflicted, preference should be given to the latter. This was for several reasons. First, it was argued that any (hypothetical) distress a donor might experience if his identity was released flows from a decision he made as a legal adult. In contrast, the (well-documented) distress being experienced by donor-conceived people who did not have access to their donor's identity 'flows from decisions that were made by other people, through no fault, and by no agreement, of their own'. As the Committee explained:

[A]ll donors were legal adults at the time they provided gametes. Thus, all donors were able to consider possible repercussions of their actions, including the effect on third parties (such as any offspring, or their future families, for example), prior to consenting to participate in the donor programs. Donor-conceived children were not, of course, afforded the opportunity to consent to this process. ([Parliament of Victoria, 2012](#))

The Committee also noted that while the donor and recipient parents may have been parties to an anonymity agreement, the child was not and, as such, could not be bound by it.

Finally, the Committee noted that Victoria's Assisted Reproductive Treatment Act 2008 (Vic) and the National Health and Medical Research Council *Ethical Guidelines on the Use of Assisted Reproductive in Clinical Practice and Research* (2017), both state that the welfare of donor-conceived children be regarded as 'paramount'. Where there was conflict between the rights of donors and those of donor-conceived people, the rights of the latter should therefore prevail. The existing legislation, which denied information rights to those conceived prior to 1988, meant the 'burden of suffering' fell predominantly on the donor-conceived person, which appeared in violation of the paramountcy principle. As the Committee explained, it was difficult 'to reconcile how the welfare and interests of a donor-conceived person can be in law both paramount *and* subordinate to donor anonymity, as is currently the case'. It

was thus concluded that wherever such a conflict arose in the legislative framework, it was necessary to amend it in favour of the donor-conceived.

The LRC delivered its final report in March 2012. It recommended that the Victorian government introduce legislation to allow all donor-conceived people to obtain identifying information about their donors, irrespective of whether donors had been assured of anonymity when they donated. However, to balance the right of donor-conceived people to know their genetic origins with the privacy rights of donors, it was recommended that pre-1988 donors be given the option of filing a ‘contact veto’, which would enable them to refuse contact with donor offspring to whom they have been identified, or to specify the type of contact with which they are comfortable. It was also recommended that donors who provided gametes prior to 1 July 1988 be given access to non-identifying information about their offspring and *identifying* information where offspring consent. Finally, the Committee recommended that responsibility for donor linking, including donor register management, counselling, education, and linking support services, be assumed by VARTA and that donor-linking applicants be professionally supported throughout the process.

Within 18 months of the LRC’s report, the Assisted Reproductive Treatment Further Amendment Bill was introduced to Parliament. The Bill differed from the LRC’s recommendations on one key issue. Instead of providing those conceived prior to 1988 with an unfettered right to access their donor’s identity, it permitted access only if the donor consented. The decision to include a consent provision was largely in response to a government-commissioned consultation with pre-1988 donors, conducted after the LRC’s report was completed, which found that less than half of the 42 donors interviewed supported the LRC’s recommendation that access to identifying information be automatically granted to donor offspring (VARTA, 2013). The consent model was presented as ‘an effective implementation of the key committee recommendation to provide retrospective access, whilst balancing the rights of various donor conception stakeholders’ (Minister for Mental Health (Liberal), 2013). Though the governing Liberal Party introduced the Bill, it received bipartisan support. However, the opposition Labor Party committed to removing the consent requirement if it won the next election, which it did. The Assisted Reproductive Treatment Amendment Act 2016 (Vic), which removed the consent provision and replaced it with a contact preference system, came into effect on 1 March 2017.

IV. METHODOLOGY

The purpose of this project was to identify the motivations for applying and contact goals of donor-conceived adults and donors who applied to the Central Register for each other’s identifying information under the amended Assisted Reproductive Treatment Act 2008 (Vic). To answer these questions, we analysed 25 SORs, a written document applicants were required to complete, which is sent to the subject of the application as part of the register application process. In their SORs, applicants are asked to describe their reasons for applying and their short- and long-term goals.

The SORs analysed were submitted by donor-conceived adults and donors between 29 June 2015, when the reforms came into effect, and 28 February 2017,

when further reform removed the requirement that donors' consent before identifying information is released. Parents of donor-conceived children can also apply to Victoria's registers for information about their child's donor. However, the focus of this article is on applications by donor-conceived adults and donors, given they were the two groups directly impacted by the 2015 reforms.

The SORs analysed in this study were obtained via VARTA. VARTA's intake form, which is completed by all register applicants, asks whether they consent to being re-contacted for the purpose of research. All individuals who had consented to re-contact and finalized their register application between June 2015 and March 2017 were eligible to participate. In an e-mail from the VARTA counsellor who had met with them during the donor-linking process, individuals were asked if they agreed to researchers, including their SOR in the current study. The VARTA database and manual file checking identified 42 eligible individuals of whom 23 – 17 donor-conceived adults and 6 donors – consented to participate in the study. Two participants had completed two SORs because they were applying for information about more than one person (one donor and one donor-conceived adult). Thus, while 23 individuals consented to participation, 25 SORs were analysed.

The SORs were de-identified and analysed qualitatively and quantitatively. SORs were read and re-read several times by two members of the research team to develop an initial coding scheme. The coding scheme was cross-checked with other members of the research team for inter-rater reliability and gradually refined to six themes that worked conceptually across the data set. Data were coded using Nvivo software, which also enabled counting of the number of SORs in which a specific theme appeared and the number of times the theme occurred across all SORs.

Most donor-conceived adults were aged between 30 and 39 years ($n = 12/17$), meaning they were conceived prior to 1988 and thus beneficiaries of the retrospective legislation. The remaining applicants were conceived between 1988 and 1998 and therefore still required the consent of their donor to access his identity. Thus all applicants were subject to the same legal framework.

Half of the donors were aged 60 years or over ($n = 3/6$) and are thus likely to have donated prior to 1988. The majority of donor-conceived adult applicants were women ($n = 13/17$), a trend identified in other research on donor linking (Scheib et al, 2017). All donors were male. Most donors were married or partnered ($n = 4/6$), as were approximately one-third of donor-conceived adults ($n = 6/17$).

VARTA provides applicants with a template for completing an SOR, though they are not obliged to use it. The template includes three headings: (i) Applicant's reasons (for applying); (ii) short-term goal; and (iii) long-term goal. In 24 of the 25 SORs analysed, the template's structure was adopted. The remaining SOR was written as a letter.

While the SOR data provide a rich source of information about participants' motivations for applying and contact goals, there are two possible limitations. First, in common with similar studies in the field (Jadva et al, 2011; Blyth et al, 2017), the sample is small and non-random. As such, views may or may not reflect those of the total population of register applicants or those who choose to pursue donor linking outside of the statutory system (eg using DNA testing). However, given the unprecedented nature of the legislation and the fact that it has only been operating for a

short time, the findings remain significant. This is particularly the case for the findings related to donor-initiated applications. As has been noted elsewhere, interest in donor linking among donors appears to be growing, yet research on their experiences and expectations remains scarce (Blyth et al, 2017). A second possible limitation of the research relates to the context in which the SOR is written. As part of the application process, participants attend a compulsory ‘information and support session’ with a VARTA counsellor in which the SOR is discussed. It is possible that during this session, applicants may be influenced by the counsellor’s view about donor conception and donor linking. However, VARTA’s counsellors have indicated that most applicants draft their own SOR and, where assistance is sought, counsellors have minimal input into the actual content of the SOR.

V. APPLICATIONS BY DONOR-CONCEIVED ADULTS

The following section will consider the 18 SORs submitted by donor-conceived adults, focusing on their reasons for applying, the types of information they requested, and the nature of the contact they sought, if any.

1. Reasons for Applying and Information Sought

Consistent with other research in the field, all applicants indicated that the main driver behind their application was ‘curiosity’, both in a general sense and with regard to specific physical and personality traits (Freeman et al, 2009; Jadva et al, 2010; Hertz et al, 2013; Scheib et al, 2017). Almost all of the applicants who were applying for their donor’s identity opened their SOR by stating that they were curious about who the donor was and what aspects of themselves may have come from him. As one applicant explained:

I believe that I have gained a lot of traits from my father, however, I have always been curious about any genetic history I may have inherited from you.
(Female, 34 years)

For some the curiosity developed after seeing differences between themselves and their other family members.

[I have a] general curiosity. There have been times in my life where I’ve wondered why I look the way I do or possess particular traits. For example, all my siblings have blonde hair, but I have dark hair. I’m very sporty, but the rest of my family are not. (Female, 32 years)

More than half of the applicants specifically requested a photograph from the donor to see if they shared a physical resemblance. Most were curious about a specific physical characteristic they may have inherited from the donor.

Driven by their curiosity, most donor-conceived adult applicants requested a range of personal information about the donor. SORs often included a list of questions for the donor, including specific questions about his physical characteristics, medical history, and interests, though requests were as varied as whether the donor had any pets to whether he was left- or right-handed. The types of information

sought by donor-conceived adults suggested a need to create a holistic picture of the donor. As one applicant stated:

I would love to know about your appearance, what field you work in, your education, what your heritage is, any personality traits and interests. Any information you think is important in telling me would be very valuable to me. (Female, 35 years)

While many of the applicants characterized their interest in the donor's personal and physical characteristics as a general interest in shared qualities or traits, others framed their requests using the scientific language of genetics and DNA.

I am generally curious and wonder what I have inherited from you, for example, physical attributes, because even though we don't know each other, I share your DNA and I wonder what you have passed on to me. (Male, 24 years)

Applicants who expressed an interest in the donor's DNA sometimes framed his genetic contribution as the missing link that would 'unlock' the story of their own genetics and, ultimately, 'complete' their identity. These statements reflect a broader idea within Western society that origins information 'has a "constitutive" character' (Gilman and Nordqvist, 2018), whereby knowledge of one's ancestry is knowledge of oneself (Klotz, 2014). For some, the desire for origins information came from feeling different from the family in which they were raised, often because they had different physical characteristics, talents, or interests. As one applicant explained:

I am 'different' to the family that surrounds me, not only in personality but in looks, and I am hoping to learn more about you and your story in order to help connected the dots in mind. (Female, 34 years)

For others, there was the sense that their identity was incomplete or only half formed, with several applicants stating '[I can only] know more about myself through knowing more about you' (Male, 20 years).

Closely related to statements about the importance of DNA and genetic inheritance were requests for information about the donor's medical history. Almost all of the SORs included a request for medical information of some type. Many applicants sought general information: 'I am interested in finding out any medical info; particularly as many medical conditions have a genetic link'. (Female, 37 years) However, for some applicants, the request was prompted by actual medical concerns. They, or their children, suffered from a chronic illness and they hoped the donor could shed some light on their diagnoses. As one applicant explained:

I have struggled with a chronic illness that is likely to have come from my mother's side. Given this, I am keen for more medical information from your side so I can be further prepared, and would like to know whether there are any known genetic illnesses on your side that I should be aware of. I am aware

that this is very personal information and understand and respect that you are free to share only what you feel comfortable with. (Female, 24 years)

Other applicants were concerned about illness in the future and wanted to be prepared for what might lie ahead. A mother of two young children who was frustrated by her inability to answer the doctor's questions about her or her children's genetic history explained:

My main reason for wanting to make contact with you is to find out information about your medical history. It's very important to me to be aware of any underlying conditions for my sake and my boys. So if there are any medical or genetic conditions in your family, I would welcome any information. (Female, 35 years)

The specificity of the medical information requested by a number of the applicants is a significant finding. Arguments related to the importance of having access to medical information are frequently deployed to support donor linking laws, but they tend to be presented in general terms. As [Klotz \(2016\)](#) has argued, the denial of such information is often treated as emblematic of a 'general sense of deprivation of knowledge and injustice'. The SORs suggest, however, that for some applicants, particularly those in their 30s and 40s and thus beneficiaries of the retrospective laws, the need for medical information has become concrete. They or their children are actually experiencing medical ailments; the absence of medical information is transformed from an abstract 'injustice' into a denial with practical consequences. Legislation with retrospective application is the only way in which these needs can be met.

2. Contact Goals

The second component of the SOR template prompts applicants to state their short- and long-term goals. It is in this section that most of the applicants discuss the issue of contact. All of the donor-conceived adult applicants requested some form of contact, with more than two-thirds expressing a desire to eventually meet face-to-face. Applicants typically presented their approach to contact as a progress narrative, in which the proposed contact would evolve from written correspondence, to conversations on the phone, to face-to-face meetings. Applicants typically expressed a desire that contact be ongoing, though it may be sporadic. For example, some stated that they hoped to build a 'friendship' with the donor over time, while others wrote of 'yearly [face-to-face] contact' or 'as much or as little contact as you are comfortable with'.

The study's findings with regard to contact are quite different from the small body of existing research on the topic, all of which has been conducted in jurisdictions without donor-linking legislation ([Freeman et al 2009](#); [Scheib et al, 2017](#)). A desire for contact, particularly face-to-face contact, among donor-conceived adults was much more common in our study than in previous research. Our study also found that donor-conceived adults had much higher expectations of an ongoing relationship with the donor. For example, research by Scheib et al with 85 participants in

The Sperm Bank of California's identity-release programme found that of those who had applied for their sperm donor's identity, 75 per cent expressed an interest in contacting him, 10 per cent did not intend to, and 15 per cent were unsure (Scheib et al, 2017). In addition, only 7 per cent wanted a 'relationship' with their donor, while 20 per cent explicitly stated they were 'not looking for a relationship'. Finally, most participants expressed low (63.2 per cent) or no (17.5 per cent) specific hopes or expectations of what would happen after receiving their donor's identity.

These previous results are in sharp contrast to our findings, where all applicants expressed an interest in contact and more than two-thirds hoped for semi-regular face-to-face contact. It is possible that the presence of donor-linking legislation may play a role in increasing the expectations of donor-conceived adult applicants. The process of reform, and the public debates that surrounded it, may have created a cultural environment in Victoria in which contact with previously anonymous donors became normalized. It is also possible that the actual process of linking, which is prescribed by the legislation, may create particular expectations among applicants. For example, while the legislation does not provide a right to contact, the application process, which includes meeting with a VARTA counsellor, involves conversations about the possibility of contact. The SOR template itself includes sections for the applicant to describe their short- and long-term 'goals', implying more than a simple information exchange or one off encounter. It is thus possible that the messaging applicants receive during the process is that requests for contact are appropriate and can be presented to the subject of the application as the long- (or even short-) term goal. Finally, it is possible that the availability of expert, no-cost counselling from VARTA before, during, and after the linking process in Victoria helps applicants feel more comfortable requesting contact. They know professionals will support them, and the donor, throughout the process. In contrast, the applicants in study by Scheib et al may have felt reluctant to request contact, knowing that the programme provided no support for negotiating the process or the emotions that may come from having a request rejected.

As noted earlier, the donor-conceived adult applicants generally took a gradual approach to hoped for contact, suggesting written communication, usually via e-mail, as a suitable first phase, followed by phone or face-to-face contact if there was mutual interest. The following statement is typical of the progress narrative used by many applicants:

[I] would like to exchange letters and perhaps emails, phone calls and then possibly meet you in person at some stage. Of course that also depends on your willingness. It make sense to get to know one another first via email. [In terms of the long term I'm] not really sure at this stage, it depends on how things go, but all being well, I would possibly like to keep in touch, depending upon what we are all comfortable with. Maybe a few phone calls and the occasional meeting. I'm happy to see how things go. (Male, 20 years)

Several applicants expressed some nervousness about how to negotiate contact, noting that there was no established protocol to follow. As one applicant explained:

I know I would only want to make contact if the feeling was reciprocated. What I don't know is what that would look like at this stage. It's an unfamiliar situation with no specific guidelines as such, but any form of communication is something I feel comfortable with over time, preferably at a pace that is suitable for all those involved. (Female, 34 years)

Acknowledging that the donor may also be nervous about negotiating contact, two applicants expressly mentioned that a counsellor at VARTA could act as a 'mediator' or 'support person'.

Some applicants expressed an interest in also meeting members of the donor's family. One was interested in meeting the donor's own children, who were likely the same age as the applicant, though she acknowledged that the donor may not have told his children that he donated. Others expressed an interest in meeting the donor's 'wife and family'. These requests suggest that for some applicants the interest in genetic relatives extended beyond knowing the donor. For these applicants, the donor provided an entry point into the 'missing' side of their genetic family.

3. Reassuring the Donor

It was common in the SORs for donor-conceived applicants to reassure the donor that they did not intend to intrude in his life. Applicants were very sensitive to the fears donors might have and attempted to address them from the outset. They did this in a number of ways. The most common was for the applicant to acknowledge the enormity of what was being asked and provide reassurance that the donor's wishes would be respected. As one applicant stated:

We have a great relationship with our parents and are not looking for a replacement by any means. I and my siblings as well respect you, your family and the life you have built for yourself. We by no means wish to infringe. (Female, 20 years – on behalf of herself and her two brothers who share the same donor)

Several applicants reassured the donor by explicitly stating they were not looking for a 'father figure'. Others, who were all raised in heterosexual families, reassured the donor they had a positive relationship with their father and were not looking for a replacement. For example:

I think the relationship between father and daughter is a sacred and unique one and I don't think that is what we can have. I already have that with someone else. However, like I said there is room for a friendship. (Female, 37 years)

No applicant spoke negatively about their childhood or parents, though some did not mention them. More than a third of applicants also reassured the donor that they had had a positive childhood and that being donor-conceived had not negatively impacted their well-being. As one applicant stated:

I learned that I was donor conceived at the age of 14 years. I don't believe this has had a negative impact on my life or relationship with my parents, if anything, I believe this has brought us closer together. (Female, 34 years)

Another applicant stated:

I . . . have always known I was donor conceived. In my family you were called 'a special man' who helped my parents have me. When I was told around the age of three or four, my response was that we should buy you a present. I have always felt at ease with knowing about my conception. (Female, 24 years)

These statements of reassurance suggest that for some applicants the experience of being donor-conceived had been positive or, at the very least, neutral. However, this did not mean they were not also interested in knowing the identity of their donor. In other words, they could have a close relationship with their parents and a positive family life but still feel that something was 'missing'.

Finally, some applicants reassured the donor that they did not intend to push for contact, noting that it could cause significant familial disruption for the donor, particularly if he had not disclosed to his family that he had donated. As one applicant stated:

I would be very willing to make contact with you if you desire. If not, I completely understand. . . I know you may have a wife or partner, family and children that are not aware of you donating and I am alright with that. I am not trying to facilitate something you are not comfortable with. (Female, 35 years)

The various ways in which donor-conceived adults used the SOR to reassure the donor – whether about their motivations, the quality of their existing family relationships, or their recognition of what he might be experiencing – highlight the potential benefit of including such a document in the donor-linking process. While it is not possible to gauge how donors received these statements, the opportunity to reassure donors provided by the SOR may help to assuage some of their common fears.

4. Conclusions

In summary, donor-conceived adults who applied to the Victorian registers were driven by curiosity about their donor and a desire for personal information, including both general and specific medical information. Applicants' questions suggested that they hoped to gain a holistic sense of who the donor was and what he might have contributed to their own interests, physical characteristics, and personality traits. For some applicants, this information was understood as constitutive of their own identity. Knowledge of their donor was knowledge of themselves. In contrast to previous research on donor linking, all donor-conceived adult applicants requested some form of contact with the donor and most anticipated that contact would eventually be face-to-face, though possibly sporadic. However, while applicants had quite high expectations of the level of contact they might have with the donor, many reassured

him that they were content individuals, who were not looking for a father figure or to intrude in the donor's life.

VI. APPLICATIONS BY DONORS

Victoria is the only jurisdiction in the world where donors are given the legal right to apply for their offspring's identifying information, which can be released if offspring consent. While a prospective version of this right was introduced in Victoria in 1988, the 2015 reforms extended it retrospectively to donors who donated during the era of anonymity. Understanding the motivations of donors who make applications of this type is important for legislatures considering retrospective legislation or any legislation that extends linking rights to donors.

As Blyth et al (2017) noted: 'Research that puts the experiences, perceptions and interests of gamete donors as the central focus of study is a relatively recent phenomenon.' Consequently, we have only a limited understanding of the motivations and experiences of donors who participate in donor linking and virtually none about those who *initiate* the process. The small body of existing research largely focuses on sperm and egg donors who join voluntary registers, including statutory and informal online registers (Jadva et al, 2011; Speirs, 2012; Almeling, 2014; Kirkman et al, 2014; Hertz et al, 2015; Blyth et al, 2017). Findings suggest that donors who engage with voluntary registers are typically driven by curiosity, concern for the well-being of their donor offspring, and a desire to provide offspring with non-identifying and, in some cases, identifying information. Our study did not challenge these conclusions. However, unlike previous research in the field, our study revealed that sperm donors who *initiate* donor linking may have some different, or additional, motivations. Though the sample size was small ($n=6$), we found that some donors were motivated to engage in donor linking because they perceived themselves as protectors of a child's 'right to know'. They felt it was important to expose the 'truth', even though it might cause disruption in the life of offspring. The second unique finding was that the donors themselves had emotional needs with regard to their donor offspring that were not anticipated by the LRC and have heretofore not been recognized.

As noted earlier, based on historical donor application statistics, it was not anticipated by the LRC that donors would apply for information about their offspring in significant numbers. This prediction has proven to be wrong. While only 11 donors applied for information in the 9 years between 2007 and 2015 (VARTA Annual Reports, 2007–2015), 10 donors applied for identifying information in the first 12 months following the introduction of the legislation. Numbers have steadily increased in subsequent years (VARTA Annual Reports, 2016–2018). Given that a single donor application can affect between 3 and 15 individuals, it is possible that anywhere between 30 and 150 donor-conceived adults could have been affected by donor-initiated applications within the first 12 months of the law's operation. VARTA has reported that in more than 90 per cent of the outreaches to date, the donor-conceived adult has not been aware they were donor-conceived.³ To manage what could be an overwhelming experience, VARTA's process is to outreach to one offspring at a time (or all siblings from one family at a time), significantly slowing

the process of disclosure. Nonetheless, the number of offspring affected by donor-initiated applications is significant, an outcome that was not predicted when the legislation was introduced.

1. Reasons for Applying

The SORs of six donors were included in the study. Their reasons for applying for information about their offspring were not dissimilar to those provided by donor-conceived applicants. However, there was no dominant motivation expressed by all or most donors.

Half of the donor applicants voiced some degree of curiosity about who the offspring were and how they had fared in life. One donor had already had positive contact with several of his offspring, and these experiences made him curious about the remaining ones. As he explained:

Having already had warm and respectful contact with some families, I am simply curious to meet people which I have contributed to bringing into this world. . . I am curious and excited about watching each and every child grow and develop. (Donor, 45 years)

Donors were also motivated to apply because of concern for the well-being of their donor offspring. This sometimes included wanting to provide offspring with medical information. For example, one donor in his sixties wanted to provide information about a recent medical diagnosis, stating that: 'I am concerned that you won't have this information should there be no contact between us' (Donor, 57 years).

Each of the donors made some statement indicating their awareness of the challenging nature of the request they were making and the potential disruption that might flow from it, particularly for offspring who did not know they were donor-conceived. Some sought to reassure offspring that it was not their intention to upset them or their family. However, three donors took a different approach, casting themselves as protectors of the child's 'right to know'. One of the donors mentioned the new legislation and explained that it had prompted him to apply because of his belief that the child's right to know took precedence over all other considerations. As he stated:

While these laws are controversial, it has become my view that the right of donor-conceived people to know, trumps all considerations that I am aware of to date, even if this risks riding the emotional 'roller coaster' as follows. I am aware that this may come as shock to you but I hope that once we get over the hump of the emotional rollercoaster of initial contact, everyone impacted by this process will come out the better for having taken the risk of making contact. I am aware that many donor-conceived people are not aware of the details of their conception. These statistics suggest that chances are high that you could be one of these people. In this context, we will have some hurdles we need to overcome. (Donor, 61 years)

This same donor went on to state that his 'primary motivation' for applying was 'for you [the donor offspring] to benefit from knowing the full picture'. Another donor expressed a similar sense of obligation to make offspring aware of the truth:

I wanted you to be informed about your origins. . . This is our form of contact, and I am sure we may both feel a little daunted by the process. But I think we both need the dignity of the truth. (Donor, 57 years)

This same donor also stated that not having contact with his donor offspring meant part of himself and his family was 'missing', suggesting that while he saw himself as protecting the offspring's right to know the 'truth', there was a degree of self-interest involved as well. He explained:

Since finding out that you existed I have felt very mixed emotions. Our emotions and state of belonging and identity really does affect us in many ways. I am beginning to glimpse some of that now – why I started the process to search for my offspring – part of 'me and our family' is missing and I wasn't aware of it until I recently learnt that you existed. (Donor, 57 years)

A second donor also indicated that his application was motivated in part by a 'gap' in his own life, stating that after watching a documentary on sperm donors, 'it became quite evident to me the importance for some donors and donor-conceived persons to fill the gaps in one's life caused by well-meaning decisions in the past'. (Donor, 64 years)

2. Contact Goals

All of the donors hoped their application would result in some form of contact with their donor offspring. However, like donor-conceived adult applicants, they acknowledged the importance of gradual contact and reassured their offspring that they would respect their wishes. However, all of the six donors indicated a desire for ongoing face-to-face contact at some stage in the future. For example, one donor stated:

Any contact or information exchange we might have will be under your control: information is power. It will be yours to do with as you wish, and I will respect your wishes and goals above all else. Nevertheless, if you are interested in developing an amicable ongoing friendship over the long term, then I would certainly be interested. (Donor, 61 years)

Even if ongoing contact was not possible, several donors indicated their willingness to be available to their offspring whenever needed. As one donor explained: 'Simply put, my goal is to remain open to meet donor conceived people and their families and see what evolves from there' (Donor, 45 years).

Several of the donors commented on the type of role they hoped to play in their offspring's life. Some envisaged playing a supportive role, guided by the offspring's needs:

I genuinely hope I might be able to support you and your family to have a greater understanding of who we all are together at a pace that you feel comfortable with.

However, one donor saw himself as serving as a role model to his donor offspring and being a member of the group of adults raising them.

I would also in some capacity like to be a positive role model for the donor-conceived people . . . 'It takes a village to raise a child' – I would like to be given the opportunity to be part of that village. (Donor, 45 years)

This donor had already met several of his offspring. His objective in seeking out more was to create what he described as a 'network who share a common donor – something I like to refer to as a "modern family"'. Given the age of the donor, it is likely that most, if not all, of his offspring were under 18 years of age, and thus a parent would have to consent to the release of their information. It would therefore be the parent(s)' decision whether they wanted their children to participate in this 'modern family'.

3. Conclusions

The approach to donor linking taken by some of the applicant donors is quite different from what was envisaged by the LRC. First, it was not expected that they would apply in such high numbers. Secondly, it was not anticipated that donors would see themselves as playing an active role in revealing 'the truth' to offspring, creating situations where donor-conceived people found out about their conception through a phone call from VARTA. In fact, the LRC stated when discussing donor-initiated applications that it considered it 'imperative to ensure that the state does not facilitate causing trauma to donor-conceived people' and that 'the best way for children to find out that they are donor-conceived is for their parents to tell them' ([Parliament of Victoria, 2012](#)). While it was hoped that the legislation might serve as impetus for parents to disclose to adult offspring that they were donor-conceived, VARTA's experience thus far suggests that this has not in fact happened. Instead, donor applications are *triggering* the release of this information. In two instances, distress to offspring and parents has been reported to the media ([Tuohy, 2018](#); [Gelineau, 2018](#)). Finally, it was not envisaged that donors might apply for information about their offspring because of their *own* emotional need to connect and fill a 'gap' in their lives.

VII. CONCLUSION

The surge in register applications following the introduction of the 2015 reforms suggests that the retrospective laws have met a need among donor-conceived adults

and donors from the pre-1988 period for more information about each other. In making their applications, both groups were driven by a degree of curiosity. The types of information requested focused on personal characteristics – hobbies, interests, looks, and medical history. However, unlike previous research on donor linking, the applicants in our study, whether donor-conceived adults or donors, also had a high expectation of (ongoing) contact. All applicants requested some form of contact, with many envisaging that a face-to-face relationship would develop over time. As noted earlier, the expectation of contact may be the result of several factors, including a cultural acceptance of contact between offspring and donors created by the law reform process itself, the knowledge that professional support services are available through VARTA to help negotiate contact and the fact that the SOR template may be perceived as *implying* that contact is the inevitable end point of an application by asking applicants about their short- and long-term goals. It is also likely that donor-conceived adults who want contact with their donor are more likely to make a register application, though the applicants in our sample were still more likely to request contact than applicants in other jurisdictions (Scheib et al, 2017).

What this study does not tell us is whether the applicants' expectations of contact are ultimately fulfilled. We also do not know the nature and quality of contact in situations where it does occur. What type of contact do parties typically engage in? Does it follow the 'progress narrative' frequently outlined by donor-conceived adult applicants? Are parties satisfied with how contact develops? What are its challenges? It would also be important to know whether contact alleviates the identity issues raised by so many donor-conceived applicants. Do they feel 'complete' once their donor is part of their life? To answer these questions, further research is needed that tracks applicants longitudinally to determine whether contact occurs and, where it does, how the relationship between applicant and subject develops over time.

The study's findings with regard to donor-initiated applications suggest that more research also needs to be conducted with donors. The LRC appears to have seriously underestimated pre-1988 donors' level of interest in their offspring and their willingness to initiate applications. Where individuals do not know they are donor-conceived, this could cause significant disruption to their lives, though in some cases the information could be a positive revelation. Further research needs to be done with donors to understand their motivations for applying. More work around understanding donors' emotional vulnerabilities is also needed. The LRC presumed that donors' emotional needs related only to privacy; that potential exposure was their only vulnerability. The LRC did not anticipate that donors might have an emotional need to *connect* with their donor offspring. Further research is therefore needed to better understand the emotional complexities experienced by pre-1988 donors. By implication, additional research is also needed on the impact of donor-initiated applications on offspring and their families.

NOTES

1. Switzerland is the only other jurisdiction in the world to have introduced legislation that provides for retrospective access to donor records. The law came into effect in 2001. Applicants applying under the retrospective provisions are required to request information from the clinic at which they were conceived.

Swiss authorities have reported, however, that those conceived prior to 2001 are unable to obtain information because records have been destroyed. Thus, while Switzerland was the first to introduce retrospective legislation, Victoria is the first jurisdiction in the world where substantial numbers of donor records still exist and are held in a central register (Allan, 2017).

2. Of the 173 Central Register applications for identifying information reported in the 2016 and 2017 VARTA Annual Reports, 13 per cent of applications were made by donors, 44 per cent were made by donor-conceived adults, and 43 per cent were made by recipient parents of minor children.
3. Conference paper by Johnson L. et al (VARTA), 'Removing Donor Anonymity Retrospectively: Outcomes of Applications for Information about a Person Related Through Donor Treatment Following Legislative Change', European Society of Human Reproduction and Embryology, Barcelona, July 2018.

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