

As infertility treatment technology advances, more Americans are turning to assisted reproduction. Here, we look at some of the choices families are making. By Elizabeth Larsen

NEW PATHS TO

AFTER TRYING FOR YEARS to have children, Mark and Lucy Johnson* acknowledged a hard fact: Even if they could determine the cause of Lucy's infertility, her eggs were probably too old to warrant their trying in-vitro fertilization (IVF). "I felt like my body had failed me," she says. They could either pursue adoption or try for a pregnancy using eggs donated by a younger woman.

"I'd heard of sperm banks, but not egg donors," Lucy remembers. "I didn't think it was something I'd ever have to do, but I decided that I wanted this child to have some of Mark. It was also important to me to be pregnant."

The Johnsons faced a few roadblocks. Their upfront expenses—\$5,000 to the donor, \$12,000 to the fertility clinic, \$5,000 for medications, \$6,000 for the egg-donation agency's program fee—were not covered by insurance. After their first donor backed out, it took them eight months to save \$8,000 for a second try with a new donor.

Despite their bumpy road to parenthood, today, 45-year-old Lucy is a happy cliché of an expectant mother. Due in less than two months, she's attending showers and shopping for onesies. She can barely believe her good fortune. Science has given her and Mark something they were beginning to think they might never have.

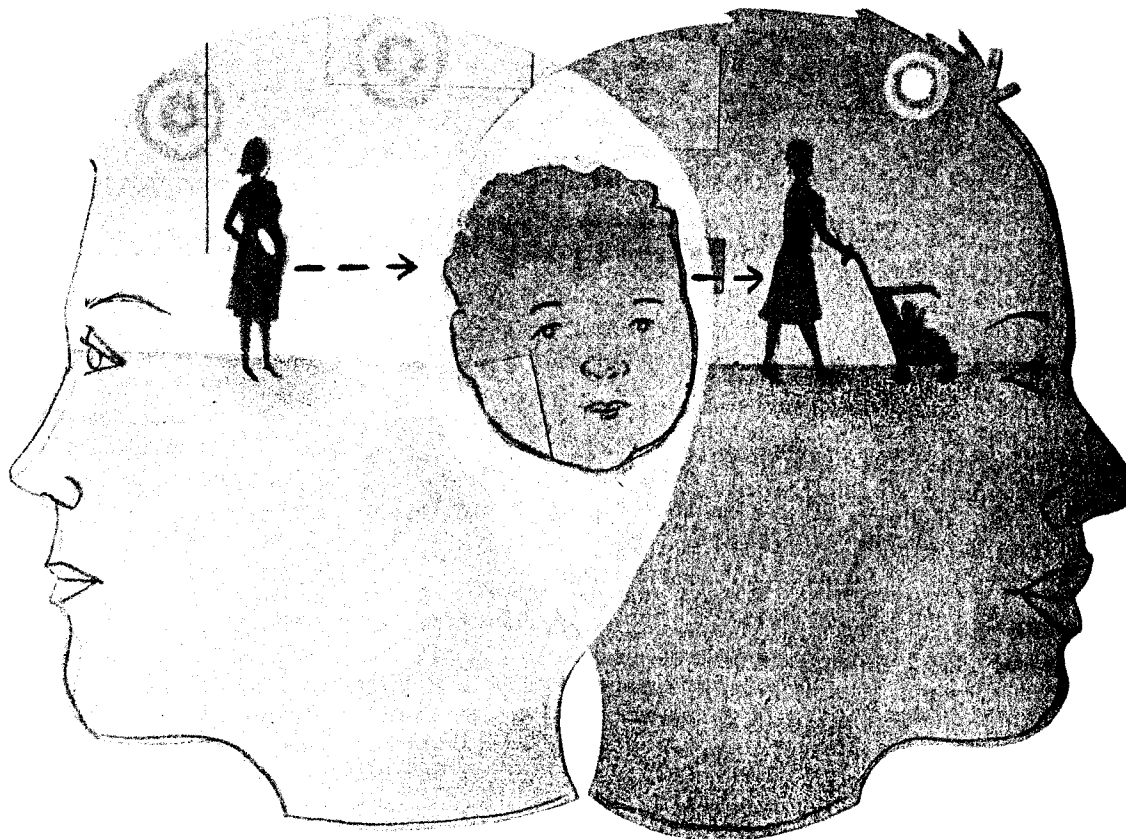
GROWING IN POPULARITY

As international adoption becomes more difficult, and the unpredictability of being "chosen" by a domestic birthmother makes some prospective parents anxious, more people are turning to assisted reproductive technologies (ART) to create their families. Some use donor sperm, a practice that's quietly been taking place for centuries. Others implant eggs from younger women or frozen embryos left over from another couple's IVF procedure. Still others employ gestational carriers to bear a child conceived from their egg and sperm. (Unlike a "surrogate," a ges-

tational carrier has no genetic link to the child she is carrying.)

While there are no studies of ART births as a whole, evidence suggests that assisted reproduction is on the rise. The U.S. Centers for Disease Control and Prevention reports that at least 30,000 births in 2004 involved a sperm donor. Another study notes the rising number of single mothers giving birth. While many of these women are surely getting pregnant the old-fashioned way, others are using donated sperm. Shady Grove Fertility Center, a clinic with offices throughout the Washington, D.C., area, performed about 800 donor-egg treatment cycles between 2000 and 2004. In 2008 alone, Shady Grove performed more than 650.

Melissa Brisman, a New Jersey attorney who facilitates pregnancies through egg donation, embryo transfer, and gestational carriers, says that, in 2000, she negotiated about 20 gestational-carrier births. Last year, that number was nearly 200. Diane



PARENTHOOD

Michelsen, a California attorney who facilitates family-building through ART, estimates that, 10 years ago, her practice was 40 percent ART and 60 percent adoption. Those figures have now flipped.

CHOOSING ASSISTED REPRODUCTION

While the considerations of raising a child who is not genetically related to either or both parents are similar to those faced by adoptive families, reproductive technologies are so new that there is currently no consensus about best practices. "This is pioneer territory," says Joni Mantell, LCSW, CSW, director of the New Jersey-based Infertility and Adoption Counseling Center. "In adoption, we think in terms of the child's best interests. With ART, the starting point is the desire and need of the parents."

Many prospective parents who choose to get pregnant with donated sperm, eggs, or embryos have spent years coping with infertility, or have lived through the heartbreak of

"I did one donor egg cycle with a known donor, whom we found on the Internet. When it failed, she felt so bad that she offered to be a surrogate. We thanked her, declined, and started our process to adopt from Guatemala." —*Erica Kim*

a failed adoption. "They want control back," says Mantell. "Women may want to carry the baby, eat the right food, and plan for the child's birth. Men may want to nurture a pregnant wife."

Practical considerations were a big plus for Carol Jean Feth, the mother of an 11-year-old biological son, a six-year-old son conceived from a donor egg, and a 14-month-old daughter who was adopted from Guatemala. "With egg donation, you experience a pregnancy and all the joys that brings," she says. "Another big 'pro' is that you know when your new bundle is going to arrive, and can gear your preparation toward that date. In

adoption, you have very little time to prepare after getting 'the call.'"

Some parents, like the Johnsons, want the genetic connection to one partner, as well as the emotional experience of carrying a baby. Although Lucy admits to moments when she thinks, "This isn't my kid I'm carrying," being pregnant is cementing her attachment. "I feel very connected to the baby," she says. "Our bond is growing every day."

MAINTAINING CONTACT

Just as adoptive families wonder about the kind of relationship they will have with their children's birthparents, parents using ART

have to decide whether or not they will maintain contact with the people who helped them create their families.

Although most ART procedures, with the exception of gestational carriers, are based in anonymity, donors may agree to some level of identification or contact, and many parents write thank-you notes, send gifts, or meet their donors. In *Everything Conceivable* (Anchor Books), an engaging analysis of the cultural implications of ART, author Liza

The reality of those potential relationships has yet to be worked out on a larger scale. "There's a schism here, and people go to either end of the spectrum," says Michelsen. "Some parents are grateful for someone else's efforts [on their behalf]. Others think of ART as a business transaction. They think, 'I want this baby to be delivered to me safely. I don't need a connection with you.'"

Total anonymity, however, can lead to

way to make money. The average payment to a gestational carrier is \$25,000. Egg donors usually receive \$3,000 to \$10,000. A recent article in *The Wall Street Journal* reports that inquiries about selling eggs or becoming a gestational carrier have surged during this tough economic time.

Embryos are generally donated by genetic parents after they've had a successful round of IVF. That can be a tricky proposition, as some parents retain an emotional connection to their embryos. "Many people get cold feet about donating an embryo anonymously," says Michelsen. "They have second thoughts about their child having a full sibling they may never meet."

Embryo transfer has also sparked controversy along the pro-choice/pro-life divide. Those who consider embryos to be more than human tissue, because they have the potential to become human life, may refer to the practice as "embryo adoption." Such "adoptions" include homestudies, and allow the genetic parents to choose who receives their embryos, but do not involve a legally recognized adoption process.

Parents considering an embryo transfer must weigh additional factors into their decision-making. "Clinics use the best embryos first," says Michelsen. "Embryos that are frozen tend to be of a lower quality, and IVF cycles are expensive." Another ethical issue arises from the fact that embryos are usually frozen in groups. To defrost one, you have to defrost them all. If there are three embryos in a group, is it acceptable to implant only one or two and destroy the rest? "Are you looking at the possibilities of triplets?" Michelsen asks. "Or are you looking at selective reduc-

"After adopting our first child, we had a second child using embryos from an anonymous donor. It was an amazing experience. I had a wonderful pregnancy and got to experience everything I missed with our older son. I will be forever thankful to the couple who donated their embryos." —*Kristine Needleman*

Mundy describes a baptism ceremony for triplets, where the guest of honor was the children's egg donor.

Tamara and Joseph Bove enjoy a close bond with one of their two gestational carriers. The relationship with their first carrier faded after a few years, and they are no longer in contact. But their bond with the second carrier grew as the pregnancy progressed. "From the beginning, we were hoping to develop a friendship," says Tamara. "But we didn't know whether we would. You don't have the opportunity to get to know the person before you start working with her." Over time, they discovered many shared values. The Boves named their only daughter after her carrier.

medical complications down the line. The story of a California girl who was born with Tay-Sachs disease, which she inherited from both her father and the egg donor, has led some leaders in the fertility industry to advocate for a national registry to track donors and birth outcomes. In a report released in early February, the Evan B. Donaldson Adoption Institute called for a national database to facilitate access to birth and medical information for donor-conceived offspring.

SORTING THROUGH THE ETHICS

While it's true that many donors and gestational carriers are motivated by a desire to help infertile couples, others see ART as a

ART OVERVIEW

	DONOR SPERM	DONOR EGG	EMBRYO TRANSFER*	GESTATIONAL SURROGACY
Typical cost	\$200 to \$600 per insemination	\$3,000 to \$10,000 for the donor's fee; approximately \$15,000 for medical and legal expenses	\$3,000 to \$5,000 for the frozen embryo transfer; if "adopting," \$8,000 for program fee, \$1,000 to \$3,000 for a homestudy	\$25,000 for the carrier's fee; \$40,000 to \$60,000 for medical and legal expenses, plus the cost of IVF
Genetic link to	Mother, or to neither parent if used with donor egg	Father, or to neither parent if used with donor sperm	Neither parent	Both parents, or to mother (with donor sperm), father (with donor egg), or neither (with donor embryo)
Do parents have to complete a homestudy?	No	No	No, although some agencies offer homestudies	Not usually
Is there a relinquishment of parental rights and an adoption?	No	No	No	Not usually, unless state law requires it; in many states, parents obtain a pre-birth parentage order

*also referred to as embryo donation or adoption

“We went through two rounds of IVF, using donor eggs, because we were told that we had a high chance of conceiving. When we didn’t, we moved on to domestic adoption because we just wanted to be parents.” —Paige Morris

tion?” These issues have to be negotiated by donor and recipient.

EXPLAINING ART TO CHILDREN

Another question that prospective parents face is how to handle talking with their children about the way they entered the world. In adoptive families, a child’s adoption is usually talked about from the time she enters her family, but sperm and egg donation and embryo transfers often allow non-genetic parents to “pass” as genetic parents.

The American Society for Reproductive Medicine advises parents to be honest with their children. While the group’s reasoning is grounded in medical practicality—complete health histories help people get better health care—adoption research has shown that people have an inherent and healthy interest in their biological origins. “Secrets are not good for families,” says Mantell. “If someone tells a child that he looks just like his mom, and he sees his mom [who used a donor egg] cringe, he will know that she’s hiding something.”

When to tell, how to tell, and what to share? Do you go into the science of assisted reproduction? Do you say that you paid your donor or gestational carrier? Parents must deal with all these questions.

Some experts recommend starting these conversations as early as possible. When Janice Grimes worked as a nurse in an IVF clinic, she asked her colleagues how they advised parents to talk with their children about the way they were conceived. When she saw there was nothing written on the topic, she took matters into her own hands and published the *Before You Were Born...* book series (xyandme.com). Geared toward children between the ages of three and five, the books cover a range of scenarios, from a single dad who uses a donor egg and a gestational carrier to a mother and father who use a frozen embryo.

Grimes presents the concepts in easy-to-understand nuggets. In her book explaining donor eggs, she writes: “A special cell from

Mommy and a special cell from Daddy must join together to make a baby. The baby then grows in a safe place inside Mommy. Sometimes a Mommy might not have the special cell she needs. The doctor said there was a nice lady called a donor. She would give us one of her cells to help us make a baby.”

“It’s important to us that each child know his or her special story,” says Lisa Norton, who adopted two children from China, and conceived one child biologically and another with a donor egg. “But I hadn’t anticipated how difficult it would be to introduce the concept of donor eggs.” Norton “plunged in” with an explanation when her daughter was eight, but knows that more talks are in store. “On the eve of my daughter’s tenth birthday, she asked whether a particular trait came from me or my husband. I reminded her that I couldn’t have passed it on because she doesn’t have my genes. In a typically pre-teen way, she replied, ‘Oh, yeah, I knew that.’ Whew! We are not finished with this conversation, but at least we have begun.”

Plunging in and following your child’s lead may be the best way to talk about it, as there are no longitudinal studies or tried-and-tested talking points. “The answers to these questions are just beginning to be developed, and will be refined over time, with the same kind of trial and error that adoptive parents have been through, and with the same need for feedback from kids who have lived it,” says Mantell.

While finding the right words can be hard, Mantell believes that children are usually less conflicted by the topic than their parents are. She worked with a family who had two biolog-

“I wanted to experience pregnancy, so we decided on an embryo adoption (I do think of it as ‘adoption’). We have an open relationship with our boys’ genetic families, but our children were legally ‘ours’ from the time pregnancy was established.” —Julie Crainshaw

ical kids, as well as twins conceived using donor eggs. The mother felt they had to tell their kids, but her husband didn’t agree. After counseling, they agreed to tell their children, and the parents are now glad they did. “One of the children conceived from donor eggs had an intuitive sense that something was off,” Mantell says. “She didn’t look like her sisters.”

Tamara Bove feels that her triplets benefited greatly from watching the process of her twins being carried by and born to a gestational carrier. “My kids know that most people have babies in their belly, but that my

READ ALL ABOUT ART

An illustrated storybook can pave the way to explaining tough topics, like assisted reproduction, to young children. Read the books during storytime, or peruse them for conversation openers and suggested language.

> **The Kangaroo Pouch**, by Sarah Phillips Pellet (Trafford). A kangaroo offers to carry a baby in her pouch for a childless couple. The gestational carrier’s child narrates this tale.

> **Mommy, Was Your Tummy Big?**, by Carolina Nadel (MooKind Press). A mother elephant explains donor-egg reproduction to her child. Sweet language and warm watercolor illustrations round out this touching story.

> **A Tiny Itsy Bitsy Gift of Life**, by Carmen Martinez Jover (carmenmartinezjover.com). Two rabbits longing for a family are given a tirtly “seed.” They join it with the husband’s “seed” to grow their own baby bunny.

> **Hope & Will Have a Baby**, by Irene Celcer (Graphite Press; 4 titles). The books in this series share the same beginning and happy ending. Midway through each book, the author uses straightforward language to explain a different reproductive option.

> **Before You Were Born...**, by Janice Grimes (X, Y, and Me; 14 titles). A father (or mother) bear tells his child the story of her beginnings and birth. The simple dialogue, accompanied by scenes of everyday life in the bears’ house, helps normalize the discussion.

belly is broken,” she says. “For my kids, this is just the way we did it in our family. It feels perfectly fine and natural.”

Brisman says that the parents she has worked with in her practice have come to similar conclusions. “However you get your children, you love them,” she says. “At the end of the day, you don’t think about how hard it was to get them.”

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*names have been changed to preserve privacy.

Today, options for family formation extend beyond adoption. Advances in medical science offer intended parents a number of new pathways to parenthood. Some of these paths, such as sperm donation and traditional surrogacy, have long been in existence. Other procedures, such as egg donation, embryo transfer, and gestational surrogacy, are more recent developments in the field now referred to as “assisted reproductive technologies,” or ART. Just as it is important to understand the medical procedures involved in ART, it is equally necessary to appreciate the legal landscape upon which a family will be built.

Third-party material

In sperm donation, the intended mother is inseminated with sperm from a donor (who usually remains anonymous). Some states have laws that specify that a sperm donor is not the legal parent of a child conceived through artificial insemination. In other states, the law explicitly recognizes the husband of the intended mother as the child’s legal father.

If the intended mother is capable of carrying a pregnancy, the intended parents may use donor eggs, and, with the intended father’s sperm, participate in in-vitro fertilization (IVF). The resulting embryo is then transferred to the intended mother, who carries the pregnancy to term. Embryo transfer, sometimes referred to as embryo donation or adoption, occurs when intended parents make use of a cryo-preserved embryo that was donated by another couple. The donated embryo(s) may be transferred to the intended mother or to a gestational carrier.

As with sperm donation, state laws governing egg donation and embryo transfer vary. For instance, some specify that a woman who has donated an egg or a couple who has donated an embryo are not the legal parents of any resulting child. Other states recognize the woman who gives birth to a child conceived through ART as that child’s legal mother. In cases where state law does not specify parentage, the donor(s) and the intended parents should draw up a written agreement, in which the donor relinquishes any parental rights.

In any case where the genetic material of a third party is used in family building, it is important that each party be represented by his or her own attorney, and that everyone sign a written document specifying parentage. [Find an attorney experienced in ART at adoptionattorneys.org. Click on your state’s member directory and search for an attorney who lists assisted reproduction as a specialty.]

Carriers and surrogacy


The majority of today’s ART cases involve gestational surrogacy. In gestational surrogacy, a woman (the “gestational carrier”) carries an embryo that is not genetically related to her. The gestational carrier literally offers the use of her womb to carry a child for the intended parents. Generally,

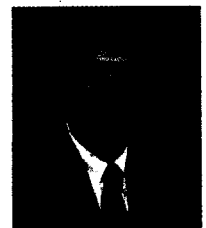
“We’re exploring assisted reproduction options to start our family, but we’re wondering about the legal ramifications. Will we need a lawyer? What laws would apply?”

the intended parents are also the genetic parents. An embryo created through IVF, with the mother’s egg and the father’s sperm, is transferred into the gestational carrier’s uterus. Alternately, the intended parents may use either a sperm or egg donor, or a donated embryo.

While some states have laws that establish parentage in gestational surrogacy cases, the majority do not. In many states, courts have accepted petitions to recognize the parentage of the intended parents. These petitions are usually filed pre-birth and must include an affidavit from the physician overseeing the procedure, attesting to the identity of the genetic parents. The resulting parentage order recognizes the intended parents as the sole legal parents of the child and will also state that the gestational carrier (and her husband, if she is married) is not a legal parent. Again, parents should work with an attorney experienced in assisted reproduction.

In contrast to gestational surrogacy, in traditional surrogacy, a surrogate is inseminated with sperm from the intended father. The surrogate provides the other half of the genetic material and carries the child to term. If the intended parents are married, the wife can adopt the child after birth through a stepparent adoption. Traditional surrogacy carries a number of inherent risks. First, the agreement between the surrogate and the intended parents is frequently not enforceable. If the surrogate gives birth and chooses to parent the child, the custody of the child will be disputed. Additionally, if the surrogate accepts compensation, the parties may run afoul of state adoption laws prohibiting the payment of monies to a birthmother.

Once you have a clear understanding of the legal ramifications of assisted reproduction, choose the route you’re most comfortable with, and know how your parentage will be recognized, you’ll be ready to embark on your family-building—and child-rearing—journey. 



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