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Sparking conversation among Jewish women

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By the Book



By the Book

What Jewish law has to say about the ultra-modern, ultra-confusing world of egg donation.

by **Richard V. Grazi, MD**

Egg donation can produce remarkable results, enabling women who had no alternative years ago to become pregnant fairly easily. But for the Jewish patient, the procedure raises a serious halakhic question: who is the child's mother? Is it the woman who carries the child for nine months in her uterus and gives birth to the child? Is it the woman who provides the egg with the genetic material for the child? Or does the child have two halakhic mothers?

The halakhic status of the donor and the recipient has crucial implications regarding the *Jewishness* of the child. If the donor has no halakhic status, it is irrelevant whether she is a Jew or a non-Jew. If the donor has some status, and if she is not Jewish, the child may be required to undergo a modified conversion that would include ritual immersion. This is for certain: the status of the egg donor remains halakhically unresolved.

Because the conversion process has become somewhat problematic in Orthodox circles, most rabbis who currently permit egg donation specifically request that the donor be Jewish. In this way, the halakhic status of the child as fully Jewish is unquestioned.

Finding an acceptable Jewish donor

One particularly difficult issue with making egg donation available to Jewish couples is finding Jewish donors. A common notion of those *posekim* (rabbis who make decisions in cases of law where previous authorities are inconclusive) who allow the procedure is this: The donor should not be someone who—were she to conceive naturally with the recipient's husband—would create a child that would be a *mamzer* (a person born of certain illegitimate relationships between two Jews). This means that the use of a sister of the recipient as an egg donor—a common practice in the secular world—is off limits to Orthodox couples. It also means that the donor must be single.

Another consideration is making sure that the donor herself is a Jew. In general, halakha reasons that if a person states that he or she is Jewish, the statement itself is sufficient to establish the fact. However, many rabbinic authorities today are concerned that, because of the way the Reform movement has defined Judaism (i.e. accepting patrilineal as well as matrilineal descent), it is preferable to have the donor state that her parents were both Jewish. Having the donor write this on her personal history form is sufficient. As a practical matter, Israeli women who state that their parents were married by the *rabbanut* are reliable in their Jewishness, as that government body will not marry couples if both husband and wife are not Jewish.

Avoiding marriage between half-siblings

The issue of disclosure is controversial. It is expected that many couples who conceive with the use of egg donation will never reveal to the child the circumstances of conception. When the egg donor is Jewish, this raises the possibility that the child may inadvertently marry a half-sibling, either a child produced through a subsequent donation by the same donor or a full biological child of the donor. For this reason, authorities who permit egg donation usually request that the recipient be provided with non-identifying medical and family history information about the donor.

The expectation is that such information will be useful when the child is ready to marry, hopefully ruling out for the recipient couple the remote possibility that the intended partner might be a halakhic relative. In New York State, donor and recipient records must be kept for 25 years, although matches are closely guarded and confidentiality cannot be broken. The very fact that there exists a potential for clarifying a situation of questionable *arayot* (individuals with whom sexual relationships are prohibited) is sufficient grounds for some authorities to discount this as a significant halakhic concern.

There is no question that assisted reproductive technologies, especially IVF, are with us for the long run and will continue to bring great benefit to the traditional Jewish community. With the details of treatment now fully explained, it is hoped that the community will attain a higher degree of comfort with the techniques that are employed. Although opinions on the use of this technology vary from *posek* to *posek*, it is a sign of how vibrant the halakhic process is that there continues to be an active and lively discussion of all matter relevant to assisted reproductive technology. With the passage of time, the newness of the current technology will eventually become routine, and consensus in the Torah-observant community will hopefully be reached.

[What do you think? Post your comment.](#)



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