When Science Aids Reproduction, Some Parents Wonder What It Takes to Be Jewish

Eight years ago, Rabbi Kenneth Brander, serving an Orthodox congregation in Boca Raton, Fla., was caught off guard by a parent's worried whisper to him before a circumcision.

"I just want you to know that this child is a product of an egg donation," Rabbi Brander recalled the parent confiding. "Are there any issues we need to deal with?"
"I coudn't even articulate the question, let alone process an answer," Rabbi Brander said. "I coudn't be the spiritual caregiver I wanted to be, because I didn't have any understanding of egg donations or reproductive physiology."

The experience of Rabbi Brander, now dean of the Center for the Jewish Furutre at Yeshiva University in New York, is not uncommon among the rabbis accross the country. Because Judaism traditionally holds that a child is Jewish if the mother is Jewish, parents fret about "Jewishness" of a child brought into the world via egg donation, surrogacy and other such steps. The worry, at least for some orthodox, is that the child may reach bar mitzvah age or want to marry or join a synagogue, only to be told that he or she is not really Jewish.

"Infertile couples come to a rabbi in anguish," Rabbi Brander said. "When you live in a family-centered community that celebrates children for perpetuating Jewish traditions, it adds to the anxiety." Fertility doctors also encounter this anguish. Donation agencies typically list a donor's religion, but Jewish donors are scarce. "Not only won't they be able to pass on their genes, but many feel a loss that they won't be able to fulfill an obligation to their heritage," said Dr. Alan Copperman, a reproductive endocrinologist at Reproductive Medicine Associates of New York.

Rabbi Brander's synagogue gave him a yearlong sabbatical, which he took in Israel studying Jewish law regarding reproduction and the latest reproductive technologies in Israeli hospitals. He came home with answers for his congregants, and he said he soon started receiving dozens of calls from other rabbis around the country. Since then, many Jewish writing and rulings have emerged on these issues. The vast majority of rabbis view the practice of egg donation leniently. Jewish law has turned out to be supportive, largely based on the biblical charge to "be fruitful and multiply."

"This is one of the Torah's prime directives, because it's the very first commandment given to Adam," said Dr. Miryam Wahrman, a professor in biology at William Paterson University of New Jersey who writes about bioethics and Judaism. "It has led to the sanctioning of virtually any technique that can help couples have babies."

"The implied flexibility of the Torah regarding assisted reproduction should not surprise us," Dr. Wahrman added. "After all, three out of four biblical matriarchs suffered frin infertility." The answer to the question of who passes of Judaism, the birth mother or the egg donor, varies among branches of Judaism. In Reform Judaism, the point is moot. "We determine who is Jewish much more by upbringing and commitment than by birth," said Rabbi Harry Danziger, president of the Central Conference of American Rabbis. In 1983, with mixed marriages on the rise, the conference resolved

that a child is presumed to be Jewish if one parent is Jewish, as long as the parents and child formally identify with Judaism.

Conservative Judaism clarified its position in 1997, when the Committee on Jewish Law and Standards of the Rabbinical Assembly took up to the question of surrogacy. "The sole position is that the religious status of the child follows that of the gestational mother in cases involving surrogacy and in all other cases," said Rabbi Joel Meyers, executive vice president of the Rabbinical Assembly. The assembly holds that children born to a non-Jewish surrogate would require conversion to be recognized as Jewish. In the Orthodox tradition, rabbis are split on the subject. They look to Halachic sources -- the Torah, Talmud and other Jewish texts -- for cases concerning maternal conversion, adoption, surrogacy and other issues and come to different conclusions. "It would seem from the Talmud that perhaps materniry is not just defined by the genetic gift, but by the nurturing process that happens within the fetal development." Rabbi Brader said. "Others say no, it should be defined simply by the genetic gift."

"Most Orthodox rabbis say using a Jewish donor egg is better, because then you don't have to worry about whether the donor is Jewish or not," said Rabbi Brander. "Some say you should use a non-Jewish donor's egg, so there will never be a concern about the child marrying someone who might be related to them." In practice, when the donor is not Jewish, most orthodox rabbis perform a conversion on the infant, just in case. There is a long standing tradition of infant conversion in cases of adoption. "On core matters of Jewish indentity, there's no harm in an unneeded conversion," said Rabbi Michael Broyde, a judge with the Beth Din of America, the largest American Orthodox rabbinical court. "It's good to clarify doubt by a simple mechanism."

Most traditional and not-so-traditional Jewish families choose to search for a Jewish donor. Ruth Tavor, director of NY LifeSpring, a manhattan agency specializing in Jewish egg donors from Israel, said only about a third of her clients came from Orthodox families. "It's very important all of them to make sure the child has that connection to Judaism," Ms. Tavor said. These days, many more rabbis have studied reproductive technologies in the context of Jewish law, and, like Rabbi Brander, can offer comfort to their congregants.

"We can tell them: 'Don't worry. You can embrace the gift of science, which is a gift from God, without having to worry about the issue of your child being Jewish,' " Rabbi Brander said. "And celebrate that Judaism can embrace this with enthusiasm."