

# Octuplet Case Spawns Bills to Limit Implants

Associated Press  
March 8, 2009

1. Lawmakers in two states, outraged by California's "octomom," are seeking to limit the number of embryos that may be implanted by fertility clinics.
2. The legislation in Missouri and Georgia is intended to spare taxpayers from footing the bill for women having more children than they can afford.
3. But critics say the measures also would make having even one child more difficult for women who desperately want to become mothers.
4. "What they are proposing is a cookie-cutter, one-size-fits-all approach," said Dr. Andrew Toledo, medical director of the Atlanta-based Reproductive Biology Associates. "Not every couple and not every patient is the same."
5. Infertility doctors argue that decisions on how many embryos to transfer should be left up to medical experts familiar with a patient's individual circumstances.
6. Debate has raged since Nadya Suleman gave birth to octuplets in Bellflower, Calif., on Jan. 26. She has six other children, lives in her mother's three-bedroom home and has relied on food stamps and disability income to provide for her family.
7. "It's unforgivable," said Ralph Hudgens, a state senator who is sponsoring the Georgia bill. "This woman already has six children. She's unemployed, and she's going and having 14 children on the backs of the taxpayers of the state of California."
8. Hudgens, a Republican, has proposed legislation that would allow no more than two embryos to be implanted at any one time in a woman younger than 40. For women older than 40, the legislation would limit the number of embryos to three to account for increased difficulty getting pregnant.
9. Supporters say the measure is needed to rein in baby-making businesses mainly concerned with success rates and profit.
10. Supporters say the bill would cut down on the number of unused embryos. But opponents argue that would severely limit the options of women paying \$10,000 to \$15,000 for each fertility cycle.
11. In Missouri, a bill seeks to enact guidelines from the American Society for Reproductive Medicine. The guidelines include a recommended number of embryos that should be implanted in a woman based on her age and prognosis for a successful pregnancy.
12. In most cases, the society calls for two or three embryos, though women older than 40 could be implanted with up to five.
13. "It's just not a good thing to be having that many multiple births if you can avoid it," said Missouri state Rep. Rob Schaaf, a family physician who sponsored the bill. "I'm just simply saying keep the risk down."
14. The legislative efforts concern Bernita Malloy, a federal prosecutor in Atlanta who said she would not have been able to have her 20-month-old daughter, Makenzie, under the proposed law. It took 25 eggs and three in-vitro cycles for her to conceive one child.
15. "They are legislating based on a knee-jerk reaction," Malloy said. "What they don't get is every embryo doesn't make a baby."

16. Legal experts say limiting a woman's right to procreate raises constitutional concerns.
17. "I think it raises huge legal questions," said Ruth Claiborne, an Atlanta lawyer specializing in family law and infertility issues. "There are individual legal interests in procreation, and I think you would almost certainly see this challenged [in the courts]."
18. The ASRM guidelines are not binding, but doctors answer to state licensing boards.
19. Toledo said reproductive specialists are being tarnished by the actions of the doctor in California who implanted Suleman with six fertilized embryos. She went on to have octuplets after two of the embryos apparently split.
20. The Medical Board of California said last week that it was looking into the Suleman case to see whether there was a "violation of the standard of care."

<http://www.chicagotribune.com/topic/bal-te.octuplets08mar08,0,5253251.story>

## **In Vitro Fertilization**

From *Wikipedia*

1. In vitro fertilization (IVF) is a process by which egg cells are fertilized by sperm outside of the womb, in vitro. IVF is a major treatment in infertility when other methods of assisted reproductive technology have failed. The process involves hormonally controlling the ovulatory process, removing ova (eggs) from the woman's ovaries and letting sperm fertilize them in a fluid medium. The fertilized egg (zygote) is then transferred to the patient's uterus with the intent to establish a successful pregnancy.

### **Method**

#### **Ovarian stimulation**

2. Treatment cycles are typically started on the third day of menstruation and consist of a regimen of fertility medications to stimulate the development of multiple follicles of the ovaries. In most patients injectable gonadotropins (usually FSH analogues) are used under close monitoring. Such monitoring frequently checks the estradiol level and, by means of gynecologic ultrasonography, follicular growth. Typically approximately 10 days of injections will be necessary. Spontaneous ovulation during the cycle is typically prevented by the use of GnRH agonists or GnRH antagonists, which block the natural surge of luteinizing hormone (LH).

#### **Egg retrieval**

3. When follicular maturation is judged to be adequate, human chorionic gonadotropin (hCG) is given. This agent, which acts as an analogue of luteinizing hormone, would cause ovulation about 42 hours after injection, but a retrieval procedure takes place just prior to that, in order to recover the egg cells from the ovary. The eggs are retrieved from the patient using a transvaginal technique involving an ultrasound-guided needle piercing the vaginal wall to reach the ovaries. Through this needle follicles can be aspirated, and the follicular

fluid is handed to the IVF laboratory to identify ova. It is common to remove between ten and thirty eggs. The retrieval procedure takes about 20 minutes and is usually done under conscious sedation or general anesthesia.

## **Fertilization**

4. In the laboratory, the identified eggs are stripped of surrounding cells and prepared for fertilization. In the meantime, semen is prepared for fertilization by removing inactive cells and seminal fluid. If semen is being provided by a sperm donor, it will usually have been prepared for treatment before being frozen and quarantined, and it will be thawed ready for use. The sperm and the egg are incubated together (at a ratio of about 75,000:1) in the culture media for about 18 hours. In most cases, the egg will be fertilized by that time and the fertilized egg will show two pronuclei. In certain situations, such as low sperm count or motility, a single sperm may be injected directly into the egg using intracytoplasmic sperm injection (ICSI). The fertilized egg is passed to a special growth medium and left for about 48 hours until the egg has reached the 6-8 cell stage.

## **Selection**

5. Laboratories have developed grading methods to judge oocyte and embryo quality. Typically, embryos that have reached the 6-8 cell stage are transferred three days after retrieval. In many American and Australian programs, however, embryos are placed into an extended culture system with a transfer done at the blastocyst stage at around five days after retrieval, especially if many good-quality embryos are still available on day 3. Blastocyst stage transfers have been shown to result in higher pregnancy rates. In Europe, transfers after 2 days are common.

## **Embryo transfer**

6. Embryos are graded by the embryologist based on the number of cells, evenness of growth and degree of fragmentation. The number to be transferred depends on the number available, the age of the woman and other health and diagnostic factors. In countries such as the UK, Australia and New Zealand, a maximum of two embryos are transferred except in unusual circumstances. In the UK and according to HFEA regulations, a woman over 40 may have up to three embryos transferred, whereas in the USA, younger women may have many embryos transferred based on individual fertility diagnosis. Most clinics and country regulatory bodies seek to minimize the risk of pregnancies carrying multiples. The embryos judged to be the "best" are transferred to the patient's uterus through a thin, plastic catheter, which goes through her vagina and cervix. Several embryos may be passed into the uterus to improve chances of implantation and pregnancy.

## **Complications**

7. The major complication of IVF is the risk of multiple births. This is directly related to the practice of transferring multiple embryos at embryo transfer. Multiple births are related to increased risk of pregnancy loss, obstetrical complications, prematurity, and neonatal

morbidity with the potential for long term damage. Strict limits on the number of embryos that may be transferred have been enacted in some countries (e.g., England) to reduce the risk of high-order multiples (triplets or more), but are not universally followed or accepted. Spontaneous splitting of embryos in the womb after transfer can occur, but this is rare and would lead to identical twins. A double blind, randomized study followed IVF pregnancies that resulted in 73 infants (33 boys and 40 girls) and reported that 8.7% of singleton infants and 54.2% of twins had a birth weight of < 2500 g. However recent evidence suggest that singleton offspring after IVF is at higher risk for lower birth weight for unknown reasons.

8. Another risk of ovarian stimulation is the development of ovarian hyperstimulation syndrome.
9. If the underlying infertility is related to abnormalities in spermatogenesis, it is plausible, but too early to examine that male offspring is at higher risk for sperm abnormalities.

### **Birth defects**

10. The issue of birth defects has been a controversial topic in IVF. Many studies do not show a significant increase after use of IVF, and some studies suggest higher rates for ICSI, whereas others do not support this finding. In 2008, an analysis of the data of the National Birth Defects Study in the US found that certain birth defects were significantly more common in infants conceived with IVF, notably septal heart defects, cleft lip with or without cleft palate, esophageal atresia, and anorectal atresia; the mechanism of causality is unclear.
11. Japan's government prohibited the use of in vitro fertilization procedures for couples in which both partners are infected with HIV. Despite the fact that the ethics committees previously allowed the Ogikubo Hospital, located in Tokyo, to use in vitro fertilization for couples with HIV, the Health, Labour and Welfare Ministry of Japan decided to block the practice. Hideji Hanabusa, the vice president of the Ogikubo Hospital, states that together with his colleagues, he managed to develop a method through which scientists are able to remove the AIDS virus from sperm.

Source: <http://en.wikipedia.org/wiki/IVF>  
Retrieved on March 31, 2009

## **Limiting Reproduction**

By Adam Pertman and Naomi Cahn  
*Chicago Tribune*  
February 25, 2009

1. Hard on the heels of the sensational story of Nadya Suleman—the California woman who has added octuplets to her family of six children—comes the news that a 60-year-old woman recently gave birth to twins in Canada.
2. So we are reminded yet again that doctors are getting better and better at delivering what, in years past, would have been reasonably described as miracles. And important questions are

being asked as a result, such as: Is it responsible for a woman to bear children regardless of her age or the number of babies involved? Is it ethical for fertility clinics to facilitate a paying customer's pregnancy simply because they know how?

3. To that mix, here's one that's equally controversial: Is it time for federal and state governments to consider legal rules and boundaries for the fertility industry? A new research-based report by the Evan B. Donaldson Adoption Institute, "Old Lessons for a New World," suggests that the answer may finally be "yes."
4. The report points out that adoption and assisted reproductive technology have much in common as "nontraditional" means of forming families, and that adoption's far-longer history of research, experience and evidence-informed policies therefore could help to improve practices in the world of assisted reproduction.
5. The report's recommendations include such applicable adoption issues as the problematic effects of secrecy, the need for a child-centered focus and the impact of market forces. Most pointedly, the Donaldson Institute suggests that the legal and regulatory framework for adoption provides a model that assisted reproductive technology could utilize.
6. Thoughtful guidelines on a broad range of activities in assisted reproductive technology—how many embryos should be implanted, how much egg donors should be paid, etc.—already have been promulgated, and there is every reason to believe most clinics try to adhere to these identified "best practices." For example, the American Society for Reproductive Medicine recommends that a physician place no more than two embryos in a woman under age 35 (Ms. Suleman is 33). Children in multiple births are far more susceptible to grave problems such as cerebral palsy, respiratory illness or even death. And late-age pregnancies can also be detrimental to the women who experience them; the 60-year-old Canadian woman, Ranjit Hayer, now has diabetes and high blood pressure as a result of her pregnancy, which she achieved by traveling to India for in vitro fertilization because Canadian doctors deemed it unethical to treat her.
7. The organizations working to promote good practices deserve credit for their efforts and their successes. But their guidelines are not mandatory, and as the evidence before our eyes clearly shows, not everyone in any industry—including adoption—follows voluntary standards.
8. As the current economic crisis vividly demonstrates, it's not always sufficient to let the free market reign and hope everyone does the right thing; sometimes, laws have to be enacted to reduce the possibility of abuses, promote and regulate ethical behavior, and protect everyone involved.
9. Artificial reproductive technology, like adoption, has provided enormous comfort to people who want families. There are more than 400 fertility clinics in the U.S.; the government estimates that 10 percent of American women have received some kind of infertility services; and more than 50,000 children may be born annually through assisted reproductive technology. So this is no small population that needs the attention of our nation's policymakers.
10. Other nations have imposed legal limits on various aspects of artificial reproduction practice. Those, along with the Donaldson Institute's recommendations and the existing professional guidelines, provide a strong basis for debating and shaping laws and regulations in our country.
11. Let's not wait until the headline reads: "Woman, 82, gives birth to 10."

<http://www.chicagotribune.com/topic/bal-op.adoption25feb25,0,4575069,print.story>

# Eight Is Enough

By Patricia J. Williams

*The Nation*

February 11, 2009

1. For some years now, the biotechnology of fertility enhancement has been exalted as God's gift to the biblically barren. A relentless narrative of entitlement intertwined with prayerfulness has framed infertility as a tragedy, an oppression, an agony, a disease. Some have proclaimed a "right" to a "natural," biologically related child, a child "like me." Unusually large Middle American families—some with up to eighteen children—are offered movie deals and television programs.
2. Against the backdrop of a cold, impersonal and lonely world, these well-feathered and overly populated nests look villagey and warm. It's an undeniably seductive vision, even if other options like adoption and fostering are almost never mentioned. Also less discussed are the side effects of this mad race for biological generation at all costs: the likelihood of multiple births, low birth weight and birth defects; the ethics of using poorer women as fetal hatcheries; the health risks to young women who have their "Ivy League" eggs extracted for handsome sums of cash.
3. There are loads of good reasons to think about regulating these medical procedures; we should have come up with something other than a "free market" for them years ago. But now, with the birth of Nadya Suleman's octuplets in Bellflower, California, we are confronting a perfect storm of eugenic outcry. With a plunging economy, all the well-rehearsed elements of the "undeserving" welfare queen are lined up: Suleman is single, disabled, unemployed, on food stamps and has six other children under the age of 8, one of whom is reportedly autistic. She lives in a matchbox-size house with her resentful parents, who think she's insane. Toss in that funny, foreign-sounding name—which turns out to be, gasp, Iraqi!—and the backlash is in full swing.
4. No doubt Suleman has emotional problems. But rather than caring about her mental health, much of the media are content to pillory her as a drain on the public dole—selfish, frivolous, calculating and cruel. No Brangelina-style accolades of "God Bless 'Em" in *People* magazine. Just impassioned calls to cut off her remaining sources of income and to criminally prosecute the doctor who fertilized her. The *Atlanta Journal-Constitution* even ran an op-ed calling for the government to appoint a legal advocate for every child born to an unmarried woman, since the "lack of a father's guidance" must be "a major cause of [children's] suffering." Furthermore, in the case of Suleman's children, "the legal advocate would file suit against the fertility clinic or a physician who knowingly contributed to their abuse—life in a multiple-child household headed by a single woman."
5. Nadya Suleman's saga, in other words, has highlighted a deep cognitive dissonance about whether children are "assets" or eternal expenditure, divine joy or devilish curse in a time of dwindling planetary resources. When I first heard of Suleman, my immediate thought was of Andrea and Rusty Yates—married, fundamentalist Christian believers in that ubiquitous story line about going forth and multiplying no matter what. After caring for and home-schooling five very young children with no assistance but prayer, and with accumulating signs of postpartum psychosis, Andrea Yates woke up one morning and drowned all her children with quiet efficiency.

6. And so the specter of psychotic breakdown haunts me when I think of the Suleman abode: one autistic child, plus 2-year-old twins, plus four other kids ages 3 to 7, plus eight newborns ranging from one to three pounds, plus a grandfather who has gone back to Iraq to earn more money for the family, plus a grandmother furious at the medical professionals who "assisted" her daughter, plus a surreally chipper Nadya, who despite the miserable odds remains enrolled as a graduate student in, of all things, pediatric counseling. This situation is undeniably sheer madness, but the public discussion seems fixated on the question of whether she can "afford" so many kids, as though if she was rich, this would be sane.
7. This past fall *The New York Times Magazine* ran a cover story by Alex Kuczynski, fashion writer and self-confessed "cosmetic surgery addict." Her wish to have a child was framed by fierce determinism, the "natural outgrowth" of marriage to her husband—without whom she "would skip the child." Kuczynski is married to a man whose "sperm had a track record"—six other children by two prior wives. She, the third bride and twenty years her husband's junior, described herself as engaged in nothing less than a "battle for my fertility"; having a biological child was "necessary," a "mad desire," a "compulsion" and "proof" of the marital bond, without which she faced "wrecked hopes" and an "abyss of grief." Indeed, to die "without having created a life is to die two deaths: the death of yourself and the death of the immense opportunity that is a child." When she thinks she's pregnant, she feels a "shiver of victorious accomplishment.... my own fecundity triumphant." When she tells people she's not, she feels "barren, decrepit, desexualized," "branded with a scarlet 'I' for 'Infertile,'" "the dried-up crone with a uterus full of twigs."
8. Just because Kuczynski is married and wealthy does not make her less obsessive or more profound than Suleman. Kuczynski sounds like a sad, silly child mooning over "fertile but fit" stars like Halle Berry, Nicole Kidman, Salma Hayek and "John Edwards's sometime mistress," who all had babies in their 40s. Likewise, Suleman takes heart looking at Angelina Jolie. Suleman and Kuczynski represent disturbing emotional extremes. But that should not excuse the rest of us from examining the oppressive competitive natality that seems to have gripped us—the fantasies of "baby bumps" and breeding, always breeding, yet more of "our kind." Our culture's antifeminist backlash and its unrealistic aspirations have bewitched Kuczynski and Suleman, these two young women who are so addled and so suggestible, so endowed and yet so impoverished. All these years after the age of "liberation," perhaps it is time to revisit the myths we still concoct about childless women's worth.

<http://www.thenation.com/doc/20090302/williams>