

The Human Egg Trade

By Alison Motluk · Illustration by Emily L. Eibel

In the spring of 2006, Heather Cox got an unexpected phone call from a Toronto fertility clinic. Three years earlier, she had donated eggs anonymously to a gay couple through the clinic. Now the same couple wanted a full sibling for their child. Would she consider providing eggs again?

She hesitated. Her first experience had been extremely unpleasant. A few days after the eggs were retrieved, her abdomen had filled with fluid. “I looked nine months pregnant,” she says. After fainting in the shower, she called the clinic, and they advised her to come back in to have the fluid drained. She did, but it took a full week before she felt better.

The clinic, CReATe Fertility Centre, called her during her recovery. They wanted to know if she had a telephone number for her cousin, who had also been a donor, and whom they wanted to ask to donate again. Cox couldn’t help them. “Well, would *you* be interested in donating again?” she recalls them asking. She said no.

This latest request, however, felt different. There was a child out there who had resulted from her egg, and she alone could help that child have a full genetic brother or sister. “I sympathized,” she says. “I only have one full-blooded sibling.” She agreed to do it, but with conditions: the eggs were to be used only by this one couple, and the clinic was to take extra care so she didn’t end up producing so many eggs that she got sick again. She also made it clear that this would be her last time donating.

At the time, Cox was twenty-five years old, a massage therapy student and competitive kick-boxer with strawberry blond curls and enormous green eyes. She wasn’t in a relationship and hadn’t had any children of her own. She had first learned about donation when her cousin had given eggs to a friend of her mother’s in 2000. Her cousin had gone on to donate several more times over the years. Even her mom had donated eggs once, when a cycle of in vitro fertilization produced more than she could use.

For her first donation, Cox had requested \$5,000, but this time she asked for \$7,000. For one thing, she was now what’s known as a “proven” donor, because a healthy child had resulted from her egg. She had also heard from her mother’s friend, who had received her cousin’s eggs, that \$7,000 was a fair rate.

The following year, on a summer break between her coursework and her certification exam, she began injecting herself with fertility drugs in preparation for the second donation. Stimulating her ovaries to produce many more than the usual single egg per month would give the couple plenty of eggs, increasing the odds that a pregnancy would result. The first drug she took was to shut down her reproductive system; the second stimulated egg growth. She was given the final drug, the “trigger shot,” about thirty-six hours before the retrieval, prompting the eggs to ripen fully.



On the morning of August 17, 2007, she went in to have the eggs retrieved. She was lightly sedated, and the physician used an ultrasound-guided aspiration needle to pierce through the vaginal wall and up into her ovary. The needle was inserted into the follicles and the contents—some fluid and, with luck, an egg—gently sucked out into a test tube. Her ovaries were extremely swollen, however, and one had come to rest below the other, blocking the needle's path, so only about half of the thirty-odd eggs that had ripened could be harvested. The procedure lasted less than half an hour. Shortly after, while she recuperated in a lounge chair in the recovery room, a staff member came by with the cheque.

The logistics of donating were much the same as they'd been years earlier. But since Cox's first retrieval, the legal landscape for egg donation in Canada had changed dramatically. A long-awaited law, the Assisted Human Reproduction Act, had come into force in April 2004, expressly outlawing the purchase of human eggs. Technically, anyone involved in such a transaction, including doctors and parents, could now be fined \$500,000 and be jailed for up to ten years.

In reality, however, the law had done little to stop Canadians from buying human eggs. If anything, with women waiting longer than ever to start their families and gay men increasingly interested in having children, demand had gone up and the market had grown. The law, such as it was, simply forced the activity underground, with unintended and undesirable consequences. Fertility specialists, lacking official guidance from the government, began drawing their own boundaries. Patients had only doctors to rely on for advice. Worst of all, donors became part of a shadow economy, aware they were part of something vaguely illicit and therefore reluctant to come forward when something went wrong. The rare woman who did speak up risked being made the scapegoat of the whole under-the-table arrangement—as Heather Cox was to learn.

The Assisted Human Reproduction Act was supposed to make fertility medicine safer. In 1989, Canada convened the Royal Commission on New Reproductive Technologies, which spent four years and \$28 million investigating how best to harness developments like in vitro fertilization, prenatal genetic diagnosis, and research on embryos. Its report, *Proceed with Care*, was released in November 1993. Regarding payment for eggs, the commission was unequivocal: it was “never acceptable.”

The recommendation was in keeping with Canadian practices for other body products, such as blood and organs, and followed from an ethical position that offering money for a kidney or a lobe of a liver—or an egg—might persuade some people to offer them up without thinking through the consequences. The potential for exploitation, it was felt, was too great.

More than a decade went by between the royal commission report and the passing of the legislation, and the process was in some ways atypical. Usually, a law-in-progress is scrutinized by a Commons committee only after it has been fully drafted, but because reproductive technology was so controversial, then minister of health Allan Rock simply handed the Commons health committee some draft proposals and asked it to take the pulse of the nation.

Committee members heard reams of testimony and argued bitterly among themselves. Some MPs, such as committee chair Bonnie Brown, sought to protect women and couples from the industry itself. She voiced particular concern for egg donors, at one point asking a fertility doctor, “Is there any other medical procedure that you know where either males or females ingest drugs for the purpose of preparing them for an invasive procedure during which something is removed from their body for which they are paid money?” Others, such as Liberal MP Carolyn Bennett, saw parents' needs as the highest priority. Many witnesses argued that donors would not come forward unless they were compensated, and that a shortage would result. This was especially likely in egg donation, they said, which, unlike sperm donation, involved much more than a trip to a private room with a girlie magazine.

Ultimately, the law reflected the royal commission's concern, stating, “No person shall purchase, offer to purchase or advertise for the purchase of sperm or ova from a donor or a person acting on behalf of a donor.”

In the years since the act was passed, however, Canada has found itself in the uncomfortable position of banning the

purchase of gametes in principle but not in practice. Other countries, such as the United Kingdom, also ban their purchase but have strict enforcement provisions backing the ban. The Canadian law, by contrast, was never completed. The sections dealing with prohibited activities, like the sale of eggs, are done and in force, but certain parts, dealing with activities that are allowed but “controlled”—including the reimbursement of donor expenses—can’t be proclaimed until regulations are produced setting out the details of how the system will work. Those regulations are still pending six years later.

The unproclaimed sections of the law suggest that reimbursement will only be permitted for very specific expenses and by people expressly licensed for the purpose. However, without the regulations, the various players have been left to interpret the law on their own. Some would-be parents travel to countries where eggs can be legally purchased. Of those who stay in Canada, some still employ egg donors but rely on the grey areas in the law. The \$7,000 Heather Cox was paid for her second donation, for instance, was called a reimbursement for concrete expenses—even though, according to her, she negotiated the fee up front and was never asked to provide receipts.

Another option, which takes advantage of the open market for eggs in parts of the United States, has also gained favour. Instead of finding donors through Canadian clinics, many parents work with US-based agencies, which match them up with young women—mostly American but some Canadian—who fly in days before the retrieval, their ovaries already ripe with eggs. Because the money has gone through a legitimate agency ostensibly outside the jurisdiction of Canadian law, this tactic has become, for many, the preferred solution to the domestic ban.

Shortly after “Ania” and her husband got married in 1998, they discovered that he was azoospermic, producing no live sperm at all. Initially, they assumed Ania’s eggs were fine, but after perhaps a dozen artificial inseminations, a miscarriage, and a failed attempt at in vitro fertilization, they realized she was infertile, too. The Toronto-area couple decided to adopt instead, and soon became parents for the first time.

Two years later, they were on track to adopt a second child when, just days before the baby was expected to be born, the arrangement fell through. They were devastated. “I thought, ‘I can’t go through something like that again,’” Ania says. So they began to focus on using donor eggs and sperm to conceive.

Ania started calling clinics in January 2008 and was struck by the inconsistencies she encountered. “No two were the same,” she says. One clinic said it didn’t have access to donor eggs. Another had clients willing to “share” their eggs in return for a reduced fee. Another told her they could connect her with a paid donor in Canada, explaining that they had been “grandfathered in” under the new law. And others advised her to arrange for donor eggs through agencies based in the United States.

She understood that these agencies were essentially a way to get around the law, but she didn’t feel she was actually breaking it. “It’s basically circumventing,” she says. She would pay the agency, and the agency would pay the egg donor; all the money changed hands elsewhere. Egg donation itself was not illegal, only the purchase of eggs, so she understood that the donor could fly in and have the eggs extracted here without risking a violation of the ban.

Sherry Levitan, a Toronto lawyer who specializes in what’s commonly referred to as third-party reproductive law, says the legality of using an out-of-country agency to help commit an act that is illegal in this country isn’t quite so clear. It would ultimately come down to how a judge interpreted the transaction—whether there was a purchase and where it was deemed to have happened. But none of the clinics Ania spoke with raised this risk. “They didn’t mention anything about the legality at all,” she says. “They just said, ‘We do it.’”

The Canadian Fertility and Andrology Society, which provides leadership in the field of reproductive medicine, insists that no Canadian clinic would knowingly work with paid donors, regardless of where they were paid. Roger Pierson, a professor at the University of Saskatchewan and spokesperson for the cfas, says that when Canadian fertility doctors find out a donor is being paid for more than just expenses, they’re obligated to cancel the cycle. “There’s no clinic in the country that would do that procedure with a paid donor,” he told me, adding that, unfortunately, sometimes donors and couples don’t tell the truth.

That wasn't Ania's experience. She and her husband had no trouble finding clinics happy to work with paid donors. They first went through ReproMed, a Toronto clinic, which put them in touch with an agency called Our Fairy Godmother, run out of Naples, Florida, by a Canadian woman named Cathy Ruberto who had been ReproMed's clinical director for fifteen years. She had been a witness during the drafting of the ahr Act and had argued strongly that without payment there would be no donors. The year the law was passed, she left the country and set up her agency south of the border.

She found Ania and her husband a potential donor, whose eggs they were to share with another couple. According to the invoice, their portion of the cost for the donor cycle was to be \$2,500 (US). "We were paying for the services," Anic explains, "not the ova themselves," pointing out that they would be charged regardless of whether any eggs resulted. Officially, the payment was called a reimbursement, but it was clearly not to cover, for example, legal fees, a psychological consultation, accidental health insurance, cycle monitoring, airfare, a hotel, a thank-you gift, meals, or even miscellaneous expenses, as each of these was itemized separately on the same bill. The invoice was for a total of \$12,287.75 (US).

In the end, Ania decided not to proceed with Our Fairy Godmother, switching to another agency and another clinic. She ended up at CReATe, the same clinic where Cox had donated. The director there, Dr. Clifford Librach, had told her that CReATe would work with whomever she wanted, but that it had a long-standing working relationship with the International Assisted Reproduction Center, an agency in Maple Grove, Minnesota. He showed Ania a sample donor profile, which gave extensive details about current health, family health history, educational background, hobbies, and appearance, and even a personal message to the parents.

After a careful search, she and her husband selected a young woman who iarc said was very reliable and had flown up to Canada before. All went according to plan, and the couple welcomed a new child into their home in 2009. Both iarc and CReATe, she says, were extremely professional and compassionate. But she resents the quagmire she had to navigate, which she says only adds to the hardship already faced by infertile couples.

Edward Ryan, a fertility doctor at Toronto West Fertility Center, casts the current system as "really ridiculous," and says, "The government has forced patients to use agencies in the States so that legally we can do what we have to do." He adds that it's completely unrealistic to expect altruism alone to motivate women to inject themselves with drugs, have half a dozen vaginal ultrasounds, and undergo a medical procedure that will require time off work. Doctors have patients who want donor eggs, and they know there are women out there who are willing to donate them for compensation. But for the moment, he says, they feel they have no choice but to go ahead with the charade. "There's nothing to say that we can't use donated eggs as long as they're presumed altruistic," he says. "We presume to think that it's all being done for free, but obviously it's not. It makes it uncomfortable for us. Patients ask, 'What does it cost?' We don't know, because we don't want to know. Please—don't tell us."

Canada does have a federal agency to administer and enforce the law, funded to the tune of \$10 million a year. Assisted Human Reproduction Canada (ahrc, pronounced "arc"), formally established in January 2006, is headquartered in Vancouver, with offices in Ottawa. In the absence of regulations, the organization has become a bit of a farce—an "agency set up to do nothing," in MP Carolyn Bennett's words.

The organization finds itself unable or unwilling to answer basic questions about the law. Sherry Levitan, the Toronto lawyer, recalls that at the 2008 annual meeting of the Canadian Fertility and Andrology Society, during what was supposed to be an educational session led by ahrc and Health Canada, both bodies declined to answer a direct question from Dr. Librach about whether or not receipts were necessary for reimbursement of egg donors. Representatives from the two agencies passed the question back and forth, and no one answered clearly. "They played pinball," Levitan says. She ultimately took it upon herself to offer a response, saying that at present there was no such requirement. Later in the meeting, Elinor Wilson, the president of ahrc, told Dr. Librach she'd answer "offline."

Dr. Tom Hannam, who heads the Hannam Fertility Centre in Toronto and was present at the session, laments the uncertain state of affairs. "I'm a law-abiding citizen in a respectable field," he says. "I'm many layers away from feeling

that I should be threatened with going to jail.” He adds that the system actually provides a disincentive for cautious doctors like himself to work with donors, potentially leaving it to others who are less wary. And the more time that goes by without regulation and enforcement, the more of a free-for-all the industry is becoming. “We are drawing lines arbitrarily, according to our own risk aversion,” says Hannam. “And that line has been shifting, because people do things and nothing happens.”

Wilson, for her part, denies knowledge of widespread paid egg donation in Canada. “I do not know that a lot of this is going on in the country,” she told me in her Ottawa office last June. “It’s anecdotal. You know, what you hear on the street.” She said she simply didn’t have “solid numbers about the extent” of paid egg donation or other activities; this suggests that until the exact numbers are pinned down there’s nothing ahrc can do.

Solid numbers would indeed be hard to obtain. But it takes only a couple of hours and a few phone calls to establish that purchasing eggs is a common practice for Canadians undergoing fertility treatment. Ruberto, for instance, says that last year Our Fairy Godmother coordinated about 135 donations in Canada, most of them in Ontario, where there’s a concentration of fertility clinics. About a third of those donors were Canadian women, she says. iarc told me that it has arranged roughly 225 Canadian-based donations over the past three years. In addition, online marketplaces such as Craigslist and Kijiji routinely feature Canadian couples looking for eggs and Canadian women proffering them. They don’t mention money, but neither do they usually emphasize altruistic motives.

Then there are the donor blogs. In one, a young woman named Sonja, who lives in Washington State, chronicles in detail her six egg donations, all in Canada, between March 2007 and June 2009. The first, she told me, was at CReATe, while the rest were at the Markham Fertility Centre, north of Toronto. Interestingly, what worried her most before her first donation was not the procedure itself but the border. “Getting through immigration was a little stressful,” she writes. “I was told that they would ask for my reason for coming to Canada and that I should say ‘medical treatment.’” She had a letter from the clinic supporting that story, just in case, but in the end she didn’t need it. Each time, she confirmed with me, she got to name her compensation, which started at \$3,000 and rose to \$6,000 by the end.

Canadian donors, too, are travelling around the country to provide eggs. One woman I spoke with has twice been asked to fly from Toronto to Victoria, though she turned down both offers because the compensation wasn’t high enough. “I would like to say something romantic,” she told me, “but it really is the money.” Another woman has flown from the Maritimes to Ontario more than once to donate.

These cases may be anecdotal, as Wilson asserts, but, combined with the numbers from American agencies, they confirm that purchases are indeed taking place. And as the market has moved underground, the risks have arguably increased. In this situation, Hannam says, “donors are so vulnerable.”

In the recovery room just minutes after her second donation, Heather Cox started to feel a growing ache in her abdomen. “I’m pretty tolerant of pain,” she says. “In sports, you get hurt a lot.” But this pain became worse than anything she’d ever experienced. When she started to squirm, one of the other two donors in the room—an American woman who’d earlier claimed she was being paid \$15,000—alerted the nurse.

Medical personnel took Cox back to an ultrasound room, where she was examined by a nurse and an ultrasound technician, and later by the doctor. She was given painkillers, she recalls, and discharged. Her sister met her in a waiting room and helped her walk outside, where they waited for their grandfather, who’d been circling the block to avoid parking fees. The three drove the thirty minutes home to Oakville.

Cox managed to fall asleep that night, but the pain woke her several times, and by the next morning it was unbearable. She asked her sister to take her to the nearest hospital. There, the ER staff gave her morphine, contacted CReATe, and arranged for her to be transferred by ambulance late that night to Women’s College Hospital in Toronto, just around the corner from the clinic.

Of particular concern was a complication known as ovarian hyperstimulation syndrome, a condition in which plasma

seeps out of the blood vessels that have been supplying the engorged, hyperstimulated ovaries, and collects in the abdominal cavity. ohss is essentially an inflammatory response gone awry; diagnosing it can be a challenge. Serious cases need to be monitored closely, because they can result in kidney failure, breathing difficulties, rupture of the ovary, a blood clot, even death. It's not known what percentage of donors experience the syndrome, because their young age and the high number of eggs typically retrieved puts them at increased risk, but doctors say about 1 percent of all women undergoing ovarian stimulation will suffer it.

Cox was aware of the risk: not only had she been informed of the possibility of ohss before her donations, she had suffered from it following the first one. Though she'd made it a stipulation of her second donation that extra care be taken to prevent it from happening again, the fact that she'd experienced it once made a recurrence more likely.

The day after being admitted to Women's College, she was taken by wheelchair to CReATe, where excess fluid was once again drained from her abdomen. According to hospital records, she was retaining fluid and gaining weight—symptoms indicative of ohss. She was discharged after four days, with a primary diagnosis of “post-retrieval pain” and mild ohss, and although the discharge notes say that “her pain resolved over the course of her stay,” the clinic sent her home with a supply of the narcotic oxycodone.

She ended up missing two weeks of work and the certification exam that would have allowed her to practise as a registered massage therapist. To top it all off, she heard from the surrogate that none of the embryos had developed properly, so no sibling was conceived. All her suffering, she felt, had been for nothing.

Her mother, Bette, had been following the whole ordeal from the United States, where she now lived with her current husband, himself a physician, and their young child. Concerned, she started making calls on Heather's behalf. She had nothing against egg donation, having done it herself, and she wasn't particularly opposed to payment. But in her view, her daughter had felt pressured to donate again after a terrible first experience. “She went through a very bad time,” she says. “She really didn't want to do it again.”

On January 23, 2008, Bette spoke to Beth Pieteron, then director of licensing and regulations at ahrc. Within a week Pieteron was back in touch, joined in a conference call by Véronique Lalonde, a compliance specialist with the agency. According to an email from ahrc, which documented the conversation, Bette informed the agency that her daughter had been paid, that the payment had been made directly through the clinic, and that Heather had provided no receipts for expenses.

ahrc passed the complaint over to the rcmp. According to records obtained through the Access to Information Act, the rcmp was already investigating the same clinic over similar allegations. Heather Cox was interviewed by an officer from the force in late April 2008. As well as answering questions in a videotaped interview, she provided them with a cheque for \$7,000, made out to her by CReATe and dated the day of her retrieval. (The cheque was original but had been accidentally given to her without a signature; she had already deposited the signed replacement into her account.) The rcmp also interviewed her cousin.

But records show that in October 2008, the rcmp decided not to pursue the case at that time. In June, the Quebec Court of Appeal had ruled that parts of the ahr Act were unconstitutional because health is a provincial matter. The constitutional challenge did not affect the ban on purchasing eggs, but it did call into question the penalties. The Crown prosecutors involved in Cox's complaint felt that the case would not go forward until the Supreme Court had ruled in the matter. (As *The Walrus* went to press, the court had not yet rendered its decision.) Legally, there was little more Bette could do.

During this process, the matter also came to the attention of the College of Physicians and Surgeons of Ontario, the body charged with disciplining Ontario doctors in cases of wrongdoing. The complaint, which is still in the initial stages of review by the cpso, outlined what Bette felt was the poor quality of care Heather had received and the issue of payment for eggs.

Dr. Librach, head of CReATe, declined to be interviewed for this article, but he and the two doctors involved in the

second donation noted in letters to the cpso that Cox was a voluntary donor, was fully informed of the risks, and was cared for appropriately. Regarding the allegation that Cox (who now goes by Heather Parker-Doughty) had been paid, Dr. Librach wrote in a letter to the cpso, “Let me make it clear that we did not pay Ms. Parker-Doughty to allow the Centre to stimulate her ovaries, as your letter suggests.” He went on to say that they take a donor’s word that her expenses are genuine, and that they are not required to, nor do they, ask for receipts. He pointed out that expenses can range from transportation, accommodation, and lost wages to nutrition and child care. “I have no knowledge or information relating to the specific expenses for which Ms. Parker-Doughty was reimbursed in 2007... Ms. Parker-Doughty signed her receipt, and I attach it to this letter.”

In other words, sometimes donors don’t tell the truth.

Diane Beeson, a medical sociologist at California State University, East Bay, who studies the fertility industry, points out that such complaints are rare, in part because of the chill cast by the haziness of the Canadian law. “If women have any knowledge at all that this is not above board, it makes it difficult for them to complain about medical problems,” she says, citing the experiences of two Canadian women she has interviewed. And as Heather Cox’s case shows, it may not be worth the effort.

Beeson is also concerned about how little follow-up is done on donors’ health. “Doctors have an ongoing relationship with women who get pregnant,” she says. “But these women who donate eggs, they may never see them again. After they have no contact after they walk out the door.” She notes that donors commonly report ovarian cysts, uncontrollable weight gain, and irregular periods—though she admits her sample may be biased because she is often contacted by women who have had negative experiences. The few studies that have been done, mostly on women who underwent egg retrieval for their own pregnancies, haven’t turned up any clear findings, but little research has been done on young, healthy donors, some of whom go through repeated and aggressive ovarian stimulations. Two lingering concerns are premature menopause and cancer. Beeson thinks the health risks and uncertainties are not always adequately emphasized when donors sign on.

Egg donation has a coercive element, she adds, which relies on both money and social pressure. “There is a very overt manipulation of young women’s emotions,” she says. “Women are socialized to be caring, to take care of other people, to do good deeds. It’s not unusual for former donors to get a letter from a parent saying how important it is for the baby to have a biological sibling.”

Last year, Cox received yet another surprise phone call, this time from a Canadian “liaison service,” which was contacting her on behalf of the couple she had donated to. Although the terms of both her donations had specified that she remain anonymous, she’d never been entirely comfortable with the arrangement. So after the second donation, she’d written a letter to the couple, included her name and contact details, and given it to the clinic to pass on. The couple had in turn forwarded the information to the liaison service, which was helping coordinate their next attempt at parenthood.

“[They] asked me if I would be willing to do it again,” says Cox. “I said I didn’t know, that I would have to think about it.” Shortly after, a letter from the couple arrived. They told her how grateful they were for what she’d done, about how wonderful the child was, and how they just wanted one last try at a sibling. They enclosed a photo of the child, who looked just like her. The letter, and the profound gratitude it expressed, made her cry. “Up until I read it, I wasn’t going to do it,” she says. “The letter swayed me.”

She and one of the fathers spoke on the phone. Then the liaison service got back in touch. “So, how much is this going to cost?” she recalls them asking. She found the question mildly insulting—she and the father had already decided she would only be compensated for actual expenses. But the service insisted she name a price, she says. So she asked for \$10,000. Taken aback by the apparent shift, the couple began to reconsider.

When Bette found out Heather was thinking of donating again, she was upset. She called around to find her daughter a counsellor and emailed the couple, detailing all that her daughter had suffered. She urged them to meet Heather in

person, which one of the men did. The two met up at a coffee shop, then drove down to Lake Ontario, where they had a heart-to-heart. They decided to cut the liaison out of the arrangement and go for a reimbursement of real expenses incurred—expected to be about \$3,000, all told.

In June 2009, both Heather and Bette met the couple and their child. “It got validated, the whole experience, by meeting them and actually knowing what I helped create,” Heather recalls. “I helped create a family. They’re wonderful. [What] a very lucky child.” Later that month, she started injecting herself with fertility drugs yet again.

The surrogate, who’d also carried the first pregnancy, had since switched clinics and was now working with ReproMed. The couple instructed the new physician, Dr. Alfonso Del Valle, to be extremely careful that Cox not be overstimulated, and made it clear that her health came first.

Just days before the retrieval was scheduled to take place, Dr. Del Valle counted the eggs in Cox’s ovaries. There were too many, he told her, and they weren’t maturing at the necessary rate. He decided to call off the procedure, saying the risk of another round of ohss was too great. Cox says she would have gone ahead if it had been up to her. She’s glad it wasn’t.