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### A STUDY OF INFERTILITY TREATMENT METHODS IN THE LIGHT OF IRANIAN JURISPRUDENTIAL LAWS

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#### ABSTRACT

Having a child is one of the pillars of maintaining a family in Iranian lifestyles, but unfortunately some couples can not get pregnant for various reasons, and this infertility and the desire to have a child becomes a nightmare in their lives. Nowadays, assisted reproductive techniques are a way to end this nightmare. By examining medical issues and jurisprudential and legal aspects 'This path can be clarified to make the decision easier, safer and without hesitation for the couple.

Inability of a couple to conceive after one year of sexual intercourse is called infertility. Inability to reproduce has various causes and does not always mean infertility or permanent inability to have children.

Artificial insemination methods as a supportive factor today are placed next to infertile couples so that they too can taste the pleasant taste of having children. Although this technology has been used in most countries of the world for many years, but it has been limited to Iran since 1989. After medical examinations, if the couple has a problem, receiving donated sperm and donated embryo is recommended, and if the wife has a problem, depending on the type of rented uterus problem, donated egg and donated embryo are suggested as a solution. In this article, we intend to first examine infertility and its causes and treatment methods from a medical point of view, and then the jurisprudential issues of infertility treatment methods.

The purpose of this study is to eliminate the blind spots and incomprehensible legal issues of infertility methods and the integration of medicine and jurisprudence to help this generation. Through field studies and conversations with infertile couples, satisfactory results have been obtained from the reproductive, and as a result, some of the challenges and unknowns in the minds of infertile.

## INTRODUCTION

Fertility is one of the great goals of creation for the survival of the generation. The significant prevalence of infertility in the world and in Iran and the economic burden caused by its various treatment methods, cause many problems for couples and society. The jurisprudential issues of this emerging science in Islam have many complexities and sometimes ignorance in these cases makes it difficult for infertile couples to make decisions.

In some countries, efforts have been made to prevent the spread of this unnatural practice. In Italy and in the Vatican, the pope, the world's Catholic leader, has banned artificial insemination, but some European and American countries have allowed artificial insemination. Today, in the United States, despite much opposition, artificial insemination is common, and doctors perform artificial insemination if the couple agrees.

The purpose of this study is to look at the causes of infertility in women in Iran so that by accurately understanding its angles, while getting acquainted with the jurisprudential beliefs in relation to this disease, a new model can be achieved in recognizing and classifying the causes of infertility. For this purpose, valid texts related to it were analyzed and the differences, commonalities and differences were examined and summarized. In general, the main reasons for infertility include semen and seminal duct problems, ovarian problems, uterine problems, other organ problems, and psychological, and behavioral causes.

Infertility in today's world has become a social concern that is a stressful or exciting and frustrating event for couples that is associated with various social, psychological, physical and financial stresses since one of the goals of marriage and family is survival and problem solving. Infertility is a favorite of some young couples who, while adhering to each other, also have a desire to have children. It has addressed such issues and provided appropriate solutions.

The progress and development of science emerges in the shadow of the connection of human perceptive power with the phenomena of the outside world. Sciences such as jurisprudence and law, with their precise rules, aim to provide the possibility of effective communication and greater benefit for human beings in the shadow of the system and law. The needs and complexity of today's life have led to the emergence of new issues that in order to maintain the social system, the legislators of society have to respond to them. Among these issues, the tendency of infertile couples in society to use advances and new medical methods in the field of fertility, which concerns the users of these methods requires that the jurists of our country have explained and studied these issues scientifically and they tried to solve the problems caused by their use.

This article tries to present the theories of jurists regarding the rules and effects of these methods at the level of public understanding in order to provide better conditions for the use of patients in the light of religious understanding and a suitable and reassuring legal environment.

In this regard, first, we are acquainted with medical concepts in this field such as infertility and its causes and various methods of adjuvant therapy called ART and jurisprudential and legal concepts related to the discussion, and finally, the legitimacy of male and female sex cell extraction

and transfer Fertility rules have been analyzed with them. These rulings include obligatory rulings and the effects of the situation on the issues raised by citing jurisprudential sources such as verses and hadiths of the Imams (AS) and the use of fatwas by jurists in using new methods of reproduction from the perspective of those who agree and those who disagree with the reasons for each.

Due to the tendency of clients of these methods to various types of contracts for gamete donation, embryo and uterine rent from the perspective of civil law, the conditions of correctness and obligations of the parties to the contract are also recognized as necessary. In this regard, artificial insemination is one of the ways in the legal system. We are provided with conditions recognized and arrangements provided by the legislature. In justifying the practice of artificial insemination, it can be said that while warming up the family environment and strengthening further solidarity, it properly saturates the sense of parenting, which is a divine gift. In addition, it creates conditions for parents to raise their children with their own taste

### **1. Infertility and its causes:**

An inability of a couple to conceive after one year of sexual intercourse without contraception is infertility in ten to fifteen percent of couples. Causes of infertility can be female or male or both. About 40% of infertility problems are related to men, 40% to women and about 10% to both. About 10% of couples do not know the cause of infertility. In other words, in these couples, both sides do not have a problem according to the available tests, but they do not have children for unknown reasons. Over the last two decades, great strides have been made in the diagnosis and treatment of infertility, and about 65% of infertile couples have had children using existing methods.

#### **Causes of infertility in women**

##### 1) Ovulation disorder

Ovulation disorders are a major cause of infertility in women.

2) Abnormalities in the fallopian tubes: obstruction or adhesions around the fallopian tubes, including endometriosis

##### 3) Unexplained disorders

##### 4) Disorders in the cervix or uterus

5) Immune system problems (systemic and immunological disorders)

Immune system problems and immunological factors play an important role in infertility.

##### 6) Miscellaneous factors

#### **Causes of infertility in men**

##### **1) Sperm disorders**

Naturally, sperm is produced in a man's testicles and is released during ejaculation. If in the following is a disorder, the chances of fertilization are reduced and the man is considered infertile.

Low sperm count

Sperm immaturity

Abnormal shape of sperm

Inability to move sperm properly

## 2) Abnormalities related to body structure

Some factors such as closed sperm outlet tubes (vas deferens, epididymis) cause infertility in men. Closure of the seminal vesicles can be due to congenital causes, genetic defects, infections or inflammation of the urogenital tract. Of course, previous surgeries can also close these tubes.

Other factors such as impotence or premature ejaculation can also cause infertility in men.

## 2. Reproductive assist methods:

Jurists must follow in the footsteps of biologists and physicians in the process of abnormal human production and, while solving possible problems and inadequacies, guide human beings in the path of perfection. Based on this goal, at the same time with the birth of the first laboratory human in 1978 and the spread of artificial methods of infertility treatment, including "embryo donation" in recent decades, jurisprudence and law scholars have raised serious arguments in favor and opposition to these methods. In order to facilitate the affairs of the people, the Islamic government approved the law on embryo donation in 2003 by the Islamic Consultative Assembly.

Artificial reproduction is done under the two headings of "simulation" and "medical fertility". In the first method, physical cells are used and in the second method, sex cells are used. In the latter method, sometimes the sex cells of the couple and sometimes due to certain defects of the sperm, egg or uterus of a third person are used. There are several ways to treat couples according to their inadequacies

1. Sperm donation in case of male gamete cell insufficiency, third party sperm is used.
2. Egg donation; If the female germ cell is defective, a third party's egg is used.
3. "Rental of the uterus" or "surrogate mother" In this method, the embryo produced by the couple's germ cells is grown in the uterus of a third woman and is returned to the couple after delivery.
4. Embryo donation "; In this method, the sick couple uses the embryo from the sperm and egg of another man and woman - whether there is a marital relationship or not - in the laboratory and the donated embryo is transferred to the wife's uterus.

### 2-1 Embryo donation

Embryo donation is considered when the transfer embryo is the result of fertilization of an egg and unrelated recipient sperm. First: In cases where the problem of infertility is related to the man and the man is not able to produce sperm and (neither in the semen sample nor in the testicular biopsy) in this case, according to the prohibition according to some jurists, it is necessary to donate the fetus in order to be used.

Infertile couples who become pregnant during the microinjection treatment cycle and the number of embryos formed is greater than the number of transferred embryos and they do not want to use their own frozen embryos.

2. From donating eggs and sperm to another couple who do not have infertility problems and want to donate embryos.

The process of embryo donation is in a way that the couple is referred to the help unit after referring to the infertility center and finding out that it is not possible to treat them with any of the infertility treatment methods. The helper provides complete explanations about various issues, anonymity, waiting time, etc., and after the waiting period, they receive a letter from the family court and forensic medicine for moral, physical and social qualification. Couples can enter the treatment cycle after issuing a permit and legal agreement.

### **1-2-1 Legal jurisprudential issues of embryo donation**

Artificial insemination or embryo donation is one of the new and innovative issues that have been addressed in the works of contemporary jurists. According to jurisprudential sources and books, there are different views in this regard, but it is certain that if the fetus belongs to the owners of sperm and egg, but in its development has not been followed in the usual way, i.e. intercourse between two spouses. There is little disagreement about the legitimacy of such insemination. Because in this way, there is no damage to the principles and rules governing the legitimate relationship between the couple and while adapting it to the public interest, it also has social acceptance. Also, on this basis, a relative relationship is created between the owners of the fetus, i.e. the real parents and the child who born, and consequently all its effects, including guardianship, custody, confidentiality of marriage and inheritance, occur between them.

However, whenever it is not possible for a person to become pregnant due to the disability of a man or a woman or for other reasons, unnatural methods such as injecting fetuses of religious couples and the like can be used. This is a matter that has been prescribed by the current legislator under certain conditions

To explain that according to the law on embryo donation approved by the Islamic Consultative Assembly in 2003, the applicant couple, after referring to family courts and obtaining conditions close to adoption, can request to receive embryos from donors with similar conditions. In this regard, Article 1 of the mentioned law stipulates: All specialized infertility treatment centers will be allowed to transfer the embryos obtained from vitro fertilization to legal and religious couples after the written consent of the couple, in compliance with the Shari'a rules and conditions set forth in this law. The fetus should be performed on the uterus of women whose infertility (either alone or both) has been proven after marriage and undergoing medical procedures.

Before going to court, couples need to go to the infertility center to find out that they can not be treated with any of the infertility treatment methods. The procedure is such a way that by referring the matter to the help unit, first full explanations about various issues, anonymity, waiting time, etc. are provided to them, and after the waiting period, a letter to the family court and forensic medicine to obtain. Then they receive moral, physical and social competence. With this description, couples can enter the treatment cycle after issuing a license and legal agreement.

According to Article 3 of the law, the duties and responsibilities of the donor spouse and the child born in terms of care, upbringing, alimony and respect are the same as the duties and responsibilities of real children and parents. However, it is noteworthy that the mentioned article only talks about the duties and responsibilities of the couple receiving the embryo donor in the mentioned cases and the issues of full attachment of the child to the recipients of the fetus, as well as issues such as guardianship, inheritance, privacy in marriage and that has been silenced.

Definition of the fetus, how to donate it legally, and the relationship of the newborn with the owner of the rented uterus:

First: This fetus can be both fresh and frozen.

Second: Donation of the fetus must be done with the written consent of the donor couples and in authorized specialized infertility treatment centers, with their identification and incomplete confidentiality.

Third: In any case, in the current legal situation, there is no relationship between the baby and the owner of the uterus. Because the owner of the uterus has no role in the creation of the fetus and only the fetus grows in her uterus and can not be considered a mother.

The title of embryo donation implies that this transfer is free, because considering that the human embryo has a legal personality from the earliest stage of life and is not considered property, exchanging embryo donation is considered contrary to their human dignity. Of course, the donation of this practice does not preclude the awarding of rewards to donors, as accepted in the Civil Code as a substitute. And jurisprudence has caused many disagreements, because answering the question of lineage is the prelude to clarifying the answers to various questions about how to inherit, custody, privacy and children resulting from this method.

The theory and attention to the best interests of the child, the institution of the family, as well as society, challenge this view and its reflection in the law, because various religious, moral, and legal questions and difficulties have arisen in this way. Especially due to the sensitivities and legal and legal gaps in the field of technology as well as the relevant laws of the country in the discussion of reproduction, the importance of answering such questions correctly, has been highlighted in various ways to accept and sometimes reject each. These methods are led by jurists and jurists.

## **2-2 Alternative mercy:**

Alternative or surrogate uterus is one of the infertility treatments that is performed using another woman's uterus. This replacement may be partial (partial) or general. In its full form, the female's carrying egg is not used for the fetus and lacks any genetic link between mother and child, but in the partial form, the uterus's egg is used for fertility and the mother and child are genetically related.

In this method, eggs and sperm are taken from an infertile couple and fertilized in vitro and placed in the uterus of a volunteer mother carrying a fetus or surrogate uterus. In this case, the embryo or embryos resulting from the fertilization of the egg and sperm of the infertile couple take place in the womb of another woman.

In this case, the woman carrying the fetus is only a host to the fetus and has no genetic involvement with the resulting fetus. In this case, the father's sperm is fertilized with the mother's egg in vitro and the fetus in the woman's uterus. Another who has the ability to have children is replaced, and the newborn inherits the genetic characteristics of his parents. According to Islamic law, the surrogate mother has the status of a foster mother and legally has no legal validity.

The agreement of the infertile legal couple to use the womb of another woman to transport the fetus belonging to them and, finally, the delivery and return of the newborn to the couple, is realized mainly in the form of a contract of plea and obedience. The parties to the contract in this contract are, on the one hand, the infertile couple and, on the other hand, the adoptive mother of the fetus "surrogate mother", and according to the general rules of the contract, .

In a contract for the use of a surrogate uterus, a woman as a surrogate mother agrees, at the request of a couple (the ruling parents), to give birth to the fetus while carrying the fetus and during pregnancy, in the manner prescribed in the contract. Act as their child and then deliver the baby to them

The reasons for using this method due to the lack of uterus in the main woman congenitally, the woman suffering from malignant and malignant diseases such as cancer, heart, hypertension and diabetes, the woman suffering from recurrent miscarriages that lead to infertility and spontaneous cessation Pregnancy, failure to repeat infertility treatment by in vitro fertilization, the presence of a defect or disease that is unable to carry the fetus, damage to the uterus and removal of the uterus during an illness or accident, and the like.

## **2-2-1 Positive and negative aspects of surrogacy:**

### **2-2-1-1 Positive aspects:**

1- Using this method, the long-standing dream of childless and infertile families becomes a reality and causes the survival of their families and generations, and will pave the way for reducing the divorce rate in the country and solving the problems of infertile couples in this regard. .

2- In this method, in order to produce the relevant embryos, it is possible to use them and study in different genetic fields and treat diseases such as cancer.

3- Alternative uterine method can be considered as accompanying the development of new medical technologies in the field of genetics and infertility treatment.

4- This method is acceptable or prohibited and rejected in accordance with the custom, culture and legal and social system of each country and government.

5- The competent child of this method genetically has all the characteristics of the parents who have the sperm and is preferable to the illegal methods or adoption.

6. This method helps women who do not have ovulation problems and have other reasons for infertility. Hence a high percentage of infertility problems are solved.

7- From the jurisprudential point of view, a child who grew up in a surrogate uterus is considered legitimate.

### **2-2-1-2 Negative aspects:**

1-Ectopic fertilization causes the separation of the fetus and reproduction, which is not appropriate at all.

2 - The possible occurrence of some abnormalities in the fetus during in vitro fertilization or during fetal transfer.

3- This method has not been accepted by all people yet and most of them are unaware of this method and as a result, there is no proper view of the person who will be in charge of carrying the fetus.

4 - There is a possibility of transmission of viral and infectious diseases such as AIDS and hepatitis, etc. from the surrogate to the fetus or vice versa.

5- Forced imposition of pain and suffering and possible injuries to the fetus resulting from in vitro fertilization in conducting research and experiments on the agenda.

6- A completely surrogate uterus may replace the genetic and natural mother and cause the destruction of the family and provide the ground for the development of the surrogate uterus business and their modification of the mother and mother and the disposal of extra embryos!

7- Emergence and occurrence of numerous legal and family problems and lack of necessary legal mechanism to resolve them.

8- Weakness of the related legal, customary and legal system for legal management and guidance and resolving the resulting disputes.

9- Development of possible secret relations between the fetal carrier with the spouse and the third party and the effects and consequences for the fetus and their genetic parents

10 - The emergence of many psychological problems in the fetus carrier and his family and genetic parents of the child.

11. The baby's subsequent awareness of the use of a surrogate uterus may cause him psychological, psychological and social problems.

12. The possibility of legal, financial and medical abuses in this method has not been ruled out and the expansion of the brokerage market in this area shows this fact.

### **Rental uterus contract is in various forms, including:**

1- Rental of uterus with donated fetus

2- Rental of uterus with donated egg:

3- Rental of uterus with complete replacement

Complete surrogacy is a more sensible method than the previous two methods and is less criticized in law and jurisprudence. A contract to identify persons who are genetically related to the child, determine the legal parents of the child, determine the obligations of the parties and the conditions It has been agreed to achieve the common intention of the parties, to remove the suspicion of adultery about the surrogate mother and to determine the lineage of the child born to the surrogate mother, the obligations and duties of the parties and the conditions during the contract,



etc., which must be fully regulated. Reach the signature and approval of the parties and competent authorities.

### **2-2-2 Sharia ruling of rented uterus:**

That means renting a woman's uterus with her egg. That is, they inject a man's sperm into the uterus of his non-wife so that she can have a child. According to the fatwas of most authorities, the only way to allow this practice is the temporary intimacy of a man with sperm and a woman with a uterus.

The second case is to combine the man's sperm and his wife's egg outside the uterus and inject it into another woman's uterus due to the woman's inability to conceive. The great authorities of imitation have made such a statement

Grand Ayatollah Khamenei: "This is not a problem in itself, but forbidden preconditions such as looking and touching are forbidden, and others should be avoided. However, if a child is born in this way, it does not join the husband of a woman who has a womb, but joins the owner of a sperm and a woman who has an egg.

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### **2-2-3 Legal Problems of Rental Merchants:**

The legal problems of surrogacy or surrogacy, which often arise from a lack of legislation in this area, are very wide and require extensive elaboration; However, some aspects of these problems can be illustrated here: The first issue is the scope of the permission to engage in childbearing using a surrogate uterus and the explanation of its legal criteria, including the conditions of the institutions and specialized clinics for infertility treatment, qualified people. The lease contract, and issues such as the need to enter into a written contract and psychological and sociological counseling along with specialized genetic counseling as well as the preservation of medical secrets;

In fact, the legal vacuum has made the substantive and formal conditions for requesting, accepting and performing this method unclear, while the law on embryo donation has largely clarified the task and prevented violations and abuses. Of course, authorized infertility treatment centers actually consider the above measures, but there is no doubt that the existence of mandatory legal rules in this area will prevent bias and facilitate proof of responsibility in case of negligence of service providers.

Exactly the next problem is the issuance of the child's identity card; Because according to Article 19 of the Civil Registry Law, a midwife or doctor who is present during the birth of a baby and interferes in the delivery is obliged to issue a birth certificate in the name of the person giving birth, which can lead to circumvention or fraud For example, if the pregnant woman is accepted with a natural mother's birth certificate, or if the information is entered incorrectly and under false pretenses.

Of course, arrangements have been made by the Civil Registration Organization to arrange for the title of real parent (owner of eggs and sperm) to be included in the birth certificate upon inquiry or presentation of a hospital certificate stating that the non-biological mother has given birth, but due to lack of Transparency and the existence of a legal impasse in this situation, many problems have arisen and this fundamental problem remains

Another very important issue is the issue of the child's lineage; Which itself has effects such as inheritance and custody. In this regard, although according to the civil law and the well-known jurisprudential opinion (including the opinion of Imam Khomeini), the relative affiliation of the child to the biological parents is certain, but there are also opinions among the jurists that the pregnant mother as Have placed a relative mother (independently or jointly with the biological mother) or a conventional mother. There is a stronger opinion that the pregnant woman is the breastfeeding mother of the baby. Also, in relation to privacy and obstruction in terms of marriage, the status of the newborn born in the face of the pregnant wife and her husband is not known.

With regard to the issuance of birth certificates, as mentioned above, the Civil Registry Office and the relevant departments have adopted a procedure that can be included in the child's birth certificate by inquiring or providing a positive certificate of a surrogate uterine contract and the authenticity of the genetic parents. Of course, there are objections to the existence of practical problems due to the lack of law in this regard by the applicants and some officials.

As for who the original mother is, according to the Civil Code (Articles 1158-1677), a man with sperm and a woman with an egg and uterus, with the exception of an illegitimate relationship of adultery, are considered the relative parents of the child. However, the law does not specify the status of children born from surrogates and who the original mother is. However, according to the laws of Islamic law and Article 167 of the Constitution and Article 3 of the Code of Civil Procedure, and according to the well-known opinion of jurists regarding the genetic origin of the mother and the attachment of the child to her, the mother must be judged to be real. The owner issued an egg and considered the pregnant woman as a breastfeeding mother.

Given the structure of the parties in the surrogate or rental womb contract, which is the essence of this contract, such a claim, even if a written contract is not available (which, of course, due to the procedure of childbirth through surrogacy in authorized centers, is unlikely to It is never accepted and, if necessary, a non-biological mother can be compelled by a court order by filing a complaint, and through positive evidence such as medical and genetic tests and papers of infertility treatment clinics where the embryo was transferred. Delivered the child to the real parents.

According to the child's attachment to the biological parents, the child alimony will be with the father according to Article 1199, if possible, and after that, the provisions of the article will be implemented in this regard. Also in the discussion of inheritance, the inheritance relationship is established only between the child and his real parents, who are the owners of sperm and eggs, and no inherited relationship will be established between the child born by surrogacy and the pregnant mother and his wife.

#### **2-2-4. Rental mercy according to the law**

Because it is difficult to find a woman who wants to rent a uterus that is acceptable, when such a woman is found, other couples try to jump through the various administrative and legal stages and like to start working as soon as possible. Reach their children. But it should not be forgotten that in such sensitive and fateful activities, the existence of a legal and notarized contract is more necessary than dinner.

A contract to identify persons who are genetically related to the child, to determine the legal parents of the child, to determine the obligations of the parties and the agreed terms, to achieve the common intention of the parties, to dispel the suspicion of adultery about the surrogate mother and to determine the lineage The child is born from the surrogate mother, the obligations and duties of the parties and the conditions while concluding the contract, etc., which must be fully prepared and signed and approved by the parties and the competent authorities.

#### **3- Egg donation**

In some cases, the causes of infertility are not such that they can be treated with medication or advanced methods of infertility treatment. For example, in some women, due to old age, premature menopause and other disorders, despite the health of the reproductive organs, they are deprived of the possibility of fertility due to the lack of eggs.

In these people, the only fertile way is to receive an egg donated by a volunteer. In the laboratory, the donated egg is fertilized by the sperm of the male recipient of the egg, and the resulting embryo is transferred to the uterus of the infertile woman.

The maximum age of the egg recipient is 45 years. Couples who want to be treated with the egg donation method should be consulted and all aspects of this work, including psychological, psychological, inheritance and law and other issues should be considered and start treatment with full awareness.

Initial pre-treatment tests should be performed thoroughly. Preferably, this person should be at the right age of fertility and have a history of giving birth to a healthy baby, because it increases the chances of pregnancy in the person receiving the egg.

- The physical characteristics of the recipient and the donor of the egg should be in harmony. Features such as skin color, eye color, hair color and body structure.

The egg donor must be genetically healthy, and must also be tested for diseases such as syphilis, hepatitis, and AIDS.

Psychological evaluation of the egg donor by a professional is also highly recommended. This history includes family history, education, mental stability, donation motivation, history of difficult pregnancy, interpersonal relationships, judicial and legal history, history of psychiatric illness and personality disorder.

#### **3-1 Ethical considerations of egg donation**

There has always been a lot of discussion about the egg donor, whether it is better for the donor or donor to be known or unknown.

Many recipients tend to receive eggs from anonymous donors because they want to maintain their privacy. But on the other hand, some people insist on knowing the donor. For them, the social and cultural history of the egg donor and its genetic characteristics are very important.

Another issue is revealing or hiding the issue from the child resulting from this action. In cases where this fact is concealed due to considerations, there is always a danger that the unwanted truth will be revealed. This is especially important in families where there is no understanding or agreement.

### **3-2 Legal aspect:**

Gamete and embryo donation is one of the important issues that have been the result of legislation in developed countries and regulations have been enacted on them. It was approved by the parliament in 2003 and announced in 2005, and other procedures are carried out by relying on the fatwas of the authorities of imitation and Article 167 of the constitution. Article 167 allows judges to judge fatwas in cases where the law is silent. Egg sharing is a method in which an infertile patient, under the treatment and stimulation of ovulation, donates half of his or her eggs to another infertile patient with an ovulation disorder in exchange for a reduction in treatment costs. Iran is the only Islamic country where not only is the egg donation program common, but it also pays for egg donation. In Iran, egg donation is accepted by Shiite authorities. Egg sharing has advantages over donation, from an Islamic point of view (look and touch), from a social point of view (prevention of repetitive donation), cost and exchange issues, treatment complications, and problems with advertising and intermediaries, although this method also has disadvantages. has it. For example, there is a reduction in a person's chances of conceiving by donating half of their eggs, a challenge to the donor's health, as well as the psychological pressure of the therapist's success against the failure of the egg donor's treatment. Disadvantages of egg sharing can be eliminated by conducting a thorough consultation, anonymous actions and the development of guidelines containing detailed criteria for selecting a sharer.

### **4- Donated sperm and related religious rules:**

One way to treat infertility is to use donated sperm and in vitro fertilization.

The advancement of science today has come to the aid of infertile couples and has taken a variety of ways from in vitro fertilization to the use of a sperm bank and one of the ways of artificial insemination in couples where a man lacks sperm and the ability to fertilize his wife is to use the sperm of a stranger. It is alien. In this way, a woman's egg is combined with a foreign man's sperm in a laboratory and the fertilized cell is injected into a woman's uterus. Imitation authorities have different opinions and views on this issue, some do not consider this practice permissible, and some consider the only solution to be that the man temporarily divorces his wife, and the woman after a period enters into a temporary marriage with the man in question. Come on.

In any case, it is clear that a child born with the sperm of a foreign man does not join the woman's husband, and that his father is the owner of the sperm and his mother is the woman who has the uterus and the egg.

#### 4-1 Authorities' opinion about donated sperm:

##### **Ayatollah Makarem Shirazi:**

Ayatollah Makarem Shirazi replied to a woman whose husband is incapable of fertility and wants to have children in this way: The only legitimate way is for you to divorce your husband (albeit secretly and without the knowledge of those around him), and After the period has passed, enter into a temporary marriage with the owner of the sperm (although you will never see each other), then the sperm will be injected into you, and after the end of the temporary marriage, you can remarry your first husband. In this case, you are the mother of that child, and the owner of his father's sperm. And she is also a Muharram to your husband. But she is not a Muharram to your husband's relatives. But it is Muharram to your relatives

Ayatollah Nouri Hamedani:

Assuming the question is forbidden.

Ayatollah Safi Golpayegani:

In general, the act of insemination is obligatory if it requires a haram opinion or touch. Be a Muharram to your husband; Because he is his rabbi, and whether he is a boy or a girl, he has the status of a child and is a Muharram to you.

Ayatollah Sistani:

It is not permissible, but it does not have the ruling of adultery.

Most authorities do not allow the use of unmarried sperm and sperm and consider it haram. The difficult way is for a couple to be temporarily divorced, to have a new marriage after a while, and after getting pregnant again, to be able to divorce and marry the first husband. In this case, the child is a Muharram to the husband, but He joins his original father for inheritance.

Artificial insemination by the husband is permissible in Islam, Protestantism, and the Orthodox Church, and Judaism is permissible if medically necessary.

According to the values specified by the World Health Organization, the minimum normal indicators of semen quality are as follows:

Semen quality indicators	Natural values
Volume: Total volume in milliliters (ml)	1/5 ml or more
Total sperm number:	15,000,000
Sperm concentration (count: number of sperm per ml (concentration))	39,000,000
pH: The degree of acidity or alkalinity	Between 7 to 8
Total motility: sperm motility	More than 40%
Progressive motility: quality of movement (progressive motility)	More than 32%
Morphology: Sperm size and shape	More than 4% with normal shape
Vitality: live and active sperm (viability)	More than 58%

White blood cells (Leukocytes: the number of white blood cells per ml	Less than 1,000,000
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Experts have studied this issue and disagreements and criticisms have increased in this regard. Ignoring human dignity and dignity, the issue of satisfaction of couples or owners of sperm or eggs, mixing lineage and damaging the family institution and disrupting the lineage are some of the ethical issues in artificial insemination, especially its heterogeneous type.

This method of pregnancy, which is considered as a biomedical technique, is very questionable from a moral point of view, and the most important ethical issues raised in it can be mentioned as follows:

1. The moral competence of researchers working in this field and the possibility of abuse by the incompetent, such as the sale and purchase of sex cells or newborns.
- 2- Non-acceptance of societies for religious and moral reasons
- 3- Occurrence of possible problems in the family system, marital relationship, loss of diversity and racial diversity
- 4- The important issue of the lineage of a person born from heterogeneous artificial insemination, confidentiality, murder, alimony, custody, inheritance and subsequent legal problems
- 5- The possibility of the emergence and transmission of abnormalities and diseases
- 6- Disclosure of information related to donors or owners of sperm or eggs
7. The sex cell or fetus should not be traded and its donation should be benevolent.
- 8- There is a possibility of insemination of sperm and eggs of inbred and incestuous individuals.
- 9- It is possible to use the sperm of more than one man in artificial insemination.

## CONCLUSION

The choice of medical treatment for infertility depends on the type and severity of the problem that the infertile couple is facing. A team of specialists (urologist), gynecologist and infertility specialist, embryologist and in vitro fertilization specialist will consult to select the appropriate method, and the treatment method will be selected based on the characteristics of the infertile couple. By following the medical path towards pregnancy and choosing one of the methods of assisted reproduction (taking eggs, sperm or embryo and renting uterus from another person or couple), jurisprudence and law and law to pass this period without hesitation and clarify the future Donated children are legally assisted by medical science. The complexities of this new science in the field of social, moral, religious and legal relations have also raised many questions. Some of these questions are so intertwined and confusing that it is not easy to open them. The emergence of these questions, which has no precedent in the previous world of ethics and law, occupies the minds of ethicists and jurists to such an extent that sometimes their intellectual organization disrupts them in dealing with these phenomena. In this area, despite the fact that progress is rapid and there are many legal and moral concerns, but the law is not in line with these

developments and has a slow and gradual development. The law should provide a mechanism that, in each case, facilitates the exchange of facts and the accepted values of society, makes the necessary decisions, and thus directs scientific achievements. There is also a legal vacuum regarding artificial insemination and the various fatwas of the jurists are not helpful in this regard. Therefore, it is necessary to adopt a comprehensive law and barriers in this regard, taking into account the various aspects and margins of the issue, in order to prevent any abuse by providing a reliable executive guarantee, and the security of physicians in performing this serious and humanitarian task. Be provided.

The result of this is the idea of helping couples who are deprived of having children naturally. Choose according to their medical priority and expediency

Each of these methods requires very detailed studies, including accurate and confidential recording of information and treatment process of donors and recipients, necessary medical advice and physical and mental health, legal satisfaction of the couple, validation of the couple's eligibility in terms of Legal and mental health and no criminal record, no addiction, stable job, financial ability and competence to take care of the child and ensure a proper upbringing and a healthy family and guarantee the future of these children. According to Islamic issues and laws of Iran And to avoid issues that may arise in the future, especially the religious and legal issues under discussion, it is recommended that the sperm donation process should not be used due to jurisprudential restrictions and the donated embryo should be replaced in these cases. From a medical point of view, none of the mentioned methods has any limitation for the couple to choose according to the conditions, provided that all medical, jurisprudential, religious and legal steps are clearly followed. Compared to other children of this land

1- In fact, this clear path fulfills the desire of these people without any worries about the future by choosing the right path. Hope that all couples in this land will taste the taste of having children and comprehensive and uniform laws for all infertility centers in the country in this field are discussed. And be approved. The issue should be adorned with the law and in the case of the above-mentioned issues and margins and other necessary cases related to it, the guarantee of criminal executions should be provided and the necessity of this matter is also felt and inevitable:

2- The loss of a fertilized egg or the embryo of a laboratory to which the title of pregnancy is true shall be considered a crime.

Abortion resulting from artificial insemination, like a fetus performed through natural intercourse, is a criminal phenomenon and the perpetrators, in addition to other legal punishments, should be sentenced to pay the prescribed blood money.

3- According to Article 236 of the Islamic Penal Code, penalties should be imposed on surrogate mothers or mothers with leased or unmarried wombs who, after the birth of a child, refuse to return it to persons who are legally entitled to claim it.

4- Any disclosure of information relating to the identification of an individual or a couple that leads to the identification of a donor or recipient of a sex cell shall be criminalized, as in France and the United Kingdom.

5- For violators of regulations or safety and public health instructions, such as using mixed sperm, donated sperm and fresh sperm instead of frozen sperm or not testing on sperm or not having a license, similar to French law Be.

6- The purchase and sale of this type of fertility is prohibited and its perpetrators, as in France and the United Kingdom, are punished.

7- For natural or legal persons who, except for authorized and legal cases, prepare and maintain such cells, a legal punishment shall be determined and announced in accordance with that person.

8- The use of gametes of minors or the use of sperm of more than one man in artificial insemination has been declared prohibited and unauthorized and criminal punishment should be provided for its perpetrators.

9- The surrogate mother (mother of a rented or borrowed womb) or her husband, or both, if after the birth of the child, they introduce themselves as the real parents of the child and receive a birth certificate for him in their own name, they must be charged with the crime of misrepresentation to be prosecuted.

10- Punishment should be determined for people who inadvertently inoculate the sperm and eggs of people of the same blood and incest with each other.

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