

# Symposium: Religion in assisted reproduction

## Islamic perspectives in human reproduction



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### Abstract

Assisted reproductive technology is widely practised around the world for the treatment of virtually all forms of infertility. The application of this technology in the Islamic world had been delayed for many years, based on the misconception that Islamic teachings do not approve assisted reproduction. The paper discusses derivation of Islamic rulings and its impact on the ethics of contemporary issues, including family formation and assisted reproduction. It clearly shows that Islam encourages family formation and assisted reproduction, when indicated, within the frame of marriage. It also discusses differences among Muslim sects, Sunni and Shi'aa. The paper also discusses Islamic rulings on the new emerging practices in assisted reproduction, including surrogacy, multifetal pregnancy reduction, cryopreservation, pregnancy in the post-menopausal period, sex selection and embryo implantation following the husband's death. The moral status of the embryo in Islam is discussed. Organ differentiation and ensoulment are believed to occur at 42 days after fertilization at the earliest. As individuation of the embryo does not occur before 14 days from fertilization, research on surplus embryos during this period is allowed. Similarly, preimplantation genetic diagnosis, gene therapy and non-reproductive cloning for the benefit of humanity are ethically acceptable in Islam. This information should help physicians in their decision before conscientious objection to offering various modalities of assisted reproduction to their infertile patients.

**Keywords:** assisted reproduction, cloning, embryo research, ethics, Islam

### Introduction

Science without conscience ruins the soul. It is therefore not surprising that science and religion have been interrelated since the beginning of human history. This is particularly true in the case of biology and, within it, reproduction. Indeed, although the term bioethics is relatively new, bioethical issues have a long history. The novelty is that the last 2 decades have witnessed the secularization of bioethics, and religious influence on bioethics has subsequently declined. Bioethics today is no longer dominated by religion and medical traditions as it used to be in the past. It has become dominated more by philosophical, social and legal concepts (Serour, 2005a). However, in the Muslim world, religion still has a powerful meaning and greatly influences behaviour, practices and policy-making. Since the birth of the first IVF baby, Louise Brown, in England in July 1978 (Steptoe and Edwards, 1978), assisted reproduction technology has evoked

great interest among ethicists, religious leaders, philosophers and the public at large.

The teaching of Islam covers all the fields of human activity; spiritual and material, individual and social, educational and cultural, economic and political, national and international. The instructions that regulate everyday activity of life to be adhered to by an observant Muslim are called Shari'aa. There are two sources of Shari'aa in Islam: primary and secondary. The primary sources of Shari'aa in chronological order are: the Holy Quran, the very words of God, the Sunna and Hadith, which is the authentic traditions and sayings of the Prophet Mohamed as collected by specialists in Hadith, Igmaa, which is the unanimous opinion of Islamic scholars or Aaimma and analogy (Kias), which is the intelligent reasoning, used to rule on events not mentioned by the Quran and Sunna, by matching against similar or equivalent

events ruled on. The secondary sources of Shari'aa are Istihsan, which is the choice of one of several lawful options, views of Prophet's companions, current local customs if lawful, public welfare and rulings of previous divine religions if they do not contradict the primary sources of Shari'aa. An observant Muslim resorts to secondary sources of Shari'aa in matters not dealt with in the primary sources. Even if the action is forbidden, it may be undertaken if the alternative would cause harm. The Shari'aa is not rigid. It is flexible enough to adapt to emerging situations in different times and places. It can accommodate different honest opinions as long as they do not conflict with the spirit of its primary sources and are directed to the benefit of humanity (Gad El Hak, 2000; Serour, 2002a). Islam is a religion of Yusr (ease) not Usr (hardship) as indicated in the Holy Quran (Sura al Bakara, 2:185). The broad principles of Islamic jurisprudence are permissibility unless prohibited by a text (Ibaha), no harm and no harassment; necessity permits the prohibited and the choice of the lesser harm.

## Assisted reproductive technology

The primary sources of Shari'aa have affirmed the importance of marriage, family formation and procreation. A central feature of Muslim identity and family structure is authenticity of lineage. Individuals' family names often disclose their paternity and adoption into families, and family names are not acceptable. Equally, sperm donation fractures links of family genetic lineage; it is analogous to adultery and is therefore condemned. Though the Quran explicitly prohibits legal adoption, yet it encourages the charitable upbringing of orphans (Sura al Ahzab, 32:4-5). In Islam, treatment of infertility in married couples is encouraged, as it involves preservation of procreation (Gad El Hak, 2000). The prevention and treatment of infertility are of particular significance in the Muslim World. The social status of Muslim women, their dignity and self-esteem are closely related to their procreation potential, both for the family and society as a whole. Childbirth and rearing are regarded as family commitments of both partners and not just biological and social functions. As assisted reproduction was not mentioned in the primary sources of Shari'aa, patients and Muslim doctors alike initially felt that seeking assisted reproduction was a challenge to God's will by trying to render barren women fertile, and handling human gametes and embryos. Assisted reproduction was only widely accepted after prestigious scientific and religious bodies and organizations issued guidelines, which were adopted by Medical Councils and accepted by concerned authorities in different Muslim countries; these principles have controlled the practices in assisted reproduction centres.

These guidelines, which have played a role in the change of attitude of society and individuals in the Muslim World, included a Fatwa from Dar El Iftaa, Cairo 1980 and a Fatwa from the Islamic Fikh Council, Mecca 1984, the Islamic Organization for Medical Sciences in Kuwait, (1983), Qatar University (1993), the Islamic Organization for Education, Science and Culture in Rabaat (2002), the United Arab Emirates (2002), and the International Islamic Centre for Population Studies and Research, al. Azhar University (Gad El Hak, 1980, 1991; Kuwait Siasa Daily Newspaper, 1984; Kattan 1991; ISESCO, 1993; Serour, 1992, 1997, 2000a,b; El Bayoumi and al Aki, 2000). These bodies stressed the fact that Islam, in its primary sources within the frame of marriage, encouraged family formation and procreation.

Treatment of infertility, including assisted reproduction when indicated, is encouraged to preserve the lineage in otherwise incurable infertility. The attitude of patients changed from rejection, doubt, feeling of shame, guilt and secrecy when seeking assisted reproduction in the 1980s to openly seeking and demanding assisted reproduction in the 1990s. The introduction of effective intracytoplasmic sperm injection (ICSI) treatment for male infertility played a role in the change of attitude of many couples to assisted reproduction (Serour, 2002a). In family affairs, particularly reproduction, decisions are usually taken by the couple, but not uncommonly the husband's decision is binding. Husbands became very enthusiastic about assisted reproduction after introduction of ICSI. They took the initiative and encouraged their wives to undergo assisted reproduction treatment for male, female or unexplained infertility. Today, the basic guidelines for assisted reproduction in the Muslim world are: if assisted reproduction is indicated in a married couple as a necessary line of treatment, it is permitted within the validity of marriage contract with no mixing of genes. If the marriage contract has come to an end because of divorce or death of the husband, assisted reproduction cannot be performed on the female partner even using sperm cells from former husband. These guidelines are followed by most Sunni Muslims. However, the Shi'aa Guidelines have 'opened' the way to a third-party donation, via Fatwa from Ayatollah Ali Hussein Khomeini in 1999. This Fatwa allowed third-party participation including egg donation, sperm donation, embryo donation and surrogacy. Recently, there has been some concern about sperm donation among Shi'aa and most scholars today forbid sperm donation. All these practices of third party participation in assisted reproduction are based on the importance of maintaining family structure and integrity among the Shi'aa family.

Reproductive choice is the right of the person to freely choose his or her reproductive potentials. Though, reproductive choice is basically a personal decision, yet it is not totally so. This is because reproduction itself is a process that does not involve the person who makes the choice alone. It also involves the other partner, the child to be born, the family, society and the world at large. It is therefore not surprising that reproductive choice within Islam is affected by the diverse contexts, norms, culture and religions, as well as the official stance of the different societies. The reproductive choice of the person not uncommonly may conflict with the interest of his or her own society. In reproduction, one cannot always have what he or she chooses to do within his or her own society or country. A number of Muslim couples, their number has never been determined, fly over or cross borders to fulfil a reproductive choice that may not be permitted in their own societies or countries. Such an act is by no means restricted to one country or to followers of one religion. The pattern also exists in Europe among residents of different European countries with different regulatory mechanisms of the process of assisted reproduction (Serour, 2000b).

## Surrogacy

Surrogacy is practised among the Shi'aa, whereas most Sunni do not accept it. The Fatwa of the Islamic Fikh council of Mecca in 1984 allowed surrogacy by replacing the embryos inside the uterus of the second wife of the same husband who provided the spermatozoa. In 1985, the council withdrew its approval of surrogacy. The debate has recently been re-opened among Sunni scholars: while some religious authorities thought that it could be

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