

EDITORIAL

Artificial Reproductive Technology (ART) in Pakistan: A Need for Shariah Compliant Medico-Legal Framework

Muhammad Faeq¹, Saadia Sultana²

Introduction

Artificial Reproductive Technology has proved to be the medical technological solution to infertility. As defined by World Health Organization (WHO) “**Infertility** is a disease of the male or female reproductive system defined by the failure to achieve a pregnancy after 12 months or more of regular unprotected sexual intercourse”. The global percentage of infertility has risen to 17.5% approximately, that pushed practitioners to introduce a viable solution to surmounting conceptional challenges. However, the application of ART raises complex dilemmas in Pakistan, where people are culturally family oriented, and religiously more sensitive to the susceptibility of new medical intervention that challenges progeny (lineage) and sanctity of marriage. In this editorial, I will reflect on Artificial Reproductive Technology (ART) with other associated procedures from Islamic jurisprudential aspect to ensure transparency between the religious misconceptions and established rulings.

Artificial Reproductive Technology

The American Centre of Disease Control (CDC) confined ART to handling embryo or egg for fertility treatment. Hence, handling only sperm for treatment does not fall under the ART category such as intrauterine insemination (IUI) technique. Nevertheless, ART in normative concepts among patients and in clinical practices, extends to all

modalities of treating infertility.

The most common type of ART is **in vitro fertilization (IVF)** where eggs are retrieved from ovaries, fertilized with sperm in a laboratory and the resulting embryos are transferred to the uterus. The Islamic law does not frown on the simple technique used for conceiving, if it is performed between the wedlocked couple under Islamic law. On the other hand, situations where the wife (female) or the husband (male) seeks help from third-party sperm, ovum, or uterus, lead to certain important Islamic questions in context of the permissibility of ART and its associated modalities. The handling of gametes for treatment, with or without wedlock, comes under ART-IVF, whereas the commissioning of third-party uterus known as Surrogacy.

Surrogacy:

The surrogacy classifies into partial and complete. In partial surrogacy, the husband's semen is used to impregnate a commissioned or solicitous woman artificially to form a single parent child. In complete surrogacy the couple undergo IVF followed by commissioning a surrogate mother for embryo transfer.

The probabilities of the use of gametes and uterus can be found under Table I, II and III Below:

Table I:

Male Sperm Fused with Female Egg by IVF Method			
(a)	Donor Sperm	Wife Egg	wife womb
(b)	Husband Sperm	Donor Egg	
(C)	Donor Sperm		

Table II:

Male Sperm Fused with Female Egg by IVF Method			
(a)	Husband sperm	Wife Egg	Womb of Surrogate Mother
(b)	Husband Sperm	Donor Egg	
(C)	Donor Sperm	Wife Egg	

Table III:

Male Sperm Fused with Female Egg Single Parent/Couple			
(a)	Father Sperm	Partial Surrogate mother egg	Womb of Surrogate Mother
(C)	Donor Sperm	Mother Egg	

¹Deputy Manager Tarbiyah

Resource Centre,

Riphah International University, Islamabad

²Department of Gynecology & Obstetrics

Islamic International Medical College,

Riphah International University, Islamabad

Correspondence:

Mufti Muhammad Faeq

Specialist Islamic Jurisprudence

Deputy Manager Tarbiyah Resource Centre,

Riphah International University

Board Member Islamic Healthcare Insight (UK)

Executive Shariah Board Member

Bangladesh Islamic Medical Society (BIMS)

Board Member Azm-e-Adl law firm

E-mail: muhammad.faeq@riphah.edu.pk

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Shariah Verdict on ART and Surrogacy

Islam encourages to have children and considered them adornment of this world. In the prophetic tradition (*Hadith*) the Holy Prophet (PBUH) said: "Marry the kind and fertile women who will give birth to many children for I shall take pride in the great numbers of my ummah"

Most Islamic Fiqh Councils and prominent Islamic jurists around the globe, including Mufti Muhammad Taqi Usmani, from Pakistan, are of the position that, in necessity with complete abidance by Islamic rulings, undergoing the ART procedures:

1. Using Islamically married couple's **own gametes** with Embryo Transfer into the **wife's uterus** is permissible, provided that the treatment is performed on the medical grounds by an expert physician.
2. Using IUI technique for administering **husband's semen** into the **wife's uterus** during Islamically valid marriage contract is permissible.

All other probable modalities or circumstances, that involve **third-party gametes**, or **uterus**, mentioned in Table 1, 2, and 3 are strictly **impermissible** (*Haram*). If a couple still choses partial or complete surrogacy despite its prohibition (*Hurmah*), the motherhood of the child belongs to the "**Surrogate Mother**" as mentioned in the verse of the Holy Quran "None can be their mothers except those who gave them birth". The Federal Shariat Court of Pakistan opted the same stance in 2015 by usurpation the right of custody of the surrogate child from the zygotic parents.

With regards to zygote intrafallopian transfer (ZIFT), gamete intrafallopian transfer (GIFT), and artificial insemination (AI), the Islamic ruling remains akin to IVF despite their minor procedural changes for medical purposes.

Cryopreservation

As, Centers for Disease Control and Preservation (CDC) considers cryopreservation as part of ART, it is appropriate to mention its purpose and Islamic findings.

Cryopreservation technology is the freezing of gametes, pre-embryos and zygotes and it injunct no of Islamic ruling in itself. Egg-freezing technology is permissible for medical reasons, such as chemotherapy and radiotherapy, that preponderantly effect gonads from its exposure to it.

In all medically assisted permissible conceptions, use of frozen or unfrozen egg or sperm falls into prohibition right after the end of valid Islamic marriage contact (*Nikah*) either by death or divorce of any of the two from couples, let alone the impermissible modalities that are already forbidden. Contrary to medical purposes cryopreservation, the social use of this technology is highly discouraged for the prevention of contamination and gametes trading. That is also because egg or sperm banks are a risk to lineage preservation, a key objective of Islamic law (*Maqasid Al-Shariah*), therefore establishment of cryopreservation banks (sperm banks or egg banks) are strictly forbidden.

Islamic Viewpoint on Preimplantation Genetic Diagnosis (PGD) in IVF

Gender prioritization has always been the challenge from centuries and Islam discourages it ever since the females were buried alive.

That being said, the gender selection in IVF for non-medical reason is rendered impermissible due to the interference in the decree of Allah SWT and tampering its creation. Similarly, opting abortion after post-pregnancy parental screening is forbidden (*Makrooh-e-Tehreemi*)

The **permissible use** of PGD in sex-selection is a preponderant conference to a high-risk of a severe genetic condition. If a particular disorder invades X chromosome more than Y, or vice versa, the removal of one or two cells from an embryo at the third day of IVF developmental stage can be performed after blastomeres biopsy for genetic testing. Therefore, there is a leeway for medically necessitated sex-selection, hence PGD is permissible for that purpose alongside.

Integrated Islamic Medical Frame Working for Patient Centered Care

In Pakistan, patients seeking ART procedure are predominantly Muslims. While there are various avenues of patient-centered care, holistic care stands out as a Muslim from the outset to the conclusion. For that reason, there is a need of Islamic medical holistic approach to form a shariah-compliant, patient centered guidelines for ART clinics and hospitals.

Malaysian authors have collected several key questions that were posed by the Muslim patients while undergoing ART procedures. Although those

questions were originally planned for survey, nonetheless, they have revealed a promising direction towards commencing integrated framework by fostering collaboration between doctors and Islamic jurists. Below are the areas yet to be covered comprehensively by keeping the medical opinion, procedure, and its viability unchanged.

Question Regarding Family Law

1. In what conditions are couples allowed to take fertility treatment?
2. Is the presence of the female/male chaperone mandatory during medical procedure and IVF/ICSI insemination process?
3. Is masturbation for derive seminal fluid sample permissible?
4. What are the implications of masturbation for seminal fluid sampling in Ramazan?
5. Is it allowed to freeze excess seminal fluid samples in Muslims and Non-Muslims cryopreservation banks?
6. Is husband's permission necessary for wife to have contraceptive pills to regulate menses before ART

Questions Regarding Social Law

1. What is Islamic perspective for women opening private parts (*Aurah*) for male doctors during consultation, ultrasound scan, and vum pick-up?
2. Is sharing a husband's infertility issues with the doctors without his consent permissible?

Questions about Acts of Worship (*ibadah*)

1. To perform ibadah after vaginal scan, ovum pick-up, and embryo transfer (RT), Is ablution (*wudu*) be mandated or complete body wash (*ghusl*)
2. Does undergoing vaginal scan, OPU and IUI invalidate fast?
3. Can patients pray after OPU despite bleeding?
4. Does taking non-halal infertility drugs permissible and

Questions about Systemic Flaws

1. What is the fate of the accidental mixing of the seminal fluids of different patients?
2. What could be the Islamic injunction on accidental sample switching during IUI?

After precisely mentioning the above questions, the importance of drawing guidelines becomes evident.

ART clinics are encouraged to collect questions from their patients considering all areas of Islamic teachings and prepare question bank to form

reliable patient-centered Islamic guidelines

Four Domains of Framework

1. Legislation and Governance is required for the enactment of laws regulating ART to ensure Shariah Compliance on a national level.
2. Ethical Oversight Committee on a national level must be formed comprising medical professionals, Islamic scholars and legal experts to monitor ART practices.
3. Public Awareness to eliminate misunderstandings of ART procedurally (such as IUI considered as pregnancy injection specially in the rural area) and clarify the Islamic status of the technology.
4. Establishment of the Medical Accountability stringent policies on ART to prevent commercial exploitation, genetic modification abuse and unislamic use of ART.

Conclusion

Artificial Reproductive Technology (ART) stands to be the promising solution in alleviating the suffering of infertility. To yield legitimate (*Halal*) results in the form of newly born human-being, the procedure must be restricted to the married couple during the marital period without the help of third-party gametes or uterus.

With the established tenets of Islamic law, extrapolated from the Holy Quran and Prophetic Tradition (Hadith), there is a pressing need for a comprehensive shariah compliant medico-legal framework for ART. Such a framework will play a crucial role not only in safeguarding progeny (lineage) but also ensure the standardization of the clinical practices that covers all areas of Islamization, coupled with patient-centered approach in Pakistan.

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CONFLICT OF INTEREST

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