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## The ethics of reproductive medicine in the Islamic Republic of Iran

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staff, medical practice at the local center is a new duty added to their own primary, very busy daily medical work. So their handling with private information of HIV/AIDS patients tends to be careless and training opportunities are limited. Under these circumstances, it is understandable that staff at local centers are likely to lack the training and experience necessary to adequately preserve the privacy of HIV-infected patients. Regular and effective training regarding the ethical aspects of maintaining such confidentiality is needed.

Every year, numerous articles relating to HIV infection appear in the mass media. A peak was seen in 1996 as a result of a court decision on HIV transmission by a tainted blood product. But the number of articles dealing with HIV infection and issues surrounding a breach of privacy are relatively sparse, averaging two or three per year even in national newspapers (14). This is surprising, given the relatively lax and potentially detrimental procedures common at local AIDS centers. This suggests that this human rights issue rarely comes to light in a society where prejudice and discrimination against HIV is still dominant.

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# The ethics of reproductive medicine in the Islamic Republic of Iran

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## Abstract

Reproductive medicine services have been provided at a fairly advanced stage in the Islamic Republic of Iran, and there are currently more than 75 infertility clinics which provide some of the latest technology in the field. From the ethical and religious point of view, Iran has provided a very flexible environment that is quite unique in the Middle East as well as the Muslim nations in general. This flexibility is mainly related to the role of *ijtihad* in *Shi'a* Islam where new rulings can be extracted by *Shi'a* jurists to facilitate the use of technologies that may be banned by traditional Islamic rulings. The possibility of temporary marriage in *Shi'a* has also helped legitimize the third party donation of gametes for treatment of infertility. The Supreme Leader in Iran has issued a series of *fatwas* that played a big role in legitimization of assisted reproductive technologies (ART) and the use of third party donated gametes for infertile couples in Iran. The problem is that infertility clinics have gained a large control over the ethical aspects of these services while their major focus is on a higher success rate. Also by keeping the donor and recipient information "anonymous" or "confidential" in order to avoid troublesome frictions, the identity of children may not be well protected as in original Islamic teachings. The infertile couples on the other hand are mainly concerned with the continuity and "purity" of their lineage and do not receive proper consultation to make ethically sound decisions. There is also a large potential of misconduct and misuse of technology over financial pay-offs, and therefore the lack of an ethical and legal system to protect the rights of concerned parties is quite worrisome. With the recent trend of the government away from population control and towards higher fertility rates, there is little hope that ethical and legal limits may be devised to regulate the activity of infertility clinics in the near future.

**Keywords:** Assisted reproductive technologies (ART), In vitro fertilization (IVF), Iran, Medical ethics, Reproductive medicine, *Shi'a* Islam

## Introduction

This paper presents the second part of the research investigation into the three layer structure of bioethical decision-making in the Islamic Republic of Iran, and is based on an analytical review of the religious and ethical system of beliefs as well as the laws and practice of medical care in contemporary Iran (1980~now). The so-called "three layer structure" refers to the basic ethical concepts, including ethical theories and religious beliefs, as the 3<sup>rd</sup> level; the bioethical principles and laws, as the 2<sup>nd</sup> level; and the decisions made on bioethical issues in medicine, as the 1<sup>st</sup> level.

The area under investigation here is reproductive medicine, and thus we shall discuss the bioethical issues of reproductive medicine in Iran. The first report, as of last year (2011) provided the background information including the basic religious and ethical beliefs and theories (3<sup>rd</sup> level) of *Shi'a* in the Islamic Republic of Iran; however, issues related to reproductive medicine provide an opportunity to revisit the 3<sup>rd</sup> level for a better understanding of its policy implications. Therefore we shall consider the 3<sup>rd</sup> level again but mainly in the perspective of its impact on reproductive medicine, before explaining the 2<sup>nd</sup> level and the 1<sup>st</sup> level of bioethical decision structure in the area of reproductive medicine.

### The 3<sup>rd</sup> level (basic ethical concepts, ethical theories and religious beliefs):

The fundamental question at the 3<sup>rd</sup> level is about the underlying ethical philosophy. The ethical thinking of *Shi'a* Islam in Iran is based on prima facie obligations similar to the views of the British philosopher W.D. Ross (1877-1971). Thus, the underlying ethical theory is not purely deontological and actions are not simply divided into right and wrong; each person at any moment may have a number of obligations some of which are more important than others. A Muslim may decide to perform various actions he is obliged to and to refrain from others that are to be avoided, based on a proper ranking of those obligations. Most obligations may be overridden by a more important obligation, which is basically the concept of a prima facie obligation.

Most of the moral obligations are not absolute, as opposed to the Kantian ethics, and exceptions are allowed depending on the circumstances. What a Muslim should do depends on the circumstances and the relative importance of various obligations on him. Actions may be judged ethical/unethical based on the circumstances surrounding them, and sometimes the consequences of actions may also receive considerable attention.

With prima facie way of thinking, there are situations where one may need to take a "moral risk", just as Ross mentioned in his ethical theory. *Shi'a* Muslims are strongly encouraged to make decisions by "following" the decree of a clergy (*faqih*) who has completed years of studying and training to attain "*ijtihad*". A decree in *Shi'a* comes from a "*mujtahed*", a *Shi'a* clergy who has studied extensively the Islamic law of "*shari'a*" and knows how to make the best decision after ranking the various obligations under the circumstances and specifics of a situation.

Under the theocratic system of *Shi'a* in Iran, during the occultation of the 12<sup>th</sup> Imam the Supreme Leader may rule over the nation and can rightfully interpret the Islamic law (*shari'a*). Therefore almost all religious, ethical, political and other decisions in the Islamic Republic of Iran ultimately depend on the interpretations of the Supreme Leader from Islam. The decrees made by the Supreme Leader over all affairs are considered as a legitimate source for decision-making by all authorities in the Islamic Republic of Iran.

On the positive side, because actions may be judged as ethical or unethical based on the circumstances surrounding them, there is some form of "flexibility", meaning that religious decrees need not be very rigid and can take the new situation resulting from new

technologies into consideration to form new rulings compatible with modern needs, including those used in reproductive medicine. However, on the negative side, when this flexibility extends to the extremes, it may seem to merge with ethical relativism. Many high level clerics are complaining that some basic rules supported by the Quran and Islamic traditions have been broken. An example that was brought up in the previous report was the winning of cash through "predicting" horse racing results in the Islamic Republic of Iran. Although *Shari'a* has banned gambling and Quran has described gambling as evil and unclean, new decrees in Iran have permitted many race-goers to "legally" bet on the horses as long as they are "predicting" through official channels. The Equestrian Federation of Iran sought permission from senior clerics and received the permission to provide betting on horses under certain conditions whereby jockeys authorize the horse-racing committee to place bets for other people on their behalf.

In the exploration of reproductive medicine practices in the Islamic Republic of Iran, many cases have been discovered where "flexible" decrees were used in contradiction to traditional Islamic rulings. Many infertility clinics in Iran go farther by providing their desperate patients with a working remedy without a thoughtful examination of the potential ethical problems, while other patients may search for "more flexible" clergies who would approve of what they needed to do to overcome infertility. I have used the analogy of red and green traffic lights in Japan where a green light prevails over the red light. The flexible rulings by a *mujtahid* provide the green light that allows a *Shi'a* Muslim to move against the basic ban, the red light, over the conduct (Figure 1).



**Figure 1:** At this intersection, movement in all directions specified in green is allowed; flexible permissions obtained from *mujtahids* serve as a green light that prevails over the basic red signal.

### The 2<sup>nd</sup> level (biomedical principles and laws in Islam and *Shi'a* Iran):

Here we need to first examine the basic Islamic principles that are well recognized by the majority of Islamic thinkers, and then examine the modifications made to them in *Shi'a* Iran based on its use of "dynamic" and "flexible" ruling through *ijtihad*. This is not to say that all sources of *ijtihad* in Iran would agree with these modifications; however as noted before the more flexible rulings may still save *Shi'a* Muslims from the moral risk of making their own independent decision.

The most basic law underlying the ethics of reproductive medicine in Islam is the preservation of proper lineage (*nasab*). As such, *shari'a* requires that a

child be able to relate to his/her biological parents. In Islam, it is a child's basic right to acquire his/her own untainted identity through a legitimate relationship between parents. Therefore generally in Islam, assisted reproductive technologies (ART) that are used within marriage and ensure the legitimate lineage of a child may be acceptable, and others may not. For example, if any of the female or male gametes used in IVF do not come from a married partner, the child's rightful lineage cannot be assured and the practice may not be acceptable. If a gamete comes from an unknown donor, again the child's lineage is lost and this cannot be accepted.

In Islam, children should be protected against a tainted lineage through an unmarried biological parent because it may be considered adulterous. A child born out of wedlock may be exposed to social stigma as well as the loss of dignity and respect, and the inheritance of estate and property. In Islam, adopted children should keep the lineage of their true biological parents, and not their adoptive parents. Therefore, adopting a child is a form of guardianship and a custodial role, but not true parenthood. This however, is not the case in some uses of ART in *Shi'a* Iran, as we shall explain.

In Islam, artificial insemination with husband's sperm (AIH) is allowed by most jurists while artificial insemination with donor sperm (AID) is very problematic. One important principle in Islam is to guard the private parts (*hifz furuj*). Some Muslim jurists believe that the main prohibition is against having a sexual act performed between a sperm donor and a woman outside marriage but implanting the sperm without performing the sexual act may be permissible; this is the current practice in *Shi'a* Iran, while the mainstream judicial authorities in *Sunni* nations still do not allow the use of donor sperm because it has the potential of leading to incest among the next generation, and also does not protect the womb and the legitimacy of procurement. Ultimately, a legitimate parenthood depends on marriage and as long as the sperm belongs to the husband and the egg to the wife, it may be acceptable.

Therefore, it cannot simply be said that all IVF is acceptable in Islam or not; it may be acceptable as long as sinful acts are not done in its complex process. For example, the act of masturbation to produce sperm is morally questionable in Islam. Also the access of a male physician to the private parts of the woman undergoing IVF is questionable. Another potential problem is the fate of frozen embryos that won't be needed after a successful pregnancy. Some *Sunni* jurists say that the sanctity of life doesn't apply to embryos outside the womb, but other jurists may disagree. Another problem may arise if a widow wants to use a frozen embryo to get pregnant with the sperm of a deceased husband because legally the death of her husband means that the marriage contract has become void.

As such, an important Islamic ethical rule to be guarded for decision-making on IVF is protection from distress and impairment (*al-usr wa al-haraj*). If the use of a technology such as IVF causes distress onto the family relationships of a married couple and/or the sanctity of the womb, then it should not be attempted. In fact, one way to avoid the many potential pitfalls in IVF would be to trust in God and submit to his wisdom which is the traditional Islamic guidance on the issue of fertility. However, infertility is a significant social stigma in Iran

and its cure has been given priority over many of the afore-mentioned aspects that the mainstream *Sunni* jurists refer to. The Iranian parliament has even approved legislation to take fertility treatments under health insurance coverage because they consider infertility as more of a "disability", and its treatment is not looked upon as enhancement.

Generally in Islam, surrogate motherhood is possible through the polygamy provisions of Islam. As long as the first wife agrees to a second marriage by her husband in order to provide a legitimate surrogate mother, this can be done. However, to "rent" the womb of another woman would be unacceptable. This has been made much less of a problem in *Shi'a* Iran because *Shi'a* allows temporary marriage (*sighe*) whereby a man, single or married, can make a direct contract of marriage to another woman that may last from an hour to 99 years. Nevertheless, it may be difficult to decide whether the child is related to the donor of the egg or the gestational mother. Many Muslim jurists would say that in principle a child belongs to the father (husband). As for the mother, some jurists say the genetic mother could be the rightful mother and others say that both of the women are mothers to the child because each has contributed to the child's birth. This latter view is consistent with the *fatwa* of the Supreme Leader in Iran, but in practice a detailed documentation of the parents is hardly done and usually the parents are those who get to "own" the child by paying for the donated gamete or surrogate services.

There are major differences in the practice of ART between the mainly *Sunni* nations of the Middle East and the *Shi'a* Iran. One major difference is their different approach to the use of donated gametes. While the *Sunni* nations have banned all forms of third party donation of gametes because of its impact on lineage (*nasab*) and the possibility that it might lead to incest or adultery, *Shi'a* Iran has allowed it based on the *fatwa* by the Supreme Leader, Khamenei who issued a series of *fatwas* in the late 1990's that allowed the use of third party donated gametes with the only condition being: "IVF is not in and of itself legally forbidden as long as no *haram* acts such as gaze or touch take place." The series of *fatwas* has led to the legitimization of third-party gamete donation in Iran, although many other senior *Shi'a* clerics in Iran do not agree with such the interpretation by Khamenei.

Another major difference between the mainly *Sunni* nations and the mainly *Shi'a* Iran is the legality of "temporary marriage", called *sighe* in Iran. For fertility treatments in Iran, a temporary marriage of 1 day can be made between the man and the egg donor. Khamenei decreed that there would be no difference between a temporary and a permanent wife in the matters of egg donation, and the decree turned into the solution for egg donation in fertility clinics. The basic concept is that the husband of an infertile woman nominally marries a female donor for one day so that her donated egg can be used for IVF.

However, temporary marriages are not properly documented in Iran, and many clinics especially private ones do not insist on verifying them. There are reports that many infertile women have had their sister donate an egg while technically a woman's sister could not be temporarily wed to her husband, based on the Islamic law and tradition of *mahram* and non-*mahram*, which

basically means that some kinship relations are banned from marriage to one another. This well known tradition is based on clear Quranic verses (4:23, and 24:31).

*Quran (4:23): Prohibited to you [for marriage] are your mothers, your daughters, your sisters, your father's sisters, your mother's sisters, your brother's daughters, your sister's daughters, your [milk] mothers who nursed you, your sisters through nursing, your wives' mothers, and your step-daughters under your guardianship [born] of your wives unto whom you have gone in. But if you have not gone in unto them, there is no sin upon you. And [also prohibited are] the wives of your sons who are from your [own] loins, and that you take [in marriage] two sisters simultaneously, except for what has already occurred. Indeed, Allah is ever forgiving and merciful.*

However, in Iran the availability of a sister's egg and its genetic similarity to the infertile woman, plus the fact that no actual marriage between the sister and husband happens, make this a convenient choice for many infertile women. Sometimes even the brother of a man has donated sperm, though to use the sperm of a husband's brother would be considered adultery under Islamic law. This is because the technical remedy for an infertile woman to get donated sperm from a temporary marriage would be a lot more complicated than getting a donated egg: she must first divorce her husband and wait for about three months (called *iddah* waiting period) until she can temporarily marry another person, and later divorce him to remarry the first husband. As we shall see in the next section (on the 1<sup>st</sup> level), desperate patients under the care of the infertility clinics have an open hand to provide donated gametes from almost any source they have access.

In the case of sperm donation, a *fatwa* by Khamenei has allowed that the child take the name of the social father rather than the sperm donor. Although Khamenei's *fatwa* still calls that the child must inherit from his biological father too, such rulings might not be followed in practice. In fact, the recent policy of the private and public clinics is to provide for "anonymous" and "confidential" gamete donors, respectively. This is obviously in contradiction to the basic Islamic principle over a child's right to his/her lineage but apparently has helped the clinics avoid some of the frictions and socio-legal complications associated with non-anonymous infertility treatments.

An alternative solution for sperm donation would be to acquire a whole embryo from another married couple, and thus avoid the complex divorce and re-marriage procedures required to get donated sperm. Therefore in 2003, some leading clinics helped with the presentation of a bill for embryo donation to the parliament, and with the favorable verdicts of the clerics it was approved. As with all laws in Iran, the bill was sent to the Guardian Council (*shorayeh negahban*) for scrutiny and became law after their final approval. This law resolved the legal status of embryo donation that a *fatwa* alone could not achieve. The law specifies that with a court's permission, clinics may treat infertile couples by transferring an embryo which has been fertilized outside the womb, to the infertile couple. The only conditions set are that the infertile couples must be in good health but infertile, be of sound mind, and healthy, must not have any incurable diseases or addictions, and must be nationals of Iran. It specifies that only people of the same religion can

donate to each other, but it is unclear whether *Sunnis* can donate to *Shi'a* or vice versa. Nevertheless, many infertile couples still proceed with gamete donation from close relatives, without breaching the fundamental religious rule specified in Khamenei's *fatwa* regarding touch and gaze.

Surrogacy has also been practiced in Iran since 2002. It was initially limited in scope due to a shortage of surrogate mothers because only relatives might have accepted to act as surrogate mothers. It would be a social stigma to explain how someone got pregnant as a "surrogate" to some infertile couple. However, now an increasing number of women agree to serve as a commercial surrogate mother. So far, no separate law has been passed on surrogacy and the courts use the same law of embryo donation as their point of reference. As such, there is some worry on the part of the infertile couple on what they could do if the surrogate mother would not return the baby to them after birth. The average payment to a surrogate mother is around \$ 3000 (Termayne, 2009).

**Contraception:** Birth control as a form of family planning has long been permitted in Islam because it may improve the living conditions of poor Muslim communities. However, most Muslim jurists believe that a woman needs her husband's permission to prevent from a pregnancy and some jurists believe that a husband also needs his wife's permission before attempting to prevent from a pregnancy, including by penis withdrawal.

Nevertheless, Islamic tradition would not allow permanent methods of prevention from conception, even with a husband's permission. The reason is that this may be against the obligation to protect the lineage (*nasl*). Such limitations were disregarded in *shi'a* Iran as the so-called "family regulation" (*tanzim-e khanevade*) programs helped lower population growth from 3.8% in 1986 to 1.5% in 1996. Tubal ligation and vasectomy were provided for almost free in many public clinics with the only condition being that the couple had at least 2 children. However, it appears that the government is now attempting to reverse its long held policy towards population control, with many subsidies for fertility control being cut and a bill being sent to the parliament with the purpose of helping increase population growth.

**Abortion and sex Selection:** The legality of abortion in cases of adultery and rape has been confirmed in a number of Islamic studies. However, to terminate a pregnancy within a marriage is a completely different matter. Isn't it a sin to abort unwanted embryos?

The answer to the question of early abortions heavily depends on the determination of when an embryo becomes a person. Quran does not specify a distinction between an embryo and a fetus. Most of the Muslim jurists believe that the soul or spirit (*ruh*) enters a human body some time after conception, based on the following verses from Quran:

*Quran 32:7-9: God perfected everything which He created and began the creation of man from clay. Then He made his posterity out of the extract of a liquid disdained. Then He proportioned him and breathed into him from His soul and made for you hearing and vision and hearts; little are you grateful.*

Sunni jurists have relied on a description of human development in the womb to conclude that "personhood" forms after the first trimester of pregnancy:

*Quran 23:12~14: And certainly did we create man from an extract of clay. Then we placed him as a sperm-drop in a firm lodging. Then we made the sperm-drop into a clinging clot, and we made the clot into a lump [of flesh], and we made [from] the lump, bones, and we covered the bones with flesh; then we developed him into another creation. So blessed is Allah, the best of creators.*

There is also some *hadith* attributed to the Prophet which appears to define the time that a soul enters the body at about 40 to 45 days after conception. Some jurists have extended this period to the end of a period which is approximately the end of the first trimester, at 120 days after conception. However, *hadith* attributed to *Shi'a* Imams implies that personhood may start at the time of implantation. The significance of this timing is that abortion would not be allowed after the soul enters the body (ensoulment). As such, an intentional abortion of an embryo or a fetus is not allowed in Islam, and the starting point in time for this prohibition may well be the time of implantation in the womb:

*Quran 6:98: And it is He who produced you from one soul and [gave you] a place of dwelling and of storage. We have detailed the signs for people who understand.*

Nevertheless, because a fetus depends on the mother's body for its life, it has only a "relative" right to live but the closer it gets to the time of the birth, this right becomes stronger. Some Muslims do not forbid abortion if the mother's life is in danger because of the pregnancy. Abortion before the 40<sup>th</sup> day of a pregnancy should also have a very good reason like when a potential life is at stake. The acceptable cases include a certain threat to the mother's life, and rape or incest.

When it comes to manipulating or selecting genetic traits, a more important Islamic principle is the obligation to save life. So basically there is no blanket permission in Islam to abort a defective fetus.

*Quran 17:31: And do not kill your children for fear of poverty. We provide for them and for you. Indeed, their killing is ever a great sin.*

The following verses from the Quran demonstrate that Islam considers sex selection and selective abortion as morally wrong:

*Quran 16:58~59: And when one of them is informed of [the birth of] a female, his face becomes dark, and he suppresses grief. He hides himself from the people because of the ill of which he has been informed. Should he keep it in humiliation or bury it in the ground? Unquestionably, evil is what they decide.*

Also the principle of public good (*maslaha*) in Islam requires that the formation of human life should not be manipulated for the sake of enhancement; thus positive eugenics practices are rejected in Islam. However, abortion may be allowed if there is a predominance of significant benefits (*istislah*) in the form of preventing some major illness; thus negative eugenics is allowed in severe cases of fetal malformation.

The Islamic Juridical Council approved the clinical abortion of embryos that suffer from major genetic malformations such as the Down's syndrome. The Islamic Jurisprudence Council of the World Islamic League (Organization of Islamic Countries) agreed in February, 1990 in Mecca to allow for the option of abortion under certain specific conditions; an abortion could be done if a committee of specialized, competent physicians determined that the fetus was grossly

malformed and its life would cause severe suffering for both the family and itself. The malformation must be untreatable, unmanageable and very serious. The period of time to have such an abortion was limited to 120 days and it appears that a fetus before this time is not still a person in a legal-moral sense.

In Iran, stem cell research and PGD sex selection have been allowed through *fatwa*, though there is little supervision over "how" it is being performed (Saniei, 2012). Sex selection is offered by some fertility clinics in Iran through PGD in the context of the confidentiality of doctor-patient agreement, and the lack of bioethical consideration by the practicing doctors.

A final issue is the legality of donating fetal tissue for medical research, for example through harvesting of the stem cells. Islamic law allows this because fetal tissue may be treated as any other tissue that belongs to the woman and is discarded. Spare embryos in an IVF procedure may also be treated as pre-implantation tissue which can be used for medical purposes such as their stem cells because they were never implanted into the womb. Stem cell research is taking place in highly advanced research institutes in Iran.

### **The 1<sup>st</sup> level (the practice of reproductive medicine in contemporary Iran):**

Infertility has been a significant problem in most Muslim families including those in Iran. Some infertile men do almost anything to hide their infertility from their relatives and community, or blatantly deny and ascribe it to their wife. A man may decide to revoke the marriage contract based on the infertility of his wife, and get a divorce or attempt to have a second marriage. Traditionally, infertile women would seek the help of a saint for fertility by visiting holy shrines. Some infertile couples who solved their problem through infertility clinics have later covered up the use of a third party donated gamete and told their relatives that some holy miracle helped them out. This shows the socio-cultural aspect of infertility problems and the stigma associated with it especially in smaller cities and towns in Iran.

Assisted reproductive technologies (ART) have certainly provided for a modern discourse and the possibilities they offer are certainly tempting to many desperate couples. On the other hand, in Iran the public is hardly notified about the decisions made at a fertility clinic and the medical practitioners are quite authoritarian; they may offer little information to the couples regarding the details of the procedure while they may require the couple's full and unconditional consent before they "treat" the infertility problem.

Soraya Tremayne has done extensive research on the activity of fertility clinics in Iran and the ethical perspectives of their interactions with the policy-makers on one hand and their patients on the other (see Reference 21). She has updated that study with the latest developments as of 2012 (see Reference 23; Tremayne, 2012). Her comprehensive studies on the practice of infertility clinics in Iran, is a major source of information for this part of the paper. Infertility treatment centers have flourished in the major cities of Iran in the last couple of decades.

There are currently over 75 infertility centers in Iran, in the form of fully private clinics, semi-sponsored clinics, and governmental or public clinics that offer services with

a generous insurance coverage. They offer almost all forms of infertility treatment that includes third party donation of sperm and egg, as well as embryo, and also surrogacy. Some of the clinics offer PGD sex selection and there is one involved in stem cell research.

The medical doctors working in these clinics, especially those in the private clinics, have almost full control of the treatment process and increasingly keep the identity of the donors of gametes anonymous so that they can prevent from any possible sources of legal or social issues in the future. However, the clinics' increasing tendency towards anonymous donation is in fact against the basic Islamic rules for gamete donation, which require that donation be accepted only within a marital union. Nevertheless, the study by Termayne shows that the major leading infertility clinics in Iran are now moving toward complete anonymity of the donors. The main preoccupation of most of these infertility clinics remains a higher success rate rather than ethical issues, and the control over the ethical and legal aspects of treatment is left to the clinics, with no law-enforcing body inspecting the procedures.

Temporary marriages may no longer be taking place or documented. For many of the infertility clinics, these are more of a formality, and more of the infertile couple's problem. So they are advised to solve such issues outside the clinic, and just between the couple and the donor. Many infertile men have used donor sperm secretly, and have not even informed their wives about it, as they did not want to be known in the family as infertile.

The priority for infertile couples appears to be mostly in the continuity of their lineage and their choice of the donors that commonly would include their close relatives, whenever possible. By receiving donated gametes from their close relatives, they feel ensured about the 'purity' of their lineage, and can also avoid any possible legal claims by "outsiders" in the future.

Demand for the embryos is so high that it has already created undesirable and illegal practices which revolve around the financial potential. For example, there are reports (Termayne, 2009) of a woman who set up an agency for embryo donation and started charging large sums of money from the recipients. However, the embryos sold by the agency did not belong to married couples, as the law requires. Instead, the eggs had come from prostitutes and fertilized by strangers' sperm. This is while an embryo that is the result of the union between a prostitute and a stranger's sperm is effectively an illegitimate child.

As for surrogacy, the numbers are still quite limited for two reasons. One is that for infertile couples, the absence of a law to protect them from a breach of contract is worrying. They may have few options, other than making large payments, if a surrogate mother decides not to return the baby. The average cost of surrogate services is around US\$ 3,000 which may be a significant amount for many couples. Even so, the cultural problem of having to explain a pregnancy by a non-married woman who accepts to be a surrogate mother is still quite significant in many cities in Iran. Nevertheless, the financial incentive may be strong enough for many women living in the largest cities, such as Tehran.

## Discussion

The unique position of Iran as compared with other Islamic nations in its wide usage of assisted reproductive technologies (ART) and the use of third party donated gametes is associated with the dynamic nature of *shī'a* jurisprudence where *ijtihad* becomes the source of new laws that may seem to contract Islamic tradition. This flexibility has helped solve the agony of many infertile couples in Iran and flourish the use of modern technologies at an increasing number of infertility treatment clinics. The main key to this solution was a *fatwa* issued by the Supreme Leader which allowed the use of IVF as well as third party donated gametes through a nominal temporary marriage with the bare requirement of banning touch and gaze; such a ban may apply to any medical procedure in general and does not deal with the specific issues of infertility treatment. Therefore, the lack of a comprehensive legal structure on one hand and the weakness of bioethical consideration and review of practices at the infertility clinics on the other, have created a worrisome situation.

The identity of the children born to the use of third party donated gametes is at stake, which is quite a significant issue from an Islamic point of view. The *prima facie* system of ethics may be used to justify the "more important" obligation to help infertile couples get pregnant, but this does not reduce the obligation of the parents, the clinics and their practicing physicians, and a potential public system to supervise the process, from making efforts to assure that the best possible choices are being made. It is very important not to rush into the use of any emerging technology at such a wide scale before a public debate over the bioethical aspects and the social impact of that technology has been started.

The fact that many infertile couples do not receive proper consultation over the bioethical ramifications of their decisions, and the clinics mainly focus on the success of the treatment as an end and have neglect over the used biological material viewing them as the means, raises serious concerns for the future of a part of Iranian society. The large financial profits that can be made through surrogacy and the donation of embryo, egg and sperm, and the potential abuse of individuals, who may get involved in this complex process, together expand the width of possible social damages. It is therefore hoped that the bioethical aspects of infertility treatment for all potentially affected parties will be seriously considered, sufficient information especially on the bioethical aspects will be made available to these parties, and also appropriate checkpoints will be designed into the system.

Having said that, it cannot be denied that the flexible attitude of the Iranian government towards the use of new assisted reproductive technologies may have provided an atmosphere of freedom over the reproductive choices of people who based their decisions on their individual as well as the social values of the communities they belonged to. They may have largely benefited from the solution to their infertility problem, and they may be able to find ways to deal with potential problems of their children in the future; however we cannot deny that they might have made better decisions if they were better informed. The experience of Iran with infertility treatment so far may be interesting to other Islamic nations, whether *Sunni* or *Shī'a*, because of the

many religious, social and cultural customs and norms that are shared.

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## Drug and Alcohol Use, Sexual Intimacy and Associated Health Status of Senior High School Students: Implications for Learning and Schooling

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### Abstract

**Objectives:** To better recognize key maturational processes that drive adolescent socio-sexual activity and to explore the context in which this occurs. Since schools are one place where health choices should be debated in a supportive learning and teaching environment, the present study focuses on lifestyle choices and attitudes to health of Australian adolescents and identifies characteristics which link drug and alcohol use, health and resilience, sexual intimacy and/or sexual experience.

**Methods & Results:** Students (n=440) from diverse ethnicity, aged 15-17 at a range of New South Wales secondary schools were surveyed to ascertain their drug and alcohol use and their self-perceived physical and mental health condition. Six focus areas emerged from analysis of the data – drug use, diet and drug use, drug use and health/wellbeing ratings, drug use versus health/wellbeing by ethnicity, frequency of drug use, intimacy and sexual activity and awareness of contraception.

**Conclusion and Schooling Implications:** The strongest motive for drug consumption was enjoyment and peer pressure. Many respondents reported their wide experience with sexual partners before age 17 with the use of contraception, notably the condom and acknowledgment of the responsibility of both partners in the relationship. Significant gender associations between drug use and sexual behavior and low health/happiness ratings were found in girls but not in boys. Students commented on the lack of meaningful information and