

**Making Muslim Babies:
Sunni versus Shi'a Approaches to IVF and Gamete Donation**

By

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Introduction

Since the birth in 1978 of Louise Brown, the world's first test-tube baby, in vitro fertilization has spread around the globe, reaching countries far from the "producing" nations of the West. Perhaps nowhere is this globalization process more evident than in the twenty-two nations of the Muslim Middle East, where hundreds of IVF centers have opened in countries ranging from small, petro-rich Bahrain and Qatar, to larger but less prosperous Morocco and Egypt.

In the Middle Eastern Muslim countries, Islamic religious proclamations called *fatwas* have profoundly affected the practice of IVF in ways that are not commonly seen in the West. The influence of Islam on IVF has become apparent to me during three periods of medical anthropological research carried out in Egypt and Lebanon during three distinct periods: 1) from 1988-89, when IVF was new in the region; 2) in 1996, which could be rightly called the IVF "boom period"; and 3) in 2003, when I carried out a study of male infertility and new reproductive technologies in Beirut, Lebanon. In each case, I conducted qualitative, ethnographic interviews with Muslim IVF patients, both husbands and wives, now totaling nearly 400 patient couples. The results of my research in Egypt have just been published in a new book entitled, *Local Babies, Global Science: Gender, Religion, and In Vitro Fertilization in Egypt*.

Sunni Islam and IVF

So let me begin with Egypt, where infertile couples are usually extremely concerned about making their test-tube babies in the Islamically correct fashion. To that end, they seek out the "official" Islamic opinion on the practice of IVF in the form of a *fatwa*. In recent years,

many such *fatwas* on a wide variety of reproductive health issues have been issued in Egypt and other Muslim countries. With regard to IVF specifically, the Grand Sheikh of Egypt's famed Al Azhar University issued the first *fatwa* on medically assisted reproduction on March 23, 1980. This initial *fatwa*—issued only two years after the birth of the first IVF baby in England, but a full six years before the opening of Egypt's first IVF center—has proved to be truly authoritative and enduring in all its main points. In fact, the basic tenets of the original Al-Azhar *fatwa* on IVF have been upheld by other *fatwas* issued since 1980 and have achieved wide acceptance throughout the Sunni Muslim world. Sunni Islam, I should emphasize, is the dominant form of Islam found in Egypt and throughout the Muslim world.

So, what are the main points of the Sunni Islamic position on medically assisted conception?

First, artificial insemination *with the husband's semen* is allowed, and the resulting child is the legal offspring of the couple.

Second, in vitro fertilization of an egg from the wife with the sperm of her husband and the transfer of the fertilized egg back to the uterus of the wife *is* allowed, provided that the procedure is indicated for a medical reason and is carried out by an expert physician.

Third, since marriage is a contract between the wife and husband during the span of their marriage, no third party should intrude into the marital functions of sex and procreation. This means that a third party donor is *not* acceptable, whether he or she is providing sperm, eggs, embryos, or a uterus. The use of a third party is tantamount to *zina*, or adultery.

Fourth, adoption of a child from an illegitimate form of medically assisted conception is not allowed. The child who results from a forbidden method belongs to the mother who delivered him/her. He or she is considered to be a *laqid*, or an illegitimate child.

Fifth, if the marriage contract has come to an end because of divorce or death of the husband, medically assisted conception cannot be performed on the ex-wife even if the sperm comes from the former husband.

Sixth, an excess number of embryos can be preserved by cryopreservation. The frozen embryos are the property of the couple alone and may be transferred to the same wife in a successive cycle, but only during the duration of the marriage contract.

Seventh, multifetal pregnancy reduction (i.e., selective abortion) is only allowed if the prospect of carrying the pregnancy to viability is very small. It is also allowed if the health or life of the mother is in jeopardy.

Eighth, all forms of surrogacy are forbidden.

Ninth, establishment of sperm banks with “selective” semen threatens the existence of the family and the “race” and should be prevented.

Tenth, the physician is the only qualified person to practice medically assisted conception in all its permitted varieties. If he performs any of the forbidden techniques, he is guilty, his earnings are forbidden, and he must be stopped from his morally illicit practice.

But to what degree are these *fatwa* declarations—particularly the explicit prohibition on any form of third-party donation of reproductive materials—actually followed by physicians in the Muslim world? A 1997 global survey of sperm donation among assisted reproductive technology centers in 62 countries provides some indication of the degree of convergence between official discourse and actual practice. In all of the Muslim countries surveyed--including the Middle Eastern countries of Egypt, Iran, Kuwait, Jordan, Lebanon, Morocco, Qatar, and Turkey, as well as a number of non-Middle Eastern Muslim countries including

Indonesia, Malaysia, and Pakistan—sperm donation in IVF and all other forms of gamete donation were strictly prohibited.

Shi'a Islam and IVF

Having said all this, it is very important to point out how things have changed for Shi'ite Muslims since this global survey was published. Shi'a is the minority branch of Islam found in Iran, and parts of Iraq, Lebanon, Bahrain, and Saudi Arabia, Afghanistan, Pakistan, and India, and it has been much in the news because of the U.S.-led war on Iraq. Most Shi'ite religious authorities support the majority Sunni view: namely, they agree that third-party donation should be strictly prohibited.

However, in 1999, the Supreme Jurisprudent of the Shi'a branch of Islam, Ayatollah Ali Hussein Khamanei, the successor to Iran's Ayatollah Khomeini, issued a *fatwa* effectively permitting donor technologies to be used. With regard to both egg and sperm donation, Shaikh Khamanei stated that *both* the donor and the infertile parents must abide by the religious codes regarding parenting. However, the donor child can only inherit from the sperm or egg donor, as the infertile parents are considered to be like “adoptive” parents.

However, the situation for Shi'ite Muslims is actually much more complicated than this. Because Shi'ites practice a form of individual religious reasoning known as *ijtihad*, various Shi'ite shaikhs have come to their own conclusions about sperm and egg donation. There are major disagreements about:

- (1) whether the child should follow the name of the infertile father or the sperm donor;
- (2) whether donation is permissible at all if the donors are anonymous;

- (3) whether the husband of an infertile woman needs to do a temporary *muta 'a* marriage with the egg donor, then divorce her after the embryo transfer, in order to avoid *zina*, or adultery.
- (4) whether a married Shi'ite Muslim woman can do a *muta 'a* marriage with a sperm donor, which would constitute an illegal state of polyandry. In theory, only widowed or otherwise single women should be able to accept donor sperm, in order to avoid the implications of *zina*, or adultery. However, in the Muslim countries, single motherhood of a donor child is unlikely to be socially acceptable.

Given these ambiguities, those married infertile Shi'ite couples who are *truly* concerned about carrying out third-party donation according to religious guidelines find it difficult to meet these various requirements, particularly regarding sperm donation. Yet, having said that, in the Shi'ite Muslim world, including in Iran and Lebanon, at least some Shi'ite couples *are* beginning to receive donor eggs, donor sperm, and donor embryos, as well as donating their gametes to other infertile couples. For infertile Shi'ite couples who accept the idea of donation, the introduction of donor technologies has been described as a “marriage savior,” helping to avoid the “marital and psychological disputes” that may arise if the couple’s case is otherwise untreatable.

Sunni Muslim Patients’ Views Opposing Donation

But what about the Sunni and Shi'ite couples who oppose the idea of gamete donation? They are clear that third-party donation is *haram*, or forbidden by the religion. Patient concerns revolve around three important issues: adultery, incest, and lack of biological descent. First, Islam is a religion that can be said to privilege—even mandate—heterosexual marital relations.

Thus, reproduction outside of marriage is considered *zina*, or adultery, which is strictly forbidden in Islam. Although third-party donation in IVF does not involve the sexual “body contact” of adulterous relations, nor presumably the desire to engage in an extramarital affair, it is nonetheless considered by Islamic religious scholars to be a form of adultery, by virtue of introducing a third party into the sacred dyad of husband and wife.

The second troubling aspect of third-party donation is the potential for incest among the offspring of unknown donors. Moral concerns have been raised about the potential for a single donor’s offspring to meet and marry each other, thereby undertaking an incestuous union of half-siblings.

Finally, third-party donation confuses issues of kinship, descent, and inheritance. As with marriage, Islam is a religion that can be said to privilege—even mandate—biological inheritance. Preserving the “origins” of each child—meaning its relationship to a known biological mother and father—is considered not only an ideal in Islam, but a moral imperative. The problem with third-party donation, therefore, is that it destroys a child’s lineage, which is immoral in addition to being psychologically devastating.

Muslim IVF patients use the term “mixture of relations” to describe this untoward outcome. Such a mixture of relations, or the literal confusion of lines of descent introduced by third-party donation, is described as being very “dangerous,” “forbidden,” “against nature,” “against God”—in a word, *haram*, or morally unacceptable. It is argued that donation, by allowing a “stranger to enter the family,” confuses lines of descent in the emphatically patrilineal societies of the Muslim Middle East. For Muslim men in particular, ensuring paternity and the “purity” of lineage through “known fathers” is of paramount concern. Thus, a donor child could only be viewed as an *ibn haram*, literally “son of sin.” The child will be deemed illegitimate and

stigmatized even in the eyes of its own parents, who will therefore lack the appropriate parental sentiments.

This firm conviction that parenthood of a “donor child” is an impossibility is clearly linked to the legal and cultural prohibitions against adoption throughout the Muslim world. The Islamic scriptures, including the Qur’an, encourage the kind fostering of orphans, but do not allow legal adoption as it is known in the West. As a result, few Muslim IVF patients will contemplate adoption, stating with conviction that it is “against the religion.”

Marriage and Gender Relations

In the absence of adoption, Muslim couples have no choice but to turn to IVF and other new reproductive technologies to solve their infertility problems. Yet, in the absence of egg donation, women face considerable marital risks, particularly in the era of intracytoplasmic sperm injection, or ICSI, a new solution for male infertility that has ironically increased the potential for divorce in the Muslim world. Namely, with ICSI, infertile men with very poor sperm profiles—even azoospermia, or lack of sperm in the ejaculate—are now able to produce “biological” children of their own, through the microscopic injection of their weak sperm directly into the ova. The wives of many of these men, who have “stood by” their infertile husbands for years, even decades in some cases, may have grown to old to produce viable ova for the ICSI procedure. In the absence of egg donation, infertile Muslim couples with a reproductively elderly wife face four difficult options:

- 1) to remain together permanently without children;
- 2) to legally foster an orphan, which is rarely viewed as an acceptable option;

- 3) to remain together in a polygynous marriage, which is rarely viewed as an acceptable option by women themselves; or
- 4) to divorce so that the husband can have children with another partner.

In my research in Egypt and Lebanon, the first option has proven to be the most common—namely, infertile husbands and “forty-something” wives often love each other deeply, and remain together in long-term marriages without children. Thus, divorce is not the immediate consequence of infertility that it is stereotypically portrayed to be. However, because of the Sunni Islamic restrictions on the use of donor eggs, at least some Muslim men, are choosing to divorce or take a second wife, believing that their own reproductive destinies lie with younger more fertile women.

However, in Lebanon, with its Shi’ite majority, the recent Shi’ite *fatwas* allowing egg donation have been a great boon to marital relations. There, both fertile and infertile men with “old” wives are lining up at IVF clinics to accept the eggs of donor women. Some of these donors are other IVF patients, some are friends or relatives, and in at least one clinic, some are young donors being recruited from the United States. Furthermore, quite interestingly, in multi-sectarian Lebanon, the recipients of these donor eggs are not necessarily only Shi’ite Muslim couples. Indeed, some Sunni Muslim patients from Lebanon and from other Middle Eastern Muslim countries are quietly “saving their marriages” through the use of donor gametes, thereby secretly “going against” the dictates of Sunni Muslim orthodoxy.

Conclusion

In summary, in the Sunni Muslim world, the use of IVF and related new reproductive technologies has clearly led to an entrenchment of deeply held religious beliefs about the

importance of biologically based kinship, family life, and parenthood. Yet, the globalisation of these technologies to other parts of the Shi'ite world has fundamentally altered understandings of the ways in which families *can* be made and the ways in which marriages *can* be saved through the uses of new reproductive technologies. The frankly “adventurous” attitude of some Shi'ite religious leaders toward third-party donation has led to a potential transformation in gender relations among infertile Muslim couples. For Shi'ite Muslims in particular, the effect has been a rethinking of traditional notions of biological kinship and parenthood, and the partial acceptance, at least among some segments of the Shi'ite population, of the “brave new world” of third-party donation.