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THE LEGALITY OF SELECTIVE REDUCTION IN MULTIPLE PREGNANCIES DURING INFERTILITY TREATMENT OF COUPLES: THE CASE STUDY OF IRANIAN LAW

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ABSTRACT

Even if the Medical Abortion and Embryo Donation Acts approved in 2002 by the Iranian Legal System can be exploited to treat infertility among couples in Iran, selective reduction as one of the most commonly used procedures, has been declared illegal by *Shiite jurists* due to the expulsion of a number of embryos. Given that physicians destroy the weak embryos in multiple pregnancies in order to help the strong one in selective reduction between the 10th and 13th gestational weeks, and the existing laws on infertility treatments are not up-to-date or do not comply with new methods, including selective reduction, infertile couples have been facing many problems. Accordingly, the rights in infertility treatments in Iran, as an Islamic state, require more comprehensive and new legislations by pointing out the restrictions and legalities in the law, without stipulating a specific method. Upon making the law in this line, judges can deal with the requests filed by couples in each case separately, and according to the legal restrictions in *Sharia* (*Shiite* sect), and then issue a verdict regarding treatments demanded, by taking account of all new infertility treatment methods. This study reflects on the arguments against the MFPR in Iran, as an Islamic nation, before going over the Medical Abortion and Embryo Donation Acts for Iranian infertile couples. With regard to the illegality of some infertility treatments, this study provides solution that can be consider by the legislator especially in Iran and can be reviewed by other countries as well.

Keywords: *Solution, Selective Reduction, Pregnancy Reduction, Embryo, Islamic Country of Iran*

Introduction

Among the outcomes of infertility treatments is the incidence of multiple pregnancies after taking medications for ovarian stimulation and transferring more embryos in order to achieve a high level of successful pregnancy. To prevent fetal-maternal complications, and above all exclude the abnormalities and chromosomal transfers of embryos following the occurrence of multiples, the selective reduction of weak or abnormal embryos is often practiced.

Though making the dream of having babies into reality, infertility treatments bring about some problems for couples, namely, multiple pregnancies, as the direct consequences of using medications for ovarian stimulation. Such pregnancies are frequently accompanied by high rates of comorbidities. Furthermore, the increase in the number of embryos is directly associated with the pregnancy complications; therefore, the fewer the number of embryos, the fewer the number of problems.

For certain reasons, (*Shiite* jurists) reject multifetal pregnancy reduction (MFPR), as an illegal practice in contradiction of religious doctrines. Thereby, some other methods should be sought to treat infertility as the MFPR is illegal in Iran, addressing the difficulties of infertile couples, and at the same time making the MFPR compatible with the Medical Abortion and Embryo Donation Acts. From this perspective, this article reflects on the arguments against the MFPR in Iran, as an Islamic nation, before going over the Medical Abortion and Embryo Donation Acts for Iranian infertile couples.

MFPR as an Outcome of Infertility Treatments

Medications taken for ovarian stimulation significantly augment the likelihood of the cases of multiple ovulations. In fact, multiple pregnancies are mostly the results of treatments with gonadotropin with a dosage of 14-60% (Keye, 2005). Following the occurrence of multiple pregnancies, the reduction of one or more embryos is often prescribed as a medical intervention to increase the chance of survival for the others.

The MFPR is thus typically performed during the 10-13th gestational weeks (*viz.*, the last weeks of the first trimester). The scientific rationale behind choosing this extent is as follows: (1) any normal abortion has already occurred up to this time, (2) the remaining embryos are large enough to be monitored using ultrasound (Fritz & Speroff, 2012), (3) the post-abortion remains of the fetal flesh are fairly small, and lastly, (4) the risk of all embryos being destroyed due to the operation is low.

Given their benefits, infertility treatment medications also compound maternal risks in multiple pregnancies while at the same time contribute to fetal ones (*i.e.*, complications and deformities). Investigating 46,000 multiple pregnancies, Walker *et al.* had accordingly found that postpartum hemorrhage (PPH) and maternal death had been as twice or more in such pregnancies as in single ones (Cunningham, 2011).

Arguments against MFPR

Religious Reasons

Religiously speaking, the MFPR falls under the theme abortion. This procedure is assumed a type of abortion; thus, abortion rules can be well applied. Because embryos with disorders and weaknesses are

often aborted in this treatment method, in order to help the strong and healthy one survives; therefore, the rules governing abortion apply to selective reduction.

There is no verse in the Holy Qur'an as specifically referring to abortion and/or embryo reduction, but *Shiite* jurists label them as illegal by resorting to the verses 31 to 40 Surah al-Isra' where filicide has been severely reprimanded (Salarzaee & Davoodi, 2007). There are even hadiths (sayings by the Prophet Muhammad (PBUH), and *Shiite imams*, especially by Imam Ja'far al-Sadiq (AS), prescribing the prohibition of abortion (Tayyebi Jebelli, 2003). Some *Shiite* jurists, living in the previous century or before, have less focused on abortion and embryo reduction, while the contemporary ones have vastly studied the subject by bringing in arguments, as they have been asked about it. Regarding abortion and the MFPR, Islam prohibits, considering punishments for those who practice such procedures; nevertheless, medical abortion is usually permitted under certain conditions and before the entry of the spirit into the embryo. Therefore, selective reduction, as a type of the expulsion of abnormal, disordered, and weak embryos has been encountered by legal restrictions in *Sharia* (religious laws in the Islamic tradition).

Against this background, the religious arguments in contrast to the MFPR are as follows:

a) Principle of Precaution

Once a responsible person, someone who has reached the age of majority according to religious laws, is doubtful as to the necessity or prohibition of a duty, because arguments are vague or conflicting, many experts in the field of Islamic legal theory believe that one is apparently under no obligation to perform the duty in question (Meshkini Ardebili, 1992). Such is the case as stated by *asl-e-bara'at* (the principle of innocence). The presumption of innocence imposes on the prosecution the burden of proving the charge and guarantees that no guilt can be presumed until the charge has been proved beyond reasonable doubt. On the other hand, if one is doubtful as to the prohibition of a certain duty, some Islamic scholars hold, one should avoid doing it in accordance with the principle of precaution (Bahrani, 1984).

Irrespective of the legal and rational arguments raised by either group regarding the principles of acquittance and precaution for the duties which remain a matter of doubt, both groups unanimously believe that rules belonging to the sphere of marital life, or those related to human lives, cannot be sanctioned according to the principle of acquittance, just because there is a lack of reason and evidence. Accordingly, the first principle in terms of dealing with these issues is the principle of precaution, unless there is special permit as to the performance of the duty in question (Musavi Bojnurdi, 1997). Therefore, the principle of precaution and not to perform it due to the abortion of a number of embryos in selective reduction is met.

Moreover, religious leaders such as Sheikh al-Ansari (1781-1864), one of the most prominent *Shiite* jurists of all time, deem the union of the sperm and the fertilized egg (*namely*, zygote) as having a human status because the sperm and the zygote are the first steps towards the formation of human beings (Nazari Tavakkoli & Kerachian, 2014), although some who objectify human embryo deny its being ascribed a human status (Hekmat-Nia, 2011). Thus, in cases of uncertainty regarding sanctioning embryo reduction, care should be taken as to avoid any act which would give rise to the destruction of a potential human being. Moreover, this operation deals with killing a creature, who may well turn into a fully-fledged human being after the fetal stage and birth. Human beings and living creatures are so important that not only do they find a religious aspect, but also a rational one (Fayyaz & Khoei, 1998). This is the foundation for the decisions that Islamic legislators make. Taking this approach, some *Shiite* jurists such as Makarem Shirazi, in their practice of *fiqh* (*viz.*, the human understanding and practices

of *Sharia*), examine various subjects, and determine the religious rules thereof (Ibn Fahd Helli, 1986; Saheb Javaher, 2014; Fazel Hendi, 1984; Ardabili, 1982). It is noteworthy that *Shiite jurists* do not take this approach in dealing with *fiqh* decisions in some cases, as there is a certain reason prescribing not to observe the principle of precaution, and not because they are doubtful as to the veracity of this principle. So, the first principle applicable in cases of human life issues is the principle of precaution, but not that of acquittance. Thus, in cases of uncertainty regarding sanctioning embryo reduction, care should be taken as to avoid any act which would lead to its destruction, because the operation deals with killing a creature that may well turn into a fully-fledged human being after the fetal period and birth.

b) Principle of No Injury

The principle of no injury means that no person can achieve one's goals by harming others. Although the existence of multiple embryos puts mothers in difficulty, eliminating such a condition may harm a healthy embryo. In other words, observing the principle of no difficulty, a *Shiite fiqh* rule in case of mothers' conflicts with observing the principle of no injury, and another *Shiite fiqh*-oriented rule (Rule of *La-haraj*, is one of the facilitative jurisprudence rules in Islamic jurisprudence.) in case of the embryo. The majority of *Shiite jurists* believe in the principle of no injury, giving priority to the embryo's life. However, some, like Sheikh al-Ansari, are not in favor of such an opinion. As stated in one of his books, Sheikh al-Ansari prefers the principle of no difficulty in cases of conflict between the two principles (Sheikh al-Ansari, 1799). In other words, he has voted for the life of mother in such cases.

c) Potential of Being a Human

The main reason put forth to prohibit embryo reduction is its personification. The moral and religious-legal preconditions in making such a decision with respect to a yet-to-be-born human thus determine the exact time when the human being's life starts. Accordingly, it takes two weeks (*viz.*, the pre-embryonic stage), following fertilization, for the zygote and its membrane (together called the conceptus) to reach the uterus. The eight-week period during which the conceptus is implanted in the uterus is called the embryonic stage. From the 10th gestational week onward, the fetal stage, divided into pre-viable and viable periods, begins (Larijani, 2014). The embryo, before the 20th gestational week, is at the pre-viable stage; meaning, it is unable to live if separated from the mother. After week 20, however, it enters the viable stage in which the embryo can live independent of the mother.

The question raised here is whether a human embryo can be considered as a person. In response, it should be argued that the creature living in the uterus, though not a fully developed human is potentially a human who does possess the capability of becoming a human prior to the entrance of spirit into the embryo. Thus, the more aged the embryo, the more personified it becomes in terms of moral and, thereby, legal personification. Furthermore, religious teachings imply that having the capability to become a human is enough to possess the status accorded to that of a human being. Therefore, parental consent is not sufficient to sanction embryo reduction, for their dominance over their sexual fluid does not give them the permission to destroy it following the fertilization and the conceptus formation. Accordingly, following the union of the human sperm and the egg along with the consequent formation of the zygote, all rights pertaining to a human being apply. In other words, an embryo is a small, miniature-like creature that just needs to be given a chance to turn into a human. In fact, he or she is a real human with great potentials. (Regarding whether the fetus is considered a person or not, Sunni

scholars say: From the point of view of many contemporary Sunni jurists, although the fetus does not have a soul before the age of four months, it is considered a person due to the fact that it has life. (Zarqa, M., 2004).

It is certain, however, that the majority of *Shiite jurists*, such as Mosavi Khoi, Mosavi Khomeini, and Makarem Shirazi prohibit the MFPR, which they consider as a type of abortion. On the other hand, they sanction abortion in some cases, including (Makarem Shirazi, 1999).

(1) when the mother's health is in danger, (2) when the mother's life is in danger, (3) when the embryo dies within the uterus; and (4) when the embryo's health is complicated.

Hence, by extension, in case of the MFPR, the embryo can be aborted if one of the above-mentioned conditions is met (Meshkini Ardebili, 1992). "O ye who believe! Violate not the sanctity of the symbols of Allah, nor of the Sacred Month, nor of the animals brought for sacrifice, nor the garlands that mark out such animals, nor the people resorting, to the Sacred House seeking of the bounty and good pleasure of their Lord. But when ye are clear of the Sacred Precincts and of pilgrim grab, ye may hunt and let not the hatred of some people in (once) shutting you out of the Sacred Mosque led you to transgression (and hostility on your part). Help ye one another in righteousness and piety but help ye not one another in sin and rancor: Fear Allah: For Allah is strict in punishment". (The Holy Qur'an, Surah al-Maedah, Verse 3).

Negating Right to Life

The right to life is the most fundamental human right, while other rights, stipulated in international instruments on the human rights, are contingent upon this one. Its importance is so overreaching that, according to the International Covenant on Civil and Political Rights (ICCPR), it should be observed at all times, even in cases of force majeure. In other words, even under emergency conditions, countries cannot violate this right under the pretext of protecting the endangered civil and political rights of their people (Karimi, 2013). As observed, whenever human rights are concerned, the right to life becomes so prominent that its negligence is tantamount to negating the whole idea of human rights. The MFPR is also related to the unique aspect of the right to life in the contemporary world, which deserves more contemplation. In other words, an embryo is a human, thereby entitled to all the rights reserved for a person. Thus, legitimizing his/her killing, for whatever reason, leads to the violation of some distinguished principles of the human rights, the right to life included, for, in respect to the MFPR, the life of one or more embryos is in conflict with that of other embryos. However, abortion and even the MFPR can be morally justified and naturally prescribed under special circumstances. To put it differently, when the lives of the embryo and the mother are in conflict, the mother's right to life is of primary importance, but in cases where the lives of two embryos, which are in equal positions, are in conflict, there is no such thing as primacy. Although the dominant approach to human rights is inclined towards accepting the right of the mother to abortion, in cases when the lives of the mother and the embryo are in conflict, this is not the case in respect to destroying one embryo in favor of another one. Nevertheless, referring to Part I of the ICCPR (International Covenant on Civil and Political Rights), some insist on the embryo's right to life even in cases where the lives of the mother and the embryo are in conflict (Heidarpoor, Bazi Tanha, & Ahmadi, 2013).

Solutions and Alternatives to MFPR

Although the MFPR is deemed illegal and, as for now, there are no legislations on the subject, the issues of multiple pregnancies and infertility treatments can be addressed by employing two Acts, *namely*:

- a) Medical Abortion Act: If applied to the MFPR, it (*i.e.*, the MFPR) can be prescribed whenever medical abortion is legally allowed.
- b) Embryo Donation Act: Embryo donation is used as a substitute for the MFPR.

Applying the Single Article of Medical Abortion Act 2005

The only legal entity ever ratified in the Iranian laws on medical abortion is the Single Article ratified in June 2005 by *Majles Shoraye Eslami* (Islamic Parliament of Iran). This Act makes medical abortion subject to the existence of several conditions, including (I) a decisive ruling by three specialists confirmed by the Iranian Legal Medicine Organization asserting that abortion is imperative due to intrauterine growth retardation (IUGR) or deformity of the embryo which puts the mother in a state of difficulty or a health condition on the part of the mother, which puts her life in danger; (II) the mother's consent; and (III) performing abortion before the spirit entering the embryo (*viz.*, month 4), thereafter, abortion cannot be carried out. A permit to abortion is typically issued once these conditions are met.

The Act cannot be exploited specifically in cases of the MFPR (Hasanshahi, Ebrahimi, & Raeisi, 2013), but medical abortion rules can be applied to the MFPR provided that these conditions are met. Nevertheless, the Medical Abortion Act, on the one hand, does have some shortcomings causing debates in courts of law and among the experts on the subject. On the other hand, the Act puts parents, especially mothers, in a state of uncertainty regarding the abortion operation, as the objective of the Single Article is not clearly specified (Qorbani & Bagheri, 2009). These shortcomings and uncertainties include:

- Although the legislator has seemingly sought to vest a right to mothers, the lack of a clear language on the part of the Act has led to the abuse of the law on the part of some physicians and neglecting the Single Article on the part of the judges who are to issue a ruling.
- If the legislator aimed to protect the mother's life, there should have been no distinction between the risk of a disease and the risk to the life of the mother. Therefore, it would have been more appropriate if the law included both risks, adding the phrase "a risk to the mother's life" in the Article.
- The words "deformed" and "difficulty" are general terms which include a wide range of instances. The legislator ought to have included a note specifying the definitions and clarifications for some instances. Had it done so, it would have been easier to find precedents in order to determine other instances (Ramjerdzadeh, 2013).

Despite the similarities between selective reduction and abortion as well as the possibility of matching these two cases with each other, the Act has several flaws, as follows:

- The apparent difference between medical abortion and the MFPR lies in the good they are supposed to bring about. In cases of medical abortion, the embryo is aborted because it poses a risk to the mother's life, or due to the existence of some complications for the embryo which threaten its survival. On the contrary, in case of the MFPR, the embryo is destroyed to guarantee a successful pregnancy. Thereby, ascertaining the existence of a risk to the mother's life or complications for the embryo, diagnosed by physicians, is not necessary to decree a permit to the MFPR. Therefore, it is not possible to resort to the Act in case of the MFPR unless the

reason for performing the operation falls under the regulations laid down in the Single Article on Medical Abortion Act.

- There are considerable moral controversies over the subject, as the legislator does not easily issue a permit for medical abortion in cases where the lives of the mother or the embryo are at risk; hence, there is a greater need for explicit language on the part of the laws with respect to the MFPR.
- Apparently, the legislator precludes father's consent in case of abortion for certain reasons. However, paternal consent seems to be of utmost significance in case of the MFPR, and this procedure should become legal.
- *Shiite Fiqh* sets blood money, payable in case of intentional abortion for the embryo, while the amount varies according to its age. Here, another controversy may arise because the MFPR per se includes the intent to abortion, on the one hand, and some grand *Shiite* jurists such as Mohaqqueq Helli consider blood money payable for the embryo even in cases where it is suffering from complications and the abortion is sanctioned by law, on the other hand (Mohaqqueq Helli, 1987). However, when multiple pregnancies threaten mother's life or in cases of fetal abnormalities, paying blood money is not required, because abortion is decreed by the Medical Abortion Act. But, in the MFPR, the embryo or embryos are destroyed to make survival possible for others because, otherwise, none would survive. While such an operation, as mentioned earlier, is against law and the right to life, it cannot be subjected to the Medical Abortion Act.

Utilizing other Infertility Treatments such as Embryo Donation as Alternatives

Following numerous debates and scientific seminars on assisted reproductive technologies (ART) and the necessity to employ them, *Majles Shoraye Eslami* passed the Act on Embryo Donation to Infertile Couples on 30 July 2003. The Executive By-Law of the Act was also ratified in 2004 (Mehrpour, 2015).

The Act was a great stride in terms of developing the Iranian laws with the aim of eliminating the challenges facing infertility treatments and their various legal aspects. This Act, though innovative, suffers from considerable shortcomings which are not at all few, compared to the laws in developed countries (Qazvini, 2008). Some defects are as follows:

- The Article 1 of the Embryo Donation Act stipulates that "All certified clinics specialized in infertility treatments shall, with due religious and legal regulations laid down in the Act hereof, transfer embryos which are produced through *in vitro* fertilization (IVF) from legally married couples to infertile women whose infertility has been confirmed after marriage and due medical examinations. The transfer shall be thus carried out upon acquiring the consent of the couple who own the embryo."

As observed, the Article 1 of the Embryo Donation Act specifies a precondition, *namely*, observing "religious ... regulations". Thereby, according to the Act, religious regulations must be observed in order to donate the embryos. However, some reject the very idea of infertility treatment by embryo donation as in opposition to the law of religion. Interfering with God's affairs, intermixing genealogical lines, promoting chastity (*viz.*, a woman's virginity must be taken by no man but her husband), contradicting human dignity, developing abnormal breeding, and abusing the rights of the child are the reasons put forth by the opponents of embryo donation (Khalafi, 2006). Moreover, some believe that any infertility treatment which involves a man other than the husband is wrong (Nazari Tavakoli, 2006). Some *Shiite* leaders residing outside Iran are also critical of ART (Assisted reproductive technology); for instance, two Iraqi *Shiite* leaders have declared their disapproval of using third parties in infertility treatment

processes (Inhorn, 2006; Clarke, 2006). Furthermore, this precondition has made some lawyers to doubt the legitimacy of embryo donation as an infertility treatment in spite of the legislation confirming the operation as they consider it against the religious law (Barikloo, 2013). In other words, these individuals deem embryo donation in contradiction of religion, and even against the law, due to the existence of the phrase "religious regulations".

Strange as it is, clinics are made responsible by the legislator to observe religious regulations, while they are not authorized to do so from a scientific point of view:

- A person's genealogy may entitle him/her to some compulsory rights, such as inheritance (Safaie, 2006). as well, Islamic rules dictate that kinship is only established through blood (*i.e.*, genealogical kinship), marriage (*viz.*, causal kinship), and suckling a child (kinship) (Samani, 2009). The Act is also silent about the inheritance of the child from the embryo-adopting couple and vice versa (of note, its Draft, however, had mentioned the child inheriting from adopting parents, but it was removed due to an objection raised by the Guardian Council of Iran) (Hoseini Nik, 2010).
- Clearly, there exists an inheritance-based relationship between the child and his/her biological father (Mohammadi Bardeni, 2010). In case of the child and adopting parents (*viz.*, the embryo-receiving couple), this relationship remains a matter of obscurity as some believe that there is no relationship of the sort between the child and these parents (Merghati, 2004).
- On the contrary, some hold that a child receives his/her descent through adopting parents (Mahdavi Kani, Ahmadvand, & Nour-Ahmadi, 2010), arguing in favor of children inheriting from their adopting parents.

The opponents correspondingly suggest that the legislator has intentionally sought to hide the connection between embryo-donating and adopting couples (Koosha & Ebrahimi, 2011). Thereby, the principle of secrecy is the rationale behind the Act's silence on inheritance. Important to add, this principle is mentioned in the legal regimes of some countries, England included. Such argument is, firstly, against the Article 7 of the Convention on the Rights of the Child, which asserts a child's right to know his/her parents (Jabbari, 2007); thereby it is not acceptable as Iran is party to the Convention. Secondly, the right to inheritance from adopting parents was mentioned in the Draft but removed as instructed by the Guardian Council. Accordingly, the silence about the inheritance was not due to the attempts by the legislator to maintain secrecy, but an objection raised by the Guardian Council leading to the removal of the Article on inheritance.

To this point, it seems that inheritance is subject to establishing a relationship between the child and the sperm, egg, and/or uterus owners. As a result, until a relationship is officially created between the child, on the one hand, and the sperm, egg, and/or uterus owners, on the other hand, an inheritance relationship is out of the question. Additionally, concerning the discussions initiated in the Guardian Council at the time of the ratification, leading to the removal of the Article on the right to inherit from adopting parents, a child inherits from one's biological parents, and receives their genealogy.

All in all, couples should be briefed on the subject, as there is continuous debate about the right to inherit from adopting parents (*viz.*, parents who adopt/receive embryos) or biological ones (*i.e.*, embryo-donating parents). Becoming aware of such fact, adopting parents may resort to other legal mechanisms, such as *inter vivos* trust, testamentary trust, *etc.* to prevent any consequent complications for these children. Moreover, biological parents may change their decisions with respect to embryo donation.

- Another defect on the part of the Act relates to its failure to determine a mechanism for supervising the property belonging to these children and appointing legal representatives to supervise their financial and legal affairs. Thus, there is confusion as to whom, adopting or

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biological parents, would legally represent the child, which raises conflicts in respect to the child's rights and interests.

- The Act is not explicit on whether the child is subject to generally established rules, should their adopting parents, for whatever reason, get divorced (Afshar & Bagheri, 2013).
- The nationality of embryo donors has not been addressed. Any negligence as to this matter can thus lead to the outbreak of contagious diseases within the country (Check, 2009).

On the other hand, the Act puts much emphasis on the embryo-adopting couples having the Iranian nationality. As the right to have children is a universal privilege, irrespective of nationality, such discrimination is wrong. It is further suggested that the Iranian nationality be accorded to the children born to alien individuals in terms of considering the interests of these children.

- The Act is unclear as whether couples, who have a child, but their only chance to have another child is through embryo adoption, can benefit from this method (Nazari Tavakkoli, 2014). It is also silent on the nature of the relationship between two siblings if one is begotten through embryo donation.
- The Act does not specify which family name is to be accorded to a child, whether it would be the adopting parents' or the biological ones'.
- The Act fails to elaborate on the health status of the donors. As well, there is no Article referring to medical care to be administered during pregnancy (*e.g.*, the donating couples should be tested for human immunodeficiency viruses (HIV), six months after the embryo has been transferred to the recipient mother).

Wilson et al. proved no significant decrease in pregnancy or implantation in groups where implantation is done through embryos frozen for longer periods (Khalafi, 2006).

- The financial qualification of parents (at least for adopting parents) is nowhere to be found in the Act. The Draft did mention the financial qualification (Safaie, 2004), but this part was totally removed following an objection raised by the Guardian Council.
- The Act and its By-Law do not set any prerequisites specifying that the adopting couples should be free of refractory diseases.

Some infertility treatment institutes, however, are seeking to address the issue, and its draft is to be ratified by the Ministry of Health and Medical Education (Milani-Far, Shahbazi, & Akhundi, 2010).

Up to now, it is obvious that the legislator's objective in passing the Act has been to legalize infertility treatments by means of embryo donation, dismissing other issues related to the subject. While the legislation of this sort is not comprehensive, the following solutions are suggested to be considered in further acts of legislations in respect to infertility treatments in Iran and other Islamic countries:

- Regarding the restriction in place in Islamic countries like Iran, the best solution to infertility treatments is to develop a comprehensive law wherein general principles are laid down, while specific instances are left out and scientific and technological improvements are considered. In the law, these countries should specify the infertility treatment rules and requirements with respect to Islamic doctrines in detail, while leaving them to courts to decide on instances. This way, judges decide on a case-to-case basis, according to the law and the method chosen by the couple, because infertility treatment methods may develop in future that are not in contrast with religion, or there might be a case within the current treatment system, which is not against religion, but has not been referred to in the legislation. For instance, in cases of multiple pregnancies where the embryos endanger the mother's life or they are underdeveloped/deformed, a judge may well rule in favor of the MFPR while keeping in line

with religious rules (as there exists a risk, and the parties have no intention of destroying one embryo for the sake of other ones). Therefore, judges may review each case on an independent basis, ruling in favor or against an infertility treatment method. The legislation of this caliber, though having more restrictions as it incorporates more religious regulations, is more appropriate than adopting the general idea of infertility treatments with more difficulties in terms of operation and post-operation issues.

- The legislator should determine the principles which are in line with religious rules; for instance, specifying that infertility treatments should not incur any loss, injury, or trouble, or in cases of loss and trouble, it should be of insignificant effects from a rational perspective. The legislator should also explicitly define religious redlines, such as the obligations to observe the principle of chastity.
- The issues pertaining to status, nationality, and inheritance, should be clearly specified in the law.
- The legislator should set, on a separate basis, conditions for social qualification of both adopting and biological parents.
- There should not be any discrimination in the law in respect to the nationality of embryo-receiving parties.

Conclusion

With regard to abortion, there are three approaches in the world, namely, absolute freedom, absolute prohibition, and relative freedom. Surveying the arguments put forth by the proponents and opponents of these theories accordingly makes it clear that the relative freedom of abortion enjoys a widespread popularity, having been accepted in most parts of the world, including Iran wherein religious decrees issued by *Shiite* jurists, though all asserting the prohibition of abortion, consider some exceptions in cases of medical abortion. Since there is no direct reference to the MFPR in *Shiite fiqh*, this procedure would be subject to the abortion rules as it is a type of abortion. Therefore, according to *Shiite fiqh*, the MFPR is right if it is performed to save the mother's life or destroy abnormal embryos. Such abortion can also be sanctioned by resorting to the Act on Medical Abortion 2005. However, if one or more embryos are sacrificed for the sake of others, the MFPR can no longer be utilized in the process of infertility treatments. Indeed, the MFPR can be addressed by other infertility treatment methods, such as embryo donation (for which an Act was ratified in 2003). Of note, Iranian legislation still suffers from numerous shortcomings on the subject. Eliminating legal obstacles in the way of infertile couples, the Act does present other problems, because, in passing the Act, the legislator has only aimed to legalize embryo donation, not paying the slightest attention to the problems resulting from the Act. Hence, there is a need to enact a comprehensive law which integrates all infertility treatment methods and religious rules in Iran and other countries.

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