 ****

HU-101 ISLAMIC STUDIES (2+0)

DE-40 EE Semester 2

Spring 2019

**ASSIGNMENT #1**

|  |  |
| --- | --- |
| **Submitted by** |  |
| Waleed Bin Tahir |  |
| Ahmed Jhanzaib  Adnan Munir  Syndicate C |  |

Instructor In-charge: Lec Pakeeza Tabassum

DEPARTMENT OF ELECTRICAL ENGINEERING

College of Electrical and Mechanical Engineering (CEME)

National University of Sciences and Technology (NUST)

### The Concept of Test Tube Babies in Islam

### Table of Contents

Page #

1. Abstract 3
2. Introduction 4
3. Comparison 5
4. Analysis 9
5. Conclusion 11

**Abstract:**

Test Tube Baby or Artificial Insemination (AI) is the process of reproduction in which sperms are placed in the female reproductive tract (uterus) by medical method without intercourse. There is no clear verse in the Qur’an and saying of the Prophet (Hadith) on the issue of AI. Because of this reason, Islamic jurists are divided based on their opinions. According to the 'fatwas' of majority of jurists, AI is legal and complies with Shari’ah if the process is conducted among wedded couples. Although, the process of AI, according to Islamic jurist, this is allowed; however, there are many issues of controversy which have arisen as the medical viewpoint through this method of reproduction is not clear and the legal issue starts if the sperm is taken from a third party.

**Key Words:**

Artificial Insemination (AI),

Artificial Insemination by Husband (AIH),

Artificial Insemination by Donor (AID),

Adultery (Zina),

Islamic Law (Shari’ah),

Opinion of Islamic Jurist (Fatwa)

**Introduction:**

All human beings have a limited life period. Allah created human from the same species through reproduction. The creation of Hazrat Adam(AS) and his wife Hawa are marked as the first pair and beginning of mankind.

**Definition of Test Tube Baby:**

Artificial Insemination is the process of reproduction of human in which the sperm of male is injected into female’s uterus by following a systematic process other than intercourse. It is a fertility treatment of human and a common practice in animal breeding. The baby produced through this process is named Test Tube baby.

**Process of Test Tube Baby:**

Following is the process of test tube baby;

**Step 1 - Egg stimulation:** Patient is given fertility medications to stimulate the production of egg.

**Step 2 - Egg Retrieval:** Imaging ultra sound is used to retain ovarian follicles with the help of hollow needle. Retrieval of egg is followed with minor surgery.

**Step 3 - Culture of Fertilization and Embryo:** For insemination male sperm sample is collected, eggs are mixed with the sperms and stored in laboratory.

**Step 4 - Transfer of egg:** After the egg is fertilized, it is transferred to the female’s uterus.

**Kinds of Insemination:**

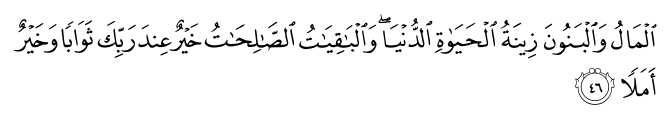
There are two kinds of artificial insemination. Firstly, the sperm of a husband is used for reproduction, which is named as Artificial Insemination by Husband (AIH). In the second process, sperms are collected from third person, which is known as Artificial Insemination by Donor (AID).

**Comparison:**

The process of reproduction of the first Test Tube baby was conducted in 1978. The issue which arose was the legality and acceptance of Test Tube baby. Catholic Church condemned the Test Tube baby and pronounced it illegal. On the other hand, libertarian allows Test Tube baby. Islam allows the new reproduction technologies and for that reason, Islam stands in the middle of the two extremes.

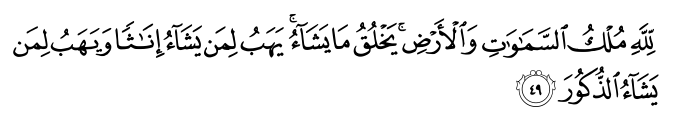
**AIH in Quran and Sunnah:**

Every human has the desire to have offspring. This concept is sanctioned for the Muslims from their holy book, the Quran.



*“Wealth and children are [but] adornment of the worldly life. But the enduring good deeds are better to your Lord for reward and better for [one's] hope.”[[1]](#footnote-1)*

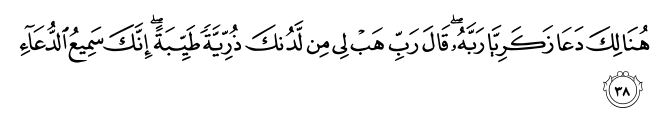
Getting bestowed with children is in the hands of Allah Almighty. It is stated in the Quran that:





*“To Allah belongs the dominion of the heavens and the earth; He creates what he wills. He gives to whom He wills female [children], and He gives to whom He wills males. Or He makes them [both] males and females, and He renders whom He wills barren. Indeed, He is Knowing and Competent.”[[2]](#footnote-2)*

There are two examples of Prophets, mentioned in the Qur’an, Ibrahim (AS) and  
Zakarriya (AS), who were not blessed with children from a long time. It is narrated in the Qur’an that, they were grown old without children. Then Zakariya (AS) prayed to Allah the almighty and said,



*“O my Lord! Grant unto me from You a progeny that is pure, for You are He that  
hears the Prayers”.[[3]](#footnote-3)*

They requested from Allah in pious manner and Allah Almighty accepted his prayers.



*“And he felt from them apprehension. They said, "Fear not," and gave him good tidings of a learned boy.”[[4]](#footnote-4)*

It is clear from above-mentioned examples that, Allah can bless the spouses to have  
children at any time He wants.

In Islamic Law, Qur’an is the basic constitution for the Muslims but some rules are not clearly elaborated in Qur’an. For cases, which are not explicitly mentioned in Qur’an, Muslims have to approach to Sunnah of the Prophet (S.A.W).

In case of infertility, the Prophet (S.A.W) encouraged the Muslims to have treatment. It is reported that the Prophet (S.A.W) said,

*“God has created diseases and cures, and He made cure for each disease, so seek cure, and don’t seek cure through prohibited actions”.[[5]](#footnote-5)*

Therefore, the couples can try to overcome their childless through treatment if it does not violate the principles of Shariah.

**AID in Quran:**

AID process is similar to the AIH but the sperms used for reproduction are collected from third person. This process is common in western society but Islam forbid reproduction through AID. It is clearly mentioned in the Qur’an that,

*“Say to the believing woman that they… should guard their private parts”.[[6]](#footnote-6)*

This verse not only describes the safety of their parts from intercourse but also ordained to guard their body except from the husband. In another verse, it is stated that,

*“Those who protect their private parts except from their spouses… therefore, whosoever seeks more beyond that then they are the transgressors”.[[7]](#footnote-7)*

In the process of AID, the sperm of third person is injected which is considered as transgressor for the Muslim wives. In another verse, it is stated that,

*“Then has He established relationship of lineage and marriage…”[[8]](#footnote-8)*

The use of donor sperm will create the legality of both father and mother. This will lead to the misconception of child blood relations and in future, it will be difficult to clarify his/her brothers and sisters. Another issue arises if marriage is conducted with AID based Test Tube baby and there will be misconception whether his wife or her husband is in blood relation.

**Fatwas on Artificial Insemination:**

1. On the issue of artificial insemination, the Grand Sheikh of Egypt from al Azhar University issued the first fatwa in 1980. The main point of fatwa on artificial insemination is categorized in different conditions. Firstly, artificial insemination with husband’s sperm is allowed, and the resulting child is the legal offspring of the couple. Secondly, if an egg from a wife and the sperm of her husband are taken and being transferred to the uterus of the wife, the action is also allowed, on condition that it is conducted for medical reason and carried out by the expert physician. Thirdly, if the sperm is taken from third party, the action is forbidden. A marriage is a contract between husband and wife as marital function of sex and reproduction is allowed only between the partners. The use of third party is tantamount to adultery. Fourthly, the adoption of a child from an illegitimate process of medically assisted way is not allowed. The child born through this way will be considered laqith, that is, an illegitimate child. Fifthly, if the marriage contract has come to an end because of divorce or death of the husband or wife, medically process of insemination is forbidden.
2. Muhammad Ibn Saalih al-Uthaymeen, a renounced Islamic scholar from Saudi Arabia, delivered a fatwa on the matter of AI. He said the process of AI is not permissible if the reproduction of a child can be done through natural process. In case there is a necessity and the reproduction cannot be done by natural way, AI is allowed, under three conditions;

(1) Fertilization needs to be done with the husband’s sperm. It is not permissible to use the sperm of anyone but the husband for this fertilization.

(2) Collection of sperm from the man should be done in a permissible manner, such as by the husband being intimate with his wife, and ejaculating between her thighs or in her hands, so that the semen may be emitted, then the egg may be fertilized with it.

(3) After fertilization, the egg should be placed in the wife’s uterus. It is not permissible to place it in the uterus of any other woman under any circumstances whatsoever, because that involves inserting the sperm of the man into the uterus of a woman who is not permissible for him.”

1. Ayatullah Ali Hussein Khamenei, Islamic scholar and the successor to Iran, belongs to Shiasect issued a fatwaeffectively in permitting donor technologies which  
   can be used. He added that, both the donor and the infertile parents must abide by the religious codes regarding parenting. According to the fatwa, the donor child can inherit only from the sperm or egg of donor, as the infertile parents are considered to be adoptive parents. However, the situation for *Shia* Muslims is more complicated and various religious experts have come to their own conclusions about sperms and egg donation.
2. Ayatollah Jannati, another *Shia* cleric from Iran, said, “Fertilizing a woman with her husband’s sperm is permissible but one has to avoid illegitimate means for that. He added that it is not permissible to fertilize a woman with the sperm of someone else other than her husband. While it is permissible to infertile a woman with the sperm of someone other than her husband if the husband is infertile, has consent, and this is not associated with other prohibited things. If a woman is fertilized with the sperm of someone other than her husband, the father will be the sperm donor and the woman who gives birth is the mother”. The concept and interpretation of artificial insemination is very different among SunniMuslims. The Sunnisect is followed rarely in the following Muslim countries i.e. Iran, Iraq and Lebanon, while it is administered in majority Muslim countries.

**Analysis:**

The following five methods are forbidden according to Shariah. They are forbidden either in and of themselves, or because of their consequences such as mixing lineages, not knowing who the child’s mother is, or other reasons that are objectionable according to Shariah.

1. When fertilization takes place between sperm taken from the husband and an egg taken from a woman who is not his wife, then the embryo is placed in his wife’s womb.
2. When fertilization takes place between sperm taken from a man who is not the husband, and an egg taken from the wife, then the embryo is placed in the womb of the wife.
3. When fertilization is done externally between the sperm and egg of the couple, then the embryo is placed in the womb of a woman who volunteers to carry it (Surrogate Motherhood).
4. When fertilization is done externally between the sperm of a man who is not the husband and the egg of a woman who is not the wife, then the embryo is placed in the womb of the wife.
5. When fertilization is done externally between the sperm and egg of the two spouses, then the embryo is placed in the womb of another wife (of the husband).

The sixth and seventh methods are acceptable as a last resort in cases of necessity, when it is certain that all necessary precautions have been taken. These two methods are:

1. When the sperm is taken from the husband and an egg is taken from the wife, fertilization is done externally, then the embryo is planted in the womb of the wife.
2. When the sperm of the husband is taken and injected into a suitable place in the cervix or womb of the wife so that fertilization may take place internally.

**Surrogacy:**

It is illegal and immoral to introduce into a woman the sperm of any man other than her husband. The formation of the embryo outside the human body will only be permissible subject to certain strict conditions. It will be Haram to form the embryo by the fusion of a woman's ovum with the sperm of a man other than her husband. It is also not lawful to implant into a woman an embryo developed in a haram way.

**Selection of Gender Through AI:**

It is not permissible for a woman who can have a child through normal ways to have a test tube baby because it is not permissible for a woman to show her private parts to others unless there is a necessity. Therefore, the application of test tube baby is not permissible for a woman who has children in order to have a child of her choice.

**Conclusion:**

AI is the new process of reproduction of a child that turns controversial in Islamic law. It is elaborated in our research that in Islamic law, the practice of AIH is permissible while the process of AID is prohibited. There are many reasons prescribed by Islamic Jurists to pronounce the way of AID as unlawful. The contract of marriage (nikah) is conducted between the spouses and there is no option for the third person to come between them. In Shariah, the AID is considered as breaking the trust of nikah. Another reason is the originality of parents. The child produced through AID is not the real blood of the husband, which creates many discrepancies on the issue of its legality and thus the attachment which is love for the child from the real father cannot be obtained. The Islamic Jurists have issued fatwas regarding the real status of AIH and AID. In Pakistan, the Islamic Ideology Council has elaborated the issue of AI and the head of the council delivered a fatwa on the issue of Test Tube baby. According to the said Fatwa, a Test Tube baby is considered to be legal, if the sperm and egg are both taken from the legal husband and wife respectively, and there is no interference of a third party. The Judges of Federal Shariah Court argued on this fatwa and decided that AID is prohibited and added that surrogacy is also illegal according to Shariah and Pakistani Law[[9]](#footnote-9). It was also recommended with the statement that there should be some changes in section 2 of the Contract Act and Pakistan Penal Code.

1. Quran 18:46 [↑](#footnote-ref-1)
2. Quran 42:49-50 [↑](#footnote-ref-2)
3. Quran 3:38 [↑](#footnote-ref-3)
4. Quran 51:28 [↑](#footnote-ref-4)
5. Abu Dawud Sulayman ibn al-Ash’ath al-Sijistani, Kitab al sunan,  
   Kitab al-tibb. Bab fi al-adwiyya al-makruha. Hadith 3874. [↑](#footnote-ref-5)
6. Quran 24:30 [↑](#footnote-ref-6)
7. Quran 23:5 [↑](#footnote-ref-7)
8. Quran 25:54 [↑](#footnote-ref-8)
9. <https://www.dawn.com/news/1316133> [↑](#footnote-ref-9)