



BIOTECHNICAL PARENTING: MUSLIMS' DILEMMA

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ABSTRACT:

Biotechnical parenting has made a major breakthrough and milestone achievement in answering stigmatizing sterility. Biomedical parenting, beyond any doubt, has relieved many a childless couple of their suffering of infertility or barrenness. It is an answer to a barren wife's innate craving to be a mother. It has brought hopes and sweet smiles on many faces. But, such biomedical techniques with its growth at frantic pace in order to solve the problem of infertility pose paradoxical situations and moral challenges and raise a slew of ethical and legal issues, which cannot be overlooked, underestimated and given a blanket approval. These issues, in fact, are directly concerned with human life. And for Muslims, all human life is regulated by the teachings of the Holy Quran and the Sunnah of the Prophet. Their actions are considered to be proper or right if they conform to the teachings and improper or wrong if they do not. As stated above that the life of Muslims are mainly regulated by the teachings of Islam (Shariah, Islamic Law), therefore, a serious exploration of Islamic Ethics is warranted as regards emerging issues from biotechnical parenting. Furthermore, Muslims are in a sort of dilemma when it comes to biotechnical parenting. Hence, a better understanding of the implications of these issues within the Islamic perspective is expected to provide necessary guidelines to the perplexed Muslims to opt for any modern techniques to overcome the problem of infertility. However, my paper is precisely aimed at evaluating the legitimacy of biotechnical parenting under Islamic Ethics which is not independent of Shariah.

Key Words:Islam, Parenting, Fertility, Surrogacy, Polygamy.



In annals of history stigmatizing infertility* has been the *raison d'être* for marital breakdown and spoiling many a couple's life in Indian subcontinent. It has made its prey to a slew of innocent and happily married couples and left them languishing in seclusion, a deep sense of despair and depression. It is infamous for wearing the crown of stigma in some pockets of Indian society. And it is precisely true in the case of women victims that they are often maltreated, discarded to bear social stigma, and at times, even barred from meeting a pregnant woman. Moreover, their presence is considered to be "ashubh" (unlucky) and they are often looked down upon in some quarters of India.

The problem of infertility is not confined to India only. Rather it has deep global presence, which makes it a global health issue. It affects nearly 80 million people globally, more than half of them are Muslims. In Middle Eastern countries, infertility is expected to affect between ten to fifteen percent of married couples. The World Health Organization data speaks that infertility affects nearly eight to twelve percent couples of reproductive age (ages 15-49) worldwide (Abu Rabia, 2013: 54-60).

However, a long prayer and innate craving of a barren wife to be a mother seems to have been answered with biotechnical innovations. With the innovation of biomedical possibilities, barrenness seems to be losing ground, and it will no more be misconceived as stigma. For it has rightly been baptized as disease. And that can easily be cured with some biomedical techniques.

Biomedical technology, however, has posed paradoxical situations and moral challenges, and raised several legal and ethical issues, which can hardly be overlooked, underestimated and given a blanket approval. Since they are directly concerned with human life. Therefore, they warrant serious ethical response from all quarters of human society.

For Muslims, biomedical issues concerning biotechnical parenting, which is directly concerned with human life, demands serious exploration and evaluation under Shariah. So that its legitimacy could be known, and guidelines could be brought out, for the help of Muslims who want to use this biomedical techniques to overcome infertility.

* The World Health Organization defines infertility as "a disease of the reproductive system defined by the failure to achieve a clinical pregnancy after 12 months or more of regular unprotected sexual intercourse".



Muslims are generally inclined towards having children in conformation with the Hadiths of their Prophet:

“Marry the one who is fertile and loving, for I will boast of your great numbers” (Sunan al-Nasai,4(26): 3229).

But then they are also aware of this fact that nothing happens without the will of Allah. For bestowing of children or barrenness, the Quran makes the following reference:

“To God belongs the dominion of the heavens and the earth. He creates what He wills (and plans). He bestows (children) male or female according to his will (and plan). Or He bestows both males and females, and He leaves barren whom He wills: for He is full of knowledge and power” (Quran, 42:49-50).

With regard to the problem of barrenness, we have reference in the Holy Quran to two Prophets-- Zakariya and Ibrahim, whose wives were not able to bear children, and finally they had even being there in their old age. The Holy Quran has records of the words pronounced by Zakariya and the wife of Ibrahim on being given the good news that they would be blessed with children, in the following manner:

He (Zakariyya) said: "O my Lord! How shall I have a son, seeing that I am very old, and my wife is barren? Thus, "was the answer", doth God accomplish what He wills" (Quran, 3:40).

She (Sarah, wife of Ibrahim) said: "Alas for me! Shall I bear a child, seeing I am an old woman, and my husband here is an old man? That would indeed be a wonderful thing" (Quran, 11:72).

From the above mentioned verses it becomes clear that some people may not be able to have children, but despite that they can if it be the will of Allah.

HISTORICITY OF INFERTILITY AND ITS SOLUTIONS AMONG MUSLIMS

History bears witness to this fact that Muslims who fell prey to this disease called infertility did not lose hope, and nor became victims of despair and depression. Rather, they tried to cope with the situation positively, and remained hopeful, that they would be bestowed with offspring in the same manner as their Prophets Zakariya and Ibrahim. Therefore, for Muslims, the very first attempt is to implore Allah to cure them of their infertility. Then, there are other



ways and means to which Muslims have resorted to solve their problem of barrenness all across the world. There are two principle ways or means plural marriage and foster parenting.

PLURAL MARRIAGE

In Pre-Islamic Arabia there was the norm of unrestricted polygyny, but with the emergence of Islam it was reduced to only four wives that one could have at one time (Ansari, 1973: 196). The Quran has the following reference in this regard:

"And if you fear that you shall not be able to deal justly with the orphans, marry of the women who seem good to you, two or three, or four: but if you fear that (in case of having more wives than one) you shall not be able to deal justly (with them) then (marry) only one (free women) or (a captive) that your right hands possess. That will be more suitable to prevent you from doing injustice"
(Quran, 4:3).

It is crystal clear from the above reference that polygyny is allowed only with certain conditions and under certain circumstances, and it is not a compulsory institution. Islam permits polygyny only for some different reasons, for curbing sexual immoralities of societies where women demographically outnumber men, and for some other reasons such as "To permit a man whose wife is not capable of having children for some reason or other, to remarry, to satisfy his natural needs and at the same time maintain his childless wife, who probably needs him now more than at any other time" (Abdalati, 1975: 172). However, polygyny in general is not a common practice among Muslims.

FOSTER PARENTING

Foster parenting has also been in practice for childless Muslims to deal with the problem of infertility. Childless Muslims have been foster parenting the children of either their sisters or brothers. Muslims are forbidden by Shariah from adopting children of other parents. The Quran has the following reference:

God has not made for any man two hearts in his (one) body: Nor has He made your wives whom you divorce by Zihar your mother: Nor has He made your adopted sons your sons. Such is (only) your (manner of) speech by your mouths. But, God tells you the Truth and He shows the (Right) way. (Quran, 33:4)



Call them by (the names of) their fathers: that is more just in the sight of God. But if you know not their father's (names, call them) your brothers in faith, or your Maulas (fostered ones). But, there is no blame if you make a mistake therein: (what counts is) the intention of your hearts: and God is oft-Returning, Most Merciful (Quran, 33:5)

According to Ibn Kathir these verses of the Holy Quran are related to the Prophet with regard to Zayd bin Harithah whom the Prophet adopted as his own son before the prophet hood was conferred upon him. Zayd was then called "Zayd bin Mohammad." Allah (God) wanted that this affixation and relationship (i.e., bin Muhammad) be discontinued. Furthermore, adopting a child and claiming him/her your own son/daughter in no way makes him/her truly your child (son or daughter) as he/she is not your generation, rather he or she is the generation of another man and this is quite impossible for him or her to have two fathers in the same manner as it is not possible for a man/women to have two hearts.

Further, Dr. Hammudah Abd al-Ati comes out with reasons for injunction on legal adoption. He says "adoption is one of the major reasons that encourage many people to indulge in irresponsible activities and intimacies. It is being commercialized nowadays. There are some people who put up their children for sale or trade as the news media show. That is not in the African or Asian jungles; it is right here in Canada and America. Because of all that, Islam does not accept the institution or tolerate its practice among Muslims" (Abdalati, 1975: 171).

However, there is Quranic injunction for adoption, but the Quran, on the other hand, upholds the practice of foster parenting orphans, and urges Muslims to sustain this practice. The family name of a child being fostered would remain the same, while in adoption a child loses his/her family name. The family name is retained for the sake of preventing him/her from getting married accidentally to his/her own blood sister/brother (Quran, 4:23-24).

Anyways these ways and means were and are not the final answer to the problem of infertility. Rather they are subject to criticism. Polygyny, for instance, could solve the problems of a person whose wife is not able to bear offspring by his being married to another women and having children (if she can) from her. But, what if the problem lies with the man? Polygyny is not going to solve the problem here. Furthermore, getting another wife could bring him offspring, but that would not resolve the problem of barrenness of his wife who has innate



craving to be a mother. As women generally have great urge to have their own children in virtue of their physiological nature.

Same is the case with foster parenting; it does not seem to answer the innate craving of a woman to be a real mother. You cannot call a foster child your own, and he/she cannot have the name of foster parents, and will never be the legal heir.

However, the question arises here that could not anything be done to make a woman bear her own child?

MODERN SOLUTIONS TO THE PROBLEM OF INFERTILITY

Biomedical science in response to the problem of infertility came out with certain different biomedical possibilities or techniques which are as follows:

1. Artificial insemination (AI)
2. In vitro Fertilization (IVF)
3. Surrogate parenting

These biotechnical solutions, however, do bring hope to infertile couples but these techniques, at the same time, pose lots of ethical and legal issues which cannot be overlooked and given a blanket approval.

My attempt, however, here is to explore the moral or ethical implications involved in these techniques, and see their justification and legitimacy under Shariah.

1. ARTIFICIAL INSEMINATION (AI) is a process by which the husband's or a donor's sperm is introduced into women's uterus to make her pregnant. In this process one uses either sperm from the women's husband or male partner, or sperm from a sperm donor in cases where the male partner has a low sperm count or produces no sperm or the women has no male partner (i.e. single woman and lesbians). When the donor sperm is used, the woman happens to be gestational and genetic mother of the child and the sperm donor is the genetic or biological father of the child (www.equipo.org/articles).

Problem especially for Muslims pertains to how the semen is obtained for artificial insemination. Dr. Robert H. Glass and Ronald J. Ericsson state that, "attempts to collect the semen by withdrawing during intercourse are usually unsuccessful because the first few drops,



which contain the greatest concentration of sperm, frequently are lost, thus making the sperm count falsely low. Collection into a condom also does not work because condoms contain certain spermicidal agents, and the laboratory will find only dead sperm. For those male who cannot, or will not masturbate to collect a specimen, there is a collection sheath that does not contain a spermicide, and it can be used for collection of the specimen during intercourse" (Robert et al.: 1982: 39).

It is quite clear from the above that there are only two ways by which semen could be collected masturbation and the inserting of the penis inside a special sheath, which does not contain a spermicide, before intercourse. If this sheath happens to be not easily available, then the only way that remains to obtain sperm is masturbation. And the problem arises here that whether masturbation is justified or not under Shariah or Islamic law.

Now lets us have a look at four schools of Shariah as to the issue of masturbation.

Masturbation and Shariah: Masturbation has been considered as sin by Islam but there is not specific punishment for the person who indulges in this practice, suggesting that the person be rebuked for engaging in it.

The reason for masturbation being considered as a forbidden act under Sharia (Islamic Law) is the Quranic verses given below:

(The Believers) are those who abstain from sex, except with those joined to them in the marriage bond or those whom their right hands possess, for (in their case) they are free from blame (Quran, 23:5-6).

But those who desire to exceed those limits are transgressors (Quran 23:7).

Thus, to indulge in sexual practice other than in the specified way would be considered as disobedience of the explicit command of God and therefore that person will be called as a transgressor.



Maliki School: The Maliki School is of the opinion that masturbation is forbidden (Haram) as according to the saying of the prophet:

He who is able to marry should marry for it keeps the gaze low and guards one's chastity; but he who cannot (marry) should resort to fasting (occasionally), for it will help curb one's sexual passion (Sahih Muslim 1(3): 546).

However, the jurists belonging to Maliki School are of the view that if masturbation was allowed under the Sharia, the Prophet would have acknowledged its permissibility, for it is simpler than fasting. And as the Prophet did not mention it, demonstrates that masturbation is a prohibited act .

Shafii School: Shafii jurists' views on masturbation have been put forth by B.F. Musallam as "still others, such as the strict Shafii jurist Nawawi, whose opinion is typical of the Shafii jurist as a whole, said that masturbation was absolutely forbidden (haram). But, then we find that he, as well as the other Shafiiis, permitted masturbation when it was performed by the hand of a man's wife or concubine, for he has a right to the enjoyment of her hand as he has to the rest of her body (Musallam, 1983: 34).

Hanbali School: Musallam writes that masturbation has been allowed by some Muslim jurists especially as a means to stop zina, illegitimate sexual intercourse. Accordingly, these jurists have argued that masturbation is lawful 'in the absence of a legitimate partner to satisfy sexual lust'. For instance, Ahmad Ibn Hanbal, the founder of the Hanbali School of Islamic law, argued that masturbation is permissible for prisoners, travelers and 'indigent, lonely person who did not have access to a lawful sex partner' (Musallam, 1983: 33).

Hanafi School: Abd al Rahman al Juzayri writes that the author of *Subul al Salam* states that some of the Hanafi jurists are of the view that masturbation could be permissible if one fears that his not engaging in it would lead him to committing adultery or fornication. But, he warns that the view is weak and is not to be relied upon (AbulFadl, 1986: 103).

Opinions concerning permissibility of masturbation are divided. However, dilemma arises for those who are in need of the technology but the school to which they belong are not in support.



Donor Sperm: There are several instances of cases in which husbands happen to be unfit for producing semen for one or the other reasons. Reasons could be chronic diabetes, or neurological disorder, or it could be some other diseases or problems. In such cases, however, the only option available is donor sperm. With donor sperm one can impregnate ones' wife or partner. Here the sperm donor will be regarded as the biological father of the child produced as a result of his donation (en.wikipedia.org/wiki/Sperm_donation). Which is why, almost all developed countries have got sperm banks.

Now the question arises for Muslims whether the use of semen of a foreign person, who is not the husband, to impregnate a woman through artificial insemination is justified under Shariah (Islam Law).

Shaykh Mahmud Shaltut, the head of the Azhar Mosque and University, came out with the following fatwa (religious decree):

“Artificial insemination with the sperm of a stranger under the Shariah is a grievous crime and a great sin and is tantamount to adultery”(Shaltut M, 1975).

Al-Qaradawi is of the view that ‘Islam safeguards lineage by prohibiting adultery, fornication(zina) and legal adoption, thus keeping the family lineage unambiguously defined, without any foreign element entering into it. It likewise prohibits what is known as artificial insemination, if the donor of the sperm is someone other than the husband’ (Al-Qaradawi, 2000).

However, it is clear from the above references that it is illegitimate under Shariah to impregnate a woman with donor sperm. Even if a husband wants to impregnate his wife with his own sperm (which he has stored in a sperm bank) after his death is illegal and illegitimate according to Islamic law. For the marriage union stands annulled after the death of a husband, and a woman can marry someone else after iddat (i.e. after four months and ten days) (Quran, 2: 234).

2. IN VITRO FERTILIZATION (IVF): In the procedure of in vitro fertilization, fertilization artificially takes place outside the body of a woman—in a test tube. The phrase ‘in vitro’ is of Latin origin which means "in glass". It has been used in contrast with ‘in utero’ in embryology.



In fact this technology helps those women whose fallopian tubes happen to be absent or abnormal or damaged.

“IVF is generally used when, due to some obstruction, the sperm of the husband cannot reach the ovum. In this case, the ovum is removed from the woman’s ovary at the time of ovulation, and exposed to the husband’s sperm in vitro in hopes that it will be fertilized. The fertilized ovum is then preserved in a test tube and at a later stage, when it becomes an embryo, is implanted in the woman’s uterus. Thus, women who otherwise would not be able to conceive a child are able to carry to term the fetus conceived outside the body and give birth to biological offspring” (Abu Rabia, 56).

There is no doubt that IVF could help a women to have offspring and thereby make her rid of her barrenness. But its legality is questionable as there are two issues involved in the procedure.

Firstly, only one fertilized egg (ovum) is chosen for implantation while all the other fertilized eggs (ova) are discarded.

Secondly, it is possible that some deformities may take place while monitoring the development of the fertilized egg (ovum) after implantation, which in turn could compel one to end the pregnancy.

Paul Ramsay shows reservation for IVF, as he says that IVF should not be done for it has great risk of genetic deformity (Paul, 1972: 1481).

However, ending pregnancy for any reason of deformity or abnormality, and discarding fertilized eggs (Ova) are questionable under Sharia. Imam al Ghazali has the following views:

(Human) existence has stages. The first stages of existence are the settling of the semen in the womb and its mixing with the secretions of the women. It is then ready to receive life. Disturbing it is a crime. When it develops further and becomes a lump, aborting it is greater crime (AbulFadl, 1986: 110).

3. SURROGACY: In surrogacy a women bear a child for another women who is not able to bear offspring because of her fallopian tubes being damage or blocked or her not having a uterus. In this procedure the child would possess the genetic complement of the husband, if the



husband's sperm be used to fertilize the ovum of the surrogate woman. But here again the problem arises that the egg or ovum of another women (surrogate women) is being fertilized by the sperm of a man who is not her husband. This would again stand illegal under Shariah. Furthermore, it may be the case that the sperm or ovum of the legally married couple be fertilized in vitro and placed in the uterus/womb of the surrogate who would give birth to the child who could bear the genetic complement of the contracting couple (AbulFadl, 113-114).

But question arises that who would be the mother of the child, surrogate who gave birth to the child, or the woman who provided egg? Some Islamic jurists hold that the woman who provided egg would be the mother, but some others assert that the woman who gave birth to the child would be the mother, citing the reference of the Quran.

“None can be their mothers except those who gave them birth”
(Quran, 58:2).

Anyhow, Islam shows reservation for surrogacy as it results in confusion regarding parentage. Further, advocacy of surrogacy is in a way distraction of institution of marriage and it may give rise to some other problem as well. And finally, it could be pointed out that Shariah does not allow Muslims to have their children breast-fed by other women.

CONCLUSION: Islam poses no any objection in seeking medical treatment for overcoming infertility, provided the treatments and their methods in no way tamper with the Sunna(ways) of Allah. It gives permission for artificial insemination only with the semen of a person who is legally joined in marriage, and not with donor sperm. But what if the husband is not able to produce any semen? In vitro fertilization procedure is considered to be legitimate, if fertilization that is the result of the husband's semen and the wife's egg achieved outside the body, where the embryo is then inserted into the wife's uterus. And if fertilization that is the product of the husband's sperm being mechanically inserted into his wife's uterus so that the fertilization takes place inside her body. It is not allowed with the sperm or the ovum of a foreign person who is not joined in marriage. Again what if any of the two is medically not fit to participate in the process of in vitro fertilization? Surrogacy is altogether rejected, for it poses the problem of parentage.



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