Investigating the Legal Dimensions of Medical Reproduction in Subjected Law of Iran

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Abstract

Artificial inoculation is in contrast to natural production and it described as combining male sperm and female ovum, if they are alien or to coagulate and productive of sperm by every factor than sexual intercourse. This combination is done in out of venter or in it and it is a component that was indicated in most of countries and experimentally it has no ambiguity or problem, but it has some moral and legal problems and ambiguities. Regarding to these two methods (inoculation in clemency or out of it), there are more than 20 various types of artificial inoculation. Although in totally, there is no legal recommendation for each of them, so after long and exact studies by juries, some of these pictures are applicable without any legal problem and some of them need to more discussion and there are some disagreements or prevented or recommended some cautions, one of them is artificial inoculation or sperm of alien male. Although few of juries considered it without problem, but since in each of these pictures, the agreement of juries and guard counsel is needed so there is no specific confirm about prohibit components. We attempt that, besides indicating legal and judicial views, indicate some solutions to mediate disagreement ideas.

Keywords: Reproduction, Incubation, Artificial Reproduction, Infant Donation, Sperm Donation, Ovum Donation, Fertilization.
Introduction
Nowadays many nonproductive couples, solve their problem by new reproduction methods such as artificial insemination including inner venter insemination, outer- venter insemination, Gamut Donation and alternative venter. Some of new reproduction methods are in a way that made ambiguity in originality of children. None productive therapy by infant Donation is one of the complementary methods and techniques of reproduction for having child among none productive couples. In Iran and with confirmation of juries and also by determining related law, it has been done since 2002. Although, the infant Donation must be following with many moral factors that they must indicate by legislator in a clear way and it leads to prevent immoral misuses. Also volunteers must have more awareness about its legal and medical conditions. The subject of artificial insemination that is subject of present research, is one of the new components that was created during medical science flourish and so in it is source of creating various legal problems and since it is a new subject, so it was not clearly explained in written law of Iran and to investigate it, the general bases are used. It can be noted that artificial insemination is an event that is not following with a specific law but its recommendations is in boundary of general and total bases and so following with their previous readers, juries indicated that: indicating bases and laws is our task and derivation details is your task. They attempt to prove the recommendation of this problem. Regarding to mentioned cases, I want to adopt judicial and legal written and I had tried to study the newest human conclusions to solve this problem and creating an appropriate field to reproduction of none productive couples in view of Iran's law and jury and indicate the findings to readers.

Statement of problem
Artificial reproduction and its conditions are important subjects that were indicated in most of countries in all of world and they are not confronted with any problem experimentally, but morally and legally, it is following with some ambiguity and problems that was studied in developed countries. In France, two laws were confirmed during 1994 about artificial reproduction by help of medicine and it modified and completed the general health law of French. In Iran, the law of infant Donation to none reproductive couples was confirmed in 2002 in parliament and change its field and also responded the problems in this field. It can be noted that Iran's law has more faults than law of France and other developed countries and has no case for many related problems. In addition, mentioned laws couldn't indicate legal dimensions of artificial reproduction and it increased ambiguities in this field. It must be noted that modification and completeness of law must be done by using jury's sentences and new indications, and also regarding to adoptive law. Our attempts are indicate the opinions of juries that were indicated to mediate the opinions of disagreement people. So at first the present methods to create laboratory children were interpreted and then we study judicial and legal opinions and finally we try to indicate some opinions that are adopted with moral and legal bases and also with human ad vantages by analyzing opinions and by helping general juries and derivation from law bases. And finally we want to indicate some suggestions to Iran's law for made better the relate3d law to this subject.

Research method
Method of analyzing data is descriptive- analytic. In the present research, data were collected and analyzed. For collecting data some instruments such as library, electronic sources, international documents and present sources in organizations and offices were used.
Review of literature
There are a few studies about artificial insemination or medical reproduction that some of them are as following:
- M.A thesis: Hemati Sardrood, Nazilla, investigating children rights who were born from artificial insemination, Oromieh University, human science college, 2014
But there is no a comprehensive study about the related subject.
Research purposes]
1-indicating the position of medical reproduction in Iran's law
2-investigating the boundary of civic responsibility in medical reproduction in legal system of Iran
3-indicating heredity laws for child who born from artificial insemination

Research Hypotheses
1-regarding to follow the law of republic Islamic of Iran with jury frames, medical reproduction in Iran is limited to specific conditions and it was accepted by considering religious dimensions of problem.
2-civic responsibility of medicine about reproduction is limited to faults and no responsibility of medicines.
3-however that the infant is a production of artificial insemination but it has no effect on problem of heredity and his/ her heredity is similar to common children.

Legal and judicial bases of artificial insemination
Juries and Islamic scientists by emphasize to real bases and foundations are seeking to a solution for allocating a child to none productive couples without making any problem for originality of family.
This natural right with emphasize on emotional aspects must not effect on other dimensions of life and they are bases that treat the family bases and if no attention to them they can treat the family base. The case of originality protection is based on caution base in them and it is emphasized by God principles.

Judicial bases
About legality of insemination of male semen to venter pf alien female without sexual work, it was determined because of Ayah 7 of Moemenoon Surah that its originality is based on protection venter, and it is prevented the sexual share of male with other female than his wife. So protection the venter from alien people is a necessity and it may be including the entering semen of alien people to female venter. About ovum insemination of alien female to venter of none productive female, majority of juries consider it as inadmissible method and about admission of semen insemination and alien ovum in laboratory environment and transfer it to venter, there is no any doubt and it is not prevented subject and combine semen and ovum of a couple is a correct deed if there is no touch but there are various ideas about alien combination that majority of them, prevented it but some of them such as Ayatollah Khameneie considered it as a correct deed. About the correctness of infant relation with
parents in view of Shia juries, the infant because of infant Donation has family relation with couples and all of obstacles are related to infants and couples. For example if those couple that allocated semen and ovum had another infant, these children are sister or brother-sister and they cannot marry.

Legal bases
There is no clear recommendation about admission or in admission of infant transfer to venter of Alien female, and if any deed is not prevented legally, it is a correct deed. Since all human deeds are admissible if they do not damage to general order and correct morality. In this discussed subject, the theory of infant transfer to alien venter for none productive families that cannot produce infant in a natural way and would like to produce an infant is an advantageous subject and leads to tightness of family relations and continue these relations and also general ethics has no contrast to it and it not lead to damage to social system, so it can be said that this deed is admissible legally and law professors and scientists are in agreement with it.

Medical reproductively in criminal law of Iran
Is artificial insemination by husband semen is a crime in view of criminal law and why? Artificial Insemination with Husband Semen or A.I.H has no any legal problem and it not lead to a crime. its infant is related to couple and In Iranian law that was extracted from Imamieh jury, its people are not criminal ones, if during doing this, there was not occurred any crime some of crimes in this field are: semen replacement, medicine fault and medical group and so on that the deed itself is considered as crime but the insemination is a correct deed. Is artificial insemination with semen other than husband in criminal law of Iran is considered as crime of not? Indeed regarding to lack of confirmed law in this field, two points were indicated in this field:

Medical reproduction in criminal law of other countries
As it was founded in the previous studies, some laws and legal cases of France are similar to Iran's law. The agents of 9th international parliament of criminal laws believed that artificial insemination must not consider as crime and all countries must not prevent it if both wife and husband are satisfied. Some juries considered it as a factor in contrast to benevolence ethic and they believed that it is damage for society and so prevent it. For example in indicated report on academy of ethical and political science of France in 1949, it was reported that: those infants that were born artificially in a family and use last name of the new family, it damage the relaxation of family and common life . France legislator for preventing possible results was confirmed in 1994 that based on it, semen Donation is without cost and is in a hidden form and also allocator has no any right about semen and resulted child. Also based on mentioned law, the volunteers of using allocated semen must have a normal conditions that some of them are as following: having two years of common life, approving none productivity of parties, aliveness of parties, having age for reproduction and documented satisfaction of parties and in dictated commitment for acceptance of child who born from semen. In France, it was prevented the artificial reproduction with new semen of third party and these laws are indicated in two forms of medical help to productivity and pregnancy and special laws for allocators and users of semen. In civic law of France that there were not a clear law in this field, by adding two cases of 311-19 and 311-20, this factor was confirmed in 1994 and the children that are born by this method are legal and are under laws of health ministry and so
the born child is related to parties and the third party who allocated semen has no any relationship with the children and also has no any responsibility about him. In France and by confirmation these legal cases during recent years, insemination of semen of alien male to a female is a legal deed and also the legal condition of relation was added to it.

**The rights because of child production and his control because of medical reproduction**

Civic law and its 861th case defined relationship as a condition of heredity but excepted illegal children in case 884. So it is clear that heredity condition is relationship and just illegal children are prevented based on case 884 so it can be said that all other children except that illegal; children are including conditions of heredity because case 884 is an exception for case 861 and other cases than it are prevented. So exceptions of case 884 must be interpreted based on case 861, Although the theory of children heredity from semen owner or ovule has some considerable attentions in juries, since their attention is related to couple but they cannot ignore the living condition and so heredity recommendations are based on specific reasons and religious recommendations and there are not extensible by intellect. So the theory of no heredity of infant from owners of semen or ovule based on fairness has some problems. Because it is not based on equality and it is based on specific reasons and religious factors and so extending its interpretation of legal recommendations is in contrast to this case and this case is an intellectual factor that cannot be emphasized in reasons of heredity. So if it is interpreted in this way, during co sleeping hypothesis, the couple without religious contraction, and seeking to parties spirits, we must consider this base of equality that law in explain the theory of child heredity from owners of semen of ovule is not a legal factor because it has no intellectual base.

**Conclusion**

Medical reproduction can be done by three following methods except than those couple therapies that done without change in male semen and female ovule:

A) Ovule Donation (as transfer health ovule in one person in venter of mother or acceptor)  
b) Semen Donation (as transfer semen from a healthy person in acceptor venter)  
c) Infant Donation (as in a way at the infant is delivered by an appropriate person and it nitrated in laboratory centers and it insert on receptor venter in appropriate time).

So most important findings of the present research about medical reproduction in jury and subjected law of Iran is as following:

1- a child that is born from artificial insemination is considered as legal child and has legal ratio. His father is owner of semen and his mother is owner of ovule.

2- So all recommendation related to their relations are made between them. About rent venter, the woman is owner of ovule and there is a relationship between child and ovule owner. But the relationship between husband and child is conditional factor and in some specific conditions the child can be related to the husband. But the stronger idea is that the child is related to semen owner and the woman husband has no any relationship with child. The law of infant Donation to none productive couples solved the problem of none productive families by using ideas of juries and legal thinks. This law, allow none productive couples, that had a child from the semen and ovule of other people that was made in laboratory. So there are some legal cases to support this child, in a way that the law indicated that tasks and works of receptors and born infant is similar to the tasks and works of real parents. Regarding to jury, culture and ethic, law limited this method to none productive males and females and those
couples that receive this infant must be wife and husband formally and have marriage contract. While in France right, the condition of formal marriage is not necessary and two years of common life is enough to receive infant. If the husband has no semen but the wife has healthy ovule the relation of child by mother and father is as following: the natural father of child is semen owner and if the child is a girl, there is marriage presentation between them. But since the semen owner allocated the semen, heredity, control, alimony and so on are not his responsibility, but for mother, the ovule owner that is venter owner is the mother of infants and all of responsibilities of a real mother are included this woman. The agreements about using alternative venter is not descriptive in form of traditional contracts of rent of borrow. Using alternative venter is an independent contract that has some specific results and one necessary condition of these were indicated that main condition is commitment of alternative mother for infant control and deliver the child after born to committed people. Law about conditions of child heredity because of infant transfer from receptor and vice versa was been silent. It must; legislator indicated the recommendation of this problem clearly. Indeed case 2 of law of supported fatherless children deny heredity between couple and child clearly. Indeed researcher believed that selective theory about relation of mentioned infant, the relation is made between infant and receptor couple and the male of semen owner, but there is no similar relationship between couple of infant receptor and child. If the semen owner is unknown, so child is heritage from his mother family and the ovule owner. For providing heredity between child and receptor couple it can be used from grantee contraction that is by confirm these factors, there is no any heritor is related heredity there is relationship between them. But it is considered that because of lacking the real assumption of none relative familiarity there is no heredity in none of groups and using this contraction is useless. So it is consider that using some factors such as providing debt for infants during living, using assurance industry, using ownership written for one third and compensate this fault.

In Iran's right there is a practical approach about identity of allocator that is same with intimacy policy that leads to prevent of child from artificial production about his identity and right while identifying this right in Iran is more appropriate than other countries because in law of other countries, the child that was born from artificial productivity is legal child of couple but in Iran and based on all ideas of theodicies, in view of father relations, semen owner possess infant in mother relations, most of thinkers believed that the ovule owner is mother and a few of them considered the receiver woman as mother. Also legislator in case 3 of law, not considered receivers as parents of children, and just predicted natural rights of parents for them.
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