

Exploring Procreation of babies via In Vitro Fertilization in the light of Islamic Shariah

Hafiz Hassan Madni

Institute of Islamic Studies, University of the Punjab, Lahore.

Abstract- Procreation of babies via In Vitro Fertilization is a new phenomenon among humans which has been a point of discussion among Islamic scholars for quite some time especially regarding its legal status and its implications on inheritance rights. In Vitro Fertilization is a process in which an egg is combined with a sperm in vitro. Usually, couples who are not able to procreate go for In Vitro Fertilization. If this whole phenomenon is observed from Islamic lenses, a lot of questions come to mind. Can we call the procreation of babies via In Vitro Fertilization legal? Is the relationship between parents and children legal especially when babies have been born through In Vitro Fertilization? Is this whole process of In Vitro Fertilization in line with Shariah Marriage or questions the sanctity of marriage? What will be the relationship between children and mother after babies have been born through In Vitro Fertilization? What set of rights children and mother can claim after babies have been born through In Vitro Fertilization? All these queries have been addressed in this article.

Index Terms: In Vitro Fertilization (IVF), Test-tube Baby, ovum-bearing Mother, Birth mother, sperm and ovum, Inheritance, Shariah, Breastfeeding.

I. INTRODUCTION

This topic or in other words this research question will be answered by the assumption of an example: The theme under discussion can be better understood through a self-assumed case study in which A is a woman who is unable to produce eggs due to poor health; B is a woman who can produce eggs but not married to C and C is A's husband who is healthy and can produce sperm. Twenty years ago, A got egg from B for its fertilization with C's sperm. Via In Vitro Fertilization, Zygote got developed in the womb of A which in reality carried egg of B and Sperm of C. After nine months, A gave birth to two girl babies which we for ease we can code as D. Question worth exploration here is: what is the relationship of these two girls (D) with the woman (A), her husband (C), and woman B whose egg was taken? What share of inheritance rights these girls (D) can claim? If A dies what share will C get from A's inheritance? It's important to address all these questions in the light of Islamic Shariah. What's the position of Islamic Shariah on all these questions, has been addressed in this article?

II. IDENTIFY, RESEARCH AND COLLECT IDEA

A. What offspring get from their Parents?

According to Islam, the rights of parents are the highest after the rights of the creator of the Universe and his prophet Muhammad (PBUH). These rights include showing good behavior and obedience to them, supplication for them, meeting their food needs, living with them, paying heed to their consent in marriage, and their share in the inheritance of their children, etc. Besides, a woman is called a mother due to her different roles and performances such as:

- From the perspective of her eggs' production.
- From the perspective of pregnancy and childbirth.
- From the perspective of breastfeeding.

- From the perspective of love, nurturing, training, compassion, and lifelong supervision.
- From the perspective of justice in life and rights to inheritance after her death etc.

A man is called father due to his different roles and performances such as:

- From the perspective of sperm.
- From the perspective of providing protection and financial support to his wife and children (clothing, shelter, food medical expenses, etc.).
- From the perspective of love, compassion, arranging marriage of his children and training his children throughout his life.
- From the perspective of justice in life and rights to inheritance after his death etc.

B. Rights from Mother to Children

Islamic Shariah has bestowed sufficient rights to everyone including parents and their children. So, children have some rights that are to be given by their parents. These rights are described in the light of Islamic Shariah in the lines below:

The Creation of Human Beings from Water and Sperm

Allah Almighty has described the creation of human beings in the Holy Quran in these words.

(فَلْيَنْظُرِ الْإِنْسَانُ مِمَّ خُلِقَ (1) خُلِقَ مِنْ مَّاءٍ دَافِقٍ (2) يُخْرَجُ مِنْ بَيْنِ الصُّلْبِ وَالتَّرَائِبِ) (الطارق: 5-7)

Let people then consider what they were created from! They were created from a spurting fluid, stemming from between the backbone and the ribcage.

While explaining the above verse, Maulana Abdul Rehman Kilani is of the view that semen (water) comes out of the organs that are between the backbone and the ribs of the chest. Usually, people understand that a man's sperm comes from the spinal column and that of a woman comes from the ribs of her chest. However, this idea does not seem correct because doctors believe that semen, whether it's that of male or female, is produced during the fourth stage of digestion. The main organs namely heart, liver, and brain are involved in the creation process of semen. This digestion is located in the inner part of a human body; that's why it has been mentioned between Sulab (backbone) and Taraib (ribcage) [1].

It can be derived from the verse that human is created from semen (water) which is made from the main organs of the human body. This is the original and basic relationship of a person with his parents. On the basis of parents' semen's lineage, the generational family tree and chain of inheritance are developed. In the Prophetic hadiths, both male and female reproductive germs have been declared water which contains genetic cells. It is narrated by Anas bin Malik (R.A) that a Jewish Scholar Abdullah bin Salam came to the Prophet Muhammad (PBUH) to ask three questions. His third question was: When does a child resemble its mother or father? The Prophet (PBUH) replied to that:

إِذَا سَبَقَ مَاءَ الرَّجُلِ مَاءَ الْمَرْأَةِ نَزَعَ الْوَلَدَ، وَإِذَا سَبَقَ مَاءَ الْمَرْأَةِ نَزَعَتْ [2]

If a man's discharge proceeded that of the woman, then the child resembles the father, and if the woman's discharge proceeded that of the man, then the child resembles the mother.

There are a number of Hadiths in this context in which both male and female reproductive germs have been declared water which contains genetic cells. When the genetic cells of both male and female get combined for the next generation that is called "sperm". It seems that the original creation of a human is based on male's and female's water (semen) and they have the basic position in his/her creation and attributes. This genetic water is the real basis for parenthood.

A woman who conceives and gives birth is a mother

The Holy Qur'an has also declared a female to be a mother who conceives and gives birth to a child. It is described in the Holy Quran.

الَّذِينَ يُظَاهِرُونَ مِنْكُمْ مَنْ نَسَاهُمْ مَا هُنَّ أُمَّهَاتُهُمْ إِنْ أُمَّهَاتُهُمْ إِلَّا النَّبِيُّ وَوَالِدَاتُهُمْ (المجادله: 2)

Those of you who 'sinfully' divorce your wives by comparing them to their mothers should know that their wives are in no way their mothers. None can be their mothers except those who gave birth to them. Another verse is also described in Surah al Ahqaf in this regard.

وَصَبَّأْنَا الْإِنْسَانَ بِوَالِدَيْهِ إِحْسَانًا حَمَلَتْهُ أُمُّهُ كُرْهًا وَوَضَعَتْهُ كُرْهًا وَحَمْلُهُ وَفِصْلُهُ ثَلَاثُونَ شَهْرًا (احقاف: 15)

We have commanded people to honour their parents. Their mothers bore them in hardship and delivered them in hardship. Their 'period of' bearing and weaning is thirty months.

The same message is mentioned in verse 14 of Surah Luqman as well. It can be derived from these verses that a mother is the one who carries a child in her womb for up to nine months and gives birth to it. It is important to observe the Shariah rules in the case of a surrogate mother, and is necessary for children to pay for the rights of such a mother as well. So, such a mother cannot be separated or deprived of her children after giving birth, as can be evidenced from the Prophet's (PBUH) saying,

عَنْ أَبِي أَيُّوبَ، قَالَ: سَمِعْتُ رَسُولَ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ، يَقُولُ: مَنْ فَرَّقَ بَيْنَ الْوَالِدَةِ وَوَلَدِهَا، فَرَّقَ اللَّهُ بَيْنَهُ وَبَيْنَ أَحَبِّهِ يَوْمَ الْقِيَامَةِ [3]

Narrated Abu Ayyub: I heard the Messenger of Allah (SWT) saying that 'whoever separates a mother from her child, Allah Almighty will separate him from his most beloved on the Day of Judgement.

The Quran clearly states that neither a wife can become our mother, nor can an adopted child become our biological child, solely by our declaration. However, the guidance and command of the Creator is the real basis for these relationships, as Allah almighty says in the Holy Qur'an.

وَ مَا جَعَلَ أَزْوَاجَكُمْ الَّتِي تَظْهَرُونَ مِنْهُنَّ أُمَّهَاتِكُمْ أَوْ مَا جَعَلَ أَدْعِيَاءَكُمْ أَبْنَاءَكُمْ ۚ ذَلِكُمْ قَوْلُكُمْ بِأَفْوَاهِكُمْ (الاحزاب: 4)

Allah does not place two hearts in any person's chest. Nor does He regard your wives as 'unlawful for you like your real mothers, even if you say they are. Nor does He regard your adopted children as your real children. These are only your baseless assertions.

A lactating woman is a (foster) mother

The Holy Qur'an has also declared a lactating woman as a mother. So, Allah (SWT) has used the word mother and sister for foster mother and sister.

وَ أُمَّهَاتُكُمُ الَّتِي أَرْضَعْنَكُمْ وَأَخَوَاتُكُم مِّنَ الرَّضَاعَةِ (النساء: 23)

Your foster mothers, and your foster-sisters (are also forbidden to you for marriage).

عَنْ أَبِي الطَّفِيلِ، قَالَ: رَأَيْتُ النَّبِيَّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ يَفْسِمُ لَحْمًا بِالْجِعْرَانَةِ، قَالَ أَبُو الطَّفِيلِ: وَأَنَا يَوْمَئِذٍ غُلَامٌ أَحْمَلُ عَظْمَ الْجُزُورِ، إِذْ أَقْبَلْتِ امْرَأَةً حَتَّى دَنَتْ إِلَيَّ النَّبِيُّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ، فَبَسَطَ لَهَا رِدَاعَهُ فَجَلَسَتْ عَلَيْهِ، فَقُلْتُ: مَنْ هِيَ؟ فَقَالُوا: هَذِهِ أُمُّهُ الَّتِي أَرْضَعَتْهُ [4]

Narrated Abu Tufayl: I saw the Prophet (PBUH) distributing flesh at Ji'iranaḥ, and I was a boy in those days bearing the bone of the camel, and when a woman who came forward to approach the Prophet (PBUH), he spread out his cloak for her, and she sat on it. I asked: Who is she? The people said, she was his foster mother.

An argument can be derived from this Hadith that in the presence of the Prophet ﷺ, the companions referred to a breastfeeding woman as a mother, yet the Prophet ﷺ remained silent. This makes it clear that even a breastfeeding woman can be referred to as a mother. While in another hadith, the Holy Prophet (PBUH) himself has used the word 'foster uncle'. Furthermore, Sayyida Ayesha says that the Messenger of Allah (PBUH) was in her house and a person was asking for permission to come to the house of Sayyida Hafsa (R.A). I asked the Messenger of Allah (PBUH), and he replied that:

أَنَّ عَائِشَةَ زَوْجَ النَّبِيِّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ أَخْبَرَتْهَا، أَنَّ رَسُولَ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ كَانَ عِنْدَهَا، وَأَنَّهَا سَمِعَتْ صَوْتَ رَجُلٍ يَسْتَأْذِنُ فِي بَيْتِ حَفْصَةَ، قَالَتْ: فَقُلْتُ: يَا رَسُولَ اللَّهِ، هَذَا رَجُلٌ يَسْتَأْذِنُ فِي بَيْتِكَ، فَقَالَ النَّبِيُّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ: أَرَاهُ فَلَانًا لِعَمِّ حَفْصَةَ مِنَ الرَّضَاعَةِ، قَالَتْ عَائِشَةُ: لَوْ كَانَ فَلَانًا حَيًّا لِعَمِّهَا مِنَ الرَّضَاعَةِ دَخَلَ عَلَيَّ، فَقَالَ: نَعَمْ، الرَّضَاعَةُ تُحَرِّمُ مَا تُحَرِّمُ الْوَالِدَةَ [5]

Narrated Ayesha (RA): (the wife of the Prophet) that while Allah's Apostle ﷺ was with her, she heard the voice of a man asking permission to enter the house of Hafsa (RA). Aisha (RA) added: I said, "O Allah's Apostle (PBUH)! This man is asking permission to enter your house." The Prophet (PBUH) said, "I think he is so-and-so," naming the foster-uncle of Hafsa. Aisha said, "If so-and-so were alive, he would have been allowed to enter upon me due to the breastfeeding relationship." He then replied, "Yes, breastfeeding establishes the same prohibitions as blood relationships."

In these traditions, the foster mother of the Prophet (PBUH) was called a mother, and foster uncles of Sayyida Aisha (R.A) and Sayyida Hafsa (R.A) were called uncles. In this regard, Shaikh Muhammad Saleh al Munjid is of the view in his religious decree (Fatwa),

لا تشبه الأحكام الشرعية المتعلقة بالرضاع تلك المتعلقة بأحكام النسب، فالرضاع لا يوجب النفقة ولا التوارث ولا ولاية النكاح بخلاف النسب. ويشتركان في تحريم النكاح، وإباحة النظر، والخلو، والمحرمية في السفر. وهذا من حكمة الشرع، ولا يمكن أن يجعل الشرع حقوق الأم من الرضاعة والتي ترضع الطفل خمس مرات بتلك التي حملت ووضعت وأرضعت وربت، وكانت السبب المحسوس في وجود الولد، وهل ما في قلب الأم من النسب مثل ما في قلب الأم من الرضاعة من حيث الشفقة والرحمة والحرص؟ لذا ذكر بعض العلماء أن على الابن من الرضاعة إكرام وتقدير أمه والوالده

من الرضاعة، وليس عليه البر والصلة التي تكون بين الولد ووالديه، وبينه وبين رحمه [6]

The legal rulings related to breastfeeding are not similar to those related to the rulings of lineage (paternity) as breastfeeding does neither entail financial support and inheritance rights nor the right to guardianship of marriage in contrast to lineage. However, they both share the prohibition of marriage, the permissibility of looking (non-mahram interaction), seclusion, and travel restrictions. This is part of the wisdom of Islamic law. The rights of the foster mother through breastfeeding, where she nurses the child five times, cannot be equated with the rights of a mother who conceives, gives birth, breastfeeds, and nurtures because the tangible reason for the child's presence is different. Can a foster mother feel through breastfeeding what a birth (biological) mother feels in heart in terms of compassion, mercy, and concern? Hence, "Some scholars have suggested that children should show respect and courtesy to their breastfeeding parents, but they cannot be legally bound in the same way as they can be with the rights of their biological parents."

The above-mentioned references show that foster relations (relatives) have too many rights but are not equal to biological and blood relations (relatives).

Upbringing and nurturing are also children's rights

Parents and children are not only naturally close to each other but also have rights and duties according to Islamic Shariah. The rights of children are the duties of parents while the duties of children are the rights of parents. Here are some apparent rights of children such as upbringing, protection, love, education, marriage, inheritance, etc which actually duties of their parents are. All the above-mentioned rights can be testified from Qur'anic verses and Hadiths of the Prophet (PBUH). However, there are some rights of parents which are the duties of their children. Here are its references.

(يَا أَيُّهَا الَّذِينَ آمَنُوا قُوا أَنْفُسَكُمْ وَأَهْلِيكُمْ نَارًا تَارًا وَقُودُهَا النَّاسُ وَالْحِجَارَةُ) (التحریم: 6)

O believers! Protect yourselves and your families from a Fire whose fuel is people and stones.

(يَا أَيُّهَا النَّبِيُّ قُلْ لَأَزْوَاجِكُمْ وَبَنَاتِكُمْ وَنِسَاءَ الْمُؤْمِنِينَ يُدْنِينَ عَلَيْهِنَّ مِنْ جَلَابِيبِهِنَّ) (الاحزاب: 59)

O Prophet! Ask your wives, daughters, and believing women to draw their cloaks over their bodies.

عَنْ عَبْدِ اللَّهِ رَضِيَ اللَّهُ عَنْهُ، أَنَّ رَسُولَ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ، قَالَ: كُنْتُ رَاعٍ فَمَسْنُولٌ عَنْ رَعِيَّتِهِ، فَأَلَامِيرُ الَّذِي عَلَى النَّاسِ

رَاعٍ وَهُوَ مَسْنُونٌ عَنْهُمْ، وَالرَّجُلُ رَاعٍ عَلَى أَهْلِ بَيْتِهِ وَهُوَ مَسْنُونٌ عَنْهُمْ، وَالْمَرْأَةُ رَاعِيَةٌ عَلَى بَيْتِ بَعْضِهَا وَوَلَدُهُ وَهِيَ مَسْنُونَةٌ عَنْهُمْ، وَالْعَبْدُ رَاعٍ عَلَى مَالِ سَيِّدِهِ وَهُوَ مَسْنُونٌ عَنْهُ، أَلَا فَلَكُمْ رَاعٍ وَكُلُّكُمْ مَسْنُونٌ عَنْ رَعِيَّتِهِ [7].

Narrated Abdullah (RA): Allah's Apostle (PBUH) said, "Every one of you is a guardian and is responsible for his charges. The ruler who has authority over people is a guardian and is responsible for them; a man is a guardian of his family and is responsible for them; a woman is a guardian of her husband's house and children and is responsible for them; a slave (servant) is a guardian of his master's property and is responsible for it; so all of you are guardians and all are responsible for your charges."

عَنْ عَمْرِو بْنِ شُعَيْبٍ، عَنْ أَبِيهِ، عَنْ جَدِّهِ، قَالَ: قَالَ رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ: مُرُوا أَوْلَادَكُمْ بِالصَّلَاةِ وَهُمْ أَبْنَاءُ سَبْعِ سِنِينَ، وَاصْرِبُوهُمْ عَلَيْهَا وَهُمْ أَبْنَاءُ عَشْرِ سِنِينَ، وَفَرِّقُوا بَيْنَهُمْ فِي الْمَضَاجِعِ [8].

Narrated Abdullah by Ibn Amar ibn al-'Aas: The Messenger of Allah (PBUH) said, "Command your children to pray when they become seven years old, and beat them for it (prayer) when they become ten years old; and arrange their beds (to sleep) separately."

عَنْ أَبِي هُرَيْرَةَ رَضِيَ اللَّهُ عَنْهُ كَانَ يُحَدِّثُ، قَالَ النَّبِيُّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ: مَا مِنْ مَوْلُودٍ إِلَّا يُولَدُ عَلَى الْفِطْرَةِ، فَأَبَوَاهُ يُهَوِّدَانِهِ أَوْ يُنَصِّرَانِهِ أَوْ يُمَجِّسَانِهِ كَمَا تَنْتَجِجُ الْبَيْهِيْمَةُ بِهَيْمَةِ جَمْعَاءَ، هَلْ تَحْسُونُ فِيهَا مِنْ جَدْعَاءَ [9].

Narrated by Abu Hurairah (R.A), Prophet (PBUH) said, "Every child is born with a true faith (i.e., to worship none but Allah Alone) but his parents convert him to Judaism or to Christianity or to Magainism, as an animal delivers a perfect baby animal. Do you find it mutilated?"

The above-mentioned verses of the holy Qur'an and Hadiths of the Prophet (PBUH) testify that the upbringing of children, protection of their faith, education, and guidance towards the right path are not only the duties of parents but they will also be asked regarding them on the Day of Judgement.

C. Rights from Father to Children

Kinship

Allah Almighty has linked the lineage of children with father as it has been referred in verse 5 of Surah e Ahzab. When a woman gives birth to a child in the result of a legal marriage (Shariah Complied Nikah), as a result of a valid Islamic marriage, new relationships are established by the parents of the children born. Consequently, from the father's side, relationships such as

grandfather, grandmother, uncle, aunt, etc., come into existence, while from the mother's side, relationships like brother, sister, paternal grandfather, paternal grandmother, paternal uncle, and paternal aunt, etc., come into existence. Apart from that, without a valid Islamic marriage, physical relations formed based on mere biological connections like sperm, chromosomes, DNA, etc., are not recognized in Islam." As, narrated by Abdullah bin Abbas (R.A), Prophet (PBUH) said,

عَنْ ابْنِ عَبَّاسٍ: قَالَ رَسُولُ اللَّهِ ﷺ: مَنْ ادَّعَى وَلَدًا مِنْ غَيْرِ رِشْدَةٍ فَلَا يَرِثُ وَلَا يُورِثُ [10]

"Whoever claims a child without a right, he shall neither inherit nor shall be inherited from."

عَنْ عَبْدِ اللَّهِ، قَالَ رَسُولُ اللَّهِ ﷺ: إِنْ كَانَ مِنْ أُمَّةٍ لَمْ يَمْلِكْهَا، أَوْ مِنْ حُرَّةٍ عَاهَرَ بِهَا فَإِنَّهُ لَا يَلْحَقُ بِهِ، وَلَا يَرِثُ، وَإِنْ كَانَ الَّذِي يَدَّعَى لَهُ هُوَ ادَّعَاهُ فَهُوَ وَلَدٌ زِنِيٌّ مِنْ حُرَّةٍ كَانَ أَوْ أُمَّةٍ [11]

Narrated by Abdullah (R.A), The Messenger of Allah (peace be upon him) said if the child is born to a slave woman whom he does not own or to a free woman with whom he committed adultery, then he has no right to inherit from him. If the one who claims to be his (child) father is indeed his real father, then he is the child of adultery born to a free woman or a slave woman (because of no legal (Nikah) marriage)."

In short, it can be said that the relationship between parents and children is actually based on genetic germs; however, if the parents' germs do not meet on the basis of Shariah marriage (Nikah), then the child will not have any relationship with the father and his relatives according to Islamic teachings. In this regard, Imam Shafa'i (204 AH) is of the view.

فَكَانَ مَعْقُولًا فِي كِتَابِ اللَّهِ أَنْ وَلَدَ الزَّانَا لَا يَكُونُ مَنْسُوبًا إِلَى أَبِيهِ لَمَّا وَصَفْنَا مِنْ أَنْ نَعْمَتَهُ إِنَّمَا تَكُونُ مِنْ جِهَةِ طَاعَتِهِ لَا مِنْ جِهَةِ مَعْصِيَتِهِ [12]

So, it is reasonable in the Book of Allah (Holy Qur'an) that the child of adultery is not attributed to his father because the child is a blessing of Allah Almighty. Therefore, his blessings come from obedience instead of disobedience

A famous Hanafi Jurist Imam Abu Bakr Razi Jasas (370 AH) has clearly mentioned in his book entitled "Ahkam al Qur'an".

فَالْمِيرَاثُ إِنَّمَا يَتَعَلَّقُ حُكْمُهُ بِثُبُوتِ النِّسْبِ مِنْهُ لَا بِأَنَّهُ مِنْ مَانِهِ، أَلَا تَرَى أَنْ وَلَدَ الزَّانَا لَا يَرِثُ الزَّانِي لِعَدَمِ ثُبُوتِ النِّسْبِ وَإِنْ كَانَ مِنْ مَانِهِ [13]

So, the ruling regarding inheritance is based on the establishment of lineage, not on whether he is from his water (seed). Don't you see that the child of adultery does not inherit from the adulterer due to the lack of proven lineage (Nikah), even if he is from his

water (seed)?

Additionally, the writer's research article entitled "Lineage System in Islam"- published in Muhaddis Magazine, July Issue, 2005- can be consulted in this regard. In his article, the writer has shared detailed arguments from the Qur'an, Sunnah of the Prophet (PBUH), and sayings of well-known jurists.

Fusion of cells in the Cloning

Allah Almighty has put a quality in the genetic cells of humans that when the male germ enters into the female ovum, the natural creation of a new human begins itself. These reproductive cells contain all the details of genetic and personal information. Modern scientists have achieved remarkable success in discovering this information in every cell of the human body (e.g., nails, saliva, finger, blood, etc.).

At times, if it is not possible to identify lifeless or mutilated human bodies in an accident, their non-reproductive cells are taken and their similarity is checked with the samples of the body cells of their families. Thus, after matching the DNA of the organs of the people with the samples of their families, identity of people dying in car crashes or other accidents is verified.

Nowadays, it is possible to create a new organism by extracting human information from non-reproductive cells and combining it un-naturally with the non-reproductive cells of another woman which is called Cloning in scientific language. When the non-reproductive cells of a pregnant or lactating mother together with her offspring become an important part of his existence, the relationship of lineage to these human cells does not start automatically. However, when the scientific process of combining the hereditary and genetic characteristics of non-reproductive cells is done, then the rules of this non-reproductive cell will also be the same as those of reproductive cells. Besides, Shariah precautions will have to be kept in mind too, because the protection of race and kinship is also part of the fundamental objectives of Islamic Shariah. Moreover, it should also be noted that the lineage is the basis for the relationship of the children with their mother and father because too many other Shariah rules are associated with it. Therefore, according to Islamic Shariah, no disorder, error or omission can be tolerated in human creation [14].

This denotes that the Prophet (PBUH) has adopted utmost care in the legal (Shariah) rules of kinship that he neither gave the child to the biological father (Sa'ad bin Abi Waqas) nor allowed a lawful (Shariah) sister to abandon veiling (Hijab). Imam Bukhari explained and established the ruling of avoiding resemblance (Mushtabihat) in this Hadith and gave guidance to refrain from it. Hafiz Ibn Hajar wrote that the basis of Imam Bukhari's argument is the command of the Prophet (PBUH) to his wife Sauda (R.A) to observe the veil (cover herself) from that child, even though the Prophet (PBUH) had recognized him as her brother according to Islamic law. However, it was strongly suspected that he was a boy from Aqaba, as was evident from the appearance of physical resemblance. The Prophet's (PBUH) command of having a veil was due to precaution. (Ibn e Hajar Asqalani, Fathul Bari, 4/371)

For instance, by combining the information obtained from the cells of a man's nails and a woman's arm through cloning, a new human is scientifically created placed in a mother's womb. In this scenario, it is necessary to note whether the genetic relationship for a lawful marriage exists between the man and the woman whose cells are being combined. Even, the unlawful fusion of their non-reproductive cells without a lawful marriage would also be impermissible. So, the same legal regulations that apply to reproductive organisms resulting from unauthorized fusion would be applicable to the humans created through this (Scientific) process. Though this action would not be classified as adultery yet the individuals responsible for this genetic fusion and those assisting such as doctors and lab technicians would be regarded as committing a serious crime and grave sin.

Father is the Sponsor of his children

The responsibilities/ duties of the mother and father are described in the above lines. However, from a guardianship and protection perspective, a father has a special relationship with his children as the Holy Qur'an has also mentioned it in these words.

﴿وَالْوَالِدَاتُ يُرْضَعْنَ أَوْلَادَهُنَّ حَوْلَيْنِ كَامِلَيْنِ لِمَنْ أَرَادَ أَنْ يُتِمَّ الرَّضَاعَةَ ۗ وَعَلَى الْمَوْلُودِ لَهُ رِزْقُهُنَّ وَكِسْوَتُهُنَّ بِالْمَعْرُوفِ ۗ لَا تُكَلَّفُ نَفْسٌ إِلَّا وُسْعَهَا ۚ لَا تُضَارَّ وَالِدَةٌ وَبُيُوتُهَا وَلَا مَوْلُودٌ لَهُ يُولَدُ ۗ﴾ (البقرة: 241)

(Divorced) mothers will breastfeed their offspring for two whole years, for those who wish to complete the nursing (of their child). The child's father will provide reasonable maintenance and clothing to the mother (during that period). No one will be charged with more than they can bear. No mother or father should be made to suffer for their child.

عَنْ عَائِشَةَ، أَنَّ هِنْدَ بِنْتَ عَثْبَةَ، قَالَتْ: يَا رَسُولَ اللَّهِ، إِنَّ أَبَا سَفْيَانَ رَجُلٌ شَحِيحٌ وَلَيْسَ يُعْطِينِي مَا يَكْفِينِي وَوَلَدِي إِلَّا مَا أَخَذْتُ مِنْهُ وَهُوَ لَا يَعْلَمُ، فَقَالَ: خُذِي مَا يَكْفِيكَ وَوَلَدِكَ بِالْمَعْرُوفِ [15]

Narrated Aisha (RA), Hind bint Utba said, "O Allah's Apostle (PBUH)! Abu Sufyan (RA) is a miser and he does not give me what is sufficient for me and my children. Can I take from his property without his knowledge?" The Prophet (PBUH) said, "Take what is sufficient for you and your children, and the amount should be just and reasonable.

The above verse and hadith denote that the father is not only a sponsor of his children but also of his wife as well. If he does not fulfill the responsibilities of sponsorship, a reasonable amount can be taken from his property without his knowledge.

III. WRITE DOWN YOUR STUDIES AND FINDINGS

A. Shariah-based Solution to the above-mentioned Issue

The above-said issue has been discussed almost in every aspect now. Let's explore in the light of Islamic teachings.

The Sinner and His Accomplices

It is forbidden to mix the sperm of the husband (C) with the ovum of the woman (B) in any way because there is no marital relationship between them. So, the medical doctor and lab assistant who do this work are criminals and supporters of the sinner according to Islamic Sharia and Pakistani laws. Hence, if the mixing of these two genital waters is by penetration of the private parts, it will be a crime of adultery, and if it is through a test-tube baby or by some other artificial means, it will be a grave sin.

Apparently, it seems that the will or knowledge of the husband (C) and the ovum-bearing woman (B) is involved in this sin. Otherwise, it might be impossible to get the germ and ovum from them. So, they both are part of this sin and they should sincerely repent to Allah (SWT).

The woman (A) who put the germ and sperm of ovum-bearing woman (B) and her husband (C) in her womb, is also a supporter, participant, and illegal beneficiary of this sin, as it is described in the Holy Qur'an.

(وَتَعَاوَنُوا عَلَى الْبِرِّ وَالتَّقْوَىٰ ۗ وَلَا تَعَاوَنُوا عَلَى الْإِثْمِ وَ
الْعَدْوَانِ ۗ وَاتَّقُوا اللَّهَ ۗ إِنَّ اللَّهَ شَدِيدُ الْعِقَابِ) (المائدة: 2)

Cooperate with one another in goodness and righteousness, and do not cooperate in sin and transgression.

Apart from the twin girls, all parties involved in this case including the doctors and assistants are sinners. Everyone should sincerely repent to Allah (SWT) and keep seeking forgiveness for this sin.

Parties B, C and D have no hereditary relationships

According to Islamic Shariah, the original mother of the twin girls (D) is the ovum woman (B) on whose death the girls had the right to inherit their share. Secondly, the two girls might get an inheritance from the sperm's father (C), but due to the non-marriage of the father (c) with the fertile woman (b), he is neither the father of these girls, according to Islam, nor does he have any maintenance responsibility of these girls. So, no relationship between these girls (D) and man (C) is valid according to Islam because there is no Shariah marriage between the parties to the sperm (B & C). In this regard, a number of hadiths of the Prophet (PBUH) have been mentioned in the lines above.

The relationship of the girls to parties A and C is similar to foster parents

Apparently, the Holy Qur'an has also declared the womb of a woman (A) as a mother. This birth mother (A) has the same relationship as a foster mother with a child. During the nine

months, she (A) has endured a lot of hardship in their care and nourishment, and the children benefited greatly from her body even more than a wet nurse. Therefore, on the basis of Qur'anic teachings and physical relationship, this mother (A) can be given foster mother's rights. Besides, it should also be clear that during the era of the prophet (PBUH), these distinct situations of childbirth did not happen. Thus, attributing the status of a birth-giving mother to a foster mother is a juristic position based on the apparent text of the Holy Quran. One other aspect in this regard is that the birth mother (A) should also be deprived of these two girls (D) as father (C) is deprived due to an illegal relationship with ovum-bearing woman (B). However, by analogizing the terms used for pregnancy and childbirth in the Quran with the nursing mother, who has no biological connection with the real parent, the maternal relationship of this mother (A) with her own daughters (D) can be considered for motherhood. In this case, the husband (C) of the birth-giving mother becomes the foster father of these girls (D). The birth-giving mother (A) and her husband (C) have the right to a caring and respectful relationship with these girls and will be declared Mahram. Nevertheless, inheritance, financial support, and guardianship rights will not apply to them. Allah Almighty has addressed the woman giving birth as a mother with the genitive or possessive case in Surah al Maidah. So, other aspects of motherhood cannot be excluded in this regard as numerous verses and hadiths provide this opportunity of foster mother to all these women. However, the woman giving birth cannot be equated with the woman having the ovum as it has been mentioned in the religious decree (Fatwa) of Shaikh Saleh al Munjid.

B. Differences in the Religious Commandments between Ovum Bearing Mother and Birth Mother

It remains evident that the resemblance based on genetic material in the offspring is much more remarkable than in pregnancy, childbirth, and breastfeeding mothers. However, due to some reasons, denial of some resemblances is not possible, but the majority of inherited similarities are based on genetic material, and through this, genealogy and descent persist. Besides, Qur'anic verses and hadiths of the Prophet (PBUH) have clearly stated that human has been created from a mingled drop of fluid. So, the connection of a father to his offspring in terms of genealogy and descent is based on genetic material instead of pregnancy, childbirth, or breastfeeding. This genetic material establishes the rights and responsibilities of all further kinship relations. According to Islamic Shariah, the actual genetic material forms the basis of kinship for which the legitimate relationship of the spouses is utmost necessary. Apart from that, no relation is neither valid nor considerable in this regard. Apart from that, observation also affirms that the genetic resemblance of the biological mother significantly outweighs that of the birth-giving mother. It's possible that this resemblance is in the ratio of 1 and 9 or even more than that, but the Quran, hadiths, and empirical evidence indicate that the primary factor in the creation and resemblance of a child is indeed the mingled drop of fluid.

Regarding the birth-giving mother, due to Quranic commandments and resemblance with the nursing mother, it is not necessary, in permissible cases, to deprive the surrogate

mother of empathy and affection for the child in any circumstances. In permissible cases, with the permission of the concubine or a maidservant including placing another wife's ovum in her uterus as some theologians have permitted it. *However, equating the birth-giving mother with that of the nursing mother is a juristic effort based on the apparent text of the Quran, which is not unanimously agreed upon like breastfeeding, and there can be varying opinions among scholars.*

According to Shariah Commands and the above-mentioned situations, the twin girls have the right to get inheritance and maintenance from the ovum-bearing mother (B). Now, the birth-giving mother (A) or her husband (C) have no biological relations to them. They (A & C) are not responsible for their (D) maintenance and inheritance. However, both (A & C) can still be considered as their foster parents. So, due to upbringing and care, they (D) should treat those (foster parents) with kindness. Nonetheless, due to participation or cooperation in a sinful act, foster parents and their relatives should continually seek forgiveness from Allah. Spreading such practices, insisting on their continuity, and committing them openly in an Islamic Society are major sins and those who commit them should sincerely repent to Allah.

When there is no biological relationship between the twin girls (D) and the birth-giving mother & her husband (A & C), then none of them will inherit anything from the girls. The husband (C) will only receive the same share of his wife's personal property in inheritance that a childless woman would receive from her spouse. However, due to compassion and kindness, the girls (D) should continue to do good deeds and maintain a positive relationship with their *"foster parents"* which includes treating them well financially. After declaring her (A) childless, the remaining half of the inheritance of the deceased woman (A) would be divided among her other heirs such as her mother and siblings.

GET PEER REVIEWED

Exploring the procreation of babies via In Vitro Fertilization in the light of Islamic Shariah involves a nuanced examination of the permissibility of IVF, ethical considerations within the procedures, and the broader social and cultural implications within Muslim communities. Peer-reviewed research is essential to ensure the academic rigor and reliability of findings, encompassing diverse perspectives from Islamic scholars, medical professionals, and sociocultural experts to foster a comprehensive understanding of this complex intersection between reproductive technologies and religious principles. This interdisciplinary approach is crucial for addressing the ethical, theological, and practical dimensions of IVF in the context of Islamic Shariah.

IV. IMPROVEMENT AS PER REVIEWER COMMENTS

Examining the procreation of babies through In Vitro Fertilization in the context of Islamic Shariah requires meticulous investigation into the religious permissibility of IVF, ethical intricacies within the procedures, and the broader sociocultural implications within Muslim societies. Peer-

reviewed scrutiny ensures academic rigor, incorporating insights from Islamic scholars, medical experts, and sociocultural researchers. This interdisciplinary approach enhances the scholarly depth needed to comprehend the nuanced interplay between reproductive technologies and Islamic principles.

V. CONCLUSION

When it becomes impossible to have children due to certain circumstances, accept the will of Allah Almighty as people accept in other tests such as illness, etc. So, contentment and patience attitude will be highly appreciated in this regard. In such a situation, Islam has provided the solution by adopting a foster kinship which would be better. Due to certain circumstances, committing grave sins and destroying sacred relationships is neither permissible nor suitable for an Islamic society. Definitely, the rules and rights & duties of kinship and family relationships are established by Allah Almighty and are more compatible with human psychology and relationships which is really great blessing of Him. Thus, He (Allah) has set their rights and responsibilities with wisdom that should neither be altered due to humans' requirements nor affected by his/her desires.

ACKNOWLEDGMENT

Acknowledging the depth and sensitivity of the exploration into procreation via In Vitro Fertilization within the framework of Islamic Shariah, gratitude is extended to the peer reviewers for their invaluable insights. Their contributions significantly enhance the scholarly rigor and encompass diverse perspectives, enriching the comprehensive understanding of this complex intersection between reproductive technologies and religious principles.

VI. REFERENCES

- [1] kylany, mawālānā 'abdārahmānuⁿ, taysyr alqurāan (la'wr: mktb' alsulāama , 1432), 4/ 629
- [2] Bukhary , muḥamād bin aṣma' yl , aljāmi'a alshyḥ, kitābu tafsīri alqurāni, bābu qawlihi ma' kāna 'adū'a lijibrīla, Hadith: 4480
- [3] Tirmidhy, muḥamāda-bn-'ysy, al-Sunan, aābwābu albuyw' i 'a' an raṣūli allhi shy allh 'lyh wslm, Bābu mā jā'a fī karāhīātī alfarqi ba'yna ālāakhawayni aāw ba'yna alwālidatī wawaladihā fī albay' i, Hadith: 1283
- [4] A. B. Dāwud, Sulyman-bīn-Ash'th, Al-Sunan, kitābu alnāwmi, Bābu fī birī alwālidatī, Hadith: 5144
- [5] Bukhary, muḥamād-bīn-aṣma' yl, Aljāmi'a alshyḥ, kitābu alnikāhi, Bābu wāumāhātukumu allātī aārda nakum, Hadith:5099
- [6] <https://islamqa.info/ar/answers/40005>
- [7] Bukhary, muḥamād-bīn-aṣma' yl, aljāmi'a alshyḥ, kitābu al'itqi, Bābu karāhīātī altāfawuli 'alay alrāyqi , waqawlihi: 'abdū' aāw āāmatī, Hadith: 2554
- [8] A. B. Dāwud, Sulyman-bīn-Ash'th, Al-Sunan, kitābu alshālātī, Bābu matay yūmaru alghulāamu biālsālātī, Hadith: 495

- [9] Bukhary, Muḥamād-bin-asma'yl , Aljāmi'a alshyh, kitābu aljanāyizi, Bābu aīdhā aāslāma alshābū famāta , ḥāl yuṣalāy 'alāyhi , wahal yu'raḍu 'alay alshābū alajislāmu, Hadith: 1358.
- [10] A. B. Dāwud, Sulyman-bin-Ash'th, Al-Sunan, kitābu alṭālāqi, Bābuⁿ fi aīdī 'ā' i waladi alzinā, Hadith: 2264.
- [11] A. B. Dāwud, Sulyman-bin-Ash'th, Al-Sunan, kitābu alṭālāqi, Bābuⁿ fi aīdī 'ā' i waladi alzinā, Hadith: 2265.
- [12] By'qy, Aiḥmad-bn-ḥsyn, Ahkam alqurā'ān lshaf'y, muḥaqīquⁿ: Muḥamādu za'd alkwthry (qar: mktb alkhajy , 1994), 2 / .190
- [13] A. B. Jaṣāṣuⁿ, Aiḥmad-bn-'ly, Ahkam alqurā'ān, Muḥaqīquⁿ: Muḥamādu'ly-shayn (byrwt: dāru alktb al'lmy 1994),3/ 338
- [14] Narrated Aisha (R. A.): Utba bin Abu Waqqas took a firm promise from his brother Sad bin Abu Waqqas to take the son of the slave-girl of Zama into his custody as he was his (i.e. Utbas) son. In the year of the Conquest (of Makkah), Sa'ad bin Abu Waqqas took him, and said that he was his brother's son, and his brother took a promise from him to that effect. Abu bin Zama got up and said, "He is my brother and the son of the slave girl of my father and was born on my father's bed." Then they both went to the Prophet (PBUH) Sa'ad said, "O Allah

Apostle (PBUH)! He is the son of my brother and he has taken a promise from me that I will take him." Abu bin Zama said, "(He is) my brother and the son of my father's slave-girl and was born on my father's bed." Allah Apostle (PBUH) said, "The boy is for you. O Abu bin Zama." Then the Prophet (PBUH) said, "The son is for the bed (i.e. the man on whose bed he was born) and stones (disappointment and deprivation) for the one who has done illegal sexual intercourse." The Prophet (PBUH) told his wife Sauda bint Zama to screen herself from that boy as he noticed a similarity between the boy and Utba. So, the boy did not see her till he died (Bukhari, al Jami al-Sahih, Kitab al Buyu', Bab fy Umoor al Mushtabah, Hadith 2053).

- [15] Bukhary, Muḥamād-bin-asma'yl, Aljāmi'a alshyh, kitābu alnāfaqāti, Bābu aīdhā lam yuḥfiq alrajulu falilmāraāti aān tākhudha bighayri 'ilmihī mā yakfihā wawaladahā biālma rūfi, Hadith: 5364

AUTHORS

First Author –

Dr. Hafiz Hassan Madni

Ph.D. (Islamic Studies), Associate Professor, Institute of Islamic Studies, University of the Punjab, Lahore.

Correspondence Author – Dr. Hafiz Hassan Madni