

# Examining the Parentage of Artificial Insemination and Non - Financial and Non - Financial Works in Iranian Law

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## Abstract

one of the legal effects of child arising from artificial insemination is inheritance between this child and the owners. several questions are raised in this regard , including whether it is established in artificial insemination with the sperm of husband or foreign sperm between who is the relationship between the child and who is inherited or inherited ? how is the inheritance of children with sperm after death of sperm owner ? should the embryo , like the fetus derived from natural fertility , should be excluded from a certain portion of the patrimony ? since parentage is one of the causes of inheritance , the inheritance of children born through artificial insemination is the function of proof or absence of parentage among the offspring and the owner of sperm and sperm if the relative relationship between the child and the owner of the ovule is recognized . on the contrary, if the relative relationship between the child and his parents is not established, the inheritance issue will be ruled out. it is attempted to answer the above questions by relying on the principles and general rules of jurisprudence and law as well as using the fatwas of jurists and legal thoughts.

**Key words:** child parentage, artificial insemination, Islamic fiqh, Iranian law

## Introduction

Human society is constantly changing. The day comes to new issues that require different aspects of the need to study and study. jurisprudence and law sciences have to be obliged to address the needs of society at the same time so as to answer the needs of society, because otherwise there are many problems on the way of society. Therefore, the lack of legislation on new issues leads to anarchy. one of the new issues that can be considered from different aspects is the issue of new reproductive methods through artificial insemination. artificial insemination is one of the ways to make the couples infertile. The purpose of artificial insemination is the pregnancy of woman with artificial means of scientific means (medical science) and without taking any closer contact[1]. In a similar fashion, artificial insemination is to get male sperm in the womb of a woman without sexual intercourse, by artificial means of medicine in order to prolific the egg and move the embryo. today , with the development of medical facilities and technology , artificial insemination points out as a scientific phenomenon on animals and humans and with the combination of female and female sperm in the laboratory and it requires clarification of the child 's relationship from artificial insemination with the owner of the sperm and the egg and its juridical and juridical works[2] . among the jurists and the imam Khomeini s verses and, Macramé Shirazi, Moussavi Ardabili, sanaei are in order in the number of talking. Such artificial insemination , for example , is forbidden by her husband 's permission or her husband 's request and her husband 's request if he has a husband or other reasons for sexual impotence or other reasons , such as injecting male sperm to woman or other, according to Islamic jurisprudence , such as injecting male sperm to woman and the likes of it , which is considered to be considered in terms of conditions and conditions of this action[1] .

## Research concepts

The artificial insemination is the introduction of a man 's germ in a woman 's womb by medical instruments or any other means of sexual intercourse. conception, in the term of conception and insemination (the same - insemination) means conception. as it is observed, the literal meaning of the insemination is not far from its lexical meaning that means that artificial insemination is the conception of a woman by injection of male spermatozoa to the uterus of a woman by means of medical devices and artificial instruments without having any intercourse. genealogy means kinship, origin, race, kinship and the relationship between the two objects. although the first part of Iranian civil code is devoted to genealogy, there is no clear definition of parentage in this law, so jurists have

presented different definitions in order to identify the legal nature of parentage[3]. to achieve a comprehensive definition of the nature of parentage, it is necessary to study definitions of this field by jurists and lawyers. "We are fairly certain of the termination of personal birth to the other like the father and son, or the end of the birth of two third parties, like brothers and fathers, " said a jeweled owner[2]. The problem in the above definition is that the connection of the birth in truth is the origin of the relative relationship, but rather the relative truth is derived from the connection of the birth of abstraction, thus dividing the credit and origin of credit. " erection is an orderly and means kinship and kinship, " says Dr. Hussein emami, adding, " It is comparatively simple that there is a natural relation between the child and the two, which is one parent or mother. "[3]

### **Second Speech: Types of artificial insemination**

The artificial insemination may be done in the bud and spermatozoid of the husband, which is called artificial insemination Homolog (Artificial Insemination With Husband Semen), and it is also possible to realize the act of inoculation by an alien embryo, which is called artificial insemination Homolog (Artificial Insemination With a Donorscmen) [4]. Sperm are homologous with natural fertility when it is necessary that the husband has a natural fertility but because of the obesity or deformity of the male penis, he may not sink on the neck of the uterus and that it is appropriate to prove that infertility is incurable. thus, artificial insemination is on two general terms in terms of medical terms, and it has different sets of alternatives and alternatives that we will review and study them[5].

organ donation - as one of the most effective treatments to treat infertility with an official record of about eight years, claimed that many experts have been able to give birth to infertile couples. although most donors in Iran do this to provide a financial source, but in fact this trade can be dangerous, so what is good, by controlling this method, it prevents the egg trade and, instead, encourage society 's correct advertisements to donate the ovules and to donate[3]. absence of mother to ovary, premature failure of ovary, surgery and therapeutic chemistry is the possibility of transferring genetic disease through their eggs to offspring, recurrent fetal abortion, failure in repeated fertilization of ectopic pregnancy, and aging. The " Rental uterus" plan is one of the positive solutions that have been carried out by some fertility clinics and infertility clinics about two years ago in the way women who have the womb have the womb to use another woman 's womb as a suitable place to grow their embryo[6]. When one of the partners is in trouble, they first treat each one of them as the main cause of infertility, then after IVF in the laboratory and after three days, that is, just when the fetus is 6 to 8 cell wombs. She is the person who voluntarily or in the form of a legal contract with a couple having problems in exchange for a sum of nine months from a child whose child is not her own child, owing to the absence of a Non-sanction relationship can be a relative of a couple 's first - class relatives. It is much better to undertake such matters as voluntary and humanitarian, so that it does not become a real business[7].

### **Examination of the types of financial and non - financial effects of child parentage arising from artificial insemination**

#### **1) The financial and non - financial effects of artificial insemination with the sperm wife 's sperm**

##### **a) Financial effects**

##### **1) Heredity**

As we know, the civil rule in Article 861 is recognized as an absolute condition of inheritance and has made exceptions in article 884 of this. so, it turns out that the inheritance condition is comparatively neutral, and only against article 884. He was deprived of his inheritance. Therefore, it can be said that offspring from non - sexual offspring should be inherited if the lineage is realized, as Article 84[1]. The exception of this rule is an exception to some of 861 law, and the practice of unity is the exception therefore, the exception in article 884, with respect to the application of Article 861, should be explicitly interpreted. thus, all other species benefit from their inherited inheritance, and there is reason for supposing that the inheritance condition is correct in the middle of the marriage. Therefore, one of the causes of inheritance is the existence of a relative relationship between heir and heir[3]. The lifetime of the heir apparent during his death is also a condition of inheritance. If the male and female sperm is reached during the birth of the embryo , it is appropriate for heredity and child to inherit as a result of the development and evolution of the two persons , because this child is destined to inherit , and thus , the offspring from artificial insemination , that is to say , the birth of thoffspring , and the existence of other conditions - i.e[8]. , the death of the offspring , and the absence of a hindrance from their birth . in these cases, there is the religious lineage required by inheritance and that the inheritance of Seductionembryo from male and female sperm is not possible if she is born alive. Therefore , if a child is born of a child and conceived in his wife 's womb , and the

womb of his wife , or the womb of his wife , then the inheritance is proved to be a relative function , as the inheritance of Sharia is a lineage , as the principles of sharia and religious scholars in all Islamic religions imply it[5]

But in regard to the legacy of the child, which comes after the death of the sperm owner Sprout,article 875 It explicitly states the inheritance of the embryo and its conditions , according to the article : " The inheritance condition is during the death of the death ,and if it is carried away, it will inherit if it is born alive and alive if it dies immediately after birth[7]. " in addition to the existence of general conditions of inheritance, there are two basic conditions for the enjoyment of the embryo from inheritance, which are:

- 1) The incubation of the embryo at the time of the Lady (existing embryo)
- 2) being alive of the embryo at birth. The first requirement is to inherit the inheritance of the heir at the time of the Lady, since the inheritance causes the Quarry transfer of property property to the heiress and the ultimate transfer must be available to possess the ability to possess. in this thesis, the first stage of the life stages of his life is formed and legally the initiation of enjoyment is the first moment of life (956 and 957). Mmm[4].

## **2)alimony**

according to article 1196. In the relations between men, they are only relative in the vertical line, whether from bullish or bearish, and in accordance with article 1199[4]. " children" is the father 's alimony, which is claimed by the father after his father 's death or his lack of power to charity, as the child derives from artificial insemination with the sperm wife 's sperm, such as the child from Sites, so the condition of ha the right to alimony[3]. The jurists also consider the child 's alimony as indispensable, if it is illegitimate, and the person is to be held responsible for her alimony, so the child has the right to alimony from artificial insemination with the sperm wife 's sperm. (According to the principle of 167). A. B. A. D. (New)

### **b) Non - financial effects**

#### **1) matrimony**

A certain criterion is the relationship between the child and those that the child consists of two except the germ and the egg. the relation between the child and other children of the sperm and the egg and other children of the sperm and the egg and their relative relatives is the relation of kinship, and between this child and child, there is no difference in marriage laws, inheritance, eyes, etc. So, this child can't marry his parents and grandparents as he goes down and married their children as much as they go down, and to marry their parents and children as well as their parents, their parents, and their parents[9].

In regard to the child who joins the child 's sperm and female sperm after the death of the man , there is no difference between the child and the offspring of the sperm and the eggs [6] but the theory that does not permit it does not discriminate between the child and the offspring, but does not believe in the inheritance of offspring , but does not believe in the inheritance between parents born in this way[10] .

#### **2) custody**

custody means the maintenance of children from the physical and moral direction and in accordance with article 1168. The care of the child is also the right and duty of the Fathers, " and the task is not Projection or compromise so that if one of them refuses to perform custody while custody is with him, the court will compel him to perform his task. Child custody is therefore not a law that the parent or parent can relinquish. This is why custody of such children is germ - owner and egg[5].

#### **3) Province**

no official has the right to change and enforce this situation as soon as the minors are born. under the law " the child minors under the guardianship of his father and his grandfather[7]. " " the question here is whether the provisions of the article are applicable to the infant by artificial insemination. in response to the above question one can say : after proving the lineage between the owner of the germ and the child born from the insemination , the ruling is clear because under the valid laws of jurisprudence and law , the rule of the problem is clear, therefore , in any case where the legal and legal parentage is stable , it will also be relevant[1] .

## **2) the donor and non – Malesbye of artificial insemination from an exotic egg (Donut egg)**

### **a) Financial effects**

#### **1) The inheritance**

in the case of child inheritance from artificial insemination with alien sperm (foreigner), there are differences between jurists some believe in permission and group to lack of permission and group[11]. one of the jurists in this regard believes that " inheritance issues in the field of insemination are doubt and in this case the child will be joined to the owner of semen , but if it is consciously or deliberately , it is unlikely that the child shall join the owner and all the rulings of parentage even be proved , because what is exception is the child of adultery[3] . but some of the jurists believe that such a child is illegitimate for adultery, because although it is not the case of adultery, consistency and its criterion, the lack of religious marriage, is available in the insemination, and what is the result of marriage is illegitimate. so, the child won 't inherit from him or his relatives. of course, his children and relatives will inherit from him but others have legitimate children[7].

#### **2) Alimony**

if artificial insemination is made between man and foreign woman, most jurists emphasize the necessity of the child 's alimony on the owner of me[4]. and some scholars have been cautious in this case, as they believe that the effect of alimony on juridical marriage and the existence of bond is considered. One of the jurists said, " It is possible to promise that the child will be annexed to the germ owners, and it is possible to promise that these will be established only in the form of religious marriage and reproduction. [12]"

### **Article III - Non - financial works**

#### **1) Reciprocal marriage**

the jurists have established a close relation between the woman and the child born in the pollination of male and female sperm, between which there is no marriage[1]. Because what the primary causes of the baby is male and female sperm is the woman who, after inoculation, is a woman born after inoculation to the baby. As regards the child derived from the artificial insemination, the child will join the wife and wife, and the husband and wife have nothing to do with the child[7]. And, as the child joins the embryo, the father owns the sperm and the mother of the ovule, and hence the owner of the uterus and the wife of the ovum. The uterus of the uterus because the baby is her husband's child and the husband own an egg because she is her child 's child[11].

#### **2) Custody**

For your child , if the child is a child , the sperm from the stranger and the egg is a woman , the child has no share in the father 's or no father 's it has no maternal mother [8] it is the mother 's womb it is only the mother 's womb it is only the mother 's womb the child will be eligible for two mothers . custody is therefore different according to which word will be accepted[10].

#### **3) Province**

As mentioned, the province begins with the child from birth and continues until maturity and growth. What do you have to see now, who have the right of the province to minors? Any decree on the issue of the province applies to the same issue in the case of opinion. He is the father and grandfather of a father who possesses the sperm and his father, or the husband of the womb of the province, so as to call him Father[5].

#### **4) The financial and non - financial effects of donor from the fetus.**

In the embryo donation discussion, the issue of the child 's relationship status with sperm and egg owners from one side and the sperm and egg recipients is present on the other. In the birth of a child in the father 's area, only one

factor, the sperm and the mother, affects the two factors, the ovule and the uterus, and we first examine the lineage of the father:

**(a) Non - financial works**

**1. paternal ancestry**

as we have stated before, in determining the status of paternal parentage, most jurists consider the sperm owner as father. in terms of medical knowledge, the origin of the embryo from the father 's region is the sperm in the human semen, and it is no doubt on the other hand, custom has the criterion and criterion of parentage and relation between two human beings as one of the other[10]. accordingly, in order to express this true and genesis, a title named principle. so many jurists agree with the verses of the quran and the other reasons believe that the owner of the sperm will be the father of the child. as a sample of the verse (and he who created from the water, man created and arranged her) [6].

**2. parentage**

In the mother 's maternal lineage, there are different theories because of a woman who possesses an egg the mother owns the uterus the mother owns the uterus and the womb of both true mothers both are foster mothers they are neither mother nor mother. in this verse, the Holy Quran is an absolute mother who has borne the child, but it does not seem to imply that it does not imply that it is an egg, not a womb[4].

**2.custody right**

Article 3 of the law on how to donate the embryo to couples infertile. in this thesis, we use the word " like " tasks and obligations of the embryo to the same tasks in article 1169. He had counted upon it. In terms of child custody, child and child custody, in case their parents live apart from one another, the mother has a priority until seven years old, after which custody is the father. Other arrangements for custody and work of each parent are the same as in 1170 to 1175. (M.)

**3. Child education:**

According to article 3 of the law on how to donate the embryo to couples infertile, one of the tasks of the embryo is the training of a newborn child through the transmission of the embryo to them<sup>1</sup>. this function is similar to the tasks mentioned in article 1178[12]. M. moreover, the legislator in material and 1188 and 1235 civil code provides regulations regarding child education. the lack of explanation of the child in the face of man or wife of the embryo or their protection is one of the weaknesses of this law[6].

**b) Management works**

**1) The inheritance from the donor embryo**

in explaining the issue based on general rules, it must be said that in terms of legal and legal terms of the child, the child is concerned with the germ owners then most jurists have established the order to inherit the inheritance[13]. The Jurists who hold the uterus are believed to be the mother of the womb, believe that inheritance sentences are ruled between them[2]. " The traditional theory is that the child will join the bud, " one of the jurists expressed in explaining the condition of the birth of the embryo to the germ. in order to transfer the embryo as well, most contemporary jurists have issued the fatwa. the result of this study is that the relation with the works of those, custody, alimony, and inheritance are established between the child and egg and sperm owners, while in the case of their embryo transfer.[14]

Often, they don 't want to be a baby, and they 're only motivated by charity and charity, in contrast, the applicant and wife want to have children through the child and remove their emotional and psychological need for a child. It is logical and socially appropriate that the child should join them, not the owners. Thus, when the germ owners have renounced their sexual cells, it does not mean to inherit from each other, whereas the inheritance of the child from

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<sup>1</sup> - Parents are required to exercise their child 's education in appropriate terms, and should not be put into nonsense.

the fetus is better adapted to individual and social interests[7]. the inheritance of the child from the womb of the womb is according to sharia, as the owner of the womb is the only person competent to receive the legitimate title of the mother[2].

## **2)alimony of donated Jenin**

in the first place, the legislator has made arrangements for the parents to pay alimony to their children 's alimony. The jurists, however, consider the son 's alimony as obligatory even if they were adultery. Therefore, those who attribute the child to the sperm master, by the first, must put alimony to him, for even if they don " t allow to donate the embryo, they have to be found guilty of adultery, and even if they are like it, alimony is indispensable. Of course, if any parents are known, they have to pay the child 's alimony, although their parents need to clarify that if the condition of the mother 's obligation to charity is provided, it is responsible for which of the two mothers[3]. It is therefore desirable that since the sperm owner has renounced his sexual cell and has received from other recipients of their will, they are obliged to pay the child " s alimony. in this regard, as regards the mother the owner of the uterus, as well as the religious parentage, it is desirable that alimony, such as alimony " s alimony, is intended to co - ordinate with the spouse of the applicant[15].

## **4) Non - financial and non - financial effects in surrogate mother mode (Alternative womb)**

### **a) Financial effects**

#### **1) Inheritance**

The relative relationship between the heir and heir is the inheritance, so given the son 's assignment to the father of a decree, he is the father 's legal father and the relation between the child born from the uterus and the father of a decree is established. The relationship between child and child is established between the child and the child if the mother receives a decree (the owner of the ovule) , the relation between the child and the child , and the marriage between them is no reason for rejecting the inheritance since there is no reason for inheritance on the right of marriage , there is no reason for inheritance[13] . in this thesis, a third theory has been given about maternal ancestry and that the child 's assignment of uterus is an alternative to both the mother and mother of a decree. (Those who have chosen this theory should answer the question whether the child of both mothers would take the assumption that it would be granted to both mothers, and if the child dies, is the assumption divided between both mothers, or both mothers. one of the jurists, however, believes that " maternal verdicts, such as inheritance, should be found in both of them. In such a case, the mother 's share is divided, such as the wife 's share in polygamy, and if it is necessary to be cautious, it must be compromised. some believe that we need a relative link to establish a relative link, so as long as such a reason is not achieved, we firmly believe that the child with the womb has no relative bonding moreover, the rule is as well as the rule of the omission is proof of this[11]. Yes, if we could respect some of the qualities of genetics that are transmitted to him through the germ of another woman " s womb, we might have been able to regard him as a canon, but that is only if the science of biology has not responded to us in this regard. in accordance with this theory, which has the illegitimate mother of the child, it is true and true, and the relationship between child and child is established[1].

## **2)alimony**

according to the law, the alimony of the children shall be left to the father, and thereafter to the paternal ancestors. however, jurists also make the alimony necessary, even if it is of adultery, so considering that in the case of paternal parentage in the case of surrogacy, the child is the owner of the sperm, so there is no problem about the alimony of the child. because in the absence of the first and second categories or their inability to pay alimony, the mother, which is the third class, is required to be charity according to the opinions about the determination of the legal mother of the child born from the surrogate uterus, each of them is required to be charity[16]. one of the opinions expressed is the dual - mother theory of the child. if the mother " s obligation to charity is provided by the child, which of the two mothers is responsible. in article 58 of the civil code, the legislator specifies the limits and duties of these people: " if a few of the ancestors and their ancestors are equal in terms of degree of equality, the alimony shall be divided equally. of course, one is abroad one year[10]. in this situation, the mother of the decree compensates for the inability of the surrogate mother and does not reduce child 's alimony[15].

## **b) Non - financial effects**

### **1) The respect of marriage**

Marriage is not allowed by causal relationships. Because of this certificate or a marriage license, the service is based on the relative and causal relation[5]. In relation to the child from the rent, it is necessary to know that the embryo is not illegitimate because it is not necessary that the creation must be achieved without marriage, the birth of Jesus has been done without marriage[16].

#### **1 - The child 's relationship with the owner of sperm**

This embryo belongs to a man whose child comes from her and is naturally the child of her child , and all the legal cases that a child takes from a man 's sperm are biological and biological from birth and in the case of a man who enters into the womb of a man who enters into the womb of a woman, adultery does not apply for adultery therefore, all rights and duties are established in this regard[12].

#### **2 - The child 's relationship with the owner of the uterus and the uterus**

Those who possess the egg believe that a child born from an egg is believed to have a child who has not raised the child in its womb , does not have the same sex and kinship with the child , and in any case it is not alien to such a child , and the next development of the embryo in an environment other than the womb of the ovum does not exclude him from this company . She appears to be a foster mother in her foster mother, since her foster mother is a foster mother in her pregnancy and her womb, which is the mother of her foster mother, who is the only mother of the embryo, but also the mother 's mother - in - law[16].

#### **3 - The child 's relationship with the wife of the uterus with the uterus**

the child who grows and born in the womb is not related to the relative affinities and rights and obligations arising from it to the married couple (owner of the uterus) but in any case, his wife will be at least biologically active. therefore, in order to respect and prohibition of marriage if the baby is a girl, it is considered as the daughter of wife. therefore, the intimacy of the child with the spouse of the surrogate mother is due to the relative or relative of his foster mother, and since his foster son is a foster mother in order to foster a foster mother and foster her husband. (Makarim Shirazi,1428, p.150) [14].

## **2. custody**

What is stated about child 's alimony is also applicable to custody, and he has the right to custody according to Article 1168 of the Child 's Civil Code. Child custody was the subject of the parents, who have been in detail in the law and in the law. Now, who is the question about who the child is born in custody in custody? The owners of sex cells with the wife of the uterus? Considering the child 's interest, he seems to have taken custody of him during this period, and perhaps the most difficult issue is related to Jurisprudence who have chosen two mothers, because they have to determine which of the two mothers is paramount in custody of the child[15].

## **3. Province**

The province begins with the child from birth and continues to grow up to maturity and growth. What do you have to see now, who has the right to the Province of the minors? Any decree on the issue of the province applies to the same issue in the case of opinion[8]. He is the father and grandfather of a father who possesses the sperm of his father, or the husband of the womb of the province, so as to call him Father[10].

## **Conclusion**

According to the law, if artificial insemination is made by means of a child in her lifetime, if artificial insemination is made by means of a child , it is considered to have no effect on her legal lineage, so that if artificial insemination is made under artificial insemination, it is considered to have no effect on her legal parentage. therefore, in artificial insemination , there is a parity between the woman and the man who is considered the mother and father of the

child, and what causes the child to ascribe to the father and mother, the marriage relationship between them is the right act and the law has its own legal effects and it is virtually no problem in jurisprudence. And those scholars, who have questioned the legitimacy of this method, are more than allowed because of fear of forbidden preparations such as obtaining sperm and eggs in an unauthorized way. And of course, although they do not often admit this method, they are attributed to the birth of a child born and attributed to people as parents. " This brings many challenges, despite all the opportunities and gifts that it takes to take. " these challenges arise in a variety of aspects, including religious, medical, ethical and legal aspects, each of which has many arguments and many questions in place. unfortunately, the Iranian legal system has made no significant effort in terms of laws and regulations that can satisfy the problems and regulator of artificial insemination.

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