

## Surrogacy and “third-party” donation in Iran: An overview

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Assisted reproductive technology (ART) is the name given to a group of different methods used to help infertile couples. It includes removing eggs from a woman's body which are mixed with sperm to make embryos which are then put back in the woman's (or a surrogate's) body. ART techniques have advanced significantly in the past few decades.

Diverse legal, religious and social attitudes towards surrogacy exist in different countries. Within Islam itself, there are widely divergent views on the issue of surrogacy. In contrast to most Muslim countries, Shia Iran takes a permissive attitude towards surrogacy and the “third-party” donation of sperm and eggs. Beginning with the first IVF birth in 1990, Irani society and its religious scholars have been largely supportive of infertility treatments. There are currently more than seventy infertility clinics in the country offering infertility treatments including surrogacy, embryo donation, and recently Preimplantation Genetic Diagnosis (PGD) screening and sex selection.

The majority of Sunni scholars consider surrogacy haram or forbidden since it involves introducing the sperm of a man into the uterus of a woman to whom he is not married. Third party donation, therefore, is considered adultery (with a small minority of Sunni scholars permitting surrogacy between two co-wives of the same husband). Sunni scholars also oppose surrogacy on the grounds that it turns the womb into a commodity and commercializes the act of giving birth which is sacred to marriage. On the other hand, most Shiite scholars have issued jurisprudential opinions (fatawa) that allow surrogate motherhood as a treatment for infertility, although only for legally married couples.

Ayatollah Khamenai, the supreme Iranian leader, allowed surrogacy on the condition that the resulting child must be recognized as the child of the donor father. This works well if an infertile couple contributes the egg and sperm, and the embryo grows in the womb of a third party surrogate mother. But controversies could arise if the wife of the infertile couple wishes to carry the child, using the sperm of a third party donor. Her husband, in that case, would be considered only an adoptive father, and the third party donor would be considered the real father from whom the child may claim inheritance raising complex questions about kinship and the identity of the child. However, Shia jurists would not define this as adultery. According to Shirin Garmaroudi Naef, this striking difference in Shia and Sunni positions on surrogacy is rooted in a different conception of what constitutes adultery. In the Shia conception, adultery is a physical act involving actual bodily contact and not just a transfer or mixing of body cells. Rather, Shia scholars regard the practice of surrogacy as transferring an embryo or fetus from one womb to another, which is not forbidden in Shiite jurisprudence. Furthermore, in the Shia perspective, adultery breaks the family whereas donation (or surrogacy) protects it.

Donors or surrogate mothers in Iran are often closely related to the infertile couple with brothers, sisters and other relatives donating or becoming surrogates. Although there is generally no exchange of money in such cases, there is a wide debate in Iran about the issue of payment to surrogates in other cases. Surrogacy or reproduction through ARTs in Iran is not allowed for gay couples or couples who have not been legally married. However, married couples from other Muslim countries, including Pakistan, have availed the infertility treatments at Iranian clinics.

## References:

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