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The Journey of Infertility from Private Sphere to Public Domain: From Cosmetic Surgery to Disability

This study explores the process by which the treatment of infertility, which has been in the hands of the private sector, has been taken over by the state as a matter of public health. It argues that this shift stems from the pro-natalist policies of the state to help increase the population. Infertility treatment, using assisted reproductive technologies and its legitimization by the Islamic jurists, is used as a lens through which to examine the state's body politic. The frequent reversals of policies, since the late nineteenth century to the present, are shown to be directly linked with the nation-building goals of the state, expecting the citizens to readjust their reproductive behavior to meet the state's policies.

Keywords: Population Policies; Infertility; Nation-building; Assisted Reproductive Technologies; Islamic Jurists

Introduction

The Iranian state's interest in its population, and actions taken to regulate its growth, have been historically linked to and driven by the ideals of nation-building. This interest, from the late nineteenth century to the present, has been less direct, lacking coordination in its approach at times and more cohesive and assertive at others. Regardless of its direct or indirect approach, the state has reversed its position or policies five times, adopting an anti- or pro-natalist stance alternately over the past century. The state's body politic started in the late nineteenth and early twentieth century, under the rule of the Qajar dynasty (1785–1925), when the state became aware of a serious decline in population, which was in large part due to poor health conditions and a high mortality rate.[1] The state adopted a pro-natalist approach and took various measures to improve the health of the nation, and women, as mothers, were targeted as being responsible for achieving the state's goals. As the US-based Iranian historian Kashani-Sabet explains in her analysis of the state's

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[1]Kashani-Sabet, *Conceiving Citizens*, 4.

attitudes towards the improvement of the nation's health, "[e]mbedded in this analysis is a general consideration about the political and professional visibility of women and the rise of ideologies that appropriated motherhood for political purposes." She further argues that maternalism became an ideology that promoted motherhood and maternal well-being not only within the framework of the family but also in consideration of nationalist concerns: "the awareness of women's health and infant mortality, which can be situated in the nineteenth century, brings maternalism to the heart of modern Iranian thought, concepts of nationhood, and tasks of a modern government."[2]

The Pahlavi dynasty that followed the Qajars (1925–79) initially continued to focus on improving maternal and child health and, to this end, set up the first family planning clinics in 1958.[3] During the later part of the Pahlavi era, Iran underwent a process of reform aimed at the modernization of Iranian society, which included the introduction of a government-sponsored family planning program, triggered by the result of the statistics in 1966 that showed the population had risen from 18,954,704 in 1956 to 25,7855,210, and was growing at the rate of around 3.1 percent per annum. This program, aiming at reducing the growth, became effective in 1968.[4]

With the establishment of the Islamic Republic in 1979, the previous family planning programs were dismantled and, as Abbasi-Shavazi explains, "although the new government did not develop a specific pronatalist policy, several socio-cultural and economic changes were made that were effectively pronatalist in nature."[5] As a result, the population grew fast and by 1986 the census showed the rate of population growth to be 3.9 percent per annum. Such a rapid increase led to the launch of a massive anti-natalist campaign in 1989, which succeeded in bringing the rate of growth down to 2.1 within ten years of its implementation.[6] This decline continued to the point that the census of 2011 showed a drop in the total fertility rate to 1.5, below the replacement level. The decline was in part due to the educational strand of the population policies, which had proved highly effective in transforming the fundamental norms and values attached to reproduction among the current generation of reproductive age. The effect of educating the future generation of parents of the benefits of smaller families was reflected in the census of 2011 and led to a reversal by the state to its current pro-natalist policies.[7]

[2]Ibid.

[3]Abbasi-Shavazi et al., *The Fertility*; Hoodfar and Assadipour, "The Politics."

[4]UN Demographic Year Book.

[5]Abbasi-Shavazi et al., *The Fertility*, 24.

[6]Some scholars, for example Abbasi-Shavazi ("La Fécondité"), Ladier-Fouladi ("Population"), Hoodfar and Assadipour ("The Politics"), have argued that although the population policies are viewed as responsible for a sharp drop in population growth, in reality this decline had started around 1984, before the implementation of the policies, especially in urban areas, due to a number of sociocultural and economic factors.

[7]As mentioned above, in addition to the state's educational program, other socioeconomic factors also played a significant role in the reduction in the size of the family.

All the above approaches, in spite of contradicting each other, have two features in common. First, the main driving force behind the regulation of the population has been for the purpose of nation-building rather than for the well-being of the citizens even though the citizens might have been the ultimate beneficiary, or otherwise, of these policies. This is particularly noticeable under the Islamic Republic's rule, when every change of policy has aimed at persuading citizens to adjust their reproductive norms and practices to suit the state's ideals, by emphasizing "the need for building a strong and independent nation," pointing to the responsibility of the citizens to cooperate with the state for the "common good."[8] The second common feature is that none of the programs or approaches, not even the pro-natalist ones, addressed or even acknowledged infertility as an important part of reproduction let alone offering a solution for its treatment. The underlying reason for such a lack of recognition remains the persistent stigma attached to infertility, which has traditionally been considered a divine damnation and to be kept away from the public gaze. As Kashani-Sabet explains, "although infertility remained a touchy subject, it was corollary to reproduction. Some Iranian couples did not readily divulge such personal matters, even to their physician."[9] She also refers to infertility being mentioned sporadically in medical notes and women's journals by physicians or travelers in the late nineteenth and early twentieth centuries. In general, the state's silence on infertility seems to reflect the cultural shame attached to "failure" to reproduce and is treated more as a private matter for the family and individual than for the state to deal with. Even in the following decades, in spite of the awareness of the medical and biological causes of infertility, this silence continued and little mention was made of it. It was the family planning program of 1989 that made a passing reference to it for the first time.

This article explores the journey of infertility from the obscurity of the home and the privacy of the clinics to the limelight of public health.

The Background

Detailed accounts of the various population policies, especially those of 1989, have been written by scholars from different disciplines and various perspectives and are beyond the remit of this article. However, an acknowledgement of infertility by the 1989 policies is noteworthy as this was the first time an attempt had been made by the state to acknowledge infertility as an impediment to reproduction and in need of remedying. Nevertheless, in spite of the policies' promises to provide help for infertile couples, they failed to show the same commitment which had ensured their success in reducing the population growth. Considering the little follow-up action of the state to the infertility problem, one assumption could be that the promises were meant to appease the highly conservative groups in society, who objected to the anti-natalist policies, which they deemed came within divine power and were not for the humans to determine.[10] In general, the

[8]See Hoodfar, "Population".
[9]Kashani-Sabet, *Conceiving Citizens*, 91.
[10]For more details see Hoodfar, "Population"; and Tremayne (2004).

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limited efforts of the health planners during the 1980s/1990s, consisting of part-financing the costs of infertility treatment, proved negligible and more of a symbolic gesture than a genuine commitment.[11] While the anti-natalist policies succeeded in instilling the value of having smaller families among the present generation of reproductive age—to the point that this generation now favors one child or opts for voluntary childlessness —they did not diminish the stigma of involuntary childlessness.[12] Although the shame of being infertile may be widespread throughout the world, the degree of stigma varies in different cultures.[13] In the Middle East, where, traditionally, biological relatedness has been the only acceptable form of reproduction, having one's own children has been an imperative and voluntary childlessness has not been an option. In general, failing to reproduce has been considered detrimental not only to family, but also a threat to the stability of society.[14] It is, therefore, understandable that when the Ministry of Health offered limited financial help to infertile couples, the demand proved overwhelming and revealed the extent of infertility. However, the state's priorities being to reduce population growth, its assistance remained insignificant and the much-anticipated hope for infertility treatment came in the form of in vitro fertilization (IVF), which was a new technology, introduced into Iran in late 1980s by some pioneering physicians in the private sector.

Infertility and Reproductive Technologies

Prior to the implementation of the 1989 population policies in Iran, a new method of conception was offered to infertile couples in the UK in 1978. IVF, which is now a routine medical treatment, was a revolutionary scientifically advanced technology at that time. IVF is a process by which a woman's ovaries are hormonally stimulated to produce excess eggs. These eggs are then "harvested" and placed in a petri dish in an IVF laboratory. The eggs are then fertilized with spermatozoa retrieved from the male partner with the goal of an in vitro (i.e. outside of the body) conception. Successfully fertilized embryos are then transferred into the woman's uterus. IVF technology, which had spread across the world rapidly, was introduced to Iran against the backdrop of anti-natalist population policies and offered the opposite of what the policies were aiming at, namely an increase in population. On its introduction, the pioneering medical practitioners, who were mindful of the pro-natalist Islamic beliefs on reproduction, sought the opinion of the Islamic jurists on the permissibility of its use. Interestingly, unlike most secular countries, where the responsibility for legitimizing innovative biotechnologies falls on secular committees of experts and the parliament, in Iran, through a lack of interest and action by the state, their legitimization became

[11]Tremayne and Akhondi, *IVF*.

[12]Although the stigma of infertility has been reduced among the more liberal layers of society, who form a minority, it remains widespread among the majority of people regardless of their degree of religiosity, conservatism, or social background, or education.

[13]Inhorn and Van Ballen, *Infertility*.

[14]Inhorn and Tremayne, *Islam*, Introduction.

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the responsibility of the Muslim jurists (*faqihs*).[15] Some of these jurists are recognized by their peers as the sources of emulation (sing. *marjaʿ al-taqlid*) who, by resorting to independent interpretation of Islamic sources (i.e. the practice of *ijtihād*), issue religious edicts (*fatwās*) on a wide range of issues. As Richard Tappan demonstrates, in seeking justification for the use of bioethics, "clinicians and bioethics consultation groups consider a range of justificatory sources, including civil laws, religious edicts, reason and examples of bioethical cases from elsewhere, to come to a decision."[16]

The majority of the jurists approved of the practice of IVF on the condition that its practice remained limited to heterosexual married couples, as conception outside marriage in Islam is equivalent to adultery and the resulting child is considered illegitimate or a bastard (*valad-e zenā*). At this juncture, debates on IVF did not lead to strong controversial arguments among the jurists and its practice did not attract the attention of the world outside the medical practice. But it was the introduction of third-party gamete donation, involving a third person in procreation, that led to a more profound exploration of the permissibility of these state-of-the-art technologies and their implications for the entrenched cultural and religious beliefs surrounding reproduction. The use of a third-party's gamete donation, such as sperm, egg, embryo donation and surrogacy, to help an infertile couple conceive, seemed discordant with the prohibition by Islam of conception outside marriage, and with the position that the only acceptable form of reproduction is through heterosexual marital union, resulting in one's own biological offspring.[17] This form of conception, therefore, proved problematic as it prevented the couple from using the treatment offered by assisted reproductive technologies. The jurists needed to find valid arguments to justify the legitimacy of third-party donation, which could be a potential threat to the purity of lineage and yet allowed procreation and the continuity of the family line. However, although some solutions were eventually found to legitimize third-party donation, the deliberations of the jurists did not lead to a unanimous verdict and, to date, their opinions remain divided on this issue.[18]

Effectively, it was thanks to those jurists who issued favorable *fatwā*s that the use of all the assisted reproductive technologies was made possible, except for embryo donation, which no amount of *ijtihād* could justify. Therefore, a bill was presented to the parliament and a law was passed in 2003 allowing embryo donation. It is noteworthy that, in legitimizing the use of assisted reproductive technologies, prior to issuing their *fatwā*s the jurists engaged intensely with the medical practitioners and ethicists to better understand the broader biological and ethical implications of these technologies for lineage, family, and kinship.[19] In reality, it was the medical

[15]Hereafter, jurists.

[16]Tappan, "Ethical," 103–30.

[17]Inhorn and Tremayne, *Islam*.

[18]For more information of various solutions suggested by the jurists to legitimize third-party gamete donation see ibid.

[19]For the full explanation of the legitimization of assisted reproductive technologies see, for example, Tremayne, "Law"; Inhorn and Tremayne, *Islam*; Tremayne, "Whither Kinship?"; Tremayne and Akhondi, *IVF*.

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profession which took the initiative and paved the way for the jurists, who saw their main duty as that of protecting the sanctity of the family and kinship by averting any deviation from Islamic instructions that may arise from the application of these technologies. However, as mentioned earlier, not all jurists endorsed the use of assisted reproductive technologies and many rejected them adamantly. But, as is the practice among the Twelver Shia, all these contradictory rulings remained equally valid and it was left to the followers of each *marjaʿ* to choose the opinion which suited them best.[20] As Tappan explains "there is also a religious duty upon each Shia believer to follow the rulings of one high-ranking source of emulation. This leads to a plurality of equally authoritative religious rulings, which might differ greatly form one another, and may vary from the state law as well."[21]

In general, the edicts of the sources of emulation falls into three groups: (i) Those which forbid the use of IVF in any form, especially third-party donation, which is viewed as the intrusion of a third person into the marriage, and as such is forbidden (*haram*), and which also leads to confusion in the purity of lineage (for example, the late Grand Ayatollah Madani Tabrizi, 2009); (ii) those which are favorable towards the use of assisted reproductive technologies based on 'conditional permission' and depending on circumstances (Khomeini, 2001); and (iii) those which permit the application of assisted reproductive technologies in all their forms (Ayatollah Yazdi, 1996). In the latter set of opinions, assisted reproductive technologies are interpreted as a means of mediating between God and his subjects to allow procreation and not as interfering in God's design. These advocates argue that conception in a petri dish bypasses any suggestion of an intrusion by a stranger and that this form of conception plays an instrumental role in resolving some of the theological concerns that would otherwise arise from third-party donation. These concerns include the possibility of the parties involved in IVF—the practitioners, and the donors and recipients of gametes, most of whom are strangers to each other—coming into bodily contact with each other, and the ensuing implications for adultery and incest, according to the Islamic law. On the prohibition of bodily contacts, Ayatollah Khamenei, for example, issued a *fatwā* in favor of third-party gamete donation, approving of it "as long as no *harām* [forbidden] act such as touch or gaze takes place."[22]

Regardless of their differences of views, all the jurists remained in agreement on the paramount importance of preserving the purity and continuity of the lineage. Even those who allowed third-party gamete donation emphasized that the child conceived through third-party donation belongs to his biological parent and inherits from them. These jurists also endorsed the use of IVF only on the condition that fertilization of

[20]Interestingly, during the fieldwork, I came across a couple, whose *marjaʿ* was against third-party gamete donation, but named another *marjaʿ* and told the couple to go to him and ask for his permission to proceed. Tappan ("Ethical") also recounts such incidences. Finally, the director of one of the leading clinics also confirmed that they observe this practice among their patients frequently.

[21]Ibid.

[22]Ayatollah Khamenei (1999), 105.

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the gamete takes place outside the body.[23] Ironically, both these conditions have evolved over time to make the practice of infertility treatment riddled with difficulties and problems, as is explained in what follows. The emphasis on "outside the body" led health insurance providers to classify infertility treatment as cosmetic surgery and not eligible for insurance cover under health. Furthermore, the Ministry of Health lacked active interest in infertility as a health problem, failed to instruct health insurance providers, and did not object to IVF being classified as "cosmetic." In general, the extent of the state's contribution to infertility treatment remained limited to allowing some public hospitals to set up infertility clinics. These clinics covered only some of the costs of the medication but not the treatment itself, which had to be met by the infertile couples themselves.[24] An interesting, but not typical, example of the part-funding of infertility treatment is that of a clinic which was set up by the state for those soldiers who had suffered spinal injuries during the Iran–Iraq War (1980–88) and had become infertile as a result. These soldiers were referred to as "living martyrs" (*shahid-e zendeh*), the extent of their injuries was assessed in percentage terms, and their entitlement to financial help depended on the extent of their injuries. For example, a man, who was classified as having 70 percent injuries would receive 70 percent of his treatment costs covered by the state.[25]

By 2016, infertility treatment, by and large, was in the hands of private practice and of a total of sixty-one infertility clinics in the country, only twenty-four were public and thirty-seven were private. The services offered by the public clinics were limited and did not cover the full range of reproductive technologies. Since 2011, with the launch of the pro-natalist policies, the number of public clinics has been on the increase, as will be discussed further below. With infertility treatment being practiced predominately by the private sector, the costs have remained high and out of reach for the majority of infertile couples, even though the competition among the private clinics had meant that these costs have remained stable. Furthermore, inaction on the part of the state meant that no uniformity of practice or overall control or enforcement had been exercised and the rules, especially those concerning third-party gamete donation, had been negotiated between each clinic and the infertile couples.[26] These rules have varied from clinic to clinic, depending on the views of the *marjaʿ* and his reasoning, which the infertile couple follows. For example, the choice of gamete donors often has been made by the infertile couples themselves, a

[23]There were also other solutions put forward by some *marjaʿ*s, to legitimize gamete donation, for example the use of temporary marriage to the donor of gamete. See Tremayne, "Law," 144–64.

[24]The majority of the public clinics were housed within the public hospitals and worked under the supervision of university medical departments.

[25]Personal interview with the head of the clinic, June 2004. Also interview with Amir Mehryar, Director of the Iranian Centre for Research on Asian and Oceanic Population (2007).

[26]This is more the case with the sperm and egg donation, whereby the recipients of gamete often choose their own donor, a decision which has created many problems for both the clinic and the infertile couples or even donors in the past. For more details see Tremayne, "Whither Kinship?" In cases of embryo donation, the permission of the court is required, which limits the scope of the individual decision-making by the recipients.

high number of whom have resorted to their siblings or other relatives for sperm or egg donation or for acting as surrogates. In spite of the fact that some of the leading clinics have limited this practice and have taken charge of choosing the donors, who are strangers, and keeping their identity confidential, most clinics, especially those operating in the provinces, continue to allow the recipients of gamete to bring their own donors. This permissibility stems from the fact that, from the infertile recipients' point of view, gamete donated by a biological relative is the ideal form of conception, as it will mean preserving the integrity of their lineage since a biological relative's gamete will share the same blood (*hamkhuni*).[27] It also could be due to the fact that, in smaller cities, there are not sufficient numbers of outside donors and infertile couples bringing their own donors, makes the task easier for the clinics. In addition, a high number of more conservative medical practitioners themselves also approve of such practice, as it keeps the conception in the family. Finally, in legitimizing third-party donation, no specific instructions have been given by the jurists on the prohibition of gamete donation by siblings or other biological relatives. In the circumstances, the infertility clinics have had to deal with not only the infertile couples, but with the larger kin group, who accompany their infertile relative on visits to the clinic and interfere at every stage of the treatment. Further reasons for the involvement of relatives has been twofold. First, considering the close-knit structure of kinship in Iran, infertility of a couple often is considered a problem for the kin group too, who feel they must support their infertile relative to ensure the continuity and purity of their lineage. The close relatives also want to make sure that their infertile relative receives the right treatment and that no malpractice takes place at the clinic. Cases of interfering relatives abound. For example, the mother of one infertile woman told her "I must accompany you to make sure that no hanky-panky goes on at the clinic." While the older brother of an infertile man argued with the doctors, banging his fist on the table and telling them what sort of treatment his "little" brother should have.[28] Secondly, in cases of less well-off infertile couples, relatives frequently feel under obligation to provide money, even at the cost of selling their own car or house to help cover the costs of treatment, an act which further justifies their involvement. These are only the tip of the iceberg as far as a myriad of legal, ethical, religious, psychological and other issues are concerned that arise regularly in the course of infertility treatment, and are beyond the control or power of the clinics to resolve due to the absence of authoritative and uniform legislation.

Crossing the Bridge from Cosmetic Surgery to Disability

With the increase in the number of infertility treatment clinics and the public awareness of their existence, demand by infertile couples has increased sharply every year.[29] This is in spite of multiple difficulties involved in undergoing treatment, such as the

[27]For full explanation of donation by relatives, see Tremayne, "Whither Kinship?," 69–83.
[28]Personal observation during the fieldwork in the clinics.
[29]Akhondi et al., "Prevalence."

high costs; the shame of making one's infertility public; the problems of frequently having to travel long distances from rural areas to large cities, where infertility clinics are based; and undergoing the often unpleasant procedures, with limited chances of success.[30] In some cities, for example in Yazd (in central Iran), where the IVF treatment originally started, people coming from remote areas camp outside the clinics for days waiting for their turn to be seen. It is amid such an atmosphere of the discussion of infertility appearing more in the public domain that the result of the census of 2011 was published showing a sharp decline in population growth to 1.5 percent per annum, falling to below the replacement level. Such a sharp decline caused alarm bells to ring and the then conservative Iranian president, Ahmadinejad, announced a new policy to encourage population growth, calling the previous policies ungodly and a western import.[31] The new pro-natalist policies were devised to encourage couples to have larger families. These included offering new-born babies gold coins, opening bank accounts for them until they reached eighteen years of age, and other similar incentives. The state also adopted more coercive measures by dismantling the previous family planning programs and rerouting the funds to promote its new policies. Among these figures the introduction of two bills "315" and "446" to the parliament aiming at limiting couples' access to voluntary contraceptive measures, such as sterilization, to increase birth rate. Both the Bill "446" aiming at increasing fertility rates and preventing population decline, and the Bill "315," predominantly aiming at curtailing women's access to family planning and limiting their employment opportunities outside home, passed with an overwhelming majority in August 2014 and 2015 respectively. However, the response of the generation of reproductive age was to ignore the state's plea to have more children or any at all. The justification, by the authorities, for such a reaction, has been to blame the economic hardship as the main cause for the young couples' reluctance to have children, a simplistic interpretation of a more complex behavior stemming from a number of factors. For example, some of the factors responsible for the resistance of the young people to reverse their reproductive behavior once more, to meet the state's nation-building goals, inter alia, are the impact of the family planning program of 1980s–1990s, which transformed the reproductive values and attitudes among the generation of reproductive age; the successful literacy campaign, especially the rise in female literacy and education; an increase in female participation in the labor market; the delay in the age of marriage; the high rate of urbanization, depriving young couples of the support of their traditional networks, including the help of the older generation with child care; and the major shift in the status of women in the family and society at large.[32] The uniformity of this behavior among the generation of reproductive age,

[30]The chance of success through assisted reproductive technologies is, on average, around 35 percent depending on a number of factors. This explains why some couples have to resort to more than one cycle of IVF to increase their chances of conception, and hence the expense involved.

[31]From a speech made by Ahmadinejad during a trip to Alborz Province on 6 January 2011, reported by London weekly *Kayhān*.

[32]For a fuller explanation of the change in women's status, see Shadi-Talab, "Iranian Women."

across the country, is demonstrated in a study by the Iranian Center for Research on Asian and Oceanic Population as follows:

> Those couples who have just married and those who have been married for up to three years show no inclination to have any children at all, or perhaps just one. This tendency over the past decade illustrates that for women of urban and rural backgrounds, from different social classes, the poor and the rich, illiterate and literate, all have similar attitudes to giving birth these days, leading to the rapid downward trend in the Iranian total fertility rate (TFR).[33]

And when the supreme religious leader, Ayatollah Khamenei, announced publicly that "it was wrong to continue with the family planning program and that the two-decade old policy of controlled population growth must end,"[34] he was challenging these, by now, deep-seated values in the generation that had grown up to believe in the advantages of having fewer children. The Supreme Leader admitted "one of the mistakes we made in the 90s was population control."[35] He stressed the necessity of building a strong nation and that Iran's goal was to reach a population increase from the current 80 million to 150 million by 2050.[36]

Amid the panic by the state, searching for ways of boosting population growth, the results of a large survey carried out on infertility, by Avicenna Research Center, one of the leading centers for infertility treatment, was also published. The survey of 17,000 households, carried out in both the urban and rural areas, showed the prevalence of infertility among married couples to be 19 percent in urban and 22 percent in rural areas.[37] Further figures released by health officials also put the number of infertile couples at around 2 million. Considering the high rate of infertility, the state saw the potential for its pro-natalist policies by providing a nation-wide program for the treatment of infertile couples and moved to take charge of infertility treatment as a matter of public health. The Ministry of Health announced the setting up of an infertility treatment plan called "*barekat-e khānevādeh*" (family blessing) in 2015, aiming at providing treatment in underprivileged areas in ten provinces for all infertile couples between the ages of twenty and forty, free of charge. This foundation is affiliated to *Setād*, which is a special office for executing the decrees of Imam Khomeini in helping the underprivileged. The head of the Infertility and Reproductive Health Research Centre at Tehran's Shahid Beheshti University mentioned that "The infertility treatment program conducted jointly by the Health Ministry and the *Barekat Foundation* is in line with the general population policies to enhance population growth set by the Leader, Ayatollah Ali Khamenei in June 2014."[38] The health officials

[33] *Tābnāk* site (www.tabnak.ir/fa/news/346841).
[34] Ayatollah Ali Khamenei, *Tābnāk* site (www.tabnak.ir/fa/news/346841).
[35] Ibid.
[36] Ibid.
[37] Akhondi et al., "Prevalence."
[38] Ibid.

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also released further information on the infertility situation. For example, according to one official, "Based on the latest surveys conducted, it is estimated that there are 450,000 infertile couples in the rural areas and some of them cannot afford to pay for the costly infertility treatments." Further, the deputy health minister was quoted as saying:

> As of today, all infertile Iranian couples, who number about two million couples, can enjoy the coverage of their expenses and state insurance will cover 85 percent of the costs, the first time infertility treatments have been covered—and the government has allocated around $30 million (27 million euros) for the project.[39]

To explain its sudden and intense interest in infertility, the state has defined it as a disability. The health insurance providers have been told to revise their classification of infertility from "cosmetic" to "disability" and to provide cover for its treatment. Although the move by the state means an end to the dominance of the private sector on infertility treatment, in reality the medical professionals have welcomed the intervention of the state. They realize that such a shift will result in giving the practice some uniformity by regulating it through laws approved by the parliament. They hope that many of the nebulous areas and unanswered questions, including on the ethical aspects of the practice, which have emerged in the course of their three decades of practice, for which they have had to improvise, will eventually be formulated into laws and provide unanimity across the country. The current confusion and lack of certainty in a number of areas of the practice of assisted reproductive technologies, stems from the fact that the practitioners have followed the instructions of the sources of emulation, which are diverse and even contradictory. The result has been the persistence of many grey areas, which have allowed both the physicians and the infertile couples to maneuver the situation and make their own choices, to fit their own agenda.[40] In other words, assisted reproduction seems to have been "tailor-made" mainly by the recipients themselves, to fit their understanding of what constitutes kinship, rather than following any biomedical guidelines or regulations. The shift to public health should create some uniformity, which will be enforceable across the country.

Since the state's takeover of infertility treatment, the leading physicians have taken the initiative to discuss some of the more pressing problems with health officials. Among the many recurring questions, that of the anonymity of third-party gamete donors looms large and has been one of the first bills to be presented to the parliament for its consideration. When the *marjaʿ*s (sources of emulation) gave their *fatwā*s

[39]https://www.al-monitor.com/pulse/contents/afp/2016/08/iran-healthcare-infertility-politics.print.html

[40]Najmabadi (*Professing Selves*) explains a similar situation in cases of transgender surgery in Iran, whereby the gaps left in regulations, allows room for manoeuvre by homosexuals to use the situation to their own benefit.

allowing third-party gamete donation, they did so on the condition that the lineage of the resulting child is not compromised. As mentioned earlier, they emphasized that the child conceived with a third-party gamete (sperm, egg, embryo, and gestational surrogacy) will belong to their biological parent but will take their name from the adoptive parent. It was also specified that the child will inherit from the biological parent in line with the Islamic law, which is clear that only biological relatives can inherit from each other.[41] Based on these conditions and knowing the identity of the donor of the gamete has caused endless problems, not only for the donors and recipients of gamete, but also for the clinics, which are often expected to solve the problems arising between the fighting parties.[42] For example, to cite one of the many examples, the case of two sisters one of whom, being infertile, had received her sister's egg and conceived. When her child was seven years old, the donor sister's own child had died in a car accident and the bereaved sister claimed her sister's child, who was conceived with her egg. Following the *fatwā* on the child belonging to its biological parent, the court gave the child to his biological mother[43]. There are also other emerging ethical and legal aspects of gamete donation, which, with the shift of infertility into the public health domain, will gradually be presented to the parliament in the hope that they become regulated through laws.

Reflection on the Regulation of Assisted Reproductive Technologies

With the shift of infertility treatment into the public health domain, it may be worth contemplating briefly some of the consequences of regulating third-party gamete donation. Basically, most of the rulings of the Islamic jurists on assisted reproductive technologies may eventually be examined and revised by the parliament. If so, the new laws may be a challenge to the religious edicts that legitimized these technologies in the first place and it will be interesting to observe how these contradictions will be resolved and what the interface between the *fatwās* and the civil law will be. Even if the parliament passes a bill on any aspect of reproductive technologies, this will have to be approved by the Guardian Council before it can become law. This is the crucial stage as at least half of the members of the Guardian Council are conservative Islamic jurists, who may or may not approve of the edicts issued previously by their colleagues, the senior jurists. If some of the conditions for third-party donation, for example the anonymity of the donors of gamete becomes law, what would be the long-term implications of such a law in relation to the sanctity of lineage? In view of the high number of infertile couples and of the state's determination to treat infertility, even if a percentage of children are born from anonymous third-party donation, this will mean a negation of the religious and cultural norms and beliefs on lineage and its preservation, which were the basis upon which third-party gamete donation was allowed

[41]See Inhorn and Tremayne, *Islam*; Tremayne, "Whither Kinship?" For more details also see Tremayne and Akhondi, *IVF*.

[42]For more details see Tremayne, "Whither Kinship?"

[43]Personal interview with Dr Akhondi, February 2018.

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and which are of paramount importance in Islam and persist in Iranian culture. Furthermore, anonymity being only one of many unresolved aspects of infertility treatment, will the lawmakers opt for new solutions that help the practice of infertility to meet the state's goals, or will they come to a compromise and follow the original verdicts and leave all the players in their current limbo? Finally, it would be interesting to see how the Guardian Council, as the ultimate decision-making authority, will respond to some of the bills submitted by the parliament, which will go against the edicts issued by some of senior jurists.

Conclusion

A brief comparison of the state's body politic of the various Iranian states, from the late nineteenth century to the present, has shown the question of population to be inextricably linked to the ideals of nation-building. Overall, the approaches or policies towards the population and its size, under two monarchies and the Islamic Republic, cover five episodes, each one contradicting the previous one but all expecting the citizens to reverse their reproductive behavior to meet the goals of the state. Throughout, attention to the reproductive rights of the citizen has either gone unacknowledged or been used to support and reinforce the policies where appropriate. This is particularly true in the case of women, who, according to Hoodfar (2017, page 230) "are being essentially directed through these policies to increase their fertility as a national and religious duty in order to achieve the political goals of the state."[44] Although the state's body politic are not unique to Iran and many states with explicit population policies resort to them, this latter acknowledge the reproductive rights of the citizens even if this recognition remains more of a lip-service than a genuine commitment. However, while there is no denial that many people of reproductive age, especially women, are negatively affected by the state's pro-natalist policies in Iran, and in spite of the policy-makers' attempt to coerce the generation of reproductive age to contribute its fair share of children towards the national goals, this generation has taken control of its own reproductive life by ignoring the demands of the state and refusing to have more children than it wants to, as is shown in the decline in population growth discussed earlier. In the process, this generation has also confirmed an age-old Iranian belief that one's rights are not going to be given, but that they have to be taken ("حق گرفتني است نه دادني"). Although from the perspective of human and reproductive rights these coercive pro-natalist policies may be a breach of individual liberties, Iranians of reproductive age have chosen the path which best fits their vision of what reproduction means, which overrides the dictates of the state. In managing its own reproductive life, this generation is sending a message to the policy-makers that, in Parkin's words,

[44]Hoodfar, "Turning Back."

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> the management of reproductive life is not just a matter of formal systems of authority, control and knowledge transmission, nor of following the policy-makers' directives, nor even integrating these with indigenous ones. It also extends to recognising the metaphysical and cosmological understandings and practices that everywhere accompany rules, plans and policies.[45]

Finally, in the face of the indifference of the state towards infertility, and in the absence of a formal regulatory body, the legitimization of the state-of-the art reproductive technologies initially became the responsibility of the leading Islamic jurists, who were called upon by medical practitioners to pave the way for the practice of these technologies. It was the interpretation of the Islamic texts by these jurists, whose main concern was the protection of family and its sanctity, which defined the multiple and particular ways these technologies were practiced for over two decades in Iran. However, the sharp decline in population growth, combined with the high rate of infertility in the country, resulted in a reversal in the state's perception and definition of infertility, and its turnaround from considering infertility as belonging to the private sphere, to seeing it as a disability and a matter for the public attention. Among the actions taken to regulate the practice of reproductive technologies, the parliament is currently debating a number of bills which, if approved, will be sent to the Guardian Council before they become law. Whether they will be approved, amended, or rejected by the Guardian Council is not yet clear. Regardless of what the Guardian Council's final verdict might be, it will inevitably challenge and contradict either the *fatwā*s of those senior jurists who approved of and defined the way that assisted reproductive technologies are practiced or go against the verdicts of those who rejected them. In the meantime, debates surrounding infertility and its treatment remain in a state of flux.

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[45]Parkin, "Foreword," xii.

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