

# Legal aspects of reproduction and abortion

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# Definitions

- **Infertility**

Infertility is defined as failure of conception in a healthy couple with regular sexual intercourse over a specific period, usually of one year. Like any human disease, it is a problem that requires a diagnosis and treatment because of the associated psychological stress.

- **Assisted reproduction techniques**

This is the use of medical or surgical management techniques to enable fertilization and conception to take place.

# ***Assisted reproductive technology (ART)***

***1- Artificial insemination (AI)***

***2- In vitro fertilization (IVF)***

***3- Intra-cytoplasmic sperm  
injection***

# **1. Artificial insemination : AI**

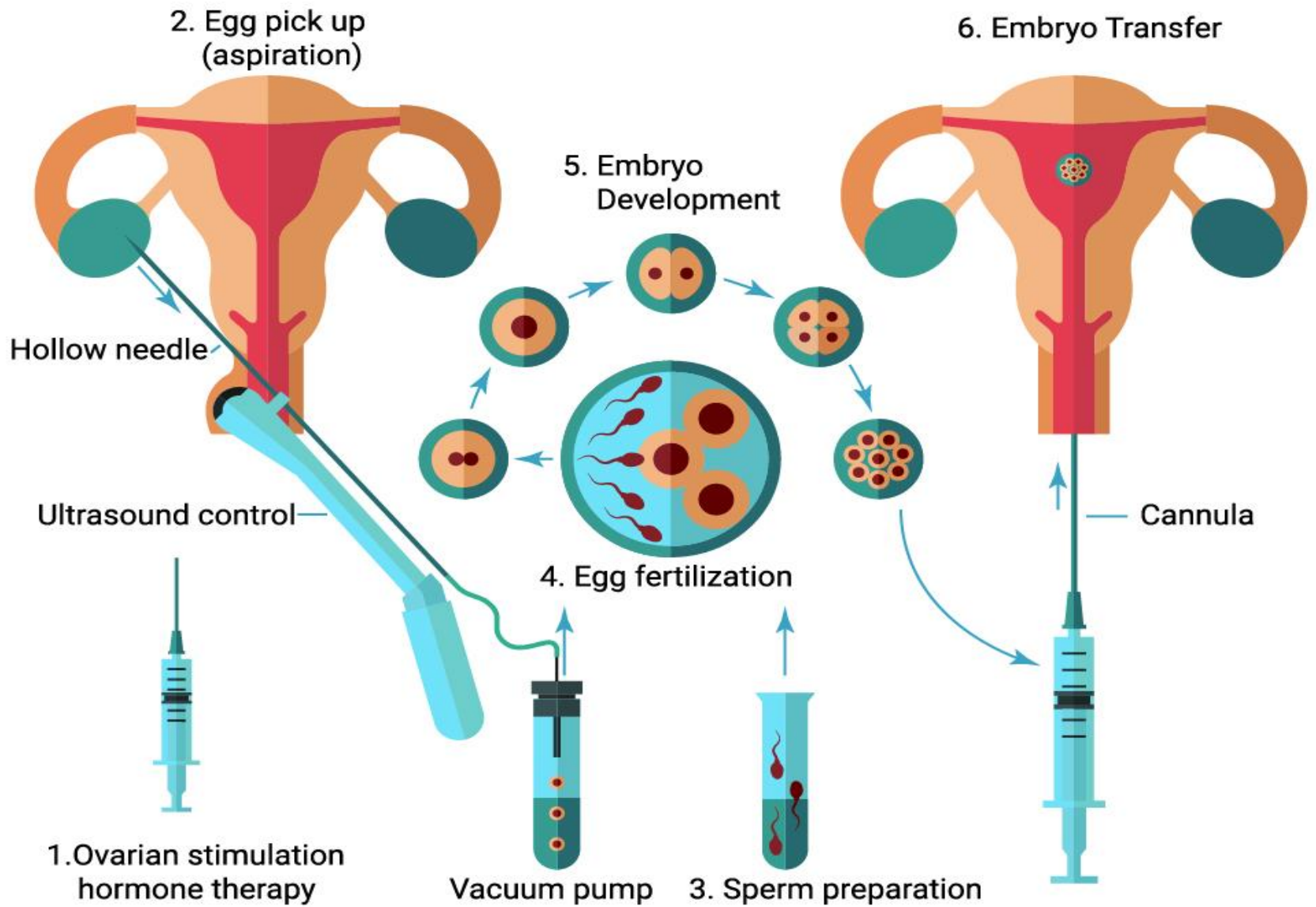
AI is often the best choice of treatment for couples that are infertile due to sperm disorders . It involves injecting sperm through a narrow catheter into the wife's reproductive tract .



- it is of two types , (one **homologous** AIH ) consisting of the injection of the seminal fluid of the husband by artificial means into the vagina of his wife to induce conception , and the other **heterologous**: from donor , AID) using the semen of someone other than the husband ie. donor.
- **AIH causes almost no legal problems , since any child born of the procedure is the biologic offspring of the husband and wife.**
- **AID with or without the consent of the husband , is against the public policy , morals and religion . A child so conceived is the child of the mother but not belonging to the father.**
- **A legal issue also arises concerning the possibility of sperm banking for use by a wife after her husband's death. It is not allowed in Jordan.**

## **2. In vitro fertilization :IVF**

- *Taken literally , IVF means fertilization in glassware .*
- The term test tube baby is a non-medical term used decades ago while referring to IVF or In-Vitro Fertilization. The term test tube baby came into being because of the general idea that an embryo is formed in a test tube instead of the woman's fallopian tube.



# In Vitro Fertilization

- ***Because of the relatively low success rate of implanting embryos that have been conceived in vitro back into the uterus , it has become a standard practice for clinics to freeze extra embryos for possible later use.***
- ***What happens to the embryos that are not needed ; here is the question .***
- ***Clinical IVF is permitted only between married couples .***

## **Legal precautions are :**

- 1- Consent of both partners .
- 2- The physician should be honest in using the husband's sperms & the woman's ova.
- 3- Legal procedures should be fulfilled in use not the abuse of the remaining parts of semen.
- 4- Fear of disputes of paternity.
- 5- Sperm and ovum donation are not allowed because of violation of the principle of preserving lineage, hifdh al nasab ( حفظ النسب).
- 6- ovum and sperm banks are allowed for certain circumstances only. Fertilization of the preserved gametes occurred only in the presence of marriage contract.
- 7- Selection of the sex of the the infant is not allowed except for inherited diseases.
- 8- Remained fertilized unused ovum should not be used for research.

- **قرار رقم: (248) (17 / 2017) حكم تجميد البويضات**
- فإذا التزم أصحاب النطف المجمدة بعدم تلقيحها إلا حال قيام الزوجية بعقد زواج صحيح، فلا حرج عليهم في اتخاذ هذه الوسيلة عند الحاجة إليها، وسواء سحبت هذه النطف وجمدت خلال العزوبة أو عقد زواج سابق، فليس ذلك بفرق مؤثر، المهم أن حرمة التلقيح لا تُقْتَحَم إلا في ظل عقد زواج صحيح عند التلقيح من قبل الزوجين. ولو احتاطت المرأة، فلم تقم بتجميد البويضة إلا خلال عقد الزواج الذي تعزم على التلقيح منه فهو أولى وأفضل. والله تعالى أعلم

### ***3. Intra cytoplasmic sperm injection***

- This is the newest form of sperm micro-manipulation procedure performed in the laboratory . It involves the insertion of a single sperm directly into the cytoplasm of a mature ovum , or oocyte , using a micro-injection pipette , or thin glass needle .
- it may used as a step in IVF so the same precautions should be fulfilled.

# Surrogacy

- **Surrogacy is an arrangement or agreement whereby a woman agrees to carry a pregnancy for another person or persons, who will become the newborn child's parent(s) after birth.**
- **If the surrogate receives money for the surrogacy the arrangement is considered commercial surrogacy, if she receives no compensation beyond compensation of medical and other reasonable expenses it is referred to as altruistic surrogacy.**

- **Types of surrogacy**

- **Traditional surrogacy**

Traditional surrogacy (also known as partial or genetic) involves artificial insemination of a surrogate. If the intended father's sperm is used in the insemination, then the resulting child is genetically related to the intended father and genetically related to the surrogate.

- **Gestational surrogacy**

Gestational surrogacy takes place when an embryo created by in vitro fertilization (IVF) technology is implanted in a surrogate, sometimes called a gestational carrier. The child is genetically unrelated to the surrogate.

- **Religious:** It is fully prohibited in Arabic countries.

# *Abortion*

*The medicolegal definition of abortion is: “The **expulsion** of any contents of the gravid uterus at any time **before 28 weeks pregnancy**”.*

# Abortion

**Spontaneous**

**10%**

**Induced**

*Therapeutic*

*Criminal*

# I. **SPONTANEOUS ABORTION**

## . **A. Maternal causes**

1- **General** diseases that hastens the mother's health e.g. severe fevers, diabetes mellitus, nephritis.

2- **Local** pathologic conditions in the genital tract e.g. fibroids, tumors, incompetent cervix, uterine displacement.

## **B. Fetal causes**

**e.g.** congenital anomalies, vesicular mole, polyhydramnios, placental defect.

## II. **INDUCED ABORTION**

- Induced abortion may be **therapeutic** or **criminal**.

### A. **Therapeutic abortion** (justifiable, legal):

- This is performed to preserve the life of the mother, when the continuation of pregnancy endangers her life.

# Indications of therapeutic abortion

## A) Disease of mother:

- 1- Uncompensated heart diseases.
- 2- Uncontrolled hypertension.
- 3- Uncontrolled diabetes mellitus.
- 4- Chronic nephritis.
- 5- Cancer breast.

**B) Diseases of pregnancy:** if medical treatment fails e.g. eclampsia, severe haemorrhage, hyperemesis gravidarum.

# Legal precautions before therapeutic abortion:

- 1) A written consent of the woman and her husband should be obtained.**
- 2) Written reports from two specialists should include the woman's condition and should state that the continuation of pregnancy endangers her life.**
- 3) The operation should be performed only in a hospital.**
- 4) The operation should be performed only by a specialist i.e. obstetrician.**
- 5) Reports and details of all what was done should be kept in the files of the hospital.**

## *Criminal abortion :*

- It is that type of abortion performed without any medical indications using general or local violence or by intake of abortifacients.
- This may endanger the life of the woman because it is done in secrecy and in a hurry.
- The criminal code is accusing any physician who helps a woman for abortion. He is convicted **يحاكم** by prison whether with or without her will.

***THANK YOU***