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“Laboratory *Sigheh*”

The (Dis)Entanglements of Temporary Marriage and Third-Party Donation in Iran

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ANNELIES MOORS

Temporary marriages, or in Farsi *sigheh*, are marriages that have the date of dissolution included in the marriage contract. Whereas such temporary marriages are prohibited according to the Sunni schools of law, for the Twelver Shi‘a, the dominant school of law in Iran, concluding a temporary marriage is permissible. Historically, such marriages were considered as a means to regulate (male) sexuality. This is in contrast to marriages that are concluded for an indeterminate period of time, “permanent marriages,” which have the formation of families and procreation as major function.

In this chapter we focus on a very different, perhaps unexpected way in which temporary marriages have been and still are discussed and used—in the framework of assisted reproductive technologies (ARTs). Iran is one of the few Muslim countries where third-party gametes donation, embryo donation, and surrogacy are widely practiced. In some cases, a specific form of temporary marriage, which we refer to with the term “laboratory *sigheh*,” is used in order to legitimate such ARTs practices. “Laboratory *sigheh*” refers to a temporary marriage that is concluded for the period during which the fertilization of an egg and sperm takes place in a laboratory setting without any physical contact between the two parties involved.

Our focus is on how concluding a temporary marriage may be used in the case of female and male infertility, in particular, with respect to third-party gametes donation in Iran. In order to gain insight into the relationship between temporary marriage and third-party donation, we need to bring two sets of literature together, that is writings on temporary marriage and the burgeoning field of research on ARTs. Doing so will help us to trace both how laboratory *sigheh* has emerged as a phenomenon and the consequences of its use within the framework of third-party gametes donation. We add to this the insights we have gained from conversations with experts working at fertility clinics that

focused on the emergence and partial demise of the use of temporary marriages in relation to infertility treatment.

In the following we start with a brief discussion about the multiple meanings of temporary marriages in Iran for the various parties involved, prior to its employment as laboratory *sigheh*. Here we discuss the attempts to revitalize temporary marriage after the 1979 Islamic Revolution, the various interpretations and positions held by the men and women entering in such a relationship. We then address how ARTs have developed in Iran, taking not only the differences between Sunni and Shi'a traditions into account but especially the variety of perspectives presented by senior Shi'a clerics, which also focus on the question of whether it is necessary to conclude a temporary marriage or not. We analyze the effects of third-party donation for the production of filiation and the legal right and duties of donors and recipients, as well as the consequences of concluding a temporary marriage for the selection of donors. We end with a discussion of the concerns and reflections of biomedical experts about filiation, biological relatedness, and social parenthood and the solutions they suggest.

This last part of our contribution is based on exploratory fieldwork conducted in Tehran by Asgarilaleh between April and June 2019.¹ During fieldwork she observed clinical settings and interviewed medical professionals at two major clinics in Tehran that offer treatments to couples seeking medical treatments for infertility, one public and one semiprivate/semipublic. She conducted in-depth interviews with seven ARTs experts including a bioethicist, a lawyer, a social science scholar, as well as medical doctors and held informal conversations with the biomedical experts in the aforementioned clinics and in several other clinics (mostly private ones) where access was granted through our interlocutors. Next to this, informal talks were held with people who either faced (in)fertility problems themselves or had family and friends with infertility issues.

The Multiple Meanings of Temporary Marriage

While prohibited within Sunni Islam, temporary marriage is a flexible and for some controversial Twelver Shi'i institution that may be arranged and interpreted in a variety of ways.² It is a contractual arrangement between a man and an unmarried (single, divorced, or widowed) woman who agree, often privately, to marry each other for a specific period of time. The husband is to pay a sum of money (*'ajr* or *mahr*) but has no maintenance obligations toward his temporary wife, and the parties do not inherit from each other.³ Children of the union are fully legitimate and have the same legal rights to filiation, maintenance, and inheritance as children in a permanent marriage.⁴ At the end of the contract, no divorce procedures are needed, but the woman has to observe a waiting period, *'iddah* (of two months or two menstrual periods), to ascertain paternity in

the case of pregnancy. Temporary marriages may be extended for an unlimited number of times. Whereas in Iran all marriages need to be officially registered, this often does not happen in the case of temporary marriages.⁵ Nonregistration does not, however, make such marriages invalid but may make it difficult to prove the existence of such a marriage and hence the filiation of children (Haeri 1989, 55; Yassari 2019, 74).

Historically, temporary marriages have been particularly popular at pilgrimage sites and with traveling merchants who contracted temporary marriages when they stayed in another city for a few weeks or months (Haeri 1989, 78, 81). During the reign of the Pahlavi dynasty, the institution of temporary marriages became increasingly marginalized, its occurrence largely limited to some shrines and poor urban areas (Afary 2009, 279). Temporary marriages did not tally with the Pahlavi regime's aim at modernization along Western lines, which included attempts to propagate modern, monogamous families (Balslev 2019, 164; Kashani-Sabet 2011, 69). Many middle-class urban women perceived temporary marriage as a relic of the past, as a threat to the stability of the family, as a cover for forms of prostitution, and, more generally, as an institution that is detrimental to the position of women (Haeri 1992, 205, 216–219).

After the Islamic Revolution, in contrast, the regime made attempts to revive temporary marriages. During and after the Iran-Iraq War they were considered an opportunity for young war widows to remarry (Afary 2009, 284). More generally, the regime also set out to actively propagate temporary marriages, reframing them as a progressive institution suitable for modern society. In the early 1980s Ayatollah Mutahhari had already presented it as an Islamic option for young people, such as students, not yet ready for a permanent marriage (Haeri 1989, 96). Ten years later Iranian president Hashemi Rafsanjani made a similar argument, but with a twist. He did not simply, in line with Shi'a teachings, consider sexuality as a positive force but also explicitly acknowledged female sexuality, arguing that there was nothing wrong with women themselves taking the initiative to propose temporary marriage. Temporary marriage was presented as a quintessentially modern Islamic institution (Haeri 1992, 222).

The points of view of men who engage in temporary marriage generally concur with the dominant Shi'a view of temporary marriages as a legitimate form of sexual pleasure for men, as good for society's health, and as providing religious reward. Women involved in temporary marriages presented a variety of perspectives. Whereas some agree with the dominant Shi'i perspective, others challenge the popular notion that women engage in it for financial reasons and men for sexual pleasure, with some underlining their active role in arranging for a temporary marriage (Haeri 1989, 204–208). Moreover, young people may also use temporary marriages instrumentally to circumvent state regulation to avoid interference by the morality police if they are in each other's company (Afary 2009, 286).

Yet engaging in a temporary marriage may well be risky for women. Culturally, there is considerable disapproval of temporary marriages and of the women (but far less so of the men) who engage in these. In circles where women are expected to be virgins when they enter into their first permanent marriage, engaging into a temporary marriage may jeopardize their chances of a respectable permanent marriage. Also, women who enter into a temporary marriage hoping to achieve a meaningful and affectionate relation and companionship may well be disappointed (Haeri 1989, 201, 202).

Structurally such marriages often concern relationships that are unequal not only in terms of gender but also in terms of class, with the women usually from the lower classes (Moruzzi and Sadeghi 2006, 25). Still, for lower class divorced women a temporary marriage may be their only option to escape the marginality of their status, while for better-off divorced or widowed women a temporary marriage may be socially acceptable (Afary 2009, 64). Also, a recent exploratory study (Aghajanian et al. 2018, 6) observed that some of these temporary marriages turn out to be committed longer-term relationships. Next to the traditional pattern of older married men seeking young women as temporary wives, temporary marriages are also concluded by middle-aged widowed or divorced men and women who seek companionship and a sexual partner but do not want to go through a permanent marriage and by young never married adults who enter into a temporary marriage to legitimate an intimate, romantic relationship while postponing a permanent marriage as they are intent to first pursue their education and start a professional career.

Whereas the main aim of temporary marriages is making sexual pleasure religiously licit, there is also a form that is explicitly nonsexual (Afary 2009, 60; Haeri 1989, 80). In this case a temporary marriage is concluded to circumvent the rules of gender segregation. According to Islamic tenets, the ways in which men and women are to behave toward each other (such as whether women need to cover and whether a man and a woman can be socially close in each other's company) depend on whether they, having reached puberty, are able to marry each other (*namahram*) or not (*mahram*; pl. *maharim*). Gender segregation is required only in the case of the former (Clarke 2007a, 382; Tremayne 2009, 147). The category of *mahram* includes kin in the direct line (such as parents and children) and close lateral kin, that is, siblings, siblings of the parents, and children of siblings (brothers and sisters, uncles and aunts, nephews and nieces) and, second, close relations of affinity (spouses of their parents and children, parents and children of their spouses). This does not change after the marriage has ended; that is, even a brief temporary marriage can have lifelong consequences. Also, a man cannot marry two sisters simultaneously.⁶

For men and women who are *maharim* to each other, close social contact is permissible as they are within the incest taboo and unable to marry each other. Hence, a nonsexual *sigheh* may, for instance, be concluded when *maharim* men

and women need to travel together when they go on a pilgrimage or tourist visits, or in the case of employment that entails close social contact, such as in households with domestic workers, or when engaged in other forms of close cooperation (Haeri 1989, 91–95). It may also be used in a somewhat more ambiguous way, by couples during their engagement, in particular in more religious and conservative circles. In that case such nonsexual *sigheh*, allowing for some intimacy but not for a full sexual relationship, would enable these couples to spend time together, without concerns that their relationship would, in their own eyes and in those of their social circle, be considered illegitimate (Haeri 1989, 97–98). Yet there is also a very different way in which temporary marriage has come to be used, that is, with respect to third-party donation for involuntarily childless couples.

The Development of ARTs in Iran

In Iran having children is important, at the individual and collective levels, and infertility carries a major stigma. To be culturally accepted and religiously licit, these children need to be born within a valid marriage, whether permanent or temporary. It is through such marriage that paternity, maternity, and more general filiation (*nasab*) are produced.⁷ After the Islamic Revolution of 1979 the rulers at first propagated a strong pronatalist stance. A decade later, however, the state started to support population regulation, which was accompanied by efforts to make fertility treatment more widely available (Tremayne 2009, 144). When it became evident that this policy had resulted in a very strong decline in birth rates, state institutions halted support for population regulation.⁸

There are major differences between Sunni and Shi'a jurisprudence with respect to whether forms of ARTs such as third-party donation are acceptable as fertility treatment. In Sunni Islam, only IVF with the egg and semen of the married couple is permitted. The first *fatwa* on IVF by Al-Azhar shaykh Islah al-Haqq in 1980 stated that conception needs to take place within marriage and there should be no confusion of family lineage or mixing of genealogy (Inhorn 2006b, 432–433). Sunni jurisprudence considers the use of third-party gametes in a laboratory as similar to unlawful sexual intercourse (*zina*) and the resulting child as illegitimate.⁹ Whereas some individual Sunni scholars may be more lenient, there is a uniform ban on ARTs in the Sunni-majority countries in the Middle East (Inhorn et al. 2012, 229–230).¹⁰ In Lebanon, ARTs has remained unregulated because of the great diversity of religious traditions, which makes legislation very difficult, while in Iran some forms of ARTs have been state regulated and supported (Clarke 2012, 273–276).

Structurally, the Shi'a tradition allows for a broad range of opinions.¹¹ Shi'a Islam distinguishes between lay believers and those with religious knowledge who are capable of independent interpretation of the scriptures (*ijtihad*) and are

to provide guidance to lay populace. A limited number of these clerics (*mujtahids*) are recognized by their peers and followers known as *marja' al-taqlid* (pl. *maraji'*, source of emulation). Each Shi'a believer needs to adhere to the opinions of such a living high-ranking religious authority. These *maraji'* may differ in opinion, and individuals have the option to change their allegiance (Clarke 2012, 269; Tremayne 2009, 153).

Whereas until the later 1990s the Shi'a held opinions similar to the Sunnis, this changed when in 1999 Ayatollah Khamenei (the successor of Ayatollah Khomeini) issued a *fatwa* that was a major rupture with existing thought about third-party donation (Clarke 2012, 270; Clarke 2009, 117; Tremayne 2009, 148). He allowed for all third-party donations in the case of infertility as a means to overcome marital discord, under the condition that there was no forbidden act (*fe'el-e haram*) such as touch and gaze (*ghiyab-i lams va negah*). In his view, only physical sexual intercourse outside of marriage constituted *zina* (an illegitimate sexual relation). This was not the case if conception took place by bringing together egg and semen in a laboratory setting; the resulting child would be legitimate (Garmaroudi 2012, 165; Mahmoud 2012, 81). No marriage, whether temporary or otherwise, was required.

Khamenei's *fatwa* opened the door for infertility clinics to offer a wide range of fertility treatments, including the use of third-party gametes, and made it religiously licit for infertile couples to engage in such treatments. However, whereas some Shi'a senior clerics agreed with the *fatwa* of Ayatollah Khamenei, others did not. In particular, his views on the permissibility of sperm donation were controversial (Abbasi-Shavazi et al. 2008, 5–6; Tremayne 2009, 149).¹² It is true that third-party donation would allow for a variety of solutions to infertility, but it also engendered problems with respect to lineage and filiation. According to the Shi'a tradition, it is the biological-genetic substance, the egg and the semen, that produce filiation (*nasab*); the donors of the sperm and egg are considered the legal parents of the child (Clarke 2007a, 394). Rights and duties such as rights of inheritance and maintenance duties pertain to the donors of the gametes, not to the recipients. In a similar vein, the child becomes *mahram* (falling within the incest taboo) to the donors, but not to the recipients of the gametes, the social parents (Tremayne 2009, 148–149).¹³ This explains why Shi'a senior clerics were particularly critical of sperm donation. Whereas the child is related both to the father and to the mother, it is the father's lineage that takes precedence both culturally and in terms of Shi'a legal constructs. They were generally more lenient in the case of embryo transfer, that is, when fertilization had taken place outside of the womb and it involved the egg and semen of an already married couple (Abbasi-Shavazi et al. 2008, 8; Garmaroudi 2012, 165; Mahmoud 2012, 82).

In 2003 traces of these positions were visible when state authorities became involved. That year the Iranian parliament overruled Ayatollah Khamenei's *fatwa*, which had permitted extramarital conception and unrestricted third-party

donation. The new law, approved by the Council of Guardians, outlines who are allowed to donate and receive embryos.¹⁴ Embryo donation to overcome male and female infertility is permissible if it involves the sperm and egg from another married couple (Abbasi-Shavazi et al. 2008, 7; Tremayne 2009, 156). Egg donation is allowed as long as the husband marries the egg donor temporarily, but sperm donation is prohibited (Inhorn 2006b, 437). What happened in practice?

***Sigheh* and Donor Selection**

Also prior to the development of ARTs people resorted to various means to overcome infertility. As polygamy is permitted in Islam, in the case of female infertility the husband can enter into a temporary marriage with an unmarried woman. In the context of a patrilineal descent system, the children of such a marriage are considered as belonging to their father's lineage (Haeri 1989, 87–88).¹⁵ Using temporary marriage in the case of female infertility was widely accepted as in that case the child's lineage is largely maintained (Mahmoud 2012, 79).

In the case of the husband's infertility, a temporary marriage may also be concluded, but as polyandry is not allowed in Islam, the process is more complicated and the results are less unequivocal (Clarke 2012, 271–272; Mahmoud 2012, 81). In that case a woman would need to be divorced from her infertile husband, marry someone else after the end of her waiting period (*'iddah*), once pregnant would need to be divorced from her new husband, and then, after the delivery of the child, she could remarry her first husband.¹⁶ The waiting period after divorce is intended to determine who is the father of the child. In this case the resulting situation is more complicated as the child will live in the household of the social father, while it is legally related only to the sperm donor.

With the development of ARTs it became possible in the case of female infertility to bring together the sperm of the husband with the egg of a fertile female donor, and in the case of male infertility the egg of the wife with the sperm of a fertile male donor in a laboratory setting. As mentioned above, according to Khamenei's *fatwa* under such circumstances (where there was no touch or gaze) it was no longer necessary to conclude any kind of marriage. Yet other high-ranking religious scholars did not consider this acceptable. According to some of them a nonsexual temporary marriage would need to be concluded for the duration of the procedure (from egg retrieval to fertilization in the laboratory and insertion of the fertilized egg in the womb of the infertile wife) (Abbasi-Shavazi et al. 2008, 5; Inhorn 2006b, 436; Tremayne 2009, 148).

Opting for or against a nonsexual laboratory *sigheh* ties in with the process of donor selection. In the early days of ARTs people often resorted to kin donation. Tremayne (2009, 152) points to a preference for the sister of an

infertile wife as egg donor and the brother of an infertile husband as sperm donor.¹⁷ In a later publication she also mentions donations by opposite-sex siblings, that is, a husband with an infertile wife may use the egg of his sister, while a wife with an infertile husband may use the sperm of her brother, although most people would disapprove of this for cultural reasons (Tremayne 2018, 101). Also, intergenerational donation occurred, that is an infertile husband using his father's sperm (Tremayne 2018, 102).¹⁸ In all these cases it would be impossible to conclude a temporary marriage as their partner would fall within the boundaries of the incest taboo, which would make the marriage invalid.

However, over time it has become less common for infertile couples to use kin donors. On the one hand, couples often want to keep their infertility secret (especially in the case of male infertility), which would push them to resort to a stranger donor (Tremayne 2009, 153; 2012, 149). On the other hand, many clinics no longer allow their patients to select their own donors (Tremayne 2018, 101). Medical doctors are concerned that self-selection may engender problematic family relations, while consanguineous practices of donation may propagate genetic diseases (Mahmoud 2012, 84). In some cases those who engage a stranger donor, usually for a fee, may want to enter into a temporary marriage. However, this also has drawbacks. It would make it difficult to maintain confidentiality, as there needs to be a direct agreement between the man and the woman (Tremayne 2009, 151).

According to Tremayne (2012), when the donor is a stranger whether the child is accepted or not by the social parent depends on whether it is the husband or the wife who is infertile. In the case of egg donation there is generally no hostile reaction,¹⁹ but in the case of sperm donation the child is far more often rejected by the social father (Tremayne 2012, 147). As there is a greater stigma attached to male than to female infertility, keeping the donor confidential or even anonymous carries greater weight in the case of the use of stranger sperm. Infertile couples would want to keep donation secret in order to present the child as "their own child" (Tremayne 2009, 151, 158–159). Another reason to insist on the anonymity of the donor may well be that it is relatively easy to acknowledge filiation and to establish a legal relation of the child with the social parent if the biological father of the child, in this case the donor of the sperm, is unknown (Yassari 2019, 76–77).

Expert Views

The experts we talked with held a variety of points of view about whether and how temporary marriage may facilitate ARTs and in particular third-party gametes donation.²⁰ In some ways third-party donation still turned out to be a gray zone. Whereas one of the medical experts stated matter-of-factly that third-party

donation is legal in Iran, others were well aware that the 2003 law was more restrictive. Yet they would also simultaneously acknowledge that nonetheless a wide variety of third-party gametes donation, including sperm donation, takes place in private clinics.

Such a sense of ambiguity also emerged in the perspectives of patients. According to Abbasi-Shavazi et al. (2008, 19) some women would at first consider gametes donation *haram* (religiously prohibited) but would change their mind when they realized that it was acceptable to the clinics. Some clinics would ask their patients to consult their own religious experts, but not all couples did so, and some simply assumed that if the clinic is doing it, it is allowed (Tremayne 2018, 99). Others would simply change their religious allegiance to a cleric who would find the particular treatment they were considering permissible or were not concerned about religious permissibility at all.

The experts generally expressed a negative view about the use of temporary marriage in the case of third-party donations. Those working in private clinics pointed out that opting for a temporary marriage was far removed from the worldview of their better-off middle-class clientele. They themselves, as modern professionals, held similar views, considering temporary marriage as an undesirable, outdated institution. Still, one of them, a bioethicist, held a partially different position. He considered temporary marriages as a suitable means for people with a religious background to enter into a licit relationship before marriage. Others, however, argued that nowadays young people simply enter into a relationship without being concerned whether such a relationship would be considered legitimate in religious terms (see also Afary 2009, 360). Moreover, also this bioethicist was not in favor of using temporary marriage in the case of third-party donation. As some others, he considered doing so as resorting to "legalistic tricks" (*hiyal*), as an insincere practice as there is no intention to marry, using phrases such as "it is all fake" and "it is only a *suuri* [formal] act." To those who would want to conclude a temporary marriage for religious reasons, they would point out that there was no obligation to do so, as Ayatollah Khamenei had clearly stated in his 1999 *fatwa*. If there is no touch or gaze, there is no need to enter into any kind of marriage.

But there was also a very different argument that the experts would refer to, an argument that would entail a more ethical (rather than a purely legalistic) position, and that went beyond their personal sensibilities about temporary marriage. The problem with temporary marriage is that it does not really allow for confidentiality. As one of the medical experts pointed out, his clinic had earlier used *sigheh* in the case of egg or sperm donation but had stopped doing so as those involved may enter into some kind of relationship with the donor anyway. Such confidentiality is important because, especially for men, infertility is a strong tabooed subject. A major argument for confidentiality is the issue of filiation (*nasab*), which is central to Islamic jurisprudence and also greatly

valued culturally. As argued above, filiation, which is based on genetic substance, is important both in material terms, such as for inheritance and maintenance, and for immaterial aspects, such as distinguishing between those who are *mahram* and *namahram* (in- or outside of the incest taboo).

It is because of such complications that scholars such as Tappan (2012) have questioned the desirability of third-party donation. In his view it is necessary to pay more attention to the broader question of biomedical ethics beyond simply discussing *fatawa*. He is in agreement with bioethicists such as Abdulaziz Sachedina, a Muslim public intellectual based in the United States, who opposes traditional legalistic interpretations of Islam. Rather than focusing on *fatawa* in a legalistic manner, he proposes an ethical approach and argues for the need to develop an Islamic bioethic (that is, ethical justifications for medical practices grounded in Islamic beliefs). This includes engaging in the balancing act of weighing an act's possible harm and benefit, taking the contextual setting of time and place into consideration (Tappan 2012, 120).

Sachedina is highly critical of third-party gametes or donor embryo donation. Jurists and clinicians who allow for these acts "are weighing the treatment of the suffering of the patients above and beyond the other stakeholders, namely, the possible children and the society at large" (Tappan 2012, 124). According to Sachedina children have the right to an "unblemished lineage" in Islam. Because of the stigma against children "without proper lineage," these children will face lifelong discrimination and financial instability, while they are also deprived of important genetic information about their biological parents and run the risk of accidental incest (Tappan 2012, 123).

The experts at the clinics, however, also used ethical arguments for the importance of maintaining confidentiality (or even anonymity) of donors; that is, they considered confidentiality desirable in order to avoid problems both for the social parents and for the child. As one of them, a social scientist, explained, in the Iranian context it may not be so helpful for the child to have the right to know when he or she turns eighteen. Because of the system of filiation, it is possible to fully integrate the child into the new family only if the donor is unknown. At the same time, clinics try to find solutions for the risk that such a child may inadvertently marry someone within the prohibited categories (*maharim*). In some clinics, the sperm of a particular donor can be used only for a limited number of cases to avoid accidental incest. Clinics may also use some kind of confidential micro-donor registration system, while some argued for the need for a national donor registry system that would safeguard confidentiality.²¹

It is not so much that experts overlook the rights of children but that they are faced with a dilemma: certain measures that may protect the rights of children in some ways (the knowledge of their biological parents) may also produce problems in a context in which there is a taboo on third-party donation

and where it is difficult to transfer rights and duties permanently to the social parents. The experts presented different lines of argumentation to work toward a solution. One pointed out that some religious scholars supported the idea to consider the donation of egg or sperm as a form of organ donation. This would then make it easier to produce filiation with the social parents. Interestingly, this would fit with how some women talked about donating their eggs. They considered it a good deed to help someone else, did not consider their eggs as particularly valuable, and did not seem to consider themselves as the mother of the child (Tremayne 2009, 155).

The experts often pointed, rather similar to Sachedina, to the need to develop a form of social or dynamic jurisprudence, a particular strand of Shi'a thought that admits for jurisprudential interpretation that recognizes the influence of time and place and the need to find Islamic solutions to contemporary problems (Mir-Hosseini 1998). As one of the experts pointed out, applying such an approach may in cases that are controversial in the eyes of the rulers be difficult, but in his view gametes donation and social parenthood would not fall into that category.²²

Related to this, the religious law expert suggested in a somewhat ambiguous way the possibility to consider gametes donation as falling under the umbrella of adoption. Yet he simultaneously reflected that the religious authorities may not want to recognize gametes donation as such because of concerns that the negative image attached to adoption may also stick to gametes donation. Interestingly, Iranian law already allows for a form of formalized caretaking that resembles adoption. The 2013 Act on the Protection of Children without a Guardian or with an Unfit Guardian builds on and replaces the 1975 law that for the first time regulated the permanent integration of such children (abandoned, orphaned, or with unfit parents) into a new family, using a non-Islamic term for this form of caretaking, *sarparast* (Yassari 2019, 87). These "social parents" need to fulfil particular conditions, such as being married for over five years, with one of them over thirty years of age.²³ As the child does not automatically inherit from them, they also need to guarantee the child's material security after their death by transferring a sum of money to the child or by making an irrevocable testamentary disposition (up to one-third of the inheritance, the maximum amount Islamic law allows for) (Yassari 2019, 92). The child will also get the social father's last name.

There remains, however, the issue of filiation, as rules of filiation remain governed through biological and not through social parenthood. This issue of *maharim* engendered a debate in the Iranian parliament about whether the social parent (*sarparast*) could marry the adopted child. The Council of Guardians considered the proposal by a parliamentary committee to completely prohibit this (as being against Iranian morality), an infringement of Islamic *fiqh*. It was, however, willing to consider a compromise, making nonmarriage a condition for

being appointed as *sarparast* (Yassari 2019, 94). As this proposal still allowed for exceptions (if in the best interests of the child). Islamic scholars then proposed to establish marriage obstacles through Islamic means (Yassari 2019, 95).

One such Islamic way was to establish milk kinship between the child and the new parents (see also Clarke 2007b). Milk kinship is established when a woman who is not the biological mother nurses a child. This produces a particular form of “limited” kinship; that is, the rules of marriage prohibition (allowing for more intimate social relations in the household) are applied. However, it does not produce other rights, such as inheritance. In the case of milk kinship, the nursed boy is not allowed to marry the nursing woman and the nursed girl is prohibited from marrying the husband of the nursing woman. These marriage impediments are further extended to consanguine kin in a similar way as with kinship filiation. In this way social parents can become *mahram* to the child, when the child is nursed by their female relatives.²⁴

Another Islamic means to produce a marriage impediment is the conclusion of a nonsexual temporary marriage (Yassari 2019, 96), which, just like in the case of a permanent marriage, turns previously unrelated persons into *maharim* yet is also deemed controversial among religious and legal scholars.²⁵ The child may be temporarily married, if a girl, to the father of the *sarparast* and, if a boy, to the widowed mother of the *sarparast*; in both cases the *sarparast* would be barred from marrying the child himself, even after the end of the temporary marriage (see also Rahbari, forthcoming). That is, the termination of the temporary marriage does not end the *mahramiyat* that it created between the child and the social parents. Whereas the experts we talked with did not refer to such Islamic means to regulate family relations, and while it is not clear whether and to what extent people make use of these means in practice, an issue also raised by Shariati-Nasab (2014), it points to an Islamic way in which filiation (*nasab*) may be employed flexibly. However, this does require the confidentiality or even anonymity of the donors, as otherwise there is a risk that the donors may want to claim their rights to the child.²⁶

Conclusion

The religious establishment in Iran allows both for temporary marriage as well as for a range of infertility treatments, including third-party gametes donation. In this chapter we have traced how temporary marriage and third-party donation have become entangled and disentangled in the course of time. Temporary marriages were and still are a flexible institution. The use of such marriage in the case of third-party donation (what we labeled laboratory *sigheh*) can be considered both as a rupture with and as a continuation of earlier ways in which temporary marriages have been employed. It is a rupture with the dominant use

of temporary marriage, aimed mainly at sexual pleasure rather than procreation. Yet at the same time laboratory *sigheh* can also be considered as yet another form of nonsexual temporary marriage.

Entering into a laboratory *sigheh* enables and obstructs particular kinds of third-party gametes donation. As some senior clerics do not agree with Khomeini's 1999 *fatwa* but insist on the conclusion of a temporary marriage for the duration of the fertilization procedure, for those who follow the opinions of these clerics laboratory *sigheh* may be a solution. Yet at the same time concluding such a temporary marriage would form an impediment for donor practices that were in common in the earlier days of third-party donation—that is, the use of egg and sperm of close kin. Concluding a laboratory *sigheh* in the case of stranger donors evokes another problem. In particular, in the case of sperm donation there may be a tension between concluding a laboratory *sigheh* and attempts of recipients of the donor sperm to maintain confidentiality.

The broader issue to address is how the religious field is implicated in ARTs and what forms of religious reasoning are employed. Some experts argue against a legalistic perspective that foregrounds *fatawa* and allows for the instrumental use of temporary marriage of whatever kind. Instead they work with a concept of religion that is more ethically oriented and argue for the development of an Islamic bioethics. Other experts propose the possibility of some kind of synthesis, making tactical use of long-standing Islamic formats, such as milk kinship and temporary marriage, within an ethical perspective that sets out to broaden the scope for and acceptability of social parenthood. Still the major empirical question then remains whether and to what extent such religious reasoning is valued by the couples themselves.

NOTES

1. The University of Tehran assisted Asgarilaleh in building contacts with experts in the field of assisted reproductive technologies and facilitated her access to this field. She asked and obtained verbal consent from all respondents, while the University of Tehran provided her with formal written permission for her research activities. This part of the research is the work of Asgarilaleh. We use the term "we" in the text only to increase readability.
2. Sunni authorities agree that temporary marriage was permitted at the time of the Prophet Muhammad but that the second Caliph Omar prohibited it in the seventh century. The Shi'a hold the opinion that since the Prophet did not ban temporary marriages, it is not permissible to forbid it (Yassari 2019, 73).
3. The Qur'anic term for the payment to the bride in the case of temporary marriage is *'ajr*, and for permanent marriage *mahr* or, in Farsi, *mehriyeh*. However, many Shi'a scholars and laypeople use the term *mahr* in both cases (Haeri 1989, 220n6).
4. In practice it may, however, be difficult to prove such marriages, as in contrast to permanent marriages, men who deny such a marriage are not required to take the oath of damnation (Yassari 2019, 60).

5. The Marriage Act of 1931 permitted temporary marriages but required them to be registered (Afary 2009, 150).
6. Note also that for a man his stepdaughter will become *mahram* only when the marriage with her mother has been consummated.
7. *Nasab* refers to both agnatic and uterine relations of filiation. However, in many contexts the agnatic element is stressed, such as when tracing genealogy (Clarke 2007b, 289).
8. The population growth rate declined from 3.9 percent during the 1976–1986 decade to around 1.5 percent during the 1996–2006 decade (Abbasi et al. 2008, 3). Moruzzi and Sadeghi (2006, 23) also point to the importance of women's greater access to education and employment.
9. The majority of Sunni medics and patients also consider third-party donation as resembling adultery, fear the risk of incest and the mixing of lineage, and consider it unfair to the donor children as they will be stigmatized (Inhorn 2006b, 440–441).
10. These state authorities are often supported by state-appointed *muftis* or collective *fatwa* bodies. As Clarke (2012, 273–274) argues, the contrast of Shi'a and Sunni theological positions should not be overstated; what matters is how religious and state authorities are related.
11. Most Shi'a clerics do not regard ARTs involving a third party as analogous to adultery as it does not involve sexual intercourse (Garmaroudi 2012, 158).
12. Prominent Shi'a clerics in Iraq often advised caution against third-party donation practices, viewing them as largely unacceptable, while some allowed them only if a temporary marriage had been concluded (Abbasi-Shavazi et al. 2008, 5–7).
13. The exception is that the child takes the name of the infertile father.
14. The Council of Guardians ensures that legislation passed by parliament fits with Islam and with the constitution.
15. Even if up till a certain age mothers may be the caretakers of the child, the father is the child's legal guardian.
16. Childlessness can legally and religiously be cited as justification for divorce under Article 9 of the Iranian Family Protection Law (Hasanpoor-Azghdy et al. 2015, 410). Couples who fail to have children may become targets of gossip about infertility, most often focusing on the wife.
17. Whereas egg donors in temporary marriage should be widows or divorcees, this rule was often not followed (Tremayne 2009, 148, 152).
18. There is, however, a major difference whether a woman uses the sperm of her husband's brother or that of her own brother, as in the latter case the child would be legally related to a different patrilineage, except if the wife and her infertile husband are from the same patrilineage, such as if they are paternal parallel cousins.
19. Also because it is possible for the birthing mother to claim milk kinship to the child if she nurses it (see Clarke 2007b).
20. They included three medical experts in the field of infertility treatment, one professor of medicine and fertility consultant, one bioethicist, one social scientist, and one medical expert/specialist in family law. They were all affiliated with private-public or private fertility clinics.
21. There are parallels here with debate elsewhere, such as in Europe (e.g., Hart 2018).
22. See also Clarke (2012) for the need to discuss the relation between religious scholarly opinions and state policy making.

23. Also for single women over thirty, but they can only adopt girls (Yassari 2019, 90).
24. Yassari (2019, 95) refers, for instance, to Ayatollah Makarem Shirazi who supported this.
25. See, for instance, Shariati-Nasab (2014).
26. Whereas they would need to do so through a court order and the courts are to take the best interest of the child into account, the outcome is not predictable (Yassari 2019).

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