



Review of Islamic Law on the Advancement of IVF Reproductive Technology in a Positive Legal Perspective

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Abstract. Every couple who has just married will feel incomplete if their marriage is not blessed or does not have children as proof of the love of the couple. This study aims to find out the review of Islamic law on IVF reproductive technology and positive legal perspectives in regulating IVF reproductive technology. The research method that is considered suitable for this writing is descriptive qualitative method. In this study there are two conclusions. First, in the perspective of Islamic law there are categories of fiqh that allow and there are also those that prohibit IVF. Whereas in Islamic law the Maqasyid AsSyari'ah category, IVF is permissible, because for the sake of benefit, the category protects offspring. Second, legally, the implementation of artificial insemination in Indonesia must always refer to Law no. 36 of 2009 concerning Health. This law stipulates that the implementation of an artificial insemination program must be carried out in accordance with the norms of law, religion, decency and decency. This law regulates that in the implementation of the artificial insemination program in Indonesia, it is not permitted to use the uterus belonging to a woman who is not his wife.

Keywords: Technology, Reproduction, IVF, Law, Islam

INTRODUCTION

The development of human reproductive technology has had a significant impact on modern society. One of the leading innovations in this field is IVF reproductive technology. This technology has revolutionized the human reproduction process by providing new hope for couples facing fertility problems or certain medical conditions that prevent them from having children naturally. In the perspective of positive law, Islamic law is one of the main sources that shape views and regulations related to various aspects of human life, including in this case, IVF reproductive technology.

In an effort to understand and evaluate Islamic law's review of these technological advances, it is necessary to note the positive legal approach adopted by countries that apply the principles of Islamic law. Every couple who has just held a wedding, the most awaited thing is the presence of the baby. Getting offspring is something that is expected as a complement to the sweetness of life. The baby is a complement to happiness for couples who have held their marriage. The child is the fulcrum of all hope. Almost every married couple (pasutri) yearns to be

blessed with offspring in their married life. It will be incomplete if in marriage they are not blessed or have no children as evidence of love from the couple (Sugito, 1994).

However, behind these advances, there are various questions and challenges that arise, especially in the legal context. In this context, Islam has an important role in shaping legal views and perspectives on IVF reproductive technology. Islamic law, also known as sharia, provides an ethical and legal framework that governs various aspects of Muslim life. In this study, a review of Islamic legal views on the advancement of IVF reproductive technology will be conducted in a positive legal perspective. The positive legal perspective refers to the law in force in countries with secular or hybrid legal systems, where Islamic law is not exclusively the primary source of law.

This review will address various legal aspects related to IVF reproduction in a positive legal context, such as licensing, legal liability, the legal status of children born through this technology, and the social and cultural implications that may arise. In the context of Islamic law, this review will also explore concepts such as justice, benefit, and ethical principles related to human reproduction. It is hoped that with this review, we can gain a better understanding of Islamic law's view of IVF reproductive technology in the context of positive law. It can make a valuable contribution in formulating legal policies and practices that are in line with Islamic values and principles, while taking into account the legal context prevailing in today's modern society.

In this context, it should be noted that this review is not intended to give a specific fatwa or legal decision, but rather as an attempt to discuss the Islamic legal perspective on the advancement of IVF reproductive technology in a positive legal perspective. In the Qur'an and A-Hadith, there are no explicit legal provisions, even in Indonesia problems related to IVF arise because the laws and regulations governing the legal position of children born through IVF do not yet exist. The positive law that applies in Indonesia only regulates the understanding of legal children born naturally, not through the IVF process.

Article 250 of the Civil Code states: "every child born or raised during marriage, acquires the husband as his father" (Code. Article 250) Likewise, in Law No. 1 of 1974 article 42 states: "A legitimate child is a child born in or as a result of a marriage (Law No. 1 of 1974 article 42). The two formulations about the definition of a legitimate child, both contained in article 250 of the Civil Code and in Law No. 1 of 1974 are very simple, because in that article there is no question about the origin of the sperm and ova used, as long as the child is born in a legal

marriage, the legal position of the child is valid, even though the child is a product of sperm and donor ova or sperm that enters the woman's womb is not preceded by legal marriage.

Departing from the problems mentioned above, the author in this case aims to find a solution on How is the review of Islamic law on IVF reproductive technology? And what is the positive legal perspective in regulating IVF reproductive technology? Taking these aspects into account, Islamic law's review of IVF's advancement in reproductive technology in a positive legal perspective serves a broad purpose. This not only includes an understanding of religious views on this technology, but also reflects the complexity of related issues and challenges in developing appropriate regulations in the context of a society based on Islam and positive law.

LITERATURE

As reference material, researchers use several previous references either in journals or others, including; *First*, a journal written by Febri Handayani entitled IVF Problems According to Islamic Law. The journal focuses on IVF in view of Islamic law, that is, if the sperm and ovum IVF that are met are from a legal husband and wife, then it is permissible. But if the sperm and ovum that are met do not come from a legal husband and wife, then it is not justified, even considered adultery in disguise.

Second, the journal written by Syarif Zubaidah entitled IVF, Legal Status and Customer Relations in the Perspective of Islamic Law, the journal is almost the same as the journal written by Febri Handayani, namely IVF resulting from the marriage of a legal married couple then it is halal and vice versa if not then it is forbidden even called in the category of adultery. *Third*, a journal written by Fuadi Isnawan entitled The implementation of IVF artificial insemination program according to Islamic law and Indonesian positive law by concluding that the implementation of IVF program in Indonesia is regulated in Law Number 36 of 2009 concerning health.

The law stipulates the requirements that must be met to participate in the program. The conditions that Duiperuse is not easy because there are certain parameters that must be met by married couples. In addition to the requirements, it also regulates the issue of procedures that must be carried out by the organizing hospital and married couples, so that the babies made in the program do not violate ethics in society and religion. In the literature review of the three journals above is very helpful and provides valuable insights in the writing of this journal entitled Review of Islamic Law on the Advancement of IVF Reproductive Technology in a Positive Legal Perspective which can be a rationale in medical, religious and legal contexts.

METHOD

The research method that is considered suitable for exploring problems in this writing is the qualitative method, namely research in the form of written sentences under study (Hadari Nawawi, 2006). Qualitative research is a special tradition in the social sciences that basically depends on observing humans both in their fields and aspects (Lexy J. Moleong, 2005). The method used in this writing is descriptive. Descriptive is a procedure or way of solving a research problem by describing the state of the object under study (a person, institution, community, factory, etc.) as it is based on actual facts at that time.

The data source required in this writing is secondary. Secondary data is a source of data obtained indirectly from the object of community research consisting of organizational structures and archives, documents, reports, journals and books and so on related to research (Wahyu Purhantara, 2010). Data analysis techniques in this journal play a very important role because the analysis will produce findings, both substantive and normative findings. The resulting research results must go through a data analysis process first. Data analysis is the activity of organizing, sorting, grouping and categorizing so that a finding is obtained based on the focus or problem to be answered (Haris Herdiansyah, 2012).

DISCUSSION

- **Understanding IVF**

IVF is a translation of *artificial insemination*. *Artificial* means artificial or imitation, while *insemination* comes from the Latin word. *Inseminatus* means income or delivery. *Artificial insemination* is artificial conception or fertilization. In dictionaries such as in Kitab al-Fataawa by Mahmud Syaltut. Babies are obtained through the fertilization process carried out outside the womb so that *embryos* occur with the help of medical science. It is said to be pregnancy, IVF because the so-called male seed from the male penis is stored in a tube (Febri Handayani, 2013). To undergo the fertilization process carried out outside the uterus, it is necessary to provide ovum (egg and sperm cells).

If at ovulation (free egg from the bladder) there are cells that mature, then the egg is hystered with a kind of syringe through an incision in the abdomen, then placed in a chemical tube, then stored in a laboratory that is given a temperature like a woman's body heat. The two sex cells mix (*zygote*) in the tube so that fertilization occurs. *Zygote* develops into a morulla and then is implanted into a woman's womb. Eventually the woman will become pregnant. IVF is a technical term. The term does not mean a baby formed in a tube, but rather is intended as a

method to help fertile couples who are having difficulty in the area of "fertilization" of a woman's egg by a man's sperm cell.

Technically, doctors take eggs from a woman's ovaries with a device called a "*laparoscope*" (a finding of Dr. Patrick C. Steptoe from England). The egg is then placed in a small glass bowl and met with sperm from the woman's husband. After fertilization occurs in the glass bowl, then the results of fertilization are put again into the mother's womb to then experience pregnancy and give birth to children as usual (Febri Handayani, 2013). IVF in scientific terms is a human attempt to hold fertilization, by uniting or meeting between a woman's egg cell (*ovum*) and a male *spermatozoa* in a glass tube. This fertilization process is called *in vivo*. While the process of fertilization is naturally called *in vitro* (Ali Akbar, 1982).

In vitro fertilization, if IVF, if the sperm and ovum are from a legal husband and wife, then it is permissible. But if the sperm and ovum that are met do not come from a legal husband and wife, then it is not justified, even considered adultery in disguise. IVF is allowed for legal husbands and wives, because the benefits are very large in domestic life. For husbands and wives who really miss a child, but cannot process naturally, then after being processed through IVF, the longed child will soon be present by Sisiny. Herein lies the benefit, so that its ability is based through *mashlahat al mursalah* (Said Agil Husin Al-Munawar, 2005).

- **IVF Problems**

IVF programs are performed when fertilization is not possible in the womb. The trick is that a woman's egg and a man's sperm are taken to undergo the fertilization process in a tube that is engineered and conditioned to resemble the condition of the original uterus. Once fertilization is successful, the fetus is then returned to the woman's uterus. After that, the pregnancy process proceeds as usual. Basically, IVF program is an effort to deal with physical problems faced by women. Scientists seek to imitate part of the process of human creation by Allah Almighty. They created tubes with certain temperatures and humidity levels that were engineered in such a way that they resembled conditions in a woman's womb (Febri Handayani, 2013).

The problem arises when a woman's egg is fertilized by sperm from a man who is not her husband. The practice is clearly haram. If the sperm and eggs are taken from a legal married couple, of course the IVF program does not bring any consequences. The discovery of IVF is often regarded as a monument to science's victory over the biological and physiological problems that prevent women from obtaining offspring. However, it must also be realized that

this victory is still not perfect. At least it remains proven that the creation of the uterus is beyond the ability of science (Febri Handayani, 2013).

If technological progress is to be boasted as something that can challenge the power of Allah (swt.), then scientists must realize that IVF programs will not succeed if humans do not submit to the will of Allah (swt). Humans can indeed design a system that allows fertilization of the egg by sperm outside the uterus to then return the fertilized egg into the woman's uterus. However, in any case, man could not have created a uterus or anything that could serve as a womb for the fetus. They also cannot create sperm and eggs (Febri Handayani, 2013).

In other sources it is stated that if Islam has protected offspring, namely by forbidding adultery, so that the family situation is always clean from foreign factors, then for that Islam also forbids what is called sperm shredding (IVF), if it turns out that the transplant is not the husband's sperm (Muhammad Yusuf Qardhawi, 2007). Even such a situation, as Shaykh Shaltut said, is an act of adultery at one time because the essence is one and the result is also one, which is to put the water of another man deliberately on a field where there is no marriage bond in sharia which is protected by the law of instinct and religious law.

If there were no restrictions on the issue of lawlessness, this graft would be punishable by adultery, which by the Shari'ah of Allah has been restricted, and religious books will pass down verses on it. If the abuse committed is not the husband's water, it is undoubtedly a very bad crime and a lesser act greater than the adoption of a child, namely the insertion of foreign elements into the nasab, and among other evil acts of adultery at a time opposed by shara', law and high humanity, and will slide to the level of inhumane animals with the bond of noble society (Muhammad Yusuf Qardhawi, 2007).

- **Types of IVF**

When viewed in terms of sperm, and ovum and the place where the embryo is transplanted, IVF can be divided into 8 (eight) types, including;

1. IVF yang menggunakan sperm and ova from a married couple, then the embryo is trans-implanted into the wife's uterine data;
2. IVF using sperm and ova from a married couple, then the embryos are transplanted into the surrogate mother's womb; .
3. IVF that uses sperm from the husband and the ovum comes from a donor, but the embryo is transplanted into the wife's uterus;

4. IVF that uses sperm from a donor, while the ovum comes from the wife and the embryo is transplanted into the wife's uterus;
5. IVF that uses donor sperm, while the ovum comes from the wife and then the embryo is transplanted into the mother's surrogate womb;
6. IVF that uses sperm from the husband, while the ovum comes from a donor, then the embryo is transplanted into the mother's surrogate uterus;
7. IVF using sperm and ova from a donor, then the embryo is transplanted into the wife's uterus;
8. IVF babies using sperm and ova come from donors, then the embryos are transplanted into the surrogate mother's uterus (Salim, 1993).

The eight types of IVF mentioned above are technologically feasible, but in the cases of use of IVF technology only includes 5 (five) types, namely: first, second, third, fourth and seventh types. And why are the five types already established, while the Iain type has not been implemented? This is because the condition of the married couple when they want children to choose one of the five types, and the selection depends on the factors causing infertility of each (Syarif Zubaidah, 1999).

• IVF According to Islamic Sharia

One of the technological discoveries of modern science that is very beneficial to humans is the discovery of artificial insemination in humans. Artificial insemination in question is artificial pregnancy carried out on a woman without going through natural means, but by inserting male sperm into the woman's uterus with the help of a doctor. Terms with similar meanings are injecting marriage, artificial pregnancy and artificial manipulacy. A more familiar term in society is IVF (M. Ali Hasan, 1998).

In modern life today it is possible for a wife to conceive a male seed not through the usual route, namely through sexual intercourse. But through injections or surgery so that the man's seed is placed properly into the womb of the wife (woman) until she conceives. Because the man's seed is sucked from the man's penis and stored first in a savings, such a pregnancy is called IVF pregnancy. What is the law according to Islamic jurisprudence? In the Qur'an surah al-Baqarah verse 223 which reads:

يَسَاوُكُمْ حَرْثُ لَكُمْ فَأَتُوا حَرْثَكُمْ أَنَّى شِئْتُمْ وَقَدِّمُوا لِأَنفُسِكُمْ ۖ وَاتَّقُوا اللَّهَ وَاعْلَمُوا أَنَّكُمْ مُلَاقُوهُ ۗ وَبَشِّرِ الْمُؤْمِنِينَ

Your wives are (like) the land where you cultivate, so come to the land where you cultivate whatever you want. And do (good deeds) for yourselves, and be fearful of God, and know that ye shall someday meet him. And give glad tidings to the faithful.

This verse indicates that according to the fuqaha is the permissibility of family planning and the permissibility of pregnancy through IVF as long as the seed is the seed of the husband himself. If the seed is not from the husband's seed, then the implementation of IVF is unlawful (Hasbullah Bakry, 1988). IVF is a translation of *artificial insemination*. *Artificial* means artificial or imitation, while *insemination* comes from the Latin word. Inseminatus means income or delivery. *Artificial insemination* is artificial conception or fertilization. In dictionaries such as in Kitab al-Fataawa by Mahmud Syaltut. Babies are obtained through the fertilization process carried out outside the womb so that embryos occur with the help of medical science.

It is said to be pregnancy, IVF because the so-called male seed from the male penis is stored in a tube. To undergo the fertilization process carried out outside the uterus, it is necessary to provide ovom (egg and sperm cells). If at ovulation (free egg from the bladder) there are cells that mature, then the egg is hystered with a kind of syringe through an incision in the abdomen, then placed in a chemical tube, then stored in a laboratory that is given a temperature like a woman's body heat. The two sex cells mix (zygote) in the tube so that fertilization occurs. Zygote develops into a morulla and then is implanted into a woman's womb. Eventually the woman will become pregnant (Febri Handayani, 2013).

There are two ways that this is allowed, the *Majma'ul Fiqh al Islami* assembly stipulates that the child's nasab is linked to a married couple who own sperm and eggs, followed by inheritance rights and other rights as in the determination of nasab. When the nasab is assigned to a married couple, then inheritance rights and other rights are also established between the child and the person with whom he has a sexual relationship. *First*, a man's sperm is taken and injected into the uterus of someone else's wife so that fertilization occurs in the uterus, then then attaches to the uterine wall as in the first way. The method is used because the husband is infertile, so sperm is taken from another man.

Second. Outside fertilization, which is processed in the tube between sperm taken from a husband and an egg taken from the egg of another woman who is not his wife, is known as a donor. Then after fertilization occurs, a new is inserted into the uterus of the wife of the owner of the sperm. This method is done when the wife's egg is blocked or does not function, but the uterus can still function for fetal development. *Third*, external fertilization is processed in the tubes between the male sperm and the egg of the non-wife woman. Then after fertilization

occurs, it is planted in the womb of another woman who has a family. This method is done when there are married couples who are both infertile, but want to have children; While the wife's uterus can still function as a place for fetal growth.

Fourth, Fertilization outside is processed in a tube between two seeds of a married couple. Then after fertilization is successful, it is implanted in the womb of another woman (not his wife) who is willing to conceive the fetus of the married couple. This method is done when the wife is unable to conceive, because there are abnormalities in her uterus, while her organs are still able to produce eggs properly. This method is also taken when the wife does not want to get pregnant for various reasons. So he asked or hired another woman to conceive his baby. *Fifth*, sperm and eggs are taken from a married couple, then after undergoing the fertilization process in the tube, the fertilized egg is inserted into the uterus of another wife (second wife for example) from the owner of the sperm. This other wife has expressed her willingness to conceive her honey fetus which (for example) has had her uterus removed (Fuadi Isnawan, 2019).

The view of the Islamic Shari'a on the third, *fourth*, *fifth types of incementation*, whether fertilization inside or outside the womb are methods forbidden in Islamic Shari'a, there is no reason to allow even one of them. Because both seeds, sperm and egg in the process do not come from one married couple or because of women. In the perspective of Islamic law, there are categories of fiqh that allow and some that prohibit IVF. While in Islamic law the category of *Maqasyid As-Shari'ah*, IVF is allowed, because for the sake of good, the category protects offspring (khifzu an-Nasl). *Maqāṣid ash-syar'ah* means the purpose of the Shari'a, that is, the intention to be realized through the establishment of the provisions of the Shari'a law.

Al-Khādimī defines it as "the meaning of meaning seen in the various provisions of sharia law whether in the form of particular wisdom, universal benefit, or general qualities all indicating submission to Allah and the benefit of man in this world and hereafter." The Manūbah Burhānī gives an even more brief definition of "the meanings that the Sharia-Maker seeks to realize through the provisions of sharia law." Thus, *maqāṣid ash-syar'ah* is the goal that should be achieved by the Maker of Sharia that can be observed in the provisions of existing Sharia law and which must be guided in establishing the provisions of Sharia law in the future. *Maqāṣid ash-syar'ah is divided into three classifications, namely (1) general maqāṣid ash-syar'ah, (2) partial maqāṣid ash-syar'ah, and (3) specific maqāṣidash-syar'ah.*

General *maqāṣid ash-syar'ah* is the purpose of sharia in general, meaning the purpose of the overall provisions of sharia law. Partial *maqāṣid ash-syar'ah* is the purpose of shari'a in one particular part of it, for example the purpose of the provisions of sharia law in the field of

muamalat or in the field of family and so on. Meanwhile, the specific purpose is the purpose of a particular provision of sharia law, for example the purpose of obliging Muslims to fast Ramadan is to make him a devout person. The general objective of sharia as a whole is to realize human benefit. Benefit is everything that brings benefits and goodness to man and spares him from harm and corruption.

The main benefit is the manifestation of the protection of five essential human interests, namely protection of religion, life, reason, offspring, and wealth (Syamsul Anwar, 2016). Maqāsid protection of offspring (ḥifẓan-nasl) for the survival of the human *race*. This protection of offspring implies the obligation to protect reproduction as a process of continuation and continuity of the human race and for family governance as a place of education and socialization of values in order to build a prosperous society (Syamsul Anwar, 2016).

- **IVF Requirements According to Islamic Law**

IVF technology in Islamic shari'a is indeed permissible, provided that it comes from a husband and wife who have entered into a legal marriage according to Islamic law. In the Decree of the Indonesian Ulema Council Number: Kep952/MUI/XI/1990 concerning Artificial Insemination / IVF, dated November 26, 1990 states that artificial insemination / IVF with sperm and ova taken from a legal married couple muhtaram, is justified by Islam, as long as they are in a legal marriage bond (Ahmadie Thaha, 1982). The Indonesian Ulema Council, based on the results of the fatwa commission dated June 13, 1979, has issued its fatwa as follows:

(1) IVF with sperm and ova from a married couple whose law is *mubah* (may), because this includes efforts based on religious principles. (2) IVF from a married couple with the entrustment of the womb of another wife (e.g. from the second wife entrusted to the first wife) is unlawful according to the rule of *Sadd az-zari'ah* (سد الذريعة), because this will create complicated problems in relation to inheritance issues (especially between children born with mothers who have ova and mothers who conceive and then give birth to them, and vice versa). (3) IVF from sperm frozen from a deceased husband is unlawful under the rule of *Sadd az-zari'ah* (سد الذريعة), as this creates complicated problems, both in relation to the determination of *nasab* and in relation to inheritance.

(4) IVF whose sperm and ova are taken from other than a husband and wife couple whose legal law is *haram*, therefore the status is the same as sexual relations between the opposite sex outside of legal marriage (*zina*), and based on the rule of *Sadd az-zari'ah* (سد الذريعة), which is to avoid the actual act of adultery (Suwito, 2011). According to K.H. Hasan Basri, the birth process

through IVF techniques according to Islam is permissible and legal, as long as the sperm and egg trees are from married couples. This is due to the development of science that leads to positive IVF that should be grateful. And this is a gift of Allah SWT, because it is conceivable that a husband and wife who have been yearning for a child for 14 years can be fulfilled. The opinion of K.H. Hasan Basri is in line with Sheikh Mahmud Abu Daim. He said that: (Salim, 1993)

"If in the process of mixing sperm is taken from a married couple only, then this method is not a problem in Islamic Law, meaning it is permissible."

From a legal point of view, it does not cause a problem. Even some scholars give praise as a good way. If IVF is done with nothing with her husband's sperm, then it is adultery. Shaykh Syalthout says that: (Salim, 1993)

"The sperm transplant done is not the husband's sperm, so it is undoubtedly a very bad crime, and a lesser act greater than the adoption of a child. For the grafted child can be derogatory between the adoption of the child, i.e. inserting a foreign element in the nasab, and between the other evil acts of adultery at one time which are opposed by Shara and the law, and also opposed by high decency. And glide to the degree of an animal that is inhuman and there is a noble bond of society."

With the prohibition of the use of donor sperm by Sheikh Syalthout, it will have the consequence that a child born to a wife whose seed comes from a donor is adulterous. The above view is in line with what H. Salim Dimiyati said. He said that: (Salim, 1993)

"IVF uses the donor father's sperm, while the egg is from the mother and obtained by surgery directly from the womb of the egg. Here there is clearly a third element in the mother's body. So in this case there has been a disguised adultery, even though it did not commit adultery physically. Children born because of it, including adulterous children"

Syekh Muhammad Yusuf Qardawi said that:(Salim, 1993)

"Islam has protected offspring, namely by forbidding adultery and adoption of children, so that the family situation is always clean from foreign factors, so for Islam also forbids sperm transplantation (IVF), if the transplant is not from the husband's sperm"

• IVF Implementation Positive Legal Perspective

As we all know that fetal creation occurs starting from the meeting of sperm with egg cells which is a natural process that commonly occurs in human reproduction. However, if there is interference with the reproduction process above, natural fertilization cannot occur, giving rise to an artificial insemination program. Juridically, the formal implementation of artificial insemination in Indonesia must always refer to Law No. 36 of 2009 concerning Health. This law explains that the implementation of artificial insemination programs must be carried out in accordance with legal norms, religion, decency, and decency.

This law stipulates, in the implementation of artificial insemination programs in Indonesia, it is not allowed to use a uterus belonging to a woman who is not his wife (James Hokkie Mariso, 2018). In addition to Law No. 36 of 2009, the implementation of IVF programs in Indonesia currently also refers to the Regulation of the Minister of Health of the Republic of Indonesia No.73/Menkes/Per/II/1999 concerning the Implementation of Artificial Reproductive Technology Services. This regulation stipulates that the implementation of artificial reproductive technology (IVF) can only be carried out in Government General Hospitals Class A, B, and Private General Hospitals First Class.

The implementation of research and development are, Dr. Cipto Mangunkusumo Hospital, RSAB Harapan Kita, and Dr. Soetomo Surabaya Hospital. Article 4 states that artificial reproductive technology services can only be provided to married couples who are bound by a legal marriage and as a final effort to obtain offspring, and based on a medical indication (Aji Titin Roswitha Nursanthy, 2017). Grammatically it can be interpreted that what is allowed by Indonesian law is the method of fertilization of sperm and ova from a legal husband and wife implanted in the wife's womb from which the ovum originates known as the method of artificial insemination.

Thus, methods or attempts at pregnancy outside the natural way through surrogacy or uterine rent/care, are implicitly not justified under Indonesian law (Mariso, 2018). Regarding the IVF Service Program, an Instruction was issued. RI No. 379/Menkes/Inst/VIII/1990 dated August 9, 1990. The considerations are: (1) That IVF service programs require very expensive investments, both in terms of service institutions and in terms of patients. (2) That to ensure quality IVF services, it is necessary to first accredit facilities and infrastructure. (3) That the IVF Service program has various aspects both regarding morals, ethics, law and religion which are still being studied more deeply, therefore it is necessary to control the program (Salim, 1993).

Requirements for IVF Program

Indication of Requirements for Participating in the Artificial Insemination Program Married couples who are allowed by the Melati Program Doctor Team of Harapan Kita Jakarta Children's and Maternity Hospital to follow IVF procedures, are married couples who are less fertile, due to: (1) The wife has damage to both fallopian tubes (tubes), usually caused by infection (infection caused by bacteria). And even this is only known after so many years of marriage never get children. (2) Abnormal mucus of the wife's cervix, this usually occurs when

there is vaginal discharge, so that by the time the sperm passes through the cervix, the sperm has died first.

(3) The presence of immune disorders in which there are anti-sperm substances in the body. (4) Not pregnant after oviduct surgery. (5) Not pregnant also after endometriosis treatment, Endometriosis is a condition in which tissues such as the inner tissue of the uterine wall (*endometrium*) develop outside the uterus. (6) Husbands with poor sperm quality (*oligospermia*), are sperm with a lack of number, weak movements, and abnormal shape. (7) *Unexplained infertility*, meaning that despite having undergone all factors within normal limits, the wife does not get pregnant after marriage and has regular intercourse for at least one year (Mariso, 2018).

CONCLUSION

From the explanation above, two conclusions can be drawn. *First*, in the perspective of Islamic law, there are categories of fiqh that allow and some that prohibit IVF. Whereas in Islamic law the category of *Maqasyid As-Shari'ah*, IVF is allowed, because for the sake of good, the category protects offspring. *Second*, Juridically formal implementation of artificial insemination in Indonesia must always refer to Law No. 36 of 2009 concerning Health. This law explains that the implementation of artificial insemination programs must be carried out in accordance with legal norms, religion, decency, and decency. This law stipulates, in the implementation of artificial insemination programs in Indonesia it is not allowed to use the uterus belonging to a woman who is not his wife.

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We hope that the results of this publication will provide ongoing benefits and contribute to knowledge in the relevant field. In this publication, we strive to provide valuable and in-depth insights, which would not have been possible without the support and assistance of our sponsors.

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