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The Legal Status of IVF Embryos in Iraq

الوضع القانوني لأجنة التلقيح الصناعي في العراق

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Abstract

This paper has examined the legal status of IVF human embryos under Iraqi law. As, there is no legal provisions that regulate and cover this issue in Iraq. It has considered the new changes that have been brought and raised as a result of assisted reproductions, especially in vitro fertilization technique and its influence on the legal status of embryos. For that, this paper set out and analysed Iraqi legislative provisions pertain human embryos, that showed that a human embryo cannot be a person, property or part of mother's body, but it has special status entitles human embryo to get legal protection, and it is eligible for some legal rights that are contingent with to be born alive. The special legal status should be granted for all conceived embryos, regardless method of creation of embryos, In addition, it has been argued that surplus embryos that are created and cryopreserved at laboratories have no similar status to conceived embryos, where they just consider a biological materials, until they are transplanted into a mother's womb. So that, the standard for granting a special status to human embryos, is the actual existence of embryo inside mother's womb.

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Keywords: in vitro fertilization IVF, chromosomes, sperms, fertilized ova, conceived embryos, zygote, assisted reproduction, gamete, infertility, pregnancy, cryopreservation technique, Iraq, civil law, penal law, Islamic jurisprudence.

الملخص

ناقش هذا البحث الوضع القانوني لأجنة التلقيح الصناعي في العراق، في ظل غياب النصوص القانونية التي تنظم هذه القضية. اذ تم تسليط الضوء على التغييرات الجديدة التي طرأت نتيجة استخدام تقنيات الانجاب المساعدة في توليد الاجنة، وخصوصا تقنية اطفال الانابيب وتأثيرها على الوضع القانوني للجنين. لاجل ذلك، فان البحث قد تناول بالاستعراض والتحليل النصوص التشريعية المدنية والجنائية والمتعلقة بوضع الاجنة البشرية. وقد تبين من ذلك بان الجنين لا يمكن عدّه شخصا قانونيا ولا جزء من جسم المرأة، لكن له وضع خاص يخوله لبعض الحماية التي تضمن سلامته، ويكون مؤهلا لاكتساب بعض الحقوق والتي يكون ثبوتها مشروطا بولادة الجنين حيا. الوضع القانوني الخاص يمنح لكافة الاجنة المحتضنة في رحم الام، بغض النظر عن طريقة خلق وتكون الاجنة سواء أكانت بطريقة طبيعية او من خلال تقنية الانابيب. بالاضافة الى ذلك فقد تم التوصل الى ان الاجنة الزائدة والمحفوظة بواسطة تقنية التجميد لا يمكن منحها الوضع القانوني الخاص بالاجنة، إذ انها تُعد مجرد مواد بيولوجية الى ان يتم نقلها وزرعها داخل جسم المرأة لتتطور. لذلك فان المعيار في تحديد منح الوضع القانوني الخاص للجنين يتمثل في الوجود الحقيقي للجنين داخل رحم الام.

كلمات مفتاحية: تخصيب صناعي، خلايا جنسية، كروموسومات، حيامن، بويضات ملقحة، اجنة محتضنة، حمل،عقم، تقنية التجميد، القانون العراقي، الفقه الاسلامي.

I: Introduction

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Determination of legal status of IVF embryos has currently become a significant and controversial issue, in the light of rapid achievements in domain of human reproduction. Where recently, there are various purposes behind generating and creating human embryos, this includes reproductive purpose for creating human beings, using embryos for scientific research, cloning and genes technology. As a result of such technologies, a human embryo could be created inside a mother's body naturally, or outside at laboratories using in vitro fertilization. Where, in the light of new technologies, human embryos could be created and stored outside of mother's body.

In Iraq, there is no special legislation that determines status of human embryos in general and status of IVF embryos in particular. The classical provisions of Iraqi laws include a slight reference to human embryos which may provide some protection for human embryos. These provisions, however, do not expressly determine the time when the human embryo is eligible for the legal protection. Therefore, the new change in domain of human reproduction has brought new issues related human embryos, especially those embryos that are created at laboratories and stored in special places. This situation requires examining the legal status of human embryos in general, and human embryos that are created through assisted reproduction in particular. This matter is important in order to determine the legal status of IVF human embryos, and whether or not

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all embryos should have similar status regardless any other considerations.

Thus, this paper will examine legal status of IVF human embryos under Iraqi law, whether it is a legal person, property and something else. It will also discuss whether or not all human embryos should be treated equally before the law, regardless the method of embryos formation or any relevant consideration. The paper then will provide brief information about the creation of human embryos, and impact of assisted reproductions on status of embryos. Then it will explore the current position of human embryos under Iraqi law, where it examines and analyses the legal provisions pertain human embryos in Iraq. It will after that set out standard to determine legal status of the human embryos in Iraq. The paper ends with a conclusion.

II: Overview of the creation of human embryos

This section provides basic background about creation and formation of human embryos naturally, as well as generating embryos by artificial means at laboratories. It also explains impact of the new technique of in vitro fertilization on legal status of IVF embryos.

II. A: Creation of human embryo naturally

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Creation of human embryos is naturally achieved as a result of sexual intercourse between male and female. Where fertilization, represented in impregnating a woman's ovum by a man's sperm, might be achieved. The sexual cells (gametes) that lead to procreate a human embryos are sperms and ova. Human gametes generally contain chromosomes which consist of a long sequences of genes, containing genetic information code which is called (DNA).[1] Each one of human body cell comprises of 46 chromosomes, except the sexual cells (sperms and ova) which consist of 23 chromosomes for each one, so that newborn receives 23 chromosomes from each of his/her parent.[2]

In regard to fertilization of ovum and formation of human embryo, millions of sperms are released from male during sexual intercourse; this considers the first step to achieve the fertilization. Sperms are travelling down through the cervix towards the fallopian tube in order to meet and impregnate ovum.[3] Among these millions of sperms, only few sperms reach to final stage of journey and meet ovum, some of them are initially unable to impregnate and others die during travelling journey, at the end only a single sperm could

[1] DNA is abbreviation of Deoxyribonucleic Acid which is contained tiny parts of human's cell are called genes which determine all characters of persons so they transfer by heredity from parents to offspring. Brian Cain, *Legal Aspects of Gene Technology* (London: Sweet & Maxwell, 2003), 4.
[2] Wilson Wall, *Genetics and DNA Technology: Legal Aspects* (UK: Cavendish Publishing, 2nd Ed., 2004), 18.
[3] Ruth Deech and Anna Smajdor, *From IVF to Immortality: Controversy in the Era of Reproductive Technology* (England: Oxford University Press, 2007), 12.

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successfully penetrate and fertilize ovum.[4] After fertilization is accomplished, division stage begins. Whereby, fertilized ovum (zygote) divides into number of cells, the division continues and develops since moment of fertilization until birth moment.[5] Division or cleavage of ovum into many cells could lead to form embryo, which will gradually grow and develop, then all organs of human being are formed, development of the embryo inside woman's womb continues until birth time.[6]

II. B: Creation of human embryos by IVF

There are some barriers that might prevent occurrence of human conception. Such barriers may cause inability of a couple to conceive and have children. The world health organization has defined Infertility is "the inability of a couple to achieve conception after 12 month period of unprotected intercourse, or the inability to carry a pregnancy to live birth".[7] Although, 85-90% of infertility cases could be treated through the conventional methods such as surgery and drugs treatment, there is still a significant group who will only be able to have children with the assisted reproduction (in vitro

[4] Lewis Vaughn, *Bioethics: Principles, Issues, and Cases* (England: Oxford University Press, 2nd ed, 2013) 392.
[5] These cells carry genes from both biological parents, Ata Abd-Ati Senbati, *Banks of Gamete and Embryos: A Comparative Study Under Islamic Jurisprudence and Law* (Arabic version) (Cairo, Dar Nahda Arabia, 2001) 37.
[6] Colin Rasmussen, "Canada's Assisted Human Reproduction Act: Is it Scientific Censorship, or a Reasoned Approach to the Regulation of Rapidly Emerging Reproductive Technologies?," *Saskatchewan Law Review*, no.67 (2004): 101.
[7] Victoria Breidahl, "The Art of Fertility Nursing in Australia," *Australian Nursing Journal* 13, no.4 (2005): 27.

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fertilization),[8] which considers alternative way of the creation of human life, especially for individuals who are unable to bear and conceive children by natural way.

The IVF technique is sort of a complex process and may take some time, from four to six weeks.[9] This process could be performed at laboratory for benefit of individuals who seek to fertilize their gametes artificially.[10] It involves collecting and combining a selected sperms and ova in petri-dish.[11] After the combination stage, fertilization occurs and zygotes are created. Zygote can be transferred once they begin division.[12] The approximate period from fertilization until transplantation stage is three days.[13] As IVF technique might be repeated several times until pregnancy is achieved, and in order avoid conducting multiple collections of gametes, it is usual to collect several gametes at once for using them later, and excess gametes and fertilized ova are stored through cryopreservation technique.[14]

II. C: Impact of IVF on legal status of embryos

[8] Malini Sangha, "Assisted Reproductive Technologies," *Georgetown Journal of Gender and the Law*, no.6 (2005): 807-808.
[9] Deech, Ruth and Anna Smajdor, *From IVF to Immortality*, 17.
[10] Marcia Moblilia Boumil, *Law, Ethics and Reproductive Choice* (US: F.B. Rothman, 1994), 5.
[11] Anastasia Grammaticaki-Alexiou, "Artificial Reproduction and Conflict of Laws: An Initial Approach," *Louisiana Law Review* 60, no.4 (2000): 1114.
[12] Hossam E. Fadel, "The Islamic Viewpoint on New Assisted Reproductive Technologies," *Fordham Urban Law Journal* 30, no.1 (2002): 152.
[13] Lyria Bennett Moses, "Understanding Legal Responses to Technological Change of In Vitro Fertilization," *Minnesota Journal of Law, Science & Technology* 6, no.2 (2006): 510.
[14] Katherine Gunnison, "Poaching the Eggs: Courts and the Custody Battles over Frozen Embryos," *Journal of Law & Family Studies*, no.8 (2006): 278.

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In the light of contemporary achievements in domain of human reproduction, determination of legal status of embryos has become more controversial, where there are unsolved legal dilemmas related to this issue. Most of the legal issues raised on IVF might be influenced by determining the legal status of embryos. This section sets out the changes that have occurred in context of reproductive revolution, particularly the different uses of human embryos. So, besides the controversy about determining legal status of human embryos, there are other unsettled issues relating to IVF embryos such as level of protection for embryos and fate of surplus embryos. The considered impact and relationship between human embryos and different activities of IVF could be referred as following: -

II. C. 1: Generating human embryos for reproductive purpose

As it is mentioned above the main purpose of IVF is to assist infertile couple to conceive offspring.[15] The issue which may raise in this context is whether human embryos that are created at laboratories by IVF should be treated equally as human embryos that formed and conceived naturally as a result of intercourse inside woman's body. Another issue is related to status of surplus embryos that are stored and cryopreserved for future reproductive uses, and

[15] Belinda Bennett and Malcolm Smith, "Assisted Reproductive Technology" in *Health Law in Australia*, ed. Lindy Willmott, Fiona McDonald and Ben White, (Australia: Thomson Reuters, 2nd ed., 2014) 414.

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whether they should be treated as similar as embryos that are already transplanted into women uterus.

II. C. 2: Creating human embryos for other purposes

IVF might be utilized to procreate human embryos and store them in special places through cryopreservation, in order to use them for other purposes rather than reproductive purpose, such as using frozen embryos for scientific research and producing medications. So that, IVF may be used for medical therapy to detect and treat any genetic diseases and disorders, and to avoid transmitting such diseases from parents to offspring, as well as creating embryos for using them in the research purpose as source of stem cells. So, the issue in this context is whether or not cryopreserved embryos that are stored for other purposes rather than reproductive purposes should have legal status as similar as conceived human embryos.

Therefore, examining the legal status of embryos, whether they are considered human beings, mere property, or something else would be necessary in other to resolve related legal problems. Consequently, recognizing the human embryos as human beings may require providing the full protecting for embryos as they granted the legal personality, which lead to an outcome that some practice of IVF that aim to provide medications should be prohibited, as such practices may represent a violation to the legal person. On contrast, recognizing the human embryo as property or part of a mother's body

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might legitimize different practices of IVF that carry out on human embryo. So that, determination of legal status of embryos assists in resolving the legal dilemmas, and consequently judge whether different activities of IVF should be permissible or prohibited by the law.

III: Position of human embryos in Iraqi law

There is no specific legislation in Iraqi law related to human embryos which addresses expressly issue of determination of status of embryo, and whether human embryos is recognized as legal person, property, human tissues as a part of mother's body or something else. There are, however, provisions that refer to legal personality and regulate some issues related to human embryos. This section indicates and analyses such provisions in order to derive status of human embryos under Iraqi law. Status of human embryos in Iraqi law will be examined in four points; first point is to state prenatal rights in the Iraqi constitution, secondly reviewing the penal provisions pertaining human embryos, and the third point states the civil provisions in relation to human embryo, and the fourth point shows perspective of Islamic jurisprudence about the status of the human embryo.

III. A: The Constitutional Prenatal Rights

The *Iraqi constitution 2005* does not include any reference that determines legal concept of human embryos or their legal status. But,

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the constitution refers right of individuals to life, where Iraqi constitution stipulates that "Every individual has the right to enjoy life, security and liberty. Deprivation or restriction of these rights is prohibited except in accordance with the law and based on a decision issued by a competent judicial authority."[16] The Iraqi constitution, however, did not include definition of an individual, and whether or not human embryo is considered a person, and then whether it has right to life. In absence of constitutional provisions relating to the human embryo, it is necessary to observe and examine the legal provisions and principles that are existed in different Iraqi laws, in order to show and derive the legal status of human embryos.

III. B: The Penal Provisions Pertaining Human Embryos

In regard with the *Iraqi Penal Law Act 1969*, it did not include any provision which may assist to determine of the legal status of embryos. The Iraqi penal law Act, however, penalizes any action which might lead to abort pregnant women.[17] The punishment may apply on a pregnant woman if she committed abortion by herself, the punishment also imposes on a party who may assist the pregnant women to accomplish the abortion.[18] The abortion is criminalized

[16] The *Iraqi Constitution* 2005. s 15.
[17] The abortion offence is stated in chapter 4 of the *Penal Law Act* 1969 (Iraq). ss 417-419.
[18] The punishment could reach a year of imprisonment for one year, and could reach seven years imprisonment if it caused death to the pregnant woman. Ibid., s 417.

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regardless consent of the pregnant woman,[19] and whether the abortion is conducted by a doctor and the medical procedure was taken to achieve it, or if it is a result of an offence.[20] Thus, Punishment which is imposed by the penal law on abortion action might apply on all participant parties in the action which caused the abortion. So that, punishments may apply on offender, physicians and their assistants, as well as pregnant woman herself.

The first issue which might be noticed in this context is that, although the Iraqi penal law criminalizes and penalizes the abortion, it does not include definition of the abortion that determines at which stage of pregnancy, the offence against the pregnant is considered as abortion. It also does not refer details about in which cases abortion is criminalized and when the abortion may be permissible. This situation represents a shortcoming in Iraqi law should be reconsidered and reformed, where formation of embryos differs according to development stage of embryo, and the penalties should be applied according to stage of development of embryos.

The second issue may arise here is related to determine whether the legal protection against the abortion is decided for pregnant woman as the embryo is a part of her body, or it is decided for the embryo itself, which may mean that the human embryo is recognized

[19] However, the punishment for abortion may reach ten years imprisonment if committed without consent of pregnant woman, and 15 years if the action of abortion caused death to the pregnant woman. Ibid., 418.
[20] In addition the this punishment, the medical license of participant professional in such action may be withdrawn for up to 3 years. Ibid., 418(3).

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by the Iraqi law as a legal person deserves the legal protection. Although the Iraqi penal law Act does not determine for whom this protection is provided, prohibition of abortion under this Act implies that legal protection is provided for both pregnant and her unborn child. Where, legal protection is provided for pregnant to protect her against any violation to her body committed by others, as well as it is provided for protecting the embryo and its essential right to get developed inside mother's womb and to be born alive. Iraqi law penalizes any violation whether it is committed by others or by the pregnant herself against unborn. That does not, however, mean human embryo is recognized as an individual or a legal personal by Iraqi law. Specially, abortion is not considered as a murder under the Iraqi law, as well as penalties that apply in the case of abortion are not as same as in case of murder crime.[21]

III. C: The Civil Provisions Pertaining Human Embryos

The *Iraqi Civil Law Act 1951* is like the penal law Act, does not include any reference which determines concept and status of human embryos, and it also does not refer to potential rights of human embryos. The first issue will be examined in context of Iraqi civil law, is whether or not the human embryo has legal personality under Iraqi law. The Iraqi civil law Act indicates that the persons who have legal personality are eligible to have the legal rights and deserve the

[21] In the case of abortion, penalties are varied from one year to 10 years imprisonment, while in case of murder, a penalty of the capital punishment or imprisonment for a life or long term could be imposed.

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legal protection and consequently are considered individuals before the law.[22] In this context, it refers that the personality of human being starts once it is born alive and ends at death moment.[23] Therefore, human embryos according to the *Civil Law Act 1951* are not recognized as a legal persons. Iraqi legislation, however, does not totally ignore status of human embryos. Where it refers foetal rights that relating to the pregnancy stage (embryos rights) are considered and referred in the Iraqi personal status law.[24]

The *Iraqi Personal Status Law Act 1959*, regulates lineage issue of the embryo to his/her parents. The lineage right is confirmed and verified once the embryo born alive.[25] In term of right of human embryo in inheritance, although the Iraq Act conditions for inheritance; existence of the heir at moment of death of testator,[26] it does not include indication to human embryos, that could be considered future persons. Absence of the legislative provisions in relation to right of human embryos in the inheritance does not mean denying this right and the embryo has no right to have a share in deceased estate. Whereby, the Islamic Sharia should be taken into consideration in case of absence of the legislative text, as well as it is recognized as a main source of the law of personal status.[27] Islamic Sharia refers and admits the potential rights of human embryos to in

[22] The *Civil Law Act* 1951 (Iraq) regulates the legal personality in sections 34-49.
[23] Ibid, s 34(1).
[24] Ibid, s 34(2).
[25] the *Iraqi Personal Status Law Act* 1959 (Iraq), s 51.
[26] Ibid., 86/C.
[27] Ibid., s 1(2).

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inherit and have share in testator estate, where the unborn child who is existed and conceived in mother's womb at moment of parent's death, has this right in legacy. Such right, however, is contingent that the embryo should be born alive, otherwise it considers as it was not existed from the beginning.[28]

Although Islamic Sharia asserts this potential right of the embryo in inheritance, there are some issues that may arise as result of using IVF to create embryos in general and cryo-preservative technique which might assist to preserve frozen embryos for long term in particular. For example, the potential right in inheritance is decided for the embryo who is conceived at the moment of death of parent, and it could also apply and extended in case of conducting transplantation after death of testator. That there is no difference in this context between conceived embryo and frozen embryo which is prepared for future implantation later to death of parent, as long as gametes that are used to create a child belong to wife and husband. Whereby, embryo in this case is formed and conceived as a result of impregnating wife’s ovum by husband’s sperm. Therefore, the frozen embryo might be having potential right in inheritance as well as lineage right, especially if it was transplanted into a mother's womb in accordance with a prior consent of parents.

[28] Yasmine Badr, "The Foetus in Sunni Islamic Law: an Introduction" (M.A. Thesis, McGill University, Montreal, 2001), 78-79.

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Finally, the of *The public health Act 1981* in Iraq asserts right of children and pregnant women of having suitable health care. This Act considers such right as obligation on the government which should provide it for the pregnant women and the children since occurrence of the pregnancy, including different embryonic stages.[29] It also states procedures that should be taken in order to ensure this right, including conducting medical examination and checking health of pregnant and her embryo.[30] Therefore, it could be deduced that this legislation has granted human embryos a special status.

III. D: Status of Human Embryos in Islamic Jurisprudence

This section sets out perspective of Islamic Sharia in relation to legal status of human embryos. Where, the Islamic sharia considers a foundation source of Iraqi law,[31] and it might be recognized by the court to reach a decision in case if there is no legislative provisions. Early muslim scholars examined status of human embryos from one aspect, represented in determining whether or not human embryos have right to life. So that, issue that has been explored is the moment when life of human being begins. That would be essential issue in light of contemporary human reproductive technology, such as IVF process which includes several procedures that may carry out on the human embryos for different purposes.

[29] The *Public Health Act* 1981 (Iraq). s 6.
[30] Ibid., s 7.
[31] This is referred in the *Iraqi Constitution* 2005. s 2(1).

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So, the essential factor which determines status of the human embryo is moment when human life begins, based on that prenatal rights and legal protection is decided. Where, different views in this context could be classified into three categories. First view argues that the human embryo is sacred as same as human beings and deserves protection and right since moment of conception. Therefore, any attack and violation against the human embryo at any stage of the pregnancy considers a crime.[32] Second view believes the human embryo considers sacred and deserves the protection after forty days of conception or fertilization. Therefore, aborting human embryos at is not forbidden at any time from conception until forty days of developing stage of the embryo, so such action does not consider crime against human being.[33] While, third view asserts that the human embryo considers sacred and deserves the protection after 120 days of pregnancy.[34] Whereby, this view believes that the soul, after 120 days of conception, is blown into the embryo, so the human embryo is considered sacred and it deserves the legal protection.[35] Therefore, any procedure against the embryo is taken before passing first 120 days of the pregnancy, including abortion or destruction the

[32] Mahdi Zharaa and Shaniza Shafie. "An Islamic Perspective on IVF and PGD, With Particular Reference to Zain Hshim, and Other Similar Cases." *Arab Law Quarterly* 20, no.2 (2006): 168.
[33] This is view of majority of shafite. Dariusch Atighetchi, *Islamic Bioethics: Problems and Perspectives* (Italy: Springer, 2007), 96.
[34] Zharaa, Mahdi and Shaniza Shafie. "An Islamic Perspective on IVF and PGD," 169.
[35] Ahmed Mohammed Lutfi, *Artificial Fertilizing: Between Sayings of Physicians and Opinions of Jurists* (Arabic version) (Alexandria, Dar Fiker Jamie, 2006). 160. And, Shawqi Salihi, *Artificial Fertilizing Between Islamic Sharia and Positive Laws* (Arabic Version) (Cairo, Dar Nahda Arabia, 2001), 152-153.

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embryos, does not consider a crime.[36] From above, It could deduce that Islamic jurisprudence does not provide the answer about status of embryos, and there is no consensus among Muslim scholars about status of human embryos.

IV: Standard for the Legal Status of Human Embryo

This section provides legal description of human embryos that are created naturally or through IVF under the current provisions in Iraqi law. It will also set out factors for consideration in the light of contemporary technology in field of human reproduction for determining status of human embryos.

IV. A: The Special Status of Human Embryos

Although the Iraqi legislation does not refer concept of human embryo, nor the moment when the embryo deserves the legal protection and potential rights, it is obvious, from the legislative provisions above, that the conceived human embryo has special status under the Iraqi law. So, an embryo is not recognized as a legal person or property, as well as is not considered as a part of pregnant woman under Iraq law.

The Iraqi law provides legal protection and health care for the human embryos since the embryo is conceived inside its mother's

[36] Amira Adli Khaled, *The Penal Protection of the Embryo in The Light of Contemporary Techniques* (Arabic Version) (Alexandria, Dar Fiker Jamie, 2008), 242.

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womb, as well as Iraqi law recognizes and ensures potential rights of human embryos including; legal parentage and other related rights that would be confirmed once the conceived embryo is born alive. That means the legal provisions in Iraqi law pertain human embryos apply on those embryos that are procreated and conceived inside a mother's womb. So that, such rights and guaranties are granted to conceived human embryos regardless method of formation of human embryos, whether the human embryo is generated naturally or through utilizing IVF. Where, this artificial method of creation a human embryo is legally recognized or at least is not criminalized under the Iraqi law, as long as the reproductive process is carried out for married couple using their own sexual materials.[37]

IV. B: Factors for consideration

In regard with excess embryos that are generated through IVF, and are cryopreserved at laboratories outside of mothers wombs, the issue may arise in this context is, whether they have as same as status and position of the conceived embryos that create and develop inside woman's womb. The legal status in this case should be different, where the description of potential life apply to human embryos that are developing inside mother's womb until time of delivery, not to those embryos that are frozen and stored at laboratories. The frozen embryos in this case could be considered as biological material until

[37] For more details about regulation of IVF in Iraqi law. See, Khaled Hamad Fayadh, "The Legal Regulation of Assisted Reproductive Technology in Iraq: Lessons from the Australian Approach" (Ph.D. Diss., Western Sydney University, 2015), 170-189.

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they are transplanted into a woman's uterus. In addition, frozen embryos could be used for future varied purposes other than procreation and conceiving children. This view which deprive frozen embryos from having a special status would assist in using and utilizing frozen embryos for beneficial purposes, such as medical experiments and scientific research. Consequently, the ownership over frozen embryos should be granted to biological couple who provided gamete, so genetic couples have the right to decide the method to deal with surplus embryos.

However, frozen embryos that are cryopreserved for future reproduction should have special and respected status once it is transplanted into a mother's womb. Whereby, the human embryo after transplantation process could be considered a potential individual, which assists to so protect rights and interest of future child. Especially, it is duty of law to ensure and guarantee rights of unborn children such as rights in lineage and inheritance, and provide unborn with a protection and health care to get developed and formed inside mother's womb.

V: Conclusion

In this paper, it has been argued that the status of human embryos should be different, where human embryos should not have

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a similar status. As discussed, human embryo is not recognized as legal person nor property, where an embryo is entitled for legal personality once it is born alive. So, human embryos have special status in Iraqi law, where they are protected by the law, and are eligible for some rights such as right to inherit which is contingent with the birth. The legislative provisions in Iraqi law that pertaining human embryos are applied and designed to regulate status of embryos that are existed inside the mother's body. So, legal status should be granted for those embryos conceived inside a mother's womb, regardless whether they are naturally conceived as a result of intercourse or generated at laboratory using IVF.

Therefore, the standard for granting the human embryo special legal status, is represented in existence of the embryo inside the mother wombs. This means that embryos that are created by IVF and cryopreserved have no similar status of embryos that are developing inside the mother's body. Thus, the Iraqi law should draw a line to distinguish between conceived embryos and stored embryos, conceived embryos have the special status, while stored embryos are considered mere biological materials until they are transplanted into mother's womb. Finally, this article let the door open about examining the legal status of cryopreserved embryos that should be given special consideration, due to the biological linkage between the frozen embryos and their progeny parents. Moreover, the advantages could be obtained from utilizing and using cryopreserved embryos in different purposes whether for future reproduction, medical remedy or scientific research

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