

Jurisprudential Adaptation of the Contemporary Medical Discoverer: Stem Cells and Their Applications to Excess Aborted Embryos

By

Dr. Mokhtar Issa Mustafa
Al-Balqa'a Applied University, Jordan
Email: mukhtarmustafa964@bau.edu.jo

Research Abstract

This research aims to clarify the concept of stem cells in language and terminology, the concept of redundant projected embryos in language and terminology, how to obtain stem cells from their sources, what types they are, elements of redundant projected aborted embryos as a source of stem cells, the scientific application of stem cells, and their applications through the contemporary medical model, the use of projected aborted embryos for scientific research, medical experiments, and a statement of doctrinal adaptation to that contemporary issue, noting the results of the research.

Introduction

In light of the successive medical developments in the twenty-first century, the issue of "stem cells" emerged as a medical discoverer that treats many incurable diseases such as cancer, blood diseases, infertility and other diseases that medical scientists did not find a cure for in the twentieth century. Members of the Islamic community rushed to ask about halal and haram, and what is permissible to use and what is not, in order to seek Allah's blessings.

The jurists of the Islamic Ummah held meetings and discussions to provide solutions that achieve interests and pay misdeeds in accordance with the rules of the provisions of Islamic jurisprudence and its great purposes, to demonstrate to Orientalists who claim that the provisions of Islamic jurisprudence are not valid only in the first time of the era of prophecy, and to demonstrate that the provisions of Islamic jurisprudence are able to accommodate all new and contemporary, so they studied the contemporary medical issue and the use of doctors for aborted excess embryos for the purposes of scientific research and medical experiments. They knew and mentioned how to extract them and their types from the medical point of view, and then presented them to the provisions of Islamic jurisprudence derived from the Holy Quran and the Sunnah of the Prophet and the evidence considered by the scholars of the Islamic Ummah, and provided the appropriate Sharia ruling that achieves interests and pushes the corrupt and does not oppose the rules of Islamic jurisprudence and its provisions.

Research problem

Contemporary medical developments have led to the discovery of a medical treatment for many incurable diseases such as cancer, blood diseases, diabetes and infertility, and called on doctors to take advantage of this discovery in conducting medical research on the projected excess embryos, but some of the excess projected embryos carried out by hospitals in Western countries collide with human nature and the rules of Islamic jurisprudence, which leads to the mixing of genealogies and crimes in the future and destabilize the security and stability of society. This research came in response to many questions of community

members about the lawfulness of "stem cells" and its prohibition, which will be answered in the folds of this research, Allah willing.

Previous Studies

Among the most prominent contemporary research studies on medical discovery "stem cells" are the following:

1. The Effect of Ijtihad Al-Maqasidi on the Disclosure of the Sharia Judgment of the Contemporary Medical Issue "Stem Cells", Prof. Ahmed Hassan Al-Rababaa, Research published in the Journal of Islamic Studies and Academic Research, a refereed scientific journal, issued by the Department of Islamic Sharia, Dar Al-Ulum, Cairo University, Egypt, Sixty-third Issue, Muharram 1437 AH - November 2015 AD.

In which, the researcher clarifies the purposes of Islamic law and linked it to the contemporary medical issue of "stem cells" without talking about abortive fetal processes projected for the purposes of medical experiments.

2. Stem cells and their impact on medical and surgical work from an Islamic perspective: a comparative jurisprudential study, Iman Mukhtar Mustafa, Al-Wafa Library, Alexandria, Egypt, first edition. The researcher mentioned the concept of stem cells, their types, their role in treatment, the framework of the legitimate protection of the fetus, and the framework of the legitimacy of the use of stem cells in medical work, without mentioning the conduct of stem cell operations on the projected excess fetuses.
3. Utilizing Aborted and Redundant Embryos in Scientific Experiments and Organ Transplantation: A Contemporary Jurisprudential Study, Noor Soufi, Master Thesis Discussed at the Martyr Hama University of Lakhdar El Oued, Institute of Islamic Sciences, Department of Sharia, 2016, Algeria.

New features of this search

This research is distinguished from previous studies by its research in the medical discoverer "stem cells" in terms of their contemporary practical medical applications: the use of excess aborted embryos in scientific research and medical experiments.

Methodology

The research relied on the two approaches: inductive and analytical, by extrapolating texts related to the contemporary descendants, and then devising jurisprudential judgment that is consistent with the provisions of Sharia, which leads to the interest of society.

First Topic

Concept of stem cells and ways to obtain them

Arabic and Sharia scholars have defined stem cells as a contemporary medical term that is medically needed to be recognized. It is defined as follows in language and terminology:

Section I: Stem Cell Concept Language:

It is stated in the dictionary of the crown of the bride to Al-Zubaidi that: The hive and the hive - singing and singing - do not honey bees, and gather the hive: hives. the cell from

camel: She is the one who left her son by death or by slaughter, so she is called a cell because she does not breastfeed her son or anyone else.¹

As for the stem, the stem of the stem of the palm tree, Allah says: "And shake toward you the trunk of the palm tree; it will drop upon you ripe, fresh dates."² And in the noble hadith: "One of you shall see the moth³ in the eye of his brother, and forget the trunk in his eyes."⁴

Plural: stems and trunks⁵

Section II: the concept of stem cells idiomatically

The concept of stem cells is a contemporary concept, and has several idiomatic definitions:

- The jurists of the International Islamic Fiqh Academy / Jeddah-Saudi Arabia have defined it by saying: "The cells of origin from which the embryo is created, and they have the ability, Allah willing, to form various types of cells of the human body. Scientists have recently been able to identify these cells, isolate and develop them, with the aim of treatment and conducting various scientific experiments, and then they can be used in the treatment of some diseases, and it is expected that they will have a great future and impact in the treatment of some diseases and congenital malformations, including some types of cancer, diabetes, kidney and liver failure, and others."⁶
- Dr. Saad Eddine Hilaly defined them by saying: "They are undifferentiated cells, which have the ability to divide, reproduce and renew themselves to give different types of specialized cells or create integrated organs."⁷
- Some medical scientists have defined it as "the smallest mass of cytoplasm having a plasma membrane and a nucleus".⁸

Section III: Methods and Types of Stem Cell Acquisition

The provisions of the Islamic Sharia and its great purposes were characterized by its keenness to provide a good environment for all members of society, and to take care of the concept of halal and haram, and for this, the Sharia specified legitimate methods that are compatible with human nature and the provisions of Sharia to obtain stem cells from their legitimate sources without violating the Sharia provisions.

"Stem cells can be obtained from many sources, including:

1. The early embryo in the stage of the germ ball or (Plastola), which is the maker cell ball or cell mass from which the various cells of the body arise, and the surplus vaccines from IVF projects are the main source, and can be deliberately inseminated

¹ Taj al-Arousa mn Jawahir Al Kamous, Mohamed Mortada Al-Husseini Al-Zubaidi, Part 38, pp. 7-8, investigated by Abdul Sattar Ahmed Farraj and others, Ministry of Information, Kuwait, 1414 AH - 1993 AD.

² Surah Maryam: Verse: 25.

³ Dirt that collects in the stream of tears.

⁴ Included by Al-Suyuti in his Great Mosque. No. (125), part 1, p. 25777, Collecting mosques and the great mosque of Al-Suyuti, and Al-Albani said: Sahih.

⁵ Taj al-Arousa mn Jawahir Al Kamous, Mohamed Mortada Al-Husseini, Article (Stump), Part 20, p. 42.

⁶ Decision of the Islamic Fiqh Council in its seventeenth session, held in Makkah from 10 - 23/10/1424 AH, corresponding to 13 - 17/12/2003 AD.

⁷ Stem cells from animals to humans: Jurisprudence Study, Prof. Dr. Saad Eddin Masoud Hilali, pg. 87, Research published within the research of the Stem Cells Symposium - Research - Future - Ethics - Challenges, in cooperation with the Regional Office of the World Health Organization in Cairo - UNESCO - ADESCO and the Islamic Fiqh Academy in Jeddah - Saudi Arabia. It was held in Cairo from 23-25 Shawwal 1428 AH 3-5/2007 Cairo-Egypt.

⁸ Fundamentals of Genetics, Hussein Ali Al-Saadi and others, pg. 141, Dar Al-Yazuri Scientific, Amman- Jordan, 2006 AD.

- to an egg from a donor and a sperm from a donor to obtain a vaccine and develop it to the stage of blastula, and then extract stem cells from it.
2. Primary germ cells, or primordial germ cells, are the cells that will later form the gonad, especially if the fetus is male, or ovary if the fetus is female.
 3. The placenta and umbilical cord immediately after birth, this is a precious source of stem cells, reaching 200 million cells.
 4. Cells of healthy children.
 5. From adult cells.
 6. Therapeutic cloning, by taking a somatic cell from an adult human, extracting its nucleus and merging it into an egg discharged from its nucleus, with the aim of reaching the stage of blastula, and then obtaining stem cells.⁹

It is clear from the above how stem cells are obtained from their human sources, and the controls and purposes of Sharia must be taken into account in the way they are extracted, such as the preservation of the soul and offspring.

Types of stem cells

Contemporary medical scientists have shown the types of stem cells as a source of contemporary medical research and experimentation:

- a. Human embryonic stem cells, extracted from a fertilized human egg outside the uterus within a period of time starting from the date of insemination and ending with the passage of five days upon the start of consecutive divisions.
- b. Adult human stem cells, obtained from the following sources:
 1. Umbilical cord blood extracted immediately after birth.
 2. Deciduous teeth.
 3. Various tissues of the human being after birth.
 4. Embryos of legal or spontaneous abortion and embryonic tissues implanted inside the uterus, umbilical cord or placenta and its membranes and amniotic fluid, whether inside or outside the uterus.
- c. Human pluripotent stem cells, which are adult somatic cells that are stimulated by embryonic programming technique to become stem cells.
- d. Stem cells generated by somatic cell nucleus transfer technique to an unfertilized egg.
- e. Hybrid stem cells, which are the result of the fusion of human DNA with a non-human cell¹⁰.

Medical scientists have identified the types of stem cells and how to extract them, and we will study these types from the point of view of Islamic jurisprudence in terms of authorizing their use or not in order to achieve the interests of individuals and ward off corruption.

⁹ Ruling on stem cell therapy in Islamic jurisprudence, d. Mohammed Khalayleh, Journal of Fatwa and Islamic Studies, Fatwa Department, Volume One, Issue Two, 1440 AH - 2019 AD, Jordan, Stem Cells: Ethical and Jurisprudential Issues, Muhammad Ali Al-Baz, research presented to the seventeenth session of the Islamic Fiqh Academy, the Muslim World League, Makkah, p. 31 - Saudi Arabia.

¹⁰ Ruling on stem cell therapy in Islamic jurisprudence, d. Muhammad Al-Khalayleh, pg. 10, previous reference. Stem cells draft system for the year (2013), issued pursuant to Paragraph (a) of Article (60) of Public Health Law No. (47) for the year (2008).

Second Topic

The scientific application of the theory of stem cells in the use of the excessive number of embryos for the purposes of medical research from the point of view of Islamic jurisprudence

With the end of the twentieth century and the beginning of the twenty-first century, and with modern medical discoveries in light of the revolution of contemporary technology, contemporary jurists have been alerted to the need to put these discoveries, including the theory of stem cells and their application in the use of the excessive number of projected embryos, in the balance of Islamic jurisprudence, to know their compatibility with the provisions of Islamic law and its great purposes.

First: The concept of excess embryos: “The release of the embryo is really beyond the sperm and something of human creation appears in it; because the concealment from which the name derives a language can only be achieved by the presence of something that is believed to be hidden.¹¹”

It was also defined in their discourse on projection: “Miscarriage idiomatically is the placement of the contents of the uterus resulting from fertilization together or in the form of parts, one after the other, at a time when the aborted fetus is incomplete and unable to live independently of the uterus.¹²”

Dr. Sulaiman Aba Al-Khail comments: “These definitions of the fetus appear among doctors and jurists related to its occurrence in the womb, and I did not find anyone exposed to the fetal description of pregnancy if it occurs as a result of artificial insemination, perhaps because the concept of embryoization and concealment is not achieved in it, and accordingly artificial insemination can be taken out of the concept of the fetus unless it is related to the uterus, and implanted in its wall, and it is possible to call it a description in general.¹³”

Section: The scientific application of the theory of stem cells in the use of the excessive number of embryos for the purposes of medical research from the point of view of Islamic jurisprudence

Recent medical discoveries have led to further treatments for many incurable diseases, including the theory of medical stem cells, as a means that can be used to treat many diseases and conduct scientific research, ensuring a healthy life for individuals and society. One of the scientific experiments that can be applied to the contemporary medical issue: excess embryos.

Contemporary researchers have mentioned this medical issue, saying: “The existence of the excess number of embryos resulting from external artificial insemination has opened a lot of types of behavior towards them. With the scientific progress in embryology, redundant embryos became the focus of attention of doctors, and an important source to meet many of the diseases that still kill the human body, so they were fertile ground for experiments on them, and to benefit from their cells, especially embryonic stem cells, which are called the lady cells because of their great importance, so the need to store them in banks, and in special

¹¹ Aborting the excess number of artificially fertilized embryos, a. Dr. Suleiman Aba Al-Khail, Research published within the proceedings of the Second Islamic Jurisprudence Conference, Contemporary Medical Issues, Volume Two, p. 2003, Imam Muhammad bin Saud Islamic University, Riyadh, Saudi Arabia, 1431 AH.

¹² Forensic medicine and medical ethics, d. Diah Nuri Hassan, p. 363, Publications of the Ministry of Higher Education and Scientific Research, Baghdad, Iraq.

¹³ Dropping the extra number of artificially fertilized embryos, d. Suleiman Aba Al-Khail, p. 2004.

medical units for this purpose, and these vaccines were subject to medical experiments more than other embryos.¹⁴”

The International Islamic Fiqh Academy / Jeddah-Saudi Arabia has authorized “the use of excess projected embryos in conducting scientific medical experiments and organ transplantation for patients who need them in accordance with strict scientific controls that do not violate the controls of Islamic law and its great purposes, an opinion issued by the International Islamic Fiqh Academy / Jeddah - Saudi Arabia, within the decision of the Council of the Islamic Fiqh Academy of the Muslim World League at its seventeenth session held in Makkah Al-Mukarramah, from 19 - 23/10/1424 AH corresponding to 13 - 17/12/2003 AD, on the subject of (stem cells), where it allowed the benefit of the embryo automatically or for a therapeutic reason with the permission of the parents¹⁵”.

The International Islamic Fiqh Academy, for the permissibility of benefiting from excess aborted embryos to conduct scientific medical experiments and organ transplantation for those who need it, stipulated adherence to the controls of Sharia and its great purposes¹⁶, and these controls include:

1. Abortions may not be performed in order to use embryos for organ transplantation.
2. The life of the fetus must be preserved as much as possible, as it is not permissible to benefit from it except by his death.
3. Utilization processes shall be supervised by competent and reliable bodies.
4. Organ transplants may not be used for commercial purposes.
5. Permission must be obtained from the fetal guardian.

The decision of the Council is a significant decision because it is issued by scholars of trusts who based their fatwa on the Holy Quran, the Sunnah of the Prophet, the jurisprudence of the esteemed companions, may Allah be pleased with them, consensus and other evidence, and this is what the researchers mentioned, including: “After reviewing the decision of the Islamic Fiqh Academy in the adaptation of the scholars of the Islamic Fiqh Academy to the contemporary medical issue: stem cells- I found that they authorized the conduct of stem cell operations, and carried out research on that issue, as long as it does not clash with the evidence of Sharia and its great purposes, and set important conditions for the conduct of stem cell operations and research, in order for community members to benefit from that medical technology.¹⁷”

It is clear from the above that the decision of the jurists allows the use of excess embryos that have been aborted (as stem cells) to conduct scientific and medical research in order to benefit all members of society, with the need to adhere to the rules of Halal and Haram in the public interest, and explains that the rules of Islamic jurisprudence can be diligent and consider the presumptive provisions without the peremptory provisions, and that Islamic jurisprudence is a living jurisprudence that keeps pace with all new, and treats medical and other descendants according to its controls and purposes.

¹⁴ Benefiting from aborted and redundant embryos in scientific experiments and organ transplantation: A comparative jurisprudence study, Norsofi, Master's thesis discussed at the University of Martyr Lakhdar, Al-Wadi / Institute of Islamic Sciences, Department of Sharia, p. 64, year (2016), Algeria.

¹⁵ Journal of the Islamic Fiqh Academy, International Islamic Fiqh Academy, Muslim World League, Issue 17, p. 294, Jeddah - Saudi Arabia, 1425 AH – 2004 AD.

¹⁶ Decision of the International Islamic Fiqh Academy / Jeddah, No. (6/7/58) during the period between 17 - 23 Shaaban 1410 AH - 3/20/1990 AD, sixth session, Issue 6, Part 3, p. 2153.

¹⁷ The impact of Purposeful Diligence in revealing the legal ruling on the contemporary medical issue: Stem Cells, Dr. Ahmed Hassan Al-Raba'a, research published in the Journal of Islamic Studies and Academic Research, Department of Islamic Law, Issue 63/ 767, College of Dar Al Uloom, Cairo University, Egypt, Muharram 1437 AH - November (2013).

Conclusion

After this tour in all aspects of this topic, the following conclusions and conclusions were reached:

1. The study clarified the concept of stem cells in language and terminology as a contemporary medical term, as the cells of origin from which the embryo is created, and they have the ability – Allah willing - to form various types of cells of the human body.
2. Scientists have shown ways to obtain stem cells from many sources, such as the early embryo in the germ ball stage, the primary sex cells, the placenta, and the umbilical cord, immediately after birth, and through adults.
3. The scientists mentioned the types of stem cells, which are human embryonic stem cells, embryos of legitimate or spontaneous abortion, embryonic tissues implanted inside the uterus or umbilical cord, deciduous teeth and others.
4. The research demonstrated the scientific application of stem cell theory as a medical theory in the use of the excessive number of embryos for the purposes of medical research from the point of view of contemporary Islamic jurisprudence.
5. The research showed that the jurists of the International Islamic Fiqh Academy studied the issue of stem cells and their applications for the purposes of medical research.
6. The research showed that the jurists of the International Islamic Fiqh Academy set conditions and controls to authorize the use of stem cells for projected excess embryos.