

Criminal Responsibility Resulting from Attacks on Frozen Eggs in Freezing Banks in Jordanian Legislation (A Comparative Study)

MOHAMMAD HUSSEIN MOHAMMAD AL-AHMAD^{1,*},
MOHAMMAD A'SEM TALAL ALSABAH², MOHAMMAD SALM ABU SITTA AL-SHAHIN¹,
MANAL OMAR HAMAD AL-BREZAT¹

¹Faculty of Law,
Amman Arab University,
Amman,
JORDAN

²Jordanian Bar Association,
JORDAN

**Corresponding Author*

Abstract: - This study dealt with the regulation of the law for the subject of freezing non-fertilized eggs in freezing banks by Jordanian legislation and comparative laws, as women freeze their eggs for reasons of their own as medical reasons and age. The study followed several research approaches, including the descriptive approach and analytical approach. The study found that the process of freezing eggs that takes place in the Kingdom is constantly increasing as a result of medical developments, and this entails legal problems in light of the lack of Jordanian laws to regulate punishment for assault on frozen eggs. The researchers concluded that filling the gap in the law is to criminalize the aggressor with the crime of abuse of credit if damage and caused to frozen eggs.. This study recommended that the legislator needs to make amendments to the Penal Code, the Medical Liability Law, and the Medical Constitution so that it is explicitly stipulated to punish the assault on eggs in freezing banks.

Key-Words: - Criminal Liability, Freezing Banks, Frozen Eggs, Abuse of Credit, Medical Officials, Jordanian Legislation.

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1 Introduction

Medical developments have become taken for granted in this modern era in which we live and made human life easier and the treatment of diseases has become more affordable and among the medical updates is the issue of frozen egg banks, which help women in the treatment of infertility and get pregnant through artificial fertilization in laboratories and the emergence of frozen egg banks technology, there is nothing to prevent the female from freezing her unfertilized eggs, whether she is a virgin or married, for several reasons such as her desire to postpone pregnancy so that Frozen eggs are ammunition for them to use in the future, or the woman may have cancer and need chemotherapy to weaken her ovaries and that the technique of freezing eggs helped women to conceive and have children, however, it can be said that the presence of eggs in the egg bank may fall on them crimes of intentional damage to these eggs to destroy them in

a deliberate way, which constitutes a crime that requires punishment, but there are no provisions in the law that punish this act, frankly, because the rule of legitimacy is based on the fact that there is no crime There is no punishment except by a stipulation, and the destruction of eggs and damage to them may occur in an unintentional way as well, and therefore it is necessary to study the legal regulation in Jordanian legislation and comparative legislation to know the legal solutions if these acts become.

As for the problem of the study, it is represented in the following proposal: In light of the expansion of medical interventions that depend on the new technologies, we have several dilemmas, it does not prevent some damage to those eggs during the freezing period resulting from medical work, here we become in the process of a legal controversy about the problems associated with the law, in

which the principle of legality prevails: no crime or punishment except by text.

Despite the prevalence of the general rule, this does not negate the perception of damage or assault on frozen eggs by methods not provided for by law, which results in several questions:

- What is the legal adaptation of attacks on frozen eggs?
- Is there a deficiency in the Jordanian legislation to deal with such attacks?
- Does the Penal Code apply to attacks committed by doctors, if we need a special law regulating the use of medical technologies?

As for the importance of the study, it is to show the extent of rigidity or flexibility of the law towards these developments, find laws and legislation governing such attacks, link medical scientific development with the law, and find solutions to the problems that may face the judiciary because there is no law regulating such crimes by knowing the person criminally responsible and determining the appropriate penalty for him, to curb such attacks.

2 Objectives of the Study

1. A statement of the images of intentional assaults and crimes likely to have occurred on frozen eggs.
2. Study jurisprudential trends in favor of or against egg freezing by accessing and analyzing the arguments on which each side is based.
3. Indicate the legislative deficiencies in the Jordanian Penal Code and the Jordanian Medical Liability Law in regulating these new technologies.
4. Reaching an appropriate solution, law, and penalty regulating such problems and crimes.

3 Literature Review

Egg freezing has been defined as one of the exceptions that are contained in the pictures of the external artificial insemination process, because the eggs are not fertilized, which is a sound technique for some and is not satisfied with one egg, but depends on the extraction of many eggs, and the rest of that is kept by cooling and freezing in incubators and incubator devices placed in refrigerators and special coolers and under special laboratory conditions as well, provided that they are placed in a special concentration of Nitrogen liquid in order to freeze the egg completely, which leads as a result to

stop all vital reactions in it and in general and stop the growth of this egg while preserving it as a strong egg suitable for future use, [1], the method of freezing eggs is so that the eggs are placed in special medical containers and used for the purpose of cooling them liquid nitrogen below 196 degrees below zero, This is for non-fertilized eggs, unlike fertilized eggs that are placed at a lower temperature more than non-fertilized eggs, [2], freezing aims to preserve unfertilized eggs, and it can aim to use them, especially in re-fertilizing the wife if the first implantation attempt fails, provided that the frozen eggs are returned to their previous position as they were, through medical operations at the moment of their extraction, [3].

Doctors defined unfertilized eggs as eggs that are taken from the woman to be fertilized in anticipation of the failure of the first insemination process, so the excess eggs freeze in the laboratory for the purpose of reactivating them and benefiting from them in another process for the same woman, [4], and it is also known as female eggs that are, preserved under a certain temperature and in both private, [5], and it is worth noting that modern medicine resorted to freezing eggs because there is a large category of women who need these The process, whether the cancer cases that require chlorosis for radiation therapy in the pelvic area, which in turn will affect fertility, diseases or surgeries that may cause damage to the ovaries or increase the likelihood of early ovarian failure, and doctors rely on preparations that take place before the egg freezing process, such as conducting blood tests to know the level of hormones in women, ultrasound imaging on the pelvic area, and conducting tests that detect infectious diseases such as the immune virus Doctors also stimulate the ovaries to produce the largest number of eggs through the use of some hormonal drugs, including birth control pills and ovulation stimulant pills after which the egg is withdrawn, [6].

After reviewing the nature of egg freezing in language, terminology and jurisprudence, and to the modern medical and sequential adaptation of that process, we must recognize the inevitability of the existence of this technology on the ground, as the issue of egg freezing is one of the most important things in which the world is witnessing a wide spread recently, in light of access to new medical techniques that work to preserve eggs by freezing them through accredited medical centers that began to provide such issues several years ago, and that such an issue produced a gap In law, it later manifests differences in legal regulation through the

enactment of various laws regulating this issue between supporters and opponents.

We start with the trend opposing the issue of egg freezing, where part of the specialists recommends preventing egg freezing and that the evidence of those opposed to the process of freezing eggs before marriage revolves around arguments, including that allowing egg freezing opens a door of corruption in terms of trading in eggs, which leads to mixing lineages, and the issue of freezing is related to proportions, so the original is to save the proportions from manipulation, and they also say that egg freezing has interests, but at the same time He has evils and that the balance of the evils outweighed the balance of interests and these evils the possibility of manipulation is possible, whether intentionally or by mistake and that allowing preservation encourages the reduction of the lineage because of the delay in it where the woman believes in thinking about infertility or inability to have children because of the eggs so she delays childbearing for a long time that leads to the determination of the offspring or reduce it as opening the door to freeze eggs before marriage leads to doubt in genealogy as it is with the length of days And the years and the many who want to freeze for fear and concern of deprivation of motherhood may lead to be taken as an excuse for corruption and raise doubt in genealogy as it is possible not to marry this girl who froze her eggs and may not use them so what to do in these eggs either to be thrown or to be used for another woman and destroy the eggs by dispensing with them must be with the knowledge of the woman and may not use eggs that have not been used by women to be placed in another woman and fertilized by Because this will be like a surrogate mother or trafficking in eggs, but without the knowledge of their original owner, which will arrange the manipulation of genealogy so that the child has a real mother, which is the owner of the frozen egg that carries her genetic genes, and another mother, who conceived and gave birth to the child, but this child does not carry her genetic characteristics because his biological mother is the owner of the frozen eggs

Also, freezing eggs leads to poor success rates for future pregnancy and poor quality of eggs preserved by freezing; the duration of the survival of frozen eggs throughout the freezing period is not known. Some doctors say that if eggs stay for more than three years, this means that they may be exposed to poor quality. It is also imagined that there will be a technical failure in the freezing process sometimes, and after that, this does not enable us to ensure the health of the children who

are born after the egg freezing process, as well as freezing eggs for him. A major role in the occurrence of some diseases associated with the use of fertility drugs and the occurrence of some complications during the process of egg extraction and the possibility of some risks of birth defects, and freezing embryos may work on some psychological or emotional risks, freezing eggs may give false hope to get a child in the future and there is no way to ensure the success of this process, and if a woman uses frozen eggs to get a child, the possibility of spontaneous abortion will depend temporarily on the age of the woman at the time when the egg freezing occurred, older women face greater rates of spontaneous stress, and the main reason for this is due to the presence of less efficient eggs, as it weakens the rate of future pregnancy and leads to complications, as mentioned earlier, [7].

In the effects resulting from freezing embryos are multiple, there may be bad health aspects such as the transmission of hepatitis C viruses through the eggs to be frozen, or the occurrence of excessive effects for women after the withdrawal of eggs, and the woman from whom the eggs were withdrawn may suffer from high temperature, weight gain, or abdominal pain, and this does not negate at all the occurrence of some complications during the extraction of eggs, such as bleeding for some time, and the development of such techniques in the hands of special centers depends On profit, this leads to the trade in eggs, which will show many moral problems, including the purchase of eggs, ignorance of who owns these eggs, the possibility of random fertilization, and an increase in the incidence of congenital malformations, because the freezing process has an impact on cells and their components, [8].

Egg freezing requires medical procedures such as ovarian stimulation and egg retrieval, and these procedures can lead to health complications such as ovarian stimulation syndrome, which can be serious and require medical treatment. In addition, rare surgical complications can occur, and egg freezing raises some ethical and social issues, such as decisions about the future of frozen eggs if they are not in use, and whether they should be donated for research or disposed of. These decisions may be a source of moral anxiety and tension, as well as social debates about postponing motherhood and the use of technology in reproduction.

As the Iraqi legislator is one of the legislators who paid attention to health institutions, and the evidence for this is the law - the establishment of private health institutions Union No. 25 of 2015 - we find that the Iraqi legislator did not provide for

freezing eggs and establishing banks when granting leave, as Article 3 of it stipulates the conditions for opening health institutions, which is to grant the license to the private health institution. By the Ministry of Health, in accordance with the conditions determined by instructions issued by the Federal Minister of Health and that the specifications of the institution's building, the number of its rooms, the required devices and equipment shall be determined by instructions issued by the Federal Minister of Health.

While we find that the legislator has stipulated in a special law the establishment of a state-affiliated fertility center, which is the law of the Higher Institute for the Diagnosis of Infertility and Assisted Reproductive Technologies of Al-Nahrain University, which is now conducting artificial insemination and related operations and has been established since 2011 and that the Iraqi legislator has stipulated in the law of the Higher Institute for the Diagnosis of Infertility and assisted reproductive technologies Law No. 19 of 2011.

Referring to the text of Article 3 on c, we find that it has stipulated the freezing of sperm and fertilized eggs only for the couple, i.e. unfertilized eggs are not frozen, that the Iraqi legislator did not take the freezing of unfertilized eggs, and this is due to the disadvantages that may occur as a result of their preservation, which we have already shown and Bashar that unfertilized eggs in terms of their chance of success are very small compared to fertilized eggs, so doctors do not save them unless they are often fertilized, The researchers believe that when the legal text is not associated with the penalty, the text is in connection with his advice and is not binding so that the punishment and imprisonment falls on those who violate it, and for this must be associated with the previous legal text with a specific penalty for those who freeze unfertilized eggs.

As for the employee in the freezing bank, if he commits an assault on the frozen eggs, this puts him in front of responsibility and punishment, and this is according to the text of Article 10 on C of the Discipline Law of State and Public Sector Employees No. 14 of 1991, as amended, which states that: If the committee considers that the act of the employee referred to it constitutes a crime arising from his job or committed in his official capacity, it must recommend that he be referred to the competent courts. By stipulating that if one of the employees commits a crime as if he fertilized a woman's egg without the sperm of her husband, in this case an investigation committee will be formed and if it is proven that he committed the criminal

act, he will be referred to the competent courts, but for the parties to the relationship, they can also resort to the judiciary and file a lawsuit against the perpetrator of the act before the criminal courts, and they can also claim compensation based on the rules of civil law regarding liability. The contract is based on the contract between the center and the couple, [9].

As for the trend in favor of the issue of egg freezing, this aspect of jurisprudence is based on several arguments that made them see that the process of freezing eggs for a virgin girl must be permitted by legislation, and this can be summarized as follows: that a woman may be exposed to one of the types of cancer, chemotherapy may affect the fertility of women and may deprive her of the ability to reproduce, if a girl early when he learned of her cancer to freeze her eggs, here it is possible to preserve her right to Motherhood to keep hope in a beautiful future, [10], and one of the arguments in favor is also the delay in the age of marriage, and this is what Al-Rai electronic newspaper revealed about the increase in the number of unmarried girls in the Gulf and the Arab world in general to more than 25 million girls who have missed the age of marriage over the age of 24 years, and this leads to fear of reaching menopause early, and this is what some of the women who have Family history of early menopause before forty, which is known as early menopause, so they take the initiative to maintain their reproductive ability in the future when conditions allow them. There are also reasons why women resort to egg freezing, such as if they are exposed to the risk of stopping ovulation after surgery or using radiotherapy, or if they have an autoimmune disease that requires the use of medicines that contain substances that can lead to gland poisoning, [8].

Therefore, this aspect of jurisprudence believes that women have the right to have children in ways that preserve their identity and protect their lineage.

It is also justified when a woman has few eggs, so she freezes them for several years to be used later for fertilization when needed or to achieve the desire to have children in the days of old age and after entering menopause, through what has been saved from the eggs in banks specialized in freezing, [11], Egg freezing also contributes to giving an appropriate opportunity for women to get enough time to choose the right husband for her because the fear of not having children leads her to bond with a husband she does not want. But her desire to have children makes her relate to him, and the availability of egg freezing and preservation techniques saves

the woman enough time to think carefully to choose the right husband for her, [12].

If a woman wants to keep her eggs in her young age to use them in the future when the time is right for her, she resorts to freezing the eggs and some women may want to postpone pregnancy for a period of time because of her association with work or study so that she is not linked to a husband either because she is not married originally or she is divorced and fears of age and losing the opportunity to have children with him if she resorts to freezing her eggs.

This trend of supporters of the issue of egg freezing believes that there must be controls related to the medical center represented by the freezing bank, and these controls: that there is an administrative license for these centers, this condition is necessary because this issue is sensitive to humans, so these centers must be licensed by the competent authorities in the state, and this license is not given to the center unless it meets all the conditions required by law, [13].

Which is preferred by the jurists who also support that these centers be affiliated with the state because of the seriousness of this work and the consequences of this work and the consequences of the ominous consequences if the eggs are manipulated, and the scientific and financial capabilities must be available to carry out the freezing process because freezing banks need medical cadres specialized in the field of artificial insemination and things that depend on the laboratory so that they need modern devices and equipment for the purpose of the success of their work and this for the purpose of reaching the highest rate of success, as this sees The aspect is that freezing banks must be subject to the law, whether public or private, by following the laws and instructions of the Ministry of Health that regulate medical work, provided that an appropriate penalty is placed against those centers if they violate the laboratories in which preservation and freezing operations are carried out for the purpose of manipulation, trafficking or use of eggs under their control in laboratories.

There are also prohibitions that the center must avoid, which is not to replace the eggs and not to mix them or mix them with frozen sperm to prevent the mixing of sperm and eggs to bring out paradise to obtain money when they sell these embryos to those who cannot have children, and for this reason this aspect of jurisprudence prefers that these centers specialized in freezing eggs belong to the state.

It is known that the principle of legality is that there is no crime and no punishment except by a

text, and that it is not permissible to measure crimes; in addition to that, not criminalizing the legislator is an act that means its permissibility, [14]. In view of the Jordanian legislator's regulation towards the issue of egg freezing, whether this regulation is in the text of the General Penal Code or in the text of the Special Medical Liability Law, it is known that no text in the Penal Code regulates the issue of egg freezing, either in the Medical Liability Law, or the Jordanian Health No. (25), for the year 2018, did not contain a special text regulating the issue of egg freezing, but only the permissibility of external fertilization outside the uterus without referring to a specific method, even if it is through freezing embryos, and this is according to Article 13 of the law, and this is in case we expand the text.

The issue of egg freezing began to spread in Jordan significantly, whether in infertility clinics inside hospitals or in independent private centers, and the development of such a technique has attracted a great demand by women who are expected to suffer from several problems we mentioned earlier, so they resort to freezing their eggs, and there are many clinics in Jordan that practice egg freezing technique.

4 Methodology

The study followed several research approaches, including the descriptive approach: where I will work on describing frozen eggs through medical jurisprudence, reading their legal organization, if any, and then interpretation through data analysis and compilation to obtain the necessary clarifications, and there is the analytical approach: As I will derive solutions and results through analyzing texts and returning to the general rules in the Jordanian Penal Code to find organizational solutions that suit the study problem in addition to the comparative approach: Comparing this with the advanced legislation in studying the idea of technological development in particular in the medical field, so the comparison will be with the Republic of Iraq, and for this we seek to develop the Jordanian Penal Code and solve all problems and fill all gaps in it.

5 Results

We see here that there is no explicit text that regulates the issue of egg freezing, but the question lies in what happens if the frozen egg is damaged, regardless of the method of assault on it, because in the absence of a text of a law regulating the issue of

freezing embryos, this entails deep problems because the principle of legality is fixed and revolves around the following: No crime or punishment except by text.

First of all, we must not say at all the applicability of the text of Article 323 of the Jordanian Penal Code No. 9 of 2022 on abortion, which stipulates that whoever intentionally causes her to harm a woman without her consent shall be punished by work for a period not exceeding 10 years and the penalty shall not be less than 10 years if abortion or means lead to the death of the woman, provided that the text of Article 325 of the same law is benefited from so that it states that if the perpetrator of the crime of abortion is a doctor or Surgeon or midwife increases the penalty assigned by the amount of a third, and the researchers believe that the text of Article 323 of the Penal Code as a minor and cannot apply to the damage of frozen embryos and the researchers are based on the following: The legislator stipulated in the text of the article that the assault on a woman and in the issue of freezing the egg is inconceivable because there is no woman so that the egg is inside a frozen tube and not inside the uterus, and the egg is fertilized and is not embryo originally, so how do we say It is an abortion, so there is no way to say that the text of Article 323 applies.

In the absence of legal regulation of the issue of egg freezing in light of the flow in Jordan and its spread significantly, the researchers see the need to apply the text of Article 422 of the Jordanian Penal Code, which relates to credit abuse, as the article stipulates that everyone who was handed over to him as a trust or agency and for the sake of presentation and return or for use in a certain form or for preservation or to conduct paid or unpaid work what was for other money, money and things and any bond that includes a covenant Or exonerate and wholesale whoever found in his hand something like this or allowance or disposed of the owner's behavior or consumed or made any act is an infringement or refrained from delivery to those who need to be delivered to him is punished by imprisonment from two months to two years and a fine of 10 dinars to 100 dinars, and the researchers believe that this text is the appropriate text for the assault on frozen eggs in light of the legislative vacuum to punish the destruction or damage or use of eggs Illegally frozen, there are phrases in Article 422 that read (what was delivered to him as a matter of trust or agency and for the sake of presentation and return) and this may include frozen eggs because the eggs are delivered in trust and for the sake of presentation and return again As the eggs

are delivered to banks as a matter of trust in order to keep them for a period for later use so that they are returned to the woman in her womb for pregnancy and reproduction, and that the legal text did not specify the trust as a type, and that the legal text contained the word things with an absolute word, it is not related to money and money only, but the word absolute things, so if a person puts a photo album with one of them and it is destroyed, then you commit the crime of abuse of credit, this album may not have any Financial value, but it has a literary value for its owner and also frozen eggs are considered one of the things and the text of the law contained the word preservation and this is perceived in frozen embryos and frozen eggs because they are kept in freezing banks and therefore the crime of abuse of credit is located on the damage to the frozen egg and this legal solution of the researchers is to fill the shortage in the Penal Code and the Medical Liability Law.

Egg freezing technology is one of the modern medical developments that offer new opportunities for women to maintain their fertility and postpone motherhood for personal or health reasons; however, the absence of a clear legal regulation in Jordan for this technique raises many legal and ethical questions.

The absence of regulatory legislation leaves open many potential challenges and risks, such as women's rights to control their bodies and reproductive futures, guarantees regarding the quality of medical procedures, and ethical standards to be followed.

Therefore, the Jordanian legislature should seriously consider drafting comprehensive and regulating laws for egg freezing that guarantee the protection of women's rights and provide the necessary legal framework for advanced medical practices in this field. Such legislation should include regulating procedures and defining the legal responsibilities of the parties involved to achieve a balance between medical innovation and the protection of the rights of individuals.

The adoption of clear and regulated legislation in this field will contribute to strengthening confidence in the health and legal system in Jordan and provide the necessary protection for women wishing to benefit from egg freezing technology safely and legally.

6 Conclusions

The Jordanian Penal Code and the Jordanian Medical Liability Law are both free from egg freezing and do not provide for punishment for any

attack on eggs in frozen egg banks. There is a set of controls and conditions related to preservation centers, which must be taken into account and applied in the process of freezing eggs to ensure the prevention of corruption resulting from this process. The Jordanian Personal Status Law No. (36) of 2010 did not provide for the issue of egg freezing, as it is the legislation that regulates family relations.

We recommend to the Jordanian legislator the need to legislate a law regulating the work of fertility centers in general and freezing banks in particular. We recommend preventing private fertility centers of a for-profit nature from freezing eggs and making them only in public centers with the provision of strict control and highly professional committees, as much as a world of responsibility seeks the complete preservation of eggs, which determines whether the motive behind the freezing is legitimate or not. For those whose eggs are frozen while married, we recommend the need to destroy the frozen eggs if the freezing occurs before the end of the marital relationship between the spouses, whether by divorce or death, for fear of mixing lineages. We recommend the Jordanian legislator to put the following text in the Penal Code, which is as follows (that attacking the cells of the human body or manipulating their components or treating them in a way that is not approved by Islamic law and human dignity is a felony punishable by a shawl for a period not less than 7 years and the legal person must be punished with the natural person).

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