

# Inheritance and marriage of Conjoined Twins in the light of medicine and religion Contemporary Juristic Study

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## Abstract

*The need of people in general and judges in particular to know the Ruling of sharee'ah in such contemporary medical issues, because of its great association of the reality of the judiciary, which reflects on the importance of the subject for its close contact with people life and possibility of occurrence between them, explore the importance of the Interface studies with the necessity of linking medicine and religion with regard to the issues of the body to reach the correct Islamic rule, the explore that Islam is a real and integrated religion that looks at the reality of people and regulates it, especially with regard to the preservation of their rights and duties and to explore that Islam has a clear fingerprint when give the human soul more care and attention, ensured its sanctity of the human soul is great and obligatory attention to them even with different races and heterogeneity types and color differences , providing the Islamic library with something new of authenticity. The collection of various issues related to the subject of research contribute to the construction of the jurisprudence of contemporary issues, So the research is characterized by modernity and address the issues of reality, which are the two qualities sought in contemporary research.*

**Keywords:** Conjoined Twins, Inheritance, Marriage, Religion, Contemporary Juristic

## Introduction

Praise Allah who created man and created him, and Initiated Islam and Complete it, the Almighty gave everything created and then guidance. The Almighty said:

"Who perfected everything which He created and began the creation of man from clay 'Then He made his posterity out of the extract of a liquid disdained 'Then He proportioned him and breathed into him from His [created] soul and made for you hearing and vision and hearts; little are you grateful"

قال الله تعالى: "الَّذِي أَحْسَنَ كُلَّ شَيْءٍ خَلَقَهُ" وَبَدَأَ خَلْقَ الْإِنْسَانِ مِنْ طِينٍ (7) ثُمَّ جَعَلَ نَسْلَهُ مِنْ سُلَالَةٍ مِنْ مَاءٍ مَهِينٍ (8) ثُمَّ سَوَّاهُ وَنَفَخَ فِيهِ مِنْ رُوحِهِ وَجَعَلَ لَكُمُ السَّمْعَ وَالْأَبْصَارَ وَالْأَفْئِدَةَ قَلِيلًا مَّا تَشْكُرُونَ (9)"

I bear witness that there is no God but Allah alone and no partner, a positive testimony to win the highest degrees of certainty, and a motive for the suspicion of the invalid men and the gilding of the supporters. I bear witness that Muhammad is Abdullah and his Messenger, who says

"The strong believer is better and more beloved to Allah than the weak believer

And in every good thing, be careful about what benefits you, and seek Allah, and do not fail, and if something strikes you, do not say, if I had done such and such. But say the destiny of God and what he wanted to do. If the work of the devil opens"

قال رسول الله ﷺ "الْمُؤْمِنُ الْقَوِيُّ خَيْرٌ وَأَحَبُّ إِلَى اللَّهِ مِنَ الْمُؤْمِنِ الضَّعِيفِ وَفِي كُلِّ خَيْرٍ احْرَصْ عَلَى مَا يَنْفَعُكَ وَاسْتَعِزْ بِاللَّهِ وَلَا تَعْجِزْ وَإِنْ أَصَابَكَ شَيْءٌ فَلَا تَقُلْ لَوْ أَنِّي فَعَلْتُ كَانَتْ كَذَا وَكَذَا. وَلَكِنْ قُلْ قَدَرُ اللَّهِ وَمَا شَاءَ فَعَلَ فَإِنَّ لَوْ تَفْتَحُ عَمَلَ الشَّيْطَانِ"

After that, Embryology is undergoing great development at present as seen by professionals, This development has resulted in the possibility of early detection of adhesion between embryos if present, The medical field was opened for prevention and treatment, It was necessary to state the relevant jurisprudence to clarify that, So I decided to study this subject because it is a contemporary jurisprudence related to medicine. My search will be about opinion of Islam religion related to inheritance and marriage for conjoined twins?

Conjoined twins are a rare and complex complication of monozygotic twinning, which is associated with high perinatal mortality. Early prenatal diagnosis of conjoined twins allows better counseling of the parents regarding

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the management options, including continuation of pregnancy with post-natal surgery, termination of pregnancy or selective feticide in case of a triplet pregnancy. With the introduction of high-resolution and transvaginal ultrasound imaging, accurate prenatal diagnosis of conjoined twins is possible early in pregnancy.



- The birth of conjoined twins always raises interest among medical community as well as general public what about the opinion of Islam religion related to inheritance and marriage for conjoined twins if we can't separate them and they must live conjoined?

**The following are the reasons for me to search this subject:**

- 1- The need of people in general and judges in particular to know the Ruling of sharee'ah in such contemporary medical issues, because of its great association of the reality of the judiciary, which reflects on the importance of the subject for its close contact with people life and possibility of occurrence between them.
- 2- Explore the importance of the Interface studies with the necessity of linking medicine and religion with regard to the issues of the body to reach the correct Islamic rule.
- 3- The explore that Islam is a real and integrated religion that looks at the reality of people and regulates it, especially with regard to the preservation of their rights and duties and to explore that Islam has a clear fingerprint when give the human soul more care and attention, ensured its sanctity of the human soul is great and obligatory

attention to them even with different races and heterogeneity types and color differences.

- 4- Providing the Islamic library with something new of authenticity. The collection of various issues related to the subject of research contribute to the construction of the jurisprudence of contemporary issues, So the research is characterized by modernity and address the issues of reality, which are the two qualities sought in contemporary research.

#### **Problematic search**

The research attempts to answer the important problems highlighted by the following:

- 1- The nature of Conjoined Twins according to the site of conjunction and the need for doctors advices to cooperate with Islamic Jurists to reach to the right decisions from Sharia.
- 2- The Islamic ruling on inheritance and marriage and whether it is considered one person or two

#### **Search Plan**

##### **The first topic**

The merits of the subject and its contents including several requirements:

1. The first requirement is to define the Conjoined Twins.
2. The second requirement: The necessity of medical prevention for conjoined twins
3. Third requirement: Review some pictures of some conjoined twins around the world.

##### **The second topic**

The inheritance Conjoined twins and their marriage

It includes the following demands:

- 1) The first requirement: the conditions of the inherited Conjoined Twins.
- 2) The second requirement: the conditions of pregnancy and inheritance are they solved by modern technologies?
- 3) The third requirement is: could the Conjoined twins marry if they are both female.
- 4) The fourth requirement is the possibility of marriage of the Conjoined twins if both are male.
- 5) The fifth requirement is: the possibility of marriage of the Conjoined twins, if one is male and the other is female.
- 6) The sixth requirement: the participation of the Conjoined twins in one organ, Their lives do not stop without it, and one of them is altruistic

## The first topic

### The first requirement is to define the Conjoined twins

Conjoined twins are identical twins joined in utero. An extremely rare phenomenon, the occurrence is estimated to range from 1 in 49,000 births to 1 in 189,000 births, with a somewhat higher incidence in Southeast Asia and Africa, and around 40-60% of these births are delivered stillborn, and an additional one-third die within 24 hours. Most live births are female, with a ratio of 3:1

The twin-joined state occurs when the embryo is partially separated at an early stage of the formation to form two separate bodies. The treatment of the Conjoined twins depends on their particular circumstances; their health status and location, and whether they share some organs or not. Female siblings tend to have a better survival rate than male siblings.

Many conjoined twins could be fused anteriorly at chest and upper abdominal wall but upper part of the stemum and neck and lower part of abdomen were not fused.

The second requirement: the need for medical protection to survive and maintain the organs of twins Medical prevention must be made to Conjoined twins to be acceptable with the agreement and purposes of shari'a and the generality of its evidence, these include:

First: The Holy Quran: Allah said:

And those who say, "Our Lord, grant us from among our wives and offspring comfort to our eyes and make us an example for the righteous."

قال الله تعالى: " وَالَّذِينَ يَقُولُونَ رَبَّنَا هَبْ لَنَا مِنْ أَزْوَاجِنَا وَذُرِّيَّاتِنَا قُرَّةَ أَعْيُنٍ وَاجْعَلْنَا لِلْمُتَّقِينَ أَمَامًا"

The meaning of the verse is that the description of the offspring as something comfortable to eye indicates that the desired offspring is classified as something comfort and make happiness to eye , and from the safety of the twins, it is necessary to use some types of prevention to protect and save them , indicating that it is obligatory, and that keeping the offspring in good health .consider as one of the legitimate necessities, and the use of medical protection for the adhesion of embryos take many efforts from Islam religion, and the methods to have the rule of purpose, and the pushing precedes legitimately the subject of lifting and prevention better than treatment and take the medical methods to protect the abnormal Conjoined twins is normal according to the principle of protection, pushing precedes legitimately the subject of lifting, so, protection has more priority .

Secondly: From the Sunnah, the Messenger (peace and blessings of Allah be upon him) said:

"God sent down the disease and treatment, and make for every disease special treatment, so, orders us to take the treatment and to not treat with harm.

" In the hadeeth is a remedy.

قال رسول الله ﷺ: " إن الله أنزل الداء والدواء، وجعل لكل داء دواء،

فدأوا، ولا تدأوا بحرام" وفي الحديث أمر بالتداوي

Therefore, I think that treatment and medication are obligatory if the abandonment leads to the damage of the patient or organ of the patient or lead to disability, or the continuation of the defect of the Conjoined twins before and after birth, or causing harm to others such as infectious diseases, and we know by that treatment and medication we can prevent harm.

### Third requirement: Review some pictures of some conjoined twins around the world

So, in order to make safety to twins, the use of medical prevention methods to protect the adhesion of embryos is the purpose of all human being



Conjoined brothers from Nuremberg Chronicle (1493)

### The second topic: the inheritance of conjoined twins and their marriage

The mercy of Islam included all people, the old and the young, male and female, even the fetus in the mother's womb, which was included in this mercy; and preserved

his right to inheritance and marriage, in order to achieve a necessary purpose of the aim of Islamic law which state: after the birth in order to protect his right and not to lose , and if the inheritance distributed his or her right should be given according to Islamic rules, all this in order to preserve the right of the fetus as long as in the mother's womb; because in this case the fetus unknown description and condition, and the fetus either be born alive or dead, be male or female, to be single or twins A condition cannot be cut, and shared in some of its organs, With these previous conditions revolve provisions of the inheritance of the fetus and his marriage, and in order to clear these issues . God says the truth and guides the way

### First requirement: Conditions of inheritance of the Conjoined twins:

The first condition is if the fetus present in the his mother 's womb alive at the time of death who will gives him inheritance for the least period of pregnancy, which is six months without dispute between the fuqaha ' as in the words of the Almighty

“And We have enjoined upon man, to his parents, good treatment. His mother carried him with hardship and gave birth to him with hardship, and his gestation and weaning is thirty months”

قال الله تعالى: "وَحَمْلُهُ وَفِصَالُهُ ثَلَاثُونَ شَهْرًا"

And say Glory be to Him

“And we have enjoined upon man for his parents. His mother carried him, in weakness upon weakness, and his weaning is in two years.

وقال الله تعالى: "وَفِصَالُهُ فِي عَامَيْنِ "

If the period of separation is subtracted from the total period of pregnancy which is 24 months for separation, six months remain which is the minimum duration of pregnancy or give birth to the longest period of pregnancy. The fuqaha 'differed according to the pregnancy period as follows

They are said: The most are five years, which is the famous at the Maalikis, and it was said: four years, which is the doctrine of the Shaafa'is and the correct at the Hanbalis, also it was said: two years is the doctrine of the Hanafis, It was said nine months is the words of al-Dhahiriya and also said Muhammad bin Abdul Hakam, a Maliki school, he said it is a moon year, which is equivalent to 354 days .

My point of view is to take the opinion of the doctors in this, and by extrapolation, they said: The longest period of pregnancy is one year (365 days), and this is close to the saying of Muhammad ibn' Abd al-Hakam. Where there is no text of the Koran or Sunnah in it. This is what was adopted by the Egyptian judicial law. Article 43 of the

first paragraph states that if a man dies and his wife is pregnant, the fetus will not inherit unless he was born alive within 365 days of the date of death or separation.

The second condition: The fetus must be born alive until it deserves the right to inherit even if the baby dies minutes after birth. It has been proven in the Hanafi school that the newborn and most of his body are alive, because There is a rule that says the most rule of all, while the majority of Islamic scholars say that the life of the newborn is proven if he is fully born alive, because the eligibility of ownership cannot be achieved without full existence, Life is known as one of its signs, such as screaming, sneezing, etc.

This is expressed by initiation to say Prophet, peace be upon him

“When the child was born he inherited”

قال النبي ﷺ: " إِذَا اسْتَهْلَ الْمَوْلُودُ وَرِثَ"

If none of this is shown, the judge may seek the assistance of experienced experts from the doctors or those who have examined the birth. Based on this, we rely on the construction of the judgment on the embryos attached to the words of the expert doctor, the expert who determines that the child is one person or two. If they are two daughters they will inherit two-thirds, and if the doctors said one they mean one, and if they are two brothers or two sisters, they obscure the inheritance of the mother so-called blocking of the reduction. As it was transmitted from our master, Ali, may Allah be pleased with him that he was ordered to call them in the case of sleep, if he woke up one, it means that one person and if he woke up two, they are two persons. The second requirement: the precaution of pregnancy in inheritance is it solved by modern technologies?

Through the recent research of doctors and workers in the field of radiology devices and ultra Sound .They assert that the technology advanced in the recent year and the possibility of error may be in the first weeks but in the sixth month of pregnancy some devices can detect any error and the result always true, so in this case there is no problem with it, so there is nothing wrong with it being the result of revealing what is in the woman's womb, knowing the gender , number and building the rules . If the judge sees these techniques, it is clear to him that a specific device is a certainty.

I think that the Islamic courts should deal with a private hospital with scientifically and religiously reliable professional. If a report is issued stating that the woman has a male in her womb, for example, it is adopted. The inheritance of the male heir must be given to him, the rest of the inheritance shall be distributed to the others heir.

The third requirement: can the two **Conjoined** twins marry if they are two female

If the Conjoined twins are female, their marriage is not permissible and I think that for the following reasons:

Firstly, it is not permissible to combine the two sisters in the marriage contract. Allah says (interpretation of the meaning): "And gather between the two sisters except what has been predecessors." In this, there is a contract for two sisters because it is held for one woman who is full of organs. The second part takes the rule of all and this is not permissible.

Secondly: This leads to the husband being unable to fulfill his right in marriage to do intercourse with his wife. It is not possible to disobey him unless he is affected by the second and is affected by her, such as pregnancy, childbirth, traveling with him, etc. The rule is that there is no harm or causing harm in Islam.

Third: It is the inability to fulfill the obligations of the marriage contract of the husband's rights such as obedience of wife in his house and following his decision and so on.

The fourth requirement: the marriage of the **Conjoined** twins who are joined if they are males:

If the Conjoined twins are males, and there are two adhesive organs on whom their lives depend, such as if they have a single body together, then neither of them may marry for the following:

Firstly: It is not permissible to meet two women at one time, because it is not permissible for a woman to have multiple husbands

Secondly: If the contract is for one of them, the other act is haram.

Third: The issue of the newborn for whom?

If the adhesion between two organs such as adhesive to a finger in the foot or hand or both, here must be separated and each of them can marry.

The fifth requirement: The marriage of the twins who are joined together if one is male and the other is female:

If the twins are male and female, then if we are able to separate them, it is permissible to marry with its known controls. If we cannot separate, then marriage is not possible.

The sixth requirement: the participation of the conjoined twins with special organ and their life does not depend on them, and one of them can donate this organ for other. There is no doubt that the process of separating the conjoined twins is a pioneering process in accordance with the principles of Islamic law, which allows all the interests of the human to the architecture of the universe, if the organ is shared like the heart and the brain, and so on, here is not permissible to donate it and they should live as conjoined twins together without separation in order to benefit each of them and to prevent the harm. If the organ is from the couple organs- two pairs such as kidneys. the body can live with one organ and donate one, here may be donated from

one of the Conjoined twins to the other but we should follow the following consideration for both of them :

First, if this donation solves the problem of adhesion between them.

Second, if this adhesion between them leads to haram.

Third: If honest Muslim Medical team we can trust them, approved that the donation of the organ not harm them especially the donor.

God knows and judging

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