

## Surrogacy in Islamic Jurisprudence and the Laws of the Arab Countries

Hadjer layaida <sup>1</sup>, Oussama Zekagh <sup>2</sup>

<sup>1</sup> University of Algiers 1, Department of Sharia and Law (Algeria),

Email ID: [h.layaida@univ-alger.dz](mailto:h.layaida@univ-alger.dz)

<sup>2</sup> University of Bouira, Department of Sharia and Law (Algeria),

Email ID: [o.zekagh@univ-bouira.dz](mailto:o.zekagh@univ-bouira.dz)

---

Cite this paper as Hadjer layaida , Oussama Zekagh , (2025) Surrogacy in Islamic Jurisprudence and the Laws of the Arab Countries..*Journal of Neonatal Surgery*, 14, (32s) 9621-9633

---

### ABSTRACT

Surrogacy is one of the latest developments, and despite its solution to the problems of infertility, it has great evils, such as spoiling the meaning of motherhood, exploiting it for trade, exploiting the poor class, and violating the five necessities that is conserving the offspring and honor, and falling into another problem is determining the true mother. The aim of the research is clarifying the various forms of artificial inoculation, and the identification of prohibited images, which are considered surrogacy among them, as well as determining the real mother, whether she is the mother with the oocyte owner, or the surrogate mother. The research then shows the extent to which the laws of the Arab countries formulate the issue of surrogacy, and despite their agreement to the prohibition, there is a deficiency in the codification, and some countries have not specified the criminal penalty for violating this order

---

**Keywords:** *Surrogacy; Surrogate Mother; Artificial Inoculation; In Vitro Fertilization.*

---

### 1. INTRODUCTION

There is no doubt that scientific development has made very great strides in recent decades, and researchers have been able to discover the secrets of the universe and its laws more than twice as much as humanity has discovered throughout history, and scientific discoveries are still being made.

With the development of science in this era, the thinking mind has made a scientific revolution in the field of medicine, which has produced a new reality full of unthinkable matters.

One of the scientific issues witnessed in the medical field is the "surrogacy technic", which was considered as a solution to some of the problems of infertility in couples, and thus gave them the hope of the possibility of childbearing by the industrial route, so many rushed to use this route, whether by going to artificial inoculation centers, or through commercial agencies that exploited this circumstance, which led to the expansion of this matter, and its departure from the rules of morality, so it was necessary to clarify its truth, and explain its ruling, and its consequences, so the study was entitled: «Surrogacy in Islamic Jurisprudence and the Laws of the Arab Countries»

#### Importance of the study:

The process of surrogacy has become one of the most prominent modern methods of artificial childbearing, which was a solution to some cases of infertility in couples, eliminating many marital problems.

This topic is related to the science of jurisprudence and law and medicine.

The relevance of this topic to a necessary purpose is the preservation of childbearing.

It is useful to investigate surrogacy to distinguish what is forbidden, in which a religious scrupulousness of not investigating what is permissible or prohibited.

#### The most important reasons for choosing this study:

The technic of surrogacy was developed by non-Muslim Western scholars, as they do not investigate their permissible research from others, so it was obligatory for those who believe in Islam to know the project from what is forbidden, and to show the ruling on the woman's rental of her uterus, and to know her status from the fetus she gave birth to him.

Because of the development of science, the increase in treatment methods, how to treat, and the mixing of good and bad in the fields of medicine from permissible and prohibited, I decided to research this matter according to Sharia evidence, that is the origin of law in the matter of personal status.

The tyranny of material life over most people made them not stand at the limits of God, and not forbid what God and His Messenger have forbidden, and this was manifested in part of artificial insemination, so it was my duty to show them the argument by stating what is forbidden.

### Research Problem:

What is surrogacy? What is its legal ruling?

Who is the legitimate mother of the child born from the rented womb?

To what extent have Arab legislations attached importance to the issue of surrogacy, and have special laws been issued?

Research objectives:

Enlighten doctors and patients by clarifying the provisions of this incident according to Sharia evidences, especially since people have accepted it in abundance, this technic has become one of the most important means of procreation, and as a result, commercial companies specialized in surrogacy have established it.

Demonstrate Sharia's understanding of all new issues.

### Previous studies:

The most important thing I found in previous studies:

The International Islamic Fiqh Academy in its third session held on 25/10/1406 AH, as well as the Fiqh Academy in its seventh session held on 11-16/04/1404 AH and the eighth session held on 7-28/4-5/1405 AH. This issue has received a large share of research, but it is advisable to take this issue out in an independent original research that reveals all its aspects. As for what the researchers wrote about this new issue, I mention from it:

Surrogacy – A comparative original study – submitted by the researcher Ali bin Mashabab bin Abdullah Al-Bakri to obtain a Majister's degree in the Criminal Justice Department, of Islamic criminal legislation at Naif Arab University for Security Sciences in Riyadh on 20/06/1432AH.

Surrogacy in Islamic Jurisprudence, by Dr. Hind Al-Khouli, published in the Journal of Damascus University of Economic and Legal Sciences, No. 3, Volume 27, 2011.

The surrogate mother (or rented womb) is an Islamic vision, by Dr. Aref Ali Aref, published research within jurisprudential studies in contemporary medical issues.

- Renting the uterus and its impact on Islamic jurisprudence, by Dr. Abdullah bin Ahmed Al-Rumaih, published in the Journal of the Saudi Jurisprudence Society, No. 24, 1436 AH- 2015 AD.

## 2. RESEARCH METHODS:

In this research, I relied on two methods:

Analytical method: through which I tried to reveal the truth of the technique of surrogacy and its causes, explain its images, and follow the opinions of contemporary scientists in its judgment.

Comparative method: When studying the opinions of jurists on the provisions of this new issue, by presenting the statement of each team, its evidence and discussing it, if any, and then weighting the strongest statement as evidence.

1-The concept of Surrogacy, its images, history and motives:

1.1- Definition of surrogacy:

1-1-1- Definition of surrogacy:

Surrogacy was defined as a new issue of the modern era: "It is that the zygote is implanted in the uterus of a woman other than the mother who has the oocyte."

This definition was limited only to mentioning the medical process carried out by the specialists, without limping to mention the financial compensation taken by the custodial mother for the zygote, and without mentioning the motive for carrying out this process, which is to attach the resulting child proportionally to other than the husband of the custodial woman if she has a husband, and to others if she is not.

Accordingly, surrogacy is meant as: "a contract of compensation for the use of the uterus of a foreign woman, to implant the zygote in it, provided that the newborn is not attributed to her." (q)

1-1-2-Explanation of definition:

-Saying: "Compensation contract", is an indication that the woman who rents the uterus takes a financial compensation in exchange for that.

-Saying: "To benefit from the uterus of a woman," is an indication that the place of the rental contract here is the uterus, which incubates zygote until the stages of its growth are complete.

-Saying: "Foreign," is a description of the woman, to the effect that she is not the owner of the zygote, and has nothing to do with the fetus except its embrace and the provision of appropriate conditions for its development.

-Saying: "To implant the zygote in it," that is, surrogacy is one of the images of external artificial inoculation, where a woman's oocyte is fertilized with a man's spermatozoon in the uterus of another woman, and photos of this will be shown.

-Saying: "On the condition that the newborn is not attributed to her," to the effect that the woman who became pregnant with the zygote, fatigued and gave birth has no luck in the newborn who gave birth, so she hands it over to the party with whom she concluded her rental contract, and it is not necessary to hand it over to the woman who has the oocyte.

#### 1-2-Images of surrogacy:

Surrogacy is one of the methods of external artificial inoculation, and it includes several images, the most important of which are<sup>(ii)</sup>.

-The first image: An external inoculation is carried out in the test vessel between the seeds of a couple and then the zygote is implanted in the uterus of another woman who volunteers to carry it.

-The second image: This picture is the same as the previous one, but the donor of the zygote here is the other wife of the husband.

-The third image: The wife's oocyte is fertilized with the sperm of a man who is not her husband, and the insemination is placed in the uterus of the tenant woman.

-The fourth image: The oocyte is taken from a woman, whether married or not, and fertilized from the sperm of a foreign man, whether married or not, and then the embryo is implanted in the uterus of a foreign woman from the owner of semen, whether the woman took the ovum from her or from others.

-Fifth picture: The frozen zygote is taken for the couple and implanted in the uterus of the tenant woman, but after the death of the couple.

#### 1-3-The date of surrogacy :

The idea of surrogacy stemmed from the success of artificial inoculation, which was tried on many animals, and then transferred the experiments to humans, until the two doctors "Sebasto and Edwards" succeeded in removing the first tubal baby on July 24, 1978 AD, where Lesley Brown gave birth to the first invitro fertilization "Lesley Brown" in Britain by inseminating her oocyte with her husband's spermatozoon, and Louisa was famous for the tube baby<sup>(iii)</sup>.

After that, in vitro fertilization births spread in the world, and new issues and multiple artificial inoculation methods were generated, and after pregnancy and childbirth were confined to the marital framework, there were several parties intervening in it<sup>(iv)</sup>.

The experiments continued until the first child came out of the rented uterus in 1983, as the mother who gave birth donated her pregnancy. In 1985, the first woman, Kim Cotton, was paid to be artificial inoculation. However, after giving birth to the child, she refused to hand it over to the person who hired her, and the case moved to the courts to be ruled to hand over the child to the couple who paid the alimony<sup>(v)</sup>.

Then surrogacy agencies and private companies spread for this purpose whose mission is to search for women wishing to conceive for others<sup>(vi)</sup>.

#### 1-4-Motives for surrogacy:

Doctors resort to this type of technic to procreate outside the uterus for reasons and motives, the most important of which are:

Achieving the innate desire to have children because the wife is unable to have children due to a congenital defect or deformity in her uterus, such as the fallopian tube obstruction or the absence of the uterus, thus addressing the problem of infertility or impaired fertility in some couples.

The wife suffers from diseases that lead to the death of the fetus before birth.

Some women entertain themselves about childbearing to avoid the hassles of pregnancy, childbirth and puerperium, as well as maintaining their beauty and agility, or holding a position that prevents them from having children.

A way to get money for those who get pregnant the account of others.

#### 2-Ruling on surrogacy:

##### 2-1- Editing the subject of the dispute and explaining the statements of savants on the issue of surrogacy:

There is no dispute among savants about the sanctity of insemination, which is between the oocyte of a married woman and a foreign donor man, or between the oocyte of a donor woman and a married man, or between the oocyte of a woman and a donor man, all of this is in the uterus of another woman who rents her uterus, because there is no legitimate relationship between the two parties, but the dispute is in the insemination of the oocyte of a wife with the sperm of her husband, and then transferring it to the uterus of another woman, the latter may be a second wife of the husband or a foreigner from him, and therefore the issue is studied from two sides: the first: the fact that the host woman is foreign to the husband, and the second: the fact that the host woman is a second wife to the man.

The first statement: Pregnancy is forbidden for the account of others at all. Most savants and researchers have gone to this, and thus the fatwa was issued by the following institutions of collective diligence:

-The Islamic Fiqh Academy in Makkah in the second resolution, at its eighth session held in Makkah Al-Mukarramah, in the

period between 28 Rabi Al-Thani 1405AH to 7 Jumada Al-Awwal 1405AH, corresponding to 19-28 January 1985AD<sup>(vii)</sup>  
The International Islamic Fiqh Academy in Resolution No. 16 (4/3) at its third conference session in the capital Amman, in the period between 8-13 Safar 1407AH, corresponding to 11-16 October 1986AD<sup>(viii)</sup>.

The Islamic Organization for Medical Sciences in Kuwait through the Symposium on Childbearing in the Light of Islam, held on 11 Sha 'ban 1403AH, corresponding to 24 May 1983AD<sup>(ix)</sup>.

Jordanian Islamic Jurisprudential Medical Sciences Committee<sup>(x)</sup>.

Islamic Research Academy in Egypt, in Resolution No. 1 at its session held on March 29, 2001 .

The second statement: It is permissible to get pregnant for the account of others at all. Some Shiites went to this, and some researchers, including Dr. Abdel Moati Bayoumi, Dr. Ismail Barada<sup>(xi)</sup>. Dr. Musa Shaheen, Dr. Abdel Sabour Shaheen<sup>(xii)</sup>.

The third statement: It is permissible to get pregnant for the account of others if the host woman is a donor, a second wife of the man with semen, and she is sterile and childless.

This was said by some researchers such as Dr. Ali Muhammad Yusuf Al-Muhammadi, Mr. Muhammad Ali Al-Tsakhiri, Mr. Abdul Qadir Al-Amari<sup>(xiii)</sup>, and it had been proposed by Sheikh Mustafa Al-Zarqa<sup>(xiv)</sup>, and the Fiqh Academy had approved it in its seventh session, and then copied its decision to prohibit it in its eighth session.

2-2-Evidence of scientists in the matter and its discussion:

2-2-1-Evidence of the first statement:

From The Koran.

- God Almighty said: □ And they who guard their private parts Except from their wives or those their right hands possess, or indeed, they will not be blamed - But whoever seeks beyond that, then those are the transgressors □ Surah Al-Mu'minun:5-7.

The significance is that the Islamic law giver is ordered to preserve the chastity, and it is forbidden to enjoy other than the wife and the concubines, or to benefit from a few others, and therefore it is forbidden to benefit from the uterus of another woman who is not permitted by the text of the verse, and because it is an entry for his sperm in other than what God has prescribed for him.

God Almighty said: □ And Allāh has made for you from yourselves mates and has made for you from your mates sons and grandchildren and has provided for you from the good things. Then in falsehood do they believe and in the favor of Allāh they disbelieve? □ Surah Al-Nahl: 72.

The significance: God has shown that the legitimate child within the scope of Islam is only from the husband and wife, and the hired woman of the uterus is not so, as it is one of the conditions for childbearing in Islam that this be under a contract that meets the conditions and pillars set forth by Sharia<sup>(xv)</sup>.

From the Sunnah:

Narrated Ruwaifi' bin Thabit, the Prophet said: "It is not lawful a man who believes in Allah and the Last Day to water what another person has sown." <sup>(xvi)</sup>.

Significance: It is forbidden for a man to enter his sperm into the uterus of a woman who is foreign to him, and this prohibition includes the introduction of foreign sperm alone, or after it has been mixed with the oocyte, both of which are believed to be the introduction of the sperm of a foreign man into the uterus of a woman who is not plowing or transplanting it<sup>(xvii)</sup>.

From the Qiyās:

They said: In which the water of a foreign woman is placed in the uterus of another woman, and this is measured on lesbianism, and if lesbianism is forbidden, then this is a priority<sup>(xviii)</sup>.

From Maakoul (reasonable):

- The texts of Sharia state that the human body and its benefits are owned by him, but he does not have the right to dispose of this property except within the limits of Sharia, so his behavior is entrusted to the interest of Sharia, and as Sharia man has the right to ask for childbearing from marital water, it is forbidden for him to have children without marital water, and the container of pregnancy<sup>(xix)</sup>.

-The protection of the lineage is required by Sharia, and it remains that the origin of human formation is free from skeptical and deceptive gossip. The wet nurse uterus is surrounded by questioning, so this door should be closed from the beginning<sup>(xx)</sup>.

- It is not permissible to make a contract for surrogacy because there are uncertainty in it, and uncertainty is one of the spoilers of the contract, and the aleatory here is that the person on whom (the fetus) is contracted is not known. I mention it is a female mother, what are its specifications and descriptions. The child may come out deformed, and the fetus may die or the pregnant woman may die, so the possibility of deception remains possible<sup>(xxi)</sup>.

- That the Islamic law giver made marriage and the consequent childbearing limited between the spouses, and then prohibited adultery and adoption, and therefore the participation of a foreigner from the spouses in childbearing is considered forbidden,

whether it is a uterus, or a zygote, an oocyte or a sperm<sup>(xxii)</sup>.

From the rules of Shari'ah:

- Surrogacy is in the interest of the host woman, which is her use of money, and for the couple by obtaining the child, but on the other hand, it is corrupting by introducing a foreign man into the uterus of a woman, and it also has the suspicion of mixing genealogies, and the suspicion is corrupting, and the ruling rule is that warding off depravity is more important than bringing interests, so it is forbidden to Surrogacy.

- Renting the uterus is a requirement to expose the nakedness of the woman who volunteers with pregnancy, as the transplant process requires this, and there is no need for the woman to allow this, because the permissible necessity for the prohibited is not fulfilled.

- The rule of the uterus is subordinate to the rule of the private parts, and the origin in it is forbidden, so it is forbidden to use the uterus in other than what is permitted by law, which is the pregnancy of a legitimate husband<sup>(xxiii)</sup>.

Discussion of Evidence:

1-The total number of Qur'anic verses indicates the prohibition of performance of the husband for something other than what Allah Almighty has legislated for him, and if this happens, it is adultery, and Surrogacy is not the same as adultery, because the fact of adultery is completed by inserting, and it is not unfulfilled in the surrogacy.

It was responded to this by saying that Allah Almighty forbids the adultery and it likeness, and Allah Almighty said: □ And do not approach unlawful sexual intercourse. Indeed, it is ever an immorality and is evil as a way □ Surat Al-isrā:32, and the proximity to adultery is valid for the introduction of sperm, and if it is not adultery itself, it is in its judgment, because the effect is the same, which is the entry of sperm into a forbidden womb.

The permissives of the donation of the second wife for her harm in pregnancy also discussed that the significance of the verses believes the case of whether the woman is foreign to the husband, but if there is a legitimate link between them, then the prohibition is denied, because the host woman is lawful to him.

Like what was said in the significance of the verses, it is said in the hadith of Ruwaifah.

2-As for the Qiyās on the lesbianism, it is measured with the difference, and the two images are different. The lesbianism has a weak judiciary, and there is no introduction of a zygote, and it does not result in pregnancy. As for the rental of the wombs, it has the benefit of the uterus, and the introduction of the zygote, and there is no pleasure judiciary in it.

3- As for the suspicion of mixing the genealogies, this is not achieved, because the host woman is subject to conditions, including her lack of proximity to cohabitation with the man, so the owner of the sperm must be the father of the child.

In response to this, it is not possible to cut off the lack of proximity of the host woman to her husband, as if the lineage was handed down from the side of the father, so how can it be attributed from the side of the mother, and this is a major dispute.

4-As for discussing the occurrence of spoiling the exposure of the nakedness, it is said that: «The rule of necessities permits the prohibitions did not differentiate between necessity being a condition for oneself or others, then if a person needs a woman to donate her blood, it is not permissible for this woman to reveal her arm in front of the doctor to withdraw blood from her, and to say that the thicker nakedness is more forbidden does not change the matter." <sup>(xxiv)</sup>

5-As for saying that the surrogacy is aleatory, the contractor only asks for a child at any price, and it often does not matter whether it is male or female, and this probability is diminished with the issue of determining the sex of the fetus according to modern technic of genetic engineering. As for the probability of the death of the fetus or its deformed exit, this is in the exception and rare case, and the ruling is for the most part, which is the exit of the child intact.

2-2-2-Second Saying Evidence:

From the Qiyās:

Measuring the uterus on the breast with the nutrition collector, in each of them, just as oral feeding is done in the case of breastfeeding, it is done in the uterus with materials extracted from the food digested in the mother's bowels by the umbilical cord, as it is the source of food necessary for the retention of the fetus in each of them<sup>(xxv)</sup>.

From the rules of Shari'ah:

-They said: The origin of things is permissibility until there is evidence of prohibition, and there is no prohibition except by text, and there is no evidence of the prohibition of surrogacy, so it was permissible<sup>(xxvi)</sup>.

- Necessities allow prohibitions, and the necessity lies in the woman's sterile request for the child, the satisfaction of the maternal instinct, and the inclusion of the child to her and to take care of his interests and affairs, so it is permissible for her to obtain this by renting the uterus.

Discussion of Evidence:

1-Measurement on breastfeeding was discussed as a measurement with the difference, and its statement: «The permissibility of breastfeeding is a condition for the necessity of preserving the modesty of an existing organism, which is the infant. As for the benefit of the uterus, it is not necessary for its legitimacy, as it is intended to create a new organism, not to preserve

the life of an organism that has already existed, and what has been legislated for necessity is sufficient in its resource, because necessity is valued by its value." (xxvii).

2-As for the inference that the origin is in permissive things, it applies to contracts of pure financial transactions. As for the issue of surrogacy, it is attracted by the financial contract, which is the leasing contract under the rule, and it is attracted by the essence of the contract, which is the benefit of the uterus, which is under another rule, which is the origin in prohibition. What two rules have attracted is likely in a separate evidence, which is a rule: If the lawful and the forbidden meet, the forbidden will prevail, and it is forbidden to rent uterus.

3-As for saying that surrogacy is a necessity, the necessity here did not result in the destruction of a soul until it is said that it is permissible to surrogate, and if it is said that the need reduces the status of necessity, it is fulfilled by raising an orphan child, or an unknown parentage, for women and men, as well as by polygamy for men, otherwise this need has reached the amount of defiance of the divine will that required that one or both spouses be sterile, for a wisdom that only God Almighty knows.

2-2-3-The evidence of the third statement:

They inferred from reasonable evidence-Maekoul-, which is that there is no intermingling of lineage, and there is no corruption in it from the depravity of adultery (xxviii).

Discussion of the Evidence:

It was discussed by saying: "The other wife in which the fertilizer was implanted with the zygote of the first wife, may get pregnancy a second before the clogging of her uterus to carry the zygote, from the husband's copulation with her in an uncertain period with the implantation of the zygote, and then give birth to twins, and the child of the zygote is not known from the child of the copulation of the husband, and the mother of the child of the zygote from which the oocyte was taken from the mother of the child of the copulation of the husband is not taught, and the resulting provisions may die or chew, and fall only with the birth of the other pregnancy, which is also not known as the child of the zygote, that the pregnancy of the copulation of the husband, and this requires the mixing of the lineage of the true mother of each of the two pregnancies, and the confusion of the consequent judgments."

(xxix).

If it is said that the genetic fingerprint technology allows examining the DNA of the newborn and determining his true ancestry, it is said that this technology is not possible for all people, and the dispute remains who is the real mother of the newborn, because it has implications such as righteousness, alimony, custody, and inheritance.

2-3-The preference:

After presenting the statements of savants on the issue of surrogacy, it became clear that the socket of some evidence is weak, in contrast to the strength of the inference of others, which is the decisive point in the issue, the most prominent of which are two general rules:

Rule: Preventing the evils is more important than bringing interests, as surrogacy has great evils, such as spoiling the meaning of motherhood, using what a woman does not have, which is her uterus for trade, exploiting the rich class for the poor class, the decline of the role of foster care, which made it a practical alternative in exchange for adoption and the problem of infertility, and problems due to the conflict over the child when the host mother demands it, so the spoiler had to be paid to prevent surrogacy.

Rule: Origin in penguin is prohibition: This rule also governs the case of the host mother being a second wife, so that even the owner of the sperm is her husband, but the fertilized ovum is not one of them, and therefore it is forbidden to enter a foreign ovum from her body into her uterus.

Accordingly, it must be said that it is forbidden to rent uterus, or to bear children for the account of others, and this saying preserves the purpose of Sharia in preserving offspring, which is the precaution.

### **3. DETERMINING THE MOTHER CONSIDERED LEGITIMATE FOR THE CHILD BORN FROM RENTED UTERUS:**

3-1-The sayings of savants on the issue of determining the mother considered legitimate:

Contemporary researchers differed in the appointment of the real mother on two sayings:

-The first statement: that the real mother is the owner of the fertilized oocyte, while the surrogate mother is the mother of breastfeeding; which it said; the International Islamic Fiqh Academy took its third session ( ), Dr. Mustafa Al-Zarqa, Dr. Mohammed Naim Yassin, Dr. Abdul Hafez Helmy, Dr. Zakaria Al-Barri, Dr. Mohammed Al-Sartawi( ), Dr. Yousef Al-Qaradawi (xxx).

-The second statement: The real mother is the one who conceived and gave birth, while the owner of the oocyte is a mother of breastfeeding. The mother who inherits is the owner of the uterus, and the son is attributed to her husband, and with it said: Dr. Ali Al-Tantawi (xxxi) and Sheikh Badr Al-Metwally Abdul Basit( ), and Dr. Ziad Ahmed Salama (xxxii).

3-2-Evidence of savants in the matter:

3-2-1-Evidence of the first statement:

The authors of this statement have inferred a set of evidence, including:

First: The Almighty says: □From the sperm of his creation is his ability□ Surat Abs:19., and the Almighty says: □From the sperm if he wishes□ Surat An-najm:46.

Significance: that the sperm is the beginning of the creation of man, and if the son is attributed - on the part of the father to the man - the owner of the sperm, he is also attributed - on the part of the mother - to the woman with the oocyte<sup>(xxxiii)</sup>.

Second: The statement of prophet Mohammed-God blessing peace be upon him-: "The child is the bed's"<sup>(xxxiv)</sup>.

Significance: There is no meaning for bedding except for the correct marriage between a man and a woman based on a valid contract. The boy in this hadith means only a convergence between the water of the man and the ovum of the woman, and the marriage is not realized, and its effects are produced only by this<sup>(xxxv)</sup>.

It was replied to this that the talk is out of dispute, as it is mentioned in the proof of paternity, not in the statement of the real mother of the child, as the talk indicated the reason for the talk, and therefore there is no indication that the real mother is identified as the owner of the oocyte<sup>(xxxvi)</sup>.

Third: The real genetic record of the newborn is mainly from the sexual cells of the parents, as each cell is a depiction of the creature from which it came<sup>(xxxvii)</sup>.

Fourth: That the characteristics of man and his genetic characteristics are determined in the oocyte and sperm only, and the owner of the borrowed uterus has nothing to do with that,

because the uterus is only an incubator and a reservoir<sup>(xxxviii)</sup>.

Thus, the fruit is the daughter of the seed, not the daughter of the earth. Whoever grows oranges earns oranges, whatever the land on which they are grown, and whoever grows apples earns apples, the earth, even if it supplies the seed with everything it needs, but it has nothing to do with the type or genus of the plant that will grow in it, and as the tree seedlings after it grows and grows, it will be transferred to another place, so the tree is attributed to the seed, not to the soil<sup>(xxxix)</sup>.

Fifth: If this fertilized oocyte had completed its life stages in the test tube – which is what scientists seek – or in an artificial uterus or perhaps in the uterus of a monkey – if this could be achieved – then the boy would have come out of it as a normal human being, so is the mother the test tube, the artificial uterus or the monkey? Or is she the owner of the oocyte and is not the tube, the artificial uterus, or the monkey<sup>(xl)</sup>.

As for the custodial woman who is the owner of the rented uterus, she is the mother of breastfeeding, because nutrition is achieved through the breast and uterus, the breast with milk, and the uterus with blood, and both milk and blood are renewed, and even the food in blood is more valuable than the milk food, all that Sharia law has ruled for the nursing mother because of breastfeeding is worthy of this a fortiori<sup>(xli)</sup>.

3-2-2-The evidence of the second statement:

The authors of this statement inferred a set of evidence:

First: The Almighty says: □Their mothers are except those who gave birth to them□ Surat Al-Mujadilah: 02.

The significance: God Almighty denied motherhood from the one who did not give birth, especially since this is a definitive text of proof and significance, and it came in the form of enumeration, his mother is the one who gave birth to him, and the word of the mother is the name of the actor who did the child, so how can she be the one who gave birth to him and not be his mother, and "if" in the verse is a denial, and denial and proof is one of the most powerful ways of limitation for the Arabs, so the word monotheism was "there is no god but God ", that is, proving divinity to God, and denying it from others<sup>(xlii)</sup>.

It was replied to this that the negation is a house on the image of the Dhihar, in which the man says to his wife: You are on me like the back of my mother, so the Shari'ah t showed that the mother is not the wife, but the one who gave birth to the human being, so the comparison came between these two women only, and the restriction in the context is for them, and this indicates that the Shari'ah counted the mother from breastfeeding as a mother<sup>(xliii)</sup>.

Second: The Almighty says:□ His mother carried him against his will and placed him against his will□ Surat Al-Ahqaf: 15.

Significance: God Almighty has shown that the one who carries the child against his will, and gives birth against his will, is his mother, and she is the owner of the oocyte as well<sup>(xliv)</sup>.

It was replied to this that the verse is carried on the general image prevailing among people, so its download does not appear on the subject of the dispute, because it is the course of the predominant<sup>(xlv)</sup>.

Third: The Almighty says: □Mothers breastfeed their children□ Surat al-baqarah: 233.

The indicative face: It is known that the one who breastfeeds the child is the one who gave birth to him, even if the oocyte is from others<sup>(xlvi)</sup>.

Fourth: The Almighty says: □A mother shall not be harmed by her child□ Surat al-baqarah: 233.

Significance: It is known that the truth is the prelude to the metaphor, and the mother is the truth that was born, and then all the stages of man's creation in his mother's uterus from sperm gametes to childbirth occur in the womb, and what ever happens to her is called a mother by the Qur 'an(xlvii).

Fifth: The Almighty says: □ We have enjoined man to his parents, his mother carried him and here on weakness □ Surat Luqman:14.

Significance: If the owner of the uterus is not considered a real mother, does the owner of the oocyte carry it weakly on her weakness? (xlviii).

Sixth: The statement of prophet Mohammed –God blessing peace be upon him-: " Verily the creation of each one of you is brought together in his mother's womb for forty days in the form of a nutfah (a drop), then he becomes an alaqah (clot of blood) for a like period." (xlix).

The significance face: The Prophet described all the stages of creation that the fetus goes through as being in the womb of its mother, and it is known that the stages of human creation from sperm to birth occur in the womb, so the owner of the uterus is the real mother of this newborn(l).

Seventh: It is reasonable: that the zygote grew and fed with the blood of the one who carried it, and endured the pains of pregnancy and labor, and she is the owner of the uterus, so it is ruled that she is the mother of the newborn(li).

It was replied to this that this inference is after birth, because it lives and grows with the milk that breastfeeds it, and yet Sharia does not make it a real mother, but rather from breastfeeding, so the owner of the uterus is given this judgment(lii).

### 3-3-The preference:

After presenting the two statements, and mentioning the evidence of each of them, and the discussions contained in them, we find that the evidence of the second statement revolves around the adoption of Quranic texts, which descend on the general image prevailing in people, and conduct the course of the predominant, while in the issue of renting the uterus, we cannot ignore the genetic formation of the fetus, and the impact on the newborn. Sheikh Bakr Abu Zayd says: "The respectable sperm in all respects is that of the couple, and it is the object of the gratitude of God Almighty to His servants." (If the child is attached to his mother, the owner of the womb, it must be attached to her husband if she has a husband, and this is an entry in his lineage that is not of him, and even if he denies it, he is a child born after liaan. And if she is not the same husband, he becomes like the son of adultery, and enters the circle of the disrespectful sperm. However, if he joined his mother, the owner of the oocyte, he was attributed to his father, the owner of the sperm, and remained within the circle of the respectable sperm, and took the natural rule of man, and he would not be accused of being illegitimate child, because the wife's oocyte was inseminated with her husband's sperm, even without the way of occurrence, marriage exists.

If we assume the host woman's claim to the baby, and the fact that his loss causes her harm and internal injury, this is in exchange for the damage that the newborn suffers later, from the possibility of taking the ruling of the child of adultery or cursing, and this has harms that are not hidden, especially in light of the inadequacy of the regulations that take care of this group, her right and her affairs, and the ruling is the most severe damage is still the lightest damage, and it was determined that the real mother of the baby is the mother who owns the ovum, and the host woman is in the judgment of the mother by breastfeeding.

## 4. THE EXTENT TO WHICH THE LAWS OF ARAB COUNTRIES FORMULATE THE ISSUE OF SURROGACY:

The process of surrogacy has become publicize promoted by specialized commercial companies, which exploited the need of some parties to open a human market, and the broker is in this market. The state had to establish official regulations to prevent this human trade, which made a great instinct as the instinct of motherhood a subject of occupation and trade, and trampled on human values and the rules of natural justice.

Most of the family and personal status laws in the Arab countries did not explicitly stipulate the permissibility or prohibition of the issue of surrogacy, and their articles related to descent are limited to mentioning the shortest period of pregnancy and most of it, and the conditions for proving descent, but they did not address the issue of renting uterus, but other laws separate from that organization for family affairs prevented it.

### 4-1-The content of Arab laws:

We find that the Algerian Family Code explicitly stipulates the prohibition of surrogacy. Article 45bis states:

«The couple may resort to artificial inoculation and it is subject to the following conditions:

- The marriage should be legal.
- The inoculation should be with the consent of the spouses, and during their lives.
- To be done with the husband's sperm and the oocyte of the wife's uterus only.
- It is not permissible to resort to artificial inoculation using a surrogate mother »(liii).

It is noteworthy that the Algerian lawmaker was limited only to the prohibition of surrogacy, without mentioning the

penalty resulting from this process, and without mentioning the effects of renting with regard to the newborn in this way, his rights, and to whom his lineage is ruled.

While the laws of other Arab countries –which regulated the issue of surrogacy in separate laws - stipulated the penal penalty for the matter.

It is worth mentioning that the issue is regulated either under the Medical Liability Law, or under reproductive laws according to modern methods, including the following:

In Libya: The Libyan Medical Liability Law issued in 1986 was limited to mentioning the conditions of artificial inoculation, it said in Article 17: "It is not permissible to artificially inseminate a woman or implant the embryo in the womb except when necessary, and provided that the vaccine in both cases is from the spouses, and after their consent." (iv)

Through the material, and by the connotation of the sign, it prevents the intervention of a third party, and from which it prevents the rental of wombs. The law also indicates that the origin in artificial inoculation is prevention, and this is supported by what was stated in the Libyan Penal Code, which stipulated in Article 403 bis (a) the following:

"Anyone who artificially inoculation a woman by force, threat or deception shall be punished by imprisonment for a period not exceeding ten years.

The penalty shall be imprisonment for a period not exceeding five years if the vaccination is with her consent.

The punishment shall be increased by half if the crime is committed by a doctor, pharmacist, midwife, or one of their assistants. "

Article 403 bis (b) stipulates that: "A woman who accepts artificial insemination or inseminates herself artificially shall be punished with a prison sentence not exceeding five years.

The husband shall be punished with the same punishment stipulated in the preceding paragraph if the inoculation is with his knowledge and consent, and whether the vaccination is carried out by the wife or by others. "(iv)

In Tunisia: Surrogacy was prohibited in Law No. 93 of 2001 dated August 7, 2001 related to reproductive medicine, Article 15 of which stipulates: "It is not possible in any way within the framework of reproductive medicine to use another woman's uterus to carry the fetus."

As mentioned in the penal penalty in Chapter 31, it states: «...Any person who violates the provisions of Articles 4, 5, 7, 8, 10, 11, 13, 14, 15, 25, 26 and 27 of this law shall be punished by five years' imprisonment and a fine of ten thousand dinars or one of these two penalties.

In the Kingdom of Saudi Arabia: Banned by Royal Decree No.: (M/76) dated 21/11/1424AH includes the system of fertilization units, embryos and infertility treatment, as it states in Article (5): "It is not permissible to fertilize a zygote fertilized by a couple in the uterus of another wife or woman, and it is not permissible to fertilize a sperm from other than the husband or fertilize an oocyte for other than the wife."

As for the punishment, it was stipulated in Article (32), which stipulates : "Without prejudice to any more severe punishment stipulated in other regulations, one or more of the following penalties shall be punished:

- A fine of not less than two hundred thousand riyals and not more than five hundred thousand riyals.
- b. Imprisonment for a period not exceeding five years.
- Cancellation of the license to practice the profession

Whoever commits any of the following violations:

- 1-Practicing infertility treatment and fertility without a license at a level other than the authorized level.
- 2-Injecting sperm or embryos into a woman other than her husband.
- 3- Injecting sperm or embryos after the end of the marital relationship.
- 4-Transferring zygotes or embryos belonging to a woman in the uterus of another woman. "

In the United Arab Emirates: It was prohibited in detail to mention the images of multiple surrogacy, by Federal Law No. 11 of 2008 regarding the licensing of fertility centers and its executive regulations issued by the Council of Ministers Resolution No. 36 of 2009.

Article (10) of the aforementioned Federal Law states: "The Center is prohibited from practicing the following methods as assisted reproduction technics:

- 1-That the inoculation takes place between a sperm taken from the husband and an oocyte taken from a foreign woman, and then the fertilized zygote in the uterus of his wife.
- 2-That the inoculation takes place between a sperm taken from a foreign man and an oocyte taken from the wife, and then the fertilized zygote in the uterus of this wife.
- 3-That an external fertilization takes place between a sperm taken from the husband and an oocyte taken from the wife, and then the fertilized ovum in the uterus of a woman who volunteers to carry her.

4-That an external insemination takes place between a sperm taken from a man and an oocyte from a woman and the fertilized zygote in the uterus of another woman.

5- That an external fertilization takes place between a sperm taken from the husband and an oocyte taken from the wife, and then the fertilized zygote in the uterus of another wife. "

Note that this material banned all images of the uterus borrowed, even if the donor was a second wife of the husband.

As for the punitive penalty, it was stipulated in Article (29) of the same law: "Whoever violates any of the provisions of Articles (5), (9), (10), (14), (18) and (20) of this law shall be punished by imprisonment for a period of no less than two years and no more than five years and a fine of no less than two hundred thousand dirhams and no more than five hundred thousand dirhams or one of these two penalties."

In Bahrain: Surrogacy was also prohibited by Law No. (26) of 2017 on the use of medical technologies to assist artificial inoculation and fertilization, where Article (7) stipulated the following: «The health institution is prohibited from carrying out the following works: ... f) Borrowing or renting the uterus to implant embryos resulting from external insemination between the husband's sperm and the wife's ovum and then implanting them in the uterus of another woman, even if this woman is his second wife. "

As for the punitive penalty, it is stated in Article (14), which stipulates: "Whoever violates the provisions of paragraphs (a), (b), (c), (h), (l) and (m) of Article (7) of this Law shall be punished by imprisonment for a period of no less than three years and no more than ten years and by a fine of no less than ten thousand dinars and no more than twenty thousand dinars."

In the Kingdom of Morocco: No law has been issued to date regulating artificial insemination, nor surrogacy, but the Minister of Health, Hussein Al-Wardi, submitted draft law No. 14-47 related to medical assistance for childbearing, and the prohibition of surrogacy in Article (5), which stipulates: "Function reproductive tasks cannot be exploited for the benefit of another person or for commercial purposes, and to this end it is prohibited to donate or sell gametes and zygotes, as well as pregnancy for others. "

As for the punitive penalty, it is mentioned in Article (40), where it states: «It is punishable by imprisonment from ten years to twenty years and a fine from 1 500,000 to 1,000,000 dirhams, to carry out one of the practices prohibited under Articles 4, 5 and 7 of this law or to develop a human vaccine for commercial or industrial purposes or for purposes other than medical assistance for reproduction as regulated by this law."

Although this Moroccan law has not yet seen the light of day, the Social Sectors Committee of the Moroccan House of Representatives discussed the minister and legitimate, and amended some of its formulations, and this was in the April 2018 session.

However, the effect of these laws is to prevent surrogacy, and to mention the punitive penalty, without addressing the impact of surrogacy, if any, with regard to determining the proportions of the birth with this modern technique.

#### 4-2-Proposed legal provisions for Surrogacy:

The codification process requires the meeting of a committee appointed by the official authority, and then by giving it a binding character, it becomes a law that must be adhered to, after adapting the issue according to what it sees and adopts, and there is a problem of double reference, as it is known that some Arab countries do not have a legal system in the course of their judiciary, and there are those with Islamic laws such as the UAE, and some with positive laws such as Lebanon, and some with mixed law such as Algeria. It enacted the family law according to the Maliki doctrine, and enacted the civil law to quote the Egyptian law and others.

If the consideration is according to the issuing body of law, and since the prohibition of pregnancy by the surrogate mother is included in the family law, this is evidence to look at the issue and its effects will be jurisprudential. Therefore, the issue will not be considered as a lease contract, and the money that is in lieu of the host woman and the consequences of that will be withheld from us, because it is wasted. If the disposition had legal effects, it would have been as of the legality of pregnancy for the account of others.

However, the right of the child born in this way must not be overlooked, and appropriate penalties must be imposed on the parties to the process, and therefore the following is proposed:

Article (1): "It is not possible to resort to pregnancy by carrying for the account of others in all its forms."

Article(2): "Shall be punished by imprisonment (or imprisonment) for a period not less than..... It shall not exceed..... And a fine of not less than ..... It shall not exceed.....Each party participates in the pregnancy process for the account of third parties. "

Article(3): "The genetic fingerprinting shall be examined on the newborn by means of pregnancy for the account of others. "

Article(4): "If the genetic fingerprint matches the fingerprint of the owners of the vaccine implanted in the surrogate mother, a lineage shall be attached to them."

Article(5): "If the genetic fingerprint matches the fingerprint of the surrogate mother and her husband, he attaches a lineage

to them."

Article (6): "The legal effects shall result from alimony, custody and inheritance on the part of the person to whom he has affiliation."

## 5. CONCLUSION:

After completing the presentation of this research, I put in this conclusion the most important results that I have identified through this study:

1-The process of surrogacy is to inject the zygote in the uterus of a woman other than the mother who has the oocyte in exchange for a financial consideration, but the jurists when they address this new issue in the study do not distinguish between rent and donation.

2- The most appropriate term on the issue of surrogacy is the term pregnancy for the account of others.

3-It is Shari'ah forbidden to perform surrogacy and pregnancy for the account of others.

4- The real parents of a child born through pregnancy for the account of others are the owners of the zygote.

5-There is a deficiency in the laws of the Arab countries in preventing this new issue in terms of determining its legitimate and legal effects, if any, regardless of its prohibition and prevention, and this is envisaged in determining the birth rates through this technic

## REFERENCES

### A-Books :

- 1) Abu Zaid, Bakr bin Abdullah, Fiqh Al-Nawazil, Al-Risala Publishers Foundation, Beirut, 1st Edition, 1433AH-2012AD.
- 2) Islamic Medical Sciences Association, Contemporary Medical Issues in the Light of Islamic Sharia, Dar Al-Bashir, Jordan, 1415AH-1995AD.
- 3) Al-Khatib, Yassin Mahmoud, Proof of Descent – Comparative Study -, Master Thesis, Published, King Abdulaziz University, Faculty of Sharia and Islamic Studies, Mecca, 1399AH.
- 4) Diraniyah, Mujahid, Fatwas Ali Al-Tantawi, Dar Al-Manara, Jeddah, Saudi Arabia, 1st Edition, 1405AH-1985AD.
- 5) Zahra, Mohammed Al-Mursi, Industrial Insemination: Its Legal Provisions and Legal Limits, Kuwait University, D.T., 1992-1993.
- 6) Ziad Ahmed Salama, IVF between Science and Sharia , Arab Science House, Beirut, Lebanon, 1st Edition, 1417AH-1996AD.
- 7) Al-Shafi 'i, Ahmed et al., Medical Encyclopedia of Jurisprudence and Modern Hostels, Dar Ibn Hazen, Cairo, 1, 1424AH-2013AD.
- 8) Aref, Aref Ali, Surrogate Mother (or Chartered Uterus), Islamic Vision, Jurisprudential Studies in Contemporary Medical Cases, Dar Al-Nafis, Jordan, 1st Edition, 1421AH - 2001AD.
- 9) Canaan, Ahmed Mohammed, Medical Jurisprudence Encyclopedia, Dar Al-Nafis, Beirut, 3rd Edition, 1431AH-2010AD.

### B-Theses:

- 10) Al-Bakri, Ali bin Mushabib bin Abdullah, Surrogacy - A Comparative Authentic Study, Majister Thesis, Published, Naif Arab University for Security Sciences, Faculty of Graduate Studies.

### C-News paper articles:

- 11) Al-Bar, Muhammad Ali, IVF and IVF, Research within the Journal of the International Islamic Fiqh Academy, No. 2.
- 12) Al-Khouli, Hind: «Surrogacy in Islamic Jurisprudence», Journal of Damascus University of Economic and Legal Sciences, 2011, vol. 27, p. 3.
- 13) Al-Rumaih, Abdullah bin Ahmed, "Renting the Womb: Its Ruling and Impact on Islamic Jurisprudence," Journal of the Saudi Jurisprudence Society, Riyadh, p. 24, Ramadan 1436 AH-2015AD.
- 14) Al-Zarqa, Mustafa Ahmed: «The tube baby.. Inheritance», Al-Umma Magazine, Qatar, 3, No. 4.
- 15) Jabr, Karima Abboud: «Surrogacy and its implications», Journal of Research of the Faculty of Basic Education, Vol. 9, p. 3.

- 16) Sun Woo Kim and others, The first women born by in vitro fertilization in Korea gave better to a healthy baby through natural pregnancy, *Obstet Gynecol Sci, Korea*, vol64,(4), 2021.

**D-Website:**

- 17) <https://srhr.org/abortion-policies/documents/countries/01-Libya-Penal-Code-1953.pdf>
- 18) <http://www.alyaoum24.com/911173.html>
- 19) Medical liability law number 17 , 1986, <http://www.seha.ly/wp-content/uploads/2017/11/%D9%82%D8%A7%D9%86%D9%88%D9%86-%D8%A7%D9%84%D9%85%D8%B3%D8%A4%D9%88%D9%84%D9%8A%D8%A9-%D8%A7%D9%84%D8%B7%D8%A8%D9%8A%D8%A9-%D9%88%D8%A7%D9%84%D9%82%D8%B1%D8%A7%D8%B1%D8%A7%D8%AA-%D9%88%D8%A7%D9%84%D9%84%D9%88%D8%A7%D8%A6%D8%AD-%D9%88%D8%A7%D9%84%D8%AA%D8%B9%D9%84%D9%8A%D9%85%D8%A7%D8%AA-%D8%A7%D9%84%D8%B5%D8%A7%D8%AF%D8%B1%D8%A9.pdf>
- 20) <http://www.dar-alifta.org/en/ViewFatwa.aspx?ID=11804&LangID=1&MuftiType=0>  
 [1] 21) <http://islamset.net/arabic/abioethics/engab/MAIN.htm..>

- (i) Al-Shafi 'i, Ahmed et al., *Medical Encyclopedia of Jurisprudence and Modern Cases*, Part 2, p. 428
- (ii) Islamic Medical Sciences Association, *Contemporary Medical Issues in the Light of Islamic Sharia*, Part 1, pp. 63-64; Asmaa Fathi Abdulaziz Shehata, *The Sharia Judgment on the Drop of the Excess Number of Artificially Inseminated Embryos*, within the Scientific Record of the Second Islamic Fiqh Conference - Contemporary Medical Issues, Part 3, pp. 2102-2103; Karima Abboud Gabr, *Surrogacy and its Consequences*, *Journal of Research of the College of Basic Education*, Part 9, Issue 3, pp.6-7.
- (iii) Muhammad Ali Al-Bar, *Industrial Insemination and IVF*, *Research within the Journal of the International Islamic Fiqh Academy*, Second Session, Part 1, p. 269; Al-Bakri, Ali bin Mushabib bin Abdullah, *Surrogacy - A Comparative Etymological Study*, p. 51, Adapted from; Ziad Ahmed Salama, *IVF between Science and Sharia* , pp. 58-59. And look at: Sun Woo Kim and others, *The first women born by in vitro fertilization in Korea gave better to a healthy baby through natural pregnancy*, *Obstet Gynecol Sci, Korea*, v64,(4), 2021, p390.
- (iv) Al-Bakri, Ali bin Mushabib bin Abdullah, *Surrogacy*, op. Cit., P. 51, Adapted.
- (v) Ziad Ahmed Salama, *IVF between science and Sharia*, pp. 124-125. Al-Bakri, Ali bin Mushabib bin Abdullah, *Surrogacy*, op. Cit., P. 52.
- (vi) Ali bin Mushabib bin Abdullah Al-Bakri, *Surrogacy*, op. Cit., P. 52.
- (vii) *Decisions and recommendations of the Islamic Fiqh Academy*, p. 173.
- (viii) *Decisions and Recommendations of the International Islamic Fiqh Academy*, p. 30.
- (ix) <http://islamset.net/arabic/abioethics/engab/MAIN.htm>
- (x) Al-Shafi 'i, Ahmed et al., *Medical Jurisprudence Encyclopedia*, Part 2, pp. 435-438.
- (xi) Jabr, Karima Abboud: «*Surrogacy and its implications*», *Journal of Research of the Faculty of Basic Education*, Part 9, p. 3, p. 246. See, Al-Bakri, Ali ibn Mushabib, *Renting Surrogacy*, p. 108.
- (xii) Al-Rumaih, Abdullah bin Ahmed, "Renting the Womb: Its Ruling and Impact on Islamic Jurisprudence," *Journal of the Saudi Jurisprudence Society*, Riyadh, p. 24, Ramadan 1436 AH-2015AD, p. 498.
- (xiii) Aref, Aref Ali, *Jurisprudential Studies in Contemporary Medical Cases*, Part 2, p. 820.
- (xiv) *Journal of the Islamic Fiqh Academy*, p. 2, part 1, p. 299.
- (xv) Al-Bakri, *Surrogacy*, pp. 112-113.
- (xvi) Narrated by Abu Dawud in his *Sunan*, *Book of Marriage*, Chapter on Captivity. The Albanian said in his grade: Hassan. See: *Sahih Sunan Abi Dawood*, Part 1, p. 600, No. 2158.
- (xvii) Al-Shafi 'i, Ahmed et al., *Medical Jurisprudence Encyclopedia*, Part 2, pp. 436-437.
- (xviii) Al-Bakri, *Surrogacy*, p. 114.
- (xix) See: Abu Zaid, Bakr bin Abdullah, *Fiqh Al-Nawazil*, Part 1, p. 250.
- (xx) See: *Ibid.*, Part 1, pp.250-251.
- (xxi) Salama, Ahmed Ziad, *Pipe Children between Science and Sharia*, pp.127-128.
- (xxii) Al-Shafi 'i, Ahmed et al., *Medical Jurisprudence*, Part 2, p. 437.
- (xxiii) See: *Ibid*, Part 2, pp. 437-438.

- (xxiv) Jabr, Karima Abboud: «Surrogacy and its implications», p. 248.
- (xxv) Jabr, Karima Abboud: «Surrogacy and its implications», p. 248.
- (xxvi) Al-Khouli, Hind: «Surrogacy in Islamic Jurisprudence», Journal of Damascus University of Economic and Legal Sciences, 2011, vol. 27, p. 3, p. 289.
- (xxvii) Al-Khuli, Hind, «Surrogacy in Islamic Jurisprudence», p. 289.
- (xxviii) Al-Shafi 'i, Ahmed et al., Medical Jurisprudence Encyclopedia, Part 2, p. 442.
- (xxix) Decisions of the Islamic Fiqh Academy, pp.173-174.
- (xxx) Al-Qaradawi, Yusuf, Contemporary Fatwas, p. 899.
- (xxxi) Diraniyah, Mujahid, Fatwas on Tantawi, p. 103.
- (xxxii) Salama, Ziad Ahmed, Pipe Children between Science and Sharia, p. 139.
- (xxxiii) Zahra, M.Hamad Al-Mursi, Industrial Insemination, Its Legal Provisions and Legal Limits, pp. 366-367,
- (xxxiv) Narrated by Al-Bukhari, Kitab al-Farā'id, Bab al-Walid fi al-Birdh al-Hurrah wa Ummah, No. 6749, and Muslim, Kitab al-Rida ', Bab al-Walid fi al-Birdh, and Tawqī al-shubbāt, No. 1457.
- (xxxv) Al-Shafi 'i, Ahmed et al., Medical Encyclopedia of Jurisprudence and Modern Revelations, Part 2, p. 451.
- (xxxvi) Ibid., Part 2, p. 451, disposed of.
- (xxxvii) Zahra, Mohammed Al-Mursi, Industrial Insemination, Its Legal Provisions and Legal Limits, p. 366, Adapted.
- (xxxviii) Al-Khatib, Yassin Mahmoud, Proof of Descent – Comparative Study -, p. 373, Aref, Aref Ali, Substitute Mother (or Tenant Womb), Islamic Vision, Part 2, p. 828.
- (xxxix) Al-Khatib, Yassin Mahmoud, Proof of Descent, p. 373. See: Aref, Aref Ali, Surrogate Mother (or Tenant Womb), Islamic Vision, Part 2, p. 828.
- (xl) Aref, Aref Ali, Substitute Mother (or Tenant Womb), Islamic Vision, Part 2, pp.828-829.
- (xli) He looks: Al-Zarqa, Mustafa: «The tube baby.. and Inheritance", Al-Umma Magazine, Qatar, Year 3, Issue 4, p. 63. See: Al-Rumaih, Abdullah bin Ahmed , Renting the Womb: Its Ruling and Impact on Islamic Jurisprudence, Journal of the Saudi Jurisprudence Society, p. 506; Aref Ali Aref, Substitute Mother (or Rented Womb): An Islamic Vision, Part 2, p. 828.
- (xlii) Diraniya, Mujahid, Fatwas Ali al-Tantawi, p. 103; Aref Ali Aref, surrogate mother (or hired uterus), Islamic vision, vol. 2, p. 830.
- (xliii) Al-Rumaih, Abdullah bin Ahmed, Renting the Womb: Its Ruling and Impact on Islamic Jurisprudence, p. 507.
- (xliv) Aref, Aref Ali, Substitute Mother (or Tenant Womb), Islamic Vision, Part 2, p. 830.
- (xlv) Al-Rumaih, Abdullah bin Ahmed, Renting the womb, its ruling and its impact on Islamic jurisprudence, p. 507.
- (xlvi) Aref, Aref Ali, Substitute Mother (or Tenant Womb), Islamic Vision, Part 2, p. 831.
- (xlvii) Aref, Aref Ali, Substitute Mother (or Tenant Womb), Islamic Vision, Part 2, p. 831.
- (xlviii) See: Aref, Aref Ali, Substitute Mother (or Tenant Womb), Islamic Vision, Part 2, p. 831.
- (xlix) Narrated by Muslim, Book of Destiny, Chapter on how to create a human being in his mother's womb, and write his livelihood, his time, his work, his misery and his happiness, No. 2643.
- (l) Al-Shafi 'i, Ahmed et al., Medical Encyclopedia of Jurisprudence and Modern Revelations, Part 2, p. 466.
- (li) Ibid, the same page.
- (lii) The previous source, the same page, acting.
- (liii) Law No. 84-11 dated 9 Ramadan 1404AH corresponding to 9 June 1989AD, which includes the amended and completed Family Law.
- (liv) Medical liability law number 17 , 1986, <http://www.seha.ly/wp-content/uploads/2017/11/%D9%82%D8%A7%D9%86%D9%88%D9%86-%D8%A7%D9%84%D9%85%D8%B3%D8%A4%D9%88%D9%84%D9%8A%D8%A9-%D8%A7%D9%84%D8%B7%D8%A8%D9%8A%D8%A9-%D9%88%D8%A7%D9%84%D9%82%D8%B1%D8%A7%D8%B1%D8%A7%D8%AA-%D9%88%D8%A7%D9%84%D9%84%D9%88%D8%A7%D8%A6%D8%AD-%D9%88%D8%A7%D9%84%D8%AA%D8%B9%D9%84%D9%8A%D9%85%D8%A7%D8%AA-%D8%A7%D9%84%D8%B5%D8%A7%D8%AF%D8%B1%D8%A9.pdf>
- (lv) <https://srhr.org/abortion-policies/documents/countries/01-Libya-Penal-Code-1953.pdf>