

The legality of surrogacy

"Comparative doctrinal study"

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Subject:

Thank God, who created man in the best calendar, and preferred him to many of those who created preference, and I witness that there is no God but God alone who has no partner, and I testify that Muhammad Abdo and his Messenger, God sent him to the worlds with a promise and a harbinger, may God pray upon him and his family and companions and hand him over a lot, but after:

As a result of the amazing scientific and technical development in all aspects of life, particularly in the field of medical and biological sciences that directly affect people's lives, they are provided with solutions to problems that in the past were intractable. One such thing is the so-called artificial reproduction, to solve problems of pregnancy and childbirth, such as tightness, blockage of the uterus in women or infertility in men, leading to the missed opportunity for normal reproduction.

One of the methods of artificial reproduction is known as (surrogacy), through which a wife's egg is fertilized mostly by her husband, and then the vaccine is grown in the womb of a woman who has been pregnant for the last time of pregnancy, to be handed over to the parents after birth, for a fee often agreed upon, and perhaps voluntarily.

Several names have been given to this type of reproduction, including: (fetal seedlings), (foster mother), (surrogate mother), (rented abdomen), (pregnancy for others), (rented uterus) and (surrogacy) and this latter name is famous in America and the European continent, and finally in the Arab countries. This is why I chose the term "surrogacy" in my research, as it is the most obvious and indicative of this type of reproduction.

The wave of IVF, one of its types of surrogacy, has begun since the birth of the first pipe baby, Louise Brown, which brought to the world's attention on July 25, 1987.

Since the advent of IVF in the last quarter of the twentieth century, Muslim doctors have been holding conferences and seminars to study such innovations that have brought them to the initial fact that IVF and what is governed by it is surrogacy if it is between a couple is halal, and what a third party has to do is haram.

In 2001, an Arab obstetrician and gynecologist raised the issue of (surrogacy) to solve the problem of a patient who had her uterus taken over, and presented the issue to some sharia jurists, who had ruled that it was permissible for a woman to volunteer her uterus or rent it to carry sperm (the wife's egg was lying with sperm from her husband) and the owner of the rented uterus or ((surrogate mother) became pregnant with the defective uterus until birth.

On the basis of this, which has sparked widespread controversy among jurists, the Islamic Research Complex decided at its session on 29 March 2001 (prohibited the use of a foreign woman's uterus to put the water of a couple in her womb, whether it is in the womb of that woman from me, an egg or a foetus)), which means that surrogacy is prohibited if it is from a foreign woman who is not the wife of the sperm owner.

However, since the subject has many different opinions and trends, I have seen that I write in it to investigate different opinions, follow their evidence and discuss them seriously and objectively, leaving ample room for further consideration.

The importance of research:

The importance of the research lies in the fact that it addresses the issue of surrogacy, which

is considered one of the most prominent modern means of industrial reproduction, which is used to solve the problem of inability to get a child in many suffer from infertility and deprivation of children, it has pushed a lot to it and question its legitimacy with the existence of some fatwas that it has allowed and here it was necessary to identify this coming down and know the opinion of the scholars of Islamic law in it and the positive laws, whether Arab or Western, and based on what Previously, the subject was discussed in the study, in which it reached the point of renting surrogacy in all its forms in Islamic law for its many family, moral and psychological corruptions, and the difference in positive laws between a criminal and a ugly.

Search problem:

Our research addresses a range of problems raised about the legality of surrogacy, what surrogacy is, the provision of surrogacy in sharia law and the effects of surrogacy.

Research methodology :

In general, the approach means the path taken by the human mind in pursuit of truth, and we will rely on the comparative analytical approach and use it to analyze comparative jurisprudence and analyze and discuss legitimate texts in order to draw appropriate conclusions.

Previous studies:

1. Surrogacy is a comparative study between Islamic law and positive law, Rabia Gandofa, Wadi University, Faculty of Social and Human Sciences, a graduation note that falls within the requirements for obtaining a master's degree in Islamic sciences, specializing in sharia and law, for the academic year 2014.

The researcher divided his research into an introduction and three chapters, which dealt with in the first chapter, which addressed the rent of surrogacy and IVF, in which he addressed the concept and images of surrogacy as well as the concept and images of IVF, while in the second chapter addressed the position of Islamic law and positive laws of surrogacy, in which he mentioned the opinions of the scholars in the legality of surrogacy, explaining the first opinion that it is permissible with mentioning the evidence of this statement and

the second opinion that prohibits with mentioning the evidence of this saying, and the third chapter has shown between There are evils arising from surrogacy, such as family corruption related to descent, maintenance and inheritance, in addition to mentioning the moral and psychological evils of surrogacy, such as the detection of surrogacy, the abuse of women and psychological evils on both the child and the family.

In his research, he concluded that there were five surrogacy pictures, the **first picture**: an egg from the wife and a sperm from the husband are vaccinated in an ectopic test bowl, and then the vaccine is implanted in the womb of another foreign woman. **Second picture**: The vaccine is made up of a couple, the pollination is carried out externally, and then the vaccine is implanted in the womb of another wife of the man with the sperm. **Photo 3**: The vaccine is made up of donors, a woman donates the egg, a man donates sperm and is vaccinated externally, and then the vaccine is implanted in another woman's uterus for a third woman who pays money for taking the baby. **Photo 4**: The husband's water is pollinated with the water of a foreign woman and then the same woman carries the bite in her uterus, and at birth the child is handed over to this man and his wife for money. **Photo 5**: Inoculation of the wife's egg with the water of a foreign man and then placed the vaccine in the womb of a foreign woman, and after birth the fetus is delivered to the wife with the egg and her sterile husband and the relationship between surrogacy and IVF lies in the fact that surrogacy represents a picture of IVF and the difference of scientists in the issue of surrogacy was in only two pictures and the rest of the pictures agreed on its sanctity.

2 Surrogacy in Islamic jurisprudence, Dr. Hind al-Kholi, Faculty of Sharia, Damascus University, in the publications of damascus University journal of economic and legal sciences, Volume 27, Issue 3, 2011.

The researcher divided his research into an introduction and six demands, addressed in the first requirement the concept and images of surrogacy and the reasons for resorting to it, while in the second requirement dealt with the liberation of the subject of research on the issue of surrogacy, and in the third requirement doctrines of scholars in the issue of surrogacy,

and in the fourth requirement addressed the evidence of scientists in the issue of surrogacy, and in the sixth requirement dealt with the weighting between doctrines in the issue of surrogacy, and the research sheds light on the issue of surrogacy. The opinions and doctrines of scholars on this subject, and explains the evidence of these doctrines of the Qur'an, the cream, the prophetic hadiths and the jurisprudential and reasonable rules, while this research concludes to the doctrine closest to the right according to the researcher's vision, which is the prohibition of surrogacy in all its forms.

3- Surrogacy in Islamic jurisprudence is a comparative study of Dr. Fatima Al-Mutawali Abdo Mohammed al-Mudaris in the Department of Comparative Jurisprudence, Faculty of Islamic Studies for Girls in Mansoura, and the research researcher divided four investigations: the first research: benefits and benefits in natural vaccination, the second research: the meaning of surrogacy. The third research: The opinions of the jurists in the rule of surrogacy with the most likely statement of the fourth research rule the proportions of the child rented the womb of his mother and the **researcher concluded** that the basis on which scientific progress is based is the benefit of humanity but with the legal controls and does not prevent legal treatment of infertility but within the limits of the shariah controls as decided by the jurisprudential complex and that surrogacy has several pictures all forbidden probably for fear of mixing genealogy and there is a suspicion of adultery and contracting surrogacy is a contract of surrogacy false and corrupted more than his interests.

The researcher benefited from the previous studies, and the findings and recommendations in the formulation of the current study, as well as in his attempt to distinguish from previous studies, where the current study shows the rule of **surrogacy in the Shariah and the laws of the Arab and Western countries through shaking and referring to the first sources of Islamic jurisprudence without adhering to a doctrine as well as refer to the original legal books** These studies helped the researcher to

formulate the questions and objectives of the study, as well as helped him to develop the study plan and follow its approach, as well as enrich the curriculum of the study by taking advantage of these previous studies through the original references on which it was based and it is clear from the previous presentation the diversity of studies that were interested in the subject of surrogacy, which makes the current study an extension of those studies with their differences in the variables addressed

Search plan:

Search: Includes an introduction, three detectives and a conclusion.

Introduction and I talked about the topic of research and the importance and methodology and previous studies

First topic: What is surrogacy

Requirement 1: Definition of surrogacy

Requirement 2: Surrogacy Photos

The second topic: the provision of surrogacy in sharia and law

Demand 1: The provision of surrogacy in Islamic law

Requirement 2: Surrogacy provision in comparative legislation

Research 3: The Effects of Surrogacy

The first requirement: the mixing of genealogy and the dispute over motherhood.

The second requirement: psychological effects on the child and the family rented to her uterus.

Conclusion: Search results and recommendations.

First research

What is renting a rest

Boot and split:

Surrogacy is a practice or agreement in which a woman called (surrogate mother) agrees to induce another person in return for or without (donation) and helps many married couples whose health conditions have not helped them have children, often because of the health conditions of the woman ^{or her husband}¹.

This research was divided into two demands, which dealt with the definition of surrogacy in the first requirement, and the second

⁽¹⁾ د. - Khaled Abd El, Azim Abu Gahbe Look at a picture. Detailed and with great behavior, sterilization and Kama, comparative study

between medicine, religion and law. First Edition. National Center for Legal Issues, Cairo, 2008, p. 94.

requirement dealt with surrogacy photographs, as is the following:

Formy first request.

Definition of surrogacy

Infertility is closely linked to surrogacy as infertility is the most important reason for surrogacy, so I see the importance of defining it, what is infertility and what are its causes?

First: infertility is a language: taken from (infertility by opening the eye and breaking the rhyme, it is said that women and men are sterilized, if they have the prevention of offspring of disease or ageing, and sterile that is not born to them, and is called both male and female))^{0.3}

Secondly, infertility is a term: the jurists in the first chest of jurisprudence did not address infertility and did not highlight it as a doctrinal term with doctrinal implications such as the legality of requesting separation or annulment, because of curses^{0.4} darn⁰ and horn⁵⁰ and cheese⁶⁰. However, some of them, such as Shafi'i, may have addressed the definition of infertility when talking about Sunni divorce, pretence divorce or women's defects.⁰⁸ On the

one hand, on the other hand, the lack of reproductive methods in his time or its reliance on him, unlike modern-day jurists, who see the importance of defining infertility because of the importance of distinguishing it from sexual defects that prevent the achievement of the child's purpose, since it is the origin of marriage, in addition to the purpose of birth control, on the one hand, and on the other hand, given the recent medical progress on the multiplicity of modern reproductive methods left by civilization and scientific progress, including the recent spectacular medical advances. Recent surrogacy, here's a presentation of the most important of these definitions:

1. The definition of Dr. Khalid Mohammed Mansour, where infertility is defined as: (real or judgmental inability to have a couple together or one of them, and a wife of an age where she can usually have children))⁰¹⁰.

2. Others defined sterile as (who is not born to him, it is said: women and men, whoever they are, have been sterilized by disease or ageing))^{0.11}

(2) - That's what I mean, Tongue of the Arabs, C8, p. 332, infertility. Mukhtar Al , Saah, Al-Razi, P. 223, infertility. Arabic Language Complex, Intermediate Complex, p. 617, Infertility.

(3) See: Definitions of infertility-updated jurists, Definition 2.

(4) The curse, the owner of which is called Anin and The Anin, is: he is the one who cannot bring women, and he is called an eyes because his memory relaxes on the right and north and does not mean to come from the woman. Look: Abu Hafs The nesfi, age coffee muhammad coffee Ahmed, Student students, book the Neighbors, P. 136. And see: Ibn Manazaw, The tongue of the Arabs, C9, p. 493, article about.

(5) Darn is taken from the darn thing, in the sense of being blocked and twinned, and it's the woman who's uplifted. Her lips are converging and sticking so he doesn't have to. The male may be released because of the severity of his joining, or the vulva is clogged with flesh so that it is not possible to have intercourse with her. Look.: Ibn Mansaer, Tongue of the Arabs, C5, p. 132, a darn material. And look: student students, Former reference, P. 136.

(6) - theCentury In the vulva, it is forbidden to behave in a male with either a thick gland or a comfortable meat. See: Ibn Perspective, The tongue of the Arabs, C11, p. 138. Article horn.

(7) Al-Jub: It means cutting, and the male cut. See Fayoumi, Illuminating Lamp, p. 34. And look.: That's what I mean, The tongue of the Arabs, C2, p. 161, is a material of jabb.

(8) As The Almighty says: "God is the king of heaven and earth, he creates whatever he wants, he gives to whomever he wants females and gives to whomever the males want} Sura al-Shura, verse (49). His saying is: {Or marry them as our memory and female and make whoever he wants sterile that he is the almighty} Sura al-Shura, verse (50).

(9) Abu Hamed, Mohammed bin Ahmed al-Ghazali, Revival of Religious Sciences, Beirut, Dar al-Knowledge, C2, p. 24.

(10) Dr. Khalid Mohammed Mansour, Medical provisions concerning women in Islamic jurisprudence, Al-Nafis Publishing and Distribution House, Amman, Jordan, p. 72.

(11) Abu Jeb al-Saadi, the doctrinal dictionary, Dar al-Fikr, Damascus, i1, 1982, p. 145.

Third: infertility in doctors.

I chose some of the doctors' definitions of infertility, and whoever wants to increase it should go back to the books of specialists:

1. Dr. Ibrahim Adel al-Adgham defined infertility as "the wife's inability to have children for one year, despite the occurrence of a regular marital intercourse without the use of any contraceptives."¹²

2. Dr. Ahmed Mohamed Kanaan defined it as "inability to have children"¹³.

Through all these previous definitions, I can define infertility as ((the inability of spouses to have children despite the possibility of it)) it is a brief definition in which all types of infertility are included, taking into account the controls of conventional tariffs, away from length and length.

After infertility has been introduced, which is the first reason for surrogacy, I am used to defining the term surrogacy as the title of the search, what is surrogacy?

First: The definition of surrogacy is a language:

Surrogacy is an additional compound of the word "rental", which is the additive and (surrogacy) which is added to it.

Rental: Derived from rent, rent has estimated benefits with financial means, and renting owns it¹⁴.

As for rent, it is derived from wages, which is compensation, from which the reward is called wages and paid and has two meanings:

The first is ((hate to work).) The second is ((fractured bone algebra)).¹⁵

From him ((the worker's wages are like something that forces himself to do what he has done)).¹⁶

The lease is defined as (a contract on the intended benefit of information, which can be made and permitted, known mosquitoes¹⁷).

As for surrogacy, it is a collection, the only one: a uterus. It has two meanings in language:

The first is the baby's abdominal germination¹⁸ and vascular.

This meaning is not the subject of research,¹⁹ and the first meaning is what concerns us in our research, which is the intention of the jurists in their talk about the issue of surrogacy.

The Qur'an called it the "mechanized decision", which is the ²⁰real basin in which the two cells meet from the water of the couple, and then hang in the wall of the uterus and become stuck, and then grow medical growth into a chew, from a chew to bones covered with meat and then created by God another creation, and God bless the best creators.²¹

Second: the definition of surrogacy is a term.

We mentioned earlier that there are many names for surrogacy mentioned by jurists, including: the dark uterus, the fetal seedling, the borrowed a. the mother by proxy, the surrogate mother, the foster mother, and the pregnancy on

(12) - D. Ibrahim Adel Al-Adgham, consultant dermatologist, reproductive and infertility, women, infertility and reproduction a recent study of the causes and ways to treat them, Dar al-Qalam, Damascus, p. 47.

(13) See: Medical Encyclopedia of Jurisprudence (An Umbrella Encyclopedia of Jurisprudence in Health, Disease and Medical Practices) Dar al-Nafis, Jordan, p. 733.

(14) - Abu Hafs The nesfi, age coffee muhammad coffee Ahmed Student students, book rents, Former reference, P. 62.

(15) - Son Fars Ahmed Bin Zakaria, Sockets Language, substance (reward).

(16) Ibn Fares, Ahmed Bin Zakaria, Language Standards, Subject (Wages).

(17) Al-Khatib Al-Sharbini, singer of the needy, Mohammed bin Mohammed, C3, p. 438.

(18) Ibn Mansaer, tongue of the Arabs, Substance (uterus).

(19) Ibn Mansaer, Tongue of the Arabs, Article (Rahm).

(20) - Surat Believers Verse (13).

(21) Mohammed al-Bar, Baby tube and artificial pollination, C5, p. 325.

behalf of others, all of which indicate one meaning: surrogacy²².

Surrogacy in the doctrinal term is defined as: (planting an egg from a woman who is vaccinated with a mniocy animal from her husband in the womb of another woman until she gives birth, in exchange for money or no money²³).

It was also defined as: (use of the uterus of another woman carrying a bastard made up of a man's sperm and a woman's egg, often a couple, carrying and lying on the foetus, after which the couple takes care of themohood and is their legal child²⁴).

Dr. Saad bin Abdulaziz bin Abdullah al-Shuweirah defined him as a "contract to make use of the uterus of a foreign woman to instil the vaccine in him, but not to attribute the baby to her²⁵."

In my view, this definition is limited to foreign women and it is more appropriate to add the word (or another wife) to the definition, so that the definition of surrogacy becomes (a loan contract to use the uterus of a foreign woman or another wife to instil the vaccine in it, but the child should not be attributed to her).

Through these previous definitions, we find that surrogacy is (a woman's uterus rental contract requires carrying another woman's egg implanted in her uterus from the beginning to the end of pregnancy, with the birth to be delivered either in return for money or free of charge).

The second requirement

⁽²²⁾ D. India Al-Holy, Surrogacy in Islamic jurisprudence, Research published in the Damascus University journal of Economic and Legal Sciences, Volume 27, Issue 3, 2011, p. 278. And look: Khaled Mohammed Mansour, Medical provisions concerning women in Islamic jurisprudence, Former reference, p. 100.

⁽²³⁾ - Safaa MahMaud Al-Aysra, scientific developments and their impact on the fatwa in personal situations, Dar Imad al-Din, Jordan, i1, 1430 Ah, p. 251.

⁽²⁴⁾ Aisha Ahmed Hassan, Pregnancy-related provisions in Islamic jurisprudence, Majd

Surrogacy photos

For surrogacy, there are many images related to the circumstances of a man or a woman, and accordingly there are several pictures of surrogacy:

First picture: The vaccine should be taken from the spouse (the egg from the wife and sperm from the husband) and the in vitro is vaccinated outside the uterus through a test bowl and then the vaccine is implanted in the uterus of another woman, and this is often the case of a wife who does not want to get pregnant or whose uterus is unable to conceive, in this picture the vaccine is not returned to the wife, and when this woman gives birth to the uterus of the tenant born to give it to Zand Jane, this picture is the most famous and known The process of surrogacy in the world²⁶.

Second picture: The vaccine should be from a couple and the in vitro is vaccinated by a test bowl and after the growth of the vaccine is implanted in the womb of one of his wives donated, and this method was proposed by Sheikh Mohammed bin Athaimin in the seventh session of the Jurisprudence Complex of the Association of the Islamic World in 1404, which was accepted by the complex at that time and then returned and banned in its eighth session after it was found illegal²⁷.

Third picture: The vaccine should be from donors (the egg is from a donor and the sperm is from a donor) and the pregnancy and birth are carried out by a donor woman, the vaccine is implanted externally and then the vaccine is implanted in the womb of another woman for the benefit of a third woman who pays money

University Foundation for Studies and Publishing, Beirut, I1, 1429 Ah, p. 106.

⁽²⁵⁾ - Saad bin Abdulaziz Al-Shuweirah, Provisions for abnormal vaccination, Treasures of Seville Publishing and Distribution, Riyadh, Saudi Arabia, i1, 1430H, C1, p. 347.

⁽²⁶⁾ Dr. Karima Abboud Geir, Surrogacy and its implications, Faculty of Basic Education, Mosul University, 2010 edition, p. 244. See: Omar Suleiman al-Ashkar et al., doctrinal studies on contemporary medical issues, Dar al-Nafis, Jordan, Amman, 1421 Ah, C2, p. 812.

⁽²⁷⁾ Rabia Gandofa, Surrogacy, Faculty of Social and Human Sciences, University of the Valley, Algeria, 2014 edition, p. 16.

for taking the baby without participating in the composition or pregnancy, in which picture the wife is barren, where she is unable to conceive and her uterus is not fit for pregnancy and may be rented to her uterus is the same egg donor or other woman.

Fourth picture: the vaccine should be from a donor, the sperm of the husband, and the pregnancy and birth are carried out by a donor woman²⁸, and this condition is resorted to if the wife is barren, where she is unable to produce eggs and is unable to conceive, and the tenant of her uterus may be the same one who donated eggs or others²⁹.

Photo 5: The wife's egg should be vaccinated with the water of a strange man who is not her husband, and then plant the frozen bite in the womb of a foreign woman, and use this image in case the husband is sterile and the wife has a defect in her uterus but her ovary is healthy³⁰.

Photo 6: The egg of a foreign woman donated with the water of a foreign man who donates his sperm is vaccinated and another foreign woman donates her uterus, and resorts to this picture, where the couple is sterile and has no hope of healing or reproduction, at which point the couple goes to the semen banks to buy a frozen embryo, and in agreement with the semen bank or with other companies specialized in surrogacy and rent the uterus of a foreign woman with the ability to conceive, and after the situation the baby is delivered as their son³¹.

In the light of all these photographs, there are those who share the couple's reproduction, so that the newborn is born with a controversy that only dies by his death because he will remain confused and do not know who his mother really is, is she the sperm or the owner of the uterus, since in all these cases the uterus is not the owner of the sperm, in addition to the absence of a legitimate marriage contract between the husband and the owner of the uterus, and the owner of the uterus (surrogate

mother) is here. A third party is out of the couple's scope.

Second research

The rule of surrogacy in sharia and law

Bootand split:

There is no doubt that in such emerging issues, it is impossible to reconcile because there is room for jurisprudence, and the opinions of jurists differ in their different backgrounds and approaches. But what should be noted is that this jurisprudence is not a building of distortion or statement in religion without evidence, but has its controls and rules governing it, especially if it links it to the purposes of Islamic law, especially since the issue of surrogacy was seen as the fate of the acts. This issue and the opinions of the jurists, which were said in two branches, were ruled in two branches, the first of which indicated the opinion of sharia jurists, while the second demand made it the opinion of jurists, and in the following detail:

The first requirement

The rule of surrogacy in sharia

Contemporary Islamic jurisprudence did not agree on a single opinion on the legality of surrogacy, so one opinion went to outlaw it at all, which is the opinion of the majority of jurists, and another went to his leave, and a third went to leave on condition that the uterine tenant is a second wife of the husband with the sperm, and the result was opinions, fatwas and multiple doctrines in this matter, no matter how complex the doctrines of the jurists and their multiplicity of opinions and opinions are three words, the first saying sees the passport absolutely and the second opinion that sees marriage in the case of the marriage The third opinion is that the ban is not in place.

The first is to say it is absolutely permissible.

The authors of this statement from contemporary jurists believe that it is permissible to hold a uterine rent at all, whether

⁽²⁸⁾ Mohammed Abdul Jawad Hijazi, *Emerging Medical Issues in the Light of Islamic Law*, Dar al-Hikma, Britain, 1422 Ah, C1, p. 177.

⁽²⁹⁾ Rabia Gandoufa, *Surrogacy*, Faculty of Social and Human Sciences, former reference, p. 16.

⁽³⁰⁾ Aisha Ahmed Hassan, *Pregnancy-related provisions in Islamic jurisprudence*, former reference, p. 142.

⁽³¹⁾ Mohammed Mahmoud Hamza, *Surrogacy between Medicine and Islamic Law*, Beirut, Dar al-Shari'a, Edition 1, 1428 Ah, page 166.

the uterus is another wife of the owner of the sperm or not, in Egypt, Sheikh Abdul-Muti Bayoumi³², dean of the Faculty of Jurisprudence at Al-Azhar University and a member of the religious committee of the Egyptian People's Assembly, and Dr. Ismail Barada³³, cited mental evidence through which they protested the passport and from that evidence, the measurement where they measured the mother with the uterus on the mother of breastfeeding and in several ways:

The first face: Allah has combined pregnancy with breastfeeding in the period necessary for them to say {and carry him and separate him for thirty months}³⁴

The second aspect: the existence of the insidious relationship between the breast development of the pregnant woman and the development of the fetus, the breast is linked to the development of the fetus so that it is ready to replace the uterus in nutrition, if it is permissible to hire a nursing woman and even assign her custody and upbringing and the obvious impact on him, in pregnancy there is no significant effect to be entitled to³⁵.

The third face: both the uterus and the breast are fed by the child, nutrition in the uterus through the umbilical cord and this nutrition is carried out with substances derived from the food digested in the mother's bowels, which are originally not taste-sensitive and change in milk because it touches the senses of the tongue, while they do not change in the uterus³⁶.

The second saying is that it is permissible if the uterus is another wife.

The authors of this statement went on to say that the contract for the rental of the uterus is permissible, but provided that the owner of the rented uterus is another wife of the husband who owns the sperm, then one of his wives gives the egg and the other donates the pregnancy after the egg is fertilized by the husband, which was authorized by the Islamic Jurisprudence Complex In the seventh session held between 11 and 16 Spring 1404, he then changed his mind and said by editing the sign of genealogy, on the assumption that the other wife in which she planted an egg The first wife may be pregnant before the blockage of her uterus to carry the vaccine from the husband's cohabitation with her in a close period with the transplantation of the vaccine, and then give birth to twins, then the boy of the vaccine does not know who the son of cohabitation, nor does she know the mother of the boy from whom she was born, and may die a leech or chew one of the two pregnancies and fall only with the birth of the other pregnancy, which also does not know whether the birth of the vaccine was born, or the pregnancy of the husband's cohabitation, which is what The genealogy of the true mother of both pregnancies must be mixed, and the consequent provisions of inheritance, maintenance and land must be confused, all of which must cease to rule in the said case³⁷.

Sheikh Abdullah bin Salman al-Munai, a member of the Saudi Arabia's Senior Scholars Association, Dr. Ali Mohammed Yusuf al-Mohammadi, professor of sharia at Qatar University, and others³⁸, are among those who have been authorized to do so³⁸.

The third saying: to say no.

(32) - Wafa Ghoneimi Ghoneimi, see: Legitimate ties, Riyadh, Dar al-Samii, 143H, i1, p. 202.

(33) Ghoneimi Ghonimi, see: The legitimate ties, the loyalty of the valid reference. P. 202.

(34) Surat al-Ahqaf, verse (15).

(35) - Ahmed Mohamed Lotfi, IVF between the words of doctors and the opinions of jurists, University Think Tank, I1, Alexandria, 2006, p. 255 256. See: Shawky Zakaria Al-Salhi, Rented Uterus, Banks of Sperm, Embryos and Their Jurisprudence and Legal Judgment, Dar al-Alam and Faith, Cairo, 2006, p. 259.

(36) - Ahmed Mohamed Lotfi, IVF between the words of doctors and the opinions of jurists, p.

255. And see: Shawki Zakaria Al-Salhi, the rented uterus, the banks of sperm, embryos and their jurisprudential and legal judgment, p. 259.

(37) - Ahmed Mohamed Lotfi, IVF between the statements of doctors and the opinions of jurists, previous reference, p. 247. See: Ibn Idris Al-Hilli Center for Doctrinal Studies, Doctrinal Report entitled "Alternative Mother" First Issue, 2007 A.D. 1428 Ah, p. 35 36.

(38) - i know ali knows, Doctrinal study in contemporary medical issues, C2, p. 280. And look. Sajida Taha Mahmoud: Surrogacy and its impact in the eyes of sharia, medicine and law, research published online, p. 15.

While others, the owners of this opinion, went to the sanctity of pregnancy through the rented uterus at all, there is no difference between the owner of the rented uterus being a strange woman or another wife of the man with the sperm, which I mentioned in both the first picture³⁹ and the second of surrogacy pictures, and this statement went to the masses of contemporary jurists, which was issued by the Islamic Jurisprudence Complex in Mecca at its eighth session in 1985⁴⁰ and the decision of the Islamic Research Complex in Cairo, Egypt in 1985-2001⁴¹, the opinion of many modern jurists, including Sheikh Mustafa Ahmed al-Zarqa, Sheikh Abdullah al-Bassam, Sheikh Abdullah bin Zayed Al Mahmoud and Sheikh Bakr bin Abdullah Abu Zeid⁴².

Those who say that surrogacy is invisibility is inferred by several evidences from the Holy Quran and the Prophet's sunnah and reasonableness, as follows:

First: The evidence from the Holy Quran:

Many verses from the Qur'an show that the origin of the prohibition is permitted, and only what is stipulated in the street, and the uterus belongs to a few women. Just as a few are permissible only by a valid legal contract, so the uterus may not be filled without the pregnancy of marriage, so the origin of prohibition is maintained. Ibn Najim said: "The origin of the prohibition is the case, and if a woman meets

the solution and sanctity of the sanctity, then it is not permissible to investigate the furs⁴³."

1. The saying of the Almighty: "Those who are the aggressors" and **"Those who are for their husbands are preserved"** are the ones who are the ⁴⁴aggressors. Those who want to do so are the ones who are not entitled to it, i.e., behind wives and the king of the right, and no more legitimately than in other ways, whoever wants to do so has lost the permissible and permissible circle, and he fell into the sanctities and attacked the symptoms that he did not deserve either by marriage or jihad, which is what Islam desires and does not accept.

2 The saying of Almighty God: "God has made yourselves husbands and made your husbands a son and a son and your livelihood from the good, and they believe in the grace of God⁴⁵. The inference in the holy verse is that Allah has indicated that the legitimate child in the eyes of Islam is only a husband and wife, and the rented uterus holder is not, as one of the conditions for reproduction in Islam is that this should be under a contract that meets the conditions and pillars that are included in Islamic law⁴⁶.

3 The saying of The Almighty: "God is the king of heaven and earth, he creates what he wants, gives to whomever he wants females, gives to whom the males (49) will like him, or marries them male and female, and makes whoever he wants sterile, that he is capable

³⁹ Some believe that the first picture is not permissible other than the majority of jurists who see it as permissible. See: Omar Suleiman al-Ashkar et al., Doctrinal Studies in Contemporary Medical Issues, Dar al-Nafis, Former Reference, C2, p. 812.

⁽⁴⁰⁾ This one What was issued by the Islamic Jurisprudence Complex in Mka At its eighth session held at the Headquarters of the Islamic World Association in Mecca, from Saturday, 28/28/1405 Ah to Monday 7 May 1, 1405 Ah. Ahmed Mohamed Lotfi, See: IVF between the words of doctors and the opinions of jurists, University Think Tank, I1, Alexandria, 2006, p. 246. And look, too.: Amira Adly, Criminal protection of the fetus under the new techniques, University Think Tank, Alexandria, 2005, p. 201.

⁽⁴¹⁾ Resolution No. (1) at its meeting on 29 March 2001.

⁽⁴²⁾ Bakr Abdullah Zeid, Faq al-Nazel, Beirut, Al-Resala Foundation, 1416 Ah, C, p. 275. And see: Hosni Mamdouh Abdel Dayem, the contract of surrogacy between prohibition and legalization, Arab Thought House, I1, Alexandria, p. 221. And see: Shawky Zakaria Salhi, the rented uterus, the banks of sperm and embryos and the jurisprudential and legal judgment of them, Dar al-Alam and Faith, Cairo, 2006, p. 49.

⁽⁴³⁾ Zain al, Din bin Ibrahim bin Njeim ' Likenesses and analogues on the doctrine of Abu Hanifa al-Numan, Beirut, Dar al-Sama'a, 1400 Ah edition, p. 67.

⁽⁴⁴⁾ Surat al-Mu'minin, Verses (5 7).

⁽⁴⁵⁾ Surat al-Bee, verse (72).

⁽⁴⁶⁾ - Saad bin Abdulaziz Al-Shuweirkh, Abnormal Vaccination Provisions, Former reference, c1, p. 358.

of (50) and that the ⁴⁷evidence in the two holy verses is that the wisdom of God requires that some people be born only male and that some of them are born only females, while others are born to them male and female, as his wisdom required that some people be born only to females. Sterile. As if the issue of surrogacy is a challenge to this divine wisdom and the believer must be satisfied with God's judgment and destiny and be patient with him⁴⁸.

Second: The evidence from the Sunnah: there were several hadiths showing the prohibition of marriage of a woman if ⁴⁹her uterus is busy with water other than her husband, such as the hadith of Ruifa bin Thabet al-Ansari, who said: I was with the Prophet (peace be upon him) when he opened a nostalgia, and a fiancé stood up to us and said (peace be upon him): (It is not permissible for a person who believes in God and the other day to water his water to plant others⁵⁰). . In the previous two conversations, the dent was forbidden for those who were pregnant with other than her husband, and her joy was busy with water other than her husband.⁵¹

Thirdly, the evidence is reasonable: such as the suspicion of genealogy of the possibility of failure to implant the fertilized egg and carry the wife from the position of her husband and then think that the baby is from the fertilized egg⁵². In this way, vaccination is necessary to expose a woman's awrah, look at it and touch it, and the origin is that it is legally forbidden only because of necessity, and if the necessity is justified for the egg holder, it is not permissible for the tenant uterus ⁵³holder.

In my view, surrogacy is a great suspicion of genealogy and the spread of evil, corruption and harm throughout societies alike, in some cases it leads to the mixing of men's water with a foreign woman's egg, as well as in others to

conflict between the woman with the rented uterus and the woman with the egg on pregnancy, in contrast to the significant psychological and physical effects on the tenant of the uterus, as it is contrary to the proper nature that makes the pregnancy process a close relationship. between the woman and her pregnancy.

The second requirement

Provision for renting in comparative legislation

First: legal problems resulting from the use of the mother's incubator technology.

It is known that the source of the legal problems raised by the technology of the foster mother is mainly the result of the characterization of the agreement between the mother of the foetus and his surrogate mother (the incubator) is it a contract regulated within the scope of the special law or the subject of agreement (the fetus) that prevents its characterization of the contract. Which prevents it from being included in the field of private law?

Thus, it is clear that the absence of legal regulation makes the questions raised logical but sophisticated and complex, the agreement between normal persons such as (mother, foster mother) and the place of the obligation of the foster mother to become pregnant and actual childbirth in exchange for the obligation of the mother (biological mother) to provide material or moral compensation or without any concrete obligation.

If the legal relationship between the mother and the foster mother is a special retirement relationship that revolves around the field of private law, it is not simply described. Legal obligations and their effects are placed on the foetus, which was not a party to the agreement, but whose legal status has been determined by

⁽⁴⁷⁾ Sura al-Shura, Verses 50.49.

⁽⁴⁸⁾ - Abdulrahman bin Nasser, Tayseer al-Karim al-Rahman in interpreting the words of Al-Manan, Al-Saadi, translated by Abdul Rahman al-Luaihaq, Al-Resala, Beirut, I1, p. 762.

⁽⁴⁹⁾ - Ahmed Bin Hanbal, Imam Ahmed's support, C4, p. 108.

⁽⁵⁰⁾ - Ahmed took him out in his pillow, The Book of Marriage, Bab Wha Spaḡalif C3, p. 62.

And Abu Daoud in His age, Hadith Number (2157) C2, p. 248.

⁽⁵¹⁾ Look: Saad bin Abdulaziz Al-Shuweirkh, 'Abnormal vaccination provisions' P. 451, and beyond.

⁽⁵²⁾ - Suad Saleh, 'Honoring man and surrogacy', Article in Al-Ahram newspaper, dated March 13, 2006, issue 4157, published in Al-MoAl-Ahram Newspaper's e-mail (<http://www.ahram.org.eg>).

⁽⁵³⁾ Previous source.

one or both of his parents by virtue of his jurisdiction.

At that time, the characterization of the foetus by virtue of the undignified young person would be: it is not right to arrange the obligations on it except what was beneficial to it purely.

However, under this adaptation, which falls outside the scope of research because it is governed by the rules of private law, it may be unable to characterize the legal relationship and its nature, and to find a solution to the questions raised, such as the characterization of the contract. Is that a lease under which the mother rents her uterus from the foster mother? Or is it a deposit contract under which the mother deposits her baby with the foster mother during pregnancy? Or is it an indefinite contract?

It may be thought that the agreement between the mother and the foster mother is focused on the obligation of a president to carry the foetus, i.e., to preserve it for the duration of the pregnancy with other obligations, and then the agreement is to the extent that it departs from the characterization that this contract is a lease, it is close to describing it as a deposit contract⁵⁴. This characterization will then come very close to the agreement between the mother and the foster mother, whenever without any corresponding obligation on the part of the mother, to provide cash to the foster mother. If the agreement guarantees this obligation, it goes by agreement towards so-called conservation contracts and departs from deposit contracts, which are usually unpaid, as they are carried out by those who have an intimate relationship such as kinship, friendship and others⁵⁵. In this case, we will be faced with two hypotheses: the agreement between the mother and the foster mother free of charge, where jurisprudence may describe it as a deposit contract, and the second hypothesis: It is the agreement between the two in exchange for money and will then be guaranteed as a conservation contract.

I believe that the above-mentioned adaptations are inaccurate or inadequate, but as for their inaccuracy, it is not true that a person is the

subject of contracts, because the research hypothesis is based on the basis that embryos are human beings that represent an age stage of human life equal to dignity and human rights.

As for our statement that it is not sufficient, this is linked to the accuracy of the legal characterization of the agreement and its duality affecting the determination of legal obligations, their impact and severity, particularly in the face of its lack of precise identification or lack of knowledge of the details of such agreements in their entirety, and inevitably the obligation will be Financial payment by the mother is not seen by the auditors, and if we take a number of possibilities focused on what is linked to the embryos, we can estimate the extent of the legal problem faced by these embryos if we take the prevailing idea within the special law and move away. About common law.

The possibilities raised by the foster mother are as follows:

The first possibility: to take the decision to terminate a legal or illegal pregnancy, and to refrain from being the mother or the foster mother? Is taking it by the foster mother a breach of a contract obligation or a general legal obligation imposed by the Criminal Code?

The second possibility: the custodial mother's actions are necessary or unnecessary, resulting in damage to the fetus, such as drinking medicines and drugs, stressful work, travel, exercise, etc., and are these acts a contract breach or a breach of a general legal obligation?

The third possibility: If it is agreed in return, what is the legal solution if the foster mother pays by not fulfilling her obligation of preservation or handing over the foetus after the mother if she does not receive the agreed amount.

The fourth possibility: is the obligation of the foster mother to undergo periodic examinations on the foetus a contract obligation or a general law obligation? If it is a contract obligation, what is the effect of the foster mother if she does not comply, is it the effect of the contract governing the framework of private law or a legal effect governed by law within the framework of common law?

(54) - Private jurists declare that a contract with a duty to preserve is a fundamental duty, but a deposit contract, not a lease..... Look: A. D Abdul Razzaq al-Sanhouri, Broker Rent, volume one, Arab Renaissance House, 1963, p. 17.

(55) - The jurists of the special law declare: (If the applicant takes He has a career to take on It's turning into so-called conservation contracts. Dr. Abdul Razzaq Al-Sanhouri, Broker Rent, Previous Reference, p. 17.

The most important possibilities raised by the mother are:

The first possibility: in the case of the mother's request from the foster mother that it is the pregnancy, is such a request an avoidance of the contract or has it been used for a fixed right to the contract? Is the insistence of the foster mother to keep the pregnancy despite the mother's request to terminate it as a contract imagination?

The second possibility: if the mother refuses to receive the child after birth, is the refusal a contract violation? Or is it a denial of the daughter?

Conclusion: It is clear to us that the legal problems raised by the advanced hypotheses produced by the alternative mother's technology are not only limited to them, but also expand in other hypotheses and details to include proof of the contract, mechanisms for its implementation, etc.

Second: The provision of surrogacy incomparative legislation

1- The provision of surrogacy in Arab legislation.

It has not been until recently that the laws of the Arab countries have been given the importance of surrogacy provisions, as they have been satisfied with the reality of surrogacy in many countries of the world, to regulate some of the provisions governing this emergency issue in those countries.

It should be noted that most of the laws of the Arab countries relied on the outcome of the jurisprudential mosques that dealt with the issue of surrogacy, and since most of these laws adopt sharia as an important source, the articles of these laws, such as the law of the United Arab Emirates and other laws of the Gulf states, Egypt, Syria, Iraq, Bahrain and some Moroccan countries such as Mauritania, stipulate the sanctity of surrogacy in all its forms, so it is not legally permissible for women to plant in their wombs an egg from another fertile woman, Whether it is fertile from her husband or others, whether the egg holder is a foreign woman, a relative or a female partner with her in the husband himself.

The federal legislator of the United Arab Emirates prohibited surrogacy under Article 10 of Law No. 11 of 2012 on the licenses of fertility centers, as stated in the article prohibiting the Center from practicing the

following methods of assisted reproduction techniques:

1. To be pollinated between a sperm taken from the husband and an egg taken from a foreign woman and then implanted the fertilized egg in his wife's uterus.
2. To be pollinated between a sperm taken from a foreign man and an egg taken from the wife and then the fertilized egg is implanted in the wife's uterus.
3. An external inoculation is carried out between a sperm taken from the husband and an egg taken from the wife and the fertilized egg is implanted in the womb of a volunteer woman carrying it.
4. An external inoculation is carried out between a sperm taken from a man and an egg from a woman and the fertilized egg is implanted in another woman's uterus.
5. An external inoculation is carried out between a sperm taken from the husband and an egg taken from the wife and the fertilized egg is implanted in another wife's womb.

The Dubai Court of Cassation has also established a legitimate principle that the child is attributed to the woman who became pregnant and gave birth in the delivery room, only to be the mother in support of the text of article (90) of the Personal Status Act, which states:

1. If the child goes to bed if the correct marriage contract is the lowest duration of pregnancy, it has not been established that the couple cannot meet.
- 2 . The proportions of a child born at the fore are established on suspicion if he is born for less time than the date of the pregnancy.
3. The ratio of each child to his or her mother is established as soon as the birth is established.
4. If the ratios are established legally, the case is not heard in exile.

According to the Uae Court of Cassation, it has concluded a principle based on the law of saying that "**their mothers are their mothers**

except those who gave birth to them", and ⁵⁶ here the child is attributed to the woman who gave birth to the woman who became pregnant and gave birth in the delivery room only, which she confirmed (article 90, paragraph 3 of the Personal Status Act). This is a matter of public order that may not be agreed upon or a foreign law is applied against it, so surrogacy is a legally unacceptable manipulation, and birth control or descent is one of the five necessities that Islam guarantees to preserve, namely, "keeping religion, preserving self-preservation, keeping money, keeping offspring, and reason". Contemporary jurists have unanimously agreed during the examination of this issue on its sanctity, because there is a third party other than the husband with the sperm and the wife with the egg, and it is not possible to say with the presence of the third party to determine the true mother of this child, is it more worthy of the owner of the egg from which the child is created and carrying all its genetic characteristics? Or is it entitled to the foster mother with the uterus in which it was developed, developed and changed until it became an integrated embryo? Islamic research in Egypt and the decision of the Council of the Islamic Jurisprudence Council in its eighth session held at the headquarters of the Islamic World Association in Mecca from 28/Spring 1405 Ah to 7 / May / 1405 Ah, 19 to 28 January 1985⁵⁷.

Some Arab laws consider the legality of surrogacy to be met under conditions that must be achieved as the jurists of these laws see it, including:

1 Algerian law: Article 45 of this Law expressly provides for the provision of surrogacy and artificial insemination, a substance added to the Algerian Family Code in its last amendment in 2005, which states (couples may resort to IVF and IVF is subject to the following conditions:

The first condition is that marriage should be legal.

The second condition: vaccination should be with the consent of the spouses and during their lives.

The third condition is that the husband's husband is spared, and the egg and egg of the wife's uterus are done only.

Condition 4: IVF may not be used using the surrogate mother.

If IVF is in accordance with these conditions, it may be without legal punishment, otherwise it is a crime punishable by Algerian law.

2 Libyan law: Articles No. (403) duplicate (a) of the Penal Code, and repeated (b) of the same law, clarified the provision of artificial insemination (e.g. surrogacy), article 1 stipulates that (each of the women who vaccinated an industrial vaccination by force, threat or deception shall be punishable by imprisonment for not more than 10 years, and the penalty shall be imprisonment for not more than five years if vaccination is consenting, and the penalty increases by half if the crime occurs from a doctor. Or a pharmacist or one of his associates, ⁵⁸ while the other article stipulates that (a woman who accepts artificial vaccination or artificially vaccinates herself shall be punished with more than five years' imprisonment), and the husband shall be punished with the same penalty as in the previous paragraph if the vaccination is with his knowledge and consent and whether the vaccination occurs from the wife or others⁵⁹.

It is noted by considering the articles that IVF in all its forms, including surrogacy, is a punishable crime in Libyan law except if necessary, only article 17 of the Libyan Medical Responsibility Act of 1986 stipulates that (it is not permissible to vaccinate a woman artificially or implant the foetus with the uterus unless necessary and provided that the vaccine in both cases is from the spouses and after their consent), which indicates that legalization is limited to the fact that vaccination and implantation are limited to the fact that vaccination and implantation are limited to the

⁽⁵⁶⁾ - Surat al-Medala • Verse (2)

⁽⁵⁷⁾ - Islamic World Association, Decisions of the Jurisprudence Council of the Association of the Islamic World, Jurisprudence Council, Edition 2, p. 142.

⁽⁵⁸⁾ - Article (403) (a) Libyan Penal Code, crimes against family morals.

⁽⁵⁹⁾ - Article (403) (b) reference itself.

fact that vaccination and implantation are not necessary. between the couple, and therefore the illegality of surrogacy.

The penalty for violating this came in article 35 of the Libyan Medical Liability Act, which stipulates that (punishable by imprisonment for at least one year and a fine of not more than 1,000 dinars, anyone who violates the provisions of articles IV, section (f) of Article VI, Article 10, paragraph 2 of Article 15 and Article 17 of this Act.

B: The ruling on surrogacy in the Western Yen.

First, uterine leasing in the United States of America: The provision in the United States of America varies from state to state, as there are states that allow the idea of uterine rent (surrogate mother) and consider it legitimate and that the spouses have the right to use this method if they settle their opinion on it as the last appropriate solution to the problem, and these states are (Kentucky, New York, Nevada, Arkansas, California).⁶⁰

In California, the alternative mother's contract is valid and enforceable, as confirmed by the California Supreme Court in ⁶¹ Johnson V. Calvert 1993.

The couple can take a life and an egg from sperm banks and embryos, although they do not belong to them, and yet the child is attributed to them, as confirmed by the California court in a ruling issued on March 10, 1998⁶².

Although there are states that prohibit this contract at all (Indiana, New Jersey, Louisiana, Florida) where any activity of surrogacy offices is prohibited and considers that a woman's personality should be respected and treated as a human being, not as a child, but for the rest of the states mentioned above, they allow this means to obtain the boy with ^{no contract applicability}⁶³,

which means that the mother who leases her uterus can keep the baby without any law forcing her to hand him over to his biological parents.

Second: The contract for surrogacy in France: The French law of (29 Yobio 1994) on respect for the human body did not sanction the idea of surrogacy, where the offence of surrogacy mediation was criminalized, but the law did not address the criminalization of both parties to the relationship, i.e. the work is not criminal if it occurs without mediation, but the contract that is entered into is invalid and does not legally count⁶⁴.

The French judicial rulings on the proportions of the child born were conflicting, for example, on 15 December 1984, when the biological mother requested the adoption of the child from the womb of the rented mother, the court was only simple adopted in the interest of the child and to understand the reality of the relationship with his aunt (the rented mother) may help to psychologically stabilize the child without recognizing the idea of the surrogate mother or the bridging ^{of} ⁶⁵the contract. In another ruling, and because of the appeal of the Paris Court of Appeals of 31 May 1991, which recognized the idea of an alternative mother, the French Court of Cassation decided that this violated the text of article (1128) of a French civilian and articles (6,8,11,76) 3) From him, he relinquishes the mother's powers over the child and also leads to circumventing the rulings of natural filiation and adoption, and the Court of Cassation confirmed its direction in a ruling in 1994, where it overturned the court's ruling on the simple adoption of the stepmother of his child resulting from the acting pregnancy The Court

⁽⁶⁰⁾ - Dr. Shawky Zakaria Salhi, Rented uterus, sperm banks, embryos and their waqf and legal judgment, Science and Faith Publishing Library, 2006 edition, p. 34

⁽⁶¹⁾ - Look at that. ([http://www. California surrogacy law.com](http://www.California-surrogacy-law.com))

⁽⁶²⁾ Previous source

⁽⁶³⁾ - Dr. Shawky Zakaria Salhi, Rented uterus, sperm banks, embryos and their waqf and legal judgment, previous reference, p. 35.

⁽⁶⁴⁾ - Hosni Mahmoud Abdul Dayem, Surrogacy contract, p. 183 184. And look at the presentation of the positions of the Western countries on the contract of surrogacy, and see In the same subject To a link com.surrogate-mother <http://www>

⁽⁶⁵⁾ - Dr. Shawky Zakaria Salhi, IVF between Islamic law and positive laws, comparative study, Arab Renaissance House, Cairo, 2001 edition, p. 116 117.

of Cassation confirmed the illegality of acting pregnancy⁶⁶.

However, the legal debate over the uterine lease emerged in France when a bioethics bill was introduced, which defined the idea of surrogacy but under conditions identified in this regard, the most important of which was⁶⁷:

1 Requirement to give the surrogate mother (the lessor) the right to refrain from handing over the baby for up to three days after birth.

2. Depriving the adoptive father of refraining from handing over the child due to disability or disability.

This, according to the researcher, indicates that many problems are caused by this type of operation.

Third: Uterine leasing contract in Australia:

Of the Australian states, five accept the arrangement of effects on the Uterine lease but non-commercially (Victoria, South Australia, Queensland, Tasmania, ^{ACT}).⁶⁸

The first operation using alternative uterus technology began in Australia in 1988, but all laws in those states distinguish between commercial surrogacy and the non-commercial offence it recognizes, as confirmed by, for example, the Victoria Medical Procedure Act 1984 and the Alternative Mother Agreements Act 1994 in the Australian Capital Territory, but the surrogate mother has the right to retain or extradite the baby within three days ^{of birth}⁶⁹.

Third research

The effects of surrogacy

Boot and split:

There were many damages and corruptions resulting from surrogacy, including the commercialization of motherhood and then becoming a commodity sold and bought after being surrounded in all religions and moral customs by reverence and respect, and the spread of specialized surrogacy agencies, which turned these wombs into a commercial market

for material profit, and the alternative mother with the rented uterus psychologically felt exploited because these agencies and commercial companies for surrogacy are not brokers investing in both parties. They exploit them and open the door for poor women in the world to perform in the name of such work under the weight of need and the child becomes a commodity to be sold and bought and in light of this I will divide this research into two demands:

The first requirement is the mixing of genealogy and the dispute over motherhood.

The second requirement : psychologiceffects on the child and the family rented to her uterus .

The first requirement

Genealogy and conflict over motherhood

Genealogy is one of the biggest evils that are the result of surrogacy, and researchers and those interested in this issue have monitored several of its evils, including:

1 The many problems and issues that occur between mothers with eggs against the rented mother, as the latter may refuse to hand over the baby to the owner of the egg even though she meets her contract and pays her the price as his mother, because this mother feels that this fetus comes out of her gut, and her commons change by pregnancy and childbirth, she feels that she is the mother of that child, and she can not yet carry and give birth to waste it, and does not be patient to break it, because he has established psychological ties between them during pregnancy, and because she suffered from The pain and pain of pregnancy is much of what is not estimated by the price and price, then you stick to it and hit the contract against the wall, if the courts extract it from it, then it is infected with a deep emotional wound, or a serious psychological disease on the one hand, and

⁽⁶⁶⁾ - Hosni Mahmoud Abdul Dayem, Surrogacy contract, previous reference, p. 190.

⁽⁶⁷⁾ - Shawki Zakaria Salhi, Rented uterus, sperm banks, embryos and their waqf and legal judgment, previous reference, p. 41. And look.

In the same subject To a link <http://www.surrogacyissuesblog.com>

⁽⁶⁸⁾ See In the same subject To a link <http://www.murdoch.edu.au/elaw/issues>

⁽⁶⁹⁾ The same source.

on the other hand the cause of the dispute and problems may be the failure to receive the child by the egg owner and her husband because the child is a disabled boy.

2. Opening the door for poor women to earn money through this work, under the weight of poverty and the need for money, and those who want the rich to get pregnant without hardship and fatigue only to secure the egg, and the rented mother must carry out pregnancy and childbirth, one woman who lays eggs and another who carries and suffers from the pain of pregnancy and labour for money.

3. Motherhood is commercialized, then becoming a commodity sold and bought after being surrounded by All Religions, Laws and Ethical Customs with reverence and respect, and surrogacy agencies have spread to many East and West States, turning these wombs into a popular commercial market ^{for material profit}⁷⁰.

One of the most gruesome images of these operations was the vaccination of the harems by some, dr. Al-Jundi stated that a south African substitute had placed her grandchildren, agreeing with her daughter and husband to be a surrogate mother ⁷¹.

Perhaps the pregnancy of one of the girls to her mother's attached egg is not far from the past picture, where a daughter named Giovanna Capper Lilly carried a fertilized egg from her mother, Mathewla Caprilli, and the pregnancy continued until the daughter gave birth to a child she handed over ^{to her mother}⁷².

These crimes and many others are what Dr. Duards, the scientist who succeeded in carrying out the first pregnancy and birth by tube, called it: "There is a blatant need to establish a framework for the ethics and ethics of this field, that every institution

conducting this process must have a special ethics committee"⁷³.

Since Muslims have the legislation and frameworks set by Islam to protect their communities from such problems and crimes, they do not need the ethics committees mentioned by Dr. Edwards, but they need to apply Islamic law, says Dr. Abdul Qadir Odeh:

(Any criminal system is in a situation that fails to reach some of the results of the criminal sharia system, and perhaps the secret to the success of sharia is that its punishment has been established on the basis of the nature of man. In the nature of man, he fears and hopes, and no action comes as much as he expects from its benefits, and does not end up working except as much as he fears. ⁰⁷⁴.

However, follow-up centres for IVF centres in the Muslim world should be followed up, the staff at these centres should be trusted Muslims, and all stages of IVF should be carried out as defined ^{by Islamic law scholars}⁷⁵.

With regard to the dispute over motherhood, it is one of the most prominent evils resulting from surrogacy, which appeared to be apparent in the West that these operations usually end in the courts after the dispute between the two women with the uterus and the egg on the child, says Dr. Albar when Kim Cotton acted as the borrowed mother of a decorating couple from the United States of America in exchange for a sum of money ordered by the British court at birth to keep the child, and the wealthy couple appealed the case in the Supreme Court and obtained an order to take the child Versus.

Increase in the amount paid ... However, the British House of Commons was

(70)- See: i know ali knows, Doctrinal study in contemporary medical issues: previous reference, C2, p. 114 115.

(71) -Youssef Abdel Rahman Al-Furt, Contemporary doctrinal issues, previous reference, p 64.

(72) - Ahmed Nasr al-Jundi, theProportions in Islam and alternative wombs, No, Egypt, The Legal Book House,2003,AM 229.

(73) - Muhammad Ali Al-Bar, Baby Tube and Artificial Insemination, Former Reference, p 6.

(74) - Abdelkader Odeh, Islamic criminal legislation compared to positive law, No, Beirut, The Arab Writer's House, (D.T., P. 714.

(75) - Ali Ahmed Salous, Encyclopedia of Contemporary Jurisprudence Issues, I:11, Beirut, Al Rayyan Foundation,1428h AM 795.

disturbed by the fact that the Dim Mary Warnick Committee was a group of doctors, jurists and clerics and⁷⁶ issued its recommendations to prevent all commercial borrowed uterus.

Shara has forbidden everything that leads to disagreement and conflict between individuals, and surrogacy often leads to this conflict between the two women, whichever is the mother, whether she is the owner of the attached egg, or is she pregnant and born, but there is a strong possibility that the dispute between other parties, who can benefit from the proof of the child's lineage to their side, especially if the child has material rights such as inheritance from his father, and one of the objectives of Islamic law is to close the doors that lead to the occurrence of child ratios. Conflict and disagreement between members of society.

Since the disputes occurred were not only to take the child, but also to reject the child, dr. Aisha Hassan states that an American couple hired an American woman to carry the attached egg until the growth was complete and the birth took place for a certain fee, and when the woman gave birth, the child came out disabled, which led to the refusal of the owners of the attached egg to recognize him refusing to pay the agreed fare, when the woman brought the order to justice, and the court proved the paternity of the egg owners for this child. However, they refused to receive it and ^{the nursery} was placed in custody⁷⁷, and such an incident occurred in

Britain, but the court ordered the surrogate mother to keep the baby.

" A newborn is born with a controversy that only dies with the death of its owner, and this means that 90% of its cases lead to many problems and thus conflicts and disputes between people, and Islamic law prevents and prohibits everything that leads to conflict between people" says the IVF owner⁷⁸.

Dr. Mohammed Zahra says: "One of the risks of these operations is that the fate of the child and the placement of a particular family may be uncertain in some cases, and may even be the subject of a dispute between the mother who holds the child and the mother who recommended it, and thus the pregnant mother may hold on to the child and refuse to hand him over or the woman who recommended him may refuse to receive the child for certain deformities or diseases to which he was born⁷⁹ .

This is clear from the endless conflicts that these operations are taking place and their violation of Islamic law, which sought to close every door leading to conflict and division, and ended many types of sales, because of their evil and leading to conflict and disagreement, abu Hurira, may God bless him, says: The Messenger of Allah (peace be upon him) has forbidden the sale of gravel and the sale of al-Ghurair⁸⁰.

Ibn Omar also told The Prophet of Allah (peace be upon him) that he had stopped selling the rope of the rope, which was sold by the ignorant people, and the man bought the jazour until the camel was produced and then produced in her belly⁸¹. The order to pay the price makes it possible for the

(76) - Muhammad Ali Al-Bar, Baby Tube and Artificial Insemination, Former Reference, p 83.

(77) - Aisha Ahmed Hassan, Sentence-related provisions in Islamic jurisprudence, previous reference, p. 148.

(78) - Ahmed Mohamed Lotfi Ahmed, IVF between doctors' statements and Opinions of jurists: I:1 Alexandria University Think Tank 2006, AM 249.

(79)- Mohamed Al , Mursi Zahra , Industrial reproduction, Former Reference, p 167.

(80) - Muslim son of pilgrims, Muslim Correct, Former Authority, C3AM 1153The Book of The Selling, the door of the nullity of the sale of pebbles and the sale in which the motif, hadith No. 1513.

(81) - Mohamed Bin Ismail, True Bukhari, previous reference, c2AM 753The Book of The Selling, the door to the sale of the garger and the rope of the rope. Talk No. 2036And look,; Muslim Bin Al , Hajjaj Al-Qashiri, Muslim Correct, Former Authority, C3AM 1153The Book of The Selling, the door to the prohibition of the sale of rope rope, modern No. 1514.

child to give birth and her son welds, or to sell what is born of the lamb of elegance, which is either a non-existent and unknown sale or a sale to an unknown term, both of which are legally prohibited because of their jealousy and the resulting dispute⁸².

The second requirement

Psychological effects on the child and the family rented to her uterus

Since the surrogacy process was contrary to all that divine care for the Muslim child, it would have created him in an environment full of chaos, where he could not distinguish who his real mother was, was it the one that carried him and his child and took away many of its genetic characteristics.⁸³

His separation from his mother who gave birth to him leads to many psychological problems in the child, says Dr. Mohammed Zahra: "The pregnancy system for others endangers the future of the child, in that it causes him several psychological and social problems, the first of which is abandonment and abandonment, leaving the child whatever the circumstances and justifications is a phenomenon that is psychologically difficult to bear, and may have negative effects on the child's psyche⁸⁴.

This behavior is contrary to the nature of the mother, which is broken by God almighty, says Dr. Mohammed al-Morsi: In fact, the behavior of a woman who accepts a child for another woman seems strange, in terms of psychiatry, and may seem incomprehensible to the traditional role of the mother, that a woman accepts a child and then leaves it after birth and waives it to another woman, such a

behavior seems strange in the light of the instinct of motherhood⁸⁵.

Perhaps one of the misfortunes of this crime on the family is what Dr. Youssef Al-Fart said that one of the surrogate mothers in Germany after she handed the child over to the rented family and received the agreed price and the new family had to conduct a blood analysis for her a year after her birth. The surprise was that this child resulted from a normal relationship between the man and his wife rented to her uterus, and was not the product of the egg vaccinated by the other woman, but the judiciary refused to hand her over to her natural family on the grounds that she had arrested ^{The price}⁸⁶. This indicates the great injustice to which some mothers with rented uterus are subjected, contrary to the divine honour that women have received in Islamic law, where every woman who is renting her uterus is made a paid machine⁸⁷.

H.A.

Thank God, who, by his grace, is doing the good deeds, and I ask him to make this work pure for his holy face, and after:

The researcher addressed an important topic in the life of all human beings, including what is surrogacy in terms of definition, images, and infertility as the main reason for surrogacy.

In the second discussion between its legal and legal ruling, some of the opinions of sharia jurists and positive law in some Arab and Western countries.

The third research showed the effects of surrogacy, whether related to genealogy, conflict over motherhood, or psychological effects on the child and family.

First: results.

(82) - Sahih Bukhari comment^c On talking No. 2036C2AM 753.

(83) - Youssef Abdel Rahman Al-Furt, Contemporary doctrinal issues, previous reference, p37.

(84) - Mohammed Al-Mursi Zahra, Industrial Reproduction, Previous Reference, P 166.

(85) - Mohammed Al-Mursi Zahra, Industrial reproduction, previous reference, p. 163.

(86) - Youssef Abdel Rahman Al-Furt, Contemporary doctrinal issues, previous reference, p.64 .

(87) Previous reference, p. 64.

1 That surrogacy is meant to be the modern image that has emerged in recent years to address several cases of couple infertility.

2 What scientists have done in the modern era of reproductive techniques, artificial insemination and IVF is an update of what the oldest in this field have begun with different possibilities and results.

3 The main reason for resorting to surrogacy and artificial insemination is infertility.

4 The relationship between surrogacy and IVF lies in the fact that surrogacy is an IVF image.

5. The difference of jurists in the issue of surrogacy was in only two forms, while the rest of the photographs agreed on its sanctity.

6 . Disclosure of the awrah is permissible in medical cases under the conditions set by the jurists for this.

7. It is likely that surrogacy is prohibited in all its forms.

9 There is no inheritance between the owners of the fertilized egg and the rented uterus and its newborn.

10 Positions of the Arab positive laws that provided for this issue, from which the position of prohibition stood and made the perpetrator liable to punishment, while some of these laws consider the legality of surrogacy on conditions mentioned by the researcher previously.

13 These operations make the child a commodity or goods, so that the rented woman ends up carrying and giving birth until she delivers it to the tenant.

Second: recommendations.

I recommend taking the saying that surrogacy is illegal, for the following reasons:

1. The absence of a marriage contract between the sperm owner and the surrogate uterus holder requires that there be no legitimate marital relationship and therefore the pregnancy of a foreign egg from the woman's husband is illegal.

2 Children are related to married women, in the sense that in order to be legitimate children they must be born to a couple, and therefore a woman may not carry a foetus for another woman.

3 Anyone who has the right to enjoy a woman who has the right to occupy her uterus by

pregnancy, and anyone who does not have the right to enjoy a woman who has no right to occupy her uterus by pregnancy.

4 Enjoying a woman is not permissible and permissible, to prohibit a few women from being other than her husband, so her uterus is also unexpressable and permissible in the first place.

5. Surrogacy carries the meaning of committing sin — albeit incompletely — where a sperm was placed in the womb of a woman who is not the wife of this man, and sin is forbidden to that effect.

Thanks to God, grace, prayer and peace are done on the ring of prophets and apostles.

Sources and references

- Mohammed Mahmoud Hamza/Leasing al-Ahram between Medicine and Islamic Law/ Dar al-Suri al-Suriyya Books / Beirut / I1 / 1428 Ah
- Saad bin Abdulaziz Al-Shuweirkh/Unnatural Pollination Provisions / Treasures of Seville /Riyadh / i 1/1430 Ah.
- Mohammed Khalid Mansour/ medical provisions concerning women in Islamic jurisprudence/ Dar al-Nafis/ Jordan/ i 1424 Ah- 2004 AD.
- Mohammed Khaled/ medical provisions concerning women in Islamic jurisprudence/ Dar al- Nafis/ Jordan/ I2/ 2004.
- Aisha Ahmed Hassan/Pregnancy-related Provisions in Islamic Jurisprudence/ University Foundation for Studies and Publishing / Beirut / i1/1428H.
- Abu Hamed Mohammed bin Mohammed al-Ghazali / Revival of Religious Sciences / House of Scientific Books / Beirut / Lebanon / I4 / 1426 Ah - 2005.
- Karima Abboud Jabr/Surrogacy and Its Implications/ Journal of Research of the Faculty of Basic Education/ Mosul University/ Iraq / 2010 / Volume 20 / Issue 3.
- Zine El Abidine Ben Ibrahim Ibn Najim/Suspects and Counterparts on the Doctrine of Abu Hanifa al-Numan/ House of Scientific Books / Beirut / I1/ 1400 Ah.
- Mohammed Al-Marsa Zahra / Industrial Reproduction / Arab Renaissance House / Cairo / i / 2008
- Hind Al-Kholi/ Surrogacy in Islamic jurisprudence/ Research published in

Damascus University journal of legal and economic sciences/ volume 29/ Issue 3/ 2011/ published on the Website of damascus University magazine.

- Sajida Taha Mahmoud/Surrogacy and its impact on sharia, medicine and law/ research published online.
- Abdelkader Odeh / Islamic Criminal Legislation compared to Positive Law / Dar al-Arabi / Beirut.
- Ahmed Mohammed Lotfi / IVF between the statements of doctors and the opinions of jurists / Printed 1 / University Think Tank / Alexandria 2006.
- Aref Ali Aref/ Doctrinal Studies in Contemporary Medical Issues/ Dar al-Nafis/ Jordan/ I1/ 2001.
- Suleiman al-Ashkar/ Doctrinal studies in contemporary medical issues/ Dar al-Nafis/ Jordan/ i1/1421 H.
- The rented uterus, the banks of the sperm, the embryos, and their jurisprudential and legal ally/ Shawki Zakaria Al-Salhi / Dar al-Alam and Faith / Cairo / 2006.
- Wafa Ghoneimi Ghoneimi/Shariah Controls/ Dar al-Sumai / Riyadh / i 1/1430 H.
- Mohammed Al Bar/ Baby Tube and Artificial Insemination / Dar al-Manar / Jeddah / I1 / 1407 H.
- Hosni Mamdouh Abdel Dayem/ Contract for the rent between the ban and the permitting / i1 / Arab Thought House / Alexandria 2006.
- Abu Jeb Saadi/ Dictionary of Jurisprudence / Dar al-Fikr / Damascus / i1/ 1402 AD.
- Youssef Abdel Rahman Al-Furt / Contemporary Doctrinal Issues / Arab Thought House / Cairo / i 1/ 2004
- Mohammed bin Makr bin Maser al-Anaf al-Masri/ San Al-Arab Ibn Maser/ Dar Sader/Beirut/i1 .
- Mohammed Abdul Jawad Hijazi Natshe / Emerging Medical Issues in light of Islamic Law / Dar al-Hikma / Britain / i 1 /1422 Ah.
- Safaa Mahmoud Al-Aysara / Scientific developments such as its impact on the fatwa in personal status / Dar Imad al-Din / Jordan / i 1 / 1430H