

Furghanization of Surrogacy

1- Abstract

Offspring is painstaking as a countless and holy gift of Almighty Allah. Wide-reaching, almost 259,200 children are born every day. That is almost 3 babies had been born each second. Having a baby is habitually a very special event for parents, families, and society. Unfortunately, some of those couples can get it, and that condition we called it infertility. Surrogacy becomes popular in the last 3 decades. **The goal** of the present outstanding research: Is surrogacy a method of infertility reproduction treatment, in our country, is it a legal and ethical process? **Methods:** Two hundred and eight infertile patients who attended Alaw IVF Center were involved in this study. The age of infertile patients was more than 30 years (SD 36.51±4.8) and the duration of infertility was more than 9 years, too. **Results:** One hundred ninety-one out of 208 patients (91.83%) agreed with surrogacy, on one condition, "the surrogate mother should be a second wife for a man/couple who required surrogacy as a method of ARTs for solving their infertility problem". Five women were rejected because they did not want their husbands to marry another woman. The rest of the patients were still confused about surrogacy as an ARTs method. **Conclusion:** In conclusion, the prohibition of all kinds of surrogacy, in Islam, is a cornerstone in the management of female infertility. Co-wives can be surrogate mother for managing female infertility. Human rights and ethics accept the surrogate mother to be co-wives for the same husband and finally, the indication for surrogacy should be only medical.

2- INTRODUCTION:

Offspring is painstaking as a countless and holy gift of Almighty *Allah*. Wide-reaching, almost 259,200 children are born every day (Simopoulou et al., 2018). That is almost 3 babies had been born each second. Having a baby is habitually a very special event for parents, families and society. Unfortunately, some of those couples can get it and that condition we called it infertility (A. Allow, Bracamonte, Al-Ani, Fakhridin, & Muhamad, 2016). In many societies. Catastrophically, in many societies, where they considered infertility situation is women mistake.

Surrogacy becomes popular in the last 3 decades. The reason which makes it popular was the delivery of the first test-tube baby. Before that, exactly at the end of the 4th quarter of the 20th century, infertile couples had been agreed thier situation to live alone and were suffering: only. But, in 1978 when the first test-tube baby Lewis Brown was born, from that time, infertile couples were, seriously, started to seek treatment for their infertility problems. Generally,

there are many ways to treat infertility. One of them is the assisted reproductive techniques (ARTs) like In Vitro Fertilization (IVF), intracytoplasmic sperm injection (ICSI), and embryo transfers (ET) or intrauterine insemination (IUI)(Belqees A. Alaw;Ahmed Kaid Allow; Brakamonte M; Saeed m Saeed, 2020). Dr. Edward who was a champion of 1st IVF baby “Lewis Brown” was suggested also surrogacy as a method for treatment of infertility. In 1989, in Europe, Edward and his co-workers were suggested and achieved a first live-birth gestated surrogated mother(Franklin, 2016)(Edward R.G., 1981).

The word ‘surrogate’ means ‘substitute’(Peeraer et al., 2016). Surrogacy is a method of reproduction and a kind of treatment of infertility where the surrogate mother carries a pregnancy and delivery on the behalf of another couple who has a medical indication like congenital or acquired absence of uterus and her ovaries still functioning(A. K. Allow, 2016). Also, it might include recurrent miscarriage, repeated failure of assisted reproduction, and certain medical conditions so we can call it “*medical surrogacy*”(A. K. Allow, 2016)(Simopoulou et al., 2018).

Commercial surrogacy is a method of commercial reproduction where the woman is hiring her uterus to become pregnant from another couple until the delivery of an alive child without any medical indication in the commission couple. For that reason, we called it commercial surrogacy for the treatment of commercial reproduction. It is a money-wise dependent contract between a commercial surrogate mother and a couple “own of gametes or embryos”.

According to the Oxford Dictionary, a surrogate mother defines as, “*a woman who bears a child on behalf of another woman, either from her own egg fertilized by the other woman's partner, or from the implantation in her womb of a fertilized egg from the other woman*”(Lynch, 2021). Collins English Dictionary, explains the status of a surrogate mother as “*a woman who bears a child on behalf of a couple who is unable to have a child, either by artificial insemination from the man or implantation of an embryo from the woman*”(Collins, 2014). The majority of religious scholars have described marriage as half of the faith, so its goal is to get children and we have to save that way to get babies. In some instances, the marriage will not succeed with the achievement of babies Thus infertility is defined as the inability to get children after 1 year of a marital unprotected sexual legal relationship (Brännström et al., 2018).

Many unanswered questions and social, ethical and legal issues are coming during the exercise of surrogacy. For example:

Is surrogacy a method of infertility reproduction treatment, in our country, is it a legal and ethical process? The laws in the country can allow the children born via surrogacy can carry the same citizenship? Who is a father of and a mother of children harvested by surrogacy? Who will declare the certificate of born for them? Which passports will be an official document for them? Will the child born to surrogate mother a citizen of the country where he/she was born? Who arranges for the birth certificate and passport that will be required by the foreign couple at the time of immigration? Whose name will appear on the birth certificate? How will the commissioning parents claim parenthood? Is the paperhood will be an official option for the commissioning couples? What will happen if the surrogate mother changes her mind and refuses to hand over the baby or blackmails for custody? Who will take responsibility of the child if the commissioning parents refuse to take the child? How and who will involve in this situation of surrogacy and What would happen if the child is born disabled abnormal or dead during pregnancy or delivery? What would happen if the sex of the child is not to the liking of the commissioning parents? Who will take over the responsibility for medical care during and post-delivery for mothers and babies who were organized via surrogacy? Where and who will prepare the regulations that can control the surrogacy process from A to Z? how and who will control this type of commercial business which supplies the local economy with high annual income? What is the religious status in terms of surrogacy? What is the opinion of morally and humanity thinking medical staff regarding surrogacy? Is it a legal process or not? All these need to be analyzed perfectly and thoroughly before designing any policy relating to surrogacy and making legal provisions.

In addition to the above-mentioned questions, surrogacy and surrogate mother is the procedure which still a matter of controversy overall the civilized countries. More or less, traditional surrogacy is the way in which scientists and religious scholars are, hardly, not in a suitable condition. Between the human beings-requirements and religious-scholars acts, the conflict is still not solved, yet. So, the goal of the present work is to answer the following

questions: “What is the point of acceptability of surrogacy as a method for managing infertility? And “What is the Islamic prospective of infertility treatment using a surrogate mother?”

3- Patients and Methodology:

Two hundred and eight infertile patients who attended Alaw IVF Center were involved in this study. The age of infertile patients was more than 30 years (SD 36.51±4.8) and the duration of infertility was more than 9 years, too. The justification for choosing patients of this age is that the infertile couples were adults and had a good experience to make a decision as well as were treated, due to infertility, for a long time without success. Excluding criteria were only young married couples aged less than 30-years-old. The objectives of the present work were studied via the surrogacy interview between the authors of the present work and infertile patients attending Alaw IVF and Medical Center for seeking fertility services. Surrogacy-interview was performed by a fertility consultant who is the senior staff of the study center. The interview was collected anonymously. Written consent from patients had been taken. The questionnaire was approved by the Local Ethical Committee, Alaw IVF and Medical Center, and Sana’a University, Faculty of Medicine.

4- Statistical analysis:

The questionnaire data from which was collected from the present study were analyzed using Statistical Package for the Social Sciences IBM SPSS software, version 20.0. Comparison of the data was done using a one-way analysis of variance (ANOVA) followed by Dunnett’s post hoc test. Data were expressed as mean ± SEM. Statistically, a significant level was taken to be p value less than 0.05.

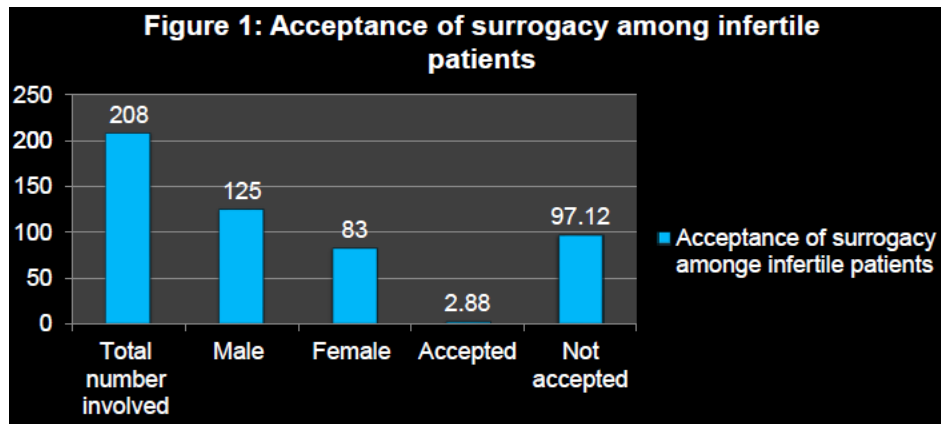
4. RESULTS:

Two hundred and eight infertile patients with an average age around SD 36.51±4.8 were involved in surrogacy interviews (Eighty-three female (39.9%) and 125 (60.1%) male infertile patients). The average infertility duration for males was 13.8 years and for females 11.29 years, table 1 (Data of patients involved in the surrogacy interview).

Table 1: Data of patients involved in surrogacy interview.			
	Number of patients	Male	Female
Total No of patients involved in this study	208	30.9% (83/208)	60.1% (125/208)
Primary infertility (%)	182	87.5%	
Secondary infertility (%)	26	12.5%	
Duration of infertility (years)	208	13.8	11.29
Average of patient-age (years)	208	33.26	31.14
Overall age-average of all patients (years)	36.51±4.8		
Region of patients:			
1. Sana'a & Alamanah	12.98% (27/208)		
2. Al-Hudidah, Thamar, Shabua Hadramout Amran and Radda	43.75% (91/208)		
3. Addan, Althali ewass	20.19% (42/208)		
4. Others (outside of country)	23.08% (48/208)		
Infertility factors:	w		
Male factor	25.48% (53/208)		
Female factor	46.65% (97/208)		
Male and female factors	19,71% (41/208)		
Unexplained infertility	8.17% (17/208)		
Types of female factors infertility:			
1. Uterine abnormalities	13.25% (11/83)		
2. Tubal factor	19.27% (16/83)		
3. Chronic pelvic inflammatory diseases	7.23% (6/83)		
4. Anovulatory cycle	22.89% (19/83)		
5. Female hyperprolactinemia	34.9% (29/83)		
6. Others	2.41% (2/83)		
Type of male infertility:			
1. Oligoasthenoteratospermia	20.8% (26/125)		
2. Seminal fluid infection	37.6% (47/125)		
3. Azoospermia	7.2% (9/125)		
4. Asthenzoospermia	16.8% (21/125)		
5. Teratosperia	10.4% (13/125)		
6. Others	7.2% (9/125)		

The overall acceptance of surrogacy as one of the methods of infertility treatment is demonstrated in figure 1. Surrogacy, as a method of treatment of infertile patients

(method of reproduction), was accepted in only 2.88% (6/208) of interviewed infertile cases versus 97.12% (202/208) rejected it (Figure 1).



The second study question was “If the surrogate mother is a second wife:

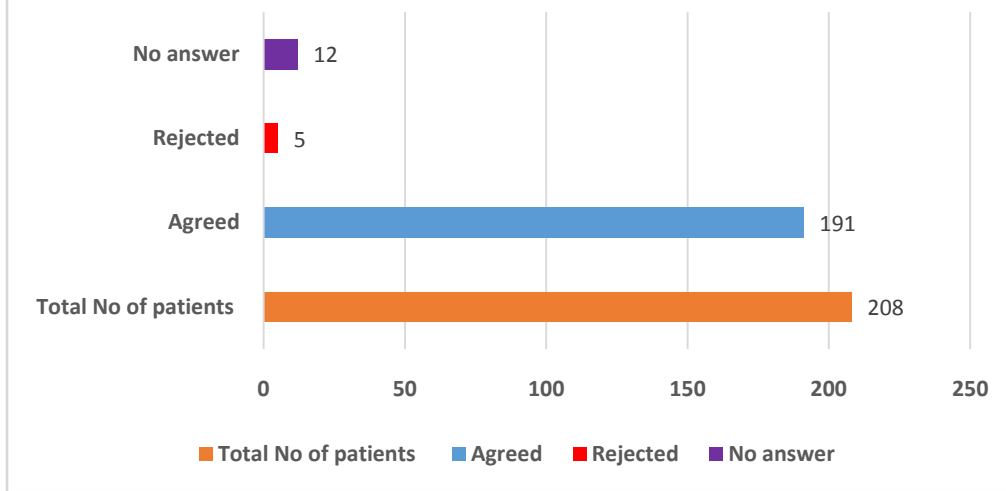
“For men: Are you agree to this condition where the surrogate mother is your second wife?”

“For women: Are you agree to that condition where the surrogate mother is a second wife for your husband?”

The overall answers for both questions are demonstrated in figure 2:

One hundred ninety-one out of 208 patients (91.83%) agreed with surrogacy, in one condition, “the surrogate mother should be a second wife for man/couple who required surrogacy as a method of ARTs for solving their infertility problem”. Five women were rejected because they did not want their husbands to marry another woman. The rest of the patients were still confused about surrogacy as an ARTs method, figure 2.

Figure 2: Answer of question-condition in surrogacy: If the the syrrrogate mother is the second wife!



5. Discussion

The term “**Furghanization**” was created from the name of fledge “**Furghan**” where I was born and grew up and started to think about a solution for surrogacy as a method for treatment of female infertility, so later on, it became part of the title of this study.

Baby surrogacy, baby factories, baby harvesting, and the baby's third part of reproduction, are relatively new terms that involve breeding, trafficking, and abuse of infants and their biological mothers. Our research work sends a message that surrogacy could be a method of reproduction, in one condition, the first wife should have uterine abnormalities and the surrogate mother might be a second wife and is fertile. At the same time, it should be under a clear government and strictly under the law regulation process. That means it should be a well-solution for those females who cannot achieve pregnancy due to medical problems only.

Firstly, when we addressed the question of the study to the patients “Are you agree to make a baby via surrogacy? In general, more than ninety percent have disagreed with surrogacy as a method of ARTs without regulation. Secondly, the authors think that surrogacy is a difficult procedure to be introduced for couples suffering from infertility. But when we put on the table question on another dimension, “Are you agree to treat your case using a surrogate mother which should be a second wife for you/your husband? The answer was that more than 90% was agreed. In the first situation, the patient thought that surrogacy is not unlikeable because no legal relationships between the infertile couple and the surrogate mother, and it may a human-less procedure.

The general indication of surrogacy should be only a medical indication. It includes: congenital absence of uterus, after hysterectomy, uterine cancer, repeated failure of IVF, repeated uterine bleeding, and untreatable uterus but the ovaries still well-functioning. Commercial surrogacy without a medical reason should be regulated by the law and human morals, rights, and international regulations.

The procedure of medically indicated gestational surrogacy should be discussed by both couples commissioning and host couples. For commissioning couples, it is included: all options

of alternative treatment; the possibility of baby-adoption instead of surrogacy; difficulties with treatment using surrogacy like finding the host, surgical complications, drug intoxications or hyperstimulation syndrome, or multiple failures; short and long-term psychological effects of treatment using surrogacy; possibilities of born baby with congenital abnormalities; the acts of surrogacy in those countries not enforceable for the host couple e.t.c. At the same time with host couple should be cleared of the procedure and its complication which may include medical preparation, multiple pregnancies, failure, a complication of pregnancies and delivery surgically, the possibility of abortion or termination of pregnancy and finally feeling of guilt if something the child will be abnormal e.t.c. So the procedure is more complicated for all members of the surrogacy procedure.

Notaway, in the word, surrogacy as a method of reproduction become increased without any governmental/organization ethical regulation. On another side, many regional international fertility centers are looking to surrogacy as a business or commercial ARTs-service that can be applied to foreign tourists. Governments also do not have any regulations for those centers. The cost of surrogacy is so expensive and only those rich couples can do it whereas the host couples or segregated mothers are very poor persons and live in very-low annual income couples/women. These hosts of surrogacy are living in high-developed countries or very low-developed countries (like Laos, Central America, etc). The game is played by the rich on the court of poor couples. In addition, many cases who performed surrogacy did it without any medical indication. They were doing it like because the rich couples (usually the women of commissioning couples) refused to become pregnant. They are going to do it just because they are rich and have a lot of money.

Thinking morally, all married women have a right to be a mother. But there is a gap between that goal and the behaviors to achieve it. Surrogacy becomes a process of poor-women exploitation by their excellence-rich-couples. We can understand surrogacy as a method of reproduction for those who have a medical indication (like the absence of a uterus, congenital uterine anomaly, chronic organ failures, etc meaning there is an absolute-medical indication), and commissioning a mother should have ovaries on function. In that manner, we can accept “gestational surrogacy or IVF-dependent surrogacy” as a method of infertility

treatment for them. So the surrogate mother (who is the second wife for the same infertile couple) will carry the genetic gametes/embryos until birth on the behalf of infertile couples. At the same time, international and local government regulation should control it, strictly by the production of surrogacy laws/acts.

Commercial surrogacy is so complicated process. The difficulty is not only in its steps. It is concerned with the lawless regulation that can save the rights of commissioning and host couples. The surrogate women are dealing like slave women and the minimum human rights and ethics are absent. So, the surrogate women (in commercial surrogacy) are a victim of poverty and an unhealthy society. On another corner, the absence of religious covers did not give any support for commercial surrogacy. In addition, commercial surrogacy is a human-less and a kind of touristic marketing procedure. This kind of reproduction where the couples are fertile and the commissioning couple is seeking money to survive is not a scientific way, without ethics-reproduction, and the centers which are dealing with it should be closed and the medical council committee, in that country, should withdraw their medical licenses and specialized-certificates.

All forms of assisted reproduction using donor gametes or surrogacy are strongly prohibited in Islam and Catholic Churches. In Jewish society, father is the man who gives sperms and the mother is a mother who gives birth to the baby. Islam and many other religions explain the child is the gift of the most creator and most Lord of everything and the faith of Islam also believes that the father is the father of sperms and the mother is the genetic mother of ovum and the mother who carries pregnancy and delivery. So, if our faith believes that so we can understand the strong prohibition of oocyte or sperm donation as well as commercial surrogacy. In the

Honestly speaking, commercial surrogacy develops quickly as hopes of wealthy and healthy residents (commissioning couples) in high-annual income societies. These wishes should be carry-on by the people (hosting couples suffering from poverty) in the developing or very poor-developed lawless countries. Let's say that, it becomes a well growing private business. This growing industry or surrogacy tourism with high significant money behind it, much of which goes to agencies, doctors, labs, clinics, and lawyers. For that reason, surrogacy

tourism (a kind of commercial surrogacy) had been increased and to adapt to those changes, many countries became revolute the laws related to surrogacy tourism.

In India, for example, in 2018, and according to the 2016 regulation Bills, surrogacy prohibited foreigners from contracting with Indian surrogate mothers(Saptarshi Ray, 2018). The laws of surrogacy reproduction, in India, should be between relatives and only should be reimbursed for medical expenses and duration of infertility not less than 5 years. They also restricted altruistic surrogacy to infertile, married heterosexual couples (Tarinelli, 2020).

New York State in the U.S., 2020, which had long banned commercial surrogacy, was finalized the legality of commercial surrogacy, under the Child-Parent Security Act. Their surrogacy regulation permits the U.S. citizens-mothers to be surrogate mothers for local or international tourists (Ryan Tarinelli, 2020). In Turkey, in 2017, the already prohibited surrogacy and strengthen its rules, including criminal penalties(Meltem Özgenç, 2017). They reported that the Health Ministry performed an amendment to the law to criminalize IVF except when carried out between married couples(Makinde, Olaleye, Makinde, Huntley, & Brown, 2017). Turkey did that act because the process of heterogeneous IVF is preferred for international or local citizenships tourists. In many middle east meditation countries actually prohibited commercial surrogacy but actually it occurs behind the law. Governments of those countries are not involved in the business (commercial surrogacy) deal between commissioning and hosting couples, because no governmental supervision or control on the business of fertility centers in those countries.

The practice of surrogates continues with easy online arrangements even though the countries officially prohibited or banned it and went abroad to give birth. Surrogate sites motivate surrogates for broadcasting and commission couples for welcoming them to do surrogacy as a business issue. That is why this paper is introducing an Islamic (authors' point of view) solution for surrogate mothers. It should be not a product in the supermarket. Overall, in the world and in all countries, laws, and regulations should organize all that business and keep motherhood clean from the dirty business.

The authors of the present manuscript are demonstrating the final legal solution of surrogacy and are putting it on the table for discussion abroad. It is coming from Islam regulations and the Islamic faith. As mentioned early, all kinds of surrogacies and gametes donation is strongly prohibited in Islam except, perhaps, that it might be permissible between wives of the same husband. For that reason, when we asked our patients to treat them using surrogacy, they absolutely ignored it. But with the possibility that the surrogate mother will be a co-wife, the majority of them accepted it. This is the beauty of the justification of marriage with multiple wives in Islam.

The present work is trying to give a solution for surrogacy as a method for the management of female factor infertility. In addition, becoming a mother is the fact and goal of all women over all human beings regardless of whether it comes through surrogacy or not. When we are thinking about surrogacy and surrogate mother, we are looking from the point of motherhood. It should be started from the marriage with the suspected surrogate mother to become a co-wife for the same infertile couple who have a medical indication for infertility treatment using a surrogacy reproduction. Then the problem of infertility treatment using the surrogacy option will be suitable. We are looking at that seriously because the right to motherhood is one of the most important women's rights there is.

The morality of surrogacy, as an issue of discussion, is indisputable. But again, we are concerned about paternity, as mentioned early. The fact of an occurrence or status is, or at least should be, unaffected by its morality. Our ethics and faith are to save the right of women in the correct manner. Just surrogacy (commercial surrogacy) as a method of reproduction solution without regulation is a matter and product of unhealthy human social behaviors. Where surrogacy is introduced and increasingly loaded as a method of conception without medical indications as well as court regulation, where the motherhood rights and society will be shut down.

Conclusion: the prohibition of all kinds of surrogacy, in Islam, is a cornerstone in the managing of female infertility. Co-wives can be the surrogate mother for managing female infertility. Human rights and ethics accept the surrogate mother to be co-wives for the same husband and finally, the indication for surrogacy should be only medical.

6. **Clinical implication:** chronic medical conditions like uterine abnormalities can be postponed the motherhood feeling. Maternity is a goal of all married women. Surrogacy is an option for the treatment of female factor infertility. Surrogacy can be solved if the surrogate mother becomes the co-wife of the same husband of the infertile woman which has a medical indication for surrogacy.

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UNDER PEER REVIEW