



# ISLAMIC LAW AND THE SURROGATE MOTHER

Samia Maqbool Niazi\*

## **Abstract**

*The idea and process of surrogate motherhood, where a woman acts as an incubator for another couple for payment or otherwise, is vehemently rejected and condemned by most of the modern Muslim scholars. Many consider it a form of unlawful sexual intercourse (zina). Others quote a large number of verses and traditions to show that such an act runs counter to the intention of the Lawgiver, and it also opposes the laws of nature determined by the Almighty. The paper argues that none of the arguments given by the modern scholars against the legal validity of surrogate motherhood are sound. The implication of the texts they quote is not what is intended by these scholars. In fact, there is nothing in the texts or even the writings of the jurists that opposes this process. There may also be arguments in Islamic legal literature that would encourage such a process. The paper also argues that surrogate motherhood may be declared valid with certain conditions.*

**Key words:** Bioethics, Zihar, Zina, Rada, Qada'f, Sperm, Surrogacy.

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\* [juvisf194@hotmail.com](mailto:juvisf194@hotmail.com) The author is Assistant Professor and Chairperson Dept. of Law (Female Campus) at Faculty of Shariah & Law, International Islamic University, Islamabad.

## Introduction

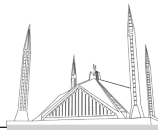
The need for bearing children, feeding them, cuddling them, rearing them, participating in their future and sharing their dreams is immense; it is a basic human need, a necessity. It has been so since the birth of humanity, and will always be so. In a country like Pakistan, or any country for that matter, the lack of children can lead to broken homes, and up until the time the home is finally broken up the wife faces a constant threat of divorce. Even if divorce is not imminent, the prospect of becoming the neglected second wife of a Muslim husband is always present, not to speak of the constant bickering and ultimate miserable relationship to which divorce might be preferable. For these disillusioned parents, especially depressed wives, modern technology offers a ray of hope, just as it has revolutionized human life in almost every other area including health and fitness.

For these couples or women, assisted reproductive technology is an answer to their prayers and dwindling hopes. Their hopes are dashed, however, when a large group of Muslim scholars point out to them that this technology is the very foundation of sin, and employing it for the birth of a child will open the very gates of hell for them.<sup>1</sup> If an unfortunate couple recovers from the onslaught of these scholars, they are confronted by a growing body of Muslim doctors who are eager to develop Islamic bioethics. Some of these doctors are even more enthusiastic in branding this reproductive technology as sinful and they confine the permitted form of technology to cases that may not even need the option granted to them by Islamic bioethics, as nature may take over and give them a child in the natural way. It is not polite to point out who these good intentioned men and women of learning are, and there are many, because a jurist always focuses on the reasoning advanced, the evidence adduced, the *dalil*, and not on who is making the argument or presenting the evidence. It may be indicated here that the Islamic Fiqh Academy at Jeddah is included in this learned group.<sup>2</sup>

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1 See, e.g., a more systematic and logical ruling issued by Muhammad ibn Adam al-Kawthari, Darul Iftaa, Leicester, UK: "What is the Islamic position on surrogate motherhood?" (available at [http://qa.sunnipath.com/issue\\_view.asp?HD=1&ID=3622&CATE=95](http://qa.sunnipath.com/issue_view.asp?HD=1&ID=3622&CATE=95), accessed March 5, 2014).

2 See Resolution No. 16(4-3) of October 1986 of the International Islamic Fiqh Academy, Jeddah (Majma' al-Fiqh al-Islami).



## The Thesis of This Paper

An examination of the arguments given by these learned people shows that not only are the arguments weak, but the problems of reproductive technology, especially the issue of the surrogate mother, which is the subject of this paper, has almost nothing to do with the technology involved -being a mere tool- and may have very little to do with the realm of sin and morality, or even theology. It is purely a legal question and must be settled by Islamic law as understood by the jurists and not by well-intentioned preachers or doctors.

## Issues Related to the Legality of Surrogate Motherhood

The problems of medically assisted conception techniques and the surrogate mother are not unique to Islamic law. Jewish law tries to deal with the issues in its own way as can be seen from the writings of men of the law in the Jewish system.<sup>3</sup> In more secular environments, there is a greater concern with errors made by doctors and medical staff rather than with the ethical aspect of it all. What is to be done if fertilized embryos land in the wrong wombs, and the fight is not about babies mixed up in the hospital, but of embryos assigned wrong tickets? Two well-known cases that were litigated in the UK may be mentioned as examples.<sup>4</sup> What if the surrogate mother decides to keep the baby and claims that she has a greater right to the child than the social parents, who paid for it all. These problems can arise in an Islamic environment too, but for the present there is a greater worry about the legality of it all and the encircling rules of Islamic morality.

## The Surrogate Mother and the Roadmap of This Paper

The surrogate mother is a woman who bears a child, without indulging in sexual activity for the purpose, on behalf of someone else, usually a couple in need of a child, called the social parents, who pay the surrogate mother for her trouble. There

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3 Susan Martha Kahn, *Reproducing Jews: A Cultural Account of Assisted Conception in Israel*, (Durham NC: Duke University Press, 2000) as quoted in Marcia C. Inhorn, "Making Muslim babies: IVF and Gamete Donation in Sunni Versus Shi'a Islam," *Culture, Medicine and Psychiatry* (2006), 30: 427-450..

4 For the details see M Kabir and Banu az-Zubair, "Who is a parent? Parenthood in Islamic ethics" *J. Med. Ethics* (2007), 33:605-609.

is considerable terminology that surrounds this issue as well as other reproductive technology, but this will be avoided in this paper. The terms employed here will just be the “sperm” and the “egg”. This paper will first examine the evidences from the texts of the Qur’an and the Sunnah that are used by scholars to declare surrogacy unlawful according to Islamic law. After this, the various situations in which the sperm and the egg come together to finally land in the womb of the surrogate mother will be analyzed in the light of Islamic law to see how far they clash with the requirements of Islamic law. Finally, a theological argument advanced by some will also be examined.

### **Responding to Arguments of Muslim Scholars About the Illegality of Surrogate Motherhood Under Islamic Law**

The first argument, the strongest, used by scholars is verse 2 of chapter 58 of the Qur’an:

الَّذِينَ يُظَاهِرُونَ مِنْكُمْ مِمَّا هُنَّ أُمَّهَاتُهُمْ إِنَّ أُمَّهَاتُهُمْ إِلَّا اللَّائِي وَلَدْنَهُمْ وَإِنَّهُمْ لَيَقُولُونَ  
مَنْكَرًا مِمَّنْ الْقَوْلِ وَرُورًا وَإِنَّ اللَّهَ لَعَفُوفٌ غَفُورٌ

“If any men among you divorce their wives by Zihār (calling them mothers), they cannot be their mothers: None can be their mothers except those who gave them birth. And in fact they use words (both) iniquitous and false: but truly Allah is All-Pardoning, All-Forgiving.”<sup>5</sup>

The focus of the argument is on the words, “None can be their mothers except those who gave them birth,” meaning thereby that only those women can be your mothers who have given you birth and a social mother can never be called the mother of a child borne by the surrogate mother. There is no strength in this argument for a number of reasons. First, these words cannot be taken as a legal rule; they are merely informing the person pronouncing the divorce by way of zihar that this is not the correct form of divorce for you cannot call a grown up woman your mother as she has not given you birth. The intention to divorce not being clear the defective form used is rejected.

5 This verse has been used as the major argument by almost everyone writing on the issue of surrogate motherhood. The list is too long to reproduce here and will serve no useful purpose.



Even if the meaning of the words is taken to be definitive (*qat`i*) and it is conceded that a person's mother is one who gave them birth, the meaning stands restricted by the texts and legal precepts that permit wet-nursing or *rada*, prohibiting marriage between the person breast-fed and the wet nurse, or even the children of the wet-nurse. The wet nurse is also a type of mother now after the restriction of the meaning. The claim of restriction of meaning is affirmed if one raises the question: what if a husband says to his wife, "You are for me like the back of my wet nurse, my foster mother?"

The definitive meaning, after restriction, has now become probable, which means it can now be restricted by arguments of lesser strength. This is the rule according to the Hanafi school. According to the Shafi`is and others the meaning is not definitive to start with; it is probable and can be restricted by arguments that are in themselves probable. The way is now clear for arguments based on necessity and even rational arguments. Consequently, the social mother can be called the mother of the child borne by the surrogate mother, and the social parents the parents, provided they have some kind of biological link with the fertilized embryo growing inside the surrogate mother.

Another argument employed by the scholars is a tradition. Ruwayfi ibn Thabit al-Ansari (Allah be pleased with him) narrates that the Messenger of Allah (P.B.U.H) said on the day of Hunayn: "It is unlawful for a man who believes in Allah and the last day that he water the plant of another."<sup>6</sup> The meaning of "watering the plant of another", the scholars claim, is to introduce one's sperm into the womb of another person's wife. They also argue, backed by rational arguments that inserting a sperm into the womb of a woman other than the wife amounts to *zina* or unlawful sexual intercourse. The argument then is that as watering the plant of another by inserting sperm into a strange woman is *zina*, therefore, inserting sperms or fertilized ovums into a surrogate mother amounts to *zina*, and is to be declared unlawful.

It is submitted, with respect, that the argument that insertion of semen into the womb of a strange woman, without sexual activity, amounts to *zina* is totally flawed. First, the tradition has to be interpreted in its context. Having sex with

6 *Sunan Abu Dawud*, no. 2151 and also in *Sunan Tirmidhi*.

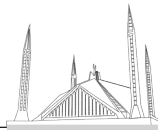
enemy women whose status is that of slaves after conquest is permitted. The Prophet (P.B.U.H) is telling the combatants that if you indulge in sex it is not proper with a pregnant woman in whose womb the foetus planted by her husband is growing as this would amount to watering something planted by him. In these and other cases during battle, ejaculating outside is suggested. The watering of another's plant during battle would in any case be interpreted as recommended and not obligatory.<sup>7</sup>

*Zina*, on the other hand, is an offence with its very specific conditions. First, it requires the meeting of the private parts. Second, it requires penetration of the male private part into the private part of the female. The penetration of the private part must be witnessed by four male witnesses. All these conditions must be met for the act to constitute the offence of *zina*. In the case of the surrogate mother, at least the first two conditions are completely missing. Thus, it is not *zina*, and calling the insertion of sperm into the womb through medical procedures *zina* will amount to *qadhf* invoking the severe penalty of eighty stripes. It is not a moral issue here, but a legal issue, and the law says this is not *zina*, and no one should have the audacity to call it *zina*. The literal implication (*dalalt un-nass*) of the word *zina* does not include the meaning of insertion of sperm, the Hanafi interpretation; nor does *qiyas ul-ma`na* convey this meaning, which is the Shaf`i method -all that is required for *zina* is penetration and the issue of sperm does not enter this meaning. On the other hand, *qiyas ul-`illah*, which is the regular form of *qiyas* cannot be used in the criminal law.<sup>8</sup> In other words, extending the meaning of *zina* to the insertion of sperm in the womb through medical procedures is incorrect according to the Islamic system of interpretation.

A subsidiary argument is that extraction of semen through the process of masturbation is illegal as masturbation itself is illegal. There is no need to answer this argument as those who advance it are themselves not convinced about its illegality. This masturbation is not for pleasure, and its purpose is to contribute

7 But we leave the task of estimating the weight of the *hukm* in terms of fard, wajib, mandub and so on to the ulama'.

8 Imran Ahsan Khan Nyazee, *General Principles of Criminal Law* (Islamabad: Federal Law House, 2002), 77.



to a medical process. If such arguments are used for prohibiting things and processes, it will become very difficult for the extraction of blood for testing, blood transfusion, transplants and many other medical processes to be legally justified.

Yet another argument advanced is based on a tradition. There is a well-known tradition<sup>9</sup> in which the Messenger of Allah (P.B.U.H) said: “The child will be attributed to the husband and the adulterer will receive the stone.” The meaning is that the right of paternity will always be for the person who is married to the child’s mother. The argument is that if a donor’s sperm or the husband’s sperm mixed with that of a donor is embedded in the wife’s womb, the child will still be attributed to the husband. The husband may deny such paternity, in which case the child is attributed to the mother alone. In this argument, the main target is the social mother, who cannot be deemed the mother when it is the surrogate mother who is bearing the child.

This argument has two interrelated parts. The first is about attributing paternity to the husband where his fatherhood is doubtful. The second is about attributing paternity to the social mother when the ovum is hers, but is borne by the surrogate mother after fertilization.

Where the husband accuses his wife of unlawful intercourse, the couple has to undergo the procedure of *li`an*, which is the taking of oaths first by the husband and then by the wife. If both do so, it is the statement of the wife that is preferred. When a child is born, the husband has to deny paternity within seven days of birth according to some and within the postnatal period according to others.<sup>10</sup> If he fails to do so within the prescribed time, paternity of the child is attributed to him.<sup>11</sup> The attributing of paternity has the welfare of the child in view. The tradition above and this procedure are reflected in the principle, “*al-walad lil-firash*.” This is usually translated as “the child is attributed to the marriage bed.” In fact, the principle means that the child is attributed to the “man who had legal access for sexual relations.” The latter meaning includes the paternity of the child born to

9 Recorded by Muslim and other acclaimed compilations.

10 Imran Ahsan Khan Nyazee, *Outlines of Muslim Personal Law* (Islamabad: Federal Law House, 2012), 100.

11 Ibid.

a slave girl too; where paternity is attributed to the master. It may be mentioned here that paternity of an illegitimate child can be claimed at any time by the father on the basis of earlier marriage or *shubbah* of marriage, but till such time that he does the child remains attributed to the mother.<sup>12</sup>

The assigning of paternity is not confined to this case alone. It is well known that the minimum period for gestation is six month on the basis of the Qur'an. It is, however, less well known that the maximum gestation period, where a woman has not claimed the termination of her waiting period on the basis of monthly cycles, is two years according to the Hanafi school. The maximum period is four years according to the Shafi'i and Hanbali schools, on the basis of which there have been a few judicial opinions in Saudi Arabia that have upheld this maximum period.<sup>13</sup> The legal basis for this is the principle of *'adah* (the scientific and physical state observed) among women during the period of the Prophet (P.B.U.H).<sup>14</sup> Those who rely on scientific facts alone today will say that this is not possible. The jurists were aware of this too, but the important point to note here is that it is the welfare of the child that takes over here and not the integrity or reputation of the parent. For the welfare of the child, who is likely to be declared illegitimate otherwise, the law assigns paternity to the husband. It may be noted that the illegitimate child cannot easily inherit from the genetic mother, because he is pushed to the last slot in the line, that is, even after the next of kin of the mother.<sup>15</sup> The discrimination and hatred exhibited for such a child by society is very cruel as compared to the denial of inheritance. Paternity is, therefore, assigned to the husband.

The issue then is whether the social mother, who has knowingly contributed her ovum fertilized by the sperm of her lawfully wedded husband for development in the womb of the surrogate mother, can be assigned the maternity of the child, that

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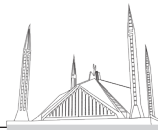
12 Ibid., 111—112.

13 For the details see N. J. Coulson, *History of Islamic law*, as quoted by Imran Ahsan Nyazee, "The Scope of Taqlid in Islamic Law," *Islamic Studies* (1983): XXII, 32.

14 Imran Ahsan Khan Nyazee, *Islamic Legal Maxims* (Islamabad: Federal Law House, 2013), 194.

15 See Nyazee, *Outline of Muslim Personal Law*, 224. D.F.Mulla has misinterpreted the rule about the inheritance of the child in his well-known Code. Ibid.





is, can the law create a fiction in her favour that calls her the mother of the child borne by the surrogate mother along with all the legal effects. It is suggested that the law should create such a fiction on the basis of necessity and on the basis of analogy from the above cases for the social mother and the interests of the child to be born. Assume, for example, that the naturally born child of the social parents and their child born through the surrogate mother grow up and now want to get married to each other, will such a marriage be permitted by the scholars. If not, then on what grounds will such a marriage be prohibited?

A theological argument is also advanced with the complaint that Muslim scholars are relying solely on the law to answer the important issue of the surrogate mother, and very little attention is being paid to the theological foundations.<sup>16</sup> We may quote the learned author:

More often than not, contemporary Muslim scholars, both the conservative minded and the liberal minded, do not consider the theological implications of using a legal discourse to determine an answer for contemporary issues. Issuing a fatwa assumes that both the theology – which is conclusive – and the ethical paradigms – which blossom from the theological discourse – are unshaken by the fatwa offered. If a fatwa dismantles the Islamic theological and ethical paradigms, then perhaps the question leading to the fatwa should be investigated first.<sup>17</sup>

The main argument is advanced on the basis of the verses 49 and 50 of chapter 42 of the Qur'an: "To Allah belongs the dominion of the heavens and the earth. He creates what He wills.

He bestows (children) male or female according to His Will; or He bestows both males and females, and **He leaves barren whom He wills:** for He is full of Knowledge and Power."<sup>18</sup> The argument then is that the Muslims throughout

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16 Shaykh Mohammed Amin Kholwadia, "The Islamic Ruling on Surrogate Motherhood." (Available at <http://www.ilmgate.org/the-islamic-ruling-on-surrogate-motherhood/>, accessed March 5, 2014).

17 Ibid.

18 Emphasis on the original.

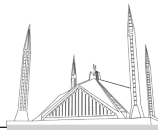
have resorted to prayer and lawful (*halal*) cures rather than resorting to unlawful means. Resorting to unlawful means will amount to opposing the Will of Allah and this may upset the basic requirement of submission to His Will. The author goes into further details, but this appears to be the crux of what he has stated.

The response to these worthy arguments is that, first, it has been assumed that the procedure involved in reproduction through the surrogate mother is unlawful. We have tried to show above that there is little to indicate that the procedures are unlawful in their entirety. Second, in those early times, blood transfusion, transplants and other similar processes might have been deemed inconceivable if not unlawful. Today, technology has informed us that lives can be saved through these processes, and many scholars are inclined to declare most of these processes as lawful. In the same way, the making of babies through assisted reproductive technology has been made possible, and the jurists as well as experts on theology must reexamine many of these issues, although as we have claimed earlier that this is a legal issue.

### **Analyzing the Legal Problem and Related Issues**

There is, however, a need to separate and then examine the different types of processes that go under the name of surrogate motherhood. In other words, we first need to separate traditional surrogacy and gestational surrogacy, and then see what is permitted in the light of what we have asserted above, and what has to be excluded. We may restate here that in doing so we will avoid all technical terminology and focus on the journey of the sperm and the ovum to assess the types.

We will follow the general meaning of surrogacy here, which is that it is an agreement by virtue of which a woman carries and delivers a child for another couple or person. When the woman who is going to bear the child is the child's genetic mother, that is, when the ovum used is her own, the surrogacy is called "traditional surrogacy." When the fertilized ovum to be planted in her womb is not her own, that is, she is not genetically related to the child, the surrogacy is called gestational surrogacy. In this case, she is merely the host. The couple with whom the surrogate mother has entered into an agreement are called the social parents,



that is, the social mother and social father. For purposes of our legal analysis, the process through which the ovum is fertilized in the clinic and is transferred to the womb of the surrogate is not really essential for the legal conclusions to be drawn.

Some of the obvious situations that may arise in the case of traditional surrogacy, where the ovum belongs to the surrogate mother, are the following: first, where the sperm belongs to the social father; second, where the sperm is provided by the surrogate's husband; and third where the sperm is provided by a stranger. In the case of gestational surrogacy, where the surrogate is going to host an alien fertilized ovum, there are five obvious situations: first, where the fertilized ovum and sperm belong to the social parents; second, where the ovum of the social mother has been fertilized by the sperm of a stranger and is placed in the womb of the surrogate; third, the sperm has been provided by the surrogate mother's husband for the ovum of a strange woman, and this is placed in the womb of the surrogate; fourth, where the fertilized ovum and sperm belong to a strange married couple; and fifth, where the fertilized ovum belongs to a strange unmarried couple. These are eight situations in all and, perhaps, other combinations can be imagined.

Out of these, all those situations in which the sperm and the ovum provided have nothing to do genetically with either the social mother or the social father or both may be excluded right away from our analysis as these situations resemble adoption of a child not genetically related to the social parents. This leaves us with three situations that may be subjected to legal analysis. Finally, a few remarks may be made about the cases of adoption. Let us take up the three situations one by one.

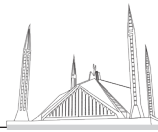
The first situation under gestational surrogacy may be taken up first. In this case, the ovum of the social mother fertilized with the sperm of her husband, the social father, is placed in the womb of the surrogate mother, who will bear the child and deliver it. Scientifically, the child belongs genetically to the social parents, therefore, it is their child. The body of the surrogate mother is providing sustenance to the fetus. The issue is whether the social parents are the true parents of the child or the surrogate mother is the true mother. Here verse 58:2, that is, of Surat Mujaadalah appears to stand in the way, because it says your mothers are those who have given you birth. We have already discussed this verse above

to show that the meaning is not absolute, and the wet nurse or the foster mother is also treated as a mother by the texts. The meaning of this verse having been restricted it is probable and can be restricted by rational arguments, like *qiyas* and scientific evidence. We need not repeat the arguments here. As the social parents are the genetic parents, they are to be treated as the true parents.

The surrogate mother here may be compared to a foster mother. In fact, her claim is stronger for being called a foster mother as compared to the wet nurse. If breastfeeding can lead to the wet nurse being called a mother, the surrogate mother who has provided the fetus with sustenance is like the wet nurse. Yet, she also appears to fall under meaning of the words “those who have given you birth.” Do these words mean “those who have provided the ovum and then given you birth.” If the purely literal meaning is followed and the reasoning rational mind is shut down totally then this surrogate mother will be called a mother, but if the underlying cause of “providing the ovum” is followed then she will be classified as the foster mother. The child should not inherit from the surrogate mother, but for purposes of marriage the child will be her foster child.

Are the social parents the real parents of the child? They have provided the cause and they are the parents on the basis of all scientific evidence. The social mother has avoided the gestation period and has not permitted the embryo to develop within her womb, just as she may avoid breastfeeding her own child. All that is needed in this case is that the social parents should acknowledge the child as their child, that is, they should claim paternity. The rules of claiming paternity will be applied. The second rule that applies is *al-walad lil-firash*. *Firash* here is translated as the matrimonial bed. It means, if the husband does not deny paternity within a prescribed period, the child will be attributed to him. *Firash* actually implies legal access for cohabitation, when the meaning of slave girls is added. The husband of surrogate mother, if she has any, should declare in the surrogacy contract that he will deny paternity of the child to be born as a consequence of the contract, and then he should deny such paternity as soon as the child is born.

The second issue that is second in importance is where the social father has provided the sperm with which the ovum of the surrogate mother is fertilized. This case falls under traditional surrogacy. The act of fertilization is not *zina*,



because it does not meet the conditions of *zina*, like facilitating the male actor, penetration and four witnesses witnessing penetration. Anyone who accuses these persons of *zina* is liable to *qadhf* and deserves eighty stripes. As soon as the child is born, the social father is to acknowledge paternity. The surrogate mother, who is the true mother in view of 58:2, may be asked in the contract to relinquish all claims to the child in favour of the social (and actual) father and the social mother in lieu of what she is charging. In violation of the agreement, she should provide an undertaking that she will pay back what she has charged, the expenses of the entire procedure, she will not claim maintenance from the social father and she will also pay damages to the tune of the agreement.

The third case is where the ovum of the social mother has been fertilized by the sperm of a stranger, and is accommodated in the womb of the surrogate mother. This is gestational surrogacy, and the surrogate mother is a mere host. The egg is fertilized outside the uterus of the mother (*in vitro*); it is not *zina* at all as it does not meet the conditions of the offence. Anyone who accuses her of *zina*, or even the surrogate mother, is liable to *qadhf*. Here the social father will not deny paternity of the child and the social mother will claim paternity. The surrogate mother will be treated as a foster mother on the analogy discussed above. This case can arise where the husband does not produce sperm at all.

All other cases, besides the three mentioned above, are cases of adoption because the social parents cannot be genetically linked to the ovum or the sperm that are used in the process. A child is born through some process, and the birth is financially supported by the social parents. The rules of adoption will apply, however, the social parents may become the foster parents through this procedure. In cases of adoption, the problem is not that the social parents remain childless. They do get a child to care for and to look after. The problem is that they wish to give their name to the child. Giving the name to the child usually means giving the last name. In official papers too some name has to be entered for the parents. These are problems of an administrative nature and can be overcome; we need not dwell on them. The other problem is that of passing on property to the child by way of inheritance. The solution for that may be the making of a gift during the lifetime of the parents or entering into a contract of *wala'* with the child

when there is no next of kin.<sup>19</sup> Finally, it is the child itself and his welfare that is important. Will the child be told the truth about his birth and origin, and that he is not the real child of the social parents. It is suggested that the truth should be told; it will be good for the psychological make-up of the child, as compared to the shock he or she will get when the truth is accidentally and suddenly revealed to the child later. It may be mentioned here that even in the United Kingdom a law has been passed by virtue of which a child born through the use of this technology has a right to know who his or her genetic parents were. If all this cannot be done it is better not to go for adoption as a foster child.

### **Conclusion**

In the end, we may conclude that issue of medically assisted births, especially the issue of the surrogate mother, is purely a legal issue and should be settled through the law. Scholars, who are not specialists in the legal field, and even medical specialists, should acquaint themselves thoroughly with the rules of Islamic law and how they operate. A better option, however, is to refer the issue to jurists.

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19 For the method of passing property to someone by way of contract, that is, the procedure of *wala'*, see Nyazee, *Muslim Personal Law*, 227.