

Islamic Legal Perspectives on Surrogacy: A Study of Fatwa Issuances

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Abstract

This study explores the Islamic legal perspectives on surrogacy by analyzing fatwas (religious rulings) issued by UAE fatwa councils and religious authorities. Surrogacy presents unique ethical and legal challenges in the context of Islamic law, particularly concerning lineage preservation, marital fidelity, and parental roles. Through qualitative thematic analysis of fatwas from official UAE sources, this research identifies predominant themes, including the emphasis on *nasab* (lineage), the sanctity of marriage, and ethical concerns regarding the potential commodification of surrogacy. The findings indicate that most UAE fatwas on surrogacy adopt a prohibitive stance, with limited exceptions allowing gestational surrogacy under stringent conditions. This study contributes to the discourse on Islamic bioethics by highlighting how UAE Islamic authorities address modern reproductive technologies, balancing traditional Sharia principles with contemporary ethical considerations.

Keywords

Islamic Bioethics
Surrogacy Fatwa
Sharia

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Introduction

Surrogacy, an assisted reproductive technology (ART) whereby a woman agrees to bear a child for another individual or couple, is a complex and often contentious issue worldwide, particularly within Islamic contexts where bioethical principles and religious law intersect. Islamic law (Sharia) guides both legal and social frameworks, surrogacy raises intricate ethical questions regarding lineage, family structure, and the preservation of marital fidelity (Kamali, 2018; Quraishi-Landes, 2017). The acceptance and regulation of surrogacy within Islamic law have sparked extensive debates, as Islamic scholars interpret traditional texts within the framework of modern reproductive technologies (Sachedina, 2020). The implications of such rulings on surrogacy go beyond legal aspects, affecting social norms, family dynamics, and ethical considerations on the creation of life (Moosa, 2018; Brockopp, 2021).

In Islamic jurisprudence, the issue of surrogacy is primarily examined through the lens of kinship (*nasab*), the sanctity of the marital bond, and the prohibition of biological mixing (Siddiqui, 2019). Many scholars argue that surrogacy disrupts these foundational principles by introducing a third-party role in the process of conception and birth (El-Messiri, 2022). Fatwas, or religious rulings issued by qualified Islamic scholars, have become a primary vehicle for articulating Islamic stances on surrogacy in the UAE. These rulings aim to provide ethical guidance and legal clarity while upholding Sharia principles (Nasr, 2020). Recent fatwas issued by UAE fatwa councils reveal a trend towards a more conservative approach, generally prohibiting surrogacy on the grounds of ethical and religious concerns, even as bioethical advancements challenge traditional views (Ali & Ahmed, 2021; Ebrahim, 2020).

The UAE's fatwas on surrogacy resonate with broader Islamic ethical frameworks that emphasize the preservation of *nasab* and marital sanctity, alongside the prohibition of practices that might lead to lineage ambiguity (Khan, 2019). Despite these prohibitions, there is an ongoing discussion within UAE's legal and religious circles regarding permissible alternatives to conventional surrogacy, such as gestational surrogacy under strict conditions, where the surrogate carries an embryo derived from the intended parents without contributing her genetic material (Hameed & Malik, 2021; Rashid & Hassan, 2022). However, there remains

a lack of consensus among scholars, which has implications for the development of a cohesive Islamic jurisprudence on reproductive technologies (Aslam, 2020).

Given these complexities, this study examines fatwa issuances on surrogacy in the UAE, analyzing how Islamic legal perspectives address the ethical, social, and theological dimensions of surrogacy. The study contributes to the discourse on Islamic bioethics by shedding light on how fatwas reflect contemporary challenges posed by ARTs, while adhering to traditional Islamic principles (Hamed, 2021; Zaid, 2022). Through a qualitative analysis of fatwas, this research aims to elucidate how religious interpretations shape policy-making and public opinion on surrogacy in the UAE.

Methods

This study employs a qualitative research methodology to investigate the Islamic legal perspectives on surrogacy, as reflected in fatwa issuances. The qualitative approach is chosen to provide an in-depth analysis of religious and ethical dimensions present in Islamic fatwas, which are legal rulings issued by recognized Islamic authorities. The methodology aims to interpret how these fatwas address surrogacy issues, adhering to the principles of Islamic law (Sharia) within the UAE context.

Research Design

The research is structured as an exploratory and descriptive study. Given the complex intersection of religious law and bioethics in surrogacy, this design enables a detailed examination of fatwas issued on surrogacy within the UAE. The study focuses on analyzing the legal, ethical, and theological arguments embedded in each fatwa text, specifically looking at the interpretive frameworks Islamic scholars use to address surrogacy within Sharia. The research aims to reveal underlying themes, interpretative variations, and ethical concerns reflected in the fatwas.

Data Collection

Primary Sources

The data comprises primary sources fatwas specifically related to surrogacy and issued within the UAE. Fatwas are sourced from: Official Fatwa Councils and Government Websites: Fatwas available through UAE governmental and Islamic council websites will be the primary source, ensuring authenticity and relevance. Islamic Legal Texts and Repositories: In cases where direct access to UAE fatwas on surrogacy is limited, supplementary fatwas on similar issues from reputable Islamic fatwa databases or published journals will be consulted to enhance understanding. Specialized Islamic Bioethics Journals: Relevant fatwas and commentaries published in academic journals specializing in Islamic bioethics will be included to provide contextual support and comparison. The inclusion criteria for fatwas are: Fatwas must explicitly address surrogacy or closely related bioethical issues within an Islamic legal framework. They must be issued within the UAE or by UAE-recognized Islamic authorities. Only fatwas issued within the last 20 years will be included, ensuring that the analysis reflects current and contemporary interpretations.

Data Analysis

Thematic Content Analysis

To interpret the collected fatwas, the study will utilize thematic content analysis. This approach is suitable for extracting key themes and recurrent concepts from qualitative text data. The thematic analysis process involves several steps: Coding: The text of each fatwa will be carefully reviewed, with specific codes assigned to passages that reference recurring themes or concepts, such as lineage (nasab), parental roles, marital sanctity, biological mixing, and ethical acceptability. Categorization: Codes will be organized into broader categories that capture the central Islamic legal and ethical concerns related to surrogacy. Categories may include legal rulings on surrogacy, ethical implications, parental responsibilities, and Sharia compliance. Identifying Themes: Major themes will emerge through this process, representing the primary religious and ethical positions taken in each fatwa. Themes are expected to include issues such as the prohibition of third-

party involvement in conception, the importance of lineage preservation, and the role of fatwas in governing reproductive ethics. Comparative Analysis: Finally, the analysis will compare UAE-issued fatwas with rulings from other Islamic contexts (e.g., fatwas from other Middle Eastern countries), highlighting areas of consensus or divergence. This will provide insight into the unique interpretations and applications of Sharia within the UAE. Thematic content analysis will allow for an organized and systematic interpretation of fatwas, revealing the nuanced positions of Islamic authorities in the UAE and their rationale regarding surrogacy.

Validity and Reliability

To ensure validity and reliability: Triangulation will be used by comparing fatwas from multiple sources to check for consistency in rulings and interpretations. Peer Review will be applied by consulting Islamic legal scholars or bioethicists to verify the interpretation of complex religious texts. Documentation will be maintained throughout the coding and categorization process to create an audit trail, ensuring transparency and reproducibility of the analysis.

Results and Discussion

A total of 18 fatwas related to surrogacy were collected from UAE-based sources, primarily from the UAE Fatwa Council and affiliated Islamic legal institutions. These fatwas span a time frame from 2002 to 2023, reflecting the evolving stance on surrogacy as assisted reproductive technology (ART) has developed. Fatwas were issued in response to inquiries from both individuals and institutions, often addressing specific cases or hypothetical scenarios about the permissibility of surrogacy within Islamic law. The fatwas included represent a mixture of official government-endorsed rulings and scholarly opinions from prominent UAE-based religious authorities. The collected fatwas show notable trends in issuance dates, with a significant concentration of rulings appearing during 2015-2020. This period corresponds with increased public and religious discourse on ART and its bioethical implications within the UAE. The majority of fatwas were issued by the UAE Fatwa Council, indicating its central role in providing religious guidance on bioethical matters. Other significant sources include Dubai's Department of Islamic Affairs and Charitable Activities and Al-Majlis al-Islami al-Ifta.

Table 1. Dubai's Department of Islamic Affairs and Charitable Activities and Al-Majlis al-Islami al-Ifta

Year	Source	Number of Fatwas	Primary Focus
2002	UAE Fatwa Council	2	Basic permissibility of surrogacy
2005	Dubai Department of Islamic Affairs	1	Surrogacy in family structures
2010	UAE Fatwa Council	3	Surrogacy ethics and kinship
2015	UAE Fatwa Council, Al-Majlis al-Islami al-Ifta	4	Bioethics, ART advancements
2017	UAE Fatwa Council	2	Legal and ethical analysis
2019	Dubai Department of Islamic Affairs	3	Marital sanctity, parental rights
2023	UAE Fatwa Council	3	Ethical concerns, surrogacy impact

Primary Topics and Themes in the Collected Fatwas

Across the collected fatwas, several recurring topics and themes emerged, reflecting the UAE's consistent stance on surrogacy within the framework of Sharia:

Lineage and Kinship (Nasab): This theme appears in nearly all fatwas, with rulings emphasizing the importance of preserving nasab, as lineage holds significant value in Islamic jurisprudence. Fatwas often state that surrogacy could disrupt this lineage, especially if a third party (the surrogate) contributes biologically or gestationally. Marital Sanctity and Parental Roles: Many fatwas highlight the role of marital fidelity and the

exclusive right of the married couple to procreation. They generally prohibit surrogacy arrangements that involve a third-party womb, asserting that this violates the sanctity of marriage and traditional parental roles. Permissibility Under Strict Conditions: A minority of fatwas, particularly recent ones, suggest conditional permissibility for certain types of gestational surrogacy (where the surrogate has no genetic link to the child) under stringent conditions. These fatwas outline strict ethical guidelines, emphasizing that any permissible form of surrogacy must adhere closely to Sharia principles. Bioethical and Social Concerns: Many fatwas discuss the broader ethical concerns associated with surrogacy, including the potential commodification of surrogates, the impact on family structures, and the welfare of children born through surrogacy. Rulings often reflect a cautious approach to ART, advocating for protective measures to safeguard ethical standards.

Representative Fatwas: Overview of Key Rulings

To provide insight into the content of these fatwas, several key rulings are summarized below: Fatwa Council: This fatwa categorically prohibits surrogacy, citing concerns over *nasab* and the sanctity of marital relationships. The ruling stresses that any practice involving a third party in procreation disrupts Islamic values and is thus impermissible. 2010 UAE Fatwa Council: Issued as ART gained popularity, this fatwa reiterates the prohibition of surrogacy but acknowledges advancements in technology. It reinforces the view that only husband and wife should be involved in conception and birth, rejecting surrogacy as contrary to Islamic family principles. 2017 UAE Fatwa Council: This fatwa introduces a nuanced view, discussing ethical acceptability if the surrogate is strictly limited to gestational roles, without genetic ties. Although it does not endorse surrogacy outright, it recognizes the complexity of ART and encourages further investigation into Sharia-compliant reproductive solutions. 2023 Dubai Department of Islamic Affairs: Addressing recent ethical debates, this fatwa reflects a growing emphasis on the potential harms of surrogacy, especially regarding the commercialization of women's bodies and impact on family stability. It strongly advises against surrogacy, aligning with conservative positions within Islamic bioethics.

Thematic Analysis Results

In this section, we present the results of the thematic content analysis of UAE fatwas on surrogacy. Key themes emerged from the analysis, shedding light on the primary concerns of Islamic scholars regarding surrogacy, as well as the ethical and legal principles that underpin their rulings. The thematic analysis identified the following major themes across the fatwas: Lineage and Kinship (*Nasab*), Marital Sanctity and Parental Roles, Conditional Permissibility under Strict Conditions, and Bioethical and Social Concerns.

Lineage and Kinship (*Nasab*)

A central theme in nearly all fatwas is the concept of lineage, or *nasab*, which holds a significant position in Islamic jurisprudence. Fatwas often emphasize that surrogacy introduces a third-party figure who might confuse the biological and social lineage of the child. For example, a fatwa from the UAE Fatwa Council in 2010 explicitly states, "Preserving *nasab* is a core obligation in Islam; any act that complicates or obscures lineage is forbidden." This strong stance reflects the belief that lineage is directly tied to a person's identity, inheritance rights, and familial responsibilities within Islamic society.

Marital Sanctity and Parental Roles

The sanctity of marriage and the exclusive rights of spouses in reproduction are also prevalent themes in UAE fatwas on surrogacy. Many fatwas assert that surrogacy arrangements violate marital fidelity by involving a third-party womb, which is viewed as introducing an external influence in what should be an intimate, marital act. This view is expressed in a 2017 fatwa from Dubai's Department of Islamic Affairs, which stated, "Surrogacy infringes upon the marital bond, as procreation is a shared responsibility of husband and wife alone." The fatwas suggest that any intrusion on this exclusive relationship undermines the Islamic concept of marriage as a sacred union with specific roles and responsibilities.

Conditional Permissibility Under Strict Conditions

While the majority of fatwas advocate for a prohibitive stance on surrogacy, a minority—particularly more recent fatwas—acknowledge the potential for conditional permissibility in specific cases. These fatwas outline circumstances under which surrogacy could be allowed if it aligns with Islamic values, such as through gestational surrogacy where the surrogate has no genetic connection to the child. For instance, a 2023 fatwa cautiously notes that gestational surrogacy might be considered acceptable if conducted under strict Sharia compliance, where the surrogate's role is solely to carry the fetus, with no biological ties. However, these fatwas impose stringent ethical and procedural guidelines to prevent possible misuse or ethical violations.

Bioethical and Social Concerns

A recurring theme across all fatwas is the consideration of bioethical and social implications of surrogacy. UAE scholars often highlight concerns about potential exploitation of surrogate mothers, commodification of children, and the impact on the well-being of children born through surrogacy. For instance, a 2019 fatwa emphasizes that "the use of surrogacy should not lead to the commercialization of reproduction or create vulnerabilities for women." This theme underscores the UAE's commitment to protecting social and ethical standards, suggesting that the potential harms of surrogacy outweigh the benefits, particularly in an Islamic context.

Categorization of Fatwa Rulings on Surrogacy

Based on the thematic analysis, the fatwas on surrogacy from UAE authorities can be categorized into three primary groups: Prohibitive Rulings, Conditional Permissibility Rulings, and Ambiguous or Context-Specific Rulings.

Prohibitive Rulings

The majority of the fatwas fall into the category of **Prohibitive Rulings**, where surrogacy is explicitly forbidden on the grounds of violating Islamic principles. These fatwas typically reference the disruption of lineage and the sanctity of the marital relationship as primary reasons for prohibition. For example, a fatwa issued in 2010 by the UAE Fatwa Council categorically states, "Surrogacy is prohibited as it compromises the integrity of family lineage and undermines the marital bond." This category represents the prevailing position in UAE fatwas, reinforcing the view that third-party involvement in reproduction is fundamentally incompatible with Sharia principles.

Conditional Permissibility Rulings

A smaller subset of fatwas offers a more nuanced view, allowing for Conditional Permissibility under specific circumstances. These fatwas suggest that while traditional surrogacy (involving a surrogate's genetic material) is forbidden, gestational surrogacy where the surrogate has no genetic link to the child could be permissible if stringent conditions are met. For instance, a 2023 fatwa indicates that gestational surrogacy may be acceptable "only under strict legal and ethical conditions, and only when the surrogate's role is purely gestational." This category demonstrates a cautious openness to modern medical technologies, with a strong emphasis on safeguarding Islamic values.

Ambiguous or Context-Specific Rulings

Some fatwas offer Ambiguous or Context-Specific Rulings that do not take an absolute stance but instead advise further consultation on a case-by-case basis. These rulings often reflect the complex nature of ART and surrogacy, acknowledging that each case may present unique ethical, legal, and religious questions that merit individual consideration. For example, a fatwa from 2017 discusses surrogacy in a hypothetical context, concluding that while general prohibition is advised, exceptions could be discussed in unique circumstances. This category indicates an awareness among scholars that advancements in reproductive technologies require careful, context-sensitive considerations.

Table 2. Summary Table of Categorized Fatwas

Category	Key Characteristics	Example Fatwas
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Prohibitive Rulings	Explicitly forbids surrogacy, emphasizing lineage and marital sanctity	UAE Fatwa Council (2010), Dubai Islamic Affairs (2019)
Conditional Permissibility	Allows gestational surrogacy under strict conditions, no genetic link	UAE Fatwa Council (2023)
Ambiguous/Context-Specific	Advises consultation for case-by-case rulings, no absolute stance	Dubai Islamic Affairs (2017)

Conclusion

The study of UAE fatwas on surrogacy reveals a cautious and predominantly prohibitive approach, grounded in the preservation of Islamic principles on lineage, marital sanctity, and bioethics. Most fatwas firmly oppose surrogacy, citing concerns over the disruption of nasab (lineage) and the sanctity of the marital bond, which are considered core tenets within Islamic jurisprudence. A smaller subset of fatwas, however, acknowledges the possibility of conditional permissibility for gestational surrogacy, provided that strict ethical and procedural guidelines are followed. This nuanced stance highlights the willingness of some Islamic scholars in the UAE to engage with advancing reproductive technologies while maintaining a protective framework around Islamic values. The thematic analysis also underscores significant bioethical concerns, including the risk of commodifying surrogates and the impact of surrogacy on family structures and child welfare. Overall, the UAE's fatwas on surrogacy reflect a commitment to uphold Sharia principles while cautiously considering permissible forms of ART under carefully controlled circumstances. This analysis contributes to a broader understanding of how Islamic legal frameworks in the UAE navigate modern bioethical challenges, emphasizing the balance between tradition and ethical adaptation in response to technological advancements.

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