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## Interreligious perspectives on Surrogate Motherhood

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### Abstract

Surrogate motherhood raises a variety of ethical, legal, theological, and sociological questions. Discussions on this topic often become heated, particularly when considering the use of a woman's body to carry a pregnancy on behalf of another individual—married or unmarried, male or female—with an ovum that, in most cases, has no biological connection to her and is legally recognized as belonging to the commissioning party or parties post-birth. On one side, issues of self-determination, solidarity, and compassion are debated, while on the other, dignity, the sanctity of life, commodification, and exploitation are concerns. This article, without overlooking these significant issues, attempts an interreligious examination of surrogate motherhood to elucidate how the three major monotheistic religions, along with Hinduism and Buddhism, assess, interpret, and understand this practice. The aim is to highlight both converging and diverging positions across different views and to more fully comprehend the various theological and cultural dimensions that shape the contemporary bioethical understanding of this issue.

**Keywords:** Surrogate motherhood, assisted reproduction, interreligious bioethics.

## Διαθρησκειακή θεώρηση της παρένθετης μητρότητας

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### Περίληψη

Ποικίλα ηθικά, νομικά, θεολογικά και κοινωνιολογικά ζητήματα εγείρονται γύρω από την πρακτική της παρένθετης μητρότητας. Οι σχετικές συζητήσεις πολλές φορές γίνονται έντονες καθώς εξετάζεται η δυνατότητα της χρήσης του σώματος της γυναίκας και η δυνατότητα κυοφορίας για λογαριασμό ενός άλλου ατόμου (εγγάμου ή αγάμου, ανδρός ή γυναικός) ενός γονιμοποιημένου ωαρίου που στις περισσότερες περιπτώσεις δεν συνδέεται βιολογικά μαζί της και μετά την γέννηση αναγνωρίζεται νομικά στον εντολέα ή στους εντολείς. Από την μία πλευρά τίθεται το ζήτημα της αυτοδιάθεσης, της αλληλεγγύης και της συμπόνιας και από την άλλη πλευρά το ζήτημα της αξιοπρέπειας, της ιερότητας της ζωής, της εμπορευματοποίησης και της εκμετάλλευσης. Το παρόν άρθρο χωρίς να αγνοεί τα τόσο ενδιαφέροντα ζητήματα επιχειρεί μία διαθρησκειακή εξέταση της παρένθετης μητρότητας, με σκοπό να διαφανεί πως οι τρεις μεγάλες μονοθεϊστικές θρησκείες, αλλά και ο Ινδουισμός και ο Βουδισμός αξιολογούν, ερμηνεύουν και κατανοούν την εν λόγω πρακτική. Σκοπός του άρθρου είναι να καταστούν εμφανείς τόσο οι συγκλίνουσες, όσο και οι αποκλίνουσες θέσεις των διαφορετικών θεωρήσεων και να κατανοηθούν πληρέστερα οι διάφορες θεολογικές και πολιτισμικές διαστάσεις που διαμορφώνουν τη σύγχρονη βιοηθική αντίληψη για το εν λόγω ζήτημα.

**Λέξεις κλειδιά:** Παρένθετη μητρότητα, υποβοηθούμενη αναπαραγωγή, διαθρησκειακή βιοηθική.

## 1. Introduction

In the Greek language, the term "surrogate mother" refers to a woman who carries the fertilized ovum of another woman or, more broadly, a woman who carries an embryo which, upon birth, will not be raised by her.<sup>1</sup> This term is derived from the Greek "παρεντίθημι" (παρ(α)- + ἐν + τίθημι), signifying accurately the woman who is interposed or "inserted" between the biological mother and the child.<sup>2</sup> Similarly, in English, the term "surrogate mother" originates from the Latin "surrogatus," meaning substitute, and denotes a woman chosen to act in someone else's place.<sup>3</sup> Thus, a surrogate mother is the woman assigned to carry a pregnancy on behalf of another person or persons, who will become the parent or parents of the child immediately after birth and assume all parental rights and responsibilities. The terms "φέρουσα (carrier)" and "υποκατάστατη (substitute)" are often used interchangeably to describe this practice. However, it should be clarified that the former term refers to cases where the biological mother's ovum is used, while the latter refers to cases where both the uterus

and the ovum are provided by the surrogate.<sup>4</sup>

Although the practice of surrogate motherhood has its roots in antiquity, it has emerged in a different form in recent years, raising various ethical, theological, legal, and sociological issues. Initially, surrogate motherhood referred to a woman who, for compensation, provided both her ovum and uterus through the technique of intrauterine insemination. With the development of in vitro fertilization, it became possible to create an embryo in vitro, which was then implanted into the surrogate mother's uterus, without any genetic relation to her. Consequently, there are two categories of surrogate mothers. In the first scenario, insemination occurs using the sperm of the husband of the woman unable to carry a pregnancy or a third party's sperm.<sup>5</sup> In the second scenario, in vitro fertilization is included.<sup>6</sup> That is, the embryo, from the gametes of the prospective parents or from the fertilization of the egg or sperm of the couple or third parties, is produced in vitro and implanted in the surrogate. In both cases, there are two forms of artificial fertilization, homologous and heterologous. Homologous fertilization refers to cases where both the egg and the sperm belong to the spouses, and heterologous refers to cases where the sperm, the egg, or both are

<sup>1</sup> Charalambakis Ch. Χρηστικό Λεξικό της Νεοελληνικής Γλώσσας (Practical Dictionary of Modern Greek Language.). National Printing Office, Athens 2014: 1021.

<sup>2</sup> Babiniotis G. Λεξικό της Νέας Ελληνικής Γλώσσας (Dictionary of the Modern Greek Language). Lexicology Center, Athens 1998: 1355.

<sup>3</sup> Stavropoulos G., Hornby A. Oxford English-Greek Learner's Dictionary. Oxford University Press, Oxford - New York, 2001: 741.

<sup>4</sup> Βασικές Θέσεις επί της Ηθικής της Υποβοηθούμενης Αναπαραγωγής (Basic Positions on the Ethics of Assisted Reproduction). [https://www.bioethics.org.gr/03\\_b.html#2](https://www.bioethics.org.gr/03_b.html#2).

<sup>5</sup> Sareidakis E. Βιοηθική - Ηθικά προβλήματα των νέων βιοϊατρικών τεχνολογιών (Bioethics - Ethical issues of new biomedical technologies). Papazisis Publications, Athens 2008: 126.

<sup>6</sup> Idem, p. 127.

from different individuals.<sup>7</sup> Thus, a fundamental problem arises from the involved parties, as a child in some cases may be connected to up to five individuals. Namely, the parents who raise the child and to whom the child is legally recognized, the surrogate mother in whom the fertilized eggs were implanted, and the donors of the sperm and egg if these are taken from different individuals. Therefore, with this practice, a child can have up to three mothers (the genetic, the gestational, and the social) and up to two fathers (the genetic and the social).<sup>8</sup>

Most countries, at least until the recent past, did not have specific legislation for surrogate motherhood, causing considerable concern. In recent years, more and more countries are implementing necessary legal regulations, given that surrogate motherhood is becoming a global commercial phenomenon. This is highlighted by the notable number of women willing to "offer" their wombs for compensation,<sup>9</sup> and the total cost exceeding \$1 billion annually (estimated to range from \$2.3 billion to \$6 billion annually)<sup>10</sup>. This

growth in surrogate services is driven either by couples unable to conceive on their own or by single individuals asserting their right to parenthood.<sup>11</sup> Additionally, there are cases of posthumous fertilization, where a man wishes to implant his deceased wife's frozen eggs into a surrogate or a woman, beyond reasonable childbearing age, wishes to have the fertilized eggs of her deceased husband implanted in a surrogate.

Therefore, there is a need to establish robust legal frameworks to regulate the issue, aiming to safeguard the rights of all involved parties. It is crucial to pay special attention to the rights of the children to be born and to assess the risks to which both the surrogate and the children are exposed (medical risks, changes in the commissioners' stance, citizenship).<sup>12</sup> While the discussion of the ethical dilemmas arising from the practice of surrogate motherhood is particularly interesting, this article attempts an interreligious perspective on the issue, aiming to clarify the stance of various religions towards the practice of surrogate motherhood.

<sup>7</sup> Nikolaidis A. Από τη Γένεση στη Γενετική (From Genesis to Genetics). Grigoris Publications, Athens 2006: 156.

<sup>8</sup> Mantzaridis G. Θεολογική θεώρηση της υποβοηθούμενης αναπαραγωγής (Theological consideration of assisted reproduction). ΕΕΘΣΘ 2000, 10: 97-99.

<sup>9</sup> See also: Vantsos M. Surrogate motherhood: An act of altruistic offering or commodification of the body? KOSMOS - Scientific Journal of the Department of Pastoral and Social Theology, Aristotle University of Thessaloniki, Thessaloniki 2020: 85-97.

<sup>10</sup> Deonandan R. Thoughts on the ethics of gestational surrogacy: Perspectives from religions, western liberalism, and comparisons with adoption. J Assist Reprod

Genet 2020, 37: 269-279.

<https://doi.org/10.1007/s10815-019-01647-y>

<sup>11</sup> Nnamuchi O. Surrogacy, Religious Culture, and the Imperatives of the Law: Any Caveats for Law Makers?. In: Duruigbo, E., Chibueze, R., Gozie Ogbodo, S. (eds) International Law and Development in the Global South. Palgrave Macmillan, Cham 2023. [https://doi.org/10.1007/978-3-031-13741-9\\_15](https://doi.org/10.1007/978-3-031-13741-9_15).

<sup>12</sup> See also: Protopapadakis E. Ο νέος εφιάλτης του Σολωμόντος, παρένθετη μητρότητα και Βιοηθική (Solomon's new nightmare, surrogacy, and Bioethics).. In: Μάνος Α. (ed.) Άνθρωπος και Τεχνολογία: Η Παγκόσμια Πολιτική και Οικονομική Κρίση. Dardanos Publications, Athens 2011: 85-94.

## 2. The stance of Orthodox Church

The Orthodox Church, comprising 15 autocephalous local Churches, has not adopted an official and unified stance on the issue of surrogate motherhood. However, in 2002, the Special Synodal Committee on Bioethics of the Church of Greece made comments and suggestions concerning the bill on Medical Assistance in Human Reproduction. The committee examined the issue of surrogate motherhood, particularly with reference to Article 1458.

Initially, the committee positively evaluated the state's interest in facilitating women who are unable to conceive, as well as the requirement for judicial permission. It then pointed out several issues that "justify reservations" regarding the practice of surrogate motherhood, including:

Various legal, social, and psychological problems that could arise for those involved. The lack of measures regarding the potential use of this method by foreign women in Greece, noting that it had not yet been permitted in other European Union countries. This could facilitate reproductive tourism, as individuals from countries where surrogate motherhood is banned could turn to Greece to have a child carried by a woman living in the country. The absence of any reference to the commercialization of the entire process and no measures to protect against such a possibility. The Committee also made three significant observations about the issue under review: The developing bond with the embryo during pregnancy is an essential and integral part of both motherhood and embryonic development. Thus, continuing the relationship between the surrogate mother and the child wrongs the genetic parents, while severing this relationship wrongs the surrogate mother. In any case, both solutions primarily wrong the child and disrupt family cohesion. The intervention of the gestational carrier in the sacred relationship between the genetic parents and the child is not without consequences. The committee posed several

important questions, such as what happens if the genetic parents die or wish to terminate the pregnancy after prenatal testing or due to other reasons (e.g., divorce), while the surrogate mother refuses? Is surrogate motherhood a paid offer or an act of mutual benefit? If it is the former, what terms define the compensation or obligations of the gestational carrier towards the parents and vice versa? After examining these points, the Committee suggested withdrawing the article and delaying this regulation until a more appropriate time, mainly to identify the exceptional conditions under which only the court's permission would be granted.<sup>13</sup>

In 2006, the Church of Greece issued a document that was approved by the Holy Synod titled "Basic Positions on the Ethics of Assisted Reproduction." This text highlights that while the possibility of gestation by a surrogate or substitute mother may have a positive aspect in that it serves pregnancy in love, the developing bond with the embryo during pregnancy is an essential and integral part of not only motherhood but also embryonic development. The continuation of the relationship between the surrogate mother and the child wrongs the genetic parents, while its termination also wrongs the surrogate mother and, above all, wrongs the child. For this reason, especially because such a practice disrupts family cohesion, the

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<sup>13</sup> Σχόλια και Προτάσεις επί του Νομοσχεδίου για την Ιατρική Υποβοήθηση στην Ανθρώπινη Αναπαραγωγή (Comments and Suggestions on the Bill for Medical Assistance in Human Reproduction). [https://www.bioethics.org.gr/03\\_b.html#2](https://www.bioethics.org.gr/03_b.html#2).



Church finds it difficult to bless such a deviation from the natural path.<sup>14</sup>

On the other hand, the Russian Orthodox Church has positioned itself on bioethical issues through an extensive encyclical issued in 2000. Although the encyclical recognizes and positively evaluates the parents' desire to have children, it simultaneously emphasizes that the end does not justify the means, thus rejecting most modern methods of assisted reproduction. Specifically, the practice of surrogate motherhood, whether there is a financial agreement or not, is characterized as unnatural and morally unacceptable. According to the Russian Orthodox Church, "this method presupposes the destruction of the deep emotional and spiritual intimacy that is formed between the mother and the baby during pregnancy." The encyclical continues, stating that "surrogate motherhood" harms both the carrier, whose maternal feelings are violated, and the child, who may subsequently suffer from a crisis of self-awareness.<sup>15</sup> Furthermore, in 2013, the Russian Orthodox Church decided that infants born from a surrogate

mother would not be baptized unless there is sincere and active repentance by the parents for choosing this specific practice. This stance underscores the church's strong ethical opposition to surrogate motherhood and its significant concerns about the emotional and spiritual impacts on both the child and the surrogate mother.<sup>16</sup>

The Church of Greece, although it "struggles to bless" the use of surrogate motherhood, does not completely reject it, unlike the Russian Orthodox Church. In any case, the issue must be examined by the Pan-Orthodox Bioethics Committee, whose proposal needs to be ratified by a new, anticipated Holy and Great Council, in order to achieve a common and unified decision among all Orthodox Churches.

It is noteworthy that in the Holy Scripture, specifically in the Book of Genesis, we find the biblical narratives of Abraham and Sarah, and Rachel and Jacob, which could prove particularly useful for the topic under examination as they provide significant testimony to "surrogate motherhood" in the pre-Christian era. Abraham, a Patriarch of Israel and an ancestor of Jesus Christ, settled in the land of Canaan in his old age with his wife Sarah. There, Abraham lamented to God about being childless, fearing that his relative Eliezer from Damascus would inherit his estate (Gen. 15:2-3). However, God responded to his complaint, assuring

<sup>14</sup> Βασικές Θέσεις επί της Ηθικής της Υποβοηθούμενης Αναπαραγωγής (Basic Positions on the Ethics of Assisted Reproduction). [https://www.bioethics.org.gr/03\\_b.html#2](https://www.bioethics.org.gr/03_b.html#2).

<sup>15</sup> See also: 13. Ladas I. Η απόφαση της Εκκλησίας της Ρωσίας περί απαγορεύσεως της τελέσεως του μυστηρίου της βαπτίσεως σε βρέφη που έχουν γεννηθεί μέσω παρένθετης μητέρας και η ανάγκη κοινής αντιμετώπισεως των Βιοηθικών Ζητημάτων από την Ορθόδοξη Εκκλησία (The decision of the Church of Russia on the prohibition of the sacrament of baptism for infants born through surrogate motherhood and the need for a common approach to bioethical issues by the Orthodox Church). KOSMOS - Scientific Journal of the Department of Pastoral and Social Theology, Aristotle University of Thessaloniki, Thessaloniki 2020: 129-137.

<sup>16</sup> Κείμενο / Απόφαση της Ιεράς Συνόδου της Εκκλησίας της Ρωσίας με ημερομηνία 26 Δεκεμβρίου 2013 (Text / Decision of the Holy Synod of the Church of Russia dated December 26, 2013). Ο крещении младенцев, родившихся при помощи «суррогатной матери». <http://www.patriarchia.ru/db/text/3481024.html>.

him that he would not remain childless and that his own offspring would inherit him (Gen. 15:4-5). Sarah, although 90 years old, became pregnant, according to Divine Revelation, and bore Isaac. However, ten years before Isaac's birth, to ensure Abraham would not remain childless, Sarah encouraged him to conceive a child with Hagar, her Egyptian maid; legally, the child would also belong to her.<sup>17</sup> Specifically, Genesis 16:2 states, "And Sarai said unto Abram, Behold now, the Lord hath restrained me from bearing: I pray thee, go in unto my maid; it may be that I may obtain children by her (εἶπε δὲ Σάρα πρὸς Ἄβραμ· ἰδοὺ συνέκλεισέ με Κύριος τοῦ μὴ τίκτειν· εἴσελθε οὖν πρὸς τὴν παιδίσκην μου, ἵνα τεκνοποιήσωμαι ἐξ αὐτῆς)."<sup>18</sup> Through this arrangement, Ishmael was born from Hagar. Similarly, in another biblical narrative, it is mentioned that Rachel, unable to conceive naturally, said to Jacob, "Here is my maid Bilhah, go in unto her; and she shall bear upon my knees, that I also may have children by her (ἰδοὺ ἡ παιδίσκη μου Βαλλά· εἴσελθε πρὸς αὐτήν, καὶ τέξεται ἐπὶ τῶν γονάτων μου, καὶ τεκνοποιήσωμαι κἀγὼ ἐξ αὐτῆς)" (Gen. 30:3).<sup>19</sup> Indeed, when Bilhah bore Jacob's son, Rachel said, "God hath judged me, and

hath also heard my voice, and hath given me a son (ἔκρινέ μοι ὁ Θεὸς καὶ ἐπήκουσε τῆς φωνῆς μου καὶ ἔδωκέ μοι υἱόν)" (Gen. 30:6).<sup>20</sup>

The concept of surrogate motherhood in the aforementioned biblical narratives is not understood in modern terms, nor does it involve in vitro fertilization. Nevertheless, it is of significant importance that Sarah requested the child conceived naturally by herself and Abraham to be legally recognized as her own. Thus, with today's understanding, we can speak of a commissioning party to whom the child is legally recognized as offspring, without whom the entire process would not have occurred and essentially no birth would have taken place. Additionally, it is particularly noteworthy that before asking Hagar to carry the child in place of Sarah, the couple had prayed to God for offspring. It can therefore be argued that the desire of a couple to have descendants and then the effort to find the means to do so is rooted in the Old Testament. In any case, the conclusions one can draw from these biblical narratives are very important for the study of this subject not only for the Orthodox Church and other Christian churches and denominations that accept the Holy Scripture, but also for the three monotheistic religions, also known as the Abrahamic faiths.

<sup>17</sup> Christinaki El. *Ιστορική Πορεία της Γυναίκας στη Βίβλο και Ισότητα των Δύο Φύλων* (The Historical Journey of Women in the Bible and the Equality of the Two Genders), Symmetry Publications, Athens 2005: 153.

<sup>18</sup> «Εἶπε ἡ Σαρα πρὸς τὸν Ἀβραμ· “ἰδοὺ, ὁ Κύριος με ἔχει ἐμποδίσει να συλλάβω καὶ γεννήσω τέκνον. Λοιπὸν, πήγαινε εἰς τὴν δούλην μου, δια να ἀποκτήσω, ἔστω καὶ ἀπὸ αὐτήν, ἓνα τέκνον”».

<sup>19</sup> «Ἰδοὺ, ἡ δούλη μου ἡ Βαλλά, πάρε τὴν καὶ θα γεννήσῃ παιδί εἰς τὰ γόνατά μου καὶ θα εἶναι σαν να ἔχω γενήσῃ εγὼ. Το τέκνον τῆς θα εἶναι ἰδικόν μου».

<sup>20</sup> «ὁ Θεός μου ἔδωσε τὸ δίκαιόν μου, ἤκουσε τὴν προσευχήν μου καὶ μου ἐχάρισε παιδί».



### 3. The stance of other Christian Churches and Christian denominations

The Roman Catholic Church does not accept the practice of surrogate motherhood and considers it incompatible with Roman Catholic doctrine. According to its teachings, techniques that involve the separation of the conjugal act, by incorporating a third party outside of the marriage, are deemed unethical.<sup>21</sup> The central concern of the Roman Catholic Church is how these technologies impact human life. The stance of the Roman Catholic Church is that a medical intervention is ethical if it assists the marital act in achieving pregnancy but is unethical when the intervention "replaces" the marital act.<sup>22</sup>

Pope Francis has explicitly opposed surrogate motherhood, calling for its global prohibition. He has argued that the practice, often driven by profit motives, inflicts harm both on the mothers and the children involved. In this context, he has spoken about the commodification of pregnancy, describing it as a serious violation of dignity for both the woman and the child, and has advocated for a worldwide ban on the practice. This stance reflects the Church's broader ethical concerns regarding human dignity and the natural processes of human reproduction.<sup>23</sup>

Conservative Catholic thought condemns surrogate motherhood as an intrusion into the sanctity of marriage. However, when a child is born through a surrogate mother, its adoption by the couple could be considered an ethical act, provided that the surrogate is deemed to have "abandoned" the child and thus her maternal responsibilities. Whether the parents or the surrogate mother have a genetic relationship with the child does not matter in cases of abandonment. Therefore, the child, regardless of the method of its birth, can become a member of the Roman Catholic Church.<sup>24</sup> This approach underscores the Church's focus on the welfare and rights of the child, transcending the circumstances of birth in favor of providing a nurturing and legitimate familial and religious environment.

The Anglican Church, like other Protestant Churches and denominations, appears to accept surrogate motherhood, although certain concerns have been expressed. These concerns are related to: 1. the potential psychological trauma that could arise from the child's relationship with the surrogate mother during pregnancy, 2. legal complications, and 3. the instrumentalization of the female body. These issues highlight the ethical complexities involved in surrogate motherhood, prompting a cautious approach to its practice within these communities. Each of these concerns reflects a broader ethical debate about the implications of surrogate motherhood not only on the individuals directly involved but also on societal norms and values.<sup>25</sup>

<sup>21</sup> Catechism of the Catholic Church. [http://www.scborromeo.org/ccc/ccc\\_toc.htm](http://www.scborromeo.org/ccc/ccc_toc.htm).

<sup>22</sup> Nnamuchi O, op.cit., pp. 251-272.

<sup>23</sup> Pope Francis: "Απαράδεκτη η παρένθετη μητρότητα (Surrogacy is unacceptable)". <https://orthodoxia.info/news/papas-fragkiskos-aparadekti-parenth/>.

<sup>24</sup> Deonandan R, op.cit., pp. 269-279.

<sup>25</sup> Nnamuchi O, op.cit., σελ. 251-272.

#### 4. The stance of Islam

Surrogate motherhood in Islam is a complex and often controversial issue that raises a series of theological, ethical, and legal concerns, as it tests the boundaries of Islamic family law. Various views have been expressed regarding this practice and the conditions under which it could be acceptable, both in Sunni and Shia Islam, given that there is no single authority that could definitively pronounce on the matter. As a practice, it is prohibited in most Muslim countries except for Iran, where it is allowed under specific conditions. This diversity in acceptance and regulation reflects the varied interpretations and applications of Islamic principles across different cultural and legal contexts.<sup>26</sup>

The majority of Sunni Islamic scholars believe that surrogate motherhood is haram, meaning it is prohibited. Some argue that obtaining an egg or sperm from a third party and its implantation into a surrogate womb is akin to sharing the marital bed with someone outside of the marriage. Many Muslim scholars view it as a form of unlawful sexual contact (zina). Therefore, it is often discussed in terms of adultery and considered a sinful act. This perspective reflects a strong emphasis on preserving the sanctity of marriage and lineage within Islamic teachings, aligning reproductive

actions closely with marital and familial structures as defined by religious law.

In Islam, the foundation is set on preserving family ties and defending the integrity of marriage. According to Sunni scholars, surrogate motherhood confuses the very nature of the family. The mixing of genealogies is seen as contrary to the will of God and therefore is considered both illegal and morally unacceptable. Furthermore, given that the surrogate has a genetic role in the creation of the baby, there is a high likelihood of emotional and legal confrontation between the two women involved. From the process of surrogate motherhood arises the question of which woman should be considered the mother of the child. In Islam, according to Quranic references where the word "Walida" means the person who gives birth to another, the woman who brings the child into the world is considered the mother, not the woman who provides the ovum.<sup>27</sup> Even in cases of polygamy (a husband married to two wives), where an ovum from one wife is fertilized by the husband's sperm and transferred to the womb of the second wife, the pregnant wife carries a "foreign seed," the ovum of the first wife, which is outside the marriage contract that binds the husband and the second wife. The child will belong to the second wife who gave birth to it,

<sup>26</sup> Sujadmiko B, Aji N, Mulyani L, Rasyid S, Meutia, I. Surrogacy in Indonesia: The comparative legality and Islamic perspective. *HTS Theological Studies* 2023, 79: 1-8. <https://dx.doi.org/10.4102/hts.v79i1.8108>. Nazari L. Surrogacy in Islam: Is surrogacy haram in Islam?, <https://tebmedtourism.com/surrogacy-in-islam/>.

<sup>27</sup> Farid S. Why Islam has two ways of looking at surrogacy. <https://360info.org/why-islam-has-two-ways-of-looking-at-surrogacy/>. Sharmin I, Nordin R, Mohd Nor H, Al-Mahmood A. Ethics of surrogacy: A comparative study of Western secular and Islamic bioethics. *J IMA* 2013, 44:1-5. <https://doi.org/10.5915/44-1-5920>. Husain F. Reproductive issues from the Islamic perspective. *Hum Fertil (Camb)* 2000, 3:124-128. <https://doi.org/10.1080/1464727002000198831>.

although she will not be the biological mother of the child. Therefore, surrogate motherhood, even in this context, is not allowed.<sup>28</sup> However, some views without an absolute prohibition exist, where surrogate motherhood is considered permissible under specific conditions, such as if the surrogate mother is a close relative and if the sperm of the husband and the ovum of the wife are used. In this case, the procedure should be carried out by a female doctor, who, if possible, should be a follower of Islam.<sup>29</sup>

In Shia Islam, there is a more favorable stance towards surrogate motherhood, as Shia scholars utilize the concept of *maslaha* (public interest) to better understand the ethical dilemmas associated with medically assisted reproduction within Islamic law. Many Shia scholars emphasize avoiding divorce and psychological conflicts. In this context, the majority of Shia Islamic scholars and religious leaders consider surrogate motherhood *halal* (permissible), provided that it does not involve romantic intercourse and aims to maintain family cohesion. Notably, in 1999, Ayatollah Khamenei, the Supreme Religious Leader in Iran, issued a fatwa (religious decree) permitting surrogate motherhood under

certain conditions. He justified his decision by stating that the embryo is created from a married couple and does not involve direct sexual contact, therefore, it cannot be considered adultery. The Supreme Religious Leader of Iran also stated that surrogate motherhood is permissible if performed with the eggs and sperm of the married couple and aims to preserve family cohesion and genealogy. He further noted the importance of transparency in the process and ruled that the surrogate mother should have the right to know the identity of the commissioning parents.<sup>30</sup>

This notable difference in the stance between Shia and Sunni Muslims towards surrogate motherhood stems from differing perceptions of the act of adultery. In Shia thought, adultery is defined as physical sexual contact, not merely the transfer of a fertilized ovum.<sup>31</sup> Additionally, from the Shia perspective, adultery destroys family cohesion, while the "donation" or implantation of a fertilized ovum into the womb of a surrogate mother protects it. Under this interpretation, such a practice is acceptable within Sharia law.<sup>32</sup> The fact that Sunni Islam adopts a different interpretation and almost universally prohibits surrogate motherhood does not mean that instances of "illegal" surrogate motherhood do not occur. For example, in 2013, a young

<sup>28</sup> Hathout H. Islamic perspectives in obstetrics and gynaecology. Alam al-Kutub, Cairo 1988.

<sup>29</sup> Chattopadhyay S. Permissibility of Surrogacy in Islamic Law, Chatterjee, Shrabana, Permissibility of Surrogacy in Islamic Law 2020. <http://dx.doi.org/10.2139/ssrn.3952492>. Niazi S, Islamic Law and the Surrogate Mother. Aref Abu-Rabia, Infertility and Surrogacy in Islamic Society: Socio-Cultural, Psychological, Ethical, and Religious Dilemmas, The Open Psychology Journal 2013, 6: 54-60. Mohsin E. Islamic teachings and surrogate motherhood. Journal for the Study of Religion 1990, 3: 35-45. <http://www.jstor.org/stable/24764156>.

<sup>30</sup> Sharmin I, Nordin R, Mohd Nor H, Al-Mahmood A, op.cit., σελ. 1-5. Nazari L. Surrogacy in Islam: Is Surrogacy Haram in Islam?. <https://tebmedtourism.com/surrogacy-in-islam/>. Farid S. Why Islam has two ways of looking at surrogacy. <https://360info.org/why-islam-has-two-ways-of-looking-at-surrogacy/>.

<sup>31</sup> Nazari L. Surrogacy in Islam: Is Surrogacy Haram in Islam?. <https://tebmedtourism.com/surrogacy-in-islam/>.

<sup>32</sup> Ibidem.

Egyptian widow named Taghrid gave an interview that caused a stir. Taghrid, while hidden behind a black niqab, disclosed that she rented her womb to a Lebanese couple for 40,000 Egyptian pounds (approximately \$2,375). She continued explaining, "I am a widow and have a young son. We have no source of income after the death of my husband. I found a married Muslim couple who had been trying unsuccessfully for 10 years."<sup>33</sup> This case highlights the social and economic pressures that can influence individual decisions regarding surrogate motherhood, even in contexts where the practice is legally and religiously prohibited.

### 5. The stance of Judaism

The stance of Judaism towards surrogate motherhood varies depending on the interpretation of Jewish law. Generally, surrogate motherhood is considered acceptable, especially when other forms of medically assisted reproduction are not feasible. However, within Judaism, there are significant ethical and legal reservations. The issues mainly concern the identity of the mother, the child's lineage, the relationship between the surrogate and the biological mother of the child, as well as the protection of family cohesion.<sup>34</sup>

The general stance of Judaism on surrogate motherhood is based on God's commandment to the first humans to

"αυξάνεσθε και πληθύνεσθε (be fruitful and multiply)." However, for surrogate motherhood to be acceptable, the ovum and sperm must originate from the wife and husband, respectively. From a purely religious perspective, the child is connected to the father who provided the sperm and the woman who brought it into the world.<sup>35</sup> In cases of egg donation, the issue arises as to which woman should be considered the mother of the child—the woman who donated the egg or the surrogate who brings the child into the world. According to Jewish law, the child is related to the woman who brought it into the world, namely the woman who gave birth. Therefore, the majority of scholars tend to support the view that maternity is granted to the surrogate, the woman who gives birth to the child. Another interpretation suggests that a child born in this way has two mothers: the woman who donated the egg and the surrogate.<sup>36</sup> Commissioners, if they have no genetic relation and no physical role in the birth of the child (if the genetic material is not taken from them), are excluded.<sup>37</sup> Recently, there has been a shift in rabbinic thought regarding which woman should be considered the mother in cases of surrogate motherhood, as some researchers argued that the commissioner should be

<sup>33</sup> Abdulmalik A. Taking surrogacy seriously in the Arab world. <https://www.arabnews.com/node/1503626>.

<sup>34</sup> Schenker JG. Infertility evaluation and treatment according to Jewish law. *Eur J Obstet Gynecol Reprod Biol.* 1997, 7:113-21. [https://doi.org/10.1016/S0301-2115\(96\)02621-8](https://doi.org/10.1016/S0301-2115(96)02621-8).

<sup>35</sup> Schenker JG. Human reproduction: Jewish perspectives. *Gynecol Endocrinol* 2013, 29:945-8.

Besser M. Jewish ethics and surrogacy. *Jewish Independent* 2017. <http://www.jewishindependent.ca/jewish-ethics-and-surrogacy/>.

<sup>36</sup> Golinkin D. What does Jewish law have to say about surrogacy? *The Schechter Institutes* 2012, 7. <http://www.schechter.edu/what-does-jewish-law-have-to-say-about-surrogacy/>.

<sup>37</sup> Deonandan R, op.cit., pp. 269-279.

considered the mother.<sup>38</sup> It should also be noted that the use of donor sperm is controversial, given the possibility that implanting another man's sperm into a woman's body could constitute adultery, which is strictly prohibited by the Torah.<sup>39</sup>

In Judaism, various opinions have been expressed that support the complete rejection of surrogate motherhood. For instance, Immanuel Jakobovits describes the use of a woman as a "surrogate" as a "repugnant degradation of motherhood and an affront to human dignity." Moshe Tendler opposes both forms of surrogate motherhood, considering them to degrade the dignity of women. Daniel H. Cordis emphasizes that Jewish women should not become surrogate mothers for compensation and that couples of Jewish descent should not seek surrogate mothers. Marc Gellman argues that the sanctity of family life requires a unique husband and a unique wife.<sup>40</sup> Rabbi Jakovitz, as early as 1975, argued that "using a woman as an incubator... for a fee... and then taking away the child she gave birth to is an outrageous degradation of motherhood and an affront to human dignity."<sup>41</sup> Finally, Rabbi Moshe Tendler stated that surrogate motherhood

could not be accepted even as a "therapeutic method," as it is wrongly perceived by some as such.<sup>42</sup>

Israeli society is pluralistic, encompassing diverse social groups with different normative traditions. Israel, as a democratic state, follows a liberal approach on many issues, such as the official recognition of single-parent families, while Halachic tradition is promoted with substantial political and legal force. Israel was the first country to regulate issues concerning surrogacy with a specific law in 1996.<sup>43</sup> Under this law, the entire process is strictly controlled and requires the approval of a special state committee case by case. The legislator has imposed several restrictions. For instance, all parties must be adults and legal residents of the Israeli state, surrogacy is offered only to married or otherwise legally recognized heterosexual couples based on medically proven infertility or inability to complete pregnancy, the surrogate mother must be unmarried (divorced or widowed), unless the committee decides otherwise if convinced that the couple could not find an unmarried woman. Further, the surrogate mother may not have a relationship with the prospective parents, the sperm must belong to the prospective father, and the egg must not belong to the surrogate mother (it must come from the prospective mother or a donor), the surrogate mother must share the same religion as the prospective parents

<sup>38</sup> Jotkowitz A. Surrogate Motherhood Revisited: Maternal Identity from a Jewish Perspective. *J Relig Health* 2011, 50: 835-840. <https://doi.org/10.1007/s10943-011-9494-4>.

<sup>39</sup> Schenker J. Assisted reproductive practice: Religious perspectives. *Reprod Biomed Online* 2005, 10: 310-9.

<sup>40</sup> Spitz R. On the use of birth surrogates. [https://www.rabbinicalassembly.org/sites/default/files/public/halakhah/teshuvot/19912000/spitz\\_surrogate.pdf](https://www.rabbinicalassembly.org/sites/default/files/public/halakhah/teshuvot/19912000/spitz_surrogate.pdf).

<sup>41</sup> Jakobovitz I. Jewish medical ethics: A comparative and historical study of the Jewish religious attitude to medicine and its practice. Bloch Publishers, New York 1975.

<sup>42</sup> Tendler M. Infertility management: Cure or Ill. *Sh'ma* 1987, 17: 109-10.

<sup>43</sup> The first legal surrogacy contract was drafted by attorney Noel Keane in 1976, and the first compensated surrogacy agreement took place in 1980. Deonandan R, op.cit., pp. 269-279.



unless none of the parties are Jewish, and the surrogate mother is not allowed to receive a salary, however, so-called financial compensation is allowed (this financial arrangement is subject to the approval of the Ministry of Health). In 2011, additional terms/restrictions were articulated, including that the surrogate mother must be between 22 and 38 years old, the age of the commissioners should not exceed the age at which someone can become a parent naturally, the surrogate mother should not undergo more than two embryo transfer procedures, even if they do not result in childbirth, and the surrogate must have at least one child of her own but must not have undergone more than three births.<sup>44</sup>

Israeli legislation is influenced by Jewish religious law, despite differences in content and restrictions. A careful examination of the relevant case law reveals some clear similarities. For instance, the surrogate mother must be unmarried, must not be related to the commissioners, and must share the same religion with them. These restrictions reflect the observance of Jewish law on three main issues, namely religious concerns about: 1. adultery, 2. incest, and 3. religious identity. The first restriction, ideally requiring the surrogate mother to be unmarried, addresses rabbinic concerns about adultery and the status of a child born to a married woman. A child conceived through illicit sexual relations may be

deemed a Mamzer and subject to severe social stigma and practical difficulties. Although in vitro fertilization and surrogacy do not involve sexual relations, some rabbis equate it with adultery. The second restriction, prohibiting any connection between the surrogate mother and the commissioners, satisfies religious concerns about incest, that is, marriage or sexual relations between relatives. The third restriction, requiring the surrogate mother and the commissioners to share the same religion, addresses religious concerns about religious identity. According to Jewish law, a child's religion is determined according to the mother's religion, hence the technique of surrogacy could raise significant objections. Since the religion of the surrogate mother has Halakhic significance, the restriction that both parties belong to the same religion circumvents any rabbinic concern regarding the determination of the child's religion.<sup>45</sup>

## 6. The stance of Hinduism and Buddhism

In Hinduism, surrogacy appears to be permitted, although the issue has not been sufficiently studied yet. Artificial fertilization using the husband's sperm is allowed and not that of an unknown donor, as the child must know their origins.<sup>46</sup> The concept of surrogacy has its roots in Hindu mythology. In the Bhagavata Purana, it is mentioned that Kansh, the king of Mathura, imprisoned his sister Devaki and her

<sup>44</sup> Rimón-Zarfaty N. Parochial Altruism: A Religion-Sensitive Analysis of the Israeli Surrogacy and Egg Donation Legislation. In: Mitra, S., Schicktanz, S., Patel, T. (eds) Cross-Cultural Comparisons on Surrogacy and Egg Donation. Palgrave Macmillan, Cham 2018. [https://doi.org/10.1007/978-3-319-78670-4\\_17](https://doi.org/10.1007/978-3-319-78670-4_17).

<sup>45</sup> Ibidem.

<sup>46</sup> Kumar A, Ethical Aspects of Assisted Reproduction. An Indian Viewpoint 2007, 14: 140-142.



husband Vasudeva because a prophecy foretold that their child would kill him. As a result, every time his sister gave birth to a child, he would kill it. After he had killed six children, the gods intervened. They called upon the goddess Yogamaya to transfer the embryo from Devaki's womb to the womb of Rohini, who lived in the village of Gokul. Thus, the child was conceived in the womb of the king's sister but was born through another woman.

Additionally, in Hindu tradition, surrogacy is intertwined with the concept of karma.<sup>47</sup> Infertility is considered a pathology that requires treatment, and thus assisted reproduction and surrogacy are viewed positively.<sup>48</sup> Interestingly, surrogacy is not widely used as an infertility treatment option among Hindus, while many women in India become surrogate mothers for couples from the West.<sup>49</sup>

The stance of Buddhism on the issue of surrogacy is not clear. According to the majority of researchers, none of the sacred texts of Buddhism prohibits assisted reproduction or surrogacy. Compassion is a fundamental concept in Buddhism, and therefore those trying to treat infertility are supported. On the other hand, some researchers have expressed their opposition to the practice of surrogacy, which they base on their belief in karma and reincarnation.<sup>50</sup> Additionally, some equate

surrogacy with organ selling and argue that this practice instrumentalizes women and turns them into objects of exploitation for the benefit of others. These positions are contested by other Buddhist researchers who argue that as long as surrogacy is motivated by compassion and not profit, the act is not considered exploitation and is therefore ethically acceptable.<sup>51</sup>

## 7. Conclusion

Through the examination of the practice of surrogacy at an interreligious level, the existence of both converging and diverging views was observed, which are indicative of the broader degree of moral concerns globally. In all religions, positions were identified that ranged from conditional acceptance of this practice to complete prohibition. It is notable that all religions examine the scientific data and strive to adapt their teachings for the benefit of their congregation. This fact reveals their dynamic nature, which calls them to provide answers to contemporary bioethical issues with the well-being of all involved in mind; in this case, the prospective parents, the surrogate mother, and especially the children. Additionally, in many countries around the world, one or more religions play a significant role in cultural life and influence social ethos and jurisprudence. For this reason, in Israel, the legislature chose to adopt a restrictive approach, aiming to suppress religious objections to the law. Consequently, any action that

<sup>47</sup> Religion and Surrogacy. <https://www.montanasure.com/blog/2018/2/28/religion-surrogacy>.

<sup>48</sup> Ibidem.

<sup>49</sup> Nnamuchi O, op.cit., pp. 251-272.

<sup>50</sup> Spirko J. Buddhist Beliefs About Surrogate Mothers. <https://classroom.synonym.com/buddhist-beliefs-about-surrogate-mothers-12087675.html>. History Channel,

Buddhism.

<https://www.history.com/topics/religion/buddhism>.

<sup>51</sup> Nnamuchi O, op.cit., pp. 251-272.

contradicts what is considered moral for society risks causing problems in the established order.

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