

The Crime of Using a Surrogate Mother in the Jordanian Penal Code and Islamic Sharia: A Comparative Study.

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- **Abstract:** Protecting the bond of the family and protecting the woman's body from being a commodity is one of the important goals in Islamic law, and this is supposed to be the goal of the Jordanian legislator to protect human rights from insulting her dignity and body, and that many human relationships are based on legitimate kinship ties. Therefore, the research focuses on defining the applicable law in the event of committing the act of surrogacy in terms of the possibility of considering the renting of the womb as human trafficking, or is it an attack on the lineage of the child, or is it a violation of the law of medical responsibility, given that there is more than one law that must be scrutinized, and how the medical liability law addresses the issue of surrogacy. Assigning a child to non-parents is a matter that confuses kinship relations within the family, and the principle is that the law imposes a penalty on anyone who seeks to harm the cohesion of the family or the sanctity of the human body, but the issue of the surrogate mother is a medical development that produces complications. This is what we discussed in this research in the possibility of criminalizing the use of a surrogate mother and the legal problems arising from it. And this matter entails the necessity of criminalizing the violation of the womb as if it were a commodity subject to loan or lease, because it leads to an attack on the womb of the woman, an attack on the child's interest by tampering with his lineage and harming the rights of the husband, where a fertilized egg is implanted in the womb of a foreign woman who carries the fetus and gives birth to it, then delivers it to his father who has sperm and his mother who has the egg, which results in real problems in defining the text that will punish the one who uses the surrogate mother and in proving the child's lineage to a woman who did not give birth to him, and it creates problems in determining the existence of a sanctity between the surrogate mother and the child. The surrogate mother may refuse to hand the child over to the biological parents.

- **Keywords:** Islamic law, sanctity, lease, biological parents