

Research Article

Examining Ushul Fiqh Principles on the Surrogacy-based In Vitro Fertilization Program

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Ridha Amalia: <https://orcid.org/0000-0002-6119-7711>**Abstract.**

The presence of children within a family is of significant importance. However, not all couples can conceive offspring as desired, due to various factors. Consequently, they seek ways to fulfill their desire of having children. Presently, advancements in medical science and technology, particularly in the field of medicine, have rapidly progressed to provide solutions for couples who are unable to conceive naturally. This is known as in vitro fertilization, commonly referred to as “bayi tabung” or test-tube babies. Islamic scholars unanimously agree that test-tube babies are permissible as long as the processed sperm and egg originate from a legitimate married couple. However, the issue of test-tube babies becomes different when it involves the renting of a woman’s womb according to an agreement. This study aims to examine how the practice of surrogacy is evaluated in *usul al-fiqh* (the principles of Islamic jurisprudence) and determines the legal status of children born through surrogacy according to *usul al-fiqh*. Additionally, the study explores the reasons why surrogacy is prohibited according to *usul al-fiqh*. This research adopts a qualitative approach, utilizing literature review as the methodology. Based on established principles supported by evidence, it can be understood that harm cannot be eliminated by another form of harm that is more detrimental than the initial harm. Surrogacy, in this case, would jeopardize lineage and resemble adultery. If a child is born from a woman who conceives and gives birth herself, then the lineage would follow the birth mother, as stated in the Quran, Surah Al-Mujadilah 58:2.

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1. Introduction

In Islam, “Nikah” derives from the term “nakaha,” which means “marriage.” The name of the bride is Nakihatun, and the name of the groom is Nakihun. The definition of marriage is the physical and spiritual bond between a man and a woman to live together in a household and procreate according to Islamic law. Its purpose is to establish a harmonious, affectionate, and merciful family, known as “Sakinah Mawaddah warahmah.”[1]



The presence of children within the family holds great significance. Children bear profound meaning for every individual. Furthermore, in a hadith narrated by Imam Muslim from Abi Hurairah, Prophet Muhammad (SAW) explained that the existence of righteous children can bring benefits to their parents even after their parents have passed away.[2] The prayer of a righteous child is one of three acts that continue to reward deceased parents. However, not all couples can have offspring as expected. This is attributed to various factors, both from the male and female sides, leading them to seek ways to conceive children according to their desires.[3]

Currently, scientific and technological advancements in the field of medicine are progressing rapidly and are affecting people's lives. One such development is the discovery of new methods to provide a solution for couples who are unable to conceive naturally, known medically as in vitro fertilization, or commonly referred to as "test-tube baby." [4] In vitro fertilization consists of two terms: "fertilization" and "in vitro." Fertilization refers to the union of a female egg and male sperm, while in vitro means "outside the body." In vitro fertilization is the process by which a female egg is fertilized by male sperm (a part of human reproduction) outside the body.[5]

One of the requirements to undergo IVF (In Vitro Fertilization) programs is a healthy uterus and egg. Therefore, women who do not have a healthy uterus and egg will not be able to participate in IVF programs. Since fertilization takes place outside the body, doctors can place the fertilized egg inside a healthy uterus, even if it is not the uterus of the woman producing the egg. This gave rise to the practice of surrogacy.

Surrogacy is a human effort to achieve fertilization by placing the egg (ovum) and sperm between a man and a woman in a container, then transferring it into the uterus of a woman who rents her womb according to an agreement.[3] The term "renting a womb" is used because of the method involved, where the fertilized result of the husband and wife is carried in the uterus of another woman who is considered to rent her womb, and she carries the fetus until childbirth. The child is then returned to the care of the intended parents and considered their own child.[6]

According to the Centers for Disease Control and Prevention (CDC) in the United States, surrogacy has the highest success rate among fertility treatments. The CDC reports that in vitro fertilization (IVF) using donor eggs has a success rate of 52%. Even higher is the success rate with a surrogate, with fertility centers in the United States having a success rate of approximately 75% for surrogate mothers, which can increase to 95% for live births after the surrogate becomes pregnant. Success can be measured by the surrogacy growth rate. The CDC reports that embryo carriers accounted for 5% of all embryo transfers in 2019, up from nearly 1% a decade ago.[7]

Several countries have their own legal framework for surrogacy practices. “The demand for surrogacy is increasing worldwide,” claims obstetrician Dr. Suvir Venkataraman from the Harley Street Fertility Clinic, citing the Standard. [8] Surrogacy practices are still illegal in some countries. Meanwhile, other countries such as the United States, Mexico, India, Thailand, Ukraine, and Russia are often referred to as “homes” for surrogacy practices with surrogate mother costs amounting to tens of thousands of US dollars.[8] The success rate for patients using donor eggs and surrogacy is the highest because using a tested womb through surrogacy provides the best combination worldwide.[7]

In Indonesia, surrogacy is prohibited according to Article 127 of the Health Law No. 36 of 2009, which stipulates that only legally married couples are eligible to undergo assisted reproductive techniques outside of natural conception. Specifically, the fertilized sperm and egg of the couple must be transferred to the uterus of the woman whose egg was used, and this procedure must be conducted by qualified healthcare professionals within designated healthcare facilities.[3] Additionally, Article 99 of the Compilation of Islamic Law states that a legitimate child refers to an offspring born within a valid marriage as a result of lawful actions by the husband and wife, with the child being born from the wife. Consequently, a child born through surrogacy cannot be classified as a legitimate child and is considered to be born outside of marriage, establishing a biological connection solely with the surrogate mother.[9]

Formally, surrogacy has not been officially practiced in Indonesia as of the present time. However, there are indications of surrogacy practices, such as the discovery of numerous young Indonesian women who register as surrogate mothers on online platforms.[10] Legally, the act of renting a womb is strictly prohibited in Indonesia; nevertheless, evidence suggests that clandestine surrogacy arrangements are taking place within certain familial contexts.

Agnes Widanti, an esteemed women’s rights activist and expert in health law at Soegijapranata Catholic University in Semarang, who is also a faculty member at Unika and serves as the coordinator of the Women and Children Care Network (JPPA) in Central Java, highlights the prevalence of womb rental in Indonesia. Despite the absence of clear legal regulations on the matter, the practice continues discreetly. Widanti’s doctoral research, titled “The Implementation of Women’s Reproductive Rights in Womb Rental,” discusses instances of such practices in Papua, where surrogate arrangements involving womb rental transactions have been observed. Notably, these occurrences remain unchallenged as they transpire within the confines of familial relationships. Widanti

further illustrates an example where a niece rented her aunt's womb to conceive a child, underscoring the complex dynamics surrounding this phenomenon.[10]

In January 2009, the issue of womb rental surfaced in Indonesia when it was reported that the artist Zarima Mirafsur had rented her womb to a Surabaya-based entrepreneur couple in exchange for a sum of money, a car, and a house.[11] This incident signifies that womb rental has occurred in Indonesia, a country with a majority Muslim population.

One of the objectives of Islamic teachings is to preserve and protect lineage or *nasab*. Scholars of Islamic jurisprudence (*fiqh*) assert that *nasab* is a solid foundation for building a harmonious marital life that unites individuals based on blood relations. Islam views the purity of lineage as highly significant, as Islamic law is closely linked to the structure of the family, marriage law, inheritance law, and their various derivatives, which encompass rights related to personal law in Islam, including rights of lineage, guardianship, provision, allowances, inheritance, and even the concept of *mahram* or *muhrim* in Islam resulting from the outcome of marriage.[11] Based on the aforementioned discussions, this article seeks to address the following questions: how is surrogacy evaluated in the field of *usul al-fiqh* (principles of jurisprudence)? What processes render it prohibited according to *usul al-fiqh*? And what is the legal status of children born through surrogacy according to *usul al-fiqh*?

2. Methods

This research employs a qualitative methodological approach, focusing on library research to conduct an in-depth analysis of the principles of Islamic law (Ushul Fiqh) regarding IVF through surrogacy. The research methodology involves the identification of primary and secondary sources to gather relevant information and perspectives.

Identification of Primary Sources Classical Islamic legal texts, including the Quran, Hadith literature, and jurisprudential works by renowned scholars, are consulted. These primary sources provide fundamental insights into Islamic law and its application to various aspects of life, including reproductive technology.

Identification of Secondary Sources Scientific articles and books on Ushul Fiqh, reproductive technology. These secondary sources offer comprehensive analyses of contemporary discussions, legal opinions, and ethical considerations related to IVF through surrogacy.

The analytical framework of this research involves a critical examination of primary and secondary sources, with a particular focus on Ushul Fiqh principles relevant to IVF through surrogacy. This analysis considers the application of principles such as *Maqasid Shariah* (Objectives of Islamic Law), *Ijtihad* (Independent reasoning), *Maslaha*

(Public interest), Qiyas (Analogical reasoning), and 'Harm and Benefit' (al-Darar wa al-Masalih) to the ethical and legal aspects of IVF through surrogacy within the context of Islamic law.

It should be noted that this research acknowledges the limitations of library research, including potential biases and the absence of real-time perspectives. However, a comprehensive exploration of primary and secondary sources, combined with the analytical framework, enables an in-depth analysis of the principles of Islamic law (Ushul Fiqh) regarding IVF through surrogacy, contributing to a deeper understanding of this topic within the context of Islamic law.

3. Results and Discussion

3.1. Overview of IVF through surrogacy and its variations

In vitro fertilization (IVF), commonly known as test-tube baby, is a pregnancy that occurs through the fertilization of an egg by sperm outside the body.[12] The term "test-tube baby" is a translation of the Indonesian term "bayi tabung," which originates from the English term "artificial insemination." "Artificial" refers to something created or imitated, while "insemination" comes from the Latin word "inseminatus," meaning to sow or implant.[13] The concept of a test-tube baby is also closely associated with the term "in vitro fertilization," which refers to the technique of fertilizing an egg outside the female body without sexual intercourse.[14]

According to Tahar's definition in his book, a test-tube baby is an individual (child) who is not conceived through sexual intercourse between a man and a woman but is created through the process of artificial insemination, wherein male sperm is placed inside the female uterus.[14]

The stages involved in performing IVF are as follows:[15]

Step 1: Stimulation, also known as superovulation. In this initial step, women are administered fertility drugs to increase egg production. Additionally, the woman will undergo regular transvaginal ultrasound (USG) examinations to monitor the ovaries and blood tests to check hormone levels.

Step 2: Egg Retrieval. A minor surgical procedure called follicular aspiration is performed to extract the eggs from the woman's body. Using USG images as a guide, a thin needle is inserted through the vagina into the ovaries and follicle sacs containing the eggs.

Step 3: Insemination and Fertilization. The male sperm is placed together with the highest-quality eggs. This procedure of combining sperm and eggs is called insemination. The eggs and sperm are then stored in a controlled environment. Typically, the sperm will fertilize the eggs several hours after insemination.

Step 4: Embryo Culture. When the fertilized eggs divide, they become embryos. Laboratory staff regularly examine the embryos to ensure their proper growth. Within approximately 5 days, a normal embryo will have several actively dividing cells.

Step 5: Embryo Transfer. The embryos are transferred into the woman's uterus 3 to 5 days after the retrieval of the eggs and fertilization. The doctor inserts a thin tube (catheter) containing the embryos into the woman's vagina, through the cervical canal, and into the uterus. If the embryos implant into the uterine lining and continue to grow, pregnancy occurs.

From the social structure of Islam, this technique is allowed as long as certain conditions are met. Firstly, the technique should be applied to a legally married couple. Secondly, IVF must be performed using the husband's sperm and the wife's eggs. Thirdly, it can only be done within the valid period of marriage. Fourthly, the procedure must be carried out under the guidance of competent medical practitioners to reduce the possibility of failure. Special attention should be given to ensuring that the gametes of each husband and wife are properly used in this procedure. Lastly, the number of fertilized eggs transferred should be controlled to minimize the risk of multiple pregnancies, miscarriages, or premature births.[16]

The Indonesian Council of Ulama (MUI) issued a fatwa on May 26, 2006, stating that IVF using the sperm and ovum of a legally married couple is permissible (mubah) according to religious principles, as it falls within the realm of permissible efforts. However, IVF involving the use of a surrogate mother from outside the legitimate marital relationship (e.g., when the ovum from a second wife is transferred to the first wife) is considered prohibited (haram) based on the principle of *Sadd az-zari'ah*, as it can lead to complicated issues related to inheritance (particularly between the child born from the ovum and the mother who provided the ovum and the mother who carried and gave birth to the child). IVF using frozen sperm from a deceased husband is also considered prohibited (haram) based on the principle of *Sadd az-zari'ah*, as it can create intricate problems regarding determining lineage and inheritance. IVF using the sperm and ovum of individuals who are not legally married is considered prohibited (haram) since it is deemed equivalent to engaging in sexual relations outside a lawful marriage (*zina*). This ruling is based on the principle of *Sadd az-zari'ah*, which aims to prevent the occurrence of actual acts of *zina*.[17]

One of the processes in IVF involves the practice of surrogacy or womb renting. Surrogacy is a method of pregnancy using a surrogate mother. A surrogate mother is a woman who carries a pregnancy for a couple who cannot conceive a child through conventional means. This can be due to fertility issues or difficulties in experiencing pregnancy. More specifically, another woman lends her womb to assist a married couple in having offspring. After the surrogate mother gives birth, the rights to parenting the child are transferred to the couple from whom the genetic material originated.[18]

Fred Amelen states that a woman binds herself through an agreement with another party (the husband and wife) to become pregnant after the union of the male and female gametes, with fertilization occurring outside the uterus until delivery, according to the agreed-upon terms. The baby is then handed over to the husband and wife, and the surrogate mother receives monetary compensation as previously agreed upon.[19]

Below are the methods of surrogacy. Surrogacy itself has two types:[20]

1. Traditional surrogacy is performed through artificial insemination. In this process, a doctor retrieves the sperm from the male and places it into the uterus of the surrogate mother. The placement of sperm is done using a small catheter. This is done when the surrogate mother is ovulating, or releasing eggs, to increase the chances of pregnancy. Since the eggs used come from the surrogate mother, the conceived and born child is genetically linked to the surrogate mother.
2. Gestational Surrogacy Gestational surrogacy involves the collection of gametes (reproductive cells) from the intended parents. In this case, the woman's eggs and the man's sperm are collected. Once collected, the two gametes are fertilized in a laboratory. The fertilized gametes, now embryos, are then selected. The best embryo is subsequently transferred into the uterus of the surrogate mother. Inside the surrogate mother's womb, the baby grows and develops until birth. However, because the surrogate mother's eggs are not used, the baby does not have a genetic connection to the surrogate mother. Therefore, many couples choose gestational surrogacy to have offspring instead of traditional surrogacy.

There are several reasons why couples choose surrogacy as a method to have children. Surrogacy may be chosen when a woman has infertility issues, preventing her eggs from being fertilized by sperm. If infertility is the cause, the traditional surrogacy method can be chosen. Another reason is when a woman has a medical condition that makes pregnancy impossible. This also applies to women who have undergone hysterectomy, the procedure of removing the uterus. Surrogacy can also be performed to assist women who are at risk of pregnancy complications due to specific conditions.

These conditions include advanced age and severe heart disease. Women who want to have children at an older age are at high risk of complications such as diabetes, hypertension, and miscarriage. If they successfully go through the labor process, the newborn is at risk of being premature, having birth defects, and having low birth weight. The risk of pregnancy complications for both the mother and the fetus is also experienced by those with severe heart disease.[21]

There are requirements to be met in order to become a surrogate mother. There are several conditions that must be fulfilled. The surrogate mother must be at least 21 years old, have a maximum body mass index of 30, and have previously given birth to at least one healthy baby without experiencing pregnancy complications. The surrogate mother must also have a healthy mental condition and have no criminal records whatsoever. Furthermore, the surrogate mother must have a clean medical record and no history of alcohol, drug, or antidepressant use. The surrogate mother must also undergo health tests and be free from communicable diseases such as HIV, gonorrhea, chlamydia, syphilis, cytomegalovirus, hepatitis B, and hepatitis C. Lastly, the surrogate mother must sign an agreement regarding her role and responsibilities during the pregnancy. This includes prenatal care and the agreement to relinquish the baby after birth.[22]

3.2. Application of Ushul Fiqh Principles to IVF through Surrogacy and its Legal Basis

Applying the principles of ushul fiqh as a tool for comparative analysis (*muqaranah*, comparative) of existing fiqh rulings. This step can also lead to the formation of opinions that are considered the strongest and most relevant to contemporary needs. [23] This is based on the principle of ushul that states:

تغير الأحكام بتغير الأزمنة والأمكنة والأحوال

Meaning: *The dynamics of changing laws in society cannot be separated from the dynamics of changing times, places, and social conditions. The reality of society is continuously evolving, from ancient primitive societies to the advanced and modern society of today.*[24]

The general objectives of Maqasid al-Shariah are: preserving religion (*Hifz al-Din*), preserving life (*Hifz al-Nafs*), preserving intellect (*Hifz al-'Aql*), preserving lineage (*Hifz al-Nasl*), and preserving wealth (*Hifz al-Mal*). Islamic teachings encourage us not to give up and always strive to seek the mercy of Allah SWT. Therefore, what is stated in the interpretation of Islamic law (*maqasid al-shari'ah*) regarding *hifdz an-nasl* (protection of progeny) is for the continuity and sustainability of humanity.[25]

In-vitro fertilization (IVF) technology with surrogacy is currently a form of medical advancement. Although it has high utility, it is also highly vulnerable to misuse and ethical errors when performed by individuals who are not religious, faithful, and ethical. Therefore, the principles and provisions of Shariah serve as ethical guidelines for the use of this technology, as the use and application of technology may not necessarily conform to the religious, ethical, and legal norms prevailing in society.[26]

In the process of in-vitro fertilization (IVF), the principle of *usul fiqh* can be referred to as follows:

الأصل في الأشياء الإباحة حتى يدل الدليل على التحريم

"The default ruling for things is permissibility until there is evidence indicating their prohibition."

The first fundamental principle established in Islam is that the default ruling for all things created by Allah SWT is halal (permissible) and mubah (allowed). Nothing is inherently haram (prohibited), except when there is a valid and clear evidence (nash) from the Shariah (the authoritative source of law, i.e., Allah and His Messenger) that explicitly prohibits it. If there is no valid evidence, for example, due to weak hadith or the absence of a clear (sharih) evidence indicating prohibition, then the matter remains as it is, which is mubah (permissible).[26]

It is crucial to understand that the term "all things" in this principle encompasses horizontal relations, including social, cultural, educational, political, and technological aspects. In such matters, it is left to human creativity and productivity, with the limitation that it should not contradict any prohibition stated by Allah.[27] The same applies to the issue of IVF, where it is permissible by default until there is evidence that prohibits it.

However, when it comes to the implementation of IVF using a surrogate mother, it can be analogized to the act of zina (adultery) due to the presence of a common 'illah (cause), which is the engagement in an act outside a lawful marriage. The method used here is qiyas al-adna, which is analogy based on the consideration that the 'illah found in the furu' (branch) has a lower weight than the 'illah found in the ashal (origin).

The pillars (rukun) of qiyas that must be fulfilled are as follows:[26]

1. Asal: The basis, the starting point from which a matter can be equated (musyab-bahbih). The furu' (issue) that will be analogized and equated with the asal is called musyabbah (similar).
2. 'Illah: The cause that gives rise to the legal ruling of something based on the similarity of the cause. Only when there is a cause that can be reconciled between the asal and furu', can the furu' be analogized to the asal.

3. Hukum: The ruling, the determination that is established for the *furu'* when the ruling is already established for the *asal*. This is referred to as the outcome.

However, the cause of permissibility (*ibahah*) will turn into prohibition in the case of IVF with a surrogate mother because, in this case, the origin (*asal*) is *zina*, the *furu'* is the process of surrogacy that is not conducted between a lawful husband and wife, and the *'illah* is engaging in an act outside the bounds of marriage. Therefore, the ruling in this case is *haram* (prohibited).

Rasulullah SAW stated: "There is no sin greater after *shirk* (associating partners with Allah) than a person depositing his sperm into the womb of a woman who is unlawful for him." (Narrated by Ibn Abiddunya from *Al-Haitam*). Furthermore, Rasulullah SAW also said: "It is not permissible for a person who believes in Allah and the Day of Judgment to pour his seminal fluid onto someone other than his lawful spouse." (Narrated by Abu Daud and Tirmidhi). The statement of Prophet Muhammad (SAW) mentioned implies a strong prohibition against engaging in actions that involve transferring sperm to the womb of a woman who is unlawful for the individual. This indicates the importance of preserving honor, protecting lineage, and avoiding actions that can disrupt the structure of family and society.

Furthermore, referring to the principles of *usul fiqh*, specifically the principle of "*Al-darar yuzal*" which means "Harm must be eliminated," the term "*al-dlarar*" according to al-Khusyaini refers to something that is of no benefit to a person but brings harm to others. Thus, this principle implies that anything that poses a danger should be eliminated. This principle is applicable in the context of surrogacy as it falls under the preservation of *dlaruriyat* (essential needs), particularly the preservation of lineage (*nasab*).[26] This principle emphasizes the need to distance oneself from causing harm, either to oneself or to others, and it is not appropriate to inflict harm on others.[28]

Islam prohibits *darurat* (necessity) and strongly discourages reckless actions without considering the consequences of one's careless behavior. Such changes can lead to severe damage and environmental pollution. Moreover, these actions contradict healthy and normal sensibilities and are far from the characteristics of an honorable individual.[29]

The subsequent discussion pertains to the principle that states:

الضرر لا يُزال بالضرر

"Harm cannot be eliminated by causing further harm."

A harm is something urgent or dangerous, and thus, it cannot be eradicated by inflicting another harm of the same quality or magnitude. It is similar to attempting to

clean a blood-stained garment with murky water contaminated with chicken droppings. According to this principle, one is prohibited from attempting to alleviate harm by introducing harm that is equal or greater in quality or magnitude.[24]

Allah SWT states in the Quran:

” To Allah [alone] belongs the kingdom of the heavens and the earth. He creates whatever He wills. He blesses whoever He wills with daughters, and blesses whoever He wills with sons, or grants both, sons and daughters, [to whoever He wills], and leaves whoever He wills infertile. He is indeed All-Knowing, Most Capable.” (Surah Ash-Shura, 49-50)

In this context, if a couple is destined to be unable to have offspring or unable to conceive from the woman’s womb (infertile), it is considered a predetermined harm or destiny from Allah. In this case, when the couple resorts to assisted reproductive technology (ART) through surrogacy (donor eggs or renting a womb), according to this principle, it is prohibited for the couple to attempt to alleviate the harm by causing another harm that is equal or greater in quality or magnitude.

Scholars forbid the practice of renting a womb when a person uses a woman’s womb other than his lawful wife. This includes mixing the husband’s sperm with another woman, mixing the wife’s egg with another man, or introducing fertilized sperm after the death of the husband. According to Yusuf Qardhawi, even if the woman is the second wife of the husband, it is still not permissible. This is because in such cases, it is unknown which of the two women is the actual mother of the subsequently born child.[29]

Surrogacy, in this sense, is considered equivalent to adultery (zina), as it leads to a mix-up of lineage. As a result, the child’s legitimacy and lineage are only connected to the mother who gave birth to them.[30] This is in accordance with the following verse from the Quran, Surah Al-Mujadilah, verse 2:

”Those of you who declare their wives as their mothers, they are not their mothers; none are their mothers except those who gave them birth. Indeed, they are saying an objectionable statement and a falsehood. But indeed, Allah is Pardoning and Forgiving.”

In short, scholars unanimously agree that a person’s lineage to their mother is established through pregnancy resulting from sexual relations with a man, whether through a valid marriage contract or through illicit relationships and adultery. Surrogacy, in this case, is treated similarly to adultery (zina) and results in a mix-up of lineage. Consequently, the child is considered illegitimate, and their lineage is solely connected to the mother who gave birth to them. This has implications for inheritance and guardianship rights. In case of any future disputes between the two mothers, the situation could

lead to severe psychological consequences. Furthermore, the issue arises as to whose family (lineage) the baby belongs to – the owner of the egg or the surrogate mother.[30]

4. Conclusion

In conclusion, surrogacy is a complex and controversial topic within the field of Islamic jurisprudence (Ushul Fiqh). The practice of surrogacy, particularly in the context of IVF, raises important ethical and legal considerations in relation to the preservation of lineage, the concept of family, and the rights of children. Islamic teachings emphasize the importance of preserving lineage and upholding the sanctity of marriage. While IVF using a legally married couple's own gametes is generally permissible in Islam, surrogacy involving third-party gametes or renting a womb from outside the legitimate marital relationship is often considered prohibited.

The principles of Islamic law, including Maqasid Shariah (Objectives of Islamic Law), Ijtihad (Independent reasoning), Maslaha (Public interest), Qiyas (Analogical reasoning), and 'Harm and Benefit' (al-Darar wa al-Masalih), are relevant in evaluating the permissibility or prohibition of surrogacy according to *usul al-fiqh*. These principles aim to protect the well-being of individuals, families, and society as a whole. The practice of surrogacy poses challenges in terms of determining lineage, inheritance rights, and the child's legal status, which are important aspects within Islamic law.

Currently, surrogacy is prohibited in Indonesia, a predominantly Muslim country, as it is considered to violate the principles of Islamic law and the legal framework of the country. However, indications of clandestine surrogacy practices within certain familial contexts highlight the need for clear legal regulations and ethical guidelines regarding surrogacy in Islamic societies. Further research and dialogue are necessary to address the ethical, legal, and social implications of surrogacy within the framework of Islamic law, taking into account the interests and well-being of all individuals involved, including the intended parents, surrogate mothers, and children.

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- [31] Maqasid al-Shariah refers to the objectives or purposes of Islamic law and the underlying wisdom intended by Allah in every aspect of His laws. The essence of the objectives of Shariah is to realize the well-being (maslahah) of human beings and to eliminate harm (mudharat). Linguistically, maqasid al-Shariah means the intentions or purposes that are mandated by Islamic law. Therefore, the main focus is on the discussion of wisdom (hikmah) and the underlying causes ('illat) behind the legislation of Islamic laws. The study of the objectives of the legislation in Islam is an intriguing field within the realm of *usul al-fiqh* (principles of Islamic jurisprudence).