

## Surrogacy and legal contracts

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### ABSTRACT

One of the phenomena of modern society children are getting through Surrogacy the lady who owns the uterus, the embryo or fetus in the womb of another person to carry During and after pregnancy and childbirth, according to a contract signed before the baby to the couple's own gametes delivery. In this case, the laws of most countries, including Iran, less mention is , hence, this paper seeks to further research and study of sources of legal help to explain the legal provisions, including the Parentage, inheritance, wills, alimony or custody of such persons, and thereby also their rights of anonymous and sometimes orphaned children in the community to prevent. To achieve these goals at the end of the legislative proposals in the area of statutory construction that the rules of Islamic Iran has been presented.

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### 1.Introduction

Using a Surrogate for infertility is done for various reasons, sometimes a couple of biology and genetics to have a child, But due to defects or deficiencies organically wife can give your baby grow in the womb, sometimes the wife loses her uterus due to various diseases, and in some cases women are born without a uterus. In addition to the medical and physical defects, some women may be afraid of pregnancy. Pain tolerance is not due to pregnancy or already pregnant and not Sometimes there may be an interest in having a child with a woman will not get pregnant lose their fitness.

The couple on the artificial fertilization methods are through the use of surrogacy, That embryo is formed from the sperm and egg (legal parent) with medical devices are party to the woman's uterus And she carries in her womb until birth and post-natal nurture the child's parents, legal and genetic yield. This phenomenon is the source of legal issues. Agreement between the applicant's spouse and children of a woman's uterus is signed, it can play a role in addressing the concerns of the parties and avoid disputes and lawsuits may be, Therefore, detailed knowledge of the characteristics and nature of these agreements, both substantive and procedural, it seems inevitable-inevitable.

### 2. The necessity of treatment through surrogacy

Except to the extent necessary to be dominant and not take the saddle on you 4. Amir Haq, the emergence of innovations in the field of human sciences as a breeze would have blown his fire with theoretical debate on the relationship between religion and science and the reality and feasibility of conflicts likely to under the ashes heterogeny time is bloodshot dormant. ) Zakrhsyn, 1931, p. 41 (. In such cases where the woman has no mercy Congenital absence of the uterus or womb cancer and blood when looking at the woman made for hysterectomy And also in cases where the medicine as a solution, has proposed the use of surrogacy While the above is not necessary. Usually after one to eight cycles of IVF and And embryo transfer failure, it is recommended that surrogacy. In those cases where abortion is frequent, and also in cases where the wife

medical problems caused by pregnancy, such as women who have heart failure or kidney.

Some research results show that since the beginning of 1983. The number of customers Taaban 1,931 volunteers work unit Medi-center Royan 111 pairs of surrogacy and surrogate uterus of 88 volunteers were.

According to the WHO 1 to 15 percent of couples with infertility problems are encountered. Assistive reproductive therapy in two groups of IVF and intrauterine insemination physical characteristics of infertile couples split depending on the health and development of gametes and Infertility Each offer is only for a specific group of infertile couples. Including assisted reproductive techniques, the uterus Alternative 5 is based on the presence or absence of a genetic relationship between mother and child substitutes can be divided into several categories. The most common substitution is complete when the egg and sperm of couples using in vitro fertilization, the embryo is formed however, between this woman and the fetus in her womb there is no known genetic Share (Nazari Tavakoli, Krachyan Sani, 1931, S48).

2 million infertile couples in the country who need treatment are currently about 5 CONSIDERING that at least 15 percent of couples are infertile

And 811 thousand marry more than one year to live at least 111 co-occur in can be expected in the absence of attention to the 111 will be added to the population. Prevention and treatment of Iran today is approximately 111 for treatment of infertile couples, the situation is relatively good.

Somehow that just over 31% of infertile couples performed domestically But a substantial number of infertile couples from other countries, especially neighboring countries of Iran travel to receive care.

### 3. The need for an accurate and realistic choice

Surrogacy contract, under various titles such as: uterine mediator, mother rented, wet nurse before birth, pregnancy mediator, custom mother, surrogacy, surrogate mothers, rent uterus contracts and the pregnancy is common.

Put this phenomenon by considering of each diagram we value phenomenon than it is And the names and values have long been

emotionally and practically all the material and spiritual life of human beings and human societies have been honest and The writer, as a surrogacy contract is preferable. Leased or rented mostly in Eastern and Islamic culture and the inherent dignity of the human being discouraged, we are also in contrast.

While women seem to be leading tools and Immediacy common business sense and is not very pleasant. In addition to this, the use of more accurate translation of the Latin root words and successor replaces it. However, some have called for mostly sentimental reasons and not without reason, Instructional and placing the legal burden on any word load As a surrogate mother to have suggested will be delivered empty. They are not reducible to account for your comment

Females 'uterus' gestation to a mechanical role, "stated that all parts of your body and pregnant with their hearts and souls will participate in childbearing The "mother" is. The process by which the right of him as beautiful and worthy of his lofty reason the right has always been known as the mother of the resulting child is not peace, it has been studied as an incubator like that fee.

However, that should not be relegated to the role of women and mothers in society respected author but we also find that we are not accepted by extension, We also extend into the womb of the mother would be absolutely devoid of And not only will not solve the problem but also due to increasing problems caused by this appellation would be unrealistic Rights in the world because every word has a specific meaning and thus of its own And do not be welcome for some words and clapping for us to move that this is in addition to the aforementioned problems caused insult our legal literature will also be It is interesting that even in a typical surrogacy contracts in foreign countries also regard it is noteworthy topic. In addition to this, a little realism also holds a certificate of authenticity of the claim will be mentioned snake because unlike previous eras, now mainly women who are willing to do so main reason is financial problems. ) Currently sister and friend and neighbor and a divorcing couple others previously Tbra and to prevent the gametes Or to strengthen their lives would have been candidates for this process is very pale It is also the name of the role and effectiveness of medical and social care to infertile couples and others from the woman's womb to be included And social reasons and psychological effects can be devastating and emotionally because it does not seem appropriate ( . ) Davis, Brown, 1384, pp. 191123; Fanny Saberi, 1931, pp. (31.)

On the other hand, looks as native title legislation that would like legal and other legal and religious issues of the explained legislator It is obvious that this divergence is explained by the FIH. With certain religious orders therefore fitting that the legislator, the gamete is referred to as the mother contentious issue and is surrounded Because the intention of the parties and the composition was similar to surrogacy. ( Palmer, unwavering, 1931, pp. 21).

The gametes are the owners going to have her baby and Education and Excellence and the uterus also can not neglect even the foster mother called in order to avoid the thieves analogy is invalid Can be called up her mother's womb, he is mainly for protection.

#### **B) Concluding comments of certain surrogacy contract**

There is great controversy about the nature of the surrogacy contract. Some argue that this kind of agreement or contract is the contract rent Some lawyers this contract are a matter of private contract. 11 BC know

Finally, some believe that the principle of freedom of contract, parties are free Pertaining to each of the legal framework for the issue of whether certain contracts or indefinite succession of choices in pregnancy.

#### **1- contract of surrogacy**

Among the reasons that can be used to distinguish surrogacy contract and the contract stating that the contract is a contract under which the contract is gratuitous owned and is oath surrogacy And only in some cases), mainly in the commercial (not gratuitous.

Moreover, the subject of the same contract should be specific or general, while the surrogacy contract to maintain and foster commitment to acquiring the fetus and the contract is also rule) Rahmani Manshad, 1988).

#### **2- leases of objects surrogacy contract**

Objects according to the rental contract. 411 BC is a contract whereby the owner of the tenant's interest is also Since the lessor under the lease contract, the tenant acquiring the same interest, the lessor must acquire during the marriage is owned by a non-profit owner, pry and blunt. One of the main elements of transferability of vested property right that is not true for the right person on staff and naturally it is non-transferable. On the right side is dominated by a large circle of inclusion However, the question of the rights to the character and essentially restricted And portability and is dismantled. Although the benefit of its members are competent surrogate mother It is not recommended to be entitled to the rights to the character in some way or another, others are transferred to other entities who succeeded him on the right and the dominance he upon them will be As a result, surrogate mother has no right to further their own interests, not the body. Although the current law against another person can be committed to current) party rent (but not right another as the owner of the dominant, hegemonic interests of the owner are on the same not feasible in humans. Consistory, 1988, vol. 1, p. 518

Rent objects gratuitous contract is owned by the tenant and landlord interests, while at the same surrogacy contract by contract, Landlord tenant infertile couples as a woman's uterus or womb interests him not; but committed surrogate mother to fetus in the womb of infertile couples to nurture.

Another objection is that the man and his body as the subject of the contract rent property are not given property gains objects. Some of the great jurists of the objects it references are to the rent is surrogacy contract. On the other hand, are invoked. 481 BC, the landlord must give the tenant the same. Overview of research on surrogacy agreement in the sense that it is determined to give the desired rent objects about surrogacy and organ imaginable and not enforce the contract.

#### **4. Rent persons signing the surrogacy contract**

The theory has two major drawbacks: First, the rent parties, submission and surrender benefit by doing good works made possible by the dedication and commitment if the issue before it becomes waste, hired is based remuneration However if the surrogacy contract to be aborted before birth of the child, the surrogate mother who can not qualify under the rules of the rent must be paid Your obligation to keep the baby because she had acted beyond his reach and achieve the result intended to be.

In addition to this, they deserve to pay surrogate mother knowing about it despite the many hardships he has suffered in this way It does not seem fair. Secondly surrogacy contract consisting of a set of commitments so that we can know all the obligations arising from the contract rent parties.

In other words, the analysis Jaygzynastntaj uterus contract that it can be only part of the rent and related parties in the contract, such as works contracts Entrusted the baby, gift against interest) in the case of altruistic surrogacy contract ), Rent surrogate mother) of commercial (foster contract, sale or donation of sperm, eggs and embryos that are difficult, if not impossible accession of the parties makes a contract to rent . Furthermore, in cases where these forms of surrogacy, sperm, eggs or embryos are used, the more effects, so what some authors have referred explicitly to this.

#### **5. Signing of Contract surrogacy is presented**

It is also impossible reasons, firstly to the document. Presented 518 BC, when the misrepresentation is entitled to give or do not belong presented In this case, the surrogate mother can get paid to act as

the child is delivered This is due to the fact that during pregnancy entails costs that should be payment Consequently, these costs will be imposed on the mother deputy. Second, the contract is presented, the operating expenses to be presented to the responsible agent) surrogate mother (unless it is a local custom or the parties will not bet against it because the obligation to perform the presented And commitment to each of its parts is an obligation on And one of its parts is paying for surgery However, the most important problem that is presented makes use of the substitution is impossible, presented the contract is voidable The inventor and the agent can, if they wish, without having to justify it to disrupt. However, the parties adhere to their obligations surrogacy is very important.

### **C: Indefinite contract theory and comparative study of surrogacy contract**

#### **1 - indefinite contract of surrogacy contract**

Surrogacy contract that is signed by the parties to the agreement if they do not coincide with any of the contracts specified in the law, It can be recognized by Article 11 of the Civil Code. It is not necessary to adjust To make a commitment, the parties agreed to a contract with a given name and the Law.

The issue of surrogate pregnancy in cases where legal or regulatory barriers to doing it, there is true And individuals can in principle on a private contract basis in law as a special case and does not Directly by mutual agreement and in accordance with the general rules and conditions of the contracts and the rule will To the extent that it does not harm good behavior and public order determining and limiting the. ( Salehi, 1931, p. 121; Alhyary, 1423, p. 89; al-Jumaili, 1491, p. 188).

The results of the principle of freedom of contract is that the parties may contract as they wish with their signed And the results of its work to the desired set It is pertinent to mention that the rule will interpret what the parties to the contract will have to be addressed explicitly or implicitly Qatbh authors and rights lawyers have also accepted the view that surrogacy contracts, a private contract is accepted According to CE. It is 11 BC. Lawyers in other countries is a huge fan of this theory.

On the other hand, the total obligations of the contract is different that can not be attributed only to a certain contract If the contract can be entrusted to the fetus contracts, gift against interest) in an altruistic surrogacy agreement (,Rent surrogate mother) of commercial (contract Reza, sale or donation of sperm, eggs and embryos to analyze. It is believed that the nature of the surrogacy contract is a private contract, the contract does not mean it can not be a substitute for Peace used in pregnancy Because before he will rule on the case. Our rights are realized in 11 BC, in which the jurists to conclude a peace by resorting to respect the will of the parties that have taken part) Salehi, 1931).

#### **2 - surrogacy contract from the perspective of comparative law**

Surrogacy contract in the legal systems of different nature, such as the nature of the contract in America, Russia, India, Canada, Australia, England, South Africa and Argentina are considered a special contract While in countries like Sweden, Spain, France, Germany, Turkey and Egypt consider such contracts are illegal and prohibited) Abbassi, 1931, pp. (15

In the United States of America, some states charge of the deal, others consider it invalid. For example, a crime in Michigan, Indiana and North Dakota and Arizona, while the contract is void. Europe Union member states have acted differently in this regard. England and Greece in particular, have enacted laws explicitly. For example, in England in 1385 Surrogacy Arrangements Act is enacted.

In Belgium, Cyprus, Czech Republic, Netherlands, Estonia, Finland, Latvia, Luxembourg, Malta, Portugal, Spain, Slovakia and Romania, there is no specific law on the subject of assisted reproductive techniques, which can be permitted to Surrogacy it is In Canada, the use of commercial surrogacy is banned. In India there is no law to govern surrogacy process And this has led Over

the past few years the country has become a destination for surrogacy is convenient and inexpensive for applicants In fact, there is evidence from medical tourists (Tabaei, 1931, p. 112).

### **6.Conclusions**

Surrogacy contract, under various titles, such as contract surrogacy, surrogate mother contract, rent contract the uterus contracts and the pregnancy is common that the writer, a surrogacy contract is preferred The Iranian legislator has to substitution in pregnancy is a law that specifically addressed this issue and explain how it has To-type have occurred. With regard to influenza-mentioned issues and the importance of the subject, by legislation, the legislator is competent to contract with a legal entity in accordance with the requirements of the Terms of society and justice into the In essence, the agreement in certain contracts, such as leases and With this description it is clear that all parties will work according to the contract can not be ascertained Some of the works will be treated and enforced. The most important of these works, kinship and lineage of contract That the result will be enforced and involuntary. In addition to the general conditions of contract, the contract shall also be eligible for special The details of which are beyond the scope of this article. Finally the belief that the nature of the surrogacy contract is a private contract, not meant to substitute for the conclusion of peace is not pregnant.

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