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Does metaphorical framing influence the decision-making process in a judicial conflict? An empirical study on the case of surrogates

Metaphors can be used to influence people´s decision-making processes. In the judicial context, the use of metaphors is widespread, but its influence on the decision-making process in court has rarely been studied. This study aims to empirically determine the influence of metaphorical frames on judicial decision-making processes in the case of a surrogate against the intended parents. Two hundred and four participants were assigned to one of three groups with different metaphorical frames for surrogacy and were instructed to imagine being jurors in a mock trial. To investigate if the participants´ decisions were influenced by the frame used for surrogacy, χ^2 calculations were carried out. Results revealed that the decision-making process of several issues concerning the surrogate, including a penalty fee, was influenced by metaphorical framing. The metaphorical term "mother to rent" might have framed surrogacy as an unemotional business act, leading to resentment in the participants.

Key words: metaphorical framing, decision-making, judicial processes, surrogacy, metaphors, courtroom

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People rely on the court to impartially decide on their legal matters, whether it is on the matter of child custody, a disagreement with a neighbor, or a divorce. Decisions in court are understood as solely based on evidence related to the case. However, studies have long demonstrated other factors to play a role. Regardless of the case at hand, the defendants´ characteristics such as physical attractiveness, race, or gender can influence jurors' judgements (Mazzella & Feingold, 1994). In a mock trial involving a woman killing her abusive husband, Schuller et al. (1994) found that jurors´ pre-existing knowledge about abuse, gender, beliefs in a just world, and the presence of an expert testimony guided jurors´ decisions. Moreover, language may also play a role in the jurisdictional process (Isaacs, 2011). In studies on the external influences on jurors´ decisions, language has received less attention than the above-mentioned factors. However, other research has found that language, specifically metaphorical language, is used to influence the cognitive processing of information (Bowdle & Gentner, 2005; Lakoff & Johnson, 1980), and to persuade people of a particular argument (Landau et al., 2014; Ottati & Renstrom, 2010). The current study suggests that metaphorical framing, which has been found to influence decision-making in other fields (for an overview, see Thibodeau et al., 2017), could also be an important factor for judicial outcomes.

Concluding, verdicts are influenced by the moral values of those judging, their traditional beliefs, their experiences, and other external factors such as race, gender, and socio-economic status of the accused. But possibly, verdicts can also be influenced by the language used to describe a case, the defendant, or the circumstances. For example, it made a difference to participants' emotional reactions whether in a media text, femicide was referred to as "murder", "domestic-drama" or "love-killing" (see Schnepf & Christmann, 2023). Language can always be used as a rhetorical tool to emphasize or suppress certain aspects of a case[1] and metaphors, as one specific linguistic tool (for a comprehensive overview, see Berger, 2013; Hanne & Weisberg, 2018) might do this very effectively. This is demonstrated, for example, in an archival study by Goff et al. (2008), which revealed that black defendants were more likely than white defendants to be dehumanized with ape-related language in media coverage (in Philadelphia, in a period from 1979 to 1999) and that those who were described with ape-related language were more likely to be sentenced to death. We chose this drastic example despite the weaknesses of archival studies to illustrate that metaphors do make a difference, and that metaphorical framing can change the perspective on a judicial subject matter and might influence the sentence at court.

1 See, for example, the effect of "stealing thunder" as a courtroom strategy which reduces the impact of negative case information and leads jurors to change the meaning of evidence (Dolnik et al., 2003).

The Effect of Metaphorical Frames on the Decision-Making Process

Although there is abundant research on metaphors on the one hand (Gibbs, 2008; Ortony, 1993) and framing on the other hand (Entman, 1993; Oswald, 2019), the power of metaphors as frames has only been explored in the last 30 years (Christmann, 2020). Based on the seminal metaphor theory by Lakoff and Johnson (1980), Robins (1996; see also Robins & Mayer, 2000) was the first researcher to empirically investigate the effect of various metaphorical frames (see Christmann, 2020). However, this was not the first study on the effect of metaphors on thinking and problem-solving. Earlier metaphor theories and metaphor processing research also addressed this question without using the label of framing. This is particularly true for the domain of text learning, where the facilitative effect of metaphors in text comprehension has been demonstrated long before (for an overview, see Petrie & Oshlag, 1993; see also Littlemore, 2016).

Frames have been conceived as linguistic devices in communication which guide the interpretation of reality by selecting and highlighting some aspects of the message and suppressing others (see the leading definition by Entman, 1993, p. 53). Thus, framing can be used strategically to emphasize problems, provide a solution, an interpretation, or a moral evaluation and in this way, influence subjects' thinking, acting, and feeling (Entman, 1993; Oswald, 2019; Scheufele, 2004; Tversky & Kahneman, 1974).

Metaphors have been proven to be a useful linguistic tool in establishing effective frames (see Christmann, 2020). According to classical rhetoric, metaphors are defined as figures of speech "in which a word or phrase literally denoting one kind of object or idea is used in place of another to suggest a likeness or analogy between them" (Merriam Webster Online Dictionary). They are often considered to be ornaments of language. However, more recent metaphor theories (for an overview, see e.g., Christmann & Scheele, 2001) stress that metaphors are not only linguistic ornaments, but also conceptual tools that make it possible to understand a so-called target concept in the light of a source concept. This idea, which originally comes from the interactional metaphor theory by Max Black (1954/1993; empirical evidence: Verbrugge & McCarrell, 1977), has been elaborated by Lakoff and Johnson (1980) in their prominent conceptual metaphor theory, and was recently refined by Kövecses (2017). As an example, in a metaphor such as "a theory is a house of cards," the meaning or view of the source "house of cards" (i.e., its' features, attributes, structures) is mapped on the target, "theory." By doing so, the target is seen from a new perspective. Thus, a theory is seen as something that is fragile, has no foundation, and can easily collapse. It becomes evident that the metaphor acts as a frame of interpretation, which guides the recipients' view of "theories" by selecting special features and suppressing others. It is assumed that this process (metaphor framing, see, e.g., Lakoff & Johnson, 1980; Robins, 1996) guides our understanding of matters, facts, and issues, and influences our attitudes, emotions, decisions, and actions

(see Christmann, 2020)[2]. Empirical evidence for this view has been gathered during the last years in various fields, such as political communication (Brugman et al., 2019), healthcare settings (Hauser & Schwarz, 2015; Scherer et al., 2015), climate change (Flusberg et al., 2017; Thibodeau et al., 2017), and the coronavirus pandemic (Burnette et al., 2022; Schnepf & Christmann, 2022).

There are also multiple studies which address the impact of metaphor framing on the process of decision-making and problem-solving. The effect on the decision can range from the perception of alternative choices to the perception of the social context in which the decision is situated (Lee & Schwarz, 2014). Robins (1996) found that metaphorical frames influenced the decisions of participants in everyday dilemma scenarios, such as the decision of whether or not a couple should get a prenuptial agreement. Participants who read vignettes containing the metaphor that a prenuptial is a safety net favored prenuptial agreements more often than participants who read vignettes with the metaphor that a prenuptial agreement is a weapon. Another study assessed the influence of metaphorical framing on decision-making in moral dilemmas, comparing head and heart metaphors (Hendricks & Thibodeau, 2017). The results showed that in high salience conditions, metaphorically framing the locus of a person's decision as being either in the head or in the heart could influence whether participants made more rational or more emotional decisions. A study from the medical field found that metaphorical frames influenced the participants' decision-making concerning vaccination: framing the flu metaphorically (as a beast, riot, army, or a weed) in contrast to literally (as a virus) increased the participants' willingness to get vaccinated (Scherer et al., 2015). Finally, in their influential study, Thibodeau and Boroditsky (2011) demonstrated that the participants´ suggestions for solving a municipal crime problem (enforcement vs. reform) depended on whether crime was framed in the experimental text as a virus or as a beast (successful replication: Christmann & Göhring, 2016).

Together, studies indicate that metaphor framing can influence people´s decision-making in various aspects, such as their willingness to take risks, their rationality while making a decision, and even their interpretation of a situation. However, the overall effects of metaphor framing on the word level as well as on the conceptual level are often small (see a meta-analysis for the political domain by Brugman et al., 2019), and can sometimes only be detected by moderator analysis. For this reason, based on several of her studies, Schnepf (2022) recommends to take into account individual-level moderators – at least in framing

2 According to our view, the difference between using a metaphor and metaphor framing is only a gradual one, which is located in the function or the intended effect. Metaphors can be used for several reasons. According to classical rhetoric, the reasons are threefold, that is, *docere*, *delectare*, and *movere*. Compared to this relatively broad spectrum, metaphor framing is usually used in a narrower sense: It refers to the strategic and intentional use of metaphors in order to influence the recipients' thinking, feeling, opinion-making, and behavior.

research in the political domain (see also Schnepf et al., 2021). Nevertheless, even if the effects are small and hard to detect, we still assume that if everyday decision-making processes can be influenced by metaphorical frames, this may also be true for the decision-making process in the legal domain. However, up to now, there is still little empirical evidence supporting this assumption.

The Effect of Metaphorical Frames on the Decision-Making Process in the Legal Domain

Despite several rules, formalities and guidance given to the judges their decisions are still influenced by several informal factors, such as characteristics of the defendant (Devine & Caughlin, 2014), procedural characteristics, case characteristics, and deliberation characteristics (Devine et al., 2001; Kelman et al., 1996; Voss & Van Dyke, 2001). This underlines that all legal decision-making takes place in a specific and unique context. As judicial decisions rely on written or oral material, there is yet another factor influencing jurors´ decision, namely, the language used to describe the case. According to Bordalo et al. (2015), judicial decisions are often affected by salient aspects of the case, irrespective of being legally relevant or irrelevant. Taking salience theory as a unifying theory to analyze judicial biases, the authors postulate that "jurors' attention is drawn to unusual, extreme or salient attributes of each option" (p. 58) which influence their decisions. This is exactly when metaphors come into play: they are effective rhetoric tools to draw the attention of readers or listeners by making special aspects of a case salient and, at the same time, suppress others. In this way, they can easily be used as frames which shed new light on well-known facts. And indeed, metaphoric language has been shown to be largely used and highly relevant in the judicial domain because metaphors can also help to make abstract legal concepts appear more concrete and to make legal matters clear, transparent, and understandable (Ebbesson, 2008; Hobbs, 2012; Laugerud, 2020; Slosser, 2018). As demonstrated in an analysis of courtroom speech (Campos-Pardillos, 2022), judges – although they are obliged to objectivity – use metaphors to characterize perpetrators and victims. They use it as a tool to mold and color their sentences and to make them understandable and acceptable for the public or special social groups. Therefore, whether the deed of a criminal is described, for example, with dehumanizing metaphors (e.g., "he roared") or with neutral words ("he shouted") makes a difference to both the sentence and the public acceptance of the verdict. This can also be relevant at court when jurors ("lay judges") are involved in the decision-making process for a verdict (Vasquez et al., 2014). Ebbesson (2008) stressed that metaphors can facilitate legal communication, but they can also be used as a powerful device of persuasion. As it can hardly be avoided to use metaphors in the legal context, Ebbesson postulated that people working in this context should learn how to recognize them, how to understand them, and how to reject them when they unduly influence their perspective.

However, even though the presence of metaphorical language in the legal context has been long acknowledged and analyzed (Hanne & Weisberg, 2018), up to now, little is known about the effect of metaphorical framing on standard legal reasoning and the judicial decision-making process.

According to the best of our knowledge, there is only one empirical study which directly addressed whether metaphor framing affects decisions in the judicial domain (Vasquez et al., 2014). In a mock trial, participants were given a description of an attack by a perpetrator. In the first condition, the perpetrator was metaphorically framed as "animalistic," in the second condition, no "animalistic" description was used. The authors found that metaphorically framing the deeds of a perpetrator as "animalistic" (e.g., "he roared," "the attack was savage," and "blood splattered on the floor") influenced the decision-making process of the participants, who suggested higher sentences for the perpetrator. Furthermore, it was demonstrated that the reason for the harsher punishment was a greater perceived risk of future crime.

Several other studies demonstrated the relevance of metaphor framing on legal decisions by analyzing real decisions in court. For example, in an archival study, Berger (2008) showed how implicit expectations or assumptions, sustained by metaphors and narratives, shaped decisions in child custody disputes. Jurors in child disputes should ideally make decisions in the best interest of the child. However, according to Berger, specific metaphors which are drawn on in court activate the narratives of traditional family models (e.g., the "sacrificing mother," the "wage-earning father"). Justifications for judicial decisions often use metaphorical stories which draw on those traditional narratives, which can run counter to the concept of gender equality and to the best interests of the child. One example is the "families are broken" metaphor, which draws onto the narrative of a traditional family as mother, a father, and a child, and considers every deviation from that family as inappropriate or harmful. Therefore, a single mother with her child would not be considered a family. This metaphor suggests a solution to the "broken family:" fixing the problem would mean "repairing the family." In the case of a single mother, if she files for custody for her child, but the father remarried and thus better matches the picture of a "family," the single mother might be disadvantaged, even though she might have a good social network of caregivers for the child. Thornburg (2006) interpreted the usage of the metaphor "fishing expedition" in the judicial context and found that it is largely used to discredit the arguments for the plaintiff and moreover, can mislead the court´s analysis. Parker (2012) also analyzed real jurisdictional decisions in which the metaphor of the "perfect storm" was used to justify causes of action. The metaphor creates a story of a series of negative consequences with an inevitable end, which absolves the human actor of blame. Parker noticed how metaphors are able to emphasize certain aspects of a case and are, in the same vein, able to de-emphasize others. She stressed that especially when cases deal with topics which are of little familiarity to the jurors, metaphors can be a powerful linguistic

device to shape the jurors´ opinions. Finally, Schaefer et al. (2018) conducted a study about bodily experienced metaphors influence decisions in the field of law by investigating the effect of tactile hardness: When participants were primed with a hard (vs. soft) object before being presented with criminal scenarios, their recommended sentences were harsher. Using functional magnetic resonance imaging (fMRI), the authors found that this priming effect might be based on sensorimotor brain activation during the judging process.

Collectively, these studies outline a critical role for framing and metaphors on the decision-making process in the legal domain, especially for cases involving groups who suffer from prejudices. However, overall, experimental research on the influence of metaphorical frames on the decision-making process in the courtroom is scarce. Existing studies focused mostly on the influence of nonmetaphorical frames (Bibas, 2004; framing in plea bargaining), or on the influence of other characteristics, such as the characteristics of the juror, the defendant, or the case (Devine & Caughlin, 2014; Kelman et al., 1996; Mitchell et al., 2005). Thus far, to the best of our knowledge, only one study has experimentally examined the influence of metaphorical frames on the decision-making process in a mock trial. The current study set out to explore if a metaphorical framing effect on decision-making could be found in a fictional domestic relations case which concerned the controversial topic of surrogacy.

The Current Study

The studies reviewed above suggest that metaphorical frames could affect the decision-making process in the legal domain. Thus, the current study experimentally examined whether a metaphorical frame can influence how people make their decisions concerning a legal question. Specifically, in a mock trial, participants first decided on child custody in a surrogacy case and thereafter, on a potential penalty fee for the surrogate.

Like Vasquez et al. (2014), we used the method of a mock trial to examine metaphor framing effects. The mock trial is a didactic method and a popular tool in legal education and practical training to reconstruct legal decision-making processes (Henking & Maurer, 2013). Participants are asked to take the role of the judge or the juror. Sometimes participants act in a role play, sometimes they read vignettes. Either way, they are asked to make a decision based on the information they were provided. The advantage of this method (in comparison to reading a text, e.g., a newspaper article, like typically done in media framing studies) is that participants are asked to put themselves in a judicial role, and therefore, the ruling situation is described more realistically. In contrast to Vasquez et al. (2014), the current study was not about criminal law, but about family law and the subject of surrogacy. Compared to legal matters covered by family law, criminal offenses are often considered as more serious, and thus get more attention from the media and potential sentences for offenders play a significant role at court. Accordingly,

an effect in a less striking legal case can be seen as an indicator that the effect of metaphor framing might generalize across legal subjects.

Surrogacy is a controversial topic concerning politics and women´s rights, and laws regarding surrogacy vary vastly between countries. In Germany, a person who carried and gave birth to a child is legally treated as the child´s "mother" (Frommel et al., 2010). Most German people are unfamiliar with the concept of surrogacy (Mohnke et al., 2019), but recently, politics and media started focusing on the topic. One of the reasons why there has been little public discussion on this topic in Germany so far is probably that currently, surrogacy is illegal. However, surrogacy is possible in other countries, therefore "reproductive tourism" from countries in which surrogacy is illegal to countries in which surrogacy is legal has emerged (Pennings, 2004; Shenfield et al., 2010). This demonstrates that having little public discourse has not diminished the problems related to surrogacy. The above-mentioned studies have demonstrated how people´s opinions and decisions can be influenced by metaphorical frames. The current study adds to this by examining whether different metaphorical frames for surrogacy can influence how people make their decisions in a judicial situation.

We hypothesized that the metaphorical frame would influence the decision-making process of the participants with regard to which rights they grant to the surrogate. To compare the effect of metaphorical frames, three different frames for surrogacy were employed. All of the three metaphorical expressions are currently used in Germany. The German word most commonly used is "Leihmutter" (literally translated as "mother to lend"). "Mietmutter" is an alternative German word for surrogate, suggested by Thomale (2015) and is literally translated as "mother to rent." Lastly, the word "Ersatzmutter" (literally: "substitute mother") is especially used in legal guidelines (e.g., §13a AdVermiG; Ersatzmutter). A semantic distinction exists between the frames, particularly with regard to money: In Germany, the term "rent" refers to paying money for the usage of an object for a specific amount of time. The term "lend," in opposition to "rent," is mostly understood as the usage of an object without monetary compensation. Thus, both "rent" and "lend" imply some reference to money. However, the term "substitute" has no implication regarding monetary compensation and might – in this regard – be the most neutral of the three terms. In a recent study of the influence of metaphorical frames on opinion on surrogates (Mohnke et al., 2022), the authors used the same metaphorical frames as in the current study: "mother to rent," "mother to lend," and "substitute mother." The study found that opinion towards payment of the surrogate mothers, but not opinion towards surrogacy in general, was influenced by the metaphorical frame used for surrogacy. The authors suggested that in their study, participants resisted the implication of the metaphorical frame "mother to rent" for surrogacy as an unemotional business act, so they favored less monetary compensation of the surrogate mother.

The current study was conducted as an experimental study in a lab, in which participants were introduced to the mock trial in a domestic relations court and

were actively involved in the decision-making process of the trial by imagining they were part of the jury. In the mock trial, a surrogate wanted to keep and raise a child to whom she had recently given birth. However, the child was promised to the intended parents. The participants were asked to decide on the matter of custody. Moreover, in line with findings of Mohnke et al. (2022), we hypothesized that participants with the frame "mother to rent" would be especially influenced in decisions regarding monetary topics. To assess the influence of the metaphorical frame towards a typical monetary topic in court, we asked participants if a penalty fee for the surrogate would be appropriate because she broke the agreement and if yes, how high the penalty should be. We hypothesized that participants with the frame "mother to rent" would decide more often that the surrogate would have to pay a penalty or that the penalty would be higher. Moreover, we expected that participants with the frame "mother to rent" would develop reactance towards the surrogate or surrogacy in general because of this framing, and therefore, their decisions would more often be in favor of the intended parents.

Our experimental design was based on the variation of a single metaphorical expression. We assumed that this minimal form of framing would be effective because the whole texts would be read, understood, and interpreted in the light of the leading metaphor. In this sense, the metaphor works like a schema for understanding the text by organizing information, providing knowledge and associations about subject matters, and guiding inferences and expectations (Allbritton et al., 1995; Rumelhart, 2017). Earlier studies have demonstrated that this "one-word"-form of framing (whether metaphorically or conceptually) does work (Elmore & Luna-Lucero, 2017; Thibodeau & Boroditsky, 2011)[3]. Moreover, from an experimental point of view, it is advantageous to vary only one term within a text, because observed changes in opinion or behavior can be better attributed to the variation itself (see Schnepf et al., 2021).

Our hypotheses were as follows: First, in our study, the metaphorical frames would influence the decision-making process in a judicial situation (H1). Second, participants in the group "mother to rent" would feel less supportive of the surrogate, and therefore, would decide more often in favor of the intended parents (H2). Third, metaphorical framing can influence the attitude of the participants towards remuneration of surrogates. Therefore, participants in the group "mother to rent" would more often decide that the court imposes a fine on the surrogate and would choose higher penalty fees (H3).

3 The idea that the variation of one element in a text makes a difference in understanding is not new. There are older experiments from cognitive psychology which demonstrated that just changing, for example, the title of a text and leaving everything else equal can dramatically change the understanding of the content (Bransford & Johnson, 1972; Pichert & Anderson, 1977).

Methods

Exclusion Criteria

Exclusion criteria for the study were as follows: German had to be either participants´ mother language or the participants had to speak it fluently, as this would influence the perception of metaphors. Data of two participants were excluded from the study as they described their German as "not fluent." Moreover, participants´ prior personal experience with surrogacy was queried. This was done because we hypothesized that their level of involvement could potentially have been too high for the frame to show any influence. However, no data had to be excluded, as none of the participants have had personal experience with surrogacy before. Several variables ensured that participants followed the study attentively. First, the percentage of missing answers was checked. None of the dependent variable had missing values, as answering these questions was mandatory. Including all questions, participants had a mean of 4 % missing values (*SD* = 2%, minimum = 0%, maximum 12 %). Second, all participants finished the study. Finally, after having finished the study, participants were asked if they had been distracted while completing the study, and only one of them answered with "yes, several times." Finally, none of the participants guessed the topic of the study correctly.

Participants

From January 2019 until June 2019, a total of 204 participants (76.5% identified as female, 23.0% as male, and 0.5% as nonbinary) were recruited at the University of Heidelberg. Power analysis indicated that an effect size of 0.3 and an α error of .05 would result in a power value of .93. Age ranged from 18 to 66 years with a mean of 25 years and a standard deviation of 8 years. Most (92.2%) participants were native German speakers, the remaining 7.8 % spoke German fluently. The majority (87.7%) of participants were students. Of all the participants, 2.9 % had children, 9.3 % had an unfulfilled wish for a child, and 2.5 % had lost a child. None of the participants had conceived a child through surrogacy. Table 1 provides an overview of the demographic data of participants.

Random Assignment to Three Groups with Different Metaphorical Frames

The participants were randomly and evenly allocated into three groups. Each group was presented with a different metaphorical frame. Group 1 ("mother to lend") included 33.3% (*n* = 68) of the participants. Group 2 ("substitute mother") included 32.8 % (*n* = 67) of the participants. The remaining 33.8% (*n* = 69) of the participants were allocated to Group 3 ("mother to rent"). We carried out a randomization check to ensure that potential covariates such as age and gender

were evenly distributed across groups. The average age in Group 1 was 23.68 years. The average age in Group 2 was 25.03 years, and the average age in Group 3 was 25.71 years. No statistically significant differences between groups were found. Gender distribution across groups was as follows: Group 1: 53 females, 15 males; Group 2: 52 females, 15 males; Group 3: 51 females, 17 males, 1 nonbinary person.

Table 1. *Demographic Characteristics of the Sample (N = 204)*

Characteristic	N	%
Gender		
Female	156	76.5
Male	47	23.0
Nonbinary	1	0.5
Age	*M* = 24.81 *SD* = 8.32	
Education		
Still attending school	0	0
Secondary school (9–10 years of education)	3	1.5
Vocational training or vocational school (10–12 years of education)	5	2.5
Grammar school qualification (12–13 years of education)	128	62.8
University degree (Bachelor, Master)	66	32.4
University degree (PhD)	2	1.0
Occupation		
School	0	0
Vocational training	2	1.0
Student (Bachelor, Master)	173	84.8
PhD student	6	2.9
Employed	12	5.9
Self-employed	4	2.0
Pension	1	0.5
Early pension due to sickness	2	1.0
Unemployed	4	2.0
Relationship Status		
Single	103	50.5
In a relationship	93	45.6
Married	8	3.9
Children		
Have own children	6	2.9
Have lost a child	5	2.5
Unfulfilled wish for a child	19	9.3
Surrogacy		
Have had a surrogacy arrangement	0	0
Know someone who had conceived child with surrogacy	2	0.8

Note. [a] = Through miscarriage, early death, abortion, or adoption.

Manipulation Check

As a manipulation check, we added questions concerning the understanding of "lending," "renting," and "substitute." This enabled us to assess the participants´ understanding of the main semantic differences of the three metaphorical terms. For each term, we asked the participants if they thought remuneration was involved. The participants´ answers confirmed that all assumed that renting included paying a fee, and the majority (91%) of the participants understood lending as free of remuneration. Substitute was mostly (83%) understood as replacing something free of charge, however, 17% of the participants interpreted substitute as a replacement against the payment of a fee.

Design and Procedure

An experimental study was conducted at Heidelberg University, in a room specifically designed for data collection, which was mainly computerized. Invitations to participate in the study were distributed by the study platform of the psychological institute, university E-Mail distributors, posters on university billboards, and word-of-mouth. The invitations stated that the participants would be asked to read texts and answer questions concerning topics of reproductive medicine and alternative ways to conceive a child. Each participant took part individually. A study leader was present at all times. Data collection had no time restrictions – as recommended for vignette research – to ensure high data quality. On average, study completion took approximately 25 minutes. As an incentive to participate, the participants either received remuneration of 5 € or credits for their study program.

First, participants´ sociodemographic information was collected. Thereafter, the participants were instructed to imagine being a member of a jury in a lawsuit, in which they – as a jury member – would have to make decisions concerning the topic of surrogacy. The participants were randomly assigned to one of three groups. A different metaphorical frame for surrogacy was presented for each group. Prior to making their decisions in a mock trial, a fictional case (further described below) was presented. Following that, the participants were asked to make five decisions in their position as a member of the jury. Following the decisions, the participants answered several questions about their own family situation, for example, whether they had children of their own or whether they had ever lost a child. Afterwards, the participants were given space for comments, further explanations, and critique.

The study was approved by the Ethics Commission of the Faculty of Behavioral and Cultural Studies of the University of Heidelberg.

It was emphasized that participation was voluntary, could be discontinued at any time, and that data collection would be anonymous. While completing the study, the participants could easily access contact information of the study leader at all times.

Measures

Metaphorical Frames

Each participant read one of three versions of a fictional case (further described below). The fictional case counted 358 words. The three versions only varied with regards to the terms that were used to describe surrogacy. In each of the three versions, the metaphorical term for surrogate or surrogacy was repeated 12 times. Additionally, the corresponding frame-related nouns for the concept of "intended parents" was repeated 12 times. In Germany, the corresponding frame-related noun for "mother to lend" is "desiring parents" ("Wunscheltern"), for "mother to rent," it is "ordering parents" ("Bestelleltern"), and for "substitute mother," the corresponding German frame-related noun is "social parents" ("soziale Eltern").

The main difference between the different terms used to frame surrogacy was their semantic association with monetary aspects. First, the term "Leihmutter" or "Leihmutterschaft," literary translated as "mother to lend," is most commonly used in Germany. Second, the term "Mietmutter" or "Mietmutterschaft," literary translated as "mother to rent," is only infrequently used, but may better describe the legal implications of most surrogacies (Thomale, 2015). The main semantic difference between the two terms is that "rent" ("mieten") almost always involves monetary exchange, while "lend" ("leihen") mostly involves no monetary compensation. This was confirmed in another study (Mohnke et al., 2022), in which all participants defined renting as "one party allows another the use of a chosen item against remuneration." However, lending was defined by 93% of participants as "one party allows another the use of an item free of charge." Third, "Ersatzmutter" or "Ersatzmutterschaft," literary translated as "substitute mother," is a term for surrogacy used in German law (e.g., §13a AdVermiG; Ersatzmutter). In contrast to both other concepts, this frame is semantically less connected to monetary aspects, has less metaphorical connotations, and a more neutral meaning.

To check the fictional case for potentially confounding metaphors, the metaphor identification procedure (MIP) was applied (Pragglejaz Group, 2007). Metaphorically used words were determined and potentially confounding metaphors were deleted or replaced with other, nonmetaphorical words. The following steps are involved in the MIP: First, the researcher identifies all lexical units in a text. Second, the researcher determines the contextual meaning for each lexical unit. Third, the researcher determines whether there is a basic meaning for each lexical unit. Finally, the researcher determines whether the contextual meaning can be understood in line with the basic meaning. The MIP was introduced as an easy method to be applied to all kinds of written and spoken language. It adopts a maximal approach to identifying metaphorical units, meaning that a wide range of lexical units can convey metaphoric meaning.

Content of the Fictional Case

When developing the vignette presented to the participants, we relied on best practices outlined in Hughes and Huby (2004). Participants were asked to imagine being judges in the United States, where lay people are called to make judicial decisions. They were presented with a fictional case in which intended parents hired a surrogate, who would carry their baby. The fictional case covered both the point of view of the surrogate as well as of the intended parents. During the pregnancy and birth, the surrogate developed motherly feelings for the child and wished to raise the child together with her husband. Both the intended parents and the surrogate with her husband filed for custody, and the case ended up having to be decided in court, with participants as the judges. The full English version of the fictional case as well as the German (original) version are shown in the Appendix. The word count for the metaphorical frames for the surrogate (mother to lend/mother to rent/substitute mother) and for the corresponding frame-related nouns (desiring parents/ordering parents/social parents) was 12 each.

Ruling of the Mock Jury

After reading the fictional case, the participants took part in a mock trial in which several matters of the case had to be decided. As part of the mock jury, participants were asked to make the decisions displayed below. Regarding child custody, the decisions displayed below usually are decided in court. Moreover, typical decisions related to surrogacy and adoption (e.g., should the child know about the arrangement) were chosen. Finally, as previous research has shown that the influence of the present metaphorical frames was most dominant for monetary topics, the participants were asked to decide about a penalty for the surrogate as she had broken the agreement: whether there should be a penalty at all and if so, how much. Decisions were made on a computer and the participants could choose between different answers.

Instruction: The surrogate and the intended parents stand trial at court. Both claim child custody. The jury is required to decide on the following matters:

Questions:

1. Who gets custody of the child? (The surrogate and her husband/The intended parents)
   - Will the other party get visiting rights? (Yes/No)
   - Should the child know about the arrangement, once it is older? (Yes/No)
2. Does the surrogate have to pay a penalty? (Yes/No)
   - If yes, how much should the penalty be? (Answer options were: 1€-100€; 101€-500€; 501€-1000€; 1001€-5000€; 5001€-10000€; 10001€-100000€; higher than 100000€)

Statistical Analysis

Statistical analyses were performed using SPSS 24.0 for Windows. Significance levels were set at the 5% level ($\alpha = .05$) for all tests. For the majority of variables, χ^2 procedure was chosen, as the χ^2 test is a nonparametric test that can be applied to contingency tables with various dimensions. When data requirements for χ^2 were not met, Fisher's exact test was used instead. χ^2 calculation was carried out to examine the relationship between the frame and the decision on who gets child custody, the decision on giving visiting rights to the other party, and the decision on whether the surrogate has to pay a penalty. Moreover, χ^2 calculation was carried out with a split in height of penalty (low: 0€ - 5000€/ high: 5001€ - ≥100.000€) to examine its relationship towards the frame. Fisher's exact test was carried out to examine the relationship between the frame and the decision on future openness towards the child about the arrangement.

Results

Child Custody

By carrying out χ^2 calculations, we tested the hypothesis that the metaphorical frames influenced the participants´ decision on who gets child custody (H1). There was no statistically significant difference between the observed and expected frequency for the three frames, $\chi^2(2) = 0.11$, $p = .95$. Of the participants, 41 granted the surrogate custody, the remaining ($n = 163$) granted custody to the intended parents. When asked to explain their decision in an open text format, many of the participants indicated that they based their decision on the fact that there was a legally binding contract between the surrogate and the intended parents.

Visiting Rights

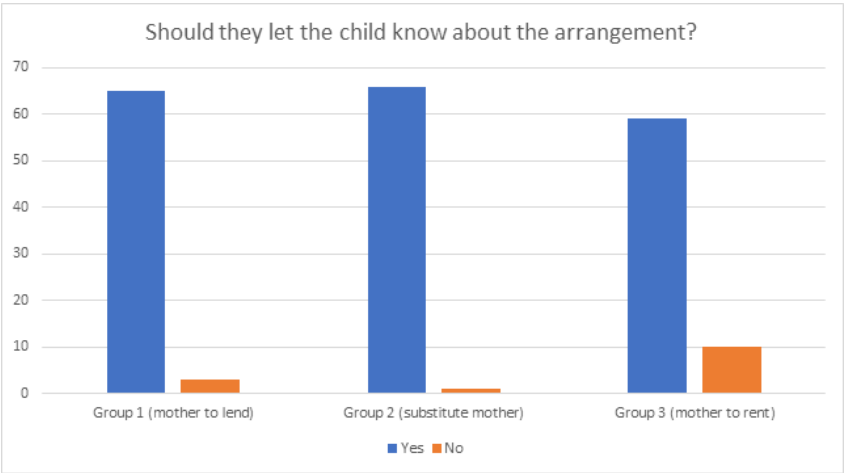
We examined the hypothesis that metaphorical frames can influence the decision on giving visiting rights to the other party (H1). Moreover, our hypothesis was that participants given the frame "mother to rent" would decide more often against the surrogate (H2). There was a statistically significant difference between the observed and expected frequency in the participants´ answers for the three frames, $\chi^2(2) = 6.39$, $p = .04$. The effect size was small (Cramer's $V = .18$; Cohen, 1988). As Table 2 illustrates, the participants with the frame "mother to rent" were more likely than participants in the other two groups to deny the other party visiting rights. Looking at individual effects revealed that the participants with the frame "mother to rent" specifically denied visiting rights to surrogates, $\chi^2(2) = 6.94$, $p = .03$. The effect size for this finding was small (Cramer's $V = .21$; Cohen, 1988). No such individual effect was found for intended parents, $\chi^2(2) = 0.51$, $p = .77$. Of all the participants, 51 denied the other party visiting rights, the remaining participants ($n = 153$) supported visiting rights.

Explaining the Arrangement to the Child

By carrying out Fisher's exact test, we examined the relationship between the metaphorical frame and the decision on future openness towards the child regarding the arrangement. Our hypothesis was that the participants´ decision would differ depending on the metaphorical frame used (H1). As hypothesized, there was a statistically significant difference between the frame "mother to rent" and the other two frames, two-tailed Fisher's exact value = 8.94, $p < .01$. The effect size for this finding was moderate (Cramer's $V = .27$; Cohen, 1988). Again, when dividing the data between the participants who granted the surrogate custody ($n = 41$) and those who granted the intended parents custody ($n = 163$), a statistically significant effect was found only for the latter group (two-tailed Fisher's exact value = 9.94, $p < .01$). Thus, when the participants decided that the child should grow up with the intended parents, the participants in the group "mother to rent" were more likely than those in the other two groups to suggest that the child should not know it was carried out by a surrogate.

Figure 1 illustrates the participants' decisions, sorted by their allocated metaphorical frame. The exact number of participants who decided for or against "letting the child know about the surrogacy arrangement" was used. The majority of participants ($n = 190$) decided that the child should know about the arrangement. In total, only 14 participants preferred to withhold this information from the child. However, of those, 10 were previously allocated to the frame "mother to rent."

Figure 1. *Counts of Participants for the Question "Should They Let the Child Know about the Arrangement?", Groups Separated by Metaphorical Frame.*



Penalty

We tested our hypothesis that metaphorical framing can influence the attitude of participants towards remuneration of surrogates. Our hypothesis was that the participants allocated to the frame "mother to rent" would more often decide that the court impose a fine on the surrogate (H3). There was no statistically significant difference between the observed an expected frequency for the three frames, $\chi^2(2) = 1.41$, $p = .49$. Twenty-two participants with the frame "mother to lend," 26 participants with the frame "substitute mother," and 29 participants with the frame "mother to rent" decided that the surrogate mother should pay a penalty fee. All in all, 77 participants decided that the surrogate should pay a penalty fee.

Using a sample of these 77 participants, we tested our hypothesis that differences in metaphorical framing would influence the height of the penalty fee. More specifically, we hypothesized that participants with the frame "mother to rent" would demand higher penalties than participants with one of the other two frames (H3). χ^2 calculation with a split in height of penalty (low/high) indicated a statistically significant difference between the observed and expected frequency in participants´ answers for the three frames, $\chi^2(2) = 6.50$, $p = .04$. The effect size for this finding was moderate (Cramer's $V = .29$; Cohen, 1988). The crosstabs indicated that the participants with the frame "mother to rent" chose higher penalties (5.000 € and higher) significantly more often than expected. Table 2 compares the summary statistics of χ^2 calculations.

Discussion

Our hypotheses were as follows: First, the metaphorical frames in our study would influence the decision-making process in a judicial situation (H1). Second, the participants allocated to the frame "mother to rent" would feel less supportive of the surrogate, and therefore, would decide more often in favor of the intended parents (H2). Third, metaphorical framing can influence the attitude of the participants towards remuneration of surrogates. Therefore, participants allocated to the frame "mother to rent" would more often decide that the court impose a fine on the surrogate and would choose higher penalty fees (H3). The

Table 2. χ^2 Calculations: Did the Frames Influence Participants´ Decision in Fictional Court?

Variable	χ^2	*df*	*p*	Cramer´s *V*
Child custody	0.11	2	.95	.02
Visiting rights	6.39	2	.04	.18
Explaining to the child	9.95	2	<.011	.27
Penalty yes/no	1.41	2	.49	.08
Height of penalty	6.50	2	.04	.29

Note. Fisher exact test was used for the variable of "Explaining to the child" instead of χ^2, as more than 25% of the cells had an expected value of < 5.

results support the idea that metaphorical framing can influence the decision-making process in a judicial situation. The results did not show an influence of the frame on the decision of custody, as most of the participants decided that the child should be with the intended parents instead of the surrogate, regardless of their metaphorical frame (H1). Possibly, this led to a ceiling effect. In an informal follow-up questioning, the participants were asked how they reached their conclusion. Many participants argued that their decision to grant the intended parents custody was based on the fact that there was a legally binding contract between the surrogate and the intended parents. An analysis of the follow-up decisions demonstrated a statistically significant difference in participants´ decisions (H1) depending on their metaphorical frame. As hypothesized, the participants with the frame "mother to rent" denied the surrogate visiting rights for the child significantly more often than the participants with the frames "mother to lend" and "substitute mother" (H2). Moreover, after the participants decided that the child should grow up with the intended parents, those participants with the frame "mother to rent" also significantly more often supported the idea to hide the surrogacy arrangement from the child than the participants with the frames "mother to lend" and "substitute mother" (H2). Of the 77 participants who decided that the surrogate mother should pay a penalty fee, those with the frames "mother to rent" chose higher penalty fees significantly more often than the participants with the frames "mother to lend" and "substitute mother" (H3).

There are several studies that assess the influence of psychological effects on judicial decision-making. However, only few studies empirically investigated the effect of metaphors on the decision-making process in court. Earlier studies found that metaphorical frames probably play an important role in court, as they have been found to influence the attitude of defendants and are a popular tool for lawyers (Lloyd, 2016; Rachlinski, 1996). The current results suggest that language, and specifically metaphorical frames, can even influence the decision-making process in a judicial conflict. It experimentally underpins several analyses of field studies on the influence of metaphors in real decisions in court (Berger, 2008; Thornburg, 1995). For example, Berger (2008) found that decisions concerning child custody were shaped by implicit assumptions, which are sustained by metaphors in everyday life. To date, only one other study empirically investigated the influence of metaphorical frames of verdicts in a mock trial (Vasquez et al., 2014). The results of the current study are in line with their results. Using a similar study design (mock trial), the current study can underpin the findings of Vasquez et al. that it might be possible to influence the decision of a jury by metaphorical framing. Vasquez et al. looked at decisions made in criminal law and involving a jail sentence. Our study shows that in addition, metaphorical framing might also be an influential factor in a domestic relations case. In contrast to criminal law, decisions in family court are subtler, get less media attention, and do not involve drastic penalties such as jail time (or even the death sentence). Since in our study, decisions could be influenced

by metaphor framing in a subtler legal case, this can be seen as a first indicator that the effect of metaphor frames might generalize across legal subjects. All in all, as in the judicial field, experimental studies on the influence of metaphors on decision-making in court are still largely lacking. Those two studies together add important information to the several archival studies which analyzed real court decisions (Berger, 2008; Parker, 2012; Thornburg, 2006).

Our hypothesis was that the participants with the metaphorical frame "mother to rent" would have the most negative association with surrogacy, especially with regard to monetary compensation, whereas the metaphorical frame "substitute mother" would be the most neutral one, especially with regard to money. Indeed, the results showed that the participants with the frame "mother to rent" decided more often against visiting rights of the surrogate, decided more often to hide the surrogacy arrangement from the child, and on average decided on a higher penalty fee for the surrogate. Most likely, the participants used the metaphorical frames for the purpose of categorizing (Mio, 1997). In line with the domain-interaction theory (Tourangeau & Sternberg, 1982), the words "lend," "rent," and "substitute" were interacting with the participants´ concept of surrogacy. The frame of "rent" evoked the most negative results for the surrogate and of the three frames, "rent" is the most tightly connected to money. Probably, for the participants with this frame, the source domain of "money" was projected onto the goal domain of "surrogate." Therefore, associations between the surrogate mother and money were the strongest for the frame of "mother to rent." Metaphors can highlight specific aspects of a problem and guide interpretations (Entman, 1993). The aspect of remuneration in the concept of surrogacy was highlighted for the frame "mother to rent," but not for the frames "mother to lend" and "substitute mother."

The results indicate that the metaphorical frames influenced decision-making of the participants. One theoretical explanation could be that for the frame "mother to rent," the integration of the associations of motherhood and remuneration induced a reluctance towards the surrogate or surrogacy in general, which, in turn, influenced the participants´ decision in the fictional court situation. This hypothesis is in line with the results of Elmore and Luna-Lucero (2017), who found that metaphors can activate gender stereotypical thinking. Moreover, in another study on the influence of the metaphorical frames of "mother to lend," "mother to rent," and "substituted mother" (Mohnke et al., 2022), it was hypothesized that the incongruence between a woman who gets money for carrying a baby and the stereotype of women, being selfless, nurturing, and caring (Bem, 1974; Hentschel et al., 2019), became most obvious when the frame "mother to rent" was used. In the current study, this could explain the reactance of the participants with the frame "mother to rent" towards the surrogates: the metaphor "mother to rent" stresses the gender deviant behavior of the surrogate, which was then punished by the participants. This idea is supported by a study on first impressions of politicians (Okimoto & Brescoll, 2010), which found that both male and female politicians were perceived as power-seeking by the participants. However, this

was only problematic for the female politician. She was perceived as less caring, which led to moral outrage and negative emotions towards the female politician. This provides a possible explanation for the results of the current study in which surrogates, for whom the metaphorical frame "mother to rent" stressed that they do not behave according to their prescribed gender roles (selfless, nurturing), were given a higher penalty fee. Thus, as the metaphorical frame "mother to rent" underlines how the surrogate violated gender prescriptions (putting other peoples´ needs above their own without monetary compensation, inherent interest in children and motherly instincts), the surrogate in the group "mother to rent" might have been punished more in court for her gender deviant behavior than the surrogate in the groups "mother to lend" and "substitute mother." The current study suggests that this effect could be especially important in situations for groups who face prejudices, such as surrogates, as metaphorical framing can emphasize stereotypes and increase stereotypical thinking (Charteris-Black, 2006), which is also important when it comes to decision-making processes in court. In particular lay jurors could be susceptible to stereotypical thinking because of limited judicial knowledge and experience.

Implications

All over the world, jurors and judges make decisions in court which shape people´s lives. Many states´ systems rely on courts to make the right decisions in a fair and neutral way, using laws, guidelines, and former decisions as references. However, reason in law can be regarded as an open-ended concept, influenced by context and in need of continual revision. Therefore, as the court is a situation in which the context plays a significant role, the seemingly neutral decision process can also be impacted by language. Thus, the decision-making process in court is a highly relevant research area for studies assessing the influence of metaphorical language (for a comprehensive overview, see Berger, 2013; Hanne & Weisberg, 2018). The current study demonstrates that metaphorical frames can influence decisions in a mock trial. Together with the study by Berger (2008), who stated that implicit expectations, sustained by metaphors, have shaped real decisions in court concerning child custody, the current results imply that metaphors could possibly influence decisions in judicial conflicts. In court, the judge sometimes renders a judgement based on circumstantial evidence. In those cases, the judge decides if there is sufficient evidence to convict the defendant. This would be one situation in which it is very important to be aware of those metaphorical effects. Therefore, further investigation regarding the influence of metaphors in lawsuits should be conducted to provide politicians and the legal profession with clear advice on how to deal with those effects.

The current study also demonstrates the power of metaphorical frames in law-related language in general. Metaphors and figurative language can be found everywhere in law. They can be seen on traffic signs, read in basic legal texts,

and found in the vocabulary of lawyers (Lloyd, 2016), often used without much reflection. Thus, they shape the legal discourse and can, implicitly, determine which arguments count in judicial conflicts and also in court. Legal structures and legitimation of court decisions are pervaded by metaphorical frames, which makes it important to unravel how they influence, enrich, and also facilitate judicial communication and decision-making processes. The influence of metaphors can probably never be eliminated. However, in light of the current results, it is clear that jurors, judges, and lawyers should abstain from those metaphors which activate implicit stereotypes and endanger equality. The next step would be to become more conscious about and sensitive to the influence of metaphorical framing and teach those responsible for objective decisions in judicial situations about the power of metaphors. If the judge considered that the courtroom is influenced by language and that their personal experiences, values, and perspective affect the decision-making process, the judge would take this into consideration and – ideally – reflect how those personal values could influence the verdict in the individual case.

Limitations and Further Research

All participants in this experiment lived in Germany, so the implications about metaphorical frames for the decision-making in law may not generalize to members of other countries or cultures. Future research could investigate interactions between cultural background, country-specific law regulations, and metaphorical frames for decision-making in law. Also, the vignettes were presented in written form. It would be interesting to examine if these effects would be replicated if the vignette was presented as a video with audio (or an acted live event). However, a recent study has shown that the metaphor framing effect was similar across communication modalities (Flusberg et al., 2020). Furthermore, due to methodological reasons, potential covariates such as age and gender were not included. However, a randomization check ensured that those potential covariates were distributed evenly across groups. There are other covariates which might be important such as knowledge about surrogacy and most important personal involvement. We ensured that no participant was personally involved with the topic of surrogacy. However, for future research level of involvement could be an interesting covariate. Lastly, the question remains on how much the present experimental evidence sheds light on decision-making in actual courtroom situations. Although vignettes and mock trials such as the one used in our study can never account for the complexity of real-life situations, they are an important methodological tool to study courtroom conflicts. Ultimately, the ecological validity of the results clearly depends how close the vignettes match real life situations. However, first, our results are in line with studies examining actual courtroom situations, and second, one should also keep in mind that the complexity of a courtroom situation might make people

even more vulnerable to metaphorical frames and other psychological biases.

In the current study, all three terms for surrogacy could be seen as metaphorical frames. Therefore, comparison of the effects was possible between the metaphorical frames, but not between the metaphorical frames and a literal control condition. This is due to the fact that when it comes to surrogacy in Germany, no literal word exists to describe the subject. As mentioned in the method section, the term "substitute mother" is preferred in judicial texts: it is a metaphor, but it clearly has less metaphorical connotations than the other two terms. In contrast to both other frames, this frame is semantically less connected to monetary aspects (Mohnke et al., 2022). Although there are more studies in the field which did not use a control condition (e.g., Thibodeau & Boroditsky, 2011) for reasons similar to the ones we have mentioned above ("Replacing or removing the key metaphorical words does not make a neutral stimulus, it makes a different stimulus," Thibodeau & Boroditsky, 2015, p. 18), from a mere methodological point of view, a clear control condition – if available – would be the method of choice.

The current study assessed the effect of metaphorical frames on the decision-making process and found that in this particular domestic relations case, the decisions of the jurors could be influenced. The application of metaphors is popular in other judicial areas too, as, for example, when lawyers justify their line of reasoning (Ebbesson, 2008; Lloyd, 2016), when describing the action of the accused, or when a parent is deprived of child custody. The next step would be to transfer knowledge from other metaphorical framing research to investigate which cases might be especially affected by the influence of metaphors. This could be true for more emotion-laden cases, as emotions were found to play a main role in the effect of metaphors (Kühne, 2013), or cases which jurors have little knowledge about. Therefore, it would be interesting to compare the effect of metaphors for different kind of cases (e.g., criminal cases, domestic relations cases, or labor cases). Moreover, another possibility would be to assess more variables, such as the emotional response and moral evaluation of participants towards those involved in the case as well as the personal involvement and judicial knowledge about the case, to gain more insights into the mechanisms. Our results are not based on the responses of real lay jurors, professional lawyers, or judges, but on participants from various study and occupational fields. This is a strength on the one hand because lay jurors come from different vocational backgrounds. It is a weakness on the other hand because we did not include law students or participants from the judicial domain. Thus, further studies of metaphor framing in the judicial field should look for effects in groups with different degrees of judicial expertise.

Conclusion

In the judicial field, experimental studies on the influence of metaphors on the verdict in court are still largely lacking, although it is known that metaphors are often used in judicial situations and in court (Campos-Pardillos, 2022; Ebbesson,

2008). Most studies are field or archival studies which analyze real court decisions from the past (Berger, 2006; Goff et al., 2008; Thornburg, 2006). Both study types are heuristically valuable but do not allow for causal interpretation. The findings from these studies must be supported by experimental studies which allow for testing cause-effect-relationships. The current study is a step in this direction. The results show that in a fictional judicial situation, some decisions of the participants could be influenced by the metaphorical frames used. As it is not possible to conduct experimental studies in the courtroom, further research should concentrate on working with mock trials where participants from the judicial domain are confronted with realistic judicial scenarios.

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Conflict of Interest Disclosure

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Research Ethics Statement

The study was approved by the Ethics Commission of the Faculty of Behavioural and Cultural Studies of the University of Heidelberg. The submitted work is original and has not been published elsewhere.

Authorship Details

Margaux Mohnke: research concept and design, collection and/or assembly of data, data analysis and interpretation, writing the article, critical revision of the article, final approval of the article.

Yannick Roos: collection and/or assembly of data, data analysis and interpretation, final approval of the article.

Ursula Christmann: research concept and design, writing the article, critical revision of the article, final approval of the article.

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Appendix

English Version of the Fictional Case

The 12 repetitions of the metaphorical frames for the surrogate (mother to lend/ mother to rent/ substitute mother) are written in italic, the 12 corresponding frame-related nouns (desiring parents/ ordering parents/ social parents) are underlined. The metaphorical frames of versions 2 and 3 can be found in brackets.

Instructions: Imagine you live in the US and are part of a jury at court. In the US, lay people without any professional legal knowledge can become members of a jury. They are required to decide on sentences in legal cases. Depending on different matters of the trial, their decision can be legally binding. In the following text you will find background information on how a legal case came to court. The viewpoints of both parties are described alternately. Thereafter, the legal case will be presented and you are asked to make decisions in your role as a member of the jury.

Fictional case (English version)

Desiring parents (ordering parents/social parents): A couple has wished for a child for a long time. However, they cannot have one on their own because the woman cannot bear children. Their greatest wish is to have a child with their own genes. The couple desperately decides to contact a *mother to lend (mother to rent/substitute mother)*. In America, with the help of a *mother to lend (mother to rent/substitute mother)* and for example a donated egg and sperm from the intended father it is possible to have another woman carry a child.

Thus, the couple become the *desiring parents (ordering parents/ social parents).*

Mother to lend (mother to rent/ substitute mother): A woman and her husband have taken out a loan to be able to study. Suddenly, the woman's mother becomes seriously ill. They do not have enough money to pay for the medical treatment. The woman desperately decides to carry a child for another couple, the desiring parents (ordering parents/social parents), in exchange for money. With the money she can save her mother. Thus, the woman becomes the mother to lend (mother to rent/ substitute mother).

Desiring parents (ordering parents/ social parents): The desiring parents (ordering parents/ social parents) are greatly relieved when the implantation of the egg and sperm into the *mother to lend (mother to rent/ substitute mother)'s* womb is successful. The desiring parents (ordering parents/ social parents) see the *mother to lend (mother to rent/ substitute mother)'s* womb growing. They are very excited about the child. The desiring parents (ordering parents/ social parents) decorate a room in their house as a baby room and buy baby stuff.

Mother to lend (mother to rent/ substitute mother): The *mother to lend (mother to rent/ substitute mother)* sees her belly growing. She feels the baby's kicks in her belly. In the evening, she sits on the sofa, puts her hand on her belly and talks to the baby. The *mother to lend (mother to rent/ substitute mother)* knows that she is not genetically related to the child and yet she can hardly believe what a strong bond she is building with the child.

Desiring parents (ordering parents/ social parents): The due date is approaching. The desiring parents (ordering parents/ social parents) can hardly wait to hold their own baby in their arms in a few weeks. They are very excited. The desiring parents (ordering parents/ social parents) will not be present at the birth of the child but would like to pick up the baby afterwards.

Mother to lend (mother to rent/ substitute mother): At every medical appointment, the *mother to lend (mother to rent/ substitute mother)* is happy to see a picture of the baby. She already loves the child so much. The birth is long and painful, but the *mother to lend (mother to rent/ substitute mother)* fights for the baby. The moment when the child is born repays everything. She has never been happier than in the moment when she looks at the little face. She cannot imagine handing over this little being to the desiring parents (ordering parents/ social parents).

Desiring parents (ordering parents/ social parents): 12
Mother to lend (mother to rent/ substitute mother): 12

German Version of the Fictional Case

Below, the original German version of the fictional case is displayed. The 12 repetitions of the metaphorical frames for the surrogate or surrogacy are written in italic, the 12 corresponding frame-related nouns are underlined. The metaphorical frames of versions 2 and 3 can be found in brackets.

Vorgeschichte zum Rechtsfall

Im folgenden Text finden Sie Hintergrundwissen dazu, wie es zu einem Rechtsfall vor Gericht gekommen ist. Es wird abwechselnd die Sicht von beiden Parteien geschildert.

Gerichtsfall

Wunscheltern (Bestelleltern/ Soziale Eltern): Ein Paar wünscht sich schon seit langem ein Kind. Sie können jedoch kein eigenes bekommen, weil die Frau keine Kinder austragen kann. Ihr größter Wunsch ist es, dennoch ein Kind mit den eigenen Genen zu bekommen. Das Paar beschließt verzweifelt, eine *Leihmutter (Mietmutter/ Ersatzmutter)* in Anspruch zu nehmen. In Amerika kann man nämlich mithilfe einer *Leihmutter (Mietmutter/ Ersatzmutter)* und beispielsweise

einer gespendeten Eizelle und Sperma des Wunschvaters eine fremde Frau ein Kind austragen lassen. Das Paar wird somit zu Wunscheltern (Bestelleltern/ Soziale Eltern).

Leihmutter (Mietmutter/ Ersatzmutter): Eine Frau und ihr Mann haben einen Kredit aufgenommen, um studieren zu können. Plötzlich wird die Mutter der Frau schwer krank. Um die Behandlung bezahlen zu können haben sie nicht genug Geld. Die Frau beschließt verzweifelt, gegen Geld ein Kind für ein anderes Paar, die Wunscheltern (Bestelleltern/ Soziale Eltern), auszutragen. Mit dem Geld kann sie ihre Mutter retten. Die Frau wird somit zur *Leihmutter (Mietmutter/ Ersatzmutter)*.

Wunscheltern (Bestelleltern/ Soziale Eltern): Die Wunscheltern (Bestelleltern/ Soziale Eltern) sind sehr erleichtert, als die Implantation der Eizelle und des Spermas in die Gebärmutter der *Leihmutter (Mietmutter/ Ersatzmutter)* erfolgreich verläuft. Die Wunscheltern (Bestelleltern/ Soziale Eltern) sehen den Bauch der *Leihmutter (Mietmutter/ Ersatzmutter)* wachsen. Sie freuen sich so sehr auf das Kind. Die Wunscheltern (Bestelleltern/ Soziale Eltern) dekorieren einen Raum in ihrem Haus als Babyzimmer und kaufen Babysachen.

Leihmutter (Mietmutter/ Ersatzmutter): Die *Leihmutter (Mietmutter/ Ersatzmutter)* sieht ihren Bauch wachsen. Sie spürt die Tritte des Kindes in ihrem Bauch. Abends sitzt sie auf dem Sofa, legt die Hand auf ihren Bauch und spricht mit dem Baby. Die *Leihmutter (Mietmutter/ Ersatzmutter)* weiß, dass sie genetisch nicht mit ihm verwandt ist und kann trotzdem kaum fassen, was für eine starke Bindung sie zu dem Kind aufbaut.

Wunscheltern (Bestelleltern/ Soziale Eltern): Der Geburtstermin naht. Die Wunscheltern (Bestelleltern/ Soziale Eltern) können es kaum erwarten, in wenigen Wochen ein eigenes Baby in den Armen zu halten. Sie sind sehr aufgeregt. Die Wunscheltern (Bestelleltern/ Soziale Eltern) werden bei der Geburt des Kindes zwar nicht dabei sein, aber möchten das Baby im Anschluss abholen.

Leihmutter (Mietmutter/ Ersatzmutter): Die *Leihmutter (Mietmutter/ Ersatzmutter)* freut sich bei jedem Arzttermin, ein Bild des Babys zu sehen. Sie liebt es bereits sehr. Die Geburt ist lang und schmerzhaft, aber die *Leihmutter (Mietmutter/ Ersatzmutter)* kämpft für das Baby. Der Moment, als es da ist, entlohnt alles. Sie schaut in das kleine Gesicht und war noch nie so glücklich wie jetzt. Sie kann sich nicht vorstellen, dieses kleine Wesen an die Wunscheltern (Bestelleltern/ Soziale Eltern) abzugeben.

Wunscheltern (Bestelleltern/ Soziale Eltern): 12
Leihmutter (Mietmutter/ Ersatzmutter): 12