Surrogate motherhood regulation in South Africa: Medical and ethico-legal issues in need of reform

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Chapter 19 of the Children's Act No. 32 of 2005 regulates the practice of surrogate motherhood in South Africa and provides legal certainty regarding the rights of the children born as a result of surrogacy, including the rights of the different parties involved. Despite the clarity regarding the legal consequences of human reproduction by artificial fertilisation of women acting as surrogate mothers, some legal gaps and inconsistencies regarding certain medical and ethico-legal issues remain. The purpose of this article is to critically examine selected provisions whose implementation is hampered by a lack of detail or clarity, compromising compliance by the different parties to the surrogate motherhood agreement. The article concludes with recommendations on how some of these issues may be addressed to provide for legal certainty and transparency.

Keywords. surrogate motherhood; ethico-legal and medical considerations; domicile requirement; confirmation of surrogate motherhood agreement; genetic link requirement; medical threshold requirement; artificial fertilisation of surrogate; role of epigenetics.

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Medical technological advances in the field of assisted reproduction often create moral, legal, and ethical dilemmas[1] that have a real impact on society.[2] Assisted reproductive technologies have made it possible for a surrogate mother to carry a fetus without any biological relation through gestational surrogacy.[3] The enactment and implementation of Chapter 19 of the Children's Act,[4] although welcomed in South Africa (SA) at the time, has gradually brought difficult questions to the fore.

The absence of regulations for Chapter 19 has forced High Courts in SA to issue practice directives to guide legal practitioners where the Act lacks regulations. This, however, is neither a practical nor conducive option. The authors in this article analyse relevant provisions of the Children's Act, notably, sections 292, 294, 295 and 296. In addition, the authors link epigenetics with surrogacy and conclude by highlighting the recommendations that will assist the courts in future. Given its narrow scope, this article will only briefly discuss the pertinent issues but exclude a contextual exposition of Chapter 19 of the Children's Act.

Domicile requirement

Section 292 of the Act sets out the requirements for a validly concluded and confirmed surrogate agreement.[5] Parties who intend to exercise their reproductive rights by using surrogacy are required to conclude a written agreement that results in the complete transfer of parental rights and responsibilities from the surrogate to the commissioning parent(s) when the commissioned child is born.[6] Non-compliance with these requirements may cause the agreement to be invalid and thus unenforceable between the parties.[7] The best interests of the children remain the overriding factor in a surrogacy agreement.[8]

Section 292(1)(c) and (d) provides that a surrogate agreement will not be valid unless one of the commissioning parents or parent (in the case of a single person) and the surrogate and her husband or partner (if applicable), are domiciled in SA at the time the agreement is concluded.[9] However, section 292(2) permits the waiver of the domicile requirement 'on good cause shown'. One may only speculate as to what may constitute a 'good cause shown'.

Domicile, also known as a person's permanent home, is a legal concept that is established when a person is 'lawfully present at a particular place and has the intention to settle there for an indefinite period'.[10] This requirement, arguably intended to limit the risk of SA becoming a reproductive tourist destination, is harsh and highly restrictive for different reasons. It may be criticised for being overly exclusive and potentially discriminating against intended couples who do not meet the domicile requirement but are otherwise capable and willing to enter into a surrogate agreement. Despite the advantages of the domicile requirement for jurisdictional and legal capacity reasons, the requirement ignores the practical reality that there may be potential commissioning parents with ties to multiple jurisdictions. The limitations of the domicile requirement likely prompted legislators to replace the domicile requirement with the requirement of being 'ordinarily resident in the Republic' in Bill 18 of 2020, which aimed to revise certain sections of the Children's Act, including Chapter 19. Unfortunately, this change was not included in the version of the Bill approved by Parliament, promulgated subsequently as the Children's Amendment Act No. 17 of 2022.

It is important to note that the domicile requirement does not prevent a pregnant surrogate from leaving SA to evade the legal consequences of the valid surrogate agreement.[11] No provision

in the relevant sections prohibits the surrogate from leaving the country after the surrogate agreement is confirmed and after artificial fertilisation has occurred. Although the commissioning parent(s) might be unaware of this possibility, they must accept this risk. A surrogate without biological relations to the commissioned child could flee the country with the commissioning parents' biologically related child. No provisions safeguard the interests of the commissioned child or that of the commissioning parent(s), except remedies available to them for breach of contract. Regulations should address this risk by outlining steps that should be followed when a surrogate intends to leave the Republic.

Information required for the confirmation of the surrogacy agreement

Section 292(1)(e) requires the High Court to confirm a surrogate agreement; however, it does not provide guidance on the information required for this confirmation. In the matter of Ex parte CJD and others[12] the court reiterated that it has an obligation to protect and advance the best interests of children, and all role players have an obligation to ensure that all relevant information that may impact the court's discretion to grant or dismiss the application for confirmation, is set out in the affidavit.[13] In the matter of In Re Confirmation of Three Surrogate Agreements,[14] the court reiterated that, as the upper guardian of all minors in SA, the court may require detailed information regarding: (a) who the commissioning parent(s) are; (b) what their financial position is; (c) what support systems, if any, they have in place; (d) what their living conditions are and (e) how the child will be taken care of if the agreement is confirmed. The court suggested that obtaining expert assessment reports from social workers and a police clearance could be applied to the commissioning parent(s). An expert report could also address the suitability of the surrogate mother to fulfil the role of a surrogate mother in terms of Chapter 19 of the Children's Act.

In Ex parte WH and others,[15] the court concluded that a detailed list of surrogacy expenses with sufficient specificity should be provided to minimise the possibility of abuse or potential exploitation by either of the parties to the agreement.[16] Personal and character details of the commissioning parent(s), for instance, details of previous criminal convictions, particularly those relating to violent crimes or crimes of a sexual nature, must be provided to the court.[17]

Regulations providing clarity as to the exact type of information that the parties are required to provide to the court in an application for the confirmation of a surrogate agreement should be put in place. It is regrettable that Bill 18 of 2020, which contained some guidance on these requirements, was omitted from the Children's Amendment Act No. 17 of 2022 that was subsequently signed into law. Some of these guidelines included that the health and age of the commissioning parents also be considered, as well as 'an exposition of estimated costs pertaining to health insurance and life insurance relating to the surrogate mother' (clause 141 of the Bill).

Genetic link requirement

Section 294 of the Act requires a genetic link between the commissioning parent(s) and the commissioned child(ren).[18] This means that at least one of the commissioning parents' gametes must be used in the conception of the child or where the commissioning parent is a single person, that person's gamete is used.[19] The exclusive use of donor gametes is prohibited, even in a situation where a single commissioning parent is, or both commissioning parents are, infertile.[20]

Surrogate motherhood by default invokes the constitutional right to make decisions about reproduction. The right to make decisions regarding reproduction is included under the right to bodily and psychological integrity, protected in section 12 of the Constitution. However, the extent of the right 'to make decisions concerning reproduction' is unclear. The constitutionality of section 294 was challenged in the case of AB Surrogacy Advisory Group v Minister of Social Development[21] on the ground that it unjustifiably infringes upon the rights to equality (section 9), dignity (section 10), reproductive autonomy (section 12(2)(a)), privacy (section 14) and access to health care of persons (section 27), protected in the Constitution of the Republic of South Africa (1996).

The constitutional judgment in AB and Another v Minister of Social Development[22] may be regarded as a good example of a scenario demonstrating a 'good cause'. In this case, the commissioning mother turned to surrogacy as a last resort after experiencing fourteen failed IVF treatments. Her situation testifies to the many attempts that she had made to use her own ova, without any success. Interestingly, the minority judgment found that section 294 infringes the dignity of those persons who are both conception infertile (when a person is unable to contribute a gamete for the purposes of conception through artificial fertilisation) and pregnancy infertile (when a person is permanently and irreversibly unable to carry a pregnancy to term), as it fails to consider all people as worthy of the same mutual concern and respect.[23]

However, the majority judgment found that the challenged provision does not disqualify commissioning parent(s) because they are infertile, it affords the infertile commissioning parent(s) the opportunity to have children of their own by contributing gametes for the conception of the child intended in the surrogate agreement.[24] Further, where a parent cannot contribute a gamete, the majority judgment concluded that the parent 'still has available options afforded by the law: a single parent has the choice to enter into a permanent relationship with a fertile parent, thereby qualifying the parent for surrogacy'.[24] In other words, it was the intended commissioning mother's choice to resort to surrogacy that placed her outside of the ambit of section 294, not her attributes of being infertile.

In another case, the matter of KB and Another v Minister of Social Development,[25] section 294 was challenged on the ground that the provision does not provide for a genetic link between siblings but only between a commissioning parent(s) and the child. The court found that s 294 of the Act has nothing to do with the alleged right of a minor child to have a sibling with the same genetic link.[26] The majority in the Supreme court of appeal judgment concludes that '[w]hat is evident is that it is a parent whose gamete is used, that establishes the child's origin, in terms of that section, not the sibling's genetic origin. The interests of the child spoken of in s 294 read in context, are not those of a child already born'.[27] It is conceivable that some commissioning parents may wish to add another commissioned child to their family who is genetically related to the gamete donor of their first commissioned child. Such a scenario will mean that both commissioned children will be genetically related to each other and one of their commissioning parents. This scenario is a very plausible one and there is nothing that legally prevents such a couple from using the same donor gametes for their second commissioned child. It is important that the courts that consider applications for the

confirmation of surrogate agreements, look at each application objectively and make decisions based on the facts and circumstances relevant to the specific applicants.

Medical threshold requirements

The requirements for the confirmation of the surrogacy agreement by a High Court are set out in section 295. Section 295(a) contains the medical threshold requirement that directs that the court may not confirm a surrogate agreement unless the commissioning parent(s) are permanently unable to give birth to a child.[28] Thus, the commissioning parent(s)/mother should have a medical condition that makes them/her unable to give birth to a child and the condition must be permanent and irreversible. It is possible that a commissioning mother may be infertile yet still able to carry and give birth to a child if her uterus is intact. The question arising is whether such a woman would be allowed to follow the surrogacy route if she is technically 'able to give birth'. This question is prompted by the Children's Act not providing guidance on what the possible causes of the inability to give birth are, except the requirement that the condition must be permanent and irreversible.[29] Moreover, a further question arising from section 295(a) is whether all the requirements mentioned in section 295 should be present contemporaneously. For example, in the case of a gay commissioning couple, all three requirements—permanent medical condition, irreversible medical condition and unable to give birth to a child—can be easily satisfied, thus complying with the requirements of section 295(a). The issue becomes more complex when a heterosexual commissioning mother suffers from a serious medical condition that could be exacerbated by a risky pregnancy or where she is unlikely to survive a pregnancy.

A narrow interpretation of section 295(a) would clearly lead to an insensible result, as it would force a woman wanting her own biological child to undergo a pregnancy that could pose significant or life-threatening medical harm to herself.[30] Fortunately, the judgment in APP and Another v NKP[31] provides some clarity on the threshold requirement. The court rightly observed that the use of the word 'condition' is not qualified or prefaced by anything to limit the meaning of the term to a physical medical condition only.[32] Thus, the condition could include both physical and psychological conditions.[32] The court interprets the term 'not able to give birth' as being unable to give birth without a significant medical risk to the health or the life of the mother.[33] A woman who is unable to carry a pregnancy to term, despite not suffering from infertility, will thus not meet the requirement of being unable to give birth to a child set by section 295. Such a woman could technically give birth to a child resulting from artificial fertilisation using her own or donor gametes, as well as the gametes of her partner/husband or a donor.

It is important to evaluate each case on its own merits as not all health risks would satisfy the threshold prerequisite.[34] Courts should rule that the threshold prerequisite is fulfilled and allow surrogacy as a reproductive means of last resort, rather than convenience, only if expert medical evidence shows that a pregnancy of the commissioning mother would entail a significant health risk to her or the child and that she is effectively unable to give birth to a child.[34] The presence of the commissioning mother's uterus does not and should not disqualify her from surrogacy.

Regulations should clarify the nature of the physical or psychological conditions as alluded to in the case of APP and Another v NKP, as well as outline the requirements for the determination of these conditions. It should also be considered whether regulations should adopt a case-by-case approach instead of providing a closed list of conditions. Additionally, guidance is needed regarding the evidence required from the commissioning parent(s) to demonstrate their inability to give birth, such as medical reports.

Lapse of the 18-months requirement

Section 296 prohibits the surrogate from being artificially fertilised before the surrogate agreement is confirmed by the court,[35] which may not take place after the lapse of 18 months from the date of the confirmation of the said agreement.[36] The artificial fertilisation of a surrogate in the execution of the said agreement must be performed in accordance with the provisions of the National Health Act No. 61 of 2003 and the 2012 Regulations relating to Artificial Fertilisation of Persons (Government Gazette No. 35099, GNR 175)). Conception may not always be achieved within this time frame, which would require the parties to approach the court for a new confirmation of the surrogacy agreement.[37] The pregnancy must be established within 18 months, but the child's birth need not occur within the said period. The recent judgment in the Ex Parte MCM ((28084/22) (2022) ZAGPPHC 712) case clarified this issue, confirming that the fertilisation of the surrogate mother may not commence before the surrogate agreement is confirmed by the court. This case concerns a commissioning couple who sought a declaratory order affirming their right to have embryos created via *in vitro* fertilisation with the intention that the embryo created will be transferred to the uterus of the surrogate mother (yet to be identified). The 2012 Regulations Relating to the Artificial Fertilisation of Persons prohibit *in vitro* fertilisation except for embryo transfer to a 'specific recipient' (who must be identifiable). The court preferred a narrow interpretation of 'specific recipient' contrary to the applicants' insistence on a broad interpretation, which would have allowed them to commence with the *in vitro* fertilisation route without having identified the relevant surrogate mother.

Regulations should clarify the issue of a possible extension of the timeframe in circumstances where, for example, a medical reason prevents the surrogate from being fertilised within the stipulated 18 months. As stated above, implementing section 296 should observe the requirements in the National Health Act and the Regulations relating to the Artificial Fertilisation of Persons, the latter providing guidance on the cryopreservation of embryos or gametes generally. This is significant, especially in circumstances where the parties decide to extract gametes before applying for confirmation of a surrogate agreement. Cryopreservation may be the only avenue for the commissioning parent(s) to use their gametes when required. An example would be where one or both of the commissioning parents must undergo medical treatment, such as cancer treatment, that carries the risk of affecting the viability of the gametes. In these instances, gametes could be withdrawn and frozen before treatment of the person commences, and before the agreement is lodged for approval by the court. The commissioned child will thus still have a genetic link to the commissioning parent(s).

Role of epigenetics in surrogacy

From a clinical perspective, it is necessary to further explore the effect of epigenetics in surrogate motherhood, particularly concerning its

effect on the health of the commissioned child. The Centre for Disease Control and Prevention (CDC) describes epigenetics as the study of how behaviour and environment can cause changes that affect the way genes work.[38] Unlike genetic changes, epigenetic changes are reversible and do not change a person's DNA sequence. Epigenetics can change how a person's body reads a DNA sequence.[38]

The genetic makeup of a surrogate has a substantial impact on the genetics of the child that she carries in her womb, irrespective of whether she is the ovum donor.[39] While the biological parents of the child contribute their genetic material to the child, the genetic expression of the child's genes, essentially how the unborn child's genes are 'switched on', is significantly influenced by the surrogate's transcription factors.[39] In instances where gestation occurs in the womb of a third person, this third person (apart from the sperm and ovum donors) becomes an additional biological parent, influencing the child both *in utero* and after birth.[40] As a result, at least three people will have a biological and psychological effect on the fetus.[41]

Further, a biological bond is established between the surrogate and the fetus that she carries, which may last for decades.[42] Both the surrogate mother and the commissioning parents should understand this biological bond and provide voluntary and valid consent, especially since microchimerism is known to increase the incidence of autoimmune diseases in a child.[42] Microchimerism refers to the presence of a small number of cells in an individual (such as the commissioned child) that have originated from the surrogate and are therefore genetically distinct.[43] Parties to a surrogacy agreement should understand that epigenetic processes resulting from the surrogate's lifestyle may have both physiological and behavioural consequences for the commissioned child.[42] It is recommended that a surrogate motherhood agreement contain a clause that recognises the effect of epigenetics. Consent provided by the commissioning parents will be valid if there is a clear prior understanding of the potential impact of epigenetics on the health of the commissioned child. For example, if the child is born with an autoimmune disease that may be traced to the surrogate mother's epigenetics, this understanding is crucial.

The effect of epigenetics and the surrogate's influence on the commissioned child's biology cannot be denied. Chapter 19 of the Children's Act in section 297(1)(d) explicitly states that the surrogate mother has no parental rights over the commissioned child. Where a commissioning mother's eggs are used in the artificial fertilisation of the surrogate, one may rightly wonder whether the ovum donor (commissioning mother) or the surrogate mother (whose womb contributes to the child's biological development) is the real biological mother.[39] Both women may be said to have contributed genetically to the child's development, as epigenetics allows an organism (the fetus) to respond to its environment (the womb) by changes in gene expression.[39]

Epigenetic processes will play an important role in the selection of a healthy and suitable surrogate. A time may soon come when commissioning parents may want to request a complete genetic analysis of both the proposed surrogate and the gamete donors prior to concluding a surrogate agreement.[42] Ethically, the commissioning parent(s) should not delve deeper into the surrogate mother's health than what the surrogate allows them to know, although this may be contractually required. Under perfect circumstances, the surrogate mother may willingly consent to disclosing the relevant information. However, if she refuses to disclose any risks and these later materialise after the commissioned child is born, issues of possible fraud and misrepresentation on the part of the surrogate mother concerning the contract may become relevant. This relates to the issue of responsibility for birth defects in the child,[44] highlighting the need for contractual clauses that address potential birth defects and outline the responsibilities of the contractual parties in advance.

We submit that not only should the effect of epigenetics be considered in a surrogate agreement, but the Children's Act and future regulations to the Act should anticipate possible claims that may follow from this biological determinant. Further, it is proposed that owing to the unforeseen health risks that may arise because of the role of epigenetics, a complete genetic analysis of the proposed surrogate should be undertaken before the selection of a suitable surrogate.

Conclusion

The article argues that the SA regulatory framework regarding surrogate motherhood and artificial fertilisation, despite the legal clarity that it currently provides, may benefit from some improvement. It is regrettable that two amendments to Chapter 19, contained in Bill 18 of 2020 and referred to in this article, were left out of the Children's Amendment Act enacted in 2023. Not only has an ideal chance for a revision to the principal Act passed, specifically to insert a provision that enables regulations, but those affected by surrogate motherhood agreements will yet again have to wait for the next opportunity.

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1. E Auret, titled, Surrogate motherhood and assisted reproduction in South Africa: an analysis of selected constitutional and medico-legal issues (2023; University of South Africa).
2. Nicholson S, Nicholson C. I used to have two parents and now I have three? When science (fiction) and the law meet: Unexpected complications. Med Law 2016;35(3):423-440.
3. Skosana T. A donor-conceived child's right to know its genetic origin: A South African perspective. OBITER 2017;38(2):261-274. https://doi.org/10.17159/obiter.v38i2.11439
4. Canner S. Navigating surrogacy law in the non-united states: Why all states should adopt a uniform surrogacy statute. J Civil Rights Economic Dev 2019;33(2):113-140.
5. Nöthling-Slabbert M. Legal issues relating to the use of surrogate mothers in the practice of assisted conception S Afr J Bioeth Law 2012;5(1):27-32.
6. In re confirmation of three surrogate agreements 2011 (6) SA 22 (GSJ) par 15. Ex parte WH and others 2011 (11) 6 SA 514 (GNP) par 38.
7. Baase M. The ratification of inadequate surrogate motherhood agreements and the best interest of the child. Potchefstroom Electronic Law J 2019;22(1);2-26. https://doi.org/10.17159/1727-3781/2019/v22i0a6083
8. Children's Act No. 38 of 2005, section 292. Nicholson C, Bauling A. Surrogate motherhood agreements and their confirmation: A new challenge for practitioners? De Jure Law J 2013;46(2):510-538.
9. Constitution of the Republic of South Africa 1996, section 28. Ex parte CJD and others. 2018 (3) SA 197 (GP), par 10. United Nations Convention on the Rights of the Child. General Assembly resolution 44/25 of 20 November 1989, Article 3(1). African Charter on the Rights and Welfare of the Child. Addis Ababa, Ethiopia, July 1990, Article 4.
10. Children's Act, section 292(1)(c)—292(1)(d). Heaton J. The pitfalls of international surrogacy: A South African family law perspective. Tydskrif vir Hedendaagse Romeins-Hollandse Reg 2015;78:24-46.

11. Domicile Act No. 3 of 1992, section 1(2).
12. Davel CJ, Skelton AM (eds). Commentary on the Children's Act (loose-leaf). 2007, Juta, revision service 9: 2018.
13. Ex parte CJD and others 2018 (3) SA 197 (GP).
14. Ex parte CJD and others 2018 (3) SA 197 (GP), par 13.
15. In re confirmation of three surrogate agreements 2011 (6) SA 22 (GSJ), par 17.
16. Ex parte WH and others 2011 (4) All SA 630 (GNP).
17. Ex parte WH and others 2011 (4) All SA 630 (GNP) par 29.
18. Ex parte WH and others 2011 (4) All SA 630 (GNP) par 69.
19. In re confirmation of three surrogate agreements 2011 (6) SA 22 (GSJ) par 15. AB and Another v Minister of Social Development 2017 (3) SA 570 (CC) par 45.
20. AB and Another v Minister of Social Development 2017 (3) SA 570 (CC) para 45-46.
21. Thaldar D. Surrogate motherhood and scaremongering: Is South Africa entering an age of post-truth jurisprudence? De Rebus 2018; 28.
22. AB and Another v Minister of Social Development 2017 (3) SA 570 (CC).
23. AB and another v Minister of Social Development 2017 (3) SA 570 (CC) par 12.
24. AB and another v Minister of Social Development 2017 (3) SA 570 (CC) par 73.
25. AB and another v Minister of Social Development 2017 (3) SA 570 (CC) par 302.
26. KB and Another v Minister of Social Development (966/2022) [2023] ZAMPMBHC 12 (20 February 2023).
27. KB and another v Minister of Social Development (966/2022) [2023] ZAMPMBHC 12 (20 February 2023) par 40.
28. KB and another v Minister of Social Development (966/2022) [2023] ZAMPMBHC 12 (20 February 2023) par 20.
29. Children's Act, section 295(a). Louw A. Ex Parte MS 2014 JDR 1012: Surrogate motherhood agreements, condonation of non-compliance with confirmation requirements and the best interests of the child. De Jure 2014; 47(1) 110—118, 111.
30. Nicholson C. When moral outrage determines a legal response: Surrogacy as labour. SAJHR 2013; 29(3), 496–514. https://doi.org/10.1080/19962126.2013.11865087501
31. APP and Another v NKP 2021 JDR 1650 (WCC)/ (17962/2020) [2021] ZAWCHC 69 (11 March 2021) par 24.
32. APP and Another v NKP 2021 JDR 1650 (WCC)/ (17962/2020) [2021] ZAWCHC 69 (11 March 2021).
33. APP and Another v NKP 2021 JDR 1650 (WCC)/ (17962/2020) [2021] ZAWCHC 69 (11 March 2021) par 21.
34. APP and Another v NKP 2021 JDR 1650 (WCC)/ (17962/2020) [2021] ZAWCHC 69 (11 March 2021) par 25.
35. Jordaan DW. Surrogate Motherhood in illness that does not cause infertility. S Afr Med J 2016;106(7):684-685. https://doi.org/10.7196/SAMJ.2016.v106i7.10668685
36. Children's Act, section 296(1)(a). Louw A. Ex Parte MS 2014 JDR 1012: Surrogate motherhood agreements, condonation of non-compliance with confirmation requirements and the best interests of the child. De Jure Law J 2014;47(1):110-118.
37. Children's Act, section 296(1)(b).
38. Nicholson C, Bauling A. Surrogate motherhood agreements and their confirmation: A new challenge for practitioners? De Jure Law J 2013;46(2):510-538.
39. Christiansen K. Who is the mother? Negotiating identity in an Irish surrogacy case. Med Health Care Philosophy 2015;18(3):317-327. https://doi.org/10.1007/s11019-014-9605-6
40. Nicholson S, Nicholson C. I used to have two parents and now I have three? When science (fiction) and the law meet: Unexpected complications. Med Law 2016;35(3):426.
41. Nicholson S, Nicholson C. I used to have two parents and now I have three? When science (fiction) and the law meet: Unexpected complications. Med Law 2016;35(3):425.
42. Rasheed A. Confronting problematic legal fictions in gestational surrogacy. J Health Care Law Policy 2021;24(2):195.
43. Rasheed A. Confronting problematic legal fictions in gestational surrogacy. J Health Care Law Policy 2021;24(2):198.
44. Fischbach RL, Loike JD. Maternal-fetal cell transfer in surrogacy: Ties that bind. Am J Bioeth 2014;14(5):35-36. https://doi.org/10.1080/15265161.2014.892179
45. Nicholson S, Nicholson C. I used to have two parents and now I have three? When science (fiction) and the law meet: Unexpected complications. Med Law 2016;35(3):434.

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