

Kind auf Bestellung: Ein Plädoyer für klare Grenzen (“Child to order. A Plea for clear limits”)

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I am an author and journalist, based in Vienna¹. I did research on the surrogacy issue for two years, in Austria, Germany, France, Great Britain, Israel, South and Eastern Europe, Russia, India, USA, Nigeria. I have talked with more than 200 persons involved, in one way or another, in this practice (doctors, midwives, Psychologists, experts on philosophies, ethics, genetics, persons with disabilities, parents, children, egg donors, sperm donors, surrogate mothers). I also documented my research, in particular in the bioethics, philosophical, and sociological fields, trying to include recent works (mostly in German and English).

To have children is no longer dictated by nature. Medicine and science are able to fulfill almost any desire and make nearly everything possible. Everybody can have a child, has even a so-called right to a child, it does not matter in which kind of relationship he or she lives. Everything can be planned, controlled and seems to be safe.

Of course this is an illusion, but one our society believes in. The Reproductive Medicine and Genetic Diagnostics are only symptoms of the prevailing thinking that says: „Everything is possible“. Everything is for sale - a desired child as well.

There are nearly no official statistics about the number of surrogate mothers or their children. The profit is estimated at about four billion US-Dollars, a number that seems to me to be too low. In Thailand alone about 2,000 couples from abroad per year hire a surrogate mother. As Thailand and India have stricter laws now, the market is booming elsewhere, in countries like Mexico or regions like Eastern Europe.

Commissioned by the European Parliament the London School of Economics tried to get facts. Thirteen clinics were contacted in Europe, only six have sent relevant data. Their figures show an increase at a low level. In the Netherlands, where so called

¹This presentation is based on the intervention that Eva Maria Bachinger made on the Assises pour l'abolition universelle de la maternité de substitution, Paris, 02. 02.2016.

altruistic surrogacy is admitted, only two children were registered in 2013. As the number of children from surrogate mothers is steadily increasing it shows that the reproductive tourism does not stop, even if there is a liberal national law in place.

Most of the couples go abroad, in cheaper, poorer countries. In addition, in western European countries there is a lack of women who are available for surrogacy. In 2013 in France about 200 children were born in this way, in the UK about 150. The surrogate mothers all came from abroad. Since many private clinics are not registered, the authorities have no overview.

Also in Russia experts assume that the data are not complete. More than 900 surrogacy- programs were documented in 2012, about 300 children were born. Two thirds of the programs did not lead to a child. The agency Surmama alone reports about 76 children in 2012. So we can assume the total number is much higher, since there are at least 140 clinics. Officially.

The price differences are huge. In Russia the entire program costs 60,000 US \$, in India 30.000, meanwhile in the States you have to pay up to 150,000 US \$. In Russia the surrogate mother gets a maximum of \$ 10,000, in the USA \$ 30,000, in India \$ 6.000.

In Russia so-called „all-inclusive packages“ and „flat-rate programs“ are offered. The couple gets a baby guarantee, they can try and try as often as they want, change the donors and change the surrogate mothers. The women who are not successful get no money at all.

In Ukraine there are so-called „Best Deal Offers“ for 30,000 Dollars, also with 100 percent baby-guarantee. Surrogate mothers in Russia live together in an apartment for nine month but they are not allowed to talk about the details of the contracts. They come mostly from rural areas or from Belarus and Ukraine, recruited by ads on the Internet or in newspapers. Most of them are single moms, from poor and middle income groups. Women have little chance on the labor market, wages are low, many social benefits have been abolished. So the situation is difficult, egg donation or surrogacy therefore are seen as a possibility to gain a certain amount of money quickly. The clinics present themselves as benefactors, which give women a chance. But actually surrogate mothers have no choice, only the clinic and the couple: they have to accept several attempts to get pregnant, even if the hospital knows that the couple has only embryos with „poor quality“. The surrogate mother is not informed about that. Is the baby too big because of the body height of the intended parents, she has bad luck. There are no independent

checks of the clinics, to the disadvantage of the surrogate mothers, reports the anthropologist Christina Weis, who did field research in St. Petersburg. In Russia surrogacy is allowed only for heterosexual couples or single women, if it is medically necessary. But de facto also gay couples and single men are clients of the clinics. The international clientele is increasing, but not to the extent as in India and the USA.

In the womb of the 28-year-old Natalia grows the child of a 36-year-old Russian couple, who lives in a wealthy part of Moscow. More she does not know and she doesn't want to know more, she says. Nobody of her family knows what she is doing in Moscow, no one should know about it. „I get a million rubles after birth and now 20,000 rubles per month. That's very good.“ Otherwise, she and her husband have no chance to get so fast so much money. „We could just rob a bank,“ she says, because to get a loan, is „utopian“. Too uncertain is their income: He works as a construction worker, when there is work, she studies law. „We are realists, there is no other way. Because of the current ruble exchange rate we are already uncertain whether there is enough money to buy a small house.“ Her long absence from home isn't unusual, because they often must work somewhere else. Their little boy is with her mother. Natalia wants to know how much gets a US surrogate, and swallows: It is twice as much she gets. Her surrogacy contract is very simple - and undifferentiated. „If there is a problem, it can be interpreted in this way or in another. It's not clear what will happen if the child is handicapped. But it is part of the daily life here that nothing is clear and sure. Well, only one detail is really important to me: How much money I'll get in the end.“ Her husband says: „Natalia is just the container for this child. When this is over, we take the first train from Moscow and we are gone.“

As the market is growing, the Dutch Rapporteur on Human Trafficking, Corinne Dettmeijer, published a report on surrogacy. For her surrogacy falls under trafficking because it is a „misunderstanding“ to believe that it is only trafficking, when people are trafficked, it is also trafficking when parts of them like organs or germ cells are for sale. The agencies are therefore the one who exploit the surrogate. The doctors are supporters, the intended parents are consumers. The intended parents cannot be legally prosecuted for trafficking, but Dettmeijer calls upon the states to act and to tell couples not do go abroad to engage a surrogate mother. Global action is needed to get the problem under control, she says.

Surrogacy is not prohibited in every EU-country, many countries such as the Czech Republic, Hungary and Romania have no specific laws, which allows a black market. In the Czech Republic for example you can fix a private contract with the help of a lawyer. „We give treatment to couples with a surrogate mother about three to six times a month, but the patients must have medical reasons and they need to bring the surrogate. They have to go to a lawyer and have a contract. When we see that everything is fine, we make the treatment“, explains Doctor Stephan Machac in Brno. A clinic in Zlín opens the website with the headline: „Our surrogate mothers have already given birth to a dozens of children“. Czech women offer their uterus in the internet for 12 000 to 50 000 Euro.

Even in countries where there are so-called „altruistic surrogacy“, like in Great Britain or Greece, surrogacy is paid illegally or they call it refunding of expenses like hotel, food,.. etc. In UK for example this amounts to 20.000 US\$ Dollars. In Greece, where each case must be controlled by a judge – the law says that there must be a close relationship between the couple and the surrogate mother and they both have to be resident in Greece. But in most cases there is no close relationship, the majority of those women come from Eastern Europe. It is most likely that they get paid for their services, the Greek sociologist Aristides Hatzis reports. The lawyer Takis Vidalis says that no official statistics on how many women are brought from abroad to Greece for egg donation or surrogacy are available. „Many of them come from Bulgaria, Romania, Ukraine, Albania, but also from other countries, „which logically means that their motives are not altruistic“. Not only Greek, but also Spanish clinics recruit women from Eastern Europe. „It is very well organized, an extremely lucrative market“, says a doctor. The Romanian journalist Andrei Ciurcanu has interviewed women from abroad. They told him, they get 14.000 Euros for the birth of a healthy child.

Between a bank and fast food chain at the Unirea Shopping Center in Bucharest I wait for a woman offering her uterus on the Internet. „Hi, I am Elena,“ she says when she arrives. Only a few months ago she has registered on the website. Within a few days she got dozens mails from around the world. From Canada, the UK, the USA, China, from many European countries, couples, homosexual couples, single men. She wants to get 8.000 euros for the surrogacy. „Life is just very hard here, the prices are high, income is very low. It is a way to make money. Of course I am ready to do that only because of the money.“ Elena has also thought about egg donation. „Of course it is forbidden, but Romania is like a wild jungle. Money make everything possible, money, nothing else

matters.“ The authorities are not interested to see the reality: the Romanian Ministry of Health said that they have no knowledge about such practices in Romania. However, in June 2014 it was reported that the authorities against organized crime had revealed a network of illegal agencies for surrogate mothers in Timișoara. The women came not only from Romania, but also from Hungary and Slovakia. They received 300 euros for egg donation and 350 euros per month during the pregnancy.

I have not found a privileged, rich surrogate mother. Maybe there is sometimes an altruistic reason, a will to help childless couples, but the money is the main reason. Reportedly „altruistic surrogacy or egg donation“, in most cases is just propaganda of the clinics and comes from the intended parents to avoid to feel guilty. I don't see much freedom for a surrogate mother: They must complete all prenatal tests and report daily to the intended parents via telephone, email, text message. If the child is handicapped, the woman has to abort, she has actually no choice. So if the supporters of surrogacy talk about the great freedom of a surrogate mother I can only view this as cynical.

Most of the women receive no money for their many attempts to get pregnant, not even for pregnancy per se, only if it leads to a child. That needs to be a healthy child, of course. Therefore by every right you can call it a child trafficking. Money for child. A Child is ordered, delivered and paid. As we know, the trade with children is not allowed. If we allow surrogacy worldwide and therefore the sale of children, then the question has to be raised: Why do we not legalize the trading of human at all? Even human trafficking cannot be prevented always and everywhere, but no thinking person would want to legalize it. When it comes to children, sadly this principle does not exist anymore. The right to know ones origin, this right of children is ignored, too. Since neither European nor global donor- and surrogate-register exist, the children rely on the good-will of private clinics to find out about their biological and genetic parents. It is the states that must guarantee access to these data.

Moral and ethical standards are obstacles for maximizing profit. Therefore capitalistic systems ignore and destroy those standards. One ethical standard, the International

Convention of the Rights of Children is ignored – in favor of the so called right to have a child and the profit of clinics. That is the real scandal. Many supporters of surrogacy talk a lot about human rights. In this issue, they tend to forget the right of the children.

Actually I have the feeling that they do not know much about the meaning of human rights. Nearly each human right must always be balanced out with other human rights.

But in this issue the right to have a family is interpreted as an absolute right. That's wrong. It is limited because of the rights of children. Human rights were established to protect mainly the weak not the strong. It is obvious that in this case the children and surrogate mothers are weaker than the adult clients. The international convention of the rights of children is a fact, all states of the world – except the United States – have adopted the convention. We have to follow international law.

So, I resume: Surrogacy contradicts the Convention of Children's Rights, surrogacy is against the dignity of woman and it is just a proof that we want to have everything for sale. My book has the subtitle: for clear limits. I think, with regard to surrogacy, we already passed the limit.

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