

## NEW U.S. KNOW-HOW IN FRANKFURT—A “SURROGATE MOTHER” AGENCY

UTE WINKLER

Feminist Women's Health Center, Frankfurt, West Germany

**Synopsis** – Starting with the projected work of United Family International, I describe the attempt by the American lawyer Noel P. Keane to establish a “surrogate mother” agency in Frankfurt. The reasons for the speedy closure are dealt with in detail. The surrogate mother agency provoked broad public protest and women and groups from various backgrounds formed an alliance to resist the creation of further reproduction technology spinoffs.

**Synopsis** – Ausgehend von der Darstellung der geplanten Arbeit von United Family International, eine Umschreibung des Versuches von dem amerikanischen Rechtsanwalt Noel P. Keane in Frankfurt eine “Leihmutter”-Agentur zu etablieren, stehen insbesondere die Gründe für die baldige Schließung im Vordergrund. Die Leihmutter-Agentur rief einen breiten öffentlichen Protest hervor und Frauen/-gruppen aus verschiedenen Zusammenhängen bildeten ein Bündnis, um sich gegen die Schaffung von weiteren reproduktionstechnologischen Fakten zu wehren.

On 1 October 1987, American lawyer Noel P. Keane initiated the experiment of inseminating the European market with a “surrogate motherhood”<sup>1</sup> agency. Offices were rented in the Frankfurt Einkaufsstrasse for the agency with the illustrious name “United Family International.” Two female employees and one male manager were there to inform and advise German and European clients on the possibilities of “surrogate motherhood” in the United States.

The “Father” of the surrogate motherhood industry expected a flourishing business from the growing number of unintentionally childless married couples in Europe. The agency in Frankfurt was planned as a European information center that was to take over the administrative management for German/European clients. After presentation of a medical certificate attesting the sterility of the wife and a marriage certificate, information was to be given on the possibilities for surrogacy arrangements in the United States. The detail to be given went as far as a preliminary selection of the “surrogate mother” from an illustrated catalogue.<sup>2</sup>

Psychologically and physically screened American women were to function as “surrogate mothers”; artificial

insemination, pregnancy, and birth, including handing over the child, were to take place in the United States.

The service package was to include procuring a substitute mother in the United States under valid U.S. law; supervision of insemination, pregnancy, and birth by selected physicians; transfer of the child to the German father and subsequent adoption by his wife. For these services, 60,000 DM in all were to be paid, 20,000 DM each for the “surrogate mother” and Noel P. Keane, the remaining 20,000 DM earmarked for physicians' fees, stay in hospital, insurance, etc.

In this article I do not examine the issues of commercialization and industrialization of reproduction and of the female body by “surrogate motherhood” nor the situation of “surrogate motherhood” itself,<sup>3</sup> but rather will explore why the agency in Frankfurt was only able to manage a guest appearance of a few weeks, before it was prohibited by court order.

During this short time, however, according to the statements of the agency, more than 30 married couples showed interest, and in the case of half of them it went as far as the actual signing of contracts.

The discussion and argument on the subject of 'surrogate motherhood' is not new in the Federal Republic. In 1981 the nonmedical practitioner and psychotherapist Alfred Hinzer procured 'surrogate mothers' for a fee of 3500 DM.<sup>4</sup> Because of the infringement of adoption agency law, he was condemned to pay a fine, which is why, according to his own statement, he left the business.

The German adoption agency law requires that adoptions, which also include "surrogate mother" contracts, may only be undertaken by State authorities or bodies commissioned by them. An extension of the law (i.e., a direct prohibition of "surrogate motherhood") is planned and will come into force this year. In it, the activity of the agent will be punishable, and the married couple and the "surrogate mother" will be fined.

The problematic element in this draft law is the punishment of married couples and "surrogate mothers" and the increasing tendency to negate the unity of woman and embryo/child. The good of the child will be of primary importance and must be legally protected—even against the woman. The sole aim of the amendment to the law is, therefore, the protection of the child. This is in keeping with other draft laws. In the Law on the Protection of the Embryo, the embryo is being protected from the woman herself. Carried to its logical conclusion, a pregnant woman could be made a criminal if her behavior is interpreted as injurious to the embryo (e.g., by alcohol and nicotine consumption).

In addition to Noel P. Keane's attempt to set up a commercial agency, there have been repeated individual newspaper advertisements in the Federal Republic, by married couples looking for a "surrogate mother" or by women offering themselves as "surrogate mothers." Some of the surrogate mother contracts brought about through such channels ended before a court, either because the married couple was demanding the money back or the mother refused to hand over the child to the contract partner. What was common to

all the court judgments was that "surrogate mother" contracts were regarded as immoral and therefore not actionable. In addition, according to German law, an unmarried mother receives sole custody of her child. Apart from the payment of maintenance, the father has no legal claim on the child. This secures the position of mothers even in the case of "surrogate mother" contracts and makes a Baby M case impossible in the Federal Republic.

It is due to the legal situation in the Federal Republic that thus far the commercial breakthrough in "surrogate motherhood" has not come about. Noel P. Keane, however, wanted to create North American conditions with his agency in Frankfurt (i.e., a commercial agency that conformed with German law) as the actual surrogate motherhood was to take place in the United States.

He was unsuccessful in circumventing German law and, subsequent to the first trial, a court ordered the immediate closure of United Family International as a result of an action brought by the City of Frankfurt.

Preceding the legal conclusion and immediately after the announcement of the opening of the agency, there was broad public rejection of it, protesters ranged from feminists, to political parties, to the churches and other associations to the trades unions. Common consensus was reached in demanding the closure of the agency, although with varying grounds and motives..

Women from the Feminist Women's Health Center, who had been active on this subject for some time and among other services offer advice to unintentionally childless women, were among the first to make their protest public. They formed a broad coalition with women from FINRRAGE (Feminist International Network of Resistance to Reproductive and Genetic Engineering), autonomous groups, churches, political parties, associations, trades unions, and the like. Support – both national and international – was expressed in

statements of solidarity with the campaign and against the agency and by women mobilizing the media in their areas. An already existing, informal women's network made up of women from varying backgrounds made this rapid and widespread reaction possible and gave us the means for action—including future action.

In contrast to the other groups demanding its closure, the main concern of the women's alliance was to establish the connections between surrogate motherhood and other methods of reproduction— and gene—technologies (e.g., in vitro fertilization, embryo transfers, embryo flushing, predetermination of sex, prenatal diagnostics, human genetic counseling) and to draw attention to the commercialization and industrialization of reproduction. The demand contained a fundamental criticism and rejection of these technologies and was not primarily directed against a dirty, morally and ethically indefensible bit of profiteering by Noel Keane.

The closure of the agency on the basis of widespread public indignation and the consequent action brought by the City of Frankfurt is therefore only a feeble expression of growing criticism of the new reproduction-and gene-technologies. In fact, a commercially run “surrogate mother” agency places in question the – self–constructed – image of the amiable, friendly, and helpful reproduction medics and researchers. The Frankfurt agency as European information center was, so to speak, a Lucifer in the Heavenly City.

More down to earth, commercial motherhood does not fit into a conservative image of the mother.

### ENDNOTES

1. In order to question the male point of view represented by the concept of “surrogate mother,” quotes are used.

2. During a radio interview (HR3, 1.10.1987) one of the women employees answered the question of whether catalogues of “surrogate mothers” were available in the following way: “No, we don't have them... We shall have a few pictures of ‘surrogate mothers,’ but only to show that these mothers have already borne children. With these pictures we can show what the ladies look like, roughly how old they are...”

3. Cf. Gena Corea, *The Mother Machine*, New York Harper & Row, 1985 and Rita Arditti, Wombs for rent, babies for sale, in *Sojourner*, March 1987.

4. Alfred Hinzer's activities were not just on behalf of helping suffering childless couples but also on behalf of maintaining the German race. Fascist tendencies are certainly not accidental here.

It is an undeniable fact that the number of Germans in the population total is decreasing and this shrinkage is being offset only by the very fertile foreigners living in or entering the Federal Republic... It is estimated that roughly every fifth marriage remains childless. Can we still afford to leave this potential for the breeding of our descendants unused? (Irmela Körner, *Prima Material*, Preis 25,000 Mark, in Peter Ross/Friederike Hassauer, *Kinderwunsch: Reden und Gegenreden zum Thema Wunschkind*. Wein-heim 1982.