



‘Emotional rights’, moral reasoning, and Jewish–Arab alliances in the regulation of in-vitro-fertilization in Israel: Theorizing the unexpected consequences of assisted reproductive technologies

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ABSTRACT

Consumption rates of assisted reproductive technologies (ARTs) in Israel is internationally unprecedented, a phenomenon that has been the subject of growing anthropological and sociological attention. Explanations for the singular extent of ARTs use in Israel tend to pre-assume and conceptually prioritize the symbolic and political power of pro-natalist discourses, Jewish religious values, and the demographic interests of the Jewish state. This article attempts to understand the exceptional usage of IVF in Israel in terms of its emergent meanings and unexpected effects in a particular local setup. The question that this article tries to answer is: How is the ‘Israeli character’ of IVF emerges within and through the interactive practice of moral justifications, and how might this medical technology affect the networks within which it is enmeshed? The article is based on a case-study analysis of a public dispute that took place in 2003–2004 over the extent of public funding for fertility treatments. Ethnographic analysis of parliament discussions, media coverage, and an online forum of IVF consumers recorded three frames of justification for the uniquely generous public funding scheme of IVF in Israel: ‘rational-economic’, ‘nationalist’, and ‘liberal’. The latter assumes shared ‘emotional vulnerability’ of all ‘childless’ Israelis, Jews and Arabs alike and advocates a universal language of ‘emotional rights’ and ‘human rights’. This liberal framing of IVF, which is the most persuasive justification in the dispute, blurs dichotomous rivalries between Jews and Arabs and generates a potential for alliances between traditionally rival sectors. These are some of the unexpected and non-intuitive consequences of ARTs in Israel.

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Introduction

In late December 2003 the finance committee of the Israeli Knesset (henceforth KFC) convened to discuss the budget for health services in the fiscal year 2004. One stressing issue in that meeting was a controversial suggestion to reduce the public funding for fertility treatments. In the midst of the intensely emotional debate that evolved in that meeting, one participant, a patient receiving In-Vitro-Fertilization (IVF) treatments, ardently questioned the committee’s right to discuss such budgetary reduction: “who can sit here, look me in my eyes, and say to me ‘you will not have another child’. Who has the moral right to do that?” (KFC, 25.12.2003, protocol #7558). This understanding, that IVF budgeting is an issue of moral contemplation echoed throughout a public dispute over state funded fertility treatments. For example, the rabbi and

gynecologist Mordechai Halperin maintained: “we are dealing here with the creation of human life, and with the issue of realizing the right to parenthood. This is a basic right [...] and I think it is our job to view [this issue] beyond the narrow frame of numbers [...] this is an issue of values and humanism” (Committee on the Status of Women, 18.9.2003, protocol #7113). In tandem with the view that fertility treatments are imbued with moral issues, some KFC members felt that any restrictive intervention on their behalf would be ethically illegitimate. As summarized by one member: “neither myself, nor anyone else has the right to decide whether or not a mother will have a second child” (KFC protocol #7558). In this paper I argue that this and other discussions on the ‘moral shadow’ of fertility treatments in Israel capture the unique meanings that Assisted Reproductive Technologies (ARTs) carry in this local setting.

It has been previously noted that ARTs, and particularly IVF, are consumed in Israel at uniquely high levels— 8 times the international average (Collins, 2002). This phenomenon is expressed in the highest number of IVF treatment cycles per capita in the world; in

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a public health policy that is far more inclusive than those of any other country; and in internationally unparalleled rates of public funding allocated to fertility treatments. Recent data published by the Israeli Ministry of Health show constant increase in consumption rates of IVF treatments— a 54% increase from 2000 to 2009 — far beyond the population growth for that period (Israeli Ministry of Health, official data publication, 2011). In recent years the phenomenon of IVF in Israel has come to be a topic of academic interest and concern (Birenbaum-Carmeli, 2004; Gooldin, 2008, 2011; Ivry, 2010; Kahn, 2000; Remennick, 2000; Shalev & Gooldin, 2006). Referring to the unique manifestations of ARTs in Israel, previous studies tended to search for (and find) local cultural forces that mobilize ARTs' distribution and consumption in this region. More specifically, these studies emphasized the symbolic power of a local pro-natal discourse, grounded in Jewish religious values, national identifications, and concerns for the 'demographic interests' of the Israeli state in the context of the Israeli-Palestinian conflict. For example, Kahn's pioneering ethnography of assisted conception in Israel (2000) explores how rabbinic understandings of personhood and kinship — within which the privileged object of relatedness is not genes but rather women's wombs — are intertwined with secular legislation concerning reproductive technologies in a way that legitimizes (state funded) fertility treatments for single women. Other studies, albeit in different ways, showed that the practice of ARTs in Israel both reflects and reproduces the logic and interests of the Jewish state (Birenbaum-Carmeli, 2004; Hashiloni-Dolev & Shkedi, 2007; Ivry, 2010; Remennick, 2000; Shalev & Gooldin, 2006; Teman, 2010). In tandem with this discursive framing, an underlying theme in many studies has been that reproductive technologies in Israel enhance what Birenbaum-Carmeli and Carmeli (2010) dub 'the policing of boundaries'. In other words, previous accounts of ARTs in Israel build on the assumption that cultural and political predispositions engrave themselves on medical technologies which are, in turn, used for 'reproducing Jews'.

While these studies document the enmeshment of reproductive technologies in a relatively stable set of social, political and economic systems, they tend to overlook some of the more dynamic aspects of ARTs in Israel. First, as has been shown in other contexts (mainly with regard to kinship and gender), ARTs can both recuperate traditional structures and social arrangements (Franklin, 1997; Inhorn, 2003a), and shake up and reformulate such relations (Strathern, 1992). The latter aspect is particularly important for this study, as it implies that ARTs can potentially generate 'unexpected consequences' in the (brave or not) new worlds which are assembled around them. That is, that seemingly stable social structures and symbolic systems can 'unpredictably' modify with and through ARTs. Examples for such 'unexpected consequences' include subjective experiences of autonomy and agency among women who consume IVF in Patriarchal settings (Denny, 1994), and the emergence of new forms of queer kinship at the interface of nature/culture and changing social norms (Mamo, 2007). This transformative potential of ARTs—to open up new ways of imagining the world, new forms of being and acting in the world, and changing lived realities— has been largely 'under the radar' of ARTs studies in Israel. In this respect, the contribution of this study is in highlighting this aspect of ARTs in the Israeli context.

The analytical focus on ARTs and social change overlaps with the theoretical emphases on what, paraphrasing Latour, has been dubbed 'technologies-in-action' (Timmermans & Berg, 2003). In this perspective, medical technologies are seen as neither 'the helpless bearers of symbolic projection' (Latour, 2005: 10), nor an independent driving force of social reality. Rather, they are viewed as interactively emerging within and through the 'associations' (networks) that contain them.

In line with this perspective, this study attempts to understand the singularity ARTs in Israel through an ethnographic analysis of interactive practices of moral reasoning. This analysis does not take as givens neither the cultural forces that are shaping the uses of IVF in Israel (e.g. nationalistic pro-natal discourses) nor its' assumed social consequences (e.g. exclusion and reinforced boundaries). Rather, the ethnographic question that this article tries to answer is: How is the 'Israeli character' of IVF emerges within and through these interactions, and how does this particular medical technology affect the 'associations' within which it is enmeshed? While the articulation of this question is inspired by actor-network-theory (ANT), this article does not assume to present a 'thick description' of agents in legislative and other networks or to "pass a test for ANT membership" (Latour, 2005: 10). Instead, it selectively adopts two conceptual emphases of ANT, which I view as important for opening new ways to study ARTs in Israel. The first is the view that 'non-human entities' (such as the technology of IVF) are active agents giving shape to the social worlds in which they take part. The second is the understanding that the social world, that is; "associations between entities" (Latour, 2005: 65), has the dynamic nature of assembling into new social shapes. For this reason, "the social, for ANT, is the name of a type of momentary association" (ibid, 65) rather than a stable set of affairs. These conceptual emphases inspire my interest in the transformative potential of the 'entity' IVF, within social worlds ('association') in Israel. The agenda for a sociological— anthropological study is, thus, to explore medical technologies as "central mediators in the construction and reproduction of novel worlds" (Timmermans & Berg, 2003: 108, my emphasis). As this study demonstrates, this agenda opens a new analytical space from which we can consider the complex and sometimes unexpected worlds that medical technologies take part in shaping.

Taking this agenda as a point of departure, this study explores a key moment in the discourse of IVF in Israel. It examines a public dispute over the extent of the state's support of IVF treatments which followed a proposal by the Ministry of Finance to cut back some of the funding allocated to fertility treatments. The following section describes the legislative background for the proposed cut-backs and outlines the rationale and main agenda of this initiative. This will be followed by a description of the research field and methodology of this study, and by an ethnographic analysis of 'the IVF dispute'.

Legislative background

To date the basic "health basket" in Israel includes infertility diagnosis and therapy, and IVF for the purpose of: "Bearing a first and second child — for couples who do not have children from their current marriage, and also for a childless woman who wishes to establish a single-parent family" (Paragraph 6(e) of the Second Addendum to the National Health Insurance Law, 1994, S.H. no.1469, p. 183). This applies to all Israeli citizens, with an upper age limit for women undergoing treatment (54 when eggs are donated, and 45 when egg donation is not involved). This level of public funding is a uniquely Israeli phenomenon. Other countries in which fertility treatments are funded by the NHI restrict the number of treatment cycles (usually 3–5), apply a lower age limit for women undergoing treatment (e.g. 40 at most), and in some countries single and/or gay women are denied publicly funded treatments, as are couples who already have children from previous relationships.

In a previous study we documented a strong consensus among policy makers in Israel, which allowed for a consistent expansion of state-funded fertility treatments and of definitions of eligible consumers over a period of two decades (Shalev & Gooldin, 2006). We showed that this consensus has been ensured by pressure from

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