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## **Towards a political economy of egg cell donations: "Doing it the Israeli way"**

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### **1. Be fruitful and multiply: the centrality of reproduction in Israel**

Reproduction and fertility play a very central role in Israeli society. Over the last two decades social scientists have persuasively argued that Israel's reproductive health policies have always been and remain an expression of the state's efforts to be a Jewish state (Portuguese 1998, Kahn 2000, Weiss 2002, Kanaaneh 2002, Birenbaum-Carmeli 2004 2008 2010, Prainsack 2006, Hashiloni-Dolev 2006, Nahman 2006 2008a 2008b 2013, Hashash 2010, Remennick 2006 2010). Two crucial points are made within this oeuvre, one focusing on quantity and the pronatalist character of Israel's reproductive policy and the other on its qualitative quest for the perfect baby.

The first contention is that Israel's reproductive policies are ardently pronatalist. This becomes clear when looking at Israel's policies on (assisted) reproduction and family planning. Israel's pronatalist policy has been institutionalized through multiple funds and committees such as the 1949 Heroine Award for mothers with at least ten children the 1962 Committee for Natality Problems, the 1968 Demographic Centre with its Fund for Encouraging Birth and the 2002 Israel Council on Demography. These funds and committees provided monetary incentives for producing large families, social benefits for (working) mothers and high child allowances (Birenbaum-Carmeli 2007,25). As for Israel's policy on assisted reproduction, Israel has more fertility clinics per capita than any other country in the world and Israelis are by far the biggest consumers of fertility treatments (Shalev & Felmayer 2012). Assisted reproductive technologies such as in vitro fertilisation (IVF), intracytoplasmic sperm injection (ICSI), donor insemination (DI), surrogacy, egg donation, egg freezing and prenatal genetic diagnosis (PGD) are not only widely accepted and extremely popular in Israel, but most of them are almost completely state sponsored. For instance, the Israeli government funds every citizen of the country -irrespective of religion or marital status - for an unlimited number of IVF cycles until the live births of two children within the current relationship (Shalev & Felmayer 2012). In contrast to this remarkably generous support for enabling reproductive technologies, treatments that restrict family size remain largely unsubsidized in Israel (Balabanova & Simonstein 2009). Family planning services are not only inadequate, but they hardly receive state support (Portuguese 1998). Contraceptives are not widely promoted in Israel and abortion is still illegal, except for therapeutic reasons.

The second contention within the body of work on Israel's reproductive technologies is that Israel, although pronatalist, is equally concerned with quality and the so called quest for the perfect baby (Remennick 2006, Hashiloni-Dolev 2009). Research has indicated that Israeli women are among the world's biggest consumers of prenatal genetic tests, genetic profiling and counselling. Meira Weiss (2002) observed that the popularity of prenatal genetic testing among Israeli women coincides with high rates of therapeutic abortions in case of (minor) fetal problems. According to Weiss this is the result of

the societal urge to produce ‘Sabras’<sup>1</sup>, a new type of Jew that exhibits strong and masculine physical attributes as opposed to the feminine, neurotic and weak image of the Diaspora Jew (Weiss 2002, Massad 2005).

Concordantly, the Israeli regulation on ‘red’ biotechnology - i.e. biotechnology applied to medical processes - is very loose. Controversial techniques and practices such as human embryonic stem cell research, therapeutic cloning or sex selection are allowed in Israel. Barbara Prainsack (2006) observed a remarkable absence of public controversies about the moral permissibility of technologies such as cloning, genetic modification or human embryonic stem cell research. She called this “*fearless, liberal but not immoral embrace of biomedical technologies*” as part of “*doing it the Israeli way*” (Prainsack and Firestone 2006, 42).

This urge to “reproduce New Jews” (Kahn 2000) has often been explained and legitimized from a culturalist point of view, focusing on the centrality of reproduction in Judaism, Jewish culture and tradition. Some researchers, politicians and opinion makers refer to religious motives to explain Israel’s pronatalist stance such as the first commandment (mitzvah) in the Torah prescribing Jews to ‘be fruitful and multiply’, to the omnipresence of the Matriarchs and Patriarchs in Jewish tradition, to the compatibility of the Jewish law (Halakha) with the principals of assisted reproduction and to the very “liberal” attitude of the orthodox Jewish establishment toward artificial reproductive technologies. Others refer to the violent history of the Jews in Europe and the virulent waves of persecution they faced culminating in the Shoah, which equated individual procreation with collective survival. Without wanting to downgrade the importance of reproduction and family life within Judaism and Jewish culture, I will argue in this chapter that instead of strictly focusing on cultural or ethnic narratives of ‘Jewishness’ to explain Israel’s pronatalist stance, one should also look at the political economy of reproduction in Israel/Palestine. This perspective should not only take into consideration the centrality of reproduction within the ongoing Zionist settler colonial project (logic of elimination), but also Israel’s leading bio-economic position in the globalized health and research market (logic of capital accumulation). By looking into one specific case study of assisted reproductive technologies, a recently voted law on egg cell donations, I will argue that Israel’s permissive stance on egg cell donations (and assisted reproduction in general) has not only been shaped by Jewish culture and tradition, but also by ongoing histories of Zionist settler colonialism and neoliberal bio-capitalism (Nahman 2013). First, I will elaborate further on the context and genesis of the Egg Donation Law which has been legitimized by the Israeli establishment by referring to the will to make infertile women’s reproductive dreams come true in a way that religiously and culturally corresponds with existential and ethical “Jewish” questions. In a second part I will argue that a political economy analysis could bring further understanding to the law and practice of egg cell donations in Israel, by elaborating on its settler colonial and neoliberal components. Despite their local contingencies, I consider both settler colonialism and (neoliberal) capitalism to be historical systems governed by a certain structural logic. In the case of settler colonialism Patrick Wolfe (1999, 2006, 2007) refers a governing logic of elimination of the indigenous populations and their entitlements to the native land. The underlying structure of (neoliberal) capitalism is one of capital

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<sup>1</sup> Sabra or Tzabar literally means cactus fruit in Hebrew, but it also refers to an Israeli born Jew. Cactus fruit is soft in the inside and rough on the outside, as such it is a symbol of collective renewal as well as a dissociation from the Jewish Diaspora life of the past (Meira Weiss 2002)

accumulation by dispossession and the ongoing commodification of everything, including female reproductive tissues such as egg cells (Dickenson, Cooper, Waldby, Harvey). I will contend that Israel's policies on egg cell donations have been co-produced by 1) Zionist demographic politics which aim to consolidate a Jewish majority in a Jewish state and - by consequence – aim to eliminate the indigenous Palestinian population by symbolically preventing it to be born and 2) the Israeli attempt to create a competitive stem cell industry in a globalizing bio-economy. In a last part I will elucidate further on how these multiple histories of accumulation and elimination have also affected the ways in which Israeli and Jewish kinship is being (re)conceptualized.

This chapter is part of my ongoing research on the political economy of assisted reproduction in Israel/Palestine which is based on fieldwork that I conducted throughout 2012 (January until March and July until August). My fieldwork largely consisted of a close reading of policy documents, participatory observations in fertility clinics that performed egg cell donations, and semi structured interviews with different actors involved in the realization of the Law on Egg Cell Donations, such as fertility doctors, patient organizations, feminist organizations, rabbis, stem cell researchers, representatives of the Ministry of Health, bio-ethicists, etc.

## 2. Israel's Law on Egg Cell Donations: between supply and demand

In July 2010 the Israeli Knesset approved a controversial law on Egg Cell Donations. According to the new law single Israeli women aged between 21 and 35 who are healthy and not undergoing fertility treatment themselves will be allowed to donate egg cells for reproductive or research purposes and receive a financial compensation of NIS 10.000 or approximately € 2000. Israeli women between 18 and 54(!) who suffer from fertility problems can request an egg cell donation, which will be paid for through the Israeli Health Insurance. Donors will be permitted to donate oocytes three times, given to no more than three women with fertility problems, and this on an anonymous basis (Knesset, Law on Egg Cell Donations 2010)<sup>2</sup>. The law came about after an intensive ten year deliberation process that took place in the Knesset and in multiple governmental committees, such as the Public-Professional Committee on the matter of egg cell donation headed by rabbi Mordechai Halperin and the Committee on the Status of Women headed by MK's Yael Dayan and Ahmed Tibi (Nahman 2013). Within these governmental committees several different actors such as fertility doctors, rabbis, bio-ethicists, nurses, feminists, stem cell researchers, patient rights organizations were invited by the Ministry of Health to discuss the physical, ethical and moral problems arising from the practice of egg cell donations.

The main motivation for initiating the law on egg cell donations was the so called national shortage of egg cells, which was caused by an increasing demand for eggs by women in reproductive need and a low supply of donor eggs cells from fertility patients who were too reluctant to donate their spare eggs

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<sup>2</sup> Despite the advances in medical technologies, egg donation is still an invasive and potentially harmful procedure in which the body of the donor is hormonally overstimulated to produce multiple egg follicles that are then surgically "harvested". This whole process still carries the risk of ovarian hyperstimulation syndrome which can involve pain, abdominal inflammation, possible renal failure and infertility, venous thrombo-embolism and cardiac instability (Steinbrook 2006). Moreover, little research has been conducted on the long-term health risks of ovarian stimulation (Dickenson 2005, Beeson 2006; Waldby 2008, Werner-Felmayer 2009).

(Shalev 2010)<sup>3</sup>. The willingness of women to donate egg cells deteriorated even more after two dramatic events, the 2000 Egg Affair and the 2010 Sabyc Clinic Affair. In 2000 the Israeli police opened an criminal investigation against the renowned fertility doctor Zion Ben-Rafael who was accused of harvesting enormous quantities of egg cells from women without their informed consent. The scandal resulted in a crisis of trust, and the practice of egg donation in the country ceased almost completely. Meanwhile, Israeli women in need of eggs started travelling to IVF clinics in countries with a loose legislation on infertility procedures, such as Romania, the Ukraine, Cyprus and the Czech Republic where Israeli fertility doctors have been setting up branches of their clinics (Nahman 2008, 2013 & Shalev 2010). In this process of “*reverse egg traffic*” (Nahman 2013) physicians prepare their Israeli patients hormonally for embryo transfer after which these women travel abroad to be implanted with cheap ova from the local donor population (Nahman 2006). Public pressure for the approval of the Law on Egg Donation grew even stronger when the Romanian police raided the Sabyc fertility clinic in Bucharest, which was set up by Israeli fertility doctors on behalf of Israeli women in need of an egg donation (Shalev 2010). The Romanian authorities arrested the responsible Israeli doctors who were accused of human egg trafficking and endangering the lives of dozens of Romanian women for the purpose of harvesting and selling their eggs. After these dramatic events the Israeli government was decisive to regulate the practice of egg cell donations and to allow healthy women to donate ova in order to create a better match between supply and demand of egg cells without pushing infertile Israeli women into the illegal circuit of transnational ova trafficking<sup>4</sup>.

The Egg Donation Law has been explained and legitimized by referring to the will to make infertile women’s reproductive dreams come true in a way that religiously and culturally corresponds with existential and ethical “Jewish” questions. In 2007, when the Egg Donation Bill passed yet another reading, the Minister of Health mentioned in his opening statement for the Knesset:

*“In the State of Israel the value of parenthood, the right to bring children into the world and realization of the personal aspiration within the family unit are extremely central, both from the **cultural and halakhic** point of view. [...] The opening of many IVF units all over the country, the freezing of fertilized eggs for many years, bringing children into the world by means of surrogacy, posthumous sperm insemination and more – all these are the fruits of technological progress that found legal redress in legislation [...]. The current bill is one more step in this direction, since it addresses the issue of egg donation, a subject that touches considerable suffering of many couples and women and has been a significant barrier to realizing the right to parenthood.”* (Knesset Plenary 2007, quoted in Shalev 2010: 6, emphasis added by S.V.)

What has mostly been overlooked in the appraisal and evaluation of the law on egg cell donations are two crucial amendments. One clause in the new law allows egg cells to be donated for research purposes, and another amendment stipulates that the donor and the recipient of the egg cell have to share the same religion. In her recently published excellent book on egg extractions Michal Nahman

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<sup>3</sup> According to Shalev (2010) the demand for egg cells tripled in ten years time, from 2000 in 2000 to 6000 in 2010. This was caused by the fact that Israeli women who were beyond their “natural” reproductive age and whose egg cells were no longer viable for IVF treatments considered egg donations as the ultimate solution to have a baby .

<sup>4</sup> However, because the law on egg cell donations has not succeeded in attracting enough local Israeli donors, the practice of transnational egg cell donation continues to exist. Private and public IVF clinics in Israel continue to supply infertile Israeli women with oocytes sold by women in Central and Eastern Europe.

(2013, 26) states that “*there are various ways to tell the story of Israeli egg donation. It’s about how you chose to map them. These choices are crucial*”. Instead of focusing on the cultural and religious motives to explain Israel’s “liberal” law on egg cell donation, I have chosen to analyze the law and practice of egg cell donations from a political economy perspective. This implies viewing egg cell donations as nation-building and state making practices, in which certain exclusive histories of race, class and gender re-materialize in deciding who or what can belong to the Israeli “imagined community”. In the case of Israel this refers to a Zionist state that has been settler colonial since its creation and has been orienting its economy in an explicitly neoliberal way since the late seventies.

### 3. The Law on Egg Donations from a settler colonial perspective

- **Settler colonial demographics and stratified reproduction in Israel/Palestine**

Drawing on the work of Patrick Wolfe, Lorenzo Veracini (2006, 2010), Nahla Abdo and Nira Yuval-Davis (1995), I will not frame the Zionist project in Israel/Palestine as a nationalist project, but rather as settler colonial one where - similar to the United States, Australia or Canada - Europeans have settled in an already populated alien territory and where their descendants have remained politically dominant over the indigenous populations (Yuval-Davis & Stasiulis 1995)<sup>5</sup>. Notwithstanding their contingencies and variations in historical genesis and development, settler colonies share a set of common features. According to Patrick Wolfe (2006) they have two basic concerns, one referring to territory and the other to demography and the management of populations. First and foremost, settler colonial projects are concerned with territorial expansion and the maximal accumulation of indigenous land. Secondly and consequently, settler colonies aim to remove the natives so that the land can be repopulated with the settler population. As Wolfe (2007, 58) puts it: “*A settler colony’s aim is the replacement of native society, it’s governing logic is thus one of elimination or removal rather than incorporation of indigenous peoples*”. In the case of Zionism this was reflected in the project of “creative destruction”<sup>6</sup> in Historical Palestine that started at the end of the 19<sup>th</sup> century when Jewish *pioneers*, inspired by the Zionist ideology and evading European anti-Semitism, immigrated to Palestine and started accumulating indigenous land. This process of territorial expansion was accompanied by a structural dispossession of Palestinian farmers. The Holy Land was to be depopulated from its Palestinian inhabitants and repopulated with Jewish settlers. The *raison d’être* of the Zionist settler colonial project has been the perpetual de-Palestinization and Judaization of Historical Palestine. Again drawing on Wolfe, I don’t view

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<sup>5</sup> It would be incorrect to say that Zionism is absent in the existing body of work on the policies of assisted reproduction in Israel. When reviewing the literature, Zionism is often mentioned as one of the explanatory paradigms, next to Judaism, Jewish culture, patriarchy and *familism* (Portuguese 1998, Kahn 2000, Weiss 2002, Kanaanah 2002, Birenbaum-Carmeli 2004, 2008, 2010, Prainsack 2006, Hashiloni-Dolev 2006) However, Zionism is mostly framed as a Jewish nationalist movement/ideology that like all other forms of European nationalisms has shown a great interest in demographics and population. Consequently, considerable attention has been dedicated to the Judaizing effects within Israel’s reproductive policies (enlarging the settler population), and not so much to its de-Palestinization effects (diminishing the indigenous population).

<sup>6</sup> In his book *Altneueland* Theodor Herzl, the founding father of Zionism, wrote that ‘If I want to substitute a new building for an old one, I must demolish before I can construct’. (quoted in Wolfe 2007, 314)

the Zionist settler invasion as an event that ended in 1948 with the creation of the State of Israel or that started in 1967 with the military occupation of the West Bank, Gaza and East-Jerusalem. Rather, I will analyze it as a structure that hasn't ceased since it moved on from the era of frontier homicide and mass expulsion. As Patrick Wolfe (2008, p.120) postulates: *"Narrating the history of settler colonial invasion involves charting the continuities, discontinuities, adjustments, and departures whereby a logic that initially informed frontier killing transmutes into different modalities, discourses and institutional formations as it undergirds the historical development and complexification of settler society"*. A variety of practices have converged on the purposed demographic removal of the indigenous Palestinians, ranging from frontier killings and mass expulsions between 1947 and 1949 when 750.000 Palestinians were ethnically cleansed to denying Palestinians refugees the Right to Return to their homeland. However, as Morgenson (2011, 2012) argued, indigenous removal can also proceed through settler regulation of sexual relations, marriage and reproduction. In her ground-breaking research on colonial Indonesian society of the late 19<sup>th</sup> century Ann Laura Stoler (2002,14) already claimed: *"Matters of sexuality and reproduction are not only metaphors for colonial inequalities, but they are foundational to the material terms in which colonial projects were carried out"*. A clear example of this settler colonial biopolitics is the 2003 Citizenship and Entry into Israel Law which prevents Palestinian citizens of Israel to marry a resident from the West Bank or Gaza by denying them automatic citizenship. By not allowing these family unifications Israel prevented "Palestinian return through the backdoor" (Zureik 2010). In what follows I will elucidate on these "intimacies of empire" (Stoler 2002) by connecting Zionist demographic concerns with settler colonial governance of (assisted) reproductive processes.

Israel has defined itself as being a Jewish state, a national homeland for all Jews from all over the world. This conceptualization has obviously sharpened its concern for Jewish versus non-Jewish demography (Kanaaneh 2002). From its early inceptions in the late 19<sup>th</sup> century the Zionist movement realized that in order for Israel to ever become a Jewish state, at least the majority of the population should be Jewish. In this sense, the presence of Palestinians, within and outside the borders of Israel, has always posed an existential threat to the Jewish collective body. Rhoda Kanaaneh wrote that there has been a continued national preoccupation over too many Palestinian/Arab bodies and too few Jewish bodies in the Israeli "imagined community". This has been proved at different moments in Zionist history. When the Israeli state was created in 1947, the first Prime Minister Ben Gurion stated: *"In my heart, there was joy mixed with sadness; joy that the nations at last acknowledged that we are a nation with a state, and sadness that we lost half of the country, Judea and Samaria [West Bank and Gaza, S.V.], and , in addition, that we would have in our state 400,000 [Palestinian, S.V.] Arabs"* (quoted in Morris 2001, 190). He referred to relatively small number of Palestinians who didn't leave their homeland in 1948 and who since then are considered to be an internal demographic threat to the Zionist project <sup>7</sup>. In the Koenig Memorandum, a confidential government document written in 1976, a number of strategic goals were set forward aimed at reducing the number of Arab citizens of Israel in the North of the country. Warning against an Arab demographic time bomb, Koenig expressed the need *"to examine the possibility of diluting existing Arab population concentrations"* (quoted in Yuval-Davis & Abdo 1995). In a speech given to the Knesset in 2007, former Prime Minister Ehud Olmert, still warned of *"a demographic battle, drowned in blood and*

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<sup>7</sup> Today, Palestinians constitute roughly 20% of the Israeli population (CBS 2012)

*tears*" (quoted in Goldman 2013). This fear of being outnumbered is enhanced even further by the fact that Palestinians have higher birth rates than Jewish Israeli's, a fact that is collectively perceived by Israeli society as a demographic holocaust. When discussing the future of the Palestinians in the West Bank and Gaza after they had been militarily occupied by Israel in 1967, Prime Minister Golda Meir confessed: *"In case of complete annexation we would have to wake up every morning wondering how many Arab babies have been born during the night"* (quoted in Hirst 2003, 85). Arnon Soffer, a prominent Israeli geographer, stated on a conference in 1995 that *"the most serious threat that Israel faces is the wombs of Arab women in Israel"* (quoted in Kanaaneh 2002, 74). The Israeli Central Bureau of Statistics meticulously monitors these demographic trends by yearly measuring the natural increase of its Jewish, Muslim and Christian populations in order to calculate the ratio of Jews to "Arabs". As former Prime Minister Yitzhak Rabin put it: *"The red line for Arabs is 20% of the population, that must not be gone over"* (quoted in Kanaaneh 2002, 50).

In its crusade to create and consolidate the Jewish majority in the Holy Land, Israel has attempted to enlarge its Jewish population in two significant ways. First and foremost, by installing a strong immigration policy to attract Jews from the Diaspora, crystallized in the Law of Return which gives every Jew in the world the right and privilege to "ascend" to Israel (aliyah) and to become an Israeli citizen, and by simultaneously denying Palestinian refugees their Right to Return. Second, by installing pronatalist reproductive health policies that would stimulate Jewish Israelis to "reproduce the nation". Leading gynecologist, fertility researcher and founder of Israeli Family Planning Associations Yitzhak Halbrecht (quoted in Hashash 2010) summarized it well when postulating that *"the future of the State of Israel depends on its number of citizens and their quality –both aspects depend on the magnitude of immigration from various countries of origin on the one hand and the natural increase of the local population"*. While Israeli migration policies are meant to promote an "external aliyah", its pronatalist reproductive health policies are to encourage an "internal aliyah". When commenting on Israel's exceptionally generous IVF policy, former Chief of Staff and Minister of Health Mordechai Gur stated that *"IVF is still cheaper than a newcomer"* as means of increasing the size of the population (quoted in Birenbaum-Carmeli 2004, 900).

However, as Jacqueline Portuguese (1998) and Rhoda Kanaaneh (2002) have convincingly argued, this state-sponsored pronatalism should be viewed as a selective pronatalism since it is mostly the Jewish part and not the Arab "residual" part of the nation that is being encouraged to be fruitful and multiply. Analyzing Israel's fertility policy, Portuguese (1998) concluded that the Israeli government has been as concerned with lowering the Palestinian birthrate as it has with raising the Jewish one. She emphasizes that this has never resulted in an explicit anti-natalist design for Palestinians. For instance, there is no history of forced sterilizations of Palestinian women, nor were there any special provisions or allowances for Palestinian women to undergo abortions. Moreover, Palestinian women living inside Israel are citizens of the State by which they are entitled to the same health care provisions as Jewish Israelis. There are nonetheless some indications in Israel's history of reproductive policies of what Shellee Colen (1986) has dubbed stratified reproduction, a policy by which certain groups in society are encouraged or coerced to reproduce and parent and others are not. For instance, in 1949 David Ben Gurion issued the Heroine Mother award, financial award to every heroine woman on the birth of her tenth child. The

Heroine Mother award was dropped after ten years when it turned out that it were mostly Arab women who were benefitting from it. Ben Gurion commented that *'any future prenatal incentive must be administered by the Jewish Agency [parastatal Israeli organisation which is only accountable to Jewish citizens, S.V.] and not the state [which is supposed to take care of all its citizens, including the Palestinian, S.V.] since the aim is to increase the number of Jews and not the population of the state* (quoted in Kanaaneh 2002, p.35). In 1968 Israel established a Fund for Encouraging Birth, which was only available for those who had relatives in the Israeli army, clearly excluding Palestinians in Israel since they usually don't serve in the army. In the next paragraphs I will analyze whether this selective pronatalism or stratified reproduction can also be detected in Israel's more advanced assisted reproductive technologies, by a close reading of the recently voted law on Egg Cell Donations.

- **From egg cells without a religion to interreligious zygotes**

One of the amendments that has been included without much controversy in the law on Egg Donations, states that the recipient and donor of the egg cell are required to have the same religion. This amendment has been trivialized by many of the actors involved in the decision making process as being a compromise between the secular and the religious political parties in Knesset, or as a way "not to complicate things more". Deputy Health Minister Yaakov Litzman only agreed to support the law after receiving the consent of the rabbinical authorities who insisted on this amendment since Judaism follows matrilineal standards by which the religion of a newborn baby is determined by the mother's religion. According to Halakhic standards the mother is defined as the one who carries the baby, favoring gestational motherhood over genetic motherhood. As Ofra Balaban, the president of the Israeli fertility association Chen, aptly put it: *"An egg cell is just a cell, and cells don't have a religion"* (interview Holon 26/02/2012). However, in the case of the egg cell donations there have been some disagreements over who or what defines Jewish kinship. The Legal Advisor of the Ministry of Health explained that *"one rabbi says that the mother is the one giving birth to the baby, the other one says it's the one giving the egg. So to make things easier we decided that both of them have to be from the same religion"* (interview Mira Hibner Harel 20/02/2012 Jerusalem). Ofra Balaban affirmed this: *"It was one of the compromises in order to make the religious people calm, so the egg can stay within the same tribe"* (interview 26/02/2012 Holon). Some people were quite amazed by the irony of this amendment, since most Israeli women in need of an egg donation continue to make use of Israel's transnational egg trade with countries such as the Ukraine, Rumania and the Czech Republic. The oocyte vendors in these countries are seldom Jewish. In these cases of transnational ova donation, the alleged kinship problem is solved by obliging the gestational mothers to adopt the children born from cross-border ova donations in order for them to gain Israeli citizenship (Nahman 2013). This again emphasizes how closely Jewish kinship and Israeli citizenship are interlinked in deciding who can belong to the imagined community. In this respect, Michal Nahman (2013) referred to a telling story in her research on Israeli transnational egg cell donations, in which fertilized eggs from an Israeli fertility clinic in Eastern Europe were detained because the Israeli doctors were suspected of egg trafficking. The Israeli couples demanded "their" embryos back, insisting that the embryos had the "right to return" to Israel. The right of return is a highly loaded concept in Israel since it refers to the right of Palestinian refugees to return to their homeland, a right which is ensured by the United Nations Resolution 194 but vehemently denied by Israel. Concordant with Israel's

settler colonial demographic policy it appeared legitimate to bring back Jewish embryos “from the Diaspora” under the Law of Return while simultaneously denying six million Palestinian refugees their Right to Return.

The inclusion of this special amendment in the Egg Donation Law obviously makes it impossible for a Muslim, Christian or Druze woman to donate an egg cell to a Jewish couple and vice versa, without the approval of an Exceptional Committee. The Legal Advisor of the Ministry of Health, Mira Hibner Harel clarified it as following: *“If, for example, there would be a Jewish egg donor and a Muslim recipient then this would cause problems because the baby would be both Muslim and Jewish.[...] We don’t want to make more problems than we already have, and we have a lot”* (interview 20/02/2012 Jerusalem). Adding this amendment has been legitimized by referring to the need to make egg donations compatible with Jewish law and Jewish religion. As a prominent philosopher and former member of the Bioethics Committee said: *“The reasoning was that we don’t know what will eventually emerge as the religious attitude towards interreligious zygotes, so we decided to stay on the safe side”* (interview Asa Kasher 26/07/2013 Tel Aviv). However, religious categorizations in Israel often function as a masquerade to conceal underlying racial classifications of Arabs/Palestinians versus Jews. A fear for cross religious zygotes can thus be interpreted as a fear for cross racial zygotes. One fertility doctor from Hadera stated: *“The consensus was that we didn’t want to mingle between populations and to put, let’s say, a Jewish egg in an Arab woman”* (interview Adrian Ellenbogen 21/08/2012 Hadera, emphasis added by S.V.). Remarkably, none of my Jewish Israeli interlocutors perceived this amendment to be racist. A well known Israeli bioethicist considered it to be *“a strictly symbolic measure without any discriminatory side-effects”*. He continued: *“I’m critical enough about discriminatory practices towards Arabs in real affairs, that it sounds like a conspiracy theory to think that the law is aimed at constraining the reproduction of Arabs in Israel”* (interview David Heyd 08/08/2012 Jerusalem). A feminist scholar/activist agreed that this concern is a theoretical non-issue since *“Jewish women hardly donate in the new framework of the law and Palestinian women never donate because of religious reasons, so it’s not really an issue in practice”* (interview Yali Hashash 10/01/2012 Haifa). However, since Palestinian women indeed rarely donate egg cells in Israel, this amendment ensured that they will also never benefit from an egg cell donation, unless it’s approved by the Exceptional Committee.

Egg cell donations are not the only case in which interreligious mixing between Muslims, Christians, Druze and Jews is forbidden in Israel. Interreligious adoption is not allowed, and similarly surrogate mothers are required to have the same religion as the contracting couple (Kahn 2000). At a more foundational level, interreligious marriages are forbidden in Israel since marriage is under jurisdiction of the religious courts. The Israeli state has created strict boundaries between separate categories of religion and thus ethnicity and is decisive to maintain these boundaries (Kanaaneh 2002). In the case of the egg donations, Michal Nahman (2013, p. 186) recalled that rumors of cross-racial breeding triggered an Israeli company to develop an embryo guard, *“a device that would monitor the incubators into which embryos were placed in order to ensure that no racial mix ups would occur”*. However, in some cases Jewish religion actually prefers cross-religious/cross racial mixing. For instance, in case of sperm donation ultra orthodox Jews would rather receive sperm from a “goy” than from a Jewish donor out of fear of birthing a *mamzer*, a person born of incest. Similarly, the law on Egg Donation holds an

amendment postulating that when an additional sperm donation is needed, the sperm cannot come from a Jewish donor (Knesset, Law on Egg Cell Donation, 2010). As such, Asa Kasher, former member of the Bioethics Committee concluded: “*And to see that the law is not racist, just look at the fact that ultra-orthodox Jews prefer the sperm donation of non-Jews*” (interview 26/07/2012 Tel Aviv). Despite these ambivalences, the Law on Egg Cell Donations should not strictly be understood by referring to religious and existential questions of Jewishness, but it could also be evaluated as another example of Zionist settler colonial biopolitics, not only by promoting Jewish natality and concurrently preventing Palestinian natality, but also by rendering cross-racial/cross-religious kinship ties between Jews and Palestinians more difficult.

#### 4. Putting eggs in a different basket: Israel’s emerging stem cell economy

Another aspect that has been mostly overlooked in the Egg Cell Donation Law is that it is now allowed to donate egg cells for scientific purposes, an accomplishment of Israel’s bio-medical establishment that was overrepresented in the governmental committees (Shalev 2010, Hashash 2010). Since the new law on Egg Donations an Israeli woman can donate maximum two eggs or 15% of the total egg harvest (the one which is least) for research purposes<sup>8</sup>. In order to better comprehend Israel’s permissive stance on egg cell donation, one should also look at the ways in which this law has supported Israel’s emerging stem cell sector and has strengthened its biotech-position in the global health and research market. For eggs cells are not only destined for reproductive markets, but they can also be used for different types of stem cell research. An egg cell can be given to an infertile woman to create a newborn baby, but it can also be bio-technically reconfigured in a laboratory, using its pluripotency and renewability for the production of human embryonic stem cell lines (Waldby 2009). Stem cell research has the potential to radically transform the treatment of degenerative and chronic conditions such as Parkinson, Alzheimer, Multiple Sclerosis or organ failures by developing regenerative therapies which aim to treat through in vivo, tailor made tissue growth instead of organ transplant (Gottweis 2009).

Since the neoliberal turn of the 1970’s capitalizing life and capturing the *biovalue* (Waldby 2002) in biological and reproductive processes has become a very globalized and lucrative business (Rose 2007). This has transformed biomedical research into a profitable area of investment for the increasingly volatile forms of financial capital that have dominated the global economy since the 1970’s (Arrighi 1994, Cooper 2008). Israel refers to its biotech sector as “*one of the brightest stars in Israel’s technological galaxy*” (Bell & Freireich 2006). Already from its creation the Zionist movement showed a keen interest in science and technology, but since the late seventies this has gained momentum when Israel started to position itself as major player in the global arena of biomedical research and development, with a special focus on healthcare (Filc 2005, Prainsack & Firestone 2006, Nahman 2013). The financial crisis of the late

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<sup>8</sup> In the beginning of the legislative process researchers demanded up to 49% of the egg “harvest” for scientific use. After critical interventions from the Israeli feminist organization Isha l’Isha it was eventually decided in 2010 that a donor may choose to designate only a certain amount of eggs for scientific research: maximum two eggs or 15% of the total amount of harvested eggs.

1970's provided the opportunity to fundamentally transform economic thinking in the country that until then was based on "developmental" principles such as state-led economic growth and import substitution. *The New Economic Policy (NEP)* was introduced to radically break with this Zionist "developmentalism" by putting a high emphasis on *the export of* high-tech products such as electronics, military equipments and biotechnological and pharmaceutical products. In this process Israel emerged as "the start-up nation", the country with the largest number of *start-up* companies in the *world* in proportion to its population (Senor & Singer 2011). As the Israeli cancer researcher and bio-tech entrepreneur Avi Treves aptly phrased it: "*Israelis are mainly entrepreneurs, it's in their DNA*" (interview 26/02/2012, Tel Hashomer). The stem cell sector constitutes a promising sector within Israel's booming bio-economy (Bichler & Nitzan 2002). Israeli start-up companies such as Pluristem, Cell Cure, Gamida Cell and Kamidastem are considered to be "pioneers" in the area of cell therapy and regenerative medicine. Since the stem cell research field was established in 1998, Israeli scientists such as Benyamin Reubinoff, Joseph Itzkovitz-Eldor, Michal Amit and Nissim Benvenisty have been at its forefront. Of the first twelve publications on human embryonic stem cells, ten included Israeli authors (Vogel 2002). In March 2002 Science Magazine described Israel as one of the leading countries in stem cell research (UKSCI 2006). The Israeli government has helped considerably in establishing a national stem cell sector by directing multiple million dollar research funds to this field, inaugurating cutting edge laboratories and helping to launch start-up bio-tech companies specialized in stem cell therapies on the global health market.

In the process of developing a competitive stem cell sector, egg cells have emerged as a highly desirable commodity in Israel. Brown and Webster (2004, p. 71) noted, egg cells together with other female reproductive tissues such as placentas, embryos and umbilical cord blood "*are increasingly used by contemporary biomedicine as a generative site separate from the production of children, through which biological materials and information is harvested for scientific, medical and commercial purposes*". This has created a very intimate relation between the assisted reproductive sector and human embryonic stem cell research. Sarah Franklin (2006) has termed this close entanglement the *IVF-stem cell interface* while Lisa Ikemoto (2009) refers to it as the *maternal-embryonic nexus*. In Israel this intimate relation is very outspoken. The first stem cell lines that were developed in 1998 by the American researcher Jami Thompson were created with the help of spare IVF embryos from the fertility clinic in Rambam Medical Center in Haifa, where Joseph Itzkovitz-Eldor is not only head of the Obstetrics and Gynaecology Department but also director of the Stem Cell Research Centre. When asking the well known stem cell researcher Michal Amit why Israel has always been at the forefront of stem cell research, she replied: "*First of all, the good connections of Prof. Itzkovitz with Jami Thompson on a friendly and scientific level, and the fact that in Israel you have a lot of surplus embryos. Israel is one of the leading countries of IVF cycles. So if you do a lot of IVF, you have a lot of surplus embryos that nobody wants*" (interview Haifa 22/02/2012)<sup>9</sup>. Hedva Eyal from the Women and Medical Technologies Program of the feminist organization Isha L'Isha commented: "*There is kind of a joke among researchers. They say that most of the eggs that are circulating in global stem cell research around the world are coming from IVF clinics in Haifa*" (interview Haifa 28/01/2012).

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<sup>9</sup> It was actually Michal Amit who carried the spare embryos to Prof. Thompson's laboratory in Wisconsin.

That ART and stem cell research are closely connected in Israel was clearly noticeable during the parliamentary debates preceding the voting of the law on egg cell donations. The primary objective of the 2010 Egg Cell Donation Bill was to regulate donations for the purpose of infertility treatment, but at several moments during the debates high profile representatives of Israel's bio-medical establishment pushed forward the idea of adding of research as a valid ground for egg cell donation. In her research on the medicalization of reproduction in Israel, Yali Hashash (2011, p.273) concluded that the role of doctors, gynecologists and medical researchers has been crucial in the shaping of Israeli reproductive health legislation and resource allocation. Her analysis of the protocols of the governmental committee reveal that the biomedical lobby exerted constant pressure on politicians to pass the bill in order to establish a legal framework for future scientific development (Hashash 2011, p. 288). She remarked that during their interventions in the parliamentary debates these bio-medical agents used many discursive strategies to allow egg cell donation for research purposes *"ranging from minimizing the physical dangers of extracting egg cells from women's bodies to equating egg cells donations to an altruistic "gift" exchange that should be encouraged.*

At the time when the Egg Cell Donation Bill was first introduced in the early 2000s two Israeli stem cell research teams were involved in conducting a specific type of stem cell research which required a large amount of egg cells. Somatic cell nuclear transfer (SCNT) or therapeutic cloning is a laboratory technique that tries to create personalized stem cells for regenerative therapies<sup>10</sup>. The first one was the Stem Cell Research Centre of the Hadassah Medical Center in Jerusalem, lead by Professor Benjamin Reubinoff. The second one was the Stem Cell Research Centre of the Rambam Medical Center at the Technion in Haifa, directed by Joseph Itzkovitz-Eldor. It were -among others- these two physicians/researchers who appeared before the governmental committee to lobby for an Egg Cell Donation Bill that would allow egg donation for research purposes. In 2004 Joseph Itzkovitz-Eldor intervened in the Knesset Committee by stressing that the current Israeli legislation was killing all prospects of research. He added: *"We should not conceal that bio-technological developments are a national-state goal, and not only a personal goal for the researcher who will take the stash and go home"* (quoted in Hashash 2010, p. 287). Benjamin Reubinoff testified before the Committee: *"It is clear that the availability of human oocytes for the procedure of somatic cell transplant is a crucial phase....these developments can only occur in countries that allow the donation of oocytes for research"* (quoted in Hashash 2010, p. 287). SCNT was a very promising technique in the early 2000s, but it got drastically discredited due to the malpractices of Dr. Hwang Woo Suk, a South Korean stem cell researcher who in 2005 fraudulently claimed to have cloned the first human embryo. In recent years SCNT has been described as an inefficient process which requires an excessive amount of oocytes in its attempt to clone a human embryo (Dennis 2006)<sup>11</sup>. However, at the time when the law on Egg Cell Donations was first discussed SCNT still looked like a

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<sup>10</sup> This technique requires an unfertilized egg cell of which the nucleus is removed and replaced with the cell nucleus from an adult body cell. The cellular machinery of the egg cell "reprograms" this adult cell nucleus back into an embryonic stage allowing it to develop into an embryo. From this embryo a stem cell line can be produced which is a genetic clone of the donor of the adult cell nucleus who could be a patient suffering from a degenerative disease or organ failures. The resulting cell line would be immunologically identical and could possibly be used as a transplant for the patient in need. (<http://www.explorestemcells.co.uk/therapeuticcloning.html>)

<sup>11</sup> Moreover, SCNT has been scientifically surpassed nowadays by a technique called IPS or Induced Pluripotent Stem cells by which fetal stem cells can be produced from adult cells without the controversial usage of egg-cells (Yamanaka, 2006).

promising technique<sup>12</sup>. According to Michel Revel, former head of the National Bioethics Committee, renowned molecular biologist and bio-tech entrepreneur, *“the scientific use of the eggs at that time for SCNT looked very important and we were concerned that it should be included. If it’s not in the law, you make it almost impossible for Israeli scientists to work with those eggs. Today it’s not so important anymore, but maybe tomorrow a discovery will happen that makes the use of unfertilized eggs important again”* (Interview Nes Ziona, 16/07/201). Sarah Franklin (2010, p.60) remarked that *“every country in the world that imagines itself a player in the future of regenerative medicine is busy passing regulation that will facilitate public approval for industrial development of stem cell technology”*. In Israel this regulatory process is very obvious. In 1999 Israeli legislators introduced the Ban on Genetic Interfering which outlaws only human cloning for the purpose of creating a person (reproductive cloning) while still allowing therapeutic cloning for the purpose of generating human tissues. The Egg Cell Donation Law can be seen as another example of Israel’s quest to legally entrench permissive assisted reproductive practices in order to favour its bio-tech position in the global health and research market. As Michal Nahman (2013, 53) put it: *“Extracting oocytes out of women’s bodies is mining bodies for the creation of surplus value, through the development of new techniques generating more research papers for scientists and developing new pharmaceuticals associated with reprotch”*.

## 5. Conclusion

The need for a Law on Egg Cell Donations was framed within a discourse of helping infertile women to reproduce in a way that ethically and culturally corresponds to existential Jewish questions and without pushing them into the illegal circuit of transnational ova trafficking. Among the controversial topics that were discussed in the governmental committees on egg donations were the anonymity of the donor, the desirability of allowing healthy women to donate egg cells and of paying female donors. By focusing on two supposedly meaningless amendments in the law, I have argued that culturalist models focusing on the centrality of reproduction within Jewish law and religion do not suffice in explaining Israel’s permissive stance on egg cell donations. Concordant with the work of Michal Nahman and Yali Hashash, I consider Israeli egg cell donations as state making practices in which processes of nature and culture become entangled with ongoing histories of capitalism and settler colonialism. From a political economy perspective I have contended that Israel’s policy on egg cell donations and assisted reproduction in general were co-produced within a logic of capital accumulation to benefit its emerging stem cell economy and within a logic of elimination to safeguard the demographic balance in its settler colonial project. Michal Nahman (2013, 69) argued that *“this national-global project is one in which the State of Israel has always been enmeshed”*. Israel is positioned within the global economy as a biotech hub, and it has its own “local” settler colonial project in which it tries to create and enlarge a Jewish state based on the erasure of a Palestinian collective and history.

By analyzing the case of egg cell donations Yali Hashash (2010) argued that the Israeli medical establishment should not be viewed as a mere agent of an ostensibly homogenous pronatalist *Jewish*

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<sup>12</sup> On the 15th of May 2013 (after finishing writing this chapter) a team of American scientists announced that they have, for the first time, cloned human embryos capable of producing embryonic stem cells.

<http://www.guardian.co.uk/science/2013/may/15/human-embryonic-stem-cells-adult-tissue>

state, but that it has often acted in its own professional interest. I argue that both the interests of a pronatalist Jewish state and its biomedical establishment have coalesced in creating a *reproductive-industrial complex* in which –analogously to Israel’s military-industrial complex - the Zionist logic of elimination and capital accumulation have converged. The bodies of Israeli women play a crucial role in this process, not only as reproducers of the settler nation (Yuval-Davis) but also as providers of the raw biological materials necessary to generate surplus biovalue.

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