

(Re)conceiving Kinship:
Gay Parenthood through Assisted Reproductive Technologies in Israel

By
April Hovav

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Supervisor: Judit Sándor
Second Reader: Eva Fodor

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Abstract

In this thesis I explore the use of reproductive technologies by gay men in Israel. Based on a series of interviews I conducted in Israel in the spring of 2011, I discuss gay men's reproductive decisions, understandings of parenthood, and views on assisted reproductive technology. In the first chapter, I review feminist debates about the potential of reproductive technologies to challenge normative paradigms of kinship and situate my study within anthropological approaches to this question. I argue that while most studies of reproductive technologies focus on infertile heterosexual couples, studying how gay men make use of such technologies provides an additional perspective from which to explore these issues. In the second chapter, I map out the legal, social, and cultural context in which gay men navigate their course to parenthood. In this chapter, I argue that pronatalism is a dominant dimension of Israeli political and social culture and is grounded in a biocultural construction of Jewish collective identity. In the third chapter, I discuss the location of gay parenthood within this social, legal, and cultural landscape. I argue that same-sex couples use reproductive technologies in a way that affirms the importance of family continuity in Israeli society, but also challenges the normative paradigms of Jewish-Israeli kinship by prioritizing social over genetic bonds.

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Introduction

In March 2011, Itai and Liron Goldberg were born to a surrogate in Mumbai. Their father, Dan Goldberg, an Israeli citizen, planned to bring his children home but was blocked by a Jerusalem judge who refused to give him the legal papers necessary to conduct a DNA test which would prove that Itai and Liron were in fact his biological children, and thus make them eligible to be naturalized in Israel. In March 2011, I sat in my grandmother's living room in Petach Tikva, a town nearby to Tel Aviv, fascinated by the Goldberg story, which made the evening news every night that month. As I listened to Irit Rosenblum, Goldberg's lawyer, call for the children to be brought to Israel and civil rights organizations deride the judge for his homophobic decision, a number of questions came to my mind. Why had Dan gone to India to have children through a surrogate? Does he have partner? If so, why is it only Dan's name flashing across the screen every evening? Why did the government require a DNA test anyway? As the story unfolded, most of my questions remained unanswered. When crowds of Dan's supporters protested the judge's decision and even the Israeli prime-minister intervened on his behalf, I wondered, when Israel had become such a gay friendly society? Was the backlash against the judge really about gay rights or about the plight of the twins? The more I read about the legislative limitations on surrogacy in Israel, the transnational options now available, and the new means through which gay men were becoming parents in Israel, the more questions I had, and the more I noticed that the voices of Dan, his partner, and gay men like them were missing.

A few months later, I sat in a room filled with my peers at Central European University for a screening of the documentary film *Google Baby*. The film follows Doron Mamet, a gay Israeli entrepreneur whose daughter was born to a surrogate in the United States and who founded *Tammuz*, a company that specializes in transnational surrogacy. The film spans three continents as an egg donor in Tennessee injects herself with hormones, an Israeli doctor peers through a microscope to decide which sperm to implant

the donated egg with, and a surrogate in Dr. Nayna Patel's clinic in India births a white baby for a couple from Japan. The film focuses on how advanced technologies have been combined with outsourcing to create new processes of reproduction. The film provokes a strong emotional reaction. As I looked around the room, I saw many of my peers staring, wide-eyed and open-jawed, at the screen. There is something jarring about watching fragmented, medicalized, and globalized reproduction, at least to an audience schooled in Western liberal, human rights scholarship. But what is notably missing from the film, which perhaps makes the process seem even colder and more mechanical, is the perspective of the intended parents. I wanted their perspective. I wanted to understand why they would undergo such a complex process in order to have children. In this thesis, I hope to at least begin to fill that gap.

I listened to a number of gay men in Israel, some who like Dan had gone India to have children through a surrogacy arrangement, and learned about the context in which their reproductive decisions were made and the way they negotiated life as gay parents in Israel. In this thesis, I map out the social and legal framework that led couples to this complex process of baby-making and colors their understanding of parenthood. Thus, what began as an inquiry into the strategies of gay men seeking parenthood became an exploration of the meaning of kinship in Jewish-Israeli society, and the way in which technological innovations can both reinforce and displace dominant paradigms of kinship, depending on the way they are used and understood. Through the stories of gay Israelis and analysis of Jewish-Israeli society, I hope to add another dimension to the ongoing discussion about the potential of reproductive technologies to disrupt kinship norms and its limitations.

In the first chapter, I discuss the theoretical foundations of my research and locate my argument within contemporary debates about the influence of reproductive technologies on kinship. I also discuss the strengths of employing an anthropological approach to these questions. The chapter also includes a description of my methods and interviewees. In chapter 2, I map out the legal and social terrain of pronatalism in Israel and specifically the importance attributed to biological kinship in the Jewish-Israeli

context. In chapter 3, I explore the place of gay parenthood within this specific cultural context. I argue that while Israeli pronatalist sentiments enable and even encourage gay parenthood to some extent, gay parents challenge the normative notion of biological kinship that is pervasive in Jewish-Israeli society. Through my analysis, I affirm the need for nuanced studies of reproductive technologies that focus on the actors employing these strategies, as the same technologies are used with varying intentions and thus different impacts on normative paradigms such as kinship.

Chapter 1: The Politics of Assisted Reproduction

When the first “test-tube baby” was born in 1978 social theorists, religious authorities, and ethicists discussed the way this new technology would change understanding of kinship, family, and the human subject. Today, over 30 years after this technological revolution, in-vitro fertilization (IVF) has become routinized, but the concept of family, and the construction of kinship has not changed dramatically. In the Western world, and perhaps even more so in Israel, the biological basis of kinship appears just as strong today as it was then. Most studies of assisted reproductive technologies (ARTs) in Israel conclude that while traditional understandings of kinship are challenged by the use of reproductive technologies, ultimately the policy makers, practitioners, and consumers engage in complex choreography that rather than destabilizing traditional concepts, ultimately reinforces them.¹ However, when used by gay couples, the intentions and consequences of their use of reproductive technologies are different. From my interviews, I learned that gay couples in Israel, unlike their heterosexual counterparts, tend not to emphasize traditional concepts of kinship such as biology and genetic connections. Considering the importance of blood lines to the Israeli understanding of kinship and to the Jewish collective identity, this departure is far more radical than their sexual identity and leads to tensions between government institutions and gay parents, and problems of mis-recognition in society. To illustrate my argument, I will first discuss the culture of reproductive technologies and the extreme pronatalism in Israel which enables gay parenthood to be a socially salient option. Then I will look at the tensions that exist between gay parents, the government, and mainstream society despite a general social acceptance of gay parenthood. I identify the main arena of tension as the biogenetic construction of kinship and its destabilization by gay couples. While gay couples who use reproductive technologies to have children constitute a small portion of the population in Israel, I believe that their rhetoric of parenthood exposes the cultural embeddedness of

1 For example, see the studies in the most recent collection of scholarship on the use of reproductive technologies in Israel: Birenbaum -Carmeli, Daphna, and Yoram S. Carmeli, eds. *Kin, Gene, Community: Reproductive Technologies among Jewish Israelis*. (New York: Berghahn Book, 2010).

traditional assumptions about kinship, and thus has the potential to challenge norms in ways that many expected from reproductive technologies but have been usurped by the normative paradigms in which the cultural meaning of technological practices is constructed.

1.1 Theoretical Framework

The politics of reproduction has been an area of interest to many feminist scholars. While the feminist movement has championed reproductive freedom as a means of empowering women and combating men's control over women's sexuality and bodies, feminist scholarship has also led the way in critically analyzing the politics of reproduction in order to understand its complex relationship to patriarchal structures of power. As Jacqueline Portuguese states in the opening page of her book, *Fertility Policy in Israel*, “studies about the politics of reproduction attempt to shed light on the ways in which dominant political and economic forces, be they based on class, race, ethnicity, sex, or nationality, attempt to manipulate reproductive capacity of the less powerful in order to increase and/or maintain their own power base”² Feminist scholarship has sought to both problematize the naturalness of reproduction, as a supposedly apolitical arena, and expose the power dynamics involved in reproduction. Feminists working in various fields have “recognized reproduction as systematically organized, sensitive to change in domestic economics, and therefore always an aspect of the distribution of power in any society.”³

Of particular interest of late is the role of reproductive technology in the politics of reproduction. As Sarah Franklin and Helen Ragone argue, technological interventions have “contributed to the increasing visibility of a significant site of late-twentieth- century cultural contestation.”⁴ Reproductive technologies offer a unique position from which to explore the highly contested politics of reproduction. Reproductive technologies have a “defamiliarizing impact.. through which many of the most deeply taken-for-granted

2 Jacqueline Portuguese, *Fertility Policy in Israel: The Politics of Religion, Gender, and Nation* (Westport: Praeger Publishers, 1998), 1.

3 Faye Ginsburg and Rayna Rapp, “The Politics of Reproduction,” *Annual Review of Anthropology* 20 (1991), 313.

4 Sarah Franklin and Helena Ragone, eds., *Reproducing Reproduction: Kinship, Power, and Technological Innovation* (Philadelphia: University of Pennsylvania Press, 1998), 9.

assumptions about the 'naturalness' of reproduction are displaced.”⁵ Not only do reproductive technologies cause a fragmentation in material procreative acts and actors, decisions around reproductive technology and its use bring cultural assumptions about reproduction into stark focus.

Reproductive technologies are part of a longer history of the medicalization of procreation, a process which has been met with duress by feminist scholars. Some feminists, such as Nancy Ehrenreich and Gena Corea, view reproductive technologies as part of the “colonization of the womb” by male-centered medical institutions that exercise control over women's bodies.⁶ The medicalization of reproduction has shifted control over the process of procreation from women to medical institutions, who often maintain the power to override women's wishes in the supposed best interest of the child. The power struggles that feminists identify in the medicalization of pregnancy, such as forced Caesarean sections, are even more apparent in the use of technologies for assisted conception, when medical institutions take part in more aspects of reproduction and “reduce women to living laboratories.”⁷ Thus, some feminists argue that reproductive technologies “finalize the transfer of the control of women's reproductive power to the male medical establishment and constitute the finishing stroke in the transformation of women from subject to object in the birthing process.”⁸ However, the medicalization of pregnancy is viewed differently by women around the world. While many feminists in the West see medicalization as an attack on women's freedoms, others, especially in places with high mortality rates associated with giving birth, medicalization has improved women's lives dramatically. As I will discuss in the following chapter, this resistance to medicalization is mostly absent in the Israeli-Jewish context.

Many feminists are concerned by the emphasis that the use of assisted reproductive technologies, as opposed to adoption, puts on the genetic basis of parenthood.⁹ While technologies allow for more

5 Franklin and Ragone, *Reproducing Reproduction*, 5

6 Nancy Ehrenreich, “The Colonization of the Womb,” in *Sex, Violence, Work and Reproduction Application of Feminist Legal Theory to Women's Lives*, ed. Kelly Weisberg (Philadelphia: Temple University Press, 1996).

7 Gena Corea, *Man-Made Women: How New Reproductive Technologies Affect Women* (Bloomington: Indiana University Press, 1987), 38.

8 Portugese, *Fertility Policy*, 11

9 For example, see Joan Mahoney “Adoption as a Feminist Alternative to Reproductive Technology” in *Reproduction, Ethics, and the Law* ed. by Joan Callahan, (Bloomington: Indiana University Press, 1995), pg-pg.

reproductive options, they may also increase the pressure to bear and beget biologically related children. As Ginsburg and Rapp argue, “technological 'cures' for infertility renew a Western cultural emphasis on the importance of biological parenthood, thus making involuntary childlessness more problematic.”¹⁰ In regards to the emphasis on genetic parenthood, Tong notes that feminists often agree that “our patriarchal culture has probably overemphasized genetic connection because it is the only kind of connection a *father* can have to his child at birth.” (original emphasis)¹¹ While this concern is voiced by a range of feminists who see connections between genetic prioritization and biological determinism and racist eugenics, whether this should lead feminists to oppose reproductive technologies is highly contested.

Legal studies regarding surrogacy contracts indicate that reproductive technologies expose the way in which normative links between biology and parenthood are socially constructed.¹² Confronting these contradictions, Helena Ragone argues that reproductive technologies challenge the normative narrative of parenthood while simultaneously reinforcing values of biological kinship and family.¹³ Reproductive technologies can be a way of subverting normative paradigms of family and kinship, which have long bound women to their reproductive functions. With the help of technology, more options are available today for single women and homosexuals to procreate and experience parenthood, which has long been the privileged terrain of heterosexual couples.

Anthropological studies of reproductive technologies have focused on how technological innovations are understood within a specific cultural context. In *Reproducing Reproduction*, Sarah Franklin and Helena Ragone employ an ethnographic approach in response to “overly speculative, abstract, and decontextualized accounts of the 'impact' of new technologies.”¹⁴ They argue that “technology is not an agent of social change; people are” and thus it is crucial to investigate how people make use of and

10 Ginsburg and Rapp, “The Politics of Reproduction,” 315.

11 Rosemarie Tong, “Feminist Perspectives and Gestational Motherhood: The Search for a Unified Legal Focus,” in *Reproduction, Ethics, and the Law* ed. Joan Callahan (Bloomington: Indiana University Press, 1995), 68.

12 John Lawrence Hill, “What does it Mean to Be a 'Parent'? The Claims of Biology as a Basis for Parental Rights,” *New York University Law Review* 66 (1991).

13 Helena Ragone, “Incontestable Motivations,” in *Reproducing Reproduction* eds. Sarah Franklin and Helena Ragone (Philadelphia: University of Pennsylvania Press, 1998).

14 Franklin and Ragone, *Reproducing Reproduction*, 5.

understand new technologies.¹⁵ I follow this line of reasoning in my inquiry, affirming that technology's impact of kinship can only be understood within a culturally and historically specific context.

In 1991, Rayna Rapp and Faye Ginsburg reviewed anthropological contributions on the politics of reproduction. Their review, which includes 378 entries, does not contain a single study focused on gay men, Judaism, or Israel. In the twenty years since, dozens of books and articles have been written regarding reproduction in Israel, but gay men are mostly absent from this literature.¹⁶ Meanwhile, despite the fact that journalists have noted the increase use of reproductive technologies by gay men, academic studies of this phenomenon are rare.¹⁷

Families with two fathers and no mother are becoming more common, but more importantly these alternative families deviate from traditional models in multiple ways, thus challenging the normative stronghold on multiple levels. Gay men challenge norms of both gender and sexuality in their quest to parenthood. Likewise, investigating ARTs from the perspective of gay men challenges assumptions of how reproductive technologies are used in family formation. While many books have been written on the intersection of reproductive technologies and kinship, almost every study assumes that these technologies are used by the infertile.¹⁸ In this thesis, I ask how the conclusions drawn about reproductive technologies and their impact of kinship changes when the users are not infertile heterosexual couples, but gay men.

I locate my work within debates about the potential of reproductive technologies to challenge normative paradigms. Does the use of reproductive technologies expose cultural assumptions or does it

15 Franklin and Ragone, *Reproducing Reproduction*, 5.

16 Some of the most recent books in English are: Susan Martha Kahn, *Reproducing Jews: A Cultural Account of Assisted Conception in Israel* (Durham: Duke University Press, 2000); Rhoda Kanaaneh, *Birth of the Nation: Strategies of Palestinian Women in Israel* (Berkeley: University of California Press, 2002); Daphna Birenbaum- Carmeli and Yoram S. Carmeli eds. *Kin, Gene, Community: Reproductive Technologies among Jewish Israelis* (New York: Berghahn Book, 2010); Jacqueline Portuguese, *Fertility Policy in Israel: The Politics of Religion, Gender, and Nation* (Westport: Praeger Publishers, 1998)

17 There are several books that look at gay men becoming parents through adoption, such as Kath Weston's *Families We Choose* and Gerald P. Mallon's *Gay Men Choosing Parenthood*. Kim Bergman et al "Gay Men Who Become Fathers via Surrogacy: The Transition to Parenthood." *Journal of GLBT Family Studies* 6 (2010): 111–141. is one of the few studies that focuses on this particular group.

18 Marcia Inhorn and Frank Van Balen eds., *Infertility Around the Globe: New Thinking on Childlessness, Gender, and Reproductive Technologies* (Berkeley: University of California Press, 2002.); Daphna Birenbaum- Carmeli and Marcia Inhorn, eds. *Assisting Reproduction, Testing Genes: Global Encounters with New Biotechnologies*. New York: Berghahn Books, 2009; Inhorn, Marcia, Tine Tjørnhøj-Thomsen, Helene Goldberg, and Maruska la Cour Mosegaard, eds. *Reconceiving the Second Sex: Men, Masculinity, and Reproduction*. New York: Berghahn Books, 2009.

reinforce biological meanings of kinship? How does this debate differ when in reference to same-sex couples who can not hide the use of reproductive technologies? Can they construct families using these technologies without reifying biological kinship? While a country's attitude towards ARTs tells a lot about national priorities and the state's construction of its national subjects, this particular case also exposes the tensions between the government and citizens in their definitions of kinship.¹⁹ While Israeli policies encourage reproductive technologies and even gay parenthood, they also reinforce the normative value placed on genetics, which is essential to the construction of the Israeli state as a Jewish collective.

1.2 Methodology

For my analysis, I use an anthropological approach to investigate the “impact of new reproductive technologies on kinship and social organization and cultural understandings of parenthood.”²⁰ My study fits within the methodological framework of scholarship on reproductive technologies such as Franklin and Ragone's collection *Reproducing Reproduction*, which the author's describe in the introduction as a “series of studies that seek empirically to ground accounts of reproductive techniques *as a cultural practice* within carefully specified interpretative frames”²¹ (original emphasis). Like Franklin and Ragone, I argue for an ethnographic approach to the study of reproductive technology that looks at reproductive practices as historically and culturally specific practices. I chose to conduct an ethnographic study of gay parents in part to shed light on the perspectives of people whose “experiences may be rendered structurally invisible in dominant local conversations about bioethics”²² In this study, I look at culturally and historically specific understandings of the use of reproductive technology by same-sex couples in Israel by exploring the

19 Here I discuss the “state” in the way that it appears to be understood by my interviewees: as an entity that delineates and limits their reproductive choices and somehow functions separately from society.

20 Ginsburg and Rapp, “The Politics of Reproduction,” 313.

21 Franklin and Ragone, *Reproducing Reproduction*, 5

22 Don Seeman, “Ethnography, Exegesis, and Jewish Ethical Reflection: The New Reproductive Technologies in Israel”, in *Kin, Gene, Community: Reproductive Technologies among Jewish Israelis*, eds. Daphna Birenbaum -Carmeli and Yoram S. Carmeli (New York: Berghahn Book, 2010), 351.

legislative, social, and religious constraints that impact and color the use of reproductive technology by Israelis.²³

I spent one month in Israel in the spring of 2011 conducting ethnographic research including participant observation and interviews.²⁴ While the focus of my research is gay men in Israel who use reproductive technology to have children, I interviewed a range of people in order to get a broader perspective on the issues around same-sex parenthood in Israel. I conducted nine interviews with self-identified gay men and lesbian women who are parents or in the process of becoming parents. Of the gay men I interviewed, two couples have children that were born via surrogacy, two couples are in the process of having children through a surrogacy arrangement, and two men are in co-parenting partnerships with women with whom they jointly raise children, and one couple adopted children.²⁵ Two of the interviews were conducted with couples, while the other seven interviews were with one parent, five of whom are raising their children with a spouse. The decision to conduct interviews with one parent rather than both was largely due to the availability of the interviewees. Two of the interviews were with self-identified lesbians and seven of the interviews were with self-identified gay men.²⁶ I found participants through my personal contacts in Israel as well as through Facebook groups for alternative parenthood in Israel such as *mishpahot hakeshet* (rainbow families) and *horant aberet* (different parenthood). I sent emails to friends and family living in Israel who forwarded along my request for interviewees and I also sent emails and Facebook messages directly to people who I knew to be gay parents, usually because they had been featured in the Israeli media. Some of my interviewees forwarded me to others, but most of the participants were found independently of one another.

23 In this thesis I focus mostly on Jewish-Israeli society as gay parenthood is not a recognizable phenomenon amongst religious minorities in Israel. Likewise attitudes towards technology and alternative family structures amongst religious minorities in Israel merits its own comprehensive analysis which is beyond the scope of this thesis.

24 A complete list of my interviewees is included in Appendix 1

25 While my focus is on gay men who have children via a surrogacy arrangement, I interviewed a range of gay parents to understand the context in which gay men make reproductive decisions and the position of gay parents in Israeli society.

26 I chose to include the interviews conducted with lesbians because while from a legal and medical perspective their situation is very different, my interviewees had a lot of insight into the challenges of establishing socially-recognizable alternative kinship formations in Israel.

The demographics of my participants were varied in terms of professions, education, birth place, and approach to religion. Judging from their jobs and where they live, most of the participants are between lower and upper middle class. Professions ranged from entrepreneurs and academics to nurses and blue-collar managers. Most, but not all of the participants, have post-secondary education. Two of the interviewees immigrated to Israel from North America and one from South America. Two participants emigrated from Eastern Europe, one from Central Asia, and one from Western Europe. The remainder were born and raised in Israel. Most of the participants live in either Tel Aviv or Jerusalem, but one couple lives in Hadera, a working class city north of Tel Aviv, and another live in a *kibbutz* (commune-type community) in Northern Israel. When asked about religion, the participants responses varied but most of them described themselves with the Israeli term *hiloni'im* (secular). *Hiloni'im* usually take part in holiday gatherings and identify as Jewish, but do not follow Jewish law or necessarily believe in God. Only two of the participants are active in religious organizations; one identifies with the Conservative movement and the other with the Reform movement, both are also immigrants from North America. The participants' ages ranged from 35 to 50. Interviews with the American immigrants were conducted in English while the remainder were conducted in Hebrew.²⁷

While in Israel, I also attended an event run by *mishpachot hakeshet* (rainbow families).²⁸ Although I was asked not to approach parents or to record the event, I was able to conduct participant-observation at the event, which was designed specifically for children of alternative families in Israel. The organization plans events every other weekend, alternating between Tel Aviv and Jerusalem. I also met with Irit Rosenblum, director of the New Family organization which has fought discrimination in all areas of marriage and family rights and has challenged the government numerous times in court cases regarding same-sex couples and their rights. In 2010, New Family was in the Israeli news frequently for their

²⁷ All of the translations are my own.

²⁸ *Mishpachot Hakeshet* is an organization for alternative and gay families which holds bi-weekly events for children as well as workshops for intended parents and also participates in advocacy on behalf of alternative families.

involvement in the Dan Goldberg case described earlier. My meeting with Irit Rosenblum was part of a lecture series launched in response to the high level of student interest in her organization.

1.3 Limitations of the Study

There are several limitations to my research. My interviewees are by no means a representative sample and thus the generalizations I make based on my interviews are not intended as sweeping conclusions about all gay parents in Israel. Also, my position as a researcher may have influenced the way my interviewees answered my questions. Almost all of my interviewees asked me about my research and my academic background. Knowing that my research would be read outside of Israel, my interviewees may have tried to portray Israeli society in certain way to outsiders. Likewise, my interviewees were probably aware that as a female student in gender studies, I have been schooled in feminist critiques of surrogacy as exploitation. Thus, the men who had children through surrogacy may have spoken more cautiously and warmly about the surrogates to demonstrate awareness of the ethical concerns surrounding surrogacy and stave off critique. However, overall, my interviewees did not seem terribly concerned with how their answers would sound to others. In fact, most of my interviewees were not concerned at all with anonymity, and some even asked to be identified.²⁹ As Ayelet Shnur explained, “I prefer that you use my real name. I have nothing to hide.”³⁰ Another interviewee, after what I thought was a very interesting discussion, asked me “What are you going to write about? I don't think there is much to say. I guess, maybe it will be interesting to people outside of Israel.”³¹ These comments lead me to believe that most of my interviewees were forthright in their responses, not feeling that their answers warranted anonymity.

29 People that are referred to by first name only as pseudonyms, while first and last name indicates that they did not wish to be anonymous.

30 Ayelet Schnur, interview by author, Jerusalem, Israel, April 27, 2011.

31 Interview by author, Tel Aviv, Israel, May 3, 2011.

Chapter 2: Elements of Israeli Pronatalism

Many states employ strategies to increase or decrease the birthrate of their populations, but each state does in a different manner, based on cultural and political priorities. Likewise, the pronatalist agenda of a country might rank higher or lower than other items on the national agenda, or be limited by religious beliefs or economic concerns. Often pronatalist policies target certain groups and exclude others.³² In Israel, pronatalist policies are explicitly concerned with increasing the *Jewish* population. I argue that the unilateral concern with increasing the Jewish population enables gay parenthood to an extent inconceivable in many other societies, but also reinforces the biological and genetic meaning of kinship in a way that disadvantages gay families. In this chapter I explore Israeli pronatalism, looking at government policies, supreme court cases, and scholarship on the use of reproductive technologies in Israel to paint a picture of the social and legal landscape of reproductive politics in Israel. In this chapter, I explore Israeli pronatalism, looking at government policies, court cases, and scholarship on reproductive technologies in Israel to paint a picture of the social and legal landscape of reproductive politics in Israel.

Much of the existing gender scholarship on Israel identifies it as an extremely pronatalist country. Beginning in the 1980's Israeli feminist scholars, like Nira Yuval-Davis, Dafna Izraeli, and Yael Yishai began exploring Israel's pronatalist culture, including its roots and its manifestations in gender relations within Israel.³³ More recently, in the book, *Fertility Policy in Israel* Jacqueline Portuguese argues that “despite the lack of an official policy on national fertility, the Israeli government has introduced numerous measures that taken as a whole constitute an 'unofficial' policy designed to increase the Jewish fertility rate.”³⁴ In her

32 For example in Europe pronatalist policies often intended to exclude the Roma population while in the United States historically African-Americans were targets of anti-natalist policies at the same time that reproduction was encouraged among whites.

33 Nira Yuval-Davis, “The Jewish Collectivity and National Reproduction in Israel in *Women in the Middle East* (London: Zed Books, 1987); Yael Yishai “Abortion in Israel: Social Demand and Political Responses in Israel” *Policy Studies Journal* 7 no. 2 (1978); Amzon, Yael and Dafna N. Izraeli eds. *Women in Israel* Studies of Israeli Society. Vol. 6. (London: Transaction Publishers, 1993).

34 Portuguese, “Fertility Policy,” Introduction x.

study, Portuguese looks at government policies and documents that illustrate the government's concern with the demographic layout of Israel, to demonstrate the government's interest in and encouragement of Jewish reproduction. While Portuguese focuses on state fertility policy, many scholars, including political scientists, historians, and anthropologists, have studied the societal causes of Israel's pronatalist culture.³⁵

Israel's deeply pronatalist culture has been attributed to a number of circumstances including the biblical injunction to “be fruitful and multiply,” pressure to repopulate after the death of six-million Jews in the Holocaust, Israel's militaristic culture and the perceived need to bear soldiers for the protection of the nation, and the Israeli-Palestinian conflict and the on-going demographic struggle that accompanies it. These various elements have been discussed at length by numerous scholars creating a body of literature that confirms what every Israeli, regardless of race, class, religion, even sexuality, feels: strong pressure to reproduce. Or in more colloquial terms, “it is the constant drumbeat in the ears of Israelis that getting married and having children is something close to their national duty.”³⁶

2.1 Attitudes towards Reproductive Technology in Israel

As Ellen Waldman states in her comparative study of US and Israeli Assisted Reproductive Technologies (ART) policies, “Choices regarding how ART should be regulated and funded, as well as how ART-related disputes should be mediated, reflect both specific attitudes toward family and parenthood, as well as broader notions about the role of the state in encouraging or impeding novel family forms”³⁷ Thus, I begin this study with a discussion of Israel's “unapologetically pronatalist” ART policies.³⁸

35 Some of the key works on this subject are Tom Segev, *The 7th Million: The Israelis and the Holocaust* (New York: Hill and Wang, 1993); Rhoda Kanaaneh, *Birthing the Nation: Strategies of Palestinian Women in Israel* (Berkeley: University of California Press, 2002); Nitza Berkovitch “Motherhood as a National Mission: The Construction of Womanhood in the Legal Discourse in Israel” *Women's Studies International Forum* 20 no. 5-6 (1997): 605 – 619.

36 Lee Walzer, *Between Sodom and Eden: A Gay Journey Through Today's Israel* (New York: Columbia University Press, 2000), 179.

37 Ellen Waldman, “Cultural Priorities Revealed: The Development and Regulation of Assisted Reproduction in the United States and Israel,” *Health Matrix* 16 (2006): 67.

38 Waldman, “Cultural Priorities,” 68.

One of the clearest manifestations of Israel's pronatalist policy is in the government's support of reproductive technologies. Israel has the largest number of fertility clinics per capita in the world and has consistently, over the past 15 years, been the country with highest usage of fertility treatments in the world. Israel also has the highest percentage of children born through in-vitro fertilization in the world.³⁹ Funding of fertility treatments by the national healthcare system in Israel far exceeds state funding for fertility treatments anywhere else in the world. In Israel, every woman is eligible for unlimited rounds of in-vitro fertilization treatment completely paid for by the national health insurance up until the birth of two children.⁴⁰ Israel is one of the few countries where surrogacy contracts, postmenopausal pregnancy, and posthumous reproduction are all legal. Employees are also entitled to sick leave for absences related to fertility treatments. Likewise parents receive child allowances, tax benefits per child, and numerous other financial incentives to have children. In contrast, the cost of contraceptives is not covered and abortions are only covered by insurance under specific circumstances.⁴¹ These factors combine to create an atmosphere in which having children is not only encouraged, but practically mandated, even if technological intervention is necessary. Thus Israeli culture has been described as “a national culture of fertility, and more specifically of a culture of new reproductive technologies.”⁴²

2.2 Technology and Ethics

Scholars like Susan Kahn, Yael Hashiloni-Dolev, and Daphna Birenbaum-Carmeli argue that the use of technology for means of procreation is not problematized in Jewish-Israeli society. While Israeli

39 Susan Martha Kahn, *Reproducing Jews: A Cultural Account of Assisted Conception in Israel* (Durham: Duke University Press, 2000), 2; Carmel Shalev and Sigal Gooldin, “The Uses and Misuses of In Vitro Fertilization: Some Sociological and Ethical Considerations,” *Nashim: Journal of Jewish Women's Studies and Gender Issues* 12 (2006): 151; In 1998 use of fertility treatments in Israel was 6 times the world average and double that of the second country, the Netherlands. Since 1998, the use of fertility treatments has risen exponentially in Israel. In 2003 Israel remained far ahead of the second country, Denmark in terms of IVF cycles per capita.

40 Kahn, *Reproducing Jews*, 2. Women continue treatments up to age 44, or 51 with the use of egg donation

41 While abortions are legal in Israel, their cost is only covered by insurance in certain cases such as rape, incest, for women over 40 or under 17, or when carrying the pregnancy would endanger the health of the woman

42 Yael Hashiloni-Dolev, “Between Mothers, Fetuses, and Society: Reproductive Genetics in the Israeli Jewish Context,” *Nashim: A Journal of Jewish Women's Studies and Gender Issues* 12 (2006): 130.

feminists have started to discuss the health impact on women of enduring multiple fertility treatments, there seems to be little concern in Israel about the ethics of technological interventions into procreation, especially when compared with the extensive debates surrounding this topic in the United States and Europe.⁴³ In discussing the unquestioned place of reproductive technologies in Israel, Hashiloni-Dolev explains, “whereas other post-industrial societies are characterized by a pervasive discourse of risk, this is almost completely in Israel, and the public is generally trustful of science.”⁴⁴ The skepticism with which technology, and especially reproductive technologies, is met and the images it conjures of a Brave New World is absent in Israel. Technology is simply considered a means of helping people with their most important human task: reproduction.

I believe this marked difference also stems in part from the way in which prenatal “life” is understood, and thus the level of concern with which embryos are regarded.⁴⁵ “Both the Israeli legal system and Jewish doctrine understand culturally acceptable life to begin after birth”⁴⁶ and therefore many of the ethical concerns that surround reproductive technologies in societies influenced by Catholic doctrine are irrelevant in the Jewish Israeli context.⁴⁷ In fact “extra-corporeal embryos have no human status... therefore they may be discarded, frozen, or used” for research purposes.⁴⁸ While those who adhere strictly to Jewish Law heavily regulate the use of reproductive technology due to a number of religious restrictions, selective abortions, which are often necessary in in-vitro fertilization processes, are not

43 Daphna Birenbaum-Carmeli, “Genetic Relatedness and Family Formation in Israel: Lay Perceptions in the Light of State Policy,” *New Genetics and Society* 29 no.1 (2010): 73–85.

44 Hashiloni-Dolev, “Between Mothers,” 139.

45 In fact the word for fetus and embryo is the same word in Hebrew: *Ober*.

46 Hashiloni- Dolev, “Between Mothers,” 143. While there is a concept of quickening in modern interpretations of Jewish Law thus differentiating between pre-quickening and post-quickening abortions and the justifications needed for each, fetuses and embryos do not carry the kind of weight attributed to them in Catholicism.

47 The legal status of the fetus in Jewish law comes from a Biblical story in which a pregnant woman is beaten and consequently miscarries. The perpetrator is charged for assaulting the woman but the resulting miscarriage is not considered murder, since it is decided that life begins at birth, not in the womb. Due to this distinction, mourning rituals are not practiced in cases of still born births. Traditionally, mourning rituals were not even practiced when an infant died within the first 30 days life, but this rule has been challenged by some as infant mortality has become less common and arguably thus more emotionally difficult.

48 Somfai, Bela., “Religious Tradition and Stem Cell Research,” in *Society and Genetic Information: Codes and Laws in the Genetic Era*, ed. Judit Sandor (Budapest: Central European University Press, 2003), 86.

considered problematic.⁴⁹ The lack of significance attributed to embryos in Jewish law minimizes the ethical concerns surrounding reproductive technology, enabling these technologies to be almost unquestionably used in the pursuit of parenthood.⁵⁰ Jacqueline Portuguese eloquently summarizes this point:

The guiding principle behind Judaism's approach to NRTs is to honor God's commandment to be fruitful and multiply. Thus, medical treatments for infertility, provided that they do not clash with *halacha*, are not only tolerated but encouraged. The Catholic sin against tampering with human life has no place in the Jewish scheme of things.⁵¹

2.3 The Jewish Collective Identity as a Biocultural Construct

Through Israel is strongly pronatalist, this is limited to some extent by a strong adherence to the concept of blood ties. Like many pronatalist state policies, there is a push not only for reproduction of national subjects, but also the reproduction of the right kind of national subjects. In Israel the right kind of national subjects are Jewish subjects, and Judaism is determined through genetic parenthood. The legal and cultural adherence to biology/genetics as the marker of kinship is at the base of defining who is Jewish. Judaism is conceived by many Jewish people, including secular and religious Israelis alike, as an ethnicity rather than just a religion, and thus a group that one is born into not that one chooses.⁵² Judaism is matrilineal in that the child of a Jewish woman is Jewish, and the religion of the father is irrelevant for

49 While there is no consensus amongst Rabbis about the proper use of reproductive technology, several issues dominate Rabbinical discussions about reproductive technology, particularly the laws of adultery and *niddah* or ritual purity. Meanwhile discussions about the use of or disposal of embryos are notably absent from these debates.

50 This does not, however, mean that abortions are always allowed by Jewish law. Abortions are not considered murder as the fetus is not a person, but “unnecessary” abortions are considered an affront to the commandment “to be fruitful and multiply.” For more on Jewish ethics and reproductive technologies see Andrew B. Lusting, Baruch A. Brody, Gerald P. McKenny. *Altering Nature II: Religion, Biotechnology, and Public Policy* (New York: Springer, 2008); Richard Grazi, *Be Fruitful and Multiply: Fertility Therapy and the Jewish Tradition* (Jerusalem: Genesis Press, 1994); Halperin, Mordechai, and Yeruchim Primer, *Medicine, Ethics, and Jewish Law* (Jerusalem: Schlesinger Institute 1996).

51 Portuguese, *Fertility Policy*, 156.

52 This is made clear through the difficulty and stringency with which conversion to Judaism is undertaken. Jews are not only prohibited from recruiting new members, conversion to Judaism was historically frowned upon. This understanding of Jewishness was also employed by the Nazis who persecuted anyone with Jewish genetic roots regardless of their religious beliefs.

this determination.⁵³ This understanding of Jewishness is essential to Israeli configurations of kinship.

The understanding of Judaism as an ethnicity and the Jewish collective as a large kinship network can be seen in the rhetoric of religious parlance in which Jews are referred to as the “children of Israel.” Blood relations are “constitutive of the Jewish collectivity” and a “unifying vehicle in Israeli Jewish identity.”⁵⁴ But this ascription of a biological essence to the Jewish collective identity does not just come from Jewish doctrine, it was also reinforced through centuries of antisemitism. As Birenbaum-Carmeli and Carmeli explain, “Jewish collective definition has been largely dictated from the outside during centuries of exile. Quite often “natural” components were central in these definitions, climaxing in the Nazi pedantic tracing of Jewish ancestry. Jewishness was thus constituted as inborn and sometimes even imposed on dismayed members.”⁵⁵ Rather than repudiate this understanding of Jewishness as inborn, “the understanding of Judaism as a biological essence became an integral part of Zionist thought towards the end of the nineteenth century.”⁵⁶ When the goal of a Jewish state was realized, “many scientists were motivated by an effort to shape and ratify the emergent Jewish national identity by genetically proving a shared biological origin to all Jewish Israelis.”⁵⁷ This type of research, with the goal of identifying the essence of the Jewish collective in genetic terms, continues with “recent genetic findings that have identified typical Jewish genetic formations and claims that all Jews have descended from a small number of women.”⁵⁸

The biological basis of Jewish collective identity can be seen in Jewish attitudes towards ART. In Jewish thought “implications for kinship relations tend to loom so much larger than the kinds of abstract

53 Some argue that this law was intended to guarantee the genetic/biological Jewishness of the child as one's mother was always known but one's father was not necessarily. For example, if a non-Jewish woman claimed that the father of her child is Jewish and therefore the child is, there would be no way to verify that and someone who is not Jewish could mistakenly be added to the community.

54 Halishoni – Dolev, “Between Mothers,” 142; Daphna Birenbaum -Carmeli and Yoram S. Carmeli, “Adoption and Assisted Reproduction Technologies: A Comparative Reading of Israeli Policies,” in *Kin, Gene, Community: Reproductive Technologies among Jewish Israelis* eds. Daphna Birenbaum -Carmeli and Yoram S. Carmeli (New York: Berghahn Book, 2010), 139.

55 Birenbaum-Carmeli and Carmeli, “Adoption,” 138.

56 Halishoni – Dolev, “Between Mothers,” 142.

57 Halishoni- Dolev, “Between Mothers,” 142.

58 Birenbaum- Carmeli and Carmeli, “Adoption,” 139.

concerns evinced by the Catholic Church”⁵⁹ Meanwhile studies of the use of ARTs in Israel, consistently “illustrate the extensive effort – on the part of policy makers, professionals, and individuals – to avert the destabilizing potential of ARTs, while sustaining traditional biological kinship.”⁶⁰ This in turn leads to a prioritization of biological over social kinship as Birenbaum-Carmeli and Carmeli explain in the introduction to their book on kinship, genetics, and ARTs in Israel: “Together with physicians and consumers, Israel's policy makers have consistently prioritized treatments that aim to generate biogenetically related offspring.”⁶¹ The Israeli Ministry of Health's even recommends that donor sperm be mixed with the sperm of the male partner's sperm in cases of artificial insemination.⁶² Both state policies and societal norms operate on the assumption of a biological Jewish identity, which thus ranks biological kinship above social kinship. In the following sections, I demonstrate the ramifications of this biologically based collective identity and its manifestations through an analysis of several Israeli policies.

2.4 Kinship in Court: Nahmani vs Minister of Health

The current regulations regarding reproductive technology in Israel are the product of a number of court cases and a special government commission on in-vitro fertilization (IVF) and surrogacy. Before discussing the commission, its findings, and the legislation that followed, I will recount the case of Ruti Nahmani which received considerable media attention and strongly influenced Israeli sentiments towards reproductive technologies.

In 1988, Ruti and Dani Nahmani began IVF treatments in order to have children via a surrogate in the United States. Although surrogacy was not legal in Israel at the time, the Nahmanis sued the Minister of Health to have the cost of the IVF treatments covered by their health insurance. They won the case and

59 Seeman, “Ethnography,” 349.

60 Birenbaum-Carmeli and Carmeli, *Kin, Gene, Community*, 24.

61 Birenbaum-Carmeli and Carmeli, *Kin, Gene, Community*, 24.

62 Birenbaum-Carmeli and Carmeli, *Kin, Gene, Community*, 24. Interestingly enough, the government does not then require a paternity test, even though it does when children are born abroad.

the resulting embryos were frozen at a hospital near Tel Aviv. Before the embryos were implanted in a surrogate, Dani and Ruti divorced. Ruti wanted to go ahead with the implantation, but Dani refused to give his consent. After a long court battle, the Israeli Supreme Court, ruled in Ruti's favor. This ruling is remarkable given the history of similar cases in various jurisdictions. In almost identical cases, the European Court of Human Rights (*Evans v UK*) and six state supreme courts in the United States have ruled in favor of the objecting party.⁶³ While in other jurisdictions the right to biological parenthood has a limit, namely, when it intrudes on another party's interest not to have children, that is not the case in Israel.

According to Susan Kahn, public opinion in Israel generally sided with Ruti, who was described sympathetically as “poor, barren Ruti” and whose victory was celebrated in the major newspapers.⁶⁴ Daphna Birenbaum-Carmeli's analysis on the media discourse surrounding the Nahmani case shows that while there was a lot of public support for Ruti, Dani also had a number of advocates. However, both Dani and Ruti's supporters agreed on, or rather did not dispute, two important topics: the importance of genetic parenthood and the proper use of technology. The prioritization of genetic parenthood over adoption or childlessness resounded throughout the public discourse. According to Birenbaum-Carmeli, “it was the view of biological motherhood as superior to alternatives that ultimately won her the case in court.”⁶⁵ Meanwhile, the use of complex technologies to achieve “natural” genetic parenthood was unquestioned. Although the Nahmani case was consistently covered by the Israeli media over a three year period “concern over the commodification of reproductive capacities, exacerbation of class disparity, or the 'unnaturalness' of the process” was absent from the discussions, which instead “focused on the centrality of biology in the construction of kinship.”⁶⁶ The discourse around the Nahmani case “reflects

63 Waldman, “Cultural Priorities,” 101

64 Kahn, *Reproducing Jews*, 70.

65 Birenbaum -Carmeli, Daphna, “Contested Surrogacy and the Gender Order in Israel,” in *Assisting Reproduction, Testing Genes: Global Encounters with New Biotechnologies*, eds. Daphna Birenbaum-Carmeli and Marcia C. Inhorn (New York: Berghahn Books, 2009), 201.

66 Birenbaum- Carmeli, “Contested Surrogacy,” 203.

not only an unquestioned popular belief that childlessness is a pitiable state that must be 'cured' by any means necessary but also popular attitudes toward reproductive technology in Israel.”⁶⁷

According to legal scholar, Carmel Shalev, this ruling was “not typical of Israeli jurisprudence.” which generally “propounds the view that it is always necessary to balance conflicting interests, and emphasizes strongly that no value is absolute.”⁶⁸ But this was clearly not the case in the Nahmani ruling. Judge Tsvi Tal explained the majority decision as such: “The interest in parenthood is a basic and existential value, both for the individual and society as a whole. In contrast, there is no value to the absence of parenthood.”⁶⁹ Another justice asserted that Dani taking away Ruti's chance at (biological) parenthood “is like taking away that person's soul.”⁷⁰ It appears then that one value is absolute in the Israeli jurisprudence: the value of parenthood. As the Nahmani case made evident, in Israel “motherhood comes up trump in all cases, so long as it conforms with Jewish Law.”⁷¹

Following the first lawsuit by the Nahmanis against the Minister of Health, a professional public commission, known as the Aloni Commission, was appointed to examine “the social, ethical, *halakbic*,⁷² and legal aspects of the methods of treatment related to in-vitro fertilization, including surrogacy agreements.”⁷³ Surrogacy agreements were the most controversial aspect of the commission's task. At the time, no country had expressly permitted surrogacy, though it was practiced in several states in the United States, and many countries had prohibited surrogacy arrangements altogether. As public sentiments towards Ruti Nahmani and her undying quest for motherhood shows, legislation prohibiting surrogacy would not have had wide public support in Israel. The Commission's recommendation was “to allow surrogate mother agreements on the condition that they receive prior approval, before conception from a

67 Kahn, *Reproducing Jews*, 69.

68 Carmel Shalev, “*Halakha* and Patriarchal Motherhood – An Anatomy of the New Israeli Surrogacy Law,” *Israel Law Review* 32 no.51 (1998): 98

69 Kahn, *Reproducing Jews*, 68.

70 D. Kelly Weisberg, *The Birth of Surrogacy in Israel* (Gainesville: University of Florida Press, 2005), 86.

71 Shalev, “*Halakha* and Patriarchal Motherhood,” 98.

72 *Halakha* is the hebrew word for Jewish Law

73 Shalev, “*Halakha* and Patriarchal Motherhood,” 78.

statutory committee that would exercise discretion in reviewing each single agreement.”⁷⁴ As I will discuss in the next section, the final legislation regarding surrogacy was far stricter than recommended by the Aloni Commission, in large part due to political pressure from Orthodox groups.

2.5 Embryo-Carrying Agreements Law (the Surrogacy Law)

From the time that the Aloni Commission published their report regarding IVF in 1994 until the subsequent Embryo Carrying Agreements Law was ratified in 1996, a number of restrictions had been added to surrogacy arrangements due to political pressure from religious groups. According to Carmel Shalev, a leading scholar on surrogacy in Israel, unlike the Commission's recommendations which were based on notions of privacy and autonomy, “the guiding principle of the statute, which was dictated by political considerations, is the preservation of the rules of kinship according to Jewish *halakha*.”⁷⁵ The “political considerations” in this context is the “the consent of the rabbis and religious parties” without which, “it would not be possible to pass legislation in the Knesset.”⁷⁶ Due to Israel's multiparty political system, amongst other factors, the Orthodox parties “hold a disproportionate amount of leverage in the formal political sphere.”⁷⁷ The percentage of Orthodox Jewish Israelis hovers around 20% of the Jewish population of Israel, yet the Orthodox political parties have been part of every government coalition to date.⁷⁸ This has undoubtedly impacted much of Israeli legislation, including the Embryo Carrying Agreement Law, which includes numerous restrictions to surrogacy arrangements that were not recommended by the Aloni Commission, including the limitation that only heterosexual couples be allowed to contract a surrogate.⁷⁹

74 Shalev, “*Halakha* and Patriarchal Motherhood,” 79.

75 Shalev, “*Halakha* and Patriarchal Motherhood,” 82.

76 Shalev, “*Halakha* and Patriarchal Motherhood,” 82n25.

77 Portuguese, *Fertility Policy*, 47.

78 Portuguese, *Fertility Policy*, 47.

79 Shalev, “*Halakha* and Patriarchal Motherhood,” 81.

Elly Teman, another Israeli scholar who has studied the development of Israel's surrogacy law, argues that the restrictions on surrogacy have more to do with preserving the integrity of the traditional categories of *motherhood* and *family* than with appeasing the religious minority.⁸⁰ In the past 15 years since the surrogacy law was introduced the limitations included have been challenged numerous times, to no avail. Teman discusses several cases in which the restriction of surrogacy to heterosexual couples was challenged. While single women are given full access to IVF, egg donation, and other fertility treatments, surrogacy agreements can only be made between heterosexual couples and an unmarried woman. While many services have been extended to single women and same-sex couples over the past decade, surrogacy remains the “last outpost of the nuclear family.”⁸¹ Through every challenge, the courts have declined to review the surrogacy law, which is the only reproductive technology not included in the general Health Law but regulated through its own law. Teman argues that the relative restrictiveness of surrogacy in Israel stems from the fact that “the social construction of kinship categories is exposed in surrogacy.”⁸² Gamete donation is always anonymous in Israel, thus preserving perceptions of a “natural” family. Meanwhile, surrogacy exposes the “ambiguity of the concept of mother” in a way that other technologies do not.⁸³ Punctuating this concern is the criminal statute protecting the anonymity of children born to surrogates.⁸⁴ Teman concludes that the “state may be willing to aid single and lesbian women in becoming alternative families with the help of other NRTs, but in surrogacy, where the definitions of *mother* and of *family* are so extremely threatened, the state reverts to a conservative approach.”⁸⁵ Through this analysis of the surrogacy law, we see that the contradictions between the government's acceptance of alternative families and restrictions placed on them are based in preserving traditional definitions of *mother* and *family*, which, in the Jewish-Israeli context, is understood through biological ties.

80 Teman, Elly, “The Last Post of the Nuclear Family: A Cultural Critique of Israeli Surrogacy Policy,” in *Kin, Gene, Community: Reproductive Technologies among Jewish Israelis*, eds. Daphna Birenbaum -Carmeli and Yoram S. Carmeli (New York: Berghahn Book, 2010), 117.

81 Teman, “The Last Post,” 105.

82 Teman, “The Last Post,” 117.

83 Teman, “The Last Post,” 118. This is especially true when one considers that Jewish status is conferred through the gestational rather than the genetic mother.

84 Seeman, “Ethnography,” 355.

85 Teman, “The Last Post,” 120.

2.6 Adoption vs ART Policies in Israel

A comparison of Israel's ART and adoption policies reveals more discrepancies in Israel's overall pronatalist stance. When examined side by side, Israeli reproductive technology policies and adoption policies show a clear hierarchy between genetic and social kinship. While many countries privilege biological parenthood over adoption, the discrepancy in Israel is particularly extreme. The relative rarity of internal adoption, as will be explained, is related to the small number of children put up for adoption each year. A comparison between ARTs and international adoption more clearly shows the way that Israeli policymakers privilege biological over social kinship. For one, the government does not subsidize the costs of international. Likewise, while women undergoing fertility treatments are entitled to up to 80 days of sick leave for medical appointments, "absence from work for adoption-related reasons is not equally subsidized."⁸⁶ The government even recommends that couples continue fertility treatments while waiting for adoption. Birenbaum-Carmeli and Carmeli argue that this discrepancy is a reflection of Jewish-Israeli notions of kinship "which anchors a person's identity to bloodlines."⁸⁷ The authors conclude that the government's uneven promotion of ART over adoption "tells the story of a collectivity trying to define itself in terms of blood relatedness in the name of familial and national bio-survival."⁸⁸

2.7 Posthumous Reproduction

In contrast to the United States, for example, where the right to parenthood is a negative right to be free of interference in one's choice to become or not to become a parent, in Israel, the right to parenthood is conceived of as a positive right in that one has the right to state assistance in becoming a parent.

86 Birenbaum-Carmeli and Carmeli, "Adoption," 136.

87 Birenbaum-Carmeli and Carmeli, "Adoption," 138.

88 Birenbaum-Carmeli and Carmeli, "Adoption," 143.

Meanwhile the right not be a parent does not exist, as evidenced in the Nahmani case. The meaning of parenthood in Israel is based in a right to the continuity of one's family line. This understanding is most clearly demonstrated in Israel's acceptance of posthumous parenthood.

In 2003, Israel created guidelines on posthumous reproduction, which are notable not only for the wide embrace of posthumous parenthood but because they are based on presumed consent such that unless someone leaves a will specifically stating that they do not want their gametes used posthumously, the assumption is that they would want genetic continuation posthumously. This assumption has not been challenged in Israel. In fact, challenges to the country's guidelines have only been in attempt to allow posthumous reproduction in even more cases. In 2007, a Tel Aviv court ruled that the parents of deceased Kevin Cohen could use sperm extracted after his death to impregnate a woman who agreed to be the mother of their grandchildren, despite never having met Cohen. This ruling brings Israel “closer than any other to acknowledging a right to grandparenthood.”⁸⁹

Irit Rosenblum, and her organization New Family, has been at the forefront of both gay family rights and advocacy of posthumous reproduction. She described posthumous reproduction as “an idea of continuation... a dream.”⁹⁰ In a meeting with her, I asked if she saw ethical issues with posthumous reproduction and thus where she drew the ethical limits of her advocacy of family. She seemed perplexed that there might be ethical concerns with posthumous reproduction and answered, “You can sum up our ethical boundaries with two words: common sense.”⁹¹ To Irit and the other students at this meeting, common sense determined that posthumous parenthood should not only be allowed but planned for. The New Family organization has advocated that each Israeli soldier file a biological will, to specify their wishes for their gametes in the case of death. Not once was the interest of the child raised, neither in the meeting I attended nor in the news articles I read regarding this topic. This coincides with Halishoni's argument that “children in Israeli-Jewish society are not perceived as autonomous human beings bearing individual

89 Michelle Goldberg, “Made in Heaven,” *Tablet Magazine*, March 17, 2011. <http://www.tabletmag.com/news-and-politics/61835/made-in-heaven/> (accessed June 2, 2011).

90 Ibid.

91 Irit Rosenblum, interview by author, Tel Aviv, Israel, May 2, 2011.

rights... but rather as parts of families.”⁹² Throughout the meeting Irit described *emshechiut*, or continuity, as a basic human instinct and a human right.⁹³ The continuity of their “line” was also the primary concern of the Cohen family, a concern that the court legitimized by ruling in their favor.⁹⁴ This indicates that it is not only parenthood that is a priority in Israeli society but the continuation of one's family line. When considering the case of posthumous fatherhood, this right is clearly about the genetic continuation of one's family rather than the right to experience the joys of parenthood or raise children. This logic is present throughout Israeli thinking on reproduction.

2.8 Single Motherhood in Israel

Another marker of Israel's pronatalism and society's acceptance of reproductive technologies can be seen in the use of artificial insemination and IVF by unmarried women in order to have children. State-funded fertility treatments also extend to “couples who do not have children from their current marriage, and also for a childless woman who wishes to establish a single-parent family.”⁹⁵ In her study of assisted conception in Israel, Susan Kahn details the legal and cultural framework that allows for unmarried mothers to be socially acceptable in Israel.⁹⁶ Single parents “receive a series of tax, mortgage, rent, and other subsidies designed to render child-rearing on one salary feasible.”⁹⁷ Kahn argues that the efforts of autonomous mothers “are reinforced not only by state policies that permit unmarried women to pursue pregnancy via artificial insemination but also by family, friends, and fertility clinic staff, for whom the desire to become a mother is thought to be entirely nature and deserving of assistance, technological or

92 Halishoni- Dolev, “Between Mothers,” 137.

93 *Emshechiut* translates to continuity, but in this context is understood as the continuation of one's family and blood line.

94 Seeman, “Ethnography,” 345.

95 Paragraph 6(e) of the Second Addendum to the National Health Insurance Law, *S.H.* no. 1469 (1994): 183 quoted in Shalev, Carmel and Sigal Gooldin, “The Uses and Misuses of In Vitro Fertilization: Some Sociological and Ethical Considerations,” *Nashim: Journal of Jewish Women's Studies and Gender Issues* 12 (2006): 156.

96 Kahn, *Reproducing Jews*, 62.

97 Waldman, “Cultural Priorities,” 83.

otherwise.”⁹⁸ Kahn's study demonstrates both the way in which the desire for children trumps other conventions of kinship in Israel, such as marriage, and how technology is considered an unproblematic solution to a terrible problem, namely, childlessness. According to Kahn, the decision to become a single mother, through artificial insemination, is encouraged on many levels simultaneously. Confirming this argument, Waldman writes that in Israel, “single parenthood is not seen as fraying the nation's moral fiber, but as a life choice consistent with regnant social values that support child-bearing.”⁹⁹ Kahn's study of unmarried women also includes lesbians, for whom state-funded fertility treatments are equally available. Given the acceptability of intentional single motherhood through in-vitro fertilization, acceptance of other forms of parenthood that rely on technological innovations and deviate from the idealized nuclear family, the acceptance of gay parenthood, even through complex technological means, is not such a far stretch.

2.9 Conclusion

In this chapter, I presented a picture of the social and legal landscape that surrounds and informs the reproductive decisions of my interviewees. Israeli society is marked by extreme pronatalism, but also by a strong attachment to biological constructs of identity which not only delineates belonging in the Jewish collective but also informs the reproductive decisions of Jewish-Israelis. In the following chapter, I argue that Israel's pronatalist culture, rather than ostracizing same-sex couples, encourages their reproduction even through extraordinary means of technological interventions, so long as it does not interfere with Jewish understandings of kinship.

⁹⁸ Kahn, *Reproducing Jews*, 62.

⁹⁹ Waldman, “Cultural Priorities,” 83.

Chapter 3: Gay Parenthood in Israel

Many scholars have discussed the repercussions of Israel's pronatalism on women,¹⁰⁰ but writings on the impact of pronatalism on gay and lesbian Israelis are mostly anecdotal. The relationship between pronatalism and the LGBT community in Israel has not been subject to the kind of scholarly interrogation that pronatalism and gender has received from feminist scholars, but it is becoming increasingly important as more lesbians and gay men are choosing to have children.¹⁰¹ In the previous chapter I explored Israeli pronatalist attitudes, Jewish approaches to reproductive technologies, and state policies that reinforce biological essentialism to give an overview of the cultural meaning of kinship in the Jewish-Israeli context. Following an anthropological approach to ARTs, I consider the cultural context of its use essential to understanding the meanings attributed to technological interventions. Thus, it is within the context described above that gay couples navigate the terrain of reproduction and in doing so both reinforce certain norms and challenge others. In the following chapter, I discuss gay parenthood in Israel. Based on my interviews as well as previous research on related topics, I argue that the Israel's culturally specific form of pronatalism has generally lead to societal acceptance of lesbians and gay men as parents, but that gay parents challenge the biological essentialism that predominates Jewish-Israeli notions of kinship.¹⁰²

3.1 Legal Perspectives on Gay Parenthood in Israel

In her comparative study of US and Israeli ART policies, Ellen Waldman concludes that “Israeli enthusiasm for child-bearing cuts across all categories of family structure. Legal and financial support for

100For a study of Israeli pronatalism from the perspective of women's health see Susan Sered, *What Makes Women Sick: Maternity, Modesty, and Militarism in Israeli Society* (Hanover: Brandeis University Press, 2000). From the perspective of gender equality see Barbara Swirski and Marilyn Safir, eds. *Calling the Equality Bluff: Women in Israel* (New York: Pergamon Press, 1991).

101Nathalie Hamou, “Israel, A Paradise for Gay Families,” New Family Organization <http://www.newfamily.org.il/en/1906/israel-a-paradise-for-gay-families-by-nathalie-hamou-in-israel/> (accessed June 2, 2011).

102I am not arguing that homosexuality is generally accepted in Israel, but that gay parenting is not problematized separately from, or additionally to, more general discrimination regarding sexuality.

single and gay-headed families is robust.”¹⁰³ Some have even argued that “Israel has the highest number of children of homosexual parents per capita in the world.”¹⁰⁴ While Israel is far from a utopia for lesbians and gay men, these statements underscore the fact that family rights have been extended in many ways to gay-headed families.¹⁰⁵

Within this context of a pronatalist society that embraces reproductive technologies, it is “no accident that the biggest successes of Israeli gay and lesbian activists have centered on family-related issues”¹⁰⁶ One of the first victories for the gay rights movement came in 1995 when the Israeli Supreme Court ruled that El Al, an Israeli airline, was required to extend the same partner benefits to homosexual partners as heterosexual partners.¹⁰⁷ The same year, Uri Ezen and Amit Kama became the first gay couple to be officially registered as foster parents. It took over ten years, but eventually, the Israeli Supreme Court also ruled that they could legally adopt their foster child.¹⁰⁸ Another major victory came in 2005, when Dr. Tal Yarus-Hakak won a petition allowing her lesbian partner to adopt her biological children.¹⁰⁹ In 2008, this time without even a court battle, “The National Insurance Institute authorized Israel's first-ever 'maternity' leave for a male couple” after the birth of their child via surrogacy in India.¹¹⁰ And, in the same year, the Israeli Supreme Court ruled that homosexual couples should receive the same rights as heterosexuals in adopting children.¹¹¹ For tax and legal purposes homosexual couples and families receive

103Waldman, “Cultural Priorities,”105.

104Dalia Cahana – Amitay and Michal Tamir, “The Hebrew Language Has Not Created a Title for Me’: A Legal and Sociolinguistic Analysis of New-Type Families,” *Journal of Gender, Social Policy, and the Law* 17 no.3 (2009): 547.

105Z’cuyot Hamishpaha, or family rights is a legal category in Israeli jurisprudence.

106Walzer, *Between Sodom and Eden*, 184.

107Walzer, *Between Sodom and Eden*, 183.

108Vered Luvitch, “Gay Couple Granted Adoption for Foster Son,” *Y-Net News*, March 10, 2009.

<http://www.ynetnews.com/articles/0,7340,L-3684109,00.html> (accessed June 2, 2011).

109Walzer, *Between Sodom and Eden*, 191.

110Tomer Zachrin, “First Israeli Gay Man Gets 'Maternity' Leave,” *Haaretz News Source*, March 16, 2009.

<http://www.haaretz.com/print-edition/news/first-israeli-gay-man-gets-maternity-leave-1.272164> (accessed June 2, 2011). According to Israeli policies, one parent can take a 12 week paid leave after the birth of their child but not both parents.

111Yuval Yoaz, “AG Okays Wider Adoption Rights for Same-Sex Couples,” *Haaretz News Source*, February 11, 2008. <http://www.haaretz.com/print-edition/news/ag-okays-wider-adoption-rights-for-same-sex-couples-1.239054> (accessed June 2, 2011). As will be discussed later, the court ruling has not actually made it significantly easier for gay couples to adopt.

the same benefits as heterosexual families.¹¹² As one gay couple that recently immigrated to Israel from the United States explained to me, in terms of taxes and other bureaucratic concerns “everything is much simpler here. In Israel, we are registered as a married couple with children and have all the same benefits as any other married couple with children.”¹¹³

3.2 Adoption

Unlike the dominant Israeli discourse, adoption was not considered a last resort by gay couples. In fact, all the couples that used surrogacy tried adoption first, but were unsuccessful. I spoke with Aaron at length about the options he considered before turning to surrogacy. First, he explained that he and his partner had looked into adoption, calling a number of adoption agencies, but it “was a very frustrating experience.” After months of not having their messages returned, Aaron told me, “we learned from other people as well that it was an avenue that wasn't going to lead us anywhere.”¹¹⁴ Michael who already has twins through surrogacy now wants to adopt a child. He explained that while he had wanted to adopt originally, he knew that it was unlikely that he would get a child through adoption. Now that he already has two children, he is willing to take on the challenges of a system that discriminates against him. To explain the situation further, I will now briefly describe the adoption system in Israel and why it is difficult, if not impossible for gay couples to adopt, despite their legal entitlement. Within the area of adoption there are

112 While most gay rights activists in Israel have lauded the government's recent recognition of gay family rights, a parallel discourse has labeled the gay rights victories in Israel, as “pinkwashing.” Through the term pinkwashing, some have argued that Israel has strategically used the gay rights movement to raise its international profile, promote gay tourism, divert attention from the Israeli-Palestinian conflict, and mark itself as “Western” in comparison to Arab countries, many of which punish homosexuality by death. While the government's motivation for enabling certain gay rights is beyond the scope of this thesis, it is important to note that community acceptance for gay parenting is tied to importance of *Jewish* reproduction, whether or not this is of importance to the parents themselves. While reproductive technologies are legally available to Palestinians living in Israel, they are not as likely to use these services, especially in cases where sperm donation is necessary. Similarly, surrogacy is not condoned amongst Palestinians in Israel. Thus, the embrace of reproductive technologies, like in-vitro fertilization, artificial insemination and surrogacy, in Israel increases the Jewish reproduction rate while not influencing the Palestinian reproduction rate dramatically. Likewise acceptance of gay parenthood in Israel is likely to only effect the Jewish population growth as homosexuality, let alone gay parenthood, is generally condemned by Palestinians. For more on this perspective on gay rights in Israel, see Jaspir Puar, “Israel's Gay Propaganda War,” *The Guardian* July 1, 2010

113 Interview by author, Galilee region, Israel, May, 1, 2011. While gay marriage is not recognized within Israel, gay marriages conducted abroad are recognized by the Israeli government and treated in the same manner as any other marriage conducted abroad.

114 Interview by author, Tel Aviv, Israel, May 2, 2011.

two distinct tracks: internal adoption and international adoption. First, I will address the current status of same-sex couples in adoption within Israel, then I will discuss the options, or lack thereof, for international adoption by same-sex couples.

As mentioned earlier, gay men and lesbians have had the right to adopt their partner's biological children in Israel since 2005. In 2008, the Attorney General of Israel ruled that same-sex couples be allowed to adopt children that are not biologically related to either of them. The ruling was hailed by gay rights activists as an important step in legitimizing same-sex families, but the improved legal standing has not necessarily changed the reality for same-sex couples who want to adopt. Firstly, adoption within Israel is very limited. Around 70 children a year are available for adoption in Israel, and the wait list for adopting a baby is approximately six years.¹¹⁵ There is also an age restriction of 40 years old, so one must begin the process before the age of 34 to have a reasonable chance of adopting a child before passing the age limit.¹¹⁶ While legally both same-sex couples and single parents are allowed to adopt children, preference is generally given to heterosexual couples. The system for matching children with adoptive parents in Israel is based on “the best interests of the child” as determined by the adoption agency. As there are no set formulas for determining the interests of the child, non-traditional families are often passed over in favor of seemingly more traditional families. This informal discrimination is not in itself illegal in Israel. As the Attorney General explained in a statement regarding his ruling, “There is nothing in principle that dictates that the adoption of a child by a same-sex couple is not in the best interest of the adoptee...However, the sexual orientation of the prospective adoptive parents is a relevant consideration in determining the candidates' fitness to adopt.”¹¹⁷ Since placement is done on a case by case basis there is a lot of unverifiable discrimination. As I learned from my interviewees, despite their legal option to adopt, the reality is that

¹¹⁵Kislinger, Lara. “Inter-country Adoption: A Brief Background and a Case Study.”

<http://www.adoptionpolicy.org/pdf/backgroundCS.pdf> (accessed May 30, 2011): 7. According to Birenbaum-Carmeli and Carmeli this number goes down to 50 for children under 2 years old.

¹¹⁶The requirement is that the couple's average age be less than 40. Many of the couples I interviewed would not have qualified due to this requirement alone

¹¹⁷Yuval Yoaz, “AG Okays Wider Adoption Rights for Same-Sex Couples,” *Haaretz News Source*, February 11, 2008. <http://www.haaretz.com/print-edition/news/ag-okays-wider-adoption-rights-for-same-sex-couples-1.239054> (accessed June 2, 2011).

same-sex couples and gay men in particular do not have a good change of getting children through the Israeli adoption system.

International adoption by same-sex couples is equally, if not more, difficult as most countries impose restrictions on who can adopt children born in their countries. While the complexity of international adoption is beyond the scope of this project, it is important to note that the options available to Israeli gay couples are limited not only by the regulations in Israel, but also by the regulations of various jurisdictions.¹¹⁸ As far as I can ascertain, no country currently allows gay couples abroad to adopt children from their country.¹¹⁹ The fact that international adoption is restricted to gay men by almost every country and yet restrictions on the use of surrogacy by gay men do not exist, notably in India where surrogacy has become a major industry, pushes couples towards surrogacy. Many of my interviewees expressed that the lack of options available to them as an openly gay couple was a determining factor in their decision to pursue surrogacy. As Aaron explained to me, having wanted children for years and having spent the last few looking into every possibility, “we’ve realized that this is our last option.”¹²⁰ When asked about the decision to work with a surrogate Michael answered in a similar manner: “we didn’t have much of a choice, it’s not like we have a lot of options.”¹²¹ So while at first glance it may seem that gay men are turning towards surrogacy because of a desire for biological kinship, it appears from my interviews that this is not the case at all, but that with the number of obstacles gay men face, surrogacy is one of the few options they have.

118Furthermore, some countries have imposed embargoes on adoptions to Israel in protest of the Israeli-Palestinian conflict, thus further limiting the options available to same-sex couples

119Some countries employ a “don’t ask, don’t tell” type policy in which single men are allowed to adopt, but my interviewees expressed hesitations and discomfort about hiding their sexuality in order to adopt

120Interview by author, Tel Aviv, Israel, May 1, 2011. Another option which is available to gay men is co-parenting, an arrangement in which gay men pair up with single women to jointly raise children. Several of my interviewees pursued this route unsuccessfully to varying degrees before pursuing surrogacy. I also interviewed two men who are in co-parenting relationships. Both of these men pursued parenthood as individuals, rather than with a partner, and therefore their situation is quite different from the focus group of my study. The dynamics of co-parenting and the plethora of relationship structures under the umbrella of co-parenting necessitate a separate analysis.

121Interview by author, Jerusalem, Israel, May 1, 2011.

3.3 Societal Acceptance of Gay Parenthood

The pressure to have children is not only applied to women or heterosexuals, as Moshe Shokeid explains in an essay on Israeli society, “while single women are tolerated somewhat for their unmarried status because it is still considered men who can make the choice, men have little excuse for not getting married.”¹²² Shokeid argues that gay Israelis first see themselves as Israelis then gay and participate in mainstream society rather than having separate book stores or clubs. He also argues that Tel Aviv does not have the culture of anonymous sex that characterizes other gay-friendly cities.¹²³ Thus, neither lesbians nor gay men in Israel are exempt from the social pressure to reproduce. In Israel, “starting a family, having children, and grandchildren are among the major societal expectations” that cut across generations, class differences, political parties, the religious spectrum, and even sexual orientation.¹²⁴

In his book on the gay community in Israel, Walzer argues that Israeli's family-oriented culture encourages gay men in Israel to seek long-term, committed relationships as opposed to a more singles focuses gay community in the United States.¹²⁵ Aaron, an American-born Israeli made the same observation, “Being gay and single in Israel is different, the single gay scene is pretty separate from the rest of Israeli society. But once you're in a couple, it's different. Since my husband and I have been together, we're treated like any other married couple.”¹²⁶ While coupling may be a step towards acceptance in Israeli society, parenthood is essential for full integration into society. As an Israeli professor and IVF specialist said, “In Israel, a family without children is nothing... couples who do not have children soon find themselves outsiders. They feel they have no place in society.”¹²⁷

122Moshe Shokeid, “Closeted Cosmopolitans: Israeli Gays between Centre and Periphery,” *Global Networks* 3 (2003): 389.

123Shokeid, “Closeted Cosmopolitans,” 390-391.

124Shokeid, “Closeted Cosmopolitans,” 393. I in no way judge my interviewees for their choice to pursue parenthood or dismiss their choices as complicity with pronatalism or “homonormativity.” I also do not attempt to determine whether their decisions were based on social pressure or some sort of “internal” desire for children because I think those types of questions are based on a positivist assumption that one has “genuine” desires which is contrary to my constructivist approach. In other words, I believe that all desires are socially-constructed and therefore such questions are irrelevant.

125Walzer, *Between Sodom and Eden*, 179.

126Interview by author, Galilee Region, Israel, May 2, 2011.

127Nicky Blackburn, “I Will Become a Mother at Any Cost,” *The Times* (London), July 19, 2004.
http://www.timesonline.co.uk/tol/life_and_style/article458210.ece (accessed June 2, 2011).

For lesbians in Israel, the push to have children is reinforced by state funded IVF treatments which are available without cost to all women regardless of their marital status or sexual orientation.¹²⁸ Thus from a legal and medical perspective lesbian motherhood is encouraged, despite the fact that same-sex marriage remains a distant dream in Israel.¹²⁹ While some people have qualms with same-sex couples raising children, the desire for children is such a strong assumption in Israel, that a same-sex couple's desire for children is seen as a commonality that bridges differences in sexual orientation and lifestyle. Pronatalism simultaneously bridges gaps between same-sex couples and mainstream Israeli society while also reinforcing the assumption that the desire for children is universal and inherent to human nature. Considering the emphasis placed on parenthood in Israeli society, it not so difficult to see that "having children as a gay man or lesbian in Israel often grants greater legitimacy in the eyes of family, friends, and the wider society."¹³⁰

For same-sex couples, the transition to parenthood can serve as an entry point into mainstream Israeli society. Many of the people I interviewed or even spoke with casually about my topic made it a point to tell to me that children, no matter how they were born or to whom, are cherished in Israel. For example, during our interview, Carlos interrupted me, pointed to my voice recorder, and said "the most important thing I want you to know for your research is that Israelis love children..."¹³¹ Carlos, like many others, took pride in the fact that Israel is a family-oriented country and wanted that to be emphasized in my study of same-sex families in Israel.

In a meeting at New Family, a non-profit organization for the promotion of family rights in Israel, Irit Rosenblum, the organization's director and spokesperson repeatedly stated that family is the essence of humanity and that parenthood is a human right.¹³² To me, this kind of polemic speech raised red flags, but

¹²⁸Kahn, *Reproducing Jews*, 2.

¹²⁹The Israeli government recognizes a form of civil union between same-sex couples which comes with almost identical benefits and recognizes same-sex marriages conducted abroad, but same-sex marriage within Israel is unlikely to be legalized any time soon as all marriage and divorce laws are regulated by the religious courts and thus are managed strictly according to Jewish law.

¹³⁰Walzer, *Between Sodom and Eden*, 192.

¹³¹Interview by author, Tel Aviv, Israel, May 2, 2011.

¹³²Rosenblum, interview by author, Tel Aviv, Israel, May 1, 2011.

as I looked around the room at the other students in attendance, I saw everyone else nodding in agreement. Aaron, a professor, saw the downside of Israel's pronatalism, because "not everyone wants to have children" but did agree that it helped in terms of the acceptance of gay parents.¹³³

Some of the couples that I interviewed were shocked by the amount of positive attention they received upon the birth of their children. For example, Ayelet Schnur, a lesbian mother and well-known figure in Jerusalem's LGBT community, was surprised by the way her mostly religious co-workers responded to her pregnancy:

Most of the other teachers are orthodox... The teachers were very happy for me. They were very excited for me. Even the teachers that are more homophobic were very happy and excited. I saw that really in Israel, if you have children, you're accepted... doesn't matter what, you've been accepted.¹³⁴

Pregnancy and parenthood not only gave Ayelet an additional topic of conversation with her co-workers, it eased tensions between her and some of her co-workers who had previously seemed uncomfortable with her sexuality. According to Ayelet, the joy surrounding the birth of a child outweighed homophobia amongst her co-workers to a large extent. Michael, who lives in a fairly religious part of Jerusalem, was also treated to a warm welcome when he returned from India with his twins: "There are a lot of religious people here, but when I came back with the twins, people were waiting for me with balloons and flowers. Everyone was very happy for me."¹³⁵

The community acceptance relayed to me by my interviewees was also found by Michal Tamir and Dalia Cahana- Amitay in their study of what they term "new-type families" most of which are families with at least one gay parent.¹³⁶ They explain that "new-type families neither experience social rejection nor suffer alienation" in fact "most had trouble recalling negative reactions from others regarding their family setting."¹³⁷ This is not to imply that there is no homophobia in Israel, far from it, rather that generally, gay

¹³³Interview by author, Tel Aviv, May 2, 2011.

¹³⁴Ayelet Schnur, interview by author, Jerusalem, Israel, April 27, 2011.

¹³⁵Interview by author, Jerusalem, Israel, May 1, 2011. Implicit throughout these conversations, but never stated, is that "everyone was happy" about the birth of *Jewish* children.

¹³⁶ Many of the families they interviewed consisted of single women who joined with gay men to have children together.

¹³⁷Cahana-Amitay and Tamir, "The Hebrew Language," 596.

parenthood is not considered more problematic, or a separate problem than homosexuality itself.

In a study on gay men who become fathers via surrogacy in the United States, David Bergman et al. found that children often strengthened connections between gay fathers and their families. Bergman et al. relay that several of the fathers in the study noticed a significant change in the perception of their relationship with their partner after having children: “Some fathers expressed that they had increased recognition of their family unit after having children.”¹³⁸ I found the same in my interviews. I found that many couples noticed increased acceptance from their parents of their lifestyle and relationship with their partner after children were added to the family unit. As Michael explained “at first they were a bit hesitant about our decision... but once the twins were born, they have really brought the family together.”¹³⁹

Similarly, Bergman et al. found that most of the participants in their study noticed a positive change in their relationship to their partner's family, demonstrating the role of children in the recognition of same-sex partnerships as families.¹⁴⁰ The respondents in Bergman's study attributed this change to the creation of a common interest and the identification of their son's partner as the parent of their grandchild, a relationship that is more easily recognizable in heteronormative society as it mirrors the relationship parents have with their daughter or son-in-law.

In Israel, I argue that this strengthened relationship between one's parents and one's partner also relates to the overall pronatalist culture of society. Having children does not just enable a common interest but also underlines a common world-view. While some parents may have trouble accepting their children's sexual orientation, they can at least understand their desire to have children, a desire which is largely assumed to be innate. This argument is often used to justify parenthood rights to homosexuals in Israel, since the desire for children is seen to expand beyond the boundaries of sexual orientation. As mentioned above, New Family, the main organization that advocates for same-sex parenthood rights through the legal system in Israel describes parenthood as a basic human right and family as the cornerstone of society.

138Kim Bergman et al., “Gay Men Who Become Fathers via Surrogacy: The Transition to Parenthood,” *Journal of GLBT Family Studies* 6 (2010): 125.

139Interview by author, Jerusalem, Israel, May 1, 2011.

140Bergman et al., “Gay Men,” 127.

Amongst my interviewees, even those who did not notice a change in their parents' acceptance of their sexuality or their partner, were still overwhelmed by their parent's joy at the addition of a new grandchild. Ayelet explained that while her relationship with her parents remained strained after the birth of her son, "Ofir they really love. They have a connection with him that bypasses us."¹⁴¹ The relationship between Ofir and his grandparents speaks to the importance attached to parenthood as a form of family continuation and the right to grandparenthood in Israel which was discussed in the previous chapter.

3.4 "Mis-recognition"

While I argue that Jewish-Israeli society is generally accepting of gay parenthood for a variety of reasons, these families still face obstacles in both a legal sense and in terms of social recognition. I argue that the obstacles that same-sex families in Israel face are due to the privileging of genetic over social parenthood in Israel society and the Israeli legal system.

Using Charles Taylor's theory of the politics of recognition and Iris Marion Young's definition of cultural imperialism as one of the five faces of oppression, I argue that despite the overall acceptance of gay parents in Israeli society, alternative families suffer from misrecognition. In *The Politics of Recognition*, Charles Taylor argues that "nonrecognition or misrecognition can inflict harm, can be a form of oppression, imprisoning someone in a false, distorted, and reduced mode of being."¹⁴² Similarly, Iris Marion Young defines cultural imperialism as "the paradox of experiencing oneself as invisible at the same time that one is marked out as different" which occurs "when dominant groups fail to recognize the perspective embodied in their [the oppressed group] cultural expressions as a perspective."¹⁴³ This can clearly be seen in the struggles of non-biological parents in a same-sex partnership to be regarded as equal

¹⁴¹Schnur, interview by author, Jerusalem, Israel, April 27, 2011.

¹⁴²Taylor, Charles, "The Politics of Recognition" in *Multiculturalism and "The Politics of Recognition": An Essay* (Princeton: Princeton University Press, 1992), 25.

¹⁴³Young, Marion Iris, "Five Faces of Oppression," in *Justice and the Politics of Difference* (Princeton: Princeton University Press, 1990), 60.

parents. Their perspective as parents is marginalized and their relationship to their child is distorted by misrecognition.

In a sociolinguistic and legal study of alternative families, Michal Tamir and Dalia Cahana-Amitay argue that these families suffer from “an absence of social acknowledgment or a gap between the authenticity in which new-type families live, and the non recognition with which they are met.”¹⁴⁴ My interviews revealed a similar pattern of misrecognition. For example, one interviewee, Ayelet, expressed non-recognition as the primary difficulty she faces as a lesbian mother:

In my opinion, the most widespread difficulty on a day to day basis is that we are exposed to the outside world that never understands us as a couple of parents with a child. The guess is always that we are sisters, or friends, and that he is the child of one of us¹⁴⁵

While most of the people that Ayelet interacts with seem to be accepting, they have trouble looking beyond genetics and recognizing that she and her partner are equally parents of their child. Many people insist on finding out which one of them gave birth to Ofir and thus who the “real” mother is. As Ayelet explained:

When Ofir was already born, people asked who is the mother? So we answer: both of us are the mothers. So they ask but who gave birth to him... Ronit felt very uncomfortable with these questions. She said that I answered as I should but then they would only speak to me. And she feels outside of the conversation.¹⁴⁶

Ronit's exclusion is “expressed in the dearth of established, much less positive, terms for the role of the “co-mother” often represented as the proverbial “lack,” she is the “nonbiological mother,” the “nonbirth mother,” the “other mother.”¹⁴⁷ While these are English terms, they are almost identical to the terms used in Hebrew. The lack of appropriate language with which to convey Ronit's position vis a vis her child reflects the lack of recognition that these forms of kinship have in society.

Because Ronit and Ofir have a stronger physical resemblance, she is often assumed to be his birth

¹⁴⁴Cahana-Amitay and Tamir, “The Hebrew Language,” 575.

¹⁴⁵Schnur, interview by author, Jerusalem, Israel, April 27, 2011.

¹⁴⁶Schnur, interview by author, Jerusalem, Israel, April 27, 2011.

¹⁴⁷Corrine P. Hayden, “Gender, Genetics, and Generation: Reformulating Biology in Lesbian Kinship,” *Cultural Anthropology* 10 no.1 (1995): 49.

mother. When this assumption is made, questions and praise are addressed to her, while Ayelet is ignored. With obvious angst, Ayelet explained: “Never [are we understood] if we don't talk about our relationship and our joint parenthood. The only option we have is to expose ourselves. If not, they don't see us.”¹⁴⁸

Same-sex couples are more accepted once they have children, but their relationship to their children and the organization of their family is often difficult for others to understand and accept. Aaron, who is hoping to have a child through a surrogacy arrangement by the beginning of next year, noted that whose sperm was used “is often the first question asked. And, that really bothers me, because we are going to be equal parents even though my sperm was used.”¹⁴⁹

While their decision to become parents was mostly accepted, normative understanding of the meaning of parenthood haunts same-sex parents. Parents were upset by how often an egg-donor or a sperm-donor was referred to as the child's mother or father. When discussing my thesis topic with friends and family, I heard the terms interchanged many times. The idea that a same-sex couple jointly creates a child, no matter who's biological material was used in the process, is hard for many people to understand and leads to a number of difficulties. Take for example the following conversation that took place between one of my interviewees, Michael, whose twins were born to a surrogate who was implanted with an embryo using a third party egg donor, and a woman who overheard our conversation:

Rebecca: “Is the mother also light?”¹⁵⁰

Michael: “It is not the mother, it is the donor. They don't have a mother. But yes, the egg donor is light like me”¹⁵¹

While Rebecca, an elderly heterosexual woman, was aware of the entire surrogacy and egg donation process and expressed full support of gay parenthood, she mistakenly referred to the egg donor as the children's mother. It was only after Michael corrected her, that she thought about the difference between a mother and an egg donor. This example shows the difficulty that even open-minded Israelis have in

148Schnur, interview by author, Jerusalem, Israel, April 27, 2011.

149Interview by author, Tel Aviv, Israel, May 2, 2011

150The twins have blond hair and blue eyes. By light they mean light skin, hair, and eye color.

151Interview by author, Jerusalem, Israel, May 1, 2011.

understanding, recognizing, and properly naming alternative forms of kinship that do not coincide with genetic definitions of kinship.

Another example of the prevalence of biological/genetic meanings of kinship is from an interview I conducted with Jonathan, who along with his husband, adopted three African-American children in the United States before immigrating to Israel. When describing the typical questions that he is asked about his children he said, “We get asked if they are related. Of course they are related, they're siblings. You should ask if they are biologically related.”¹⁵² Although all three children were adopted in infancy and were raised as siblings, their genetic connection is what interests Israelis and how they determine their relationship to one another.

Unlike in many other jurisdictions, the obstacles facing gay parents are not primarily based in societal assumptions about sexuality and parenthood but rather an adherence to biological kinship that disadvantages same-sex couples. Writing about gay families, Tamir and Cahana-Amitay explain that “they wish to free themselves of the paradox Israeli society imposes on them, simultaneously compelling them to become parents and failing to view alternative family configurations as legitimate families.”¹⁵³

3.5 Challenging Dominant Paradigms of Kinship

As described in the introduction, Israeli citizens and gay couple, Dan Goldberg and Arnon Angel paid a woman in India to be the surrogate mother of their children. In March 2010, Goldberg flew to India for the birth of his twins but was not allowed to return with them because a family court judge in Jerusalem did not approve a paternity test to demonstrate that the twins are genetically his, which is necessary for babies to enter and be naturalized in Israel.¹⁵⁴ It was later discovered that the judge had made similar decisions in cases involving gay parents, for which he was heavily derided by the Association for

¹⁵²Interview by author, Jerusalem, Israel, May 1, 2011.

¹⁵³Cahana-Amitay and Tamir, “The Hebrew Language,” 598.

¹⁵⁴Ron Friedman, “J’lem Man Struggles to Bring Twin Sons Home from India,” *The Jerusalem Post*, May 10, 2010. <http://www.jpost.com/International/Article.aspx?id=175147> (accessed June 2, 2011).

Civil Rights in Israel and even by the Israeli prime minister, Binyamin Netanyahu.¹⁵⁵ Goldberg and Angel challenged the judge's decision and the situation was covered heavily by the Israeli media.

In a statement regarding this case, The Association for Civil Rights in Israel wrote that “no one argues with the state’s right to conduct tests of children born to surrogate mothers abroad before granting them citizenship.”¹⁵⁶ This, however, is not true. Not only did Dan express to me that he was upset that the Israeli government required a paternity test,¹⁵⁷ another interviewee, Doron Mamet, is in fact suing the Israeli government for requiring him to conduct a paternity test before bringing his daughter from the United States to Israel.

Doron Mamet has gained notoriety for his role in the documentary film *Google Baby* but has also become a familiar face amongst gay parents in Israel, as his company Tammuz, provides services for dozens of people seeking surrogacy abroad.¹⁵⁸ Through his business, Doron has become an expert on transnational surrogacy and the legal impediments presented by the Israeli government. During our discussion Doron explained his issue with the required paternity test:

We both donated the sperm... what ever stuck, stuck... we didn't know until the birth and it didn't interest us to know. In the end the state forced us to check... if they hadn't forced us to we would not have checked, it doesn't interest us, it's not relevant. With the second child, we didn't agree to check. We filed a lawsuit against the state. We are requesting that they recognize both of us as the parents, regardless of the genetic connection, because it's simply irrelevant.¹⁵⁹

As Doron explained, the biological basis of parenthood is unimportant to him and his partner, but they understand the weight it carries in society thus, “We don't tell the families who is related [genetically] to whom. Nobody knows actually... they stopped asking long ago...only the state cares.”¹⁶⁰ Understanding

155Jonathan Lis, “Netanyahu: Gay Father and Twins Must Be Allowed to Return to Israel,” *Haaretz News Source*, May 17, 2010. <http://www.haaretz.com/news/national/netanyahu-gay-father-and-twins-must-be-allowed-to-return-to-israel-1.290847> (accessed June 2, 2011).

156Friedman, “J’lem Man,” *The Jerusalem Post*, May 10, 2010.

157I interviewed Dan Goldberg, but for the sake of his privacy, quotes from the interview are attributed to a pseudonym.

158These include mixed religion couples, heterosexual couples who do are above the age requirement, and single women for whom surrogacy is not available in Israel.

159Doron Mamet, interview by author, Tel Aviv, Israel, May 3, 2011.

160Mamet, interview by author, Tel Aviv, Israel, May 3, 2011. Here we see that the “state” is imagined by Mamet as an entity which is distinct from the “field” or everyday life. This understanding of the Israeli state by Israeli citizens was prevalent throughout my interviews, and perhaps could be the focus of another academic inquiry, but is beyond the scope of my current research.

the cultural importance attached to genetic parenthood, Doron and his partner, used a technique of mixing their sperm before it was used to create embryos in attempt not to know or define which of them is the genetic parent. While they are well aware of the fact that each resulting child would only be genetically related to one of them, this technique would allow them to keep that knowledge from themselves, their children, and society in general. Their attempt to circumvent the system of biological parenthood was disrupted by the Israeli government, which required a paternity test be conducted in order to naturalize the child as an Israeli citizen. While Doron and his partner now know which one of them contributed genetic material to their child, they refuse to tell anyone including their children and their parents because they do not want their parenthood to be defined accordingly.

Similarly, Ayelet told me that she and her partner tried to use different sperm donors for their pregnancies, particularly in order to not give weight to the genetic connection between their children as “biology is not important to us.” Their plans however changed when they were told that getting a new sperm donor would require waiting for several months and if they agreed to use the same donor sperm, they could begin the process immediately.¹⁶¹

Another way in which the Israeli government reinforces biological kinship is through the birth certificates of children born to same-sex couples. When a child is born to a heterosexual couple, the husband is assumed to be the biological father, and registered on birth certificates as such, unless otherwise notified or the paternity is contested. In the case of same-sex couples, since only one parent can be genetically related to the child, one parent is seen as the real parent, even in cases of same-sex couples that are legally recognized as married. Thus the biological parent's partner must adopt their own child. This process can take anywhere from 16 months to 3 years leaving everyone in a precarious position. For example, a prison guard who died in the recent Carmel fires in Israel is survived by three children, but the youngest one has not been recognized as her daughter because it was her partner that gave birth to her 10 months ago. The mother's tragic death has been expounded by the government's inability to recognize

¹⁶¹Schnur, interview by author, Jerusalem, Israel, April 27, 2011.

their familial bond, an issue which her partner is now fighting in the Israeli courts.¹⁶²

3.6 New Approaches to Family and ARTs

In chapter 2, through a discussion of pronatalism in Israel, I explored how mainstream Israeli society defines kinship. I argue that the root of Israeli kinship as a genetically based kinship system stems from a strong concern with Jewish reproduction, through which the biological definition of who is Jewish is reified. In contrast, this emphasis on genetics and biology was not expressed by my interviewees. Although in all but one case, the children were biologically related to one of the parents, my interviewees unilaterally placed social parenthood over genetic parenthood. This became most apparent when I asked about details of the reproductive processes through which their children were born. For example, when I asked Michael about the process of selecting an egg donor he responded that “our goal was to bring a healthy child to the world – the details were not as important to us.”¹⁶³ I received similar responses from most of my interviewees. Ayelet made a similar remark, stating that “people always ask about the process and the details, but that's not what is important.”¹⁶⁴

Same-sex couples can not hide the fact that they used technological interventions and donor gametes to create children. But, from what my interviewees told me, they do not want to hide these facts. While on one hand, they do not consider the technicalities particular important, especially once the child is born. On the other hand, they embrace their child's conception and birth stories as evidence of their deep desire to have children despite the complexity of the process. Every person I interviewed told me that they not only had no qualms about explaining to their children how they were born but also that they planned to be forthcoming with every aspect from the start. The couples were open with their children about the existence of gamete donors and surrogates from the start, and did not try to mold themselves into a traditional model of family. I asked each interviewee about what they planned to tell their children and they

162Aviel Maganzi, “Dead Guard Raised Three Children, Only Two Orphans,” (in Hebrew) *Y-Net News*, May 22, 2011. <http://www.ynet.co.il/articles/0,7340,L-4072254,00.html> (accessed June 2, 2011).

163Interview by author, Jerusalem, Israel, May 2, 2011.

164Schnur, interview by author, Jerusalem, Israel, April 28, 2011.

all seemed surprised by the question. For example, Michael replied “I’ll tell them the truth. What else would I tell them?”¹⁶⁵

When discussing their family structure in comparison to the normative heterosexual, two parent model, none of the interviewees expressed concern over the questions their children might ask. For example, Ayelet explained that “Children are fine with just one mom. Ofir has twice what he needs.”¹⁶⁶ The interviewees’ views on this issue were summarized well by Jonathan when he said, “Why focus on what you don’t have instead of what you do have?”¹⁶⁷

Most of the families that I interviewed have young children who have yet to ask many questions, but Ruth & Dana, a lesbian couple with a 5 year old daughter, told me that their daughter had recently asked why she does not have a father. They told her that some families have two fathers, others have two mothers, and some have one of each.¹⁶⁸ Their daughter seemed satisfied with the answer but continues to be curious about family formations. At one point during the interview the little girl asked my grandmother why in our house we only have a grandmother and a girl. When my grandmother answered that each family is different, and my parents are far away, the girl accepted the explanation, smiled, and continued coloring. When I asked Doron about how he plans to tell his children about their birth he explained that,

We’ve told them from age zero... dad and dad wanted children very much, to have a child we needed a woman to help us. There is one woman in the United States who agreed to help us. She gave us some material, we mixed it with dad’s material and then we put it into the belly of another woman who took care of you for nine months.¹⁶⁹

As his children are young, he explained that “the story is very simple at this point, because that’s what they understand.”¹⁷⁰ He also told me that his daughter knows how to tell the story herself, and does so regularly. When giving advice to clients, Doron advocates a similar strategy, “I recommend that they tell the story from the beginning. That they look at the egg donor and surrogate in a very positive light, but not to use

165Interview by author, Jerusalem, Israel, May 2, 2011.

166Schnur, interview by author, Jerusalem, Israel, April 28, 2011.

167Interview by author, Galilee Region, Israel, May 2, 2011.

168Interview by author, Petach Tikva, Israel, April 29, 2011.

169Mamet, interview by author, Tel Aviv, Israel, May 3, 2011.

170Mamet, interview by author, Tel Aviv, Israel, May 3, 2011.

the word mother... and to always focus on what the children have not what they don't have.”¹⁷¹

Doron keeps in touch with the woman who donated her eggs for both of his children. He sends her pictures of the children on a regular basis and even hosted her in Israel for a week. When I asked about his relationship with the egg donor, he proudly showed me pictures of her sitting with his children. In contrast with heterosexual couples, who often try to hide the fact that external gametes were used, gay couples do not have this option, and thus, perhaps, relate to gamete donation differently. This contrast sheds light on discussions of the ways in which gamete donation can erode the integrity of the family. Lawmakers in Europe often express concern with protecting the integrity of the family unit in decisions regarding gamete donor anonymity, but the experiences of gay couples demonstrate that reproductive technologies, including gamete donation, need not disturb the integrity of the family unit, so long as the definition of a family unit is flexible enough to accommodate various formations.

Not only are these couples not able to hide the fact that they used donor gametes, there is no shame or secrecy surrounding this the way there tends to be in Israeli heterosexual couples.¹⁷² None of the couples felt strongly about whether gamete donors should be anonymous or not, likewise none of them considered the selection of gamete donor to be a particular important or noteworthy part of the process. While some aspects of the selection were normalized “of course we wanted someone healthy, who looks more or less like us,” they all agreed that “in the end, once the child is born, you realize that these decisions are really trivial.”¹⁷³ Gay couples do not accept the normative emphasis put on genetics, not in attempt to trivialize the contributions of the donors, but because biology does not determine kinship for them. The one couple who had successfully adopted children expressed a similar position regarding the birth parents of their children explaining to me that “We talk very openly about their adoption situation.”¹⁷⁴ They share all the information they have about the children's birth parents and feel in no way threatened by their

¹⁷¹Mamet, interview by author, Tel Aviv, Israel, May 3, 2011.

¹⁷²Birenbaum -Carmeli, Daphna, and Yoram S. Carmeli. “Ritualizing the ‘Natural Family’: Secrecy in Israeli Donor Insemination” *Science as Culture* 9 no.3 (2000): 301-325.

¹⁷³Interview by author, Jerusalem, Israel, May 2, 2011.

¹⁷⁴Interview by author, Galilee Region, Israel, May 2, 2011.

children's curiosity about their birth parents.

The couples I interviewed did not trivialize the contributions of egg donors and surrogates nor did they attribute parental status to gamete contributors, as mainstream society often does. In this way, the couples challenge the normative narrative of reproduction by emphasizing social over genetic parenthood without trivializing or dehumanizing donors and surrogates. Gay parents expressed appreciation for the contribution of egg donors and surrogates in the creation of their children while still maintaining a distinct line between gamete contribution and parenthood. In choosing a surrogate, Michael expressed his desire to establish some form of relationship with the woman who would gestate and give birth to his children, “There were some that were anonymous, and we didn't want that. We met her, we met her husband, we met her family... we're still in touch now.”¹⁷⁵

While the Israeli regulation, “symbolically erases the genitors in cases of sperm and egg donation”¹⁷⁶ through anonymity, the gay couples I interviewed saw no reason to hide their use of third-party genitors and did not feel that their existence threatened their relationship to their children. Likewise, the birth parents are kept anonymous in adoption cases, thus open adoption is not an option in Israel. Through these regulations, the government tries to ensure that, even in cases of unorthodox kinship configurations, the guise of a “natural” genetic kinship is undisturbed. By contrast, gay couples who can not disguise their families as “natural” biological families, choose not to hide the processes through which they created their families nor to emphasize their biological parenthood, even when presumably the biological relation between one parent and the child would strengthened their claim to parenthood within a society that esteems biological/genetic kinship. Because gay men using surrogacy, work outside the Israeli system they can expose the ambiguities of parenthood in a way that is not allowed in Israel, for example by inviting egg donors into their lives, by insisting on equal parenthood regardless of biological ties, and by openly discussing the role of the surrogacy.¹⁷⁷

¹⁷⁵Interview by author, Jerusalem, Israel, May 2, 2011.

¹⁷⁶Teman, “The Last Outpost,” 117.

¹⁷⁷If the surrogacy law in Israel is ever modified to allow gay couples to contract a surrogate locally, it might be interesting

3.7 Conclusion

In this chapter, I discuss the position of gay parents in Israeli society: both the acceptability of gay parenthood and the challenges of “mis-recognition” that gay parents face. I argue that gay couples challenge normative constructs of biological kinship by insisting on equal parenthood regardless of the genetic connection between the child and one parent. While gay parents de-emphasize the biological basis on kinship, they do not do so in an attempt to trivialize the contributions of gamete donors and surrogates. Taken together, gay parents expose the ambiguities and social constructedness of the Jewish-Israeli kinship system. In her study of single motherhood in Israel, Kahn concludes that, “the choice of unmarried women to get pregnant via artificial insemination does not threaten to destabilize foundational assumptions about kinship among Jewish Israelis.”¹⁷⁸ Likewise, she argues, single motherhood is welcome in Israel as it contributes to one of the state's central goals: reproducing Jews. Gay parents reproduce members of the Jewish state, but simultaneously, destabilize the normative paradigms of kinship that are essential to the biocultural construct of the Jewish collective identity.

to see how the dynamics presented here would be affected.

¹⁷⁸Kahn, *Reproducing Jews*, 63.

Conclusion

It has been a little over a year since Dan Goldberg's story caught my attention. Many of my questions, which his story provoked, about the motivation to use international surrogacy have been answered. However, in their place, are a whole new set of questions.

In this thesis, I have discussed the social, legal, and cultural context in which gay men in Israel pursue parenthood through transnational surrogacy arrangements. I have demonstrated how Israeli pronatalism, with its acceptance of technology and emphasis on familial continuity, enables gay parenthood. Meanwhile, legal restrictions limit the options available to gay men and the importance placed on biological ties leads to “mis-recognition.” I argue that through the rhetoric of parenthood and open discussions on the use reproductive technologies, gay parents expose the ambiguities of traditional biological constructs of kinship in Israeli-Jewish society.

In broader terms, I have shown how technologies are given meaning by actors within a particular social, cultural, and legal context, affirming the argument that “technology is not an agent of social change; people are.”¹⁷⁹ This study demonstrates how ARTs have the potential to challenge norms of kinship, especially when used outside the confines of a single jurisdiction. Future research on gay parenthood could investigate norms about fatherhood versus motherhood and how they are negotiated by same-sex couples with children. My findings indicate that further research is needed to address the many ways that ARTs are used and understood by various actors within culturally specific contexts. This study shows how reproductive technologies can serve collective goals of pronatalism rather than just private goals of establishing a nuclear family as is often assumed in a Western context. Perhaps a similar study in a less pronatalist country would reveal very different challenges to gay parenthood.

Looking at reproduction locally, however, does not mean separating these practices from

¹⁷⁹Franklin and Ragone, *Reproducing Reproduction*, 5.

transnational phenomena, including power struggles enacted through medicalization and flows of information and technology. As Ginsburg and Rapp state in the introduction to their collection on the global politics of reproduction *Conceiving the New World Order*, “questions of culture, politics, and biology are impossible to disentangle around the topic of reproduction, as they often involve transnational processes that link local and global interests.”¹⁸⁰ This thesis also shows how legislation in various jurisdictions intersects to enable certain reproductive options and limit others.

Future research questions should address the intersection of local and global in the new field of transnational reproduction. For example, under what circumstances are transnational processes of reproduction used and why? If gay couples are the main consumers of these new transnational processes, can they be considered the moral pioneers of transnational reproductive technologies? How does transnational reproduction challenge traditional understandings of the national subject and the boundaries of the state?

¹⁸⁰Faye Ginsburg and Rayna Rapp, eds., *Conceiving the New World Order* (Berkeley: University of California Press, 1995), 2.

Appendix: List of Interviewees

Name*	Description	Date of Interview	Location
Ilan & Tom	Gay couple considering surrogacy	April 13, 2011	Petach Tikva, Israel
Ayelet Schnur	Lesbian mother with one child and partner is pregnant with their second child	April 27, 2011	Jerusalem, Israel
Yoel	Gay man with three children through co-parenting arrangement with a single mother	April 28, 2011	Tel Aviv, Israel
Ruth & Dana	Lesbian couple with one child	April 29, 2011	Petach Tikva, Israel
Jonathan	Gay man with three adopted children	May 1, 2011	Galilee Region, Israel
Irit Rosenblum	Lawyer, Director of New Family - organization for "family rights" in Israel including rights for same-sex couples	May 1, 2011	Tel Aviv, Israel
Michael	Gay man with two children via surrogacy	May 1, 2011	Jerusalem, Israel
Carlos	Gay man with one child through co-parenting arrangement with a single mother	May 2, 2011	Tel Aviv, Israel
Aaron	Gay man in the process of surrogacy arrangement	May 2, 2011	Tel Aviv, Israel
Doron Mamet	Gay man with two children via surrogacy	May 3, 2011	Tel Aviv, Israel

* Interviewees referred to by first-name only are pseudonyms, first and last name indicates that the interviewee waived anonymity and is referred to by their real name.

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