Commentary – "Yes, but…" vs. "no, but…": Ambivalences towards Prenatal Diagnosis in Israel and Germany

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The differences between Israel and Germany in terms of policies, practices and attitudes towards prenatal diagnosis and selective abortion are significant. They are deeply embedded in cultural scripts and institutional frameworks, and are remarkably persistent. These differences have often been explained by referring to religion (Judaism vs. Catholicism) and different lessons learnt from the Nazi crimes (the need for self-protection for the Jews vs. the universal protection of human dignity). Yet these broad-brush explanations can easily prevent us from seeing other differences or similarities between them, as well as ambivalences and contradictions *within* each country. Our case studies and our conversations with each other, especially about the development of non-invasive prenatal testing (NIPT), give us a more nuanced picture. Although political and cultural differences remain strong, the comparison of NIPT regulations and debates in Germany and Israel also highlights some similarities and convergence. This convergence is reflected in saying "no, but" to NIPT as a public health service in Germany, and "yes, but" in Israel.

In Germany, NIPT is a controversial issue that raises concerns about the routinisation of selective abortion, eugenic pressures on (prospective) parents to produce fit and healthy offspring, and a hostile societal attitude towards people living with disabilities. Despite protests notably from disability advocacy groups against reimbursement by the statutory health insurance, the relevant authority has decided to reimburse the test for trisomies 13, 18 and 21, theoretically on a case-by-case basis, thus saying "no, but" to NIPT.

In Israel, by contrast, NIPT is largely seen as a means to reduce suffering and strengthen parental reproductive autonomy, and this view is shared by representatives of disability advocacy organisations. There have been no fun-

damental ethical or political concerns about routinisation of NIPT. Yet while it is widely accepted as a public health instrument, it has not been included in the national Health Basket and is thus not covered, even on a case-by-case basis. This shows that in addition to cultural values and ethical principles, budgetary aspects also play a role in shaping NIPT policy. Thus, Israel in a sense said "yes, but" to NIPT.

Economic factors figure in yet another way. In Israel, NIPT is provided by international companies (under arrangements with the Israeli medical system). In Germany, by contrast, there is a strong local provider, the biopharma company LifeCodexx, which received public funding to developing its NIPT product. It seems that promoting the local economy in this case outweighed moral concerns about the technology.

Thus, we can say pointedly that in Israel, NIPT receives moral support from the government, while in Germany, it receives financial support.

One convergence that can be seen concerns the individualisation of decision-making about selective testing. In Israel, reducing the prevalence of genetically related diseases through the use of prenatal testing is an accepted policy objective, but nevertheless the genetic counselling of prospective parents is ideally non-directive and the ultimate decision is left to them. In Germany, this objective does not exist, at least not in public discourse, even if in the case of the NIPT the reimbursement of costs by the statutory health insurance can be read as de facto encouragement to use the test. Here too, counselling is supposed to be non-directive and the decision is left to the individual. The ultimate decision to perform a selective abortion is even more individualised and liberalised in Germany, since women can have a mid- or late-term selective abortion on the basis of a decision made by the individual woman and her physician, whereas in Israel such requests have to be approved by a committee. Thus, in both countries, any possible proliferation of reproductive selection practices can be interpreted as the result of self-determination, and accountability for it is placed on the individual. Yet leaving the choice up to the individual is a political decision too: a politics of individualising NIPT has social and economic implications. It can place further pressure on women and couples in general, not least through the marketing strategies of companies interested in increasing their sales.

Ideological differences notwithstanding, then, we also see commonalities between the two countries. Both Israel and Germany use the solidarity principle in health care, and in both countries PND and NIPT are quite common practice. In both countries it is also possible to have a selective abortion following prenatal testing, although based on different juridical constructions. In Israel,

the reason for an abortion may be given as a disability or genetic disposition of the foetus. In Germany the embryopathic indication has been officially abandoned, but a mid- or late-term abortion can still be legal if the woman argues that continuing the pregnancy would endanger her own physical or psychological health.

Yet we also see internal ambivalences, cleavages and incoherencies in both countries: PND and NIPT are not uniformly welcomed or rejected in either country. In Germany, the dividing line runs along political, ethical and partly religious differences, with ablebodiedness being a relevant category; in Israel it maps along lines of ethnicity, religion and social class.

Both countries have seen an increasing influence of commercial logics and market forces in health care, which have an impact on the use of NIPT. Despite the principle of solidarity in the health care system of both countries, inter-fund competition has led health insurance funds to cover NIPT on a voluntary basis in order to attract and attain members. We conclude that more research is needed to better understand the both enduring differences between the two countries, and the similarities, common trends and tendencies, internal differences and ambivalences. Having direct conversations and exchanging experiences, views and perspectives is certainly a good way to get there.