

HUMAN RIGHTS DOMAIN FOR REPRODUCTIVE BIOTECHNOLOGY:
A QUALITATIVE STUDY ON TURKISH CASE

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ABSTRACT

HUMAN RIGHTS DOMAIN FOR REPRODUCTIVE BIOTECHNOLOGY: A QUALITATIVE STUDY ON TURKISH CASE

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The aim of this study is to investigate which legal and social problems occurred from the side of some specific human groups whose bodies and organs were negatively affected by reproductive biotechnology applications. For this aim, thirteen in-depth interviews were conducted with surrogate mothers, people who had their children via surrogacy, oocyte donors, people who had their children via oocyte donation and two embryologists. In this dissertation, *Capabilities Approach* of Nussbaum was chosen as the main theoretical guide and, qualitative interview data, which was generated from the interviews with ARTAP (Assisted Reproductive Technologically Affected People), was discussed for each human capability item. These capability items are *life, bodily integrity, senses, imagination and thought, emotions, practical reason, affiliation, being in relation with other species, play and control over one's environment*. After focusing on human rights problems and constraints in having children via using third parties' bodies or reproductive cells in the findings chapter of this dissertation; a political environment, which was designated by law and alternatives, were suggested. Finally, evaluation of the human rights problems and constraints concerning ARTAP in the human rights agenda is very important. Designation and monitoring of this field by regulations would mitigate human rights problems and constraints relatively. Research findings support the existence of ARTAP's problems and constraints in their human capabilities. For this reason, in the final section of this dissertation, two policy problems were identified based on the research findings and multi-level policy suggestions were made.

Keywords: Assisted Reproduction Technologies, Oocyte donation, Qualitative Research, Sociology of Human Rights, Surrogacy

ÖZ

ÜREME BİYOTEKNOLOJİSİNDE İNSAN HAKLARI ALANI: TÜRKİYE ÖRNEĞİ ÜZERİNE NİTEL BİR ÇALIŞMA

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Doktora, Bilim ve Teknoloji Politikası Çalışmaları

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Bu çalışmanın amacı, bedenleri ve organları üreme biyoteknolojisi uygulamaları tarafından olumsuz şekilde etkilenen bazı özel insan grupları açısından bakıldığında, hangi yasal ve toplumsal sorunların ortaya çıktığını araştırmaktır. Bu amaçla, taşıyıcı anneler, taşıyıcı annelik yoluyla çocuk sahibi olan kişiler, yumurta donörleri, yumurta donasyonu yoluyla çocuk sahibi olan kişiler ve iki embryolog ile on üç derinlemesine mülakat gerçekleştirilmiştir. Tezde, temel olarak Nussbaum'un *Yeterlikler Yaklaşımı* kullanılmış, YÜTEG'le (Yardımcı Üreme Teknolojilerinin Etkilediği Gruplar) yapılan nitel görüşme bulguları, her bir insan yeterlik başlığı altında tartışılarak ele alınmıştır. Bu yeterlik maddeleri; *yaşam, bedensel sağlık, bedensel bütünlük, duygular, hayal etme ve düşünme, duygular, pratik nedenler, toplumsal ilişki, diğer türlerle ilişki içinde olma, oyun oynama ve çevre üzerinde kontrol sahibi olmadır*. Bulgular bölümünde, üçüncü kişilerin bedenleri veya üreme hücreleri kullanarak çocuk sahibi olmakla ilgili ortaya çıkan insan hakları sorunları ve sınırlılıklarına odaklanılarak, yasalarla belirlenmiş bir politik ortam ve alternatifler önerilmektedir. Sonuç olarak, YÜTEG'in insan hakları sorun ve sınırlılıklarının insan hakları alanında değerlendirilmesi büyük önem taşımaktadır. Bu alanın yasal düzenlemelerle belirlenmesi ve denetlenmesi ise insan hakları sorunlarını ve kısıtlarını nispeten azaltacaktır. Araştırma bulguları, YÜTEG'in yeterliklerindeki problem ve sınırlılıklarının varlığını destekler niteliktedir. Bu nedenle, tezin son bölümünde, araştırma bulgularından hareketle, iki politika sorunu belirlenmiş ve bu sorunlar için çok-düzeyleli politika önerilerinde bulunulmuştur.

Anahtar Kelimeler: İnsan Hakları Sosyolojisi, Nitel Araştırma, Taşıyıcı Annelik, Yardımcı Üreme Teknolojileri, Yumurta donasyonu

To my dear Mert..

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LIST OF ABBREVIATIONS

ART(s)	Assisted Reproduction Technology(ies)
ARTAP	Assisted Reproductive Technologically Affected People
APA	Avoidance, Protection and Aid
AWC	Academic Writing Center
CAQDAS	Computer Aided Qualitative Data Analysis Software
CBRC	Cross Border Reproductive Care
CDBI	The Steering Committee of Bioethics
GDP	Gross Domestic Product
HR	Human Rights
IAS-STs	Institute of Advanced Studies in Science, Technology and Society, Austria
IVF	In-Vitro Fertilization
LURD	Life Unrelated Donor
LRD	Life Related Donor
MAP	Medically Assisted Procreation
METU	Middle East Technical University
MAXQDA	Qualitative Data Analysis Software
PGD	Pre-Implantation Genetic Diagnosis
ÜYTE	Üremeye Yardimci Tedavi
WHO	World Health Organisation
YÜTEG	Yardımcı Üreme Teknolojilerinden Etkilenen Gruplar
YÜT	Yardımcı Üreme Teknolojileri

CHAPTER 1

INTRODUCTION

It is important having children, especially in developing countries including Turkey. That is why couples apply to Assisted Reproduction Technologies (ARTs) when they cannot have a child while they desire to have that during the first year of their sexual intercourses. This need of being able to have at least one child, the right for being parent, for adults is taking their roots from many factors, which are mostly political, social, economic, cultural, religious, spiritual and psychological. The importance of the issue is understood when an adult has a difficulty in getting the child in their relationship.

Reproductive biotechnology and genetics produced some solutions for the problem of not having child, in the suspicion of infertility. However, in addition to the positive affect of it on their beneficiaries, a special group of people is negatively affected from these ‘solutions’. In other words, their bodies are somehow misused by these technological developments. This is another social dimension of this technological development because via playing with genes, scientists find cures for illnesses, to solve “the problem of families who are unable to survive their ‘surnames,’” to plant every kind of vegetables or fruits or trees in every kind of soils, to implant every kind of (various number, color, sex, or the healthiest) embryo into the womb of a(ny) woman. All of these claims are seen as wonderful developments from one side.

However, these very expensive genetic technologies brought out different social problems at the same time, especially problems concerning the rights of the involved people. The main reason of this difference is, not using the electronic cables or pesticides this time but using the different ‘bodies’ and ‘tissues’ of the living organisms, human as well. As a result of this, the use of this technology was directed into two kinds of people; 1: Who sells his/her sperm/oocyte, who rents their wombs babies as the sweated section of this new technology as the providers/ vendors: Who can afford but has no ability to give a birth to a baby (people who is infertile, fertile

but gay/lesbian, fertile but does not want to deform her body, fertile but does not have a partner) or 2. Who want to have five male babies, and who want to rent a womb, terminologically a ‘surrogate mother’ as the consumers of it. It may be argued that various new inequalities are created by this new technology. Hence, I aim to focus on these new forms of inequality from the aspect of human rights literature in this dissertation.

While reproductive biotechnology gives hopes to a group of people who cannot have a baby without medical-technical assistance, it violates another group of people’s rights who make their bodies used as a tool for the realization of these hopes. In other words, as it is seen in the reverse logic of parent-child dialectic, the rights of children, donors, surrogate mothers, next generations and/or embryos are getting delimited by the extension of would be parents’ rights.

This dissertation discussed the social results of these asymmetrical interventions, for example new forms of modern medicine, family structure (in addition to new concepts such as biological mother, genetic mother, birth mother, and social mother) and dominium as social responses to this reproductive technology applications, relationships towards reproductive biotechnology and the rights of ARTAP (Assisted Reproductive Technologically Affected People).

To begin with, a social and responsible state is not available in order to make of a claim of human right of a person who sells a part of her body to survive. Special tests, operations and other applications are not made, not covered and seriously controlled by the state. One’s claim of a right at the end of a non-human application or even a non-human result of that application might easily be neglected. It seems that governments are neglecting dehumanizing effects of biotechnology products/services. When the APA (Avoidance, Protection and Aid) categorization of Shue (1996, 51-54) is reminded; the state should be understood as the actor, which has certain duties¹ such as Avoidance, Protection, and Aid. Then it is obvious that states should be responsible of making the life secure for all of its citizens so as to include preventing the violations coming from biotechnology

¹ Correlative duties: I. Duties not to eliminate a person’s security (Avoidance), II. Duties to protect people against deprivation of security by other people (Protection), III. Duties to provide for the security of those unable to provide their own (Aid)

products/services/markets. In other words, ignorance of states should be seen as a violation of human rights when the social outcomes of biotechnology applications on women and next generations are considered. This is especially the case for women because they are perceived as reproduction tools. Another possible violation of human rights via biotechnology would possibly be noticed when the language of rights is regarded for the selected or eliminated embryos and finally, future generations since they have no ability to claim their rights (Pogge, 2001: 190).

This study relies on the following question: Do the applications in reproductive biotechnology give any harm to human life, rights and dignity? If so ‘How and where can we defend these rights?’ The hypothesis of the dissertation revolves around this question:

- Reproductive biotechnology market grows at the expense of human rights in many ways.
- The possibility of determining the borders in the use of reproductive biotechnology services in a secure environment for its citizens is blurred.
- Over such blurrifications, a reassessment of reproductive biotechnology donors, and the scope of human rights should be extended via concerning recent ethical discussions about the controversial decision processes in assisted reproductive biotechnology.

The research question and problem to be investigated here is ‘which legal and social problems do occur related to reproductive biotechnology applications with respect to the rights of special human groups whose bodies and organs are negatively affected by these applications?’

These problematic human groups are:

- The rights of oocyte donors
- The rights of surrogate mothers
- The rights of parents
- The rights of unborn
- The rights of next generations

These categories are referred as a whole as “ARTAP- Assisted Reproductive Technologically Affected People” in this dissertation in order to make this reference

shorter. It is argued here that positive law possibly is not / and is not sufficient in solving certain social and right-related problems created by reproductive biotechnology. Hence another and broader law or set of rules should be offered to the literature such as human rights. Especially the rights of unborn are sensitive in this respect. There are some arguments concerning the rights of the embryos which were discussed in this dissertation.

I suggest, the word of 'dominium' instead of 'rights' of the unborn and next generations. For classical Roman legal theorists *dominium* and rights were quite distinct concepts: while dominium was implying a mastery or power over persons or things, *rights* check the exercise of power (Holland, 2010: 457). A new language of rights approach may be adopted for these two groups. Concepts similar to this one were developed and suggested in the final part of this literature review.

In the following literature review section, firstly, I presented 'Foucauldian Approach' which is considered as one of the prospective guides for searching especially for the solutions towards 'unforeseen' parts of the reproduction question. In order to investigate this research question and its relationships with other power dynamics, a Foucauldian theoretical approach was discussed in this dissertation. However it is supposed that Foucault is not thought to be a guide for searching the right domains of ARTAP. Much rather, I focused on his conceptualization of power concerning the transformations in the practice of medicine.

Secondly, I presented 'Bioethical Approach' was addressed to emphasize and refer to the 'social and ethical dimensions' of the question where Foucauldian approach remains inadequate. These approaches are thought as remarkable for defining and discussing the problem; however, Human Rights approach was investigated finally as the new discussion and policy-making domain for the rights of ARTAP. The main difference between the bioethical approach and human rights approach is the emphasis of the former one on morality and the emphasis of human rights on political reality at most.

Finally, I summarized "The Positive Law" and "Human Rights Approaches". Present approach of positive law to the children and the unborn were examined briefly in this last subsection of the 'Review of the Relevant Literature.'

However, before the review of the literature section, the contribution of this dissertation is emphasized in the following sub-section briefly.

Main contribution and contributions of the dissertation

The first and main contribution of this dissertation to the existing literature is representing the first qualitative study on Turkish ARTAP who applied for third parties' roles in their reproduction. Various academic articles and books are available in the literature on different countries. However, Turkish case is unique since these technologies, its practices and even- giving information on these technologies are banned in Turkey. Turkey represents both an Eastern and a modern society in its body. Most of its population composed of Muslim people who vote for a right wing party which bears the recent government of Turkey. However, the Turkish ban on ARTs including third parties was not supported by Turkish ARTAP and it was disobeyed. This dissertation's research question constituted around those people who would possibly be charged with accessing ARTs including third parties, abroad.

The second contribution of this study to the existing human rights literature is its approach to ARTs including third parties and Turkish ARTAP from the viewpoint of sociology of human rights. This dissertation contributed to human rights literature by revealing recurrent violations of capabilities of ARTAP and suggesting an extension in human right's literature's scope for defending the rights or the dominium of the unborn on behalf of next generations.

The third contribution of this dissertation to the relevant literature is applying each item of capabilities approach to ARTAP's related experience and/or constraints. Capabilities approach was properly designed for practicing in real life. By this study, the theory of capabilities approach was transformed into human capabilities analysis of ARTAP.

Final contribution of this dissertation is the policy recommendations at macro, meso and micro levels for *restricted* assisted reproduction area, which was not designed for Turkey before. By these recommendations, it is aimed to introduce new family structures, concepts and regulations to Turkish legal system. In spite of the ban, the society is being effected and transformed by the new technologies. The ban could not save the Turkish citizens against the problematic results of assisted

reproduction technologies. Thus, the only thing to do would be formulating a new legal system for ARTs in Turkey for the policy makers.

After this introduction, the literature review concerning the problem of the dissertation is given in the next section.

CHAPTER 2

REVIEW OF THE RELEVANT LITERATURE

2.1. Foucauldian Approach to Reproductive Biotechnology

Foucault has earned his considerable reputation by examining power and its relationship with different and vital questions related to individual and to life itself such as madness, illness, death, crime, and sexuality. According to him a series of oppositions, which have developed over the last few years are important: opposition to the power of men over women, of parents over children, of psychiatry over the mentally ill, of medicine over the population, of administration over the ways people live (Foucault, 1982: 780). These oppositions are especially remarkable with respect to their relation to reproductive biotechnology. In this dissertation, I also focused on an opposition. Firstly: the power of men over women in their reproductive decisions that bear on their female bodies. Pursuing or terminating a pregnancy, or having a baby with desired sex are some of the examples of that kind of decisions in which men control women's choices. Moreover, in developing countries such as Turkey, it is known that the family of the man has generally a remarkable privilege to have enforcement in the reproductive decisions of this 'secondary family.' Then we can also talk about another kind of opposition for especially developing countries: opposition to the power of patriarchal family over the 'secondary family.'

For example, when this patriarchal family forces their secondary family, or this secondary family decided to get a treatment from assisted reproduction professionals to have a baby, the second opposition of Foucault becomes relevant: power of medicine over the individuals and population. However this time the medicine is directly related to the sexuality – another key discussion domain of Foucault.

Sexuality is mainly used as the natural reproductive way of human kind. Rationalization and the consciousness of human about mortality directed or forced him to change the meaning of sexuality and thus reproduction. In his introduction to

‘The History of Sexuality,’ Michael Foucault argued convincingly that in all its manifestations, whether those known since time immemorial or such as have been discovered or named for the first time, sex served the articulation of new –modern– mechanisms of power and social control (Bauman, 2001: 232). This side-function of sex had a wide contribution to the rationalization of the society and the individual. Especially, at the level of body, there is an extensive theoretical discussion in the field of sociology. Foucault, in his general argumentations on power, uses the term of body as a starting point. He generated modalities of power in order to explain the differences among the exercises of power. Fendler (2010: 44) gives the definitions of major concepts of Foucault in his major work ‘Continuum Library of Educational Thought: Michel Foucault’ as: 1. Sovereign power, 2. Disciplinary power, 3. Pastoral power, and 4. Bio-power. Sovereign power is exercised through physical punishment and rewards while disciplinary power is exercised through surveillance and knowledge. These power modalities refer to the directness of exercising power on society and individual bodies.

The power and social control modalities derive from reproductive choices and technologies in time. Reproductive choices directly or indirectly effect population and next generations. For this reason, the manifestation by the current President of Republic of Turkey, Erdoğan about having at least three children, was not a coincidence. In the most cases, the political power is directly related to reproduction. Foucault’s concepts of ‘biopower’ and ‘biopolitics’ are at the core of this discussion. According to Foucault, bio-power is the distinct regime of power: its objects and its method are given shape within a particular type of rationality. He used this concept in order to indicate rationality or sovereign power as its another form through ‘letting die’ and ‘making live’ argumentations which were discussed in the ‘Vol. 1 of the History of Sexuality’ (quoted from Rabinow and Rose, 2003: 24). In his words: “Western man gradually learns what it means to be a living species in a living world, to have a body, conditions of existence, probabilities of life, an individual and collective welfare, forces that could be modified...” (Foucault 1984: 264). This awareness brought another one that is controllability of the nature and people. That would be possible only through knowledge and power, which would be gained through that knowledge.

That would be realized through political power and rationality of which famous worldwide example could be seen in Nazi Germany². Foucault's emphasis on the transformation of juridical sovereignty into the art of government (in 17th century) and on changing meaning of the relation of government with man and with its relation with other things, include infertility (Lazzarato, 2006:11). This diagnosis reflects 'biopolitics' approach of him: in the rationality of bio-politics the new object is life and its regulation is to be achieved through the continuous regulation of its mechanisms (Rabinow and Rose, 2003: 24). The conceptualization of 'bio-power' is remarkable here in order to see and give a meaning to the recent and partially different eugenic applications through reproductive biotechnology. 'The body' was transformed into a focus of the clinical gaze as Foucault wrote and it is mentioned before. Rose (2007: 4) underlines the transformation of 'medicine' as: 'it became techno medicine, intensely capitalized, highly dependent on sophisticated diagnostic and therapeutic equipment' and 'Patients' as they '...became 'consumers' actively choosing, and using medicine, biosciences, pharmaceuticals and 'alternative medicine' in order maximize and enhance their own vitality, demanding information from their doctors, expecting successful therapies, and liable to complain or even go to law if they are disappointed' (Rose, 2007: 11). In interaction with the transformation of medicine and patients, the clients of the medicine (patients) are also transformed into relatively healthy people, prospective parents. Assisted Reproductive Technologies propose pregnancies on other people's bodies rather than developing cures for these people.

When we rethink of Foucault, his conception of 'power,' his perception of being 'free' and his argumentation of 'exercising power only on free subjects' should be underlined. This discussion is considerable in 'defending subject's freedom' in order to establish the relationships emphasized above. In giving reproductive decisions, people can make free choices; namely their relationships with their bodies and their decisions related to it, and they should be constructed under relatively free conditions. Another argumentation of this dissertation is the bounded choices of

² Giorgio Agamben identifies the Holocaust as the ultimate exemplar of biopower; and biopower as the hidden meaning of all forms of power from the ancient world to the present (Rabinow and Rose, 2003: 8).

people: socio-economical environments of people (especially women) can make them incapable of making such free choices even on their own bodies. As a result, new forms of subjectifications and resistance occurred parallel with the developments in reproductive biotechnology.

In this section, Foucault's conceptualizations are presented and discussed in general. Yet, we should also pay attention to the contributions of certain neo-Foucauldian approaches, which adopted 'biopower' to recent technological developments, which are also remarkable. For example, Lazzarato (2006: 11) underlined that by the patenting of the human genome and the development of artificial intelligence; biotechnology and the harnessing of life's forces for work, traced a new cartography of biopowers. Lazzarato is one of important neo-Foucauldian thinkers who address biotechnology through Foucauldian concepts such as power. According to him, (Lazzarato, 2006: 18) the contribution of Foucault should be reinterpreted as transforming biopower into biopolitics, the "art of governance" into the production and government of new forms of life.

According to Rabinow and Rose (2003: 26), in the practices of contemporary biopower, the figure of '*l' homme*' (*man*) is mutating:

Biopolitics today is a matter of the meticulous work of the laboratory in its attempts to create new phenomena, the massive computing power of the apparatus that seeks to link medical histories and family genealogies with genomic sequences, the marketing powers of the pharmaceutical companies, the regulatory strategies of research ethics, drug licensing bodies committees and bioethics commissions...

As it is seen from this quotation, biopower could/should be extended so as to include reproductive technologies and their role in the emergent forms of new life and new relations related to it. In parallel with these thinkers, Erbaş and Evsel (2009: 341) emphasize the important role of reproductive biotechnology on new maternities and perceptions towards these practices in their study.

In this dissertation, I presume that positive law would not take this suggestion into consideration because of its adoption with current political view and modern reproductive applications. As it is mentioned above, the art of governance should have another but not new relationship with the 'birth,' a concept which was generally ignored.

Political power (including Turkish government) generally has a tendency towards 'delivering children,' rather than a rejection. In this respect, this recognition

of the new role of technology in birth and this new relationship between ‘political power’ and ‘birth,’ hence, ‘rights’ and ‘ethics’ should be examined especially those concerning the oocyte donors and the surrogate mothers who work in exchange for money.

Then what should we offer for this stance of the state when we look from the viewpoint of Foucault? Can we suggest the relevance of pastoral power as Foucault did? Pastoral power can be characterized as intangibility by its inner approaches and its care about the individualistic salvation as it is reified in the example of shepherd and its flock in Foucault’s writings. This form of power is “salvation oriented (as opposed to political power), oblativ (as opposed to the principle of sovereignty); it is individualizing (as opposed to legal power); it is coextensive and continuous with life; it is linked with a production of truth-the truth of the individual himself” (Foucault, 1982: 783).

Giving decisions concerning reproductive technologies is closely related with Foucault’s concepts about ‘power,’ ‘rationality,’ ‘the mode of subjectivation³,’ ‘freedom,’ ‘population,’ ‘biopower / biopolitics,’ ‘governmentality,’ ‘pastoral power,’ and ‘true-telling,’ (in concern with knowing the family –genetic mother, father, etc.- and genealogy in general).

There are some different approaches, which give different places to Foucault in human rights field. For example, one side claimed that Foucault discussed abortion rights on the relationship between power and resistance (Deutscher, 2008: 56) while another side was arguing that Foucault had a critical, genealogical approach rather than the acceptance of liberal humanism (Golder, 2010: 20).

Foucauldian approach has analytical and diagnostic characteristics in this study. I used his historical diagnostic approach and concepts to “diagnose” my findings and new relationship types. I noticed the theoretical differences between these theories but again; I felt the analytical and diagnostic need and preferred to use them together in this dissertation. I thought that giving places to both of them could create some problems or contradictions. However, there were not. Thus, I am still a

³ ‘The mode of subjectivation: the way in which people are invited or incited to recognize their moral obligations. Is it for instance, divine law that has been revealed in a text? Is it natural law, a cosmological order, in each case the same for every living being? Is it rational rule?’ Foucault (2000: 264).

bit confused about this combination (not a synthesis) but again, I decided to introduce and defend it here. Foucault took fewer places than Nussbaum in my dissertation since his concepts were used generally for descriptive analysis. He is, so to speak, a secondary figure in my discussions. Foucault helped me to enrich the theoretical background of this dissertation by his macro perspective, which is fed by power dynamics and relationships.

This study took the rich advantage of these Foucauldian themes in investigating the unforeseen social and possible results of reproductive biotechnology. However, these concepts are very useful in the definition and understanding of the problem. While developing a solution for my problem in the human rights field, all of theoretical contributions took the study one step further. Deontological approach is examined in next section.

2.2. Bioethical Approach to Reproductive Biotechnology

Reproduction and power relationship is an important cross point because from the very beginning of civilization, this relationship had received a considerable interest from sociologists, philosophers, deontologists, and politicians. Deontology falls within the domain of moral theories that guide and assess our choices of what we ought to do (deontic theories), in contrast to (aretaic [virtue] theories) that—fundamentally, at least—guide and assess what kind of person (in terms of character traits) we are and should be⁴. It is obvious that medical ethics has some similarities with human rights with respect to its humanitarian and egalitarian approaches to human relations – especially in medical relations. According to Arda (2007: 24) all problems related to value are derived from conflicts and oppositions between people; they emanate from conflicts of interest, differences in approach, different worldviews, different cultures and beliefs. In daily medical practice, ethics serves to recognize and substantiate these conflicts and propose norms for solutions.

⁴ - ³ Deontological Ethics, Stanford Encyclopedia of Philosophy, *First published Wed Nov 21, 2007; substantive revision Wed Dec 12, 2012:* <http://plato.stanford.edu/entries/ethics-deontological/>

It is known that, there should not be any discrimination in the health services. As Arda and Arda (2016: 44) underlined, the reason of existence of a governmental body on health should be to provide adequate health services to all of the citizens at the first place, disregarding the gender, political view, ethnicity, age or religious beliefs. However, each section of ARTAP were positioned directly according to their wealth since the government of Turkey rejects to regulate the access to assisted reproduction technologies including third parties. Rather than regulating, the government preferred to ban these practices for Turks since the Turkish society was regarded as conservative. However, this ban directed people to experience these technologies in unsecured and/or illegal ways.

In order to categorize ARTAP under deontological theories, three branches of deontological theories have important roles. Deontological theories are classified into three different branches according to Alexander and Moore (2007): 1. Agent centered, 2. Patient centered, and 3. Contractarian Deontological Theories. At first glance, one may think that the approach of Patient Centered Deontological Theories would be the most suitable one among the others in interpreting the controversial issues related to reproductive biotechnology application. However, it should be considered that while Patient Centered approach proscribes the using of another's body, labor and talent without the latter's consent, Contractarian Deontological Theories approach acts, 1) that would be forbidden by principles that people in a suitably described social contract would accept (Rawls 1971; Gauthier 1986: quoted from Alexander and Moore, 2007) that would be forbidden only by principles that such people could not "reasonably reject" (Scanlon 2003: quoted from Alexander and Moore, 2007). The latter approach would explain the social problems in being a donor or rather a 'vendor' better as a term. In fact, a considerable difference exists between donors and vendors, which should be explained here. Steinbock (2004: 255) emphasizes that some viewed the term 'commercial egg donation' as an oxymoron. Despite the repeated reference to 'donors' of both ovum and sperm, paying individuals for their biological products makes them vendors, not donors (Murray, 1996: quoted from Steinbock, 2004: 255). The difference between being a donor and vendor shows itself in their vitality, in their survivals at most. While a donor is known as a person whose organs are donated after his/her death, vendor is known as

a living donor. There is a striking relationship between living and being paid for organs. Vendors are generally paid for their organ donation. Matas and Schnitzler (2013: 216) make a cost-effectiveness analysis for the problem of not having enough living and cadaver kidney donors in US. It is seen that while underlying the difference between being a donor and vendor, LURD (Life Unrelated Donor) and LRD (Life Related Donor) abbreviations are used by the authors especially from medicine-related departments. Similar with Matas and Schnitzler (2013); Ahmad, Ahmed, Khan, Calder, Mamode, Taylor and Koffman (2008: 247) are authors from medicine-related branches and use “LURD” for donors and “LRD” for vendors in their article on donor transplantation. It is seen that, both articles emphasize the functionality of using vendors, in general. They do not refer to the voluntariness vice versa commercialization issues with respect to contracts or social problems related to them. It is known that those situations of vendors, the commitment, prevent them to ‘reasonably reject’ these applications in any time of the research or operation.

In this case the voluntarism and willingness of ARTAP would be another issue. We cannot even talk about the unconditional voluntarism of the donor or surrogate mother in case of a contract. The needs, fears, relations, emotions, thoughts may change from day to day. It is also known that the woman could change her mind at any time up to egg retrieval but would then have to pay the full cost of treatment (Haimes, Taylor and Turkmendag, 2012: 1201). By these treatments, the equal and free life and choices of vendors would become to be questioned. According to the universalistic accounts of contractualism, developed from the writings of Rousseau, Kant and Rawls, one should underline the principles of right that arise from a hypothetical agreement of free and equal persons under fair conditions⁵. In this view, getting the hypothetical consent from vendors would make the unequal condition legitimized. This controversial result and many other problematic social/ethical results of reproductive biotechnology should be introduced to the deontological literature as well, however the ‘assumed freedom’ of these vendors in giving reproductive decisions about their bodies is in trouble.

⁵ Relational Contractualism, *A Kantian Account of Moral Contractualism*: http://ssc-philbild.univie.ac.at/fileadmin/user_upload/abt_wissenschaftstheorie/Riedl_Abstract.pdf

Bioethical approach in general defines how patients and practitioners should act in health-related cases. In their book titled as ‘Reproductive Health and Human Rights,’ Cook et. al. (2003: 61-92) have defined the main categories for bioethics. In this part of the book after stating the difference of the characteristics of modern bioethics from religiously inspired moral care-givers as ‘secular, pluralistic and multidisciplinary,’ they gave the bioethical orientations such as ‘Duty-based, Consequentialist or utilitarian, Feminist, and other (ex. communitarianism)’(2003: 65).

The most relevant and valuable contribution from the bioethical side is the feminist approach to this issue, which was developed by Waldby and Cooper (2008: 61). They underline that in most of the advanced industrial democracies (the United Kingdom, Australia, New Zealand, Canada, Singapore, most of Western Europe) oocyte procurement is regulated along the lines of solid organ donation, through compensating gifting⁶: this conforms to the widely held bioethical principle that donors and recipients are best protected (morally and clinically) by gift systems.

Waldby and Cooper (2008) generally underline the painful and risky position of being a woman in reproductive processes and criticize these by this point. They are also against the approach of accepting this work as a mere labour such as Dickenson (2007; quoted from Waldby and Cooper, 2008: 67). According to him, oocyte donation and vending in this way strengthens women’s rights over their material and their bodily integrity, precisely because it demonstrates the resemblance between reproductive labour and the intellectual labour (scientific, legal, commercial), which is much more fully recognized and protected within the bioeconomy. In their considerable work of ‘Biopolitics of Reproduction,’ Waldby and Cooper (2006: 3) underline the necessity of global markets for women’s oocytes, and they explore the consequences of framing women’s contribution to the

⁶ “Gift systems for human tissues are the historical norm in most democratic states that regulate biotechnology. The origins of this norm lie in the post-war adaptation of military blood collection systems for civilian use, and their association with collective good and national belonging. The ethical superiority of gift systems has been recently drawn into question as commercial biotechnology companies use free gifting to source commercially valuable tissues, without recompense to donors. Hence the free giving of tissues is often the starting point for significant profit for biotechnology firms” (Waldby and Mitchell 2006).

biotechnology industries as labor. Their interpretation of women's contribution to the industry as 'reproductive labors' makes them closer to this study. Moreover Waldby and Cooper (2006) suggest the legitimation, recognition and protection of that labor.

Another but substantial contribution to the literature was made by Callahan and Roberts, 1996: 1213) through their writings on the feminist social justice approach to assisted reproduction. They improperly reflect a particular moral view about reproduction which individuals in a pluralistic society should remain free to reject.

The general points, which are close to my assumptions of this dissertation, of their (Callahan and Roberts, 1996: 1213) approach are:

(1) Considerations other than harm should command our moral allegiance and may justify interference with individual liberty;

(2) Feminist social justice theorists generally do not argue for interference with individual liberty as regards reproduction-assisting technologies, except in the case of brokering contract mother arrangements, which a number of feminists have argued should not be lawful; and

(3) Individuals suffer very real and substantial harms by being in socially subordinate positions; thus any practices that contribute to the subordination of some groups by others are harmful. Since reproduction-assisting technologies contribute to a system of social subordination, they are harmful.

The contribution of deontological – ethical- feminist approach to the definition of subject is important and undeniable. However, they are limited with the perspective of the patient, or religious or feminist approaches in general. Since I believe that I could not find any plausible answer for my research questions related to all of my groups included in ARTAP in the deontological approach as I wrote formerly in this section, I am planning to search a domain for the rights of ARTAP in human rights literature for them.

Then, it would be much better to find another and more inclusive domain for discussing the rights of the embryo and next generation in addition to women. The rights of ARTAP could be discussed in a much deeper and remedial way under the

human rights literature, which was also fed by other branches, and approaches, which were referred in this literature review.

Positive Law and Human Rights Approaches to ARTAP and Reproductive Biotechnology are given in what follows.

2.3. Positive Law and Human Rights Approaches to ARTAP

Positive law approach is investigated firstly for this discussion because it is accepted that all the national courts and daily lives are under the control and domination of positive rights and law decisions. Under this legal power, people may look for some make up for their various rights that were violated by some unidentified actors/effects in their lives somehow. Reproductive biotechnology and its violations are still unidentified in the positive law. Since the up to date adjustment of this law is impossible for its conservative and strict structure, in this section, this approach is defined and criticized in order to show its deficiencies (even its absence) in evaluating reproductive rights.

It is known that there are not a clear-cut or world-wide positive law regulations towards neither the rights of surrogate mothers, oocyte donors nor children and unborn in general. The reproductive rights of ARTAP are limitedly being the issue for Human Rights Courts. They were examined after the sub-section of “Human Rights Approach”. For a better understanding of positive law approach to specifically children and unborn, the definition of ‘rights’ and the positive law approach to these groups are to be defined firstly.

“Right” in English, and equivalent words in several other languages, has two central moral and political senses: rectitude and entitlement (Donnelly: 1989: 9). According to Donnelly (1989: 9) by rectitude, we talk of something being right: in this sense we say of an action that it is right. In the second sense, of entitlement, we talk of someone having a right: it is only in this latter sense that we typically talk of rights (in the plural). After this definition of distinction, Donnelly explains *what it means to have a right* by referring to a quotation from Dworkin (1977: xi, 90; quoted from Donnelly: 1989:10), as being empowered to pros rights claims, which ordinarily “trump” utility, social policy and other moral or political grounds for

action. Here it is important to be aware of the ‘right as rectitude’ gives us the competence for discussing the right of an embryo because only then we can talk about the right to life. If an embryo can’t have a right (entitle it) then its life should be regarded as right in terms of rectitude.

‘Right as entitlement’ roughly refers to a recognized and legitimate right that should be defended by positive law. However it is not like that in practice. In the real life, one feels the deficiency of positive approach in law, directly. Especially women in ARTAP experience that deficiency. This issue is discussed around the findings of the dissertation.

Nonet (1990: 667) questioned ‘*what is positive law*’, and found that positive law exists by virtue of being posited, laid down and set firmly by a will empowered so to will. According to him, Nietzsche is known as the thinker and the prophet of legal positivism (Nonet, 1990: 669), and he made a very rich contribution to the literature. So that, even the god becomes an object of man’s making; thus positive law is the metaphysics of modern technology, that man’s rise to dominion over the earth (*JGB*, supra note, quoted from Nonet, 1990: 683). In this dominion of legal positivism, which excludes even the god, of course one cannot talk about the rights of the child.

Şirin (2016: 49) refers to Hobbes⁷ in his article about the personality. According to him, personality is a mask that is given by law system to get a role in the scene of –again- law (kişilik, hukuk sahnesinde rol alabilmek için ihtiyaç duyulan ve yine hukuk düzenince verilen bir maskedir). This definition suits our framework here perfectly since the unborn and child still do not have this mask. Şirin (2016: 49) underlines that such kind of recognition had not been entitled to everybody in the history. In the Roman law, which our law bears on, a relation to a certain family or the citizenship is a condition for such recognition. Women and children could hardly get this mask, still they may have some problems with this mask in some countries and regulations. Slaves were accepted as human but this mask had not given them, the masks of Jewish people were taken back and so they could be arrested, become homeless and get killed legally (!). The same law system had recognized personality

⁷ Thomas Hobbes, ‘Leviathan’, Classics of Moral and Political Theory, Michael L. Morgan (ed.), Indianapolis: Hackett Publishing, 2011, p.631

to fictive structures and future life forms which does not exist now: In some countries there is the right of embryos and post-mortem protection for dead people; that means in positivist view, anything that is entitled personality can be the subject to right (Şirin, 2016: 49). Şirin made all these assumptions for the rights of the nature but the right of the nature automatically reminds the language of rights, and so the rights of children, embryos and future generations.

In a worldwide view, one may look at the general and the most efficient legislations in order to see the universal view of positive law about children, universal declarations and law documents shortly. Firstly, in the Geneva Declaration of the Rights of the Child, which was adopted on 26 September 1924, by the League of Nations⁸, the related items about the child require a sophisticated interpretation:

i.1 The Child must be given the means requisite for its normal development, both materially and spiritually, and;

i.4 The child must be put in a position to earn a livelihood, and must be protected against every form of exploitation.

Here, one should ask what is ‘normal development’ and which practices exercised on the child could be perceived as ‘exploitation’? If these concepts would be described in detail, the rights of children would be a broader issue. Is it undesirable in this kind of legal documents? Of course, it is. Since positive law is defined as man’s rise to dominion over the earth, it should save the man rather the earth. It is known that there are some prospective parents who want to have designed babies identical or similar to their characteristics. For example, genetically deaf families could apply for courts in order to choose their deaf baby by using pre-implantation genetic diagnosis with familial adoption reasons (Savulescu, 2002: 771). If the law accepts the family of the unborn as the criterion for deciding, it will give its decision for the family and against the unborn. Rather, if the law accepts the nature and the universe as the scale for deciding, then it would decide for the unborn and next generations. Unfortunately, positive law prefers the first way of deciding style in general since it defends the right as entitlement.

⁸ Geneva Declaration of the Rights of the Child, Available at <http://www.un-documents.net/gdrc1924.htm>

In the law document of United Nations Universal Declaration of Human Rights 1948⁹, there were no article or item about the protection of sex transition or determination or orientation of a child. Rather, the document includes a very broader statement: ‘Motherhood and childhood are entitled to special care and assistance. All children, whether born in or out of wedlock, shall enjoy the same social protection’ (Article 25, item 2) and a statement that is related to the right of parents to choose the kind of education of a child, not the sex of it: ‘Parents have a prior right to choose the kind of education that shall be given to their children’ (Article 26, item 3).

However, we should ask for the limits of the rights of parents on their children. Güvercin and Arda (2013: 54) discuss the child’s best interest and the concept of guardianship in their article and ask if ‘the guardianship could be assessed as an absolute right of parents over the child, just like, e.g. the property right?’ As an answer, they underline the definition of the guardianship ‘as an institution, which assigns the parents in terms of caring about the existence and personality of the child and representing her/him, authorizes them to fulfill these duties ideally and actually aims to protect the child and look after her/his benefit’ and they add that, in the Turkish Law, the guardianship was not considered an absolute disposition; it was restricted with the benefit and participation right of the child (Güvercin and Arda, 2013: 54).

As it is seen above, the positive law documents are mostly interested with the rights of the childhood, not with the infant or unborn. They accept these processes (infant, unborn, before birth) as natural and non-problematic. However there are direct interventions of the reproductive technology to these processes. Thus these legal documents need to be revised according to these inventions.

Fortunately, in the Declaration of the Rights of the Child¹⁰ - which was proclaimed by General Assembly Resolution 1386 (XIV) of 20 November 1959, adopted by the UN General Assembly 30 years later, on 20 November 1989, and as The Convention on the Rights of the Child, it was entered into force on 2 September

⁹ United Nations Universal Declaration of Human Rights 1948, p. 6. Available at: <http://www.supremecourt.ge/files/upload-file/pdf/act3.pdf>

¹⁰ Declaration of the Rights of the Child, 1959. Available at: <http://www.unicef.org/malaysia/1959-Declaration-of-the-Rights-of-the-Child.pdf>

1990 – it can be confessed that as the first time the issues related to pre-natal care and handicapped children were subjected to the positive law:

Principle 4. The child shall enjoy the benefits of social security. He shall be entitled to grow and develop in health; to this end, special care and protection shall be provided both to him and to his mother, including adequate pre-natal and post-natal care. The child shall have the right to adequate nutrition, housing, recreation and medical services.

Principle 5. The child who is physically, mentally or socially handicapped shall be given the special treatment, education and care required by his particular condition.

As it is seen in the 4th Principle, the child's care and health is subjected in the declaration as a dependent of its mother. It is known that in order to protect the pregnant woman's health, her baby can be terminated on the request of the woman¹¹. This decision can be understood and founded; however a new question arises from that: Should the woman who may decide the birth or death of her baby for her own surviving, decide the birth or death or sex determination of the unborn on behalf of the unborn? Despite the 4th one 5th principle, the child is subjected as an actor. However in the countries with the lack of a social state, the expensive and very limited care and treatment of a handicapped child would be a big problem for their families and for their surviving and socialization. The best solution for their 'problematic pregnancy' seems to undergo the termination of the pregnancy or to direct the pregnancy via the techniques of IVF and Pre-Implantation Genetic Diagnosis (PGD). This supports, selecting the healthiest embryo by reproductive biotechnology and ultra-screening technology and implanting it through in vitro fertilization. In short, the limits of the rights of embryo may get blurred somehow by the discourse of 'my body my decision.' This autonomy of parents, especially woman, makes the reproduction process complicated. Despite of its appearance of personal autonomy, the process is generally, positively or negatively affected by the political tendency¹².

¹¹ "Bebeği Alındı, Kolu için Tedavi Olacak," on 27 February 2015: For the whole news, see: <http://www.medikalakademi.com.tr/bebegi-alindi-kolu-icin-tedavi-olacak/>

¹² For example, Nazi officials implemented "positive" eugenic measures, promoting large ("child-rich") families for the Aryan fit, setting aside houses in new subdivisions for eugenically qualified families, and issuing the Honor Cross of German Motherhood to healthy, "German-blooded" women who had at least four children (Bachrach, 2004: 419). While the quality of the children were important for this German racial political experiment, the mere quantity of children is important for the Turkish conservative government recently. So that, the Turkish woman without a child is interpreted as 'half'

If one has autonomy, she can make her own decisions and act as a result of those decisions. The term could be traced to the enlightenment but should be found also in the history of humanity. For Gillon (1994: 185) Respect for autonomy is the moral obligation to the respect for the autonomy of others in so far as such respect is compatible with equal respect for the autonomy of all potentially affected. In Kantian terms, as treating others as ends in themselves and never merely as means – one of Kant’s formulations of his ‘categorical imperative’ (Gillon, 1994: 185). From this explanation, it is understood that autonomy is an issue of an entity that can ‘think.’ Otherwise it is not the case for the unborn on behalf of next generations or, even a baby or little child since they are unable to give any consent for anything about their lives. Paternalistic opinion accepts the fact that children are incompetent and irrational beings (Güvercin and Arda, 2013: 58). I am not even talking about the autonomy of mentally retarded people or animals anymore. We can only talk here about the autonomy of adults and their dominium over all ‘other things’ including their prospective children and next generations.

This dominium may show itself under various intervention methods in modern era. In some cases, would-be parents who are informed that their baby will be born with a defect, generally sexual, may choose to intervene the fetus by using surgical methods. Definitely, gender uncertainty is very difficult and stressful situation for families. Hughes et.al. (2006: 3) used the word of ‘assignment’ for this decision process related to sex as a pertinent remark. According to them (2006: 3), factors that influence gender assignments include the diagnosis, genital appearance, surgical options, need for life long replacement therapy, the potential for fertility, views of the family, and sometimes the circumstances relating to cultural practices. As pediatricians, they also confess that gender assignment is a sensitive issue that would affect the subjected person for perpetuity. Liao (2005: 117)’s related article is considerable including some cases of determining the sex of the child. One of them is:

...The Constitutional Court of Colombia was asked recently to determine whether biological parents have the authority to subject their intersexed children to surgery. The Court ruled that biological parents do not have such authority, by arguing that

by the president of Turkey who wants at least three children from the Turkish families in his various discourses.

biological parents should put the child's best interest ahead of their own fears and concerns about sexual ambiguity.

In this case the Court seems like protecting the child. An inverse ratio attracts attention here: the extension of children rights decreases the rights of parents. Reverse situation is also valid. That means the extension or advocating the rights of the child/embryo involves the delimitation of the rights of (would be) parents.

In this dissertation, it is asked briefly, 'can't we defend one's right without any extension or limitation of others?' If we can't, then whose rights should be defended more? Who need more? The rights of embryo and next generations would generally have seen as the 'dependent' rights. This inequality in rights literature takes its source from the question whether being a bodily human or not. It is obvious that, there is not any regulation for the rights of unborn and next generations. If that is so, then one would assume that there should be rights (moral or legal but practicable) for the non-bodily human in any case. However, it is known that the existence of an embryo is subjected to the positive law rarely and mostly related to the issues of the law of inheritance. In his article, Çoban (2009: 76) discusses the possibility of another world where the protection of the rights of the embryo which is legally possible and morally required. The legal statuses of not only the embryo in the tube but also the embryo in the womb were imprisoned in a space, which was shaped by paradoxes in Turkey (Çoban, 2007: quoted from Çoban, 2009: 77).

There are different legislations about the assisted biotechnology applications. That is another reason of why the application of this technology should be formed in a fair and universal way to have an equal access to all people from all nations. As an example for these different applications of states - even in the member states of EU- ; The Steering Committee of Bioethics (CDBI, 2005) published a report on the Replies by the Member States to the questionnaire on access to Medically Assisted Procreation (MAP) and on right to know about their origin for children born after MAP. In this report, under the section of legal regulation or practice and access to MAP Relevant legal instruments, draft legal instruments, or practice; the names of the law or the presence of the regulations were given. Among other states, in Austria, the title of the law was the 'Law on Medical Assisted Reproduction "Fortpflanzungsmedizingesetz"' and the Date of adoption was 14 May 1992 entry

into force 1 July 1992. It was published in Federal Gazette “Bundesgesetzblatt” BGBl. Nr. 275/1992. Revision concerning duration of storage of gametes and embryos is envisaged. Public consultation is finished. Decision of the Federal Government on the draft bill would be prepared in due course. According to this strict law:

- (i) Assisted reproductive technology was allowed Medical Ultimo Ratio only, i.e. if pregnancy by sexual intercourse is impossible because the woman and/or her partner have a medical condition;
 - a. Access to assisted reproductive technology was limited to married or co-habiting heterosexual couples;
 - b. Sperm donation was in general prohibited except for heterologous insemination, i.e. insemination with donor sperm if the husband or established partner is infertile;
 - c. Egg donation, donation of embryos and surrogacy were not allowed; and
 - d. Pre-implantation genetic diagnosis (PGD) was not explicitly regulated, but the FMedG only allowed genetic analysis if it was necessary to accomplish pregnancy (Griessler and Hager, 2017: 2).

As it is seen above, the picture in Austria was similar to Turkey in some respects. However, in 2014, this law had been transformed into a much more flexible practice in Austria. After 22 years, this flexibility was interpreted by Griessler and Hager (2017) as being the radical and gradual change in the lives and ideas of Austrian people and their approaches on same sex couples and their reproductive rights. According to this new flexible Austrian law¹³, out of single

¹³ a. The law expands the group of people having access to assisted reproductive technology. Now lesbian couples are also allowed to undergo treatment (§ 2 [1]). However, assisted reproductive technology is still not possible for everybody. Single women and gay couples are still excluded from assisted reproductive technology, and surrogacy and embryo donation are still prohibited.

b. It permits sperm donation for IVF and ICSI – previously it was allowed for insemination only (§ 3 [2]). Donors must be at least 18 years-of-age (§ 13 [1]). Sperm must be tested for fertility and for being free of any medical threats to the woman and the child (§ 12). To prevent commercialization, donors are entitled to receive limited compensation (in the form of allowances) (§ 16 [1]). A maximum of three donations is permitted per donor (§ 14 [2]). Hospital records must be kept about the donor and the use of the donation (§ 15) to safeguard the fundamental right of children to find out the identity of their biological father at the age of 14 (§ 20 [2]).

c. It allows egg donation, but imposes age limits for donors (18 to 30 years-of-age; § 2b [2]), and for recipients (maximum age, 45 years; § 3 [3]). Commercialization and advertisement of egg and sperm donations are prohibited (§ 16). To avoid commercialization, donors receive only limited compensation (e.g. in the form of allowances or reimbursement of travel and hotel expense; the law

women and gay couples people would be included for egg donation, arrangements for the sperm donation and egg and sperm donors were available, the advertisements or commercialization of the services are regulated, right to know the genetic mother at the age of 14 was recognized, limited access to PGD was allowed.

The Steering Committee of Bioethics (CDBI, 2005) report also included the information about Turkey. The Title of the law in Turkey is ‘The Law on Centres for Treatment (for medically assisted procreation) - Üremeye Yardimci Tedavi (ÜYTE) Merkezleri Yönetmeliği’ Date of adoption and entry into force was 31 March 2001. Published in Official Gazette. According to this law and regulations before it (1987), the use of donor eggs, donor spermatozoa and surrogacy applications have been prohibited in Turkey. Moreover, Gürtin (2011: 555) drew attention that until 2010, Turkish men and women retained the option to travel abroad to access these treatments. In 2010, Turkey became the first country to regulate against the cross-border reproductive travel of its citizens seeking third-party reproductive assistance (i.e. donor gametes or surrogacy).

Moving from our Turkish example above, these differences and bans direct people to find and benefit from these opportunities in stateside or abroad but generally in, illegal ways. Many social scientists emphasized this effort in different names such as ‘reproductive travel’ (Gürtin, 2011: 555), ‘reproductive tourism,’ ‘medical tourism’ (Kovacs, 2010 and Pennings, 2002: 337) ‘cross border fertility services’ (Hughes and Dejean, 2010) and ‘fertility tourism,’ ‘procreative tourism,’ or ‘cross border reproductive care (CBRC)’ (Inhorn, 2011: 87). Eventually, people can find other solutions abroad for their reproductive aims. In the lack of positive rights for some universal problems, people would prefer to go to other countries where they would be given some temporary reproductive rights/ masks.

Turkey has some similarities with Austrian law in certain respects. However rather than mere imitation or adoption, it would be quite difficult and time wasting for Turkey to wait for the modern reproductive right claims of Turkish people. On

does not define an exact amount) (§ 16 [1]). The child is entitled to learn the name of the egg donor at the age of 14 (§ 20 [2]).

d. It permits PGD in specific cases (§2a [1]), i.e. after three or more unsuccessful IVF cycles, after three miscarriages, or when there is an increased risk of a miscarriage or genetic disease due to the genetic predisposition of a parent. PGD for genetic screening remains prohibited.

the other hand, as well as Turkey, many other states can't provide equal opportunity for all of its citizens when it is compared to other states' citizens, through their various positive law arrangements. That is why I decided to look for another discussion domain for the rights of ARTAP in this dissertation.

In the positive law and regulations, an extensive protection of the rights of unborn or even children is very limited as it is seen in the 'positive law approach' sub section of this literature review. For this lack of legal protection, there are so many organizations and centers founded for defending the rights of the children such as Child Rights Information Network, Council of Europe programme for the promotion of children's rights and the protection of children from violence, Council of Europe, European Youth Foundation, International Children's Center, Global Network to End Child Prostitution, Child Pornography and Trafficking of Children for Sexual Purposes, etc.

The rights of surrogate women and oocyte donors and prospective parents who applied for these women to have a baby are not identified and represented legally in most cases. Legal cases including surrogate or donor woman rights are generally linked to and prosecuted by other existing rulings such as misleading the familial link, or forgery of (Birth or ID or registration) documents in Turkish law. In the Fifth Findings sub-section of this dissertation, titled as 'Constraints concerning the *Capability of Emotions* and ARTAP,' a discussion towards the analogy between the oocyte donation and organ donation was conducted and some policy suggestions were deduced on this analogy.

It is seen that a new approach and solution domain for ARTAP is needed anymore. In this sub-section, human rights and its pertinence to reproductive biotechnology and its zones of influence are investigated.

In this dissertation scope, these zones are:

1. Human Rights approach to Reproduction
2. Human Rights approach to Woman
3. Human Rights approach to Parents
4. Human Rights approach to Children, Embryo and Next generations

The definition of the rights addresses the different approaches to human groups in literature of rights. Deveci (1999: 55) argues that defining the human as an essence of self is not the only alternative of defining formally or not defining. He emphasizes especially the rights of woman, racial minority, immigrant, worker, indigenous people, children which had come to the agenda in last ten years and specifically the efforts which try to designate the rights related to the identities and divisions of the female child as well. In fact these efforts are reinforcing the need for the definition of human in addition to including some strange similarities with a more general process named as the process of materialization of law (Deveci, 1999: 55). He discusses the subject from the point of view of the universality of rights. Here, it is accepted that various aspects towards rights and different sub-definitions would contribute to the full definition of human.

There is not a sufficient approach to the rights of children in the positive law from the universalistic approach. However in the literature of rights, it can be asserted that the rights of children requires an additional normative support with respect to their status of not being fully human (Deveci, 1999: 56). In the rest of his work, the acceptances of the rights of the child and even the woman depends on some special conditions and assumptions which could lead the discussion to the gradualness of being human and questioning the universality and equality notions of human rights. Again, it is supposed in this dissertation that one may find a domain in the human rights literature to defend the definitive rights of the children and unborn.

The positive law approach refers to the principle of 'justice,' at a first glance. According to (Gillon, 1994: 185) equality is at the heart of justice, but as Aristotle argued so long ago, justice is more than equality – people can be treated unjustly even if they are treated equally. Then, it is important to make adjustments in treating according to the variety. Gillon (1994: 185) explains the statement of Aristotle as: 'It was important to treat equals equally (what health economists are increasingly calling horizontal equity) and to treat unequals unequally in proportion to the morally relevant inequalities (vertical equity)'.

Human rights are specific rights among others because first of all, its source and legitimacy is very different from the others. Many philosophers and political scientists emphasized the self-referential character of human rights, including

Donnelly. As a conventionalist he claimed that human rights were a special class of rights, the rights that one had simply because one was a human being (Donnelly, 2003: 12). It is known that this characteristic implies equality among all people. As Vincent (1986: 9) underlined, the subjects of human rights are not members of this or that society, but of the community of humankind. If one has these rights only because one is a human being, then what is the source of that power? It is obvious that human rights exist against all kinds of power. Namely, human rights should be an overarching standard all above the others. Then, what should be the foundational, essential, or elementary factor, which underlies human rights?

The origins or source of human rights were searched in the history of the humanity and of philosophy. While Donnelly (2003: 17) distinguishes the *moral nature* as the source of human rights, according to Freeman (2002: 11), the idea of the ‘source’ of human rights was containing an important and confusing ambiguity: it could refer to the *social origins* or the *ethical justification* of human rights. To me, there should be a close relationship between a concept and its social origins since the concept would be fed by that origin. In Donnelly (2003: 18), this interaction came into question again by claiming that there was both a constructive interaction between moral vision and political reality and a constructive interaction between the individual and society, which shape another through the practice of human rights. A self-fulfilling moral prophecy would then possibly come into existence in the body of human rights as “treat people like human beings and you will get truly human beings.”

At this point the effect of society on natural rights is important. What had happened and we had become distant of our natural rights? A philosopher from the optimistic approach, Freeman (2002: 18) puts it into the discussion: there was no direct line from medieval conceptions of *ius* to early modern conceptions of natural rights:

As the famous Dutch jurist, Hugo Grotius expressed, ‘men had natural rights, but these were transformed by society’ similar with the interaction between the rights and their sources as mentioned above. The first sharp distinction between *right* (*ius*) and *law* (*lex*), was made by Thomas Hobbes in the seventeenth-century England (Freeman, 2002: 18 - 19). He pushed the idea of right beyond legal restraint by calling it a liberty to do or to forbear –contrasted with law, ‘which bindeth to one of them’- and allowing, in the form of a right of nature, anything which is necessary to an individual’s self-preservation (quoted from Vincent, 1986: 25).

If we follow the tradition of political thought we come across with Locke who was interpreted as a theorist of a strictly individualist conception of natural rights; because according to Locke, each individual had fundamental obligations to God, was endowed with reason, and had a natural right to freedom, which was limited only by the obligation to respect the natural rights of others (Freeman, 2002: 21). From the God or Statesman, regardless from the source of the power of rights, the common and basic thing is seen as the respect to another's life. The term of 'respect another's life' is vital here. When we think about the unborn baby and its mother's preferences about her 'baby' or the 'birth,' we may confront with a conflict about the human rights of the baby (of course if we accept her/him as a human being. It should not be a chance that in English, it is taught us to use 'it', as the pronoun of the baby. Its characteristics are recognized first of all by its sex). This contradiction takes its main source from the human's differences in humanity levels, which would take us to the discussion of inequality in human rights.

In this literature snapshot, it is argued that Human Rights approach would be a discussion and suggestion domain for the 'equality of the rights of ARTAP' of whom rights were reproductively unbalanced by biotechnology. Human Rights subsection of this dissertation is prepared to prove this claim.

2.3.1. Human Rights approach to reproduction

To reproduce is a right as well as not to reproduce. However, even in this modern era, reproductive choices of people are determined by social and economic conditions. Having lots of money or being overeducated is not so relevant with reproduction issues. When a prospective parent wants to have their child, they struggle with all obstacles by all their means. As it is known, for many people (especially in Turkey), reproduction stands at the center of their lives more than their dignity.

If it is so important for the lives and survival of human beings, it is absolutely worth investigating with respect to reproductive biotechnologies and human rights. There is not a clear approach but some approaches in Human Rights related to reproduction. One and the most effective one of them is the 'Capabilities Approach' of Martha Nussbaum (2001). In her words, she is 'a theorist, not a practitioner' (2007:

21), but it is obvious that her vital contribution to the “Human Development Approach,” otherwise known as the “Capability Approach,” (Sen, 1981) somehow made her a practitioner. The Capability Approach, as she had developed it, ‘is a species of a human rights approach. It makes clear, however, that the pertinent goal is to make people able to function in a variety of areas of central importance’ (Nussbaum, 2007: 21). How did this approach emerge or rather, transform?

The Indian economist and philosopher, Amartya Sen in 1981, first specified the Capability Approach. It has been used mostly in the context of human development. It is used by The United Nations Development Programme, as a broader, deeper alternative to narrowly economic metrics such as growth in GDP per capita. Here ‘poverty’ is understood as deprivation in the capability to live a good life, and ‘development’ is understood as capability expansion (Wells, IEP). Nussbaum (2001) articulated her capability theory of justice on Sen’s ‘capability approach’ through her human rights approach. According to this, Nussbaum (2006: 77) laid out ten capabilities as minimum human rights *threshold*. These are:

-  Life
-  Bodily Health
-  Bodily integrity
-  Senses, Imagination, and Thought
-  Emotions
-  Practical Reason
-  Affiliation
-  Other Species
-  Play
-  Control over One’s Environment

Nussbaum, who is known as an Aristotelian human rights theorist, is chosen as the normative pathfinder in this dissertation. The capabilities approach of Nussbaum is used as a guide for the investigation of human rights with respect to the woman, parents and unborn on behalf of next generations. In her list of human capabilities, Nussbaum (2001: 223, 224), distinguishes ten capabilities of human which should be regarded as crucial for performing human rights without borders.

There are some breakpoints in which specific relationships between reproductive biotechnology and Nussbaum's human capabilities can be developed. The possible relationship between different constraints concerning human rights and specifically capabilities approach and assisted reproductive biotechnology applications is investigated from various aspects in this study.

Here, a literature on human rights is given in order to show the legitimacy of approaches towards human rights approach with respect to woman, parents, next generations. The capabilities approach and its claims are also discussed in detail where they are needed in this section.

There are some discussions including human rights approaches to the target group – ARTAP as follows:

2.3.2. Human rights approach to women

Female body has a sensitive role in human rights since especially the women are seen as the secondary group people of the society after men and physical violence is applied to women in general. When one thinks about physical violence, the honour killings come to the minds at first. However, there is a number of reason and violence types exist towards woman rights violations. Even some of them occur only because that is a woman. Bunch (1990: 488-489) gives some examples of human right violations towards females just from the beginning of their life.

Firstly, she quotes some examples before birth of female unborn. Amniocentesis is used for sex selection leading to the abortion of more female fetuses at rates as high as 99 percent in Bombay, India; in China and India, the two most populous nations, more males than females are born even though natural birth ratios would produce more females (Bunch, 1990: 489; quoted from Patel, 1989). Sex, being a female, is the main reason of such kind of violation.

That is not only a violation before the birth and in the adulthood. Many women suffer from right violation also during their childhood. Bunch (1990: 488-489) gives an example from Ravindran (1989; quoted from Bunch) about this process: The World Health Organization reports that in many countries, girls are fed less, breast fed for shorter periods of time, taken to doctors less frequently, and die or are physically and mentally maimed by malnutrition at higher rates than boys. In

addition to Bunch (1990), a very specific – but unfortunately usual- and disturbing example of violation was seen, witnessed in Turkey in March 2017. While, ‘HIV prevalence in pregnant women’ was expressed as one of the Indicators of ‘Reproductive Health Indicators for Global Monitoring (Global Indicators) which was developed by World Health Organization (WHO) in 2001¹⁴ (Cook, Dickens, and Fathalla, 2003: 226), a young woman aged 18, who has severe mental retardation and HIV was raped and about to give a birth to her baby after a few minutes, applied to some birth clinics of some fully-equipped hospitals in the capital city of Turkey on 12th March, 2017; and rejected¹⁵. The reason of the hospitals was around the risk of HIV infection. Finally, the most known public hospital accepted her and after some required drugs and anesthesia, they got the baby out. On this case, it should be kept in mind that Cook, Dickens, and Fathalla (2003: 14-19) begin their book by accepting the sexual differences and unfair burden (about maternity, reproduction, contraception, sexual health/abuses, sexual transmitted diseases- include HIV, etc.) of women at the beginning of the subjected publication. That is why they (2003: 17) have some additional information on women under the subtitle of ‘Women’s Health is more than reproductive health.’

Finally, Bunch (1990: 488-489) underlines the adulthood right violations on female: the denial of women's rights to control their bodies in reproduction threatens women's lives, especially where this is combined with poverty and poor health services. In Latin America, complications from illegal abortions are the leading cause of death for women between the ages of fifteen and thirty-nine (Taylor, 1985; quoted from Bunch, 1990: 489). In addition to the illegal abortions, adult women are face to face with serious reproductive sanctions especially if they are in poverty. Surrogate motherhood and oocyte donation are two specific examples of human rights violations on adult woman body, which were subjected to this dissertation in addition to other groups. The non- sanctional regulations, bans or limitations of some states lead these women to undergo such applications in illegal ways. This ‘natural burden

¹⁴ WHO (Division of Reproductive Health), Reproductive Health Indicators for Global Monitoring: Report of the Second Interagency Meeting (Geneva: WHO, 2001).

¹⁵ Can, N. 13 March 2017., “Ankara’da Akıl Almaz Olay! Aids, Zihinsel Engelli ve Doğurmak Üzere,” Haberturk, For the details of the news see: <http://www.milliyet.com.tr/ankara-da-akil-almaz-olay-aids-gundem-2412503/>

of unfairness' of women can be explained and overcome with some humanistic notions.

Primarily, *bodily health* item of capability approach is so meaningful and inclusive with respect to the human rights approach to the woman. It means in short, being able to have good health, adequate nutrition, adequate shelter, opportunities for sexual satisfaction and choice in reproduction, and mobility. The capability of bodily health would be clearly violated via surrogate motherhood in reproductive biotechnology technologies. Women, who are in a poor life conditions, tend to rent their bodies, or donate their eggs for making others parents in exchange for an amount of money. The consent of that woman surely would not accept as unconditional or free choice. It depends on the money, or husband, or family, or the socio-economic conditions as a whole.

This item goes hand in hand with the *bodily integrity* notion of capability approach. This notion means, being able to avoid unnecessary and non-beneficial pain and to have pleasurable experiences. In addition to being a surrogate mother, being oocyte donor is a proper example of the incapability of bodily integrity. It is known that eggs are taken after storing in the women so many hormones, under anesthesia and some operational conditions dissimilar to the sperm donation. This feature (painfulness) makes it more valuable and unethical. Female students, some housewives and homeless people are known as the vendors of this organ. Some of these women may tend to give their eggs for many times in a year despite the adverse effects of hormones and complications of operations as Waldby (2008) cited in her works about these implications¹⁶.

Senses, imagination and thought may be seen as the third capabilities notion related to these social results of assisted reproduction. Perhaps the most influential one is becoming a mother and father for many people. If one of the features of this capability is shown as 'being able to have pleasurable experiences and to avoid non-

¹⁶ Daily subcutaneous hormone injections over a period of 7 to 10 days. Mature oocytes are retrieved under ultrasound guidance by the insertion of a needle through the vagina in a brief surgical procedure that requires anesthesia [. . .]. The ethics committee of the American Society for Reproductive Medicine cites an estimate that egg donors spend "56 hours in the medical setting, undergoing interviews, counseling, and medical procedures related to the process". The injections are uncomfortable and have side effects. The retrieval of oocytes carries risks, such as those of anesthesia and bleeding (Steinbrook 2006, p. 324; quoted from Waldby, 2008: 20).

beneficial pain,’ the in-vitro baby trials which tend to inseminate more than one embryo can be underlined here. From the media, it was unforgettable that a woman over 45 got pregnant with seven babies via the assisted reproductive technique of in-vitro fertilization. Technique increased its success chance by inseminating seven embryos but unluckily (or luckily) all of the embryos were successful! She was suggested by the professionals to undergo an abortion and to continue her pregnancy with 2 or three babies for her and babies’ survive. However, such kind of abortion was contradictory with her religion and emotional disposition. Finally she had chosen to continue her pregnancy with her seven babies and she lost all of them¹⁷. This case and similar many other cases showed that uncontrolled reproductive biotechnology applications may develop at the expense of high traumatic defects and even death. After the regulation for these assisted reproduction centers in 2010, the number of embryo, which will be inseminated to the womb of the prospective mother had been limited up to three in Turkey.

The notion of *Emotion* is again an important right issue in capabilities approach. Apart from other emotions, ‘Fear and anxiety’ are very familiar to an ordinary pregnant woman. Of course a woman who had been pregnant after so many IVF (In Vitro Fertilization) trials or donations, would be nervous about her pregnancy just because she wanted to be a mother. However surrogate mothers’ fears of their pregnancy would be different since they carry another people’s babies and hopes and will take money for this job! These fears and emotions are discussed in the “Findings and Discussion” section.

2.3.3. Human rights approach to parents

The biggest share in the rights apple belongs to this group. Desire of having a baby is possibly the most accepted and moreover anticipated emotion among the society. However, anyone does not care about its source or the way of doing, so much. Before anything else, asking how they got their baby would be a shame. Again, parents tend to give a birth to a baby through natural sexual intercourses with their partner, if that is possible. If that is not possible, they tend to apply for assisted

¹⁷ “Yedizler Öldü,” 07 May 2005. For the news, see: <http://www.hurriyet.com.tr/gundem/yedizler-oldu-317653>

reproductive technologies such as sperm injection, or IVF if they can cover the expenses. Then the problems begin to rise with the multiple pregnancies. Prospective mother and father are responsible from these pregnancies in addition to the medical doctors/ART centers. If more embryos than desired number were clinged to the womb, then the adults should decide to terminate some of them for the health of the mother and other embryos – who are entitled the right to live - .

Here the rights limiting each other are issued in general. *Control over one's environment* notion of the 'capabilities approach' is relevant as a whole. This capability leads me to explore the medieval word 'dominium'¹⁸ because it is related with my topic.

Here the *dominium* transforms into the right to plan, change, direct; not to enslave but to control the child and female human body together. Capabilities approach of Nussbaum (2001) was claiming that there should be *combined capabilities*, which are defined as *internal capabilities* combined with suitable external conditions. While Nussbaum (2001) was implying the external conditions as the violators of human capabilities; in this article, it is seen that internal capabilities could be affected again by external conditions, by other humans or by the suggestive opportunities of assisted reproductive biotechnology. Of course prospective parents or biotechnology are again tools of such kind of violation policy, the responsible body is again the state because there is no clear legislation, restriction or deterrence for the misuse or adverse-social effects of this technology. If every man is regarded as rational, then he could know the law of nature as Locke claimed, then new

¹⁸ One source of late medieval natural-rights theory was the dispute between the Dominicans and the Franciscans, who championed the life of poverty, and thereby called into question the legitimacy of private property. In 1329 Pope John XXII declared against the Franciscans that God had granted to Adam *dominium* (lordship) over temporal things. Property was therefore sanctified by divine law. By the fourteenth century it was possible to argue that to have a right was to be the lord of one's moral world (Tuck, 1979; quoted from Freeman, 2002: 18). The similar emphasis is seen in Vincent's (1986: 25) writings. In Locke's work in late seventeenth century, so often taken as the foundation of modern natural rights theory, by virtue chiefly of his impact on the American Revolution, these earlier developments join up. The *dominium* of the scholastic philosophers becomes the right to property, meaning life and liberty as well as mere possession (though a property in one's own person does not in Locke entail a right to enslave oneself, as some earlier writers had argued) (quoted from Vincent, 1986: 25).

question is who has that modern *dominium*? Society, its individuals, parents or the invisible state?

Similar questions about the rights of parents and their children were asked and discussed for so many years. For example 37 years ago Schoeman (1980: 8) emphasized that there is a different and more practical reason for hesitating to stress the rights of infants vis-a-vis their parents. However by the time this relationship between the parent and older child is becoming a disaster. Usually, “the child’s happiness makes parents distress.” The answer for this complicated relationship would be found in the language of rights according to Schoeman (1980: 8): ‘the language of rights typically helps us to sharpen our appreciation of the moral boundaries which separate people, emphasizing the appropriateness of seeing other persons as independent and autonomous agent.’ But again, we generally fail to practice ‘respect for other’ especially if they are our intimates.

Practical reason is another threshold notion of Capabilities Approach. That is, being able to form a conception of the good and to engage in critical reflection about the planning of one’s life (Nussbaum, 2006: 77). This and all other human capabilities’ notions can be issued either for the rights of parents or for the rights of embryos from different point of views. It is observed that this notion can easily be warped and violated by ordering a baby whose tissue would save his/her older brother/sister from an illness¹⁹. Just because parents would not regard if this new savior baby would carry another genetic disease in its genes rather they would regard if its tissue is identical or not. This important medical invention is developed by the technique of pre-implantation genetic diagnosis, which also helps prospective parents to choose the sex of their unborn babies. Here another threshold would be issued: *Affiliation*. Especially the second (b) Part of this notion is remarkable in this subject. It is: ‘Having the social bases of self-respect and nonhumiliation; being able to be treated as dignified being whose worth is equal to that of others. This entails provisions of nondiscrimination on the basis of race, sex, sexual orientation, ethnicity, caste, religion, national origin’ (Nussbaum, 2006: 77). However this notion is violated through the interventions to the pregnancies by IVF and PGD because all

¹⁹ “Kardeşinin Hayatını Kurtaran Mucize Bebek,” For the source, see: <http://www.tupbebek-genetik.com/sizden-gelenler/kardesinin-hayatini-kurtaran-mucize-bebek>

kinds of intervention and selection process would lead people to make a kind of discrimination.

It is crucial here that all of the capabilities items were issued not only for the legal guardians of people who cannot defend themselves but also all human beings (include people who cannot defend themselves). In practice, there are serious problems of autonomy, dominium and inequality, which are discussed in the discussion section of this dissertation, are exist here.

2.3.4. Human rights approach to other species

Nightingale: "Yet love is better than life, and what is the heart of a bird compared to the heart of a man?" Oscar Wilde²⁰

Among the other notions stated above, the most important and remarkable notion of Capabilities Approach is 'life' for the children, embryo and next generations. It means briefly 'the respect for the other's life.' Schoeman (1980: 8) appealed to Hegel (Philosophy of Right, secs. 158-6) about some traditional moral boundaries, which give rigid shape to the self, are transparent to some kind of sharing. This makes nonabstract moral relationships in which talk about rights of others, respect for others, and even welfare of others is to a certain extent irrelevant. There should be other factors that lead parents to act disrespectful for their unique lives. Unfortunately, one cannot criticize right violations of the embryo, or next generations specifically and directly since they have almost no entitled right. Instead of it, only the social, ethical and moral problems in the absence of these rights can be discussed.

People want to have a baby. If they are unable to have a pregnancy in their normal reproductive lives, they can decide its origin (get the oocyte or sperm from the third parties), or they can find a surrogate mother for giving a birth to that child (But they may do not want breastfeeding or any other emotional or physical relationship with the baby). As mentioned above if they are able to give birth to their own babies, they may order a baby whose tissue would save his/her older brother/sister from an illness (leukemia). Or if they can have their babies via IVF, in

²⁰ 'The Happy Prince: And other tales' From the story of 'The Nightingale and the Rose' 1894: 33.

case of multiple pregnancies, they may decide the termination of some of their babies (According to the size –appearance- or sex). When one talks about parental rights, some more questions occur such as how autonomous decisions could be given if they were increasingly pre-informed through upstream risk-assessments on the basis of non-invasive screening (Wieser, 2006: 41). It is known that ultrasound screening in pregnancy follow ups has a crucial role especially in the prediction of sex, down syndrome risk, weight, length, and so on. If parents learn via technological estimators that their fetus is in the high-risk proportion of being handicapped, they possibly decide to terminate the pregnancy. So these unnecessary embryos would get poisoned in the womb indisputably. Or, rather, they may choose to use PGD not to get the risk of having a baby with a specific disease or handicap and choose their baby(ies) among a few number of embryos via screening: moreover they may choose the male or female embryo by doing so. Up to here, there is no right to live of embryo; there are only parental rights.

If this capability of ‘affiliation’ entails provisions of non discrimination on the basis of race, sex, ethnicity, caste, religion, and national origin, then in addition to the sex selective feature of biotechnology techniques, there is another controversial point: the desirable origins of egg donors. As a simple example of this; it is known that white-skinned or European women would prefer the similar color as the egg-donor. However, there should be much more black women who want to make money from their eggs. Then national origin and ethnicity plays a big role in this new sector and free market rules might bring new ethical/social problems in that sense. Embryos and next generations can be also determined with respect to their (genetic parent’s –oocyte or sperm donor’s-) origins.

It is a very sensitive and interactive issue to make a choice about an unborn and about the next generations as a result of it. Technology lets parents to make their choices according to their desire and comfort. A very known example of such choice is the deaf embryo selection of a lesbian couple in the United States. Savulescu (2002: 771) wrote this *right* in a more critical sense. So that while many couples with a family history of deafness or disability seek to have a child without that disability; some deaf couples have expressed the desire to use prenatal genetic testing of their fetus or in vitro fertilization and pre-implantation genetic diagnosis to select a deaf

child. He examined the case of a deaf lesbian couple in United States and explained their efforts for creating a deaf child through their deaf sperm donor's genetic material. And he adds, these choices are not unique to deafness; dwarves may wish to have a dwarf child, people with intellectual disability may wish to have a child like them, couples of mixed race may wish to have a light skinned child or reverse, etc (Savulescu, 2002: 771). In his famous book 'Brave New World,' Huxley (1932), was startling his readers with his 'perfect world' scenario. In the reality now, technology (reproduction = future generations) is not driven by science; rather it is driven by the autonomy of individuals.

Savulescu (2002) underlines a very important right abuse by referring to this choice provided by reproductive rights and technologies. The scope of this reproductive choice includes the embryo and child may be extended on parents' request forever and ever. In a similar context, Beh and Diamond (2000: 2) discusses the development of a surgical approach to treat intersex infants and others with genital anomalies that began in the late 1950s and 1960s and became standard in the 1970s.

The rights debate on embryos and reproduction, which was conducted by some authors with the concepts such as 'human rights to IVF' (Zegers-Hochschild, Dickens and Dughman-Manzur, 2013), 'reproductive rights' (Chan and Quigley, 2007), 'the legal status of human embryo' (Çoban, 2012), or 'frozen life's dominion' (Gunsburg, 1996) have been continued as a subject that goes in hand in hand with embryo researches of reproductive biotechnology.

While Zegers-Hochschild, et. al. (2013) were searching for a legal base for human rights of the embryo in the various courts' cases, Chan and Quigley (2007) holded the question of legal rights of frozen embryos as property. Gunsburg (1996) used the term of 'dominion' for his discussion especially on whose rights (mother or father & right to bear and beget) were paramount in a frozen embryo dispute for different courts. Çoban (2012: 46) grounded his claim of the inability about sounding legal provisions for the embryo in the test-tube with three reasons: First one is about regarding the embryo as a 'means' for realizing a purpose takes us to another deadlock. Second one is that a living-thing whose fate is sealed by placing the one-week or ten-days old embryo into the uterus and the last one is related to the legal

terminology. As it is seen briefly that the discussions about the right or legal status of the embryo starts with the common question of ‘when do we become human?’ The different approaches are divided into two, as Fukuyama (2002: 174) emphasized, who believe that life begins at conception and that embryos have full moral status as human beings. In this study, the right of the unborn is questioned in scope of liberty and rights of their parents. Bioethicist John Robertson, for example, argues that individuals have a fundamental right to what he calls procreative liberty, which involves both a right to reproduce as well as a right not to reproduce (quoted in Fukuyama, 2002: 174). It is commonly accepted that prospective mother and father have some rights over their unborn. However, these rights should not include arbitrary use and violation of such a dominium as it is seen in the previous chapters of this work.

There are some approaches such as Feinberg (2013: 372) who asked for the unconditional autonomy of rights for our dead ancestors, of individual animals, of whole species of animals, of plants, of idiots and madmen, of fetuses and of generations yet unborn. He claims that a newborn infant has a right to live and grow into his adulthood, even though he lacks the conceptual equipment at this very moment to have this or any other desire; because the infant have a capacity to feel pain, and this alone may be sufficient ground for ascribing both an interest and a right to them (Feinberg, 2013: 378). According to him, the same principle here could be extended to “unborn persons.” After all, the situation of fetuses one day before birth is not strikingly different from that a few hours after birth (Feinberg, 2013: 378).

Güvercin and Arda (2013: 53) emphasize in their article that there should be an “irreversible phase” in withdrawing the consents of parents on the serious health issues concerning their children’s lives. Although parents have no bad intention, they could make a decision that might cause the deterioration of the child’s health or threaten her/his life as a result of the conflict with their own values or lack of knowledge or experience (Güvercin and Arda 2013: 54). Then, we can say that sometimes parents may not decide in favor of their children. Hence, children may need an upper level guardianship that controls parents’ critical decisions on the child/ren’s lives.

If the scope of the human rights cannot be enlarged as to include the rights of the unborn because of some biological or mentally developmental reasons then recognizing a dominium of the unborn should be seen as a solution for the violation of the rights of the unborn on behalf of future generations. An immediate intervention from the states should take the role of controlling such a dominium is suggested in this respect.

As it is mentioned by Nussbaum (2007: 22) the aim of all human rights notions are: producing a World in which all children grow up with a decent set of opportunities for education, health care, bodily integrity, political participation, choice, and practical reason. At the same time, we must build a world that treats nonhuman animals decently and protects their habitats. For those who are ready to begin the work of producing such a world, the Capability Approach holds great promise for framing the way we approach, and ultimately overcome, these challenges. By referring to Nussbaum and her approach here, I declare that I modestly aim to make an analogy between Nussbaum's approach for '*other species*' and '*unborn babies*' namely 'future generations' and offer a *dominium* for them under the roof human rights.

In the next 'Methodology' Chapter, it is explained how and why a new approach, which include the performance of fully human capabilities for ARTAP, is needed to Human Rights literature.

CHAPTER 3

METHODOLOGY

In parallel with Patton (1980: 341) and his statement for the interviewers “unless you are fascinated by the rich variation in human experience, qualitative interviewing will become drudgery.” I can say faithfully that I am fascinated by the experience of ARTAP. I had decided that I should conduct qualitative interviews with ARTAP in order to get data directly as narrations. However, it was very difficult to find ARTAP and convince them to conduct interviews in Turkey where assisted reproduction technologies including third parties are banned.

I aim to clarify my methodology by explaining all of following research steps:

1. Research question
2. Data collection and research participants
3. Research schedule and interview process
4. Qualitative interviewing and questions
5. Audio recording
6. Transcriptions
7. Observation notes
8. Data analysis
9. The Language of the interviews and translation process
10. Ethical approval process
11. Limitations and difficulties

These research steps are:

3.1. Research Question

I want to answer my research question of “which legal and social problems do occur related to reproductive biotechnology applications with respect to the rights

of special human groups whose bodies and organs are negatively affected by these applications?” mainly by using Martha Nussbaum’s analytical approach and Foucauldian diagnostic approaches in this dissertation. For this aim, one specific data collection method is chosen. It composes of qualitative research findings consisted of my own in-depth interviews with 11 ARTAP (This abbreviation -ARTAP- is used for Assisted Reproductive Technologically Affected People in this dissertation) and two embryologists.

3.2. Data Generation and Research Participants

I chose “critical case sampling” as the sample type of this study. Critical case sampling is a type of purposive sampling technique that is particularly useful in exploratory qualitative research, research with limited resources, as well as research where a single case (or small number of cases) can be decisive in explaining the phenomenon of interest (Patton: 2002: 237). To know if a case is decisive, think about the following statements: ‘If it happens there, it will happen anywhere’; or ‘if it doesn’t happen there, it will not happen anywhere’; and ‘If that group is having problems, then we can be sure all the groups are having problems’ (Patton: 2002: 237). Since these critical cases should not be used to make statistical generalizations because of their small numbers of cases, it can be accepted that they can help in making logical generalizations.

The *informal conversational interview approach* and the *general interview guide approach (guided interview)* were the types of my interviews. While first approach relies entirely on the spontaneous generation of questions in the neutral flow of an interaction, often as part of ongoing participant observation fieldwork (Patton, 1980: 342) latter one increases the comprehensiveness of the data and makes data collection somewhat systematic for each respondent (Patton, 2002).

First approach, which is also named as “unstructured” or “ethnographic” interviewing, provided me a flexible interview environment that I needed. Moreover, this choice was necessary in that condition (- an emergent telephone call). The second approach provided me ‘guidance’ for my field research as a whole. I explained why I chose this approach in the subsections below in detail.

Since every case is mostly unique and representative in critical sampling, I had to ask less and listen more in my interviews. Again, I have to admit that, questions related to the issues such as concubine, breastfeeding, termination of redundant embryos and so on, emerged spontaneously during the interviews. For this reason, I want to refer to Patton on his statement on data gathered from informal conversational interviews would be different for each person interviewed (Patton, 1980: 342).

In total, I had 11 in-depth interviews with ARTAP and two interviews with embryologists. Interviewed ARTAP are composed of four surrogate mothers whose nicknames are Ayten, Elene, Mariam and Zeynep (who is a surrogate mother and a prospective oocyte donor); two oocyte donors whose nicknames are Sevgi and Elif; three genetic parents (who had their child/ren via surrogacy) whose nicknames are Eda-Serkan, Ayşe-Ali, and Fatma; and two social mothers who gave birth to their babies which was created via donation and whose nick names are Hale, Nurgül (with her husband Ahmet). The nicknames of two embryologists who were interviewed are Veli and Mehmet.

In order to avoid of repeating descriptions related to ARTAP who were interviewed for the first findings part of this study and to keep their names as anonymous, I used some nicknames for ARTAP groups as follows:

Table 1.

ARTAP Groups who were interviewed

Group	Nicknames
Surrogate mothers	<p><i>Ayten</i>: A surrogate mother who gave a birth to a test-tube baby in Adana, Turkey. She is from Adana, Turkey.</p> <p><i>Zeynep</i>: A surrogate mother who is anxious about her oocytes might be used without her consent, in her surrogacy period, İstanbul, Turkey.</p> <p><i>Elene</i>: The Georgian surrogate mother of a Turkish partner (at the date of our interview). She is from Batumi, Georgia.</p> <p><i>Mariam</i> : The Georgian surrogate mother of a Turkish partner (at the date of our interview). She is from Batumi, Georgia.</p>
People who had their children via surrogacy	<p><i>Eda-Serkan</i>: A couple who had just applied (at the date of our interview) for a Georgian surrogate mother. They are from Elbistan, Kahramanmaraş, Turkey. I had an interview with Eda and Serkan when they came to apply for the surrogacy to an IVF Center in Georgia.</p> <p><i>Ayşe-Ali</i>: A couple who had their child via a surrogate mother, Antalya, Turkey. I had an interview with this couple on the telephone call. After interviewing with Ayşe, Ali talked to me something related to the topic.</p> <p><i>Fatma</i>: A woman who was experiencing a pregnancy process (at the date of our interview) with a Georgian surrogate mother. She is from Artvin, Turkey.</p>
Oocyte Donors	<p><i>Sevgi</i>: A Turkish young woman who is a student and an oocyte donor in Girne (Kyrenia), Cyprus.</p> <p><i>Elif</i>: The friend of Sevgi. She is a Turkish young woman who is a student and an oocyte donor in Girne (Kyrenia), Cyprus.</p>
People who had their children via oocyte donation	<p><i>Hale</i>: A woman who had twins by in-vitro fertilization via transferring oocytes from a donor. She is from İstanbul, Turkey.</p> <p><i>Nurgül-Ahmet</i> (couple): The friends of Hale. Hale advised Nurgül for oocyte donation. Nurgül and Ahmet had twins by in-vitro fertilization via transferring oocytes from a donor. When I visited them for the interview, they answered my questions together. They are from İstanbul, Turkey.</p>
Embryologists	<p><i>Mehmet</i>: An embryologist of an IVF Center, Batumi, Georgia.</p> <p><i>Veli</i>: An embryologist of an IVF Center, Ankara, Turkey.</p>

I had a series of qualitative interviews with ARTAP as it is described in the research schedule as follows.

3.3. Research Schedule and Interview Process

Interviews with Ayten, Hale, Nurgül-Ahmet and Veli were conducted face-to-face in Turkey, while the face-to-face interviews with Elene, Mariam, Eda-Serkan and Mehmet were conducted in Georgia, Batumi.

Other interviews with Ayşe-Ali, Fatma, and Zeynep were made on the telephone call. The interviews were between 40 min – 90 min.

The whole research schedule is stated in the following chart. As it is seen in the table below, the interview process including making the appointments for the interviews, transcriptions and translations of the interview dialogues distributed to eight months in the whole dissertation process.

Table 2.

Research schedule

	Nov - Jan 16'	Feb - Apr 16'	May - Jul 16'	Aug - Oct 16'	Nov - Jan 17'	Feb - Apr 17'	May - Jul 17'	Aug - Oct 17'	Nov - Jan 18'	Feb - Apr 18'	May - Jul 18'	Aug - Oct 18'	Nov - Jan 18'
Literature Review	√	√											
Ethical Approval Process		√											
Interview process			√	√	√	√	√	√	√			√	
Transcriptions			√	√	√	√	√	√	√			√	√
Translations			√	√	√	√	√	√	√			√	√
Findings and Discussion Section (Qualitative Data)									√	√	√	√	√
Revising Methodology Section												√	√
Other sections of the dissertation												√	

The interviewing details and questions are defined in the following subtitle.

3.4. Qualitative Interviewing and Questions

Rather than surveying ARTAP, I decided to conduct a qualitative interviewing since they believed that there was an unknown world of ARTAP. However, how could I decide which interview type would fit in this study? In the qualitative interviewing technique, there are four kinds of interview types according to Patton (1987: 113; Patton, 2002), these are:

- a) The informal conversational interview
- b) The general interview guide approach (guided interview)
- c) The standardized open-ended interview
- d) Closed, fixed-response interview (Patton, 2002).

Patton’s interview types’ different characteristics are given in the table as follows:

Table 3.

Interview types

Type of Interview	Characteristics	Strengths	Weaknesses
A. Informal conversational interview (Interview with Zeynep)	Questions emerge from the immediate context and are asked in the natural course of things; there is no predetermination of question topics or wording	Increases the salience and relevance of questions; interviews are built on and emerge from observations; the interview can be matched to individuals and circumstances	Different information collected from different people with different questions. Less systematic and comprehensive if certain questions do not arise naturally. Data organization and analysis can be quite difficult.
B. Interview guide approach (other- ARTAP)	Topics and issues to be covered are specified in advance, in outline form; the interviewer decides sequence and wording of questions in the course of the interview.	The outline increases the comprehensiveness of the data and makes data collection somewhat systematic for each respondent. Logical gaps in data can be anticipated and closed. Interviews remain fairly conversational and situational.	Important and salient topics may be inadvertently omitted. Interviewer flexibility in sequencing and wording questions can result in substantially different responses from different perspectives, thus reducing the comparability of responses.
C. Standardized open ended interview	The exact wording and sequence of questions are determined in advance. All interviewees are asked the same basic questions in the same order. Questions are worded in a completely open-ended format.	Respondents answer the same questions, this increasing comparability of responses; data are complete for each person on the topics addressed in the interview. Reduces interviewer effects and bias when several interviewers are used. Permits evaluation users to see and review the instrumentation used in the evaluation. Facilitates organization and analysis of the data	Little flexibility in relating the interview to particular individuals and circumstances; standardized wording of questions may constrain and limit naturalness and relevance of questions and answers.
D. Closed, fixed-response interview	Questions and response categories are determined in advance. Responses are fixed; respondent chooses from among these fixed responses	Data analysis is simple; responses can be directly compared and easily aggregated; many questions can be asked in a short time.	Respondents most fit their experiences and feelings into the researcher’s categories; may be perceived as impersonal, irrelevant, and mechanistic. Can distort what respondents really mean or experienced by so completely limiting their response choices.

(Patton, 2002)

Out of Zeynep’s interview, Option B was chosen as the interview type for this dissertation and “a basic checklist is prepared to make sure that all relevant topics are

covered” (Berry, 1999). The fittest type of interview and questions were preferred and posed to the participants in this research. As a result of this, while in some of the interviews, the “Interview Guide Approach” was adopted, in one of them, Zeynep’s interview, the “Informal Conversational Interview,” namely Type B (in the table above) was adopted. According to this type of interview, the interviewer is still free to explore, probe and ask questions deemed interesting to the researcher. I needed to be free to explore a lot because I did not have enough information on ARTAP before these interviews. Hence, I asked some spontaneous and various questions in addition to the structured ones.

Namely, I asked ARTAP “experience and behavior questions”, “opinion and values questions,” “feeling questions,” “knowledge questions” and “sensory questions” in addition to background/demographic questions when necessary. Here are some examples from my questions in parallel with Patton’s (2002) question options concerning “experience and behavior,” “opinion and values,” “feeling,” “knowledge,” “sensory,” and “background/demographic” questions:

Opinion and values Question, Ex.

I: ...Are you worried about the family? I mean, they had not been pleasant to you. Thus, are you worried about if they would mistreat the child?

Feeling Question, Ex.

(From the in-depth interview with a surrogate mother)

I: Did she have a daughter?

I: Would you like to have a daughter?

Knowledge question, Ex.

I: Did they ask you about having twin pregnancy?

Sensory Questions, Ex.

I: Well.. Do you know any people who had some judicial problems? You had told me about someone who could not get her money, for example, didn’t you?

I: One more thing, as I read it, some punishments are issued but I wonder if they apply or not. Did not you hear anything about that?

Background/ demographic Questions, Ex.

I: How old are you? E: 41

I: Where are you from? E: Maraş.

In addition to different question types, there are different wording questions in the in-depth interviews of this field study as well. However, it is seen that probes and follow up questions are heavily asked in the interviews. Some examples of these wording question types²¹ are given as follows:

Probes and follow up question & dichotomous question, Ex.

I: Did you breastfeed?

I: Did they say anything?

I: Yes, how did you get away from it?

Probes and follow up questions, Ex 2.

I: All right but after the birth, will you say that as if you gave birth?

I: Where will you go?

I: Then, you will tell them [the truth], will you?

Probes and follow up questions, Ex 3.

I: Was the operation successful in the first trial?

I: Was it the same family?

I: Then.. this should be related to the genetic materials...

Dichotomous question, Ex.

I: Did they inseminate two embryos at the beginning?

I: Ee.. Did they terminate it?

Truly open-ended question & Dichotomous question, Ex.

I: What do you know about the family? Did you have any fears or worries after meeting the family? Is that a Turkish family?

Singular question, Ex.

I: Have they been rude to you?

Illustrative examples in questions, Ex.

I: Did they tell you that they would take all the legal responsibility if there had been a problem? For example if the truth come in sight...

I: Do you mean that you took the responsibility? And you said that 'I am ready for it,' Did not you?

Role-playing and simulation question, Ex.

I: Suppose that a client [wanted the surrogate mother to] 'give birth in Turkey...'

All the question types, which could make the interviewees tell their experiences in detail, were preferred. And in order to get the responses in detail as

²¹ Magana, A.

<https://pdfs.semanticscholar.org/presentation/3f55/109bb2fef22262607101f3c0571de8c17454.pdf>

well, audio recording was regarded as an important process in this qualitative research.

3.5. Audio Recording

I asked for the consents of each interviewee to record the interviews. I had recorded nearly all interviews with ARTAP. I used an audio recorder for this. Only one couple, Eda and Serkan did not give me the permission to record the interview. I noted their words as much as I can.

According to the Turkish “Law on Protection of Personal Data²²,” which was entered into force on 7th April 2016 by 6698 Law No:

Personal data not concerning health and sexual lives, can be processed without the open consent of the person. However, personal data concerning the health and sexual lives can be processed only with the aim of the protection of public health, preventive medicine, medical diagnostics, the execution of treatment and health care services, planning and management of financing and health services by people who are under the obligation of secrecy or by the authorized institutions and organizations without the consent of the subjected person²³.

It is obvious from this law that this research needed the consent of ARTAP since it is directly concerning their health and sexual lives. Because of that reason, consents of the participants had been taken and their initialized approval forms had been collected after the interviews²⁴. Again, for keeping the interview data safe, I applied some principles in the processing and keeping of the transcriptions and audio records according to The [Turkish] Regulation concerning the Deletion, Destruction or Anonymization of Personal Data²⁵.

²² No. 6698 “Kişisel Verilerin Korunması Kanunu,” For the official source, see: <https://www.tbmm.gov.tr/kanunlar/k6698.html>

²³ “Sağlık ve cinsel hayat dışındaki kişisel veriler, kanunlarda öngörülen hâllerde ilgili kişinin açık rızası aranmaksızın işlenebilir. Sağlık ve cinsel hayata ilişkin kişisel veriler ise ancak kamu sağlığının korunması, koruyucu hekimlik, tıbbî teşhis, tedavi ve bakım hizmetlerinin yürütülmesi, sağlık hizmetleri ile finansmanının planlanması ve yönetimi amacıyla, sır saklama yükümlülüğü altında bulunan kişiler veya yetkili kurum ve kuruluşlar tarafından ilgilinin açık rızası aranmaksızın işlenebilir.” No. 6698 “Kişisel Verilerin Korunması Kanunu,” For the official source, see: <https://www.tbmm.gov.tr/kanunlar/k6698.html>

²⁴ All these forms are given in the Appendix.

²⁵ No: 30224, 28 October 2017 “Kişisel Verilerin Silinmesi, Yok Edilmesi, veya Anonim Hale Getirilmesi Hakkında Yönetmelik,” For the official source, see: <http://www.resmigazete.gov.tr/eskiler/2017/10/20171028-10.htm>

In parallel with this Regulation, I deleted the personal data of the interviewees. For this reason, I left participants their communication addresses in the disclosure form. In the 7th Item of the Third Section in the same Regulation, it is written that the researchers had minimum three years to keep all the records related to these processes concerning deletion, destruction and anonymization. As a result of this, I am keeping the audio recording in my personal device in my institution and will delete them after three years.

Anonymization²⁶ is the irreversible process of personal data in which the mapping of the personal data with other data should be impossible for not associating with a real person. I had prevented such a mapping by giving anonymous nicknames to each participant of this study as it is explained in the “Research Participants” subsection above. Anonymization is applied to the personal data after the transcriptions of the audio records.

3.6. Transcription

According to Matheson (2007: 548), transcription is one step that qualitative researchers across the world take on their way to managing and analyzing recorded data. Because of this, I transcribed discourses to make them included in their academic affairs (publications, course materials, etc.). Transcription is also a crucial aspect of the data management process for anyone conducting advanced data analysis or using computer aided qualitative data analysis software (CAQDAS) (Matheson, 2007: 548). As it is defined below, MaxQDA was used in the data analysis of this study. It is known that this software gives the researcher the ability of searching keywords in audio records and make the transcription shorter and more efficient for huge quantities of interview texts. However, since the whole interviews with ARTAP are very important for this dissertation and the literature, all the audio records were transcribed by the interviewee.

²⁶ “Kişisel verilerin anonim hale getirilmiş olması için; kişisel verilerin, veri sorumlusu, alıcı veya alıcı grupları tarafından geri döndürme ve verilerin başka verilerle eşleştirilmesi gibi kayıt ortamı ve ilgili faaliyet alanı açısından uygun tekniklerin kullanılması yoluyla dahi kimliği belirli veya belirlenebilir bir gerçek kişiyle ilişkilendirilemez hale getirilmesi gerekir,” Kişisel Verilerin Silinmesi, Yok Edilmesi veya Anonim Hale Getirilmesi hakkında Yönetmelik, Üçüncü Bölüm, Madde 10 (2). <http://www.resmigazete.gov.tr/eskiler/2017/10/20171028-10.htm>

Mateson (2007: 548) gives some quotations from articles concerning transcription processes as it was “intensive and tough” and “lonely and tiring” (Roulston, de Marrais, & Lewis, 2003: 657; quoted from Mateson, 2007: 548) and it is a task that publish tips for ways researchers conducting qualitative interviews can help “to keep transcribers sane” (Patton, 2002: 382). It is important here to emphasize that, the interviewer of this field study could make the transcriptions and translations as correctly as one can. Since the interviewer can know the participants’ implications, the context, sensibilities, the mimics and gesticulations of the dialogue at best, the data did not limited with the interviews, the observation notes were also valuable in the analysis of the data. I introduce these notes in the next sub-topic.

3.7. Observation notes

Observation notes gave the researcher ‘the opportunity to look where no one has ever looked before and see what the world has to show us.’ (Patton, 2002: 278). While some ARTAP could explain what was going on in the concurrence of the assisted reproductive biotechnology sector and their lives, some of them did not accept to make an interview or preferred to give limited information. In order to compensate those limitations, researcher applied to observation method.

In addition to the direct observations of the researcher, the observations of the participants (secondary observation data) were also included in the findings and discussion part of this dissertation. Patton’s (2002) contribution to the observation methodology is considerable especially in his book section named as *Fieldwork Strategies and Observation Methods*. In his article, Patton (2002: 280 - 295) classifies observation data into eight categories. The observation data of this dissertation is structured in the light of this classification as follows:

3.7.1. The setting

According to Patton (2002: 280), describing a setting begins with the physical environment. The researcher focused on the physical environment descriptions of her participants since the visualization of the setting could be achieved successfully on the participants’ own descriptions.

For example Hale, who had her children via oocyte donation, observed and described the physical environment, one of the IVF Centers where she visited for her treatment. The setting was stated with her words as *“I mean, there must be high technology to freeze it [oocyte] there. I mean, for example there were a lot of things.. generators everywhere, inside and outside the building, here and there were big generators. There was not [generator] in the first one, for instance.”*

Hale’s observation was not limited to the equipment of the IVF Center. She described people and the chaos in the center as well: *“It was such a chaotic place that it was not clear who was coming in and going out. I mean, the place was really chaotic. Let’s imagine it, there were lots of families including women who wore head scarf. There were people who came from Germany. Everyone was waiting all together as meek as a lamb. Nobody could talk to nobody.”*

As it is seen in the Hale’s quotation above, some metaphors and analogies were observed in the descriptions of the participants. Another example of using metaphor is seen in the interview with Ayşe, who had her child via surrogacy: *“Firstly, he [the embryologist] wanted to send us to India since he has a doctor friend there. Those places are similar to, excuse me [for this phrasing], poultry yard, you know. They take humans and... like nesting, exactly.”*

These observations and descriptions with metaphors led the researcher to imagine what was happening in these IVF centers and to conduct various discussions in the study.

3.7.2. The human, social environment

In addition to the physical environments, observing social environments also represented vital importance in this study. Patton (2002: 283) explains this importance as “the ways in which human beings interact create social-ecological constellations that affect how participants behave toward each other in those environments.” It was impossible to observe the natural social environments of ARTAP as a mere observer (not participant).

In this dissertation, the explicit examples of the observation of the human, social environment –as the direction of communication patterns from staff to ARTAP- are given in my interviews with Elif and Mehmet as follows:

E: They answered me... the woman told me that... I should say, I had had a discussion with that woman previously. "Ee.. my dear, your oocyte had failed. So the doctor wouldn't like to take [your oocytes] again." I mean, her speech in this way made me afraid somehow. What do you mean? Because I don't know [what does] the quality of my oocytes mean, not am I able to get my child? What did she want to say?

Elif had her dialogue with a nurse in an IVF Center and that problematic dialogue was stated by her own words. Mehmet, who is an embryologist in Batumi, had a similar speech on a surrogate mother who worked for their IVF Center. The researcher caught his saying –gossip- during her interview with a surrogate mother:

M: Did the other one, that stupid fall into depression for that reason?

IVF-PR manager: She was the friend of the other. Her family [who rented her for surrogacy] was never interested in her.

These were the examples of communication patterns towards ARTAP. Another considerable observation in the interviews was on "the ways in which people organize themselves into groups and sub-groups" (Patton, 2002: 283). It is discovered in the interviews that surrogate mothers and oocyte donors had described their social environment according to some categories, namely groups. For example, while Ayten, a Turkish surrogate mother was showing her reaction towards widows in surrogacy as "*how can a widow be a surrogate mother,*" Elif, an oocyte donor in Cyprus was accepting the existence of "desirable oocyte donors" by her statement as follows: "*some donors' oocyte reserves may be very suitable, I mean, their oocytes may be qualified. Their fertility rates may be high and they always want those girls. They [IVF Centers] always want to work with those girls.*"

The researcher found such inequality among donors by observing that while Sevgi was getting proud of her qualified oocytes; Elif was trying to justify her fertility with her following donations. These statements led the researcher to discuss these groups in social environments as *exclusion among surrogate mothers: married versus widow surrogate mothers, and regardful versus careless surrogate mothers* and *exclusion among donors according to the number and quality of the oocytes.*

3.7.3. Historical perspectives

“Historical information can shed important light on the social environment,” and it is important to ask, “what are the stories people tell about the program’s history?” according to the Patton (2002: 284). Since Turkey does not have a formal history of ARTs including third parties, the researcher applied to ARTAP’s experiences in this issue.

Some participants of the study gave some historical information of IVF and surrogacy services on their own experiences such as Nurgül and Fatma: “*You know, similar things had occurred in in-vitro fertilization transfers in Turkey in the past. Some bans, or limitations on the numbers of the embryos are issued against transfers with 4-5 embryos. After that, they say that people had to terminate two of them. This is what was going on in Turkey in the past*” (Nurgül) “*It was banned and that ban came did not removed on. It [surrogacy] is also under inspection in Turkey, it is banned. They kept us waited like this, in fact.*”(Fatma).

These observations concerning historical information were important especially in the discussions on *disinformation* and *perplexities* related to continuously changing political and economic environment of ARTAP for the cases of Turkey and Cyprus.

3.7.4. Planned and unplanned activities and interactions

Patton (2002: 285) underlines two different kinds of activities in observation, they are: planned and unplanned activities. According to him, most evaluations focus at least some observations on planned program activities: what goes on in the program, what do participants and staff do, what is it like to be a participant (Patton, 2002: 285)? The researcher visited IVF Centers in Batumi and spent time in the waiting rooms for observation as a planned activity.

As a result of her planned activities in IVF Centers and formal interactions with the embryologists, the researcher learnt that Muslim ARTAP could tend to imam wedding between the male person and the surrogate mother/ or oocyte donor occasionally. Moreover, she witnessed a man, who was waiting for the imam and the donor for the wedding, in an IVF Center in Batumi, Georgia. The researcher asked

for making an interview with him but he did not accept. After that rejection, she had to combine her observation notes with the answers of the embryologist to the questions of the researcher upon her observation. This is regarded as an important observation data in this study.

3.7.5. The Native language of the program

Out of the language of the interviews in the qualitative study, “the native language of the setting or program being studied” is also underlined by Patton (2002: 289). Moreover, he named this native language as wilderness. In the *wilderness of ARTAP*, it was observed that they were especially sensitive on defining their practice as a *work* or *not*.

The researcher did not intervene ARTAP and she left the identification of their practices to themselves. As a result of this, this practice:

- “likes a *work* and [the surrogate mother] thinks that she will do this work” (Fatma, a woman who will get her baby/ies via surrogacy) or,
- “[should not be given] heart while getting the *job*” (Ayten, a Turkish surrogate mother), or,
- “[should not be] regarded as a work in fact. I regard it as a *favor* as well” (Elif, an oocyte donor) or,
- “[should be regarded] as a *gift*” (Mariam, Georgian surrogate mother).

As it is seen here, ARTAP had attributed new meanings to surrogacy and oocyte donation practices and the researcher used and underlined this native language.

3.7.6. Nonverbal communications

While recording the language of participants, the observer should also attend to nonverbal communication in human groups (Patton, 2002: 290). The researcher of this study observed nonverbal communication especially between the couples.

Some of ARTAP preferred to join the interview with their partners (and one of them wanted her mother as well). It could make a kind of collusiveness created in addition to the contribution of richness. Besides, women generally told the researcher

that they had experienced everything together with their husbands and thus, they wanted them in that interview.

As an outcome of this, I could get the point of view of the husbands to the process and get the opportunity of comparison or interaction of couples in some interviews. For example, Eda told me about her visits to healers after Serkan had nodded her. Eda and some women in ARTAP need their husbands' confirmation to share some of their experiences. The couple that did not give the researcher the permission in making an audio record was Eda and Serkan. Observation notes helped the researcher to interpret the data in the light of the participants' communication types.

3.7.7. Unobtrusive observations and documents

Being observed can make people self-conscious and generate anxiety, especially when the observations are part of an evaluation (Patton, 2002: 291). At the beginning of the field study, the researcher insisted on making her in-depth interviews *face-to-face*. However, some of prospective participants avoided of being observed and known obviously. One of them was Zeynep who did not accept to make a face-to-face interview but told every detail of her experience on a telephone call in nearly 50 minutes.

According to Webb and Weick (1983: 210; quoted from Patton, 2002: 292):

...the creative observer, aware of the variety of things to be learned from studying physical and social settings, will look for opportunities to incorporate unobtrusive measures into fieldwork, thereby manifesting a "sympathy toward multi-method inquiry, triangulation, playfulness in data collection, outcropping as measures, and alternatives to self report."

One of the most important observation note in this field research belongs to Zeynep. It was important because I learnt from her that a surrogate mother could not easily know if the child was her child genetically; namely, if her oocytes were also used for that pregnancy or not. I had to find alternatives to self-report and thus, I noted this telephone call immediately after the call and mentioned the important details of this document in the findings and discussion section of this dissertation.

3.7.8. Observing what does not happen

Patton (2002: 295) explains that observing activities, interactions, what people say, what they do, and the nature of the physical setting is important in a comprehensive approach to fieldwork; but he asks ‘what about observing what does not happen?’ The researcher observed that being distant from their families had been an advantage especially for oocyte donors and asked some questions like if oocyte donation/ surrogacy were allowed in Turkey, they would like to do it or not.

It was similar to learning attitudes towards the ban and free practices of ARTs and the answers were important since some of them were supporting spontaneity.

3.8. Data Analysis

As I referred in the literature review of this dissertation, a discussion towards “Human Rights Approach” of Martha Nussbaum and Foucauldian concepts was conducted in the qualitative data analysis. Foucault is attributed as post-modernist by some of his writings while Nussbaum is famous with being an Aristotelian feminist criticist of liberalism by her article with the same title in which she criticizes ‘personhood, autonomy, rights, dignity and self-respect ‘as the well-known terms of the liberal enlightenment (Nussbaum, 1997: 2).

The reason for choosing these approaches is explained in this part. The claim of having a higher status or being prestigious in the society makes people ambitious and powerful in their relationships. Basically, Foucault explains them by focusing on ‘power dynamics’ for nearly all kind of relationship types. In answering this research topic, I required to borrow some concepts from Foucault to explain relationships such as: the relationship between the man and woman, the woman and her embryologist or gynecologist, surrogate mother and social mother, the politics and body, between population and reproduction, between religious authorities and people. Foucault’s analysis of power relations helped me especially in explaining these power dynamics and relations among ARTAP and/or between the society and ARTAP.

Moreover, the concept of '*dominion of the unborn*' is developed and introduced to Human Rights domain in this dissertation again by the theoretical contributions of Foucault. That is why Fendler (2010: 5) underlines three features in Foucault's philosophy, they are: provocation, problematization and poetry. I discussed Nussbaum's capability approach with Foucauldian concepts in some of my discussions. I had already been affected by the capability constraints concerning ARTAP. Additionally, I wanted to problematize my research question with the "capabilities approach" of Nussbaum and aimed at giving answers to this question through his diagnosal power modalities and other important concepts of Foucault.

"Capabilities Approach" of Nussbaum led me to rethink about the worthy lives of all human beings including ARTAP. I believed that social justice approach to all individuals of ARTAP should be seen as essential. By referring to the language of rights in general, Nussbaum (1997: 277) underlines the importance of freedom in her approach to human rights. According to her, rights should be defended without any exception. However, the question arises against the categorical defense of rights: how can rights be still defended? Baglieri (2012: 4) refers to Giorgini's reflection on Nussbaum's emphasis on a definition of human dignity where governments allow their citizens decide how to realize the capabilities they value without imposing a governmental agenda. Here, it is seen that, without any intervention (governmental or not), citizens are unable to realize their capabilities with some respects. The need for defending reproductive rights of ARTAP here emerges in such an environment where human capabilities are violated. Thus, analytical approach of Nussbaum and diagnosal contribution of Foucault are chosen as the theoretical approaches in this dissertation.

For this data analysis, MaxQDA was used as the statistical software program. In-depth interview audio records were transcribed and the data was grouped under Nussbaum (2001: 223, 224)'s ten capabilities as labels. Detailed Capabilities definitions of Nussbaum helped me firstly in differentiating and later in interpreting the constraints concerning ARTAP and their capabilities concerning reproductive biotechnology.

In-depth interview results conducted around my research topic and interpreted in scope of Nussbaum's list of ten human capabilities and Foucault's related

concepts such as, knowledge and power (biopower, pastoral power, disciplinary power, etc.), dominion, genealogy, and truth telling. It is verified at the end of this dissertation if the human capabilities are violated towards assisted reproductive technologies or not and if this study was contributing to the research question of ‘what is the research domain of searching for the human rights of the people who are unfavorably subjected to bodily reproductive biotechnology requisites.’

However, there was another issue for me: the language of the interviews and translation of these interviews.

3.9. The Language of the Interviews and Translation Process

After analyzing data and before data interpretation, I required the translation of the data because the language of the interviews was Turkish. Most of the participants were Turks who lived in Turkey. Two of the interviews (Mariam’s and Elene’s answers) were in Georgian and a staff in the IVF Center made their translations to Turkish spontaneously. Unfortunately, Elene and Mariam, Georgian surrogate mothers of Turkish babies, did not speak English and I had to ask for the help of a translator who can speak Turkish. Because of that reason, these two interviews were translated twice, while others were translated once in the end. Since the language of this dissertation is English, all of the interview quotations and dialogues were translated from Turkish to English in the end.

I translated the quotations and dialogues alone. I had got the help of Academic Writing Center (AWC) of METU in order to proofread the translations regularly. I had got one or two appointments (each appointment took approximately one hour) with one of the English Language instructors in AWC each week of two months. They proofread more or less two translated pages in a session. It took long time to proofread the translations since all of the instructors and I were agreeably sensitive about the ‘meaning’ and ‘senses’ in the texts. That is why I was included in all of the processes from interviewing and transcription to translation. In all of the data processes, I aimed to give the true feeling and thoughts of ARTAP meticulously. Again, in order to make it possible to compare Turkish original texts and dialogues

with their English translations, I decided to give part to the quotations in both languages in the study.

It cannot be stated that everything could be planned and exercised as it was planned. This specific research focus created a deep spontaneousness in the interviews.

3.10. Ethical Approval Process

After my advisor, Assoc. Prof. Deveci applied for the ethical permission of ‘Applied Ethics Research Center,’ which is attached to Social Sciences Institute, METU on behalf of the researcher, me; we had to wait more than one month for the permission procedure.

After that time span, Assoc. Prof. Deveci and I had the ethical permission with the protocol number of 2016-FEN-024 as it is seen in the Appendix D of this dissertation with an emphasize on:

... the responsibility of the researchers concerning potential material and moral indemnities, which can be arisen because of this research and by accepting that the researchers were already aware of the ban on “surrogacy” in Turkish Law by the “Legislation on Assisted Reproduction Treatment Practices and Treatment Centres,” and of the sanctions in scope of this legislation’s 17th Appendix.

It is seen in this ethical approval that the researchers were regarded as they were in a ‘risky position’ in this research since the surrogacy and third party assisted reproduction was banned in Turkey. It is known that even the research of a restricted practice in Turkey could result in various questioning and punishments even if this research’s aim is to contribute to a more democratic practice of the law concerning third party assisted reproduction. In this ‘risky environment,’ I started to collect the data and came face to face with other issues and difficulties during my field research.

3.11. Limitations and Difficulties

In order to discuss and find “the research domain of searching for the human rights of the people who are unfavorably subjected to bodily reproductive biotechnology requisites,” making interviews with ARTAP is purposed at the beginning of this research process. However, I had various difficulties even during

the field research which have procedural, political, economic, social and/or emotional dimensions.

These developments resulted in a huge time loss for my study in the end. I decided that I could find some alternative ways for conducting my interviews in Turkey or in its neighboring countries like Georgia or Cyprus where these applications were allowed or not strict as it is in Turkey. I was connected with some embryologists in Cyprus but at that time, Cyprus was under examination concerning IVF practices. Many health practitioners had warned me about not to visit Cyprus for my interviews at that time since there were some arrestments and various punishments towards IVF Centers and its practitioners²⁷ on illegal abortions. After these events, since the IVF regulation in IVF related treatments including third parties' reproductive cells were not legal in Cyprus with its all respects, the IVF regulation of the country was rearranged in 2016²⁸. Again, all these problems and limitations created certain obstacles for conducting my research in these countries at that time.

After that, I asked for the helps of some embryologists of IVF Centers in Batumi, Georgia to access Turkish ARTAP in addition to my personal efforts in finding my interviewees on the Internet sites. Unfortunately, I experienced that embryologists and gynecologists do not prefer to unrequited help researchers in their academic studies at most.

Trust is very important in conducting in-depth interviews as it is known. However, this research mainly based on *trust* even if the researcher did not know the interviewee and the interviewee did not know the researcher before; they trusted and cared about each other not to give any harm to each other's safeness. In this respect, the case of Ayten, the surrogate mother from Adana is remarkable. Adana is unfavorably well known with its highest crime rates when it is compared with the

²⁷ "Kıbrıs'ta Cenin Operasyonu!" 26 February 2016, DHA, for the news, see: <https://www.sondakika.com/haber/haber-kkct-de-kurtaj-sebekesi-ortaya-cikti-8200681/>

Karlı, Ö. "Skandal! KKTC'de Kürtaj Turizmi," 01 March 2016, Gazete Haberturk, for the news, see: <http://www.milliyet.com.tr/skandal-kkct-de-kurtaj-turizmi--gundem-2202209/>

²⁸ Özbil, C. "Taşıyıcı Annelik KKTC'de Yasal," 28 October 2017, for the news, see: <https://www.kibrisgazetesi.com/haber/tasiyici-annelik-kkctde-yasal/29456>

other cities in Mediterranean Region of Turkey²⁹. The first interview of this dissertation would be conducted in Adana. I learnt this when the husband of the surrogate mother had a telephone call with me and told me that his wife would accept making an interview. Both of us (and her husband and other ARTAP in their interviews) took the risk concerning that interview. It was so controversial situation that I visited their house (since they insisted on having the interview in their house) with a backpack with some foods and presents for the children of Ayten and a pepper spray hidden in my pocket. I had the experiences of conducting interviews for at least 15 years for different projects and experienced enough in conducting interviews. But again, I felt that I had to guarantee my security in various ways. However, ARTAP had never caused a problem for me.

²⁹ Umut Vakfi, "Türkiye'nin 2016 Şiddet (Cinayet) Haritası," 31 Jan 2017, for the source, see: <http://blog.umut.org.tr/turkiyenin-2016-siddet-cinayet-haritasi.html>

CHAPTER 4

FINDINGS AND DISCUSSION

As it is stated in the previous chapters of this dissertation, the qualitative findings are interpreted in the light of “Capabilities Approach.” The first capability of Nussbaum is the capability of life and the interview findings and discussions concerning this capability are presented in 4. 1.

4.1. Constraints concerning the *Capability of Life* and ARTAP

According to ‘Capabilities Approach’ of Nussbaum (2011: 33), the capability of life is “being able to live to the end of a human life of normal length; not dying prematurely, or before one’s life is so reduced as to be not worth living”. Especially in defending the rights of an embryo and next generations, ‘Capability of Life’ is of primary importance; because the embryos that are inseminated by the physicians at the IVF centers are generally in a number which is more than a woman can carry.

Turkish society welcomes reproductive technologies in their lives in general. Erbaş (2008: 116) in her field study on *Biotechnology in Turkey and Different Social Groups*, found that 91.1% of participants agree with the intervention to the baby in the womb for the aim of preventing a genetic disease. In the same study, it is found that 94.3% of the participants wanted to know if the unborn had any genetic disease or not. While the countryman welcomed the intervention to the unborn at most (48%), this participation was getting decrease relatively in urban consumers (45.6%) and professionals. These results are all related to the capability of life in certain respects.

In this first findings subsection of this dissertation, I would like to introduce my findings under titles as follows:

1. Multiple pregnancies
2. Redundant embryos and abortion
3. Disinformation

All of these findings are related to each other. I want to start with multiple pregnancies and other problems related to them.

4.1.1. Multiple pregnancies

As it is known, assisted Reproduction Centers prefer to inseminate more than one embryo in order to increase the chances of success and ARTAP do not object to this practice in general. However, these applications result in multiple pregnancies and abortions of redundant embryos. Surrogate mothers and women who became pregnant by in-vitro fertilization suffered from such results in their pregnancies. In Ayten's words:

..They put four.. Sorry five, three of them were held, two of them were not. It ended with one after triplet pregnancy beginning.

We got the blood result. The pregnancy occurred. We visited the doctor to listen to its heart beating after two weeks. Embryologist said that it was a triplet pregnancy. I informed the family and the embryologist in Cyprus immediately. The embryologist wanted me to go to Cyprus when I was in the 7th week of the pregnancy. I told woman [prospective social mother] that I did not want to go there. I told her that I could give them triples because I had given birth to my twins. First, they told me that it was dangerous (to carry all of them). Then I told them that I would go to Cyprus only on one condition: I would like to see both of the living embryos on ultrasound when I wake up. You know, they intended to vaccinate one of the children in order to stop its heart. I was worried about its possible side effects on the others. In the end, we saw that they made only one of them to live.

Dört tane yerleştirdiler.. yok yok beş. Üçü tuttu, ikisi tutmadı. Üçüzden teke düştük....Ben iki hafta sonra kalp atışını dinlemeye gittik. Hamilelik gerçekleşti. Kanda test çıkıyor ya. İki hafta sonra da gidiyorsunuz kalp atışını dinliyorsunuz. Embryo uzmanı dedi ki üçüz dedi. Aileye hemen bildirdim. O embryo uzmanına bildirdim. Embryo uzmanı hemen dedi, bayanı dedi Kıbrıs'a almamız lazım dedi yedi haftalıkken. Dedim ki o bayana, aileye dedim ben gitmek istemiyorum dedim. Ben size üçüz bebek de verebilirim dedim. Çünkü ben kendimden ikizlerim var. İlk başta tehlikeli dediler. Ben bir şartla giderim Kıbrıs'a dedim. Dedim hani çocuğun bir tanesinin kalbini durdurmak için iğne yapıyorlar ya ben ayıldıktan sonra dedim ikisinin de resmini ultrasonda görmek istiyorum. Hani kandırabilirler hani ikisini yapabilir teke düşürürler.”

Capability of life may be related to the biopower concept of Foucault. “In the eighteenth century, at least in Europe, Foucault argued that political power was no longer exercised solely through the stark choice of allowing life or giving death” (Rose, 2007: 52). The ‘letting die (laissez mourir), making live (faire vivre),’ namely ‘biopower’ conceptualization is mainly based on Foucault’s bipolar diagram of biopower (in volume 1 of *The History of Sexuality*). While the one pole of biopower focuses on an anatomopolitics of the human body, seeking to maximize its forces and

integrate it into efficient systems; second pole is one of regulatory controls, a biopolitics of the population, focusing on the species' body, the body imbued with the mechanisms of life: birth, morbidity, mortality, longevity" (Foucault, 1976: 139: as quoted in Rabinow and Rose, 2003: 2). According to Foucault, the sovereignty's old right to take life or let live was transformed into "right to make live and to let die" (Foucault, 2003: 241). He mainly preferred to use his 'to let die' and 'to make live' argumentations in the scope of biopower, however these argumentations also refer to a concern about the multiplicity of humans as a population since population is itself directly related with biopolitics. In his words technology of power, namely biopolitics or biopower involves: "a set of processes such as the ratio of births to deaths, the rate of reproduction, the fertility of a population, and so on" (Foucault, *Society must be defended*, 2003: 243).

In this and similar other cases, it is seen that sovereign power transformed into biopower and showed itself in a more sophisticated body: it is reproductive biotechnology. As a remind, "sovereign power's effect on life is exercised only when the sovereign can kill"; only by killing "he exercises his right over life" (Foucault, 2003: 240). Here, old sovereign transformed into new biopower and gave the parents, especially women, to have the right to kill or to make live for their babies. When adopting power and domination conceptualizations of Foucault here, domination approach of him preferably matches with the cases. Because in the case of domination, one of the parties has no options while in power relations everybody has options (Fendler, 2010: 50). Foucault (2003: 45) argues that great apparatuses of power always function on the basis of apparatuses of domination. In order to analyze these apparatuses we should 'see mainly the interactions on the basis of multiple subjugations including child to adult, progeny to parents, ignorance to knowledge, apprentice to master, family to administration, and so on' (Foucault, 2003: 45).

This multiple pregnancy tendency in assisted reproduction technologies (specifically in in-vitro fertilization) and abortions, as self-possession should be seen as an apparatus of a new population matter and hence modern biopolitics. And this new relationships should be discussed with the domination approach of Foucault. When the scope of multiple pregnancies is considered, it is seen that this

irresponsibility affected the general population and reproduction tendency of the society through IVF technique of assisted reproductive technologies.

4.1.2. Redundant embryos and abortions

In the general application of medical treatments, it is known that practitioners and hospitals should give information and get informed consents of the patients about the treatment, risks and side effects related to them. Within this context, more was to be learnt about patients' consent and their process of getting informed. However, by listening to Ayten, I have realized that their learning process starts only in the middle of the treatment process:

No, the hospital does not inform about this at the beginning. They are doing so in order to take extra money. They take it [the Money] from the family, yes. They vaccinate after the anesthesia. Then, it turned out to be a single pregnancy from a twin pregnancy. It was triples. They stopped the heart of one of them. After that, I came back to Adana. I had another doctor control. We saw that the other baby was also affected. As a result, the pregnancy continued with a single baby..

Hayır, hastane ilk başta konuşmuyor. Daha sonra ayrıyeten para almak için öyle yapıyorlar. Aileden alıyor. Evet. Kalbini durdurmak için iğne yaptılar, Anesteziyle. İkizden teke düştü ondan sonra. Üzüldü. Bir tanesinin kalbini durdurdular. Ondan sonra Adana'ya geldim. İki hafta sonra kontrolüme gittim doktoruma diğer bebeğe de sıçramış. Tek kaldı ondan sonra. Şey hani iğne yapıldı ya, diğer bebeğe de sıçramış. İki hafta sonra diğerinin kalbi de durdu. Tek kaldı ondan sonra.

Death is willingly brought into the womb of the surrogate mother but affected unwillingly the other baby. As a result of intentional or unintentional intervention, the right of life of the embryos violated. Ayten was still in doubt if the unplanned second death was caused due to the timing of the operation. Her gynecologist in Turkey told her that it [the abortion] should have been 3 weeks later:

But my doctor here had told me to visit him when the pregnancy was in its 10th week. He told me that he could have let the twins live. However Cyprus called me earlier, when they were in their 7th week. It was applied in the 10th weeks in general; I realized that, it affected the other baby because of early intervention.

Anestezi yaptılar. Evet. Ama bana burdaki doktorun dediği 10 haftalık gel, dedi. Ben burda dedi bir tanesinin kalbini ikiz bırakacağım sana dedi. Kıbrıs erken çağırdı 7 haftalıkken. 10 haftalıkken yapıyormuş bu iğne. Erken yapıldığı için diğer çocuğa da sıçramış.

The violation of the life of the embryos made her suspicious about the process and doctors in Cyprus. In addition to the right of life of the embryos, intervening into her womb under anesthesia also violated the right of bodily health of

the surrogate mother. Again, Ayten was still remembering not their intervention to her body but the embryos whose lives were ended:

Its heart stops, it already melts away in you. The doctor showed under ultrasound screening. You know how a rotten apple is seen, it shrinks in this way. But I was so upset..

Kalbi duruyor, o içinde zaten eriyor. Ultrasonla baktı doktor. Hani elma çürüğü nasıl oluyor? Büzüşmüş öyle ama ne kadar üzüldüm.

Multiple pregnancy is not only the issue for surrogate mothers. It is the issue for nearly all mothers who had underwent IVF techniques. In another case, Hale talked to me about the process in a delighted manner explaining all the details in a positive manner. However, her mood suddenly changed when I asked her how many embryos were implanted into her womb. This story was a bit similar to that of Ayten above:

H: Yeah, only one point that hurt me in these issues was that.. They were three.

I: Ee.. Did they terminate it?

H: Yes, one of them was terminated. I mean, now it was my.. In effect I forget certain things by time that it is impossible to live with suffering. I know that pain makes you to sink to the bottom.. it was so stinging.

I: Did you know that others were also at risk in the termination of one..

H: Yes. It deplored me first, it deplored but much more than that; there was bleeding after a few days. We were devastated by that. I mean there was bleeding after four days. However, again the operation is already a so so so so difficult operation. While terminating that third embryo, they don't let you make the decision. Fortunately, they did not leave it to us. I think they select the most suitable one. I think they looked for that. And what did he [gynecologist] look at..? He told me something but now perhaps I don't want to remember.. he looked.. at the position, I think. It had to be in a position that was risk free for the others.

H: İşte tek bu konularla ilgili tek canımı yakan nokta o, üç tane idi.

I: Ee.. alınmak durumunda mı kaldı?

H: Evet, bir tanesi sonlandırıldı. Yani o benim herhalde mesela şimdi.. Gerçi ben unutuyorum artık bazı şeyleri yani, acılarla yaşanmayacağını, o acının sizi daha da dibe çektiğini bildiğim için o çok acıydı.

I: Sonlandırmalarda diğerlerinin de riskte olduğunu.. ya ben görüşmelerimde..

H: Evet. O bir kere mahvetti, o mahvetti ama beni ondan çok; kanama oldu akabinde, onda çöktük. Yani dört gün sonra o işlemin akabinde dört gün sonra bir kanama oldu. Ama yine de tabii ki işlem zaten çok çok çok zor bir işlem yani. O üçüncü gebeliği sonlandırırken hangisini seçeceğinizi zaten size bırakmıyorlar, zaten bize bırakmasınlar da. Yani herhalde en uygununu seçiyorlar. Ona baktılar sanırım. Bir de neye baktı.. birşey söyledi ama şu anda çok hatırlamak da istemiyorum belki de, şeye baktı.. Pozisyon olarak sanırım baktı hani. Diğerlerini etkilemeyecek şekilde olmasına bakıldı.

Hale was informed about the risks of having multiple pregnancies in detail. From her phrasing, it is understood that she was convinced about the death of one of

her embryos on her doctor's statements and warnings. Again, she was deciding if the third baby would be given the right of life or not:

My doctor told me that I could not continue with triplets. She gave examples from her previous patients. She warned about my age and told me that I am not in a position to take risk anymore. For that reason, we didn't think about that issue so much at that time but that day was so suffering.

Benim doktorum hani yapmayalım üçle devam edemezsin, dedi. Hani kendi eski örneklerinden birşeyler verdi. Yaşım itibarıyla, bir de artık benim risk alacak şeyim yok yani şansım yoktu. O yüzden çok da fazla o konuda düşünmedik ama yaptığımız gün çok acıydı yani.

After making the decision and just after the operation, practitioners should get the confirmation of the application that they had performed. That time is important since Hale is being aware of embryos' existence and absence, which depend on her decision at that moment. According to her, that image, I think the image of awareness, was unforgettable:

Besides, the doctor says that he terminated. I didn't look (at the screen) while the termination was taking place. It is being done when you are awake, when you are conscious. He will make an... I mean he tells you the operation in detail. I asked only if it will feel pain. Will there be any bad thing? It was very normal for the man, I think he thought 'oh, come on!'

At the end, he says 'look', he is showing it on the camera. He says that you should see the termination. I tell him that I didn't want to see, he wants me to. I don't forget about that image.

Hatta şey yapıyor doktor, işte sonlandırdım diyor ve ben bakmamıştım işlemler olurken, canlı yapıyor zaten siz baygın felan olmuyorsunuz. İşte karnınıza bir.. işte ne yapacağımı detaylı anlatıyor. Böyle hani benim tek sorum hani canı acıyacak mı hani. Bir şey olacak mı? Artık hani adam için hani çok normal hani doktor 'ne bu ya' falan oldu herhalde.

Sonunda bak diyor, kamerada gösteriyor çünkü. Kamerada bakın hani sonlandığını görmeniz lazım diyor. Bakmak istemiyorum diyorum, bakın diyor. O görüntüyü unutmuyorum..

Patients are asked about the number of embryos that they are willing to have transferred. Up to three embryos, women are permitted to have such transfer in Cyprus. Hale, who wanted to have transferred by the three embryos which were constituted by the oocytes of donor in order to increase the chance of having baby, says:

All three of them were held, yes. This.. in fact this was unexpected in my case. They put three because the previous two test-tube trials were both unsuccessful. If I'd known (about this suffering period) before I would never.. Never let them put three (embryos). I advised one of my friends so, to avoid letting them put three. You will not be able to carry more than two. Her age and physical conditions were not suitable for pregnancies more than two.

Üçü de tuttu evet. Bu.. bu da aslında benim durumumda çok beklenen birşey değil. Daha önce işte iki donasyon da başarısız olduğu için üç tane koydular. Şimdiki

aklım olsaydı asla.. asla üç.. koydurmazdım yani. Ben mesela önerdiğim bir arkadaşşıma da dedim, sakın üç koydurmayın yani ikiden fazla taşıyamayacaksınız. Onun da yaşı ve fiziksel durumu itibarıyla ikiden fazlayı kaldıramayacaktı.

The interview below includes the statements of that friend who was advised by Hale. I had the chance to interview with Hale and Nurgül who know each other and who had been impregnated by oocyte donation. Nurgül's pregnancy was via oocyte donation and with twins and there was no need for an undesirable abortion because she allowed only double embryo transfer upon and advise of her close friend Hale, whose statements are above. Nurgül explains the process as follows:

I: Did they ask you about having twin pregnancy?

N: No, I was not asked. They told us that we had the right to transfer up to three embryos for one pregnancy in Cyprus. If we were in Turkey, we had the right of two Embryos (for in-vitro-fertilization) in one go. If three of them were held, triplet pregnancy would be very problematic for me since one of my legs has a problem. I told them that I did not prefer, I would like to be given two embryos. I thought if they hold, I can give birth to the twins, but triplets would be very difficult. I mean I preferred [twins]. After that, doctors warned me about twin pregnancy, too much bleeding, suffering from the pregnancy, which results in lying all through the pregnancy process. However, none of them suggested terminating one of them. I heard such things in the transfers of multiple pregnancies. You know, similar things had occurred in in-vitro fertilization transfers in Turkey in the past. Some bans, or limitations on the numbers of the embryos are issued against transfers with 4-5 embryos. After that, they say that people had to terminate two of them. This is what was going on in Turkey in the past. Nowadays, I think these processes are inspected. After the third trial, they do not put two embryos under the age of 35.

I: İkiz gebelik istiyor musunuz diye soruldu mu size?

N: Yok öyle sorulmadı, Embryo transferi yaparken üç tane transfer edebilme hakkı var Kıbrıs'ta dediler. Türkiye'de olsaydınız iki yumurta transfer hakkımız vardı. Biz burda üç transfer edebiliriz dediler, ben üç tane, hani üçü de tutarsa üçüz gebelik çok sıkıntı olabilir. Hani benim zaten bacağımlı sorunlu. Ben tercih etmem, ben iki tane istiyorum dedim. Hani tutarsa ikiz doğururum ama üçüz çok zor dedim. Hani ben tercih ettim. Onun sonrasında yani iki tane ikiz gebelik zordur diye doktorlar sadece uyardılar hani. Dikkat edin çok kanamanız olabilir, işte sıkıntı olabilir, yatarak geçirebilirsiniz filan falan ama onlardan hani kimse bu çocuklardan birini alalım gibi birşey önermedi. Ama daha çok transferlerde o tarz şeyler olduğunu duydum. Tüp bebekte bizde de oluyormuş eskiden ya, yasaklandı, kısıtlamalar geldi ya eskiden işte 4-5 yumurta, şeyi embrioyu transfer ediyorlarmış. Sonra bunların iki tanesini almamız lazım diyorlarmış. Hani Türkiye'de bu yapılmıyormuş eskiden. Şimdi yasal sınırlarla onları işte denetlediler zannedersen. 35 yaşın altında iki tane koymuyorlar, üçüncü denemeden sonra.

There are so many stories of decreasing the number of embryos in a mother's womb. These stories were narrated or experienced personally and shared in the interviews by women or their families. Nurgül told one of these stories:

For example, one of my friends was pregnant via test tube baby technique. They put four embryos. Four of them had hold. However, they told her that the life of the children would be problematic in a quadruplet pregnancy. They told her that she had to give up two of them; I mean they had to take. They had to kill. They did so but these are very painful situations for the family. I told them (practitioners in Cyprus) that I had already lost one baby with a chromosome anomaly. I would not like to undergo even a triplet pregnancy.. We are so pleased with these two (she laughs).

Benim bir arkadaşım mesela yani normal bir tüp bebek yöntemiyle hani Türkiye'de hamile kalmıştı. Dört tane koymuşlar. Dördü de tutmuş, ama çocukların hani hayati sıkıntı olacaktı, dördünün birden hamileliği. İki tanesinden vazgeçeceksiniz, alacağız, hani öldüreceğiz demişler. Öyle yaptılar ama çok büyük sıkıntılar tabii aileler için. Ben şahsen hani ben zaten bir tane bebek kaybetmiştim kromozom anomalisi olan, üç tane üçüz gebeliği istemem dedim. İkisinden çok memnunuz [Gülüşmeler].

This multiple pregnancy situation is a complicated issue for everyone because the capability of life of the unborn has more than one shareholder. There is a social/sponsor mother, a surrogate mother and an IVF center who discuss and decide if the residuary embryo would live or not. An embryologist in Batumi narrated an exemplary case:

We have a family, they are from Turkey but live in Canada. After learning that it was a triplet pregnancy, the girl (surrogate mother) said “well, I will keep,” the family said, “okay, we want them, too.” However, this is a risky situation. The birth occurred earlier, around the 28th week. Two of the babies were taken to the incubator, while one of them was in a better condition. All of them were males. But all of the three are healthy now. Yes. What happened there, the surrogate never wanted to [undergo abortion] but the family was more willing to continue with one in the womb. After learning that the surrogate did not want abortion, the family was encouraged and said “if she does not want, we do not want at all”. They supported the surrogate there. Then it [pregnancy] continued, and no problem occurred later.

Var bir tane hastamız, Türkiyeli. Kanada'da yaşıyorlar. Üçüz gebelik olduğunu öğrendikten sonra kız da tamam dedi, taşıyacağım. Aile de tamam dedi, biz de istiyoruz dedi. Ama bu riskli bir durum. 28 Haftada mı ne doğum oldu erken. Küvezde kaldılar bebeklerin ikisi, birisi daha iyiydi. Ama ikisi küvezde kaldı, erkekti üçü de. Ama üçü de şu anda sağlıklı. Evet orda ne oldu mesela taşıyıcı hiç istemedi, aile daha şeydi. Rahmin içinde bir tane olmasını aile daha çok istediğini söyledi. Taşıyıcı ben istemiyorum kürtajı diyince aile o istemiyor mu? O istemiyorsa o zaman ben de istemiyorum, ben zaten hiç istemiyordum, dedi. Destek oldu yani taşıyıcıya o da. Sonra devam etti. Hiçbir sıkıntı yaşanmadı.

As it is seen in the quotation above, the right to live of the embryos are decided together with the other people rather than the pregnant woman only. If the surrogate mother was not courageous enough to admit to keep all of the babies, the family would have possibly accepted the death of two of them for a safer and healthier single pregnancy. All the shareholders wanted all of the babies in that case.

However, what would be happen if one of these shareholder did not want the pregnancy to continue with all of the babies? Or what would be happen if they put five rather than three or the surrogate woman could not carry all of the babies and she had a stillbirth of all of the babies? As it is seen again, such selections and decisions constitute power relations in reproductive apparatus.

4.1.3. Disinformation

When ‘capability of life’ in assisted reproduction technologies and IVF is investigated it is seen that this issue is directly related to the ‘right to life’ of the embryo and next generations in addition to the possible harms of IVF trials on women body. There is a deficiency in the information which was shared with ARTAP written or verbally. By knowing a little about the important details of reproductive processes that ARTAP is included, the disinformation asserted itself obviously as the third constraint in these cases.

Table 4.
Constraints concerning the Capability of Life

Capability	Constraints
The Capability of Life	1. Multiple pregnancies
	2. Redundant embryos and abortion
	3. Disinformation

The table above shows the constraints, which were found in this findings subsection as threats to the capability of life. Technology of power showed itself here on the body of reproductive biotechnology.

It should be kept in mind that humanitarian and legal respect to this capability must take its place in a possible legal regulation. By reducing the reasonable number of embryos into humane levels in the insemination and regulating this in the law might decrease the termination of redundant embryos and mitigate the violation of ‘capability of life’ of them.

4.2. Constraints concerning the *Capability of Bodily Health* and ARTAP

Nussbaum (2011: 33) explains the capability of ‘bodily health’ as “being able to have good health, including reproductive health, adequate nourishment, and adequate shelter”. This may be regarded as one of the crucial notions among others for this dissertation since all the reproductive ways of searching stem from the lack of reproductive / bodily health of especially women who need oocytes of a donor or surrogate mother to have a child.

Reproductive Technology is mainly based on covering (or treating) problems of reproductive health, which pose obstacles for giving birth to a child through the genetic materials and womb of the woman herself. However, this technology and its practitioners are both regarded as actors who are responsible for the bodily health breakdown of surrogate mothers and oocyte donors. Since the consents of this group of women were taken in exchange for an amount of money and since they need this award and cannot claim their rights of bodily health, this capability comes into question for ARTAP.

In other words, these are imbalanced right beneficiaries of reproductive technologies. While the capabilities of bodily (reproductive) health of a group of people are enlarged, another group of people’s capabilities (including capability of bodily health of surrogate mothers, donors and capability of life of the embryos as well) are minimized.

Constraints concerning *Capability of bodily health* were stated by ARTAP as follows:

1. Anesthesia
2. Caesarean births
3. Unsuccessful pregnancy trials on (and giving hormones to) different surrogate mothers
4. Miscarriages of surrogate mothers
5. Harms of drugs and hormones used by oocyte donor and ‘Just in case’ practices
6. Disinformation
7. Problems in adequately nourishment

First constraint, “anesthesia” is investigated in the light of qualitative findings below:

4.2.1. Anesthesia

Here we see the burning of women out who are coming from both of these groups who had suffered from reproductive technology to have a baby or to make someone have a baby. Hale who tried to have her own baby via In-Vitro fertilization many times, told her experiences with anesthesia and operations to gather her oocytes. In Hale’s words:

Yes, [oocytes were gathered] under anesthesia. I underwent anesthesia so many times during two or three years, unfortunately. It damages health. However, they are not heavy anesthesia in fact, they are more like sedatives rather than local [anesthesia]. You are fainting but recovering consciousness easier. They are applied for about 20 minutes, not for two or three hours operation. You are leaving in half an hour. They are giving [the anesthesia] in very little amount. Besides, they do not take you consecutively. If you tried test tube baby one month, you cannot try again in the following month. They want you to come again after a few months. I think they try to decrease the side effects of the treatment.

Evet anestezi altında alında. Böyle bir iki üç sene boyunca bayağı bir anestezi aldım maalesef. Onun da zararları var. Verilen anestezi çok yüksek anestezi değil, sedasyon mu diyeyim, daha böyle hani local değil aslında, bayılıyorsunuz ama daha rahat ayılıyorsunuz. 20 dakikalık mesela. Öyle iki üç saatlik operasyonlar değil bunlar. Böyle yarım saatte çıkıyorsunuz. O verdikleri daha düşük doz. Hani çok üstüste almak zaten çok üstüste almıyorlar. Bir ay tüp bebek denediniz, ertesi ay tekrar deneyemiyorsunuz. Birkaç ay ara verin tekrar gelin diyorlar. Öyle öyle o şeylerini hani yan etkilerini azaltmaya çalışıyorlar herhalde.

Elif represents the other side of the coin here, which is the donor side. Hale got anesthesia for her surrogacy while Elif was getting it for the collection of her oocytes by the purpose of donation. Elif was aware of the risks of anesthesia and stated it as the biggest problem of oocyte donation. She explained her thoughts on anesthesia as follows:

E: Besides, anesthesia is only one problem of this work for me because I know that its very harmful. And this [donation] cannot be [done] without anesthesia. They give anesthesia in the period of, during the oocyte collection. The problem of doing it every month is getting the anesthesia every month in our bodies. For this reason, doing it every month is problematic. However, if it is done after a few months, it is not a problem.. In fact, again it is a problem; of course it is again dangerous but not too much. Since anesthesia gives harm to the brain, body and psychology, the only problem of it [oocyte donation] is anesthesia.

E: Anestezi zaten bu işin tek problemi benim için. Çünkü çok zararlı birşey olduğunu biliyorum anestezinin. Ve bu da anestezi olmadan olmuyor. O yumurtayı

toplama dönemi, toplama sırasında anestezi veriyorlar size. Bunu her ay her ay yaptırmanın sıkıntısı da vücudunuza her ay her ay anestezi girmesidir. O yüzden her ay yaptırmak sıkıntılı. Ama birkaç ay geçtikten sonra yaptırılırsa bir sıkıntı.. Ya yine sıkıntısı var, tabii ki yine tehlikeli ama diğeri kadar tehlikeli değil. Çünkü anestezi her açıdan beyine, vücuda her şekilde psikolojik olarak zarar verdiği için, bana göre tek problemi anestezi.

As it is seen here, anesthesia is the most indispensable part of oocyte collection and thus, donation. It is known that, local or general anesthesia is used according to the location of ovaries in this phase of reproduction process. Oocyte donors are necessarily exposed to this medicine as it is seen here.

Caesarian type of birth is another medical routine which was preferred for women who had their previous child(ren) via caesarian operation. As it is seen in the next subtopic, some surrogate mothers are exposed to this routine together with anesthesia, unfortunately.

4.2.2. Caesarean births

Ayten, who had experienced surrogate motherhood, had to give her birth under anesthesia and caesarean type birth because of her own previous caesarean birth experiences:

*It [...my second birth] was a Caesarean. Since they were twins. The elder child was a normal birth. The child I gave birth as a surrogate mother was also a caesarean. You know because the previous birth was caesarean.
[...İkinci çocuklarım] Sezeryan. İkiz olduğundan dolayı sezeryan. Büyüğü normal olmuştu. Taşıyıcı olduğum çocuk da sezeryan. Hani ikincisi sezeryan olduğu için üçüncü de sezeryan oldu.*

It is known that this kind of births and anesthesia related to this operation has surgical implications and since Ayten did not had this caesarean operation with her own identity card, and so she was completely unsecured.

4.2.3. Unsuccessful pregnancy trials

There can be some unsuccessful pregnancy trials (they were named as trials in this study) depend on various reasons. Whatever the reason, these trials and hormones give harm to different women and surrogate mothers and constrain their capability of *bodily health* with some respects. Here are specific findings and discussions towards this constraint.

I would like to know how the surrogate mother found the family and what that family has experienced until they find the surrogate mother. Ayten expressed that she was the fifth woman who was hired for this reproductive trial. Others were also prepared for the birth; however, they could not succeed in giving birth to a baby for that family. Ayten speaks about her experience and the process in the following manner:

Family.. the center found the family. They told me that they tried this four times with other women. I applied to a hospital (Assisted Reproduction Center) in Cyprus as a surrogate mother. I found the family through that hospital. The woman (prospective mother) tried to get a baby from four different surrogates before me. None of them succeeded. The embryologist at the hospital had told her that there was a woman living in Turkey, we could try this with her. The fifth one is me. It [embryo] held on me.. Woman told me that she had never been to Cyprus before. She had never seen the surrogates. The hospital had found them. The woman only sent the money, I mean, the woman decided to see the surrogate this time with her own eyes.

Aile.. hastane buldu bana aileyi. Bayan dört kere başkasında denemiş. Ben hastaneye başvurduğum taşıyıcı annelik için. Kıbrıstaki. Evet hastane aracılığıyla bulduk aileyi. Bayan dört kişi, benden önce dört kişide daha denemiş taşıyıcılarda. Hiçbirinde tutmamış. Hastane demiş ki işte bir bayan var demiş, Türkiye'de yaşıyor. Onunla deneyelim demiş. Bu beşinci benim. Bende tuttu yani.. Bir de bayan neden çok şey, bende hiç diyor gelmemiştim diyor. Taşıyıcıyı hiç görmemiş, sadece hastane bulmuş. Kadın ücretini yollamış anlayacağınız. Bayan demiş bu seferkini demiş ben kendim gözümlle göreceğim..

When I heard the number of surrogacy trials, I wanted to learn if Ayten knew other people who were doing this as a regular job. Ayten says:

It is possible. It is not natural but.. one may get exhausted. Yes, indeed the body should have a rest. One after the other but.. I gave birth to that baby one and a half year before. If you want, you can do this again and again but you are losing your health.

Ya olabilir. Doğal değil ama bedenen yoruluyor insan. Evet vücut dinlenecek yani sonuçta. Arka arkaya da hani bir buçuk, bir seneyi geçti ben yapalı yani, bir buçuk sene olacak. İstesen yaparsın ama sağlığın yerinden gidiyor.

Why do women apply for an IVF Center abroad to get oocyte donation? There are many reasons of this. The common reason is, women who are unable to ovulate useful oocytes for generating an embryo are searching for a solution in reproductive technologies and other women's oocytes. One participant of my research, Nurgül had suffered from cancer and after the treatment and due to chemotherapy, she suffered from infertility:

N: I underwent chemotherapy as a cancer treatment. I received an intensive chemotherapy for 6 months. After all.. between 2012-2013, after cancer treatments came to an end, oocytes were completely lost. I mean, unluckily, empty oocytes were gathered for our test tube baby trials. I mean, oocytes without DNA. This was due to intensive chemotherapy, which was taken for osteoncus. Its

medical name is osteogenic sarcoma. That is, we tried approximately for two years before applying to this donation process. We tried it for three times in two or three years, I mean. There were no oocytes.. yes, there were no healthy oocytes among the gathered oocytes. No fertilizable oocyte was found. For that reason, we were halfway. In fact, my test tube baby treatments were not completed properly. Our treatments generally ended at the oocyte-gathering phase since no oocytes were gained. We could never go again. It was half of the treatment.

N: Kanser nedeniyle kemoterapi aldım, çok yoğun bir kemoterapi aldım 6 ay boyunca. İşte sonrasında şey, 2012-2013 arasında. Yani kanser tedavileri bittikten sonra da yumurtalar geri gelmedi. Hani öyle diyeyim, denediğimiz tüp bebeklerde de hep boş yumurta çıktı. Yani içinde DNA olmayan yumurta. Yoğun bir kemoterapinin etkisi oldu, kemik tümörü nedeniyle. Tıbbi adı Osteosarkom. İşte yani bu aşamaya donasyona gelene kadarki aşamaya gelene kadar iki yıl kadar denedik. Yani iki yıl içinde bu üç denemeyi o üç yıl içinde yaptık yani 2 kadar denedik. Yumurtalardan hiç, yumurta.. evet, sağlam bir yumurta çıkmadı. Döllenebilecek bir yumurta elde edilemedi hiç. O yüzden tüp bebeklerimiz hep yarım kaldı. Aslında tüp bebek tedavisi üç kere gördüm dediğim kısmı da yapamamış olduk yani aslında. Tüp bebeğin hep yumurta toplama aşamasında bizim tüp bebek tedavimiz hep bitti, yumurta çıkmadı çünkü. Sonrasında hiç gidemedik. O aslında tedavinin yarısı.

The question should be asked: What do they do before coming to this phase – the phase of using other people’s genetic material or bodies in order to get a baby? Nurgül told me that they had tried test tube baby technique many times:

I: Did you have oocyte in these first two trials? I mean were they normal test tube babies?

N: Yes, we tried normal test tube babies. Namely.. We tried my donation three times, we succeeded in the third trial. Before that, we tried test tube baby 7-8 times.”

I: Bu ilk iki denemede yumurtanız var mıydı? Normal tüp bebek?

N: Vardı, normal tüp bebek yapmıştık. Şöyle benim donasyonu üç kere denedik, üçüncüde oldu. Ondan önce 7-8 kere tüp bebek denedik.”

These trials are sometimes being experienced as miscarriages unfortunately. There are some practices related to this constraint below:

4.2.4. Miscarriages of surrogate mothers

Women who give birth to a baby possibly may have a miscarriage in her pregnancy at any time. However, it is well known that the quality of biological materials of the embryos may increase or decrease the miscarriage risks. The couples that are the biological parents of their own babies are generally responsible from their babies’ genetic defects or health problems directly. However, surrogate mothers share the responsibility of miscarriages with the biological parents of the baby. Elene,

whose health was negatively affected due to failed trials with many miscarriages, implied in the interview that the biological material of the prospective family might have caused the miscarriages:

I: Was the operation successful in the first trial?

E: No, we tried many times. It succeeded at the fourth time. But I had some miscarriages. I had been pregnant, I had a miscarriage and I had been pregnant again, I had a miscarriage again..

I: Was it the same family?

E: Yes, it was the same family. Same.. but well.. It was an old age family.

I: Then.. this should be related to the genetic materials..

E: Yes, possibly it was. We tried once, they wanted again, and again. Both the oocyte and sperm belonged to that family at the beginning. Later, we had oocyte donation, but the sperm was again belong to them. But this time, it became successful.

I: Bu işlem için ilk seferde başarılı oldu mu?

E: Yok bayağı uğraştık, dördüncü de oldu. Ama şeydi, çok düşük oluyordu. Gebe kaldım, düşürdüm, gebe kaldım düşürdüm.

I: Aynı aile mi?

E: Evet hep aynı aileydi. Aynı ama şeydi mesela bayağı ileri yaşta aileydi.

I: O o zaman daha çok genetik malzemeyle ilgili olsa gerek.

E: Evet, muhtemelen öyle idi. Bir denedik, tekrar istediler, tekrar istediler. Yumurta da sperm de o aileye aitti ilk başlarda. Sonradan yumurta donasyonu aldık, ama sperm onlarındı.

Mariam, a Georgian surrogate mother said what did she experience in her pregnancy:

M: I had just started surrogate motherhood. The first one was unsuccessful. Now, this is the second trial. Although my result is positive, my belly has not grown yet.

M: Yeni başladım şu an taşıyıcı anneliğe. Bir tane başarısız oldu, şimdi tekrar bir tane deneme oldu. İkinci kez. Ama büyümedi karnım, pozitif çıktı sonucum.

Elene and Mariam were two surrogate mothers who were probably suffered from the biological materials of the prospective parents and had miscarriages. As it is seen in our conversation with Elene, I had to ask probes and follow up questions in order to make her talkative on the issue. As it is seen in the next subtopic, Elene had some problems with adequately nourishment in her pregnancy as well.

4.2.5. Problems in adequately nourishment

Adequately nourishment is related to financial issues directly. If we come to the matter of finance, women who apply for being surrogate mother or oocyte donor motivate themselves firstly by the payment that they would get after the reproductive processes that were accomplished. While oocyte donors get their money immediately

after the oocyte collection, surrogate mothers can get a substantial sum of money (amount may change case by case) that is paid after the birth. Since the pregnancies take nine months for a woman, that payment routine may result in some problems for surrogate mothers.

There are payment models offered by IVF Centers, constituted for client families to contribute to surrogate mothers' needs. These payments generally follow a timetable agreed by all the shareholders for each case. Families are generally responsible for making that payment to the surrogate mother on the time. Statements on this point are given by different surrogate mothers (Ayten and Elene) below:

I: Out of a substantial sum of money, you told me that they rented a flat for you and your family for the late phase of the pregnancy, etc. Did they also transfer some money for nutrition?

A: Yes, 500 TL monthly for food. During the pregnancy.. for 9 months.

I: Is this given in addition to the substantial money?

A: Yes, it is separate from 35 Thousand Turkish Liras.

I: Then did not they bring food or extra things for you, did they only transfer the money?

A: Yes, they transferred money for food. They started transferring the money from the beginning of the pregnancy.

I: Toplu para dışında ha sana ev tutuldu vs. Aynı hani para dışında yedirdiler içirdiler konusu ayrı değil mi? Onlar da var.

A: Evet, aylık 500 tl gıda. 9 ay boyunca.

I: Ha o toplu paradan ayrı?

A: O ayrı 35 ten ayrı o.

I: Ayrıca size yiyecek getirmediler, para verdiler.

A: Evet gıda almamız için para gönderdiler. Hamile kaldığım aydan itibaren yolladılar.

It is clear that “assisted reproduction system” arranges every detail, including nutritional aids. However, they might ignore the most important issue, which is the human factor. Elene mentioned that some of money she demanded during her pregnancy was refused to be given by the family. However, she also said that the family in a very controversial manner asked her to be nourished properly:

She [prospective mother] thanked me very much, her family thanked me separately. They wanted me to eat well, to take protein as well. I can understand them very well, I feel pity for them. They could not have [a baby] on their own, I can understand how they are.. I am sure they will spend their last penny for their children.

Çok teşekkür etti ailesi de teşekkür etti. Lütfen iyi beslen dediler, protein al dediler. Ben çok iyi anlıyorum onları. Çok da şey yazık onlara. Kendileri olamadılar, ben ne kadar şey olduklarını anlıyorum. Ben eminim son kuruşlarını bile çocuklarına harcayacaklar.

Although it might look contradictory not to make an unplanned payment for the surrogate mother, in fact, some families can hardly find the necessary money to get the assisted reproduction services including third parties' reproductive materials. Again, if the capability of bodily health also refers to "be adequately nourished", this capability needed to be experienced at the pregnancy period at most. It is seen that these reproductive trials and processes are taking this capability into consideration.

4.2.6. Harms of drugs and hormones used by donor and 'Just in case' practices

It is known that women whose oocytes will be collected and whose womb will be used for the IVF treatment are getting hormone injections for one or two weeks to stimulate ovulation. However, these drugs and hormones give harms to women including oocyte donors. Sevgi, as an oocyte donor, told me the process briefly in the dialogue below:

S: You know, the woman calls the coordinator, and says 'I want to be a donor.' You say you want to be a donor, and he asks you your blood type. After that, he asks some specific questions, you know. I mean, the color... hair color, length, weight. Because the weight, age, these are important. After that, he calls you for the examination. If [they see that] you don't have any [ovarian] cyst in the examination, and if your [ovarian] reserve is available, then he gives you the thing... He gives your injections and hormones. After that you visit him every three days or every five days for the examination. He increases or decreases drugs according to the growth [of the oocytes]. Or [he gives] different [drugs].. For example, there is an injection, which equalizes. You make the injection for increasing and the equalizing one after that to make the smaller ones [oocytes] bigger. After that, he gives you a cracking [HCG] injection two days before the operation, to make the oocytes cracked. After that you should not get anything [drugs]. And you should go to the operation. They collect...

I: Okay... but how long does it take?

S: It takes minimum 13-14 days, maximum around 16 days. I mean it can't get longer because it is problematic when they grew much more. It is also problematic when they remained small.

S: *İşte arıyorsun işte koordinatörü, diyorsun ki işte ben donor olmak istiyorum. Donör olmak istiyorum diyorsun, o da kan grubunu soruyor. Ondan sonra işte belli başlı hafif bir soru soruyor işte. Yani renk işte saç rengi, boyun, kilon. Çünkü kilo, yaş bunlar önemli. Ondan sonra muayeneye çağırıyor. Eğer muayenede kistin yoksa yani elverişliyse rezervin sana şey başlatıyor. İğnelerini veriyor, başlatıyor hormonlara. Ondan sonra üç güne bir ya da beş güne bir gidiyorsun, muayene oluyorsun. Büyüme şeylerine göre dozunu arttırıyor ilacın, ya da azaltıyor. Ya da farklı.. mesela şey, bir iğne var, eşitliyor. Önce bir büyüteni yapıyorsun, sonra eşitleyen. Yani küçük kalanları da büyütün diye. Ondan sonra işlemden iki gün önce çatlatma iğnesi veriyor sana. Yumurtaların çatlaması için. Ondan sonra bir gün boyunca hiçbir şey kullanmıyorsun. Ertesi gün işleme gidiyorsun. Alıyorlar...*

I: *Ee.. bu ne kadar sürüyor? İğneler..*

S: İşte minimum 13-14 gün. Maximum da 16 gün falan. Yani daha fazla olmaz çünkü çok büyüdüğü zaman daha sıkıntı. Küçük kaldığı zaman da sıkıntı.

As it is seen in the dialogue above, Sevgi had been given too much hormones since she expressed me that she had donated her oocytes eight or nine times in two years. That means she got hormone injections bimonthly or quarterly between 2016 and 2018. Sevgi can be regarded as a regular oocyte donor.

For that reason, she could get harm of those drugs and hormones. I wanted to learn if she had any adverse effects of hormone injections during or after the processes. She admitted that she had hormone disorder after getting hormone and hirsutism and pimples permanently as some results of that disorder. These health problems related to hormone were stated as follows by Sevgi:

S: For example, I mean, you swell during the process. It is like [you were] pregnant. I mean, not like a pregnant but your oocytes are getting growing. And you are always sensitive. The hormone is given, being injected in the end. In that way, it is being difficult to get over it. Secondly, it [hormones] causes hirsutism³⁰ in my body. You are getting hormonal disorder. I mean, I started laser treatment with that money [money which she earned by oocyte donation]. My treatment is over but again my face... I have them [hairs] because of its, you can see some of them also here [by showing her chin]. Have you already seen my face, my pimples? These were not here two years ago. They were not like these, I mean, they were sporadic puberty acnes, you know. Now my face...

S: Ben mesela şey, işlem sürecinde zaten şişiyorsun. Böyle hamile gibi. Ya hamile gibi değil ama yumurtaların büyüyor yani. Ve sürekli duygusalsın. Sonuçta dışardan hormon geliyor, hormon yüklüyorlar. O şekilde olunca onun etkisinden çıkmak zor oluyor. İkincisi kullanma yapıyor vücudumda. Hormonel bozukluğun oluyor. Yani ben lazer tedavisine başlamıştım o paralarla. Lazer tedavim bitti, yine de o yüz.. onlar yüzünden yine çıkıyor yani, burda da tek tük çıkıyor. Zaten yüzümü görebiliyorsun değil mi, sivilcelerimi. Bunlar yoktu iki yıl önceleri. Bu şekilde değildi yani ergenlik sivilcesiydi, bir ikiydi. Şimdi yüzüm..

It is obvious that the capability of health of Sevgi is violated by hormones and drugs which were used by the assisted reproduction technology service providers, IVF Centers, and their embryologists for the aim of getting more oocytes from that donor. It should be questioned here that even if Sevgi was not complaining about

³⁰ “Hirsutism, the presence of terminal (coarse) hairs in females in a male-like pattern, affects between 5% and 10% of women.” Azziz, R., Carmina E. and Sawaya, M. E. (2000) from “Idiopathic Hirsutism,” *Endocrine Reviews* 21(4): 347–362 by The Endocrine Society.

those treatments and problems, should not we criticize and/or judge these IVF treatment providers or reproductive technology by violating the capability of health of Sevgi and other oocyte donors?

Moreover, this is the one side of the coin. In the other side, it is known that more than one oocyte donor for the oocyte collection were prepared for one oocyte donation as ‘just in case’ practice. This information was provided from one of the interviewee, Nurgül who had her children via oocyte donation.

Nurgül explained that the practitioners were taking their precaution by preparing more than one oocyte donor for the oocyte collection. Hence, the heavy hormone drugs are taken not only by the women who will be transferred by the embryo(s) and who will give their oocytes, but also by the women whose oocyte reserves are prepared for the operation as a “just in case” plan. Nurgül explained this practice as follows:

N: They told us that they were preparing at least two [oocyte donors] alternatively. There may be a something [ex. a misfortune] at the last moment. There may be a medical problem, for example a bleeding may occur instantly because of an altogether different reason, her menstruation... Actually, you are taking so many drugs. As a result of this the body is being mechanized but there may be anything else. Ultimately this is a human body. She may bleed suddenly.

N: En az iki seçenekli gidiyorlar falan demişlerdi mesela. Son anda birşey olabilir. Çünkü tıbbi birşey de olabilir, bir anda kanaması olabilir bambaşka bir nedenden dolayı hani, reglini.. gerçi o kadar ilaç alıyorsunuz ki yani hani vücut tamamen mekanize oluyor ama herhangi birşey olabilir yani bu vücut sonuçta. Bir anda kanaması gelebilir.

That is why I name these experiences as ‘trial(s).’ Failures in these experiences are welcomed without looking at the number of the trials including other women’s bodies. Indeed, in terms of human rights concerning into the bodily integrity, these practices seem to be very problematic. The mere existence of consent may not justify these “just in case” practices. In these practices, disinformation is seen as an apparatus in the assisted reproduction system. Knowledge has a crucial role in Foucault’s power analyses. So that, he stated that he devoted himself mostly to studying the formation of forms of knowledge and practices of veridiction as one of the three axes (Foucault, 2010: 42). Studying and emphasizing knowledge may be thought together with the concept of “truth”. Rather than telling the truth, IVF Centers prefer to give information that is collated with commercial reasons and aims.

Of course, it is not difficult to conclude that all the oocyte donors' oocytes were used at that time or frozen for the same couple or different couples and trials. In these cases, in spite of the consent of ARTAP there are some serious problems related to disinformation. As "just in case" plan, there may be so many practices, which include the violation of capability of health in the assisted reproduction processes.

4.2.7. Disinformation

Disinformation had occurred nearly in all phases of assisted reproduction practices of ARTAP in this dissertation. Another disinformation problem occurs in transferring the knowledge about the donor to the families. Families, especially women, are concerned about the properties of oocyte donors. In the interviews, I asked what they knew about the oocyte donor and if they could choose the donor or not. The answer made me think that not only physical appearance demands of the families but also some medical reasons might determine this choice. However, there is again an uncertainty and disinformation about the donor. Hale narrated below:

H: I asked her age. In fact, they do not give any information. When they asked me if I specifically wanted to learn something about her, I asked for her age and height. I learnt them.

I: And.. you told me that you wanted a similarity with your appearance, did you not?

H: Ha yes, I did. But I have no idea about that similarity. He only told me that her height was 1.70 cm, yes.

I: Did they ask you about any option..

H: No.. Not any option, I can say that they chose one for us. Not only did they consider considering her physical properties, they also paid attention to her menstruation period. They are trying to medically synchronize both of our periods at the same dates. A suitable woman could give her oocytes. Moreover.. Because we [the embryologist and the family] spoke this on the telephone and we completed all the process in one month. It is not a very long time.

H: Yaşını ben sordum. Onlar herhangi bir bilgi vermiyorlar aslında. Özellikle öğrenmek istediğiniz birşey varsa dediler, yaşını ve boyunu sormuştum ben. Onları öğrendim.

I: Bir de size benzemesi gözetilsin mi demiştiniZ?

H: Ha dedik evet. Ama benziyor mu benzemiyor mu bilmiyorum. Boyu 1.70 dedi evet.

I: Seçme şansını olduğunu..

H: Yani başka bir opsiyon değil onlar bize birisini seçtiler diyeyim. Birisini ve sırf o da değil muhtemelen, sırf hani fiziksel özellik değil aynı şekilde adet tarih döngüsünü de yakalamaya çalışıyorlar ya.. hani onun tıbbi açıdan ikimizin aynı anda adetini biraraya getirmeye de çalışıyorlar. Hani uygun olan birisi yumurta vermeye de.. sonuçta. Biz bunu çünkü ben aradı konuştuk hani bir ay içinde işlemleri yaptık yani o çok uzun bir süre değil.

This example can be regarded as the second disinformation problem. While the first example is focusing on the “just in case” plans as guarantees of the misfortunes, this one is emphasizing the uncertainty in choosing the oocyte donor. It should be asked here why this information is not shared with families. What is the verification of this manner? As it is seen in these interviews, mostly personal and material points are issued in the contracts if all the parts of the work signed a document. It is known that in Ayten’s case, other parties (prospective mother and IVF Center) did not need the signature of the surrogate mother, Ayten.

In the processes of IVF, it is hard to control the works of embryologists or other practitioners in an IVF Center. Nurgül, who was transferred an embryo produced with cryopreserved oocyte without her consent, had experienced such a situation. In her words:

Yes.. Moreover, they did not put fresh oocyte, they put a frozen [cryopreserved] one, they admitted it later. It was again another women’s but frozen [cryopreserved] oocyte. [After the negative result] they phoned my doctor [in Turkey] and offered her bribery and also added that they had a mistake, but asked for more patients; ‘if you do so we will give you a percentage,’ etc. After that, we [the doctor and the family] completely cut off communication.

Evet bir de taze yumurta koymadılar. Dondurmuşlar, sonradan onu itiraf ettiler. Başkasının yumurtasıydı yine. Ama donmuş yumurtayı transfer ettiler. Sonra benim doktorumu arayıp para teklif etmişler hani, biz böyle böyle bir hata yaptık ama bize adam yönlendirmeye devam et biz de sana bir komisyon verelim gibilerinden. Sonra burasıyla tamamen ilişkiyi kopardık.

Nurgül could not remember if there were an item on the freshness of the oocyte in their contract. However, the concern of the IVF Center was not on the legal sense but on the commercial sense, obviously. This case makes us rethink about intentional /commercial scope including deficiencies in the information, namely “disinformation” in these contracts. Because of this, these IVF centers possibly defend themselves from being a part of a legal responsibility in the future.

Table 5.

Constraints concerning the Capability of Bodily Health

Capability	Constraints
The Capability of Bodily Health	1. Anesthesia
	2. Caesarean births
	3. Unsuccessful pregnancy trials on (and giving hormones to) different surrogate mothers
	4. Miscarriages of surrogate mothers because of genetic materials
	5. Problems in adequately nourishment
	6. Giving drugs and hormone to more than one donor for 'just in case' practices
	7. Disinformation

It is summarized in the table above that the assisted reproductive technologies including third parties violate especially oocyte donors' and surrogate mothers' capability of bodily health by drugs, hormones, anesthesia and abortions. The payments cannot cover these violations especially for the situations without consent. Although it might look contradictory not to make an unplanned payment for the surrogate mother, in fact, some families can hardly find the necessary money to get the assisted reproduction services including third parties' reproductive materials. Again, if the capability of bodily health also refers to "be adequately nourished," this needs to occur at the pregnancy period at most. Giving harm to others' bodies /health and adequately nourishment during the pregnancy of surrogate mother should be controlled by legal regulations.

Since IVF treatment including third parties are banned in Turkey, if these practices as a whole or partially performed in Turkey, then ARTAP remains entirely vulnerable. For example Ayten, who gave the birth to a child as a surrogate mother in Turkey, stated me that she did not sign any document for the process. There was a verbal confidence for the surrogate mother. Contracts should include all of the parties' rights and conditions concretely and precisely.

4.3. Constraints concerning the Capability of Bodily Integrity and ARTAP

The capability of bodily integrity formulated by Nussbaum (2011: 33) refers to two different aspects such as "*being able to move freely from place to place;*" and

“to be secure against violent assault, including sexual assault and domestic violence; having opportunities for sexual satisfaction and for choice in matters of reproduction”. Even if it cannot be argued that this capability of women are violated entirely since there is no claim of a right; it should be accepted that ARTAP had created ‘reproductive tourism’ (Pennings, 2002: 337) by their travels for having children. Since this ‘assault’ is relatively soft and demand-based and there is a lack of rules and regulations concerning the violation of this capability, among different types of power conceptualisations of Foucault, such violations may be included and discussed in biopower. It is related to “the welfare of the population, the improvement of its condition, the increase of its wealth, longevity, health, etc.” (Foucault: 1991: 100).

Inda (2002: 99) interpreted the focus of biopower in a more reproduction-driven manner, that is: the control of the species body and its reproduction. Out of technological developments including human bodies and genetic materials, biopower transformed social pressure according to the political forms of life. Especially political form of woman rendered her body necessary for assisted reproduction technologies and as a result of this, vulnerable to being the subject of social pressure.

Constraints concerning *Capability of bodily integrity and ARTAP* arose around three constraints. They are given as follows:

1. Reproductive Tourism
2. Moving from one place to another because of ‘Social pressure’
3. Surrogate mothers’ abortion

The most known and written practice in social studies concerning ART is reproductive tourism. The first constraint concerning *Capability of bodily integrity* showed itself in this practice.

4.3.1. Reproductive tourism

In order to avoid various kinds of social pressure and to have access to reproductive technologies ARTAP tend to hide their experiences related to this confidentiality in general. Not only because of the capability of bodily integrity- with

its property of being able to move freely from place to place- but also to avoid social pressure, ARTAP should travel too much, since there is a restriction on using third parties' reproductive materials. These travels are named as 'reproductive tourism' by Pennings (2002: 337); it means the travelling by candidate service recipients from one institution, jurisdiction, or country where treatment is not available to another institution, jurisdiction, or country where they can obtain the kind of medically assisted reproduction they desire.

Controlling the process is a very important problem related to the capability of bodily integrity since women are forced to travel also for technical reasons. Families who apply for a surrogate mother prefer to give a procuration not to attend the process many times. Again, they had to travel a lot. Especially women who applied for getting this service have to travel many times even from one country to another. Ayşe, who got her baby via a Georgian surrogate mother, explained that they had to go to Georgia 5 times in total:

A: We continued with the second surrogate mother. There were some problems with the first one related to the woman. And.. Both of the women were Georgian.

I: Well.. How many times did you have to travel for this reason in this time span?

A: O.. Many times.. Not depending on us, they take a procedural procuration and that letter is valid for 6 months only. Firstly we went there 3 times for the letter of procuration. We travelled 4 times. Later we went there for the birth again.. 4 or 5.. That makes 5 times in total.

A: *İkinci taşıyıcı anne üzerinden devam ettik. İlkinde sıkıntılar çıktı bayanla ilgili. Ondan sonra.. Bayanlar Gürcüydü, ikisi de.*

I: *Peki bu sebeple siz kaç kez acaba seyahat etmek durumunda kaldınız bu sürede?*

A: *O.. bir çok kez ya, birçok kez. Bizim isteğimize bağlı olmadan, orda prosedür gereği vekaletname alıyorlar sizden, o vekaletname de 6 ay geçerli sadece. İlk önce vekaletname için herhalde bir 3 kere gittik. İlk gittiğimizde 4 diyelim, dört kere gittik. Sonra da doğum için gittik zaten, 4 ya da 5 kere. 5 kere olmuş oluyor.*

As a whole, IVF treatment forces people to make so many trials for their hopes to get their babies. Eda, who applied for another surrogate mother in Georgia, told me about her travels:

We travelled so much for the test tube treatments in Turkey [and abroad]. We went to İstanbul, Adıyaman, Ankara [in Turkey], Germany, Cyprus and finally we went to Georgia for surrogate motherhood. I had been pregnant for twins after the treatment in Cyprus [she had a miscarriage].

Tüp bebek tedavileri için Türkiye'de çok yere gittik. İstanbul, Adıyaman, Ankara, Almanya, Kıbrıs, ve en son taşıyıcı annelik için Gürcistan'a geldik. İkiz bebeklere Kıbrıs tüp bebek tedavisinden sonra hamile kalmıştım.

During and after these travels, it is hard to tell and persuade the social environment for ARTAP about the reasoning of these applications. Ayten, who is a

surrogate mother from Turkey, illustrated the social pressure faced by a prospective mother as follows:

She was almost 37 years old. She was also young, at the same age with my husband. She was not infertile, she told me that she was unable to give a birth to a child.. She may have a problem also in her overians, I do not know. Perhaps, she did not want to tell me..

Hemen hemen 37 yaşındaydı. O da gençti. Eşimle yaşıttı. Kısır değil, o hamileliği kaldırmıyormuş sadece..Belki yumurtalarında da sorun vardır. Bana demek istemedi belki. Yani o yüzden..

The prospective mother was too much pressured to be able to describe her reproductive problem as infertility. So that, she had to be involved in reproductive tourism in order to have a child and go back to Germany with that child.

Additionally, there is a local version of reproductive tourism, which is “moving from one place to another -in the same country- because of social pressure.” That prospective mother was involved both versions of reproductive tourism in fact.

4.3.2. Moving from one place to another because of ‘social pressure’

It is not only the pregnancy follow up that makes ARTAP in distress; they may have bigger problems in the later period of a pregnancy as well. Most of them prefer to move to another city, friend, relative or house in order to give birth without feeling the need for an explanation to anyone. Ayten told me her process about that:

We got along well with the woman. She rented a furnished flat [in Adana]. We stayed together with her in such a flat. After the 4th month of the pregnancy, we moved from this house with my husband and children. We told our neighbors that we found a job as a janitor for a few months. It [My belly] starts to swell after 4th month of the pregnancy in general. You know, it is the Turkish society, everyone criticizes you.

Çok iyi anlaştık. Eşyalı ev tuttu, böyle bir dairede birlikte kaldık. 4 ay sonra bu evden gittim ben. Hepimiz gittik eşim, çocuklar falan, biz şey dedik. Bir iş var diye gittik biz, kapıcılık işi gibi. Komşulara evet. öyle gittik biz. Zaten benim 4 aydan sonra çıkıyor. Türk milleti sonuçta yani, herkes bir eleştiri söylüyor.

In parallel with the difficulties related to its social dimesion, families should pay a doctor extra to make a surrogate mother give a birth to their child/ren in a restricted country, Turkey. For example, Ayten told me that she had to find her gynecologist by herself for the birth, and the family had to pay more for that gyneacologist since Ayten rejected to go to İstanbul for birth:

A: The birth was arranged to take place in İstanbul. I did not want to go. The embryologist, the practitioner who made the transfer in Cyprus, wanted me to give the birth in İstanbul. We could not trust, since it was far away, it could be dangerous. They directed me but I did not want to go, I did not want to board on the plane on the 9th month of my pregnancy. I could not leave my children as well.

I: Then, you wanted to give birth in Adana and then you had to find the gynecologist by yourself?

A: Yes.

A: İstanbul'da doğumum olacaktı benim. Ben gitmek istemedim. Bu embryo uzmanı işte transfer yaptırdığımız doktor, Kıbrıstaki, istedi İstanbul'da olmasını. Biz güvenemedik uzak felan tehlikeli olur diye.. Yönlendirdi de ben gitmek istemedim, uçağa binmek istemedim dokuzuncu ayımda. Çocuklarımı da bırakamadım.

I: Senin isteğinle Adana oldu, o zaman o yüzden doktoru sen bulmak zorunda kaldın?

A: Evet.

As it is seen above, Ayten rejected to go to İstanbul for birth and she kept her capability of bodily integrity with some respects. However, there is another item, which is more unfavorable. That is “the abortion of surrogate mothers’ pregnancies.”

4.3.3. Surrogate mothers’ abortions

Capability of bodily integrity especially focuses on the right of being free and safe on sexuality and reproduction. However, we cannot even talk about the right of a surrogate mother on her embryo legally or verbally. Elene, who is a surrogate mother in Georgia, explains this lack of initiative in one sentence:

*I do not have the right for abortion but if the family wants, I can undergo.
Kendi hakkım yok kürtaj yapmak gibi ama aile isterse yapabilirim.*

Elene in this position does not have *the opportunity for choice in matters of her reproduction* because she knew that it was not ‘her’ reproduction. It was her body, her pregnancy but they were in use for another woman’s reproduction and baby. Again, this situation constitutes another constraint for a surrogate mother obviously.

In this section, different texts from the interviews are discussed with reference to the capability of bodily integrity. It is seen that ARTAP (Assisted Reproductively Affected People) is forced to travel abroad in order to have access to assisted reproductive technologies that include third parties since these technologies

are banned in Turkey. These restrictions obviously lead to the expansion of reproductive tourism.

Table 6.
Constraints concerning the Capability of Bodily Integrity

Capability	Constraints
<i>The Capability of Bodily Integrity</i>	1. Reproductive tourism
	2. Moving from one place to another because of ‘Social pressure’
	3. Surrogate mothers’ abortion

Even if people who rent surrogate mothers and so risk themselves in Turkey, they are again forced to move to another place for birth because of social pressure. The capability of bodily integrity is violated mostly by forcing them travelling or moving in this section. The main reason of that is the ban and restrictions on assisted reproduction techniques including third parties’ biological materials. Fear of judgement creates such avoidance behaviour in general.

In order to overcome it, a regulation, which considers the reproductive claims of ARTAP and preserves the rights of surrogate mothers and oocyte donors, should come into force. The rights of surrogate women on their decisions about their bodies and pregnancies should be enlarged as an important point.

4.4. Constraints concerning the Capability of Senses, Imagination and Thought and ARTAP

According to Nussbaum (2011: 33), ‘Capability of Senses, Imagination and Thought’ is defined as “being able to use the senses; being able to imagine, to think, and to reason – and to do these things in a “truly human” way; a way informed and cultivated by an adequate education, including, but by no means limited to, literacy and basic mathematical and scientific training”.

Moreover, ‘Capability of Senses, Imagination and Thought’ refers to “being able to use imagination and thought in connection with experiencing and producing expressive works and events of one’s own choice, religious, literary, musical and so forth” Nussbaum (2011: 33). That means being able to use one’s mind in ways protected by the guarantees of freedom of expression with respect to both political and artistic speech and freedom of religious exercise. Finally, being able to have pleasurable experiences and to avoid non-beneficial pain is an essential for the capability of senses, imagination and thought. According to Nussbaum (2006: 83), capability approach seems to rely on intuition to a greater degree than procedural approaches; that is, some deep moral intuitions and considered judgements about human dignity do play a fundamental role in the theory. That is why here we pay attention to the intuitions of ARTAP under this and next topic, namely ‘Emotions’.

In the interviews towards assisted reproductive technologies including third parties, ARTAP had some statements, which would make us sceptical about this capability. It is seen that the imagining, thinking, reasoning, religious or spiritual behaviors and their thought even about their own choices of reproduction were completely confused and besides, their rights were violated with some respects. Here, by discussing the cases and quotations, some relevant traces about the violation of capability of senses, imagination and thought are pointed out.

Constraints concerning *Capability of Senses, Imagination and Thought and ARTAP* arose around eight constraints. They are given as follows:

1. Worries and Distrust
2. Anxiousness
3. Suspicion
4. Questioning of femininity
5. The fear of incestuous relationships and marriages among siblings
6. Social pressure and ARTAP’s Solutions against it

Various constraints concerning the *Capability of Senses, Imagination and Thought* of ARTAP were created as they were listed above. While “worries” were the constraints, which represented a starter role for other inner constraints, outer constraints were taking their source from “social pressure.” Worries are stated and discussed in the next subsection:

4.4.1. Worries and distrust

As it is stated in the introduction of this capability above, “being able to have pleasurable experiences and to avoid non-beneficial pain” had an essential role in the capability of senses, imagination and thought. However, it is seen that many ARTAP was not able to have pleasurable experiences in their assisted reproduction practices. Freedom of expression of ARTAP is violated in assisted reproductive technology practices in many ways. Especially surrogate mothers and oocyte donors are not able to neither complain about the practices nor express their feelings correctly.

Sevgi told me one of her memories in which she avoided of her true feelings as follows:

I: Do you follow this, I mean, do you ask if the family, which was donated with your oocytes, had their children?

S: That day, I asked. She [the nurse] told me, “if” she said, “I can find, I will show you the photographs of the child. But...” she added, “You shouldn’t definitely say anything.” I didn’t see it but when she said that thing I was bizzared. I mean I was pleased. I felt something strange. I got sorrowed. After that I asked myself, “Ah, would I cry when I see [the photographs]?” But I... no. I don’t want to see.

I: *Bunu takip ediyor musun, verdiğim, yumurta verdiğim ailenin çocuğu oldu mu diye soruyor musun?*

S: *İşte o gün sormuştum. O da dedi ki, “eğer” dedi, “bulabilirsem fotoğrafını gösteririm. Ama...” dedi, “kesinlikle” dedi hani “söylemeyeceksin,” dedi. Onu da görmedim yani ama söylediğinde bile bir tuhaf olmuştum. Yani, sevindim. Garip birşey oldu böyle, üzüldüm. Sonra diyorum ki, “ay görünce ağlar mıyım acaba?” Ama ben, yok ya görmek istemem.*

As it is seen here, Sevgi was worried about the family, the child and her feelings on attachment. By the time she learnt how to cope with those feelings and succeeded ‘not to think about it anymore.’ However, this avoidance of expressing feelings should not be the way of coping with worries according to capabilities approach. The nurse on behalf of the IVF center did not give Sevgi the photographs of the baby but gave her trust, which was necessary for her, numerous oocyte donations.

As it is seen in the interviews, the most important thing, which ARTAP looks for in these processes, is observed as ‘trust’ but it is seen that ARTAP had too much worries and problems in getting trust. Ahmet, who is the husband of Nurgül, told me about his experience concerning the wording preference of the IVF Centers in their advertisements:

Of course, even there may be a sector. I mean.. but it is not something like that.. Is not the use of ‘trusted center’ or ‘trusted oocyte transfer’ funny? It means that there are some distrustfulness if they claim that they are reliable.

Tabi orda da bir sektör olabilir yani. Ama şey değil yani hani şöyle bir kavram olması komik değil mi yani, güvenilir merkez, güvenilir yumurta transferi. Demek ki güvensizlikleri var mı bunlar güvenilir olduğunu söylüyor.

Nurgül told me that she feels lucky since her IVF trials did not follow an exploitation process:

So maybe our doctors were good doctors that we tried first, and secondly after that at the same center. However, when we went to another center for the third trial they told us not to try anymore. Then we went to another one to try one more, they told us again not to try more. If a doctor who wants to exploit me, he could try and say that it could be next time, and next time. He could possibly try five times.

Belki bizim doktorlarımız iyi doktorlar çıktılar ki hani bize birinciyi denedik, ikinciyi denedik o aynı merkez.. başka bir merkezde, onlar da dediler artık daha fazla denemeyin. Hani biz yine başka bir yerde de bir kere daha deneyelim, dedik, başka bir yere gittik. O da dedi daha fazla denemeyin hani. Sonuçta ama bunu beni sömürebilecek bir doktor karşıma çıksaydı, deneyelim, bir sonrakinde çıkar, bir sonrakinde. Beş kere de yapardı belki

At the end of these experiences, it is obviously understood that being able to use their minds in ways protected by the guarantees of freedom of expression with respect to political speech was clearly prevented by the ban on reproductive technologies affecting ARTAP. Rather, people are doomed to politicians’ and physicians’ decisions about them.

There are various stories about getting trust from other individuals of ARTAP who they are in relation with. It is understood that especially women who apply for a surrogate mother for the birth of their children or women who are donated by the oocytes of other women are worried about the lifestyle of the women they are in relation with. Ayten, who is a surrogate mother, told her designation and recommendation process about her as follows:

They [Families which were found by the hospital] are more reliable. Trust can’t be found by searching here and there. Yes, moreover, she [woman who search for surrogate mother] would give up [searching]. That embryologist had told her that there was a woman, she was from Adana, she didn’t smoke or drink alcohol, she had three children. He told her that it would be realized, and added that she should trust him. He had us talk on the phone, then on face, and so on. We met. I sent her some photographs. In any case, they want some photographs, family things of mine at the beginning..

Hastanelerin bulduğu daha güvenilir oluyor. Öyle ordan burdan aramayla güven olmuyor. Evet, zaten bayan bırakacakmış. İşte o embro uzmanı demiş, bir bayan var demiş. Adanalı demiş, işte sigara içmez, içki kullanmaz. Üç tane çocuğu var demiş. Olacak demiş, bana güvenin demiş. Bizle görüşürdü işte telefonla, ondan sonra face

te mace te öyle tanıştık ettik. Tanıştık. Resimleri falan yolladım. Zaten ilk başta resim falan istiyorlar, aile birşeylerimi..

According to this, the physicians at the IVF Center in Cyprus were trying to establish a linkage and confidence between surrogate mother and the woman who had applied for the surrogate mother's help. From this quotation, the woman who applied for another woman's child bearing makes a point of evidence for family and the private life of surrogate mother is understood. These worries are transforming into trust or distrust in time. This construction or deconstruction processes are discussed in the rest of this subsection.

Fatma, who would have a child via surrogate mother, was trying to build trust that surrogate mother by trying to know her as much as she can. This case is similar to the example above. Moreover, Fatma tried to draw on the similarities between her and the surrogate mother. Perhaps, this similarity would give Fatma a guarantee in addition to other factors:

Well.. When I went there I asked [the embrologist] if we could have a chance to see her. He said yes, she and you could be here since our embryo transfer would occur here. Yes, she speaks Georgian, I do not understand Georgian exactly but I can understand some of the words. I mean, our origin is also Georgian. For I am from Artvin, they are so close to each other. I could understand some of her words, though rare. I mean.. I saw the woman, she was like...I mean she was mostly conservative. We could get the opportunity [to see her] in the hospital. I mean.. I wanted to know, I mean her life. She told us that she has a son, she got divorced. Her son was living with her. Perhaps, her son was little. Perhaps, she needs money in order to look after him. What if she thought.. I mean she was a bit overweight and pretty woman. I thought so.

Şöyle, ben gittiğimde o bayan da zaten hani söyledim [embryoloğa], gelecek mi diye, görme imkânımız olacak mı? Hani transfer olacağı için evet dedi, o da gelecek, siz de geleceksiniz. Görüşeceksiniz. Evet, hani Gürcüce konuşuyor, ben tam hani Gürcüce anlamıyorum ama bazı kelimelerini anlıyorum. Şöyle: hani bizim kökenimiz de gürcü. Ben Artvinli olduğum için hani çok yakın birbirine. Bazı şeylerini anladım çok nadir de olsa. Şöyle birşey hani kadını gördüm, şey bir kadın hani mesela daha bir böyle muhafazakâr yani orda hastanede de bazı hani imkânları gördük. Yani daha bir hani ben de öyle istedim, hani biraz daha bilemiyorum hani yaşantısını. Bir tane oğlum var dedi, boşandım dedi. Oğlum bende kalıyor dedi işte. Küçükmiş oğlu herhalde. Herhalde ona bakmak için para gerekiyor. Artık ne düşünüyorsan. Yani biraz daha toplu hoş bir bayandı hani. Öyle gördüm ben de.

Fatma was at the beginning of their surrogacy period. They had rented a surrogate mother through an IVF Center in Batumi, and were in the first a few weeks of the pregnancy.

Since Fatma was trying to build trust on the surrogate mother and the process, she drew attention to some similarities between her and the surrogate mother by

saying that ‘she speaks Georgian, I do not understand Georgian exactly but I can understand some of the words. I mean, our origin is also Georgian. For I am from Artvin, they are so close to each other. I could understand some of her words, though rare.’ Moreover, she would possibly like to get her child from a ‘conservative’ surrogate mother. This conservativeness generally include not consuming alcohol, and other drugs, no smoking, and etcetera. Fatma was seeming as convinced herself in her phrasing on her observation: “I saw the woman, she was like...I mean she was mostly conservative..” And Fatma wanted to hear some familial reasons for the material purposes of the surrogate mother again because of her thoughts concerning the life style of that woman: ‘Perhaps, her son was little. Perhaps, she needs money in order to look after him.’

In some cases, women may have positive or negative impressions towards IVF Center and practitioners there. These impressions of them build trust in many ways. This situation is a bit different from the perspective of Elene above. Hale had different concerns. Firstly, her only interlocutor was the IVF Center. Secondly, for her, confidence:

...is a verbal confidence. Even after going and seeing that place, you may gain or lose that confidence. Luckily, the first one failed. It is all the good. It is certain.. I mean.. To me, they might be taken [oocytes] even from the prostitutes. However, in this [second] place, it is told that they [oocytes] were taken from medical students who were in need [of money] in general. That made me relaxed to a certain extent. Of course, if there were no genetic problems. For example, in first place they told me that.. I never forget it.. I said okay and asked who she is; what she likes, how I will learn this. There was a woman who spoke with an accent. She said: ‘Do not worry about it, honey. She is a Muslim,’ and something else like ‘she is white, she is Muslim, do not worry’. I said ‘what a pity! I did not ask about that already.’ She told me something like that. It seemed strange to me.

Güven, sözlü bir güven. Ama onu işte gidip de o yeri gördükten sonra o güven zaten ya var ya yok. O ilkinde zaten iyi ki olmamış, hayırlısı. Yani orası kesin.. yani belki hani e.. hayat kadınlarından bile alıyor olabilir bence orası. Ama yani burası hani tıp öğrenciler yani daha doğrusu öğrencilerden alındığını, ihtiyacı olan tarzında genelde bize onu söyledi. O bir şekilde beni daha bir rahatlattı yani. Eğer tabi genetik anlamda da birşey yoksa. Mesela ilki bana şey dedi: onu hiç unutmuyorum; peki dedim kimdir nedir nasıl öğreneceğim ben bunu. Bir böyle çok değişik şiveyle konuşan bir kadın vardı: merak etme şekerim, müslümandır gibi birşey dedi. Başka birşeyler daha dedi, beyazdır, müslümandır, merak etme dedi. Eyvah dedim, onu hiç sormamıştım halbuki dedim. Öyle birşey demişti bana. Değişik gelmişti.

Families might have severely traumatic experiences with IVF Centers. There are also families who get positive impressions from IVF Centers. For instance, Hale

has also a positive experience with her second IVF Center, which she narrates as follows:

H: No, I was not very much confused. I mean.. I wondered if it was a proper place. I mean, I did not know it before going even though I went there on advise. As I told you before, something like if they might cheat us. They may say that they transferred the oocyte even though they did not.. I mean something like that.

I: After going there were you relieved?

H: All had passed, I was relieved. I mean so nice, from the beginning of the process people whom we talked to... You know it is a kind of mutual trust in fact. For example, we do not know you but we tell you our private lives. I can say it is just because of getting positive impressions mutually. The nurses and staff there made us relieved. And of course, the previous positive comments were also very affective. Well.. by the result we got, I mean there was not a problem in the end, thanks God. Thanks to their sincere concern and so on.. All of these relieved us.

H: Yo, bir konuya çok takılmadım. Yani şey, işte gittiğimiz yer düzgün bir yer mi acaba? Yani giderken bilmiyorum sonuçta her ne kadar referansla gitmiş olsam da. Dediğim gibi başka, bizi kandırırlar mı, bu yumurtayı koyduk der koym.. hani o tarz şeyler daha çok.

I: Gittiğinizde endişeleriniz azaldı mı peki?

H: Geçti hepsi rahatladım. Yani çok tatlı, yani zaten işleme başladığımız andan itibaren, konuştuğumuz insanlar, hani bu karşılıklı güven ya aslında. Biz de sizi şimdi tanımıyoruz ama çok özel şeylerimizi anlatıyoruz ya onun gibi birşey aslında. Karşılıklı o elektriği almak mı diyeyim. Ordaki artık hemşirelerle, görüştüğümüz insanlarla, tabi öncesinden gelen referansla vesaireyle biz rahatladık. E aldığımız sonuçla da yani çok şükür bir sıkıntı olmadı. Onların ilgileriyle felan. Hep bunlar bizi rahatlattı.

‘Materiality’ is discussed in the later subtitles of this dissertation. Again here, I examined some general statements related to materiality a little closer. Fatma stated her feelings on surrogate mother’s concern of materiality. Since Fatma is a woman who would like to get the service from a surrogate mother, she assumed that surrogate mother was doing this for material gain; but again, she was trying to convince herself if it were not so:

I mean.. Yes.. Of course, we want it so that... I mean perhaps she may think from the point of view that you mentioned. Materiality may be of secondary importance in her thought. Women who do not know the mother feelings cannot [do this].. Of course it is a different thing.. Every person cannot do this work. Okay, there may be.. I mean it may seem strange when you think about it... I mean that should be made in this case because there is nothing else to do.

Yani tabi evet hani biz, biz hani istiyoruz ki hani belki de o açıdan dediğiniz gibi de düşünüyor olabilir. Maddi açıdan ikinci planda olabilir. Tabi yani bu gerçekten hani annelik duygusunu hissetmeyen yani o farklı birşey. Her insan da şimdi yapamaz o işi. Tamam hani yani şey olabilir yani düşününce tuhaf gelebiliyor ama insana yani o da demek ki olması gerekiyor yani. Yapılacak birşey yok başka çünkü.

And Fatma was somehow worried about the pregnancy and would like to intervene surrogate mother:

I mean again you are worried, I mean for example, how she will look after the baby, if she will take care of her feeding, of herself. If you could intervene, you would say ‘please eat this to get vitamins, eat that to get this..’ I mean [I would like her to be] healthy..One thinks that; it bothers you. Now until it held [on to the womb], after that ‘will this month pass, how will this month be?’ I mean, that will be like this, until we take the baby in our arms after nine months, if Allah wills. We are always perturbed. However, nowadays [we wonder] if it [the baby] will be held [the womb] or not. [Other worries will come] step by step.

E ister istemez şöyle hani yine aklınız kalıyor hani şöyle birşey mesela çocuğa nasıl bakacak, yemesine, kendine dikkat edecek mi? Hani kendiniz karışabilseniz hani dersiniz ay şunu yiye vitamin olsun ay bunu yiye hani böyle olsun. Hani sağlıklı, insan hani şey yapıyor yani hep akli kalıyor. Şimdi tutana kadar, tutunca da ay bu ay geçecek mi, ay bu ay nasıl olacak. Hep böyle yani, dokuz ay sonra kucağınıza alana kadar, allah nasip ederse hep böyle tedirgin. Tabi şu anda tutacak mı tutmayacak mı hep aşama aşama..

As discussed in the ‘Constraints concerning the Capability of Bodily Health’ section, Elene, who is one of the surrogate mothers, was in financial difficulties. She said she had requested some money in advance but they refused to pay; yet they wanted her to get enough nourishment:

She [prospective mother] thanked me very much. Her family thanked me separately. They wanted me to eat well, to take protein as well. I can understand them very well. I feel pity for them. They could not have [a baby] on their own, I can understand how they are.. I am sure they will spend their last penny for their children.

Çok teşekkür etti, ailesi de teşekkür etti. Lütfen iyi beslen dediler, protein al dediler. Ben çok iyi anlıyorum onları. Çok da şey yazık onlara. Kendileri olamadılar, ben ne kadar şey olduklarını anlıyorum. Eminim ki son kuruşlarını çocukları için harcayacaklar.

The above dialogue indicates that families want surrogate women to look after their babies well but do not want to pay more for their well-being. Here, the family is concerned more with their own benefits rather than the benefits of surrogate mother. The families do not deviate from the contract or a verbal agreement but they want the surrogate mother to do her best in looking after the child.

4.4.2. Anxiousness

Hale was anxious about the IVF Center in Cyprus so that she was expecting the failure of that first oocyte donation trial. Her suspicions about the IVF Center were transformed into suspicions concerning the oocyte donor in the second and successful trial.

When I asked Hale if she had any fears or worries about the donor, she answered as follows:

Sometimes I think of it, yes. I mean if a genetic disease appears in the future, how will we find that woman if we need to investigate that disease. That makes me confused. I feel anxious. And.. It may seem absurd but.. if I have to donate my kidney [to my children], who will donate. You know mothers give it. I am even unable to give it, for example. My friend's mother donated her kidney to my friend. That may be the reason of my anxiety.

Ara ara geliyor aklıma evet. Yani şu geliyor, eğer ilerde bir genetik rahatsızlık çıkarsa bunun araştırılması noktasında biz o kişiye.. o kişiye ulaşılması gerekirse nasıl ulaşacağız? Bir öyle bir korku geliyor. Bir de hani çok absurd belki ama.. Mesela bir böbreğimi vermem gerekse, kim verecek hani anne verir, değil mi? Ben böbreğimi bile veremeyeceğim mesela o.. E benim arkadaşşıma böbrek verdi de annesi. Belki o yüzden heyecanlıyım ama.

Hale was a very sensitive woman about these details and being unable to help her children in matters of health in the future was making her worried about that. All women were mostly sensitive about the subject; so that, their different stories and experiences included the expression of sensitive feelings and fragility in general.

4.4.3. Suspicion

I could rarely meet with sceptical mindsets of interviewees related to their reproductive practices. One of these interviewees was Nurgül. Nurgül, who had her children via oocyte donation, was anxious about the reliability of operations. Nurgül's and her husband Ahmet's dialogue about this problem is below:

N: Anyway, how can I know if he [the doctor] put the oocyte or not? I have read something like that on the Internet about Cyprus. Oocyte transfer.. you take a pregnancy test after one week you know.

Ahmet: We saw that they put the sperm at the same time; I mean they make this operation under the ultrasound.

N: For example, I saw that they put two embryos under the ultrasound. It popped in instantly. However, I do not know if they were embryos or not. They threw something there; it might be some water. I do not know.. [laughs].

N: Ha tabi şey, şöyle.. Zaten hani bu yapı.. yumurtayı koymadı belki. Öyle şeyler de okudum ben internette. Kıbrıs'ta. Yumurta nakli..zaten bir hafta sonra hamilelik testi yapıyorsunuz hani..

A: Bir de spermi koyduğunu görüyoruz, yani ultrason eşliğinde yapıyorlar bu işlemi.

N: Ben mesela iki embryo yerleştirdiklerini ultrasonda gördüm. Pıt atıldı. Ama onun embryo olduğunu ben bilmiyorum. Bişe atırlar sonuçta, su da olabilir. Bilmiyorum ki.. (gülüşmeler).

Obstetric Branch generally uses ultrasound technology in following the pregnancies in order to see if the baby is in safe and to build trust of the woman and the family. However, in this case of Nurgül, it was not enough to convince the family

and so they continued to think of a bad scenario. Nurgül narrated her anxiety about the subject below:

Well, exactly.. The embryologist put something at the end, but it might be some water. Later, the patient come back here and says 'ah! it is failed' after the pregnancy test. It does not hold, I mean. One of our friends had been transferred with three oocytes, pardon, with embryos. All the three were failed. A patient never knows if the embryo did not hold or not or did the embryologist really put it in the womb.

Tabi işte onu diyorum ya sonuçta birşey atıyor yani su da atmış olabilir. Sonuçta gelirsin buraya, aa tutmadı dersin, hamilelik testi yaptırдық. Tutmuyor da yani, bir tane tanıdığımız şimdi üç tane yumurta yüklemişler, yani embryo koymuşlar. Üçü de tutmadı. Onun tutmadı mı gerçekten, gerçekten koydular mı, kısmını hiçbir zaman hasta bilemez onu.

In addition to sceptical thoughts like Nurgül's, there were some women who were questioning their femininity as well. These examples are investigated closer.

4.4.4. Questioning of femininity

In some women like Fatma, such kind of motherhood concerns lead to a questioning of their femininity. Fatma applied an IVF center to get her child via a surrogacy. She told me that her story started with a kind of coincidence. A telephone call from Cyprus had given them a serious thought about having a child via a surrogate mother. Their decision process concerning whether it was possible or not took two years. She explains the situation as follows:

After all, I mean after we made a decision I had major conflicts in my mind as a woman. If I could accept the situation.. My advantage as a mother who had experienced a pregnancy was seeing my baby at the end and feeling that part of the process.. I cannot say that it was easier, it was again difficult. But again, that helped me in my adjustment. I can say that.

Sonrasında işte ya karar aldıktan sonra çok büyük, kadın olarak çatışmalar yaşadım içimde ben. Ya kabul etmek acaba sonrasında olur mu ama.. Gebeli.. benim artı yönlerim daha önce hani bir gebelik yaşayıp sonucunda ee.. çocuğunu görmüş bir anne olarak o kısmının o süreci hissettiğim için daha kolay diyemeyeceğim çok zordu gene. Ama daha çok çabuk adapte olmamı sağladı. Öyle söyleyeyim.

Fatma thinks that her experience of pregnancy before the process helped her to a degree in her adjustment to the idea of surrogate motherhood. Being familiar with the feeling of pregnancy makes her a bit less worried about her femininity. Ayşe, who has no pregnancy experience before, shared her thoughts about the process in general and adoption of a child and being a woman specifically:

Okay, I mean it may be restricted, or not legal. But what can desperate people do? Okay, they may adopt a child, okay this is a merit both for those people and for the orphans. However, people would want to have children of their own flesh and blood if it is possible. You know its cromosome and all other things belong to us. She only carries it. Okay, its nutrition, I mean it will be fed by her, by that woman. But overall, we do not want so but we have no other choice. Okay, perhaps when someone first hears of it, if I were not in this condition, if I were a healthy woman, perhaps I would have found it strange. It might seem incorrect. However, since we are involved in it, one says ‘why not?’ Because it is missing in you. Just like one may have a missing eye, a missing finger, a missing ear, soandso is missing. I mean that is what is missing in you. That is the reason.

Tamam yani yasak olabilir yani yasal olmayabilir. Ama yani başka çaresi olmayan insanlar ne yapabilir yani. Hani tamam yani başka şimdi, tamam insan evlatlık alsın tamam hani hem kendi için hem ordaki mesela yuvadaki çocuklar için sevap. Ama insan istiyor ki, eğer hani kendi kanından canından hani olabiliyorsa sonuçta hani onların kromozomu herşeyi bizden geçiyor. O sadece taşıyor. Tamam hani beslenmesi mesela yani ondan beslenecek, o kadından beslenecek. Ama sonuçta biz de öyle olsun istemiyoruz. Ama başka çaremiz yok. Tamam belki insan ilk duyduğu zaman benim başıma da gelmese ben de hani sağlıklı bir kadın olsam rahat bir kadın olsam belki bana da tuhaf gelebilir. Hani yanlış gelebilir. Ama bunun içinde olduğumuz için hani o yüzden hani yani neden olmasın ki diyor insan. Çünkü hani sende o eksik. Mesela başkasında hani insanın gözü yok, parmağı yok, kulağı yok, bilmem neyi yok. Yani senin eksiğin de o. Hani o yüzden.

This expression has some similarities with the speech of President of Turkey in 2016 on women who reject to be a mother; that they should be regarded as deficient and half³¹. These are various other examples of general social pressure on women from top to toe. Still, there is a serious deficiency in the critical outlook of Turkish people with respect to old customs and treating.

While some of the women who applied for the surrogacy were feeling themselves as deficient, surrogate mothers were evaluating themselves as rewarding in this process. So, the perceptions and motivations of surrogate mothers are, of course different from their counterparts. Mariam who carries a Turkish family’s baby explained her mood as below:

I am already a mother, I have two children. I feel better by doing this. Because I help her, the person who is unable to have a child. She will also feel that sense. So, I am doing a good thing. I was hearing something about this for a few years. However, I decided to do it [the surrogacy] this year.

Anneyim zaten, iki çocuğum var. Bunu yaparken kendimi daha iyi hissediyorum. Çünkü ona, mesela çocuk sahibi olmayan insana yardımcı oluyorum. O duyguyu yaşayacak o da. O yüzden iyi bir şey yapıyorum. Bunu duyuyordum birkaç senedir. Ama bu sene karar verdim böyle bir şey yapmaya.

³¹ “Erdoğan: Anneliği Reddeden Kadın eksiktir, yarımır,” 05 June 2016, for the news, see: <http://www.hurriyet.com.tr/gundem/erdogan-anneligi-reddeden-kadin-eksiktir-yarimdir-40113493>

As it is seen here, Mariam is in a kind of charity mood by doing surrogacy. She thinks that she helped other women by giving them that sense. Moreover, Mariam presumes that she would give the baby as a ‘gift’ to other family. Here the word of ‘gift’ was used as a ‘favor’. In fact, she would be paid for that baby at the end of the pregnancy and the situation could not be named as a ‘gift.’ Mariam’s words and her symbolic use of the word ‘gift’ are follows:

I talked about it, my family thinks like me. We simply make people parents since they have no child and give it [the baby] as a gift to them. My family, everyone around me knows that.

Görüşüm, benim ailem de benim gibi düşünüyor. Sadece çocuk olmayan insanları çocuk sahibi yapıyoruz ve onlara da hediye ediyoruz. Ailemin, herkesin haberi var.

There are different motives direct surrogate women for the childbearing and giving the babies to other families. This quotation above shows that Mariam supposed her surrogacies as ‘gifts’ to others. Many ‘research (Blyth and Landau, 2004; Haylett, 2012; Kirkman, 2003; Nahman, 2008) has sought to understand motivations behind the provision of eggs for reproductive purposes (Boulos et. al., 2014: 207, 208). In Shaw’s (2008: 18) examination of what she terms generally as ‘bodily gifting practices’ including surrogate motherhood (both gestational and traditional) in New Zealand, participants reported their desires to become egg donors or surrogates for a variety of reasons ‘including empathy for other women who want to have children... being generous and wanting to help someone else... and familial love, obligation or responsibility’.

Kalfoglou and Gittelsohn (2000, p. 799) reported that payment was the primary motivating factor for the participants in their study in US. Research indicates that surrogate mothers and oocyte donors may undertake this practice for a variety of reasons, which can be characterized as altruistic or instrumental. Each group compensated other people’s capabilities related to reproduction by different reasons. However, as it was discussed in the subsection of ‘Similarities of Oocyte Donation with Organ Donation’ later, it should be mentioned here that the main motivation of surrogate mothers and oocyte donors are regarded as instrumental reasons.

4.4.5. The fear of incestuous relationships and marriages among siblings

Benefits of distance and the fear of incestuous relationships and marriages among siblings are found as some important discussion matters in this study. At the beginning of this field study, I had supposed that women in Turkey would like to agree with a surrogate mother in Turkey rather than abroad. In my thought, ARTAP should be in a good communication and relation with the other members of ARTAP who they are in an interaction.

However, Fatma who is the prospective mother from Turkey and Elene, who is a surrogate mother (of another family) in Georgia, helped me to look at the picture from a broader sense. There were another and important anxious among the members of ARTAP concerning the fear of incestuous relationships and marriages among the siblings. For this embedded fear, Fatma told me that she did not think like me.

With her own words:

I: How did you find your surrogate mother?

P: The IVF Center made us communicated. It (surrogacy) was an advise of our doctor friend. I would like to have the baby in my own body. I would like to feel that sense. I would like to have it by myself. I am pleased of knowing that surrogate mother lives abroad, I would not like her to be a Turk.

I: Taşıyıcı annenize nasıl ulaştınız?

P: İşte buradaki tüp bebek merkezi ulaştırdı bizi ona. Doktor bir arkadaşımızın tavsiyesiyle oldu. İsterdim ki kendi bedenimde olsun. O duyguyu yaşamak isterdim. Kendimden olsun isterdim.

Taşıyıcı anne yurt dışında olduğu için yine de memnunum, Türk olsun istemezdim.

Elene, who is a surrogate mother of a Turkish family in Georgia, partially agreed with my assumptions about having the surrogate mother from the home country:

It could be better if there were a surrogate mother from her own country. It could be easier. It is more difficult since it (the surrogacy) is abroad. However, you know that the child will live abroad; it is easy for me. It is difficult for them but easier for me.

Kendi ülkesinden bir taşıyıcı olabilseydi daha iyi olurdu. Kolay olurdu, yurtdışında olduğu için daha zor oluyor. Ama çocuk yurtdışında yaşayacak ya, o daha kolay geliyor bana. Onlar için zor ama benim açımdan daha kolay.

Two quotations above show that both mothers, Fatma (prospective mother) and Elene (surrogate mother) are pleased of the distance between them due to certain reasons. The explanation of Mehmet, who is an embryologist in an IVF Center in Georgia, supports and explains both Fatma's and Elene's approaches:

Rather.. it is soothing for surrogate mothers to know that these children would live abroad, since they are worried about the relationships or marriages among them. Did you understand? For instance, [I am worried] if they start a relationship. They think like this in general. They are distressed about that point for example. They are not distressed about any other points.

Daha çok.. taşıyıcılar, bu çocuklar aynı ülkede olurlarsa birbirini bulmasınlar, evlenmesinler diye yurtdışında olmalarını rahatlatıcı buluyorlar. Anladın mı? ilişki kurmasınlar diye mesela. Genel olarak düşündükleri böyle. O konuda mesela sıkıntıları var. Başka konuda yok.

Such statements explore that not only oocyte donors as they are known but also surrogate mothers feel the responsibility of being a mother. In other words, they both are worried about the possibility of the incestuous relationships of their children around the world. It is another problematic social dimension of this complicated process. Since oocyte donors and surrogate mothers mix more than one family in getting their child, there is possibly more than one child around the world who has the chance for getting a relationship with a brother or sister. As it is known, IVF centers tend to get more than one oocyte from an oocyte donor. Embryologists make the oocyte donor use drugs and hormones and make them able to give three or more oocytes at once. The use of these oocytes in making different embryos for different couples is still under discussion. Even if these oocytes are being used for a unique couple, again the same oocyte donor is able to give her oocytes to another couple next time. That means, there are always some possibilities of incestuous relationships among these siblings in the future even if the communication technologies are very widespread.

However, some parents like Nurgül and Ahmet, who have children via oocyte donation, preferred to welcome that risk and defended their decisions as follows:

N: He [her doctor] told me that if there was another [oocyte] donation [from the same woman] and if so, children might have siblings in another family. And if they [children] come across each other and get married and so on, you know this is a problem. It is told that this was the main troubled point of donation process. When we investigate it.. I mean, this is a difficult coincidence.

A: But banning such a donation is something against people.

N: Well..They are not a hundred percent relatives, yet; they are fifty percent relatives. I mean, It [kinship] comes from the one party.

A: I think this is easy to solve.

I: Then is it a risk that you can take?

A: Exactly, it is hard for people, finally they want to have a child and they cannot. Perhaps, they look for nonsensical ways to do it.

N: Yes, rather than absurd solutions, this is at least a reliable one.

N: Şeyi söylüyor, çocukların hani başka bir donasyonla yine tekrar başka bir ailede çocukların kardeşi varsa, hani bunlar denk gelir de bir evlenirse vesaire gibi bir sıkıntı ya bu. Donasyon işinin asıl sıkıntılı kısmı büyü. Biz bunu araştırdığımızda. Yani, hani böyle bir şeye de hani denk gelmek zordur diye düşünüyorum.

A: Ama insanların şeyine hani böyle bir donasyonu yasaklayacak..

N: Şey yüzde yüz akraba bile olmuyorlar, %50 akraba oluyorlar. Tek taraftan şey geliyor yani.

A: Onlar bence kolay çözülebilecek birşey yani.

I: Göze alınabilecek bir risk.

A: Aynen yani, insanlara da yazık yani, neticede çocuk sahibi olmak istiyorsunuz ve olamıyorsunuz. Abuk sabuk yollara başvuruyorsunuz belki yani.

N: Evet, abuk subuk yollardansa en azından güvenli yollar.

According to Nurgül and Ahmet, oocyte donation is a reliable solution in which they should take risk about the child. It is better rather than absurd solutions.

4.4.6. Social pressure and ARTAP's solutions against it

It is seen that so many individuals of ARTAP apply for such absurd or namely, 'nonsensical treatment' before and after their application for assisted reproduction technologies because of social pressure. Ogilvy (1912: 35) wrote in his famous novel, *Peter and Wendy*, that "You see, Wendy, when the first baby laughed for the first time, its laugh broke into a thousand pieces, and they all went skipping about, and that was the beginning of fairies..." "And so," he went on good-naturedly, "there ought to be one fairy for every boy and girl."

In addition to fairies, there are some other situations, which may attribute as 'non-sensical.' My preference for using this concept takes its source from the foundations of the situations/ ways of solutions. These ways, namely so-called solutions, has neither a scientific nor a religious foundation, which makes them 'nonsensical.' Wittgenstein, who is a philosopher, wrote specifically on linguistics and logic and emphasized the meanings of 'nonsense' and 'nonsensical' in his papers. In an example, which was given by Wittgenstein in one of his writings, the difference between the approaches of science and religion towards 'miracles' was manifested. According to Wittgenstein (1965: 11):

...it is absurd to say "Science has proved that there are no miracles." The truth is that the scientific way of looking at a fact is not the way to look at it as a miracle. For imagine whatever fact you may, it is not in itself miraculous in the absolute sense of

that term. For we see now that we have been using the word "miracle" in a relative and an absolute sense...

From the quotation above, we see that it is important not to call a situation as 'nonsensical' according to its falsifiability by scientific methods. The techniques and approaches of science and religion are very different from each other. However, what does Wittgenstein offer us in using the concept of 'nonsensical' for?

That is to say: I see now that these nonsensical expressions were not nonsensical because I had not yet found the correct expressions, but that their nonsensicality was their very essence. For all I wanted to do with them was just to go beyond the world and that is to say beyond significant language.

My whole tendency and I believe the tendency of all men who ever tried to write or talk Ethics or Religion was to run against the boundaries of language. This running against the walls of our cage is perfectly, absolutely hopeless. Ethics so far as it springs from the desire to say something about the ultimate meaning of life, the absolute good, the absolute valuable, can be no science. What it says does not add to our knowledge in any sense. But it is a document of a tendency in the human mind which I personally cannot help respecting deeply and I would not for my life ridicule it (Wittgenstein, 1965: 11).

By bearing Wittgenstein's approach to the concept of 'nonsensical' in mind, this word is used similar to Lett (1991: 305)'s explanation for nonsensical metaphysics: "underlie belief in paranormal phenomena". After highlighting the properties of the leading men of nonsensical cases, this implied meaning of the concept would possibly be clearer and concrete. Actors of nonsensical ways are not people from scientific or religious branches in general; rather they are traditional healers or individuals who are believed by the some of the individuals of that community as 'talented.' These actors are known as so talented that, people who looks for a cure for their difficult health problem (or relationship problem in some cases) are strongly advised by the people in their environment to visit these people at least before becoming a member of ARTAP.

Secondly, non-sensical ways are generally supported and fed by traditions in that society. This mechanism contributes the continuity of these non-sensical ways and their practice. Since the 'non-sense' refers something, which is not scientific or logical, it is nearly impossible to invalidate a nonsensical way or technique.

Thirdly, nonsensical ways are criticized since they are far away from providing permanent and worthwhile treatments; they give hopes and in fact create emotional exploitation in the end. When the members of ARTAP started losing their hopes from the IVF technologies and other reproductive treatments, they tend to

apply for nonsensical ways (hodjas, Alawite grandfather, healers, accoucheuses, etc.) as an alternative before the last (IVF techniques including third parties' wombs or genetic materials). Applying for a surrogate mother came before applying to get a concubine in one of my cases in this study.

Applying for an alternative does not exclude nonsensical ways, dependently. Namely, some nonsensical ways may accompany other processes. For example, it is told me by the embryologists that the men of the couples, who apply for oocyte donation or surrogacy, tend to ask for imam wedding with donors /or surrogate mothers as so-called solutions which would justify this attempt religiously. The question if they were justified religiously or not by imam wedding was not investigated in this study but it is obvious that imam wedding with donors /or surrogate mothers would be accepted as a fictive legitimacy in Turkish society.

Aristotle has a considerable approach to such behaviors of human in scope of practical wisdom and deliberation in the sixth part of his famous book, *Nicomachean Ethics* (Aristotle, 1999: 94). In this section, he wrote on the practical reason of a man about what was good and expedient for himself. According to Aristotle (1999: 94), the man who was capable of deliberating had practical wisdom. After discussing if the deliberative activity of man was taking its source from scientific knowledge or art, Aristotle (1999: 95) fixed his idea on another and last alternative: 'a true and reasoned state of capacity to act with regard to the things that are good or bad for man'. Moreover, he ended his discussion by considering that those could do that who were good at managing households or states (Aristotle, 1999: 95)³².

Here are some related examples of these solutions because of social pressure. Before and after integrated to an assisted reproduction process, especially if it includes third parties, more or less all individuals of ARTAP suffer from social pressure. If a couple cannot have their child in their marriage, families start to give them direct or indirect messages on having a child. For the maintenance of the

³² "...Since scientific knowledge involves demonstration, but there is no demonstration of things whose first principles are variable, and since it is impossible to deliberate about things that are of necessity, practical wisdom cannot be scientific knowledge nor art; not science because that which can be done is capable of being otherwise, not art because action and making are different kinds of thing. The remaining alternative, then, is that it is a true and reasoned state of capacity to act with regard to the things that are good or bad for man." (Aristotle, 1999: 95).

family, this pressure lead people to force themselves to have a child. However, their applications to assisted reproduction technologies are not respected either by their families or environment unfortunately.

As it is known, this pressure first comes from the families and social environment. ARTAP prefer avoid possible reactions towards them. Such social pressure leads ARTAP to apply for nonsensical ways.

Following quotation is from the dialogue with Elene, a Georgian surrogate mother. Since their environment does not know surrogate mother's work, they generally prefer to move to another city or house to spend the last months of their pregnancies. As a result of this social pressure on Elene and her family she also had to be seperated from her child. In her words:

I: Well, does your family know this, do your friends and people in your environment know?

E: Only my sister knows it.

I: Do not you see your family, do you avoid people in your environment?

E: Yes. In fact I live with the (husband's) family. I live in their house. I had to avoid them (husband's family). Only my husband knows it. I do not want my environment to hear this.

I: Your husband knows but do not you live together?

E: Yes. Since he lives in Russia. My husband went there to work. Our child is near my mother, here. I told them that I went for work. I do not see my child. I have not seen him for a month. There are 3 months left, I will be seperated from him for four months.

I: Peki ailenizin bilgisi var mı, çevrenizin arkadaşlarınızın bilgisi var mı?

E: Sadece kardeşim biliyor bunu.

I: Görüşmiyo musunuz ailenizle, çevrenizden kaçıyor musunuz?

E: Evet. Şey var bu aile ile yaşıyorum. Onlarla oturuyorum. Aileden uzaklaşmam gerekti. Eşim biliyor sadece çevrenin duymasını istemiyorum.

I: Eş biliyor ama birlikte yaşamıyor musunuz?

E: Evet. O da Rusya'da yaşadığı için eşim, çalışmak için oraya gitti. Çocuk benim annemin yanında, burda. Çalışmaya gittim dedim. Çocuğumla da görüşmüyorum. Bir aydır görüşmüyorum. 3 ay kaldı, 4 ay çocuğumu görmeyeceğim.

Similar examples of these results of social pressure can be seen especially in surrogate mothers' experiences clearly. Even if the use of reproductive technologies is allowed in Georgia, surrogate mothers avoid to be judged by their environment during and after their pregnancy. Mariam who is another surrogate mother, phrases below:

Everybody knows. My daughter knows it. My other child is 2 years old, yet. I do not commit a crime. I do not steal something from somewhere. I can tell everybody. I do not hide it from the members of my family, but people in my environment do not

know. I hide it from my environment. Most of them (surrogate mothers) hide it. Again, there is no problem.

Herkes biliyor. Kızım biliyor. Diğer çocuğum 2 yaşında daha. Bir suç işlemiyorum, bir yerden birşey çalmıyorum. Herkese söyleyebilirim. Ailemden kimseden saklamam ama çevrem bilmez. Çevreden saklarım. Çoğu saklıyor ama yine de bir sıkıntı yaşanmıyor.

Here is the statement of Ali, who had their child via surrogate mother. Ali, who is the husband of Ayşe, wanted to talk to me after I had an interview with his wife. Ali first said that they could not do without a child because of their own desire and because of social pressure, which shaped it:

... I can tell you that I have become an alcoholic in 15 years.. for example. I went nuts. You cannot guess what happens without a child, lets imagine this. You cannot build a family. We were left desperate at home. And after that I have become an alcoholic.. I had started drinking alcohol. I mean there is no thing; I could not find a solution. I could not produce anything in my mind. My child was stillborn, and my mother died after that. I mean, many difficulties were experienced, we experienced. I mean such an environment causes this. A family without a child cannot exist because it is perhaps so in our minds, I do not know. When you look around some people do not want to have a child. However, we obviously could not live without a child.

Şöyle söyleyeyim ben size 15 sene içinde ben.. ben alkolik oldum mesela yani. Kafayı yedim. Ne oldu çocuk yokken düşünün. Aile kuramıyorsunuz. İki kişi böyle sap gibi evde oturuyoruz biz. E sonra ben alkol.. alkole başladım, baktım şey yok yani çözüm bulamıyorum. Kafamda hiçbir şey üretmiyorum. Çocuğumu kaybetmişim, sonra annemi kaybetmişim. Yani bir sürü sıkıntılar yaşandı işte, yaşıyoruz. Yani bu yaşıyor insana bu ortam. Çocuksuz bir aile olamaz yani çünkü kafamızda herhalde bilmiyorum da yani. Böyle baktığınız zaman bazı insanlar çocuk istemiyor. Ama biz çocuksuz yapamadık açıkçası.

It was understood later that the pressure of his environment on the couples without child injured Ali. In his sentence of “A family without a child cannot exist because it is perhaps so in our minds, I do not know,” it is understood that, their minds and expectations on the ‘family’ were determined and imposed by society. He is aware of this, he is complaining about that, he decided to move his family from that environment from but he could not argue against them in his life:

Yes, The society has such a pressure. Ah, it is just because of that (we felt that) they applied an overwhelming policy on us all the time. Countrymen, we have our countrymen. Ee.. [they ask] ‘can’t you have a child’, and so on. They had pressed us, so we moved away from there. We moved to another city. We relaxed for some but later, willingly or unwillingly, there were social influence again, I can’t say it were not. I’d be lying if I say it did not affect.

Toplumun evet öyle bir baskısı var. Ha zaten ondan kaynaklı ben hep üzerimizde çok şiddetli bir sıkıştırma politikası geliştirdiler. Köylü, bizim köylülerimiz var. Ee.. çocuğunuz olmuyor mu bilmem ne. Baskı yaptılar yani biz de oradan uzaklaştık zaten. Başka yere taşındık. Biraz rahatladık ama gene de ister istemez toplum baskısı oldu, olmadı değil. Etkilemedi desem yalan olur.

Ayşe who had her child via surrogacy, had similar problems especially with her husband's family. Again, she said that the media and films about surrogacy positively affected their process. She told me their difficulties in explaining this situation to their families as follows:

At the beginning, I mean it was really difficult to tell people about this for us. Ee.. Now I.. so that.. Media have affected in a period of time. Films, serials about surrogate motherhood were come out. We went to each of our family elders. My husband talked to his family, I talked to my mum since I have only my mum alive. However, I know that there had been some problems, pressures from his family even if my husband did not admit it. But our love coped with them briefly. Ee.. I know that there were negative things, I know negative events..

Ya ilk etapta yani bunu anlatmak zordu gerçekten bizim için. Ee.. Ya ben şimdi şöyle birşey.. Medyanın da biraz etkisi oldu bu bir dönem taşıyıcı annelikle ilgili filmler, diziler felan çıktı. Aile büyüklerimize işte biz teker teker işte eşim ailesiyle, ben zaten sadece annem var. Ee.. konuşma yaptım ama biliyorum şu an hani şu an eşim itiraf etmese de ben biliyorum onun ailesi tarafından bir takım baskılar ya da işte sorunlar yaşandığını biliyorum. ama bizim sevgimiz üstte geldi açıkçası. Ee.. olumsuz şeyler olduğunu biliyorum olaylar olduğunu biliyorum.

Similarly, Hale, who was donated with oocytes of another woman, described her confusion towards the reactions of people from her environment. She was confused because she did not expect those reactions from those kinds of people. Since Hale was an overeducated person, according to her thought, Hale's overeducated friends should support even in this issue. However, she had a dissatisfaction.

These surprising reactions for her were quoted below:

We experienced so interesting situations. We had experienced surprising cases also from our environment. Not discriminating directly, but I think this is a sense about understanding or rejoicing in the name of someone. One of my friends, who is a medical doctor, asked me how I would accept [the child], and so on. She considered to ask every detail of the process necessary. She told me that it would be very difficult to accept, how I could do, and so on. Possibly because of her professional life she told me how it would be difficult to accept, how I would do with that, etc. And she added that she was very surprised by me.

And I witnessed the cleaning lady who comes to my house that she was very rejoiced in the name of me, cried with me, she had been very happy for the pregnancy news and had come to celebrate me, etc. Unexpectedly. In fact, I had got different reactions from unexpected people.

Çok enteresan durumlar yaşadık. Ee.. Çevre olarak da çok fazla enteresan durumlar yaşadık. Ya insan ayırdetmek değil de bunu anlamak ya da işte insan adına sevinmekle alakalı bir duygu olarak düşünüyorum. Bir doktor arkadaşım bana dedi ki yani nasıl kabul edeceksin vesaire. İşte her detayını sorma gereğini duydu, ya da işte içinde bulunduğu meslek hayatı yüzünden ya da işte kabul etmen ne kadar zor olacak, nasıl yapabileceksin vesaire derken çok şaşırılmış, çok şaşırttı beni ee..

Evime gelen temizlikçi bayan benim adıma çok sevindiğini, ondan sonra işte benimle birlikte ağladığını, işte hamilelik haberine çok sevinip işte beni kutlamaya geldiğini

vesairesine tank oldum. Yani hiç beklemezken. Hiç beklemediğim insanlardan farklı tepkiler aldım açıkçası. Ee.. herhalde bu kişilerin sizi ya da sevmeleri ya da sizin adınıza ee..sevinmeleriyle alakalı bir durum diye düşünüyorum. Bilmiyorum ama.

For Fatma, who was living with her husband's family and applied for the surrogacy, it had been very difficult to explain the situation to that family. With her words:

..I begged all the time, Oh my God, if that is the best, make us to get it in the best time.. For God willing, for giving me that strength. Its psychological state is out of this, people from here and there says.. Moreover, we live together. I mean we live together with my husband's family. It was very difficult. However, I and my husband overcame with that.

..her zaman dua ettim, Allahım hayırlıysa hayırlı zamanda olsun. Hani inşallah olsun diye yani bana o gücü ver diye. Yani onun psikolojisi de ayrı sağdan soldan yani bir de biz bir aradayız. Hani eşimin ailesiyle falan bir yerde bulunuyoruz mesela. Çok zor oldu yani. Ama bunun altından kalktım yani eşimle birlikte.

Her husband's family also mistreated Ayşe, who had her child via surrogate mother. She told me that since the education levels of her husband's family were high relatively, she was not expecting such a reaction. In her phrasing:

I am a university student; my husband is also a university student. My husband's parents are graduated from the university, while one of them was a high-rank soldier. Even they made me feel that I was guilty for not being able to have a child. I mean, why can't you have a child, so and so, it was very problematic. I did not care so much but again.. you care in any case. I mean, It is very difficult..

Ben üniversite öğrencisiyim, eşim üniversite öğrencisi. Annesi babası eşimin üniversite mezunu, biri çok üst düzey asker. Onlar bile bana ara ara hissettirdiler yani çocuğun olmuyor. İşte neden olmuyor, bilmem niye olmuyor, bayağı sıkıntılıydı. Çok ben takmadım ama yine de illa ki takıyorsunuz yani. Çok sıkıntılı..

Ali, who is the husband of Ayşe, shared his ideas and experiences with me on the social pressure. Since they had their child via surrogacy and live in a relatively conservative region of Turkey, he told me that they planned to move to the Southern region of Turkey to avoid social pressure of their environment:

We come to the world for once, so we are not in a situation to conceal this. Fortunately, everyone knows it. I mean, I could tell this to people, there is nothing to talk behind my back. If they talk I do not care. Do I have a child, yes I do; am I comfortable in my conscience, yes I am. Do I love, yes I do. That is enough for me, nothing else matters in short.

Conservativeness is being imposed. I found my solution in not to caring at all. I will live myself, I am the one who will make it (the child) live. There are a lot of people who want to pressurize and put you under stress. If they do not let us live in peace after the birth, I would take my child and wife and move to a Southern region of Turkey. I do not have to give an account to anyone else.

Yani dünyaya bir kere geliyoruz, bunu da saklayacak, gizleyecek halimiz yok. Herkes biliyor çok şükür. Yani ben de anlatabildim insanlara bunu ne diyecekler arkamdan. Bir şey derlerse umrumda bile değil. Benim çocuğum var mı var, iç

dünyamda ben huzurlu muyum huzurluyum. Seviyor muyum, seviyorum. Yeter bana gerisi çok önemli değil açıkçası.

Muhafazakarlık empoze ediliyor. Ben çareyi umursamamakta buldum. Kendim yaşayacağım, yaşatacak olan da benim. Baskı yapan, sizi sıkıntıya sokmak isteyen insan çok var. Çocuk doğduktan sonra da rahat bırakmazlarsa alırım çocuğumu, eşimi, giderim güneye bir yere yerleşirim. Kimseye de hesap vermek zorunda kalmam.

I asked Ali if he would like to give that information about the surrogacy to his child in the future. Then Ali was a bit confused and tried to make certain reflections on their situation as below:

I do not know, its birthplace is written as Georgia, I do not know what we will do, how we will manage that. I have not planned it, yet. I think s/he will hear [the reality]. For that reason, it would help to share this in the future, when s/he is 6 or 7 years old. We should consult a pschologists. I have psychologist friends, we can ask, consult them. I do not know how to do it but we will see. Time will show.

Bilmiyorum, şimdi doğum yeri Gürcistan yazıyor, nasıl yapacağız nasıl edeceğiz bilmiyorum daha planlamadım onu ama yani. Yani illa ki duyacaktır diye düşünüyorum. Onu o yüzden paylaşmakta yarar var, ilerde 6 yaşında 7 yaşında. Onu psikologlara sormak lazım tabi. Psikolog arkadaşlarım var onu sorarız danışırız. Bilmiyorum nasıl yapacağımı bilmiyorum ama bakacağız zaman gösterecek onu.

People who apply for the surrogate motherhood abroad have another problem of getting the child whose birthplace is written as abroad. This is a serious problem for people who do not want to explain the reality neither to their environment nor to their child.

Apart from people who apply for surrogate motherhood abroad there is another group of people who try to find surrogate mother in their home country. In this solution, they find the surrogate mother by themselves or via IVF Center abroad, they make the operations abroad but they let the surrogate mother to bear in Turkey with the identity card of the prospective mother. So there will not be a necessity for explaining the birthplace of the child neither to the environment, nor to the child.

In this case, the highest motivation for applying such a risky scenario in assisted reproduction technologies took its source from ‘concubine’ threat. A couple from Gaziantep, Turkey, who lives in Germany, applied for the surrogacy to an IVF Center in Cyprus. This center found Ayten for their surrogacy operation.

From Ayten’s eyes:

I: You mean she was face to face with getting a divorce?

A: Not getting a divorce, getting a concubine. I mean.. They are an Eastern Anatolian family, they are from Antep.

I: Where do they live?

A: They live in Berlin, Germany. Her family is on this side. Her family lives in Turkey, she lives in Germany with her husband.

I: Where would he take the concubine? To Germany?

A: Exactly. They were already relatives with her husband through her aunt. You know the Eastern people, they appeal to the concubine immediately after they fail in having a child. There is nothing bad in this surrogate thing.. I make a family.. I mean, I am getting rich materially while she is getting rich spiritually. Both of the families are happy in the end, I mean after they succeeded. Somehow, it is banned in Turkey.

I: *Boşanmakla karşı karşıyaydı diyorsunuz?*

A: *Boşanmak değil kuma. Yani bir de Doğulu oldukları için Antep li oldukları için.*

I: *Nerde yaşıyorlardı?*

A: *Almanya'da yaşıyorlar, Berlin'de. Ailesi bu tarafta. Ailesi Türkiye'de yaşıyor. Kendisi kocasıyla Almanya'da.*

I: *Kumayı nereye alacak, Almanya'ya?*

A: *Aynen. Zaten akrabaları, teyzesinden, eşyle yani. Doğuluları bilirsin, çocuk olmayınca hemen kumaya başvururlar ya o yüzden. Kötü birşey yok ki bu taşıyıcılık olsun, bir aileyi.. yani ben maddi yönden o da manevi yönden zengin ediyorum ben. İki aile de mutlu oluyor sonuçta yani amacına ulaştıktan sonra. Ha Türkiye'de yasaklıyorlar ya sonuçta yani.*

The 'concubine' is known as a typical Eastern Anatolian people solution for (more) child bearing, heritage, workforce, etc. Since people from those regions may get concubine even if they have child, it is expected especially when they do not have. Hale also told me that she heard about similar solutions when people are unable to have access to this technology for various reasons:

I believe that there are a lot of people who are unable to cover this, both materially and spiritually. Probably they can't have child. They suffer from great trouble shoot. For aught I know, probably their marriages get end or they apply for other alternatives. They have concubine or anything else. In order to prevent them, perhaps there should be a new regulation. I mean this is so open to emotional exploitation.

Maddi manevi bunu kaldıramayacak insanlar eminim çok fazladır. Onlar çocuk sahibi olamıyorlar muhtemelen. Çok büyük sıkıntı çekiyorlar, ne bileyim belki evlilikleri sona eriyor veya başka yollara başvuruyorlar. Kuma getiriyorlar, bişe yapıyorlar. Bunların önüne geçilebilmesi için belki yasal düzenleme yapılması gerekiyor. Bu duygusal sömürmeye çok açık bir olay yani.

Women who are donated by other women's oocytes perhaps in a better emotional condition with respect to forgetting their unpleasant experiences than women who need surrogate mother for having the child. Donated woman, for example Hale, had the chance to forget all the process rather than facing the facts during her life:

I actually forgot [about the process]. I mean that in fact.. You have forgot about all. By saying, 'I forgot'; I mean that I think it likes a poignant thing. I gave the birth, I am breastfeeding them, they are my children. That feeling is very different. ...By saying that I forgot that subject, I do not mean to drop the subject entirely. However you know, person may forget what she lived if she is with her children anymore.

What shall I say, you know you forget about the birth after a while. You forget pain and distress related to the birth. Human mind is so probably that it eliminates pain and distress and prefer to concentrate on beautiful things. It is so after the children. *Ben unuttum aslında. Hani onu diyorum ya işte aslında. Unutuyorsun yani. Unuttum derken hani işte bir, bir dokunaklı birşey gibi düşündüğüm için hani kendim doğurdum kendim emziriyorum, benim çocuklarım. O hissiyat çok farklı. Hani o konuyu tekrar konuşuyor olmak da ya insanlara bir yararı olacaksa mesela ben destek de olup konuşabilirim de birisi bunu düşünüyorsa mesela işte bana fikir sormak istese. Ben beyan ederim fikrimi. O konuyu unutmak dekren tamamen kapamak şeklinde değil. Ama hani insan böyle birşey yaşadığını unutuyor çocuklarla olduktan sonra. Nasıl diyeyim, hani doğumu da unutuyorsunuz bir yerden sonra o acıları, sıkıntıları. Hani o sıkıntıları, acıları, insan beyni öyle herhalde sıkıntıları acıları atıyor, güzel şeylere konsantre olmayı tercih ediyor. Öyle oluyor yani çocuklar olunca.*

Until coming to this phase, many people apply for nonsensical ways as explained above. One of them is a Turkish woman, Fatma who applied for surrogate motherhood in Georgia. With her words:

He [gynecologist] told me that my womb was very small, I could not get pregnant, and so on. I could not carry, the tissues were very weak and there was no possibility for the embryo to grow up. Of course he told these in those days. We saw other doctors for many times, I also visited to prestigious doctors as well. I even visited extra hodjas (laughing) apart from others. And I am trying this one. *Rahmin çok küçük olduğunu, işte hamile kalamayacağımı falan söyledi. Taşıyamayacağımı, dokuların çok zayıf olduğunu hani büyüme imkanı da olmadığını. Tabi o o zaman söyledi, onun üstüne biz birkaç kere daha doktora gittik, hani ünlü doktorlara da çok gittim. Ekstra hocalara gittim [gülüşmeler]. O ayrı. Bir de bunu..*

Fatma did not tell me what hodjas did to her to get a child but Eda did after her husband noded her:

They told me to go to Dede, I went, they told me to go to hodja, I went. I went so many people including Dede (Alawite Grandfather) and Ebe (Midwife).. I had been pregnant 5 times in 10 years. However, I could carry up to 5-6 months. After that time, I always had miscarriages. People told me that I could get better in Nurdağı, Gaziantep. She was an old women. I went to her. She told me that my womb glided down. She hanged me to the ceiling from my feet. Of course, I let her do so, what could I do? I do not have any other option. Moreover, I had some references. I had heard that she healed some other women. *Dedeye git dediler gittim, hocaya git dediler gittim. Ebeden tut dedeye kadar.. 10 yıl içinde 5 kez gebe kaldım. Ama beş aya, beş buçuk aya kadar taşıyabildim. Sonra düşük oluyordu. Gaziantep Nurdağı'nda iyi olursun dediler, yaşlı bir teyze idi kadın. Ona gittim. Rahminin aşağıya kaydığını söyledi. Ayaklarımdan tavana astı beni. İzin verdim tabi ki, ne yapacağım. Çarem yok. Hem referanslarım var idi. Başka kadınları iyileştirdiğini duymuştum.*

After my question of ‘*Did you let her to hang you?*’ she answered me as above ‘*Of course I let her to do so, what can I do?*’ This dialogue obviously brings

the desperation of Eda to light. So many people in Turkey feel similar desperation when they learn that they are incapable of reproducing. At the end, they apply to the most unbelievable alternatives for help. Eda applied to surrogate motherhood after trying all other alternatives for her. As a result of this demand, an abuse of desire for reproduction emerged as an example of it is seen above.

In IVF Center in Georgia, I witnessed another incident, which is again difficult to explain rationally. A Turkish man was applied to the IVF center for Imam wedding with the Georgian oocyte donor who was found again by IVF center. According to my Daily notes, embryologist told me that this case is seen frequently. I sit with the man in the waiting room for a few minutes. He seemed nervous. I supposed that his family motivated him for this wedding. However, embryologist insisted on that the imam wedding was his (prospective father's) own request. After a while, an imam and the donor would come to this clinic in Batumi, Georgia, and an imam wedding would be done for these people. Hereby, their union on the basis of their reproductive materials would be recognized on the God level. After this wedding, there would not be any obstacle in the pregnancy process and afterwards for them. I learnt that Turkish people generally apply for this wedding in order to legitimate the process including third parties. It should be asked if this wedding could defend ARTAP from legal investigations since ARTAP is allowed in taking parts in assisted reproduction processes with only their husband and wife. This smartness is discussed in the Second Findings section.

According to Veli, who is a gyneacologist and embryologist in Turkey, religion has importance in decision making of Turkish people on assisted reproduction:

Some patients come to us with a reverse method. Even if we do not advise them about this issue in Turkey, they know Greece and Cyprus issues very well. They search them and come here to get information about that. We tell them that they are not legal and the social dimensions of them as well. We add that, in fact that child is not so different from adopted child. However, in general, they visit clergy immediately after visiting us and evaluate these information after that. It means the main issue here is religion.

Bazen hastalar bize tersi yöntemle geliyorlar. Biz hani her ne kadar doktorlar Türkiye'de bunun danışmanlığını vermese de hastalar Yunanistan ve Kıbrıs meselesini çok iyi biliyorlar. Ve onları araştırıp geliyorlar. Ve bununla ilgili bilgi almaya geliyorlar. Biz yasal olmadığını anlatıyoruz ve sosyal boyutlarını da anlatıyoruz. Çünkü o çocuk genetik olarak onların çocuğu olmuyor. Bunun evlatlık almaktan çok büyük bir farkı olmadığını da anlatıyoruz. Eee.. ama tabi onlar

bunları değerlendirirken burda doktor tavsiyesini aldıktan sonra gittikleri ilk yer din adamları oluyor. Yani burda demek ki ana konu burda dini şeyler, motifler.

Ali, the husband of Ayşe, told me his thoughts about the people's general view on the assisted reproduction and religious authorities:

They do not know, everyone assumes this as something.. I mean an utopian thing. However it is something physical.. you are going to the doctor, I mean it is a normal thing, there is no problem or harm to anyone else. I told, there is nothing [bad]..to me. Perhaps it [anxiety] may take its source from socioeconomic circumstances. I know a professor who called me and opted out. It is a work, which our minds fail in. Think for a while, in America a woman wants it from her mother, and her mother gave the birth to the child. They are so comfortable about the subject. However, our religion is so. Not our religion in fact, people who direct the religion teach the religion incorrect or do not know the feelings of people and so they make such interpretations or give fetwas like that.

Bilmiyor herkes şey zannediyor bu işi, ne bileyim hani ütöpik birşey zannediyor. Halbuki gayet fizik.. şey.. doktora gidiyorsun, normal birşey yani, bir sıkıntısı bir zararı yok ki kimseye. Anlattım, birşey yok bence hani sosyoekonomik durumdan kaynaklı olabilir. Hani bir tane profesörün beni arayıp da vazgeçtiğini biliyorum böyle. Şey iş ya, daha kafamız yetmiyor. Düşünsenize Amerika da kadın annesine yaptırıyor ya annesi doğuruyor çocuğu. O kadar rahatlar ki bu konuda. ama bizim dinimiz böyle. Yani bir dinimiz demeyeyim de artık dini yönlendiren insanlar maalesef yanlış anlattıkları için veya insanların duygularını bilmedikleri için öyle yorumlar yapıyorlar fetvalar veriyorlar.

However, some argumentations towards this speech should be offered since people try to make the process legitimate for their religion. This effort for finding an intermediate solution between their religious pressure and social pressure possibly guided them to make Imam wedding with the donor or surrogate mother. The situation here leads us to refer again one of the power modes of Foucault: it is pastoral power. According to this conception of Foucault, pastors have the reputation of being of service to their respective flocks, and that is characteristics of the pastoral mode of power; also the members of the flock are dependent on the shepherd (Fendler, 2010: 45).

In Turkey it is not allowed to reproduce by using other parties' genetic or body materials as it is known. Against this ban, people tend to reproduce in illegal ways or abroad in order to have children. Rebelling against sovereign power makes sense according to Foucault, while rebelling against pastoral power does not; since the pastor exercises power only to protect and nurture the flock (Fendler, 2010: 46). The pastor does not refer to religious person in all cases. Here, it refers to hodjas,

healers, imams and religious authorities, Dede (Alawite Grandfather), or Ebe (Accoucheuse) and others all together. Since all these actors are responsible from the surveillance in society, conservativeness and continuity of the social and cultural system, they should be recognized as the tissues of pastoral power.

Table 7.

The Constraints towards the capability of senses, imagination and thought

Capability	Constraints
The Capability of Senses, Imagination and Thought	1. Worries and Distrust
	2. Anxiousness
	3. Suspicion
	4. Questioning of femininity
	5. The fear of incestuous relationships and marriages among siblings
	6. Social pressure and ARTAP’s reactions and solutions against it

In ‘Senses, Imagination and Thought’ subsection, the results including the constraints which were experienced by ARTAP towards the social pressures around them were discussed and showed in the table. According to this, it is seen that especially people who were the beneficiaries of assisted reproduction services was distraught with their worries in the process. Many of them stated that they could not trust to the IVF Centers and had distrust in general. Only after getting their baby in the end, they could get over anxiousness and suspicion towards the practices. While women who had fertility problems of various reasons were not pleased with their femininity and questioning it; some others who had their child/ren via these assisted reproduction technologies were not feeling themselves in tranquility and serenity since they had the fear of incestuous relationships and marriages among their siblings. Nearly all of these feelings were taking their sources from ‘social pressure’ towards ARTAP. ARTAP stated that they applied some other ways generally before assisted reproduction technologies. These reactions and solutions were also discussed in this part.

As a result of all these constraints it was proved that assisted reproduction technologies were creating social pressure and constraints also for the Capability of

Senses, Imagination and Thought. Media and social media should include reproductive technologies and other types of families in order to create awareness and familiarity and to decrease social pressure towards ARTAP.

In the next subsection titled as ‘Constraints concerning the Capability of Emotions and ARTAP’, discussions related to love, to grieve, to experience longing, gratitude, and justified anger were conducted.

4.5. Constraints concerning the *Capability of Emotions* and ARTAP

“Capability of emotions” is explained as “being able to have attachments to things and people outside ourselves; to love those who love and care for us, to grieve at their absence; in general, to love, to grieve, to experience longing, gratitude, and justified anger” (Nussbaum, 2011: 33). In other words, this capability refers to not having one’s emotional development blighted by fear and anxiety.

Nearly all individuals in ARTAP, more or less suffered from various emotions, especially bad feelings in their reproduction processes. For example, couples who are unable to have children through their own capabilities in ARTAP, experience longing for a long time. Besides, it is learnt that they had a strong sense of fears and anxieties during and after their assisted reproduction experiences.

Constraints, which were related to the Capability of Emotions, invented in the qualitative study of this dissertation are stated as follows:

1. Hidden fears and anxieties
2. Surrogate mothers’ expectations from the families
3. Not giving the right to the attachment to surrogate mothers
4. Motivation: Instrumental or altruistic
5. Not having the right to truth: *parrēssia*
6. Justifying disattachment - making an analogy between oocyte donation and living organ donation

‘Hidden fears and anxieties’ subsection as the first of these constraints is discussed around the findings.

4.5.1. Hidden fears and anxieties

Various reasons of fears and anxieties of ARTAP were stated in the interviews. It is noticed that ARTAP could not express these fears and anxieties neither to the IVF Center staff nor the authorities. Some of them were based on the observations of a patient in an IVF Center. Hale, who had her child via oocyte donation, stated it as a reason in having anxiety. When Hale's anxieties towards the process were asked, she talked about the treatments, which were experienced in Cyprus:

As I told you, that guy [the embryologist] called us very early in the morning. Although this is not related with our topic, he was keeping all the families in a hotel. However, he was keeping us all together in a hotel. He made all of us get on a bus in the morning. We arrived at the center, where we would get [the operation], in the morning. We were there all day long. We left the center around five or six in the evening. I was looking if the donor had already arrived there. I thought I could see her while entering the center. We were on the first floor; she probably entered the building from the entrance on the ground floor. I was wondering if she was that woman, or the other one.

Dedim ya adam bizi sabahın köründe çağırdı. Bütün aileleri hatta bizi bir otelde tutuyordu, neyse o gerçi konumuzla alakalı değil de, bizi bir otelde tutuyordu hepimizi bir arada. Hepimizi birarada sabah servise bindirdi. Sabah merkeze indik, merkezden işte o yapılacak merkeze. Sabahtan akşama kadar ordaydık biz. Akşam beşte altıda falan çıktık yani. Orda ben hatta arada bir böyle bakıyordum. Herhalde donör gelmiştir, şimdi girerken görürüm ben onu diye. Biz üst kattayız hani herhalde girişten onu almışlardır. Acaba bu mudur? Bir kadın, bu mu falan şeklindeyim.

Hale was mainly complaining about not being treated as an individual in this IVF Center. All the couples were staying in the same hotel; they went to the IVF Center in the same bus and at the same time. Although all of them were members of ARTAP, they could not say any word to each other possibly since they were very anxious and did not want to be known by anyone else. As another prediction, seeing each other disturbed them first of all. Only person, who Hale would like to see, was her oocyte donor.

Hale was not alone in her anxieties about the oocyte donor. It is understood in my interview with Sevgi, oocyte donors were intensely anxious about the woman who would be donated by their oocytes, as well. Sevgi's statement on this issue is given as follows:

S: That is her! Yes, I think like that. Or for example, health staff says, "use the back door." Then, I think that there is something, I mean. I give her the once-over when I noticed someone. If she looks like me, I suppose that she is mine or if there will be another [oocyte] collection after me, she is her [other oocyte donor] because they

make an effort in choosing the right time for the [oocyte] collection and [embryo] transfer. If they [the couple] will come from abroad, they have to be here one week or at least a few days ago or they should have already been in the island, I mean.

S: Bu o! Evet öyle düşünüyorum. Ya da mesela sağlık personelleri bana diyor ki 'arka kapıdan gir,' diyorlar. E demek ki birşey var yani diyorum. Böyle hafif hani gördüğümde falan bakıyorum yani. Benziyorsa diyorum ki benimkidir ya da benden sonra hani toplama işlemi olursa onundur. Çünkü aynı zamana denk getirmeye çalışıyorlar hani transferle toplama işlemini. Eğer yurtdışından gelecekse de birkaç gün ya da bir hafta öncesinden gelmiş olması gerekiyor ya da mutlaka adadadır o insanlar yani.

It is seen that the staff in the IVF Centers do not want to confront the women who applied for oocyte donation with the oocyte donors in the IVF center. However, both sides had anxieties on this avoidance of ART service providers. If these service providers could normalize that meeting, the anxieties of ARTAP would not be fed by the secrecy in the process.

In addition to the anxiousness on the oocyte donor, Hale's second observation, which increased her anxiety, was on the chaotic environment in the same IVF Center. According to her, the center was so chaotic that she had worried if her husband's sperm could be mixed inside or could be used also for other families' embryos:

H: For example, I thought that for the first one [first donation experience in Cyprus] as well: Moreover, I later said that, it was such an [very chaotic] environment that my husband's sperm could be mixed [with another man's sperm]. I am talking about the first case now. It was such a chaotic place that it was not clear who was coming in and going out. I mean, the place was really chaotic. Let's imagine it, there were lots of families including women who wore headscarf. There were people who came from Germany. Everyone was waiting all together as meek as a lamb. Nobody could talk to nobody. Nobody could ask anything. Nobody could even look at one another. They called the men, and gave something to them. I mean, a kind of glass. They entered into a room, one was going in, while the other was coming out. I had panicked. I told my husband 'Oops! You went there but did you check the glass [whether your name was written on it or not]' and so on. Everything was a complete chaos. You feel something like that. It might be used again, later. You know, sperm is also a need. Perhaps he took my husband's sperm and kept it. I said perhaps you have children all around.

O da olabilir mesela, mesela bana bence ilkinde o da düşünmüştüm. Hatta ben dedim ki kesin yani öyle bir ortamdı ki sonrasında konuşuyoruz tabi, Eşimin bile spermi içerde karışmış olabilir ilk case [durum] den söz ediyorum. O kadar giren çıkan belli değil bir yerdı ki orası. Yani gerçekten orası bir karmaşaydı ya düşünsenize bir sürü aile böyle çok kapalıları vardı, Almanya'dan gelenler vardı. Hep beraber bekliyoruz kuzu gibi. Kimse kimseyle konuşamıyor. Birşey soramıyor. Bakışamıyor bile. Erkekleri çağırıyorlar, erkeklerin eline böyle şey veriyorlar işte, bardak veriyorlar. Onlar giriyorlar içeriye, o çıkıyor o giriyor. Ben böyle bir panik oldum. 'Lan' dedim, 'sen gittin ama yani üstüne baktın mı hani' falan.. Herşey bir karman çormandı yani. Öyle birşey de hissediyorsunuz. O da kullanılıyor olabilir. Sonuçta sperm de gereken bir şey. Belki de eşiminkini aldı, sakladı belki de dedim senin çocukların var sağda solda.

Each interviewee in this study has different experiences in various IVF Centers in different cities and/or countries for having a success in their trials. These experiences gave them opportunity to compare the equipments and treatments in different IVF Centers. These examples are resulted from a comparison of observations related to assisted reproduction experiences of Hale. As it is seen here, her worries mostly took their sources from various deficiencies in different phases of the assisted reproductive system which she took a part in.

The third and final example of Hale, which fed Hale's anger, was about the observation on the technical equipment in the IVF Center where she experienced the first oocyte donation. Again, after comparing the first experience with the second and last one, Hale awakened of this deficiency:

H: I mean, there must be high technology to freeze it [oocyte] there. I mean, for example there were a lot of things. Generators everywhere, inside and outside the building, here and there were big generators. There was not [generator] in the first one, for instance. What will happen if electricity is cut off? For example, that called my attention. I mean, during the ultrasound screening, in order to keep the storage unit cold at a degree, there should be.. It should be strong enough in a country like Cyprus.

H: Yani o da bayağı bir teknolojidir herhalde onu saklıyor olmak orda. Yani mesela, ikincisinde bir sürü şey vardı, jeneratör vardı her yerde, binanın içinde dışında, bilmem nerde kocaman jeneratör. İlkinde yoktu mesela. Elektrik kesilse ne olacak? Mesela o dikkatimi çekmişti benim. Yani ultrason esnasında o saklama ünitesini sonuçta soğuk tutabilmek için belli bir.. Kıbrıs gibi yerde güçlü olması lazım.

As it is seen here, Hale's anxieties were very complicated. There were various factors that affect her thoughts and emotions. These factors were taking their sources from her reasoning, observations, comparisons and expectations. It is obvious that Hale and other members of ARTAP are very fragile and over sensitive in all the assisted reproduction processes. Hence, they need to build trust for the organisations, IVF Centers and people in general. Nevertheless, they trust these actors generally after reaching the successful end.

Other ARTAP's expectations in their assisted reproduction processes and relations are examined below.

4.5.2. Surrogate mothers' expectations from the families

The surrogacy processes and expectations have some differences from the donation processes, which were experienced by ARTAP with respect to emotions as

well. While in the previous one, a minimum communication between the families and the surrogate women was expected; even knowing the donor was not desired in the latter for this sample of the study. However, it is known that donors' personal information was being kept by the IVF Center.

Solidarity and communication during the pregnancy period is described as a simple expectation by surrogate mothers. Ayten, who is a surrogate woman, was expected by the family to establish a strong solidarity with them in the beginning and last months of the pregnancy:

A: After the first [embryo] transfer, we went to our hotel. We stayed in the same room with the lady. Her husband was not there. She took care of me. She always.. Because she said 'why does not it (pregnancy) happen?' This time she would stay with the surrogate mother. They had no confidence anymore. I mean, they would like to take care of it [the pregnancy] because they possibly thought that it [embryo] had never held before because of carelessness of the surrogate mother. This lady asked me on the phone if it [staying together] was a problem for me for two weeks. I told her that I should ask my husband. No, I mean, I became happy.

A: Hele ilk transfer oldu otelimize gittik. iki hafta boyunca bayanla aynı odada kaldık biz. Eşi yoktu. Çünkü bana baktı o. Hem bayan hep.. Evet. Çünkü aile niye artık demiş bir kere de yaparsa o taşıyıcının yanında olacağım demiş. Hani güven kalmamış artık. Dikkat etsin diye gibi mi ondan mı tutmuyor diye. Bu bayan bana telefonda dedi ki.. Böyle böyle dedi iki hafta boyunca dedi, otelde dedi senin için mahsuru var mı dedi. Eşime sormam lazım dedim. Yok, hatta ben sevindim yani.

Ayten told me that going to Cyprus for that surrogacy was her first overseas and surrogacy experience. Ayten was far away from the homeland and family as well. She had different fears related to the environment. The lady's friendliness made her surprised and happy in this sense.

The meaning of this friendliness and solidarity was probably different for the prospective mother. The implied meaning of this friendliness was according to Ayten: "They had lost their confidence, anymore. I mean, they would like to take care of it [the pregnancy] because they possibly thought that it [embryo] had never held before because of carelessness." The prospective mother wanted to witness the pregnancy process. By seeing and helping the surrogate mother in her emotionally fragile and distressed moments during the pregnancy, the prospective mother supposed to guarantee her marriage. I would like to remind here that; this prospective mother was threatened by her husband, with having a concubine if she could not have a child. As a result of this, it is understood that this friendliness and solidarity would protect her marriage indirectly after the birth. Again, whatever the reason

might be, this intimacy made the surrogate mother feel better. There was a kind of win-win partnership:

A: Yes, like you and me, she was not conceited, or anything else. I mean, she washed my clothes, even my underwear in the hotel. If she were another woman, she would not do it, she could be conceited, am I wrong?

A: *Evet, aynı senin benim gibi hiç böyle büyükten görmez, şey yapmaz. Çamaşırlarıma varana kadar yıkadı otelede yani. Başka bir bayan olsa yapmazdı, kendini üstten görür mesela, değil mi?*

The prospective mother asked for the solidarity again for the last trimester of the pregnancy. She rented another house in Adana where Ayten lived in order to avoid of social pressure of the neighbors and relatives. And again, she stayed with Ayten and Ayten's family and helped them until the birth. The prospective mother's communication was again well with Ayten and Ayten's family:

A: Yes, she gave [the money] even when she stayed with me. She was not obliged to give me any money. We were eating and drinking together.

I: You visited the doctor, did not you?

A: Yes, I visited.

I: Did she pay for them?

A: Of course, private.. it was here in the private clinic.

I: Did she pay for all the food?

A: No. We paid together. We regarded her as a guest. We didn't let her spend too much.

I: Did she take care of your children?

A: Yes, she was taking them to the playground.

A: *Evet. yanımda kaldığı zaman bile verdi bayan bak. İstese şey yapabiliirdi mesela birlikte yiyip içiyoruz..*

I: *Arada doktora kontrole gitin felan.*

A: *Evet gidiyorum, gittim yani.*

I: *Onları o verdi.*

A: *Tabi canım. Özel, burda muayenehanesine.*

I: *Birlikte yediniz içtiniz o verdi?*

A: *Yok, ortak beraber şey yapıyorduk sonuçta. O.. onu biz misafir olarak görüyorduk, ona fazla para harcatmıyorduk..*

I: *Çocuklarıyla ilgileniyor muydu?*

A: *Evet, çocukları alıyordu, parka götürüyordu.*

However, Ayten's case cannot be generalised to other surrogate mothers' cases with respect to solidarity easily. For example, not similar with Ayten, Elene, a Georgian surrogate mother who had found her prospective family through the IVF Center told me that her prospective family was Turkish and they wanted neither solidarity nor communication with Elene. Elene was not complaining about the family. Rather, she was trying to develop empathy with the family, especially with the woman. As a remind, Elene had been in a financial difficulty in her pregnancy

but her request of getting extra Money (pre-payment) was rejected by the family. Again, she was not angry with the family. She phrases their less communication as follows:

I: What do you know about the family? Did you have any fears or worries after meeting the family? Is that a Turkish family?

E: Yes, it is a Turkish family (She laughs) I was pleased. I cannot say any bad thing. We do not have a good communication. We just met here, that's all. We did not have any other communication.

I: Have they been rude to you?

E: I mean, perhaps they were also in some financial difficulties. I can understand that.

I: Aile hakkında ne biliyorsunuz? Tanışınca korku, endişeleriniz oldu mu? Aile Türk aile mi?

E: Evet, aile Türk (Gülüşmeler) Memnun oldum. Kötü birşey diyemem. Pek iletişimler yok zaten. Burda sadece tanıştık, o kadar. Başka bir iletişim olmadı.

I: Peki kaba davrandıkları oldu mu?

E: Yani, herhalde onların da maddi sıkıntıları vardı. Onu da anlıyorum.

I asked Elene if she had felt herself emotionally bad because of the family. She was neutral since there was no communication. However, she told me about the depression and regardlessness of the prospective mother:

E: I do not feel bad; they terribly want to have a child. The woman cried and so on. I felt sorry [for her]. However, after my belly had appeared, they did not come [to visit me] at all. They have not been here for a long time. So I mean, there has not been any solidarity between us during the pregnancy. The family lives in İstanbul. No, I do not expect such things. I read the contract, I read the conditions, The IVF Center told me that they will communicate with us. Besides, I do not want a family thing.. I mean, communication with the family so much.. The woman [for whom she was the surrogate] is suffering from depression.

E: Kötü birşey hissetmiyorum, onlar da çocuk çok istiyorlar. Kadın ağladı mağladı. Üzüldüm. Ama göbeğim çıktıktan sonra hiç gelmediler. Uzun süredir gelmediler. O yüzden böyle şey olmadı, gebelik süreci beraberliği olmadı. Aile İstanbul'da yaşıyor. Yok ben beklemiyorum öyle şeyler. Sözleşmeyi okudum, şartları okudum, tüp bebek merkezi iletişimi kuracağını söyledi. Zaten ben pek aile şeyi istemiyorum, aileyle çok iletişim.. [Benim taşıyıcısı olduğum] kadın depresyon geçiriyor.

I understood from the interview that Elene would like them to be a positive and concerned family with that pregnancy and her. However, their behaviors and attitudes in the process made Elene think like: 'Don't bother me; that's all I ask of you.' In the quotation below, Elene says that "She (the lady) does not call in a good mood; she (the lady) always calls with panic.." That's why Elene did not want any communication with the lady anymore. The related dialogue is below:

I: But the depression that the woman experiences, does not bother you. That's very nice. You can say that 'She does not behave towards me like that intentionally; she is such a woman already'. I am surprised with that.

E: I understood very well, during the trials for a long time. Luckily, she does not call me every day. There are some people who feel sorry because of not being called every day. Luckily, mine does not call everyday [she laughs]. She does not call in a good mood; she always calls with panic.. Those people's experiences are not easy in fact. I understand them very well.

I: Ama kadının yaşadığı depresyon canınızı sıkıyor çok güzel. "Bana özel davranmıyor, o kadın öyle bir kadın" diyebiliyorsunuz. Ben ona şaşırıyorum.

E: Çok iyi anladım, bu kadar zamandır denemeler boyunca. İyi ki beni aramıyor hergün. Her gün neden aramıyor diye üzülenler var, iyi ki benimki aramıyor her zaman [Gülüyor]. İyi şekilde aramıyor ki, panikle arıyor kadın. Yaşadıkları kolay değil o insanların, gerçekten. O yüzden çok iyi anlıyorum.

Different from this surrogate mother's minimal or no expectations for care, the public relations manager and Mehmet, the embryologist of the IVF Center emphasized and narrated that there were some surrogate women who are in expectation for being taken into the consideration by the people who they are pregnant for:

IVF- PR manager: This woman does not want. However, there are two friends working for us. Both of them were surrogate mothers; both of them were pregnant. One of them was so much interested, one family. They were calling all the time, the grandma was also calling the surrogate woman, yes. She was sending them the photographs of her belly, the family was sending flowers, gifts, and ekstra money.

M: Did the other one, that stupid fall into depression for that reason?

IVF-PR manager: She was the friend of the other. Her family was never interested in her.

M: The family was [living in the US and] sending the money, on the 15th of every month according to US time, but it is the night here. Recently, if that woman were here, I would beat her, I mean. I said, "hey look, it did not happen in the US, I mean, why do you make it [the payment] so."

Tüp bebek merkezi İK sorumlusu: Bu istemiyor. Ama mesela iki tane arkadaş var, bizde. İkisi de taşıyıcılık yaptı, ikisi de gebe kaldı. Birisi çok ilgileniyor, bir aile. Sürekli arıyor, nenesi bile arıyormuş çocuğu. Annesi bile arıyormuş kadının, evet. Karnının resmini çekiyor, çiçek yolluyorlar, para gönderiyorlar, hediyeye gönderiyorlar.

M: Öbürü ondan mı depresyona girmiş o salak?

Tüp bebek merkezi İK sorumlusu: O öbürünün arkadaşıydı. Onunkiler de hiç ilgilenmiyorlardı.

M: Öbürü de para 15'inde gönderilecek, parası var kızın Amerika'da 15 olunca gönderiyor, burda gece oluyor. Geçen yani yanımda olsa o kız vallaha dövecektim o derece yani. Lan diyorum, Amerika'da olmadı diyorum. Yani niye şey yapıyorsun.

The embryologist in Batumi also pointed the impolite attitude of Turkish people towards surrogate mothers. He made this by comparing Turks with people from other countries on related examples:

M: Turks are maniac, since they perceive these surrogate mothers as things.. Foreigners accept them as members of their own families. Recently, a family sent some flowers in her birthday; another one took her [their surrogate mother] out for a dinner. I sent some flowers to a village in Tbilisi. It is not a habit of Turks. Recently,

a foreigner again, told me that he would like to meet her specially. I was curious about the reasons. He would like to thank her. I accepted and put them in touch with each other. He thanked only.

M: Türkler manyak, bu taşıyıcı anneleri şey gibi görüyorlar. Yabancılar ailelerinden biri gibi görüyor. Geçen bir çiçek gönderdi bir aile doğum gününde, biri yemeğe götürdü. Tiflis in bir köyüne ben çiçek gönderdim. Bizim Türkler de yok. Geçende bir yabancı yine özellikle görüşmek istediğini söyledi. Ben de merak ettim neden görüşmek istiyor diye, teşekkür etmek istiyormuş. Ben de kabul ettim, görüştürdüm. Teşekkür etti sadece.

What is being lived in the other women's side? Understanding the other women's, emotions and expectations, is considerable. When we pay attention to Fatma, who will have a baby via a surrogate woman, it was heard that she was living a more stressful and nervous pregnancy period in her own side:

F: Yes, perhaps she suffers but you suffer more than her, believe me. Okay, that woman is carrying, I mean, she is bearing the burden but you also have some difficulties both materially and spiritually. Now you cannot do anything, you remain only as an observer. I mean, for example I tell her to take care of herself, her health, her nourishment. I told her that 'you are important for us, and the baby is also important'. If she is aware of that, if she had attempted this already, [she should know that] it is not a one-sided thing. If you do your duty, I will do my best. I mean, I do not want her to suffer in anyway. It is not an easy process.. Each day of nine months.. I mean everyday. It is really very difficult.

F: Evet, o belki hani ama siz ondan daha çok acı çekiyorsunuz yani inanın bana. Tamam o kadın taşıyor belki hani zahmetini şeyini o çekiyor ama siz de maddi açıdan hem manevi açıdan: şimdi siz hiçbir şey yapamıyorsunuz, sadece izleyici olarak kalıyorsunuz. Yani mesela diyorum işte kendine dikkat et diyorum, sağlığına beslenmene. Sonuçta dedim ben sen de önemlisin dedim hani bizim için bebek de önemli. O zaten onun bilincindeyse, zaten hani bu işe kalkışmışsa öyle tektaraftlı olacak birşey değil hani. Sen görevini yerine getirirsen ben de sana en iyi şekilde görevimi yerine getirmeye çalışırım. Yani mağdur etmemeye çalışıyorum. Bu hiç kolay bir süreç değil yani her gün, dokuz ay boyunca yani her gün gerçekten çok zor.

Surrogate mothers did not talk about stressful days in their pregnancy so much but Fatma, who would have child via surrogacy especially, underlined and explained difficulties in the process in detail:

Every stage, every month is a difficult process for us. Besides, waiting in this manner makes one devastated psychologically. I mean, you see it under the ultrasound and so on but later you look forward to the next ultrasound date with heart and soul. The days do not pass. You feel incredibly stressed, I mean. First, after that day you feel stressed again. You wait for the next time will come. [You care about] if the blood tests were good, when the ultrasound screening controls are made, if its results were good. Have its height and weight increased, and so on?

Her aşama, her ay bizim için çok sıkıntılı bir süreç. Zaten o bu şekilde beklemek, psikolojik olarak insanı mahvediyor. Yani hani onu ultrasundan görüyorsun ediyorsun ama sonrasında tekrar ultrason tarihi gelecek diye işte dört gözle canla başla bekliyorsun, günler geçmek bilmiyor vesaire. Acayip bir strese giriyorsun yani, önce strese giriyorsun gelecek zaman diye. O gün bittiği zaman tekrar bir strese giriyorsun, öteki zaman ne zaman gelecek? Acaba tahliller iyi çıkacak mı,

ultrasonda işte şu tahlil de oldu, sonuçları düzgün çıkacak mı? Boyu uzamış mı, kilo almış mı vesaire vesaire.

Ali told me about the difficulties that his wife, Ayşe, suffered during the pregnancy of surrogate mother by emphasizing the differences between the emotions of men and women on the process:

No, not during that process but at the.. ee.. final [Decision] process there were some. Of course, she had difficulties in decision-making. At the point of the question if she accept, if we should accept or not and so on. I myself had no strains at all. I remember that she was using it [antidepressant drugs] during the third trial. [I know] because I took her to the doctor. Of course, it is more difficult for the woman. Perhaps, it is not something [a difficulty] for us, for a man, not so effective but it is a so very difficult for a woman. However, thanks God, we are very good now. I mean, we have an incredibly beautiful life now.

Yok o dönemde olmadı ama şeyde oldu biraz son dönemde nedir onun ismi acaba kabul eder mi, edelim mi etmeyelim falan noktasında zorlandı tabi o kendisi. Ben şahsen hiç zorlanmadım. Üçüncü deneme esnasında kullandı (antidepresan) diye hatırlıyorum. Ben götürdüm çünkü doktora onu. Kadın için daha zor tabi, ben hani bizim için bir erkek için belki çok şey değil de etkili değil de hani kadın için çok çok zor birşey. Ama çok şükür şu anda çok iyiyiz. Yani inanılmaz güzel bir hayat yaşıyoruz şu anda.

As it is mentioned many times before, the surrogacy and donation processes are different from each other respectively. However, one thing that is common in both of them is the request of the families from IVF Center about the women who they work with. While some of these requests/ anxieties about the woman are eliminated by the contracts and regulations in case of surrogacy, it is always blurred in the case of donor since nobody knows her well apart from the IVF Center.

The common concern was about smoking or consuming other harmful substances during and/or before the reproduction process. When her worries in the process were asked, Nurgül, who had her children via surrogacy, told me about their contract, which was prepared in favor of both sides and her worries on surrogate mother:

Any reservations?.. Did something make me worried? No, there were not. It was a sample of a contract, which was prepared properly in favor of both sides. I mean, there were [no violation of] personal rights or it was not in favor of one party or against another one. For example, I can tell you the most important favor for us, I always keep it in mind: the money would be transferred to the lady's account after the birth; after making sure that the baby was still living after a week or ten days. Why? I mean, the baby.. In order to prove that the baby had not been exposed to anything such as drugs or something else in the mother's womb. I mean, in order to control if the baby was born healthy and was growing in a regular way, they gave us such a right. Because you know the use of heroin, marijuana, alcohol and so on is not controlled properly there [Georgia], I was much worried about that.

Endişelendiren bir madde.. endişelendiren bir durum.. yoktu ya yoktu. Tamamen her iki tarafı da ee.. düşünülerek hazırlanmış güzel bir sözleşme örneğiydi. Yani kişisel haklara ya da işte bir taraf eksi bir taraf artı söz konusu değildi. Mesela bizim için en büyük artı tarafı söyleyeyim, o hep aklımda yani: işte bebek doğduktan bir hafta on gün yaşadıkdan sonra ee.. doğum yapan bayana para verilecekti. O da neden? E.. işte yani bebeğin karnı.. anne karnında herhangi bir şeye, ilaca vesaireye işte başka bir şeye maruz kalmadığını ispatlamak anlamında. Yani sağlıklı doğup ee.. sağlıklı büyümeye devam edip etmediğinin kontrolünü yapmak amaçlı böyle bir hak vermişlerdi bize. Çünkü orda eroin, esrar vesaire, alkol tüketimi o kadar kontrollü değil ya, benim aklıma o takılmıştı mesela.

Hale, who was donated by the oocytes of a donor was also worried about smoking issue. Her worries determined her approach to the oocyte donor. She stated her request from the IVF center as follows:

I: Have you ever had any worries about the donor?

H: Of course I had, I err.. asked them if she had any illnesses or anything else ten times in order to get information about her health condition. And one more thing, I remember saying that; I had never smoked, and wanted someone who is not a smoker. I requested that, for example.

I: Donörle ilgili korkularınız oldu mu var mı?

H: Oldu tabii, ben şey.. herhangi bir hastalığı sıkıntısı var mı diye on kere sordum oraya. Sağlık bilgisi anlamında. Ha.. bir de ben mesela şey demiştim, onu hatırlıyorum: ben hiç sigara kullanmamıştım, sigara içmeyen biri olsun, demiştim. Hani bir istek olarak onu söylemiştim mesela.

It is seen in the interview with Sevgi that not only Hale but also service providers in IVF centers were sensitive about smoking or drinking alcohol. Sevgi told me that IVF centers prefer oocyte donors who do not use cigarette and alcohol.

This condition takes place in the statement of Sevgi below:

S: Stress, alcohol, smoking. One should not have these while using those drugs. And... I mean, you should not use them anyway. But, you know, they ignore them if you are a social smoker or something like that. They can disregard. I am talking about the beginning of being an oocyte donor..

S: Stres, alkol, sigara. Bunların olmaması gerekiyor. Yani o ilaçları kullanırken. Ondan sonra.. yani zaten onları kullanmaman gerekiyor. Ama hani sosyal içici falan muhabbetine onu şey yapmıyorlar fazla [she was smoking in front of me at that time]. Gözardı edebiliyorlar hani. Bu donör olurken, en başta..

It is noticeable that recipients –especially- receiver women (who are donated by another women’s oocyte or who had their children via surrogacy) are sensitive to alcohol or cigarette use of the counterpart. A woman Eda was more sensitive in surrogate’s smoking and using alcohol during the pregnancy than her husband Serkan while he was mainly worried about legal issues and procedures:

S: I am a bit worried if there will be a [bureaucratic] problem while we are taking the child out of the country.

E: I am mainly worried about if she would smoke, drink alcohol during her pregnancy and miscarry my child. We can give her 300- 500- 1000 TL more as long as she cares for her pregnancy. One more thing, I am also worried about if there would be any problems while leaving the hospital.

S: Sınırdan çocuğu çıkartırken sorun olur mu diye korkuyorum sadece ben biraz.

E: Ben daha çok hamileliği boyunca sigara, alkol kullanır mı, çocuğumu düşürür mü diye endişeliyim açıkçası. gerekirse 300- 500- 1000 TL fazla veririz yeter ki o hamileliğine dikkat etsin. Bir de hastaneden çıkarken sorun olur mu acaba diye düşünüyorum.

Smoking is accepted as a big problem in the surrogacy while many of the families are consuming cigarettes, alcohol and/or antidepressant drugs in the process. One of the applicant women stated that she had mostly emotional problems during the pregnancy period of the surrogate woman:

Of course, [I had] mostly emotional problems. I had antidepressant drugs. I went to the psychologist. I was already smoking.

Tabi, daha çok duygusal sorunlar.. Depresyon ilacı aldım, psikoloğa gittim. Sigara zaten kullanıyordum.

According to Boulos et al. (2014: 211), an oocyte donor from Sydney found the expectations of the family excessive, especially for someone who wants to have another child for their family:

Agnes: And a lot of the ads – it was quite funny. They were very specific.

Interviewer: In what way?

Agnes: You have to be a non-smoker. You have to have fit' [sic]-like, I know they recommended to have your own children first before donating eggs, but a lot of them were very specific in regards to that. 'You have to be Asian, or you have to be over – no, you have to be under 25', and... I'm like, whoa! 'But completed your own family! I'm just, like: 'allright. You're a bit too fussy' Then there were some other ads where they'd had their first child but wanted a second one, and I was, like, No, I don't want to go for them because they've at least got one. I want to go for someone who hasn't (Boulos et al. 2014: 211).

As it is explained previously in this chapter, donors in Australia have the chance of choosing the family whom they donate their oocytes to. The woman above wants to donate her oocyte to a family, which has no child with reason in her opinion. However, in Cyprus and Georgia, the oocyte donors are unable to choose the family, which they donate, their oocytes. On the contrary, the family wants to choose the oocyte donor according to their will. This difference mainly based on the voluntariness in oocyte donation in Australia while it is commercial in Cyprus and Georgia. This difference gives ARTAP in Australia flexibility and freedom about the relationship between all parties in ARTAP and the child afterwards.

4.5.3. Not giving the right to the attachment to surrogate mothers

ARTAP in Cyprus, Georgia or Turkey, see the attachment of surrogate mother and oocyte donor as problematic. In addition to the other difficulties, which were stated by ARTAP, it is seen that the possibility of emotional attachment of surrogate mother and oocyte donor was perceived as another problem after the assisted reproduction process. Emotional attachment should be accepted as a natural result of the pregnancy period. However, especially women, who applied for surrogacy for having their babies, prefer to believe in that surrogate women do not have the right to see the child afterwards. The statements and attachments concerning pregnancies and donations are examined as follows:

Emotional Attachment is an important issue when the surrogate mothers', oocyte donors' and the prospective families' anxieties were regarded. Having their own children is stated as a 'natural protection for such attachment' by surrogate mothers. In addition to this, while surrogate women want a moderate relationship with the family during the pregnancy, they are trying to avoid of having an attachment to the baby which they are pregnant with at the same time. Of course, certain factors may affect such attachment with some respects. Ayten, a surrogate mother from Turkey, claimed that she did not attach the baby since she already had three children:

Because I did not give my heart to that work while getting the job. If you get the job when your seventeen you won't be able to overcome. I mean, a woman who does not know the sense of motherhood may be attached to the child. A woman who has no child may be attached to that child. Why? It is her first pregnancy. Each movement inside will make her more attached. I was showing it to that lady. We were sitting like this, she was coming and listening [to the child in the womb]. I mean, that lady would also like to know that feeling, to do so.

Çünkü ben o işe gönlümü kaptırmadım ki bu işe girdim. Onyedinde, genç kızken girersen işe sonuna kadar çıkarsın. Hani anne duygusunu tatmayan birisi çocuğa bağlanabilir. Hiç çocuğu olmayan birisi bu işe girerse o çocuğa bağlanabilir. Niye? İlk hamileliği. İçinde kıpırdadıkça onu bağlatır. Ben şimdi onu bayana gösteriyordum. Böyle oturuyorduk, gelip böyle dinliyordu. Yani o bayan da isterdi ben o duyguyu tadayım, şey yapayım.

Ayten was looking confident and strong with respect to her attachment to the child as an experienced surrogate mother. According to Ayten, she was lucky since she already had children before. However, it is understood that Ayten would like to

have a daughter since she has three sons. Thus Ayten told her experience with a bit grieve about giving a birth to a girl and leaving the baby to that family:

A: Yes. I mean, she was a good woman. The child should be in her 1,5 years now. I know her name already; she told me that they will call her Miray.

I: Did she have a daughter?

A: Yes. A healthy child.

I: Would you like to have a daughter?

A: I would like to have a daughter. However, God has not willed it. I wish we had a daughter. I wish my twins were girls. One of the twins' genders was not clear and I supposed he was a girl. If he were a girl... one of them would be a boy and that would be a different experience to me. They are fraternal twins. I wished both of them to be girls. I pray God for their health. It means, God did not will a girl.

A: *Evet. yani iyi bir bayandı yani. Çocuk olmuştur şimdi 1,5 yaşında. İsmi de biliyorum zaten, ismi Miray katacağız demişti.*

I: *Kızı oldu?*

A: *Evet. Sağlıklı bir şekilde.*

I: *Sen kızın olsun ister miydin?*

A: *Ben kızım olmasını isterdim Allah nasip etmedi. Keşke kızımız olsaydı. Ben ikizlerin ikisini de kız istiyordum. Bir tanesi cinsiyetini göstermiyordu ben hep kız biliyordum. E işte kız olsaydı.. biri erkek de olurdu ama değişik olurdu bence. Bunlar çift yumurta ikizi. Ama ben kız istiyordum ikisini de. Allah sağlıklı versin de, eli ayağı düzgün olsun. Demek ki Allah kızı nasip etmedi bana."*

I asked Elene, the surrogate mother from Georgia, if she was worried about the family and her attachment to the child. Elene told me that:

E: I thought about it so much. I have two children and of course I will feel that [attachment]. However, I am trying to convince myself at this stage that it was not mine. Because it will be easier afterwards.

I: Well, and are you worried about the family? I mean, they had not been pleasant to you. Thus, are you worried about if they would mistreat the child?

E: No no.. I had never thought something like that because they waited for this child for years. For years.. One more thing.. the woman is very meticulous. I am sure she will look after the child very well.

I: *Bağlanmaktan korkuyor musunuz çocuğa?*

E: *Bunu çok düşündüm. İki çocuğum var ve elbette onu hissedeceğim. Ama onun benim olmadığını şimdiden hissetmeye çalışıyorum. Daha kolay olur çünkü sonrasında.*

I: *Peki bir duygun olur mu? Hani hoş tutan bir aile olmamışlar ya, çocuğa da kötü davranırlar diye bir endişen olur mu?*

E: *Yok yok, çocuk için onlar.. Öyle birşey hiç düşünmedim. Çünkü yıllardır bekledi onlar bu çocuk için. Bu kadar senedir, bir de çok endişeli kadın. Ben eminim çok iyi bakacaktır çocuğa.*

Elene was only worried about the family's reaction towards her willing to see the child afterwards. Elene knows that she does not have a legal right to see the child after the birth and that the family would not tolerate her request for seeing the child. Elene's feelings are narrated as follows:

Possibly I do not want yes, the family would not like it too. If I [she laughs] hear his voice, or if I hear that he was fine, healthy, I would feel better, I feel better. But they would not show me the child or they would not let me communicate with the child. But the child is very important for that woman as well. She experienced so many things. Knowing that he is the child of another woman is also difficult for her. But I respect the family in any case. If they say no and would not introduce, I will again respect their decision. If I hear from him once a month, it would be better.

Belki istemem evet, o çift de istemez. Ben.. [gülüyor] Sesini duysam, veya biryerden duysam iyi olduğunu, sağlıklı olduğunu daha iyi olurum. Daha iyi hissederim kendimi ama göstermezler, iletişim kurdurmazlar zaten. Ama o kadın için de çok önemli, başından çok şey geçmiş. O başkasının çocuğudur diye, onun için de zor. Ama ben aileye her türlü saygıyı duyarım, hayır derlerse göstermezlerse ben her türlü saygı duyarım kararlarına. Ayda bir kez mesela durumunu duysam daha iyi olur.

As a supporting example for this statement, Eda, who applied for having a child via surrogate mother told me that she would not want to meet with that woman after getting the child while Serkan, her husband's thoughts were different from her. Here is their conversation with each other:

E: After getting my child, I would not want to communicate with her. For any reason.. I do not want to meet.

S: What happens if.. I do not mind, we can communicate if she wants. She can see the child.

E: I do not want.

S: She takes it as a job, such as a profession, like being a medical doctor. I do not suppose she will feel a strong attachment.

E: *Çocuğumu aldıktan sonra ben iletişim kurmak istemem kendisiyle. Herhangi bir sebeple.. görüşmek istemiyorum.*

S: *Ne olacak ya.. Bence sakıncası yok, isterse iletişim kurabiliriz. Çocuğu da görebilir.*

E: *Ben istemiyorum.*

S: *Kadın bunu iş olarak yapıyor, bir tür meslek gibi, doktorluk gibi. Herhangi bir güçlü duygu besleyeceğini zannetmiyorum ben.*

At first glance, Serkan made me think as if he was more emotional than his wife, Eda since he was in favor of surrogate mother's imaginary request of seeing the child. In fact, Serkan here thought that the surrogate woman should not have an emotion towards the child since that should be regarded as her job. Eda rejects to meet surrogate mother since she predicts the feelings of that woman by developing an empathy. Shortly, any other mother sense towards that child would make her and other women disturbed.

I wanted to examine if this attachment problem differs according to the instrumental or altruistic practices.

4.5.4. Motivation: Instrumental or altruistic

In the work of Boulos et al. (2014: 215), some quotations belonging to Australian oocyte donors were given in order to support their claim of ‘finding good parents’ for donors, since giving oocytes in that country (Sydney) is mainly based on voluntariness:

Raja: Yeah. The lady said that she would like contact and to be friends afterwards and everything, and I said, ‘Ok, look, I don’t want to be a second mum or anything, but if you give me photos or an update every year or whatever, I’d be happy with that, just to see that everything’s OK’ (Boulos et al., 2014: 215).

It is understood from these quotations that voluntariness gives donors and surrogate mothers a right to get attachment including taking the photos or see the child afterwards. However, if they were paid for this ‘gift,’ they are respectively regarded as they had given up from this ‘royalty.’ Disattachment is preferred in these assisted reproduction processes of Turkish people while the attachment and/or worries of the Australian donors and surrogate mothers are respected somehow.

Sevgi, who is a Turkish oocyte donor from Cyprus, told me similar things about attachment after oocyte donation. As it is seen in the statement below, she expressed me that an oocyte donor should not claim any right on the child since she was paid for that donation. Clearly, Sevgi divided these two positions into two categories as ‘being paid’ and ‘not being paid’ for donation. With Sevgi’s words:

S:... I think being an oocyte donor shouldn’t like that... I don’t know. It is not logical to claim any right, I mean. Because how can you do it on.. donation. Its meaning is under the name of donation. I mean, it is not a charity because it [donation] is in return for money. If you do some charity work, and you don’t take money for this then you can be obsessed with that later. [You can say that] ‘Aa.. I did a favour but I will follow up.’ However, they pay you, and then you should not take that money. You do this in return for money. Am I right?

S: ...Bence donörlük bu değil ya, bilmiyorum yani. Birşey hak iddia etmek mantıklı değil yani. Çünkü sen onun üzerine nasıl edersin, bağış yaparsın. Bunun zaten adı bağışta, yani paralı olduğu için bağış değil bu. Bağış yaparsın, para almazsın. Yarın bir gün kafana takılır. ‘Ya ben bir iyilik yaptım ama bunun peşine gideceğim.’ Ama sana para veriyorlar, o zaman parayı da alma. Para için yapıyorsun bunu. Haksız mıyım?

Moreover, it is told me in my interviews that the contracts in Georgia and Cyprus were prepared against the possible attachments and the communication requests of the surrogate women and oocyte donors. It is only the right of the child to

see or know his/her genetic mother or surrogate mother when s/he is of age of course if s/he is told the truth about his/her birth.

Right to truth is very important and include constraints in different dimensions of assisted reproductive practices.

4.5.5. Not having the right to truth: *parrēssia*

In some cases, lack of ‘right to truth’ may create suspicion in the surrogate mother’s mind. In addition to the natural attachment of surrogate mother to the child, this suspicion may easily awaken her maternal feelings. A unique example on this problem is narrated in the following case in a discussion on *parrēssia*.

In one of my interviews with surrogate mothers, Zeynep was suspicious on her surrogacy. Zeynep thought that her oocytes also would have been used in the later processes under the name of surrogacy and without getting her consent. Zeynep had advertised in a forum on the Internet to be an oocyte donor. I phoned Zeynep in order to tell her that I would like to interview with her on Zeynep’s experiences as a donor. Zeynep told me that she had never been an oocyte donor before. This would be the first time but she was uncomfortable. The reason of Zeynep’s nervousness was her previous experience as a surrogate mother. Zeynep told me that she had been a surrogate mother two years ago. However, Zeynep was so much worried about that. She had the operations in Cyprus. They found each other without an intermediary institution and applied to an IVF Center in Cyprus. The reason of her anxiety was her doubt that her oocytes would have been used in the later processes under the name of surrogacy and without getting her consent. Zeynep explained this process as follows:

Especially the woman treated me well at the beginning. An embryo from the oocytes of the woman and sperms of the man were inseminated in my womb. This trial was unsuccessful. Later the same operation was repeated again but that also failed. It was successful in the third trial. However, this time the woman started to mistreat and scolded me. The man conversely, was treating me better, phoning more frequently and taking care of me.

Özellikle kadın başlarda bana iyi davranıyordu. Kadın ve eşinin spermi tüp bebek yapılarak rahmime yerleştirilmişti. Bu deneme başarısız oldu. Daha sonra aynı işlem bir kez daha denendi, bu da başarısız oldu. Üçüncü denemede başarılı olundu. Ama bu kez kadın bana kötü davranmaya, somurtmaya, terslemeye başladı. Adamsa aksine bana iyi davranıyor, daha sık arıyor, ilgileniyordu.

Zeynep suspected that the reason of her mistreatment by the prospective mother was the possibility that the sperm was injected directly into her womb in order

to fertilize Zeynep's own oocytes. According to Zeynep, the man was caring for her much more because of his guilty conscience due to making use of her oocytes without Zeynep's consent. Moreover, according to Zeynep, that was also the reason why he asked Zeynep how would she name the child if she were the mother.

Finally, Zeynep gave birth to the child, gave it to the family and was paid for that. However, the questions and suspicions on Zeynep's mind did not come to an end:

What happens if he is my own child, if they injected sperm directly to my womb without informing me? I can't forgive that. If he is my child and if I carried him in my womb, I am the mother of him. I should take him back; I can't put him in the care of them. How can I understand that? I want to get the motherhood testing. The family should not understand. I should wait until the child start school; he should start at least the nursery. If I can get a piece of hair, that will be enough. I had already tracked down the family; I know their names. I will bring the reality if the child belongs to me or not to light from that hair. Even if he is my child, I cannot claim for his motherhood. I will kidnap him. I wish he is not [my child]. I am unable to look after him, but I will deal with it. Besides, it will come to light after a few years and I will have a job until that time.

If I tell the family about my anxiety and willing to take his hair sample, they do not help. Moreover, they would complain me to the police. However, I cannot stand anymore. I cannot sleep, I fret about that. I feel this; I think he is my child. They behaved so strange that I felt this. I will understand it, one day. Everything will be understood. Their forgery will be understood.

Ya o benim kendi çocuğumsa? Ya bana söylemeden rahmime sperm enjekte etmişlerse? Bunu affedemem. O benim çocuğumsa, bir de onu taşıdıysam, annesiyim ben onun. Onu almam gerekir, başkasına emanet edemem. Bunu nasıl anlayabilirim? Annelik testi yaptırmak istiyorum. Ailenin haberi olmamalı. Çocuk okula, en azından kreşe gidene kadar beklemeliyim. Saç telini alabilsem yeter. İzlerini buldum zaten, isimlerini biliyordum. Çocuğun saç telinden benim çocuğum olup olmadığı anlaşılır. Eğer benim çocuğumsa mahkemeye de veremem. Onu kaçıracağım. Umarım benim değildir. Ona bakacak durumum yok, ama bir şekilde halledebilirim. Zaten birkaç sene sonra ortaya çıkar, bir işim olabilir o zamana kadar.

Aileye böyle bir endişem olduğunu, ve saç örneğini almak istediğimi söylersem vermez, bir de polise şikayet ederler. Ama artık dayanamıyorum. Uyuyamıyorum, içim içimi yiyiyor. Bunu hissettim, o benim çocuğum olmalı. Öyle garip davrandılar ki, bunu hissettim. Bir gün bunu anlayacağım. Herşey gün yüzüne çıkacak. Onların sahtekarlığı ortaya çıkacak.

Zeynep's anxieties about this assisted reproduction process made me discourse on the truth about the child. Each process in assisted reproduction including third parties' genetic materials would include discussions over the third parties' roles related to genealogy. Foucault (2010: 43) had considerable writings and lectures on genealogy, *parrēssia* and true telling on definite examples from ancient texts. According to him, one of the original meanings of *parrēssia* is to "say everything," but in fact it is much more frequently translated as free-spokenness

(franc-parler), free speech, etcetera (Foucault, 2010: 43). As an example for *parrēssia*, Foucault (2010: 97, 98) gave lectures on the discussions on Euripides' *Ion* (written in 418):

Around Ion's birth, we have had: Creusa who departed slightly from the truth by claiming that it was her sister who was seduced by Apollo; the god who, from shame, did not want to give the true answer and who pointed Xuthus to a son who was not really his son; and Xuthus who, out of negligence in a way, is happy with truths which are, to tell the truth, plausible but without real foundation. And it is this game of half-lies, half-truths, and approximations that Ion rejects. Ion refuses, he wants the truth... He wants to justify his right, his political right at Athens. He wants the right to speak there, to say everything, speak the truth, and speak freely. In order to justify his parrēssia he needs the truth finally to be told, a truth, which will found this right.

Of course, *parrēssia* here would give Ion the truth about his origins and citizenship. Without *parrēssia*, he thinks and feels about himself as follows: "It is said that the autochthonous and glorious people of Athens is free of any foreign mixture. Now this is where I fall down, afflicted by the double misfortune of being both the son of a foreigner and a bastard. Branded as such, if I do not have power, I will remain, as the saying goes, *a Nobody, son of Nobody*.." (Foucault, 2010: 98).

These statements could possibly made by the child of such a surrogate mother since s/he would not be told truth for a long time or ever. In fact, the so-called mother of Ion, Creusa was also a kind of surrogate woman in that scenario. Moreover, she was the person who should be demanded *parrēssia from*. *Ion* cannot get truth through his father who gives him power, or through the law, if it existed, which would give him the status of citizen. He demands this *parrēssia* from his mother (Foucault, 2010: 104). *Ion* was looking for his Greek origins in his mother who he does not know.

The mothers' side of this example is also important here. As it is understood from the text, Creusa, the seemingly mother of *Ion*, was forced to be in this position by her husband and was angry with the husband: "I am the victim of my husband's injustice since, against my will and without telling me, he wishes to force a son on me who is not even mine and who humiliates me" (Foucault, 2010: 108).

In this tragedy, the real mother, Xuthus, "...came to ask for her son again from the Apollo at Delphi. When she comes to find out from Apollo what could have become of this disappeared son, the son is there in front of her. He is in front of her in the guise of a temple servant, but she does not know that he is her son. And he, not

knowing his own identity, does not know that he is looking at his mother” (Foucault, 2010: 112).

I may argue that there is a close affinity between Xuthus and Zeynep with respect to their secret children. Although all the technical processes of this assisted reproduction case were regarded as they were done fair enough; again the surrogate mother needs an evidence of that result because her specific role in this birth is not proven and not recognised legally. For this deficiency, she found herself in a mood of serious anxiety and doubt about the process. So that, she planned to intervene to the daily lives of the family and the child in order to find the truth and its proof with her own eyes.

The surprising thing in this surrogate mother’s situation was her recent posting on being an oocyte donor for a baby. It is understood that she was confused about that process and possible responsibility; but again, she was looking for another similar difficult experience. However this time, she was a candidate of being a donor with consciousness. Here, we do not have enough information on telling about her psychological problems with reproduction. However, an example of the possibility of encountering with such an anxious behavior especially in the unsecured assisted reproduction cases was seen obviously.

Right to truth should be regarded as the essential rights of human. These kind of reproductive processes are affecting three sides of ARTAP: The surrogate mother, the social/or genetic mother and the child. Thus, all these three parties should claim their rights to truth. However, if a contract was issued in the process, generally only two parties are considered in that document: The IVF center and the client family. As it is discussed in the previous parts of this section, disinformation is seen in all the phases of assisted reproductive process of each individual of ARTAP. The purpose of disinformation here is to make the right to truth impracticable because if Zeynep were asked about using her oocytes for the pregnancy, she would possibly not let them to use. If she were confirmed about making her oocytes used in the process then she would be paid more for that consent. If Zeynep was informed during the pregnancy, then Zeynep would prefer not to give the baby to that family since she would be the baby’s both genetic and biologic mother. Possibly, not to cause distress about the birth, they preferred not informing Zeynep about using her oocytes. Or Zeynep

maybe mistaken in her feelings. She maybe attached the child and wrote script, which could justify that attachment in her mind. Whatever may come, all parties in the process have the right to truth. As a simple solution, the IVF Center may perform a maternity test after the surrogacy period. That test would de-stress the surrogate mother and mitigate possible attachment of the surrogate mother.

4.5.6. Justifying disattachment - making an analogy between oocyte donation and living organ donation

Oocyte donation and surrogacy are similar to other organ donation with respect to its scope and legal limitations and contradictions. Well then, should these donations be paid? It is known that oocyte donation and surrogacy are paid generally in underdeveloped and developing countries while they are mostly altruistic in developed countries. Similarly, in developed countries it is restricted to be paid for organ donation in many ways in order to prevent ethical problems that occur towards organ sales. Adair and Wigmore (2011: 191) underlines that paid organ donation was an emotive subject in the transplant community: part of the reason for this is that in many countries, including the UK, the notion of organ donation as a 'gift' is highly valued.

Adair and Wigmore (2011: 191) and Friedman and Friedman (2006: 960) give some examples about the national restrictions on paid organ transplantation. According to Friedman and Friedman (2006: 960) selling a human organ in the United States is proscribed. The National Organ Transplant Act states: 'It shall be unlawful for any person to knowingly acquire, receive, or otherwise transfer any human organ for valuable consideration for use in human transplantation if the transfer affects interstate commerce.' Punishment includes fines up to \$50 000 and/or 5 years in prison, but has not been meted out. A year after enactment of National Organ Transplant Act, the Ethics Committee of the Transplantation Society issued a supporting Policy Statement: 'No transplant surgeon/team shall be involved directly or indirectly in the buying or selling of organs/tissues or in any transplant activity aimed at commercial gain to himself/herself or an associated hospital or institute.' (Friedman and Friedman, 2006: 960).

In the UK, legislation prohibits commercial dealings in human material for transplantation (Human Tissue Act 2004 (England and Northern Ireland) and 2006 (Scotland)). In other countries such legal protection does not exist and in 2004 the World Health Organization (WHO) urged members ‘to take measures to protect the poorest and vulnerable groups from transplant tourism and the sale of tissues and organs’ (Adair and Wigmore, 2011: 191).

However, by the restrictions on paid donation, it is seen that donation rates were considerably decreasing while mortality rates depend on these decreased donations were increasing, inversely. Friedman and Friedman (2006: 960) give some ratios about these donations and mortality rates. According to them, in early September, 2005, 65,000 candidates were listed in the United States by the Organ Procurement and Transplant Network as waiting for a deceased donor kidney³³. At least 3000, of those on the wait list who will die each year might have survived had a suitable donor kidney been available. The United States Department of Health and Human Services advises: ‘each day, about 74 people receive an organ transplant. However, 17 people die each day waiting for transplants that cannot take place because of the shortage of donated organs’ (Friedman and Friedman, 2006: 960). Through a web site, it is understood that these ratios were updated unfortunately. According to this website, of the 123,000 Americans currently on the waiting list for a lifesaving organ transplant, more than 101,000 need a kidney, but only 17,000 people receive one each year. Every day 12 people die waiting for a kidney³⁴.

It is seen that the number of the waiting people who need for an organ transplant was nearly doubled in 13 years. Restrictions on paying for organ transplantation negatively affect people who wait for a donation in the lists as a result. Moreover, people tend to travel or to get illegal transplantations instead of waiting for their turn. Friedman and Friedman, (2006: 961) emphasizes illegal kidney transplants in their article. According to them, while the sale of human organs is against existing law, in nearly every country, illegal kidney transplants are widely available through devious and often unsavory vendors in India, Turkey, China, Russia, and South Africa as described in the New York Times. Organs Watch, a non-

³³ [http:// www.optn.org/latestData/rptData.asp](http://www.optn.org/latestData/rptData.asp)

³⁴ kidney.org

government transplant monitoring organization, estimates that ‘thousands of illegal transplants occur every year bought by patients from the Persian Gulf states, Japan, Italy, Israel, the US and Canada supplied by ‘donor’ nations, including India, Pakistan, Turkey, Peru, Mexico, Romania, and South Africa.’ The late Michael Friedlaender, a transplant nephrologist at Hadassah University Hospital in Israel, remarked: ‘what’s happening now is absurd. Airplanes are leaving every week. I’ve seen 300 of my patients go abroad and come back with new kidneys, it’s a free-for-all’ (Friedman and Friedman, 2006: 961).

While this free-for-all environment is an opportunity for organ trade market, it is a fireplace for people who are waiting for organ transplantation. The travels and illegal kidney transplants are very similar with the genetic and reproductive travels in some respects. This picture directed different authors to ask if the regulations, payments or other rewards would encourage people to be involved in organ/oocyte donation and surrogacy. For example, Friedman and Friedman (2006: 962) ask ‘what is so ethically wrong? How is it worse than selling one’s sperm or egg cells, actions now legal and widely advertised? Indeed, commercialization of semen and ova is more morally questionable than organ sale because those cells might create entirely new human beings.’ It is clear that, it is important and still in progress that how organ donation will be regulated and encouraged.

There are three kinds of organ donation categories. They are: Deceased, Living and Religious/charitable organ donation³⁵. Different methods are being discussed and experienced in order to increase especially living organ donation. Since this kind of donation is seen especially among friends or relatives, organisations and governments are interested mostly in increasing ‘living unrelated organ donation.’

According to many authors, including authors above, there should be some payments or rewards in order to encourage living and deceased donors. However, these authors did not suggest an option or policy for such a reward as Ghods and S. Savaj (2006) did. According to Ghods and S. Savaj (2006: 1136) an ethical consensus has developed around the world that there should be no payment for transplantable organs from either living or deceased individuals. They believe that

³⁵ kidney.org

the altruistic supply of organs had been less than adequate, and the results of this altruistic system had met with limited success. During the past two decades, several approaches had been adopted to increase altruistic organ donations, but the gap between supply and demand had worsened over time (Ghods and Savaj, 2006: 1136). In order to eliminate this gap, Ghods and S. Savaj (2006: 1136) explain ‘the Iranian model renal transplant program’ as a successful example. According to them, in the Iranian model renal (kidney) transplant program:

There is no role for a broker or an agency. All renal (kidney) transplant teams belong to university hospitals, and the government pays all of the hospital expenses of renal transplantation. After renal transplantation, the living unrelated donor receives an award and health insurance from the government. A majority of living-unrelated donors also receive a rewarding gift (arranged and defined by DATPA - Dialysis and Transplant Patients Association- before transplantation) from the recipient or, if the recipient is poor, from one of the charitable organizations. The government also provides essential immunosuppressive drugs such as cyclosporine Neoral and mycophenolate mofetil to all transplant recipients at a greatly subsidized and reduced price (Ghods and Savaj, 2006: 1137-1138).

In this Iranian model, multi-stakeholder structure, including the non-governmental organizations, government, charitable organizations, universities, citizens, etcetera., was constituted. Charitable organizations are regarded as very active in providing the drugs or in paying any expenses of kidney transplantation to poor patients.

According to this model, kidney transplant teams are separated from the incentives of the recipient or the government’s award. And the program was stated as under the scrutiny of the transplant teams and the Iranian Society for Organ Transplantation regarding all ethical issues. Transplant tourism was not allowed, namely, foreigners cannot undergo renal transplantation from Iranian living-unrelated donors. Foreigners can receive a transplant in Iran only if the donor and the recipient were from the same nationality (Ghods and Savaj, 2006: 1137-1138).

Some participants associated oocyte donation with organ donation as a way to justify disattachment. Nurgül and Ahmet gave an obvious statement including such justification. Nurgül, who had a child via donation, told me that she had no anxiety about that anymore since Nurgül trust in the contract about not sharing their information with the donor. Ahmet, who is Nurgül’s husband, supported Nurgül in this issue because it should be seen as an organ donation. From this trust it is

understood that they do not want to think about communicating with the donor in next years without reservation:

N: I have never thought that she will be in quest of her children afterwards.. At the beginning, I had such worries but later you trust that she should run the risk and according to the contracts they should not share any of our information with her..

A: What's more, the person who donates this, in fact sells her own oocytes in exchange of money..

N: She can't have any claims on these children.

Husband: Anyway, she does not have any emotional, attachment in fact. Suppose that I was selling my organ abroad. After selling my kidney, I can't expect that person to give it back to me.

N: *Hiç öyle birşey arayacağını düşünmedim mesela niyeysen. İlk başta öyle bir endişem oldu ama sonra onun onu zaten ne bileyim, onu göze aldığını, ve işte ordaki kontratlar sonucunda bizim hiçbir bilgimizi onunla paylaşmayacaklarına güveniyorsunuz yani.*

A: *Ya bir de, bunu veren insanın para karşılığı kendi yumurtasını sattığı için aslında*

..

N: *Bu çocuklarda herhangi bir hak iddia etme gibi birşeyi yok.*

A: *Hem duygusal olarak da bir şeyi yok, bir bağlantısı yok aslında. Neticede ne yapıyorum ben, organ satıyorum yurtdışında. Böbreğimi satıyorum, bir de aa.. böbreğimi sattığım adam geri versin diye beklemiyorum yani.*

Nurgül and her husband think that oocyte donation is similar with organ donation since oocyte donors sell their oocytes. According to this couple, selling oocytes should be an obstacle in front of any kind of attachment. However, Sevgi who is an oocyte donor implied me that she could get attachment to the children if she saw them. For this reason, it would be better for her not to see them. Moreover, Sevgi added that donating her oocytes to her sister would disturb her in that manner.

She explained her thoughts concerning attachment issue as follows:

S: I shouldn't see, I shouldn't know. Really, life is full of coincidences. Because of that, I don't want to encounter with something like that. Never. I don't donate [my oocytes], I mean, I don't donate [them] to my sister. I don't want her to donate [her oocytes] to me, too. I mean, I don't mind if I can't have children. I don't want that. Because I know that this work has an emotional dimension. Now, yes.. Perhaps, I am not affected since I don't see them [children] but [what happens] if I see...?

S: *İşte benim görmemem, bilmemem lazım, yani gerçekten hayat tesadüflerle dolu. O yüzden ben öyle birşeyle karşılaşmak istemem. Asla. Vermem yani ablama da vermem, ablam da bana vermesin. Çocuğum olmuyorsa olmasın yani. Onu istememem. Çünkü biliyorum duygusal yönü var bu işin. Hani şu an ben evet belki onları görmediğim için çok etkilenmiyorum ama ya görsem.?*

When it was asked to the interviewees that they would thought if this donation was a 'gift', namely a donation that was based on the 'free will' of the donor, then the family confused with the question. That confusion means, to me, that donors could have some claims on the children if that was a 'gift.' However, under

these conditions, they do not expect the visiting or any other request of the donor in the future. I mean, being paid for oocyte donation by ‘the conditions.’ However, it should be seen as a human feeling to attach the baby after the surrogacy or oocyte donation even if this practice is paid.

As it is seen, it is important to be poor or rich for being a donor and receiver in this issue, too. Thus, not through restricting such donations or any kinds of rewarding towards them but through balancing and regulating the financial and/or rewarding system in donations gain importance here. Authors who suggest Iranian model for organ transplantation can be investigated and generalize for oocyte donation and surrogacy with certain respects as an alternative for travelling and/or being victimized in these processes.

Table 8.

The Constraints concerning the capability of emotions

Capability	Constraints
The Capability of Emotions	1. Hidden fears and anxieties
	2. Surrogate mothers’ expectations from the families
	3. Not giving the right to the attachment of surrogate mothers
	4. Motivation: Instrumental or altruistic
	5. Not having the right to truth: <i>parrēssia</i>
	6. Justifying disattachment

In this section titled as ‘Constraints concerning the *Capability of Emotions* and ARTAP,’ different expectations of ARTAP and their attachments, right to truth, and statements towards similarities and differences between oocyte donation and organ donation were discussed. In order to mitigate the constraints concerning the capability of emotions, these expectations, attachments, and right to truth of each ARTAP should take their places in the contracts. First of all, a reproductive health policy should be issued and managed in a concrete manner. Not to exploit lower income women in this sector, concerns about the effect of poverty must be directly integrated in all the documents and decisions related to reproductive health policy of the country.

4.6. Constraints concerning the *Capability of Practical Reason* and ARTAP

According to Nussbaum's Capabilities Approach, 'capability of practical reason' is 'being able to form a conception of the good and to engage in critical reflection about planning of one's life' (Nussbaum, 2011: 33). This entails protection for the liberty of conscience and religious observance.

Nussbaum in *Creating Capabilities* underlines an important principle, which is: *each person as an end*. According to her, the goal is to produce capabilities for each and every person, and not to use some people as a means to the capabilities of others or of the whole (Nussbaum, 2011: 35). Up to here, it is seen that while some women were trying to compensate others' capabilities with their bodies and/or materials, some women as clients (I call them as *social mothers*) were trying to compensate these women's environment materially without asking 'the good' or 'the right' for others. According to Nussbaum, 'practical reasoning - reasoning about what course of action is good or right - brings trouble'; moreover, 'both the difficulty of the reasoning itself and the normative commitments that result lead to anxiety and disturbance' (Nussbaum, 1994: 715).

Constraints concerning the *Capability of Practical Reason* which were found in this subsection can be listed as follows:

1. Compensation of capabilities
2. Accepting surrogacy as a 'good deal' or 'work'
3. Proximity among ARTAP
4. *Contracts & Legality of the Contracts*
 - a. Question of 'good of each and every human being'
 - b. Question of 'family as private spheres'
 - c. Question of '*right to choose*'

First item of this list is 'the compensation of capabilities' which examined reproductive service as a 'work.' It is exemplified below.

4.6.1. Compensation of capabilities

It is seen in the interviews with ARTAP that they tend to see these reproductive services as ‘works’. They should be works because they were paid. Examples from the in-depth interviews Related to this capability are presented below. Following first quotation belongs to a surrogate woman from Turkey, Ayten. According to her, in return of the baby her economic situation would get better. With Ayten’s words:

Yeah, in the end, my economic situation will get better while they are getting better spiritually and I will get their blessings. I gave them a healthy baby girl.
Tabi sonuçta, e benim de maddi durumum düzelecek, onlar da manevi yönden ve dualarını alacağım. Sağ salim sağlıklı bir şekilde kız bebeği verdim.

If the ‘capability of practical reason’ is ‘being able to form a conception of the good,’ then this capability is similar with the ‘governance’ of the individuals with some respects since it will include ‘others’. Moreover, they are governing the other members of ARTAP and being governed as the members of ARTAP. But how can this be possible?

4.6.2. Accepting surrogacy and oocyte donation as a ‘good deal’ or ‘work’

It is seen that ARTAP became conditioned on a ‘good deal.’ While oocyte donors and surrogate mothers suppose that they were getting other families’ blessings, women who applied for other women’s wombs and oocytes to have babies think that paying for the baby is a good return for this work. With one of these women’s, Fatma’s words:

Of course, I told that.. her health comes first but in the end, I mean, it is similar to that.. if we work and try to maintain its quality, do not we, in exchange for an amount of money... Finally, this is her work, I mean, she does it for money. Finally, this is mutual. If you gratify me, I will give you... If you –take the money- you have to be careful in the end. I mean, you are carrying a living being and saying that I will do this work. Like a work I mean, you think that you will do this work.
Tabi ki hani dedim öncelikle hani tabi kendi sağlığı dedim ama sonuçta dedim hani nasıl biz işe gidiyorsak hani sonuçta işimizin hani hakkını vermeye çalışıyoruz değil mi, belirli bir para karşılığında. Sonuçta bu da onun işi, hani para için yapıyorsun. Bu da sonuçta karşılıklı. Sen beni memnun edeceksin ki ben sana... eğer sen o parayı gerçekten yani dikkat etmen gerekiyor sonuçta. Hani sen bir canlı taşıyorsun, bu işi yapacağım. İş gibi yani, bu işi yapacağım diye düşünüyorsun.

Moreover, it is understood that these women accept this deal as a “work.” According to Fatma, as a requirement of this “work,” surrogate women should gratify other women in order to deserve the money. However, Elif told me that she did not regard this as a work. Rather, she feels that she is a part of that reproductive process. With her words:

E: I don't regard it [donation] as a work in fact. I regard it as a favor as well.. I mean a.. I feel myself as a part of an event. Because I feel like I had helped women who wanted to be mother but they couldn't; [I helped] people who need this on the other hand.

E: Ben bunu bir iş olarak görmüyorum açıkçası. Ben bunu bir yerde bir hem yardım olarak görüyorum yani bir.. bir olayın bir parçası gibi hissediyorum kendimi. Çünkü anne olmak isteyen kadınlar, olamayan, bir şekilde buna ihtiyaç duyan insanlara yardım etmiş gibi hissediyorum bir yandan.

Here, Fatma and Ayşe, who had their children via surrogacy, tend to believe that they had their child/ren and paid for this work by virtue of the “aggreement” and the aggreement was over.

Ayşe attributed the surrogacy as a ‘throbbing work’ in her statement below:

Yes, they [my feelings] were negative at that time, but when I think about both sides: she needed money and we met that need. [At the same time] We needed a child and she met our need. In fact, it was a mutual transaction. But again, I thought of the situation of that woman. She could possibly have had a trauma. She felt the kicks of my son eventually. As a woman who experienced this process for 7 months I... I don't know.. Even if she regarded this as a work, her heart should have throbbled undoubtedly when she felt his heart beating for the first time. Thus, I can't say I didn't feel sorry.

Evet o zaman için olumsuzdu ama şimdi iki taraf için de sonrasında düşündüğüm zaman onun paraya ihtiyacı vardı biz o ihtiyacı giderdik, bizim de çocuğa ihtiyacımız vardı o da bizim ihtiyacımızı giderdi. Karşılıklı alışverişti yani bu aslında. Ama tabii ki mutlaka sonrasında o bayanın da durumunu düşünmedim değil. Mutlaka duygusal bir travma geçirmiş olabilir. Sonuç itibarıyla oğlumun tekmelerini hissetti. Ben de bu süreci 7 ay geçirmiş bir kadın olarak işte ne bileyim mutlaka kendince o iş, o iş.. ee bunu iş olarak görmüş olsa bile ilk kalp atışını o da hissettiğinde mutlaka onun da kalbi çarpmıştır. O yüzden onun adına da üzülmedim değil yani açıkçası.

Ayşe regarded surrogacy as a work, which may include emotions. Again, she supposed that after paying the money, she could feel herself better since the work would finish then. Moreover, she thought that they compensate each other's capabilities via that deal. However, it is seen in this subsection that all oocyte donors did not regard donation as a work and donation may include emotions as well.

4.6.3. Proximity among ARTAP

As it is discussed in the previous sections under the ‘disattachment,’ issue, social mothers does not want any possible attachment and involvement to their children’s and families’ lives. As an example for this preference, Fatma told me that she would not like to see or even send the surrogate mother a photograph of the child later on since the surrogate mother’s ‘duty will have been done’. With Fatma’s words:

I: I was about to ask you that if you would like to send a photograph of him in the future..

F: No, no. She will have done her duty while I will have done all of my payments. She will go her way, I will go mine..So in that way..

I: Ben de diyecektim ki ilerde herhangi bir şekilde resmini göndermek felan..

F: Yok yok. Tamamıyla o görevini hani bitirmiş olacak, ben de tamamıyla bütün ödemelerimi yapmış olacağım. O kendi yoluna bakacak, ben kendi yoluma bakacağım. O şekilde yani.

Fatma did not respect to the surrogate mother’s possible request of getting a photograph of the child. I supposed that this could be a unique response and other people could regard this request as the rights of the surrogate mother and the child.

During the pregnancy period, ‘good’ or ‘bad’ government generally depends on the families as it is seen in these examples. However, after the reproduction period, it is known that in their private family life, ARTAP do not plan to see or interact with the surrogate mother or oocyte donor. Rather, they prefer to get rid of the possiblitiy concerning such an interaction.

In the quotations below, Fatma firstly said that she would like the surrogate mother to be a Turk since she would like to be closer to the surrogate mother. With Fatma’s own words:

I: Would you like her to be a Turk?

F: Of course, I would like to. At least, I could communicate with her. I mean, her nutrition, well.. Even if there are other things.. Nutrition again makes a difference. I would like her to eat my meals, I mean; I would like to speak to her.

I: You can’t host her, of course, can you?

F: Yes, we do not have such a chance already. But at least, I woud like to speak to her, her nutrition as you told.. I would like her to be from Turkey. However, in general nearly all of the women who do this job [surrogacy] or 90% of them are foreigners. I got information like that, I mean, I found her this way.

I: Kadının Türk olmasını ister miydiniz?

F: Tabi ki tabi ki. Evet tabi. Hani en azından konuşabilirdim. Yani beslenmesi hani ya ne kadar şey olsa bile hani beslenme de çok farkediyor yani. Hani kendi yemeklerimi yesin isterdim, ne bileyim hani konuşmak isterdim.

I: Misafir de edemiyorsunuz tabi değil mi?

F: Evet evet, öyle bir şansımız zaten yok. Ama en azından konuşmak isterdim, dediğiniz gibi beslenmesi.. Türkiye'den olsun isterdim. Ama genelde bu işi yapan kadınların hepsi %90'ı hep yabancılar. Öyle bilgiler alıyorum, hani ben de öyle buldum yani.

However, after questioning for a while, Fatma changed her mind on the topic concerning the proximity of the surrogate mother to her family. In fact, she was in a contradiction on the subject. While Fatma would like the surrogate mother if she was a Turk, but she would not like to be in a very close relationship with her since she could not trust her. Her answer to my question, “if she were here in Turkey, could she cause unrest?” is as follows:

F: No, I mean, of course, I would not like her to be close to me since.. However, [I would like] to know, if she was a Turk, I would be able to ask her how she was, how it was going and so on. To be honest, I wouldn't like to be in a very close relationship, to meet every week and so on. I wouldn't like her to know the place I live or have information about me. Since we cannot trust anyone nowadays, I also wouldn't like to have such an intimacy. But, I would like her to be a Turk.

I: Sizce burda Türkiye'de olsaydı peki, daha çok huzursuzluk verebilir miydi?

F: Yok şöyle, tabi ki hani benim yakınımda olmasını şöyle istemezdim hani ama en azından Türk olduğunu bilmem hani en azından telefonla hatrını sorabilmem, nasıl gidiyor falan. Öyle hani çok yakın olsun her hafta buluşalım şey yapalım öyle ben de istemezdim açıkçası. Hani benim oturduğum yeri bilsin hani bilgilerimi bilsin ben de istemezdim. Çünkü bu zamanda kimseye güven olmadığı için hani o kadar samimiyeti ben de istemezdim. Ama Türk olmasını isterdim yani.

Similar to Fatma, Ayşe, who had her child via surrogacy, told me that she had had some contradictions in her mind at the beginning of the surrogacy period. At the end of the process, she tried to adapt the conditions rather than imagining solidarity with the surrogate mother since the possibility of physical proximity made her worried. Ayşe told me her thoughts about the surrogate mother as follows:

No, I mean.. I thought that it is obviously better for her to be a foreigner. It is because.. At the beginning, I had different thoughts. I mean, there were times, I thought that it would be better if we talk to each other and meet frequently, continue together and so on. However, it is better this way when I consider the later stages, not the process I was living at that moment. I mean, after everything had come to an end, not to question myself, I thought that this was better in this way.

Yok ben şey.. yabancı olması daha iyi diye düşündüm açıkçası. Şimdi şöyle.. ilk etapta benim farklı düşünürdüm hani yani aslında birlikte muhatap olup sürekli görüşmek vesaire ya da aynı dili konuşup birlikte devam etsek daha mı iyi olurdu diye düşündüğüm oldu ama. Böyle olması hani sonrasında düşündüğüm süreç için, o zaman yaşadığım süreç için değil ama, sonrasında yaşadığım süreç için. Ee.. yani hani herşey olup bittikten sonra daha çok böyle kendi içimde sorgulamamak için böyle olması daha hayırlı diye düşündüm kendimce.

Nurgül shared her thoughts about the oocyte donor. Her thoughts were not different from the thoughts of Ayşe and Fatma who had their children via surrogacy. Moreover, as it is mentioned and discussed in the previous parts of this topic, Nurgül attributed oocyte donation as organ transplantation in some respects and tried to legitimate her disattachment by thinking so. With Nurgül's words:

I: Yes.. You told me just a moment ago, did you see the oocyte donor, would you like to see her?

N: No, we had never known her, I would not like to know.. I mean, I don't have such desire. I mean, I say that always, It sounds to me like an organ transplant. That's how I feel.

I: *Ee.. bu evet az önce demiştiniz donörlük yapan kişiyle tekrar görüştünüz mü, görüşmek ister miydiniz?*

N: *Yok, hiç tanımadık, tanımak da istem(ezdim)... yani öyle bir isteğim de yok hiç. Ben yani onu hep söylüyorum işte bana organ nakli gibi geliyor biraz. Hissiyatım o yönde yani.*

I wanted to learn if Ayşe could tolerate if the surrogate mother wanted a photograph of the child. Ayşe's response to my question was similar with Fatma. Ayşe said "no" and narrated her previous telephone call with the embryologist on my request for interviewing with Ayşe [I was introduced Ayşe by the embryologist at that telephone call even after a dirty joke of the embryologist].

Ayşe narrated her answer as follows:

I: But I think you would not like to.. I mean if the woman wants you to send her a photograph of the child, would you tolerate this?

A: No no.. It is not legal anyway... When the embryologist called me for your this request [for interviewing], he firstly told me that there was a .. It was a dirty joke. He told me that there was a problem in the documents and we should go to Georgia to give the child back. I told him that I would kill him (laughs). I could say only this sentence at that moment, I mean.

I: *Ama şey de yapmazsınız yani kadın dese ki bir fotoğrafını iletsele dese hoş görür müsünüz?*

A: *Yok yok. Zaten hem hukuken böyle birşey yasal değil, hem de zaten şimdi sizin isminiz.. sizin bu durumunuzu bana embriyologumuz açıklayacağına telefon açtı. Dedi ki Evraklarda dedi ee.. kötü bir şakaydı. "Bir sıkıntı oldu" dedi, "sizin" dedi "Gürcistan'a gelmeniz gerekiyor, çocuğu alacağız" dedi. Ben de "seni öldürürüm" dedim (Gülüşmeler). Direkt ağızımdan bu cümle çıktı yani.*

Ayşe strictly rejects such a toleration of sending a photograph of the child to the surrogate mother. So that, a request of sending a photograph of the child and the possibility of having a problem in the documents and giving the child back were regarded as similar suppositions by her.

4.6.4. Contracts & Legality of the contracts

Some interviewees like Ayşe, emphasized the ‘contracts’ and the ‘legality’ in the process. It is obvious that she relies on the ‘legal’ dimension of this surrogacy. However, their process was ‘legal’ only in Georgia. That means, after they took the child to Turkey, laws would not protect them, anymore. Contracts possibly give trust to the individuals of ARTAP since they eventually aim to govern their selves and families. Surrogate mother and oocyte donors are seen as threats to their family uniqueness with some respects. Thus, since it is written in the contracts or told them verbally, surrogate mothers and oocyte donors know that they should not disturb other families after the birth. Can we say that these contracts are defending the ‘fully human lives’ for each member of ARTAP?

Rawls (1999: 12) explains one feature of ‘justice as fairness’ in his famous book titled as *A Theory of Justice* as to think of the parties in the initial situation as rational and mutually disinterested. This does not mean that the parties are egoists, that is, individuals with only certain kinds of interests, take care of their wealth, prestige, and domination. (Rawls, 1999: 12). Rawls (1999: 12)’s has a suggestion that, “we should try to avoid introducing into (rationality) any controversial ethical elements’. However, ARTAP necessarily introduce rationality in their reproductive processes, which include controversial ethical issues. According to Nussbaum (1994: 728), we cannot give good reasons in ethical matters, or even say what good reasons are. But there is one thing we can assert: that the process by which agents seek to make reasoned judgments, like other forms of behavior in which they engage, is really a form of utility maximizing.

Nussbaum criticizes Rawls and some other contractarianist thinkers, by focusing on the design of a fair procedure in their theories (Nussbaum, 2004: 13). After that, she develops her capabilities approach since it begins with outcomes: with a list of entitlements that have to be secured to citizens if the society in question is a minimally just one (Nussbaum, 2004: 13).

a. *Question of ‘good of each and every human being’*

In her capabilities theory, Nussbaum (2004:13) underlines that there are some prerequisites for living a life that is fully human rather than subhuman, a life worthy

of the dignity of the human being. And she includes in this idea the idea of the human being as a being with, in Marx's phrase, "rich human need", which includes the need to live co-operatively with others. However, by suggesting to 'live co-operatively' Nussbaum does not imply to compensate others' incapacities by sacrificing or wasting our capabilities. By this reason she emphasizes the 'good of each' and that 'a fundamental part of the good of each and every human being will be to co-operate together for the fulfilment of human needs and the realization of fully human lives' Nussbaum (2004:13).

Frankly speaking, 'realization of fully human lives for each person' is a very strong and ambitious goal. Moreover, it will require many things from the world: adequate nutrition, education of the faculties, protection of bodily integrity, liberty for speech and religious self-expression, and so forth (Nussbaum, 2004:13). These requirements make the 'realization of fully human lives for each person' very hard and ambitious since it is difficult to guarantee them in a contract of ARTAP. Rawls (1999: 12) can be right in his suggestion of one 'should try to avoid introducing into (rationality) any controversial ethical elements,' with respect to contracts of ARTAP. Because we know that the aim of the contracts are to save certain kinds of interests, such as wealth, prestige, and domination. However, the involvement of items for the 'realization of fully human lives for each ARTAP,' would make this aim does not work anymore. Then contracts of ARTAP would save only one or two sides (clients) of at least six sided (clients of donation and surrogacy, surrogate mothers, oocyte donors, embryos and next generations) ARTAP prisma. By doing so one of the fundamental parts of capabilities approach, the 'good of each' is neglected.

b. Question of 'family as private spheres'

Indeed, the family institution itself is a roof for the deficient human lives for its each member. Nussbaum, in general, refers that the realization of fully human lives for the family members was very important in the capabilities approach. Among 'the ten principles for the Global Structure', Nussbaum defines family which should be treated as a sphere that is precious but not "private" (Nussbaum, 2004: 17). According to her, the protection of the human capabilities of family members is always paramount and especially female lives are not protected enough. Nussbaum phrases females' lives in this 'private spheres' as follows (Nussbaum, 2004: 17):

The millions of girl children who die of neglect and lack of essential food and care are not dying because the state has persecuted them; they are dying because their parents do not want another female mouth to feed (and another dowry to pay), and the state has not done enough to protect female lives.

It is understood in this discussion that, IVF centers probably prefer to make these contracts in order to save the ‘private spheres’ of the families in ARTAP. By doing so, they would guarantee that surrogate mothers or oocyte donors would not claim any right on the baby in the future.

While continuing with the findings related to this discussion, it can be argued that these contracts indeed help ARTAP and Assisted Reproduction authorities to govern the reproductive process and to maintain the uniqueness of the families. As I explained in the previous sections for many times since it has various disputable aspects, Elene had had a refusal from the family on her request of prepayment because every detail was determined in the contract, indisputably. Our dialogue concerning this refusal is below:

I: Did you have any negative experience with the family on the contract or in the later processes?

E: Yes, I wanted certain things. But the contract rules were not violated. I wanted something extra. Normally, they did not act contrary to the contract. Yes, I wanted some extra things. Every detail is included in the contract such as the amount of money to be paid monthly, the total amount of money in case of twins, everything. I wanted some extras but the family could not afford it. I asked [for something] out of the contract but it was not accepted. I did not say anything, the rules of the contract were not... Nothing was contrary to the rules. I know the rules. I did not want anything except that.

I: Peki sözleşmeyle alakalı ya da sonraki süreçlerdeki taleplerle ilgili aileyle herhangi birşey oldu mu?

E: Evet bazı şeyler istemiştım. Ama sözleşme hakları hiç şey olmadı, çiğnenmedi. Ekstra birşey istemiştım. Normalde sözleşme dışında herhangi bir davranışları olmadı. Evet ekstra birşeyler istemiştım. Sözleşmede herşey var aylık bu kadar alacağım, ikizde bu kadar herşey.. ben biraz fazla birşey istedim ama aile karşılayamadı. Sözleşme dışında sadece teklif ettim, olmadı. Birşey demedim, sözleşme şartları şey olmadı. Bozulmadı. Kuralları biliyorum. Onun dışında bir şey istemedim.

After Elene’s statement a related dialogue was recorded in the same interview with Elene and the IVF-Public Relations Manager. This dialogue shows that the contract items were not prepared by taking the urgent needs of the surrogate mother into consideration. Here in what follows:

I: Did anything occur in your mind? Would it be better if they were Georgians?

E: I don’t have any bad thoughts at this moment.

IVF-PR manager: They [the family] don't violate a rule in that contract. So, there is no negative situation for this woman. However, if this woman had a friend whose family [prospective family] makes her pleased, Elene could feel bad. Their [the surrogate mother and the family's] relationship is not bad since they do not have much communication.

I: Türk olmalarıyla ilgili birşey oluştu mu kafanızda? Gürcü olsalardı daha iyi mi olurdu?

E: Öyle birşey, kötü birşey düşünmüyorum hiç şu anda.

Tüp bebek merkezi sorumlusu: O sözleşmede herhangi bir kural çiğnemiyorlar onlar. Onun için bu kadın için de olumsuz bir durum yok. Ama onun gibi mesela bunun da arkadaşı olsa ailesi hoş tutan, bu da kötü hissedebilirdi. Çok iletişimleri olmadığı için de kötü değil ilişkileri.

No rules have been violated. However, only thing Elene could be confused would be the 'good/better behaviours' or 'good/ better governing' of her friends' families towards them (their surrogate mothers). Since it is instrumental to be a surrogate mother or an oocyte donor in the countries including Turkey, Cyprus and Georgia; Elene and other surrogate mothers and oocyte donors do not have the right to choose the couple or women whose reproduction is assisted by these women.

c. Question of 'Right to choose'

As a result of the influence of British social thinker Richard Titmuss (1997: 135), who argued that giving blood needed to be maintained for the best interests of both society and the individual, human tissue donation is altruistic in Australia, in part. While neoliberal economic thought emphasized negative liberties (Berlin, 1969), Titmuss (1997: 136) argued that opportunities for positive liberty, such as an individual's 'right to give' was fast disappearing and should be conserved. However, we can talk about a group of people who have the 'right to choose and receive' in ARTAP. Since others are paid and unable to choose the family for their donation or surrogacy, it is complicated if they are even using the 'right to give.' That's why, in the current world, where institutions and their relations are constantly in flux, it would be wise to begin with human entitlements as our goal (Nussbaum, 2004: 13).

According to Nussbaum, it should be asked 'what people are entitled to receive and, even before we can say in detail who may have the duties' (Nussbaum, 2004: 13). Then, we conclude that there are such duties and that we have a collective obligation to make sure people get what they are due (Nussbaum, 2004: 13). Then, the entitlements to receive and to give should be understood better and applied to human dignity and what it requires.

Here is an example of ‘right to choose and receive’ before a surrogacy process. As it is seen in the quotation below, ‘right to choose’ shifted to the IVF Center in this case. I asked Ayşe if the embryologist gave her a chance to choose their surrogate mother or not. Ayşe told me about their reasoned judgement in their case as follows:

Of course it was given, I mean, they [doctors in the IVF Center], gave us some examples and showed us two candidates [surrogate mothers]. They told us that this woman was like this, and other one was like that, and so on. Ee... in the first phase, we had the choice but when the woman changed [a second candidate replaced the one we chose] we only wanted her to be healthy, we wanted them to choose the woman who could successfully deliver. We completely left the second choice [of surrogate woman] to them later, that’s all I can say.

Dendi tabii ki, yani onlar bize birkaç örnek verdiler, iki adayı gösterdiler. Şu şöyle şu şöyle gibilerinden. Ee.. biz ilk etapta seçme şansımız oldu ama yani ikinci, bayan değiştiği zaman tamamen ya sağlıklı olsun, bu durumu tamamen elverişli duruma, sonuca ulaştırabilecek kişiyi siz seçin dedik. İkinci seçimi onlara bıraktık tamamen. Öyle söyleyeyim.

The IVF Center gave Ayşe and her husband an opportunity to choose their surrogate mother. However, this choice remained as figural since Ayşe had to leave that choice to her embryologist to make the right choice. She reasoned her judgement in this way.

Hale told me that they were not able to choose their oocyte donor in Cyprus. She added that the embryologist wanted the photographs of Hale and her husband in order to find a more resembling oocyte donor. With her words:

H: We are not allowed to make it [the decision of choosing the donor] They find her, I mean. In this final one, something happened like this: They checked all of our blood tests before. This place [IVF Center] wanted [to get information of] our height, weight, even the photographs of us. They wanted some photographs of me and my husband taken from every angle.

I: Aa.. [Did they look] for similarity?

H: Yes.. It is strange, yes. To find a resembling one [oocyte donor]. We did not choose. We did not see any of them, no.

H: Siz zaten kararı.. onlar buluyorlar yani. Bu sonuncusunda şöyle birşey oldu; bütün kan değerlerinize bakıyorlar zaten önce. Boyunuzu kilonuzu hatta resmimizi istedi burası. Boydan postan. Eşimle benim resimlerimizi istedi.

I: Aa.. benzerlik mi?

H: Evet. Enteresan evet. Hani benzer bulmak anlamında. Biz seçmiyoruz. Hiçbir şey görmedik hayır.

Hale was donated with the oocytes of another woman in Cyprus a few years ago and Sevgi still an oocyte donor again in Cyprus. Sevgi verified the information, which was given by Hale about IVF Centers’ efforts on avoiding of knowing each other in the process. However, Sevgi told me different things on the similarity efforts

of IVF Centers. She told me that people could want a not resembling woman's oocytes for donation. Sevgi stated her thoughts in the paragraphs below:

S: They don't know us, too. I mean, they don't have our photographs. Only... I mean... I didn't give, until now, I had never given any of my photograph. They only have our information. You know, your eyebrows, eyes, nose, weight, hair, and so on.. However, families could say something like this, I know it like that: For example, the wife of the man can be black but he wants a coloured-eye one [the oocyte donor]. I mean, I heard that it could be possible, they could choose according to that.

I: Not resembling [laughs]. Is there anyone who is looking for being not resembling? Very interesting.

S: Yes. For example, sometimes I chat with the coordinators. I mean, how can it be possible? Moreover, he is involved in an IVF [treatment]. [Do they want] To show that the baby was from another woman?

S: *Onlar da bizi tanımıyor. Yani fotoğraflarımız falan yok zaten hiçbir şekilde. Sadece.. Ya ben vermedim, bugüne kadar hiç fotoğrafımı vermedim. Ama sadece bilgilerimiz var bizim. Hani kaşın, gözün, burnun, kilon, işte saçın, ne bileyim.. Aileler şöyle diyormuş, yani onu öyle biliyorum: Misalen, adam yani karısı esmer, ama renkli gözlü istiyor. Yani olabiliyormuş, ona göre seçiyorlarmış.*

I: *Benzemezlik [Gülüşmeler]. Benzemezlik arayan da mı varmış? Çok ilginç.*

S: *Evet. ben mesela bazen konuşuyorum böyle koordinatörlerle. Yani nasıl olabiliyor? Bir de tüp bebek yaptırıyor. Resmen başkasından olduğu belli olsun diye mi yani.*

It is argued by Sevgi that the families may only have detailed information about the oocyte donor such as her physical characteristics, educational background, family/ genetic history, family origins, health information and reproductive history but not the photographs of her. However, she didn't want to think that staff of that IVF center could have her photos from her social media accounts and whats up images. As it is seen here, she had chosed to trust those staff in this issue, too.

There are some egg donor and surrogate mother database/ catalogue/ profiles on the websites of IVF Centers or Cryobanks abroad. One can choose his/her oocyte donor according to race, physical appearance, or similarity with her/himself such as finding a partner.

As it is seen obviously here and as it was discussed in the previous sections shortly, 'right to choose' here refers to a kind of injustice since it is applied one-sidedly. Rawls, explains this injustice as 'the acceptance of inequalities/relations' since they are mutually self-interested (Rawls, 1958: 174). According to him, there is recognition of the motives, which lead them to engage in their common practices, and they have no title to complain of one another. And so provided that the

conditions of the principle are met, there is no reason why they should not allow such inequalities (Rawls, 1958: 174).

In this section, we referred to ‘government of the families’ when it is needed. In fact, this reference was related to the governmentality question of Foucault since it is again related to judgement discussions above. Governing the family members and the family in relation to the economic, social, biological problems and to other people should be examined in this context.

Foucault (Burchell, Gordon and Miller, 1991: 91) gives the government typology of La Mothe Le Vayer in shaping the forms of the art of government. These are: the art of self-government (connected with morality), the art of properly the governing a family (belongs to economy), and finally the science of ruling the state (concerns politics). ‘The family and its members’ are in the centers of governmentality and power analysis.

Foucault takes Le Vayer’s typology to one step further and contributes to the establishment of a parallelism between governing a state and governing a family in his article. According to him, government of a family is directly related to the government of a state: when a state is well run, individuals will, in turn, behave as they should. “This downwards line, which transmits to individual behaviour and the running of the family the same principles as the good government of the state, is just at this time beginning to be called *police*” (Foucault in Burchell, Gordon and Miller, 1991: 92). Family had a central importance in the continuity of the forms of government. So that, the central term of this continuity was attributed as the government of the family, and termed as *economy* (Foucault in Burchell, Gordon and Miller, 1991: 92). Foucault, in *Governmentality* underlines the family’s relation to the economy, and places the family, to the basis of political economy.

In the same article, Foucault compares Machiavelli’s and La Perrière’s approaches to government³⁶. Foucault narrates La Perrière’s approach to government as follows (Foucault in Burchell, Gordon and Miller, 1991: 93):

The things with which in this sense government is to be concerned are in fact men, but men in their relations, their links, their imbrication with those other things which are wealth, resources, means of subsistence, the, territory with its specific qualities, climate, irrigation, fertility, etc.; men in their relation to that other kind of

³⁶ According to Machiavelli, sovereignty is not exercised on things, but above all on a territory and consequently on the subjects who inhabit it (Foucault in Burchell, Gordon and Miller, 1991: 93).

things, customs, habits, ways of acting and thinking, etc.; lastly men in their-relation to that other kind of things, accidents and misfortunes such as famine, epidemics, death, etc.

The discussions in this section above are especially related with ‘the man in relation to fertility’ among others as Foucault referred to La Perrière. In the governing of the family with respect to fertility, ARTAP and IVF Centers tend to make contracts and by doing so they are strictly determining the nourishment and payment issues. However, they generally neglect to give information on multiple pregnancy processes and possible abortions towards them, and they do not explain communication issues explicitly in the contracts and violate the bodily health, bodily integrity and other fully human capabilities of other ARTAP members, especially surrogate mothers.

Table 9.

The Constraints concerning the capability of practical reason

Capability	Constraints
The Capability of Practical Reason	1. Compensation of capabilities
	2. Accepting surrogacy as a ‘good deal’ or ‘work’
	3. Proximity among ARTAP
	4. Contracts & Legality of the Contracts
	a. <i>Question of ‘good of each and every human being’</i>
	b. <i>Question of ‘family as private spheres’</i>
	c. <i>Question of ‘right to choose’</i>

Finally in this section, it is seen that ARTAP tend to define their situation as a ‘good deal’ for their assisted reproduction practices. However, they are intolerant to any kind of attachment in and after these processes. They justify such intolerance on the contracts. As a result of this, specific problems occurred in the relationships among ARTAP.

Contract-based reproductive system, in its current form, is not a solution for this injustice environment. Rather, it may cause injustice by defending one party. More humane engagements including ‘better government’ and ‘realization of fully

human lives –as soon as possible-’ for each ARTAP should be prepared and signed by all the parties.

The constraints concerning the 7th capability of Nussbaum, *Affiliation* are discussed in the next subsection.

4.7. Constraints Concerning the Capability of *Affiliation* and ARTAP

Nussbaum explains affiliation under two sub-topics. They are: 1. Friendship and 2. Respect. The definition of friendship of Nussbaum is given below:

4.7.1. Friendship

Friendship is explained as ‘being able to live for and to others, to recognize and show concern for other human beings, to engage in various forms of social interaction; to be able to imagine the situation of another and to have compassion for that situation; to have the capability for both justice and friendship’ by Nussbaum (2011: 33).

While starting with friendship, it should be pointed out that the attitudes of the members of ARTAP towards their friends and friendship generally went through radical change. It is obvious that they listen to their friends’ advices concerning reproductive issues, but they did not accept their friends or their relatives’ (any) role in their reproductions.

In my interviews with ARTAP, I discovered that ARTAP had classified their constraints/ problems towards or expectations from friendship into four categories. These are:

1. Friendships as learning environment
2. A problem concerning “instrumentalism” vice versa “altruism”
3. Friends’ judgements
4. An intimacy problem - concerning social and biological/ genetic mothers

Friendship has some different meanings for ARTAP in their reproductive processes. They want their friends’ support in their lives and decisions but do not

want any judgement: ARTAP know well that people who know them best can judge them at most. As it is listed above, ARTAP stated their friendships in four different dimensions which positive or negatively affect their capabilities of affiliation.

It is seen that ARTAP give different meanings to friendship after ‘learning from the friend’ in general. ‘Learning from the friend’ is examined firstly below:

4.7.1.1. Friendships as learning environment

Learning from the friend or social environment is seen in different sides of ARTAP. Ayten, a surrogate mother, told me that she had a motivation for this through a countrywoman who was unable to give birth to a child. Ayten told me how she first heard about this as follows:

A: I heard this from around. I had never heard any single thing about surrogate motherhood until then.. A woman was unable to give birth to a child. She was living in a village. I remember that she referred to surrogacy. The countrywoman knew but I didn't know. I had never heard any single thing about surrogacy until last year. She [countrywoman] was saying that I would like to do so [renting a surrogate mother] if I can find one. I came to home and investigated the surrogacy on the Internet. Actually, I had never heard anything about surrogate motherhood until then. I learnt about surrogacy last year.

A: Bir çevreden duydum ben bunu. Ben şimdiye kadar taşıyıcı anneliğin t sini bilmezdim ben... böyle bir bayanın çocuğu olmuyordu. Böyle köyde oturuyordu. Sanırım böyle, taşıyıcılıktan bahsetti. Köylü bayan biliyor ben hala bilmiyorum. Ben geçen seneye kadar taşıyıcılığın t sini bilmezdim. Bulursam yaparım falan diyordu. Eve geldim internette araştırdım taşıyıcı annelik. Yoksa ben şimdiye kadar taşıyıcının t sini bilmezdim ben. Ben geçen sene öğrendim taşıyıcı anneliği.

Mariam, who is a surrogate mother in Georgia, Batumi, also learnt this from her social environment. She told me that she heard about surrogate motherhood from one of her oocyte donor friends. Our dialogue with Mariam is below:

I: Do you know someone who was a surrogate mother before or did you see an advertisement or something like that?

M: Yes, I have a friend. She was an oocyte donor here [in an IVF Center]. She told me what the conditions [of surrogacy] were. After that, I applied for that. I had never been an oocyte donor. I applied only for the surrogacy.

I: Taşıyıcı annelik yapmış birilerini mi tanıyordunuz yoksa ilan vs mi gördünüz?

M: Evet arkadaşım vardı. O dönörlük yapıyordu burda. O söyledi böyle böyle şeyleri istiyorlar diye. Ordan gelip başvurudum. Daha önce donörlük yapmadım hiç. Sadece taşıyıcı annelik için başvurudum.

Elif told me that she heard donation from her environment, too. And she added that especially if a woman needs money, she would not like to reject such a way of getting money. Elif's statement is given as follows:

E: It is being in this way: for example, you hear from the friends, from the environment that there is something like this and this. If you need money at that time you don't ignore this in general. [You say] "Okay.. lets do it."

E: Burda şu şekilde oluyor: mesela, arkadaşlardan duyuyorsunuz, çevreden duyuyorsunuz, böyle böyle birşey varmış. Eğer gerçekten paraya ihtiyacınız olduğu bir dönemdeyseniz bunu geri çevirmiyorsunuz genel olarak. "Hani tamam, yaptırılm."

As you can remember next case from previous topics, Hale was a women who had her children via oocyte donation. She applied for an IVF Center to have an oocyte donation on the advice of her gynecologist. However, Hale suffered from an abortion during her triplet's pregnancy since it would be risky to carry all of the babies. Thus, she advised her friend, who intended to have an oocyte donation like Hale, to avoid letting them put three. Hale narrated her situation and advices to her friend as follows:

H: All three of them were held, yes. This.. in fact this was unexpected in my case. They put three because the previous two test-tube trials were both unsuccessful. If I'd known [about this suffering period] before I would never.. never let them put three [embryos]. I advised one of my friends so, to avoid letting them put three. You will not be able to carry more than two. Her age and physical conditions were not suitable for pregnancies more than two.

H: Üçü de tuttu evet. Bu.. bu da aslında benim durumumda çok beklenen birşey değil. Daha önce işte iki donasyon da başarısız olduğu için üç tane koydular. Şimdiki aklım olsaydı asla.. asla üç.. koydurmazdım yani. Ben mesela önerdiğim bir arkadaşıma da dedim, sakın üç koydurmayın yani ikiden fazla taşıyamayacaksınız. Onun da yaşı ve fiziksel durumu itibarıyla ikiden fazlayı kaldıramayacaktı.

Nurgül who is the friend of Hale took Hale's advice into consideration and let them to put only two embryos in her womb and gave birth to these twins. As it is seen above, the possible disinformation in the contracts and communication with Hale mitigated Nurgül's advice, respectively in this case.

4.7.1.2. A problem concerning "instrumentalism" vice versa "altruism"

It is observed in these interviews that familiars' direct roles are not desired or accepted in the assisted reproduction. This avoidance of carrying familiars' baby/ies or using familiars' bodies/genetic materials in reproduction processes is seen both in surrogate mothers and women who had oocyte donation in my interviews with ARTAP.

Ayten told me that she avoid of finding familiars among her connections/friends since she would regret afterwards. She explained her intuitions concerning this avoidance in the following qoutation:

A: No, apart from my husband and that family, nobody knows [the surrogacy]. I don't find [the family] from my connections, they [the families] should be strangers. It can't be an acquaintance. I mean, if an acquaintance wants, I won't do it [surrogacy], I can't. I will be [disturbed] of the smallest thing... I mean, if there is something wrong, she [tries to find] your fault or something else. Certainly, I won't do it for an acquaintance, certainly. Even if they offer 100 000 TL, I would not accept it. Acquaintance.. Because I would regret what I did someday.

A: *Yok, eşimden başka, bir de o aileden başka kimse bilmez. Tanıdıklar üzerinden bulmam, yabancı. Tanıdık olmaz. Yani tanıdık yapsa yapmam yani yapmam da. En ufak birşeyden ben şey yapar, hani kötü oldun mu hemen bir açığımı falan. Kesinlikle tanıdık kesinlikle yapmam. İsterse bana 100 000 tl versinler gene yapmam. Tanıdık. Çünkü ilerde başım ağrır.*

This attitude may be problematic when we assume that Turkey could adopt an altruistic surrogacy in its regulation in time like Scandinavian countries. For example, Danish law forbids anyone to function as a mediator between commissioning parent(s) and a potential surrogate (Kroløkke and Pant, 2012: 234). Moreover, only women who achieve pregnancy “naturally” with the intended father can, if no money or contract is involved, become a surrogate, thus effectively disabling the use of gestational surrogacy (Kroløkke and Pant, 2012: 234). Danish practice is a very extreme example of altruistic surrogacy. Again, it is known that many countries including UK, Ireland, and Belgium still prefer a form of surrogacy in which the surrogate mother is not paid.

In these cases ARTAP tend to request their assistant reproductive needs from their friends and relatives. It is obvious that, this would not be preferred by any members of ARTAP who were interviewed. For example, Hale told me that she would not like to choose her donor from her relatives. With her sentences:

H: Choosing [my oocyte donor].. I, for my part, would not like to choose it from my relatives or someone else I know. That is a more distressed process.

H: *[Donörümü] seçmek ben bir tanıdığımı vesairemi seçmek istemezdim şahsen. O daha sıkıntılı bir süreç yani.*

I questioned Hale why she would not prefer to choose one of her relatives or friends or someone else who would not be paid for the oocyte donation. Hale told me that she could afraid of that woman since Hale would suppose that that woman could want her child back after a while. And Hale narrated me another memory about one of her friend's suggestion of being Hale's oocyte donor as follows:

H: However, I would like to tell you something else. One of my friends, who had already given birth to her child while I was struggling with all this, told me possibly through some maternal emotions that if I had wanted her oocytes, she could have donated me. And she added that every woman should have that maternal feeling and if she could help me, she would like to donate. Okay, but why would I take her oocytes? In the end, I would say, I preferred to get it in return for money. We preferred a more professional and non-emotional alternative at that time. In the end, there may be some women who want to donate this [free]. Now, I think it is noble, I mean. I would have liked to donate my oocytes if I had them since I do not need money and I would have liked to enable other women to become mothers. It is a very beautiful feeling. She talked to me through that [feeling].

H: Ama mesela benim bir arkadaşım, biz bu şey, onu da söyleyeyim mesela. Bir arkadaşım yeni anne olmuştu. Annelik duygusallığı da.. Ben bu işlerle uğraşırken, dedi ki, 'benden dedi, istesen yumurtamı verirdim,' dedi. 'Çünkü,' dedi 'her kadın dedi o annelik hissini yaşamalı.' dedi. 'Hani ben,' dedi; 'yardımcı olabileceğim,' dedi, 'veririm.' dedi. Hani ama ben sonuçta niye onun yumurtasını alayım şimdi. Sonuçta bunu parayla almayı daha çok tercih ettim diyeyim. Daha işin profesyonel olması, duygusal bir bağ girmemiş olmasını tercih ediyoruz orda. Sonuçta bunu başışlamak isteyen insanlar da olabilir sonuçta. Ben mesela şu an onun ulvi birşey olduğunu düşünüyorum yani. Para karşı.. para ihtiyacım olmasa da ben bu yumurtalarım olsaydı; keşke de ben başka insanların anne olabilmesine vesile olsam. O çok güzel bir duygu. O şöyle söyledi.

Hale thinks that paying for the donation would make the work more professional than the altruistic one. She knows that altruism could bring some emotions and attachments to the process and onwards. Similarly, Nurgül told me about her objection to the assumption of getting the oocytes from her sister. It was understood in the interview that Nurgül's sister and mother had talked on this issue before but could not tell anything to Nurgül. The related dialogue is given below:

I: Did you consider getting [the oocytes] from your sister?

N: No, I mean we didn't even ask her. I. We spoke that I had read something on the internet that there were some people who took [oocytes] even from their relatives. I thought if I could accept such a thing and I thought that I didn't want. I had never asked them [her sister and family] about that. If I did, she would perhaps give [her oocytes] [laughs].

Nurgül's Mother: Since she knows that you want to have a child so much.. I live with her sister

now. She said, 'I can do whatever I can, they can take it [oocyte] from me.' I mean, she was feeling sorry for you... I mean, since you could not give birth to a child, your sister was sorry. It [this dialogue] was between us [the mother and younger sister].

N: Could she not tell you [that you could get it from her]? Maybe you would be sad?

I: No, she could tell me, she can say, it is not a problem but I, as a preference.. Rather, we mostly prefer someone who we do not know. My husband probably would have thought like this. This is something that concerns not only me, ultimately but also concerns him, too.

I: Kardeşinizden almak gibi birşey düşündünüz mü?

N: Yok, yani sormadık zaten hani ben... Sadece şöyle birşeyden konuşuldu hani: ben okuduklarımdan kendi akrabalarından alan insanlar da olabildiğini, hani internetteki araştırmalarımdan okumuştum. Hani ben öyle birşey düşünür müyüm

diye kendim düşündüm, ben istemem, diye düşünerek. Hiç onlara sormadım ya da o konuda birşey söylemedim yani. İstesem verirdi herhalde de.. [Gülüşmeler]

Annesi: O senin çok çocuk istediğini bildiği için ben kardeşiyle yaşıyorum şu an. Ama şey ay yani elimden gelse ben vereceğim. Benden alsınlar gibi düşündü. Yani ablam hani bebek olmuyor, üzülüyor çok üzülüyor diye üzüldü. Bizim aramızda geçen bir şey.

I: Bunu söyleyemez miydi, üzülürsünüz diye felan..

N: Yo söyler bana hani bunu bunu söyler o sorun değil ama ben hani tercih olarak.. Bilmediğimiz birisi olmasını daha çok tercih ederiz. Eşim de herhalde sonuçta öyle düşünmüştür. Onu da etkileyen birşey surf benimle ilgili değil sonuçta.

Nurgül was not in favor of altruistic donation, too. Intimacy would be an emotional problem for them in time. They stated above that prefer a non-familiar, a foreigner rather than a reliable familiar oocyte donor.

Similarly, oocyte donors do not want to donate their oocytes to their sisters or friends. It is told me that intimacy would affect them emotionally, and negatively. Elif said that knowing and seeing the person who had the child would bring different anxieties to her life. She stated her thoughts as follows:

E: I don't know who is donated with my oocyte, who carries [the child] or who have that child, in the end. Since I don't know, I feel at ease. I mean, I don't know, I don't recognise in the end. However, if I purposely do this [oocyte donation] for my sister, since the child will be my child in fact, I mean, it will carry my DNA; I can feel bad. Feeling bad would be a strange situation, I mean. For this reason, I wouldn't want. I would like her to get it [oocyte] from another donor, I wouldn't like to be the owner of it [oocytes-baby].

E: Sonuç olarak ben verdiğim yumurtanın kimde işte, kimin taşıdığını ve kimin o çocuğun sahibi olduğunu bilmiyorum. Bilmediğim için de içim rahat. Yani sonuçta bilmiyorum, tanımıyorum, etmiyorum. Ama şimdi ama bilerek bunu yaparsam e onu yani doğurduğu çocuğun aslında benim, yani benim DNA'm olduğundan biraz aslında kötü hissedebilirim. Yani kötü hissetmem de, çok garip bir durum olurdu yani. O yüzden istemezdim. Başka bir donörden alsın isterdim, benim olsun istemezdim.

Sevgi, another Turkish oocyte donor in Cyprus shared a different interpretation of her. According to her, it would not be easy to understand if a relative of her was donated with Sevgi's oocytes or not. For example, as we know Nurgül did not want to apply for her sister's oocytes for Nurgül's pregnancy. However, Sevgi could be the sister of Nurgül and since they do not know each other during and after the ART process, they could be involved in this treatment together without knowing.

But again, Sevgi also told me that she would not want to donate her oocytes to her sister even if her sister needed oocyte donation. Sevgi's statement is given below:

S: But.. I wouldn't like. Certainly. I shouldn't see, I shouldn't know. Really, life is full of coincidences. Because of that, I don't want to encounter with something like that. Never. I don't donate [my oocytes], I mean, I don't donate [them] to my sister. I don't want her to donate [her oocytes] to me, too. I mean, I don't mind if I can't have children. I don't want that. Because I know that this work has an emotional dimension. Now, yes.. perhaps, I am not affected since I don't see them [children] but [what happens] if I see...?

S: İstemezdim ama yani. Kesinlikle. İşte benim görmemem, bilmemem lazım, yani gerçekten hayat tesadüflerle dolu O yüzden ben öyle birşeyle karşılaşmak istemem. Asla. Vermem yani ablama da vermem, ablam da bana vermesin. Çocuğum olmuyorsa olmasın yani. Onu istememem. Çünkü biliyorum duygusal yönü var bu için. Hani şu an ben evet belki onları görmediğim için çok etkilenmiyorum ama ya görsem.?

Sevgi afraids of getting attachment to the child. Sevgi and Elif avoid of such feeling by not knowing the families and the children, as it is understood from the statements above.

The reasons of not giving a role/ oocytes to a friend or a relative in these reproductive processes, are lined up as:

1. Unwillingness to meet with any physical or behavioral similarity with the donor friend/sister,
 2. Unwillingness to give a harm to a closer friend/relative unintentionally,
- and
3. Fear of feeling owe to that friend/sister.
 4. Fear of getting attachment to the child

Hale's avoidance of getting the oocyte from her friend was mainly based on the first item above. Hale told me that if Hale's children would look like her friend Hale would possibly disturbed by seeing her friend again. She described her feelings towards this hypothetical situation as follows:

H: Not staking a claim but I mean... I see my friend [sometimes]. If the child behaves in a particular way, we can say 's/he looks like her,' and so on. Perhaps, seeing her would disturb us. I think such things in general. Perhaps, I think the emotional sides of it. My child could resemble her, my child's physical appearance could be like hers, this part of her/him could be like her.. I mean that feeling [is bad]. A person feels a little like that; maybe more selfish somehow. However, being a [oocyte] donor should be very beautiful indeed. Even if they do not get the money, that work is really a very good deed. I am not disconcerted by giving them money. They, eventually use too many drugs.

H: Hak iddia etme değil, şimdi bir de yani ne bileyim şimdi sen görüyorsun arkadaşını. Şimdi çocuk bir hareket yapıyor. Bu ondan almış felan. Onu görmek belki rahatsız eder insanı ben öyle şeyleri düşünüyorum daha çok. Daha duygusal

kısımlarını düşünüyorum belki. Benim çocuğum onun huylarını taşıyor, benim çocuğum onun fiziksel, şurası ona benziyor aynı hani, o hissiyat. İnsan öyle oluyor birazcık belki, daha bencil. Ama yapan insan yani bağışlayabilmek çok güzel birşey aslında gerçekten hani. O para almasalar bile yaptıkları iş aslında çok iyi. Para almış olmalarına da ben hiç bozulmuyorum yani. Sonuçta bir sürü ilaç kullanıyorlar.

Moreover, Hale thinks that she paid for the oocyte donation to cover the possible harms of drugs in a sense. Again, similar with Hale, Nurgül told me that she would not prefer to cause any harms to her sister because of the drugs or oocyte collection. Nurgül's avoidance of getting the oocyte from her sister was mainly based on the second item above: She told me that she would not like to give harm to her sister by doing so, unintentionally since her sister could have her own children in the future. With her phrases:

I: Do you mean that depends on the relationship after the birth?

N: Yes, yes. It was better to get it from someone who we do not know than to get it from someone who we know. Moreover, [I would not want that] my sister would have used those drugs. Her oocytes would have been collected then. In the end, she would use hormones. It was not necessary; I mean why would she take them? I thought it as well. I mean, she is not married. She will have her own children in the future. Why will she experience such a thing now?

I: Did you suppose that the donor had taken the risk?

N: Yes, since she did it by her own will. And also, I pray for her out of gratitude, thank her. Fortunately, she donated them [the oocytes]. I mean, fortunately she had donated them and allowed us to have our children. I mean, she did it since she wanted it voluntarily and purposefully. And she got the money. I would not want my sister to do such a thing.

I: Doğumdan sonra kuracağınız ilişkiyle alakalı..?

N: Evet evet. Bilmemezlik daha iyi oldu, bildiğimiz birisi yerine. Bir de sonuçta o ilaçları benim kardeşim kullanacak yani [cık..] onun yumurtası toplanacak. O sonuçta, o bir hormon alacak ne gerek var yani, hani niye o alsın. Onu da düşündüm ben. Hani evli değil. İlerde kendi çocukları olur. Şimdi niye böyle birşey yaşamış olsun.

I: Donör bunları göze almış olarak mı bakıyorsunuz?

N: Tabi o kendi isteğiyle yapmış olduğu için.. Bir de ben ona dua ediyorum yani, teşekkür ediyorum. İyi ki vermiş. Yani vermiş de bizim çocuğumuz olmasının vesilesi olmuş yani. Yani o bunları bilerek, kendi isteğiyle yapmış olduğu için, karşılığında da bir ücret alıyor. Ben kardeşimin öyle birşey yapmasını kendim istemedim çok.

It is controversial to see Nurgül's side in favor of her sister by defending her capability of bodily health. Moreover, Nurgül claimed that the donor 'did it by her own will' while neglecting the altruistic will of her sister.

Third and final objection for being donated by the oocytes of a friend was based on the fear of feeling owe to that friend by Hale. It is seen here that instrumental oocyte donation makes people more confident to their reproductive

processes. Hale told me about her concerns related to getting an oocyte donation from her friend as follows:

I can say, perhaps, there is the trust, the comfort of relying on the contract and the professionalism. It is something, which makes people who got the service, feel comfortable. If you would do this through the oocytes of one of your friends, you would see yourself obliged to your friend for this very much and you would like to do something for her, I don't know.

Birazcık da güven var, birazcık da profesyonelliğe çevrilmiş, hani bir kontrata dökmüş olmanın rahatlığı var belki, diyeyim. Hizmet alanı daha rahatlatan bir şey. Sonuçta siz bu işi, uyduruyorum bir arkadaşınızın yumurtasını alıp da yapsaydınız siz o arkadaşınıza böyle birşey size verdiği için çok borçlu hissederdiniz ve ona birşeyler yapmak isterdiniz yani ne bileyim.

Finally, intimacy and altruism make ARTAP afraid of the ART processes. Rather, they want to be involved in these assisted reproduction processes without owing to any friend or sister and without making any explanation to their social environment. Since explanations can easily transform a defence against the judgements of families/ friends, ARTAP avoid of such explanations in general.

4.7.1.3. Friends' judgements

Another thing, which was told by Hale, was her friends' reaction towards her oocyte donation process. While one of her close friends have been judging her on this issue, the cleaning lady had rejoiced in the name of her surprisingly. Namely, Hale's friends did not meet her emotional expectations as she thought before. Hale explained this situation with her words below:

We experienced so interesting situations. We had experienced surprising cases also from our environment. Not discriminating directly, but I think this is a sense about understanding or rejoicing in the name of someone. One of my friends, who is a medical doctor, asked me how I would accept [the child], and so on. She considered asking every detail of the process necessary. She told me that it would be very difficult to accept, how I could do, and so on. Possibly because of her professional life she told me how it would be difficult to accept, how I would do with that, etc. And she added that she was very surprised by me.

And I witnessed the cleaning lady who comes to my house that she was very rejoiced in the name of me, cried with me, she had been very happy for the pregnancy news and had come to celebrate me, etc. unexpectedly. In fact, I had got different reactions from unexpected people.

Çok enteresan durumlar yaşadık. Ee.. Çevre olarak da çok fazla enteresan durumlar yaşadık. Ya insan ayırdetmek değil de bunu anlamak ya da işte insan adına sevinmekle alakalı bir duygu olarak düşünüyorum. Bir doktor arkadaşım bana dedi ki yani nasıl kabul edeceksin vesaire. İşte her detayını sorma gereğini duydu, ya da işte içinde bulunduğu meslek hayatı yüzünden ya da işte kabul etmen ne kadar zor olacak, nasıl yapabileceksin vesaire derken çok şaşırılmış, çok şaşırttın beni ee..

Evime gelen temizlikçi bayan benim adıma çok sevindiğini, ondan sonra işte benimle birlikte ağladığını, işte hamilelik haberine çok sevinip işte beni kutlamaya geldiğini vesairesine tanık oldum. Yani hiç beklemezken. Hiç beklemediğim insanlardan farklı tepkiler aldım açıkçası. Ee.. herhalde bu kişilerin sizi ya da sevmeleri ya da sizin adınıza ee..sevinmeleriyle alakalı bir durum diye düşünüyorum. Bilmiyorum ama.

Hale told me that she expected to get the support of her friends but came to face to face with the examination and judgements of them. Sevgi, the oocyte donor, told me that she would not say if she was an oocyte donor in Turkey but in Cyprus, she had to tell her friends that she was an oocyte donor not to cause any misunderstanding.

Sevgi had some reservations concerning her family life and private life. However in Cyprus, she avoids of being judged by any disinformation and tells her friends her truth about being an oocyte donor. Sevgi's statement is given as follows:

S: No.. Someone knows. Because this... I wouldn't say in Turkey but here everyone knows each other. For that reason, they don't think that I will undergo an abortion when they saw me while entering in-vitro fertilization center. They should know what is going on because here is a small place.

S: Yoo. bazıları da biliyor yani. Çünkü bu, Türkiye'de söylemezdim de burda herkes zaten kimin ne olduğunu da biliyor. O yüzden hani kalkıp da benim tüp bebek merkezine girerken, ya bu kürtaj mı oluyor demezler ama ne olduğunu bilsinler. Çünkü burası küçük bir yer.

Elif also shared the truth on her oocyte donations with her close friends. However, she was not comfortable as to share it with her family. She told me that her avoidance on telling the truth to her family was taken its source from the characteristics of medical techniques that were used in the examination of the ovaries. The dialogue with Elif on this issue is given below:

I: And.. I wonder if you hide [that you are an oocyte donor] from your family. Your family does not know, am I right?

E: Yes because there shouldn't be the virginity for this firstly. If there is the virginity then you cannot have this operation. In the examination, while controlling your ovarian reserve he looks inside via inner [transvaginal] ultrasound. I mean with inner ultrasound... he examines [the ovarians] by looking through your vagina..

I: Bir de merak ediyorum, aileye karşı saklıyorsunuz. Aile bilmiyor değil mi?

E: Evet. Çünkü bunun için bekaret olmaması gerekiyor öncelikle yani. Çünkü bekaret olursa bu işlemi yapamıyorsunuz. Çünkü kontrol ederken, yumurta rezervlerinizi kontrol ederken içten ultrasonla bakıyorlar. Yani içten ultrason böyle ultrasonu vajinanızın içinden bakıp..

A woman should not be virgin for the operation of oocyte collection. Oocyte donors like Elif have reservations also in this issue since it is directly related with

their private lives. As a result, oocyte donors possibly avoid of being judged of both being an oocyte donor and not being a virgin separately.

4.7.1.4. An intimacy problem concerning social and biological/genetic mothers

Intimacy could be a problem in the relationships of ARTAP with each other. However, a surprising result is seen in the friendship of Ayten and the woman who had her child via Ayten's surrogacy. They were introduced to each other in this assisted reproduction process, they had been in a solidarity and friendship especially in the beginning and final stages of the pregnancy, and possibly, they will not see each other again. I named this solidarity as friendship although the definition of friendship is blurred. These women can be regarded as friends with some respects.

Moreover, Nussbaum wrote concerning marriage that some important aspects of human life, in turn, 'can exist outside of marriage, and they can even exist all together outside of marriage, as is evident from the fact that many unmarried couples live lives of intimacy, friendship, and mutual responsibility, and have and raise children, though these children, deemed illegitimate, used to suffer, and in some cases still do suffer, social and legal disadvantages' (Nussbaum, 2010b: 669). Of course, Nussbaum here imply unmarried couples who experience some rituals of marriage but again, some of them again are valid for surrogacy process with some respects. A surrogate woman is entering and contributing considerably to another woman's family life.

Ayten told me that she advised the woman for whom Ayten would carry a baby for, not to accept cryopreserved oocyte in the embryo. Clearly, Ayten wanted this pregnancy and communicated with the family about all the processes. Moreover, she did not even ask for a contract since she trusted the IVF Center and the family (she told me so). With Ayten's words:

Yes, it is possible. The final choice may be frozen [cryopreserved oocyte] but some of the families want something, I mean, they want it fresh. I told the woman [who applied for renting that surrogate mother] specifically not to accept the frozen one. Let it be fresh. Look, they were going to Cyprus two or three days before me. After the preparation, after 3-4 days, I mean after preparing the embryos they called me.. I

was not involved in the contract and financial affairs. Of course, they made and signed it [contract].

Ha olabilir, son çare dondurmak olabilir ama kimi aileler böyle şey istiyor yani taze istiyor. Ben özellikle bayana dedim ki dondurulmuş kesinlikle kabul etmeyin dedim. Taze olsun. Bak onlar benden iki üç gün önceden gidiyorlar şeye Kıbrıs'a. Hazır olduktan sonra embryolar hazır olduktan sonra, 3-4 gün sonra beni çağırıyorlar... Anlaşmaya ben para işine ben karışmıyorum. Tabi yaparlar. İmza atarlar.

In addition to this, Ayten told me that the woman was closely related to her especially in the first and final stages of the pregnancy. They stayed together and the woman took Ayten's children to the playground occasionally. As I wrote in the previous parts of this section, this intimacy made the Ayten feel better in her surrogacy. There was a kind of win-win partnership. As a distinctive example of this friendship, Ayten narrated their intimacy with the woman during the pregnancy as follows:

Yes, like you and me, she was not conceited, or anything else. I mean, she washed my clothes, even my underwear in the hotel. If she were another woman, she would not do it, she could be conceited, am I wrong?

Evet, aynı senin benim gibi hiç böyle büyükten görmez, şey yapmaz. Çamaşırlarıma varana kadar yıkadı otelde yani. Başka bir bayan olsa yapmazdı, kendini üstten görür mesela, değil mi?

As it is seen above, the dimension, meaning and content of the friendship are very different here. It is quite generalizable that, ARTAP want the support of their friends and familiars in their reproductive processes but do not want their direct contributions, roles or judgements in these processes for understandable social and psychological reasons.

Surrogate mothers want to be in a friendship or solidarity with the prospective social mothers at least during the pregnancy, but the social mothers avoid such an intimacy. Moreover, social mothers and mothers who had their child/ren via oocyte donation cannot even think their sisters or friends were surrogate mothers or donors in their reproduction processes. This situation is problematic because that means social mothers and mothers who had their child/ren via oocyte donation do not see the surrogate mother or oocyte donor equal to their friends and/or sisters and moreover, they accept that these drugs and trials could be harmful for their familiars and they can never risk their relatives for this reason. One should ask here, then why and how do you risk other women for having your child/ren?

Affiliation/friendship is an important capability which should be discussed in detail. However, other subtitle of Affiliation, *Respect* is examined and discussed as follows.

4.7. Constraints Concerning the Capability of *Affiliation* and ARTAP

4.7.2. Respect

Capability of respect is explained as ‘having the social bases of self-respect and non-humiliation; being able to be treated as a dignified being whose worth is equal to that of others’ by Nussbaum (2011: 33).

For Nussbaum (2011: 33) this capability entails provisions of non-discrimination on the basis of race, sex, ethnicity, caste, religion, and national origin. There are again different examples among my interview results related to this sub-topic. Statements concerning discrimination for various reasons are shared as below:

1. Doing something religiously unfavorable
2. Unfriendly approaches to ARTAP and their attitudes towards each other
3. Afraid of revealing and /or Role-playing to avoid of social pressure and humiliation
4. Exclusion
 - a. Among surrogate mothers
 - b. Among oocyte donors

‘Doing something religiously unfavorable’ was stated rarely in these interviews. Again, it is important since it was represented in an interview and since Turkish society has a religious-orientation in general. It is examined in the subtitle below:

4.7.2.1. Doing something religiously unfavorable

My first example is from Ayten who is a surrogate mother in Turkey, as you know. Ayten told me that she had some fears about the surrogacy if it was a sin or a bad thing. Namely, she was worried about doing something religiously unfavorable. She explained her fears as follows:

We were afraid if we were doing a bad thing, if it was a sin or something like that in the end. Sin is that: to sell the child after the birth. There are too many advertisements on the internet. [For example, a woman] wrote that she was three months pregnant, she was pregnant for a son. It is horrible, I mean.

Biz de korktuk sonuçta yani acaba kötü birşey mi yapıyoruz, günah mıdır şey midir sonuçta yani. Şu günah: Çocuğunu doğurup satanlar. Çok internette var öyle. Üç aylık hamileyim diyor, erkek bebek bekliyorum diyor. O daha tehlikeli, kesinlikle yani.

As it is seen in the quotation above, Ayten eliminated her fears by comparing her surrogacy with other practices such as selling the child after the birth. Preserving self-respect and avoiding of any kind of discrimination are vital issues in these reproductive practices of ARTAP. These issues are again directly related with the social environment and social pressure.

4.7.2.2. Unfriendly approaches to ARTAP and their attitudes towards each other

My second example refers to the second item above; that is unfriendly approaches to oocyte donors. The positive or negative approaches of ARTAP to another ARTAP take its source from the impression on IVF Center. Hale told me her first oocyte donation experience in Cyprus and said ‘luckily, the first one failed.’ Her experience, which made her spoke like this, was in fact related to the prejudices about the oocyte donors and families who applied to get an oocyte donation. Hale narrated this experience as follows:

H: ...is a verbal confidence. Even after going and seeing that place, you may gain or lose that confidence. Luckily, the first one failed. It is all the good. It is certain.. I mean.. To me, they might be taken [oocytes] even from the prostitutes. However, in this [second] place, it is told that they [oocytes] were taken from medical students who were in need [of money] in general. That made me relaxed to a certain extent. Of course, if there were no genetic problems. For example, in first place they told me that.. I never forget it.. I said okay and asked who she is; what she likes, how I will learn this. There was a woman who spoke with an accent. She said: ‘Do not worry about it, honey. She is a Muslim,’ and something else like ‘she is white, she is Muslim, do not worry’. I said ‘what a pity! I did not ask about that already.’ She told me something like that. It seemed strange to me.

H: Güven, sözlü bir güven. Ama onu işte gidip de o yeri gördükten sonra o güven zaten ya var ya yok. O ilkinde zaten iyi ki olmamış, hayırlısı. Yani orası kesin.. yani belki hani e.. hayat kadınlarından bile alıyor olabilir bence orası. Ama yani burası hani tıp öğrenciler yani daha doğrusu öğrencilerden alındığını, ihtiyacı olan tarzında genelde bize onu söyledi. O bir şekilde beni daha bir rahatlattı yani. Eğer tabi genetik anlamda da birşey yoksa. Mesela ilki bana şey dedi: onu hiç unutmuyorum; peki dedim kimdir nedir nasıl öğreneceğim ben bunu. Bir böyle çok değişik şiveyle konuşan bir kadın vardı: merak etme şekerim, Müslümandır, gibi birşey dedi. Başka birşeyler daha dedi, beyazdır, müslümandır, merak etme dedi. ‘Eyvah,’ dedim, ‘onu hiç sormamıştım halbuki,’ dedim. Öyle birşey demişti bana. Değişik gelmişti.

This comment of Hale above includes various dimensions of prejudices concerning moral, religious, racial, educational issues. Families applied for an oocyte donor want to know the qualifications of the donor - although it is impossible for donor to know the qualifications of the family as it is discussed in the previous sections- in general. Hale, clearly explains her prejudices about the donor, the IVF center staff’s prejudices about Hale and expectations in general. As she said at the beginning of this quotation, this is rather a ‘verbal confidence’ and it had been enough for meeting Hale’s minimum expectations to hear that the oocytes had been

taken from medical students who were in need of money in her second oocyte donation experience in another IVF Center in Cyprus.

When we turn our faces to an oocyte donor, Sevgi; it is seen that she was in a curiosity with other woman who is willing to have a child with Sevgi's oocytes, as well. Our dialogue with Sevgi is given as follows:

I: Then, whenever you enter the clinic, are you looking carefully around you to understand who is who?

S: In my opinion, they are also looking; but I think they suppose that she [the oocyte donor] is coming from abroad or somewhere else. I mean.. because they are not very careful. As if they were thinking only for themselves, for themselves, for their matter. But we don't [do it] like that. Since we are highly aware of the event... The second place that I applied.. By the way, it was a hospital. I mean, only its second floor was [organised as] In-Vitro fertilisation [Center] like the first one. This third one is [a place] only for In-Vitro fertilisation. Whenever I enter there, I look around me even if they are normal patients. It is just because of curiosity, I mean. I was anxious about it [predicting the woman who will get my oocytes] at first. But by the time, I understood that it does not make any difference. What could I do...

I: *O zaman kliniğe girdiğinde sen alıcı gözle kim bekliyor kim var kim yok gibi bakıyor musun?*

S: *Bence onlar da bakıyordur ama onlar bence yurtdışından falan geliyordur diye düşünüyorlardır. Yani ben, çünkü hiç öyle yani.. Onlar çok dikkatli değil. Sanki kendileri için düşünüyorlar, kendilerini düşünüyorlar, kendi olaylarını düşünüyorlarmış gibi geliyor bana. Ama biz öyle değil. Biz çok farkında olduğumuz için olayın... Hani ikinci gittiğim yer, hastane bu arada. Yani hastane derken ikinci katı sadece tüp bebek, ilki de öyleydi. Bu üçüncüde sadece tüp bebek. Şimdi oraya giriyorum, normal hasta bile olsa bakıyorum yani. O meraktan yani. Onu ilk zamanlar çok takıyordum ama sonradan artık yani birşey farketmediğini anladım yani. Ne yapabilirim ki...*

It is seen that Sevgi was in a relatively high curiosity at the beginning but she learnt how to cope with that feeling by the time. She was unable to choose or even find the right women and she gave up her exciting predictions in the end.

4.7.2.3. Afraid of revealing and/ or role-playing to avoid of social pressure and humiliation

ARTAP tend to hide their assisted reproduction experiences not to be victimized by their social environment, namely social pressure. Hence ARTAP may apply to various ways to avoid of that pressure. Ayten's and Fatma's quotations here refers to thi third item above concerning discrimination and social pressure and /or role playing to avoid of social pressure and humiliation.

Ayten was afraid of everything could be revealed in the end since everyone supposes that she was her own child. With Ayten's words:

What are my worries about? Something I could not predict. Moreover, [I am worried if] everything reveals in the end. It is important also for that family because nobody else knows it [the truth] but the lady's husband. Everyone supposes that she was her own child in the end.

Valla endişem ne yani? Hesaplamadığım birşey. Bir de herşey ortaya çıkmasın sonuçta. O aile için de önemli çünkü eşinden başka kimse bilmiyor. Herkes onu çocuğu zannediyor sonuçta.

Ayten was again worried about the social mother's self-respect here. As it is discussed in the *Friendship* subsection of this part, Ayten and the social mother of the child were in a solidarity and friendship during the pregnancy. Still, I suppose that Ayten was in empathy with that woman because of that intimacy.

It is very difficult for both surrogate mothers and social mothers to play role against their social environment. While surrogate mothers try to hide their belly and pregnancy from their familiars, social mothers try to be seem such as pregnant to their familiars in order to convince them about that white lie – white is social mother's color without any doubt - . Fatma gave an example of such role-playing.

All the dialogue below is valuable in this sense:

F: No, nobody knows any stage of the process. Only my mother knows. She has already been aged, I mean, she only consoles me by saying like 'my dear, don't be sorry, don't do that..' I wish my mother could understand me, and talk to me but there is nothing like that. There is a generation gap between us. But I could not tell anyone. I mean, I did not tell anything to my husband's family.

I: All right but after the birth, will you say that as if you gave birth?

F: Yes, yes. If it succeeds, I will act like that. I mean, I have no other choice. I will go away in the last months [of the pregnancy], I mean, last.. for example, I will go away after 6 months [of the pregnancy]. I mean, you know, I am a little plump. Moreover, my belly is bulging; I mean, I'm like this naturally. I am buxom. But I will go away in the last months [of the pregnancy], I have no other choice.

I: Where will you go?

F: I have my sister, brother and other relatives who live close to Georgia. I think so [to move away] when it [the pregnancy] comes to an end.

I: Then, you will tell them [the truth], will you?

F: Of course, if it happens in this way, I will tell them.

F: Yok, hiçbir aşamayı hiçbiri bilmiyor. Sadece annem biliyor. O da zaten yaşlı hani sadece bana destek oluyor işte kızım üzülme hani şey yapma.. Böyle hani beni anlarsa oturup konuşabileceğim hani o kadar şey yok. Aramızda çok yaş farkı var annemle. Ama hiçkimseye anlatmadım yani eşimin aile tarafında hiç anlatmadım.

I: Peki doğduktan sonra, siz doğurmuşsunuz gibi mi söyleyeceksiniz?

F: Evet evet. Eğer olumlu olursa, o şekilde hareket edeceğim. Yani başka çarem yok. Son aylarda uzaklaşacağım yani son mesela 6 aylıktan sonra uzaklaşacağım. Hani kendim o aya kadar, biraz topluyum yani hani. Göbek kısmım da hani üstten biraz çıkıntılı hani öyle bir yapım var hani. Balık etliyim. Ama hani son aylara doğru artık uzaklaşacağım hani başka bir şansım yok.

I: Anladım..Nereye gideceksiniz?

F: Gürcistan'a yakın zaten orda ablam var akrabalar var, abim var hani öyle düşünüyorum eğer olursa.

I: Onlara söyleyeceksiniz o zaman değil mi?

F: Tabi o şekilde olursa söyleyeceğim.

Fatma, by the help of her physical characteristics, would play her role according to this scenario since she had to avoid of non-humiliation. It was understood that Fatma and other members of ARTAP who are interviewed in the scope of this study, did tell anything neither their friends nor relatives about their reproduction process. Only their partners and close family members know the details. That is why I could get so much information about their processes and thoughts.

From this information, it is seen that, ARTAP who applied from the Black Sea region of Turkey managed the process better than the other applicants. Geographical proximity between Georgia, Batumi and especially eastern blacksea region is a big advantage for ARTAP from this region. As an example of this, Fatma with her husband constructed their plans on this proximity. Again, Fatma feels that she has to move to her sister's or other relatives' house in Artvin. She will share the truth with only that household when necessary since she wants to avoid of social reactions and judgements.

Sevgi is another person who has to role-play and avoid of the possible reactions of her family. As it is known, she is an oocyte donor and should get hormone injections to stimulate her ovarians before oocyte collection. Sevgi told me that it would be impossible to make oocyte donation if she was living with her family. Again, she could take the risk when her family came to her house in a feast since she had started those injections a few days ago. Sevgi had to hide the injections in the car. Her statement is given as follows:

I: In this confidentiality issue.. being distant from your family had been an advantage for you. If it could be allowed in Turkey, you wouldn't like to do it, would you like?

S: Ha, I wouldn't do in Turkey. But here, for example, my previous one [donation treatment] coincided with the feast. Ours were here, too. Everyone was here, all my family was here. And I did it [donation] again. But that was a huge encouragement. I was putting the injections in the ice things.. packages. It is possible. But I wouldn't like to do. I wouldn't start something like that near them. Something like that.. I did near them but they were about to go. I mean, since I regarded them as my guests. If not, if they live here, I mean, all of them.. I couldn't do.. I wouldn't like to do it.. because I cannot take a risk.

I: *Bu hani gizlilik konusu, ailenin uzakta olması bir avantaj oldu sizin için. Bu Türkiye'de olsaydı yapamazdınız değil mi?*

S: *Ha Türkiye'de yapmazdım. Ama burda mesela bayrama denk geldi bir önceki. Bizimkiler de burdaydı, herkes burdaydı, bütün ailem burdaydı. Ve ben yine yaptım. Ama bu büyük bir cesaret. Arabada buz şeylerinin içine koyuyordum, kolilerin içine*

koyuyordum iğneleri. Yapılıyor ya. Ama yapmazdım. Öyle birşeye onların yanında başlamazdım. Öyle birşey, bunların yanında yaptım ama onlar gidiciydi. Yani misafir olarak düşündüğüm için. Yoksa burda yaşasa yani hepsi yapa.. yapmazdım ya.. Çünkü o riski alamam.

The advantage of distance from the family gains importance when take Sevgi's attitudes and fears into consideration. She feels to role-play near her family and feels herself free when she is distant from them. That is also the answer of the question of why she did not want to continue being an oocyte donor after her education. Sevgi also does not want to be judged by her family anytime.

4.7.2.4. Exclusion

- a. Among surrogate mothers
- b. Among oocyte donors

Social reactions, judgements, discriminations or conflicts do not only occur outside of ARTAP, but also exist even in their smallest group. Ayten shared her thoughts with me about other surrogate mothers. These thoughts are pertinent to the first part of fourth and final item above, which is "the exclusion among surrogate mothers". In addition to this, there is another discrimination which based on the differences in the number and quality; hence inequalities in the payments of the oocyte donor groups.

The exclusion among surrogate mothers is discussed in the next subtopic.

4.7.2.4.a. Exclusion among surrogate mothers

First exclusion is classified into two groups. They are: married versus widow surrogate mothers, regardful versus careless surrogate mothers. It is known that a married surrogate mother would not have a problem when her environment learned her pregnancy since everyone would justify that pregnancy with her marriage. After giving the child to the social mother after the birth, they can say that a miscarriage, or something like that, happened.

In parallel with this, when I had a telephone conversation with Ayten for the first time, I spoke to her husband first. After his confirmation, I could tell Ayten

about the details of the interview. I understood then, that the role of marriage is different and important in surrogacy especially in masculine societies such as Turkey.

In parallel with this, Ayten told me in our interview that she had doubts about widow surrogate mothers' surrogacies. Clearly, she excluded widows from surrogacy since it is improper in this society. Ayten clarified her views about widow surrogate mothers as follows:

Moreover, these women's surrogacies sound improper. I mean, there is no husband living with them. Luckily, I have a husband. I mean, if it [the pregnancy] was heard, people would possibly think that it [the pregnancy] was from my husband, am I right? How can a widow be a surrogate mother? I really wonder at that. People who want to trust [surrogate mother] are looking for married woman having children and husband like me. It is improper, surrogacy of a woman without a husband. Some of them say that they got divorced, while others say that he [her husband] had died.

Bir de bu bayanların yapması bana çok ters geliyor, taşıyıcılığı. Yani başında senin kocan yok. Hadi benim başımda kocam var. Öyle birşey duyulsa da mesela kocamdan denir mesela, değil mi? Bu dul bayanlar nasıl taşıyıcılık yapıyorlar? Hakkaten ona hayret ediyorum. Özellikle bu güveni sağlamak isteyenler evli istiyor benim gibi, çocuklu, eşli istiyor. O bana çok ters geliyor, kocası olmayan bir bayanın taşıyıcılık yapması. Kimisi eşimden ayrıldım diyor, kimisi ölmüş diyor.

Ayten emphasized the function of widow or single surrogate mothers in this assisted reproductive demand mechanism. Ayten and other married surrogate mothers were not available for the request of families on staying together with that family during the pregnancy while widow and single surrogate mothers were.

Ayten underlined this function with her words below:

In fact, everyone has their own problems in the end. Some families want the woman [surrogate mother] to stay in their house during pregnancy if she is widowed. Perhaps, they [widows] can do it because of that reason. Because I read many things on the internet. There are people who want her [the surrogate mother] to stay with them during pregnancy and people who say that they will rent a house for her. Someone from Ankara called me sometime in the past, she asked me if [I could stay with them].. for 9 months... I said, there is no way I will ever do that.

Gerçi herkesin kendine göre sorunu var sonuçta yani. Kimi aileler de dokuz ay boyunca o bayanı yanına alıyor, böyle dul oldun mu. Belki onun için de yapabiliyorlardır. Çünkü çok internette okudum ben. Var, 9 ay boyunca bizimle birlikte, kimisi daire tesis edeceğiz diyor. Bir ara Ankaralı birisi aradı, 9 ay boyunca dedi. Ben kesinlikle dedim öyle şeye gelemem.

As we understand from her remarks above, Ayten thought that she was more respectful in surrogacy since she was married. One more thing that she regarded as another favor of her was being regardful in her surrogacy. Ayten made another

comparison between regardful and careless surrogate mothers moving from one of her memories. I want to read the quotation carefully by catching the points concerning, the careless surrogate mother without auditing of the family/ or nurse or staff, the togetherness of surrogate mothers, the surrogacy trials including travels, and the embarresment of Ayten.

Ayten narrated her memory as follows:

Look! Some surrogate women [unlike me] are embarrassing.. Surrogates are like that.. I had witnessed one of them with my own eyes. It was again with this woman from Germany. After it was seen that the first one [implantation] was unsuccessful, they did the second one. There were also another woman from Mersin who received the embryo transfer before me. And I got it later. We were lying in different rooms across each other with doors open. After getting the embryo transfer, it is not allowed to go to the bathroom during the first half an hour. After getting transferred, the woman is forbidden to go to the bathroom and she should have a rest on the bed for two hours. However, I saw that the woman had put on her clothes and she was in a hurry to go to the bathroom in the first fifteenth minutes of her rest. There was no family with her. The family was away, [even] the lady could not come. When she came out of the bathroom, I shouted at her. I asked ‘what are you doing?’ I said ‘You should not stand up for at least half an hour.’ She said ‘Never mind!’ and added ‘nothing will happen, you shouldn’t take it too seriously.’ I mean, this is not something like that. That family is expecting good news from you after 12 days. What do some women think? I will travel to Cyprus, I will stay in a hotel. Ohh.. There are too much surrogates who do it only for travelling. Because of this kind of women, for their due, some families do not trust surrogate mothers like us anymore. There are too many surrogates like that..

Bak kimi taşıyıcının benim gibi [değil], yüzü kara çıkıyor. Taşıyıcılar şöyle.. birisine canlı canlı şahit oldum ben. Bu Almanyalı bayanla, bir kere ben tutmamıştı, ikinciye şey yapmışlardı. Bir Bayan vardı, Mersinli taşıyıcı benden önce transfer oldu. Ben de ondan sonra oldum transfer. Karşılıklı odalarda yatıyoruz, kapılarımız açık. Bu transfer olduktan sonra yarım saat tuvalete çıkmak yok. Transferden sonra. Yarım saat tuvalete gitmek yasak, bir de iki saat yatakta uzanacaksın. Bayan baktım.. daha onbeş dakika olmadan baktım üstünü giyindi, koştura koştura tuvalete gitti bayan. Yanında aile yok. Aile uzakta gelmemiş, bayan. Tuvaletten çıktı seslendim, dedim sen naptıyorsun dedim. Dedim senin kalkmaman lazım dedim, yarım saat dedim. Aman dedi birşey olmaz dedi, korumayacaksın. İşte bu öyle değil, o aile senden umut bekliyor oniki gün sonra. Kimileri ne yapıyor, Kıbrıs’ı göreyim, bir gün otelde kalayım. Aahh.. Tatil amaçlı yapan çok taşıyıcı da var. O yüzden, onların yüzünden bizim gibi taşıyıcılara güvenmiyor kimi aile. Çok var öyle..

As it is seen in the expression of Ayten, the surrogate mother from Mersin behaved careless in the very beginning of her pregnancy trial. Ayten emphasized above that the family did not accompany that surrogate mother from Mersin. It seemed to me strange that there were not any nurse or staff of that IVF Center for that short but critical time span (half an hour) and they gathered two surrogate mothers in one room. One may think this togetherness as another auditing mechanism but it obviously does not work. The IVF Center works irresponsibly in

this sense since they were already paid for that surrogacy but did not care about the surrogate mother and the pregnancy.

Ayten felt humiliated by the other surrogate mother's carelessness in her surrogacy since she supposed that ARTAP should respect surrogacy. However, such kind of carelessness of surrogate mothers impedes the construction of that respect.

Moreover, these the surrogacy trials including travels to Cyprus were regarded as journeys by some surrogate mothers according to Ayten. That means 'reproductive tourism' concept is ironically, but properly, used in these situations.

4.7.2.4.b. Exclusion among oocyte donors

Oocyte donors' positions and exclusion among themselves are different from surrogate mothers' exclusion with respect to their ages and work. Firstly, oocyte donors are generally chosen from the ages between 18-30 (at most). Since students who live far away from their families tend to donate their oocytes, they are single, yet. And since they are students in a department in a Cyprus university, they do not have to move to any other country neither for the hormone treatment nor oocyte collection. Besides, these women make their hormone injections by themselves. Only one thing may get happen: that is visiting other IVF Centers in other Cyprus cities, in order see the treatment and price differences between the centers.

However, there is another problem, which results in payment inequalities, and problems among oocyte donors. That is: different payments according to different oocyte qualities, different oocyte numbers and resulting in pregnancy or not. Moreover, the staff of IVF Center may not call the oocyte donor again if her oocytes do not give a happy end: "pregnancy."

Sevgi and Elif, who are both oocyte donors, told me that they were staying in the same house before. However, while Sevgi was being called by the same IVF Center again and again; Elif was getting rejections on end in spite of her colored-eyes (The demand for colored-eyed women's oocytes is higher than the others since they are unique). So that, Sevgi told me that she was falling in a difficult situation sometimes. For example, after saying Elif that there were no patient and need; the nurse from the same IVF Center may ask Sevgi for her donation in the following

day. Since they can't hide their hormone injections from others, Sevgi had to explain Elif the situation.

Sevgi told me about her difficult position in her relationship as follows:

S: Yes. She [Elif] is the woman who has colored-eyes [laughs]. I did her... I directed her again, continuously.. whenever I visit it [the IVF Center] I asked, "ma'am, she's waiting, shall I call her?" Because sometimes they say, "if you have friends, direct them to us." Ee.. what was the case? Now she.. But she really needs it [money]. I mean, ours [oocyte donations] were arbitrariness somehow. You know that your friend needs it but this time you can't say that they called me, not you. You can't either say, "I will be paid, and you can take that money." Because I underwent those injections, I got the hormone; I can't give her my money. Okay, I can support her by giving a little amount of it but.. I mean, hers [her oocytes] are unhealthy, I mean the quality, the size... I mean, since they [Elif's oocytes] didn't result in pregnancy they didn't call her [again]. It can be in this way, as well. I mean.. After your first time, if your second [donation] fails, they don't call for the third one.

I: I see.. In spite of the request of your friend.. They told her that they would call her if they needed. They don't say that they won't call, do they?

S: Sorry?

I: Don't they say that they won't call her?

S: Sometimes they say that there is no need; sometimes they say that there was no patient. Sometimes they call you and say that they had patient, and ask if you were available, when your menstruation was.

I: I mean, they don't speak sharply to your friend, do they? Such as "we won't call you again, you are not suitable for this work..."

S: Ah.. No no. But you understand. But one day, one of them had snapped at her. She [the nurse] said, "your oocytes are not healthy and you are not suitable for making a pregnancy. Sorry about that."

I: Did your friend get worry about that? Did she think, "Will not I have my child in the future?" It is obvious that she cannot get money on this anymore, but did she worried about herself?

S: No. She got pregnant after one month, she underwent abortion. I mean, she never worries like that.

S: *Evet. Renkli gözlü olan o [Gülüştürmeler]. Ona şimdi, onu tekrar yönlendirdim, sürekli her gittiğimde dedim ki "abla bu da var, hani çağırayım mı?" Çünkü bazen diyorlar "arkadaşlarınız varsa hani öyle yönlendirin". Ee.. neydi.. Şimdi o.. onun gerçekten ihtiyacı vardı ama. Hani bizimki birazcık hani keyfiye giriyordu. E biliyorsun arkadaşının ihtiyacı var, ama bu sefer de diyemiyorsun ki hani beni çağırdılar, hani seni çağırmadılar. Ben para alacağım, hani al senin olsun da diyemiyorsun. Çünkü iğneleri ben yiyiyorum, hormonu ben alıyorum, kalkıp da paramı da ona veremem. Ha nedir, yardımcı olurum bir miktar da ama. Onun mesela sağlıklı yani, yumurtalarının kalitesine, büyüklüğüne.. hani gebelik vermediği için onu çağırmadılar. Bu şekilde de oluyor yani. İlkte verip ikincide tutmazsa üçüncüye çağırıyorlar.*

I: *Anladım, arkadaşın da istedi. Onlar diyorlar ki arayacağız gerekirse. Aramayacağız da demiyorlar. Öyle mi?*

S: *Efendim.*

I: *Aramayacağız da demiyorlar mı?*

S: *Bazen diyorlar ki ihtiyaç yok, bazen diyorlar ki hasta yok. Bazen arıyor seni diyor ki hastamız var, hani müsait misin reglin ne zaman?*

I: *Yok arkadaşını terslemiyorlar da? Hani "biz seni aramayacağız bu iş için uygun değil."*

S: *Ha yok yok. Ama anlıyorsun. Ama bir gün bir tanesi öyle tersledi. Senin yumurtan sağlıklı değil, gebelik vermiyorsun. Kusura bakma dediler.*

I: *Arkadaşın endişe etti mi, ya ben ilerde çocuk sahibi olamayacak mıyım o zaman diye düşündü mü? Ha bundan para kazanamayacak o belli ama kendi için endişe etti mi?*

S: Hayır. Bir ay sonra hamile kaldı, kürtaj yaptırdı. Yani öyle bir endişesi olamaz onun.

It is seen in the interview that Sevgi was getting proud of her healthy and qualified oocytes in many directions. Out of her need for money in the first a few oocyte donations, she admitted that she had her other donations on the invitations of the nurse in the IVF Center and for her luxury. Moreover, it is thought in the interview that Sevgi was getting proud of her by the invitations of the nurse while Elif was getting rejections in spite of her colored eyes.

As it is understood from the whole interview and specifically from the dialogue above, Sevgi thought that Elif was not a sensitive person and this communication style of the nurse would not negatively affect Elif as well. However, Elif did not explain her feelings like Sevgi told me.

Out of the abortion, Elif told me the details spontaneously as follows:

I: Do their treatments differ from each other?

E: In fact, there was no difference but something happened: In one of them, they told me something.. I called [on the telephope] them again; I called the hospital, which I went for my second [donation]. I called again and I said that I wanted to do it [donation] for next month. I added that I would have my menstruation period and so on. They answered me... the woman told me that... I should say, I had had a discussion with that woman previously. "Ee.. my dear, your oocyte had failed. So, the doctor wouldn't like to take [your oocytes] again." I mean, her speech in this way made me afraid somehow. What do you mean? Because I don't know [what does] the quality of my oocytes mean, not am I able to get my child? What did she want to say? She didn't make any explanation to me. I wanted her to explain. I mean, I.. won't I have my child? "Ee.. no, we can't take it from you, because this and this and so on." She spoked like this and it disturbed me very much. I thought continuously, I went to a gynecologist. I worried if there was a problem in my ovaries and if I wouldn't have my child in the future. After that, they told me that there was no problem or defect. Moreover, I did [oocyte donation] once again after that.

I: Muamele birbirinden farklı mıydı?

E: Aslında birbirinden farklı değil ama şöyle birşey vardı: bir tanesinde şey söylediler, tekrar aradım, ikinci gittiğim hastaneyi. Tekrar aradım, dedim işte ben bir ay sonra yaptırmak istiyorum dedim. İşte şu tarihte regl olacağım dedim falan. Bana dediler ki, bana dedi ki kadın. Ya o kadınla zaten tartışmıştım. 'E işte canım senin yumurta tutmadı. O yüzden bir daha almak istemez doktor' dedi. Yani bu şekilde söylemesi de yani beni şu anlamda korkuttu. Nasıl yani? Çünkü bilmiyorum, benim yumurtalarımın kalitesi, benim çocuğum olmayacak mı? Hani ne söylemeye çalıştı? Hiçbir şekilde açıklama yapmadı bana. Diyorum ki, açıklama yap. Yani ben.. çocuğum olmayacak mı? Ee.. işte yok alamayız senden de.. yok şöyle de böyle de. Bu şekilde konuşmuştu ve bunu beni bayağı rahatsız etmişti. Hatta sürekli düşünmüştüm, kadın doğum kontrolüne gittim. Hani yumurtalarımda bir sıkıntı mı var, benim ilerde çocuğum olmayacak mı falan diye bayağı gözüm korkmuştu. Sonra dediler, hani bir sıkıntı yok, hani bir problem yok dediler. Ondan sonra ben zaten yaptırdım bir kez daha.

Of course, there may be some falsities, which were needed by the interviewee in order to defend herself. I was aware of some of these falsities especially when I had interviews with these friends. Only then, I could find an opportunity to compare their stories with each other. It seems true that Elif had experienced such a sharp speaking in an IVF Center. However, it seems that Elif verified her fertility by an unintentional pregnancy and by another oocyte donation rather than a gynecological examination. Again, it is obvious that oocyte donors apply for an IVF Center for oocyte donation on the advice of their friends. However, after being involved in these ART processes they are being motivated by changing payments, competitions with their oocyte donor friends, and the secrecy.

Under the capability of affiliation, friendship was explained as 'being able to live for and to others, to recognize and show concern for other human beings, to engage in various forms of social interaction; to be able to imagine the situation of another and to have compassion for that situation; to have the capability for both justice and friendship' by Nussbaum (2011: 33). However, in the affiliation relationships of ARTAP, it is seen that people are avoid of such an intimacy with a friend or someone else. In my ARTAP group, there had been an extreme friendship example of surrogacy solidarity. However, it did not continue immediately after the birth.

Membership' section of her book titled as *'Frontiers of Justice.'* Here, she underlines again the focus of the capabilities approach as the well-being of existing creatures. Nussbaum (2006: 357) admits that human beings were killing their members and damaging their natural environment. It is clearly understood that all species including animal and human individuals, are subjects of justice since both of them are suffering pain and deprivation.

Moving from this statement, the needs and pleasure –habitat- of the newborn should be regarded as valuable as existing individuals who are living among other people and should be taken attention. From this approach, even if the unborn people have no right which belongs to them, they should be accepted as beings which have potentialities. These potentialities should be assigned to the embryo and the unborn with some respects. It seems that capabilities approach says no to such kind of potentiality. I wanted to refer to use the concept of “modern dominium” to introduce these potentialities to the literature in modern sense.

The definitions and uses of the term of 'dominium' is focused here in order to be used as a tool for extending capabilities approach to include future generations as an asset for human rights.

Dominium as a medieval word has many different meanings and areas of usage in time. One source of late medieval natural-rights theory was the dispute between the Dominicans and the Franciscans, who championed the life of poverty, and thereby called into question the legitimacy of private property. In 1329 Pope John XXII argued against the Franciscans that God had granted to Adam *dominium* (lordship) over temporal things. Property was therefore sanctified by divine law (Tuck, 1979; quoted from Freeman, 2002: 18). Also for Vincent (1986: 25), the *dominium* of the scholastic philosophers becomes the right to property, meaning life and liberty as well as mere possession. However, by the fourteenth century it was possible to argue that to have a right was to be the lord of one's moral world (Tuck, 1979; quoted from Freeman, 2002: 18).

In their article on Vitoria's political theory, Albayrak and Deveci (2005: 268) pointed out that Vitoria, through his conceptualizations especially on the right to communication and this should be regarded as the originator of fundamental human rights. According to them, Vitoria suggested to accept locals as slaves because he

believed that they had never had a *dominium*. He added with a reference to Aristoteles that locals were not ordinary slave, rather they were natural slaves. Besides, according to the same work, Vitoria admitted that Aristoteles has right on his side about the slaves as they were the inferior/down types among the human category. For that reason, natural slaves should be directed by civilized human similar to the relationship between children/unborns and their parents. Both slaves and children/unborn are in similar position as not being a right holder directly. Rights of children are generally accepted as a satellite-right in the human rights space. Their rights can easily be abused in their houses by their elders and this abuse is saved by law concerning private life in developing countries. There is not even satellite-right of unborn. *Dominium* concept in modern sense is chosen to highlight this blurred position of unborn in its relationship with parents and in human rights literature.

Then, why do not we use this way of thinking as a base for the shift of unborns' *dominium* to their parents because of their insufficient/lack of mental capabilities? If so, can we also say that the concept of *dominium* could be discussed under the natural law because of its mismatch to modern law and even capabilities approach for the subjects related to those who were not yet born? Albayrak (2004: 27) underlines that there was a definite line between spiritual and temporal powers in Vitoria's political approach. For him, both powers are self-sufficient (*perfecta*) institutions, and therefore, none of them should intervene in to each other's *dominium*, in principle. According to this view, it would be possibly right to claim that *modern dominium* which is named in that study (Albayrak, 2004: 27) as spiritual power could not be intervened by the modern law since it could intervene only to temporal power, not spiritual ones.

In our modern lives, there are diverse examples of such kind of *dominium* on children. Concerning different thoughts on sex selection via Pre-implantation Genetic Diagnosis, some argue that sending children to private schools, teaching them by private teachers, making them having piano, ballet or tennis courses, or feeding them with protein-rich foods are not so different from choosing the sex of them. However, Liao (2005: 117) accepts these daily decisions as reversible and points out that they were not health related, irreversible decisions. If we believe in the value of autonomy, then it seems that such non-health related irreversible

decisions made on behalf of another without the other's consent should not be permitted. Otherwise, one cannot talk about a well-balanced relation.

Here an asymmetrical intervention is the issue. One cannot talk about the irreversible intervention of the unborn to its parents because it is attached physically and mentally to its parents' decisions. It was mentioned in the previous sections of this dissertation that the possibility of exercising power is in question only over free subjects, and only insofar as they are free (Foucault, 1982: 790). Foucault also would object to the possibility of exercising power on both slaves and unborn/children since they do not have their own dominium.

Then, this intervention of the parents is still a virgin subject so that a *modern dominium* can be discussed in human rights/ natural rights domain. If someone wants to eat more bananas so that she would be more likely to have a son, there would be little ethical objection against her (Liao, 2005: 116). However, if sex selection, embryo selection or operational technological interventions were permitted, then we could talk about a new natural law and a modern dominium. Parents presume that they have an infinite right on their unborn and keep on exercising violations against them since there will be no objection. This asymmetrical intervention is a critical remark with respect to Capabilities Approach for this dissertation.

Constraints concerning the *Capability to Maintain Relationships with Other Species* refer to the two concepts below:

1. Obstacles in breastfeeding
2. Obstacles in adoption

By accepting the embryo as another species, the qualitative findings of this study related to the breastfeeding of infants and adoption issues are discussed in what follows.

4.8.1. Obstacles in breastfeeding

As the authorities prove it, breastfeeding, especially colostrum is vital in the health of the newborn and its life as an individual with respect to its immune system. For the first few days after the birth, the body produces colostrum, nutrient-rich "pre-

milk" or "practice milk." Colostrum contains many protective properties, including antibacterial and immune-system-boosting substances that aren't available in infant formula³⁷

However, in the surrogacies, it is seen that the importance of first breastfeeding and colostrum is also neglected. Even Ayten, who had the best relationship and solidarity with the social mother in her surrogacy, could not breastfeed the baby since the social mother did not let her.

Ayten gave birth to the child in Adana, Turkey. It is known that first breastfeeding after the birth is strongly advised in Turkish hospitals and health centers. I asked Ayten how she could defend herself in not breastfeeding the baby and how she could lie people in the hospital about the surrogacy. Ayten narrated that birthday as follows:

A: I said I could breastfeed. Okay, I will tell you that as well.

I: In fact, [you said that] they stayed in Turkey [after the birth].

A: Who? The family? They couldn't leave immediately; they stayed for one month. I mean, taking it [the baby] abroad is difficult somehow. Breastfeeding [problem] is not because of the shortness of the time. The family didn't want that [breastfeeding].

I: Did they say anything?

A: No, even we stayed in the same room with the lady for one night. I saw the baby. We stayed in the same room. You know, after several hours, nurses come and say let's breastfeed the baby.

I: Yes, how did you get away from it?

A: I got away. The family thanked me for this. The nurse came, and said 'Madam, it is the breast-feeding time.' She wanted me to open my breast. I told her that I didn't feel good at that time and that I was not in a good mood to feed [the baby].

I: [Did you say] "Give her baby food?"

A: I didn't tell the nurse to give the baby food, I said that I would like to feed her later. She [the nurse] insisted on that, I said "Really, I don't feel good now, I can't straighten myself up, I don't feel good" and so on. She said 'Okay,' I added that I already know how to breastfeed, and I read about it in the books. Then the nurse went out.

I: Aaa.. You had to say in the hospital that she was your first child, didn't you?

A: Of course, my first child... Then, I told the nurse that I would feed her ten minutes later. I introduced the lady as my sister anyway. I said my sister would help me. After that, the nurse went out and the family thanked me for not breastfeeding the baby.

I: They had already warned you about breastfeeding, hadn't they?

A: The lady had told me that while we were going to the hospital. She told me that it would be better if I did not breastfeed her because she would like to give her babyfood. I don't know she just didn't want me to breastfeed her [the baby]. I said okay. If I had wanted so, I could have breastfed her when the nurse was in the room, but the family had told me that before. The lady thanked me, she said 'thank you for not breastfeeding.' She [the lady] had already brought some baby food with her. She

³⁷ Pearl Ben-Joseph, E. "Breastfeeding FAQs: Getting started," For the internet source, see: <https://kidshealth.org/en/parents/breastfeed-starting.html>

was giving that food without the nurse seeing it. When the nurse came, she always hid the feeding bottle.

A: Emzireyim dedim ben.. dur onu da anlatayım.

I: Aslında Türkiye de de kalmışlar.

A: Kim aile mi? Hemen gidemediler bir ay kaldılar. İşte götürmek biraz zor oluyormuş. Emzirme zamandan değil. Aile istemedi.

I: Ee.. bişe dediler mi?

A: Yok, hatta biz hastanede biz aileyle bayanla bir gece aynı odada kaldık. Ben bebeği gördüm. Aynı odada kaldık. Hani doğumdan birkaç, bir saat sonra hemşireler geliyor, hani çocuğu emzirelim diyorlar ya..

I: Ha nasıl yırttınız?

A: Ben yırttım. Aile sonra teşekkür etti bana. Hemşire geldi, bayan dedi bebeği dedi emzirme saati geldi dedi. Dedi göğsünüzü açın dedi. Ben hemşireye dedim ki, şu anda kendimi iyi hissetmiyorum dedim. Emzirecek durumda değilim dedim.

I: Mama verin.

A: Mama verin değil, ben sonra emziririm dedim. Israr etti, valla dedim şu anda kendimi iyi hissetmiyorum dedim. Kalkmam falan dedim, kendimi iyi hissetmiyorum dedim. Tamam, dedi hemşire, ben dedi biliyorum zaten emzirmeyi, şey yapıyorum. Kitaplarda okuyorum dedim, ondan sonra hemşire gitti.

I: Haa.. ilk çocuğum demek durumunda kaldın hastanede de.

A: Tabi ilk çocuğum. Ondan sonra hemşireye dedim, on dakika sonra ben emzireyim dedim. Zaten ablam olarak tanıttım bayanı. Dedim ablam yardımcı olur dedim. Ondan sonra işte hemşire gitti. Ondan sonra aile dedi, teşekkür ederim dedi emzirmedeğin için dedi.

I: Onu da demişlerdi sana öyle emzirme diye, değil mi?

A: Onu da demişti zaten bayan bana hastaneye giderken. Emzirmesen daha iyi olur dedi, çünkü hazır mama verecekti. Ne bileyim emzirmemi istemedi. Ben de tamam dedim yani. Ben isteseydim hemşirenin yanında emzirebilirdim ama aile böyle dediği için hatta bayan teşekkür etti, sağol dedi emzirmedeğin için dedi. Sonra hazır mama getirmişti zaten yanında, hemşire görmeden veriyordu. Hemşire geldi mi biberonu saklıyordu.

It was the first child of the social mother and Ayten had to say in the hospital that she was her first child although she was Ayten's fourth child. Ayten did not know why the social mother had not wanted her to breastfeed the baby. However, Fatma, as a social mother, explained her unwillingness to that breastfeeding as an avoidance of any attachment between the baby and surrogate mother. Moreover, Fatma accepts the surrogacy work as a 'duty' of surrogate mother. She believes that if that surrogate mother breastfeeds the baby, that will be something out of that contract of duty and transform into a kind of emotional 'sharing.' Breastfeeding in the eyes of Fatma's is:

F: Hmm.. In fact, one may think in time.. I would like to think as you say... however one can't accept. Okay, she [the surrogate mother] will have the maternal feeling, too. Of course, she will [have that feeling since she will] carry it for nine months but you wouldn't like it. I myself do not want any attachment [between the baby and surrogate mother] at the moment. It is like a duty to her. If this happens [she breastfeeds her], this will be something like sharing. One doesn't want that; it is psychological somehow.

I: Yes, but it is not something for the woman, it is the right of the baby. Do you say you don't care?

F: But as you know, Gülsevım, there are mothers who don't have any breastmilk. There is no milk. There is a solution for that. If it was a thing of vital importance, if the baby had to take something from her, then okay I could accept that. Now, okay, I tell you the truth, I don't want it. Frankly, I think in this way.

F: Ee.. Açıkçası yani öyle şimdi hani ilerledikçe insan hani düşünüyor. Dediğiniz gibi hani öyle olsa.. ama hani yani insan kabullenemiyor. Hani tamam o da annelik duygusu, tabi ki de o da 9 ay boyunca taşıyacak ama sen istemezsin. Ben şahsen hani öyle hiçbir bağ istemiyorum hani şu anda. Hani ona bir görev gibi yani çünkü yani o şekilde insan ne bileyim paylaşma gibi bir şey oluyor. İnsan da hani onu istemiyor, o biraz psikolojik.

I: Evet ama o kadın için değil çocuk için, çocuğun hakkı. 'Olsun,' mu diyorsunuz?

F: Ama şöyle birşey mesela Gülsevım Hanım, sütü gelmeyen anneler de var mesela biliyorsunuz. Hani sütü olmuyor. Onun bir çözümü var. Ha mesela çocuk için hiç olmazsa olmaz, ondan birşey alması gerekse tamam o zaman hani kabullenirim. Şimdi doğruya doğru ama şahsen istemiyorum hani, yani. Öyle düşünüyorum açıkçası.

As it is seen in the dialogue above, Fatma tend to see breastfeeding as a dispensable thing in the baby's life in spite of its accepted benefits to the baby and the mother (Kornides and Kitsantas, 2013; Lawrence, 2000; Thompson, 2005; Dermer, 2001; Wang L., Collins, Ratliff and Wang, Y., 2017). She thinks in this manner on behalf of the baby. Moreover, she thinks that this situation is similar with women who has no milk in their breasts and hence, has to give formula. Fatma is not alone in thinking in this way: only, she is frank about breastfeeding.

Ayşe did not want the surrogate mother to breastfeed the baby as well. However, Ayşe told me this case as if she had wanted breastfeeding but the doctors in the hospital in Batumi had not let surrogate mother do it.

Ayşe told me the situation as follows:

A: Regarding the breastfeeding issue, in parallel with the regulations, doctors don't want breastfeeding since it would result in an emotional attachment. In fact, I would like him [the baby] to get the colostrum for its benefits to the immune system. They could have milked and given it to the baby. After the birth, the insuline level of the lady [surrogate mother] was problematic somehow. She had to stay in the hospital not for two days but five days since she was given antibiotics and other drugs. The doctors didn't want it [breastfeeding] for that reason and certainly they did not want her to have an attachment, in fact. My son stayed in the emergency department while the lady stayed in the other side. I mean, they did not see each other.

A: Emzirme konusu zaten tamamen yasal olarak doktorlar hiçbir şekilde herhangi bir bağın kurulmaması için istemiyorlar. Ben aslında kolostrumu mutlaka emsin istemiştım bağışıklık sistemi veya sağılıp verilsin vesaire. Doğum sonrasında şekerle ilgili biraz sıkıntı çıktı bayanda. İki gün değil de işte beş gün hastanede kalmak zorunda kaldı antibiyotik vesaire verdikleri için. Doktorlar zaten o yüzden istemedi ve herhangi bir bağın kurulmaması için kesinlikle izin vermediler açıkçası. Oğlum şey, yoğun bakım tarafında yattı. Bayan diğer tarafta. Herhangi bir görüşme söz konusu olmadı yani.

However, the truth was different from Ayşe's statement. I learned the truth when I asked about this to Mehmet who is the embryologist of the IVF Center in Batumi after the interview. He told me that it was the families right not to want surrogate mother to breastfeed directly. But the colostrum could be given via feeding bottle if the family wanted so. It was not restricted in the hospitals and the doctors were not worried about the attachment at all.

It is understood from the statements of Mehmet that Ayşe was the one who had worried about the attachment even from giving the colostrum via feeding bottle. She tried to legitimate her preference by distorting the truth. Ayşe underlined additionally that she would like the baby to have the colostrum by milking the mother. It is seen that these statements were only some good wishes in fact. Ayşe's additional comment about this is below:

Yes, in fact, I would like the baby to have the colostrum by milking the mother for its benefits to immune system. The baby food was given initially, yes... unfortunately, directly baby food...

Ben evet clustrum evet çocuğun bağışıklık sistemi için en azından sağılıp bir şekilde başka şekilde verilmesini isterdim açıkçası. Direkt mama verildi evet maalesef direkt mama...

Breastfeeding differs according to the individuals and to people from different nationalities. In one of my interviews, a public relations manager in an IVF Center in Batumi told me that especially people from abroad were asking for the first milk. She added that doctors there, preferred to milk with the machine since breastfeeding could result in an attachment and depression for the surrogate mother. As it is seen here, these statements and qoutation below are in a contradiction with the claims of Ayşe above.

With the manager's own words:

PR manager in an IVF Center: Turks never wanted it. However, people from abroad want it too much. Especially for the first milk, you know. They ask for the first milk even in return for some extra money. None of them [surrogate mothers] said no. However, the doctors here [in Georgia] don't let it happen, since that would cause an attachment. They prefer to milk with the machine and give it to the baby in that way because breastfeeding, eye contact may result in an attachment and depression for the [surrogate] mother in time. They [surrogate mothers] did not breastfeed especially for this reason.

Tüpbebek merkezi Halkla ilişkiler sorumlusu: Türkler hiç istemedi. Ama Yurtdışından gelenler çok istiyorlar. Özellikle ilk süt var ya, onu diyor aile verebilir mi diye onun için ekstra para da verebiliriz diye aile bize geldi. Hayır diyen olmadı şimdiye kadar. Ama burda doktorlar hayır diyor, bağlanma olmasın diye. Onu şöyle

alalım diyorlar makineyle, öyle verelim diyorlar bebeğe. Çünkü öyle emzirmek, göre göre emzirmek daha çok bağlılık kurar ve sonra depresyona sokabilir diye anneyi. O yüzden özellikle emzirmediler.

When I asked Elene, a Georgian surrogate mother about the breastfeeding issue, I learnt that she was not willing to breastfeed as well. Since Elene would not like to get attached to the child, she told me that it was better for her even not to see the baby. Elene narrated her thoughts concerning the breastfeeding issue as follows:

I: Would you like to breastfeed it?

E: I don't want to think [about this]. I have to breast feed in the end. For that reason, I brought myself to the point of not thinking about it. It is better not to see the baby; I don't want to get attached.

I: *Emzirmek ister miydiniz?*

E: *Hiç düşünmek istemiyorum. Sonuçta vermem gerekir. Hiç o yüzden kendimi telkin ediyorum düşünmeyeyim diye. Çocuğu da görmesem daha iyi olur, bağlanmak istemem.*

When we take Elene's, the IVF Center's and social mothers' approaches into consideration, we see that they are parallel with each other. It is seen that while the possible attachment of the surrogate mother to the child was considered and prevented somehow, the pleasure and well being of the child was not taken into account in these approaches. Although Nussbaum (2006: 358) underlines that "enhanced attention to habitat and reproductive environment is necessary, not so much for the sake of future individuals who are not yet born, but in order to continue the way of life that existing individuals are living," I want to make these 'future individuals who are not yet born' adopt to capabilities approach. I wanted to relate these future individuals to the concept of modern dominium.

In this dissertation, the *modern dominium* is transformed into the right to plan, change, direct not the slave, but the children's (either born or unborn) and females' bodies together. Of course, prospective parents and assisted reproductive biotechnology are the owners of such kind of dominium. The invisible managerial actor is again the state because there is no clear legislation, restriction or deterrence for the misuse or adverse-social effects of technology. If every man is regarded as rational in that he could know the law of nature as Locke claimed, then new question is "who is the interlocutor of modern *dominium*?" Visible society, ARTAP, assisted reproductive technology or invisible state. Regardless of the answer, if the aim of public policy is the public welfare then the state is responsible from its citizens'

(ARTAP including next generations) well being, power and dominium imbalances and human rights violations. The interlocutor of this modern dominium is the state and its political regulations.

In this sense, deciding to decrease the number of the embryos by intervening into the womb of the surrogate mother, and not to give the baby the surrogate mother's breastmilk should be seen as some results of such a modern dominium.

4.8.2. Obstacles in adoption

Another issue, which do not take the well-being of children as other species into consideration, is adoption. In order to make both lives of orphans and childless people (who want to have a child) better, adoption can be seen as an alternative. However, it is seen in some of the interviews that while adoption was regarded as one of the alternatives of having a child, some ARTAP did not even apply for it because of social pressure or some procedural obstacles. ARTAP who applied for adoption stated that it was very difficult to adopt a child from the Child Protection Agencies in Turkey.

Turkey accepted the (no. 5049) Law on the Convention of The Protection of Children and Cooperation in Intercountry Adoption in 2004³⁸. In this law, there is no explanation for the specific implementations of adoption. Concerning the maximum age limits of the parents, 5th item of the law attracts attention. That is: '*Evaluating the prospective parent's characteristics if they have the qualifications which meet the adoption criteria*'³⁹. However, these criterias again are not specifically stated in the law.

I found these specific criteria related to ages of the prospective parents, not in the official web site of General Directorate of Children's Services, but in the

³⁸ No: 5049, 14 Jan 2004, "Çocukların Korunması ve Ülkelerarası Evlat Edinme konusunda İşbirliğine Dair Sözleşmenin Onaylanmasının Uygun Bulunduğu Hakkında Kanun," For the official source, see: <http://tbmm.gov.tr/kanunlar/k5049.html>

³⁹ "Madde 5. Evlât edinecek olan ebeveynin, evlât edinme vasıflarına sahip ve uygun olduğunun tespit edilmesi," No: 5049, 14 Jan 2004, "Çocukların Korunması ve Ülkelerarası Evlat Edinme konusunda İşbirliğine Dair Sözleşmenin Onaylanmasının Uygun Bulunduğu Hakkında Kanun," For the official source, see: <http://tbmm.gov.tr/kanunlar/k5049.html>

Adoption Guideline⁴⁰ in Foster Care, and Adoption Association (KOREV) web site.

It is obviously written that:

c) There should be 40 age gap between the adopted child and the person who will adopt (If a family will adopt the child, then the younger person of the couple would be considered. This age gap would not be considered in the adoption of children who are asked by more than one family and those kids who are rejected for their health or health- related problems).⁴¹

This item is morally very problematic in detail. When one think about the reasoning of such an implementation, s/he may claim that extended age gaps could make the care of the child more difficult when we think about the situation of a 12 years old child accompanied by a 70 years old man/woman. Then we could justify the age limitation to some extent. However, the statement of: ‘...*this age gap would not be considered in the adoption of children who are asked by more than one family and those kids who are rejected for their health or health- related problems*’ leads me to ask another question. Which child’s care would require more energy, effort, time, and money; a healthy child or a child in bad health? Of course, a child in bad health would need more care than a healthy one. Nevertheless, since the system sees both unhealthy child and advanced aged people out of favour, it let them to accompany with each other, namely makes unhealthy children’s and aged people’s lives worthless and remove them from their eyes.

Nussbaum assesses different claims of Singer and Rachels in her chapter titled as ‘Methodology: Theory and Imagination’ (Nussbaum, 2006: 352) and agrees with their first claim, which is explained as: ‘differences of capacity affect entitlements not by creating a hierarchy of worth or value, but only by affecting what can be a good or a harm to a creature.’ By defending so, she also disagree with Aristotle’s statement that there was a natural ranking of forms of life, some being intrinsically more worthy of support and wonder than others (Nussbaum, 2006: 352). These views of Nussbaum determine her approach to equity and justice directly.

⁴⁰ “Evlat Edinme Yönergesi,” For official source, see:

<https://cocukhizmetleri.aile.gov.tr/uploads/pages/yonergeler/evlat-edinme-yonergesi-mulga.pdf>

⁴¹ “c) Evlat edinilecek çocuk ile evlat edinecek kişi arasında en fazla 40 yaş farkının olması, (Evlat edinecek aile ise, çocuk ile aile arasındaki yaş farkı, yaşı küçük olan eş esas alınarak belirlenir. Sağlık ve benzeri nedenlerden dolayı birden çok aileye teklif edildiği halde kabul edilmeyen çocuklar için bu yaş farkı dikkate alınmaz)” “Evlat Edinme Yönergesi,” For official source, see: <https://cocukhizmetleri.aile.gov.tr/uploads/pages/yonergeler/evlat-edinme-yonergesi-mulga.pdf>

Again, a disabled or mentally retarded or unhealthy child's life should not be regarded as worthy less than other members of the specy.

However, Nussbaum reminds us that species norm (duly evaluated) tells us what the appropriate benchmark is for judging whether a given creature has decent opportunities for flourishing (Nussbaum, 2006: 365). She gives bear as an example for this. The bear began to age and his hips began to fail. He was not in pain, but he could not move as he formerly could; increasingly, he had to drag his hind quarters along. Because he was not in pain, moral individualism probably would not have recommended any special treatment for Bear... According to Nussbaum, bear was analogous to some people from a nonlinguistic community of primates. I want to agree that, situation of bear or some members of primates is not different from those of unhealthy child, aged people or even orphans as others.

According to a recent new, it is announced that maximum 40 age limitation in adoption would be abolished⁴². This age limitation in adoption was also issued in some other countries such as Germany⁴³ in various ways. However, it is seen that problems are not technical, they also have social dimensions.

It is known that while 14.189 children are living in the Child Protection Agencies in Turkey by 2017, December⁴⁴; approximately 1900 applicants are in the waiting lists of adoption in Turkey⁴⁵. Namely, the per capita number of orphans is 7, for each application.

One of these applications belongs to one of my participants, Ali (and his wife, Ayşe). Ali told me that when they applied for adoption, they were approximately 38-39 years old. After their application, the process took very long time. So that, when they despaired of adoption, they decided to have a child via one of the assisted

⁴² "Evlat Edinmede Yeni Dönem: 40 Yaş Sınırı Kalktı," 30 Apr 2018. For the news, see: <http://www.hurriyet.com.tr/gundem/evlat-edinmede-yeni-donem-40-yas-siniri-kalkti-40821010>

⁴³Germany Intercountry Adoption Information, for the Official Internet source see: <https://travel.state.gov/content/travel/en/Intercountry-Adoption/Intercountry-Adoption-Country-Information/Germany.html>

⁴⁴ Statistics, Annual Data for 2017, for the official link, see: <https://cocukhizmetleri.aile.gov.tr/uploads/pages/istatistikler/2017-yil-sonu-verileri.pdf>

⁴⁵ "Evlat Edinmede Yeni Dönem: 40 Yaş Sınırı Kalktı," 30 Apr 2018. For the news, see: <http://www.hurriyet.com.tr/gundem/evlat-edinmede-yeni-donem-40-yas-siniri-kalkti-40821010>

reproductive technologies, which they needed, surrogacy. Finally, they succeeded and had their child via surrogacy. However, after a few days, they were called by the Society for the Protection of Children and informed that after the investigations, they decided that Ali and Ayşe could adopt a child.

Ali and Ayşe were happy again, because they could be a family with two children. But after they had learnt that they could not adopt a baby because of their advanced ages, they gave up the adoption. Ali told me about this procedure and their preference as follows:

Ali: [Suppose that] you apply for Society [for the Protection of Children], [they say that] ‘you cannot have that child since you are 40 years old’ and so on. If you are 41 years old, for example, you can adopt a one-year old child. If you are 42 years old, you can adopt a 2 years old child. Laws are in that way... Of course, we can adopt but we... as you know.. Human wants everything, including the child with zero miles, in the colloquial.

Ali: Esirgeme kurumuna gidiyorsunuz, yaşınız 40 oldu çocuk alamazsınız bilmem ne. 40’i geçtikten sonra 41 oldunuz mesela 1 yaşında alabiliyorsunuz. 42 oldunuz, 2 yaşında alabiliyorsunuz. Öyle yasal.. Tabi alabiliyorsunuz ama biz de.. tabi biliyorsunuz insan 0 km istiyor herşeyi, çocuğu amiyane tabirle.

In the colloquial expression, Ali told me that they wanted a child with zero miles. Some individuals of ARTAP stated that they decided to adopt a child but gave up adoption for different reasons like Ali. One of my interviewees, Hale told me about their relationships with the family and gynecologist and their roles in their decision processes on adoption as follows:

H: In fact, I decided to adopt a child. However, ee..

I: Did you try?

H: My husband’s family was certainly opposed to that. They never wanted it [adoption]. My husband is reserved towards his family. They are standoffish to each other. Thus, he was not courageous enough. However, I don’t know whatever people say, I convinced them to a certain extent, as well. After that, I consulted my doctor and I wanted her to help me convince my husband. She said ‘Hale, you had collapsed, you are already at the bottom’ and she said ‘let’s try once again.’ She said that she found a very good center and it was very succesful. She also added that patients she sent there became successful and it [the center] was very proper.

H: Ben evlatlığı kafaya koymuştum açıkçası. Ama ee..

I: Denediniz mi?

H: Eşimin ailesi kesinlikle karşı çıktı buna. İstemiyorlardı asla. Eşim de hani ailesine çok çekinen birisi, aileden hala sizli bizli konuşurlar. O yüzden bir türlü cesaret edemiyordu. Ama işte kim ne der bilmem ne, onları da ben bir noktaya getirmiştım aslında. Sonra kendi doktorumla görüştüm, dedim ki gelin biz eşimi ikna edelim. O da dedi ki ‘ya,’ dedi ‘Hale hani çöktün, dip noktaya zaten ulaştın. Bir kez daha deneyelim, ben çok iyi bir merkez buldum,’ dedi. ‘Çok başarılı oldu, gönderdiklerimin hepsi çok başarılı oldu, çok düzgünler’ dedi.

From the words of Hale above, it is derived that the realization cycle of their adoption process were consisting of three stages: decisions of one of both of the prospective parents, expert support and the support of their families. Here, we can obviously witness that the gynecologist of Hale did not prefer to convince Hale's husband to adoption; on the contrary she convinced Hale again in trying oocyte donation one more time. Hale trusted her gynecologist on reproductive issues so unconditionally that she accepted to try one more time on her gynecologist's evaluation and suggestion through the statement of '*Hale, you had collapsed, you are already at the bottom... let's try once again.*'

I wanted to learn if Hale could be afraid of having the problem of the inability to feel attached to the adopted child if they could adopt. However, her answer was in parallel with the answer of Ali. Moreover, Hale's answer justified Ali's courageous statement concerning his preference of "the child with zero miles" with respect to attachment problem. Again, Hale was more equitable than Ali about the age issue. Hale narrated her answer as follows:

H: No, I don't suppose that... No, I don't think so. I mean... In fact, the age of the child is also important. I mean, if they adopted a child at a later age [rather than a baby], perhaps they couldn't get attached to the child. Maybe their case was like that. However, if she had not been grown up... I don't know [what happens] after age one. If the baby is not even in its first year, it is great. I mean, if you adopt between ages 1 - 3, you can get attached to the child anyway. I mean, I don't know, I can't say 'luckily, I did not adopt a child' but I say 'I am happy with this [oocyte] donation.'

H: Yok, zannetmiyorum ya, yok tahmin etmiyorum. Yani bir kere o yani gerçi tabii ki kaç yaşında aldığımız da önemli. Hani çok belki büyük yaşta alınca o bağı kuramamış olabilirse belki hani onun durumu öyleydi. Ama biraz daha böyle kendini, ne bileyim bir yaşından sonra.. bir yaşına kadarsa zaten super. İşte 1 ile 3 yaş arası alınmışsa o bağı kurarsınız bir şekilde. Yani bir şekilde bilmiyorum ben, iyi ki evlatlık almamışım, demiyorum ama ee.. ya iyi ki bu işi yapmışım diyorum mesela. İyi ki bu donasyonu yapmışım.

According to Hale, it could be easier to attach a 3 years old child than an elder child. As a result, concerning the adoption and aging issues, a social community supports the establishment of a new family with young family members as a species norm. Since individuals and their families generally object to the idea of adoption as a whole, adoption of an infant would be a consolation for all the family members. However, there were procedural obstacles to having a child after 40 years old until very recently. This prosedural obstacle can be overcome with the new regulation that cited above. However, the implementation of the regulation gains

importance here. As it is implied in the brackets⁴⁶ in one of the Adoption Guideline items above, adoption of incapable children should not be promoted to other incapable individuals through a particular interspecies relationship. As Nussbaum (2006: 364) stated, “such impediments should be treated and cured, where possible, even if the treatment is expensive”.

The social pressure still exists in human communities in order to ensure the entitlement of families on its members. And this pressure comes from our own communities. Humans need a species-specific norm of flourishing as well, that is: the reproduction. That is why our families, as our communities, may interfere our reproductive issues more than other problems. As it is obvious here, capabilities and other species are directly related to reproductive issues and next generations with reference to family and human community norms.

Table 11.

The Constraints concerning the capability to maintain relationships with other Species

Capability	Constraints
<i>The Capability to maintain relationships with Other Species</i>	1. Obstacles in Breastfeeding
	2. Obstacles in Adoption

In providing community adoption to surrogacy, oocyte donation, breastfeeding and adoption processes, information and communication technologies can be used effectively.

By bearing the policy recommendations related this issue in mind, the constraints concerning the capability of play and ARTAP are investigated in the next subtopic.

⁴⁶ “If a family will adopt the child, then the younger person of the couple would be considered. This age gap would not be considered in the adoption of children who asked for more than one family and rejected for health or health- related problems”

4.9. Constraints concerning the *Capability of Play* and ARTAP

As we discussed in the previous section, pleasure and pain are not the only things of intrinsic value for the capabilities approach. Instead, Nussbaum (2006: 362) suggests adopting a disjunctive approach. According to her, “if a creature has either the capacity for pleasure and pain or the capacity for movement from place to place or the capacity for emotion and affiliation or the capacity for reasoning, and so forth (we might add play, tool use, and others), then that creature has moral standing” (Nussbaum, 2006: 362).

According to this definition, it is seen that there are two results, which turn in constraints in ARTAP’s social lives. These are:

1. Overreaction
2. Sensitiveness

First constraint concerning the “Capability of Play” is “overreaction” which is discussed as follows:

4.9.1. Overreaction

As it is seen above playing is also regarded as one of the human capabilities by Nussbaum. She specifically explains the capability of play as “being able to laugh, to play, and to enjoy recreational activities.” However, ARTAP are too much sensitive about all issues, including jokes concerning their children specifically. Rather than enjoying with their children and people around them, they may intolerate jokes and take them seriously. I witnessed an example of such a situation while Mehmet, an embryologist in Batumi was trying to get an interview appointment for me from Ayşe, one of his clients on a telephone call. Mehmet wanted to joke with Ayşe at the beginning of the conversation. However, I should admit as the witness of that conversation that the joke was dirty and directly targeted Ayşe’s children who were born through surrogacy in Georgia. Even so Ayşe’s reaction to this joke was perceived as exaggerated by Mehmet.

Unaware of my knowledge about the conversation, Ayşe narrated her reaction to that joke as follows:

I: But I think you would not like to.. I mean if the woman wants you to send her a photograph of the child, would you tolerate this?

A: No no.. It is not legal anyway... When the embryologist called me for your this request [for interviewing], he firstly told me that there was a .. It was a dirty joke. He told me that there was a problem in the documents and we should go to Georgia to give the child back. I told him that I would kill him [laughs]. I could say only this sentence at that moment, I mean.

I: Ama şey de yapmazsınız yani kadın dese ki bir fotoğrafını iletseler dese hoş görür müsünüz?

A: Yok yok. Zaten hem hukuken böyle birşey yasal değil, hem de zaten şimdi sizin isminiz.. sizin bu durumunuzu bana embriyologumuz açıklayacağına telefon açtı. Dedi ki Evraklarda dedi ee.. kötü bir şakaydı. “Bir sıkıntı oldu” dedi, “sizin” dedi “Gürcistan’a gelmeniz gerekiyor, çocuğu alacağız” dedi. Ben de “seni öldürürüm” dedim [Gülüşmeler]. Direkt ağzımdan bu cümle çıktı yani.

As it is discussed in previous sections, this conversation had been occurred with Ayşe, on my question about her toleration on sending the photographs of the child to the surrogate mother on a possible request of the surrogate mother. By telling this reaction as an answer to this question, she possibly implied that she was sensitive on the subject and she does not accept any reservation on it.

4.9.2. Sensitiveness

Hale was another interviewee in this study who admitted that she and her family environment were intolerable to any jokes, which include a clue of their childrens’ birth. She told me about a goof while they were joking with their children through a Turkish idiom. Hale phrased that moment with her words as follows:

When children misbehave, you say ‘off.. did they give you for money’ [a common phrase in Turkey], you know. Really they gave them in return of money. We say it’s better not to make such a joke [laughs].

Çocuklar yaramazlık yaptığında denir ya ‘off sizi parayla mı verdiler’ diye, bilirsiniz. Ya gerçekten parayla verdiler. Diyoruz, en iyi biz söylemeyelim öyle.. [gülüşmeler].

Joking is regarded as one of the human capabilities according to Nussbaum. However, ARTAP possibly have some traumas in their reproductive processes, which could be seen as obstacles to enjoy with some recreational activities and jokes. Consequently, ARTAP also have the rights of the capability of being able to laugh, to play, and to enjoy recreational activities but they are sometimes constrained for this capability.

Table 12.

Constraints concerning the capability of play

Capability	Constraints
<i>The Capability of Play</i>	1. Overreaction
	2. Sensitiveness

It is supposed that experiencing more in assisted reproductive technologies and sharing these experiences with other community members could develop capability of play. But, of course, individuals of ARTAP should feel comfortable in their practices. In a country where surrogacy and oocyte donation are restricted, one cannot expect ARTAP to enjoy with jokes including their reproductive issues. Namely, when ARTAP smooth their traumas and negative memories away, and new members of ARTAP exercise their reproductive trials in a respectively comfortable environment, then we can talk about ARTAP who are able to laugh, to play, and to enjoy recreational activities concerning their reproductive processes.

Such new environment could be established through new legislations and practices on this technology and reproduction as it was referred in the policy recommendations chapter of this dissertation.

The final subtitle concerning the capability of control over one's environment is discussed below.

4.10. Constraints concerning the *Capability of Control over one's environment and ARTAP*

Not only the capabilities of ARTAP concerning body, health, senses, thoughts, emotions, and relations but also political and material capabilities concerning the control over one's environment are negatively affected by assisted reproductive technologies.

Political choices of the majority of a society determine the way of political and administrative practices in general. Turkey is surviving the rulership of a conservative party and political leader and community's decisions for 16 years since the country's conservative countryside constitutes the majority of votes in elections.

As an important point to remind, all assisted reproduction procedures including third parties (namely third parties' egg, sperm and embryo donation, as well as surrogacy) were strictly banned in 2010 by the government of Turkey with legislation.⁴⁷ There are many countries, which restrict their citizens from assisted reproductive technologies including third parties' bodies and materials like Turkey. However, Turkey is regarded as unique among other countries by restricting these practices for its citizens both in and out of the country. As Turkmendag (2012: 145) underlined in parallel with this: 'Turkish Government barred citizens from seeking and receiving gamete and embryo donation abroad, making Turkey the first country to legislate against CBRC (cross-border reproductive care) movement'. Apart from the problems in inspection and governing of such legislation, it causes various legislative and material problems for ARTAP in their cross-border child bearing efforts.

Nussbaum discusses the capability of control over one's environment under two different subtitles. I started my discussions with *Political* and legal problems of ARTAP, which were created by this legislation, and ARTAP, which challenge it with their childbearing efforts.

4.10.1. Political

Nussbaum (2011: 33) explains the capability of political control over one's environment as 'being able to participate effectively in political choices that govern one's life; having the right of political participation, protections of free speech and association'. However, it is understood that nearly all individuals of ARTAP had come face to face with various constraints concerning the capability of political control over their environment. These constraints are:

1. General mobbing on gender discrimination in workplaces
2. Legal barriers on consulting Turkish doctors
3. Presenting social mother's identity card for surrogacy births in Turkey
4. Being obliged to reproductive tourism and mediators

⁴⁷ Resmi Gazete no 27513, 6 March 2010; 'Üremeye Yardımcı Tedavi Uygulamaları ve Üremeye Yardımcı Tedavi Merkezleri Hakkında Yönetmelik,' for the official source, see: <http://www.resmigazete.gov.tr/eskiler/2010/03/20100306-10.htm>

5. Legal responsibilities of foreigners and citizens in agreements abroad
6. Deficiencies in agreements/ lack of agreements
7. Weakness of ARTAP in case of legal problems

First of all, they have constraints with their work places since the employers do not let ARTAP to have a comfortable family environment and see their children as obstacles for woman employees. This verbal objection lead working women to postpone their reproduction to a time in the future when their reproduction practices would be accompanied with some biological and/or health problems. This situation is usual for Turkey as a developing country but the problems towards this situation are increasing when ARTAP want to get so much health permit for their regular gyneacologic examinations, tests, ultrasounds, and other things concerning their reproductive health and treatment.

Secondly, ARTAP may decide to apply for their doctors in Turkey before oocyte donation or surrogacy trials in order to be informed and directed to a well-known and reliable IVF Center abroad because these techniques are already banned in Turkey. Although the supervision of these patients are also banned in Turkey, some gynecologists or embryologists help ARTAP about their request. Both in surrogacy and oocyte donation processes ARTAP need the health assistance and supervision of their doctors in Turkey since all of the parties' bodies should be prepared for the reproduction process simultaneously. However, the Turkish practice of this cooperation is completely illicit as it is known. This situation creates legal problems obviously.

Third, and bigger legal problem occurs when ARTAP want to make most of their reproductive processes in Turkey. As it is known, when a surrogate mother wants to give birth to the child in Turkey, she has to use the identity document of the social/genetic mother and this attempt results in crimes such as the forgery of administrative documents and/or the confusion in genealogy which may bring administrative suits and punishments to all of the parties of these processes.

Then ARTAP may prefer to complete nearly all of the reproductive processes abroad, especially in Cyprus where these services are known as relatively cheaper. However, this preference caused fourth problem for ARTAP since the regulation and

implementation of the legislation in Cyprus had been changed at the beginning or during some Turkish ARTAP's reproductive processes. This change led again to so many problems that one of my interviewees told me that they had to take their genetic materials to Georgia for the rest of their reproductive process. This transfer and mobilization of the reproduction process constitute another legal problem for Turkey. But since it is already restricted to make this process abroad for ARTAP, this additional administrative problem cost them extra money and time loss in addition to psychological problems.

Moreover, people had to communicate with some mediators in order to solve all of these problems 'amongst themselves' since they could not litigate at all. Fifth problem occurs around these new interfaces and make us question this Turkey, Cyprus and Georgia triangle.

4.10.1.1. General mobbing on gender discrimination in workplaces

It is known that women face to face with various difficulties in their work applications and in their workplaces on gender issues. Employers tend to see family lives and reproduction of their women employees as obstacles in front of their working. That is why most of the women postpone their family lives and reproduction to an unknown date, which may result in reproductive problems or infertility.

I want to start my discussion with Hale because she emphasized an important issue in Turkey. Hale is working in a Bank in Turkey and had many difficulties both in her private and working life with respect to her reproduction plans. According to Hale, in spite of his famous discourse on 'having at least 3 children,' the president of Turkey did not regulate the labour act and did not contribute to make the woman employees' working life better. Hale implied that she sees politics as the first responsible authority in her difficult reproduction story. She narrated the beginning of her story as follows:

I mean, if you want '3 children' (the famous slogan of the current president of Turkey) you should support that family materially. I mean, you should change the labour act. No way; it is impossible. Besides, employers don't let something like that. You know, unpaid vacations would be extended some time ago. No way, employers do not allow, I mean. No... Especially when I think about the banks... This time, it would possibly be resulted in not employing women. Moreover, they (employers) ask you if you think to have a child or not unofficially

in recruitment. I mean, it is very difficult. That's why I am in this situation. I changed my work for many times. While I was working in [X] bank... As I told you, I didn't want [to have a child] because of banking. That's why we had our children too late. When you change your work often, and every working place want you to make a not written but verbal commitment. They ask you if you did not plan to have a child after that year. And once you make that commitment one way or another, then you say not now, not now. By postponing again and again... When we finally visited (the doctor), she said that we could not have children.

Yani madem 3 çocuk diyorsun sen bunun maddi man.. maddi anlamda o aileyi bir şekilde desteklemen lazım. Yani onun için iş kanununu değiştirmen lazım. İmkansız yani, hayatta olmaz o iş. Patronlar zaten izin vermezler öyle bir şeye. Bir ara vardı ya hani ücretsiz izinler uzatılacaktı doğum izinleri.

Hayatta patronlar izin vermez yani. Yok ya hele bankaları düşününce ben.. İşte bu sefer de kadın istihdamı almayarak sonuçlanır. Zaten legal birşey olmasa bile işe alırken bile soruyorlar, çocuk düşünüyor musun diye. Çok zor yani. İşte ben de o nedenlerle böyleyim. Çok iş değiştirdim ben bir dönem X Bank'tan işte dedim ya bankacılıktan istemediğim için. Çok geç çocuk sahibi olmanızın sebebi de o. Çok iş değiştirdince her girdiğiniz yer sizden yazılı olmasa bile sözlü bir taahhüt istiyor. Gelecek sene çocuk yok değil mi falan diyor. E siz de iyi kötü verdiniz o taahhüdü. Biz de yani yapmayalım yapmayalım. Erteleye erteleye.. en son bir gittik ki aman olmuyor çocuğunuz dediler.

Then Hale started visiting her gynecologist in Turkey for her IVF trials. However, she learned that her oocytes were not proper for a successful trial. She was informed and directed to an IVF Center abroad because these techniques were already banned in Turkey. Her gynecologists in Turkey helped her about making these connections for oocyte donation trials although this consultation was banned in the related regulation on assisted reproduction technologies in Turkey.

4.10.1.2. Legal barriers on consulting Turkish doctors

Gynecologists of women generally were chosen in the end of an endeavor and women do not prefer to change their gynecologists in their lives, because they share and talk on their reproduction secrets and private lives with that doctor.

The gynecologist of Hale was the person who Hale consulted for adopting a child to and who convinced Hale in oocyte donation, and who prepared her body for all of her IVF trials and who operated Hale's cesarian birth. Hale told me about her gynecologist's supervision on adoption and oocyte donation issues as follows:

In 2012, I was determined on adoption for a long time. I visited (my gynecologist) in March or January or February in 2012. I asked her if we could do something like this and if she could help me in convincing my husband on this issue. After that, we had our last trial. Sorry...before that trial, she wanted me to stop before adoption and told me that she was working with a center (IVF Center) for a period of time and

added that she had sent 2 or 3 people before me and had seen that they were very successful and proper.

2012’de işte bir süredir ben kafaya takmıştım evlatlık konusunu. O zaman gittim 2012’de işte Mart, Ocak, Şubat falandı. Ee.. Yapalım mı böyle birşey destek olur musun bana dedim eşimi ikna etmekte. Sonra da işte sonuncuyu yaptık. Ha o zaman dedi ki ya dur dedi hani bir evlatlıktan önce dedi bir tane merkezle çalışıyorum ben bir süredir. İki üç kişiyi gönderdim, çok başarılı çok düzgün.

Hale told me that oocyte donation process needed assistance and medical intervention of her doctor in Turkey since both of the women’s bodies should be prepared for the reproduction process simultaneously. However, the Turkish leg of this cooperation is completely illicit, as it is known⁴⁸.

Hale narrated me that simultaneous work with her own words in the dialogue below:

H: Of course, they should work together.

I: You said that he sent even a photograph [of the oocyte]..

H: Yes, yes. The first one gave it; I remember that the second one did not give it, the second guy. First one gave it (the photograph) directly to our hands.

I: Perhaps the second one also gave it. Do they get the contact information of your doctor in Turkey? Do they know her?

H: Of course, they should know. Of course, there may be different options, she may take through them. However, you should make two doctors come together somehow at the beginning of this process.

I: Like you and the donor..

H: We didn’t meet directly but they should somewhat come together. Because this is a medical process, in order to manage it... I mean, both of them should carry out (the process) together and simultaneously.

I: I thought that this is being a controlling mechanism as well. You told me that you trusted her but once you trust your doctor, and then your doctor controls that process. I mean, it is an unsecured process but there is something at least in technical manner.

H: Of course, Communication is very important, it is very important to be kept in touch with the each other. The team is very important; the team that does this work.

I: Hmm.. your doctor directed you there and you had not known anybody who makes this job, did you?

H: No, I did not know.

H: Tabi tabi beraber çalışmak zorundalar.

I: Fotoğrafını bile gönderdi diyorsunuz..

H: Evet evet, ilkinde vermişti, ikinci vermedi diye hatırlıyorum ikinci adam. İlki böyle çıkartıp elimize fotoğraf vermişti.

⁴⁸ Resmi Gazete no 27513, 6 March 2010; ‘Üremeye Yardımcı Tedavi Uygulamaları ve Üremeye Yardımcı Tedavi Merkezleri Hakkında Yönetmelik,’ for the official source, see: <http://www.resmigazete.gov.tr/eskiler/2010/03/20100306-10.htm>

- 6th item of ‘Restrictions concerning ART’ (Item 18):

“(6) Yurt içinde veya yurt dışındaki ÜYTE uygulaması yapan yerlere beşinci fıkradaki işlemler için Yönetmeliğe aykırı olarak hasta sevk etmek, yönlendirmek, teşvik etmek ve bu konularda aracılık etmek gibi eylemlere katılan merkezler ve/veya merkez personellerinin tespiti halinde ilkinde üç ay, tekrarında süresiz olarak merkezin faaliyetine valilikçe son verilir. Merkez personeli olmamakla birlikte bu hususlarda aracılık ettiği tespit edilen kişi ve kişilerin varsa sertifikaları Bakanlıkça iptal edilir.”

I: 2. belki de fotoğraf vermiştir. Türkiye deki doktorunuzun iletişim bilgilerini felan alıyorlar mı? Biliyorlar mı?

H: Biliyorlardır tabi tabi. Tabi olasılıklar da vardır onlardan alıyorlardır. Ama bir şekilde bu olayın başında iki doktoru da biraraya getirmeniz lazım.

I: Şey gibi siz ve donör gibi..

H: Biz tamamen görüşmüyoruz ama onların bir şekilde görüşüyor olması lazım. Çünkü tıbbi bir süreç, onu yönet.. yani ikisi beraber eşzamanlı yürütmesi lazım.

I: Şey düşündüm aynı zamanda kontrol mekanizması da oluyor. Güvendim dediniz ama siz doktorunuza güvendiğiniz takdirde doktorunuz da ordaki süreci kontrol ediyor. Hani güvencesiz bir süreç ama en azından teknik anlamda bir şey oluyor anladığım.

H: Tabi tabi. İletişim çok önemli, o iletişimi sağlamaları çok önemli. Ekip çok önemli bu işi yapan ekip çok önemli.

I: Ee.. siz.. sizi direkt doktorunuz yönlendirdi ve bunu yaptıran herhangi bir kimse tanı mıyordunuz?

H: Tanı mıyordum.

Hale's gynecologist were in communication with the embryologist in Cyprus and prepared Hale for the routine IVF trial which would be done via the sperm of Hale's husband and donated oocyte this time.

According to Hale, this synchronization is very important for the success of the trials. To me, the trust and controlling of the process are also important in the process. The gynecologist of Hale had these roles in addition to all of her roles above. She was at the center of Hale's reproduction from the beginning of the process in fact.

Hale explained her gynecologist's role in her reproduction as follows:

H: Always with the same person [the gynecologist]... The same person assisted me at childbirth, and I still visit and see her. I mean, I was obliged to that, here someone should follow-up you anyway. Because, as I told you before, here your womb is prepared. There should be someone who controls that period. After measuring the womb in a certain milimeters she should... She was always talking with the guy [the embryologist in Cyprus]. While he was getting information about her [the oocyte donor], she [her gynecologist] was giving information about me. They were trying to equalize [the two reproductive processes of women]. I mean, they should make it equalized in order to obtain the donation date and to make it [donation] healthy. Because of that, if she could not equalize it [the womb] then they give the oocyte donor hormones and postpone her ovulation for a while. I mean, they should equalize it [timing] properly. It is impossible to make this by going Cyprus alone or by finding a donor for yourself. You should have a doctor for follow-up [the process].

H: Hep aynı kişi, doğurtan da zaten aynı kişi, hala gittiğim görüştüğüm biri. Yani mecburum burda sizi biri takip etmek zorunda zaten. Çünkü siz diyorum ya burda rahminiz hazırlanıyor. O süreci kontrol edecek, rahimin belli bir milimetreye geldikten sonra... adamlar da devamlı konuşuyorlardı. O onun hakkında bilgi alıyor, o benim hakkımda bilgi veriyor. Onu eşitlemeye çalışıyorlar yani egale olmalı ki donasyonun tarihini ve sağlıklı olmasını sağlayabilsinler o işlerin. Ona göre çünkü mesela tam uygun hale getirmediyse ordaki donörü de birazcık uzatıyorlar süresini bir şekilde ilaçlarla. Yani onu tam egale etmek zorundalar. Yani bu kişiyi, bu olayı

tek başına gidip de Kıbrıs'ta tek başınıza yapamazsınız. Burdan bir takipçiniz ya da nerdeyse.. olması lazım.

Hale was not one who was advised by her gynecologist for the other reproduction ways including third parties abroad. Ayşe also described me the advices of her doctors in Turkey. Ayşe told me that her doctor firstly advised them to go to u and later Batumi for surrogacy. Both alternatives did not give them confidence at all but again they trusted the embryologist in that IVF Center and decided to accept Batumi as alternative for the surrogacy.

Ayşe narrated me that process as follows:

A: ...Later, we told [people at the] hospital [in Turkey] where we had had In-vitro baby trials before that we had decided on this [surrogacy]. Firstly, he [the embryologist] wanted to send us to India since he has a doctor friend there. Those places are similar to, excuse me [for this phrasing], poultry yard, you know. They take humans and... like nesting, exactly. And continues with the pregnancy in that way and so on. After that our doctor ee.. directed us to Batumi. In the first phase, Batumi was not reassuring at all. Although we went there and met face to face. We trusted a person in fact, rather than the Center. I can say this at least on my own behalf. Later, we came back here and lived lots of serious emotional problems with my husband. [We questioned] 'what should we do, should we give up' and so on. Whatever, after getting the positive result [pregnancy occurred], we said 'let's start trials.'

A: Sonrasında, bizim tüp bebek, biz böyle bir düşüncemiz olduğunu kendi merkezimize söyledik yani kendi gittiğimiz hastanemize ilettik. Bizi önce Hindistan'a göndermek istedi, doktor arkadaşı olduğu için. Orası şey yani bildiğiniz çok affedersin bu tavuk çiftlikleri yok mu, insanları alıp.. kuluçkalık gibi, aynen aynen. O şekilde devam eden gebelik vesaire. Sonra bizim doktorumuz ee.. Batum'a yönlendirdi. İlk etapta açıkçası bizi Batum hiçbir şekilde, bize Batum da güven vermedi. Gidip birebir görüşmemize rağmen. Kişiye güvendik açıkçası, merkeze değil. Öyle söyleyeyim kendi adıma en azından. Sonra geldik duygusal olarak ciddi anlamda burda eşimle bayağı sorunlar yaşadık. İşte vaz mı geçsek, ne yapsak ne yapsak vesaire. Neyse, olumlu sonuç aldıktan sonrasında ee.. işte hadi dedik denemeler başlasın.

What is happening in India? The Indian surrogacy practice is well known in the literature and sector as well. In fact, Indian surrogacy is not so far from Turkey. Women from the socio-economically lower groups of India are coming together in a big house like an incubator center and carrying the babies of other people. In fact, they are the 'surrogacy staff' of another IVF Center in India. A Turkish newspaper pointed out Anand, a small town of India, which is famous with surrogacy in 2008⁴⁹ as 'cradle of the world.' Moreover, the newspaper article writes that the small town

⁴⁹ Başaran, E. "Taşıyıcı Anne Kasabası," 20 Jan 2008. For the news, see: <http://www.hurriyet.com.tr/kelebek/tasiyici-anne-kasabasi-8058571>

transformed into the ‘cradle of the world’ from a small town where the beggars were staying with their families and the cows were walking around the streets. This ‘*güzelleme*⁵⁰’ is perturbative when the communal lives of surrogate mothers were thought.

Some photographs of those women were taken here from the social media. The first photograph tries to convince ‘other people’ that those women were living in humane conditions: they enjoy, sing and have a good time together in those flats. Especially Indian surrogacy has some similarities with the famous novel of Margaret Atwood titled as ‘*The Handmaid’s Tale*.’ After reading this book on my academic advisor’s, Prof. Deveci’s suggestion, I necessarily built an empathy with surrogate mothers. Atwood (2007: 172, 173) wrote:

We are for breeding purposes: we aren't concubines, geisha girls, courtesans. On the contrary: everything possible has been done to remove us from that category. There is supposed to be nothing entertaining about us, no room is to be permitted for the flowering of secret lusts; no special favors are to be wheedled, by them or us, there are to be no footholds for love. We are two-legged wombs, that's all: sacred vessels, ambulatory chalices.

Figure 1.
Surrogate Mothers in India I



Photo: Massimiliano Clausi/laif

The surrogacy was imposed on those women out of their consents in the novel. But again, since these Indian women are coming from a socio-economically low group, getting their consents in return for money does not put them in a better condition than *The Handmaids* in Atwood’s novel. One more thing, they are

⁵⁰ Güzelleme: A folk lyric in praise of a special person or thing

impregnated by reproductive biotechnology, not by any Commender, namely by another power figure.

In the photograph below, we see fourteen Indian women who are possibly pregnant and waiting for the births of their babies to get their payments and to realize their modest life plans. We notice at least two sewing machines, a seat, a man, some fruits, a small television at first glance. Later, I realize an extremely big calender, which possibly result in perceiving the days as they were longer than 24 hours for surrogate mothers. Possibly for that matter, one of the women is staring at the calender while others are possibly waiting for their turn for fruit. Women's clothes are so colorful that the little girl is hardly making a difference and meaning to the photograph.

It is may be claimed that the desperateness of childless people is making poor people with children desperate with respect to their human capabilities. Gupta (2012: 27) who examined Indian egg donors and surrogates in the globalized fertility market in her article, makes an important remind: As early as 1985, Gena Corea sketched a prophetic vision of a world in which the wombs of "non-valuable" women are used as "breeders" for the embryos of "valuable women." Gupta (2012: 27)'s position here is that "commercial egg donation and surrogacy are morally reprehensible practices that need to be banned globally on various grounds".

Figure 2.

Surrogate mothers in India II



Maybe as a result of the objections to Indian style of surrogacy, authorities announced to the press that they are preparing a legislation including a ban on commercial surrogacy⁵¹. However, it was announced in 2016 and I could not get any recent news about that regulation.

Again, it seems strange to some people including Ayşe. As a remind she said that “*Those places are similar to, excuse me [for this phrasing], poultry yard, you know. They take humans and... like nesting, exactly.*” Probably, seeing too many surrogate mothers together on the internet made her irritated about the surrogacy. However, the reality was not very different from her perception: if these women were seemingly chickens in poultry yard, Ayşe preferred a ‘cage-free chicken’ in Batumi, Georgia. Out of their own private lives in their own houses, the positions and roles of the surrogate mothers were the same.

In the end, Ayşe and her husband accepted giving birth to their child in Batumi, Georgia. Some other legal problems occur when the individuals of ARTAP want to make some parts of their reproductive processes in Turkey. As it is

⁵¹ “Hindistan’da Taşıyıcı Annelik Yasaklanıyor,” 25 Aug 2016. For the news, see: <http://t24.com.tr/haber/hindistanda-tasiyici-annelik-yasaklaniyor.356836>

mentioned above, when a surrogate mother wants to give birth to the child in Turkey, she has to submit the identity card of the social/genetic mother in the hospital in order to register the baby on those people's logs as its mother and father. If they are caught somehow, that crime is perceived as the forgery of administrative documents and/or causing confusion in genealogy, which may bring administrative suits and punishments. However, women who are donated by oocytes of another women are relatively at low risk when their situations are compared with women in surrogacy processes.

Risky positions of all parties of ARTAP lead them question their political control over their family and environment. Namely, ARTAP do not have the right of protections of free speech on their reproduction and family and hence they do not have the right of political control entirely.

For example, Hale told me about her baby's birth that she did not give too much information [donation] about the embryo to anyone. Nobody, out of the IVF Center staff, knows anything about the oocyte donor, anyway.

Hale described her birth process as follows:

H: Afterwards... I gave birth in Acıbadem. You say test-tube baby for every question, you should never say anything else. Because it is asked there, especially in the tests, if it was in-vitro [baby] or not? Of course, I gave birth normally in Turkey and with the assistance of my doctor.

H: Sonrasında zaten.. Acıbadem'de doğurdum, herşeye tüp bebek diyorsunuz, başka hiç birşey konuşmuyorsunuz asla. Hani orda çünkü soruyorlar, illa ki testlerde soruluyor tüp bebek mi değil mi? Tabi normal Türkiye de yaptırım, kendi doktorumla.

However, Ayten and the social mother of her baby had been in a more risky position than Hale since they had to conceal their real identities in the birth. I discussed this position in the next sub-topic below.

4.10.1.3. Presenting social mother's identity card for surrogacy births in Turkey

Ayten and the social mother of her baby had to behave as appropriate to the scenario from the beginning to the end of the pregnancy period. For this reason, they had to find a doctor who would accept to cooperate with ARTAP in this illicit work. As it is seen here, this cooperation would result in extra payments and in other secret

– illicit relationships (relationship between the gynecologist in Turkey and ARTAP, and relationship between the gynecologist in Turkey and the embryologist and/ or gynecologist in the IVF Center abroad), which would represent another example of lack in political control over ARTAP’s environment for ARTAP. This lack in political control over their environment led to the maintenance of restrictions towards reproductive technologies including third parties’ reproductive materials. In Ayten’s case, she explained that she had to take the responsibility for finding the gynecologist for her pregnancy in Adana and by doing so, she had been in a more risky position.

Ayten said that she found the doctor in Adana since she did not want to travel İstanbul for doctor visits. Moreover, she added that the family had to pay extra money for these visits and the birth to the doctor. Ayten narrated that process as follows:

A: I found the doctor here [in Adana], I arranged everything because the family didn’t know anyone here. I searched and found the doctor. I talked to him face to face because the doctors are also afraid of this work [surrogacy]. They don’t want to talk even on the phone. I visited the same doctor during the pregnancy and he helped me in giving birth. We gave birth and we showed the identity card of the family [the lady] [as if it was mine]. For that reason, they [the family] paid extra money to the doctor. I mean, the doctor also risked himself. He may get dismissed if this is noticed by the authorities because this is illegal, completely an illicit work. I visited his [the doctor’s] private clinic with the identity card of the lady and everything was done in a private hospital.

I: After all, they showed the documents to the birth registration office and said that she [the baby] was their own, didn’t they?

A: Yes, besides, since the birth was given in the name of the lady, there wasn’t a problem. The only problem was that, the family had some difficulties in taking the baby to Germany, since the baby was born in Adana, Turkey and it had been a problem to take the baby abroad. They waited in Antep for a month and they could go after that. It is impossible to take it directly [even after the birth].

A: *Buradaki doktoru.. Ben buldum, hepsini ben ayarladım. Ben ayarladım. Aile çünkü burada tanıdığı yoktu, bir şeyi yoktu. Ben araştırdım buldum doktoru. Yüz yüze konuştum çünkü doktorlar da bu işten korkuyor. Telefonla konuşmak istemiyorlar. Kontrolü doğumu hepsi aynı doktor.. Doğumu ailenin kimliğiyle yaptık. O yüzden doktora ekstradan para ödediler. Yani doktor da tehlikeye attı kendini. Yani mesleğinden olur öyle birşey duyulursa. Çünkü yasal değil. Gizli işler. Normal gittim özeline, bayanın kimliğiyle herşey yapıldı yani. Özel hastanede.*

I: *Sonra da nüfusa gidip onlar ibraz ediyor, bizim diyip alıyorlar.*

A: *Evet. Zaten doğum adına olduğu için sorun olmuyor zaten. Bir tek aile, götürmekte zorlandı işte Almanya’ ya çocuğu. Hani Adana, Türkiye’de doğduğu için, yurtdışına götürmek biraz sorun oldu. Antep’te beklediler bir ay falan ancak öyle götürebildiler. Direk götürülüyor zaten.*

ARTAP had to conceal their identity and pay extra money for this work. Moreover, their personal and legal security and bodily healths are under risk in these conditions. Restrictions lead the family and the surrogate mother to behave in

secrecy and illegal manner. They were precluded from having the initiative and the right of political control over their environment. Ayten's case is especially important in representing such a risky position with other parties of the process. By knowing that Ayten was not issued for any agreement in Cyprus, I wanted to learn if she was informed about these risks by the IVF Center. But she admitted that she was not informed about that at that time. According to her 'trust' was important in this relationship. She said *'since we trusted each other, there wasn't any conversation like that.'*

Again, I wanted to question Ayten on this 'trust' since it is written on the websites of IVF Centers that they *'do not recruit women from Turkey since it is banned.'* In spite of this announcement, they may prefer surrogate woman and oocyte donors from Turkey as it is seen in Ayten's case. In our conversation Ayten approved this contradiction by saying *"Yes, they do. On the contrary, [they work with women] from Turkey, İstanbul... One more thing... Some hospitals collect oocytes from their employees, for example. I heard this for many times."*

Since Ayten is one of the ARTAP, her observations and evaluations are important respectively. In addition to the legal status problems of surrogate mothers in their reproductive processes, the legal status of oocyte donors is also problematic as well as their invisibility. Ayten takes attention to this invisible group of ARTAP in our conversation as well.

The conversation with Ayten is given below:

I: Did they tell you that they would take all the legal responsibility if there had been a problem? For example if the truth come in sight...

A: No.. I mean nothing like this was done.

I: Do you mean that you took the responsibility? And you said that 'I am ready for it,' Did not you?

A: Yes, there wasn't any conversation on this. Since we trusted each other, there wasn't any conversation like that.

I: You trusted the hospital, didn't you?

A: Yes.

I: Why that hospital? Did you go there on advise?

A: I didn't go there on advise. I applied on-line.

I: How could you trust? Moreover, it is written 'we do not recruit women from Turkey since it is banned' on nearly all websites [of these IVF centers].

A: Yes, they do. On the contrary, [they work with women] from Turkey, İstanbul... One more thing... Some hospitals collect oocytes from their employees, for example. I heard this for many times.

I: *Ee.. bununla ilgili peki size hiç bir sıkıntı olursa biz alıyoruz sorumluluğu dediler mi? Yani Türkiye'de olur da tespit edilirse..*

A: *Yok hiçbir şey öyle şey yapılmadı yani..*

I: Yani sorumluluk sana ait. Sen dedin ki ben buna varım.

A: Evet. Bir öyle bir konuşulmadı. Karşılıklı güven olduğu için öyle bir konuşma olmadı.

I: Hastaneye güvendin?

A: Evet.

I: Neden o hastane? Sen tavsiyeyle mi gittin?

A: Ben tavsiyeyle gitmedim. İnternet aracılığı ile başvurdum.

I: Nasıl güvündünüz? Bir de onlar orda şey yazıyor yani Türkiye'de yasak olduğu için Türkiye'den kadın almıyoruz etmiyoruz.

A: Alıyorlar. Zaten hep Türkiye'den, İstanbul'dan. Bir de bazı hastaneler kendi çalışanlarından yumurta alıyor mesela. Onu da çok duydum ben.

Ayten told me that she had trusted this IVF center and embryologist without needing any other person for reference. Of course, Cyprus's seemingly legitimate reproductive processes including ARTAP also affected her in building that trust. According to Ayten, surrogacy was legal in Cyprus. However, as it was discussed in the next sections, we know that surrogacy and oocyte donation were not legal; rather, they were tolerated by the political and legal system in Cyprus up to a certain extent.

4.10.1.4. Being obliged to reproductive tourism and mediators

Being involved in reproductive tourism and the roles of mediators were told as usual in many interviews. In Ayten's case, it is understood that she regarded Cyprus as a country where everything was free and possible. She was also impressed by the organisation of her flight from Adana to Cyprus. Ayten was coming from a socio-economically low social group in Adana so that she and her husband told me that they decided to make that interview because they were impressed by my grammatically correct telephone message. I understood that they could be also impressed easily by education, honor, reputability, science and scientists, material gains and so on.

The staff of the IVF center sent Ayten the information like I did. They met her at the airport and respect her in order to get her trust and they got it. They made Ayten believed that everything was free in Cyprus and it was important to take care of her.

Ayten explained that care as follows:

Yes, it is legal in Cyprus, I mean. Everything is free in Cyprus. They arranged my flight. They arrange everything. My husband didn't join me. I was worried at the beginning. It was my first time, you know. I asked "how I will trust you?" They sent me the information of the center like you did. The staff from the hospital meet you

at the airport and take you to the hospital. Later, they take you from the hospital to the hotel. They come one hour before the flight, they take you and leave you back to the airport.

Evet.. Kıbrıs'ta yasal yani. Her şey serbest Kıbrıs'ta. Uçağımı ayarladılar. Her şeyi ayarlıyorlar. Eşim gelmedi. İlk başta ben tedirgin oldum. İlk gidecektim ya, dedim size nasıl güveneceğim dedim. Bilgilerini gönderdi aynı sizin gibi. Havaalanından seni alıyorlar hastane çalışanları, hastaneye bırakıyorlar. Geri havaalanına hastaneden alıp oteline yerleştiriyorlar. Uçak saatinden bir saat önce geliyorlar, seni alıyorlar geri havaalanına bırakıyorlar.

Another woman from ARTAP, Fatma was a social mother who also believed the legitimacy of surrogacy in Cyprus but, unlike Ayten, Fatma's verbal agreement was violated during the pregnancy period. Fatma's case is very different and important since her case cultivates all social, health, material, and legal problems together.

Fatma's case includes a social problem because she heard about the surrogacy and applied for it in Cyprus without investigating more, like other ARTAP. It refers to a health problem since Fatma learnt the illicitness after she and the surrogate mother had some drugs and vaccines for one year in order to prepare their bodies for oocyte collection and surrogacy.

In addition to these, Fatma and her husband had both material and legal problems concerning their surrogacy attempt after they learnt that they could not allow to realize this surrogacy process in Cyprus under these conditions. They had to find another surrogate mother, another IVF Center/ country and to transport their embryos to that center/ country from Cyprus in exchange for extra money.

Fatma's process with her own words is below:

F: ...After that, I went and visited doctors there. He said that 'okay, it is possible to make it [surrogacy] happen'. Then he prescribed me some drugs, vaccines and etc. We found a woman by ourselves. But we ourself.. while saying that we found her by ourselves, I mean, we stated that we want to make it in that way. They helped us in finding a woman by the mediation of another woman. I mean, despite of saying that we found her, they found her again, in fact. That woman also wanted to get money. Both the woman [surrogate woman] and other woman who found her wanted money. This process took almost a year... we started the treatment, I used the drugs. It [the surogacy] was banned after that. I mean, it was banned in Cyprus.

I: Then you attempted to do this in Cyprus first, didn't you?

F: Yes, at that time we did so. We had no idea, I mean, they were all hearsay, okay. When we decided to do this, people were telling something here and there. On the television... We supposed that it was legal in Cyprus.

F: ..İşte ondan sonra gittim ben doktorlar görüştüm. Dedi tamam, olabileceğini söyledi. Sonra bana ilaçlar verdi, iğneler verdi. Bir tane bayan bulduk, kendimiz bulmuştuk. Ama biz kendimiz.. Ondan sonra yani şöyle kendimiz bulmuştuk derken biz tamam yapmak istediğimizi belirttik. O kendileri bir bayan aracılığıyla bir bayan

bulduk. Yani kendimiz bulduk derken yine onlar buldu. Bayan da para istedi zaten. Kendi de para istedi zaten, onu bulan bayan da para istedi. Bu neredeyse bir sene sürdü. Tedaviye başlayalı, ben ilaçları falan kullandım. Yasak olmuş, yani Kıbrıs'ta yasaklanmış.

I: Yani siz bu işi Kıbrıs'ta yapmaya kalktınız önce, öyle mi?

F: O zaman öyleydi evet. Biz hani bilmediğimiz için yani biz bu yola başladığımızda çünkü hani ben kulaktan dolma tamam, çok uzaktan bazı insanlar söylüyordu. Televizyonlar da.. Kıbrıs'ta yasal diye biliyorduk biz.

Fatma's case differs from other ARTAP's cases by manifesting most of the illicit relations and the shadow sector together in the process. As it is seen above, IVF Center directed Fatma and her husband to another woman who could help them in finding a surrogate mother. This mediator would get some money from the couple as well as the surrogate mother.

After Fatma and her husband realized that they were not able to start their pregnancy process in Cyprus, the IVF Center found them another mediator who could help them in finding another IVF Center abroad for the surrogacy process. Fatma told me that process as follows:

F: In that place, it was told us that our surnames would be written directly as mother and father. It was told in this way. However, we waited for a long time after my oocytes were collected. Moreover, I had proper embryos and we waited for a long time. I mean, always negative, negative, always an obstacle occurred. It was banned and that ban came did not removed on. It [surrogacy] is also under inspection in Turkey, it is banned. They kept us waited like this, in fact. Afterwards, they gave us the telephone number of a gentleman who would help us. I called him continuously if there was an improvement in the process, or anything else. I mean, we were in this work almost a year. It's been a year in total since my oocytes have been collected.

F: Orda direkt hani bebeğin anne ve baba olarak bizim soy ismimizi işte anne baba olarak bizim yer alacağımız söylendi. Bu şekilde söylendi. Ama tam tersine yumurtalarım falan toplanmış, işte gayet de güzel embryolarım vardı işte bekledik kaç ay. Hani sürekli hep olumsuz olumsuz, hep bir engel çıktı işte yasal kalkmadı yasaklandı. Türkiye'de de denetleme var yasal. Hep böyle birkaç ay evet beklettiler bizi açıkçası. Ondan sonra yine bu hani Kıbrıs'la bağlantısı olan yine bu hastaneyle bağlantısı olan bir beyin numarasını verdiler bize, onlar size yardımcı olur diye. Ben hani sürekli arıyorum yani bir gelişme var mı, bir şey var mı yani bir senedir bu işin içindeyiz yani. Hani yumurtaların toplanmasıyla birlikte toplam bir sene oldu.

This quotation includes different messages but remind us the perplexity problem at most. Waiting was not easy for Fatma in that way. She would like to get information concerning their reproduction issue from their embryologist in IVF Center. However, it took too much time of them to find another trustworthy IVF Center for their surrogacy.

Moreover, there were an indeterminant position with respect to Fatma and her husband. They had to communicate with mediators in their searches for surrogate mother and other IVF Center abroad as we learnt from these quotations. Their first embryologist of the IVF Center in Cyprus did not want to take the risk for sending them to other people directly. Again, Fatma was not complaining about this second mediator. She told me that he was doing his best for helping ARTAP in establishing new networks for their reproductive issues for free. Moreover, that mediator seemed like a sophisticated man for Fatma. However, it is obvious here that the capability concerning contolling one's political environment was violated with some respects. Fatma wanted to be pleased of the result without criticizing the whole problematic process.

She told me about her relationship and communication with this second mediator as follows:

I: Did the Clinic direct you to the mediator?

F: The Clinic directed us to that mediator. He has relationship with both Cyprus and the Clinic here [in Georgia]. He was a gentleman who helps families; I mean normal families, in having test-tube babies. He told us that he could help us as well. Thanks to him, he did what ever he could. He lives at the other side of İstanbul, for example; but he came and met us when we needed. When I called him, he always answered or called me back when he was available. However, in spite of his efforts, some other prosedures had appeared, as you know.

I: Aracı olan kişiye klinik mi yönlendirdi?

F: O aracı olan kişiye klinik yönlendirdi. Onun hem Kıbrıs'la bağlantısı var hem burdaki klinikle bir bağlantısı var. Mesela bizim gibi ailelere, normal hani ailelere hani tüp bebek sahibi olan hani çocuk sahibi olan ailelere yardımcı olan bir beydi. Hani bize de yardımcı olabileceği söylendi. Sağolsun yine elinden geleni yaptı. İstanbul'da oturuyor, karşı tarafta oturuyor mesela o. Hani ne zaman ihtiyacımız olsa geldi bizle görüştü. Ne zaman arasam telefonlarım çıktı, açamadığı zaman hani müsait olunca kendi yine döndü. Hani o şekilde ama o ne yaptıysa mesela yasak olduğunu işte sonra çeşitli prosedürler çıktı işte.

When the news for the legislation changes in Cyprus at those times was investigated, the statement of Faiz Sucuoğlu, who was the Health Minister of Northern Cyprus, was found on the subject matter. According to that statement, it is understood that the deficiencies in the assisted reproduction regulations would be compensated and adopted to Turkish legislation since the regulations and laws were not at all compatible⁵².

Fatma and her husband had been the victims of these changes in regulation. After waiting for a long time, they witnessed that assisted reproduction technologies

⁵² <http://www.hurriyet.com.tr/dunya/kktcde-tasiyici-annelik-yasaklaniyor-40623138>

including third parties were not banned but regulated. However, according to this regulation, the woman who was found as a candidate for their prospective child/ren's surrogate mother was not suitable for that surrogacy since she was 40 years old. Here, the loss of political control is terrible in Fatma's case and hence this capability is constrained seriously here.

As a result, it is understood that all parties of this particular ARTAP group were victimised by that policy change with some respects. The surrogate mother was already had drugs and hormones to be prepared for the surrogacy for a year and she learnt later that pregnancy would not be allowed.

After that regulation change, the situation with Fatma's words is below:

F: [We learnt that] The woman we found should not be over 40, even in the age of 40. We said 'that's okay, everything is getting better and they [the embryos] will be put into that woman, I mean will transfer [into the womb]' but it was told us that it was impossible since she was 40 years old. I mean, the transfer would be happen after two weeks, suddenly we learnt that it was not possible. The center that informed us about that transfer was in Cyprus. It would be in Cyprus.

F: Bulduğumuz kadın 40 yaşından büyük olmayacak, 40 yaşında olmayacak. Tam herşey yolunda gitti işte o kadına yerleşecek, transfer olacak yani, o işte kırk yaşında olduğu için olmuyor dendi. Yani tam iki hafta sonra transfer olacaktı. Birden olmuyor dendi. Transfer olacak diyen yer Kıbrıs'tı. Kıbrıs'ta olacaktı..

I asked Fatma if she did not sign an agreement with that surrogate mother and/or IVF Center for that surrogacy. She was convinced that the agreement should be signed just before the embryo transfer for that pregnancy. Hence, Fatma and her husband could not claim for their rights even in Cyprus. Moreover, since surrogacy was banned to Turkish couples abroad as well, they could possibly not been admitted that they had right on their side.

Fatma's statement about making an agreement is as follows:

F: We did not make any agreement. I mean, since we had known that there would be a farther part... my oocytes were collected there and frozen. [We knew that] They had connections with the hospital here [in Georgia], in the end. [We supposed that] we would come to the transfer phase. They [people from the IVF Center in Cyprus] told us that there would be some documents, mutual agreements and both you and she would confirm it. According to that, this amount of money would be paid in that month and she [the surrogate mother] would say okay. It was in that way, I mean.

F: Sözleşme yapmamıştık. Şöyle sözleşme hani, ilerisi olacağını bildiğimiz için, yumurtalarım toplandı orda hani donduruldu. Sonuçta burdaki hastaneyle bağlantıları var ya.. hani o aşamaya gelinecekti transfer aşamasına. Aynı bu Gürcistan'daki gibi söylediler işte belirli evraklar olacak, karşılıklı anlaşmalar olacak, işte siz onay vereceksiniz, o onay verecek. Hani ona göre işte şu ay şu kadar para ödenecek. İşte o tamam diyecek. Öyle.. yani.

After Fatma and her husband realized that they could not continue their assisted reproductive process in Cyprus under those conditions, Ali, the mediator, directed them to another IVF Center in Batumi, Georgia. In this IVF Center in Batumi, the Center would find them another surrogate mother and they would pay less money.

Fatma narrated me the beginning of her Georgian IVF Center practice as follows:

F: Afterwards, Mr. Ali (the mediator) told me that he had gone to Georgia, had talked to Mr. Mehmet and [he had learnt that] it was possible there. He said 'I went to the hospital, it is a proper hospital. It (the hospital) gave me confidence. If you want I can give you their telephone number. Moreover, [I learnt that] there are women who make this work [surrogacy].' At least, it [surrogacy in Georgia] was cheaper than the prices here [in Cyprus]. In any case, that woman [in Cyprus] would cost 100, I mean 100.000 TL out of extras. That payment would increase or decrease according to the exchange rates of dollar, as you know.

F: Sonradan Ali bey (aracı kişi) bana dedi ki böyle böyle ben Gürcistan'a gittim, Mehmet beyle konuştum, varmış dedi. 'Hastaneye gittim. Hani iyi bir hastane. Bana güven verdi, isterseniz dedi numarasını vereyim hani orda bu işi yapan bayanlar da varmış' dedi. Hani en azından burdaki fiyata göre uygun. Yani zaten o burdaki kadın benden zaten 100 hani 100 milyarı buluyor hani ekstra harcamalarım hariç, ona vereceklerim yani. Dolar üzerinden, dolar çıktıkça ödemelerim de ona göre çıkıyor düşüyor işte..

Consequently, Fatma and her husband decided to start their surrogacy process in Batumi, Georgia. Again, I wondered about how much Fatma paid for the mediators. She told me that she would not pay for the second mediator, Ali; but she would pay for the first mediator for finding the surrogate mother when the pregnancy occurred. Fatma was still thinking that the mediator woman would unjustly get the money. But again, Fatma and her husband would pay her if they could continue with that surrogate mother.

Fatma's thoughts on the payments for these mediators are as follows:

I: I would like to know how much did you pay for the mediators?

F: Mediator [woman] would take if... she would take approximately 10 000 Turkish Liras when the pregnancy occurred. She (mediator) told me that she wanted that when the pregnancy occurred. I told her that she was not doing anything, she was not suffering from anything and so on. I mean, once she found that woman.. however, it was easy for her since she was also a foreigner. It was obvious that she was earning well from this job. I told her that I could not pay that amount of money to her. That woman was a foreigner. I knew Mr Ali from the final stages. When this is banned where we applied, they gave me his telephone number. I didn't pay Mr. Ali. I would pay the mediator woman. The point is that, when I visited my doctor in the hospital [in Cyprus], he told me that there was a woman who found such women. That woman would take that money from me.

I: Aracılara ne kadar verdiniz, onu da merak ettim ben?

F: Aracıya şöyle, aracı tuttuğu zaman alacaktı tuttuğu zaman 10 milyara yakın para alacaktı. Tuttuğu zaman dedi hani tuttuğu zaman bana da o kadar. Ben dedim ki sen hiçbir şey yapmıyorsun, zahmet, hiçbir şey çekmiyorsun. Yani bir kadını bulmuş ama zaten kendi de yabancı olduğu için, yani onun için kolaydı. Kendi de yabancıydı zaten. Bu işten de bayağı bir para kazanıyordu yani, belli birşeydi. Ben dedim sana o kadar ödeme yapamam dedim yani. O kadın yabancıydı. Ben Ali beyi son aşamalarda tanıdım. Hani böyle her yerden yasak gelince, en son çare bana onun numarasını verdiler. Ali beye ben para ödemedim. Aracı bayana ödeyecektim. Şöyle birşey ben hastanede kendi doktorumla görüştim, bana dedi ki hani bu tür bayanları bulan bir bayan arkadaş varmış. O bayan arkadaş işte alacaktı benden o parayı.

Fatma had to find her doctor by herself somehow. However, it is known in the ARTAP's cases that the IVF Centers abroad provide couples surrogate mothers. For example Ayten told me that patients trust IVF Centers in this process since they found surrogate mothers. With Ayten's words:

Of course, since the hospital found [the surrogate mother], they [families] trust more. I mean, if there would be a problem, they will tell the hospital, 'we will only deal with you, you found this surrogate mother,' for example. Tabi bir de hastane bulduğu için daha çok güveniyorlar. Yani bir sorun olursa hastaneye diyecek, biz sizi biliriz mesela. Bu aileyi siz buldunuz, taşıyıcıyı.

Mediators had role only in the Fatma's reproductive process and/or interview. That is why I wanted to focus more on this here. Fatma told me that the first mediator, Ali did not claim any payment for himself but the first mediator did. Ali was possibly being paid by different IVF Centers for sending patients to them. Ali's job is similar with 'değnekçi'⁵³ in Turkey. He helps different IVF Centers in networking and possibly is paid by them in return for this service. Unlike Ali, the families were paying the first mediator. Her work is rather similiar with a real estate agent. Moreover, this agent was from a foreigner agency at the same time and the surrogate mother portfolio was possibly consisted of foreigners. Foreigners have different and important positioning in the societies' populations depending on the immigrant policies. About this issue, moving from Foucault's biopolitics and biopower concepts, Inda's (2002: 99) article mainly focuses on 'the body of the undocumented immigrant woman as an important terrain of struggle, particularly as it pertains to the regulation of her capacity to reproduce.' However, Inda (2002: 99)

⁵³ A kind of utility man who is in charge of the queue at a dolmuş stand or who is in charge of parking and watches parked cars, parking lot attendant.

only focuses on the natural reproduction of immigrant women, which is perceived as a threat for USA population.

Fatma phrased these foreign women's roles in her reproductive process below:

I: Both the [mediator] woman and the surrogate mother were foreigners, weren't they?

F: Yes. But she [the mediator] was speaking in Turkish, she had a residence permit and etc. but she was a foreigner.

I: I wonder what her nationality was, a Georgian or Russian?

F: No, she was not a Georgian, she was a strange, foreigner... She was a Turkmenistanian. She was from Turkmenistan.

I: *Hem o kadın hem de bulduğu taşıyıcı anne yabancıydı değil mi?*

F: *Evet. Ama Türkçe konuşuyordu, oturma izni falan vardı, çalışma izni vardı ama yabancıydı.*

I: *Nereliydi acaba Gürcü müydü? Rus mıydı?*

F: *Yok Gürcü değildi, o valla yabancı, bir tuhaf.. Türkmenistanlıydı, Türkmenistan.*

Fatma was consoling herself with not paying for the mediators. And, she was happy with knowing that the process would be cheaper than Cyprus in Batumi. However again, she had to pay for the transportation of their embryos to Batumi, Georgia this time.

Our dialogue with Fatma on these payments is below:

F: No, no.. of course I didn't pay. Thank God. Since there was no pregnancy we didn't pay anything. We didn't see each other again. After that we came together with Mr. Mehmet. He told us that we would not pay there (in Georgia) like that. He called us to Georgia to go and see that it was legal there and he added that they were free since it was allowed there. The only one extra thing was the cost of embryo transportation to Georgia since my embryos were left in Cyprus.

I: Again, could they transport them?

F: They transported somehow.

F: *Yok yok, tabi ki yok yok. Allaha şükür. Bir sonuç olmadığı için herhangi birşey ödemedik. Daha da görüşmedik. Sonra Mehmet beyle görüştük. Dedi ki burda o kadar para ödemezsiniz. Gelip görün burda yasal. Hani gelip görebilirsiniz. Hani yani rahatız dedi, burda hani yasal olduğu için dedi. Yalnız işte benim embryolarım Kıbrıs'ta olduğu için onları oraya götürme masrafı oldu ekstra.*

I: *Ama götürüldü mü?*

F: *Götürüldü işte.*

The perplexity in Fatma's case showed itself again in this statement. She was worried about the extra payments. She could not even question her complex and insecure process. Here again, a constraint on Fatma's capability concerning controlling one's political environment was occurred related to the undetermined restrictions and regulations on reproductive practices in Cyprus. Fatma had been exposed to these practiced although she was not a citizen of that country. Again, her

free speech and political choice were not taken into consideration in this case. Moreover, she had got material harm from this practice.

4.10.1.5. Legal responsibilities of foreigners and citizens in agreements abroad

There were another possible constraint concerning the capability of controlling one's political environment: What would happen if the Turkmenistanian surrogate mother of Fatma or another Turkish surrogate mother was taken to Batumi for the surrogacy process and wanted to give birth in Turkey? I asked this question to Mehmet, the embryologist of an IVF Center in Batumi, Georgia. He told me that they did not prefer to take the risk of recruiting surrogate mothers from abroad including Turkey because of the ban. According to him, “ *[the surrogate mother] should be a person who lives in a country where this [surrogacy] is legal.*” First of all, it was risky and secondly, covering that surrogate mother's life expenses in Georgia would not be possible neither for the family nor surrogate mother herself.

Mehmet narrated me the risks of recruiting a surrogate mother from Turkey as follows:

I: Suppose that a client [wanted the surrogate mother to] ‘give birth in Turkey...’

M: Ok, we can talk such things. But we don't [let them to] give birth in Turkey. Since there is no legal base for this in Turkey, we don't take this responsibility for the surrogate mothers. Everything, [including] the birth should be in Georgia. I mean, when a problem occurred, [authorities may ask] ‘who sent her,’ we sent her. Then we would be a party of that illegality. For that reason, we don't accept surrogate mothers from Turkey. There are too many people who apply for being a surrogate mother. I say that I don't accept and so on. Because she [the surrogate mother] should be a person who lives in a country where this is legal. There would be additional expenses to make her survive here. She [surrogate mother] cannot cover them. Family also cannot cover.

I: Diyelim ki Türkiye'de doğum yapsın dedi.

M: Ha öyle şeyler tamam konuşulur. Ama biz yapmıyoruz Türkiye'de doğum. Türkiye'de bu işin yasal zemini olmadığı için taşıyıcı anne için bu sorumluluğu almıyoruz. Doğum, herşey Gürcistan'da olmak durumunda. Yani bir sıkıntı yaşandığı zaman kim göndermiş olur, biz göndermiş oluruz. Biz de o illegalliğin bir parçası haline gelmiş oluruz. Onun için biz Türkiye'den taşıyıcı da almıyoruz. Var Türkiye'den çok başvuran var, taşıyıcı anne olmak istiyoruz diye. Almadığımı söylüyorum şey yapıyorum. Çünkü yasal olan yerde yaşayan birisinin olması lazım. Onun burda yaşayabilmesi için ekstra masraflar gerekli. Onu kendisi karşılayamaz. Aile de karşılamaz.

Then Mehmet was asked what would happened if the couple wanted Georgian surrogate mother to stay in Turkey with them. Mehmet answered that he

was avoiding of such a risk of making an illicit work. Moreover, the Public Relations Specialist of the same IVF Center told me about the other risks about the children or payment issues which should be guaranteed under an agreement in a country where surrogacy is allowed.

The original conversation related to this issue is below:

I: [If she wants the Georgian surrogate mother] To stay there [in Turkey]?

M: I don't want her to stay there. Because what will we do if a premature birth happens? She [the surrogate mother] will leave, [authorities will say] Mehmet made it happen, Mehmet took her abroad. Perhaps, the event would be exaggerating [and authorities will blame me] to say that I did it [all the operations related to the surrogacy] in Turkey, or dealt with it in Turkey.

PR Specialist: There are various risks, for example [what happens] if the child get lost or die... or if the family does not want to pay, nobody can ask for this in that case.

I: *Orda (Türkiye'de) kalsa?*

M: *Orda bulunmasını istemem. Çünkü bir erken doğum olursa ne yapacağız? Sonra o gitti, Mehmet yaptı, Mehmet götürdü. Belki olay abartılır. Türkiye'de yaptı işi, Türkiye'de görüştü falan diye.*

PR Specialist: *Her türlü riski var, çocuk sonra kaybolursa şey olursa, ölse mesela. Ya da aile para ödemek istemese, kimse kimseye soramaz o durumda.*

Mehmet said that their IVF Center wanted to make people parents where the surrogate mother had legal responsibilities since they were afraid of the fleeing of the surrogate mother. That was the reason. However, Georgian surrogate mothers, including Mariam, “*have no place to go*” for Mehmet. The legislation would force them to finish the work properly.

Mehmet narrated his thoughts on the legal responsibilities of surrogate mothers as follows:

M: We want to do it [make people parents] where one [surrogate mother] has legal responsibilities. People who make us obligated to make an agreement.

PR Specialist: [Suppose that] She went, she gave up and went. We cannot find her in no way.

M: For example, this girl [by showing Mariam] is from here [Georgia], she is here. She has no place to go. She has to stay in Georgia. She knows that she has to obey the rules because of her agreement. It is not similar to Turkey.

I: Does not the agreement attach people if they go back to Turkey?

M: No dear, one commits crime and escapes here from Turkey. He survives here.

M: *Bir insanın yasal sorumlulukları olduğu yerde yaşayanları şey yapmak istiyoruz. Sözleşme yapılma zorunluluğu hissettiğimiz.*

Halkla İlişkiler Sorumlusu: Gitti mesela, vazgeçti gitti. Biz bulamayız onu hiçbir şekilde.

M: *Mesela bu kız buralı, bu kız burada. Gidecek bir yeri yok bu kızın. Mecbur Gürcistan'da. Gürcistan'daki yasalara da yaptığı sözleşmeden dolayı uymak zorunda olduğunu biliyor. Türkiye'deki gibi değil.*

I: *Bağlamaz mı Türkiye'dekini burda yapılan sözleşme?*

M: Hayır canım, Türkiye'den adam suç işleyip kaçak buraya geliyor. Burda yaşamaya devam ediyor.

Turkish ARTAP are not legally responsible from their behaviors in Georgia. Then, it is obvious that the agreements of ARTAP are ineffective. All the other parties of Turkish ARTAP try to make the surrogate mother or oocyte donor responsible/avoiding from improper behaviors in Georgia and Cyprus (for my interviewees), of course if the surrogate mother or donor is from that country. I mean, when a Turkish surrogate mother and Turkish couple come to Cyprus and make an agreement with an IVF Center, that agreement would only attach the IVF Center. So ARTAP lose their legal positions related to these partial agreements and hence have serious problems with the capability of control one's political environment. Laws neither in Turkey or abroad would defend them in their legal problems with assisted reproductive biotechnology.

Agreements are ineffective since they do not attach all the parties, which were included by the agreement. The statement of PR Specialist of the IVF Center concerning this discussion is given below:

PR Specialist: In fact, his/her own country that gave his/her citizenship should ask for that, is not it? A Georgian [authority] can't do any thing [for example, impose sanctions] to them. I mean, they cannot question. S/he is not its citizen. In fact, in Georgia, there is no detailed things like this, do you understand, there is no detailed regulation about people from abroad. However, it is written directly that they did not allow surrogate mothers from abroad to work.

Halkla İlişkiler Sorumlusu: Sonuçta hangi ülkenin vatandaşıysa o sormalı ona değil mi? Sonuçta Gürcü bir iş yapamaz ona. Yani onu sorgulamaz. Buranın vatandaşı değil. Aslında henüz Gürcistan'da da böyle detaylı şeyler yok anladın mı, kanun yok bununla ilgili. Çok detaylı hani yurtdışından gelenlerle ilgili. Ama direkt yazıyor mesela şeyde yurtdışından taşıyıcı almıyorlar.

As it is understood from the text above, Georgia and its IVF Centers do not know what to do specifically with foreginer ARTAP in Georgia. It means, the concealment of fact is issued in the agreements of Georgian IVF Centers about the process; but again they suppose hopefully that they were eliminating the possible legal risks from ARTAP by making those agreements.

4.10.1.6. Deficiencies in agreements/ lack of agreements

A constraint in front of ARTAP is the practice of agreements. It is seen in this study that while donors do not be a part to any contract or agreement, surrogate

mothers can involve on their will at the beginning of the assisted reproduction process. However, these agreements were -told as - mainly around the payment issues.

It was asked to learn if donors signed any agreement or document related to their oocyte collection process but it is learnt that they signed only an informed consent form for taking the responsibility of the anesthesia's side effects.

Elif shared this information as follows:

E: No. We don't make agreement, only for getting the anesthesia. The only thing that I accept as a problem is the consent signature for the anesthesia. [It has a meaning] Such as you let it be in case of any situations.

E: Hayır anlaşma yapmıyoruz, sadece anestezi için. Benim zaten tek sıkıntı olarak gördüğüm şey anestezi için onay imzası alıyorlar. Hani herhangi bir durumda siz buna izin verdiniz gibi.

Elene, who was the surrogate mother of a Turkish couple's baby, told me about her agreement with that Turkish family. She added that she relied on that agreement concerning material issues. She narrated her thoughts as follows:

E: You know, we are making an agreement. We have information there about the every subjects: what would happen if there is a miscarriage, what would happen if there is a premature birth, what would happen in the birth.. Moreover, this happens through a notary public. Namely, I was thought that I was in a legal security. There is no worries on not getting the money at this moment.

E: Sözleşme yapıyoruz ya, biz orda her türlü konuyu konuşuyoruz, düşük olursa ne olur, vaktinden önce doğarsa ne olur, doğumda ne olur. Hem de noterde yapılıyor bu. Yani hukuksal olarak kendimi güvende hissetmem sağlanıyor. Böyle paramı alamam diye böyle bir sıkıntı yok şu anda.

Ayten, who was a surrogate mother from Turkey, explained me that the embryologist of the IVF Center in Cyprus had asked her about drawing up a deed if she was worried about the payment. However, Ayten rejected this offer since she had trusted both the embryologist and has seen the social mother's desperateness.

Ayten told me her dialogue with the embryologist as follows:

A: I mean, he said me 'if you are worried about not getting the [sum of] money, and if you think that these people may not give it and so on, we can draw up a deed if you want.'

I: Have you ever thought that they would not like to accept her [the child]?

A: The woman was desperate, she had to accept because she told me about her situation. She told me that she had heard that her husband would have another wife [a concubine]. She didn't want to be like that and she applied for these works, as you know.

A: Yani istiyorsan dedi yani parayı vermeme durumu belki başına gelebilir, belki yani düşünebilirsin. Parayı bunlar veremez gibisini. İstiyorsan dedi şey yapalım dedi, senet yapalım dedi.

I: Hiç düşündün mü almazlarsa ne yapacağını?

A: Kadın çaresizdi, alacaktı. Çünkü durumunu anlattı bana. Eşi başka bir eş getirecek diye duyduğunu anlattı bana. O yüzden o da istemiyordu. Bu işlere başvurdu işte.

Ayten preferred not to insist on making any agreement or deed as it is understood in the dialogue above. She implied that she trusted other people and did not need any agreement at that time. However, it was also remarkable to hear that she was surprised by the embryologist's attempts to get the extras from the family. Ayten trusted the embryologist but criticized him for making more money than Ayten.

Ayten's dialogue with me concerning the agreement and payment issue respectively is given below:

A: No, only my name is written on that. There is nothing more. I mean, no signature or something like that in Cyprus.

I: I see.. I mean, you didn't make it [an agreement] with neither family nor the other party [IVF Center].. Then, you are someone; in fact, you are exactly the precarious worker there, aren't you?

A: Yes.

I: And you have a kind of material relationship with those guys, don't you?

A: Yes. You know, embryologists make more money from me. This is similar with the real estate business. Yes.. Moreover they [embryologists] get the money both from the hospital and the families.

I: How much did you get?

A: Me? I was paid 3000TL after the embryo transfer. I was paid 2000 TL after learning that the pregnancy had occurred. I was paid 35 000 TL separately even after the birth.

A: Yok sadece orda ismim geçiyor. Öyle birşey geçmiyor. Yani imza falan yok Kıbrıs'ta gittiğimde.

I: Anladım yani kimseyle ne anne babayla ne diğer tarafla. Sen o zaman şeysin, evet tamamen güvencesiz çalıştırılan bir işçisin orda.

A: Evet.

I: O adamlarla da şey evet maddi bir ilişkin var..

A: Hep derler ya, evet. Onlar benim üstümden embryo uzmanları daha çok para kazanıyor. Bu emlak işi gibi. Evet. Ayrıyetten hem hastaneden hem de aileden para alıyorlar.

I: Sen ne kadar aldın?

A: Ben mi? Ben transfer edilirken 3000 tl aldım. Tuttuktan sonra 2000 tl aldım. Geri kalan da 35 000 tl doğumda aldım.

As it is seen in the statements of Ayten, she did not see any problem in not being involved in an agreement for the surrogacy and she did not explain any important problem out of the redundant embryo's abortion. I would also like to know what would be happen if ARTAP had some legal problems with

these reproductive processes. I understood that they have a legal weakness in this issue.

4.10.1.7. Weakness of ARTAP in case of legal problems

In addition to agreements, I questioned my interviewees especially on the confidentiality vice versa legalization of these reproductive technologies. Ayten told me that it would be practical and safe for ARTAP to work with their familiar doctors and gynecologists in a legalised political and social environment. Additionally, she shared with me that she had heard about a surrogate mother who could not get her money. Ayten thought that since she herself and other ARTAP are doing these works confidentially, they would not have any legal problems for their reproductive practices.

Our conversation is given below:

A: I think it should be legalised. These works should be thing.. [Permitted]. It would be easier to find a doctor [gynecologist] then. Everyone may be familiar with some doctors in their cities, I mean.

I: Well.. Do you know any people who had some judicial problems? You had told me about someone who could not get her money, for example, didn't you?

A: Yes.

I: One more thing, as I read it, some punishments are issued but I wonder if they apply or not. Did not you hear anything about that?

A: No. I didn't hear.

I: When I thought about all those advertisements [on the internet]...

A: If there were anything [punishment] as you told, nobody could give advertisement there. I mean, they write there without hesitation.

I: Then you didn't have any problem, and you did not hear any problem about this. Did you?

A: No. Besides, people who have problems are doing this confidentially, in the end.

A: *Yasallaşsın bence yani. Türkiye'de de bence şey olsun bu işler. Hem hastane için kolay olur, doktor bulmak. Herkesin şehrinde kendi tanıdığı doktoru vardır sonuçta yani.*

I: *Peki çevrenizde hukuki sorun yaşayan duydunuz mu? Parasını alamayan duydum dediniz herhalde?*

A: *Evet.*

I: *Bir de okuduğum kadarıyla bir ceza yaptırımı var, ama bunu uyguluyorlar mı merak ediyorum. Siz bunu duymadınız?*

A: *Yok duymadım ben.*

I: *O yüzden mi ilanları da...*

A: *Zaten öyle birşey olsa ilan vermezler orda. Hiç çekinmeden yazıyorlar mesela yani.*

I: *Bir sıkıntı yaşamadınız, yaşayan da duymadınız?*

A: *Yok. Zaten yaşayan kişiler de benim gibi gizli yapıyorlar sonuçta yani.*

Ayten implied that if some surrogate mothers have trouble with their health or legal issues then they could not claim a right since they should keep the secrecy. However, Sevgi and Elif, who are the Turkish oocyte donors in Cyprus, told me something about other donors who had serious problems with their health. Regardless from the question if these stories were belong to the same donor or different donors; some IVF Centers may use oocyte donors for their experimental aims. Humane levels of hormone may be exceeded in exchange for extra money and at the risk of making oocyte donors disabled. The amusing thing about this is the Sevgi's reaction to that donor. She attributed that oocyte donor as "idiot" for letting the health practitioner removing her ovaries.

Sevgi told me something on this hearsay as follows:

S: I joke about it sometimes, say ma'am, I say, "what happens if I give up?" She says, "Then, we let it blow up in you, we don't take it." Because the oocytes are getting bigger, bigger, bigger, bigger. And one day what had happened, I will tell you: One donor donated [her oocytes], had the operation. After that, she had aches. She had had had and her mother said her "come on, let's go to the hospital." She said "Okay." Look, these are foolish donors. They go to the hospital, you know, she had groin pain, her ovarians.. When the man [doctor] looked he saw enormous things like cysts. Since they [doctors in the IVF Center] didn't collect them [the small oocytes], they had grown inside of her. I mean, you remember [since I told you before] that there were some centers which leave the small ones [oocytes] inside of you. They are getting bigger and thrown in the menstruation. Before the menstruation, she had an ache like that and doctor said that she had a very big cyst and they would remove her ovarian. She was an idiot not to say anything. Her mother didn't reject, as well. They said that it was a misfortune. So, they took one of her ovarians like a joke. Really. Moreover, this event had been happened here, I mean. Okay, but take the doctor away [from her mother] and say that I had underwent something like this and this, I did something to my oocytes.

S: ..ben böyle bazen dalga geçiyorum, ablaya falan söylüyorum, diyorum ki ya diyorum vazgeçersem diyorum. Diyor ki içinde patlar, almamız diyor. Çünkü yumurtalar büyüyor büyüyor büyüyor büyüyor. Ve bir gün ne olmuş ben sana dur onu da anlatayım. Bir tane donor veriyor işlem yaptırıyor. Ondan sonra bunun ağrısı oluyor. Ağrısı oluyor oluyor oluyor ve annesi de diyor ki buna diyor, "hadi," diyor "hastaneye gidelim," diyor. Tamam, diyor bu da. Bak, işte akılsız donörler bunlar. Hastaneye gidiyorlar işte kasiği ağrıyor ya, yumurtalıkları. Adam bakıyor, şey, böyle kocaman kocaman kist gibi yani onlar. Hani almamızlar ya içinde büyümüş. Almamız derken hani küçükleri bırakan yerler var ya? Onlar büyüyor adetle atılıyor. Bu adet olmadan önce böyle bir ağrı olunca, doktor buna diyor ki senin diyor çok büyük bir kistin var yumurtalığını alacağız diyor. Orda salak söyleyemiyor da.. Annesi de birşey demiyor, diyorlar o zaman kötü diyor. Almışlar bir yumurtalığını şaka gibi. Gerçekten. Burda olmuş hem de böyle bir olay yani. Peki doktoru kenara çekip söylesene ben böyle böyle şey yaptırırım, yumurtalarımıza şey yaptırırım.

Elif told me a similar hearsay in detail. When I asked her if it was the same with Sevgi's story by telling her the details of our conversation with Sevgi on the

specific issue, she claimed that these should be different stories. In this case, again there is an oocyte donor in Cyprus and she is asked for getting extra hormones in expense for extra 100 Euros. She accepted the offer and got serious health problems depending on the results of extra hormones.

With Elif's words:

E: I learnt it [oocyte donation] from my friend environment, I mean, a girl told me so. Ee.. That girl was doing it very often. Because, for example, some people's, some donors' oocyte reserves may be very suitable, I mean, their oocytes may be qualified. Their fertility rates may be high and they always want those girls. They always want to work with those girls. She did, too. In her last time, they told her that they would pay her 100 Euro extras. [An offer such as:] "We will pay 100 Euros extras and we want to make your oocytes bigger with extra hormone." They told her that they would like to apply a risky thing to her but they would pay 100 Euros extras. She had accepted this. After that she suffered from that very much. She had been taken to the hospital. A big amount of fluid was produced in her abdomen. Ee.. They made a hole in her abdomen and they [staff in the hospital] emptied the fluid 1,5 liters a day. I mean, she had a surgery scar in her belly since she had that [donation]. In fact, it has some risks like this. An illness.. I mean, did they forget an oocyte inside or something else was happened. I don't remember what happened exactly but she had very big trouble. Since she accepted it [the risky offer]. I mean, it didn't happen in a normal way. After all, she had received compensation from the [IVF] Center.

E: Arkadaş çevremden öğrendim yani, bir kız bana söyledi. Ee.. O kız da ee çok sık yaptırıyordu. Çünkü mesela bazılarının, bazı donörlerin yumurta rezervi çok iyi oluyor yani yumurtaları kaliteli oluyor. Doğurganlık seviyeleri yüksek oluyor. Ve onları sürekli istiyorlar. Ve sürekli onlarla çalışmak istiyorlar. O da yaptırmıştı. En son yaptırdığında ona 100 Euro daha fazla vereceğini söylediler. "Biz sana 100 Euro daha fazla vereceğiz ve daha fazla hormone verip yumurtaları daha fazla büyütme istiyoruz" mu? Aslında tehlikeli birşey yapacağız sana ama 100 Euro fazla vereceğiz demişler. O da kabul etmiş. Sonrasında çok büyük sıkıntılar çekti. Hastanede yattı. Karnında su birikti. Ee.. Karnından boruyla deldiler ve her gün 1,5 litre, 1,5 litre su boşalttılar. Yani karnında ameliyat izi vardı. Bunu yaptırdığı için. Aslında yani bu şekilde tehlikeleri de var. Bir hastalık, yani içerde yumurta mı unutulmuş ya da birşey oldu. Hatırlamıyorum tam ne olduğunu ama çok büyük sıkıntılar yaşamıştı. O da onu kabul ettiği için. Yani normal bir şekilde olmadı. Sonra hastane ona tazminat ödemişti.

There is a clear difference between these two stories. It is, claiming the right and receiving compensation from the IVF Center. Again, any loss in health should be regarded as an irrevocable thing. It is very problematic not to be able to claim any legal and political rights for ARTAP.

Moreover, many of ARTAP did not accept their situation as a right violation. For example Ayten, did not regard herself as she had been in such a situation although she had lost two of her three babies because of the early intervention (-it

was stated in this way by Ayten in previous passage of interview) of embryologists to her womb in Cyprus. Moreover, he had warned Ayten about performing their promises to each other, namely about keeping their secret.

Our dialogue with Ayten is given below:

A: The feeling of trust, I mean he is stable and reliable in the end. He trusts me, I trust him. In all my problems, for example when I wrote him that I was sick, he answered me immediately.

I: But he didn't tell you that you could have some [legal] problems like this and this.. Did he?

A: No.

I: I mean, since it is banned in Turkey as you know..

A: He only told me that as long as we performed the promise of each other, there would not be any problem.

A: *Güven duygusu yani sağlam güvenilir kişi sonuçta, o bana güveniyor; ben de ona güveniyorum. Bütün sıkıntılarım mesela, bir rahatsız olduğumda hemen ona yazdığımda dönüyordu.*

I: *Ama o sana böyle böyle sorunlar yaşayabilirsin, falan hiç bişe demedi.*

A: Yok.

I: *Hani Türkiye'de bu yasak olduğu için..*

A: *Sadece dedi, birbirinizin dediğini yaptığı sürece dedi hiçbir sorun olmaz, dedi.*

Secondly, I asked Fatma if she went to the court for the injustice concerning the surrogacy, which they experienced in Cyprus. She told me that they could not even complain about that since it was confidential. She said, “*what can you tell to someone, I mean, you will be incriminated again for attempting such [an illicit] work.*” As a representative of ARTAP, Fatma implied that when a person made an illicit work, then s/he would be incriminated even if s/he was right and her/his rights were violated as well.

Fatma narrated me her thoughts towards that illicit work and her criticism as follows:

I: You didn't sue against someone, did you? Did you go to law by claiming that you were mistreated?

F: No, of course. Since we did this work confidentially... Okay, we were mistreated but I mean, you can't tell this to anyone. This is an illicit thing in the end. Besides, in Turkey, people normally talk about everything, which was adressed as a criminal issue and mask it. Moreover, very simple things are perceived as crime. What can you tell to someone, I mean. You will be incriminated again for attempting such [illicit] work. Yes, because here is Turkey. It does not give confidence if you look for [a right]. Imagine that, I started this work, I talked to the doctor. Who are working with the doctor and nobody knows anything. I started this work, and that money went to that guy with me every month. Apart from my psychology [-ical problems], I visited the doctor. And finally, while starting the work [surrogacy process], this work was banned. Besides, Mr. Mehmet said that it was not ever legal there.

I: *Hukuki anlamda herhalde dava etmediniz kimseyi değil mi, Kıbrısta biz mağdur olduk diye mahkemeye başvurduunuz mu?*

F: Yok yok, bu işi zaten biz gizli yaptığımız için. Tamam mağdur olduk ama hani kime ne anlatabilirsin. Bu sonuçta yasal olmayan birşey ki zaten Türkiye’de normalde hani suç olan zaten herşeyden bahsediliyor, üstü kapatılıyor. Çok basit şeyler suç haline getiriliyor. Kime ne anlatabilirsin ki yani. Ordan yine sen suçlu çıkarsın. Çünkü bu işe kalkıştığın için. Evet, Türkiye çünkü burası insana güven vermiyor yani çünkü aramaya kalksan. Çünkü ben bu işe başlamışım, doktorla konuşmuşum. Senin nasıl bir arkada bir kadron var ki kimsenin birşeyden haberi yok. Mesela ben bu işe başlamışım e o para gidiyor her ay ben sana geliyorum, benim kendi psikolojim ayrı zaten, e geliyorum ben sana sen tam başlarken bu iş yasaklandı. Zaten Mehmet Bey de diyor orda hiçbir zaman yasal değildi diyor.

Thirdly, Hale told me about her experience concerning the uninformed use of frozen embryo in her first oocyte donation trial by an embryologist in an IVF Center in Cyprus. Moreover, that embryologist had informed Hale’s doctor about that use but after the operation added “*if she had been continued to direct patients they could give her a share for that.*” Hale was surprised about that tactlessness but she had nothing to do like other Turkish ARTAP.

Hale described this problematic experience to me as follows:

H: Afterwards, he [the embryologist in Cyprus] himself had called my doctor and said ‘there was a problem and the donor should ovulate earlier’ and so on. And he had added that they had frozen it. After confessing that they had frozen it he had offered my doctor if she had been continued to direct patients they could give her a share for that. He had told something my doctor like that.

H: Sonradan benim doktoruma söylemiş. Kendisi söylemiş sonradan. Ya işte bir sıkıntı oldu donörün erken yumurta vermesi gerekiyordu gibi birşeyler demiş. Sonra dondurduk demiş. Sonra hatta işte biz bunu dondurduk ama siz göndermeye devam edin bak size bir pay veririz falan demiş. Öyle şeyler söylemiş doktoruma.

Hale was an overeducated woman among other Turkish ARTAP who I interviewed with. However, when I asked Hale if she could object to any issue about that mistreatment, her answer was not different. She told me that since these practices were confidential, she was not allowed to claim anything. This desperateness in illicitness should possibly be evaluated as irrelevant to education, or richness.

When I asked Hale if she could object to any issue, her answer was as follows:

I: You can’t object to any issue. Can you?

H: We did not. In fact, as you told so, since it is something confidential, you don’t claim anything. But if it [this process] could be legalized in a manner, you can voice your opinion better. I mean, then we could say ‘once you told me that you would use the fresh oocyte, then why did you injected the frozen one’ or something like that.

I: Herhangi bir konuda itiraz edemiyorsunuz, değil mi?

H: Etmedik. Ya zaten dediğiniz gibi o biraz gizli bir yapılan birşey olduğu için herhangi birşey de talep etmiyorsunuz. Ama belki bu gerçekten daha legalize edilse bir şekilde yani daha fazla sesiniz çıkabilir. Yani 'siz bana bir kere taze yumurta dediniz niye donmuş yumurtayı enjekte ediyorsunuz' gibi birşey denilebilir.

Hale said that she could not object to any issue in that situation as it is seen above. She also added that if she lived in Europe or if her mother's health problems did not occurred, everything could be different. But the socio-political and personal conditions led her to make her choice in this way. Her statement of “*we weren't strong, psychologically as well, enough to tackle with that guy*” is important in understanding the desperateness and weaknesses of citizens against the powerful ones and the state. ‘Against state’ as well, because Turkish ARTAP, including Hale, had to struggle or submit their fates against the IVF Center alone since these technologies and practices were not allowed by their state.

Hale phrased her statement about that issue as follows:

Of course dear, certainly... If it was [lived] in Europe, surely... Moreover, additionally my mother's cancer had occurred after all these things. We said 'damn you all.' Moreover, we weren't strong, psychologically as well, enough to tackle with that guy. Besides, we didn't have any legal base, as well. I mean, what will you tell them? [They will ask you] Why did you do it while it is banned in Turkey, in the end?

Tabi canım, kesinlikle bunu Avrupa'da falan olsa aynen öyle evet. Ya bir de tam üzerine benim birkaç ay sonra annemin kanseri ortaya çıktı, zaten 'herşeye lanet olsun' dedik. Bir de gerçekten böyle bir gücümüz de psikolojik gücümüz de yoktu o adamla uğraşacak. Zaten artı hukuki bazınız da yok. Yani gidip orda ne diyeceksiniz? Siz niye yaptırınız illegal sonuçta Türkiye'de?

This illicitness and desperateness do not only make ARTAP powerless as we understood from the quotations above, they may make ARTAP blind (or tolerated – conditionally) as well. However this blindness, mostly is based on the disinformation in the relevant practices again.

Frozen embryos, oocytes and sperms are always points at issue since ARTAP cannot control easily either their materials were frozen, used for another couple or thrown away. It is difficult, but not impossible, to control the uses of these genetic materials for the authorities. It is also known that keeping and accessing frozen genetic materials and embryos are easier. However, getting success from those frozen materials is more difficult than getting success from fresh genetic material which has difficulties in its collection and operation. Again, there is a serious and well-known problem on this point.

Moreover, Ayten told me that she had received some hearsay information on the uninformed keeping and the use of frozen and fresh embryos in IVF Centers in Cyprus. Ayten, who saw a sympathetic analogy between frozen embryo and frozen aubergine, narrated me her thoughts on these frozen reproductive materials as follows:

A: Just like that. They [IVF Centers] throw the remained [embryos]. What do some of them say? They say that they threw away but they freeze them [the embryos]. Some of them do [use] some families in that way [frozen embryos]. Hospitals [sell] embryos in return for around 1000 TL or 2000 TL. They say that they throw them but I think they don't throw. However, that frozen one does not attach [to the uterus] by no means. Fresh [embryo] is the best. I mean, they freeze it later. The quality [of the embryo] decreases if it is a frozen. Why? For example, suppose that you bought aubergines and put them into the deepfreeze. Which one is better: fresh or frozen one? I think in that way. I mean, when I try, I am just giving an example. Which one is better? Fresh one is better.

A: Öyle. Kalanları atıyorlar. Kimisi ne yaptık diyorlar, attık diyorlar ama donduruyorlar. Kimi ailelere öyle yapan var. Bir embriyoyu 1000 tl mi 2000 tl diyorlardı hastaneler. Attık diyorlar ama bence atmıyorlar. Ama o dondurulmuş kesinlikle tutmuyor. En güzeli taze. Hani dondurulmuş, sonradan donduruyorlar. Dondurulmuşlarda kalitesi düşer. Çünkü neden? Mesela bir patlıcan aldınız, deepfreeze [derin dondurucuya] kattınız, taze mi iyi dondurulmuş mu iyi? Ben öyle yapıyorum mesela. Öyle deniyorum, örnek veriyorum. Hangisi daha iyi? Taze alınmış daha iyi.

Up to here, some negative results were learnt which deserve criticism concerning the policy on Assisted Reproductive System Regulations and ARTAP in Turkey. It is seen that most of these results occurred through unsecure practices of ARTAP abroad.

Veli, who is an embryologist and gynecologist in Turkey, detected some important points in social and private lives of childless people. According to him, by giving people the right to access, assisted reproductive technologies including third parties would make them freed from a social burden (of not having a child because of infertility) and degeneration. I should profess that his sharing on Turkish society made me horrified for a while during our interview.

Veli's striking description is given below:

Moreover.. what is happening when we ban something? For example, [assume that] a woman cannot have a child, but her sister can. She wants her sister to bear a child and give it to her; this is the most innocent one. Her husband has intercourse with her own sister; this is the second stage. In the third stage, the man has no sperm, and so on. Note that, these are not exceptions in our country. I mean, not having a child is a burden for people living in the countryside and families try to solve this [infertility problem] by their own ways. Ee.. [for example] a man let his wife to have intercourse with another man. I was visited by 200 000 patients in total and I heard

so much things. In fact, we let him to make his sperm donation in that way by creating these social obstacles. Sperm donation exists and it is prevalent in Turkey, and how! There are people who have intercourse with their relations, friends, and brothers/sisters, and so on in Turkey. I worked in birth hospital. If you were a doctor in the gynecology department, you would listen to what you would. I mean, these are what I know.

Bir de biz bazı şeyleri yasaklıyoruz ne oluyor? Örneğin kadının çocuğu olmuyor, kız kardeşinin oluyor. Kız kardeşine diyor ki bir tane doğur bana ver diyor, bu en masumu. Kendi kocasıyla onun kendi kızkardeşi ilişkiye giriyor. Bu ikinci kademe. Üçüncü kademe adamın spermi yok, bilem ne. Bu arada bir falan olmuyor bizim ülkemizde. Yani köylerde çocuk sahibi olamamak çok büyük bir yük ve bunu aileler kendi usulleriyle çözmeye çalışıyorlar. Ee, gidiyor bir başka erkekle beraber olmasına karısının izin veriyor. Yani bu hikâyeleri ben, 200 000 hasta ile görüşüm, neler dinlediğimi anlatamam sana. Burda biz onların önüne yarattığımız sosyal engellerle onun sperm donasyonunu o biçim usullerle yapmasına meydan veriyoruz. Sperm donasyonu Türkiye’de var ve yaygın. Hem de nasıl yaygın.. Eşle dostla, kardeşle, bilmem neyle cinsel ilişkiye giren insanlar var Türkiye’de. Ben doğum hastanesinde çalıştım. Orda kadın doğumda çalışsan neler neler dinlersin. Yani benim bildiklerim bunlar.

Nussbaum explained the capability of political control over one’s environment as ‘being able to participate effectively in political choices that govern one’s life; having the right of political participation, protections of free speech and association.’ Nevertheless, it is seen that ARTAP we interviewed faced various legal, ethical and private problems and constraints through the lack of controlling their environment politically. These constraints are listed in the table below.

Table 13.

Constraints concerning the capability of controlling one’s environment-political

Capability	Constraints
The Capability of controlling one’s environment political	1. General mobbing on gender discrimination in workplaces
	2. Legal barriers on consulting Turkish doctors
	3. Presenting social mother’s identity card for surrogacy births in Turkey
	4. Being obliged to reproductive tourism and mediators
	5. Legal responsibilities of foreigners and citizens in agreements abroad
	6. Deficiencies in agreements/ lack of agreements
	7. Weakness of ARTAP in case of legal problems

As responses to the violations this incapability, certain precautions should be taken immediately. For example, labour act should be changed in favor of working

women who had to postpone their reproduction to a time in the future when their reproduction practices would be accompanied with some biological and/or health problems. The same act should encourage especially women to give birth to their children at younger ages.

Women in ARTAP need the health assistance and supervision of their doctors since their (oocyte donor –social mother, and surrogate mother-genetic or social mother’s) bodies should be prepared for the insemination simultaneously. However, the gynecologists’ role in these processes is illicit in Turkey, and this situation may result in legal and economic problems in addition to health problems for ARTAP.

Moreover, when a surrogate mother wants to give birth to a child in Turkey, she has to use the identity card of the social/genetic mother and this attempt has many risks to all the parties of the process. In fact, the representatives of current political tendency of Turkey created this environment with their restrictions. In these restricted political environment of Turkey, ARTAP may prefer to complete nearly all of the reproductive processes abroad, especially in Cyprus where these services including third parties are known as free and available. But as I tried to demonstrate in this chapter, ARTAP cannot defend their rights in case of violations at those positions since again it is banned in Turkey.

These problems can be mitigated by changing regulations. However, do we want commercial reproduction legislation in Turkey? Even if we do not approve that way, some altruistic alternatives can be issued and discussed for these possible regulations.

Otherwise, ARTAP had to deal with mediators in order to find other ARTAP for having a child. Or, trying to solve their reproductive problems ‘amongst themselves’ may produce various problems. Again, these problems make us question this Turkey, Cyprus and Georgia reproduction triangle as well.

4.10.2. Material

As it is explained at the beginning of this capability section, Nussbaum had divided the ‘capability of control one’s environment’ into two categories. Out of losing political control of their environment, ARTAP suffer considerably from losing

their material control at the same time. According to Nussbaum (2011: 33), capability of material control over one's environment means 'being able to hold property (both land and movable goods); having the right to employment; having freedom from unwarranted search and seizure.'

Reproductive technologies including third parties caused various problems for ARTAP concerning the material control over one's environment. Since these technologies have been expensive services for ARTAP, they claimed that they had suffered especially from:

1. Costliness and disparities in informal economy of assisted reproduction technologies
2. Disinformation, informality and perplexity in the payments of ARTAP
3. Not being able to hold property (such as not being able to save their money, land or movable goods since assisted reproductive services were very expensive)
4. Applying to families in covering surrogacy and IVF expenses
5. Obstacles to the right to employment for surrogate mothers
6. Is making a living by surrogacy/ oocyte donation possible?

I categorized the interviewees' answers to my questions according to the items above to make more articulate discussions and better interpretations of what they expressed. I explained and discussed these issues with references to my interviews with ARTAP again.

4.10.2.1. Costliness and disparities in informal economy of assisted reproduction technologies

First problem concerning capabilities of control is witnessed in the interviews with ARTAP concerning the material capability is the 'costliness and disparities in the informal economy of assisted reproduction technologies' which underlines the expensive and instable character of the sector. It is seen that this item is caused especially by the political imbalances between countries.

IVF Centers abroad put high and different prices on surrogacy and oocyte donation services since it would be impossible or insecure for most of the clients to

access this technology in their homelands. In addition to this, the lack of regular government control on this sector has negative effects in the development of a stable market. Moreover, sometimes negotiations with ARTAP on these reproductive services could occur on a more personal level.

Ayşe and her husband Ali had such a negotiation in Cyprus before their surrogacy experience. However, this negotiation was different from Ayşe and Ali had ever seen. The difference was pointing to the decreasing number of the price by decreasing the quality of relationships and trust in that possible work.

Ayşe told me that experience and the negative effect of that negotiation on their decision process as follows:

A: They wanted extremely high prices. This fact had very high prices, unfortunately. How much did they want at that time? I don't remember now if they wanted 50 Thousand Euros or 50 Thousand Dollars. Something around that.. All-inclusive. Afterwards, we told them that we would call them back. At the beginning, we had become very excited, naturally. This fact started from this point. After telling them that we would not be able to get that money, they talked about making this in Turkey. I confess now.. They told us that they could arrange such an environment in Turkey in illicit ways, and added that they could find a woman for around 20 or 30 Thousand [Turkish] Liras and convince her to make surrogacy. After hearing this conversation, which is poor in quality, naturally, we gave up immediately.

A: *Aşırı uç rakamlar istediler. Bu olay çok acayip yüksek rakamlara mal oluyordu maalesef. O zaman ne kadar istemişlerdi? 50 bin Euro mu istemişlerdi bizden, 50 bin dolar ya da Euro idi hatırlamıyorum şu an. O civarda, her şey içinde. Ondan sonra işte bize geri dönüş, biz onlara geri dönüş yapacağımızı... Önce işte biz heveslendik doğal olarak. Ee.. bu mevzu buradan başladı, biz hani bu gereken parayı çok fazla toparlayamayacağımızı söyleyince Türkiye'de işte Türkiye'ye kadar indi yani mevzu. Öyle söyleyeyim size. İlegal yollarla Türkiye'de işte böyle bir ortamı sağlayabileceklerini. Türk parasıyla işte bize 20 ya da 30 bin liraya bir kadın bulup taşıyıcı annelik yaptırabileceklerini söylediler. Ondan sonra tabi mevzu buraya inince biz doğal olarak hemen vazgeçtik.*

Ayşe's statement above is very unique because of the embryologist's reference to the illicit alternative with lower prices in Turkey. The price would decrease from 50 Thousand Euros/Dollars to 20 or 30 Thousand Turkish Liras if this Turkish couple accepted an illicit surrogacy in their home country. It is obvious that, this embryologist (or the IVF Center) would establish some connections with the client and surrogate mother - perhaps with a gynecologist as well- in Turkey. That means, the illicit environment in Turkey created an informal and insecure market for reproductive biotechnology service providers abroad.

Ayşe and Ali could meet the expenses of a more secure surrogacy in Georgia and could give up to make an agreement with this IVF center which offered lower

prices. However, one can assume that many people who cannot meet these expenses would choose to accept this more appealing offer in order to get a baby/babies. In other words, desperateness and low incomes can easily lead ARTAP to be included in reproductive services under illicit and insecure environment in this sector. The striking thing is this illicitness, insecurity and low prices were offered by so-called legal, secure and expensive IVF Centers' embryologists. This obvious disparity in the expenses of formal and informal economy (may be included by each other) of assisted reproduction technologies lead ARTAP to search for other cheaper but more trustable alternatives.

Not only the surrogacy but also oocyte donation cost higher amounts of money for ARTAP. These amounts are getting an increase when taking ARTAP's all material loss for their hopes of getting a baby into account. I asked Nurgül how much she paid for all the IVF trials and oocyte donation.

Nurgül's answer is given below:

N: All together, including [expenses in] Cyprus around 5000 - 6000 Euros, it probably costed around 35-40 Thousand Liras in total.

N: Hepsi beraber, Kıbrıs dahil 5 000 Euro Kıbrıs, 6 000 Euro. 35 - 40 bin Lira civarında bir toplam maliyeti oldu herhalde.

When one thinks about a couple whose has a low income, he would agree that it would be very difficult or impossible to meet this amount of money for their IVF trials. Again, Cyprus was shown as cheaper when it was compared with other countries by ARTAP.

Ayşe shared her thoughts about the surrogacy expenses in Cyprus as follows:

A: It was cheap, Cyprus I mean. Cyprus was cheap. It [surrogacy] was more expensive in some countries like Switzerland.

A: Orası ucuzdu Kıbrıs ucuzdu, yani Kıbrıs ucuzdu. Mesela İsviçre falan oralarda daha pahalıydı.

Surrogacy expenses are much more higher than oocyte donation expenses for ARTAP. It is known that some IVF Centers in Cyprus offer "all-in-one" reproductive alternatives, which include flights, accomodation and catering in a hotel near the coast, and reproductive treatment. Like a holiday organization, ARTAP may choose these alternatives and enjoy with their 'reproduction tourism' experience.

Rather than choosing Cyprus and its different alternatives, Ayşe and Ali preferred to have a surrogacy service from an IVF Center in Georgia since they trusted the embryologist personally. I asked Ayşe how much they spent for their surrogacy experience. She gave me a number including all the examination fees, accommodation and flight expenses in this process.

Ayşe's answer concerning the surrogacy and total expenses in Georgia is as follows:

Materially, I think we spent 25-30 Thousand Dollars under normal circumstances. After that, hospital expenses, other examination fees... 120 Thousand TL... it costed 120 Thousand [TL]. I mean, 10 Thousand Dollars of the sum of money was given to the woman [surrogate mother]. I know 150 Thousand [TL] in total. For example, flights and etc. Additionally, flights, accomodation... Because accomodation is very problematic there [in Georgia]. When you go there in the summer, you have to pay 100 Dollars for the accomodation in a crappy hotel per head, moreover only breakfast included.

Valla maddi kısmı normal şartlarda bir 25-30 bin dolar para yatırdık galiba. Sonrasında işte hastane masrafları, diğer muayene ücretleri.. 120 bin tl olarak, 120 bine mal oldu. Ee.. şey verdiğimiz para içerisinde 10 bin dolar kadına verildi. Toplam 150 bin diye biliyorum ben. Mesela uçuşlar vesaire. Ondan sonra.. uçuşlar, gitmek gelmek. Çünkü orda mesela konaklama çok sıkıntılı, yaz aylarında gittiğiniz zaman afedersiniz çok dandik bir otele kişi başı 100 dolar veriyorsunuz, sadece oda kahvaltı.

Ayşe stated that all the surrogacy and their (Ayşe's and her husband's) health and life expenses in Georgia costed 150 Thousand Turkish Liras in total. Moreover, they were also affected by summer tourism in Georgia since the costs of accomodation in hotels and hostels were getting higher in summer months. I heard this problem also in one of my personal conversation with an embryologist of an IVF Center in Georgia. He asked me where I stayed and what was its price since he had some difficulties in finding cheap hotels for his clients with low income who came abroad. This information supports the view that the embryologists are also responsible from the accomodation of their clients respectively.

Ayşe, in her statement above, declares that 10 Thousand Dollars was paid to the surrogate mother. According to Ayşe's calculation, one third of the sum of money was belonging to the surrogate mother. The payment issues were different for the surrogate mothers. Ayten told me that the IVF Center met all of her travel expenses and paid her for the embryo transfer at the beginning of the process apart from the sum of money.

With Ayten's words:

Yes, first, they paid while going to embryo transfer. Not the travel expenses, They paid for the [embryo] transfer. All the tickets were already paid by them. This was paid me as the transfer payment. 3000TL is paid me apart from others. I don't know the rate of the hospital.

Evet, ilk başta transfere giderken ödediler. Yolculuk masrafı değil, transfer paramı ödediler. Bütün biletler onlara ait zaten. Bu transfer ücretim.. Bana ayriyeten 3000 tl. Hastanenin fiyatını bilmiyorum ben.

Ayten lives in Adana with her husband and three children. It was a different and worrying experience for her since she had not been abroad before. Travelling overseas alone made her afraid in addition to her first surrogacy trial but she had to overcome with them. Ayten could not travel Cyprus since her husband's and children's travel expenses would not be covered by that center and Ayten and her husband could not meet all those expenses.

Different individuals of ARTAP had to overcome with different material problems concerning the costliness and disparities in formal and informal economies of assisted reproduction technologies.

The disinformation and perplexity problems in the payments of ARTAP are discussed in the next sub-topic.

4.10.2.2. Disinformation, informality and perplexity in the payments of ARTAP

In parallel with the previous subsection concerning the 'political control over one's environment,' disinformation and perplexity problems in the payments of ARTAP were seen in scope of ARTAP's loss of material control. These problems occur especially when there is a lack of a written or verbal consent and information.

Ayten who did not make any agreement on her surrogacy process in Cyprus told me that they did not specify any amount or condition for a miscarriage, twins or any other case.

She narrated me that issue as follows:

I: What would be happened if you had a miscarriage in the 7th month of the pregnancy?

A: If I had a miscarriage, it would be happen in that way...

I: You mean, they would renounce their rights in their payments up to then. Did all these details had been talked?

A: No, they were not been talked.

I: Really? Improvising continuously... Okay. Then, what [did they ask you] about notarizing for taking [the child] and paying the sum of money?

A: No, we didn't talk anything on something like that. Only one thing...[was spoken:] what will be paid for the single baby and what will be paid for twins. I told them that if it resulted in twins or triplets then [the payment] would be the matter of their conscience. I mean, giving one child or two children are very different things from each other. I said that it would be a matter of their conscience. I didn't specify an amount of money, I mean, apart from the sum of money we agreed on.

I: Notarization was about taking the child and paying the sum of money, was not it?

A: Yes, two-sided, you know.

I: *Peki mesela 7. ayda düşürseydin ne olacaktı?*

A: *Düşürseydim öyle şey yapacaktı işte..*

I: *Yani verdiklerini helal edecekti. Onlar hep konuşuldu mu?*

A: *Yok onlar konuşulmadı.*

I: *Değil mi? Kervan yolda.. Tamam. Yani istiyorsan notere gidelim, alacağıma dair ve parayı vereceğime dair.*

A: *Yok, hiç konuşulmadı öyle şeyler. Sadece şey konuşuldu, ikiz olursa fiyat ne kadar, tek olursa fiyat ne kadar. Benim ikiz olursa üç olursa o sizin vicdanınıza kalmış dedim. Yani bir çocuk nerde, iki çocuk vermek nerde? Dedim o sizin vicdanınıza kalmış. Ben belli bir ücret onlara söylemedim yani. O anlaştığım paradan ayrıyeten hem ikiz olursa.*

I: *Noter konusu çocuğu almak ve parayı vermek konusundaydı, değil mi?*

A: *Evet. İki taraflı işte.*

Ayten believes in that justice in material issues related to her surrogacy could be realized by the conscience of the embryologist, IVF Center and the prospective family. As a remind, the embryologist asked Ayten if she wanted to notarize the essential issues (about giving the child and taking the money) of the surrogacy, but Ayten rejected this offer and preferred to trust that embryologist.

The payment models of oocyte donors are completely different from surrogate mothers. As it seen in the previous titles, the amounts of the payments of oocyte donors differ according to the number and quality of the oocytes, which could be analyzed after the collection. However, this instability creates perplexity in the payments of oocyte donors.

Elif told me in the interview that she donated her oocytes in different IVF Centers in order to compare the payments of those IVF centers with the previous one.

She told me this instability as follows:

E: In this way... It [payment] depends on the quality of the oocytes. It is ranging between 2000 and 4000 [TL] at the moment. I mean, if there is nothing, I mean, if your oocytes are really poor. Suppose that your oocytes are really of no use to them, again they pay 1500 [TL]. They said so. You receive 1500 because of your pains. You injected hormone in your body, after that, you underwent anesthesia, and so on in the end. For that reason, they pay 1500 [TL] net. If your oocytes were qualified, then you receive 4000, 3500 [TL]. I was paid 3500 for my last one [donation]. Ee.. I

received 900... 850 Euro for my first one. It was paid in Euro. I received 2500 [TL] for the second one.

E: Şöyle.. Yumurtanın kalitesine bağlı. 2000 le 4000 arası şu an. Yani hiçbir şey çıkmadı yani gerçekten yumurtaların çok kötü, gerçekten işe yaramayacak yumurtalar çıktı diyelim. Yine de 1500 veriyorlarmış. Bunu öyle söylediler. 1500 alıyormuşsun çünkü emek için yani. Sonuçta işte vücuduna hormon yükledin, ondan sonra işte bir anesteziye maruz kaldın vesaire, o yüzden 1,5 bin net veriyorlar. Eğer yumurtaların kaliteliyse 4000, 3500. Ben en son 3500 aldım. Ee.. ilk yaptırdığımda 900... 850 Euro almıştım, Euroydu. İkincisinde de 2,5 aldım.

Sevgi, an oocyte donor and the friend of Elif, stated me that she also donated her oocytes in different cities and centers in Cyprus. She added that since her final donation was very qualified she would be paid again as extras.

Sevgi's explanation concerning instable payments is given below:

S: Yes. Now, they do not pay in TL at everywhere. There are some people who pay in Euro. For example, there, ee.. in the center where I donated at most, [they pay] minimum 500 Euro, maximum 800 Euro. Here.. I don't know minimum amount of [the centers] here. But I donated for two times, I received 3500 TL for one of them and 4000 plus... for the other. I mean, since it was very qualified, I will be paid later again, in two days.

S: Evet. Şimdi her yer TL vermiyor, Euro veren yerler var. Mesela o şeyde, ee.. çok gittiğim yerde minimum 500 Euro, maximum 800 Euro. Buralarda da. Buranın minimumunu bilmiyorum. Ama yani ben iki defa verdim. Birinde 3,5 aldım TL olarak, diğerinde de 4000 artı.. işte bayağı iyi çıktığı için sonradan bir ödeme daha yapılacak iki gün içinde falan..

Both oocyte donors were responding to this instable market normally. They adopted this instability and they try their chance in other IVF centers sometimes, as I understood. However, they do not even question that they all injected the same hormone doses and anesthesia for oocyte collection but they were paid inequal. Again, they endure their fate on their oocytes and the price what the IVF Center estimates on them. Moreover, oocyte donors are not even informed about the quality or quantity of their oocytes in the examinations. They are informed and paid cash even after the oocyte collection and oocytes' examination under the microscope. As it is seen here, disinformation and perplexity in the payments of oocyte donors should be evaluated as two constraints in the capability of control over oocyte donors' material environment.

In addition to these constraints, some irregular expenses may occur in ART treatment or pregnancy period. For example, Ayten told me that she was surprised by the embryologist's will to get extra money from the client family. She was still

thinking that they should not earn more than her from this surrogacy since she was doing all the work. In the dialogue below, it is seen that embryologist wanted to get extra –informal- money and received it from the family.

Ayten narrated her thoughts as follows:

A: They earn more than me. For example, that embryologist received 'congratulations money' from the lady. [In other words] Good news money... I deserved it but he [the embryologist] got the good news money in the end. He got extra 3000 TL from the family since they learned [positive] [pregnancy] blood test results.

I: I felt that you think... if they earned more than their own merit.

A: They have made too much money of me. Moreover, the families pay around 15-20 Thousand [Turkish Liras] for embryo transfer.

I: What did you say, what money did embryologist receive?

A: Good news money, congratulations money. Moreover, he wanted it when he was next to me. I daresay she transferred the money afterwards. I said what's it to him [laughs].

I: Well.. but how did he want it?

A: That's the good news money, you know. Because the woman was happy.

A: Daha çok para alıyorlar benden daha çok kazanıyorlar. Mesela o embriyo uzmanı, gözüün aydın parası aldı mesela bayandan. Müjde parası. Halbuki ben orda müjde parası alana kadar o alıyor sonuçta. Aile 3000 TL aileden ekstradan para aldı. Kan tahlilini öğrendikleri için.

I: Üreme merkeziyle ilgili sanki biraz şey var, haklarından fazlasını alıyorlar gibi birşey hissettim.

A: Benim üzerimden çok para kazanıyorlar. Bir de bu transfer ücretleri hastanelere 15-20 bine yakın masraf veriyor aile.

I: Ne dedin, ne parası aldı embriyolog dedin?

A: Müjde parası, gözüün aydın parası, hatta yanımda istedi. Sanırım yollamış sonradan. Dedim ona ne oluyor dedim? [Gülüyor]

I: Nasıl istiyor ya?

A: İşte müjde parası, kadın şimdi sevinçli ya.

This example clearly represents one of the disinformation and perplexity problems concerning ARTAP's loss of material control in their reproductive environment. Professionally, an IVF Center announces its prices for an IVF or surrogacy service and should not claim of any other extras. This claim of the embryologist is similar with another famous informal practise problem in the health sector of Turkey; it is 'bıçak parası' (knife money). It is known that, many operator doctors in Turkey expect an amount of knife money (the amount may be specified or not) from the patient (or her/his relatives) apart from the routine operation and hospital expenses. The patient (or the relatives) gives that money hopefully since s/he supposes the medical doctor only to make his best in that operation. A research publication of Kol (2014: 44) explicates the problem of 'knife money' in Turkey. According to one of the findings of Kol's (2014: 44) study, 31% of the

patients/participants had operations related to their health problems and %16 of them were asked for an informal payment named as ‘knife money’ (Kol, 2014: 48).

Under the names of ‘knife money’ or ‘congratulations money,’ the doctors or the embryologists receive informal money from the clients/patients and create instable material environment for ARTAP and all other patients/people who suffer from any illness/treatment. The only difference between these informal payments is taking it before and after the operations.

In fact, ‘congratulations money’ is similar with the extras in case of marriage ceremonies. Nurgül’s husband Ahmet emphasized his distrust to the reproductive technologies and to the services of IVF centers on an analogy between marriage and efforts for having a child through reproductive technologies.

Ahmet stated this similarity and the prevalence of free market rules in reproductive technologies in the paragraph below:

A: No.. There is no limitation, of course. When one goes to an IVF guy [an embryologist], he wants 6000 TL, while another one wants 30 000 TL. What is the difference? There is no difference. I mean, even the drugs prescribed are the same. I mean, when you look at that drugs, you will see that they are all around 1000-1500 TL. They make people feel obligated to buy... I mean, I had never seen a person around me who had a successful IVF in her first trial. They generally try 3-4 times. Luckily, they succeed in the 4th one or try 3 times and somehow, succeed in the 3rd one. Because of that, I don’t believe in this, I don’t believe in this sector as well. This doesn’t have any limitation, it is a free market; but a free market on health. I will get profit as much as your money I could get, in the end. Moreover, if I bring a happy end to you... Because people [do not avoid of] spending money for this... It likes to get married. You know, we say ‘we are getting married for once, let’s buy this and that.’

A: Yok ya ne sınırı olacak. Bir tüp bebekçiye gidiyorsunuz 6000 TL diyor, bir tanesine gidiyorsunuz 30 000 TL diyor. Ne farkı var, hiçbir farkı yok. Yani sana verdiği ilaçlar da aynı. Yani o ilaçlara baktığınız zaman 1000-1500 TL lik ilaçlar hepsi. Onları insanları almaya mecbur kılıp... Yani ben hiç etrafımda bir kere tüp bebek deneyip de başarılı olan görmedim. Hep 3-4 kere denemiş, 4. de her ne hikmetse olmuş yani. 3 kere denemiş 3. de olmuş. Bana onun için doğru gelmiyor yani bu sektör de doğru gelmiyor yani. Bunun da bir sınırı yok, serbest piyasa, ama sağlık üzerine oynanan bir serbest piyasa. Neticede ben senden ne kadar para çekebilirim o kadar benim kârım. E sonunda da mutlu sona ulaştırıyorsam... çünkü insanlar buraya para harcamaktan, ha evlenmek gibi birşey. Evlenirken bunu bir kere yapacağız, işte şunu da alalım bunu da alalım diyorsun.

This citation is considerable when the relationships between hopefulness, trust and spending money are regarded. Moreover, according to Ahmet, splurging in the marriage ceremonies is similar with this extra payment toleration of the prospective families. And it is seen that some of the health practitioners know how to

take the advantage of this weakness. Ahmet is right in his finding such similarity. Since these works are illegal in their homeland and prospective family will get their ultimate goal in the end; health practitioners behave like the guy who wants a tip from the groom by saying the famous phrasing as the ‘knife is not cutting’ (bıçak kesmiyor) the wedding cake or like the guys who waylay the wedding car and want tips from the groom by saying ‘your money or your life’ (ya paranı ya canını) in Turkish wedding traditions.

Similarly, Ayten told me that she found the doctor in Adana since she did not want to travel Istanbul for doctor visits. Moreover, she added that the family had to pay extra money for these visits and the birth to the doctor.

As we can remember, Ayten narrated that process as follows:

A: I found the doctor here [in Adana], I arranged everything because the family didn’t know anyone here. I searched and found the doctor. I talked to him face to face because the doctors are also afraid of this work [surrogacy]. They don’t want to talk even on the phone. I visited the same doctor during the pregnancy and he helped me in giving birth. We gave birth and we showed the identity card of the family [the lady] [as if it was mine]. For that reason, they [the family] paid extra money to the doctor. I mean, the doctor also risked himself. He may get dismissed if this is noticed by the authorities because this is illegal, completely an illicit work. I visited his [the doctor’s] private clinic with the identity card of the lady and everything was done in a private hospital.

A: Buradaki doktoru.. Ben buldum, hepsini ben ayarladım. Ben ayarladım. Aile çünkü burada tanıdığı yoktu, bir şeyi yoktu. Ben araştırdım buldum doktoru. Yüz yüze konuştum çünkü doktorlar da bu işten korkuyor. Telefonla konuşmak istemiyorlar. Kontrolü doğumu hepsi aynı doktor.. Doğumu ailenin kimliğiyle yaptık. O yüzden doktora ekstradan para ödediler. Yani doktor da tehlikeye attı kendini. Yani mesleğinden olur öyle birşey duyulursa. Çünkü yasal değil. Gizli işler. Normal gittim özeline, bayanın kimliğiyle herşey yapıldı yani. Özel hastanede.

Here, Ayten told me that the doctor risked himself and wanted extra money from the family for the birth. Although the work of the gynecologist was a standard one, he was paid extra money since that was including an illicit dimension and there were not so many doctors who accept such risk. However, this situation constitutes a similar opportunism in the sector.

If we remember another wedding rituel of the barbers and hairdressers, we would accept that they expect to get extras for bridal hair, groom shaving or bride make up. A bride would pay less if she does not tell the truth about her marriage. Similarly, some ARTAP risk themselves and give birth to their babies with the identity cards of the social mother and without telling the truth to anyone. In Ayten’s

case, social mother did not want to risk themselves so much and accepted to pay extras in order to make the birth in a relatively secure environment.

Out of informality, there are also disinformation and perplexity in the payments of ARTAP. As we remember from the previous ‘political’ sub-section of this capability, Fatma had shared her experience including the perplexity. Since she had to make her embryos transferred from Cyprus to Georgia because of certain legal problems, she told me that she had to pay more for that service. Again, she took the advantage of cheaper surrogacy in Georgia.

Fatma told me that her complex situation and irregular payments to the embryologist as follow:

I: Well, what was your benefit [in Georgia] when you compared to Cyprus?

F: I told you only the amount of money that I would pay the woman [surrogate mother]. Additionaly, [we were paying for] the drugs and medicines, out of our monthly payments. We were paying for the hospital every month, yes. Anyway, we were visiting the doctor every month. If he didn’t want payment for the examination in one, he wanted for the other one. For example, he [the doctor] didn’t want payment for our visits in 3 months on end. After that, he wanted a quarterly payment for example, he took our money around 1500 TL. These payments are apart from others, I mean.

I: Okay, then, do you think that payments in Georgia were cheaper by half?

F: No, not by half, not by half but again we are in profit. Moreover, you know my embryos were transported there and Enver bey had to deal with it, I mean, for the transportation. Everything was in Cyprus in the end. Moreover, it [Cyprus] was not seen as a legitimate country by Georgia. For example, if this event was happened in Turkey, it would not be a problem [to transport embryos to Georgia] but they [the people in Georgia] were not recognizing Cyprus. Since my embryos were there and we had to transport them from that country to another, I paid additionally for that. I mean, by saying that Cyprus was not recognized, I mean, it was not recognised as a country. I mean, that system is in that way there.

I: *Peki ne kadar kârınız oldu acaba Kıbrıs’a göre.*

F: *Şimdi benim sadece kadına ödeyeceğim zaten o kadardı. Sadece kadına ödeyeceğim. En azından zaten ilaçlar, her ay verdiklerim hariçti zaten. Hastane parası zaten her ay evet. Zaten her ay bir de hastaneye gidiyorsunuz birinde 400 tl almasa birinde alıyor, mesela 3 ay boyunca üstüste gittik almadı, sonra üç ayı toptan aldı mesela 1500’e yakın aldı. Hani hastane de ayrı yani.*

I: *Yani şey.. Gürcistan yarı yarıya daha uygun mu bakıldığında sizin için.*

F: *Yok yarı yarıya değil, yarı yarıya da değil ama yine de hani karda oluyorsun yani. Bir de hani benim embryolarım ordan oraya gitti mesela Enver Bey biraz hani uğraştı. Yani hani ayarlamak için. Sonuçta herşey Kıbrıs’taydı. O yüzden hani orayı da ülke olarak görmüyorlarmış, hani bir yer olarak görmüyorlarmış. Mesela, bu Türkiye’de olsaymış Türkiye’den direkt Gürcistan sorun olmazmış ama Kıbrıs diye bir yer tanımıyorlarmış. Benim embryolarım da orda olduğu için, ordan oraya hani transfer olduğu için ben tabi bir de onun için ayrı bir para ödedim. Tanımayan derken ülke olarak tanınıyorlarmış Kıbrıs. Nasıl desem, orda öyleymiş o düzen.*

Fatma seems to have lost both her political and material control over her reproductive treatment, unfortunately. She told me that although she visited the

embryologist every month, she paid him irregularly. In the end, she did not pay less but she could not predict the payment time of the treatment. That arbitrariness of the embryologist leads to a material confusion for Fatma.

Out of this, ARTAP had various sceptical thoughts related to material concerns and IVF trials. Among other participants of this study, especially Ahmet and Nurgül were suspicious about the trials if the embryos were really transferred into the womb or not. When I went into that suspicion, I learnt that Ahmet and Nurgül really became distrustful to the sector and the business ethics of the embryologists. The related partial interview with Nurgül and her husband, Ahmet is below:

I: Do you imply by saying ‘succeed luckily in the 3rd one’ or ‘somehow it happens’ that there was a distrust or something else?

N: No, perhaps they did not inseminate, or their timing was wrong, it is something. I think there is an intentional thing. If the insemination is successful in the first one then he [embryologist] will get 5000 TL, but if he convinces the couple and make them donated again then he will get 5000 TL more, in the end. He is money-oriented, if the doctor tells you that he did the embryo transfer, you are being convinced about that. You say ‘okay’ and going out of there [clinic]. Perhaps, he anaesthetized you and did not collect your oocytes. I mean, you can’t know.

A: In our case, from the beginning of the processes, I think, all of them [embryologists] knew that DNA was not coded in any of the oocytes. I think so... Because, DNA exists or not. Continuously collecting would... not give any result, I mean. But people would like to try again and again to be relieved.

N: Yes, the latest doctor we visited told us after the first trial not to try more since there were not DNA in that one and there would not be in the next. There was nothing to do, I mean.

I: O, ne hikmetse dediğiniz, 3. denemede oluyor, her nasılsa oluyor dediğinizin altında şey mi var, yani diğerlerinde bir güvensizlik gibi..

N: Yoo.. belki konmuyor, belki zamanlama yanlış, birşey.. bence bilerek yapılan şeyler var yani. İlk seferinde tutarsa 5000 TL alacak, ikincisine ikna eder yaptırırsa 5000 TL daha alacak sonuçta yani. O para amaçlı, doktor sana embryo naklini yaptım dese, yaptım diyor. Tamam diyorsun yani, çıkıyorsun ordan. Bayılttı belki hiç yumurtayı toplamadı. Bilmiyorsun yani.

A: Bizim olayda mesela başından beri bence hiçbir zaman DNA olacağını zaten hepsi biliyordu yani olmayacağını biliyordu bence. Bence.. Çünkü DNA olan birşey yani yoksa habire.. toplama.. hiçbirinde olmayacaktı yani. Ama için rahat etsin diye yaptırıyorsunuz yani.

N: İşte son gittiğimiz doktora ilk seferinde denedik, ve adam dedi ki, daha fazla uğraşmayın. Bunda DNA yok, çıkmazsa çıkmayacak yani.

From the dialogue above, it is understood that Ahmet and Nurgül were complaining about the numerous IVF trials in which IVF Centers gain more money while patients like Ahmet and Nurgül’ were losing their time and money. As it is

seen, disinformation problem made people suspicious about all the IVF and reproductive biotechnology processes.

Intention is an important point here. Similarly, disinformation in cryopreservation⁵⁴ of oocytes creates another important problem. Without getting the consent of the woman, cryopreserving her oocytes should be regarded as crime. However, when this situation is learnt, woman may rethink about another IVF trial emotionally.

Ahmet, the husband of Nurgül told me such a bad situation of one of their friends. Ahmet shared his thoughts with me about the sector that it was completely commercial and playing on ARTAP's heartstrings. He explained this feelings and thoughts as follows:

A: They rob people and after that it succeeds or not somehow. Perhaps they do it intentionally or not. But it is a system in which people were being milked like cows⁵⁵ because there are people who pin their faith on a baby. And there are 1000 IVF Centers for them. All of them say different things. Some of them give trust while others do not but people... I try to avoid of attributing it as forgery but I don't think that this work is being controlled or people know if they inseminated an oocyte there or not. For example, one of our friends was called from somewhere [an IVF Center] and had been told that her oocytes were still frozen. Moreover, they had told her that they could keep on freezing that if she paid for it. She had no idea about that freezing. It is such a foolish sector, I mean, it is really a commercial sector.

A: İnsanları soyup soğana çevirip ee.. ondan sonra da işte oluyor ya da olmuyor bir şekilde. Belki bilerek yapıyorlar, belki bilmeyerek yapıyorlar, ama insanları inek gibi sağıp yapılan bir sistem. Çünkü sadece bebeğe bel bağlamış insanlar var. Onlarla ilgili 1000 tane tüp bebek merkezi var. Hepsi ayrı birşey söylüyor, her birisi gittiğinizde ayrı birşey söylüyor. Kimisi sizde güven uyandırıyor, kimisi uyandırmıyor ama insan.. yani sahtekarlık demeyeyim de, ben bunun denetlendiğini, gerçekten oraya yumurta konulup konmadığını, insanların çok bildiğini zannetmiyorum. Şimdi başka bir arkadaşımız mesela, bir yerden arıyorlar biz sizin yumurtanızı saklamıştık diyorlar. Bunu saklamaya devam edelim ama siz bize kira bedelini yollayın. Bunu sakladığından haberi yok, böyle saçma sapan bir sektör yani gerçekten ticari bir sektör.

Cryopreservation is another biotechnological service, which is known as 'freezing' in generally speaking. In IVF treatments, in order to get more embryos at once, embryologists tend to give hormone to oocyte donor or genetic mother regularly before the operation for oocyte collection. After using two or three oocytes for inseminating two or three embryos in the womb, they generally cryopreserve the

⁵⁴ Cryopreservation: A technique for preserving tissue through freezing that is used to preserve oocytes for IVF treatment at a later date in this text. Cryopreserved oocytes are referred to as frozen oocytes.

⁵⁵ Milking like a cow 'inek gibi sağmak': It is a Turkish phrase means 'robbing'

remained oocytes or embryos if there are. They have to get the informed consent of the women for this operation. Moreover, it is known that cryopreservation is a service, which brings extra costs to IVF clients. These costs include regular (generally annual) payments. This case is very problematic since cryopreservation was done without consent or information or payment for a period of time. After a time, the staff from an IVF center had called the client and asked her if she wanted to continue to keep her oocytes she had to pay for that. She learnt about her cryopreserved oocytes at that time. She could be infertile anymore or she could be hopeless at that time and those oocytes could be very important for her. Moreover, the IVF Center could sell those oocytes for any other reproduction process of another family and the genetic owner of the oocytes would not know any information about that. The subjected center and the IVF sector as a whole were not reassuring for Ahmet and Nurgül for those reasons and they were right in thinking so. The disinformation and perplexity in these important reproductive issues create insecure environment for ARTAP.

Eda is a genetic mother who had her child through a surrogate mother and told me that her oocytes were cryopreserved at that time. However, she was decided to let the embryologist to destroy them since that service was also expensive.

Eda told me her thoughts about the costs of prospective brothers and sisters of her child as follows:

E: No, we don't want to do it again, God bless them [her children]. We had that thing [opportunity], we let the embryologist to freeze our three oocytes there by assuming that if we could not get success in this trial. However, this year, I will say that they could destroy them. They told us that children could held or not, and we could use others in our second trial. We pay for cryopreservation, it is very expensive.

E: Yok tekrar düşünmüyoruz allah bunlara sağlık versin. O şeyimiz vardı, eğer olmazsa tutmazsa diye üç yumurtamızı da sakladık orda var. Ama bu sene ben hani onları şey yapabilirsiniz diye, imha edebilirsiniz diye söyleyeceğim hani artık. Çocuklar tutar tutmaz, ilk denememizde tutmayabilir, ikinci denememizde onları kullanabiliriz demişlerdi. Dondurma işlemi için bedel ödüyoruz, o çok pahalı.

It is an important question if the IVF Center would destroy Eda's oocytes when she ordered so or not. These kind of questions create perplexity and mistrust against the IVF Centers and ART sector. However, they should be asked in an uncontrolled political and material environment like this.

Sevgi is a person who wants to freeze her oocytes before leaving the island (Cyprus) since she is afraid of the possible adverse effects of oocyte donation. Without expecting any favor from the IVF Center, she is planning to apply for their specialization on cryopreservation.

Sevgi told her thoughts about cryopreservation as follows:

S: This year, I will.. I mean, I hope this is my final year. When I go away from here, can I come back and do it [oocyte donation] again? I don't know. But before going away, I would like to freeze my oocytes, I mean. If these operations give harm to me, I would like to come back and get their help. But, by using my own oocytes. I helped them in the end. They may request an amount of payment from me. No problem, I can pay. But really, if I believe that they can help me if I have a problem in the future, I would like to leave [her oocytes], I mean. We can freeze them here.

S: Ben şimdi bu yıl, yani son yılım inşallah. Burdan gidersem tekrar dönüp yaptırır mıyım? Bilmiyorum. Ama giderken kendi yumurtamı da dondurmak istiyorum yani. Bu işlemlerin bana bir zararı olursa ilerde tekrar dönüp burdan bir yardım almak isterim. Ama kendi yumurtamla. ...Sonuçta ben onlara yardımcı oldum. Onlar da hem maddi olarak belki bir şey beklerler. Onda sıkıntı yok, yine veririm. Ama gerçekten ilerdeki zamanda birşey olursa aksi bir durumda yardımcı olacaklarına inanırsam bırakırım yani. Burda dondurabiliriz.

ARTAP hardly have child/ren with the intervention of reproductive biotechnologies as it is known. Not similar with other sectors including biotechnology applications, health and reproduction are mostly sensitive and open to emotional exploitation. Hence, the reason of such kind of cases including oocyte cryopreservation without consent is very important: did they occur by negligence or intentional motives? Moreover, these things happen in legal IVF Centers in Turkey. That means, legal control over the relevant practices is deficient in Turkey. In such a political environment, should one think materially exploiting practices towards ARTAP natural? I do not think so. That is why I gave the biggest place to disinformation, informality and perplexity problems in the payments of ARTAP.

As another material control problem of ARTAP, 'not being able to hold property' will be discussed under the next sub-topic.

4.10.2.3. Not being able to hold property

ARTAP have serious problems with being able to hold property since they need high amounts of money in order to cover their expensive reproductive trials. Many of them prefer to sell their homes, houses, cars, golds or estates to be sufficient materially. Serkan who is the husband of Eda, told me justification problems and

desperateness of ARTAP in general and the ways they apply for covering the expenses of assisted reproduction trials.

Serkan narrated me his efforts and thoughts as follows:

I sent an e-mail to the information affairs of the Religious Affairs [Diyanet] previously. It was written in the document that: “it [surrogacy] is certainly illicit”. They added that we wouldn’t be forgiven and couldn’t leave a legacy to that child, and etcetera. Moreover, the religion did not accept the orphans from the Society for the Protection of Children. It is something like that. Frankly speaking, I don’t accept such a religion. This is not my religion. I mean, I don’t know if it is written in the religion, written in the Quran or not. I investigated enough but I could not find any a reference to that. However, this is what the Religious Affairs’ fetwa says. It is a real pity and disgraceful to all these people. I know people who apply for the IVF Centers because I was the person who installs the software to the computers of an IVF Center in its Data Processing Department. There are thousands of people... What a pity, I mean. Those people go there by saving their pennies, by selling their golds, or estates. They ache for having a child . And what will happen if they have no choice like us. For example, my wife is unable to grow a child in her body. Then, what will she do, I mean, she is desperate.

Ben bu konuda daha önce diyanetin bilgi edinme hakkı var ya oraya mail attım. Diyanetten gelen yazı: kesinlikle yasal değil. Hatta işte şey bizi bağışlayamazsınız kendi mal mülkünüzü de bırakamazsınız gibilerinden, hatta çocuk esirgeme kurumundan alınan çocuğu da kabul etmiyor din. Öyle birşey. Ben böyle bir dini kabul etmiyorum zaten açık ve net söyleyeyim size. Bu benim dinim değil. Yani dinde bilmiyorum kuranda yazıyor mu yazmıyor mu araştırdım bayağı ama ben bulamadım böyle birşey. Ama diyanetin verdiği fetva bu. Bu çok ayıp ve çok yazık yazık yani bu kadar insana. Çünkü benim tüp bebek merkezine gelen insanları ben biliyorum. Çünkü tüp bebek merkezinin şeylerini ben yapıyordum bilgi işlemde yazılımlarını ben yapıyordum, binlerce insan var. Yazık yani. O insanlar 3 kuruşu 5 kuruşu sağdan soldan tarlasını, altınlarını satıp geliyorlar. Çocuk özlemi için yanıyorlar, tutuşuyorlar ve hani imkanı yoksa bizim gibi, eşimin mesela çocuk barındırma şansını yok vücudunda. E ne yapacak çaresiz yani.

Similarly, Nurgül and Ahmet told me that people sell their house, cars and deal with that work and by that reason, which was an uncontrolled and exploiting sector. Ahmet emphasized again that if a person were in her/his milestones in her/his life, then s/he would ignore the money s/he spent. By saying so, he drew the attention to the exploiting character of the sector.

By their own words:

N: Besides, you know, once you are married, you spend for your child at most.

A: There are some milestones in our lives and one blows money at those milestones. People sell their house and home, cars and deal with this work. By that reason, this is an uncontrolled and exploiting sector. Of course, I believe that these works are being conducted in illicit ways here [in Turkey]. So, the reason of travelling abroad is that... you know, we believe that it is being made in a smoother and comfortable way there. Otherwise, I am sure, someone makes this work here.

N: Zaten evlendiğin için hani herşeyi harcarsın ya en fazla hani çocuğun için.

A: Hayatında önemli dönüm noktaları vardır, o dönüm noktalarında paraya hiç bakmazsın. İnsanlar evini barkını arabasını satıp bu işlere giriyorlar yani. Onun

için yani tamamen denetlenmeyen, insanları sömüren bir sektör yani. Tabii burda merdivenaltı olarak da yapıldığına inanıyorum ben bu işlerin. Yani yurtdışına gidilmesinin sebebi de şey, hani oralarda daha düzgün daha konforlu şekilde yapıldığına inanıyorsunuz yani. Yoksa burda eminim ki birileri bu işleri yapıyor yani.

Hale and her husband were some of those people who sold their house in order to be able to cover the expenses of IVF and oocyte donation trials. According to her calculation, 70 Thousand Turkish Liras went in total for these trials and practices.

The dialogue with Hale is given below:

H: 5 times 8 [is equal to] 40.. 40 [Thousand Turkish Liras] went to In-Vitro babies [trials]. Say 10 Thousand Turkish Liras for each [oocyte] donations... 3 times... I am sure about 70 000 TL went in total.

I: 10 thousand...okay. What about the travel expenses, hotel, etc. Did they host you, or did you cover all expenses?

H: No, dear. We cover everything.

I: Did you receive a loan or something like that?

H: No, we did not. We had a house.. it went, in fact. Now, when I think, we had sold that house before... That house was a small house in fact. We did not need to do something like that, I mean, we had never received a loan..

H: 5 kere 8 40 deseniz. Tüp bebeklere bir 40 gitmiştir. Donasyonlara da 10 ar bin lira deseniz üç kere; bir 70 000 TL falan gitmiştir herhalde eminim ki.

I: 10 bin peki, buna artı kalmak vesaire, siz oteldi falan. Ağırlandıyor musunuz, siz mi karşılıyorsunuz?

H: Yok canım biz herşeyi karşılıyoruz

I: Bu işlemler için kredi felan mı çektiniz?

H: Yok çekmedik, bir tane evimiz vardı, o gitti aslına bakarsanız. Şimdi düşünüyorum da, bir satmıştık o evi biz öncesinde. O ev.. yani küçük bir evdi gerçi, öyle bir şeye gerek kalmadı yani. Kredi çekmedik hiç..

Fatma was an interviewee who saved money for surrogacy. Although she was getting low income, she found herself successful about saving. In addition to these savings, it will be understood in the next sub-title that she had her mother's support to overcome with the high expenses of the treatments and surrogacy.

Fatma narrated her situation as follows:

F: It's as follows: I had some information on Georgia but they were just hearsay and I had no information on the legality of it [surrogacy] there. Since I don't know anyone around me, I mean. I visited a well-known person here. It was a place that established twenty years ago and had a high success rates. They told me that there is such a family who is interested in this issue and that it was confidential and got successful results and so on. And they added that it would, of course, require affordability. One visits her doctor [for IVF trials] regularly for 2-3 years. They tell her, and she look over it willy nilly. Then you make savings as you can from your minimum wages in the meantime by saying 'I have no choice'.

F: Şöyle oldu hani Gürcistan'da böyle kulaktan dolma bilgim vardı ama orda yasal olduğu falan o konuda hiçbir bilgim yoktu. Hani etrafta falan öyle biri olmadığı için. Burda ünlü birine gittim, başarı oranı çok yüksek olan ve yirmi senedir kurulu

olan bir yere gittim. Orda işte hani söylediler hani işte bu konuda şöyle bir aile olduğunu ama tabi gizli olduğunu işte başarılı sonuçlar da alındığını falan. Bir de tabi maddi durumun gerektiğini. Siz de hani 2-3 sene sürekli gidiyorsunuz, Hani söylüyorlar, siz de ister istemez biraz bakıyorsunuz. Yani 'başka çarem yok' diye biraz birikim yapıyorsunuz o arada, tabi asgari ücretle ne kadar yapabilirsem.

It is seen in this part of the material capability that ARTAP could hardly meet the expenses of assisted reproduction biotechnology trials. They had to sell their goods and use their savings for this aim since having a child through these technologies is very expensive.

Family contribution in covering surrogacy and IVF expenses are discussed in the light of the related findings in the next sub-topic.

4.10.2.4. Applying to families in covering surrogacy and IVF expenses

Some families had a considerable role in covering surrogacy and IVF expenses of ARTAP while some of them opposed to the idea entirely. Of course, there were some families, which had not been even informed about the processes in detail since the couple was afraid of being judged by them.

Not by giving directly cash money, some families supported their children in having baby(ies) by selling their goods and estates. Fatma told me about the support of her mother in detail. Again, it is known that ARTAP tend to sell their heritages (goods, lands, etc.) in addition to using their savings and estates. As an example of both emotional and material support, Fatma's case is important in this respect.

Fatma told me her mother's contribution to her surrogacy trials as follows:

I: Well.. I wonder how did you cope with covering [IVF trials and surrogacy] expenses?

F: Ee.. We have our own house. We have a house, and I started to visit my doctor after the first year [of our marriage]. Later on, I started to save money from my salary. I worked continuously; I had never stopped after the marriage. My husband was working as well. Afterwards, I had some savings, and golds. I invested them in the bank. After a while, I bought an estate. I mean, I have two estates. After selling them, I had an amount of money in the bank. Of course, my mother supports me in this issue since my father is not alive.

I: How much did you have to get support? Did you ask for a loan?

F: Yes, but not a loan. At the beginning, I had an estate... [in fact] my mother had it. She contributed me with 20 – 30 [Thousand Turkish Liras]. Yes.. My mother supported me at most.

I: Ee.. peki. Ekonomik olarak nasıl baş ettiniz acaba?

F: Ee.. şöyle bir şey, zaten ev bizimdi. Hani ev bizim olduğu için mesela ben bir sene sonra başladım hani doktora gitmeye. Ondan sonra işte maaşlarımdan biraz hani biriktirmeye başladım. Hiç durmadım evlendikten sonra, ben sürekli çalıştım. Zaten eşim de çalışıyordu. Sonra işte biraz birikim oldu işte, altınlarım oldu. Onları bankaya verdim, sonra işte arsa aldım. Şöyle arsalarım var işte iki tane, onları satıp da belirli bir miktar var işte bankada peşin olarak. Tabi annem de bana bu konuda hani yardımcı oluyor babam olmadığı için.

I: Ne kadar katkı almak durumunda kaldınız? Borç aldınız mı?

F: Borç tabi önce hani borç derken mesela benim kendim vardı hani annemin köyde arsası vardı, 20-30 o zaten bana katkıda bulundu annem. Hi hu.. annem zaten büyük bir bölümünü o destek oldu zaten.

Fatma's mother was an old woman who was living alone and possibly there was nobody who would judge her about this contribution. Moreover, this support was very important for having her grandchild/ren. It is seen that family contribution and cooperation are very important in having a child via assisted reproduction biotechnology services since the expenses of the services were very high.

As it is seen here, in addition to ARTAP, their families are not able to hold property, as well. Hence, a control of the prices of assisted reproduction services is important to make the sector stable respectively and to make ARTAP less vulnerable with respect to material conditions.

Another problematic issue under the material control capabilities section is given below: the right to employment of surrogate mothers.

4.10.2.5. Obstacles to the right to employment for surrogate mothers

Surrogate mothers are accepted as employed and they are expected not to work at any other place during the pregnancy. For this reason, they are paid (with a low amount of money) per month in order to support their nutrition. However, this payment is not enough for their living as a whole family.

My dialogue with Ayten about these monthly payments is given below:

I: Out of this [the sum of money], they rented a flat for you and they covered your catering separate from this total amount of money, didn't they?

A: Yes, 500 TL monthly for catering. During those 9 months.

I: As another payment?

A: It is separate from that 35 [thousand Turkish Liras].

I: Separate.. You mean they did not bring you catering, they transferred the money for that. Am I right?

A: Yes, they made food aid.

I: 500 TL monthly.. [Did it] Begin from the second month to the ninth month of the pregnancy?

A: No. They transferred the money from the beginning of the pregnancy.

I: Bunun dışında sana ev tutuldu vs değil mi? Aynı, hani para dışında yedirdiler içirdiler konusu ayrı değil mi?

A: Evet, aylık 500 tl gıda. 9 ay boyunca.

I: Ha o ayrıca..

A: O ayrı 35 ten ayrı o.

I: Ayrıca ha Size yiyecek getirmediler, para verdiler.

A: Evet gıda yardımı yaptılar.

I: 500 her ay. Bu baştan ikinci aydan 9 ay kadar.

A: Yok hamile kaldığım ay yolladılar.

It is seen here that the prospective family supports Ayten and her family during the pregnancy. However, Ayten told me that her husband did not work during her pregnancy. Then, I wanted to learn if Ayten could manage her money or not. It was obvious that all the family members waited for the sum of money, which would be given to Ayten after the birth. Ayten's answer relieved my mind partially because I remembered that not Ayten but Ayten's husband talked to me on the call for that interview.

As it is understood, Ayten and her family lived with that 500 TL per month, bought a car and repaired their house with the sum of money. However, Ayten and even her husband did not work since Ayten was pregnant and her husband had to look after her and their children.

The dialogue with Ayten on this issue is given below:

I: Well.. Excuse me for my question but did you had any... I am afraid your husband can hear [and angry with] me.. Did you had any initiative on that money? Or, I mean, did you say 'Here, it is yours'? Or, do you spend together?

A: My husband has a nature of not buying anything and not spending my money without asking me even if he works.

I: Well, then did you have initiative on that issue? I mean, do you have an idea for buying a house or buying a house with credit?

A: We earn a bare living with 500 Turkish Liras.

I: I don't mean that 500 Turkish Liras, I intended the sum of money you received.

A: Well, I restorated our house with that money.

I: Did not he [her husband] wanted you to save some of it?

A: No, we saved together with him. He don't spend a penny without asking me. He says 'that's your money.'

I: But you say that you are [spending] together and [money] goes. You had to live on and the money goes, am I right?

A: Yes, exactly. I don't think myself seperated [from the husband]. Anyway, the money blew on the house [restoration]. We bought a car. Afterwards, we sold it. And so the money finished.

I: But wasn't he avoid of working since you had been a surrogate mother?

A: Ah, no. Why did not he work? After getting pregnant, one should look after me until the lady comes.

I: I think you understood my worries, didn't you?

A: I understood your worries. [You think] If he trusted this [surrogacy] and did not work. I understood what you mean. I should not work during the pregnancy.

Moreover, [it is told me that] after coming back from the embryo transfer, I should never work following 12 days.

I: It think they should have covered it properly.

A: We had that 500 TL to live on. We lived with that 500 TL. However, someone should look after me until the lady comes. For example, my children were going to school.. [Moreover] my husband was going shopping.

I: Peki sorması ayıp senin o aldığıın para.. eşin duyacak diye de korkuyorum.. senin tasarrufun oldu mu; yani 'al bey' mi dedin? Birlikte mi harcıyorsunuz yoksa?

A: Eşimin şu huyu var çalıştığı zamanlarda da benden habersiz hiçbir şey almaz, benim paramı da harcamaz.

I: Ha, yani senin tasarrufun var mı orda? Yani ev alalım, eve girelim fikri senden mi çıkar?

A: O para zaten o 500 tl anca boğazımıza yetiyor.

I: Şey 500 hani, toplu aldığıın paralarla ilgili..

A: Ha toplu aldığıın paralarla evi yaptırdım.

I: Al hanım, falan olmadı mı, şunu sen sakla?

A: Yok zaten birlikte sakladık. Benden habersiz 5 kuruş harcamaz. O senin parandır der.

I: Ama zaten diyorsun ki müşterek, zaten gidiyor, zaten geçinmemiz gerekiyor ve gidiyor.

A: Evet, aynen. Bende ayrı gayrı yoktur. Zaten eve gitti aldığıımız para. Bir araba aldık. Sonra geri sattık. Öylelikle bitti para.

I: Ama sen, onu yaptın diye o da çalışmaktan kaçmadı değil mi?

A: Yok, yok. O sadece nasıl çalışmadı? Yok hamile kaldıktan sonra bana birisi i bakmak zorunda bayan gelene kadar.

I: Sen endişemi anladın değil mi?

A: Anladım endişenizi, O acaba buna güvenip çalışmadı mı? Anladım demek istediğinizi. Ben hamileyken benim iş yapmamam lazım. Bir de transferden geldikten sonra ben 12 gün boyunca iş yapmayacaktım.

I: Onu da bir şekilde tazmin etmeleri gerekiyordu aslında..

A: O 500 tl ile geçindik. O 500 tl ile geçindik biz. Ama birisi bana bakmak zorundaydı bayan gelene kadar. Mesela çocuklarım okula gidiyordu, Pazar işini eşim yapıyordu market işini.

As it is seen in the dialogue above, having the right to employment for surrogate mothers and their family members are problematic with some respects. Moreover, surrogate mothers may have some worries about their social environment with respect to that monthly payment.

Ayten told me about that payment and the risks of being noticed by her relatives and environment as follows:

There, it [the money] has been transferred from the Internet cafes in Germany. I don't know, she said 'I am making the money transferred from the Internet cafes'. She was bad in Internet works. Sometimes, I was getting [the money] from the post office, and sometimes from the bank not to attract attention. I mean, I was afraid of postal clerk if he asked where that regular money come from.

Burada, internet kafelerden yollanıyormuş Almanya'da.. Bilmiyorum, 'internet kafeden yollatıyorum' diyordu. O anlamazdı öyle internet işinden. Ya bazen şeyden alıyordum postaneden, bazen bankadan alıyordum dikkat çekmemek için. Yani postaneci de demesin bu her ay her ay nerden geliyor bu para diye..

After getting these answers, the question is asked if surrogate mothers could live on their surrogacies in their lives. The final item in the problems concerning material control over one's environment is discussed as follows to answer this question.

4.10.2.6. Is making a living by surrogacy/ oocyte donation possible?

Ayten told me that it was not difficult for IVF Centers to find surrogate mothers and there are many women who want to be surrogate mothers. However, she added that she would not like to be a surrogate mother again.

Our dialogue with Ayten is given below:

I: Do you think that it is difficult for them [IVF Centers] to find surrogate mothers?

A: Not difficult, everyone is being surrogate mother. I read the announcements sometimes. Too much people do it. [For example,] A woman at the age of 38 is a surrogate mother.

I: I mean, a woman told me that she did it [the surrogacy] for the first and last time. Possibly, she told me so because she did not want to give information. However, I understood that there is another group of women who did this for the first and last time. I mean there may be other group who does it continuously..

A: Yes, there is.

I: I could not understand well..

A: There are women who say 'I did it [surrogacy] and I want to do it again'. There are someone who do like that. I don't think for the moment. Ya, of course, I can do it once again if a proper place [people] asks for it. But again, I don't suppose to do.

I: Peki zor mu buluyorlar sence? Taşıyıcı anne zor mu buluyorlar?

A: Zor değil, şimdi herkes taşıyıcı annelik yapıyor. Ben ilanları bazen okuyorum çok kişiler yapıyor sonuçta yani bir bayan kaç yaşında 38 yaşında taşıyıcı annelik yapıyor.

I: Şey yani bir kişi.. bir kez yaptım ben daha yapmıyorum. Bilgi vermek istemediği için böyle söyledi ama yani hayatında hani bir kez yapanlar ayrı bir grup sanki. Hani bunu sürekli yapan da olabilir sanki..

A: Evet var.

I: Anlayamadım ben de..

A: Yapan var, ha bir kere yaptım mı ben bir daha yapmak istiyorum. Öyle yapan var. Ben şimdilik düşünmüyorum. Ha baktım böyle temiz, sağlam bir yer olursa bir kere yaparım ama zannetmiyorum yapacağımı.

Elene, the Georgian surrogate mother was thinking similar with Ayten. She told me that she also had the right to speak on the sum of money, which she would get at the end of her surrogacy, and she would not think to be a surrogate mother again. Elene, like Ayten, was not employed in a job during the pregnancy. When I asked her if she was much more worried about the baby, I learnt that she was. She was worried more than her own pregnancies.

In the dialogue below, it is seen that Elene also had some plans on her house and child with the sum of money she would get at the end of that pregnancy.

My dialogue with her is below:

E: Of course, I give my own decisions and follow where the money at home goes. Besides, I want to spend it for my house, and my child. I have a plan to enlarge the rooms of our house. I am planning that. We don't have any problem in making a living.

I: Do you plan to work?

E: I don't think before the birth but after that, of course I plan.

I: Do you intend to be a surrogate mother again?

E: No, I don't think to do this again. I intend to work in other fields.

E: Tabi kendim kararlarımı verip evdeki paranın nereye gittiğini takip ediyorum. Zaten evime harcamak istiyorum, çocuğuma ve evin odalarını büyütme planım var. Onu düşünüyorum. Geçinmeyle de ilgili bir sorunumuz yok.

I: Çalışmayı düşünüyor musunuz?

E: Doğumdan önce düşünmüyorum sonra tabi düşünüyorum.

I: Yeniden taşıyıcı annelik yapmayı düşünüyor musunuz?

E: Hayır, bir daha taşıyıcı olmayı düşünmüyorum. Başka alanlarda çalışmayı düşünüyorum.

In this sub-section, problems towards 'costliness and disparities in informal economy of assisted reproduction technologies,' 'disinformation, perplexity in the payments of ARTAP,' 'not being able to hold property,' 'family contribution in covering surrogacy and IVF expenses,' and 'not having the right to employment for surrogate mothers' have been discussed with respect to the loss of material control of ARTAP over their environments.

Altruistic donations and surrogacy alternatives could be suggested for these expensive services. The shares of surrogate mothers and oocyte donors' payments are seen as respectively small when they are compared with the share of IVF Centers. Then, the governments and social insurances can cover these high expenses in order to make all ARTAP have equal access to these services.

I would like to learn if oocyte donors were donating their oocytes regularly or occasionally and in return for how much money. Ayten told me that they were regular donors of specific IVF Centers and they donated their oocytes in return for 1000 TL. And she added that they are trying to get their allowances or rent allowances by those donations.

Ayten and my dialogue related to oocyte donors is below:

A: Because they [IVF Centers] have already oocytes in their hands. For example a family told me so... The freeze and keep [the oocytes]. University students donate their oocytes in return for an allowance. I met [with an oocyte donor] there. She was from Ankara and a student at a university. [She told me that] she donated her eggs in return for 1000 TL.

I: Really? I mean, they undergo anesthesia and get hormone too much.

A: Yes, I heard that collecting oocytes was very difficult. I had never done it... There are many people who do it. There was a woman who told me about her friend who donated her oocytes bimonthly, yes bimonthly. What will be later on? She will not be able to have her own child.

I: It [donating oocytes] has too complications. I mean, seriously...

A: It may result in ovarian cancer in the end.

I: They [embryologists] don't warn about this, do they?

A: It suits the Centers' interests in the end.

I: Moreover, the same center collects it [oocytes from the same woman], does not it?

A: Yes.

I: Then, the Center does not remind the woman about her recent oocyte donation, does it?

A: No. That is no concern of the center. The center earns money at the end, I mean. The university students donate [their oocytes] in order to get an allowance or their rent allowance.

A: *Çünkü ellerinde hazır yumurta oluyor onların. Mesela bir aile aradı.. Donduruyorlar, ellerinde bulunduyorlar ve üniversite öğrencileri harçlık niyetine yumurta veriyorlar orda. Ben orda tanıştım. O da üniversitede, Ankara'lıymış. 1000 TL'ye veriyorlarmış.*

I: *Öyle mi? Yani hem anestezi altında hem o kadar hormon alıyorlar.*

A: *Evet, yumurta toplamak çok zor diyorlar. Ben hiç şey yapmadım da.. Yapan çok. Bir bayan vardı, arkadaşını anlattı. O hemen hemen iki ayda bir yumurta veriyormuş, iki ayda bir.. O ne olacak ileride kendi çocuğu olmayacak.*

I: *Komplikasyonları çok yüksek. Yani.. ciddi anlamda..*

A: *Yumurtalık kanserine neden olabilir sonuçta..*

I: *Hiç uyarıyorlar.. Değil mi?*

A: *Hastanenin işine geliyor sonuçta.*

I: *Hatta aynı hastane alıyor.*

A: *Evet.*

I: *Yani.. ya hastane bir iki ay önce sizden almıştı demiyor yani öyle mi?*

A: *Yok, hastaneye göre ne var, hastane para kazanıyor sonuçta yani. Ya orda ev kiralarını harçlıklarını çıkartmak için veriyorlar üniversite öğrencileri.*

Being a regular oocyte donor has many disadvantages with respect to hormones and drugs, which are taken during the ovulation process. Since women have a certain number of oocyte in their lives, their oocytes in their oocyte reserves are decreasing by each oocyte donation. Moreover, since they are injected by hormones to make them ovulated more than one oocyte at once, the infertility risk is the most common complication which is seen among oocyte donors.

Again, it is told me that oocyte donors tend to donate their oocytes more than once in her life while surrogate mothers may prefer to experience generally one surrogacy in their lives. Here are the statements of oocyte donors about the frequency

of their oocyte donations. First statement belongs to Elif. She had donated her oocytes three times until now.

Elif told me her donation frequency as follows:

E: I am an undergraduate student, a senior one. I did this work, I mean, this thing one and a half year before for the first time. I did it four times, three times in total anyway. Nowadays, I will do it one more time, it will be four.

E: *Lisans okuyorum, son sınıfım. Bu işi de yani bunu da ilk defa bir buçuk yıl kadar önce, hatta iki yıl önce yaptırđım ilk defa. Zaten toplam dört defa, üç defa yaptırđım toplam. Şimdi bir kez daha yaptıracağım, dört olacak.*

As it is seen in the quotation above, Elif avoids of attributing donation as a “work.” Besides, she donated her oocytes 3 times in one and half a year. Not similar with Elif, Sevgi admitted that she donated her oocytes 8-9 times in two years. Sevgi is a regular oocyte donor when she is compared with Elif, respectively.

With Sevgi’s words, the frequency of her oocyte donations is given as follows:

I: *How many times did you donate your oocytes?*

S: *I can’t count [laughs]. Since 2016.. About 8-9 times, I think.*

I: *Kaç kere yumurta verdiniz?*

S: *Saymam ki [gülüşmeler]. 2016’dan beri. Bir 8-9 var yani.*

Sevgi emphasized another issue that affects the payments for oocyte donation: it is the color of donor. Since blonde and blue-eyed women are unique, and so it is difficult to find them, IVF Centers generally pay them higher amounts of money than the others with usual color of skin and eyes. However, this deduction may not always follow this path if the quality of oocytes were not good as they were expected.

Sevgi phrased this difference and higher payments to her as follows:

S: ...We are not equal. Because, for example one of my friends is blonde, and blue eyed. [But] she received less than me. I mean, it depends on the health. Moreover, the previous place that I did it [donation] a lot of times, was paying me higher because of our sincerity. I mean, for example, I was telling them that I need it [money] very very much. Really, there were times when I couldn’t pay the rent [of her flat], no lie; or when I blowed the money which was transferred by my family. I mean, I told them, I told them that I need it for this and this. If I come, what do you think about minimum this amount, and so on. She was telling me the same thing: if it is found qualified, I will try to give you my best. However, if it is found bad, she never gives you the highest amount of course.

S: *... eşit değiliz. Çünkü benim arkadaşım mesela sarışın, mavi gözlü. O benden daha az aldı. Yani sağlığına bağlı. Bir de daha önce o çok yaptırđığım yerde biraz samimiyetimiz olduđu için biraz bana hep yüksek de verirdi. Yani şöyle birşey derdim mesela: abla böyle böyle çok ihtiyacım var. Gerçekten kiramı ödeyemediğim zaman oldu, yalan yok. Parayı yediğim, ailemden gelen parayı yediğim. Hani söyledim, dedim ki böyle böyle ihtiyacım var. Hani gelsem hani minimum şu kadar*

sence nasıl olur falan. O da hep şey derdi bana: iyi çıksın ben elimden gelenin en iyisini vermeye çalışırım. Ama kötü çıktığında da sana kalkıp en yüksek miktarı vermez yani.

The character of the relationship is also important in being rated in oocyte donation as it is seen above. Sevgi admitted that she needed money for paying her rent and could get higher amount of money then. Moreover, she could bargain on the amount sometimes. But as it is understood from the interview with Sevgi, she could be seen as a regular oocyte donor by regarding her donation frequency. Again, it cannot be argued that she made a living by oocyte donation since she will get graduated next year. It is a kind of periodical work for her. But she told me that she could buy a car and live without asking her family's regular help anymore.

As it is seen in this subsection, surrogate mothers and oocyte donors tend to work for ARTs only for a period of time. While surrogate mothers are not willing to do it again again, oocyte donors tend to do it in a more regular way in their lives. They generally aim at being materially supported in a period of time of their lives rather than regarding it as a regular work. Again, it is understood here that ARTAP are coming face to face with various constraints during these reproductive processes.

Here is a table in which the constraints concerning the capability of controlling one's environment materially were listed:

Table 14.

Constraints concerning the capability of controlling one's environment materially

Capability	Constraints
The Capability of Controlling one's Environment - Materially	1. Costliness and disparities in informal economy of assisted reproduction technologies
	2. Disinformation, perplexity in the payments of ARTAP
	3. Not being able to hold property
	4. Applying to families in covering surrogacy and IVF expenses
	5. Obstacles to the right to employment for surrogate mothers
	1. Is making a living by surrogacy/oocyte donation possible?

Controlling one's Environment is the final capability in Nussbaum's Ten Capabilities List. The constraints concerning this capability of ARTAP were discussed both from political and material aspects. It is found that these expensive services and perplexities in payments make it difficult to trust the sector. In spite of these problems in the sector, all parties of ARTAP tend to be the beneficiary of it with the same reasons: having child/ren or getting money. Besides, it is seen that nearly all parties of ARTAP had adopted these uncertainties and perplexities.

All these capabilities and constraints towards these human capabilities summarized and interpreted in the light of the research question in the 'Result' topic. However, before the results, a learning outcome from the qualitative research of this dissertation should take its place here.

CHAPTER 5

CONCLUSIONS AND POLICY RECOMMENDATIONS

5.1. Conclusions Derived from the Findings

When the question is asked if the applications in reproductive biotechnology give any harm to human life, rights and dignity; from the viewpoint of Nussbaum and her capabilities approach, this question would be answered positively. However, in spite of these harms, the results showed that ARTAP do not claim their rights in any domain. Moreover, since ARTs including third parties are banned in Turkey, ARTAP is unable to claim their rights in positive law.

My research question and problem to be investigated here was stated as “which legal and social problems do occur related to reproductive biotechnology applications with respect to the rights of special human groups whose bodies and organs are negatively affected by these applications?” The group, which was referred in this research question, was stated as ARTAP in this dissertation. While discussing the rights of ARTAP, it is aimed at discussing:

- The rights of oocyte donors
- The rights of surrogate mothers
- The rights of parents
- The rights of unborn
- The rights of next generations

These groups’ rights and constraints in their ART practices were highlighted and discussed in scope of capabilities approach. It is argued here that positive law would not be sufficient in overcoming certain social and problems/ constraints in human capabilities which were created by assisted reproductive biotechnology. Hence another and broader law or set of rules should be offered to the literature such as human rights. Especially the rights of unborn are sensitive in this respect.

Reproductive biotechnology market grows at the expense of human rights in many ways. In the theoretical framework and qualitative research methodology of

this dissertation, these ways were described in scope of human capabilities developed by Nussbaum.

The possibility of determining the borders in the use of reproductive biotechnology services in a secure environment for its citizens is blurred. It is seen that in order to increase the pregnancy possibility, reproductive biotechnology can use extra hormones, drugs, embryos and even bodies. These uncontrolled practices of ARTs takes the borders of these services for its citizens blurred and inhumane levels.

Over such blurrifications, a reassessment of reproductive biotechnology was made and the scope of human rights was extended via capabilities approach. The recent ethical discussions about the controversial decision processes in assisted reproductive biotechnology including third parties were regarded in this issue. By the reassessment of reproductive biotechnology, some results and policy recommendations were constituted and summarized in what follows.

A list of the results of the findings of this study are given as follows:

First of all, there is an important deficiency in the information, which was shared with ARTAP on their reproduction processes. By knowing a little about the important details of reproductive processes that ARTAP involved, the disinformation asserted itself obvious in the interviews. Disinformation is seen in all stages of assisted reproduction process, which is also related to all of the human capabilities including the capability of life. In this findings section, multiple pregnancies, abortion and redundant embryos are found as some problematic areas for ARTAP with respect to both mother and the embryo.

Secondly, some ARTAP's contracts with IVF Centers on their reproduction processes have some constraints and problems. However, Making contracts cannot save these people in many cases because of specific deficiencies in the information, namely "disinformation" in these contracts. Since ARTAP cannot claim their rights in any other country, those contracts/ or agreements are regarded as invalid for many cases. Moreover, only the client and the authority in the IVF Center sign these contracts in a donation process; not the side of oocyte donor. While surrogate mothers in Cyprus do not sign any contract or documentation, surrogate mothers in Georgia sign a contract with the IVF Center. Oocyte donors sign only a consent form for undergoing anesthesia.

Disinformation about the contracts are accompanied by other constraints including the fields related to the capability of bodily health; such as: caesarean births, unsuccessful pregnancy trials on different surrogate mothers, miscarriages of surrogate mothers because of genetic materials, giving drugs and hormone to more than one donor for ‘just in case’ practices and inadequate nourishment.

Assisted reproductive technologies including third parties violate especially oocyte donors’ and surrogate mothers’ capability of bodily health by drugs, hormones, anesthesia and abortions. The payments cannot compensate these violations especially for the situations without consent. Human factor is generally forgotten in these cases. As it was stated above, the capability of bodily health also refers to “be adequately nourished,” which has an importance in the pregnancy period at most. However, some constraints related to *be adequately nourished* were stated by one of the surrogate mothers in this dissertation and some suggestions towards this constraint were highlighted.

Thirdly, the capability of bodily integrity referred to some constraints such as *surrogate mothers’ abortion* on the prospective parents’ requests, *reproductive tourism*, and *travelling* in order to avoid social pressure in this dissertation. Since IVF treatments including third parties are banned in Turkey, ARTAP have been entirely vulnerable if they were included in these practices in Turkey. Again, in the interviews with ARTAP it was seen that they could find some ways of accessing ARTs abroad. As a result of it, ARTAP are forced to travel abroad in order to have access to ARTs including third parties. These restrictions obviously contributed to the expansion and legitimization of reproductive tourism.

Not only in accessing the technology but also in struggling with social pressure, *being forced to move from one place to another* was seen as another constraint related to the capability of bodily integrity. Many people in ARTAP have some problems in struggling with social pressure during their reproductive process. In other words, rather than struggling with it, ARTAP tended to get avoid of social pressure in general: All ARTAP - including surrogate mothers who carry other women’s babies; women who role play since they want to be seen and treated as they were pregnant during the surrogacy process; oocyte donors who hide hormone

injections and women who do not tell the truth - are being forced to move from one place to another to avoid the judgements of their social environments.

Fear of judgement creates an escaping behaviour in general, too. Fourthly, as the constraints related to the capability of senses, imagination and thought; ARTAP feel worry and distrust, anxiousness, suspicion towards IVF centers and other ARTAP; women who could not have their own children question their femininity in that process, nearly all ARTAP have the fear of incestuous relationships and marriages among siblings, and suffer from social pressure with some respects; so that they may develop some reactions and solutions against social pressure. According to the *capability of senses, imagination and thought*, all these feelings and thoughts should be experienced and expressed by the human. However, it is seen that ARTAP could not share their senses and thoughts in order to avoid of humiliation. Capability of senses, imagination and thought could be performed only through the free expression of feelings. Again, it is obvious that there is a deficiency in ARTAP's expression of feelings.

Again under this title, ARTAP stated that they had developed some reactions and solutions against social pressure. In this dissertation scope, *the pastor* referred to hodjas, healers, imams and religious authorities, Dede (Alawite Grandfather), or Ebe (Accoucheuse) and others all together. People still tend to apply for these people for their reproductive treatments. Or they may apply for concubine rather than these technologies. Or, ARTAP may tend to have imam wedding with their surrogate mothers/or oocyte donors in order to justify their reproductive practice religiously.

Fifthly, as it is seen in this dissertation, capability of emotions includes the fears and worries of human being including ARTAP. Social pressure again shows itself in creating constraints towards this capability. For example, attachment was shown as an important issue which ARTAP are afraid of and prefer the short-term relationships with other ARTAP in their reproductive processes. ARTAP cannot built relationships in and out side of this group since they afraid of getting any kind of harm. In parallel with Nussbaum, 'emotions contain a road-map of what we think important to our well-being and thus contain values in that sense' (Malvestiti, 2015). Nussbaum explains emotions as determinants of the avoidance from danger with some respects. As they were seen in this dissertation, ARTAP had developed some

hidden fears and anxieties towards IVF Centers and other ARTAP: for example towards *surrogate mothers' expectations* in the surrogacy period from the families or towards the possible *attachment of surrogate mothers*. However, according to Nussbaum, “sometimes our feels are mistaken;” an example of this mistake is seen in ARTAP’s statements on justifying disattachment by making an analogy between oocyte donation and living organ donation. ARTAP were repressed into the confusion in the issues related to ARTs including third parties and thus, their feels could be mistaken. Another mistaken feel of ARTAP directed them and made them giving some decisions on behalf of other ARTAP and their prospective children by not giving them the right to truth: *parrēssia*. Discussions towards disinformation and modern dominium were conducted towards this problem and concept of Foucault⁵⁶.

It was also evaluated and discussed in this dissertation what the main motivations were regarded in surrogacy and oocyte donation and what they should be: instrumental or altruistic. In parallel with the direction of the rest of the world, altruistic donation and surrogacy were favored. Because of the problems and current ban on the altruistic donation and surrogacy, some other alternatives were discussed and suggested in the ‘Policy Recommendations’ section of this dissertation.

⁵⁶ One of the original meanings of *parrēssia* is to “say everything,” but in fact it is much more frequently translated as free-spokenness (*franc-parler*), free speech, etcetera (Foucault, 2010: 43). The discussion concerning this concept was conducted in the related Findings and Discussion section: “Constraints concerning the Capability of Emotions and ARTAP” of this dissertation.

Table 15.

Constraints concerning human capabilities of ARTAP

<i>Human Capabilities</i>	<i>Constraints</i>
1. <i>Life</i>	a. Multiple pregnancies b. Redundant embryos and abortion c. Disinformation
2. <i>Bodily Health</i>	a. Anesthesia b. Caesarean births c. Unsuccessful pregnancy trials on (and giving hormones to) different surrogate mothers d. Miscarriages of surrogate mothers because of genetic materials e. Giving drugs and hormone to more than one donor for 'Just in case' practices f. Disinformation g. Problems in adequate nourishment
3. <i>Bodily integrity</i>	a. Reproductive Tourism b. Moving from one place to another because of 'Social pressure' c. Surrogate mothers' abortion
4. <i>Senses, Imagination, and Thought</i>	a. Worries and distrust b. Anxiousness c. Suspicion d. Questioning of femininity e. The fear of incestuous relationships and marriages among siblings f. Social pressure g. ARTAP's reactions and solutions against social pressure
5. <i>Emotions</i>	a. Hidden fears and anxieties b. Surrogate mothers' expectations from the families c. Not giving the right to the attachment of surrogate mothers d. Motivation: Instrumental or altruistic e. Not having the right to truth: <i>parrēssia</i> f. Justifying disattachment - by making an analogy between oocyte donation and living organ donation

Table 15.

(Continued)

6. <i>Practical Reason</i>	<ul style="list-style-type: none"> a. Compensation of capabilities b. Accepting surrogacy as a ‘good deal’ or ‘work’ c. Proximity among ARTAP d. Contracts & Legality of the Contracts e. Question of ‘good of each and every human being’ f. Question of ‘family as private spheres’ g. Question of ‘<i>right to choose</i>’
7. <i>Affiliation</i>	<ul style="list-style-type: none"> a. Friends as learning environment b. Not being a part of ARTAP as a friend and/or sister in a reproduction process: A problem concerning “instrumentalism” vice versa “altruism” c. Friends’ judgements d. An intimacy problem - concerning social and biological/ genetic mothers: Surrogate mothers want to be friends, at least during the pregnancy e. Unfriendly approaches to oocyte donors f. Doing something religiously unfavorable g. Afraid of revealing and /or role playing to avoid of social pressure and humiliation h. Exclusion among surrogate mothers – married versus widow surrogate mothers, regardful versus careless surrogate mothers- and; Exclusion among oocyte donors – according to the number and quality of the oocytes
8. <i>Other Species</i>	<ul style="list-style-type: none"> a. Obstacles in breastfeeding b. Obstacles in adoption
9. <i>Play</i>	<ul style="list-style-type: none"> a. Overreaction b. Sensitiveness
10. <i>Control over One’s Environment</i>	<ul style="list-style-type: none"> a. General mobbing on gender discrimination in workplaces b. Legal barriers in consulting Turkish doctors c. Presenting social mother’s identity card for surrogacy births in Turkey d. Being obliged to reproductive tourism and mediators e. Legal responsibilities of foreigners and citizens in agreements abroad f. Deficiencies in agreements/ lack of agreements g. Weakness of ARTAP in case of legal problems h. Costliness and disparities in informal economy of assisted reproduction technologies i. Disinformation, perplexity in the payments of ARTAP j. Not being able to hold property (such as not being able to save their money, land or movable goods since assisted reproductive services were very expensive) k. Applying to families in covering surrogacy and IVF expenses l. Obstacles to the right to employment for surrogate mothers m. Is making a living by surrogacy/ oocyte donation possible?

Sixthly, the capability of practical reason was discussed with respect to the *compensation of capabilities, acceptance of surrogacy as a ‘good deal’ or ‘work,’ proximity among ARTAP, and legality of the contracts* including the *question of*

'good of each and every human being,' the question of 'family as private spheres' and the question of 'right to choose.'

While some of ARTAP were regarding oocyte donation and/ or surrogacy as 'deals' or 'works,' some of them were accepting it as a 'gift' or 'a favor' which were done for the other women who were not able to have children. However, both approaches are agreed upon the compensation of their capabilities with money viceversa child/ren. To remind, it should take place here again that Nussbaum was objected to the compensation of human capabilities since each human should have its unique human capabilities.

In spite of this compensation or deal, it is found that ARTAP generally, do not want to see each other after the birth – except the child/ren (since nobody knows what the child/ren would like to do in the future) in order to avoid attachment. Moreover, many of them regard the distance between them as an advantage in the avoidance of possible incestuous relationships between the stepsiblings. Only the proximity (for solidarity) between the surrogate mother and prospective mother during the pregnancy is intended by the surrogate mothers.

The legality of the contracts are examined finally under this capability in order to see if these contracts were saving all ARTAP from various punishments. However, these contracts were valid and dissuasive only for the citizens of a country. Namely, Turkish ARTAP were again vulnerable in their problems with ARTs abroad.

Seventhly, the constraints in front of the capability of affiliation are referred and discussed as other findings of this dissertation. ARTAP attach strategic and great importance to *affiliation* in each stage of their assisted reproduction process. Friendships are regarded as some ways of learning environment. Nearly all Turkish and Georgian ARTAP stated that they had *learnt surrogacy and oocyte donation from their friends*. However, again nearly all ARTAP expressed that they *would not like to be the part of ARTAP as friends and/or sisters* in reproduction processes. These attitudes of ARTAP were discussed as a problem in front of *altruistic oocyte donation and surrogacy* in this dissertation. ARTAP obviously want the support of their friends and relatives but do not want their friends' direct roles in their reproduction processes. Rather, ARTAP prefer unfamiliar's reproductive material in

their IVF process. However, not knowing generally result in some prejudices especially against the most unknown ARTAP: oocyte donors. These prejudices include unfriendly approaches to oocyte donors.

Some ARTAP were afraid of *doing something religiously unfavorable* while some of them do not care religious approval in their reproductive process anymore. In addition to this, ARTAP are afraid of revealing and most of them are role playing to avoid social pressure and humiliation for their illicit roles in reproductive processes.

There were two other important explorations in the findings of this dissertation; they are: 1. Exclusion among surrogate mothers, and 2. Exclusion among oocyte donors. The first exclusion refers to the exclusion of widow surrogate mothers by married ones; and to the exclusion of regardful surrogate mothers versus careless surrogate mothers. In the second one, the exclusion refers to the oocyte donors' different attitudes towards each other on the number and quality of their oocytes. These exclusions were mainly based on the differences between women and showed that there were a comparison and a kind of competition among the micro-power relations of oocyte donors and surrogate mothers.

Eighthly, the findings of this dissertation demonstrated two constraints in the capability of living with other species of ARTAP. The unborn and the children were regarded as "other species" and some rejections for *breastfeeding* surrogate mothers and some difficulties in the procedures of *adoption* in Turkey were found and discussed in this dissertation. Since waiting lists of adoption was very long in spite of the high numbers of waiting children in the Society for The Protection of Children, an update in the regulation is again highlighted in this section.

However, breastfeeding issue is directly linked to the attachment of surrogate mother and is not welcome by social/ or genetic mothers. In this dissertation, I have accepted breastfeeding as the human right to food and nutrition of the newborn; and according to this approach, it should be given all newborns without any reservation.

Ninthly, there were traumas in ARTAP's reproduction practices which created two constraints towards the capability of play. These constraints are; sensitiveness and overreaction - as a result of sensitiveness. It is seen that ARTAP had difficulties in adapting to the outer world with their child/ren easily. Besides,

they are so sensitive that they cannot even tolerate jokes on their children and take them seriously.

Tenthly, the constraints towards *the capability of control over one's environment* are seen throughout the practices of ARTAP. Nussbaum divided this capability into two subtitles, which are political and material. Under the political subtitle, *general mobbing on gender discrimination in workplaces and legal barriers in consulting Turkish doctors* are discussed firstly. These problems lead ARTAP to apply for illicit ways to get access to assisted reproduction. For example, ARTAP who want to give a birth to a baby in Turkey had to *present social/ or genetic mother's identity card for surrogacy births*; or ARTAP who do not want to take the risk in Turkey are *obliged to reproductive tourism and mediators*. Moreover, it is seen that legal responsibilities of foreigners and citizens' role in agreements abroad are completely weak and meaningless. The agreements between IVF Centers and families have deficiencies in necessary information or there is the lack of agreements especially for surrogate mothers and/ or oocyte donors. These political constraints create the weakness and vulnerability of ARTAP against legal institutions and practices.

In the *material* side of this capability, it is found that *costliness and disparities in the informal economy of assisted reproduction technologies* created some constraints in the material control of ARTAP. *Disinformation, perplexity in the payments of ARTAP, and not being able to hold property* are stated in the interviews with ARTAP as some of these constraints. In addition to not being able to hold property because of the high rates in ARTs, many ARTAP *applied for their families* in covering the expenses of surrogacy and IVF treatments.

Specifically for the employment of surrogate mothers and oocyte donors, it is seen that there were some obstacles. While being unemployed and need for money motivated oocyte donors for donation; in addition to these motivations, being pregnant kept surrogate mothers from being employed during the pregnancy. Oocyte donors explained that they applied for oocyte donation since they were unable to work periodically as an undergraduate student.

Finally in this subsection, it is asked if *making a living by surrogacy/ oocyte donation was possible* or not. As an answer of this question, it is observed that

surrogate mothers tended to do this practice generally once and last time in their lives while oocyte donors tend to donate their oocytes more than once. But again, while the burden of their work is taken into account, they can be seen as similar and equal with some respects. However, both groups avoid performing this practice throughout their lives. Besides, it is impossible to donate oocytes throughout the life for a woman since oocytes are finite. Again, they let the reproductive technology to intervene in their lives for only a period of time, for example during a pregnancy (nine months) or an undergraduate study (four years).

The overall conclusions derived from the analysis of these findings are:

- Social pressure has an important role concerning human reproduction,
- Disinformation and perplexity problems in both health and material issues may occur according to the relationships with the staff of IVF Centers,
- A new informal and illegal assisted reproduction sector occurred in Turkey,
- Restrictions have a direct role in reproductive tourism and indirect role in being included in illicit reproductive processes.
- Human capabilities of ARTAP are violated in many ways. These violations need a specific attention in practice.

After summarizing the findings of this dissertation, *Human Rights Domain for ARTAP* is highlighted as the result before moving to the policy recommendations.

Result: Human Rights Domain for ARTAP

Reproduction is seen at the center of some of people. It should be difficult to survive a marriage as a couple for them. For this reason, they tend to have child(ren) at the beginning of their marriages. Moreover, they are expected to have children by their families and environment. Women were possibly told of being a good housewife and mother, while the men were told and encouraged by masculinity. In fact, the function of their marriages was socially constructed as continuing their bloodlines, families, and surnames. Moreover, Turkey is a conservative country where social pressure was seen in this private issue, as well. However, what do people do when they are unable to have a child? Should they accept and live with

their infertility or look for alternative ways of having a child to fit in their social roles and gain respectability?

This dissertation investigated the people who looked for ARTs including third parties as the alternative ways of having a child. They were named as *ARTAP* and told the researcher their experiences with ARTs. It is found that they had various problems and constraints with respect human development approach.

However, a remarkable demand for ARTs including third parties is seen in this Turkish case and dissertation as well. Despite the limited number of interviews, these statements are enough to make the researcher and the politicians convinced about the presence of such demand and lack of control in the sector. The ban on the ART practices including third parties did not prevent *ARTAP* from accessing their babies via these technologies; rather, this ban, the famous political discourse concerning the encouragement of reproduction, and social pressure together, contributed to the right violations of *ARTAP* in their illicit efforts in the sector directly or indirectly:

ARTAP had to apply for numerous IVF treatments, had to spend too much money and had to get too much hormones. After getting negative results some of them applied for non-sensical ways, religious hodjas, or healers and lost time, money and hopes again. Finally, they heard about surrogacy or oocyte donation and learnt that it was banned in their country. Again, some of them who could afford to get that treatment abroad had been a member of *ARTAP*. They could have their baby/ies via ARTs and *other people's* bodies or oocytes or all of them.

Other people in *ARTAP* are especially special in this dissertation since they give consent for those technological interventions to their bodies in return for an amount of money. Oocyte donors should be young and are chosen from women who are not virgin. To avoid from social pressure, university students who live far away from their families, can prefer to be oocyte donors. They are injected hormones and getting sedations for each oocyte collection operation. Moreover, they are afraid of not having their children in the future as an adverse effect of these collections. Surrogate mothers can be at any age. Since some of them have their own chil/ren they need the money for their education or future. They tend to move from their neighborhood for the last period of pregnancy. They are more willing to breastfeed

and see the child/ or photographs afterwards but the families do not let it. The oocyte donors do not even think about seeing the child/ren since they are afraid of getting an emotional link between them.

In this dissertation, all the participants of ARTAP were represented and it is seen that all their responsibilities and positions in the reproduction process were not easy to overcome. In addition to their difficult roles, they experience unjust practices and violations in these trials and treatments. Turkish ARTAP do not sign any contract and they are completely vulnerable in these processes. Moreover, Turkish government rejects to legalize and control these practices.

Turkish government had just expanded (by 09.11.2018) the ban on assisted reproductive technology practices including third parties in Turkey⁵⁷. This comprehensive regulation includes the serious judgments of both ARTAP and their health professionals who direct them abroad. Besides, religious authorities in Turkey support neither adoption nor surrogacy or oocyte/ sperm donation. They justify their objection by their argument on the possibility of a religiously permissible marriage of that child and a member of that family including the social mother. It is understood by these political developments that ARTAP will not be represented in the Turkish positive law for a long time.

Human rights domain is especially important for this issue since it includes the origins of the *right* and *law* uniformity and difference in its history. If human rights could take the right and capability violations of ARTAP into its agenda, then it would not take longer to see its enforcement on positive law. Thus, submitting the research question and this dissertation to the Human Rights literature was important.

In Turkey, firstly freedom of expression and secondly access to reproductive health services which were under the protection of European Convention on Human Rights, are violated by the ban on assisted reproductive technology practices including third parties, respectively. However, human rights domain can explain and enlarge ARTAP's capabilities concerning ARTs. This dissertation aimed at highlighting some constraints and problems in the human capabilities of ARTAP. These constraints in the human rights and capabilities of ARTAP should be taken

⁵⁷ An Internet news posted on 9 Nov 2018: "Sperm Bağışına 5 Yıl Hapis: Yurtdışındaki Merkezlere Yönlendiren Doktorlar da Ceza Alabilir," For the news, see: <https://tr.sputniknews.com/turkiye/201811091036062891-sperm-bagisi-hapis-yonlendirme/>

into consideration and they should be protected under the Human Rights and positive law.

The whole picture of ARTAP was drawn in this section. These facts are being lived in the world and Turkey even if they have been restricted. Some policy recommendations are suggested in the following section in order to show the alternative way(s) for ARTAP, which refers to both legal and ethical dimensions in accordance with human rights.

5.2. Policy Recommendations

The findings of the dissertation are summarized and interpreted in the previous chapter. In this chapter, the policy recommendations are generated to suggest a policy design for mitigating legal and social problems, which occur, related to reproductive biotechnology applications, namely as a solution for the research question of this dissertation.

It is very important to determine how to cope with the human constraints and violations towards human rights at all levels. This “policy recommendations” section aims at summarizing and giving beneficial recommendations to such controversial and problematic fields, which are related to both assisted reproductive technologies and the individuals who use these technologies.

A multi-level analysis is chosen in order to define policy recommendations in various dimensions. The Multi-Level Perspective (MLP) is mainly known and used by evolutionary economics and technology studies. The multi-level perspective aims to integrate findings from different literatures as an ‘appreciative theory’ (Nelson and Winter, 1982). The different levels are not ontological descriptions of reality, but analytical and heuristic concepts to understand the complex dynamics of sociotechnical change (Geels, 2002: 1259).

These policy recommendations are very important in establishing a social link between ARTAP and ARTs and the society. It is understood in this dissertation that, only being integrated to the society through these social relations can make ARTAP fully human beings with their capabilities. However, only people can overcome with social pressure in a legitimate environment, which could be provided by the government. This legitimate environment could be achieved only by using all

the relevant recommendations, aims, tools and targets in this policy puzzle. Policy recommendations are given in three groups of policy aim, policy tool and policy target.

In this policy recommendations section, two policy problems are constituted around the research question. These are formulated as: *solving illegality problem of ARTs in Turkey* and *solving deficient human capabilities problem created by ARTs*. Policy recommendations, policy aims, and policy tools, which were derived from the findings of this dissertation, are reported for each policy problems. The policy recommendations are reported at macro, meso and micro levels. Macro level policy recommendations are aimed at generating nationwide suggestions, while meso level policy recommendations were aiming at institutional based changes. At micro level, policy recommendations are constituted for actors, groups (especially for ARTAP), and social entities.

For this aim, conclusion section of this dissertation is designed under two sub-topics titled as: *Policy Problem 1: Solving illegality problem of ARTs in Turkey* and *Policy Problem 2: Solving deficient human capabilities problem created by ARTs in Turkey*.

5.2.1. Problem I. Solving illegality problem of ARTs in Turkey

ARTs including third parties' reproductive materials and bodies are banned in Turkey and as some results of this practice reproductive tourism and various problems of ARTAP occurred in Turkey. Some findings are highlighted concerning this ban and problems towards it in the subtitles of "*1.1. Positive Law and Human Rights Approaches to ARTAP*" and "*Capability of Control over one's environment-political and ARTAP: 2. Legal barriers on consulting Turkish doctors.*"

The illegality of ARTs including third parties' reproductive materials and bodies is mostly grounded on the religiousness and conservativeness of Turkish society by Turkish government. However, having a child has primary importance for Turkish people since it has various implicit meanings; moreover, it brings status and respect to that couple. In the general findings of this dissertation, the desire of having a child and access to illegal ART practices are observed in ARTAP couples in spite of the ban.

By neglecting this strong demand, Turkish Biotechnology Strategy and Action Plan (2015-2018)⁵⁸ did not include assisted reproduction technologies or embryo research. Besides, the restrictions towards ARTs and ARTAP had been updated in time. It is again neglected that surrogate mothers and oocyte donors are being included by ARTs since these technologies are still unable to imitate those reproductive cells and organs. Thus, the first macro policy recommendation is constituted around this demand and deficiencies of reproductive biotechnology.

5.2.1.1. Macro level policy recommendations

The first policy problem is designed on this illegality; and composed of one policy recommendation, one policy aim, two policy tools and two policy targets. In such a political environment, according to the first macro policy recommendation of this chapter: *all technological areas, including embryo and ART research should be included in the national targets of Turkey.* The policy aim of this recommendation is *to remove the technological need for the body or biological materials of third parties.*

The policy tools for this aim are constituted as *to support biological and social researches* and *to support mitochondrial DNA research and embryo* in research institutes and/ or universities through national and/or local research funding institutes such as BAP in universities and projects for TUBITAK.

Policy targets are *putting a specific target of increasing the life success of cryopreserved oocytes and embryos in IVF treatments* and *putting a target of making individuals' own genetic material possible to be used in their IVF trials –via mitochondrial DNA research.*

⁵⁸ Turkish Biotechnology Strategy and Action Plan (2015-2018), TC. Bilim Sanayi ve Teknoloji Bakanlığı, Mayıs 2015. Available at: <https://www.sanayi.gov.tr/handlers/DokumanGetHandler.ashx?dokumanId=017882b9-01fe-4b8c-86dd-b5d9ca996e60>

Table 16.

Multi-level analysis of policy problem I for ARTs

Policy problem I: Solving illegality problem of ARTs in Turkey				
At	Policy recommendations	Policy Aims	Policy Tools	Policy Targets
Macro level	All technological areas- including embryo and ART research- should be included in national targets	To remove the technological need for the body or biological materials of third parties	To support biological and social researches on embryo in research institutes and universities through national and/or local research funding institutes such as BAP in universities and projects for TUBITAK, To support mitochondrial DNA research,	To put a specific target of increasing the life success of cryopreserved oocytes and embryos in IVF treatments, To put a target of making individuals' own genetic material possible to be used in their IVF trials – via mitochondrial DNA research
Meso level	A new civil law system should be designed and come into force	To recognize the new definitions for and new rights of ARTAP, To mitigate the constraints concerning ARTAP's all human capabilities To take the physical and psychological situations of ARTAP into consideration in determining the number of the embryos through strict regulations	An entirely or restrictedly allowance for the use of third parties' biological material in reproduction New regulation on child adoption and foster home care Free and compulsory consultation for ARTAP who undergo abortion for any reasons	To reach the target of bringing a legal base for ART practices To put a target of giving ARTAP the right to renunciation, be informed, be adequately nourished, be paid or being treated equally To decrease bureaucracy and procedures in order to make child adoption more desirable and accessible for encouraging people to adoption To reach the target of decreasing the number of the embryos to humane levels and decreasing possible abortions
Micro level	A new broadcasting in mass media should be organized and implemented	To create an awareness and adjustment to ARTAP and new family forms	To give ARTs and ARTAP roles in social media, television and radio channels and programs	To build new values and definitions towards ARTs and ARTAP through communication and mass media

5.2.1.2. Meso level policy recommendations

To solve the policy problem concerning the illegality, one policy recommendation, three policy aims, three policy tools and four policy targets are formulated at meso level. As the policy recommendation at meso level; *a new civil law system should be designed and come into force.*

The present Civil Law (Item 282)⁵⁹ includes a famous expression, it is: “Kinship between the mother and the child can be established through the birth,” with other words, woman who gave birth to the child, is the mother. Turkey has a legal problem itself with the regulation of the ban on Assisted Reproduction Technologies, too. It is argued that there should be a law rather than regulation. Hence, all the following arrangements should be included and directed by law rather than regulation in order to formulate and justify its legal base properly.

Different concepts and situations occurred in parallel with technological changes in ARTs as it was referred in the Findings and Discussion section of “*Constraints concerning the capability of control one’s environment – political; 6. Deficiencies in agreements/ lack of agreements,*” such as surrogate mother, genetic mother, social mother. These new concepts take their source from social changes created by ARTs in the world. However, in spite of the need for new rights of ARTAP, present civil law system was behaving like a deaf and dumb and blind. This blindness can be linked to the nature of positive law. In this dissertation, it was assumed that positive law could be democratized in the light of scientific and technological developments and societal needs which occurred in parallel with these developments.

A new civil law, which includes the new terminology brought by new reproductive technologies, should be put into action. That would be helpful in finding and accepting new definitions on paternity and maternity in the law and in the competence of the lawsuit processes. The law should include all of these definitions: social mother/father, genetic mother/ father, biological mother and all these people’s kinship with the child.

For this aim, the policy aims at meso level are formulated as:

1. *To mitigate the constraints concerning ARTAP’s all human capabilities,*
2. *To recognize new definitions for and new rights of ARTAP, and*
3. *To take the physical and psychological situations of ARTAP into consideration in determining the number of the embryos through strict regulations.*

⁵⁹ No: 4721, 22 Nov 2001 (accepted), “Türk Medeni Kanunu,” For the official source, see: <https://www.tbmm.gov.tr/kanunlar/k4721.html>

This dissertation focused mainly on the constraints concerning human capabilities of surrogate mothers, oocyte donors and next generations. They have various constraints and problems towards their capabilities (For examples, see 4.1-4.10). In order to make it legal and to help ARTAP in *mitigating the constraints concerning their human capabilities*, a regulation, which considers the reproductive claims of ARTAP and preserves the rights of surrogate mothers and oocyte donors, should come into force. The rights of surrogate mothers and oocyte donors on their decisions about their bodies should be enlarged in that regulation. However, commercialization is seen as another problem in this issue. Altruistic surrogacy and oocyte donation are suggested as an alternative to commercial practice in the subsections such as “4.5. Constraints concerning the *Capability of Emotions* and ARTAP/ 4. Motivation: Instrumental or altruistic.”

New rights of ARTAP should be recognized, and specific rights should be given to surrogate mothers and oocyte donors by law. For example, surrogate mothers and oocyte donors do not have the right to give up/ and abortion in any stage of the reproductive process as it is explained in the findings of this dissertation (4.3. Constraints concerning the *Capability of Bodily Integrity* and ARTAP/ Surrogate mothers’ abortion; *Constraints concerning the Capability of Control One’s Environment* and ARTAP/ 7. Weakness of ARTAP in case of legal problems). They do not have because the law does not save them since ARTs including third parties’ body and genetic materials are banned through a regulation. The present Civil Law does not accept those third bodies as the parts of that reproduction even if they are.

In this respect, a new regulation and control of ARTs and IVF Centers, which allow ARTAP in their reproductive aims, gain importance here. This regulation should include some sensitive issues such as *decreasing the number of the embryos to humane levels*. This is important with its possible direct role in decreasing possible abortions of redundant embryos. Taking the physical and psychological situations of ARTAP into consideration in determining the number of the embryos is important in that regulation.

In order to design how to realize these policy aims, three policy tools are generated from the findings of this study at meso level. These are:

1. *An entirely or restrictedly allowance for the use of third parties' biological material in reproduction and,*
2. *Free and compulsory consultation for ARTAP who undergo abortion for any reasons*
3. *New regulation on child adoption and foster home care as an alternative to ARTs.*

Many ARTAP in this study, support removing the ban and having a legal base for *the use of third parties' biological material in their reproduction*. The statements of ARTAP in the subsections of “4.4. *Constraints concerning the Capability of Senses, Imagination and Thought and ARTAP/ 5. Social pressure and ARTAP's Solutions against it*” and “4.10. *Constraints concerning the Capability of Control over one's environment and ARTAP- Political/ 7. Weakness of ARTAP in case of legal problems,*” are in parallel with such legality. Moving from these statements of the interviewees, the first policy aim of this policy problem concerning the illegality of ARTs at meso level is “*the entirely or restrictedly allowance for the use of third parties' biological material in reproduction.*”

ARTAP are psychologically negatively affected by the abortion of some of their multiple embryos. A surrogate mother and a biological mother's sayings support this result in “4.1. *Constraints concerning the Capability of Life and ARTAP/ 2. Redundant embryos and abortions.*” Thus, the second aim of the regulation policy should include free and compulsory consultation for ARTAP who undergo abortion for any reason.

“4.8. *Constraints concerning the Capability to Maintain Relationships with Other Species/ 2. Obstacles in adoption*” subsection of this dissertation includes data on difficulties in the adoption procedures, which justifies the third policy tool, *new regulation on child adoption and foster home care as an alternative to ARTs.*

Waiting lists of adoption is very long in spite of waiting children numbers in the Society for The Protection of Children. Updates in the foster home care and adoption regulations are again urgent in this issue. In fact adoption, should be positioned, a strong alternative for ARTs.

There is another obstacle in front of foster home care practices of couples. While taking a child from a house of the Society for the Protection of the Child

regularly was possible previously, we are only allowed to visit and interact with all the children in the house. In other words, we are not allowed to take the child out of the house anymore. In this new system, attachment to a child would not be easy in that house and among other children. Returning the procedure of foster home care to its former state in order to promote the emotional link between the child and the foster parents is seen as important in this issue.

Shortly, *A new regulation on child adoption and foster home care* is regarded as an alternative to ARTs as the last meso level policy tool for illegality problem for these reasons above.

Finally, *policy targets* for the first problem at meso level are formulated as:

1. To reach the target of bringing a legal base for ART practices
2. To put a target of giving ARTAP the right to renunciation, be informed, be adequately nourished, be paid or being treated equally
3. To decrease bureaucracy and procedures in order to make child adoption more desirable and accessible for encouraging people to adoption

The first policy target should be reaching the target of bringing a legal base for ART practices. However, since these practices are not legal in Turkey, it would be difficult and take too much time to regard it as a target.

These specific human groups (surrogate mothers and oocyte donors) should also have right to renunciation, be informed, be adequately nourished, be paid or treated equally. To put a target of giving ARTAP the right to have these capabilities is also vital.

An important rearrangement would be a new regulation on child adoption. It is stated in this dissertation that ARTAP (Ali and Ayşe, in the subsection of 4.8.2) had some attempts for adoption but came face to face with specific difficulties concerning procedural and age obstacles. Reducing the procedures in front of ARTAP and adoption and decreasing the age limits of couples for adoption would make adoption easier and preferable. By this reason, decreasing bureaucracy and procedures in order to make child adoption more desirable and accessible for encouraging people to adoption is regarded as the third and final meso-level target of policy problem concerning illegality.

5.2.1.3. Micro level policy recommendations

Final policy recommendation for *solving illegality problem of ARTs in Turkey* is in micro level: *A new broadcasting in mass media should be organized and implemented.* Policy aim for this recommendation is *to create an awareness and adjustment to ARTAP and new family forms.* This policy recommendation takes its source again from the findings of this dissertation. In the finding and discussion section titled as *“4.4.Constraints concerning the Capability of Senses, Imagination and Thought and ARTAP/ 5. Social pressure and ARTAP’s Solutions against it,”* a genetic mother emphasized the important role of media, namely films, serials about surrogate motherhood in convincing her family for surrogacy. Thus, the policy tool of this recommendation is *to give ARTs and ARTAP roles in social media, television and radio channels and programs.* Policy target of these practices will be *building new values and definitions towards ARTs and ARTAP through communication and mass media* in order to mitigate the negative effects of social pressure in various fields.

In addition to the changes in law, films, series, books, advertisements, news and public spots on mass media would also have an important role in removing prejudices in the society. New broadcastings on assisted reproduction should take place in different channels: for example, television and radio channels should refer to ARTAP and ARTs in their public service broadcasting. By doing so, new values and definitions towards ARTs and ARTAP would be constructed through communication and mass media tools. This will make ARTAP visible and public.

5.2.2. Policy Problem II: Solving deficient human capabilities problem created by ARTs in Turkey

5.2.2.1. Macro level policy recommendations

To solve the deficient human capabilities problem created by ARTs in Turkey, one policy recommendation is formulated from the findings of this dissertation at macro level. It is the *reorganization of health system.* Section of 4.2.

Constraints concerning the Capability of Bodily Health and ARTAP and specifically its sub-section of 5. *Harms of drugs and hormones used by donor and 'Just in case' practices* shows that, ARTs including third parties, violate especially oocyte donors' and surrogate mothers' capability of bodily health by drugs, hormones, anesthesia and abortions. The payments cannot cover these violations especially for the situations without getting the consent of ARTAP. Human rights and capabilities are generally forgotten in these cases.

For these reasons, the aim of this policy recommendation is *to mitigate the constraints towards capability of bodily health*. There should be a scientific questioning and reexamination of these usual techniques by a scientific and technological view in reproduction concerning ARTs as a policy tool. Scientific questioning and examination is needed especially for the techniques of:

- hormone and drugs,
- anesthesia,
- cesarean births,
- abortions in IVF treatments.

Oocyte donors and women who undergo IVF treatments get too much hormone before their operations. There should be a limit for these drugs or treatment periods. Similarly, sedations and anesthesia are used as usual in these ARTAP operations and births as well. Women who want to give normal birth should be encouraged even if she had a cesarean birth previously. In order to control the side effects and health risks concerning the techniques stated above, a national ARTs and Reproductive Health Care System can be suggested. A consultation for reproduction and ARTs - for free of charge - should be available for everyone. Oocyte collection from one donor should be limited to humane levels.

Oocyte donations from a donor quarterly are possibly welcome by IVF Centers. However, this quarterly period brings:

- Too much hormone and drugs and their health risks,
- Too much sedations and their health risks,
- Infertility risk,
- High incestuous risk among sibiligs.

Policy target of the policy recommendation of *mitigating the constraints towards capability of bodily health* should be *to take the short and long-term adverse effects of specific medical techniques into consideration especially for ARTAP.*

It is understood in the findings of this dissertation that IVF Centers do not give health services to ARTAP out of their IVF-related work. However, if oocyte donors and surrogate mothers can access to lifelong free health services and/or check up programs in the hospitals, it would possibly promote altruistic surrogacy, and oocyte, sperm donation in the country.

Table 17.

Multi-level analysis of policy problem II for ARTs

Policy problem 2: Solving deficient human capabilities problem created by ARTs				
A	Policy recommendations	Policy Aims	Policy Tools	Policy Targets
M a c r o l e v e l	Reorganization of health system	To mitigate the constraints towards capability of bodily health	Scientific questioning and reexamination of the need for: <ul style="list-style-type: none"> - hormone and drugs - anesthesia - cesarean births - abortions in IVF treatments.	To take the short and long-term adverse effects of specific medical techniques into consideration especially for ARTAP
	Changes in Education system	To mitigate or overcome with social pressure	New skills should be brought via new curriculums, and different education tools such as videos and books, in primary schools and secondary schools	To reach the target of being respectful to others and teaching how to develop critical thinking
	Regulation of the payments among ARTAP	Mitigating inequality in ARTs	In instrumental payment model the payments should be controlled regularly by an institution	A stable and controllable payment model should be formulated and applied
I n v e l	IVF Centers should keep the personal information of ARTAP	To inform ARTAP and the child about the identity of the real parents on their will after the reproductive processes	Reorganizing IVF Centers' legislation by taking personal information of ARTAP into consideration	To find genetic parents in case of a genetic disease of the child
	A Regulatory Authority should be founded in order to regulate and control reproductive affairs in the country	To regulate and control reproductive affairs in the country	For example through a "Regulatory Authority for Human Fertilization and Embryology (RAHFE)"	To reach the target of ensuring that IVF practices carried out is to a certain standard, that only qualified staff can do it; and controlling the necessities - ethical problems in embryo researches
	A society should be established for people who apply for ARTs	To support and inform people about ARTs through an entity	For example through a "Turkish Society for Assisted Reproduction Technologies (TUSART)"	To reach the target of improving IVF centers and solidarity between ARTAP
A society should be established for ARTAP	To support and help-specifically ARTAP-through an entity	For example through a "Turkish Society for Third Party Assisted Reproduction -(TUSTPAR)"		
l e v e l	IVF Centers should be audited	To control the inner mechanisms of IVF Centers	NGOs can easily make a civil-evaluation of health services and IVF Centers. NGOs can control them informally.	To make formal judgments and/or informal enforcements through these NGOs.

5.2.2.2. Meso level policy recommendations

In order to solve the *deficient human capabilities problem created by ARTs in Turkey*, three policy recommendations, three policy aims, three policy tools and three policy targets of these recommendations are formulated at meso level. First policy recommendation suggests necessary changes in Education system.

Teaching and learning in schools are the simple purposes of education systems. However, being respectful to others and critical thinking should be the main purpose of education. Nussbaum (2010a: 44) asks what schools can and should do to produce citizens in and for a healthy democracy and answers in the list as follows:

- Develop students' capacity to see the world from the viewpoint of other people, particularly those whom their society tends to portray as lesser, as "mere objects,"
- Teach attitudes toward human weakness and helplessness that suggest that weakness is not shameful and the need for others not unmanly; teach children not to be ashamed of need and incompleteness but to see these as occasions for cooperation and reciprocity,
- Develop the capacity for genuine concern for others, both near and distant,
- Undermine the tendency to shrink from minorities of various kinds in disgust, thinking of them as "lower" and "contaminating,"
- Teach real and true things about other groups (racial, religious, and sexual minorities; people with disabilities), so as to counter stereotypes and the disgust that often goes with them,
- Promote accountability by treating each child as a responsible agent,
- Vigorously promote critical thinking, the skill and courage it requires to raise a dissenting voice.

Nussbaum (2010a: 44)

In addition to all these new skills and capacity developments, new family forms and ARTs should be included in the learning incomes. However, curriculums would prevent such a change in the education system. Thus, curriculums should be changed in parallel with these goals. Biology, social sciences and religion (if there are) lessons should include anatomy, reproduction, ARTs, new family, new mother, and new father definitions to be taught real and true things about ARTAP.

The aim of this policy recommendation is *to mitigate or overcome with social pressure*, which was mostly complained in the findings of this dissertation (for examples, see sections 4.3. *Constraints concerning the Capability of Bodily Integrity and ARTAP/ 2. Moving from one place to another because of 'Social pressure'* and 4.4. *Constraints concerning the Capability of Senses, Imagination and Thought and ARTAP/ 6. Social pressure and ARTAP's solutions against it*). The common ways in

overcoming with the social pressure are stated as avoiding of it by not telling anything to the social environment and/ or moving far away from the neighborhood at least during the pregnancy (especially in surrogacy cases).

New skills should be brought via new curriculums, and different education tools such as videos and books, in primary schools and secondary schools as the policy tool for this aim. The policy target at this level is to reach the target of being respectful to others and teaching how to develop critical thinking.

Second policy recommendation at meso level is the regulation of the payments for ARTAP. In the findings of this dissertation, ARTAP stated that they had taken parts in these reproductive processes in return for an amount of money. However, not stability but arbitrariness and perplexities are seen in ARTAP's payments. Findings in the sections of 4.10.2. The Constraints towards the Capability of Control over one's environment and ARTAP – Material/ 2. Disinformation, informality and perplexity in the payments of ARTAP and 4.10. Constraints concerning the Capability of Control over one's environment and ARTAP- Political/ 4. Being obliged to reproductive tourism and mediators support such kind of payments, which were paid for/ by ARTAP. According to these findings, especially oocyte donors were paid according to the rates of the IVF Center and according to the quality and quantity of their oocytes. The embryologists are clarifying the quality and quantities of the oocytes after the oocyte collection.

Thus the *aim* of this policy recommendation is to mitigate the inequality in ART services. Making these (fair) payments to ARTAP directly by the government or controlling by an institution of the government could be suggested as a *tool* of this aim. In this kind of sectors with irregular payments, a stable and controllable payment model should be formulated and applied as a *policy target*.

Third and final policy recommendation at meso level is formulated around IVF Centers. According to this recommendation, IVF Centers should keep the personal information of ARTAP. However, the aim of this policy should be informing ARTAP and the child about the identity of the real parents on their will after the reproductive processes. The findings of this dissertation showed that while knowing other part of ARTAP could disturb especially oocyte donors (for example see, 4.4 Constraints concerning the Capability of Senses, Imagination and Thought and

ARTAP/ 1. Worries and distrust), surrogate mothers and biological mothers would like to know their ARTAP partner, when necessary (for examples see, 4.5. *Constraints concerning the Capability of Emotions and ARTAP/ 5. Not having the right to truth: parrēssia*) and 4.4. *Constraints concerning the Capability of Senses, Imagination and Thought and ARTAP/ 2. Anxiousness*).

IVF Centers have important role in ARTAP's family lives since they keep the personal information of surrogate mothers and genetic mothers of ARTAP's children in their body. It is seen in this study that there is a deficiency in the information, which was shared with ARTAP in their reproduction processes. By knowing a little about the important details of reproductive processes, in which ARTAP included, the disinformation asserted itself obviously in these cases.

Informing ARTAP and the child about the identity of the real parents on their will during or after the reproductive processes gains importance in this issue. This is important especially when a couple comes face to face with their child's genetic disease. The genetic information of the mother could be vital in the diagnosis and treatment of the disease. Hence, all the information related to the oocyte donor should be kept even after the death of the child (since some diseases could occur in the children of a person) and should be shared when necessary. It can also be perceived as "necessary" when a child wanted to learn her/his genetic/biological mother's identity.

Informed consents of oocyte donors and surrogate mothers on these important details should be taken by IVF Centers before starting to get hormones and drugs for oocyte donations or surrogacies.

For this aim, reorganizing IVF Centers' legislation by taking personal information of ARTAP into consideration is important as a *policy tool*. The *target* here is to find genetic parents in case of a medical necessity (for ex. genetic disease of the child) or to give the child right to know her/his genetic/ biological mother.

5.2.2.3. Micro level policy recommendations

In order to solve the *deficient human capabilities problem created by ARTs in Turkey*, four recommendations were formulated as prospective regulatory and social requirements of all these political regulations. Many ARTAP stated that they had

perplexities and disinformation experiences at most (See the sections of 1.1. *Constraints concerning the Capability of Life and ARTAP/ 2. Disinformation and 4.10. Constraints concerning the Capability of Control over one's environment and ARTAP- Material/ 2. Disinformation, informality and perplexity in the payments of ARTAP*). There is an obvious need for an authority to control. First *policy recommendation* with this respect is *the regulation and controlling of reproductive affairs in the country. The aim of this recommendation should be to regulate and control IVF Centers and gynecological services in the country. As a policy tool, Regulatory Authority should be founded such as "Regulatory Authority for Human Fertilization and Embryology (RAHFE)⁶⁰"* for this aim. A Regulatory Authority should be founded in order to regulate and control reproductive affairs in the country.

It is found in this dissertation that, ARTAP had various difficulties in financing their IVF trials and other IVF payments including third parties (see, 4.10. *Constraints concerning the Capability of Control over one's environment and ARTAP- Material/ 1. Not being able to hold property*). If government accepts to support this technology with every aspect, then it should also decide if these works would be realized altruistic or instrumental. As it is discussed in the related section before, both altruistic and instrumental practices have their pros and cons.

If instrumental practices were chosen, then government can make the payment to the surrogate mother and oocyte donor rather than the couple. This alternative would mitigate the inequality in accessing ARTs, including third parties' biological material, since ART services are expensive.

If there would not be direct payments from the government to ARTAP then, the regulation of the payments between ARTAP gains importance. Government should control these payments strictly not to give IVF centers an opportunity for making different payments to oocyte donors or surrogate mothers according to the number or quality of oocytes or children. To avoid perplexity and inequality, the payments should be controlled regularly.

This institution (RAHFE) can control the quality of medical practices and payments in the sector regularly and it can be an authority where ARTAP might

⁶⁰ Similar to Human Fertilization and Embryology Authority (HFEA) in UK: <https://www.hfea.gov.uk/>

appeal for their legal problems specifically with IVF Centers and other subjects related to ARTs such as mediators (see, 4.10. *Constraints concerning the Capability of Control over one's environment and ARTAP –Political/ 4. Being obliged to reproductive tourism and mediators*) or informal money (see, 4.10. *Constraints concerning the Capability of Control over one's environment and ARTAP- Material/ 2. Disinformation, informality and perplexity in the payments of ARTAP*). Policy target of this recommendation is to ensure that IVF practices carried out is to a certain standard, that only qualified staff can do it, to control the necessities and ethical problems in embryo researches (like HFEA⁶¹).

Second policy recommendation is *auditing of IVF Centers* at micro level. The aim of this recommendation is to control the inner mechanisms of IVF Centers. However, this control could be possible by the helps of NGOs in addition to a regulatory institution (as it was stated above). The policy tool of this recommendation is *making a civil-evaluation of health services and IVF Centers through NGOs*. NGOs can control them informally. The policy target of this recommendation is to make formal judgments and/or informal enforcements through NGOs.

Third and fourth policy recommendations are combined here. The combined recommendation is the *establishment of two societies for people who apply for ARTs, and third parties' reproductive material* separately. The aim of these policy recommendations is to support and inform people, and ARTAP, about ARTs through civil entities. For example, through the policy tool of establishing a “*Turkish Society for Assisted Reproduction Technologies (TUSART)*⁶²” and a “*Turkish Society for Third Party Assisted Reproduction - (TUSTPAR)*,” this aim could be realized. These specific reproductive health services may include some gynecological operations and check ups for surrogate mothers and oocyte donors who work for that IVF Center. This need primarily takes its source from the side effects of hormones, drugs and operations. It is understood that ARTAP were being left alone after coming face to face with various problems related to a part or the whole treatments. It is suggested

⁶¹ Human Fertilisation and Embryology Authority (HFEA)/ How we Regulate? For the Internet source, see: <https://www.hfea.gov.uk/about-us/how-we-regulate/>

⁶² Like Society for Assisted Reproductive Technology (SART) in US. For the Website of SART, see: <https://www.sart.org/>

here that IVF Centers can undertake such gynecological operations and gynecological check up programs for their surrogate mothers and oocyte donors. Moreover, they can take the infertility risks of their oocyte donors into consideration and can give cryopreservation service for them for free. This free service can be controlled by RAHFE and TUSTPAR. The *policy target group* of this recommendation is again ARTAP and *policy target* is *to reach the target of improving IVF centers and solidarity between ARTAP*.

5.2.3. An additional policy recommendation for spontaneous zones

It is proved by the findings of the qualitative study of this dissertation that ARTAP courage themselves for being involved in ARTAP under *secrecy*. Moreover, I interpreted this secrecy as an *advantage* in ART processes. Since oocyte donors will never know neither the child nor his/her family information, they may attempt to be an oocyte donor for a longer period of time, for example in their studentship. Different from oocyte donors, surrogate mothers know the family, which they carry the baby/ies for. However again, they do not want to make this ‘work’ again and both social mothers and biological mothers want to forget this pregnancy period in general.

These data is limited for making generalizations. By bearing this limitation in mind, the data in this dissertation supported that some spontaneous zones should be assigned ARTAP especially when they do not give consent *to be known*.

Some of the statements, which support spontaneousness, are showed in the table below:

Table 18.

ARTAP's Statements in favor of spontaneousness

Nickname	ARTAP group	In favor of...	Statement
Sevgi	Oocyte donor	Donating far away from the family	"But I wouldn't like to do. I wouldn't start something like that near them [her family]. Something like that.. I did near them but they were about to go. I mean, since I regarded them as my guests. If not, if they live here, I mean, all of them.. I couldn't do.. I wouldn't like to do it.. Because I cannot take a risk."
Ayten	Surrogate mother	Carrying the babies of strangers	"...they [the families] should be strangers. It can't be an acquaintance. I mean, if an acquaintance wants, I won't do it [surrogacy], I can't. I will be [disturbed] of the smallest thing... I mean, if there is something wrong, she [tries to find] your fault or something else."
Elif	Oocyte donor	Not donating to her relatives	"I don't know who is donated with my oocyte, who carries [the child] or who have that child, in the end. Since I don't know, I feel at ease. I mean, I don't know, I don't recognize in the end. However, if I purposely do this [oocyte donation] for my sister, since the child will be my child in fact, I mean, it will carry my DNA; I can feel bad. Feeling bad would be a strange situation, I mean. For this reason, I wouldn't want. I would like her to get it [oocyte] from another donor, I wouldn't like to be the owner of it [oocytes-baby]."
Nurgül	The woman who had her children via oocyte donation	Not being donated by her relatives	"We spoke that I had read something on the internet that there were some people who took [oocytes] even from their relatives. I thought if I could accept such a thing and I thought that I didn't want. I had never asked them [her sister and family] about that.... Rather, we mostly prefer someone who we do not know. My husband probably would have thought like this."
Fatma	The woman who had her child via surrogacy	Being distant to surrogate mother	"To be honest, I wouldn't like to be in a very close relationship, to meet every week and so on. I wouldn't like her to know the place I live or have information about me. Since we cannot trust anyone nowadays, I also wouldn't like to have such an intimacy."
Elene	Surrogate mother in Georgia	Being distant to genetic and/or social mother	"It could be better if there were a surrogate mother from her own country. It could be easier. It is more difficult since it (the surrogacy) is abroad. However, you know that the child will live abroad; it is easy for me. It is difficult for them but easier for me."
Mehmet	The embryologist in Georgia	Being distant to genetic and/or social mother	"Rather.. it is soothing for surrogate mothers to know that these children would live abroad, since they are worried about the relationships or marriages among them. Did you understand? For instance, (they are worried) if they start a relationship. They think like this in general. They are distressed about that point for example. They are not distressed about any other points."

As the table above reminds it, ARTAP support some spontaneousness of ART practices. What happens if all these processes would become legalized; namely, if the *spontaneousness* would be abolished?

1. *The 'distance' will not exist,*
2. *ARTAP will know each other,*
3. *ARTAP will not prefer to be donated with their relatives' oocytes or sperms and they will not prefer to carry their relatives' children,*
4. *Reputation of Cyprus and Georgia will be degraded*

These items are given in detail as follows:

1. The 'distance' will not exist between the surrogate mothers/ oocyte donors and the social mothers/ biological mothers, and oocyte donors and their families anymore. As data showed in this dissertation, many ARTAP rely on *distance* in their reproductive processes. They built their trust on distance firstly and the people in the sector, after that. Distance is established naturally after banning assisted reproduction technologies including third parties in Turkey. ARTAP could get access to ARTs including third parties in Cyprus and Georgia at most – because of geographic and economic reasons. They forced to do so but by the time, they found it advantageous with certain respects. For example:

- in avoiding social pressure
- in avoiding incestuous relationships

That is also why oocyte donors do not want to donate their oocytes after their undergraduate education in Cyprus. They have a private family life in Turkey and even if these practices would be legalized they told me that they would not like to do it in Turkey (As it is stated by Sevgi in the quotation box above).

What happens to *distance* if the reproductive biotechnology including third parties is allowed in Turkey? ARTAP could get access to these technologies in Turkey. However, then surrogate mothers and oocyte donors could not benefit from *being distant* and should defend themselves against their families and 'social pressure' in their environment or possibly tend not to be involved in ARTs anymore.

Similarly, Elene and Fatma stated in the box above that it was better not to see each other later on; since the cooperation for both sides would be complicated and/ or the risk for an incestuous relationship would increase in case of physical intimacy.

Then it would be better if this distance was kept for the competences of ARTAP in their relationships.

2. Knowing other ARTAP: As a result of a scientific approach to oocyte donation and surrogacy processes, a researcher would argue that ARTAP should know each other. Since children have the right to know their genetic or biological mother in their maturity, all the information concerning all the parties of ARTAP should be recorded and kept. Moreover, since a genetic illness could occur in the child or in the grandchildren of the child, this information should be kept during the life of at least two generations.

In spite of these scientific assumptions, it should be kept in mind that *not knowing* is regarded as another advantage of ARTAP in their reproductive processes. They regarded knowing as a disturbance reason. Elif says in the quotation box above that she did not know who was donated with her oocytes, who carried or who had that child, in the end. And added that since she did not know, she felt better. She implies here that even if her sister was donated with Elif's oocytes, since Elif and her sister would not know the truth, there will not be any problem for both of them.

Similarly, since Sevgi will not possibly see the photographs of the baby who had Sevgi's DNA in its genes, Sevgi will not cry or do something emotional. Knowing would make her worse than that emotional situation. In parallel with distance, not knowing would make ARTAP courageous in their relationships concerning ARTs. Knowing can easily be linked to "not being in favor of altruism," since Turkish ARTAP do not prefer to be involved in possible ART processes of their relatives or acquaintances according to this dissertation findings.

3. ARTAP will not prefer to be donated with *their relatives' oocytes or sperms* and they will not prefer *to carry their relatives' children*. Another important motive for ARTAP is being involved in the reproductive process of a stranger rather than a

sister or an acquaintance. The table above includes the statement of Ayten on this issue, she says: “...they [the families] should be strangers. It can't be an acquaintance. I mean, if an acquaintance wants, I won't do it [surrogacy], I can't. I will be [disturbed] of the smallest thing... I mean, if there is something wrong, she [tries to find] your fault or something else.” Obviously, Ayten said that she would not trust her acquaintances. Similarly, Nurgül said they did not prefer to apply for her sister's help; rather they preferred someone who they did not know.

When a government first allows reproductive technologies including third parties, they may prefer a kind of conditional allowance, which refers altruistic surrogacy and donation. And since altruism in oocyte donation and surrogacy would be encouraged especially among relatives and/ friends, this approach of Turkish ARTAP could be an obstacle for this kind of altruism.

Rather, ARTAP could only be encouraged to apply for the helps of other people out of their relatives. Altruistic alternative – including relatives' roles - seems not suitable for Turkish ARTAP's reproductive preferences.

4. Reputation of Cyprus and Georgia will be degraded: Especially Northern Cyprus is reputed with its casinos, nightclubs, and holiday and reproductive tourism opportunities recently. If reproductive biotechnology including third parties' role is allowed in Turkey, then the reputation of (Northern) Cyprus and Georgia for ARTAP will be degraded respectively.

But if the ban maintains or a conditional allowance and/or altruism were adopted for Turkey then ARTAP would again apply for the IVF Centers abroad.

Advantage of spontaneousness would be counted as the uniqueness of Turkish ARTAP as a conservative community, respectively. However, this implicit specificity should be again proved by further research on a larger group of ARTAP.

5.3. Suggestions for further Research and The Main Contribution of This Study

Spontaneousness in some specific issues has some advantages for ARTAP's roles in assisted reproduction. By this reason, issues related to *knowing* could be left to ARTAP's consent as some exceptions for Turkish ARTAP. However, since the

sample of this study is limited and only representative, further researches on this specific group may develop or criticize the research question of this dissertation. Researches on assisted reproduction technologies including third parties are considerable since they have effects on various dimensions and dynamics of a society. The topic is related with different disciplines such as critical theory, sociology, economics, social anthropology, feminist studies, bioethical studies, cultural studies, behavioral and biological sciences and so on. This interdisciplinary essence of biotechnology and reproduction would make studies from all these disciplines on this issue, valuable. However, a complementary approach to ARTAP would benefit from different disciplines together, at highest level.

In addition to the new approach and political recommendations in this dissertation, the main contribution of this dissertation to the existing literature is its qualitative study on Turkish ARTAP who applied for third parties' roles in their reproduction. This dissertation's research question ('which legal and social problems do occur related to reproductive biotechnology applications with respect to the rights of special human groups whose bodies and organs are negatively affected by these applications?') constituted around those people who would possibly be charged with accessing ARTs including third parties, abroad.

Various academic articles and books are available in the literature on different countries. However, Turkish case is unique since these technologies, its practices and even- giving information on these technologies are banned in Turkey. Turkey represents both an Eastern and a modern society in its body. Most of its population composed of Muslim people who vote for a right wing party which bears the recent government of Turkey. However, the findings of this dissertation highlighted that Turkish ban on ARTs including third parties was not supported by Turkish ARTAP and it was disobeyed.

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APPENDICES

A: ETHICS COMMITTEE APPROVAL LETTER I /ETİK KURUL ONAY BELGESİ I

UYGULAMALI ETİK ARAŞTIRMA MERKEZİ
APPLIED ETHICS RESEARCH CENTER



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13 NİSAN 2016

Gönderilen: Doç.Dr. Cem DEVECİ

Siyaset Bilimi ve Kamu Yönetimi

Gönderen: Prof. Dr. Canan SÜMER

İnsan Araştırmaları Etik Kurulu Başkanı

İlgi: Etik Onayı

Danışmanlığını yaptığımız doktora öğrencisi **GülsevİM EVSEL** tarafından yürütülecek olan "**Üreme Teknolojilerinin Öngörülemeyen Toplumsal Etkileri**" başlıklı çalışma, çalışmayı insan araştırmaları etik ilkeleri çerçevesinde inceleyen dört hakemin görüşleri dikkate alınarak Kurulumuzca değerlendirilmiştir.

Yapılan değerlendirme sonunda, "**Üremeye Yardımcı Tedavi Uygulamaları ve Üremeye Yardımcı Tedavi Merkezleri Hakkında Yönetmelik**" ile bu Yönetmeliğin 17. Ek'inde yer alan müeyyideler çerçevesinde, araştırmacıların "taşıyıcı anneliğin" Türk Hukukunca yasaklanmış olduğu bilgisine vakıf oldukları kabul edilerek ve de bu araştırma nedeniyle doğabilecek her türlü maddi ve/veya manevi tazminattan araştırmacıların sorumlu olacakları hususu dikkatlerine sunularak gerekli onay **2016-FEN-024** protokol numarası ile **25.03.2016-25.03.2017** tarihleri arasında geçerli olmak üzere Kurulumuz tarafından verilmiştir. Bu araştırmaya veri sağlayan katılımcıların Gönüllü Katılım Formunda ifade edilen haklarının korunmasında araştırmacılar tam sorumluluk sahibidir.

Bilgilerinize saygıyla sunarız.

Prof. Dr. Canan SÜMER

İnsan Araştırmaları Etik Kurulu Başkanı

Prof. Dr. Meliha ALTUNIŞIK

İnsan Araştırmaları Etik Kurulu

Prof. Dr. Ayhan SOL

İnsan Araştırmaları Etik Kurulu

Prof. Dr. Mehmet UTKU

İnsan Araştırmaları Etik Kurulu

Üyesi

Yrd. Doç. Dr. Pınar KAYGAN

İnsan Araştırmaları Etik Kurulu

Üyesi

**B: ETHICS COMMITTEE APPROVAL LETTER II (EXTENTION)
/ETİK KURUL ONAY BELGESİ II (UZATMA)**

UYGULAMALI ETİK ARAŞTIRMA MERKEZİ
APPLIED ETHICS RESEARCH CENTER



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06 Eylül 2017

Konu: Değerlendirme Sonucu

Gönderen: ODTÜ İnsan Araştırmaları Etik Kurulu (İAEX)

İlgi: İnsan Araştırmaları Etik Kurulu Başvurusu

Sayın Yrd.Doç.Dr. Cem DEVECİ ;

Danışmanlığını yaptığınız doktora öğrencisi GülsevİM EVSEL "*Üreme Teknolojilerinin Öngörülemeyen Toplumsal Etkileri*" başlıklı araştırması İnsan Araştırmaları Etik Kurulu tarafından uygun görülerek gerekli onay 2016-FEN-024 protokol numarası ile 06.09.2017 – 30.08.2018 tarihleri arasında geçerli olmak üzere verilmiştir.

Bilgilerinize saygılarımla sunarım.


Prof. Dr. Ayhan SOL

Üye



Doç. Dr. Yaşar KONDAKÇI

Üye

Yrd. Doç. Dr. Pınar KAYGAN

Üye


Prof. Dr. Ş. Halil TURAN

Başkan V


Prof. Dr. Ayhan Gürbüz DEMİR

Üye

Doç. Dr. Zana ÇITAK

Üye


Yrd. Doç. Dr. Emre SELÇUK

Üye

C: INTERVIEW GUIDE FORM/ GÖRÜŞME FORMU

Sayın katılımcı, bu form tamamen akademik amaçlarla hazırlanmış olup sizlerden alınacak bilgiler diğer katılımcıların bilgileri ile harmanlanarak kullanılacaktır. Bu nedenle formlarda herhangi bir şekilde isminize, veya kimliğinizi ortaya çıkartacak bilgilere yer vermemeniz rica olunur. Araştırmaya katıldığınız için teşekkür ederiz.

1. Demografik sorular

a. Kaç yaşındasınız?

b. Eğitim durumunuz nedir, en son mezun olduğunuz okul?

c. Nerede doğdunuz?

2. Sosyo-ekonomik sorular

a. Düzenli bir işe sahip misiniz? Mesleğiniz nedir? Daha önce çalışıyor idiyse ne işle meşguldünüz?

b. Eşiniz /Partneriniz (varsa) çalışıyor mu? Mesleği nedir?

c. Çocuğunuz var mı?

i. Evet (tane)

ii. Hayır

3. Daha önce **hangi** yardımcı üreme ile ilgili uygulamalara katıldınız? Birden fazla şıkkı işaretleyebilirsiniz.

	Kaç kez katıldınız?			
	1 kez	2 kez	3 kez	4 ve daha fazla
a. Başkasının bebeği için taşıyıcı anne olmak				
b. Başkasına yumurta vermek				
c. Başkasından yumurta almak suretiyle çocuk sahibi olmak				
d. Bir taşıyıcı anne ile anlaşma yolu ile çocuk sahibi olmak				

4. Nerede? (Lütfen her bir katılma durumunuz için ayrı ayrı –ülke- belirtiniz)

- a.
- b.
- c.
- d.

5. Ne zaman? (Lütfen her bir katılma durumunuz için ayrı ayrı belirtiniz)

- a.
- b.
- c.
- d.

6. Anne/donör/taşıyıcı anne olabilmek için neler yaşadınız? Bu hizmetin bedeli/bedelleri (ekonomik, sosyal) ne oldu? Bu nedenle seyahat etmeniz gerekti mi?

.....

7. Donör(ler)e/Taşıyıcı anneye/ aileye nasıl ulaştınız? Hakkında ne biliyorsunuz (ismi dışındaki bilgiler)? Seçme şansınız oldu mu? Korkularınız oldu mu, var mı?

8. Bu güne kadar herhangi bir sorun /zorluk (hukuki, duygusal, toplumsal ekonomik, vs) yaşadınız mı?

- a. Evet (Evetse lütfen açıklayınız).....
- b. Hayır

9. Donörlük/taşıyıcı annelik/ yapan kişi/ veya çocuk sahibi olmasına yardımcı olduğunuz aileler ile tekrar görüştünüz mü? Görüşmek ister miydiniz?

a. Evet (lütfen açıklayınız).

.....

b. Hayır (lütfen açıklayınız)

.....

10. Sizce başkalarının bebek sahibi olmasına yardım etmek yasal sınırlarla belirlenmeli mi? Bu konudaki önerileriniz nelerdir?

.....

D: CURRICULUM VITAE

PERSONAL INFORMATION

Surname, Name: Evsel, Gülsevım
Nationality: Turkish (TC)
Date and Place of Birth: 25 October 1983, Samsun
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EDUCATION

Degree	Institution	Year of Graduation
MS	METU Dpt. of Science and Technology Policy Studies	2012
MS	Ankara U, Socio-Economic Development and Biotechnology	2007
BS	Ankara U, Dpt. of Sociology	2005
High School	Samsun İlkadım Anadolu High School	2001

WORK EXPERIENCE

Year	Place	Enrollment
2018- Present	YYU Department of Sociology	Research Assistant
2008-2018	METU Department of Science and Technology Policy Studies	Research Assistant

FOREIGN LANGUAGES

Advanced English

PUBLICATIONS

Evsel, G. ve Erbaş, H. (2007). “Sosyo-ekonomik farklılıklar ve üreme biyoteknolojisinde kullanılan genetik analiz testlerine bakış: İki farklı semt karşılaştırması,” 6. Ankara Biyoteknoloji Günleri: Biyoteknoloji, Biyogüvenlik ve Sosyo-Ekonomik Yaklaşımlar, *Ankara Üniversitesi Biyoteknoloji Enstitüsü Yayınları*, No: 2, Ankara. ISBN: 978-975-482-755-2.

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- Evsel, G. and Erbaş, H. (2012), 'Yeni Annelikler ve Yeni Öjeni: Sosyolojik bir değerlendirme,' s: 337-344. *Biyoetik Araştırmaları, Türkiye Biyoetik Derneği, Türkiye Biyoetik Derneği Yayını*, No: XVI, İstanbul. ISBN: 978-975-7041-07-8.

E: TURKISH SUMMARY/ TÜRKÇE ÖZET

1. Giriş ve Teorik Çerçeve

Türkiye’de, çocuk sahibi olmak çok önemli bir konudur. Evli çiftler bu nedenle genellikle, korunmasız cinsel ilişkilerinin nerdeyse birinci yılının sonu itibarıyla istedikleri halde gebelik gerçekleşmediyse ve yaşları çocuk sahibi olmakla ilgili riskli dönemlere yakınsa Yardımcı Üreme Teknolojileri (YÜT)’ne başvururlar. İstedikleri halde çocuk sahibi olamadıkları zaman çiftler toplumsal, ekonomik, kültürel, dini, ruhsal ve psikolojik nedenlerle üzerlerinde baskı hissetmekte ve çocuk sahibi olmak için farklı yollara başvurmaya açık hale gelmektedirler.

Üreme teknolojileri ve genetik, çocuk sahibi olamama/ kısırlık sorunu ile ilgili bazı çözümler geliştirmiştir. Ancak bu çözümler, getirdikleri yararların yanısıra bu teknolojilerle direkt ilişki içinde olan bir grup insan üzerinde olumsuz etkiler bırakabilmektedir. Diğer bir deyişle, bazı insanların bedenleri, bu teknolojik gelişmelerden zarar görebilmektedir. Bu konu, teknolojik gelişmenin ihmal edilen sosyal boyutuna işaret etmektedir. Zira, genlerle oynayarak, çeşitli hastalıklara çare bulunabilmekte, babalar soylarını ve soyadlarını devam ettirebilmekte, her çeşit toprakta her çeşit meyve, sebze veya ağaç yetiştirilebilmekte veya herhangi bir kadının rahmine istenilen miktar, renk, cinsiyet veya genetik özellikte embriyo yerleştirilebilmektedir. Ancak, bütün bu imkanlar, söz konusu teknolojik gelişmelerin yalnızca bir yönünden bakıldığında kusursuz görünmektedir.

Oysa, herkesin kolaylıkla erişemeyeceği kadar pahalı olan genetik teknolojiler, çok farklı toplumsal sorunları da beraberinde getirmektedir. Sorunların diğerlerinden farklılaşmasının sebebi, bu kez gerekli düzeneği kurmak için elektronik kabloların veya zararlı böcekleri bitkilerden uzaklaştırmak için pestisitlerin değil; canlı insan ‘bedenleri’nin veya ‘dokuları’nın kullanılmasıdır. Bunun sonucunda üreme teknolojilerinden etkilenen insanlar iki farklı gruba ayrılmış oldular. Bu gruplar:

1. Sperm veya yumurtasını satanlar – Sperm veya yumurta donörleri (vücudunda embriyo oluşturmak için elverişli sperm veya yumurta hücresi bulunmayan kimseler, veya eşcinsel kişilerin çocuk sahibi olması için); rahmini kiralayanlar- taşıyıcı anneler (vücudu veya rahmi bebeğin dokuz ay

taşınmasına uygun olmayan veya rahmi olmayan kimseler, veya gay çiftlerin çocuk sahibi olması için)

2. Çocuk sahibi olmak isteyen ama çeşitli nedenlerle embriyonun oluşumu için elverişli yumurta, sperm üretemeyen veya rahmi uygun olmayan ve çocuk sahibi olmak için taşıyıcı anne ve/ veya sperm/ yumurta donasyonuna ihtiyaç duyanlar.

Bu tezde yardımcı üreme teknolojileri ile birlikte yeni eşitsizliklerin yaratıldığı ve bu durumun yukarıda yer verilen Yardımcı Üreme Teknolojilerinin Etkilediği Gruplar'da (YÜTEG - Tezin genelinde yer verildiği haliyle kısaltma "ARTAP") yer alan insanların hak ve yeterliklerinin sınırlandırıldığı ileri sürülmektedir. Diğer bir deyişle, üreme biyoteknolojisi bir taraftan, tıbbi-teknik bir yardım almadan çocuk sahibi olamayan bir grup insana umut verirken, diğer taraftan bedenlerinin bu insanların çocuk sahibi olma umutları için bir araç olarak kullanılmasına izin veren diğer bir grup insanın hakkını sınırlandırmaktadır. Bu tez, söz konusu gruplara yönelik müdahalelerin toplumsal sonuçlarını, örneğin, modern tıbbın yeni biçimlerini, buna bağlı olarak oluşan yeni aile yapısını ve anne rollerini (biyolojik anne, genetik anne, ve sosyal anne gibi), yeni üreme teknolojilerine karşı embriyoyu koruyabilmek adına YÜTEG'in haklarını tartışmaktadır.

Buna bağlı olarak araştırma hipotezlerinin etrafında oluşturulduğu araştırma sorusu aşağıdaki gibi oluşturulmuştur: "Üreme biyoteknolojisinin beden ihtiyaçlarına, bedenleri bu uygulamalardan zarar görecektir şekilde dahil olmuş insanların hakları nerede aranmalıdır?" Bu soruya bağlı olarak tezde, "Bedenleri ve organları, yardımcı üreme teknolojilerinin uygulamaları tarafından olumsuz yönde etkilenen insanların hakları açısından hangi yasal ve toplumsal sorunlar ortaya çıkmaktadır" sorusu tartışılmaktadır.

Çalışmada YÜTEG olarak atfedilen gruplar aşağıdaki gibidir:

- Yumurta donörleri
- Taşıyıcı anneler
- Anne-babalar
- Doğmamış çocuklar ve gelecek nesiller

Konu ile ilgili olarak yapılan literatür taramasında ise, Pozitif Hukuk ve İnsan Hakları Yaklaşımı, Foucauldian Yaklaşım ve Biyoetik Yaklaşım'ın kısaca çocuk ve üreme haklarını nasıl ele aldığı üzerinde durulmaktadır.

Tezin giriş ve politika önerileri bölümlerinde pozitif hukuk, çocuk hakları, teknolojik ilerlemeler ile ortaya çıkan yeni haklar ve üreme hakları üzerine oldukça sınırlı ve normatif yaklaşımı ile eleştirilmektedir. Bu amaçla, pozitif hukukta özellikle Türkiye'nin içinde yer aldığı çocuk hakları ve doğmamış çocuklarla ilgili sözleşmelere yer verilmiş, ve bu sözleşmelerin sınırlılıkları ve yaklaşımı gereği insan haklarına olan ihtiyaca değinilmiştir. Pozitif hukuk yaklaşımı, 'doğuran annenin çocuğun annesi' olduğu genel savından hareketle aileye ve onun bireylerine sınırlı ve koşullu yaklaşmaktadır. Oysa yardımcı üreme teknolojileri aileyi ve onun bireylerinin sahip olduğu rolleri/ toplumun onlara yüklediği anlamları tümünden değiştirmektedir. Pozitif hukuk yaklaşımı ise Türkiye'de bu değişime uyum sağlamayı reddetmekte; onun yerine, yardımcı üreme yasakları içeren yönetmelikleriyle, Avrupa İnsan Hakları Sözleşmesi'nde dahi yer verilen yardımcı üreme yöntemlerine erişim hakkı sınırlandırılmaktadır. Bu nedenledir ki, bu tezde pozitif hukuk yaklaşımı değil, insan hakları yaklaşımı ele alınmış, tezin kuramsal ve yöntemsel çerçevesi insan hakları yaklaşımı ile çizilmiştir. İnsan hakları ve özelinde "yeterlikler yaklaşımı," literatür hakkındaki bu kısa girişten sonra ele alınacaktır.

İnsan hakları yaklaşımının yanısıra tezde, Foucauldian Yaklaşım'a başvurulmuştur. Bu yaklaşım, özellikle üreme konusunun önceden kestirilemeyen ve henüz tanımlanmamış yönlerini tanımlamak ve çözümlmek için kullanılmıştır. Araştırma sorusunu irdelemek, onun diğer güç dinamikleriyle olan ilişkisini kurabilmek ve birey davranışını anlamlandırabilmek için; diğer bir deyişle, yeni kavramların teşhisi, diyagnozunu doğru bir şekilde koyabilmede, bu tezde Foucauldian kavramlardan yararlanılmıştır. Yine de belirtmelidir ki, Foucault'nun bu tezde YÜTEG'in üreme haklarını tartışma alanı arama çabasına dahil olması değil; daha ziyade üreme tıbbındaki biyoteknolojik dönüşüm ile ilgili "güç" üzerinden geliştirdiği kavramlaştırmalarla, tezdeki bulgular ve tartışmalarda ikincil bir yer alması tercih edilmiştir.

Bu tezde, özellikle 'toplumsal ve etik boyutlar'ı vurgulamak için 'Biyoetik Yaklaşım'a başvurulmuştur. Tıp Etiği kavram ve yaklaşımlarına işaret eden Biyoetik

Yaklaşım'ın, geniş bir anlam yüküne sahip olduğu bilinmektedir. Öyle ki bu yaklaşım, tıbbi eylemlerin yanı sıra canlı, doğayla ve çevreyle olan etkileşmelerdeki eylemleri de ele almayı getirmekte; çalışmacıların kökeni de sağlık mesleklerinin yanı sıra felsefe, ilahiyat, hukuk, insan ve toplum bilimleri, doğa ve çevre bilimleri gibi alanlar olabilmektedir (Yıldırım ve Kadioğlu, 2007: 81). Bu özellikleri ve geniş kapsamı nedeniyle, bu çalışmada başvurulan yaklaşımlardan biri olmuştur.

Bu yaklaşımlar, sorunun tanımlanması ve tartışılmasında önemli yere sahiptir. YÜTEG'in yardımcı üreme teknolojileri içinde buldukları roller nedeniyle içinde buldukları insan hakları sorunları ve sınırlılıklarına politik bir bağlam ve yaklaşım sunmak bağlamında İnsan Hakları yaklaşımı öncelikli yaklaşım olarak ele almıştır. Biyoetik yaklaşım ve insan hakları yaklaşımlarının birbirinden farkı, biyoetik yaklaşımın karşılaştığı sorunları daha çok ahlak, insan hakları yaklaşımının ise daha çok politik gerçeklik bağlamında ele almasıdır.

YÜTEG'in haklarının ele alınmasında yeni bir araştırma/ tartışma alanı olarak İnsan Hakları alanının seçilmesi, bu alanın politik gerçekliklere daha yakın olması ve YÜTEG'in içinde bulunduğu insan ve üreme hakkı sınırlılıkları/ sorunlarına pratik çözümler sağlayabileceği düşüncesinden ileri gelmektedir. Bu bağlamda, üreme biyoteknolojisi ile ilgili dört insan hakları tartışma alanı ortaya çıkmaktadır. Bunlar:

1. Üreme
2. Kadın
3. Anne-baba
4. Çocuk, embryo ve gelecek nesillerdir

Deveci (1999: 55), insan hakları ve insan özünden bahsedebilmek için önce insan olmanın ne olduğu ve onu tanımlamanın önemine değinmektedir. Ona göre, insan olmanın evrenselliği ancak, insanların haklarıyla olan ilişkisi içinde anlaşılabilir. Bu tanımlama gereği, 90'lı yılların başından beri gündeme gelen kadın, ırksal azınlık, göçmen, işçi, yerli halklar, çocuk, hatta daha spesifik olarak kız çocuk, küme ve kimliklerine ilişkin hakların içeriklendirilmesi çabalarıyla daha da pekişmiştir (Deveci, 1999: 55). Bu içeriklendirmeye 'hukukun deformalizasyonu' da denmekte, haklar bağlamındaki bu alt kümelenmeler her ne kadar pozitif hukukun

üzerinde yük oluşturmuş gibi algılansa da aslında neden ortaya çıktığı, gereksinim duyulduğudur (Deveci, 1999: 55).

Deveci'nin (1999: 56) bu çalışmanın araştırma sorusu ile ilişkilendirilebilecek önemli tespiti, yukarıda anılan 'bu hassas kümelenmeler içinde görülen kişilerin, belirgin dışlamaya ya da kötü muameleye tabi kaldıklarında, 'insandan-az' olma durumuna düşen insanlar topluluğu olacakları' ifadesidir. Burada, pozitif hukukun mevcut 'eşitlik' ilkesinin uygulanmasıyla ne yazık ki, Deveci'nin yukarıdaki alıntılarda bahsettiği özel grupların kötü muameleye tabi kaldıklarında 'insandan-az' olmasının önüne geçemediği söylenebilir.

Pozitif hukuk yaklaşımı ilk bakışta 'adalet' ilkesine dayanıyor gibi görünmektedir. Gillon (1994: 185)'a göre, eşitlik, adaletin merkezinde yer almaktadır; ancak Aristotle'ın çok uzun zaman önce ifade ettiği gibi, adalet eşitliğin daha fazlasıdır – insanlar eşit davranılsalar bile, adaletsiz bir muamele görüyor olabilirler. Görüldüğü gibi, bir davranışın uygulanmasında, toplumdaki farklılıkların dikkate alınması önemlidir. Gillon (1994: 185), Aristotle'ın 'eşit kişilere eşit şekilde (sağlık iktisatçılarının 'yatay eşitlik' adını verdikleri durum) ve eşit olmayanlara eşit olmayan şekilde davranmanın (dikey eşitlik) önemli olduğunu' düşündüğünü aktarmaktadır.

İnsan hakları, diğerlerine göre çok daha kendine özgü haklardır. Çünkü her şeyden önce kaynağı ve meşruiyeti diğerlerinden çok farklıdır. Kendisi gelenekçi (Conventionalist) akımdan olan Donnelly gibi bir çok filozof ve siyaset bilimci insan haklarının kendine-referans veren (self-referential) özelliğini vurgularlar. Benzer şekilde Vincent (1986: 9), insan haklarının konusunun bu veya şu toplumun üyelerinin değil; bütün insan topluluğunun üyeleri olduğundan bahseder. Eğer kişi, bu haklara sadece bir insan olduğu için sahipse, o zaman bu gücün kaynağı nedir? Şu açıktır ki, insan hakları bütün diğer güç türlerine karşı gelmektedir. Diğer bir deyişle, insan hakları diğer hepsinin üzerinde kapsayıcı bir standart olma misyonu taşımaktadır. Bu bağlamda, insan haklarının kaynağı veya özünü anlayabilmek için, insanlığın ve felsefenin tarihine bakılmalıdır. Bu konuda Donnelly (2003: 17), Freeman (2002: 11) gibi insan hakları düşünürleri tarafından, insan haklarının ahlaki doğasının insan haklarının toplumsal kökenleri veya etik meşruiyetinden ileri geldiği, Donnelly (2003: 18)'nin deyişiyle, 'kendi ahlakını gerçekleştiren kehaneti' (self-

fulfilling moral prophecy) nin, insan hakları bünyesinde vücut bulduğu (“insanlara insan gibi davranın ki, böylelikle siz de gerçek insanlar haline gelin”) ifade edilmektedir.

Bu noktada toplumların doğal haklar üzerine olan etkileri önem taşımaktadır. Acaba ne oldu da bizler doğal haklarımızdan uzaklaştık? Ya da gerçekten uzaklaştık mı? İster toplum doğal hakları dönüştürerek insan haklarını oluşturdu diyelim, ister doğal haklar ve insan hakları arasında bir bağlantı olmadığını söyleyelim. Gerçek şu ki, toplumların ihtiyacına göre çok farklı haklar ortaya çıkmış ve insanların Tanrı’ya veya devlet başkanına veya insan onuruna karşı gerçekleştirmesi gereken ödev ve sorumluluklar, bu hakları dönüştürmüş ve en temel olarak ‘bir kişinin diğer kişinin yaşamına saygı göstermesi için’ meşru bir zemin oluşturmuştur.

Burada ‘bir diğer kimsenin yaşamına saygılı olmak’ ifadesi büyük önem taşımaktadır. Doğmamış bir çocuk ve bu çocuk veya doğum ile ilgili olarak müstakbel anne ve babasının verdiği kararlar bizi bebeğin insan haklarını sorgulamaya sevk eder; elbette onu insan olarak kabul edersek. Veya bu tezde tartışıldığı üzere, bir kadının bedeninin para karşılığı kiralanması veya vücuduna hormon yüklendikten sonra yumurtalarının satın alınması, kişilerin bir diğer kimsenin vücuduna, üreme organlarına; aslında yaşamına para karşılığı müdahale ettiği gerçeğini açıkça göstermektedir. Burada, gebelik şansını arttırmak için anne (belki de taşıyıcı anne) rahmine yerleştirilen çok sayıda embryonun hepsinin tutunması halinde, sağlıklı doğum şansını arttırmak için bunların tıbben en sağlıklı “görünen”lerinin yaşamasına izin verildiği için öldürülen fazlalık ‘embryolar’, ya da para karşılığı yumurtalık veya rahmini diğer kadınların kullanımına açan kadınların “daha az insan” oldukları söylenebilir mi? Bu sorular, tezde insan haklarında yer alan eşitlik - eşitsizlik tartışmalarına işaret etmektedir.

Buradaki literatür taramasında İnsan Hakları yaklaşımının, biyoteknoloji aracılığıyla hak kaybına uğradıkları düşünülen ‘YÜTEG’in haklarının eşitliği’ni sağlamak için bir tartışma ve öneri alanı olabileceği ileri sürülmektedir.

İnsan Hakları yaklaşımları içinde bu tezin araştırma sorusuyla en fazla örtüşen yaklaşım, Martha Nussbaum’un (2001) ‘Yeterlikler Yaklaşımı’dır. Amartya Sen ile birlikte geliştirdiği bu yaklaşımıyla, “İnsan Gelişme Yaklaşımı”na büyük katkılar vermiştir. Nussbaum ve Sen arasındaki yaklaşım farkına bakılırsa, Sen’in

(2005a), insan haklarını açıklarken ahlâka başvurulması gerektiğini, hakların ahlâksal bir temele dayalı ahlâksal nedenler olduğunu ve bu nedenle onların önyargısız ve tarafsız olarak ele alınması gerektiğini vurguladığı (Sen, 2005b); Nussbaum'un (2000) tüm hakları ve yeterlilikleri temel bir adalet sorunu olarak gören insan yeterlilikleri yaklaşımına göre ise, insan haklarının ve insan yeterliliklerinin birlikte düşünülmesi gerekmektedir (Nussbaum, 2000, 2005; Sen, 2004a, 2005a; akt. Durğun, 2008: 142).

Nussbaum (2001) yeterlikler kuramını, Sen'in 'yeterlikler yaklaşımı' üzerine kurmuştur. Buna göre Nussbaum (2006: 77), asgari insan hakları *eşiği* olarak belirlediği on yeterlik oluşturmuştur. Bunlar:

- 1- Yaşam (erken ölümden sakınabilme).
- 2- Bedensel sağlık (yeterli beslenme ve barınma, sağlıklı üreme).
- 3- Bedensel bütünlük (bir yerden bir yere serbestçe hareket edebilme, aile içi şiddet ve saldırıya karşı güvenlik, çocuk sahibi olup olmama konusunda seçim yapabilme).
- 4- Duyular, Hayal Etme ve Düşünme (yeterli eğitim alabilme, bilimsel ve teknik eğitimin sınırlandırılmaması, politik ve sanatsal konuşmalarla ilgili olarak ifade özgürlüğünün garanti altına alınması ve böylece bireyin zihnini kullanabilme kapasitesinin korunması, dinsel özgürlük, hoş deneyimlere sahip olabilme ve acıdan kaçınabilme).
- 5- Duygular (korku ve anksiyete aracılığıyla bireyin duygusal gelişiminin zarar görmemesi).
- 6- Pratik nedenler (bir kişinin yaşamını planlayabilmesine ilişkin düşüncelerle meşgul olabilmesi ve iyi yaşam görüşünü biçimlendirebilmesi, örf, din ve vicdan özgürlüğü için bunların korunması).
- 7- Toplumsal ilişki:
 - a) Diğer insanlarla birlikte yaşayabilme ve onlarla ilgilenebilme, empatik olabilme, sosyal etkileşimin çeşitli biçimleriyle meşgul olabilme, siyasi konuşma ve toplantı özgürlüğünün korunabilmesi.
 - b) Kişinin toplum içinde kendine karşı özsaygısının olması ve utanç duymaması, diğer insanlarla eşit bir değere sahip olması, ırk, cinsiyet, etnik, kast, din ve ulusal köken gibi konular üzerinde ayrımcılığın olmaması.
- 8- Diğer türler (çiçeklerle, hayvanlarla, doğal dünya ile ilgilenebilme, onlarla birlikte yaşayabilme).
- 9- Oyun oynama
- 10- Çevre üzerinde kontrol:

a) Siyasi seçimlere katılabilme ve politika yapabilme hakkı, ilişki, dernek ve ifade özgürlüğünün korunabilmesi.

b) Mülk edinebilme, diğerleriyle eşit temelde mal hakkına sahip olabilme, haksız bir şekilde bir kişinin mallarına el koyulmaması, bir insan varlığı olarak çalışabilme hakkı, diğer çalışanlarla karşılıklı olarak tanınma, kabul görme ve anlamlı ilişkiler kurabilme.

(Durğun, 2008: 143, 144)

Kant'ın ödev ahlakı ve Aristotelesçi yapısalcı insan hakları düşünce geleneğini koruyan Nussbaum, bu yeterlikler yaklaşımıyla oldukça bireyci bir öneri sunmakla eleştirilmektedir. Ancak yeterlikler yaklaşımı bu çalışma bağlamında, diğer bir deyişle, kadın, ebeveyn, doğmamış çocuk ve gelecek nesillerin insan haklarını yardımcı üreme teknolojileri bağlamında tartışabilmek için en uygun yaklaşım olarak değerlendirilmiştir.

2. Yöntem ve Bulgular

Bu tezde Nussbaum'un yeterlikler yaklaşımı temel alınarak “bedenleri yardımcı üreme teknolojileri tarafından olumsuz yönde etkilenen insanların haklarının nerede tartışılabileceği” araştırma sorusu, Foucault'nun güç ve nüfus/üreme ile ilgili kavramlarına da referanslar verilerek yanıtlanmaya çalışılmıştır.

Bu amaçla, nitel araştırma yöntemi seçilerek, 'YÜTEG' içinden ulaşılabilen on üç katılımcıyla derinlemesine mülakatlar gerçekleştirilmiştir. Bu on üç katılımcının kendi içlerinde yer aldıkları gruplar ve tezde kullanılan takma adları aşağıdaki tabloda gösterildiği gibidir:

Table 19.

Mülakat yapılan YÜTEG kategorileri

Grup	Takma ad
Taşıyıcı Anneler	Ayten Zeynep Elene Mariam
Taşıyıcı annelik üzerinden çocuk sahibi olan ebeveynler	Eda-Serkan Ayşe-Ali Fatma
Yumurta donörleri	Sevgi Elif
Yumurta donasyonu üzerinden çocuk sahibi olan ebeveynler	Hale Nurgül-Ahmet
Embryologlar	Mehmet Veli

Türkiye’de evli çiftlerin yardımcı üreme yöntemlerinde, kendilerine ait üreme hücreleri dışındaki, üçüncü kişilerin vücut ya da üreme hücrelerinin kullanılması, kullandırılması, hatta bu konuda hekimlerin hastaları yurtiçi veya dışındaki kişi veya merkezlere yönlendirmeleri yasaklanmıştır. Bu nedenle, yapılan mülakatlar sayıca az olsa da; grubu temsil edebilir niteliği taşıyan katılımcılar *kritik örnekleme* üzerinden seçilerek gerçekleştirildiği için, Türkiye’de yaşayan söz konusu özel grupların deneyimlerini anlamak ve tartışmak literatüre sağladığı katkı bakımından büyük bir önem taşımaktadır.

Yapılan ve bir ila bir buçuk saat süren derinlemesine görüşmeler, deşifre edildikten sonra MaxQDA Nitel Araştırma Programı kullanılarak, Nussbaum’un on yeterlik eşiğine göre kategorize edilmiştir. Tezin Bulgular ve Tartışma bölümüne katkı sağlayacağı düşünülen bölümler İngilizce’ye çevrilmiş ve aynı bölümde hem katılımcıların bir çoğunun orjinal dili olan Türkçe dilinde hem de İngilizce dilinde alıntılar şeklinde verilmiştir. Tezin “Bulgular ve Tartışma” bölümü bu alıntılar, daha doğrusu ifadeler ve yaşantılar üzerinde şekillenen tartışmalar ışığında yazılmıştır. Aşağıda her bir yeterlikle ilgili sınırlılıkları da içeren bulgular özetlenmiştir:

2.1. Yaşam Yeterliđi ile ilgili sınırlılıklar ve YÜTEG

Yaşam yeterliđini Nussbaum (2011: 33), insan hayatının normal süresinin sonuna kadar yaşanması, zamanından önce ölmek veya bir kiřinin yaşamı yaşanmaya deđmeyecek bir hale getirilmeden önce ölmesi” olarak tanımlamaktadır. Özellikle embriyo ve gelecek nesillerin haklarının savunulmasında yaşam yeterliđi önemli bir yere sahiptir. Çünkü ilgili alandaki embriyologlar ve diđer sađlık görevlileri gebelik şansını arttırmak için genellikle, kadın rahmine, kadının sađlıklı bir şekilde taşıyabileceđinden çok embriyo yerleřtirme eđiliminde olmakta; çok sayıda embriyonun rahme tutunması durumunda ise fazla embriyoların kürtajla alınmasına neden olmaktadır.

Yaşam yeterliđi ile ilgili sahadan edinilen bulgular, çođul gebelikler, gereksiz embriyolar ve kürtaj, dezenformasyon bařlıkları ile ilgili tartiřmalarla birlikte sunulmuřtur. Çođul gebelikler bařlıđı altında, bir taşıyıcı annenin rahmine yerleřtirilen üç embriyonun üçünün de tutunması sonucu, üçüz gebeliđi ikize düřürme müdahalesinde bulunulmuř; ancak bu durum gebeliđin tek seyretmesi ile sonuçlanmıřtır. Bu örnek olay, Foucault'nun biyo-iktidar kavramı ile birlikte tartiřlanmıřtır. Bu tartiřmaya göre, egemen iktidarın “hayat üzerindeki etkisinin egemen, öldürebildiđi zaman görülebileceđi,” yani sadece öldürerek “hayat üzerindeki hakkını kullanabildiđi” (Foucault, 2003: 240) hatırlatılmakta; günümüzde egemen gücün yeni bir biyo iktidar gücüne dönüşüp kendisini anne ve babaların bebekleri üzerindeki haklarında gösterebildiđi ileri sürülmektedir. Bu tartiřma nüfus, biyo-politika ve dominasyon kavramlarına göndermelerde bulunarak sonlandırılmaktadır.

Gereksiz embriyolar ve kürtaj bařlıđı altında, aslında çođul gebelikler ve dezenformasyon bařlıkları, başka örnekler üzerinden detaylandırılmaktadır. Yardımcı üreme süreçlerinde karřılařılan ortak ve en önemli sorunlardan birisi, yanlış ve/ veya eksik bilgilendirilme sorunudur. Ortalama olarak gebeliklerinin yarısını geride bırakmıř olan taşıyıcı anneler veya biyolojik annelerin süreçle ilgili öğrenmeleri yeni başlamaktadır. Bu durumu taşıyıcı anne olan Ayten, řöyle ifade etmektedir: “...hastane ilk bařta konuşmuyor. Daha sonra ayrıyeten para almak için öyle yapıyorlar. Aileden alıyor. Evet. Kalbini durdurmak için iđne yaptılar,

Anesteziyle. İkizden teke düştü ondan sonra. Üçüzdü. Bir tanesinin kalbini durdurdular. Ondan sonra Adana'ya geldim. İki hafta sonra kontrolüme gittim doktoruma diğer bebeğe de sıçramış. Tek kaldı ondan sonra.” Ayten, üçüz bebek bile doğurabileceğini düşündüğü için, başlangıçta üç olan bebeklerin, müdahale ile teke düşürülmesine tepki gösteriyordu. Ancak vücuduna yapılan bu müdahaleye herhangi bir şekilde karşı koyamıyordu. Ortada herhangi bir kontrat veya anlaşma olmamasına rağmen, uzmanlar ve aile nasıl isterse o şekilde hareket etmesi gerekiyordu.

Hale, kendi başına kendi bedeni için karar verebilen bir konumda, yumurta donasyonu almış bir biyolojik anne olmasına rağmen, o da dezenformasyon ve *gereksiz embriyo operasyonu* geçirmek durumunda kalmıştı. Hale'nin ifade ettiği şekliyle onun doktoru da: *“üçle devam edemezsin, dedi. Hani kendi eski örneklerinden birşeyler verdi. Yaşım itibarıyla, bir de artık benim risk alacak şeyim yok yani şansım yoktu. O yüzden çok da fazla o konuda düşünmedik ama yaptırduğumuz gün çok acıydı.”* Hale ve diğer bütün hastaların Kıbrıs'ta üç embriyoya kadar gebelik şansını arttırması mümkün. Ancak çeşitli sebeplerle üçüz doğum veya gebelik riski alınmasındansa embryo sayısında azaltmaya gidilerek, bu kez yaşamasına izin verilen embriyoların sağlıklı doğum şansı arttırılıyor. Diğer bir deyişle, önce fazla sayıda embriyo yerleştirilmesi sağlanıp gebelik şansı arttırılıyor; sonrasında embriyo sayısı azaltılıp doğum şansı arttırılıyor. Ancak çok uzun süre çocuk hayalleri kuran ve sonunda bu hayale hem de üç çocuk için çok yaklaşan kadınlardan biri olan Hale için bu olay travmatik olmuştu. Kendi ifadesiyle: *“Böyle hani benim tek sorum hani canı acıyacak mı hani. Bir şey olacak mı?... Sonunda bak diyor, kamerada gösteriyor çünkü. Kamerada bakın hani sonlandığını görmeniz lazım diyor. Bakmak istemiyorum diyorum, bakın diyor. O görüntüyü unutmuyorum..”*

Öyle ki Hale, ondan sonra görüştüğüm, kendisi de yumurta donasyonu ile çocuk sahibi olan arkadaşı Nurgül'e embriyo sayısı ile ilgili en baştan tavsiyelerde bulunmuştu ve onun sayesinde Nurgül, böyle bir deneyim yaşamamıştı.

Yaşam yeterliği ile ilgili ortaya çıkan çoğul gebelikler, gereksiz embriyolar ve kürtaj ve dezenformasyon sorunlarının yasal düzenlemeler, denetlemeler ve rahme

yerleştirilecek embriyo sayılarını insani seviyelerde tutmak ile aşılabileceği öngörülmektedir.

2.2. Bedensel Sağlık Yeterliği ile ilgili Sınırlılıklar ve YÜTEG

Nussbaum (2011: 33) *bedensel sağlık yeterliğini*, üreme sağlığı da dahil olmak üzere sağlıklı olmak, yeterli beslenmek ve barınabilme yeterliği olarak açıklamaktadır. Bu yeterlik de diğerleri içinde büyük bir öneme sahiptir. Zira, üreme teknolojileri kadın bedenlerine hormonlar, sedasyon ve anestezi, kürtaj gibi yollarla müdahaleler etmekte, çocuk sahibi olmak isteyen kadınların bedenlerinin yıpratılmasının yanısıra; taşıyıcı anne ve yumurta donörlerinin bedenleri de, belli bir miktar para karşılığı rızaları alınarak, en az çocuk sahibi olmak isteyip bedeni yıllarca sayısız tüp bebek denemeleri sebebiyle yıpratılmış bu kadınlar kadar zarar görebilmektedir.

Bu tezde elde edilen nitel bulgularla desteklenen, YÜTEG'in karşı karşıya kaldığı bedensel sağlık yeterliği ile ilgili sınırlılıklar sırasıyla: Anestezi, sezeryan doğumlar, farklı farklı taşıyıcı annelere verilen hormonlar ve bu kadınların üzerinde yapılan başarısız gebelik denemeleri, taşıyıcı annelerin genetik malzemeler nedeniyle gerçekleştirdikleri düşükler, yumurta donörleri tarafından kullanılan hormon ve ilaçların zararları ve *yedekleme* pratikleri, dezenformasyon ve yetersiz beslenme sorunlarıdır.

Bu bölümde hem donasyon yoluyla çocuk sahibi olmuş olan Hale'nin önceki tüp bebek denemelerinde yumurta verirken aldığı çok sayıda sedasyon, hem de Hale gibi donasyon alan kadınlara yumurta vermek için anestezi almak durumunda olan, yumurta donörü Elif'in ifadeleri üzerinden bu Pratik ve zararları tartışılmıştır. Sezeryan doğumlar da anestezi gibi, Türkiye'de üzerinde çok tartışılmadan, ve gittikçe daha yaygın şekilde uygulanan bir yöntemdir. Daha önce sezeryan ile doğum yapmış olmak genellikle yine sezaryen doğum yapmanın gerekçesidir. Bu iki rutin uygulama genelde kadınlara, özelde ise üremeye yardımcı rollerdeki YÜTEG'e zarar vermektedir.

Bir başka önemli sağlık yeterliği sorunu, başarısız gebelik denemelerinde ortaya çıkmaktadır. Taşıyıcı anne Ayten, "*Bayan dört kişi, benden önce dört kişide daha denemiş taşıyıcılarda. Hiçbirinde tutmamış.*" derken aslında, kendisi sağlıklı

gebelik verdiği için toplam beş kadının hormon tedavisi alarak, gebelik için hazırlandığını ama başarısız olunca onlarla devam edilmediğini anlatmaktadır. Hatta, bu örnekteki sosyal anne, *“Taşıyıcıyı hiç görmemiş, sadece hastane bulmuş. Kadın ücretini yollamış anlayacağınız. Bayan demiş bu seferkini demiş, ben kendim gözümlle göreceğim.”* Ayten’le yapılan görüşmenin bütününden anlaşılıyor ki, Almanya’dan, Kıbrıs’a bebek sipariş edilmiş, parası gönderilmiş. Ancak, dört deneme ile –ki bu denemelerin gerçekten yapıldığını varsayıyoruz- başarılı olunamamış. Ülkeler arası embryo nakli ve taşımanın ne kadar masraflı ve meşakkatli olduğu da dikkate alınır, bu çocuğun yumurta ve sperminin de sosyal anne-babaya ait olmadığını düşünmek mümkündür. Acaba verilen paralar, o kadar taşıyıcı anne ve yumurta donörünün bu aileye çocuk verebilmek için göze aldıkları zahmet ve zararını karşılayabilmiş midir?

Gürcistan’da gerçekleştirilen bir taşıyıcı annelik süreci ise aynı taşıyıcı anne, Elene ile yaşanmıştı. Kendisi, bedeni üzerinde üç kez deneme yaptıklarını, düşük olduğunu, ancak dördüncü denemenin başarılı olduğunu ifade etmiştir. Israrlı sorular karşısında ise, son denemenin yumurta donasyonu ile gerçekleştirildiği bilgisini vermişti. Bu, ileri yaşta bir ailenin kendi üreme materyalinin kullanılmasında ısrar etmesi sonucu bir taşıyıcı anneye üç kez düşük yaptırıldığı anlamına gelmektedir. Üreme sağlığı yeterliğine burada negatif müdahale edilmektedir.

Ayrıca taşıyıcı annelerin hamilelikleri süresince çalışmadıkları için ailelerden aylık maddi yardım aldıkları bilinmektedir. Ancak, bu yardımın beslenmek ve diğer ihtiyaçların karşılanması için yeterli olmadığı durumda taşıyıcı annelerin bir miktar ön ödeme talebi olumlu karşılanmayabilmiştir. Beslenme ve diğer ihtiyaçların tam olarak hesaplanıp taşıyıcı annelerin taleplerinin asgari oranda karşılanması önemlidir. Bütün bu talep ve ihtiyaçlar sadece sözleşmelerle belirlenmemeli, anlık ortaya çıkabilecek ihtiyaçlar için de anlaşmaya varılabilecek uygun ortamlar yaratılabilmelidir.

2.3. Bedensel Bütünlük Yeterliği ile ilgili sınırlılıklar ve YÜTEG

Bedensel bütünlük yeterliğini Nussbaum (2011: 33) iki farklı yönden açıklamaktadır: “bir yerden bir yere özgürce gidebilmek” ve “cinsel şiddet ve aile içi şiddet dahil olmak üzere şiddet saldırılarına karşı güvende olmak; cinsel ihtiyaçlarını

karşılatabilmek ve üreme ile ilgili konularda seçim yapabilecek durumda olmak”. YÜTEG’in üreme ile ilgili konularında, legal yollardan olamasa da seçim yapabildikleri ortadadır. Ancak bunu genellikle, üreme turizmi (Pennings, 2002: 337) üzerinden gerçekleştirmek zorunda olmaları ve taşıyıcı annelerin gebeliklerini, yumurta donörlerinin ise donasyonlarını saklamak ve bu nedenle fiziksel olarak buldukları yerde bir süre kalamamaları, bedensel bütünlük yeterliklerinin ihlal edildiğini düşündürmektedir. Ancak bu *şiddet*, diğer yeterlik ihlallerine göre biraz daha hafif ve kişilerin kendi rızaları ile gerçekleştiğinden Foucault’nun biyoiktidar kavramı etrafında tartışılmıştır.

YÜTEG’in bedensel bütünlük yeterliğine yönelik nitel bulgularla desteklenen sınırlılıklar, üreme turizmi, ‘toplumsal baskı’ nedeniyle bir yerden bir yere gitmek, ve taşıyıcı annelerin kürtajı, olarak belirlenmiştir.

Üreme turizmine tabi olup en fazla seyahat etmesi gereken grup, Türkiye’deki üreme yasağı nedeniyle, çocuk sahibi olmak isteyen anne-babalar olmaktadır. Özellikle de eğer kendilerine yumurta veya sperm bağışısı yoluyla embriyo transfer edilecekse aileler, tedavileri süresi boyunca, en az gebeliğe kadar yurt dışına birkaç kez gelip gitmek durumunda kalmaktadırlar. Taşıyıcı anne yoluyla çocuk sahibi olmak isteyen çiftlerin de daha çok prosedürler gereği yurtdışına birkaç kez çıkmak durumunda kaldıkları anlaşılmaktadır. Bu bilgiyi, taşıyıcı anne yoluyla çocuk sahibi olan Ayşe şu şekilde vermiştir: “*orda prosedir gereği vekaletname alıyorlar sizden, o vekaletname de 6 ay geçerli sadece. İlk önce vekaletname için herhalde bir 3 kere gittik. İlk gittiğimizde 4 diyelim, dört kere gittik. Sonra da doğum için gittik zaten. 5 kere olmuş oluyor.*” YÜTEG, üreme turizmine aslında henüz tüp bebek tedavileri aşamalarında dahil olmaktadır. Buldukları ilde gerçekleştirdikleri tüp bebek denemeleri başarılı olmayınca yurt içindeki ve dışındaki diğer merkezlerde de şanslarını denemek suretiyle, genellikle kısa süreli olarak yaşadıkları yerden ayrılmak durumunda kalmışlardır. Bu konuda Türkiye’de taşıyıcı annelik yapan Ayten’in durumu, doğum için Kıbrıs’taki tüp bebek merkezi ile anlaşmalı olan İstanbul’daki bir özel doğum hastanesine gitmeyi reddedip kendisinin Adana’da bir kadın doğum doktoru bulup, doğumunu onun görev yaptığı hastanede gerçekleştirmesi önem taşımaktadır.

Toplumsal baskı, tezin neredeyse bütün bulgularında kendisini hissettiren bir etki olagelmıştır. Bu bölümde de, toplumsal baskı nedeniyle bir yerden bir yere gitmek durumunda kalan YÜTEG bireylerine yer verilmiş, konu hamileliğinin son aylarında, olası toplumsal baskı nedeniyle kendi evinde kalamayan taşıyıcı anneye, onu tutan ailenin, bu dönemler için taşıyıcı annenin, eşi ve çocuklarıyla birlikte kalması için başka bir ev kiralaması örneği üzerinden tartışılmıştır.

Üçüncü kişilerin üreme hücreleri ve bedenlerini içeren yardımcı üreme teknolojileri alanında, söz konusu üçüncü kişilerin kendi bedenlerini ilgilendiren özel durumlarda insiyatif sahibi olamamaları bedensel bütünlük yeterliklerini tehdit eden durumlar ortaya çıkartmaktadır. Bu durumlardan en önemlisi, taşıyıcı annelerin başkaları için çocuk taşıırken, kendi istekleri ile kürtaj olamamaları ile ilgilidir. Bu konu ile ilgili elde edilen bulgu, taşıyıcı anneliğin yasalarla belirlendiği bir ülke olan Gürcistan'da taşıyıcı annelik yapan Elene'nin ifadesidir. Elene "*Kendi hakkım yok kürtaj yapmak gibi ama aile isterse yapabilirim.*" diyerek beden bütünlüğü üzerindeki bu sınırlılığını ifade etmiştir.

Bu bölüm kısaca, taşıyıcı annelerin ve yumurta donörlerin haklarını koruyan bir yasal düzenleme eksikliğinden kaynaklı ARTAP'ın karşı karşıya kaldığı beden bütünlüğü yeterlik sorunlarına işaret etmektedir.

2.4. Duyular, Hayal Etme ve Düşünme Yeterliği ile ilgili Sınırlılıklar ve YÜTEG

Nussbaum (2011: 33), *duyular, hayal etme ve düşünme yeterliğini*, "duyuların kullanılabilmesi, hayal edebilme, düşünebilme, ve akıl yürütebilme; ayrıca bütün bunları "gerçek insan" (truly human) gibi gerçekleştirme" şeklinde açıklamaktadır. Nussbaum'un bu yaklaşımı ifade özgürlüğü ile yakından ilişkilidir. YÜTEG'in bu yeterliği tehdit edecek şekilde bazı hislerini ifade etmede, muhakeme etmede ve tartışmada sınırlılıklar yaşadığı görülmüştür. Bu sınırlılıklar: Endişe ve güvensizlik, anksiyete duyma, şüphecilik, kadınlık rolünün sorgulanması, kardeşler arası enest ilişki ve evliliklerden duyulan korku; ve bunlara bağlı ifade edilen toplumsal baskı nedeniyle YÜTEG'in başvurduğu bazı alternatif yollardır.

Bu başlık altında ele alınan örneklerden birisi bir yumurta donörü olan Sevgi'nin ifadesidir. Kendisi, ilk yumurta vermeye başladığı zamanlarda merak duygusunu ve endişelerini, Kıbrıs'ta yumurtalarını verdiği tüp bebek merkezinde

çalışan hemşire ile paylaştığı zaman belki ilerde gizlice çocuğun fotoğraflarını görebileceği bilgisine ulaşmıştır. Ancak, bu duyguyu dahi yönetemediğini şu sözlerle ima etmiştir: “*Yani, sevindim. Garip birşey oldu böyle, üzüldüm. Sonra diyorum ki, “ay görünce ağlar mıyım acaba?” Ama ben, yok ya görmek istemem.*” Yumurta donasyonu yoluyla çocuk sahibi olan Hale ise süreç sonrası çocuklarının sağlık sorunlarına çözüm olamama ihtimali ile ilgili endişelerini “*.. mesela böbreğimi vermem gerekse, kim verecek hani anne verir, değil mi? Ben böbreğimi bile veremeyeceğim mesela*” sözleriyle ifade etmiştir.

Nurgül’ün “: *Ben mesela iki embryo yerleştirdiklerini ultrasonda gördüm. Pıt atıldı. Ama onun embryo olduğunu ben bilmiyorum. Bişe attılar sonuçta, su da olabilir. Bilmiyorum ki..*” sözleri şüphecilik içermesi ve bu şüpheleri duyduğu kişilere ifade edememesi nedeniyle bulguların ilgili başlığı altında tartışılan bir başka konu olmuştur. Bazı katılımcılar, eşleri ve kendi bedenleri üzerinden çocuk sahibi olamadıkları için kadınlık rollerini, kadınlıklarını sorgular duruma gelmişken; özellikle taşıyıcı annelerin çocuklar arasında ensest ilişki ve evlilik gerçekleşmesi ihtimalinden duydukları korkudan ötürü, aileden ve çocuktan uzakta yaşıyor olmalarını bir avuntu/ hatta avantaj olarak değerlendirdikleri anlaşılmıştır.

Toplumsal baskı ve YÜTEG’in bu baskılar sonucunda başvurduğu yollar ve bu yolların mantık dışılığı, bu bölümde tartışılan diğer bir konu olmuştur. YÜTEG’in üçüncü kişilerin üreme hücreleri ve bedenlerine başvurmadan önce kumalık, veya hocalara başvurma, donör veya taşıyıcı anne ile imam nikahı kıyma gibi yönelimleri mantık dışı yollar olarak nitelenmiş ve araştırma bulguları üzerinden tartışılan başka bir konu olmuştur.

2.5. Duygu Yeterliliği ile ilgili Sınırlılıklar ve YÜTEG

Duygu yeterliliği Nussbaum (2011: 33) tarafından kısaca, “insanların kendileri dışındaki insanlara ve diğer şeylere bağlanabilmesi, sevgi duyabilmesi ve yokluklarında ise acı çekmesi” olarak tanımlanmaktadır. Bu yeterlikle ilgili YÜTEG’in karşılaştığı sorunlar ve sınırlılıklar tezde: saklı korkular ve anksiyeteler, taşıyıcı annelerin ailelerden beklentileri, taşıyıcı annelere, taşıdıkları bebeğe bağlanma hakkına sahip olmama, motivasyon: araçsal veya özgecil, doğruya ulaşma

hakkına sahip olmama: *parrēssia*, bağlanmamanın meşruluğu: yumurta donasyonu ve canlı organ bağı arasında anoloji kurmak, sıralamasıyla yer almaktadır.

Taşıyıcı annelik ve donasyon işlemleri sırasında ve sonrasında bağlanmayla ilgili sahip oldukları sınırlıklar, yukarıda yer verilen başlıklar altında tartışılmıştır. Bu bölümde örneğin, ailelerin bazen yumurta donörlerinin, bazen de donörlerin ailelerin kimliğiyle, madde alışkanlıkları veya çocuğun gelecekteki bakımı ile ilgili hissettiği ancak ifade edemediği ve gideremediği endişeler; taşıyıcı annelerin gebelikleri süresince ailelerin maddi manevi ilgisini beklediği ama bu beklentiyi ifade edemediği gerçeği; taşıyıcı annelerin ve yumurta donörlerinin ileriki dönemlerde çocukla ilgili haber almak isteyebilecekleri, ancak ailelerin böyle bir talebi olumlu karşılamayacağını düşündüklerinden veya çocukları gördükleri zaman bağlanmaktan korktuklarından, bunu hiç dillendirmedikleri; taşıyıcı anne ve yumurta donörlerinin yardımcı üreme teknolojileri dahilinde aldıkları rolü kısmen araçsal, kısmen de özgecil olarak ifade edebildikleri, bir taşıyıcı annenin aslında yumurtalarının da kullanılıp kullanılmadığını öğrenmesinin yasal bir zemini, yani doğru bilgiyi öğrenme haklarının olmadığı; ve YÜTEG’de yer alan bazı kişilerin taşıyıcı annenin ve yumurta donörünün çocuklarına olası bağlanmalarının imkansızlığını canlı organ donasyonu ile kurdukları anoloji üzerinden meşrulaştırdıklarını görmekteyiz.

2.6. Pratik Nedenler Yeterliği ile ilgili Sınırlılıklar ve YÜTEG

Pratik nedenler yeterliği, iyinin kavranılması ve kişinin hayatını planlarken eleştirel olabilmesi şeklinde açıklanmaktadır (Nussbaum, 2011: 33). Aynı zamanda Nussbaum (2011: 35), her insanın yeterliklerinin kendine özgü olduğundan, onları başkalarının yeterliklerini tamamlamak, telafi etmek için kullanamayacağından bahseder. Bu tanımlardan hareketle, bulguların bu bölümünde, yeterliklerin telafisi; taşıyıcı anneliğin YÜTEG tarafından bir alışveriş mi yoksa bir iş olarak mı kabul edildiği; YÜTEG arasındaki fiziksel yakınlık konusunun yine YÜTEG tarafından nasıl yorumlandığı, istenip istenmediği; kontratların YÜTEG’in iyiliğine/ lehine olup olmadığı tartışılmıştır.

Buradaki araştırma sonuçlarına göre YÜTEG, yeterliklerin telafisine inanmaktadır. YÜTEG’in hem hizmet sağlayan (yumurta bağı, taşıyıcı annelik)

hem de hizmet alan tarafındaki bireyler yaptıkları alışverişten memnun görünmektedirler. Bu konuda taşıyıcı anne, Ayten'in ("*e benim de maddi durumum düzelecek, onlar da manevi yönden ve dualarını alacağım. Sağ salim sağlıklı bir şekilde kız bebeği verdim*") ve taşıyıcı anne yöntemine başvuran Fatma'nın ("*sonuçta bu da onun işi, hani para için yapıyorsun. Bu da sonuçta karşılıklı. Sen beni memnun edeceksin ki ben sana... eğer sen o parayı gerçekten... yani dikkat etmen gerekiyor sonuçta. Hani sen bir canlı taşıyorsun, bu işi yapacağım. İş gibi yani*") ifadeleri, kendileri gibi düşünen kişileri ve konuları temsil etmeleri açısından önem taşımaktadır.

Bu bölümde ele alınan bir diğer önemli bulgu, YÜTEG'in birbiri ile çok fazla yakınlık kurmak istemeyişi, hamilelik olduktan sonra veya, duruma göre, çocuk doğduktan sonra yumurta donörü veya taşıyıcı anne ile olan tüm ilişkilerini kesmek istemeleridir. Öyle ki bu durum çoğunlukla, çocuk sahibi olmada başvurdukları bu yöntemi unutmak istemelerinden, çocuklarının bilmesini istemediklerinden veya enstest ilişkiden korktuklarından ve dolayısıyla diğer kadının diğer çocukları ile çocuklarının uzak yerlerde yaşamalarını istemelerinden kaynaklanmaktadır.

YÜTEG'in karşılaştığı sorunların pek çoğu kontratlar yoluyla aşılabilir görünmektedir. Ancak, Türkiye'den YÜT'e başvuranları başka ülkelerin yasaları veya kontratları korumamakta, diğer bir deyişle bağlamamaktadır. Dolayısıyla, kontrat yapmış olmak ve olmamak arasında büyük bir fark bulunmamakta, YÜTEG yurtdışında yasalara ve oluşabilecek haksızlıklara karşı savunmasız bırakılmaktadır.

2.7. Toplumsal İlişki Yeterliği ile ilgili Sınırlılıklar ve YÜTEG

Toplumsal ilişki yeterliği, Nussbaum (2011: 33) tarafından *arkadaşlık* ve *saygınlık* başlıkları altında ele alınmaktadır. Arkadaşlık ile ilgili ifade edilen sınırlılıklar bu başlığın ilk bölümünün altında toplanmış ve tartışılmıştır. YÜTEG'in arkadaş çevreleri onlar için aslında *toplum baskısı* anlamına gelmektedir.

Araştırma bulguları arasında, arkadaş çevresini bir tür öğrenme alanı olarak ifade etmenin (Örneğin, Mariam: "*Evet arkadaşım vardı. O dönörlük yapıyordu burda. O söyledi böyle böyle şeyleri istiyorlar diye. Ordan gelip başvurum*") yanı sıra YÜTEG'in, kardeş veya arkadaşlarını bir YÜTEG paydaşı olarak kesinlikle kabul etmeyeceğini bildirenler (Ayten, taşıyıcı anne: "*Tanıdıklar üzerinden bulmam,*

yabancı. Tanıdık olmaz;” Hale, sosyal/ biyolojik anne: *Hani ama ben sonuçta niye onun [arkadaşının] yumurtasını alayım şimdi. Sonuçta bunu parayla almayı daha çok tercih ettim diyeyim. Daha işin profesyonel olması, duygusal bir bağ girmemiş olmasını tercih ediyoruz;*” Nurgül, sosyal/ biyolojik anne: *“Bilmediğimiz birisi olmasını daha çok tercih ederiz. Eşim de herhalde sonuçta öyle düşünmüştür;”* Elif, yumurta donörü: *“Sonuç olarak ben verdiğim yumurtanın kimde işte, kimin taşıdığını ve kimin o çocuğun sahibi olduğunu bilmiyorum. Bilmediğim için de içim rahat.”*) çoğunlukta olmuştur. Bu durum, özgecil taşıyıcı annelik ve yumurta donörlüğü için sorun teşkil edeceğinden bu bölümde tartışılan bir konu olmuştur.

Arkadaş desteği görmeyi bekledikleri yerde yargılananlar, hamilelik sürecinde sosyal/genetik annelerden arkadaşlık beklentisi olan taşıyıcı anneler de bu bölümde yer alan ve nitel bulgularla desteklenen diğer konular olmuştur.

Toplumsal ilişki yeterliğinin ikinci alt başlığı olan *saygınlıkla* ilgili olarak YÜTEG’in, en azından yardımcı üreme süreçlerinin başlarında, dinen hoş karşılanmayacak şekilde davranmaktan kaçındığı, hatta bu davranışlarını dinen de meşrulaştırmaya çalıştığı; üreme süreçlerine katılan üçüncü kişiler, yani diğer kadınlarla ilgili arkadaşça olmayan önyargılara sahip oldukları; toplumsal baskıdan ve çevreleri tarafından yargılanmaktan kaçınmak için rol yapma davranışları sergiledikleri anlaşılmıştır.

Bunlara ilaveten bu bölümde, taşıyıcı annelerin ve yumurta donörlerinin de kendi aralarında birbirlerini rakip gibi görme, beğenmeme veya yumurtalarının (tüp bebek merkezlerince) diğerlerinden daha fazla istenir olması gibi nedenlerle bu işi yapan diğer kişileri kendilerinden aşağı gördüklerine dair bazı sonuçlar üzerinden *taşıyıcı anneler arasında dışla(n)ma* ve *yumurta donörleri arasında dışla(n)ma* konuları tartışılmıştır.

2.8. Diğer Türler [ile birlikte yaşayabilme] Yeterliği ile ilgili Sınırlılıklar ve YÜTEG

Diğer türler ile birlikte yaşayabilme yeterliği, Nussbaum (2011: 33) tarafından, “hayvanlar, bitkiler ve doğal dünya için ve onlarla ilişki içerisinde yaşayabilmek” şeklinde açıklanmıştır. Nussbaum (2011: 33) burada, özellikle var olan, halihazırda yaşayan türleri kastetmektedir. Ancak; bu tezde ele alınan bir özel YÜTEG grubu da embryo ve gelecek nesiller olduğu için, bu bölümde onların hak

tartışmaları yapılmış ve onlara tanınması gereken bu hak veya ayrıcalık – tezde bu ayrıcalık “modern dominium” adıyla ele alınmıştır -, insan hakları alanına bir öneri olarak sunulmuştur.

Embryonun gelecek nesillerin en yakın vücut bulacak insan adayı olmasından hareketle, ailenin doğmamış çocuk veya embryo üzerindeki haklarının sınırlı olması gerekip gerekmediği tartışılmıştır. Nitel çalışmadan elde edilen bulgularla, taşıyıcı anne tarafından doğurulan bebeğin, taşıyıcı anne tarafından emzirilmesinin önündeki engeller ve Türkiye’de evlat edinme konusunun önündeki prosedürel engeller, bu bölümde ele alınan diğer konular olmuştur. Tezin bu bölümünde, evlat edinmenin önündeki engeller kabul edilebilir oranda azaltıldığı takdirde evlat edinme sisteminin, üçüncü kişilerin bedenleri veya üreme hücrelerini kullanmak suretiyle çocuk sahibi olmanın güçlü bir alternatifi olabileceği ileri sürülmüştür.

2.9. Oyun Oynama Yeterliği ile ilgili sınırlılıklar ve YÜTEG

Nussbaum (2006: 362), bir canlının diğer yeterliklerden en az birisine veya birkaçına sahip olmasının ve bunun yanısıra oyun oynayabiliyor, araç/ alet kullanabiliyor olmasının, onun ahlaki bir duruşu, bir yeri olduğuna işaret ettiğini söyler. Bulguların bu bölümünde YÜTEG’in deneyimlediği YÜT süreçlerinin kişilere özgü birer travmaya dönüşerek hayattan keyif almalarının önünde engel teşkil ettiği ileri sürülmüştür.

YÜTEG’in deneyimleri, ilerleyen süreçteki davranışlarında ve başkalarıyla olan iletişimlerinde aşırı tepkiler verme ve aşırı duyarlılık şeklinde kendisini göstermiştir. Bu bölümde, söz konusu aşırı tepkiler ve duyarlılıkların YÜTEG içindeki bireylerin kendileri veya çocuklarıyla ilgili yapılan şakalara yönelik toleranslarını nasıl düşürdüğü ilgili örnekler üzerinden gösterilmiştir.

2.10. Çevre Üzerinde Kontrol Yeterliği ile ilgili Sınırlılıklar ve YÜTEG

Nussbaum (2011: 33), bireylerin çevreleri üzerinde kontrol yeterliklerini siyasi ve maddi olmak üzere iki başlığa ayırarak açıklamaktadır.

2.10.1 Siyasi: Nussbaum (2011: 33)’a göre, kişilerin çevreleri üzerinde siyasi kontrolünün olması kısaca, “kişilerin yaşamlarını yöneten siyasi seçimlere etkin bir

şekilde katılabilmeleri, yani siyasi katılım hakkı, özgürce toplanma ve konuşmanın korunması hakkına sahip olabilmek” olarak açıklanmaktadır.

Bu bölümde, tezin araştırma bulgularına göre, YÜTEG’in çevresi üzerinde siyasi kontrol yeterliğine yönelik sınırlıklar; iş yerlerinde cinsiyet ayrımcılığı üzerinden rutin bir şekilde yapılan psikolojik şiddet; Türk doktorlara YÜT ile ilgili danışmanın önündeki yasal engeller; taşıyıcı annelerin Türkiye’deki doğumlarında sosyal annenin kimliği ile işlem yapmak durumunda kalması; üreme turizmine dahil olmak ve araçlarla ilişki kurmak durumunda olmak; yurtdışında yapılan anlaşmalarda yabancıların ve vatandaşların yasal sorumlulukları; anlaşma yapılmaması durumu/ anlaşmalardaki eksiklikler; YÜTEG’in yasal sorunlar karşısındaki zayıflıkları etrafında tartışılmaktadır.

2.10.2. Maddi: Nussbaum (2011: 33), kişilerin çevreleri üzerinde maddi kontrolünün olmasını mülkiyet edinebilme ve çalışma hakkına sahip olma gibi kavramlarla açıklamaktadır. YÜTEG’in gerek defalarca başvurdukları tüp bebek denemelerinde gerekse üçüncü kişilerin üreme organları veya hücrelerine başvurularında yapmış oldukları masraflar bu kişilerin kendi çevreleri ve yaşamları üzerinde maddi kontrolü kısmen yitirmeleri ile sonuçlanmıştır.

Araştırma bulguları ile desteklenen YÜTEG’in çevreleri üzerinde maddi kontrol yeterlikleri ile ilgili sınırlılıklar şu şekildedir: yardımcı üreme teknolojilerinin mevcut kayıtdışı ekonomisindeki pahalılık ve dengesizlik; YÜTEG’in ödemelerindeki dezenformasyon, yasadışılık ve karışıklık yaratan durumlar; YÜT imkanlarına erişebilmek adına mülk sahibi olamama hatta mülk satmak; bu masrafları karşılayabilmek için ailelerin yardımına başvurmak ve taşıyıcı annelerin hamilelikleri süresince çalışabilmelerinin önündeki engeller.

Bu sınırlılıkların yanısıra, taşıyıcı annelik/ yumurta donasyonu ile geçinmenin mümkün olup olmadığı da yine bulgularla desteklenerek bu bölümde tartışılan bir başka konu olmuştur. Yumurta donasyonu ve taşıyıcı anneliğin Türkiye’de yasalarla belirlenmemiş bir alan olması ve yurt dışındaki merkezlerin keyfi ödeme miktarları belirlemesi, YÜTEG içerisinde türlü karışıklıklara ve eşitsizliklere neden olabilmektedir.

3. Sonuç ve Politika önerileri

Bu tezde, yardımcı üreme teknolojilerine bağlı olarak çeşitli yasal ve toplumsal sorunların, hak ve yeterlik sınırlılıklarının ortaya çıktığı izlenmiştir. Bu sınırlılıklar YÜTEG’le yapılan görüşme sonuçlarıyla desteklenerek Nussbaum’un (2011) *İnsan Yeterlikleri Yaklaşımı* ile tartışılmış ve her bir yeterlik ayrı ayrı yorumlanmıştır.

YÜTEG’in ve bedenleri yardımcı üreme teknolojileri üzerinden çeşitli boyutlarda zarar gördüğü için özel olarak yumurta donörleri ve taşıyıcı annelerin; ayrıca emriyo ve gelecek nesillerin haklarının korunması gerektiğinin altı çizilmiştir. Bu amaçla, öncelikle İnsan Hakları alanının kapsamının bu özel insan gruplarının haklarını koruyacak şekilde yeniden düzenlenmesi önerilmiştir.

İnsan Hakları Hukuku üzerinden YÜTEG’in hakları lehine söz konusu olacak gelişmelerin, pozitif hukuk alanı içinde de bu grubun haklarının oluşturulup korunmasına öncülük edeceği düşünülmektedir. Bu düşünceden hareketle tezin son bölümü *Politika Önerilerine* ayrılmıştır.

Politika önerilerinde bulunmak adına, iki problem belirlenmiştir. Bunlar: *Türkiye’deki YÜT’lerin yasadışılığı problemi* ile *Türkiye’de YÜT’ler üzerinden yaratılan insan hakları problemidir*. Her bir problem için, çok düzeyli perspektif kullanılarak makro, mezo ve mikro düzeyde politika önerileri, politika amaçları, politika araçları ve politika hedefleri belirlenmiştir. Bu düzeyler ve öneriler, araştırma bulgularına dayandırılmak suretiyle düzenlenmiştir.

Tezin en önemli katkısı ve özelliği; tezin bulgularının, Türkiye’de yaşayan ve üreme süreçlerinde üçüncü kişilerin bedenleri ve üreme hücrelerine başvuran YÜTEG ile ilgili olarak yapılmış ve bir İnsan Hakları Yaklaşımı olan yeterlikler yaklaşımı açısından ele alınmış nitel bir araştırmaya dayanmasıdır. Konunun önemi ve araştırmanın daha önce bahsedilen sınırlılıkları nedeniyle, benzer araştırmaların daha geniş YÜTEG katılımcıları ile gerçekleştirilmesi, desteklenmesi ve Türkiye’ye ait bir literatür oluşturulması önerilmektedir.

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