Deregulation via regulation: on the moralisation and naturalisation of embryonic stem cell research in the British parliamentary debates of 2000/2001

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Deregulation via Regulation: On the Moralisation and Naturalisation of Embryonic Stem Cell Research in the British Parliamentary Debates of 2000/2001[1]

Ende 2000/Anfang 2001 legalisierte das britische Parlament das sog. „therapeutische" Klonen und die embryonale Stammzellforschung durch eine Änderung des Human Fertilisation and Embryology Act *von 1991. Die Autorin beschreibt diese Änderung als Deregulierung durch Regulierung und untersucht, wie dieses Paradoxon in den Debatten im britischen Parlament über die Moralisierung und Naturalisierung des Issues „gelöst" wurde. Während einerseits die Vernutzung von Embryonen in der Forschung als „natürlich" und gleichzeitig als eine Frage der persönlichen moralischen Haltung und Entscheidung konzeptionalisiert wurde, wurde andererseits eine generelle rechtliche Einschränkung der Forschung als „moralische Nötigung" dargestellt. Frauen/Paare wurden in den Debatten als diejenigen konstruiert, die, als Resultat ihrer natürlich-biologischen Beziehung zum Embryo, moralisch sowohl für die Begrenzung als auch die Ermöglichung der Forschung verantwortlich sind. Das Parlament hingegen hatte letztendlich nur die Funktion, Entscheidungsmöglichkeiten einzuräumen und generelle Begrenzungen der Forschung zu vermeiden.*

At the end of 2000 and beginning of 2001, the British parliament legalised so-called "therapeutic" cloning and embryonic stem cell research by amending the 1990 Human Fertilisation and Embryology Act (HFE Act). Up until then, Britain already had some of the most comprehensive and permissive legislation on embryo research compared to other European countries such as Germany or France.[2] The relaxation of an already broad law is interesting because, first, there was unease among the British public about practices such as "therapeutic" cloning and embryonic stem cell research because of fears that they would lead down the "slippery slope" towards reproductive cloning as well as because of discomfort about embryo research in general.[3] Second, there was, and still is, great uncertainty about the results of the research. The benefits claimed for the research are by no means assured, a fact, which even supporters of amending the law acknowledged. Nonetheless, parliament approved changes in the law, thereby permitting embryo research for an extremely broad range of purposes.

Although the legal changes facilitated more embryo research, control and limitation of research were in fact the key issues in the parliamentary debates. This leads to a paradox that I call *deregulation via regulation*. In this paper, I analyse the British parliamentary debates in terms of how this paradox has been discursively "resolved" by *moralising*, *naturalising* and *individualising* the issue. Embryonic stem cell research and "therapeutic" cloning were at the same time conceptualised as natural processes and as subject to personal, moral beliefs. Thus, rather than advocating legal limits, many Members of Parliament (MPs) argued in favour of

the moral action of the individual, on the basis of the discursive naturalisation of moral behaviour. Within this discourse, women had an essential function: it is women who were conceptualised as responsible for limiting as well as facilitating embryonic stem cell research and "therapeutic" cloning because of their biological connection to the embryo and their (natural) moral ability to decide about "life". Women, in effect, were constructed as the melting pot in which deregulation, regulation, moralisation and naturalisation converged.

To understand the function of references to women/their body parts within the British parliamentary debates, I have summarized the main argumentative strands in terms of what Schön and Rein have called "frames of argumentation". "Framing", as Schön/Rein (1993, 147) define it, refers to the process "by which people construct interpretations of problematic situations, making them coherent from various perspectives and providing users with evaluative frameworks within which to judge and how to act". Thus, frames "determine what counts as evidence and how evidence is interpreted" (Schön/Rein 1993, 145) with regard to decision-making. My paper offers an inductive analysis of how speakers in the debates framed the problem. Special emphasis is put on how they referred to women/women's participation in embryo research in order to show what function these references to women had within the framing process. I analyse four parliamentary debates in the House of Commons (lower house) and one in the House of Lords (upper house), which took place between 17th November 2000 and 22nd January 2001. First, however, I give a brief summary of the events preceding the debates.

Historical Background

The British 1990 HFE Act[4] regulates, among other things, infertility treatment, the status of children born after in vitro fertilisation (IVF), and the cryopreservation of embryos and embryo research. It allows research on in-vitro embryos for up to 14 days after fertilisation, if the goals of research cannot be met in other ways and if such research serves one of five research purposes: (1) to advance IVF; (2) to understand the causes of miscarriage; (3) to improve contraception; (4) to develop methods of detecting genetic or chromosomal deviations in embryos before implantation; and (5) to understand congenital diseases (cf. Morgan/Lee 1990). It mandates the establishment of a licensing authority – the Human Fertilisation and Embryology Authority (HFEA) – which began operating in August 1991. The Act remained relatively uncontroversial until 1996, when thousands of frozen embryos were destroyed because they could not legally be kept for more than five years.[5] In 1997, the birth in Edinburgh of the first mammal cloned from an adult cell, Dolly the sheep,[6] was announced, prompting fears that the practice could be applied to humans. These events brought questions about embryo research, the status of the embryo and the meaning of assisted conception back into public debate and onto the political agenda. In response to concerns about human cloning, the HFEA and the Human Genetics Advisory Commission (HGAC)[7] established the Cloning Working Group (CWG) in January 1998 to hold a public consultation and to advise the government on cloning issues. Its report (HFEA/HGAC 1998), published in December 1998, recommended that the existing legislation be amended to provide for two more research purposes: research into therapies for tissue and organ illnesses, and research into mitochondrical diseases, thereby, implicitly allowing "therapeutic" cloning and embryonic stem cell research.[8] The report also stated that the 1990 HFE Act did not prohibit cloning but queried whether the HFEA had any authority over cloned embryos, because they were not the result of fertilisation (the definition of an embryo in the HFE Act) and thus not necessarily subject to HFEA licences.[9]

Despite this report, the British government took no immediate steps towards legalising "therapeutic" cloning and embryonic stem cell research. One reason for its hesitation might have been the opposition within the British public at that time to genetically modified crops. The government may have feared that such scepticism could spill over into human genet-

ics, meaning that public support for the new regulations was an open question (Sexton 2000).

The cloning issue was handed over to the Chief Medical Officer, Liam Donaldson, a move, which many interpreted as a delaying tactic. He appointed an Expert Advisory Group on Therapeutic Cloning, whose report (Department of Health 2000a) was published in August 2000 when parliament was on its summer recess. The report supported the recommendations[10] already made by the HFEA/HGAC group, and the Donaldson recommendations were then fully accepted by the government (Department of Health 2000b). Both Houses of Parliament debated the issue between November 2000 and January 2001.[11] Interestingly, just a few days before the vote in the House of Commons (HC), the government published its draft regulations that differed from Donaldson's recommendations. On 19th December 2000, the HC voted on *three* (not two) new research purposes which were much broader than those suggested by Donaldson. The draft regulations would permit embryo research (under licence from the HFEA) if it served: (1) increasing knowledge about the development of embryos; (2) increasing knowledge about serious diseases; or (3) enabling any such knowledge to be applied in developing treatments for serious diseases. In a free vote, the HC divided with 366 ayes and 174 noes. Although the amended regulations were presented by the Labour government, there was no clear-cut division in the vote along party political lines. Supporters and opponents were from all sides. Similarly, there was no observable division along gender lines. Women's participation in the HC debates, however, was remarkably high (41.2% of the main speakers were women[12]) compared to the number of women MPs (18.2%) (cf. HC Factsheets 2002). In the House of Lords (HL) debate on 22nd January 2001, 34.1% of the speakers were women. The Upper House approved the changes of the law with 212 ayes and 92 noes. It decided, however, to set up a Select Committee[13] to investigate the implications of the changes. Its report was published in February 2002 (Select Committee 2002).

Nothing New to Discuss: The Embryo-Question …

The British parliamentary debates took place within a legal context that already allowed embryo research to further infertility treatment and procreation. Within this setting, it was critical to portray the new regulations as minimal changes to the existing law that did not entail any new ethical or social implications. This argument formally justified the government's decision to amend existing legislation rather than to introduce primary legislation. By doing so, MPs could not amend the draft regulations but only approve or reject them. This was strongly criticised by opponents of the new regulations as misjudging the importance of the changes in the law. Supporters, however, put much effort into playing down the novel character of the new purposes, stating that "therapeutic" cloning was not an entirely new practice and was not prohibited by law.

The "nothing new argument" was facilitated by discursively separating reproductive from "therapeutic" cloning, a separation that the CWG and Donaldson reports had already emphasised. Drawing a supposedly clear line between the "acceptable" (therapeutic) and the "unacceptable" (reproductive) application of science was a prerequisite for the legitimation of "therapeutic" cloning.[14]

Although "therapeutic" and reproductive cloning differ from each other only in their final *application* and not in the practices themselves, the delegitimation of reproductive cloning actually supported the legitimation of "therapeutic" cloning.[15] Thus, banning "reproductive cloning" was one of the major demands of supporters of the new embryo research regulation. Those opposed to the new regulations could not counter the separation, opposition and, finally, legitimation via delegitimation, although they did emphasise the similarity of both practices and that "therapeutic" cloning would open the gates to reproductive cloning. Supporters of extending the HFE Act successfully managed to frame "therapeutic" cloning in terms of practices already legal in Britain.

The "status of the embryo" played a central role in the debates. A legal context of already allowing embryo research for some purposes helped supporters to claim that embryonic stem cell research and "therapeutic" cloning did not have any new ethical or social implications. The focus on the embryo question led to the "reproduction" of the 1980s debates, which was the safety net of pro-research MPs (Parry 2003). Supporters claimed that all ethical questions about embryo research had, in principle, been discussed and solved, and that the practices of cloning and embryonic stem cell research – if they had existed in 1990 – would have been regulated by the HFE Act.[16]

The comparison between the legally permitted research into procreation and infertility and the proposed research into curing serious diseases was a heavily moral-laden one that lent weight to allowing the new research purposes. Since both kinds of research involve embryos, the new purposes were presented as a "logical extension" of the old ones, as the following quote suggests:

> For my part, these new regulations are in keeping with the HFE Act. In fact not only are they a logical extension of it; ... (i)f it was ethically and morally acceptable to pass the 1990 Act, then to see that research potentially benefit a wider section of society is surely to be welcomed (Baroness Northover, HL 22/01/2001, Col. 35)

On what grounds, supporters argued, could research into contraception and infertility treatment be allowed but not the morally more reasonable research into serious diseases, which would help "wider sections of society"?

Opponents of the new regulations, however, insisted that the embryo had to be protected from fertilisation onwards, voicing an opposition to embryo research in general as a violation of the integrity of human life. Supporters countered that this argument had been superseded by existing law – and that the government had categorically stated that the issues discussed in the 1980ies were not open for renegotiation. Supporters were able to frame opposition to the new regulations as being against the existing law and to present the new regulations themselves as within the law. Thus one of the main arguments presented by opponents – the inviolability of the embryo – proved to be the weakest.

… and the "Greater Good"

Nevertheless, some unease towards the use of embryos in research persisted. The status of the embryo, hence, was set against another central element of the debate: the "greater good for society". "Benefits to society" or "the common" or "greater good" were framed as the ultimate goal of cloning and embryonic stem cell research, that is, ending suffering and enabling general societal progress by means of scientific progress. It was this "greater good" that ultimately was able to outweigh any respect for the embryo.

> Most members of the public, whether they are religious or would describe themselves as humanist or secular, recognise the special and sacred nature of human life. They believe that there must be respect for that entity. The only circumstances in which research on this cluster of cells (the embryo; S.H.) should be permissible is when a genuine greater good for society will be served (Baroness Kennedy of The Shaws, HL 22/01/2001, Col. 47).

This "greater good" was portrayed as relieving the suffering of the "seriously ill", who were portrayed as being a "cost to society". To relieve suffering means, as Labour MP Anne Begg suggested, to "cut waste", since "waste in personal terms and in life is a cost to society" (HC 15/11/2000, Col. 911). (The argument about the "seriously ill" is discussed below.)

Scientific progress, in contrast, was described as generally improving society: as a practice and as a means to provide knowledge "which allows us to lead our lives and create society in a better way" (Peter Brand, HC 17/11/2000, Col. 1196). This goal – the improvement of society – seemed unassailable. Supporters claimed the inevitability as well as the necessity of scientific progress for the improvement of British society, economy and international competitiveness. They also referred to a possible "brain drain" and thus the potential loss of Britain's

standing at the forefront of international biotechnology that might follow a rejection of the proposed legal amendment.[17] If the issue was deferred or defeated, Baroness Warwick of Undercliffe said that

> (i)t would mean that our scientists in universities and in industry would loose any hope of remaining at the cutting edge of the technology which involves a branch of science in which the UK is currently pre-eminent (HL 22/01/2001, Col. 53).

Participation in scientific experimentation appeared inevitable while societal improvement was understood as an uncontested, albeit not-defined, objective. Non-participation implied the risk that society would decay or stagnate.

Thus the *status of the embryo* and *the greater good for society* formed the general frame of the debates. The issue of embryonic stem cell research and "therapeutic" cloning was framed as a conflict between the two and the solution lay in their balancing.

The "Abnormality" of Suffering …

The framing of the proposed regulations as nothing new and as aiding the search for "the greater good" was strengthened by pro-research MPs who emphasised the importance of embryonic stem cell research for society and for the individual sufferer of "serious diseases". They achieved this by constructing a group of sufferers who would benefit from stem cell research.[18] This construction of a need within society had a strong moralising effect. Many speakers in the debate repeatedly asserted that parliament had a strong moral obligation to facilitate the finding of cures for these sufferers. Such cures, supporters stated, could be made available through embryonic stem cell research, while the opposition pointed to adult stem cell research. As Sarah Parry (2003) puts it, "science and technology are positioned as a bridge at the point when 'life's natural progression' is broken off by … illness".

The claim that new scientific research was needed was backed up by interpreting the condition of being sick or disabled as "abnormal" and science and technology as a device to re-establish normality.

> Hell in that case is an end to normal life as we know it (Gareth Thomas, HC 17/11/2000, Col. 1199).
> … Parkinson's – certainly a disease, and certainly abnormal (Dr. Peter Brand, HC 17/11/2000, Col. 1196).

At the same time, the construction of a group of people who might benefit from the new research facilitated the construction of the moral duty of MPs – as the representatives of the people – to create the conditions to allow for new research.

> Just imagine what would happen if we could find a cure for diabetes and restore someone to normality … If we use the argument that we should not go ahead and begin the research, we would not be doing justice to the people whom we represent in Parliament (Michael Fabricant, HC 15/12/2000, Col. 920).
> We have a duty to society and to the sufferers of degenerative diseases (Joan Ruddock, HC 17/11/2000, Col. 1211).

Against the background of all the possibilities claimed for embryonic stem cell research, the construction of a group of sufferers leading "abnormal" lives produced some kind of duty of parliament to give them hope through scientific research. If people have a "right to normality", then parliament has the duty to facilitate normality. Parliament was thus understood as having "… the power to authorise the research that could trigger life-saving and life-transforming treatments and cures … " (Yvette Cooper, HC 15/12/2000, Col. 880) and the duty or responsibility not to limit research. In the context of the "abnormality of suffering", any restriction was portrayed by supporters as denying people the right to normality.

Science itself, particularly adult or embryonic stem cell research, was rarely scrutinised or criticised in the parliamentary debates, either by opponents or supporters of extending embryo research. While supporters stressed the necessity of scientific development in general, opponents proffered the opinion that any prohibition of "immoral" research would not hinder progress in general. Although Germany has the strictest regulations regarding embryo research,

Conservative MP Anne Winterton stated, "… its biotechnology industry has outstripped the industry in Great Britain" (HC 17/11/2000, Col. 1205).

If there was any critique of science, it was more about whether scientific experimentation could be controlled or not (the slippery slope argument) than about its appropriateness, effectiveness or the predictability of results.[19] Indeed, it was precisely the unpredictability of results that made research even more desirable, according to supporters. As Labour MP Anne Begg said:

> It is precisely because scientists do not know the answer that we need the research. If research does not work, that is fine; nothing else will happen. However, we must have the research in the first place (HC 15/12/2000, Col. 902).

If science cannot provide certainty, it can provide *hope*: "… (S)tem cells may be the only thing on the horizon that holds out any hope" (Yvette Cooper, HC 19/12/2000, Col. 213). [20] Regardless of the fact that scientific results are unpredictable for epistemological reasons, something that even ardent supporters of the proposed new regulations acknowledged, supporters and opponents both agreed that stem cell research (embryonic or adult) was the right answer to the problem. Hence, alternatives to (adult or embryonic) stem cell research to alleviate suffering, such as social responses, were not discussed, nor were other aspects of these serious diseases, such as causation.

The question as to whether or not to use therapies derived from embryo research was framed as an individual decision: accepting treatment remains subject to "consent", a question of a "right" to choose. This, as the quote below by Liberal Democrat MP Evan Harris suggests, implies a duty to provide choice and not to restrict options:

> Accepting treatment is a personal decision. It is quite reasonable that some people already do not accept certain treatments … The whole point about the regulations is that they are permissive … They will not force people to accept the treatment (HC 19/12/2000, Col. 253).

Despite the government's lack of defining "serious diseases", the demand to facilitate the finding and offering of cures proved to be one that opponents of the new research purposes could not counter. Strong moral connotations of "severe and unbearable" were difficult, if not impossible, to argue against. Moreover, the broad and non-defined "serious disease" argument allowed many different interpretations. Many different actors could agree to the demand for cures without necessarily sharing the same understanding of "serious disease". What is more, the concept (albeit undefined) of "serious diseases" implied a dividing-line from "trivial diseases" and thus served as a device to limit research.

… and the "Naturalness" of Embryo Destruction

The "abnormality of suffering" was contrasted with the "inevitability" or "naturalness" of embryo destruction, and this is where women – or rather their uteruses – came into play. By referring to both the "wasteful process" of natural procreation and the "useless destruction of embryos leftover from IVF", embryo research appeared logical, reasonable and, in a sense, ethically more responsible. The (very rare) references to women or their body parts had an important function within the argument to relax the HFE Act. References to the "uterus as hostile environment" in which embryos die *naturally* served to naturalise embryonic stem cell research (cf. also Parry 2003).

> Millions of fertilised embryos are regularly lost and discarded in the course of normal human conception (Lord Walton of Detchant, HL 22/01/2001, Col. 104). I know that the ball of cells growing in the uterus has a potential to develop into a human being, but I also know that *the uterus is a hostile environment* and that many of the egg cells do not survive the vicissitudes of the uterus and all biochemical events that go on there. The process is not often recognised, but it's a *natural* process that has been talked about for some years (Ian Gibson, HC 17/11/2000, Col. 119; emphasis added).

Even if the embryo had the potential to develop into a human being, according to MP Ian Gibson, chair of the HC Science and Technol-

ogy Committee, this potential depends on it being placed inside the uterus. But there is as much, if not more, likelihood that it does not survive than that it develops. Outside the uterus – and thus deprived of the potential to become a human being – its destruction in research seemed more consistent and sensible.

Public health minister Yvette Cooper constructed the same logic with regard to embryos left over from IVF: "As long as IVF continues, hundreds of thousands of spare embryos will be created. Most are destroyed" (Yvette Cooper, HC 19/12/2000, Col. 214).

The description of the destruction of spare IVF embryos and the death of embryos in the uterus as inevitable or natural functioned to justify further embryo research. Within a discourse that focused on the embryo and claimed that the proposed regulations were "nothing new", an embryo's "inevitable" or "natural" destruction/death was equated with its destruction in stem cell research, which appeared to be more logical and ethically responsible.[21] Within this framing, both "the abnormality of suffering" and the "naturalness/inevitability of embryo destruction" converged: "wasted lives" and "wasted embryos" could both be made efficient via the use of embryos in research. In this way, embryonic stem cell research appeared as a "normal"/"natural" device to re-establish normality.

References to IVF not only functioned to naturalise embryonic stem cell research but also to construct IVF patients as affirmative donors to science:

> If Parliament votes against these regulations, hon. Members will deny couples the *choice to donate* their spare embryos to stem cell research for spinal injury or stroke (Yvette Cooper, HC 19/12/2000, Col. 214; emphasis added).
> … (M)any of the infertile couples … are being helped by the current legislation and *would like to be permitted* by the new regulations *to donate* their surplus fertilised eggs to be used to help sick people (Baroness Walmsley, HL 22/01/2001, Col. 101; emphasis added).

While the proposed new regulations were translated into permission to donate, the need for embryos in scientific research was transformed into a "right" to donate – science's interest in embryos is transformed into the interest of a potential donor. Thus, it became parliament's duty not only to promote better health, but also not to deny people the freedom to choose to donate.

Nonetheless, talk about a *right* to donate cannot obscure the moral implications of donation; Ingrid Schneider (2003) has called this the "*Sozialpflichtigkeit*" (social responsibility) of the female body. A hint of this social responsibility to donate appears in the HL's Stem Cell Research Report, which constructs women as the selfless female caretakers of the family:

> Some medical charities and patients' support groups argued that female members of a patient's family would be prepared to donate eggs for altruistic motives, and this is no doubt true in some cases (Select Committee 2002, 5.9).

Labour MP Joan Ruddock placed the argument of a "choice to donate" within a wider framework of a particular understanding of "what life is"; according to her, women and their partners who have undergone IVF treatment have a particular sense of this: The source of their emotional distress is childlessness rather than "left-over" embryos that arise unavoidably as a by-product of IVF treatment. Thus, Ruddock insisted that it would not be necessary to produce embryos for research and implied that embryo destruction was inevitable. At the same time, she conceptualised embryo donation for research purposes as an individual desire:

> There is no suggestion that women should be asked to donate their eggs for scientific research. The eggs and embryos that are the subject of the debate arise in laboratories of doctors who attempt to assist those who are infertile … (A)ssisted conception is the motivation for the production of embryos, and all those involved have to give their express consent … As someone who experienced the pain of childlessness, I believe that I can understand the feelings of those who seek IVF treatment. *More than most, they have an acute sense of what life is … Those are the people who would be asked to donate their eggs and embryos that would otherwise be destroyed. My guess is that many of them will feel that, for up to 14 days, their human cells can be used for alternative and ethical purposes that would advance the common good.* As the Minister explained, that common good is research into degenerative diseases (Joan Ruddock, HC 17/11/2000, Col. 1210; emphasis added).[22]

Within the rights frame, the interpretation of embryo donation for *ethical purposes* as an individual's personal desire once again characterised any general restriction or limiting intervention as a denial of rights and personal wishes. Moreover, Joan Ruddock linked the desire to donate "surplus embryos" to the improvement of the "common good", which then appeared as a personal moral objective.

Conservative MP Anne Winterton similarly referred to a "natural knowledge of life" that women have, although she opposed embryo research:

> *As a mother and grandmother*, I must confess that I become quite emotional when I think of the beginning of life for children; each on the first day after conception no bigger than a full stop, yet miraculously sustaining, controlling and directing their own development in the production of every different type of cell and tissue to bring them to what they are today. The fact that we have scientists who think of these, who are definitely human, simply as a source to be exploited in obtaining cells and tissue, I find frightening (HC 17/11/2000, Col. 1204; emphasis added).

While disagreeing on the legitimacy of embryo research in general, both Ruddock and Winterton referred to the connection between women/couples and embryos as a natural instance of moral ability and responsibility: both put women/couples in a position to know "what life is" because of their physical/biological participation in IVF or natural procreation. In Ruddock's words, it is IVF patients' suffering that teaches them "what life is" and thus enables them to decide. Although opposed to embryo research, Winterton's argument had a similar grounding: her ability to know "what life is" was based on her function as a mother and grandmother.

Ruddock's statement that women/couples will gladly donate their embryos for the "common good" illustrates that arguments citing "desire", "right", "choice" or "altruism" all imply an individual moral objective to serve a "common/greater good". Women/couples are portrayed as a natural entity; based on their individual moral judgment, they can facilitate scientific research in order to serve this common good.

But even terms such as "choice" or "right" were not used to refer to particular women's interests nor were any gender implications of these notions raised. The danger of instrumentalising the female body in reprogenetic research and practice, which played an important role both in the European (cf. Abels, this volume) and in the German context (cf. Braun, this volume) were not on the agenda in the British debates. Despite the relatively high numbers of women speakers, gender-related issues – pro or contra research – were not discussed.

Control and Restriction

While general limitation by the state of embryo research was portrayed as denying options and rights, its control and limitation nonetheless formed one of the most critical arguments of those in favour of the new research purposes. Although supporters emphasised that science had to cross (ethical) borders in order to proceed, they also stressed that it could be controlled.

> I want to stress that the research will proceed in this country only under closely regulated conditions which are unparalleled elsewhere in the world (Baroness Greengross, HL 22/01/2001, Col. 86).

If scientific experimentation is framed in terms of its use and abuse, then control of such research concerns the prevention of abuse, in this instance, the prevention of reproductive cloning and of over-extensive and unlimited embryonic stem cell research (for example, into "trivial" diseases). Reference to "women's participation"[23] shores up and reinforces the barriers between use and abuse. Reproductive cloning cannot happen because

> … the embryo could grow into a foetus only if it were implanted into the womb, a process that is illegal and a criminal act in the UK. In other words, there is a three-fold barrier which prevents any possibility of the technique being used in this country for human reproductive cloning (Baroness Sharp of Guildford, HL 22/01/2001, Col. 111).

Because the new research purposes were framed as minor changes to an existing law, the

new practices had to be framed as restricted or restrictable. But control or restriction would be achieved not via prohibition by the state, but by constructing a "natural" border: via their physical participation within the research processes, women functioned as gate-keepers of this border, this time in their capacity as egg donors:

> … (S)cientists themselves will follow the successful science. Working on embryos will not be easy. One speaker said that there will be a rush to use embryos because the work is easy. It is extremely difficult to derive eggs for cell nuclear replacement … it is not a trivial matter for a woman to donate eggs, whether for embryos for IVF or for this sort of research. Eggs are in extremely short supply (Evan Harris, HC 19/12/2000, Col. 255).

A shortage of egg cells and the difficult process of egg retrieval formed a "natural" border to over-extensive research. Women were portrayed as individual, "natural" gatekeepers against the abuse of science: their physical participation makes over-extensive research impossible.

In contrast, a *general* limitation of scientific research was referred to as "fundamentalism". Although it was stressed that there are moral arguments on both sides and that each position deserved respect, within the context of a "right to be normal", a "right to donate" or a "right to choose therapies", any restriction of research appeared as "fundamentalist". Conservative MP Robert Key said: "If we are not careful we become fundamentalists hanging on to a few dogmas that we do not intend to examine and which we will not give up" (HC 17/11/2000, Col. 1216).

In line with the individual rights argument, any restriction of scientific endeavour appeared as a "moral imposition", as "denying opportunities" and "rights". As MP Peter Brand summarised:

> I find it really difficult when hon. Members' personal deeply felt opinions – which I respect – form the framework for denying other people's opportunities. I know that it is right that in all we do in our personal lives we should be guided by our beliefs, but I have some difficulty when those beliefs are imposed on others (HC 17/11/2000, Col. 1195).

Conclusion: Deregulation via Regulation

The British parliamentary debates led to the relaxation of regulation governing embryo research in the UK. Today, British law allows almost any kind of embryo research. Nevertheless, while the result of the debates was not to limit embryo research but to facilitate more of it, the emphasis on limitation and control served as an important pro research argument. The assurance that research was subject to control and limitation was decisive in the deregulation process, leading to the apparent paradox of *deregulation via regulation*.

One of the major devices to justify the legalisation of "therapeutic" cloning was the de-legitimation of reproductive cloning. Via the separation and opposition of both, and the prohibition of the "unacceptable" application, the deregulation of "therapeutic" cloning was made acceptable. At the same time, the prohibition of reproductive cloning was declared as a means of control or restriction of the new practice – regulating one was a device to deregulate the other.[24]

This contradiction was discursively resolved via the *naturalisation/normalisation* of the issue. Framing the issue in terms of nature and normality, that is, the "naturalness/inevitability of embryo destruction" and the "abnormality of suffering", which were both described as "waste", helped to portray the use of embryos in research as logical and morally responsible. Because those who suffer were conceptualised as leading abnormal lives, parliament was understood as having the moral duty to create the conditions that could lead to the re-establishment of normality and thus not to limit scientific research.

Moreover, the problem of embryo research was framed as a *moral* issue, that is, as a question of different individual beliefs and deeply felt personal opinions, all of which were understood as equally moral. One of the effects of this framing was the individualisation of decision-making: the issue was portrayed as a matter of individual moral judgement rather than state intervention. As supporters of the new research stated, it is subject to personal moral de-

cisions and consent, a question of a right to choose whether or not to donate eggs or embryos and whether or not to use therapies derived from embryo research. Within this frame, any general restriction must appear as a "moral imposition" or as "fundamentalist", and, hence, as the denial of choices and rights.

The interpretation of general restrictions as a "moral imposition" and of limitation as subject to individual moral decision-making formed the framework within which deregulation via regulation functioned. Regulation became the task of personal choice and personal moral behaviour, while parliament was interpreted as having the moral duty to ease the grounds on which options could be provided. Parliament was portrayed as having not limiting but facilitating power, as having the "power to authorise" but not to hinder research. The background ethical principles were those of informed consent, autonomy, voluntary (moral) action and choice, all of which were depicted as relying on non-intervention by the state. Thus, it was not state-political jurisdiction but personal decision-making and individual moral responsibility that had the authority to "regulate" embryonic stem cell research and "therapeutic" cloning. But in the parliamentary debates, decision-making was not construed as an entirely individual matter but was also connected discursively to what was called "the greater good". The goal of decision-making, as pro-research MPs portrayed it, was the welfare of a greater entity than the individual: the well being of the seriously ill and the greater good of society. As Rose (2001) has pointed out, the new biomedicine is not totally individualising, as many critics have stated, but entails new forms of collectivism. Potential egg donors are connected to the seriously ill; IVF patients are connected to researchers or potential users of therapies derived from embryo research.

The abstention from a general limitation of research was accompanied by a *responsiblisation* (Rose 1999) of the individual: the conceptualisation of women/couples as gate-keepers against abuse and, at the same time, as facilitators of research is exemplary of this. Women/couples were conceptualised as those who choose whether to donate or not. Portrayed as their "right", "desire" or "choice", they not only have the option to donate but also a moral responsibility to facilitate research or to restrict it. This function as gate-keeper and their ability to make a moral judgement were depicted as deriving from their physical participation in egg or embryo donation, IVF, motherhood or procreation: their suffering because of childlessness, leading them to IVF; their biological function as a mother; or their capacity to procreate enables them and, at the same time, makes them responsible to make a moral decision. Rose has called the process of somatisation and individualisation of decision-making *ethopolitics*, a term he uses to describe the establishment of "direct relations … between our biology and our conduct" (Rose 2001, 1). Biological existence and physical involvement become the – ostensibly objective – basis for individual moral decision-making. Within the ethopolitical paradigm, the production of naturalness through technology, in this case, the re-establishment of naturalness through scientific experimentation, or more generally, the subjection of nature to choice, is not contradictory, but essential. Nature, biology or corporality are not understood as unchangeable fate but as subject to individual choice and responsibility and are bound up with responsible moral behaviour.

As to the general approval of science and scientific experimentation, it was not surprising that the scientists wanting to conduct the research did not appear as those who make moral decisions. It was parliament and those individuals who choose to donate or not who make moral decisions; science and scientists were absolved of questions of responsibility, values and morals and portrayed as simply "objective". Thus, the moralisation and individualisation of the issue served to protect science's supposed objectivity, which underpinned the process of deregulation via regulation.

Within the British parliamentary debates, general boundaries of embryonic stem cell research, were on the one hand, disqualified as "moral imposition", while, on the other, securing control and limitation was formally and morally essential to back up and disguise the deregulation. References to women/couples had the

important function of combining deregulation and regulation: Within women/couples, both merged; women/couples were conceptualised as the individual moral instance that functions as a natural, objective gate-keeper and as facilitators of research because of their personal moral judgement, which was portrayed as the result of their physical involvement. At the same time, the "moral imposition" of general borders could be avoided.

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1 I thank the *Heinrich Böll-Stiftung*, Berlin, for financial support of my research and Sarah Sexton (The CornerHouse) and Sarah Franklin for critical discussions. I am also grateful to the anonymous reviewer of the ÖZP for her/his extremely valuable comments.
2 For an overview on regulation across Europe, cf. Gratton (2003).
3 Several groups and individuals, including the Campaign Against Human Genetic Engineering, some Church leaders and anti-abortion groups, lobbied against the extension of the HFE Act. Until just before the vote, the government could not be sure what the outcome would be: a few days before the vote, Public Health Minister Yvette Cooper, and her counterpart in the Lords, Lord Hunt, wrote to all MPs setting out arguments in favour of giving a go-ahead to the research in order to prevent the new regulations from being defeated.
4 On the debates preceding the implementation of the 1990 HFE Act, cf. Mulkay (1993; 1994; 1997) and Franklin (1999a). For a comparison of the British parliamentary debates in 1990 with those in 2000/2001 regarding the convergence of embryos and stem cells, cf. Parry (2003).
5 The HFE Act prescribes that frozen embryos must not be kept for more than five years. As the first licences were issued in August 1991, the first deadlines were in August 1996, cf. Franklin (1999b).
6 On the "cloning debate" in Britain, cf. Sexton (1999).
7 The HGAC was an independent advisory body which counselled the government on questions of human genetics. In 1999, it was replaced by the Human Genetics Commission (HGC).
8 The report recommended the amendment of the HFE Act despite the fact that about 40% of those who replied to the public consultation voiced concern or disapproval of human cloning (cf. 190 replies to the HFEA/HGCA consultation, held by the Department of Health).
9 The HFEA's jurisdiction over cloned embryos was subsequently challenged in court by the Pro-Life Alliance on the grounds that a cloned embryo is not an embryo under UK law because fertilisation is not involved. The court ruled that the HFEA had no authority over cloned embryos. The UK government then rushed through legislation at the end of 2001 prohibiting reproductive cloning (The Guardian 2001). The court's ruling, however, was subsequently overturned on appeal.
10 The report makes nine recommendations altogether, although only two refer to research purposes.
11 The debates are documented in *Hansard*, HC Debates of 17th November, 15th and 19th December 2000 (http://www.publications.parliament.uk/pa/cm/cmhansard.htm) and *Hansard*, HL Debates of 22nd January 2001 (http://www.publications.parliament.uk/pa/ld/ldvol621.htm).
12 The Public Health Minister who introduced the draft regulations was a woman, Yvette Cooper.
13 Select Committees are legislative bodies which deliberate upon complex issues and make recommendations. Their reports, however, are not binding upon government.
14 Cf. Parry (2003) on the lobbying strategies preceding the debates: several science-based organisations' statements "began by focussing upon the distinction between reproductive and therapeutic cloning".
15 This strategy is comparable with the invention of the "pre-embryo" during the debates on the HFE Bill in the 1980ies. As Spallone (1989, 50ff.) writes, the "coining of the term pre-embryo was a political act" to accommodate the 14-day time limit. The term was introduced after the 14-day limit had been "agreed" upon in order to justify this time span. It helped to create an opposition between the pre-embryo and the "proper" embryo and to legitimise research on pre-embryos while ruling out the other.
16 Sarah Parry (2003) analyses the "return of the embryo question" in 2000/2001 as compared to the pre-1990 debates and concludes the convergence of embryos and stem cells and that stem cell research has been framed by the interests of the UK economy and its biotechnology industry. My analysis draws on and supports her findings, but my focus is on the political effects of individualising and moralising the issue, that is on the convergence of deregulations and regulation.
17 Scientific lobby groups warned that scientists would leave the country if the new research was not legalised.
18 Just to be sure, I do not deny people's suffering nor the need for alleviation but want to criticise the instrumentalisation of suffering in the debates.
19 The BSE crisis served as an example of the failure to control science. This crisis was attributed to a lack of scientific knowledge within the regulatory process, a lack which was portrayed as creating danger, rather than science itself.
20 This is similar to Franklin's (1997, 177) description of IVF as a "hope technology".
21 Note that supporters and opponents converge in their opposition to the *deliberate* destruction of embryos, although in different ways: while opponents gener-

ally oppose embryo destruction, supporters justify it as long as it is for useful ends.

22 The terms "degenerative" and "serious diseases" were used interchangeably throughout the debates. But the conditions referred to were not only degenerative diseases such as Parkinson's or Alzheimer's, but also illnessess such as strokes, burns or spinal cord injuries.

23 The term "women", however, occurred very rarely. Speakers instead referred to the "uterus" or "womb" or more generally to "patients" or "individuals". Thus to speak of "women's participation" seems slightly exaggerated.

24 A recent (2002) book by Mary Warnock (convenor of the Warnock report that laid the groundwork for the 1990 HFEA) suggests that this border is rather inefficient. In an interview, she claimed that there would be no ethical reason to prohibit human reproductive cloning if it could be made safe. Fears, she went on, were based on the assumption that reproductive cloning would be completely uncontrolled. In reality, however, it could be tightly controlled and thus opposition would be irrational (The Independent 27 July 2002; http://www.independent.co.uk/story.jsp?story=318837#top).

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