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Article

Ethical objections to sex selection for non-medical reasons



Lucy Frith is Lecturer in Health Care Ethics in the Division of Primary Care at the University of Liverpool. She has published in the area of the ethical issues raised by reproductive technologies and the ethical implications of home and self-testing for HIV (human immunodeficiency virus). Her research interests are: reproductive technologies (gamete donor anonymity); empirical methods in bioethics; the ethical dimensions of HIV/AIDS and evidence-based medicine and effectiveness in health care.

Lucy Frith

Eric Blyth¹, Lucy Frith^{2,4}, Marilyn Crawshaw³

¹School of Human and Health Sciences, University of Huddersfield, Huddersfield, HD1 3DH, UK; ²School of Population, Community and Behavioural Sciences, The University of Liverpool, The Whelan Building, Brownlow Hill, Liverpool L69 9GB, UK; ³Department of Social Policy and Social Work, University of York, York, YO10 DD, UK

⁴Correspondence: e-mail: l.j.frith@liverpool.ac.uk

Abstract

This paper examines the main ethical argument used to support the use of sex selection for non-medical reasons, namely that sex selection for non-medical reasons should be allowed on the grounds of reproductive autonomy. A critique of this argument is offered, concluding that sex selection for non-medical reasons should not be permitted.

Keywords: ethics, reproductive autonomy, sexism, sex selection

Introduction

This paper examines the main ethical argument used to support the use of sex selection for non-medical reasons [author's note: in the rest of the paper 'sex selection for non-medical reasons' will be referred to as 'sex selection' for brevity], namely that sex selection should be allowed on the grounds of reproductive autonomy. A critique of this argument is offered, concluding that sex selection should not be permitted. For the purposes of this discussion, it leaves aside any consideration of: the merits (or otherwise) of sex selection for medical reasons; the merits (or otherwise) of any procedure that results in the destruction of embryos; or the various means for achieving sex selection (Baldwin, 2006).

The argument from reproductive autonomy

The social reasons for sex selection can be diverse. Parents may wish to select the sex of a child in order to: (i) have a family that includes children of both sexes (so-called 'family balancing'); (ii) have a child of the same sex as a deceased child in the family; or (iii) secure a cultural, economic, personal or social preference for a boy rather than a girl, or (rarely) vice versa

(House of Commons Science and Technology Committee, 2005 p 133).

Advocates of reproductive autonomy (e.g. Savulescu, 1999; Rhodes, 2001; Dahl, 2007) endorse the pre-eminence of parental choice in most circumstances in which sex selection might be contemplated. The central claim of this argument is that personal reproductive decisions should be free from interference unless they will cause serious harm to others. There should be a presumption towards liberty, in Mill's sense (Feinberg, 1973). In other words, the burden of proof should reside with those wishing to restrict choices. Dahl sums up this argument when he says:

"each citizen ought to have the right to live his life as he [*sic*] chooses so long as he [*sic*] does not infringe upon the rights of others. The state may interfere with the free choices of its citizens only to prevent serious harm to others (Dahl, 2007 p. 158)."

It is therefore argued that, as family planning is increasingly subject to conscious decision-making, parents' desire to choose their child's sex should not be considered inherently different from other reproductive choices (such as choosing whether to

have a child, when to have a child, how many to have – or terminating an unwanted pregnancy). It is claimed that there is no evidence that sex selection, at least in the industrialized northern hemisphere, causes serious harm and, therefore, there is no justification for restricting individuals' reproductive autonomy by prohibiting sex selection.

This argument is sometimes reinforced by claims that reproductive choices are 'integral to a person's sense of being' (Jackson, 2007) and any restrictions therefore require even more robust justification than less important choices (Robertson, 1994). For example, it might be thought that the level of evidence of harm needed to justify restricting reproductive choices should be higher than the level needed to justify less important choices. Or it might be argued that, as reproductive choice is very important, allowing people to exercise it is a good in itself and this good outweighs the production of a certain level of harm. In sum, there is a belief that the more important the particular choice, the stronger the case for restricting it has to be.

A critique of the argument from reproductive autonomy

A critique of the argument from reproductive autonomy is now presented in favour of sex selection.

Harm is caused by sex selection

John Harris, a leading proponent of reproductive autonomy and the unfettered application of reproductive technology, argues that sex selection does no harm:

"There is no complaint the 'victim' of gender selection can make because for her there was no alternative but never to have existed. 'She' could not have been a boy. ... None of those children have any legitimate or even coherent complaint, for they could not have had an alternative life" (Harris, 2004 p. 4).

Savulescu also gives this argument in favour of sex selection:

"Most importantly, without sex selection, without a unique spermatozoon and egg uniting, that particular child would not have existed. Even if the child is disadvantaged psychologically, this is only wrong from the child's perspective if its life is so bad that it is not worth living" (Savulescu, 1999 p. 374).

Thus, the arguments go, people cannot be harmed by having their existence prevented as there is no actual person to experience that harm (Parfit, 1984). Whether it is plausible to argue that those 'victims' thus created have no grounds for complaint, as Harris (2004) and Savulescu (1999) do, is a debate beyond the scope of this paper. However, accepting for sake of the argument that this claim is a sound one, we contend that there are other grounds on which it can be argued that sex selection creates harm. Most importantly, sex selection can create harm in the wider society in which it operates. For example, there is extensive evidence that the use of sex selection has resulted in significant disparities in child sex ratios in some South and East Asian countries, and in particular China and India. These have resulted from, and reinforce, patriarchal societal arrangements

founded on pervasive discrimination against girls and women (Hughes *et al.*, 1999; Croll, 2000, 2004; United Nations Population Fund, 2003; Banister, 2004; Ding and Hesketh, 2006; Heng, 2006; Jha *et al.*, 2006).

This point is acknowledged by advocates of sex selection. They acknowledge that, in certain cultures, the 'abuse' of the technology has resulted in harm for females. However, it can be countered that the harm of sex selection in misogynist cultures constitutes a *lesser* harm than those that would have arisen in its absence. For example, it has been argued that prenatal elimination of girls is more humane than 'unwanted' infant girls being neglected, abandoned or killed, (Hingorani and Sheroff, 1995). In similar vein, Dai (2001) has suggested that girls whose births are avoided will not be exposed to a life of discrimination and oppression (here, it should be noted that this argument comes perilously close to suggesting that the lives of girls in misogynist societies are not worth living at all). Women whose societal value and esteem depends on their ability to give birth to a son and who have access to technology will thereby be able to have control over the sex of their children and thus escape the stigma of failing to produce a son or avoid being condemned to repeated pregnancies until they do so (Moazam, 2004).

In response to such arguments, we contend that the use of sex selection to avoid discrimination against children of the 'wrong' sex colludes with the institutionalized discrimination that disadvantages women and girls (Croll, 2000). Additionally, it assumes both the infallibility of sex-selection technology and that the children will grow up in accordance with stereotypical gender norms. What fate might await a child where sex selection fails? Or one who develops a 'wrong gender' identity after their parents have gone to the effort and expense of sex selection? (Seavilleklein and Sherwin, 2007)

Although the risks of sex selection at a societal level are acknowledged by proponents of sex selection, they argue that these risks should not result in its prohibition in countries that can be 'trusted' to use it 'responsibly'. Where the primary negative consequence of sex selection is perceived to be significant demographic imbalance, such as is evident in China and India, the low risk of this occurring in northern-hemisphere industrialized countries because of predicted low take-up of sex-selection services (Waldby, 2002; Richards, 2004) and their very different culture (Dahl, 2007), are cited to support a more liberal approach. Hence, proponents of sex selection do not argue that demographic imbalance is acceptable, rather they argue that sex selection in the UK and USA would not lead to this (House of Commons Science and Technology Committee, 2005; Dahl, 2007). Indeed, Savulescu claims, 'If you were concerned about the sex ratio, you would simply allow sex selection only for family balancing and there would be no effect on the sex ratio' (Savulescu, 2004 p. 103).

Such arguments warrant closer examination. In particular, they are premised on contentious assumptions about the existence of a heterogeneous cultural mass in industrialized northern hemisphere countries. First, there is evidence of 'son preference' in European countries and the USA, although to a lesser extent than in some South and East Asian countries (Hank and Kohler, 2000; Dahl *et al.*, 2003a,b, 2006; van Balen, 2006). Second, there are many diaspora communities living in industrialized

northern-hemisphere countries, some from cultures in which sex selection has been found to result in demographic imbalance. If sex selection were to be permitted in host countries, the possibility arises of such imbalance occurring in those countries, even if localized in specific communities (Culley, 2004).

Further, it can be argued that the notion of what constitutes a harm is too geographically localized in the accounts given by advocates of sex-selection. A permissive approach to sex selection in the industrialized northern-hemisphere countries could have detrimental effects beyond their own borders. One coalition of organizations concerned primarily with child welfare have made such a case: 'Permitting sex selection on social grounds – including for 'family balancing' – promotes the view that the use of such techniques is acceptable. In recognition of its global rather than purely domestic responsibilities, the UK should make an explicit statement that it is not.' (Project Group on Assisted Reproduction, 2006). Shenfield argues along similar lines: 'the very value of human rights resides in their universal/international application' (Shenfield, 2005 p. 156). By allowing sex selection, the UK (and other countries that may be inclined to entrust their citizens to use sex selection 'responsibly') could be seen to be legitimizing the practice in other countries where the resulting harm is more visible and widespread. In doing so, it would undermine human rights commitments to respect all people equally.

Finally, although autonomy tends to have pre-eminence among the four key bioethics principles (autonomy, beneficence, non-maleficence and justice) in contemporary Western bioethical discourse, we are not convinced that its primacy is established in the case of reproductive decision-making. Unlike other actions that could have little effect on others (if that is possible, but we will accept this for sake of the argument), reproductive choice 'always affects others, and in particular affects any child who is brought into existence. So a mere appeal to autonomy or choice cannot be decisive in considering which reproductive technologies ought to be allowed and which prohibited' (O'Neill, 2006 p. 647). For instance, attention to the welfare of the child is thought to be a better principle on which to base decisions on who should have infertility treatment in the UK (House of Lords and House of Commons Joint Committee on the Human Tissue and Embryos (Draft) Bill, 2007) than would-be parent's reproductive autonomy. Invoking principles of beneficence and non-maleficence to consider both the effects of sex selection on specific children and wider society seem to have at least the same purchase as the principle of reproductive autonomy when making such decisions.

Sex selection and the desire to have a child of a specific sex

We now want to consider the second premise of the argument from reproductive autonomy: that reproductive choices are important matters for individuals and therefore any restriction requires highly robust justification.

There is an understated current running through the debates over sex selection that a fierce preference for a child of a particular sex is immoral if that preference drives one to, say, abort or kill a newborn of the 'wrong' sex. Steinbock alludes to this when she says: 'Even if it is okay to care about the sex of one's child,

should one care that much?' (Steinbock, 2002 p. 25). However, much of the debate around sex selection also contains an implicit fatality along the lines that, where people have unworthy desires of wanting children of a particular sex, the consequences of not achieving that desire are invariably worse than having them met. For instance, a witness to the House of Commons Science and Technology Committee inquiry on Human Reproduction and the Law illustrated his support for sex selection through the use of an anecdote of a man whose failing marriage, it was argued, could be traced back to his parents' wish for him to be a girl. 'If sex selection had been available to the man's parents then the daughter they would have produced by sex selection would not have had to face the same intolerable feeling of rejection that he did' (House of Commons Science and Technology Committee, 2005 p. 63).

Such arguments can be countered. To reject a child, for any reason, is not something that is supported by proponents of sex selection any more than by its opponents. The difference lies in the proposals for how to minimize the risks and/or what a moral standpoint looks like. While being clear that it is the rejection that is problematic, it is our view that it is morally unacceptable to allow sex selection simply because alternative ways of dealing with individual desires cannot be envisaged at a personal or societal level. The moral unacceptability of a 'strong' preference for a child of a particular sex and of meeting such a preference could be supported on virtue ethics grounds, that this sort of choice is not the choice of a 'good' parent (see Scully *et al.*, 2006) or a 'good' society. A morally acceptable position is that children should be wanted and valued for their intrinsic worth as human beings and this value should not be conditional on their possession of specific characteristics.

To take this further, Carson Strong, for example, argues that sex selection could lead to children becoming 'more like products' (Strong, 2001 p. 13). The ability of parents to choose what sort of children they are going to have could lead to them being less willing to tolerate their children's shortcomings, and the child's self-esteem could be adversely affected, undermining the unconditional acceptance of a child (Scully *et al.*, 2006). A very strong preference for a child of a certain sex that could lead to the killing or rejection of a child of the 'wrong sex' can be argued to be an immoral state of affairs and not something that society should provide people with the means to fulfil.

However, it might be argued by proponents of sex selection that, in the industrialized northern hemisphere, the type of preference for a child of a particular sex is not a 'strong' preference. Rather than leading to infanticide or neglect; it may instead be a 'weak' preference for 'family balancing', a preference that is morally acceptable or at least not morally objectionable (Ten, 1998; Rhodes, 2001; Baldwin, 2006). There are two responses to this. First, allowing some people to exercise this 'weak' preference would also allow those who had a strong preference to use sex-selection techniques and we have argued that this strong preference should be resisted. Second, there is the possibility of harms resulting from sex selection and these harms should not be risked merely to satisfy the 'weak' desire of some people to 'balance' their families. As Onora O'Neill (2006) says, 'the thought that sex selection is acceptable for family balancing, 'invites scrutiny. What makes a family 'balanced' or 'unbalanced'? Are families consisting only of daughters or of sons less desirable than families that include both?' p. 647.

In summary, if people have a strong desire to have a child of a particular sex they should not be allowed to because: (i) in countries where this desire is relatively widespread it leads to well-recognized harms; (ii) this preference is not a morally acceptable one and should not be encouraged by legislation providing people with the means to do it (Bahadur, 2005). If people have a weak preference, e.g. for 'family balancing', then this is not worth defending (with the concomitant risks of harms and abuses) merely to satisfy such a type of preference. Thus, the second premise of the argument from reproductive autonomy, that reproductive choices are important, is not met with the type of sex selection that is typically advocated for use in the northern industrialized hemisphere (Pennings, 1996).

Sexism

Finally, it has to be acknowledged that the use of sex selection takes place in societies where, contrary to media representations, sexism still exists. In countries where the position of women is more clearly subjugated to men, the existence of sexism might not be a cause for debate and the effects of sex selection are clear. In the northern industrialized hemisphere, however, it is often argued that concerns over sexism have receded. Dahl (2007) argues that the charge that sex selection is sexist is unwarranted in this part of the world as most families simply want to 'balance' their families. However, even here there is still a preference for first-born sons (Robertson, 2001) and it can be argued that this preference arises out of a sexist society (Seavilleklein and Sherwin, 2007). It has to be remembered that choices do not take place in a social vacuum, that what people do both affects and is affected by the social context. As an antidote to any temptation towards complacency, the latest report of the Equal Opportunities Commission (2007) found that sex discrimination in the UK is still rife and sex equality will take generations to achieve. Therefore, in societies where sexism exists (including the UK), sex selection, if permitted, will not take place on an even playing field. Sex selection has the potential to reinforce sex stereotypes and perpetuate sex discrimination. As Marilyn Strathern said, 'it is worth asking whether making [sex selection] acceptable to select one sex in preference to another at the moment of conception will make it easier or harder to promote anti-discriminatory measures in other areas of life' (quoted in Shenfield, 2005 p. 156).

Conclusion

It has been argued that the case for sex selection for non-medical reasons based on the argument for reproductive autonomy is flawed. Fundamentally, such autonomy arguments do not take into consideration the social embeddedness of choices that people make. No one is an island and no choice is made in a vacuum. It is concluded that sex selection on non-medical grounds should not be allowed.

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