CHAPTER 8

REGULATING SEX SELECTION
IN A PATRIARCHAL SOCIETY

Lessons from Taiwan

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I. INTRODUCTION

Unless born with a physical abnormality, a baby is usually known first by its sex. To people shopping for newborns, consumer markets offer congratulation cards, clothes, and toys that differ depending on whether the baby is a boy or a girl. Societies have different customs to celebrate the birth of babies, but almost all these societies have one thing in common: each differentiates its customs on the basis of sex. Likewise, parents may have different ideals about raising a son or a daughter and may act upon them accordingly.

Against this backdrop, people often seek to increase their chances of bearing a son through arrangements that range from special diets, coital timing, and specific positions of intercourse to immunologic manipulation, but the reliability of these methods ranges from the dubious to the superstitious (Jones, 1992, pp. 4–6; Holmes, 1995, pp. 156–157).

Assisted reproductive technologies (ART) significantly elevate the chances that sex selection will be successful. The development of ultrasound screening, amniocentesis, chorionic villi sampling (CVS), and blood testing make it possible for people to learn the sex of their fetus before birth. Because these techniques identify the fetus’ sex only after the fetus exists in the mother’s body, the only certain way to avoid a child not of the “right” sex is to abort the fetuses of the “wrong” sex.

But sex selection does not necessarily involve abortion. In 1924, researchers discovered the existence of sex chromosomes, and, in 1971, it was learnt that males typically have a greater number of X-bearing sperm than Y-bearing sperm (Sumner, 1972, pp. 231–232). Ever since then, different sperm-sorting technologies such as gradient methods and flow cytometry have been developed, and, as a result, the likelihood of bearing a son has, according to some researchers, attained a success rate of approximately 90% (Björndahl & Barratt, 2002, pp. 2–9). Because these
techniques intervene by ensuring that the “right” sperm fertilizes the egg before any embryo is harmed, they avoid the criticism that is often leveled against sex selection associated with both abortion and the destruction of embryos. In recent years, researchers have used pre-implantation genetic diagnosis (PGD) to investigate the genetic makeup of a pre-embryo produced by in vitro fertilization (IVF) before the pre-embryo is transferred to a woman’s uterus. In this context, PGD raises the accuracy of the selection to nearly 100% (Björndahl & Barratt, 2002, pp. 9–10).

Are parents allowed to choose their children’s sex before they are born? In many countries, the answer is a resounding no. For instance, Article 14 of the Council of Europe Convention for the Protection of Human Rights and Dignity of the Human Being with Regard to the Application of Biology and Medicine specifically prohibits parents to use medical technology for the selection of their child’s sex unless the purpose is to avoid a serious hereditary sex-related disease. Thus, many European countries ban sex selection that is based on non-medical reasons. Recently, the Human Fertilisation and Embryology Authority of the United Kingdom, after a year-long review and public consultation, also recommended the same position.

When we compare all the choices that people are allowed to make about reproduction, we see that a ban on parents’ selection of their child’s sex is significant in two ways. First, the target of such regulations is people’s motivation: instead of banning the technology of sex selection altogether, the government draws a line between sex selections that are based on medical reasons and those that are not. Second, by drawing the line according to the presence or the non-presence of medical reasons, governments rely on the medical profession for the justificatory power to decide whether sex selection is permissible.

However, in a society where sons are predominately preferred, and where cultural and legal institutions still favor males, a regulatory system that aims to police sex selection is both tainted and constrained by the sexism embedded in the society’s formal and informal social structures. Without a strong social consensus supporting the eradication of embedded sexism, such regulation can hardly be effective. If one seeks to enforce it thoroughly, one threatens to place an undue burden on women’s bodies. Under such circumstances, the harm of allowing some unethical sex selection to go ahead may be outweighed by the need to protect women’s procreative freedom and women’s bodily autonomy.

In this paper, I use Taiwan as a case study to illustrate this point. Although the government officially condemns any sex selection done for non-medical reasons, the boy-to-girl ratio of newborns was 110:100 in 2003, much higher than the normal ratio of 105/106:100. Drawing on the already abundant literature that treats the morality of sex selection, this paper will focus mainly on the social implications of sex selection in Taiwan and on the justification for its regulation. To avoid the related complications stemming from abortion or the moral status of embryos, I limit this paper’s discussion to pre-conceptive sex selections achieved through sperm-sorting technologies.

In the next section, I will briefly discuss the possible justifications for a ban on sex selections and provide a typology that distinguishes sex selections from one