

Պտղի սեռի խտրական ընտրության դեմ պայքար
“Combating Gender-Biased Sex Selection in Armenia”

Հանառոտագիր
Policy Brief



Ծրագիրը ֆինանսավորվում է
Եվրոպական միության կողմից
This project is funded by
the EUROPEAN UNION



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Ethical Issues of Non-Medical Sex Selection



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Bans and restrictions regarding legal regulation of sex selection are problematic; inter alia also in terms of ethics and philosophy. Even if sex selection and sex-selective abortions are ethically unacceptable, there is still a question whether the means of legal regulation of the issue and strict intervention of the society and the government into one's privacy and rights are ethically permissible.

Double standards or identical solutions in similar situations?

In a number of Western countries, many people question both the pivot that sex selection is ethically unacceptable and the right of the state on restricting sex selection practices. Procreative autonomy or procreative liberty are often cited as arguments in support of the parents' right to choose the sex of their own children and in opposition to legal restrictions.

It is noteworthy that many Western experts are compelled to accept the inevitability of double standards when it comes to ethical issues of sex selection. Thus, while sex selection is definitely perceivable and acceptable for many people in the West or in the countries where the adverse impact of such practices on women is insignificant, in the countries where sex selection leads to a significant imbalance in the sex ratio at birth, such practices are unacceptable and should be rejected. The question is which of the consequences puts a particular society at peril: undermining of reproductive or other civil liberties, or decline in the relative number of women and girls? Experts conclude that wherever son preference is not dramatically common and women have considerable personal and economic independence, the former risk is probably greater, since the risks of restrictions on reproductive freedoms are more tangible and real, and the imbalance of sex ratios at birth is small and its consequences are vague and perhaps insignificant. Therefore, arguments against criminalization of sex-selective abortions should not be applied in countries where the imbalance of sex ratio is clear and alarming. After all, an identical approach applicable only to identical cases, and therefore, sex-selective abortions, which are acceptable, for example, in Canada, are unacceptable in India and China, where discrimination against women is quite tangible and widespread.

The issue of "human suffering" which appears while upbringing a child of an unwanted sex is also on the agenda; after all, postnatal discrimination in the family can substitute the prenatal one. Another question is the lack of any solid evidence on the significant impact of further imbalances of sex ratios on the overall deterioration of the well-being of women.

The debate over regulation of issues related to non-medical sex selection continues in an ever-changing environment, where ethical principles and different legal precedents neither compel, nor prohibit specialists to provide services to patients. At the same time, health facilities are continuously interested in bringing in certain clarity into this controversial issue.

"Lavo manus meas"

The American College of Obstetricians and Gynecologists, the American Society of Reproductive Medicine (ASRM) and the International Federation of Gynecology and Obstetrics oppose meeting requests for sex selection for non-medical reasons, because they believe such requests may ultimately support sexist practices and reinforce devaluation of women. The three organizations above support offering patients sex selection techniques only to avoid transmission of sex-linked inherited diseases. The American College of Obstetricians and Gynecologists (ACOG) opposes sex selection for non-medical reasons and expresses a concern that it will result in a deeper prejudice against female children. This argument, however, does not apply to the use of sex selection in the absence of such bias.

The ASRM Ethics Committee notes that the application of reproductive technology for non-medical sex-selection gives rise to considerable controversy regarding ethical issues and avoids taking any side by giving clear instructions. The ASRM Ethics Committee recognizes that there are reasoned differences of pros and cons of the permissibility of these practices and concludes that there may be no consensus on this issue. Instead, referring to this controversy, the ASRM encourages health facilities to develop and make available their policies on the provision of non-medical sex selection



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and to accommodate their employees' decisions about whether or not to participate in such treatment and their actions to the official policies of the health facilities. At the same time, practitioners offering assisted reproductive services are under no ethical obligation to provide or refuse to provide non-medically indicated methods of sex selection

New Arguments, Ongoing Debate

The debate over the ethics of non-medical sex selection is ongoing. Within this debate, new arguments follow each other. New arguments are offered both by those who protect the right to sex selection, and those who reject it. Both parties are equally insistent and their arguments are more and more well-reasoned and persuasive. This debate will continue at least as long as there is a strong and inevitable disagreement over the harm and danger of sex selection for individuals and the society. The debate will continue as long as there is no consensus on which harms are more morally significant.

And even if currently the legal regulation of sex selection (which is defined not only by the issues of ethics, but also by the political debate, professional and public opinion, academic perspectives and factual data on the issue, and in case of Armenia also by the influence of international organizations,) tends to combat the harms and dangers of sex-selective practices through introduction of restrictions, it may be revised in the future. The rapid and incessant development of technologies, their economic viability and accessibility may make corrections to the present views.

Just as amniocentesis was replaced by ultrasound, for instance, a finger-prick blood test that makes it possible to determine with a high degree of probability the fetal sex based on the DNA sectors of the fetal cells circulating in maternal blood as early as 6–7 weeks of pregnancy will become more accurate, accessible and available. The blood sample for such a test can be taken even at home and mailed to a laboratory. Expensive for now, it is only a matter of time before demand and entrepreneurship gradually make this and similar tests more widely available. In the course of time, it will be practically impossible to completely control such tests, despite the most stringent laws. This equally concerns pre-implantation and pre-conception tests, the reliability and affordability of which in Armenia will surely improve in the near future.

More flexible regulatory mechanisms for the near future

Presently, the RA Law on Human Reproductive Health and Reproductive Rights does not permit planning the sex of the future child through application of assisted reproductive technologies except for medical indication. However, under the weight of the arguments on the technological developments and ethical issues above, or in the perspective of Armenia developing into a regional center of reproductive health services, under the logic of extending the range of the services provided to foreign nationals, the current legislative restriction may be revised or lifted in the future. Given the absence of stringent legal regulation, the ethical regulation of the issue will be highly prioritized. Furthermore, the discussions over professional ethics should be initiated in Armenia as soon as possible, before facing such a necessity.

Therefore, the agency responsible for medical ethics, the Ethics Committee under the RA Minister of Health, should issue an official opinion and pertinent recommendations, and guide relevant experts and health facilities on issues related to provision of non-medical assisted reproductive services, involving the leading specialists in reproductive technologies, reputed republican research institutions and professional associations operating in the field of medical science, including the State Medical University, Center of Perinatology, Obstetrics and Gynecology, Association of Obstetrician-gynecologists and Association of Neonatologists, Research Center of Maternal and Child Health Protection and the RA MoH National Institute of Health.

To expand gradually the range of reproductive health services provided to foreigners in Armenia, the RA Law on Human Reproductive Health and Reproductive Rights should specify the circles of stakeholders by including the foreign nationals residing in RA regardless of their residence status. Married persons staying in RA without any residence status should have an opportunity to enjoy assisted reproductive technologies, and legal guarantees for the protection of the rights and interests of children born as a result of application of such technologies should be set.

The paper is elaborated based on the analysis of Armenian and international practices of sex selection and relevant policies to address the issue, and the opinions of independent analysts, government officials, and representatives of international organizations who participated in working meetings and round tables, organised in 2015–2016 within the framework of the project “Combating Gender-Biased Sex Selection in Armenia”, funded by the European Union.