

THE ETHICS OF SEX SELECTION

by

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Abstract**THE ETHICS OF SEX SELECTION**

by

Julie M. Zilberberg**Advisor: Professor Virginia Held**

Sex selection is choosing or attempting to arrange the sex of one's offspring. Sex selection may take place before or after conception. It involves various methods such as abortion after ultrasound or amniocentesis, artificial insemination using a sorted sperm sample, selecting an embryo of the desired sex before implantation, and other methods, and new methods will likely be invented.

I utilize the method of reflective equilibrium and the concept of relational autonomy, and hold a strong commitment to women's autonomy and equality. Sex and gender, and their differences, are analyzed to clarify discussion of selecting for sex.

Sex selection currently takes place on a significant scale in India and China where sons are favored and significant abortion of female fetuses

exists. I analyze whether sex selection is morally acceptable as it typically happens in the contexts of the United States, and as it typically occurs in the contexts of India and China. Contexts have a major bearing on analysis of sex selection. Sex selection is also examined more generally. The creation of private, easy, largely home based, user friendly sex selection methods focuses analysis of sex selection apart from abortion.

Reproductive freedom is consistent with women engaging in choice with respect to bearing children. If harms are not committed, and if sex selection is not necessarily sexist, and is safe, exercising of preference of sex, particularly for compositional family balancing rather than sequential goals, may be morally acceptable. However, sex selection can certainly involve sexism, cause harm, and may be morally wrong. Tensions between regulating sex selection and maintaining abortion access are explored. Although certain instances of sex selection may be morally wrong, abortion rights ought to be preserved. In India and China, seriously elevating the status of women and girls, and increasing their scope of control and power, is a positive step that

will likely foster a reduction of the high demand for sex selection in favor of sons. Suggestions for elevating the status of women and girls are offered.

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Chapter One

Introduction and Overview of the Dissertation

Introduction

Throughout history, people have sought to have a boy or a girl baby, and theories and practices have been offered up through time to explain, predict, or manipulate the arrival of a boy or a girl. Can the sex of a baby be determined by anything other than biological factors? There are many folk tales that have been offered in this regard. A medieval midwifery text suggests eating dried rabbit genitals according to which sex baby is desired.¹ The idea that sex is related to a certain side of the body is an ancient one.² Typically the right side of the body has been associated with males and the left with females.

¹ Jonathan Schaffir, in "What Are Little Boys Made Of? The Never-Ending Search for Sex Selection Techniques," Perspectives in Biology and Medicine, vol. 34, no. 4, summer 1991, pp. 516, cites B. Rowland, Medieval Woman's Guide to Health, (Kent: Kent State University Press, 1981).

² Schaffir, p. 517.

Some theories maintained that the left or right testicle or ovary's involvement would cause the sex of a baby.³ Folk tales have sometimes involved the right/left theories, and it has been suggested that pants should be hung on the right bedpost, or that the potential father should bite the potential mother's right ear during sexual relations, in order to produce a son.⁴ Other folk tales are perhaps more amusing, such as the German folk idea that one should place an ax under the bed in order to produce a baby boy.⁵ Alternatively, for a girl, a wooden spoon should be placed under the bed.⁶

The question of whether a baby's sex can be determined by anything other than the father's sperm is an interesting one, apart from amusing folk tales that lack real merit. A sixty year long decline in the ratio of boys to girls born in the United States,

³ Schaffir, p. 517-518.

⁴ Schaffir, on p. 518, cites L. C. Pogrebin, Growing Up Free: Raising Your Child in the 80's, (New York: Bantam, 1981.)

⁵ This and many other humorous sex selection suggestions can be found in Shelly Lavigne, How to Make a Boy or Girl Baby!: Over 60 Tried and True Ways (New York: Dell Publishing, 1996).

⁶ Lavigne, p. 13.

i.e., an increase in the prevalence of female births, has recently been investigated.⁷ Interestingly, a correlation has recently been found between having a preponderance of females born and women not living with a male partner at the time of conception⁸. In other words, when women conceive while not currently living with a male partner, a female fetus is more likely to be conceived and then born. When women conceive while they are currently living with a male partner, a male fetus is more likely to be conceived and then born. One hypothesis that has been offered to account for this is that it takes about ten percent more calories to gestate a male fetus when compared with a female, (and probably more calories needed to raise a boy) and, by being on one's own⁹ the mother may

⁷ Richard Knox, National Public Radio Morning Edition, "Examining Environmental Factors in Sex Ratio," July 18, 2005.

<http://www.npr.org/templates/story/story.php?storyId=4758495>

⁸ Knox.

⁹ It may have been assumed that women who are not living with a male partner are living on their own, because the research has simply shown that women who are not currently living with a male partner conceive females more often. It is not clear whether researchers paid attention to whether women who were not living with a male partner were perhaps instead living with a female partner. It would be interesting

have fewer resources, and so would be more readily able to gestate a female.¹⁰ The idea is that this is an adaptive technique employed by humans, and does not involve will or intention. It has been shown that some animals skew their sex ratios, or skew the sex of their offspring, in order to increase their inclusive fitness in a population, and this seems to be an adaptive technique.¹¹ (Increasing one's inclusive fitness means increasing the preponderance of those who will carry one's genes in a population after one's death.)¹² Since some animals seem to have the ability to skew the sex ratio of their offspring, and produce males or females as conditions are better for their survival, it is perhaps not surprising that some evidence of human skewing of sex ratio has been

to know whether women who are not living with a male partner but do in fact live with a female partner, and conceive the traditional way via sexual intercourse with a man, or who conceive by undergoing artificial insemination without using sex selective techniques together with the artificial insemination, also tend to conceive and give birth to more females.

¹⁰ Knox.

¹¹ Owen D. Jones, "Reproductive Autonomy and Evolutionary Biology: A Regulatory Framework for Trait-Selection Technologies," American Journal of Law & Medicine, vol., 19, no. 3, 1993, pp. 601-642.

¹² Jones, 1993, p. 612.

discovered. Although this is very interesting, and may be useful for further in depth analysis in the future, humans' skewing of sex ratio of offspring is set apart from willful choosing of sex as in sex selection.¹³

Sex¹⁴ selection is choosing or attempting to arrange the sex of one's offspring. It involves the use of certain procedures designed to ensure offspring of a particular sex. This account captures the diversity of

¹³ Jones indicates that some female animals increase their inclusive fitness in a population by skewing the sex ratio of their offspring as their own condition deviates from the average physical and social condition. Evidence indicates that the ability and predisposition to skew sex ratio is genetically inheritable. There is significant footnoting of mother animals who are in good shape producing more males than females. The fatter and healthier the mother animals are, the more they tend to produce male offspring, it seems. It is also interesting to note that preliminary evidence of matrilineal animal cultures produces the inverse result. In matrilineal rhesus macaques, for example, low ranking females produced about twice the number of sons than high ranking females. It is suggested that people, in terms of their offspring, favor the sex that has better reproductive prospects, meaning better chance of reproducing. The Mukogodo of Kenya is offered as confirming this. Such an example is offered to show humans' similarity with animals, or at least the possibility of this (Jones, 1993).

¹⁴ "Sex" will be used to refer to categories such as female and male, and not to refer to sexual intercourse or sexual activity. If a discussion of sexual intercourse arises, the term "sex" will not be used as an abbreviation thereof.

the practice which may involve medical treatment or not, and may take place after the birth of a child. Sex preselection is often used to specify the methods of sex selection that are performed before implantation of the fetus in the womb. The term 'sex preselection' refers to a subset of that which is sex selection, namely preconception sex selection.

The tensions between regulating sex selection, and maintaining abortion rights, are intriguing. Sex selection is happening on a significant scale in certain parts of the world today; therefore it is a very current subject matter. My analysis of sex selection involves applying philosophy to an actual current moral issue.

Is Sex Selection Ethical?

Some of the reasons put forth in support of claims that sex selection is not morally acceptable are nonconsequentialist, such as the following claims: sex selection is unnatural, it involves playing God, it is inherently sexist, it involves an objectionable attitude toward children namely that they are artifacts to be designed and produced in accordance

with parents' wishes, and it involves arranging superfluous characteristics of people.

Other reasons are consequentialist, such as the following claims. If sex selection is practiced on a significant scale: women will be more strictly confined to gender roles, male firstborns will increase possibly leading to further economic differences between men and women, women will experience increased dependence on the medical profession, and a slide toward more dangerous forms of genetic engineering could occur.

Sex selection can be understood as involving positive eugenics, and selection of nonpathological preferred traits tends to be feared for several reasons such as the following. Medical resources may be diverted from more important purposes; there might be unforeseen side effects; and, the advocacy of eugenics has been historically associated with vicious racist doctrines and because of this should be approached with caution.

Sex selection remains a current and pressing topic. As advances in technology grow at a rapid pace, sex selection can become easier and more obtainable. As is the case with other areas of

genetic engineering, the ethics of sex selection represents a quagmire in need of examination. Because of the continued, and possibly increasing, use of sex selection, it will be useful to examine and clarify sex selection's ethical terrain. This dissertation has significance for current sex selection practices as well as for the future. It has significance for women's reproductive issues, as an examination of the ethics of new technologies, for respect for autonomy, for disability issues, and for sex versus gender debates.

This dissertation provides a fresh in depth analysis of the ethics of sex selection. It represents a unique contribution different from the only existing philosophical book length treatment of the subject, Mary Anne Warren's Gendercide.¹⁵

Implications

The findings of this dissertation may be used practically. This dissertation may be useful in

¹⁵ Mary Anne Warren, Gendercide: The Implications of Sex Selection (Totowa: Rowman & Allanheld, 1985).

formulating public policy on sex selection in the United States or elsewhere.

Choice Of Theoretical Approach

The method of wide reflective equilibrium is employed because in my view it properly characterizes the way typical debates about ethical matters actually take shape. "Wide reflective equilibrium is . . . at the same time a theoretical account of justification in ethics and a process that is relevant to helping us solve moral problems."¹⁶ This method allows one to take account of possible new developments in technology and society, and new information generally, and build on moral decision making in light of this.

The method of reflective equilibrium that I use is informed by the concept of relational autonomy. I hold a strong commitment to women's autonomy. Because sex selection takes place in and around women's bodies, and pertains largely to women, and often involves selecting against females, it is important

¹⁶ Allen Buchanan, Dan W. Brock, Norman Daniels, and Daniel Wikler, From Chance to Choice: Genetics and Justice (Cambridge: Cambridge University Press, 2000) p. 376.

and reasonable to pay careful attention to women's autonomy when analyzing this issue. While autonomy may not be absolute, in that it may not be justifiable for one to control one's own body in various ways that cause serious harm to others, women's autonomy remains a strong consideration.

Brief Review Of The Literature And Introduction

Mary Anne Warren's Gendercide¹⁷ is the only philosophical monograph on the topic of sex selection. Neil Bennett's Sex Selection of Children¹⁸ is another book devoted to the social, medical, legal, and ethical exploration of sex selection, and it comprises an edited collection of articles. There are many short articles on the ethics of sex selection, and the topic is frequently given brief discussion in books whose main focus is the ethics of reproductive technology, or ethical issues in genetic engineering.

What constitutes sex selection today? Prior to conception, sperm separation can be performed as a

¹⁷ Warren.

¹⁸ Neil Bennett, ed., Sex Selection of Children (New York: Academic Press, 1983).

method of sex selection. Sperm is separated into two groups: one with a high concentration of X chromosomes and one with a high concentration of Y chromosomes. Artificial insemination (inserting the sample into a woman's uterus for conception and gestation) is then completed using either set of sperm, according to which sex is desired for the baby. Reported success rates vary, and there are different methods for sperm separation. The Ericsson method¹⁹ has been used for several years, however a newer sorting method known as Microsort,²⁰ which uses flow cytometry to separate sperm, offers better success rates.

For embryos created in a test tube, it is possible to detect the sex of "test tube babies" (with 100% accuracy) before implantation in the uterus. The test tube embryo of the sex not preferred is discarded, or sometimes donated, instead of implanted. Alternatively, embryos (and similarly, infants) of the sex desired may be donated or acquired. (However I do not delve into

¹⁹ The Ericsson method of sex selection using sperm separation via albumin was invented by Ronald Ericsson.

²⁰ Microsort originated with the Genetics and IVF Institute in Fairfax, Virginia.

the ethical issues surrounding sex selective adoptions in this dissertation.)

It is now possible to determine the sex of a fetus based on a sample of blood taken from a woman's arm very early in her pregnancy. Furthermore, there exists a home based test or procedure for this purpose which involves little interaction with medical professionals. An early abortion could be performed if tests show that the fetus is the sex not preferred.

Ultrasound in the second trimester produces an image of the fetus in which the penis of a male may be seen. Ultrasound gives about 90% reliability, or possibly higher, for sex. This makes possible sex selective abortion.

By undergoing chorionic villus sampling (CVS), *i.e.* surgically removing a piece of the chorion (the outer tissue of the sac around the fetus), certain diseases and the sex of the fetus can be identified. CVS gives virtually 100% accuracy, and results can be known in the first trimester. Sex selective abortion is then possible.

Amniocentesis involves removing and analyzing amniotic fluid. This procedure yields results similar to CVS, *i.e.*, virtually 100% reliability early in the

second trimester, and sex selective abortion is then be possible.

Sex selective infanticide is killing or deliberately allowing an infant to die by exposure, starvation, or neglect at or near the time of birth because of its sex. This method gives near 100% reliability. For some individuals, it is possible that sex may not be easily identifiable by examination of external genitalia near the time of birth. (However I do not deeply explore sex selective infanticide in this dissertation.)

Cloning is a potential method of sex selection for the future since it involves the creation of an offspring of a particular sex.

Another potential method of performing sex selection in the future involves the use of the hypothetical "manchild" pill or for that matter, the "womanchild" pill. While such pills are presently unavailable, they are not entirely implausible, and a market for such a product certainly exists. Furthermore, this method provides a good thinking exercise for any future method of sex selection which could be invented that is non-invasive, low risk, and convenient.

In addition to these, other user friendly methods such as diets, positions for sexual intercourse, and the timing of sexual intercourse over the course of a woman's monthly cycle have been suggested. These methods have sometimes been referred to as 'folk methods,' the same moniker applied to the methods that are based on superstition or assumptions which were mentioned at the beginning of this chapter. These methods are mainly of questionable efficacy; however, a few, particularly those involving diet, have been discussed by doctors as having some theoretical scientific merit. Significantly, a few individuals have tried to capitalize on these do-it-yourself methods by selling how-to books to the consumer.

Statement Of The Problem And Hypotheses

As previously mentioned, sex selection is choosing or attempting to arrange the sex of one's offspring. It involves the use of certain procedures designed to ensure offspring of a particular sex. This definition captures the diversity of the practice which may involve medical treatment or not, and may even take place after the birth of a child.

Is sex selection ethical? This dissertation will sort out various issues pertaining to sex selection. Whether sex selection is ethical depends upon various factors such as, *e.g.*, context, motivation, harm, and respect for autonomy, especially women's autonomy.

When is sex selection ethical, or morally acceptable, if ever? What is the justification for this claim? When, if ever, is sex selection morally wrong? What is the justification for this claim? Why is one sex more desired than the other? What is desired about that sex? Is there a difference between sex and gender? If so, then analysis may reveal that the real desideratum in sex selection, especially in foreign countries, is gender. If the main difference between sex and gender is that gender is socially constructed while sex involves some independently real, or physical, distinction, (although it may be partially socially constructed) then what does this mean for the ethics of sex selection?

Might there be some way to lessen the frequency of sex selection, or to lessen the desire to sex select, especially if the constructs of gender are at issue?

What account of respect for autonomy can be given in such cases, most especially women's autonomy

(regarding women's pregnancies)? How do fathers' choices and preferences factor in? Are some ways of accomplishing sex selection more morally problematic than others?

Theoretical Approach

The ethics of sex selection will be approached using a method of wide reflective equilibrium which may defy rigid characterization.²¹ This method involves using general philosophical argumentation, and allows for use of aspects of the various moral theories as needed. There is no single theory that overrides all others; instead all relevant considerations are brought to bear through general philosophical argument. The general idea is that sex selection will be examined against other existing moral beliefs and commitments, seeking coherence among the widest set of moral and non-moral beliefs. Under wide reflective equilibrium, moral beliefs about particular cases are significant, and count toward justification. Yet these beliefs, even those that are firmly held, may be revised in the light

²¹ Norman Daniels, Justice and Justification: Reflective Equilibrium in Theory and Practice (NY: Cambridge University Press, 1996).

of further considerations. This method is sometimes called a coherentist account of justification since responses to new problems (such as sex selection) are brought into coherence with our other moral commitments. It is characterized by the mutual adjustment of our principles and considered judgments. Everything is subject to revision, after critical reflection. This approach is not unlike a general argumentation method as typically used in other branches of philosophy, where the idea is to present good reasons for various claims, and evaluate those reasons. Furthermore, this method appears to properly characterize, or accurately reflect, the way typical debates about ethical matters actually take shape.

The process of working back and forth between our moral judgments about particular situations and general reasons and principles that cover particular situations is familiar to anyone who reasons about matters of right and wrong. Sometimes we use this process to justify our judgments, sometimes our principles.

We can still ask why we should accept the principles that explain our considered moral judgments. To answer this question, we must widen the web of justificatory beliefs. We must show why it is reasonable to hold these principles and beliefs, not just that we happen to do so. Seeking wide reflective equilibrium is thus the process of bringing to bear the

broadest evidence and critical scrutiny we can, drawing on all the different moral and nonmoral beliefs and theories that arguably are relevant to our selection of principles or adherence to our considered judgments. Wide reflective equilibrium is therefore at the same time a theoretical account of justification in ethics and a process that is relevant to helping us solve moral problems at various levels of theory and practice.²²

Organization

The second chapter will focus on the theoretical approach. The general critical method of wide reflective equilibrium is presented and explained. Autonomy will be discussed, and the concept of relational autonomy will be explained. The commitment to women's autonomy is underlined.

The third chapter examines the difference between sex and gender. Characteristics of gender (rather than sex) seem to be the typical goal in sex selection, especially in contexts such as India and China where a male is strongly desired. I argue in the third chapter that sex involves some independently real, physical, biological characteristic of some sort, such as perhaps certain reproductive organs, chromosomes, and the like,

²² Buchanan, Brock, Daniels, and Wikler, p. 376.

although certain aspects of biological sex may be socially constructed. Gender, in contrast with sex, is socially constructed.

Many important philosophers and other thinkers from various points in history have argued that women have a certain nature, different from that of men. It has been argued that this different nature justifies woman's proper place in society; women's nature is not rational, as is men's. These ideas of women's nature have been used to explain and justify women's subordination throughout history. Feminists have countered this by introducing the concept of gender, illustrating the norms and scripts associated with womanhood, and explaining the concept of socially constructed reality. According to this original feminist view of sex and gender, no necessary connection exists between sex and gender. So, gender is analogous to race and may possibly be eliminated in a non-sexist society.

However, some contemporary feminists argue that not only merely gender, but sex as well is socially constructed. I argue that this view is wrongheaded. Feminist philosophers and other thinkers who endorse this view have gone too far. While the original articulation of gender as distinct from sex has

brought attention to many inappropriate limitations placed on women, the newer view of both sex and gender as constructed does not facilitate progress for feminist concerns in bioethics as much as the original view. This view presents some difficulties for feminist goals.

I argue first that there is evidence for the claim that sex is a real physical, biological category, although some aspects of sex may be socially constructed. I argue that while there may exist more than two sexes, it does not follow from this that sex is merely a social construct. I argue that if sex is a fiction, then challenging sex-based practices in medicine that are matters of ethical controversy becomes more difficult. It is more difficult to make sense of the realities of various perceived sex-based abuses related to, and in, medicine.

Furthermore, if sex is merely a construct, one has a weaker basis from which to object to sex selection and other possibly discriminatory practices against females. It is more difficult to question ethically suspicious actions or practices on women or females, if there is no such real biological category. Why examine an issue such as a high rate of sex

selective abortion of female fetuses? If sex is purely a social construct such an inquiry seems less pressing.

If features of gender are what is typically desired in the context of widespread sex selection, as I argue, and these are indeed social constructs, then sex selection may be effectively addressed via these constructs. Since they are constructs rather than independent reality, they may change or be changed, or be reduced or eliminated, and this may be a successful route toward reducing the strong desire for male babies. Sex involves matters of biology, yet certain aspects of sex may be socially constructed. Sex cannot be eliminated, although it can be de-emphasized and dissociated with gender.

Currently there is some confusion and ambiguity on the part of sex selection scholars. John Robertson, in a recent article, continually refers to sex selection as "gender selection," when it is clear that sex selection is the practice about which he is writing.²³ Clarification of sex and gender will help

²³ John A. Robertson, "Preconception Gender Selection," American Journal of Bioethics, 1 (Winter 2001), pp. 2-9.

to foster clarity in future work and research on sex selection.

The fourth and fifth chapters focus on analysis of the ethics of sex selection in context. Chapter four analyzes sex selection as it occurs in the United States, and chapter five takes up sex selection where it has become widespread, in India and China.

The fourth chapter begins by arguing that sex selection for disease avoidance is morally acceptable. Sex selection for disease avoidance diminishes the occurrence of certain diseases. If, e.g., one's male offspring would likely have a sex-linked disease (hemophilia, Fragile X syndrome) but one's female offspring would be merely a carrier, females could be selected in order to avoid the disease.

Next, individual representative actual cases of sex selection are analyzed, and more difficult hypothetical variations thereof, are undertaken. One such case involving a desire for "family balance," or a desire to have children of both sexes, is summarized as follows. A thirty two year old pregnant woman requests testing of the sex of her fetus by chorionic villus sampling (CVS) early in her pregnancy, during the first trimester. She already has three children

all of whom are girls. If the test does not show she is carrying a male fetus, or if it cannot be determined that she is carrying a male fetus, she will seek an abortion. She explains that she and her husband want very much to have a boy, and for economic reasons she and her husband are determined to have no more than one more child. If they had a boy among their existing three children they would not even consider having a fourth child.²⁴ This is an interesting case for a variety of reasons. The maternal age is not thirty five and therefore she would not routinely be given a test like chorionic villus sampling (CVS) or amniocentesis, in which sex would routinely be disclosed if the patient wishes to know. Yet such tests could be medically indicated and ordered based simply on maternal anxiety about the fetus or for other reasons. I contend that based on the importance of individual freedom in terms of women's autonomy, and the lack of a likelihood of strong negative consequences that may result, it may be morally acceptable to sex select after having some

²⁴ Thomas A. Mappes and David DeGrazia, Biomedical Ethics, 4th edition. (New York: McGraw Hill, 1996), pp. 641-2.

number of children of one sex provided one is not doing so out of sexism.

What about a similar case involving possible sex selection for the first child? In Western societies like the United States, strong evidence exists of a general wish to have some children of each sex. However, statistics about sex preference with regard to birth order show a strong preference for sons as first born or only children. Strong evidence also shows that first-born and only children are significantly more successful compared with those in other ranks in the birth order. If sex selection were widely used (particularly possible supposing new, non-invasive, and/or user-friendly methods come into use), there could be a trend toward the vast majority of first born and only children as males, with fewer females in these slots. Females could become largely confined to the later ranks of birth order. This may lead to a society further stratified by gender since males would have not only the present day advantages, but also would have the further advantages conferred by first born and only child status.

It is possible to desire to have a child of a certain sex for reasons that are not sexist, and for

reasons that involve sexism. It is further possible to desire to have a child of a certain sex for a combination of reasons, some of which involve sexism and some of which do not. There may be a fine line between gender related reasons, and sexist reasons.

Sex selection for the first child in this case is morally challenging, given the danger of further stratification of males and females, and the possibility of enhancing already existing hierarchical arrangements. At the same time this must be balanced with a respect for autonomy of the individual, particularly the autonomy of the woman in question. Serious harm may result to various parties from having a child that is unwanted because it is of the sex not desired.

The importance of respecting women's autonomy when it comes to abortion is emphasized at various points in the chapter. Abortion, in my view, does not represent a legitimate ground upon which to object to sex selection. The decision of whether to abort and for what reasons is best managed by the pregnant woman.

Various other methods of sex selection as it is possibly practiced in the United States are analyzed.

A new sex determination procedure, the Baby Gender Mentor,²⁵ is now available which involves little medical intervention and is home based. This affordable and easy procedure indicates sex as early as five weeks pregnant, and could result in sex selection if abortions are sought based on the results. This private home based method makes private sex selection more possible than it had been prior to its existence.

The ethics of Microsort's pre-conception technique of sex selection involving sperm sorting and artificial insemination is analyzed. The particularities of sex selection using this method, and other pre-conception methods such as pre-implantation genetic diagnosis (PGD) coupled with in-vitro fertilization (IVF), and their implications, are discussed. Each method of sex selection or each type of method may pose its own ethical challenges. In general, pre-conception methods may pose fewer ethical difficulties in that they do not involve abortion, and

²⁵ In order to be more precise, this product ought to be called the Baby Sex Mentor, since it is intended to help prospective mothers discover sex of the fetus. See chapter three for further discussion of terminology.

those pre-conception methods that have highest likelihood of success may be more ethically appealing, but on the other hand, to the extent to which pre-conception methods are easy, private, and home based, they may represent the opportunity for increasing use of sex selection. An overarching concern about the ethics of sex selection involves the treatment of differently sexed individuals, *i.e.*, those who do not fit neatly into the category male or female. If sex selection were to become more widespread, it is possible that harm that differently sexed individuals have experienced while being forced into the categories of the two sexes could be exacerbated. Fluidity should be adopted with respect to the sexes instead of rigidity.

Finally, a real case of a couple requesting sex selection is analyzed. A husband and pregnant wife request a sex determination test at a major New York City medical center. The couple already has two girls, and this pregnancy would result in their third child. The husband had serious psychosomatic illness with the first two daughters. The husband is from India and has a mother and sister he works to support, for whom he held a deep resentment which was

generalized to resentment for all women, although he and his wife loved one another. Analysis of this case reveals that one cannot be certain that the woman is acting freely and is exercising her autonomy because the couple, rather than the woman alone, requests sex selection. While psychiatric treatment of the husband is a recommended course, if the pregnant woman is genuinely acting autonomously in making the request for sex determination, then it is morally acceptable to provide the information about sex for largely the same reasons as in the first case that was analyzed toward the beginning of the chapter.

Sex selection in the United States does not pose a grave moral danger at the present time. Requests for sex selection are not widespread and seem to do little harm. The limited cases of sex selection that exist seem to be consistent with a strong autonomy ideal. Sex selection in the United States, both preconception and post conception, should continue to be monitored and analyzed by ethicists and other experts. Restricting abortion rights of women, in order to curtail or eliminate sex selection that may in some cases possibly be less than morally ideal, is a greater evil which would infringe significantly on

women's basic control over their own bodies, and is therefore not justified.

In chapter five, examination of sex selection in contexts where it is widespread may yield a somewhat differing ethical analysis because of the different context, but emphasis on women's autonomy remains. Widespread sex selection for males, by sheer numbers, is troubling. Additionally, the consequences of widespread prevalence of sex selection for males must be appreciated. It is not good for women as a class, it perpetuates gender segregation and strict gender roles for both sexes, it sends a (false and) negative message to those females who do live, *i.e.*, that females are less intrinsically valuable and desirable in that it is acceptable to abort them solely because they are female.

Yet, examination of the deeper social factors of cultures where sex selection is commonplace leads to an appreciation of the necessity of having a male baby. Interestingly, on an individual case basis, selecting for a boy may actually be a moral choice in that a boy better secures future well being for the baby in question and the baby's family, within and due to the context and backdrop of social and economic realities.

The social backdrop is the driving force behind the widespread sex selection, and is really where the moral difficulty lies. The heart of the problem of widespread sex selection is located within these deeper social underpinnings of society. At the individual level, the choice to select for a male may be understandable; simultaneously these individuals constitute the greater society practicing widespread sex selection. Individuals are subject to the limitations of society, and can only operate within that framework, yet, individuals are responsible for their actions and choices, and in a remote way, at least to some extent, play a role in changing society. Thus these actions must be understood both ways. Widespread sex selection emerges as a symptom of the misconceptions about gender and sex prevalent in cultures, yet the practice of sex selection is not merely a symptom, but also functions to perpetuate the very difficulties from which it has arisen.

Son preference is strong in India and China and high rates of sex selection for male babies exist there. Various cultural practices and beliefs pertaining to women commonly held in India and in China are discussed. The significance that both

societies are patrilineal and patrilocal is discussed. The social reality that structures women's lives and their choices, in this case the low value accorded women and females, strongly determines the decisions and desires that women actually make. Thus women's choice to sex select for males and against females does not appear to be an autonomous choice. The concept of relational autonomy applies here, in that while women are exercising their agency in their decision making to sex select for males, their choices are made from a limited set of options, and their oppression greatly limits their actual available options. The circumstances which structure women's decisions to sex select are heavily laden with oppression. Women's choice to sex select for males is the best choice they can make from within a situation of limited alternatives, great son preference, and patriarchal society. Simultaneously, widespread sex selection for males reinforces oppression of women and girls. Therefore, the sources of women's oppression must be addressed in order to promote fuller autonomy for women and to foster the existence of further options for women. It is best to address sex selection at its heart, and that is the low level of

status accorded women and girls. Widespread sex selection for males is a symptom of the basic problem of oppression of women or sexist ideology, which is the source of desires for sex selection. Social change promoting the status of women and girls is strongly urged as a positive step toward reducing women's oppression. Various suggestions for positive social change directed at improving women and girls' status include education, health care, changing traditional customs, establishing benefits for girls and women, and more. Implementing these changes can help to improve women's lives and foster a less limiting social structure, under which women may truly choose autonomously not to select for males, because there is no longer a substantial benefit in society to being male. By dismantling the features of society that structure women's oppression and lead to widespread sex selection of males, women's autonomy will be promoted and sex selection favoring males will likely diminish.

The sixth chapter discusses sex selection in general. Sex selection in general can be understood as treating a child as an object or artifact, or as involving positive eugenics in which human beings are

created according to parental wishes about superfluous characteristics such as sex. By selecting a mate with whom to reproduce, people have historically engaged in a low tech selection of traits, in that one may hope that traits found in a partner will appear in one's offspring. Now that science may soon have the ability to bring these desires to fruition in a more effective way than selecting a partner and hoping that the best from the partner appears as well in the offspring, more certain results may possibly be produced. But this must be balanced with an understanding that as human beings, children are not to be considered as accessories that we design to our own specifications. Objectification of children should be avoided and the goal in raising them is that they become freely autonomous beings possessing full personhood.

Is sex selection inherently sexist? Reasons for desiring offspring of one sex over another can vary greatly. Some cases may clearly involve what may be described as a discriminatory preference, and others are not as clear.

One can act within one's moral rights yet commit a moral wrong. Because certain choices are thought to be very important for the lives of people making them,

a certain range of choice of action belongs to people in that they are free to perform actions that may be morally wrong.²⁶ The ability to control what happens to one's own body is such an important one that it may allow for a right to do wrong. Women's autonomy in health care matters is extremely important. Women's autonomy ought to be respected, so that even if certain instances of sex selection are morally wrong, the right to choose whether or not to abort ought to be legally preserved and so this means that people have a right to engage in sex selection even in instances where it may be morally wrong.

Examination of preconception sex selection apart from regular sex selection yields an interesting picture of the ethics of sex selection. Setting aside negative consequences that arise from significantly skewing the sex ratio of a population, or skewing for birth order, sex selection involving effective preconception methods that are largely non-medical, home-based, and private do not appear to be morally wrong. There can be bad consequences or good

²⁶ Jeremy Waldron, "A Right to Do Wrong," in Jeremy Waldron, Liberal Rights: Collected Papers 1981-1991 (New York: Cambridge, 1993).

consequences resulting from this, and apart from the possibility of significantly skewing the sex ratio or significantly skewing the birth order sex ratio, it may be morally acceptable to engage in this type of sex selection provided harms are not committed. Such methods would likely be popular in India and China. These methods might be safer for women in countries such as India where there is little access to medical institutions, when compared with technologically based methods. Yet, these methods would probably continue to significantly skew the sex ratio in the same way that traditional methods of sex selection have done in these contexts.

Social and legal policy on sex selection is discussed, and some interesting prospects for allowing for the possibility of limited sex selection while controlling the skewing of a population's sex ratio, such as a special tax, are discussed. But, problems exist with such prospects, namely they may favor the rich.

Chapter Two

Theoretical Approach: Reflective Equilibrium and Relational Autonomy

The theoretical approach will utilize the method of reflective equilibrium and the concept of relational autonomy. First, a description and explanation of reflective equilibrium will be presented, in which its strengths are laid out. An explanation will be presented as to why this approach is appropriate to the current task of analyzing the ethics of sex selection. Then a description of relational autonomy will be presented, showing its strengths as a useful concept for discussing sex selection. I will show that reflective equilibrium and relational autonomy combine well for the present analysis.

What is reflective equilibrium? How does reflective equilibrium work? The point of this process is to attain coherence among one's beliefs, including considered moral judgments, moral principles, and background views. Wide reflective equilibrium, as opposed to narrow reflective

equilibrium, includes harmony among all three aspects: beliefs, judgments, and principles. Narrow reflective equilibrium involves coherence merely with judgments and principles. Wide reflective equilibrium is what is meant by the simpler term, "reflective equilibrium."

Reflective equilibrium involves a process of working back and forth, continually making adjustments at each level of beliefs, with the goal of progressing toward a state of equilibrium.²⁷ No level of belief is immune to revision. We start with our initial moral judgments. Then different sets of moral principles are introduced. Strengths and weaknesses of different sets of principles are argued. Certain arguments win out, and the conclusion is that some group of principles is more suitable compared with others. The idea is to attain a point of equilibrium with coherence among the considered moral judgments, principles, and background theories. However, the

²⁷ Norman Daniels discusses reflective equilibrium at great length. See Norman Daniels, Justice and Justification: Reflective Equilibrium in Theory and Practice (New York: Cambridge University Press, 1996). The second chapter in this volume, "Wide Reflective Equilibrium and Theory Acceptance in Ethics," was originally published in the Journal of Philosophy, vol. 76, May 1979, pp. 256-282.

process of reflective equilibrium is more complicated than this simple description because of the way in which each level of belief affects the others. Each level may indicate that the others need reformulation and revision. This process continues, back and forth, until an equilibrium point is attained, but even then, the results are not final. New information, new technology, new evidence, may be brought to light which then results in a new tinkering with the previously held balance of considered moral judgments, principles, and background theories.

Reflective equilibrium has most famously been employed by John Rawls in his well known *Theory of Justice*. Rawls explains that his interpretation of the original position can be thought of as the result of a hypothetical engagement in the process of reflective equilibrium.²⁸ Prior to this seminal work, Rawls discussed reflective equilibrium twenty years earlier in his "Outline of a Decision Procedure for Ethics."²⁹ In this article Rawls defends reflective

²⁸ John Rawls, *A Theory of Justice* (Cambridge: Belknap of Harvard University Press, 1971), p. 21.

²⁹ John Rawls, "Outline of a Decision Procedure for Ethics," in *Collected Papers, John Rawls*, ed. Samuel Freeman (Cambridge: Harvard University Press, 1999).

equilibrium as a reasonable decision procedure which is strong enough to adjudicate conflicts among interests.³⁰ Furthermore, he argues that reflective equilibrium can be established by rational methods of inquiry.³¹ Rawls thinks that "moral actions can be justified in a manner analogous to the way in which decisions to believe a proposition, or theory, are justified."³² Reflective equilibrium represents an appealing theory for this reason. It captures a method of argumentation that is suitable for various situations, and one that is fluid enough to work in different ethical circumstances, allowing broad concerns to come to bear on ethical decision making. When using reflective equilibrium as a method of argument, one is not limited to simply assessing the consequences of an action, or simply following certain principles, and so on. Rather, one can engage various methods of argument in a more general way. This is similar to the way in which one would proceed with an

Originally published in Philosophical Review 60, no. 2 (April 1951): 177-197.

³⁰ Rawls, 1971, p.1.

³¹ Rawls, 1971, p.1.

³² Rawls, 1971, p.18.

argument in other branches of philosophy apart from ethics.

In my view, reflective equilibrium accurately describes the manner in which actual moral reasoning takes place. When people engage in ethical debate, they tend to argue in a general way, similar to the way they argue for other ideas in philosophy. One might argue by analogy, by example, by *reductio ad absurdum*, or by using certain established principles. Ethical argument does not usually take a very specific and limited form; in other words one does not typically limit oneself to solely a Kantian style argument even if one is a Kantian, or solely to a utilitarian argument even if one is a utilitarian. The idea, in ethical argument and in argument in other branches of philosophy, is to present good reasons for various claims, and evaluate those reasons. The process of reflective equilibrium is "familiar to anyone who reasons about matters of right and wrong," according to Buchanan, Brock, Daniels and Wikler.³³ Reflective equilibrium is at the same time a

³³ Allen Buchanan, Dan W. Brock, Norman Daniels, and Daniel Wikler, From Chance To Choice: Genetics and Justice (Cambridge: Cambridge University Press, 2000), p.376.

theoretical account of justification in ethics and is also a method that assists in moral decision making. Reflective equilibrium is appealing because it accurately captures the general argument form, similar to the rest of philosophy, which is the way in which ethical discourse actually takes place,³⁴ and because it clearly sets out and describes this general argumentation method.

Another appealing feature of reflective equilibrium is the fact that it captures our ongoing sense of what is moral. Our moral judgments are not permanently fixed but are subject to continual revision. While we may have already formed opinions on certain moral issues, these opinions are always subject to reconsideration in light of new evidence and new reasons.³⁵ We are not inextricably bound to

³⁴ Lorraine Code argues that rather than attempt to create a theoretical structure that is designed to produce certainty and precision, instead the point is to understand methods of justification and verification. Lorraine Code, "Experience, Knowledge, and Responsibility," in Feminist Perspectives in Philosophy, eds., Morwenna Griffiths and Margaret Whitford (Indianapolis: Indiana University Press, 1988) p. 201. Interestingly, reflective equilibrium may do some of each, in that it is an attempt at a theory and it also seems to characterize our actual moral reasoning.

³⁵ Rawls, 1971, p.3, see also Daniels, 1996.

our prior conclusions. Instead, our conclusions are continually revisable as new information, and in bio-medical ethics, new technology, surfaces. As we conclude an analysis of some bioethical issue, we do not close the door on the matter; instead we may revisit our conclusions as time goes on.

The method of reflective equilibrium has strengths over methods delineated by traditional and well known ethical theories. There are powerful objections to each of the main moral theories, and while each has certain advantages, each seems inadequate on its own. A combination of the useful features of each moral theory would be ideal, and the decision procedure of reflective equilibrium allows for this.

Virginia Held utilizes a "particular kind of pluralistic theory, one which combines deontological and consequentialist elements, and individualistic and socially concerned approaches" which allows one to employ the useful aspects of various moral theories.³⁶ Held calls this a general method of experimental

³⁶ Virginia Held, Rights and Goods: Justifying Social Action (Chicago: Free Press, 1984), p.274.

morality.³⁷ Held examines Rawls' method of reflective equilibrium and reveals some difficulties. Considered moral judgments, according to Rawls, should include only judgments that have been reached without influence of our emotions or actual situations.³⁸ This is problematic in that Rawls specifies that judgments are to originate from a point of view outside of our own experience, from the point of view of the ideal observer, and so judgments resulting from our actual experiences and quandaries cannot be included.³⁹ But, this results in impersonal judgments and abandons the reality of people's experiences.⁴⁰ Context must be appreciated rather than left out in favor of only the abstract.⁴¹

One could question how both deontological and consequentialist considerations could be combined, or balanced with one another, under reflective

³⁷ Held, 1984, p.3.

³⁸ Held, 1984, p.42.

³⁹ Held, 1984, p.43.

⁴⁰ Held, 1984, p.43.

⁴¹ Susan Sherwin, No Longer Patient: Feminist Ethics and Health Care (Philadelphia: Temple University Press, 1992), p. 88-90.

equilibrium, since deontology and consequentialism are often thought of in contrast with one another. In deontology one acts morally when one performs one's duty and adheres to principles; in consequentialism the circumstances matter and one acts according to which course of action is likely to promote the best consequences or outcome. At times, there can be a conflict between deontological and consequentialist concerns. The method of reflective equilibrium cannot necessarily solve this problem or answer this objection. Reflective equilibrium does not offer a way of enabling a person to figure out which concern merits greater attention in a potential conflict. This is beyond the scope of reflective equilibrium.

I take Norman Daniels' work on reflective equilibrium to be appropriate for analysis of the ethics of sex selection because he has written extensively about reflective equilibrium, and because he has done so with a particular eye toward issues in bioethics. Daniels' reflective equilibrium is appealing because of the clarity of his writings on the matter and because his methodology is well suited to application in actual circumstances. Application in actual circumstances is important. Without this

key feature, moral theory is less useful for guiding us as to what we ought to do. Daniels' reflective equilibrium is well suited to essential testing with actual experience⁴² because of the continual back and forth evaluation. Such testing is useful because our real life decisions may not be handled well by moral theory.⁴³

Daniels' reflective equilibrium is a suitable decision procedure for analyzing issues involving women such as sex selection because it does not seem to suffer from limitations that prevent it from being acceptable from a feminist perspective. Historically, ethical theory has been formulated from a male point of view, but Daniels' reflective equilibrium does not share in flaws that would limit its use to the non feminist. Daniels' reflective equilibrium does not insist upon a dichotomy between reason and emotion, with emotion disparaged. Nor does it suffer from other historical theoretical bias such as the public/private distinction. Held has specified difficulties such as this one, which reflect

⁴² Held, 1984, p.53.

⁴³ Held, 1984, p.54.

historical bias, in classical moral theories.⁴⁴ A preferable theory is one that does not suffer from defects enumerated by Martha Nussbaum, such as treating the family as a "private" sphere as opposed to the "public" sphere, without acknowledgement of laws and institutions framing the institution of the family and labeling certain groups as families and others not, and treating the family as if it exists "by nature" without acknowledging that custom and society have constructed the family.⁴⁵ Reflective equilibrium can include the particular moral convictions traditionally relegated to the so-called private sphere, and this produces a more adequate account of reflective equilibrium as well.⁴⁶

Rawls' reflective equilibrium is not as appealing as Daniels' reflective equilibrium, because of the

⁴⁴ Virginia Held, "Feminist Transformations of Moral Theory," Philosophy and Phenomenological Research, vol. L, Supplement (Fall 1990).

⁴⁵ Martha C. Nussbaum, Women and Human Development: The Capabilities Approach, (New York: Cambridge University Press, 2000) p.252.

⁴⁶ Sibyl A. Schwarzenbach, "Women and Constitutional Interpretation: The Forgotten Value of Civic Friendship," in Women And The United States Constitution: History, Interpretation, and Practice, eds., Sibyl A. Schwarzenbach and Patricia Smith (New York: Columbia University Press, 2003) p.9.

social contract theory employed by Rawls, and because of Rawls' restriction of actual experience. Rawls' notion of decision making from behind a hypothetical veil of ignorance and his emphasis on the social contract make his theory less desirable and less appropriate for analysis of sex selection and its attendant context.⁴⁷ Analysis of reproductive matters may not best be served by a social contract theory such as Rawls' because it does not take account of the significant unchosen aspects involved in bearing offspring, and familial relations. Social contract theory sometimes seems to imply that we are free to choose obligations and able to choose conditions of our lives according to our preferences or expectations, but there is an involuntary quality to kinship.⁴⁸ Social contract theory such as Rawls' tends to assume a traditional patriarchal model of the family that has been suggested to produce difficulties especially for women.⁴⁹ For these reasons, reflective

⁴⁷ Rawls, 1971.

⁴⁸ Maura A. Ryan, "The Argument for Unlimited Procreative Liberty: A Feminist Critique," Hastings Center Report July/August 1990, vol. 20, no. 4., p.10.

⁴⁹ Ryan, p. 10.

equilibrium that is not tied to social contract theory is preferable for this analysis.

It might be claimed that reflective equilibrium is merely a person's moral opinion, albeit a considered and systematized opinion. However, reflective equilibrium can be defended against the charge of intuitionism.⁵⁰ First, it is worth noting that in wide reflective equilibrium, reasons are readily given for initial considered judgments.⁵¹ Reasons help to justify initial considered judgments. If no reasons can be offered by a person expressing a moral judgment, the statement is not respected as a moral judgment; instead it may be understood as an observational statement like seeing a color and reporting on what is seen.⁵² Further, wide reflective equilibrium allows and encourages continual and exhaustive revision of moral judgments; there is no fixed set of judgments that is immune to change.⁵³ For example, a considered moral judgment can help

⁵⁰ Daniels, 1996, pp. 26-40.

⁵¹ Daniels, 1996, pp. 30-31.

⁵² Daniels, 1996, p. 31.

⁵³ Daniels, 1996, p. 27.

determine whether a background theory will be accepted.⁵⁴ Feasibility testing of the background theory can lead to the theory's rejection, and in turn to the revision of the considered moral judgment.⁵⁵ The considered moral judgment may be part of a background theory that is not viable because it does not cohere with other background theories that appear more suitable, and so the considered moral judgment may have to be changed.⁵⁶ Or, the considered moral judgment may be part of a system of background theories that would lead to the acceptance of principles and other considered judgments that we cannot accept.⁵⁷ In wide reflective equilibrium, decisions are continually being made about which of our considered moral judgments should be revised, in light of theoretical considerations at various levels.⁵⁸ In this way, wide reflective equilibrium resembles scientific practice, where the viability and

⁵⁴ Daniels, 1996, p. 28.

⁵⁵ Daniels, 1996, p. 28.

⁵⁶ Daniels, 1996, p. 28.

⁵⁷ Daniels, 1996, p. 28.

⁵⁸ Daniels, 1996, p. 28.

relevance of data are continually evaluated against currently accepted theories.⁵⁹ This procedure helps to justify all levels of judgment in reflective equilibrium. It is possible that scientific practice can incorporate bias or unreliability, however, the pressure for constant revision, reevaluation, and scrutiny helps to guard against bias and unreliability, and helps facilitate their eventual exposure. The pressure to revise in wide reflective equilibrium similarly helps to guard against bias and unreliability.⁶⁰

While I find reflective equilibrium to be a useful tool that characterizes actual moral discourse and decision making, and sets out a valuable methodology showing how to go about adjudicating moral problems, it is important to note that there may remain disagreement among reasonable people about moral issues. The fact that there is disagreement does not indicate that the methodology of reflective equilibrium is irreparably flawed or useless. There is no one infallible faculty for discovering moral

⁵⁹ Daniels, 1996, p. 33.

⁶⁰ Daniels, 1996, p. 33.

truths.⁶¹ On the contrary, it is possible that some moral progress could be attained by engaging in the process of reflective equilibrium, and continuing the back and forth adjustment of all levels of belief as new information arises. Lorraine Code points out that a tidy comprehensive theoretical structure may not necessarily be generated, but instead experience may shape and reshape theory.⁶²

Reflective equilibrium, particularly taken on its own, may suffer certain limitations. Anne Donchin points out that a relational understanding of autonomy is sorely lacking in Buchanan, Brock, Daniels and Wikler's work which employs reflective equilibrium.⁶³ Donchin also points out that Ruth Groenhout finds that these authors assume that individuals are largely self-defining.⁶⁴ Donchin calls for understanding

⁶¹ Daniels, 1996, p. 350.

⁶² Code, 1988, p. 201.

⁶³ Anne Donchin, "Recasting Autonomy/ Rethinking Justice: Perspectives from Bioethics," paper presented at the 22nd Meeting of the North American Society for Social Philosophy, Troy, NY, July 28-30, 2005, p. 5, discusses Ruth Groenhout, Connected Lives: Human Nature and the Ethics of Care, (Lanham: Rowman & Littlefield, 2004) discusses Buchanan, Brock, Daniels & Wikler, 2000.

⁶⁴ Donchin, 2005, p.5.

autonomy as involving self-determining individuals situated relationally to their families, intimate associates, and health care providers.⁶⁵ A richer method of reflective equilibrium can be obtained by coupling reflective equilibrium with the concept of relational autonomy.

Reflective equilibrium allows for a fluid and nuanced analysis of issues, and this fluidity makes it particularly well suited to sensitive cross-cultural ethical analyses such as sex selection. For example, people's typical background assumptions pertaining to sex selection might be quite different in India or China versus the United States. With reflective equilibrium, one can take account of the differences in background theories held by people in various societies, and still avoid a relativistic conclusion. This allows for appreciation of context, and allows focus on real situations in which sex selection is taking place. Held has suggested that moral analysis

⁶⁵ Anne Donchin, "Autonomy and Interdependence: Quandaries in Genetic Decision Making," in Catriona Mackenzie and Natalie Stoljar, eds., Relational Autonomy: Feminist Perspectives on Autonomy, Agency, and the Social Self (New York: Oxford, 2000) p.252-253.

should start with the point of view of someone with experience with the actual moral problem being examined, rather than start with the point of view of an ideal observer who lacks experience in the actual reality of the moral problem in question.⁶⁶ She has argued further that it is better to focus upon real situations rather than upon imaginary or hypothetical situations, that real experience is more important and more reliable than taking on the standpoint of the ideal observer.⁶⁷ Held suggests we should look more to the actual than to the hypothetical.⁶⁸ For these reasons, the context of sex selection is worthy of appreciation. The subtle, culturally sensitive, and contextual analysis fostered by reflective equilibrium is furthered by the use of the concept of relational autonomy.

Prior to an explication of relational autonomy, a brief discussion of classical autonomy is necessary. Immanuel Kant is well known for his emphasis on

⁶⁶ Held, 1984, p.3.

⁶⁷ Held, 1984, p.48.

⁶⁸ Virginia Held, Feminist Morality: Transforming Culture, Society and Politics (Chicago: University of Chicago, 1993).

autonomy, and its importance is thought to originate with his ideas. Kant's strong claims about autonomy are the primary basis for according moral value to the concept in bioethics.⁶⁹ Kant believed that we must respect other people's right to self determination.⁷⁰ We must not treat other people as a means to something else, but rather as ends in themselves.⁷¹ Briefly, Kant focuses on the autonomy of the will which allows people to formulate the moral law and to behave morally.⁷² Because human beings (to be precise, Kant referred only to men)⁷³ are rational, they can govern

⁶⁹ Thomas A. Mappes and David DeGrazia, Biomedical Ethics, 5th edition, (New York: McGraw Hill, 2001) p.39.

⁷⁰ Immanuel Kant, Groundwork of the Metaphysic of Morals, translated by H.J. Paton (New York: Harper & Row, 1964).

⁷¹ Kant, 1964.

⁷² Kant, 1964.

⁷³ Kant states that woman's "philosophy is not to reason, but to sense," and that he "hardly believes that the fair sex is capable of principles." According to Kant, women have moral feeling. They do not exercise the moral law, and the rational is not a part of their realm. These quotations from Kant, and the paraphrasing of Kant are from Immanuel Kant, "Of The Distinction of the Beautiful and the Sublime in the Interrelations of the Two Sexes," in Mary Briody Mahowald, ed., Philosophy of Woman: An Anthology of Classic and Current Concepts (Indianapolis: Hackett, 1983) pp. 194-196. Mahowald has here excerpted Kant's

themselves in accordance with morality guided by reason, and not by emotion.⁷⁴

Autonomy in bioethics is, simply stated, a recognition that an individual's ability to make decisions about one's own body and one's own health care ought to be respected. Historically, physicians (and other health care providers) have been most knowledgeable, qualified, and skilled in medicine. Physicians are well qualified by years of training and education to know what to do in medical matters when it comes to treating patients. The traditional model of the knowing physician making treatment decisions for his patients is a familiar one. Paternalism⁷⁵ in medicine is the idea that "physician knows best," and that it is appropriate that the physician be the one to make medical decisions for the patient. Paternalism is demonstrated when health care

Section Three of "Observations on the Feeling of the Beautiful and Sublime," translated by John T. Goldthwait.

Furthermore, please see chapter 3 of this dissertation, showing 'men' is not generic.

⁷⁴ Kant, in Mahowald.

⁷⁵ For a thorough treatise on paternalism, please see John Kleinig, Paternalism (Totowa: Rowman and Allanheld, 1983).

providers, who are well educated in medicine, believe that because of their medical expertise they also have greater expertise than the patient possesses, when it comes to matters pertaining to what is in the patient's best interest. The professional expertise that physicians possess has been offered as a justification for allowing patients' health care decisions to be made by doctors.⁷⁶ Paternalism is demonstrated when a health care provider acts to make decisions for the patient instead of having the patient make the decisions, or curtails information that ought to be shared with the patient. John Kleinig explains that physicians who tend to behave paternalistically toward their patients see themselves as committed to overseeing patients' best interests in virtue of their being physicians.⁷⁷ Such physicians interpret patients coming to them for treatment as patient recognition that such paternalism is proper, and a tacit agreement or surrender to the physicians' professional judgment.⁷⁸

⁷⁶ Kleinig, p. 107.

⁷⁷ Kleinig, p. 116.

⁷⁸ Kleinig, p. 116.

On the contrary, a principle of autonomy recognizes that competent patients ought to have the decision making capacity when it comes to their own health matters. Autonomy reflects a notion of patient directed care and the idea that people have the right to control what is done to their own bodies. Autonomy rejects the idea of paternalism in medicine.

Traditionally, physicians were actually trained to act paternalistically toward their patients. As technological advances took place in medicine, medicine became much more than palliation, and ethical quandaries arose as a result. When medicine was a simpler endeavor often involving merely comfort, fewer bioethical issues arose. As physicians acquired the ability to treat diseases and disorders in various ways, and as they acquired the ability to keep patients alive longer (sometimes with little if any quality of life), and people questioned whether this was a good idea, the field of bioethics blossomed, and the important issue of patient autonomy came into use. Paternalism in medicine became an outmoded model, and inappropriate or excessive paternalism was the subject of criticism, and respect for patient autonomy became more popular. The arrival of various treatment

options, and the necessity of choosing between possible options, led to the promotion of the idea that patients ought to be allowed to make decisions for themselves, whereas previously there was only one course of action (and it was not always an effective or promising treatment).

Autonomy is an important idea for the practice of medicine and for bioethics. It is considered a key principle in the field of bioethics. Respect for autonomy, beneficence, and non maleficence are three principles established by Beauchamp and Childress that have come to be known as "the Georgetown mantra" because of their popularity in bioethics.⁷⁹ The "mantra" may have appeal because it is a neat and tidy package that is easy for doctors and other health care professionals to remember and employ.

Respect for autonomy in health care matters is essential for several reasons. Patients in need of health care tend to be in a vulnerable position in the first place. The patient is dependent upon health care providers in order to access the treatments that

⁷⁹ Tom L. Beauchamp and James F. Childress, Principles of Biomedical Ethics (New York: Oxford University Press, 1979).

she needs. This dependent position exacerbates patients' vulnerability and their potential for acceding to expert opinion, rather than exercising their own judgment. A strong emphasis on autonomy can help guard against abuses or manipulation and can foster patient choice in health care matters. When it comes to reproductive matters, a strong "principle" of, or strong commitment to, autonomy can help "increase the scope of personal control for women."⁸⁰

While autonomy may sometimes be associated with a conservative, non feminist approach, on the contrary, many feminists are impressed with autonomy's ability to further women's interests in the practice of medicine. Autonomy can be a feminist tool for promoting women's own control of their bodies in medicine. While it can be regarded by feminist theorists with suspicion,⁸¹ other feminists disagree

⁸⁰ Susan Sherwin, "A Relational Approach to Autonomy in Healthcare" in the Feminist Health Care Ethics Research Network's The Politics of Women's Health: Exploring Agency and Autonomy, (Philadelphia: Temple University Press, 1998), p.23.

⁸¹ Catriona Mackenzie and Natalie Stoljar, "Introduction: Autonomy Refigured," in Relational Autonomy: Feminist Perspectives on Autonomy, Agency, and the Social Self, eds. Mackenzie and Stoljar (New York: Oxford University Press, 2000), p.3.

and see the ideal of autonomy as central to analyses of oppression. Autonomy can be essential to achieving feminist goals of justice and positive social change.⁸²

Although autonomy is usually considered a key principle in bioethics, this is not uncontroversial. Autonomy has certain strengths and it has also been subject to some criticism. Marilyn Friedman points out that mainstream conceptions of autonomy have been criticized by feminists on four grounds.⁸³ First, the social nature of the self and the importance of social relationships are ignored and instead it is assumed that people should be as independent as possible.⁸⁴ Second, a coherent, unified subject with a stable, unchanging identity is presumed.⁸⁵ Third, these conceptions of autonomy treat the self as transparently self-aware, but the self may have

⁸² Donchin, 2005, p. 3.

⁸³ Marilyn Friedman, "Autonomy and Social Relationships: Rethinking the Feminist Critique," in Feminists Rethink The Self, ed. Diana Tietjens Meyers (Boulder: Westview, 1997).

⁸⁴ Seyla Benhabib, Situating The Self: Gender, Community and Postmodernism in Contemporary Ethics (New York: Routledge, 1992), p.161-163.

⁸⁵ Judith Butler, Gender Trouble: Feminism and the Subversion of Identity (New York: Routledge, 1990) pp.5-7.

dimensions that are not obvious upon self-reflection.⁸⁶ Fourth, reason, as the source of autonomy, is elevated over emotion and construed as the true self.⁸⁷

Relational autonomy is a concept of current interest that was recently elucidated by Marilyn Friedman in 1997⁸⁸ and Susan Sherwin in 1998.⁸⁹ In 2000, Catriona Mackenzie and Natalie Stoljar edited a collection of articles on the subject.⁹⁰

Sherwin focuses specifically on issues in bioethics; therefore her work is particularly well suited to the purposes of an analysis of the ethics of sex selection. Sherwin makes a distinction between agency and autonomy; the two are related concepts that

⁸⁶ Jean Grimshaw, "Autonomy and Identity in Feminist Thinking," in Feminist Perspectives in Philosophy, Morwenna Griffiths and Margaret Whitford, eds., (Indianapolis: Indiana University Press, 1988), pp.95-106.

⁸⁷ Lorraine Code, What Can She Know?: Feminist Theory and the Construction of Knowledge (Ithaca: Cornell University Press, 1991), pp.110-130.

⁸⁸ Friedman.

⁸⁹ Sherwin, "A Relational Approach to Autonomy in Health Care," 1998.

⁹⁰ Catriona Mackenzie and Natalie Stoljar, eds., Relational Autonomy: Feminist Perspectives on Autonomy, Agency, and the Social Self, (New York: Oxford University Press, 2000).

are sometimes confused with one another.⁹¹ According to Sherwin, agency is demonstrated when women make decisions and choices about their health care; however, this decision making and choosing does not constitute autonomy.⁹² Autonomy, according to the way in which it is usually understood, does not address the ways in which oppression limits the range of choices available,⁹³ and affects the weight assigned to each option by individuals.⁹⁴ Agency reflects informed choice from a limited range of options.⁹⁵ Autonomy, on the other hand, ought to reflect a more comprehensive notion of freedom, *i.e.* not only uncoerced choice, but more importantly ensure that the circumstances that structure the choice are free from oppression.⁹⁶ This

⁹¹ Susan Sherwin, *et. al.*, "Introduction," in the Feminist Health Care Ethics Research Network's The Politics of Women's Health: Exploring Agency and Autonomy, (Philadelphia: Temple University Press, 1998), p.11.

⁹² Sherwin, "A Relational Approach to Autonomy in Health Care," pp.32-33.

⁹³ This essential idea will be applied in later chapters with respect to sex selection.

⁹⁴ Sherwin, *et. al.*, p.12.

⁹⁵ Sherwin, *et. al.*, p.13.

⁹⁶ Sherwin, *et. al.*, p.13.

kind of full autonomy requires that we remove oppressive barriers which structure options in such a way as to further perpetuate oppression.⁹⁷ Sherwin calls this kind of autonomy "relational autonomy,"⁹⁸ and labels it a feminist alternative.⁹⁹ It is particularly useful in elucidating the apparent paradox of women who are seen as freely choosing options which reinforce oppression.¹⁰⁰

A very good example to which Sherwin alludes concerns risky and expensive cosmetic surgeries. Many women may believe that they have no real choice in this matter.¹⁰¹ They are well aware that their chance for success (Sherwin says, in love and work)¹⁰² is tied to how well they fit society's beauty standard. So, the choice is made to have cosmetic surgery such as a

⁹⁷ Sherwin, *et. al.*, p.13.

⁹⁸ See below in this chapter for a clarification of how Sherwin uses the term 'relational'.

⁹⁹ Sherwin, *et. al.*, p.19.

¹⁰⁰ Again, this important idea will be discussed further in later chapters.

¹⁰¹ Sherwin, "A Relational Approach to Autonomy in Health Care," p.28.

¹⁰² Sherwin, "A Relational Approach to Autonomy in Health Care," p.28.

face-lift, tummy-tuck, etc., and agency is exercised. However, autonomy is not reflected here, at least not in Sherwin's sense. The particular woman's sense of herself, and her range of opportunities, have been constructed in such a way as to leave her little choice but to pursue any available options toward the goal of beauty. Traditional views of autonomy are inadequate here because they fail to capture this important dimension.

By focusing only on the moment of medical decision making, traditional views fail to examine how specific decisions are embedded within a complex set of relations and policies that constrain (or, ideally, promote) an individual's ability to exercise autonomy with respect to any particular choice.¹⁰³

Insofar as such choices adapt to the existing structure of oppression, the traditional understanding of autonomy fails to capture the essence of the problem. Accepting the prevailing social arrangements as given helps to perpetuate the oppression itself.¹⁰⁴ Thus autonomy in its traditional sense seems

¹⁰³ Sherwin, "A Relational Approach to Autonomy in Health Care," p.32.

¹⁰⁴ Sherwin, "A Relational Approach to Autonomy in Health Care," p.33.

inadequate. Sherwin advocates a more politically sensitive standard of autonomy that ought to make visible the way in which oppression affects a person's choices. This way, attention is focused on removing the conditions of oppression. Nussbaum also emphasizes the importance of options, and notes that increasing women's economic options, for instance, is a very powerful way of promoting their well-being.¹⁰⁵ Options for women are important, according to Nussbaum, because they give alternatives to various undesirable situations.¹⁰⁶

Sherwin calls her notion of autonomy "relational" although she says it could also be described as "contextualized" autonomy, or "socially situated" autonomy.¹⁰⁷ She notes that her use of the term "relational" is not to be confused with Carol Gilligan's and other feminist authors' use of the word.¹⁰⁸ Gilligan, et. al., refer to a narrower set of

¹⁰⁵ Nussbaum, 2000, p.285.

¹⁰⁶ Nussbaum, 2000, p.286.

¹⁰⁷ Sherwin, "A Relational Approach to Autonomy in Health Care," p.19.

¹⁰⁸ Sherwin, "A Relational Approach to Autonomy in Health Care," p.19.

interpersonal relations, while Sherwin refers to a larger range of both personal and public human relations.¹⁰⁹

Although Sherwin finds the traditional notion of autonomy inadequate and proposes her own version, it is important to note that she places a strong value on autonomy on the whole. Her notion is a stronger, or expanded, notion that will better serve feminist concerns by increasing the scope of personal control for women.

Relational autonomy theorists may show some variation in their accounts. However, relational autonomy approaches share

the conviction that persons are socially embedded and that agents' identities are formed within the context of social relationships and shaped by a complex of intersecting social determinants, such as race, class, gender, and ethnicity.¹¹⁰

A strength of relational autonomy in general is that the concept of the self that lies behind it is one that accords with Held's view of a feminist moral

¹⁰⁹ Sherwin, "A Relational Approach to Autonomy in Health Care," p.19.

¹¹⁰ Mackenzie and Stoljar, "Introduction: Autonomy Refigured," p.4. This is not unlike a Marxist view of persons in social relations.

theory, because it is not constructed from a male point of view.¹¹¹

Mackenzie's analysis of autonomy focuses on self-definition, centering on the temporal and social dimensions of selfhood.¹¹² Mackenzie discusses reflective equilibrium but uses the term to refer to the process by which agents shape their self-identities.¹¹³ She explores the connections between autonomy, selfhood, and imagination, and proposes that a person's ability to imagine him or herself in a different situation plays an important role in practical deliberation and self-definition.¹¹⁴ Understanding the way in which agents can or cannot

¹¹¹ Held, 1990. See earlier discussion of the limits of traditional moral theory and the difficulties of theories that assume a traditionally male point of view.

¹¹² Catriona Mackenzie, "Imagining Oneself Otherwise," in Relational Autonomy: Feminist Perspectives on Autonomy, Agency, and the Social Self, eds. Mackenzie and Stoljar (New York: Oxford University Press, 2000), pp.124-150.

¹¹³ Mackenzie, p.133, and pp.146-7, note 18. Here Mackenzie cites Amelie Rorty and Richard Wong's conception of reflective equilibrium and adopts their usage. She cites Rorty and Wong's "Aspects of Identity and Agency," in Identity, Character, and Morality: Essays in Moral Psychology, ed., Amelie Rorty and Owen Flanagan (Cambridge: MIT Press, 1990).

¹¹⁴ Mackenzie.

imagine themselves in other circumstances helps explain how oppressive social environments weaken the autonomy of oppressed agents.¹¹⁵ Because of a restricted or oppressive cultural imaginary, agents' abilities to imagine different and better social and individual possibilities are diminished, and this in turn impairs capacities for autonomy.¹¹⁶

Autonomy is an important ideal to bear in mind when considering the ethics of sex selection because there is a danger of neglecting to take into account the mother's (or prospective mother's) own views and desires about her body and her offspring. Conclusions about what is right or wrong in terms of sex selection, and policies which may be set in response to these ethical conclusions, must take stock of women's own wishes about their bodies and their pregnancies.

Relational autonomy, as opposed to unqualified autonomy, and particularly Sherwin's conception of relational autonomy, is preferable for an analysis of the ethics of sex selection because it allows one to

¹¹⁵ Mackenzie.

¹¹⁶ Mackenzie, p. 143.

flesh out the background assumptions and beliefs held by an individual in a society, and those held by the society as a whole. Relational autonomy allows for an analysis in which the importance of the impact of society on an individual is appreciated. While the impact of society is appreciated, this by no means indicates that one dismisses the mother's (or prospective mother's) wishes about her body and her pregnancy as simply the product of her society. Relational autonomy allows for a complete understanding of the context in which one may make decisions about performing sex selection, and it allows for an appreciation of the fact that a person's views and desires about her body and her offspring can be socially structured in problematic ways. A firm commitment to people's decision-making capacity about their own bodies can be maintained.

Relational autonomy is by no means an exclusive theory that must be utilized in isolation from other ideas. It is in fact not a complete theory, but an ideal, principle, concept, or idea to which one may be committed. Therefore, it could be coupled with a variety of different theoretical approaches in order to analyze ethical problems. Relational autonomy

couples well with the process of reflective equilibrium. One can apply the process of reflective equilibrium while bearing in mind one's commitment to relational autonomy. Relational autonomy may be employed as a principle in a method of wide reflective equilibrium. The combination of the two fosters a nuanced analysis of culturally variable issues such as sex selection. Reflective equilibrium's nature as a decision procedure, process, or method for arriving at conclusions about moral matters, lends itself well to respecting certain ideals, principles, or concepts such as relational autonomy. The very point of reflective equilibrium is to allow one to take stock of an ethical quandary within the framework of the commitments that one may hold, *i.e.* in this case, a commitment to autonomy, while of course simultaneously scrutinizing these very commitments. Further, the two combine well because they both allow for a culturally sensitive approach, one which takes stock of people's beliefs and commitments in different societies.

Chapter Three

Sex and Gender: What's the Difference?

The title of this chapter is meant to convey the dual sense of "what's the difference?" First, what is the difference between sex and gender? Are they the same? If not then in what does their difference consist? Secondly, why pay attention to the difference between sex and gender? In other words, what's the difference whether sex and gender are the same or different, and what does it matter for bioethics, and for sex selection in particular? Throughout the discussion, I use the term "sex" to refer to categories such as female and male, and not to refer to sexual intercourse or sexual activity.

Is the term 'sex selection' an appropriate designation for arranging the maleness or femaleness of one's offspring? Occasionally, one finds the term 'gender selection' used to reflect this practice.¹¹⁷ The usage of two terms results in confusion for

¹¹⁷ See, e.g., John Robertson's recent article, "Preconception Gender Selection," American Journal Of Bioethics, 1, (Winter 2001), pp. 2-9.

readers and researchers. Clarification of the terms "sex" and "gender" will help to clarify and standardize discussion on the ethics of arranging whether one's offspring will be male or female, which may help to further advance research on the subject. The sex/gender issue has ramifications for the ability to analyze the ethics of sex selection.

In this chapter I will discuss two feminist views of sex and gender. I will argue in favor of one of them, the original view, and discuss the problematic implications of the other, the more recent view, for bioethics, especially bioethics concerned with women and dealing with female bodies.

Throughout the history of philosophy, philosophers and other thinkers have defined women¹¹⁸ in terms of their biological capacities for childbirth and lactation, or supposed lack of capacity, in things like rationality and mental ability, in comparison

¹¹⁸ The idea that fixed natural essences determine the nature and abilities of a particular group, such as women, has been called essentialism. See e.g., Nancy Holmstrom in "Race, Gender, and Human Nature," in Naomi Zack, ed., Race/Sex: Their Sameness, Difference, and Interplay (New York: Routledge, 1997), p. 95.

with men.¹¹⁹ These biological facts about women's bodies and the female sex were put forth as justifications for women's proper role, for example, to give birth to babies,¹²⁰ to be the caretaker of children, a good wife to a man, and to remain in the home.¹²¹ Ideas about women's nature allegedly rooted in biology have been used to justify women's subordination.¹²²

The general argument was that women and men are biologically different. Women's biological capacity for gestation and lactation means that woman should have children and care for them. This is her proper role as a woman, dictated by the female body.

¹¹⁹ See, for example, a detailed discussion of Aristotle's views of women, and Rousseau's views of women in Susan Moller Okin in Women In Western Political Thought, (Princeton: Princeton University Press, 1979).

See also Mary Briody Mahowald, ed., Philosophy of Woman: An Anthology of Classic and Current Concepts, 3rd ed., (Indianapolis: Hackett, 1994) for excerpts of the relevant portions of original writings on women by several philosophers and thinkers, including Aristotle, Rousseau, Kant and others.

¹²⁰ Aristotle perceived of women as primarily a way of producing male babies and men. Okin, p. 83.

¹²¹ Okin.

¹²² Holmstrom, 1997, p. 97.

Furthermore, she ought to follow this role; a woman's not doing so was frequently seen as contrary to nature. For thousands of years theories of women's nature as distinct from that of men have been set forth to legitimize women's subordination.¹²³

Aristotle, for example, thought that women are defective men. A woman is an infertile male. She is female due to an inability, the inability to produce semen. Woman is a deformity, though one that occurs in the ordinary course of nature. Aristotle's theory is a biological one, and he concentrates largely on procreation. He thought that because of woman's cold physical nature, she does not possess the soul or rational part when it comes to procreation. Due to the coldness of her nature, and her lack of semen, at conception the female contribution to the offspring is the matter or body of it, while the male who possesses the principle of movement contributes the soul or rational part to the offspring.¹²⁴

¹²³ Nancy Holmstrom, "Do Women Have a Distinct Nature?" in Marilyn Pearsall, ed., Women and Values: Readings in Recent Feminist Philosophy, (Belmont: Wadsworth, 1986), p. 51. This article was originally published in The Philosophical Forum, vol. 14, no. 1 (Fall 1982), pp. 35-42.

¹²⁴ Okin, p. 82.

At the time of conception, the male fluid, semen, comes together with the female fluid, which Aristotle thought was menstrual fluid. At conception, if the male semen gains the mastery, it brings the material over to itself, or in other words, the offspring becomes male. But if the male semen gets mastered, the offspring changes over either into its opposite, a female, or it dies.¹²⁵ Aristotle thought that it is appropriate that men rule the household, and that the male is naturally more qualified to lead than the female. The husband should rule over the wife.¹²⁶ Thus Aristotle has a biological view with implications and relevance for the social world.

Kant thought that women are beautiful while men are sublime. Men have outstanding intellectual or moral worth, while women's philosophy is not to reason but to sense. Woman's arena is sensation, emotion, feeling. Women are not capable of principles. Instead of principles, she has kind and benevolent

¹²⁵ Aristotle, "On The Generation of Animals," Philosophy of Woman, 3rd ed., ed. Mary Briody Mahowald (Indianapolis: Hackett, 1994), pp. 23-29.

¹²⁶ Aristotle, "Politics" Philosophy of Woman, 3rd ed., ed. Mary Briody Mahowald (Indianapolis: Hackett, 1994), pp. 29-31.

sensations, feelings.¹²⁷ Given the high place reason and principles occupy in Kant's moral philosophy, one can see that women belong somewhere lower than men. Women are not rational beings who create the moral law. They are not autonomous agents. They do not have the same moral capacities as men. Based on women's and men's differing capabilities, Kant assigns different gender roles for morality.

Aristotle and Kant represent two examples of philosophers' views, or theories, of women. It is against this backdrop that the original, or first feminist view of sex and gender was developed. As Nancy Holmstrom says in her article, "Race, Gender, and Human Nature",

. . . the division of humankind into certain groups, in particular, men and women (and races), [has] been thought to be based on their distinct natures. The traditional idea was that there were fixed, natural essences determining the cognitive, moral, and emotional traits and abilities of the group . . . These essences have been used to explain and also, explicitly or implicitly, to justify existing hierarchical social relations . . . In the past, the "naturalness" of these essences has been understood to consist

¹²⁷ Immanuel Kant, "Of The Distinction of the Beautiful and Sublime in the Interrelations of the Two Sexes," in Mahowald pp. 102-112.

in their being biologically determined.

. . . . the assumption operating throughout the centuries [is]: biological differences between the sexes lead to psychological differences, which lead to behavioral differences, and these are the bases of hierarchical social roles based on sex.¹²⁸

In response to this widespread practice of defining women in terms of their sex, feminists (mainly of the 1960s and 70s) responded with the idea of gender. The term 'gender' was used to show a difference between sex and gender. In other words, there is a distinction between the biological facts about the female sex, and the male sex, on the one hand, and the socially constructed aspect of womanhood, or manhood on the other hand. Sex is a matter of biology, as in having the body of a female, while gender refers to things like proper attire for women, proper hairstyles for women, proper jobs for women, proper things for women to do in life, such as having children and marrying men. Such feminists underlined the point that men and women are largely the same; while there exist certain physical

¹²⁸ Holmstrom, 1997.

differences, these differences are not relevant to their capacities for various roles in life.¹²⁹ According to these feminists, there exist almost no relevant differences between women and men that justify limiting women to certain occupations,¹³⁰ or that decree that women rather than men be primarily responsible for child care. These feminists recommended broadening avenues thought to be appropriate to women. The revelation consisted in the idea that the socially constructed part, or gender, (concerned with what jobs if any women could hold, what kind of education they ought to have and to what end, and what kind of roles they can perform in society) was *assumed* to be based on the biological

¹²⁹ This particular point, that these physical differences are not relevant to various endeavors, echoes Plato's view, expressed in the Republic, that the differences between men and women are not relevant to the tasks of ruling the state. What does it matter that the bald man and the man with long hair have different natures (when it comes to their hair); it does not matter for being a good cobbler. This is argument by analogy with men's and women's differing physical capabilities. Plato, The Republic translated by Francis Macdonald Cornford, (New York: Oxford, 1945).

¹³⁰ One relevant difference between men and women that does justify limitations based on sex is women's ability to lactate. Women can serve as wetnurses, but men cannot.

facts about the female body. But there was no evidence that the biological facts about being female entail women being limited to a certain job, a certain level and type of education, or a certain role within society. It was believed that women ought to do these things, connected to the division of labor within a household, because of their biology, but this was not actually a necessary truth. Rather, it was a social construction. There is nothing about women's biology that indicates that they ought to be relegated to a limited role compared to that of men. So, the feminists of mainly the 1960s and 1970s used the term 'gender' to elucidate the idea that social ideas about women's nature are different from the female sex.¹³¹ Feminists used the concept of gender to emphasize that differences in women and men's behavior were not due to biology (bodily sex), but instead due to social

¹³¹ Simone de Beauvoir discussed the concept of gender without naming it as such in her famous work, The Second Sex, (New York: Knopf, 1953). Beauvoir also states her view that the dissimilarities between men and women are cultural and not natural in her Force of Circumstance, translated by Richard Howard, (New York: Putnam, 1964), pp. 185-187.

convention.¹³² Sex and gender were now distinct. As for terminology, these feminists tended to use the terms 'female' and 'male' to refer to a person's sex, and the terms 'woman' and 'man' in reference to gender issues. Feminists agreed that women's subordination was unjust, and they agreed that the traditional justification of women's subordination, *i.e.*, that women have a distinct nature different from that of men, was unsuccessful.¹³³ Feminists agreed that women and men shared a human nature. Sex involves biology, while gender involves social construction.

It is important to note that all theories that people make are constructions. Even the language that we use to speak and write is a construction, and it in turn frames and shapes the way we see the world.¹³⁴ We understand the world via the theories we have constructed, at least in part.

¹³² Linda Nicholson, "Gender," in Alison Jaggar and Iris Young, eds., A Companion to Feminist Philosophy, (Oxford: Blackwell, 1996), p. 289.

¹³³ Nancy Holmstrom, "Afterword to 'A Marxist Theory of Women's Nature,'" unpublished. Holmstrom's "A Marxist Theory of Women's Nature," was published in Ethics 94, April 1984.

¹³⁴ Mary Vetterling-Braggin, ed., Sexist Language: A Modern Philosophical Analysis, (Totowa: Littlefield, Adams, 1981).

The following discussion by the Hunter College Women's Studies Collective clarifies the difference between sex and gender.

. . . "Sex" refers to biological distinction related to reproductive organs, whereas "gender" refers to social roles and characteristics assigned on the basis of presumed sexual difference. In the biological sense, a "woman" ordinarily is a person whose chromosomes, internal and external sexual organs, and hormonal chemistry mesh in such a way as to warrant the label "female" at birth. The biological "woman" is a human being generally capable in various phases of life of menstruating, gestating, and lactating, though physical appearance (breasts, external genitalia) is commonly used for assignment of a person to the biological category "woman." The rich variety of social arrangements that exist in the world, however, suggests that biological sex alone cannot explain the differing gender roles assigned in these societies. Beyond a biological core, a "woman" in the social sense is a great many other things, depending on the society in which she finds herself. In this sense, a "woman" is a social construct.¹³⁵

Simone de Beauvoir famously argues that

One is not born, but becomes a woman. No biological, psychological, or economic fate determines the figure

¹³⁵ Hunter College Women's Studies Collective, Women's Realities, Women's Choices, 2nd edition, (NY: Oxford University Press, 1995) pp.169-171.

that the human female presents in society: it is civilization as a whole that produces this creature, intermediate between male and eunuch, which is described as feminine.¹³⁶

Beauvoir suggests that the category of woman is a cultural one. We are not born with our genders but acquire them. Beauvoir believed that we are born as a certain sex. However our sex does not cause our gender. Gender, according to her, is a cultural construction of sex. Sex and gender are different and distinct. Being of a particular sex, e.g. female, does not entail having the gender woman. It does not follow that to be a particular sex is to be a particular gender. Sex does not necessarily indicate what the gender will be. We could theoretically have more than two genders on this view, even though there are only two sexes on Beauvoir's view.

In sum, gender, mainly in the 1960's and 1970's was offered as a concept to provide a contrast with sex. 'Gender' was used to depict that which is socially constructed as opposed to that which is biologically given. According to this usage, 'gender' refers to personality traits, behavior, social roles,

¹³⁶ Beauvoir.

and not to the body. Gender and sex are two separate notions.¹³⁷

But a second feminist view later emerged. Gender has recently been used to refer to any social construction that pertains to the male/female distinction, including constructions that separate female bodies from male bodies. This newer usage came into play in the 1980s with the idea that society also shapes the way that bodies appear. The idea is that if the body itself can be seen only through social interpretation, then sex is not separate from gender, but rather is subsumable under gender.¹³⁸

These more recent feminists have said that: sex, like gender, is socially constructed, that there is no uninterpreted bodily reality to sex, as with gender, and that sex is an artificiality, as is gender. This

¹³⁷ Linda Nicholson, "Interpreting Gender," Social Postmodernism: Beyond Identity Politics, ed. Linda Nicholson and Steven Seidman, (Great Britain: Cambridge UP, 1995) p.39. Nicholson labels the separation of sex and gender, and the view that sex is an unchanging constant upon which socially constructed gender is built, "biological foundationalism" in "Interpreting Gender," Signs, vol. 20, (1994), pp.79-105.

¹³⁸ Nicholson, p.39

is what I call the extreme social constructionist view.¹³⁹

This view came to be as a result of development of thought among feminist scholars. Consensus about sex and gender among feminists fell apart¹⁴⁰ during the 1980s, and many feminists emphasized difference between men and women. The difference arguments were influenced by the work of Carol Gilligan¹⁴¹, Nancy Chodorow¹⁴² and Dorothy Dinnerstein,¹⁴³ who are

¹³⁹ Nancy Holmstrom has used this title. Holmstrom, 1997. I think it is an appropriate one since both sex and gender are social constructions, according to this newer view. This view is extreme regarding social construction in comparison with the first view, since the first view claims that merely gender is socially constructed. Sex is about biology, according to the first view.

Not all social constructionists are necessarily extreme and perhaps some might be able to provide satisfactory distinctions between sex and gender.

¹⁴⁰ Holmstrom, unpublished article.

¹⁴¹ Carol Gilligan, In A Different Voice: Psychological Theory and Woman's Development (Cambridge: Harvard University Press, 1982) and Gilligan, "Is There A Feminine Morality?," Psychology Today, vol. 10, (1982), p.. 21-34.

¹⁴² Nancy Chodorow, The Reproduction of Mothering (Berkeley: University of California, 1978).

¹⁴³ Dorothy Dinnerstein, The Mermaid and the Minotaur (New York: Harper and Row, 1976).

psychologists.¹⁴⁴ The difference arguments were set forth with a reversal of the traditional anti-feminist thinking, and women's bodies and sexuality and other traits were thought to be closer to nature, more intuitive, and more creative than men,¹⁴⁵ and superior. Hence the difference arguments were used to elevate women's status, rather than to subordinate them as had been done with the traditional theories of women's supposedly distinctly different nature. Mary Daly¹⁴⁶ and Susan Griffin¹⁴⁷ were two influential feminists who held such views.¹⁴⁸ This difference view was influenced further by postmodernism, and some feminists found any generalization about women to be suspect and often denounced such generalizations as

¹⁴⁴ Holmstrom, unpublished article.

¹⁴⁵ Nancy Holmstrom, "Human Nature," in Alison Jaggar and Iris Young, eds., A Companion To Feminist Philosophy, (Oxford: Blackwell, 1996), p. 284.

¹⁴⁶ Mary Daly Gyn/Ecology: The Metaethics of Radical Feminism (Boston: Beacon Press, 1978).

¹⁴⁷ Susan Griffin, Pornography and Silence: Culture's Revolt Against Nature (New York: Harper and Row, 1981).

¹⁴⁸ Holmstrom, 1996.

essentialist.¹⁴⁹ While it is important to be cognizant of differences among people, and some progress in this regard may have been promoted by feminist articulations of difference, this theoretical view poses problems because, without being able to make claims about the needs or situations of women, which involves generalizations about women, it is difficult for feminism to exist.¹⁵⁰ Feminism has shown that problems faced by women originate with their situation of women as women.¹⁵¹

A careful consideration of the extreme social constructionist view is helpful. What would it mean to say that sex is not real? What would it be like to think that there is no biological or physical "sex" of being male or female, or for that matter, some other hypothetical sex? The male/female dichotomy is a fundamental part of our thinking. The first question

¹⁴⁹ Holmstrom, unpublished article, and Nicholson, 1996, p. 293.

¹⁵⁰ Nicholson, 1996, p. 294.

¹⁵¹ Nicholson, 1996, p. 294. Nicholson's point is that generalizations about women as a group may be legitimately made. In other words, difficulties that individual women experience are often difficulties they face as a result of their gender being that of "woman."

about a person, when a baby is born, and even well before the birth nowadays, is, "what is the sex?" The categories of male/female are so important to our everyday thinking, that on the rare occasions when we encounter someone of whom we cannot readily discern their sex, people are frequently uncomfortable. Like those who meet the androgynous character "Pat" from the "Saturday Night Live," television program, many feel uneasy, and do not know how to react to such a person. Without being able to place Pat in a category that is so fundamental to our thinking, many people wonder how to behave. People's puzzlement with Pat's gender, and their desire to discover the sex of Pat's body, illustrates how fundamental the male/female dichotomy is to most people's thinking, and also illustrates the way in which one's gender is believed to be tied to one's bodily sex, or to stem from one's bodily sex.

To further elucidate the newer view of sex and gender, or the extreme social constructionist view, I will turn to philosophers and thinkers who espouse it. Recent feminists such as Judith Butler argue that sex is not a real category. Butler thinks that sex, like gender, is a construction. Butler thinks that

everything that is seemingly naturally given is created by a process of materialization.¹⁵² She claims that the materiality of sex is constructed through a ritualized repetition of norms.¹⁵³ Regulatory norms of the heterosexual imperative materialize sex. In other words, norms reflective of the heterosexist society create sex. It is not a simple fact or static condition of a body. Sex is not a bodily given.

Butler thinks that sex is a fiction¹⁵⁴ or a fantasy. Sex is something that is produced, forcibly. The heterosexual imperative secures the proper domain of sex. Regimes of power produce the identity concepts of sex.¹⁵⁵

Butler claims that sex, like matter, is discursively produced.¹⁵⁶ Herta Nagl-Docekal points out that Butler, and others who argue similarly such

¹⁵² Judith Butler, Bodies That Matter, (NY: Routledge, 1993).

¹⁵³ Butler, 1993.

¹⁵⁴ Butler, 1993, p.5.

¹⁵⁵ Butler, 1993.

¹⁵⁶ Butler, 1993.

as Elisabeth Grosz,¹⁵⁷ are slipping between an analytical approach to philosophy of language, and an ontological approach.¹⁵⁸ Butler assigns to discursive practices the capacity of producing via discourse physical differences between the sexes.¹⁵⁹ Nagl-Docekal criticizes Butler and Grosz that what they claim results from constitution of sex as bodily difference has already necessarily been presupposed.¹⁶⁰ Butler and Grosz speak of flesh, and Nagl-Docekal points out that in order for flesh to have come into existence, there had to already exist females and males who reproduced and thereby produced the flesh.¹⁶¹ Living organisms such as human beings can only be understood with sexual difference, and a bodily reality of sex, because there already had to be males

¹⁵⁷ Nagl-Docekal specifically mentions Elisabeth Grosz and cites Grosz' work, "Nietzsche and the Stomach for Knowledge," in Paul Patton, ed., Nietzsche, Feminism, and Political Theory (London, 1993). See Herta Nagl-Docekal, Feminist Philosophy, translated by Katharina Vester, (Boulder: Westview, 2004), p. 29.

¹⁵⁸ Nagl-Docekal, p. 29.

¹⁵⁹ Judith Butler, Gender Trouble: Feminism and the Subversion of Identity, (New York: Routledge, 1990).

¹⁶⁰ Nagl-Docekal, p. 30.

¹⁶¹ Nagl-Docekal, p. 30.

and females who ensured the preservation of their species by reproducing.¹⁶²

Monique Wittig claims that "one is not born a woman."¹⁶³ The category of sex, according to Wittig, is not a natural category. Wittig thinks that sex is a political category created by and serving the heterosexual prescription, a system that is oppressive to women, gays and lesbians. Sex then becomes a secondary reality, much like the way in which, according to earlier feminists such as Beauvoir and those of the 1960s and 1970s, gender has become a reality, although it is a socially constructed reality. Wittig thinks there is no distinction between sex and gender. Sex is a construction, like gender. Sex is "fictive" and is used in the service of compulsory heterosexuality. Wittig says that

. . . sex, is taken as an "immediate given," "a sensible given," "physical features," belonging to a natural

¹⁶² Nagl-Docekal, p. 30.

¹⁶³ Monique Wittig, "One is Not Born A Woman," from The Second Wave; A Reader in Feminist Theory, ed. Linda Nicholson, (NY: Routledge, 1997). Wittig borrows the phrase "one is not born a woman" from Simone de Beauvoir's The Second Sex. (The relevant phrase from de Beauvoir is quoted earlier in this chapter.) Wittig makes a different point using this phrase, however.

order. But what we believe to be a physical and direct perception is only a sophisticated and mythic construction, an "imaginary formation," which reinterprets physical features (in themselves neutral as others but marked by a social system), through the network of relationships in which they are perceived.¹⁶⁴

Wittig is in favor of a radical reorganization of the description of bodies and sexualities with no reference to sex. She calls for destroying the categories of sex, and ending the use of them. She thinks we ought to reject all sciences that still use these categories as a fundamental basis.¹⁶⁵ Additionally, Wittig is in favor of the destruction of the social system of heterosexuality "which is based on the oppression of women by men and which produces the doctrine of the difference between the sexes to justify this oppression."¹⁶⁶

Andrea Dworkin is another thinker who calls the categories "female" and "male" fictions. She justifies this claim by scientific research on various contradictory aspects of sex identification. Dworkin

¹⁶⁴ Wittig.

¹⁶⁵ Wittig.

¹⁶⁶ Wittig, p. 171.

thinks we are a multisexed species, whose sex exists along a continuum; thus she concludes that the present categories of female and male are unreal.¹⁶⁷

The extreme social constructionist view poses problems. This newer view of sex, as well as gender, as a social construction, is wrongheaded, in my view. I argue that feminist philosophers and thinkers who endorse this view have gone too far. While the original articulation of gender as distinct from sex has brought attention to many inappropriate limitations placed on women, the newer view of both sex and gender as constructed does not foster progress for feminist concerns in bioethics, as effectively as the original view does. The "sex/gender dyad" is a useful tool for showing that social norms must be distinguishable from bodily conditions.¹⁶⁸

First, there is evidence for the claim that sex is a real physical, biological category, although some

¹⁶⁷ Andrea Dworkin, Woman Hating, (NY: Dutton, 1974) p.183, footnote.

¹⁶⁸ Nagl-Docekal, p. 38. Nagl-Docekal calls the "sex/gender dyad" a fruitful distinction, and thinks we should plead for the use of this terminology.

aspects of sex may be socially constructed.¹⁶⁹ While social conditions have certainly influenced human biology¹⁷⁰, sex has a biological basis. Human beings, like other animals, have the capacity for reproduction, and our reproductive systems are created with various different parts to meet the goal of reproduction, much like most other animals, and some plants. There is no evidence from which to conclude that our bodies are not equipped as most of the remainder of the animal kingdom is for sexual reproduction, and some plants are as well.¹⁷¹ Nagl-Docekal makes a similar point when she says that our bodies possess certain sex characteristics which we take as natural conditions, just as we find sexual differences in animals and plants.¹⁷²

¹⁶⁹ The female sex's breasts, which are a distinctive part of being a female, may be socially constructed to be considered private, largely sexual organs, something to be covered up, or they may be socially constructed as generally utilitarian, and left for everyone's viewing.

¹⁷⁰ Holmstrom, 1996, p. 285.

¹⁷¹ It can be noted that the idea that there is a biological basis for sex coheres with other views argued for here, and maintains consistency under a method of reflective equilibrium.

¹⁷² Nagl-Docekal, p. 37.

Second, while indeed there may exist more than two sexes, as Anne Fausto-Sterling has argued¹⁷³, it does not follow from this that sex is unreal. It simply indicates that there are more than two bodily realities. Recall that Dworkin argues: there is evidence that we are a multisexed species; therefore the categories male and female are unreal. Dworkin makes a reasoning mistake when she concludes, solely on the basis of evidence that there exist more than two sexes, that sex is not a real biological category.

Furthermore, even if there indeed exist more than two sexes, this fact does not allow us to conclude that sex is a social construction.¹⁷⁴ In fact, it provides support for the opposing conclusion: the existence of more than two sexes provides evidence that sex is a real biological category.

Sex may be defined in different ways, and these are not necessarily consistent. One might define sex chromosomally, as in XX or XY, or other possible permutations of chromosomes. Or, sex might be defined by observation of external genitalia. A person could

¹⁷³ Anne Fausto-Sterling, Myths of Gender: Biological Theories About Men and Women, (NY: Basic Books, 1985).

¹⁷⁴ Holmstrom, 1997.

have XX chromosomes, and at birth, when the external genitalia are observed, be labeled a male. However, this inconsistency in establishing or labeling an individual's sex does not allow one to conclude that there is no bodily reality of sex. In fact the difficulty that sometimes occurs in establishing or labeling the sex of an individual fosters greater recognition of the many cases where sex is ambiguous or does not fit neatly into a male/female dichotomy, and the possibility that adopting more than two sexes may more accurately reflect bodily sex.

In the interests of clarity, the activity of arranging or attempting to arrange the maleness or femaleness of one's offspring ought to be consistently called sex selection, rather than gender selection. What is at issue when this activity is done is the physical body (albeit assumptions may be simultaneously made about the social role or gender associated with the physical body). Referring to this activity as sex selection is more precise because the goal or purpose is establishing the bodily reality. If one instead refers to this activity as gender selection, the door is opened to confusion and questions. Does the author mean to discuss an

individual's selection or establishing of his or her gender? Does the author mean that the physicality of the body remains identical, but the gender of the person will be selected? Given that the activity of arranging the maleness or femaleness of offspring refers to the physical and biological aspects of the body first and foremost, in the interests of clarity and uniformity, this activity consistently ought to be referred to as sex selection.

Third, there may be difficulties with the ramifications of holding the extreme social constructionist view. This view is politically deficient.¹⁷⁵ What does the extreme social constructionist view entail? If sex is not a real biological category, but is instead a fiction, can sense be made of the realities of various perceived abuses related to, and in, medicine? Can morally suspect actions or practices related to women or females be questioned, if there is no such real category? Can one question the moral acceptability of female genital circumcision performed on children who do not consent, if femaleness is a pure construction,

¹⁷⁵ Holmstrom, 1996, p. 286.

a fiction? Can ethical issues in reproductive technology be examined if there is no independent reality of sex? How can the demand for reproductive rights be supported as particularly important for women, apart from women's particular distinctive bodies?¹⁷⁶ How does one support the analysis of the ethics of sex selection except in virtue of distinctive bodies of females?

It seems that the extreme social constructionist view does not provide as strong a platform from which to discuss and question ethical issues in medicine relating to females or women. The original feminist view of sex and gender offers a stronger means from which to address difficulties such as ethically problematic practices on women's bodies. One has a stronger ground from which to question practices such as female genital mutilation, sex selection, etc. armed with the view that sex is a real feature of the body. (Whether it is defined chromosomally or by observation of external genitalia is immaterial.) If one holds the view that sex is not a real physicality of a body, then one has greater difficulty elucidating

¹⁷⁶ Holmstrom, 1996, p. 286.

how such practices could be discriminatory against females, if the bodies upon which such practices are performed do not possess some real and actual distinctive characteristic.¹⁷⁷

In denying the bodily reality of sex, recent feminist philosophers such as Wittig and others discussed here do not as readily further feminist goals in addressing bioethical issues pertaining specifically to women, when compared with the holders of the original view of sex and gender, which holds that there is a distinction between biologically based sex on the one hand, and the socially constructed aspect of gender on the other hand.

¹⁷⁷ Under the method of reflective equilibrium, the extreme social constructionist view does not fit with other levels of judgment as indicated. The original feminist view of sex and gender fits with other levels of judgment, maintains equilibrium, and strengthens the basis from which further analysis may proceed.

Chapter Four

Sex Selection in the United States: Disease Avoidance, Family Balance, and Parental Preference

Sex selection can take different forms and be done for different reasons. In this chapter I will examine sex selection as it is more likely to be done in the United States, generally for reasons of disease avoidance, family balance, and simple parental preference. Sex selection as it is typically practiced elsewhere will be analyzed in the next chapter.

I will begin by first considering the ethics of sex selection for purposes of disease avoidance.

Sex selection for disease avoidance is a method of avoiding having offspring who suffer from a particular genetic disease.¹⁷⁸ The genetic disease is called "X-linked" or "sex-linked" because the

¹⁷⁸ Thank you to Dr. Kurt Hirschhorn for his input on sex-linked disease.

abnormality is carried on the X chromosome¹⁷⁹ and is expressed as disease in males, while females are merely carriers. Sex-linked diseases include hemophilia, several forms of mental retardation, Duchenne muscular dystrophy, Becker muscular dystrophy, Emery-Dreifuss muscular dystrophy, spinal bulbar muscular atrophy, some forms of Charcot-Marie-Tooth disease, myotubular myopathy, and many others.¹⁸⁰

Parents with a genetic history of sex-linked diseases, if they so desire, could generally avoid having a baby that suffers from the disease, and insure a baby that is, at worst, a carrier of the disease, by aborting any male fetuses and instead carrying female fetuses to term. A female child has two X chromosomes which gives her some protection against the disease, because the X which carries the marker or gene for the disease is supplemented by the second X chromosome. The second X chromosome balances the other X and gives protection against actually

¹⁷⁹ Diseases carried on the Y chromosome are extremely rare.

¹⁸⁰ Please see Online Mendelian Inheritance In Man (OMIM) at <http://www.ncbi.nlm.nih.gov/entrez/query.fcgi?CMD=search&DB=OMIM> for various sex-linked diseases.

having the disease. A female will not suffer from the disease provided the second X is normal. So, it is very rare for a female to suffer from an sex-linked disease. A male child has both an X and a Y and because of this has no protection against having the disease. He will be a sufferer of the disease because he does not have a second chromosome of the same type that would offer protection against having the disease. The X chromosome which carries the trait for the disease is accompanied only by a Y which does not balance the X containing the defect.

Sex selection would facilitate the birth of either merely a carrier, or a baby entirely free of the disease, in the following situation, illustrated below. The sex-linked trait is represented on the chromosome shown in bold type. The mother (**XX**) is a carrier of a X-linked disease. If parents select for a female they will produce either a carrier of the disease (**XX**) or a baby free of the disease (XX). Without sex selection they would have a twenty five percent chance of producing a male who suffers from the disease (**XY**), and a twenty five percent chance of producing a male who does not suffer from the disease

(XY), or, in other words, a fifty-fifty chance that any male baby produced would suffer from the disease.

	X	Y
X	XX	XY
x	XX	XY

One could claim that sex selection for disease avoidance is not really sex selection at all but is solely a matter of selecting against disease, because the reason to sex select is primarily in order to avoid disease rather than to choose sex *per se*. One might identify this claim as the double effect argument. Although there is disagreement about the exact formulation of the doctrine of double effect,¹⁸¹ the doctrine generally states that when one intends to do X but Y is an unintended but necessary bad effect of doing X, it is morally acceptable to do X and one is not morally responsible for Y because it was not directly intended. The validity of the doctrine of

¹⁸¹ Wm. David Solomon, "Double Effect," Lawrence C. Becker and Charlotte B. Becker, eds., Encyclopedia of Ethics, vol. 1 (New York: Garland, 1992) p.268.

double effect is questionable. One could argue that one is responsible for an unintended but easily foreseen result of Y, and Y may be morally justifiable on other grounds. Furthermore, it seems questionable to identify the claim that sex selection for disease avoidance is not really sex selection but instead involves the doctrine of double effect, because sex selection for disease avoidance does involve intentionally engaging in sex selection. Therefore sex selection does not seem to be an unintentional effect of attempting to avoid disease. It may be secondary, but is also a planned, deliberate, and at least somewhat voluntary effect of avoiding disease.

In any case, in my view, sex selection for disease avoidance is still sex selection; it is sex selection for a very specific purpose and reason. Parents' motivation in this case is not related to gender issues, but is instead based on biological matters, and perhaps sometimes based on social matters related to disease and well being also.

Sex selection for disease avoidance, like sex selection for other reasons, can be accomplished in various ways. It can be accomplished by abortion after methods such as ultrasound, chorionic villus

sampling (CVS), or amniocentesis. It can be accomplished if a patient has in-vitro fertilization (IVF), paired with pre-implantation genetic diagnosis (PGD) which would indicate the sex of the embryo(s) that have been fertilized, and then select the sex of the embryo to be implanted in the uterus.¹⁸² It can be attempted using preconception techniques like sperm sorting with artificial insemination (AI), also called intrauterine insertion (IUI), and other techniques will likely be invented in the future.

Setting aside the individual ethical merits or difficulties of various methods of accomplishing sex selection, which will be discussed later, sex selection for disease avoidance in general is morally acceptable in my view. Based on a respect for autonomy of women to have control over their own bodies and their own reproduction,¹⁸³ sex selection for

¹⁸² PGD may additionally be used to detect whether fetuses are genetically normal or abnormal, and this is its usual usage. Detecting whether fetuses are normal was actually the intended purpose of the inventor of the technique, Dr. Mark Hughes, who is dissatisfied that his invention is being used for sex selection based not on risk of disease but on parental preferences. (60 Minutes television news program, CBS, August 11, 2004.)

¹⁸³ A strong commitment to women's autonomy is consistent with acceptance of sex selection for

purposes of disease avoidance is ethically permissible.¹⁸⁴ People generally strive for the health of their offspring by avoiding infection, treating illness, trying to give adequate nutrition and rest, and so forth. It is considered appropriate and admirable to foster good health and well being for one's children. It is certainly ethically appropriate to strive for healthy children in this manner. Taking steps to give birth to healthy offspring via sex selection for disease avoidance is an extension of striving for the health and well being of existing offspring. This tactic of avoiding ill health is based on ethically appropriate desires that one's offspring, and perhaps people in general, should be subject to as little suffering as possible. Sex selection for disease avoidance reflects the thinking that if something can be done to avoid illness or health-related difficulties, then it may be morally acceptable to do it. (This does not of course entail

purposes of disease avoidance, and maintains equilibrium among different levels of judgment.

¹⁸⁴ In a situation in which a wife wishes to carry a fetus with genetic disease to term but the husband would prefer an abortion, it is morally acceptable for the woman to carry the fetus to term, based on a respect for autonomy of women and respecting women's ability to control aspects of their own reproduction.

that any means necessary can be employed to further this goal.) Furthermore, certain health-promoting steps that may be taken are actually not merely morally acceptable but instead involve moral obligation. For example, in the case of certain diseases such as strep throat, it is a moral obligation to give children the medicine that has been prescribed by a doctor for this condition, because a failure to do so could result in a heart defect later in life.

I do not argue that it is morally required that parents who are aware that they may carry an offspring that has a sex-linked disease practice sex selection for disease avoidance. I merely claim that it is ethically acceptable for them to do so if they so desire. I do not claim that it is ethically necessary to select against people with sex-linked or other diseases. However, I do claim that it may be morally permissible to do this and that the justification for this is twofold. First, the justification is based on women's autonomy and their ability to control their own bodies and reproduction, and second, the justification is an extension of morally acceptable, and indeed morally required, practices of striving for

the health and well being of one's children. If it is morally acceptable to promote and strive for the health of one's children generally, then it is morally acceptable to attempt to avoid having an offspring who suffers from a sex-linked disease using sex selection for disease avoidance. It is morally acceptable to promote and strive for the health of one's children generally. Therefore, by *modus ponens*, it is morally acceptable to avoid producing an offspring with a sex linked disease using sex selection for disease avoidance.

Adrienne Asch thinks that aborting fetuses with abnormalities is wrong, and she further argues that sex selection is wrong on the same basis that aborting fetuses with disabilities is wrong.¹⁸⁵ She suggests that selecting against females is like selecting against people with disabilities.¹⁸⁶ But, being female is not akin to having a disability or abnormality. As was discussed in chapter three, so called weaknesses

¹⁸⁵ Adrienne Asch, "Can Aborting 'Imperfect' Children Be Immoral?" John D. Arras and Bonnie Steinbock, eds., Ethical Issues In Modern Medicine, 4th edition (Mountain View: Mayfield Publishing Company, 1995) pp.386-389.

¹⁸⁶ Asch, pp.389.

of the female sex are not real inadequacies but instead are social constructs that have been interpreted as real disability. Being afflicted with a disease differs greatly from being born a normal, healthy female. While it is difficult to delineate the exact parameters of what a disease or disability is,¹⁸⁷ certain differences between disease or disability generally and being a healthy female generally can be elucidated. A disease involves suffering, pain, and/or limitation that is inflicted as a result of a problem within the body (possibly triggered by something external to the body, e.g. poor nutrition, lack of rest, pollution, etc.). One may be treated for many diseases and the treatment may alleviate or mitigate the difficulty involved as a result of the disease. Suffering or difficulty encountered by women and girls as a group is due not to some internal mechanism gone awry or triggered by an external stimulus, but instead by the limitations placed on woman's gender by society. "Treatment" for

¹⁸⁷ Varying degrees of disability exist. There is a vast difference between a seriously debilitating disease and very benign or minor limitations, and the latter includes a gray area in which it is not clear whether the difficulty should genuinely be called a disease.

the suffering or difficulty of women and girls does not involve medical but social remedies that do away with limitations placed on their gender and that elevate their status in society.

This discussion has so far set aside the moral ambiguities that may be present with various methods of accomplishing sex selection. Perhaps it is the case that certain methods of sex selection present fewer moral difficulties and are morally better than other methods. Furthermore, the issue of abortion is involved. These issues will be discussed at a later point in this chapter.

Apart from sex selection for purposes of disease avoidance, sex selection in the United States is desired by some individuals for purposes of "family balancing." "Family balancing" is the name for an idea that is held by many parents, that it is good to have children of both sexes in a family, or alternatively, that the parents would like to have children of both sexes in their family. Sex selection may also be sought simply for reasons of parental preference, when there do not exist any offspring in a family.

I now turn to the analysis of individual representative actual cases of sex selection. The following case is reflective of actual cases in which people have requested sex selection.

A 32-year-old woman, Lisa B., comes to the prenatal diagnostic center of a major hospital. She is intent on arranging for chorionic villus sampling (CVS) in order to determine the sex of the fetus she is carrying. A genetic counselor explains to her that the center has an established policy against making prenatal diagnosis (whether CVS or amniocentesis) available for purposes of sex selection. The genetic counselor, in defending the policy, tells her that there is a collective sense at the center that abortion purely on grounds of sex selection is both morally and socially problematic.

Lisa B. proceeds to explain her situation. She and her husband already have three children, all of whom are girls. They want very much to have a male child but, for economic reasons, are determined to have no more than one more child. Indeed, if they had a boy among their three children, they would not even consider having a fourth. They feel so strongly about this fourth child being a boy that if they cannot gain assurance that it is a male they will elect abortion. Lisa B. insists that it is unfair for the center to deny her access to prenatal diagnosis.¹⁸⁸

Is it morally appropriate for patients like Lisa B., who seek family balance, to gain the knowledge of the

¹⁸⁸ Thomas A. Mappes and David DeGrazia, Biomedical Ethics, 4th edition. (New York: McGraw Hill, 1996), pp. 641-2.

sex of the fetus so that she might practice sex selection via abortion? Or is it morally wrong for such patients to select the sex of their children? What if anything makes this instance morally acceptable? Is this instance of sex selection morally problematic because it involves abortion as the method to achieve the goal? Would this instance be morally acceptable or morally better if it involved preconception sex selection instead of abortion? These are the questions at issue.

It must be noted that in cases of patients like Lisa B., the patient need not tell the health care provider why she would like to know the information she requests. She could easily not share her true desires with the health care provider and still get the testing and information that she is seeking. Routinely, patients undergo CVS or amniocentesis based on "advanced maternal age," i.e. the pregnant mother is thirty five years old or older. But, even if the techniques of CVS and amniocentesis are not medically recommended, based on age or based on a possible abnormal test result which would then indicate further testing is warranted, patients may request them. (In such cases, patients are responsible for covering the

cost even if their other procedures and other healthcare are covered by health insurance, however the cost is fairly affordable for many people, around \$1500.) Patients often do request amniocentesis or CVS because they would like as much knowledge as possible showing that the future baby does not have a genetic or chromosomal disease such as *e.g.*, Down Syndrome. In the case of Lisa B., her age does not indicate that amniocentesis or CVS would be routinely done. She could easily explain that she desires amniocentesis or CVS to thoroughly rule out Down Syndrome, or other genetic or chromosomal abnormality, even if this is not her true main concern. In the process she could easily find out the sex of the fetus because the sex is very routinely shared with patients who would like to know it simply out of curiosity.

I contend that Lisa B., and others like her, should be provided with the tests she requests. There is little difficulty in providing this information. First, those who find the abortion aspect morally troubling might think of the situation in the following way. If Lisa B. receives the information she is hoping for, namely that the fetus is male, an abortion would be prevented. But, if she receives no

information at all, meaning if the tests are denied her based on a denial of the ability to select the sex of her offspring, then an abortion will take place because Lisa B. has chosen to refrain from having another child, and is firmly committed to this, unless she is assured that it is male.¹⁸⁹

Given that Lisa B. has several children of one sex already, her wish to control the sex of her next offspring and have one of the other sex is perhaps more sympathetic than if she had only one child already. People throughout time have yearned for the ability to control the sex of their offspring, just as they may have had other yearnings to do various things that are now on the technological horizon, such as cloning and curing certain diseases. Lisa B.'s desires are nothing new and nothing out of the ordinary, as many individuals express a wish for offspring of one sex or another. Are these desires for offspring of a certain sex morally wrong? Such desires are not necessarily wrong in themselves.

¹⁸⁹ Lisa B. has expressed candor by disclosing her commitment to not having another child unless there is assurance that it will be a boy, and this is best understood not as bullying, or exploitation of her health care providers, but as honesty in her discussions with them.

People may desire offspring that are reflective of or similar to the self, and have the ability to share certain experiences. Parents might desire a certain type of relationship with their child that they believe is more possible with one sex versus the other. They may expect to share certain activities based on certain gender roles. They may also desire offspring of one sex if that sex is not well represented in their family, either by their own already existing children, or by their own siblings and aunts or uncles. Such desires are typical and seem to have been present throughout history.¹⁹⁰

These are historically based desires that parents have had, and that technology is just now able to fulfill. Because technology is today now able to facilitate achieving the longstanding desires of people to select the sex of their children, the question of the ethics of such decision making is now arising.

¹⁹⁰ Neil G. Bennett, "Sex Selection of Children: An Overview," in Neil G. Bennett, Sex Selection of Children (New York: Academic Press, 1983) pp.1-2.

J. Martin Young, How to Have a Girl: A Step-by-Step Guide to Scientifically Maximize Your Chances of Conceiving a Daughter (Amarillo: Young Ideas Publishing Division, 1995).

It is certainly possible that desires for a certain sex offspring could involve sexism, however. A person may desire a child of a certain sex because of an expectation that only one sex can fulfill certain roles or perform certain tasks, or share in certain activities suitably with the parent. Alternatively, one could desire one sex over another because of a combination of non-sexist and sexist reasons. Furthermore there may be a fine line between gender related reasons and sexist reasons.

In some cases such desires may be so extreme and largely based on false assumptions that they are objectionable. The preference for sons, particularly in developing countries, has been well documented.¹⁹¹ I will discuss the issue of son preference and sex selection in developing countries in the following chapter.

¹⁹¹ Nancy E. Williamson, Sons Or Daughters: A Cross Cultural Survey of Parental Preferences (Beverly Hills: Sage Publications, 1976).

Nancy E. Williamson, "Parental Sex Preferences and Sex Selection," in Neil G. Bennett, Sex Selection of Children (New York: Academic Press, 1983) pp.129-145.

Mary Anne Warren, Gendercide: The Implications of Sex Selection (Totowa: Rowman and Allanheld, 1985), pp.12-16.

Lisa B.'s request for sex selection in this instance is a morally acceptable one for several reasons. It is morally acceptable for Lisa B. to seek sex selection provided she is not doing so out of sexism. Her reasons for seeking a male baby are simply that she would like to have babies of both sexes in her family. The desire for a child of a certain sex can be reasonable and not necessarily sexist or harmful. She also does not feel she can afford to have many more children, and this is a legitimate concern. Her reasons are valid, and setting aside the abortion issue for the moment, she is committing no harm to her future child by attempting to insure that it is male. Is she committing a harm to society or the world by selecting for sex? Society or the world at large would probably not be harmed by the universalization of her action. If everyone were to attempt to select the sex of their offspring after having some babies of the same sex, perhaps families would have fewer children. This is not a harm to society, but instead could mitigate overpopulation.

Abortion is not a legitimate ground on which to object to sex selection in my view.¹⁹² On the contrary, the woman's ability to decide when, whether and why to reproduce is an important ability to respect on the basis of a respect for her autonomy. Furthermore, Lisa B., or any savvy patient in a similar circumstance, could easily cover her true reason to know the sex of the fetus, and achieve her goals anyway.

But, a situation in which a patient feels the need to cover her true motivations and concerns ought not be encouraged. There are dangers in setting up a situation which might encourage deception on the part of patients toward their health care providers (or vice versa). Trust and honesty are imperative for good quality health care. Patients need to be able to trust their health care providers and feel free to tell them the intricate details of their lives and bodies in order to receive proper health care. And, without the knowledge of the patient's habits, activities and desires, in other words without being able to trust that their patients are honest in their

¹⁹² I will argue this point later in this chapter.

disclosures at least to some degree, physicians cannot treat patients as well as they would otherwise. Physicians cannot know what diseases for which patients might be at risk. John Kleinig discusses the importance of the establishment and maintenance of mutual trust in the doctor-patient relationship.¹⁹³ A non-judgmental environment in which honesty, and therefore trust, are promoted serves to create an optimal health care system.

If Lisa B.'s request had great stigma attached to it, or if she felt shame or some other negative feeling, which prevented her from being forthcoming about her reasons for seeking CVS or amniocentesis, she could still meet her goals without being forthcoming. Shame, embarrassment, and the like, which prevents patients from being honest with health care providers, leads in turn to a less good health care system on the whole, and ought to be avoided. A system in which Lisa B. and others like her can be

¹⁹³ John Kleinig, Paternalism (Totowa: Rowman & Allanheld, 1984), p. 120-121. Kleinig here outlines a fiduciary model of the doctor-patient relationship. He further explains that in mutual trust, both parties are committed to one another and rely upon the respect and beneficence of the other without direct evidence for it.

free to tell physicians relevant information ought to be fostered. For this reason it is morally relevant that Lisa B. could accomplish her goals while covering her true reasons. She is instead being forthcoming and sharing her desires with the physician. Lisa B. could request the knowledge of the sex of the fetus without explaining that she would like to accomplish sex selection. If she finds out the fetus is not the sex desired, she can seek an abortion elsewhere, and she need not explain to the abortion provider her reason for terminating the pregnancy. But, instead, Lisa B. is forthcoming in stating her desire for sex selection. It would be unfair to ignore this fact about the case and deny her these medical procedures because she has stated why she wants to know the sex, and this may amount to denying them on the basis of her honesty. In addition, as has already been mentioned above, those concerned about abortion may notice that providing these tests may actually avert an abortion while not providing the tests instead assures that an abortion takes place. For these reasons, Lisa B., and others in similar circumstances, ought to be provided with the testing that is requested in order to practice sex selection.

One could suggest that if Lisa B. wants a boy so badly she should adopt a boy. However, since Lisa B. is currently already pregnant this suggestion does not answer the realities of the case. Perhaps inherent in the suggestion is the idea that Lisa B. should have taken measures to be certain not to become pregnant, as far as that is possible given the current state of available contraceptives, and then she should take steps toward adopting a boy. But, sex selective adoption may pose moral difficulties of its own. There may not be a right for parents to have children who are biologically related to them, but regardless of this issue, the suggestion to adopt a boy does not realistically address Lisa B.'s actual predicament.

A modification of the case of Lisa B. may lead to further insight. What if Lisa B. already had only one child or had no prior children? If Lisa B. had one child, a similar argument as above could be made. Based on a respect for her autonomy, and based on a consistent fitting with other moral beliefs and principles reflecting a strong emphasis on individual autonomy and women's equality, she ought to be provided with the testing requested in order to

practice sex selection.¹⁹⁴ Similarly, it is morally acceptable for her to seek to select the sex of her child because her reasons are legitimate and no harm is done.

If Lisa B. had no other children, the case becomes significantly more challenging. This modified version of the case is more ethically formidable because of the potential for extrapolation and universalizing the practice and this being morally justifiable. I will call the modified case of Lisa B., where Lisa B. has no children, Lisa B. #2.

In the United States, although people tend to express a desire to have children of both sexes, when asked about birth order, people tend to express a desire to have a male as the first child.¹⁹⁵ The subsequent, rather than first, places of birth order are where a female child is desired.¹⁹⁶ This may be described as a desire for family balance coupled with a desire for a certain order of male(s) and female(s).

¹⁹⁴ This maintains consistency among various levels of judgment.

¹⁹⁵ Williamson (1976) and Warren.

¹⁹⁶ Williamson (1976) and Warren.

Birth order is statistically linked with certain differences in ambition and success.¹⁹⁷ First born and only children have an advantage in these areas over those found elsewhere in the birth order of a family.¹⁹⁸

Males statistically continue to be better educated and earn higher wages in today's society¹⁹⁹ where sex selection is not a dominating trend but instead occurs in isolated instances. Concerns about sex selection in the United States are legitimate given that males are strongly preferred as the choice of first born in families, and given that first born and only children, whether female or male, have certain advantages in education and income. One can imagine that were sex selection to proliferate as an option for those that are currently childless, it may be possible for a trend to arise in which most first born and only children are males. This could lead to

¹⁹⁷ Mary Briody Mahowald, Women and Children in Health Care: An Unequal Majority (New York: Oxford University Press, 1993) p. 86.

¹⁹⁸ Mahowald, p.86.

¹⁹⁹ Hunter College Women's Studies Collective, Women's Realities, Women's Choices, 2nd edition. (New York: Oxford University Press, 1995).

a deeper economic and educational stratification of society along gender lines than already exists today, because the first born or only child advantage would rest generally with males if males are predominantly chosen as first born and only children. If the first born or only child advantage is combined with the advantages that males tend to have apart from being first born or only children, women's status could become devalued further. This is a serious concern, and one to watch for the future. It may be more likely to materialize with the advent of a new, different, less invasive, and easy method of sex selection, much as the "manchild pill" has been imagined.²⁰⁰

However, in the case of Lisa B. #2, in which she has no children yet, an abortion is being requested together with certain technology to detect sex. This seems too complicated a scenario to pose a significant risk of creating a proliferation of first born male and only children. Most as yet childless people will probably not choose to go to the otherwise unnecessary lengths of first seeking the technology of

²⁰⁰ C. Campbell, "The Manchild Pill," Psychology Today, August 1976, 86.

amniocentesis or chorionic villus sampling, and then obtaining an abortion if the fetus' sex is the one not desired, (even the possibly easier non-surgical abortion), because it would be burdensome and difficult, but some certainly would. For those who are undergoing amniocentesis or chorionic villus sampling anyway, for reasons of age or other risk factors, one might expect it would be a bit easier to then abort based on sex in order to select the first born child's sex. However, this would doubtfully be the case because those undergoing amniocentesis or CVS anyway are often doing so because it is for one reason or another difficult for them to become pregnant or bring a pregnancy to term with a healthy baby. Because of these problems there may be less of a tendency to abort a fetus based simply on sex since such patients may feel desperate for a baby and would not sacrifice the potential for one based on an emphasis on sex.

In recent years amniocentesis and chorionic villus sampling have become routine and are fairly widely used, and a great resulting increase in sex selection has not yet been reported. It seems that there would need to be less technological methods that

would allow more control, and perhaps privacy, by the patient, or consumer, in order for people to begin selecting the sex of their offspring more commonly.

Lisa B. #2's attempt to select for sex is morally questionable. Her reasons for selecting for sex, since she has no other children, are based on preferring a child of a certain sex and not merely for balancing a family and insuring the existence of children of both sexes. It can be assumed that her economic reason is similar and that she feels she can only afford this one child. Is it morally acceptable in this case to select the sex of an only or first born child? The reason for doing so is significant parental preference for a certain sex, rather than desiring to have children of both sexes. A strong preference for an only child of a certain sex may indicate sexism. For this reason it is morally questionable to attempt to sex select in this case.

Sex selection may be accomplished by methods other than the traditional route of amniocentesis, ultrasound, or chorionic villus sampling coupled with abortion. A new sex determination procedure, which could be coupled with abortion for use in selecting sex, is available for home use, based on a sample of

blood from a pregnant woman. Interestingly, it is claimed that, this new kit, known as the Baby Gender Mentor,²⁰¹ can be used as early as five weeks pregnant, which entails it can be used when the fetus has been actually gestating as little as three weeks. (However, conflicting information on the company's website indicates that the earliest that the Baby Gender Mentor can be used is actually between six and seven weeks pregnant, meaning the fetus has been gestating four to five weeks.) Results may be obtained as early as forty-eight hours after performing the test. If the sex is not the one desired, an abortion can be sought. The Baby Gender Mentor is available for purchase at an internet store for pregnant women. It appears to fall partially into the category of a home sex selection method, when coupled with abortion, however this is a post-conception method. Although it does involve some medical intervention, it is largely home based and rather private. The Baby Gender Mentor is a kit containing necessary apparatus for extracting and

²⁰¹ The Baby Gender Mentor may be purchased at <http://www.pregnancystore.com>. For further discussion please see chapter six.

packaging a blood sample. The Baby Gender Mentor costs only twenty five dollars in order to receive the kit, but the cost of the laboratory blood analysis is an additional two hundred fifty dollars, so the total cost of the Baby Gender Mentor is two hundred seventy five dollars, not an exorbitant price. According to the manufacturer of Baby Gender Mentor, and according to Acu-Gen Biolab Inc. which performs the laboratory blood analysis, the Baby Gender Mentor is 99.9% accurate. (If the test is taken within 6 months of a prior pregnancy, the test is not accurate and is not recommended.) But, questions have been raised as to whether the Baby Gender Mentor is as accurate as the sellers and creators claim. Some consumers have reported that the test is not accurate; patients' ultrasounds or amniocenteses gave different results than the Baby Gender Mentor.²⁰² It is possible that many instances of discrepancies between the Baby Gender Mentor and amniocenteses or ultrasounds are due to a vanishing twin, viz., when two fetuses are

²⁰² Nell Boyce, "Questions Raised Over Accuracy of Gender Test," National Public Radio Morning Edition, October 10, 2005, available at <http://www.npr.org/templates/story/story.php?storyId=4952404>

initially present at the time the blood sample is drawn for the Baby Gender Mentor, but one fetus dies and is reabsorbed in the body.²⁰³ Furthermore ultrasounds are often mistaken and should not be relied upon for certainty. It is also possible that a discrepancy between the genetic sex indicated by the Baby Gender Mentor and an ultrasound could be due to a genuine discrepancy in the fetus between the fetus' chromosomal sex and the appearance of external genitalia. An amniocentesis would presumably clarify the issue in such a case. Discrepancies could also be due to the maternal blood sample being too small, or due to its having been taken too early in the gestation of the fetus. This latter issue would represent a serious problem for the Baby Gender Mentor.

This sex detection product works by seeking out circulating fetal cells in maternal blood, as follows. The pregnant woman takes a small blood sample from a finger, packages the sample, and sends it by overnight

²⁰³ Nell Boyce, "Critics Question Accuracy of Fetus Sex Test," National Public Radio Morning Edition, September 29, 2005, available at <http://www.npr.org/templates/story/story.php?storyId=4867895>

courier to Acu-Gen Biolab. The pregnant woman's DNA is amplified, and other DNA is sought out in the sample, indicating whether there is XY DNA present in the maternal blood, or whether there is only XX DNA. If XY DNA is found to be present in the maternal blood sample, the fetus is male. If only XX DNA is present, the fetus is female. This method is the earliest sex selection method, gestationally speaking, apart from pre-implantation genetic diagnosis (PGD), which can determine sex of an eight cell embryo before it is implanted in a woman's uterus. The Baby Gender Mentor was featured on television on the Today show on NBC on June 17, 2005. At that time the product had been available for only two weeks. On July 13th, 2005, British Medical Journal reported on this new product, and indicated that Pregnancy Store has had over a thousand inquiries into this product since news of it first aired on the Today show.²⁰⁴

Preconception sex selection is possible with Microsort, a company that assists in sex selection. The word "microsort" may also be used to refer to the

²⁰⁴ Janice Hopkins Tanne, "Home Test Shows Sex of Fetus at Five Weeks of Pregnancy," British Medical Journal, July 13, 2005.

type of technique, i.e. the technique used by the company, by which one can do preconception sex selection.²⁰⁵ Microsort involves sorting of sperm so that the sperm sample can then be inserted into a woman's body using artificial insemination, in order to produce either a male or female child. Microsort uses a method known as flow cytometry using a laser light in order to effectively sort sperm according to whether each sperm bears an X or a Y chromosome.²⁰⁶

²⁰⁵ Microsort has locations in Fairfax, Virginia and Laguna Hills, California. Private physicians may also offer Microsort's technique. The company's website is <http://www.microsort.com>.

²⁰⁶ H. Stern, S. Wiley, R. Matken, D. Karabinus, and K. Blauer. (2002), "MicroSortâ Babies: 1994-2002 Preliminary Postnatal Follow-up Results," in abstracts from the American Society of Reproductive Medicine meeting, October 2002, Seattle, Washington, Fertility and Sterility, September 2002, Vol. 76, No. 3S, Abstract 100939, p. 54.

D. Karabinus, C. Opanga, D. Deresh, S. Wiley, and K. Blauer (2002), "Fertilization Rates and Purity After MicroSortâ Separation of Fresh- or Frozen-Thawed Human Sperm," in abstracts from the American Society of Reproductive Medicine meeting, October 2002, Seattle, Washington, Fertility and Sterility, September 2002, vol. 76, no. 3S, Abstract 100912, pp.0-154.

S. Black, H.J. Stern, G.L. Harton, D. Deresh, C. Opanga, K.L. Blauer (2002) "MicroSort® Separation of X-chromosome bearing sperm for prevention of genetic disease: ongoing clinical trial results," presented at the European Society of Human Reproduction and Embryology Annual Meeting July 2002. Human Reproduction, 17, p 127, p.368.

This method of sorting, coupled with artificial insemination, has been reported by Microsort to produce a success rate of ninety percent for achieving the birth of a girl, and about seventy to seventy five percent for achieving the birth of a boy.

Microsort currently makes its techniques available only to those who are seeking it for two reasons. The first reason that Microsort accepts is for purposes of avoiding the birth of a child with a genetic sex-linked disease. The second reason is for purposes of attaining family balance, provided certain conditions are met. Microsort will allow its techniques to be used for family balance provided the

K.L. Blauer, K. Keyvanfar, R. Matken, S.H. Black, S. Wiley and E.F. Fugger (2001), "IUI pregnancy rates using <400,000 total motile sperm in presumed fertile couples participating in the MicroSort® sperm separation clinical trial for preconception gender selection," in abstracts from the American Society of Reproductive Medicine meeting, October 2001, Orlando, Florida, Fertility and Sterility, September 2001, vol. 76, no. 3S, Abstract O-36, S 14.

E.F. Fugger, K. Keyvanfar, R. Matken, G.L. Harton, H.J. Stern and K.L. Blauer (2001) "MicroSort® Separation of X- and Y-chromosome bearing sperm: ongoing clinical trial results after intrauterine insemination (IUI), in-vitro fertilization (IVF), and intracytoplasmic sperm injection (ICSI)," in abstracts from the American Society of Reproductive Medicine meeting, October 2001, Orlando, Florida, Fertility and Sterility, September 2001, vol. 76, no. 3S, Abstract O-201, S 76.

family already has one child, or more, of a certain sex, and desires a child of the other sex. Microsort claims that its services are not for use by those who have no children yet, and not for use by those who have no issues with genetic disease. An attempt at pregnancy using Microsort in its simplest manner, sorting and artificial insemination, costs \$2500, at the current writing. There are other costs if e.g., there are fertility issues and further technologies such as in-vitro fertilization must be utilized, or other difficulties which necessitate further treatment.

The current standard fee for this effective and relatively easy method of sex selection is significant but rather affordable. This amount could be paid by most middle income and higher income families. Some lower income families might choose to make sacrifices elsewhere in order to be able to afford this amount. Microsort is therefore accessible by many people who might want to avail themselves of such a technology, provided they already have a child of the sex that they are not seeking (or if they carry certain genetic disease(s)).

This method of sex selection is not overly difficult and is not extremely invasive. It entails the procuring of a sample of semen from a male, by masturbation, sorting the sample using flow cytometry, and then inserting the sorted sample into a woman's body during the proper time in her menstrual cycle so that pregnancy can be achieved. The above description is based on the simplest scenario where there are no added difficulties involving fertility or other issues. It is not an overly burdensome procedure for the woman, or the man, and it is relatively accessible in terms of price.

What are the moral concerns with Microsort's sex selection? Because Microsort has imposed its own limitation of having at least one child of the sex not currently sought before allowing a person to sex select for family balance, the moral concerns are perhaps limited. If Microsort maintains its policy, there will not exist the danger of stratifying the population further along gender lines because of the additional advantage males would then have due to birth order. But there remain some moral concerns nonetheless.

This is a method that is not a hundred percent effective. Ten percent of the people seeking females will become pregnant with males, and twenty five to thirty percent of the people seeking males will become pregnant with females. These odds are not great, especially when it comes to those seeking males. What happens to those patients for whom Microsort does not work? Presumably, some will abort the fetus of the non-desired sex. Others may carry to full term and have a second baby of the same sex as the older child, although this is not what they sought and desired, and paid money to try to achieve.²⁰⁷ People may be very disappointed if Microsort does not work. They may find it very difficult to have an abortion under such circumstances, given that they very much want a child (albeit one of a certain sex), so much so that they have gone to much greater lengths and paid a significant sum in order to do so. They may also find it difficult to allow the pregnancy to grow to term

²⁰⁷ See Mara Silverman (as told to Gillian Silverman), *Surprise Delivery*, New York Times Magazine, November 2, 2003, p.84, for a personal account of a family with three boys who seek sex selection in order to have a girl, who find that the mother is, as a result of a preconception sex selection attempt, pregnant with two more boys that are twins.

and have the child, knowing that it is not of the sex they desire. The emotional difficulty of the situation encompassed in Microsort's margin of error must be appreciated.

There are different ways that people might handle such a situation. If gender roles are not very important to them, they might be able to deal with the situation more easily, and accept the arrival of a baby of the sex not desired almost as well as they would accept one of the sex being sought. However, one might argue that those who tend to seek sex selection for family balance may adhere more strongly than others to gender roles and that could be the very reason they seek sex selection in the first place. So, it cannot be accepted that those seeking sex selection via Microsort, whose sex selection does not give rise to the sex desired, will necessarily easily accept the arrival of a baby of the non-desired sex.

What happens to children who are born as a result of Microsort not having worked? Will they be resented for not being the sex desired? First born children who are not of the sex desired when no attempt at sex selection has been made might be resented. Will children born as a result of Microsort not having

worked be resented more than those born without an attempt at sex selection, because the parents have gone to greater lengths to try to achieve their goal? This is quite possible and represents a moral concern.

Another possible moral difficulty that may arise if Microsort is practiced widely in its current incarnation concerns people's ability to control and expect their children's sex and gender. The risk of gender stereotyping may be increased. Barbara Katz Rothman has documented the way in which gender stereotyping is increased when the sex of the fetus is known while still in the womb.²⁰⁸ With sex selection, gender stereotyping could increase in a similar manner because the sex of the fetus is known or probably known while still in the womb.²⁰⁹ This could pose moral difficulties by further increasing gender stereotyping in general as sex selection increases.

There are other questions that arise when considering Microsort and its policies. How are blended families handled according to Microsort's

²⁰⁸ Barbara Katz Rothman, The Tentative Pregnancy: How Amniocentesis Changes the Experience of Motherhood (New York: W. W. Norton & Company, 1993)

²⁰⁹ Rothman.

policies? A family may be formed with each partner or one partner having previous children. How does Microsort count such children? If the children do not live with the couple, do such children count toward allowing sex selection according to Microsort's policies? For certain reasons such as health, it might be the case that certain people might be able to have only one child. Would a health exception be allowed by Microsort? Would any other exception be allowed?

Microsort is at this writing considered an experimental technique. The Ericsson method²¹⁰ of sex selection is another method of sex selection involving sperm sorting, and it is considered a proven technique. In 1975, Ronald J. Ericsson began using albumin to sort sperm into two fractions, one heavy in X bearing sperm and one heavy in Y bearing sperm. The preferred fraction is then used for artificial insemination (AI), (also called intrauterine insemination (IUI)) typically (but not necessarily) coupled with the use of ovulation stimulating

²¹⁰ Ronald J. Ericsson, "Isolation and Storage of Progressively Motile Human Sperm," Andrologia 9/1 (1977): 111-114.

medication, e.g. Clomid (clomiphene citrate). This method produces, in general, a 70-75% success rate, meaning 70-75% of the time a healthy baby of the desired sex is born. Specifically, 70-72% success rates are achieved when seeking a female, 70-75% when seeking a male. A higher success rate is achieved when seeking a female if the drug Clomid is taken by the prospective mother when using the Ericsson method.²¹¹

The ethical nuances of sex selection may be related to the various methods by which sex selection can be accomplished. Methods vary in terms of whether they are pre- or post- conception, pre-natal, as well as the procedure involved.

Traditionally, effective sex selection methods have been post-natal. Sex selection historically could be accomplished by infanticide, by neglecting or actively killing the baby that is not of the desired sex.²¹² With technological advancement, sex selection

²¹¹ A.Y. Silverman, Scott A. Ericsson, et. al., "Female Sex Selection Using Clomiphene Citrate and Albumin Separation of Sperm," Human Reproduction, 2002.

²¹² Warren, and see also Amartya Sen, "More Than 100 Million Women are Missing," New York Review of Books, December 20, 1990, vol. 37, pp.61-66.

may now be accomplished with the fetus still in the womb, pre-natally but post-conception, namely via abortion, after certain testing such as ultrasound or amniocentesis was used to reveal the sex of the fetus. Today, chorionic villus sampling (CVS) may be used earlier in the pregnancy than amniocentesis to reveal the sex of the fetus.²¹³ Sex selection can be performed post-conception and pre-implantation, using in-vitro fertilization (IVF) and then pre-implantation genetic diagnosis (PGD) which reveals the sex of the embryo. IVF with PGD has a very high rate of success in producing the sex desired; providers of this method virtually guarantee that if or when pregnancy is achieved the fetus will be of the sex desired. IVF with PGD is very costly, approaching \$20,000 for one attempt.

Preconception sex selection can be accomplished effectively by sperm sorting (flow cytometry) as with

²¹³ Chorionic villus sampling (CVS) is normally not the first method of choice because it produces complications more often than amniocentesis. However, with CVS, results may be known earlier in the pregnancy and so it is used more often when early results are important. CVS may be performed between 10-12 weeks pregnant, typically at 11 weeks. Amniocentesis is typically utilized around weeks 16 through 17, but an early amnio may be performed at 14 weeks.

Microsort, or via the Ericcson method which has a lower rate of success, as discussed above. There exist other preconception methods, but they are unreliable. The Shettles method²¹⁴ and the Whelan method²¹⁵ were promoted by their "inventors" but they have proven to have little if any value. The Shettles method is based on timing of sexual intercourse during a menstrual cycle.²¹⁶ Shettles recommends that couples have intercourse two to four days prior to ovulation in order to produce a female, or if desiring a male, have intercourse at or closest to ovulation.²¹⁷ Shettles' theory is based on the idea that X-bearing sperm survive longer in the woman's body than Y-bearing sperm. The Whelan method also involves timing of intercourse, and recommends intercourse four to six days prior to ovulation in order to have a male.²¹⁸

²¹⁴ David M. Rorvik with Landrum B. Shettles, Your Baby's Sex: Now You Can Choose. (New York: Bantam, 1971).

²¹⁵ Elizabeth Whelan, Boy or Girl? (New York: Pocket Books, 1977).

²¹⁶ Rorvik.

²¹⁷ Rorvik.

²¹⁸ Whelan.

In the future, cloning may be another possible method of preconception sex selection. Possibly, other preconception methods of sex selection might be available in the future. Perhaps a less burdensome method for the patient than sperm sorting and artificial insemination could be on the horizon. One cannot predict exactly what sex selection methods, if any, could be created in the future. As mentioned earlier, writers have speculated about the possibility of inventing a pill that could be swallowed that would insure having a child of a certain sex.²¹⁹ While such a pill does not exist today, there remains the possibility that a relatively easy and not overly technologically burdensome method, which may not require much dependency on the medical profession for its use, could be invented in the future.

Although pre-implantation genetic diagnosis (PGD) with in-vitro fertilization (IVF) is burdensome and costly, it may be gaining in popularity. Dr. Jeffrey Steinberg, a physician who offers patients sex selection via IVF with PGD, reports that in the two years since he has offered PGD, the interest in PGD

²¹⁹ Campbell.

for sex selection for reasons of balancing a family has been enthusiastic, with a strong interest from international patients.²²⁰ He claims that seventy percent of his patients who would not otherwise need IVF but who want sex selection are currently having IVF with PGD.²²¹ When he began offering PGD he estimates that approximately one to two patients per month had IVF and PGD for sex selection, and he now has approximately ten patients per week.²²² These statistics warrant further research and investigation. Any possible new trend in sex selection is in need of examination and ethical analysis. Perhaps PGD with IVF sex selection based on parental preference may become more frequent for those wealthy enough to afford it. Furthermore, very recently, current recommendations have been made that for all patients undergoing IVF, embryos should be screened with PGD, because it greatly increases the success of having a

²²⁰ Dr. Jeffrey Steinberg, The Fertility Institutes, as reported on 60 Minutes television news program, CBS, August 11, 2004.

²²¹ Steinberg.

²²² Steinberg.

baby.²²³ PGD helps to insure that only those embryos that have a good chance of success are implanted in a woman's uterus.²²⁴ According to some prominent IVF physicians, abnormal embryos should not be implanted.²²⁵ The apparent extra cost of PGD, in addition to the already high price of IVF, is actually more than compensated for when weighed against the expense of caring for a sick child, and when weighed with the fact that the overall success rate of IVF greatly increases with PGD, therefore resulting in a significantly lowered overall cost. In any case, if IVF becomes routinely coupled with PGD it is probable that more IVF patients may use sex selection, since the information will be readily available as a result of using PGD.

Each method of sex selection, or each type of method, may pose its own ethical challenges. Infanticide for reasons of sex selection is morally objectionable because it involves the murder of a

²²³ Rebecca Coombes, "All IVF Embryos Should Be Checked for Genetic Defects, Conference Is Told," British Medical Journal, May 28, 2005, vol. 330, p. 1228.

²²⁴ Coombes.

²²⁵ Professor Robert Edwards and Dr. Yury Verlinky, as quoted in Coombes.

baby. Abortion, along with the use of technologies such as ultrasound, amniocentesis, or chorionic villus sampling, may pose moral problems for those who are against abortion per se. (However, in my view, abortion does not constitute a moral difficulty and therefore sex selection that involves abortion is not wrong in itself because it involves abortion.) Preconception sex selection methods may pose less ethical difficulty in that they do not involve aborting an embryo, or killing or neglecting a newborn or child. Further, preconception sex selection methods that have highest success rates may pose fewer ethical difficulties because concerns about what may happen to children born as a result of the method not having worked will be absent.

Preconception sex selection may pose ethical questions regarding appropriate spending of healthcare resources. The heart of ethical difficulty with preconception sex selection may be similar to ethical issues surrounding selecting for individuals based on their possession of seemingly superfluous traits, akin to selecting for eye or hair color. This will be taken up in the final chapter.

An overarching concern about the ethics of sex selection in general involves differently sexed individuals, *i.e.* those who do not fit easily into either category of male or female. Babies can be born with ambiguous genitalia that do not easily fit into one category of sex. The physical appearance of some babies' genitalia at birth may seem more in accordance with one sex, yet other aspects of their bodies, such as their chromosomes, may indicate they are better suited for the opposite category. Traditionally physicians have performed surgeries and administered medications to such babies and children in order to help them fit more readily into one of the two categories of sex. This was done because it was believed that one's identity was malleable, that regardless of one's chromosomes or physicality, if one were raised as a girl one would be happy and would generally live a largely normal life as a woman, and similarly if one were raised as a boy. But the ethics of treating babies and children with surgeries and medications in order to better fit them into one sex or the other has been called into question.²²⁶

²²⁶ John Colapinto, As Nature Made Him: The Boy Who Was Raised as a Girl. (New York :Harper Collins,

Individuals who have experienced such treatment have advocated that their bodies should have been left intact. Later in life they could then decide whether to proceed with treatments or surgeries that would render them more strictly male or female. Fausto-Sterling argued that instead of having merely two distinct sexes, more sexes should be recognized as normal and legitimate, and the distinct categories of male and female should be thought of more loosely. Fluidity should be adopted with regard to the sexes. If sex selection were to become more widely performed, it is possible that the harm that different sexed individuals have experienced while being forced into the categories of the two sexes²²⁷ might be increased. Increasing instances of sex selection may promote rigidity with respect to the two sexes, as opposed to fluidity.

2000).

Anne Fausto-Sterling, Sexing The Body: Gender Politics and the Construction of Sexuality. (New York: Basic Books, 2000).

²²⁷ Anne Fausto-Sterling, Myths Of Gender: Biological Theories About Women and Men, revised edition. (New York: Basic Books, 1985).

An actual case of a request for sex selection at a major medical center in New York City is as follows. A husband and pregnant wife request a test to know the sex of the fetus that the wife is carrying. This is the wife's third pregnancy and would result in the couple's third child.

As for background information in this case, the man was from India and had a mother and sister he worked to support. His mother badgered him continually. He had a deep resentment of his mother and sister, which was generalized to a resentment of women. He and his wife loved one another. The first child they had was a girl. The man had a psychosomatic illness involving sleeplessness and nightmares after her birth. The second child was a girl. After the second girl's birth, he had psychosomatic paralysis that lasted six months. During the current third pregnancy, he had similar psychosomatic illness involving sleeplessness, nightmares, calling out during the night, and related disturbances.²²⁸

²²⁸ Case history courtesy of Kurt Hirshhorn, Professor of Pediatrics and Human Genetics, Mount Sinai Medical School.

Should this couple be provided with the knowledge of the sex of the fetus? Would this knowledge be beneficial to the family members? Would providing this knowledge do some harm to society, such as set a poor precedent? Presumably the couple may indeed elect abortion if the fetus is a girl. Is it morally acceptable to provide the knowledge that a fetus is a certain sex with the understanding that the fetus could then be aborted solely on the basis of sex? This case is in certain ways similar to the case of Lisa B. in that the couple already has two girls and desires a boy. Furthermore the father's desire may be based on something more serious than a simple desire for a boy to add to the mix of his family, as is evidenced by his psychosomatic illness around his wife's pregnancies. On the other hand, this case involves both parents requesting a test for sex selection rather than merely the pregnant mother. One cannot be certain that the pregnant mother is able to freely exercise her autonomy in this scenario. It is possible that oppression is limiting her range of choices, and relational autonomy is very useful here. Perhaps her decision to seek a test for sex selection is deeply embedded within her relationship with her

husband, and her ability to exercise full autonomy is thereby constrained. It is possible that the husband's desires are at the heart of the request. Ideally, this situation should be investigated further, and proper psychiatric treatment for the husband that addresses the root of his psychosomatic illnesses is desirable. However if the pregnant mother is genuinely making her request autonomously then it is morally acceptable to provide the couple with the information they seek for largely the same reasons as was the case for Lisa B. It is morally appropriate that the woman be allowed to abort for reasons that she sees fit.

It is again quite possible that the knowledge of the fetus' sex could be discovered without having to indicate a reason for desiring the information. Another health care provider could be sought out for an abortion if desired. Denying the test for fetal sex may amount to punishing the woman or couple as a consequence of their honesty.

Is it ethical for the pregnant woman to seek sex selection in this case? Setting aside psychiatric issues on the part of the father, and assuming the pregnant mother is acting of her own accord, it is

morally acceptable to seek sex selection in order to attempt to insure that one has a child or children of each sex. The couples' reason for seeking sex selection is to have family balance and, again with this case, this is not necessarily sexist or harmful.

Furthermore, the decision of whether to abort is best managed by the pregnant woman. While some reasons for abortion may not seem ideal in some people's estimation, it is up to the woman in whose body the pregnancy is carried. Women's freedom to abort if they so choose is more important than managing such decisions for women in general, even if abortions take place for reasons that are sometimes seen as wrong, or less than ideal. Women's freedom to abort if they so choose constitutes a basic matter of autonomy for women to control the health care of their own bodies.²²⁹ While some feminists could argue that

²²⁹ When it comes to abortion, claims about fetal life must be examined with regard to claims about maternal life, typically maternal autonomy, according to John Kleinig, Valuing Life (Princeton: Princeton University Press, 1991), p. 228. The differences in the capacities of humans at different points in life (e.g., fetuses, children, "full-fledged persons," or comatose patients who are brain dead) are relevant to our responsibilities toward them. Human potentiality may be understood on a continuum in which "full-fledged" personhood is the telos. (Kleinig, p. 201-202.)

having an abortion solely based on, and because of, the fact that the fetus is female is wrong and involves murdering the female sex, I argue that allowing abortion generally for reasons decided by the pregnant woman is a key freedom. This includes aborting for reasons of sex selection. Such reasons, and any other reasons, are allowed in a system in which reproductive rights are recognized. The fallout of this key freedom may include some abortions taking place for reasons that many would consider less than morally ideal. If we were to set up society so that abortions for certain reasons were not allowed, this would result in depriving women of a basic say over what happens to their bodies. How could such a system be carried out? Women having to show that they possess legitimate reasons for choosing to abort would necessarily involve another party holding the final decision; this clearly reduces women's autonomy and decision making power. This is in my view a less feminist and morally worse arrangement²³⁰ than women having the final say over why and whether to abort, even if some abortions are done for reasons that would

²³⁰ Furthermore this would not foster equilibrium among levels of judgment.

be considered sexist or less than morally ideal. Women's reproductive freedom is consistent with allowing women to abort for whatever reasons that they see fit, including reasons of sex selection.

It is important to note once again that women are routinely offered the knowledge of the sex of the fetus as part of their pre-natal medical care. Typically women are offered this knowledge using routine ultrasound. Women are generally asked if they would like to know the sex or if they would like the health care provider to keep it secret. In such cases, women could seek abortions (from a different health care provider) based on the knowledge that they receive, should they choose to do so.

Furthermore, it seems appropriate that diagnostic facilities indicate the sex of fetuses to expectant parents, if they wish to know it. The law ought not require facilities to refrain from doing so. There does not seem to be significant harm resulting from the practice of sharing knowledge of fetal sex, and there may be some benefit in terms of parental happiness.

Sex selection in the United States does not pose a grave moral danger at the present time. Requests

for sex selection are not widespread. The limited cases of sex selection seem to do little harm and are actually consistent with a strong autonomy ideal. While sex selection remains something over which a watchful eye should be kept, and there may in the future be some cause for concern about the possibility of preconception sex selection gaining in popularity, sex selection in its current incarnation in the United States is generally morally acceptable for the reasons outlined above. In sum, restricting abortion rights of women, in order to limit or eliminate sex selection that might in some cases be less than morally ideal, is the greater evil which would infringe significantly upon women's most basic abilities to control their own bodies. Sex selection in the United States should continue to be monitored and analyzed by ethicists to guard against potential increasing moral problems. Statistics and data about sex selection such as rate of frequency should be collected. If PGD with IVF solely for sex selection for parental preference is increasing, this should be documented so that scholars may analyze the issue. Public discourse on the issue should be encouraged so that in the event of increasing rates of sex selection or other concerns

regarding sex selection, policy could be set or not set in accordance with public understanding.

Chapter Five

The Importance of Having a Male Baby: Sex Selection in India & China

Introduction

The contexts within which sex selection choices are made have a major bearing on the moral significance of sex selection.

As outlined in the previous chapter, sex selection in the United States has occurred in order to avoid the birth of a baby who suffers from a sex-linked genetic disease, for reasons of balancing a family when there already exists one or more children of a certain sex, and possibly simply because parents prefer to have a child of a particular sex. Sex selection in the United States is accomplished by abortion after discovering by ultrasound or amniocentesis that the fetus is of the sex not desired, via preconception techniques such as that offered by Microsort which involves artificial insemination or intra-uterine insertion using a sperm sample that has been sorted according to chromosome,

and by in-vitro fertilization and pre-implantation genetic diagnosis. Sex selection is not a common occurrence in the United States. There is no strong son or daughter preference in the United States, apart from a clear preference for sons as the first born. Sex selection in the United States is something that ethicists ought to watch and be concerned with, but there is no grave moral problem at the present time because sex selection seems to be an isolated occurrence when it happens. Furthermore, the regulation of the abortion decision by anyone other than the pregnant woman is an unjustified infringement on women's autonomy. I now turn to an analysis of sex selection as it occurs outside the United States.²³¹

Son preference tends to be strong in developing countries.²³² Sex selection in the developing world is typically practiced by the use of ultrasound or

²³² Nancy E. Williamson, Sons Or Daughters: A Cross Cultural Survey of Parental Preferences (Beverly Hills: Sage Publications, 1976).

Nancy E. Williamson, "Parental Sex Preferences and Sex Selection," in Neil G. Bennett, Sex Selection of Children (New York: Academic Press, 1983) pp.129-145.

Mary Anne Warren, Gendercide: The Implications of Sex Selection (Totowa: Rowman and Allanheld, 1985), pp.12-16.

amniocentesis to detect the fetus' sex, and then abortion, if the fetus is discovered to be of the "wrong" sex, namely female. It could also be practiced by other means such as the Ericsson preconception method²³³, though this is probably less frequently employed. There is strong evidence of high rates of sex selection in India and China. There is a greater abundance of data on sex selection practices in India, where it is widespread.²³⁴ (For this reason, this chapter on the whole will focus more heavily on India.) The lesser availability of information about China may be due to the Chinese government's strict

²³³ Infertility clinics in India provide the Ericsson method of sex selection, and these clinics are widely used, according to K. Shanthi in "Feminist Bioethics and Reproductive Rights of Women in India: Myth and Reality," in Rosemarie Tong, Anne Donchin and Susan Dodds, eds., Linking Visions: Feminist Bioethics, Human Rights, and the Developing World, (New York: Rowman & Littlefield, 2004).

²³⁴ As Martha Nussbaum claims, philosophy has much to offer for those who want to think about justice and women's inequality, but it is important that philosophy be informed by fact and experience, and the philosopher should try to get close to the reality being described. (Martha C. Nussbaum, "Public Philosophy and International Feminism," Ethics, vol. 108, no. 4, July 1998, p.765. Hence, there is a need to consult newspaper articles and other non-philosophical sources for concrete and current information on the reality of India and China, as well as a need for philosophical and biomedical ethics related sources.

control of information about sex selection, due to its sensitivity to criticism of family planning policies and its concern about the national sex ratio²³⁵ which is significantly skewed in favor of sons.

Sex Selection in China

In some areas of China, the sex ratio has been reported to be as high as 144 boys for every 100 girls²³⁶ which is far from the international norm of 105 to 100.²³⁷ China has the largest sex disparity among newborns when compared with any other country in the world.²³⁸ This is due to sex selective abortions

²³⁵ John Pomfret, "In China's Countryside, 'It's a Boy!' Too Often," Washington Post, May 29, 2001, p.A01.

²³⁶ Erik Eckholm, "Desire For Sons Drives Use of Prenatal Scans in China," New York Times, June 21, 2002, p.A3. This is the highest ratio report that I have seen. The United Kingdom's Parliamentary Office of Science and Technology reports a Chinese birth ratio of 117 males to 100 females, in "Sex Selection," Postnote, July 2003, no. 198, p.4, available at: <http://www.parliament.uk/post/pn198.pdf> . Although this is still a high ratio, it is significantly lower than the Eckholm New York Times report of 144 males to 100 females.

²³⁷ Pomfret, p.A01.

²³⁸ Eckholm.

of females.²³⁹ The Chinese typically see this issue as a serious problem because there is a shortage of women available to marry men, and this shortage is expected to continue growing in the coming years.²⁴⁰ There is a recurring problem of women being kidnapped in China;²⁴¹ women are brought against their will to areas where there is a particular shortage of women, and are then sold to men for marriage.²⁴² In the year 2000, one hundred and ten thousand kidnapped women were freed during a crackdown on the kidnappings.²⁴³ Chinese gangs also traffic in women from other Asian countries for Chinese husbands.²⁴⁴

²³⁹ Eckholm.

²⁴⁰ Philip Shenon, "A Chinese Bias Against Girls Creates Surplus of Bachelors," New York Times, August 16, 1994.

Pomfret, p.A01.

²⁴¹ Shenon.

Pomfret.

²⁴² Ekholm.

²⁴³ Pomfret.

²⁴⁴ Pomfret.

China's family planning rules which dictate that couples may have only one, or two children,²⁴⁵ lest they pay stiff fines, appears to have increased the rate of sex selection.²⁴⁶ However, the rate of sex selection is even more directly correlated with the proliferation of ultrasound machines throughout China, to every small town.²⁴⁷ Ultrasound machines are then used for early detection of sex during pregnancy, and subsequent abortion of female fetuses is made possible.

In 1984, the Chinese government allowed rural families that had a daughter to have a second child.²⁴⁸

²⁴⁵ China's "one child" policy usually allows urban families, with exceptions, to have only one child. Rural families are allowed a second child if their first child is a girl. Minority families may be allowed three or more children. (Jim Yardley, "Fearing Future, China Starts to Give Girls Their Due," New York Times, January 31, 2005, p.A3.)

²⁴⁶ Interestingly, the one-child policy has also given rise to an increase in the rate of births by caesarean section, mainly because parents want to do what they can to insure they have a healthy and high quality child if they are only able to have one, and caesarean births are thought to be safe. Karen Mazurkewich, "Facing One-Child Rule, Chinese Top World in Caesareans," Wall Street Journal, August 27, 2004, p.1.

²⁴⁷ Ekholm.

²⁴⁸ The government allowed this in 1984 in response to people's resistance to the one child policy. Nancy E.

This governmental legitimization of the perceived importance of having sons probably contributed to the use of sex selection.

There is a traditional saying in China that "Daughters are like water that splashes out of the family and cannot be gotten back after marriage."²⁴⁹ China has a cultural history involving social control of women. The so-called ancient art of footbinding in China took place until relatively recently. Currently, there are elderly women who are alive today who previously had bound feet, and later in life had them unbound.²⁵⁰ A brief examination of this so-called ancient art helps to illustrate the level of control of women's movement, freedom, and sexuality, and the roles for women thought to be acceptable or appropriate in a society practicing footbinding.

Women's feet were at one time considered highly sexual, erotic parts of the body, much like

Riley, "China's Population: New Trends and Challenges," Population Bulletin, vol. 59, no. 2, June 2004, p.19.

²⁴⁹ Celia W. Dugger, "Modern Asia's Anomaly: The Girls Who Don't Get Born," New York Times, May 6, 2001, p.4.

²⁵⁰ Howard S. Levy, The Lotus Lovers: The Complete History of the Curious Erotic Custom of Footbinding in China (Buffalo: Prometheus, 1992).

genitals.²⁵¹ Girls' feet would be tightly bound during their childhood, usually by their mother or a close female relative.²⁵² This was a painful process that often involved broken bones and infection.²⁵³ Over time, the footbinding process kept the girls' and women's feet very tiny. In actuality, the feet did grow, but they were folded over so they appeared smaller on the whole, yet taller and higher than a regular non-bound foot.²⁵⁴ Prostitutes were selected

²⁵¹ Levy.

²⁵² For an account of this, see Chi-Tsai Feng, The Three-Inch Golden Lotus translated from the Chinese by David Wakefield (Honolulu: University of Hawaii, 1994). This practice was thought to be necessary to help secure girls' future welfare later in life, by facilitating their marriage. Relational autonomy is a useful concept here, as it helps to elucidate the apparent paradox of women who bind their daughters' feet. These women may appear to be freely choosing options that reinforce oppression for their daughters, by binding their feet. However, upon deeper analysis via relational autonomy, their choosing to bind their daughters' feet actually reveals the oppressive societal constraints that limit women's options and lead them toward binding daughters' feet.

²⁵³ Levy.

Feng.

Wang Ping, "Lotus," American Visa (Minneapolis: Coffee House Press, 1994).

²⁵⁴ Photographs and X-rays of bound feet compared with regular feet may be viewed in Levy.

based on how small their feet were.²⁵⁵ Women could transcend their social class if they had very small bound feet.²⁵⁶ If a woman of a low class had very tiny, dainty and delicate feet, she could be selected for marriage by a man of the highest social classes. Footbinding prohibited girls from running and playing. It limited women's physical movement so that they could not move about as well as if their feet were never bound.²⁵⁷ The highest class women often had their feet bound very tightly and had servants who carried them around when they needed to go out because they could not walk more than several steps. Their lives centered around their bedrooms, and servants brought them food and took care of their needs for things. Footbinding ended when the government declared it illegal and ordered all women's feet be unbound. The practice of footbinding in China illustrates some of the cultural backdrop in China,

²⁵⁵ Levy.

²⁵⁶ Levy.

Feng.

²⁵⁷ Levy.

Feng.

and the traditional perception of women's roles and their value.

Jenny Dai writes about her own experiences growing up in Taiwan as a child of the undesired sex.²⁵⁸ Although her parents wanted an ultrasound to detect the sex of the fetus when Dai's mother was pregnant with her, the physician refused to do it, saying simply that since the heartbeat sounded very strong it must be a boy.²⁵⁹ Throughout her life, the fact that she was a girl was a serious disappointment to both her parents. She writes of the suffering of many Asian women who cannot produce male babies. Dai says that without a male heir, women's marriages are endangered and may end in divorce.²⁶⁰ These women may also be rejected by the husband's family.²⁶¹ For these reasons, Dai thinks that sex selection can prevent

²⁵⁸ Jenny Dai, "Preconception Sex Selection: The Perspective of a Person of the Undesired Gender," American Journal of Bioethics special issue on Preconception Gender Selection, Winter 2001, vol. 1, no. 1, pp.37-38.

²⁵⁹ Dai, 2001.

²⁶⁰ Dai, 2001.

²⁶¹ Dai, 2001.

possible abuse of women.²⁶² In her view, it may also reduce the kind of suffering Dai endured as being a child of the undesired sex.²⁶³ Her personal experiences help to show the concrete, real life situations of Asian women, girls and families, and allow insight into the decision-making process of those who consider or choose sex selection. This decision making process can be understood using relational autonomy: women seek sex selection because societal constraints limit their options so that women's own welfare and that of their families is promoted by the "choice" to sex select for males.

Sex Selection in India

In one study of a thousand abortions in India, ninety seven percent of the aborted fetuses were female.²⁶⁴ Once females are born, there is also a problem of women's and girls' continued survival in

²⁶² Dai, 2001.

²⁶³ Dai, 2001.

²⁶⁴ India Today, January 31, 1988.

Network on Reproductive Rights, "Amniocentesis for Sex Determination Banned in Maharashtra.," Women's Global Network on Reproductive Rights, 1998, 23.

India, and in other developing countries, because their health care and nutrition are sub par when compared with that of men and boys.²⁶⁵

It is often women themselves who are choosing to select sex, and select for males. Mothers-in-law are permitted to make reproductive decisions for their daughters-in-law.²⁶⁶ Husbands may also make such decisions for their wives.²⁶⁷ The social backdrop in such scenarios is important to understand.²⁶⁸ The preference for sons in India is great. The traditional marital blessing for brides in India is "May you be the mother of a hundred sons," and this saying illustrates the general prevailing climate with regard to sex selection. While it is commonly known that the practice of dowry contributes to the desire

²⁶⁵ Amartya Sen, "More Than 100 Million Women are Missing," New York Review of Books, Dec. 20, 1990, vol. 37, pp.61-66.

²⁶⁶ K. Shanthi, "Feminist Bioethics and Reproductive Rights of Women in India: Myth and Reality," in Rosemarie Tong, Anne Donchin and Susan Dodds, eds., Linking Visions: Feminist Bioethics, Human Rights, and the Developing World, (New York: Rowman & Littlefield, 2004), p.128.

²⁶⁷ K. Shanthi, p. 128.

²⁶⁸ While there of course exist significant professional educated women in India, the general climate of sex preference in India is here described.

for sons and hence sex selection, there are additional socioeconomic and religious factors to consider in India that foster the desire for sex selection. A daughter is a burden in a variety of significant ways. Some of these are as follows: There is thought to be a great responsibility of maintaining her chastity before marriage; it is customary for parents to bestow money and valuable gifts on various occasions after the marriage; a woman cannot continue the family name and without any son the family name dies; women cannot maintain wealth, or property, or the family business; sons take care of the parents as they age; a traditional Hindu belief is that a father who lacks sons cannot achieve salvation.²⁶⁹ Another Hindu belief is that one goes to heaven only if a son lights the funeral pyre.²⁷⁰ It is possible that the Hindu belief that the soul is constantly reborn in an endless cycle plays a role in the high rate of sex selection; at the

²⁶⁹ Kusum, "The Use of Pre-Natal Diagnostic Techniques for Sex Selection: The Indian Scene," Bioethics, 1993, v. 7 no. 2/3, pp.150-151.

²⁷⁰ Miriam Jordan, "Among Poor Villagers, Female Infanticide Still Flourishes in India," Wall Street Journal, Tuesday May 9, 2000, p.1.

very least it is a part of the social backdrop.²⁷¹ All this is in addition to a large dowry necessary to be paid by the parents of a girl at marriage so that she is no longer part of the family.²⁷² The dowry practice was earlier only observed among the higher castes, but is now no longer thus limited. Higher caste women were not allowed to work outside the family; their work was not recognized and they were seen as a burden.²⁷³ The dowry is given in order to compensate the husband for now having to bear the burden of the wife. A dowry can be equivalent in goods and cash to a year's income for a family.²⁷⁴ An Indian proverb says that raising a daughter is like watering your neighbor's plant.²⁷⁵

²⁷¹ Peter D. Toon, "Daughters, Doctors and Death: BBC 2 Assignment: 'Let Her Die,'" British Medical Journal, October 2, 1993, vol. 307, no. 6908.

²⁷² Kusum.

²⁷³ Vibhuti Patel, "Sex-Determination and Sex Preselection Tests in India: Recent Techniques in Femicide," Reproductive and Genetic Engineering, 1989, v. 2, no. 2, p. 114.

²⁷⁴ Jordan.

²⁷⁵ Jordan.

Kusum.

Not only do parents perceive a daughter as a liability, the tragic reality is that within this social backdrop, daughters are indeed a liability. Parents may feel sad that they need to abort females but they may feel they are doing so for a larger good. Their choice to do so is colored by the reality of daughters as a liability. Doctors as well may believe they are providing a service that is a kinder solution than the alternatives. Signs advertising sex determination services have read "Invest 500 rupees now and save 50,000 rupees later".²⁷⁶ Female infanticide still takes place among poor villagers in India today.²⁷⁷ Mothers or mothers-to-be generally want a boy as much as their husbands, mothers-in-law, and fathers-in-law, or perhaps they cannot resist the pressure to bear a son that they receive from the family on whom they strongly depend.²⁷⁸ Relational autonomy facilitates the recognition that Indian

²⁷⁶ Kusum, p.152.

²⁷⁷ Jordan.

²⁷⁸ Celia W. Dugger, "Abortion in India Is Tipping Scales Sharply Against Girls," New York Times, Sunday, April 22, 2001, p.1.

women's decisions to bear sons are not fully autonomous choices.

Laws have been established in India banning sex selective abortion in beginning in 1988 and again in 1996.²⁷⁹ Such laws are routinely flouted, however. Although discrimination is against the law according to the Indian Constitution, and so women are in theory equal to men; women continue to suffer from pervasive sex discrimination.²⁸⁰

Analysis of Sex Selection in China and India

Interestingly, certain defining characteristics are shared by both the societies of India and China.²⁸¹ While women are making strides in both countries,

²⁷⁹ John F. Burns, "India Fights Abortion of Female Fetuses," New York Times, August 27, 1994.

Steven R. Weisman, "No More Guarantees of a Son's Birth; An Indian State Bans Fetal Tests Aimed at Aborting Girls," New York Times, July 20, 1988, p.A1.

"Sex Test Banned," by K.S.J., Nature, news section, vol.331, January 14, 1988.

²⁸⁰ Martha C. Nussbaum, Women and Human Development: The Capabilities Approach, (New York: Cambridge, 2000), p. 20.

²⁸¹ Dugger, May 6, 2001.

namely by living longer lives and by being more likely to be literate,²⁸² and in India where quotas require that one third of the representatives in the state assemblies and in the Union Parliament be women,²⁸³ females continue to be aborted at high rates. In both societies, the son has certain value that the daughter lacks. Once the daughter is married, she becomes a part of her husband's family, by moving in with them and helping to take care of the husband's parents. Her responsibility to her own parents ends at her marriage. Sons carry on the family name, inherit property, and perform important roles after the parents die. Daughters are not able to fulfill these roles. While a daughter may be useful and perhaps have a job and be a good mother, her own parents will not benefit from this; only her in-laws do.²⁸⁴ Similar to the aforementioned Indian saying that raising a girl is like watering your neighbor's plant, the Chinese saying that "daughters are like water that

²⁸² Dugger, May 6, 2001.

²⁸³ The 74th amendment (1992) requires that 33 percent of the seats in local municipal bodies are reserved for Indian women.

²⁸⁴ Dugger, May 6, 2001.

splashes out of the family and cannot be gotten back after marriage" indicates that raising a daughter is, generously speaking, an altruistic act, since it benefits only others and not oneself. These sayings imply that having daughters is not prudent because only other people will gain from the life's work and costs it takes to raise daughters.

Martha Nussbaum has elucidated the further difficulties that poverty bestows upon Indian women, in addition to their suffering discrimination because of the fact that they are women. Women's difficulties must be understood both in terms of their poverty and the discrimination they suffer as women.²⁸⁵ This idea applies as well to Chinese women and poverty.

It may well be these shared defining societal characteristics, such as their being patrilineal and patrilocal, have led to high rates of sex selection in India and China.²⁸⁶ While this has explanatory value, it does not justify what may be a serious moral problem. Son preference is so strong that it may be likened to John Stuart Mill's idea that in a society

²⁸⁵ Nussbaum, 2000.

²⁸⁶ Dugger, May 6, 2001.

that favors males, boys and men have the mindset that they are superior to girls and women, analogous to the way in which a hereditary king knows from birth that he is superior to all other citizens in the kingdom because of his birthright,²⁸⁷ and furthermore it is not only men who are conditioned to think males are by birthright superior to females; women's opinions are similarly inculcated to think males are superior as well.²⁸⁸

Indian and Chinese women who select for sons may certainly be described as making a choice. However, the social backdrop is inextricably bound up with their decision making. Their decisions cannot be seen as free because of the constraints that they face, and their future offspring will face, within society. These constraints and limitations are at the heart of the decisions to sex select. Indian and Chinese women's choice and therefore their autonomy is limited

²⁸⁷ John Stuart Mill, The Subjection of Women, (Indianapolis: Hackett, 1988).

²⁸⁸ Harriet Taylor Mill, The Enfranchisement of Women, first published in 1851. See Jo Ellen Jacobs, Paula Harms Payne, eds., The Complete Works of Harriet Taylor Mill, (Indianapolis: Indiana University Press, 1998).

by the social and economic constraints and limitations that narrow these women's range of options.

Women's choice to sex select for sons in the contexts of India and China can be understood in terms of relational autonomy.²⁸⁹ The social reality that structures women's lives and the choices available to them is a major determining factor of the decisions and desires that women actually make. The exercising of decision making power under a social reality that limits the range of choices available to the individual woman can be described as exercising agency. Autonomy, however, is a more comprehensive notion than agency, in that the circumstances that structure the decisions being made are free from oppression.

Thus, women's choice to sex select in the current contexts does not appear to be a freely autonomous choice. While women are exercising their agency and making their decisions, because they are indeed making an informed choice from a limited range of options, the level of oppression which they experience greatly

²⁸⁹ Please see chapter two for a fuller description and analysis of relational autonomy, particularly as discussed by Susan Sherwin.

limits their actual available options. Given the oppressive social backdrop, women seem to be coerced into the sex selective decisions that they make. Their choices cannot be called autonomous because the circumstances that structure the choice are not free of oppression, but instead are heavily laden with oppression. Because these women are living in a patriarchal society that greatly favors sons, their choices to select for males are not fully free choices, but are instead the best choice they can make within a situation of limited alternatives that they face.

One may wonder why women, who are indeed making advances in India and China, are continuing to make choices to abort females. This may appear to be a paradox in which women appear to be freely choosing options which reinforce oppression. However, although women have indeed made certain advances, the social backdrop which structures their decision making is far from being free of oppression. The strict limits imposed on women that disallow them from performing the roles that men perform have a real impact on the quality of life for women and girls, and it is these

limitations that foster sex selective abortion of females.

In a sad way, selecting for sons may actually be a moral choice in a certain limited individual sense, within these contexts, because by selecting for sons, the action of sex selection is performed based on a motivation to provide a better life for one's offspring (by insuring that the offspring will be a son) and for the rest of one's family. In the context of India and China, men, and families having at least one son may fare much better than women, and families with only girls, given the social backdrop. Because having sons means having economic and social benefits, sex selection of males is a rational and sensible decision²⁹⁰ in these contexts, and these reproductive decisions are highly personal ones that people make to maximize their own benefit.²⁹¹

However, while it may be in an individual parent's or an individual family's interest to have a son, society, and girls and women as a group, may be

²⁹⁰ Aniruddha Malpani, "Why Shouldn't Couples Be Free to Choose the Sex of their Baby?" Reproductive Health Matters, May 2002, v. 10, no. 19, pp. 192-194.

²⁹¹ Malpani, 2002.

harmed by the widespread practice of sex selection. It is difficult to balance individual versus social benefit. What benefits an individual, or what an individual perceives as a benefit for herself or himself, may be at odds with what would benefit society. Society may limit individuals when harms are committed by individuals, yet it remains difficult to specify the degree to which harms are serious enough to warrant intervention or limitation by society.

Women who have practiced sex selection in order to have sons in such societies ought not be held responsible or made to suffer as a result of having selected sex. I agree with Mary Anne Warren who argues that the responsibility rests with the patriarchal system rather than individual parents.²⁹² High rates of sex selection occur as a result of patriarchal societal circumstances which cause people to believe that sons are their only "choice" or that they must have at least one son.

²⁹² Mary Anne Warren, Gendercide: The Implications of Sex Selection, (Totowa: Rowman & Allandheld, 1985) p. 41.

Some feminists have decried sex selection against females as "femicide."²⁹³ But, when the context is appreciated, it is not difficult to understand why so many women choose to abort female fetuses. If a woman has lived a limited and onerous life simply because she happens to be a woman living in a society that does not value women as much as men,²⁹⁴ her choice to have a son instead of a daughter, in order that her own child will have the best chance at a future possible life, is an understandable one, particularly when viewed through the lens of relational autonomy. This choice may be made with the best intentions, and out of love and care for her future child, and the well being of her current family. Selecting for a male can be extremely empowering²⁹⁵ for individual women in their immediate lives. Women may gain legitimacy, earn recognition, and acquire status in

²⁹³ Vibhuti Patel, "Sex-Determination and Sex Preselection Tests in India: Recent Techniques in Femicide," Reproductive and Genetic Engineering, 1989, v.2, no. 2, p.114.

²⁹⁴ See Dai, 2001 for a personal account of life in Taiwan as an unwanted female.

²⁹⁵ Daniele Belanger, "Sex Selective Abortions: Short Term and Long-Term Perspectives," Reproductive Health Matters, May 2002, vol. 10, no. 19, pp.194-197.

their families and communities²⁹⁶ by giving birth to a male.

Simultaneously, sex selection reinforces oppression of women and girls more generally and overall, and in the long run. For these reasons, the sources of women's oppression must be addressed in order to promote fuller autonomy for women. Oppressive barriers must be removed. These barriers limit options for women and foster an environment where choosing males and aborting females is a better choice for women. The high rate of selection against females feeds back into the problem, perpetuating continued oppression.

One might suggest that forbidding abortion would curtail or eliminate sex selective abortion. One could imagine a feminist argument that sex selection against females should be stopped by preventing women and girls from aborting female fetuses. However, it seems best to increase women's autonomy in order to resolve this issue, rather than to decrease women's autonomy, which is what forbidding abortion would do. This would not be a feminist advance for women.

²⁹⁶ Belanger, 2002.

Society needs to be restructured so that it is a real, acceptable choice to give birth to a female.

One may claim that without banning the practice of sex selection there would not be sufficient motivation or incentive for change. It is indeed possible that banning sex selection could possibly add incentive for change, particularly amongst physicians who perform sex determination tests and the resulting abortions. However, banning the practice would limit women's autonomy and this is a serious drawback.

One may claim that the practice of sex selection exudes a certain disrespect for women's autonomy. However, prohibiting sex selection, which entails prohibiting abortion for reasons of sex selection, amounts to limiting abortion rights, and puts the burden on women to prove a legally acceptable or legitimate reason for any abortion that is sought, and this is a serious limitation of women's autonomy.

While enforcement of laws against sex selection, *i.e.*, enforcement of laws forbidding sex determination, might result in a reduction of sex selective abortions in the short term, merely enforcing laws that disallow sex determination without addressing the sources of oppression could simply

shift the problem to more cases of infanticide, or slower death by longer term neglect and withholding of resources for females. Mere enforcement of laws forbidding sex determination could also turn sex determination, and more importantly, sex selective abortion underground, with rogue ultrasound and abortion providers serving a population still eager for such services. For these reasons, it is best to address sex selection at the heart of the problem, and that is the low level of status accorded women and girls. Sex selection is a symptom of the basic problem of oppression of women, or sexist ideology, which is the source of desires for sex selection.²⁹⁷

Some may argue in favor of a formal change to sex selection practices, such as forbidding sex selective abortion or forbidding sex determination, and if these changes are to be adopted, wider social change should be promoted and instituted simultaneously, rather than merely instituting a ban on sex selection and leaving it at that. It is best to work for change on both fronts, if a ban is to be imposed and enforced. While

²⁹⁷ Bonnie Steinbock, "Sex Selection: Not Obviously Wrong," Hastings Center Report, Jan.-Feb. 2002, vol. 32, no. 1, pp.23-30.

it is possible that legal change can help to drive social change, legal change alone, in practice, has not stopped sex selection or reduced it effectively,²⁹⁸ and legal change alone will not address the heart of the issue, and in fact may further limit women's autonomy. (In China, sex selective abortions were banned in 1993. In 1995 such abortions were criminalized, yet the practice continues.²⁹⁹ In 1994, India nationally prohibited sonograms and amniocenteses for sex determination, yet these practices continue as well.³⁰⁰) Without addressing the heart of the issue, *i.e.* without mitigating against the discrimination and oppression of women, sex selection and other detrimental practices will continue to be performed, and perhaps new ones will surface. If women's oppression is removed, women will

²⁹⁸ Pomfret, 2001.

Bob Abernethy, "Sex Selection in India," Religion & Ethics Newsweekly PBS television news program, episode no. 440, June 1, 2001, article available at <http://www.pbs.org/wnet/religionandethics/week440/cover.html>

²⁹⁹ Pomfret, 2001.

³⁰⁰ Abernethy.

have the opportunity to make freer autonomous choices about whether to reproduce females.

Some may argue that if Indian and Chinese women all simultaneously refuse to abort female fetuses, son preference will be diminished.³⁰¹ In order to give strength to Indian and Chinese women so that they may reach the point at which they are empowered to actually do this, the low level of status accorded to females must be addressed because it is the heart of the matter. Improving women and girls' status will enhance their autonomy and may limit sex selective abortion of females.

Directly addressing the core of the problem of low value attached to girls and women may help lead to a longer term solution than simply banning sex selection. In this way the heart of women's oppression will be addressed and perhaps improved. This would actually enhance women's autonomy and not curtail it. Gender roles and beliefs about women and girls need to be changed. The limitations in available roles for women need to be eliminated. Education and public outreach messages can be promoted

³⁰¹ Shanthi.

showing that girls and women are valuable constituents in society, and programs can be established to promote self-esteem and assertiveness on the part of girls and women. Dowry practices ought to be fully abandoned or outlawed with complete enforcement of the ban.³⁰² Women's work could be publicly shown to have genuine value, and women ought to be able to earn sufficient wages in so as to become breadwinners, and reduce women's poverty. Customs and traditions that are now performed only by males, such as lighting the parents' funeral pyre, maintaining property and the family business, and carrying on the family name, can be promoted as proper for women as well. These ideas can be espoused via the media and in schools. Husbands and mothers-in-law should not be customary decision makers in reproductive health choices for wives and daughters-in-law as they are currently allowed to do in India. Women should be free to be the sole decision makers for their reproductive health care matters, and their decisions should be respected by family members and the community.

³⁰² This may not be successful, however, much in the same way that bans on sex selection have not worked.

In China, if the one child policy is to be the policy, it should not be the case that it is a one child policy only if one gives birth to a male, and a two child policy if one first gives birth to a female. By adopting such a policy, the Chinese government has perpetuated gender bias, and has underscored and legitimated the importance of having sons. Government ought to remove gender bias from its policy. Perhaps the one child policy (even in its original incarnation without extra allowances for a second try if one first gives birth to a female) should be re-examined in light of the knowledge that it promotes the use of sex selection because of the importance of having sons in Chinese society.

Perhaps publicly funded health clinics could be established which cater specifically to girls. This would remove one detrimental aspect of giving birth to a girl; if her health care is free, *i.e.*, provided by the government in an effort to reduce son preference, then this is one less aspect of her existence that is a liability to her family. This would help reduce death and other negative health effects that girls experience as a result of neglect. Perhaps schooling of girls could also be facilitated by the government

in a similar manner.³⁰³ Additional schooling would enable girls and women to be seen as more useful members of society when compared with their current status. Additional schooling may help to remove doubt as to whether girls and women are suited to perform the tasks and roles that are traditionally performed only by men. Furthermore governments could issue payments to couples who give birth to and raise girls.³⁰⁴ An education program for parents who give birth to a female but wanted a male could be created to teach such parents to raise their girls in a way that would help the girls to possess the qualities that the parents were hoping for in a boy.³⁰⁵ Concrete

³⁰³ In Lanxi, in southeastern China, the Lanxi Middle School is participating in a Care For Girls pilot program under which female students from poor families receive free tuition, and students from families with two girls receive free tuition. (Jim Yardley, "Fearing Future, China Starts to Give Girls Their Due," New York Times, January 31, 2005, p.A3.)

³⁰⁴ Interestingly, this has recently begun to take place in a limited way in China. The Chinese government has introduced a test program in twenty four cities, involving annual payments of \$180 to approximately 300,000 rural elderly people who either had only one child, or who had daughters. (Yardley, p.A3.)

³⁰⁵ This idea is suggested for use in the United States by Owen D. Jones, in "Sex Selection: Regulating Technology Enabling the Predetermination of a Child's

solutions to women's poverty such as providing loans to women so that they may purchase a portion of the means of production such as machinery or equipment such as sewing machines, livestock, land, seeds, or providing them with such items will allow women to reduce their oppression. Literacy programs aimed at women and girls will enable them to qualify for better jobs and the possibility of further education. Women's collectives³⁰⁶ could be introduced, particularly in rural areas, where they can help to improve women's bargaining positions toward their spouses, thereby reducing domestic violence, enhance women's earnings, and their sense of self worth.³⁰⁷ Hence women's value can be promoted. These measures may help to promote the belief that females are as worthy of being born as males, and are intrinsically

Gender," Harvard Journal of Law and Technology, vol. 6, fall, 1992.

³⁰⁶ Martha C. Nussbaum (2000, p. 15) reports that The Self Employed Women's Association (SEWA) has over fifty thousand members and has been helping women for over twenty years to make improvements in their lives through credit, education, and a labor union. Assistance of this nature could be expanded and provided to women elsewhere.

³⁰⁷ Nussbaum, 2000, p. 284 and 289.

valuable, and so may help to reduce the high rate of sex selection against females.

Currently, with respect to sex selection of their own children, women's range of real, viable options are limited, due to the oppressive social structure under which they live. Women's range of real choice can be widened with respect to sex selection, by improving women's lives in a concrete manner, via improvements to their economic situation, their health, and nutrition, and so on. This will foster a less limiting social structure, under which women may truly choose autonomously not to select for males because there is no longer a substantial benefit to being male. By dismantling the features of society that structure women's oppression, women's autonomy may be promoted and sex selection favoring sons may diminish.

Certainly, deeply held religious and cultural practices take time to change. This is understandable. However, to evoke permanent positive change, it is most important to address the issue at the heart of the matter, where it originates.

Chapter Six

The Ethics of Sex Selection in Conclusion

Sex selection in general may be analyzed. Conclusions may then be drawn about the ethics of sex selection on the whole.

One may object to sex selection in that it involves treating a child as an object or artifact and seeing reproduction as an opportunity to make people according to parental wishes by going beyond preventing abnormality and instead implementing superfluous preferences.³⁰⁸ Indeed sex seems to be a superfluous characteristic and is not a genuine abnormality or malady (as I have argued in a previous chapter) although it has been thought to be so by some. The question then boils down to whether it is wrong to create people in accordance with parental wishes when it comes to such characteristics. Is selecting for a relatively high IQ, a certain eye or hair color, a certain height, a proper weight and

³⁰⁸ Mary Anne Warren, Gendercide: The Implications of Sex Selection (Totowa: Rowman & Allanheld, 1985) p.62.

build, morally wrong or right? When people decide with whom to reproduce, they make such decisions, in that by selecting a particular mate over another, they may make certain outcomes more probable; their offspring may possibly possess certain traits as those found in their selected mate. When deciding who should be the parent of one's children, these factors are considered, and may be given weight. The end result may be that certain characteristics are decided upon as relatively unimportant and others have more significance, and the choice of with whom to reproduce is then made. People have been engaging in this low tech selection of traits for some time. It has not been considered wrong to find attractive certain traits in an individual which one would then hope would be passed on to one's children. It is not necessarily wrong in itself to prefer certain traits in children or people. Science may soon have the ability to bring these desires to fruition in a much more effective way than simply selecting a partner for reproduction based on the traits the person possesses. Many such desires have been considered to be acceptable and normal before the possibility of science lending a helping hand. Now that science may

one day soon facilitate these desires, more certain results can be produced. Yet this must be balanced with an understanding that as human beings, children ought not to be considered as accessories that we design to our own specifications in the way we might make to order our own luxury goods. Each life may have its own strengths and weaknesses but all human lives have value. Whether an individual child is valued ought not be tied to what traits may have been arranged for the child to possess. Furthermore, if individuals are created by selecting for certain traits, care must be used else this may involve treating people as merely a means to parents' ends rather than as ends in themselves.³⁰⁹ Furthermore a property view of children ought to be avoided, as it produces a troubling view of parenthood and the parent child relationship.³¹⁰ Objectification of offspring should be avoided; the goal in raising children is

³⁰⁹ Immanuel Kant, Groundwork of the Metaphysic of Morals H.J. Paton, translator, (New York: Harper & Row, 1964).

³¹⁰ Maura A. Ryan, "The Argument For Unlimited Procreative Liberty: A Feminist Critique," Hastings Center Report, July/August 1990, vol. 20, no. 4.

that they ultimately become freely autonomous beings themselves, eventually possessing full personhood.

This leads to the related question of whether sex selection is inherently sexist. Sexism, like racism, is usually taken to entail prejudice, bigotry or chauvinism. It can also be defined as involving an unfair preference for one sex over another. Reasons for desiring one sex over another as one's offspring can vary greatly. One might select for a certain sex in order that certain roles may be fulfilled such as lighting a funeral pyre, for example, or one might desire to select for sex because one would like to have e.g., a special mother daughter bond, or would like to have certain shared experiences as the same sex. Some cases may clearly involve what may be described as a discriminatory preference, and others are not as clear.

Warren points out that one may be acting within one's rights, and yet not be doing the morally right thing.³¹¹ People are free to do as they see fit, and commit certain moral wrongs. People may have the

³¹¹ Warren, p.104. Other authors make the same point, such as Jeremy Waldron, "A Right To Do Wrong," in his Liberal Rights: Collected Papers 1981-1991 (New York: Cambridge, 1993).

freedom, legally and justifiably, to do certain things that are immoral. For instance, Jeremy Waldron treats this issue in detail. People may have a right to do wrong. Waldron thinks that this may sound contradictory but it is not actually so.³¹² Waldron thinks that conjoining the two statements "P has a moral right to do A," and "P's doing A is morally wrong," sounds paradoxical but the two statements are actually compatible.³¹³ In other words, a person may have a right to do something that is morally wrong. Moral guidance and coercive interference can be distinguished from one another.³¹⁴ A possibility of a right to do wrong is actually required by the way in which rights function in moral theory, according to Waldron.³¹⁵ Waldron points out that the wrongness of an act is not sufficient to entail the moral permissibility of interfering with that act.³¹⁶ For

³¹² Jeremy Waldron, "A Right to Do Wrong," in Jeremy Waldron, Liberal Rights: Collected Papers 1981-1991 (New York: Cambridge, 1993).

³¹³ Waldron.

³¹⁴ Waldron, p.87.

³¹⁵ Waldron, p.85.

³¹⁶ Waldron, p.74.

example, it may be wrong to eat a diet consisting only of chocolate, but simply because it's wrong to eat only chocolate does not entail that it is morally appropriate to interfere with a person who eats only chocolate. When a person claims a right to something, they claim that it is wrong to interfere with an action performed (or to be performed) by the rights-bearer.³¹⁷ The heart of the issue is that a choice is not to be interfered with.³¹⁸ Because certain choices are thought to be very important for the lives of people who make them, a certain range of choice of action belongs to people; they are free to choose to do actions that may be morally wrong.³¹⁹

This idea may be applied to sex selection both in the United States and outside it. Even if selecting for sex is wrong in certain cases, the ability to determine what happens to one's own body is such an important one that, in my view, it allows for a right to do wrong. Women's autonomy in health care matters is extremely important. Women's autonomy ought to be

³¹⁷ Waldron, p.80.

³¹⁸ Waldron, p.80.

³¹⁹ Waldron, pp.80-81.

respected, allowing the freedom to abort even if a particular act of abortion may be thought to be morally wrong. The importance of the choice of whether or not to carry a pregnancy, and the implications of this decision for one's entire life, are quite serious. Such decisions are intimately tied to people's definitions of themselves, and so there is a need to maintain people's freedom to have decision making capability in this area. So, even if certain instances of sex selection are morally wrong, the right to choose whether or not to abort ought to be preserved and so this means that people have a right to engage in sex selection even in instances where it may be morally wrong.

Separating preconception sex selection from regular sex selection particularly in the United States sharpens the ethical picture of sex selection on the whole, and women's reproductive freedom. Preconception sex selection prescribes a particular life that is about to begin, controls an aspect of this future life, and creates a particular being.³²⁰

³²⁰ Owen D. Jones, "Sex Selection: Regulating Technology Enabling the Predetermination of a Child's Gender," Harvard Journal of Law & Technology, vol. 6, Fall 1992, p.33.

The particular being may or may not have been created in the absence of preconception sex selection, *i.e.*, chances of conceiving a male or female are about fifty-fifty anyway, and one cannot generally know in any particular instance whether the result would have been different in the absence of preconception sex selection.

In particular, the prospect of successful preconception sex selection home methods raises interesting points. The nature of successful preconception sex selection may in the future become private, safe for the parent and the future offspring, reasonably priced, user friendly, non-invasive, and home based, rather than medical, *i.e.*, involving medical intervention in a medical environment. Successful home methods of preconception sex selection could involve readily available substances, such as perhaps ingesting certain herbs, plants, diet, over the counter drugs, or readily available prescription drugs (which perhaps may be in use for other conditions), engaging in certain activities or behaviors, or other factors which cannot be easily imagined at the present time. The Baby Gender Mentor

is an interesting example of a sex determination method that is largely home based, private, and convenient, which could be coupled with an early abortion in order to engage in sex selection. There may be problems with the Baby Gender Mentor, in that its reliability has been called into question.³²¹ If successful preconception sex selection were to involve methods that are largely home based, private, involving little or no medical intervention, or involvement from third parties, and individual women or men could make use of them in order to potentially insure the sex of their offspring, or in order to attempt to insure the sex of their offspring in case the methods were less than a hundred percent effective, (or further if there is a tendency on the part of certain individuals to engage in these activities or methods because of their own preferences or their own lifestyles, and this is an unintended but foreseen result of engaging in them,) is it morally wrong? Setting aside negative consequences that arise from significantly skewing the sex ratio of a population, or skewing for birth order, which is

³²¹ See chapter four for a discussion of the Baby Gender Mentor's potential problems.

morally problematic, sex selection, particularly involving methods which are largely home based, does not appear to be morally wrong for several reasons. There can be bad consequences resulting from sex selection (such as expecting a child to conform to certain preconceived ideas regarding gender, and being heavily invested in this outcome having taken steps to insure a particular sex) but there may be good consequences resulting as well (parental wishes are satisfied). Apart from significantly skewing the sex ratio or skewing the birth order sex ratio, it is not wrong to engage in sex selection provided harms are not committed.

Such methods would also likely be popular in India and China, were they to spread to foreign countries, and this is likely. Home methods of preconception sex selection would probably be safer for women in a country like India where there is generally little access to medical institutions, when compared with technologically based preconception methods. Women in India have experienced difficulties with technologically based birth control methods which require sterile conditions and regular access to

medical facilities,³²² and this would likely similarly apply to technologically based preconception sex selection methods. Health risks and harms to women could increase with the use of technologically based methods when there is little access to medical institutions.

Reproductive freedom for women is consistent with women engaging in choice with respect to bearing children. If harms are not committed, and if sex selection is not necessarily sexist, and is safe for the parent and future offspring, exercising of preference of sex, particularly for compositional rather than sequential family balance goals, is not morally wrong. This ought not to be interfered with, meaning there is no need or justification for laws preventing this. (Should sex ratios or birth order sex ratios become significantly affected, or if sexism is increased, or if harms arise from sex selection, governmental, or other interference, such as social exhortation against sex selection, could possibly be

³²² K. Shanthi, "Feminist Bioethics and Reproductive Rights of Women in India," in Rosemarie Tong, Anne Donchin, and Susan Dodds, eds., Linking Visions: Feminist Bioethics, Human Rights, and the Developing World, (Lanham: Rowman & Littlefield, 2004) p.123.

justified. It is important to bear in mind that governmental involvement in regulation of sex selection will likely invite undesirable governmental interference in other reproductive matters such as abortion, which would be detrimental for women exercising their autonomy.³²³)

Women may desire to have a certain kind of child, and to some extent this desire is a legitimate one and it is not wrong to act toward this goal. Women may desire to have a healthy baby, and may take various steps toward this goal, from routine use of prenatal vitamins, to genetic counseling and testing, and so on. Women may have a legitimate non sexist desire for a daughter or a son based on wishes to experience parenting both sexes. It is morally acceptable for one to act on such desires and engage in sex selection (provided certain conditions do not obtain as described above and at various points in this dissertation) because women's autonomy, *i.e.*, having

³²³ If, in the future, as a result of sex selection, sex ratios or birth order sex ratios change, or if sexism is increased, or if harms arise from sex selection, and some kind of interference with sex selection may then be justified, various levels of judgment will then be re-examined in order to preserve or re-attain reflective equilibrium in light of new information or new developments.

choice with respect to whether one would like to bear children, or the number of children one would like to bear, extends to women choosing or attempting to choose whether to have a healthy baby when that is possible, and is consistent with engaging in practices that may facilitate the birth of a male or female baby, particularly when these practices are private, and home based. One may make use of technology or the field of medicine in order to exercise control over whether and when to reproduce, and making use of technology or medical advances, or home methods that may involve less or no technology, in order to compose one's family of various sexed babies is consistent with exercising autonomy.

As for whether this involves taking the first step down a slippery slope toward parental control of many superfluous and minute characteristics of their offspring, it is possible that indeed this is the first step down a slippery slope, but it is also possible to curtail the slip down such a slope as it becomes apparent that harms are being committed to society, to future offspring, or possibly to parents. If it is at some point justifiable to prohibit practices further down the slope, then those practices

may be forbidden and prevented. For the time being women's reproductive freedom is justified and women ought to have the liberty to engage in sex selection as described above.

The issue of sex selection may have divided feminist thinkers because of the paradox that prohibiting sex selection constricts abortion rights, while allowing it may facilitate the abortion of females because they are female (particularly in India or China or where conditions are similar) and further reinforces sexism and patriarchal society. However, as I have argued, feminist concerns like the autonomy of women and their reproductive freedom, and their general well being, are consistent with women exercising reproductive choice, while limiting or eliminating sexist practices and sexist societies is best accomplished using measures that enhance women's autonomy rather than reduce it. Therefore my claims that sex selection is morally acceptable (in a certain limited way), and ought not to be forbidden by law generally, are consistent with feminist goals and claims.

Given the existence of Microsort as well as other sex selection methods, it is worth pointing out that,

for those in the know about the prospects for engaging in sex selection, and for those who possess the means, every instance of a child being born without parents having engaged in sex selection also represents a choice, or a decision, viz., a choice or decision not to prearrange the sex and to instead have whatever sex baby will come by chance or by nature.

An interesting prospect for controlling the skewing of a population's sex ratio while allowing for sex selection on a limited basis has been suggested by Owen D. Jones. As an alternative to governmental laws against sex selection, Jones suggests the possibility of government issuing permits for sex selection, possibly based on sex to be selected, to doctors or prospective patients.³²⁴ He suggests this governmental regulation as a possibility for limiting the supply of sex selection because it would allow governmental control over the number of sex selections made, and the sex ratio thereby produced.³²⁵ The demand may also be limited, by a special regulatory tax Jones abbreviates as CEET, which stands for "Countercycle

³²⁴ Jones, p.51.

³²⁵ Jones, p.51.

Earmarked Excise Tax.”³²⁶ Taxing sex selection favors the rich and makes it more likely that sex selection will be used by the rich, and could potentially lead to more males being born to rich families, which would magnify the problems of women being relegated to the lower class, although the permits for sex selection could be randomly distributed by lottery. However, CEET is interesting because implementing it allows for the possibility of limiting demand for sex selection, funding programs which may reduce the desire for sex selection, funding projects that counteract possible harms caused by sex selection, and monitoring the extent of the use of sex selection.³²⁷ As Jones admits, not every sex selection is successful, meaning many sex selection methods are not a hundred percent effective, and not every successful sex selection attempt differs from what would have occurred in the absence of the sex selection attempt³²⁸, since each time a sex selection method is not employed there is virtually a fifty-fifty chance of producing either a

³²⁶ Jones, p.52.

³²⁷ Jones, p.52.

³²⁸ Jones, p.58.

female or a male, so there will not be an exact correspondence between a sex selection attempt and an instance of a male or female birth that would contribute toward skewing the sex ratio. The CEET, although it is not free from difficulty in my estimation, is a possible tool for decreasing demand and consequences of sex selection, while maintaining the liberty to engage in sex selection.³²⁹

In Conclusion

In this dissertation I have articulated what sex selection is, and the methods by which it is accomplished. The issue of the ethics of sex selection has been treated by way of reflective equilibrium and relational autonomy.

I have discussed various objections against sex selection, and possible benefits of sex selection throughout this dissertation. The objections to sex selection that have been treated include: whether sex selection is inherently sexist, whether abortion is wrong, whether sex selection is a suitable reason to

³²⁹ Jones, p. 61.

have an abortion, the effects of skewed sex ratios generally and the effects of skewed birth order sex ratios, the possibility of having a preponderance of males as first born or only children and the possible advantages that may be bestowed, the possibility of a preponderance of females appearing later in the birth order and the difficulties that this may pose, the difficulty that a significant rate of sex selection against females has of further relegating women and girls to the lower class and reinforcing patriarchal society, and the slippery slope argument. The benefits of sex selection or freedom to engage in sex selection that have been discussed include: the ability to prevent one's offspring from suffering from a sex linked disease, happiness on the part of parents who may have their preferences realized particularly when seeking sex selection for compositional reasons, those children that are born as a result of sex selection are more likely to be wanted, and the lack of interference with women's autonomy in that women are free to select the sex of their offspring if sex selection is allowed. Potential tactics for dealing with negative effects of sex selection have been discussed and suggested.

Reflective equilibrium and relational autonomy were suitable choices for this analysis for several reasons. Reflective equilibrium nicely captures the way in which philosophical reasoning is generally done, and it allows for the various competing moral theories' methods of argumentation to be employed where appropriate. The method of reflective equilibrium does not suffer from the drawbacks of many moral theories, such as historical bias³³⁰ or a dichotomy between reason and emotion. Reflective equilibrium captures an ongoing sense of what is moral, and this is continually subject to revision. Reflective equilibrium is readily applied in actual circumstances and may successfully be tested with actual experience.³³¹ Reflective equilibrium seems to be an account of how moral reasoning often takes place about real moral issues for actual people. The method of reflective equilibrium is reminiscent of the

³³⁰ Virginia Held, "Feminist Transformations of Moral Theory," Philosophy and Phenomenological Research vol. L supplement (Fall 1990). Reflective equilibrium could reflect biases in particular judgments and general principles, however.

³³¹ Virginia Held, Rights and Goods: Justifying Social Action (Chicago: University of Chicago Press, 1984) pp.53-54.

process that is often used to arrive at a normative judgment on a particular issue or dilemma.

Sex and gender were clarified and separated primarily in order to facilitate a clear discussion of societal influences that may perpetuate and/or encourage sex selection, and secondarily to elucidate the fact that people are seeking a male or female at birth when they do sex selection. The extreme social constructionist view of sex and gender goes too far. Sex is not wholly socially constructed. The best alternative is a modified view in which it is recognized that sex is biological, as well as partially socially constructed, and gender is socially constructed. This position allows for clarity in analysis of the ethics of sex selection. Furthermore, it allows for clarity in naming the issue of sex selection (as opposed to referring to it as "gender" selection). This is not unimportant because a clear name for this issue facilitates research about it.

Actual practices of sex selection were separated by location and culture or society, and method of sex selection that is commonly employed. It may be mildly questionable to consider the issues based on geography rather than on type of procedure. It may appear that

sex selection ought to be considered in terms of type of procedure instead, and it may seem that the discussion would have more value without being based in geography because it might seem less limited to how things are in different parts of the world at the present time. Furthermore it may avoid objections of applying different standards to different countries. However, while dividing sex selection analysis in terms of United States versus elsewhere may be less than perfect, it is greatly preferable to analysis of sex selection by method, because of the following. Analysis of sex selection by method does not focus attention on certain important issues, and tends to become overly technical, losing sight of the individuals and societies involved, and their contexts, which I see as the heart of the matter. Furthermore, if sex selection is not analyzed separately in terms of geography, culture or society, it is difficult to do justice to the issues of how collective beliefs or societal backdrops affect women and their situations and the decisions they make. It is important to see how females are devalued, unnecessarily and wrongly, in order to appreciate the particulars of sex selection in a place like India.

This could doubtfully be demonstrated as well if the analysis of the ethics of sex selection were taken up according to the method of accomplishing it. It is difficult to attain a nuanced enough analysis without seriously considering the societal picture. The societal picture is very relevant to the ethics of sex selection as it is being done.

Furthermore, sex selection was for years discussed in a context that solely involved abortion, because sex selection for quite some time had to involve abortion or infanticide. With the invention of new technology, things have changed. Fairly recently, the prospect of preconception sex selection or sex pre-selection became reality. The future may hold another type of sex selection that is as yet unimaginable; perhaps it will be possible one day for people to engage in certain activities that would allow them to produce offspring only of a certain sex. One cannot know the technology or advancement that may be made in the future. Analysis of sex selection in general (involving abortion) is not always relevant to sex selection that is accomplished prior to conception. Further advances in sex selection will likely yield similar results, in that analysis will

need to take into consideration the particulars of greater technological advances. So, for these reasons, it seems best to discuss sex selection in the context of whether it is post-conception, or preconception, or involving some future distinction, and within the society that it appears, rather than in the abstract, without attention to the method, or timing of pre- or post-conception, or attention to the culture or society in which it is currently occurring. A more general analysis without attention to context will have limited meaning. A broader analysis demands a focus on context. The issues are analytically distinct and require a context-specific division.³³²

An analysis of sex selection in the United States yielded conclusions that sex selection at least in certain cases or under certain conditions is morally acceptable. The first specific sex selection issue tackled was sex selection for disease avoidance. Sex selection for disease avoidance, *i.e.*, selecting for sex of offspring in order to avoid having an offspring with a specific sex-linked disease (though what constitutes disease of an appropriate kind may be

³³² Jones, p. 1.

controversial), is morally acceptable in my view. This may be accomplished by abortion after detecting sex *in utero*, or by engaging in sex pre-selection techniques like embryo selection or sperm sorting. Sex selection for disease avoidance is morally acceptable in these cases because it is analogous to striving for the health and well being of existing offspring, and avoiding the suffering of offspring.

Sex selection, in order to balance one's family after already having one or more children, as in the case of Lisa B., seems to be morally acceptable in my view. Norman Daniels³³³ and John Robertson³³⁴ discuss this issue and agree that sex selection for family balancing does not in itself reinforce sexism.³³⁵ This

³³³ Norman Daniels, "It Isn't Just the Sex . . .," American Journal of Bioethics, Winter 2001, special issue on Preconception Gender Selection, vol. 1, no. 1, p.11.

³³⁴ John Robertson, "Preconception Gender Selection," American Journal of Bioethics, Winter 2001, special issue on Preconception Gender Selection, vol. 1 no. 1, pp.2-9.

³³⁵ Not everyone agrees, of course. Wertz and Fletcher argue that simply desiring a balanced family presupposes sex role stereotyping. See Dorothy C. Wertz and John C. Fletcher, "Sex Selection Through Prenatal Diagnosis: A Feminist Critique," Helen Bequaert Holmes and Laura M. Purdy, eds., Feminist Perspectives in Medical Ethics (Indianapolis: Indiana University Press, 1992), p.244.

viewpoint is not unanimous however, and some may believe that sex selection, including preconception sex selection for family balance, involves subtle, if not explicit, sexism.³³⁶ While it seems to be morally acceptable, it may not be morally ideal. Even if this is seen by some as morally wrong, I argue that even if it is wrong, it should be allowed in terms of policy. It is within the realm of choice that an individual is justified in making.

The modified case of Lisa B. is morally more difficult. The difficulty seems to emanate from not so much the harm done if a few people do what the modified Lisa B. would like to do, but instead the possible harm that could occur if many people do. This would probably create negative consequences. If one person or a few people do it, it does seem less than morally ideal, but still morally allowable. If many people do it, it again is less than morally ideal, but it then may not be justifiably permissible in terms of policy. If an easy method of sex

³³⁶ Helen Bequaert Holmes, "Sex Selection, Preconception," Encyclopedia of Childbearing: Critical Perspectives, ed., Barbara Katz Rothman (Phoenix: Oryx, 1993), pp.367-368.

selection were to be created then perhaps this new method should not be freely allowed, *i.e.*, perhaps it should be subjected to restricted use, due to the negative consequences that may possibly result.

Microsort, a company that assists people in accomplishing sex selection, and similar methods which may be created which are accessible and not overly burdensome, may represent a danger leading to the proliferation of sex selection. Microsort currently restricts its availability as to whom it will allow to engage in its sex selection method, to those seeking disease avoidance, or those seeking family balance after already having at least one child of the sex not currently sought. Microsort may present moral concerns in that if this method were to be in widespread use, it is possible that instances of sex selection may rise significantly. Microsort's methods are not a hundred percent effective. When attempts at sex selection using Microsort are not effective, abortion may be employed, or the fetus may be gestated until birth, and a child of the sex not desired may be born and be resented by parents who went to these lengths to avoid its birth. On the other hand, one could argue that sex selection methods are more

acceptable if they are done earlier, *i.e.*, prior to conception³³⁷, because this would not generally involve abortion. But others argue that preconception sex selection represents a greater social danger because it could lead to more widespread use of sex selection.³³⁸

Sex selection as described in the case requested by an Indian couple who do not wish to have another female child is another difficult call particularly because the cultural backdrop of India in which boys are highly valued over girls is very likely playing a role in the couple's or wife's reasons for desiring sex selection. However, it seems that while this is not an ideal situation, it seems morally acceptable to engage in sex selection and policy should allow for sex selection in similar cases.

One can sort sex selection decisions in a variety of ways such as by timing. In general, early sex selection, *i.e.*, preconception sex selection, seems to be the most morally acceptable because if

³³⁷ Mary Briody Mahowald, Women and Children in Health Care; An Unequal Majority (New York: Oxford University Press, 1993), p.84.

³³⁸ Wertz and Fletcher, p.244.

early sex selection is successful it does not involve the added dimension of abortion. There seems to be little to object to morally speaking when it comes to sorting a semen sample and then using artificial insemination to impregnate a woman. The moral difficulties that arise with preconception sex selection occur when it does not work as intended, and possibly when or if it is used by a large number of people.

If preconception sex selection were used by a large number of people, there is a danger of adding to or reinforcing sexism in society and possibly increasing the limiting aspects of gender stereotyping. Furthermore in the United States, there could be a problem of further stratifying society along gender lines if large numbers of people act on their preferences for either first born males with a subsequent female, or only-child males.

Post conception sex selection may be more morally problematic than early sex selection such as preconception sex selection, for it is tied to abortion and the accompanying moral issues and debate. As sex selection moves forward in time in a pregnancy, the fetus becomes closer and closer to attaining

personhood and it may require more and more justification in order to legitimately interfere with it. For instance, infanticide for reasons of sex selection seems more clearly wrong as it involves killing a baby.

Sex selection in its current incarnation in the United States is generally morally acceptable based on respect for women's autonomy,³³⁹ though cases of sex selection may not be morally ideal. Ethicists need to keep a watchful eye over the occurrence of sex selection in the United States. More data collection of sex selection occurrences would be helpful. Reliable statistics are needed showing how many people are engaging in sex selection and what methods they are using to accomplish sex selection. Although instances of sex selection may not be morally ideal, these decisions seem to be within the proper free realm of choice for people. If one were to regulate sex selection, this would probably entail regulating abortion rights, since sex selection is often

³³⁹ Mary Mahowald considers this rationale for claiming that sex selection is defensible to be a feminist one. See Mahowald, "Cultural Differences and Sex Selection," Rosemarie Tong, Gwen Anderson and Aida Santos, eds., Globalizing Feminist Bioethics (Boulder: Westview, 2001), p.173.

accomplished via abortion. Abortion rights should not be restricted in the United States. Restricting abortion rights would represent a greater harm which would infringe significantly upon women's most basic abilities to control their own bodies and their very lives. At the moment it appears laws forbidding sex selection are not justified.

Contexts within which sex selection is done have a major bearing upon the moral significance of sex selection. Analysis of sex selection outside the United States, in India and China, demonstrates the strong influence of gender roles and societal beliefs on the high rates of sex selection.

Son preference tends to be strong in certain developing countries.³⁴⁰ The high rates of sex selection in India and China are worthy of examination. In China, the sex ratio has been reported as alarmingly high, as great as 144 boys for 100 girls,³⁴¹ far from the international norm of 105

³⁴⁰ Nancy E. Williamson, Sons or Daughters: A Cross Cultural Survey of Parental Preferences (Beverly Hills: Sage Publications, 1976).

³⁴¹ Erik Eckholm, "Desire for Sons Drives Use of Prenatal Scans in China," New York Times, June 21, 2002, p.A3.

boys for 100 girls.³⁴² This is the largest sex disparity of newborns, and is due to sex selection.³⁴³ Sex selection is typically done by ultrasound and abortion. The Chinese culture reflects a negative view of daughters, and strong son preferences. As a result, people engage in sex selection to try to insure the birth of sons. Sex selection in this context is a double edged sword. It is important for women's welfare that they have sons, so sex selection can actually improve their lives, or at least guard against women experiencing punishment or abuse for not bearing a son, and sex selection can reduce suffering of women.³⁴⁴ Yet, sex selection reinforces the

³⁴² John Pomfret, "In China's Countryside, 'It's a Boy' Too Often," Washington Post, May 29, 2001, p.A01.

³⁴³ Eckholm.

Nancy E. Riley, "China's Population: New Trends and Challenges," Population Bulletin, June 2004, vol.59, no.2.

Nancy E. Riley, as interviewed by Susan Stamberg, "China's Female Population Numbers Continue to Shrink," National Public Radio, All Things Considered, July 18, 2004, available at <http://www.npr.org/templates/story/story.php?storyId=3499024>

³⁴⁴ Jenny Dai, "Preconception Sex Selection: The Perspective of a Person of the Undesired Gender," American Journal of Bioethics special issue on

cultural problem of daughters being seen negatively. Sex selection cuts both ways and allows women to exercise a certain level of autonomy by engaging in sex selection, yet engaging in sex selection in order to insure the birth of boys reinforces the problem of women and girls being seen as second class, with less than full autonomy.³⁴⁵

In India, abortion records show strong sex selection promoting the births of males.³⁴⁶ Furthermore, Indian women and girls appear to be subject to more difficulty such as inferior health care and nutrition which negatively impacts their long term survival. India, like China, shows strong cultural son preference. The traditional dowry practice in India magnifies the burden of having a daughter born in a family.

Preconception Gender Selection, Winter 2001, vol. 1, no. 1, pp.37-38.

³⁴⁵ Norman Daniels would agree that when societies have a strong gender bias sex selection would reinforce existing biases. (Daniels' focus is on preconception sex selection.) See Daniels, 2001. Wertz and Fletcher share the opinion that sex selection in India exacerbates the low status of women. See Wertz and Fletcher, p.249.

³⁴⁶ India Today, January 31, 1988.

The choice to engage in sex selection in these environments is not a free, uncoerced choice. The deck is already stacked in one direction. Mary Mahowald rightly questions whether decisions that reflect the same limited or narrow priorities as one's culture or ethnicity are truly autonomous.³⁴⁷ These choices cannot be described as freely autonomous choosing, because there are strong social and economic factors at play. These factors narrow women's range of options, and foster sex selection for males and against females.

It perhaps appears paradoxical that women are indeed making advances yet they continue to abort their own female fetuses. It is not difficult to understand why this is so once the context is appreciated and relational autonomy is understood. Restrictions on women's autonomy are unjustified and women or girls should be seen as equals with men or boys. To reduce the high rate of sex selection, the restrictions on women's autonomy should be lifted. The sources of women's oppression must be addressed. This will promote fuller autonomy for women. Society

³⁴⁷ Mary Mahowald, 2001, p.165.

ought to be restructured so that it is a real, acceptable choice to give birth to a female. Improving girls' and women's status will enhance their autonomy and will likely limit sex selection against females.

A ban on sex selection, or laws restricting sex selection, would serve to limit women's abortion rights, which would actually restrict women's autonomy further. While a ban may be effective to some extent, a better and more lasting solution would be to expand women's autonomy, social role and status, because this is the core of the problem as to why people sex select against females. Gender roles need to be addressed and expanded, so that girls and women are no longer the liability for parents that they are today. Concrete measures should be taken to help insure that girls and women are actually a benefit to their parents, rather than a liability, or at the very least are as desirable as having a boy in parents' estimation. Specific rewards could be offered for having daughters that may help transform the birth of females into a benefit for parents.

In this dissertation I have attempted to successfully analyze the intricacies of the ethics of

sex selection, and this has often involved navigation through muddy waters.

One of the virtues of extreme positions is consistency. They usually reflect the single-minded and undeviating application of one principle. If other principles are acknowledged, they must always bow to it. The middle ground is much messier, and consistency much more difficult to achieve. Yet, we often feel that only if we remain somewhere on that middle ground can the complexities of situations be properly appreciated. The problem is to do that in a principled way. The middle ground covers a wide range of possibilities; traversing it in a principled manner, however, is like threading one's way between swamp and quicksand.³⁴⁸

I have intended to maintain consistency using reflective equilibrium throughout the complexity of the analysis, where easy answers are not readily apparent and many gray areas exist, yet I hope to have upheld a cogent analysis and to have avoided sinking while traversing between swamp and sand bog.

³⁴⁸ John Kleinig, Paternalism (Totowa: Rowman & Allanheld, 1984), p.116.

Bibliography

- Abernethy, Bob. "Sex Selection in India." *Religion & Ethics Newsweekly*, June 1, 2001.
- Allen, Charlotte. "Boys Only: Politically Incorrect Abortion," *The New Republic*, vol. 206, no. 10, March 9, 1992: pp. 16-18.
- Alpern, Kenneth D., ed. *The Ethics of Reproductive Technology*. New York: Oxford, 1992.
- Amin, Rhuhul, and A.G. Mariam. "Son Preference in Bangladesh: An Emerging Barrier to Fertility Regulation." *Journal of Biosocial Science* 19, no. 2 (April 1987): 231-528.
- Anderson, Elizabeth. *Value in Ethics and Economics*. Cambridge: Harvard University Press, 1993.
- Andolsen, Barbara Hilker. "Elements of a Feminist Approach to Bioethics." In *Religious Methods and Resources in Bioethics*, edited by Paul Camenisch. Boston: Kluwer, 1994.
- Aristotle. "On The Generation of Animals." In *Philosophy of Woman: An Anthology of Classic and Current Concepts*, ed., Mary Briody Mahowald. Indianapolis: Hackett, 1983.
- Aristotle. "Politics." In *Philosophy of Woman*, ed., Mary Briody Mahowald. Indianapolis: Hackett, 1983.
- Asch, Adrienne. "Can Aborting 'Imperfect' Children Be Immoral?" In *Ethical Issues In Modern Medicine*, 4th edition, ed., John D. Arras and Bonnie Steinbock, 386-389. Mountain View, CA: Mayfield Publishing Company, 1995.
- Basson, Marc D., ed. *Ethics, Humanism, and Medicine: Proceedings of three conferences*. New York: Alan R. Liss, 1980.
- Bayles, Michael D. *Reproductive Ethics*. Englewood Cliffs: Prentice Hall, 1984.

- Beauchamp, Tom L., and James F. Childress. Principles of Biomedical Ethics. New York: Oxford, 1979.
- Beauvoir, Simone de. Force of Circumstance translated by Richard Howard. New York: Putnam, 1964.
- Beauvoir, Simone de. The Second Sex. New York: Knopf, 1953.
- Belanger, Daniele. "Sex Selective Abortions: Short Term and Long-Term Perspectives." Reproductive Health Matters, 10, no. 19 (May 2002): 194-197.
- Belkin, Lisa. "Getting The Girl." New York Times Magazine, 25 July 1999, p. 26.
- Benhabib, Seyla. Situating The Self: Gender, Community and Postmodernism in Contemporary Ethics. New York: Routledge, 1992.
- Bennett, Neil G. "Sex Selection of Children: An Overview." In Sex Selection of Children, ed., Neil G. Bennett. New York: Academic Press, 1983.
- Bennett, Neil G., ed. Sex Selection of Children. New York: Academic Press, 1983.
- Black, S., H.J. Stern, G.L. Harton, D. Deresh, C. Opanga, and K.L. Blauer. "MicroSort® Separation of X-chromosome bearing sperm for prevention of genetic disease: ongoing clinical trial results." Presented at the European Society of Human Reproduction and Embryology Annual Meeting July 2002. Human Reproduction, 17, p. 127, p.368.
- Blauer, K.L., K. Keyvanfar, R. Matken, S.H. Black, S. Wiley and E.F. Fugger. "IUI pregnancy rates using <400,000 total motile sperm in presumed fertile couples participating in the MicroSort® sperm separation clinical trial for preconception gender selection." In abstracts from the American Society of Reproductive Medicine meeting, October 2001, Orlando, Florida, Fertility and Sterility, September 2001, vol. 76, no. 3S, Abstract O-36, S 14.

- Booth, Beverley E., and Beri Verma. "Fetal Sex Determination in Infants in Punjab, India: Correlations and Implications." British Medical Journal 309, 12 Nov. 1994: 1259-1261.
- Boyce, Nell. "Critics Question Accuracy of Fetus Sex Test." National Public Radio, Morning Edition, September 29, 2005.
- Boyce, Nell. "Questions Raised Over Accuracy of Gender Test." National Public Radio, Morning Edition, October 10, 2005.
- Brody, Baruch A. "Quality of Scholarship in Bioethics." Journal of Medicine & Philosophy 15 (1990): 161-178.
- Buchanan, Allen, Dan W. Brock, Norman Daniels and Daniel Wikler. From Chance to Choice: Genetics and Justice. Cambridge: Cambridge University Press, 2000.
- Burg, Wibren van der, and Theo van Willigenburg, eds. Reflective Equilibrium: Essays in Honor of Robert Heeger. Dordrecht: Kluwer Academic Publishers, 1998.
- Burns, John F. "India Fights Abortion of Female Fetuses." New York Times, 27 August 1994, A5.
- Burns, John F. "Once Widowed in India, Twice Scorned." New York Times, 29 March 1998, 1.
- Butler, Judith. Bodies That Matter: On the Discursive Limits of "Sex". New York: Routledge, 1993.
- Butler, Judith. Gender Trouble: Feminism and the Subversion of Identity. New York: Routledge, 1990.
- Callahan, Joan C., ed. Reproduction, Ethics, and the Law: Feminist Perspectives. Bloomington and Indianapolis: Indiana University Press, 1995.
- Campbell, C. "The Manchild Pill." Psychology Today August 1976: 86.

- Campbell, Courtney. "A Homeric Constraint on Sex Selection." Hastings Center Report vol. 17, no. 5 Oct./Nov. 1987: 2-3.
- Caplan, Arthur L. "Sex: Are We Wise Enough to Be Allowed to Select a Baby's Gender." Washington Post, 19 October 1986.
- Chira, Susan. "Is Any Choice Right in Sex Selection?" New York Times, 26 October 1986, p. E7.
- Chodorow, Nancy. The Reproduction of Mothering. Berkeley: University of California, 1978.
- Choo, Vivien. "Sex Selection." Lancet 341 (1993)[SPS6].
- Code, Lorraine. "Experience, Knowledge, and Responsibility." In Feminist Perspectives in Philosophy, eds., Morwenna Griffiths and Margaret Whitford. Indianapolis: Indiana University Press, 1988.
- Code, Lorraine. What Can She Know?: Feminist Theory and the Construction of Knowledge. Ithaca: Cornell University Press, 1991.
- Cohen, Cynthia B. "Unmanaged Care: The Need to Regulate New Reproductive Technologies in the United States." Bioethics 11, no. 3/4 (July 1997): 348-365.
- Cohen, Cynthia B., ed. New Ways of Making Babies. Indianapolis: Indiana University Press, 1996.
- Colapinto, John. As Nature Made Him: The Boy Who Was Raised as a Girl. New York: Harper Collins, 2000.
- Constitution of India. 74th Amendment to the Constitution. 1992.
- Coombes, Rebecca. "All IVF Embryos Should Be Checked for Genetic Defects, Conference Is Told." British Medical Journal 330, (May 28, 2005): p. 1228.

- Corea, Gena. Man-Made Women: How New Reproductive Technologies Affect Women. Indianapolis: Indiana University Press, 1987.
- Dai, Jenny. "Preconception Sex Selection: The Perspective of a Person of the Undesired Gender." American Journal of Bioethics 1, no. 1 (Winter 2001): 37-38.
- Daly, Mary. Gyn/Ecology: The Metaethics of Radical Feminism. Boston: Beacon Press, 1978.
- Daniels, Norman. "It Isn't Just the Sex . . ." American Journal of Bioethics 1, no. 1 (winter 2001): 11.
- Daniels, Norman. "The Biomedical Model and Just Health Care: Reply to Jecker," Journal of Medical Philosophy 14 (1989): 677-680.
- Daniels, Norman. "Wide Reflective Equilibrium and Theory Acceptance in Ethics." Journal of Philosophy vol. 76, May 1979, pp. 256-282.
- Daniels, Norman. "Wide Reflective Equilibrium In Practice." Philosophical Perspectives on Bioethics, ed., L. W. Sumner. Toronto: University of Toronto Press, 1996.
- Daniels, Norman. Justice and Justification: Reflective Equilibrium in Theory and Practice. New York: Cambridge University Press, 1996.
- Dickens, Bernard M. "Prenatal Diagnosis and Female Abortion: A Case Study in Medical Law and Ethics." Journal of Medical Ethics vol. 12, issue 3 (Sept. 1986): 143-144.
- Dinnerstein, Dorothy. The Mermaid and the Minotaur. New York: Harper and Row, 1976.
- Donchin, Anne. "Autonomy and Interdependence: Quandaries in Genetic Decision Making." In Relational Autonomy: Feminist Perspectives on Autonomy, Agency, and the Social Self, eds., Catriona Mackenzie and Natalie Stoljar. New York: Oxford University Press, 2000.

- Donchin, Anne. "Recasting Autonomy/ Rethinking Justice: Perspectives from Bioethics." Presented at the 22nd Meeting of the North American Society for Social Philosophy, Troy, NY, July 28-30 2005.
- Dugger, Celia W. "Abortion in India Is Tipping Scales Sharply Against Girls." New York Times, 22 April 2001, 1.
- Dugger, Celia W. "Modern Asia's Anomaly: The Girls Who Don't Get Born." New York Times, 6 May 2001, p. WK4.
- Dworkin, Andrea. *Woman-Hating*. New York: Dutton, 1974.
- Eckholm, Erik. "Desire For Sons Drives Use of Prenatal Scans in China." New York Times, 21 June 2002, p. A3.
- "Jack or Jill?" Lancet 341, no. 8847 (March 20, 1993): 727-8.
- Elliott, John. "Abortion for 'Wrong' Fetal Sex: An Ethical-Legal Dilemma." Journal of American Medical Association 242 (Oct. 1979): 1455-1456.
- Erde, Edmund L. "Decision Making Methodology in Bioethics: An Introduction." Theoretical Medicine 12 (1991): 277-279.
- Ericsson, R.J., C.N. Langevin, M. Nishino. "Isolation of Fractions Rich in Human Y Sperm." Nature 246 (14 Dec. 1973): 421-424.
- Ericsson, Ronald J. "Isolation and Storage of Progressively Motile Human Sperm," Andrologia 9, no. 1 (1977): 111-114.
- Etzioni, Amitai. Genetic Fix: The Next Technological Revolution. New York: Harper & Row, 1973.
- Fausto-Sterling, Anne. Myths Of Gender: Biological Theories About Women and Men, rev. ed. New York: Basic Books, 1985.

- Fausto-Sterling, Anne. Sexing The Body: Gender Politics and the Construction of Sexuality. New York: Basic Books, 2000.
- Feng, Chi-Tsai. The Three-Inch Golden Lotus. Translated by David Wakefield. Honolulu: University of Hawaii, 1994.
- Fletcher, John C. "Is Sex Selection Ethical?" Research Ethics, eds., Kare Berg and Knut Erik Tranoy. New York: Alan R. Liss, 1983.
- Fletcher, John C. "Ethics and Amniocentesis for Fetal Sex Identification." Hastings Center Report vol. 10, no. 1 (Feb. 1980): 15-20.
- Friedman, Marilyn. "Autonomy and Social Relationships: Rethinking the Feminist Critique." In Feminists Rethink the Self, ed., Diana Tietjens Meyers. Boulder: Westview, 1997.
- Fugger, E.F., K. Keyvanfar, R. Matken, G.L. Harton, H.J. Stern and K.L. Blauer. "MicroSort® Separation of X- and Y-chromosome bearing sperm: ongoing clinical trial results after intrauterine insemination (IUI), in-vitro fertilization (IVF), and intracytoplasmic sperm injection (ICSI)." In abstracts from the American Society of Reproductive Medicine meeting, October 2001, Orlando, Florida, Fertility and Sterility, September 2001, vol. 76, no. 3S, Abstract O-201, S 76.
- Gilligan, Carol. In A Different Voice: Psychological Theory and Woman's Development. Cambridge: Harvard University Press, 1982.
- Gilligan, Carol. "Is There A Feminine Morality?" Psychology Today, vol. 10, (1982), pp. 21-34.
- Gillon, Raanan. "Ethnography, Medical Practice and Moral Reflective Equilibrium," Journal of Medical Ethics 22 (1996): 259-260.
- Glover, Jonathan. Ethics of New Reproductive Technologies: The Glover Report to the European

- Commission. DeKalb: Northern Illinois University Press, 1989.
- Goldman, Holly S. "Amniocentesis for Sex Selection." Ethics, Humanism, and Medicine, ed., Marc Basson. 1980.
- Griffin, Susan. Pornography and Silence: Culture's Revolt Against Nature. New York: Harper and Row, 1981.
- Grimshaw, Jean. "Autonomy and Identity in Feminist Thinking." In Feminist Perspectives in Philosophy, eds. Morwenna Griffiths and Margaret Whitford. Indianapolis: Indiana University Press, 1988.
- Groenhout, Ruth. Connected Lives: Human Nature and the Ethics of Care. Lanham: Rowman & Littlefield, 2000.
- Elizabeth Grosz. "Nietzsche and the Stomach for Knowledge," in Paul Patton, ed., Nietzsche, Feminism, and Political Theory. London: Routledge, 1993.
- Hanmer, Jalna. "Sex Predetermination, Artificial Insemination and the Maintenance of Male-Dominated Culture." In Women, Health and Reproduction, ed., Helen Roberts. Boston: Routledge & Kegan Paul, 1981.
- Hausfater, Glenn, and Sarah Blaffer Hrdy. Infanticide: Comparative and Evolutionary Perspectives. New York: Aldine, 1984.
- Held, Virginia, ed. Justice and Care: Essential Readings in Feminist Ethics. Boulder: Westview Press, 1995.
- Held, Virginia. Feminist Morality: Transforming Culture, Society, and Politics. Chicago: University of Chicago Press, 1993.
- Held, Virginia. "Feminist Transformations of Moral Theory." Philosophy and Phenomenological Research vol. L, supplement (fall 1990).

- Held, Virginia. Rights and Goods: Justifying Social Action. New York: Free Press, 1984.
- Heyd, David. Genethics: Moral Issues in the Creation of People. Berkeley: University of California Press, 1992.
- Hollerbach, Paula E. "Parental Choice and Family Planning: The Acceptability, Use and Sequelae of Four Methods." In Counseling In Genetics, edited by Y. Edward Hsia, Kurt Hirschhorn, Ruth L. Silverberg, and Lynn Godmilow. New York: Alan R. Liss, 1979.
- Holmes, Helen B. and Betty B. Hoskins. "Prenatal and Preconception Sex Choice Technologies: A Path to Femicide?" In Man-Made Women, ed., Gena Corea. Indianapolis: Indiana University Press, 1987.
- Holmes, Helen B., Betty B. Hoskins, and Michael Gross, eds. The Custom-Made Child? Woman Centered Perspectives. Clifton: Humana Press, 1981.
- Holmes, Helen Bequaert, and Laura Purdy. Feminist Perspectives in Medical Ethics. Indianapolis: Indiana University Press, 1992.
- Holmes, Helen Bequaert. "Reproductive Technologies." In Encyclopedia of Ethics, volume II, ed., by Lawrence C. Becker and Charlotte B. Becker. New York: Garland Publishing, 1992.
- Holmes, Helen Bequaert. Review of Gendercide, by Mary Anne Warren. Bioethics 1 (1987): 100-110.
- Holmes, Helen Bequaert. "Sex Selection, Preconception." In Encyclopedia of Childbearing: Critical Perspectives, ed., Barbara Katz Rothman. Phoenix: Oryx, 1993.
- Holmstrom, Nancy. "A Marxist Theory of Women's Nature." Ethics 94 (April 1984): 456-473.
- Holmstrom, Nancy. "Afterword to 'A Marxist Theory of Women's Nature.'" Unpublished article.

- Holmstrom, Nancy. "Do Women Have a Distinct Nature?" In Women and Values: Readings in Recent Feminist Philosophy ed., Marilyn Pearsall. Belmont: Wadsworth, 1986.
- Holmstrom, Nancy. "Human Nature." In A Companion To Feminist Philosophy, eds., Alison Jaggar and Iris Young. Oxford: Blackwell, 1996.
- Holmstrom, Nancy. "Race, Gender and Human Nature." In Race/Sex: Their Sameness, Difference, and Interplay. New York: Routledge, 1997.
- Hoskins, Betty B., and Helen Bequaert Holmes. "When Not to Choose: A Case Study." Journal of Medical Humanities and Bioethics vol. 6, no. 1 (spring/summer 1985): 28-37.
- Hughes, Dr. Mark. In "60 Minutes," CBS, August 11, 2004.
- Humber, James M., and Robert F. Almeder. Biomedical Ethics Reviews. Clifton: Humana Press, 1985.
- Hunter College Women's Studies Collective. Women's Realities, Women's Choices, 2nd ed. New York: Oxford University Press, 1995.
- India Today. January 31, 1988.
- Imam, Zaka. "India Bans Female Feticide." British Medical Journal 309 (1994): 428.
- Jacobs, Jo Ellen, and Paula Harms Payne, eds. The Complete Works of Harriet Taylor Mill. Indianapolis: Indiana University Press, 1998.
- Jaggar, Alison M. "Human Biology in Feminist Theory: Sexual Equality Reconsidered." In Beyond Domination, ed., Carol C. Gould. Totowa: Rowman and Littlefield, 1984.
- Jayaraman, K. S. "India Bans the Use of Sex Screening Tests." Nature 370, no. 6488 (1994): 320.
- Jayaraman, K. S. "Sex Test Banned." Nature 331 (14 January 1988): 103.

- Jecker, Nancy S. "Towards A Theory of Age-Group Justice." Journal of Medical Philosophy 14 (1989): 655-676.
- Jones, Owen D. "Reproductive Autonomy and Evolutionary Biology: A Regulatory Framework for Trait-Selection Technologies." American Journal of Law and Medicine 19 (1993): 601-642.
- Jones, Owen D. "Sex Selection: Regulating Technology Enabling the Predetermination of a Child's Gender." Harvard Journal of Law and Technology 6 (fall 1992): 1-62.
- Jordan, Miriam. "Among Poor Villagers, Female Infanticide Still Flourishes in India." Wall Street Journal, 9 May 2000, 1.
- Kant, Immanuel. "Of the Distinction of the Beautiful and the Sublime in the Interrelations of the Two Sexes." In Philosophy of Woman: An Anthology of Classic and Current Concepts, 2nd edition, ed., Mary Briody Mahowald. Indianapolis: Hackett, 1983.
- Kant, Immanuel. Groundwork of the Metaphysic of Morals. H.J. Paton, translator. New York: Harper & Row, 1964.
- Karabinus, D., C. Opanga, D. Deresh, S. Wiley, and K. Blauer. "Fertilization Rates and Purity After MicroSortâ Separation of Fresh- or Frozen-Thawed Human Sperm." In abstracts from the American Society of Reproductive Medicine meeting, October 2002, Seattle, Washington, Fertility and Sterility, September 2002, vol. 76, no. 3S, Abstract 100912, pp.0-154.
- Kishwar, Madhu. "The Continuing Deficit of Women in India and the Impact of Amniocentesis." In Man-Made Women, ed., Gena Corea. Indianapolis: Indiana University Press, 1987.
- Kleinig, John. Paternalism. Totowa: Rowman and Allanheld, 1983.

- Kleinig, John. Valuing Life. Princeton: Princeton University Press, 1991.
- Kolata, Gina. "Blood Test for Pregnant Women Appears to Reveal Sex of a Fetus." New York Times, 21 December 1989, p. A1.
- Kolata, Gina. "Fetal Sex Test Used as Step to Abortion." New York Times, 25 December 1988, p. 1.
- Knox, Richard. "Examining Environmental Factors in Sex Ratio." National Public Radio, Morning Edition, July 18, 2005.
- Kumar, Dharma. "Should One Be Free to Choose the Sex of One's Child?" Journal of Applied Philosophy 2, no. 2 (1985): 197-204.
- Kumar, Sanjay. "Legislation on Prenatal Sex-Determination in India." Lancet 344, no. 8919 (6 August 1994): 399.
- Kusum, "The Use of Pre-Natal Diagnostic Techniques for Sex Selection: The Indian Scene." Bioethics 7, no. 2/3 (1993): 149-165.
- Largey, Gale. "Sex Selection." Encyclopedia of Bioethics ed., Warren T. Reich. New York: Free Press, 1978.
- Lauritzen, Paul. Pursuing Parenthood: Ethical Issues in Assisted Reproduction. Indianapolis: Indiana University Press, 1993.
- Lavigne, Shelly. How To Make a Boy or Girl Baby!: Over 60 Tried and True Ways. New York: Dell, 1996.
- Levy, Howard S. The Lotus Lovers: The Complete History of the Curious Erotic Custom of Footbinding in China. Buffalo: Prometheus, 1992.
- Lingam, Laksnmi. "New Reproductive Technologies in India: A Print Media Analysis." Issues in Reproductive and Genetic Engineering vol. 3, no. 1 (1990): 13-21.

- Lublin, Nancy. Pandora's Box: Feminism Confronts Reproductive Technology. Lanham: Rowman and Littlefield, 1998.
- Mackenzie, Catriona. "Imagining Oneself Otherwise." In Relational Autonomy: Feminist Perspectives on Autonomy, Agency and the Social Self, eds., Catriona Mackenzie and Natalie Stoljar. New York: Oxford, 2000.
- Mackenzie, Catriona and Natalie Stoljar. "Introduction: Autonomy Refigured." In Relational Autonomy: Feminist Perspectives on Autonomy, Agency and the Social Self, eds., Catriona Mackenzie and Natalie Stoljar. New York: Oxford, 2000.
- Mackenzie, Catriona and Natalie Stoljar. Relational Autonomy: Feminist Perspectives on Autonomy, Agency and the Social Self. New York: Oxford, 2000.
- Mahoney, John. "The Ethics of Sex Selection." In Medicine, Medical Ethics and the Value of Life, ed., Peter Byrne. New York: John Wiley and Sons, 1990.
- Mahowald, Mary Briody. "Cultural Differences and Sex Selection." In Globalizing Feminist Bioethics, eds., Rosemarie Tong, Gwen Anderson and Aida Santos. Boulder: Westview, 2001.
- Mahowald, Mary Briody. Philosophy of Woman: An Anthology of Classic and Current Concepts. Indianapolis: Hackett, 1983. 3rd edition published in 1994.
- Mahowald, Mary Briody. Women and Children in Health Care; An Unequal Majority. New York: Oxford University Press, 1993.
- Malpani, Aniruddha. "Why Shouldn't Couples Be Free to Choose the Sex of their Baby?" Reproductive Health Matters 10, no. 19 (May 2002): 192-194.

- Mappes, Thomas A., and David DeGrazia. Biomedical Ethics 4th ed. New York: McGraw Hill, 1996. 5th edition published in 2001.
- Mazurkewich, Karen. "Facing One-Child Rule, Chinese Top World in Caesareans." Wall Street Journal, 27 August 2004, 1.
- McGee, Glenn. The Perfect Baby: A Pragmatic Approach to Genetics. Lanham: Rowman & Littlefield, 1997.
- Mill, Harriet Taylor. "The Enfranchisement of Women," 1851, in The Complete Works of Harriet Taylor Mill, eds., Jo Ellen Jacobs and Paula Harms Payne. Indianapolis: Indiana University, 1998.
- Mill, John Stuart. The Subjection of Women. Indianapolis: Hackett, 1988.
- Moen, Elizabeth. "Sex Selective Eugenic Abortion: Prospects in China and India." Issues in Reproductive and Genetic Engineering 4, no. 3 (1991): 231-249.
- Mulkay, Michael. The Embryo Research Debate. New York: Cambridge, 1997.
- Nagl-Docekal, Herta. Feminist Philosophy, translated by Katharina Vester. Boulder: Westview, 2004.
- Network on Reproductive Rights. "Amniocentesis for Sex Determination Banned in Maharashtra." Women's Global Network on Reproductive Rights, (1998): 23.
- Nicholson, Linda. "Interpreting Gender." In Social Postmodernism: Beyond Identity Politics, ed., Linda Nicholson and Steven Seidman. Cambridge: Cambridge, 1995.
- Nicholson, Linda. "Gender." In A Companion To Feminist Philosophy, eds., Alison Jaggar and Iris Young. Oxford: Blackwell, 1996.

- Nussbaum, Martha C. "Public Philosophy and International Feminism." Ethics vol. 108, no. 4 (July 1998) : 762-796.
- Nussbaum, Martha C. Women and Human Development: The Capabilities Approach. New York: Cambridge, 2000.
- Okin, Susan Moller. Women in Western Political Thought. Princeton: Princeton University Press, 1979.
- Overall, Christine. Ethics and Human Reproduction: A Feminist Analysis. Boston: Allen and Unwin, 1987.
- Patel, Vibhuti. "Sex-Determination and Sex Preselection Tests in India: Recent Techniques in Femicide." Reproductive and Genetic Engineering 2, no. 2 (1989): 111-119.
- Perera, Judith. "Sex Seals the Fate of Fetuses in Britain." New Scientist, vol. 113, no. 1544 (22 January 1987): 22.
- Ping, Wang. "Lotus." American Visa: Stories. Minneapolis: Coffee House Press, 1994.
- Plato. The Republic. Translated by Francis MacDonald Cornford. New York: Oxford, 1945.
- Pogrebin, L. C. Growing Up Free: Raising Your Child in the 80's. New York: Bantam, 1981.
- Pomfret, John. "In China's Countryside, 'It's a Boy!' Too Often." Washington Post, 29 May 2001, A01.
- Powledge, Tabitha M., and John Fletcher. "Guidelines for the Ethical, Social and Legal Issues in Prenatal Diagnosis." New England Journal of Medicine 300, no. 4 (25 January 1979): 168-172.
- Purdy, Laura M. Reproducing Persons: Issues in Feminist Bioethics. Ithaca: Cornell, 1996.

- Radford, Jill, and Diana E.H. Russell. Femicide: The Politics of Woman Killing. New York: Twayne/Macmillan, 1992.
- Rawls, John. "Outline of a Decision Procedure for Ethics." In John Rawls: Collected Papers, ed., Samuel Freeman. Cambridge: Harvard University Press, 1999.
- Rawls, John. "The Independence of Moral Theory." In John Rawls: Collected Papers, ed., Samuel Freeman. Cambridge: Harvard University Press, 1999.
- Rawls, John. A Theory of Justice. Cambridge: Belknap of Harvard University Press, 1971.
- Raymond, Janice G. Women As Wombs. San Francisco and New York: Harper, 1993.
- Rhodes, Rosamond. "Acceptable Sex Selection: Comments on John Robertson's Preconception Sex Selection." American Journal of Bioethics 1, no. 1 (2001): 31.
- Riley, Nancy E. "China's Population: New Trends and Challenges." Population Bulletin 59, no. 2 (June 2004): pp. 3-36.
- Robertson, John. "Preconception Gender Selection." American Journal of Bioethics 1, no. 1 (winter 2001): pp. 2-9.
- Rorty, Amelie and Richard Wong. "Aspects of Identity and Agency." In Identity, Character, and Morality: Essays in Moral Psychology, eds., Amelie Rorty and Owen Flanagan. Cambridge: MIT Press, 1990.
- Rorvik David M., with Landrum B. Shettles. Your Baby's Sex: Now You Can Choose. New York: Bantam, 1971.
- Rorvik, David M. Brave New Baby. Garden City: Doubleday, 1971.

- Rose, Hilary. "Victorian Values in the Test-Tube: The Politics of Reproductive Science and Technology." In Reproductive Technologies: Gender, Motherhood and Medicine, ed., Michelle Stanworth. Minneapolis: University of Minnesota Press, 1987.
- Rosenthal, Elisabeth. "School A Rare Luxury for Rural Chinese Girls." New York Times, 1 November 1999, 1.
- Rothman, Barbara Katz. The Tentative Pregnancy: How Amniocentesis Changes the Experience of Motherhood. New York: W. W. Norton & Company, 1993.
- Rowland, B. Medieval Guide To Women's Health. Kent: Kent State University Press, 1981.
- Rowland, Robyn. "Motherhood, Patriarchal Power, Alienation and the Issue of 'Choice' in Sex Preselection." In Man-Made Women, ed., Gena Corea. Indianapolis: Indiana University Press, 1987.
- Rowland, Robyn. Living Laboratories: Women and Reproductive Technologies. Bloomington: Indiana University Press, 1992.
- Ryan, Maura A. "The Argument for Unlimited Procreative Liberty: A Feminist Critique." Hastings Center Report vol. 20, no. 4, (July/Aug. 1990): pp.
- Schaffir, Jonathan. "What Are Little Boys Made Of? The Never-Ending Search for Sex Selection Techniques." Perspectives in Biology and Medicine vol. 34, no. 4 (summer 1991).
- Schmickel, Roy. "Determination of Sex by Amniocentesis for the Purpose of Sex Selection." In Ethics, Humanism, and Medicine, edited by Marc Basson. New York: John Wiley & Sons, 1980.
- Schwarzenbach, Sibyl A. "Women and Constitutional Interpretation: The Forgotten Value of Civic Friendship." In Women And The United States

- Constitution: History, Interpretation, and Practice, eds., Sibyl A. Schwarzenbach and Patricia Smith. New York: Columbia University Press, 2003.
- Sen, Amartya. "Missing Women." British Medical Journal 304, no. 6827 (7 March 1992): 587-588.
- Sen, Amartya. "More Than 100 Million Women are Missing." New York Review of Books, 37, 20 December 1990, 61-66.
- "Sex Test Banned," K. S. J. Nature. 331, 14 January 1988.
- Shanthi, K. "Feminist Bioethics and Reproductive Rights of Women in India." In Linking Visions: Feminist Bioethics, Human Rights, and The Developing World, ed., by Rosemarie Tong, Anne Donchin and Susan Dodds. New York: Rowman & Littlefield, 2004.
- Shenon, Philip. "A Chinese Bias Against Girls Creates Surplus of Bachelors." New York Times, 16 August 1994, p. A1.
- Sherwin, Susan. "A Relational Approach to Autonomy in Healthcare." In The Politics of Women's Health: Exploring Agency and Autonomy, ed., The Feminist Health Care Ethics Research Network. Philadelphia: Temple University Press, 1998.
- Sherwin, Susan. No Longer Patient: Feminist Ethics and Health Care. Philadelphia: Temple University Press, 1992.
- Sherwin, Susan, *et al.* The Politics of Women's Health. Philadelphia: Temple University Press, 1998.
- Sherwin, Susan, *et al.* "Introduction." In The Politics of Women's Health: Exploring Agency and Autonomy, ed., The Feminist Health Care Ethics Research Network. Philadelphia: Temple University Press, 1998.
- Silverman, A.Y., Scott A. Ericsson, *et al.* "Female Sex Selection Using Clomiphene Citrate and

- Albumin Separation of Sperm." Human Reproduction 17 (May 2002): 1254-1256.
- Silverman, Mara, as told to Gillian Silverman. "Surprise Delivery." New York Times Magazine, 2 November 2003 p. 84.
- Singer, Peter, and Deane Wells. The Reproduction Revolution: New Ways of Making Babies. New York: Oxford University Press, 1984.
- Solomon, Wm. David. "Double Effect." In Encyclopedia of Ethics, ed., Lawrence C. Becker and Charlotte B. Becker. New York: Garland, 1992.
- Sorenson, James R., and Judith P. Swazey. "Sex and the Single Chromosome: Rights and Obligations in the Uses of Genetic Technology." In Genetics and the Law II, ed., Aubrey Milunsky and George J. Annas. New York: Plenum Press, 1980.
- Stamberg, Susan. "China's Female Population Numbers Continue to Shrink." National Public Radio, All Things Considered, 18 July 2004.
- Stanley, Kevin M. "Moral Issues and Public Policy Concerns Surrounding Sex Preselection." Logos 9 (1988): 193-213.
- Stanley, Kevin M. "The Fear of Sex Preselection: Unwarranted or Justified?" International Journal of Applied Philosophy 4, no. 3 (1989): 15-29.
- Statham, Green, Snowden, and France-Dawson. "Choice of Baby's Sex." Lancet 341 (1993): PAGE.
- Steinbacher, Roberta, and Helen B. Holmes. "Sex Choice: Survival and Sisterhood." In Man-Made Women, ed., Gena Corea. Indianapolis: Indiana University Press, 1987.
- Steinbacher, Roberta. "Sex Preselection: From Here to Fraternity." In Beyond Domination, ed., Carol C. Gould. Totowa: Rowman and Littlefield, 1984.
- Steinberg, D. Jeffrey. In "60 Minutes," CBS, 11 August 2004.

- Steinbock, Bonnie. "Sex Selection: Not Obviously Wrong." Hastings Center Report 32, no. 1 (Jan./Feb. 2002): 23-30.
- Stern, H., S. Wiley, R. Matken, D. Karabinus, and K. Blauer. "Microsortâ Babies: 1994-2002 Preliminary Postnatal Follow-up Results." In abstracts from the American Society of Reproductive Medicine meeting, October 2002, Seattle, Washington, Fertility and Sterility, Sept. 2002, Vol. 76, No. 3S, Abstract 100939, p. 54.
- Strong, Carson. Ethics in Reproduction and Perinatal Medicine: A New Framework. New Haven: Yale University Press, 1997.
- Swinbanks, David. "Gender Selection Sparks Row." Nature 321, no. 6072 (19 June 1986): 720.
- Tanne, Janice Hopkins. "Home Test Shows Sex of Fetus at Five Weeks of Pregnancy." British Medical Journal 331, (13 July 2005): 69.
- "The Today Show." NBC. June 17th, 2005.
- Tong, Rosemarie. Feminist Approaches to Bioethics: Theoretical Reflections and Practical Applications. Boulder: Westview, 1997.
- Tooley, Michael. Abortion and Infanticide. New York: Oxford, 1983.
- Toon, Peter D. "Daughters, Doctors and Death: BBC 2 Assignment: 'Let Her Die.'" British Medical Journal 307, no. 6908 (October 2, 1993).
- United Kingdom's Parliamentary Office of Science and Technology. "Sex Selection." Postnote, July 2003, no. 198, p. 4.
- Waldron, Jeremy. "A Right to Do Wrong." In Jeremy Waldron, Liberal Rights: Collected Papers 1981-1991, ed., Douglas MacLean. New York: Cambridge University Press, 1993.

- Walzer, Michael. Spheres of Justice. New York: Basic Books, 1983.
- Warnock, Mary. Review of Fertility and the Family: The Glover Report on Reproductive Technologies to the European Commission by Jonathan Glover, et. al. Bioethics 4 (1990): 169-170.
- Warren, Mary Anne. "A Reply to Holmes on Gendercide." Bioethics 1 (1987): 189-198.
- Warren, Mary Anne. Gendercide: The Implications of Sex Selection. Totowa: Rowman & Allanheld, 1985.
- Weisman, Steven R. "No More Guarantees of a Son's Birth: An Indian State Bans Fetal Tests Aimed at Aborting Girls." New York Times, 20 July 1988, p. A1.
- Weisman, Steven R. "State in India Bars Fetus-Sex Testing." New York Times, 20 July 1988, p. A3.
- Weiss, Gail. "Sex Selective Abortion: A Relational Approach." In Feminist Ethics and Social Policy, eds., Patrice DiQuinzio and Iris Marion Young. Indianapolis: Indiana University Press, 1997.
- Wertz, Dorothy C. "Sex Selection." In Encyclopedia of Bioethics, ed., Warren T. Reich. New York: Macmillan, 1995.
- Wertz, Dorothy C., and John C. Fletcher. "Sex Selection Through Prenatal Diagnosis: A Feminist Critique." In Feminist Perspectives in Medical Ethics, eds., Helen Bequaert Holmes and Laura M. Purdy. Indianapolis: Indiana University Press, 1992.
- Wertz, Dorothy C., and John Fletcher. "Fatal Knowledge? Prenatal Diagnosis and Sex Selection." Hastings Center Report 19, no. 3 (May/June 1989): 21-27.
- Wertz, Dorothy C., and John Fletcher. "Moral Reasoning Among Medical Geneticists in Eighteen Nations." Theoretical Medicine 10, no. 2 (June 1989): 123-138.

- Whelan, Elizabeth. Boy or Girl? New York: Pocket Books, 1977.
- Williams, George C. The Pony Fish's Glow. New York: Basic Books, 1997.
- Williamson, Nancy E. "Parental Sex Preferences and Sex Selection." In Sex Selection of Children, ed., Neil G. Bennett. New York: Academic Press, 1983.
- Williamson, Nancy E. Sons Or Daughters: A Cross Cultural Survey of Parental Preferences. Beverly Hills: Sage Publications, 1976.
- Wittig, Monique. "One Is Not Born A Woman." In The Second Wave; A Reader in Feminist Theory, ed., Linda Nicholson. New York: Routledge, 1997.
- Yardley, Jim. "Fearing Future, China Starts to Give Girls Their Due." New York Times, 31 January 2005, A3.
- Young, J. Martin. How to Have a Girl: A Step-by-Step Guide to Scientifically Maximize Your Chances of Conceiving a Daughter. Amarillo, TX: Young Ideas, 1995.