



PHILOSOPHY AND THEOLOGY

This reflection takes up recent literature on sex selection of children, especially by abortion, and the right of children to be loved. Many pro-choice advocates hold that sex-selective abortion (SSA) is morally problematic, if not impermissible. Many arguments against sex-selective abortion, like those presented below by J.M. Milliez in “Sex Selection for Non-Medical Purposes” (*Reproductive Medicine Online*, February 2007) only make sense on the implicit assumption that the human fetus is a person with rights, but this premise renders problematic not just sex-selective abortion but abortion generally. Wishing to avoid this implicit assumption, Wendy Rogers, Angela Ballantyne, and Heather Draper in their article “Is Sex-Selective Abortion Morally Justified and Should It Be Prohibited?” (*Bioethics*, November 2007) provide several arguments that sex-selective abortion is wrong, without endorsing (even implicitly) the intrinsic value of the human fetus as female or male. This approach, I will argue, is problematic. A better approach to the question of the moral permissibility of sex-selective abortion, and abortion generally, can be found in S. Matthew Liao’s article “The Right of Children to Be Loved” (*Journal of Political Philosophy*, December 2006) on the right of children to receive the unconditional love of their parents.

Sex selection can occur in three ways: prior to conception by sperm separation, after conception but before implantation through genetic diagnosis of IVF embryos, and after implantation by abortion. In a consideration of sex selection outside the context of genetically sex-linked diseases, Milliez notes in his article that the first “technique [i.e., sperm separation] raises very few ethical objections. . . . In 2001, the Ethics Committee of the American Society for Reproductive Medicine (ASRM) considered that, in the absence of robust arguments in favor of any potential harm, preconception sex selection was not hazardous and therefore any ban would be unjustified” (114).

Less ethical consensus exists about sex selection after conception through selection and implantation of only male (or female) embryos. Some defend it as an

exercise of “procreative liberty,”¹ but others condemn it as discrimination against gender equality.² This sex selection by pre-implantation genetic diagnosis is forbidden by law in India, South Australia, Canada, the United Kingdom, and ten other European countries.

The third technique of sex selection is most widespread and the most condemned—abortion of the male or female fetus sometime into pregnancy. Detection and eradication of the developing female (or male) fetus can occur quite early in pregnancy. “A single blood sample is sufficient to recognize the embryo as male or female as early as the first weeks of pregnancy, enabling the elimination of any embryo of undesirable sex with an anti-progesterone medication. However, this method is strictly restricted to the screening of sex-linked genetic disorders or the management of Rhesus immunization. Its use for sex selection for personal convenience is unanimously banned” (Milliez, 115).

Unanimously banned is not accurate, as abortion for sex selection remains legal in many places, among them the United States and Canada, where abortion is legal for any reason. It is true, however, that many people who describe themselves as pro-choice nevertheless oppose sex-selective abortion. “Nearly all societies of reproductive medicine, including the American College of Obstetricians and Gynecologists . . . , are opposed to sex-selection abortion” (Milliez, 116). However, from a pro-choice perspective, there is some difficulty in explaining why fetal killing for gender preference should be wrong. Indeed, some of the arguments given for condemnation of sex-selective abortion would seem to apply equally to sperm separation or pre-implantation selection, which is often defended on grounds of reproductive liberty. Other arguments against sex-selective abortion apply equally to all kinds of abortion. Of course, it is consistent simply to say that *any* abortion, chosen for *any* reason including wanting not to give birth to a girl, is ethically permissible, but relatively few people who call themselves pro-choice embrace this consistent position.

In their article, Rogers, Ballantyne, and Draper provide several arguments that sex-selective abortion is wrong, a view that many think is compatible with a general defense of abortion. They therefore accept the “argument that we should try to understand women’s decision to use SSA and empathize with the unjust choice they are forced to make, without accepting that the practice itself is morally justified” (522).

Their first argument concludes that sex-selective abortion is wrong because, on either a broad or a narrow interpretation of autonomous choice, sex-selective abortion practiced in countries with a strong preference for a son is not an autonomous choice. Society puts tremendous pressure on women to have male children, thereby undermining the preferences they would otherwise have.

¹A. Malpani, A. Malpani, and D. Modi, “Preimplantation Sex Selection for Family Balancing in India,” *Human Reproduction* 17.1 (January 2002): 11–12. Ethics Committee of the American Society for Reproductive Medicine, “Preconception Gender Selection for Nonmedical Reasons,” *Fertility and Sterility* 75.5 (May 2001): 861–864.

²J. Savulescu, “Sex Selection: The Case For” *Medical Journal of Australia* 171.7 (October 1999): 373–375.

The first thing to note is that sex-selective abortion is not considered wrong in itself by these authors, but only wrong in the circumstances of a certain cultural context. They simply do not consider the ethics of someone, for example, in Indiana who aborts a boy because of a preference for a girl. What would or would not count as the relevant “cultural context” is similarly not taken up. What if you were from India but now live in Indianapolis? What if you split time between both places and are, by birth and heritage, multicultural? It seems odd to hinge the ethics of killing human beings prior to birth on cultural context.

Second, the suppressed premise in the argument seems to be that whatever is not an autonomous choice is morally wrong.³ Rogers, Ballantyne, and Draper give no argument for this premise. If the premise were accepted, it would be the case that many abortions as now performed in the United States (not just sex-selective abortion in India or China) are morally wrong because they are not freely chosen by women but rather only submitted to under pressure from other people.⁴

The authors also appeal to other considerations in condemning sex-selective abortion: “A second and separate reason why SSA is morally unjustified relates to the harms that attach to the practice. These include perpetuation of discrimination against women, disruption to social and familial networks, and increased violence against women” (522).

First, there is an appeal to justice, a justice violated by discrimination. Milliez registers this objection to sex-selective abortion seemingly on behalf of the female fetus herself: “Elimination of girls is philosophically and morally unacceptable if perceived as a gender discrimination practice contrary to the principle of equality and in conflict with Kant’s moral [teaching] and the notion that all children must be considered as an end, not as a means” (117). Likewise, the International Federation of Gynecology and Obstetrics issued a statement, reproduced in Milliez’s article, which expressed “concerns about the selection for children with presumed gender characteristics desired by their parents rather than being an end in and of themselves” (116). Sex-selective abortion is wrong because it is a form of unjust discrimination.

The question is, against whom is this unjust discrimination practiced? Given a denial of fetal personhood, the discrimination in question cannot be against the human fetus herself or himself. Discrimination is only problematic when practiced against persons who merit equal and just treatment. To discriminate between non-persons—plucking the red roses but leaving the white, for example—is not ethically

³It is unclear whether Rogers, Ballantyne, and Draper are addressing the objective morality of the act or the subjective responsibility of the agent. I have assumed here that they are addressing the former, since they, as the title of the article suggests, primarily addresses the question of whether sex-selective abortion is morally justified and should be prohibited. If the point is simply that those who choose sex-selective abortion in certain contexts are coerced into choices they would rather not have made, then their point is not controversial, or limited to sex-selective abortion.

⁴For evidence for this empirical claim, see for example, the literature cited at “Abortion is the Unchoice,” <http://www.unfairchoice.info/pblresearch.htm>.

problematic in itself, since these plants do not have rights nor merit equal respect as persons. Since the human fetus is not considered a person on the typical pro-choice view, concerns about discrimination against the human fetus should not be relevant in considering actions taken against humans prior to birth.

However, if the male or female fetus is a person, then not just sex-selective abortion, but abortion in general becomes problematic. Taken at face value, the quotation from Milliez renders all abortion morally condemnable: "All children must be considered as an end, not as a means" (117). On the other hand, if abortion in general does not end the lives of "girls" and "children," to use Milliez's language, then sex-selective abortion cannot be problematic on this ground. The pro-choice view generally is that we can accord women the respect they deserve as ends in themselves without extending this respect to female human beings in utero. Obviously, if all human females (and males) merit respect as ends in themselves regardless of age or state of dependence, then not just sex-selective abortion but all abortion is problematic. On the other hand, if the female fetus is not a person, then presumably one can respect the rights of adult female human beings and nevertheless kill fetal female human beings.

Rather than appeal to discrimination against the fetus herself, Rogers, Ballantyne, and Draper ground the wrongness of sex-selective abortion in terms of its perpetuating discriminatory views, such as that girls are worthless burdens whose births should be prevented. As such, sex-selective abortion is viewed as a discriminatory and oppressive practice that fails to accord women the respect they deserve (522).

Given current cultural milieus, this rationale covers not sex-selective abortion of males, but only of females. In addition, no developed account is given for the questionable assumption that sex-selective abortion perpetuates discriminatory views which negatively affect women and girls in society. Indeed, some have suggested that widespread sex-selective abortion of females prior to birth would seem not to *decrease* the value of women but rather to *increase* their perceived value. In the words of Milliez, "The profound gender imbalance [in India and China] has led to a dramatic scarcity of girls, who are now regarded as most valuable" (115). Of course, a sound understanding of the human person would not accord value to him or her in terms of being wanted or unwanted by others, but rather would recognize the intrinsic value of all human beings. Human beings should not be valued according to the laws of supply and demand ("being wanted") as if they were commercial goods, but rather should be valued for their inherent dignity. But this premise leads to a condemnation of abortion generally.

Finally, Rogers, Ballantyne, and Draper appeal to the bad consequences of sex-selective abortion: "Further harm from SSA lies in the resultant severe imbalance in the sex ratio, leading to millions of men being unable to find a partner and found a family. ... The likely social effects are thought to include increased criminal behavior and social disruption with banditry, violence and revolutions historically more common in areas with large numbers of excess males" (522).

I believe that it is correct that sex-selective abortion as practiced in India and China harms those societies. But the defender of abortion must be careful not to rely too heavily on the premise that sex-selective abortion is wrong and may be outlawed

on this basis. Evidence has been adduced that abortion generally is harmful to society: psychologically, physically, and socially harmful to the women who undergo abortions and harmful to the culture that allows its weakest and most vulnerable members to be terminated by private force.⁵ Given this evidence, not just sex-selective abortion but also abortion for other reasons violates the common good.

However, some defenders of abortion appeal to the good of society in justifying abortion, arguing that abortion reduces population and thereby promotes the common good. Given these assumptions, sex-selective abortion of females would be particularly good for society, since a disproportionate reduction in females limits population much more effectively than an equal reduction of male and female. One male can father virtually limitless numbers of children, but each woman can only bear relatively few. Women are the limiting factor in reproduction. Since one man can father more children in a month than any woman could bear in an entire lifetime, the most effective way to reduce population is to reduce the number of women.

A final reason given to oppose sex-selective abortion is that it leads to an increase in violence against women. Rogers, Ballantyne, and Draper admit that this connection is based on merely anecdotal evidence. However, even if sex-selective abortion does increase the likelihood of violence against women, evidence has also been given that abortion generally is connected with increased violence against women.⁶ Thus, the rationale given to condemn sex-selective abortion may apply equally to abortion undertaken for other reasons.

Many of these consequences would arise equally from the non-existence of adult women from the other forms of sex selection such as sperm separation or implantation of IVF embryos of the desired sex. If aborting a female perpetuates discriminatory views about women, why would sperm selection to preclude conception of a female be any different? If disruption of gender balance alone is decisive for condemnation of sex-selective abortion, why does it matter if this imbalance arises because of sperm separation or sex-selective abortion? As noted earlier, many individuals and groups hold that sex selection prior to conception is morally unproblematic, but the societal ills recognized by Rogers, Ballantyne, Draper and others also would also take place if the gender imbalance occurred through sperm separation.

In his article “The Right of Children to Be Loved,” Liao considers the question of the ethics of sex selection. He argues that it is not mere rhetoric but a matter of justice that children receive love from others. Love can be commanded, and to love another can be a moral duty. Further, he proposes that this right of a child to be loved is a human right. Children need to be loved to develop essential capacities that they need for a good life. Liao writes,

⁵See Thomas W. Strahan, ed., *Detrimental Effects of Abortion: An Annotated Bibliography With Commentary*, 3rd ed. (Springfield, IL: Acorn Publishing, 2001); and Robert Spitzer, *Healing the Culture: A Commonsense Philosophy of Happiness, Freedom and the Life Issues* (San Francisco: Ignatius Press, 2000).

⁶See Strahan, *Detrimental Effects*, sections 3.38–3.43.

Human beings have rights to those conditions that are . . . essential for a good life. As human beings, children therefore have rights to those conditions that are . . . essential for a good life. Being loved is a condition that is . . . essential for children to have a good life. Therefore, children have a right to be loved. To explicate this argument, let me begin by characterizing the kind of love at issue, namely, parental love, which has the following characteristics: To love a child is to seek a highly intense interaction with the child, where one values the child for the child's sake, where one seeks to bring about and to maintain physical and psychological proximity with the child, where one seeks to promote the child's well-being for the child's sake, and where one desires that the child reciprocate or, at least, is responsive to, one's love. One important feature of parental love is valuing the child for the child's sake. As a child psychologist Mia Pringle argues: "The basic and all-pervasive feature of parental love is that the child is valued unconditionally and for his own sake, *irrespective of his sex*, appearance, abilities or personality; that this love is given without expectation of or demand for gratitude." (422, emphasis added)

Liao's argument is quite important for a number of reasons. First, he provides a philosophical rationale for a right to be loved that is asserted in a number of international declarations, but seldom argued for. Second, if his argument is correct, it may cause some difficulties for defenders of Judith Jarvis Thompson's violinist argument for abortion. In the violinist argument, the personhood of the human fetus is not denied, but what is denied is a duty of responsibility of the mother to promote the well-being of her child.⁷ However, if parents do have duties to their children, these duties may include gestation of the children prior to birth. In contrast to Thompson, who posits that the first stages of motherhood are like being hooked up to an unrelated, adult violinist, Liao provides reasons to believe that a mother (or father) does have duties toward their own children. Finally, the duty of parents to love their children, and to value them irrespective of their sex, indicates perhaps the primary reason why sex-selective abortion and abortion generally are morally wrong. Liao's important work on this topic, as well as his writing on a variety of other subjects, merits careful attention.

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⁷For more on this argument, see Christopher Kaczor, "The Violinist and Double Effect Reasoning," *National Catholic Bioethics Quarterly* 6.4 (Winter 2006): 661–669.