Betting on Pink or Blue? Ethics of Sperm Sorting for Sex Selection

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Can timing, frequency and the position of intercourse increase your likelihood of having a baby girl?¹ Can utilizing Feng Shui help raise your chances of have a baby boy?² There are a host of advertisements on the internet promising to increase the odds of having a baby of a specific gender, but this is nothing new. Throughout history, people have long sought to influence the sex of their babies.³ Common motivations for sex selection include family balancing and wanting offspring of a “culturally preferred gender” so that the financial status of a family is improved.⁴ Methods of sex selection have also varied from the methods and timing of intercourse, to abortion.⁵ However, only recently have medical technologies made it possible to increase the odds of determining the sex of babies prior to birth.⁶

There are many ways to increase the chances of choosing a baby’s sex prior to pregnancy.⁷ However, the majority of these procedures were developed for the treatment of infertility or the prevention of genetic illnesses.⁸ A new method of sex selection, used before eggs are fertilized, is sperm sorting. The technique separates the X and Y chromosome sperm.⁹ A clinical trial of a sperm sorting technology, Microsort, is underway in Fairfax, Virginia.¹⁰ Fluorescent dye is added to the sperm which are then hit with a laser beam that illuminates the dyed DNA.¹¹ The sperm that carries an X chromosome (girl), often glows brighter than sperm carrying a Y chromosome (boy).¹² The technology has so far proven to be 88% successful for those desiring a girl and 73% successful for those desiring a boy.¹³ The American Society of Reproductive Medicine (ASRM) takes a relaxed view of sperm sorting because it is noninvasive and does not involve discarding embryos of the unwanted sex.¹⁴ They conclude that “sex selection aimed at increasing gender variety in families may not so greatly increase the risk of harm to children, women or society that its use should be prohibited or condemned as unethical in all cases.”¹⁵

⁴ Id.
⁵ Id., supra note 3.
⁶ Id.
⁸ Id.
¹¹ Sutton, supra note 9; see also Microsoft Technology, http://www.microsoft.net/technology.php
¹² Sutton, supra note 9.
¹⁵ Id. at 861.
Although sperm sorting is not as controversial as Preimplantation Genetic Diagnosis (PGD), another method of sex selection, it still raises ethical issues. The use of the technology raises a concern that children who are born as a result of gender selection may be expected to act according to gender specific stereotypes. Sex selection also poses the danger of emphasizing a person’s “genetic characteristics” rather than focusing on their “inherent worth.” Some opponents also worry that sex selection could lead to situations similar to China and India where an imbalance in the ratio between men and women occurred. China’s one child policy is projected to result in an excess of fifteen million males in less than fifteen years. In India, preferences for boys led to the use of ultrasounds for prenatal selection resulting in the widespread abortion of female fetuses. These gender imbalances are predicted to result in millions of men who are not able to find wives, which could lead to social instability. However, John Robertson, professor of law and bioethics at the University of Texas, doubts that Americans would utilize this technology in such a way that it would alter the sex ratio in the United States where there is currently no overwhelming preference for either girls or boys.

There is also a concern that sex selection may result in psychological harm to children because of the high expectations placed on them. For example, psychological harm may result if a child is treated with preference or prejudice to fit parental expectations, or if existing children are preferred or neglected. There is also a risk that when sex selection is not successful, offspring of the undesired gender might suffer the consequences of their parents’ disappointment. According to Angela M. Sutton, while use of sperm sorting technologies to prevent sex-linked diseases is acceptable, sex selection for non-medical reasons is problematic as “it involves a failure to accept the child-to-be as a gift.” Sutton suggests that a child’s dignity is diminished when he or she is designed according to the wishes of his or her parents instead of viewed as a “gift from God.” Sutton concludes that unless sex selection is used only for medical purposes such as the circumvention of “sex-linked disease, those who go down the path

16 Id; see also Preimplantation Genetic Diagnosis, http://www.pregnancy-info.net/infertility_pgd.html (PGD is controversial because embryos of the unwanted sex are frozen or discarded and the procedure itself is highly invasive).
17 Id.
18 Id.
19 Id.
20 Grady, supra note 7.
24 Ethics Comm., supra note 14 at 862.
26 Id.
27 Sutton, supra note 9.
28 Id.
of sex selection will embark along a slippery slope towards ever more parental demands for children of a particular type."\(^{29}\)

On the other hand, some believe that giving people an option to choose to use sperm sorting technology, even for non-medical purposes, is a positive step. An argument in favor of using sperm sorting to achieve sex selection is that it has the potential to help couples that have a desire to conceive a child of a particular gender who might otherwise abort their children or use techniques that dispose of unwanted embryos.\(^{30}\) While some may argue that simply wanting a child of a particular sex does not justify the use of this technology, those advocating choice argue that individuals should have a choice in reproductive matters so long as their choices do not harm others.\(^{31}\) According to Lisa Belkin, “reproductive technology is about control” and the option to use the technology enables people to have more power over their lives.\(^{32}\) Belkin agrees with critics that the use of technology to pick your child’s gender may be selfish, but she argues that having children itself is just as selfish.\(^{33}\) She suggests that desiring to have a child is no different than desiring to have a child of a particular sex.\(^{34}\) Belkin states “we have them [children] because we have a vision of life as we wish it to be, and we set out to fulfill that vision.”\(^{35}\) While she does not dismiss that the fact that sperm sorting technology raises ethical issues, Belkin argues that the technology may also be used to solve problems.\(^{36}\) Belkin contends that the use of sperm sorting technology is the lesser of two evils and points out that if the technology were available in India, it could have prevented the abortion of thousands of female fetuses.\(^{37}\)

The ASRM states that it may be acceptable for couples to utilize sperm sorting for medical uses and to achieve “gender variety in a family, i.e. to have a child of the opposite gender of an existing child or children,” so long as the clinical trials prove the technique to be safe and effective.\(^{38}\) The ASRM also recommends that families should (1) be informed of the risks that the procedure may fail (2) confirm that they will accept children of the unwanted sex if the procedure fails (3) receive counseling so that they do not develop unrealistic expectations about how children of the preferred gender should act and (4) be offered the chance to participate in research that will help monitor the effectiveness and safety of sperm sorting.\(^{39}\)

\(^{29}\) Id.

\(^{30}\) Ethics Comm., supra note 14 at 862

\(^{31}\) Id.


\(^{33}\) Id.

\(^{34}\) Id.

\(^{35}\) Id.

\(^{36}\) Id.

\(^{37}\) Id.

\(^{38}\) Ethics Comm., supra note 14 at 863-864.

\(^{39}\) Id.
While the use of sperm sorting technology for sex selection poses ethical questions, its usage is on the rise. 40 Little momentum has been made in regulating Assisted Reproductive Technologies in the United States and future comprehensive regulation of sex selection is unlikely. 41 In this environment where personal choice trumps regulatory safeguards, consumers of sex selection technologies need to be vigilant about informing themselves of the risks and consequences of utilizing these technologies.


41 Id.