



POSITION

WRITTEN BY: **WeNeed** a Law



WE NEED A *Sex Selective* ABORTION LAW

A sex selective abortion is the intentional termination of a pregnancy based upon the predicted sex of the pre-born child.

Sex selective abortion is a blow to gender equality as it devalues a pre-born child based on his or her sex. Just as our law prohibits this type of discrimination in areas like employment and services,¹ and as equality between the sexes is enshrined in the *Canadian Charter of Rights and Freedoms*,² so our law should prohibit the discriminatory practice of sex selective abortion. We cannot as a country claim to strive for gender equality while ignoring discrimination that occurs at the earliest stages of life.

Sex selective abortion against either males or females is wrong and discriminatory. But this topic cannot be removed from the international context of the well over 100 million missing girls due to sex selective abortions.³ While there are male pre-born children who lose their lives to sex selective abortion, the focus of this paper is on female pre-born children, as there is no doubt that the majority of sex selective abortions around the world target females. Sex selective abortion makes victims of women at every age – the pre-born baby girls who lose their lives as well as the born women who suffer the indirect consequences of gender inequality.⁴

SEX SELECTIVE ABORTION IS NOT TIED TO A SPECIFIC CULTURE, GEOGRAPHY, OR TRADITION

It is commonly acknowledged around the world that sex selection is an issue – one that has dire consequences if it goes unaddressed. The United Nations Population Fund explains that an estimated “126 million women and girls were missing in 2010 due to gender-biased sex selection.”⁵ But they stop the sentence before the key word.

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These women and girls are missing due to sex selective **abortions**. Sex selection happens because of and through abortion. It is not a vague “sex selection” that is at issue. It is sex selective **abortion**.

Rather than tackle this thorny issue, groups like the United Nation Population Fund focus on specific cultural traditions that lead to an undervaluing of women. This attempt to skirt the issue ignores the fact that sex selective abortion is not tied to a specific culture, geography, or tradition. Numerous countries around the world are exhibiting an imbalanced sex ratio. Mara Hvistendahl, in her Pulitzer Prize winning book *Unnatural Selection*, notes that “sex selection happened among Hindus, Muslims, and Christians; among ethnic and political rivals; in economic powerhouses and in countries just on the cusp of development.”⁶ Sex selective abortions may sometimes correlate with other sexist practices, but sex selection always correlates with readily available abortions. You cannot address sex selective abortion by only addressing other sexist practices. It needs to be called out for what it is.

This is further evidenced by the fact that, while often thought of as a South-East Asian problem, sex ratio imbalances have been found in other countries with very different cultures. Looking into the Southern Caucasus countries of Armenia, Azerbaijan and Georgia researchers found imbalanced sex ratios and explicitly disputed the simplistic blaming of sexism, pointing out that, “[d]espite similar social organization, only the Southern Caucasus societies practice [sex selective abortion] so far, and not other nearby societies with a similar social endowment.”⁷

Sex selective abortions happen because abortions are chosen based on the sex of the pre-born child, and because doctors agree to do these abortions. This cannot be explained away as a symptom of sexism in a culture, and it won’t change by generic gender equality educational initiatives. It needs to be addressed head on. We need laws declaring that sex selective abortion is wrong.

THIS IS A UNITING ISSUE

This is a cause that unites us. And we call on all feminist and gender equality groups to join us in condemning the use of abortion for sex selection. While we oppose abortion and these groups may promote it, we should still be able to stand side by side against sex selective abortion, as we both have an interest in standing against gender inequality. And yet, many pro-choice feminist groups have been quiet on this issue. Hvistendahl notes their difficulty: “After decades of fighting for a woman’s right to choose the outcome of her

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own pregnancy, it is difficult to turn around and point out that women are abusing that right.”⁸ This silence needs to end. An act that actively discriminates against women cannot simultaneously be a positive step for women. And we can never achieve true gender equality if we ignore the problem of women choosing sex selective abortion.

It is well documented around the world that women have chosen, and do choose, sex selective abortions. There are a small percentage of cases where a woman is coerced into a sex selective abortion, but even in countries with high sex ratio imbalances, women have a great deal of control over this choice. Hvistendahl notes that “[a]cross China and India, across South Korea and Vietnam and Azerbaijan, the decision to abort is most often made by a woman.”⁹ In Canada, it is women who must by law consent to have an abortion. It is deeply rooted in our culture that this is the woman’s choice, regardless of what others in her life desire. It is women who choose to have sex selective abortions.

While this may shock our preconceived notions on this issue, it is useful to mention what we know about sex selective abortion. It is not a complete rejection of having daughters. In fact, the sex ratios at birth show no variation when it comes to firstborn children. It is the third- and fourth-born children where we begin to see skewed ratios, especially after a reported induced abortion.¹⁰ Daughters are welcomed, but families will turn to sex selective abortion in hopes of having at least one son while they will not do the same for a daughter.

This is hardly the overt sexism we associate with the issue. This presents a much more insidious, relatable picture: a family expecting a third daughter, choosing to abort in favour of trying again for a son. There is likely no contemplation regarding what the implications their decision has on the sex ratio or to our culture’s pursuit of gender equality.

When choosing a sex selective abortion, parents likely never connect their choice to what it says about gender equality in Canada. They likely never realize that the way they value one female impacts the way that all women are valued. This is why this issue needs to be brought to light and addressed. We need a national conversation with all Canadians, whether pro-life or pro-choice. We need a strong statement from our legal and medical communities against sex selective abortion.

In our current setting there is much that divides us – especially when it comes to the issue of abortion. But we should not approach agreement with suspicion. We should embrace the common ground that we have on this issue and unite our voices to say that sex selective abortion is wrong.

THE CANADIAN LEGAL CONTEXT

We need to address all injustices, regardless of the number of victims. If there is even one sex selective abortion in Canada, we have a problem. A series of articles coming from the *Canadian Medical Association Journal* have reported the disturbing trend of sex selective abortions here in Canada.¹¹ This issue must not go unaddressed. We need to address it for the sake of our culture, as an imbalanced sex ratio can have a devastating impact. But we also need to address it for the sake of the individual pre-born children who experience this fatal form of sex discrimination.

Parliament recognized the risk of sex selection when it passed the *Assisted Human Reproduction Act* in 2004. This act prohibits doing “any thing that would ensure or increase the probability that an embryo will be of a particular sex, or that would identify the sex of an in vitro embryo.”¹² The result is that a couple may not select an embryo for in vitro fertilization based on sex. Yet there is still no such prohibition when it comes to abortion.

THE CANADIAN MEDICAL CONTEXT

Leaving this issue unaddressed means that no one feels responsible for the choice. As one doctor put it, “the fact that sex selection is a medical act... neatly divides the moral burden between two parties: parents tell themselves their doctor knows best, while doctors point to overwhelming patient demand for the procedure.”¹³

Canadian law needs to directly address sex selective abortion through legislation. The ideal way to do this is to place the burden on medical professionals. Canada’s medical profession has already professed concern over using ultrasound technology for the sole purpose of identifying sex, with a few Colleges of Physicians and Surgeons passing policies around the issue.¹⁴ The Society of Obstetricians and Gynaecologists of Canada issued an official statement that they do “not support termination of pregnancy on the basis of gender.”¹⁵ A law prohibiting sex selection would give Canada’s medical professions a law to point to in order to refuse to perform a sex selective abortion.

When it comes to enforcement, South Korea gives an example of what it takes to ensure compliance. It takes

sustained effort and attention on the part of both those responsible for criminal justice as well as health care regulation. South Korea stiffened penalties for doctors in 1990 and suspended the licenses of doctors violating the law. After the initial enforcement, they hired pregnant women to go undercover and find evidence of doctors acting illegally. They face prison, fines, and the loss of their license.¹⁶ A law against sex selective abortion, coupled with diligent enforcement and cooperation from medical licensing bodies, could effectively end sex selective abortions in Canada.

CONCLUSION

The *Canadian Charter of Rights and Freedoms* guarantees equal treatment and benefit under the law regardless of sex. In order to be effective, this nationwide commitment to gender equality needs to start at the earliest stages of life. Sex selective abortions strike a blow to the foundation of this commitment. Regardless of our views on abortion, all who treat equality seriously should unite in calling for a ban on sex selective abortion.

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