Commentary

Gender variety as a valid choice: a comment on the HFEA – response to Edgar Dahl’s ‘The presumption in favour of liberty

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Abstract

The Human Fertilisation and Embryology Authority (HFEA) has made several sensible recommendations about sperm sorting and preimplantation genetic diagnosis for sex selection, but has not provided a convincing case for restricting all non-medical uses of sex selection techniques. It relies too much on a public opinion survey and speculative fears about bad outcomes for offspring, and overlooks the legitimate interest of some families in using such techniques to have offspring of different genders.

Keywords: embryo, ethics, HFEA, sex selection

The Human Fertilisation and Embryology Authority (HFEA) has recommended that all non-medical sex selection regardless of safety or efficacy be prohibited (HFEA, 2003). It bases its conclusion primarily on public opposition to sex selection, but also on the lack of perceived benefits and the possible risk to children who are chosen initially for their gender.

The report has much to recommend it. It is a thorough and fair investigation of what has always been a controversial issue. Its assessment of the current state of the art is quite useful, showing, for example, that more research of sperm sorting by flow cytometry is needed to establish its safety and efficacy. The report also demolishes the use of gradient methods, persuasively showing that they have too little efficacy to be used for medical reasons. Where medical use is warranted, the report suggests that sperm sorting, at least when shown to be safe and effective, should be combined with preimplantation genetic diagnosis (PGD) to produce a more certain result.

The report’s opposition to all non-medical sex selection will strike many persons as quite sensible. We are still quite early in the social trajectory of coming to terms generally with assisted reproduction and genetic selection techniques. Accepting some uses of a new technology does not mean having to embrace all technically possible uses. The boundary between medical and non-medical selection of offspring traits is a significant one. One can defend crossing it only after a close scrutiny of the risks and benefits of doing so. This is particularly true when the question arises within a central licensing regulatory system, as exists in the United Kingdom.

Despite its many virtues, however, the report’s justification for banning all non-medical sex selection, even for gender variety in siblings, is not convincing. The report draws on the lack of clear benefits of such choices and the fear that couples who forgo coital conception to choose the sex of offspring might be so invested in gender characteristics that they will reject children in cases of error or restrict a child’s development to satisfy parental agendas.

However, they have only speculation and no data to support this notion. Indeed, it is just as reasonable to assume that parents who resort to sperm sorting for gender variety will do so without imposing a rigid developmental programme on the child. By definition, such couples will already have had children. They will thus be familiar with the power that a child’s own personality and needs impose on parental plans, and are likely to harbour few illusions that parents can successfully mould the child to fit parental desires for particular traits or ideal modes of behaviour.

A more reasonable position and one in keeping with the HFEA’s generally more liberal posture on most assisted reproduction issues, would have been to permit some use of non-medical sex selection for family balancing, if only experimentally. The consultative group did receive information that a minority of persons had such preferences, often because of their own experience in being raised with siblings of the opposite sex. The report has simply not presented convincing reasons for thinking that children born once sperm sorting is shown to be safe and effective will be harmed.

The reports on sex selection of the Ethics Committee of the American Society for Reproductive Medicine (ASRM) offer an interesting contrast. Unlike the HFEA, the ASRM Committee concluded that if sperm sorting were established as safe and efficacious and parents counselled beforehand, non-medical sex selection for gender variety could ethically be offered to couples who requested it (ASRM, 2001). However,
it was less supportive of non-medical sex selection by PGD because of the burdens it imposed on women and the risk that embryos would be created and discarded solely for this purpose (Robertson, 2002). With clearer evidence about the importance of gender variety to families requesting PGD for that purpose, even PGD for non-medical sex selection might also be acceptable.

This brief discussion, in response to Dahl (2004), shows that a key factor in evaluating the ethical acceptability of non-medical sex selection is the importance of gender variety for couples interested in achieving it for their families. For the HFEA, it was the lack of “substantial demonstrable benefits” of non-medical sex selection that disposed it to give such great weight to public opposition and conjectures about harm to selected offspring. For the ASRM it was the lack of such evidence that left the Ethics Committee without a clear basis for finding that serving such a need would justify undergoing IVF and PGD solely for that purpose, even if sperm sorting for sex selection were acceptable.

Ultimate resolution of this issue will depend on social and psychological evidence about the advantages and thus importance to couples of having siblings of different sexes raised together in a family. Such a preference might arise from a parental desire to have the different rearing experiences involved in rearing both a boy and a girl (Robertson, 2001). It may also arise from the view that children learn important lessons from having siblings of the opposite gender. Such preferences are not so irrational that they should fall without the canopy of freedom usually accorded to individuals over reproductive decisions. If we accept that people have a large degree of freedom over their personal and reproductive lives, they should have the freedom to take steps to have children of different genders in their family.

**References**


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