

## Parental Reproductive Liberty for Choosing the Sex of Their Offspring: an Analysis of the Positions in Muslim Law and Christianity

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**Abstract** Technological developments in the domain of fertility treatment in spite of their utilitarian uses come with a plethora of ethico-religious challenges for people of faith particularly if they contradict some of their core religious values and beliefs about human procreation. The most disruptive among such challenges is declaring parental choice of a specific gender to their future offspring as part of their reproductive liberty (right). As to how major semitic religions, such as Christianity and Islam respond to it, the answer is polemical. Christianity generally objects to it mainly because it turns procreation into a manufacturing business instead of leaving the sex of a baby to God. The Islamic position, on the other hand, is less rigid as the majority of Sunni Muslim legists, without much reflections on its ethical dilemmas, approve it not only for medical reason but also family balancing while dissenting views among them consider it a direct affront on what God has declared to be His domain of perfection of human procreation. This paper, therefore, argues that defining parents' decision on sexing a "right" or "liberty" is difficult to maintain unless a far-fetched perspective of scriptural texts is adopted.

**Keywords:** • Christianity • Fertility • Muslim Law • Reproductive Liberty • Sexing •

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## 1 Background

Although the human desire to have a child of a particular sex can be traced back even to people of ancient civilizations, recent advancements in medical technology has opened new vistas for transforming these desires into reality through the use of more accurate and sophisticated sexing technological advances called prenatal sex selection technologies. Across cultures, there are two reasons for sex selection; namely, medical and socio-cultural. The chief medical reason for sex selection is to obviate the birth of a child with a sex-linked genetic disorder (SGD). Non-medical reasons for sexing include family balancing, cultural preference for a specific (most usually male) gender and economic incentives to avoid having a particular offspring which can be financially costly to a couple (President's Council on Bioethics, 2008: 47). The most common methods of technological sexing are: the sperm separation technique which allows the obtainment of more enriched sperm count for insemination, and pre-implantation genetic screening (PGS) via in vitro fertilization (IVF). While the use of these technologies strictly for medical reasons to some extent is tolerated in all cultures, their use for non-medical reasons is the most contentious issue among the ethicists in the West (The American Society for Reproductive Medicine – ASRM, 2015: 1418).

However, with the proliferation of fertility facilities and increasing advances in the area of genetic diagnostics, this method of reproductive health continues in its popularity<sup>1</sup> as it is capable of not only promising customers healthier children but also children endowed with certain favorable or desired traits, such as, for example, high intelligence or particular hair and complexion. Accordingly, if in the early 1920s the ethical debate surrounding sex selection hinged on its ethicality to prevent fatal diseases or to balance the boys to girls ratio in the family, in this milinium, the debate has shifted away from its restricted use to that of more robust commercialized applications which supporters in medical terms characterize as a new vista in preventive medicine. Nevertheless, critics frown upon this new paradigm as “one step towards a baby market” (Banerjee, 2008: 27).

Accordingly, at the global level, sex selection has acquired a new dimension when it is considered within a globalized ethical framework, the so-called parental reproductive right to have a baby of a desired sex. And hence, it has triggered a debate about its ethicality in the neo-bioethical discourses.

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<sup>1</sup> According to studies, 50,000 babies are born through this technology in the United States every year (Singer, 2008: 22).

Supporters, in a nutshell, argue that a couple's decision regarding sex selection choices should not be curtailed on either legal or moral grounds. Sex selection from a legal standpoint, being a private matter, concerns both personal liberty and one's right to privacy which are guaranteed by state constitutions in many jurisdictions. Morally, it is justified as it does not necessarily reflect parents' gender bias or signify they love a child of one particular gender greater than the other. Accordingly, peoples' reproductive liberty to choose the sex of their offspring for a variety of reasons, such as for example rearing experiences and family balancing, should not be infringed upon either by law or moral policy considerations (ASRM, 2015: 1419). Expressing the views of pro-choice advocates, James Hughes (2008) maintains that sex selection is one of a woman's essential reproductive rights. Such rights include, for example, both the right to know the content of their body and to abortion, the religious arguments against such rights in the context of non-patriarchal liberal societies of the West notwithstanding. To overcome the problem of skewed sex ratios, policy interventions, such as for example providing incentives to encourage the birth of minority sex children, offering pensions for senior citizens, educating people about the non-violent handling of the conflict and promoting sex selection liberty would all help curb its perceived (by some) negative social impacts (Hughes, 2008: 31-40). The supporters also refuted the relevance of religious arguments, such as preference of male over female gender on ground of religious arguments as the provider of bread and butter for the family (*qiwamah*) and defending border against foreign aggression (*jihad*). The reason being that such motives is not applicable in the context of the non-patriarchal liberal societies of the West, such as the US and Britain.

The opponents of sex selection, by and large, while considering the medical uses of sex predominance technologies as ethically justifiable on the principle of "harm versus benefit balancing", such as using IVF to achieve pregnancy, or using pre-implantation genetic screening (PGS) to prevent the birth of a child with sex-linked genetic disorders (SGD), vehemently oppose their use for non-medical reasons on several ethical grounds. First, such technologies expose the offspring to likely procedural risks such as diagnostic errors and embryo consecration. That is why 68 percent of Americans and 92 percent of Germans are against it for non-medical purposes (Power, 2008: 62). Secondly, the mother can suffer harm either due to her ignorance of latent procedural risks associated with the procedures performed or on account of the pressure by her husband for his preferred sex as well as social norms that might have a bias toward a particular gender. Lastly, opponents argue that some of the social reasons advanced in support of sex selection, such as family balancing, which according to its proponents make it morally tolerable, are instead fallacious as there is no guarantee that sex selection as a mechanism for family

balancing does not instead have the opposite of the intended goal by leading to the creation of unbalanced families and encouraging sex discrimination. Ostensibly, it may have implications for justice in terms of gender imbalance at the societal level, thereby triggering social instability such as the abduction of girls due to the shortage of men in biased social milieus (such as India and China) against female offspring (Power, 2008: 65). Sex selection may also become a precursor for economic injustice by making fertility resources available to those who can pay regardless of their need for such health care, thus leaving those seeking it for medical reasons with no access to it. To to it all, the other ugly side of sex selection is the omenous commercial use of its Hi-teck for sexist tourism industries for male baby reproduction (ASRM, 2015: 1920).

Moreover, others see several obstacles in resorting to sex selection even on medical grounds. For instance, Caplan maintains that the PGD test when used to try to prevent even fatal diseases can hardly be justified ethically due not only to the uncertain outcomes of the test but also its possible negative repercussions on the prospective child because: »Most of the newly discovered genes have relatively weak correlation with diseases, or play small role in complicated process or may affect the body in ways that scientist still cannot fully understand« (Singer, 2008: 26). Another concern, voiced by skeptics, is that soon the definition of what constitutes a medical emergency justifying the use of sex selection modalities will be expanded well beyond its use in the case of preventative medicine to help insure healthier children to medically engineer high talented children (Singer, 2008: 25). Finally, once sex selection techniques become the norm, rather than the exception, people with fewer resources may opt for suboptimal techniques which could well lead to other medical problems and cause more abortions. From a pro-life perspective, the most disturbing ethical fact about the surest mechanism of sexing, namely SGD, is that it yields surplus embryos which either can be discarded, donated or traded for money. Paradoxically, this success can have the undesired consequence of the emergence of a medical (black) market that unfortunately is exploited for abusing women's reproductive system for selfish, economic gain (Singer, 2008: 22).

From the above, one may postulate that while sound medical reasons such as the prevention of sex-linked fatal diseases, which was the original objective of PGD, may indeed score high on the ethical scale, nevertheless the overwhelming negative social consequences of the use of PGD for unregulated non-medical reasons or extended medical use cannot be reconciled with the “balancing of personal autonomy and reproductive rights against societal wholesomeness” (ASRM, 2015: 27).

The positions taken by some semitic religions, such as Christianity and Islam relative to this issue, will be analysed in the balance of this paper. We offer a general outline of two of the most effective technical procedures of preconception sex selection, followed by an analysis of both Sunni Islamic law and Christianity's response to these issues.

## **2 Technical Procedures of Preconception Sex Selection**

The most common methods of sex selection are:

### **2.1 Intra-Uterine Insemination (IUI)**

IUI was initially designed to cure female infertility by energizing sperm to reach the fallopian tube during the time of a woman's ovulation, so as to increase the chances of her pregnancy. The normal technical procedure involved for sex selection through IUI involves, first, taking a sperm from a male partner or a donor and then testing it for viability (referred as sperm sorting). This is done by asking the male partner to avoid ejaculation for three days prior to the procedure and to then masturbate with his partner (at home or in the collection room of the fertility clinic) and collect the ejaculated sperm in a container and make it available to the clinic for testing within 24 hours. Second, at the clinic, the doctor performs various tests on the sperm sample so as to determine its number, its volume, mobility, content, size and shape. If they are all found to be normal, then the sperm can be used for sex selection. Finally, on the female partner's ovulation date (determined using a kit known as OPK's or other devices), a nurse or a doctor will insert a small plastic tube into her uterus (while undressed from waist down) to deliver the specifically prepared specimen of semen into it (Weiss, 2007: 18-22).

The clinical steps are: The IUI technique uses the so-called Ericson method of sex selection. It aims to separate faster-swimming, boy-producing sperm from slower-swimming, girl-producing sperm. This technique involves the following steps:

- a) On the morning of the mother's ovulation, the father goes to the clinic and provides a sperm sample by the method previously described.
- b) The collected sperms are placed into a test tube along with a substance called albumin.
- c) Then the sperms are separated one by one through a laser flow cytometer where analysis of their chromosomes into X-bearing (for female offspring) and Y-bearing (for male offspring) groups can be determined. The sperm

which will produce the desired sex are then used to fertilize the eggs (Karsian, 2017).

The success rate of the Ericson method to conceive a baby boy is 75 percent and for female baby is in the range of 70-72 percent (The Ericsson Method Of Gender Sex Selection, n.d). Thus, compared to other methods of sex selection, IUI has a lower success rate and often requires multiple procedures in order to achieve pregnancy.

## **2.2 In Vitro Fertilization (IVF)**

This process is rigorously lengthy. It involves numerous tests, such as a sperm test, a uterus test and strict pre-procedure regimens, such as pre-cycle birth control measures for a one-month duration before the actual procedure. Regarding the procedure itself, the first step is that after a month-long use of an oral contraception, the doctor employs GnRH agoment (a kind of intra-muscular injection) to the female partner to down-regulate her hormone control of the ovarian stimulation portion of her cycle.

Second, the physician prescribes gonadotropins medication to the female partner which is injected for a duration ranging from 6-12 days. The purpose of this medication is to stimulate her ovaries to produce oocytes (eggs) for retrieval. Throughout this cycle, the doctor conducts various tests on the woman, including whether her uterine lining is fit for the implantation of fertilized pre-embryos and also whether she is at risk of developing ovarian hyperstimulation syndrome, which causes symptoms such as dizziness, nausea, weight gain, shortness of breath among other things. To enhance the production of the desired type of eggs, the physician injects the patient with human chorionic gonadotropin (hCG) 36 hours before the egg retrieval. Additionally, and depending on the female partner's health conditions, she might be given other supplements such as estrogen and baby aspirin to facilitate the process.

Thirdly, the egg retrieval usually will be performed vaginally unless the patient's condition requires it to be done abdominally. Vaginal egg retrieval is an ultrasound-guided procedure. Ultrasound helps the physician guide the needle to precisely the correct location to find the oocytes within the follicles. This procedure, performed with the patient under anesthesia, usually takes approximately thirty minutes.

Fourth, the retrieved eggs are turned over to an embryologist who separates the eggs from the fluid and then starts the process of their fertilization with the prepared specimen of the semen. The physician either places the eggs and the sperm in the petri dish to progress to fertilization, or uses an intracytoplasmic sperm injection to fertilize the eggs. The latter technique is normally used for preimplantation genetic diagnostic (PGD) to ensure that one sperm joins with an egg. Within 72 hours from the egg retrieval, the lab produces up to seven celled embryos. Through PGD, the potency of such embryos for pregnancy would be predicted.

Finally, depending on the age of the patient, according to standard procedure, up to three of the good quality pre-embryo (with preferred sex genome), predicted on the basis of their chromosomes (XY or XX), are transferred into the patient's uterus.

The Genetics and IVF Institute in Fairfax claims a 93 percent success rate for producing females and an 82 percent success rate for producing males (Karsian, 2017). However, the reported clinical health hazards of this process for mothers include multiple pregnancies with their attendant complications for both the mother and the child. For instance, in terms of risks on the babies, it is documented that one in every 24 multiple pregnancies result in the birth of one premature baby and one in 13 will be handicapped. Moreover, IVF babies will be smaller than average. The long-term effect on low birth weight babies is that they are more likely to develop a variety of adverse medical conditions including high blood pressure, heart disease, stroke and possibility osteoporosis at a slightly younger age than is usual, perhaps 50–60 years old. Adverse risks to the mothers include preterm labor, high blood pressure, gestational diabetes and other related complications (Winston, n.d).

### **2.3 Juridical Response in Sunni Law**

Despite the fact that the Qur'an unequivocally declares that it is God's prerogative to endow one with either a baby boy or girl, for which Muslim parents express their gratitude to Him and celebrate the child's arrival by religious festivities, such as *'aqiqah* and others, technological interventions are poised to render such religious beliefs obsolete. To our bewilderment, this theological principle concerning the sex of one's future offspring has not deterred some contemporary legists from endorsing it. Consequently, a debate has ensued among both proponents and opponents of sex selection from the Sunni points of view which we present here.

### 2.3.1. Proponent's Arguments

Proponents of sex selection bolster their arguments by invoking religious dogma. First, in the absence of any prohibitive injunctions from the textual sources of the Qur'an and the Sunnah (hadith) on sex selection, permissibility is the guiding rule.

Secondly, they contend that requesting a specific sex of one's offspring is permissible based on the Qur'anic authority (anecdotes) about the two prophets, namely Ibrahim and Zakaria, who pleaded to God to have male progeny. Prophet Ibrahim supplicated to God to grant him a son from his barren wife:

*"And he felt from them apprehension. They said, "Fear not," and gave him good tidings of a learned boy". And his wife approached with a cry [of alarm] and struck her face and said, "[I am] a barren old woman!" (The Qur'an, 51:28-29).*

Similarly, Prophet Zakaria prayed for an intelligent baby boy, which God granted him:

*"And indeed, I fear the successors after me, and my wife has been barren, so give me from yourself an heir. Who will inherit me and inherit from the family of Jacob. And make him, my Lord, pleasing [to You]. [He was told], "O Zechariah, indeed We give you good tidings of a boy whose name will be John. We have not assigned to any before [this] name." (The Qur'an, 19:5-7).*

Accordingly, so the argument goes, if it is legitimate to supplicate for divine intervention to have a gender-specific child, so too is it legitimate to resort to worldly means to achieve the same ends (*ja'iz/mashru'*).

Thirdly, the fact that Prophet Muhammad, when replying to a question by a Jew about human reproduction, proclaimed that 'engineering the sex of a baby depends on the mundane process of embryonic formation,' and therefore provides additional evidence to support the use of sex selection technologies today. The prophetic tradition reads:

*"... He (the Jew) then said: "I have come to ask you about the child." He (the Prophet) said: "The reproductive substance of a man is white and that of woman (i. e. ovum central portion) yellow, and when they have sexual intercourse and if the male's substance (chromosomes and genes) prevails upon the female's substance (chromosomes and genes), it is the male child that is created by God's*



*Decree, and when the substance of the female prevails upon the substance contributed by the male, a female child is formed by the Decree of God. The Jew said: What you have said is true; verily you are an Apostle...*" (Sahih Muslim, 1985: vol. 2, 22).

Finally, if human interference to overcome sterility is lawful and is not considered a repudiation of the God's Will, similar logic should hold true in the case of technological sex determination methods (al-Muslih, 2015).

### 2.3.2 Opponent's Arguments

The opponents of sex selection also base their objection on other religious grounds. First, they argue it contradicts some basic principles of the belief in the omnipotence of God, the most cardinal among them being the belief that God, the Almighty, has decreed that matters involving sex determination are vested solely in Him. The Qur'an ordains:

*"To God belongs the dominion of heavens and earth. He creates what He wills. He bestows females upon whom He wills and bestows the males upon whom He wills. Or He couples them in males and females and He leaves barren whom He wills. For He is All-Knowledgeable All-Powerful"* (The Qur'an, 42:49-50).

The primacy of this religious doctrine was re-enunciated in the prophetic tradition on gestational development by establishing that even when the angel is being sent by God to determine His profile in the uterus, believers should ask God" ...O my Lord: is it a male or a female..." (Sahih Muslim, 1985: 56).

Secondly, interference with the natural process of embryonic formation is tantamount to tampering with the natural course of event as intended by God and thus is prohibited:

*"And I will mislead them, and I will arouse in them [sinful] desires, and I will command them so they will slit the ears of cattle, and I will command them so they will change the creation of Allah." And whoever takes Satan as an ally instead of Allah has certainly sustained a clear loss."* (The Qur'an, 4:119).

Thirdly, allowing sex selection will bring about several evil consequences including: 1) it imbalances the demographic ratio of men and women in society, hence, damaging the equilibrium for the harmonious existence of the human race to proliferate. Additionally, when the procedure goes wrong the most likely outcome is termination of the female foetus; 2) the most successful and prevalent process of sex selection, namely IVF, involves dealing with a women's private part which, except in case of necessity, is not allowed in Islam. Similarly, IVF requires men (the husband) to ejaculate, which under Islamic law is an abhorrent act and prohibited (al-Muslih, 2015).

### 2.3.3 Arguments and Counter-Arguments

The opponents offer several additional arguments to rebut the supporters' arguments. First, sex determination of the embryo is a matter solely within the province of God's dominion which cannot be assigned to other beings or left to human manipulation. The Prophet when delineating the gestational development of the foetus in the womb, said: "... *O my Lord is a male or a female?...*"

Deliberating on this, Ibn Qayyim maintains that had human planning been the decisive factor in the sex formation of the foetus, the angel would have explicated that, when he was commissioned to determine its nourishment, luck, lifespan and sex. Thus, similar to other aspects of the foetus which are agreed to be within the sole knowledge of God and His transcendent will and determination, the determination of its sex is also something which should not be interfered with (Ibn Qayyim, 1998: vol. 3, 78).

Secondly, the teachings of the *hadith* on the dominance of sperm over ovum or vice versa resulting in the male or female baby, as invoked by the supporters, is not categorical according to Ibn Taymiyyah (n.d) for two reasons:

- 1) the question in the *hadith* was not about the description of sex formation of the baby but rather only describes the resemblance of the child to one of the spouses;
- 2) another problem with the *hadith* is that it is not authoritative enough - its chain contains unreliable reporters (Ibn Taymiyyah, n.d., vol. 6, 98).

Finally, drawing a parallel between fertility treatment for a woman who is barren and sex selection is untenable since its *ratio legis* is different, i.e., the latter involves sex engineering while the former is about treating a reproductive defect which may be pathological, in which case its permissibility may be less ethically objectionable (al-Muslih, 2015).

The supporters, in rebuttal, advance the following arguments. First, humans' efforts to influence the sex type of the foetus can not override God's power over the natural process. Instead, the ultimate sex type of the foetus is merely a materialization of God's will by virtue of other Qu'ranic principles declaring that nothing will come into being except with what God Wills: "... *But you will not except as God Will.*" (The Qur'an, 76:30).

Secondly, sex selection does not contravene the ordained natural order as it occurs before the foetus is formed. Thirdly, the ethical concerns raised by the opponents could be overcome by enacting appropriate preventive laws to stem its abuse, such as banning it if gender imbalance would be the result (al-Muslih, 2015; al-Qaradaghi, 2006: 561).

Fourthly, the sex predetermination of the foetus unlike its luck, lifespan etc. which belong to its post-birth profile as a full human being, can be amenable to causation as it occurs while the foetus is still in the gestational stage.

Finally, our *hadith* on the subject is authentic, both in terms of transmission and the subject matter, as there are two versions of it; one regarding the resemblance of the child to one of the parents as relied on by the opponents, and the other regarding the predomination of one spouse's sexual fluid over another (al-Muslih, 2015; al-Bar, 2001: 869).

The supporters, however, constricted their approval to sexual selection to several legal parameters. First, it must not be broadly expanded into a national policy but should be remain a private family matter, as an option available only to those couples who either ask for it after having several children of the same gender or because of medical necessity, namely that a heritable genetic disorder will pass onto their children (al-Bar, 2001: 880). Second, it should be strictly regulated so as to fend off the phenomenon of gender imbalance in society (al-Muslih, 2015). Lastly, the sex selection must be conjugal and should not involve donor's semen.

Supporters of sex selection have had a difficult time refuting the counter arguments advanced by the opponents. Nevertheless, the restrictive permissibility view, in spite of its flaws, seems to represent the majority stand as represented by some official agencies, such as the Islamic Law Council of the Muslim World League which held: *“It is permissible to select one’s offspring’s sex via natural means, such as nutritional programme, chemical washing and the scheduling of the sex-time. However, if the intended purpose is to acquire a male child out of dislike for a female child or if the intent is to know the gender of the embryo in order to abort it, then this is impermissible. If, on the other hand, the intent is to predetermine the gender of the embryo from the start in a situation where there is a history of heritable illness in the family, especially those illnesses that pass along with the sex chromosomes, then this is possible. It is best to avoid resorting to this method except in the most extenuating of circumstances”* (al-Safadi, 2005).

### **3 Criticisms of the Legality of Parental Reproductive Liberty**

The polarised juristic legal position on sex selection, as discussed above, raises several ethico-theological questions. Firstly, the Sunni legal response (*fatwa*) in the Muslim world painstakingly has gone to the extent of twisting the most foundational scriptural text, namely the Qur’an, which explicitly says that matters of sex be left to God.

Secondly, given the high premium placed on male progeny in most Muslim societies, this permissive view potentially can open the flood gates for sex selection and sex selective abortion among people with access to such facilities. For instance, Clarke discovered that a strong preference exists for male gender offspring for most Middle Eastern Muslims even in the case of sterile couples. According to her (Clarke), infertile couples seeking fertility treatment in fertility clinics in Lebanon commonly ask for sex selection (Clarke, 2009: 160). She also recounts that one patient was in a state of panic at the ultrasound table as she was informed that her pregnancy consisted of twin girls after ten years of being unable to bare a child. She exclaimed, *“I have come this far for twin girls!”* (Clarke, 2009: 161). This observation helps to explain why the Middle Eastern Sunni legal scholars have readily embraced Assisted Reproductive Technologies, including IVT, with minimum restrictions. What is more, at the individual level, across multiple sociological variables, aside from the Islamic exaltation of pronatality, other cultural notions (secular factors) such as the fulfillment of a barren male’s fervent desire for children as proof of his potency (sexuality); proving male virility (manhood) and female fertility in order to avoid being stigmatized as barren and envious of fertile women’s children; and, inhibiting

the tendency for polygamy on the part a man profoundly in-love with his existing wife, all can be strong stimulants for sexing among Muslims. This can also be seen even at the state level, where there is not only a political desire on the part of those in power to be seen as modern and embracing modern technology but also a strong motivation to become a hub for reproductive tourism, etc. (Tremayane & Inhorn, 2012: 14; Clarke, 2009: 96; Inhorn & Gürtin, 2012: 25).

Against this background, from a broader ethical perspective, we believe that the general advocacy of sex selection bounded by only two restrictions, namely medical necessity and family balancing, is riddled with several ethicality paradoxes. First, taking issue with the family balancing component of this formula, Anees raises the fear that sex selection might be used as justification for female feticide and maintains that : "...if the gynophobia of earlier times led to the use of dangerous and questionable methods and techniques to help achieve female infanticide, the sex pre-selection technologies in use today more reliably helps such people to pre-select the desired sex of their child, or else eliminate the unwanted female foetus, by using prenatal sex detection technologies"(Anees, 1989: 198). Nevertheless, he concedes its use for medical reasons, such as haemophilia, thalassemia and muscular dystrophy (Anees, 1989: 200). One may, however, observe that even if one regards Anees`s fear of female infanticide as an over exaggeration, the fact remains that upon deeper reflection even the conditional use of popular sex selection technologies, as endorsed by the majority, is rife with several ethical hazards. First, allowing sex selection as a means of "family balancing" becomes an avenue for both sex selective abortion and sex imbalance in society. For instance, clinical studies in some Middle Eastern countries, such as Egypt and Lebanon, show that the majority of people who turn to fertility treatment prefer boys for three reasons: 1) continuation of patrilineal lines 2) to have fewer children and one or two out of three must be males; 3) seeking fertility treatment even if they have no children or already have an older boy (Clarke, 2009, 156; Sachedina, 2009: 109). That is why Williamson criticizes Muslim`s lax legal stand as being considered the subject of ridicule by outsiders when stating that the term "sex selection" which is "a dirty phrase in the Western Countries", has become psychologically acceptable to Muslims, especially in the Middle East, in the name of "family balancing" (Williamson, 2013). We believe that since the reasons for the sexing of one`s baby in most Muslim cultures can be manifold, the debasing effects of gender selection technologies in terms of gender imbalance and discrimination against female offspring would be too grave if viewed from the Islamic view of human reproduction and equal regard for both male and female offspring.

Second, when analysed from an Islamic ethical stand, IVF as a medium for sex selection is tainted with numerous ethical problems at both the procedural and outcome levels. Procedurally, it involves dealing with human private parts for both ejaculate (masturbation by male partner) and egg retrieval from the female partner, both consisting of human sexuality, and which should not be used except for lawful coitus according to the Qur'an:

*“Who abstain from sex, except with those joined to them in marriage bond, or (the captive) whom their right hands possess – for [in their case) they are free from blame? But those whose desires exceed those limits are transgressors]” (The Qur'an: 25, 34).*

Third, it involves the destruction of surplus embryos which according to Imam Al-Ghazali is considered an offence in the Islamic view. Fourth, in the case of multiple pregnancies, the couple may resort to abortion of some despite its attendant complications which is *haram* as well (tantamount to aggression on the life in the making). Lastly, its proven harms on the baby and the women cannot be justified given that self-inflicted injury on one's body is prohibited in the Islamic view (harm shall not be inflicted nor reciprocated). In terms of consequences, sex selection may also serve to encourage trafficking of the surplus embryos, freezing them for trade. The selling of a human being or his foetus is forbidden according to the *hadith*:

*“There are three whose opponent I will be on the Day of Resurrection, and whomever I oppose, I will defeat ... A man who sold a free man and consumed his price” (al-Bukhari, 1981, vol. 2, 98; Fadel et al., n.d.: 152-153).*

The fact that the normative and foundational sources of ethico-legal guidance unequivocally outlaw a gender-based approach to human procreation provides another reason for doubting the significance of less principled legal argument on sex selection. First, the Prophet, when underlining one of the socio-religious reasons for marriage as helping to promote the proliferation of the Muslim generation (followers), never hinted that this objective should be achieved by doing so in a way that would satisfy one's desire for a child of a specific gender. Second, human procreation itself is regulated by certain ethical mores which sex selection defies in many ways: 1) It has to be through natural coitus during which, according to the *hadith*, the couples seek refuge from the harm of Satan in the process by starting the act by a specific supplication:

*“In the name of God, O God Keep us away from the Satan and keep the Satan away from what You bestow on us (our children)). If God decrees that they should have a child, the Satan will never harm him” (Al-Bukhari, 9, 187);*

2) not to terminate pregnancies for flimsy reasons, 3) and finally, once the child is born, rejoice his/her birth by giving him/her a good name, be satisfied with his/her sex and express gratitude to God, and hold a feast, called *`aqiqah*, for next of kin and friends to share their joy with them and continue the tradition of family gathering on joyous occasions. The ruling of *`aqiqah*, slaughtering a lamb to mark the occasion for the feast, is strongly recommended. Accordingly, with embracing sex selection as a new way of reproduction, all these cherished ethics of pregnancy and child birth would be unceremoniously abandoned.

Third, the biggest theological/ethical problem with the permissible stand is epistemological, namely, building a case for the parental right of sex selection on the ancient messengers' supplication to God for children of a given sex. This analogy is flawed in two aspects: 1) relying upon medical means to engineer one's offspring's sex does not only defy the Qur'anic declared power of God over sexing but is tantamount to repudiating supernatural intervention by God in favour of science. This kind of approach unconsciously means acquiescing to an atheistic ethos that “when science steps in, God disappears”; 2) even if we consider the matter in purely legalistic terms, such an analogy, namely using the ancient religious principles (*shar` man qablana*) for legal deduction in the case of Muslim law, itself is a disputed issue in Islamic jurisprudence.

Lastly, given the strong propensity for male progeny in most of the the Muslim world, regarding sex selection as less morally abhorrent and legally justified, even on medical or family balancing grounds, poses the serious dilemma of potentially committing female infanticide, which the Qur'an condemns in the strongest terms:

*“When the female infant, buried alive, is questioned — for what rime was she killed; when the scrolls are laid open; when the World on High is unveiled; when the Blazing Fire is kindled to fierce heat; and when the Garden is brought near — Then shall each soul know what it has put forward. So verily I call” (al-Takwir: 15).*

Our assertion, as such, is likely to be the case, since approving prenatal sex selection by the majority of Muslim legists, provides a powerful psychological impetus for sexing freely without being constrained by the juristic parameters of seeking it solely for either medical reasons or balancing boys and girls in the family.

#### **4 The Position in Christianity**

Similar to Sunni Islam, Christianity also consists of many sects, the main branches including the Roman Catholic Church, Protestant denominations, and Orthodox Churches. In spite of the diversity of voices in Christianity, the fact remains that matters pertaining to procreation and sexuality are part of their core values which are governed by Christian religious scriptures (the Gospel and Old Testament). Accordingly, the Roman Catholic Church's position is that all forms of human interference with the human natural process of human procreation are prohibited. For instance, in 1956, Pope Pius XII declared artificial human fecundation in vitro as immoral and absolutely unlawful and held that IVF separates human procreation from sexual intercourse (Shenker, 2002: 7). The underlying reason for this was expressed in the Vatican's declaration issued by the Congregation for the Doctrine of the Faith in February 1987, signed by Cardinal Joseph Ratzniger, and approved by Pope John Paul II. The declaration, among other writings from the Vatican, held that fertilization is licit when it is the result of a conjugal act, namely sexual intercourse between husband and wife. Hence, procreation is stripped of its natural righteousness and perfection when it is not desired as a result of the conjugal act which requires the specific act of the spouses' union (Shenker, 2002: 7). Accordingly, IUI, which involves in vitro separation of X- and Y-bearing spermatozoa by gradient techniques or flow cytometry is unacceptable because:

*“The moral relevance of the link between the meanings of the conjugal act and between the goods of marriage, as well as the unity of the human being and the dignity of his origin, demand that the procreation of a human person be brought about as the fruit of the conjugal act specific to the love between spouses.”*(Shenker, 2002: 8). *The Vatican particularly holds rejectionist approach on the use of preimplantation diagnosis for sex selection as it violates the dignity attached to human procreation and conjugal union. In addition, using PDG for sexing in the process of which the unwanted embryos are discarded is tantamount to committing infanticide through medical technology. The main argument is that according to Catholic Church belief, life begins at conception and hence it should not be tampered with* (Shenker, 2002: 8).



Sexing, even for medical reasons, is unacceptable to Catholics. The Catholic Church believes in the principle that all human life must be protected. Accordingly, disabled children should be both respected and cared for instead of preempting their existence. To the Catholic Church, a human being's disability in this world is but a transitory stage which happens in this world because of Human Fall (of Adam and Eve from Heaven).

In broader terms, the Catholic Church also argues that since biological sexing cannot determine the gender of a child if viewed in the context of transgender ideology, it thus is not full proof of sexing. Hence, Catholic Christians must submit to God's model for humanity (Christian Concern, 2018).

All in all, except for some liberal faction of Christianity, such as the Anglican Church, which tolerates the use of IVF-ET for semen collection by means of masturbation for artificial insemination by the husband for IVF, all other sects of the Christian faith are unanimous on the prohibition of the use of any other extra-conjugal medical interventions in the process of human procreation (Shenker, 2002: 11) and hence, such a *right is not recognized for faithful Christians*.

## 5 Conclusion

From the above analysis, we submit that it is true that the idea of parental "right" to pre-plan the sex of their offspring may find some legal justification in Islam in view of the expanded gender role which it assigns to male gender and its concession for sexing on medical grounds. Nevertheless, such arguments when examined against the doctrinal principles of both Islam and Christianity on human procreation as the sole prerogative of God together with religio-ethical risks which sex selection technical procedures involve, cannot be persuasive. At the practical level, however, religious arguments against sexing in both religions can evaporate, especially for Muslims due to less regulated clinical procedures and official permissibility of sex selection for non-medical reasons. Underlining this reality in Muslim societies, Tremayne held that given the sociological variables in the Muslim culture, the permissible view can prove more attractive unlike the West, where such decisions are subject to the approval of various medical, legal and ethical committees, in the Muslim context, the view of the clergy is decisive par excellence (Tremayne: 2012: 70). In the final analysis, however, classifying sex selection as a parental "reproductive right" in both Islam and Catholic Christianity can be ethically controversial.

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