

# The Ethical and Moral Concerns of Preconception Gender Selection

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As a result of modern-day scientific advancements, the possibility of preconception gender selection has been made possible. This is a goal that both ancient societies and our society alike have worked to attain. In Rosner's "Sex Preselection and Predetermination" article, there are various methods that were utilized by members of ancient societies in order to achieve the goal of a couple choosing the gender of their child. Now that this theoretical goal has become achievable in practice, it is important to analyze the potential concerns that can arise from it.

There are many problems that individuals have with the concept of selecting the gender of a child. Firstly, many are simply uncomfortable with this notion and believe that trying to choose the gender of a baby is equivalent to "playing G-d." Others argue about whether or not the choosing of the child's gender would allow a couple to fulfill the Jewish commandment of having at least one child of each gender. Others go as far as saying that the desire for couples to choose the gender of their child is idiosyncratic and the intentions behind doing so must be examined. Some couples choose to select the gender of the child for medical purposes, while others do so in order to fulfill the Torah obligation. Either way, the ethical and moral concerns, as well as the stance of Jewish law towards this action, must be analyzed.

When it comes to gender selection, there are three main needs. The first kind is prenatal observation. In this method, individuals can utilize conveniences such as sonograms and chorionic villus sampling in order to determine the gender of the fetus. If a couple chooses to proceed with this method, they can determine the gender of the baby and subsequently abort the fetus if not the

desired gender. This method of aborting a fetus once the gender is determined is controversial amongst those who follow *Halacha* as well as amongst those who do not follow *Halacha*, but still find this method to be unethical. The other two methods of gender selection are more common in westernized societies such as the United States. The first common method used is called PGD, Preimplantation Genetic Diagnosis. When using this process, embryos are created using *in vitro* fertilization, IVF. Following this, a few cells called blastomeres are taken out of each chromosome and then analyzed for the determination of the sex. The embryo does not become damaged upon removing these blastomeres, and the embryo can continue to develop normally as if they were never removed in the first place. The doctors and scientists search for two X chromosomes if the couple desires a female child, and they search for an X and a Y chromosome if the desired child is a male. Once the cells are analyzed for the X and Y chromosomes, the cells of the desired gender can then be implanted into the woman. Similar to an abortion, the method of PGD is 100% effective and accurate.

There is a less commonly used method of gender selection which consists of separating the sperm cells pre-fertilization into the X and Y-bearing spermatozoa. Once this is done, Intrauterine Insemination, IUI, or IVF ensues using the desired sperm. This type of sperm sorting technology originated in the context of the Department of Agriculture of the U.S. government (USDA). The USDA desired to select the sex of livestock, and later on, this method was applied to humans. The success rate for this method is fairly high, but not near 100% like the PGD method.

Something that is not widely debated amongst ethicists is medical sex selection. If the couple is selecting the gender of their child in order to ensure that a sex-linked trait is not being transmitted to the fetus, it is generally accepted and deemed ethical. Issues arise when sex selection is used for non-medical purposes. Many are concerned that this type of sex selection can lead to skewed birth rates of male and female populations. Others are concerned that sex selection for non-medical purposes would be considered sexism. Although there are individuals who might be comfortable with destroying embryos because they will not develop into the desired gender, the overwhelming majority agrees that even though people want to choose the gender of their child, that interest is not strong enough to justify creating and destroying embryos that can one day develop into a person.

Many Jewish Rabbinic leaders endorse the use of technologies for reproduction when they are utilized to overcome infertility and reproductive struggles. One specific area where Jewish law is concerned is regarding the method of PGD. According to Kenneth Brander, one concern is what happens to the fertilized eggs that do not get implanted into the woman. He explains that this egg is frozen at an extremely low temperature (-80 °C), suspending any further development of the fetus. This allows the egg to be stored in this fashion for an extended period of time, and in some cases, even indefinitely. According to the Talmud (*Yevamos 69b*), a fetus that is less than 40 days old does not have any legal status, and it is considered to be “a sack of water.” This is proven by the fact that a woman who miscarries does not automatically attain the status of spiritually impure like a woman who gives birth. Additionally, if a woman does unfortunately miscarry, it does not interfere with the obligation to perform the ritual of a *pidyon haben* on her next child if the criteria for this

commandment is met. Many leading Rabbis, including Rav Zilberstein, agree that if the fetus possesses genetic abnormalities, the disposal of these embryos would be permitted. According to Jewish law, a fetus that is less than 40 days old is not considered to be human and therefore, if the embryo is not the desired gender, it would be permitted to be disposed of.

Rabbis debate whether the Torah commandment of having at least two children, a son and a daughter, is fulfilled using gender selection methods of technology. Rabbi Moshe Feinstein (*Iggros Moshe Even Haezer 2:18*) explains that the command of having two children, one of each gender, is not based on the result of the action; rather, this commandment is action oriented. Essentially, this commandment is not about what gender children the couple produces, but it is about the fact that the couples attempted to have children. Since this is the widely accepted opinion, using IUI, IVF, or PDG to produce children of different genders is not necessary in fulfilling this commandment. Therefore, someone who chooses the gender of their children does not fulfill the commandment to have children any more than someone who attempts to have children of both genders in a natural fashion.

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### **References**

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