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Prenatal sex selection

Report¹

Committee on Equal Opportunities for Women and Men

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Summary

Sex selection is a huge problem and has been practised for decades in some Asian countries. However, there is strong evidence that it also occurs in some Council of Europe member states, namely Albania, Armenia, Azerbaijan and Georgia.

Prenatal sex selection is to be condemned, as a phenomenon which finds its roots in a culture of gender inequality and reinforces a climate of violence against women. It has harmful consequences, including population imbalances, a rise in criminality and social unrest and an increased risk of human rights violations such as trafficking for the purposes of marriage or sexual exploitation.

The Council of Europe member states are invited to introduce legislation with a view to prohibiting sex selection in the context of both assisted reproductive technologies and legal abortion, except when it is justified to avoid a serious hereditary disease.

In addition, the governments of Albania, Armenia, Azerbaijan and Georgia are invited to take further steps with a view to tackling the root causes of prenatal sex selection, collecting reliable data on this phenomenon and raising awareness amongst the public and health professionals.

¹ Reference to committee: Doc. 12258, Reference 3690 of 21 June 2010.

A. Draft resolution²

1. Son preference and discrimination against women are so widespread in the world that, spontaneously or under pressure, millions of women decide not to give birth to daughters, who are considered as a burden for their families and unable to perpetuate the family lineage.
2. Sex selection is a huge problem in some Asian countries, where the selective abortion of females, together with the killing of female newborns has been practised for decades. Prenatal sex selection is indicated by a departure from the natural average sex ratio of 105 boys for 100 girls ("skewed sex ratio") and increases as the number of children goes up in a family, or when there are legal or economic restrictions to the size of the family.
3. There is strong evidence that prenatal sex selection is not limited to Asia. In recent years, a departure from the natural sex ratio at birth has been observed in a number of Council of Europe member states and has reached worrying proportions in Albania, Armenia and Azerbaijan, where boys outnumber girls by 112 to 100 and in Georgia where the sex ratio at birth is 111 boys for 100 girls.
4. The Parliamentary Assembly condemns the practice of prenatal sex selection, as a phenomenon which finds its roots in a culture of gender inequality and reinforces a climate of violence against women, contrary to the values upheld by the Council of Europe.
5. Recalling the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence (ETS No. 210), the Assembly believes that the social and family pressure placed on women not to pursue their pregnancy because of the sex of the embryo/foetus is to be considered as a form of psychological violence and that the practice of forced abortions is to be criminalised.
6. The Assembly wishes to warn Council of Europe member states against the social consequences of prenatal sex selection, namely population imbalances which are likely to create difficulties for men to find spouses, lead to serious human rights violations such as forced prostitution, trafficking for the purposes of marriage or sexual exploitation, and contribute to a rise in criminality and social unrest.
7. In line with the Council of Europe Convention on Human Rights and Biomedicine (ETS No. 164), the Assembly believes that, in the context of assisted reproduction technologies such as preimplantation genetic diagnosis, prenatal sex selection should be resorted to only to avoid serious hereditary diseases linked to one sex.
8. In view of these considerations, the Assembly calls on the member states to:
 - 8.1. monitor the sex ratio at birth and take prompt action to tackle possible imbalances;
 - 8.2. collect data on sex ratios at birth amongst specific communities;
 - 8.3. collect data on sex selection in the context of the use of all techniques of medically assisted procreation;
 - 8.4. promote research on the causes of prenatal sex selection and its social consequences;
 - 8.5. encourage national ethics bodies to elaborate and introduce guidelines for medical staff, discouraging prenatal sex selection by whatever method, unless justified for the prevention of serious sex-linked genetic diseases;
 - 8.6. consider recommending that public hospitals instruct doctors to withhold information about the sex of the foetus, or at least ensure that this information is given in a positive way, irrespective of the sex of the foetus;
 - 8.7. introduce legislation with a view to prohibiting sex selection in the context of assisted reproduction technologies and legal abortion, except when it is justified to avoid a serious hereditary disease.

² Draft resolution adopted unanimously by the committee on 9 September 2011.

9. In addition, the Assembly calls on the authorities of Albania, Armenia, Azerbaijan and Georgia to:
 - 9.1. investigate the causes and reasons behind skewed sex ratios at birth;
 - 9.2. step up their efforts to raise the status of women in society and ensure effective implementation of laws and policies on gender equality and non-discrimination;
 - 9.3. ensure the collection of reliable data on sex ratios at birth, including in different geographical areas within the same country, and ensure monitoring of their evolution;
 - 9.4. organise and/or support the organisation of public awareness-raising initiatives and campaigns on prenatal sex selection and its consequences, involving relevant international organisations including the Council of Europe;
 - 9.5. organise and support training on prenatal sex selection for medical staff.
10. The Assembly encourages the United Nations Population Fund (UNFPA), the United Nations Development Programme (UNDP) and the World Health Organisation (WHO) to strengthen their work on prenatal sex selection.
11. It also recommends that the United Nations Committee on the Elimination of Discrimination against Women look at the issue of prenatal sex selection, in general as a phenomenon which stems and reinforces discrimination against women, and more specifically when reviewing the situation in Albania, Armenia, Azerbaijan and Georgia.

B. Draft recommendation³

1. Referring to its Resolution (2011) on prenatal sex selection, the Parliamentary Assembly wishes to draw the Committee of Ministers' attention to this practice which occurs in a number of member states, in particular Albania, Armenia, Azerbaijan and Georgia, as indicated by skewed sex ratios at birth.
2. Prenatal sex selection calls into question the core values upheld by the Council of Europe, such as equality and dignity of human beings, non-discrimination and the protection of the individual's dignity and fundamental rights with regard to the applications of biology and medicine. It also touches upon core activities of the Council of Europe such as the promotion and protection of human rights, the promotion of gender equality and the prevention of and fight against gender-based violence.
3. The Assembly therefore invites the Committee of Ministers to:
 - 3.1. bring to the attention of the Group of experts on action against violence against women and domestic violence (GREVIO) and the Committee of the Parties of the Council of Europe Convention on preventing and combating violence against women and domestic violence, once established, the issue of prenatal sex selection, in light of its links with violence against women;
 - 3.2. instruct the Steering Committee on Bioethics to conduct a comparative study on prenatal sex selection and consider the elaboration of guidelines and good practices on prenatal sex selection in the context of Article 14 of the European Convention on Human Rights and Biomedicine (ETS No. 164);
 - 3.3. step up efforts aimed at promoting the signature, ratification and implementation of the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence (CETS No. 210) and the European Convention on Human Rights and Biomedicine;
4. As regards the four Council of Europe member states with the most skewed sex ratios, Albania, Armenia, Azerbaijan and Georgia, the Assembly asks the Committee of Ministers to:
 - 4.1. take the issue of prenatal sex selection into account in the framework of assistance and cooperation programmes with these countries, in particular in the field of education, youth and dialogue with civil society;
 - 4.2. ask its relevant committees and structures working in the field of equality between women and men to organise or contribute to public awareness-raising campaigns on the equal value of girls and boys in these countries.

³ Draft recommendation adopted unanimously by the Committee on 9 September 2011.

C. Explanatory memorandum by Ms Stump, rapporteur

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1. Introduction

1. On 6 March 2010, the leading article of the magazine *The Economist* started like this: “Imagine you are one half of a young couple expecting your first child in a fast-growing, poor country. You are part of the new middle class; your income is rising; you want a small family. But traditional mores hold sway around you, most important in the preference for sons over daughters. Perhaps hard physical labour is still needed for the family to make its living. Perhaps only sons may inherit land. Perhaps a daughter is deemed to join another family on marriage and you want someone to care for you when you are old. Perhaps she needs a dowry. Now imagine that you have had an ultrasound scan; it costs \$12, but you can afford that. The scan says the unborn child is a girl. You yourself would prefer a boy; the rest of your family clamours for one. You would never dream of killing a baby daughter, as they do out in the villages. But an abortion seems different. What do you do? For millions of couples, the answer is: abort the daughter; try for a son.”

2. As early as 1990, the Indian economist Amartya Sen first unveiled the shocking reality behind the gendecide of women with an article called “More than 100 Million Women are Missing”.⁴ The article showed that in most of Asia and North Africa, neglect of women and failure to give them the same attention as men as regards food, medical care and social assistance resulted in a higher death rate for women than men.

3. Missing women have grown by millions since then, also due to the progress of technology which has made it possible for parents to know in advance the sex of the embryos/foetuses and abort females. Evidence that this has been happening for decades is clear to everyone: it is the distorted sex-ratio between boys and girls (the so-called “skewed sex-ratio”).

⁴ <http://ucatlas.ucsc.edu/gender/Sen100M.html>.

4. “At birth, boys outnumber girls everywhere in the world, by much the same proportion – there are around 105 or 106 male children for every 100 female children. Just why the biology of reproduction leads to this result remains a subject of debate. But after birth, biology seems on the whole to favour women. Considerable research has shown that if men and women receive similar nutritional and medical attention and general health care, women tend to live noticeably longer than men. Women seem to be, on the whole, more resistant to disease and in general hardier than men, an advantage they enjoy not only after they are forty years old but also at the beginning of life, especially during the months immediately following birth, and even in the womb. When given the same care as males, females tend to have better survival rates than males.”⁵

5. The sex ratio at birth is usually expressed as the number of boys born per 100 girls and, naturally, it is in the range of 105-106 to compensate males’ higher mortality rate. The natural sex ratio at birth does not vary markedly according to birth order (first, second or third child).⁶ Distortions of the sex ratio at birth indicate a deliberate interference.

6. Several countries in the world present distorted sex ratios: China (113), India (112), South Korea (107), Albania (112), Armenia (112), Azerbaijan (112) and Georgia (111). In all of them, the number of baby girls who are born is below the natural sex ratio at birth.⁷ Unfortunately, not all of them have the same awareness of the problem of prenatal sex selection.

2. Origin, scope and methodology of the report

7. The origin of this report is a motion for a resolution tabled by Mr Volontè and others.⁸ The motion defines sex-selective abortion as a new global trend, due to the combination of the widespread use of abortion as a means of family planning and the widespread availability of prenatal sex-determination technology.

8. This report should also be considered as a follow up to Resolution 1654 (2009) and Recommendation 1861 (2009) on feminicides, which covered feminicides in Europe and, amongst other measures, invited Council of Europe member states “to consider the inclusion in criminal legislation of aggravating circumstances where female victims have suffered violence or been killed because of their gender”.

9. In the present report, I intend to:

- focus on the issue of prenatal sex selection, as suggested in the original motion, without addressing forms of postnatal selection which affect women’s chances of survival, such as killing, abandonment, neglect or lack of equal access to health care and other services;
- expand the scope of the original motion, by covering methods of sex selection other than abortion.

10. In addition, whereas the original motion mainly mentions non-European countries, I would like to focus on Europe, as this is the region with which the Council of Europe is primarily concerned. For this reason, in preparation of the report, I conducted desk research; collected information through questionnaires addressed to the parliamentary delegations of the Council of Europe member states with the most skewed sex ratios at birth (Albania, Armenia, Azerbaijan and Georgia); and carried out a fact-finding visit to Armenia and Georgia from 14 to 17 June 2011.⁹ I would like to thank the parliamentary delegations of these countries for their support, assistance and co-operation.

3. Terminology

11. The term “gendercide” used in the original motion was first used by the philosopher Mary Anne Warren in 1985, in the book “Gendercide: The Implications of Sex Selection”, drawing an analogy with the concept of genocide. It is a sex-neutral term, which refers to the deliberate killing of people belonging to one sex, by reason of their sex.

⁵ Amartya Sen, *More than 100 Million Women are Missing*, 1990.

⁶ United Nations Population Fund, *Guidance Note on Prenatal Sex Selection*, 2009.

⁷ http://en.worldstat.info/Europe/List_of_countries_by_Sex_ratio_at_birth and http://en.worldstat.info/Asia/List_of_countries_by_Sex_ratio_at_birth.

⁸ Doc. 12258.

⁹ For the programme of the visit, see document AS/Ega/Inf (2011) 8.

12. Anne Warren wrote: “By analogy, gendercide would be the deliberate extermination of persons of a particular sex (or gender). Other terms, such as 'gynocide' and 'femicide', have been used to refer to the wrongful killing of girls and women. But 'gendercide' is a sex-neutral term, in that the victims may be either male or female. There is a need for such a sex-neutral term, since sexually discriminatory killing is just as wrong when the victims happen to be male. The term also calls attention to the fact that gender roles have often had lethal consequences, and that these are in important respects analogous to the lethal consequences of racial, religious, and class prejudice.”

13. I will also use a sex-neutral expression: “prenatal sex selection”, which can refer to either sex. However, statistics indicate that, all over the world, prenatal sex selection mainly affects the female sex. Although some specific sociological groups have a preference for girls, this phenomenon is not so statistically relevant as to have an impact on the sex ratio at birth.

14. Furthermore, I would like to use a terminology which is neutral as regards the nature of the embryo/foetus and the question of its right to life. I have decided to do so because my objective is to shed light on the neglected issue of sex selection in Europe, while respecting different personal, cultural or religious views as regards abortion and the concept of life. Irrespective of my personal views on abortion, I hope that the recourse to a neutral approach will enable me to propose a position on the issue of prenatal sex selection which will achieve a broad consensus.

15. By the same token, I have proposed to modify the title of the report to “Prenatal sex selection”, so as to address prenatal sex selection irrespective of how it is carried out, as I will not only address abortion but also preimplantation genetic diagnosis (PDG) and other potential methods of sex selection. I am pleased that the Committee on Equal Opportunities for Women and Men accepted this proposal.

16. Finally, I would like to underscore the links between prenatal sex selection and violence against women. In line with the neutrality approach explained above, I will refrain from defining prenatal sex selection as a form of violence against women as such, because such a definition would imply that the female foetus is a woman.

17. However, prenatal sex selection finds its roots in discrimination against women in society; it coexists with and reinforces forms of gender-based violence against girls and women and perpetuates gender discrimination. In many countries, women are put under strong pressure by their families to abort female foetuses, because the status of women and men in society is unequal, and women are a burden more than a help. In addition, the demographic imbalance provoked by sex selection contributes to forms of violence against women, such as forced prostitution and trafficking for sexual exploitation or marriage.

4. Methods of prenatal sex selection

18. In the world, the most common and least expensive method of prenatal sex selection is abortion. However, in recent years, scientific developments have made it possible to choose the sex of one's offspring through other methods. Although some of these techniques are neither intended for sex selection nor widely available – also because of their cost –, they raise important moral and ethic questions. It is important to address them in the present report because they can be used as a method of sex selection.

4.1. The most common methods of sex identification

19. After 1980, the availability of prenatal technology has grown dramatically: amniocentesis was one of the first technologies to be used for sex identification but this method is technically demanding, expensive and performed mostly by medical personnel after 16 weeks of pregnancy.

20. Later, beta ultrasound appeared. It can be used to identify the sex of the foetus starting at around 16 weeks of pregnancy and is less technically demanding. It is increasingly offered by non-medical personnel at low cost: a machine may cost only a few hundred US dollars and services are often offered at a cost of US\$ 15-30.

21. Availability of this technology and its promotion as a tool for sex selection spread fast, primarily in South and East Asia. Used in conjunction with abortion it is the most commonly practised method of sex selection worldwide.

4.2. Development of new sex-identification methods

22. One of these new methods is the non-invasive prenatal genetic diagnosis, or NIPD, which is based on the 1997 discovery of cell-free foetal DNA (cffDNA) in the maternal blood stream.¹⁰ This non-invasive method can allow the determination of sex in the plasma of the mother already during the fifth week of the pregnancy.¹¹ Studies have demonstrated that foetal sex determination in maternal plasma is reliable. Although NIPD is currently as expensive as other prenatal diagnostic procedures, further developments with sequencing and DNA analysis techniques would probably allow NIPD to become the least expensive form of prenatal diagnosis within the next ten years.¹²

23. More sophisticated tests have been developed recently using a finger-prick blood sample. The Journal of the American Medical Association published a study on 9 August 2011 on these tests, which can give accurate results seven weeks into the pregnancy (with 95% accuracy).¹³ The company, Consumer Genetics, which sells the Pink or Blue test, requires customers to sign a waiver saying they are not using the test for the purpose of sex selection.¹⁴

24. Another type of test analyses hormones in the urine and can be done at home. While this method has not yet been studied and evaluated in depth, some independent studies have found it 90% accurate at 10 weeks of pregnancy.¹⁵

4.3. Pre-pregnancy sex selection

25. Pre-fertilisation sperm sorting (also called “microsort technology”) increases the chances of conceiving an embryo of the preferred sex. It separates the sperm that primarily produce females (bearing chromosome X) from the sperm that primarily produce males (Y chromosome). Microsort technology is undergoing a clinical trial limited to couples who would like to reduce the inheritability and/or the health impact of sex-linked or sex-limited genetic diseases. “Preliminary findings indicate that for patients sorting sperm for” a female embryo, “approximately 9 out of 10 of those who became pregnant were successful in conceiving a female” embryo; “for those sorting for” a male embryo, “approximately 3 out of 4 who became pregnant were successful in conceiving a male” embryo. The United States Food and Drug Administration (FDA) has not reviewed these results and has not determined whether microsort technology is safe or effective”.¹⁶

26. Preimplantation genetic diagnosis (PDG) makes it possible to identify chromosomes in embryos created by in vitro fertilisation (IVF), with a view to detecting chromosomal abnormalities. “Only embryos with the required genetic characteristics are placed in the woman’s uterus. This could mean choosing embryos of the desired sex or are known not to be affected by a particular genetic disorder.”¹⁷

27. In most Council of Europe member states, IVF and PDG are permitted and regulated by law, under specific terms and circumstances, with the aim of assisting reproduction in infertility cases or so as to avoid the transmission of genetic diseases. The testing process of the PDG, however, can also identify the sex of the embryo, and could therefore be used by parents wishing to select the sex of their offspring, for non-medical purposes.

5. Reasons for prenatal sex selection

28. A number of sociological studies have been conducted to pinpoint the main reasons leading individuals to choose the sex of their future offspring.

¹⁰ www.councilforresponsiblegenetics.org/pageDocuments/E3RTQAOVMU.pdf.

¹¹ Reliability of Fetal Sex Determination Using Maternal Plasma, *Obstetrics & Gynecology*: January 2010 – Volume 115 – Issue 1 – pp. 117-126, http://journals.lww.com/greenjournal/fulltext/2010/01000/reliability_of_fetal_sex_determination_using.19.aspx.

¹² Council for responsible genetics, Non-Invasive Pre-Natal Genetic Diagnosis (NIPD), p. 24, www.councilforresponsiblegenetics.org/pageDocuments/E3RTQAOVMU.pdf.

¹³ Journal of the American Medical Association, Non-invasive Foetal Sex Determination Using Cell-Free Foetal DNA, 9 August 2011, <http://jama.ama-assn.org/content/306/6/627.abstract>.

¹⁴ Test can tell foetal sex at 7 weeks, study says, Pam Belluck, *The New York Times*, 9 August 2011.

¹⁵ Ibid.

¹⁶ www.microsort.net/.

¹⁷ UN interagency statement on preventing gender-biased sex selection, p. 15, http://whqlibdoc.who.int/publications/2011/9789241501460_eng.pdf.

5.1. Son preference and gender inequality

29. Son preference is deeply rooted in a number of societies and goes hand in hand with a culture of gender inequality and discrimination against women.

30. Sometimes the underlying reasons for son preference are economic – when inheritance of property can only pass to the son, for example, making girls less desirable if parents want to remain on their land and have some security in their old age. The dowry system and the related financial hardship of raising girls is also a major factor.

31. There are also cultural reasons for son preference, such as transmission of family names. Having a son can be seen as a vital aspect of living up to one's obligations to the family lineage.

32. Although worldwide son preference prevails, in the United States a preference for daughters is visible. In her recent book *Unnatural Selection: Choosing Boys Over Girls, and the Consequences of a World Full of Men*, Mara Hvistendahl explains that Americans tend to prefer daughters, thinking they would have calmer behaviour and do better at school.¹⁸ Boys are presented by parents seeking sex selection as a source of cultural anxiety. Preconceptions on how the girl will turn out influence the decision of the future parents.¹⁹

5.2. Family balancing

33. Data show that parents having already had two or three children of the same sex tend to want to choose the sex of the next child in order to balance the gender composition of their family ("family balancing").²⁰ While it is clear in China, India and some European countries that there is a preference for sons, family balancing does not necessarily lead to the selection of male embryos/foetuses in the rest of the world. Wealthy families use newly developed techniques so as to have a child of the preferred sex, male or female.

5.3. Smaller families

34. Declining fertility and the desire to have small families may also act as incentives for families to want to choose the sex of their offspring. Similarly, interacting with deeply-rooted son preference, the "one child policy" in China is a strong element which explains skewed birth ratios in this country. In Europe as well, economic constraints are a push factor for having smaller families.²¹

5.4. Medical reasons

35. When embryo screening techniques were developed, their first use was for sex selection. Natalie and Danielle Edwards, the first children born after preimplantation genetic diagnosis, were chosen for their sex because their mother carried a genetic disease affecting only boys.²²

36. Preimplantation genetic diagnosis can be used to detect muscular dystrophy and haemophilia, which primarily affect boys.

6. Prenatal sex selection in Asia

37. The phenomenon of prenatal sex selection has reached huge proportions in some Asian countries, where it has been practised for decades.

38. In China, preference for sons and the one-child policy have led to the practice of sex selective abortions and the neglect or killing of baby girls.²³ The sex-ratio was 107 males to 100 females in 1953; it rose from 108 in 1982 to 120 boys per 100 girls in 2005. It is skewed in all regions but more in rural than

¹⁸ <http://www.psychologytoday.com/blog/brainstorm/201107/world-without-women>.

¹⁹ Mara Hvistendahl, *Unnatural selection: choosing boys over girls and the consequences of a world full of men*, June 2011, p. 257.

²⁰ Amanda Mitchison, *Sex selection: Getting the baby you want*, *The Guardian*, 3 April 2010, www.guardian.co.uk/lifeandstyle/2010/apr/03/sex-selection-babies.

²¹ Meeting with Garik Hayrapetyan, UNFPA Armenia, 16 June 2011.

²² Why British parents still cannot choose the sex of their children, *The Sunday Times*, 22 August 2009.

²³ Little girl found, Patti Waldmeir, *The Financial Times*, 13-14 August 2011.

urban areas. It also rises for higher birth order children: in 2005, it was 108 for the first child, 143 for the second and 156 for the third. The sex ratio at birth is today 113 boys for 100 girls.²⁴

39. This skewed sex ratio has resulted in a huge population imbalance: “there were 32 million more men under 20 than women” in 2005.²⁵ By 2013, one in ten Chinese men will lack a female counterpart. By the late 2020’s, a projected one in five men will be surplus.²⁶

40. China outlawed sex-selective abortions in 1995 and undertook a pilot campaign to promote the recognition of the value of girls called “Care for girls”, including incentives for parents of daughters in some counties; however, these measures had limited results.²⁷ On 16 August 2011, a nation-wide 18-month campaign was launched, aimed at raising awareness on gender equality, severely punishing those involved in sex-selective abortions and strengthening monitoring of medical institutions and doctors.²⁸

41. In India, the sex ratio at birth has become progressively more skewed over the last 100 years and was estimated at 108 in 1950. The 2011 census data found a decline in the number of girls in the zero-to-six age group, reflecting a steady decline in the sex ratio at birth. The sex ratio at birth in India is today 112 boys born for 100 girls.²⁹

42. The low status of women, the burden of the dowry system and family pressure, including divorce threats for not giving birth to a boy, have made Indian women choose not to have daughters or to neglect them after birth. In the past twenty years, realising the scale of sex selection, the Indian government has adopted a series of measures to limit the use of prenatal diagnosis to selected congenital conditions, prohibit the use of these techniques for sex determination and outlaw sex-selective abortion.³⁰ In 2004, an amendment was introduced to include gender selection at the pre-conception stage as well.³¹

43. In addition, the Indian government has adopted programmes to support the birth of girls, such as a contribution to a fund in the name of the girl (US\$ 44, limited to families with low income), books and uniform allowances, the provision of a bicycle when a girl reaches the 9th grade. An amendment to the Hindu Succession Act passed in 2004 makes it possible for daughters to inherit family property almost on an equal basis with sons.³² The impact of these measures is not yet visible.

44. The imbalance in South Korea reached 116 boys for 100 girls in the 1990s, with prenatal sex selection traditionally used for the second and third expected children.³³ The authorities set up a multifaceted policy to tackle this problem by organising a “love your daughter” campaign; introducing laws aimed at combating discrimination against women; raising the status of women in society by promoting more balanced participation in public and political life; and improving access to education for girls. As a result of these measures, in 2007 South Korea succeeded in reducing the skewed sex ratio, successfully bringing it to 107 boys born for 100 girls.³⁴ The same sex ratio at birth was estimated for 2011.

45. In addition to the measures taken by the authorities, economic growth and societal changes, including urbanisation and an increasing desire for smaller families (the number of births dropped to 1 child per woman), have had an impact on the sex ratio at birth. According to the UNFPA, “the creation an old-age pension system that enabled parents to have retirement savings for the old-age, reducing dependence on male children”³⁵ has been an important factor.

²⁴ http://en.worldstat.info/Asia/List_of_countries_by_Sex_ratio_at_birth.

²⁵ Is gender selection of a foetus ethical? CNN, 18 August 2011, www.cnn.com/2011/OPINION/08/15/ravitsky.gender.selection/.

²⁶ Mara Hvistendahl, *op. cit.*, p. 165.

²⁷ UN inter-agency statement on preventing gender-biased sex selection, http://whqlibdoc.who.int/publications/2011/9789241501460_eng.pdf.

²⁸ China kicks off campaign against sex determinations, sex-selective abortions, http://news.xinhuanet.com/english2010/china/2011-08/16/c_131053421.htm.

²⁹ http://en.worldstat.info/Asia/List_of_countries_by_Sex_ratio_at_birth.

³⁰ World Health Organisation, www.who.int/genomics/gender/en/index4.html.

³¹ BBC India’s unwanted girls, 23 July 2011, <http://www.bbc.co.uk/news/world-south-asia-13264301>.

³² UN inter-agency statement.

³³ Mara Hvistendahl, *op. cit.*, p. 233.

³⁴ http://en.worldstat.info/Asia/Republic_of_Korea.

³⁵ UNFPA, http://www.unfpa.org/gender/docs/sexselection_faqs.pdf.

7. Prenatal sex selection in Europe

46. As far as Europe is concerned, according to reliable estimates for 2011,³⁶ the sex ratio at birth is 107 in Andorra, Bosnia and Herzegovina, Luxembourg, Montenegro, Portugal and Slovenia, 108 in “the former Yugoslav Republic of Macedonia” and in Kosovo;³⁷ 109 in San Marino; 111 in Georgia; 112 in Albania, Armenia and Azerbaijan. For all the other member states it is between 104 and 106.

47. In this report, I have tried to investigate the situation in the member states with the most skewed sex ratios at birth: Albania, Armenia, Azerbaijan and Georgia. For a comparison, I would like to point out that these four countries indeed present a sex ratio at birth very close to India's. However, some demographers such as Christophe Guilmo have expressed an interest in researching the situation in other countries, such as in the Balkans, where it has been suggested that sex selection might also occur.³⁸

7.1. Albania

48. The main international organisations dealing with population issues conclude that Albania's skewed sex ratio at birth (112 according to 2011 estimates) is due to the practice of sex selective abortions and a strong son preference prevailing in society. However, little attention has been paid to this phenomenon and information is rare. Some research seems to indicate that skewed sex ratio at birth is more important in relatively wealthy families.³⁹

49. The National Committee of Medical Ethics is an advisory body to the Minister of Health, set up by the decision of the Council of Ministers No. 595 (of 21 September 1998). There exists also a professional Association of Albanian Perinatology. Neither body has issued guidelines on prenatal sex selection.

50. In the detailed reply that the Albanian authorities have provided to my questionnaire, they clarify that they do not consider the skewed birth ratio as a nation-wide problem but a sporadic phenomenon limited to some remote areas.

51. The reply also included results from the survey on abortion which was conducted in three Albanian districts, in 2009, by the Albanian Center for Population and Development. The survey was based on information collected amongst doctors, midwives and women who had undergone abortion in public maternities and private clinics. It indicates that the main causes for performing abortions are social reasons, while sex selection is never mentioned.

52. In addition, since 2009, the Institute of Public Health has collected national data on abortion in Albania from public and private institutions with a detailed questionnaire, including questions on the reasons for performing abortions. According to this source of information, no abortion is performed for sex selection. During the second half of 2011, the Ministry of Health together with UNFPA will start a national in-depth survey on abortions in Albania. Investigating the causes of abortion will be part of this work.

53. Under the Law No. 8045 of 7 December 1995 “On the voluntary interruption of pregnancy”,⁴⁰ abortions can be performed up to the 12th week of pregnancy if a woman states that the pregnancy causes her psychological and social problems. Abortions can be performed at any stage during pregnancy in case of a foetal defect and when continuation of the pregnancy would endanger the life or health of the woman, subject to approval by a commission of three physicians. An abortion may be performed up to the 22nd week of pregnancy if the pregnancy is the result of rape or a sex crime or there are “social reasons” for terminating the pregnancy, subject to approval by a three-member commission consisting of a physician, a social worker and a lawyer.

54. Records on abortions are to be kept anonymous, and physicians performing an abortion are required to provide information about family planning services and advice on contraceptive methods. Advertising on medicines and products causing abortion is prohibited.

³⁶ World Statistics 2011, http://en.worldstat.info/Europe/List_of_countries_by_Sex_ratio_at_birth and http://en.worldstat.info/Asia/List_of_countries_by_Sex_ratio_at_birth.

³⁷ All reference to Kosovo in this document, whether to the territory, institutions or population shall be understood in full compliance with United Nations Security Council Resolution 1244 and without prejudice to the status of Kosovo.

³⁸ Mara Hvistendahl, *op. cit.*, p. 14.

³⁹ Louise Grogan, *Son Preference Meets Technology: The Missing Girls of Albania*, May 2006.

⁴⁰ Official Gazette, No. 26, December 1995, pp. 1144-1148.

55. Sex selection for medical reasons is not permitted and is not included in the list of reasons for performing abortion according to Law No. 8045. Sex-selection for non-medical reasons is not permitted either. However, there are no specific sanctions for breaches of regulations on prenatal sex selection.

56. Law No. 8876 of 4 April 2002 "For reproductive health" specifies that during the use of reproductive technologies the sex selection of the embryo is not permitted, except in cases where there is a possibility of inherited disease related to sex (Article 37).

57. In general, after performing the prenatal medical check up, including an ultrasound examination, on the parents' request, the sex of the foetus can be disclosed by the medical doctor.

58. Albania has recently ratified the Council of Europe Convention on Human Rights and Biomedicine.

7.2. South Caucasus

59. After the collapse of the Soviet Union, Armenia, Azerbaijan and Georgia witnessed an upsurge in the ratio of boys to girls: the sex ratios rose from normal levels in 1991 to 110-120 in 2000. In 2009, the sex ratio at birth was 113 in Armenia and 112 in Azerbaijan and Georgia. In Armenia and Georgia, the skewed sex ratio is particularly acute for the third birth.⁴¹

60. The rise in the sex ratios at birth occurred simultaneously in all three countries. Despite the great differences between them in terms of ethnicity, religion, language and culture, the three countries share a high abortion rate, characteristic of this region.

61. The same trend cannot be observed in the neighbouring countries: in Ukraine, the Russian Federation, Kazakhstan, Uzbekistan, Turkmenistan, Tajikistan and Kyrgyzstan the sex ratio at birth has remained substantially unchanged since 1995.

62. At first, researchers from the Caucasian region did not link skewed birth ratios to sex selection. The main tentative explanation put forward was that, with the weakening of administrative capacity following the demise of the Soviet Union "families had stopped registering daughters".⁴²

7.2.1. Armenia

63. During the fact-finding visit to Armenia on 16 and 17 June 2011, the issue of sex selection was acknowledged as a problem in discussions with parliamentarians, doctors, researchers, international organisations and government officials.

64. An ethics committee of gynaecologists and obstetricians does not yet exist in Armenia and practitioners acknowledge that such a committee would be needed.

65. Facts showing a skewed sex ratio were collected, but more research needs to be done in order to establish the reasons. UNFPA Armenia is conducting a country-wide research on the topic, which should be finalised at the end of 2011. UNFPA has already noted that the increase of the number of births of boys for the third child started in the early 1990s.

66. According to a representative of the Ministry of Health, the number of boys reached a peak of 118 for 100 girls for the third child in 2000, showing a clear preference for boys.

67. Abortion is allowed until the 12th week of pregnancy without providing a reason, and later for medical reasons.

68. However, doctors and patients stressed the importance of the attitude of the doctors and radiologists when announcing the sex of the foetus; they often made negative comments when the foetus was female. Armenian women giving birth only to daughters face important social and family pressure.

69. During the visit, practitioners said that in vitro fertilisation was not widely used in Armenia.

⁴¹ France Meslé, Jacques Vallin and Irina Badurashvili, A sharp increase in the sex ratio at birth in the Caucasus. Why? How?, 2005.

⁴² Mara Hvistendahl, *op. cit.*, p. 13.

70. Doctors stated that abdominal ulcer medication is sold freely in pharmacies and could provoke early deliveries. They expressed concern that some abortions, which could be related to sex selection, were carried out at home with this kind of medication.

71. While the authorities and international organisations are well aware of the issue, Armenian civil society organisations have not yet started working on awareness-raising programmes on sex selection.

7.2.2. Azerbaijan

72. The authorities of Azerbaijan provided detailed replies to my questionnaire, highlighting that they are aware of the problem of skewed sex ratios and that they take it seriously. In Azerbaijan, the sex ratio at birth is 112 boys for 100 girls.⁴³

73. The authorities have taken measures to improve awareness raising and the provision of information amongst the general public, in order to prevent the phenomenon.

74. Sex selection for medical reasons is not explicitly permitted, but there are no legal provisions prohibiting it. There are consequently no sanctions against prenatal sex selection and there is no body in charge of monitoring this matter. Furthermore, there is no ethic body of obstetricians and gynaecologists.

75. A law on reproductive health and bioethics is currently being drafted, which will contain provisions on prenatal sex selection. Azerbaijan is also planning to accede to relevant international instruments, including the Council of Europe Convention on Human Rights and Biomedicine.

7.2.3. Georgia

76. In their answer to the questionnaire, the Georgian authorities indicated they were aware of the skewed birth ratios but did not consider prenatal sex selection a major problem. The Georgian National Reproductive Health Council confirmed during the fact-finding visit that neither the public nor the medical society considered sex-selective abortion to be a serious problem.

77. Abortion is possible until the 12th week of pregnancy without giving a reason. It is permitted for a medical or a social reason until the 22nd week of pregnancy.⁴⁴ Researchers I met during the visit found that in Georgia only a small number of women aborted after an ultrasound scan after having found out the sex of the foetus; however, the number was greater for women who already had two or three daughters.⁴⁵

78. Prenatal sex selection for non-medical reasons is not permitted. However, there is no specific monitoring of this phenomenon should it occur. Prenatal sex selection for medical reasons is not prohibited but, according to the Law on Patients Rights, it is permitted only for the purpose of the prevention of hereditary diseases. Sex selection through PDG is allowed in order to prevent genetic diseases.

79. There are no specific sanctions for breaches of the regulation of prenatal sex selection. However, the physician having performed it can be subjected to a disciplinary action before his/her professional Council.

80. I found during the visit that few civil society organisations are aware of the occurrence of prenatal sex selection in Georgia and work on prevention activities.⁴⁶

81. Georgia has ratified the Council of Europe Convention on Human Rights and Biomedicine.

7.3. Immigrant communities

82. In recent years, a few studies have been conducted on the issue of sex ratios at birth amongst immigrant communities in western countries, as well as on the reasons behind skewed sex ratios. It should be pointed out that there are only a limited number of such studies, and that often their results are not conclusive, also partly due to the difficulty in collecting reliable data.

⁴³ <http://en.worldstat.info/Asia/Azerbaijan>.

⁴⁴ Meeting with Mr Dolidze, Deputy Minister of Health, Tbilisi, 15 June 2011.

⁴⁵ G. Duthé, F. Meslé, J. Vallin, I. Badurashvili, K. Kuyumjian, High level of sex ratio at birth in the Caucasus. A persistent phenomenon? November 2010.

⁴⁶ Meeting with non-governmental organisations, Tbilisi, 15 June 2011.

83. A study on the 2000 census in the United States has concluded that immigrants from China, India and South Korea to the United States had sex ratios at birth nearly as skewed as those of their countries of origin, especially for the second (117 boys for 100 girls) and third birth (151 boys if the two first children were girls).⁴⁷

84. Skewed sex ratios at birth were found “despite the absence of many of the factors advanced to rationalise son bias in India, China and Korea, such as China’s one-child policy, high dowry payments (India), patrilocal marriage patterns (all three countries), or reliance on children for old age support and physical security”. In addition, skewed sex ratios appeared to be recent, as they did not emerge from the data of the 1990 census.⁴⁸

85. A tendency towards a skewed sex ratio has also been found amongst families of Asian ethnicity living in Quebec, even if researchers concluded that more elements were necessary to prove that sex selection was the cause.⁴⁹

86. In Norway, research on the sex ratio at birth in immigrant communities of Indian and Pakistani origin showed a skewed number of female births amongst higher birth orders (third, or later) amongst mothers of Indian origin. The authors of this research concluded that this sex ratio might reflect an increase in sex-selective abortion, although the numbers were too small to draw firm conclusions.⁵⁰

87. Similarly, research conducted in England and Wales revealed a skewed sex ratio at birth amongst Asian-born mothers, especially for higher birth orders: “Before 1990, sex ratios at birth were consistently nearly one point lower (104) for the three major Asian groups in Britain compared with mothers born in Western countries. In the birth statistics since 1990, we find a four-point increase in the sex ratio at birth for mothers born in India, attributable particularly to an increase at higher birth orders, mirroring findings reported for India. This suggests that sex-selective abortion is occurring amongst mothers born in India and living in Britain. By contrast, no significant increase was observed for Pakistan-born and Bangladesh-born mothers, among whom male preference also exists. It seems that male preference in different cultures does not necessarily lead to sex-selective abortion.”⁵¹

7.4 Commercialisation of prenatal sex-selection services

88. The progress of reproductive technology and the great disparities in the legal framework applicable to it in different countries (or lack of legal framework) have spawn a new business for medical structures offering sex-selection services on the Internet, and therefore reaching also potential customers in countries where sex selection is unlawful or strongly regulated.⁵² Amongst the countries where it is possible for parents to undergo medical procedures in private facilities and choose the sex of their offspring are Colombia, Cook Islands, Costa Rica, Côte d’Ivoire, Egypt, Mexico and the United States.

89. Fertility clinics in the United States have patients from the United Kingdom, Australia and Canada coming for PGD and make sex selection a profitable business.⁵³ In addition, advertising campaigns in newspapers and in-flight magazines are targeting Asian-American communities offering to choose the sex of their offspring.⁵⁴ It should be noted that US clinics do not have to report to any administration the reasons given by the parents for choosing a PGD procedure.⁵⁵

⁴⁷ Douglas Almond and Lena Edlund, Son-biased sex ratios in the 2000 United States Census, www.pnas.org/content/105/15/5681.full

⁴⁸ Ibid.

⁴⁹ Auger, Daniel and Moor, Sex ratios patterns according to Asian ethnicity in Quebec, 1981-2004, *European Journal of Epidemiology*, 2009.

⁵⁰ Narpinder Singh, Are Hugo Pripp, Torkel Brekke and Babill Stray-Pedersen, Different sex ratios of children born to Indian and Pakistani immigrants in Norway, www.ncbi.nlm.nih.gov/sites/ppmc/articles/PMC2919442/.

⁵¹ Sylvie Dubuc and David Coleman, An increase in the Sex Ratio of Births to India-born mothers in England and Wales; Evidence for Sex-Selective Abortion in *Population and Development Review*, 2007. See also BBC news, United Kingdom. Indian women “aborting girls”, 3 December 2007, http://news.bbc.co.uk/2/hi/uk_news/7123753.stm.

⁵² Egypt sex selection clinics engender controversy (31 March 2010), www.breitbart.com/article.php?id=CNG.e48dcd2d7eded7c7afce6bcae05990d1.31; Parents queue to select baby gender (29 October 2010), http://news.bbc.co.uk/2/hi/uk_news/7696698.stm.

⁵³ Ibid, p. 258.

⁵⁴ Taking a stance: tools for action on sex selection.

⁵⁵ Mara Hvistendahl, *op. cit.*, p. 259.

8. Consequences of prenatal sex selection

90. So far, sociological research into the consequences of the demographic imbalance caused by sex selection has been conducted only for Asian countries. The findings, however, can be considered of general application.

8.1. Rise in criminality and social unrest

91. “The crime rate has almost doubled in China during the past 20 years, with stories abounding of bride abduction, the trafficking of women, rape and prostitution. In 2020, China will have between 30 and 40 million young men more than young women. A study of whether these things were connected concluded that they were, and that higher sex ratios accounted for one-seventh of the rise in crime.”⁵⁶

92. In South Korea, a significant number of bachelors search for a bride abroad. In 2008, 11% of marriages were mixed, with a Korean man marrying a foreign woman most of the time. “This is causing tensions in a hitherto homogenous society, which is often hostile to the children of mixed marriages.”⁵⁷

8.2. Rise in human rights violations, including violence and discrimination against women

93. The gender imbalance is not the only cause, but is a contributing factor to the increase in trafficking in human beings.⁵⁸ Women are bought and sold, brought to other countries for sex and marriage due to the lack of women. According to the US Department of State’s 2011 annual report on Trafficking in Persons, “the central government of China did not address the birth limitation policy, which may contribute to a gender imbalance that experts believe has led to trafficking of women into involuntary servitude through forced marriage in the Chinese population”.⁵⁹

94. Another possible consequence is an increase in the rate of women’s suicides: according to the World Health Organisation, female suicide rates in China are among the highest in the world. In fact, suicide is the most common form of death amongst Chinese rural women aged 15-34. Some people think that young women kill themselves because they cannot live with the knowledge that they have aborted female fetuses, or in some cases killed their baby girls, or because they were not able to give birth to a boy.⁶⁰

95. The resurgence of polyandry (one woman married to more than one man) in some Indian provinces is also considered as connected to the population imbalance caused by sex selection.⁶¹

96. The continuation of discrimination against girls and women by women themselves is also a consequence. Prenatal sex selection is discrimination in itself and reinforces discrimination.⁶² In India, many women blamed for having daughters are abandoned or divorced since they were not able to have a son.⁶³ Women are put “in a position where they must perpetuate the lower status of girls through son preference”.⁶⁴

9. Prenatal sex selection in international law

9.1. United Nations instruments

97. A number of United Nations resolutions and documents address the issue of prenatal sex selection, placing it squarely under the more general issue of violence against women. Amongst them are:

- Resolution 1996/49 of the Commission on Human Rights on the elimination of violence against women, which asks United Nations member states to “enact and enforce legislation against the

⁵⁶ The worldwide war on baby girls, *The Economist*, 6 March 2010.

⁵⁷ Ibid.

⁵⁸ Mara Hvistendahl, op. cit., p. 185.

⁵⁹ www.state.gov/g/tip/rls/tiprpt/2011/164231.htm.

⁶⁰ UN interagency statement on preventing gender-biased sex selection, p. 5, http://whqlibdoc.who.int/publications/2011/9789241501460_eng.pdf.

⁶¹ Ministry of Health and Family Welfare, Government of India, <http://pndt.gov.in/writereaddata/mainlinkFile/File53.pdf>.

⁶² World Health Organisation, www.who.int/genomics/gender/en/index4.html.

⁶³ Ministry of Health and Family Welfare, Government of India, *Sex Selection – Linkages with other key gender and social issues*, <http://pndt.gov.in/writereaddata/mainlinkfile/File103.pdf>.

⁶⁴ UN interagency statement on preventing gender-biased sex selection, p. 5, http://whqlibdoc.who.int/publications/2011/9789241501460_eng.pdf.

- perpetrators of practices and acts of violence against women, such as female genital mutilation, female infanticide, prenatal sex selection and dowry-related violence, and give vigorous support to the efforts of non-governmental and community organizations to eliminate such practices”;⁶⁵
- the Beijing Platform for Action, which contains a similar recommendation (paragraphs 115 and 124);⁶⁶
 - United Nations General Assembly Resolution 52/106 on the girl child, in which the Assembly “urges all States to enact and enforce legislation protecting girls from all forms of violence, including female infanticide and prenatal sex selection”.⁶⁷

98. From a political point of view, it is also worth mentioning the United Nations interagency statement on preventing gender-biased sex selection, which was released on 14 June 2011 by the Office of the High Commissioner for Human Rights, the United Nations Fund for Population, the United Nations Fund for Children, UN Women and the World Health Organisation.⁶⁸ The statement stressed the need to collect “more reliable data on the real magnitude of the problem, on its social and health consequences and on the impact of interventions”. It also called for the development of guidelines on the ethical use of relevant technologies, the adoption of supportive measures for girls and women, the development of legislation addressing causes of gender inequality and awareness raising on the issue.⁶⁹

9.2 *European instruments*

99. The European Convention on Human Rights and Biomedicine (“Oviedo Convention”), negotiated and opened for signature within the Council of Europe, is a major international binding instrument containing a provision on prenatal sex selection.

100. Its Article 14 states “the use of techniques of medically assisted procreation shall not be allowed for the purpose of choosing a future child’s sex except where serious hereditary sex-related disease is to be avoided”.

101. This Convention has been signed and ratified by 28 member states (Albania, Bosnia and Herzegovina, Bulgaria, Croatia, Cyprus, Czech Republic, Denmark, Estonia, Finland, Georgia, Greece, Hungary, Iceland, Latvia, Lithuania, Moldova, Montenegro, Norway, Portugal, Romania, San Marino, Serbia, Slovak Republic, Slovenia, Spain, Switzerland, “The former Yugoslav Republic of Macedonia” and Turkey.

102. It is a treaty open for signature by the member states of the Council of Europe, the non-member states which have participated in its elaboration and the European Union, and for accession by other non-member states.

103. For the sake of clarity, I should also point out that the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence does not explicitly include prenatal sex selection in its scope of application. However, it includes psychological violence in Article 33 “Parties shall take the necessary legislative or other measures to ensure that the intentional conduct of seriously impairing a person’s psychological integrity through coercion or threats is criminalised”. The pressure exerted on women by their husbands and families, forcing them to abort, can be considered a form of psychological violence.

104. In addition, the Convention condemns the practice of forced abortions in its Article 39 “Parties shall take the necessary legislative or other measures to ensure that the following intentional conducts are criminalised: a) performing an abortion on a woman without her prior and informed consent; b) performing surgery which has the purpose or effect of terminating a woman’s capacity to naturally reproduce without her prior and informed consent or understanding of the procedure”.

105. The Committee of Ministers has called on member states to “prohibit enforced sterilisation or abortion, contraception imposed by coercion or force, and prenatal selection by sex, and take all necessary measures to this end” in its Recommendation Rec(2002)5 on the protection of women against violence, adopted on 30 April 2002.

⁶⁵ Paragraph 7.e.

⁶⁶ www.un.org/womenwatch/daw/beijing/platform/violence.htm.

⁶⁷ Paragraph 4.

⁶⁸ UN interagency statement on preventing gender-biased sex selection, http://whqlibdoc.who.int/publications/2011/9789241501460_eng.pdf.

⁶⁹ *Ibid.*, page VI.

106. It is also worth recalling that Article 3 of the Charter of Fundamental Rights of the European Union (right to the integrity of the person) prohibits eugenic practices, “in particular those aiming at the selection of persons”.⁷⁰

10. Prenatal sex selection in national law

10.1. In the context of preimplantation genetic diagnosis

107. As regards preimplantation genetic diagnosis (PDG), national approaches vary considerably from state to state. Only a few member states prohibit it in all circumstances (Austria and Ireland).

108. In Italy, even if the relevant legislation does not expressly mention PDG,⁷¹ this was defined as prohibited according to the interpretation provided by the ministerial explanatory guidelines. Since a decision of the Constitutional Court in 2006, however, Italian courts have developed a case law which affirms the incompatibility of the prohibition of PDG with the Constitution, provided that it is conducted in compliance with the law and to detect abnormalities and diseases of the foetus.

109. In the great majority of the other member states (such as Belgium, Denmark, France, Germany, Greece, Norway, Portugal, the Russian Federation, Spain, Sweden, the United Kingdom) PDG is lawful and regulated by the law. In these cases, however, sex selection is allowed only for medical reasons.⁷²

110. On 7 July 2011, the German parliament passed a law allowing PGD of embryos after in vitro fertilisation if the parents have a strong likelihood of passing on a defect or if the chances of a miscarriage or stillbirth are high for genetic reasons.⁷³

10.2. In the context of abortion

111. As regards sex selection through abortion, Sweden represents an isolated case in Europe. In this country, since 1975, women have the legal right to abortion during the first 18 weeks of pregnancy, without having to give a reason. After the 18th week, an abortion may be performed if there are “special reasons” for doing so, up to the 22nd week. In these cases, the National Board of Health and Welfare conducts an investigation and decides whether to allow the abortion.

112. Recently, the National Board of Health and Welfare was asked to give its opinion on a specific case and clarify whether medical staff are obliged to disclose the sex of the foetus even if there are no medical reasons, and to perform an abortion even when the sex of the foetus is the only basis for the request. The reply was affirmative.⁷⁴

113. Amongst Council of Europe observer states, Canada is in a somewhat similar position: sex selection in the context of reproductive technology is prohibited, subject to an exception that allows sex selection to prevent disorders or disease.⁷⁵ On other hand, since 1998 – when a provision of the criminal code on abortion was found unconstitutional – Canada has not had a law prohibiting any type of abortion, including abortions for the purpose of sex selection, although there have been several failed attempts at legislative reform. Abortion for sex selection is therefore legal and there are reports that it has been practised.

11. Recommendations by ethics bodies

114. Many ethics bodies and associations have taken position on the issue of the participation of health-care providers in sex selection. The overwhelming majority of them discourage prenatal sex selection unless it is performed for medical reasons. These are some examples:

- the International Federation of Gynaecology and Obstetrics rejects sex selection when it is used as a tool for sex discrimination. It supports preconception sex selection when it is used to avoid sex-linked genetic disorders;

⁷⁰ www.europarl.europa.eu/charter/default_en.htm.

⁷¹ Law No. 40 of 2004, at <http://www.parlamento.it/parlam/leggi/04040l.htm>.

⁷² Secretariat of the Steering Committee on Bioethics, Background document on preimplantation and prenatal genetic testing, Clinical situation, Legal situation, 22 November 2010, p. 19, www.coe.int/t/dg3/healthbioethic/Source/INF_2010_6_dpdpn_en.pdf.

⁷³ www.spiegel.de/international/germany/0,1518,773054,00.html.

⁷⁴ www.socialstyrelsen.se/english.

⁷⁵ Law Library of Congress: Sex Selection and Abortion, Canada, www.loc.gov/law/help/sex-selection/canada.php.

- the United Kingdom’s Human Fertilisation and Embryology Authority Code of Practice on preimplantation diagnostic states that “centres may not use any information derived from tests on an embryo, or any material removed from it or from the gametes that produced it, to select embryos of a particular sex for non-medical reasons”;⁷⁶
- the Swiss Academy for Medical Sciences has drafted guidelines for genetic testing. Sex selection is considered “inappropriate if [the] aim is merely to determine the sex of the embryo or foetus or other factors that do not constitute a threat to health”;⁷⁷
- the American College of Obstetricians and Gynaecologists’ Committee on Ethics supports the practice of offering patients procedures for the purpose of preventing serious sex-linked genetic diseases. However, the committee opposes meeting requests for sex selection for personal and family reasons, including family balancing, because of the concern that such requests may ultimately support sexist practices;⁷⁸
- a partially dissonant voice is the Ethics Committee of the American Society for Reproductive Medicine, which maintains that the use of preconception sex selection by preimplantation genetic diagnosis for non-medical reasons is ethically problematic and should be discouraged. However, it issued a statement in 2001 that if prefertilisation techniques, particularly sperm sorting, were demonstrated to be safe and efficacious, they would be ethically permissible for family balancing.⁷⁹

115. Despite these guidelines and recommendations, in most cases the situation faced by health-care providers is not so straightforward: they may participate unknowingly in sex selection when disclosing information about the sex of a foetus resulting from a medical procedure performed for some other purpose.

116. It is possibly for this reason that public hospitals and medical structures in the United Kingdom normally withhold information about the sex of the foetus during scans.

117. However, the policy of not announcing the sex of the foetus depends on the willingness of the doctors to abide by it and existing sanctions. While ethical guidelines encourage this policy, there has been no indication to date as to whether this policy has contributed to preventing sex selection. The availability of tests on the Internet makes it easier for people to find out the sex of the foetus, whether this is legal in their country or not.

12. Conclusions and recommendations

118. Gender inequality in all aspects of life and discrimination against women are so widespread in the world that, spontaneously or under pressure, millions of women decide not to give birth to daughters, who are considered human beings of lesser value than men and a burden for their families.

119. Prenatal sex selection is a serious problem, which can contribute to a rise in criminality and social instability. It has reached huge proportions in some Asian countries, especially in China and India. It has been acknowledged by the authorities, it has been studied by researchers and is being addressed by policy and legal measures, although still with unsatisfactory results.

120. Prenatal sex selection also affects some European countries, sometimes at levels comparable to India. In Europe, however, the problem has just started to be acknowledged by the authorities; it has hardly been researched by the scientific community and it is largely ignored by existing legislation, policies and guidelines in the field of reproductive health, family planning and assisted parenthood.

121. Preparing this report has given me the possibility to reflect on the impact of modern technology on women’s rights and status in society. For decades, women fought the battle to legalise abortion and to have the freedom to choose whether to become mothers. However, women did not fight this battle to perpetuate gender inequality, discrimination against women and gender stereotypes.

122. Unfortunately, in a number of countries which have legalised abortion, this right is being misused, in conjunction with the availability of prenatal sex identification, to affect women’s chances of being born, and to perpetuate a culture of inequality.

⁷⁶ www.hfea.gov.uk/code.html.

⁷⁷ www.samw.ch/content/Richtlinien/e_Gen.pdf.

⁷⁸ ACOG Committee Opinion No. 360, Sex Selection, February 2007.

⁷⁹ www.asrm.org/uploadedFiles/ASRM_Content/News_and_Publications/Ethics_Committee_Reports_and_Statements/preconceptiongender.pdf.

123. We should take a stance against prenatal sex selection in the strongest terms, because of its potential social consequences and because it perpetuates a culture of gender inequality which is contrary to human rights and the universal values upheld by the Council of Europe.

124. We should be careful, however, not to use prenatal sex selection as a pretext to limit legal abortion. These limitations would have no impact whatsoever on tackling the root causes of sex selection, namely gender inequality.

125. Likewise, we should refrain from discriminating between different methods of sex selection, and from applying double standards according to the level of income of the individuals involved or the countries where it takes place.

126. Abortion is the most widespread method of sex selection in low-income countries and for low-income families. It is not, however, the only method of sex selection. Especially in relatively rich countries or amongst wealthy families, there is a risk that new reproductive technologies are misused for the same purposes.

127. The debate on whether it should be admissible to choose one's offspring's sex opens a number of ethical questions, to which different individuals reply in different ways. Also countries have replied in different ways, sometimes contradictory. It was interesting for me to realise that a country such as Mexico, where the legalisation on abortion has followed a tortuous and difficult path, permits sex selection for non-medical reasons with other methods; in Sweden and Canada there are no grounds to interfere with a woman's decision to abort the foetus of the sex that she does not want, while it is not admissible to select the sex of a foetus in the context of a PDG procedure, unless there are medical reasons.

128. If our stance against prenatal sex selection is a principled one, and based on the universal value of equality between women and men, we should be prepared to be consistent. In my opinion, prenatal sex selection should be resorted to only to avoid a serious hereditary sex-related disease, irrespective of the method.

129. The example of South Korea demonstrates that it is possible to reduce the imbalance in the sex ratio at birth through a combination of measures. For European countries, the first step should be, without any doubt, the authorities' acknowledgement of the existence of a problem.

130. This should be followed by:

- the organisation of awareness-raising campaigns addressed to the general public;
- the provision of more specialised training and information targeting medical staff;
- the encouragement of guidelines from ethics bodies;
- the collection of data on sex ratios at birth at national level as well as in specific regions;
- when possible, the collection of data on sex ratios at birth amongst specific communities, while avoiding promoting discriminatory or stereotyped views on such communities;
- the promotion of scientific research on the root causes of prenatal sex selection and its social consequences;
- the development of appropriate legislation on prenatal sex selection;
- the signature and ratification of the European Convention on Human Rights and Biomedicine.

131. I believe, however, that the most effective and durable way to prevent prenatal sex selection is promoting the equal value of women and men in society and their effective equality in all aspects of life. A lot remains to be done in this area, and I hope that the Council of Europe will continue to assist its member states in meeting the challenge.