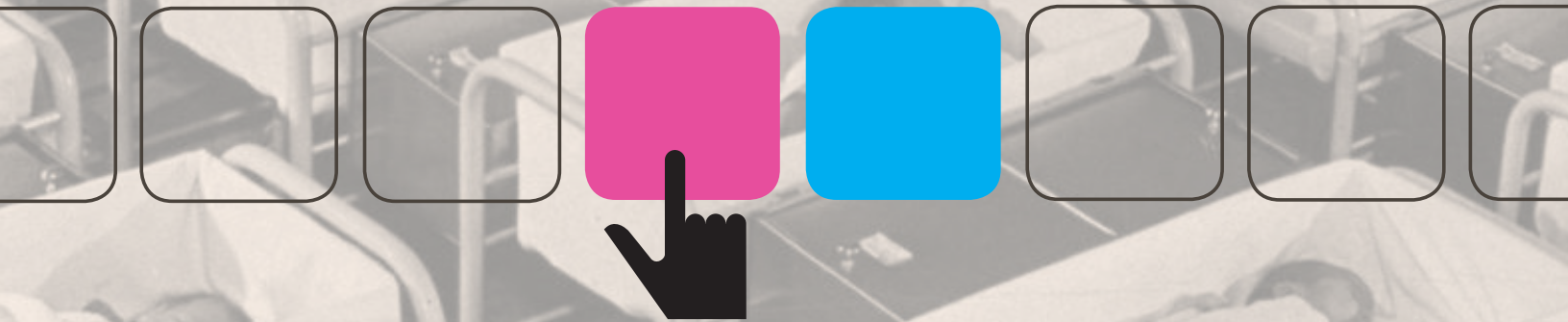


# TAKING A STAND

TOOLS FOR ACTION ON  
SEX SELECTION



a collaborative project of **Generations Ahead**,  
**National Asian Pacific American Women's Forum (NAPAWF)**, and  
**Asian Communities for Reproductive Justice (ACRJ)**



Dear Friends and Allies,

The world of technology and its impact on reproduction continues to evolve so quickly as to be breathtaking. As advocates committed to reproductive justice for all people, we are faced with the difficult task of keeping up with the shifting realities of science as well as new tactics developed by our opposition to undermine the health and well-being of women and communities. One challenging attack that we face today is the appearance of federal and state proposals to ban abortion based on sex-selection.

It is impossible to overstate the complex implications of these policies. Attempts to address the issue of sex selection legislatively in the United States have been bids to limit access to abortion. Proponents of these proposals claim to protect the health and human rights of women and girls, particularly women and girls of color. Yet the proposals would limit reproductive health options and often exacerbate racial stereotypes.

The issue of sex selection challenges us to stand up for race and gender equality without undermining abortion rights and without perpetuating assumptions about sex and gender binaries. These proposals threaten to drive a painful wedge between reproductive and racial justice organizations, and pro-choice advocates. And in a world of assisted reproductive technologies that span from before conception through pregnancy itself, this issue requires us to consider implications of addressing sex selection both pre- and post-pregnancy.

Given these complexities, we are pleased to offer **Taking a Stand: Tools for Action on Sex Selection**, a collaborative project of *Generations Ahead*, *National Pacific American Women's Forum (NAPAWF)* and *Asian Communities for Reproductive Justice (ACRJ)*.

Through background information, legislative updates and political education activities, **Taking a Stand** provides reproductive rights and justice advocates with the tools to:

- understand the complexities of sex selection abortion bans and their broader relationship to sex selection;
- build agreement and political will within organizations to take action; and
- develop advocacy strategies that lay the groundwork for achieving reproductive justice and coalition-building in the long-term.

In the face of this new wedge strategy devised by opponents of women's reproductive health, rights and justice, the one thing we know is that we can't ignore these attempts. So, as you use **Taking a Stand**, please take the opportunity to contact either *Generations Ahead* or *NAPAWF* with questions, new perspectives and stories of innovative approaches. We look forward to working with a growing coalition of pro-choice advocates, reproductive justice, racial justice, domestic violence prevention and other community based organizations to both defeat these abortions bans and to lay the groundwork for proactive victories.

Thank you for taking a stand with us,

*Sujatha Jesudason*  
Generations Ahead



*Miriam Yeung*  
National Asian Pacific American Women's Forum



*Eveline Shen*  
Asian Communities for Reproductive Justice



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# SEX SELECTION in the United States

## OVERVIEW ■

**S**ex selection is the practice of utilizing medical techniques to have an offspring of a preferred sex. It is a deeply controversial practice that raises important questions about sex and gender discrimination and stereotypes, reproductive autonomy, and the ethics of choosing children with specific characteristics. In the United States, many reproductive rights and progressive organizations are troubled by the stereotypes and discrimination that underlie sex selection and the precedent it sets for genetic trait selection, but have hesitated to take a public position opposing sex selection because of concerns about reproductive autonomy and access to abortion.

The use of sex selection seems inexorably linked to gendered expectations about what it means to have—or be—a boy or a girl; gender discrimination and the preference for one gender over others; and to a belief that sex and gender can be classified into two distinct male and female forms, rejecting the idea that gender is fluid. However, for as much as reproductive rights advocates would prefer a world without sex selection, they are also deeply concerned that limiting sex selection could implicate abortion rights in the United States and undermine women’s reproductive privacy and self-determination. Nonetheless, progressive advocates are being pushed to take a position on sex selection in part because the anti-abortion groups have begun using sex selection as a wedge issue to undermine abortion rights, and in part because of their own pressing concerns about gender discrimination and trait selection. Importantly, some advocates believe that lines can be drawn that uphold abortion rights and discourage sex selection, lines that have been drawn successfully in numerous other countries in the world. Compared to many approaches internationally, American policies about sex selection are extremely permissive.

Increasingly, data in the United States suggest that in Asian-American communities, son preference and the use of sex selection has resulted in more males than females born, specifically when it comes to second and third children in the family. Sex selection is used outside of these communities as well, although there are no data on whether boys or girls are preferred. Outside of the United States, in countries or cultures where abortion is often more accessible and where son preference is a strong tradition, there is stronger evidence of impact on the sex ratio in births—and more active opposition to sex selection from feminist movements and other progressives.

Conservative anti-abortion groups in the United States are increasingly using sex selection as a wedge issue to attempt to divide progressive communities. The most notable example of this is the “Susan B. Anthony and Frederick Douglass Prenatal Nondiscrimination Act of 2009,” Rep. Trent Franks’ (R-AZ) proposed legislation to ban sex-selective and “race-selective” abortions.<sup>1</sup> State legislators in Illinois, Pennsylvania, West Virginia, Oklahoma, Michigan, and Minnesota have also either passed or proposed bans on the use of abortion for sex selection, some of which present

a real political dilemma: how to oppose gender and race discrimination without aligning with explicitly anti-abortion legislators with no track record on supporting the health and well-being of women and communities of color. Some of the legislators proposing these bills have reached out to the ethnic communities most affected by sex selection and have used the language of gender equality, human rights, and preventing violence against women.

Because of the sometimes competing and conflicting viewpoints at stake in debates surrounding sex selection, and in anticipation of ongoing and future legislative battles, reproductive rights and social justice organizations would be well served to prepare for this complex and politically difficult issue by considering a variety of approaches to sex selection and by articulating a shared set of values and principles.

This brief report on sex selection includes a description of sex selection methods, data on sex selection specifically in the United States, information about current regulation of sex selective practices, some different perspective and viewpoints on the issue, and concludes with some of the values reproductive rights and justice organizations use to take a stand on sex selection.

## ■ SEX SELECTION METHODS

Currently, sex selection techniques may occur before pregnancy or during pregnancy. It is believed that pre-pregnancy methods account for only a small percentage of sex selection procedures in the United States due to their recent introduction, high cost, and the limited number of providers who perform them.

## ■ DATA ON SEX SELECTION IN THE UNITED STATES

There are no official data available on the frequency of pre- and post-pregnancy sex selection in the United States and those who undergo it are often reluctant to discuss it publicly. Some indication of use may be found by examining sex ratios at birth for various populations. Globally, there are 104-107 boys born for every 100 girls;<sup>6</sup> when the sex ratios at birth for a given population fall outside this narrow range, there is strong evidence that sex selection is being done.

Two recent studies relying on 2000 Census data confirm the existence of skewed sex ratios in certain populations in the United States.<sup>7</sup> These studies show evidence of sex selection, and specifically son preference, among Indian-, Chinese-, and Korean-American parents in the United States. In particular, among these populations, although the sex ratio for the oldest child is normal, the sex ratio is heavily male-biased for later births in families with older girls. The sex ratio for second children if the first child was female, was 1.17:1 (male: female), and for the third, the ratio jumped to 1.51:1 if both previous children were female.<sup>8</sup>

## SEX SELECTION: BEFORE PREGNANCY

■ In **sperm sorting**, X-chromosome sperm and Y-chromosome sperm are separated and used in intrauterine insemination or in-vitro fertilization (IVF). This technique, called MicroSort, is only offered by the Genetics & IVF Institute in Fairfax, Virginia. The technique is 76% effective for choosing males and 91% for females.<sup>2</sup>

■ **Pre-implantation Genetic Diagnosis (PGD)** is used in conjunction with IVF. Before fertilized eggs are transferred to the uterus, a single cell biopsy and chromosome analysis is done to determine the sex of the embryo (and genetic analysis may be done to detect genetic conditions); only embryos of the desired sex are transferred. PGD is nearly 100% effective in selecting for sex.

## SEX SELECTION: DURING PREGNANCY

■ **Sex-selective abortion** may follow ultrasound, amniocentesis, or chorionic villi sampling (CVS). Amniocentesis and CVS are used to obtain a sample of fetal cells and analyze them for X and Y-chromosomes; both are invasive procedures that carry some risks of harm or miscarriage. Ultrasound scanning is a non-invasive method of examining the fetus. If the amniocentesis, CVS, or ultrasound indicates the fetus is of the undesired sex, the pregnant woman can terminate the pregnancy, usually in the second trimester.<sup>3</sup>

■ New maternal blood testing techniques promise to **analyze fetal cells** directly. A small amount of fetal DNA enters the mother's blood early in pregnancy. It is expected that within a few years, newly pregnant women will be able to give a sample of blood and have the fetal DNA tested, which will reveal the sex of the fetus (as well as any other genetic conditions). This technique can be used in the first trimester of pregnancy, making it a much earlier and less risky technique.<sup>4</sup> A few companies have begun offering direct-to-consumer online kits that purport to test the pregnant woman's blood for Y-chromosomal fetal DNA that would reveal a male fetus. Using "Baby Gender Mentor" as early as five weeks into a pregnancy, a woman pricks her finger and deposits blood on a card, which is then sent to a laboratory. A similar at-home test, IntelliGender is available at drug stores. Numerous women have come forward and declared that their Baby Gender Mentor test predicted the wrong sex, and the company is under investigation for possible consumer fraud.<sup>5</sup>

Son preference cuts across class lines and seems to have intensified with the trend in Asia and the United States towards having smaller families.<sup>9</sup> It is believed, but not confirmed through research, that the prevalence of son preference in Asian communities in the United States stems from the same reasons for the predominance of sex selection in India, China, and South Korea, reasons such as the elevated social status of men, the ability of sons to carry on the family name and perform certain cultural rituals, men's ability to contribute more to family income, and traditions that require sons to care for aging parents.

Beyond culture, marketing plays a role in the demand for sex selection in the United States. American fertility clinics and doctors offering sex selection actively target Asian-American communities through marketing and advertisements in ethnic newspapers. In one such newspaper, an ad proclaims, "Choosing the sex of your baby a new scientific reality!"<sup>10</sup> Ads targeting the general population have appeared in airline in-flight magazines, asking, "Do you want to choose the gender of your next baby?"


The use of sex selection is not discernible in overall American birth ratio statistics.<sup>11</sup> Although some clinics offer sex selection for a first or only child, more often they only allow sex selection for "family balancing" or "gender diversity" reasons. Family balancing refers to the practice of selecting for offspring of the opposite sex to the children already present in the family. Microsort, the sperm sorting technique, is offered only for family balancing (and for avoiding sex-linked disease), and many IVF clinics offer PGD for sex selection only for the same reasons.<sup>12</sup> Defenders of sex selection often state that families in the United States may be as likely to choose girls as boys, although data are not available. Allowing "only" family balancing is not a solution to son preference or gender discrimination. Indeed, the data indicate that Asian families are also practicing family balancing, only selecting for boys in second or third children when earlier children are female.

## REGULATION OF SEX SELECTION

Sex selection—other than to avoid sex-linked diseases<sup>13</sup>—has been banned in most industrialized countries, with the United States as the notable exception. In the United States, there is virtually no federal or state regulation of sex selection, although voluntary professional guidelines do exist. Even though federal laws regulate certain aspects of assisted reproductive technology (ART), there is no regulation of sex selection specifically. State regulation of ART is likewise very limited. Legislators in Illinois, Pennsylvania, West Virginia, Oklahoma, Michigan, and Minnesota have proposed or enacted legislation to ban sex selective abortions.

The MicroSort® Gender-Selection Program at GIVF

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Ads targeting prospective parents

Professional organizations involved in sex selection are the American Society for Reproductive Medicine (ASRM) and the American College of Obstetricians and Gynecologists (ACOG). Ethical opinions and guidelines issued by ASRM and ACOG are voluntary, although these organizations could enforce their rules against their members by taking away their membership or otherwise disciplining them publicly, something they have done very infrequently to date. The ASRM Ethics Committee has published several opinions on sex selection. One opinion focuses on PGD, and states that among infertile patients using IVF for infertility, the addition of PGD solely for sex selection “should not be encouraged” and use of IVF and PGD solely for sex selection where infertility is not an issue “should be discouraged.”<sup>14</sup> The Ethics Committee also recommended that if pre-pregnancy techniques, particularly sperm sorting, were found to be safe and effective, doctors should be able to offer them to couples for family balancing, as long as certain conditions such as informed consent are met.<sup>15</sup> Both guidelines express the concern that sex selection may perpetuate sex discrimination, gender role expectations and stereotypes.

ACOG’s Committee on Ethics has concluded that sex selection for family balancing is inappropriate. However, the Committee also held that when procedures are undergone for reasons other than discerning the sex of the fetus but will nonetheless reveal the fetus’ sex, this information should not be withheld from the pregnant woman if she requests it, as “this information legally and ethically belongs to [her].” ACOG has declared that “[n]o current technique for pre-fertilization sex selection [including sperm sorting] has been shown to be reliable.”<sup>16</sup>

## DIFFERING VIEWS ON SEX SELECTION

Those who advocate for discouraging or restricting sex selection may be concerned with any one or combination of the following concerns. That sex selection: (1) will affect sex ratios in the population, (2) stems from gender inequality and discrimination, (3) perpetuates a view that gender is binary rather than fluid, (4) could include coercion, domestic violence or a lack of informed consent, (5) sets a precedent for allowing trait selection, and/ or (6) encourages the pursuit of “perfect” children that will negatively impact people with disabilities. Those who do not support restricting sex selection may share some of these views but worry more that restrictions would have implications for privacy and abortion rights.

Under a **traditional pro-choice perspective** women should have an unfettered choice in whether or not to obtain an abortion, and any inquiry or second-guessing of a woman’s reasons violates her autonomy and is politically dangerous in that it invites opposition to other reasons for abortion as well. *Roe v. Wade* grounded the right to abortion in a woman’s right to privacy and that right protects a woman’s right to choose an abortion based on any reason—or for no specific reason at all. It is not clear whether the Supreme Court would find legislative bans or other restrictions on sex selection



*One of several recently-published books capitalizing on consumer interest in sex selection.*

constitutional. Recent Supreme Court cases have held that the state may place limits on a woman's right to obtain abortions as long as they are not overly burdensome. Narrowly defined limits, such as 24-hour waiting periods and mandatory sonograms, have passed constitutional muster. The Supreme Court could find that sex selection perpetuates—or is equivalent to—discrimination against women, and that preventing discrimination against women is a legitimate state interest that overrides the right to obtain an abortion.

Among **international and global feminists** the primary concern is that in many countries most sex selection is done for son preference. Sex selection for son preference is a stark reminder that gender discrimination still shapes the life experience of millions of women and girls. Coercion and violence are also of concern; women in some communities who do not bear sons may be coerced into using sex selection or subjected to domestic violence and other forms of discrimination for not having a son. However, banning sex selective abortions could place a significant burden on women, pushing the procedures underground and limiting access to abortion. Many countries have been able to discourage and regulate sex selection and still support access to abortion. They focus efforts to decrease gender discrimination and sex selection on broader initiatives to increase the resources, protections, and rights of women.

The motivations for utilizing different sex selective techniques are often divided into medical reasons (to prevent sex-linked genetic disorders) and social reasons. While undergoing sex selection for medical reasons is often not contested, **disability rights advocates** argue that the use of technologies to select for fetuses free of medical concerns or conditions can be a “social,” not “medical,” use. The decision to eliminate embryos or fetuses based on a genetic condition may both reflect and perpetuate society's stereotypes and biases against disability.

Allowing sex selection for either medical reasons or parental preferences is an example of permitting parents to **choose traits of their future children**. Although the ability to select embryos and fetuses for complex traits is far off scientifically, undoubtedly some companies will market such tests to parents regardless of their actual scientific soundness. For some, sex selection, as well as other techniques allowing parents to choose embryos and fetuses with specific traits, characteristics or genetic conditions, falls outside acceptable reproductive rights concerns of deciding when to have a child and lands in murkier territory of whether the right to choose includes or should include deciding which types of children are acceptable or unacceptable.

The use of sex selective techniques is premised on the belief that the child will have certain stereotypical gendered attributes and/or identity. Sex selection ignores the fact that gender is not binary but fluid, reflecting how a person feels, chooses to express themselves, and is perceived. **Lesbian, gay, bisexual, transgender and queer (LGBTQ) communities** are also particularly concerned about sex selection's perpetuation of gender binary and sexual stereotypes.

Within the **reproductive justice** movement major concerns with sex selection relate to the discrimination against and mistreatment of women and girls, specifically Asian women and girls in the United States, and the reinforcement of gender stereotypes and binaries. Reproductive justice perspectives consider the intersection of race, ethnicity, class, culture, sexual orientation, and economics. Seeking to protect gender and racial equality and reproductive rights, they are proponents of discouraging sex selection and trait selection at the same time as protecting access to abortion. Given the experience of other feminists around the world, they believe that the focus of this work should be on changing social norms and culture while fighting for policies that promote gender and race equity.

## ■ CONCLUSION

Complex factors—including sex discrimination, sexual stereotypes and gender binary assumptions, aggressive advertising by sex selection providers, desire for small families, and cultural forces—combine to create a market for the practice of sex selection technologies. The challenge is to address these gender equality issues while protecting abortion rights. In April 2009, Generations Ahead, NAPAWF, SisterSong and the Center for Reproductive Rights brought together more than 25 reproductive health, rights and justice organizations with some South Asian domestic violence prevention organizations to clarify their values on sex selection and identify possible actions to take on this issue. Participants declared that they supported race and gender equality and were concerned about protecting abortion access. They cited four principles that would inform their organizations in developing positions on sex selection: a strong pro-choice position, promoting and respecting human rights, centering the voices of those most affected, and the intersection of race, gender, sexuality and immigration concerns.

Shortly after this convening, the Center for Reproductive Rights (CRR) developed a statement of policies and principles on sex selective abortion.<sup>17</sup> Framed as an issue of gender-based discrimination that needed to be condemned and addressed by both government and private actors, CRR opposes any bans on sex selective abortions citing that they: are ineffective, threaten the lives and health of women by making abortion harder to obtain, undermine women’s autonomy, and are part of an anti-choice agenda.

Most communities want to see less demand for and use of sex selection in the United States and around the world. At a time when anti-choice policymakers have seized on sex selection as a potential wedge issue to use to divide progressive and social justice organizations, it is critically important to remain focused on that shared goal. The most critical first step is that reproductive health, rights and justice organizations articulate shared principles and values concerning sex selection. Next, public education and media campaigns, as well as organized efforts to work with health professionals and community leaders, can promote gender equality, diminish stereotypes about sex and gender, and raise the social status of women and girls while working with allies across social justice movements. Ultimately, sex selection is the gateway issue to an even more complex array of issues related to reproductive technologies and genetic trait selection. How well we do in taking a stand on sex selection might lay the foundation for how we approach this next generation of issues.

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1. H.R. 1822, 111th Cong. (2009). This toolkit includes a summary of all federal and state legislation relating to sex selection.

2. Genetics & IVF Institute, MicroSort Website, <http://www.microsort.net>.

3. Genetics and Public Policy Center, *Prenatal Diagnosis Issue Brief*, available at [http://www.dnapolicy.org/policy.issue.php?action=detail&issuebrief\\_id=39](http://www.dnapolicy.org/policy.issue.php?action=detail&issuebrief_id=39).

4. Amanda Schaeffer, *The New Prenatal Test: No Risk of Miscarriage*. Double X, August 26, 2009. Available at <http://www.doublex.com/section/health-science/new-prenatal-testing-no-risk-miscarriage?page=0,1>.

5. Nell Greenfield Boyce, *Questions Raised Over Accuracy of Gender Test*, NATIONAL PUBLIC RADIO, Oct. 10, 2005, <http://www.npr.org/templates/story/story.php?storyId=4952404>.

6. Maggie Jones, *The Weaker Sex*, New York Times, March 16, 2003, <http://www.fact.on.ca/news/news0303/nt030316.htm>.

7. Douglas Almond & Lena Edlund, *Son-Biased Sex Ratios in the 2000 United States Census*, Proceedings of the National Academy of Sciences (PNAS), Vol. 105, No. 15, April 15, 2008, <http://www.pnas.org/content/105/15/5681.full?sid=0a05e18f-a42f-4254-8c7a-10c5116c7e94>. Abrevaya, Jason, *Are There Missing Girls in the United States? Evidence from Birth Data*. American Economic Journal: Applied Economics 2009, vol. 1, issue 2, pages 1-34 (February 2008).

8. Almond/Edlund, supra note 7.

9. Susan Sachs, *Clinics' Pitch to Indian Émigrés: It's a Boy*, New York Times, Aug. 15, 2001, <http://www.nytimes.com/2001/08/15/nyregion/clinics-pitch-to-indian-emigres-it-s-a-boy.html>.

10. See e.g. Sunita Puri, "What Were Our Parents Thinking?", U.C. Berkeley Student Journal, <http://www.berkeley.edu/news/students/2005/gender/gender5.shtml> for pictures of such advertisements.

11. Abrevaya, supra note 7 at 2-3.

12. Susannah Baruch, David Kaufman, and Kathy Hudson. 2008. *Genetic Testing of Embryos: Practices and Perspectives of U.S. IVF Clinics*. Fertility and Sterility 89: 1053-1058. <http://www.dnapolicy.org/pub.bib.html>.

13. Prospective parents may select to have a girl in order to avoid having a child affected a by sex-linked disease. Sex linked genetic diseases typically involve a genetic mutation carried on the X chromosome. A female inherits two X chromosomes (one from her father and one from her mother). If she inherits one X chromosome carrying mutation for a sex-linked disease, she will not be affected as long as the other X chromosome does not carry the mutation. Diseases linked to the Y chromosome are extremely rare.

14. Ethics Committee, ASRM, "Sex Selection and Preimplantation Genetic Diagnosis," Fertility and Sterility, Vol. 72, No. 4, October 1999, Reviewed January 2006, <http://www.asrm.org/Patients/topics/genderselect.html>.

14. Ethics Committee, ASRM, "Preconception Gender Selection for Nonmedical Reasons," Fertility and Sterility, Vol. 75, No. 5, Jan. 18, 2001, <http://www.asrm.org/Media/Ethics/preconceptiongender.pdf>.

15. Ethics Committee, American College of Obstetricians and Gynecologists (ACOG), Sex Selection, Opinion No. 360, Feb. 2007, [http://www.acog.org/from\\_home/publications/ethics/co360.pdf](http://www.acog.org/from_home/publications/ethics/co360.pdf) (reaffirmed in 2008).

16. Center for Reproductive Rights, *Statement of Policies and Principles on Discrimination Against Women and Sex-Selective Abortion Bans*. Sep. 29, 2009 <http://reproductiverights.org/en/document/statement-of-policies-and-principles-on-discrimination-against-women-and-sex-selective-abor>.





# LAY IT ON THE LINE:

## Opening a conversation about sex selection

### ■ GOALS

1. To provide an opportunity for participants to think about their own perspectives on sex selection.
2. To provide the group the opportunity to understand a range of perspectives on this issue.
3. To build a shared understanding of where the group is starting from in terms of shared values and ideas as well as differences.

### ■ FACILITATOR NOTES

1. This activity is a starting point and should not be the only activity or discussion around sex-selection. It may lead to a lot of unanswered questions or the need for more information. The facilitator should be comfortable with the ambiguity, knowing that future discussions can provide more information, clarification and time for addressing differences within the group.
2. Often times, participants will think that they are in strong disagreement. But there are often commonalities in terms of values or questions. Seek to highlight these commonalities for the group.
3. If participants are unfamiliar with words or terms, you can choose to either define the terms or just ask people to take an undecided position. In the latter case, the group will then know what concepts and terms they need more information about.

### ■ MATERIALS/SPACE NEEDED

- Need enough space that participants can line up shoulder to shoulder from one end of the room to the other.
- Two large signs posted on opposite sides of the space. One says “AGREE” and the other says “DISAGREE”
- A handful of chair arranged nearby if participants choose to use them.

### ■ DIRECTIONS

1. Ask participants to line up in the space you have chosen for the exercise
2. Tell participants that you will be reading a statement out loud.
3. They should listen to the statement and then line up on the imagined continuum between “agree” and “disagree” based on how they feel about the statement.
4. Tell participants that this exercise is best done silently and that you will seek comments once people are lined up.

5. Finally, tell participants that there are no right or wrong perspectives on the following statements—the statements are meant to encourage thinking both individually and as a group.
6. Then read the first statement. Be prepared to read the statement twice or to restate the statement so that it is understood.
7. Once people have lined up, get 2-3 comments from each end of the line and from the center.
8. Try to note and lift up the shared values that are likely to arise, even from folks on opposite ends of the continuum.
9. Repeat with subsequent statements.

**Note:** For some people, standing for this length of time is not comfortable. Let folks know that they should take care of themselves and use chairs that you have placed nearby if it will make them feel more comfortable.

### Statement 1

**Sex selection increases my self-determination over the kind of family that I choose to have.**

### Statement 2

**Sex selection practices including “family balancing” are based in sexism and also promote gender binaries.**

**Facilitator note:** The term gender binary refers to a belief that there are only two genders (men and women) rather than a range of gender expressions and experiences.

### Statement 3

**Using sex-selection to choose for girls is okay.**

### Statement 4

**Because son preference through sex selection is not widely practiced in the U.S., reproductive rights advocates should avoid taking an organizational position on this issue.**

### Statement 5

**I have different beliefs about sex-selection before pregnancy vs. sex selection through abortion.**

**Facilitator note:** Information about pre and post pregnancy techniques are described in the background section of the toolkit.

### Statement 6

**Choosing the biological sex of a child guarantees the gender of the child.**

**Facilitator note:** Biological sex is most often what people refer to in terms of chromosomes and primary and secondary sex characteristics. Gender refers to how a person feels about their own gender, how they are perceived by others, and how they express themselves through mannerism, dress, language (often called gender expression identity).

### Statement 7

**Using assisted reproductive technologies to practice sex selection is against my religious, spiritual or political beliefs.**



# SEX SELECTION: Wedging our Communities

## ■ GOALS

1. To explore sex-selection as a political wedge issue.
2. To consider engagement and coalition-building approaches to sex selection.

## ■ MATERIALS NEEDED

1. Copies of worksheet for all participants
2. Flip chart and markers

## ■ TIME NEEDED

2 hours

## ■ FACILITATOR NOTES

Facilitators of this exercise must have the ability to recognize and provide education around a variety of expressions of oppression (racism, sexism, homophobia) that are likely to arise in the context of this activity.

---

### Introduction

10 minutes

#### Facilitator Script:

*As organizations seeking to increase access to reproductive rights for our constituents, we are accustomed to taking controversial positions or holding decision-makers accountable for tough choices. However, we are not always prepared for clashing issues and ideologies around emerging issues or the nuances of how specific issues affect distinct communities.*

*Issues that highlight differences in our identities or beliefs are called WEDGE issues because they drive a wedge into groups, networks and coalitions, threatening to split them apart. The purpose of this exercise is to identify how anti-choice forces are attempting to use sex selection as a wedge issue, and explore the implications for our strategy and approach.*

*Sometimes wedge politics come at our organizations EXTERNALLY. For reproductive health, rights and justice organizations, wedge tactics have often been used by the conservative Right to chip away at abortion access, whether through parental notification, waiting periods or the institutionalized barriers created by the Hyde Amendment.*

*Other times, groups have to face divisive issues that arise INTERNALLY. Divisions around race, class, and gender within organizations are always there, but are rarely acknowledged. We have all been a part of painful discussions and decisions that have come about when a women's organization experiences internal conflict around racism, homophobia or classism.*

## WRITE UP BASIC DEFINITION OF WEDGE

*A wedge issue is a controversy that splits apart a group's members or constituents, weakening the group's unity in a way that threatens the collective interest of the group.*

*Think of this as a working definition for the purposes of this exercise. We can come back to it at the end to see if the definition holds up.*

---

### Story telling

20 minutes

#### Facilitator script:

- *Now let's hear some of your experiences.*
- *Turn to the person on your right and each of you take a few minutes to talk about when you've encountered wedges in your work.*
- *Be careful to distinguish between personal or individual disagreements and wedge issues that are based on dividing constituencies based on values, identities or politics.*

## LET PAIRS SHARE STORIES WITH EACH OTHER

So, who thinks they have THE wedge nightmare to share with the rest of the group?

## LISTEN TO A COUPLE OF STORIES FROM THE GROUP

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### Engagement Versus Avoidance

5 minutes

#### Facilitator script:

*Let's step back from our individual experiences and think more broadly about what happens when we're faced with wedges. Often when we encounter wedge issues we have a couple of choices—engagement vs. avoidance and short-term vs. long-term strategies.*

**Avoidance:** *in the interest of preserving the group stability or winning a specific policy fight, divisive issues are left alone unless the group is FORCED to deal with them.*

**Engagement:** *where organizers directly address the things that divide people without waiting for crisis to erupt.*

**Short-term:** *seek the "win" that is easiest or seems to include the less controversial position.*

**Long-term:** *engage in a series of actions that will build broader coalitions and alliances in the long-term.*

#### Consider these points:

*For the last decade, the Right has successfully utilized wedge issues to polarize the public debate—by putting issues like bilingual education, affirmative action, parental consent for abortion, gay marriage or anti-immigrant initiatives on the ballot or in the legislature.*

*The trend for many advocacy organizations is to avoid wedge issues that are "off mission" so the group can stay united and focused on its own campaigns. For instance, many reproductive rights organizations do not get involved in policy fights around immigration or affirmative action. But the Right may win on the issue that your organization avoided, which could negatively impact your members. In the process, the Right has built its political muscle, which could be used in a future fight on something core to your organization's political agenda.*



*A different approach would be to take some calculated short-term risks, and possibly win more in the long term. Even if an issue is not core to your current campaigns, what would you win or lose by engaging?*

*The next exercise explores how the issue of sex-selection could drive a wedge within the base and potential base of folks committed to reproductive health, rights and justice.*

## Sex-Selection Scenario

10 minutes

### PASS OUT WORKSHEET

#### Facilitator script:

*We are going to read the scenario on the worksheet out loud, let's take turns with each paragraph.*

*To Engage or Avoid: Sex Selection*

*Your organization, United for Reproductive Rights is part of a statewide coalition of women's groups that has worked together for several years to ensure access to reproductive health care, including abortion, through joint advocacy at the state level.*

*While your coalition has historically been comprised of predominantly white women's organizations, 3 women of color led organizations joined the coalition last year: Black Women, Healthy Women; Asian Woman In Action and Immigrant Women Rising Up. This has been exciting growth for the coalition and has increased your effectiveness is advocating on behalf of all women in your state.*

*This year, Senator Wilson, has decided to propose legislation that would ban abortion based on sex-selection. It is very unlikely that the bill will get any traction in this legislative cycle, especially as Senator Wilson is part of the minority and is not generally seen as credible.*

*At your pre-session coalition meeting, a vigorous debate occurs about whether URR should take a position and prioritize advocacy efforts to defeat this bill. At times, there is a lot of conflict within the group which arise from statements like the following:*

*"Any restriction on abortion is antithetical to women's rights. We must strongly quash this bill and make sure that it doesn't gain momentum and reappear when it might actually pass."*

*"As a South-Asian Woman, I am very concerned about the issue of sex-selection. In my community we are trying to address the cultural pressure that women face to ensure that they bear at least one son."*

*"Assisted reproductive technologies are critical component of reproductive freedom for single-women and same-sex couples, it is important that we don't do anything to demonize scientific advancement on these issues."*

*"This issue is too complicated, we should side-step this altogether and focus on the pro-active agenda that we know we can pass."*

**Small group discussion**

**30 minutes**

Now we are going to discuss this scenario and decide what URR should do. I'm going to break you in to small groups of 4 people each. In each group you should come up with three different action options and identify the potential costs/risks and benefits of each. Each group will be presenting their thinking, so identify one person who will take notes and present.

Options	Costs (or risks)	Benefits

**Report Back**

**15 minutes**

Ask each group to report back on their scenario in less than five minutes—take comments if clarification is needed.

**Problem Solving Discussion**

**20 minutes**

**LEAD A DISCUSSION**

Guiding questions:

1. Do the risks of avoiding the issue altogether outweigh the benefits?
2. How do we balance short term-wins vs. long-term strategies for achieving reproductive rights for women in all communities?
3. Do we think it is likely that sex selection is a core issue for all the organizations in the coalition? How should we address the marginalization within the coalition of the organizations that are struggling with sex-selection in their own communities, and for whom this is an important issue?
4. With each of the options that were described, what is likely to happen 5 years down the road? What will the coalition look like? Will the proposed legislation have “gone away?”

**Closing**

**10 minutes**

**Facilitator script:**

*Thanks for the great discussion. Let's take a moment to make a few wrap-up points. Based on the discussion, what are some of themes that we want to remember?*

**GET IDEAS FROM THE GROUP AND CREATE LIST**

Suggested themes:

- Wedge issues are challenging but they can provide our organizations with opportunities to grow and evolve.
- Wedge issues may cause divisiveness in our organization whether we try to avoid them or not.
- We must consider both short-term and long-term impacts of our organizational choices.
- Building our capacity to address wedge issues requires a commitment to political education for everyone in the organization.



# UNPACKING

## Trent Franks' Op-Ed

### ■ INTRODUCTION

In September 2008, U.S. Representative Trent Franks (R-AZ) introduced the Susan B. Anthony and Frederick Douglass Prenatal Nondiscrimination Act of 2009 (PreNDA), which would ban sex selective abortion and so-called “race-selection” abortion. Claimed by Franks as a “civil rights issue of the 21st century,” the law aims to punish—by fines or up to a 5 year prison sentence—anyone who “knowingly:” 1) performs an abortion being sought based on the sex fetus or race of the child or parent, 2) uses or attempts to use force or the threat of force to intentionally injure or intimidate any person for the purpose of coercing a sex-selection or race-selection abortion, or 3) solicits or accepts funds for the purpose of financing a sex-selection abortion or race-selection abortion.

While the bill claims to address gender and racial equality, it is a thinly veiled attempt to limit access to reproductive health services. Introduced by a legislator with a long record of voting against efforts to improve gender and racial equality, this bill attempts to create barriers to healthcare for women and their families.

An Op-Ed written by Franks to garner support for the PreNDA appears below, followed by a description of the concerns and politics about the bill.

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### **The Washington Times**

*Monday, April 20, 2009*

#### **FRANKS: A 21st-century civil-rights battle**

*Trent Franks*

#### **COMMENTARY:**

*The most recent U.S. census reveals that abortion clinics are engaged in an insidious form of racial and sex-based discrimination.*

*In a report published in the Proceedings of the National Academy of Sciences, Columbia University economic researchers Douglas Almond and Lena Edlund said they found a significant gender imbalance between males and females within immigrant populations in the United States, which they think provides “evidence of sex-selection, most likely at the prenatal stage.”*

*The data revealed unnatural sex-ratio imbalances within segments of certain immigrant populations, including those originating from India, Vietnam, Thailand, Armenia and especially China, where government-enforced “one child” policies and a culturally engrained “son preference” have made sex-selection abortion so prevalent that boys outnumber girls by as much as a 2-to-1 ratio in rural communities.*

*One Harvard University economist estimated that more than 100 million women were “demographically missing” from the world because of widespread and underreported practices of prenatal sex selection, an astonishing figure.*

*Regardless of one’s position on abortion, this form of discrimination should horrify every American. The idea of killing a baby simply because she is a girl is reprehensible. Unsurprisingly, a March 2006 Zogby International poll found that 86 percent of Americans supported a prohibition on sex-selection abortion. Indeed, what good are the hard-won liberties of voting and other women’s rights if babies may still be aborted simply for being girls?*

*Ironically, we are doing a better job internationally on this issue than we are at home. At the United Nations’ 2007 annual meeting of the Commission on the Status of Women, 51st Session, the U.S. delegation spearheaded a resolution calling on countries to eliminate sex-selective abortion. The commission has urged governments of all nations “to take necessary measures to prevent ... prenatal sex selection.”*

*Congress also voiced strong disapproval of the practice when 362 members of Congress, including House Speaker Nancy Pelosi, passed a resolution in 2006 condemning the “communist government of China” for “its one-child policy, which promotes sex-selection abortion and female infanticide on a massive scale, a ‘gendercide’ which has led to millions of ‘missing girls.’ “ Notwithstanding this widespread revulsion of sex-selection abortion and despite proof it occurs in America, sex-selective abortion remains legal and, therefore, tacitly condoned.*

*Abortion is being used not only to abort boys and girls just because they are boys and girls. Equally reprehensible is the reality of race-based abortion. Last spring, some federally funded clinics were exposed as agreeing to accept funds from persons who expressly asked that their donations be used to reduce the black population by abortion.*

*The history of the American abortion movement is replete with evidence of the purposeful placement of family planning clinics in areas with high concentrations of minorities. In fact, as many as 70 percent of abortion clinics are located in inner-city or minority neighborhoods. The impact has been devastating to black families. Fifty percent - 1 in 2 - of black children are aborted today in America.*

*A September 2008 report by the Guttmacher Institute revealed that black babies are five times likelier to be aborted than white babies. A quarter of the black population is demographically missing.*

*Racism in any form should cause us to recoil, but the reality of these staggering figures should make us all violently ill. Do we realize that, primarily through federally funded abortion clinics placed in our inner cities, we are contributing to the deadliest form of discrimination in our country’s history against the most-discriminated-against minority in American history by systematically eliminating fully half of all blacks waiting to be born?*

*The United States has worked hard to eliminate widespread and systematic race and sex discrimination, which we recognize as a detestable part of our past. In both race and sex discrimination, Americans ultimately responded in the strongest possible legal terms by enacting constitutional amendments to end slavery and give women the right to vote (the 14th and 19th Amendments), ending the government sanction of such discrimination. However, eliminating discriminatory practices still must be among our highest priorities.*

*It is past time to reject the discriminatory disgrace of aborting a child based on race or sex. To that end, I have introduced H.R. 1822, the Susan B. Anthony and Frederick Douglass Prenatal Nondiscrimination Act of 2009, which would prohibit the practice of, or solicitation or acceptance of funds for, race- or sex-selection abortion.*





*Americans can support the effort to address this unspoken evil by encouraging the Democratic Leadership, including Mrs. Pelosi, and their own members of Congress to address this insidious form of discrimination by enacting this legislation.*

*Selecting girls and only girls for elimination or reducing the population of a given ethnic group or race distorts the entire shape of our society and undermines the entire foundation of human dignity and equality.*

*If we cannot find common ground on such a bedrock American principle, regardless of our differing perspectives on abortion, what hope remains?*

## ■ UNPACKING THE FRANKS BILL AND EDITORIAL

### ■ Franks accuses abortion clinics of “discrimination”

*“The most recent U.S. census reveals that abortion clinics are engaged in an insidious form of racial and sex-based discrimination.”*

*“Last spring, some federally funded clinics were exposed as agreeing to accept funds from persons who expressly asked that their donations be used to reduce the black population by abortion.”*

These statements accuse clinics of intentionally practicing gender and racial discrimination through the abortion services they provide. Health care professionals who provide abortions are dedicated to women’s reproductive autonomy, a necessary factor for achieving gender equality. Franks’ claim that abortion clinics are deliberately aiming to reduce the African American population is also misleading. Family planning clinics provide services to women who need them, many of whom are faced with an unintended pregnancy and must make difficult decisions about how to best care for their families. The incident Franks is referring to was an organized smear campaign against family planning clinics by a group of anti-choice activists pretending to be donors.

### ■ Franks claims that banning sex selection will solve the problem of gender bias and discrimination.

*“Indeed, what good are the hard-won liberties of voting and other women’s rights if babies may still be aborted simply for being girls?”*

*“Selecting girls and only girls...distorts the entire shape of our society and undermines the entire foundation of human dignity and equality.”*

Sex selection is a symptom of deeply rooted social norms, biases and stereotypes about gender and gender binaries. In some cultures, there is a notable preference for sons because of the elevated social and economic status of men and boys, elder parents depending on their sons for support, and family names and inheritances being passed on through male children. Prohibiting sex selective abortions does nothing to address the root cause of the problem;

in fact it further exacerbates these inequities and diminishes the health, well-being and dignity of women and girls by restricting their access to the full range of reproductive health care. If Franks were truly committed to ending sex and gender discrimination, he would propose more effective ways of doing so rather than seeking to punish a practice that is merely the outcome of broader gender discrimination and stereotypes.

Sex selection can be performed using reproductive technologies, like in vitro fertilization and sperm sorting, which are becoming increasingly common. Franks' bill does nothing to regulate these sex selection technologies, further evidence of his narrow objective of restricting access to abortion.

■ **Franks draws false conclusions about abortion in African American communities.**

*“Racism in any form should cause us to recoil, but the reality of these staggering figures should make us all violently ill. Do we realize that, primarily through federally funded abortion clinics placed in our inner cities, we are contributing to the deadliest form of discrimination in our country’s history against the most-discriminated-against minority in American history by systematically eliminating fully half of all blacks waiting to be born?”*

The Guttmacher Institute report, “Abortion and Women of Color: The Bigger Picture,” that Franks refers to states that African American women have higher rates of abortions due to their higher rates of unintended pregnancy. These unintended pregnancies are due to a lack of access to quality reproductive health care and comprehensive sexuality education. Public clinics exist in low-income communities because that is where there is the most need for affordable services, and they often serve as an entry point to a range of basic health care services. Where discrimination actually occurs is in education, health care, employment, and other institutions that fail to provide opportunities for low-income women of color thereby limiting their options and decision-making when it comes to their sexuality, reproduction and families.

What Franks calls “race selection” is actually a misleading piece of fiction; it is a concept that was invented by the Black genocide movement which asserts that any abortion by a Black woman is a deliberate attack on the African American community. Franks has worked closely with leaders of the Black genocide movement – including Alveda King, niece of Dr. Martin Luther King Jr. – to garner support for his bill. By Franks’ definition, any Black woman who has an abortion is practicing “race selection” and is guilty of Black genocide. If this bill were to pass, all Black women could lose the right to have an abortion. Social justice activists must challenge the myth of so-called “race selection” abortion, and begin having honest conversations about race and racism in the pro-choice movement, and racialized health disparities in reproductive health services.

**References:**

*Abortion and Women of Color: The Bigger Picture.* Guttmacher Institute Policy Review, 2008. <http://www.guttmacher.org/pubs/gpr/11/3/gpr110302.pdf>

■ **Franks pretends to be open to differing perspectives around abortion but uses divisive anti-choice action.**

*“Regardless of one’s position on abortion, this form of discrimination should horrify every American. The idea of killing a baby simply because she is a girl is reprehensible.”*

*“Do we realize that, primarily through federally funded abortion clinics placed in our inner cities, we are contributing*



*to the deadliest form of discrimination in our country's history against the most-discriminated-against minority in American history by systematically eliminating fully half of all blacks waiting to be born?"*

By using terms like “killing a baby” and “systematically eliminating” to describe abortion, Franks is conveying an anti-choice ideology that abortion is equal to murder. His divisive language clearly demonstrates his desire to advance an anti-choice agenda.

### ■ Franks inaccurately invokes human rights language and principles.

*“The United States has worked hard to eliminate widespread and systematic race and sex discrimination, which we recognize as a detestable part of our past. In both race and sex discrimination, Americans ultimately responded in the strongest possible legal terms by enacting constitutional amendments to end slavery and give women the right to vote (the 14th and 19th Amendments), ending the government sanction of such discrimination. However, eliminating discriminatory practices still must be among our highest priorities.”*

*“Selecting girls and only girls for elimination or reducing the population of a given ethnic group or race distorts the entire shape of our society and undermines the entire foundation of human dignity and equality.”*

Franks claims that banning sex selection and so-called “race selection” abortion are the solution to ending discrimination based on gender and race, and that his reason for introducing the bill is to ensure dignity and equality for all people. Yet his voting record as a legislator clearly indicates his hostility toward women’s rights, abortion, health care access, and civil rights.

In particular, Franks misleadingly characterizes the international human rights community as supportive of a legislative ban on abortions for sex selection. While international human rights bodies and documents have criticized sex selection as a form of violence against women, it is important to clarify that they explicitly do not recommend legislation banning sex selective abortions as a solution for ending sex selection.

International policy recommendations focus on solutions that address son preference and gender inequity as the root causes of sex selection, rather than criminalizing sex selective abortion, which is merely a symptom of the underlying problem. The resolution that Franks refers to, spearheaded by the U.S. at the 51st session of the Commission to eliminate sex selective abortion, failed because other countries saw it as a threat to women’s reproductive rights and because it did not recognize gender discrimination and son preference as the problems underlying sex-selective abortion.

#### References:

Trent Franks on the Issues: [http://www.issues2000.org/House/Trent\\_Franks.htm](http://www.issues2000.org/House/Trent_Franks.htm)

*Programme of Action of the International Conference on Population and Development*, Cairo, Egypt, Sept. 5–13, 1994, U.N. Doc. A/CONF.171/13/Rev.1, ¶ 4.16 (1995).

*Beijing Declaration and the Platform for Action, Fourth World Conference on Women*, Beijing, China, Sept. 4-15, 1995, U.N. Doc. A/CONF.177/20, ¶ 115 (1995)

Commission on the Status of Women. Report on the fifty-first session (26 February-9 March 2007). <http://daccess-ods.un.org/TMP/2503379.html>

# ANALYSIS BUILDING

## through a Reproductive Justice Lens

This exercise is meant to build and sharpen our analysis of sex selection through a reproductive justice lens. Specifically, participants will identify how communities experience issues around sex selection and the political implications of those experiences. Facilitators may want to supplement the examples listed below with examples that are specifically relevant to their organization or community. Facilitators should read and be familiar with the points on the handout, *Core Aspects of Reproductive Justice*.

### ■ GOALS

1. To understand core aspects of reproductive justice
2. To build a reproductive justice analysis of sex selection

### ■ MATERIALS NEEDED

1. Handout: Core Aspects of Reproductive Justice
2. Flipchart paper
3. Tape
4. Markers

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### Introduction

Sex selection is a complex issue that can look very different depending on your perspective, your personal experiences, your family and social context, and your organizational mission. In this exercise, we'll be looking at the issue of sex selection through a reproductive justice lens, and talk about how this might bring up some themes that may be overlooked or ignored in the media, politics, or public dialogue.

Three key ideas to be aware of in a reproductive justice framework:

- 1. Root cause:** Sex selection is rooted in sexism and gender inequality. Reproductive justice recognizes that to undo these forms of injustice and thus reduce the use of sex selection requires structural and societal change.
- 2. Intersectionality:** People who face overlapping oppression because of race, class, immigration status, sexuality, age and ability experience the issue of sex selection differently. Reproductive justice looks at ALL of these different perspectives and experiences.
- 3. Linking individuals to community:** All of us come from, and are part of families and communities. Rather than framing the issue of sex selection by focusing on individual rights and privacy—reproductive justice considers the impact of decisions and actions on families and communities and recognizes that individual, family, community and institutional pressures all contribute to the practice of sex selection.

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This exercise was adapted from the Three Applications of the Reproductive Justice Lens curriculum developed by ACRJ.



**Facilitator note:** At the top of the flipchart paper, write “Sex selection through a RJ Lens.” In the middle of a paper, draw a big magnifying glass representing the RJ Lens.

**Facilitator script:**

*When we look at the issue of sex selection through a RJ lens, what are some themes that emerge? In addition to the core aspect of RJ, think about the following questions:*

- *What communities are most likely to use sex selection? Why?*
- *What are some of the specific issues that people using or considering sex selection will face, based on their race, ethnicity, culture, class, sexuality, gender identity, age, and ability?*
- *How do different social justice perspectives affect how we approach this issue?*

**Facilitator note:** Ask participants to call out their responses, and write them inside the magnifying glass on the flipchart. This should be a free-flowing dialogue, and you can choose what points to expand on or discuss further, taking as much time as you think is necessary. Here’s an example of what your flipchart might look like (see appendix for further explanation):



**Facilitator wrap-up points:**

- When we look at sex selection through a RJ Lens the disproportionate impact on different groups and communities is highlighted.
- What comes to the surface are issues based on the various aspects of a person's identity such as race, class, gender identity, sexuality, ability, age.

**Facilitator note:** If you haven't already, hand out *The Core Aspects of Reproductive Justice*, and take a minute to read through it as a group.

## ■ APPENDIX

### 1. Cultural pressure in some Asian immigrant families to have sons.

In some Asian cultures, there is a preference for male children due to the elevated social and economic status of males, elder parents depending on their sons for support, and family inheritance being carried on by male children. Many of these values and traditions have been brought to the U.S. by immigrant families, even though some of those underlying factors are less prevalent here than in their countries of origin. Even parents who themselves have no preference for whether or not to have a son may sometimes feel pressure from older relatives or community members to do so.

### 2. Sex selection services specifically marketed to Asian communities via in ethnic media outlets.

Seeking to exploit "son preference" in some Asian cultures, U.S. clinics specializing in sex selection have intentionally advertised their services in ethnic media outlets such as Chinese- and Indian-language newspapers and magazines. While critics argue that these advertisements perpetuate gender inequity in Asian immigrant communities, some clinics publicly claim that their services exist to meet a demand, and do not have harmful consequences – whether intentional or unintentional.

### 3. Women may be forced or coerced into sex selection.

Some doctors have publicly claimed that they perform sex selection to support the reproductive freedom of these women and that often times their services are a way of preventing the abuse and domestic violence that can occur when women are not able to produce sons.

### 4. Pre-pregnancy sex selection services may not be accessible to low-income families.

Sex selection procedures using in-vitro fertilization can cost over \$15,000 and are not covered by health insurance. Parents who cannot afford these services may choose to wait until the child's sex can be determined during pregnancy, and decide whether or not to continue the pregnancy. If there is pressure from partners or family members to conceive a child of a particular sex, and an ultrasound reveals that the fetus is of the opposite sex, women may be forced or coerced into terminating the pregnancy.



**Sex selection for “son preference” in Asian communities is criticized while “family balancing” is accepted in non-Asian communities, though the practice is often the same.**

**5. Individuals using IVF for fertility have access to sex selection of embryos—the ease of screening for sex along with screening for other conditions may make it more frequently used in the IVF context.**

For people who are able to conceive naturally, the time, cost and risks that come with using IVF may be a deterrent to using sex selection procedures. Couples may be particularly vulnerable to suggestions, pressure and coercion from partners and family members, who may more strongly argue for the use of sex selection because “you’re using IVF anyway.” And, some might opt for sex selection once given the choice without pro-actively seeking it out.

**6. Individuals using pre-implantation genetic diagnosis may include diagnosis of genetic conditions and sex selection, compounding concerns about discrimination.**

Pre-implantation genetic diagnosis is a technology that can be used with in vitro fertilization to test for certain genetic conditions in embryos before they are implanted. This means parents have the ability to both select for sex and deselect for disabilities when using in vitro fertilization. Similar to how some practices of sex selection are a symptom of gender inequality, genetic technologies that deselect for disabilities threaten to devalue the lives of people with disabilities. In combination, these technologies have the greatest impact on women and girls with disabilities who experience the intersection of gender inequity and ableism.

**7. Sex selection for “son preference” in Asian communities is criticized while “family balancing” is accepted in non-Asian communities, though the practice is often the same.**

The loudest criticism of sex selection in the U.S. has been against its use among Asian immigrant families, whose social, cultural and economic norms might include “son preference.” The use of sex selection for the purpose of “family balancing,” which is supposedly more common among non-Asian families, has received little criticism. However, data shows that Asian families are also practicing “family balancing.” Sex selection is primarily occurring with second and third children when older children are female.



**Expanding the Movement for Empowerment and Reproductive Justice**  
*Collective Action for a Stronger Reproductive Justice Movement*

**Core Aspects of Reproductive Justice**

**Reproductive justice exists** when all people have the economic, social and political power and resources to make healthy decisions about our gender, bodies and sexuality for ourselves, our families and our communities.

**Core Aspects**

**Intersectional analysis:** an analysis that describes both the experience of oppression and the strengths that individuals and communities bring to bear on particular issues by explicitly addressing the intersections of gender, race, class, and other identities and experiences that affect individuals and communities.

**Gender, body and sexuality:** Reproductive justice focuses on the control, regulation and exploitation of gender, bodies and sexuality.

**Social change at individual, community, institutional, and societal levels:** reproductive justice supports personal transformation and empowerment within the context of social/cultural, institutional and structural change. Shifting relations of power and impacting cultural norms is the locus of justice.

**Leadership of communities most affected:** identification of issues, constructing solutions, and organizing for change must arise from the communities that are most affected by reproductive oppression. When this is not the case, we see solutions that fail to reach marginalized communities or that ignore the realities of communities' lived experience. In the process of supporting leadership of communities most affected, individual leaders must be supported, cultivated, trained and nurtured to develop their skills in the context of an accountable relationship to their community.

**Linking individuals to community:** all of us come from community and our communities are vitally important. Reproductive justice assumes that we must lift community to support individuals. Individualistic framing and approaches that polarize communities hinder the potential of building power for marginalized constituencies.

**Systemic Change:** strategies for addressing reproductive oppression must address the systemic underpinnings of that oppression. Short-term policy wins are critical and they must seek to transform power inequities and shift terms of the debate toward long-term structural change.

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# SEX SELECTIVE ABORTION BANS

## Three Guiding Principles for Policy Action

The politics surrounding the issue of sex selection are complex and fraught with mixed feelings and competing values. However, recent legislative attempts to ban sex selective abortions are not the right way to address the issue of sex selection. Rather, these bills are a dangerous new tactic by the anti-abortion movement that attempts to pit the pro-choice movement against feminists and racial, ethnic, and immigrant communities, and drive a wedge between these movements.

These guiding principles are a tool for your organization to find effective ways to talk about and defeat these abortion bans while strengthening a pro-choice movement that includes all women and their experiences, and in this case, particularly women of color and immigrant women.

Sex selection is a symptom of gender inequality and gender stereotypes and binaries. The way to discourage sex selection and reduce its use is to establish policies and practices that support gender equality. From a reproductive justice perspective, the goal is not to limit women's reproductive decision-making but rather to provide the enabling conditions for comprehensive gender equality.

**1 Policy recommendations in response to sex selective abortion bans should provide genuine solutions to advance gender equity.**

Long-term policy solutions to the issue of sex selection must include authentic and nuanced conversations about gender equality and all its intersectional ramifications, including pay equity, freedom from violence, fair and humane immigration policies, and women's ability to control their bodies and their futures—not legislation that would question a woman's motive for obtaining an abortion.

**2 Efforts should include supporting the leadership of those most impacted, in this case API women and girls and the organizations that are addressing the root problems of gender and race oppression.**

Many international communities have addressed the issue of sex selection by calling for education and resources on son preference to be made available.

Asian and Pacific Islander (API) communities are particularly affected by sex selection in the United States. Thus, API women and girls should lead efforts to call attention to the root causes of sex selection—including cultural attitudes

# Treating the relationship between biological sex and gender identity as a given perpetuates and reinforces the myth of gender binaries.

that devalue girls and women due to systemic inequalities, poverty, and misinformation—and be resourced to be change leaders within their communities and nationally.

Reproductive health and rights organizations, women's rights organizations, and other allied organizations should partner with API women's organizations in order to be equipped with the information and relationships necessary to best address the cultural dynamics and relevant history behind this issue. These partnerships will make for more credible responses to policies seeking to divide communities and allies, and will support the development of more effective responses to the underlying systemic gender inequalities that drive sex selection.

**3 Social justice and reproductive justice movements can use this as a moment to challenge pervasive beliefs about gender binaries.**

Firmly, but for the most part invisibly, embedded within all sides of the debate surrounding sex selection is a notion that gender identity and gendered behavior flows naturally and unequivocally from biological sex. For example, sex selection assumes that a female fetus will identify as a girl and, later, a woman and will adopt stereotypically feminine traits and preferences. Intersex and transgendered persons are starkly absent from the conversation, as is the recognition of gender fluidity. Treating the relationship between biological sex and gender identity as a given perpetuates and reinforces the myth of gender binaries. Progressives should articulate values grounded in an awareness of diverse personalities and preferences and non-linear sexual identities and orientations, and support the fair and just treatment of lesbian, gay, bisexual, transgender, intersex and queer identified people.



# SEX- AND RACE-SELECTION ABORTION BANS in Federal and State Legislatures

## ■ FEDERAL LEVEL

NAME	YEAR	ORIGIN	LANGUAGE	STATUS
H.R. 7016, Susan B. Anthony Prenatal Nondiscrimination Act of 2008	2008	U.S. House of Representatives	Fines or imprisons anyone who knowingly performs an abortion knowing that it is sought based on the sex or race of the child or parent; uses or attempts to use force or the threat of force to intentionally injure or intimidate any person for the purpose of coercing a sex-selection or race-selection abortion; or solicits or accepts funds for the purpose of financing a sex-selection abortion or race-selection abortion.	Referred to committee but never became law.
H.R. 1822, Susan B. Anthony and Frederick Douglass Prenatal Nondiscrimination Act of 2009	2009	U.S. House of Representatives	Almost identical to H.R. 7016, with the exception of adding Frederick Douglass to the name.	Referred to the following committees: House Judiciary, House Judiciary, Subcommittee on Crime, Terrorism, and Homeland Security, House Judiciary, Subcommittee on Constitution, Civil Rights, and Civil Liberties. No further action.

## ■ STATE LEVEL

NAME	YEAR	ORIGIN	LANGUAGE	STATUS
720 Ill. Ann. Stat. 510/6(8)	1975	Illinois	Prohibits abortions performed “with knowledge that the pregnant woman is seeking the abortion solely on account of the sex of the fetus.”	Signed into law. Courts have not addressed the constitutionality of this provision.
18 P.A. C.S.A. §3204	1982	Pennsylvania	Prohibits abortions unless the physician determines that, in his or her best clinical judgment, the abortion is necessary. A “necessary” abortion is not one sought solely because of the sex of the unborn child.	Signed into law. Courts have not addressed the constitutionality of this provision.
H.B. 1595, Statistical Abortion Reporting Act	2009	Oklahoma	Prohibits “knowingly or recklessly perform[ing] or attempt[ing] to perform an abortion with knowledge that the pregnant woman is seeking the abortion solely on account of the sex of the unborn child.”	Signed into law. Challenged by the Center for Reproductive Rights in <i>Davis v. W.A. Drew Edmonson</i> (September 9, 2009) on grounds that it violates the Oklahoma State Constitution’s single subject rule, and that its enforcement will unlawfully use taxpayer funds.
H.B. 2936, Women’s Access to Health Care Act	2003	West Virginia House of Delegates	Requires that a medical practitioner “determine the motivation of the woman seeking to abort her fetus” prior to the procedure. Prohibits an abortion “in the event the sole motivation for seeking to abort the fetus is based on the woman’s knowledge of the gender of the fetus.”	Referred to the Committee on Health and Human Resources and the Committee on the Judiciary, but never became law.
S.B. 799	2009	Michigan Senate	Prohibits a physician from intentionally performing an abortion if he or she knows that the woman is seeking the abortion because of the sex of the fetus, or that she is being coerced.	Referred to the Senate Health Policy Committee, but no further action.
S.F. 1073/H.F. 1196	2009	Minnesota Senate and House of Representatives	Prohibits intentionally performing an abortion with knowledge that the pregnant woman is seeking an abortion based on the sex of the fetus.	Referred to Health Care and Human Services Policy and Oversight Committee, but no further action.



# EXAMPLE: Position Statement



## Statement of Policies and Principles on Discrimination Against Women and Sex-Selective Abortion Bans

Gender-based discrimination is a deeply rooted societal problem. Where it exists, it should be condemned and addressed by both governments and private actors.

The Center for Reproductive Rights has worked for years to advance women's status as equal participants in society, and to protect women's fundamental rights, such as the rights to health, self-determination and dignity. We work toward a future in which the sex of a child is not perceived as the fundamental determinant of that child's status, potential or character. Because many reproductive health laws involve issues that are unique to the experiences of women, our work — both domestically and internationally — addresses and works to remedy discrimination and promote laws and policies that value women's lives and health

Our lawsuits around the world have challenged inequalities and injustices related to comprehensive sexuality education, contraception, female genital mutilation, child marriage, sexual violence and maternal mortality. For example, our groundbreaking [report about India's high rates of maternal mortality](#) analyzed the needless suffering of women in childbirth. The report also provided recommendations for using international and constitutional legal arguments that can be used to enhance access to healthcare for women.

Given the Center's long track record working on behalf of women's rights, we support tools that have demonstrated effectiveness in remedying discrimination against women and improving the social standing of girls. Yet the evidence on one particular set of policies — criminal bans on sex-selective abortions — shows that these bans are both inappropriate and ineffective. They do not remedy the core problem of discrimination against women and girls, and they threaten the health and human rights of women by creating additional barriers to obtaining legal abortions.

There are several reasons why we disapprove of bans on sex-selective abortions:

**Bans on sex-selective abortions are ineffective.** Sex-selection bans do not prevent sex-selective abortions. The bans distract from the real issue and fail to combat the underlying societal attitudes that devalue girls and underlying cultural pressures that cause individuals and couples to pursue sex-selective abortions.<sup>1</sup>

**Bans on sex-selective abortions threaten women's lives and health by making abortions harder to obtain for women who need them.** Sex-selection abortion bans that contain criminal penalties make safe abortion services less available to *all* women by pressuring health care providers to restrict their practices in order to avoid possible criminal prosecution.<sup>2</sup> Therefore, they may cause some women to seek unsafe, illegal abortions.

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**Bans on sex-selective abortions undermine women’s autonomy and shift the focus to less effective solutions.** Bans on sex-selective abortion undermine women’s autonomy and human rights by criminalizing access to safe abortion. Moreover, focusing on an ineffective solution draws attention away from measures that would remedy discriminatory policies against women and girls far more effectively. Societies must take responsibility for pervasive expressions of gender preferences and stereotypes. Simply criminalizing sex selective abortion places all the burdens of a much larger societal problem on women and abortion providers — at a high cost to women’s health and dignity.<sup>3</sup>

**In the U.S., bans on sex-selective abortion are part of a hidden agenda by anti-choice groups to reduce access.** State bans on sex-selective abortion are *not* passed to combat sex-discrimination or to address actual sex-selective abortion practices. Rather, they are aimed at weakening support for abortion rights within the women’s rights community. As anti-choice legal strategists have explained, these bans constitute one piece of the anti-choice movement’s long-term strategy of chipping away at women’s ability to decide whether and when to have children.<sup>4</sup>

### **Endnotes**

<sup>1</sup> See, e.g., Bela Ganatra, *Maintaining Access to Safe Abortion and Reducing Sex Ratio Imbalances in Asia*, 16: 31 Supp. Reprod. Health Matters 90, 96 (2008); Madhu Kishwar, *Abortion of Female Fetuses: Is Legislation the Answer?* 1:2 Reprod. Health Matters 113, 114 (1993).

<sup>2</sup> See, e.g., Ganatra *supra* note 1, at 94; Kishwar *supra* note 1, at 114.

<sup>3</sup> B.M. Dickens, *Can Sex Selection be Ethically Tolerated?* 28:6 J. Med. Ethics. 335, 336 (2002); Angela Long, *Why Criminalizing Sex Selection Techniques is Unjust: An Argument Challenging Conventional Wisdom*. 14 Health L.J. 70, 74-75, 92 (2006).

<sup>4</sup> See, e.g., Steven G. Calabresi, *How to Reverse Government Imposition of Immorality: A Strategy for Eroding Roe v. Wade*, 31 Harv. J.L. & Pub. Pol’y 85 (2008) (“The key to eroding *Roe v. Wade*, then, is to pass a number of state or federal laws that restrict abortion rights in ways approved of by at least fifty percent of the public . . . I would recommend passing laws like . . . a ban on abortion for sex selection . . .”).

## ADDITIONAL Resources

- 1 **CDC National Vital Statistics Reports**, *Trend Analysis of the Sex Ratio at Birth in the United States*, Vol. 53, No. 20.  
[http://www.cdc.gov/nchs/data/nvsr/nvsr53/nvsr53\\_20.pdf](http://www.cdc.gov/nchs/data/nvsr/nvsr53/nvsr53_20.pdf)
- 2 **Joseph Chamie**, *The Global Abortion Bind: A Woman's Right to Choose Gives Way to Sex-Selection Abortions and Dangerous Gender Imbalances*, YALE GLOBAL, May 29, 2008.  
<http://yaleglobal.yale.edu/content/global-abortion-bind>
- 3 **Medical News Today**, *Experts Say Slant Toward Male Births Among Asian-American Families Reflects Sex Selection Practices*, June 16, 2009.  
<http://www.medicalnewstoday.com/articles/154097.php>
- 4 **Sunita Puri**, *Sex Selection Alive and Well in South Asian Immigrant Communities in the U.S.*, INDIA CURRENTS, Mar. 17, 2006.  
[http://news.newamericamedia.org/news/view\\_article.html?article\\_id=77ccb8095412ea46e40184e503787025](http://news.newamericamedia.org/news/view_article.html?article_id=77ccb8095412ea46e40184e503787025)
- 5 **Sunita Puri**, *Having a Girl Was Another Reason He Beat Me*, U.C. BERKELEY STUDENT JOURNAL.  
[http://www.berkeley.edu/news/students/2005/gender/gender\\_about.shtml](http://www.berkeley.edu/news/students/2005/gender/gender_about.shtml)
- 6 **Sam Roberts**, *U.S. Births Hint at Bias for Boys in Some Asians*, N.Y. TIMES, June 14, 2009.  
<http://www.nytimes.com/2009/06/15/nyregion/15babies.html>
- 7 **Sarita Sarvate**, *Woman: India's New Endangered Species?*, INDIA CURRENTS, Mar. 18, 2006.  
<http://www.saritasarvate.com/article.php?id=61>.



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