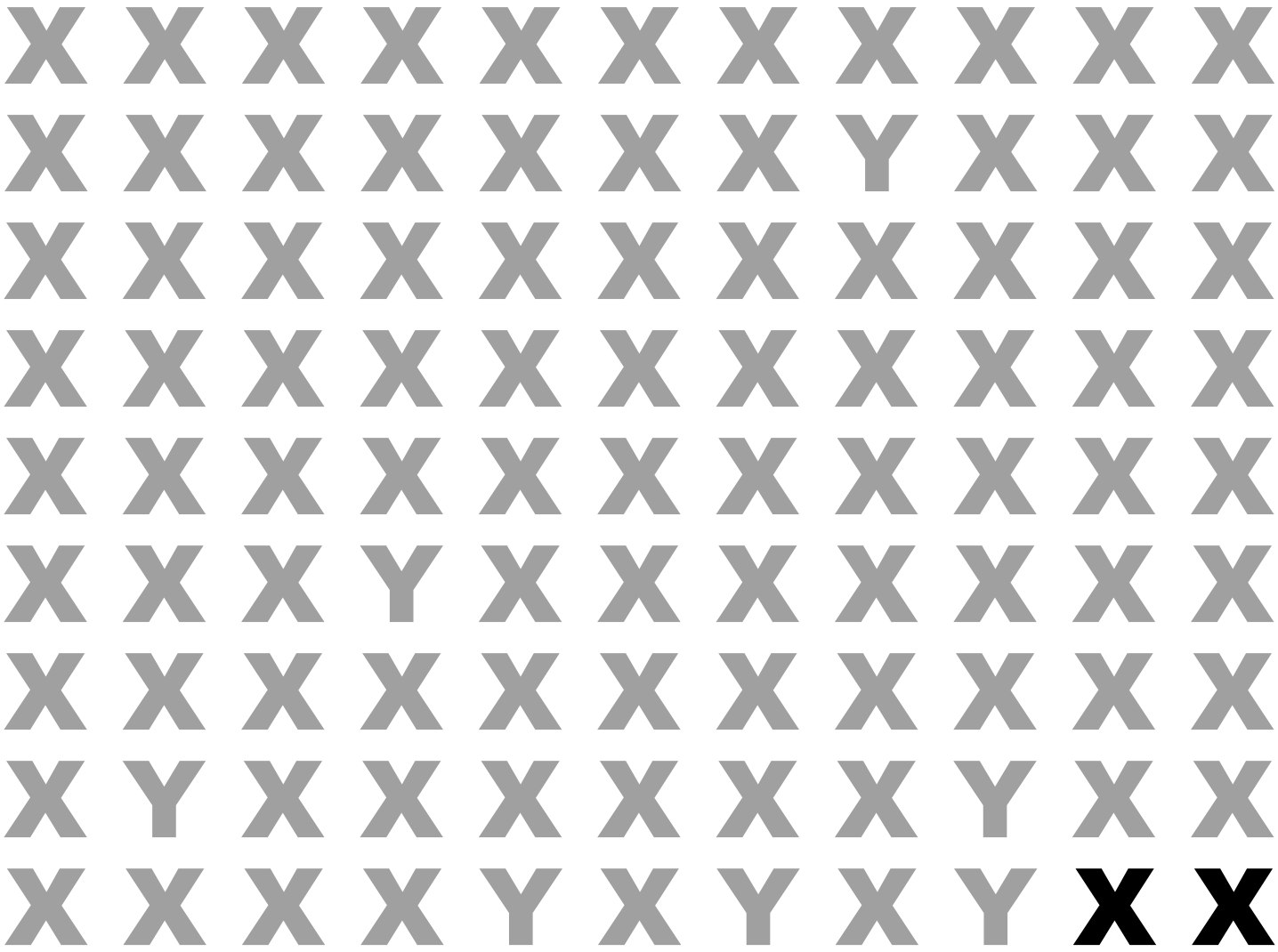

Examining sex-selective abortion policy, practices and rhetoric in Armenia from a rights perspective

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Introduction

Biological and social factors place disproportionate burdens on women of childbearing age in Armenia and necessitate the right to access to abortion. In this paper, we make a distinction between women's right to access abortion and sex-selective abortion (SSA). The decision to abort a female fetus on the grounds of its being female constitutes gender-specific discrimination, and its widespread usage exposes the inequality of women and girls in society. As such, we advocate for proper approaches to limiting SSA whilst not impinging on women's bodily integrity, autonomy, privacy and reproductive rights by limiting the right to access abortion more generally. Given the dearth of analysis on SSA in Armenia from a standpoint that employs feminist and human rights perspectives, we choose to draw on such a framework to conceptualize the practice of sex selection and adopt a reproductive justice lens as a useful theoretical tool.

The first section provides an overview of Armenia's current legal system as it relates to abortion policy and practices. The second and third sections review international human rights obligations and expectations as they relate to Europe and Armenia, respectively. The fourth section examines the discourse presently taking place in Armenia around abortion, particularly SSA, and how this rhetoric influences policymaking. Finally, the last section details the current threats to access to abortion in Armenia and develops opportunities for State institutions and civil society to negate those threats and bolster respect for women's reproductive rights.

Women's Support Center

Open Society Foundations Armenia

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Abortion in Armenia, a Situational Review

Armenia has generally liberal abortion policies that it inherited from the USSR. This includes abortion on request for the first trimester and up to 22 weeks of gestation under certain circumstances. During the Soviet period, modern contraception was not readily available and there was widespread mistrust of certain contraceptives, making abortion the primary form of birth control in Armenia.[1] Since independence, abortion has remained a common tool for birth control due to its ease of access, social acceptance, and affordability. In a 2016 survey published by the UNFPA Armenia, nearly half (46.6%) of women who had ever had a partner had terminated a pregnancy.[2]

In contrast, modern contraceptives are accessible but carry significant social stigma for women to purchase. Likewise, regular use of birth control ultimately costs more over the long-run than having abortions when pregnant.[3] This explains the lower than 20% contraceptive usage rate in the country, which contributes to the poor sexual and reproductive health of women, as rates of abortion remain high.[4] Moreover, marginalized women experience a double burden to obtaining sexual and reproductive health services, due to issues related to availability, accessibility and affordability as well as discriminatory approaches that translate to poor treatment at medical centers.[5]

Sex-determining technology was not available during the Soviet Union, and relevantly, Armenia's sex rate at birth (SRB) of 105[6] was within the naturally occurring range of 101-107 males to 100 females.[7] After the sonogram was introduced in Armenia in 1993, the SRB in Armenia skyrocketed to 120 by 2000.[8] This increase occurred at double the speed of the increases in SRB in China or South Korea.[9] Studies in Armenia have shown a strong son preference among the Armenian public. Women have been found to have low decision-making power in this regard and are often pressured by their husbands and husbands' families to abort female fetuses, which is linked to wider social norms that prescribe a higher relative value to male children.[10] Further, some women have internalized the view that a "good" wife provides her husband and her family a son and may have a SSA after no or minimal external pressure. Thus, the phenomenon of SSA is one that is deeply contextualized and complex.

1. Charles Westoff, Recent Trends in Abortion and Contraception in 12 Countries, DHS Analytical Studies, 2005.
2. Vladimir Osipov, Jina Sargizova, Men and Gender Equality in Armenia: Report on Sociological Survey Findings, United Nations Population Fund, 2016.
3. Hamlet Gasoyan, Roza Babayan, Shant Abou Cham, Samvel Mkhitaryan, Public Inquiry into Enjoyment of Sexual and Reproductive Health Rights in Armenia, United Nations Population Fund, 2016.
4. Central and Eastern European Women's Network for Sexual and Reproductive Health and Rights, Status of Sexual and Reproductive Health and Rights in Central and Eastern Europe, 2014.
5. CEDAW Task Force Armenia, Armenia Non Government Organizations' Shadow Report to CEDAW, 2016, http://tbinternet.ohchr.org/Treaties/CEDAW/Shared%20Documents/ARM/INT_CEDAW_NGO_ARM_25449_E.pdf.
6. Christophe Guilmoto, Sex Imbalances at Birth in Armenia, United Nations Population Fund, 2013.
7. Human sex ratio, Wikipedia, https://en.wikipedia.org/w/index.php?title=Human_sex_ratio&oldid=745657461, last visited 16 Nov. 2017.
8. Guilmoto *supra*, at 40.
9. *Id.* at 41.
10. Ani Jilozian, Victor Agadjanian, Is Induced Abortion Really Declining in Armenia?, Studies in Family Planning, 42(2):163-178, 2016.

Due to the concern of SSA and after significant pressure from international institutions, Armenia passed a law in August 2016 to combat SSA (technically, amendments to a law).[11] While the law's stated purpose was to reduce the prevalence of SSA, its effect is primarily to restrict women's reproductive choices. The law explicitly prohibits SSA, imposes a three-day waiting period on women seeking abortion, and changes optional counseling to mandatory counseling. Accordingly, abortion providers are required "to relay all the negative consequences of abortion" to the patient before allowing her to undergo the procedure.[12] Further, the law increases administrative obligations on doctors, including imposing penalties for conducting a SSA.[13]

Today, Armenia's SRB is slowly decreasing from 115 in 2011 (the third highest in the world)[14] to 112 in 2016.[15] This translates to a modest 1% reduction in SSA in the period of 2013-2016. The first half of 2017 saw an SRB of 111.[16] Advocates of the law have attributed the reduction to the new abortion provisions. However, it is too early to tell whether the lower rates truly represent a significant reduction in SSA.

The introduction of barriers to abortion access is not surprising. The Armenian public has become increasingly hostile to abortion[17] and pro-natal as a response to Armenia's decreasing population. There is stakeholder consensus against SSA, but the challenge of developing rights-respecting responses to SSA has provided traditionalists an opportunity to use SSA to restrict abortion generally.

11. «Մարդու վերարտադրողական առողջության եվ վերարտադրողական իրավունքների մասին» Հայաստանի Հանրապետության օրենքում փոփոխություն կատարելու մասին [Amendments to the Human Reproductive Health and Rights Law] Aug. 6, 2016 (Arm.) http://parliament.am/drafts.php?sel=showdraft&DraftID=38184 and Վարչական իրավախախտումների վերաբերյալ հայաստանի հանրապետության օրենսգրքում լրացումներ կատարելու մասին [Amendments to the Code of Administrative Offenses] Aug. 6, 2016 (Arm.) http://parliament.am/drafts.php?sel=showdraft&DraftID=38189.
12. *Id.*
13. *Id.*
14. Guilmoto *supra*, at 40.
15. "Sex selective abortions decrease in Armenia", Armenpress.am, 24 Jul. 2017, https://armenpress.am/eng/news/899660/sex-selective-abortions-decrease-in-armenia.html.
16. Andrew Jack, "Our community loves boys more." Armenia's missing girls, Financial Times, 11 Oct. 2017, https://www.ft.com/content/a4ecb4a2-713f-11e7-93ff-99f383b09ff9
17. Jilozian and Agadjanian *supra*, at 8.

European Human Rights Obligations and Expectations

European Court of Human Rights

There is no explicit right to abortion within the European Convention on Human Rights. Instead, cases regarding abortion are evaluated under Article 8, the right to respect for private and family life. Using that lens, there is limited protection for access to abortion within the Convention.

The European Court of Human Rights has imposed few obligations on Member States regarding abortion. The Court has refused to find a general right to abortion (however, it also refused to find that the Convention's right to life applies to fetuses).[18] Generally, the Court is willing to give Member States a large margin of appreciation when assessing domestic abortion policy.[19] The Court has been firmer with Member States when the States fail to implement a domestic right to abortion. The Court has held that if there is a right to abortion within its domestic legal system, then the State is obligated to implement that right.[20] In P. and S. v. Poland, the Plaintiff became pregnant through rape and sought an abortion, which she was legally entitled to. However, medical service providers created significant barriers including providing biased, misleading and contradictory information. The Court held that Poland had violated Article 8 by not protecting the Plaintiff's domestic right to abortion against "arbitrary interferences by public authorities".[21]

Armenia's most recent restriction on abortion was enacted by Parliament. Considering that abortion is still generally accessible and that this new law was done through the law-making process, the Court would not find any violation of Article 8 of the Convention.

18. *See* Boso vs. Italy (where the Court did not directly respond to the Plaintiff's claim that his fetus has a right to life under Article 8 of the Convention).
19. *Id.*
20. *See* A., B., and C. v. Ireland (Application No. 25579/05), 2010.
21. R.R. v. Poland (Application No. 27617/04), 2011, para. 190.

European Committee of Social Rights

The European Social Charter is the European human rights document that contains social and economic rights. The Social Charter was meant to balance the European Convention on Human Rights, which focuses on civil and political rights. Article 11 of the Social Charter provides a "right to protection of health", which is similar to the international right to health. The Committee made clear that this right obligates the provision of sexual and reproductive health services.[22]

The Committee evaluates States' compliance with the European Social Charter. As a Committee, it does not have the same stature or enforcement mechanisms as the European Court. Ratification of the European Social Charter is not an obligation to join the Council of Europe. Further, when ratifying, States are allowed to list which articles will bind them and which will not.[23] Armenia ratified the Social Charter in 2004 but declared that it will not be bound by Article 11 of the Social charter.[24] Thus, Armenia is not obligated to comply with any of the legal protections for abortion developed by the European Committee of Social Rights.

Council of Europe

The legislative body of the Council of Europe, the Parliamentary Assembly of the Council of Europe (PACE), has passed resolutions impacting abortion. Like the European Court of Human Rights, PACE has not declared that Member States are obligated to ensure access to abortion. PACE is a political body, and there is a constant conflict between pro-abortion and anti-abortion politicians. Further, PACE resolutions are not legally binding but demonstrate the norms that Member States are expected to more or less follow.

PACE has only made one resolution directly regarding access to abortion: Resolution 1607 (2008) – Access to safe and legal abortion in Europe. The Resolution begins by emphasizing how abortion is not a family planning tool and that "all possible means compatible with women's rights must be used to reduce unwanted pregnancies and abortions".[25] However, the general spirit of the resolution is to promote access to safe abortion in Member States that have made abortion legal. Resolution 1607 condemns policies that can impose barriers to abortion access, including "repeated medical consultations … and the waiting time for the abortion".[26] The Resolution "invites" Member States to:

> "7.4. lift restrictions which hinder … access to safe abortion … [and] take the necessary steps to create the appropriate conditions for health, medical and psychological care and offer suitable financial cover;"

> "7.5 adopt evidence-based appropriate sexual and reproductive health and rights strategies and policies, ensuring continued improvements and expansion of non-judgmental sex and relationships information and education, as well as contraceptive services, through increased investments from the national budgets into improving health systems, reproductive health supplies and information."

The only other notable resolution from PACE is Resolution 1763 (2010) that emphasizes the importance of the right to conscientiously object to provide legal medical care. The emphasis is on conscientious objection, but the Resolution does acknowledge that Members States "ensure that patients are informed of any conscientious objection in a timely manner and referred to another health-care provider" and "that patients receive appropriate treatment, in particular in cases of emergency".[27]

The Council of Europe has a Commissioner for Human Rights that has made an official statement on his blog strongly in favor of protecting women's reproductive rights.[28] The statement emphasized Member States' international obligations to realize the right to health, women's right to plan their families, and the right to health information. The details the Commissioner refers to are discussed in the following section on Armenia's international human rights obligations.

European Union

The European Union (EU) has developed a more detailed response to abortion than the Council of Europe has. Armenia is not a member of the EU, but the EU's laws and norms tend to percolate out to Member States of the Council of Europe. In 2013 the European Parliament issued its Report on Sexual and Reproductive Health and Rights (2013/2040(INI)). The report included a motion for a resolution for the Parliament and an explanatory statement. While the content of the motion does not impose any binding obligations on Member States, the content is more robust than the PACE Resolution 1607 (2008) and is a helpful guide to the developing norms regarding abortion within the EU.

The motion takes a much stronger stance on women's reproductive rights and articulates many facets where Member State governments are involved with the realization of women's reproductive rights. The motion expresses concern about barriers to accessing legal abortion.[29] It explicitly states that "medically unnecessary waiting periods and biased counselling" can be barriers to accessing abortion and that any counselling "must be confidential and non-judgmental".[30] Further, the motion urges Member States to make essential reproductive services (e.g. annual gynecological checks and treatment of STIs) and contraception financially accessible or even free.[31] The resolution recommends on grounds of human rights and public health that Member States make access to abortion legal and safe to avoid unsafe, clandestine abortions.[32]

22. *See e.g. IPPF v. Italy* (Complaint No. 87/2012) ECSR, 2012, para. 66.
23. International Justice Resource Center, European Committee of Social Rights, http://www.ijrcenter.org/european-committee-of-social-rights/#Rights_Contained_in_Social_Charter.
24. Council of Europe, Reservations and Declarations for Treaty No. 163 – European Social Charter (revised), http://www.coe.int/en/web/conventions/full-list/-/conventions/treaty/163/declarations?p_auth=8gEZTgeR.
25. PACE, Resolution 1607 (2008) "Access to safe and legal abortion in Europe", para. 1.
26. *Id.* at para. 3.
27. PACE, Resolution 1763 (2010) "The right to conscientious objection in lawful medical care", para. 4.1–4.2.
28. Nils Muižnieks, Protect women's sexual and reproductive health and rights, The Commissioner's Human Rights Comments, 21 Aug. 2016, http://www.coe.int/en/web/commissioner/-/protect-women-s-sexual-and-reproductive-health-and-rights.
29. Edite Estrela, Committee on Women's Rights and Gender Equality, European Parliament, Report on Sexual and Reproductive Health and Rights (2013/2040(NI)), A7-0426/2013, para. 17.
30. *Id.* at para. 34.
31. *Id.* at para. 24.
32. *Id.* at para. 33.

The motion goes beyond explicit human rights obligations and describes the social importance of Member States complying with these rights. While the resolution underlines that abortion is not a family planning tool,[33] it insists that realizing women's freedom to plan her family leads to "gender equality, poverty reduction, and inclusive and sustainable development".[34] Further, the resolution's explanatory statement reiterates that data does not support the idea that restricting abortion will lead to a higher birth rate or demographic growth[35] or even lead to a reduced number of abortions (instead, reducing access to legal abortion shifts demand to unsafe clandestine abortions).[36]

European institutions have created some number of norms surrounding access to abortion, but none of these impose a legal requirement on Armenia. The European Court of Human Rights only requires States to enforce their domestic abortion policies without discrimination or arbitrary interference; it does not require States to generally provide abortion. The Council of Europe and the European Committee of Social Rights both have articulated guidelines on respecting the right to access abortion, but these guidelines are not legal obligations for Armenia. The European Union has developed the most detailed measures regarding access to abortion, but those measures are not obligatory for Armenia as Armenia is not a member of the European Union.

33. *Id.* at para. 31.
34. *Id.* at para. 26.
35. *Id.* at p. 24.
36. *Id.*

Armenia's International Human Rights Obligations and Expectations

The International Right to Health: General Comments 14 and 22 of the International Covenant for Economic, Social and Cultural Rights

In contrast to Europe's human rights development, there is much stronger protection for the right to access abortion in international human rights law. The primary right in play is the right to health, codified in Article 12 of the International Covenant for Economic, Social and Cultural Rights (ICESCR). The right was first interpreted in General Comment 14 of the ICESCR in 2000. More recently, General Comment 22 further developed the obligations regarding reproductive rights. The ICESCR fully applies to Armenia as Armenia acceded to the treaty without reservations in 1993.

General Comment 14 places a general obligation on States to realize each person's highest attainable state of health. This general obligation imposes both positive and negative obligations on the State. States must respect the freedom to "control one's health and body, including sexual and reproductive freedom."[37] The right must be complied with in a non-discriminatory way,[38] but General Comment 14 recognizes that eliminating discrimination against women requires States to intervene in targeted ways to ensure women's rights. This requirement includes "the removal of all barriers interfering with access to health services, education and information, including in the area of sexual and reproductive health."[39]

As the right to health is part of the ICESCR, it's recognized as a right that is progressively realized; States are not expected to achieve a level of health beyond their means. But the ICESCR imposes a strong presumption against retrogressions.[40] A State must review all alternatives before engaging in a retrogression, otherwise the retrogression is a violation of the State's obligation. For example, a State at war or undergoing essential austerity measures would have less available resources, shrinking the general budget including the health budget. This retrogression would not be a violation, as the State had no alternative but to reduce expenses. In contrast, reducing health expenditure arbitrarily or imposing unnecessary health barriers would be a retrogression that violates the right to health. This is discussed further in the next subsection.

General Comment 22 of the ICESCR goes into detail about the right to health's obligations regarding sexual and reproductive rights. The General Comment describes the right to sexual and reproductive health, a subset of the right to health, as including "the right to make free and responsible decisions … regarding matters concerning one's body and sexual and reproductive health."[41] Likewise, the right contains an entitlement to "unhindered access to a whole range of health facilities, goods and services".[42]

37. Committee on Economic, Social and Cultural Rights, GENERAL COMMENT NO. 14, U.N. Doc. E/C.12/2000/4 (2008), para. 8.
38. *Id.* at para. 18.
39. *Id.* at para. 21.
40. *Id.* at para. 32
41. Committee on Economic, Social and Cultural Rights, GENERAL COMMENT NO. 22, U.N. Doc. E /C.12/GC/22 (2016), para. 5.
42. *Id.*

General Comment 22 elaborates on different ways that States have a duty to respect sexual and reproductive rights. In particular, the General Comment explicitly says that States have a duty to

> "repeal, and refrain from enacting, laws and policies that create barriers in access to sexual and reproductive health services. **This includes … biased counseling and mandatory waiting periods for … access to abortion services**."[43]

A core obligation of the General Comment—considered the most non-negotiable obligations—is the creation of a national action plan on sexual and reproductive health.[44] The action plan must include measures aimed to "prevent unsafe abortions and to provide post-abortion care and counselling for those in need".[45] General Comment 22 also obligates States to enact temporary special measures to ensure discrimination and stereotypes don't impair the realization of sexual and reproductive rights.[46] This is comparable to the requirement of temporary special measures listed in the Convention for the Elimination of Discrimination Against Women (CEDAW).[47]

The UN Special Rapporteur on the right to health[48] wrote a report on the violation of extreme forms of restricting sexual and reproductive rights, like through criminalization, and recommends that States "[d]evelop comprehensive family planning policies and programmes, which provide a wide range of goods, services and information relating to contraception and are available, accessible and of good quality."[49]

The new law is an unjustifiable retrogression

One aspect of the right to health is that States are allowed to sometimes retrogress—downgrade—their compliance with the right to health without violating the right. These retrogressions are justified only when they are done following a rigorous set of steps. Most retrogressions are not justified and are violations of the State's obligation.

Reducing access to abortion is a retrogression. General Comment 22 explicitly lists the "imposition of barriers to information, goods and services relating to sexual and reproductive health" and "enacting laws criminalizing certain sexual and reproductive health conduct and decisions" as examples of retrogressions.[50] A State must be able to prove that the retrogression is necessary, temporary, proportionate, non-discriminatory[51] and the least restrictive measure available.[52] If a State cannot, then it is violating the right to health.

The new law banning SSA does not fulfill these requirements, meaning the new law violates Armenia's right to health obligations. The law cannot be said to be proportional or the least

43. *Id.* at para. 41.
44. *Id.* at para. 49.
45. *Id.*
46. *Id.* at para. 36.
47. Convention on the Elimination of Discrimination Against Women, Art. 4, para. 1.
48. The entire title is the UN Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health.
49. Special rapporteur on the right to health, U.N. Doc. A/66/254 (2011), para. 65(b).
50. General Comment 22, para. 38.
51. *Id.*
52. See, e.g. United Nations Economic and Social Council, Report of the United Nations High Commissioner for Human Rights, E/2013/82 (May 2013), para. 15.

restrictive measure available. The law affects every woman's reproductive rights, even though only about 1% of women have a SSA. This is an extremely poor fit and is massively disproportionate. Further, the fact that rights-respecting strategies exist that could reach the same goal[53] — reducing incidents of SSA — shows that the new law is not the least restrictive measure available.

The ICESCR lacks an enforcement mechanism against Armenia

Despite Armenia acceding to the ICESCR in 1993, there is no built-in enforcement mechanism applicable to Armenia. States are obliged to report on their progress in realizing these rights, but there is no punishment articulated in the ICESCR for not complying with these rights. The ICESCR has an optional protocol that establishes a committee empowered to receive individual complaints of rights violations. Armenia signed the optional protocol in 2009 but has not become a party to the protocol.[54] Thus, the committee is not empowered to hear alleged rights violations regarding Armenia.

Committee for the elimination of discrimination against women

The Committee for the Elimination of Discrimination Against Women (CEDAW) has expressed concern regarding SSA for many years. Dating back since at least 2006, CEDAW has mentioned the issue of SSA in its concluding observations, such as those for China and India.[55] CEDAW did not comment about Armenia's high sex ratio at birth in its 2009 concluding observations[56] as the issue was not well known in Armenia at that time. In expressing concern, CEDAW focused on the contextual issues that surround SSA, like the stereotypes that promote son preference and the risk of criminalizing reproductive care when targeting SSA.

CEDAW reviewed Armenia in 2016 and issued a concluding statement with a brief mention of SSA.[57] The Committee noted the law's mandatory counseling and three-day waiting period. However, the issue of SSA "concerns" the Committee sufficiently that the Committee does not condemn the law and instead recommends its implementation. Considering the failings of the new law listed in this document, CEDAW's recommendation seems paradoxical. The best way to understand CEDAW's statement is that they encourage Armenia to attempt to resolve the problem of SSA. Very few States have dealt with SSA, meaning there are few best practices that Armenia could apply domestically. The law is problematic — the Committee explicitly notes the law's negatives — but the issue of SSA so sufficiently concerns the Committee that they're willing to overlook these faults. At the same time, they point Armenia towards implementing gender-equitable policies such as those included in the 2012 Ministry of Health publication *Sex Imbalances at Birth: Current Trends, Consequences, and Policy Implications.*

53. A rights-respecting alternative was articulated in the presentation by Gabriel Armas-Cardona, Changing the Detrimental Narrative that Underlies Armenia's Legal Response to Sex-Selective Abortion, Presentation at American University of Armenia Conference on Empowerment of Girls and Women in Armenia, 21 Apr. 2017, https://www.slideshare.net/GabrielArmasCardona/changing-the-detrimental-narrative-that-underlies-armenias-legal-response-to-sexselective-abortion.
54. United Nations Office of the High Commissioner, Status of Ratification Interactive Dashboard, http://indicators.ohchr.org/.
55. CEDAW, Concluding Observations: China, CEDAW/C/CHN/CO/6 (2006); CEDAW, Concluding Observations: India CEDAW/C/IND/CO/3 (2007).
56. CEDAW's concluding observations for Armenia do not mention SSA or sex ratio at birth. See CEDAW, Concluding Observations: Armenia, CEDAW/C/ARM/CO/4/Rev.1, (2009).
57. *See* CEDAW, Concluding Observations: Armenia, CEDAW/C/ARM/CO/5-6 (2016), paras. 28-29.

World Health Organization

The World Health Organization (WHO) has extensively studied abortion policy. While their recommendations are not explicit legal obligations on States, they provide critical evidence for policy discussion. States have an obligation to achieve the "highest attainable standard of health". If the evidence demonstrates that policy choice A provides better health outcomes than policy choice B, a State implementing policy choice B may be in violation of the right to health (unless there are extraneous circumstances that justify policy choice B).

When legally accessible, the WHO clearly says that abortion is safe. The WHO says a consensus formed on the safety of abortions as early as 1967.[58] However, unsafe abortions are still a significant cause of maternal mortality. Unsafe abortions don't stem from the abortion procedure itself but from the laws, policies and cultural norms that can restrict access to safe abortions. The WHO states that "almost all deaths and morbidity" caused by unsafe abortions occur in States where "abortion is severely restricted in law and practice."[59]

One finding of WHO's research is that legal restrictions on access to abortion don't reduce demand for abortions; it's plausible that the same applies to SSA. The WHO states that "legal restrictions on abortion do not result in fewer abortions".[60] Instead, restrictions shift women from accessing safe abortions to unsafe one.[61] Conversely, reducing restrictions on abortions don't increase the prevalence of abortions but allows women to have legal abortions, shifting unsafe abortions to safe ones.[62]

Another finding is that abortion policy is not effective at altering demographics. Restricting abortion to increase the population has been tested in a few countries including Russia and a few Eastern European States. In each case, there was an "insignificant net increase in population"[63] but significant shifts to unsafe abortions as discussed above. This determination was also included in the European Union's Report on Sexual and Reproductive Health and Rights.[64]

58. World Health Organization, Safe Abortion: Technical and Policy Guidance for Health Systems, 2nd ed. (Geneva, 2012), http://www.who.int/reproductivehealth/publications/unsafe_abortion/9789241548434/en. For more statements from United Nations bodies on the safeness of Abortion, see footnote 9 on page 99.
59. *Id.* at 87 and 90.
60. *Id.* at 90.
61. *Id.*
62. *Id.*
63. *Id.*
64. Report on Sexual and Reproductive Health and Rights, p. 24.

Armenia's new law restricting abortion is a violation of its international obligations regarding the right to health. The right to health is elaborated in General Comments 14 and 22 of the International Covenant of Economic, Social and Cultural Rights. General Comment 14 is a general elaboration while General Comment 22 specifically articulates sexual and reproductive rights. Both General Comments prohibit unjustified retrogressions of the right to access health services, including abortion. The new law's three-day waiting period is an unjustified retrogression and explicitly violates General Comment 22. The law is also likely to result in biased counseling and a chilling effect on service providers, further deteriorating women's ability to access safe medical services and violating both General Comments.

The Committee for the Elimination of Discrimination Against Women did not condemn the new law, as the Committee wants to encourage Armenia to tackle the issue of SSA. It did however note the problems with the law and encourage Armenia to implement gender-equitable policies.

The new law goes against the World Health Organization's recommendations for reducing unsafe abortions. The World Health Organization discourages legal and social restrictions on abortion. Those restrictions are the primary cause of deaths and morbidity that stem from abortions. Likewise, abortion restrictions are not effective in either reducing the demand for abortion or in altering national demographics.

The Current Discourse in Armenia's Politics vis-à-vis Abortion

Overview of media analysis

The interpretation of policies and media depiction on the issue of SSA often fosters an anti-abortion climate. In the Indian context, for instance, inaccurate information shared about SSA far outnumbers information on unsafe abortion, giving the impression that SSA is the only type of abortion that exists and using the issue to proliferate anti-abortion messaging.[65] Similarly, anti-abortion rhetoric in Armenia has increased in recent years, as reflected in articles published in widely read media outlets.[66]

In a 2016 study looking at online print media's coverage of SSA in Armenia, which encompassed a review of nearly 900 articles from 15 web-based media outlets published in 2013-2016, investigators found that journalists rarely discussed the deeply-embedded cultural stereotypes and practices that lead many to seek a SSA, failing to tackle the controversial aspects of sex selection that would have required a more in-depth investigation. When more controversial issues were tackled, the issue was presented as a "child-centered demographic issue of national importance" without a discussion of fundamental rights and choices.[67]

For this paper, a discourse analysis was conducted to corroborate findings and isolate themes. Articles published between 2011-2017 were retrieved through a search using Armenian terms relating to sex-selective abortion (e.g. սեռով պայմանավորված աբորտ, սեռով պայմանավորված հղիության արհեստական ընդհատում, սելեկտիվ աբորտ). This 6-year period was chosen because the earliest research studies documenting the prevalence of SSA date back to 2011. The dataset was comprised of articles from five major online news outlets, namely 1in.am, tert.am, news.am, Hetq and Epress. Articles that were merely informational in nature (e.g. offering only statistics on SSA) were not analyzed. Thus, a total of 61 articles were reviewed, in which representatives of State bodies, multilateral organizations, physicians, the Armenian Church and civil society were quoted about SSA.

State representatives' perspectives

Ministry of Health (MoH) authorities who played a key role in passing the new legislation are forthright about their anti-abortion views and belief that mandatory counseling and waiting times will discourage women from having abortions. In a 2016 article published by news.am, Gayane Avagyan, Head of the Maternity and Reproductive Health Care Division within the Mother and Child Health Care Department of the MoH, explained that with the new provisions women would be shown ultrasounds of the fetus and told that it is a "fully formed baby that is moving, listening, and feeling".[68] She went further to state, "If each of us is able to save at least one child in this way, we will reduce not only the number of sex-selective abortions but also the number of abortions overall."[69] Similarly, in a 2014 article published by news.am, Head of the Mother and Child Health Care Department of the MoH Karine Saribekyan noted her belief that mandatory waiting periods give a woman a few days to "change her mind", advocating that physicians show women the fetal heart to dissuade them from "killing".[70] She added, "Before having an abortion, the mother should see the child. It's a very effective method. We are thinking along these lines: emotional, psychological."[71]

The discourse analysis revealed a disjoint between State representatives' pro-natal viewpoints and the practice of SSA. In a 2014 article published by 1in.am, Avagyan lobbied for an increase in births as a solution to the issue of SSA, sharing her belief that the more children a woman has, the greater the probability that at least one will be male. She expressed, "If they want to have a boy, they can have one after the third child, because the chance of having a boy doubles. By the fourth, it's almost 90% possible to have a child of the desired sex."[72] Similarly, in a 2011 article published by the same media outlet, Saribekyan advised, "It's understandable that a given family wants children of both sexes; however, sex-selective abortion is not right in any case, and if the family is not ready to have a child, let them not plan a pregnancy altogether."[73] Such a myopic view from key decision-makers neglects a critical analysis of how Armenia's low birth rate stems from a concern about socio-economic conditions and is impractical in tackling the problem of SSA at large.

In many cases, State representatives promoted legal restrictions with strictly anti-abortion messaging. Party Chair of the Prosperous Armenia Party Naira Zohrabyan, in a 2016 article published by tert.am, stated that the law should have been introduced a long time ago because "in essence, we are dealing with murder".[74] In a 2014 news.am article, he urged the public to consider the issue of SSA from "a moral, social, legal, and psychological perspective" and take into consideration the "child's right to live".[75]

It should be noted that, despite their belief that stricter provisions were necessary in creating behavior change around SSA, representatives from the MoH and National Assembly generally also accepted that awareness raising campaigns to improve perceptions of women and girls in

65. Bela Ganatra, Maintaining Access to Safe Abortion and Reducing Sex Ratio Imbalances in Asia, Reproductive Health Matters, 16(31):90–98, 2008.
66. Marc Michael, Lawrence King, Liang Guo, Martin McKee, Erica Richardson, David Stuckler, The Mystery of Missing Female Children in the Caucasus: An Analysis of Sex Ratios by Birth Order, International Perspectives on Sexual and Reproductive Health, 39(2):97–102, 2013.
67. Monitoring of Online Print Media on Sex Selection in Armenia, International Center for Human Development, 2016
68. Վերարտադրողական առողջության մասին օրենքում փոփոխությունները կօգնեն Հայաստանում սելեկտիվ աբորտների դեմ պայքարին (The changes to the law on reproductive health will help Armenia fight sex-selective abortions), News.am, 9 Mar. 2016, https://med.news.am/arm/news/9710/verartadroxakan-aroxjutyan-masin-orenqum-popokhutyunnery-kognen-hayastanum-selektiv-abortneri-dem-payqarin.html.
69. *Id.*
70. Սելեկտիվ աբորտների դեմ պայքարի օրինագիծը վերանայվում է (The draft law against sex-selective abortion is being reconsidered), News.am, 29 Aug. 2014, https://med.news.am/arm/news/3053/selektiv-abortneri-dem-payqari-orinagitsy-veranayvum-e.html.
71. *Id.*
72. Տղա ունենալու ցանկությունը չպետք է կատարվի առողջ աղջկա աբորտի հաշվին. մասնագետ (The desire to have a boy should not be done at the expense of aborting a healthy girl, specialist), 1in.am, 4 Jul. 2014, http://www.1in.am/263529.html.
73. Հարավային Կովկաս. ընտրովի աբորտները՝գենդերային անհավասարակշռության պատճառ (South Caucasus: Sex-selective abortions as a cause for gender imbalance, 1in.am, 10 Jul. 2011, http://www.1in.am/36555.html.
74. Փողոցներում հայտարարություններ են փակցված՝,եթե չեք ուզում աղջիկ երեխա ունենալ, ապա դիմեքե. Ն. Զոհրաբյանը՝ Ա. Մուրադյանին, (Street advertisements read, "If you don't want to have a girl, contact us." N. Zohrapyan and A. Muradyan", Tert.am, 28 Jun. 2016, http://www.tert.am/am/news/2016/06/28/zohrabyan-muradyan/2063624.
75. Սեռով պայմանավորված աբորտներ. հղիության ընդհատման թույլատրելի շեմը կիջեցվի՞ մինչեւ 10 շաբաթ (Sex-selective abortions: Will the legal abortion threshold be reduced to 10 weeks?), News.am, 1 Jul. 2014, https://med.news.am/arm/news/2392/serov-paymanavorvats-abortner-hxiutyan-yndhatman-tuylatreli-shemy-kijecvi-minchev-10-shabat.html

society are needed to reduce SSA. For instance, in 2014 Party Chair of the Prosperous Armenia Party Naira Zohrabyan remarked, "The solution I see is in good campaigning; otherwise, we will face a two-pronged problem. Without solving the problem, we will have a double problem. We should think about organizing the right campaigns to have a breakthrough in our mentality and thinking. Until that happens, no law will help."[76]

Others' Perspectives

Civil society perspectives highlighted in the news outlets ranged from rights-based to anti-abortion. Representatives of UNFPA Armenia, those formative in publishing research on the prevalence of SSA, were vocal about pushing for legal restrictions while also highlighting the importance of engaging in widespread awareness-raising initiatives to promote a change in social norms.[77] Few representatives of women's rights organizations were quoted in the media. As such, little voice was given to advocacy against the legal restrictions.

Unsurprisingly, the Armenian Church's perspective on the issue was vehemently anti-abortion. In a 2014 news.am article, Catholicos of All Armenians Karekin II was quoted as saying, "Nowadays the understanding of the traditional family is in opposition to the resurgent currents that penetrate the innermost sphere of human life, especially when it comes to giving birth to sons."[78]

Rather surprisingly, the views shared by physicians were largely anti-abortion and not scientifically founded. In 2011 Dr. Armine Harutyunyan was quoted in tert.am as stating, "Sensing imminent danger, [the fetus] tries to flee from one side of the uterine wall to the other to escape the surgeon's tools."[79] In another 2016 article published by Hetq, Dr. Zaruhi Darbinyan admits, "When a woman comes in for a consultation and has a concrete goal of having an abortion, I show her the condition of the 12-week old child in the uterus and tell her, 'When you think about having an abortion, think about what you're doing. You're chopping up a living, breathing thing with feet and hands.' I have to say that this sometimes works."[80]

Growing Anti-Abortion Rhetoric

Given State representatives' strictly anti-abortion rhetoric and encouragement of manipulative practices, one could argue that, *de facto*, such depictions coming from top decision-makers and trickling down to the public promote anti-abortion sentiment and biased counseling. Moreover, the focus of media attention on unscientific, non-evidence-based viewpoints from physicians and self-proclaimed experts promotes a biased perspective that adheres to sensationalist claims and dismisses a critical understanding of the issues at hand. Such biased language not only gives an inaccurate and unbalanced view that lacks critical debate but also, in effect, advocates for limiting the right to access safe and legal abortion.

State authorities generally take a strictly anti-abortion stance, lobby for an increase in births as a solution to sex-selective abortion, and believe the new abortion provisions will discourage women from having abortions generally. Civil society organizations have varied perspectives on the abortion provisions, with some advocating for legal restrictions and others choosing to highlight the importance of changing social norms around son preference. Views shared by physicians that are covered in the media are largely anti-abortion and make unscientific claims. Overall, the media perpetuates superficial information and fails to identify root causes, consequences and possible solutions to the issue of sex-selective abortion through critical dialogue.

76. Կինը, որ կարծում է՝ իրեն կաղամբի միջից են գտել, ինչպե՞ս կարող է դաս տալ 14 տարեկանին (How can a woman who thinks she was born from within a cabbage teach a 14 year-old?), 1in.am, 20 May 2014, http://www.1in.am/1298490.html.
77. Հայաստանում 6 անգամ ավելի շատ են ուզում տղա ունենալ, քան՝ աղջիկ. մասնագետ (In Armenia, they want boys 6 times more than they want girls), Epress.am, 1 Sep. 2016, http://epress.am/2016/09/01/հարավային-կովկասի-չծնված-աղջիկները.html.
78. Գիտաժողով. Գարեգին Բ-ին մտահոգում է սեռով պայմանավորված աբորտների աճը (Conference: in II is worried about t he uptick in sex-selective abortions), News.am, 12 Sep 2014, https://news.am/arm/news/228563.html.
79. Դեղորայքի ինքնացուցումները հաճախ են հանգեցնում լուրջ խնդիրների (Authenticating drugs often leads to serious problems), Tert.am, 11 Aug. 2011, http://www.tert.am/am/news/2011/11/08/abort/382790.
80. Կնամեծար ազգ ենք, իսկ իրականում ... «ո՞վ է ծնելու տղաներ» (We're a nation that admires women but in reality... "who is giving birth to boys?"), Hetq.am, 15 Feb. 2016, http://hetq.am/arm/news/65735/knametsar-azg-enq-isk-irakanumov-e-tsnelu-txaner.html.

Threats and Opportunities

Considering Armenia's human rights obligations and the current trajectory of its political discourse, there are several threats and opportunities vis-à-vis safe access to abortion. An integrated approach that takes into consideration these threats and opportunities is imperative to fully understanding and devising solutions to the problem of sex selection.

X Threats

Reduced access to abortion

The most significant threat is that the law will cause reduced access to abortion and may be the beginning of further laws targeting abortion. Legal or social barriers to abortion can cause a "chilling effect" that results in reduced access to safe abortion, due to fears of social stigma and because of lack of knowledge about exactly what aspects of abortion have been restricted. Considering Armenia's history of accessible abortion, it's unlikely there will be a significant change in practice in the short term. But, it's likely that doctors will charge more due to the increased regulation and risks that they face, decreasing the affordability and accessibility of abortion. This will likely shift some women to have a medical abortion without medical supervision, which is already a common practice in Armenia due to the affordability and availability of the drugs and the guarantee of confidentiality abortion at home can provide.

Increased corruption in medical service provision

Armenia allows abortion on request only up to the 12th week of pregnancy, yet abortions carried out afterwards are still common. Medical service providers have been known to willingly conduct abortions after the 12th week and to alter records to hide the fact. Service providers are able to charge extra for these illegal services. Service providers, especially those in villages, often have meager official incomes and this type of corruption can form a significant part of their regular income. Imposing more restrictions on medical service providers, like banning SSA, could result in more corruption.

Biased counseling and mandatory waiting periods

Mandatory waiting periods and biased counseling is part of a larger wave of restrictive legislative mechanisms that seek to impose preconditions to obtaining abortion services. To date, no evidence-based research reveals that such requirements have beneficial outcomes and serve only to create greater barriers to accessing legal abortion.[81] Studies on mandatory waiting times have not been shown to alter abortion rates but do burden women with extra financial costs and logistical challenges, and in some cases, push women beyond the gestational limit for abortion.[82] This may result in an uptick in illegal and potentially unsafe abortions. Women in Armenia who are intent on carrying out a SSA or are pressured by their intimate partners or family members will likely not be deterred by the three-day waiting period, given the entrenched mindset that sons

81. WHO, *supra*, at 94.
82. Joyce Theodore, Stanley Henshaw, Amanda Dennis, Lawrence Finer, Kelly Blanchard, The Impact of State Mandatory Counseling and Waiting Period Laws on Abortion: A Literature Review. New York: Guttmacher Institute, 2009.

are inherently more valuable than daughters. Moreover, being forced to obtain biased counseling or stigmatizing procedures not only is ineffective but can be traumatic and degrading for women.[83]

Increase in unsafe abortions

Multi-country assessments have found that abortion-related deaths are more frequent in countries with more restrictive abortion laws than in countries with less restrictive laws.[84] As mentioned above, the threat of legal liability may push the practice of SSA underground and away from licensed health care providers and sanitary facilities, which endangers the health of the women involved.[85] Women from marginalized and impoverished communities will suffer worse consequences given their increased vulnerability, potentially setting up barriers to attaining safe abortion.

Women having clandestine abortions may lose access to post–abortion care

Article 122(1) of the Criminal Code criminalizes illegal abortions.[86] Service providers are supposed to report any illegal abortions they witness to police.[87] This threat of reporting has a chilling effect on women seeking post-abortion care. Even if the woman is not ultimately prosecuted,[88] she would still suffer through police interference into her private life and it's likely that her case would become public knowledge in her community. Importantly, a service provider might worry about becoming an accessory to a crime and refuse to provide her with post-abortion care.

Banning SSA can increase the prevalence of each of these harms. SSA is only a civil offense, not criminal, but that difference in law is confusing to non-lawyers. Thus, service providers may also report to the police in incidences where they believe an SSA took place. This is likely to occur when a woman seeks post-abortion care after a home abortion. Home abortions are prevalent in Armenia for reasons that are beyond this paper. The main reason is affordability, but some women have an abortion at home because it is illegal, such as abortions occurring after the first trimester. As doctors don't know the cause for an abortion done at home, in some cases, the doctor could suspect that the reason was to abort a female fetus. This could cause service providers to worry even more about becoming an accessory to a crime and refuse to provide women with post-abortion care.

83. WHO, *supra*, at 97.
84. WHO, *supra*, at 64.
85. Mallika Kaur Sarkaria, Lessons on Punjab's Missing Girls: Toward a Global Feminist Perspective on Choice in Abortion, California Law Review, 2009.
86. Criminal Code of the Republic of Armenia, art. 122, available at http://www.legislationline.org/documents/ section/criminal-codes (in English translation).
87. Gasoyan et al., *supra*, at 72.
88. Based on anecdotal evidence, the authors believe that prosecutions are rare.

Abortion stigma and the rollback of abortion rights

The public is increasingly exposed to stigmatizing and medically inaccurate information to persuade women out of obtaining abortion services through an overemphasis of risks involved or descriptions of abortion as "murder". The renewed emphasis on motherhood and the traditional family in Armenia's post-Soviet independence has led to discussions about reproduction displacing the larger discourse on women's equality.[89] Increasingly politicized in recent years, authorities have played on these traditional notions and demographic concerns to drive anti-abortion rhetoric and abortion stigma,[90] which Kumar et al. defines as "a negative attribute ascribed to women who seek to terminate a pregnancy that marks them, internally or externally, as inferior to the ideals of womanhood."[91] Rigid expectations and a culture of shaming that cements gender roles around reproduction can impose a heavy cost on a woman seeking an abortion. The heightened and increasingly anti-abortion discourse in Armenia and the new restrictions may lead to a "slippery slope" of greater restrictions, such as access to health information and ultrasound technology.

Disrespect for womens decision–making ability

Biased counseling and mandatory waiting periods jeopardize women's rights by forcing them to receive information that they may not want and calling into question their decision-making authority, neglecting their reproductive liberties and rights in the process.[92] Such practices also promote harmful gender stereotypes and assumptions about women's capabilities.[93]

Understanding the dynamic that affect's women's reproductive choices requires one to take into consideration various social relations and conditions, such as social conditioning about the value of a son, pressure to bear a son, and coercion by a husband and/or his family. Many women in Armenia are presented with a challenging dilemma. If they give birth to daughters, they may be threatened with harassment or abandonment. This revictimizing feature is problematic from a feminist and human rights standpoint and may have a negative impact on the quality of health care utilized by women. Though not all SSA carried out in Armenia is coercive, for many, the choice is between aborting a female fetus or keeping it and suffering abuse from husbands and family members. Thus, societal norms must allow for women to have true freedom of choice and offered security regardless of the sex of the children they bear.

89. Armine Ishkanian, Gendered Transitions: The Impact of the Post-Soviet Transition on Women in Central Asia and the Caucasus, Perspectives on Global Development and Technology, Vol 2, issue 3-4, 2003.
90. Central and Eastern European Women's Network for Sexual and Reproductive Health and Rights, Status of Sexual and Reproductive Health and Rights in Central and Eastern Europe, 2014.
91. Hanschmidt, Linde, Hilbert, Riedel-Heller, Kersting, Abortion Stigma: A Systematic Review, Perspectives on Sexual and Reproductive Health, 48(4): 169-177, 2016.
92. Center for Reproductive Rights, Mandatory Waiting Periods and Biased Counseling Requirements in Central and Eastern Europe, (2015).
93. *Id.* at 9.

X Opportunities

Emphasize the Right to Healths AAAQ Framework

Armenia, like all countries, has an obligation to comply with its people's right to health. The primary way to do this is to create a healthcare system structured through the framework elaborated by the right to health. The tenets of this framework are availability, accessibility, acceptability, and quality (AAAQ). By building a system (availability) that is affordable and non-discriminatory (accessibility), Armenia would go far in complying with its obligations. Considering this, slashing reproductive care has a disparate impact on women's reproductive health and could result in a discriminatory healthcare system.

Ensure quality counseling that does not promote gender stereotypes

Mandatory counseling is not an outward violation of women's reproductive rights, but it does open the door to violations caused by biased counseling. A biased or politically motivated doctor could use the opportunity to disseminate false information, gender stereotypes, or other medically inappropriate misinformation. Russia's Ministry of Health published guidelines requiring medical service providers to use biased or politically motivated statements.[94] For example, abortion is called "murder of a living child", women with unwanted pregnancies are portrayed as irresponsible, and counselors are instructed to "awaken [the woman's] maternal feelings."[95] In contrast, Armenia's previous legislative policy required doctors to offer counseling but did not require women to accept it. This approach empowers women to make the choice that best satisfies their health needs. The current legal framework does not articulate requirements regarding the content of that counseling. Civil society can push to ensure regulations promote counseling that is medically correct and free of bias and stereotypes. Having a means of monitoring would help ensure high-quality counseling.

Ensuring post–abortion care in all cases through consensus building

Because of Armenia's high rate of home abortions, there is a relatively greater need for post-abortion care due to unsafe abortions than in other countries. For these reasons, the WHO has issued a recommendation to not require medical service providers to notify the police and to not extract confessions for prosecutorial purposes.[96] Armenia's civil society could organize and convince stakeholders to implement this recommendation. The best means to implement this recommendation would be a clear statement to all medical service providers from the Ministry of Health.

94. *Id.* at 4.
95. *Id.*
96. WHO, supra, at 93.

Strong push for uptake in modern contraceptive use

The rate of unintended pregnancy and abortion can be reduced by greater use of effective modern contraceptives. Though contraceptive utilization is on the rise, as shown by Armenia Demographic and Health Surveys, rates have increased only modestly in recent years.[97] This unmet need for family planning can be reduced by raising the level of awareness about contraceptives and ensuring that health centers around the country offer a variety of methods and provide accurate counseling at affordable prices. For the most impoverished segments of the population, subsidizing the price of contraceptives is required to tip the economic factor in favor of using contraceptives for family planning instead of abortion. The Ministry of Health can offer educational public service announcements through multi-media platforms that combat stigma and ignorance regarding contraceptives, scale up delivery of modern contraceptives, and take greater measures to offer medical providers with refresher trainings.

Opportunities based on the political discourse in Armenia

Anti-abortion rhetoric revolves around fetal-personhood arguments, demographic concerns, and an increasingly confrontational and moralizing discourse, despite the fact that evidence shows that anti-abortion discourse does not improve demographics. Authorities and civil society can do more to educate the public on root causes and solutions to the issue of SSA and carry out outreach from a rights-based perspective. Given the heightened anti-abortion rhetoric and lack of nuanced discussion on the topic, it is pertinent to have greater dialogue around fundamental rights and choices and dispel myths in a language that is easily relatable to women.

Social and economic reform

Approaching the issue from a reproductive justice standpoint, it is imperative to initiate policies that create equal opportunities for women with regards to employment, education and social security, which have the potential to diminish son preference considerably. Such policies would elevate women's status in society by increasing their social and economic value. Moreover, sensitive campaigning to raise public awareness on the issue of SSA would steer some away from being anti-abortion by promoting awareness and changing attitudes with respect to son preference without stigmatizing legal and safe abortion.[98]

Authorities and civil society can take inspiration from creative and successful grassroots campaigns, like the 2016 hashtag campaign "Selfie with my daughter", which called on Armenian fathers to celebrate their daughters through sharing photos of their families on social media to change attitudes around SSA. The hashtag campaign was not overtly feminist; rather, it spread the simple message that girls have the same value for families as boys and caught the attention of the public by being visually appealing and inspirational.

97. National Statistical Service [Armenia], Ministry of Health [Armenia], and ICF International, Armenia Demographic and Health Survey 2015, 2016.
98. Sex-selective Abortion in India: Exploring Institutional Dynamics and Responses, McGill Sociological Review, 3:18–35, 2013.

Civil society engaging as a watchdog

As mentioned above, though the CEDAW committee urged the State to take measures to reduce SSA in their most recent concluding observations, they did not encourage the State to change the new provisions to the abortion law. This allows less room for civil society to advocate for changes to the legislation; however, civil society can still monitor the State's compliance with CEDAW and use the legal analysis presented toward policy bargaining as well as a tool for advocacy.

The heightened anti-abortion discourse may hinder progress in negotiations but should not stop civil society from engaging with media, human rights organizations and think tanks and vocalizing concerns when misinformation around abortion is perpetuated, so as to encourage a more nuanced discourse that encourages various perspectives. Moreover, civil society can further develop concerted strategy-building around protecting women's agency and their right to access abortion.

Conclusion

A deep-seated preference for having sons over daughters is due to a variety of factors that continue to make males more socially and economically valuable than females. The new abortion provisions target the symptoms of the problem, rather than the root causes, including son preference. Armenia's skewed sex ratios are a symptom of gender inequality. It is not possible to improve SSA indicators without examining their underlying causes.

In adopting a pro-natal approach and merely banning SSA, Armenian authorities severely limit the reproductive rights of women and ideologically ignore the issue of sex selection at its core whilst purporting to combat it. While the law condemns SSA, it fails to examine the underlying social conditions that facilitate it and fails to reverse the systemic and enduring dynamics of son preference, which is likely to manifest in alternate forms.

The regulations set forth through the law limit women's reproductive freedoms and have the potential to infringe on their abortion rights. The new legal measures violate international obligations and compromise women's access to abortion more generally without combating SSA specifically. The three-day waiting period is an unjustified retrogression, and the mandatory counseling requirements do not prohibit biased counseling, which is likely to occur. Such abortion restrictions push Armenia further away from realizing its obligations to respect women's reproductive rights and are not effective in reducing the demand for abortion nor in raising Armenia's birth rate.

Armenia's human rights obligations cannot be resolved by passing a law that purports to accomplish a human rights goal. To satisfy its international obligations, Armenia is required to adopt policies to combat son preference. While some programs organized by the government and civil society do just that, the new law does not. Given the challenges with passing any gender-sensitive law in Armenia, it is wise to consider non-legal avenues that address sex selection. Policies focused on raising the relative value of women and girls and transforming gender inequalities on which son preference and SSA are based must be widely targeted and seriously pursued.

Design by Ani Asribabayan