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Constructing abortion as a social problem: “Sex selection” and the British abortion debate

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Abstract

Between February 2012 and March 2015, the claim that sex selection abortion was taking place in Britain and that action needed to be taken to stop it dominated debate in Britain about abortion. Situating an analysis in sociological and social psychological approaches to the construction of social problems, particularly those considering “feminised” re-framings of anti-abortion arguments, this paper presents an account of this debate. Based on analysis of media coverage, Parliamentary debate and official documents, we focus on claims about grounds (evidence) made to sustain the case that sex selection abortion is a British social problem and highlight how abortion was problematised in new ways. Perhaps most notable, we argue, was the level of largely unchallenged vilification of abortion doctors and providers, on the grounds that they are both law violators and participants in acts of discrimination and violence against women, especially those of Asian heritage. We draw attention to the role of claims made by feminists in the media and in Parliament about “gendercide” as part of this process and argue that those supportive of access to abortion need to critically assess both this aspect of the events and also consider arguments about the problems of “medical power” in the light of what took place.

Keywords

abortion, sex selection, gendercide, feminism, Fiona Bruce, claimsmaking, social problem

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Introduction

This House must make the matter clear. If we cannot get a consistent line from abortion providers on whether or not it is illegal to abort a girl – it is usually girls but not always so – for the sole reason that she is a girl, then the law is not fit for purpose. To do so constitutes a gross form of sex discrimination. Indeed it is the first and most fundamental form of violence against women and girls. (Fiona Bruce MP, House of Commons debate on the Serious Crime Bill [Hansard, 2015])

On 23 February 2015 the UK Parliament debated and voted on an amendment to the Serious Crime Bill (an extensive set of proposed changes to criminal law) that sought to include these words in a new Serious Crime Act: “Nothing in section 1 of the Abortion Act 1967 is to be interpreted as allowing a pregnancy to be terminated on the grounds of the sex of the unborn child”. The extract above is taken from the speech made by the Member of Parliament (MP) Fiona Bruce, arguing for other MPs to support this amendment. She contended that legal change is needed because it is necessary to clarify to abortion providers that, always, “it is illegal to abort a girl” and that it should be so because sex selection abortion “is the first and most fundamental form of violence against women and girls”. This attempt to change the law followed a three-year period, beginning in February 2012, during which claims along the same lines were repeatedly made in the media, and also in the UK Parliament.

Prior to this attempt to change British law, laws banning sex selection abortion had already been passed in several states in the USA. Bruce’s proposal was similarly for sex selection abortion to be specifically prohibited, but the amendment she proposed was defeated following over two hours of debate (with 201 MPs voting for it, and 292 against). An alternative amendment was passed by 491 votes in favour, two against, committing the UK Government to assess evidence of “termination of pregnancy on the grounds of the sex of the foetus”, and where considered necessary, act to change “prejudices, customs, traditions” which “amount to pressure to seek a termination on the grounds of the sex of the foetus” (Serious Crime Act, 2015). This meant that sex selection abortion *was* institutionalised as a social problem in Britain, but in the end in a way that left the 1967 Abortion Act formally unaffected.

Drawing on constructionist theories of social problems developed in sociology and social psychology, this paper highlights how abortion was problematized in new ways through this debate, as it came to be associated with perceived problems of religion and ethnicity (described in the Serious Crime Act, 2015 as “prejudices, customs and traditions”) and presented as a form of violence against women. Perhaps most notable, we argue, was the level of largely unchallenged vilification of abortion doctors, on the grounds that they are law violators and participants in acts of discrimination against women. Although other terms were used by participants in the debates, throughout this paper we use “sex selection abortion” to refer to the social problem it was alleged needed to be addressed.

We suggest that two main areas of interest emerge. The first concerns claimsmakers. This is the term used by scholars who explore processes by which conditions that may exist in society come to be defined as social problems; claimsmakers are people who “seek to convince others that something is wrong, and that something should be done about it” (Best, 2008, p. 15). In line with efforts to “feminise” opposition to abortion discussed further below, sex selection abortion was initially made a topic of debate by journalists working for *The Telegraph* newspaper, a publication well known for its “pro-life” position, but less predictable claimsmakers also became involved. Overt threats about prosecuting doctors were made by senior Government ministers, and equally notable was the role of some who describe themselves as feminists. For most of the period of debate, some feminists who commented publicly made claims that advocated strongly *in favour* of the need to do something about sex selection abortion, an approach which was only called into question in the final phase of debate in 2015.

Secondly, we suggest these events raise related questions about the “medicalisation” of abortion in Britain. Sheldon (1997) details how doctors’ authority, or “medical power”, has been central to the operation of abortion law and practice in Britain. Claims about sex selection abortion, however, called this authority into question on the basis that its exercise harms women. We return to the question of medical authority in the conclusion to this article, but note here that the form through which “medical power” was questioned is one that those concerned to defend access to abortion may be disturbed by. Before detailing how these issues emerge from our research, we first discuss insights from studies that contextualise this episode.

The “feminisation” of the abortion problem

Research based in a variety of disciplines has shown how arguments against abortion are continually modified. Considerable efforts have been made, for example, to secularise the anti-abortion argument by borrowing the authority of science to construct the foetus as an “unborn child”, rather than refer to religious authority (Savell, 2008). Abortion opponents have focussed increasingly on “late term” abortion, including medical techniques used in these procedures, to provoke disgust and disquiet (Greasley, 2014). Some research in sociology and social psychology considers the work of social movements in gaining support for their cause through a consideration of claimsmaking activity and the modification of social problem framing (Gavey & Gow, 2001). Best (2008) explains, for example, that a claim is an effort to persuade others to support and identify with the proposition that something must be done about a putative social problem, and claimsmaking responds to changing contexts and experience. In relation to abortion, research of this social constructionist sort has shown that “feminised” or “pro woman” claims about harms to women emerge as a consistent and prominent feature of the re-framing of abortion as a problem over the past 25 years.

“Feminised” claims against abortion focused on harms to women’s health have attracted the most scholarly attention (Kelly, 2014; Rose, 2011; Saurette &

Gordon, 2013; Siegal, 2007; Trumpy, 2014). Cannold has outlined, for example, “the rise and use of a ‘woman-centred’ anti-choice strategy to oppose abortion in Australia and the USA”, based on claims that, “women do not really choose abortion but are pressured into it by others and then experience a range of negative effects afterwards, including an increased risk of breast cancer, infertility and post-abortion grief” (Cannold, 2002, p. 171). Rose provides a detailed analysis of what she terms “frame extension in the American anti-abortion movement”, focussing on claims about women’s health (2011). One point made about these “feminised” claims is that they respond to difficulties this movement has faced in persuading others, or enough others, to support its cause. “Faced with what they believe to be the limited political and cultural effectiveness of movement rhetoric primarily focussing on fetal life”, those who call themselves “Pro-Woman Pro-Life” seek “to refine the terms of the American abortion debate by recasting it as dispute regarding which position best represents the rights, health and interests of woman – pro-life or pro-choice”, suggests Trumpy (2014, p. 164).

A small number of research articles explore efforts to ban sex selection abortion in the USA. A general similarity with “pro woman, pro-life” claims is the perceived need for a new way to frame abortion as a social problem (Kalantry, 2013). However, distinct and specific features of this version of feminised opposition to abortion have been identified. First, claims for bans on sex selection abortion directly draw on feminist language, especially the term “gendercide”. The origin of this term is attributed to the feminist philosopher Mary Ann Warren (1985) who used it to describe the deliberate mass killing of either males or females, and it was subsequently popularised by economist Amartya Sen to describe abortion of female fetuses and infanticide involving female babies in Asia (1990; see also Purewal & Eklund, 2017). Second, they focus not only on the pregnant woman but also the foetus as harmed by abortion (with the latter often described as a “girl child”). Third, they link the abortion problem to ethnicity.

Kalantry (2013) explains that Illinois was the first state in the USA to ban sex selection abortion as far back as 1985 and Pennsylvania introduced a ban in 1989. Kalantry’s argument about these bans, however, is that the claims made for them differ from those made to support later bans, passed in seven further states in the USA by 2013. In the 1980s, there was no linkage made to practices in other countries, but claims supporting more recent bans make such links explicit. In 2011 the state of Arizona, for example, passed the “Susan B. Anthony and Frederick Douglass Prenatal Non-discrimination Act”, which makes it a felony for doctors to knowingly perform abortion for race or sex selective reasons. As Musial explains:

The first of its kind in the United States, HB 2443 (2011) turns abortion into a non-discrimination issue; it is now a class 3 felony to knowingly provide abortion services on the basis of the race or sex of the ‘child’ or the race or sex of the ‘child’s’ parent; it is also a crime to coerce, threaten or intimidate a woman into accepting an abortion on the basis of fetal race or sex; and anyone who ‘solicits or accepts monies to finance

a sex-selection or race-selection abortion' is committing a crime. If convicted an abortion provider who knowingly conducts race or sex-selection abortions may face three and a half years in prison . . . Women seeking an abortion cannot be charged with a crime under HB 2443. (Musial, 2014, p. 263)

This assessment draws attention to the framing of an abortion ban as an act of "non-discrimination", to the construction of both "the child" and the pregnant woman as victims of crime, and to the potential for imprisonment of doctors. Musial also notes the explicit linking to "gendercide" as an "imported problem":

During the discussion about sex-selection, gendercide in China and India was depicted as a real problem 'over there' in the East that the American Government . . . should aim to prevent 'over here' in the West. (Musial, 2014, p. 269)

Reference, explains Musial, was made to Amartya Sen's claim about "gendercide" and 100 million "missing girls" in Asia, and sex selection abortion was also compared to "honour killings". There was deployment of "feminist language", she argues, when the Bill's proponents said that "sex-selection and 'honour killings' are global manifestations of violence against women", and that this language created, "an us v. them paradigm where anyone who prefers sons or contemplates sex selection abortion is constructed as foreign or violent" (Musial, 2014, p. 270). Work on woman-centred anti-abortion claims has detailed their "diffusion" from the US to Britain (Lee, 2004) and it is arguable, as we go on to detail, that the framing of the problem of sex selection abortion, as outlined by Kalantry (2013) and Musial (2014), has spread in a similar way.

Our assessment of what happened in Britain is based on a qualitative analysis of the British print media, specifically national newspapers, between 23 February 2012 and 31 March 2015. Articles were retrieved through a LexisNexis search using the terms "sex selection", "abortion", "Gendercide" and "Fiona Bruce". A total of 66 articles comprised the final dataset, but with uneven occurrence in different newspapers. While most national newspapers covered the story at some point, there was most coverage in *The Telegraph*; journalists working for this newspaper were key claimsmakers. However, *The Independent*, a newspaper considered, in contrast to *The Telegraph*, to be pro-choice editorially, also published more articles than other papers and made claims that shaped events through 2014 and 2015.

A second set of documents published in response to claims made by journalists was also analysed. The then Secretary of State for Health Andrew Lansley responded immediately to claims made by *The Telegraph* in 2012 by initiating investigations into the practices of abortion providers. These were carried out by the Care Quality Commission (CQC) (the body responsible for regulating facilities providing health and social care services in England). Following a police investigation, the Crown Prosecution Service (CPS) (the body responsible for bringing prosecutions of criminal cases investigated by the police in England and Wales) also conducted an inquiry, and both the CQC and CPS published reports.

The Department of Health (DoH) published two statistical analyses of birth data and a policy statement. Parliamentary debates were held in November 2014 and February 2015. (Full details of the media coverage discussed below, and of all other documents analysed, can be found in Appendix 1, available online at journals.sagepub.com/home/fap).

The analysis followed Best's (2008) argument that efforts to persuade normally include three component parts: *grounds* (evidence, statistics and information which typify the social problem); *warrants* (appeals to value sets to indicate why something should be done); and *conclusions* (recommendations for changes, for example, new laws or policies). We made grounds, "statements describing the condition [which] argue that the condition exists, and offer supporting evidence" (Best, 2008, p. 31), the central focus, to consider how those seeking to construct sex selection abortion as a problem typified it. Our discussion broadly follows the way claimsmaking developed chronologically, and our analysis indicates that there were three sorts of grounds for claims, as we now detail.

Sex selection abortion as a British social problem

Abortion doctors as villains

The "sex selection abortion story" broke in February 2012 when *The Telegraph* published six articles, accompanied by on-line AV footage, based on undercover filming at three abortion clinics in Manchester, Birmingham and London. Nine clinics in all had been visited, and according to the journalists involved, they had filmed undercover at the clinics because:

The prevalence of sex selection abortions is hard to prove – as discussion between patients and doctors within a consulting room is necessarily sacrosanct. Therefore, this newspaper decided to take the step of accompanying happily pregnant women posing as people seeking abortions, to a limited number of private clinics. (Watt, Newall, & Zhimji, 2012)

Best (2008) notes there are three components to grounds that might be apparent when a claim about a social problem is first made. There may be: typifying examples (examples which are in fact rarely typical, but which dramatise and disturb, to illustrate the seriousness of a problem); the naming of a problem (often as an example of an already accepted problem); and statistics (which show that the problem is very widespread and also measured to be so). As we will go on to discuss, all these were features of claimsmaking as events unfolded. Claimsmaking at the outset, however, as the extract from *The Telegraph* above suggests, was focussed away from claims about numbers; indeed the case made was that "the prevalence of sex selection abortion is hard to prove". The naming of the problem at this point was ambiguous; the terms "sex selection abortion", "gender abortion" but also "abortion on demand" were used, and there was no use of the term "gendercide" in the original reporting.

The ground identified was, rather, a typifying example which sought to disturb, but more specifically this initial ground is perhaps best thought of as a type Best describes as “additional”, which “identifies categories of people involved in the troubling condition” (2008, p. 35). Following Loeseke (2003), Best suggests these categories often represent people as “victims” and “villains”, and for the problem of sex selection abortion in Britain, it was the latter that most clearly formed the original ground for the claim, with doctors as the villains.

The opening lines of the first *Telegraph* report read as follows:

With its pale leather sofas and brightly-lit reception, the sleek office could have been just another call centre or accountancy firm in central Manchester. But for one visitor earlier this month, the nature of its business could not have been more serious. Despite its appearance this was an abortion clinic at Pall Mall Medical and it was a matter of life and death. (Watt, Newall, & Zhimji, 2012)

This description of the ambience of one clinic and of abortion provision as a “business”, like “call centres” and “accountancy”, represents the motivation of doctors as at odds with the to-be-expected ethical orientation of medicine. Extracts used from transcripts in the reporting are designed, in part, to highlight this point. The doctor at this clinic, a Dr Sivaraman, is reported to have said, “I don’t ask questions. If you want a termination, you want a termination” (Newell & Watt, 2012). This comment could be interpreted as a commitment to respect women’s autonomy, but here is presented to reinforce a lack of care for patients borne out of a desire to make money.

Another way doctors were villainised was through their representation as supporters of discrimination. Much was made in reporting of a comment attributed to a Dr Rajmohan (named throughout by *Telegraph* journalists as Dr Raj Mohan) that sex selection abortion is “like female infanticide”, and that, “It’s common in the Third World to have female infanticide” (Watt, Newall, & Winnett, 2012). The implication (especially given the emphasis on the Indian-sounding name of the doctor) is that what is taking place is a version of “gendercide”. However, this claim was not developed in reporting at this point.

Rather, emphasis was placed strongly on the claim that evidence had been found of law violation: “Sex selection terminations are illegal, but clinics show willingness to carry them out” was the subtitle of one of the articles breaking the story (Watt, Newall, & Zhimji, 2012) and it was this ground that was responded to by others, and notably rapidly. The day after they broke the story, *The Telegraph* carried a piece by the then Secretary of State for Health, Andrew Lansley, titled: “Health professionals must not think they know better than the law”. In it, Lansley argued:

Anyone indulging in illegal activity must understand they are running a great risk. The potential penalty for breaking abortion legislation is imprisonment. Doctors could be struck off. And we will not hesitate to pursue any evidence that comes into our hands. Anyone who flouts the law can be assured that they will end up feeling its full force. (Lansley, 2012)

The rapid linking of the ground of the doctor as villain to the conclusion that doctors will end up feeling the “full force” of law is striking, and the measures through which investigations of law breaking were to be pursued – investigations of abortion clinics by the CQC, and investigations of the doctors filmed by *The Telegraph* by the General Medical Council, and by the police, were announced by Lansley at this very early stage (2012).

It was reporting about the findings of the CQC investigation that formed the next focus for claims from March 2012, in fact four months *before* the CQC’s report was made publicly available, and this claimsmaking continued when the report was published in July 2012. At this point the commission published “249 individual inspection reports into providers offering termination of pregnancy services”, with its summary of these inspections noting that inspections took place over less than two weeks in March 2012, and stating the following: “As a result of these unannounced inspections, CQC identified clear evidence of pre-signing at 14 locations, all of which were NHS Trusts” (CQC, 2012).

Under British law, an abortion can only be legally provided where two registered medical practitioners (doctors) agree “in good faith” that the terms of the 1967 Abortion Act have been met. Their agreement must be notified to the DoH, and this takes place through submission of a form designated for this purpose, which they have signed. There have been debates in recent years about procedures sometimes used for signing these forms, termed “signing unseen” and “pre-signing”, and as the extract above indicates, the latter was discussed in the CQC report. In the former case, forms are signed where a doctor has not seen the woman concerned personally, but has discussed her case with other members of clinic staff such as nurses or counsellors. In “pre-signing”, a discussion between a doctor and other staff members may take place, for example, by telephone, and a form that is already signed is then used.

In these debates about the signing of forms, some, including some opposed to abortion, have accused abortion providers of acting illegally, and offering inadequate levels of medical attention, where these practices are adopted. Providers have pointed to the need to manage high case-loads of mainly early abortion procedures that rely on care primarily from nursing and counselling staff, not doctors, and hold that it is not necessary for every woman to have a full consultation with a doctor.

In 2012, a controversy of this sort about “pre-signing” spun off following the publication of a CQC report separate to that about sex selection. Claims were made about the need to newly regulate abortion providers in relation to procedures used to sign forms because of what the CQC had reported. The detail of this debate is beyond the scope of this paper; however, what matters here is that the CQC report made no mention of sex selection abortion *at all*, despite the fact that this was the original focus for its investigation. Yet, despite the fact that the CQC had found no evidence of sex selection abortion at any of the 249 clinics it inspected, links were, nonetheless, made in media reporting back to *The Telegraph’s* allegations from February (Watt & Newell, 2012). Comments attributed to Lansley indicated, again, a focus on doctors as law violators: “[I]t is pretty much people engaging in a culture of . . . ignoring the law . . . If there is evidence of an offence we will give it

directly to the police”, he was reported to have stated (Winnett, Newell, & Watt, 2012).

The claims about doctors made between February and July 2012 attracted almost no counterclaims. An editorial in *The Independent* claimed: “the evidence that some British clinics are unashamedly agreeing to perform abortions on that basis [sex selection] is deplorable” (*Independent*, 2012). Commentary from those who describe themselves as feminist was especially noteworthy. Two articles authored by feminists contained a riposte. The legal scholar Sally Sheldon (2012) called into question a range of claims made about both the law and the practices of abortion doctors, and journalist Sarah Ditum (2012) similarly made counterclaims, disputing grounds. She also uniquely argued that the case for the right to choose abortion has to include abortion for fetal sex. However, other feminist commentators endorsed the villainisation of doctors and, although the problem was not named this way by *The Telegraph*, their commentary also suggested “gendercide” was happening in Britain.

Feminist journalist and writer Yasmin Alibhai-Brown (2012), for example, explicitly constructed doctors as money-grabbing, sexist and prepared to act illegally. An article she wrote was titled: “Greedy doctors and why I despair for British Asian women who abort female foetuses”. In February 2012 *The Telegraph* published a long feature article by another high profile feminist writer and newspaper columnist, Allison Pearson. The opening lines read:

In the third world, unwanted baby girls ‘disappear’. It’s called gendercide. And it’s happening in this country, too; those who act illegally to abort unwanted babies because of their gender should feel the full force of the law. (Pearson, 2012)

The next point at which sex selection abortion was debated in the press was in autumn 2013, and coverage responded to announcements by the CPS about whether to prosecute the doctors filmed by *The Telegraph*. The CPS announced its decision this way, in its report on the outcomes of its investigation:

The Crown Prosecution Service has decided that it would not be in the public interest to prosecute two doctors in relation to alleged attempts to commit abortions on the grounds of foetal gender. These decisions result from an investigation (Operation Monto) carried out by several police forces and coordinated by the Metropolitan Police Service, following an undercover operation by a newspaper. We have previously advised police that there is insufficient evidence to prosecute four medical professionals in relation to this matter. (CPS, 2013)

The news that there were to be no prosecutions of doctors formed the focus for subsequent claimsmaking in 2013. Again, the villainy of abortion doctors was central to the claims made by *The Telegraph*, with the CPS presented as a collaborator in this villainy (Bingham & Newell, 2013), and again feminist commentary endorsed the ground of law-violating doctors. Cathy Newman, the presenter of Channel 4 News, in an article titled “The selective abortion of girls is a crime.

Simple as. So why no criminal charges?”, claimed: “Although it’s primarily a problem in parts of India and China, there’s growing evidence it’s also carried out illegally in communities in this country” (Newman, 2013).

Coverage also highlighted comments attacking the CPS, including those from Emily Thornberry, a senior Labour Party MP, known to be a feminist, but who condemned the decision as a “disgraceful” expression of sexism (Cohen, 2013; Watt & Wyatt, 2013). *The Guardian* carried a comment arguing: “We must be prepared to circumscribe our pro-choice position... A girl’s right to life has to be a basic tenet of any feminist position” (Gupta, 2013). Only *The Times* reported in a different way, carrying a lengthy interview with Ann Furedi, the Chief Executive of the abortion provider British Pregnancy Advisory Service, in which she commented: “Sex selection is not a problem in Britain today. It simply isn’t happening. If people are going to claim that sex selection abortion is a big issue within certain Asian communities, it is at least imperative for them to demonstrate it is actually happening” (Bannerman, 2013).

Statistics as grounds

As noted previously, the first articles in *The Telegraph* justified undercover filming on the basis that evidence is hard to come by. Insofar as numbers were mentioned, it was through reference to a research paper by two Oxford academics, Sylvie Dubuc and David Coleman (Watt, Newall, & Zhimji, 2012). Dubuc and Coleman’s study (2007) had been a reference point for claims about sex selection prior to 2012 (BBC News Online, 2007; Council of Europe Parliamentary Assembly, 2011; UNICEF, 2014). Those leading efforts from 2012 to bring the problem of sex selection to others’ attention, however, suggested that on its own, this evidence was not enough; as *The Telegraph* put it, the research found only “indirect” evidence, among “a small minority of Indian born women in England and Wales” (Watt, Newall, & Zhimji, 2012). Numbers did become the focus for grounds, however, with claimsmakers taking issue with official statistics produced by the DoH. This time, it was not *The Telegraph* that pressed claims, but rather *The Independent*.

The DoH for England and Wales published two reports about “gender ratios at birth”, in May 2013 and May 2014. These were compiled in response to a mandate from the Council of Europe Parliamentary Assembly (2011) that all member states of the European Union must “collect the ratio at birth [proportion of males to females in the population usually expressed as the number of males per 100 females], monitor its development and take prompt action to tackle imbalances” and “encourage research on sex ratios at birth among specific communities”. The 2013 report’s “Key Results”, based on analysis of births 2007–11, were that:

The UK gender ratio is 105.1 male births to 100 female and is well within the normal boundaries for populations. When broken down by mothers’ country of birth, no group is statistically different from the range that we would expect to see naturally occurring.

Upon its publication, this report did not become a source of any claimsmaking in the media at all. However, in January 2014, *The Independent* published a series of articles. One was titled “The lost girls” and its opening lines read, “Prenatal sex selection has reduced female population by between 1,400 and 4,700, say academics” (Connor, 2014a) and claimed that “official assurances” about the absence of evidence for sex selection abortion in Britain should not be accepted. This reporting linked claims about the untrustworthiness of “official assurances” based on DoH statistics to “gendercide”. “It seems that global war on girls has arrived in Britain” began one article (Connor, 2014b), with reporting including comment from Amartya Sen: “Selective abortion of female foetuses – what can be called ‘natality discrimination’ – is a kind of hi-tech manifestation of a preference of boys”.

The other feature of grounds introduced by *The Independent* was the use of typifying examples of abortion’s alleged victims, prefiguring themes in subsequent parliamentary debate. One article began:

Rupi remembers her second pregnancy with terrible despair. Having given birth to a girl two years before, she had expected the further love and support of her husband and his family. Instead, she came under extraordinary pressure to have an abortion.

This article carried comment from Jasvinder Sangera, “a campaigner on forced marriages and ‘honour violence’ against women”, who stated: “There is absolutely no doubt that these terminations, where a mother has an abortion because the child is a girl, are taking place within the South Asian population in Britain” (Milmo, 2014). A further article, published in January 2014, carried a comment from “Rani Bikhu, of the Slough-based woman’s charity Jenna International”, who named the problem “womb terrorism”, claimed the Government sought to “appease communities” and that this was “an issue of violence against women before they are born” (Connor & Milmo, 2014).

May 2014 saw the publication of a second report about birth ratios by the DoH. This report noted that claims had been made in the media, and this time, the “Key Results” set out were as follows:

The analysis by country of birth and ethnicity do not offer evidence of sex selection taking place within England and Wales. Without exception, the wide variation in birth ratios was within the bounds expected as a result of genetics, socio-economic differences and random variation. In both the analysis by country of birth and the analysis by ethnicity, no group was associated with a boy to girl ratio higher than the expected upper limit of 107. That was the case for both the overall birth ratio and by birth order.

This firm refutation of numbers as a ground meant that numbers were rendered insufficient for claims about the prevalence of sex selection abortion to develop further. However, typification of the problem through use of personal stories, explicitly linking abortion to the ethnicity and to violence against women, emerged as central to the last phase of the public debate.

Personal testimony as typification

By mid-way through 2014, strong claims had been pressed about law-violating doctors, but the CQC found no evidence of such, the CPS had rejected the claim that there was evidence sufficient to suggest doctors had broken the law, and statisticians had reiterated birth ratios for all ethnic groups were as expected. There was no further media coverage until November 2014, when the location for claims-making shifted to Parliament.

“MPs poised to declare gender abortion illegal” stated a headline in *The Telegraph* on 2 November (Bingham, 2014), and two days later the paper claimed: “MPs have voted overwhelmingly in favour of a motion declaring that sex selection abortion is illegal” (Graham, 2014). This reporting concerned a debate and vote in Parliament on a 10 Minute Rule Bill in November proposed by Fiona Bruce MP, that asked: “That leave be given to bring in a Bill to clarify the law relating to abortion on the basis of sex-selection; and for connected purposes”. Votes on such bills do not change law, but are taken as an indication about whether further debate should take place, and MPs did vote “overwhelmingly” for this to happen; the vote was 181 in favour, one against (Hansard, 2015).

In introducing her 10 Minute Rule Bill, Bruce began: “[W]e know that sex selective abortions are happening in the UK and little is being done to stop them. We know that because a growing number of courageous women are speaking out about their experiences”. Argued Bruce:

Despite the existence of such stories, there are still those who claim that there is no evidence for the practice. In response to these critics, Rani Bilku, the director of Jeena International, said: ‘Saying there is no evidence is tantamount to saying these women are lying and that our organisation is making things up’.

Personal testimony typifying the problem, of the sort previously highlighted in reporting in *The Independent*, thus now became the central ground, and opposition was constructed between this ground and statistics. The almost unanimous support for Bruce’s 10 Minute Rule Bill suggests MPs were, at this point, persuaded by this claim.

In the end, Bruce pursued her effort to change the law in a different way, through her proposed amendment to the Serious Crime Bill, and at the outset support for her continued. Reporting in January 2015 stated: “More than 70 members, spanning the main parties” had put their names on Bruce’s amendment to the Serious Crimes Bill, and quoted Bruce, as Chair of the All Party Pro Life Group, and also Mary Ann Glendon, a Labour Party MP: “If opposing the abortion of baby girls – often under coercion – makes me anti-choice then I will wear the label with pride”, she said. The first reference in the media also appeared at this point to a new campaign, called “stopgendercide.org” (Bingham, 2015). A few days later, an article by Bruce herself discussed “the new campaigning website, ‘Stop Gendercide’”, compared sex selection abortion to Female Genital Mutilation (FGM) and forced marriage, and claimed an official statement about numbers

“is not the last word on the issue . . . because Government statistics do not reflect the reality” (Bruce, 2015).

It was grounds of this type that continued to characterize her case. In her speeches in the debate on the Serious Crime Bill, Bruce thus stated the suggestion that “there is no evidence for sex selective abortion” was “quite offensive”, and argued: “Yes, the numbers are small compared with those in China or India but they are real. Should we have to wait for those numbers to grow before we take action?” However, as we noted at the start of this article, the Bruce amendment was defeated in the vote in Parliament. We now turn, in our final account of grounds, to discuss the terms on which her claims were refuted.

As we noted already, through 2012 and 2013 very few spoke out against those claiming that sex selection abortion was a social problem in Britain, and our searches identified only one newspaper article written in response to Bruce’s 10 Minute Rule Bill critical of it (Eddo-Lodge, 2014). However, in the immediate run-up to the debate on the Serious Crime Bill in 2015, matters began to shift. For example, in response to the publication of Bruce’s proposed amendment to the bill, “medical professionals and academics” (*The Telegraph*, Letters, 2015) and “academics and groups representing black and Asian women” (*The Independent*, Letters, 2015) wrote to the press arguing against what Bruce sought to do. An editorial in *The Observer* published the day before the debate argued the amendment should not be supported (*The Observer*, 2015).

The day before the debate in Parliament, reporting seemed to indicate that, without doubt, Bruce’s proposal to include a new clause in the bill to specifically prohibit sex selection abortion was to face a rocky ride. Influenced by campaigning from pro-choice groups and other organisations (e.g. Voice for Choice, 2015), some MPs had by this point organised to oppose Bruce’s efforts. “Labour torpedoes attempt to outlaw same sex [sic] abortions”, reported *The Telegraph*, highlighting that a letter from a senior Labour Party MP, Yvette Cooper, which had been circulated to MPs in her party, objecting that the Bruce amendment could have “troubling consequences” (Swinford, 2015). On the day of the debate itself, commentary was published against Bruce’s proposal in newspapers including *The Telegraph* (Kent, 2015; Gordon, 2015; Sanghani, 2015a). This media coverage indicated that pro-choice organisations and some medical organisations had, by now, worked to raise convincing objections to the Bruce amendment.

These counterclaims were reflected in debate in Parliament, with a group of MPs speaking to oppose the Bruce amendment. The shift, however, was not in relation to the warrant; no one made a case in Parliament that sex selection abortion, where chosen, could ever be tolerated morally. When it came to grounds, no overt counterclaims were made either, disputing the veracity of *The Telegraph*’s undercover films. (Rather, assurances were given that all doctors and abortion providers had been given new guidance emphasising their legal obligations.) Neither was it argued generally that statistical evidence meant claims about sex selection abortion being a problem should be rejected. Rather, as the then Minister for Health Jane Ellison put it, “the Government will remain vigilant, will continue to monitor data and will

be fully open to any other evidence that comes to light”. Only one MP, Fiona Mactaggart, took issue with the veracity of “other evidence” as it pertained so far, namely personal testimony:

[S]he [Fiona Bruce] quoted extensively from an organisation based in my constituency, but personal experience of how that organisation has failed to help individual constituents has led me to the conclusion that it is not possible to depend on the accuracy of what it says. I am therefore concerned that we are using anecdotes from an unreliable source to make legislation on the hoof.

Counterclaims rested, rather, on problematic consequences of the amendment and its wording. Three main consequences were raised. These were, first, that justifiable sex selection abortion – that associated with genetic disorder – would be inadvertently outlawed (Kate Green MP and Glenda Jackson MP). Second, it was argued that women whom Stop Gendercide purported to help would in fact end up being harmed. Ann Coffey MP, for example, argued, that “[W]omen subject to intolerable pressure to abort will continue to be subject to coercion” and “that might lead them to pursue alternative routes... We do not want to go back to the days of botched backstreet abortions”. Third the claim was pressed that, if passed, the Bruce amendment would potentially undermine the basis for all abortion by including the term “unborn child” in the law (Lucian Berger MP, Dr Sarah Wollaston MP).

Almost 300 MPs were, in the end, persuaded to vote against Bruce’s proposal, and reporting following the vote made it clear she and her supporters perceived this as a very heavy defeat for their efforts (Sanghani, 2015b). However, the Bruce amendment was not simply voted down. It was defeated because MPs were able to vote for an alternative amendment, committing the Government to address “prejudices, customs, traditions” which “amount to pressure to seek a termination on the grounds of the sex of the foetus.” This amendment was passed almost unanimously and ensured that Bruce’s efforts failed. MPs did not, therefore, opt to reject the claim that sex selection abortion is a British social problem outright, but rather voted to address it as a serious crime in a different way to that proposed by Bruce.

Conclusions: A social problem in search of grounds

From a social constructionist perspective, sex selection abortion in Britain can be considered a social problem in search of grounds. No ground about which claims were made ultimately persuaded enough others to agree with conclusions proposed to prosecute doctors for law violation, or to amend the law to specifically prohibit sex selection abortion. However, counterclaims were made only at “the 11th hour”, in the days before the debate on the Serious Crime Bill. This meant that it was possible for new grounds to emerge and reignite the debate over the three years 2012–15. It also meant that the end result was not a clear rejection of the claim that sex selection abortion is a social problem in Britain, but rather the

institutionalisation of the claim in what became Section 84 of the Serious Crime Act. The amendment that was passed and that became Section 84 allowed MPs to make it clear that they abhor the idea of sex selection abortion without changing the terms of the abortion law itself. The subsequent outcome of Section 84 is interesting in this regard. As noted above, this committed the Government to assess evidence of “termination of pregnancy on the grounds of the sex of the foetus”, and in August 2015 the DoH published its findings. This, on the one hand, very strongly reiterated the outcomes of assessments of birth ratio data discussed in this paper, specifically that there is no evidence that sex selection abortion was taking place. On the other, however, it offered support for research and other activities that might be pursued by those claiming sex selection abortion occurs in Britain, thus making clear official abhorrence of the practice (DoH, 2015).

We have suggested the contribution of some feminist commentators to this outcome was significant. Public feminism, in the form of commentary in the media and in the political sphere, allied itself most strongly with claims that “something must be done” about sex selection abortion. This meant, first, that for the first time in Britain, those who oppose abortion gained a significant degree of endorsement of their feminised claims. Second, it highlighted that some feminists were also prepared to racialize the abortion problem. As we noted previously, one aspect to claims made about sex selection abortion in the USA has been about “Asian problems” taking root “over here” (Musial, 2014), and part of the feminist contribution to the British debate was to make claims along these lines. Some high-profile feminists saw the furore surrounding *The Telegraph’s* undercover operation as an opportunity to link abortion in Britain to “gendercide”. They opted to make claims that what happens in Britain is a version of this well-established social problem, and to condemn it in the strongest possible terms.

While the abortion law on paper remained unchanged at the end of this abortion debate, this does not mean that what happened can be considered without consequence. We end with comment on two aspects of law in practice – how abortion is actually provided to women – which we suggest should be matters for research and attention by those concerned with women’s ability to access abortion services. The first is the provision of abortion to women of Asian heritage. The claim that such women presenting for abortion may be doing so because they are victims of male pressure or violence emanating from “their culture” attained a new degree of attention during the debate discussed here. Opponents of the Bruce Amendment raised concerns about possible consequences of this claim. They pointed to the prospect of abortion providers feeling pressure to enact “racial profiling” and, for example, question women of Asian heritage in a different or more detailed way about their request to terminate a pregnancy (Voice for Choice, 2015). This draws attention to the way campaigns against sex selection abortion can potentially lead to differential treatment of women that undermines the autonomy of some, in the name of “rights for women and girls”.

The second aspect of the law in practice is the destabilisation of longstanding presumptions about medical authority and judgement as part of the provision of abortion in Britain. The underlying context for the episode of debate discussed here

is the abortion law. Under British law, abortion is criminalised by the 1861 Offences Against the Person Act (OAPA). Section 58 of this act makes it an offence punishable by imprisonment for a woman to attempt to “procure her own miscarriage” and “administer to herself any poison or other noxious thing, or . . . unlawfully use any instrument or other means whatsoever with the like intent”. It also makes it an offence for anyone else to “unlawfully administer to her or cause to be taken by her any poison or other noxious thing, or shall unlawfully use any instrument or other means whatsoever with the like intent”. This archaic criminalisation of both women and doctors is, however, modified by the 1967 Abortion Act. Under this act, abortion can be legally provided to women as long as two doctors agree “in good faith” that the terms of the act have been met. It was these terms, under which a woman can be legally provided abortion, which the Bruce amendment sought to modify, by specifically stating that the sex of the foetus is not one of them.

This abortion law, as feminist scholars have emphasised, gives British women no right to abortion at any stage in pregnancy (Boyle, 1997; Sheldon, 1997). Rather, through its Section 1, it allows “registered medical practitioners” to legally provide abortion on the basis of their “good faith” assessments of the woman’s health and circumstances. The terms on which doctors can make these assessments are very broad; they do not rule in or out any reason a woman might herself have for an abortion but, rather, they “medicalise” the basis for legal abortion as a matter requiring doctors’ insight about the effect of a pregnancy for a woman and her existing family (see also McCulloch and Weatherall, 2017, for discussion of a legal arrangement in New Zealand with some similar features).

Literature on the subject has generally characterised the doctor as being made powerful by this law. The main focus of commentary from a feminist perspective has been that women are, as a result, detrimentally affected because women are denied the right to make a choice about their pregnancies (decision-making instead rests ultimately with doctors) and may be denied access to abortion. One overriding feature of the debate discussed here, in stark contrast, was that some abortion doctors specifically, and abortion providers in general, were claimed on “feminised” grounds to have acted to the detriment of women not by *denying* women abortion, *but by providing it too easily*. It was on this basis that doctors’ “interpretation” of the law became the subject of forceful criticism and politicians and doctors were, on this basis, investigated under threat of criminal prosecution and potential prison sentence.

This representation of women and doctors as in opposition, with the former as victims of cultural norms with which doctors may collaborate unless prevented from doing so by the criminal law, emerges overall as the most distinctive feature of the construction of sex selection abortion as a social problem in Britain. The “villainisation” of doctors and abortion providers is a familiar aspect of claims-making about abortion in the USA (Lee, 2004) and has some precedents in debates in Britain through claims that uncaring abortion providers fail to counsel women sufficiently (Hoggart, 2015). However, during the events discussed in this paper doctors were threatened with prosecution and investigated by the most powerful criminal law agency in Britain with almost no counterclaims made in their defence,

including by those who call themselves feminists. Those who research and comment about abortion now need to find ways to highlight and explore this development in the social construction of abortion.

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Author's note

This article reflects ongoing discussion with colleagues and was written alongside the scholarly work of others also writing about the events discussed here; although I am the sole author and the work is mine, it is for this reason that I use the word “we” throughout the text.

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