

# Does company-sponsored egg freezing promote or confine women's reproductive autonomy?

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## Abstract

**Purpose** A critical ethical analysis of the initiative of several companies to cover the costs of oocyte cryopreservation for their healthy employees. The main research question is whether such policies promote or confine women's reproductive autonomy.

**Results** A distinction needs to be made between the ethics of AGE banking in itself and the ethics of employers offering it to their employees. Although the utility of the former is expected to be low, there are few persuasive arguments to deny access to oocyte cryopreservation to women who are well informed about the procedure and the success rates. However, it does not automatically follow that it would be ethically unproblematic for employers to offer egg banking to their employees.

**Conclusions** For these policies to be truly 'liberating', a substantial number of conditions need to be fulfilled, which can be reduced to three categories: (1) women should understand the benefits, risks and limitations, (2) women should feel no pressure to take up the offer; (3) the offer should have no negative effect on other family-friendly policies and should in fact be accompanied by such policies. Fulfilling these conditions may turn out to be impossible. Thus, regardless of companies' possible good intentions, women's reproductive autonomy is not well served by offering them company-sponsored AGE banking.

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**Capsule** A critical ethical analysis of oocyte cryopreservation for healthy women as a company perk, concluding that women's reproductive autonomy is ill served by this offer.

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## Introduction

In October 2014, the media reported that Facebook and Apple are including oocyte cryopreservation in their employee benefit package (up to 20,000 USD) and that women had started taking up this opportunity [1]. Other companies have since voiced their intentions to follow suit. The most important reasons why employers typically offer perks and (health) benefits to their employees is to attract and retain good employees and to make sure they remain healthy (and thus productive). In this case, although the offer is healthcare-related, the former motive is said to apply to the case of egg freezing. In Silicon Valley, competition for talent is extremely high, resulting in tremendous efforts of the different companies to go above and beyond when perks and benefits are concerned. Knowing that it is difficult for educated women to combine their career and family plans – not to mention the wage penalty that young mothers face [2] – the rationale is that young promising women will be charmed by the option of putting their fertility 'on ice' and thus choose for those employers that include egg freezing in their benefit package. However, these new policies were ill received by many and the intentions of Facebook and Apple were widely questioned. The most common reproach is that the offer is actually not intended to be a benefit for the employee, but rather for the employer, as childless employees have more time available to invest in their jobs. This paper does not aim to uncover the 'true intentions' of employers offering egg freezing, but does aim to make a critical ethical analysis of the pros and cons of this new (alleged) benefit in terms of women's reproductive liberty.

## Preceding debate on ‘social egg freezing’ or AGE banking

It is important to highlight that even outside the context of employment, oocyte cryopreservation for healthy women is still controversial, despite its wide availability. As was previously argued, reasons to principally oppose the possibility for healthy women to bank their oocytes are lacking and are particularly unconvincing as cancer patients are actively encouraged to preserve their fertility [3, 4]. Whether one’s fertility is threatened by disease, therapy or age is irrelevant, if women want to take proactive measures to preserve their fertility, they should be able to do so regardless of the cause of the perceived threat to their fertility. However, that does not mean that there are no reasons for concern regarding how the procedure might be marketed to women and regarding the information and counseling that is available to the women who express their interest in egg freezing [3]. Women of advanced reproductive age should be honestly informed about the (low) success rates they can expect and young women should be informed that postponing childbearing will always reduce their chances of becoming parents, even if their oocytes are banked. Although the ASRM has outlined clear guidelines regarding the information that should be provided to candidate egg bankers [5], the information that is made available on fertility clinics’ websites has been reported to be deplorable [6].

While banking oocytes for anticipated gamete exhaustion (AGE-banking in short [4]) promises to increase women’s reproductive autonomy, reduce the incidence of involuntary childlessness and reduce the need for donor oocytes, an important limitation is that these benefits are difficult to predict in individual cases. Some women will bank their eggs without ever needing them, some will bank their eggs but will not succeed in establishing a pregnancy, some will not bank and wish they had later on. Increasing the utility is difficult. High utility requires that good quality eggs are banked and that many women return to thaw and fertilize them. However, these two factors are inversely correlated. In order to bank good quality oocytes with high chances of a live birth, women should ideally bank eggs at the peak of their fertility. However, women who bank eggs at a young age are not very likely to need them as they still have a lot of time ahead of them to reproduce naturally. Women in their late thirties have a lot less fertile years ahead of them and are thus more likely to face a depletion of their ovarian reserve once they attempt to establish a pregnancy. However, the quality of their oocytes has already diminished. This means that – merely based on utility – there is only a very small fragment of the population that we ought not to discourage from banking their oocytes, somewhere between the ages of 30 and 35. Moreover, even for this population, the previous remark that postponing always reduces the chances of a successful pregnancy (with or without banked oocytes) remains valid. Thus, for women who have a strong desire for

parenthood and who have found the partner they want to share parenthood with, egg banking is never the preferred option. This very small category of women who may potentially benefit from egg banking contrasts sharply with the way egg banking is marketed as the next big step in women’s reproductive liberty and as the ultimate road to ‘having it all’ (that is, a family and a career). Egg freezing cocktail parties and flyers reading “Working, shopping, egg freezing?” seem to suggest that virtually *all* women, but especially those with higher education, should take up the opportunity of egg banking, either as a deliberate life plan, or as an insurance policy ‘just in case’.

Fertility clinics are therefore accused of misrepresenting the costs and benefits and of offering this expensive procedure with a low utility merely with their own financial interests in mind, rather than the best interests of their patients/clients. This idea is reinforced by the fact that most women who bank their eggs today do not match the stereotype of the wise, proactive women banking good quality oocytes, but rather of the (reproductively speaking) older single women desperately trying to hold on to the last couple of (reduced quality) oocytes they have left so that they can be fertilized if and when Mr Right comes along [7]. However, there is an important remark to be made here. Both personal stories in popular media [8, 9] and one recent study by Stoop et al. suggest that an aspect of AGE-banking that has not received its fair share of attention is the psychological effect it has on women [10]. More specifically, a recurring story is that – unlike men – women in their thirties feel substantial pressure to find their significant other before the end of their fertility and some report being faced with the dilemma of either ‘settling’ for a partner despite having doubts about the relationship or continue looking for the perfect match while risking remaining childless. In the Belgian study, 32 % of the respondents indicated that they banked their oocytes because they wanted to take away the pressure to find a partner and 49 % indicated that they wanted to give themselves more time to find a partner [10]. Another psychological effect that has previously been described in the setting of ART is the phenomenon of anticipated decision regret [11]. Women want to have the idea that they ‘tried everything’ in order not to feel regrets later [12]. This is also a major reason for resorting to egg banking [10]. These psychological factors also explain why – both in the setting of egg banking and in the ART-setting in general – even those for whom the treatment was not clinically successful (that is: did not result in a healthy live birth) seldom regret having undergone the procedure [10, 12], despite the significant cost and efforts.

## Pros of company-sponsored egg freezing

How does the offer of employers to cover the costs of AGE-banking affect this debate?

First, it counters the concern for exploitation. If not a woman herself, but rather her employer or (work related) health

insurer would pay for the procedure, one cannot say that vulnerable women at the verge of losing their fertility are being exploited in the sense that they are tricked into paying a large sum of money to buy a false sense of security.

Second, it counters the reproach that the average woman opting for AGE-banking is too old. We can expect the average age of women who would bank their eggs through their health insurance or employer to be lower than the age at which women are banking today. Most women delay the significant financial investment until the moment they are relatively sure they will eventually ‘cash in’ on it (that is: use their banked oocytes), which is per definition not at the peak of their fertility. The younger a woman is, however, the more optimistic she will be about being able to start building a family before she loses her fertility and thus the less inclined she will be to invest a large sum of money into egg banking. If the cost of the investment is no longer an element to be taken into consideration, even women who are less worried about finding a partner ‘in time’ may become interested in banking, which will lower the average age and thus raise the quality of the banked eggs. This is not to say that we should expect a massive uptake and thus an overconsumption of medical services, as the procedure remains physically burdensome and is thus not something that women will undergo on a whim.

Another effect could be that the profile of banking women may change on a different level than age alone (although this remains a hypothesis). At present, virtually all women who are cryopreserving their oocytes are single and lack of a suitable partner has repeatedly been identified as the main reason for egg freezing [13]. If companies start covering it, more women may consider AGE banking in combination with the deliberate postponement of parenthood as a means to achieve their professional aspirations. If this shift would occur based on company policies, several conclusions can be drawn, of which at least two speak in favor of company-sponsored egg banking. First, in terms of utility one might consider this to be a positive evolution, as this would provide a cohort of egg bankers who freeze young but have no intention of trying to establish a pregnancy naturally in their fertile years and are thus more likely to return to use their banked oocytes after their reproductive lifespan. Second, in terms of justice, one might argue that if women dedicate their most fertile years to their careers, it is only fair that their employer – who benefits from the delay to parenthood – bears the costs of their attempt to safeguard their fertility for the future.

Last but not least, we should mention on the pro-side of the debate that in principle, the possibility for women to bank eggs regardless of their financial situation can be said to expand their reproductive autonomy as it offers them an additional option which some women will not need, but which others might. Besides rushing into parenthood under suboptimal circumstances (lack of a stable relationship, financial instability, demanding job responsibilities,...), they can now

expand their reproductive lifespan with a couple of years. In fact, this need not necessarily be framed in terms of reproductive autonomy, but in terms of autonomy ‘tout court’, as it may have a significant effect on many aspects of a woman’s life. This idea fits nicely into a branch of feminism that has been labeled neoliberal feminism, faux feminism or ‘lean in feminism’. This last term refers to a bestselling book by Sheryl Sandberg, the current COO of... Facebook [14]. Sandberg’s aim is to inspire young women to become leaders in today’s society and in aspiring to lead, they should not be deterred by the seeming incompatibility between family and career. Although she does not specifically address the topic of egg banking, it is not hard to see how egg banking fits in this rhetoric. Also feminist scholar Marcia Inhorn called upon young female academics to consider freezing their eggs so that they can postpone motherhood until after they have landed their first tenure-track job [15].

### Cons of company-sponsored egg freezing

Not all feminists are convinced that egg banking has a liberating effect on women though, quite to the contrary, radical feminists tend to be diametrically opposed to Sandberg’s new feminist ideology [16–18]. As Françoise Baylis recently wrote, “oocyte cryopreservation as an employee benefit is not only counterproductive but offensive. It not only fails to empower young women, it actually disempowers them by overtly entrenching the otherwise subtle message that women who have babies are not serious about their careers” [18]. Next, she calls on those companies that offer egg banking to exchange this measure for an employee benefit package that is ‘truly family-friendly’.

The accusation that Facebook and Apple are not family-friendly companies is not entirely appropriate, as many of the leading companies in silicon valley and Facebook in particular are exemplary in this regard, despite the fact that they are under no legal obligation to provide even a single day of paid maternity leave. However, as other companies start copying Facebook in offering egg banking, it is very doubtful that they will be as eager to copy Facebook’s 4 months of paid maternity *and* paternity leave (also for same-sex couples and adoptive parents), financial assistance in IVF and adoption procedures, designated breast-feeding rooms or the 4000 USD ‘baby cash’ when their fulltime employees become parents. As long as the company supports both having children and delaying childbirth, one might argue that they are not pushing their employees in a certain direction. However when the investment in egg banking is not accompanied by child-friendly policies or is even introduced at the expense of such policies, there is a clear message that the employer prefers the employee to defer childbearing. The worry that is expressed by Baylis

and others that women will be disempowered may therefore indeed be a legitimate concern.

Ideally, the benefits and perks that are offered in the sphere of family building should remove constraints and thus offer employees a greater liberty in choosing the path in life that they desire. IVF coverage is a good example. It makes IVF accessible to people who might not be able to afford it otherwise but there is no reason to believe that IVF coverage would push employees towards IVF against their will. Employees thus only stand to gain from such a policy. This is less straightforward when it comes to coverage for egg banking. In this case, the offer may cause women to defer childbearing against their better judgment for a short term gain, namely to buy credit from their employer in the hope to land a promotion. At the end of the day, however, these women may find themselves in a situation in which they have in fact sacrificed, rather than safeguarded their fertility by banking their eggs if none of their banked eggs leads to a healthy live birth or if they do not have enough oocytes in storage to reach the desired family size. Those who bank eggs as a last resort have nothing to lose, but those – such as young employees in a stable relationship – who deliberately adjust their life plans relying on their frozen fertility do, as egg banking may give them a false sense of security.

Even without the offer of egg banking, the labor market is not always well organized to cope with mothers (and dedicated fathers) on the work floor, let alone in the board room. At the same time, few human desires are so little questioned and so widely respected as the desire to become a parent – not to say that even in Western societies, choosing not to become a mother is still oftentimes frowned upon, rather than the other way around. Thus, up until recently, although the pregnancies of women in their thirties may have been impractical for their employers, they had a valid ‘excuse’ to become pregnant: it was now or never. Furthermore, employers had an incentive to make life as comfortable as possible for parenting employees, for example in allowing flexible working hours or support in daycare, in order not to lose them. With the availability of egg banking, the ‘now or never’-excuse is no longer valid as it presents another additional option for perpetual postponers [19]. While it might have been ‘not done’ to ask of employees to forego parenthood in light of their professional obligations, it appears more acceptable to ask of employees to *merely* postpone parenthood. As age limits apply in most countries for embryo transfer, and as women banking their eggs indicate themselves that they (on average) intend to establish a pregnancy before their 43rd birthday [10], women will not postpone motherhood until after their retirement though. Also, these ‘older’ mothers in the workforce may be even less dispensable than their younger counterparts. These two factors indicate that family-friendly policies would still be needed and might still be implemented. However, this optimism has limits. If the average age at first childbirth should rise in

companies offering egg banking, they will end up with a smaller segment of employees who are parents and smaller groups are less likely to be catered to. It is thus not far-fetched to suggest that the offer of egg banking may turn out to be at the expense of family-friendly policies. What the impact will be of company-sponsored egg banking on postponement is, however, uncertain at present. Somewhat reassuring studies in this regard are those by Hakim [20] and Van Balen [21], both indicating that a strong desire to have children overrides motivations to postpone motherhood. However, for the large group of women who have a less urgent desire for parenthood, the offer of egg banking ‘free of charge’ may influence their decision to postpone conceiving a child.

This brings us to another possible problem when egg banking is offered by employers, namely neutral provision of the necessary information and non-directive counseling. Just to give one example, it would be very relevant that the employee knows that she will need ICSI (with the associated cost) to fertilize her stored eggs a couple of years down the road and whether or not this will also be covered by her employer/health care provider or not. This and other information about the technicalities, success rates and possible risks need to be provided by a neutral person who is not affiliated with the company paying for the procedure. Information provision by the employer involves a conflict of interest that is to be avoided.

A final ethical con against company-sponsored egg freezing is that this benefit might result in a situation in which employees become indebted to their company and that their company holds a certain power over them in a very private way. Much will depend on the specifics of the agreement, for example on whether or not a woman is required to reimburse her employer if she leaves the company the day after banking her eggs and whether or not the employer is aware of which employees have or have not taken up the opportunity of banking. Also, certain expectations will be present towards the women who bank eggs, in particular the expectation that they will not become pregnant immediately after banking. Also here, the specific practical details are determining. If the employer does not have any access to the medical records of the employees, even for those procedures that are covered by the company’s health insurance, these expectation will not be present.

## Conclusion

What are we to conclude after analyzing the pros and cons of companies offering AGE banking to their employees? Is it the final step in female liberation now that the women working for these companies not only have the theoretical possibility of putting their fertility on ice, but also the practical means? Or

does it increase the (potentially internalized) oppression of women by increasing the likelihood that they will not only be free to postpone parenthood, but pushed to do so against their better judgment? There is no clear answer to these questions as a lot will depend on the practical details of the agreement between employer and employee and on the personal circumstances of each separate individual.

What is clear, however, is that for these policies to be truly ‘liberating’, a substantial number of conditions need to be fulfilled, which can be reduced to three categories. Company-sponsored egg freezing would be liberating if and only if (1) women understand the benefits, risks and – perhaps most importantly amidst the hype – limitations (cf. the SART/ASRM guidelines), (2) women feel no pressure to take up the offer (whether or not a woman banks her eggs should thus not have any influence on her career opportunities); (3) the offer has no negative effect on other family-friendly policies and is in fact accompanied by such policies. These conditions should lead to a situation in which (1) (on a personal level) only those women bank their eggs for whom – all things considered – this is their best available option of achieving the life goals that are most important to them personally (which should be very few women) and (2) (on a societal level) women remain free to have their children while they are young, without suffering serious professional setbacks. If companies take these requirements seriously, they will have to invest a lot of time and effort in fulfilling them and many will argue that they are impossible to fulfill. Thus, regardless of companies’ possible good intentions, women’s reproductive autonomy is more often than not ill-served by offering them company-sponsored AGE banking.

But, to all sincerely feminist companies, there is also an easy way to comply: do not include egg banking in your benefit package, but use the funds to make it easier for women to balance professional and parental obligations and make sure your female employees earn enough money so that those who want to, can finance egg banking themselves and can deliberate on its merits in private.

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