

Company-sponsored egg freezing an offer you can't refuse?

Petersen, Thomas Søbirk; Hansen, Rune

Published in:
Bioethics

DOI:
[10.1111/bioe.12966](https://doi.org/10.1111/bioe.12966)

Publication date:
2022

Document Version
Early version, also known as pre-print

Citation for published version (APA):
Petersen, T. S., & Hansen, R. (2022). Company-sponsored egg freezing: an offer you can't refuse? *Bioethics*, 36(1), 42-48. <https://doi.org/10.1111/bioe.12966>

General rights

Copyright and moral rights for the publications made accessible in the public portal are retained by the authors and/or other copyright owners and it is a condition of accessing publications that users recognise and abide by the legal requirements associated with these rights.

- Users may download and print one copy of any publication from the public portal for the purpose of private study or research.
- You may not further distribute the material or use it for any profit-making activity or commercial gain.
- You may freely distribute the URL identifying the publication in the public portal.

Take down policy

If you believe that this document breaches copyright please contact rucforsk@ruc.dk providing details, and we will remove access to the work immediately and investigate your claim.



Company sponsored egg freezing, an offer you can't refuse?

Journal:	<i>Bioethics</i>
Manuscript ID	BIOT-3540-11-20-ART
Manuscript Type:	Original Article
Keywords:	assisted reproduction, autonomy, company sponsored, egg-freezing, oppression, relational autonomy

SCHOLARONE™
Manuscripts

"This is the pre-peer reviewed version of the following article: Petersen, T. S., & Hansen, R. (2022). Company-sponsored egg freezing: an offer you can't refuse? *Bioethics*, 36, 42– 48, which has been published in final form at <https://doi.org/10.1111/bioe.12966> This article may be used for non-commercial purposes in accordance with Wiley Terms and Conditions for Use of Self-Archived Versions."

Company sponsored egg freezing, an offer you can't refuse?

ABSTRACT:

The aim of this article is to argue that one of the central arguments against company sponsored non-medical egg freezing, namely that this practice is contrary to the reproductive autonomy of women, can be difficult to sustain under certain conditions. More specifically, we argue that company sponsored egg freezing is not necessarily in conflict with the three most common requirements for autonomous choice. That is, there is no reason to assume that employees cannot be adequately informed about what is scientifically known about the practice beforehand, or that they lack the required capacity to understand and process this information. Although they may feel a certain pressure to comply with the wishes of their employer, this concern can plausibly be alleviated through privacy regulations. In any event, such pressure is arguably not stronger or relevantly different from other types of pressure that most people readily accept on the labour market. Finally, we argue that company sponsored non-medical egg freezing may mitigate certain types of oppressive socialization, yet it may well perpetuate others, and should in any case arguably be dealt with through guidelines and counselling which will ensure that women make autonomous choices when companies offer egg freezing.

Keywords: assisted reproduction, autonomy, company sponsored, egg-freezing, oppression, relational autonomy

Company sponsored egg freezing, an offer you can't refuse?

1. INTRODUCTION:

In 2014, the two Silicon Valley tech giants Apple and Facebook made headlines when they announced that they would start offering their female US employees fertility cryopreservation as an employee benefit.¹ Since then, many other companies, like Google, LinkedIn, Netflix, Spotify, eBay, Snapchat, and Time Warner have followed in the footsteps of Apple and Facebook.² What all these companies have in common, when it comes to cryopreservation, is that they all offer what we can call company sponsored 'social egg freezing' or 'non-medical egg freezing' (NMEF). This practice is called NMEF, as the offer to freeze eggs has nothing directly to do with medical issues. Some companies, like Facebook do also offer to pay for so-called 'medical egg freezing' which is used in order to help, for example, women undergoing cancer treatment that may damage their oocytes³. Moreover, the distinction between medical and non-medical egg freezing is far from razor-sharp. For example, a woman 25 years of age may freeze her eggs for non-medical reasons; however, when she is 30 years old and, say, has

¹ Tran, M. (2014, October 3). Apple and Facebook to offer to freeze eggs for female employees. *The Guardian*. Retrieved from <https://www.theguardian.com/technology/2014/oct/15/apple-facebook-offer-freeze-eggs-female-employees>.

² Kerr, D. (2017). *Egg freezing, so hot right now*. Retrieved from: <https://www.cnet.com/news/egg-freezing-so-hot-right-now/>

³ Baylis, F., (2015). Left out in the cold: arguments against non-medical oocyte cryopreservation. *Journal of Obstetrics and Gynaecology*. 37(1), 65.

1
2
3
4 unfortunately been diagnosed with cancer, her frozen eggs may now be used for medical
5
6 reasons as a way to preserve her fertility.
7
8

9
10 In the wake of this new practice, there has been a heated public and scholarly
11
12 debate about the ethics of companies making these kinds of offers to their employees⁴, usually
13
14 from a critical standpoint. Apple, however, has argued in favour of this practice on the grounds
15
16 that they want to attract and retain young female employees by giving perks that benefit women.
17
18 They claim that the offer of NMEF increases women's reproductive autonomy by giving their
19
20 employees "more freedom to pursue family planning according to their own timeline".⁵ Along
21
22 the same lines, bioethicists, such as Heidi Mertes, have argued that when companies offer
23
24 NMEF to women, depending on their financial situation, this can "...expand their reproductive
25
26 autonomy as it [the company] offers them an additional option which some women will not
27
28 need, but which others might".⁶
29
30
31
32

33
34 However, the aim of this article is to present and critically discuss a central
35
36 argument against companies offering NMEF; namely that this practice, contrary to the above-
37
38 mentioned quotations, is detrimental to women's reproductive autonomy. Feminist bioethicists,
39
40 such as Karvey Harwood have, for example, observed that "...the option of egg freezing creates
41
42 a pressure to use it..." and argues that "...the option to freeze eggs might quickly become an
43
44 obligation to freeze eggs, a way to demonstrate one's seriousness about one's career-making."⁷
45
46 Furthermore, another feminist bioethicist, Francoise Baylis, has said that "...the option of
47
48
49
50

51
52 ⁴ Ibid: 64; Baldwin, K. (2019). *Egg freezing, fertility and reproductive choice: Negotiating responsibility, hope and*
53 *modern motherhood*. Emerald Group Publishing; Datta, M. (2017). Making biological clock irrelevant. *DePaul Journal*
54 *of Women, Gender and the Law*. 6(1), 119.

55
56 ⁵ Weller, C. *What you need to know about egg-freezing, the hot new perk at Google, Apple, and Facebook*. Retrieved
57 from: <https://www.businessinsider.com/egg-freezing-at-facebook-apple-google-hot-new-perk-2017-9?r=US&IR=T>

58
59 ⁶ Mertes, H. (2015). Does company sponsored egg freezing promote or confine women's reproductive autonomy?
60 *Journal of Assisted Reproduction and Genetics*. 32(2), 1205-1209.

⁷ Harwood, K. (2017). Egg Freezing and the Feminist Quest for Equality in the Workplace. In Campo-Engelstein, L., & Burcher, P. *Reproductive Ethics* (pp. 63-75). New York: Springer.

1
2
3
4 oocyte cryopreservation does not meaningfully enhance women's reproductive decision-
5 making..."⁸ and "...it actually disempowers them by overtly entrenching the otherwise subtle
6 message that women who have babies are not serious about their careers."⁹ Although it is not
7
8
9
10 clear from these quotes, if read in a literal way, it is obvious from the context that these
11
12
13 bioethicists believe that such pressure, obligations, or subtle messages are morally problematic.
14
15 As far as we can tell, however, this autonomy-based objection against company sponsored egg
16
17
18 freezing has not yet been subject to critical discussion. In this article, we aim to remedy this
19
20
21 situation.

22
23 More specifically, we will argue (1) that companies offering employees NMEF
24
25 do not put more pressure on employees than other offers most people would readily accept,
26
27 such as offering an employee a promotion that requires relocating to a city far away. Moreover,
28
29 (2) the offer of NMEF is no less legitimate than other offers a company might make that most
30
31 people would readily accept, such as a company offering contraception or courses on family
32
33 planning. Finally, (3) company sponsored NMEF arguably does not condition women into
34
35 postponing pregnancy more so than other practices, which do not elicit the same opposition
36
37 (e.g. financial support for assisted reproduction).
38
39
40
41

42 The remainder of the article proceeds as follows. In Section 1, we outline the
43
44 standard view on autonomy and informed consent. We show that there are three relevant ways
45
46 the offer of company sponsored NMEF could be said to violate the (reproductive) autonomy of
47
48 employees. The first is through excessive pressure, the second is through undue pressure, and
49
50 the third is through social conditioning. In Section 2, we argue that company sponsored NMEF
51
52 does not put more pressure on employees than other offers, which do not elicit the same
53
54
55
56

57
58 ⁸ Baylis, *op. cit.* Note 5, p. 66.

59 ⁹ *Ibid.*: 65.
60

1
2
3
4 opposition. In Section 3 we argue that company sponsored NMEF does not need to influence
5 the reproductive choices of employees through undue pressure - more so than other practices
6 that most people would not object to. In Section 4 we argue that company sponsored NMEF
7 does not, given certain circumstances, condition women into postponing pregnancy to a greater
8 extent than other practices, which do not appear intuitively troubling. In Section 5 we argue that
9 company sponsored NMEF does not necessarily violate or mitigate against reproductive
10 autonomy due to opportunity costs, as for example, Mertes has claimed¹⁰. Finally, in Section 6,
11 we sum up and conclude.
12
13
14
15
16
17
18
19
20
21
22
23
24
25

26 **2. WHAT IS REPRODUCTIVE AUTONOMY?**

27
28
29 Autonomy is usually understood as self-determination or self-governance. That is, to act
30 autonomously is to act in accordance with one's own values, reasons, and motives¹¹. Thus,
31 reproductive autonomy is the capacity to act in accordance with one's own reasons and values
32 when it comes to one's reproductive choices. Whether understood as an intrinsic or instrumental
33 value, respect for reproductive autonomy is clearly an important value. It matters a great deal
34 to people how much influence and control they have over their own lives in this regard.
35
36
37
38
39
40
41
42
43

44 However, in order to know whether it increases or decreases the reproductive autonomy
45 or reproductive decision-making of women when companies offer NMEF to its female
46 employees, we need to specify what is meant by 'reproductive autonomy' in the case of NMEF.
47
48 Arguably, reproductive autonomy entails three conditions that all must be fulfilled before it can
49
50
51
52
53

54
55
56 ¹⁰ Mertes, H. Does company sponsored egg freezing promote or confine women's reproductive autonomy? *Journal of Assisted Reproduction and Genetics* 2015;32(2):1205-1209.

57
58 ¹¹ Stoljar, N., (2018). *Feminist Perspectives on Autonomy*. The Stanford Encyclopedia of Philosophy. Retrieved from:
59 <https://plato.stanford.edu/archives/win2018/entries/feminism-autonomy/>
60

1
2
3
4 be claimed that women (or trans men) make an autonomous choice when they consider whether
5
6 to accept an offer for company paid NMEF.
7
8

9
10 In what follows, it is presumed that autonomous choice requires the agent to have
11
12 at least: (a) access to information about available options and the expected risks and benefits of
13
14 these options, and (b) the ability to understand this information, to form preferences about the
15
16 options, and to make a choice based on this information and any relevant related preferences of
17
18 the agent, and finally (c) the procedure under which the choice is made must be free of undue
19
20 influence such as coercion, manipulation, pressure, and social conditioning¹². These three
21
22 requirements are what many moral philosophers would accept as the minimum necessary
23
24 conditions for autonomy¹³. That is, if any of these requirements are not satisfied, autonomous
25
26 choice is impossible. We will refer to them as respectively the knowledge, capacity, and
27
28 freedom requirement.
29
30
31
32

33 We take it as our point of departure that employees who are offered NMEF satisfy both
34
35 the knowledge and the capacity requirement. That is, we suppose, along with the American
36
37 Society for Reproductive medicine (ASRM), that the medical staff at the cryopreservation
38
39 clinic, at which they will have their eggs retrieved and banked, are able to properly inform them
40
41 about the procedure¹⁴. We further take it as given that the employees in question are rational
42
43 adults who are able to understand this information. To claim that such employees are, on
44
45 average, not competent decision-makers seems wrong. We believe that the information handed
46
47 over to the employees should be the latest scientific knowledge about:
48
49
50
51
52
53
54

55
56 ¹² Beauchamp, T.L., & Childress, J.F. (2008). *Principles of Biomedical Ethics*. Oxford University Press.

57 ¹³ Buss, S., & Westlund, A. (2018). *Personal Autonomy*. The Stanford Encyclopedia of Philosophy. Retrieved from
58 <https://plato.stanford.edu/archives/spr2018/entries/personal-autonomy/>

59 ¹⁴ American Society for Reproductive Medicine. (2018). Planned oocyte cryopresevation for women seeking to preserve
60 future reproductive potential: An Ethics Committee opinion. *Fertility and Sterility*. 110(6), 1022-1028.

- The procedure of egg retrieval and banking of eggs
- The possible risks and benefits of these procedures
- The prevalence and success rates of having a child with the use of cryopreserved eggs
- That postponing childbearing will usually reduce the chance of becoming parents
- That having a child with cryopreserved eggs involves In Vitro Fertilization (IVF)

And by the HR staff of the company, they should be informed about:

- To what extent the company will pay for egg freezing
- To what extent the company will pay for IVF treatment
- What will happen to the cryopreserved eggs when one leaves the company
- Whether the company has any expectations about postponing childbearing after having paid for egg freezing.

Nevertheless, it is perhaps worth noting that due to the novelty of egg freezing technology, data e.g. concerning success rates are hard to come by. Especially in relation to individual clinics. We believe, however, that the knowledge requirement can still be satisfied, as long as the relevant uncertainties are properly communicated. In any event, if this apparent lack of information rules out informed consent when it comes to egg freezing, it does not matter who is paying the bill and thus does not specifically concern the practice of *company sponsored egg freezing*.

When such knowledge is not handed over to the employees, or not understood by the employees, however, we have a moral problem. But as we believe that these potential problems can be solved by the proper communication, we want to focus on the third requirement, which

1
2
3
4 best captures the worry concerning autonomy in the above-mentioned quotations¹⁵. Thus, in the
5
6 present context, we are solely interested in the freedom requirement. In this regard, there are
7
8 three key different ways that the reproductive autonomy of employees could potentially be
9
10 violated by the offer of company sponsored egg freezing. The first is through excessive
11
12 pressure. We add the qualifier because decisions are nearly always undertaken under some form
13
14 of pressure. The idea here, however, is that pressure can sometimes be so excessive that it
15
16 violates or transgresses autonomous decision-making. For instance, mental illness can be a
17
18 source of great internal pressure, and threats of physical harm can be a source of great external
19
20 pressure that can diminish autonomous choice.
21
22
23
24
25

26 The second way reproductive autonomy could be violated in the present context
27
28 is through undue pressure. Sometimes it is not the strength of the pressure that matters in terms
29
30 of autonomy but rather whether the source or type of pressure is in itself undue. That is, the
31
32 offer of company sponsored egg freezing may violate the reproductive autonomy of women not
33
34 because the pressure to undertake freezing is too strong to refuse, but rather because companies
35
36 should not interfere with people's reproductive choices at all.
37
38
39

40 The third, and final, relevant way autonomy can be compromised is through social conditioning.
41
42 As many feminist scholars of relational autonomy have argued, choices are always made within
43
44 a particular social context, and on the basis of particular social conditionings¹⁶. Consider for
45
46 instance the case of an obedient wife, who has internalized societal norms about women being
47
48 inferior to men. Satisfied with her position in life, she dedicates all her energy and efforts to her
49
50 husband. Although she acts out of her own volition, this woman does not seem to act
51
52
53
54

55
56 ¹⁵ Datta, op. cit. Note 5, p. 119; Bricknell, R. (2016). When Rumpelstiltskin comes to collect: A labour feminist
57 argument against employer-sponsored oocyte cryopreservation in Australia. *UNSWLJ*, 39, 879.

58
59 ¹⁶ Stoljar, op. cit. Note 11,
60

1
2
3
4 particularly autonomously. After all, to act autonomously is to act in accordance with one's
5
6 own reasons and values. To act in accordance with values that have been instilled in one by
7
8 others seems to be the opposite of acting autonomously¹⁷.
9
10

11
12 In the following sections we discuss whether company sponsored NMEF violates
13
14 or mitigates against reproductive autonomy as outlined above.
15
16
17
18
19

20 **3. EXCESSIVE PRESSURE**

21
22
23 One obvious way company sponsored NMEF could be said to violate the reproductive
24
25 autonomy of employees is through excessive pressure to undertake freezing. For instance, if
26
27 women feel that they have to undertake egg freezing in order to advance their careers, that could
28
29 potentially put a great deal of pressure on their decision making. For instance, Harwood
30
31 seemingly has concerns that the offer of NMEF will “create a pressure to use it”. In this way,
32
33 she worries that the offer of company sponsored NMEF quickly becomes “an obligation to
34
35 freeze eggs, a way to demonstrate one's seriousness about one's career-making.”¹⁸ And when
36
37 Baylis in the aforementioned quotation says that companies offering NMEF sends a “subtle
38
39 message that women who have babies are not serious about their careers”¹⁹, this is easily read
40
41 as a form of pressure to make women freeze their eggs and postpone childrearing. Moreover,
42
43 studies have shown that one motivation for choosing egg freezing is fear of future regret²⁰.
44
45 Thus, the offer of company sponsored egg freezing may pressure women into freezing their
46
47
48
49
50
51

52
53 ¹⁷ Sisti, D., & Stramondo, J. (2015). Competence, voluntariness, and oppressive socialization: A feminist critique of the
54 threshold elements of informed consent. *International Journal of Feminist Approaches to Bioethics*. 8(1): 67-85;
55 Westlund, A.C. (2003). Selflessness and responsibility for self: Is deference compatible with autonomy? *The*
56 *Philosophical Review*. 112(4), 483-523.

57 ¹⁸ Stoljar, op. cit. Note 16.

58 ¹⁹ Baylis, op. cit. Note 8.

59 ²⁰ Baldwin, K., Cully, L., Hudson, N., & Mitchell, H. (2019). Running out of time: Exploring women's motivations for
60 social egg freezing. *Journal of Psychosomatic Obstetrics & Gynaecology*. 40(2), 166-173.

1
2
3
4 eggs due to anticipated decision regret of not having done everything possible in case of future
5
6 involuntary childlessness.
7

8
9 We believe, however, that this worry of excessive pressure, which is also
10 mentioned by e.g. Bricknell 2006) is overstated for the following reasons. Firstly, concerns
11 about perceived pressure can at least to some extent be dealt with through privacy regulations²¹.
12
13 As long as employers do not know whether a given employee has accepted the offer of fertility
14 cryopreservation, there is presumably little risk of employees feeling pressured into accepting
15 the offer. In principle at least, this should be no different from other types of sensitive health
16 information that are inaccessible to employers. Of course, if the offer of NMEF sends the
17 message that women who have babies are not serious about their careers, then there could be
18 an implied pressure on women not to become pregnant – no matter whether they have accepted
19 the offer of NMEF or not. However, it is not entirely convincing that the offer of NMEF
20 necessarily sends this message. Rather, it could just as well send the (perhaps equally
21 problematic) message that women who do not freeze their eggs are not serious about
22 motherhood. Or the message that it is better to be safe than sorry when it comes to reproduction.
23
24 We emphasize that we do not advocate for any of these potential alternative interpretations. The
25 point here is merely that concerns about company sponsored egg freezing sending out subtle
26 messages are highly speculative. So, it is therefore difficult to assess such statements, without
27 any supporting evidence. It is entirely possible that this practice communicates a range of
28 different and conflicting messages, but it is not evident that that they, overall, put pressure on
29 the reproductive autonomy of female employees.
30
31
32
33
34
35
36
37
38
39
40
41
42
43
44
45
46
47
48
49
50
51
52
53
54
55
56
57
58

59 ²¹ Datta, op. cit. Note 14.
60

1
2
3
4 Secondly, and most importantly, even if there is no way around such pressure,
5 there are seemingly many different ways companies put pressure on employees that most people
6 would nevertheless readily accept. Consider for instance the following case:
7
8
9

10
11
12 **Relocation:** Ann is offered a promotion in a different and far away city C, that
13 will increase some minor risk to her health because of increased pollution and
14 an increased crime rate for C.
15
16
17
18

19 Clearly, the promise of a promotion puts a great deal of pressure on Ann's decision making.
20 There is value in a promotion, but also a cost to relocating. Besides the increased risks of harm,
21 which, for the sake of the argument, is comparable to the health risks of egg retrieval, relocating
22 to another city may also make it more difficult for Ann to have children with her current partner.
23 For instance, her partner may not be able to move along with Ann and moving may also make
24 it more difficult for Ann to have a child due to a lack of social network and support in a new
25 city. Similarly, there is a good chance that Ann will feel pressure from anticipated decision
26 regret. If she doesn't take the promotion, she may regret it down the line; if she does, and ends
27 up childless as a result, she may also come to regret her decision. Nevertheless, it does not seem
28 right to hold that the offer of the promotion violates her autonomy because the offer puts too
29 much pressure on her decision-making. We believe the same thing holds for offering employees
30 company sponsored egg freezing.
31
32
33
34
35
36
37
38
39
40
41
42
43
44
45
46
47
48
49

50 **UNDUE INTERFERENCE**

51
52
53 As we have seen, it is difficult to sustain the view that the offer of company sponsored NMEF
54 violates reproductive autonomy because it puts too much pressure on employees. However,
55 another way to understand the autonomy objection against company sponsored NMEF is that
56
57
58
59
60

1
2
3
4 the offer of NMEF violates reproductive autonomy because companies should not interfere with
5
6 the reproductive choices of employees. According to this line of thought, the reproductive
7
8 domain is off limits for employers, so to speak. In this section, we discuss this variant of the
9
10 autonomy objection against NMEF.
11
12

13
14 At first glance, there is doubtlessly something appealing about the idea that
15
16 companies should not interfere with the reproductive choices of employees. This idea seems to
17
18 complement the common view that employers should not be allowed to ask potential employees
19
20 about their reproductive plans or withhold promotions from employees who decide to have
21
22 children.
23
24

25
26 On closer inspection, however, we believe this variant of the objection fails for
27
28 the following reason. It seems that there are many ways companies can interfere with the
29
30 reproductive choices of their employees, which do not appear morally problematic. Consider
31
32 for instance an offer of contraception to employees as part of a health package, offering
33
34 employees courses in family planning, or arranging company parties or events that can affect
35
36 the reproductive choices of the employees. Even paying for assisted reproduction would be off
37
38 limits if companies were morally obliged not to interfere at all in the reproductive choices of
39
40 employees. If the offer of company sponsored NMEF is undue because the reproductive domain
41
42 is off limits to employers, the same would seem to apply to offering contraception, assisted
43
44 reproduction, and so on. This would arguably be a difficult implication to accept, and therefore
45
46 it is also not convincing to claim that offering NMEF amounts to undue involvement in
47
48 reproductive choices.
49
50
51
52
53
54
55
56
57
58
59
60

SOCIAL CONDITIONING

A third way to understand the criticisms of Harwood and Baylis, however, is not so much about the potential of women feeling pressured into postponing pregnancy or suffering pressure from an undue source. Rather, it is that women would come to choose company sponsored NMEF due to internalized norms owing to oppressive socialization or social conditioning. Consider again the example of a woman who does everything to please her husband and believes that this is her duty as a wife. Could the offer of NMEF similarly instil in women the belief that female employees ought to postpone pregnancy for the sake of their employers?

We believe that this concern is also overstated. For one thing, it is an open question whether offering NMEF will indeed have this effect, as the above-mentioned authors claim. Companies may socialize their employees in many different ways, or give out many different signals, and some of these may work against the message that women who become pregnant are not sufficiently concerned about their careers. For instance, companies may have other family-friendly policies in place that send out the complete opposite signal. In fact, as Mertes also points out, those companies offering NMEF are for the most part also those companies who have the most generous family-friendly policies. Furthermore, in order to make the offer of NMEF less of a threat to reproductive autonomy, companies could indeed also offer comparable benefits to employees that opt to have children rather than postponing parenthood (benefits like parental leave, childcare, etc.)

Furthermore, when it comes to reproduction, women are arguably subjected to oppressive socialization in both directions. For instance, in most societies around the world, women are also socially conditioned into having children when they are relatively young, e.g.

1
2
3
4 by their immediate families who want grand-children²². Indeed, one traditional feminist critique
5 of masculine society is how women have historically been relegated to the reproductive arena
6
7 from the onset of adulthood²³. Since NMEF arguably allows women more time to complete
8
9 other goals in life²⁴, NMEF can perhaps help mitigate some forms of oppressive socialization,
10
11 even if it may perpetuate others.
12
13
14

15
16 Furthermore, and perhaps most importantly, we believe that this version of the
17
18 autonomy objection against company sponsored NMEF suffers from the same flaw as the
19
20 previous versions. That is, this version of the autonomy objection also seems to condemn
21
22 practices that most people would readily accept. In particular, if offering NMEF violates
23
24 reproductive autonomy because this practice conditions women into postponing pregnancy, the
25
26 same seems to apply to offering employees financial support for assisted reproduction. This
27
28 practice could similarly be said to condition women into postponing pregnancy, as this practice
29
30 also offers employees better odds of having children at a later age than what they would
31
32 otherwise have. However, few people would presumably hold that companies supporting
33
34 assisted reproduction for employees violates or infringes on their reproductive autonomy.
35
36
37
38
39

40 Finally, even if women are subject to oppressive socialization when it comes to
41
42 choosing company sponsored NMEF, this does not necessarily entail that any choices should
43
44 be taken out of their hands. As feminist scholars of relational autonomy, such as Kim Atkins,
45
46 have argued, in the context of informed consent, oppressive socialization is best dealt with by
47
48 medical professionals helping patients “critically reflect upon and understand their own
49
50
51
52
53

54
55
56 ²² Petersen, T. S. (2004). A Woman's Choice?—On Women, Assisted Reproduction and Social Coercion. *Ethical theory and moral practice*, 7(1), 81-90.

57 ²³ Neyer, G., & Bernardi, L. (2011). Feminist perspectives on motherhood an reproduction. *Historical Social Research/Historische Sozialforschung*. 36(2), 162-176.

58 ²⁴ Goold, I., & Savulescu, J. (2009). In favour of freezing eggs for non-medical reasons. *Bioethics*. 8(1), 67-85.
59
60

1
2
3
4 deliberative processes and self-conceptions that underlie and motivate their choices”²⁵. By the
5
6 same token, women who are offered NMEF should at the same time be helped by medical
7
8 professionals to critically reflect upon the offer and how NMEF fits in with their visions of the
9
10 good life (as part of the freedom requirement). They should not be denied the possibility of
11
12 making their own decisions.
13
14

15
16 Based on the above, we conclude that there is no reason to suppose that company
17
18 sponsored NMEF will *necessarily* be in conflict with either the knowledge, capacity, or freedom
19
20 requirement.
21
22

23 24 25 26 27 **OPPORTUNITY COSTS**

28
29 However, even if the above-mentioned three requirements are satisfied, Mertes has argued that
30
31 we should not accept companies offering NMEF, as she believes that egg freezing has little
32
33 value for women in terms of reproductive autonomy. This is because the procedure is relatively
34
35 expensive, and many women end up not using their frozen eggs anyway, as only a small number
36
37 of women end up needing fertility treatment later in life. Thus, Mertes argues that egg freezing
38
39 should not be introduced at the cost of other family-friendly policies, which are better suited to
40
41 increasing the reproductive autonomy of women overall²⁶. Considering that the resources spent
42
43 on NMEF could always have been used on other family-friendly policies, e.g. increased parental
44
45 leave and so on, this seems to be a good argument against company sponsored egg freezing.
46
47
48
49

50
51 This argument can, however, be challenged in a number of ways. Firstly, even if
52
53 other family-friendly policies would benefit a larger group of employees, this does not
54
55

56
57 ²⁵ Atkins, K. (2006). Autonomy and autonomy competencies: A practical and relational approach. *Nursing Philosophy*.
58 7(4), 213.

59 ²⁶ Mertes, op. cit. Note 5, p. 1209.
60

1
2
3
4 necessarily mean that it will be optimal in terms of increasing reproductive autonomy. Egg
5
6 freezing may be a tremendous benefit for those who end up needing it, as they are the most
7
8 likely to end up involuntary childless. That is, women who need more time in order to prepare
9
10 for motherhood, find a suitable partner, and so on; women who would most likely have
11
12 postponed pregnancy anyway, for reasons more or less beyond their control. Moreover, these
13
14 particular women would see less benefit from other family-friendly policies, such as increased
15
16 access to parental leave or childcare facilities at the workplace, in terms of their reproductive
17
18 autonomy. Considering that this may be a substantial number of women, and that egg freezing
19
20 may be their best bet against childlessness, it is not entirely clear that other family-friendly
21
22 policies will necessarily have the most bang for buck when it comes to increasing the
23
24 reproductive autonomy of women in the workforce.
25
26
27
28
29

30
31 Secondly, it is worth noting that the women in question may prefer access to egg
32
33 freezing over other family-friendly policies. It is difficult to see why offering other family-
34
35 friendly initiatives instead of NMEF would best serve women's reproductive autonomy, if they
36
37 themselves prefer to have access to fertility preservation over other family-friendly policies,
38
39 such as better access to childcare, parental leave, and so on.
40
41

42
43 Thirdly, as Mertes mentions herself, Facebook, for example, treat their female
44
45 employees very well with more than e.g. average paid parental leave, etc., so it is possible to
46
47 offer NMEF as well as other family-friendly policies. This is important because as long as there
48
49 is a proper baseline of other family-friendly policies, introducing company sponsored egg
50
51 freezing could be the most efficient policy in terms of increasing reproductive autonomy. Of
52
53 course, companies like Apple and Facebook may not be there yet, but whether offering egg
54
55 freezing at the expense of other family-friendly policies is sub-optimal in terms of reproductive
56
57 autonomy surely depends on how good the existing policies are. Obviously, introducing
58
59
60

1
2
3
4 company sponsored egg freezing in a company with no other family-friendly policies in place
5
6 would probably not be optimal in terms of increasing the reproductive autonomy of the
7
8 employees. But it is much less obvious when it comes to companies that already have many
9
10 family-friendly policies in place. At some point, at least, egg freezing may be the best available
11
12 alternative for increasing the reproductive autonomy of *some women*, and should therefore not
13
14 be ruled out on principle.
15
16
17
18
19
20

21 **CONCLUSION**

22
23
24 In this article we have argued that one of the central arguments against company sponsored
25
26 non-medical egg freezing, namely that this practice violates the reproductive autonomy of
27
28 women, is difficult to sustain upon closer scrutiny. More specifically, we have argued that
29
30 company sponsored egg freezing is not necessarily in conflict with the three most common
31
32 requirements for autonomous choice. That is, there is no reason to suppose that employees
33
34 cannot be adequately informed about the practice in advance, or that they lack the required
35
36 capacity to comprehend and process this information. While they may indeed feel a certain
37
38 pressure to comply with the wishes of their employer, privacy regulations could plausibly
39
40 alleviate this concern. In any event, it is arguably not stronger or relevantly different from other
41
42 sources of pressure that most people readily accept. Moreover, we have argued that offering
43
44 NMEF is no less legitimate coming from a company than offering other types of fertility related
45
46 treatments, such as sterilization and contraception. Finally, we have argued that company
47
48 sponsored NMEF may mitigate certain types of oppressive socialization, while it may
49
50 perpetuate others, and that oppressive socialization in any case is best dealt with through
51
52 guidance and counselling rather than taking options away from individuals.
53
54
55
56
57
58
59
60

1
2
3
4 We have also argued against Mertes that even if company sponsored egg freezing comes
5
6 at the expense of other family-friendly policies, this need not interfere with the reproductive
7
8 autonomy of female employees. This is because egg freezing may be a tremendous benefit for
9
10 those who end up needing it.
11
12

13
14 It is perhaps worth mentioning that we do not know in any detail the specific practices
15
16 of the companies who are currently offering fertility cryopreservation, such as Apple and
17
18 Facebook. We do not know to what extent they fulfil the three requirements of reproductive
19
20 autonomy and so on. Our point has merely been that to the extent that these requirements are
21
22 fulfilled, which we emphasize is by no means impossible in practice; there is seemingly no
23
24 principled moral reason, based on reproductive autonomy, against companies offering egg
25
26 freezing as an employee benefit.
27
28

29
30 Of course, there may be other moral reasons against companies offering fertility
31
32 cryopreservation as an employee benefit. For instance, some have argued that this practice is
33
34 an individual solution to a social problem, and therefore morally problematic^{27,28} or that this
35
36 practice is discriminatory against older female and male employees, who see little benefit from
37
38 company sponsored egg freezing²⁹. These concerns are however a matter for a different
39
40 discussion.
41
42
43
44
45
46
47
48
49
50
51
52
53
54

55
56 ²⁷ Harwood, op. cit. Note 7

57 ²⁸ For a critical discussion of this view see (self-reference omitted)

58 ²⁹ Nicolette, A.L. (2016). Empty benefits: employer-sponsored oocyte preservation and potential for employment
59 discrimination, *Hastings Women's Law Journal*. 27, p. 341.
60

REFERENCES:

- American Society for Reproductive Medicine (ASRM). Planned oocyte cryopreservation for women seeking to preserve future reproductive potential: an Ethics Committee opinion. *Fertility and Sterility*, 2018; 110(6), 1022–1028.
- Atkins, K. Autonomy and autonomy competencies: a practical and relational approach. *Nursing Philosophy*, 2006; 7(4):205–215.
- Baylis, F. Left out in the cold: arguments against non-medical oocyte cryopreservation. *Journal of obstetrics and gynaecology Canada: JOGC* 2015; 37(1): 64.
- Baldwin, K. Egg freezing, fertility and reproductive choice: Negotiating responsibility, hope and modern motherhood. Emerald Group Publishing. 2019.
- Beauchamp, T. L., & Childress, J. F. Principles of Biomedical Ethics (Principles of Biomedical Ethics. *Oxford University Press*. 2008.
- Bricknell, R. (2016). When Rumpelstiltskin comes to collect: A labour feminist argument against employer-sponsored oocyte cryopreservation in Australia. *UNSWLJ*, 39, 879.
- Buss, S. and Westlund, A. "Personal Autonomy", *The Stanford Encyclopedia of Philosophy*(Spring 2018 Edition), Edward N. Zalta (ed.).
- Datta, M. Egg freezing on company dollars: Making biological clock irrelevant. *DePaul J. Women Gender & L.*, 2017, 6: 119.
- Goold, I., & Savulescu, J. In favour of freezing eggs for non-medical reasons. *Bioethics* 2009;23(1):47–58.
- Grant, S. (2016). Employer sponsored fertility preservation: debating institutional promotion of reproductive procrastination or choice. *Journal of Research in Gender Studies* 2016; 6(2): 120–

1
2
3
4 145.
5
6

7 Harwood, K. (2017). Egg Freezing and the Feminist Quest for Equality in the Workplace.

8
9 In *Reproductive Ethics* Springer, Cham 2017:63-75.
10
11

12 Kylie Baldwin, Lorraine Culley, Nicky Hudson & Helene Mitchell (2019) Running out of time:

13 exploring women's motivations for social egg freezing, *Journal of Psychosomatic Obstetrics &*

14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42
43
44
45
46
47
48
49
50
51
52
53
54
55
56
57
58
59
60
Gynecology, 40:2, 166-173, DOI: 10.1080/0167482X.2018.1460352

Mertes, H. Does company sponsored egg freezing promote or confine women's reproductive
autonomy? *Journal of Assisted Reproduction and Genetics* 2015;32(2):1205-1209.

Neyer, G., & Bernardi, L. Feminist perspectives on motherhood and reproduction. *Historical
Social Research/Historische Sozialforschung* 2011:162–176.

Nicolette, A. L. Empty benefits: employer-sponsored oocyte cryopreservation and potential for
employment discrimination. *Hastings Women's LJ* 2016; 27: 341.

Petersen, T. S. (2004). A Woman's Choice?—On Women, Assisted Reproduction and Social
Coercion. *Ethical theory and moral practice*, 7(1), 81-90

Sisti, D., & Stramondo, J. Competence, voluntariness, and oppressive socialization: A feminist
critique of the threshold elements of informed consent. *International Journal of Feminist
Approaches to Bioethics* 2015; 8(1):67–85.

Stoljar, N. Feminist Perspectives on Autonomy. In *The Stanford Encyclopedia of Philosophy*
(Winter 2018). Stanford. Edward N. Zalta (ed.)

Westlund, A. C. (2003). Selflessness and responsibility for self: Is deference compatible with
autonomy? *The Philosophical Review* 2003; 112(4):483–523.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42
43
44
45
46
47
48
49
50
51
52
53
54
55
56
57
58
59
60

For Peer Review