

Should egg donation be legalized in Switzerland?

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In 2021, the Science, Education and Culture Committee of the Swiss National Council submitted a motion to legalize egg donation for married couples. The motion brought the discussion of an emotional

topic into the political arena—a discussion that also needs to be held in society at large. UZH News talked to lawyer Andrea Büchler and doctor Brigitte Leeners about the issues at stake.

Gone are the days when childlessness was a fate one simply had to accept. Thanks to advances in [reproductive medicine](#), couples who are unable to conceive naturally can now fulfill their desire to have children relatively easily and safely.

"In Switzerland, most causes of involuntary childlessness can be treated with very good results on both the female and male sides," says Brigitte Leeners, head of the Department of Reproductive Endocrinology at the University Hospital Zurich (USZ). "One problem, however, is when a woman requires an egg donation. This may be the case if her own egg reserves are exhausted due to premature menopause, as a result of disease, or due to her age."

In such cases, would-be parents have to seek treatment outside Switzerland, as egg donation is prohibited in this country. Some couples go to clinics abroad, Spain for example, where egg donation is allowed. When the man's sperm is the problem, on the other hand, Swiss law allows married couples to use sperm from a donor.

Change of law in progress

This unequal rule is now set to change. The Science, Education and Culture Committee of the Swiss National Council submitted a motion to legalize egg donation for married couples, which was accepted by the National Council and the Council of States in 2022. The Federal Council was instructed to create the legal basis and pave the way for a change in the law.

But what needs to be considered, from a medical and legal point of view,

in the event that egg donations become legal? UZH News talked to physician Brigitte Leeners, head of the Department of Reproductive Endocrinology at the University Hospital Zurich, and lawyer Andrea Büchler, head of the University Research Priority Program "Human Reproduction Reloaded | H2R."

Brigitte Leeners, in your work as a doctor in reproductive medicine, who came to you for help until now, and do you think different groups of patients will come in the future should egg donation be legalized in Switzerland?

Brigitte Leeners: I think the patients will be similar to today, because often couples or individuals don't know why they can't get pregnant when they come to us. In most cases, they have been trying unsuccessfully for some time at home. For some couples, it just doesn't work out, for others the woman's period doesn't come back after stopping the pill. Others know from the outset that they will need [medical assistance](#)—for example because the man has had a vasectomy in the past, or because the woman has entered menopause prematurely. In the latter case, the only possibility of pregnancy is through egg donation. We would very much welcome the opportunity to treat women affected by this type of infertility in Switzerland.

Until now, only sperm donation has been permitted in Switzerland. How is it managed?

Andrea Büchler: Sperm donation has strict regulations: it must be done free of charge, anonymous donation is not permitted, and neither is targeted [sperm donation](#), i.e. the prospective parents cannot choose their donor, and a donor may not donate sperm to a specific person, for

example their brother or cousin. The selection of the sperm donor is made by the physician and is based on medical criteria to exclude health risks for the recipient as far as possible. In addition, the blood group and the similarity of the external appearance of the donor with the intended father may be taken into account—care is taken that the donor and the intended father do not look completely different. Any other selection criteria are prohibited.

Brigitte Leeners: In Switzerland, clinics and centers are free to decide whether they want to set up a sperm bank. For legalized egg donation, I think a pool system would be a better solution to keep things manageable, to meet the overall need in Switzerland, and for optimum matching of donors and recipients.

Would you welcome the legalization of egg donation in Switzerland?

Brigitte Leeners: Absolutely. We are able to treat male infertility with sperm donation; we think it would be fair to allow us to treat female infertility with egg donation.

Andrea Büchler: From a legal perspective, the question should be reversed. Instead of asking "should we allow egg donation?" we should ask "do we have the right to ban egg donation?" Realization of one's desire for children is part of the personal freedoms enshrined in law, so there need to be good reasons to restrict access to methods that assist with reproduction. The current ban on egg donation is a major restriction.

What are the arguments against the legalization of egg donation?

Andrea Büchler: People always cite the best interests of the child—but curiously enough, this legitimate concern is only mentioned in connection with the legalization of egg donation, and not in the case of sperm donation. But there is no reason to believe that egg donation harms the welfare of the child. The mother-to-be carries the pregnancy to term and establishes a close emotional and physical bond with the baby during pregnancy. Protecting donors is another factor cited in favor of the ban on egg donation.

Brigitte Leeners, how much of a need is there for egg donation?

Brigitte Leeners: For a few years now, we have been observing an increase in the number of women who have their eggs frozen for a possible future pregnancy—for example, because they have not yet found a partner with whom they wish to have a child, or because a partnership in which they planned to start a family breaks down. Often called "egg freezing," this development means the pool of unused stored eggs is increasing. Personally, I think it would be a good idea to legalize egg donation so that these frozen eggs could be made available to other women if they are not needed by their owner.

There's a similarly unsatisfactory situation with surplus embryos from couples who have successful fertility treatment. It is not permitted for these couples to donate the embryos to others either, even if they expressly wish to do so.

Andrea Büchler: This is known as "egg sharing." In such cases, a woman decides to have some of her own eggs removed and frozen for possible later use, so the argument about protecting the egg donor no longer applies.

Egg donation is much more medically complex than sperm donation. Donor women have to undergo a minor invasive procedure to retrieve the eggs, which could be stressful or lead to complications. Sperm donation, in comparison, is easy and has no side effects. Is the current ban on egg donation really an 'unacceptable inequality,' as the motion states?

Andrea Büchler: I hear this question again and again—but the logic is faulty. The unequal treatment that needs to be addressed doesn't relate to the medical procedures involved and the need for regulation due to the differences in those procedures. Rather, the inequality relates to the prospective parents, specifically the would-be mother. An infertile woman is unable to fulfill her constitutionally protected desire for a child with the help of a donated gamete in the way an infertile man can; she has no access to treatment.

Removing this inequality does not mean that egg donation should be regulated in exactly the same way as sperm donation. Obviously, specific precautions must be taken to protect the donor, and donors and recipients must be given comprehensive information about the possible risks associated with [egg donation](#).

Brigitte Leeners: From a medical point of view, the risks are very manageable today. For example, the hormone treatment which the donor has to undergo to make the egg retrieval possible is very low risk. The hormones that the intended mother receives before embryo transfer are close to the natural cycle and are only needed in the first weeks of the pregnancy.

In the past, childlessness was something people just

had to accept. Today, sperm donation is permitted, egg donation will probably also be legalized soon, in some countries surrogacy is accepted... Where do you draw the line, ethically? Or to put it more simply: should everyone be able to fulfill their desire to have children with the help of reproductive medicine?

Brigitte Leeners: In my opinion, there's no general answer to this but only individual ones, depending on the overall situation of a couple. If the initial situation is complex, we at the Department of Reproductive Endocrinology proceed carefully by discussing and making decisions in an interdisciplinary team which includes ethicists. In all cases, the best interests of the child are of course paramount.

Provided by University of Zurich

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