Fifty years before donor eggs would be used to conceive a child in the US, journalists breathlessly speculated about the strange new world of human egg research. Experimentation could “lead to a new stock of fatherless human being, given birth by women not actually their mothers” (Lawrence 1939). Aldus Huxley’s fictional process of exogenesis could ultimately be achieved through the insemination of eggs outside of the body, and unfettered scientific research might prove that “the Frankenstein myth is real” (Lasagna 1962). Mixing donor eggs and donor sperm outside of the body could “constitute a vision of long-distance adultery … between total strangers” in a context that could be a “dream” or a “nightmare” (Lasagna 1962). Women involved in egg donation would come into “sociologically perilous conflict” over who was the rightful mother of the donor-conceived child (Rorvik 1974). More insidiously, consumers and states could use reproductive technologies to create “perfect” citizens: “Some voices fear that the procedures, once perfected, will, almost inevitably, give rise to undesirable and ever-escalating expectations that parents and
governments, respectively, might find irresistible. Many recoil at
the thought of an embryo ‘prefabricated’ to exhibit at birth a set
number of physical and mental characteristics, whether ordered
by the parents or some other, possibly less benign, ‘authority’”
(Rorvik 1974).

These overwhelming anxieties have subsided over the late
twentieth and early twenty-first centuries in the US, having
been replaced by a culture that regards egg donation as yet
another normal option by which to create a family. University
newspapers regularly advertise the immense earning possibili-
ties of egg donation, enticing young, college-aged women with
rewards of ten thousand dollars or more for a single cycle of egg
donation. Egg donors have their own Facebook support groups
and tell-all documentaries on public television, and some have
even brought a suit against the American Society for Reproduc-
tive Medicine (the largest advocacy group for fertility medical
professionals) for price-fixing. Consumers seeking donated eggs
have a huge array of choices and can view highly detailed, inti-
mate profiles of potential donors online and order eggs with a
credit card number and a click of a mouse.

However, antiquated anxieties about reproduction and sci-
ence using human eggs have never gone away, mixing with con-
temporary practices to shape the politics of egg donation in the
United States. Egg donation has breathtakingly diverse uses:
donated eggs can be used for third-party reproduction to create
and enlarge families; individuals may use egg donation proce-
dures to procure and cryopreserve eggs for their future as moth-
ers and fathers; donated eggs are also used in stem cell research,
where donated eggs can be fertilized and developed into blasto-
cysts, from which human embryonic stem cell lines are derived.¹
Rarely is this diverse array of egg donation issues discussed
within the context of politics and policy, and seldom does our thinking about egg donation connect the interactions between medical, economic, social, and political institutions to regulation of egg donation in the US. While many decry the strange, highly commercialized system of egg donation in the US that lacks serious politics and policymaking, I aim, in this book, to dismantle this notion, shining light on the unexplored political spaces between idyllic visions of the family and the abject horror of Doctor Frankenstein’s monster.

Science fiction–fueled fears about egg donation seem to have been replaced by a contemporary, laissez-faire system of regulation of egg donation in the US today. “The United States is the Wild West of the fertility industry,” declared Marcy Darnovsky of the Center for Genetics and Society (Ollove 2015). This sentiment—that reproductive technologies like egg donation have been left to the unrestrained forces of multibillion-dollar fertility and stem cell research industries—prevails across popular media and scholarship. In a Los Angeles Times article about egg donation, a lawyer who specializes in reproductive medicine calls the egg market “the wild, wild West of reproductive medicine” (Li 2012). In an interview with PBS’s Frontline, Harvard bioethicist George Annas concludes that “the whole world of assisted reproduction has been described aptly as a kind of Wild West. But I’d go further than that…. [I]t’s the Wild West [if] it mated with American commerce” (PBS 1999). Debora Spar, former president of Barnard College and a scholar of the economics of reproductive technology in the US, wrote in the New York Times that in contrast to the heavy regulation of egg donation in western Europe, Canada, and Israel, the US is a “free market for assisted reproduction, a Wild West of procreative possibilities” (Spar 2011). Bioethicists, legal scholars, philosophers, gender

Although the US has regulated contraception, abortion, childbirth, and other issues related to reproduction, conventional belief holds that the nation simply does not regulate egg donation, that the latter is market-based and free of politics, as evidenced by the fact that only one federal egg donation law exists, one aimed to protect consumers rather than donors. In the US, donor compensation, medical practices, and commerce are not centrally regulated by a bureaucratic agency or a set of federal laws. In contrast to this unique system, countries across the globe have established complex and restrictive policies regarding egg donation (Jasanoff 2005, 2011, Ouellette et al. 2005). Germany bans egg donation outright; Canada allows uncompensated egg donation; the United Kingdom has established a complex bureaucratic agency that regulates compensation for lost wages and medical care, the distribution of eggs, and the ways that consumers can choose donor eggs for reproduction. There is no parallel, centralized system of regulating egg donation in the US, which seems strange in light of the fact that most forms of reproduction are regularly controlled, systematized, and organized. From abortion to childbirth, the US political
system has never been reticent to engage with reproductive politics; moreover, there have been colorful and passionate moral debates about controversial scientific research in the political sphere throughout the twentieth century and the beginning of the twenty-first century.

This creates a puzzle: If egg donation is publicly recognizable and provokes such social interest, then why does the US political fail to regulate it? In this book I challenge conventional thinking while answering this question: I explore answers to how egg donation is defined, debated, and regulated in the US, and I explain the logic of why the US political system is organized the way it is in response to egg donation. Using three major areas of inquiry—framing, body and morality politics, and representation by gender and party—I answer long-standing questions about egg donation and politics in the fields of women’s and gender studies, political science and policy studies, and bioethics. Using case studies, narrative analysis, and comprehensive public policy analyses, I highlight the ways that state legislative institutions and actors make sense of (and act on) egg donation as a political issue. Rejecting the conventional thinking that there simply is a lack of regulation in the US, I demonstrate that a vibrant and important politics of egg donation exists.

Moreover, the politics of egg donation can be explained through the ways the US political system makes sense of egg donation for reproduction and research. Despite the fact that a single medical act of egg donation provides the building blocks for life in the reproductive and research sectors, we can trace strikingly different political responses and policy solutions to egg donation over time. Throughout the histories of egg donation for reproduction and research, political actors and public stakeholders (such as religious organizations, bioethicists, advocacy groups,
Introduction

and infertility patients) have used different rhetorical concepts to discuss and deliberate over egg donation. While at some points in the history of egg donation in the US the reproductive technology has elicited moral outrage from elites and the public, at other historical moments this reproductive technology has been normalized as a conventional way to treat infertility and involuntary childlessness for the socioeconomically and racially privileged. Stakeholders have relied on moral and ethical rhetoric while, at the same time, embracing logics of reproduction and state intervention to “frame” egg donation, using these ideas to define, deliberate, and create diverse policy responses to egg donation. As discussed later in this introduction, these diverse “frames” have gained and lost traction during the history of egg donation, creating and maintaining this country’s unique politics of egg donation.

THE EMERGING POLITICS OF EGG DONATION

Egg donation was used in about 10 percent of all fertility treatment cycles in 2013, resulting in over nine thousand births of egg-donor-conceived children in that year (SART 2013). Between 2005 and 2014, the use of donor eggs increased 27 percent (CDC 2014). Cryopreservation, or egg freezing, has created greater availability of donor eggs; moreover, individual egg procurement and banking (where a woman freezes her own eggs for the future) has skyrocketed since 2011, when cryopreservation became accessible to a wide swath of consumers (CDC 2014). While not as prevalent as other reproductive technologies, egg donation is crucial for a significant segment of infertility patients, who rely on egg donation owing to “diminished ovarian reserve,” in which the number and quality of a person’s eggs declines with age.
The explosion in the demand for and supply of women’s eggs, particularly in the twenty-first century, has drawn the attention of US scholars and policymakers. In light of the concurrent explosion of egg donation for third-party reproduction and fertility preservation, many characterize the nation as having an incomplete and incoherent regulatory system; as previously noted, only one federal law governs egg donation in a broader context of reproductive technologies and infertility care. Missing in this research is the important consideration of federalism, and few scholars have investigated the diversity, nuance, and richness within the patchwork of state policies that regulate egg donation (e.g., Von Hagel 2014, Kirkpatrick 2012).

Although the US system has been identified as a strange and unique regulatory system, no scholarly consensus explains why it exists in its current form. Many contemporary scholars simply avoid the question of politics (which is conventionally seen as a settled question) and focus on professional and other nongovernmental oversight. Analyses of commercial markets, networks of kinship and families, medical practices, and the very meanings of reproductive technology are often considered separately from political deliberation and policymaking in the US (Almeling 2011, Thompson 2005, Franklin 2013).

Among contemporary scholars in the areas of politics and reproductive technologies, one dominant explanation is that the concept of privacy, an individual-centered concept of protection from regulation by the state, has molded the democratic culture of egg donation (Thompson 2005, Holland 2007). Using donor eggs for reproduction has been defined as a private choice for family formation, which enables individuals to make reproductive decisions away from the prying eyes of the state. Commercial egg banks, infertility medical professionals, and consumers can, without the
political influence of state intervention, efficiently coordinate their activities to maximize access to donor eggs and treatment for involuntary childlessness (Thompson 2005).

A second prevailing explanation of the US system is that abortion is so central to US politics that political elites have avoided engaging with the topic of egg donation (Bonnicksen 1989, Jasanoff 2005, Goggin and Orth 2004). The connection between abortion and egg donation is not always clear, but conventional wisdom holds that both involve the nature of personhood and the moral status of the embryo, and that the broader social meanings of human eggs for kinship and family are political landmines. The third explanation for the status quo in the US is that, in general, there is a lack of any substantive public discussions of bioethics in political discourse (Jasanoff 2005). As evidenced by highly polarized discussions of cloning, stem cell research, and chimeric research, there is no common language (or infrastructure) for coherent democratic debates about egg donation. Moreover, such debates, when they are attempted, get mired in discussions of fundamental moral principles and religious traditions, which are not universal across the US. Like many bioethical issues, discourse about egg donation falls by the wayside because there is no coherent, structured way to talk about moral and ethical debates inherent in the reproductive technology.

These arguments are useful in explaining the absence of a federal politics of egg donation, but they are incomplete in accounting for two important observations about egg donation governance: first, the existence of egg donation laws at the state level, and second, the different purposes that donated eggs serve in reproduction and research. Federalism is a deeply understudied component of reproductive technology in the US; while many decry the lack of a centralized organization to regulate egg
donation in the US, the importance of federalism in reproductive and scientific policy is lacking in this area. The majority of policy in the US—particularly policy that regulates “controversial” issues like reproduction—is crafted and executed at the state level, given the state powers of regulation under the Tenth Amendment to the Constitution. States act as laboratories of democracy, where innovative and new policies can be created, carried out, and observed for their effectiveness before making their debut in other states or on the national stage. While comparative policy scholars note the relative lack of centralized policy on egg donation in the US, the states are a more natural place to find the politics and policymaking we would expect in relation to reproductive technologies (e.g., Goggin and Orth 2004). Rather than being a strange, fragmented system, the US system of regulation reflects a strong reliance on states to function as central actors in policymaking. Even major federal health and medical laws (such as the Affordable Care Act, which extended accessible health insurance nationally) were customized and implemented at the state level (Sonfield and Pollack 2011). This book is the first to comprehensively examine the multiple streams of state politics and policymaking in relation to egg donation in a system of federalism. Importantly, other work on reproductive technologies has highlighted the centrality of states as policy makers (and often policy entrepreneurs) in the US system (Von Hagel 2014, Kirkpatrick 2012).

That egg donation can be used for different outcomes is not only an important component of the fertility industry but also a part of stem-cell and cloning research (Benjamin 2013). Even though some believe that the federal government simply stays out of these issues, state legislative commissions released research reports on the implications of reproductive technologies for
public policy as early as the mid-1980s (New York State Task Force on Life and the Law 1989). In the first decade of the twenty-first century, states like Massachusetts, New Jersey, California, and New York each established taxpayer-funded, state-directed stem cell research centers, which rely on procured eggs for material. States are in fact politically engaging with the topic of egg donation—and there is a gap in the explanation of why and how these politics are unfolding. To understand the practical why and how of politics and policy, we must first step back and examine the underlying social, economic, and medical assumptions made about egg donation in the first place—traditions, expectations, and norms about femininity that shape the politics of egg donation in the US.

GENDER NORMS AND FEMININITY IN THE POLITICS OF EGG DONATION

Egg donation is defined socially, economically, and politically through dominant imagery and narratives, religious and ethical beliefs, and cultural ideologies of gender, sexuality, and reproduction. Norms of femininity drive the framing of egg donation in politics, defining egg donation practices as “natural” or “unnatural.” Normative femininity shapes body and morality politics frames, and how these frames gain salience or lose traction over time. Reflecting the inherently unstable nature of femininity, norms regarding the proper and improper use of women’s bodies are complex, overlapping, and sometimes contradictory, and they change over time in different contexts (Hawkesworth 1997, Thompson 2005, Almeling 2011). While at some points in history, norms have been used to make the act of egg donation for repro-
Introduction and research seem conventional, at other times these norms have shifted and portrayed egg donation as an unnatural and strange practice—thereby shaping how egg donation is ultimately framed by stakeholders in egg donation markets and politics.

Gender norms and normativity are understood, in gender studies scholarship, as two aspects of the “process by which people claim that a given way of being is good . . . or to be endorsed,” through which definitions of what it means to be female are established, managed, and monitored (Shotwell 2012, 991–992). For many, gender norms and normativity can be limiting, as they may restrict gender expression and fail to acknowledge the subjective experience of the sex/gender system. Rather than reflecting objective realities of sex and gender, norms create the conditions of female bodies; like Simone de Beauvoir’s contention that gender is constructed from social ideas, beliefs, and values, norms create ideals about the appearance and function of female bodies, as “bodies are not born; they are made” (Mamo and Fosket 2009). Bodies defined as female are assigned characteristics (even if these bodies do not fit these characteristics) that reflect dominant definitions of femininity, or gender norms. These norms are seen as naturally occurring, rather than as constructed by society, and are used to describe and understand the biology, anatomy, and genetic characteristics of bodies. For example, the X chromosome and the egg have been historically described in science texts as passive, unpredictable, and dependent, despite the biomedical research that contradicts these narratives (Hawkesworth 1997, Richardson 2012, Martin 1991, Mamo and Fosket 2009). Closely linked to prevailing norms of “natural” femininity is the function of the body in reproduction: according to an “ideology
of procreation,” female bodies are intended primarily for reproductive purposes (Barrett 1980, Hawkesworth 1997, Connell 1987). If individuals resist this ideology of procreation, they are treated as if they are aberrant and disabled, in need of highly technological medical interventions (Garland-Thomson 2002, Mamo and Fosket 2009).

Normative femininity determines many aspects of how we understand gender in relation to egg donation: norms define gendered social relations, characterize sexed embodiedness, and explain the gendered division of labor of egg donors and consumers alike (Hawkesworth 1997). In terms of social relations, normative femininity works to define women in accordance with their relationships with men and children: women are defined as mothers and wives, reflecting their function as sex objects and/or caregivers in families according to the ideology of procreation. Norms about wives and mothers, reflecting racial, class, and sexual hierarchies, shape how we understand the relationships between women and their partners and families. The literal bodies of women are also determined by normative femininity: as female bodies are considered strange, unpredictable, incomplete, unstable, and innately threatening, normative female bodies must be controlled and regulated to achieve norms of purity, passivity, cleanliness, fitness, and sexiness. In the last category of normative femininity, there are socially constructed standards of women’s work that are considered hallmarks of the feminine: in a gendered division of labor inside and outside of the home, women are expected to be mothers and caregivers and to play a maternal role. Even though women may not be mothers or wish to become mothers, normative femininity mandates that women do extensive care work, both inside their relationships and in their communities.
Normative femininity in the contemporary egg donation market reflects two major characteristics: one emphasizing an ideology of care, and another enforcing beauty and obedience. In the first set of emphasized gender norms, egg donors and consumers are largely required—both formally and informally—to adhere to a framework of altruism and care. Despite the fact that donated eggs are not in fact a gift (as thousands of dollars are exchanged), the language of altruism pervades these commercial relationships. Potential egg donors are screened according to their expressed motivations regarding donation. If they express reasoning that does not reflect altruism, care, and selflessness, women are often excluded from donation (Almeling 2011, Daniels and Heidt-Forsythe 2012). Women who seek to donate eggs for compensation are often paid more for already being biological mothers (Almeling 2011, Thompson 2005). Advertisements to attract potential egg donors emphasize the norms of passivity and selfless emotional labor—asking potential donors if they want to be an “angel” for potential parents of a donor-conceived child (Daniels and Heidt-Forsythe 2012). Although women are paid significant amounts of money to donate their eggs for third-party reproduction, potential egg donors are encouraged to “give the gift of life” to someone suffering from involuntary childlessness (Daniels and Heidt-Forsythe 2012, Markens 2007). Gift language is also part of the donor experience: intended parents are encouraged to buy extra items for their donor as a gift for her donation, such as flowers, a phone, and jewelry (Daniels and Heidt-Forsythe 2012).

Gender norms about egg donation also work within what Rosemarie Garland-Thomson (2002) calls the “disability/ability
system,” where “natural” facts about a body’s deviation from the norm interact with beliefs about female beauty and submissiveness (Daniels and Heidt-Forsythe 2012, Almeling 2011, Garland-Thomson 2002). These norms emphasize the hyperfertility of egg donors in contrast with the infertile bodies of intended parents. On one hand, you have the unconventional bodies of consumers, which break with reproductive norms; on the other hand, you have egg donors, who are full of youth, sexuality, and beauty (Mamo and Fosket 2009, Almeling 2011, Daniels and Heidt-Forsythe 2012). While the egg donation market highlights egg donors’ feminine eroticism and reproductive vitality, there is also an emphasis on obedience to the procedural requirements of egg donation (Daniels and Heidt-Forsythe 2012). For example, egg donors are regularly advertised on egg bank and fertility clinic websites. Each donor has a page where conventionally attractive, even sexy, photos of the egg donor are available for public viewing. Women in these profiles are highly stylized, posed in ways that emphasize their youth, small body size, and whiteness. Commercial egg banks emphasize the idea of beauty to their potential egg donors, whom they entice to donate by offering them extra benefits such as professional photo shoots to create images for their online profiles (Daniels and Heidt-Forsythe 2012). However, there is distrust of unfettered norms of beauty and eroticism: commercial egg banks also seek to regulate the unpredictable and threatening bodies of potential egg donors. Women are warned that drug use, alcohol use, sexual promiscuity, and relationships with nonheterosexual men will prevent their selection as donors (Egg Donation Center of Dallas 2017). Potential egg donors are also warned of the behavioral and medical requirements of egg donation: donors are told to be polite and well behaved and to adhere to their schedules of
pharmaceutical drug injections and surgeries (Daniels and Heidt-Forsythe 2012).

Normative femininity in relation to altruism, beauty, and passivity is an important component of framing egg donation for reproduction as a natural and established practice. Moreover, egg donation is considered conventional in a context of “stratiﬁed reproduction,” a system whereby some individuals and couples are encouraged to reproduce—through dominant images of motherhood, fatherhood, and families, through public policies and law, and through cultural beliefs about reproduction—while others are discouraged or prevented from doing so (Colen 1986, Roberts 1998). The US system allows access only to those who have the economic resources to pay the high cost of egg donation, placing impossible barriers for those who cannot pay out of pocket or do not enjoy private insurance coverage of infertility treatment. Such a system, where the wealthy are privileged and individuals bear risk for reproduction, ﬁts snugly with the inequalities related to parenthood and stratified reproduction: as egg donation is a pronatal practice, the narrative of egg donation for reproduction is one that is increasingly conventional and natural, particularly for those who have historically been considered “good” mothers. In many ways, the US system is rewarding an ideology of the “natural” in reproduction: egg donation is simply an assisted reproductive procedure that emphasizes the body’s natural biological processes, done by bodies that should be reproducing, according to state ideologies—those who should be providing biological material (and receiving biological material) for reproduction according to norms of maternal altruism, beauty, and submissiveness to authority. Although egg donation challenges notions of traditional families, given that it is available to single individuals and
same-sex couples, arguably the socioeconomic and pronatalist definitions of egg donation for reproduction serve state ideologies about the “natural” feminine body and what it is intended to do: reproduce.

**NORMATIVE FEMININITY AND EGG DONATION FOR RESEARCH**

Egg donation for research intrinsically violates some of these norms of femininity, owing entirely to the fact that it cannot serve the ideology of procreation. Eggs donated for genetic research—via a process identical to that of donation for reproduction—are instead part of a procedure in which no reproduction of humans will take place. This alternative path for donating eggs has long been the source of fiction, speculation, and horror at the use of women’s finite reproductive material (Bonnicksen 2002, Thompson 2013, Benjamin 2013, Franklin 2013). Egg donation for research violates norms of femininity which determine that a body is meant for reproduction of the family, because egg procurement for research (and the inevitable destruction of egg cells in the process) creates a new potential for women’s bodies that is delinked from traditional and naturalized expectations of reproduction. Willing participants can donate eggs without regard for family, kinship, and state pressures regarding reproduction.

Instead of helping build families, women who donate eggs for research are more akin to patients and participants in scientific research: their activities are often stripped of the gendered characteristics that so often accompany egg donation for reproduction. In research settings, eggs are yet another important human material for research. While biological material may be repro-
duced in research settings—such as the reproduction of stem cells—the creation of organisms in research is for far different purposes, for developing treatments and cures for the already living. The labor of donation for research is subject to institutional protocols of clinical research, rather than policies that enforce normative femininity like altruism, beauty, and obedience (Waldby and Cooper 2010). This labor has historically provoked horror, distrust, and even protectionism as women’s bodily processes and materials are moved away from the sphere of reproduction (Thompson 2005).

**FRAMING EGG DONATION IN US POLITICS**

The premise of this book is that norms of femininity provide the basis of the politics of egg donation. Often, slippery definitions of and ideas about femininity, in relation to gender, sexuality, reproduction, and labor, shape the rhetoric and logic that political actors and stakeholders use to define and solve the problems of egg donation. Broadly, egg donation is like other perceived social and political problems: it has been identified as important for deliberation and regulation on the basis of claims-making activities by elites and publics alike, and a concerted effort has been made to construct a definition of the issue for debate and regulation. Scholars who study the emergence of social and political problems have increasingly demonstrated that these problems don’t necessarily arise out of objective conditions of conflict or uncertainty about an issue—social problems can be constructed for many reasons that have little to do with political urgency. However, in the case of egg donation, a combination of increasing use by consumers and scientists, of public recognition in popular media and culture, and of extreme
uses of egg donation has precipitated regulation. There have been significant delays in recognizing egg donation as a social and political issue, and these delays have contributed to the idea that it goes unregulated in the US system.

To explain the ideological constructions of egg donation for reproduction and research, I engage with, and contribute to, the research paradigm around framing of social and political issues. Framing is a way of describing the power of communicating discourse and texts, of giving an issue like egg donation meaning. This meaning is derived from verbal discourse and rhetoric (often by political elites and others who are trying to lay claim to an issue), as well as from written texts produced by those interested in the issue and by the media (Entman 1993, 51, Feree et al. 2002). Analyses in this book engage with both written texts (bills, press releases, media coverage of policy debates, and media interviews with political elites) and discourse (verbal communication by political elites in and out of state legislatures) to explain the power of framing of egg donation. The act of framing an issue has important implications for normative democratic theory, particularly when elites control the framing of an issue; it demonstrates the exertion of political power and identifies the ways that certain political actors and interests intersect in an issue (Zaller 1992, Entman 1993). It is through framing processes that political debates and strategies unfold (Markens 2007, Jesudason and Weitz 2015).

How an issue is framed has tremendous impact on how policy is formulated, who the policy targets, how the policy is debated, and whether it gets adopted. Controlling issue definition means that one can control the public policy process: by being the “winner” among competing interests in defining an issue, one has control over how the government regulates (or does not regulate)
a given issue (Baumgartner et al. 2009). The norms of femininity in policy are especially important, as assumptions about gender, sexuality, and reproduction shape policymaking. Public policy scholars have demonstrated that the gendered definition of *target populations* (those who will be directly affected by the proposed policy) has a powerful influence on public officials, and that it shapes both the policy agenda and the actual design of the policy (Schneider and Ingram 1993). Moreover, how women’s issues (such as abortion) are framed can determine who puts issues on the legislative agenda, as there is significant evidence of descriptive representation by women of particular categories of issues, such as reproductive health (e.g., Swers 2016). How a policy is framed has a lasting impact on gendered policymaking regarding private behavior (see for example Petchesky’s (1984) 1990 discussion of antiabortion advocacy), as well as on economic issues that disproportionately affect women (see for example Theda Skocpol’s 1992 discussion of motherhood as a central construct of welfare policy).

**BODY POLITICS, MORALITY POLITICS, AND FRAMING EGG DONATION IN THE US**

In this book I forward the idea that rhetoric and logic of body politics (a broad area of inquiry from women’s and gender studies) and morality politics (a common framework used in political science and policy studies) best explain the politics of egg donation in the US. These frameworks operate simultaneously over time: while at some points a body-politics definition of egg donation has gained traction (particularly in reference to reproduction), at other points actors and stakeholders have used morality politics to explain the issue and create policy to address
Both frameworks explain the unusual American politics of egg donation. Despite the common convention that the US is apolitical on the topic of egg donation, or that egg donation for reproduction is treated as a phenomenon separate from donation for research, I argue that body and morality politics contour egg donation in important ways.

In the case of egg donation in the US, framing has been unstable over time; as norms of femininity change, so does the salience of certain frames regarding reproductive technologies. As discussed at length in chapter 1, the two explanatory frameworks of body and morality politics have been deployed in framing egg donation in the US, sometimes simultaneously and often separately. These frameworks have been deployed at different moments in time in the politics of egg donation: for example, during the emergence of egg donation as a reproductive technology in the early to mid-1980s, consumers, critics, and scholars relied on moralistic frames (emphasizing moral debates over fundamental principles) to define and regulate egg donation. These moral debates predominated in the context of a small but growing egg donation market. During the 1980s and early 1990s, legislatures sought to understand the technical and ethical complexities of reproductive technology, learning about egg donation with an intent to structure regulation of it (Bonnicksen 1989, New York State Task Force on Life and the Law 1989). Medical institutions, guided by hospital ethics boards, were entrepreneurs in creating policies to address moral and ethical issues. Critics and scholars responded in kind, analyzing how the rush of technological innovation was being trailed by moral and ethical inquiry into egg donation. Moralistic frames during this early period defined egg donation through a set of moral lenses, identified fundamental ethical problems of reproductive technologies (such as compensation and inducement for
Introduction /

egg donation), and debated egg donation through a discussion of first principles, often rooted in religious belief. However, these morality frames lost traction by the mid-1990s as egg donation normalized and became both increasingly used by consumers and publicly visible.

By the first decade of the twenty-first century, increasingly nuanced views of egg donation began to predominate, and moral frames gave way to an increased scholarly and public interest in body politics and the role of the state in private decisions about reproduction (Thompson 2005). Rather than defining egg donation as a clash of fundamental principles, political, medical, and social institutions normalized the reproductive technology as a way to make families (Franklin 1995, Thompson 2005). Use of this frame was further advocated by policy entrepreneurs, such as Resolve (an infertility support group) and the American Society for Reproductive Medicine. For example, state legislatures, as well as Congress, passed consumer protection laws for fertility clinic patients rather than addressing fundamental moral debates. Political actors defined egg donation as an important issue, identified problems with egg donation practices, and found policy solutions to these problems by protecting consumers of donated eggs (among other reproductive technologies; Bonnicksen 1989, Heidt-Forsythe 2012, Almeling 2011).

During the late 1990s and early in the twenty-first century, technological innovation in stem cell and cloning research produced not only Dolly the sheep but also the first stem cells created from a human blastocyst—a blastocyst formed by joining donor eggs with donor sperm. Suddenly, egg donation was not just for reproduction but also supplied important materials for stem cell research—a controversial, and morally framed, issue in US politics (Bonnicksen 2002, Thompson 2013). During the
early years of the twenty-first century, egg donation for research elicited strong moral condemnation from political actors—who were silent on the moral and ethical issues surrounding egg donation in reproductive contexts. While morality frames lost traction to define egg donation for infertility and involuntary childlessness, morality frames arguably dominated the ways that politicians and the public defined, debated, and made policy regarding stem cell research (Ryan 2014, Bonnicksen 2002).

What accounts for this contingent framing? In this book I explore how body and morality frames are always present, and how policy entrepreneurs in the form of political actors, advocates, and other stakeholders make certain frames more salient than others in the diverse politics of egg donation. Different interests have spurred this framing process. Increasing consumer demand for and access to egg donation is one important influence on the framing processes regarding egg donation for reproduction (Franklin 1995). Similarly, increasing public awareness of and technological sophistication in regenerative medicine, with leadership from the biotechnology and pharmaceutical industries as well as professional and patient advocacy groups, has pushed forward alternative ways of defining, debating, and regulating egg donation for research (Thompson 2013, Benjamin 2013, Jesudason and Weitz 2015, Heidt-Forsythe 2016). Advocates and stakeholders—such as interest groups and professional societies—also have a vested interest in framing processes, and the growth of these groups (in size and power) has also guided how egg donation is framed. These diverse interests come up against each other in struggles over how to frame egg donation in US politics. To understand how policy entrepreneurs create dominant frames for the diverse issues related to egg donation for reproduction and research, I explore—in both micro and macro
processes—how frames are utilized by stakeholders to define and create a politics of egg donation in the US.

**Gender and Politics in Egg Donation**

Who is driving the politics of egg donation in the US? In the last third of the book, I examine the role of gendered, partisan political actors in the politics and policies of egg donation at the state level. In the field of gender and politics, scholars have long debated how women legislators are different from their male colleagues, and how the inclusion of women in political spaces makes a difference for policymaking, particularly regarding reproductive and family issues. Scholarship has long been interested in the links between descriptive representation of women and substantive representation of “women’s interests” in federal and state legislatures (Bratton 2002, Carey, Niemi, and Powell 1998, Carroll 1992, Darcy, Welch, and Clark 1994, Swers 2002, Osborn 2012). In the long-standing question of whether women in government “act for” women in general, there are theoretical and empirical disagreements in the field over the definition of women’s interests, the benefits and drawbacks of thinking about women as a cohesive identity group, and the precise causal relationships between descriptive and substantive representation with respect to gender. Considering the presence of women in state legislatures and the topic of egg donation in these debates, I explore the boundaries and relationships of descriptive and substantive representation of reproductive technologies and how they shape the politics of egg donation.

Gender has an important impact on what issues are introduced, how they are debated, and how policy solutions are created (e.g., Tolbert and Steuernagel 2001). One would expect
women in political spheres to have an important role in framing processes about egg donation, particularly because women in legislatures have historically been crucial in illuminating how the “personal is political,” how seemingly private issues (such as egg donation) are in fact subject to political forces. Women legislators in the state and federal legislatures are more likely to be policy leaders on issues that are particularly relevant to women and families, such as health care, social welfare, and reproductive issues. Women introduce and sponsor more women’s-issue bills than their male counterparts, particularly in the area of health care; their voting records reflect the fact that women’s issues are often a legislative priority for women legislators (Tolbert and Steuernagel 2001, Caiazza 2004, Cowell-Meyers and Langbein 2009). Constituents expect women legislators to be experts in the women’s issues, and some women work strategically to represent women’s issue legislation to appeal to their voting base (Swers 2002). While the area of reproductive technologies is understudied in these debates, reproductive health care, such as abortion, contraception, breast and ovarian cancer care, and infertility care are more likely to be on the legislative agenda when more women legislators occupy political spaces at the federal and state levels (Tolbert and Steuernagel 2001, Caiazza 2004, Cowell-Meyers and Langbein 2009).

Gender does not operate in political isolation, however: partisanship of the individual legislator, as well as partisan context, matters in policy leadership of women’s issues. In fact, diverse behavior and leadership is created when we consider the interactions between gender and partisanship. Partisanship modifies and shapes how gender operates in political spaces: individual ideology, party agendas, and polarized partisan contexts all change how women represent issues (Dodson 2006, Swers 2002,
Democratic women are the most likely among all partisans to introduce women’s issue bills, particularly about women’s health (Osborn 2012). While less likely to be policy leaders on “culture war” reproductive issues like abortion and contraception, Republican women have been observed to be policy leaders on women’s health issues where there is no strict party line on the issue, such as maternal health care (Osborn 2012). Partisanship and gender work in concert to shape policy solutions, particularly in observations about women’s health (Osborn 2012, Deckman 2016, Schreiber 2008). Other studies have noted that partisan women, despite strict party lines on reproductive health, have diverse opinions and approaches to issues like motherhood, technology, and family roles—for example, Tea Party women have expressed more flexible expectations about gender roles, reproduction, and working outside of the home than previously expected (Deckman 2016, Schreiber 2008).

While the political behavior and policy preferences of women legislators are indeed distinct from those of their male counterparts, women represent diverse issues, sometimes representing feminist concerns (like abortion), and sometimes representing issues that disproportionately affect women and children but which are not explicitly feminist (such as social welfare programs; e.g., Swers 2002, Thomas and Welch 1991, Cowell-Meyers and Langbein 2009). Women’s issues and interests are often broadly defined in gender and politics research. One of the primary questions in this research is whether women can be understood as a cohesive group with similar interests, issues, and preferences. Critics, sensitive to the diversity of women’s experience in intersecting structures of social, economic, and political oppression and privilege, argue that some women have interests in common owing to the effects of social structures like race,
class, gender, and sexuality (among other social categories) that delineate a single social category for women (e.g., Smooth 2011, Beckwith 2011, Young 1994, 2002). As gender and politics scholars have come to agree that women are a diverse and heterogeneous social group, they have acknowledged that women may have similar patterns of experience with respect to traditional gender roles, particularly those in the family. Women’s issues often reference concepts relating to the family, such as reproduction, children’s welfare, health, and education. Feminist policies come out of these interests, issues, and preferences, as advocacy groups and legislators draw ideological lines around women’s issues. Amy Mazur (2002, 3) defines feminist policies according to three core ideas of Western feminism: the idea of defining women as a group within contexts of heterogeneous identities and social structures; the goal of advancing women’s rights, status, and condition within the public and private spheres; and the reduction or elimination of gender-based inequalities in the public and private spheres. Others measure feminist legislation similarly, arguing that it must promote women’s equality or women’s rights in the public and private spheres (MacDonald and O’Brien 2011, Saint-Germain 1989, Swers 2002, 2013). Issues that may be included in a category of feminist policies that adhere to these core goals are equal pay policies and laws against gender-based employment discrimination; sexual harassment and domestic violence policies; and increasing access to abortion and contraception. As noted above, gender and politics research has consistently shown a large gender gap on feminist issues: the difference between which issues women and men represent in legislatures is greatest among feminist issues, with far more Democratic women taking the lead on feminist policies than their counterparts (MacDonald and O’Brien 2011, Swers
How egg donation fits into feminist policy is complex and not as neatly defined as other reproductive issues that are more widely studied, such as abortion and contraception. Feminist approaches to egg donation have been heterogeneous, with different feminist viewpoints articulating diverse concerns, debates, and policy solutions to problems associated with egg donation (Jesudason and Weitz 2015, Thompson 2005). The dominant feminist approaches to egg donation—liberal and radical feminisms—promote very different ideas about how egg donation should be regulated. While liberal feminists identify egg donation as disproportionately affecting women, they believe that bodily autonomy and decision making are paramount, and that the state should stay out of regulating the reproductive technology. While radical feminists also identify egg donation as an issue that disproportionately affects women as a group, they see the threats to women’s liberty and freedom differently. They believe that—owing to stratified reproduction and the inequalities that women experience in response to the structures of race, class, sexuality, and others—regulation by the state can protect women from threats of eugenics, patriarchal oppression, and medical harms (Jesudason and Weitz 2015, Daniels and Heidt-Forsythe 2012). While there has been little research into how these diverse feminist claims are expressed in explicitly feminist policymaking regarding egg donation, examples from other research are helpful in guiding this inquiry into the politics of egg donation.

Swiveling to antifeminist policy addressing abortion and assisted reproductive technologies (ART) is key in understanding how gender and politics research may play a role in egg donation politics and policy. In the case of abortion policy, conservative
advocates and policy makers witnessed the success (and failure) of a certain type of rhetoric to create policy and change public opinion. In one study of state female legislators between 1997 and 2012, Reingold and colleagues (2015) found that conservative Republican women were more likely to introduce explicitly antifeminist, antiabortion legislation. This came after decades of little success in changing public opinion about abortion by using rhetoric about the rights of the fetus (Jesudason and Weitz 2015). After the mid-1990s, antiabortion legislation was increasingly introduced as a matter of “women-centered” health and well-being, where the policies to restrict abortion would ultimately protect women from physical and psychological harm (Reingold et al. 2015). In a case study of California state legislation regarding abortion and egg donation, Jesudason and Weitz (2015) came to a parallel conclusion, although they do not label the legislation as specifically antifeminist: pro-choice and anti-choice stakeholders used similar “woman-protective” rhetoric to justify two bills, one that restricted abortion access, and one that enabled legal, paid egg donation. Women-centered and women-protective rhetoric has a long history in feminist scholarship and advocacy, as the feminist women’s health movement has utilized the rhetoric since the 1960s (Solinger 2005, Luker 1984). Feminist women’s health movement activists argued that policies that disproportionately affect women should identify women as the central subjects of the legislation; moreover, women should be protected from biased, discriminatory, and unfair medical institutions. In the women’s health movement, this meant empowering women to be active subjects in their health and medical care, which would be tailored to enable autonomous decision making about health and medicine. This rhetoric of placing women and women’s health and well-being at the center of policymaking
has been co-opted by women’s conservative groups, as well as by conservative legislators (Schreiber 2008, Deckman 2016, Reingold et al. 2015). This co-optation is unsurprising, given the ways that conservative women’s organizations (such as Concerned Women for America) have increasingly focused on women’s economic independence, reproduction and motherhood, and political engagement as important goals. Clearly, the use of feminist rhetoric by conservative women’s organizations and conservative women does not mean their aims are feminist; the use of women-centered, feminist rhetoric is to achieve goals that reinforce, rather than reject, the inequality of women’s rights, status, and condition, as well as patriarchal structures concerning gender, sexuality, and the family (Jesudason and Weitz 2015, Mazur 2002, Reingold et al. 2015). How feminist rhetoric is co-opted—used by social and political conservatives to weaken women’s equality and status in regard to reproduction and research—is an important question in the egg donation regulation system; it also has broader impacts on politics and policy around reproduction in the US.

This is where several strands of gender, partisanship, and feminist policy-making research intersect: if there are no party agendas present in an issue, and partisan women create diverse policy solutions, then there is a story to tell about the ways that gender, partisanship, and legislation on egg donation interact in the US, shaping the overall politics of egg donation. For example, while Republican and Democratic women may agree that egg donation is a pressing issue, they likely have different policy solutions (shaped by their own ideology, by which party controls their chamber, and by the polarization between political parties in their state) for problems that arise from egg donation for reproduction and research. As women legislators have been crucial in
influencing the politics of reproduction more broadly—and there is case-by-case evidence of the importance of women in advocating genetic research at the state level—the story of the politics of egg donation is incomplete without an examination of the diverse ways that gender, partisanship, feminist policy, and issue leadership shape the US system.

**CHAPTER OVERVIEW**

The conventional thinking that the US system of egg donation is the Wild West is incomplete, failing to take into account the state politics of egg donation and the diverse policy outcomes related to egg donation for reproduction versus research. Moreover, current explanations for the US system fail to account for these characteristics of egg donation. What are the politics of egg donation at the state level, and how do gendered norms of femininity in egg donation shape these politics? To answer these questions, I engage in this book with three major areas, analyzing how framing of egg donation plays a key role in the politics and policymaking, particularly through the frameworks of *body politics* and *morality politics*, and how *gender and partisanship* create diverse roles for women legislators in the politics of egg donation. This analysis is the first of its kind to look at egg donation politics over time, and at how women in politics play nuanced and complicated roles in the politics of this “women’s issue” of reproduction, technology, and medicine.

In order to clarify the development of the politics of egg donation in the US, chapter 1 examines the history and politics of egg donation through the lenses of body politics and morality politics, two major frameworks in political science, policy studies, and gender studies. I argue that these frameworks, consid-
ered together, better explain the development and regulation of egg donation in the US than current understanding—particularly that which looks through the lens of historical change in response to the deployment of body and morality politics by stakeholders in egg donation. Since the mid-1990s, egg donation for reproduction has been considered a private, conventional choice to expand one’s family, whereas egg donation for research is couched in fiery debates about fundamental moral principles—discourse that defines stem cell, cloning, and egg donation research as akin to Dr. Frankenstein’s experiments. However, these conventional logics of egg donation have not always been accepted; at different points in history, morality and body politics have gained and lost traction in the US system. To demonstrate the explanatory power of body and morality politics frameworks, I explore the history of scientific research on the human egg, which culminated in the rise of commercial markets in eggs for fertility and research. This chapter builds upon current explanations of the politics of egg donation as the result of privatization (of reproduction, science, and business), abortion politics, or a lack of bioethical discourse, by arguing that body and morality politics shape the US system. Moreover, the history and contemporary oversight of egg donation are more fully explained by the concept that body politics and morality politics create divergent beliefs, attitudes, and ideas about reproductive technologies and research.

The politics of egg donation are created through framing—the process by which issues are defined, debates drawn, and policy solutions created. Chapter 1 introduces how my argument tests the theory that norms of femininity—processed through body and morality politics—shape the process of framing egg donation. Chapter 2 introduces policy narrative analysis, an
interpretive technique of finding “policy stories” in discourse and texts, and explains how and why this method is an effective way of analyzing processes of framing egg donation. This chapter also provides an overview of the cases that I analyze in chapter 3. These case studies—California, New York, Arizona, and Louisiana—provide important insight into the fact that bills about egg donation for reproduction and for research are subjected to different framing strategies related to body and morality politics and, thus, political outcomes. Focusing on the topic of bans on compensation for egg donation, these four cases provide the first comprehensive, comparative analysis of the diverse framing processes, and thus politics and policymaking, about egg donation in the US.

Drawing on policy narrative analysis of egg donation bills, chapter 3 describes and analyzes how stakeholders frame the issues of egg donation for reproduction and research across California, New York, Arizona, and Louisiana. Observing and analyzing bill text, hearings, meetings, press releases, and other legislative materials created by egg donation stakeholders, I lay out the strategies in advocating bans on compensation for egg donation for research (California and New York) and, in all contexts, reproduction and research (Arizona and Louisiana). The subsequent cases rely on gender and norms of femininity that shape body and morality politics frames. Moreover, each of the cases relies on certain narratives of egg donors’ vulnerability to justify policy solutions. Finally, each case demonstrates the moral responsibility of the state and defines the role of the state in regulating some aspect of egg donation. These themes—gender and agency, vulnerability, and the moral responsibility of the state—reflect prevailing attitudes, beliefs, and values in body and morality politics and demonstrate the ways that
diverse political stakeholders use, and co-opt, feminist policy rhetoric.

To further test the theories forwarded in this book, in chapter 4 I examine a third major area of inquiry: gender and partisanship in politics. This chapter demonstrates that states are in fact active on the social issue of egg donation and its implications for medical practices, parentage and kinship, and research. Using an original data set of bills about egg donation across state legislatures in forty-nine states between 1995 and 2010, this chapter identifies the role of body and morality politics in shaping policymaking about egg donation. I also use event history analysis (also known as hazard analysis), which can determine how time-dependent and time-independent variables are implicated in policy change over time, to determine how the introduction and passage of egg donation policy is associated with body politics, morality politics, and state demographics. I argue that, against some conventional thinking found in bioethics and feminist studies, egg donation legislation is predicted by both morality and variables in body politics, lending support to the theory that these frameworks have dual and central influence over the politics and policymaking regarding egg donation in the US. Importantly, this analysis also uncovers the prominence of gendered representation in the politics of egg donation in the US, uncovering surprising and counterintuitive findings about the roles of gender and party identification in agenda-setting on the subject of egg donation and related issues such as parentage, compensation, disposition, and research, among others. Combining theorizing about motherhood and pronatalism in conservative women's representational behavior, this chapter presents new findings about the role of partisan women in representing reproductive and scientific issues, in contrast to current analysis
and theorizing about reproductive issues such as abortion and contraception. Not only has there been a vibrant politics of egg donation across the states in the late twentieth and early twenty-first centuries, but also these politics uncover new truths about the roles of diverse women in politics.

In the conclusion, I return to some of the conventional thinking about the politics of egg donation in the US. Despite more than thirty years of visibility of egg donation regulation in public life—a visibility that has only intensified with the development of new procedures, such as the use of egg donation in stem cell research and cryopreservation—the US is often characterized as having incompletely regulated egg donation in a highly commercialized environment. While egg donation is increasingly part of a constellation of conventional reproductive options, it has emerged as an important political issue connected to questions of morality and first principles. Egg donation for reproduction in recent years has come under scrutiny because fertility clinics may be illegally fixing the price of human eggs, preventing donors from receiving increased sums of money for their donations (Lewin 2015). Websites now connect egg donors to one another and disseminate information about the procedure, particularly in light of the potential health risks of egg donation. Long-standing ethical questions, such as exploitation of egg donors in the US system, remain in the public sphere (Daniels and Heidt-Forsythe 2012). Since the late 1990s, egg donation for genetic research has stimulated a sense of moral panic, causing governors to exclaim that “not everything in life is for sale nor should it be,” and state senators to warn against “endangering our young women’s lives . . . for a massive egg harvesting industry” (Brown 2013, Hamilton 2010). While egg donation for repro-
duction seems unfettered and unregulated, scientific research using human eggs has been a source of vivid political controversy. Although current explanations for the politics of egg donation do draw attention to the ways that we conceptualize privacy, the influence of polarized politics, and the intersection of deliberation and bioethics, the previous chapters observe and analyze egg donation politics in motion, particularly at the state level.

To best confront these future debates, we must examine our own gendered assumptions about the body, sexuality, and reproduction in relation to donors and consumers in the world of egg donation. For donors, definitions of reproductive labor must be confronted. New conceptualizations of this labor must be formulated to keep up with the lucrative, growing industries of egg donation for reproduction and research. Moreover, given that egg donors are in fact the targets of so much policy—and yet are largely silent in this analysis—we must take seriously their role as policy stakeholders in the policymaking process. Little is known about women who donate eggs, and who are often targeted by legislators, but who so rarely speak for themselves in the political sphere. Women face a politics of egg donation in the US that is largely driven by gendered norms of femininity, a politics that does little to help increase their say in the policy that regulates the experiences and transactions. Similarly, consumers of egg donation face a similar scenario: while policies have been developed to represent their interests, many women (particularly disadvantaged women at the intersections of race and class) experience a politics in which policy solutions increase, rather than alleviate, structural inequalities in the experience and financing of infertility treatments, including egg
donation. Through this analysis of reproduction, research, and gender, I argue that political stakeholders must challenge gender norms of femininity, resist the urgings of politics to reinforce inequalities, and create new visions of equality, justice, and representation in the politics of egg donation.