

MARITAL RAPE LAWS, 1976-2002: FROM EXEMPTIONS TO PROHIBITIONS

by

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(Under the Direction of Jody Clay-Warner)

ABSTRACT

Originally, all 50 states legally defined rape as sexual intercourse with a female, not a spouse, forcibly and against her will (Russell 1990). It was not until late in the 1970s, during the second women's rights movement, that state courts and legislatures began abolishing the marital rape exemptions (Bergen 1996). As of 2002, however, only 24 states and the District of Columbia had completely abolished their marital rape exemptions. The purpose of the present paper is to examine the state-to-state variation in marital rape laws. Using conflict theory and research on the process of diffusion to guide the analysis, I examine the social, political, and gender environments of a state that may increase a state's likelihood of completely abolishing their marital rape exemptions. The results from an event history analysis indicate that the social and gender climates of a state significantly affect the likelihood of adopting a marital rape law. Specifically, states with a higher proportion of Whites and states with a higher percentage of women in the labor force are more likely to abolish completely their marital rape exemptions. Additionally, being in close proximity to other states that have abolished completely their marital rape exemptions decreases a state's likelihood of abolishing their exemptions.

INDEX WORDS: Marital rape laws, Rape law reform, Gender (in)equality

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DEDICATION

I would like to dedicate this Thesis to my parents, John and Liz McMahon, who have provided me with all the opportunities necessary to pursue my graduate studies. Thank you for all of your love and support.

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CHAPTER 1

INTRODUCTION

For some, sex is the quintessence of privacy rights, triggering the Fourteenth Amendment's guarantee of freedom from state intrusion. For others, sex is the systematic means through which men subjugate women. Legal responses to sexual violence often shift within a domestic context, suggesting that forced marital sex is something other than rape. Long perceived as a crime of sexual passion, rape is now widely regarded as an act of violence and is prosecuted as such. Rape within marriage, however, falls into a gray area of the American criminal justice system. (Lisa Eskow, 1995: 678-679).

Marital rape, also known as spousal rape or wife rape, first received wide research attention in the United States in the 1980s and 1990s as various women's organizations lobbied to eliminate the spousal rape exemption from the rape laws (Russell, 1990). Prior to the 1970s, all states used the common law definition of rape, which defined rape as carnal knowledge of a female, not a spouse, forcibly and against her will (Bergen 1996; Russell 1990). Under such a law, the spousal exemption specified that it was not a crime for a man to rape his wife. Estimates of the prevalence of marital rape suggest that 10 to 25 percent of women are victims of rape or attempted rape by a current or former spouse (Finkelhor and Yllo 1985; Resnick, Kilpatrick, Walsh and Vernon 1991; Russell 1990). Based upon these estimates, it is apparent that the spousal exemption laws affect a significant number of women.

Similar to other efforts to improve the rights and protections of women, the process of eliminating the marital rape exemptions took several years. Through either legislative changes or judicial decisions, all states had either completely or partially abolished the marital rape exemption by 1993 (Bergen 1996). Although much progress has been made in eliminating such

exemptions, there are still major roadblocks to prosecution in many states for women who have been raped by their husbands (i.e. reporting requirements). While efforts to abolish marital rape exemptions have been discussed under the larger subject of rape law reform, the complex issues surrounding spousal exemptions have often been ignored in an effort to cover all aspects of rape law reform. Interestingly, of all the dimensions of rape law reform, removing the spousal exemptions has received the strongest resistance from legislatures. As Berger, Searles, and Newman (1988) state, the “removal of the spousal exemption has been one of the most difficult law reforms to accomplish” (p. 345). Thus, the factors involved in abolishing the marital rape exemptions warrant a deeper analysis.

Although much has been written about the history of the marital rape exemption and its origin (Hasday 2000; Siegel 1995), very little attention has been given to the processes and forces that have influenced the criminalization of marital rape in each state. In one of the only statements regarding the state-to-state variation in marital rape laws, Finkelhor and Yllo (1985) state:

[the] criminal statutes...vary from state to state with no obvious rhyme or reason. The statutes do all share a heritage in the doctrine inherited from the British in the often cited argument of Matthew Hale,¹ but they have undergone variegated histories of revision and recodification in individual American states...The pattern of state laws does not lend itself to easy explanation. Until the recent advent of lobbying efforts by women’s groups, the pattern seemed to have more to do with quirks of the legislative process (a sympathetic contact on a legislative committee; a hurried vote in the waning days of a session) than any particular underlying sociological or political factor (p. 139).

One may see the merit in Finkelhor and Yllo’s statement when considering the fact that Nebraska, a politically conservative state, was the first state to abolish completely their marital rape exemptions. Unfortunately, the validity of Finkelhor and Yllo’s claim cannot be assessed

¹ “But the husband cannot be guilty of a rape committed by himself upon his lawful wife, for by their mutual matrimonial consent and contract the wife hath given up herself in this kind unto the husband which she cannot retract” (Matthew Hale’s statement quoted in Russell 1990:17).

because a systematic investigation of the pattern of state laws regarding marital rape has yet to be conducted. Contrary to their statement, there are two theories that are based on several sociological and political factors that may be able to account for the timing of marital rape legislation in each state.

One possible explanation for the timing of a state's adoption of marital rape laws can be found in the literature on conflict theory and gender inequality. Conflict theory suggests that laws are created to protect and serve the interests of those in power (i.e., white males) (Chambliss 1979; Quinney 1970) and research on gender inequality suggests that states with lower levels of gender equality are less likely to pass legislation that serves to protect and extend the rights of women (Caiazza 2002; Ramirez and McEnaney 1997; Thomas and Welch 1991). A second explanation for the timing of the criminalization of marital rape can be found in the diffusion literature. Theories of diffusion purport that the timing of the adoption of an innovation depends in part on a state's spatial proximity to a state that has already adopted the innovation as well as on the cultural similarities between the two states (Strang and Meyer 1993; Strang and Tuma 1993).

The purpose of the present paper is to address the following questions: Can conflict theory provide a useful framework for explaining the state-to-state variation in marital rape laws? Since conflict theory does not consider the possible influences of the laws in neighboring states, does adding spatial proximity help to explain more of the variation in marital rape laws? Specifically, these questions involve investigating what social, political, or gender characteristics of states increase their likelihood of criminalizing marital rape and if being in close proximity to other states that have adopted a marital rape law increases a state's likelihood of adopting the same legislation. With this research, I attempt to fill in the gap in the existing literature and to

better understand the social and political conditions conducive to legal changes regarding the rights and protections of women.

In the first part of the paper, I briefly explain the original purpose of (or justification for) the spousal exemption in rape cases. I then track the changes in the laws regarding marital rape in the United States and discuss these changes in the context of the larger rape reform movement. Next, I discuss research findings regarding the social and political factors that have influenced the adoption of women's suffrage and other laws regarding the rights of women. In the third part of the paper, I review the basic tenants of conflict theory and present two studies that have used variables related to conflict theory to examine aspects of the social and political environment that have played a role in the passage of general rape law reforms, including rape shield statutes. In the latter part of this section, I discuss how research on the process of diffusion can help us better understand law reforms. Finally, in the last part of the paper, I analyze the relationship between theoretically grounded measures of the social, political, and gender environment and the likelihood of a state adopting a marital rape law. The effects of spatial proximity will also be analyzed.

CHAPTER 2

HISTORY OF SPOUSAL RAPE LAWS

Before addressing the efforts to abolish the marital rape exemptions, a discussion of the origin of the spousal exemptions is warranted. Since women were considered to be the property of men, the crime of rape was originally prosecuted as a property crime and a husband could not be prosecuted for raping his wife (Pagelow 1984). Although feminists were successful in attaining many rights for women, including property rights, during the first women's rights movement, their challenges to the marital rape exemptions were not successful (Hasday 2000). It was not until the second women's rights movement, which included the rape law reform movement, that lawmakers began to abolish the marital rape exemptions (Russell 1990). In this chapter, I review the history of the marital rape exemptions and discuss the grounds on which feminists challenged these exemptions. After tracking the changes in states' marital rape laws, I discuss the rape law reform movement and its limited success in completely abolishing the marital rape exemptions.

Origin of Spousal Exemptions

To understand the justification for exempting husbands from rape prosecutions, it is necessary to address the origins of both marriage laws and rape laws. In the 8th century B.C., the first marriage law was created in Rome, and it specified for "obliged married women, as having no other refuge, to conform themselves entirely to the temper of their husbands and the husbands to rule their wives as necessary and inseparable possessions" (Sonkin 1987:6). In other words, women were considered to be the property of men, and it was through the marriage contract that

a woman was transferred from the property of her father to the property of her husband. The influence of the Roman marriage laws can be seen in the common law principles of coverture, which regulated the rules of marriage in the nineteenth century in the United States (Hasday 2000). “Coverture united husband and wife by subsuming a married woman’s civil identity and according husbands wide-ranging control over their wives” (Hasday 2000: 1389). Through the unity of husband and wife in marriage, man and woman became one under law, and that law only recognized the rights of the husband (Augustine 1991, citing William Blackstone, Commentaries *442). Indeed, prior to the passage of the Married Women’s Property Acts in the mid 1800s, married women were not able to own property, enter into contracts, keep their own earnings, or sue (Hasday 2000; Williams 1982). On the other hand, in addition to having all of the rights and privileges denied to women, men² also had the right to chastise their wives and force sexual intercourse upon them (Hasday 2000; Williams 1982).

Given that women were considered to be the property of men, rape laws were originally created to protect the father’s or husband’s property – a daughter or wife (Pagelow 1984). Rape was considered to be a property crime, not a violent crime, and laws against rape were designed to protect the chastity of a woman, for a woman’s chastity determined her value. “Rape of an unmarried woman rendered her unmarriageable because her value to future husbands was destroyed, while rape of a married woman brought disgrace upon her husband and family” (The Harvard Law Review Association 1986:1257). Thus, rape was a crime against the father or husband, not against the woman or her body, for the perpetrator damaged the man’s property. Under the original rape laws, a man could not be charged with raping his wife, since this would be considered destruction of his own property. What this meant, then, was that he could do as he wished with his own property, including forcing his wife to have sex.

² More specifically, white men

The justification for the marital rape exemption was explicitly stated in the 17th century by England's Chief Justice, Sir Matthew Hale (Russell 1990). Hale stated,

But the husband cannot be guilty of a rape committed by himself upon his lawful wife, for by their mutual matrimonial consent and contract the wife hath given up herself in this kind unto the husband which she cannot retract (Russell 1990:17).

This reasoning indicated that the marriage contract served as a woman's "implied" and "irrevocable" consent to sex with her husband (Eskow 1995). Although Hale's statement held no authority nor did it reflect any court decision, the United States' marital rape exemption laws strongly reflected Hale's statement (Russell 1990).³

Women's subordination to men was challenged by the first women's rights movement in the United States, which began with the Seneca Falls Convention of 1848 (Elizabeth Cady Stanton– History of Woman Suffrage (1881), as cited in Hasday 2000). Although much success was gained during the women's rights movement, as evidenced by the passage of the Married Women's Property Acts and Women's Suffrage, the efforts to abolish the marital rape exemptions fell short (Hasday 2000). During this time, feminists advocated for the right to have control over their bodies and the right to refuse sex with their husbands. Feminists were successful in raising awareness about the negative consequences of marital rape and generating discussions that encouraged men to stop engaging in such abusive acts toward their wives, but there was strong opposition to legally recognizing rape within marriage (Hasday 2000). Much of this opposition arose from the unwillingness of lawmakers to acknowledge the existence of

³ Commenting on Matthew Hale's influence on rape laws in the United States, Eskow (1995) states, "Lord Matthew Hale, Chief Justice of England in the seventeenth century, set the tone for rape prosecutions with his infamous, and shockingly enduring, observation that 'rape...is an accusation easily to be made and hard to be proved, and harder to be defended by the party accused, tho never so innocent.' Hale's comment, casting the alleged rapist as a likely victim, is far from a jurisprudential relic; it remained a mandatory jury instruction in California rape trials until as recently as 1975 and can still be introduced in many jurisdictions at a judge's discretion" (p. 679). Just as Hale's statement had a direct influence on jury instructions in rape trials in the United States, Hale's statements regarding marital rape greatly influenced the marital rape exemptions in the United States.

abuse within marriage as well as from the development of the separate spheres ideology (The Harvard Law Review Association 1986; Williams 1982).

As the law began to recognize the rights of women, the separate spheres ideology developed and clarified that the rights of women were not equal to the rights of men. Based upon the separate spheres ideology, men were seen as occupying the public sphere, operating the political and economic systems, while women were relegated to the private sphere, handling the responsibilities of family life (Taub and Schneider 1982). In this system of social relations, there was no overlap between the two spheres. The politics of the state existed outside of the private sphere of the home; therefore, the state did not intervene in private matters. Instead, women were restricted to the home and their rights were limited. As researchers have noted, “the separate spheres ideology helped shape the notion that any legal intrusion upon the woman’s sphere constituted an illegitimate public invasion of the private sphere” (The Harvard Law Review Association 1986:1258). Because the issue of marital rape was seen as a private matter, the separate spheres ideology was used by lawmakers to justify their opposition to eliminating the spousal exemptions from the rape laws (The Harvard Law Review Association 1986). Today, remnants of the separate spheres ideology can be found in modern justifications for marital rape exemptions.

Efforts to Abolish the Marital Rape Exemptions

Although the first women’s rights movement failed to abolish the marital rape exemptions, the second women’s rights movement made major advancements (Russell 1990). Up until the 1970s, all 50 states legally defined rape as sexual intercourse with a female, not a spouse, forcibly and against her will (Russell 1990). The words “not a spouse” served as the marital rape exemption. It was not until the 1970s, during the second women’s rights movement,

that the marital rape exemption received serious attention from courts and legislatures in the United States (Bergen 1996). Challenged on the grounds that it did not provide equal protection for all women, the marital rape exemption was abolished by some states as early as the late 70s and early 80s (Russell 1990). In 1976, Nebraska became the first state to abolish completely its marital rape exemption (Finkelhor and Yllo 1985), followed by Oregon in 1977 and New Jersey in 1979 (Russell 1990).

During the 1980s, many states were actively working to change their marital rape laws. By 1985, twenty states considered it a crime for a husband to rape his wife (Finkelhor and Yllo 1985); these states were California, Connecticut, Delaware, Florida, Hawaii, Iowa, Kansas, Massachusetts, Minnesota, Nebraska, New Hampshire, New Jersey, New York, North Dakota, Oregon, Pennsylvania, Washington, Wisconsin, West Virginia, and Wyoming (Finkelhor and Yllo 1985). Three states – Arkansas, Georgia, and Mississippi – were considered “silent states” because they never had official statutes exempting marital rape prosecutions; rather, there was an implicit assumption that husbands could not be charged with rape. The remaining twenty-seven states had different types of marital rape exemptions – either absolute exemption or partial exemption (Finkelhor and Yllo 1985). Four of these states – Alabama, Illinois, South Dakota, and Vermont - had absolute exemption laws that indicated that a husband was immune from being convicted for raping his wife under all conditions until there was a legal divorce. Eight states – Kentucky, Louisiana, Maryland, Missouri, North Carolina, Rhode Island, South Carolina, and Utah - had a partial exemption law that required a legal separation in order for spousal rape to be considered a crime. In ten states – Alaska, Arizona, Colorado, Idaho, Maine, Montana, New Mexico, Oklahoma, Texas, and Virginia – the partial exemption law recognized spousal rape as a crime if the husband and wife were living apart (regardless of their legal

separation status). In sum, despite the efforts to abolish the marital rape laws, by the mid to late 1980s, many states still had partial exemptions, meaning that it was *not* a crime for a husband to rape his wife while they were living together.

It was not until 1993, when North Carolina finally eliminated the marital rape exemption from its rape statutes, that spousal rape became a crime in all 50 states *under at least some conditions* (Bergen 1996; Finkelhor and Yllo 1983; Russell 1990). Although spousal rape was recognized as a crime in all 50 states, there were still major limitations to spousal rape laws in most states. Even today, only 24 states and the District of Columbia have no exemptions, indicating that it is *illegal* for a man to rape his wife under *all* conditions. In 26 states, however, there are still a few limitations to the marital rape law. Specifically, in twenty states,⁴ a husband may be exempt if his wife is unable to legally consent because she is mentally or physically impaired, unconscious, or asleep (Anderson 2003; Bergen 1996). In fifteen states,⁵ there are additional requirements for spousal rape that are not necessary for non-spousal rape cases (Anderson 2003). For example, in some states, a husband may be exempt if his wife does not suffer from serious injuries as a result of the rape (Flowers 2000). Also, there are special requirements for the reporting of marital rape that are not required in other types of rape cases. For example, Illinois and South Carolina require marital rape victims to report the crime within 30 days and California requires a report to be made within one year of the assault (CAL. PENAL CODE §262; ILL. COMP. STAT. ANN. §5/12-18(c); S.C. CODE ANN. 1976 §16-3-615). Additionally, in many states, spousal rape does not hold as severe of a penalty as “traditional” rape and/or marital immunity still exists for other sexual offenses (i.e. sexual abuse, sexual

⁴ Alaska, Arizona, Connecticut, Hawaii, Idaho, Iowa, Louisiana, Maryland, Michigan, Minnesota, Mississippi, Nevada, Ohio, Oklahoma, Rhode Island, South Carolina, South Dakota, Tennessee, Virginia, Washington

⁵ Alaska, Arizona, California, Connecticut, Idaho, Illinois, Maryland, Minnesota, Mississippi, Nevada, Ohio, Oklahoma, South Carolina, Tennessee, Virginia

assault, etc). In sum, although the laws regarding marital rape have drastically changed over the past 20 years, there are still major advancements that must be made to make marital rape equivalent to non-spousal rape.

Rape Law Reform

Efforts to eliminate the spousal rape exemptions did not occur in a vacuum. Instead, the attention to spousal rape arose out of a larger effort to reform several aspects of the existing rape laws (Marsh, Geist and Caplan 1982). Beginning in the early 1970s, advocates for rape law reform sought several instrumental goals: (1) to redefine the crime of rape to extend its coverage to previously excluded persons (i.e., victims of spousal rape, male victims, and victims of same-sex assault) and to recognize other forms of sexual assault (i.e., forced object penetration, forced oral or anal sex, forced sexual contact, etc.); (2) to eliminate legal requirements for rape cases that were not required for other violent crimes (i.e., evidentiary requirements such as the corroboration requirement and proof of resistance requirement); (3) to change the penalty structure in rape cases to include different degrees of the offense (i.e., 1st degree rape through 4th degree rape) according to the seriousness of the offense and to require mandatory minimum sentences; and (4) to establish “rape shield” laws that would prohibit the use of irrelevant information regarding the victim’s past sexual history in court (Berger et al. 1988; Horney and Spohn 1991; Marsh et al. 1982). Discussing the relative success of such rape law reforms, Russell (1990) states:

the women’s movement was very successful in drawing public attention to the issue of rape in the early 1970’s, and equally successful in pressuring for changes in the laws pertaining to extramarital rape...However, these reforms did not sail through the state legislative bodies; rather they came after a considerable grass-roots lobbying effort by a coalition of feminists and law and order groups... [and]...there seems to have been an even greater reluctance to change laws condoning wife rape (p. 18).

Since Michigan was the first state to pass successfully rape law reform legislation in 1974, Marsh et al. (1982) provide a detailed analysis of the processes involved in the passage of this legislation. Among the numerous factors conducive to the passage of this legislation, Marsh et al. (1982) point to the establishment of a rape crisis center, the formation of the Michigan Women's Task Force on Rape, and the drafting of proposed rape reform legislation. Interestingly, when presented with the proposed rape reform legislation, the Judiciary Committee strongly opposed the portion of the legislation that would allow wives to bring charges of rape against their husbands, prompting the Committee to draft a revision. As Marsh et al. (1982) explain:

In this version, the sexual history evidentiary section and spousal protection clause had been excised. One senator said that if spouses could charge rape, married women would use the law in divorce proceedings in order to win property settlements, and that such a provision would discourage reconciliation...Although the evidentiary section and protection for separated spouses were eventually reinstated, Task Force members compromised and accepted the spousal exclusion in order to win passage of the rest of the bill (p. 15).

Thus, in the early efforts to pass rape reform legislation, removing the spousal exemptions had to be omitted from the agenda in order to pass the other reforms.

Why was there such strong opposition to removing the spousal exemptions from the rape laws, while other reforms were more easily accepted? As evidenced in the Michigan case (Marsh et al. 1982) and as mentioned by other researchers (Berger et al. 1988), the fear that "vindictive wives" would falsely charge their husbands with rape in divorce proceedings is often given as the main reason for not eliminating the spousal exemptions. Berger et al. (1988) also view the opposition to eliminating the spousal exemption as evidence of legislatures' reluctance to intervene in the "private sphere" of the home. Others (Anderson 2003) point to sexist attitudes of legislatures as the driving force behind such strong opposition.

In one of the most comprehensive and extensive reviews of the marital rape laws to date, Michelle Anderson (2003) points to several traditional and modern justifications that have been used to support marital rape exemptions. Specifically, Anderson points to the assumption of ongoing consent (also referred to as “implied consent,” “generalized consent,” and “implied authorization”) to sex in marriage as one of the main justifications for marital exemptions. Although this assumption is based on Matthew Hale’s outdated statement (mentioned earlier), Anderson states that the implied consent assumption underlies the requirement of divorce or separation that exists in several rape statutes. Pointing to more contemporary justifications, Anderson (2003) claims that “the marital exemption for mentally incapacitated rape, unconscious rape, and sexual offenses without extra force...rests on the assumption that, because of the ‘implied authorization’ granted by marriage, spousal sexual offenses that do not involve serious physical force are not important enough or harmful enough for the justice system to criminalize” (p. 1497). Additionally, Anderson attributes the reporting requirements and lesser penalties for spousal rape cases to be evidence that these cases are not as serious as other violent crimes, including other rape cases. Other modern justifications include the claim that marital rape cases are just too hard to prove in court. In sum, despite the early advancements in general rape law reforms, efforts to eliminate the marital rape exemptions have faced strong opposition and many of the modern justifications are based upon outdated assumptions.

Although the history of the marital rape exemptions and a review of the efforts to abolish these exemptions are useful for contextualizing the state-to-state variation in marital rape laws, there is still a need to understand why some states have abolished completely their marital rape exemptions while other states have retained partial exemptions. In the next chapter, I review previous research that has identified several social and political factors related to the passage of

women's rights legislation. In turn, I use this research to offer some insight into the social and political factors that may be related to abolishing completely the marital rape exemptions.

CHAPTER 3
POLITICAL AND SOCIAL FACTORS RELATED TO
WOMEN'S RIGHTS LEGISLATION

After reviewing the history of marital rape laws and the efforts to abolish the spousal exemptions, the question arises as to why it took so long for the law to recognize and protect married women from being raped by their husbands. Research on the social and political factors related to the passage of other women's rights legislation may be able to offer some insight into the conditions favorable to abolishing the marital rape exemptions. In this chapter, I review research on the passage of women's suffrage (McCammon, Campbell, Granberg and Mowery 2001; Ramirez and McEnaney 1997), abortion laws (Ramirez and McEnaney 1997), the Equal Rights Amendment (Soule and Olzak 2004), and other women's rights legislation (Caiazza 2002) to identify the social and political factors that increase a state's likelihood of passing legislation that supports and protects the rights of women. Using findings from this research, I offer several possible explanations for the state-to-state variation in marital rape laws.

To understand the status of the marital rape laws, I first turn to Catherine MacKinnon's (1989) work, *Toward a Feminist Theory of the State*. MacKinnon (1989) proposes that laws, especially laws regarding rape and sexual harassment, are a reflection of male dominance. These laws are created from the male point of view, and the state acts to maintain the social order to the benefit of men. In a social system where women are structurally inferior to men and deprived of power, men create laws that reflect this social system and, in turn, perpetuate women's subordination. Here, the law protects male power by maintaining men's control over women

(MacKinnon 1989). Explaining the relationship between gender, power, and law, MacKinnon (1989) states:

Those with power in civil society, not women, design its norms and institutions, which become the status quo. Those with power, not usually women, write constitutions, which become law's highest standards. Those with power in political systems that women did not design and from which women have been excluded write legislation, which sets ruling values (p. 238).

According to MacKinnon, the marital rape exemptions have existed for so long because men created these exemptions and they serve to protect men's interests, however, MacKinnon does not offer any explanation for why some states have abolished successfully their exemptions while others have retained their spousal exemptions.

Although MacKinnon (1989) fails to provide an analysis of the factors conducive to legal change for women, other researchers (McCammon et al. 2001) have offered some convincing arguments that can be used to analyze the changes (or resistance to changes) in the marital rape laws. McCammon et al. (2001) suggest that the "gendered opportunity structure" plays a large role in determining the success or failure of proposed legislation regarding the rights and protections of women. McCammon et al. (2001) define gendered opportunities as "opportunities emerging from changing gender relations and altered views about gender" (p. 66). They argue that as gender relations change, attitudes towards women change and affect the decisions of policymakers. More specifically, as more women participate in the public sphere (i.e. labor force, politics, etc.), there is an increased likelihood that legislators will support policies that extend the rights and protections of women.

To understand the development of rape law reform regarding the marital rape exemption, it is helpful to look at the development of other laws regarding women. Several researchers (Caiazza 2002; Ramirez and McEnaney 1997; Thomas and Welch 1991) have examined the

changing status of women by looking at women's increased participation in the labor force and their increased representation in state legislatures. Using cross-national comparisons of the rate of adoption of women's suffrage and the liberalization of abortion, Ramirez and McEnaney (1997) concluded that the political and economic status of women has a significant effect on the rate of adoption of women's suffrage and abortion laws. Specifically, the researchers found that countries with a higher proportion of women working in the paid labor force were more likely to adopt liberalized abortion laws. Also, countries with a higher number of women's political organizations had higher rates of adoption of women's suffrage. Thus, women's participation in politics and in the paid labor force seems to increase the likelihood of the adoption of laws favorable to women.

Women's increased participation in politics can be seen in the increase in the number of women state legislators. In the early 1970s, only 5 percent of the state legislators were women (Thomas and Welch 1991), but by 2002, women made up 22 percent of the state legislators. With such an increase in representation, women have gained a greater ability to influence policies. From interviews with male and female state legislatures, Reingold (1992) found that female legislators were more likely than male legislators to be committed to advancing women's interests. Additionally, Thomas and Welch (1991) surveyed male and female legislators from various states and found that female legislators not only supported women's interests more than male legislators, but that these issues were given a higher priority by the female legislators compared to the male legislators.

Despite the fact that there are more women legislators than in the past and that women legislators are more likely to represent women's issues, these women legislators are still far outnumbered by their male counterparts. So, the question remains, while women have gained

access to positions of political power, have they also gained the *ability* to influence policies concerning women? To answer this question, Caiazza (2002) examined the proportion of women in the state legislature and other elected offices for each state and the number of “women-friendly” policies each state had adopted. Policies included in Caiazza’s analysis included legislation aimed at advancing and/or protecting the rights of women in regards to domestic violence and sexual assault, child support, welfare, employment/unemployment benefits, reproductive rights, hate crimes, and same-sex marriages/civil unions. Caiazza found that states with higher proportions of female representatives had significantly more of these women friendly policies. Thus, as women have entered into positions of power, they have been able to influence laws in favor of women and this may be true for abolishing marital rape exemptions. Siegal (1995) states, “with more women making law, there will arguably be a greater concern and awareness for issues which affect women. This may spur the awareness of women and men that marital rape should be a crime and that married women do have the right to choose how to use their own bodies” (p.11).

Researchers have also identified several aspects of the political environment that are conducive to the success of legislation advancing the rights and protections of women (McCammon et al. 2001; Soule and Olzak 2004). Examining the success of state level ratification of the Equal Rights Amendment (ERA), Soule and Olzak (2004) found that states with a more liberal government ideology were more likely to ratify the ERA. Also, states with a high percent of Democrats in the state legislature were more likely to ratify the ERA when these states also had a high number of American Association of University Women (AAUW) chapters. According to Soule and Olzak (2004), their findings indicate that having elite allies

(Democrats in the state legislature) was an important factor in determining the success of social movements aimed at passing the ERA.

In reviewing the literature on the advancement of the legal rights of women, it is apparent that several key factors have played a role in the success of such legislation and these same factors may affect the criminalization of marital rape as well. Recognizing the extent to which the states differ in terms of their political and economic climates, a clear pattern develops in regards to policies concerning women. Where women are active members in the labor force and the political system, progressive legislation protecting the rights of women can be found (Caiazza 2002; Ramirez and McEnaney 1997). As women break through the “separate spheres” both literally and ideologically, a system of gender equality is more likely to develop. These findings support McCammon et al.’s (2001) hypothesis that the gendered opportunity structure has a significant effect on the success or failure of policies concerning women. Research also indicates that having a more liberal government ideology and a high percent of Democrats in the state legislature increases the likelihood that states will adopt women’s rights legislation (Soule and Olzak 2004). Based upon these previous analyses, it would logically follow that states with higher proportions of women active in the political and economic systems would be more likely to abolish their marital rape exemptions. Also, having a higher percent of Democrats in the state legislature and a more liberal government ideology may increase a state’s likelihood of abolishing their marital rape exemptions.

A review of the literature on the passage of women’s rights legislation provides some insight into the social and political factors that may be related to the passage of marital rape laws. In the next chapter, I review two theoretical perspectives, conflict theory and research on the

process of diffusion, to provide a framework for analyzing the factors that may affect a state's likelihood of abolishing their marital rape exemptions.

CHAPTER 4

CONFLICT THEORY AND THE PROCESS OF DIFFUSION

Although there is empirical evidence to suggest that certain social and political factors may affect a state's likelihood of abolishing their marital rape exemptions (Caiazza 2002; McCammon et al. 2001; Ramirez and McEnaney 1997; Soule and Olzak 2004), situating the analysis of marital rape laws in different theoretical perspectives can provide a more fruitful analysis. In reviewing the history of the spousal rape exemptions (Eskow 1995; Hasday 2000; Siegel 1995), it is clear that these exemptions have served to protect the interests of men over the interests of women. Since conflict theory focuses on the power inequalities between different groups (Chambliss 1993; Quinney 1970; Vold, Bernard and Snipes 2002), I first turn to conflict theory to guide my analysis of the state-to-state variation in marital rape laws. Conflict theory, however, does not take into account how states can influence each other's policies. After discussing conflict theory, therefore, I turn to the research on the process of diffusion (Grattet et al. 1998; Strang and Tuma 1993; Soule and Earl 2001; Soule and Zylan 1997) to examine the possible effects that other states can have on a state's likelihood of adopting a particular policy.

Conflict Theory

Conflict theorists have offered some insights into the lawmaking process that may provide a useful framework for exploring why some states have criminalized marital rape while other states have retained their marital rape exemptions. Explaining why certain behaviors have been criminalized while others have not, conflict theorists purport that laws are created to serve and protect the interests of those in power (Chambliss 1993; Quinney 1970; Vold et al. 2002).

Those who hold the most lawmaking power are those who “produce legislative majorities” (Vold et al. 2002:230). Historically and still today, white, middle-class men have dominated the lawmaking bodies in the United States. As Quinney (1970) states, “law is made by men, representing special interests, who have the power to translate their interests into public policy” (p. 35). As a result, many laws in the United States have been created to serve the interests of white, middle-class men at the expense of the less powerful groups in society.

Those in the position to make laws, however, must respond to the contradictions, conflicts, and dilemmas that arise between groups as a result of the existing laws and the existing social system. As a result, conflict theorists contend that law creation is a “process aimed at the resolution of contradictions, conflicts, and dilemmas that are historically grounded in time and space and inherent in the structure of a particular political, economic, and social structure” (Chambliss 1993:9). Chambliss (1993) points to laws denying women the right to work or vote as examples of how lawmakers must respond to the conflicts and dilemmas that result from contradictions existent in the social system. When women began to challenge vehemently their institutionalized oppression, the lawmakers (men) had to address these conflicts and dilemmas. Commenting on women’s struggle for equality, Chambliss (1993) states:

It was the overt conflict generated by women willing to undergo humiliation, torment, imprisonment, and even death in the struggle for equality in law and in society that wrought what changes have occurred. People responded to institutionalized contradictions between the ideology and the reality of the political and economic relations of the time. In the 1800s, as in the 1900s, the institutions perpetuated themselves with their built-in biases and blatant sexism so long as they were not challenged. Even when they were challenged, the changes were slow and piecemeal (p. 13).

During periods of changing structural conditions, contradictions and conflicts are likely to arise and present the need for changes in the existing laws. In fact, once women gained the rights to work and vote, additional contradictions and conflicts arose regarding their status in the private

sphere. Specifically related to marital rape, although women had gained certain rights in the public sphere, they still did not have certain rights in the private sphere, namely the right to refuse sex with their husbands. With their increased presence and power in the public sphere, however, women may gain the ability to influence policies concerning their rights in the private sphere. As Vold et al. (2002) state, “the greater a group’s political and economic power, the more the criminal law in general tends to represent the values and interests of that group” (p. 241).

In McGarrell and Castellano’s (1993) integrative conflict model, there is particular emphasis on how the structural foundations of society (i.e. gender and racial composition, economic status, political climate and ideology) affect the law formation process. Specifically, McGarrell and Castellano (1993) purport that societies characterized by greater levels of heterogeneity (racial, gender, religious, urban/rural), inequality (economic, political), and deteriorating economic systems have greater levels of contradictions, conflicts, and dilemmas, thus, these conflicts must be resolved by the criminal justice system. Here, the actions of the least powerful are more likely to be criminalized and the behaviors of the most powerful are less likely to be criminalized. As the most popular argument regarding the effects of the social climate, the “racial threat hypothesis” suggests that as the minority population of a state increases, the state will be more likely to pass legislation criminalizing the behavior of minorities (see Eitle, D’Alessio and Stolzenberg 2002 for a review of the various “threat hypotheses”). Once the minority population reaches parity with the white population, however, there should be a decrease in such legislation.

Conflict theorists also recognize the power of interests groups, such as those that formed during the women’s rights movements, in affecting the lawmaking process (Chambliss 1993;

Quinney 1970; Vold 2002). Quinney (1970) argued that there are various segments of society that have different values, norms, and ideologies and some segments will organize together to advocate for their own self-interests. McGarell and Castellano (1993) contend that the mobilization of interest groups may increase the likelihood of the passage of a certain type of criminal law reform.

McGarell and Castellano (1993) also recognize that other factors, such as the overall crime rate and media attention to crime, may also affect the criminalization of certain behaviors. Given that citizens who live in areas that have high rates of crime often have a high fear of crime, there is additional pressure on policymakers to “get tough on crime.” In sum, in McGarell and Castellano’s integrative conflict model, one must consider the combined effects that the general structural foundations in society, perceptions of crime, and interest groups have on the creation of public policies.

Conflict Theory and Rape Law Reforms

To date, only two studies (Berger, Neuman and Searles 1991; Call, Nice and Talarico 1991) have used variables related to conflict theory to assess the success of the passage of rape law reforms. More specifically, these researchers examined the social and political factors that have contributed to the success of rape law reform. Call et al. (1991) identified several features of state politics and policymaking that may influence the strength of the rape shield law adopted by each state. Specifically, the researchers examined the effects of the crime rate, political ideology, perspectives on women, socioeconomic factors, and the judicial environment of each state on the strength of the rape shield laws. Overall, the results from Call et al.’s (1991) study indicate that political and socioeconomic factors do help to account for the differences in rape shield laws. Call et al. (1991) found that strong rape shield laws were found in states with more

liberal ideologies, partisan judicial selection systems, large Baptist populations, large black populations, and in states that are more sparsely populated.

Call et al.'s (1991) findings suggest that differences in states' political and social environments can account for the variation in the strength of rape shield laws between the states. Consistent with research on women's rights legislation, Call et al. demonstrate that states with more liberal Democratic parties and liberal electorates tend to support legislation that seeks to serve and protect the interests of women, including legislation concerning rape laws. Although Call et al. (1991) provide some evidence for the claim that states' political and social environments play a significant role in the passage of legislation regarding rape laws, their study did not examine the role that gender inequality may play in those processes.

In a more comprehensive analysis of state adoption of rape law reforms, Berger, Neuman, and Searles (1991) examined the effects of gender equality and the political culture in each state on the adoption of rape law reforms. Whereas Call et al.'s (1991) study only included one dimension of rape law reform, Berger et al.'s (1991) study examined four dimensions of rape law reform (the definitional dimension, consent dimension, evidence dimension, and spouse dimension).⁶ Berger et al. (1991) included 11 different components of rape law reform and created an overall rape law reform index for each state as well as four separate indexes for each of the four different dimensions of rape law reform. A separate measure of whether the statute criminalized nonconsensual sexual contact not involving force or other extreme circumstances was also included.

⁶ The definitional dimension relates to whether the statute defines rape in gender neutral terms, uses terms such as sexual assault or sexual battery instead of "rape," or defines the offense on a continuum of the degree of seriousness, the consent dimension relates to whether the statute prohibits the cohabitant – voluntary companion exemption and the mistake-of-age and mistake-of-incapacitation defense, the evidence dimension relates to whether or not the statute allows the victim's past sexual history to be admissible in court, and the spouse dimension relates to whether the statute removed the spousal exemption or put limitations on the spousal exemption.

Berger et al. (1991) found that one of their feminist/gender indexes (including measures of NOW membership, political-legal resource organizations, women legislatures, economic equality, and legal equality) was related to the criminalization of nonconsensual sexual contact not involving force or other extreme circumstances. One of the political environment indexes (including measures of general policy liberalism, political ideology, and religious fundamentalism) was negatively related to the consent dimension and positively related to the evidence dimension. The increase in the rape rate was related to the overall rape reform index and the definition dimension. The rape rate was also related to statutes that either removed the spousal exemption or put limitations on the spousal exemption.

Berger et al.'s (1991) study offers some insight into the social forces involved in the passage of rape law reforms. Their results indicate that states with higher levels of gender equality in the economic and legal arenas have had greater success in passing rape law reforms. Their findings, however, were mixed in regards to the effects of the political culture. Although their study greatly contributes to the knowledge and research on the social and political factors that effect legislation concerning the rights of women, a few limitations of their study must be noted.

Although Berger et al. (1991) did not find any significant effects of the gender and political factors on the strength of each state's marital rape law, it is important to note that this finding is limited by the fact that their study was based upon the status of these laws in 1986. At that point, there were still changes being made to marital rape laws nationwide. In fact, many of the marital rape laws did not change until the mid 1980s and on into the 1990s. Thus, Berger et al.'s analysis of the spousal rape laws was a bit premature. Another major limitation of Berger et al.'s (1991) study is that it was based on cross-sectional data, which does not allow for an

analysis of the changing nature of gender equality and the overall political culture within each state. Additional research is needed to test the effects of gender equality and the political culture on the elimination of marital rape exemptions in each state. This research should utilize longitudinal data, from the point in time when the first state abolished completely its marital rape exemption up until the year of the last reform of a state's marital rape law.

Law Reform and the Process of Diffusion

Although previous research has found that the social and political environment has played a major role in the successful adoption of laws regarding women's rights, other researchers suggest that the process of diffusion can explain the probability and timing of legislation (Grattet et al. 1998; Strang and Tuma 1993; Soule and Earl 2001; Soule and Zylan 1997). Rogers (2003) defines diffusion as "the process in which an innovation is communicated through certain channels over time among the members of a social system" (p. 5). Diffusion researchers suggest that policymakers, not knowing the optimal policy to adopt, often look at the policies adopted by nearby states to help them draft and make decisions about certain policies (Grattet et al. 1998). In an explanation of the process of diffusion, Grattet et al. (1998) state:

Because policymakers have a limited understanding of what constitutes optimal policy, especially in terms of acceptability to key constituencies, selecting policy is highly contingent on information available from other policymaking bodies. One strategy in such a context is for policymakers to mimic policies adopted by other policymakers with which they frequently interact or have close ties...[and] units possessing similar self-images (i.e. that see themselves as occupying a similar cultural category) also tend to adopt similar policies" (p. 288).

Indeed, research on policy innovation suggests that being in close proximity to other states that have already adopted a particular policy increases a state's likelihood of adopting a similar policy (Strang and Tuma 1993). In other words, the likelihood of adopting an innovation depends upon a state's proximity to the source of diffusion, other states that have already

adopted the innovation. In addition to the spatial proximity, the temporal proximity (or the amount of time since the first state adopted a law) also influences a state's rate of adoption of a law. Furthermore, the "cultural linkages" between two states affect the rate of adoption of an innovation (Strang and Meyer 1993). If a state has many cultural similarities to a state that has adopted a particular policy, then there will be a greater likelihood that that state will also adopt that policy.

In conceptualizing different models of diffusion, Strang and Tuma (1993) present the multiplicative model of diffusion which incorporates both measures of a state's "intrinsic" rate of adoption and the effects of the process of diffusion. A state's intrinsic rate of adoption, or the "propensity" effects, refers to the internal structural covariates that may affect the rate of a state's adoption of a particular policy (Strang and Tuma 1993). The internal structural covariates used in diffusion research to measure the propensity effects often include factors such as a state's citizen ideology, policy innovativeness, racial composition of the state, etc. The process of diffusion, or the "proximity" effects, refers to a state's proximity to other states that have already adopted a particular policy (Strang and Tuma 1993). Soule and Zylan (1997) state that the "proximity effects are those that are the effects of diffusion" (p. 745). Although it is necessary to account for propensity effects, diffusion researchers point to the proximity effects as the main determinants of the probability and timing of a state's adoption of a particular policy.

In an empirical test of the diffusion processes, Grattet et al. (1998) found that cultural linkages and regional proximity between states increased the rate of adoption of hate crime legislation. Including measures of each state's propensity to adopt such a law, the researchers found that states with higher percentages of liberal voters and higher levels of policy innovativeness had significantly higher rates of adoption of hate crime legislation. In a related

study, Soule and Earl (2001) found that states with higher per capita incomes, higher percentages of Democrats in the state legislature, and higher levels of policy innovativeness are more likely to adopt criminal hate crime legislation.

Conflict Theory and Spatial Proximity: The Case of Marital Rape Exemptions

In reviewing the literature on two separate theoretical perspectives that address the adoption of public policies, several assumptions can be made about what factors may influence a state's likelihood of adopting a marital rape law. Both theoretical frameworks – one focusing on conflict theory and gender equality and the other focusing on the process of diffusion – point to the importance of states' social and political climates in determining each state's likelihood of adopting a given policy (Call et al. 1991; Grattet et al. 1998; Murphy 1997). For example, in the literature on gender equality, researchers have found that states with a more liberal ideology are more likely to pass strong rape shield laws (Call et al. 1991) and to pass police reform legislation to improve police response to domestic violence cases (Murphy 1997). Similarly, in the literature on diffusion, researchers have found that liberal states are more likely to pass hate crime legislation (Grattet et al. 1998). Although the two perspectives stress the importance of the social and political culture, the two schools of thought diverge on their primary assumptions regarding the underlying forces that determine the likelihood that a state will adopt a policy. Those focusing on conflict theory and gender equality primarily stress the importance of women's political and economic power in shaping legislation (Berger et al. 1991), and they do not consider the effects that surrounding states can have on a state's likelihood of adopting a particular piece of legislation.⁷ On the other hand, diffusion researchers recognize the social and political factors as determining each state's propensity to adopt a particular law and they stress

⁷ McCammon et al.'s (2001) research is the exception – they consider having nearby states that have adopted women's suffrage as a factor that enhances the gendered opportunity structure of a state, which in turn increases the likelihood that that state will also adopt women's suffrage.

the importance of the spatial and temporal proximity of a state to a state that has already adopted the legislation (Strang and Tuma 1993). Both theoretical perspectives have been supported by research addressing a variety of legislative changes.

There has been no research to date that has tested both the effects of the social, political, and gender environments and the effects of spatial proximity on a state's likelihood of adopting a marital rape law. Especially in regards to policies addressing violence against women, research needs to measure the effects of the social and political climates, gender equality, and interstate proximity on a state's likelihood of adopting a particular law. Using both of these frameworks to guide my analyses, I include all of these factors to examine the state-to-state variation in marital rape laws.

CHAPTER 5

HYPOTHESES

In their integrative conflict model, McGarrell and Castellano (1993) identify the social climate as an important factor in the law formation process. Specifically, changing social conditions, such as changes in the racial composition of the state, changes in the distribution of urban and rural residents, and an increase in the crime rate, lead to contradictions and conflicts that must be addressed through the creation of new policies. Indeed, Call et al. (1991) found that states with large Black populations were more likely to pass strong rape shield laws. Murphy (1997) found that states with larger urban populations were more likely to pass police reform legislation aimed at improving the police response to domestic violence cases. Furthermore, in regards to increases in the crime rate, Berger et al. (1991) found that an increase in the rape rate was associated with an increase in a state's likelihood of passing rape law reforms, including criminalizing marital rape. Based upon the above theoretical statements and empirical findings, I have generated the following hypotheses regarding a state's social climate:

Hypothesis 1: The social climate of the state will affect the likelihood of a state adopting a marital rape law.

Hypothesis 1a: States with a smaller percent of Whites, which indicates a larger percent of minorities, will be more likely to adopt a marital rape law.

Hypothesis 1b: The rate of adoption of a marital rape law will be higher for states with a larger percent of urban residents.

Hypothesis 1c: Having a higher crime rate will increase the likelihood of a state adopting a marital rape law.

Researchers have also identified the political climate of the state as an important factor in determining the likelihood that a state will pass legislation advancing and/or protecting the rights of women (Berger et al. 1991; Call et al. 1991; Murphy 1997; Ramirez and McEnaney 1997; Soule and Olzak 2004). Specifically, researchers have found that states with more liberal ideologies and states with a higher percentage of Democrats in the state legislature are more likely to pass legislation that supports the rights and protections of women (Call et al. 1991; Murphy 1997; Soule and Olzak 2004). Policy researchers also include a measure of party competition, whether the political party of the governor differs from the dominant political party of the state legislature, because such competition is expected either to be conducive to or to inhibit the passage of certain legislation (Berger et al. 1991; Soule and Earl 2001). Since there is no clear consensus on when party competition will increase or decrease the likelihood that a certain law will be passed, it is included in the present study only with the expectation that it will either increase or decrease the likelihood that a state will adopt a marital rape law. The following hypotheses were derived from these previous findings:

Hypothesis 2: The political climate of the state will affect the likelihood of a state adopting a marital rape law.

Hypothesis 2a: Having a higher percentage of Democrats in the state legislature will increase the likelihood of a state adopting a marital rape law.

Hypothesis 2b: States with a more liberal government ideology are expected to have a higher rate of adoption of marital rape laws.

Hypothesis 2c: A disjuncture between the political party of the governor and the dominant political party of the state legislature is expected to affect the likelihood of a state adopting a marital rape law.

McGarrell and Costellano (1993) also point to changing gender relations as a social condition that may lead to contradictions and conflicts that must be resolved by policymakers. Indeed, researchers have found that increases in the proportion of women working in the paid labor force increases the likelihood of the adoption of women's suffrage (McCammon et al. 2001; Ramirez and McEnaney 1997), liberalized abortion laws (Ramirez and McEnaney 1997), and the consent dimension of rape law reforms (Berger et al. 1991). Similarly, an increase in women's political participation, as evidenced by higher proportions of women in the state legislature and/or higher proportions of female lawyers, has been found to be associated with a higher likelihood that a state will adopt women's suffrage (McCammon et al. 2001), police reform legislation regarding domestic violence (Murphy 1997), rape law reforms (Berger et al. 1991) and other "women-friendly" policies (Caiazza, 2002). Since research on gender equality has shown that states with higher levels of gender equality are more likely to pass legislation that supports and protects the interests of women (Caiazza 2002; Ramirez and McEnaney 1997), it is expected that states with higher levels of gender equality will have a higher likelihood of adopting a strong marital rape law.

Hypothesis 3: States with a higher level of gender equality will be more likely to adopt marital rape laws.

Hypothesis 3a: Having a higher percent of female lawyers will increase the likelihood of a state adopting a marital rape law.

Hypothesis 3b: States with a higher percent of females in the state legislature are expected to have a higher rate of adoption of marital rape laws.

Hypothesis 3c: Having a higher percent of females in the labor force will increase the likelihood of a state adopting a marital rape law.

Hypothesis 3d: An increase in women's earning equality will be associated with an increase in the likelihood of a state adopting a marital rape law.

Although not a measure of gender equality, researchers examining the passage of women's rights legislation have included a measure of the strength of feminist activism (Murphy, 1997; McCammon et al., 2001; Soule and Olzak, 2004). Indeed, in McGarrell and Castellano (1991) integrative conflict model, the activities of interests groups are identified as a factor that influences the law formation process. In the present study, it is expected that states with a higher number of NOW members will be more likely to adopt a marital rape law.

Hypothesis 4: An increase in the number of NOW members is expected to increase a state's likelihood of adopting a marital rape law.

Looking at the effects of proximity, researchers have found that other states have an effect on a state's likelihood of adopting a policy (Strang and Meyer 1993; Strang and Tuma 1993). States that are in close proximity to each other often communicate and influence each other in regards to social policies (Strang and Tuma 1993). Previous researchers have found that being in close proximity to other states that have already adopted a particular policy affects a state's likelihood of also adopting a similar policy (Grattet et al. 1998; McCammon et al. 2001; Renzulli and Roscigno, forthcoming 2005; Strang and Tuma 1993; Soule and Earl 2001; Soule and Zylan 1997). As a result, in the present analysis, it is expected that the likelihood of

adopting a strong marital rape law will be higher for states that are in close proximity to other states that have already adopted a marital rape law.

Hypothesis 5: Spatial proximity to other states that have adopted marital rape laws is expected to be positively related to the adoption of marital rape laws.

Using an event history analysis, I test the above hypotheses to determine the factors that affect a state's likelihood of abolishing its marital rape exemptions. Overall, I expect to find that social, political, and gender climates of a state affect the state's likelihood of adopting a marital rape law. Additionally, being in close proximity to other states that have abolished their marital rape exemptions is expected to increase a state's likelihood of abolishing its exemptions. In the next chapter, I give a description of each of the variables used to measure the social, political, and gender climates of a state as well as a description of the variable used to measure spatial proximity.

CHAPTER 6

METHODS

Data

In the present study, the dependent variable measures whether or not a state abolished its marital rape exemptions in a given year. Therefore, the unit of analysis is the state-year. The yearly Session Laws for each state, which report any changes to the state statutes, were used to access information regarding the year the marital rape law was adopted in each state. Other secondary sources were used to gather information regarding the social, political, and gender characteristics of each state. The Statistical Abstracts of the United States and US Census Data were used to gather the following information for each state: the percent of females in the labor force, women's median income compared to men's, percent of females in the state legislature, the dominant partisanship of the state legislature, whether the political party of the governor differs from that of the majority of state legislatures, the percent of the state population that is White, and urbanicity. The Lawyer Statistical Reports for 1980 and 1990 were used to obtain information regarding the percentage of female lawyers in each state. The F.B.I.'s Uniform Crime Reports provided information regarding the crime rates for each state. Additionally, data on the state's government ideology were taken from Berry, Ringquist, Fording, and Hanson's (1998) government ideology scores. Unless otherwise noted, all variables are measured yearly (linear interpolation was used to estimate values for any data that were not available for a particular year). The observed years are from 1976 (the year the first state adopted a marital rape law) to 2002 (the year the last state adopted a marital rape law). All independent variables were

lagged one year to ensure that the social, political, and gender equality factors were measured prior to the adoption of a marital rape law.

Dependent Variable

The dependent variable, *marital rape law*,⁸ measures whether or not the state fully recognizes marital rape as a crime with no exemptions (see Table 1). In other words, a state is considered to have a marital rape law *only if it completely abolished its marital rape exemptions*. If the rape law still has special requirements for marital rape cases (i.e., reporting requirements, showing of bodily injury, must be living apart), then this state is considered to have marital rape exemptions (does not fully recognize rape within marriage). This variable was coded 0 (marital rape exemptions) if the state still has marital rape exemptions and 1 (no exemptions) if the state does not have any marital rape exemptions. States are considered to have a marital rape law if it treats marital rape cases just like any other rape cases (stranger rape, acquaintance rape, etc). States are considered to still have marital rape exemptions if they have additional requirements for marital rape cases that are not required for other rape cases (i.e. specific reporting requirements or showing excessive use of force or bodily injury) or if marital immunity still exists under certain conditions (i.e., if the couple were not living apart or filed for divorce/separation or if the victim was physically or mentally impaired, unconscious, or asleep). Also, states are considered to have marital rape exemptions if marital immunity still exists for other sexual offenses (sexual abuse, sexual assault, etc). Twenty-four states have abolished completely their marital rape exemptions, whereas 26 states still have partial exemptions (Table 1).

⁸ Several states (Alabama, Florida, Georgia, Massachusetts, New Jersey, and New York) changed their marital rape laws through case law. For these states, the year of the court decision and the details of the court decision were used to determine the status of the marital rape law.

Independent Variables

The independent variables used in this study include several social, political, and gender characteristics that may affect a state's likelihood of adopting a marital rape law (see Table 2). These variables are grouped together to measure the social climate, political climate, gender equality, feminist activism, and spatial proximity for each state. Control variables are also included in each of the statistical models.

Social Climate Variables

Following Call et al. (1991), I include several measures of the social climate in each state, such as the racial composition of the state, the urbanicity of the state, and the crime rate. The United States Census data (1970, 1980, 1990, 2000) provide information on the racial composition of each state, which is measured in the present study by the *percent of the state population that is White* (this variable is 10-year time varying). Also following Call et al.'s (1991) study, I include a measure of the *urbanicity* of each state. The United States Census Statistical Abstracts (1976-2002) provides information on the percent of the state population that lives in urban areas and these data are used to measure the *urbanicity* of each state. Also consistent with Call et al.'s (1991) study, a measure of the *crime rates* in each state is included. Data from the FBI's Uniform Crime Reports (UCR) (FBI 1976-2002) are used to measure the crime rates in each state. The UCR provides information on all crimes reported to the police in a given year. The crime index includes murder, forcible rape, robbery, aggravated assault, burglary, larceny-theft, and motor vehicle theft. The crime index total per 100,000 inhabitants is used to measure the crime rate.

Political Climate Variables

To capture the overall political climate of each state, several variables, such as the *percent of Democrats in the state legislature*, *party competition* between the political party of the governor and the dominant political party of the state legislature, and the dominant *government ideology* in each state are included. The United States Census Statistical Abstracts (1976-2002) provide information on the political party composition of the state legislatures for each year. The *percent of Democrats in the state legislature* is used to measure the political party distribution in the state legislature. Also, a measure of *party competition*, which refers to whether the dominant political party of the state legislature differs from the political party of the governor is included. The United States Census Statistical Abstracts (1976-2002) were used to gather information on the dominant political party of the state legislature and the political party of the governor for each state for each year. *Party competition* is coded 0 (same political party) if the governor and the state legislature were of the same political party (i.e. both Democrats) and coded 1 (different political parties) if the political party of the governor was different from that of the state legislature (i.e. Democratic governor and predominantly Republican state legislature).

Consistent with previous research (Barclay and Fisher 2003; Renzulli and Roscigno forthcoming 2005; Soule and Olzak 2004), Berry, Ringquist, Fording and Hanson's (1998) government ideology scores are used to measure the dominant *government ideology* of each state. Berry et al.'s (1998) government ideology scores have been used to measure the openness or receptivity of the political culture (Soule and Olzak 2004).⁹ The government ideology score is based upon the ideological position of the governor, the members of Congress, and the members

⁹ Berry et al.'s (1998) government ideology scores are used in place of other measures of policy innovativeness (i.e. Savage, 1978), which have been used in past research (Berger et al., 1991; Grattet et al. 1998; Soule and Earl 2001). Whereas other measures of a state's policy innovativeness do not vary over time, Berry et al.'s measures are time variant. Given that the openness or innovativeness of a state's political environment is subject to change, this measure of government ideology is more appropriate for the analyses used in this study.

of the state legislature in each state for each year. Scores are weighted based upon the power distribution among the political parties and in relation to the governor. Higher scores indicate a more liberal government ideology. Although conceptions of liberal government ideology vary, Gans (1993) argues that they all point to the notion that those with a more liberal government ideology tend to favor more equality whereas those with a more conservative ideology are less likely to support more equality.

Gender Equality Variables

To tap into the level of equality women have achieved in each state, several measures of women's representation in the economic and political systems are used. Several variables related to the level of gender equality in each state, such as the *percent of females in the labor force*, *women's median income compared to men's*, *percent of females in the state legislature*, and the *percent of female lawyers* in each state, are included in this study. Berger et al.'s (1991) study was used as a model for generating many of the measures of women's economic and legal equality in this study. Consistent with previous research (Berger et al., 1991), the *percentage of females in the paid labor force* and *women's median income compared to men's* are used as indicators of women's economic equality. Data from the United States Census Statistical Abstracts (United States Census Bureau 1976-2002) are used to measure the *percentage of females in the paid labor force*. Only women who were 16 years old or over and who were employed in the civilian labor force are included in this percentage. The United States Census Data (United States Census Bureau 1979, 1980, 1990, 2000) are used to determine *women's median income compared to men's*. Since data on women's income compared to men's could only be found in the decennial Census reports, the measure for women's economic equality is measured every ten years.

Similar to Berger et al. (1991), women's legal equality is measured by using the *percentage of female legislatures* and the *percentage of female lawyers* in each state. The United States Census Statistical Abstracts (United States Census Bureau 1976-2002) are used to determine the *percentage of female legislatures* in each state. The Lawyer Statistical Reports for the 1980s and 1990s (Curran, Rosich, Carson and Paccetti 1985; Curran and Carson 1994) are used to determine the *percentage of female lawyers* in each state. The percent of female lawyers is measured every ten years, in 1970, 1980, and 1990.

Following Berger et al.'s (1991) study, the number of *NOW members per capita* is included as a measure of the amount of general feminist organizing in each state. By contacting NOW headquarters, I was able to obtain information regarding *NOW membership* for each state. Using the data from NOW, the measure of the number of NOW members per capita in each state for each year was created by dividing the number of NOW members by the total state population.

Proximity Variables

A measure of interstate proximity is included to assess the effects that other states may have on a particular state's likelihood of adopting a marital rape law. *Interstate proximity* measures the number of border states that have adopted a marital rape law. This variable is lagged one year so that the number of bordering states that have adopted a marital rape law is measured in the year prior to a state's decision to adopt a law.

Control Variables

When examining the likelihood that a state will adopt a marital rape law, I first control for the size of the *state population* and the *regional location* of each state. Data from the Statistical Abstracts (US Census Data 1976-2002) are used to measure the size of the state

population (in thousands). Also, the four main U.S. census regions are used to determine the regional location of each state. Dummy coded regional variables for the Northeast, Midwest, and West (using the South as the reference category) measure each state's regional location.

CHAPTER 7

RESULTS

Analytic Strategy

Discrete-time event-history analysis is used in this study to estimate the likelihood that a given state will adopt a marital rape law in a given year. Event history analysis is used to predict the likelihood of the occurrence of an event. In this study, I am predicting the likelihood that a state will adopt a law that completely abolishes its marital rape exemptions in a given year. The likelihood of a state abolishing its marital rape exemptions in a given year is measured by the hazard rate. Grattet et al. (1998) describe the hazard rate as “the probability that a particular state will adopt a law in a particular year. It is an unobserved variable that is estimated from observed years of passage for states’ [laws]” (p. 296). Any state that has yet to abolish its marital rape exemptions is said to be “at risk” of abolishing its marital rape exemptions in that particular year. Once a state abolishes its exemptions, it is dropped from the analysis. Conversely, if a state never abolishes its spousal exemptions, it remains in the sample for all time periods and is right censored. Given that legislative sessions only meet once a year, each state has only one chance of adopting a marital rape law in a given year. Since discrete time modeling specifies that there are only certain times when a unit can be “at risk,” discrete time modeling, rather than continuous time modeling, is used in this analysis.

The unit of analysis is the state year. Beginning with 1976, the year the first state completely abolished its spousal exemptions, there is a separate case for each state up until the year that the state completely abolished its marital rape exemptions. For example, since New

Jersey adopted a marital rape law in 1979, there are four separate cases for New Jersey – New Jersey 1976, New Jersey 1977, New Jersey 1978, and New Jersey 1979. Since Nebraska was the first state to abolish completely its marital rape exemptions, marking the beginning of the present analysis, Nebraska is excluded from the analysis. The years observed in the present study are from 1976 to 2002 and there are 991 state years in the analysis.¹⁰

Since the hazard rate can be represented in logistic form (Box-Steffensmeier and Jones 1997), discrete-time logit event history models are used for the present analyses. Using logit estimators, the coefficients represent how much the log-hazard of adopting a marital rape law increases or decreases with respect to each independent variable. A one unit change in the independent variable will either increase or decrease the hazard of adopting a strong law by a given percent (determined by the coefficient). Odds ratios are calculated for ease in interpreting the results. By stepping in the control variables, social climate variables, political climate variables, feminist activism variable, and proximity variable, I will be able to compare the differential effects of these sets of variables on the likelihood of a state adopting a marital rape law. Log likelihood tests are used to determine the model fit.

Descriptive Statistics

Table 3 provides the descriptive statistics for the variables used in the event history analysis. Since the data vary both by state and by year, the mean values for each variable, based upon all state-year observations for each state, were used to create the grand mean as well as the minimum and maximum values for each independent variable. Table 4 provides the correlations between each of the independent variables. The correlations are also based upon the mean value of each independent variable from all state-year observations for each state.

¹⁰ Due to missing data on the percent of democrats in the state legislature, Alaska and Hawaii were excluded from the analysis.

Results

Table 5 presents the results of a set of nested models designed to test the effects of the social, political, and gendered environments on a state's likelihood of adopting a marital rape law. In Model 1, only the social climate variables are included in the equation. Among the social climate variables, only the racial composition of the state is significant ($p < .01$). Looking at the racial composition of a state, the results indicate that net of the effects of the other social climate variables having a higher percent of Whites, which implies a smaller proportion of minorities, increases a state's likelihood of abolishing its marital rape exemptions. In fact, a unit increase in the percent of whites increases a state's hazard of adopting a marital rape law by 12 percent. This finding is inconsistent with hypothesis 1a, which predicted that having a smaller proportion of whites would increase a state's likelihood of adopting a marital rape law. Although the crime rate is not significant in Model 1, it reaches significance ($p < .05$) in later models (Models 3 – 5). The statistical significance of the crime rate, however, is not matched by any substantive significance. That is, a unit increase in the crime rate does not significantly increase a state's likelihood of abolishing its marital rape exemptions. Thus, the results fail to provide support for hypothesis 1c.

In Model 2, the political climate variables are entered into the equation with the control variables and the social climate variables. As can be seen in Table 6, there are no other political climate variables that significantly affect the hazard of a state adopting a marital rape law and this remains true across all of the models. Also, in comparing Model 1 and Model 2, the results suggest that adding the political climate variables into the equation does not improve the model

fit (-2 Log likelihood $X^2=2.96$, $df=3$, $p=.40$). Contrary to hypothesis 3, these results suggest that the political climate has no significant effect on the likelihood of adopting a marital rape law.

In Model 3, the measures of gender equality, which include the percent of female legislators and the percent of females in the labor force,¹¹ are added into the equation along with the measure of feminist activism. Hypothesis 3 predicts that as the level of gender equality increases, the hazard of a state adopting a marital rape law will increase. Of the gender equality variables, only the percent of females in the labor force is significant ($p<.01$) in Model 3, providing support for hypothesis 3c. The results indicate that net of the effects of the social and political climate variables and the other gender equality variables, a unit increase in the percent of females in the labor force increases the hazard of a state adopting a marital rape law by 31 percent. As shown in Model 4, the effects of the percent of females in the labor force increase when spatial proximity is included in the equation. The results indicate that net of the effects of the social, political, gender, and spatial proximity variables a unit increase in the percent of females in the labor force increases a state's likelihood of adopting a marital rape law by 53 percent.

Adding NOW membership into the equation in Model 3 does not significantly affect any of the above results, nor does it significantly affect a state's likelihood of adopting a marital rape law. Given the lack of significance in the effect of NOW membership, these results fail to provide support for the hypothesis that an increase in the level of feminist activism will increase the rate of adopting a marital rape law. Comparing Model 2 and Model 3, the results indicate

¹¹ Since women's income compared to men's is highly collinear with the percent female lawyers (.80) and the percent of females in the labor force (.74), women's income equality was excluded from the analysis. Also, since the percent of female lawyers is moderately collinear with the percent of females in the labor force (.60), the percent of female lawyers was excluded from the analysis. Since the percent of females in the labor force is measured yearly and women's income compared to men's is measured every 10 years, the percent of females in the labor force provides a more valid measure of women's economic equality. Furthermore, since the percent of females in the state legislature is measured yearly and the percent of female lawyers is measured every 10 years, the percent of females in the state legislature provides a more valid measure of women's political power.

that adding the gender equality and feminist activism variables into the equation significantly improves the model fit (-2 Log likelihood $X^2 = 7.95$, $df=3$, $p=.05$). This suggests that adding the gender equality and feminist activism variables into the equation does help to explain the variation in the states' marital rape laws. Overall, the results provide support for the general hypothesis (hypothesis 3) that the level of gender equality significantly affects a state's likelihood of adopting a marital rape law.

In Model 4, the proximity variable, which measures the number of bordering states that have passed a marital rape law, is added into the equation. In regards to the proximity variable, it was expected that being close to other states that have already passed a marital rape law would increase a state's likelihood of adopting a marital rape law, however, the results fail to provide support for this hypothesis. Contrary to what was expected, the coefficient for the proximity variable was negative and significant ($p<.05$). The negative coefficient indicates that an increase in the number of bordering states that have passed a marital rape law actually decreases a state's likelihood of adopting a similar law.¹² These results fail to provide support for hypothesis 5. Comparing Model 3 and Model 4, the results indicate that adding the spatial proximity variable into the equation significantly improves the model fit (-2 Log Likelihood $X^2 = 5.39$, $df = 1$, $p=.02$).

In the final model, the control variables are added into the equation. The results indicate that the size of the population and regional location do not have a significant effect on the rate of abolishing the marital rape exemption. Furthermore, adding the controls into the equation does not significantly affect any of the above results nor does it improve the model fit -2 Log likelihood $X^2 = 5.93$, $df = 4$, $p=.20$).

¹² When spatial proximity is measured as a proportion (number of bordering states with a marital rape law / total number of bordering states), the results are the same.

CHAPTER 8

DISCUSSION

The purpose of the present study was to examine the social, political, and gender environments that may affect a state's likelihood of adopting a marital rape law. The results suggest that the social and gender environments do indeed play an important role. In an early statement regarding the state-to-state variation in marital rape laws, Finkelhor and Yllo (1985) proclaimed that there was no "rhyme or reason" as to why some states have completely abolished their marital exemptions whereas others have retained their exemptions. At that time, there had been no systematic investigations of the social and political factors that may be related to the passage of marital rape laws. Although Berger et al. (1991) attempted to provide an analysis of the state-to-state variation in the passage of rape law reforms, including marital rape laws, their study was limited by methodological flaws. Since Finkelhor and Yllo's (1985) statement was not based on any empirical findings and Berger et al.'s (1991) study only examined the status of the marital rape laws in 1985 when states were still actively working to change their marital rape laws, these statements and findings were premature.

Due to the methodological weaknesses in Berger et al.'s (1991) study and the lack of empirical tests of Finkelhor and Yllo's (1985) statements, there were no valid explanations for the variation in marital rape laws. To fill in the gap in the existing literature, I conducted an event history analysis of the social, political, and gender factors that may affect a state's likelihood of adopting a marital rape law. Specifically, I set out to examine whether conflict theory can be used to explain the state-to-state variation in marital rape legislation. McGarrell

and Castellano's (1993) integrative conflict model provided the theoretical framework for analyzing the state-to-state variation in marital rape legislation. I, however, went beyond the framework by also examining how changes in one state's marital rape law may affect a nearby state's likelihood of adopting a similar law.

Contrary to Finkelhor and Yllo's (1985) claim, the results of the present study suggest that the social and gender environment of a state significantly affect the likelihood of adopting a marital rape law. Specifically, having a higher percent of Whites increased a state's likelihood of completely abolishing its marital rape exemption. In regards to the gender environment, an increase in the percent of females in the labor force was associated with an increased likelihood of adopting a marital rape law. Unexpectedly, being in close proximity to other states that had already adopted a marital rape law decreased a state's likelihood of completely abolishing its marital rape exemption. These findings have implications for the larger body of research and theory regarding policy development as well as the literature on gender equality.

Although the conflicting interests of men and women were the main "conflict" of interest in the present study, conflict theorists also point to several other factors that affect the lawmaking process, such as the social climate of a state (McGarrell and Castellano 1993). In regards to marital rape legislation, the results of the present study indicate that the social climate of a state does indeed play a significant role in determining the likelihood of passing a marital rape law. It is important to note, however, that the racial composition of the state accounts for most of the significance, and the effect of race was in the opposite direction than expected. Instead of a lower percent of Whites increasing the likelihood of adopting a marital rape law, states with a higher percent of Whites were more likely to adopt a marital rape law.

McGarrell and Castellano's (1993) integrative conflict model suggests that states with a greater amount of heterogeneity will be more likely to criminalize the behavior of the less powerful. In the present study, I used the racial composition of each state to measure the amount of heterogeneity, and I expected to find that states with a smaller proportion of Whites (greater heterogeneity) would be more likely to adopt a marital rape law. The results of the present study did not support my hypothesis. Instead, the results suggest just the opposite - states with less heterogeneity, a higher percentage of Whites, were more likely to abolish their marital rape exemptions.

Policy researchers often include a measure of the racial composition of a state to test the "racial threat hypothesis" (for a review see Eitle et al. 2002). To the extent that Whites stereotypically associate rape, domestic violence, and other violent crimes with minorities, conflict theorists would expect to find more laws related to these crimes in states with a larger proportion of minorities. While conflict theory and policy researchers suggest that states with larger minority populations are more likely to criminalize the behavior of minorities, marital rape legislation does not seem to follow this assumption. Although Call et al. (1991) found that states with a higher percent of minorities were more likely to pass rape reform legislation, the opposite is true in regards to the passage of marital rape laws. The issues involved in rape shield laws, however, are quite different from the issues involved in marital rape laws. Call et al. (1991) included a measure of the size of the Black population because of the special attention given to interracial rape cases, but race may not operate in the same manner when considering marital rape cases because the vast majority of these cases are intra-racial. Indeed, the "threat of black crime hypothesis" (Eitle et al. 2002) does not apply to the majority of marital rape cases.

Another possible explanation for why states with a higher percentage of Whites are more likely to pass marital rape laws may have to do with the racial differences in support of the criminalization of marital rape. For instance, Whites may be more likely to support “get tough on crime” policies or they may be more likely to view marital rape as a “legitimate” crime. Specifically, Jeffords and Dull (1982) found that Whites were more likely than non-Whites to be in favor of a law that would criminalize marital rape. In an attempt to explain this finding, Jeffords and Dull (1982) suggest that minorities may have more traditional views of sex-roles or that minorities may “have less confidence in the effectiveness of the criminal justice system in solving problems” (p. 759). If this is the case, then in holding more traditional sex-role attitudes, minorities may be more likely to believe that sex within marriage is a part of the marriage contract, that it is part of her duty as a wife and therefore she does not have the “right” to refuse her husband’s sexual advances. Furthermore, minorities may see the criminalization of marital rape as government intrusion into marital privacy. Distrust of the criminal justice system may lead minorities to support legislation that includes “special requirements” in cases of marital rape (i.e., showing of bodily injury). On the other hand, if Whites are more likely to support laws that would criminalize marital rape, then they may put more pressure on their state legislators to abolish completely all marital rape exemptions. Thus, states with a higher percent of Whites may feel more pressure from their citizens to pass laws criminalizing marital rape than states with a lower percent of Whites. To this extent, states with a larger percent of minorities may feel pressure to seek other solutions to the issue of marital rape.

Taken together, the findings of the present study along with the findings from Call et al.’s (1991) study suggest that the social climate of a state differentially affects the various dimensions of rape law reform. What may increase the likelihood of passing one dimension of

rape law reform may actually decrease the likelihood of passing another dimension of rape law reform, as is the case with effects of the racial composition of the state on rape shield laws versus marital rape laws. Future research is needed to gain a better understanding of the effects of the racial composition of a state and support for different dimensions of rape law reforms.

In addition to the social climate of the state, McGarrell and Castellano's (1993) integrative conflict model suggests that the political climate of each state is important in determining which behaviors will be criminalized. Contrary to what was expected, in the present study, the political climate of a state did not significantly affect a state's likelihood of adopting a marital rape law. Neither party competition nor having a higher percentage of Democrats in the state legislature affects a state's likelihood of passing a marital rape law. Among the political climate variables, only the government ideology of a state approached significance, suggesting that states with a more liberal government ideology may be more likely to criminalize marital rape. This finding is consistent with previous research that has found that states with a more liberal government ideology are more likely to pass policies that support and/or protect that rights and interests of women (Call et al. 1991; Soule and Olzak 2004). Overall, including the political climate variables into the equation did not help to account for the variation in marital rape laws. Taken as a whole, the results of the present study suggest that the political climate is less important than other factors (namely, the social and gender opportunity structures) in determining the likelihood that a state will abolish the marital rape exemptions.

In examining the different dimensions of rape law reforms, Berger et al. (1991) found that the political environment (political ideology, policy liberalism, and religious fundamentalism) of a state differentially affects the various reform dimensions. For example, the political environment increased the likelihood of passing the evidentiary reforms, but it

decreased the likelihood of passing the consent reforms. On the other hand, other aspects of the political environment (party competition and policy innovativeness) did not significantly affect any of the dimensions of rape law reform. Despite the methodological weaknesses of Berger et al.'s (1991) study, the present study provides support for the notion that the political environment of a state may not be important for the passage of all aspects of rape law reform. Specifically, the present study and Berger's study both demonstrate that the political climate of a state does not significantly affect the passage of marital rape laws.

Although the political environment is not a significant factor in the passage of marital rape laws, the results of the present study suggest that the gender opportunity structure does play an important role. As discussed earlier in this paper, the marital rape exemptions have served to protect the interests of men over the interests of women. Therefore, efforts to criminalize marital rape have involved a conflict between the interests of men and the interests of women.

According to conflict theory, women's increased presence and power in the public sphere (i.e. labor force, politics, etc) will create contradictions in the existing social system that will require action on the part of policymakers. Also, women's increased presence and power in the lawmaking process will grant women the ability to influence policy decisions. Indeed, past research indicates that with women's increased economic and legal equality, their opportunities and abilities to influence state policies, especially rape law reforms, greatly increase (Sugarman and Straus 1988). Based upon the basic tenants of conflict theory, I expected to find marital rape laws in states where women have gained greater economic and political power. The results of the present analysis provided partial support for this hypothesis. An increase in women's participation in the labor force significantly increased the likelihood of having a strong marital

rape law. These findings confirm the importance of gendered opportunity structures in the success of legislation aimed at advancing the rights and protections of women.

Although these results suggest that an increase in women's equality increases a state's likelihood of adopting a marital rape law, it must be noted that the percent of females in the state legislature was not significant. As a direct measure of women's political power, an increase in the percent of women in the state legislature was expected to increase significantly a state's likelihood of adopting a marital rape law, however, the results of the present study indicated that women's increased presence in the state legislature does not significantly affect whether a state will pass a marital rape law. One possible explanation for this finding may be that although women have gained access to the state legislatures, they may not have gained the power to influence public policy. It is important to note that men still far outnumber women in the state legislatures.

More surprisingly, the number of NOW members did not significantly affect a state's likelihood of having a strong marital rape law. This finding was also inconsistent with conflict theory. Conflict theorists recognize the power of organized interest groups in influencing public policies (Chambliss 1979; McGarrell and Castellano 1993; Quinney 1970; Vold 2002). Also, the lack of significance of feminist activism contradicts the findings of previous studies which point to the important role of women's organizations in the success of women's suffrage (McCammon et al. 2001) and the passage of the ERA (Soule and Olzak 2004). Indeed, organized interest groups, such as NOW, have the ability to put pressure on policymakers and have been successful. It may be NOW's success in other areas (i.e. ERA) that may account for its lack of significance in regards to marital rape legislation. Costain (1988) reports that although NOW has been involved in lobbying efforts, their main focuses have been on building a large

membership base, being involved in electoral politics, and working to ratify the Equal Rights Amendment.

It is important to note that this finding does not negate the efforts of feminist activists. In fact, feminist activists have been at the forefront of the struggle to attain women's rights, and they have specifically led the struggle to reform the rape laws (Largen 1988). Although the rape law reform movement was started by feminist activists, not all activists were members of NOW. Other women's organizations, such as rape crisis centers, may have been more active in lobbying for rape law reforms. Future research should seek to identify and measure other sources of feminist activism. Although the strength of feminist activism was not significant in the analyses, their efforts to attain greater equality for women have definitely helped to change the overall social and political status of women (McCammon et al. 2001). As a result, the significance of the efforts of feminist activists may be seen in the increases in women's participation in the public sphere (i.e. labor force, politics, etc.).

With regard to the possible influences of surrounding states, the results of the present study indicate that being in close proximity to other states that have adopted a marital rape law actually decreases a state's likelihood of adopting a marital rape law. This finding is inconsistent with my hypothesis and it conflicts with the findings from previous research (McCammon et al. 2002). In regards to women's rights legislation, McCammon et al. (2002) found that the success of women's suffrage in nearby states significantly increased a state's likelihood of passing women's suffrage. McCammon et al. (2002) explained that "the redefinition of legal gender roles in one state appeared to alter thinking about gender roles by political actors in neighboring states, resulting in the passage of suffrage there as well" (p. 61). In other words, nearby states passing legislation that improves the rights of women has been found to enhance the gendered

opportunity structure of a particular state. Although expecting the same to be true for marital rape laws, my results suggest just the opposite.

There are several possible interpretations for this finding. Although it seems counterintuitive, it is possible that the success of marital rape legislation in nearby states actually reduces the gendered opportunity structure of a particular state. If nearby states completely abolished their marital rape exemptions and a wave of public and/or political backlash followed, then a state may be more conservative in their changes to the marital rape law. On the other hand, the opposite may be true. If a state passed a law that allows for partial exemptions and received strong criticism for not completely abolishing its exemptions, then nearby states may respond to this criticism by completely abolishing their marital rape exemptions. Since the subsequent changes in states' marital rape laws were not included in the present study, the causal order of how states may influence each other cannot be determined. Future research is needed to determine the causal processes involved in how states influence each other in regards to passing marital rape laws. This research should track all of the changes in the marital rape law for each state.

Limitations and Suggestions for Future Research

Although the results of the present study suggest that the social and gender environments of a state affect the likelihood of adopting a marital rape law, a few limitations of this study must be noted. As mentioned above, a state was considered to have a marital rape law *only if* it completely abolished its marital rape exemptions. Prior to completely abolishing their marital rape exemptions, some states made several changes to their marital rape law – from having a complete exemption to partial exemptions to fewer partial exemptions to no exemptions (completely abolishing all exemptions). Other states have only adopted legislation that allows

for partial exemptions. On the other hand, some states have only made one change to their marital rape law – from complete exemptions to no exemptions. Future research needs to consider all subsequent changes in a state’s marital rape law.

The findings from the present study help to provide a better understanding of the conditions that facilitated the adoption of marital rape laws, but this study is limited in its scope because it only considers one dimension of rape law reform. To compare how the social, political, and gender environments of a state may differentially affect the various dimensions of rape law reform, all dimensions must be included in a study using event history analysis.

CHAPTER 9

CONCLUSION

Conflict theory provided a useful framework for assessing states' social, political, and gender environments that were conducive to abolishing marital rape exemptions. Although the results of this study were not all significant in the direction predicted by conflict theory, the factors identified by conflict theory did help to explain the passage of marital rape laws. Specifically, the social and gender environments played a significant role in determining the likelihood that a state would completely abolish the marital rape exemptions. Furthermore, including spatial proximity, a variable beyond the scope of conflict theory, into the analysis significantly improved the ability to explain the state-to-state variation in marital rape laws.

As McCammon et al. (2002) stated in regards to the success of women's suffrage, the "changing gender relations fostered movement success by altering beliefs among political decision-makers about the proper role of women in society" (p. 65), a similar conclusion can be drawn in regards to the success of marital rape legislation. Changes in gender relations helped to alter policy-makers' beliefs regarding the proper rights of women in the private sphere. By completely abolishing the marital rape exemptions, legislators in these states have made it clear that women are no longer considered the property of men and that they do indeed have a right to say no to sex with their husbands.

Due to the methodological weakness of previous studies that have examined the factors conducive to rape law reform (Berger et al. 1991; Call et al. 1991), the present study contributes to the literature by providing a more comprehensive assessment of the social, political, and

gender environments that increase a state's likelihood of adopting a marital rape law. The cross-sectional designs used by previous researchers did not measure the social and political conditions of a state at the time that the state adopted their rape law reforms. Instead, these researchers measured the social conditions of a state in a given year (i.e. 1985) and the status of the laws during that year. As a result, the social conditions of the state were often measured after the state adopted a rape law reform. In the present study, the social conditions of a state were measured in the year prior to legislative or court decisions, allowing for a more valid assessment of the factors conducive to abolishing marital rape exemptions. Since the present study only examined one dimension of rape law reforms, abolishing marital rape exemptions, future research is needed on the other dimensions of rape law reforms.

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APPENDIX

Table 1. Current Status of Marital Rape Exemptions in Each State

State	Status of MRE	Yr. of leg.	Notes
Alabama	Partial exemption	1988	1986: Merton v. State 500 So. 2d 1301 abolished marital immunity; 1988 removed spousal exemption from rape statute, but marital immunity remains for sexual abuse, sexual misconduct, etc. Definitions: deviate sexual intercourse and sexual contact – only pertains to persons who are married.
Alaska	Partial exemption	After 1988	Marital immunity exists for 2 nd and 3 rd degree sexual assault if victim is incapacitated, but there is no spousal exemption for 1 st and 2 nd degree sexual assault.
Arizona	Partial exemption	1988	Separate SA of spouse statute with lesser penalties (class 6 vs class 2) and requires immediate or threatened use of force; also judge may reduce to class 1 misdemeanor with mandatory counseling; marital immunity for sexual abuse and sexual assault statute; regular SA does not require use of force
Arkansas	No exemption	1993	(originally silent)
California	Partial exemption	1993	Separate SA of spouse statute with one year reporting requirement still in effect; 1979 rape of spouse statute required resistance or threats of bodily harm and 30 day reporting requirement; 1980 just required force or fear; 1993 SA of spouse required use of force, violence, duress, menace, or fear of injury, or victim is intoxicated or unconscious BUT must report w/in 1 year (unless there is corroboration)
Colorado	No exemption	1988	N/A
Connecticut	Partial exemption	1981	Separate SA of spouse statute requires use of force or threat of force that produces fear of injury, no provision against mentally incapacitated; marital immunity for other sexual assault statutes. Definitions: the terms sexual intercourse and sexual contact only pertain to persons not married to each other.
Delaware	No exemption	1998	Prior to 1998 1 st and 2 nd degree rape (or unlawful sexual intercourse) had a voluntary social companion clause (1985/1987) and it was silent on 3 rd degree rape. Note: 1979 codes silent on 2 nd degree rape, but there was a voluntary social companion clause for 1 st degree rape and sexual assault (a misdemeanor) had marital immunity
D.C.	No exemption	1995	22-3019; no spousal immunity from prosecution; D.C. Law 10-257 the “Anti-Sexual Abuse Act of 1994” (Bill No. 10-87)
Florida	No exemption	1981	State v Smith abolished marital immunity; BUT, a proposal to amend the statute to abolish formally its marital rape exemption was strongly opposed
Georgia	No exemption	1996	Originally silent; 1985: Warren v State; 1996 added “the fact that the person allegedly raped is the wife of the defendant shall not be a defense” to the rape statute.
Hawaii	Partial exemption		Spouses living together and other cohabitants are exempt from sexual assault in 3 rd degree if actor submits other person by compulsion or victim is mentally defective and exempt from 4 th degree SA; “sexual contact” only pertains to persons not married to each other.
Idaho	Partial exemption	1989	Separate SA of spouse statute requires that the victim’s resistance was overcome by force or the victim was unable to resist due to threat or use of intoxicating substance; immunity valid if unconscious or mentally incapacitated

Illinois	Partial exemption	1994	30 day reporting requirement; 1990 eliminated spousal immunity for criminal sexual assault and aggravated criminal sexual assault but not for criminal sexual abuse and aggravated sexual abuse but required 30 day reporting; 1994 eliminated spousal immunity for criminal sexual abuse and aggravated criminal sexual abuse
Indiana	No exemption	1989	N/A
Iowa	Partial exemption		Silent on 1 st and 2 nd degree sexual abuse but marital immunity exists for 3 rd degree sexual abuse when victim is mentally or physically incapacitated or intoxicated
Kansas	Partial exemption	1983	Removed spousal exemption from rape statute, but marital immunity still exists for sexual battery (misdemeanor)
Kentucky	No exemption	2000	1990 removed marital immunity but added a 1 year reporting requirement; 2000 reporting requirement removed
Louisiana	Partial exemption	1990	Removed spousal exemption from rape statute, but marital immunity remains for simple rape (unable to consent because of intoxication or other mental impairment) and sexual battery.
Maine	No exemption	1989	1985 voluntary social companion – reduces offense to class B; social companion clause removed when 252 (rape) was repealed in 1989 and the new version of the law did not allow for voluntary social companion to be used as a defense
Maryland	Partial exemption		Must be living apart under written separation agreement or for at least 3 months OR force must have been used
Massachusetts	No exemption	1981	A.L. Ch. 265 §22 277 §39 Commonwealth v Chretien 383 Mass. 123, 417 N.E. 2d 1203 (1981)
Michigan	Partial exemption	1988	Cannot be charged solely b/c his legal spouse is under 16. Also, spouse cannot be charged solely because the victim was mentally incapable or mentally incapacitated.
Minnesota	Partial exemption		Spouse is immune from prosecution for criminal sexual conduct in 3 rd or 4 th degree if actor knew that victim was mentally impaired, mentally incapacitated, or physically helpless unless force was used. No spousal immunity for 1 st , 2 nd , or 5 th degree criminal sexual conduct.
Mississippi	Partial exemption	1993	(originally silent); Spouses must be separated or living apart OR there must have been “forcible penetration.” Spouse cannot be charged if there was only lack of consent or if victim was physically or mentally impaired.
Missouri	No exemption	1991	N/A
Montana	No exemption	1991	N/A
Nebraska	No exemption	1976	N/A
Nevada	Partial exemption	1987	Requires force or threat of force
New Hampshire	No exemption	1981	Aggravated felonious sexual assault – “when, except b/w legally married spouses, the victim is mentally defective and the actor knows that the victim is mentally defective
New Jersey	No exemption	1979	Case law: State v Smith, 169 N.J. Super. 98, 404 A. 2d 331, 1979 N.J. Super Ct.
New Mexico	No exemption	1991	N/A
New York	Partial exemption		Statutes allow for marital immunity for most sexual offenses except rape; deviate sexual intercourse and sexual contact defined as occurring b/w those not married to each other Case law: People v Liberta 474 N.E. 2d 567 (N.Y. 1984) abolished marital immunity for rape
North Carolina	No exemption	1993	N/A
North Dakota	No exemption	1983	N/A
Ohio	Partial exemption		Spousal exemption for rape if victim was physically or mentally impaired (even if the actor administered an intoxicant against the will of the victim) UNLESS spouses were living apart; marital immunity for other sexual offenses (sexual battery, gross sexual imposition, etc) under certain conditions

Oklahoma	Partial exemption	1993	Must involve force or threat of force; marital immunity for rape if victim was unable to consent because of mental illness or unsoundness of mind, intoxication (even if the actor administered an intoxicant against the victim's will), or unconsciousness.
Oregon	No exemption	1979	N/A
Pennsylvania	No exemption	1995	1984 created separate spousal sexual assault statute (3128) which required force, threat of force, or victim was unconscious. This statute had a 90 day reporting requirement BUT it was not silent on rape (3121); the separate spousal sexual assault statute (3128) was repealed in 1995 and "not his spouse" was removed from the rape (3121) statute
Rhode Island	Partial exemption	1987	Spouse exempt if victim is mentally incapacitated, mentally disabled or physically helpless for 1 st degree sexual assault, but statute is silent for 2 nd degree sexual assault.
South Carolina	Partial exemption	1991	Separate SA of spouse statute (spousal sexual battery) with lesser penalties and must be reported within 30 days; marital immunity from criminal sexual conduct unless the couple is living apart (1 st degree criminal sexual conduct punished more harshly than spousal sexual battery and criminal sexual conduct in 3 rd degree is punished similar to spousal sexual battery)
South Dakota	Partial exemption	1990	1990 removed "not a spouse" from the definition of rape, but spouses are still exempt from prosecution for sexual contact without consent if spouse was physically or mentally impaired and could not consent, class 1 misdemeanor (22-22-7.4). Spousal exemption for sexual contact even if victim was capable of consenting but did not consent.
Tennessee	Partial exemption	1990	1989 created a separate sexual assault of a spouse statute with lesser penalties that requires the use of a weapon or serious bodily injury (for spousal rape and spousal sexual battery); 1990 added that if a couple was living apart and one had filed for separate maintenance or divorce, then a weapon or serious bodily injury was not required.
Texas	No exemption	1993	1991 required a bodily injury or the threat of bodily injury; in 1993 this additional requirement was removed (73 rd session 1993 ch. 900 (SB 1067 sect 1.01))
Utah	No exemption	1991	N/A
Vermont	No exemption	1985	N/A
Virginia	Partial exemption		Separate SA of spouse statute with lesser penalties and option of having sentence suspended if offender goes to counseling or if tried w/o jury may have conviction dismissed if he completes counseling; marital immunity from rape unless force, threat or intimidation is used; marital immunity from forcible sodomy and object penetration unless force and bodily injury or if living apart
Washington	Partial exemption	1983	Silent on 1 st and 2 nd degree sexual abuse but marital immunity exists for 3 rd degree when victim did not consent
West Virginia	No exemption	2000	1984 removed voluntary social companion; BUT also created a separate SA of spouse (61-8B-6) statute that requires forcible compulsion, serious injury, or use of a deadly weapon; 2000 removed SA of spouse statute and remained silent on rape
Wisconsin	No exemption	1981	"marriage not a bar to prosecution"
Wyoming	Partial exemption	1983	Marriage cannot be used as a defense for 1 st and 2 nd degree sexual assault; by inference, marriage must be able to be a defense in 3 rd degree sexual assault and 1 st to 3 rd degree sexual battery – unlawfully subjects another to sexual contact

** 24 states plus DC have completely abolished MRE

** 26 states have partial exemptions

Source: Legislative Session Laws (1975 – 2002) and Anderson (2003)

Table 2. Independent and Dependent Variables

Dependant Variables

Adoption of marital rape legislation	Dummy Variable: coded 1 if the state adopted a marital rape law (completely abolished the marital rape exemption); coded 0 if the state did not adopt a marital rape law (only partially abolished the marital rape exemption). Source: Session Laws for each state, 1975-2003
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Social Climate Variables

White Population	Continuous Variable: Percent of state population that is white. Measured every 10 years. Source: Decennial Census (United States Census Bureau, 1970, 1980, 1990, 2000).
Urbanicity	Continuous Variable: Percent of state population living in urban areas. Source: Statistical Abstracts of the United States (United States Census Bureau, 1975-2003).
Crime Rate	Continuous Variable: Number of index offenses reported to the police per 100,000 persons. Source: FBI's Uniform Crime Reports (1975-2003)

Political Climate Variables

Democratic Legislature	Continuous Variable: Percent of Democrats in the state legislature. Source: Statistical Abstracts of the United States (United States Census Bureau, 1975-2003).
Party Competition	Dummy Variable: coded 1 if the state has a Democratic legislature, but a Republican governor or vice versa (Republican legislature, Democratic governor); coded 0 if the political party of the legislature and the governor are the same. Source: Statistical Abstracts of the United States (United States Census Bureau, 1975-2003).
Government Ideology	Continuous Variable: mean position of the state government ideology (includes measures of governor as well as both parties of House and Senate) on a liberal-conservative continuum with higher scores indicating a more liberal ideology (0-100). Source: Berry, Ringquist, Fording, & Hanson, 1998

Gender Equality Variables

Women's Labor Force Participation	Continuous Variable: Percent of all labor force participants that are women Source: Statistical Abstracts of the United States (United States Census Bureau, 1975-2003).
Women's Median Income Compared to Men's	Continuous Variable: Women's median income divided by men's median income multiplied by 100. Measured every 10 years. Source: Decennial Census (United States Census Bureau, 1970, 1980, 1990, 2000).
Female Legislators	Continuous Variable: Percent of state legislature that are female - the number of women holding legislative positions divided by the total number of legislative seats multiplied by 100. Source: Statistical Abstracts of the United States (United States Census Bureau, 1975-2003).
Female Lawyers	Continuous Variable: Percent of all lawyers in each state that are female. Measured every 10 years. Source: Lawyer Statistical Reports for 1970, 1980 and 1990 (Curran et al., 1985; Curran and Carson, 1994)

Feminist Activism

NOW Membership	Continuous Variable: Number of NOW members per capita in each state. Source: NOW Headquarters
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Proximity Variables

Interstate Proximity	Continuous Variable: Number of border states that have adopted a marital rape law. Source: Session Laws for each state, 1975-2003
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Table 3. Descriptive Statistics

Variables	Mean	S.D.	Min	Max
1. Marital Rape law	0.055	0.083	0	0.333
2. Population	4853.292	5256.792	476.926	28619.26
3. Northeast	0.184	0.391	0	1
4. Midwest	0.225	0.422	0	1
5. South	0.327	0.474	0	1
6. West	0.265	0.446	0	1
7. % White	84.073	12.067	31.272	97.859
8. Urbanicity	63.066	22.214	22.311	95.509
9. Crime Rate	4920.73	1152.386	2436.825	7382.98
10. % Democrats	60.376	16.912	26.079	91.959
11. Party Competition	0.377	0.252	0	1
12. Government Ideology	49.846	17.251	18.346	83.568
14. % Female lawyers	8.521	3.473	2.1	15.348
15. % Female legislators	14.067	6.355	5.092	29.05
16. % Female labor force	43.951	1.793	39.605	49.191
17. Women's income	56.657	8.279	30.902	70.455
18. NOW membership	0.048	0.029	0.013	0.133
19. Proximity	0.882	0.761	0	2.667

Table 4. Correlations Between the Grand Means for the Independent Variables

Variables	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17
1. Population	1.00																
2. Northeast	0.06	1.00															
3. Midwest	0.05	-0.26	1.00														
4. South	0.01	-0.33	-0.37	1.00													
5. West	-0.11	-0.29	-0.32	-0.42	1.00												
6. % White	-0.20	0.27	0.28	-0.38	-0.11	1.00											
7. Urbanicity	0.56	0.15	-0.06	-0.02	-0.05	-0.28	1.00										
8. Crime Rate	0.27	-0.13	-0.30	-0.04	0.44	-0.38	0.59	1.00									
9. % Democrats	0.10	0.00	-0.34	0.66	-0.37	-0.50	0.26	0.14	1.00								
10. Party Competition	-0.02	-0.28	0.11	-0.12	0.27	0.09	-0.03	0.07	-0.38	1.00							
11. Government Ideology	0.10	0.45	-0.27	-0.07	-0.07	-0.07	0.31	0.07	0.48	-0.34	1.00						
12. % Female lawyers	0.26	-0.15	-0.08	-0.02	0.23	-0.43	0.28	0.17	-0.01	0.26	0.10	1.00					
13. % Female legislators	-0.13	0.16	0.05	-0.52	0.36	0.15	0.03	0.18	-0.45	0.23	0.11	0.35	1.00				
14. % Female labor force	0.00	-0.10	-0.01	0.26	-0.18	-0.49	0.17	0.02	0.35	0.01	0.11	0.60	0.09	1.00			
15. Women's income	0.09	-0.14	-0.06	0.13	0.05	-0.47	0.08	0.03	0.05	0.29	-0.04	0.80	0.22	0.74	1.00		
16. NOW membership	0.17	0.28	-0.14	-0.24	0.14	-0.14	0.16	0.10	-0.03	0.13	0.34	0.46	0.32	0.23	0.33	1.00	
17. Proximity	0.08	-0.09	0.18	-0.04	-0.05	0.07	-0.02	-0.11	-0.30	0.30	-0.26	0.50	0.24	0.34	0.49	0.06	1.00

Table 5. Event History Analysis of Adoption of Marital Rape Laws (Unstandardized coefficients shown, N = 991).

Independent Variables	Model I			Model II			Model III			Model IV			Model V		
	OR	b	Std.E.	OR	b	Std.E.	OR	b	Std.E.	OR	b	Std.E.	OR	b	Std.E.
Social Climate															
Percent White	1.08	0.07 *	0.03	1.10	0.10 **	0.03	1.13	0.12 ***	0.04	1.14	0.13 ***	0.04	1.18	0.16 ***	0.05
Urbanicity	0.99	-0.01	0.01	0.99	-0.01	0.01	0.99	-0.01	0.01	0.99	-0.01	0.01	0.98	-0.02	0.01
Crime Rate	1.00	0.00	0.00	1.00	0.00	0.00	1.00	0.00 *	0.00	1.00	0.00 *	0.00	1.00	0.00 *	0.00
Political Climate															
Percent Democrats				1.02	0.03	0.02	1.03	0.03	0.02	1.02	0.02	0.02	1.01	0.01	0.02
Party Competition				1.08	0.08	0.45	0.91	-0.09	0.47	0.85	-0.17	0.47	0.83	-0.19	0.49
Government Ideology				0.99	-0.01	0.01	0.99	-0.01	0.01	0.98	-0.02	0.01	0.98	-0.03	0.01
Gender Equality															
% Female Legislators							0.96	-0.03	0.04	0.98	-0.02	0.04	0.98	-0.02	0.04
% Female Labor Force							1.31	0.27 **	0.10	1.45	0.37 **	0.12	1.53	0.42 ***	0.13
Feminist Activism															
NOW Membership							44.38	3.79	6.87	12.91	2.56	6.92	104.29	4.65	7.79
Proximity Variable															
Proximity										0.52	-0.65 *	0.30	0.53	-0.63 *	0.30
Control Variables															
Population													1.00	0.00	0.00
Northeast													0.84	-0.17	0.88
Midwest													0.2	-1.63	0.90
West													0.42	-0.88	0.92
Constant		-11.17 ***	3.19		-14.57 ***	3.80		-28.76 ***	6.43		-32.16 ***	7.14		-36.42 ***	7.96
Model Log Likelihood		-104.87			-103.38			-99.40			-96.71			93.74	

* p <.05; ** p <.01; *** p <.001