

Does the Controversy Matter? Comparing the Causal Determinants of the Adoption of Controversial and Noncontroversial Rape Law Reforms

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Do the causal determinants of legal change differ for controversial and noncontroversial laws? Using rape law reforms as an example of legal change, I answer this question via a longitudinal examination of the intrastate characteristics and interstate processes that affect the adoption of *both* controversial and noncontroversial rape law reforms. The results show that the adoption of partial reforms significantly decreases a state's likelihood of passing a stronger version of the reform *only* for controversial rape law reforms. Other factors, such as women's economic power and the interstate process of diffusion similarly affect both controversial and noncontroversial reforms. Thus, contrary to the idea that the process of diffusion operates differently for controversial reforms, the results indicate that spatial proximity negatively affects the adoption of *both* controversial and noncontroversial rape law reforms. These findings have important implications for theoretical explanations of legal change, research on rape law reforms, and social movement research and activism.

Over the past four decades, the rape laws in the United States have undergone major revisions. Originally, states' rape statutes were limited to forced penile-vaginal penetration committed by a man against a woman who was not his wife. Beginning early in the 1970s, however, feminists launched the rape law reform movement and began lobbying state legislators in an effort to achieve statutory changes in the rape laws. Specifically, feminists advocated for changes in the legal definition of rape that would create gender-neutral rape/sexual assault statutes, eliminate the spousal rape exemption, and redefine rape as sexual assault. They also pushed for the elimination of the special evidentiary rules and requirements, which included eliminating the resistance requirement and establishing "rape shield" laws that would prohibit the use of the victim's past sexual history in court (Anderson 1998, 2002, 2003; Bergen 1996; Berger, Searles,

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et al. 1988; Berger, Neuman, et al. 1991; Donat & D'Emilio 1992; Horney & Spohn 1991; Marsh et al. 1982; Searles & Berger 1987; Spohn & Horney 1992). Because some of these proposed rape law reforms were more controversial than others (Berger, Neuman, et al. 1991; Largen 1988; Spohn & Horney 1992), studying the adoption of rape law reforms provides a unique opportunity to examine if certain social factors and processes differentially affect the adoption of controversial and noncontroversial laws.

Why was there controversy surrounding some of the rape law reforms? First, although feminist activists set the goals of the rape law reform movement, they were soon joined by law-and-order advocates who did not agree with all of the feminist goals (Berger, Searles, et al. 1988; Berger, Neuman, et al. 1991; Largen 1988; Marsh et al. 1982). Specifically, criminal justice advocates opposed the feminist reforms that "altered the traditional conception of rape" (Berger, Searles, et al. 1988:348) or that broadened the crime of rape "to include cases other than 'classic rape'" (Berger, Neuman, et al. 1991:224). Thus, the efforts to redefine rape as sexual assault and eliminate the spousal exemption may have been hampered by this controversy from within the rape law reform movement. Second, there was also controversy surrounding some of the rape law reforms from outside of the rape law reform movement. Here, the efforts to eliminate spousal rape exemptions and pass rape shield laws generated heated debates among legal scholars over victims' rights and defendants' rights (Anderson 2003; Call et al. 1991; Largen 1988; Russell 1990; Spohn & Horney 1992).

Despite the debates surrounding some of the rape law reforms, states began to alter the legal definition of rape in the 1970s (Bienen 1980). The laws in most states now criminalize male rape, same-sex rape, and other forms of sexual assault (i.e., forced oral and anal sex). In addition, the majority of states have eliminated the resistance requirement and passed a rape shield law. At the same time, however, only about half of the states have completely eliminated the spousal rape exemption. In fact, in 2005, Tennessee became only the 25th state to completely eliminate the spousal rape exemption. Thus, while rape law reform advocates were successful in changing at least some aspects of the rape laws in all states, there has been great variation in the timing, number, and strength of these changes throughout the country.

Did the controversy surrounding some of these rape law reforms condition the processes that led states to adopt rape law reforms? Some researchers (i.e., Spohn & Horney 1992) suggest that the controversial rape law reforms were slower and more difficult to pass; however, there have been no studies that examine if the causal processes differ for the adoption of controversial and noncontroversial rape law reforms. In fact, Berger, Neuman, et al.'s (1991) cross-sectional analysis of rape law reforms is the only study to date that has attempted to compare the social and political factors associated with the adoption of

different rape law reforms. Due to the methodological weaknesses (i.e., failure to establish proper time order effects) of this study, however, Berger, Neuman, et al.'s (1991) results and conclusions are called into question. Improving upon the weaknesses of previous studies, McMahon-Howard et al. (2010) conducted a longitudinal analysis of the factors that affect the adoption of strong marital rape laws. Since the marital rape exemptions were one of the most controversial reforms, however, the results of this study cannot be generalized to the adoption of other rape law reforms. In fact, the researchers suggest that their findings may be unique to controversial rape law reforms.

The purpose of the present study is to examine whether certain social factors and processes differentially affect the adoption of controversial and noncontroversial rape law reforms. To overcome the methodological weaknesses and data limitations of the previous research on rape law reforms, I collected longitudinal data on social and political characteristics of states as well as data on *all changes* states made to their rape laws between 1970 and 2006. Using separate heterogeneous diffusion models, I provide the first longitudinal analysis of the factors and processes that affect the adoption of *multiple* rape law reforms over the entire course of the rape law reform movement. In addition, I provide the first empirical examination of how the controversial nature of a reform may condition the causal determinants of legal change. In doing so, I theorize how some social factors and processes (i.e., the prior policy environment) may operate differently for controversial and noncontroversial reforms.

Previous Research on Legal Change

Despite the growing body of literature devoted to understanding the social factors and processes that affect legal change (Amenta et al. 2005; Cornwall et al. 2007; King et al. 2005; McCammon et al. 2001; McMahon-Howard et al. 2010; Soule & Earl 2001; Soule & King 2006; Soule & Olzak 2004), researchers have neglected to consider the role of controversy in the policy process. Instead, researchers have identified several important factors, such as social movement organizations, public opinion, electoral competition, and the process of diffusion, that affect the adoption of a particular law. By narrowly focusing on the adoption of a single law, however, researchers cannot compare the factors that affect controversial and noncontroversial reforms.

Considering the controversial nature of reforms may help explain why many of the findings regarding legal change are inconsistent across studies. For example, while McCammon et al. (2001) find that the prior adoption of partial reforms has no effect on the adoption of full women's suffrage, other researchers find that par-

tial reforms negatively affect the adoption of strong hate crime laws (Soule & Earl 2001) and strong marital rape laws (McMahon-Howard et al. 2010). In addition, whereas McCammon et al. (2001) find that being in close proximity to other states that have adopted a particular law increases a state's likelihood of passing a similar law, these other studies show that such spatial proximity decreases a state's likelihood of passing a similar law (McMahon-Howard et al. 2010; Soule & Earl 2001).

In addressing these conflicting findings, researchers have speculated that social factors and processes may differentially affect the adoption of controversial and noncontroversial reforms. For example, Soule and Earl (2001) suggest that spatial proximity may increase the likelihood of the spread of noncontroversial legislation, whereas spatial proximity may have a negative effect on the spread of controversial legislation. In addition, in addressing the mixed findings in regard to the effect (or lack of effect) that the political climate has on policy outcomes, Soule and Olzak (2004) suggest that the political opportunity structure "matters less" for the adoption of controversial legislation (p. 472). Alternatively, I propose that some aspects of a state's political climate, such as a state's policy history, may matter *more* for the adoption of controversial legislation. For example, it may be that the adoption of prior, partial reforms only negatively affects the adoption of stronger reforms for controversial policies.

Indeed, the legislative decision making process may be different for controversial and noncontroversial reforms. Deciding to pass controversial reforms, such as policies regarding same-sex marriage, abortion, and the death penalty, may have more serious consequences for legislators than deciding to pass noncontroversial reforms, such as policies improving food safety regulations and motor vehicle safety. Thus, certain social and political factors may lead legislators to act differently when considering controversial and noncontroversial policies. For instance, when there is little electoral competition, legislators may feel free to pass both controversial and noncontroversial policies; however, winning an election by a narrow margin may significantly decrease a legislator's willingness to pass controversial reforms.

While each of the above explanations is plausible, they have not been tested empirically. Thus, in the present study, I fill a gap in the literatures on rape law reforms and legal change by conducting the first study that examines how certain intrastate characteristics and the interstate process of diffusion affect the adoption of *both* controversial and noncontroversial rape law reforms. Specifically, I investigate the effects of the political climate, public opinion, and gender climate of a state on the state's likelihood of adopting each rape law reform. In addition, in order to explore how states influence each other in regard to the adoption of rape law reforms,

I examine the effects of the interstate process of diffusion, which includes the effects of a state's infectiousness, susceptibility, and spatial proximity to other adopters. Drawing from the social movement literature and the diffusion literature, I make predictions about how these state characteristics and the interstate process of diffusion affect the adoption of rape law reforms.

Theoretical Perspectives and Hypotheses

Social Movement Organizations, the Political Climate, and Public Opinion

Most social movement researchers agree that social movements are largely responsible for initiating legal change (see Giugni et al. 1999) and that social movement organizations (SMOs) affect policy outcomes (Burnstein & Linton 2002; Soule & Olzak 2004). Scholars disagree, however, over *how* social movements affect policy outcomes (Burnstein & Linton 2002). Some researchers assert that it is the strength of an SMO that determines its ability to affect policy outcomes (Andrews 2001; Cress & Snow 2000; Soule & Olzak 2004), while others argue that it is the political opportunity structure that conditions the SMO's ability to influence policies (McAdam 1982; Tarrow 1994). Yet other scholars claim that it is public opinion, not SMOs, that primarily directs policy outcomes (Burnstein 1998). My goal is not to settle these debates; instead, I pull from each perspective to make hypotheses about the factors that affect the adoption of rape law reforms.

First, the strength of an SMO should affect relevant policy outcomes. When SMOs are strong, states are more likely to pass legislation supporting activists' interests. Because the strength of a SMO devoted to advancing women's rights is positively related to the adoption of women's rights legislation (McCammon et al. 2001; Murphy 1997; Soule & Olzak 2004), I expect states with a strong women's rights organization to be more likely to adopt rape law reforms.

Second, beyond the strength of the SMO, certain aspects of the political environment can either enhance or constrain the mobilization and success of social movements (Meyer 2004). According to political opportunity theory, when the dynamics of the political system are perceived as favorable to the interests of a particular group, the group will mobilize and advocate for policy change (Meyer & Minkoff 2004; Soule & Olzak 2004). Although debated among political opportunity theorists (i.e., see Cornwall et al. 2007 and Meyer & Minkoff 2004), some scholars claim that the aspects of the political environment that instigate social movement mobilization are the same factors that affect policy outcomes (McAdam 1982). Thus, according to political opportunity theory, "political factors external to the movement are important because variations

in the larger political context can make government officials more or less willing to change policy” (Kane 2007:216).

In general, researchers conceptualize political opportunities as factors that affect the “openness” of the government (Meyer & Minkoff 2004). Thus, there are some factors that can create a more open or closed political opportunity structure for policy change. Because lawmakers with a more liberal ideology are more open to policy change, in general, and are more likely to support women’s rights legislation (Soule & Olzak 2004), I predict that states with a more liberal government ideology will be more likely to pass rape law reforms. On the other hand, legislation may be more difficult to pass when there is a split-party government (Soule & Earl 2001). Therefore, I expect to find that the presence of a split-party government decreases a state’s likelihood of passing each rape law reform.

Although overlooked in previous studies and theories of legal change, there are some political factors that may operate differently for controversial and noncontroversial legislation. Specifically, when legislators win an election by a narrow margin of victory, they may be more likely to pass noncontroversial policies and less likely to pass controversial policies. Feeling less secure in their position and more concerned about their ability to be re-elected, legislators elected by a narrow margin may be more careful and strategic in deciding which policies to support (Barrilleaux et al. 2002). Due to the high electoral competition, they may be less likely to support controversial legislation out of fear of losing the support of potential voters. Instead, they may decide to support noncontroversial policies that will appeal to a wider base of constituents. In addition, knowing that close elections tend to draw greater interest, attention, and larger voter turn-outs, legislators may support policies that will benefit those who are usually underrepresented at the polls (i.e., women). Therefore, when there is high electoral competition, I predict that legislators will be more likely to support noncontroversial rape law reforms, which may mobilize women voters and appeal to both liberal and conservative groups; however, legislators under these circumstances will be less likely to support controversial rape law reforms.

Another political factor that may operate differently for controversial and noncontroversial legislation is the prior adoption of partial reforms. Specifically, the prior adoption of partial reforms may create a more open political opportunity structure for the adoption of stronger, noncontroversial laws and a more closed political opportunity structure for the adoption of stronger, controversial reforms. Researchers suggest that the prior adoption of related legislation creates a more open political opportunity structure for the mobilization and success of certain social movements (McAdam 1982; Meyer 2004). That is, just as smaller legislative

victories can create a political opportunity for greater social movement mobilization (McAdam 1982), the adoption of weaker or partial reforms may make the political environment more conducive to the adoption of a stronger reform for noncontroversial legislation. When legislators pass partial reforms for controversial policies, however, this may serve as a resistance strategy, which inhibits the adoption of stronger legislation (McMahon-Howard et al. 2010; Soule & Earl 2001). Here, lawmakers may view their adoption of such legislation as an effort to pacify reform advocates without upsetting opponents (Cornwall et al. 2007). Therefore, I predict that the prior adoption of partial reforms will positively affect the adoption of noncontroversial rape law reforms and negatively affect the adoption of controversial rape law reforms.

Beyond the influence of the political climate, scholars argue that public opinion significantly increases or decreases a state's likelihood of adopting certain legislation. In fact, some scholars claim that public opinion is the most important factor determining policy outcomes (Burnstein 1998; Burnstein & Linton 2002). The assumption here is that legislators look for a consensus of opinions from their constituents in making decisions regarding public policy. Because law makers are concerned with re-election, they are unlikely to vote against the majority opinion (Burnstein & Linton 2002:384). Therefore, I predict that states with more support for women's rights and equality will be more likely to pass rape law reforms. In addition, states with more support for tougher criminal laws will be more likely to pass rape law reforms.

Social Climate

Contrary to the notion that law makers' decisions are based on a consensus of opinions, other scholars argue that laws are created to serve and protect the interests of those in power (Chambliss 1993; MacKinnon 1989; Quinney 1970; Vold et al. 2002). These scholars claim that because white, middle-class men have had the most political and economic power in the United States, most 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 (MacKinnon 1989; Quinney 1970). As social conditions change and other groups gain more economic and political power, however, laws may be altered to protect the interests of these groups.

When considering laws regarding the rights and protections of women, scholars (i.e., Chambliss 1993; McGarrell & Castellano 1993) point specifically to changing gender relations, such as women's increased presence and power in the public sphere, as a social condition that can create a favorable environment for the adoption of women's rights legislation. Specifically, with their

increased presence and power in the public sphere, women become better able to translate their interests into public policy. In addition, as women gain more economic and political power, law makers may alter their views and attitudes toward women's roles and gender expectations, which may increase the likelihood that legislators will pass women's rights legislation (McCammon et al. 2001). Thus, shifts in the structure of gender relations create *gendered* opportunities for the adoption of women's rights legislation (McCammon et al. 2001). Indeed, research findings confirm that there is a significant relationship between women's economic and political power and the adoption of women's rights legislation (Berger, Neuman, et al. 1991; Caiazza 2002; McCammon et al. 2001; McMahan-Howard et al. 2010; Murphy 1997; Ramirez & McEnaney 1997). Therefore, I expect a positive relationship between women's economic and political power and the adoption of rape law reforms.

The Interstate Process of Diffusion

While the social and political climate of a state may affect a state's likelihood of adopting a particular policy, scholars also identify the interstate process of diffusion as an important determinant of legal change (Grattet et al. 1998; Soule & Earl 2001; McMahan-Howard et al. 2010). The diffusion framework is used to explain how a new idea or event spreads from one or more actors in a social system to other actors in the social system. The basic assumption of the diffusion framework is that new ideas, events, or policies spread as actors communicate and share information with one another (Myers 2000; Rogers 2003; Strang & Tuma 1993). In regard to legal change, diffusion researchers suggest that when policy makers are considering the adoption of a particular law, they may review the policies adopted by nearby states to guide their decision making process (Grattet et al. 1998).

Researchers often use heterogeneous diffusion models to study the spread of a particular law or policy (Soule & Earl 2001). These models account for the effects of each actor's propensity, infectiousness, susceptibility, and spatial proximity to other actors on the adoption of a new law or policy (see Myers 2000; Strang & Tuma 1993). A state's intrinsic rate of adoption, or the "propensity" effects, refers to internal characteristics of the state (i.e., the state's political and social climate) that have a direct effect on the state's likelihood of adopting a particular policy (Myers 2000; Soule & Earl 2001; Strang & Tuma 1993). Although diffusion models account for these propensity effects, diffusion researchers traditionally point to the interstate processes as the key determinants of the probability and timing of a state's adoption of a particular policy. Thus, to account for how states that have already adopted a par-

ticular law reform influence other states that have not adopted that particular reform, diffusion researchers focus on modeling the effects of infectiousness, susceptibility, and spatial proximity.

Infectiousness

Infectiousness refers to the amount of influence a particular actor has on all other actors (Myers 2000; Strang & Tuma 1993). Because states may vary in regard to their ability to influence the adoption of legislation in other states, a model of the diffusion of law reforms needs to account for the possibility that certain changes in states' laws will be more influential than others. The infectiousness of an actor or event is linked to visibility. For example, Myers (2000:183) examined the diffusion of race riots and found that the severity of a riot had a positive effect on the diffusion of riots. In explaining why other riots were more likely to arise in response to more severe riots, Myers argued that because more media attention is given to more severe riots, these riots are more visible. As a result, a larger number of people become aware of these more severe riots, which affects the likelihood of the spread of rioting. Similarly, McMahon-Howard et al. (2010) found that when states made more severe changes to their marital rape law, these changes were more infectious, and other states were more likely to pass a strong marital rape law as a result. Therefore, I predict that infectiousness will affect the likelihood that at-risk states will pass each particular rape law reform. That is, when other states make more severe changes for each rape law reform, the likelihood that other states will pass that particular reform will increase.

Susceptibility

Susceptibility refers to an actor's vulnerability to influence from other actors. Previous researchers have found that states vary in regard to how easily they give in to the pressure to pass a legal reform in response to the passage of that reform in other states. The prior adoption of related legislation is one factor that may determine a state's susceptibility to the adoption of a particular law in other states. For example, Soule and Earl (2001) found that whether or not the state previously repealed its sodomy law determined how susceptible that state was to the diffusion of hate crime laws. States that repealed their sodomy law were more likely to adopt hate crime legislation in response to the passage of these hate crime laws in other states. As Soule and Earl (2001:292) explain, because these states may be "more attuned to legal issues concerning gays and lesbians . . . [and] more sensitive or conditioned to policies extending rights and benefits to gays and lesbians," they may be more likely to be aware of and respond to the adoption of hate crime legislation in other states by passing similar hate crime legislation.

Similarly, McMahon-Howard et al. (2010) found that prior ratification of the Equal Rights Amendment (ERA) determined a state's susceptibility to the diffusion of strong marital rape laws (for the year of ratification for each state, see Crowley 2006:522). As other states passed strong marital rape laws, states that ratified the ERA were more likely to follow the actions of these states by also adopting a strong marital rape law during the early part of the rape law reform movement. Following Soule and Earl's logic, McMahon-Howard et al. explain that because the ERA guaranteed equal rights for women (Crowley 2006), states that ratified the ERA may be more attuned to and more sensitive to the passage of women's rights legislation in other states. As a result, these states may be more likely to pay attention to the recent adoption of laws protecting women from violence in other states and may be more likely to adopt similar laws in response. Therefore, I predict that states that ratified the ERA will be more receptive to contagious influence from states that have already adopted a rape law reform and will be more likely to pass similar rape law reforms.

Proximity

Researchers consistently find that close proximity to other states that recently adopted a particular law significantly affects a state's likelihood of passing a similar law (Grattet et al. 1998; McCammon et al. 2001; Renzulli & Roscigno 2005; Soule & Earl 2001; Soule & Zylan 1997; Strang & Meyer 1993; Strang & Tuma 1993). By communicating and sharing knowledge with each other, nearby states may influence each other in regard to drafting and adopting social policies (Strang & Tuma 1993). This knowledge of the adoption of a law in a nearby state may encourage or discourage policy makers in neighboring states to pass a similar law. The direction of the effects of spatial proximity has been a focus of recent research on the diffusion of legal changes (McMahon-Howard et al. 2010; Soule & Earl 2001).

While most researchers find that being in close proximity to other states that already adopted a particular policy *increases* a state's likelihood of adopting a similar policy (Grattet et al. 1998; McCammon et al. 2001; Renzulli & Roscigno 2005; Soule & Zylan 1997), there is some evidence to suggest that the adoption of a law in nearby states *decreases* a state's likelihood of passing a similar law (McMahon-Howard et al. 2010; Soule & Earl 2001). Given these conflicting findings, researchers suggest that spatial proximity may have a negative effect *only* for controversial legislation (Soule & Earl 2001). Because the adoption of a controversial law may be followed by negative reactions from constituents, these negative reactions may decrease the likelihood that a similar law will pass in nearby states (McMahon-Howard et al. 2010). On the other hand, because negative social reactions are unlikely to follow the adoption of

noncontroversial laws, spatial proximity will have a positive effect for the adoption of noncontroversial laws. This claim, however, has not been fully developed or fully examined. If spatial proximity differentially affects controversial and noncontroversial laws, as previous researchers suggest, then I expect to find that close proximity to other states that already adopted the particular rape law reform will increase the likelihood that nearby states will adopt a similar reform for the noncontroversial rape law reforms. Conversely, spatial proximity will have a negative effect on a state's likelihood of passing the controversial rape law reforms.

Data and Methods

In order to conduct a longitudinal analysis of the adoption of rape law reforms, I gathered data for each state for each year from 1970 to 2006 from multiple sources. Using the yearly session laws for each state, I collected data on all changes, if any, made to each state's rape statute in each year. Then I used several secondary sources to gather information regarding the social, political, and gender characteristics of each state as well as the process of diffusion. Below, I explain the data sources and the coding for each of these variables. With a few exceptions, which are noted below, all variables were measured yearly. In addition, unless otherwise noted, linear interpolation was used to estimate any missing values.¹ All independent variables were lagged one year to ensure that the social factors and processes were measured prior to the adoption of each rape law reform.

Dependent Variables

The dependent variables measure the adoption of two noncontroversial rape law reforms—gender-neutral rape/sexual assault statute and law eliminating the resistance requirement—and two controversial rape law reforms—law redefining rape as sexual assault and strong rape shield law.² The first dependent variable, gender-neutral law, measures whether or not the state's rape/sexual assault statutes are written in gender-neutral terms for both the victim and the offender. Gender-neutral law was coded 1 if the statutes define rape/sexual assault as a crime that any person can commit against any other person, without any gender-specific provisions. Thirty-eight states have gender-neutral rape/sexual assault statutes (see Table 1).

¹ For a discussion of linear interpolation for time-series analyses, see Chow and Lin (1976) and Lanning (1986).

² These rape law reforms were classified as noncontroversial or controversial based on the findings from previous research (Berger, Neuman, et al. 1991; Largent 1988; Spohn & Horney 1992).

Table 1. States That Have Adopted Each Rape Law Reform

Gender-Neutral	Resistance Requirement	Redefine Rape as Sexual Assault	Rape Shield Law
Alaska	Alaska	Alaska	Alabama
Arizona	Arizona	Arizona	Arizona
Arkansas	Arkansas	Arkansas	Connecticut
Colorado	California	Colorado	Florida
Connecticut	Colorado	Connecticut	Georgia
Delaware	Connecticut	Delaware	Hawaii
Florida	Delaware	Florida	Illinois
Hawaii	Florida	Hawaii	Indiana
Illinois	Hawaii	Idaho	Iowa
Iowa	Idaho	Illinois	Kentucky
Louisiana	Illinois	Iowa	Louisiana
Maine	Indiana	Kansas	Maine
Massachusetts	Iowa	Kentucky	Maryland
Michigan	Kansas	Louisiana	Massachusetts
Minnesota	Kentucky	Massachusetts	Michigan
Montana	Maine	Michigan	Minnesota
Nebraska	Massachusetts	Minnesota	Missouri
Nevada	Michigan	Montana	Montana
New Hampshire	Minnesota	Nebraska	Nebraska
New Mexico	Montana	Nevada	New Hampshire
New York	Nebraska	New Hampshire	New Jersey
North Dakota	Nevada	New Jersey	New York
Ohio	New Hampshire	New Mexico	North Carolina
Oklahoma	New Jersey	North Dakota	North Dakota
Oregon	New Mexico	Ohio	Ohio
Pennsylvania	New York	Oklahoma	Oklahoma
Rhode Island	North Dakota	Pennsylvania	Oregon
South Carolina	Ohio	Rhode Island	Pennsylvania
South Dakota	Oklahoma	South Carolina	South Carolina
Tennessee	Oregon	South Dakota	Tennessee
Texas	Pennsylvania	Tennessee	Texas
Utah	Rhode Island	Texas	Utah
Vermont	South Carolina	Vermont	Virginia
Virginia	South Dakota	Washington	Vermont
Washington	Tennessee	West Virginia	West Virginia
West Virginia	Texas	Wisconsin	Wisconsin
Wisconsin	Utah	Wyoming	
Wyoming	Vermont		
	Virginia		
	Wisconsin		
	Wyoming		

The second dependent variable, elimination of the resistance requirement, measures whether or not a state has completely removed the resistance requirement. Originally, the statutes in all states either explicitly or implicitly included a resistance requirement. Where the resistance requirement was not explicitly stated, it was implicitly included by the phrase “forcibly and against her will.” Therefore, these states are said to have a resistance requirement until the phrase “forcibly and against her will” is removed and replaced by other language. This variable was coded 1 if the state has completely removed the resistance requirement either by eliminating the common law phrase “forcibly and against her will,” by removing any language stating that the victim must resist, and/or by

explicitly stating that resistance is not required. Forty-one states have completely eliminated the resistance requirement (see Table 1).

The third dependent variable, law redefining rape as sexual assault, measures whether or not the state has redefined rape as sexual assault by including other forms of sexual assault (forced oral sex, anal sex, and/or object penetration), in addition to forced penile-vaginal penetration, in the primary offense statute. This variable was coded 1 if the state's primary rape or sexual assault statute criminalizes forced oral sex, anal sex, and/or object penetration in addition to penile-vaginal penetration. Thirty-seven states have redefined rape as sexual assault (see Table 1).

Finally, the fourth dependent variable, strong rape shield law, measures whether or not a state strongly restricts the admissibility of evidence of the victim's reputation and/or past sexual history in court. This variable was coded 1 if the state has a strong rape shield law that prohibits the use of sexual history information to discredit the victim or to prove that the victim consented, while permitting the use of the victim's sexual history *only* under very specific, limited circumstances (i.e., to prove the source of semen, pregnancy, or disease; to explain the victim's past sexual history with the defendant or the victim's past sexual history that shows a pattern of sexual behavior). Thirty-six states have passed a strong rape shield law (see Table 1).

Independent Variables

The independent variables in the present study measure the intrastate characteristics and the interstate process of diffusion that may affect a state's likelihood of adopting each different rape law reform (see Table 2 for descriptive statistics for the independent variables).

Social Movement and Political Climate Variables

Because the National Organization for Women (NOW) was the primary social movement organization behind the rape law reform movement (Largen 1988), I used the number of NOW members per capita in each state as an indicator of social movement organization strength. After gaining special permission from the NOW executive board, I collected state-level data on NOW membership both by searching the NOW Archives at the Schlesinger Library in Cambridge, Massachusetts (National Organization for Women 1959–2002) and by obtaining membership data directly from NOW headquarters in Washington, DC. Using NOW membership data (1967, 1977–1997), I created the NOW membership variable to measure the number of NOW members in each state divided by the total state population.

Table 2. Descriptive Statistics for Independent Variables

	Mean	SD	Minimum	Maximum
Social Movement and Political Climate				
NOW Membership	4.57	3.79	0.00	25.02
Government Ideology	48.79	23.43	0.00	97.92
Split-Party Government	0.41	0.49	0.00	1.00
Mean Margin of Victory	44.29	15.86	3.47	88.53
Prior, Partial Reforms				
Prior Changes in Gender-Neutral Law (GN)	1.04	0.81	0.00	4.00
Prior Changes in Resistance Requirement (RR)	0.98	0.95	0.00	6.00
Prior Changes in Redefining Rape as Sexual Assault (SA)	0.95	0.71	0.00	4.00
Prior Changes in Rape Shield Law (RS)	0.87	0.64	0.00	3.00
Public Opinion				
Support for Women's Rights	1.43	0.17	1.01	1.79
Support for Death Penalty	0.73	0.06	0.64	0.96
Gender Climate				
% Female Labor Force	43.94	3.46	31.55	56.15
% Female Legislators	14.92	8.94	0.36	40.82
Diffusion				
Infectiousness				
Extent of Change GN	5.46	7.22	0.00	39.00
Extent of Change RR	4.28	6.70	0.00	31.00
Extent of Change SA	4.65	6.96	0.00	33.00
Extent of Change RS	4.11	7.83	0.00	37.00
Susceptibility				
ERA × States With GN Law	13.72	14.60	0.00	39.00
ERA × States With RR Law	18.30	18.18	0.00	41.00
ERA × States With SA Law	17.31	16.86	0.00	37.00
ERA × States With RS Law	14.93	15.86	0.00	37.00
Proximity				
# Bordering States w/GN Law	1.34	1.49	0.00	6.00
# Bordering States w/RR Law	1.50	1.64	0.00	8.00
# Bordering States w/SA Law	1.50	1.40	0.00	8.00
# Bordering States w/RS Law	1.30	1.45	0.00	6.00
Control Variables				
% White	84.25	12.05	24.26	100.00
% Urban	68.01	14.66	32.20	94.40
Population	495.84	5,387.08	305.00	36,458.00
NE Region	0.18	0.38	0.00	1.00
MW Region	0.24	0.43	0.00	1.00
W Region	0.26	0.44	0.00	1.00
S Region	0.32	0.47	0.00	1.00
Time Period (1970–1989)	0.54	0.50	0.00	1.00

N = 1,850; The mean and standard deviation are based on the mean values for all state-year observations.

Following previous research (Barclay & Fisher 2003; McMahon-Howard et al. 2010; Soule & Olzak 2004), I used Berry et al.'s (1998) updated 1960–2008 government ideology scores as an indicator of the general receptivity or openness of the political opportunity structure. The government ideology score is based upon the ideological position of the governor, the members of Congress, and the members of the state legislature in each state for each year. Higher values indicate a more liberal state government ideology, which represents a more open political opportunity structure (Soule & Olzak 2004). I used the presence of a split-party government as a general indicator of a more closed political opportunity structure. The U.S. Census Statistical Abstracts (1970–2006) provide data on

the political party composition of the state legislature and the governor for each state for each year. Split-party government was coded 1 if the dominant political party of the state legislature differs from the political party of the governor.

To measure electoral competition, I used the average margin of victory for all state representatives who won the election in each election year. Using Carsey et al.'s (2007) data, I determined that the margin of victory represents the difference in percentage points between the votes won by the winning candidate and the second-place finisher in the election. Because multiple state representatives are elected into office each election year, I used the average margin of victory for the winning candidates as a measure of the overall margin of victory in the state. Missing values are centered at the mean. To measure the prior policy environment, I used prior partial reforms. Using data collected from the state session laws, I determined that the value for prior partial reforms represents the number of times a state changed the particular dimension of the rape law prior to the year of data. A separate prior partial reforms variable was created for each of the four rape law reforms.

Public Opinion

Because state-level measures of attitudes toward rape laws are not available, I used Brace et al.'s (2002) public opinion data, which they disaggregated from the General Social Survey (1974–1998), to measure attitudes toward women's rights and equality and attitudes toward tough criminal laws at the state level. Attitudes toward women's rights and equality were measured by an index combining responses on two items: "Women should take care of running their homes and leave running the country to men," and "Most men are better suited emotionally for politics than women" (Brace et al. 2002:186). Higher scores represent more disagreement with these statements, which indicates more support for women's rights and equality. Attitudes toward tough criminal laws were measured by how much the respondent "favor[s] or oppose[s] the death penalty for persons convicted of murder" (Brace et al. 2002:187). Higher scores represent more support for the death penalty, which indicates more support for tough criminal laws. Due to limitations with sample sizes, Brace et al. (2002) pooled the responses from all individuals in a given state surveyed between 1974 and 1998 to create a score for the overall state-level opinion for each measure. Therefore, these measures are not time-varying. In addition, due to small sample sizes, data are missing for Hawaii, Idaho, Maine, Nebraska, Nevada, and New Mexico; these states were omitted from the analyses (see the limitations section for a discussion of the use of an alternative measure).

Gender Climate Variables

Using data from the U.S. Census Statistical Abstracts (U.S. Census Bureau 1970–2006), I used the percentage of female labor force participants, which includes women who were 16 years old or older and who were employed in the civilian labor force, as an indicator of women's economic power. In addition, I used the percentage of female legislators in the state as an indicator of women's political power.

Interstate Process of Diffusion

To capture the interstate process of diffusion, I used separate variables to measure infectiousness (cumulative extent of change in each rape law reform), susceptibility (state ratification of the ERA and the number of states that adopted each rape law reform), and spatial proximity (number of bordering states that passed the specific rape law reform). I followed previous research (McMahon-Howard et al. 2010; Soule & Earl 2001) to construct each measure.

Infectiousness

Because previous researchers link infectiousness with visibility and because larger or more severe changes in a state's law receive more attention from other states than smaller or less severe changes (McMahon-Howard et al. 2010), I measured infectiousness by the cumulative extent of change in the particular dimension of rape law reform. The cumulative extent of change variable captures the strength of all changes made to a particular dimension of states' rape laws in a given year. Because the measure of infectiousness depends on the particular dimension of rape law, I created a separate infectiousness variable for each rape law reform. For each infectiousness variable, I went through a five-step process to calculate the values for infectiousness.

First, for each dimension of rape law reform, I created categories based on the strength of that dimension of rape law.³ Second, using

³ Strength of the gender-neutral statute was coded 0 if the statute is gender-specific for the offender and victim; coded 1 if the main rape/sexual assault statute is still gender-specific but the lesser offenses are gender-neutral; coded 2 if the statutes are gender-specific for the offender but gender-neutral for the victim; coded 3 if the statutes are gender-neutral for the victim and offender but contain other gender-related requirements (i.e., victim and offender must be of the opposite sex); and coded 4 if the statutes are completely gender-neutral. Strength of the sexual assault statute was coded 0 if the statute only recognizes penile-vaginal rape; coded 1 if the statutes include some other forms of sexual assault; and coded 2 if the statutes include all of the following forms of sexual assault: forced oral sex, anal sex, and object penetration. Strength of the elimination of the resistance requirement was coded 0 if the statutes state that a victim must physically resist to the utmost of her ability; coded 1 if the victim must show earnest resistance or a reasonable amount of resistance, have her resistance overcome, or be prevented from resisting; and coded 2 if there is no resistance requirement. Strength of the rape shield law was coded 0 if the state does not have a rape shield law; coded 1 if the law requires a hearing and allows judicial discretion to determine the admissibility of evidence of the victim's sexual history or if the law permits the use of evidence of the victim's sexual history to

data from the state session laws, I coded the strength of each state's rape law in 1969 (prior to the beginning of the rape law reform movement) for each dimension. Third, I recorded whether or not a state made a change in that dimension of its rape law in each year, and I measured the extent of the change. I used the categories of the strength of the status of each dimension to code the extent of change in each year. Extent of change was coded 0 if there was no change; 1 if there was a change but the category for the strength of the status of the dimension remained the same; 2 if there was a change that placed the strength of the status of the law into the next higher category (i.e., category 0 to category 1); and 3 if there was a change that moved the strength of the status of the dimension up two or more categories (i.e., from category 0 to category 2 or 3). Higher values for extent of change indicate a larger or more severe change.

Fourth, to account for the different levels of infectiousness of all states, the measures of each state's extent of change in each dimension in a given year were summed to measure the extent of all states' changes in a given year. Finally, because infectiousness accumulates over time, the value for the extent of all states' changes from the previous year was summed with those from the current year to measure the cumulative extent of change in each dimension of states' rape/sexual assault statutes. Following this multistep process, I created a separate measure of infectiousness for each rape law reform.

Susceptibility

Because states that ratified the ERA may be more sensitive to legal issues concerning women's rights and protections, I measured susceptibility by combining a measure of a state's prior ratification of the ERA with a measure of a state's exposure to the states that have passed a specific rape law reform. I first created a variable measuring state ERA ratification, which I coded 1 if the state ratified the ERA and 0 if the state failed to ratify the ERA or if the state ratified and then rescinded prior to the year of data (see Crowley 2006). Then, because a measure of susceptibility must also take into account the prior actions of other states that are pressuring the state to respond in a similar manner, I multiplied the ERA ratification variable by the total number of states that adopted the particular rape law reform prior to the year of data. Because the measure of susceptibility is specific to the particular dimension of rape law reform under investigation, I created four different measures of susceptibility (one for each reform).

attack the victim's credibility or to prove that the victim consented; coded 2 if the law prohibits the use of the victim's sexual history under specific circumstances unless it is constitutionally required; and coded 3 if the rape shield law prohibits the use of the victim's sexual history as evidence except under very specific circumstances stated in the statute.

Spatial Proximity

To examine the effects that the adoption of rape law reforms in nearby states has on a state's likelihood of adopting each rape law reform, I included a measure of interstate spatial proximity. I used the number of bordering states that have adopted the specific reform to measure spatial proximity. I used a separate measure of spatial proximity for each rape law reform.

Control Variables

Using data from the U.S. Census (1970, 1980, 1990, 2000) and the Statistical Abstracts (U.S. Bureau of the Census 1970–2006), I included control variables measuring the percentage of the state population that is white, the urbanicity of the state, and the size of the state population. In addition, using the four main U.S. census regions, I included variables measuring the regional location of each state. I used dummy-coded regional variables for the Northeast, Midwest, and West (South was the reference category) to measure the regional location of each state. Finally, to control for the possibility that the controversial nature of reforms may change over time as well as to control for other possible time period effects, I included a dummy variable for time period (1970–1989), which I coded 1 if the year was 1989 or earlier. It was during the early period of the rape law reform movement (1970–1989) that the controversy surrounding certain rape law reforms would have been strongest.

Analytic Strategy

Because my interest is the probability of a state adopting each of the different dimensions of rape law reforms in any given year and laws can only be adopted once a year during annual legislature meetings, I used a discrete time-event history model with a dichotomous dependent variable for the analysis of each rape law reform (Allison 1984). Each model estimates the effects of time-varying, state-level characteristics as well as the interstate process of diffusion on the likelihood that a state will adopt a specific rape law reform in a given year. The unit of analysis is the state-year, and the likelihood of a state adopting a rape law reform in a given year is measured by the hazard rate, which is “an unobserved variable that is estimated from observed years of passage for states' [laws]” (Grattet et al. 1998:296). Using heterogeneous diffusion models (Strang & Tuma 1993), I was able to incorporate all propensity, infectiousness, susceptibility, and spatial proximity variables into the same model using the following equation:

$$\lambda_n(t) = \exp \left[\alpha X_n + \sum_{s \in S(t)} (\beta V_s + \gamma W_n + \delta Z_{ns}) \right]$$

where $\lambda_n(t)$ is equal to the hazard of adoption for an individual n at time t ;

α is a parameter estimate for the effects of X_n (i.e., propensity variables);

β is a parameter estimate for the effects of V_s (i.e., infectiousness);

γ is a parameter estimate for the effects of W_n (i.e., susceptibility);

δ is a parameter estimate for the effects of Z_{ns} (i.e., proximity or pairwise influence of actors on n due to social proximity); and n is an actor at risk for adopting, s is a prior adopter, and t is time.

The observed years are from 1970 (the beginning of the rape law reform movement) to 2006 (the last year of data collection). For each analysis, there is a separate case for each state up until the year that the state adopts the specific reform. Any state that has yet to adopt the specific rape law reform is said to be “at risk” of adopting that reform in that particular year. Once a state adopts the reform, it is no longer at risk and is dropped from the analysis. Conversely, if a state never adopts the reform, it remains in the sample for all time periods and is right-censored. To accurately assess states at risk for adopting legislation, I omitted even years for Arizona, Montana, Nevada, North Dakota, Ohio, Oregon, and Texas because the legislature in these states only meets every other year (Council of State Governments 2003). In addition, Washington, DC was removed from the analyses due to missing data. Four separate analyses were conducted for the present study because the cases included in each of the analyses depend upon if/when each state adopted the specific reform.

Results and Discussion

I present the results of the event history analyses predicting the adoption of gender-neutral rape/sexual assault statutes (Model 1), the elimination of the resistance requirement (Model 2), the adoption of statutes redefining rape as sexual assault (Model 3), and the adoption of strong rape shield laws (Model 4) in Table 3. The table includes the coefficients, standard errors, and significance level for each variable included in each model. An examination of the bivariate correlations between the independent variables included in each model indicates that there are no problems with multicollinearity in any of the analyses.⁴

Social Movement Organization and the Political Climate

Social movement scholars point to the importance of both the strength of supportive social movement organizations and the political climate of a state for determining policy outcomes. Because

⁴ The results of the bivariate correlations are available upon request.

Table 3. Coefficients From Discrete-Time Event History Analyses Examining the Adoption of Rape Law Reforms: United States, 1970–2006

	Model 1		Model 2		Model 3		Model 4	
	<i>b</i>	SE	<i>b</i>	SE	<i>b</i>	SE	<i>b</i>	SE
Social Movement and Political Climate								
NOW Membership	-0.08	0.08	0.11	0.09	0.08	0.12	0.17*	0.08
Government Ideology	0.02	0.01	0.00	0.01	0.02	0.01	0.01	0.01
Split-Party Government	0.62	0.40	-0.07	0.44	0.59	0.49	-0.87	0.49
Mean Margin of Victory	0.01	0.01	-0.01	0.01	-0.01	0.02	0.00	0.01
Prior, Partial Reforms	-0.26	0.47	0.19	0.32	-1.49*	0.75	-2.18***	0.68
Public Opinion								
Support for Women's Rights	0.68	1.76	0.89	1.86	-0.20	1.76	-2.55	1.82
Support for Death Penalty	6.28	4.32	11.51*	4.81	10.45*	4.65	12.53*	5.33
Gender Climate								
% Female Labor Force	0.43**	0.14	0.39*	0.14	0.18	0.13	0.28*	0.14
% Female Legislators	0.02	0.04	-0.03	0.05	0.07	0.06	0.04	0.04
Diffusion								
Infectiousness (Extent Change)	0.02	0.02	0.08***	0.02	0.08***	0.02	0.06***	0.02
Susceptibility (ERA × Prior Law)	0.00	0.03	0.01	0.02	0.04	0.03	0.03	0.03
Proximity (Bordering States With Law)	-0.57**	0.25	-0.41*	0.17	-0.55*	0.22	-0.21	0.20
Controls								
% White	0.10**	0.04	0.09	0.05	0.08	0.05	0.07	0.04
% Urban	0.02	0.02	-0.01	0.02	0.00	0.02	-0.03	0.02
Population	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Northeast	-1.01	0.84	0.31	0.96	-1.18	1.05	-0.98	0.99
Midwest	-1.34	0.82	0.52	0.80	-0.66	0.85	-0.30	0.75
West	-0.63	0.90	-1.40	1.05	-2.04*	1.03	-2.93*	1.15
Time Period (1970–1989)	0.60	0.70	1.45	0.96	1.66	1.39	0.45	0.76
Constant	-37.47***		-37.50***		-26.95**		-26.32**	
	-118.28		-107.89		-93.91		-118.07	
Model Log Likelihood	0.12		0.21		0.27		0.23	
Pseudo R²	N = 881		N = 643		N = 677		N = 780	

p* < .05; *p* < .01; ****p* < .001; two-tailed tests.

NOW played a major role in initiating the rape law reform movement, I predicted that states with a larger NOW membership would be more likely to pass each of the rape law reforms. Contrary to my hypothesis, my results indicate that NOW membership has no effect on creating gender-neutral rape/sexual assault statutes, eliminating the resistance requirement, and redefining rape as sexual assault (Table 3, Models 1–3). On the other hand, the results show that having a larger NOW membership significantly increases a state's likelihood of adopting a strong rape shield law (Table 3, Model 4).

Although NOW membership has little effect on the final stage of the adoption of most rape law reforms, this does not mean that NOW did not contribute to the success of rape law reforms. In addition to initiating the rape law reform movement and establishing the first Taskforce on Rape in the early 1970s, members of NOW assisted in drafting the first rape law reform bills (National Organization for Women 1959–2002). Thus, it may be that NOW was more important during the early stages of the rape law reform movement, as McMahon-Howard et al. (2010) suggest. In addition, the strength of NOW membership may have been more important during the early stages of policy development. In fact, research suggests that social movement organizations have the most influence during the earliest stages of the policy process (Soule & King 2006). It is important to note, however, that the lack of significance of NOW membership may be due to data limitations, which I discuss in more detail later.

Among the political climate variables, only the prior adoption of partial reforms has a significant effect on the adoption of rape law reforms. The effects are only significant, however, for the adoption of controversial rape law reforms. As predicted, the adoption of prior, partial reforms significantly decreases a state's likelihood of passing a stronger version of the reform for redefining rape as sexual assault and passing rape shield laws (Table 3, Models 3–4). Here, a unit increase in the number of prior, weaker reforms decreases a state's likelihood of redefining rape as sexual assault by 78 percent and decreases a state's likelihood of passing a strong rape shield law by 89 percent. Contrary to my hypothesis, however, the adoption of partial reforms does not significantly increase a state's likelihood of passing a stronger version of the reform for noncontroversial legislation (Table 3, Models 1–2). Thus, given that the adoption of partial reforms only has a negative effect on controversial rape law reforms, these results provide partial support for my hypotheses regarding the differential effects of prior reforms on controversial and noncontroversial reforms.

Taken together, these findings indicate that although the general political climate of the state has no effect on the adoption of the

controversial and noncontroversial rape law reforms, passing prior, weaker reforms inhibits the adoption of a stronger reform only for the rape law reforms that were more controversial. These findings shed some light on an ongoing debate among social movement activists and scholars over which is more likely to result in the adoption of a strong rape law reform—pushing for several incremental, partial reforms over time or pushing for more sweeping legislation. The results from the present study provide empirical evidence that suggests that pushing for more sweeping legislation is more successful *for controversial laws*.

Why would the adoption of partial reforms have a negative effect on the adoption of a stronger reform for controversial legislation, but not for noncontroversial legislation? First, noncontroversial or less controversial legislation is likely to have fewer opponents and receive less attention compared to controversial legislation. Thus, when legislators pass a partial reform for noncontroversial legislation, they may view both their present and future actions in regard to the legislation as inconsequential given the lack of controversy and strong opposition to the law. Therefore, whether or not a prior, partial reform was passed for noncontroversial legislation may have no effect on the legislators' future decision making process. Instead, other factors, such as public opinion, may play a larger role in legislators' decisions to pass additional, stronger reforms for noncontroversial laws.

On the other hand, if legislators pass partial reforms for controversial legislation, they may be unwilling to revisit the issue in an effort to avoid losing the support of constituents. Given the controversy surrounding such legislation, legislators' subsequent decisions may receive more attention, produce more conflicts both among legislators and between legislators and their constituents, and generate heated debates. Therefore, once legislators pass a partial reform, which they may view as "compromise legislation" that will appease activists pushing for the reforms without upsetting opponents (McMahon-Howard et al. 2010), legislators may avoid any future involvement with related legislation in an effort to avoid additional conflicts and debates.

Even many years later, when the controversy surrounding the reform lessens, legislators may still be unwilling to pass a stronger reform. In fact, when controlling for the possibility that the controversy surrounding redefining rape as sexual assault and rape shield laws has decreased over time, the results show that partial reforms continue to have a negative effect on the adoption of stronger reforms. When the controversy surrounding the reforms decreases, however, it may no longer be a need to avoid conflicts and debates that inhibits legislators' willingness to pass a stronger version of these reforms. Instead, as attitudes toward rape and rape victims improve and the social climate changes in such a way that redefining rape as sexual assault and passing rape shield laws are no longer viewed as

controversial issues, activists may have a more difficult time justifying the need for stronger legal changes. For example, because the laws in the states that have passed weaker rape shield laws specify that judicial discretion should be used to determine the admissibility of evidence of a victim's past sexual history, a general belief (correct or not) that judges now would act to protect the privacy of the victim may have developed as a result of the improved attitudes toward rape victims. Such a widespread belief, however, would work against activists' claims that a stronger rape shield law is needed. Thus, when activists back down in the face of controversy and compromise by passing a weaker version of a reform, the very existence of this weaker reform may inhibit the adoption of the stronger version of the reform years later, after the controversy fades.

Public Opinion

Beyond the importance of social movement organizations and the political environment, I predicted that public opinion regarding women's rights and the death penalty would affect the adoption of rape law reforms. The results provide partial support for my hypotheses. While attitudes toward women's rights fail to affect the adoption of rape law reforms, attitudes toward the death penalty have a significant effect on the adoption of most rape law reforms. Specifically, states where support for the death penalty is strong are more likely to eliminate the resistance requirement, redefine rape as sexual assault, and pass a strong rape shield law (Table 3, Models 2–4). Therefore, the controversial nature of the reform does not seem to matter for the effects of public opinion on the adoption of rape law reforms. These findings suggest that regardless of the controversial nature of the reform, states where support for tough-on-crime legislation is strong are more likely to pass rape law reforms.

Furthermore, these results suggest that regardless of their attitudes toward women, those who are tough on crime may view rape as one of the most heinous crimes. Therefore, in the interest of holding offenders more accountable for their actions, those who are tough on crime may be more likely to support legislation that removes roadblocks to prosecution and that aims to focus more attention on the offender's actions than on the victim's behavior or character (i.e., eliminating the resistance requirement and passing strong rape shield laws). In addition, those who are tough on crime may be more likely to view different types of sexual assault (i.e., forced anal sex and forced object penetration) as being just as serious as the traditional act of rape (forced penile-vaginal penetration). Therefore, they may be more likely to support legislation that redefines rape to include multiple forms of sexual assault and punishes these acts similarly.

Gender Climate

Although attitudes toward women's rights have no effect on the adoption of rape law reforms, the results indicate that the percentage of women in the labor force significantly affects the adoption of rape law reforms (Table 3). Consistent with my hypothesis, the effect of the percentage of women in the labor force is positive and statistically significant for the adoption of gender-neutral rape/sexual assault statutes (Model 1), the elimination of the resistance requirement (Model 2), and the adoption of a strong rape shield law (Model 4). In fact, a unit increase in the percentage of women in the labor force increases a state's likelihood of adopting gender-neutral rape/sexual assault statutes by 53 percent, eliminating the resistance requirement by 48 percent, and passing a strong rape shield law by 32 percent.

Consistent with previous research on women's rights legislation (Berger, Neuman, et al. 1991; McCammon et al. 2001; McMahan-Howard et al. 2010; Ramirez & McEnaney 1997), these results indicate that states where women have more economic power are more likely to adopt rape law reforms. Thus, as women gain more economic power, they are better able to influence the adoption of rape law reforms, regardless of the controversial nature of the reforms. In states where more women are in the paid workforce, which places them in the public sphere, women may have more influence on law makers' decisions. Both their presence in the public sphere and their economic resources allow women in these states to exert more pressure on policy makers.

On the other hand, the results indicate that the percentage of females in the state legislature fails to have a significant effect on the adoption of rape law reforms (Table 3). Thus, female legislators are no more likely than male legislators to pass rape law reforms. This finding is not completely surprising, however, given the mixed findings for the effect of the percentage of women in the state legislature on the adoption of women's rights legislation (McMahan-Howard et al. 2010; Murphy 1997; Soule & Olzak 2004). It may be that female legislators' ability to pass women-friendly policies depends on the larger political context (Beckwith & Cowell-Meyers 2007). Although female legislators may be more committed than male legislators to advancing women's interests (Thomas & Welch 1991), they may have to be selective in regard to what women's rights legislation to push and when to push for it so as not to isolate themselves from their male counterparts. According to the theory of legislative logic (King et al. 2005; Soule & King 2006), female legislators may be more likely to support women's rights legislation in the earlier stages of the legislative decision-making process (i.e., the introduction of a bill) than in later, more consequential stages of the process (i.e., ratification). Further research is needed to determine the conditions under which female legislators are able to influence the adoption of women's rights legislation.

Interstate Process of Diffusion

To examine the effects that the process of diffusion has on a state's likelihood of adopting each of the rape law reforms, I included variables measuring each state's infectiousness, susceptibility, and spatial proximity to prior adopters. The results suggest that both infectiousness and spatial proximity, but not susceptibility, have a significant effect on the diffusion of rape law reforms (Table 3).

Looking at the significant effects of the infectiousness variable, the results show that the effects are positive and significant in three out of four of the models (Table 3). Specifically, infectiousness has a significant positive effect on the elimination of the resistance requirement (Model 2), the redefinition of rape as sexual assault (Model 3), and the adoption of a strong rape shield law (Model 4). Consistent with my hypothesis, I find that states that made more severe changes for each rape law reform are more influential (infectious) in the diffusion of laws eliminating the resistance requirement, redefining rape as sexual assault, and establishing strong rape shield laws. Thus, for both controversial and noncontroversial rape law reforms, the results indicate that making more severe changes in rape law reforms increases the amount of influence a state has on the likelihood of other at-risk states adopting similar rape law reforms.

On the other hand, my results indicate that spatial proximity has a *negative* effect on the adoption of *both* controversial and noncontroversial rape law reforms (Table 3). Controlling for the significant effects of partial reforms, support for the death penalty, females in the labor force, and infectiousness, my findings show that spatial proximity has a significant negative effect on the adoption of gender-neutral rape laws (Model 1), the elimination of the resistance requirement (Model 2), and the redefinition of rape as sexual assault (Model 3). These results indicate that being in close proximity to other states that adopted one of these rape law reforms significantly *decreases* a state's likelihood of adopting that particular rape law reform. In fact, each unit increase in the number of bordering states that adopted the particular rape law reform decreases a state's likelihood of passing a gender-neutral rape/sexual assault statute by 43 percent, eliminating the resistance requirement by 34 percent, and redefining rape as sexual assault by 42 percent.

Thus, the findings from the present study indicate that the effects of the interstate process of diffusion are similar for controversial and noncontroversial rape laws. That is, infectiousness has a positive effect, susceptibility has no effect, and spatial proximity has a negative effect on the adoption of *both* controversial and noncontroversial rape law reforms. Therefore, these findings fail to provide support for my hypothesis regarding the differential effects of spatial proximity on controversial and noncontroversial reforms. Taken together with the

findings from McMahon-Howard et al.'s (2010) study on the adoption of marital rape laws, the results indicate that spatial proximity has a negative effect on the adoption of both noncontroversial rape law reforms (gender-neutral rape/sexual assault statutes and eliminating the resistance requirement) and controversial rape law reforms (marital rape laws and redefining rape as sexual assault). Although the majority of states eventually adopted each of the rape law reforms, being in close proximity to states that already passed these rape law reforms is not a factor that increases a state's likelihood of passing these reforms.

This does not mean that rape law reforms did not diffuse over time. In fact, the majority of the states eventually adopted each of the rape law reforms. Instead, while spatial proximity negatively affects the diffusion of rape law reforms, other factors work to increase a state's likelihood of adopting rape law reforms. These findings support Soule and Earl's (2001) claim that when deciding whether or not to adopt law reforms, "states face countervailing pressures, some toward conformity, others toward nonconformity" (p. 283). That is, for rape law reforms, as spatial proximity creates pressure toward heteromorphism, other factors simultaneously create pressure toward isomorphism (see Soule & Earl 2001). For instance, while close proximity to other states that have eliminated the resistance requirement (spatial proximity) decreases a state's likelihood of eliminating the resistance requirement, other states making large or more severe changes to their resistance requirement (infectiousness) increase a state's likelihood of also eliminating the resistance requirement. Thus, the process of diffusion involves both "pressures towards isomorphism" as well as "heteromorphic forces" (Soule & Earl 2001:283). Indeed, my results indicate that these countervailing pressures operate similarly for the adoption of different rape law reforms.

Control Variables

Looking at the control variables, the results suggest that Western states are significantly less likely to pass a strong rape shield law (Table 3, Model 4).⁵ Indeed, the majority of the states in the Western region failed to pass a strong rape shield law (Alaska,

⁵ Although the results in Table 3 indicate that Western states are less likely to redefine rape as sexual assault, a further examination suggests that this finding is due to the omission of several states from the analyses (as discussed in the limitations section). When these states are included in the analyses, the Western region variable remains significant for the rape shield law, but it is no longer significant for redefining rape as sexual assault. Because four of the six states omitted from the analyses are located in the Western region and all four redefined rape as sexual assault (Hawaii, Idaho, Nevada, and New Mexico), the difference in the effect for the Western region variable seems to be due to the omission of these states, which indicates that Western states are not less likely to redefine rape as sexual assault.

California, Colorado, Idaho, Nevada, New Mexico, Washington, and Wyoming). Instead, all of these states passed a weaker version of the rape shield law between 1974 and 1977. Interestingly, while Michigan was the first state to pass a *strong* rape shield law in 1974, California was the first state to pass a *weak* rape shield law in that same year. A close examination of the data reveals that Michigan's strong rape shield law spread throughout the East, while California's weak rape shield law spread throughout the West. As this weaker version of the rape shield law spread throughout the West, this decreased the likelihood that these states would pass a stronger rape shield law.

Limitations

While the findings from this study are important, several data limitations must be noted. First, six states were excluded from the analyses due to missing data from Brace et al.'s (2002) public opinion measures. To make sure that this omission did not significantly alter the results, I ran separate analyses using Berry et al.'s (1998) updated 1960–2008 citizen ideology scores, instead of Brace et al.'s (2002) public opinion measures, as a proxy for public opinion regarding rape laws.⁶ Higher scores indicate a more liberal citizen ideology, which indicates more support for women's rights legislation. Although these citizen ideology scores do not directly measure public opinion for rape law reforms, such use of these scores is consistent with previous research (Soule & Olzak 2004). The citizen ideology variable, however, was not significant in the analyses. When the citizen ideology variable was included in the analyses, instead of Brace et al.'s public opinion variables, the results of the other explanatory variables remained the same.

In addition, due to data limitations, some caution must be taken in interpreting the results for the lack of effect of NOW membership on the adoption of the reforms. The NOW membership data used in the present study came from both NOW headquarters and the NOW archives at the Schlesinger Library at Harvard University. Because membership data was not regularly collected until 1977, the data from the earlier years (1970–1976) may be inconsistent with the data from the later years (1977–1997). Since the records did not include membership data for all states for all years between 1970 and 1976, I used the earliest documented state membership data for 1967, which indicated that only 34 states had NOW members (the number of members ranged from 1 to 106), and I employed linear interpolation to estimate the values from 1970 to 1976. Although this presents a weakness for the

⁶ The results of these analyses are not shown here, but they are available upon request.

measure of feminist activism, it is still the best measure of state-level feminist activism from the 1970s to the present.⁷

Furthermore, due to the lack of available data, this study does not measure the effects of the strength of law-and-order activist groups in each state. Because feminist activists and law-and-order advocates have both lobbied for the adoption of some rape law reforms yet stood in opposition to each other for other reforms, the lack of a measure for law-and-order groups presents a weakness for the present study. Future research examining the adoption of controversial and noncontroversial reforms should include measures of all social movement organizations involved in lobbying for or against the proposed legislation. In addition, because the pseudo R^2 s for the statistical models range from .12 to .27 (Table 3), future research should seek to improve the pseudo R^2 s and the subsequent explanatory power of the models. Despite these limitations, however, the results from this study provide much improved knowledge of the factors and processes that affect the adoption of rape law reforms.

Conclusion

As the results of the present study show, the controversial nature of a proposed law reform is important to consider because it may structure the effects of certain social or political factors. Specifically, in the case of rape law reforms, the prior adoption of partial reforms operates differently for controversial and noncontroversial reforms. Consistent with previous research on marital rape laws (McMahon-Howard et al. 2010), the results indicate that the prior adoption of partial reforms only negatively affects a state's likelihood of adopting the controversial rape law reforms (rape shield laws and the redefinition of rape as sexual assault). Thus, these findings suggest that theoretical explanations of legal change need to consider the role of controversy in the policy process.

For example, the theory of legislative logic suggests that because earlier stages of the policy process are less consequential for legislators, these legislators may "attempt to pacify movements by introducing bills that will likely never receive strong support in a roll-call vote" (King et al. 2005:1226); however, if the policies being proposed by activists are controversial, then support for such a policy may be consequential for legislators at all stages. In addition, if activists are lobbying for the adoption of a stronger version of a partial reform that was passed, then the controversial nature of the reform may determine whether or not legislators will provide sup-

⁷ Several attempts were made to obtain membership data from the American Association of University Women to create another measure of state-level feminist activism; however, these attempts have not been successful.

port during the early stages of the policy reform process. Future research is needed to determine if the adoption of a partial reform for controversial legislation has a negative effect at all stages of the policy adoption process. That is, when a state passes a partial reform for controversial legislation, are legislators less likely to introduce a bill for the stronger version of the reform? Or, because the earlier stages of bill passage are less consequential, does the controversial nature of a reform matter less?

Beyond the theoretical implications of these findings, the results from the present study offer significant empirical contributions to the literatures on rape law reforms, legal change, and diffusion. These findings can address certain claims that have been made by previous researchers. First, these findings contradict the claim that the factors that create political opportunities for social movement mobilization are the same factors that create political opportunities for policy change (McAdam 1982). That is, although the adoption of partial reforms may positively affect social movement mobilization, these results suggest that they do not have the same positive effect on policy adoption.

Second, the findings regarding the effects of prior partial reforms contradict claims that the political opportunity structure “matters less” for the adoption of controversial legislation (Haider-Markel & Meier 1996; Soule & Olzak 2004). Because the adoption of prior partial reforms only negatively affects the adoption of controversial rape law reforms, these findings suggest that the prior policy environment matters *more* for controversial reforms. In addition, the lack of the significance of the other political climate variables further refutes the claims that the political environment matters less for controversial reforms and claims that the political environment differentially affects the adoption of certain rape law reforms (Berger, Neuman, et al. 1991). Contrary to these speculations, because the political opportunity structure has failed to affect both noncontroversial and controversial rape law reforms, these results suggest that the political opportunity structure does not differentially affect noncontroversial and controversial rape law reforms. Instead, the political opportunity structure similarly fails to affect the adoption of rape law reforms.

Third, because the effects of the interstate process of diffusion are significant and in the same direction for both noncontroversial and controversial rape law reforms, these findings refute the claims from previous researchers (McMahon-Howard et al. 2010; Soule & Earl 2001) that the controversial nature of reforms can explain the negative effects of spatial proximity. Although my results do not support the claim that spatial proximity negatively affects controversial legislation and positively affects noncontroversial legislation, both the findings from the present study along with the findings from previous research (McMahon-Howard et al. 2010;

Soule & Earl 2001) call attention to the need to determine the mechanisms that drive the negative effects of spatial diffusion.

Overall, my study suggests that theoretical explanations of legal change must consider the controversial nature of reforms when examining the internal pressures influencing state policy change as well as external pressures from other states. In addition, the findings from the present study have important implications for all policy and law reform movements, such as the gay rights law reform movement, the drug law reform movement, the family law reform movement, and the public health law reform movement. For instance, if my findings and conclusions are correct, then research should show that the adoption of partial reforms decreases a state's likelihood of passing a stronger reform for the more controversial gay rights legislation (i.e., legalizing same-sex marriage) but not for the less controversial gay rights legislation (i.e., employment nondiscrimination laws). Therefore, while the findings from my present study offer significant contributions to the empirical and theoretical literatures on legal change, additional research is needed to determine if the findings and conclusions from my research hold true for the adoption of other law reforms.

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