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Gender, Policies, and Politics

Andrea S. Barrick

Dissertation submitted to the
Eberly College of Arts and Sciences
at West Virginia University

in partial fulfillment of the requirements for the degree of

Doctor of Philosophy in
Political Science

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Morgantown, West Virginia
2015

Keywords: Women and Politics, State Supreme Courts, Agenda Setting, and Domestic Violence
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ABSTRACT

“Gender, Policies, and Politics”

Andrea S. Barrick

The purpose of this dissertation is to examine the role of gender in shaping policies and politics. In the first empirical chapter, I explore support for women candidates for elected office and positions of public authority. The chapter investigates how membership in groups defined by race and gender shapes attitudes towards women holding political office. Next, I map how the Violence Against Women Act (VAWA) made it to the legislative agenda and seek to answer the question of how gender entered the discussion of violence. Using the literature on issue framing and entrepreneurship, I explore how attention to the issue of domestic violence resulted in the passage of the VAWA. The final empirical chapter examines how state supreme courts deal with women who are victims of domestic violence.

Dedication

To my family and friends

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Chapter 1. Introduction and Literature Review

Since the founding of the United States, gender has played an important role in the polity and society. Women were subjugated to a second-class citizen status on every front- legal, political and social. Following marriage, the norm was that women were to be in complete submission to their husbands, prior to that they were required to be compliant with the wishes of their fathers. These ideas served as the basis for the treatment of women by the courts, and permeated all facets of life. Denied the franchise until the passage of the 19th Amendment in the early 20th century, women as political candidates still seem burdened by their status as the second sex. Not surprisingly, their long legal status as dependents, together with their second-class political status, shaped the treatment of women in the public and private spheres. This raised a particular problem for women who were the victims of domestic and intimate partner violence.

As a scholar studying mass behavior, the policy process, and law and the legal system, I am fascinated by how gender enters into each domain, which is the subject of my dissertation. The way people choose to vote has always intrigued me. By examining same-sex representation, policy issues, or perhaps bias in the legal system I will illustrate how these variables affect women's voting habits. In particular, I look at these factors to determine what triggers women to vote for another woman or why she votes for conservative candidates. For these reasons, the first chapter seeks to answer the question: *Are women more supportive of women leaders who reflect their political and racial identity?* This phenomenon is crucial to study because the presence of women in politics elevates the importance of a number of political issues for women voters (Dolan, 2008).

One such issue is violence against women. The Violence Against Women Act is federal legislation that not only affects women, but also law enforcement and the legal system. The story of how the act was passed involves a dialogue between the media, entrepreneurs, and academic experts that initiated action to move domestic violence from a private concern to a public matter. By mapping how gender entered the discussion of violence, I seek to answer the question: *How did domestic violence move out of the private realm to become defined as a public problem suitable for government attention and redress that culminated with the passage of the Violence Against Women Act in 1994?*

Despite over twenty years of reform, fundamental failures persist in the legal system's response to violence against women (Epstein, 1999). The legal system has lagged far behind in protecting battered women (Epstein, 1999). The failure of the courts to keep up with the legislative progress has had detrimental effects on battered women (Epstein, 1999). In order to explore these flaws in the state supreme courts, I seek to answer the question: *How do state supreme courts treat women who are victims of domestic violence?*

Women in Politics

Initially those interested in women and politics focused on how gender identification shaped representation (Pitken, 1967; Tolleson-Rinehart, 1988; Simien and Clawson, 2004; Dolan, 2008; Hernson, Lay, and Stokes, 2003; Huddy and Terkildsen, 1993; Huddy, Cassese, Lizotte, 2008; Mansbridge, 1999; McDermott, 1997; Phillips, 1995; and Sanbonmatsu, 2002). This taps into descriptive representation, which refers to the compositional similarity between representatives and the constituents that they represent (Pitkin, 1967). In particular, social representation focuses on gender, race, class, or other demographic characteristics (Norris and Franklin, 1997). Descriptive representation plays a key role in women's involvement in public

policies and participation (Schwindt-Bayer and Mishler, 2005). Even though women are more likely to vote compared to men in the United States today (CAWP, 2006), there is still some resistance to women's involvement in the political arena.

Even though the United States leads the world in women's political representation, it is important to note that gender inequality still exists across all elected and appointed positions (IPU, 2006). Women make up 20% of the Senate and 19% in the House of Representatives (CAWP, 2015). At the state level women do slightly better where they hold 24% of seats (CAWP, 2015). Women also only hold a small percentage of top executive positions across the United States (CAWP, 2015). Less than 40 women have served as governors since 1925, and as recently as 2015, only 11% of governors were women (CAWP, 2015). Political participation in politics is determined partly by gender socialization, which influences women's interest, knowledge, and ambition regarding politics (Paxton, Kunovich, and Hughes, 2007). In short, constituents are more likely to get involved when they see political leaders who reflect them in political office (Mansbridge, 1999; Phillips, 1995). For women, this means that as the number of female officeholders increases it should increase the legitimacy of the legislature as perceived by women (Schwindt-Bayer and Mishler, 2005).

Direct political ambition is critical for understanding who decides to run for office. Fox and Lawless (2004) compared women and men in the United States from the law, business, education, and politics professions and found that men are much more likely to aspire to political office than women. Part of the explanation for this difference in aspiration is that these women did not see themselves as qualified to run for office (Fox and Lawless, 2004). Women were also encouraged to run for lower level positions. Women's lack of ambition to run for office may be due to the lack of female political role models (Fox and Lawless, 2004). Even if women did

have the desire to seek political office, would she have the necessary resources to participate? Time to participate in politics is a critical resource and women are still seen as the primary caregivers of their families, which may discourage them from participating (Corrin, 1992 and Chhibber, 2002).

Features of the political institutions strongly influence whether women can attain political positions. For example, political parties and party leaders can pull women into or push women out of the political process. Political parties can influence the focus on women's issues and female candidacy. For a woman to seek a political office, she must be selected and supported by a political party (Lovenduski and Norris; Caul, 1999; Sanbonmatsu, 2002; Kunovich, 2003; Kunovich and Paxton, 2005; and Kittilson, 2006). Therefore, the characteristics of political parties matter to women. Liberals tend to embrace egalitarian values and are more likely to promote traditionally underrepresented groups such as women (Matland, 1993 and Caul, 1999). Women in the United States have been more successful achieving power in the Democratic Party than in the Republican Party. In the U.S. Congress only 36% of women have been Republicans (Paxton, Kunovich, and Hughes, 2007). Another important distinction across parties is the ability of female leaders to push a "women's agenda". For example, research documents strong significance between female leaders and women's issues but the effects are often only present within political parties (Bratton and Ray, 2002; Reingold, 2000; Swers, 2002; Thomas, 1991).

Ideological stereotypes against women have often created additional barriers for women to overcome to participate in the policy process. Women face discrimination as leaders because people tend to assume that leadership is a masculine trait (Kunovich and Hughes, 2007). Therefore, constituents evaluate agentic behavior by women more negatively than the same behavior exhibited by men (Eagly, Makhilani, and Klonsky, 1992). For example, 25% of the

U.S. population believes that men are better suited emotionally for politics, and 15% of Americans agreed with the statement “women should take care of running their homes and leave running the country up to men” (Lawless and Theriault, 2005 pg. 274). Although there may be pervasive views about women in politics that prevent women from running or winning, research shows that when women do run they receive as many votes as men (Darcy, Welch, and Clark, 1994). In fact, female voters seem to prefer women as candidates (Selter, Newman, and Leighton, 1997; Dolan, 1998; and Smith and Fox, 2001). Sometimes, stereotypes can even work to favor women with voters. As summarized by Kahn (1996, pg. 9), “male candidates are considered better able to deal with foreign policy, the economy, defense spending, arms control, foreign trade, and farm issues; female candidates are considered better able to deal with day care, poverty, education, health care, civil rights, drug abuse and the environment”. Depending on the political climate, women may have an edge on certain policy issues. Indeed, if voters think that women are better advocates of health care issues, and voters care about that issue, then they tend to support female candidates (Sanbonmatsu, 2002).

Substantive Representation

It is important that women appear in politics because they bring to office different interests and priorities than men (Carroll and Dodson, 1991). This is the difference between descriptive representation and substantive representation. The question then becomes, do women make a difference for public policy? It is important to note the difficulties scholars face in trying to show that female leaders influence policies and politics. Separating women’s interests as women from the interests of their party can be quite complex. For instance, Democratic candidates, whether they are female or male, are more likely to vote for liberal policies that women identify with. Another issue is how to separate a female leader’s actions for

women from her actions in support of her constituents. If liberal voters are more likely to elect women, then one could argue that if a female politician votes for a social welfare bill, she is not acting for women but is only representing the beliefs of the Democratic Party.

Despite these criticisms, research demonstrates that women do have an impact on politics. Starting with policy preferences, research on U.S. state representatives find that women are more likely than men to prioritize legislation related to family, women, health care, children, and social welfare (Thomas, 1991). There is also research that demonstrates that female legislators vote differently than men. After controlling for district characteristics and partisanship, Swers (1998) found that congresswomen of the U.S. 103rd Congress were more likely to support women's issue bills such as the Family and Medical Leave Act. The defections of Republican women from their party created this gender difference (Swers, 1998). Not only do women vote differently from men, but women also propose bills differently from men. Bratton and Haynie (1999) control for partisanship and district characteristics and find that women are more likely than men to introduce bills to reduce gender discrimination and to sponsor legislation related to social welfare policies, health care, and children's issues. Interestingly, Kathlene (1995) finds that in regards to crime, female legislators in the Colorado House of Representatives introduced bills that were focused on crime prevention whereas men introduced bills related to stricter sentencing. The introduction of different pieces of legislation stemmed from different viewpoints between men and women legislators regarding potential solutions to crime (Kathlene, 1995).

Another aspect of gender in the policy arena is the role of women in influencing policy when there are more women in political positions. In her work, Kanter (1977) argues that there will only be small changes in policy priorities until women's representation reaches a critical

mass. Bratton and Ray's (2002) study on the impact of women's descriptive representation on child care policy in Norway supports this argument. In searching for an effect, research has looked over time at a legislature to see whether something changes as women show a stronger presence in Congress (Gray, 2002). Even though some female legislators may not advocate a distinctly female agenda, a visible presence of women in Congress may encourage women to get involved in the political process, especially when important women's issues such as violence against women arise.

Violence Against Women

Domestic violence is a destructive epidemic that affects the lives of many American women (Ko, 2008). Even though society now views domestic violence as a public issue that needs to be eliminated (Pleck, 1979), approximately two million women are physically abused, raped, and/or stalked by their husbands, former spouses, or live-in partners each year (Tjaden and Thoennes, 2000). It has been illegal in all states since the early 1990's, but the problem still persists (Goldfarb, 2008; Epstein, 1999). The majority of domestic violence is committed by male offenders against female victims (Dobash, Dobash, Wilson, and Daly, 1992). Nearly one-fourth of all American women have been victims of domestic violence (Tjaden and Thoennes, 2000). Domestic violence is the leading cause of injury to women in the United States (Tjaden and Thoennes, 2000). It affects many areas of society that include: law enforcement, healthcare, economic loss due to absenteeism from work, homelessness, poverty, and psychosocial problems (Zorza, 1994).

Sexual violence has also been an important focus when discussing violence against women. Sexual violence means that someone forces someone else into unwanted sexual activity without their consent (Kelly, 2013). It is a significant problem in the United States and the

person responsible for the violence is usually someone known to the victim (Kelly, 2013).

During their lifetime, 1 in 6 women have experienced an attempted or completed rape; most of them have occurred before the woman was 18 (Tjaden and Thonnes, 2000). Despite feminist campaigns which have made the public more aware of this issue, the prevalence and impact of sexual violence in women's lives is still not publicly acknowledged (Kelly, 2013).

Mapping the Violence Against Women Act

In theory the law protects all citizens regardless of gender, race, or age from violence. So why in 2004 did Congress recognize violence against women as a new category suitable for protection? The short answer is that the policy image of violence against women had to be transformed in a way that the broader public could understand it as a matter of public as opposed to private concern. Deborah Stone called this a process "centrally concerned with attributing bad conditions to human conditions instead of fate, or nature" (1989, pg. 299). Domestic violence needed to be linked to public causes in order to demand governmental attention. As the attitudes and views on violence against women evolved, an emergence of the intellectual consensus about the structural causes of domestic violence elevated the issue to the governmental agenda (Baumgartner and Jones, 2009). The literature on attention, agenda setting, and issue framing offers insight into how an "issue's time comes" (Kingdon, 1984). This serves as the basis of my effort to track attention to domestic violence and how it led to the adoption of the VAWA.

Policy makers' central complaint is the lack of time they have to do their job. Combine this lack of time with the scarcity of agenda space and one begins to recognize how difficult it is for new issues to gain the attention of policy makers. The scarcity of time and agenda space often means that no single issue can dominate the public agenda indefinitely (Kingdon, 1984; Baumgartner and Jones, 1994). Attention to any issue depends greatly on whether it gains the

attention of policy makers and how long it can hold that attention (Hunt, 2002). Issues get on the agenda when a problem is noticed and a solution is found. It is important to realize that a problem becomes salient when it attracts attention, often as a result of the confluence of Kingdon's (1984) multiple streams (policy, political, and problem), which come together as "policy windows" open and solutions are attached to problems.

The policy stream is populated by bureaucrats, interest groups, academics, media, and specialized experts who share common training, ideas, or interests in developing solutions to various problems. The problem stream uses institutions such as the media to identify and recognize problems based upon indicators, feedback, or focusing events. This helps to get the problem on the policy agenda. The politics stream is composed of the President and Congress who use changes in the national mood and the public mood to judge the degree of consensus of whether the popular issue deserves a high priority on the decision agenda. With that being said, the media, public mood, and interest groups oftentimes dictate how problems are identified. This stage is about bargains, compromise, and deals. Consensus is built through by means of persuasion and diffusion. Because change in each stream takes place largely independent of each other, timing is another element that helps to get items on the agenda. Once the three streams are favorably aligned, coupling takes place, which is simply solutions coupled with problems through the help of policy entrepreneurs. Policy entrepreneurs are experts in an authoritative decision-making position who have an ability to speak for others (Kingdon, 2003).

Kingdon's argument that the policy stream, and the hidden participants who operated in it, was the locus of ideas that served as solutions to problems, is not dissimilar to those interested in subsystem politics. Subsystems, or policy monopolies, according to Thurber (1991), are organized to make focused demands on the political systems and to influence specific programs.

They consist of well-organized interests, legislators from specific committees, and bureaucrats, all of whom work to shape policy. Policy monopolies are organized to make focused demands on the political systems and to influence specific programs (Thurber, 1991). The advocacy coalition framework developed by Sabatier and Jenkins-Smith (1999) argues that subsystem players are joined together by a shared belief system consisting of three layers. Deep core beliefs are normative beliefs and ideas that include the notion that there is a right thing to do (Sabatier and Jenkins-Smith, 1999). Policy core beliefs are derived from the deep core, and serve as the basis for broad policy commitments that distinguish coalitions from their rivals. Finally, the secondary aspects, or programmatic beliefs, take the shape of specific policy prescriptions and programs (Sabatier and Jenkins-Smith, 1999). This three-tiered model of belief system aids in the identification of coalitions active in any particular policy monopoly, the frames they use in identifying problems (and solutions), and explains a good deal of policy change over time (Worsham, 1997).

Complicating the process of agenda setting is the existence of three, interrelated agendas. The public agenda contains all those problems of concern to the public at large. Most agenda setting studies use media attention as a surrogate for the public agenda. The government agenda contains those items of concern to policy makers, and is often, but not always derived from the public agenda. The decision agenda contains items up for consideration, that is, problems that are in the process of having solutions attached to them by policy makers (Cobb, Ross, and Ross, 1976; Kingdon, 1984; Baumgartner and Jones, 1994).

Cobb et al., (1976) identified three routes to setting the agenda. In the “outside initiative model” issues arise on the public agenda and then move onto the government agenda, usually as a result of the efforts of organized interests. In the “mobilization model” issues are initiated by

policymakers who try to expand them to the larger public to gain support for their policy solution. Lastly, in the “inside initiative model” issues are placed on the decision agenda without public input, and often time without other government players aware of the effort to attach a solution to a problem.

With respect to agenda setting, the passage of VAWA went through four distinct stages: issue recognition, issue adoption, issue priority, and policy adoption (Jones, 1970). Issue recognition relates to the way domestic violence came to light as a result of the attention paid to it by media and experts concerned with the plight of battered women. As different policy proposals arose, convergence on a solution marked the move to issue adoption, and the translation of the problem into a specific set of policy goals. This is similar to the process of framing which is crucial in agenda setting. Experts sought to create solutions to help policy makers come up with a viable piece of legislation. Issue priority is simply the way that concerns about the issue are prioritized. Issues are prioritized strategically to widen the scope of conflict to include more than just the initial participants (Schattschneider, 1960). Finally, policy adoption is when the issue makes it on the decision agenda and is signed into law.

In measuring attention in the agenda setting process, the media can serve as an indicator of attention in the problem stream. Tracking press coverage offers a measure of salience, as well allowing one to track the tone of coverage. While using the *New York Times* offers a way to track public salience, tracking attention in professional journals offers an indicator of expert attention and allows one to mark the entry of an issue in the policy stream. Attention in the political stream can be measured by tracking legislative attention. Bill introductions and hearings serve as the two primary indicators that an issue is on the government and decision agendas. Congressional attention is needed to create the program initiatives and outcomes.

Hearing activities show how domestic violence is being framed and which committees are claiming domestic violence as their jurisdiction. Entrepreneurship involves efforts to gain and keep policy makers attentions so that an issue moves from the public agenda to the government and decision agendas. Successful challenges by policy entrepreneurs in alternative venues can result in a venue shift that introduces the notion of issue framing (Hunt, 2002).

Recognizing that attention and agenda entrance are but a part of the policy process, those who study framing are interested in how particular frames or explanations for some phenomena come to dominate the debate. Policy scholars have studied issue framing by looking at the expressive argument behind an issue and how it can be changed to garner more support (Rocheft and Cobb, 1994). Expressive arguments typically reflect broader and deeper cultural and ideological values that can be potent in deciding if an issue gets onto the agenda (Rocheft and Cobb, 1994). Symbols, metaphors, and “causal stories” can be used to enhance expressive arguments and widen the scope of the conflict so that those previously uninvolved become interested (Schattschneider, 1960; Stone, 1989; Rocheft and Cobb, 1994). Such frames work particularly well in domestic violence policy making because of the complexity of the legislative proposals and the low levels of information held by the public (Cobb and Ross, 1997).

Similarly, the social construction of target populations refers to the popular images of the person whose well-being and behavior are affected by public policy (Schneider and Ingram, 1993). Constructions become embedded in policy as messages absorbed by citizens, so that those who have the power to frame an issue often determine whether it is addressed as a public or private concern. The way that political actors constructed domestic violence victims dictated the type of policies that would be used in resolving violence against women. This interaction helps to explain the slow response and low allocation of benefits provided to this population.

The problems faced by battered women were attributed to the notion that this type of violence was to be resolved by the family themselves. However, as women began to gain a voice and exercise political power, public officials took notice of this problem.

State Supreme Courts

Since state supreme courts process over ninety-nine percent of the nations' litigation, thus the opportunities to effect policymaking at the state level are astounding (Hall, 1999). State supreme courts have the final decision on many issues that are vital to citizens' daily lives such as domestic violence (Brace et al., 2001). State supreme courts exercise exceptional discretion in making decisions and enforcing state laws (Hall, 1999). Recent reforms, such as the creation of intermediate appellate courts have given state supreme courts greater freedom to make decisions in regards to violence against women (Hall, 1999).

These courts are quite diverse and provide much more leverage on important political variables that can be found in any other judicial setting (Brace and Hall, 1995; 1997). Because of the large number of cases that these courts handle, almost every legal issue in regards to domestic violence is likely to arise (Brace et al., 2001). In resolving domestic violence issues, state supreme court justices interpret and apply a variety of constitutional provisions and statutes. Not only do state supreme courts also present a wide array of institutional features but the environments where state supreme courts operate are different politically and culturally (Brace et al., 2001). Therefore, the influence of all major facets on judicial politics identified in the literature can be evaluated comparatively within state supreme courts (Brace et al., 2001).

Women's Experiences in the Courts

The failure of the courts to keep up with the legislative progress has had a damaging impact on efforts to deter violence against women (Epstein, 1999). The problems caused by

ineffective prosecutorial policies of the courts are not the only legal obstacles victims of domestic violence must face (Epstein, 1999). Intimate abuse complainants must face a deeply-ingrained hostility often exhibited by court personnel (Epstein, 1999). Most judges come to the bench with little understanding of the dynamics of domestic violence, instead bring with them a lifetime of exposure to rape myths and stereotypes about domestic violence that have shaped their attitudes toward this problem (Epstein, 1999). The most persistent of these myths is the belief that battered women could easily leave their abusers, but this belief ignores the real-life obstacles such as finances, bills, threats, and custody issues that these women must consider when making the choice to leave (Epstein, 1999). Lack of knowledge about this basic aspect of domestic violence causes many judges to become frustrated with battered women whom they perceive as refusing to leave an abusive relationship (Epstein, 1999). Court personnel throughout the United States complain bitterly about domestic violence cases because it requires too much work, and that the victims often drop their cases (Missouri Gender Bias Task Force, 1993).

Numerous studies have documented the treatment that battered women received by court clerks and judges. McGregor and Hopkins (1991) found that judges tend to hold battered women somewhat responsible for their victimization. They argue that many judges are unaware that women often drop their protection order because their abusive partner forced them to. In cases where women who have dropped charges on previous occasions, judges have made such comments as “oh, it’s you again, or how long are you going to stay this time” which signals that the court is already unsympathetic to her situation (Maryland Gender Bias Task, 1989). For example, Rhode (1989) demonstrated that family court judges were unsympathetic to battered

women and that some of the judges even scolded the battered women for bringing their private family issues to court.

Crites (1987) found that judges took the side of batterers because they believed these men had a right to resolving family problems in the home. Task forces in New Jersey and New York found that the courts did not adequately enforce protection orders which put the battered woman's life in even more danger (Schafran, 1987; Czapanskiy, 1993). In regards to child custody disputes, batterers who fought for child custody were more likely to be awarded custody despite evidence that showed abuse was present in the home (Jaffe, Lemon, Poisson, 2003).

Judges and court personnel frequently underestimate the seriousness of domestic violence cases. A National Institute of Justice survey found that many judges believe that domestic violence consists of verbal harassment or a rare push, and that the couple should get marital counseling to resolve their issues (Finn and Colson, 1990). A widespread attitude exists in the courts that cases involving crimes perpetrated on strangers are more important, while domestic violence is a second-rate assignment (Schafran, 1995). They view criminal prosecutions of domestic violence as a "privacy matter" that belongs at home (Kentucky Gender Bias Task, 1992; Maryland Gender Bias Task, 1989; New Jersey Bias Task, 1984). Also, many judges find it frustrating to deal with domestic violence petitioners who appear without counsel because they lack procedural knowledge and court expertise (Epstein, 1999).

On the other hand, a few studies showed positive efforts towards battered women by court personnel. Chaudhuri and Daly (1992) and Ptacek (1995) show that battered women were generally pleased with the protection order process and the court personnel's attitude was positive in helping them to navigate the legal process. In my research, I use state supreme courts as a framework for testing hypotheses involving domestic violence cases. I utilized the

WestLawNext Database to retrieve cases across all fifty states and the District of Columbia from 1965-2013. This approach takes into account both civil and criminal responses. It also shows how effective the courts are at protecting battered women under various judicial circumstances.

Chapter 2. Intersectionality and Opinions towards Female Leaders

Introduction

Because women and minorities are not monolithic groups, it is important to look at the cleavages within them that produce meaningful sources of variation in political opinion. Intersectionality provides an analytic framework for accomplishing this task. This framework takes into account social identities such as race, class, gender, and interactions that form unique meaning within and between groups in our society (Hankivsky and Cormier, 2011). The intersection encapsulated by race and gender captures the complexities associated with inequality that are overlooked when race and gender are treated as separate influences (Weber, 2009). Race and gender are interlocking categories of experience that affect all of us. While at times race or gender may feel more salient in a given person's life, yet they are overlapping and cumulative in their effect on people's attitudes (Weldon, 2006; Belkhir and Barnett, 2001). By looking at the intersection of multiple identity categories simultaneously, I consider how membership in groups defined by race and gender might affect American's attitudes towards women holding political office. In this chapter, I demonstrate that evaluations of women leaders are conditioned by the interaction of not only race and gender, but also party identification.

Political evaluations towards women leaders are often conditioned by characteristics of the representatives themselves. Pitken (1967) defines descriptive representation as the representation of groups by individuals who share the same physical attributes. Descriptive representatives send cues to their constituents through symbolic gestures, appearance, or similar attitudes when addressing political issues (Gilliam, 1996; Tate, 1993; Bobo and Gilliam, 1990; Gurin, Hatchett, and Jackson, 1989). Research has shown that descriptive representation increases voter participation, political knowledge, trust, and efficacy among African Americans

and also women (Banducci, Donovan, and Karp, 1999; Bobo and Gilliam, 1990; Dolan, 2008). Based on the existing scholarship on descriptive representation, I argue that respondents' opinions toward women leaders depend on their shared membership in groups based on race, gender, and political party.

Variation among Descriptive Representatives

Hillary Clinton, Sarah Palin, Condoleezza Rice, and Michelle Obama illustrate marked progress in historic struggles against sexism and racism, all raised the salience of gender on both liberal and conservative fronts in 2008 (Belkhir, 2008). These four women's gender played a crucial role in trying to attract the support of women to either the Democratic or the Republican Party. In particular, Senator Hillary Clinton was the first woman to threaten to win a major party nomination in the Democratic primary and Governor Sarah Palin was the second woman to be nominated for vice president (Brox and Cassels, 2009). Condoleezza Rice, an ex-political appointee had just completed her position under President George W. Bush as the first female African-American Secretary of State.

Americans for the first time were faced with the prospect of having a black first lady- Michelle Obama, as a result of Senator Barack Obama's campaign to win the Democratic Party nomination. The influence of unelected first ladies is noteworthy because many of her formal duties are in the executive branch where she can attempt to influence political decision-making (O'Connor, Nye, and Assendelft, 1996). It is important to have issues regarding women to be represented in decision making within a given party.

Collectively, this group of women highlights the complicated set of facets women might seek in representatives- not only a shared gender but shared racial identification and partisan

identity. The diversity among this group of political women shows that the idea of looking at ‘just’ gender omits other important group-based considerations.

Descriptive Representation

The assumption that women are likely to support all female political figures is commonly referred to as the “gender affinity effect” (Dolan, 2008; King and Matland, 2003; Sanbonmatsu, 2002). In *The Politics of Presence*, Anne Phillips acknowledges that while there is not empirical plausibility to the idea that women’s shared experiences translate into shared political attitudes, even though women do have particular concerns that derive from women’s gendered experiences (Phillips, 1995). Even if one employs gender rather than sex, “women’s differences are likely to mean that women’s experiences in a gendered society will be multiple- differentiated in terms of class, ethnicity, and sexuality at the very least” (Reingold, 2000 pg. 45). Acknowledging these differences, Mansbridge (1999) believes that women representatives can act for other women.

“While women representatives may not have shared the same particular experiences as the women they are representing, they share the outward signs of having lived through the same experiences. This gives them communicative and informational advantages and enables them to forge bonds of trust with the women they represent based on their gendered experiences” (Mansbridge, 1999 pg. 641).

Likewise, Iris Young (2002) emphasizes the importance of a shared women’s social perspective. This is derived from women being “similarly positioned in society and means that women are attuned to particular kinds of social meanings and share affinity with one another” (Young, 2002 pg. 123).

However, focusing on the gender of voters and political figures runs the risk of neglecting the difficulty that gendered considerations can bring to elections (Dolan, 2008). For example: how does gender interact with party? The majority of women tend to identify with the Democratic Party, so why do some women support Sarah Palin or Condoleezza Rice? How can

women support women that do not share their party identification? Do minority voters only support minority leaders? Why do some women favor same-sex representation and others do not?

This study seeks to answer the research question: *Are women more supportive of women leaders who reflect their political and racial identity?* I believe this phenomenon is crucial to study because the presence of women in politics elevates the importance of a number of political issues for women voters (Dolan, 2008). The mixed state of the literature leaves open this question about how the race and gender identifications of representations shape voters' evaluations of women in elected and appointed office.

Intersectionality: Race & Gender

The emphasis on the interaction of race, gender, and partisanship moves beyond simply including race in research on gender or including gender in research that involves race (Browne and Misra, 2003). Intersectional approaches maintain that gender and race are not independent categories that can necessarily be added together (King, 1989; Weber, 2001; Weldon, 2006). This intersection provides a fruitful avenue for understanding public opinion in regards to women leaders in public office (McConaughy and White, 2013). Failure to recognize the intersections that separates women and minorities overlooks the differences that are associated within these groups (Cole and Stewart, 2001; Weldon, 2006; Huddy, Cassese, and Lizotte, 2008). Race is “gendered” and gender is “racialized,” so that race and gender fuse to create unique experiences for all groups (Amott and Matthaei, 1991; Collins, 1999; Essed, 1991; Glenn, 1999; Higginbotham, 1997; Hondagneu-Sotelo, 1994; Kibria, 1990; and Landrine, 1985).

Specific locations in this matrix of intersecting social hierarchies create a unique set of experiences that involve more than the sum of their parts and reflect the multiplicative nature of

intersecting oppressions (Collins, 2000 and King, 1989). Because hierarchies of power are cross cutting, it is likely that a person will be simultaneously advantaged by certain identities and disadvantaged by others (Steinbugler, Press, Dias, 2006). For example, a Black man may experience privilege vis-à-vis his maleness but be marginalized for his race (Steinbugler, Press, and Dias, 2006). As a result, race and gender can sometimes combine to create effects that are unique to specific gender-race-party groups that may be invisible if these interactions are viewed separately. Also, Black American women in detailed historical and ethnographic studies conducted in the 1980s revealed that not only were both race and gender implicated in shaping their lives, but neither the extant theories of gender nor race addressed their experience of race and gender as simultaneous social identities (Glenn, 1999). Using a racially diverse sample, I can assess whether attitudes towards women leaders are due to American's gender, race, or a unique fusion of race and gender.

Another dimension of intersectionality includes partisanship. Some scholars debate that the key to identifying a true gender affinity effect requires us to see if females prefer women candidates even after considering political party (Seltzer, Newman, and Leighton, 1997). The reality of the sex/party overlap in the United States elections forces us to address the complexity that party influences introduce into the relationship because women are more likely to identify with the Democratic party (Dolan, 2008). Researchers have uncovered evidence in support of the idea that women are more supportive of women candidates than are men (Williams, 1994). For example, Fox (1997) found greater support for female candidates from women voters regardless of party, while Brians (2005) found that Republican women are willing to cross party lines to support a female candidate whereas Democratic women were not. Seltzer and colleagues (1997) illustrated the importance of political party in finding that women were more likely to

support female statewide candidates than were men and that the size of this gender gap was greater when the female candidate was a Democrat than when she was a Republican. This conclusion is inconsistent with Fox's (1997) research that party does not matter when women are evaluating other women leaders and consistent with Brians' (2005) work in acknowledging that party does matter. As a result, these findings demonstrate that there is not a clear consensus on the way party influences evaluations of female leaders.

Using Descriptive Cues

How do Americans use these various descriptive cues to evaluate women leaders? Work on descriptive representation has tended to examine descriptive clues in isolation, ignoring the interaction of such cues. Race as a cue is a low-cost alternative to more detailed information about where a legislator stands on particular policy issues (Gay, 2002). A constituent's ability to identify racially with her member of Congress assumes special significance because race is a "signal that speaks louder than words" (Bianco, 1994 pg. 153). Favorable assessment of elected officials may turn on factors such as racial group consciousness, which has been shown to influence political attitudes among whites and blacks (Dawson, 1994; Kinder and Sanders, 1996; and Reeves, 1997). The ability to identify racially with an elected official helps to contribute to higher levels of trust (Gay, 2002). In sum, the shared experience "imperfectly captured by descriptive representation can form the basis for greater trust in public officials and institutions" (Mansbridge, 1999 pg. 641).

A desire for representation on specific political issues can also play an imperative role in the relationship between women voters and female candidates (Dolan, 2008). Rosenthal (1995) and Sanbonmatsu (2002) found that women have a stronger preference for descriptive representation than do men. Other studies suggest that a sense of common gender identity may

move women in the public toward female political figures (Dolan, 2008). In particular, Plutzer and Zipp (1996) found significant gender identity effects in voting for female candidates for statewide offices in 1992- referred to by journalists as the “year of the woman”. Additionally, they found that this effect is magnified for female Democratic candidates who ran as feminists (Plutzer and Zipp, 1996). This gender gap in support for women who run “as women” is also visible at the state and local legislative levels (Hernson, Lay, and Stokes, 2003). For women, support for a female candidate may reflect a desire for representation as “standing for” women (Rosenthal, 1995). These positive feelings toward female candidates “as women” are shaped by a sense that women’s political fortunes are aligned with other women (Tolleson-Rinehart, 1992).

Paolino (1995) found no evidence that women voters supported women simply because of group salient issues but did find that the interaction of issues such as sexual harassment and the underrepresentation of women in elected offices drew women voters to female U.S. senate candidates in 1992. On the other hand, in experimental settings, King and Matland (2003) and Thompson and Steckenrider (1997) found that the voter’s sex to have no effects in regards to supporting a women candidate. Also, McDermott (1997) found no evidence to support gender effects in voting for female candidates for the U.S. House. In conclusion, these results show that there is not a clear consensus in the literature in regards to how gender effects support for female candidates. Indeed, the relationship seems relatively complex.

While descriptive cues might advantage women leaders among women voters, these cues can cut both ways. The public sees women candidates as kind, passive, compassionate, and warm while men are perceived as assertive, tough, knowledgeable, and strong (Brown, Heighberger, Shocket, 1993; Huddy and Terkildsen, 1993; Kahn, 1992; and Leeper, 1991). These ideas reflect the more general stereotypes about women that society tends to hold

(Williams and Best, 1990). These traits stereotypes advantage male candidates, because traits characterizing strong leadership are associated with masculinity but not femininity. Voters most commonly associate women in politics with what are often called the “compassion” issues- healthcare, poverty, education, the elderly, the environment, and children and family issues (Dolan, 2008). Men are seen as more concerned with defense, economics, crime, business, and agriculture (Alexander and Anderson, 1993; Huddy and Terkildsen, 1993; Kahn, 1992; Koch, 1999; Lawless, 2004; and Leeper, 1991). As with trait stereotypes, some express concern that voters may actively use these judgments about women and men’s perceived policy differences against women candidates. If women are not perceived to be as competent to handle economic issues, voters who are primarily concerned about this issue may reject women candidates as inappropriate for office (Dolan, 2008).

Past research shows that issues like abortion, child care, and sexual harassment tend to be of greater concern to women voters, and they may see female officeholders as uniquely suited to deal with these types of issues (Hernson, Lay, and Stokes 2003; Paolino, 1995; and Plutzer and Zipp, 1996). Thus, greater levels of women’s support for female political figures may not be based on a shared gender identity but instead on the interaction of sex and a set of ideological sympathies (Dolan, 2008). Since 1990, 65 percent of the women who have run for Congress have done so as Democrats (CAWP, 2006; and Dolan, 2008). During this time period, about 52 percent of women in the public identified themselves as Democrats (PEW, 2015). It may simply be that women are supporting candidates of their party, many of whom happen to be female (Dolan, 2008). Thus, party – in addition to race and gender is an important, intersecting identity.

Hypotheses

In this analysis, I examine the relationship between partisanship and other social identities. I consider whether race and gender moderate the impact of partisanship on evaluations of women leaders. I expect that women are much more supportive of women leaders that reflect their other descriptive characteristics- namely race, party, and gender. In estimating a series of OLS regression models that controlled for sociodemographic correlates of partisanship, I anticipate that race and gender differences in evaluations are due to partisan identity. The next set of hypotheses tests whether party and gender both differentiate among racial groups such that I expect respondents for descriptive representation who share both their party and gender may support female leaders more favorable than those who share just their party or gender. Finally, with respect to gender issues, I hypothesize that liberal respondents who feel that women are more suited to address women's issues such as abortion or childcare may evaluate Clinton and Obama more highly because these issues are of greater concern to Democrats and may evaluate Palin and Rice less favorably because of partisan conflict.

Data

To test these hypotheses, I utilized the 2008 American National Election Survey (ANES, 2008). The disproportionate stratified sampling approach included an oversample of blacks and Hispanics. The ANES data contains both pre-and post-election interviews, the former averaged approximately 70 minutes and were conducted from September 2, 2008 through November 3, 2008; the latter, lasted around 90 minutes and were administered November 5, 2008 through December 30, 2008. Together, 2,102 respondents completed both sets of interviews which included 507 Latino participants and 527 African American respondents.

Key Measures

Dependent Variables

The dependent variables in this analysis are feeling thermometers measuring evaluations of Hillary Clinton, Michelle Obama, Condoleezza Rice, and Sarah Palin. Zero represents cold feelings towards females in elected and nonelected positions, 100 represents warm feelings, and fifty being neither warm nor cold.

Independent Variables

Race

Race is captured as a set of two dummy variables. Respondents were asked “What racial or ethnic group or groups best describes you (White, Black, or Hispanic)?” Participants that classify themselves as white serve as the baseline category.

Gender Issues

Attitudes towards gender roles is captured through a 7-point scale ranging from 1 (woman’s place is in the home) to 7 (women and men should have equal roles). Respondents were asked “Where would you place yourself on this scale, or haven't you thought much about this? This measure helps to gauge if the respondent believes in equality. Additionally, women’s role serves as a follow up question to the previous one mentioned and is captured through a 5 point scale ranging from 1 (not important at all) to 5 (extremely important). Respondents were asked “Where would you place yourself on this scale, or haven't you thought much about this”? This measure helps to gauge if the respondent believes in traditionalism. Abortion is measured on a 4-point scale ranging from 1 (abortion is never permitted) to 4 (abortion is always permitted). Participants were asked “Which one of the opinions on this page best agrees with your view?” This measure helps to gauge if the respondent is pro-choice or pro-life.

Preferences for spending on childcare is captured through a 7-point scale ranging from 1 (decreased spending childcare) to 7 (increased spending childcare). Participants were asked “Should federal spending on child care be increased, decreased, or kept about the same”? This measure gauges whether the respondent is concerned about this specific women’s issue. Preferences for spending on social welfare is captured through a 7-point scale ranging from 1 (decreased a great deal) to 7 (increased a great deal). Respondents were asked “Should federal spending on aid to the poor be increased, decreased, or kept about the same”? This measure gauges whether the respondent is concerned about this particular women’s issue. Data for attitudes towards women’s rights, women’s role, and abortion is only available for half of the sample.

Issue Competence

Democratic woman’s competence in matters of foreign affairs is measured through a 3-point scale ranging from 1 (man) to 3 (woman). Respondents were asked “Who would do a better job in the U.S. Congress handling foreign affairs - a Democrat who is a man, a Democrat who is a woman, or would they do an equally good or bad job”? This measure helps to gauge equality and issue competence within the Democratic Party. In contrast, Republican woman’s knowledge in matters of foreign affairs is measured through a 3-point scale ranging from 1 (man) to 3 (woman). Respondents were asked “Who would do a better job in the U.S. Congress handling foreign affairs - a Republican who is a man, a Republican who is a woman, or would they do an equally good or bad job”? This measure helps to gauge equality and issue competence within the Republican Party.

Attitudes towards a democratic woman’s expertise in matters of education policies is measured through a 3-point scale ranging from 1 (man) to 3 (woman). Respondents were asked

“Who would do a better job in the U.S. Congress handling education policies - a Democrat who is a man, a Democrat who is a woman, or would they do an equally good or bad job”? This measure helps to gauge equality and issue competence within the Democratic Party. On the other hand, Republican woman’s knowledge in matters of education policies is captured through a 3-point scale ranging from 1 (man) to 3 (woman). Respondents were asked “Who would do a better job in the U.S. Congress handling education policies - a Republican who is a man, a Republican who is a woman, or would they do an equally good or bad job”? This measure helps to gauge equality and issue competence within the Republican Party.

Demographics

Respondent gender is captured with a dummy variable (Male=0, Female=1). Participants who classified themselves as male serve as the baseline category. Strength of religiosity is assessed through church attendance/religious services on a 5-point scale ranging from never to more than once a week. Respondents were asked “Lots of things come up that keep people from attending religious services even if they want to. Thinking about your life these days, do you ever attend religious services, apart from occasional weddings, baptisms or funerals”? The first question is a contingency question so if the respondent answered yes, then he or she moved on to the next one. If they answered no, then they were finished with this series of question. “Do you go to religious services every week, almost every week, once or twice a month, once or a few times a year, or never”? “Would you say you go to religious services once a week or more often than once a week”? This measure gauges whether people have a religious identity. In addition, education is captured through 8 intervals ranging from no high school diploma to advance degrees.

In terms of sociodemographic variables, income is captured through 25 intervals ranging from none to \$2,999.00 through \$150,000.00 and over. Respondents were asked “What is your household income”? This measure also helps to gauge social class. Moreover, age is captured through 73 intervals ranging from 17 years old (18 by Oct 30, 2008) to 90 years old.

Respondents were asked, “What is your age”? This measure helps to gauge younger respondents from older participants. With reference to political attitudes, partisanship is captured by how an individual views themselves on a Democrat/Republican 7- point scale ranging from 1 (strong Democrat) to 7 (strong Republican). Participants were asked “Where would you place yourself on this scale, or haven’t you thought much about this”?

Results

To begin, I evaluate group differences in evaluations of four female leaders. Table 2.1 shows the mean feeling thermometer score by respondent gender, race, and party. The significance of group differences are evaluated with ANOVAs. The result show the important role played by party. The significance of the test result ($p < .001$) demonstrates that race is a factor among men and women in both parties when looking at these four women. In particular, there are very modest racial differences among female Democrats, though race does matter a little more for male Democrats. For example, there is an 18-point difference between black male Democrats and white male Democrats when evaluating Michelle Obama. In contrast, race matters a great deal among Republicans. For instance, black women Republicans evaluate Palin unfavorably, giving an average rating of 50 degrees but have favorable evaluations of Michelle Obama (on average 83 degrees), consistent with expectations. However, it should be noted that there are a small number of black women Republicans present in the sample. On the other hand, white female Republicans and white male Republicans both perceive Michelle Obama

negatively, on average- her evaluations are well below 50 degrees in each case. Also, white male Republicans evaluate Clinton negatively as her evaluations never make it beyond 40 degrees. Lastly, support for Rice is low among male Republicans- well under the neutral point of 50 degrees in each case. There is a 3- point difference in most cases between male and female Republicans when evaluating Rice. In conclusion, race does matter among Democrats and Republicans when evaluating female leaders.

Table 2.1 Racial and Partisan Differences among Women and Men

WOMEN DEMS	CLINTON PALIN OBAMA RICE				WOMEN REPS	CLINTON PALIN OBAMA RICE			
White	70.09	37.44	74.16	49.82	White	41.01	73.03	44.19	70.41
Black	76.89	38.76	89.71	55.01	Black	71.42	50	83.75	67.73
Hispanic	70.09	40.98	75.76	53.01	Hispanic	63.89	60	53.02	70.43
F (8)	57.60***	51.35***	92.68***	16.40***	F (8)	57.60***	51.35***	92.68***	16.40***
N	1257	1076	1108	1045	N	1257	1076	1108	1045
R2	.27	.28	.40	.11	R2	.27	.28	.40	.11
MALE DEMS	CLINTON PALIN OBAMA RICE				MALE REPS	CLINTON PALIN OBAMA RICE			
White	65.54	37.44	68	43.02	White	36.25	68.76	37.52	37.44
Black	72.94	33.31	85.25	54.01	Black	56.07	52.73	75.09	38.76
Hispanic	74.91	38.93	74	47.88	Hispanic	58.57	61.67	60.13	40.98
F (8)	49.76***	41.41***	78.32***	18.78***	F (8)	49.76***	41.41***	78.32***	18.78***
N	938	810	821	830	N	938	810	821	830
R2	.29	.29	.43	.15	R2	.29	.29	.43	.15

Note: Statistical significant at $p < .05^*$, $p < .01^{**}$, and $p < .001^{***}$. Entries are mean values. The F-statistics provide the significance tests on the race*party interactions in each ANOVA.

I estimated models for evaluations of each of the four women leaders to determine the impact of party, race, and gender in a model with statistical controls for socio-demographic characteristics¹. The results are presented in Table 2.2². The results indicate that race and gender both condition opinions towards women leaders, confirming my findings in Table 2.1.

The insignificant coefficients in the Hispanic female row suggest that Hispanic women and Hispanic men do not differ in their evaluations of these women. The same can be said for black women and black men as well. In this respect, race explains more variance in evaluations than

¹ I have separate models for full and half samples because the data for women's rights, women's roles, and abortion is only available for the half sample. Also, I ran diagnostics for all of the models and there were no violations of the regression assumptions.

² In the original model I included interaction variables such as black*income, Hispanic*income, black*education, and Hispanic*education but all of the effects were not significant so I dropped them because it did not afford additional explanatory purchase.

gender. These findings are consistent with my expectations in regards to descriptive representation based on race (Mansbridge, 1999). The significant coefficient on the “Female” variable across the models suggests that white men and women do differ, with white women evaluating all but Palin more favorably than white men.

Partisanship still has an effect across all of the models, even with the inclusion of statistical controls. Some of the SES controls have an effect on evaluations as well. As anticipated, church attendance significantly conditions attitudes towards Republican female leaders but not Democrat women leaders. Respondents with a higher income have lower ratings for Obama. Even though the effect is substantively very small, it is statistically significant. Educated participants have lower evaluations towards Palin and may feel that she is the least educated out of Clinton, Obama, and Rice. Also, age influences evaluations of Palin and Rice, as respondents become older they may become more conservative.

Table 2.2 Determinants of Female Political Figures Thermometer Scores with Respect to Race, Gender, and Demographics.

	Clinton	Obama	Palin	Rice
	Full	Full	Full	Full
<i>Race and Gender</i>				
Black	6.66** (1.98)	18.52*** (1.89)	-6.35* (2.16)	7.11** (2.11)
Black Female	-.07 (2.40)	-1.90 (2.28)	2.78 (2.60)	-2.30 (2.57)
Hispanics	10.69*** (2.06)	9.80*** (1.98)	.35 (2.89)	2.45 (2.29)
Hispanic Female	.66 (2.63)	-5.06 (2.53)	-1.44 (2.89)	-.07 (2.98)
Female	4.15** (1.36)	5.52*** (1.30)	1.68 (1.45)	3.61** (1.47)
<i>Demographics</i>				
Church Attendance	-2.68 (1.48)	-1.39 (1.41)	6.54*** (1.7)	6.55*** (1.61)
Income	-.21 (.09)	-.28** (.09)	.06 (.10)	.11 (.10)
Education	-.51 (.36)	.47 (.34)	-1.77*** (.39)	-.31 (.39)
Age	-.01 (.03)	.00 (.02)	.08* (.03)	.11* (.03)

Partisanship (R)	-6.33*** (.28)	-6.20*** (.28)	6.54*** (.30)	4.47*** (.30)
_Cons	84.3*** (2.74)	81.12*** (2.65)	27.30*** (3.01)	30.01*** (3.07)
R2	.33	.46	.30	.14
N	2017	1779	1748	1731

Note: Statistical significant at $p < .05^*$, $p < .01^{**}$, and $p < .001^{***}$.

In order to examine the hypotheses about the moderating effects of gender and partisanship and demographics between the racial groups, I estimated models for the four women leaders separately by racial group³. The results are presented in Table 2.3⁴. As expected, the results indicate that partisanship significantly conditions attitudes for whites, blacks, and Hispanics towards all four women. But for the most part, the effect of partisanship doesn't vary for men and women- only one of the interaction terms is significant. Among whites, church attendance and age are significantly and positively associated when evaluating Palin and Rice. However, church attendance is negatively and significantly associated with Clinton. Further, as white respondents become more educated, support for Palin decreases.

The effect of gender among black participants is negatively and significantly associated with Rice. Among blacks, church attendance conditions opinions towards Rice and Clinton positively. As black respondents become more educated, they are more likely to favor Obama. Age depresses evaluations for Clinton but increases support for Obama among blacks. The significance of the female*partisanship, demonstrates that party matters among blacks when evaluating Rice.

³ I have separate models for full and half samples because the data for women's rights, women's roles, and abortion is only available for the half sample. Also, I ran diagnostics for all of the models and there were no violations of the regression assumptions.

⁴ In the original model I included interaction variables such as black*income, Hispanic*income, black*education, and Hispanic*education but all of the effects were not significant so I dropped them because it did not afford additional explanatory purchase.

Table 2.3 Determinants of Female Political Figures' Thermometer Scores with Respect to Gender, Partisanship, and Race.

	Whites			
	Clinton	Obama	Palin	Rice
	Full			
<i>Gender and Partisanship</i>				
Female	2.61 (3.25)	1.73 (3.24)	.32 (3.22)	5.67 (3.28)
Partisanship (R)	-7.37*** (.58)	-7.62*** (.55)	7.37*** (.54)	5.34*** (.55)
Female*Partisanship	.37 (.71)	.87 (.70)	.46 (.69)	-.38 (.71)
<i>Demographics</i>				
Church Attendance	-4.48* (2.08)	-1.42 (2.06)	5.19** (2.03)	4.87* (2.10)
Income	-.09 (.13)	-.16 (.13)	.07 (.13)	.23 (.13)
Education	-.85 (.49)	.58 (.49)	-1.87*** (.49)	-.48 (.50)
Age	.01 (.04)	-.01 (.04)	.11** (.05)	.15** (.04)
_Cons	87.80*** (3.87)	85.11*** (3.86)	22.95*** (3.89)	23.47*** (4.04)
R2	.31	.33	.37	.21
N	1103	972	983	964
	Blacks			
	Clinton	Obama	Palin	Rice
	Full			
<i>Gender and Partisanship</i>				
Female	.85 (3.21)	.21 (2.70)	4.35 (4.28)	-11.78** (4.20)
Partisanship (R)	-4.61*** (.99)	-3.82*** (.86)	3.35** (1.34)	-1.67 (1.36)
Female*Partisanship	1.23 (1.31)	1.67 (1.13)	-.35 (1.79)	5.71** (1.80)
<i>Demographics</i>				
Church Attendance	5.29* (2.57)	.65 (2.15)	5.36 (3.39)	12.61*** (3.29)
Income	-.20 (.16)	-.25 (.13)	-.28 (.21)	-.32 (.20)
Education	-.91 (.67)	1.20* (.56)	-.58 (.88)	.43 (.85)
Age	-.16** (.06)	.09* (.05)	.03 (.08)	.05 (.07)
_Cons	92.22*** (4.54)	86.75*** (3.82)	29.82*** (6.00)	52.60*** (5.81)
R2	.08	.09	.14	.05
N	519	465	326	463
	Hispanics			
	Clinton	Obama	Palin	Rice
	Full			
<i>Gender and Partisanship</i>				
Female	1.36 (4.42)	2.14 (4.21)	7.04 (4.92)	2.88 (4.79)

Partisanship (R)	-5.72*** (.98)	-4.82*** (.92)	5.54*** (1.07)	3.46** (1.03)
Female*Partisanship	1.17 (1.27)	-.50 (1.20)	-1.81 (1.40)	.38 (1.38)
<i>Demographics</i>				
Church Attendance	-4.32 (3.39)	-.60 (3.27)	7.89* (3.83)	.80 (3.82)
Income	-.32 (.21)	-.43* (.21)	.14 (.24)	.18 (.25)
Education	.85 (.78)	-.22 (.74)	-2.84** (.86)	-.74 (.87)
Age	.20** (.07)	-.01 (.07)	-.02 (.08)	-.01 (.09)
_Cons	81.54*** (5.76)	91.21*** (5.65)	34.44*** (6.65)	43.28*** (6.73)
R2	.18	.20	.14	.08
N	395	465	326	304

Note: Statistical significant at $p < .05^*$, $p < .01^{**}$, and $p < .001^{***}$.

The figure below illustrates the predicted values on the feeling thermometer scale for Rice among blacks, based on each respondent's gender and party. Other independent variables were constrained to their mean values. Figure 2.1 shows that black male Republicans have the highest predicted values for Rice at 95.60 degrees. Black female Republicans follow next at 83.82 degrees for Rice. It should be noted that black female Democrats and black male Democrats do not perceive Rice favorably. The huge partisanship gap between the two suggests that black Democrats will not cross party lines to support someone of their own race. This figure demonstrates that party matters among blacks when evaluating Rice. I speculate that Rice serves as an outlier among the other three women because black, female conservatives are somewhat rare political figures and the categories of black and female are more commonly associated with liberalism than conservatism.

Figure 2.1 Predicted Thermometer Scores for Rice

Next, I estimated the model for the four women leaders to evaluate hypotheses about the moderating effects of gender issues and perceived issue competence on attitudes towards Clinton, Obama, Palin, and Rice⁵. The results are presented in Table 2.4⁶. Again, the significance of the “Female” variable shows that white men and women do differ, with white women evaluating all but Palin more highly than white men. Blacks have higher support for Obama and Rice as expected. Also, Hispanics evaluate Clinton and Obama more favorably.

Turning to the policy items, one can see that policy attitudes do matter, consistent with the ideas developed above that descriptive representation is linked to policy preferences.

Women are evaluated with respect to one’s preference for women’s issues. Respondents who think that women should not have access to abortions perceive Palin more highly. Childcare and

⁵ I have separate models for full and half samples because the data for women’s rights, women’s roles, and abortion is only available for the half sample. Also, I ran diagnostics for all of the models and there were no violations of the regression assumptions.

⁶ In the original model I included interaction variables such as black*income, Hispanic*income, black*education, and Hispanic*education but all of the effects were not significant so I dropped them because it did not afford additional explanatory purchase.

social welfare significantly influences the opinions towards all four women leaders.

Respondents who believe that government should have increased spending for child care and aid

to the poor, perceive Clinton and Obama more favorably. Whereas, participants who want

decreased spending for child care and aid to the poor have higher evaluations of Palin and Rice.

Contrary to what I expected, issue competence does not have an effect on opinions towards

women leaders. These results show that party still matters even when controlling for partisan

issues and issue competence. Although gender is a factor, it is clear that party affiliation strongly

influences the affinity for women in leadership roles.

Table 2.4 Determinants of Female Political Figures' Thermometer with Respect to Race and Gender, Gender Issues, Issue Competence, and Demographics.

	Clinton		Obama		Palin		Rice	
	Full	Half	Full	Half	Full	Half	Full	Half
<i>Race and Gender</i>								
Black	4.78* (2.15)	3.75 (2.97)	16.26*** (1.92)	18.31*** (2.55)	-5.19* (2.26)	-7.97** (3.14)	7.91*** (2.30)	5.53 (3.19)
Black Female	1.17 (2.59)	-1.55 (3.61)	-.99 (2.31)	-.18 (3.09)	2.65 (2.70)	2.73 (3.80)	-1.94 (2.78)	2.65 (3.86)
Hispanics	9.85*** (2.22)	10.56** (3.55)	7.58*** (1.98)	9.63** (3.04)	-1.97 (2.32)	-5.19 (3.74)	1.70 (2.45)	2.82 (3.99)
Hispanic Female	.61 (2.81)	-1.13 (4.33)	-4.40 (2.52)	-3.23 (3.71)	.38 (2.96)	3.44 (4.56)	.88 (3.18)	2.60 (4.88)
Female	3.32* (1.48)	2.77 (2.16)	4.74*** (1.33)	4.73** (1.87)	1.82 (1.52)	1.38 (2.25)	3.42* (1.61)	.84 (2.34)
<i>Gender Issues</i>								
Women's Rights	—	1.38* (.61)	—	.41 (.52)	—	.38 (.65)	—	.79 (.69)
Women's Role	—	1.38 (.89)	—	.81 (.76)	—	.39 (.93)	—	.80 (.96)
Abortion	—	.95 (.77)	—	.70 (.67)	—	-1.76* (.82)	—	-1.34 (.87)
Childcare	.95* (.42)	1.33* (.61)	1.48*** (.39)	1.63** (.53)	-.06 (.44)	.02 (.64)	-1.25** (.46)	-.31 (.67)
Social Welfare	1.25** (.44)	2.17*** (.64)	1.48*** (.40)	1.52** (.55)	-1.26** (.46)	-2.15*** (.67)	-.42 (.49)	-1.47* (.71)
<i>Issue Competence</i>								
Democrat Foreign Affairs	2.51 (1.47)	4.22 (2.22)	1.09 (1.31)	.68 (1.91)	.62 (1.53)	2.21 (2.35)	-.79 (1.64)	-.62 (2.52)
Republican Foreign Affairs	2.32 (1.50)	-.16 (2.13)	1.93 (1.34)	.03 (1.83)	-1.57 (1.56)	-.62 (2.24)	-1.18 (1.68)	-.91 (2.41)
Democrat Education Policies	.87 (1.62)	.49 (2.22)	-1.23 (1.48)	-.87 (1.95)	-.80 (1.74)	-.96 (2.41)	-2.16 (1.88)	-2.82 (2.56)
Republican Education	1.36	.79	-.91	-.70	3.26	1.32	3.27	3.63

Policies	(1.73)	(2.42)	(1.58)	(2.13)	(1.85)	(2.60)	(1.96)	(2.71)
<i>Demographics</i>								
Church Attendance	-3.27* (1.61)	-.27 (2.45)	-1.58 (1.44)	-4.26* (2.12)	6.82*** (1.66)	6.06* (2.56)	6.19*** (1.75)	6.84** (2.65)
Income	-.17 (.10)	.02 (.14)	-.19* (.09)	-.17 (.12)	.02 (.10)	.02 (.15)	.06 (.11)	-.04 (.15)
Education	-.39 (.38)	-.64 (.57)	.62 (.34)	.19 (.50)	-1.95*** (.40)	-.90 (.60)	-.36 (.42)	.01 (.62)
Age	.01 (.03)	.03 (.05)	.03 (.03)	.02 (.04)	.07* (.04)	.03 (.05)	.09** (.04)	.08 (.05)
Partisanship (R)	-6.01*** .31	-5.90*** (.46)	-5.55*** (.28)	-5.38*** (.40)	6.22*** (.33)	5.28*** (.48)	4.18*** (.34)	3.99*** (.51)
_Cons	56.84*** (6.01)	33.13*** (9.07)	59.91*** (5.37)	55.15*** (7.80)	33.32*** (6.22)	40.79*** (9.50)	43.39*** (6.66)	39.88*** (10.28)
R2	.35	.38	.46	.51	.29	.27	.14	.13
N	1702	827	1660	800	1629	795	1471	712

Note: Statistical significant at $p < .05^*$, $p < .01^{**}$, and $p < .001^{***}$ and half sample included in the table.

Conclusion

I began this inquiry by examining the effects of descriptive representation on the evaluations of women in politics. Building on the “gender affinity effect”, descriptive representation, intersectionality, and the women in politics literature, I hypothesized that shared attitudes, beliefs, symbolic, and physical attributes would shape evaluations of female political leaders. I expected this to occur because voters would use female political officeholders’ race, gender issue positions, and issue competence as cues when evaluating them.

Results from my data analysis were mixed. I found that descriptive representation has an effect on evaluations of women in politics but is not as significant as the literature may have led us to believe. Throughout my various models, race clearly has an effect on the way voters evaluate women leaders. However, it is important to note that gender seems to explain more differences between white men and women but less so between men and women of color. Descriptively represented African Americans are more likely to have positive evaluations of black women in politics. That effect is still significant when their party identification do not

match between respondent and candidate. Further, Hispanics are more likely to have positive evaluations towards liberal women involved in politics. In other words, Hispanics choose to identify with Clinton because she is Caucasian and identifying with this group is associated with higher prestige. Additionally, partisanship appears to exert an effect on evaluations of female leaders, which is not entirely unanticipated because a shared political identity is also a kind of affinity.

I consistently found race and partisanship are important factors to consider when evaluating female political figures. Based on these results, I conclude that race and party clearly matters. In fact, Lawless (2004) suggests in her works on women's descriptive representation and political engagement that party matters influences voters more than gender. She also mentions that what we assumed to be the effect of gender congruence was in fact party congruence (Lawless, 2004). Perhaps, party trumps gender. My findings support her position. This is not to say that the other issues explored are not important but that they did not have a strong effect on the findings. These results show that in-group dynamics and descriptive representation do not necessarily translate into reasons why women may like a female leader. Finally, these findings add to the research literature on the social and group determinants of factors influencing evaluations of women in politics.

Chapter 3. Issue Framing, Entrepreneurship and the Passage of the Violence Against Women Act⁷

Introduction

How “an idea’s time has come” (Kingdon, 1984) is a central preoccupation of those who study the policy process. Attention to problems, why a particular frame resonates while others are abandoned, and how politics work to advance or stall issue evolution is at the heart of the policy process, agenda setting, and political conflict. If institutions are a means of channeling conflict, and as such involve “the mobilization of bias” (Schattschneider, 1960, pg. 69), then understanding the role of institutions in focusing attention is essential. In this chapter we are interested in exploring how domestic violence moved out of the realm of the private—that is, an issue of concern to very few but the participants—to become defined as a public problem suitable for government attention and redress that culminated with the passage of the Violence Against Women Act in 1994. The story we tell in what follows suggests that an increase in issue attention (Jones and Baumgartner, 2005) promoted by advocacy coalitions and political entrepreneurs (Sabatier, 1987, 1993) worked to upset the existing policy equilibria (Baumgartner and Jones, 1993) in which domestic violence was defined as a private (non) issue. As such, the story we tell looks like other cases of policy dynamics in which policy learning, prompted by a shift in attention, and alters pre-existing subsystem-induced policy equilibria to create a new understanding of and solution to a problem (See Nelson, 1984 for a similar example involving child abuse).

Much of the recent work produced on attention and policy dynamics works from the premise that subsystem politics are the norm for the bulk of policy making in the United States.

⁷ This chapter was originally presented at the 2015 WPSA meeting as part of a project co-authored with Jeff Worsham. Portions of the chapter are thus quite similar, if not identical, to passages that appear in Worsham 2006 and Worsham 2012.

Punctuated Equilibrium Theory (PET) has been used in a variety of policy realms to examine the interplay of positive and negative feedback in the maintenance of institutionally induced policy equilibria (Baumgartner and Jones, 1991, 1993, 2002; Cashore and Howlett, 2007; Givel, 2006, 2008; May, 2010; Repetto, 2006; True, 1999; Wood, 2006; Worsham, 2006). The argument, in brief, is that policy equilibria, which foster an incremental inertia that gives the appearance of stability over lengthy periods of time, are subject to radical change at opportune moments. Whether change occurs depends on the ability of subsystems to contain challenges to existing policy arrangements. The beauty of PET is its ability to accommodate both the incremental nature of so much public policy change, as well explain the moments of dramatic change that on occasion punctuate the seeming calm that characterizes so much of American politics.

PET, drawing on group theory, suggests that institutions are designed to operate as self-correcting mechanisms. Subsystems are the institutional embodiment of this self-equilibrating mechanism and the subsystem approach itself is a direct descendent of group theories (Schattschneider, 1935, 1960; Griffith, 1939; Bernstein, 1955; Maass, 1951; Scher, 1960; Long, 1962; Cater, 1964; Freeman, 1955, 1965; Lowi, 1969, 1979; Bosso, 1987; Campbell, 1988; Balogh, 1991; Baumgartner and Jones, 1993; Worsham, 1997). Unlike group theorists, subsystem models suggest policy equilibria are the result of bargains struck through institutional arrangements normally out of the public eye—with congressional committees, agencies, experts, and well-organized interests of the central players. Of special interest is the institutional dynamic that allows subsystems to operate in a semi-autonomous fashion in a particular policy area and how it is subject to stress or change.

Because the lynchpin in any particular subsystem is the congressional committee or subcommittee that serves as the legislative anchor for the subsystem, studies that employ PET

focus on congressional efforts to control the policy agenda. While initial studies focused on hearing activity, more recent efforts have included legislative referrals (Wilkerson, et al 2002; Worsham, 2006, 2011) as an additional indicator of control. No matter the focus, all suggest a variety of macro-level forces outside the subsystem, as well as internal dynamics within a subsystem, provide a constant set of challenges to subsystem-induced equilibria (see Sabatier, 1993; Baumgartner and Jones, 1993; Worsham, 1997, 2006, 2012). This constant stimulation from within and without means that rather than thinking of a subsystem-produced equilibrium as static, it is more accurately portrayed as wavering between distinct political types, each of which produce a different calculus of benefits and costs (Worsham, 1998).

The concept of subsystems as wavering equilibria explains why so much of policy involves change at the margins, rather than radical reconfiguration. That said, not all policy is incremental, nor is politics invariably the stuff of logrolls and “mutual non-interference pacts” (Lowi, 1969). At times change is dramatic, politics are nasty, and disequilibrium is real. Baumgartner and Jones (2002, pg. 7) suggest that positive feedback models are those in which “ideas of momentum, bandwagon effects, thresholds, and cascades play critical roles” in the policy process. A focus on the ideas that undergird institutions, and how they are subject to change, is essential to understanding positive feedback and its role in producing disequilibrium. Paul Sabatier and Hank Jenkins-Smith (1993, 1999) have suggested that policy learning, which can produce dramatic policy change, is a result of shifts in the core beliefs of advocacy coalitions. For Baumgartner and Jones, positive feedback occurs either as a result of cue taking or mimicking; or is produced by the serial processing nature of individuals and institutions. In the former instance they suggest a threshold effect is in play, where a critical mass of interest or attention produces self-sustaining momentum (2002, pg. 16-17). In the latter, something forces

decision makers to shift their attention to a previously excluded dimension, which in turn changes the dominant view on the issue (Baumgartner and Jones, 2002, pg. 19). A final possibility suggests change may be the result of “tipping” – that is a gradual accumulation of knowledge accompanied by incremental changes in routine that at some point move institutional arrangements in an entirely new direction (Woods, 2006).

What we suggest, similar to Jones and Jenkins-Smith (2009), is that positive feedback is often produced by the actions of policy entrepreneurs who assemble a coalition in pursuit of policy change. Policy entrepreneurs bring new ideas and new policy proposals that threaten to upset existing policy equilibria. While altering policy equilibria is often couched in terms of the distribution of costs and benefits, the common currency of distributive policy, policy change may go beyond the redistribution of material assets. Positive feedback associated with punctuating moments, or the most dramatic “learning,” create new institutional arrangements, promote new ideas, and reward new interests. Quite simply, for some entrepreneurs the ultimate goal is the construction of a policy regime that supports new policy equilibria across a wide array of subsystems that entails a new understanding of policy, politics, and rights.

For Jochim and May (2010), regimes override subsystem constructed arrangements to bring some semblance of order and cohesion to disparate policy arenas, that is, they create “governing arrangements that foster integrative actions across elements of multiple subsystems” (Jochim and May, pg. 304). Quite simply, regime construction involves an effort to coordinate policy dynamics originating in multiple subsystems, get multiple subsystems on the same page regarding the goals of macro-level political actors, or promote a new understanding of some (often previously ignored) phenomenon. Whether a regime takes hold or not is often determined by an entrepreneur’s ability to alter congressional-based subsystem dynamics by arousing

attention, assembling a coalition, and framing issues so that a new understanding (policy learning) takes hold. Worsham (2013) argues that regime strength, which involves both the span of control and depth of change sought, varies across regimes and through time. In this effort we are suggesting that recognition of the gendered nature of a good deal of violence required refocusing the attention of actors in multiple subsystems on the phenomenon of domestic violence, and as such has a regime-building quality to it. Entrepreneurs used the increased coverage of domestic violence to illustrate that change was needed. Public safety had to include domestic violence, thus illustrating gender inequality in political policies.

In order to make our case we borrow liberally from both the theoretical insights of the work associated with PET, as well as the techniques used in same, to get at how shifts in attention and agenda dynamics shaped the recognition of domestic violence as a public issue. As such we are interested in developing indicators of attention in the politics, policy and problem stream (or entrance on the government agenda) we use articles in academic journals and legislative introductions in Congress. Hearing activity serves as an indicator of attention on the decision agenda (and perhaps the opening of a policy window).

Research Design

In this study, we adopt a longitudinal approach to examine how the media and congressional activity influenced the Violence Against Women Act. In particular, we look at how domestic violence images and committee jurisdictions have changed over time and influenced legislation to protect women from violence. The study develops indicators of media attention, expert attention, presidential attention, and legislative attention and uses them to track the evolution of domestic violence policy between 1965 and 2013. We also track entrepreneurship activity by looking at the sponsors of bills to see who the policy entrepreneurs

are in regards to domestic violence. Lastly, we track the debate that occurred during its reauthorization in 2013 to see how the discussion was transformed to a certain type of woman deserving protection. We suggest that to understand the policy evolution of domestic violence, one needs to examine the institutions involved. In doing so we find that the media, experts, and legislative entrepreneurs engaged in a dialogue to get domestic violence on the government agenda. We also show that government can and does enact policies without a punctuating event.

The Violence Against Women Act

The Violence Against Women Act of 1994 (VAWA) was passed as part of an omnibus crime bill. The act was intended to bring awareness of domestic violence, improve the legal and law enforcement's response to domestic violence and sex crimes, and change the public's attitude about violence against women. The legislation created new programs housed within the Departments of Justice and Health and Human Services whose goals were to reduce domestic violence and improve the response to domestic violence incidents. In 1995, the Office on Violence Against Women (OVW) was created to administer federal grants authorized under VAWA. Since its creation, the OVW has awarded over \$6 billion in grants that target the crimes of intimate partner violence, dating violence, sexual assault, and stalking (Sacco, 2015).

Since its passage in 1994, VAWA has been reauthorized and modified three times. In 2000, Congress reauthorized VAWA and enhanced several programs under VAWA by creating stiffer federal domestic violence and stalking penalties, added protections for foreign battered women, and created programs to aid elderly and disabled women. In 2005, Congress again reauthorized VAWA and enhanced penalties for habitual offenders, added additional protections for foreign battered women, created programs for American Indian victims of domestic violence, and created programs to improve the public health's response to domestic violence. In February

2013, Congress again reauthorized VAWA but this time without bipartisan support. The reauthorization amended the Trafficking Victims Protection Act of 2000 to combat sex trafficking. Furthermore, VAWA 2013 gave American Indian tribes the authority to enforce domestic violence laws against non-Indian individuals and extended protection to same-sex couples (Sacco, 2015).

Media Attention

While Kingdon downplayed the role of the media in his development of the streams model, and Downs suggested media attention mattered in the short term but was often ineffective or uninterested in producing meaningful long-term change, more recent work has demonstrated the important salience raising role of the media. For some media attention is the spark that undergirds the outside initiative model (Cobb, Ross, and Ross, 1976), for others it widens the scope of conflict drawing in organized interests and policy makers (Schattschneider, 1935; 1960), while some suggest it can alter subsystem dynamics by introducing new understanding that challenge prevailing beliefs that sustain a policy monopoly (Sabatier and Jenkins-Smith, 1993; Worsham, 2012). We agree that media may accomplish any or all of the preceding, and suggest that it is also a useful indicator of activity in the problem stream.

In order to get a feel for the shifting nature of public attention to the topic of domestic violence we conducted a search of the *New York Times Index*, available online through ProQuest Historical. Our initial search employed a single term—crime rate and United States—to get a feel for attention to crime over time (which included 16,725 stories between 1965-2011). Once we have that as the base-line, we are interested in tracking when domestic violence enters into the discussion of crime, and how much space it occupies on the crime agenda. To get at that we used the following search terms: battered women, battered wife, domestic abuse, domestic

assault, domestic disturbances, domestic violence, family violence, intimate partner violence, marital rape, mental cruelty, personal violence protection order, physical cruelty, spousal abuse, violence against women, and wife beating. The search retrieved 4,848 articles, after eliminating those not tied to violence against women, we were left with 3,266 articles.

Figure 3.1 maps media attention between 1965 and 2012, suggesting that crime was an increasingly salient issue in the first two decades under review, peaking with the law and order presidency of Richard Nixon (Oliver, 2000), dropping dramatically during the Carter administration, picking back briefly during the 1980 election, falling off after the Reagan inauguration, followed by a period of gradually increasing salience during the 1990s, with another dramatic decrease in attention following the events of 9/11. *NYT* attention to violence against women makes up a miniscule percentage of crime coverage through 1976, with a dramatic increase in 1977 reporting on efforts to secure legislation for battered wives and focusing on the battering of women as the most unreported crime. Salience picks up again in the early 1980s, with violence against women becoming an increasingly larger fraction of crime stories throughout the decade, peaking in the early 1990s with focus on domestic violence among professional athletes and the O.J. Simpson case, and reaching its apex in 1994 with the passage of the Violence against Women Act as part of an omnibus crime bill. After passage of the VAWA attention to the issue declined steadily, with a brief peak during renewal of the act in 2004, in a fashion similar to the attention cycle as described by Downs. What gender violence did not do is disappear from the public agenda, as Downs thought was inevitable of any issue when the actual costs of dealing with a problem became obvious. Indeed, peaks in coverage in 2005 and 2010, again associated with domestic violence in sports or among public figures,

suggests that while domestic violence may be simmering on a back burner, it is easily brought to the front when public figures are involved.

Figure 3.1 Domestic Violence Proportion of Crime Rate Stories in the *New York Times*.

While the popular media provides a nice indicator of public attention, and popular opinion no doubt has something to do with agenda entrance (Schattschneider, 1960), public or media salience alone is often not enough to rouse government to action (Cobb et al., 1976). Cobb et al (1976) suggested attention or identification groups, composed of policy experts and issue initiating coalitions, respectively, were often the key to focusing government attention. Similarly, Walker (1977) argued that while public salience might arouse congressional interest, more important was the role of expert communities in focusing the attention of legislators faced with scarce agenda space. Similarly, Kingdon's notion of a policy stream populated by experts continually tinkering with policy solutions to problems not yet salient, carves out an important role for expert communities in the policy process. In order to get a feel for expert attention, we

conducted an additional search employing the Academic Search Complete function available via EbscoHost, limiting the search to publications in periodicals, and utilizing the search term “domestic violence”. This search, as opposed to the *NYT* search, allows us to get a feel for the evolution of the issue in academic periodicals, in effect tracking the discussion among the folks who populate the policy stream. We conducted similar searches using the Medline data base, as well as Lexis-Nexus, to track attention to the issue in medical and criminal justice journals, two groups of actors among policy experts who might be expected to be especially focused on the issue given their street-level role in dealing with victims of such violence.

Figure 3.2 Media and Expert Attention to Domestic Violence

A review of figure 3.2 suggests the expert discourse parallels the popular discussion of the issue, with some notable differences. First, the issue of domestic violence among academics does not enter into the discussion until 1975, and not until 1979 among medical experts,

suggesting the issue attracted media attention before it arose in the policy stream. That said, after entrance onto the expert agenda, its increasing salience after 1975 mirrors the public agenda dynamic up through passage of the VAWA in 1994. After that, unlike the decline in public attention, albeit at an equilibrium point higher than prior to the passage of the act, the issue remains salient among experts. Indeed, when it comes to all academic periodicals, salience continues to increase until it reaches a new, and highly salient, equilibrium in 2007. While not as steep an increase occurs in medical journals, the trend is still positive and increasing over the entire time series. The exception to this new level of expert awareness involves the criminal justice periodicals, which never exhibit the level of interest in academia or medicine. Instead, there are two punctuations, in 1989 and 1992, neither of which sparks continued interest.⁸ Criminal Justice periodicals aside, what the review of expert attention reveals is a feature of attention that Down's missed in his discussion of agenda setting, but something that would not surprise Kingdon, Walker, Sabatier, or Baumgartner and Jones. The policy stream, once tuned in, stays tuned in. No doubt because experts invest time and resources in developing solutions, efforts they are not likely to abandon easily.

Domestic violence, like drugs or child abuse, can be seen as a private family misfortune or a public problem. As Deborah Stone (1989) has discussed in her work, any issue can be treated differently on the basis of this simple, but important, distinction (see also Kingdon, 1984). The key element of public understanding that has changed over the years in the case of violence against women is that what was once considered a family privacy issue is now often seen as a public outrage. This is evident when cases of domestic violence occur in a public

⁸ We admit, our effort to get at police interest is quite limited, since a single criminal justice journal is probably not an ideal indicator of expert attention to the issue. Still, we think it striking that at least one source of information associated with an important segment of street level bureaucrats who are expected to enforce the mandate of the VAWA, pays so little attention to the issue.

setting. In order to track this change in attitude and coverage figure 3.3 maps the nature of public discourse surrounding the issue of domestic violence. Initially the public discussion of violence against women focused on the mental and physical cruelty aspects, but soon moved to a discussion of women as victims, with a good deal of discussion invoking children as well. For domestic violence, positive articles focused on such things as domestic violence laws, social and agency activities available to battered women at the local, state, and federal level, and domestic violence as a public health issue. Once the social construction of domestic violence was manipulated to show this type of violence inflicted severe injury to women and children, the media and public officials saw this group as needing additional protection (Schneider and Ingram, 1993). In the end, press coverage moved from defining such violence as an isolated and domestic matter, to a problem that mirrored multiple gender-based social and political inequities. In suggesting violence against women was the most extreme manifestation of gender discrimination in a society rife with such discrimination, the media widened the scope of the conflict in such a way as to make it concern for a wide variety of interests.

Figure 3.3 The Nature of Public Discourse Surrounding Domestic Violence

Congressional Attention

Although violence against women appeared in the popular media in the mid-1960's, entered the policy stream in the mid-1970s, and was the subject of state-level action soon after when Pennsylvania enacted the "Prevention from Abuse Order" in 1976, Congress appears to be the late comer to the action, suggesting outside initiative at work. We develop two measures of congressional attention, legislative introductions and hearing activity. We use the Congress.gov website (formally Thomas.loc.gov) to track legislative activity and the Congressional Information Service (CIS) *Index to Committee Hearings* (available online through ProQuest Congressional) to track hearing activity. Using the term "domestic violence"⁹ we track bills and

⁹ ProQuest ProQuest search does not recognize "sexual violence" as a search term, it does use "rape", but often times that term will bring up hearings with foreign policy implications, e.g. rape as a weapon of terror in Sudan. I ran the term "domestic violence" and it produced 136 hearings. Then I ran the term "rape" and it produced 216

resolutions introduced in each chamber, between 1965 and 2014.¹⁰ Our search produced 1552 bills, 909 introduced in the House and 643 in the Senate. We are in the process of tracking legislative referrals and sponsorship information, and report only the raw numbers in this effort. In our review of hearing activity we identify every committee holding hearings dealing with domestic violence policy between 1964 and 2012.¹¹ The search produced 136 hearings, 69 in the House and 67 in the Senate, with five committees dominating the process: House Judiciary, House Education and Labor, Senate Judiciary, Senate Labor and Human Resources, and Senate Indian Affairs, suggesting domestic violence, while unrecognized early on, fell under the domain of health and law enforcement experts when it became salient.

Figure 3.4 tracks congressional attention to domestic violence, along with the domestic violence focused stories in the *NYT* and academic periodicals.¹² As noted earlier, review of figure 3.2 demonstrates that public attention preceded congressional attention, with the *Times* reporting on domestic violence for a decade before any legislation is introduced or it becomes the subject of a congressional hearing. While this could indicate outside initiative at work, with press attention eventually clearing space on the congressional agenda, it is also interesting to note that the rise in expert attention also precedes congressional attention, and is closely followed by legislative introductions, with a one session lag before hearing are actually held on the issue. It appears that expert interest, news coverage, and legislative introductions, which begin in earnest in 1977, serve as a kind of dialogue among the media, experts, and legislative entrepreneurs. In summary, it is the combination of media, expert and entrepreneurial attention

hearings. The difference between the two is 80 hearings. ProQuest does index the Congressional Record from 1985-2015, so that might be a way to get at the mention of state laws and witnesses from state government. We acknowledge that the states moved first and we are not picking this up which is a major gap.

¹⁰ Congress.gov contains data from the 93rd Congress (1973-4) through the current session. We utilized the index to the *Congressional Record* to track legislative activity between 1965 and 1972.

¹¹ Utilizing the “Index Terms” function we settled on domestic violence as our search term.

¹² The latter two were divided by ten to ease comparison.

that get the issue to the government agenda (a role that becomes clearer when we examine the identity of witnesses at these hearings in the following section). A couple of other features of congressional attention stand out. First, legislative introductions appear to drive hearing activity in the period leading up to the passage of the VAWA in 1995. While this may seem unremarkable to some, the idea that the membership can force a response from committees is not a given.

A central role of committees is to serve as gatekeepers, or as Woodrow Wilson observed over a century ago, most legislation sent to committee dies in committee (see also Baumgartner, et al 2009 for the effect of lobbyists and their use of influence on committees). While the dramatic increase in bill introductions occurs in the session in which legislation is eventually passed, suggesting increased interest among the membership forces action by committees, the period after 1994 reaffirms the gatekeeper role that committees play in the chambers. That is, bill introductions continue to rise, but hearing activity returns to a pre-passage equilibrium that indicates domestic violence is no longer privileged on the committee hearing agenda. Second, the continued growth in bill introductions is correlated with a similar pattern in expert attention, suggesting there is a link between the players in the policy and politics stream that continues after solutions are attached to problems. In this sense, it is not just academics, bureaucrats, and the usual suspects in the policy stream who maintain an interest in generating solutions, but legislators as well.

Figure 3.4 Congressional Attention to Domestic Violence

Finally, the committees that claim law and health as their jurisdictions don't appear to maintain the same level of interest as that of legislators at large once they have enacted legislation. This should not come as a surprise, as Walker first documented and Baumgartner and Jones (1993, 2010) have so ably demonstrated more recently, agenda space is scarce. That said, the new equilibrium now includes domestic violence in the discussions held by the health and judiciary committees in both chambers, a discussion that was non-existent before 1978. Clearly domestic violence has been institutionalized as part of their turf, the judiciary and health committees hold seventy-three percent of all hearings, and monopolize legislative referral activity associated with domestic violence.¹³ While prior to 1989 the health committees showed

¹³ 71 % of all legislation introduced between 1995-2014 is referred to Judiciary (50%) or Health (21%).

the most interest in the issue, treating it as an outgrowth of child abuse, by 1990 the judiciary committees took control of the issue. What this suggests is that domestic violence was transformed from a “family” matter into a legal issue, and more important, subject to criminal prosecution. In this fashion the recognition of domestic violence as a problem, and the development of legal solutions to same, resembles the process Nelson (1984) documents in the case of child abuse.

To get at this transformation of the issue we examined abstracts for each hearings to establish the frame(s) used by witnesses and/or the committee when discussing domestic violence. We coded each hearing as utilizing one or more of the frames: (1) health, (2) domestic violence, (3) crime, (4) adoption, (5) business, (6) defense, (7), education, (8) elderly, (9) guns, (10) homelessness, (11) human trafficking, (12) immigration, and (13) international. Some of the hearings focused on a single frame, while others contained multiple frames. Although it may appear that venues and frames correlate because law and crime is always in the judiciary, this is not the case. For example, the discussion of violence’s effect on families and children do not always show up in health committees. Three frames—domestic violence, health, and crime—account for 86% of committee attention. Figure 3.5 breaks down the hearings by these three frames on a yearly basis.

A review of Figure 3.5 shows how hearing competition is associated with a change in the dominant image underlying violence against women. Violence against women hearings are for the most part focused on domestic violence issues during the late 1970s and early 1980s. In the early 1980s, treating violence against women as a crime creeps into the discussion. Domestic violence is no longer the dominant policy monopoly in the violence against women subsystem but it continues to monopolize much of the discussion. By the mid-1980s hearings are no longer

just focused on violence against women as a crime issue but we see health issues enter the discussion. Interestingly, health issues arise just prior to the Surgeon General's warning of domestic violence as a public health threat in 1985. It is at this time that crime issues subside in the hearings, with competition between domestic violence issues and health issues. The entrance of health issues introduces a period of sustained competition that continues to present day.

Figure 3.5 Hearings Based on Health, Domestic Violence, and Crime Frames

One explanation for the choice of frame has to do with the composition of witnesses at hearings and the viewpoint promoted by particular coalitions. Previous research has demonstrated how committees serve as venues that promote a particular frame, which is why turf control is so important to agenda setting (Baumgartner and Jones 1993; King, 1997; Worsham, 2012). In order to get at this dimension witness affiliations were noted as indicated in the abstracts of the hearings. We constructed four coalitions in an effort to get at the major frames in play.¹⁴ The first and largest coalition made up of thirty-five percent of witnesses, we labeled

¹⁴ Health and social welfare account for 13% and law 19% of all witnesses, and while we model them as members of larger coalitions, they, along with women's groups (15%) are the major interests involved.

street level bureaucrats. This coalition lumps together the law enforcement, social work, and legal communities, along with hospital administrators, medical staff, and social workers, based on the logic that all could be expected to have some connection to policy implementation when VAWA was enacted. The **gender politics** coalition, which accounts for thirty-one percent of all witnesses, contains actors affiliated with major women's groups ranging from the high profile, such as the National Organization of Women, to the more specialized such as the National Coalition Against Domestic Violence, as well as survivor groups, and various public interest advocacy groups that frame issues in terms of rights. **Government** witnesses (thirteen percent) include state and local as well as federal legislators. **Experts** (eleven percent of witnesses) include academics, policy analysts and researchers (the bulk of whom listed a university or think tank affiliation). Figure 3.6 tracks the domestic violence coalitions over time. Immediately, we see that there is not a dominant coalition. The coalitions appear to still be in competition with each other.

Figure 3.6 Domestic Violence Coalitions over Time

Table 3.1 compares the mix of witnesses appearing at hearings held by the judiciary and labor committees in the House and Senate. Recall from the previous section that the judiciary and the labor committees were the principal venues to hold domestic violence hearings. We now make the effort to see if they differ in the variety of witnesses that they invite to testify. As the table indicates, the judiciary committee hearings are loaded with witnesses from advocacy groups and law enforcement, suggesting that the committees serve as a forum for rights and crime interests. Compare this to the performance of the labor committees, which provide a competitive forum for debate. The nearly equal mix of witnesses from advocacy groups, law enforcement, and health suggests that the labor committees do not view domestic violence as simply as a health issue but one that involves crime and rights. While it appears that the judiciary has always been the dominant committee, clearly, the labor committee has been successful at times in its efforts to claim a piece of the domestic violence turf. The table also shows that there is not much variation in the composition of witnesses between the venues which means the venues do not really favor one type of witness over another.

Table 3.1 The Correspondence between Committee Venue and Witness Appearing at Hearings in Violence Against Women Policy, 1978 thru 2013.

	Type of Witness				
	<i>Experts</i>	<i>Gender Politics</i>	<i>Government</i>	<i>Street Level</i>	
<i>Total (N)</i>					
<i>House Committees*</i>					
Judiciary	13%	38%	14%	35%	100 (332)
Labor	9%	44%	13%	35%	100 (112)
Total	12%	40%	14%	35%	100 (444)
<i>Senate Committees**</i>					
Judiciary	9%	50%	8%	34%	100 (226)
Labor	18%	48%	11%	22%	100 (98)
Total	12%	49%	9%	31%	100 (324)

Note: Figures are the percentage of witnesses.

*Gamma= 0.21, chi-square (8 d.f.= 59.86) (p < 0.001)

**Gamma= 0.34, chi-square (8 d.f.= 81.72) (p < 0.001)

Policy Entrepreneurs

We use the identity of primary sponsors of legislation as a first step toward identifying legislative entrepreneurs (Hall, 1996; Schiller, 1995; Wawro, 2000). Political entrepreneurs perform a function that is crucial to the policy making process because they bear much of the burden on the production of legislation (Wawro, 2000). Members engage in legislative entrepreneurship when they invest time and staff to acquire knowledge of a particular policy, draft legislation addressing issues in those areas, and building and maintaining coalitions that promote change via the legislative route (Wawro, 2000). We conducted a search of the *Congress.gov website* (formally *Thomas.loc.gov*) using the key term “domestic violence” so that we could map legislative efforts at entrepreneurship. The search yielded 1,552 bills, 909 in the House, and 643 in the Senate for the years 1965-2014.

Crime was a major concern among voters during the 1992 elections and the Democratic presidential candidate, Bill Clinton made crime one of his core elements of his package (Special, 1994). The legislative march toward an omnibus anti-crime bill began in August of 1993 but the unfolding of anti-violence against women legislation begins even earlier with the legislative efforts of two Democrats: Senate Judiciary Committee Chairman Joseph Biden Jr of Delaware and House Judiciary Committee Chairman Jack Brooks of Texas (Special, 1994). In 1990, Senator Biden introduced the Violence Against Women Act (VAWA) (S. 2754) marshaling 26 co-sponsors and strong bipartisan support (Law, 1990). It was approved unanimously and sent to the House, but time ran out during the 101st Congress (Law, 1990). Senator Biden would not rest long, in January of 1991 he introduced the Violence Against Women Act of 1991 (S. 15) as a piece of a broader anti-crime bill (Biskupic, 1991). In a strategic move, in May of 1991 Senator Biden postponed committee consideration on this piece of legislation to avoid putting it on a collision course with a controversial anti-crime bill (Dumas, 1991). Senator Biden wanted to

move his measure as a stand-alone bill rather than attaching it to the crime package that might serve for fodder in the upcoming presidential contest (S. 635) (Dumas, 1991). He wanted to ensure a stronger position on the floor, even though he already had 56 co-sponsors, choosing to wait until after the election (Dumas, 1991).

He reintroduced the legislation, again titled the Violence Against Women Act (S. 11), in the 103rd Congress on January 21st, 1993 (Idelson, 1993). His entrepreneurship efforts had paid off as he now had 67 co-sponsors (Idelson, 1993). As part of a bipartisan amendment, this bill was added to the Violent Crime Control and Law Enforcement Act of 1993 (S. 1607) (Idelson, 1993). The omnibus crime bill passed the Senate 95-4 on November 19, 1993 (Kuntz, 1993). The House followed suit, approving the Violent Crime Control and Law Enforcement Act of 1994 (HR. 4092) on April 21, 1994 (Idelson, 1994). The omnibus consisted of eleven anti-crime bills, one of which was the Violence Against Women Act. Representative Jack Brooks sponsored the House legislation with three co-sponsors, all of whom were Democrats. Despite Brooks' efforts, the legislation was referred not only to the Judiciary Committee but to the Banking, Finance, and Urban Affairs, Education and Labor, Government Operations, and Energy and Commerce (Idelson, 1994). As more committees claimed a piece of the anti-crime legislation new policy dimensions of regulating gender violence emerged.

In the beginning, the bulk of legislation was focused on the crime dimension of domestic violence policy. This is no surprise given that violence against women was well established within the crime subsystem. Hence, the dominant image of domestic violence as crime was being challenged and lead to new venues to be considered in the anti-crime legislation. The House took a vote and it passed 285-141 (Idelson, 1994). The Senate soon followed and voted 95-4 on November 19th, 1993 to pass the Violent Crime Control and Law Enforcement Act of

1994 (HR. 3355) after replacing it with text from the Senate version (S. 1607) (Kuntz, 1993).

On July 28th, 1994, the House and Senate approved a crime bill produced by a conference committee that included the Violence Against Women Act and was signed into law on September 13th, 1994 (Special, 1994).

A review of the act reveals that the discussion of violence against women was no longer centered only on crime, but also that included health, businesses, safety, and education aspects of such violence and initiatives to end them. The influx of bill introductions served as a way of exposing new dimensions of domestic violence policy, the joint referral of the omnibus bill allowed other committees to frame aspects of such violence, together the actions of the legislative entrepreneurs and committee-based subsystems altered the dominant image associated with violence against women. The discussion of domestic violence as a health and labor issue marked the transformation of the dominant image associated with violence against women.

Revisiting the Issue: The Renewal of VAWA

On January 29th, 2000 in the State of the Union Address, President Clinton asked Congress to reauthorize VAWA (Presidential, 2000). A new policy entrepreneur emerged from House Judiciary Subcommittee on Crime, Representative Constance Morella (D-Maryland) (Palmer, 2000a). She sponsored the Violence Against Women Act of 2000 (H.R. 1248) in an effort to reauthorize the Violence Against Women Act (Palmer, 2000a). This bill attracted 239 co-sponsors and passed the House 415-3 (Palmer, 2000a). The Senate Judiciary Committee reported out its own version of the bill, sponsored by Senator Biden on a 17-0 vote (Palmer, 2000b). Biden's bill garnered 74 co-sponsors and passed the Senate 95-0. A major difference between the two bills involved a new dimension of the problem, immigration (Palmer, 2000b). The Senate bill made easier for battered immigrant women to leave their abusers without fear of

deportation, whereas the House bill did not include this language (Palmer, 2000b). In a bipartisan agreement, the House endorsed legislation that would reauthorize VAWA with the immigrant language from the Senate, linking it with the launching of a new effort to combat international sex trafficking (Mark, 2000). The House passed the bill on a 415-3 vote (Mark, 2000), it passed the Senate 95-0 and the bill was signed into law by President Clinton on October 28th, 2000 (Palmer, 2000c).

There was full bipartisanship support for reauthorization of VAWA in 2005 (Stern, 2005). Representative James Sensenbrenner (R-Wisconsin), sponsored the Violence Against Women Act and Department of Justice Reauthorization Act (H.R. 3402) with 19 cosponsors. The bill passed the House 415 to 4 and was passed by unanimous consent in the Senate. Further widening the coverage, the reauthorization changed the language to include men, expanded the duration of visas for battered immigrants, and established a new tribal deputy to address domestic violence among American Indian tribes.

The broad consensus that marked the passage of the VAWA and that had developed over the nearly two decades of reauthorization came under strain during the reauthorization of VAWA in 2012. Partisan politics served as the basis of the split, with one coalition led by Senator Patrick Leahy (Vermont) using the Senate as a base, and Sandy Adams (R-Florida), heading the House-based coalition (Anderson, 2012). The introduction of party politics in what had been a civil rights issue (see Baumgartner and Jones, 1993) was a result of a disagreement centered on two issues: same-sex couples and the application of protections to Native Americans (Anderson, 2012). In a clear indication that the bill was now the subject of partisan politics, the Senate Judiciary Committee reported a bill without the backing of a single Republican (Anderson,

2012). The Senate passed the Violence Against Women Reauthorization Act of 2012 (S. 1925) on a 68-31 vote (Lesniewski, 2012).

The House reauthorization was a more limited effort, omitting protection for gay and lesbian victims and rejecting new legal authority with regard to Native Americans (Gramlich and Anderson, 2012b). Adam's effort to curtail the Democratic effort garnered 40 co-sponsors, all Republicans, and passed the House 222-205 on a party line vote (Gramlich and Anderson, 2012b). The sticking points in the conference were the provisions extending the law's protection to tribal lands and same sex couples. Leahy, Chairman of the Judiciary Committee, avoided a fight by reauthorizing the 2000 anti-human trafficking law which expanded law enforcement grants for prosecuting trafficking crimes and criminalized the confiscation of passports (Anderson, 2013b). The bill was the subject of hostile debate in the previous session over a Health and Human Services Department decision not to renew a contract with the U.S. Conference of Catholic Bishops for trafficking victims' services because the bishops did not include family planning options as part of the program (Anderson, 2013b). The compromise passed the House 286-138 when 87 Republicans joined the Democrats and passed the Senate 78-22 (Anderson, 2013a).

Conclusion

The social problem of domestic violence predates the founding of the republic. In the process of discovering how violence against women, originally defined as a private family matter, became a public concern, we sought to understand how the issue was constructed from a social standpoint. Not only did domestic violence have to be defined as a problem that was unacceptable, but there had to be agreement among experts, advocates, and legislators that the solution was to criminalize violence against women. Our study suggests that it was not until the

1970s when the media first began to focus on it, followed almost immediately by policy experts, that what was seen as “normal” was re-defined as a problem. Actors in the policy stream kept the issue alive, as did the media. The role of the latter suggests Kingdon’s seeming acceptance of Downs’ argument regarding the issue attention cycle is misplaced. Instead, we find that salience is a key factor that allows expansion of conflict and redefinition of issues.

The controversial character of domestic violence might explain its struggles to gain access to the government and decision agendas. Initially constructed as a private family issue, and thus not suitable for government attention, it was not until it was framed as criminal violence that the public began to take notice. This construction involved the media, academics, and select members of congress, who worked to move the issue to the government agenda where crime was a perennial favorite.

Entrepreneurship was essential in moving the problem from the government agenda, in this case the judiciary committees in both chambers, to the decision agenda. Senator Joseph Biden (D-Md) introduced legislation providing funds to combat domestic violence in every session beginning in 1990, finally succeeding when his efforts were incorporated as a title in an omnibus crime bill. Biden, and his House counterpart, assembled an increasing number of co-sponsors for their efforts, taking care to move the legislation through the environs of committees on which they served.

Chapter 4. State Supreme Courts and Domestic Violence

Introduction

Prior to 1970, the American legal systems were written ignorant of the needs of battered women (Goldfarb, 2008). Civil and criminal penalties for domestic violence remained rare throughout most of the nation's history (Bartlett and Rhode, 2006), and police often refused to arrest batterers (Zorza, 1992). Instead, officers attempted to mediate the domestic dispute, often ineffectively or they would let the violent incidents take their course based on the belief that domestic violence was a private matter between a husband and his wife (Epstein, 1994; Hanna, 1996). If an arrest did occur, prosecutors typically refused to pursue criminal charges (Epstein, 1994). In those rare cases that appeared in court, judges regularly denied relief to the victim, again viewing domestic violence as an internal family matter (Goldfarb, 2008; Siegel, 1996). These patterns continued well into the 1970s (Goldfarb, 2008).

Beginning in 1976, social policy toward female victims of domestic violence shifted towards improving legal responses to protect women and punish perpetrators (Fagan, 1996). The main focus of this shift has been on the mobilization of societal institutions to increase the range of formal and informal sanctions on batterers (Fagan, 1996). Legal action was designed to impose a retributive cost on batterers and to reduce the likelihood of further violence (Dutton, 1995; Sherman, 1992; Fagan and Browne, 1994). Accordingly, the risks and punishment costs of violence towards women was increased to emphasize the application of criminal sanctions through the arrest and prosecution of offenders (Fagan, 1996).

During this time, reforms in civil legal protection for domestic violence victims were also occurring throughout the nation (Grau, Fagan, and Wexler, 1984; Harrell, Smith, and Newmark, 1993). For example, until the legal reforms of the late 1970s, the only way a woman could

obtain a restraining order against a violent husband was to file for divorce concurrently (U.S. Commission on Civil Rights, 1982). Reforms in protective and restraining order legislation enabled *ex parte* relief which is granted by the courts for emergency situations in which immediate action is needed (Fagan, 1996). It included no contact provisions, ordering the perpetrator to not have any type of contact with the domestic violence victim as well as economic relief for battered women (Fagan, 1996). By the late 1970s, these measures and the application of criminal laws were extended to unmarried women and to divorced or separated women (Fagan, 1996).

The “legalization” of domestic violence beginning in the 1970s sought to increase the availability and severity of legal responses afforded to battered women (Zorza, 1992). To examine whether these reforms provided relief to female domestic assault victims, I use the state courts of last resort (hereafter, state supreme courts) for testing hypotheses involving domestic violence cases because, they along with the state legislatures, are the key policymakers in this policy area.

This approach takes into account both civil and criminal responses. It also shows how effective the court systems are at protecting female domestic violence victims under various circumstances. With each case that is decided, the standard state and local laws signal what their intended policy goals are in regards to domestic violence. Yet, the complexity of this approach is that the state supreme courts are 50 independent policy labs that must deal with their political, social, cultural, and legal environments as they make this policy. I am interested in studying state supreme courts because they are the most important policy laboratories and policy innovators in this policy area. I will examine the impact of exogenous variables like state politics, culture, litigant status, and legal issues on these courts’ decisions. I will also examine

the impact of the different policy time periods. The *Family Privacy Sphere (1965-1975)* captures a period of non-intervention in domestic violence. The *Post-Pennsylvania Prevention from Abuse Act (1976-1994)* represents a shift to a robust legal approach to domestic violence. Lastly, the *Post-Sensitivity Era (1995-2013)* captures the cumulative effect of state laws and the Violence Against Women Act of 1994.

The Non-Intervention Period (1800-1964)

Prior to the 1960s there was no real legal recourse for female victims of domestic violence. It is important to look at this time period because it illustrates the difficulty of changing an engrained social norm. This policy of non-intervention for domestic disputes had various justifications during this time period. Early in this era women did not have independent legal status and were supervised in the eyes of the law by first their fathers and with marriage to their husbands. At first, non-intervention was a natural outgrowth of the common law rule of coverture. This doctrine stated that when a woman marries, her independent legal identity no longer existed because it was incorporated into that of her husband. Since “the husband and wife are one person in law,” a legal action by one against the other is impossible. Furthermore, because marital unity made the husband legally responsible for his wife’s actions, coverture permitted him the power of “domestic chastisement.” In other words, it gave him the right to use corporal punishment to control his wife’s actions (Goldfarb, 2008).

During the middle of the Nineteenth century, the common law statute allowing husbands to use physical force on their wives came to be seen as both obsolete and problematic (Siegel, 1996). In fact, Alabama became the first state to nullify a husband’s right to strike his wife, noting that the “wife had the right to the same protection of the law that the husband can invoke

for himself (*Fulgham v. State*, 46 Ala. pg. 146-147).” However, there were not very many prosecutions under this law to protect women from violence (Fagan, 1996).

The Family Privacy Sphere (1965-1975)

During the mid-1960s and the early 1970s, the concept of family privacy became the new approach to domestic violence (Goldfarb, 2008). Instead of using a legally binding right to subjugate the wife, courts began to separate from the idea of coverture. It illustrates a judicial shift from overt control to a more passive adherence to domestic chastisement. It was an acknowledgment that courts should not defend abuse in a legal context. According to the family privacy jurisprudence, family members must be left alone so that they can resolve their differences without the damage that would be inflicted on their lives if the law intervened (Goldfarb, 2008). Privacy soon became a guiding principle for domestic violence law, with police officers, judges, and prosecutors adopting the view that protecting families from interference was more important than protecting battered women (Schneider, 2000). Adherence to the concept of family privacy has not fully disappeared from the legal landscape (Ptacek, 1999). Some law enforcement officers and court personnel are still hesitant to get involved in domestic violence cases (Ptacek, 1999). However, these vestiges of an earlier time have been displaced by a new, progressive dominant trend toward aggressive legal intervention for battered women (Goldfarb, 2008).

Post Pennsylvania Prevention from Abuse Act (1976-1994)

This new trend began to appear in the 1970s when the feminist movement brought domestic violence to the nation’s attention and encouraged a response from government (Fagan, 1996). Passage of Pennsylvania’s landmark 1976 Protection from Abuse Act served as the first protective (PO) legislation specifically for battered women (Chaudhuri and Daly, 1992). The

law provided wives protection from abusive spouses through civil sanctions (Keilitz, 1994). The Pennsylvania legislation spurred many other states to enact reforms on the organizational, statutory, and procedural levels to improve civil and criminal relief to victims (Ko, 2008). For example, police departments implemented mandatory arrest policies which removed police discretion over whether or not to arrest a domestic batterer (Zorza, 1991). Domestic violence units were formed in prosecutor's offices, and anger management treatment programs for abusive husbands were launched in probation departments (Zorza, 1991).

By 1994 all fifty states had implemented some type of protective order legislation (Carlson, Harris, and Holden, 1999). "The movement toward stricter enforcement of domestic violence laws gained an important federal imprimatur in 1994 with the enactment of the Violence Against Women Act (Goldfarb, 1998 pg. 1498)." The cumulative effect of these reforms helped to create a paradigm shift in legal policy that went from the assumption that battered woman should stay in a violent situation to the assumption that the batterer should be removed (Coker, 2000).

Violence Against Women Act of 1994

The *Violence Against Women Act* (VAWA) in 1994 was passed as a piece of a combined federal omnibus crime bill that provided tough new provisions to hold domestic abusers accountable along with programs to provide services for victims. VAWA has improved the criminal justice response to violence against women by strengthening federal penalties for habitual offenders and creating a federal "rape shield law." It mandates that victims no longer have to pay for their own rape exams for the service of a protection order. It requires that the victim's protection order will be recognized and enforced in all the U.S. jurisdictions. The act increases rates of prosecution, conviction, and sentencing of offenders by helping communities

train law enforcement and making domestic violence cases a priority (Violence Against Women Act, 1994).

VAWA has helped domestic violence victims get help in a crisis situation by establishing the National Domestic Violence Hotline. It has improved safety and reduced recidivism by developing community outreach programs for the issues surrounding violence against women. Since the Violence Against Women Act was passed, fewer people are experiencing domestic violence. More victims are reporting domestic violence to police officers, and the reports are resulting in more arrests (Renzetti, Edleson, and Bergen, 2010).

A variety of legal, political, and cultural reforms were initiated in the mid-1970s through 1994 whose purpose, in part, was to encourage a stronger response from the states in regards to domestic violence. The literature shows that these reforms have resulted in increased reporting of domestic assaults (Bryden and Lengnick, 1997). The evidence is clear that rates of police arrests for domestic violence have increased as well (Bachman, 1998 and Baumer, Felson, and Messner, 2003). Therefore, I derive the following hypotheses in regards to the impact of the Post Pennsylvania Prevention from Abuse Act on the domestic violence cases:

Hypothesis One: Female domestic violence victims who go to court during the *Post-Pennsylvania Prevention From Abuse Act (1976-1994)* have a greater likelihood of success in the state supreme courts.

The Post-Sensitivity Era (1995-2013)

The sweeping and strong domestic violence legislation implemented at the state and federal levels corrected historical wrongs such as requiring women to file for divorce before receiving protective orders (Zorza, 1992). These reforms created a wide range of criminal and civil remedies that recognized the reality of domestic violence (Lerman, 1992). These efforts

were institutionalized in law and social welfare policies with significant changes achieved in statutes (Fagan, 1996).

During the Post-Sensitivity Era, the state supreme courts have had ample time to absorb the residual effects from the various legal and political reforms that were initiated in the previous policy time period. The court culture has had time to adjust to the new laws and understands the seriousness of domestic violence cases. As a result of VAWA, court personnel now have been trained on the rape myths and the stereotypes of battered women that existed within the judiciary system. Therefore, I derive the following hypotheses in regards to the impact of the Post-Sensitivity Era on the domestic violence cases:

Hypothesis Two: Female domestic violence victims who go to court during the *Post-Sensitivity Era (1995-2013)* have a greater likelihood of success in the state supreme courts.

Litigant Characteristics

Abusers have often been violent in their treatment towards all family members (Davidson, 1995). Women battered by their male partner frequently report their abusers have also committed physical and/or sexual abuse to children in the home (Davidson, 1995). Many children also suffer serious injuries as a result of the reckless conduct of their fathers while assaulting their mother (Davidson, 1995). In families where the mother is assaulted, sixty-two percent of sons over the age of fourteen are harmed trying to protect their mothers (Davidson, 1995). In 1990, Congress adopted a resolution expressing that batterers should not be awarded custody of their children (H.R. 172, 1990). By the start of 2001, “forty-seven states and the District of Columbia had adopted legislation requiring that domestic violence be considered in custody determinations (Lemon, 2001 pg. 613).” This leads me to the following hypothesis:

Hypothesis Three: Female domestic violence victims who share a *Child* with the batterer have a greater likelihood of success in the state supreme courts.

The female litigant's status in court also impacts her chances of winning the case.

Appellee and the appellant are the two parties to an appeal. The appellee is the party against whom an appeal is filed. The appellee usually seeks affirmance of the lower court's decision. In contrast, the appellant is the party who filed the appeal. As the appellee, female domestic violence victims have certain advantages over the appellant. Part of it has to do with the appellee having a solid case; after all, she did win previously (Ambrose, 2012). Thus, I derive the following hypothesis:

Hypothesis Four: Female domestic violence victims who go to court as the *Appellee* have a greater likelihood of success in the state supreme courts.

It is not just the domestic violence victim's appellant status that must be examined, but her attorney is an important legal variable as well.

Pro se legal representation means advocating on one's own behalf before a court. In the United States, many state courts are experiencing an increasing proportion of pro se litigants due to the high cost of retaining a lawyer (Herman, 2006). The growth of pro se female litigants in domestic violence cases has presented numerous procedural justice concerns for the adversarial system, whose jurisprudential structure is premised on the assumption that she will have an attorney to represent her (Engler, 1987). This phenomenon in the legal system is occurring because many battered women cannot afford an attorney (Chase, 2003). Therefore, many battered women who show up pro se in court are more likely to lose their case because she does not have legal expertise, and she lacks an understanding of procedural protocols (Chase, 2003).

Thus, I derive the following hypothesis:

Hypothesis Five: Female domestic violence victims who go to court *Pro Se* have a lower likelihood of success in the state supreme courts.

On the other hand, the government's role in domestic violence cases can that they are of greater importance (NAAG, 2013). Attorneys general have always been important policymakers inside their states because of their ability to coordinate state legal policymaking and litigation activity (Clayton, 1994). They have successfully challenged federal law enforcement policies in domestic violence cases (Clayton, 1994). If the attorney general is representing a domestic violence victim, then her chances of winning are quite high due to the invested interests of the state in her case (Clayton, 1994). Therefore, I have the following hypothesis:

Hypothesis Six: Female domestic violence victims who go to court represented by a *Government Attorney* have a higher likelihood of success in the state supreme courts.

If the battered woman's opponent shows up in court pro se, that increases her odds of success because he lacks legal expertise and resources. Thus, I derive the following hypothesis:

Hypothesis Seven: Female domestic violence victims whose *Opponent* shows up *Pro Se* have a higher likelihood of success in the state supreme courts.

Criminal Charges

Efforts to deter domestic violence have typically focused on law enforcement (Fagan, 1996). The Minneapolis Domestic Violence Experiment (Sherman and Berk, 1984a, 1984b) is one of the most cited studies, and was critical in changing the public's perceptions of domestic violence from a "family problem" to a social ill that needed to be criminalized. In that experiment, police officers' selections of the most appropriate responses to misdemeanor domestic violence were determined by an experimental design, which randomly assigned one of three responses to the call: arresting the batterer, ordering one of the parties out of the residence, or counseling the couple (Sherman and Berk, 1984, 1984b). "Ninety-nine percent of the suspects targeted for arrest actually were arrested, while only 78 percent of those to receive advice did, and only 73 percent of those to be sent out of the residence for eight hours were actually sent

(Sherman and Berk, 1984, pg. 264).” When the assigned treatment was arrest, it signaled to the perpetrator immediately that he had broken the law and his crime was a serious offense (Sherman and Berk, 1984). Sherman and Berk reported that “the prevalence of subsequent offending assault, attempted assault, and property damage was reduced by nearly 50 percent when the suspect was arrested (Sherman and Berk, 1984a, pg. 267).” The results strongly suggested that police officers should arrest the batterer in domestic violence cases to increase victim safety and reduce future violence (Sherman and Berk, 1984a).

The arrest draws attention to the act and signals that domestic violence is a “real crime.” As a legal matter, domestic assault can be comparable to stranger-on-stranger assault and not diminished as family violence (Mahoney, 1991). Thus, the arrest is viewed by the state supreme courts as an indicator of seriousness. The case characteristics matter in terms of the type of domestic violence that is inflicted. For example, in the state courts assault will be viewed as a more serious crime than harassment. Therefore, I derive the following hypotheses in regards to the impact of an arrest and domestic violence charge on the outcome of these cases:

Hypothesis Eight: Female domestic violence victims whose partners have been *Arrested and Charged* have a greater likelihood of success in the state supreme courts.

Protection Orders

Civil protection orders are the most frequent form of protection for battered women (Fagan, 1996). Civil protection orders are a unique legal tool: “a victim-initiated intervention with the power of enforcement by the criminal justice system (Waul, 2000 pg. 53).” Civil protection orders bring the domestic violence victim into contact with the legal system, which in turn opens the door to other resources available such as support groups, legal advocates, and social welfare services (Ptacek, 1999). These orders provide instant relief by condemning a batterer’s conduct (Ko, 2008). Civil restraining orders also protect against abuse that may not

sufficiently constitute a criminal violation such as stalking or harassment (Ko, 2008). At their best, civil protection orders can help accomplish many goals, including stopping the violence, holding the offender accountable, protecting the abused woman and her children, providing financial relief, and conveying to the offender that domestic violence will not be tolerated (Hart, 1992). The complications of criminal arrest and prosecution have made protective orders the primary source of legal sanction for battered women in many states (Fagan, 1996).

These orders serve as the foundation for the recognition and protection of domestic violence victims (Finn, 1989). A civil court order is a legally binding court order that prohibits an individual who has committed an act of violence from further abusing the victim. The order frequently contains a warning printed to its face indicating that it is a criminal offense to violate the order. Therefore, I derive the following hypotheses in regards to the impact of a protection order on the outcome of these cases:

Hypothesis Nine: Female domestic violence victims who have a *Protection Order* against their partner have a greater likelihood of success in the state supreme courts.

State Level Policies

Often domestic violence is linked to religious and cultural norms about the proper roles of men and women in domestic relationships. In the United States context, Evangelical Christians have a particularly conservative view on the roles of husband and wife and tend to turn a skeptical eye towards secular laws that interfere with that relationship, like the domestic violence legislation that is the focus of this chapter. The South contains the Bible Belt, an area that has a higher Evangelical church attendance. The religious traditions of this group tend to work against raising awareness about domestic violence because of the focus on the salience of family for women and the undesirability to break the family apart, and the tendency to “spiritualize” social problems by religious ideologies. Gender segregation both within and

beyond this religious group contributes to the way the domestic violence may be marginalized for battered women. Divorce is highly stigmatized and reinforces a battered woman's sense of failure. Further, when the abuse is conceptualized as a religious issue, this exacerbates the victim's dependence on the church for guidance concerning her decisions about her safety. These churches tend to support traditions that regard women's primary responsibilities as a caregiver and resists societal advances to ensure female participation in all facets of society. In these instances, the Bible plays a critical role in how domestic violence is framed. Thus, corporal punishment is interpreted by many religious women as a sign that they have failed God. This factor could explain why domestic violence is so prevalent in this area of the United States (Nason-Clark, 2004).

Based on the growing research literature on the role of religion in supporting men's abusive ways in domestic relationships, achieving accountability is rare (Nason-Clark, 2004). The two central features of the Evangelical church that negate efforts to help battered women are gender segregation and the salience of family for women's lives. Thus, the traditionalism that is practiced within this religion and the groups resistance to societal advances to ensure female participation in all sectors of society lead me to the following hypothesis in regards to the impact of state level policies (the South):

Hypothesis Ten: Female domestic violence victims who go to court in the *South* have a lower likelihood of success in the state supreme courts.

Data Collection

I collected cases using WESTLAWNEXT in each of the fifty states from 1965 to 2013 based on two searches¹⁵. The first search captures a set of cases during a period when there were

¹⁵ WestLawNext search does recognize "rape" and "sexual violence" as search terms, but often times it brought up cases that went beyond the scope of domestic violence, e.g. rape between two strangers. However, it should be

no domestic violence laws or protection order statutes. The search terms selected are key case characteristics that highlighted some type of abuse within the domestic relationship. The first search included the following terms: marriage, divorce, wife, girlfriend, cohabitation, mistress, ex-girlfriend, "unmarried person", "physical cruelty", fighting, "bodily injury", "physical pain", "personal violence", "physical violence", fear, "danger to health", violence, "threatening conduct", "cruelty and ill treatment", "barbarous treatment", cruelty, "harsh or humiliating language or demeanor" "cruel and inhuman treatment", "physical abuse", "elements of cruelty", "inability to live together", and "mental cruelty." This search is used to establish a baseline of how the courts treated women who filed for divorce on grounds of physical cruelty or mental cruelty because protection orders and domestic violence laws did not exist in all fifty states until 1992.

In 1976 Pennsylvania became the first state to pass the Prevention from Abuse Act to protect battered women. Following in Pennsylvania's footsteps, many states began to take the initiative to create statutes to protect women from domestic violence. This helped to open the door for women to have access to the legal system. With the implementation of protection orders and domestic violence statutes a legal vocabulary now exists for the various types of violence within domestic relationships. Again, the search terms selected are key case characteristics that highlighted domestic violence in the relationship. Therefore, my second search includes the following terms from 1965 to 2013: "domestic violence", "domestic abuse and violence", threat, "domestic assault", "deadly weapon", violence, "emotional abuse", homicide, murder, "battered woman", harassment, "domestic disturbances", "child custody", "protection order", "protection of endangered persons", "security or order for peace or

noted that rape cases were picked up using the other search terms that were incorporated and is one of the issues under "Criminal Charges".

protection", stalking, "abuse prevention order", "domestic violence petition", "emergency protection order", "domestic violence order", "ex-parte protection order", "restraining order", "preliminary ex parte and emergency relief", "exclusion and stay away order", and "no contact orders."

Both searches produced approximately 10,656 cases. I read each of the cases to identify those that raised a question regarding divorce on grounds of physical or mental cruelty, domestic violence, or protection orders. Afterwards, my sample size dropped to 2,571 cases but produced 3,704 issues. Some of the cases had more than one issue that needed to be resolved by the courts. For example, *Daughtery v. Telek* (366 S.W. 3d 463) involves an ex-girlfriend wanting to maintain her protection order and an ongoing child custody dispute.

Dependent Variable

I am studying these appellate courts' support for the legal needs and arguments of domestic violence victims. Therefore, my dependent variable is the case outcome. I created a dummy variable coded 1 if the woman wins the case and zero if she loses. Because my dependent variable is dichotomous I utilized a logit model.

National Policy Shifts

The national policy shifts are captured as a set of three dummy variables (Family Privacy Sphere 1965-1975, Post Pennsylvania Prevention from Abuse Act 1976-1994, and Post-Sensitivity era 1995-2013). Family Privacy Sphere helps me to see the success rate of women during a time frame when the only protection against domestic violence that females had were to get a divorce on the grounds of physical cruelty. Unmarried women did not have any sort of protection in this era (Zorza, 1992). The Family Privacy Sphere served as the baseline category. The Post Pennsylvania Prevention from Abuse period allows me to see if the protection statutes

are having any type of impact when making decisions in the realm of domestic violence. Lastly, the Post-Sensitivity era enables me to see if women are having a higher success rate of winning domestic violence cases since the implementation of the Violence Against Women Act and state protection order statutes were adopted.

Litigant Characteristics

Female Litigant Status is captured as a dummy variable coded 1 if the woman is the appellee and zero if she is the appellant. Women whom are classified as the appellant serve as the baseline category.

Female Litigant Counsel is captured as a set of four dummy variables (Pro se, Private Attorney, Cause Lawyer, and Government Attorney). “Pro se” is when the battered woman represents herself in court. “Private Attorney” includes private attorney. The “Cause Lawyer” variable includes attorneys from the following groups: advocacy group, legal aid and services, and law schools and clinics. The “Cause Lawyer” serves as the baseline category. The “Government Attorney” includes attorneys such as: attorney general/assistant attorney general, state attorney/assistant state attorney, and district attorney/assistant district attorney. This shows me who is representing the female and the impact on her success.

The Opponent Counsel is captured as a set of three dummy variables (Pro se, Private Attorney, or Public Defender). “Pro se” is when the opponent represents himself in court. “Private Attorney” includes private attorney. “Public Defender” is an attorney appointed by the courts to represent the opponent. The “Public Defender” variable serves as the baseline category. These variables tell me the type of counsel that the opponent has.

Children is captured as a dummy variable coded 1 if the women have children and zero if the women have no children. Women classified with no children serve as the baseline category.

Legal Issues

The type of domestic violence is captured as a set of three dummy variables (Criminal Charges, Protection Orders, and Secondary Crisis). These issue variables allow me to see the differences in the success rate of women who are the victims of different types of domestic violence. The “Criminal Charges” variable includes the following types of issues: stalking/threats/harassment, firearms, murder/attempted murder/manslaughter, kidnapping, assault and rape. The “Protection Order” variable includes the following types of issues: seeking protection order, modifying protection order, maintaining protection order, seeking protection order for child, maintaining protection order for child, violated protection order, seeking a divorce on grounds of physical or mental cruelty, and maintaining a divorce on grounds of physical or mental cruelty. The “Secondary Crisis” variable includes the following types of issues: child custody dispute, child support, attorney fees, and spousal support. The “Secondary Crisis” variable serves as the baseline category.

State Level Policies

The region is captured as a dummy variable coded 1 if it is the South and zero if it is the non-South. This regional variable enables me to see if there are significant regional differences in the success rate of women who are victims of domestic violence. The “South” variable includes the following states: Florida, South Carolina, Alabama, Mississippi, North Carolina, Texas, Louisiana, Georgia, Virginia, Kentucky, Maryland, West Virginia, District of Columbia, Delaware, Arkansas, Oklahoma, and Tennessee. The “non-South” variable includes the following states: Maine, New Jersey, New York, New Hampshire, Massachusetts, Connecticut, Rhode Island, Pennsylvania, Delaware, Illinois, Indiana, Iowa, Kansas, Minnesota, Missouri, Nebraska, North Dakota, Ohio, South Dakota, Wisconsin, Arizona, Colorado, Idaho, New

Mexico, Montana, Utah, Nevada, Wyoming, Alaska, California, Hawaii, Oregon, and Washington. The non-South region served as the baseline category.

Descriptive Results

Descriptive statistics are presented in Table 4.1. The results show that in the 1960s battered women won sixty-five percent of their cases. It is interesting to note the small number of domestic violence incidents that made it to the state supreme court during this period. During the 1970s, there was a period of aggressive legal intervention at the state level in regards to domestic violence policies in which the female litigant's success increased to sixty-nine percent. There is also a small increase in the number of domestic violence issues. The female litigant's success remained at sixty-nine percent during the 1980s with a slight decrease in the number of domestic violence incidents. During the 1990s, female domestic violence victims won seventy-two percent of the time. This period also shows another spike in the number of domestic violence issues. Finally, battered women have won seventy-four percent of the time since 2000. The courts have been flooded with an influx of domestic violence incidents during this time frame as well.

In regards to the policy periods, the results show an increase in the number of cases and the female litigant's success for each period. The Family Privacy Sphere (1965-1975) saw the least number of issues and the lowest success for battered women. The Post Sensitivity Period (1995-2013) saw the most number of issues in regards to domestic violence cases. The number of incidents tripled from the Post-P.A. PFAA (1976-1994) and is four times greater from the Family Privacy Sphere (1965-1975). While the increase in cases of violence against women is not a positive, it does illustrate that the public has an awareness of this issue and a willingness to pursue justice regarding domestic violence (Miller and Sarat, 1980). For the feminist movement,

this is a “win” in many respects because it demonstrates that political forces can and does lead to specialized remedies (Miller and Sarat, 1980). Specifically, this table shows that more battered women are utilizing the legal system as a remedy in domestic violence cases. An illustration of the number of wins for battered women by each of the three policy periods is shown in Figure 4.1. I speculate this influx of cases is the result of the criminal and legal sanctions that were implemented in the Post Pennsylvania Prevention from Abuse policy period as a result of the feminist movement. This shows that the laws are having a positive impact due to the dramatic increase in the number of issues that are flooding the courts. It also shows that police officers are making more arrests in domestic violence disputes.

The South has always been noted as being different and it proves no different in the treatment of battered women. Battered women who go to court in the South won their cases sixty-seven percent of the time, whereas battered women in the non-South were successful seventy-four percent of the time. The non-South region has almost double the amount of domestic violence incidents.

In terms of legal issues, Table 4.1 shows that battered women who had been a victim of rape had a success rate of ninety-four percent. A little over a third of the incidents involved a murder, attempted murder, or manslaughter issue. In these incidences, battered women won ninety-one percent of the time. Approximately a quarter of battered women were involved in an assault or battery and in those incidents she won eighty-seven percent of the time. These results support my expectations that when a women’s life is in danger and a criminal arrest is made, the courts weigh it more heavily (Sherman and Berk, 1984). As a whole, “Criminal Charges” made up a quarter of all domestic violence issues and battered women won eighty-eight percent of the time.

When looking at “Protection Orders”, it shows that approximately a third of the issues involved a battered woman who wanted to maintain her protection order. In these situations, she won sixty-eight percent of the time. Battered women who sought a divorce on the grounds of physical cruelty only won forty-three percent of the time. Battered women whose spouse or partner violated a protection order won seventy-five percent of the time. “Protection Orders” made up thirty percent of all domestic violence issues and battered women won sixty-seven percent of the time in this category.

In “Secondary Crisis”, a third of the issues involved battered women in a child custody dispute. In these incidences, she won fifty-nine percent of the time. Battered women seeking child support won sixty-six percent of the time. Child support incidents made up approximately a fourth of “Secondary Crisis” issues. Altogether, “Secondary Crisis” made up sixteen percent of all domestic violence issues and battered women won sixty-one percent of the time.

Figure 4.2 demonstrates the female litigant’s success by the proportion of each type of domestic violence issue occurring in each of the three policy periods. The low numbers of criminal charges in domestic violence during the Family Privacy Sphere (1965-1975) can be explained through the lack of criminal sanctions. The criminalization of domestic violence did not start until the mid-1970s in which we start to see an increase in the number of issues in the Post P.A. PFAA period. During the Family Privacy era, the only way a woman could get out of an abusive marriage was through a divorce on the grounds of physical or mental cruelty. This was categorized under “Protection Orders” which explains why that issue was prevalent during this time period. It is interesting to note that “Secondary Crisis” was relatively proportional to “Protection Orders”. I speculate that the majority of the women were in court to maintain their divorce and child support/custody.

In the Post P.A. PFAA period (1976-1994), each type of domestic violence is relatively proportional to each other. Even though the issues are somewhat proportional, it should be noted that there was a significant increase in the number of “Criminal Charges” cases. I speculate that the influx of domestic violence cases labeled as “Criminal Charges” was due to the various domestic violence statutes implemented in all fifty states and the landmark legislation of VAWA. However, the overall small number of cases may be the result of the courts adjusting to the criminal and legal sanctions implemented at the state and federal level. Therefore, we do not see a dramatic increase in the number of cases.

The success of domestic violence laws clearly shows during the Post Sensitivity period (1995-2013). We see an explosion in the number of cases that enter the courts in regards to “Criminal Charges” and “Protection Orders” in which both are nearly four times the amount from the previous policy period. Again, this illustrates that the laws are having a positive impact and that law enforcement is making more domestic violence arrests. It is interesting to note that “Secondary Crisis” is relatively consistent across all three policy periods. I speculate that the courts are still not aware of the financial hardships that battered women face when making the choice to leave an abusive relationship. Without a good attorney, the battered woman is at a disadvantage because she may be unable to enforce her legal right to child support, legal fees, and alimony (Gender and Justice, 1992).

Battered women classified as the appellee is almost eight times greater than appellants. Appellees won seventy-six percent of the time. When there were no children involved in the domestic dispute, she won seventy-five percent of the time. I speculate this comes from the notion that the courts believe it is in the best interest of children to maintain a relationship with their fathers even if violence is present between the two parties. Battered women who showed

up pro se in court won fifty-six percent of the time. It should be noted that only a small number of women showed up pro se. Female domestic violence victims who were represented with a government attorney won eighty-six percent of the time. Lastly, battered women whose opponents showed up pro se won sixty-eight percent of the time and again, only a small number of opponents were pro se.

Table 4.1 Descriptive Statistics.

	Mean	Std. Dev.	Number of Issues	Percentage of Issues	Fem. Lit. Success	Min.	Max
<i>National Policy Shifts</i>							
Family Privacy (1965-1975)	.20	.40	339	9%	67%	0	1
Post-P.A. PFAA (1976-1994)	.20	.40	524	14%	70%	0	1
Post-Sensitivity (1995-2013)	.60	.49	1,637	44%	74%	0	1
(1965- 1969)	.11	.31	261	7%	65%	0	1
(1970-1979)	.13	.34	334	9%	69%	0	1
(1980-1989)	.09	.29	240	6%	69%	0	1
(1990-1999)	.17	.38	468	13%	72%	0	1
(2000-2009)	.34	.47	922	25%	74%	0	1
(2010-2013)	.15	.36	419	11%	74%	0	1
<i>State Level Policies</i>							
South	.36	.48	906	24%	67%	0	1
Non South	.64	.48	1,738	47%	74%	0	1
<i>Legal Issues</i>							
Criminal Charges	.29	.45	933	25%	88%	0	1
• Stalking/Threats/Harassment	.08	.27	264	7%	85%	0	1
• Firearms	.02	.12	48	1%	83%	0	1
• Murder/Att. Mur./Manslaughter	.10	.30	332	9%	91%	0	1
• Kidnap	.10	.30	38	1%	86%	0	1
• Assault/Battery	.06	.25	220	6%	87%	0	1
• Rape	.01	.09	31	1%	94%	0	1
Protection Orders	.44	.50	1097	30%	67%	0	1
• Seek Protection Order	.03	.16	62	2%	60%	0	1
• Modify Protection Order	.01	.01	17	.01%	46%	0	1
• Maintain Protection Order	.15	.36	384	11%	68%	0	1
• Violated Protection Order	.07	.26	198	5%	75%	0	1
• Seek Child Protection Order	.01	.05	6	.01%	60%	0	1
• Maintain Child Protection Order	.01	.07	12	.01%	57%	0	1
• Maintain Divorce on Grounds of Physical Cruelty	.06	.23	327	9%	79%	0	1
• Seek Divorce on Grounds of Physical Cruelty	.11	.31	91	2%	43%	0	1

Secondary Crisis	.27	.45	614	17%	61%	0	1
• Child Custody	.11	.31	231	6%	59%	0	1
• Child Support	.06	.22	136	4%	66%	0	1
• Attorney Fees	.05	.21	105	3%	61%	0	1
• Spousal Support	.07	.25	142	4%	57%	0	1
<i>Litigant Characteristics</i>							
Female Litigant Appellee	.83	.37	2348	63%	76%	0	1
Female Litigant Appellant	.16	.37	296	8%	47%	0	1
Children Involved	.45	.50	1098	30%	67%	0	1
No Children	.55	.50	1546	42%	75%	0	1
Female Litigant Pro Se	.07	.26	148	4%	56%	0	1
Female Litigant Private Attorney	.56	.49	1357	37%	64%	0	1
Female Litigant Cause Lawyer	.02	.15	66	2%	74%	0	1
Female Litigant Government Attorney	.34	.47	1073	29%	86%	0	1
Opponent Pro Se	.05	.21	121	33%	68%	0	1
Opponent Private Attorney	.85	.36	2198	60%	70%	0	1
Opponent Public Defender	.11	.31	325	9%	83%	0	1
N=	3704						

Figure 4.1 The Female Litigant's Success by Policy Periods.

Figure 4.2 The Female Litigant’s Success by the Proportion of Legal Issues in Each of the Three Policy Periods.

Results

I modeled the impact of the independent variables on the outcome of the case in Table 4.2. The coefficients in the table show the change in the log of the odds ratio for a winning outcome in regards to female domestic violence victims. A positive coefficient suggests that the female has a higher probability of winning her case. A negative coefficient suggests that the female has a lower probability of winning. Since these coefficients are not readily interpretable, I provide under the column labeled “influence” the estimated increase or decrease in the probability that the female will win when the variable in question is present. The measure of the “influence” variable is arrived at by holding the other independent variables at their modal value and varying the value of the variable in question from 0 to 1.

Recall that I hypothesized that battered women would have a higher success rate of winning in the Post-Pennsylvania Prevention from Abuse era and the Post-Sensitivity because of changes in the legal treatment of these crimes and changes in public attitudes. Contrary to what I expected, the Post-Pennsylvania Prevention from Abuse (1976-1994) is not supported. It does not have an effect on the probability of women winning. Even though significant, women who go to court during Post-Sensitivity (1995-2013) actually have a lower probability of winning. This runs in the opposite direction of what I hypothesized. At first glance, one may assume that the “court culture” is still in an adjustment period and has yet to catch up with these changes. However, I speculate that the courts are being flooded with domestic violence cases that may be having an impact on the negative coefficient. These effects are quite small. For example, the impact that the Post-Sensitivity era has on the outcome of the case is only five percent.

The state level variable also had an effect. As expected, women who go to state courts in the south significantly have a lower probability of winning. This finding supports my hypothesis that the “court culture” in the south may still invoke strong traditional family structures (Nason-Clark, 2004). In 2010, the Kentucky State Supreme Court held in *Fraley v. Rice Fraley* (313 S.W. 3d 635) that handwritten letters and testimony in which Mrs. Rice Fraley admitted that she was fearful of her husband and felt unsafe without a protection order, but was insufficient to establish that her husband inflicted fear of imminent physical injury to support the granting of the order. Also, the Florida State Trial Court decided in *Gasilovsky v. Ben-Shimol* (979 so. 2d 1179) that issuing a protection order against repeat violence could not be supported by three violent acts stemming from one incident and the order was vacated. The trial court held that it had to find at least two separate violent incidents in order to issue a protection order (*Gasilovsky v. Ben-Shimol*).

I do observe some variation in the legal issues associated with domestic violence. The results provide support for the hypothesis that battered women whose spouse or partner had a domestic violence “Criminal Charge” have a higher rate of winning. Victims whose partner had a “Criminal Charge” was statistically significant ($p=.001$) and it influenced the outcome of the case by seventeen percent. Also, the results support the hypothesis regarding battered women who had a “Protection Order” have a higher rate of success. The coefficient for this variable was significant at the $p=.05$ and it impacted the outcome of the case by five percent. These results support the idea that when a female’s life is put in danger that the courts are more likely to weigh it more severely when compared to other violent cases.

Variables associated with the litigant’s characteristics also affected the outcome of the case. When a female is classified as the “appellee” she is more likely to win as hypothesized. This variable had the largest effect on the impact of the court’s decision. It is significant at the $p=.001$ and it influences the outcome of the case by twenty-five percent. The involvement of children did not have an effect on women winning. As expected, women who show up pro se in court have a lower probability of winning. It is statistically significant ($p=.001$) and its impact is somewhat modest. It influences the outcome of the case by fourteen percent. This finding supports my hypothesis that pro se battered women are more likely to lose their case because she does not have legal expertise. In contrast, women who are represented by a government attorney have a higher probability of winning. This supports the idea that when a government actor is involved the state has an invested interest in the case and has more resources available. Lastly, when the opponent shows up pro se, it significantly increases the probability that she will win. Overall, the model performs satisfactorily, predicting approximately 73 percent of the decisions correctly.

Table 4.2 Logit Estimates for Predictors of Winning Outcomes for Female Domestic Violence Victims.

	Coefficients (Robust Standard Errors)	Influence ¹⁶
<i>National Policy Shifts</i>		
Post-P.A. PFAA (1976-1994)	-.13 (.12)	-.02
Post-Sensitivity (1995-2013)	-.22* (.11)	-.05
<i>State Level Policy</i>		
South	-.37*** (.08)	-.09
<i>Legal Issues</i>		
Criminal Charges	.95*** (.18)	.17
Protection Orders	.23* (.10)	.05
<i>Litigant Characteristics</i>		
Female Litigant Appellee	1.04*** (.10)	.25
Children Involved	.13 (.09)	.03
Female Litigant Pro Se	-.58*** (.14)	-.14
Female Litigant Government Attorney	.53*** (.16)	.10
Opponent Pro Se	.37* (.18)	.07
<i>Cons</i>	-.12 (.14)	
<i>N</i> =	3704	
<i>Chi</i> ²	408.54***	
<i>Adj R</i> ²	.09	
PPC	73%	

Note: Statistical significant at p<.05*, p<.01**, and p<.001***.

Conclusion

This study provides an exploratory overview of the success of female domestic violence victims in state supreme courts. Based upon political science literature and judicial politics literature; I hypothesized that criminal and legal sanctions, time, geographical location, the

¹⁶ "Influence" is the change in the predicted probability of Y = 1 which occurs from changing the value of a dummy independent variable from 0 to 1, holding all else to their modal value.

litigant's status, the involvement of children, and the type of counsel represented by both parties would impact the probability of success for the female domestic violence victim. I expected this to occur because of the implementation of protection order statutes in all fifty states, and the federal legislation of the Violence Against Women Act of 1994.

The findings were not all that surprising. My results suggest that the female litigant's status may be the most important variable in domestic violence cases. The involvement of government attorneys, the type of issue involved, and the opponent's counsel appear to have a successful impact on domestic violence cases as well. Even though the laws are beginning to protect battered women which are most evident by the success rate of battered women who go to court on the grounds of criminal charges and protection orders, the South still lags behind. The negative coefficient for the "Post-Sensitivity" era concerns me and warrants further investigation to figure out what is going on in that time period. It could be the influx of cases flooding the courts or it could be that institutions are slow to change as Jones has argued (1999). In order for these laws to protect all battered women, the traditionalism of family roles must be challenged and the seriousness of domestic violence must be corrected (Fagan, 1996). These results represent a study of a question that has previously received little scholarly attention in the field. However, one limitation of this study is that it does not consider the role of the court's ideology.

Before I can confidently conclude that these factors significantly influence the decisions of state supreme courts, more analysis is needed. Hall and others (Hall, 1987; Hall and Brace, 1990) have argued that the institutional characteristics of state courts can affect the decisions of state judges. Analysis of the judge's ideology will be needed before the significance of the winning outcomes can be fully assessed. For example, does the judge's ideology have an impact

on the success rate of female victims involved in domestic violence cases? While additional research is needed, my findings are important for players in judicial politics and in domestic violence. This research can contribute towards understanding the functions of state supreme courts more completely, and highlights the importance of comparative state analysis for developing theories of politics (Brace, Hall, and Langer, 1999).

Chapter 5. Conclusion/Future Work

The previous chapters have established that gender matters when evaluating mass behavior, the policy process, and law and the legal system. In addressing the question of “*Are women more supportive of women leaders who reflect their political and racial identity*”, I find that race and partisanship are strong factors to consider when evaluating women leaders. In particular, my results show that in-group dynamics do not necessarily translate into reasons why women may like a particular female leader. These findings add to the research literature on descriptive representation in politics.

In mapping the Violence Against Women Act, I sought to answer the question of “*How did domestic violence move out of the private realm to become defined as a public problem suitable for government attention and redress that culminated with the passage of VAWA in 1994*”? My results showed that public attention matters to those interested in getting an issue on the agenda. But more importantly, expert attention can be instrumental in keeping an issue alive. Salience is a key factor that allows expansion of conflict and redefinition of issues. This research demonstrates that government can and does enact major policy change without a punctuating event.

My work on state supreme courts and domestic violence, I answer the question of “*Are state supreme courts indifferent towards women who are victims of domestic violence*”? I find that even though the laws are beginning to protect battered women, the court and legal culture still has not adjusted to these changes. It was most evident in the south. The traditionalism in regards to family roles and the seriousness of domestic violence must be corrected in order for these laws to protect all battered women. This research is important because the states are in charge of creating their own domestic policies. In an effort to continue to explore these topics

there are a number of areas of research that could be examined with respect to women in politics, agenda setting, state supreme courts, and domestic violence.

Intersectionality and Opinions towards Female Leaders

A prospect for future research in women and politics is to use local and state level elections to better assess the use of descriptive cues in evaluations of lesser known female candidates. Research shows that candidates are more likely to use descriptive cues when evaluating candidates in low information elections. The four women that I chose for this study were familiar to most voters because of their high profile positions and clear political affiliations. Further research could explore reactions to local politicians such as Mia Love and Maxine Waters, who are comparatively lesser known among voters and receive less media coverage relative to the women investigated here.

An extension of this project could employ the 2016 ANES to evaluate how Americans attitudes have changed since 2008 in regards to Hillary Clinton and Michelle Obama. I think this would be interesting since Hillary Clinton has announced her bid to run for president in 2016 and Michelle Obama would have just finished her second term as the first lady. Also, exploring the various methods used to capture intersectionality is another avenue worth looking at. Research on the best way to investigate intersectionality would advance the literature on women and politics (Crenshaw, 1991; McCall, 2014; Yural-Davis, 2006; Davis, 2008; and Brah, 2013).

Regulating Violence Against Women

I realize that the states moved first in addressing violence against women, a major gap in the story of the passage of VAWA told in chapter three. In moving forward, I would like to consider how state action prompted federal action. Another avenue in looking at the state policies is to explore the types of triggers or indicators that led to mandatory arrest policies at the

state or local level. In regards to other women's policy issues, I would like to replicate the approach of chapter three to map the policy dynamics underlying the adoption of the *Lilly Ledbetter Fair Pay Act of 2009*.

State Supreme Courts and Domestic Violence

I would like to expand my work on state supreme courts and domestic violence, interviewing personnel from rape crisis centers, domestic violence centers, legal services, practicing attorney, and congressional staff, to get a better feel for how court culture has evolved from the perspective those involved in administering and implementing policy. In addition, how state supreme courts treat same sex partners in regards to domestic violence is a topic ripe for investigation.

Finally, I would like duplicate the research conducted on media portrayals of the race of criminals and welfare recipients (Gilens 1996, 1996b; Clawson 2000, 2007) to consider media portrayals of domestic violence. I am interested to see if the media coverage of domestic violence is racialized. People's beliefs about the composition of domestic violence victims may have adverse effects on funding for domestic violence programs.

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Appendix

The following are the variable numbers taken from the 2008 American National Election Study:

Dependent Variables

Clinton Feeling Thermometer (V082406c)

Obama Feeling Thermometer (V085063e)

Rice Feeling Thermometer (V084404r)

Palin Feeling Thermometer (V084404r)

Hillary Clinton in the Primary (V083077a)

Independent Variables

Race (V083251a)

Women's Rights (V083166)

Women's Role (V083167)

Abortion (V085086)

Childcare (V083146)

Social Welfare (V083148x)

Democrat Foreign Affairs (V085112a)

Republican Foreign Affairs (V085112b)

Democrat Education Policies (V085113a)

Republican Education Policies (V085113b)

Gender (V081101)

Religion (V083186a)

Education (V083218x)

Income (V083248)

Age (V081104)

Partisanship (V083098a)