Violence Against Women: Effectiveness of Using Hate Crime Legislation

Jocelyn Jacoby

Introduction
This paper is an exploration into the variation of how different states in the United States legislate and prosecute anti-female hate crimes to determine whether hate crime legislation is an effective response to violence against women, especially sexual violence. The first step of the investigation into the effectiveness of hate crime legislation is to examine the literature that explores how violence against women can and should be covered under hate crime law. In order for violence against women to be included as a hate crime, gender must be considered a protected class.

Despite gender being included as a protected class on the federal level since 1996, only twenty-four states and DC statutes include the term “gender” or “sex.” Only some of the explanations for which states adopt hate crime legislation are found statistically significant with gender-inclusive hate crimes. Furthermore, there is significant variation in how even these twenty-four states write their laws; some are lengthy and specific, while others are brief and vague. However, despite the variation in the laws, the outcome is remarkably similar, with only six states reporting any gender bias crimes to the FBI. A potential explanation for the low reporting could be that most people are not aware of the legal protection for sexual violence against women being classified as a hate crime, or because they don’t agree with it. These findings are relevant for activist communities who must decide how they use their resources to protect women from sexual violence.

Background
Hate crimes are defined as ‘crime, most commonly violence, motivated by prejudice, bias or hatred towards a particular group of which the victim is presumed to be a member’ (Gerber 276). Hate crimes are considered especially harmful because the perpetrator often justifies their violence based on societal prejudice and the act further normalizes violence against the subject. Hate crimes also produce a heightened psychological trauma that affects an entire community, with members aware that at any time, they too may be targets for crime solely based on immutable characters.

The main argument against the inclusion is that violence against women is rarely committed by a stranger, which is part of the stereotype of hate crimes. However, the motivation and the impact of violence against women is similar to most hate crimes (Chen 280). As the theoretical literature argued to its inclusion, activists worked on getting gender to be included in legislation on the federal and state level.

State policy diffusion literature that looks at hate crimes finds that states with Democrat-dominated legislatures or states where political party differs from state ideology by state. This may be partly because only 6 states reported any hate crimes to the FBI, and the majority of those were 1 or 2. Given the rates of violence against women, this marks both underreporting to the FBI and also the failure of police and prosecutors to recognize violence against women as a hate crime.

Prosecutors, law enforcement, and the general public do not conceptualize violence against women as a hate crime, due to the prevalence, normalization, and myths surrounding survivors. In order for people to conceptualize violence against women as a hate crime, they rely on a stereotypical scenario that is based on a specific victim type, on the severity of assault, the assault location, and on the victim/perpetrator relationship (Sinclair and Hertl 3).

Gender-inclusive hate crime legislation can help symbolically challenge these norms, but as it is not being used it has no material purpose. Training professionals and law enforcement, as well as the staff of battered women shelters and sexual assault programs, could help the existing legislation to be utilized (McPhail and Dinitto 1183).

Methods
I read through each state’s hate crime statutes and marked which states had no hate crime legislation, had hate crime legislation that did not explicitly say “gender” or “sex,” and which had gender-inclusive hate crime legislation. Most of these statutes were from 2010, so to see if the theories on state adoption of hate crime legislation were true I used the National Conference of State Legislatures 2010 report to record which states had divided power between gubernatorial and legislative and which states were democrat-dominated legislatures. Assuming it might take a couple years for the legislations to have an effect, I looked at the most recent Federal Bureau of Investigation’s Uniform Crime Report which was the 2014 Hate Crime Statistics and marked how many gender-bias hate crimes they reported, if they reported to the FBI at all. Lastly, I used Gallops 2014 state ideology to mark states as very conservative, conservative, neutral, liberal, very liberal.

I did correlation tests between these sets of variables. Given that these variables were ordinal, the data had lots of ties. Therefore, I elected to use Kendall's Tau coefficient for non-parametric tied correlation testing. All analyses were conducted in R (version R-3.3.3).

Data and Results

State ideology

Hate Crime Legislation

Divided State Control

Reports of Gender-Bias Crimes

State Policy Diffusion Correlations

Democrat-Dominated Legislatures

Analysis and Implications

The only relevant correlations were that the more liberal a state, the more likely it is to have high crime correlations and that democrat-dominated legislatures are correlated with gender-inclusive hate crime legislation, and is trending with hate crime legislation in general. There is no correlation between hate crime legislation, gender-inclusive hate crime legislation, and ideology by state. This may be partly because only 6 states reported any hate crimes to the FBI, and the majority of those were 1 or 2. Given the rates of violence against women, this marks both underreporting to the FBI and also the failure of police and prosecutors to recognize violence against women as a hate crime.

Prosecutors, law enforcement, and the general public do not conceptualize violence against women as a hate crime, due to the prevalence, normalization, and myths surrounding survivors. In order for people to conceptualize violence against women as a hate crime, they rely on a stereotypical scenario that is based on a specific victim type, on the severity of assault, the assault location, and on the victim/perpetrator relationship (Sinclair and Hertl 3).

Gender-inclusive hate crime legislation can help symbolically challenge these norms, but as it is not being used it has no material purpose. Training professionals and law enforcement, as well as the staff of battered women shelters and sexual assault programs, could help the existing legislation to be utilized (McPhail and Dinitto 1183).

References


Web.


Web. 27 Nov. 2016.


Web.


Acknowledgments

Advising by Professor Delitch of Women’s, Gender, and Sexuality Studies. Statistical guidance from Brooke Staveland, GW Class of 2017.