

Why India Fights Violence Against Women
Feminist Movements, Political Co-optation and Societal Norms

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B.A., DePauw University, 2012

A Thesis presented to the Graduate Faculty
of the University of Virginia in Candidacy for the Degree of
Master of Arts.

Department of Politics

University of Virginia
May, 2014

Why India Fights For Women

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May 1, 2014

Abstract

In this paper I study the primary determinants of successful Violence Against Women legislation in national legislatures, with a specific focus on the Criminal Law (Amendment) Act of 2013 passed in India. I employ Ordered Logistic Models to determine the effect of civic society and institutions on Violence Against Women legislation. I utilize observational data, modifying Htun and Weldon's VAW Dataset¹ by adding new variables of interest to the study. The results indicate that feminist movements work in tandem with government institutions to bring about legislation, contrary to the current stress on autonomous feminist movements. However, an in-depth analysis of the Criminal Law (Amendment) Act of 2013 passed in response to civic protests calls into question the apparent success of the feminist movement, in part because of the implications of political co-optation and patriarchal attitudes on the acceptance and implementation of VAW legislation. Incongruence between feminist demands and societal norms weaken legislative effectiveness and therefore allows the state to circumvent the institutional failures and divert attention to the individual level rather than address the systemic issue of violence against women.

*Acknowledgements: Dr. Denise Walsh, Dr. Carol Mershon, Dr. Jonathan Kropko, Dr. David Waldner, Abigail Post, April Herlevi, Holly Fuller, and the attendants at MPSA 2014

¹Htun and Weldon (2012)

I. INTRODUCTION

December 16, 2012 marked a turning point in the conversation about gender-based violence in India. A 23 year old medical student was brutally gang raped on a moving bus and eventually left to die by the side of a road. The Delhi Braveheart, as she has come to be known, eventually succumbed to her injuries 13 days later. An occurrence of this sort is tragically commonplace in many parts of the world, India being no exception. What makes this specific event different however, is the aftermath of it. Multiple protests shook the nation and international condemnation began to affect India's global image as a stable democracy². This furor helped accelerate the establishment of an Ad Hoc Legal Committee that provided the Coalitional Government with recommendations to change the Criminal Law, changes that came into being in March 2013 as the Criminal Law (Amendment) Act of 2013.

Increasingly since 1975, International Women's Year as declared by the UN, laws to fight Violence Against Women (VAW) have become an integral part of the discussion on human rights and global feminist activism. The 1970s were dedicated to drafting and passing the world's first comprehensive and legally binding instrument to prevent discrimination against women and the Convention to Eliminate All Forms of Discrimination Against Women (CEDAW) was eventually adopted in 1979 (and passed in 1981). While governments across the world have increasingly adopted various measures to protect the rights of women in the last 4 decades, these measures are far from comprehensive and more importantly, uneven across national legislatures. India, the world's largest democracy has resisted change on multiple occasions³ and yet in 2013, the government gives way to protests and amends the relevant sections (i.e. those pertaining to sexual assault) of the Indian Penal Code, Indian Evidence Act and the Code of Criminal Procedure.⁴

The questions that arise are manifold. We must first address the impact and efficacy of VAW legislation in the first place. Laurel Weldon argues that legislation on the books is better than nothing at all, even when the inadequacy of bureaucracy undermines the legislative process.⁵ The logic here is that in the absence of legislation, there can be no question at all about the implementation and therefore must precede questions of efficacy. The question that remains therefore is what are the main determinants of domestic VAW legislation revision today? What are the most important factors in determining the successful implementation of comprehensive legislation that protects women from violence in society? Additionally, why do protesters and feminist movements demand legislative changes, when these changes may never be enforced or implemented or exercised for a multitude of reasons? In this paper, I statistically test competing explanations to determine what is the most important factor in bringing about effective Violence Against Women policies. The literature on Violence Against Women legislation argues for the

²"Delhi Gang Rape." September 10, 2013

³See protests related to the Mathura, Bhanwari and Priyadarshini Mattoo cases, further elaborated upon in the body of the paper

⁴Which now provides the death penalty in cases of rape.

⁵Weldon (2002)

importance of both feminist movements as well as gender mainstreaming institutions in government in addition to international pressures to reform laws, and there exists a need to adjudicate between these. Furthermore, I further elaborate on the process by which the Indian Criminal Law (Amendment) Act of 2013 came to be and evaluate the nature of the feminist movement as well as the institutions in India with regards to the successful passing of the bill. In conclusion, I argue that while the bill itself was passed, questions about content, tone and implementation run rampant. These questions persist potentially because the feminist movement in India rests in a precarious position of being co-opted by women's movements and the mainstream and additionally, institutional support and help are far from being comprehensive. While a significant improvement on past years therefore, the status and rights of women in India have far to go.

II. HYPOTHESES AND PREDICTIONS

I employ both statistical methods and a qualitative approach to address the questions raised by this project.

2.1 Statistical Predictions

The following statistical hypotheses lay out the predictions in the literature that I will primarily compare and test on a modified VAW Dataset⁶:

H₁: A strong *Feminist* movement will lead to more Governmental VAW Policies.

H_{1a}: An Autonomous Movement will have more of an impact on Governmental Legislative changes than one that exists within the constraints of a governmental institution.

H₂: A country that has ratified CEDAW is more likely to have a higher number of VAW policies.

H₃: Independent governmental institutions dedicated to improving the status of women will bring about more effective VAW policies.

2.2 Qualitative Predictions

When moving to the illustrative case study however, different questions arise. We must first ask whether the process hypothesized in the cross-national work applies to the Indian case which given the nature of the statistical test, can be verified with a simple congruence test. More importantly however, the specific case study provides us with much inferential leverage vis-a-vis the hypothesized causal process and I therefore take this opportunity to qualitatively and rigorously evaluate the nature of the feminist movement, the causes of social mobilization and the role played by bureaucratic institutions in the passing of the new law.

⁶I sincerely thank Mala Htun and Laurel Weldon for permission to use their 2012 VAW dataset

Furthermore, this allows me to situate my work within larger debates about the efficacy of legislation, not merely along lines of implementation but the purpose. I therefore ask additional, case-specific questions that capture this additional complexity.

H₄: The feminist demands and the demands by other civic mass protesters must align for successful campaigning and effective legislative change.

H₅: Political parties and legislative actors manipulate this social movement to fulfill their own political ends.

H_{5a}: The parties will play the blame game and scapegoat the opposition.

H_{5b}: The parties will agree when their own rational interests are at stake.

III. BACKGROUND

Violence Against Women as a policy area is comprehensive of most types of violence that target women specifically. Women become victims by virtue of being women, not because of their actions or socio-economic standing or other typical determinants of violence. Cudd (2006) argues that violence against women should be considered an oppressive violence as the violence is both credible and systematic. Violence becomes credible when the dominant group threatens violence against a subordinate group, and the subordinate group perceives this threat and acts in accordance. However, as Cudd points out, considering this violence systematic is epistemologically different and therefore it becomes 'invisible' in our parlance, unable to observe but easy to be aware of. What does unite all women however is their subordination as the hands of men primarily. Violence against women, for being women and by virtue of being women, exists in all societies and this social threat of violence acts as a tool of oppression against an entire half of the population, creating a gendered hierarchy that is oppressive in its very origin. The implication therefore is that gendered violence cuts across race, class, rural-urban divides and all other intersectionalities, thereby affecting nearly everyone in society, making it an issue of political importance for every member of society. Additionally VAW is prevalent in all regions of the world, with women being victimised across the Global North-South barrier, regimes types, continents, institutional safeguards et al. This violence can take many forms ranging from sexual harassment in the workplace, sexual assault, domestic violence, intimate partner violence to governmental repression, conflict violence, assault by armed forces and structural violence⁷. Understanding how to bring about effective means of fighting this scourge therefore is of primary importance to feminist scholars and those who work in the fields of socially-progressive legislation.

⁷See LeMonchek and Sterba (2001), Welchman and Hossain (2005), Kannabiran (2005), Jayawardena and de Alwis (1996), Truong, Wieringa, Chhachhi (2006), Trawick (2007), Bhan (2013)

Socially progressive legislation is brought about because of multiple factors - civic movements, international treaties, institutional demands and regional conditions. Violence Against Women specifically grapples with multiple determinants that Mala Htun and Laurel Weldon⁸, Joachim Jutta⁹ and True and Mintrom¹⁰ discuss in their respective seminal pieces. The primary factors that they raise are the existence of autonomous feminist movements, ratification of international treaties, existence of Gender Mainstreaming in the State Machinery and regional influences.

Htun and Weldon delineate between women's movements and feminist movements and their collation in the literature when determining the prime motivating factor behind the passing of VAW legislation. Women's movements are those that are organized and consisting primarily by/of women, and can have feminist and non-feminist goals. Feminist movements specifically are social change movements that identify the status quo as being disadvantageous to women compared to men and mobilize to change the underlying power structure that harms women.¹¹ Both of these types of movements stem from civic society and are representative of collective civic behaviour that coalesces around specific issues and then interacts with the government to ensure that these ends are met. However what differentiates women's movements from feminist movements is the latter is defined by their ideology while the former by their membership. Women's movements, if they do campaign for VAW legislation, then still need to have feminist goals of subverting patriarchy, advancing sex equality and fighting systematic oppression to be considered a feminist movement. Htun and Weldon stress the importance of having an autonomous feminist movement in bringing about effective social change - these feminist movements aren't co-opted by the state or subverted for other political goals and conclusions, thus making women's safety and status a priority. Additionally, if these movements are considered strong and effective by activists and members of society, then this is further support for the efficacy of these movements. Being autonomous is a necessary but not sufficient condition for the implementation of legislation and therefore a strong *and* autonomous movement together, form a sufficient bundle of causes with regard to legislation. The stress on civic society indicates that the demand for change comes from the people and sets up a binary confrontation between the people and the institutions of power. This is therefore a bottom-up approach to effecting change as opposed to a top-down public policy approach. The posited chain of influences in this argument therefore is:

Civic Demand → Pressure on Elite in Power → Legislative Change → Institutionalized Norms Against VAW

Joachim Jutta¹² relies on a top-down approach in explaining how domestic legislative change comes

⁸2012, Weldon (2002)

⁹2007

¹⁰2001

¹¹This is an important distinction to make and understand and will play an important role in the analysis of the Indian case study.

¹²2007

about. She stresses the importance of international treaties, specifically the role played by the UN and international NGOs in bringing about a legally binding international instrument that precipitated change on the domestic front. International treaties often have compliance mechanisms built into the content and while states can file reservations, becoming signatories to these treaties are the first step in making a credible commitment to tackle a specific issue. Additionally, making a commitment on the international stage draws attention to the within-state dynamics and therefore allows for the creation of alternate paths to change at the domestic level. Signing an international treaty, Jutta argues, helps civic groups *within* a country ally with and fight alongside international actors to bring about change at the national level. Ratification of the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) therefore becomes an important indicator of whether a government will implement national level policies that attempt to eliminate Violence Against Women.

True and Mintrom¹³ discuss the importance of gender mainstreaming in state machinery and how state institutions that are aware and inclusive of women and feminist concerns will be forced to take more concrete steps to bring about gender equity. They consider transnational advocacy networks¹⁴ to be instrumental in effectively gender mainstreaming government departments at the domestic level. Gender mainstreaming implies that state departments either have offices that address issues of concern for women or an actual department that coordinates across the various other departments to ensure that women's concerns stay on the political agenda. Representing women's concerns in each department may initially seem to be the more effective but in the political bargaining process, these women's issues are the first to be jettisoned off. A distinct department therefore, that prioritizes the concerns of women across the spheres of interest and works to integrate these issues into the agendas of all other departments, is able to constantly keep women's issues on the agenda.

Combing these arguments into one distinct approach to address VAW legislation, I argue that strong feminist movements are instrumental in bringing about state machinery that is then responsible for effecting legislative changes. Feminist movements require access, opportunity and framing¹⁵ to pressure governments into revising VAW legislation and access is provided by the existence of independent state departments that prioritize the status of women. The causal process that I hypothesize here therefore, is that feminist movements are instrumental in bringing about gendered state machinery which in turns ensures the passing of VAW legislation.

Feminist Movement → Feminist State Machinery → VAW Legislation

Moving to the case level, I argue that this causal process is what allows for a successful implementa-

¹³2001

¹⁴Organizations like Avaaz and Change for instance are leveraging the Internet to rally global civic society (through the form of domestic constituencies putting pressure on their national governments to leverage international influence) to provide support to social mobilizations occurring world over.

¹⁵McAdam et al.

tion of the legislation. If this process is co-opted or subverted (even ideologically), then even if legislative changes take place, these are not effective in implementation and are rejected by the *feminist movement*. The state¹⁶ will attempt to repress the feminist movement and the eventual success of the process will rely on the feminist movement's ability to keep the fervor alive and continual engagement with civic society protesters.

IV. SO WHAT'S THE DEAL WITH INDIA?

*"If you have come here to help me, you are wasting our time. But if you are here because you understand that your liberation is bound up with mine, then we can work together."*¹⁷

When negotiating the terrain of the feminist movement in India, it becomes critically important to define feminism in the *Indian* context. Academic feminism and feminist theorizing has for the most part been restricted to Western Thought¹⁸ which has led to many Third World feminists rejecting the feminist label in much of India's women's movement.¹⁹ Those who mobilize and defend feminist concerns in the Third World must grapple with the fear of merely espousing a "symptom of their "lack of respect for their culture", rooted in the "Westernization" that they seem to have caught like a disease."²⁰ Maitreyee Chaudhuri and Madhu Kishwar (amongst others) argue that feminism in India is intrinsically connected to the actions and politics that are manifestations of the ideology. Chaudhuri for instance makes the case that the *academic-activist dichotomy* in much of feminist action is overstated and instead "Indian feminism is clearly a response to issues specifically confronting many *Indian* women."²¹ Feminist theory and feminist action are inherently linked to the struggle for women's rights and social movements in India. Women and feminism are therefore an inherent part of the "*national political landscape*" of India.²² This involvement often results in decisions to either actively partake in politics or insist on autonomy. "Some movements have feared that a close relationship with political parties might lead to their co-optation and deradicalization, while others have seen parties as vital to advancing women's political interests"²³, a debate that continues unresolved. Casting women and the feminist movement in the role of political actors allow us to conclude that social movements that concern women's rights as well as party dynamics become the primary sites of feminist research in the Indian context. The civic unrest and protests of 2012-2013 and the corresponding amendments to the Criminal Act are therefore an ideal case for analysis and evaluation of the impact and strategies of the feminist movement in India and their ability to effect legislative and social change.

¹⁶Given that it hasn't been entirely gender-mainstreamed yet and rejects feminist conceptions of the state (Pateman 1980)

¹⁷Aboriginal activists group, Queensland, 1970s

¹⁸Chaudhuri 2005

¹⁹Kishwar 2005

²⁰Quotes in original: Narayana 1997

²¹Narayan 1997

²²Narayan 1997

²³Basu 2010

Feminist groups must however navigate the specifically tricky terrain of being both nationalist (or “Indian”) and feminist at the same time. India’s long history with rule by foreigner powers, inclusive of but not limited to British colonialism²⁴ has led to the dominance of national unity as an issue of unmistakable salience²⁵ both politically and rhetorically. Uday Mehta for instance argues that:

It is plain that a country on the verge of Independence, marked by dizzying, often fractious, and potentially centrifugal diversity - not to mention a diversity that had long been used to justify imperial subjection, and one in which the prospect, and then the reality, of Partition had loomed for many years - would be vigilant, indeed, obsessed with national unity.²⁶

All political actors therefore pledge primary allegiance to national unity and the Indian vision, a narrative that has underscored Indian politics since its inception. Extending this to the feminist movement therefore, “In India, feminism and nationalism were closely inter-linked... The cause was Indian; the goal India’s freedom. The women’s movement in India has none of the man-woman antagonism characteristic of women’s movements in the West.”²⁷ This incorporation into the nationalist movement was repaid with discussion of minority and cultural rights and the incorporation of them into the Indian Constitution. However, the consequences of this amalgamation of the Indian nationalist movement and the feminist movement has led to the essentialization of Indian women such that there exists a “conflation of the Indian woman with the Indian nation and culture and its very special identity.”²⁸

The consequences of this essentialization on feminist concerns are far-reaching. The “Mother India” imagery that is rampant in Indian culture identifies India’s national pride with the sanctity and safety of their women. Women therefore become symbols much like they do in cultures where the community’s honor is invested in the women themselves, such as the tribal Bedouin culture in the Levant where “a woman belongs to her people and carries family honor”.²⁹ The nature of the underlying narrative therefore could result in similar actions and outcomes by people but for distinctly different motivations. Do people protest gender-based violence because women must be protected from harm or because violence is wrong in and of itself? The former is a struggle for women’s rights and therefore distinct from the latter which speaks to larger feminist concerns of violence, marginalization and power.³⁰ However, this differentiation might be analytically easy to make but when analyzing observational data, we must follow a more interpretivist approach that relies on rhetoric, speeches, newspaper coverage, blog posts and protest material for its content and conclusions. Discerning true motive regarding the protests is challenging and potentially not possible, so the conclusions that are drawn from an analysis of the protests and their coverage might be

²⁴Only one of many foreign powers to have ruled India

²⁵Mehta 2010

²⁶Mehta 2010: (16)

²⁷Aparna Basu (1976: 40) as qtd. in Chaudhuri 2005 (xxi)

²⁸Chaudhuri 2005 (xx)

²⁹Sonbol 2003 (47)

³⁰In keeping with the Htun and Weldon coding process

reflective of the theory put forth here but alternatively could just be a result of organizational challenges or language barriers (many protesters protest in English but might not be fluent in the language for instance) and therefore further work would need to be done to confirm or reject the argument put forth here. This initial work however, gives one an insight into the nature of the protests and allows us to draw up initial conclusions about feminism in India at the least.

V. QUANTITATIVE DATA

The primary dataset being used is the Htun and Weldon VAW Dataset created in 2012. Additional Variables have been added in to ensure that competing hypotheses can be simultaneously tested. This additional data has been sourced from the UN CEDAW website as well as the True and Mintrom Dataset created in 2001. The standard vector of covariates³¹ that are used as controls has been left out of this analysis as the primary goal here is to test competing hypotheses from within the literature. In further analysis however, these variables should be tested against traditional determinants of legislation to test for differences between socially progressive legislation and other types of legislation. Additionally, further analysis could help reveal under what conditions the causal variables in this analysis come about.

5.1 Unit of Observation

The Htun and Weldon VAW Dataset includes data on 70 countries for the years 1975, 1985, 1995 and 2005. The unit of observation therefore is a country year and there are 280 units in the dataset. While admittedly small, this dataset is the first of its kind. Many of the variables represented here have little to no official data available in most of the countries purviewed. While in the past this has restricted scholars to analyzing developed countries due to the availability of data, Htun and Weldon offer alternate data that will help address the questions they and other scholars are concerned with. The limited number of data points might therefore handicap the *current* analysis, but open the door for further analysis and more questions.

5.2 Dependent Variable

The Dependent Variable of Interest here is the VAW Index (VAW). Htun and Weldon compile a comprehensive list of government policies that are used to combat Violence Against Women and for every country year in their dataset, they assign the unit an index that corresponds to the number of policies in play at the domestic level. Higher the index, the more comprehensive of a government response to VAW. The VAW

³¹Polity Score, GDP, Population

Index is coded as a 10 point Ordinal Variable³², with each point representing one policy that is implemented in the country. Their Index covers the entire spectrum of possible governmental actions, including those that the VAW Policy community can not arrive at a consensus on.³³ Out of the 280 Country Years available, only 6 have a VAW Index Score of 10.

1. Services to Victims

- Government funding for domestic violence shelters
- Government funding for rape crisis centers
- Government supports crisis centers for other forms of violence (stalking, FGM, etc)

2. Legal Reform

- Government has adopted specialized domestic violence legislation
- Government has adopted specialized sexual assault/rape legislation
- Government has adopted specialized legislation pertaining to other forms of violence such as trafficking, sexual harassment, FGM, etc.

3. Vulnerable Populations

- Government provides specialized services to women of marginalized groups OR
- Government recognizes violence against women as basis for considering refugee status OR
- Government protects abused immigrant women from deportation

4. Training Professionals

- Government provides training for police, social workers, healthcare professionals, etc

5. Prevention Programs

- Government funds public education or other awareness programs as a means of preventing VAW

6. Administrative Reforms

- Specialized Government department that coordinates VAW policies across the other governmental agencies

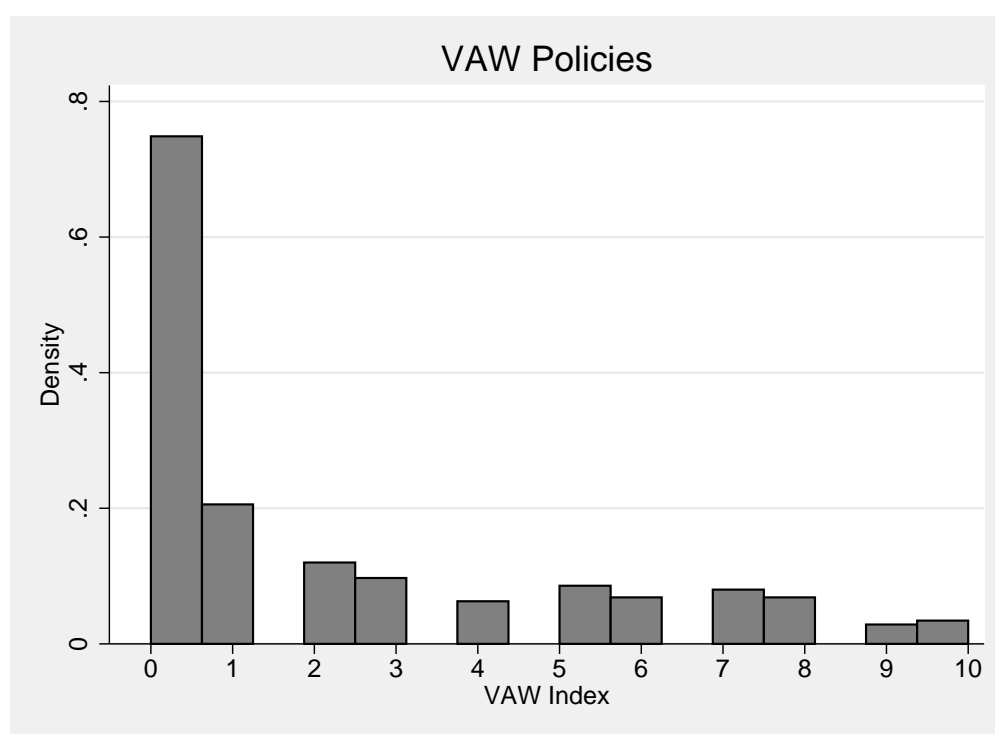
³²Given that an increase in the VAW Index simply means an additional policy being implemented, a categorical coding is a logical decision instead of using a Dummy Variable Approach

³³Such as the Professionalization of VAW services as being either empowering or as pathologizing Sexual Assault and treating women as victims

This list is not inclusive of all the forms of violence mentioned initially. The focus of this Index is primarily those laws that are passed to prevent VAW in conditions of peace as opposed to wartime and therefore suspensions of these laws in areas under siege aren't included in the coding. The analysis therefore must accommodate this focus on peacetime which is a logical decision to make. When a country is at war or experiencing civil conflict, feminist concerns are often integrated into larger questions about democracies and civic rights and therefore many of the variables of interest here aren't at play.

Even given peace time status, as is evident in Figure 1, for most of the country years in the study, they had no policies on the books to protect women, thus indicating how pressing a matter this really is.

Figure 1: *Violence Against Women Index Score*



5.3 Independent Variables

The other variables included in the Htun and Weldon Dataset are:

- Existence of a Women's Movement - Binary Variable *Wom*
- Existence of a Feminist Movement - Binary Variable *Fem*
- Existence of an Autonomous Feminist Movement - Binary Variable *Auto*
- Strength of the Feminist Movement - Ordered Cateogrical Variable *Str*

These variables are coded using primarily qualitative analysis, through the use of textual evidence as well as narrative accounts. Regional experts testimony is weighted higher while much effort has been invested in attaining a balanced testimony. The Strength of the Feminist Movement, the only variable that is not coded as a binary variable, takes into account the impact of the movement on the civic population. It focuses on the movement's ability to garner media presence, membership, degree of support found for the organization, ability to successfully protest and activist access to governmental agencies in determining if a movement is strong or not. Weak movements are coded as a 0, moderately strong movements are coded as a 1 while strong movements are coded as 2. This also allows the variable to capture change across time.

5.4 Added Variables

Additional variables that I added to the original Dataset are:

- CEDAW Ratification - Binary Variable CEDAW
- Gendered State Machinery - Ordinal Variable Ministry
- Region - Nominal Categorical Variable Region

Data for CEDAW Ratification was sourced from the UN CEDAW webpage. Dates of signing the treaty were not counted as confirmation as the treaty can be considered influential only when the national legislature ratifies the treaty and therefore signals to the international community a commitment to fighting discrimination against women³⁴. The UN CEDAW State Party website³⁵ provides dates for when State Parties sign, ratify, accede and succeed to the CEDAW Treaty. I therefore primarily use the Date of Ratification to code CEDAW Ratification and dates of Accession and Succession if Ratification and any of the other two happened simultaneously.

Data for State Machinery comes from True and Mintrom³⁶ who code the extent of gender conscious state machinery available in each country. States that have no departments or governmental agencies dedicated to improving the status of women are coded as 0, states where an office for women's rights exist within another long-standing department are coded as having Low or 1 Gender Mainstreaming and states where Governmental Departments or Agencies exist for the improvement of women's status, State machinery is coded as High or 2. These results have been replicated from the True and Mintrom Dataset.

Region was coded as a nominal categorical variable that codes 8 distinct regions³⁷ in the world. This variable addresses potential regional influences since regional allies and regional politics might have

³⁴Jutta 2008

³⁵UN Treaty Collection Database

³⁶2001

³⁷See Data Appendix for details

distinct influences on neighbouring countries. The Middle East and North Africa for instance, have a long history with repressing women’s rights while the post-Communist countries of Eastern Europe are more progressive regarding women’s access to power and their status in society³⁸

5.5 Summary Statistics

A brief overview of the data lends itself to some preliminary conclusions about the relationships of interest.

Figure 2: Average Violence Against Women Scores

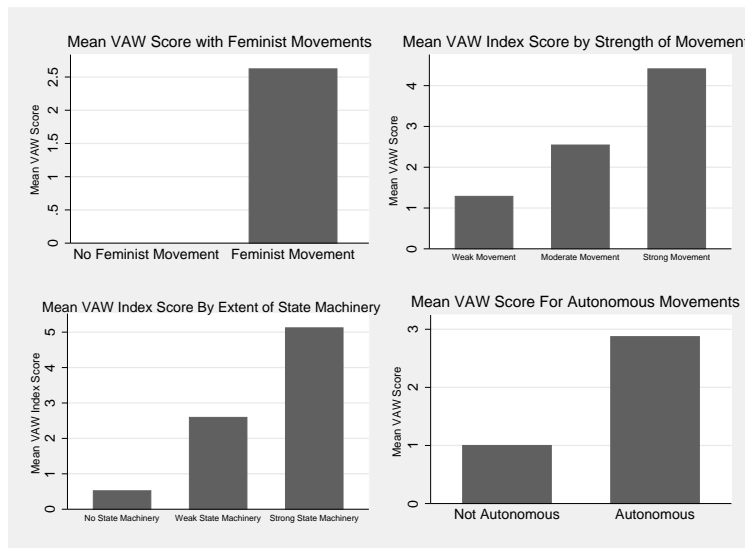
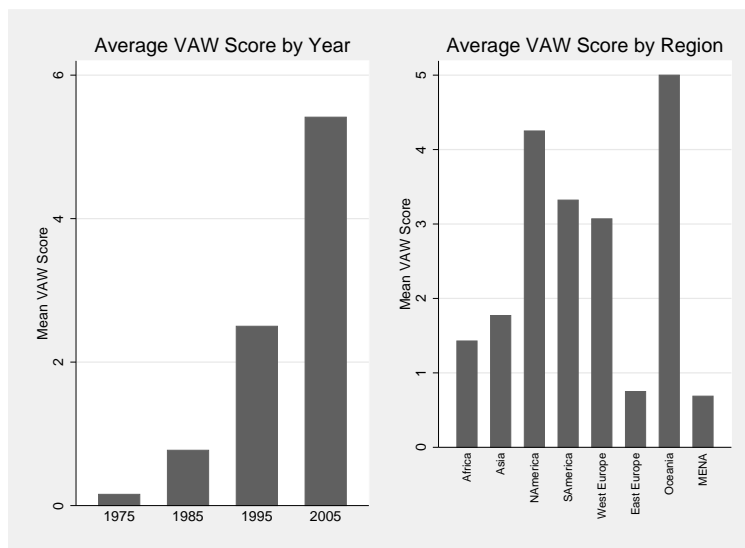


Figure 3: Average Violence Against Women Scores



The mere existence of a Feminist Movement (even when autonomous) does not seem to indicate a

³⁸Avdeyeva 2007; Waylen 1996

high VAW Index score on average. Strong Feminist Movements seem to indicate higher VAW Scores while a strong State Machinery seems to have a considerable impact as opposed to states with no machinery. The mean VAW Index Score in the Data is a 2.2 and therefore State Machinery and Strength of Movements (with average scores above 5 and 4 respectively) seem to be having a considerable impact on the Score.

Additionally, the different regions display considerable variation in average VAW Scores while the increase in scores over time seems to be the most significant relationship noted in the data hence far. Oceania however, as previously mentioned, might be presenting biased results due to their being only 8 country years observed while 1975 pre-dates even CEDAW and therefore is included primarily to serve as a base category for comparison's sake.

VI. METHODS

Given the ordinal categorical nature of my Dependent Variable, I run four Ordered Logistic Models. The Ordered Logistic Model is appropriate since the VAW Index Score has 10 categories and the order itself is of substantive significance. While I have one primary model, the others are run as controls to ensure that model design is not driving the results.

Model 1:

I regress the VAW Index on *Wom*, *Fem*, *Auto*, *Str*, *CEDAW*, *Year*, *Region* as well as an Interaction Term between *Auto* and *Str* to capture the specific impact of Strong *and* Autonomous Feminist Movements. This model tests the impact of all the various contributing determinants on the increase in VAW policies in each country year.³⁹

Model 2:

Including interaction terms in Ordered Logit Models is often not the mode and therefore I run a second model that does not include the Interaction Term. I retain all other variables from the first model however.

Model 3:

The relative paucity of observations where a Women's Movement or Feminist Movements are absent and a particularly high Correlation between these two variables (0.82) calls into question the need to include both variables in a model. I therefore run a third model where I drop the variable *Wom* and have no Interaction Term⁴⁰.

Model 4:

To test the causal pathway that connects the distinct literature, I attempt to determine the causal variables affecting presence (and extent) of Gender Mainstreaming in Government. I therefore regress the Variable

³⁹See Methodological Appendix for derivation of the Underlying Logit Function

⁴⁰Given that there is a lack of consensus as to the value of an interaction term in a Logistic Model, I do not include it in an effort to keep the model parsimonious

Ministry on Auto, Str, Fem, Year, Region. Given that Ministry is coded as an ordered categorical variable too, I run an Ordered Logistic Regression.

Control Model:

Htun and Weldon run a linear regression that controls for panel correlation and I therefore run the same model with the added variables to allow for comparison across methods.

The coefficients in Ordered Logistic Models are of little meaningful significance. I therefore calculate marginal changes in probability for all the variables of interest at each value of the VAW Index. What this calculates is the increase in probability of a country having had that number of VAW policies given a unit increase in the Independent Variable. So for example, a hypothetical Marginal Change in Probability of 0.023 for Ministry at a VAW Index score of 4 would imply that if the Ministry goes from Weak to Strong, the probability of that country year having a VAW Index score of 4 will *increase* by 0.023. This allows us to observe the tangible effects of changing the variables of interest on the probability of the specified outcome. Additionally, where possible, I calculate the predicted probability of a country year having a specific VAW Index Score given certain values on the variables of interest. This allows me to model the impact of various potential combinations of variables on outcomes of interest.

VII. RESULTS

The results of my four Logit Models do not differ drastically from one another. The Time variables are significant across all the models thus indicating that governmental responses to VAW do increase over time. There are also considerable regional differences which may be magnified by their comparison to countries that are in Africa. Given the uniform nature of the significance of these variables and the panel nature of both the data and issue, I estimate the impacts of changes in the other variables of interest over both Time and Region⁴¹.

When depicting graphically the average marginal effects of an independent variable on the probability of a specific outcome, I focus primarily on having no VAW policies, having 4 policies (as that would imply that the country doesn't even have one policy to address all the 6 criteria presented), 7 policies (as that would mean the country has at least more than one policy in one of the categories) and then the probability of having a score of 10. This process is done as these outcomes represent theoretically motivated thresholds. Only one outcome that is below the global Mean is represented, while outcomes of 4, 7 and 10 policies are all above average. Additionally, representing all 11 outcomes would have obscured the distinct patterns that emerge across the range of values due merely to the deluge of available data.

Given that coefficients in an Ordered Logistic Model do not convey much information, I only report

⁴¹These additional graphs can be found in the Data Appendix

my Coefficient List in the Data Appendix. The marginal changes in probability for all the variables of interest per outcome are depicted below⁴² in Table 1.

The marginal changes predicted fluctuate in range drastically, from no marginal changes for CEDAW Ratification in many of the outcomes to a 596 % point decrease in the probability of having no VAW policies when a country’s feminist movement transitions from being State Dependent to Autonomous. This is probably a result of the weak data and therefore may not be as illustrative as one would hope. I however find some interesting patterns in the directions of movement which reveal mechanisms at play that aren’t evident in the literature. Additionally, the exorbitant marginal changes in probability are restricted only to those variables that are included in the interaction term and therefore I take into account only the direction of change for this primary analysis.

CEDAW Ratification has barely any marginal impact on a country’s VAW Index Score *at any number of policies*. Ratifying CEDAW therefore does not seem to change a country’s probability of having the number of policies they do, thus indicating that international influences might not be working as posited by Jutta. However, there are distinct regional patterns at play here which it is important to point out.

Table 1 - Marginal Changes in Probability for Model 1

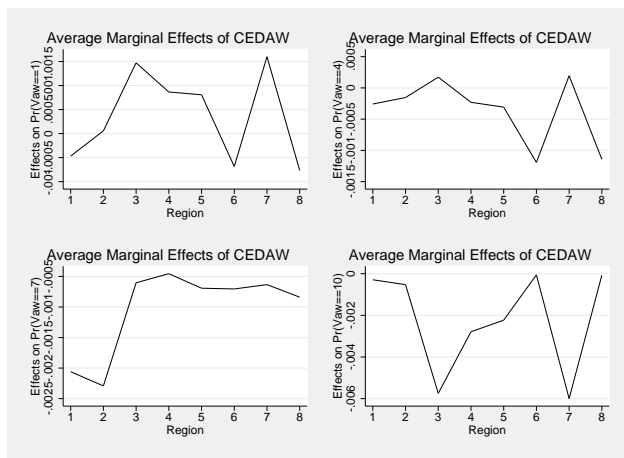
| VAW Index Score | Wom | Fem | Str | Ministry | Auto | CEDAW | Interaction |
|-----------------|---------|--------|----------|----------|----------|--------|-------------|
| 0 | 0.164 | -1.247 | -415.2 | -0.05 | -596.74 | -0.004 | 0.001 |
| 1 | 0.007 | -0.056 | -20.24 | -0.002 | -54.09 | -0.00 | -0.007 |
| 2 | -0.008 | 0.06 | 22.7 | 0.002 | 8.05 | 0.00 | -0.002 |
| 3 | -0.014 | 0.112 | 30.95 | 0.004 | 29.92 | 0.00 | -0.001 |
| 4 | -0.012 | 0.0913 | 25.48 | 0.003 | 31.722 | 0.00 | -0.0003 |
| 5 | -0.018 | 0.138 | 44.77 | 0.005 | 66.18 | 0.000 | 0.0001 |
| 6 | -0.0142 | 0.108 | 41.5395 | 0.004 | 71.38 | 0.00 | -0.00 |
| 7 | -0.0209 | 0.16 | 58.6 | 0.005 | 109.6776 | 0.00 | -0.000 |
| 8 | -0.03 | 0.23 | 73.71 | 0.008 | 132.2994 | 0.00 | 0.002 |
| 9 | -0.018 | 0.139 | 47.03419 | 0.005 | 75.726 | 0.00 | 0.003 |
| 10 | -0.035 | 0.26 | 90.65 | 0.009 | 125.878 | 0.001 | 0.007 |

If CEDAW Ratification was to be a significant variable, then the patterns of change should have indicated a decrease in probability for the lower Index Scores and increases in probability at the higher levels of the VAW Score. Most of the regions fluctuate in no systematic pattern as made evident by Figure 4, save for Eastern Europe. Eastern Europe follows the pattern of change required for CEDAW Ratification

⁴²Interaction Values for when you have a Strong Autonomous Movement

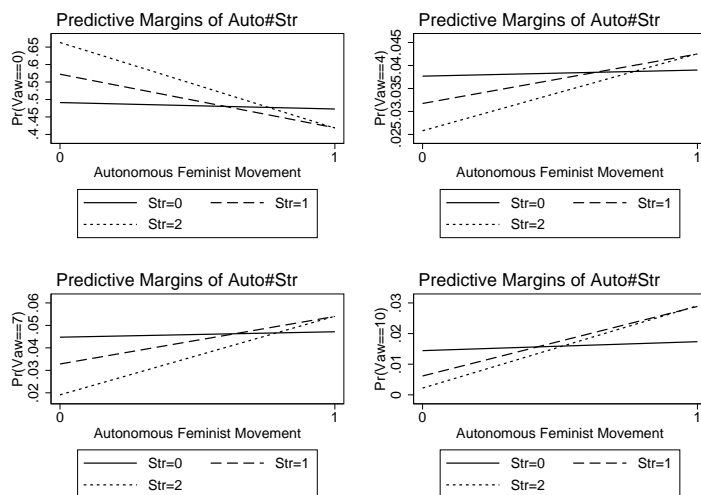
to be significant. Eastern Europe’s vulnerability to international treaties and pressures regarding VAW has been documented in the literature⁴³ and therefore this finding is consistent with previous findings.

Figure 4: Average Marginal Effects of CEDAW Ratification by Region



The Interaction Term also has a very minor impact on the outcome, though in the absence of the interaction term (Model 2), strength of the movement does most of the work. Figure 5 represents the predicted probability of having a VAW Score of 0, 4 7 and 10 given a movement that varies across both strength and autonomy.

Figure 5: Predicted Probability of Having Selected Outcomes under Different Movement Conditions



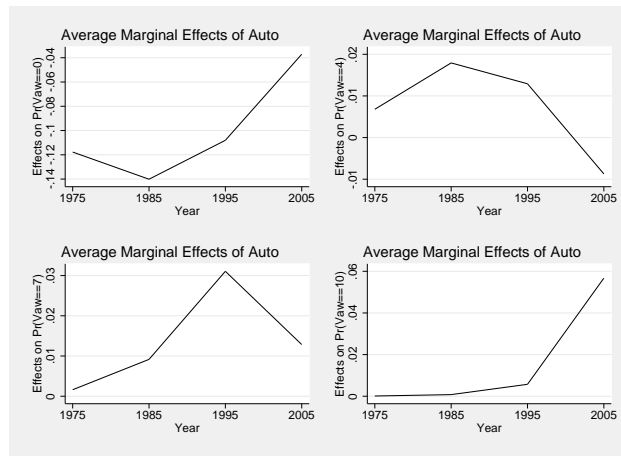
As has been theorized, the probability of having 0 VAW policies decreases as a movement becomes both more autonomous and strong. For all other outcomes represented, the stronger a movement, the higher the probability of having that specific (and higher than average) outcome. Given a weak movement

⁴³Avdeyeva 2007

however, autonomy does not change the probability of any outcome. Strength of the movement therefore seems to be doing most of the work in this model as opposed to the interaction.

Figure 6 depicts the impact of having an Autonomous Movement on the probability of specific VAW Scores over time. Interestingly, the probability of having *no VAW policies* given a feminist movement that becomes autonomous, increases since 1985. However, the probability of having a comprehensive list of VAW policies also increases over time when movements become autonomous. This finding could imply that autonomous movements in countries that have no policies operate through alternate means to protect their women as legislation might not be the most effective means to the end. Autonomy of a movement therefore does not seem to be as important in determining legislation as proposed by Htun and Weldon.

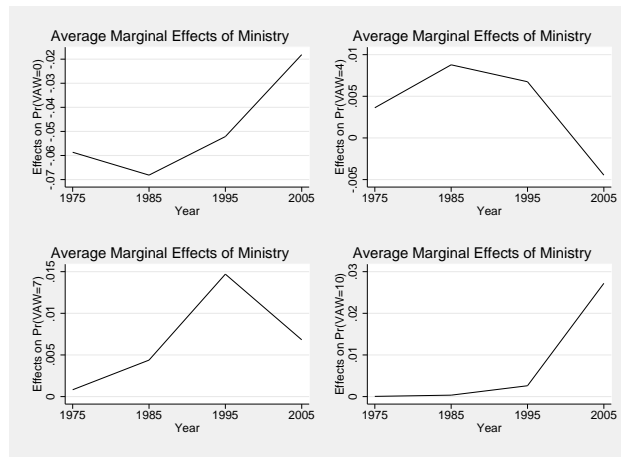
Figure 6: Average Marginal Effects of Autonomous Movements by Year



One such alternate means of protecting women could be through gender mainstreaming of the government itself. Ministry was one of the few other variables that was statistically significant in the Logistic Models and therefore focusing on it is of substantive and statistical worth. Figure 7 indicates some relationships of note regarding the impact of State Machinery on VAW Policies. State Machinery actually is seen to *increase* the probability of having no VAW policies over time. This could therefore indicate that state machinery that is entrenched over time in a state that does not prioritize women, only serves to further institutionalize the inherent discrimination. This therefore speaks to the argument that the Government can co-opt the feminist movement and voice and institutionalize it, thus ensuring protection from international censure but also suppressing the civic demand. This finding therefore speaks to a larger literature too as it calls into question the efficacy of having more women in government through either quotas or reservations if they are only included as token departments and for the sake of diversity.

A final relationship of note is the inverse impact that the Women's Movement and the Feminist Movement seem to have on probability of VAW Scores. A women's movement has an increasing impact on the probability of very low VAW scores (namely either none or only 1 policy) while a Feminist Movement at

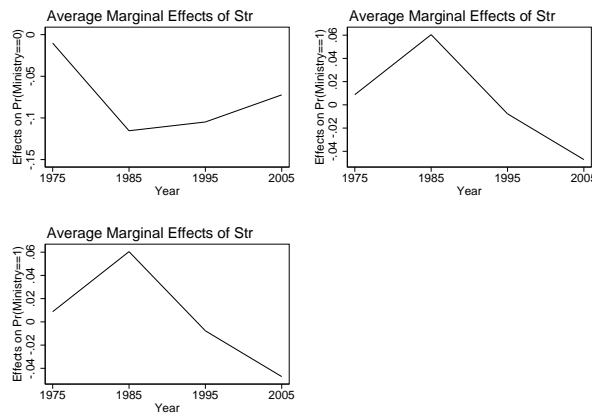
Figure 7: Average Marginal Effects of Gender Mainstreaming by Year



these levels decreases the probability of these countries having such low VAW scores. However, a Feminist movement increases the probability of having policy scores of 2 and above while a women’s movement *decreases* the probability. This implies that a women’s movement that is not campaigning for the increased stature of women specifically can actually serve to undermine the work done by feminists. If civic society does not coalesce specifically around these feminist concerns, then the presence of a women’s movement can serve to distract from the need for socially progressive VAW policies.

Finally, the last model that is run attempts to model the determinants of Gender Mainstreaming. The only variable of significance was the Strength of the Feminist Movement, thus implying that there is weak evidence for the causal mechanism posited at the beginning of the argument. As presented in Figure 8, the marginal change in probability of *not* having a strong Ministry *decreases* as the strength of the movement increases. The probability of having a strong state machinery increases as the strength of the movement increases. This is as predicted.

Figure 8: Average Marginal Effects of Strength of Movement on Probability of Ministry

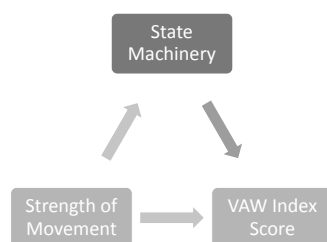


VIII. DISCUSSION

International Treaty Ratification seems to find little support given the data, and we therefore fail to confirm the importance of the International Treaties and transnational communities of support. Eastern Europe is the only region in the world where Treaty Ratification seems to have a marginal effect in the direction hypothesized. This however, may have more to do with the structure of institutions and civic society in Eastern Europe than the UN Treaty System⁴⁴. Additionally, EU ratification could have been the causal variable which is merely reflected in the CEDAW signatory status as a substitute.

We find some support for Htun and Weldon's theory about the importance of civic movements but the causal logic might require some modification. Since Strength of movement exerts significant influence (in the hypothesized directions) on both the VAW Index Score and an Intervening Variable, Ministry, I posit there is initial support for a collation of these strands in the literature.

Figure 9: *Potential Causal Logic*



Finally, the value of the Ordered Logistic Model is evident in the ability to tease out the impact of the variables of interest at each level of the VAW Index Score. A traditional linear regression model or even the Panel Corrected Standard Error model⁴⁵ run by Htun and Weldon in their original article, collapses the categories together and the different impacts at various points are missed. This is best illustrated with the impact of Gender Mainstreaming in State Machinery at the various levels of the VAW Index Score. At lower scores of the VAW Index, strong State Machineries in fact *subvert* the feminist movement and might potentially be working to institutionalize the discrimination and inherent power imbalance. At higher levels of the Score however, the stronger the machinery, the higher the probability of the country having the score it does. This finding is especially worth noting as it allows us to understand how governments that have ministries set up for women's interests, can in fact subvert the feminist movement in its entirety. This distinction is primarily theoretical but it has very significant implications. A state can protect women's interests without accepting feminist demands and goals. Under these circumstances therefore, women are protected by the state but at the mercy of the state. Incorporation of feminist demands would imply a

⁴⁴As argued by Avdeyeva 2007

⁴⁵Refer to Data Appendix for a comparison of co-efficients

transformation of the fraternal state in itself⁴⁶ and thereby a dismantling of the very power structure in place that subjugates women, making VAW a systematic issue as opposed to an individualistic pathology.

So what do these results imply for the Indian case? India, in 2005 - the last year in the dataset, is coded as having an Autonomous Feminist Movement, though only moderately strong, and independent Gender-Mainstreamed Institutions. In 2005, their VAW Score had increased to a 6 from a 1 in 1975, thus fitting the general trend posited by the statistical measures. The inclusion of strong movements and the increasing autonomy and strength of the feminist movement is seen to lead to higher VAW legislative outcomes. How then does this exactly work? How are feminist movements providing support to organisations that promote the interests of women exclusively? Who participates in the social mobilization and how are feminist concerns voiced on such a large scale? What institutional support do activists receive? How do these sets of actors force legislative agents to accommodate their demands? Why do legislative agents acquiesce? How do legislative agents preserve their own interests? What implications does this bargaining between political actors have on the outcome of interest? What is the nature of the legislation that gets passed? India, in 2012, experienced much social upheaval in response to the gang rape and eventual death of a 23-year old student. Four months later, the Indian parliament passed the Criminal Law (Amendment) Act in response to demands for more stringent and expansive sexual assault legislation from civic society. This specific case study therefore allows us to observe and analyze the process in more detail and understand what roles feminist mobilization and governmental institutions played in making India a safer place for women.

IX. INDIA - GENDERED STRUGGLES

India was ranked 101st according to the 2013 UN Global Gender Gap, indicating the low status of women in the world's largest democracy. According to the National Crime Records Bureau Report of 2012, 1% of all crimes committed nationally are rape of women, 1.9% are assaults intended to outrage a woman's modesty and 0.6% are insults to the modesty of women while 0.4% are dowry deaths and 3.9% is Domestic Violence⁴⁷. With reporting of crime related to sexual assault however, one must also take into account the issue of under-reporting which would therefore imply that the rate of violence and Intimate Partner Violence is in fact much higher. Additionally, "Due to technical limitations, crime rate of crimes committed against women and children has been calculated on the basis of total population instead of women population and children population respectively."⁴⁸ Violence against women in India is reflective of the systematic oppression of women and due to the stigma associated with sexual assault (indicated even in the language of assault which refers to a woman's "modesty" as coded in the NCRB Report), under-reporting is an

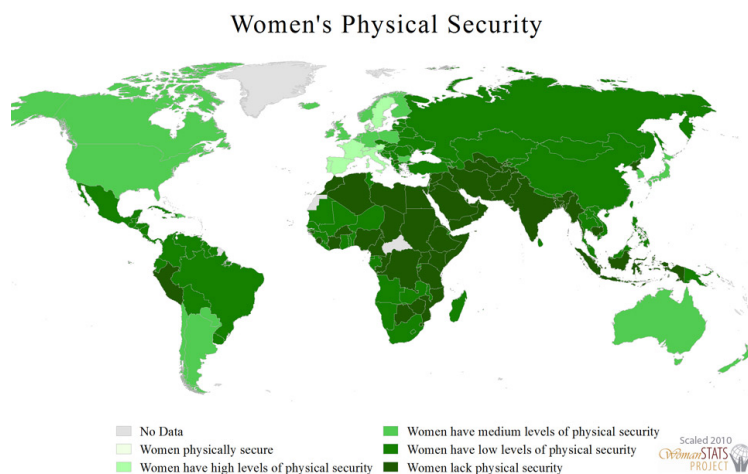
⁴⁶See Pateman (1980) for a discussion on how the State is a Masculine concept due to the Fraternal Social Contract

⁴⁷Coded as "Cruelty By Husband or his Relatives" in the Codebook (NCRB 195)

⁴⁸NCRB 2012: 195

integral complication to our understanding of the prevalence of violence that is perpetuated on women's bodies⁴⁹.

Figure 10: Women's Physical Security Globally



However, this is not to underestimate the role of civic society and democratic mobilization in the country. Women activists have been mobilizing since the 1970s with the Mathura rape case in 1972 which was eventually picked up by lawyers and women's right activists only in 1980⁵⁰. This agitation eventually led to the Criminal Law (Second Amendment) Act of 1983 where custodial rape was now made punishable, the burden of proof was shifted to the accused, revealing the name of the victim was punishable by law, women doctors conducted the medical examination, and a woman's indication that she hadn't consented was considered rebuttal enough.⁵¹ This was however tacked onto an amendment that primarily dealt with dowry deaths that hadn't abated since the Dowry Prohibition Act of 1961.⁵² While a considerable leap in legislation that protects women these ideals become means to further marginalize women. Bhanwari Devi, a small-town activist who decided to bring increased awareness to child marriage in her state of Rajasthan was gang raped by the village elite (she herself was of a much lower-caste, an Untouchable or *Dalit*) in 1992. When she went to file a police claim, she faced additional harassment at the hands of the police as they marginalized her claim in the interests of sticking to the law. She was not examined within the requisite period as no women doctors were present, her report was delayed even further as the legal channels were shut for the day and she was made to deposit her skirt as evidence thus further harming her "modesty", the

⁴⁹Image from Hudson 2012

⁵⁰Anandan 2012; Kaufman 1980

⁵¹Criminal Amendment, 1983.

⁵²This act criminalized the act of demanding dowry but socially, if the bride's family is unable to provide dowry, the bride is still victimized by the husband's family.

very attribute the Indian state purports to protect⁵³. The laws established to protect victims after Mathura were the very ones used to marginalize Bhanwari 12 years later⁵⁴. The Priyadarshini Mattoo case of 1996 is another example of how VAW legislation can be manipulated by those in power. Priyadarshini Mattoo was a law student who was stalked for over a year and then raped and murdered by a fellow classmate. Santosh Kumar Singh, the accused, was the son of a Police Inspector General and initially acquitted in a trial court due to the misrepresentation of evidence and particular inaction by the Delhi Police.⁵⁵ However, due to the acquittal coming close on the heels of the acquittal of another high-profile murder of a woman by a son of a politician⁵⁶, protests shook the Indian capital. These acquittals were eventually overturned by higher courts and the accused sentenced to life imprisonment but what must be noted is the role that the media and civic society played as opposed to the efficacy of the legislation and the bureaucratic institutions responsible.

These two court verdicts have come to be known and denounced for being propelled by a “trial by media”. The media is seen to have played the role of democratic vanguard in these cases, the ones who forced the courts and the law to be accountable to the people they serve in a democracy. To quote Vindo Mehta, Editor-in-Chief of the weekly *Outlook*, “Without media, I don’t think the so-called conscience of judiciary would have woken up. It took six years for the judiciary, what happened in the intervening years?”⁵⁷ While freedom of the press in a democracy does inherently imply that the media will take on the role of watchdogs, what must be noted here is both the backlash that the media and civic society has received for being the conscience of the judiciary and the overt reliance on the media and civic society to bring about a conviction. Laws protecting civilians from custodial violence, sexual harassment in the workplace⁵⁸, and murder are all in existence but yet fail to protect civilians. A trend therefore seems to exist in Indian judicial circles where there is an overt reliance on extra-institutional judicial means to bring about justice for individuals. What are the consequences of this underlying subtext on India’s ability to effectively fight the systematic issue of Violence Against Women? A brief look at the December 2012 rape case might allow us these initial insights.

X. THE DELHI BRAVEHEART

Nirbhaya⁵⁹, as she came to be known in public⁶⁰, was a 23 year old physiotherapy student from the poorer strata of society. Her father worked in the airport as a baggage handler and her mother ran their house. On

⁵³Mathur 1992

⁵⁴Abraham 2002

⁵⁵Tribune 1999

⁵⁶Manu Sharma shot Jessica Lall in a bar for refusing to serve him anymore drinks (Sengupta 2006)

⁵⁷CNN-IBN 2006

⁵⁸The Vishakha Guidelines that came about in the aftermath of the Bhanwari rape case became law in April 2013 (PRS Sexual Harassment Bill, 2013)

⁵⁹Marin 2013

⁶⁰Indian law after Mathura, forbids revealing the name of victims unless the family concedes after death. Nirbhaya means “Without Fear” and is what the victim came to be known primarily as in the media and public.

the night of 16th December, she and a male friend were returning home after a movie screening. Given the scarcity of public transportation in the city, they eventually hitched a ride on a bus that claimed it was headed in the direction of the city center. However, the six men in the bus who had presented themselves as strangers and fellow passengers were in fact known to one another and were in the habit of using this bus to lure unsuspecting victims into being robbed. Nirbhaya, however, provoked a different criminal intent from these men.

The conductor closed the doors of the bus. He closed the lights of the bus and came towards my friend and started abusing and beating him. They held his hands and held me and took me to the back of the bus. They tore my clothes and raped me in turns. They hit me with an iron rod and bit me on my entire body with their teeth. They took all belongings, my mobile phone, purse, credit card, debit card, watches etc. Six people raped me in turns for nearly one hour in a moving bus. The driver of the bus kept changing so that he could also rape me. [...] Half of the time I was unconscious, but whenever I came to consciousness they beat me up. My friend tried to save me but these people beat him every time he came forward to save me. They also beat him with an iron rod and hit him in the head.⁶¹.

Nirbhaya and her friend were eventually thrown out of the bus on to the side of the road and the police only arrived to take them to a hospital 30 minutes after they were abandoned. Nirbhaya's friend later reported that they were ignored by people who passed them on the street in their dire condition.⁶² Nirbhaya eventually was taken to a local hospital and treated for her injuries and then eventually airlifted to Singapore, where she finally succumbed to her injuries 13 days later.

XI. PROTESTING INJUSTICE

The brutality of the rape and her physical conditions grabbed headlines and newspaper coverage beginning December 18th and combined with the media coverage, students and women primarily, took to the streets in every metropolitan city in the country.⁶³ These protests did not let on and students persevered in their rallies and marches for over 3 weeks, from the date of the rape till past New Year's. Some of these protests were met with force "when police had charged with batons, fired water cannons and teargas in clashes with protesters" while "A sizeable area in downtown Delhi was plunged into a security lockdown with India Gate and the Raisina Hills a strict no-go area in the aftermath of the young student's death in Singapore, drawing condemnation from protesters."⁶⁴ This reaction by the government faced adverse reactions from the protesters who had remained anti-violent for the duration of the protests. As one protester stated, "This is insensitivity. There is complete lock down. You have the metro stations shut. You have a road

⁶¹Nirbhaya's testimony to a magistrate in Delhi prior to her death (Marin 2013)

⁶²Sengupta 2012

⁶³Economic Times 2012

⁶⁴Ibid

completely blocked. This is undemocratic.”⁶⁵ This intense civic agitation that was broadcast both nationally and internationally ensured speedy government action.

To fit the theory posited in the earlier section of this paper however, these protests have to be feminist in nature. How then does one discern true motive in protesting when you have mobilization that is impromptu? This is not an underground resistance movement that planned and organized their protest, mobilization, and demands. This protest came about because of a visceral reaction to the singular incident of focus here. We cannot therefore assume that everyone who participates is motivated entirely by feminist concerns. This is where the very critical differentiation that Htun and Weldon make between women’s movements and feminist movements comes into play. Are the students protesting because they want to protect women’s rights or because they subscribe to a feminist ideology that undermines the patriarchal structure in place? One way to discern this without interviewing participants is the content of the protest signs and also the manifestos submitted by activist groups. The primary manifesto that was submitted by the People’s Union of Civil Liberties presents a very comprehensive approach to fighting sexual assault that addresses the underlying power structures that need to be addressed if one must fight VAW.

(...) we would like to state that it is imperative that the above exercise needs to be done for all cases of sexual assault not just “extreme” or “aggravated” cases as it would be unscientific to look at only one end of the spectrum instead of seeing the continuity in sexual offences which if unaddressed ultimately lead to sexual crimes of an extreme nature. Also it is important that this exercise which is being undertaken by 30 years addresses all dimensions including the definitions of sexual assault and rape, sentencing, the criminal justice system, the command responsibility, accountability and grievance redressal measures, compensation, reparation and rehabilitation of the survivor, long term structural issues and budgeting.⁶⁶

The PUCL Submission is critically aware of the means by which sweeping legislative change can marginalize minority men and men of lower-castes, the outdated notion of “modesty of women” as opposed to bodily integrity, the gender neutrality of the victim, lowering the age of consent to safeguard against communal and moral policing and the systematic failure in the enforcement of laws and procedures. They are also cognizant of the fact “that the increasing violence and sexual assaults against women cannot be addressed by mere legislative changes. By its very nature law steps in only after the event, by which time the damage is already done and the task left is only establishing culpability and imposing punishment.”⁶⁷ The PUCL Submission, amongst others was critical in shaping and influencing the recommendations made by the Ad Hoc Legal Committee (which will be further discussed further down) set up in response to the death of Nirbhaya. The organizations therefore seem rooted in traditional feminist thought and therefore is congruent with the initial step posited in the movement.

⁶⁵This was in reaction to the government shutting down public transportation in an attempt to control and constrain the public protests. (Ibid)

⁶⁶PUCL 2

⁶⁷PUCL 2

Do the protesters accept this feminist ideology? Given that the movement snowballed and drew in more than the initial group of women’s activists, what were the motivations behind the crowds who joined in? They don’t formally submit documents and manifestos that we can analyze, so we must rely on their protest signs for a brief insight into their motivations. As is evident in the attached images, the signs rely on a multitude of imagery and reasoning to protest VAW. While some rely on the assertion of rights⁶⁸ because “The world belongs to me too!” and the intrinsic wrong in violence, “Enough is Enough! No more Violence’, others situate the wrong in locating women within the locus of their relation to other men, as mothers, sisters and daughters⁶⁹. This latter approach therefore, seems to rely on rhetoric that values women only in relation to the men in their lives. There are multiple consequences to this, from devaluing women in their own right to deeming only those women situated within the ‘accepted bounds of society’ as worthy of protection. That being said, it is worth restating the original disclaimer, that in the absence of actual interviews and ethnographic research, this claim about underlying subtext is mere rhetorical speculation but the qualitative analysis allows us to at least hypothesize about this, unlike the statistical model. There is a strong fear therefore that the movement, while being organized by feminist organizations, has in fact been co-opted by women’s movements.

Figure 11: *Women Protesting VAW*



Figure 12: *Protesting VAW in India*



⁶⁸Manipur Update 2012

⁶⁹Dash 2012

XII. GOVERNMENT ACTIONS

Moving beyond the protesters, the central government responded to the crime and protests in multiple forms; medical treatment for the victim and financial support for the family, police repression of the protests, speedy trial for the accused and the establishment of the Ad Hoc Legal Committee that would advise the government on amending the Indian Penal Code. However, at each level, these actions by the government need to be further examined to understand whether these decisions were motivated out of a rational need to preserve their political interests or a feminist underpinning to help better the lives of women and other citizens. What is interesting to note however, is that the law was proposed in Parliament by the Ministry of Home Affairs and by the Union Minister Sushilkumar Shinde, not the Minister responsible for Women and Child Development, Krishna Tirath. The issue of amending the Criminal Law in Parliament was considered a security issue, not a feminist issue. This section of the legislative process therefore isn't congruent with the statistical model. What then are the implications of this?

The decision to airlift the victim to Singapore for medical treatment is mired in controversy,⁷⁰ with independent medical experts claiming that the shift was entirely unnecessary and a political move as “those at the top felt that public reaction would be less severe, were her death to occur out of the country”⁷¹. Nirbhaya went into cardiac arrest mid flight, a risk that medically is a strong possibility given the air pressure in flight, and she never came out of the coma, eventually succumbing to her injuries in Singapore. The government however claims that this decision was entirely medically motivated and not as a reaction to the intensifying protests that were overwhelming the police in the streets. Given doctor-patient confidentiality, the doctors on Nirbhaya's case will be unable to disclose whether they did in fact advise airlifting her out, and therefore this remains a matter of speculation. The speedy trial for the accused while immensely commendable and not to be scoffed at, raises questions about whether speedy trials only come about when under political duress. Was the speedy trial and judgment another “media by trial” or was it a reflection of stronger institutions and better bureaucratic implementation in a post-Mattoo world? By September 2013, the Delhi police had recorded 1121 rape cases in 2013 year itself, an exponential increase from 2011 when only 468 cases were reported in the entire year.⁷² This increase was heralded as a sign that the new law and the increased dedication to fighting sexual assault was a success due to increased reporting.⁷³ However, if we take into account conviction rates, this figure might seem less positive. In 2012, of the 706 rape cases that were reported in Delhi, only 1 resulted in a conviction- that of Nirbhaya's.⁷⁴

⁷⁰Perappadan 2012

⁷¹Quote from an anonymous government official (Nalapat 2012)

⁷²Times of India 2013

⁷³Assumptions have to be made regarding increased cases as these could be due to better reporting and therefore positive outcomes or increased violence and therefore negative outcomes. In this case, given that there seems to be no reason for this exponential increase in violence, we find logical support for believing that rape reporting is on the rise.

⁷⁴Gates 2013

A Supreme Court lawyer blames the police investigation process, “Low conviction rates in rape cases are primarily a result of the low quality of police investigation,” while others blame the criminal justice system; “The number of courts, judges and prosecutors is grossly inadequate, leading to trials that last years, intimidation of victims and witnesses, and the dropping of many cases before judgment.”⁷⁵ This seems to therefore indicate that the entire legal system would require an overhaul and while the Criminal Amendment Act of 2013 is an immensely progressive step in the right direction, legislation is of little use in a system where the institutions are severely underdeveloped and prone to political capture.⁷⁶ Most likely, it is the result of weak institutionalization all around but worth further investigation.

Political co-optation rears its head in other arenas too, including the very nature of the Criminal Amendment to the Indian Penal Code. Initially, right after the rape, political leaders from across the spectrum were quick to denounce the crime and call for accelerated justice, which in many cases meant asking for the death penalty for the accused.⁷⁷ Leaders in the Rajya Sabha discussed the matter in session and called the Union Home Minister Sushilkumar Shinde to the floor to enquire after the precautions being taken. Shinde outlined increased security and better patrolling along routes where women worked night shifts as well as an accelerated trial. This was in addition to the Union Minister setting up 5 fast track courts to try only rape and sexual assault cases.⁷⁸ This quickly devolved into a blame game among politicians with the Leader of the Opposition accusing Sheila Dixit, Chief Minister of Delhi, of being unable to provide for the citizens of Delhi and the CM’s party responding with the BJP’s inadequacies in protecting women in the states of Gujarat and Madhya Pradesh amongst others. The Union Ministry responded by setting up the Ad Hoc Legal Committee headed by a senior retired Judge, Justice Verma, who were tasked with providing the Government with recommendations for the new Amendment. The Verma Report as it came to be known was met with resounding approval by civic society and the women’s groups whose input had been requested. This very comprehensive report asked to lower the age of consent, change the language of sexual assault in India, abolish the death penalty in an attempt to reduce rape-murders, criminalize marital rape, include the Armed Forces under custodial rape and demand more stringent punishment for the violent act amongst others.⁷⁹ Guided by the recommendations of the Ad Hoc Verma Committee the Home Ministry introduced the Criminal Amendment Act, 2013 in March to the Lok Sabha (Lower House).

However, when the Lok Sabha voted on the Criminal Amendment Act in March, there was surprising unity amongst the very same actors who had spent the preceding 4 months blaming the opposition parties for the state of security regarding women in the country. The Ordinance that was passed in February 2013

⁷⁵Gates 2013

⁷⁶As in the case of celebrity convictions and those committed by the elite re: Manu Sharma, Santosh Singh and Vikas Yadav. (Sengupta 2006)

⁷⁷The Telegraph 2012

⁷⁸Hindustan Times 2012

⁷⁹Verma Committee Report

as a precursor to the Amendment was roundly denounced for being “a mockery of the letter and spirit of the Justice Verma recommendations.”⁸⁰ The Report and its recommendations were missing from the Home Ministry website for a duration of a week and the Law that was eventually introduced to replace the Ordinance made no updates and was passed with little to no debate with less than a day on each floor and only two days between houses.⁸¹ This Amendment doesn’t criminalize marital rape, doesn’t lower the age of consent, doesn’t include the Armed Forces under custodial rape and upholds the Armed Forces Special Act of 1958, retains the death penalty and doesn’t change the medico-legal tests required to test the victim.

The exclusion of marital rape and military rape as well as the inclusion of the death penalty lead to potentially statist theoretical implications. Military rape has been as a sign of state oppression and control in feminist theory for many years⁸² and allowing the Armed Forces to retain control over the sexual assault process is just a way to allow the state to retain control over those living within their borders. The Army usually is stationed in such areas when there is a threat of separatism or dissent from the state and allowing the Army extra-constitutional benefits is a means of punishing these areas while simultaneously retaining complete control over these zones. The women in these areas are not considered full citizens therefore.⁸³ By not relinquishing state control over these zones, the Parliament seems to be signaling that while they may be conceding to civic demands, they are still unwilling to reform the patriarchal subtext of the state. Similarly with marital rape, the implications seem to be that the state is unwilling to change the societal concept of marriage which is construed as the sexual relations between a man and a woman and completely within the private domain. With marital rape, the assumption is that the sexual contract is entirely private and at best a civil case. The state is unwilling to recognise that power structures in society are reflected within a marriage and enacted upon the bodies of women. Furthermore, the retention of the death penalty has legal implications as well as theoretical. Legally, the prospect of the death penalty could mean that rapists are more likely to kill their victims to prevent identification.⁸⁴ Additionally, convictions might decrease due to the severity of the death penalty.⁸⁵ Theoretically however, a case can be made for how the death penalty severely pathologizes individuals and therefore rejects the notion that VAW and sexual assault is a systematic problem reflective of power imbalances and structural violence that is wreaked on the bodies of the weak and marginalized. By shifting the focus onto the individuals, the 6 accused in the Nirbhaya case for instance, the state circumvents its own complicity in the crime, in perpetuating a system where individuals wreak havoc on one another but by doing so, reflect structural realities.⁸⁶

⁸⁰Bekhauf Azaadi Campaign

⁸¹PRS Bill Track

⁸²Enloe 1960

⁸³Human Rights Watch 2008

⁸⁴PUCL

⁸⁵Bekhauf Azaadi Campaign

⁸⁶Bhan 2013

XIII. WHERE TO FROM HERE

Giving the speculative nature of much of this data, it is very difficult to make causal claims. The questions that are raised here however, are worth deeper insight, both statistically and qualitatively. For future analysis therefore, finding an instrumental variable for gender-mainstreaming might be a good means of subverting the endogeneity problem discussed earlier. Additionally, a Zero-Inflated Poisson Model could technically address the issue of overdispersion of observations with no VAW policies, but the panel nature of the data might not be conducive for a ZIP Model. The overdispersion could possibly be a product of the time variable or there might be a distinct data generating process that undergirds the dispersion.

Qualitatively however, much more needs to be done. Initially, systematic data needs to be gathered on both the nature of the feminist movements and the inter-parliamentary proceedings under which the Amendment was passed. Ethnographic interviews, content and textual analysis should be the primary research design for investigating the feminist movement in India. However, elite interviews might not allow for the level of insight that would be required to understand political bargaining better. The political actors involved have vested interests in obscuring their motives if even remotely nefarious and therefore any conclusion that must be drawn will rely entirely on assumptions made on observable behaviour. Additional information about voting lines and parliamentary negotiations would help provide insight however, into the political bargaining process. These records are unavailable online and must be investigated in the field therefore. It is also necessary to better understand what the police investigation process and the judiciary process is to theorize about where these cases are being held up? Are these hold ups bureaucratic under-institutionalization or additional empirical support for the systematic violence enacted upon women?

Additionally, how does the Indian case compare to other countries? Can political co-optation occur in countries with higher levels of institutionalization or lesser heterogeneity? What about in countries where gender parity is more equitable such as the Scandinavian countries? Within India, there exists a need to disaggregate the feminist movement along class and ethnic lines to better understand the role of minority women and whether they are represented in the struggle for women's rights. Finally, what is required for a state to truly absorb the feminist ideology and thereby respect all women regardless of status, class, ethnicity, caste and identity? Does the state itself need to be overhauled? How would one do this? Would there need to be a social revolution of sorts, a resorting to extra-constitutional non-electoral means to bring about societal inclusion? And would this result in inclusion of the marginalized or just marginalization along a different axis?

XIV. METHODOLOGICAL APPENDIX

The Family being used in this analysis is a modified Bernoulli Distribution⁸⁷. The Bernoulli distribution is extended to apply to multiple categories and therefore can be considered a categorical distribution. Our interest lies in determining the value of p_i , the parameter of interest in this analysis such that⁸⁸

$$f(y_i) = \begin{cases} p_{i1}, & \text{if } y_i = 1 \\ p_{i2}, & \text{if } y_i = 2 \\ \vdots \\ p_{i9}, & \text{if } y_i = 9 \\ p_{i10}, & \text{if } y_i = 10, \end{cases}$$

The Family therefore is:

$$f(y_i) = p_{i1}^{I_{i1}} p_{i2}^{I_{i2}} \dots p_{i9}^{I_{i9}} p_{i10}^{I_{i10}}$$

where $p_{i1}, p_{i2}, \dots, p_{i9}, p_{i10}$ are parameters between 0 and 1

and where $I_{i1}, I_{i2}, \dots, I_{i9}, I_{i10}$ are dummy variables indicating each category.

I then generate my linear model which includes the variables

- Wom = x_1
- Fem = x_2
- Auto = x_3
- Str = x_4
- Min = x_5
- CEDAW = x_6
- Year = x_7
- Region = x_8
- Auto interacted with Str = x_9

⁸⁷Much of this has been sourced from Kropko, Jon. Models for Ordinal Variables. Lecture Slides. 29 October, 2013

⁸⁸We have 10 values to our categorical variable and therefore we generate 10 values of the parameter of interest.

y_i^* represents a latent continuous variable that exerts an underlying pressure (therefore latent) on the Dependent Variable of interest (either VAW Index or Ministry) to be a category higher. This is therefore modeled as follows

Linear model:

$$y_i^* = \alpha + \beta_1 x_{i1} + \beta_2 x_{i2} + \beta_3 x_{i3} + \beta_4 x_{i4} + \beta_5 x_{i5} + \beta_6 x_{i6} + \beta_7 x_{i7} + \beta_8 x_{i8} + \beta_9 x_{i3} x_{i4}$$

To create our Generalized Model, we must combine the Linear Model with our parameters of interest. However, p_i only takes on values from 0 to 1 and y_i^* can take on the value of all Real Numbers. We must therefore create a link function that accepts all Real Numbers in its Domain but has a range only between 0 and 1.

Link function:

$$p_{im} = g(y^*) = \frac{1}{1 + e^{-(C_m - y_i^*)}} - \frac{1}{1 + e^{-(C_{m-1} - y_i^*)}}$$

where C_m is an arbitrary cut point that determines when y^* moves onto the next category.

Our Generalized Linear Model therefore is as follows

GLM:

$$f(y_i) = p_{i1}^{I_{i1}} p_{i2}^{I_{i2}} \dots p_{i9}^{I_{i9}} p_{i10}^{I_{i10}}$$

Likelihood:

$$\begin{aligned} L(p_{i1}, \dots, p_{i10} | y_i) &= \prod_{i=1}^N p_{i1}^{I_{i1}} p_{i2}^{I_{i2}} \dots p_{i9}^{I_{i9}} p_{i10}^{I_{i10}} \\ &= \prod_{i=1}^N \prod_{m=1}^M p_{im}^{I_{im}} \end{aligned}$$

Log-likelihood

$$\begin{aligned} \ell(p_{i1}, \dots, p_{i10} | y_i) &= \ln \left(\prod_{i=1}^N \prod_{m=1}^M p_{im}^{I_{im}} \right) \\ &= \sum_{i=1}^N \sum_{m=1}^M I_{im} \ln(p_{im}). \end{aligned}$$

such that⁸⁹

$$p_{im} = g(y^*) = \frac{1}{1 + e^{-(C_m - y_i^*)}} - \frac{1}{1 + e^{-(C_{m-1} - y_i^*)}}$$

⁸⁹From our Link Function

and⁹⁰

$$y_i^* = \alpha + \beta_1 x_{i1} + \beta_2 x_{i2} + \beta_3 x_{i3} + \beta_4 x_{i4} + \beta_5 x_{i5} + \beta_6 x_{i6} + \beta_7 x_{i7} + \beta_8 x_{i8} + \beta_9 x_{i3} x_{i4}$$

If the GLM only had one variable, we could maximise the function through the calculation of critical points and the second derivative. We would then solve for the variable by plugging the Global Maximum back into the function and therefore deriving estimates for the coefficients of interest. However, given that we have multiple variables of interest, calculating critical points and partial derivatives require the construction of Gradients and Hessians. While a laborious process (and inconceivable after a certain number of data points) by hand, computers can employ a hill-climbing algorithm to maximise and solve the given functions.

When we run an Ordered Logistic Model in Stata, Stata runs a version of the Newton-Raphson Algorithm⁹¹, one of many hill-climbing algorithms, to maximise the GLM represented. The Newton-Raphson Algorithm runs iterations to reach a stationary point in the function provided. When the stationary point is reached, it is assumed that the function has been maximised. It can then solve the function and provide estimates for the coefficients of interest.

Once the GLM has been solved and estimates of co-efficients have been calculated, we can proceed to estimate quantities of interest. The primary quantity of interest that we calculate in the preceding analysis is the Marginal Change in probability. Marginal Changes in Probability are derived by calculating the Partial Derivative of the GLM with respect to the variable of interest.

So for instance, the formula for the Marginal changes in Probability with respect to Ministry (x_{i5}) is:

$$p_{im} = g(y^*) = \frac{1}{1 + e^{-(C_m - y_i^*)}} - \frac{1}{1 + e^{-(C_{m-1} - y_i^*)}}$$

$$\frac{\partial p_{im}}{\partial x_5} = \frac{\beta_5 e^{-(C_m - y_i^*)}}{\left(1 + e^{-(C_m - y_i^*)}\right)^2} - \frac{\beta_5 e^{-(C_{m-1} - y_i^*)}}{\left(1 + e^{-(C_{m-1} - y_i^*)}\right)^2}$$

⁹⁰from our Linear Model

⁹¹Kropko *Math For Social Scientists*

XV. DATA APPENDIX

The regions and their codes are as follows:

- Africa (except for North Africa) = 1
- Asia (except for the Middle East) = 2
- North and Central America = 3
- South America = 4
- Western Europe = 5
- Eastern Europe = 6
- Oceania = 7
- Middle East and North Africa = 8

While a Dummy Variable would have been preferable for statistical purposes, given the number of categories and the time constraints, treating it as an unordered categorical variable was more feasible. It must be noted however, that there are only 8 observations for Oceania (Australia and New Zealand) which could bias the results for that specific region of the world.

Replicated below are the Coefficients of the three primary alternate models run to determine the causal variables of note regarding VAW Policies.

```

-----
Variable | Model 1 Model 2 Model 3 PCSE
-----+-----
VAW |
Year |
1985 | 1.857** 1.912** 1.912**
1995 | 3.925*** 3.959*** 3.959***
2005 | 6.903*** 6.836*** 6.836***
|
Wom | -2.053 -2.904 -1.095
Fem | 15.613 15.037 14.095 0.384
Str | 0.010 0.106 0.106 0.182
Ministry | 0.588* 0.597** 0.597** 1.779***
Auto | 0.873 1.186*** 1.186*** 0.719*
CEDAW | 0.062 -0.098 -0.098 0.74
Region |
2 | 0.510 0.617 0.617 0.11
3 | 3.941*** 3.927*** 3.927*** 2.285**
4 | 2.407*** 2.554*** 2.553*** 1.476
5 | 2.169*** 2.255*** 2.255*** 0.597
6 | -1.719* -1.655* -1.655* -0.31
7 | 3.867*** 4.072*** 4.072*** 2.4*
8 | -1.653* -1.444* -1.444* -0.25
|
Auto#Str |
0 1 | -0.976
0 2 | -2.072
1 0 | -0.650
1 1 | (omitted)
1 2 | (omitted)

```

Find attached some other graphs and pictures of potential interest that could not be included in the body of the paper.

Figure 13: Average Marginal Effects of Autonomous Movements by Region

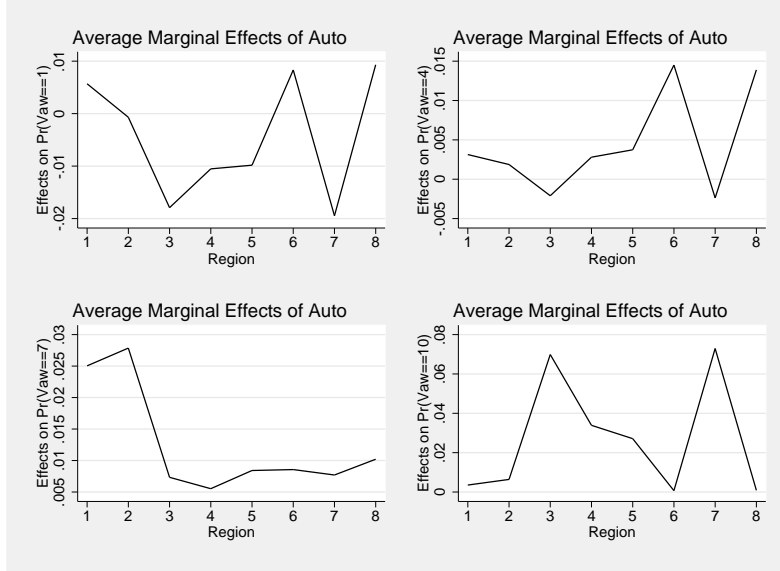


Figure 14: Average Marginal Effects of Gender Mainstreaming by Region

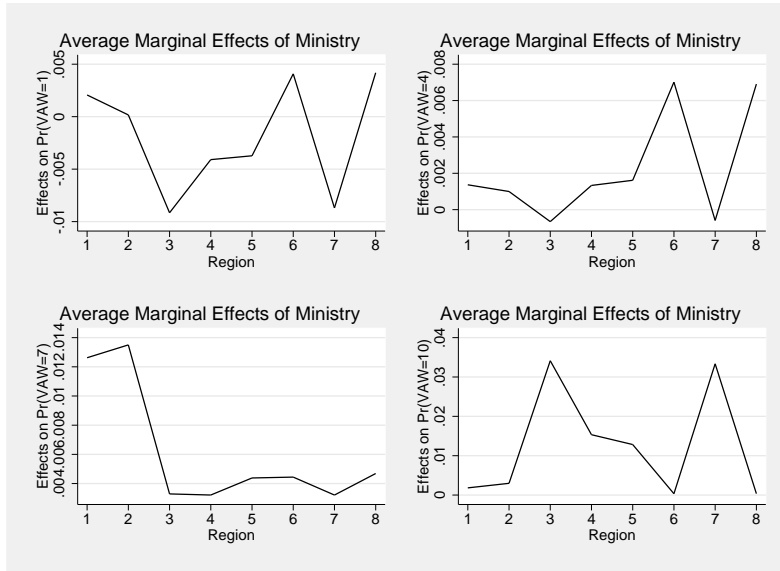


Figure 15: Average Marginal Effects of CEDAW Ratification by Year

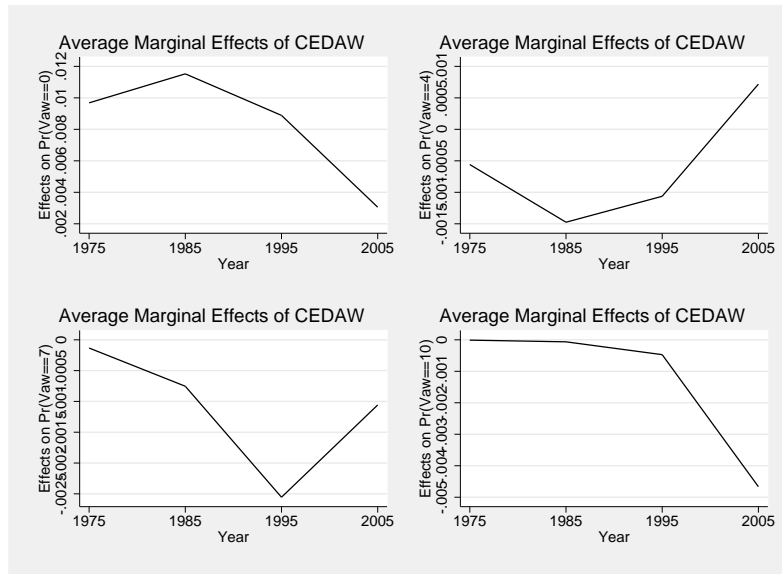


Figure 16: Protest Signs



Figure 17: Protesting Police Repression



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