Marital Rape Law Evolution: The Redefining of a Social Problem

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Current State of the Issue

• 1 female raped every 6 seconds in U.S.
  » Tjaden & Thoennes, 2006

• 84% acquaintance or intimate partner
  » Tjaden & Thoennes, 2006

• 10% to 14% married women raped
  » Bergen & Bakovec, 2006
Sexual Assault as Control and Harm

- Control and dominance
- Loss of freedom, security, autonomy
- Posttraumatic stress disorder / rape trauma syndrome
- Possible pregnancy, sexually transmitted infections, physical injury
Marital Rape: Additional Consequences

- Breakdown in interpersonal relationships
- Fear of reprisal if reported
- Fear of not being believed
- Negative impact on children
- Increased likelihood of multiple attacks
Marital Rape Law History

• Prior to 1960s:
  – Marital rape as an impossibility
  – Husband’s marital rights / wife’s marital duties
  – No prosecution / consent a non-issue

• 1960s:
  – “Marital right” over-turned
  – “Marital privacy” declared
Marital Rape Law History

• 1970s:
  • General mistrust of government
  • Changing family patterns / gender ideals
  • Women’s rights raised
  • Feminist lawyers
  • No-fault divorce laws
  • Defeat of marital privacy law
  • Domestic Violence (DV) laws
• 1978: Oregon v. Rideout
Recent Marital Rape Law

• 1993: criminalized in all 50 states
• 1994: Violence Against Women Act
• 2000: VAWA reauthorization- included dating violence and stalking
• 2005: VAWA reauthorization- included sexual assault within marriage
Persistent and Current Problems

• Marital rape as foreign concept
• Reluctance to label as crime
• Reluctance to believe in violation / damage
• Considered “less severe”
• Circumventing of Rape Shield laws
• Infrequent reporting of sexual assault
Social Work Implications

- Marital rape as criminal offense
- Additional dynamics of marital rape
- Domestic violence cases may include marital rape
- Show empathy / belief in client
- Control personal and cultural biases
References