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Sex and the State: Sexual Politics in South Carolina in the 1970s

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SEX AND THE STATE: SEXUAL POLITICS IN SOUTH CAROLINA IN THE 1970S

by

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DEDICATION

I dedicate this dissertation to the thousands of amazing women who fought so hard for those of us who came after. Sisterhood is Powerful.

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This dissertation would not have been possible without the ongoing encouragement and advice from a number of people. Thank you first to Marjorie Spruill, whose belief in me and my work was instrumental to this final product. Thank you also to Patricia Sullivan for the never-ending support and thoughtful insights.

This dissertation was ultimately possible because of the love and support given to me by my ridiculously supportive husband, Brad Gunter, who moved halfway around the world to help me make my dreams come true. The friends I made in the department were always ready with a word of encouragement or a song to help ease the way. Jennifer Taylor, my southern feminist soul mate, endured numerous phone calls and always gave me a new way of thinking about a problem. Robert Greene, Rochelle Outlaw, and Kate Crosby have been steadfast friends and work partners, you'll never know how much you've helped me. My parents instilled in me a belief that I could be anything I want, and for that I am always in their debt. My mother, Janice Jordan, is the inspiration for my research. A staunch feminist on the front lines in the anti-rape movement in the 1970s, I began this journey looking to tell her story.

ABSTRACT

Sex and the State: Sexual Politics in South Carolina is an investigation of the interactions of feminists and the state from 1966 through 1985. Nationally, women cooperated with officials of state agencies to push their agenda of self-sovereignty. Using South Carolina as a case study highlights the inherent power struggles inherent in these maneuverings. Inspired by the Second Wave of the women's movement, activists across South Carolina, in both small towns and urban settings, worked with the state and manipulated state reactions to suit their needs. The work focuses on four key aspects of the women's movement including: the abortion rights movement, the anti-sterilization movement, the anti-rape movement, and the anti-wife battering movement. Through these similar, but different, crusades the actions of women who battled the system in pearls and southern accents are highlighted. Women across the country were in conversation with the state, calling for their basic rights of citizenship: life, liberty, and the pursuit of happiness.

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CHAPTER 1

INTRODUCTION

"No woman can call herself free who does not own and control her body."

–Margaret Sanger, 1924

On April 1, 1970 twenty people staged a protest against the Miss Basketball USA pageant at the University of South Carolina. Calling themselves the "Grimké Sisters Union" after two heroic women from their state famous for fighting against slavery and for women's rights in the antebellum period, they sought an end to the objectification of bodies—both male and female. Union member Barbara Herbert said, "People are not animals to be judged by the parts of their bodies. Bodies should not be a commodity—neither the skill of athletes nor the bodies of women should be sold." The group distributed flyers and were threatened with arrest for littering and being a public nuisance. They stood outside the newly built coliseum at the University of South Carolina and angered the close to ten-thousand people who were attending the pageant, many of them members of the military. In a letter to Jim Mullins, the pageant coordinator, the group wrote, "As women we are proud of our bodies, but we resent exploitation of our

sexuality in the marketplace."[12] With the dawn of the new decade, the women's movement had arrived in South Carolina.

The 1970s were a watershed decade for women when it came to rights related to their bodies. Situated between the triumphs of the Civil Rights Movement in the 1960s and the triumphs of social conservatives in the 1980s, the 1970s represented a dynamic span of time in which forces of liberalism and reaction struggled for influence, an incredibly important decade that has only recently begun to be studied. By focusing on the decade of the 1970s in South Carolina I can closely examine the way feminists struggled to reform state policies and laws that affected their bodies and those of other women, as well as how they transformed prevailing ideologies regarding autonomy and physical dignity. This is an exploration of the changing roles of women in the South, specifically, and the country more broadly. On the heels of the Civil Rights Movement and moving through the 1970s women in South Carolina began to agitate for civil rights and an active feminist community emerged.

South Carolina makes for a particularly suitable case study because of the combination of a strong feminist presence and powerful obstacles to be faced. Feminists acted to bring about reform in a staunchly conservative state where lawmakers – the vast majority of them male--defended patriarchal laws and practices and were steeped in "Old South" gender and racial norms. This state consistently ranked high in violence against women and low in representation of women in either elected or appointed positions.

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[2] "Women's Liberation Opposes Contest," *The Gamecock*, April 3, 1970.

[2] "Women's Liberation Opposes Contest," *The Gamecock*, April 3, 1970.

Despite this, South Carolina feminists managed to make life for women better than it was.

Sex and the State: Sexual Politics in South Carolina is an investigation of the interactions of feminists and the state from 1966 through 1985. During those years, at the national level women cooperated with officials of various agencies to push their agenda of self-sovereignty. At the same time, activists worked at the state and local level to achieve their goals. In South Carolina, most who participated in the push for equal rights for women considered themselves feminists, but some did not. Yet, during the second wave of the women's rights movement, feminist ideology infiltrated all strata of American society, influencing even those who felt they were outside the movement.

By examining two types of feminist goals—reproductive rights on the one hand and domestic violence and rape on the other—the two are contrasted. This contrast makes it evident that the state is much more concerned with controlling the reproductive capacities of women than protecting their physical safety. The four key aspects of women's push for bodily autonomy that are explored are the abortion rights movement, the anti-sterilization movement, the anti-rape movement, and the anti-wife battering movement.

Southern feminists were in conversation with the state, calling for their basic rights of citizenship: life, liberty, and the pursuit of happiness. Each aspect of the movement utilized varying approaches and was composed of women from all races and classes. Through these similar, but different, undertakings the actions of women who battled the system in pearls and southern accents are highlighted.

In Columbia, South Carolina a core group of feminists joined to form a new chapter of the National Organization for Women (NOW) in 1972. Together they battled against entrenched policies and legal restrictions that kept them from enjoying full citizenship. Individually they tended to focus on issues that either impacted them personally or held some aspect that they were suited to address. Law school students, like Victoria Eslinger and Malissa Burnette, turned their attention to rewriting existing laws and creating safe spaces for women. Professional women like Eunice "Tootsie" Holland and Mary Heriot met with office holders and spoke with them about changing policies in regard to women. Women like Jayne Crisp, a homemaker, and Mary Ann Sens, a graduate student, invented procedures to help victims of sexual assault.

Women from outside the movement also instituted great changes, understanding the feminist ideal that they deserved equal protection under the law. Dorothy Waters, Carol Brown, Marietta Williams, Virgil Walker, and Shirley Brown (no relation) were victims of a coerced sterilization practice for Welfare mothers and they banded together to challenge the system. Working with the American Civil Rights Union and the Southern Poverty Law Center, Walker and Shirley Brown sued Dr. Clovis Pierce for violating their civil rights, the first women to sue their physician in sterilization cases. Williams and Walker also joined a class action suit against the Department of Health, Education, and Welfare (HEW) that created federal guidelines for sterilization.

Southern feminists were recognized nationally for their strength and character. Judy Lightfoot, chairwoman of the board of directors of NOW, said, "Southern women have provided some of the most inspiring leadership we have in the movement because of their cautious but solid character." Though they often used more traditional channels to

achieve change, feminists in the South had accomplished nearly as much as those in more liberal regions of the country. Lightfoot continued, "Unlike the knee-jerk liberals of the North who jump into every cause for the underdog, Southerners tend to look before they leap."[3] And once they accepted a challenge they stood firm in their convictions. Southern feminists advocated like Ginger Rogers danced: backward and in heels.

Historian Katarina Keane argued, "Southern women – particularly Southern white women – are often portrayed as 'magnolias' who have deployed a 'velvet hammer' or 'stealth,' rather than direct activism, to achieve their goals, while the activism of women of color is simply ignored altogether."[4] In fact, the opposite was true for the work done by Southern feminists. They were organized and persistent. They often invented work-arounds to issues like illegal abortion that seemed to have no solutions by setting up referral services for out-of-state clinics where it was legal. They were unafraid of facing down powerful institutions like the American Medical Association. They used the legal system to their advantage. Southern feminists banded together and learned how to protect each other from physical harm and to punish those who harmed them.

Like in the South, feminists across the nation made remarkable gains in the 1970s. But, they encountered growing opposition from conservatives weary of social change and

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[3] "NOW Chairman Calls on Textile Workers," *The Aiken Standard*, September 27, 1974; Katarina Keane, "Second-Wave Feminism in the American South, 1965-1980" (University of Maryland, 2009).

[4] Keane, "Second-Wave Feminism in the American South, 1965-1980," 10.

government support for it. It is an era that scholars have only recently begun to examine in depth, but is being interpreted as a transformative decade.[5] Numerous works have been published concerning the second wave of the feminist movement, many of which focus on the movement's failures, particularly the failure to secure ratification of the ERA– one of feminists' central goals.[6]

This dissertation joins the ranks of works which explore the movement's successes, particularly the efforts of feminists in South Carolina who accomplished much as they sought to change state laws and policies regarding violence against women and demanded liberation from government control over their sexuality and reproduction.[7]

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[5] Robert O Self, *All in the Family: The Realignment of American Democracy Since the 1960s* (New York, N.Y.: Hill and Wang, 2012); Bruce J Schulman and Julian E Zelizer, *Rightward Bound: Making America Conservative in the 1970s* (Cambridge, Mass.: Harvard University Press, 2008); Beth L Bailey and David R Farber, *America in the Seventies* (Lawrence: University Press of Kansas, 2004); Peter N Carroll, *It Seemed Like Nothing Happened: America in the 1970s* (New Brunswick, N.J.: Rutgers University Press, 2000); Bruce J. Schulman, *The Seventies: The Great Shift in American Culture, Society, and Politics* (Da Capo Press, 2001).

[6] Jane J Mansbridge, *Why We Lost the ERA* (Chicago: University of Chicago Press, 1986); Donald G. Mathews and Jane Sherron De Hart, *Sex, Gender, and the Politics of ERA: A State and the Nation*, 1st edition (New York: Oxford University Press, 1990).

[7] Sara M. Evans, *Tidal Wave: How Women Changed America at Century's End* (New York: Free Press, 2003); Ruth Rosen, *The World Split Open: How the Modern Women's*

Changing laws was one step; changing minds was another. One of the most lasting and far-reaching successes of the women's movement was the change they wrought in prevailing ideologies.

According to historian Marjorie Spruill, feminism in the South must have been treated and experienced differently from the rest of the country. She stated that although there was a healthy feminist movement in South Carolina in the early 1970s, "traditional views concerning women and their role in society were deeply ingrained, [and] many people were suspicious of feminism and its goals."[8] The resounding backlash against feminism that began in the 1970s and strengthened in the 1980s casts a shadow over important, lasting accomplishments made during the previous decade including efforts to curb violence against women and to gain what 1970s feminists called "reproductive rights."

Movement Changed America (New York: Viking, 2000); Estelle B. Freedman, *No Turning Back: The History of Feminism and the Future of Women* (New York: Random House, 2002); Alice Echols, *Daring to Be Bad: Radical Feminism in America, 1967-1975* (Minneapolis: University of Minnesota Press, 1989); Nancy F. Cott, *The Grounding of Modern Feminism* (New Haven: Yale University Press, 1989).

[8] "Eslinger, Barron, Heriot, Holland, & Callair," in *South Carolina Women: Their Lives and times*, ed. Joan Marie Johnson and Valinda W. Littlefield, by Marjorie Julian Spruill (Athens, University of Georgia Press, 2012), 373.

Evidence of the widespread acceptance of feminism in the state and South Carolina feminists' determination to make the state government better serve their interests can be seen in the swiftness that chapters of NOW opened statewide. In early 1972, two chapters had formed, the first in January that year at Clemson University. The organizational meeting for the second chapter was held in the state capital of Columbia in February. Hosted by Vickie Eslinger and Mary Heriot, the meeting informed local women about what they could expect from NOW membership.[9] Heriot was not sure if anyone would show up but was thrilled when women filled the meeting space at the local library.[10] Chapters were also formed in Charleston and Greenville that year, feminism was spreading.

Owing to a national spotlight on militant feminism and the local resistance to radical change, southern feminists did their work in plain view, oftentimes adhering to cultural norms of femininity. Because of this, South Carolina feminists were able to be active both within the state and nationally. Members of local NOW chapters attended national conferences and conducted small, community based seminars. They wrote letters

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[9] "Women's Rights Group Formed," *The State*, February 18, 1972.

[10] "Transcript of the Visit of Mary Heriot and Eunice [Tootsie] Holland to the Senior Seminar on the History of the Women's Rights Movement in South Carolina, University of South Carolina," March 26, 2008; Marjorie Julian Spruill, "Victoria Eslinger, Keller Bumgardner Barron, Mary Heriot, Tootsie Holland, and Pat Callair: Champions of Women's Rights in South Carolina," in *South Carolina Women: Their Lives and Times*, vol. 3 (Athens: University of Georgia Press, 2012), 373–408.

to the editor and spoke to media outlets. Women in other organizations helped in the fight.

Women involved with South Carolina chapters of the League of Women Voters, the Federation of Business and Professional Women, the American Association of University Women, the National Welfare Rights Organization, and the Young Women's Christian Association advanced feminist causes. They worked with NOW members through lobbying, fundraising, and education at their own conferences and seminars, both in state and nationally. Some members of these organizations in South Carolina held national positions in their different organizations. Women of this state worked together across organizations to further the rights of all women. While they were successful on many fronts, a powerful opposition was forming in the 1970s. Feminist psychologist Dr. Jean Baker Miller wrote, "A backlash may be an indication that women really have had an effect, but backlashes occur when advances have been small, before changes are sufficient to help many people…It is almost as if the leaders of backlashes use the fear of change as a threat before major change has occurred."[11]

While the state and feminists battled over the Equal Rights Amendment (ERA), which conservatives insisted would eliminate the state's ability to "protect" women, feminists had more success in gaining state lawmaker's aid in adopting reforms that would give greater protections to women. But, some of the liberties gained by women

[11] Susan Faludi, *Backlash: The Undeclared War Against American Women* (New York: Three Rivers Press, 2006), 11.

helped launch the rise of the Religious Right, a political movement in which Christian fundamentalists and evangelicals played a major role. [12] It was in the late 1970s that conservatives began to promote their version of "family values" which emphasized family rather than state protection of women and opposed state efforts to help battered women as "interference." Its emphasis on family values also led to efforts to re-tighten state control over women's bodies, which greatly reduced newly-won freedoms regarding reproduction.

Some historians have argued that the women's movement actually began in the South.[13] In the mid-1960s women across the country had begun speaking out about their desire for equality. A memo emerged from a 1964 Student Nonviolence Coordinating Committee meeting in Waveland, Mississippi. Unsigned, it spoke to the hypocrisy that

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[12] Ruth Murray Brown, *For a Christian America: A History of the Religious Right*, First Edition. (Amherst, N.Y: Prometheus Books, 2002); Dallas A. Blanchard, *The Anti-Abortion Movement and the Rise of the Religious Right: From Polite to Fiery Protest*, Social Movements Past and Present (New York : Toronto : New York: Twayne Publishers ; Maxwell Macmillan Canada ; Maxwell Macmillan International, 1994); Neil J. Young, *We Gather Together: The Religious Right and the Problem of Interfaith Politics*, 1 edition (New York: Oxford University Press, 2015).

[13] Keane, "Second-Wave Feminism in the American South, 1965-1980"; Stephanie Gilmore, "The Dynamics of Second-Wave Feminist Activism in Memphis, 1971-1982: Rethinking the Liberal/Radical Divide," *NWSA Journal* 15, no. 1 (2003): 94–117.

women in the movement were not treated as equals, though they were all fighting for equality of the races. It read in part, "Assumptions of male superiority are as widespread and deep rooted and every much as crippling to the woman as the assumptions of white supremacy are to the Negro."[14] This memo was followed the next year by a paper written by two members of the movement called "Sex and Caste." It was written by Casey Hayden and Mary King, two white women who were members of SNCC and working in Mississippi. Their paper foreshadowed the coming women's movement when they wrote, "We've talked in the movement about trying to build a society which would see basic human problems (which are now seen as private troubles), as public problems and would try to shape institutions to meet human needs rather than shaping people to meet the needs of those with power."[15]

National organizations devoted solely to women's rights began to form in the mid 1960s. The National Organization for Women (NOW) was founded in 1966 at the Third National Conference of Commissions on the Status of Women. The original members were frustrated with the failure of the Equal Employment Opportunity Office to enforce the anti sex discrimination policy in the 1965 Title VII of the Civil Rights Act. Betty Freidan had attended the conference as a writer. Her manifesto, *The Feminine Mystique,* had been published in 1963. After watching the attempts of the female conference attendees she felt compelled to act. After an especially discouraging session at the

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[14] Name withheld, "SNCC Position Paper," November 1964, Civil Rights Movement Veterans website, http://www.crmvet.org/docs/6411w_us_women.pdf.

[15] Casey Hayden and Mary King, "Sex and Caste," 1965.

conference, Freidan invited a group of women to her hotel room to discuss alternate strategies. Rosalind Loring, a conference attendee, and founding member of NOW, was at the impromptu meeting and remembered, "There was a lot of feeling building in a lot of women then, and . . . they were more-or-less ready."[16]

NOW began as a diverse group of twenty-eight women who were focused on full equality of the sexes. By October of 1966, over three hundred women and men had joined the organization and a conference was held in Washington, D.C. to elect officers and write a statement of purpose. The statement began, "We, men and women who hereby constitute ourselves as the National Organization for Women, believe that the time has come for a new movement toward true equality for all women in America, and toward a fully equal partnership of the sexes, as part of the world-wide revolution of human rights now taking place within and beyond our national borders." It was, in essence, a civil rights organization for women.[17]

Smaller feminist organizations formed as well. These groups were considered more radical than NOW, and often referred to themselves as such. The New York Radical Women was founded in 1967. Its founders were seeking more than civil rights for women. They were more interested in overturning the existing patriarchy. The women

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[16] Pearlie Braswell-Tripp, *Real Diamonds & Precious Stones Of The Bible* (Xlibris Corporation, 2013), 19.

[17] NOW, "Founding: National Organization for Women," accessed October 16, 2015, http://now.org/about/history/founding-2/. Quote is found on this blog.

staged an elaborate protest outside the 1968 Miss America Pageant in Atlantic City, spawning similar protests nationally. Their desire was to make the public understand that beauty pageants were demeaning to women, and they crowned a sheep and burned objects of oppression (though not bras). Inside, they were responsible for unveiling the term Women's Liberation to the television watching public when they unfurled a banner at the live taping, thus introducing the movement to the country.[18]

An important aspect of the Women's Liberation movement was consciousness-raising. This consisted of women sitting in a room together and "rapping" about issues. From these consciousness-raising sessions – at which feminists not only identified problems but also talked about how to respond to them--women began to see the need to develop innovative methods of dealing with these problems.

NOW was initially seen as the less radical arm of the women's movement. In the 1960s and early 1970s, it was made up of women who desired to work the system, as some said to become a NAACP for women, using legal channels to challenge existing standards. Women's Liberationists (consisting of several different groups) were wild. They staged elaborate and theatrical events, they burned objects of the oppression on the

[18] Echols, *Daring to Be Bad*; Bonnie J. Dow, *Watching Women's Liberation, 1970: Feminism's Pivotal Year on the Network News* (Urbana: University of Illinois Press, 2014).

nightly news, and they yelled in the face of patriarchy.[19] Southern feminists combined the two approaches. Considering the fact that NOW was considered a radical organization in the South, they approached each issue pragmatically. South Carolina feminist, Keller Bumgardner remembered that, "NOW was considered more radical." Bumgardner was a member of the long established League of Women Voters (LWV) in Columbia.[20] Nancy Moore another member of LWV agreed. She said, "NOW was considered a very radical organization."[21]

Feminists in the South were attempting to make radical changes where radicalism in any form was not only frowned upon, but hated by many. Southern women historically

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[19] For more about the broader women's movement see: Rosen, *The World Split Open*; William H. Chafe, *The Paradox of Change: American Women in the 20th Century* (New York; Oxford: Oxford University Press, 1992); Cott, *The Grounding of Modern Feminism*; Flora Davis, *Moving the Mountain: The Women's Movement in America Since 1960* (Champaign: University of Illinois Press, 1999); Freedman, *No Turning Back*; Carol Giardina, *Freedom for Women: Forging the Women's Liberation Movement, 1953-1970* (Gainesville, Fla.: University Press of Florida, 2010).

[20] "Transcript of the Visit of Keller Bumgardner Barron and Eunice [Tootsie] Holland to the Senior Seminar on the History of the Women's Rights Movement in South Carolina, University of South Carolina," September 18, 2007.

[21] "Transcript of the Visit of Nancy Moore to the Senior Seminar on the History of the Women's Rights Movement in South Carolina, University of South Carolina," April 2, 2008.

had not voiced opinions about reproductive rights or sexual abuse, or being beaten by their husbands. A delicate balance had to be struck between seeking changes that were necessary and not offending too many men in the process, since men still held almost all positions of power. Southern feminists knew that they could only push so far, yet they also knew the time had come for quiet revolution.

In the mid-1970s NOW began focusing on issues other than those they were founded to focus on. It began lobbying for more aggressive laws against violence against women and began to publish and disseminate literature to its affiliates in each state to guide their work. The members of NOW in South Carolina used this literature to inform themselves about what needed to be done. Mary Heriot recalled, "We met weeks and weeks, every week 'til we had a plan on what we could do."[22] Their goals included training law enforcement, opening rape crisis and domestic violence centers, developing and distributing rape kits, and finding suitable medical professionals to conduct exams – and they were successful in meeting all these goals.

Along the way southern feminists faced powerful obstacles in assumptions about gender – and race. Among the many challenges they confronted was meeting with the man responsible for conducting rape exams for the county. These women fought against incredible odds and battled against both gender and racial stereotypes in order to create a safer environment for the citizens of South Carolina.[23]

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[22] "Heriot and Holland Class Visit."

[23] Eunice "Tootsie" Holland interview with author, October 1, 2012.

While feminists fought to ratify the ERA, which conservatives insisted would eliminate the state's ability to "protect" women, feminists had considerable success with some efforts. Conservatives seemed of two minds when it came to state involvement with women's bodies. While the right opposed state policies and programs to protect women from assault as interference, in the name of "family values" they also sought to restore state control over women's bodies when it came to reproduction.

Thus, by examining two types of feminist goals—prevention of domestic violence and rape on the one hand and extension of reproductive rights on the other—I contrast two types of response by the state. In the early 1970s legislators were more inclined to increase state protection of women's physical safety in part because social conservatives were less organized and politically engaged than they later became. But as the Religious Right grew in opposition to the ERA and the Supreme Court ruling that legalized abortion, *Roe v Wade*, they also gained power and began to make it more difficult to for feminists to new retain their newly gained control over their bodies.

When the issue was reproductive rights the state was swift to respond, enacting legislation to dictate control over women's bodies and spending money to curb reproduction for some, but only in ways the state deemed acceptable. When the issue was physical safety, the state was slower to take meaningful action and were extremely reluctant to fund any attempts supported by feminists. The dichotomy emerges when these different issues are studied together.

My analysis benefits from post-structural feminist theory and work by Kate Millet, Susan Brownmiller, and Linda Gordon. These scholars have argued that sex is

inherently tied to power and that all reproductive issues are political. Clearly the struggle between feminists and lawmakers in 1970s South Carolina epitomized what was often said about the personal becoming political. I also utilize critical race theory as I explain how the intersections of race and gender complicate issues of sexual politics. I am guided by the work of Paula Giddings, Patricia Hill Collins, Kimberle Crenshaw, and Dorothy Roberts.[24] The efforts by South Carolina women to protect themselves from violence including sexual violence, was an essential part of the struggle for gender equality, as were their efforts to gain control of their reproductive systems.

As the 1970s began feminists in South Carolina and across the nation began to organize, their very personal decisions relating to their bodies were controlled by laws written and adopted by a government that consisted almost entirely of white men who saw themselves as protectors of women, especially white women. Feminists fought to make lawmakers see these issues in a new light and to persuade them to revise legislation and establish policies that truly protected all women. As a result of feminists' efforts the

[24] Paula J Giddings, *When and Where I Enter: The Impact of Black Women on Race and Sex in America* (New York: Harper Collins, 2014); Patricia Hill Collins, *Black Sexual Politics: African Americans, Gender, and the New Racism* (New York: Routledge, 2006); Kimberle Crenshaw, "Demarginalizing the Intersection of Race and Sex: A Black Feminist Critique of Antidiscrimination Doctrine, Feminist Theory and Antiracist Politics," *University of Chicago Legal Forum* 1989, no. 1 (1989): 139–67; Dorothy Roberts, *Killing the Black Body: Race, Reproduction, and the Meaning of Liberty* (Vintage Books, 1998).

1970s was a defining historical moment in formalizing legal protections for women. The decade was also a turning point in reproductive freedom. After the legalization of the birth control pill for unmarried women in 1972 and legalization of abortion in 1973, American women were more in charge of their reproductive lives than ever before.

Thus, this examination of feminism in South Carolina emphasizes feminists' successes as well as acknowledging and analyzing the obstacles they faced, focusing especially on feminist victories in battles related to state policies regarding women's bodies and sexuality.[25] Like a number of recent articles appearing in scholarly journals, it also helps revise the traditional narrative that ignored or discounted feminist efforts in the American South. While I discuss feminist activities on the national level in order to put South Carolina feminists in a broader context, the southern setting is also important. Other scholars have demonstrated that there were hot spots of feminist activity in the South including Northeast Arkansas; New Orleans, Louisiana; Memphis, Tennessee; and Gainesville, Florida. Their work confirmed that the feminist movement was alive and well in the region. In contrast to the work of these scholars, my research focuses on feminist activity specifically related to women's safety and reproductive rights -- on women's desire for self-sovereignty.[26] In addition, while there are books and articles that

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[25] Gail Collins, *When Everything Changed: The Amazing Journey of American Women, from 1960 to the Present* (New York: Little, Brown and Co, 2009); Sara M. Evans, *Tidal Wave: How Women Changed America at Century's End* (New York: Free Press, 2003).

[26] Theodore S Arrington and Patricia A Kyle, "Equal Rights Amendment Activists in North Carolina," *Signs: Journal of Women in Culture and Society* 3, no. 3 (1978); Joan S

Carver, "The Equal Rights Amendment and the Florida Legislature," *The Florida Historical Quarterly* 60, no. 4 (1982): 455–81; Stephanie Gilmore, "The Dynamics of Second-Wave Feminist Activism in Memphis, 1971-1982: Rethinking the Liberal/Radical Divide," *NWSA Journal* 15, no. 1 (2003): 94–117; Susan E Marshall, "Ladies against Women: Mobilization Dilemmas of Antifeminist Movements," *Social Problems Social Problems* 32, no. 4 (1985): 348–62; Janine A Parry, "'What Women Wanted': Arkansas Women's Commissions and the ERA," *The Arkansas Historical Quarterly* 59, no. 3 (2000): 265–98; Marjorie Spruill, "South Carolina Champions of Women's Rights...," in *South Carolina Women: Their Lives and Times*, vol. 2 (Athens: University of Georgia Press, 2012); Marjorie Julian Spruill, "The Mississippi 'Takeover': Feminists, Antifeminists, and the International Women's Year Conference of 1977," in *Mississippi Women: Their Histories, Their Lives*, ed. Martha H Swain, Payne, Elizabeth Anne Elizabeth Anne Payne, and Marjorie Julian Spruill (Athens: University of Georgia Press, 2003); Kimberly Wilmot Voss, "The Florida Fight for Equality: The Equal Rights Amendment, Senator Lori Wilson and Mediated Catfights in the 1970s," *The Florida Historical Quarterly* 88, no. 2 (2009): 173–208; Christina Wolbrecht, "Explaining Women's Rights Realignment: Convention Delegates, 1972-1992," *Political Behavior* 24, no. 3 (2002): 237–82; Anna M Zajicek, Allyn Lord, and Lori Holyfield, "The Emergence and First Years of a Grassroots Women's Movement in Northwest Arkansas, 1970-1980; *The Arkansas Historical Quarterly* 62, no. 2 (2003): 153–181; Donald G. Mathews and Jane Sherron De Hart, *Sex, Gender, and the Politics of ERA: A State and the Nation* (New York: Oxford University Press, 1990).

study different aspects of the politics of sexuality during that time period, for example abortion or rape reform, there are few works that seek to understand how efforts to achieve these different reforms worked in conjunction with one another.[27] The distinctive aspect of my work is that it combines all of events during the decade in which women gained more power over their bodies than in any other. Examining several of the reform efforts together helps to clarify the ways that such efforts helped or hindered each other. And, seeing them as they occurred, simultaneously, will drive home the fact of just how revolutionary this decade was.

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[27] Patricia G. Barnes, ed., *Domestic Violence: From a Private Matter to a Federal Offense*, Controversies in Constitutional Law (New York: Garland Pub, 1998); Barbara Hinkson Craig and David M O'Brien, *Abortion and American Politics* (Chatham, N.J.: Chatham House, 1993); James Reed, *From Private Vice to Public Virtue: The Birth Control Movement and American Society since 1830* (New York: Basic Books, 1978); Cassia Spohn, *Rape Law Reform: A Grassroots Revolution and Its Impact*, The Plenum Series in Crime and Justice (New York: Plenum Press, 1992); John D'Emilio and Estelle B. Freedman, *Intimate Matters: A History of Sexuality in America,* (Chicago ; London: University Of Chicago Press, 2012); Danielle L. McGuire, *At the Dark End of the Street: Black Women, Rape, and Resistance--A New History of the Civil Rights Movement from Rosa Parks to the Rise of Black Power*, Reprint edition (New York: Vintage, 2011); Jennifer Nelson, *Women of Color and the Reproductive Rights Movement* (New York: NYU Press, 2003); Andrea Tone, *Devices and Desires: A History of Contraceptives in America* (New York: Hill and Wang, 2001).

Some definitions are in order. For each topic covered historically there have been various terms. Abortion refers to the termination of a pregnancy, regardless of the procedure used. Proponents of the legality of abortion refer to themselves as "pro-choice" and those who oppose them as "anti-choice." Those who are against abortion call themselves "pro-life" and those against them as "pro-abortion." I have chosen to use the terms "pro-life" and "pro-choice" since this is how people involved in those movements refer to themselves.

Sterilization is the surgical alteration of a person's reproductive system. For men this means a vasectomy which severs the vas deferens to prevent sperm from entering the urethra -- thereby preventing fertilization. For women it can consist of either tubal ligation or a hysterectomy. Tubal ligation calls for cutting the fallopian tubes and sealing them to prevent fertilization. A hysterectomy is an operation that removes all or part of the uterus.

Rape is an act of physical violence involving forced sexual contact. Sexual assault is meant to be a more generalized term that covers all unwanted sexual advances and aggressions and to recognize that all genders can be victims. The crime is also further defined by terms such as "acquaintance" or "date rape," which is when someone is assaulted by someone they know. There is also "marital rape," which is when a spouse is victimized. I use these terms interchangeably because they are all the same act, yet in different scenarios.

Domestic violence is any kind of violence in the home. Feminists first used the term "wife battering" because the majority of victims were women. "Spouse abuse" is

used to make the term more general and to acknowledge that men are also abused. "Intimate partner abuse," a term that would become part of the discourse after the 1970s, addresses the fact that not all couples are heterosexual and not all abuse victims are married.

The dissertation title, *Sex and the State*, refers to the power dynamic at play between gender and power. Sex refers to gender, specifically females in this instance, but it also refers to the act of intercourse. The state is power, here it used to describe combinations of people and ideologies that control the populace in various ways through laws, policies, and standards. Historian Margot Canaday said, "We can see the state through its practices." In other words, the state is politics in action. It is "what officials do."[28]

Chapter Two examines the evolution of the abortion issue from 1968 through 1973. I discuss how feminists often chose a separate path when the state did not accord them the rights they deserved. The beginning of the pro-life movement and how those opposed to abortion began to voice concern and influence lawmakers is also considered. In 1969 South Carolina was poised to implement one of the most liberal abortion laws in the country. In 1970 feminists at the University of South Carolina (USC) operated a hotline out of the student union that would help women schedule appointments in New York where the procedure was legal. In 1972 a well-loved doctor in Florence, South

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[28] Margot Canaday, *The Straight State: Sexuality and Citizenship in Twentieth-Century America* (Princeton, N.J; Woodstock: Princeton University Press, 2009), 5–6 quote on page 5.

Carolina was arrested for performing an illegal abortion. His appeal in 1973 would help usher in the acceptance of the *Roe v Wade* ruling.

Chapter Three is focused on reproductive issues regarding family planning, including access to various forms of birth control. The issue of involuntary sterilization, which was a major issue during this period, is highlighted. In response to the national exposure of the involuntary sterilization of two teenaged African American sisters, other women began to come forth with their own abuses. Two women in Aiken, South Carolina sued their doctor for strong-arming them into having tubal ligation surgeries when he threatened to have their welfare benefits discontinued. In all, five women came forth who had been patients of the same doctor. Though not affiliated with the women's movement, these women forced the state to acknowledge their rights to have children if they desired. These women were instrumental in the movement against coercive sterilization practices that focused on poor women, the majority of whom were minorities. Historian Rebecca Klutchen points out, black women "knew that politics of race could not be disentangled from politics of reproduction."[29]

Chapter Four focuses on feminists' work to reform laws and policies regarding rape and their extensive efforts to establish rape crisis clinics across the state. Emphasized is South Carolina feminists' own ingenuity and efforts to devise and establish a "rape protocol" to be used by law enforcement, and how they built and

[29] Rebecca M. Kluchin, *Fit to Be Tied: Sterilization and Reproductive Rights in America, 1950-1980*, Critical Issues in Health and Medicine (New Brunswick, N.J: Rutgers University Press, 2009), 177.

distributed "rape kits" that were placed in hospitals across the state. In addition, their efforts to revise laws regarding prosecution of rapists is discussed. In all of these efforts South Carolina feminists worked successfully with governmental bodies. Prior to the 1970s official procedures and safe spaces for victims did not exist. Local feminists conducted research, read the existing laws, and confronted legislators and medical professionals in order to reform the laws and procedures.[30]

Chapter Five concerns feminists' mostly successful efforts to respond to the problem of domestic violence including the opening of "battered women's" shelters for victims and their children, and educating the broad public about the expansiveness of the problem. Beginning in 1972, they launched an effort to create safe places to which victims could escape, at first sheltering them in their homes and offices. While "wife beating" was illegal since the 1920s it was not until the 1970s that the criminal justice system began treating it as a serious crime and not just a private family matter. IIn 1976, for the first time, the South Carolina legislature included physical violence as a reason for divorce, answering feminists' call for action.

The concluding chapter looks beyond the decade as it discusses changes in the programs and laws introduced in the 1970s as a result of the conservative backlash and the election of Ronald Reagan. While many of the feminist-inspired laws and protocols concerning women's bodies continued in place, changes in public opinion regarding

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[30] Cassia Spohn and Julie Horney, *Rape Law Reform: A Grassroots Revolution and Its Impact* (New York: Plenum Press, 1992). Patricia G. Barnes, *Domestic Violence: From a Private Matter to a Federal Offense* (New York: Garland Pub., 1998).

abortion led to restrictions on women's access to the procedure. Eugenic sterilization laws remained on the books. Shelters for "battered women" continued to have problems with funding. Domestic violence remained a major problem in South Carolina, as demonstrated by a Pulitzer-prize winning series in the Charleston *Post-Courier* in 2015 that demonstrated that the state has a particularly bad record and poor policies when it comes to protecting women from harm. After 1980 further efforts to get the state to act on this issue faced many obstacles, especially opposition from a "religious right" that had become politicized in the late 1970s largely in response to feminist successes. [31]

[31] For more information on the rise of the Religious Rights see Brown, *For a Christian America*.

CHAPTER 2

ABORTION

"Every year I lived on campus from 1966-1970 I knew of at least one illegal abortion being performed on a girl in my dorm." --Vickie Eslinger, 1973

In 1969, while legislators inside the South Carolina State House debated about abortion and whether or not it should be legal, countless women sought abortions daily. This included students living virtually in the backyard of the State House, on the campus of the University of South Carolina less than a mile away. Coeds at USC who were forced to accept archaic dress codes and curfews, were also denied effective birth control and undesired pregnancies were common. Many of these young women were determined to terminate their pregnancies, regardless of the law or the danger to themselves.

One such woman roomed with a student named Victoria Eslinger who enrolled at USC in 1966. For most of her life Eslinger had lived in Columbia, but as her mother was French she had often visited her mother's home country and briefly attended the University of Dijon. During one such visit she witnessed the momentous student protests of 1968, an experience that affected her world view.[32] Back in South Carolina, this young woman, a Roman Catholic who had once been a "Goldwater Girl," campaigning for the

[32] Vickie Eslinger interview with author, November 12, 2013.

conservative Republican Barry Goldwater, became an advocate for liberal reform. Her activism encompassed several of the liberal movements of the late 1960s: civil rights, anti-war, and women's rights. In 1970 she turned her attention to abortion rights. Due to the experience of her roommate, Eslinger began advocating for and opening a hotline that would offer referrals for safe abortions in New York, where the procedure had recently been legalized.[33]

Across the country attitudes about abortion were changing. In the late 1960s a number of states moved to liberalize their existing legislation in response to pressure from feminists, the medical community, and concerned clergy members. Deaths from illegal abortions were in the thousands and desperate women struggled to find practitioners who would help them. Many of these women took reckless chances with their lives by using untested measures or visiting lay practitioners.

Feminists recognized the problem because many of them had personal experience and had faced the horrors of illegal abortions first hand. Most of them did not trust that any help would come from the state and set about finding their own solutions, before any legislation was passed. In Austin, San Francisco, and New York, feminist coalitions formed grass-roots movements to help women who wanted to terminate their pregnancies. There is of course more to the story. Although abortion was a felony in all

[33] "Abortions. Referral Agency Stops Butchering," *The Gamecock*, October 22, 1973.

states from 1900-1967, the procedure was performed frequently by doctors and other sorts of practitioners, and sometimes by the pregnant woman herself.[34]

Making abortion illegal did not stop the practice: it only made it more deadly. On a national level, evidence shows that women who desired to terminate their pregnancies would find some way of having the procedure done. But, because of legal and financial issues, many women resorted to desperate and dangerous means of changing their situation. They would throw themselves down flights of stairs. They would drink or douche with bleach. They would punch themselves repeatedly in the stomach. Often they had unqualified people performing the procedure, and most women would not have any support or care afterwards.[35]

The number of illegal abortions in the decades before *Roe* has been estimated to be as high as 1.2 million a year, and most of those were probably self-administered. The

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[34] Leslie J Reagan, *When Abortion Was a Crime Women, Medicine, and Law in the United States, 1867-1973* (Berkeley: University of California Press, 1997); Carole E. Joffe, *Doctors of Conscience: The Struggle to Provide Abortion Before and After Roe V. Wade*, Reissue edition (Boston: Beacon Press, 1996); Leslie J Reagan, "Rashes, Rights, and Wrongs in the Hospital and in the Courtroom: German Measles, Abortion, and Malpractice before Roe and Doe," *Law and History Review* 27, no. 2 (2009): 241–79.

[35] Reagan, *When Abortion Was a Crime Women, Medicine, and Law in the United States, 1867-1973*; Fadiman, Dorothy, *When Abortion Was Illegal: Untold Stories* (Bullfrog Films, 1992).

rest were most likely the work of lay persons, nurses, midwives, and what sociologist Carole Joffe calls "doctors of conscience."[36] So, while some women did suffer from obtaining abortions illegally, many more did not.

Abortion was not always illegal. Until the dawn of the twentieth century, early terminations were not a crime and women wanting to avoid having children sought them. Before "quickening" (around sixteen weeks, when the pregnant woman can feel movement of the fetus) it was considered natural to find ways to "resume menses."

By the 1840s abortion was a booming business. The birth rate was falling and many people in the growing middle class desired smaller families. The market for abortifacients led to an abundance of magazine and newspaper advertisements nationwide. Women utilized herbs and other ingestibles that they could find in nearby apothecaries or order through the mail. Midwives were also available to help. According to historian James Mohr, "Abortion-related advertisements appeared in urban dailies and rural weeklies, in specialty publications, in popular magazines, in broadsides, on private cards, and even in religious journals."[37] They appeared in periodicals appealing to all

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[36] Joffe, *Doctors of Conscience*, viii.

[37] James C Mohr, *Abortion in America: The Origins and Evolution of National Policy, 1800-1900* (New York: Oxford University Press, 1978), 47.

demographics.[38] More and more women were seeking higher education and fewer of them married and had children. In fact, historian Judith Leavitt found that, "By 1900, white women, showing their ability to cut their fertility in half over the century, averaged 3.56 children."[39] The drop in the birth rate combined with the visibility of abortion marketing. That and increased immigration led to a great anxiety about the declining birth rate among middle class whites.[40]

In 1857 the American Medical Association (AMA), an almost entirely male organization, began a campaign that would eventually make abortion illegal. This effort also led to a decline in the use of the mostly female midwives and homeopaths. The AMA's position rested on the believed immorality of abortion combined with the alleged

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[38] Roberts, *Killing the Black Body: Race, Reproduction, and the Meaning of Liberty*, 71–83.

[39] At the beginning of the 18th century white women averaged 7.04 children. In 1900 African American women averaged 5.61, almost double that of white women. Judith Walzer Leavitt, *Brought to Bed: Childbearing in America, 1750-1950*, Reprint edition (New York: Oxford University Press, 1988), 19.

[40] Mohr, *Abortion in America*; Linda Gordon, *The Moral Property of Women: A History of Birth Control Politics in America* (Urbana and Chicago: University of Illinois Press, 2002); Rosalind P Petchesky, *Abortion and Woman's Choice: The State, Sexuality, and Reproductive Freedom* (Boston [Mass.: Northeastern University Press, 1990); Kristin Luker, *Abortion and the Politics of Motherhood*, California Series on Social Choice and Political Economy (Berkeley: University of California Press, 1985).

incompetence of practitioners.[41] Members of the AMA were convinced that they, as professionals, should control when and where abortions occurred. Effectively this meant that the AMA gained more control over women's bodies, establishing rules and regulations governing the procedure. Their efforts were remarkably effective. In response to their lobbying, by 1900, abortion was illegal in every state in the nation.[42] The medical profession thus became a functioning arm of the state in regulating women's reproduction.

Like contemporary arguments about abortion and birth control, those in the late 1800s were clearly about gender politics, with men making new laws that affected women's bodies. The Gilded Age, roughly 1870 through 1900, saw a resurgence in state enforced moralities. A number of new laws and organizations worked to purify society and eliminate what were deemed social ills.

The Woman's Christian Temperance Union (WTCU) was formed in 1873, leading a fight for prohibition of alcohol as well as pushing for new standards of social (sexual) purity. That same year Congress passed the Comstock Law, or "the Act for the "Suppression of Trade in, and Circulation of, Obscene Literature and Articles of Immoral Use." The Comstock Law was seen as a victory for members of the social purity movement who were calling for an end to prostitution, birth control, abortion and other activities related to sex. The new law would halt so-called "obscenities" from traveling through the postal service, an issue that had concerned evangelicals since the Civil War.

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[41] Joffe, *Doctors of Conscience*, 28.

[42] Ibid.; Mohr, *Abortion in America*.

One senator had remarked in 1865, "It is said that our mails are made the vehicle for the conveyance of great numbers and quantities of obscene books and pictures, which are sent to the Army, and sent here and there and everywhere, and that it is getting to be a very great evil."[43]

Though most Americans were Christian, this act was a clear example of the state forcing a distinct Christian morality on its citizens. Women of childbearing age would be the most affected, though many of them supported raising social mores. The law made it illegal to mail contraception or abortifacients. It effectively made women even more dependent on the medical profession, an almost entirely male field. It became evident that the AMA, and its members, had very specific ideas about what women needed, and what they did not. In addition, the Comstock Act made it necessary for women to seek professional medical attention if they wanted contraception or an abortion, options typically available to married women only.[44]

Medical professionals took on the mantle of morality and science when they sought control over birth control and women. With the implementation of new laws and regulations, medical doctors were allowed to define the scientific meaning of life.

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[43] Wayne E. Fuller, *Morality and the Mail in Nineteenth-Century America* (University of Illinois Press, 2010), 101; Tone, *Devices and Desires*, 3–45.

[44] Reagan, *When Abortion Was a Crime Women, Medicine, and Law in the United States, 1867-1973*, 11–14. Anti-abortion laws allowed the procedure only to save the life of the woman.

Historian Leslie Reagan said, "Physicians entered a new partnership with the state and won the power to set reproductive policy."[45] By 1900 most state governments firmly enforced the Comstock Act, and some added prohibitions on the use of birth control to their local laws. These legal restrictions remained in place for decades but did little to affect the number of women who continued to receive abortions.

At the turn of the century, the fact that the medical profession held authority actually allowed for doctors to continue to perform abortions on their patients. Many doctors did not agree with the illegality of abortion. In the privacy of their doctors' offices or in their own homes, women were still able to choose to terminate their pregnancies.[46]

In the following decades, abortion became a silent part of American society and as common as ever. Women with the means to have personal doctors were more likely to have access to safe abortions. By the 1930s physicians were moving away from small private practices and merging with others in clinics and hospitals. They continued to perform abortions in these new settings, where they retained authority.

The 1940s ushered in a heightened interest in enforcing existing laws against abortion in response to changing birth rates. In addition, hospitals were enforcing new policies. Yet, policies and laws never changed the number of women who sought

[45] Ibid., 15.

[46] Ibid., 19–43.

abortions. Reagan said that at this time, "A dual system of abortion, divided by race and class, developed."[47]

By the 1950s medical procedures and practices improved dramatically and led to fewer miscarriages, leading to more women carrying children to term. Combined with the difficulty of finding reliable birth control, medical advances led to an increase of women asking doctors for abortions. In response, many hospitals created "therapeutic abortion committees," to make decisions on who could receive the procedure. These committees would be made up of three or more doctors who would all have to sign off on each abortion that was administered.[48] This tightening of restrictions led to an increase in what have become known as "back-alley" abortions.[49]

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[47] Ibid., 132–135. Quote on p. 15.

[48] Leslie J Reagan, "'About to Meet Her Maker': Women, Doctors, Dying Declarations, and the State's Investigation of Abortion, Chicago, 1867-1940," *The Journal of American History* 77, no. 4 (March 1991): 1240–64; Leslie J. Reagan, *Dangerous Pregnancies: Mothers, Disabilities, and Abortion in Modern America* (University of California Press, 2010).

[49] Reagan, *When Abortion Was a Crime Women, Medicine, and Law in the United States, 1867-1973*; Donald T. Critchlow, *Intended Consequences: Birth Control, Abortion, and the Federal Government in Modern America* (New York: Oxford University Press, 1999); Johanna Schoen, *Choice & Coercion: Birth Control, Sterilization, and Abortion in Public Health and Welfare* (Chapel Hill: University of North Carolina Press, 2005).

There were compassionate people, including doctors and ministers, who would help women with problem pregnancies, but, because performing abortions was a felony in most states the procedure had to be done in secret.[50] In many instances this was extremely dangerous for these women, and led to questionable practices. One woman recalled, "So, I went out to see this woman, and she put, I think it was a strip of slippery elm bark. And she inserted this up my uterus. And she said, '[n]ow, you go home, and that will swell up, and you will have pain, and you will probably have some temperature, but you will have a miscarriage.'"[51] Many stories were worse, and large numbers of women died from complications of these procedures.

Public opinion on abortion was clearly changing by the 1960s. The country itself was moving towards a more liberalized view about personal freedoms. State by state and city by city, women were beginning to force attention to issues that were important to them. Influenced by the successes of the Civil Rights movement and empowered by the Civil Rights Act of 1964, feminism spread to every state.

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[50] Joffe, *Doctors of Conscience*; Arlene Carmen and Howard Moody, *Abortion Counseling and Social Change: From Illegal Act to Medical Practice* (Valley Forge, PA: Judson Press, 1973).

[51] *When Abortion Was Illegal: Untold Stories*, dir. Dorothy Fadiman (San Jose: Bullfrog Films, 1992).

Three events in the early 1960s led to a state-by-state legislative push to repeal or reform abortion laws. The American Law Institute (ALI) had revised the Model Penal Code in 1959 to allow for abortion when the woman's life or mental health was at risk, in the case of rape or incest, or fetal deformity.[52] This was in opposition to most state laws which had previously allowed for an abortion only to save the life of the pregnant woman.

In July 1962, an Arizona woman named Sherri Finkbine who was two months pregnant discovered that the sleeping pill she had been taking, thalidomide, could lead to a dramatically deformed baby. Finkbine, a mother of four, was the host of a Phoenix children's television show, a local version of the Romper Room franchise, and a loved member of her community who knew her as Miss Sherri. Though Arizona state law permitted abortion only to save the life of the mother, she had secured approval for a therapeutic abortion at a local hospital.

Worried about other women not knowing the dangers of the drug, Finkbine talked to a reporter at the local paper, *The Arizona Republic,* who assured her that her identity would remain secret, which ended up not being the case. In the resulting fallout and publicity, the hospital denied her the abortion. Her doctor requested a court order that would guarantee Finkbine would not face prosecution if she had the procedure but the

[52] Blanchard, *The Anti-Abortion Movement and the Rise of the Religious Right*, 22–25; Joffe, *Doctors of Conscience*, 39.

request was denied.[53] In August she and her husband flew to Sweden where she received a legal abortion.[54] She had the means to fly to Europe for the procedure, but most women did not have that option.[55]

In 1964, a national German measles epidemic caused doctors across the country to perform abortions on women who had contracted the disease because of the likelihood of birth defects. The news was widespread and many men and women were alarmed. In April 1964, the U.S. Public Health Service announced that there was an epidemic and that newly pregnant women should be careful around people who may have the disease because of the high risk of contagion.[56]

Doctors across the country began pushing legislators to change state laws to reflect these changes. A survey in a 1967 issue of *Modern Medicine* found that eighty-seven percent of American doctors were in favor of liberalizing anti-abortion laws.[57] Women and doctors were not the only ones who were interested in changing the existing laws.

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[53] "Mother Loses Round in Legal Battle for Abortion; Arizona Court Dismisses Suit for Prosecution Immunity," *The New York Times*, July 31, 1962.

[54] "U.S. Mother Seeks Aid from Sweden; Leaves to Try for Abortion to Avert Thalidomide Peril," *The New York Times*, August 5, 1962.

[55] Reagan, *Dangerous Pregnancies*.

[56] Ibid., 108.

[57] Mohr, *Abortion in America*, 256.

In 1967, a religious coalition formed in response to "the deaths and injuries of women caused by unsafe abortions."[58] The Clergy Consultation Service (CRS) was comprised of many clergy who were involved with the Civil Rights Movement who "actively connected their racial justice system to their commitment to helping women and families gain access to safe abortions."[59]

Founded by Reverend Howard Moody, the senior pastor of Judson Memorial Church in Greenwich Village, the CRS announced itself on the front page of the *New York Times* on May 22, 1967.[60] Moody wrote in his 1973 book on the subject that, "It was apparent from the start that the clergy who would be most likely to become involved in a project of this kind would be the same ones who had been most active in the school integration battle in New York, in the civil rights battle both there and in the South, as well as in other areas of civil liberties."[61] The group quickly amassed over one thousand members across the country. Most protestant denominations supported legalizing what was referred to therapeutic abortion, even the staunchly conservative Southern Baptist

[58] "Clergymen Offer Abortion Advice," *The New York Times*, May 22, 1967.

[59] Joffe, *Doctors of Conscience*, 113–119.

[60] "Clergymen Offer Abortion Advice."

[61] Carmen and Moody, *Abortion Counseling and Social Change: From Illegal Act to Medical Practice*.

Convention. Dallas pastor, W. A. Criswell felt that life began at birth, "when the Lord breathes into him the breath of life."[62]

In New York City, on February 13, 1969, members of the radical feminist Redstockings group barged in on a legislative hearing that had scheduled fourteen men and one nun to testify regarding abortion laws. The feminists proclaimed that they were the "real experts" on abortion and insisted on testifying. Kathie Sarachild, one of the founders of the group, shouted, "It is wrong for men of great age to decide this matter [abortion law reform]." When denied the opportunity to testify at the hearing, feminists in New York staged a "speak-out" on March 21, 1969.[63]

At the speak-out numerous women stood up and told their personal stories of abortions and the fear and shame they had felt in acquiring them. The issue was crucial to the growth of feminist sentiment. Another Redstockings member and author of the influential book about rape, *Against Our Will*, Susan Brownmiller, said that abortion

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[62] For more about feminism and the Southern Baptist Convention see Laura Foxworth, "The Spiritual Is Political: The Modern Women's Movement and the Transformation of the Southern Baptist Convention" (University of South Carolina, 2014), 52–61. quote on page 60.

[63] Jennifer Nelson, *Women of Color and the Reproductive Rights Movement* (New York ; London: New York University Press, 2003), 21 For more about the Redstockings see pg. 21-53.

"made" second wave feminism.[64] Redstocking member, Ellen Willis, echoed Brownmiller's statement saying it was because it was "a concrete practical issue" and one that caused "enormous anguish that came with pregnancy scares."[65] On how the state created a dangerous environment for women with unwanted pregnancies, feminist Frances Beale wrote that, "abortion laws are another vicious means of subjugation and, indirectly, of outright murder."[66]

Also in 1969, several women from the Chicago Women's Liberation Union offered abortion counseling and referrals to doctors who would perform the procedure. In late 1970, calling themselves a collective "Jane," they began performing the abortions themselves, tutored by local doctors.[67] In 1970 an abortion referral service sprung up in Austin, Texas, that counted on its alliance with the newly formed Clergy Consultation Service on Abortion to help it locate doctors. One of this group's most active members was a young lawyer named Sarah Weddington, who would go on to argue the abortion

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[64] Ibid., 3.

[65] Ibid.

[66] Frances Beale, "Double Jeopardy: To Be Black and Female," in *The Black Woman* (New York: Penguin Books, 1970), 118.

[67] Laura Kaplan, *The Story of Jane: The Legendary Underground Feminist Abortion Service* (Chicago: University of Chicago Press, 1997).

issue before the Supreme Court in *Roe v. Wade* a few years later.[68] Similar services opened in other communities across the country.

Locating practitioners became much easier in July 1971. That month the New York law went into effect which stated that any woman, regardless of residence, could receive an abortion up to twenty-four weeks. It was estimated that over 75,000 abortions were performed in the first three months after the law went into effect. Though it was nearly impossible to tell how many women came from out of state, one doctor at Beth Israel claimed that out of the five women he sees each week for the procedure, three are from states further away than New Jersey, Connecticut, or Pennsylvania.[69]

New York hospitals and clinics saw a surge in out of town patients. For those who had the money, this was a viable option. Referral centers, like the Florida Women's Medical Association, began making referrals over the telephone and placing ads in college newspapers to advertise their services.[70] These services offered information about procedures, costs and what else a woman might expect, both physically and economically.

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[68] Evans, *Tidal Wave*, 46–48.

[69] Gracie Pearman, "Hotline: Repeal All Abortion Laws," *The Gamecock*, September 7, 1972.

[70] Woman's Medical Association of Florida, "Pregnant," *The Daily Gamecock*, January 15, 1971.

State governments began to respond to this change in public opinion. In 1967, Colorado governor John Arthur Love was the first when he signed a bill that liberalized abortion restrictions in the state. This allowed the procedure to not only save the life of the woman, but also in the case of rape or incest, or if the child would be born with debilitating defects. Other states soon followed. Similar laws were passed in California, Oregon, North Carolina, and South Carolina. By 1971 eleven states had loosened restrictions on abortion, some all but repealing existing laws, namely New York and Hawaii.[71]

It is commonly thought that pro-life organizations did not begin to form until after 1973 and *Roe v. Wade*. However, in 1967 the Virginia Society for Human life was founded as the first statewide pro-life organization. In 1968, the pro-life faction of the Catholic Church appointed Fr. James McHugh to found and lead the National Right to Life Committee (NRLC), and it began to expand its reach both morally and legislatively. It was popular due to the fact that the organization distanced itself from the anti-birth control movement in the Catholic Church.[72]

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[71] Leslie J. Reagan, *When Abortion Was a Crime: Women, Medicine, and Law in the United States, 1867-1973* (Berkeley: University of California Press, 1997). 123.

[72] "Abortion History Timeline | National Right to Life," accessed August 3, 2016, http://www.nrlc.org/abortion/history/.

Liberalization of abortion laws quickly led to the creation of what would soon be called the "pro-life" movement, a coalition of Catholics and like-minded associates that began forming in 1968 in response to the new law in Colorado. Supporters of the pro-life movement based their opposition on religious or moral grounds, but they also opposed it because of the inherent value of the fetus' human life and its constitutional rights. These last two factors would lead to the lasting influence of the pro-life movement.[73]

Opposition to abortion law reform quickly developed. This movement against abortion was an integral part to the overall shift in politics towards conservatism. Nationally, the Catholic Church had begun to fight against abortion rights as early as 1967. Joining them and forming a grassroots movement in opposition to the new law these antiabortionists were members of the New Right, what would eventually become the Moral Majority.[74]

The Supreme Court decided *Roe v Wade* and its accompanying legislation *Doe v Bolton* on January 22, 1973. These rulings effectively made abortion legal in the first three months of a pregnancy with no restrictions. The court used the Fourteenth Amendment to justify its decisions on both cases. The majority opinion in *Roe*, written by Harry Blackmun read, the "right of privacy, whether it be founded in the Fourteenth

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[73] Daniel K. Williams, *Defenders of the Unborn: The pro-Life Movement before Roe v. Wade* (New York, NY: Oxford University Press, 2016), 2–3; Blanchard, *The Anti-Abortion Movement and the Rise of the Religious Right*.

[74] For more about the early pro-life movement see Williams, *Defenders of the Unborn*.

Amendment concept of personal liberty and restrictions upon state action, as we feel it is, or, as the district court determined, in the Ninth Amendment's reservation of rights to the people, is broad enough to encompass a woman's decision whether or not to terminate her pregnancy."[75]

Roe was able to regulate the availability of abortions so that fewer women would die when circumstances led them to end their pregnancies. The passage of this case also grew the movement that was opposed to reproductive rights for women. Historian Nancy Woloch wrote that, "Foes at once proposed a 'right-to-life' amendment and started an antiabortion campaign."[76]

In January 1969, South Carolina was poised to have one of the most liberal abortion laws in the country, yet the influence of the emerging pro-life movement would alter the outcome. As in other states, the existing law allowed an abortion only to save the life of the woman. The proposed bill would greatly expand the circumstances and make abortions legal if there was "substantial risk" that the pregnancy threatened the life or might impair the health of the woman; if the child could be born with severe mental or physical defect; or in the case of rape or incest.[77] Though there were no women in the

[75] Harry Blackmun, Roe v. Wade, No. 70-18 (U.S. Supreme Court January 22, 1973).

[76] Nancy Woloch, *Women and the American Experience* (New York: McGraw Hill, 2011), 514.

[77] "Rash of Bills Introduced on Opening Day," *The Index-Journal*, January 15, 1969.

legislature at that time, some representatives supported the bill drawing upon feminist ideals. Democratic Senator Hyman Rubin, a main sponsor of the bill, said, "Our abortion laws now are primitive, outmoded and cruel. They are a carryover from the 19th century."[78]

These reforms were supported by many in the community. Though NOW chapters did not yet exist in the state, South Carolina was home to organizations that supported abortion rights. In 1968 Dr. Carl Bellew and his wife Anne formed the South Carolina Abortion Interest Movement, a part of the National Abortion Rights Action League (NARAL). Together with members of the CRS, which included several clergy members in South Carolina, they lobbied for a liberalized abortion law.[79]

A group of young legislators known collectively as "The Young Turks" also supported the bill. This small group of men pursued many progressive measures that they called "corrective legislation," which addressed the issues of pollution, legislative ethics, and brown lung disease found at textile plants. All of these were hard topics and were typically taboo. In the past they had been left to the more senior legislators to deal with as they saw fit. The Young Turks felt otherwise. One journalist described them as using

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[78] "S.C. May Update Rigid Abortion Laws If Sen. Rubin Has Way In Assembly," *The Index-Journal*, January 27, 1969.

[79] "Abortion Interest Movement Records," 1976 1968, Abortion Interest Movement of South Carolina Records, Louise Pettus Archives and Special Collections, Winthrop University.

"fiery, free-for-all methods," and said that they "had no qualms about attacking head-on the entrenched leadership of the House and the Senate."[80] Challenging opponents' arguments about the importance of human life, the bill's co-author, Senator Hyman Rubin said the bill was based, "on the sanctity of present life—that present life should be as reasonable and happy as possible."[81]

At a March 1969 before hearing the subcommittee, several communities who supported the law were represented, including the medical community and members of different religious denominations.[82] Two Episcopal Bishops, a Baptist minister and a Presbyterian clergyman, representing congregations from all over the state, made their presence known.

Dr. R. Max Willocks, a Baptist minister and librarian at the Methodist Columbia College told the committee, "Religion has gotten the state to do its dirty work." Arguing that strict anti-abortion laws make illegal what churches could not convince their followers was immoral. He continued, "The idea that God inserted a soul in the ovum the moment of conception is scientifically unprovable. State sanctions are breaking down because the people will no longer support these crimes against themselves." Willocks was not the only one testifying in support of liberalizing abortion laws. Supporters came

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[80] "Opinions Differ on 'Young Turks,'" *Aiken Standard*, March 31, 1970.

[81] "Subcommittee Hears Testimony For, Against Liberalizing Abortions," *The Index-Journal*, March 13, 1969.

[82] "Abortion Law Hearing Set," *Florence Morning News*, May 23, 1969.

from all over the state. Dr. Hilla Sheriff from Orangeburg, often referred to as "The Grand Dame of South Carolina Public Health," testified.[83] Columbia physician Dr. O. B. Mayer and Mrs. Irwin Karesh of the Charleston Council of Jewish Women were also present at the hearing.[84]

After the public hearing, the bill was given tentative approval and the Senate decided to carry it over to the next session,[85] The Senate Judiciary Committee had amended the bill, allowing eighty days to report a rape and stipulating that the woman must be a state resident for thirty days except in an emergency situation, and that a private hospital would not have to perform the procedure if it was against its policy.[86] These amendments greatly limited the effectiveness of the bill.

There was an emerging division among religious groups in response to the abortion bill. While most Protestants and Jews were in favor of the reform, Catholics were not. In June, at the 184th annual convention of the South Carolina Methodist

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[83] "Dr. Hilla Sheriff (1903-1988)," *The Times and Democrat*, October 12, 2014; For more on Hilla Sheriff see: Patricia Evridge Hill, "Dr. Hilla Sheriff: Caught Between Science and the State at the South Carolina Midwife Training Institutes," in *South Carolina Women: Their Lives and Times*, vol. 3 (Atlanta, Ga: University of Georgia Press, 2012).

[84] "Subcommittee Hears Testimony For, Against Liberalizing Abortions."

[85] "Abortions Bill Passes," *The Index-Journal*, May 14, 1969.

[86] "Abortion, Nursing Legislation Moves Close to Senate Action," *Florence Morning News*, May 15, 1969.

Committee, the one thousand ministerial and lay delegates in attendance endorsed the law that was sitting in a House committee. They argued that it showed "concern for the preservation of life."[87] Rev. Willocks said, "It is time we started giving our attention to the welfare of the mother and getting the state out of the area of imposing religious sanctions."[88]

On January 12, 1970, the South Carolina United Methodist Church sent the House a resolution which implored legislators to enact the bill, adding their voices to the other denominations who were behind the new law. Episcopal Bishop Gray Temple of Charleston said that his church was behind the bill. He said, "As a moral theologian, I support it." [89]

To some, it appeared that most South Carolinians were receptive to abortion reform. In January of 1969, Senator Hyman Rubin stated that there was "some religious opposition" in North Carolina, but he "hasn't heard of any here."[90] This would prove to be wildly inaccurate. Julia Roland, a Catholic and head of the new Right-To-Life

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[87] "Methodists Approve Abortion Bill; 'Pilot' Integration Plan," *Florence Morning News*, June 14, 1969.

[88] "Abortion Bill Expected to Be Top Issue During Legislative Session," *Florence Morning News*, January 10, 1970.

[89] "Public Choosing Up Sides on Abortion Laws," *Aiken Standard*, January 13, 1970.

[90] "S.C. May Update Rigid Abortion Laws If Sen. Rubin Has Way In Assembly."

Committee in South Carolina, told the press in May 1969 that she and others started this committee immediately after the bill was introduced to the legislature.[91]

Catholics were virtually the only ones speaking out against this new bill, but they were loud. In a state-wide circulated letter that would be read at Sunday masses across the state that May, The Most Reverend Ernest L. Unterkoefler, bishop of the Roman Catholic Church of Charleston said, "Abortion is not a Catholic question or a protestant question or a Jewish question. It is a human question and a very, very important human question. The miracle of conception and pregnancy embraces the beginnings of human life." He continued, "Once law gives its approval to the taking of innocent human life, there is no longer any line to be drawn and every life is threatened."[92] But, South Carolina was not heavily populated with Catholics, and Protestants backed liberalizing the abortion laws.

Only later, after a powerful Catholic antiabortion drive that reached out to and persuaded non-Catholics to join them, did many Protestants adopt the Catholic point of view which focused on the sanctity of all human life including that of the unborn. Most of this ideological change would occur by 1980. But, when South Carolina legislators were arguing about reforming their abortion bill, most Protestants were in agreement with the position.

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[91] "'Right-To-Life' Charter Sought," *Florence Morning News*, May 22, 1969.

[92] "Bishop Asks House to Defeat Senate-Passed Abortion Bill," *The Index-Journal*, May 19, 1969.

In trying to convince more legislators to vote against the new law, Catholic opponents argued that it would make South Carolina "an abortion mill" and permitted "legal murder."[93] An attorney with the newly formed National Right to Life Committee (NRLC), Juan J. Ryan from New Jersey, was invited by Reverend Leo B. Croghan of the Roman Catholic Diocese of Charleston to testify before the House. He argued before the committee that, "There are no public defenders for the unborn." He claimed that abortions violate the principle of the right to life, "and could lead in the mad extreme to what Adolph Hitler did when six million members of what he considered an inferior race were exterminated."[94]

By May 1969, the NRLC had formed local chapters. Julia Roland, Chairman of the South Carolina RLC, told her local newspaper in Florence, "We urge the members of the South Carolina legislature to think long and hard before compromising the right to life in this state under the false banner of false progress."[95] In a letter to the editor she said, "During the years I have spent in nursing, ten in the obstetrical department, I have cared for many women who have had abortions." She wrote in great detail what happens to the fetus during an abortion and argued that, "Anyone may plainly see this is humanity—a human child." She said she wrote in order to inform the general public of

[93] "May Pass Liberal Abortion Law," *Ames Daily Tribune*, January 2, 1970.

[94] "Bishop Asks House to Defeat Senate-Passed Abortion Bill."

[95] "Sales Tax Measure Faces Stiff Senate Challenge," *Florence Morning News*, May 13, 1969.

the "many moral and ethical involvements when our laws make legal the taking of another human life."[96] Such grisly details would become a bedrock of pro-life rhetoric.

On the opening day of the public hearing on the bill, the South Carolina RLC ran a full page ad in the Florence *Morning News* with the headline, in bold capital letters: "DUM SPIRO SPERO," the South Carolina state motto meaning: "Where there is life, there is hope." Alongside this headline was a large photograph of an infant, held upside down the by the feet, and cradled it by the neck. In the middle of the page were the words in all capital letters, "SHOULD YOU ALLOW HIM TO BE DESTROYED?" The rest of the page is a Q and A and a plea for money to be sent to the South Carolina Right To Life Committee, care of Julia Roland.

The Q and A contains questions about abortions and what the new law would mean in South Carolina. The answers are fraught with scary scenarios. For example, "Q. Are not abortions always performed in a humane manner with no pain to the child? A. No. Fetuses are often aborted alive and then allowed to die outside the womb." "Q. Are there not millions of illegal abortions a year in the U.S. resulting in thousands of deaths? A. No. Most people on both sides agree that there are probably no more than 500 such deaths a year. But remember that a 'liberal' bill tends to increase the illegal abortions, not lessen them."[97]

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[96] "More Liberal Abortion Law? No," *Florence Morning News*, May 13, 1969.

[97] "DUM SPIRO SPERO," *Florence Morning News*, May 23, 1969.

Another opponent was Dr. Bob Jones, Jr., president of the fundamentalist Christian Bob Jones University in Greenville. He told the press in 1969 that whoever voted to pass the bill "did not know what they were voting for." He said anyone voting for it was "either morally twisted, yielding to pressure, or ignorant of what he is voting for."[98]

At the hearing for the bill in 1969 there was not a strong feminist presence in South Carolina, as evidenced by who testified before the committee. Julia Rowland was one of the few women present at the hearing. Reverend Francis A. Friend, chancellor of the Roman Catholic Diocese of Charleston was also in attendance. He told the committee, "We are completely dedicated to the proposition that the sanctity of innocent human life in every stage of its existence does not become an expendable ethical principle because there might be psychological, physical or socio-economic difficulties and problems connected with pregnancy and birth."[99]

Opponents were firmly against the stipulation in the proposed law that the chance of a birth defect could be reason enough for an abortion. Thomas Hartnett, a Catholic from Charleston, claimed this reason for abortion would be a step toward "trying to

[98] "Bob Jones Raps Proposed New Abortion Law," *Florence Morning News*, May 27, 1969.

[99] "Sanctity of Life Is Stressed During Abortion Bill Debate," *Florence Morning News*, May 28, 1969.

create a perfect race. The only way man can perfect his race is to take the life of one who may be imperfect."[100]

In July 1969 Representative Sam Mendenhall of York County, in a four-hour filibuster, pleaded with the House to postpone the vote due to his question regarding the section which would allow an abortion on the grounds of possible birth defects.[101] Mendenhall was a member of the Southern Presbyterian Church, the conservative faction of which would split to form the Presbyterian Church of America in 1973. Charleston Representatives, Joseph Riley, Thomas Hartnett and James Condon, all leading opponents to the bill, were Roman Catholic Laymen. Riley used the soon-to-be-common pro-life and fetal rights argument that, "Every human being has a right to life, liberty and the pursuit of happiness."[102] A motion to delay action failed sixty-one to forty-seven.

Mendenhall resumed his filibuster the next day, telling the press that the opponents of the bill were prepared to continue the filibuster to force the House to carry the bill over to the 1970 session. The legislature was ready to finish business and adjourn, which worked to the opponents' advantage. Mendenhall, an elder in the Southern Presbyterian church said, "these unborn children should have a right to life, liberty and the pursuit of happiness…Somebody has got to stand up and plead their cause. They have

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[100] "Abortion Bill Gets Key House Reading," *Florence Morning News*, January 21, 1970.

[101]Mendenhall would be found guilty of trading sex for verdicts in 1994 "Ex-Judge Jailed for Trading Sex for Ruling," *The New York Times*, April 20, 1994.

[102] "Debate Holds Up Abortion Bill Vote," *Florence Morning News*, July 3, 1969.

no strong-arm lobbyist to speak for them."[103] These arguments, together with the desire of the General Assembly to adjourn before the holiday, were effective. Late that Thursday night, the abortion bill was tabled and the General Assembly adjourned until the next year.[104]

Over the session break, the newly formed South Carolina Right to Life Committee got to work. One legislator told Thom Anderson, a Florence columnist, that "in recent weeks he has had daily phone calls or letters from opponents of the bill." He commented that he still believed it would easily pass since it was on the "verge of final passage" at the end of the last session.[105] The phone calls and letters must have had some effect and most likely led to the addition of several restrictive amendments, as before the bill was taken up the next year, the opposition had clearly strengthened.

When the legislature opened again in January 1970, Mendenhall promised "to talk against that bill as long as I can stand on my feet." He continued, "I still have the floor and I intend to keep it on this issue. I'll begin talking that first day of the session and I'll talk as long as necessary."[106] The State Council of Catholic Nurses adopted a

[103] "Abortion Bill Stirs Filibuster," *The Index-Journal*, July 3, 1969.

[104] "Assembly Adjourns," *Florence Morning News*, July 4, 1969.

[105] "Abortion Bill Expected to Be Top Issue During Legislative Session."

[106] Ibid.

resolution against the bill saying, "We are appalled at the lack of regard for the one who speaks for the unborn."[107]

The press began commenting on the fierceness of the opposition. An Associated Press article from January 10, 1970 stated, "the 1970 South Carolina General Assembly can expect another long, drawn-out, legislative fight over the abortion bill."[108] Thom Anderson, in Florence agreed saying, "The first meetings will find a heated controversy…[the abortion bill] awaits the new session at that point, and interested people on both sides have been ringing legislators' telephones in recent weeks. It could be a tough fight."[109]

On January 20, 1970, the bill's authors lost a heated battle over amendments which would weaken the bill, pushing it to a second reading approval, which passed 63-27. The vote was taken immediately following the testimony of supporter Rep. Thomas Greene who gave the House some food for thought. Greene, a twenty-seven year old attorney who was born with a deformed and stunted right arm, told the assembly, "The

[107] "Filibuster Threatened: Abortion Issue May Spark Battle," *The Index-Journal*, January 10, 1970.

[108] "Abortion Bill Expected to Be Top Issue During Legislative Session."

[109] "Thom Anderson--Assembly Faces Long Sessions," *Florence Morning News*, January 11, 1970.

law is a Godsend to a mother who knows the chances are great for her to have a deformed—a grossly deformed—child."[110]

The amendments did, in fact, take the focus away from women's rights. One would require the written consent of her husband, and another would require the signatures of three doctors, basically recreating the hospital therapeutic abortion committee. Representative Thomas Hartnett of Charleston asked, "Why should three doctors hold the ultimate decision who can and who cannot be brought into society?"

After the House vote, all that remained was a routine third reading before it was sent back to the Senate for agreement on the amendments. Rep. Thomas Greene said, "I'm almost certain the Senate will agree with the amendments."[111] Opponents wanted to add an amendment that would have taken out the mental health factor as a reason for abortion. Thomas Greene said, "You cannot separate mental from physical health in the bill. A mother should be able to make the decision between herself, her God and her doctor."[112] Once it made it back to the Senate, they concurred with the amendments and the bill was sent to Governor Robert McNair for his signature.[113]

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[110] "Greenville Legislator Tipped Balance on Abortion Measure," *Florence Morning News*, January 26, 1970.

[111] "Abortion Bill Returns to Senate," *Florence Morning News*, January 22, 1970.

[112] "Abortion Bill Gets Key House Reading."

[113] "Abortion Bill Gets Final Assembly Passage," *Florence Morning News*, January 28, 1970.

The bill that was finally passed did little to extend protection for women in regards to reproductive rights. The new law extended abortion rights to the victims of rape and incest and to women to whom childbirth may cause undue mental strain, something that must be determined by three doctors. In addition, married women needed the consent of their husbands. In the end, what had started as a measure to protect women from the duress of an unwanted pregnancy only really served to make such pregnancies more difficult.

Changes to the abortion law did little to change how many women obtained the procedure, often in dangerous surroundings. In February 1971, one University of South Carolina student received an abortion in a local Columbia hotel. The school paper reported, "Various complications set in, none of which are uncommon, and she had to go into a local hospital."[114]

A similar situation happened to Vickie Eslinger's roommate. Eslinger was in her dorm room when her roommate returned, bleeding profusely, and lost consciousness, the victim of an illegal abortionist. They got her to a hospital, where the roommate was treated, doctors removing glass from her uterus. During her time at the school Eslinger remembered rumors and reports of dead fetuses being found in trash bins behind the

[114] Jerry Calabrese, "Birth Control--Evident Factor," *The Gamecock*, February 8, 1971.

dormitories.[115] It seems that it was common knowledge that women were performing abortions on themselves and having others come in and perform the service in the dorms.

Eslinger recalled the dangers that women on campus faced when seeking abortions. This knowledge combined with the traumatic experience with her roommate spurred her to action to help women in those situations.[116] Soon afterwards, Harry Walker, the first African American Student Body President at USC, asked Eslinger for help in his campaign. She said that she would help him but she had two provisions for her assistance--a pamphlet for students on birth control that would have no administrative editing and a university-run "reproductive freedom area" that would also give information on birth control and STDs through a telephone hotline.[117] She remembered visiting the Boston Health Collective and gaining a free supply of their new publication, *Our Bodies, Our Selves,* which she freely distributed around campus.[118]

Although initially against the idea of the hotline, after a meeting with Eslinger University President Thomas Jones agreed. Her successful argument was, "You cannot solve a problem by ignoring it."[119] The hotline was soon open, staffed by students who

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[115] Vickie Eslinger, interview with author, November 12, 2013.

[116] "Abortions. Referral Agency Stops Butchering," *The Gamecock*, October 22, 1973.

[117] "Abortions...Referral Agency Stops Butchering."

[118] Vickie Eslinger interview with author.

[119] "Hotline a Service for Abortion and Health Information," *The Gamecock*, ND, Vickie Eslinger Papers. South Carolina Political Collections, University of South Carolina.

referred callers to clergymen, nurses, doctors and counselors. In addition, callers could receive information on birth control and adoption. Women who were suffering the consequences of an illegal abortion could call to request help and report the illegal abortionist to authorities. They could also help callers make an appointment at a clinic in New York. The hotline office was located in a room of the student union which was known as Russell House.[120] The office provided information on "VD," abortions, and birth control (information not formerly available on campus). Eslinger insisted that they be a service offered by the university. She told the student paper that, "We are doing nothing illegal. We are just providing a service that no one has ever provided in the state."[121]

Financed through the Office of Coed Affairs, the hotline was answered Monday through Wednesday from 7:30 am through 10:00 pm. After Eslinger received authorization from the University to operate the hotline, she began visiting clinics in New York, evaluating their services. She insisted that, "we will not refer [patients] to a clinic we have not seen."[122] Eslinger contacted Linda Drilling who ran a clinic in New York City at the corner of 60th and 5th avenues, one of the first to open after New York

[120] "Abortions. Referral Agency Stops Butchering," *The Gamecock*, October 22, 1973.

[121] "Hotline a Service for Abortion and Health Information."

[122] Pearman, "Hotline: Repeal All Abortion Laws."

legalized the procedure. Impressed, Eslinger and hotline workers chose to refer clients to this particular clinic.[123]

Eslinger felt one of the important reasons women should call the hotline was to "not get ripped off by a New York clinic that advertises in a newspaper."[124] She wrote in a guest column for the USC student newspaper that the hotline was established to prevent women from being tricked by fraudulent abortion referral services.[125] The hotline was by all means popular, receiving thousands of calls for information regarding various aspects of female health. "During its first year and a half the hotline received over two thousand calls."[126] In 1971 close to 600 referrals were made, from Indiana, Georgia, Florida, North Carolina and Mississippi. Blanca Sheehan, hotline operator in 1971, said, "Nobody knows we're here until they need us."[127]

Eslinger threw herself into the movement. By 1972 she was the National Coordinator for the Abortion Action Coalition, and addressing rallies in states across the

[123] Vicki Eslinger, interview by author, November 12, 2013.

[124] "Hotline a Service for Abortion and Health Information."

[125] Vickie Eslinger, "Abortion Rip-Off," *The Gamecock*, May 12, 1971,Vickie Eslinger Papers, South Carolina Women's History Collection, SCPC.

[126] "Abortions. Referral Agency Stops Butchering," *The Gamecock* (University of South Carolina), October 22, 1973.

[127] Pearman, "Hotline: Repeal All Abortion Laws."

South.[128] As a Catholic she often spoke about the role of the Church in helping women. She was soon appearing on panels discussing reproduction rights with women who would become legends, such as when she appeared on a panel with Sarah Weddington.[129] She was also a frequent guest on news programs. In 1972, she told *WIS-TV*, the local NBC affiliate, that she believed that South Carolina encouraged illegal abortions by not prosecuting illegal abortionists.[130]

Word of the hotline did not reach everyone who needed it. Women who wanted to terminate their pregnancies most often did not know where to turn. Without knowledge of a referral service many made unfortunate decisions that endangered their lives. On January 1972, a young woman entered the office of Dr. Kenneth G. Lawrence, a prominent gynecologist in the small town of Florence, South Carolina, seeking help. She had apparently either tried to self-abort, or had been to what would be termed a "back

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[128] "Abortion Law Protest March Draws Only 18," *Tallahassee Democrat*, May 1, 1972, Vickie Eslinger Papers, South Carolina Political Collections, University of South Carolina.

[129] "Anne Megan to Vickie Eslinger," February 5, 1974, Vickie Eslinger Papers, South Carolina Political Collections, University of South Carolina; Vickie Eslinger interview with author.

[130] "Lynn Nevius to Vickie Eslinger," July 19, 1972, South Carolina Women's Rights Collection (SCWRC), South Carolina Political Collections.

alley abortionist." The doctor examined her and saw that though there had been damage, her pregnancy was still viable. She refused his counsel to either have the child or travel to New York to have a legal abortion. The doctor then consented to perform an abortion. A few days later, she ended up at the Medical College University in Charleston with a terrible infection.[131]

Several months later, on Tuesday, May 9, 1972, law enforcement arrested Dr. Lawrence. He was charged with performing the abortion the previous January. After the young woman was taken to the hospital, her doctors notified SLED headquarters who then investigated, leading to a warrant being issued for Lawrence's arrest. If convicted of performing an illegal abortion, Lawrence could face $5000 in fines, up to five years in prison, or both.[132]

The illegality of abortion at the time caused the procedure to be performed in secret and with upmost subterfuge. Lawrence performed the abortion at his office on the night of January 16, 1972. The woman was referred to Lawrence by a doctor in the town of Georgetown, about seventy miles away. The patient was seen in the doctor's office alone, after the end of the working day. At trial she testified that he had used some sort of tubing, probably a catheter, and other "instruments which I felt," probably a wire to pierce the uterus. The tubing was to stay in place for a period of time and the doctor gave

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[131] "Abortion Charges: Prominent City Doctor On Trial," *Florence Morning News*, October 11, 1972.

[132] "Florence Physician Arrested," *Florence Morning News*, May 10, 1972.

her some medicine, most likely antibiotics, and instructions on how to remove the tubing, which would complete the abortion.[133]

Authorities from the University of South Carolina Medical College testified against Lawrence and called his techniques "jackleg methods." Other witnesses explained that she returned to Lawrence's office several times. One testified that she called the doctor while he was working at a hospital in Florence, when she was instructed to hang up and call back on a payphone outside the hospital. The abortion was not successful and she was ultimately admitted to the hospital in Georgetown, where she was listed in critical condition.[134]

The defense presented a witness who told the court that the patient had refused medical treatment in Georgetown several times before she was convinced to visit Lawrence who then attempted to convince her to be admitted to the hospital, which "she constantly refused." He explained that when he first examined her that she was so damaged that she needed to be treated in a hospital. After her refusal to go to the hospital, he gave her some antibiotics and she went home. Lawrence testified that he had even tried to convince her to "keep the baby and that she got all upset." And, although he

[133] "Abortion Charges: Prominent City Doctor On Trial."

[134] Ibid.

had explained that abortion was illegal in South Carolina, he could help her get to New York, where it was legal.[135]

At the end of arguments, the jury deliberated for two hours and was eventually kept overnight when they could not agree on a verdict.[136] They returned the next morning, October 13, to deliberate for three more hours. The seven men and five women of the jury ultimately declared Lawrence guilty. Judge George Timmerman asked Lawrence if he had anything he wanted to say before he handed down the sentence. He was sentenced to five years and a $5000 fine. The judge ordered Lawrence to serve three years, and suspended the balance, ordering probation. Lawrence's lawyer moved for an appeal bond which was granted and set at $15,000.[137]

The ruling created an uproar in the small Florence community, filling the pages of the *Florence Morning News* with testimonials and letters of support for Lawrence. Mrs. W.G. Miller of Florence proclaimed, "Dr. Lawrence is a fine man who uses his God-given talent to heal and help those who need help."[138] Mrs. Jean S. Odom wrote to say that Lawrence was, "a fine physician who has relieved much human suffering and saved

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[135] "Jury Locked Up for Night in Illegal Abortion Trial," *Florence Morning News*, October 12, 1972.

[136] Ibid.

[137] "Illegal Abortion: Dr. Lawrence Sentenced to 5 Years, $5,000 Fine," *Florence Morning News*, October 13, 1972.

[138] "Why Was Woman's Name Left Out?," *Florence Morning News*, October 19, 1972.

countless lives."[139] So many citizens wrote into the paper that the paper ran what they called a public forum claiming, "The tenor of all letters received has been almost identical." The editor explained that they would print no more, feeling that the topic had been fully examined. That day's public forum contained ten letters expounding on the virtues of Lawrence.

One of Lawrence's supporters was Reverend Wiley B. Cooper of Greenville, a member of the CCS. He wrote, "My work as a local church pastor, as a worker in the Hotline project, and as a member of the South Carolina Clergy Consultation Service on Problem Pregnancies brought me to him in many crisis situations." The Reverend continued, explaining that Lawrence, "examined girls, certified their needs for help, referred many to New York City for help, and asked me to counsel with some who had emotional problems or other questions."[140] The letter to the editor from Reverend Cooper reveals that Dr. Lawrence was put into this situation often, and his community knew and supported him. Cooper remembered, "I recall his performing one abortion in McLeod Hospital in Florence without charge when no other help was available."[141]

Through these letters a portrait of a man begins to emerge. Across the country thousands of doctors continued to perform illegal abortions, and many communities stood behind them. In instances like this, the state stood between doctors and their patients.

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[139] "To the Editor," *Florence Morning News*, October 24, 1972.

[140] "Public Forum: Dr. Lawrence Was Dealt an Injustice in Courts," *Florence Morning News*, October 24, 1972.

[141] Ibid.

Soon after Lawrence was found guilty and made to quit seeing his patients at the local hospital, his friends and patients created the Committee for the Defense of Dr. Kenneth G. Lawrence. The Secretary of the Committee, James Simmons, said, "There aren't many doctors anywhere who fight as hard for their patients and we're going to call on his patients and their families and friends to fight for him now." They planned to use the funds to hire F. Lee Bailey and create a class action law suit to reinstate Lawrence to the hospital. Though they did hire Bailey, they were unsuccessful in getting Lawrence reinstated to the hospital.[142]

How the *Roe* decision would influence access to abortion in South Carolina was uncertain in early 1973 when the decision was passed down. Addressing a group of thirty-five people in the Commons Room of Russell House in February, state Attorney General Daniel R. McLeod said that it would depend on Dr. Lawrence's appeal to overturn his conviction. There were several options: The appeal could be heard by the South Carolina Supreme Court, or it could be sent to a lower court. Another route would be through the State House.[143] The General Assembly could alter the existing statute, a 1962 state code.

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[142] "Friends and All Patients of Dr. Kenneth G. Lawrence," *Florence Morning News*, December 19, 1972.

[143] Patrick Tyler, "Abortion Law Said to Need Change," *The Gamecock*, February 15, 1973.

In *State v Lawrence*, the South Carolina gynecologist and obstetrician brought an appeal to test the constitutionality of a 1962 state code.[144] The code stated in essence that any person that caused the "miscarriage, abortion or premature labor of any such woman, shall, upon conviction thereof, be punished by imprisonment in the Penitentiary for a term not more than five years or by fine of not more than five thousand dollars or by such fine and imprisonment both, at the discretion of the court."[145] Attorney General McLeod said that, until the new statute is in place, "I would recommend if I were in private practice and a woman came to me for an abortion that she go to another state."[146]

The verdict on Lawrence's appeal, on July 16, 1973, reversed the previous position, thereby making state law in accordance with federal mandates. Abortions were now legal and the first clinic in South Carolina opened two weeks later.[147]

Making the operation legal also called into question whether the service would be provided by the USC campus medical center. President Dan Jones said he would rely on Isoa Hirata, then the director of the medical center, to decide the matter. Hirata said there

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[144] "State v. Lawrence," *Justia Law*, accessed January 24, 2016, http://law.justia.com/cases/south-carolina/supreme-court/1973/19662-1.html.

[145] *Abortion or attempted abortion not resulting in death Act of 1962*. South Carolina Code § 16-83.

[146] Tyler, "Abortion Law Said to Need Change."

[147] "State's First Abortion Clinic to Open in Columbia on August 1," *The News and Courier* (Charleston), July 19, 1973.

was little hope of this becoming an option, but insisted his decision was "not based on any moral outlook." It was instead strictly a budgetary matter.[148]

Student reactions at USC were typical of that age group at the time. The 1973 issue of the school's yearbook, *The Garnet and Black*, had a very frank discussion of students' thoughts about sex, contraception, and abortion in the section called "'73 Issues." The topics are approached as if they were part of everyday student life that needed to be explored. The first page read, "Because of the interest, importance and lack of information on the sexual attitudes and behavior of USC students, Dr. Stephen Haynes and Dr. Jerry Ozell of the Psychology department designed a questionnaire." The questionnaire was completed by over four thousand students and found that most students were sexually active and desired information about and access to contraception.

The five pages following this section are dedicated to stories about abortion. "Abortion: I'm Glad I Had it Done," the title of the first story, details a USC student's experience having an abortion in Washington, D.C. in the fall of 1972. The following two pages contain several letters to the editor of the student newspaper in response to the story and to each other. Both sides of the debate are evident. One letter argued for the autonomy of women in choosing to have an abortion. Another uses several lines of scripture to argue that it is not God's will for women to terminate pregnancies.[149]

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[148] Tyler, "Abortion Law Said to Need Change."

[149] *Garnet and Black*, vol. 75 (University of South Carolina, 1973).

The first abortion clinic in South Carolina, and in the Southeast, opened on August 1, 1973. An editorial in the *Aiken Standard* examined how some members of the community felt about the clinic. "With the Supreme Court decision legalizing abortions, South Carolina finds itself in a peculiar position, a new breed of service with no standards to govern it."[150] Two New Yorkers, Linda Drilling and Ron Wimbush who had worked in a clinic in New York, said they had picked South Carolina "because it is an area where a clinic is desperately needed."[151] They had worked with Eslinger through the hotline referral service and knew the need first hand.

In an August 1, 1973 interview with *WIS-TV* Drilling commented that it caught her attention that so many of her clients were from South Carolina. In 1970, Drilling and Wimbush had opened and operated one of the first abortion clinics in New York. Drilling commented that while working there they noticed what she thought of as a surprising number of women from South Carolina making the trip north in order to terminate their unwanted pregnancies. They hoped that by having a clinic located in the state it would cut down on the traffic to New York and lessen the stress and expense for women needing the services.[152] She was concerned that these women were not receiving

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[150] "Abortion Law Brings New Questions," *Aiken Standard*, July 19, 1973.

[151] "First Abortion Clinic Busy on Opening Day," *The News and Courier* (Charleston), August 5, 1973.

[152] "State's First Abortion Clinic to Open in Columbia on August 1," *The News and Courier* (Charleston), July 19, 1973.

any sort of counseling prior to their procedures. She and her partner, Wimbush, then made the decision to move to South Carolina and open a clinic there.[153]

The two found several people in the state who were receptive to the idea of opening a clinic, first and foremost Vickie Eslinger. It was to be the first clinic in any of the Southern states. Operating under the name Southern Women's Services, Inc. (SWS), they hired a staff, including a rotating team of local doctors. They received approval from the state board of health on July 11 to open the clinic which it did a month later.[154] The clinic, an outpatient facility, was to be open on Saturdays only and would offer counseling and follow up consultations.

A newspaper report described the scene at the new clinic. It said, "The client enters the brick walled reception room filled with tomato red, bright yellow and green chairs. She fills out a form with the receptionist. The fee is to be $190 at the Columbia clinic. She has her laboratory work done at a nearby clinic. This includes a pregnancy test, urine test, venereal disease test, sickle cell test when appropriate, and a group and Rh factor test."[155] The bright colors of the waiting room were to keep it from feeling too much like a hospital atmosphere. Drilling and Wimbush were determined to make the

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[153] "First Abortion Clinic Opens," in *News at Seven*, WIS, August 1, 1973.

[154] "First Abortion Clinic Busy on Opening Day," *The News and Courier* (Charleston), August 5, 1973.

[155] "Abortion Law Brings New Questions," *Aiken Standard*, July 19, 1973.

experience as comfortable as possible and remove some of the stigma associated with the procedure.[156]

On opening day, they saw thirty patients with another twenty-five scheduled for the next Saturday. Drilling said, "[t]he demand and need for this type of facility in South Carolina is very real." The first group of patients were mainly white women in their twenties, but there were several black women as well. And, while most of the women were from South Carolina there were a few from nearby states.[157]

Drilling hoped that the clinic would eventually be open six days a week and that it would offer counseling and referrals in the future. She also hoped that it would be the beginning of an educational process that would most likely teach women about different forms of birth control, as well as the accessibility of adoption services. "We are not just an abortion clinic," she stated. "Our field is the field of problem pregnancy, whether the woman decides to terminate it or carry it full term."[158] They soon instigated abortion counseling sessions, which were offered both before and after the procedure. Drilling said, "Terminating a pregnancy is not just a surgical procedure. It involves a psychological strain." She insisted that the clinic's "main interest is the patient herself."

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[156] "Abortion Law Brings New Questions," *Aiken Standard*, July 19, 1973.

[157] "First Abortion Clinic Busy on Opening Day," *The News and Courier* (Charleston), August 5, 1973.

[158] "State's First Abortion Clinic to Open in Columbia on August 1," *The News and Courier* (Charleston), July 19, 1973.

And that this includes the women's emotional well-being as well. The counseling that occurred after the procedure included information on birth control. Drilling said, "Seventy-five percent [of patients] were not on birth control upon coming to us." Noticing a larger need for educating local women, SWS expanded to include a new organization, Women's Educational Services (WES), which would offer affirmative action consultation, rape and abortion counseling, workshops, and legal aid. Drilling hoped to work in conjunction with the ACLU, NOW and other groups.[159]

Not all response was positive, however, even from women's rights advocates Nancy Moore from the Spartanburg branch of the League of Women Voters remembered that the issue split the organization, with some members quitting after the LWV took a pro-choice stance.[160] A South Carolina section of the anti-choice group Citizens for Life formed almost immediately following the Supreme Court ruling. In 1974 they had a very large budget and were working to, in Vickie Eslinger's words, "chip away at reproductive rights."[161] The new clinic in Columbia was also subjected to picketing by protestors, including the Ku Klux Klan. Local feminist Eunice "Tootsie" Holland recalled seeing the

[159] Merry Bateman, "Southern Women's Services...Abortion Agency Works to Relieve Psychological Strains," *The Gamecock*, November 18, 1974.

[160] "Moore Transcript."

[161] Vickie Eslinger interview with author.

protesters, and was delighted that some of the signs were misspelled. One sign read, "Abortion is Murdor [sic]"[162]

A second South Carolina abortion clinic, the Greenville Women's Clinic, opened in 1976 to little fanfare or protest. Yet there was opposition from the established medical community. P.W. Campbell, while completing his residency in the local hospital, was condemned by older doctors for moonlighting at the abortion clinic. He remembered, "They said I shouldn't come here and do abortions for money…It's just that the chairman of the department was opposed to abortions really." Otherwise, founders of the Greenville clinic encountered little resistance or criticism. Campbell said it was not the same in other cities. The Charleston clinic was "picketed by the Right to Lifers. In Columbia they were picketed by the Ku Klux Klan and the Right to Lifers."[163]

By the end of the 1970s feminists across the country had achieved their goal of legal abortion access for all women, but the fight was long from over. Beginning as early as 1974 the state responded to the growing national debate by working to overturn *Roe v Wade*. That year James Buckley (R-NY) and Jesse Helms (R-NC) each proposed adding a Constitutional amendment that would read, "with respect to the right to life, the word 'person' applies to all human beings, including their unborn offspring." On March 6,

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[162] Eunice "Tootsie" Holland interview with author; "First Abortion Clinic Busy on Opening Day," *The News and Courier*, July 19, 1973.

[163] "Abortion Clinic Now a Fixture," *The Greenville News*, August 10, 1977, South Carolina Women's History Collection, SCPC.

1974, Bella Abzug (D-NY) told the Senate Constitutional Amendments subcommittee that its consideration of this amendment would mean that "the fate of women is once again to be decided by men."[164] While the proposed amendment was not approved by Congress, legislators would continue to chip away at the *Roe* decision for decades.

[164] "Rights of the Unborn Considered," *The State*, March 7, 1974.

CHAPTER 3

STERILIZATION

"A black woman's body was never hers alone."

--Fannie Lou Hamer, 1964

In 1973 two African American women from Aiken, South Carolina sued Dr. Clovis Pierce, accusing the physician of forcing sterilization on them. As the legal brief says, "The essence of the complaint was that Medicaid recipients were being required to consent to undergo a tubal ligation if they were delivering a third living child." Pierce himself said, "My policy was with people who were unable to financially support themselves, whether they be on Medicaid or just unable to pay their own bills, if they were having a third child, to request they voluntarily submit to sterilization following the delivery of the third child. If they did not wish this as a condition for my care, then I requested that they seek another physician other than myself."[165]

For a considerable number of American women, reproductive rights meant the choice to have as many children as they wanted, a choice some women were denied through coerced sterilization. Through the court system they, and other women like them, pressed for reform. As with other issues concerning women's bodies, the concept of

[165] "Dr. Pierce Explains Policy," *Aiken Standard*, July 16, 1973.

reproductive choice is undeniably intertwined with concepts of race and class. To those on the bottom rungs of society, deemed by some to be 'unfit' to be mothers, choice is more about the chance to have children, and to be able to support them.[166] In California most of those women were Mexican. In New York most were Puerto Rican. Native American women were targeted on every reservation. In Southern states targeted women were most often black. Historically, that had not always been the case. Sterilization laws and policies were originally focused on improving the white race.

The history of forced or coerced sterilization is long and complicated, and cannot be untangled from the history of reproduction and how it has been tied to race and class. The "science" of eugenics was meant to improve society by using Charles Darwin's concept of evolution combined with Gregor Mendel's theory of genetics. Darwin's cousin, Sir Francis Galton, coined the term in 1883 and explored the prospects the new science presented. According to him there were two forms of eugenics, positive and negative. He believed that members of the British upper class had a better genetic makeup than those in the lower classes. Through positive eugenics policies, those with these superior genetic makeups could mate and create offspring worthy of the upper classes. Alternatively, negative eugenics policies would keep lower classes from

[166] Margaret Conway, *Women and Public Policy: A Revolution In Progress*, (Washington, D.C: CQ Press, 2004), 83.

reproducing.[167] Many Americans saw this theory as a way of controlling the population they felt was quickly becoming out of control. At the turn of the twentieth century, they saw the white majority as under attack from a variety of sources: immigrants, suffragists, the birth control movement, the Great Migration, and the labor movement.

On the part of the white upper class, there was a push for women of that social tier to have more children. In a 1903 speech to Congress, President Theodore Roosevelt insisted that, "willful sterility [of white Anglo-Saxon protestant women] is, from the standpoint of the human race, the one sin from which there is no atonement."[168] White women, from that viewpoint, had a duty to not only the state, but to the entire human race, to reproduce. But, only certain white women could. have desirable children In the beginning, sterilization was focused more on cleaning up the white race than curbing the reproduction of minorities. Early eugenicists believed that by requiring the sterilization of those thought unworthy, they could ensure a stronger and more fit white race. Men were sterilized as punishment for crime or to curb their aggressiveness.[169] Historian

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[167] Roberts, *Killing the Black Body: Race, Reproduction, and the Meaning of Liberty*, 59–60; Kluchin, *Fit to Be Tied*, 11; For more on Galton see Stephen Trombley, *The Right to Reproduce* (London: Weidenfeld & Nicolson, Limited, 1988), 5–16.

[168] Roberts, *Killing the Black Body: Race, Reproduction, and the Meaning of Liberty*, quote on page 60.

[169] Craig and O'Brien, *Abortion and American Politics*. A case in 1942 outlawed the compulsory sterilization of men as punishment for crimes. The ruling in *Skinner v Oklahoma* recognized that the ability to reproduce was a right, not a privilege. It read,

Thomas Leonard said, "Because eugenics *begins* with a hierarchy, it also must postulate who decides what the hierarchy shall be, that is, who determines the fitness ranking that will guide societies selection of the fittest."[170]

Charles Davenport, a celebrated biologist, opened the New York Cold Springs Harbor Laboratory in 1904, a research facility devoted to the study of eugenics. He opened the Eugenics Record Office (ERO) there in 1910 with financial help from Andrew Carnegie, John Harvey Kellogg, and other wealthy philanthropists. The ERO conducted research, compiled family trees, and issued reports. Among its "findings" was that behavioral traits (laziness, immorality) were hereditary, and that some of these traits could be narrowed to certain races (Polish were independent, Irish were violent). Several other disabilities and traits were thought to be inheritable: epilepsy, alcoholism, prostitution, rebelliousness, and criminality. They supported segregating the unfit from the general population and sterilization as a way to cull some of these behaviors in future generations.[171]

"The power to sterilize, if exercised, may have subtle, far reaching and devastating effects. In evil or reckless hands it can cause races or types which are inimical to the dominant group to wither and disappear."

[170] Thomas C. Leonard, *Illiberal Reformers: Race, Eugenics, and American Economics in the Progressive Era* (Princeton University Press, 2017), 119.

[171] Roberts, *Killing the Black Body: Race, Reproduction, and the Meaning of Liberty*, 61–62; Kluchin, *Fit to Be Tied*, 12; Trombley, *The Right to Reproduce*, 49–69; Leonard,

The first state to enact a sterilization law was Indiana in 1907. It targeted male and female criminals and those who were considered to be imbeciles or feebleminded (an open-ended, catchall term). Eleven states added similar laws within six years, yet several of them were struck down by state courts as unconstitutional. Within that time, psychologist Henry Goddard introduced an IQ test that he said could show that feeblemindedness was hereditary. These tests were used to prove that certain immigrants and African Americans were intellectually inferior to whites. This led to several states enacting anti-miscegenation laws.[172] It also led to the creation of state institutions and hospitals, where the unfit could be segregated.[173] To ensure this, state laws needed to be passed that could not be deemed unconstitutional.

The Superintendent of the ERO, Harry Laughlin, had a solution. He had earned a Doctor of Science from Princeton and was a highly regarded scientist. In his position at the ERO he published numerous books and was invited to speeches all across the country. In response to the separate states' court rulings deeming their sterilization laws unconstitutional, he drafted a model law in 1922 he felt would not be struck down. In it

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Illiberal Reformers: Race, Eugenics, and American Economics in the Progressive Era, esp. Chapter 7; For more information on epileptics see pages 39-41 Adam Cohen, *Imbeciles: The Supreme Court, American Eugenics, and the Sterilization of Carrie Buck*, 2017.

[172] Leonard, *Illiberal Reformers: Race, Eugenics, and American Economics in the Progressive Era*.

[173] Cohen, *Imbeciles*, 25.

he defined "socially inadequate classes" who were unfit for procreation. These classes included: "(1) Feebleminded; (2) Insane; (3) Criminalistic (including delinquent and wayward); (4) Epileptic; (5) Inebriate (including drug habitués); (6) Diseased (including the tuberculous, the syphilitic, the leprous, and others with chronic, infectious and legally segregable diseases); (7) Blind (including those with seriously impaired vision); (8) Deaf (including those with seriously impaired hearing); (9) Deformed (including the crippled); (10) Dependent (including orphans, ne'er-do-wells, the homeless, tramps and paupers)." In addition, several states also included "sexual perverts" [homosexuals and promiscuous women] to the list.[174]

The state of Virginia used Laughlin's model sterilization law and chose to test it for constitutionality in front of the court before it was implemented. In 1924 they used the case of a pregnant seventeen-year-old Carrie Buck, an inmate at the Virginia Colony for Epileptics and Feebleminded at Lynchburg where her mother was also committed. The case wound its way to the Supreme Court. Laughlin testified at the hearing and said Buck was a member of the "shiftless, ignorant, and worthless class of anti-social whites

[174] Kim E. Nielsen, *A Disability History of the United States* (Beacon Press, 2012); Harry Hamilton Laughlin, "Eugenical Sterilization in the United States" (Psychopathic Laboratory of the Municipal Court of Chicago, December 1922). It should be noted that Laughlin had many fans in Nazi Germany and received an honorary doctorate from Heidelberg University in 1936.

in the South."[175] The Supreme Court case of *Buck v Bell* found that it was constitutionally valid to sterilize someone who was thought to be a substandard genetic donor. Justice Oliver Wendell Holmes wrote in the majority opinion that allowing such people to reproduce would "sap the strength of the State." Indeed, that, "It is better for all the world if, instead of waiting to execute degenerate offspring for crime or to let them starve for their imbecility, society can prevent those who are manifestly unfit from continuing their kind." He added that, "three generations of imbeciles is enough."[176] Carrie Buck, a young white woman, was found to be an "imbecile" and was relegated to infertility for life. Thousands more would join her.[177]

Later research would show that Buck was an average student who became pregnant from being raped by a friend of her adoptive parents. Historian Stephen Gould said her case was "never about mental deficiency; it was always a matter of sexual morality and social deviance."[178] The *Buck* decision led to a doubling of the number of

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[175] Roberts, *Killing the Black Body: Race, Reproduction, and the Meaning of Liberty*, quote on page 69.

[176] Oliver W. Holmes, *Buck v Bell* (U.S. Supreme Court May 2, 1927). He also argued that "three generations of imbeciles was enough."

[177] For more on eugenics and the *Buck v Bell* case see: Cohen, *Imbeciles*; Paul A Lombardo, *Three Generations, No Imbeciles: Eugenics, the Supreme Court, and Buck v. Bell* (Baltimore: Johns Hopkins University Press, 2010).

[178] Stephen Gould, "Carrie Buck's Daughter," *Natural History Magazine*, July 1984; Lombardo, *Three Generations, No Imbeciles*.

states with such statutes. Several of those states began a practice of quickly admitting, sterilizing and releasing women. It was often a way to punish what the state deemed inappropriate behavior in women. In a review of California measures, it was found that three out of four women who were committed had been judged as "sexually delinquent."[179]

Until that point, the focus of sterilization policy had been in the West, more specifically in California. The state was early in adopting a law, which they did in 1909, but slow to implement it. By the 1920s it sterilized close to five hundred people a year.[180] After the Great Depression, when there was an overall dip in state-mandated operations nationally, however, the loci of compulsory sterilizations moved to the South. The focus remained on white women. Many in the eugenics movement believed that the poor health of African Americans would lead to fewer births, and there would be no need to regulate the reproduction rate in that community. This is not to say that all black people were safe but racial segregation freed many from the knife of forced sterilization through the end of World War II.[181]

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[179] Kluchin, *Fit to Be Tied*, 16.

[180] For more information on sterilization policies in California see: Alexandra Minna Stern, "Sterilized in the Name of Public Health: Race, Immigration, and Reproductive Control in Modern California," *American Journal of Public Health* 95, no. 7 (July 2005).

[181] Ibid. 130–131.

The Great Depression would change the rationale for the classification of unfit. The issue became less about the offspring and more about the parentage. Now, if people were not able to support children financially they were deemed unworthy to become parents.[182] Historian Linda Gordon said, "The economic crisis changed the dominant ideology that explained social problems, such as poverty, by discrediting eugenic theories of hereditary inferiority and substituting environmentalist views."[183] In response to economic burdens, several southern states instituted birth control programs to reach the rural poor.

In the 1930s and 1940s policies concerning reproduction policies were changing, there was an increased public desire for access to birth control. Highlighting the new legal attitude, a 1936 Supreme Court ruling effectively overturned the Comstock Act, making it legal for physicians to send and receive contraceptives in the mail. The AMA was not quick to respond to the new legality and desire from patients, it would be another year before it endorsed birth control, and then they continued to demand control over how it was dispensed. The AMA held a negative opinion on the ability of free-standing

[182] Philip R. Reilly, "The Surgical Solution: A History of Involuntary Sterilization in the United States," *Journal of the History of Biology* 25, no. 1 (1992): 95.

[183] Linda Gordon, *The Moral Property of Women: A History of Birth Control Politics in America* (Urbana and Chicago: University of Illinois Press, 2002), 211.

clinics to disperse birth control. This created a barrier for poor women to gain access to contraceptives.[184]

Historian Johanna Schoen stated in her work on the 1930s birth control movement in North Carolina, "Humanitarian, eugenic, and economic concerns converged in the complex set of factors that motivated health and welfare professionals' involvement in the delivery of birth control."[185] The movement came from a number of directions including both federal and state governments as well as private citizens.

One of the most recognizable leaders of the birth control movement was Margaret Sanger who started the Birth Control Federation of America (BCFA) in 1929 and served as its first Chairman of the Board. The BCFA was responsible for opening birth control clinics in several urban areas, an effort that was frowned upon by the AMA, which believed that only physicians should have the power to dispense birth control. The BCFA clinics could only reach the women in nearby communities, which left poor rural women without access to contraceptives.

In response to this need, the BCFA created a committee dedicated to African Americans, the Division of Negro Services, to give better access to birth control to rural Southern black women. Many prominent African Americans served on its advisory

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[184] Joyce M. Ray and F. G. Gosling, "American Physicians and Birth Control, 1936-1947," *Journal of Social History* 18, no. 3 (1985): 401.

[185] Schoen, *Choice & Coercion*, 22.

council including W.E.B. DuBois and South Carolinian Mary McLeod Bethune.[186] Sanger's vision of this service was to inspire a grassroots campaign, controlled by African Americans, that allowed them to control their own services. Her vision was not the same as that of the BCFA and the project came under the control of Clarence Gamble, a founding member and prominent eugenicist. He felt the need to control African American reproduction. He stated, "The mass of Negroes, particularly in the South, still breed carelessly and disastrously, with the result that the increase among Negroes even more than among whites is from that portion of the population least intelligent and fit, and least able to rear children properly."[187]

Changes in public opinion on birth control access were linked to changes in federal and state welfare programs. The 1935 Social Security Act included the Aid to Dependent Children (later renamed the Aid to Families of Dependent Children or AFDC). This program granted money to state governments to dispense to families of widows, disabled, or single mothers. The birth control movement was in part an effort to curb the number of children these women had, especially those receiving government aid.

In 1938 the BCFA made a twenty thousand dollar grant to educate southern blacks about birth control, and established the Division of Negro Services (DNS). Black

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[186] For more about Mary McLeod Bethune see: Paula J Giddings, *When and Where I Enter: The Impact of Black Women on Race and Sex in America* (New York: HarperCollins, 2014), esp. pages 117–130.

[187] Schoen, *Choice & Coercion*, quote on 47.

nurses in rural South Carolina counties were trained to disseminate information and birth control to black women in their communities. Gamble believed that black women would be suspicious of white doctors and would not take the birth control if it was offered to them.[188]

With pressure from the National Welfare Rights Organization (NWRO) the AFDC was expanded in the 1960s to include African American women, as well as two-parent households. This expansion led to some states attempting to pass legislation that would require sterilization for women on welfare with more than two children. A 1964 attempt in Mississippi to do just that was stopped by efforts of the Student Nonviolent Coordinating Committee (SNCC) and national media coverage.[189] Civil Rights Activist Fannie Lou Hamer told a group in 1965 that she had been a victim of sterilization abuse. She recalled that in 1961 she went in to the Sunflower County Hospital for uterine problems and received what came to be known as a "Mississippi Appendectomy" -- a hysterectomy. She estimated that sixty percent of black women in her county had the same experience.[190] The practice was so widespread that black feminists in the 1970s continued to reference them. Toni Cade wrote in a piece published in *Onyx* magazine in

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[188] Ibid., 44–50.

[189] Julius Paul, "The Return of Punitive Sterilization Proposals: Current Attacks on Illegitimacy and the AFDC Program," *Law & Society Review* 3, no. 1 (1968): 1.

[190] Roberts, *Killing the Black Body: Race, Reproduction, and the Meaning of Liberty*, 89–90.

1969 that they needed to "instruct the welfare mommas to resist the sterilization plan that has become ruthless policy for a great many state agencies."[191]

Sterilizations of poor women were not related to previous concepts of eugenics; they were performed by doctors who believed they had the right to stop poor women's reproductive lives. With the expansion of the welfare state and the influence of the Civil Rights movement, many were angry about what they perceived to be their tax money funding other people's lives. Nationally, expenditures for AFDC rose from $1,644,100,000 in 1965 to $6,203,100,000 in 1971. One doctor said, "as physicians, we have obligations to our individual patients, but we also have obligations to the society of which we are a part…The welfare mess…cries out for solutions, one of which is fertility control."[192]

This thought process was in direct correlation with the nation-wide move to what historian, Rebecca M. Kluchin called "neo-eugenics." She wrote, "In their [physicians, academics, policy makers] minds, women on welfare relinquished these rights as a condition of receiving aid. They believed that those who accepted government assistance should submit to government oversight and conform to mainstream, white-middle class

[191] Toni Cade Bambara, ed., *The Black Woman: An Anthology*, A Mentor Book (New York: New American Library, 1970), 205.

[192] Melanie K. Welch, "Not Women's Rights: Birth Control as Poverty Control in Arkansas," *The Arkansas Historical Quarterly* 69, no. 3 (2010): 220–44.

values and gender roles."[193] In 1968 Republican congressman, George H. W. Bush of Texas stated that, "our national welfare costs are rising phenomenally [and] that [blacks] cannot hope to acquire a larger share of American prosperity without cutting down on births."[194]

This was not an issue to which many women in the mainstream women's movement paid much attention early on. But, the issue was almost always on the radar of women of color, both inside and outside the movement. Dr. Helen Rodriguez-Trias, a Puerto Rican doctor in New York, started the Committee to End Sterilization Abuse in 1973, in response to the Relf Case in Alabama. In 1971, The Chicago Women's Liberation Union had written and passed out a pamphlet it had written on "The Politics of Sterilization." The writer, a white woman, had tried to get a tubal ligation at a local outpatient clinic. She wrote, "I was lead [sic] to believe that the clinic treated mainly women on welfare from the black community; I was told that I myself was not eligible to be enrolled in the clinic."[195]

The practice of coerced or forced sterilizations of poor women was a national problem. It occurred in hospitals in New York, Boston and Watts, most often teaching

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[193] Rebecca M. Kluchin, *Fit to Be Tied: Sterilization and Reproductive Rights in America, 1950-1980* (New Brunswick, NJ: Rutgers University Press, 2009), 5.

[194] Melanie K. Welch, "Not Women's Rights: Birth Control as Poverty Control in Arkansas," *The Arkansas Historical Quarterly* 69, no. 3 (2010), 221.

[195] "The Politics of Sterilization," 1971, The Chicago Women's Liberation Union, https://www.cwluherstory.org/health/the-politics-of-sterilization?rq=sterilization.

hospitals where students would argue over who would get to deceive a woman in order to learn how to perform a hysterectomy. In 1973 the Health Research Group (HRG), part of Ralph Nader's Public Citizen, Inc., published a study of several hospitals across the country. The study was led by Dr. Bernard Rosenfeld, an ob-gyn resident at the LA County Hospital. The October 31, 1973 *New York Times* reported that the study found that women were not being fully informed of what the operation meant and that, "considerable 'pushing' of elective sterilization and 'hard-selling of these procedures," had occurred in LA, Baltimore, Boston, New Orleans, Nashville, Chicago, and Louisville.[196]

Studies in the late 1960s and early 1970s substantiates these reports. In the late 1960s fifty-four percent of teaching hospitals made sterilization mandatory for poor women receiving abortions. In the early 1970s ninety-four percent of ob-gyns were in favor of sterilizing women on welfare who had three or more illegitimate children.[197]

States in the South were slower to adopt sterilization laws. South Carolina was the next to last when it passed a sterilization law in 1932, after much lobbying from the mental health community. In a 1931 speech to the South Carolina Medical Association, B.O. Whitten tried to outshine Justice Holmes when he explained that he could point to

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[196] "Doctors Scored on Sterilization," *The New York Times*, October 31, 1973.

[197] Simone M Caron, *Who Chooses?: American Reproductive History since 1830* (Gainesville: University Press of Florida, 2008), 210–211.

four generations of imbeciles at the South Carolina Training School (SCTS) where he was the director. In fact, he claimed there were close to one hundred thousand feebleminded people in the state and that "selective sterilization" was the only option to lower those numbers. In a coalition of the medical community and the state, he had been pushing for a state sterilization bill, but was having difficulties finding support.

Whitten found a sponsor in 1933 with Shepard K. Nash, a Democratic state senator from Sumter County. Their bill read that state institutions could petition the state board of health for the sterilization of "any inmate of such institution who is affected with any hereditary form of insanity that is recurrent, idiocy, imbecility, feeblemindedness, or epilepsy." It passed the Senate but was stopped in the House by Representatives with a vote of sixty-six to twenty-seven.[198] Representative Charles L. Thomas, an opponent, said, "This bill is criminal foolishness and a disgrace to civilization."[199]

The next year, Nash submitted the bill again. The annual South Carolina Federation of Women's Club's convention that year had made it a key issue. With this support, it again passed in the Senate. It found another rough reception in the House. One representative said, "We better stop and think. We are legislating major operations on women—God forbid it." Yet the House approved with a seventy-one to nineteen vote.[200]

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[198] Larson, *Sex, Race, and Science*, quote on page 129.

[199] "Sterilization of Mental Defectives Rejected By House," *The Greenville News*, April 12, 1933.

[200] Larson, *Sex, Race, and Science*, 129.

This law mirrored similar ones across the country that came about following the Buck case. It was aimed at "any inmate of such institution who is afflicted with any hereditary form of insanity that is recurrent, idiocy, imbecility, feeble-minded[ness] or epilepsy."[201]

With the new legislation in place, Whitten began a moderate sterilization movement at the South Carolina Training School. There his focus was more on women than men, and he was responsible for the sterilizations of hundreds of them. The SCTS only admitted white men and women, and Whitten believed that they were the only ones deserving of sterilization. In a 1937 speech to the American Association for the Study of the Feebleminded he said, "The negro is the beneficiary of a civilization to which he contributed little and from which he derives much."[202]

Aside from sterilization, there were few options for dependable birth control. Dr. Hilla Sheriff was determined to change that as the first female health officer in South Carolina. She was extremely interested in extending birth control to the rural women in Spartanburg County. Her early research on contraception had led to findings that influenced the Supreme Court ruling to overturn the Comstock Act. She had proven that very few women in South Carolina used birth control, like spermicidal foams and condoms, before the end of the 1930s. In response to Sheriff's work, South Carolina became the second state to offer birth control a part of typical public health services, and

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[201] Lutz Kaelber, "Eugenics: Compulsory Sterilization in 50 American States" (University of Vermont, 2012); Larson, *Sex, Race, and Science*.

[202] Larson, *Sex, Race, and Science*, 154.

clinics based on hers in Spartanburg began appearing across the state.[203] The clinics served both black and white women, but clinic workers reported that because of their great need for health services that black women tended to take advantage of their services at a much higher rate than white women.

In 1955, all of the twenty-three inmates sterilized at the South Carolina State Hospital were black women.[204] It was not uncommon for South Carolina state welfare personnel to ask the State Mental Hospital to admit women quickly in order to sterilize them. In fact, other facilities practiced the same sorts of practices. In the 1960s, the state penitentiary had the hospital temporarily transfer at least two inmates for the purposes of sterilization, with the written permission of Governor Ernest "Fritz" Hollings.[205]

In April 22, 1971 South Carolina Representative, Republican Lucius O. Porth submitted a bill to the House that called for women on welfare with two or more children to be "made physically incapable of bearing additional children." The father of two told reporters that the bill was aimed at women having babies not from the desire for children but from the need to fulfill lustful urges. He said he believed that people on welfare were having children not out of love but that, "These children [are] born from a lust from sex,

[203] Hill, "Dr. Hilla Sheriff: Caught Between Science and the State at the South Carolina Midwife Training Institutes," 82–83.

[204] Ibid. 89.

[205] Larson, *Sex, Race, and Science*, 155.

have to eat out of garbage cans and steal." Porth believed this measure to be a positive step towards welfare reform in that it would force the state controlled sterilization of both married and unmarried women.[206]

Negative community reactions to this bill were swift. Two days after the bill was submitted, longtime Columbia Civil Rights activist M. Hayes Mizell told reporters that what Porth proposed was "a racist bill that is ridiculous and authoritarian." He had written a formal complaint against the bill which he sent to Governor John C. West's Human Relations Commission. Mizell said, "I think it is incredible that anyone would even suggest that the state should determine how many children any person should have." He argued that the legislation was aimed at the African American population and that, "There are a good many blacks who would go as far as to label this bill genocide." Field director of the South Carolina NAACP, Isaac Williams said the bill was "an attempt to employ Hitler-type tactics upon the poor of the state." Of his own upbringing Williams said, "I am from a poor family of 11 and I feel that we have just as much love in our family as he has or even more." Paul W. Matthias, executive director of the South Carolina Council on Human Relations said that the state-controlled plan "is punishing people for being poor. He continued, "It's just the sort of know-nothing attitude that some people have about people on welfare." Mrs. Thomas M. Cimion, board member of the Columbia Welfare Coalition said, "There is no way you can control someone else's body and say you are still living in a free society."[207] Porth withdrew his bill in early May

[206] "For Welfare Mothers: Solon Proposes Sterilization," *The State*, April 23, 1971.

[207] "Mizell Condemns Sterilization Proposal," *The State*, April 24, 1971.

1971, after South Carolina Attorney General Daniel McLeod informed him that it was unconstitutional.[208]

Concurrently, On May 12, Dr. Joseph F. Flowers proposed a resolution to the South Carolina Medical Association (SCMA) at their meeting in Myrtle Beach. Flowers urged that the SCMA back the sterilization legislation saying that it would stop welfare mothers from having more babies after, "two such mistakes," meaning two children.[209] He also proposed that the State Board of Health establish a "family protection agency" that would effectively sterilize all who were deemed "mentally and morally" unfit for parenthood. The decision would be judged by a panel made up of a medical doctor, a psychiatrist, a registered nurse, an attorney and a "professional" consumer." The *Florence Morning News* editorial argued that "what the doctors propose smacks of genetic and social engineering."[210]

Porth reintroduced an amended bill the same day as the SCMA meeting in Myrtle Beach. It made sterilization a voluntary operation that would be paid for by the state. It also limited the welfare childcare allowance to only two children. Porth told reporters that, "People should use good common sense and self-control." And he believed that,

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[208] "Sterilization Bill Withdrawn," *Florence Morning News*, May 5, 1971.

[209] "Doctors' Involvement Urged," *The State*, May 12, 1971.

[210] "Sterilization of the 'Unfit,'" *Florence Morning News*, May 12, 1971.

"We have so many problems facing our cities and states in welfare. It appears to me that the ones who have these children are the ones causing our biggest problem."[211]

Porth had opponents in the community. On May 13 the ACLU released a statement that called the bill, "contrary to existing law and unconstitutional."[212] A letter to the editor of the Florence *Morning News* read that the bill "is inhumane because it violates human dignity and deprives the individual of the exercise of a basic natural right to procreate."[213] But these sounds from the community did not deter Porth or the SCMA, who was moving forward with the creation of a state sterilization board. The board would serve to decide who should be sterilized. An editorial in the *Aiken Standard* warned that South Carolina should, "proceed with great deliberation and caution in establishing the legal machinery for involuntary sterilization."[214] The outcry from the public and civil rights organizations caused the bill to be tabled, but not the practice.

In July of 1973, thirty-year-old Carol Brown, a white mother of four, was looking for an obstetrician near her home in Wellenton, South Carolina. Her husband, Robert Brown, was completing an eighteen-month stay in the county jail for grand larceny.

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[211] "Sterilization Bill Proposed in S.C.," *The Cumberland News*, April 24, 1971.

[212] William E. Mahoney, "House Moves On To Welfare Bills," *The Index-Journal*, May 13, 1971.

[213] "Sterilization Bill Repugnant," *Florence Morning News*, May 29, 1971.

[214] "Proceed With Caution," *Aiken Standard*, May 17, 1971.

Because of this, the family was on welfare. This situation made it impossible for her to find a nearby doctor who took Medicaid and would not force her to be sterilized. There were only three obstetricians in Aiken County. One was not accepting new patients, and one did not accept patients on Medicaid. That left Brown, and women like her, no option but Dr. Clovis H. Pierce. Pierce's personal policy was that if a woman had more than two children and was on Medicaid then she must be sterilized, if he was to be their doctor. The issue became public knowledge when Carol's husband called a local newspaper with the information.[215]

Ultimately, Brown declined to sue, but sent a letter of complaint to the commissioner of the South Carolina Department of Social Services. In addition, County Commissioner Jo Ann Price began doing some digging of her own, requesting information from the hospital. According to the *Aiken Standard* in July 1973, "Almost half of the number of Medicaid patients delivered of babies during the first six months of this year here have also had tubal sterilization…Most were under 25 years of age."[216]

According to the *Aiken Standard*, "A number of sources indicate that this is not a new problem in Aiken County." Of her client, Brown's attorney Sylvia Westerdahl said, "This is just the first one that has come forward and yelled 'help.'" Brown eventually had her baby in a hospital in nearby Augusta, Georgia, twenty minutes away. Special

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[215] "Sterilization of Indigent Produces An Uproar," *Aiken Standard*, July 17, 1973.

[216] "Since Jan. 1 At County Hospital 16 Medicaid Patients Are Sterilized," *Aiken Standard*, July 16, 1973.

arrangements had to be made with Medicare offices because she was forced to cross state lines for delivery.[217]

Other patients of Pierce began to speak up, and the story was quickly picked up by the national press. The *New York Times* reported on July 22, 1973 that twenty-two – year-old African American Dorothy Waters was told during her eighth month, at her last visit to Pierce's office before childbirth, that she would have to have a tubal ligation when she delivered her child.[218] An article in the *Times* August 1, 1973 issue described the plight of Marietta Williams, another patient of Pierce. This twenty-year-old African American woman from Aiken had given birth to her third child in July. She told the newspaper that Pierce had threatened to take her to court if she did not agree to sterilization. When she refused to sign the consent form, Pierce told her, "Listen here, young lady, this is my tax money paying for this baby and I'm tired of paying for illegitimate children. If you don't want this sterilization, find another doctor."[219]

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[217] "Woman Refused Delivery, Unless She's Sterilized," *Aiken Standard*, July 13, 1973.

[218] "3 Carolina Doctors Are Under Inquiry In Sterilization of Welfare Mothers: Policy Is Confirmed Full Inquiry Planned," *New York Times*, July 22, 1973.

[219] "Sterilization of Black Mother of 3 Stirs Aiken, S.C.: Residents Angered Defended Policy Baby Still Hospitalized Fears Reaction No Investigation," *New York Times*, August 1, 1973.

A letter of complaint from Carol Brown to the South Carolina Department of Social Services (DSS) led to an investigation of the three obstetricians in Aiken.[220] Robert D. Floyd, deputy commissioner of the DSS told reporters that the department had no authority relating to ethics. He said the investigation could only determine if Medicaid patients were treated differently. The investigation was headed by Dr. Archie Ellis, the director of the state Department of Social Services.[221] Other agencies were also conducting investigations, including: the South Carolina Medical Association, the FBI, and The U.S. Department of Health, Education, and Welfare (HEW). HEW deputy commissioner, Virgil Dechant told reporters that if the reports of forced sterilization of women on Medicaid was true that, "we find it in violation of the federal plan requirements for the Medicaid and the state, as the responsible party, is to take action."[222] The South Carolina Council for Human Rights appealed to the separate agencies to release the reports, and the Columbia chapter of NOW had called for legal action against Pierce.[223]

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[220] "H.E.W. Chief Issues Guidelines to Protect Rights of Minors and Others in Sterilization Cases: Inquiry in South Carolina," *New York Times*, 1973.

[221] "Alleged Remarks of Sterilization Causes S.C. Probe," *The Greenville News*, July 20, 1973.

[222] "Aiken Sterilizations May Violate Federal Statutes," *The Index-Journal*, July 31, 1973.

[223] "Publication Urged of Sterilization Probe," *The Greenville News*, July 21, 1973.

By the beginning of August, 1973 all pregnant Medicaid patients from Aiken were no longer being seen in their local hospital. Instead, Ellis was referring them to University Hospital in nearby Augusta, Georgia. As a result, Pierce had been instructed that he could no longer see pregnant patients on Medicaid.[224] Richard T. Poore, director of the Aiken County DSS said he had no prior knowledge of the sterilization of welfare mothers. An unnamed member of his staff disagreed and told reporters that they had known about the policy and that it had been happening for years.[225]

Also in August of 1973, two of Pierce's patients, Virgil Walker and Dorothy Waters, joined a class action suit against the US Department of Health, Education, and Welfare (HEW) and the Office of Economic Opportunity (OEO). They joined their complaint with that of the Relf sisters from Alabama. In June of 1973 the Relf family of Montgomery, Alabama was visited by nurses from the Montgomery Community Action Agency, a federally funded organization. The nurses were there to give the Relf daughters, fourteen-year-old Minnie Lee and twelve-year-old Mary Alice, another Depo-Provera shot (a form of birth control Washington had discontinued), something that had happened since the family moved to the neighborhood two years earlier. The nurses returned and asked that the two girls be admitted to the county hospital. Their mother

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[224] "Pierce No Longer Handling Obstetric Medicaid Cases," *Aiken Standard*, August 2, 1973.

[225] "Two Aiken Women Now Plaintiffs in Federal Sterilization Case," *The Aiken Standard*, August 14, 1973.

agreed and signed an X as her signature on the release form. While in the hospital both girls were surgically sterilized.[226]

The Southern Poverty Law Center (SPLC) represented the Relf family in their case against HEW and OEO, and would represent Pierce's patients as well. Gary Allen, a local civil rights activist in Aiken, contacted the SPLC, probably after reading of the Relf case which was widely publicized. The SPLC sent attorney Joe Levin to Aiken to investigate the sterilization case there. He convinced Virgil Walker and Dorothy Waters to join the class action suit, and the SPLC would represent them. The case sought a court order for federal guidelines regarding sterilizations. It also sought a halt to all federally funded agencies from performing these operations until the guidelines could be issued.[227]

The case would change how the federal government oversaw the funding of sterilizations and would cause them to formulate guidelines for the procedure. These guidelines would protect future women from the same fate faced by the Relf sisters, Pierce's patients, and the countless other women who had been victim to similar policies.[228]

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[226] Kluchin, *Fit to Be Tied*; Larson, *Sex, Race, and Science*; Roberts, *Killing the Black Body: Race, Reproduction, and the Meaning of Liberty*.

[227] "Two Aiken Women Now Plaintiffs in Federal Sterilization Case."

[228] Gerhard Alden Gesell, *Relf v. Weinberger*, No. 372 F. Supp. 1196 (District Court, DC 1974).

Justice Gerhard Gesell, who heard the case, knew the importance and extent of this issue. In his opinion he wrote, "Over the last few years, an estimated 100,000 to 150,000 low-income persons have been sterilized annually under federally funded programs." His opinion reflected his feelings on the issue, that poor women were the main targets. He said, "Patients receiving Medicaid assistance at childbirth are evidently the most frequent targets of this pressure, as the experiences of plaintiffs Waters and Walker illustrate. Mrs. Waters was actually refused medical assistance by her attending physician unless she submitted to a tubal ligation after the birth. Other examples were documented."[229]

The South Carolina Department of Social Services found that almost half of all women on Medicaid who delivered in Aiken County in 1973 had been sterilized, the majority of them by Dr. Pierce. He continued to project his opinion. He told reporters that, "I feel that if I'm paying for them as a taxpayer, I want to put an end to their reproduction."[230]

There were many members of the community who supported Pierce and his policy. On September 5, 1973 a new group formed in New Ellenton, South Carolina calling themselves "The Silent Majority." Their main function as a group was to protect Pierce and announce that they would be his champions, and the champions of welfare reform. The group's president, W.R. Bland, a local pharmacist, said at a press conference

[229] Ibid.

[230] Bull, "Dr. Pierce Explains Policy."

that they wanted the state's welfare program "cleaned up" as Gov. Ronald Ragan [sic] of California had done in that state.[231]

The group created a petition that received over five thousand signatures, dedicated to Pierce, it had been published in the August 6, 1973 edition of *The Aiken Standard*, with instructions to clip it out and mail it to The Silent Majority.[232] The petition called for the sterilization of welfare mothers with three or more children saying, "We believe it is unfair to the taxpayers and the children of welfare recipients for their parents to continue having children." They continued, "We jointly believe, considering our constitutional rights, that we definitely have a voice in determining how our taxes are distributed."[233]

After obtaining the number of signatures they wanted, the Silent Majority began sending the petition to local legislators. In September 1973 Rep. Irene K. Rudnick, a Democrat from Aiken county, sent the petition to South Carolina Attorney General Daniel R. McLeod to get his opinion. He wrote her, "I have no reservation whatsoever in stating that such a statute [requiring the sterilization of women with three or more children on welfare] would, in my opinion, be unconstitutional upon the grounds that it would deprive the individual of due process of law, as well as constituting an unlawful

[231] "Silent Majority Seeks Welfare Reform," *The Aiken Standard*, September 6, 1973.

[232] "Silent Majority Petition," *The Aiken Standard*, August 6, 1973.

[233] "Silent Majority Seeks Welfare Reform."

invasion of the right of privacy." Rudnick returned to her constituents and explained McLeod's reasoning.[234]

There was a swift reaction from the black community of Aiken, the ACLU and the Welfare Rights Organization (WRO). The group met on September 15, 1973 to endorse a resolution opposing coerced sterilization of welfare patients. Johnnie Tillmon, an African American woman from California and founder and executive director of the WRO led the meeting. Speaking of the Silent Majority's petition she told the group that, "I think they want to eliminate poor folks, especially black folks. To put it in a law is absurd."[235]

Those present also began to question the racial aspect of coerced sterilization. The state WRO president, The Rev. B.J. Gordon, Democratic Representative from Williamsburg County said, "It bothers me to trust anybody anymore." Tolar Lee Gibbs of Aiken remarked that during slavery, a woman who could bear many children would bring a higher sale price. Tillmon asked, "We've been here for 400 years; folks say we have the most babies, how come we ain't caught up?" The specter of coercive sterilizations was causing them to question their worth in modern society.

Members of the Silent Majority surprised those in attendance by showing up at the meeting and attempting to explain themselves. Though ignored by Gordon, who was

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[234] "McLeod Doubts Law Would Be Upheld," *The Greenville News*, September 9, 1973.

[235] "Rights Group Opposes Forced Sterilization," *The Aiken Standard*, September 17, 1973.

heading the meeting, members of the group were escorted to the front of the room, and the newspaper reported, "as members clapped and sang an inspirational song." Bland told the group that their petition had been misinterpreted and that they were "by no means, trying to have forced sterilization." He explained that all the forms had been signed by Pierce's patients, that they did not believe they had been coerced.[236] This would be a common response. Many in the community felt that since Pierce obtained signed consent forms that there was no wrongdoing. This sentiment would be heard again when the cases went to court.

When the DSS finished with its investigation of Pierce's practice it found that he had sterilized eighteen welfare recipients between the beginning of January 1972 and the end of June 1973, sixteen of whom were black. From these patients, Pierce had received $60,000 in Medicaid money, essentially state money.

On September 28, 1973 the DSS announced at a press conference in Aiken that it was not going to take any extreme action against him. He would not lose his license to practice medicine, or his ability to accept Medicare patients. However, he must sign an affidavit saying that he would no longer use non-discriminatory practices and that he would stop using his present policy of sterilizing Medicare recipients. Archie Ellis said the decision to not take more severe actions against Pierce was over, "concern for the medical care situation in Aiken County," seeing that Pierce was the only doctor there

[236] Ibid.

who would take Medicaid patients.[237] Pierce refused to sign and the DSS imposed sanctions against him in September of 1973, meaning that he could face nonpayment from Medicaid patients.[238]

Opinions from various organizations differed. On November 13, 1973, The South Carolina Attorney General found that after investigating the sterilization policies at Aiken County General Hospital they found no issue, and there was no wrongdoing on Pierce's part. In December the South Carolina State Human Affairs Commission issued a different opinion. They called for the "decertification from all federally and state funded programs" of all physicians "involved in involuntary sterilizations."[239]

The Aiken County Medical Society supported Pierce. In a meeting in late 1973 they passed a resolution stating just that. It read, "We, the Aiken County Medical Society, proclaim our whole-hearted support and concern for Dr. Clovis H. Pierce and will sustain and defend Dr. Pierce and will continue to do so until such time the society is given reason to inquire into such complaint (malfeasance)."[240] Pierce had the support of his community when he went to trial.

Two women known only as Jane Doe and Mary Roe filed a $1.5-million-dollar suit against Pierce and four others in May 1974. The suit was filed by the ACLU on their

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[237] "No Drastic Action Taken Against Pierce," *The Aiken Standard*, September 28, 1973.

[239] "Aiken Sterilizations May Violate Federal Statutes."

[240] "Federal Jury to Decide Sterilization Issue," *The Aiken Standard*, July 11, 1975.

behalf and was the first of its kind. No other women had ever sued a doctor for wrongful sterilization; this case would set a precedent.

On July 15, 1975 the case was heard in Barnwell, South Carolina in U.S. District Court by Judge Solomon Blatt, Jr. Other defendants included the administrator of the hospital, J. Sam Nesbitt, Jr., George A. Poda, chairman of the hospital's board of trustees, Richard Poore, director of the Aiken county DSS, and Archie Ellis, state commissioner of the DSS. They were accused of conspiring to violate the women's civil rights.[241]

Virgil Walker (Jane Doe) was a twenty-five-year-old African American woman. She had conferred with Pierce about her pregnancy twice in January 1972. At the time she was pregnant with her fourth child and Pierce explained his policy of sterilization to her. Each visit, Pierce attempted to force her sign a consent form for sterilization. She refused both times, even when Pierce claimed he would have her welfare benefits cancelled. He then contacted a welfare case worker to convince her to submit. In court the case worker testified that he had tried to find her another doctor. But Walker disagreed. She testified that he had only told her that he could not help her. Seeing no other alternatives, she eventually capitulated to Pierce and signed the form. She reasoned, she told the jury, that it "would be futile" to continue to resist. Though she was delivered by a different doctor, who had her sign another consent to be sterilized. She was sterilized by Pierce on April 17, 1973, two weeks after she gave birth.

[241] Ibid.

Shirley Brown (Mary Roe and no relation to Carol Brown) sued because she was forced to leave the hospital the day after the birth of her child for refusing the sterilization. She was forced to leave early, despite the fact that she had paid a portion of her hospital bill in cash, and her mother offered to pay the rest, but was denied. Brown had not been on welfare at the time of her initial appointment. In August, with her due date looming, she had separated from her husband and was on maternity leave from her job, forcing her to secure government assistance. Like Walker, she was also delivered by a doctor other than Pierce, but when Pierce found out that she had given birth he sent a nurse to secure her consent to sterilization. She refused and he ordered her discharged, less than a day after she had given birth.[242]

The damning testimony against Pierce was followed with clever defense from Pierce's attorneys. The defense had halted the prosecutions plans for submitting the hospital's sterilization records into the record. They had convinced the judge that since the record was not separated by sex that it would be hard to tell how many women were affected. The defense also called a number of Pierce's former patients, both black and white, who found no fault with his policy. In addition, after questions from the defense, the plaintiffs told the court that they had not experienced any racial discrimination while in Pierce's care.[243]

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[242] "Plaintiffs Rest Case in Barnwell," *The Aiken Standard*, July 21, 1975.

[243] "Plaintiffs: No Knowledge of Discrimination," *The Aiken Standard*, July 22, 1975; "Pierce's Patients Defend His Policy," *The Aiken Standard*, July 23, 1975.

At the end of the hearing, Justice Blatt dropped charges against all the defendants for the conspiracy to violate civil rights charges, and in the end, the court ruled against the women. The jury (mostly women), along with the judge found in favor of Pierce and the officials. The logic was that Walker had signed the consent form, so they could legally find no misconduct. The jury awarded Brown five dollars in damages for her mistreatment by Pierce.[244] One of her lawyers said told reporters that this was "unconscionable and an insult." Their lead attorney said, "It's meaningless, what doctor's going to care if he can treat welfare patients like that and get away with it? What's going to stop him? The five dollars?"

The women appealed the ruling and the case went to the Fourth Circuit Court of Appeals in March, 1977. Once there, the court reversed the judgment of nominal damages that were awarded and agreed with the ruling by the lower court that Pierce was not at fault. Walker and Brown appealed their case to the Supreme Court, but the case never moved any further. [245]

Dr. R. Archie Ellis was named as a co-defendant in the case since he held the position of commissioner of the South Carolina Department of Social Services and supported Pierce in his position. He testified that his office "took the proper action, one endorsed by HEW (Health, Education, and Welfare). They allowed us to handle it and at

[244] "Pierce's $5 Fine 'An Insult,'" *The Aiken Standard*, July 28, 1975.

[245] They later became co-plaintiffs in the *Relf* case against H.E.W.

no time was anything done wrong."[246] Yet, at that time H.E.W. had not yet published any guidelines.

Though they lost in court, and some lost their fertility, the bravery of these five women who demanded to have control over their bodies, retained for future generations that these kinds of atrocities would be much harder to perpetuate. In 1976, after losing her appeal in the Fourth Circuit, Virgil Walker joined another Pierce patient, Dorothy Waters to become co-plaintiffs with the Relf sisters in a class action suit. *Relf v Weinberger* changed the federal guidelines so that no one, regardless of infirmary, or "unfitness," could be sterilized against their will.[247] As a result, federal guidelines contain substantial parameters concerning how women consent to and receive surgical sterilizations.

[246] Emily L. Bull, "16 Medicaid Patients Are Sterilized," *Aiken Standard*, July 16, 1973.

[247] Gerhard Alden Gesell, *Relf v. Weinberger*, 565 F. 2d 722 (Court of Appeals, Dist. of Columbia Circuit 1976); Randall Hansen and Desmond King, *Sterilized by the State: Eugenics, Race, and the Population Scare in Twentieth-Century North America* (Cambridge University Press, 2013), 249–251.

CHAPTER 4

RAPE

"That women should organize to combat rape was a women's movement invention."

---Susan Brownmiller, 1975

In February 1974 a young mother of two, recently relocated to Greenville, South Carolina, was moved to action after watching a television movie. *A Case of Rape* starred Elizabeth Montgomery and premiered on NBC in February 1974. Jayne Crisp was so upset by the depiction of the rape victim's treatment by police and court system that she decided to see what changes she could make in her local community.[248]

Women who were active in the second wave of the feminist movement took the axiom "the personal is political" not only to heart, but to the streets. Like participants in other social movements, they learned that if they wanted change then they would have to assume responsibility for making it happen. The impetus for rape law reform came solely from inside the movement. Before the 1970s victims of sexual assault had no institutional support. There was no centralized place for them to convene and no place to call for information or counseling. All across the country, women began to recognize that there was a need for such places and programs and began to take action.

[248] Jayne Crisp interview with author, February 23, 2017.

Through their own experiences, research into the existing literature, and speaking with victims, feminists started appreciating the climate that women faced as targets of rape. A 1975 article in *The Nation* reported that rape "has succeeded abortion and the Equal Rights Amendment (ERA) as the number-one issue for women's rights advocates." He asks, "Are public officials finally accepting the notion that a human being has an inalienable right to physical integrity, regardless of manner of dress, past sexual history, or even gender?"[249]

If victims pressed charges and the case went to trial women were usually the ones forced to justify their actions and victim-blaming was widespread. Along with antiquated attitudes and laws, the feminist reformers also needed to deal with the problems confronted by the victims. Some needed a safe haven, but most needed guidance about how to respond as well as help to cope with the emotional and psychological consequences of violence.[250]

Feminists in the 1970s worked to generate reform of the existing rape laws, standardize medical protocols, and establish rape crisis centers across the US. In the early 1970s, as a part of the Second Wave of the women's movement, a national, loosely organized, anti-rape movement sought to change the weak laws that existed as well as to

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[249] Daniel Ben-Horin, "Is Rape a Sex Crime?," *The Nation*, August 16, 1975.

[250] For more information on the anti-rape movement in other places see: Cassia Spohn and Julie Horney, *Rape Law Reform: A Grassroots Revolution and Its Impact* (New York: Plenum Press, 1992).

create and lobby for more stringent ways to hold aggressors accountable. By the 1980s, this lobbying had led to new laws in every state.

Through consciousness-raising (CR) groups, feminists discussing their past experience in relation to their bodies discovered they had more in common than just the desire for reproductive rights such as to legal abortion and to birth control: they learned that many of them had been the victim of nonconsensual sex. Consequently, as part of their overall push for equality, feminists focused on repealing or reforming existing rape laws. They set out to understand and to change the way that rape victims were treated by the state, physically, emotionally, and psychologically. Key goals included changing common misperceptions of rape; increasing the reporting of rape and enhancing prosecution and conviction in rape cases; improving the treatment of victims in the criminal justice system; providing care and treatment for victims; prohibiting a wider range of coercive sexual conduct; and expanding the range of persons protected by law.

Anti-rape feminists were strongly influenced by a groundbreaking work published in 1975 by Susan Brownmiller. She declared that rape, "is nothing more or less than a conscious process of intimidation by which *all* men keep *all* women in a state of fear."[251] Arguably, the most important legacy of feminism in regard to sexual violence is the idea that rape is not biological or sexual, but violent and political. Much of feminists' work

[251] Susan Brownmiller, *Against Our Will: Men, Women, and Rape* (New York: Simon and Schuster, 1975), 15, emphasis in original.

involved addressing and dispelling many myths about rape that pervaded both society and influenced law and policy.

One of the most common and destructive myths that needed to be overturned was the idea that women wanted to be raped. It was common to hear people say that no woman can be raped against her will-- that a rape victim was "asking for it." Rape was the subject of jokes, including one heard in the streets and in the halls of government: "If you're going to be raped, you might as well relax and enjoy it."[252] Most of these myths were popularized in literature and movies as well as in law journals. A 1966 article in the *Stanford Law Review* said, "Although a woman may desire sex it is customary for her to say no, no, no (although meaning yes, yes, yes)."[253]

Though feminists started this crusade against rape, they needed the cooperation of doctors, lawyers, and legislators to make many of the changes they sought. In the early 1970s women were entering these occupations in increasing numbers but they were still dominated by men and women needed their aid. The need for cooperation from the state would cause feminists to adjust some of their end goals, most importantly their desire to change how society viewed rape as a case by case issue and not an underlying concern that penetrated all levels of the population.

As they studied laws and policies and developed plans for reform, feminists in every state became aware of the archaic nature of laws concerning rape. In prosecuting

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[252] Ibid., 311.

[253] Susan Estrich, *Real Rape* (Cambridge, Mass.: Harvard University Press, 1987), 37.

perpetrators, law enforcement officers, lawyers, and judges tended to focus on the reputation of the victim, required corroboration from a witness, and demanded that the victim prove she had resisted her attacker. These laws were the product of much earlier eras, in many cases dating back to English common law. It would take a massive effort to change ideas with such a long and enduring history.

After arriving in Massachusetts Bay, colonists adopted laws based on the Bible and legal tracts from Britain. The main influence on rape laws was Sir Edward Coke who in 1642 defined rape as sex with a female under ten years old and nonconsensual sex with a female over ten years old. In 1736, Sir Matthew Hale's book, the *History of the Pleas of the Crown,* was published. This work heavily influenced rape laws until the late twentieth century. In it he argued that "rape is an accusation easily to be made and hard to be proved."[254] He also stated that women could not be raped by their husbands, marriage being a contract for compliance. Because rape traditionally was seen as a crime of theft of a man's property (either a husband's or a father's), the sentences for men convicted of rape under common law were severe, typically the death penalty or life imprisonment.[255]

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[254] Sir Matthew Hale, *The History of the Pleas of the Crown*, First American Edition, vol. 1, 2 vols. (Philadelphia, 1847).

[255] Stacy Futter. *The Effects of Rape Law Reform on Rape Case Processing*. Berkeley Women's Law Journal, 2001, Vol. 16, 72.

In America, only white women were protected by rape laws. There was a "sexual caste and class system" in place that made African slave and Native American women essentially prey to white men's urges. Nevertheless, historian Barbara Lindemann argued that the colonial era was mostly rape free in the white community. Officials tended to side with women because it was not believed anyone would accuse someone of such a terrible crime if they were not guilty.[256]

The dawn of the Victorian era in the United States brought with it a set of ideas historians have dubbed "the cult of true womanhood" which included ideas about woman's nature and role in society in many ways different from those prevalent in the colonial period. As summarized by scholar Barbara Welter, the characteristics proper women were expected to have included piety, purity, domesticity, and submissiveness.[257] Whereas in the colonial era, and for centuries in Europe, Christians had assumed that women, like Eve, were more sensuous and weak than men and therefore in need of male dominance, in the America of the 1800s, a true woman was presumed to have little if any sexual appetite and expected to hold off the advances of men who were assumed to have strong appetites for sex. Proper ladies were expected to say no to sex before marriage or outside of marriage. For unmarried women, chastity became a measure of morality. Many

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[256] Barbara Lindemann, "'To Ravish and Carnally Know': Rape in Eighteenth-Century Massachusetts," *Signs: Journal of Women in Culture and Society* 10, no. 1 (Autumn 1984): 66.

[257] Barbara Welter, "The Cult of True Womanhood: 1820-1860," *American Quarterly* 18, no. 2 (1966): 151–74.

women, however, were not in a position to resist. Historian Paula Giddings said, "Failing to adhere to any of these tenets—which the overwhelming number of Black women could hardly live up to—made one less than a moral 'true' woman."[258]

In 1838, Judge Cowen of New York argued that, "any fact tending to the inference that there was not the utmost reluctance and utmost resistance," could lead to a dismissal of a rape charge. True women would never submit to rape, they would rather die.[260] This marked the first time the victim's character was used to dismiss a charge. The 1874 case of *Woods v People* laid the way for the victim's prior sexual history to be used as evidence. This ruling led to a dramatic decrease in cases being presented.[261]

In certain southern states, rape laws still applied only to whites. In Kentucky and South Carolina the 1865 constitutions drawn up by defeated Confederates defined rapists as people who "unlawfully and carnally know any white woman, against her will or consent." The Reconstruction governments removed the word "white" a few years later.[263]

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[258] Giddings, *When and Where I Enter: The Impact of Black Women on Race and Sex in America*, 47.

[260] Peggy Reeves Sanday, *A Woman Scorned: Acquaintance Rape on Trial* (Berkeley: University of California Press, 1997), 110.

[261] Ibid., 110–114.

[263] Diane Miller Sommerville, *Rape and Race in the Nineteenth-Century South* (Chapel Hill: University of North Carolina Press, 2004).

Havelock Ellis, a British leader in the study of sexology in the 1890s, believed that women were naturally passive and men naturally aggressive. Sigmund Freud echoed this, but added that women did have a sex drive, but they needed men to be aggressive as part of their biological makeup. While Freud returned the sex drive to women, he added that it added to women's overactive imagination, which could lead to false accusations of rape.[265] According to him, a woman must "conspire in her own rape."[267] Here is the birth of "no means yes" and the idea that women frequently cried rape when none had occurred.

Societal outsiders were still considered outside these norms, and therefore often sexual prey, with no legal recourse for sexual assault. African American women activists at the turn of the twentieth century were vocal about the horrors of lynching and its association with rape accusations against black men.[269] Ida B. Wells found that rape charges were not actually made in two-thirds of the lynchings. Regardless, most of the over three thousand black men who were lynched between 1880 and 1950 were accused

[265] Sanday, *A Woman Scorned*, 19–21.

[267] Sanday, *A Woman Scorned*, 129.

[269] Maria Bevacqua, *Rape on the Public Agenda: Feminism and the Politics of Sexual Assault* (Boston: Northeastern University Press, 2000), 11–12. 21–24.

of sexually assaulting a white woman. White men in those communities claimed to be protecting their women's honor through these violences.[271]

In the late 1930s a general fear of perverse sex criminals pervaded American society. From 1937 – 1940 the FBI publicized a "War on the Sex Criminal." Ideas of sexual psychopaths, the only ones believed to be rapists, were embedded in the culture, from films to books. The popularity of Freudian theories added to the general hysteria. In addition, racial elements still pervaded criminal justice proceedings. Victims found that it was nearly impossible to get a conviction "where any colored people are either subject or victim."[272] New federal laws, like the Mann Act, were created to protect the chastity of white women and girls. Between 1935 and 1956 arrests of rapists doubled, perhaps spurred by the concept of sexual predators.[273]

The next sexual revolution, in the 1960s, brought with it a renewed desire to ensure equality of the sexes. Women were beginning to be influenced by Betty Friedan and Simone de Beauvoir. Mainstream society was against them, though. In courts, law

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[271] McGuire, *At the Dark End of the Street*, xix–xviii; Jacquelyn Dowd Hall, *Revolt against Chivalry: Jessie Daniel Ames and the Women's Campaign against Lynching* (New York: Columbia University Press, 1993); Giddings, *When and Where I Enter: The Impact of Black Women on Race and Sex in America*.

[272] For more information on the Mann Act see: Jessica R Pliley, *Policing Sexuality: The Mann Act and the Making of the FBI*, 2014, 160–166.

[273] Pliley, *Policing Sexuality*.

journals, sociological reports, and popular media, women were subjected to demeaning expressions. Alfred Kinsey's research team in 1965 said that male sexual aggression was normal and men should not necessarily be jailed for rape. As late as 1970, a volume of the University of Pennsylvania *Law Journal* claimed, "women often falsely accuse men of sex attacks to extort money or force marriage."[274]

Feminists were up to the challenge, and had already begun to cooperate and collaborate. They organized to change popular perceptions of women, sex roles, and concepts of sexuality. They did not agree with conventional beliefs of psychiatrists and lawyers, and undertook a crusade to alter society's attitudes. This work took many forms. Some women chose to work from the inside, becoming professionals such as lawyers and psychiatrists themselves. Their extensive writing on the subject of rape substantially changed how it was perceived.[276] Others took to the street and demonstrations were common, consisting of picketing and street theater.

In 1971 feminists in New York held the first "speak-out" on rape at the St. Clements Episcopal Church.[277] The media paid attention. In a 1972 article, *Time* magazine argued that, "rape remains the least punished of all American crimes of violence."[278] The first "rape crisis center" opened in Washington, D.C. in early 1972. Established in an apartment by a small group of young women who operated a twenty-

[274] Sanday, *A Woman Scorned*, 175.

[276] Bevacqua, *Rape on the Public Agenda*, 4.

[277] Ibid., 55.

[278] Sanday, *A Woman Scorned*, 175.

four-hour telephone hotline, it became a template for such centers nation-wide. Women found the need to create such safe places and instigate policy reform as part of their new understanding that the personal was political.

Activist and author Susan Brownmiller remembered, "Rape was our issue and counseling was an accepted form of political action. We know of counseling hot lines out there that told women where they could get an abortion."[279] Taking those abortion hot lines as a template, women across the country began to operate dedicated phone lines where victims could call for information or counseling. In fact, in Michigan, their rape counseling hotline (and eventual push for law reform) began with an abortion counseling hotline. These hotlines offered various services: while in the hospital for a medical exam they could ask for someone to come and sit with them, offering comfort and facts about the course of action they could take; counselors also offered information on legal action and how best to deal with police departments.

The National Organization for Women (NOW),began making rape a priority issue in the early 1970s, though it was not mentioned in the group's original Declaration of Purpose. Organizers at the sixth annual NOW conference in 1973 established a National Task Force on Rape.[280] At the 1974 national conference organizers had constructed a

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[279] Susan Brownmiller, *In Our Time: Memoir of a Revolution* (New York: Dial Press, 1999). Ibid.

[280] "The National Organization for Women Statement of Purpose," October 29, 1966, http://now.org/about/history/statement-of-purpose/.

model rape law for members to use. Over the next two years the number of chapters nationally involved in the issue increased from fifteen to two hundred.

Starting in the mid-1970s, NOW lobbied nationally for more aggressive laws and began to publish and disseminate literature to its affiliates in each state regarding their work.[283] The members of NOW used this literature to inform themselves about what needed to be done, including training law enforcement, opening rape crisis centers, developing and distributing rape kits, and finding suitable medical professionals to conduct exams.

In many places research into existing standards and laws sometimes took a more direct, hands on, and bolder approach, especially in regards to how rape victims were treated. A Chicago police sergeant and forensic expert, Louis Vitullo, is credited with creating the first standardized rape kit, which was put into use across Illinois starting in 1978 (though South Carolina had one in 1975). His inspiration was Martha Goddard, head of Citizens Committee for Victim Assistance, who had been a victim of sexual violence. Goddard spoke to people all over Chicago: sheriffs, lawyers, nurses, doctors. The Playboy Foundation, because of Goddard's friendship with Hugh Hefner's then wife, Christie, provided the initial funding for the kits. Goddard's assistant remembered in 2015, "The presence of the kit, and the fact that it rolled out statewide, created a snowball effect. It raised awareness about how to have an effective prosecution, which included

[283] New York Radical Feminists, Noreen Connell, and Cassandra Wilson, *Rape: The First Sourcebook for Women* (New York: New American Library, 1974).

properly supporting a victim. It gave legitimacy to the whole area of sexual assault, recognizing it as a serious felony that had to be handled properly."[284]

Social scientists Jeanne Marsh and Nathan Caplan said that "changing the law meant more than a redefinition of the crime. It meant autonomy to women." Reformed rape laws would show the importance of independence to women and would be a "*visible* place to start."[285] Many feminists began putting their newly minted law degrees to work by representing rape victims and working to rewrite outdated laws.

The Michigan law called for a redefinition of the crime, attacking four aspects of the traditional common law definition of rape. First, they argued there should be a degree structure to the offense.[286] Second, the sexual history of the victim should not enter the case. Third, they called for an elimination of the resistance and consent standards. And, fourth, they wanted an extension of this protection to previously unprotected groups

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[284] Jessica Ravitz CNN, "The Story behind the First Rape Kit - CNN.com," *CNN*, accessed January 26, 2017, http://www.cnn.com/2015/11/20/health/rape-kit-history/index.html; Bonita Brodt, "Vitullo Kit Helps Police Build Case against Rapists," *Chicago Tribune*, July 31, 1980.

[285] Jeanne C Marsh, Alison Geist, and Nathan Caplan, *Rape and the Limits of Law Reform* (Boston, Mass.: Auburn House Pub. Co., 1982), 2–3, emphasis in original.

[286] They argued for four degrees separated by the seriousness of the crime, amount of coercion, level of injury, and existence of incapacitation or under age status of victim.

(men, boys).[287] Lastly, various groups argued against the conventional death sentence assigned to rape, because it deterred juries from handing down guilty verdicts and because they thought that sentences should be graded commensurate with the degree of the (i.e., higher if aggravated circumstances were present).[288]

A major obstacle to law reform was in eliminating testimony about the reputation of the woman as evidence for the defendant. Under traditional common law, the victim needed to corroborate her testimony in order to prove rape, judges gave cautionary instructions to juries (repeating Hale's sixteenth century admonishment), and a victim's past sexual history was used as evidence that no rape occurred. Reformers made an effort to remove from rape cases evidentiary burdens that were not required for other crimes, including corroboration requirements. They also opposed the cautionary instructions that were given to juries in rape cases. Key to the reform movement was the enactment of rape shield laws, which restricted the admissibility of evidence on both direct and cross-examination regarding the victim's past sexual behavior with the defendant and with people other than the defendant. Many states began limiting the use of a victim's past sexual history with the defendant so that it was admissible only after an in camera hearing or admitted only for certain purposes (such as proving consent).[289]

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[287] Marsh, Geist, and Caplan, *Rape and the Limits of Law Reform*, 19.

[288] Stacy Futter, Jr. and Walter R. Mebane, "The Effects of Rape Law Reform on Rape Case Processing," *Berkeley Women's L.J.* 16, no. 1 (September 2001): 72.

[289] Futter, Jr. and Mebane, "The Effects of Rape Law Reform on Rape Case Processing."

African American women were not prominent in the anti-rape movement. One reason could lie in their family and community histories. Historian Rebecca Kluchin said, "black women grew up with legacies of rape, especially in the South.[290] For African American women, the issue of rape was even more complicated than it was for white women. The Combahee River Collective, a group of black feminists, said in a 1977 statement, "We know that there is such a thing as racial-sexual oppression which is neither solely racial nor solely sexual, e.g., the history of rape of black women by white men as a weapon of political repression."[291] Angela Davis said, "the failure of the anti-rape movement of the early 1970s…[was that it] failed to acknowledge the centrality of racism in determining social conditions resulted in the initial reluctance of Black and Latina women."

By 1975, the anti-rape movement was national. Feminists in many cities used information from the NOW Rape Task Force (NOWRTF) 1973 newsletter to help them establish rape protocols that would help victims. Organizers were instructed to interview hospital personnel, policemen, and prosecutors. The experience of organizing around

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[290] Kluchin, *Fit to Be Tied*, 177.

[291] Combahee River Collective, "A Black Feminist Statement," in *The Essential Feminist Reader*, ed. Estelle B. Freedman (New York: Random House, 2007); For more about how black women resisted rape see McGuire, *At the Dark End of the Street*.

repealing abortion laws had built a network of activists that understood the government process.[292]

Sexual violence was a growing concern nationally as crime rates skyrocketed through the 1960s and 1970s. In South Carolina, in 1968, members of the USC Alpha Phi Omega service fraternity formed an escort service to protect women who needed to walk at night.[294] The university fully supported the effort and supplied the vehicles and gas for the service.[296] Yet, it did not seem to be overly effective. By 1970 the escort service was very popular, had gained national exposure, and was needed more than ever. That fall there were three reported rapes on campus, and several assaults.[298] One woman was raped in her dorm room, and one was attacked on a street that runs through the campus. In response, the Board Trustees of USC asked the General Assembly for one million dollars to improve security. The university had already spent two hundred thousand dollars to add extra lighting on campus. The board chairman said they were planning on using the new funds to add "such things as fencing and additional security personnel."[300]

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[292] Bevacqua, *Rape on the Public Agenda*, 35–37.

[294] "Safety in Escorts," *The Gamecock*, December 13, 1968.

[296] "Escorts for Coeds," *The Index-Journal*, October 20, 1970.

[298] "Today, Many Students Walk In Fear," *The State*, February 21, 1971.

[300] "USC Board to Ask Assembly for $1 Million for Security," *The State*, November 14, 1970.

This rash of rapes on campus garnered a public response from the university and the community at large. President Thomas Jones commented that "we must and will protect this campus and the people who live, work and study on it."[302] The issue attracted the attention of Governor Robert McNair who requested that State Law Enforcement Department (SLED) "beef up" campus security, helping Jones with the ongoing effort to protect USC's female students.[304]

These responses to the issue of sexual assault hint at the broader problem. None of these efforts addressed the underlying problem of violence against women. While installing street lights and implementing more security were helpful, by placing restraints on their freedom in the name of protecting them, women were being punished for being victims. Vicki Eslinger remembered meeting with Dr. Jones after a curfew for women was implemented on campus. She recalled asking him why women had a curfew when it was the men who were doing the raping. The APO escort service placed a disturbing ad in the women's interest section of the 1974 *Garnet and Black*, a student run magazine at USC that read, "Want to know a good way to meet men? Take a walk alone at night."[306]

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[302] "USC President Views Protection," *Florence Morning News*, November 3, 1970.

[304] "Concern for Student Safety Expressed by Jones, McNair," *The Gamecock*, November 4, 1970.

[306] "APO Escort Service" (The Garnet and Black, 1974), Vickie Eslinger Papers, South Carolina Women's History Collection, SCPC.

Malissa Burnette was a student at USC at the time as well and remembered hearing her father, the head of student health services, talking about women who were raped on campus. She recalled, "He would say things like: 'Why were they out at night. Why were they there? What was she doing out with him? Why was she out alone?'" Women were doubly victimized, once in the assault and again by the response from authorities. Burnette said that when women visited her father at the student health clinic after being attacked that, "I'm sure he humiliated them."[308]

In the early 1970s, feminists in Columbia were beginning to seek ways to prevent these sorts of humiliations by providing more aid to women who had been victims. A group of Columbia women, after being in touch with the women in Washington, D.C. who had opened the first rape crisis clinic in 1972, worked to open The Women's Center, one of the first in the country. In the fall of 1972 members of The Women's Center had conducted a survey of three hundred women and found that ninety-four percent of them would support such a center. Starting on April 21, 1973, the center opened, offering information and counseling on rape, divorce, abortion, and consciousness raising.[310]

Located in the Melrose Heights neighborhood in a two-story red brick home, the organizers envisioned the Center to be a "depot for feminist problems and crises." Kathleen Dunney, a member of the center said, "It will give women an opportunity to come together to help themselves, many of whom have felt isolated for so long because they have regarded feminine problems as personal rather than universal." USC graduate

[308] Malissa Burnette interview with author, March 22, 2017.

[310] "Counseling Available for Rape Victims," *The Gamecock*, April 19, 1973.

student Tina Lachowitch, another member, they hoped to start a rape crisis hotline for victims, "many of whom receive adverse treatment when they report a rape." The Center's hotline would recommend sympathetic doctors, provide transportation, or "if she needs a witness to go to the police station to ensure she receives proper treatment." Lachowitch explained, "Many times the police and county examiner ask the rape victim irrelevant questions such as her past sexual experiences, which have no bearing on the crisis at hand." She added that there were instances in other cities where women who had been raped ten years ago called because hotlines provided the first chance they had to discuss their experiences. Funded through contributions and supported by NOW and WEAL, it was, according to Lachowitch, "a center run by women for women and a place to share ideas and be with other women."[312]

The Women's Center was soon put to use as there were twenty-six rapes or attempted rapes in Columbia between July and September of 1973. The Columbia newspaper, *The State,* ran a full-page story about the upsurge in violence. In the top right corner of the page was a photograph of a white woman walking alone, captioned "A Dark Walk Could Lead to Trouble." The top article contained details on the statistics and separate instances. In it, the FBI reported that there was a seven percent increase in forcible rapes in Richland County during the first six months of year, running to a second page. Their findings showed that the South "led the nation with thirty percent of all rapes." Counting for the fact that most rapes go unreported, an unnamed Columbia detective said, "we don't get half of them." And that, "most [women] are too embarrassed

[312] "Crisis Center for Women Will Open Here Saturday," *The State*, April 19, 1973.

to come in and sign a warrant. And if they go to court, the all their friends will find out."[314] The bottom left contained a simplified map of Columbia with black dots marking where each of the twenty-six rapes had occurred. Next to that was an explanation of new research about rapists that had been conducted by Israeli sociologist Menachem Amir in Philadelphia. His research discredited long held beliefs about rapists—especially the myth that black men were more likely to rape white women.[316]

This issue represents a change in the tide of journalism towards a more feminist frame of mind. Journalists were working with feminists in that they were attempting to influence how the public understood rape. That it was not a personal issue to be ashamed of, but one that affected all aspects of society. For example, the first rape in the three months of the surge of violence occurred on July 4 in Richland Memorial Hospital when gynecologist Jesse Floyd was charged with raping a student nurse in a section of the hospital under construction.[318]

Elsewhere in South Carolina, other feminists were also beginning to see that they would need to act in order for there to be change. Within two months after watching the movie about what rape victims faced after their attack, Jayne Crisp remembered, "I was

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[314] "Rape On The Increase," *The State*, October 21, 1973.

[316] "Some Facts on Rapists," *The State*, October 21, 1973; Menachem Amir, "Victim Precipitated Forcible Rape," *The Journal of Criminal Law, Criminology, and Police Science* 58, no. 4 (1967); Brownmiller, *Against Our Will*.

[318] "Rape On The Increase."

just outraged. I just got really upset." She felt she had to take action. "So I started calling sheriff's offices. I called the police, the hospital, I called the crisis line here [a volunteer line operated by the United Way]. All kinds of services that might impact a sexual assault victim in her effort to achieve justice. And everybody said we don't have any support but we need it." She found that there were no services for rape victims so, "I said, well I'm going to start something."[319]

Her first steps were to see what was available in the community and where help was needed. She spoke to law enforcement and the Circuit Solicitor to assess their demeanors towards victims and to see if they would be amenable to a rape council. After this she formed a short lived committee comprised of the hospital chaplain, an E.R. nurse, social worker, and hospital administrator. In addition, she spoke to Kester Freeman, who ran the emergency room at the hospital about the possibility of having volunteers accompany victims. Freeman agreed on the condition that they were well trained, and agreed to train volunteers in crisis intervention.

Crisp remembered, "I had never really organized anything other than a birthday party, but somehow I was able to figure out. I knew what we needed."[320] Rape Crisis centers began opening in cities all across South Carolina. In April of 1974, the Greenville chapter of NOW, with Crisp as a new member, began recruiting volunteers to work at a center that would open there that summer, through ads in the classified section of the

[319] Jayne Crisp interview with author.

[320] Ibid.

newspaper. Most of the information they had came from the national office of NOW. Crisp said, "NOW was the only resource at the time." From the national office, members received how-to manuals and instruction on how to open a successful rape crisis clinic.[321] Concerned women in Greenville formed the Rape Crisis Council (RCC) in response to Crisp's recruitment.[322]

The RCC was eager to change the way rape victims were treated, and eventually how they were perceived by law enforcement and medical professionals. The written goals of were to "A. Ease emotional strain of victims by acting as rape advocates. B. Giving information to victims on police procedures, hospital procedures, courtroom procedures. C. Having victim know her rights, have an attorney present during her first statement."[324]

South Carolina feminists were determined to secure changes in the way that rape victims were examined. It was well known among anti-rape activists that doctors did not

[321] Jayne Crisp interview with author.

[322] "Rape Crisis Counselors Sought," *The Greenville News*, April 26, 1974.

[324] "Greenville Rape Crisis Council Meeting Minutes," July 1974, Personal Collection of Jayne Crisp.

like conducting rape exams. Jayne Crisp said, "Doctors don't like to see rape victims, they don't want to go to court." [325]

In order to achieve their goals, the RCC knew that they needed community resources. To find out what was needed from the medical community, they reached out to an administrator at Greenville General Hospital, where rape victims were sent for exams. They found that the person responsible for rape exams was the medical examiner, the same person who conducted autopsies. The only other option was to have a doctor on call, something they tried but this led to victims sometimes waiting for hours in the emergency rooms. Crisp remembered, "The priority for rape victims was very low."[326] Working with hospital administration she managed to have a doctor available for every shift who could conduct exams, for which victims had to pay. The president of the hospital's staff, Dr. Clarence Easley, remarked that this was a good decision since doctors "instinctually shy away from such an examination because of the legal implications."[327]

The RCC also knew that they needed to understand was trauma, and how it affected victims. After a trip to the library where Crisp found only three books on

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[325] "Seminar Leaders Present Arguments For Setting Up Rape Crisis Centers," *Sumter Daily Item*, October 9, 1975, South Carolina Women's History Collection, SCPC, Vickie Eslinger Papers.

[326] Jayne Crisp interview with author.

[327] "Greenville General Hospital Now Examines Rape Victims," ND, Jayne Crisp Personal Collection.

victimization, she knew she would have to get her information elsewhere. She approached the man in charge of the veterans' center in Greenville, understanding that he would be able to tell her how to deal with trauma victims. Vietnam veterans were still coming home from the war and there had been some movement to understand Post Traumatic Stress Disorder (PTSD), something Crisp knew rape victims could find useful.[329]

By October 1974 the RCC had convinced the Greenville County Council to foot the bill for rape exams. Raymond M. Urquhart, County Executive, told Crisp in a letter that the "Rape Crisis Council is providing needed supportive care to rape victims through trained volunteer counselors. We are most appreciative of the service you are providing to those citizens of Greenville County who are victims of rape and endorse your efforts in this area."[330]

While the RCC did have community support for the rape crisis center and hotline, Crisp remembered that there were challenges with the Sheriffs' department. At the time there were no female officers in uniform and the RCC requested they hire women. They felt women in uniform would be more comforting for recent rape victims. In response, the Sherriff's' department sent a woman in uniform to the hospital to take a report from a victim. Crisp recalled, "We did end up with a female officer. It was like 3 O'clock in the

[329] Jayne Crisp interview with author.

[330] Raymond M. Urquhart, "Jayne Crisp, Coordinator," November 28, 1975, Jayne Crisp Personal Collection.

morning—her uniform was different, and I looked on her shoulder pad, it said animal control. That is not the kind of uniformed female officer we are looking for."[331]

There were more obstacles in store. In some instances, rape victims needed shelter, especially if they were from out of town. In August 1974, a twenty-one-year-old African American woman was picked up while hitchhiking in Greenville. She was subsequently raped by six men. The police took her to the hospital where she was examined. After which, the newly formed RCC attempted to find her somewhere to sleep that night. Both the Greenville Rescue Mission and Miracle Hill refused to house black people. Jayne Crisp told reporters, "We couldn't find an agency which would take a black girl. It was really awful." The woman stayed in the police department for eighteen hours until the Salvation Army was convinced to let her stay. She was the only female at the shelter and had to eat with all the men who were also staying there, a terrible prospect for a recent victim of gang rape.[332]

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In the summer of 1975, three local feminists opened South Carolina's first feminist bookstore named The Sojourner Bookstore and Craft Shop. Located in Columbia, it was where the city's feminists tended to convene. Fran Chester came up with the idea to open. She said, "With my interests I saw the time was right to open a

[331] Jayne Crisp interview with author.

[332] "Rape Crisis Center Explains Difficulty in Housing Blacks," *The Greenville News*, August 10, 1974, Jayne Crisp Personal Collection.

feminist bookstore in Columbia." Co-owner Pat Callair said, "Feminists are people committed to the goals of equality for women. They strive to do away with stereotypes." Along with Eunice "Tootsie" Holland, the third co-owner of the business, the owners had begun discussing their desire to open the store a year earlier. They opened the store in a house they shared with the first all-female law firm in Columbia.[333]

The Sojourner became a gathering place for local feminists. Small groups of mainly USC students held consciousness raising sessions, poetry meetings and film screenings in the space. Mary Ann Sens, a graduate student at USC at the time and NOW member, remembered that several women would visit the shop just to talk about their rape or other sexual violence, but many would never report them; hence no one ever had to pay for the crime.[334] From these experiences, NOW members decided to open a new center in Columbia.[335]

The Columbia Area Rape Crisis Center (CARCC) was slated to open in the fall of 1975, with a hotline that offered information and counseling for victims. Callers would learn about what to expect from hospitals, the police and court procedures. Started without funding, it began as an all-volunteer organization, like many such centers.

[333] "Feminist Bookstore Thriving," *The Gamecock*, March 8, 1976.

[334] Mary Ann Sens, interview with author, September 16, 2015.

[335] It is unclear what happened to The Women's Center.

CARCC had various purposes for the community. They sought to offer not only services for victims, but education for the public as well.[336]

Tootsie Holland said that the center "evolved due to the increasing number of rapes in the Columbia are and also because of the fact that law enforcement and public health agencies were either unconcerned or simply unqualified to deal with the problem." She expressed hope that, "the state will recognize the need for such a clinic and allot us a grant upon which to continue our work and hire professional people."[338]

NOW's Columbia chapter took the challenge to educate the public seriously. On September 6, 1975 they staged a rally at the South Carolina State House. Holland told the crowd, "We called this rally to focus attention and protest the outrageous number of violent crimes being perpetrated on the women of this community." President Mary Heriot presented a list of demands to the large crowd including: female rape investigators, trails of rapists within ninety days, compensation for medical and legal expenses for victims, funding for the rape crisis center, and revision of existing rape laws. In addition to speeches about the changes that feminists sought and myths about rape there was also a symbolic funeral with four girls carrying a coffin. NOW member Carol Cobb said in her eulogy, "The rape victim is not physically dead, but she is dead in other

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[336] "Rape Crisis Center Seeks Volunteers," *The State*, September 26, 1975.

[338] "NOW Member Calls for Change in S.C. Rape Law and Attitudes," *The Index-Journal*, April 28, 1976, South Carolina Women's History Collection, SCPC. Eunice "Tootsie" Holland Papers.

ways. Never again will she be free from fear." The rally ended with a march down Main Street.[339] Mary Heriot remembered being extremely proud during the rally and that she was able to have her mother there with her. She recalled fondly pushing her mother in a wheel chair through the entire march route.[340]

According to Holland, the Columbia chapter received literature from the national NOW office that instructed them on how to accomplish law reform. They were told to read the standing edict, which made it almost impossible to convict, and conviction called for the death penalty—a punishment judges and juries were not likely to impart.[341]

Changing public perception of rape and its victims was another important aspect of the movement. Local feminists partnered with the Columbia YWCA to educate the public through providing workshops, public lectures, and theatric performances. One such performance, "A Woman is Raped…" was produced by students at Columbia College. The hope was that services like these would lead to community engagement and partnership.[342] The YWCA established the Women's Resource Center in Columbia in January 1975. The center offered various programs for women such as classes on the

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[339] "NOW Rallies Against Rape," *The State*, September 6, 1975, South Carolina Women's History Collection, SCPC, Eunice Holland Papers.

[340] "Heriot and Holland Class Visit."

[341] Eunice "Tootsie" Holland interview with author.

[342] "YWCA Rape Education Program," 1975, South Carolina Women's History Collection, SCPC, Vickie Eslinger Papers.

Lamaze childbirth method. It was also a clearinghouse for sexual assault information.[343] The Columbia YWCA also published pamphlets with information for the public. Their publication, simply titled "RAPE" the pamphlet included a list of resources and a list of information called, "Your responsibility as a citizen concerning rape." Also included were statistics that showed the sheer numbers of women who were victims of sexual assault. A note explains that though these were national statistics conversations with officials led them to "feel that these figures are also true for Richland and Lexington counties also."[344]

Just as in Greenville, Columbia feminists conducted a survey medical services available for rape victims. They found three local gynecologists and these would only do the exam only if the woman were already their patient. Doctors were reluctant to examine victims because they did not want to testify in court. Heriot and Holland remember visiting one doctor, whose brother was the head of the Department of Health, to interview him about his feelings towards rape victims. One of the questions supplied by NOW was about treating African American victims. The doctor explained that black women could not be raped. He believed that they were too oversexed. This thought process was a long held belief first created during Jim Crow, when African American

[343] "Women's Resource Center Calendar of Women's Activities," January 1976, South Carolina Women's History Collection, SCPC, Vicki Eslinger papers.

[344] "Rape" n.d., Sistercare folder, South Caroliniana Library, University of South Carolina, Columbia. YWCA of the Midlands Collection.

women were believed to be "morally loose."[345] Holland and Heriot could not believe their ears. They knew something had to change.[346] But, it is unclear what they could have done about racial ideologies.

At the same time, Mary Ann Sens, a graduate student at USC and Columbia NOW member, took it upon herself to find out how doctors in the local emergency room treated rape victims. Sens remembers sneaking into a local hospital and donning a white lab coat that she found. She made herself comfortable in the lounge area and began reading the textbooks she found there. The books she found had scarce information on what was to be done when a victim of sexual assault was brought in. It was from this incident that she realized there should be a clear procedure established and a standardized selection of items, or a kit, stocked in all emergency rooms.[347]

Sens developed the kit and placed it in a cigar box. She said, "We all smoked then, and we smoked cigars (it was a feminist thing), the cheapest ones. We wrapped an old cigar box in white paper, put everything in it and wrote 'rape kit' on the top." She recalled taking this kit to then governor, Jim Edwards.[348] Tootsie Holland remembered,

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[345] Collins, *Black Sexual Politics: African Americans, Gender, and the New Racism*, 63–66.

[346] "Heriot and Holland Class Visit."

[347] Mary Ann Sens, interview with author, September 16, 2015. Dr. Sens is currently the Chair of Pathology at the University of North Dakota.

[348] Mary Ann Sens, interview with author. September 18, 2015.

"Damned if she didn't. She went, sat down, made an appointment in his office, she said this needs to be done, and this needs to be done today and explained to him what it was and he signed off on it and it went in every hospital and gynecologist in the state."[349]

Governor Edward's response was remarkably positive. He proclaimed that he would see such a kit established in every hospital in the state, and it was. Jayne Crisp said in a 1975 interview, "We have exemplary medical protocol in Greenville. A rape kit has been devised for the hospitals and three gynecologists are on call 24 hours a day to do the exam."[350] This was years before similar kits were used in other states.

South Carolina feminists also recognized there was a need for reforms in state laws regarding rape. For legal advice, feminists looked to older, more established organizations for help. With many feminists newly graduate from law school, and with the assistance of the League of Women Voters (LWV) and the American Civil Liberties Union (ACLU), almost every state in the union had passed reform legislation by 1980.[351]

South Carolina feminists believed legal reforms were necessary in order that more perpetrators be brought to justice which would in turn deter others from assaulting women. In an interview with the *Index Journal* the Greenwood, South Carolina newspaper, Holland explained what sorts of reforms they desired. She said that she felt the only way to curb the occurrences of rape was to "capture and convict all rapists so

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[349] "Heriot and Holland Class Visit."

[350] "Rape Crisis Counselors Sought."

[351] Sanday, *A Woman Scorned*, 178–179.

that it would become common knowledge that the punishment would come hand in hand with the crime."[352] The group called for a statute with different "degrees" of rape that carried varying levels of punishment, based on reforms carried out in Michigan. Their hope was that this would lead to more convictions.

Handwritten notes from the Greenville RCC detail the changes feminists were working for. "Court changes we'd like to see. 1. Packed courtroom by women on last day of rape trial—influence on decision of judge. 2. Laws barring defense lawyers from making courtroom inquiries into woman's past sexual conduct. 3. Possibly lightening sentences on rape—possibly to 5 years, with no parole—no suspended sentences."[353]

The state responded to these efforts by feminists. In South Carolina, the first statewide conference on rape was held on November 8, 1975. This conference was not planned by a feminist organization, but by the South Carolina Human Affairs Commission (SHAC), USC, and the South Carolina Criminal Justice Academy. SHAC had been created in 1972 by the General Assembly with overwhelming support. As a state run civil rights commission it was presented as a way to "keep the feds out."[354]

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[352] "NOW Member Calls for Change in S.C. Rape Law and Attitudes."

[353] "Court Changes We'd Like to See," ND, Jayne Crisp Personal Collection.

[354] James E. Clyburn, *Blessed Experiences: Genuinely Southern, Proudly Black* (Columbia: University of South Carolina Press, n.d.), 127; Lee Ann Banaszak, *The Women's Movement Inside and Outside the State* (Cambridge ; New York: Cambridge University Press, 2010).

The conference was meant to "dispel the misconceptions and emotionalism which cloud the issue [of rape] at the present." The daylong conference brought people from several backgrounds together to "provide a factual basis for understanding the crime of Rape and to identify what efforts are needed in South Carolina for treatment and prevention." On the docket were researchers, psychologists, social workers, lawyers, law enforcement personnel, and members of the medical community. Jayne Crisp attended the conference. She was asked by the SCHAC Commissioner, James Clyburn, to serve on a sub-committee on rape. The sub-committee would then make recommendations to the Commission, "of the needs in the area of rape treatment and prevention."[355]

Definitely influenced by feminists, this conference showed that their ideologies were infiltrating the state. Representative Carolyn Frederick, a Republican from Greenville, had recently pre-filed a bill seeking a change in the way the law defined rape, something conference planners hoped would be discussed.[356] The state had further supported the cause when Governor Edwards awarded a criminal justice grant to People Against Rape (PAR) to fund public education.[357] PAR was founded in 1974 and opened their rape crisis clinic in Charleston in 1975.

South Carolina's rape laws were updated in 1976. These "criminal sexual conduct laws" applied to both male and female victims and enforced separate degrees. The

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[355] James E. Clyburn, "Mrs. Jayne Crisp," November 25, 1975, Jayne Crisp Personal Collection.

[356] "1st Rape Conference In S.C. To Be Held," *The Greenville News*, November 8, 1975.

[357] "Law Enforcement Grants Announced," *The Index-Journal*, May 7, 1975.

separation by degrees depended on the amount of force involved, similar to the laws in Michigan. Feminists celebrated this great victory; the state had listened to their concerns and had responded with legislation that supported feminist aims.

There were more challenges ahead as feminists continued to push their agenda for safety of women from sexual assault. The South Carolina Commission on Women found in 1979, "It is interesting to note that the legal spouse of an individual cannot be found guilty of criminal sexual conduct…unless the couple is living apart pursuant to a court order." Essentially, husbands could still legally rape their wives. And, considering that divorce in South Carolina demanded the couple be separated for three years before the divorce was final, this could be an added issue. In addition, while the new laws did not allow a woman's sexual history to be part of the proceedings, "the victim's prior sexual conduct with the defendant is admissible."[359]

Most of these reforms were well received and the feminist activists faced no real pushback from the community or legislators, though there were a couple of occasions where they felt either threatened or ill at ease. Holland received phone threats against the lives of her beloved dogs and even began carrying a handgun.[361] They also faced the general ignorance of men, both in office and out, on what constituted rape or domestic

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[359] Victoria Eslinger, Lucy Knowles, and Ann Furr, "Current South Carolina Laws and Procedures Which Are Sex Biased: A Report for The South Carolina Commission on Women" (South Carolina Commission on Women, March 31, 1979), 2–3, South Carolina Women's History Collection, SCPC, Nancy Moore Papers.

[361] Eunice "Tootsie" Holland, interview with author. October 1, 2012.

violence. Some men, including law enforcement, did not believe that all women were opposed to being raped – frequently repeating the "If you can't stop it might as well lie back and enjoy it joke." They also faced the general ignorance of men, both in office and out, on what constituted rape. Some men did not believe that all women were opposed to being raped, and some believed that it was not possible to rape a black woman.

Tootsie Holland, a South Carolina NOW leader, remembered meeting with a local gynecologist, a political appointee whose brother was the head of the Department of Mental Health. She and several other feminists had gone to meet with him, armed with a list of questions about how he examined victims, and were stunned by some of his remarks. "One of the questions we asked was how did he determine bruises on black persons? And he leaned back in his chair and said 'Now, girls -- Write this down. I want to make real sure you get this right. Please write this down. You can't rape a black woman.' He didn't use the word 'black.' 'They are too oversexed. Oversexed.' He said 'It's just impossible, it can't be done, you can't rape them.'" Holland recalled that as they left some women in the group were weeping, dismayed.[362]

Though rape laws were reformed in South Carolina – the feminist reformers had many successes – the reformers did not gain all that they asked for. The new bills adopted by the legislature did not include marital rape. On that account, feminists were fighting against the concept that this kind of law would be interfering in the sanctity of marriage. In addition, it would be some time before people could be arrested and tried for date

[362] Ibid.

rape.[363] But, the changes wrought by these reforms are undeniable, most importantly being an overall change in ideologies.

Attitudes about rape have shifted since high schools and colleges adopted public awareness campaigns in the late 1970s and early 1980s. The rape kits, first compiled by local feminists, allow doctors and nurses easier ways to collect the data needed to convict. Sexual violence and hotlines, emerging from small businesses and private apartments to become permanent fixtures in communities, offer advice and protection to women in need of help. The work of these feminists also caused the general public's mindsets towards victims of rape to change in a favorable way. These women recognized that changes were needed and took it upon themselves to elicit them in any way possible.

Though the law was reformed in South Carolina, it fell short of including all of the reforms asked for in the new bill. Marital rape was not included and it would be some time before people could be arrested and tried for date rape. But, the changes wrought by these reforms are undeniable. At the beginning of the 1970s it was believed that only one in ten women who were raped would report the crime, it is now down to one in six.

It took longer for the federal government to act, and sources show that some members of the legislature knew it was shameful. In the 1984 hearings before the House of Representatives Subcommittee on Criminal Justice for rape law reform, Chairman

[363] For more information on marital rape see Diana E. H Russell, *Rape in Marriage* (New York: Macmillan, 1982); For more information on date rape see Estrich, *Real Rape*.

Congressman John Conyers admitted that they were bringing them into the twentieth century. He said, "The rape laws ostensibly existed to protect women from having unwanted, coerced, sexual intimacy, but the legal system seemed to be more concerned with protecting males from conviction than with protecting females from criminally injurious conduct." [364]

The changing of state and federal laws validated the anti-rape movement. These changes went a long way towards transforming how the public viewed victims of sexual assault. In addition, the changes in medical procedures and treatment by law enforcement influenced public perception as well. Pressure from feminists influenced the state to reform itself on all levels in how it approached rape survivors.

[364] "Federal Rape Law Reform Hearings" (U.S. Government Printing Office., September 31, 1984), National Criminal Justice Reference Service.

CHAPTER 5

DOMESTIC VIOLENCE

"'Society' did not recognize battered women; feminists and grassroots activists did."

--Susan Schechter, 1982

After earning a degree in sociology in December of 1971, Malissa Burnette decided she wanted a job that would provide her with real life experience. The daughter of a doctor and newly-wed, the pretty young blond took a job as a guard at South Carolina's only state-wide women's prison. She found that most of the women were there because they fought back against their abusive husbands. She asked the warden if she could look at the records and found that the majority of the women there "had experiences with domestic violence."

Burnette also had experience with abuse and knew first-hand what these women had faced. Compelled to action, she knew that there was little she could do with a sociology degree. She said, "I need to change things. I think I want to be a lawyer and try to make things better." In 1974 she joined the second class of women admitted to USC's law school.[366]

[366] Malissa Burnette interview with author.

Across the country, women were entering law schools and some used the women's movement as their testing grounds by influencing law reform and representing victims in court. The movement against domestic violence emerged from the movement to end rape. Both evolved directly from grass-roots groups of feminists and their ideologies. And both had successes. The first two decades of the movement to end violence against women garnered more legal reforms than the previous three centuries combined.[368] Abuse shelters and hotlines, emerging from small women-owned businesses and private apartments, offered advice and protection to women in need of help and became permanent fixtures in cities and towns across the country.

The work of the anti-domestic violence movement extended beyond offering simple shelter and advice, it also was responsible for changing the way communities understood and responded to violence against women. The changes came in several forms: consciousness raising; bill writing; lobbying; protesting; letter writing; forming coalitions and seeking funding to open and operate permanent shelters; running conferences and seminars to discuss the issue; and writing and publishing numerous pamphlets, brochures and books.

In this work feminists used traditional channels to reach what some believed to be radical ends. Activists took full advantage of institutions that were already available, working with law enforcement agencies, hospital staffs, and prosecutors, and state legislators. They appealed to traditional desires to protect women's bodies to obtain the

[368] Carol E Jordan, *Violence against Women in Kentucky: A History of U.S. and State Legislative Reform*, 2014, 3.

changes they sought. Historian Stephanie Gilmore has observed that much of the time Southern feminists' efforts to reform laws and policies regarding "rape and domestic violence were not contested in part because these concerns allowed Southern politicians to continue the model of protection that rescued and saved Southern white women while simultaneously addressing and taking seriously feminist issues."[370]

Feminists found it more difficult to secure lawmakers' cooperation in addressing the issue of domestic violence than on their aid in dealing with the problem of rape. While rape – as most viewed it at the time – involved attacks from strangers, presumably in public spaces, domestic violence involved attacks from family members and took place within private spaces. Thus, while proposed reform of rape laws were largely accepted in the 1970s, changing laws and policies regarding domestic violence and gaining support for opening and funding battered women's shelters was often much harder, especially when it came to gaining financial backing.

Some conservatives were opposed to shelters and believed them to be recruitment centers for feminists. In addition, though spousal abuse had been illegal for decades, the state was not anxious to insert itself between husband and wife, or "interfere" in private concerns. Yet, feminists insisted that when it came to suffering from violence, what

[370] Gilmore, "The Dynamics of Second-Wave Feminist Activism in Memphis, 1971-1982," 105–113, quote on 112.

happened behind closed doors was not private, but political. In doing so, they challenged the concept of family primacy and privacy.[371]

Some factions of the state worked with feminists to help victims of abuse. Law enforcement agencies were quite often open to changing how they dealt with domestic calls since those calls had long been the most dangerous ones they faced. State agencies like Departments of Social Services were also willing to work with feminists. The most stringent opposition came from both federal and state legislatures, not necessarily in terms of changing laws, but in funding emergency shelters for women and their children.

In Puritan society marriage was a civil contract, not simply a holy sacrament. In the 1640s colonial lawmakers made the first laws against domestic violence in the world. But, legality did not deter many husbands, and since Puritans were ruled by religious laws, society turned a blind eye to abuse as long as the attacks left no visible marks.[373]

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[371] A number of conservatives expressed this argument. For example see Donald T. Critchlow, *Phyllis Schlafly and Grassroots Conservatism: A Woman's Crusade* (Princeton: Princeton University Press, 2005).

[373] Elizabeth Hafkin Pleck, *Domestic Tyranny: The Making of American Social Policy against Family Violence from Colonial Times to the Present* (Urbana, Illinois, University of Illinois Press, 2004), 4,17; Elizabeth M Schneider and Stephanie M Wildman, *Women and the Law Stories* (New York: Foundation Press/Thomson Reuters, 2011), 100;

Matthew Hale and William Blackstone, British lawmakers, profoundly influenced colonial law in regards to violence in the home. The doctrine of coverture led to the legal loss of identity for wives. In 1765 Blackstone wrote, "By marriage the husband and wife are one person in the law; that is, the very being or legal existence of the woman is suspended in marriage."[374] Legally, a wife could not sue her husband, because they were the same person. Escape from abuse was all but impossible.

After the Revolution, many legislatures allowed divorce on the basis of adultery, desertion, bigamy, and impotence, but not abuse. Historian Nancy Cott found that, "women's overall success in obtaining divorce was to men's in the decade after 1776."[377] The increase of divorce petitions following America's independence influenced most states to send these requests to the court system, to divert them from being heard and ruled on by state legislatures. South Carolina was the exception. In South Carolina, divorce was not allowed until 1950, except for a brief span during Reconstruction. The

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Elizabeth M Schneider, *Battered Women and Feminist Lawmaking* (Yale University Press, 2008), 14.

[374] William Blackstone, *Commentaries on the Laws of England*, vol. 1, 1765, 445.

[377] Nancy F. Cott, "Passionlessness: An Interpretation of Victorian Sexual Ideology, 1790-1850," *Signs: Journal of Women in Culture and Society* 4, no. 2 (Winter 1978): 219–36.

state constitution adopted in 1895 stated, "Divorce from the bonds of matrimony shall not be granted in this state."[379]

Toward the end of the nineteenth century, ideas concerning the rights of wives were slowly changing. Southern courts were hearing cases involving wife battering that led to altered state laws. In some states, the influence of women advocates could be seen. Alabama's Supreme Court had found in 1871 that, "the privilege, ancient though it be, to beat her with a stick, to pull her hair, to choke her, spit in her face, or kick her about the floor or to inflict upon her other indignities, is not now acknowledged by our law." Furthermore, stated the court, beating a wife, "violently with an open hand is not one of the rights conferred on a husband by the marriage."[381] Across the country, married women's property acts were being written into law, granting wives a bit more legal authority.[383] The state was finally beginning to see some wives as more than just the property of husbands; they were beginning to see them as citizens.

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[379] Kellen Funk, "'LET NO MAN PUT ASUNDER': SOUTH CAROLINA'S LAW OF DIVORCE, 1895–1950," *The South Carolina Historical Magazine* 110, no. 3/4 (2009): quote on page 137.

[381] Reva Siegel, "'The Rule of Love': Wife Beating as Prerogative and Privacy," *Faculty Scholarship Series*, January 1, 1996, quote on page 2131.

[383] Roger Langley and Richard C Levy, *Wife Beating: The Silent Crisis* (New York: Pocket Books, 1978), 39.

The change was neither swift nor national. The1873 North Carolina Supreme Court ruling in *State v Oliver* stated that a husband had the right to hit his wife as long as the switch was no larger than his thumb (the so-called "rule of thumb"). The justice's opinion read, "It is better to draw the curtain, shut out the public gaze, and leave the parties to forget and forgive."[385] The courts' belief that wife battering was a personal and familial issue allowed it to become invisible. Domestic violence would all but disappear from the public consciousness for almost a hundred years. In fact, a 1910 ruling by the US Supreme Court found that a wife had no cause for action on an assault and battery charge because that "would open doors of the courts to accusations of all sorts of one spouse against the other and bring into public notice complaints for assault with slander and libel."[387] Conservatives believed that such law suits would disturb the peace of the home.

Historian Elizabeth Pleck has argued that the biggest barrier to reforming laws against wife beating was what she called "the Family Ideal." This is the combination of associated ideas of family privacy, conjugal rights, family stability, and that a family is constituted of two heterosexual parents with children, over whom the father had all control. Advocates for reform argued that protecting women from violence strengthened the home. Abuse violated the ideals of true women and destroyed female virtue, meaning that to keep the home strong, wife battering must be outlawed.

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[385] Schneider and Wildman, *Women and the Law Stories*, quote on page 101.

[387] Langley and Levy, *Wife Beating*, quote on page 39.

In the 1920s, the judicial system extended to include a family court. When wife battering did appear in these newly formed courts, psychologists and social workers were on hand to give their opinions, often being called on to give counseling to couples since courts were reluctant to break up families. The common belief in mental health at that point was that wife beating was attributable to the sexual and biological problems of women and not that men had psychological issues or the need to feel powerful.

Moving the proceedings to family courts meant that this sort of violence was no longer seen as criminal, it was entirely a domestic issue. This meant that abusers were not considered to be committing violations against existing assault and battery laws, their actions were different. Judges pushed for reconciliation and couples were required to visit with a social worker. Most charges were dropped either from the victim's asking or from the urging of the court. Women were left with little to no legal protection. The state tended to focus and defend conventional family structures through the Great Depression of the 1930s and to sympathize with unemployed husbands. Wives needed to stay with their families, regardless of the atmosphere in their homes.

By the 1940s, the influence of Sigmund Freud suffused these family courts. Before his views became popular, instances of abuse were acknowledged, but Freud's impact inserted new mythologies of nagging wives and hysterical lying women. Women in family courts were forced to try to understand their own psychological need to be beaten. A leading psychoanalyst, Helen Deutsch, a student of Freud, insisted that abused

women were masochists who reveled in violence.[389] Wife abuse was blamed on the woman's frigidity, her failure to accept her own femininity, and her antagonistic nature against her husband.[390]

A 1940 case involving an estranged couple in South Carolina is an example of this. A husband went to his wife's place of employment and grabbed her arm hard enough to bruise. He later found where she was staying and went to the home, went inside and bodily carried her from the house. In attempting to fight him off she received a punch to the face. The court found that she provoked the attack because she was not willing to discuss reconciliation.[393]

The Freudian belief that women were the cause of their own abuse and that domestic violence was a non-issue could be seen in what scholarly journals did and did not publish. The leading journal of family sociology, *The Journal of Marriage and Family,* published no articles on violence from its first printing in 1939 through 1969.[395]

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[389] For more on the history of domestic violence see Pleck, *Domestic Tyranny*; Linda Gordon, *Heroes of Their Own Lives: The Politics and History of Family Violence : Boston, 1880-1960* (New York, N.Y., U.S.A.: Viking, 1988).

[390] Gordon, *Heroes of Their Own Lives*, 23.

[393] Victoria Eslinger and Lucy Knowles, "The Legal Status of Homemakers in South Carolina," May 1977, 6–7, IWY Commission Papers, Schlesinger Library, Harvard University.

[395] Pleck, *Domestic Tyranny*, 182; Langley and Levy, *Wife Beating*, 2.

In a 1964 article in *Archives of General Psychology,* the authors described a session they had with a husband and wife who were in a violent marriage. The husband often beat her. After one session the authors explained, "He took it as confirmation that she had been the 'cause' of his behavior…We felt that the initial impressions were due to the venting of the wife's hostility and manipulative behavior out of the marriage, taking the pressure off the husband." Once she had accepted that the blame for the abuse was hers she understood that "she had to be punished for her castrating behavior" and that "he had to reestablish his masculine identity."[397]

The state, the medical establishment, science, and the legal community all sympathized with the husbands and blamed the wives. In a 1968 survey one-fifth of people polled approved of slapping women on "appropriate" occasions. Shockingly, the percentage that approved increased with income and education. One quarter of college graduates approved of such treatment. The seclusion afforded to middle-class families preserved the myth that they possessed greater domestic tranquility. In the 1960s there were almost no reports of domestic violence, and the few that were reported were blamed on the wife's psychological instability.[399] The women's movement would change this.

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[397] Susan Schechter and South End Press, *Women and Male Violence: The Visions and Struggles of the Battered Women's Movement* (Boston: South End Press, 1982), 20–21, quote on 21.

[399] Angela Browne, *When Battered Women Kill* (New York, NY: Free Press) 1987), 3–4.

Along with sexual assault, wife battering was one of the last issues addressed by the second wave of the women's movement. There were no articles on either it or rape in the movement's earliest publications, though many women in the movement had suffered from abuse at home. But, once it was recognized, feminists across the country took on the challenge. A book by a British woman is credited with initiating the movement. Erin Pizzey's 1974 book, *Scream Quietly or the Neighbors Will Hear* documented her work to open the first battered woman's shelter and influenced American feminists to do the same.[400] A statement on "Wife Battery" was introduced into NOW's platform in 1975, after which the organization quickly established a National Task Force on Battered Women and Household Violence.[403]

As was the case with the rape issue, consciousness-raising sessions (CR) or rap sessions led to the creation of the movement against domestic violence. Women in these meetings found that their common experiences were not shameful, nor were they their fault. CR led to the understanding that there was a political reason for their abuse. It was part of the overarching patriarchal power exerted by men in American society. Feminists resolved to take action and began to organize.

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[400] Erin Pizzey, *Scream Quietly or the Neighbors Will Hear* (Short Hills, N.J.: R. Enslow Publishers, 1977); For more about how Pizzey influenced the American movement see Del Martin, *Battered Wives* (New York: Pocket Books, 1983).

[403] Kersti Yllö and Michele Louise Bograd, *Feminist Perspectives on Wife Abuse* (Newbury Park, Calif.: Sage Publications, 1990), 11.

Feminist survivors of abuse were part of this movement at all levels: volunteers, fundraisers, writers, lobbyists. As feminists, they understood that violence against women was fundamentally intertwined with gender inequity. They were suspicious of the established system of government (especially women of color). They believed that the state perpetuated institutional forms of sexism, such as the legal system that made it difficult to prosecute wife beaters and police forces who refused to respond to domestic calls. This belief led them to focus on reforms outside the sphere of the state. They worked to change the system and reform the culture that maintained views that saw women as property and perceived victimized women as guilty parties in their own abuse. The term domestic violence did not exist in legal parlance at that time.[405]

In the mid-1960s, Al-Anon, an organization that offers help for families of alcoholics, had opened places to shelter the wives of alcoholics. This focus on alcohol placed wife abuse in the realm of men's depravity again, similar to the focus from temperance activists, but they were an important addition nonetheless. Haven House in Pasadena, California and Rainbow Retreat in Phoenix, Arizona had been opened in the 1960s.[406]

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[405] Schneider, *Battered Women and Feminist Lawmaking*, 3; Schneider and Wildman, *Women and the Law Stories*, 35.

[406] Schechter, *Women and Male Violence*, 5; Pleck, *Domestic Tyranny*, 189; Gordon, *Heroes of Their Own Lives*, 264.

From the anti-rape movement, women in the anti-wife beating movement learned that sexualized violence is inherently political and can be used as a tool for social control. Such tools included persistent myths that helped continue the culture of silence surrounding domestic violence. Misogyny, psychoanalytic beliefs, public apathy and law enforcement procedures were common enemies.[408]

Feminists' effort against domestic violence took place in three stages. First, after feminist groups recognized the issue their first instinct was to find safe housing for victims, a place where they and their children would be safe from abusers. Second, they pushed for making law enforcement and prosecutors use the laws already on the books and hold offenders accountable. At that point, many police departments used what they commonly called a "stitch rule," meaning that the victim needed to have had a certain number of stitches in order for them to interfere. Third, they sought to educate the public on the prevalence of domestic violence.

The creation of battered women's shelters was undeniably a feminist act. Activist Susan Schechter wrote, "Shelters offered the supportive framework through which thousands of women turned 'personal' problems into political ones, relieved themselves of self-blame, and called attention to the sexism that left millions of women violently

[408] Pleck, *Domestic Tyranny*, 185–186.

victimized."[409] The first shelter dedicated to emergency housing of domestic violence victims and based on feminist ideologies, opened in St. Paul, Minnesota in 1973.[410]

In the 1970s there was no real information on the extensiveness of the problem of domestic violence. In a 1975 survey twenty-eight percent of those who participated had experienced at least one instance of abuse, sixteen percent had occurred in the previous year. Over one-third of these instances had been severe—including punching, kicking, or hitting with objects. These findings mean that over one and a half million women are assaulted by their partners each year.[411] Sociologist Murray Straus conducted the first national survey and in 1976 reported that close to two million women were beaten by their spouses every year. The American Medical Association believed that those figures were a gross understatement. They estimated that the real numbers were probably doubled, and that one in four women was likely to be abused by a partner in her lifetime.[412]

In the 1977 book, *Wife Beating: The Silent Crisis*, two Washington journalists estimated that the real numbers were closer to more than half of all married women, or twenty-eight million. Richard Levy and Roger Langley were quick to assert that their

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[409] Schechter, *Women and Male Violence*, 2.

[410] Ibid., 33.

[411] Browne, *When battered women kill*, 4.

[412] Sarah Glazer, "Violence Against Women," *CQ Researcher* 3, no. 8 (February 26, 1993): 169–92.

work was not a work of feminism, but of journalism. They used telephone books from twenty-five cities and sent out questionnaires to hospitals, police departments, counseling centers, and lawyers. They found what they called "culpable ignorance" at the FBI, American Bar Association, Congress, and the International Association of Chiefs of Police. Levy told reporters that, "Most of the ten million family trouble calls answered by police each year involve spouse abuse. But typically they're not reported as such. It's a conspiracy of silence."[413]

Other women's organizations desired to help alleviate the suffering caused by abused women. In 1977, the Federation of Business and Professional Women (BPW) published a handbook containing information and resources for both advocates and victims. The "Battered Women Info-Digest" was offered for free with a self-addressed stamped envelope.[415] The Junior League and the National Council of Jewish Women offered support and often would send advocates to sit in during court proceedings or would donate small funds of money. Having members of these established groups lent authenticity and validation to the movement.[417]

The National Coalition Against Domestic Violence (NCADV), started from a state-wide meeting in Minneapolis in 1977 and took the grass-roots movement to a national stage. This, combined with that summer's International Women's Year

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[413] "More Than Half Married Women Abused by Husbands," *Florence Morning News*, June 28, 1977; Langley and Levy, *Wife Beating*.

[415] "Battered Women Information Available," *The Greenville News*, May 22, 1977.

[417] Schechter, *Women and Male Violence*, 85.

conference in Houston, a Congressionally-sponsored event that brought together women's rights supporters from every state and territory, shined a light on the problem and forced legislation and policy changes at the federal level. Michigan Representative said, "Today the problems of domestic violence are so extensive that our laws must be structured to meet this problem head on. Simply stated, no law should shield from prosecution a person who beats or sexually abuses a spouse."[419]

As with rape law reform, some domestic violence reforms garnered state support quickly, both nationally and locally, because it could be promoted as a law and order issue. Starting in 1974, the Law Enforcement Assistance Administration (LEAA) funded eighteen programs that provided service for victims, court mediation, or police crisis intervention training, spending $1.3 million over the course of the first three years.[421] The Florida legislature added a five dollar tax to all marriage licenses to fund shelters and advocacy in 1978, sixteen other states quickly followed suit. That same year, the Senate, House and US Civil Rights Commission held hearings on the issue. On December 5, 1978, President Jimmy Carter appointed Nancy Gordon as the director of the newly formed Task Force on Women. One of the topics it was asked to research was domestic violence and they were to report their findings to Congress.[423] In response to the findings of this research, Carter opened the Office of Domestic Violence (ODV) in 1979, located

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[419] "Federal Rape Law Reform Hearings."

[421] Yllö and Bograd, *Feminist Perspectives on Wife Abuse*, 96; Pleck, *Domestic Tyranny*, 194; "Battered Wives Projects Funded," *Florence Morning News*, September 5, 1977.

[423] "Gordon Named Task Force Director," *The State*, December 6, 1978.

in HEW's Office of Human Development Services. In 1980 the office had a budget of $1.2 million, which had to be stretched to the maximum. According to the director, June Zeitlen, their goals were to increase public awareness through give assistance programs and demonstration grants.[425]

As part of a national survey on wife abuse, the Connecticut Advisory Committee to the U.S. Commission on Civil Rights (USCCR) conducted a study of domestic violence in their capital city of Hartford in 1977. Part of its research involved a day-long hearing from both public officials and private citizens, including ten women who had been victims of abusive husbands. The committee found "that despite growing public awareness of the problems of battered women, most criminal justice and social service agencies do not…provide the assistance needed by these women." The committee also found that, "the police and courts do not always treat battering with the seriousness it deserves." The Colorado committee had also completed its own research on the subject and produced a report, *The Silent Victims: Denver's Battered Women,* as well as a film to highlight their findings.[427]

These reports, combined with pressure from feminists, led to a bill being introduced in Congress in the 1977 session. Supported by female members of Congress as well as male allies, the bill called for federal funding of shelters. The bill failed and conservative legislators began questioning their place in interfering in families. It was

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[425] "Battered, Abused Women Are Offered a Safe Shelter," *The State*, March 1, 1980.

[427] "Battered Women in Hartford, Connecticut" (The Connecticut Advisory Committee to The U.S. Commission on Civil Rights, April 1979).

reintroduced in the next session of Congress with full support from various agencies and groups, including women's groups (both feminist and traditional), police groups, and religious groups. It passed the House by a margin of 292 to 106, with all female members of Congress in favor, and would provide sixty-five million over three years to help fund local shelters.[429]

That same year, Jan Peterson, a co-founder of the Brooklyn, New York shelter, was appointed as the Associate Director of Public Liaison in President Carter's White House. With Midge Costanza, Director of Public Liaison, she arranged a White House meeting on domestic violence which took place on July 20, 1977. The meeting included the testimony of battered women. Though nothing much came from the meeting, it combined with the IWY Domestic Violence Caucus and the USCCR Consultation on Battered Women influenced the decision to open an Office of Domestic Violence in the HEW offices.[430]

In the 95th Congress an identical bill was introduced into both the House and the Senate. The bill was sponsored in the House by Newton Steers, Jr, (R-MD) and Lindy Boggs (D- LA). In the Senate it was sponsored by Wendell Anderson (D- MN) and

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[429] Joyce Gelb, *Feminism and Politics: A Comparative Perspective* (Berkeley, Los Angeles, Oxford: University of California Press, 1989), 122–124.

[430] Doreen Mattingly, "The (Limited) Power of Female Appointments: Abortion and Domestic Violence Policy in the Carter Administration," *Feminist Studies* 41, No. 3 (2015): 538–65.

Edward Kennedy (D- MA). The bill proposed that the Secretary of Health, Education, and Welfare work with the Director of the National Institute of Mental Health to establish a grant program. This program would seek to research methods to curb the instances of domestic violence and treat its victims. It would also provide funding for shelters and support for families affected by violence.[431]

In May, the Domestic Violence Act of 1978 was pulled from committee and they invoked a "suspension of rules" which called for a two-thirds majority. It failed by 205 to 201. Some claimed anger over the strange procedures and still other opponents thought it dealt with terrorism. But, on August 1 it passed by a voice vote in the Senate and one day before adjournment. One of the bill's opponents, John Ashbrook (R-OH), took the opportunity to read a lengthy list of amendments into the record causing the legislation to die. It was reintroduced into the 96th session with the support of over sixty organizations. There was a push from activists to have the vote before the June Conference on the Family, a controversial White House meeting.

Its opponents, including Senator Orrin Hatch and Southern Democrats, made their opposition known. They circulated a letter to their colleagues voicing their disapproval. It claimed that this, "legislation represents one giant step by the federal social service bureau into family matters which are properly more effectively and democratically

[431] Newton Steers, Jr., "Domestic Violence Prevention and Treatment Act," Pub. L. No. H.R. 7927 (1977).

represented by the states and local communities."[432] Conservatives argued that domestic violence legislation was anti-family and an attack on Christian values.

Leaders of the Moral Majority feared that funding domestic violence reform would lead to feminists "coming to the federal trough" if the bill became law. They fed the fear of feminism and anti-family rhetoric with circulated telegrams. One read that "battered women's shelters make women promise to divorce their husbands in order to enter shelters." They questioned what wives would learn in such places and argued that the federal government should not fund places that would threaten traditional family structure.

Senator Gordon Humphrey (R-NH) put his thoughts into the *Congressional Record*. "The Federal Government should not fund missionaries who would war on the traditional family. The money is almost entirely devoted to the creation of more bureaucracy and more indoctrination centers for women with family difficulties."[433]

Paul Lexalt (R-Nevada) filed the Family Protection Act in 1979, co-written by Karl Moor, a former director of the Moral Majority. The bill eliminated federal funding for child abuse prevention and moved it to the states. In response to these actions, and with a new president committed to supporting the pro-family movement, the Office of Domestic Violence closed in 1981.[434] Jo-Ann Gasper, President Reagan's Deputy

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[432] Pleck, *Domestic Tyranny*, quote on 196.

[433] Gordon Humphrey, "Congressional Record," August 25, 1980.

[434] Pleck, *Domestic Tyranny*, 196–198.

Associate Secretary for Social Services, joined in the attack on the anti-domestic violence movement. She argued that, "the concept of domestic violence is so vague" that it could mean "any form of belittling or teasing."[435]

Phyllis Schlafly, the prominent anti-ERA spokesperson and organizer, told the New Orleans *Times Picayune* in February 1980 that, "Under questioning, many of the experts in domestic violence concede that the principle problem in domestic violence is alcohol, with other drugs close behind. They also concede that most wives who are beaten by their husbands return to them after R and R at a shelter, and that a large percentage of wives return repeatedly."[436]

Feminists in South Carolina, like those in other states, came to the issue of domestic violence later in the movement, But, International Women's Year (IWY) in 1977, they had begun to advocate for the rights of married women who lived in violence.[438] In *The Legal Status of Homemakers in South Carolina,* a document commissioned by the National Commission on the Observance of IWY, co-authors

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[435] Schechter, *Women and Male Violence*, 3.

[436] "Domestic Violence Bill to Increase Bureaucracy," *Times-Picayune*, February 11, 1980.

[438] For more on IWY see: Marjorie Julian Spruill, *Divided We Stand: The Battle Over Women's Rights and Family Values That Polarized American Politics* (New York: Bloomsbury, 2017).

Vickie Eslinger and Lucy Knowles pointed out that police were reluctant to intrude in homes where violence was occurring. There were few arrests and even fewer charges. A woman had to prove that her life was in danger and that she did not provoke the attack so that her abuser would be arrested.[440]

A report to the South Carolina Commission on Women found that the existing statutes were hard to enforce and did not offer much in the way of protection. "When the woman is beaten by her husband in South Carolina, she has very few legal remedies available to her." Furthermore, "Physical cruelty is often difficult to prove because a woman has no witnesses or medical records to support her testimony."[441]

When Malissa Burnette divorced her husband, she did so on the grounds of physical cruelty, which required proof. She said it was a short marriage and full of violence, "I had photographs and a witness to the aftermath." She was granted her divorce but her husband did not contest it. The outcome might have been different if he had. Afterwards she became an advocate for women's rights. She said she was brought to the movement, "from years of abuse at the hand of my father and my first husband." NOW was new in Columbia at the time and she joined, eventually becoming president of the chapter. As a member of NOW, Burnette's main focus was domestic violence. She

[440] Eslinger and Knowles, "The Legal Status of Homemakers in South Carolina," 6.

[441] Eslinger, Knowles, and Furr, "Current South Carolina Laws and Procedures Which Are Sex Biased: A Report for The South Carolina Commission on Women," 12, 15.

knew the issue intimately. As an advocate against domestic violence she traveled the state giving speeches and conducting workshops addressing the issue of battered wives.[443]

Burnette took on the task of updating existing laws and helping to establish a safe haven for the women and children who were victims of domestic violence in Columbia. She knew she had been fortunate to have had the support of family and friends when she was leaving her husband. Many women were not as lucky. From other NOW members she learned that the movement was "not just to give moral support, but to do something about the problems that women have, either through the legislature or mediating with people, or whatever."[445] With her new law degree she began representing victims in court and traveling the state to give speeches and attend conferences on violence. She became recognized in the community as an advocate for battered women.

In a 1977 interview with oral historian Constance Ashton Myers, Burnette said she was receiving hundreds of phone calls at all hours of the day from women seeking help because of what they felt were hopeless situations, women who whispered their fears into the telephone. As the women turned to her for help she realized how little the state was doing to provide for their needs. She recalled that, as she became aware of, "the lack of shelter and services for women that are going through this, and I've just seen lack of all these things over the last year and a half and talking to women who are desperate—

[443] "Events," *The State*, August 24, 1977; Malissa Burnette interview with author, March 16, 2017.

[445] Constance Ashton Myers, Malissa Burnette, 1977.

and I know they are desperate." She also knew "there are not services when the Department of Social Services in South Carolina starts referring those women to me."[447]

Burnette also realized that not only the state but also these women's churches were failing to respond to their needs. Her intimate knowledge came from her childhood home, which was run by her father, a harsh authoritarian. She recalled that she had received a "strict, right-wing, Baptist upbringing."[449] She knew that because of the prevalence of fundamentalist religion in the South which emphasized male authority that often women who sought counsel from their pastors were being told that the right thing to do was to return home and obey their husbands.

Because of obstacles like religion, Southern feminists tread a thin line. Historian Stephanie Gilmore wrote, "in the face of Southern politics, radical feminist tactics combined with liberal ones worked most effectively."[451] Jayne Crisp of Greenville, South Carolina agreed. She knew that the ways feminists achieved reform in other places would not work in the South. She admitted to using manipulative tactics to gain radical outcomes, understanding that she could appeal to notions of protectionism.[453]

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[447] Myers, Malissa Burnette.

[449] Malissa Burnette interview with author.

[451] Gilmore, "The Dynamics of Second-Wave Feminist Activism in Memphis, 1971-1982," 110.

[453] Jayne Crisp interview with author.

Burnette knew personally how feminists were viewed by many in South Carolina. In a letter to the editor in *The State* she wrote, "Honestly, it looks as though the ranks of the anti-NOW, anti-women, anti-ERA forces are systematically trained to screech in unison the words 'strident, shrill, militant, and radical; every time progress shakes them out of their narrow little cubicles."[454]

Like activists in other cities, Burnette took it upon herself to understand and implement changes to existing resources, including filing for a grant to fund a shelter in Columbia that provided a variety of services such as therapy, relocation for women and their children, and protection from angered spouses who would track them to shelters in order to punish them further. [455] Though Sistercare, a permanent battered women's shelter would not open its doors in Columbia until 1982, community organizations, such as the Young Women's Christian Association (YWCA), sometimes made space available earlier. Sistercare evolved out of the YWCA's Women's Resource Center which opened in 1975.[456]

Jacquelyn Cash, executive director of the Columbia YWCA told reporters that "The purpose of the center is to coordinate the efforts that we have always made, related to identifying and filling the needs of women in the Columbia area." The center served as

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[454] Malissa Burnette, "Pro-ERA Group Unfairly Portrayed," *The State*, May 18, 1977.

[455] "When Malissa Burnette Saw Injustice in 1968, She Stood Up for What Was Right--and Has Been Doing so Ever Since," *SC.edu*, 2013.

[456] YWCA of the Midlands, Columbia, YWCA of the Midlands Records. South Caroliniana Library."

a clearinghouse for information on all women's organizations in the area, including a reference center with free literature and a lending library. They were hoping to be a place where men and women would come if they needed a referral or if they were curious about work that women's groups did. Of the organization that formed in 1900 and opening in Columbia in 1914 Cash said, "Someone asked me once if the YWCA had gotten itself involved in women's lib…we have always been involved in the liberation of women, men, boys and girls."[457]

Because so little was known about the extent of domestic violence, feminists began conducting their own studies and surveys. Three social work graduate students at USC conducted a survey of Spartanburg County, South Carolina. Elizabeth Divver, Judith Dunlap, and Kathryn Morgan published their findings in 1978. They found that the only option for abuse victims seeking emergency shelter was the Salvation Army, which would pay for a hotel room for three nights, not enough time for a woman to form a plan. In order to formally request housing from the state, victims needed to provide proof of income and be legally separated. Many victims of abuse were not employed outside the home and therefore had no way of giving proof of income. Legal separation required a lawyer, a court date, and a ruling by a judge, things that were impossible to acquire in three days.[459]

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[457] "Resource Center Opens," *The State*, January 9, 1975.

[459] Elizabeth Divver, Judith Dunlap, and Kathryn Morgan, "Community Services to Battered Wives in Spartanburg County: An Exploratory Study and Model" (University of South Carolina, 1978), 251.

Elsewhere in the state the movement was also finding success. In response to feminist pressure, a pilot training program for law enforcement was begun in Charleston, South Carolina in 1975. The program offered on the job and classroom training for police officers. Local mental health professionals were brought in to survey and teach. They participated in ride-alongs to see how police dealt with domestic disturbance calls in the field. In return, they provided departments with feed-back, diagnostic and interviewing skills. They found that law enforcement agencies were both unprepared for these kinds of interactions and had little to no knowledge of the resources available for victims. In response, those professionals developed a program that would offer each precinct an individualized plan. Each department would receive both specialized and general training in family dynamics, conflict management, self-awareness, body language, interviewing skills, and community referrals. Charleston area police departments also began hiring and using more female officers on domestic violence calls.[461]

The state responded to the issue by forming an organization to discuss the problem. The South Carolina Association on Violence Against Women (SCAVAW) was formed in 1978 by a coalition of activists from around the state working in conjunction with the South Carolina Office of Public Health, headed by James Clyburn. Through a series of state conferences, the SCAVAW attempted to form a state-wide association of organizations committed to helping victims of abuse and assault.

[461] Divver, Dunlap, and Morgan, "Community Services to Battered Wives in Spartanburg County," 94–96.

The chairperson, Lois Veronen, faculty member of the Medical University of South Carolina (MUSC), said, "South Carolina is the only state which has a statewide association to deal with issues related to both battered women and rape victims." Other states had organizations that separated the issues, Veronen stressed that combining them under one umbrella would help organizers better attack the underlying issues leading to violence against women.[462]

Together they sponsored public workshops, such as "In Our Midst: A Conference on Service Delivery to Abused Women," where those who were either interested in opening a new clinic or already worked in one could come and learn. The organizers pictured the workshop being a clearinghouse of information for both victims and advocates.[463] It would address the needs of victims and different methods of response to violent acts.[464]

Also in 1978, State Representative Sylvia Dreyfuss, a member of Greenville's Women in Crisis Task Force (WCTF), introduced a "battered adults" bill into the General Assembly. The term echoed a national trend away from "wife battering." The bill called for shelters and counseling for abuse victims and to be funded by the State Department of

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[462] "State Conference to Seek Network of Crisis Centers," *The Index-Journal*, September 22, 1978.

[463] "Crisis Center Workshop," *The Gaffney Ledger*, September 15, 1978.

[464] "Events: The S.C. Association on Violence Against Women," *The State*, September 15, 1978.

Social Services. In a speech to a Greenville club she argued that, "Spouse abuse is a form of domestic violence that has only recently become a matter for public concern because family life—more specifically, the marital relationship—has traditionally been viewed as an arena with which outsiders should not involve themselves."[465] In 1979 fewer than fifteen state legislatures funded shelters and less than half of all shelters got any state or federal money.[466] The bill failed to have enough support to pass.

In 1978 Greenville's RCC rape crisis line received almost eighty phone calls from battered women over a four-month period. Jenny Michaux, a member of RCC, spearheaded an initiative to find funding and volunteers to open a shelter for battered women.[467] The RCC was not prepared to help victims of domestic violence, but understood that they needed help. Michaux was a counselor at the Family Counseling Service located in Greenville. She knew that over the course of six months in 1977 that they had handled thirty-five cases of domestic violence. She knew that the first issue that needed to be addressed was emergency shelter. She said, "Right now, there's just nowhere women can go. If they're scared to death in their own homes, they can't make

[465] " 'Battered Adult" Bill Introduced," *The Greenville News*, May 2, 1978; "Where Were the Voters?," *The Greenville News*, February 4, 1979.

[466] Schechter, *Women and Male Violence*, 83.

[467] "Greenville Chapter, NOW," *The Greenville News*, March 29, 1978.

rational, reasoned decisions."[468] Michaux decided to form a task force to address the issue.

Over the course of a year, the thirty-six member newly formed Task Force on Battered Wives prepared a report on domestic violence. They assessed the options available to victims and found very few for women who were looking for either a safe space or information. A local family counseling service offered twenty-four-hour phone counseling. The Greenville Rescue Mission and the Salvation Army offered some housing, but such shelter was offered for a very limited time and did not offer a separate space for women and their children. They would be put in a large room where the homeless (typically men) slept, a situation that may not feel safe to a victim of abuse. The report found that neither of the existing facilities were "designed to meet the needs of battered adults," and that a shelter was the "missing link."[469]

One of the major issues was a lack of knowledge on the part of the community making fundraising a difficult issue. Members of Task Force on Battered Women came from a variety of organizations that dealt with family violence and helped raise awareness and money from the community. Michaux appealed to various groups and organizations to fund the shelter. Like organizers of shelters across the country, she used information

[468] "City, County May Establish Shelter for Battered Wives," *The Greenville News*, October 24, 1978.

[469] Ibid.

provided by NOW to discern what steps she needed to take to achieve success. Funding was the greatest challenge and grants had to be renewed either annually, or biannually.[470]

Within six months, what would become South Carolina's first battered women's shelter received a positive vote from both the City and County Council. The county had initially agreed to fully fund the shelter, but received interest from the city in a shared project so that both city and county residents could use the space. County Redevelopment Authority Director Phil Warth said the shelter was "an interim solution to a very serious problem. There are no other federal programs for battered wives."[471]

Slated to be placed in a local residence, the project, like others around the country, demanded the Office of Housing and Urban Development change existing regulations.[472] Nationally, most shelters were in old houses with lots of bedrooms that were typically not in ideal condition. The number of people shelters could hold varied from just a few to upwards of ten families who all shared the space. Most women brought two or more children with them and the lack of space could lead to some families having to share rooms.[473]

The Greenville shelter would employ four counselors who would be paid through the Comprehensive Employment and Training Act of 1973, a program to help train the

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[470] "Group Seeks Help For Battered Wives," *The Greenville News*, March 21, 1978.

[471] "City, County May Establish Shelter for Battered Wives."

[472] "Battered Woman's Shelter OK'd," *The Greenville News*, October 25, 1978.

[473] Schechter, *Women and Male Violence*, 59.

unemployed and underemployed.[475] Shelters across the country utilized this program to pay staff members.[477] The space would provide housing for five women and their children; it would also offer counseling services to women who did not live there. Michaux said it was so that, "wives can find the time, support and information they need to make decisions, without fearing reprisals from their husbands."[479] Funding came with various issues, some good and some bad. It could provide for a bigger and better trained staff and validation came from allocations of government money. But, funding also brought organizational changes that did not please many feminists.

Another issue anti-domestic violence activists faced was cooperation from law enforcement and solicitors, as well as the victims themselves. In January 1981, the US Justice Department released a report that said police should, "regard family disturbances as criminal assaults that could result in a jail term." This posed an issue for law enforcement since in their experience it was very difficult to get domestic cases prosecuted. Richland County Sherriff Frank Powell said, "One minute you have two people trying to kill each other, and the next minute they turn on the officer who tries to separate them." Columbia police investigator Ralph Phillips concurred saying, "This is so typical of domestic calls. Police want to treat this as a crime, but the victims don't." Police officers were reluctant, as representative of the state, to interfere in family matters and were not able to make assumptions. Phillips said, "We can't act on what we think is

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[475] "Comprehensive Employment and Training Act of 1973," Pub. L. No. 93-203 (1973).

[477] Schechter, *Women and Male Violence*, 83.

[479] "Battered Woman's Shelter OK'd."

true, but only on what the officer observes." So, even if the officer believed there was a history of abuse, they were helpless to act.[481]

The state legislature never funded abuse shelters directly. It did make special state appropriations through the Department of Social Services which helped to pay for a shelter in Columbia. In October 1981 Sistercare, the emergency shelter for abuse victims, opened in the city. The YWCA worked with the Junior League of Columbia to found the shelter after a 1978 survey they conducted discovered that more than two hundred local women needed help every month in Columbia. Funding for the shelter and its programming came from a variety of sources: United Way, Aetna Life, and numerous church and civic organizations.[483]

In October 1980, the South Carolina DSS co-sponsored a conference on spouse abuse. The conference aimed to teach citizens about domestic violence and give them information on what services were available for victims.[485] In a letter to the editor of *The State* on December 8, 1980, Billy Garrett, the director of Adult Services for the DSS said that his office was "offering six mini-grants to any local groups statewide who wish to address this problem." The five hundred dollar mini-grants could be used to "fund a local conference on spouse abuse, to set up a hot line, start a support group, train volunteers, or

[481] "Domestic Disputes Pose Dilemma for Police," *The State*, January 5, 1981.

[483] "Abused Families Shelter Opening Monday," *The State*, October 18, 1981.

[485] "Spouse Abuse Conference," *The State*, October 29, 1980.

as 'seed money' for a fundraiser to build or rent an emergency shelter."[487] The state was offering a total of six thousand dollars to help the entire state combat domestic violence, a paltry sum indeed.

The mini-grants did fund smaller ventures, such as publishing a pamphlet in 1981 with information about domestic violence. The South Carolina Commission on Women received a mini-grant from the South Carolina Department of Social Services to print the pamphlets that were available for free by mail and were offered to various organizations and agencies for distribution.[488] This was an important aspect of the movement, the public needed to be educated about the issue.

One of the ways the public was educated about domestic violence was through advocates appearing at seminars and speaking before community groups. At a seminar marking National Victim Rights Week in April 1981 held at the USC Law School, several advocates and activists spoke to the assembled group. State Law Enforcement Division Agent Lt. Ron Cook said, "There is so much emphasis on the rights of the accused [innocent until proven guilty] that the victim is the lost soul in the criminal justice system." He and the rest of the panelists were calling for more rights for the victims of domestic violence, who had to present "proof" of abuse in court.[490]

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[487] Billy Garrett, "DSS Offers Financing in Spouse Abuse Area," *The State*, December 8, 1980.

[488] "Spouse Abuse Pamphlet," *The State*, July 16, 1981.

[490] "Seminar: More Help for Crime's Victims," *The State*, April 22, 1981.

Workshops offered another avenue for public education. Sistercare offered a free workshop on spouse abuse in May 1981. The four-hour long workshop featured speakers from various backgrounds such as criminal justice, psychology, law, and social work. The workshop aimed to cover all aspects of abuse to help the public understand the issue, its victims, and its perpetrators. It also served as a place where the abused could find information on their rights and what to expect if they wanted to file charges.[491]

In 1982, South Carolina Lieutenant Governor Nancy Stevenson was working to push through a bill that would add a five-dollar surcharge on marriage licenses to raise money for counties to work on domestic violence issues. She said, "That has an old-testament justice to it because only those who have been married will use the service, those who have never married will not have to pay."[492]

Feminists in South Carolina appealed to the legislature to make changes to existing laws on wife abuse, yet they were slow to act. It would be spring of 1984 before the South Carolina legislature passed any legislation on domestic violence. The "Protection From Domestic Abuse Act" called for the creation of a petition for order of protection with the court clerk and an emergency hearing could be called for if reason presented itself to the judge, but otherwise must be heard within fifteen days of filing. The protective order would prevent the abuser from contacting the victim in any way. Violating this order could be punished by up to thirty days in jail or a two hundred dollars

[491] "Spouse Abuse Workshop Wednesday," *The State*, April 7, 1981.

[492] "Stevenson Defies Popular Expectations," *The State*, January 3, 1982.

fine. The act also detailed the duties of police officers on domestic violence calls, which included notifying the victim of their right to file charges and seek the protective order. The officer was also given permission to take the abused to a shelter or hospital and to stay with them while they gather their belongings.[493]

Senator Dewey Wise, a Democrat from Charleston sponsored the bill in 1983. He said, "Hopefully, the net effect of this will be to prevent spouse abuse in this state." The bill, which went into effect in June of 1984, made domestic violence a specific crime in the state for the first time. As such it would be charged as a misdemeanor, carry a fine of up to two hundred dollars and up to thirty days in prison for the first offense. Family courts could issue orders necessitating separate living arrangements quickly and police could make a "warrantless arrest" if there was probable cause. Officers now had "clear authority" to make an arrest even if they did not witness the violence. Wise said, "They have more of a mandate to try and get involved in trying to prevent domestic violence than they have had in the past as a result of this legislation."[494]

This legislation was seen as a success by feminists. They had pushed the hand of legislators to finally pass the law. Like with rape law reform, creation of the law concerning domestic violence validated the movement. Shelters and hotlines could now be found in almost every community.

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[493] "Protection from Domestic Abuse Act," Pub. L. No. Act No. 484 (1984).

[494] "New Laws Stiffen Punishment for Crimes of Domestic Violence," *The State*, June 23, 1984.

The act made no provision for funding or creating shelters for women. The need continued to be met by women in local communities. In October 1985, Harriet Dial of Greenwood, South Carolina explained, "I felt led to do something because there was nothing in this area. I started housing women in my home. It was more than I could handle." The only option for women seeking shelter was the Salvation Army from 5:00 pm until 7:00 am for up to ten days. Capsugel, a company that made drug capsules, had a location in Greenwood and donated three thousand dollars to the local Salvation Army to start a shelter for abused women earlier that year. They looked to Dial for help, who had begun working on opening a shelter in January 1985, which would be called The House of Deliverance.[495]

The movement continued into the 1980s and 1990s, when the federal government finally passed the Violence Against Women Act in 1994.[496] Conservative legislators drug their feet on this issue, all the while proclaiming themselves to be protecting "family values." However, because of feminists, the national mindset had shifted and the public knew that domestic violence was a serious problem. Women in abusive relationships had more access to information and a place to go if they were in need.

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[495] "The Battered Woman -- Living in Constant Fear," *The Index-Journal*, October 27, 1985; "Capsugel Aids Shelter for Domestic Violence Victims," *The Index-Journal*, June 11, 1985.

[496] "Text - H.R.3355 - 103rd Congress (1993-1994): Violent Crime Control and Law Enforcement Act of 1994," legislation, (September 13, 1994), https://www.congress.gov/bill/103rd-congress/house-bill/3355/text.

CHAPTER 6

CONCLUSION

"The Women's Movement in the South is therefore stronger because it is more solid."

--Judith Lightfooot, 1974

By the end of the 1970s feminists had achieved many of their goals. Yet, the resounding backlash against feminism in the 1980s, including the failure to ratify the ERA in 1982, has cast a shadow over important, lasting accomplishments made during the previous decade. Prominent among them were successful efforts to expand women's reproductive rights and to combat the problem of violence against women. By 1980 abortion was legal in all fifty states. There were federal guidelines to prevent coercive sterilization. Rape laws had been reformed and there were new and improved policies and procedures regarding how victims were treated. Domestic violence had been recognized as a crime with enforceable penalties. Yet, the changes were not permanent and could be undone as shifts in public opinion resulted in changes in political leadership. Sadly, in the 1980s feminists would find that policies are sometimes easier to change than opinions and attitudes and can be undone.

In the late 1970s a coalition of conservatives was beginning to gain ground in American politics, especially in the Republican Party, and a backlash against the gains made by the women's movement was part of their fodder. A group of conservatives

calling themselves (and called by the press) the "New Right," hoping to forge a triumphant conservative movement with grassroots support and lasting political power, grew their adherents using social matters to add to their numbers. Chief among these issues were "women's issues" and "family values," which were somehow construed to be opposing ideologies.[497] New Right leaders, witnessing the power of women's issues to

[497] Numerous scholars have researched where and how right turn in American politics the New Right began. For example see: Ruth Murray Brown, *For a Christian America: A History of the Religious Right*. (Amherst, N.Y: Prometheus Books, 2002); Kevin M. Kruse, *One Nation Under God: How Corporate America Invented Christian America*, Reprint edition (Basic Books, 2016); Matthew D. Lassiter, *The Silent Majority: Suburban Politics in the Sunbelt South* (Princeton: Princeton University Press, 2007); Carol Felsenthal, *The Sweetheart of the Silent Majority: The Biography of Phyllis Schlafly* (Garden City, N.Y.: Doubleday and Company, Inc., 1981); Lisa McGirr, *Suburban Warriors: The Origins of the New American Right*, Updated edition with a New preface by the author edition (Princeton, NJ: Princeton University Press, 2015); Mary C. Brennan, *Turning Right in the Sixties: The Conservative Capture of the GOP* (Chapel Hill: University of North Carolina Press, 1995); Bruce J Schulman and Julian E Zelizer, *Rightward Bound: Making America Conservative in the 1970s* (Cambridge, Mass.: Harvard University Press, 2008); Marjorie Julian Spruill, *Divided We Stand: The Battle Over Women's Rights and Family Values That Polarized American Politics* (New York: Bloomsbury, 2017); Neil J. Young, *We Gather Together: The Religious Right and the Problem of Interfaith Politics*, 1 edition (New York: Oxford University Press, 2015).

mobilize and unite Christian conservatives, began to exploit these issues in an effort to exploit the largely untapped power of evangelicals and fundamentalists. J. William Harris, minister of Greenwood, South Carolina's First Baptist Church, explained the conservative movement saying, "to be pro-family' means to be in favor of legislation for prayer in public schools and to be opposed to sex education in public schools, school busing, abortion, The Equal Rights Amendment, financial assistance for medical services for children and pregnant women, even grants to state and local efforts to prevent domestic violence and aid in victims. In short, the ultraconservative coalition sees almost any federal involvement in issues relating to families as being 'anti-family.'"[500]

One of the most contested issues of the Religious Right was the right to an abortion. Catholics had long been opposed and began organizing abortion opponents to resist repeal of state anti-abortion laws even in the late 1960s. After Roe, determined to restrict its impact and hoping to repeal it altogether, they began recruiting Protestant allies. [502] *Roe v Wade* only mandated the accessibility of abortion. To make it more

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[500] William J. Harris, "Editorials: Religion and Politics," *The Index-Journal*, April 19, 1980.

[502] For more information on abortion, religion and politics see: Dallas A. Blanchard, *The Anti-Abortion Movement and the Rise of the Religious Right: From Polite to Fiery Protest*, Social Movements Past and Present (New York : Toronto : New York: Twayne Publishers ; Maxwell Macmillan Canada ; Maxwell Macmillan International, 1994); Barbara Hinkson Craig and David M O'Brien, *Abortion and American Politics*

difficult for women to attain abortion, in 1976 conservative opponents led by Congressman Henry Hyde were able to add a rider to a budget bill known as the Hyde Amendment. This measure made it illegal to use any federal funds to finance abortions, except in cases of rape or incest, or to save the life of the mother. This created an economic divide between who could and who could not have abortions, and has been reenacted every year since. Also in the late 1970s, pro-life leaders began advocating what became known as a "human life amendment" which gave fetuses the protections of the Fourteenth Amendment. Knowing they needed sixty percent of votes of each house of Congress, and ratification by three fourths of the states to add an amendment to the Constitution, Catholics worked hard to recruit Protestant allies, especially among Southern conservatives.[503]

By the 1980 election, which put Ronald Reagan in the White House, the pro-life movement was politically powerful, and a conservative rallying point involving members from numerous denominations. Peter Gemma, director for the National Pro-Life Political

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(Chatham, N.J.: Chatham House, 1993); Faye D. Ginsburg, *Contested Lives: The Abortion Debate in an American Community, Updated Edition*, Updated ed. edition (Berkeley: University of California Press, 1998); Young, *We Gather Together*; Allen Hunter, "Virtue with a Vengeance: The Pro-Family Politics of the New Right (conservatism, Right-Wing, Moral Majority)" (Ph.D., Brandeis University, 1985).

[503] Patricia Parish Williams, "Right to Life: The Southern Strategy," *Southern Exposure* IV, No. 4, no. Generations Women in the South (Winter 1977): 82–85; Williams, *Defenders of the Unborn*.

Action Committee told reporters in November 1980, "Our prime goal is to cut off all federal aid for abortions." His organization had spent two hundred fifty thousand dollars to elect pro-life candidates in 1980 and successfully helped elect twelve senators, eleven of which had won over incumbents.[504] These politicians sought legislative changes to overturn *Roe v Wade*.

In the 1984 presidential campaign, the Republican platform included a constitutional amendment making abortion illegal and stated its support for judges "who respect the traditional family values and the sanctity of human life." Alternately, the Democratic platform stated that they supported, "continuing federal interest in developing strong family planning and family life education programs, and medical research aimed at reducing the need for abortion."[506]

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[504] "Pro-Life Groups Liked Outcome," *The State*, November 7, 1980.

[506] Blanchard, *The Anti-Abortion Movement and the Rise of the Religious Right*, 1; Mireille Jacobson and Heather Royer, "Aftershocks: The Impact of Clinic Violence on Abortion Services" (RAND Corporation, 2010). When the political approach did not achieve enough for pro-life activists, many turned to violence. Since the 1970s abortion clinics have been sites of organized protests and violence. Researchers for the non-profit and non-partisan RAND Corporation found that, "Between 1973 and 2003, abortion providers in the United States were targets of over 300 acts of extreme violence, including arson, bombings, murders and butyric acid attacks." Jacobson and Royer, "Aftershocks: The Impact of Clinic Violence on Abortion Services."

State interest in curbing abortion access continues to the present. According to the Guttmacher Institute, an organization devoted to reproductive rights issues, "In just the first three months of the year [2017], legislators introduced 431measures that would restrict access to abortion services."[508] These numbers mirror numbers from most legislative sessions in the past forty years. The effect is that legal abortion numbers are at a low not seen since before *Roe v Wade*. The consequences are that more women are turning to self-inductions (such as clothes hangers) and illegal providers once again. In October 2015, Sheriff's officers in Spartanburg, South Carolina arrested a man and woman in their van which contained what was reported as a "mobile abortion clinic." The couple did "in home abortions."[509]

The state legislature has increased restrictions on abortion access consistently since the 1980s. By 2014 ninety-three percent of the state's counties had no abortion clinic.[512] South Carolina is not alone. State restrictions have been used nationally to chip

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[508] "Laws Affecting Reproductive Health and Rights: State Policy Trends in the First Quarter of 2017," *Guttmacher Institute*, April 7, 2017, https://www.guttmacher.org/article/2017/04/laws-affecting-reproductive-health-and-rights-state-policy-trends-first-quarter-2017.

[509] "Illegal Mobile Abortion Clinic Busted In Spartanburg Says Sheriff," *WSPA.com*, October 9, 2015.

[512] "State Facts About Abortion: South Carolina," *Guttmacher Institute*, January 26, 2016, https://www.guttmacher.org/fact-sheet/state-facts-about-abortion-south-carolina.

away at reproductive rights. Over the past few decades, several states have made finding a clinic increasingly difficult, some having only one to serve the whole state.[514]

In addition, states have continued to advance the rights of the unborn, over the rights women. In 1996 the South Carolina State Supreme Court decided that a pregnant woman can be prosecuted for child abuse against her unborn child if she uses illegal

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[514] Faye D Ginsburg and University of California Press, *Contested Lives: The Abortion Debate in an American Community* (Berkeley, CA: University of California Press, 2006); Craig and O'Brien, *Abortion and American Politics*; Carole E. Joffe, *Doctors of Conscience: The Struggle to Provide Abortion Before and After Roe V. Wade*, Reissue edition (Boston: Beacon Press, 1996); Johanna Schoen, *Abortion after Roe: Abortion after Legalization*, 1 edition (Chapel Hill: The University of North Carolina Press, 2015); Dr. Willie Parker, *Life's Work: A Moral Argument for Choice* (Atria / 37 INK, 2017); Loretta Ross and Rickie Solinger, *Reproductive Justice: An Introduction*, 1 edition (Oakland, California: University of California Press, 2017); Johanna Schoen, *Reconceiving Abortion: Medical Practice, Women's Access, and Feminist Politics before and after Roe v. Wade* (Ann Arbor, MI: Michigan Publishing, University of Michigan Library), http://hdl.handle.net/2027/spo.0499697.0026.209; Mary Ziegler, *After Roe: The Lost History of the Abortion Debate* (Cambridge, Massachusetts ; London, England: Harvard University Press, 2015); Carol Sanger, *About Abortion: Terminating Pregnancy in Twenty-First-Century America* (Cambridge, Massachusetts: Belknap Press: An Imprint of Harvard University Press, 2017).

drugs. If found guilty she would serve jail time and lose custody of her child. *Whitner v South Carolina* found that a viable fetus is a person and that the state could prosecute for child abuse. Justice Jean Toal wrote in the majority opinion that, "The consequences of abuse or neglect which take place after birth often pale in comparison to those resulting from abuse suffered by the viable fetus before birth."[516] With this, South Carolina joined the legion of forces prosecuting women for having "crack babies."[518]

The harsh examination never extended to women using other drugs, including alcohol or tobacco, or even powder cocaine. Dr. Deborah A. Frank, a pediatrician at Boston University said in 2009 that, "Society's expectations of the children and reaction to the mothers are completely guided not by the toxicity, but by the social meaning" of the drug.[519] Crack cocaine was a cheap drug that was mostly used by poor and minorities in inner cities across the country.

In 1985, South Carolina state senator Liz Patterson worked to remove the sterilization law from the books. One of her constituents approached her and explained that she suffered from epilepsy and was offended that the law was still in effect. Patterson

[516] "Supreme Court Says Mother Accountable for Health of Fetus," *The Index-Journal*, July 16, 1996.

[518] Ellen Hopkins, "Childhood's End: What Life Is Like for Crack Babies," *Rolling Stone Magazine*, October 18, 1990.

[519] "The Epidemic That Wasn't," *The New York Times*, January 26, 2009.

convinced other legislators to overturn the law, which her father, Governor Olin D. Johnson had signed. She said, "I think it shows we've come a long way in understanding people with disabilities." In 2003 South Carolina Governor Jim Hodges publicly apologized to residents who had been sterilized by the state in the past. He had been asked if he would make a public apology earlier but claimed he needed to research the topic. North Carolina had apologized in 2001 and Virginia's governor's had made a formal apology in 2002.[521]

New forms of coerced sterilization have cropped up, however this time not surgical. The state continues to force birth control measures on those deemed unworthy of motherhood. In 1990 the Food and Drug Administration (FDA) approved the contraceptive Norplant, which could be inserted under the skin and was effective for five years. Some states moved quickly to include a reimbursement or cash bonus for women on welfare who consented to use the contraception. On January 2, 1991, a California judge ordered an African American woman to use the drug as part of her probation.[522]

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[521] "Hodges Offers Apology to Sterilization Victims," *The Greenville News*, January 9, 2003; Kim Severson, "Thousands Sterilized, North Carolina Weighs Restitution," *The New York Times*, December 9, 2011, sec. U.S., http://www.nytimes.com/2011/12/10/us/redress-weighed-for-forced-sterilizations-in-north-carolina.html.

[522] Darci Elaine Burrell, "The Norplant Solution: Norplant and the Control of African-American Motherhood," *UCLA Women's Law Journal* 5, no. 2 (January 1, 1995): 402.

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For female victims of assault seeking information and shelter, state funding has brought with it oversight. In addition, there was more interest in regulating funding of efforts to curb domestic violence. In 1984, The Family Violence Prevention and Services Act passed and is the only federal funding source dedicated to domestic violence. Because they receive federal funding, shelters were forced to become more "professional." This meant adding social workers and psychologists to their staffs, a move that often meant that the feminists who founded these shelters leaving because they did not have efficient training. When they left they took with them the feminist ideologies that had created the shelters as a space free from societal needs for conformity to patriarchal standards. This means that victims are now treated as clients, with case numbers. When the shelters first opened they were seen by their organizers to be a space where women could find information on feminism in addition to the information about their legal rights.

Victims of rape and domestic violence are now treated better by the police, medical professionals, and the court system. But, societal judgment of rape and domestic violence victims continues. The stigma remains and women are still questioned (though not in court rooms) if they somehow "asked for it." And, while rape kits are available at every hospital in the country, they very often are not examined for evidence and in many cities they remain piled in forgotten rooms.

In response to a Freedom of Information request from Charleston's *Post and Courier* in 2016, more than three hundred untested rape kits were revealed in the

Charleston area, yet the actual number is likely much higher. The newspaper contacted numerous law enforcement agencies and many responded that a complete inventory would take more time than they could spend on the issue. Janie Ward Lauve, executive director of People Against Rape said, "I've had many women tell me it's very frustrating. The exam is very intrusive. After a woman goes through all that trouble, the kit should at least be tested." In fact, the testing of old kits would go a long way in curbing the number of rapes. When ten-thousand kits were found and tested from a Detroit police warehouse, almost five hundred serial rapists were identified and arrested. Police say that they often do not test kits because they find the case to be unfounded or the victim dropped the case.

Janie Ward Lauve, Executive Director of Charleston's People Against Rape, disagreed. She said, "It's not the victim saying 'I don't want to pursue this. It's because they are being talked into it by the police or getting such bad vibes from the police department that they don't feel like they're being believed. They feel like they're being blamed, told things like you were drunk and we really can't pursue this."[523]

The anti-rape movement was condemned even within the feminist community. In 1981 Betty Freidan said, that their "obsession with rape keeps them wallowing in a victim state."[524] Yet, one legacy remains. It is now publicly accepted that rape is absolutely not about sex but about violence and power.

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[523] "Sex-Crime Evidence Ignored? Several Hundred Charleston-Area Kits Remain Untested," *The Post and Courier*, August 19, 2016.

[524] Bevacqua, *Rape on the Public Agenda*, quote on page 6.

South Carolina is one of the most dangerous states in the country to be a woman, and has been since the mid-1990s. In 2015 it ranked number one in "deadly violence against women." That year the South Carolina legislature amended its 1984 violence against women act again, something that had been done five previous times.[526] But Kristen Rand of the Violence Policy Center said, "Yet in the face of these alarming statistics, more needs to be done at the federal and state levels to protect women from abuse and prevent future tragedies."[528]

The core issue is that crimes against women cannot be legislated away. It is something the feminists in the 1970s knew. Violence against women is a political act supported by a lenient and patriarchal system. The state can shake its fist and demand men act better, but unless there is a complete overhaul of American society, these acts of violence will continue.

Feminist activists of the 1970s have much to be proud of, regardless. Because of them all of these issues have a public spotlight, and though the fight goes on, so do the fighters. In 2017, feminism is alive and well in the South. In South Carolina there are state wide coalitions that are dedicated to women's reproductive rights. The mission of South Carolina's Women's Rights and Empowerment Network (WREN) is "to build a

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[526] South Carolina Protection from Domestic Abuse Act. Section 16-25-10. 2015. http://www.scstatehouse.gov/code/t16c025.php

[528] "South Carolina Ranks No. 1 for Deadly Violence Against Women," *The State*, September 15, 2015.

movement to advance the health, economic well-being, and rights of South Carolina's women, girls, and their families."[530] Feminists in Columbia have also begun republishing a newsletter started in the 1970s as an online blog called *Auntie Bellum* that covers a myriad of topics of concern to women.[532]

Also, because of them, there are women in power. South Carolina is now twenty-second in the country for gender equality in elected offices, where it was forty-sixth in 1993.[533] Progress rarely occurs in a straight line, and there have been challenges and setbacks. But, the question now is whether southern feminists are up to the task.

[530] "Mission," *Women's Rights and Empowerment Network*, accessed April 24, 2017, https://www.scwren.org/about/mission/.

[532] "Auntie Bellum: An Honest, Unapologetic Voice for Southern Women," auntiebellum.org.

[533] "SC Makes History With 4 Women in State Senate," *The State*, December 7, 2016.

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