

Box 8.1 Marital Rape

In Chapter 7, we defined rape as *nonconsensual* attempted or completed vaginal or anal penetration with any body part or object, or oral penetration by the sex organ of another person. Recall from Chapter 1 that historically, however, husbands were exempt from charges of raping their wives—a legal principle known as **spousal exemption**—even if they used considerable force, because upon marriage, women give their husbands **irrevocable consent** to have sex with them (Bergen, 2016). Moreover, rape laws in the United States were originally enacted and enforced as property laws—that is, as laws to protect a father's property (his unmarried daughter) and a husband's property (his wife) from "theft" by other men (D. Russell, 1982). Consequently, a man could not be charged with raping his wife because he could not be charged with "stealing" something he already owned.

It was not until 1978 that a husband, John Rideout, was successfully prosecuted in the United States (specifically, in Oregon) for raping his wife while they were still living together (Bergen, 2016). It took another 15 years for marital rape to become a crime in all 50 states. Still, Jackson (2015) reported that as of 2007, there remained 20 states that continued to have some type of spousal exception in their rape laws: for example, if the husband did not use "excessive force" or if his wife was unable to consent (she was asleep or in some way impaired). The latter exception is curious, given that in all other circumstances, the inability to consent is not a defense in the crime of rape but rather a part of its definition. Marital rape, then, continues to be treated differently—and frequently, more leniently—than other types of sexual assault (Bergen & Barnhill, 2006). Yllö (2010) reported that this attitude is shared by a majority of Americans, who view marital rape as considerably less serious than stranger or acquaintance rape.

Despite public and legal perceptions, however, the findings from research on rape in marriage show that it is quite serious. Researchers report that marital rape often takes place in the context of an already physically and psychologically abusive relationship; the sexual violence is one more type of abuse inflicted on the victim (Finkelhor & Yllö, 1985; D. Russell, 1982). Such was the case with Shelby and Marcus in the opening case history. But rape may also occur *after* physical violence, when abusive partners force or coerce their partners into what the abusers claim is "makeup sex" (Bergen & Barnhill, 2006; DeKeseredy, Schwartz, Fagen, & Hall, 2006). Research has also shown that sexual abuse in marriage may occur without other types of physical violence, although it is often a tactic of coercive control and typically accompanies psychological and emotional abuse (Basile, 2002; Stark, 2009).

Studies of marital rape survivors document the severe and long-term trauma of this type of victimization. Victims of marital rape experience immediate traumatic effects similar to those of other rape victims—e.g., shock, fear, anxiety, and depression (Bergen, 2016). Long-term outcomes include PTSD, depression, sleeping disorders, anxiety, distorted body image, and hypervigilance (Bergen & Barnhill, 2006; J. Campbell, 1989; Kilpatrick, Best, Saunders, & Vernonen, 1988; Stermac, del Bove, & Addison, 2001). Research that has compared women IPV victims who have been raped by their intimate partners with women IPV victims who have not been raped by their intimate partners has found the former group to have more severe diagnoses of anxiety, depression, and other psychological disorders (J. Campbell, 1989; Plichta & Falik, 2001). Clinicians and researchers attribute these severe long-term consequences to several factors: (1) the fact that marital rape victims typically experience multiple sexual assaults over the course of the relationship; (2) the deep sense of betrayal and violation of trust that victims experience as a result of having been raped by someone they have loved and who they thought loved them; and (3) the lack of support and assistance victims receive from both informal and formal help providers, including the legal system, who, as we have noted, often do not view this crime as serious (Bergen, 2016).