



WPR APPROACH: GENDER- BASED VIOLENCE AND RACIAL DISCRIMINATION IN U.S POLICY VIOLENCE AGAINST WOMEN ACT

[Document subtitle]



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1. Introduction

For centuries, women have dealt with several forms of oppression. From not being able to own land to different forms of gender-based violence (GBV). These actions were exhibited against women on the assumption that it maintained their oppression. It was not until 1978 that the United States formed the National Coalition Against Domestic Violence (Oregon Secretary of State, n.d.). This was the first created coalition that broke the silence on gender-based violence. Although awareness on GBV began to increase in the late 1970s, it is still a major issue many women face today. According to The World Bank, 1 in 3 women will face some form of gender-based violence in their life (The World Bank, 2019). Throughout the past few years, I have attempted to try to understand why women must come across any forms of violence in their lifetime. I wondered why for centuries governments have not done enough to support victims nor have done enough to encourage a different form of masculinity.

My personal experiences are what led me to further investigate gender-based violence and race. I have experienced different forms of GBV: physical, sexual and verbal. These experiences took place in different stages of my life but all times left me feeling ultimately emotionally broken, confused as to why no one could help me, and angered with governments. These experiences occurred in the United States, Colombia, Mexico and Denmark. Gender-based violence is not a problem only some countries face, but is a global issue (The World Bank, 2019).

I realized from the beginning that it would not be helpful to write a thesis that would generalize and potentially group women as one. Women are versatile and each country has different histories and values that impact how women are viewed and the way laws are developed. The United States will be the focused-country since I have a better understanding of

the history, government, and race issues. I will analyze the Violence Against Women Act (Title IV, sec. 40001-40703 of the Violent Crime Control and Law Enforcement Act of 1994) that attempted to support female victims of GBV but has failed to support all women especially women of color (Brooks, 1994).

In addition to my personal motivation, I have recognized that academics have also fallen short in writing about the correlation between GBV and race in the USA. Gender-based violence has become a mainstream topic that both multilateral and bilateral organizations have embraced. In the past few decades with GBV being a focal point in many organizations, scholars also established journals that allowed/allow a safe academic place to discuss this topic. Some journal examples are: “Journal of Gender-Based Violence”, “Violence Against Women”, “Social Politics”, “Gender, Place, and Culture”, etc. When typing GBV and race in search engines, most journal articles focused on domestic violence and generalized reasons on gender-based violence, disregarding the impact race and ethnicity could have on victims. Most journal articles that will be in the next paragraph will discuss GBV with a domestic violence focus and acknowledge race.

Senior director of the strategy and learning for the Ford Foundation, Dr. Bess Rothenberg authored “*Cultural Compromise and the Battered Woman Syndrome*”, an analysis on domestic violence and how the role of the “battered woman syndrome” played in increasing awareness to GBV (2003). The analysis also recognized the limited scope the battered woman movement on domestic violence had. Additionally, the New York State Coalition Against Domestic Violence, published an article by Aissata Ba on African American women and domestic violence. The article, “*The Intersectional Identities of African American Women and Domestic Violence*” attempted to shed light on how race and gender increased the chances of being vulnerable towards different forms of GBV (2018). Furthermore, Susan Grossman and

Marta Lundy published the “*Domestic Violence Across Race and Ethnicity: Implications for Social Work Practice and Policy*” in the *Violence Against Women* journal (2007). Grossman and Lundy explored already existing literature and data in the “larger Midwestern” states between 1990-1995 (2007, p. 1029). The main goal of their research was to identify how the “experiences of victims who sought services and examine how they vary by race and ethnicity” (Grossman and Lundy, 2007, p. 1029). Overall, these journal articles presented different and similar discourses on domestic violence and at times the role race could have on victims, in particular women of color.

There was limited data on the Violence Against Women Act. In the *American Journal of Public Health*, Dr. Brooke E.E Montgomery, Assistant Dean for Diversity and Inclusion at the University of Arkansas for Medical Sciences, published “*Human Rights: The Violence Against Women Act Reauthorization is Due*” (2018). Dr. Montgomery divided four different categories: power, intersectionality, structural violence and human rights (2018, p. 1491). Each one giving brief descriptions on their relation and importance they have towards the Violence Against Women Act (VAWA). Additionally, in the *Gender and Society* journal, Dr. Nancy Whittier published an article focusing on the VAWA (2016). Through an in-depth analysis, Dr. Whittier further investigated the discourse taken within “liberal Democrats” and “conservative Republicans” during the planning and forming of the VAWA (2016, 791). On the other hand, Tara Aday, director of prevention and education at Safe Haven Ministries¹, published “*The Effectiveness of the Violence Against Women Act (VAWA) in Creating System-Level Change*” (2015). In this article, Aday purpose is to “examine the effectiveness of the Violence Against

¹ A religious organization that focuses on ending domestic violence. They empower victims and educate to prevent domestic violence. Safe Haven Ministries, “About Us” <https://safehavenministries.org/about/>.

Women Act in its ability to serve victims/survivors of GBV...its ability to prevent future acts of violence” resulting in institutionalized system change (2015, p. 6).

Furthermore, it is certainly important to note how women of color such as Native Americans were impacted by the VAWA. In “Safety for American Indian Women: An Indigenous-Focused Policy Analysis of Violence Against Analysis of Violence Against Women Act-Title IX”, examined how the VAWA of 2013 attempted to “promote indigenous values of empowerment and interdependence but fails to account for the historical marginalization of [American Indian/Native American] people and the tendency of AI/NA women to distrust law enforcement” (Maxwell & Robinson, 2019, p. 181). Unfortunately, time and space limits don't allow me to go into extent of this impact, even though it needs to be researched more in depth.

1.1 A Brief History on ICERD

Due to a worldwide rise of anti-Semitism, the United Nations established the International Convention on the Elimination of All Forms of Racial Discrimination (Daniel, 2011, p. 266). This resolution aimed to ban all forms of racial discrimination which is defined as:

any distinction, exclusion, restriction or preference based on race, colour, descent, or national or ethnic origin which has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise, on an equal footing, of human rights and fundamental freedoms in the political, economic, social, cultural or any other field of public life.

(OHCHR | International Convention on the Elimination of All Forms of Racial Discrimination, n.d.)

Additionally, the United Nations established a committee of diverse human right experts who were/are entrusted at observing that CERD was/is being followed (OHCHR, 1965). They

are obligated to report on procedures and are required to give recommendations on how to further CERD's goals ("*International Convention on the Elimination of All Forms of Racial Discrimination*", n.d. & Daniel, 2011, p. 272). Countries, or state parties, who sign and then ratify will have the duty with complying to all the standards, regulations and procedures established by the Convention ("*International Convention on the Elimination of All Forms of Racial Discrimination*", n.d.). States that adhere to enforcing CERD are ultimately demonstrating their commitment to ending all forms racial discrimination.

Although there several States that have displayed their commitment, the United States has unfortunately failed to do so. The United States signed CERD on 28 September 1966 and did not ratify it until 21 October 1994 (United Nations Treaty Collection, n.d.). It was not till President Jimmy Carter in 1978 had submitted CERD to the Senate to begin the reviewing process but there was "a list of reservations, understandings, and declarations" attached to it (Daniel, 2016, p. 273). These attachments would just create barriers and lift many requirements that the US would no longer have to comply with. In 1994, President Bill Clinton was able to get the Senate to ratify CERD with similar restrictions (Daniel, 2016, p. 274). It appeared that both Carter's and Clinton's administrations had to be assured "that ratifying any human rights treaty would not have a restrictive effect on domestic laws" (Daniel, 2016, p 274). The US government placed three main limitations of CERD:

1. The Constitution and laws of the United States protects basic individual freedoms of "speech, expression and association"
2. Right to protect individual privacy and freedoms from government interference
3. Before Convention may persecute anyone, the United States Senate must give approval for each case (United Nations Treaty Collection, n.d.).

1.2 Problem Formulation-Research Questions

This paper will focus on the first policy (Violence Against Women Act) passed that addressed gender-based violence in the United States. As previously mentioned, I outlined the motivations of my thesis and subsequently, discussed the research that has already been written not only on gender-based violence and race but also research done specifically on the VAWA. Since the passing of the VAWA in 1994, it has been reauthorized numerous times by Congress (National Network to End Domestic Violence, n/a). In late 2018, the legislation was meant to be reauthorized, which would include new additions to the Act that would benefit women of color, the LGBTQ+ community, and strengthen other aspects of the bill (Aday, 2015, p. 4). Although it was passed in the House, this does not automatically mean it will be passed in the Senate. At the time of writing in 2020, the Senate holds a majority of Republicans who could vote no to the new additions (“*Violence Against Women Act*”, 2019). In 2012, there was a similar incident involving Republicans pushing back to additions of the VAWA of 2013 (Ball, 2013). The reauthorization was barely passed. As history shows the United States has struggled with racism and gender-based violence. The creation and passing of the Violence Against Women Act of 1994 was historic and each time the bill has been reauthorized it has improved. Although the bill has improved it still has not been fully effective towards women of color (Childers et al, 2017, p. 120; Congressional Research Service, 2019, p. 6). These issues are not generally discussed in the media but nevertheless, it is a reality. This led me to be curious to find out more information on the conditions gender-based violence and race has had on the VAWA reauthorizations. Because even today women of color continue to be disproportionately impacted by gender-based violence, I realized this and that this led to the problem formulation:

Why is little attention given to racial discrimination in the struggle against gender-based violence despite the USA being a signatory to the International Convention on the Elimination of All Forms of Racial Discrimination?

Which, consequently, brought the subsequent research questions:

- 1. What are the problems of gender-based violence and racial discrimination represented to be in the Violence Against Women Act of 1994?*
- 2. What assumptions underline this representation of the problem with gender-based violence and racial discrimination in the Violence Against Women Act of 1994?*
- 3. How has this representation of the problem with gender-based violence and racial discrimination in the Violence Against Women Act of 1994 come about?*
- 4. What is left unproblematic in the representation of the problem with gender-based violence and racial discrimination in the Violence Against Women Act of 1994? Where are the silences in this act?*
- 5. What lived effects are produced by this representation of the problem with gender-based violence and racial discrimination in the Violence Against Women Act of 1994?*
- 6. How and where has this representation of the “problem” been produced, disseminated and defended? How has it been and/or how can it be disrupted and replaced?*

1.3 WPR Approach

In understanding the complexity of how racial discrimination in the US has impacted solutions towards gender-based violence, I needed to find a methodological approach whose framework reflected “the ways in which issues take shape within” policies and political discussions (Bacchi, 1999, p. 1). This led to utilizing Carol Lee Bacchi’s method of policy analysis called “What’s the Problem Represented to be?” (WPR), which she first outlined in the

Women, Policy and Politics: The Construction of Policy Problems (Bacchi, 1999). Bacchi argued that “policies contain implicit representations of the -problems- they purport to address” compared to a traditional approach that views policies as “responses or reactions to problems” that will then be solved (Bacchi, 2017). The WPR approach is a unique method that is critical towards the problem representations, presuppositions and effects that are reflected in the problem (Bacchi, 1999, p. 2). Additionally, this method further analyzes political discourses with an understanding that policies are structured with “historical and national or international contexts” (Bacchi, 2009, p. viii). This context leads to the establishment of language with which the problem is represented or “thought to be about and for how the people involved are treated, and are evoked to think about themselves” which is important for widening the political context in the analysis (Bacchi, 2009, p. 1). Bacchi uses the word “problematization” as part of the process of constructing policies (Bacchi, 2009, xi). The moment problematizing (“how a problem begins to develop) a problem representation (what is thought that needs to be fixed) appears to which she claims is “central to governing processes” (Bacchi, 2009, xii).

The WPR approach is one of many methods that can be used for political analysis. Before concluding with the WPR approach, I explored: Complexity theory and Rational Choice theory.

After the decline of systems theory, a modified version known as complexity theory began to resonate with various political scientists (Pickel, 2011, p. 7). Complexity theory, like the WPR approach, is a framework that could be used as a “theoretical and conceptual tool” towards a political analysis (Walby, p. 456). In sociologist Sylvia Walby’s perspective this approach, offered a new way of theorizing “the intersection of multiple complex inequalities” and help understand “the ontological depth of systems of social relations of inequality in the institutional domains of economy, polity, violence, and civil society” (Walby, 2007, p.450 & p.

466). Furthermore, Walby's "*Globalization and Multiple Inequalities*", demonstrated how complexity theory could be helpful in theorizing intersectionality (Walby, 2011, p. 17). This approach would have been effective to use if the question at hand did not focus on a specific piece of legislation. Complexity theory does not look at the legislation to form the discourse but looks at structural society and environment (Walby, 2007, p. 458). This political analysis on gender-based violence and racial discrimination towards the VAWA of 1994, need an approach that was not the reactor to how we are governed but "to examine the problem representations that [is] lodge[d] within policies and policy proposals" (Bacchi, 2009, xiii).

Secondly, a rational choice theory was also considered. This differs from constructivist approaches such as complexity theory and the WPR approach. A rational approach towards a political analysis would have brought the "science, substance and logic" perspective (Neimun & Stambough, 1998, p. 170). Historically speaking, a rational model could have addressed the issues with the VAWA differently from a traditionalist approach, seeing policy-making as a process of problem solving (Bacchi, 1999, p. 17). Due to the fact that the VAWA was modeled through a traditionalist approach, it was a "poorly designed polic[y], and [had] ineffective methods of evaluation" that could have been prevented with a rational approach which aims to improve issues differently (Neimun & Stambough, 1998, p. 450). If the government had invested adequately in the creation of the VAWA and had effective methods of evaluations, it could have potentially saved time, money and lives. A rational policy analysis attempts to combine the use of facts and values when creating policies and understanding the problems (Neimun & Stambough, 1998, p. 167). However, this approach is not sustainable due to two main reasons. Firstly, being rational is not a characteristic that people desire most of the time (Neimun & Stambough, 1998, p. 170). Secondly, decision makers and; politicians are typically value-based

while analysts are science based (Neimun & Stambough, 1998, p. 163). Values are subjective and science could be part of “an elite enterprise that systematically excludes or marginalizes” others (Neimun & Stambough, 1998, p. 162). This is why a rational choice theory policy analysis was not chosen. It does not complement an intersectional perspective nor does it seem critical towards how decisions have been made and how race, class and gender could be part of creating solutions towards existing problems.

As a result of using the WPR approach, the data used for this paper will be both qualitative and quantitative. Qualitative research is a “research strategy that usually emphasizes words rather than quantification in the collection and analysis of data” (Bryman, 2016, p. 36). In keeping the WPR framework in mind, the gathering of data began by “working backwards” (Bacci, 2014, p. 3). This meant to look at the original policy and then the reauthorizations “to reveal what is represented to be the ‘problem’ within” (p. 3). Thus, the work of the researcher begins with the literature. Literature that further investigated the faults of the VAWA and understood the history behind those faults. Moreover, the research conducted was to understand how gender-based violence and race has impacted the way the US politicians saw problems thus resulting in shaping VAWA and the reauthorizations. It was important to see how the history on gender-based violence and race has impacted the way human rights has been viewed internationally with a focus on the *International Convention on the Elimination of All Forms of Racial Discrimination (CERD)*. CERD will be used as the standard in indicating how far the US has come in ending racial discrimination and see if there have been any ramifications. In addition to the qualitative research, quantitative research was used –to understand the impact gender-based violence and race have had. Statistical data will be used specifically on female gender-based violence as well as expanding the investigation on the implications of race in these

statistics. Including race into this problem led to presumptions on how gender-based violence could impact women both in the experience of GBV and when seeking support. Thus, the WPR approach was developed with a feminist understanding that could help focus on the discourse that surrounded GBV and race through the framing of the statistics, language, and concepts.

1.4 Intersectionality Theory

In 1989, Kimberlé Crenshaw authored the term *intersectionality* in one of her articles, after examining how African-American women were being oppressed through employment discrimination and domestic violence (Smooth, 2013, p. 17). Furthermore, Crenshaw introduced intersectionality theory to illustrate that movements attempting to eliminate racism and patriarchy could not ignore that Black women are located at the intersections of both (Crenshaw, 1989, p. 166). Crenshaw claimed that:

Where systems of race, gender, and class domination converge, as they do in the experiences of battered women of color, intervention strategies based solely on the experiences of women who do not share the same class or race backgrounds will be of limited help to women who because of race and class face different obstacles. (Crenshaw 1991, p. 1246)

Wendy Smooth (2013) stated Intersectionality is the “assertion that social identity categories such as race, gender, class, sexuality, and ability are interconnected and operate simultaneously to produce experiences of both privilege and marginalization” (p. 11). Additionally, Smooth described intersectionality as an evolving theoretical research paradigm that has sought to “understand the interaction of various social identities and how these interactions define societal power hierarchies” (2013, p. 11). That is, intersectionality not only

gives a platform to theorize realities at an individual level but also looks at how systems of oppressions maintain hierarchies and order (p. 11).

According to Smooth (2013), she suggests that there are five principles that lay the ground work for intersectionality. These principles are:

1. Resisting Addictive Models and Parallel Categories
2. Antiessentialism and Diversity within Categories
3. Power as Shifting and Changing
4. Privilege and Marginalization
5. Changing Conditions (p. 21-23).

Firstly, resisting addictive models and parallel categories refers to analyzing this framework not through individualized categories (race, gender, class, etc.) but as intersecting categories (Smooth, 2013, p. 21). Secondly, antiessentialism and diversity within categories encourages to move away from condensing experiences as one such as, the Latinx experience but including more complex identities like the Afro-Latinx experience (Smooth, 2013, p. 22). This allows for diverse experiences within subgroups to not be marginalized but to be seen and heard. Thirdly, power as shifting and changing, indicates that oppression and marginalization cannot be analyzed without an understanding of the context of the time and location (Smooth, 2013, p. 23). Fourthly, privilege and marginalization, are two categories that create a “matrix of domination” in other words, you can hold power but also have power held over you (Smooth, 2013, p. 23). Finally, changing conditions is the idea that to create a more socially just world, identities within the existing conditions cannot continuously maintain social disparities (Smooth, 2013, p. 24).

Although intersectionality theory has created a positive expansive framework to uncover different intersections of privilege and marginalization, it has faced criticism. Three different

criticisms that could be used against intersectionality. According to Schwartz- DuPre (2012), “privileging difference rather than similarities will splinter and weaken political and social groups” (Schwartz-DuPre, 2012 p. 179.) Additionally, Schwartz-DuPre states (2012) that “a consideration of intersections does not go far enough, because it maintains and may even reinforce identity politics” (p. 179). Finally, Smooth (2013), argues that intersectionality “lacks a clear concise definition” allowing for various interpretations of “which categories should be theorized as intersecting”, the relation amongst the categories, and which ones should be included and not (p. 30). It was important to note the criticisms towards intersectionality because it can create some limitations throughout the analysis of the VAWA and the understanding of the USA’s position on racial discrimination. Although there are criticisms, for this paper, intersectionality is an essential aspect of understanding why some people more susceptible to inequalities while others are not. Intersectionality is a complex theory that needs to not be viewed as one dimensional but multidimensional that will benefit the WPR approach.

In fact, an intersectional perspective will not only compliment the WPR approach but will help reveal how the VAWA had a “white racial context” that dis-acknowledges Black women (Crenshaw, p. 154). Questions one does not use intersectionality but sees the problems as their own representations, which leads to question two, where race and gender do begin to intersect. Then question three does not explicitly address intersectionality but the history will reveal various categories that can be intersected. Finally, intersectionality theory will be applied specifically in questions four, five, and six because the foundation was set-up thus, allowing for intersectionality to be applied. The data used will vary amongst the questions and build off of each Other. Question four will have statistics on domestic violence will be compared with white women to women of color. Question five will have data on how many Black women are arrested

on spot when calling in domestic violence incidents and will have primary experiences of Black that the VAWA has failed. Finally, question six will analyze different intersecting points that allow problems to be produced and how intersectionality can be a strategic tool in combating the problem representations.

Limitation

One of the possible limitations, that this research may face is the fact that I am a LatinX woman survivor of sexual assault, rape and have experienced stalking. This could have affected my perception of who I automatically saw as the “offender” of violence against women. The way I analyzed the data (journal articles, statistics and history) could have been skewed due to not researching hard white, conservative critics. As of result of all of this, this may have led to a small loss of objectivity.

2. Analysis

2.1 What are the problems of gender-based violence and racial discrimination represented to be in the Violence Against Women Act of 1994?

The first question aims to identify the implied problem representations within policy (Bacchi, 2009, p. 4). The implied problem representation(s) can be discovered through “working backwards” by looking at what is being proposed and then recognizing how it is the problem (Bacchi, 2009, p. 55). Additionally, this question helps with clarifying the problem representations which Bacchi (2009) suggests that it might be by the way you are feeling about something [ex: social issues] eventually leading to the way solutions are proposed that then “reveal[s] how the issues [are] being thought about” (p. 3).

Subsequently, the problem representation in the VAWA is complex. First, there is a deep-rooted history of racial discrimination towards women of color who have experienced sexual

violence. Second, there is also an inherent history of racial discrimination towards people of color. As a result, these two perspectives were needed to identify the problem representation in the VAWA.

The Violence Against Women Act of 1994 was passed under Title IV in the Violent Crime Control and Law Enforcement Act of 1994. In other words, VAWA of 1994 was not passed as its own bill but under a massive crime bill. In a separate document provided, you can examine the comprehensive bill that has various components addressing violence, one pertaining to women which can be found between Sec. 40001 and Sec. 40703. The VAWA of 1994 had seven main categories that were at focused: safe streets for women, safe homes for women, civil rights for women, equal justice for women in court act, violence against women act improvements, national stalker and domestic violence reduction and protections for battered immigrant women and children (H.R.3355 - 103rd Congress (1993-1994), 1994). For the purpose of this paper and due to the limited time, all headings and titles mentioned above from Title IV will be considered in uncovering all problem representations.

In VAWA of 1994, the gender-based violence is addressed as “gender-motivated violence” (H.R.3355 - 103rd Congress (1993-1994), 1994, p. 146). This bill is not necessarily about GBV but about women. This can clearly be seen by the complete title of the act: Violence Against Women of 1994. As the VAWA of 1994 was written within the Crime Bill, the problem representation that appears is not all genders deal with more domestic violence, which is why women, being fragile, need protection.

In regards to the VAWA of 1994, it does not address racial discrimination which in itself is a problem representation. Additionally, there are several other problem representations that need to be examined. Firstly, in Subtitle A, the title is “safe streets for women” thus the problem

representation is that only women lack safety in the streets (H.R.3355 - 103rd Congress (1993-1994), 1994, p.108). Secondly, it appears women facing violence are not receiving the financial support they need. This can be seen as an economic compensation problem. This problem representation can be seen in section symbols 2248, 2259, 2264 stating “the defendant pay to the victim (through the appropriate court mechanism) the full amount of the victim’s losses as determined by the court” (p. 109, p. 112 & p. 133). Thirdly, the court process can be seen as a prosecution problem because it suggests that victims (women) do not have the same justice as men which can be viewed in Subtitle D, “equal justice for women in the courts act” (p. 147). Fourthly, it appears that there is a lack of funding for various programs meant to help women such as in “education and prevention” in reducing sexual assaults against women (p. 125), for “encourage[ing] arrest policies” (p. 137), “battered women’s shelters” (p. 139), “communitive initiatives” (p. 140), “education and training for judges and court personnel in state courts [and federal courts]” (H.R.3355 - 103rd Congress (1993-1994), 1994, p. 147), and grants for “to improve processes for entering data regarding stalking and domestic violence into local, State, and national crime information databases” (p. 156). The lack of funding is a public responsibility problem representation. Additionally, women experiencing violence indicate that they have no safe place to turn to. Lack of safe homes is the problem representation that can be found in Subtitle B (p. 130). Fifthly, rural domestic violence suggests the problem is that some geographic locations are more vulnerable to violence meaning (p. 145). Sixthly, there is a lack of civil rights for women. The problem representation occurring is that the gender-motivated violence suggests that there were no solutions for violence motivated by gender. This section promoted “public safety, health, and activities affecting interstate commerce by establishing a Federal civil rights cause of action for victims of crimes of violence motivated by gender” (p. 146). Family violence

prevention and services act suggests that the problem is a welfare problem (p. 142). Finally, another welfare problem representation is the protection for battered immigrant women and children (H.R.3355 - 103rd Congress (1993-1994), 1994, p. 158). Ultimately, words from this act are being taken seriously and were being read between the lines. Most titles in the bill had a problem that needed to be revealed.

The citations previously used is what is said in the 1994 version of the VAWA. The VAWA of 1994 has undergone several reauthorizations throughout the years with several modifications to the bill each time. It is important to note them in this question because they demonstrate some of the existing problem representations already mentioned. In question three, a better understanding as to why the additions were added later on than in the original act. The National Domestic Violence Hotline compiled all additions from 2000, 2005, and 2013 (VAWA, n.d.):

2000

- Identifying the additional related crimes of dating violence and stalking.
- Creating a much-needed legal assistance program for victims of domestic violence and sexual assault.
- Promoting supervised visitation programs for families experiencing violence.
- Further protecting immigrants experiencing domestic violence, dating violence, sexual assault or stalking, by establishing U- and T-visas and by focusing on trafficking of persons.

2005

- Creating provisions that exclusively serve to protect immigrant victims of domestic violence but also include protections to alleviate violence against immigrant women.
- Developing prevention strategies to stop violence before it starts.
- Protecting individuals from unfair eviction due to their status as victims of domestic violence or stalking.
- Creating the first federal funding stream to support rape crisis centers.
- Developing culturally-and linguistically-specific services for communities.
- Enhancing programs and services for victims with disabilities.
- Broadening VAWA service provisions to include children and teenagers.

2013

- Provides law enforcement with better resources to investigate cases of rape
- Gives colleges more tools to educate students about dating violence and sexual assault
- Empowers tribal courts to prosecute those who commit domestic violence on tribal lands, regardless of whether the aggressor is a member of the tribe
- Continues to allow relief for immigrant victims of domestic violence
- Provides for more care and assistance for LGBTQ victims

Despite illustrating various problem representations, for question two, I will be focusing on three problem representations and the remainder questions (four, five and six) will focus mainly on two. As Bacchi (2009) wrote, “[o]nce we have identified the implied problem representations (**or perhaps the dominant problem representation**) in a specific policy, the real work begins” (p. 4-5). Each of the problem representation intersects with one another and

have the same underlying assumptions, silences and ways of resolving their narratives. Thus, the problems will be addressed throughout the paper while still focused on understanding gender-based violence and racial discrimination in the Violence Against Women Act.

2.2 What assumptions underline this representation of the problem with gender-based violence and racial discrimination in the Violence Against Women Act of 1994?

The second question's intent is to further understand the assumptions from the problem representation mentioned in question one. It concentrates on the "deep-seated cultural values" that are taken-for-granted or not being questioned (Bacchi, 2009, p. 5). Furthermore, Bacchi (2009) elaborates that question two "recognise[s] that policies are elaborated in discourse (p. 7). In this question, discourse is seen beyond language, on the contrary, it is expanded as assumptions, values, presuppositions and conceptual logic (Bacchi, 2009, p. 7). This is not about prejudices that lawmakers who created the VAWA had but about the biased found in the policy and how this impacts the way the problem is represented.

In addition to understanding the assumptions from the problem representations, one must examine the concepts, binaries and categories. The concepts, binaries and categories give a deeper understanding of what is being read between the lines. Understanding the meaning behind actions can be looked at "concepts and the connection of those meanings to desired outcomes" (Bacchi, 1999, p. 161). Hence, concepts need to be understood on by how they were defined and thought. Moreover, binaries/dichotomies can "reveal operation of conceptual logics that may act to constrain or limit our understanding of an issue" (Bacchi, 2009, p. 8). Finally, categories help with framing the issue at hand, as in how it is being seen and how it is being described (Bacchi, 2009, p 10).

Gender-based violence also known as gender-motivated violence is defined in the act as “a crime of violence committed because of gender or on the basis of gender, and due, at least in part, to an animus based on the victim’s gender” (H.R.3355 - 103rd Congress (1993-1994), 1994, p. 146). The assumption is that women face gender-motivated crimes while men do not. In addition, the assumption revealed focuses on the notion that there is a universally accept idea of how women are defined thus suggest that all women experience violence the same. Throughout the VAWA of 1994, each section addressed different issues pertaining to violence against women. This assumption highlights the binary women/non-women. Some examples are from the subtitles such as: “safe streets for women” (p. 108), “equal justice for women in the courts act” (p. 147), and protection for battered immigrant women and children (p. 158). These are some examples that are also problem representations amongst themselves. It was only in Subtitle C, *Civil Rights for Women, or Civil Rights Remedies for Gender-Motivated Violence Act*, that suggested victims of violence could be genderless. Unfortunately, the section on gender-motivated violence did not define gender.

Racial discrimination was defined by the International Convention on the Elimination of All Forms of Racial Discrimination as:

any distinction, exclusion, restriction or preference based on race, colour, descent, or national or ethnic origin which has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise, on an equal footing, of human rights and fundamental freedoms in the political, economic, social, cultural or any other field of public life.

(International Convention on the Elimination of All Forms of Racial Discrimination, 1969)

This definition will be used due to the fact the US signed thus recognizing this definition. The assumption from this problem is that race is not a variable that could disproportionately impact women of color experiences with violence and the VAWA. Nowhere in the original VAWA of 1994 was there a clear focus on race. Although there were a few suggestive sentences that focused on “underserved racial, ethnic, and language minority communities” (H.R.3355 - 103rd Congress (1993-1994), 1994, p. 125). The assumption that is uncovered is that “underserved” populations are Black, Native Americans, Hispanic, etc. but not communities predominately white. This also ties in with the assumption that some locations experience more violence than others. An additional assumption brought up by not taking racial discrimination into account is that there is not prosecution problem impacting women of color.

Finally, a lack of funding for various programs meant to help women has made it a public responsibility problem. The assumption that can be made out is that majority of society and members of the government have come to recognize by not funding programs meant to bring awareness, reduce, and prevent violence against women can impact the public. Domestic violence is no longer viewed as a private problem hence the fact the VAWA had a heavy focus on grant money that needed to be dispersed throughout various organizations, police enforcement and courts. Additionally, this problem representation ties with not including racial discrimination because policies such as the mandatory arrests, “encourage[s] or mandate[s] arrests of domestic violence offenders based on probable cause that an offense has been committed (H.R.3355 - 103rd Congress (1993-1994), 1994, p. 137). Policies such as the one mentioned is vague and places the discretion on the police officer basing the decision to arrest on feeling rather than fact. This additional assumes that the police officer has not presuppositions on women of color.

These assumptions subsequently, raise many others such as: economic compensation or gendered economy, how women are defined, or whether if GBV should be addressed by a state to state focus or the federal government. Overall, it is assumed that women do not have sufficient free choice of not being a victim of violence. Thus, the overall category found throughout the problem representations used is the people's category more specifically women. This is why the federal government has taken the role of the 'problem solver' for women. Furthermore, this leads to question three which will further dive into how gender-based violence and racial discrimination came about leading to the Violence Against Women Act of 1994.

2.3 How has this representation of the problem with gender-based violence and racial discrimination in the Violence Against Women Act of 1994 come about?

General History

Slavery to Liberation

As question two sets the foundation of recognizing pivotal actors and meanings that are between the lines in the governance process, question three strengthens the understanding of those implications. Question three aims to "highlight the conditions that allow a particular problem representation to take shape and to assume dominance" (Bacchi, 2009, p. 11). In other words, before trying to understand the current developments and decisions being made, you must learn how and why it got to that point.

In order to understand how the representation of the problem with gender-based violence and racial discrimination in the Violence Against Women Act came about, you first have to acknowledge how US History was forged. The US has been built on contradictions, from our ideals of justice, liberty and freedom to the genocide, slavery, expansion and colonialization of

people of color. These contradictions are facts that can be attested to the connection of the constitution and the history of Native Americans and Black Americans.

An important element of history is how it is being interpreted and told today (Mourning, 2019). This is a critical aspect of how we perceive experiences of people of color more importantly women of color. Social movements like the women, civil rights and black power movements have revealed that there are many interpretations of US history. Furthermore, what history exposes, culturally, politically and economically, is that society is educated to only recognize and hear certain people's experiences and struggles of White Americans specifically White Male Americans.

On July 4, 1776, it was written that "that all men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty and the pursuit of Happiness" ("*Declaration of Independence*", 2015). This declaration was not truly directed towards all men but White men. Unfortunately, the continuous dominance of White men maintained the subordination of people of color (Blacks & Native Americans) and white women. However, in 1861 the US endured a civil war that set the stage for the unraveling of numerous privileges White men and women held (About the War | The Civil War | PBS, n.d.). The civil war was fought because of two very different ideologies one of them being about slavery. It was during this period that slavery was brought up as a moral issue and the question if slaves should be seen as a whole "equal" person as the Whites. The Confederate Vice President Alexander H. Stephens summarized the ideological differences of the North and South in his Cornerstone Speech stating the North considered:

The prevailing ideas entertained by him [Thomas Jefferson] and most of the leading statesmen at the time of the formation of the old constitution, were that the enslavement

of the African was in violation of the laws of nature; that it was wrong in principle, socially, morally, and politically. It was an evil they knew not well how to deal with, but the general opinion of the men of that day was that, somehow or other in the order of Providence, the institution would be evanescent and pass away. (*Cornerstone Speech*, 2017).

While the South's view, in his opinion, was:

Our new government is founded upon exactly the opposite idea; its foundations are laid, its corner-stone rests upon the great truth, that the negro is not equal to the white man; that slavery –subordination to the superior race—is his natural and normal condition.

(*Cornerstone Speech*, 2017)

The speech is a prime example of the atmosphere of that time. After the South lost the civil war to the North, came the reconstruction period. As a result of the North winning the civil war, the Thirteenth Amendment (abolished slavery), Fourteenth Amendment (equal citizenship to all Americans) and Fifteenth Amendment (the right for Black men to vote) were passed (Amar, 2006, p. 26). Although these amendments were steps forward to race equality, the reconstruction period was the start of legalizing what would establish modern-day systematic racism.

Immediately after liberation, white southerners began passing various laws such as “vagrancy laws (under which unemployed blacks could be hired out as forced labor), apprenticeship laws (under which children whom the courts deemed under improper care could be bound out to white employers) and severe limitations on black occupations and property holding” (Lewis & Lewis, 2009, p. xiii-xiv). States such as, Mississippi, created laws that were deliberately “vague and open to interpretation” (Lewis & Lewis, 2009, p. xiv). By 1900, African

Americans were almost completely disfranchised through legal and non-legal means (Lewis & Lewis, 2009, p. xx). The continuation of racist laws known as the Jim Crow laws, increased segregation and emboldened racially motivated violence such as lynching (Lewis & Lewis, 2009, p. xx). The early 1900s, the creation and growth of the Klu Klux Klan and the rise of mainstream media acceptance and embrace of racial superiority theories that justified Jim Crow laws (Lewis & Lewis, 2009, p. xxi).

These racially discriminatory laws, violence, and discrimination directed towards people of color lit a fire amongst many people throughout the US. The Civil Rights Movement was the outcome of Blacks now demanding their equal rights. The National Association for the Advancement of Colored People (NAACP) was created to educate Black Americans of their “rights and mobilize early grassroots resistance” (Aiken et al., 2013, p. 385). In 1954, the Supreme Court voted against the “separate but equal” that had been previously established by *Plessy v. Ferguson* (p. 386). This decision from the Supreme Court demonstrated to Black Americans that change was possible. A series of protests from boycotting buses because they were racially discriminating Black Americans to integrating Little Rock Central High School (p. 386). President Eisenhower called the 101st Airborne Division of the Army to protect the nine Black children who were participating in the integration (p. 386). Furthermore, in 1961, President Kennedy established the President’s Committee on Equal Employment, which forced government contractors from discriminating based on race (p. 386). Then the Civil Rights Act of 1964 was passed by Congress establishing provisions for racial equality (p. 388). Although this did highlight how even members of Congress were hesitant in supporting the bill. One wanted to add “sex-based protections while another voice their concern that “white women will be the last at the hiring gate” (p. 388). This bill also contained Title VII which “protected the rights of

women and racial minorities in the workplace” (p. 388). Finally, the Voting Rights Act of 1965 was passed due to an outcry of police brutality towards Black Americans in Selma, who wanted to register to vote (p. 388). All of these laws aimed to acknowledge Black Americans existence as whole-people that deserved the same rights as their counterparts, White Americans.

It is also important to take note that the impact of slavery and the reconstruction period was different for Black American women. Not only did they experience the same restrictions and racial discriminations as men, but women also experienced legalized sexual and reproductive exploitation (Prather et al., 2018, p. 251). Enslaved women were sexually assaulted to birth as many children as possible into slavery (Prather et al., 2018, p. 251). There were states that had laws to protect white women who experienced rape while slave Black American women were forced to endure (Prather et al., 2018, p. 252). Between 1900 to 1970 more than thirty states had eugenic sterilization programs that had black women undergo this operation without being informed it could not be undone (Prather et al., 2018, p. 252). Additionally, enslaved women were given the Jezebel stereotype that incriminated their victimization from abuse of their white masters (Anderson et al., 2018, p. 463). Jezebels were known as an “alluring and seductive African American woman who is highly sexualized and valued purely for her sexuality” (Anderson et al., 2018, p. 463). This particular stereotype not only impacted women of the slave era but now continues to negatively impact women of color today (p. 463).

Women Movement

Throughout the mid-nineteenth century to 1920, women began to mobilize for their own right to vote (Gosse, 2005, p. 155). By August 18, 1920, after years of demonstrations and lobbying, the Nineteenth Amendment was ratified by all states at the time (*The 19th Amendment*, 2015). This established the foundation for the next wave of the Women’s Liberation Movement.

By the 1960s, the women's movement began to gain traction for equality. This movement was the catalyst for change by having not only the first woman but African American woman to run for the Democratic presidential primaries, the Equal Right's Amendment was approved by Congress and sent to states for ratification, Title IX was added into the Civil Rights Act, and the Supreme Court's *Roe v. Wade* established the constitutional right to privacy and the right for women to control their own body (Gosse, 2005, p. 162).

Even though there was significant progress for women, not all women had their voices heard in the movement. For women of color, the Women's Liberation Movement appeared to be more like the White's Women Liberation because of the lack of inclusion (Gosse, 2005, p. 165). There were key differences between white feminists and women of color which were: all women shared the same oppression and the same sisterhood; that men dominate women; and any form of exploitation and oppression is a continuation of male supremacy (Gosse, 2005, p. 166). These differences attempted to unify women but in reality, it did not acknowledge racism as part of the experience of WOC (p. 166).

By the same token, issues, such as domestic violence, were addressed with a white feminist's perspective. To legitimize victims of domestic violence in court, Lenore Walker², conducted a psychological study on battered women claiming "society had traditionally ignored" women suffering from domestic violence were helpless (Rothenberg, 2003, p. 778). She concluded that women were the problem that needed to be solved first thus, advised for solutions to domestic violence (Rothenberg, 2003, p. 778). The problems that arose and left unheard will be further discussed in question four.

² American psychologist and founder of the Domestic Violence Institute

Legal History

The general history was needed to understand how gender-based violence and racial discrimination began in the US and flourished throughout history. It was important to mention various laws that maintained systematic racism and laws that attempted to deconstruct the system. As it was important to have the general history, it is also important to have the legal context of understanding how the VAWA of 1994 came to be passed. In this section not only will there be a better understanding the climate and laws that led to the VAWA, but also take into consideration taken on human rights, if there was any at all.

During the colonial period, the US court systems recognized that men were the masters of the household and had the legal right to keep his household in order (Johnson, 2000, p. 61). It began to change by 1874, the North Carolina Supreme Court set a new standard on domestic violence with the *State v. Oliver* case (p. 61). This case declared that no man had the right to use violence against his wife (p. 61). Each wave of the women's movement challenged the courts views of the lack of criminalization toward domestic violence cases. It appeared that both the courts and police force attempted to reason with the perpetrators rather than charging them with domestic violence (p. 62). To better help victims, the Law Enforcement Education Program (LEEP) was created and implemented (p. 62). LEEP established police officers to complete a certified police academy and encouraged officers to get a college education (p. 62). Additionally, Congress established certain "standards and professionalism" to follow (p. 62). Not only were police officers beginning to have more of a proper education, but prosecutors were also being more educated on domestic violence cases. Which this led for judges to also be better educated through prosecutors, battered women group's and police (p. 65).

As police enforcements and courts dealt with structural change so did Congress. Between 1960 to 1969, violent crimes rose from 160.9 per 100,000 to 328.7 per 100,000, which helped ignite further demands on Congress to solve violence this also sparked a further focus on violence against women (Sacco, 2019, p. 1). The political discussions within Congress were important in the passing of the VAWA. In fact, the discourse among Congress propelled to both sides of the political sphere to that violence was disproportionately impacting one group more over others. Two dichotomies can be seen in the conversation of how this representation of the problem with gender-based violence and racial discrimination in the Violence Against Women Act comes about. Author Kathleen Ferraro (1996), suggests that the discourse surrounding domestic violence began to take a specific turn that was dominated by conservative/racist groups that established the foundation of what it meant to be a part of a “good” or “bad” home (p. 82). This dominate rhetoric, identified as “family values”, was part of legitimizing the co-option of the conservative political party (Ferraro, 1996, p. 84). To further implement “family value” within the discourse of gender-based violence, Congress held various hearings to better “understand the scope of domestic violence” (Fernandes-Alcantara, 2019, p. 7). Which by in 1984, the Family Violence Prevention and Services Act (FVPSA) was passed which attempted to “assists states in preventing incidents of family violence and to provide shelter and related assistance to victims and their dependents” (Sacco, 2019, p. 1). Furthermore, FVPSA sets the standard of including law enforcement and criminalizing domestic violence which in turn becomes crucial in the “research, policy, debate” that that is central to the establishment of the discourse of the VAWA (Ferraro, 1996, p. 85).

The FVPSA helped propel the VAWA of 1994 to be revealed to Congress by 1990. Former Senator from Delaware, Joseph Biden, started to mobilized, “Senate Judiciary

Committee, Legal Momentum (then NOW Legal Defense and Education Fund) brought experts and organizations together in the Task Force on the Violence Against Women Act to help draft and pass the legislation” (*History of VAWA*, n.d.). As previously mentioned in question 1, The VAWA of 1994, was passed as Title IV in the Violent Crime Control and Law Enforcement Act, also known as the 1994 crime bill (Eisen, 2019). This was the biggest “crime-control bill in US history” (Lussenhop, 2016). The bill designated about \$16 billion throughout various criminal justice programs (Everett, 2013, p. 418). The crime bill was established due to a rise of the “national crime rates” (1983-1992) jumping from “less than 1.3 million to more than 1.9 million” which was about a 54% increase (Everett, 2013, p. 418). Furthermore, the final version that was passed by Congress included provisions such as: “Federal Assault Weapons Ban, an expanded list of federal death penalty crimes, and the Violence Against Women Act, which allocated \$1.6 billion to prevent and investigate violent crimes against women” (Everett, 2013, p. 419). Additionally, the bill not only had a considerable impact on law enforcement and community policing (p. 419) but, as some criminal justice reform activists have noted, was “one of the key contributors to mass incarceration in the 1990s” (Lopez, 2019). The 1994 crime bill was split into thirty-three different titles but for the purpose of this research paper we will look at: Title I (Public Safety and Policing), Title II (Prisons), Title IV (Violence Against Women), Title V (Drug Courts), and Title VII (Mandatory Life also known as Three Strike law) (Plouffe Jr. et al., 2010, p. 142 & 143).

Since the passing of the original VAWA of 1994, it has gone through four reauthorizations: 2000, 2005, 2013 and 2019. Not all of the reauthorizations have come out without heated debate. In 2013 and 2019, both parties wanted to renew the VAWA but could not agree on the best practices for victims.

The VAWA expired in 2011, but was not till 2013 that Congress was able to reauthorize the act (Sacco, 2019, p. 16). On the House Floor, Senator Nancy Pelosi stated, “we have a choice to support the bipartisan legislation that has passed in the United States Senate” (“*General Debate on Violence Against Women Act,*” 2013). She (2013) summarized the contrasts viewpoints of her opposing party that perplexed her by expressing:

In contrast, we have the House Republican proposal which, while described in so lovely terms, are a step backward for the women of America and those who suffer domestic violence or sexual assault. It’s really hard to explain why, what eyes are the republicans looking through that they do not see the folly of their—folly of their ways on this legislation they are proposing. Not only is it much weaker than the Senate bill, it is much weaker than current law. (“*General Debate on Violence Against Women Act,*” 2013)

Additionally, in February 2019, the reauthorization expired. By April, the House of Representatives approved the reauthorization of the Violence Against Women Act that had two polarizing provisions: restrictions on gun ownership and expanding transgender rights (Davis, 2019). As a result, the National Rifle Association, a political lobby group, declared their opposition to the bill which lead the House to a heated debate (Davis, 2019). The vote was 263 (Democrats, included 33 Republicans) to 158 (Republicans) signaling that the VAWA has become political and demonstrates that parties have conflicting ideas on how to better protect ‘women’ while not infringing on other people’s rights (2019). Although the bill was passed in the House of Representatives, Representative Doug Collins addressed the house that the bill was not going to pass the Senate nor did the bill have bipartisan support (*House Debate on Violence Against Women Act,* 2019). He affirmed the reauthorization of VAWA should be and should have broad bipartisan support. Rep. Collins further stated:

They have sought to turn this bill into a political weapon rather than a resource for law enforcement. I tried to meet with my colleagues and tried to engage with many others in bicameral, bipartisan negotiations. We were handed a flawed bill before that's before us today. My colleagues across the aisle informed us H.R 1585 would be a bill. This is particularly unfortunate because this bill is dead on arrival in the Senate. (*House Debate on Violence Against Women Act, 2019*)

These two quotes used for the 2013 and 2019 reauthorizations are symbolic to the ideological differences among the parties. They suggest the political discourse around the VAWA is complex and have different strategies for protecting victims of violence. It is clear that Democrats are aiming to break traditional values of gender concepts to allow the bill to be more inclusive of its protection. This is a contrast to Republicans who aim to strengthen law enforcement participation with the VAWA for protecting victims.

There were human rights influences, such as, the United Nations, a multilateral organization, that was setting legally recognized guidelines for governments to follow. An example of this is the International Convention on the Elimination of All Forms of Racial Discrimination that is laid out in section 1.1. It appeared that since the signing of the ICERD there was debates against ratifying into law due to restricting rights given by the constitution (see section 1.1). The US was a signatory participant of the convention, therefore, one can assume that policies set in place would not perpetuate racial discrimination since Congress was aware of the signing. In Article 2 section c in ICERD states, “[e]ach State Party shall take effective measures to review governmental, national and local policies, and to amend, rescind or nullify any laws and regulations which have the effect of creating or perpetuating racial discrimination wherever it exists”. This suggests that regardless that the ICERD was not ratified before the

passing of the VAWA, Congress should have had debates and discussions on how to develop the VAWA without impeding the rights of women of color. Unfortunately, there is no clear indication that Congress debated the relation and importance the ICERD could have had on the development of the VAWA policies. Although it was noted that Congress the civil rights provisions as one of the most important items in the bill (Waxman et al., 1999).

The legal history demonstrates that there are multiple parties involved in how VAWA was framed and how it continues to be framed.

2.4 What is left unproblematic in the representation of the problem with gender-based violence and racial discrimination in the Violence Against Women Act of 1994? Where are the silences in this act?

As a result of understanding how the problems came about, we are able to now see what was missing. Question four aims to raise reflection, considerations about issues and perspectives that are silenced (Bacchi, 2009, p. 13). In this question, we dig deeper in uncovering what fails to be problematized with each problem representation. To understand what was left unproblematic in the representation of the problems with gender-based violence and racial discrimination and attempt to uncover the silences within the VAWA of 1994, one must consider the discourse.

Not all genders deal with domestic violence intersection with race

The majority of the original VAWA is not meant to combat violence against women but to protect women. The discourse surrounding the original VAWA represents that the VAWA was designed to mitigate the violence afflicted against women across the US. Nevertheless, the VAWA unlikely to one, end all violence against women and two, not have the same beneficial impact for women of color, particularly Black women compared to White women.

To solve the ‘not all genders deal with the domestic violence problem’, the US has clearly attempted to remedy some of the downfalls of the VAWA with adding amendments to the bill. The key to ending violence against women is by creating policies that promote systematic and cultural change within the legal system. The government releases their obligation to the problem that they don’t have a responsibility in changing gender norms that perpetuate domestic violence. Unfortunately, the government uses the VAWA to deal with present problems that they view as a cisgender woman problem. Thus, the VAWA shifts the problem from the state establishing a policy that protects all genders but places the problem on individuals and organizations.

In the early stages of developing the Violence Against Women Act, Former Democratic Senator and former Vice President Joseph R. Biden acknowledged that the VAWA was the first step of being “done to arrest this epidemic of abuse [domestic violence]” (Biden, 1990, p. 85). In fact, Former Republican Senator Strom Thurmond held a Congressional hearing on December 11, 1990, stating “it is clear that domestic violence is a leading national crime and health problem” (p. 86). However, it has been about twenty-six years since the VAWA became a bill and domestic violence is still an issue. As the bill was addressed, there was no clear indication that it included women of color and LBGT+. This is an example of a ‘silence’ by having only white cis women victims speak at the 1991 Congressional hearings (p. 88). This is problematic because it is unclear if Trans people fell under the umbrella of ‘woman’ and if their experience and the experience of women were considered throughout the development stages of the bill.

Additionally, it is important to note, that the problem of gender-based violence could be conceptualized differently. In question one, an overview of the three reauthorizations were noted. These additions to the VAWA is a testament that lawmakers realized the bill did not include all

people susceptible to domestic violence and other forms of violence. In 2005, the additions accentuated a more integrated “public health approach to domestic violence by encouraging community-coordinated responses built on partnerships between law enforcement, community service providers, housing professionals, and health care providers” (Hunter, 2019). These additions were important towards women of color because it is Black women who were disproportionately negatively impacted with the increase involvement of law enforcement and mass incarceration. This will further be explored in question five for lived effects.

In addition, original VAWA there were not clear indication that racial discrimination was considered, which this did not comply with CERD’s “equal protection of the law against any discrimination and against any incitement to discrimination” (*International Convention on the Elimination of All Forms of Racial Discrimination*, 1969). However, in 2013, there was a nondiscrimination clause, which expanded protections to the LBGT community, adding:

No person in the United States shall, on the basis of actual or perceived race, color, religion, national origin, sex, gender identity (as defined in paragraph 249(c)(4) of title 18, United States Code), sexual orientation, or disability, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity funded in whole or in part with funds made available. (Text - S.47 - 113th Congress (2013-2014), 2013, p. 127).

Overall, what is left unproblematic, laws created to solve problems end up creating new problems and that women of color were once again left out in the process like in the women’s movement. The people creating laws and shaping the criminal justice system are predominately white men. Finally, the way the problems occur is due to the lack of investment in histories role on systematic racism and the presumptions roles in creating laws.

The silence with racial discrimination in the criminal justice system

In question three, one notices the racial discrimination within the legal system that was constructed to maintain the subordination of people of color. Throughout history, the dichotomy among Black men and Black women was clear. Black women not only been impacted by their race but also by other intersecting points such as, gender, and class. This in turn can be viewed how the intersecting points reveals the ‘silence’ with racial discrimination in the criminal justice system. In particular, how “intersections of race and gender only highlights the need to account for multiple grounds of identity when considering how the social world” (Crenshaw, 1991, p. 1245). By approaching the silences with an intersectional perspective, one is able to “to make visible hidden power differentials that are naturalized through systems of inequality”, connect it with the origins and does the political work of unraveling oppressive systems of power”, which is detrimental in how to break down the flaws of the VAWA (Smooth, 2013, p. 17).

Finally, left unproblematic and silenced is the complexity and significance of stereotypes Black women face. The compilation of provisions and clause addressing VAWA resulted in law enforcement-based responses. As there continues to have presuppositions and stereotypes of Black women then Black women will not be recognized as victims. This is why policies such as, mandatory arrests (mentioned in question two), make it susceptible for police officers to perpetuate racial stereotypes that rooted in historical and political development that generate problems that were not fully taking into account of the VAWA. Without an analysis that interviews various police enforcement throughout the US to understand how well the police have historical and political training of the relationship between law enforcement and Black women on a national, state and local level. Underlying this silence is the issue of power, which history is an important element to the context of police abuse and the intersection of how race and gender

contribute to that power. The problems faced today are in no doubt due to the silences that must be acknowledged and considered in policy-making.

2.5 What effects are produced by this representation of the problem with gender-based violence and race in the Violence Against Women Act of 1994?

Bacchi (2009) describes the goal of question five as to “identify the effects of specific problem representations so they can be critically assessed” (p. 15). In other words, question five is an assessment of how to identify the limits on what is thought/said also known as discursive effects which in turn shape how subjects understand themselves and issues, otherwise known as subjectification effects (Bacchi, 2009, 15). This leads to lived effects or the “material impact of the problem representations” which links to the consequences or unintended effects of people/groups (p.16).

Discursive Effects

In the VAWA of 1994, the discursive effect is the limiting term that exclude women of color and LBGT+. The use of ‘women’ establishes the focus towards single issues and lacks the consideration of the connecting multidimensional components that fail to acknowledge experiences/struggles of Black women. Congress constructed the discourse surrounding the VAWA to seem that the government was creating a remedy to ending gender-based violence that was directed at women. In reality, certain parties framed the issues on conservative values of what was deemed and not deemed as “women”. It was now acceptable for Congress to see violence against women as a moral issue that needed to be solved. As mentioned in question three, the Reagan administration set the foundation on how domestic violence and the conversation of violence against women would be aligned with “family values.”

In addition to limiting terms based on gender, race plays an intersecting point for Black women. Congress did not develop a discourse around how racial discriminatory presuppositions could be underlying in the VAWA and how that would impact Black women. Thus the lack of discourse on race could be a limit in the consideration Black communities could have a crucial role in deconstructing hyper masculine qualities and empowering women to take leadership roles, be active members in solving the problem bottom-up.

Subjectification Effects

The subjectification effects are two different binaries: women versus non-white women and police enforcement versus Black women victims. This effect emphasizes “we become subjects of a particular kind partly through the ways in which policies set up social relationships and our place (position) within them” which also occurs in discourse (Bacchi, 2009, p. 16).

First, women versus non-white women is a subject position that places White women against Black women (p. 16). Pinning women against women highlights how, although gender can unify women who have experienced domestic violence, race brings a complete different dimension that gender alone might not acknowledge. Question three explored how discourse shaped history. Black women experienced slavery and freedom differently and on the other hand, was ignored in the women movement. Crenshaw notes that Black women are not “subsumed within the traditional boundaries of race or gender discrimination as these boundaries are currently understood” which she further explores the idea of the “intersection of racism and sexism” as “factors into Black women's lives in ways that cannot be captured wholly by looking at the race or gender dimensions of those experiences separately” (Crenshaw, 1991, p. 1244). Additionally, the VAWA, at times places Black women as the “other” while maintains White women experiences in the forefront of the policy regardless if there is an assumption that

domestic violence is not as high of importance in White communities (p. 1261). Thus not recognizing Crenshaw's idea that since Black women do not fit the mold of a specific category such as gender, then she suggests Black women are the "other" (p. 1260). This can pit women against each because it is clear that the dominate group, White women, have received more beneficial assistance and validation that their experiences matter. For example, "safe homes for women" sec...still need something here

The additions were remedies of a problem flourished through the original VAWA. Wendy Smooth states, "intersectionality is most useful not when it is used to explore how power is most familiar, but when intersectionality offers us a means to make visible hidden power differentials that are naturalized through systems of inequality, or when it helps researchers disrupt dominant narratives of privilege. In such projects, intersectionality is aligned more closely with its origins and does the political work of unraveling oppressive systems of power" (Smooth, 2013, p. 17).

Lived Effects

The lived effect is how racial discrimination is perpetuated though negative stereotypes to which police enforcement might make subconscious decisions based on presuppositions of Black women. The mandatory arrests do encourage the police to be a part of the solution of GBV but also produces bigger problems that disproportionately impact Black women. Accordingly, in 2014, there were 264,000 Black women in prison compared to 164,000 White women between the ages 30-34 (*The Status of Black Women in the United States*, n.d., p. 124). This is alarming since Black women make-up about 13% of women in the US (*The Status of Black Women in the United States*, n.d.) A policy that strives for mandatory arrests has impacted Black women in a negative way since 1 in 4 Black women were killed by police in 2015 (*The Status of Black*

Women in the United States, n.d.). Most policemen and -women face no fallout or consequences after murdering unarmed Black women (*The Status of Black Women in the United States*, n.d.).

Not only is this lived effect life or death situation, racial and gender stereotypes have consequences as well. Michelle S. Jacobs proposes three racial and gender stereotypes that law enforcement might consider when making arrests regarding domestic violence. Firstly, law enforcement might contemplate if the Black women victim is “promiscuous and of low moral character” (Jacobs, 2017, p. 46) Secondly, can Black woman even be considered as credible because historically Black women were assumed to be “natural liars” (p. 46; p. 48). Finally, police officer might view Black women as “aggressive,” accustomed to violent environments (p. 46). These three racial and gender stereotypes place the weight on presupposed ideas of what constitutes Black women under the eye of the police. In the following I will outline three experiences of Black women as victims of domestic violence and how the police presumed the victim as part blame and how the legal system fundamentally set these women to be behind bars and not with the presumptions that they were victims who suffered mental and physical damages from their partner.

In 2001 there was a study that placed 2,000 women serving in prison was due to defending themselves from domestic violence (*Fact Sheet on Battered Women in Prison*,” 2018). Aylaliya “Liyah” Birru was arrested in 2014 for self-defense against her abusive husband (Adams, 2019). Birus’s personal experience has three intersections: race, gender and immigrant. Crenshaw states, “[i]ntersectional subordination need not be intentionally produced; in fact, it is frequently the consequence of the imposition of one burden that interacts with preexisting vulnerabilities to create yet another dimension of disempowerment (Crenshaw, 1991, p. 1249). Birru’s three intersecting points created an extra layer of vulnerability that when she decided to

defend herself by shooting her husband. In this case, it demonstrates that at the scene of events she was the offender who was committing violence against her spouse but a scene such as that one does reveal the hidden complexities that being a victim of domestic violence and a woman of color highlight.

Another example that demonstrate not only lived effects being materialized but how intersectionality places a role in expose vulnerabilities that would otherwise be ignored. Roshawn Knight was arrested on January 3, 2018, she was arrested at a traffic stop after a city wide hunt for after the discovery of her partner dying from stab wounds (Cruz, 2018). Instead of viewing Knight as a victim of domestic abuse, the assumption was that she ran from breaking the but not due to the fear she might lose her child and viewed opposite of a victim.

These examples show that lived effects can be harmful and place women in grave danger. Each case the women had different intersecting points that made them more susceptible of violent crimes.

2.6 How and where has this representation of the “problem” been produced, disseminated and defended? How has it been and/or how can it be disrupted and replaced?

This question extends and develops questions three which examines the “practices and processes that allow certain problem representations to dominate” (Bacchi, 2009, p. 19). The question also investigates how the representations “reach their target audience and achieve legitimacy (p. 19).

The system of domination is a system that allows the powerful to always disseminate laws that ultimately enrich their powers. In the case of the United States, this means white people have always created laws that serve them more than Blacks. This could be seen through policy-making and current presidential rhetoric’s. In the case of the VAWA of 1994, the government

has played a critical role in regulating funds for combating violence against women, criminalizing violence against women and the president holds arguably the biggest leadership role. In the US, the government has an important role in shaping institutional structures that ultimately, impact society. History has shown that the United States was built on the idea that White people were the superior race more specifically White men. Most of history has centered around the independence of Blacks and recognition that they are human who deserve the same rights and equal treatment as Whites. Therefore, the system of the subordination of Blacks continues no matter what kind of policy made, ultimately, reinforces the preexisting idea of dominance.

The government exercises power to construct and defend the way problem representations are characterized and debated. It is now clear that the VAWA had a major focus on increasing police involvement in discourse of ending violence against women. The police force takes the responsibility from Congress in temporarily solving the problem of violence against women. However, to disrupt and replace the ‘problem representation’, the government must acknowledge how race and gender impact the experiences of women of color. In other words, situates them “within at least two subordinated groups that frequently pursue conflicting political agendas” (Crenshaw, 1991, p. 1252). It is important that Congress takes into consideration not only intersectional points that could create further disadvantages through police involvement but also rethinking discrimination (Crenshaw, 1989, p. 150) and allows for the deconstruction of stereotypes.

Furthermore, societal change will occur if policy-makers begin with reforms in education to further educate communities of eradicating hyper masculine qualities that perpetuate violence. This ‘solution’ is a lot more complex and has different underlying problems that first must be

addressed. Crenshaw (1991) argues “attempts to make domestic violence an object of political action may only serve to confirm such stereotypes and undermine efforts to combat beliefs about the Black community” (p. 1253). Her argument is based on the notion that white communities/politicians seek out destructive and violent behaviors to justify specific stereotypes that then are underlying silences that create further problems of their own, such as the mandatory arrest policy. Instead of Black women and men addressing and tackling domestic violence within their communities, they hide the problem “in a misguided (though perhaps understandable) attempt to forestall racial stereotyping” (p.1256).

The way this policy must be disrupted or replaced is by problematizing the problem differently with two different components: first, Black communities reconstructing their own narratives and deconstructing their own presuppositions and second, the government acknowledgment of systematic racism within the legal system. First, the Black communities can aim to solve issues of violence instead of relying whole-heartedly on a government that fundamentally is against the expansion or rightfulness of communities to have power over them. Second, governments must take into consideration of ratifying all aspects of the ICERD thus acknowledging that the VAWA must then be completely reformed.

The president role in disseminating the problem representations that achieves legitimacy, one must look at current national affairs in the US in relation to GBV and racial discrimination. Taking into consideration the history of the VAWA Reauthorization of 2019, the climate President Trump has cultivated since his election in 2016. He has infiltrated misogynistic and racist political environment that has impacted the narrative that not only influence his political party, Republican, but society. How does this new political environment impact the production and dissemination of the problem representations in the VAWA? It frames the discussion

towards misogyny and the implications this could have towards non-white women. President Donald Trump has spread misogyny through twitter, video and sexual misconduct accusations which has begun to sustain sexism and dangerously put people vulnerable to intimate partner violence. For example, journalist Eliza Relman wrote, “[a]t least 25 women have made sexual misconduct allegations against Trump since the 1970s” (Relman, 2020). Significantly, no sitting president has ever had these sort of allegations. This suggests that if the sitting president can still be accused of crimes against women and maintain power then what is to say other offenders cannot do the same? Relman (2020) further writes about an incident that occurred in 2005 where Trump was “boasting about grabbing women's genitals”, this recording was leaked in 2016 leading up to the elections. This is not meant to “identify some extra-discursive reality” but to better evaluate the role the president has in structuring discourse that secures its authority and disrupts certain people/groups (Bacchi, 2009, p. 45). Ultimately, the sitting president is a role model that represents laws that were already passed, and represents the governance of the country. The problem has been disseminated through the actions and non-actions of the sitting president and laws that have been passed.

3. Conclusion

The aim of this thesis was to investigate why little attention is given to racial discrimination in the struggle against gender-based violence policy despite the USA being a signatory to the ICERD. This was answered through Carol Bacchi’s WPR approach that dug deep into understanding underlying issues that from first glance would not appear. The analysis was able to identify various problem representations that was able to highlight many contributing factors that helped shaped the perception and discourse of Congress, law enforcement, White women, and Black women.

Audre Lorde was critical in how the woman movement was defined by white women. This led Lorde (1984) to declare “white women ignore their built-in privilege of whiteness and define woman in terms of their own experience alone, then women of Color become "other," the outsider whose experience and tradition is too "alien" to comprehend” (p. 117). Her sentiments embody the first dominant problem representation that ‘not all genders deal with more domestic violence’. Lorde’s bold words correlate with the idea that Congress designed laws in a system that inherently protects White US Americans. As a result, the VAWA of 1994 had various flaws that were established through the history of the America and the domination over Black Americans. Through maintaining an intersectional perspective in the analysis it was made clear that the VAWA reauthorization for 2020 must be more inclusive to women of color and Trans people.

The second dominate problem presentation was identified as no consideration of race. This problem was critical in discovering the silences in role racial discrimination was reinforced without legal consequences to the dominate groups: Congress, Law enforcement and White women. All three have historically profited from omitting to address racial discrimination in political, economic and social institutions. In the VAWA of 1994, Congress disregarded Black American racial stereotypes and historical conflicts Black Americans have had with law enforcement. To go back to the problem formulation of this thesis, the government plays a critical part in reproducing the problems of creating the discourse that suggest women to be one-dimensional and has little to no acceptance of racial discriminations within the structures of policy-making.

For the US to play a more active role in combating racial discrimination with policies such as the VAWA, an intersectional approach must be taken into account. This will better equip

politicians with better strategies that incorporate different dimensions of problems and helps with creating complex solutions. Black Americans should no longer be experiencing any forms of racism especially in laws that are meant to help.

It appears that 2020, might be the year that systematic change might occur not only in police reform but how racial discourse can benefit existing laws and allow to reevaluate passed laws. The waves of protests not only in the US but around is creating a climate that does not appear to have been done before. It is unclear if current protests could impact the discourse on the VAWA reauthorization of 2020 thus establishing new amendments that could deconstruct policies negatively impacting women of color, in particular Black women.

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