

Feminist Lawmaking on Gender Violence: An Examination of the US Legislation on Domestic and Global Gender Violence

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Abstract

The Violence Against Women Act (VAWA) of 1994 was a dramatic federal legal reform in the US as a result of almost three decades of advocacy by the battered women's movement and the rape crisis center movement. VAWA comprehensively criminalized domestic and sexual violence and enhanced formal equality and services for the victims of violence. In 2007, as Chairman of the Senate Foreign Relations Committee, Senator Joseph Biden introduced the International Violence Against Women Act (I-VAWA) in the Senate to bring into US foreign policy what VAWA brought into the US domestic policy and to improve upon the way the US addresses violence against women globally.

From a feminist lawmaking perspective, this essay traces the history of violence against women movement in the US, which defined rape and domestic violence as social problems that merit public policy solutions. After looking at VAWA's goals and structures, the essay seeks to examine what kind of actual and symbolic impact VAWA had. Academic research literature indicates VAWA's positive impact in declined incidence rates and changing social norms in the 1990s. In addition, through analyzing I-VAWA's approaches and structures as well as similarities and differences to VAWA as a "model", the paper suggests that if educational and employment attainments and other comprehensive efforts for women's empowerment come along with, I-VAWA will promote reductions in the incidence of gender violence and will influence underlying social norms globally.

Key words: Gender violence, Feminist lawmaking, Battered women's movement in the US, Violence Against Women Act (VAWA), International Violence Against Women Act (I-VAWA)

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Introduction

The United Nations estimates that 200,000 women and girls have been raped in Democratic Republic of the Congo since war broke out 12 years ago. In this conflict setting, rape became a weapon of war. There were 15,996 new cases of sexual violence registered throughout Congo in 2008 according to the United Nations (Drash, 2009). Recently, Secretary of State Hillary Clinton visited Goma, the scene of intense fighting of Congo and condemned attacks on civilians especially, sexual violence against women and girls. Clinton announced \$17 million in new aid to prevent and respond to gender and sexual violence (Drash, 2009), while stating that “not just assistance to help those who are being abused and mistreated, in particular the women who are turned into weapons of war through the rape they experience, but also looking for ways [to make sure that their attackers are punished] and to end this conflict” (Sheridan & McCrummen, 2009). Given severe and persistent sexual violence in conflict settings across the globe, this action of US government would bring significant positive change. This is where US intervention can make a difference: by using financial resource and diplomatic influence to protect international human rights.

“Feminist lawmaking is what Robert Cover has called “juris-generative” - lawmaking that seeks to transform social meaning”(Schneider, 2000, p. 34). According to Schneider (2000) who is a feminist lawyer, litigator, law professor and social activist, “lawmaking can have political meaning independent of its success or failure in the courts” by expressing “the fundamental aspirations and vision of a social movement” (p. 34 & 30). As a vehicle of social change, “feminist lawmaking seeks to transform the way both law and culture describes women’s experiences” (Schneider, 2000, p.45). Especially, in the context of intimate violence, the impulse behind feminist legal arguments is to redefine the relationship between the personal and the political and to definitively link violence and gender (Schneider, 2000). Schneider suggests that in exploring the role of feminist lawmaking, two

dimensions of law should be considered. First there is its actual and material impact it has on people's lives (Schneider, 2000, p. 37). Then there is its symbolic level - "the role that law plays in expressing, embodying, and shaping social messages" (Schneider, 2000, p. 37). Therefore, in feminist lawmaking perspectives, although a law does not have *immediate* effects by winning individual litigations, social transformative dimensions of a law still have significance.

In this paper, I examine two representative feminist lawmaking projects of the US: the Violence Against Women Act (VAWA) and the International Violence Against Women Act (I-VAWA). VAWA was introduced by Senator Joseph Biden and passed in 1994 as a first comprehensive federal legislation responding to the violence against women in the US. Now it is a 15 year-long US public law which was reauthorized two times in 2000 and 2005. In addition, as the current diplomatic moves of Secretary of State Clinton indicate, the will of the US to remedy global gender violence not only the domestic one is given special notice: the US has been trying to pass international feminist lawmaking, the International Violence Against Women Act (I-VAWA). I-VAWA was introduced in 2007 by the same legislator of VAWA, Senator Biden, and at this point of August 2009, I-VAWA is still only a "proposed" legislation.

In this paper, from the standpoint between a policy researcher and advocate who seeks for feminist legal reforms as a vehicle of social change, I explore how VAWA has been shaped and enacted as a public policy in the US. This is based on the recognition that VAWA itself is the product of feminist social movements and feminist lawmaking efforts in the US history. After looking at VAWA's goals and structures, the essay seeks to examine what kind of actual and symbolic impact VAWA had in the US. Third, the paper describes I-VAWA's similarities and differences to VAWA, in order to explore the potential impact of I-VAWA, given the impact of VAWA in the US as a "model". As a measure to prevent and respond to global gender violence, I conclude with the possible impact and significance that I-VAWA would have at its actual and symbolic level.

At present, it is true that I am only able to “speculate” the “potential” impact of not-yet-passed legislation. However, the enactment of I-VAWA itself in the US may have not only material impact but also substantial transformative message to the world. As much as feminist legal advocates addressed the need to understand gender violence within a continuum of power inequality and control, gender violence is a complex issue to solve. These advocates recognized that the legislation alone cannot do the job of ending the violence; rather this issue requires wide variety of efforts at different levels in society. Nevertheless, given the pandemic violence against women all over the countries, feminist lawmaking – legislative remedies – will be the first step to progress, as a necessary instrument in society.

Methodologies

The paper examines the bill texts of VAWA and I-VAWA and secondary data mainly from academic publications and government reports. The conceptual framework of this paper is that speculating the potential impact of I-VAWA, a proposed US foreign policy, based on the actual impact of VAWA, the 15 year-long US binding law, upon the similarities and differences between the two.

It is important to recognize that these two laws are substantially distinct in terms of unit of implementation for the law as well as unit of analysis for the impact research. Whereas VAWA changed domestic criminal law, I-VAWA treats US foreign policy and development assistance. VAWA is the domestic law which has impacted the *national arena* through US government entities, criminal justice entities and service organizations. Meanwhile, if I-VAWA is passed, it will have immediate effects on US foreign policy and foreign assistance programs through Department of State, the US Agency for International Development (USAID), and US military, through the Department of Defense. Therefore, I-VAWA is aiming to mitigate international gender

violence through the enhanced US foreign assistance programs and diplomacy, by urging and assisting the governments and relevant actors of the recipient countries.

Furthermore, the place where gender violence occurs differs between the two pieces of legislation. There are significant differences in culture, domestic legal systems, economic status, underlying social norms, marriage customs and social movement histories between the US and the I-VAWA eligible countries (“countries that are not classified as “high income” in the most recent edition of the World Development Report by the World Bank”).

Nevertheless, the common reality globally is the persistence of violence against women and that is what both VAWA and I-VAWA seek to remedy, led by Biden’s intent and belief that US legislative power can intervene social evils. As a feminist lawmaking project, introduction of I-VAWA was driven by the confidence in VAWA’s success in the home state as a model and the recognition of seriousness of gender violence across the globe. I-VAWA as a middle stage to promote the eligible country’s reform and change, would not have the exactly same impact with what VAWA, a binding law in the US had. However, the impact of VAWA, the original model in the US can be considered as one of the relevant foundations for reasoning I-VAWA among many possible contexts. In addition, refer to the fact that VAWA was the legislative fruit largely emerged from feminist advocacy on violence against women which “has sought to transform [the federal] law in light of the experiences [of battered women]” (Shneider, 2000, p. 34). Similar to that, I-VAWA will also engage grassroots women’s organizations and community organizations in the efforts to let each eligible country have enhanced systems to prevent and respond to gender violence. Therefore, tracing the history of violence against women movement and social change by those movements in the US and analyzing the impact of VAWA enactment will provide a valid framework to compare the I-VAWA bill contents and speculate about the impact.

This reasoning model necessarily has a variety of limitations. These are: 1) expecting impacts of an act which has not yet passed; 2) no specific unit of

analysis in speculating the potential impact of I-VAWA; 3) basing the potential impact on the impact of a domestic law in the US as proxy indicators; and 4) even in the examining actual impact of VAWA in the US, it is limited to make an inference of causal relationship between a public policy, VAWA and changes in the society. For better research, specific unit of experiment as the implementation area of I-VAWA, whether it is a country or a smaller jurisdiction than a state, should be selected. Then in order to examine the national/ local effects of the global policy, I-VAWA, a variety of local contexts including binding laws, criminal and judicial systems, social norms and practices should be concerned in a nuanced way. In addition, research on the functions of similar existing domestic and international policies to remedy gender violence in a given country/ jurisdiction will be helpful to situate the I-VAWA and explore its strengthes and weaknesses as well recommendations to amend the I-VAWA.

History of Violence against women movements in the US

The National Violence Against Women Survey (NVAWS) reported that 17.6 percent of surveyed women and 3 percent of surveyed men in the US were raped at some time in their life (Tjaden and Thoennes, 2006, p. 7). In a single year, more than 300,000 women and almost 93,000 men are estimated to have been raped in the US (Tjaden and Thoennes, 2006, iii). Even the picture of violence in intimate relationship seems severe. Among NVAWS participants, the lifetime prevalence of all intimate partner victimization for women age 18 and older was nearly 25 percent and 7.6 percent for men (Tjaden and Thoennes, 2000, p. 26). Annually, approximately 4.8 million intimate partner rapes and physical assaults are perpetrated against US women, and 2.9 million assaults are committed against men (Tjaden and Thoennes, 2006, iii). In addition, intimate partner homicides make up 40 to 50 percent of all murders of women in the US (Campbell et al., 2003, p.18). These

findings suggest the severity of intimate partner physical and sexual violence in the US as a criminal justice and public health concern.

The history of the violence against women movement in the US indicates that legal and social activists of the second wave of feminism addressed the systemic and public nature of the domestic and sexual violence which was previously relegated as private. They situated the problem of domestic and sexual violence in a broader patriarchal pattern and broke the public - private dichotomy (Schneider, 2000). They advocated for legal remedies to protect women and claimed battered women's rights to be free from violence. In addition, the domestic violence research arena which suggested that criminal justice interventions are effective in deterring future domestic violence reinforced the advocacy for government action and promoted the historical enactment.

Although feminist activists have long been "working to stop domestic and sexual violence, the advocacy efforts that began in the late 1960s, in tandem with the rebirth of feminism, marked a new generation of change" (Goldscheid, 2006, p. 358). This initial movement saw the creation of domestic violence and rape crisis centers. Activists considered the legal reform as a necessary and important strategy to obtain safety and protection for battered women (Schneider, 2000, p. 44). "One of the first and most important legal issues that came to the fore was the failure of police to protect battered women from assault" (Schneider, 2000, p. 44). As generated by the second wave of feminism, these movements in 1960s and 1970s defined the violence as a manifestation of historic gender subordination within a larger social framework. Thus, domestic violence and rape crisis centers not only provided the victim safety and services, but also functioned as education and advocacy groups organizing battered women. They addressed the structured nature of women's oppression as a cause of the violence instead of individual or family deficits. Since the early 1980s, advocates and scholars recognized the complex interaction of race, national origin, economics, and other social factors that structure the context in which male violence against women occurs (Goldscheid, 2006, p. 360) and expanded the definition of intimate

partners to include cohabiting couples and same sex couples. In this period, the formulation of violence against women as a civil rights violation also began (Schneider, 2000, p. 48). “Many individual states actively addressed domestic violence through legal reforms including defining domestic violence as crime, pro- or mandated arrest policies and introducing civil protection orders” in 1980s (Burt et al., 1996 as cited in Cho 2005, p. 125).

Along with the political advocacy of three decades, research of 15 years reinforcing the belief that law enforcement discourages abusive men also played the significant role for government action against gender violence (Ford et al., 2002, p. 3) and culminating in the VAWA. “1984 represented a significant year for law enforcement reform after the *Minneapolis Domestic Violence Experiment* indicated that arrest served as a deterrent for future abuse” (Farmer & Tiefenthaler, 2003, p. 9). Farmer and Tienfenthaler (2003) reported that as a result, between 1984 and 1989 arrest rates skyrocketed by 70% for minor assaults, showing that police response was increased significantly before the 1990s (Farmer & Tiefenthaler, 2003, p. 9). In addition, Farmer and Tienfenthaler suggested that before the enactment of VAWA in 1994, there has been drastic increase in the provision of legal service programs for victims of domestic violence from 336 in 1986 to 1190 programs nationwide by 1994 (Farmer & Tiefenthaler, 2003, p. 14).

Enactment of VAWA and Reauthorizations

Finally, as part of the Violent Crime Control and Law Enforcement Act of 1994, the Violence Against Women Act (VAWA) was enacted as the first federal response to violent crimes against women. The purpose of VAWA is to equip civil and criminal strategies and to create new legal remedies for victims of domestic violence, sexual assault, stalking and trafficking (Postmus & Hahn, 2007, p. 774). VAWA also goals for enhancing the ability of law enforcement departments, prosecutors and courts to better secure victim’s

safety and to increase offenders' accountability (Chaiken et al., 2001 as cited in Postmus and Hahn, 2007, p. 774). Previous legal reforms at the state level led to this federal legislation designed to improve "interstate" criminal justice enforcement (Cho, 2005, p. 125) in increased coordination among entities. The VAWA is composed of seven distinct sections: safe streets for women, safe homes for women, civil rights for women, equal justice for women in the courts, national stalker and domestic violence reduction, protection for battered immigrant women and children, and provisions for strengthening existing laws.

For those purposes, VAWA allocated STOP (Services, Training, Officers, Prosecutors) grant monies for prevention and education programs; training for police and prosecutors to encourage mandatory arrest and no-drop prosecution policies; training for judges to enhance sensitive awareness of the nature of the violence against women and protection orders; judicial systems improvements; support for victim service and legal advocacy; national database systematization; baseline research and ongoing data collection; developing research agenda of the violence against women; and evaluation of programs. VAWA also addresses the need for attention to violence in minority communities, the elderly, rural and college environment as well as the victimization of immigrant women. Importantly, "VAWA requires a Coordinated Community Response (CCR) encouraging jurisdictions to bring together players from diverse backgrounds to share information and to use their distinct roles to improve community responses to violence against women" (OVW, Factsheet, 2009).

Original VAWA has been reauthorized and amended two times in 2000 and 2005. The Violence Against Women Act of 2000 improved the 1994 version by adding the crimes of dating violence and stalking, and creating a legal assistance programs for victims of such violence (OVW, 2009). It also promoted supervised visitation programs for families experiencing domestic violence, protections for immigrants and focused on trafficking of persons (OVW, 2009). Under the VAWA of 2000, victims of domestic violence that flee across state and tribal lines do not have to return to jurisdictions where

they may be in danger in order to obtain custody orders (OVW, 2009). The Violence Against Women and Department of Justice Reauthorization Act of 2005 appropriated funding for programs to protect the domestic violence victims from eviction in public housing if their abuser committed a crime; to create a national resource center in order to educate and provide information for employers; and to reunite trafficking victims with their families abroad (Legal Momentum, 2005 in Postmus & Hahn, 2007). As Schneider (2000) noted, this progress represents a “dialectical” feminist legal reform process, for this series of legal reforms of VAWA begun to link, for the first time, women’s violence in regards to employment, homelessness and a variety of larger gender issues (Schneider, 2000, p. 230). On the contrary, the legal discourse of “crime control” minimizes the liberatory dimensions and imagines intimate violence as just another crime problem that is isolated from its social, historical, and cultural context (Schneider, 2000, p. 230).

Given VAWA’s comprehensive interventions in a wide variety of areas, simply describing the overall results of VAWA programs is beyond the scope of this paper. Many of the official evaluation documents carried out “process evaluations” about implementation itself, rather than “impact evaluations”.¹⁾ Ford et al. (2002) also noted that even though enhanced criminal justice intervention brought about by VAWA could have an impact on general prevention of violence and positive change in popular attitudes, that will not be evident in the short term, because a general reduction in violence against women involves a cultural change (Ford et al., 2002, p. 8). Nevertheless, the fact that there are not yet many research results capturing the impact of the Act is little indication of its current and future impact. First, I will give a brief overview of the 2006 annual report of the Office on Violence against Women (OVW) under the Department of Justice about criminal and civil justice performance and service provision under the STOP grants. Second, I will then explore academic research on the impact of VAWA and synthesize

1) In this paper, I use the term ‘effects’ as the short-term results and ‘impact’ as the long-term change.

research results in order to have a lens to look at I-VAWA and further speculate the possible impact of I-VAWA.

STOP fund of VAWA and its immediate effects

According to the National Crime Victimization Survey (NCVS), since 1993 nonfatal intimate partner violence rate has declined from 6 to slightly over 2 per 1,000 persons till 2005 (Bureau of Justice Statistics, 2007). Especially the rate of female victims of nonfatal intimate partner violence fell from 9.8 per 1,000 in 1993 to 3.6 per 1,000 in 2005. On the other hand, while the male victims of intimate homicide shrank from 1,304 in 1976 to 329 in 2005, still 1,181 female are victimized by the intimate partner homicide in 2005. It cannot be a dramatic change from the number of female homicide victims, 1,587 in 1976.

Whereas the statistics above cannot draw the clear picture on VAWA's actual effects, enhancement in victim service and criminal and civil justice intervention through VAWA's STOP fund is enormous. In 2005, STOP grants were allocated as 3,473 awards to sub-grantees through state, tribal and local government and non-governmental organizations (OVW, 2006). More than 581,000 of the 600,000 victims who sought services received services funded under the STOP program in 2005 (OVW, 2006). Victim services included victim advocacy, hotline calls, crisis intervention, criminal justice advocacy, counseling/support group, victim witness notification, shelters including transitional housing, civil legal assistance and hospital accompaniment. The Office of Violence Against Women (OVW) reports that Coordinated Community Response (CCR) efforts, training and the development of pro-arrest or mandatory arrest policies resulted in profound and widespread change in the law enforcement response to violence against women (OVW, 2006, p.20). For instance, police and sheriff's departments receiving OVW funding recorded higher arrest rates (an average of 49%) for intimate partner

violence than other police and sheriff's departments (OVW, 2006, p. 24). In 2005, prosecutors funded under the STOP program considered nearly 150,000 cases of domestic violence, sexual assault, and stalking for charging and filed charges in approximately 115,000 (77 %) of those cases (OVW, 2006, p. 26). Courts that received STOP fund processed 21,749 civil protection orders (OVW, 2006, p. 31).

VAWA's impact in the US

However, critical research to date suggests mixed and conflicting findings regarding "effectiveness" of criminal justice interventions and batterer mandatory programs on the "deterrence of future violence" and "victim protections" (Ford et al., 2002, p. 40, 48 & 66 Salazar et al., 2003, p. 256). On the other hand, Ford et al. (2002) asserted that the data collection of violence incidents and methodological rigor is limited to determine which policies are alternative to others. Nevertheless, the incidence of violence against women and women's homicide rates of their male partners has diminished over time especially in the 1990s (Cho, 2005; Ford et al., 2002; Farmer & Tiefenthaler, 2003 BJS, 2003). Researchers associated the decline with VAWA's impact on the enhancement of criminal justice interventions and survivors' involvement with criminal justice authorities (Cho, 2005); the increased provision of legal services for survivors (Farmer & Tiefenthaler, 2003); the change in public attitudes (Salazar et al., 2003); the improvement of alternatives that enable women to escape from a relationship other than killing abusive male partners (Ford et al., 2002); all along with women's overall educational and economic advances in the 1990s (Farmer & Tiefenthaler, 2003). In addition, at the symbolic level, VAWA constructs public messages that legitimize the seriousness of violence against women and manifest sensitivity to victims' needs (Schneider, 2000, p. 8).

Utilizing interrupted time series analysis, Cho (2005) examined the

association between the passage of the VAWA and its subsequent impact on reducing domestic violence. As relevant variables to the reduction in violence, Cho hypothesized incidence rates, rates of police notification, and rates of arrest and judicial authorities' involvement. The results suggest that the overall incidence of domestic violence has decreased while police notification and perpetrator arrest have increased over time between 1992 and 2003 (Cho 2005). Furthermore, victim involvement with prosecutorial and judicial authorities significantly increased after the enactment of the VAWA.

Farmer and Tiefenthaler (2003) examined the determinants of the decline of the domestic violence incidence during the 1990s. Their results indicate that there are three important factors that likely contribute to the decline: (1) the increased provision of legal services for victims of intimate partner abuse, (2) improvements in women's economic status, and (3) demographic trends, most notably the aging of the population. Farmer and Tiefenthaler utilized *Area Identified* National Crime Victimization Surveys (NCVS), the same data used to generate the Department of Justice's national estimates. From the feminist economist perspectives, they provide economic analysis pertaining to women's reporting of abuse in the unit of a county all over the US. Women who reported their victimization are, "on average, younger, have more children, and are more likely to be employed than other women" (Farmer & Tiefenthaler, 2003, p. 7). In battered women in the NCVS sample, "black women, women with little formal education, and women who live in the households with relatively low incomes are over-represented" (Farmer & Tiefenthaler, 2003, p. 7). Then the irony is that "divorced and separated women are much more likely to report being abused than are married women" (Farmer & Tiefenthaler, 2003, p. 7). This could reveal that married women report domestic violence less than separated women. Otherwise, this record supports what is called "separation assault" - "violence provoked [and intensified] by the woman's threat or assertion of independence, or actual separation from the man" (Schneider, 2000, p. 77). Schneider (2000) noted that women's leaving significantly increases the risk of harm.

On the contrary, Farmer and Tiefenthaler found that women who live

in counties which support battered women with “legal assistance programs” are significantly less likely to report abuse. Researchers analyzed the reason as: “legal services help women with practical matters such as protective orders, custody, and child support that appear to actually present women with real, long-term alternatives to their relationships” (Farmer & Tiefenthaler, 2003, p. 11). In addition, the gender education ratio (percentage of women with college degrees/ percentage of men with college degrees) has significant negative effect on the likelihood of intimate partner abuse (Farmer & Tiefenthaler, 2003, p. 11). Although a woman’s individual condition of education and employment is significantly associated with her economic status outside the relationship, hiring status of women in her community may also improve her options (Farmer & Tiefenthaler, 2003, p. 8).

Finally, Farmer and Tiefenthaler (2003) provide important policy implications for the future, as well as for the I-VAWA. First, “while other victim services – hotlines, shelters, job training, outreach, and counseling – are clearly valuable to battered women, expansion of these services should focus on providing what clients need to become *self-sufficient*” as the provision of civil legal services do (Farmer & Tiefenthaler, 2003, p. 19). “While short-term housing and counseling provide women with important temporary safety and support, they are more likely to lower the overall incidence of domestic violence *if they provide women with long-term, realistic alternatives to their relationships*” (Farmer & Tiefenthaler, 2003, p. 19). Second, they find that a woman’s formal schooling (a college degree) and the women’s economic status in her community lower the likelihood that she reports abuse (Farmer & Tiefenthaler, 2003, p. 20). Therefore, women’s advances in education and employment status will likely be a key factor in deterring domestic violence.

Salazar et al. (2003) who borrowed a theoretical perspective from the “community psychology”, examined whether social norms pertaining to domestic violence are directly and/or indirectly affected by public perceptions of criminal justice policies on domestic violence. This inquiry is significant, because “if the newly implemented law or policy does not *work through* existing social norms and lead to the emergence of new norms, then there is an

increased probability the new law will be ineffective” (Salazar et al., 2003, p. 256). Their results indicate that “attitudes supportive of criminal justice system response are directly influenced by the perception that the criminal justice system actively intervenes and provides punitive sanctions” (Salazar et al., 2003, p. 260). In addition, “the attitude that women are to blame for their abuse is indirectly affected by perceptions of criminal justice system policies through attitudes toward criminal justice system response” (Salazar et al., 2003, p. 260). Therefore, VAWA may have an “impact beyond perpetrators and victims who directly experience such policies through the emergence of new social norms and serve to transform the social environment in which domestic violence occurs” (Salazar et al., 2003, p. 260). These findings suggest that “to garner community support and positive attitudes for criminal justice responses, the public should be made aware of the enactment of these policies, perhaps through community-level education efforts (e.g., media campaign)” (Salazar et al., 2003, p. 260). “Victim-blaming attitudes which have historical references are not affected directly by policy and are more resistant to change than attitudes toward criminal justice system response” (Salazar et al., 2003). Therefore, “to further assure consistency between norms and policy, educational efforts should target not only the community but also system personnel of the criminal justice (e.g., judges, prosecutors, defense attorneys, and police)” (Salazar et al., 2003, p. 261).

Ford et al. (2002) sought to learn about VAWA’s impact on general prevention by reviewing evaluation research of VAWA to date. They used the term “general prevention...to mean keeping potential offenders from committing first acts of violence” (Ford et al., 2002, p. 56). Even though, national public opinion polling suggests that American perceptions of the problem are changing slowly in positive direction, Ford et al. evaluated that “attributing the change to the public education effort is a methodological challenge beyond the reach of evaluations to date” (Ford et al., 2002, p. 56). Even, “in the absence of consensus on baseline data appropriate to the rates of violence against women, little can be said of even the possibility that VAWA is having a general preventive impact” (Ford et al., 2002, p. 57).

Another proxy indicator for the change in violence against women is the intimate partner homicide rates. Specifically male victimization by a female intimate partner has declined rather than vice versa in both African-American and White population. Researchers have hypothesized that “factors facilitating a woman’s escape from an abusive relationship may protect her abuser from being killed by her” (Ford et al., 2002, p. 58). In addition, Ford et al. identifies that “the various reports mandated under the VAWA including annual evaluations of STOP grant programs have contributed to general knowledge on violence against women” (Ford et al., 2002, p. 60). Finally, researchers concluded that they “remain convinced that VAWA can make a difference in preventing violence against women, even though the specific nature of its impacts have yet to be revealed by research evaluations to date” (Ford et al., 2002, p. 76).

Schneider (2000) argues that “the language and categories of law that are mobilized and shaped by social movements can be powerful even when litigants do not win any cases, for law can nonetheless *provide the language and the locale for resistance*” (Schneider, 2000, p. 49). She evaluates that “making battering crime against the state has a broader social and more public meaning than granting an individual order of protection” (Schneider, 2000, p. 46). Nonetheless, the civil rights remedy of the VAWA of 1994, “a legal innovation explicitly framing domestic and sexual violence as sex discrimination” (Goldscheid, 2006), was ruled unconstitutional by the United States Supreme Court in *United States v. Morrison*, 529 U.S. 598, 120 S. Ct. 1740 (2000) and the civil rights remedy created under the section is no longer valid (OVW 2009). Schneider addressed that “law reform and the passage of helpful law do not inevitably provide victories for women, for application of these laws will still rest on interpretation of the laws of evidence” (Schneider, 2000, p. 106). This judicial interpretation of the laws reflects the social currents and public opinion.

Goldscheid (2006) grouped VAWA’s advances into four categories: eliminating formal inequalities, enhancing criminal penalties, expanding social services, and enhancing civil law response. In a comparative analysis between

VAWA and UN Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), Goldscheid evaluated that CEDAW has more potential and is more radical than VAWA in terms of defining domestic and sexual violence within a framework of sex discrimination. Goldscheid concluded that “although reforms of VAWA of 1994 may have removed barriers to civil and criminal justice and have improved social services systems, in practice, many if not most of these forms target neither sex discrimination nor other socio-political factors” (Goldscheid, 2006, p. 362).

Lastly, given research results from academic papers on the impact of VAWA, efforts to end violence and enable social change leaves the question for the future: how can we engage men in stopping and preventing violence in family and in society? Likewise, influencing public attitudes and judges’ judicial interpretations will have a continuing significance. For these reasons, every component in VAWA and a variety of efforts in many areas of society should come together to work for the comprehensive change toward offender accountability and ending violence against women.

Now, we turn to the international arena and I-VAWA, the proposed US legislation for the global crisis of gender violence. The World Health Organization (WHO) defines violence against women as a major global health emergency as well as an obstacle to development that persists in all countries of the world. That is because the impact of such violence goes far beyond the immediate harm caused and affects all aspects of women’s health at the expenses of the society as a whole. In a ten-country study on women’s health and domestic violence conducted by WHO, between 15% and 71% of women reported physical or sexual violence by a husband or partner (WHO, 2006). This high rate of forced sex is particularly alarming in light of the global HIV epidemic (WHO, 2006). Forced marriages and child marriages violate the human rights of women and girls, but they are widely practiced in many countries in Asia, the Middle East and sub-Saharan Africa (WHO, 2008). “As one of the most pervasive violations of human rights in all societies, gender-based violence exists on a continuum from violence perpetrated by an intimate partner to violence as a weapon of war” (Grown et al., 2005, in

WHO, 2005).

The bill of the International Violence Against Women Act (I-VAWA) was introduced in the U.S. Senate on October 31, 2007 by Senator Joseph Biden (D-Delaware) and Senator Richard Lugar (R-Indiana). The same bill was brought to the House of Representatives by Congressman Howard Berman (D-California) on April 30, 2008. “It is the result of extensive research on what works [to end gender violence]: specifically it was drafted in consultation with more than 150 groups including US-based NGOs, UN agencies and 40 women’s groups across the globe” (Women Thrive Worldwide, 2009). “Senator Biden’s purpose with I-VAWA is to bring into US foreign policy what VAWA brought into US domestic policy and to improve upon the way the US addresses violence against women globally” (Wolfe, L. personal communication, September 2008). Biden was well positioned to spearhead this foreign policy push as the chair of the Senate Foreign Relations Committee which has authority over US Foreign policy at the point of the introduction of I-VAWA in 2007. When Biden led the passage of VAWA in 1994, he was the former chair of the Senate Judiciary Committee which has authority over domestic criminal justice legislation.

Overview of I-VAWA

I-VAWA reflects VAWA’s domestic model in terms of strategies used in combating and responding to gender violence, but has a format of foreign policy. I-VAWA consists of three parts: 1) official positions and institutional change; 2) international program procedures and strategies; and 3) remedies for gender-based violence in humanitarian intervention, conflict and post-conflict settings.

I-VAWA defines violence against women and girls as: “any act of gender-based violence against women or girls committed because of their gender that results in, or is likely to result in, physical, sexual, or psychological

harm or suffering to women” (I-VAWA, 2007, p. 10). This includes everything from physical and sexual violence in intimate relations to forced child marriage, honor killings, dowry-related murder, human trafficking, female genital mutilation, rape as a weapon of war in conflict settings, and forced or coercive sexual practices in humanitarian emergencies. I-VAWA recognizes women’s unequal status in economics, literacy and education as the cause and consequences of the violence. It also acknowledges the economic and social costs of gender violence.

Most significantly, I-VAWA shall appoint two main official positions and equip them with institutional apparatus for coordinating and implementing all the efforts of the US government to combat international gender violence. The Coordinator of the Office of Women’s Global Initiatives shall be appointed to head the Office of Women’s Global Initiatives in the Department of State; and the Director of Women’s Global Development (Director) shall be appointed to lead the Office of Women’s Global Development in the USAID. The Coordinator shall be responsible for developing comprehensive international strategies; designing, overseeing, and coordinating activities, programs and foreign policies of US government including assistance programs; and allocating resources. The Director shall integrate gender into all policies, programs and activities of the USAID. Both of them shall be included in the Advisory Commission on International Violence Against Women composed of 16 members, which will annually make recommendations to the Secretary of State and submit a report to the President and the related Committees of the Senate and House of Representatives. This report will focus on the best practices and the effective integration of such practices into the foreign policy and assistance programming of the US.

With the assistance of the Coordinator and Director, the President shall develop and implement a comprehensive 5-year international strategy. The strategy shall identify 10 and 20 eligible countries that have severe levels of violence against women and girls. The strategy shall describe 2 or more gender violence-based program activities and resources for each country in cooperation with respective national government. To carry out this comprehensive

international strategy, I-VAWA appropriates \$175 million for each of the fiscal years 2009 through 2013.

Comparative description of I-VAWA to VAWA: Similarities and Differences

I-VAWA follows VAWA's model in core strategies and methodological approaches to remedy and respond to gender-based violence. However, in terms of legal force, whereas VAWA has legal authority in the US at the national and inter-state level, I-VAWA is the 'program' under the US diplomatic influences. Another distinguishing factor between the two laws is I-VAWA's apparatus to deal with (massive) gender violence situation in conflict, post-conflict, peacekeeping and humanitarian settings in developing countries.

Similar to VAWA's comprehensive approaches to prevent and respond to violence against women, I-VAWA attempts to: 1) increase legal and judicial protections; 2) enhance the capacity of the health sector to respond to such violence; 3) conduct public awareness programs to change social norms and attitudes 4) increase women's economic opportunities; and 5) improve educational opportunities for women and girls.

First, I-VAWA cites 2006 UN Secretary General's report, *Ending Violence Against Women*, that "102 member states have no specific laws on domestic violence" (I-VAWA, 2007, p. 2). Just as VAWA comprehensively reformed criminal and civil justice policies with methods of Coordinated Community Response (CCR), I-VAWA supports each program-recipient government to reform criminal and civil laws and strengthen CCR. Programs under the I-VAWA also provide resources to support training and technical assistance to relevant criminal and civil justice agents: police, prosecutors, forensic physicians, lawyers, corrections officers, judges and judicial officials. It also attempts to enhance the justice sector; survivor services such as hotlines and shelters; civil remedies such as protection order, custodial rights

over children and restitution in cases of domestic violence. As previously stated, this is the core part of VAWA of 1994.

Based on that, I-VAWA adds some developing countries-specific policies which consider the socio-political context. Referring to case studies of sexual violence in developing countries, government officials and institution personnel have more symbolic and material power, because they can control public resources. These power dynamics often allow government officials to commit non-consensual or forced sex against vulnerable women. I-VAWA attempts to reduce sexual violence perpetrated by government officials by developing confidential mechanisms of reporting and by creating laws to punish the perpetrators and remove immunity from state officials.

Second, since all forms of gender-based violence is necessarily associated with public health concerns, I-VAWA attempts to promote the health care systems and service providers to prevent and respond to violence against women and girls through cooperative efforts with ministries of health. This includes child survival, women's health, family planning, mental health, and HIV/AIDS prevention, and treatment.

Third, I-VAWA emphasizes public awareness programs to change social norms and attitudes. It suggests that supporting women survivors of violence to educate their own communities on the impacts of violence and engaging men and traditional leaders. It also recommends providing resources for social change campaigns in mass media, and supporting community efforts to change attitudes about harmful practices, including child marriage, female genital mutilation, and so-called "honor killings".

Fourth, the I-VAWA recognizes the economic inequalities which perpetuate violence against women and girls. Thus it seeks to improve women's economic status by helping women meet their economic needs. That includes development of businesses through access to financial and nonfinancial services; job skills training; and literacy and numeracy education. This represents I-VAWA's more comprehensive aspects than 1994 VAWA's criminal justice focused remedies.

In addition, it supports programs to help increase women's property

rights, social security, and home ownership and land tenure security. This is a significant legal reform, when one considers that the lack of women's property and inheritance rights in some countries is the structural determinants that subjects women to the dependent and unequal status in relation to men. It also integrates education and sensitization of violence against women and girls into existing micro enterprise, job skills training programs and in the workplace.

Fifth, as VAWA developed public education curriculum on violence against women and intensively reformed sexual violence policies in college campus environment, I-VAWA addresses improving educational opportunities for women and girls. In many counties, school is not a safe place from gender-based violence. It includes not only sexual violence against women and girls by male students, teachers and drivers of the transportation to and from the school, but also teachers' discrimination against girls. Often this is among the most important reasons that girls leave school early or fail to attend (Global Health Council, 2009). And this results in the vicious circle that gender-based violence and a threat of violence is the cause and consequence of the lack of education for women and girls. Therefore, I-VAWA supports providing trainings for all teachers and school administrators on school-related violence to increase awareness and improve reporting, referral, and implementation of "codes of conduct". It also works to ensure the safety of girls during their travel to and from school and on the school grounds. Along with conducting national baseline surveys on school-related violence, I-VAWA includes programs for girls and boys on the unacceptability of violence against women and girls.

As VAWA awards STOP formula grants and cooperates with state, local and tribal governments and diverse NGOs in provision of services, I-VAWA shall involve diverse agents from multi-sectors, not to mention the national government. I-VAWA intends to facilitate the cooperation among multilateral, bilateral, non-governmental and private sectors in areas including criminal justice, health, education and economic, legal and protective intervention services. In addition, no less than 10 percent of the funds of \$175 million

awarded in a fiscal year under the comprehensive international strategy shall be awarded to women's nongovernmental organizations and community-based organizations.

Unlike VAWA, I-VAWA should be able to control violent crimes against women in the situations of war, political instability and disaster in which gender violence occurs more severely worldwide. The Act equips instruments to stop gender violence perpetrated by the US and foreign military forces and UN humanitarian personnel. Therefore, I-VAWA seeks to expand women personnel in UN peacekeeping missions and provide training programs to personnel as well as host communities in order to disseminate violence report mechanisms. I-VAWA also ensures USAID to integrate gender violence prevention programs into humanitarian relief operations. In addition, the Department of State shall assist in the protection of women and girls who were formally involved in fighting forces as part of any multilateral or bilateral disarmament, demobilization, rehabilitation and reintegration efforts. Lastly, I-VAWA provides diplomatic measures and procedures for the case of critical outbreaks of gender violence during conflict or post-conflict settings, when it is determined that the gender violence is being used as a weapon of intimidation and abuse.

Potential impact and limitation of I-VAWA

I-VAWA, another legal reform in the US foreign policy and assistance programs for international violence against women and girls is not free from critique and limitations. Ford et al. (2002) suggested that even in the US, a single nation, "generalizing from findings in one jurisdiction to formulate policy in another calls for an understanding of how context may impinge on transplanted policy or practices" (Ford et al., 2002, p. 74). If then, we must recognize the substantial differences and diversities across national borders and continents as well as challenges in applying the US-modeled policy to

gender-based violence at the global level. As Merry (2006) asserted, the global human rights law should be re-interpreted in local justice context in implementation. However, what I-VAWA bill suggests is only the core strategies to attack gender violence, but it is not imposing a single fixed program; rather the President assisted by the Coordinator and the Director can plan and design country-specific programs, respectively.

In spite of the risk mentioned above, I-VAWA's jurisprudence implies potential and significant advances in two points. First, in its goal and understanding of the gender-based violence, I-VAWA takes account both gender-determinant factors and socioeconomic conditions of the gender violence occurrences. I-VAWA defines that "the gender-based violence is rooted in multiple causes and affects all countries, social groups, ethnicities, religions and socio-economic classes" (I-VAWA 2007, p. 2). As shown in this statement, I-VAWA acknowledges that gender violence has the gender-motivated nature that is perpetrated in all socio-economic conditions globally.

Simultaneously, I-VAWA presents the statistics that shows women's overall lack of education, illiteracy and poverty in non-emergency settings as well as emergency settings across the globe. Through those, I-VAWA links gender violence into the broader structure of inequality. As the statement of policy, I-VAWA announces that it "exists in order to promote women's political, economic, educational, social, cultural, civil, and human rights and opportunities throughout the world" (I-VAWA, 2007, p. 6). Upon those identifications, the strategies of I-VAWA are comprehensive in combating and attacking international violence against women and girls. Even though legal reform and legislative measure alone cannot end the historical evil of gender violence, I-VAWA's comprehensive approaches to women's empowerment including public awareness, health, economic and educational programs complements limited criminal justice and legal equality focused approach.

Second, similar to the CEDAW, I-VAWA is involved in the international human rights concepts which is more progressive than national legislation politics. In addition, I-VAWA links women's empowerment into the international

development goals. Schneider (2000) notes that “women’s international human rights work challenges our more conventional understandings of women’s rights and provides new opportunities for feminist legal work ... on woman abuse ... [and] demonstrates the liberatory possibilities of rights claims” (Schneider, 2000, p. 53). Of course, the passage of I-VAWA depends on US Congress and the resources to implement I-VAWA are from US taxpayers. However, “what’s fascinating about I-VAWA, beyond its strong condemnation of violence is its recognition of a growing consensus that everyone from United Nations Development Fund for Women (UNIFEM) to Condoleezza Rice has embraced: the empowerment of women as a key to ending poverty, famine and disease in distressed regions of the world” (Seltzer, 2008). I-VAWA bill which was designed to end the global problem of violence against women includes the women’s individual human rights claims as well as the international development communities’ strategies which place women in the center of the development problems and solutions. It also reports devastating social consequences of disempowered women and gender violence to the entire international society such as HIV/AIDS prevalence, impoverishment, public costs and drain of human capital. Therefore, I-VAWA calls for the coordination of the international community in the implementation of combating gender violence. While I-VAWA is following the domestic model of VAWA, the jurisprudence and working environment of I-VAWA could be more progressive than that of VAWA. Whereas US is the country which attained the legal and formal equality the earliest in the world, as Schneider (2000) and Goldscheid (2006) suggest, ironically institutionalized survivor service and government funds have weakened the radical transformative nature of violence against women movement. Indeed, drastic legal advance of VAWA in the US faces strong backlash such as father’s rights movement. Critiques insist that VAWA promotes breaking the family, discriminates against male victims of domestic violence and is being abused by women to persecute their partner (RADAR Services, Inc., 2008). The point RADAR advertizes is that VAWA and I-VAWA is based on the myth that defines women as victims and men as

perpetrators. Its supporting data was that empirically one third of the female as well as male students is as likely as to engage in a dating partner abuse and mutual violence (Straus, 2006). Given these I-VAWA's limitations and jurisprudential potentials, now I turn to possible impact of I-VAWA.

Referred to the actual impact and implications of VAWA reviewed above and similarities and differences to the domestic VAWA, I expect I-VAWA to impact international gender violence in four aspects. Most of all, I-VAWA will contribute to legal improvements in eligible countries. 5 year-long programs will bring the enhancement of legal and judicial protection systems in their respective 10 and 20 countries which have severe levels of gender violence. This legal and judicial reform in each country is an insufficient but a necessary step to mitigate the violence.

Second, reflecting on Salazar et al.'s community psychological policy research on how VAWA influenced public attitudes, I speculate this legal and judicial justice reform will influence the social norms on violence against women and girls in the eligible countries. Salazar et al. (2003)'s findings indicated that the perception of active criminal justice intervention and punishments influence the attitudes on criminal justice intervention in domestic violence directly and victim blaming attitudes indirectly. This suggestion offered two implications: 1) the importance of disseminating new and existing policies to the public and 2) the significance of educational efforts targeted not only the community but also to system personnel and the criminal justice actors (Salazar et al., 2003, p. 261). I-VAWA meets both these implied requirements. It addresses the strategy of public awareness programs to change social norms and attitudes. To do that I-VAWA allows resources to support mass media campaigns and community efforts including host-community outreach in emergent settings. These public awareness programs can disseminate the newly developed and enhanced legal and judicial protection, strengthened report mechanisms as well as direct messages on harmful norms and practices. In addition, as VAWA did, I-VAWA provides resources for training and technical assistance to relevant criminal and civil justice actors: police, prosecutors, forensic physicians, lawyers, corrections officers, judges

and judicial officials. Conclusively, I-VAWA which supports changes both in social norms and criminal and judicial systems will be able to have a certain extent of positive impact on public attitudes toward state intervention on gender violence and victims of violence.

Third, although it will take a long time and it has a range of possibilities, along with comprehensive programs for women's empowerment, I-VAWA will help diminish gender violence incidence. As noted earlier, legal and judicial protection alone cannot do the job. For instance, only illegalization of harmful practices without other social and material support systems could push women and girls to be undergone female genital mutilation under the table. Without women's actual economic empowerment and property rights, women's dependence on abusive relationship cannot change. Rather, I-VAWA addresses improvements in economic and educational opportunities for women and girls as well as seeks to equip women's legal economic equality such as property and inheritance rights. Also, I-VAWA provides civil legal services and civil rights remedies for survivors. Finally, in cooperation with decades-long international communities' efforts for women's empowerment, I-VAWA will diminish gender violence occurrences and contribute to gender equality globally. Considering the global crisis of HIV/AIDS, other major public health and development concerns and socio-economic costs associated with violence against women and girls in developing countries, the reduction in gender violence and women's empowerment will have a cost-effective benefit in international development.

Fourth and perhaps most importantly, I-VAWA will create significant global message and protection for women and girls in conflict, post-conflict, peace-keeping and humanitarian settings. "There was widespread recognition by the CEDAW Committee members that in a largely rural country undergoing a protracted civil war, relatively little could be anticipated in the way of [legislative] reforms to benefit women" (Merry, 2006, p. 80). As we saw in the emergent case of Democratic Republic of the Congo in the introduction, especially gender violence as a strategy of war in conflict settings needs special outside interventions and diplomatic measures in order to protect women

and girls and urge relevant national governments to hold offenders accountable. Gender violence by multi-national peacekeepers, humanitarian officials and military forces also should be systematically addressed. As this is the area that US foreign policy could effectively influence, I-VAWA's diplomatic and multi-lateral efforts to protect women and girls and to prosecute perpetrators would create an influential global message on time and help prevent weapons of massive gender violence.

Conclusion and Political Reality for I-VAWA

I-VAWA, the new US legislative measure was introduced in US Congress to prevent and respond to the global crisis of gender violence, as an internationalized model of VAWA. I-VAWA is following the VAWA model in its core methodologies to remedy gender violence; however, as the US foreign policy, it has different functions, legal force and special diplomatic instruments for emergent settings all over the world. In the US history, feminist lawmaking on gender violence was emerged from second wave feminism. The battered women's movement and the rape crisis center movement achieved bringing the problem into public policy arena by breaking up the public-private dichotomy and linking the violence into the patriarchal pattern. Along with the advocacy and rights claims for battered women, evaluation research arena also supported the advocacy for legal response and the federal enactment of VAWA of 1994.

Since 1994, VAWA contributed to domestic violence reduction and change in American public awareness through enhanced criminal justice intervention and provision of civil legal services and other alternatives for survivors, along with improvement in women's economic and educational status. VAWA also generated a significant symbolic message to the society while legitimizing the seriousness of violence against women and bringing state intervention into it. Based on the US as a case study, I-VAWA also has

significant potential in eligible countries including legal and judicial improvement; change in social norm and public attitudes; reduction in gender violence and promoting women's empowerment; and creating influential diplomatic measures to condemn and remedy gender violence in conflict settings. Given the persisted gender violence and its harmful consequences in the global community as a whole, I-VAWA is the politically correct and wise use of the legislative and diplomatic power and the money of the US.

This research mainly targeted the US policymakers and constituents for them, American taxpayers as the audience in order to support the enactment of I-VAWA. However, taking into account the influence of this US foreign policy on international gender violence which is necessarily interconnected across the globe, this paper still could provide some relevant knowledge and insights for readers in Korea as a global citizen. On the other hand, the VAW movement and research in Korea also offers meaningful implication for I-VAWA, the global policy. Likewise the US achieved the legal reform through the Violence Against Women (VAW) movement, Korea is the country in which the VAW movement and general women's liberatory movement resulted in the legislation on violence against women in the early 1990s. Even though the "institutionalization" of the VAW movement shares some universal phenomenon in countries, Korea cultivated unique factors for capacity and autonomy from its own historical context of the movement. On her recent research on the institutionalization of the VAW movement in Korea and its dynamics between the State, Shin (2008) suggested that the VAW movement in Korea could respond strategically and autonomically to the state's control/institutionalization strategy based on its unique composition among the movement's three constituent dimensions- field, discourse and alliance. She also emphasizes the importance of recognizing historically and sectorally different contexts in evaluating the institutionalization process of the VAW movement, while comparing those in the US and the UK (Shin, 2007).

These research findings in Korea suggest legitimate lessons for the implementation of I-VAWA. When I-VAWA seeks to influence on eligible countries, it should necessarily reflect and respect not only the legal systems

and local context in each country, but also its own “historical context of the VAW movement”, if applicable. As the experience in Korea requests detailed and nuanced analysis on its unique movement paths and the capacity which is different from those of the western countries, every country might have its own unique historical context, topography of the VAW movement and legal reform. Therefore, in order to enhance I-VAWA’s potential as well as the movement’s autonomy and capacity, the implementation of I-VAWA in every country should come along with nuanced research and application on the grassroots VAW movement within each historical context.

Lastly, with the recent serious economic recession in the US and US Congress’ emergent business not as usual for economic rescue and healthcare bills, I-VAWA’s reauthorization which had been planned in 2009 seems to be obscured. However, given that the Obama Administration has put the CEDAW at the top of the list of treaties to ratify and that Obama-Biden’s foreign policy philosophy is committed to mitigate the violations of human rights worldwide, there is still a reason not to give up the hope and belief.

Reference

- Biden, J. R.(2007). *Promises to keep: On life and politics*. New York: Random House.
- Burt, M., Newmark, L., Norris, L., Dyer, D., & Harrell, A.(1996). *The Violence Against Women Act of 1994: Evaluation of the STOP Block Grants to Combat Violence Against Women*. Washington, DC: The Urban Institute.
- Campbell, J. C., Webster, D., Koziol-McLain, J., Block, C. R., Campbell, D., Curry, M. A. ... Wilt, S. A.(2003). *Assessing Risk Factors for Intimate Partner Homicide*. *NIJ Journal* 250, 14 - 19, NCJ 196547.
- Cho, H.(2005). How has the Violence Against Women Act affected the response of the criminal justice system to domestic violence? *Journal of Sociology & Social Welfare*, 32(4), 125-140.
- Copelon, R.(2003). International human rights dimensions of intimate violence: Another strand in the dialectic of feminist lawmaking. *Journal of Gender, Social Policy & the Law*, 11(2), 865-876.
- Drash, W.(2009, August 11). Clinton offers aid to victims of Africa's longest conflict. *CNN*. Retrieved from <http://www.cnn.com>
- Farmer, A., & Tiefenthaler, J.(2003). Explaining the recent decline in domestic violence. *Contemporary Economic Policy*, 21(2), 158-172.
- Ford, D. A., Bachman, R., Friend, M., & Meloy, M.(2002). *Controlling Violence Against Women: A Research Perspective on the 1994 VAWA's Criminal Justice Impacts*, National Institute of Justice, Office of Justice Programs, U.S. Department of Justice.
- Gaer, F.(2009). Women, international law and international institutions: The case of the United Nations. *Women's Studies International Forum*, 32, 60-66.
- Global Health Council. *Field Note: School Safety: Protecting Girls From Violence and HIV/AIDS*. Retrieved from <http://www.globalhealth.org/reports/text.php3?id=274>(Accessed August 2009)
- Goldscheid, J.(2006). Domestic and sexual violence as sex discrimination:

- Comparing American and international approaches. *Thomas Jefferson Law Review*, 28, 355-397.
- Merry, S. E.(2006). *Human rights and gender violence: Translating international law into local justice*. Chicago series in law and society. Chicago: University of Chicago Press.
- Office on Violence Against Women(OVW). Retrieved from <http://www.ovw.usdoj.gov/docs/vawa.pdf>(Accessed June 2009)
-
- _____. Retrieved from http://www.ovw.usdoj.gov/laws/vawa/stitle_c.htm(Accessed June 2009)
- Postmus, J. L., & Hahn, S. A.(2007). Comparing the policy response to violence against women in the USA and South Korea. *International Social Work*, 50(6), 770-782.
- RADAR Services, Inc.(2008). *A Culture of False Allegations: How VAWA harms families and children*. Retrieved from <http://www.radarsvcs.org/docs/RADARreport-VAWA-A-Culture-of-False-Allegations.pdf> (Accessed August 3, 2009)
-
- _____. Why we must stop CEDAW and I-VAWA. Retrieved from <http://www.mediaradar.org/docs/RADARflyer-Why-Stop-CEDAW-IVAWA.pdf>(Accessed December 1, 2009)
- Salazar, L. F., Baker, C. K., Price, A. W., & Carlin, K.(2003). Moving beyond the individual: Examining the effects of domestic violence policies on social norms. *American Journal of Community Psychology*, 32(3/4), 253-264.
- Schneider, E. M.(2000). *Battered women & Feminist lawmaking*. New Haven: Yale University Press.
- Seltzer, S.(2008, October 31). Biden's Legacy Tied to International VAWA. *RH Reality Check*, Retrieved from <http://www.rhrealitycheck.org>
- Sheridan, M. B., & McCrummen, S.(2009, August 12). Clinton Condemns Attacks on Civilians in E. Congo. *The Washington Post*. Retrieved from <http://www.washingtonpost.com>
- Shin, S. S.(2008). Institutionalization as a Conflictual Process: The Movement

- to End Violence Against Women and the State Policies in South Korea. *Korean Women's Studies*, 24(1), 83-119.
- _____.(2007). Differences of Historical Context and Institutionalization Process of the VAW Movement in the U.S. and the U.K. *Korean Women's Studies*, 23(3), 5-42.
- Straus A. M.(2006). Dominance and Symmetry in Partner Violence by Male and Female University Students in 32 Nations. Retrieved from <http://pubpages.unh.edu/~mas2/ID41H3a.pdf>.(Accessed December 1, 2009)
- Tjaden, P., & Thoennes, N.(2000). *Extent, Nature, and Consequences of Intimate Partner Violence: Findings from the National Violence Against Women Survey*. Research Report. Washington, DC, and Atlanta, GA: U.S. Department of Justice, National Institute of Justice, and U.S. Department of Health and Human Services, Centers for Disease Control and Prevention, NCJ 181867.
- _____.(2006). *Extent, Nature, and Consequences of Rape Victimization: Findings from the National Violence Against Women Survey*. Special Report. Washington, DC: U.S. Department of Justice, National Institute of Justice, and Centers for Disease Control and Prevention, NCJ 210346.
- U.S. Department of Justice.(2006). *STOP Program Annual Report 2006: Services, Training, Officers, Prosecutors*. Office on Violence Against Women. Department of Justice. Retrieved from <http://www.ovw.usdoj.gov/docs/ovw-stop-program-2006revised021508.pdf>(accessed January 16, 2009)
- _____.(2006). *Biennial Report to Congress on the Effectiveness of Grant Programs Under the Violence Against Women Act*. Office on Violence Against Women. Department of Justice. Retrieved from <http://www.ovw.usdoj.gov/docs/ovw-measuring-effectiveness-report.pdf>(accessed January 16, 2009)
- _____.(2003). *Intimate Partner Violence, 1993-2001 Bureau of Justice Statistics Crime Data Brief*. NCJ 197838.

Violence Against Women Act of 1994, Pub. L. No.103-322

Violence Against Women Act of 2000, Pub. L. No. 106 - 386

The Violence Against Women and Department of Justice Reauthorization Act of 2005, Pub. L. No. 109-162)

International Violence Against Women Act of 2007, S. 2279, 110th Cong. 1st. Sess.(October 31, 2007)

WHO.(2005). *Addressing violence against women and achieving the Millennium Development Goals*. Retrieved from <http://www.who.int/gender/documents/MDGs&VAWSept05.pdf>(Accessed July 2009)

_____.(2005). *WHO Multi-country Study on Women's Health and Domestic Violence against Women: Initial results on prevalence, health outcomes and women's responses*. Retrieved from http://www.who.int/gender/violence/who_multicountry_study/en/index.html(Accessed July 2009)

_____.(2006). *Addressing violence against women in HIV testing and counseling: A meeting report*, Geneva, 16 - 18 January 2006. Department of Gender, Women and Health, Department of HIV/AIDS, World Health Organization.

_____.(2008). Retrieved from <http://www.who.int/mediacentre/factsheets/fs239/en/index.html>(Accessed July 2009)

Women Thrive World Wide. Retrieved from http://www.womenthrive.org/index.php?option=com_content&task=view&id=366&Itemid=121 (Accessed July 2009)

여성주의 입법: 미국 반(反)여성폭력법과 국제 반여성폭력법에 관한 비교연구

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1994년 제정된 미국의 반여성폭력법 (Violence Against Women Act (VAWA))은 30년 역사의 가정폭력 피해여성 운동과 성폭력 쉼터 운동의 결과로서 대대적인 미연방법 개혁을 의미한다. 반여성폭력법은 가정폭력과 성폭력 전반을 범죄화 했고 폭력 피해자들을 위한 법적 평등과 서비스를 강화했다. 이 법의 입안자인 상원 Joseph Biden은 미상원 외교위원회 (Senate Foreign Relations Committee) 의장으로서, 2007년 이 법을 모델로 한 국제반여성폭력법 (International Violence Against Women Act (I-VAWA))을 다시 한번 상원에 소개했다. 이는 반여성폭력법이 미국 국내 정책과 국내법에 가져왔던 결과를 미국 외교정책 및 해외원조 프로그램에 가져오기 위함이며, 미국이 전세계적 여성폭력에 대처하는 방법을 향상시키기 위한 목적을 갖는다.

페미니스트 입법의 관점에서, 이 논문은 1960년대 말부터 시작된 미국의 반여성폭력 운동의 역사를 훑어본다. 이 사회운동은 성폭력과 가정폭력을 “공공정책”이라는 답을 필요로 하는 “사회문제”로 규정했고, 궁극적으로 반여성폭력법의 제정을 달성했다. 논문은 반여성폭력법의 목적과 구조를 살핀 후, 이 법이 미국에서 어떠한 실제적, 상징적 영향을 끼쳤는가를 연구한다. 학술적 연구물들은 이 법이 1990년대 미국의 여성폭력 발생 감소와 대중 의식 변화에 긍정적 영향을 끼친 것으로 제안한다. 나아가 논문은 국제반여성폭력법의 여성폭력 문제에 관한 접근 방식과 구조를 살피고, 또한 국제반여성폭력법 (I-VAWA)이 반여성폭력법(VAWA)에 대해 갖는 유사점과 차이점을 분석한다. 그럼으로써 논문은 여성들의 교육 및 고용강화, 그리고 여성의 지위 향상을 위한 국제사회의 통합적 노력이 병행된다면, 아직 미국 국회에서 통과되지 않은 이 국제반여성폭력법은 전지구적으로 여성폭력의 발생을 줄이고, 사회의 식 변화에 긍정적 영향을 끼칠 것이라고 제시한다.

주제어: 여성폭력, 여성주의 입법(Feminist Lawmaking), 미국 가정폭력 피해여성 운동, 반여성폭력법 (Violence Against Women Act (VAWA)), 국제반여성폭력법 (International Violence Against Women Act (I-VAWA))

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