

THE UNITED STATES OF RAPE:

A THEORY OF RAPE CULTURE IN AMERICAN PUBLIC POLICY

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Abstract

Rape is a crime in the United States. But it is also one of the most underreported crimes in America, has very low prosecution and conviction rates compared to other violent crimes, and the level of social disdain attached to rape is rarely reflected in the formal punishments enacted for its perpetration. "Rape Culture" has become a popular term in rape prevention education and advocacy; it refers to a society that contains within it practices and ideologies that minimize the negative impacts of victimization, while condoning and perpetuating the perpetration of acts of sexual violence. This paper outlines some of the characteristics of a so-called "rape culture" and explores how these characteristics are manifested in law and policy at the federal level in the United States through the examination of marital rape laws, sexuality education policy and welfare policy.

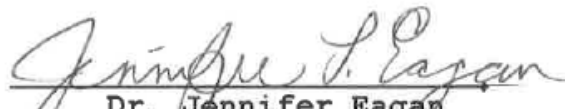
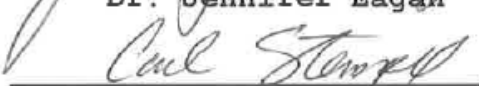
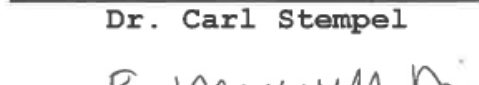
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Introduction

In 1998 the global community convicted three men in international criminal court of rape and failing to prevent rapes committed by soldiers under their command (Human Rights Watch, 2001). Rape was legally considered by much of the world as a crime too despicable even for wartime. Tens of thousands of women and girls were kept hostage, gang raped, molested and sexually tortured during the ethnic genocide in the former Yugoslavia (Human Rights Watch, 2001). Legal representatives and advocates from various nations around the world signaled offense at these crimes as violations of human rights. The international community symbolically and practically (through formal punishment) expressed collective moral outrage towards the crime of rape. The United States, in conjunction with the larger global community, agreed on a seemingly simple moral ideology - in its essence rape is an inherently negative and morally abhorrent act and should be repressed as well as punished.

Around the same time that the Bosnian Rape Trials were taking place and changing the collective international understanding of and response to rape and sexual violence, the United States had been taking practical and ideological steps towards implementing this ideal on the nation-state

level. Advocates for changes in rape law formulation and implementation had been successfully working at local and state levels since the 1970s and state laws had indeed changed drastically by the time the Violence Against Women Act (VAWA) passed as federal law in 1994 (H.R. 4970; H.R. 1133). Established out of mandates through the federal VAWA (1994), the Rape Prevention Education (RPE) Program is intended to prevent rape, as well as other forms of sexual violence, and provide services to those injured by such acts. America's largest public health agency, The Centers for Disease Control and Prevention received funding through this federal policy to establish the RPE Program in every state in the union, U.S. Territories, Puerto Rico and the District of Columbia with a budget of approximately \$44 million (Basile, Lang, Bartenfield & Sherrod, 2005).

The policy's mandates fund programs that address defining, punishing and preventing a number of non-consensual and violent sexual acts - sexual harassment at school and in the workplace, sexual contact with children and minors, coercive sex and/or sex under threat, attempting vaginal, oral and anal penetration through force, incest, unwanted sexual touching and even voyeurism and sexual exhibition (Basile et. al., 2005). Other United States legislation at local, state, federal and

international levels also fund the aims of preventing sex crimes in armed conflicts, the trafficking of humans through the sex trade against their will and female genital cutting (Basile et. al., 2005). The main focus of RPE's direct *prevention* efforts is to increase knowledge and prevent sexual violence by providing education in schools, community organizations, all military branches, police departments and universities while at the same time funding support for intervention services such as crisis lines and medical and psychological support systems for victims of sexual violence (Basile et. al., 2005).

The CDC provides RPE money to local and state health departments, sexual assault prevention coalitions, rape crisis centers and other community-based agencies to simultaneously prevent sexual violence and fund the enforcement of laws seeking restitution for those injured by sex crimes. Currently, in addition to increasing knowledge of rape and rape laws (and laws pertaining to other forms of sexual violence), programs also seek to asses and alter individual and group attitudes, ideologies and practices towards rape and sexual violence, victims and perpetrators, sexist attitudes and adherence to traditional gender and sexuality norms in the United States (Basile et. al., 2005; Kress, Shepherd, Anderson, Petuch, Nolan &

Thiemeke, 2006; Lanier, Elliot, Martin & Kapadia, 1998; Rau, Merrill, McWhorter, Stander, Thomsen, Dyslin, Crouch, Rabenhorst & Milner 2010 & 2011).

The funding of "No Means No" campaigns over the past few decades (Lonsway, Klaw, Berg, Waldo, Kothari, Mazirek & Hegeman, 1998) represents policy efforts aimed at decreasing the devaluation of women and increasing their rights of bodily autonomy. Campaigns such as these attempted to bring a higher value to women's wishes and sexual refusal. These initiatives are working to change long-held social and legal beliefs that woman have little right to refuse sex to men (Anderson, 2005). One might argue that American public policy is assuming that when women have lower status and sexual autonomy, the rate of rape and other acts of sexual violence against them will be higher (Brownmiller, 1975; Sanday, 1981). One might also argue that attempts to increase the value of women's sexual choices (even if it is only valuing their choice to refuse and not also the choice to consent) are attempts to change the social ideologies and practices that may support sexual violence against them. In other words, women's sexual decision-making should be valued at the same level as men's.

Public policy and the action it requires in the United States have begun to incorporate the view that rape and the root causes of rape are not necessarily just individual behavior; they are attempting to shift norms, practices, ideologies and shared understandings of the entire U.S. society (see Basile, Lang, Bartenfeld & Sherrod, 2005; Katz, Heisterkamp & Fleming, 2011; Rau, Merrill, McWhorter, Stander, Thomsen, Dyslin, Crouch, Rabenhorst & Milner, 2010; Rau, Merrill, McWhorter, Stander, Thomsen, Dyslin, Crouch, Rabenhorst & Milner, 2011). Rape and sexual violence are viewed more and more as concerns for public health and social-level practices and ideologies surrounding gender, sex, violence, health and safety have become the targets for policy intervention. Rape and violence against women, along with the social empowerment of women, are now major priorities in the United States federal political process (see Basile, Lang, Bartenfeld & Sherrod, 2005; Katz, Heisterkamp & Fleming, 2011; Rau, Merrill, McWhorter, Stander, Thomsen, Dyslin, Crouch, Rabenhorst & Milner, 2010; Rau, Merrill, McWhorter, Stander, Thomsen, Dyslin, Crouch, Rabenhorst & Milner, 2011).

In August of 2012, President Barack Obama put forth an Executive Order asserting that "gender-based violence

undermines not only the safety, dignity and human rights of the millions of individuals who experience it, but also the public health, economic stability and security of nations" (Obama, 2012). With this declaration, Obama linked the well-being and success of entire nations with that of the safety and status of individual women. More than that, he asserted that economic power goes hand in hand with social and personal safety.

Economic equality for women has also long been a priority for women's rights' activists in the United States and some research indicates that when women have less economic resources and power, rates of rape and sexual violence are higher (Baron & Strauss, 1987; Bohner, Siebler & Schmelcher, 2006; Boswell & Spade, 1996; Hasday, 2000; May & Strikwerda, 1994; Martin, Vieraitis & Britto, 2006; Muehlenhard & Kimes, 1999; Sanday, 1981; Swim & Cohen, 1997). American public policy has long addressed the economic impact of rape and sexual violence on the country as a whole, but has only recently - and mainly at an ideological level - begun to see increasing the economic power of women as essential to the betterment of society as a whole. In other words, ensuring that women have equal access to money, resources and equal power to control those resources are becoming concerns for American federal policy

and there are signs that the U.S. federal government is taking steps towards this equal access.

As the first official act of his presidency, Obama signed into law The Lilly Ledbetter Act of 2008. This act is meant to ensure the rights of women to seek legal restitution from employers for gender-based pay inequalities. This policy dictates that not only should women be paid equal wages as men, but that women have the right to seek restitution from employers that violate that right (The Lilly Ledbetter Fair Pay Act of 2009). This policy represents a greater concern for the economic standing of women in the United States. More evidence of this concern over women's economic standing came with the establishment of National Equal Pay Day on April 17, 2012. This Presidential Proclamation further reinforced the importance of women's economic power in advancing the prosperity of the nation as a whole.

However, two Executive Orders and a prevention program hardly seem adequate to address an aspect of violence that directly harms nearly 20% of the U.S. population (Basile, K.C., Chen, J., Black, M.C., & Saltzman, L.E., 2007). If, in fact, the social and economic equality of women is just as important in the prevention of rape as the punishment of such acts, then it would follow that other policies that

address social and economic life would be constructed to fit this model. Can that be said to be the case? Are the ideologies and goals of gender, sexual and economic equality, freedom from and punishment of sexual and gendered violence outlined by the VAWA and these executive orders apparent in other forms of policy? Or does U.S. federal policy actually reinforce practices and ideologies that contribute to the perpetration of rape and sexual violence? While changes have been made to local, state and federal laws, it can be shown that policy in the United States has a long way to go toward universally sharing and implementing the ideologies and goals of the VAWA.

Methods and Limitations

Why "Rape Culture?": Key Definitions and Assumptions

"Rape culture" is a term first coined during women's rights movements in the 1970s (Boswell & Spade, 1996). Most often, when "rape culture" is described in feminist advocacy work, it is defined through the use of examples, incidents and experiences (McEwan, 2009). It has long been a staple of the language of prevention practitioners and advocates, but has often lacked a clear definition. While a complete theory of rape culture has yet to be formulated, this paper will attempt to create an operational definition based on the concept of culture in relationship to rape and sexual violence.

Culture

In the course of the development of this work, it became apparent that for the purposes of understanding a rape culture, the word "culture" needed a concise and clear definition. There are many different ways to define and theorize culture, but for the purposes of this paper the definition of culture will be the amalgamation of practices and ideologies specifically and individually defined and commonly shared within a designated group or community of

people. This definition and understanding of ideologies and practices comes not from academic argument, but from activist and rape prevention practice.

Ideologies are commonly shared understandings, rules and beliefs ascribed to gender, gender roles, sex, sexuality, appropriate and inappropriate behavior. Ideologies are hegemonic beliefs about rape, who rapes, who gets raped, where, when and how rapes happen, when an act is defined or not defined as rape and who is responsible (McEwan, 2009). Practice is individual and social behavior based on these ideologies. Practice is the way in which a society acts out its beliefs, the performance of these beliefs. This could be done through interpersonal interactions and conversations or it could be through news reports, legal decisions, political debate. Practice is the display of beliefs and understandings of rapes. McEwan (2009) shows these as a pattern - commonly shared actions that reinforce the dominant understandings of rape and sexual violence. But culture is not completely static or even universal.

Culture is to be thought of as a dynamic process between practices and ideologies. The process by which ideologies and practices *change* across socio-historical contexts and vary within, among and between societies is

essential for a theory of rape culture since a theory of rape culture is an action toward evoking change. If culture is malleable, so to speak, then prevention practitioners can change how people understand, define, feel about and react to rape and sexual violence. As of yet, this author is unaware of any work that has established a standardized definition and theoretical basis for the use of the word "culture" in a theory of rape culture. This is indeed a gap in the development of a theory of rape culture and certainly warrants further investigation.

Rape

The use of the word "rape" is equally purposeful as the use of the word "culture". Erik Reiten (2001) suggests that the use of the word "rape" to define an action or experience evokes highly negative appraisive characteristics. These appraisive characteristics are the value (positive or negative) associated with any given concept and are based on the paradigms of that concept. According to Reiten (2001) the paradigms of rape that give the concept its highly negative appraisal are intimidation, coercion, fear, control, suffering, objectification, dehumanization and disregard for a victim's bodily autonomy and their rights to deny consent (Reiten, 2001, p. 49).

While this paper focuses specifically on rape, advocates and prevention practitioners view all forms of sexual violence as being interconnected because they share these paradigms with rape (Reiten, 2001). These other forms of sexual violence include, but are not limited to child sexual abuse, all forms of sexual harassment in the workplace and in schools, unwanted sexual behavior and advances in public spaces often dubbed "street harassment," coercion and compulsion to sexual activity in addition to vaginal, anal, and oral penetration, nonconsensual touching or grabbing in any setting and even the coercive or forced reproductive behaviors such as forcing the use of or sabotaging contraception (Domestic Abuse Intervention Programs, 2011; Espelage & Holt, 2005; Gardner, 2005; Katz et. al., 2011). The use of the word "rape" in "rape culture" is meant to make the connection between rape and these other forms of sexual violence by evoking these negative appraisals. Attaching rape to culture is also a way to assign these paradigms and negative appraisals to the practices and ideologies that are believed to support the perpetration of rape and other forms of sexual violence.

This project is not, however, seeking a new definition of rape. Rape, in this paper is defined as forced and/or

coerced oral, vaginal and anal penetration without consent (RAINN, 2013). This may or may not include other forms of physical assault other than the rape itself, but forced sex should still be understood as a form of violence, regardless of whether or not bruises or other injuries result.

Ideology and Practice in Public Policy

A key assumption of this paper is that the process which laws are created and implemented is rooted in the idea that societies as a collective, as a group, are able to limit and repress behaviors that offend the collective, as well as the individual (Anderson, 2011). At the same time, policy is also seeking to actively promote and support practices seen as essential to creating an ideal of social and personal life (Anderson, 2011; Hill & Hupe, 2009). For example, if a society is experiencing high rates of theft that are effecting a large number of its members then what is defined as the central problem will be of the utmost importance to the creation of public policy. If a society sees thieves as inherently having a disregard for the property and ownership of others, much more punitive policy will be created. These punishments might include repayment for lost property, fines, imprisonment, etc. On the other hand, if a society sees thieves as members of

society a living in poverty with no other options besides theft in order to survive, it will be more likely to create policy that deals with theft in other ways such as job creation and training and access to high quality education (Anderson, 2011).

How a society defines and understands a problem, who is responsible, who is harmed and why, who should be punished and how the problem will be prevented, are questions that public policy and laws are to address (Anderson, 2011; Burstein, 1991; Grafton & Permaloff, 2005; Hill & Hupe, 2009; Stone, 2002; Volkema, 1983; Wedel, Shore, Feldman & Lathrop, 2005).

Public policy in America is an ideal site to begin to understand culture since it defines ideologies and practices that are condoned or punished and the process by which this happens. These ideologies, practices and the process of their development are dynamic in policy, as well. The United States is a representative democracy and ideally, elected officials formulating policies are meant to represent "the will of the people." Policy makers are tasked with formally defining the amalgamation of commonly shared ideologies and practices of the *most* people (Anderson, 2011; Hamilton, 2004; Hill & Hupe, 2009). Policy makers actions are, in other words, supposed to be

representative of the culture of the people in the U.S. But since the culture in this country is varied and dynamic, so too must be the process by which these officials are elected. This means that voting constituents have the power to change who is creating policy if the policies they are producing are not reflective of ideals and practices of that community. As a culture changes, elected officials and the policy they create will mostly likely change, as well, in order to ensure adequate representation of the shared ideals, norms, rules and practices of culture (Anderson, 2011; Hamilton, 2004; Hill & Hupe, 2009).

While this paper has been primarily focused on the ideologies behind the goals of policies and their formulation, the ways in which policies are actually implemented - the practice side of culture - has been relatively unexplored. While rape laws in the United States have undergone massive changes in the last forty years, the implementation of these laws has rarely been as effective as advocates would like. Michael Lipsky's (1988) comprehensive study "Street-Level Bureaucrats" pointed out that the vagueness of public policy and the dynamic nature of human behavior and society means that so-called "street-level bureaucrats" like police officers, social-workers, welfare case workers and others employed to implement state

policy have enormous autonomy in that implementation. Policies are often vague in order to allow for this kind of interpretation and variation to deal with situations not previously thought of. Policy, especially at a level as broad as the federal government in the United States, *has* to be vague in order to account for myriad legal possibilities.

If rape culture is thought of as a dynamic process between ideologies and practices then practices are essential for a theory and study of a rape culture. For example, many researchers have found that even though law clearly states definitions of rape, investigation, prosecution and conviction rates are still fairly low (Department of Justice, 2012). Some research suggests that those tasked with enforcing these laws judge various situations to be "real" rapes or not based on behaviors of the victim rather than those of the perpetrator (Bachman & Paternoster, 1993; Bohner, Siebler & Schmelcher, 2006; Lonsway & Archambault, 2012; Viki & Abrams, 2002). A situation will meet the legal definition of rape, but street-level bureaucrats will not necessarily implement laws in the ways in which they are intended. Studying practices can lend itself greatly to better understanding how ideologies are implemented and especially those

ideologies related to a rape culture. But a comprehensive study of legal practice through policy implementation was too large for the scope of this paper and it must be acknowledged as a gap in this study. However, if the ideologies that punish rape are not so universal as they might seem, then it may not be entirely surprising that rape laws are not implemented and enforced universally either.

Paper Organization

The first section of this paper will outline a socio-historical context of rape in policy and law in the United States. How has rape been understood on a social level? What are the common understandings of the concept of rape? What ideologies and practices support and/or reinforce this understanding? Because American rape policy at the federal level has consistent characteristics and patterns, the American Rape Narrative will be used to provide this context (Anderson, 2005). Due to both the shared social and legal history of rape in the United States, federal policy is to be the focus of this paper.

A literature review of research on rape and sexual violence and society will help determine the characteristics that are said to define rape culture.

This paper will take an interdisciplinary approach. Research and theory from sociology, feminism, anthropology, psychology, public health and law will be reviewed and synthesized in order to determine these characteristics and if the United States meets these criteria based on federal-level data. This review is based on data primarily focused on rape and other sexual violence committed against women. While men and boys are indeed victims of rape and sexual violence, women experience this at much higher rates in the United States. For this reason, the bulk of research and theory on the social-level causes of sexual violence are based on the dissection of binary gender roles, patriarchy and violence against women (Aosved & Long, 2006; Basile et. al., 2005; Katz et. al., 2011; McEwan, 2009). Subsequently, gender is used as the main lens for policy analysis in this paper. This is a limited perspective, but is undertaken here more out of practicality since much more research exists on sexual violence committed by men against women.

The second section of this paper will focus on specific public policies. The central task of this section is to test the concept of rape culture by examining some aspects of three federal policies. Are there aspects of federal policy in which the characteristics of rape culture are present and are there aspects that are counter to the

concept? The policies examined will be marital rape law, abstinence-only-until-marriage sexuality education policy, and welfare laws, with special attention paid to more recent incarnations of welfare, which began with 1996's so-called welfare "reform."

It is logical also to first examine a policy directly about rape and determine if rape policies themselves exemplify some characteristics of rape culture. Marital rape law was chosen for analysis because of the more limited changes that have taken place with these rape laws relative to other rape laws. Marital rape law in the United States has changed at a much slower pace than have rape laws in general. Analysis of this type of law is undertaken since the slower pace of change and conditional status of these laws represent more clearly some of the characteristics of rape culture. The analysis of marital rape law is not meant to explain every instance of rape, marital or otherwise, simply to point out that some characteristics of rape culture assumed to be abolished from rape law are still in fact present. Marital rape laws were also chosen since traditional conceptions and ideologies of marriage tend to be reflective of characteristics of rape culture. These ideologies are

outlined specifically in the literature review in Chapter One.

Abstinence-only-until-marriage sex education was chosen for its strong connections to traditional gender ideologies, traditional conceptions of marriage and strict rules of conduct for sexual behavior and decision-making. The ideologies expressed in this federal policy share commonalities with marital rape law in these aspects. Laws on rape are strongly tied to laws and policies on sexuality. Because of these connections, sexuality education is a logical site to look for characteristics of rape culture.

Specific sections of welfare policy pertaining to heterosexual marriage are highlighted as reflective of rape culture for these same reasons. These aspects of welfare policy rely heavily on traditional gender and sexual ideologies, as well as the economic and social status of women. Welfare policies were also chosen in no small part because of decades of research connecting welfare policy formulation and implementation to sexism, racism and classism (Abramovitz, 2006; Catlett & Artis, 2004; Chavkin, Oswald & Russell, 2000; Cocca, 2002; Mink, 1999; Onwuachi-Willig, 2005; Kelly, 2010; Roberts, 1997). These connections complicate a conception of rape culture more

clearly beyond gender and sexual inequalities and make the necessity of a more intersectional analysis clear.

The last section of this paper will utilize an intersectional framework to critique limiting a theory of rape culture to a purely gendered analysis. Crenshaw's (1991) conception of intersectionality will be the basis to address questions and gaps in a theory of rape culture. This is by no means meant to complete a theory of rape culture. Rather it is meant to be a explore some possible lines of inquiry into the dynamics of rape culture and the relationship of high rates of sexual violence and forms of social oppressions beyond gender by itself - race, class, age, sexual orientation, gender identity, citizenship, ability, and more that are not accounted for in this paper.

Chapter One:

American Rape Culture

The American Rape Narrative

Historians and legal scholars have documented a narrative and shared legal precedent of sexual violence in the United States so common across the large and diverse nation-state that they have dubbed it the *American Rape Narrative* (Anderson, 2005). This story is one that, for most of U.S. history, has defined and legitimized an act of sexual violence as rape through laws and public policies. A number of legal scholars and social researchers (Anderson, 2005; Bachman & Paternoster, 1993; Bennice & Resick, 2003; Bryden, 2000; Hasday, 2000, 2009; LeGrande, 1973; Martin, Taft & Resick, 2007) have documented this story of rape through an analysis of when, how and in what situations a person is deemed to have perpetrated an act of rape, according to American laws. But this narrative and these laws also tell us who are true victims deserving of justice and who is not. In other words, the narrative tells us when a situation qualifies as rape and is justly punishable under the law.

Until the 1970s, the understanding and definitions of rape had changed little in the United States. Based on

English common law stating that rape was "the carnal knowledge of woman forcibly and against her will" (Blackstone, 1769 cited by Anderson, 2005). Up until the end of 2012, U.S. federal law made no changes to this 243-year old law except to change "woman" to "female" (Anderson, 2005). Legal precedent through American history established that when physical violence or its threat are used to force a woman into vaginal sex by a man that was not her legal spouse (Hasday, 2000; McMahon-Howard, Clay-Warner & Renzulli, 2009) then a rape had indeed occurred and the law could legitimately punish that act as such. It further required that a woman prove she made an attempt to stop or escape her attacker (Anderson, 2005; Bennice & Resick, 2003; Bourke, 2007; Bryden, 2000; Monson, Langhinrichsen-Rohling & Binderip, 2000; Schulhofer, 1998; Stevenson, 2000).

But, as scholars have pointed out, the American Rape Narrative is more than just a legal history, it is also a shared understanding in the minds of everyday Americans when they are asked to think of and describe what rape "looks" like (Anderson, 2005; Hall, 2004; Muehlenhard & Kimes, 1999; Stewart, Dobbin & Gatowski, 1996). This story has been narrow and specific with limited characters and has developed alongside not only American rape law, but

also American laws and shared understandings of race, gender and class.

The hegemonic story of legitimate rape is that of a young, virginal woman somewhere dangerous (usually after dark) by herself, without the protection of a man. She is attacked by an unknown assailant and subjected to extreme physical violence that she can in no way resist - though she is expected to try, not only by the narrative, but also by the law as cited above. Her assailant is not a "normal," average guy. He is typically portrayed as having some kind of severe psychological disorder.

Like the rest of U.S. history, the American Rape Narrative has racist leanings (Anderson, 2005). The victim is portrayed as a White woman (typically middle- or upper-class) and her attacker is often a Black man (Aosved & Long, 2006; Anderson, 2005; Collins, 2001; Gavey, 2005; George & Martinez, 2002). Stereotypes of Black men in America as pathologically sexual, inherently violent and dangerous especially to White women and psychologically and intellectually inferior supported this racist story of rape (Aosved & Long, 2006; Anderson, 2005; Collins, 2001; Gavey, 2005; George & Martinez, 2002). All at once, this justified punishment, social maltreatment and even slavery of Black men and reminded White women that they were in constant

danger and in need of the protection of White men, thereby justifying their subservient role. It also exonerated White men of any sexual crimes against their wives or other White women and especially crimes against Black women or colonized women of color.

Poor women and women of color were most often absent from the story of rape - implicitly through the portrayal of victimized White women and explicitly through stereotypes and laws used to justify those stereotypes (Aosved & Long, 2006; Anderson, 2005; Gavey, 2005; George & Martinez, 2002). Poor women often carried with them the stereotype and stigma of sex worker and were therefore unable to be forced into sex since sex was their business and their bread. (Even today, it is difficult for people to understand that sex workers can, in fact, be raped [Sullivan, 2007]). Sex workers and women of color - especially Black women - were portrayed as insatiably sexual (Abramovitz, 2006; Cocca, 2002; Collins, 2001; Kelly, 2010; Mink, 1999; Portlock, 2007; Roberts, 1997; Smith, 2007) and therefore, it was impossible to rape them. This normative story justified White male control and ownership (codified in slavery laws, [Collins, 2001; Onwuachi-Willig, 2005]) of Black female bodies and colonized bodies of women of color in American territories.

The American Rape Narrative supported the ideology and in practice that Black women could not be raped by White men since; in fact their bodies were owned and controlled by those men. Excluding them from the narrative reflected and reinforced their oppressed status through both race and gender.

Women across different social positions were denied a voice in law and shared social understandings of rape. Sometimes they were denied their sanity and freedom if and when they spoke about experiences of rape that did not match the narrative (Anderson, 2005, Hasday, 2000, 2009). Silencing through social sanction, ownership and control helped to justify laws that indicate and perpetuate the lower status of women in American, especially women of color (and, indeed, men were rewarded with status and wealth for their devaluation of women, i.e. wealth and status derived from ownership of female slaves, as well as total control and ownership of wives and children [Anderson, 2005; Collins, 2001; Hasday, 2000, 2009]).

But this story is more than just a story - it is also the legal history of rape in the United States. Investigation, prosecution and conviction rates have been and still are extremely low for rape as compared to other violent crime -especially if those rapes do not match the

hegemonic story (Lonsway & Archambault, 2012; Norton & Grant, 2008; Stewart, Dobbin & Gatowski, 1996; Department of Justice, 2012). The average amount of time served for rape in the U.S. is less than one year and the maximum sentence for rape without other forms of physical violence is only seven years (Catalano, 2012; Harrell, 2012; RAINN, 2012; Truman & Planty, 2012). For much of United States history, legal precedent kept White men from being prosecuted for the rape of wives, slaves and women of color (Anderson, 2005; McMahon-Howard et. al., 2009; Stewart et. al., 1996). Black men have been disproportionately investigated, prosecuted and convicted of rape and rape perpetrated against a White women has been and is still much more likely to be seriously investigated, prosecuted and obtain a conviction (Aosved & Long, 2006; George & Martinez, 2002; Hymes, Leinart, Rowe & Rogers, 1993; Landwehr, Bothwell, Jeanmard, Luque, Brown & Breaux, 2002).

During major social changes in the 1960s and 1970s, the American Rape Narrative began to change alongside the social positions and power of women and people of color, especially. Racial and gender oppressions were being challenged, as were laws that supported and allowed these oppressions. Segregation laws, property and housing statutes, access and rights to healthcare and, indeed, rape

laws themselves were being challenged and deemed unconstitutional in the United States as violating the rights of citizens. As part of the women's movement in this period of American history, women were telling stories of sexual violence that were far outside the boundaries of the traditional American Rape Narrative. Rapes were not happening only in dark alleyways at the hands of deranged strangers. Rape was also being perpetrated in women's own homes, at work, at colleges, in churches and being committed by husbands, family friends, dates, fathers, brothers, bosses and co-workers (Brownmiller, 1975).

Physical assault was only a small fraction of the ways in which women were forced to have sex. Threats of physical violence, termination from jobs, the withholding of material resources and even the safety and well being of children were being used as ways to coerce, manipulate and force women into sexual subordination (Brownmiller, 1975). In addition, forced vaginal penetration was not the only form of violence to which women were being subjected. Sexual harassment at work, in school and on streets was (and is) a common occurrence (Basile et. al., 2005; Espelage & Holt, 2005; Gardner, 1995; Katz, Heisterkamp & Fleming, 2011; Klein, 2006; Nielson, 2004; Martin, 2008;

Roy, 2008). Other sexual acts were forced, as well - forced anal and oral sex were happening as well.

As part of the women's movement, the issue of child abuse became a prominent one and stories and childhood sexual abuse abounded (Basile et. al., 2005; Espelage & Holt, 2005; Gardner, 1995; Katz, Heisterkamp & Fleming, 2011; Klein, 2006; Nielson, 2004; Martin, 2008; Roy, 2008). Rape was being redefined by who was being victimized, how, and also by who was committing these crimes. The American Rape Narrative and the laws that supported its truth were no longer holding up and advocates began to successfully push for state and local laws that would legitimize these acts as crimes and seek justice for their victims.

But just how far beyond the American Rape Narrative has American society moved? Do American laws reflect the reality of sexual violence or do they still support the hegemonic story that has been told throughout the history of the country? To answer these questions, the term "rape culture" must be unpacked and defined. What characteristics define a culture as promoting rape and sexual violence and does the United States meet these criteria and how?

Defining Rape Culture

American society has long been concerned with why and how sexual violence happens and how to police and punish these acts. A myriad of theories have been developed to explain the how and why parts of this question and research across disciplines has been conducted seeking to prove or disprove these theories. Some have contended that rape is sexually and biologically motivated as part of the development of human survival techniques over millions of years of evolution (Hagen, 1979; Thornhill & Palmer, 2000; Trivers, 1972). Some psychologists, psychiatrists and even popular media have argued that all rapists have psychological disorders, that rape is a result of individual pathology (Anderson, 2005). Social scientists and modern feminists argue that rape results from social conditions, supports, practices and ideologies that fail to punish, ignore, disbelieve and even condone sexual violence against women to maintain patriarchal social power structures (Baron & Straus, 1987; Brownmiller, 1975; Buchwald, Fletcher & Roth, 1993 & 2004). Still others have attempted to integrate all these theories together for a more comprehensive, biopsychosocial answer to the question, "Why does rape happen?" (Vandermassen, 2011).

Though quantitative research specific to rape culture is not abundant, there are common themes that appear across

research disciplines into these social-level explanations of rape. These common themes are often referred to as "Rape Culture" in research (Buchwald et. al., 1993 & 2004) and modern feminist activism.¹ Unfortunately, this pervasive phrase does little to help the confusion, but a definition and shared understanding of rape culture is forming, as is the research into these phenomena.

In their book, *Transforming a Rape Culture*, Buchwald, Fletcher & Roth (eds., 1993 & 2004) contend that a rape culture is a society that overtly and insidiously produces, encourages, condones and reproduces acts of sexual violence and sexual aggression by men towards women in a myriad of ways at a range of social sites and positions. A culture of rape makes use of gender, sexuality, sex, as well as other forms of social power and oppression in order to perpetuate this violence - including, but by no means limited to race and class status. Buchwald et. al.'s (eds., 1993 & 2004) anthology cites Susan Brownmiller's (1975) work on rape, *Against Our Will: Men, Women and Rape* (1975) and second-wave feminism's problematizing of relations of sex and gender, binary opposition of men and women, and the unequal power and privilege that exists as a result of these restrictive

¹The term "rape culture" is quite pervasive in contemporary activism in the form of feminist and social justice blogs and tumblrs such as Feministing.com, Jezebel.com, Mother Jones, Color Lines, Guerrilla Feminism.

and opposing social positions. Violence against women is a way to maintain these unequal positions through fear, physical harm, intimidation, behavior controls and pathologizing.

Sanday (1981) tested Brownmiller's (1975) contention that men rape because they can - because they possess the social power to and exert this power through acts of rape, and that this is a universal and historically common experience for all women. Sanday (1981) explored the current understanding of tribal cultures - very different from the Western bias of second-wave feminism's world. She did, however, find some commonalities amongst societies and communities that she called, "rape-prone" - in other words, communities and societies with high incidence and prevalence of rape. Sanday (1981) identified 18% of the societies surveyed as having higher levels of rape of women than others, although she is not specific on the criteria for being "rape-prone". The social commonalities include the social devaluing of women and/or women being thought of and treated as property of men, women and men being oppositional categories and men gaining status through the degradation of women (sometimes this degradation is in the form of rape). Finally, sexual violence is often part of the rituals and practices that initiate young people into

the world of adult sexuality and gender relations (Sanday, 1981).

In the United States heterosexual, monogamous marriage has long been the hegemonic ideal of gendered and sexual relations. Mature and normative, marriage is posited as the main goal of adult sexual relationships. In her book, *Just Sex? The Cultural Scaffolding of Rape*, Nicola Gavey (2005) presents social practices, discourses and ideologies in the United States surrounding sex, sexuality, power and gender. One ideology she examines is that of heterosexual marriage and how sexual expectations are shaped through practice and discourse. She does so through the use of research and theory on sexual difference and the popular marriage publications or "manuals" of the 1950s and 1960s on how to have successful marriages (heterosexual relationships) in normative American life (Gavey, 2005). These manuals explicitly state that aggression and sometimes violence is a completely normal expectation of how heterosexual should look and be experienced. Men are portrayed (on the basis of early theory and researched by authors like Havelock Ellis [1948]) as biologically driven to have sex and as in constant need of it. Women, on the other hand, are portrayed as passive, not naturally interested in having sex and as needing to be talked into, but never really

saying no. Wives in America have been instructed to have sex with their husbands even if they do not really want to (Gavey, 2005). Husbands were told to ignore their wives' objections to sex because women will say no - as socially expected - but will say yes later as long as men do not give up (Gavey, 2005). Sexual coercion, here, is portrayed as a normal part of gendered and sexual behavior, and supports Sanday's (1981) contention that rape-prone societies initiate their young people into adult sexuality by conflating violence with that sexuality.

The normalization of sexual difference and violence in heterosexual marriage manuals has not disappeared from American society. Gavey (2005) analyzes the language and meanings of more recent popular American books on sexuality and finds many of the same ideals are still present. The widely popular book, "Men Are From Mars, Women Are From Venus," (Grey, 1995) describes with its very title that men and women are inherently different and oppositional categories. The heterosexual binary assumed and reinforced throughout the book maintains the same contention that sex is how men connect emotionally and psychologically, that it is essential to their well-being and women are "responsible" and mandated to acquiesce to men's need for

sex if they want to maintain healthy and happy relationships with them (Gavey, 2005).

A more recent study of community and society and high rates of rape, building on the work of Sanday (1981) found similar social characteristics and practices (Boswell & Spade, 1996). The authors studied fraternities with high rates of rape and others that have lower rates. In addition to what Sanday (1981) contended, Boswell & Spade (1996) found that communities with high rates of rape and sexual violence also tend to have a number of male dominated and/or exclusive groups and high levels of male control over resources, low social and economic status of women, adherence to traditional (Western) gender norms, high levels of victim blaming in sexual assault cases, the sexual objectification of women as "nameless and faceless," (p138) and social pressures to adhere to behaviors that reinforce this gendered violence and degradation. These behaviors take a number of forms including nonconsensual "touching, pushing, profanity" (i.e. purposefully offensive or sexist language) and "name-calling" (Boswell & Spade, 1996). Other authors (Muehlenhard & Kimes, 1999; Swim & Cohen, 1997; Swim, Hyers, Cohen & Ferguson, 2001; Swim, Mallet & Stangor, 2004; Viki & Abrams, 2002;) have found strong correlations between sexism and the oppression of

women, leading to a sort of continuum of violence on which sexist jokes and gendered devaluation serve as the beginning of a line of practices that support a society in which rape and sexual violence are at best ignored and disbelieved and at worst condoned.

As American college campuses have been identified in research as communities with high rates of rape, other studies have been and are being conducted that measure, with surveys, past sexual violence experience, adherence to traditional gender roles and empathy for both rape victims and perpetrators (Burt, 1980; Dietz, Blackwell, Daley & Bentley, 1982; Koss, Gidycz & Wisniewski, 1987; Lanier, 1998; McMahon & Farmer, 2011; Osland, Fitch & Willis, 1996; Payne, Lonsway & Fitzgerald, 1999; Rau et. al., 2010 & 2011). In conjunction with these, a particularly common survey is the Rape Myth Acceptance Scale (McManhon & Farmer, 2011; Swim & Cohen, 1997; Swim, Hyers, Cohen & Ferguson, 2001; Swim, Mallet & Stangor, 2004). This measure assesses the extent to which respondents agree with victim-blaming attitudes that put the responsibility for a sexual assault on the victim of violence the violence rather than the perpetrator. Strong adherence to sexist attitudes and gender roles, high empathy for perpetrators and low empathy for victims are usually positively related (McMahon &

Farmer, 2011; Swim & Cohen, 1997; Swim, et. al., 2001; Swim et. al., 2004).

Bohner, Siebler & Schmelcher (2006) tested the relationship between rape myth acceptance, social norms and individual rape proclivity among men. Rape myths are beliefs about rape that "serve to deny, trivialize, or justify sexual aggression of men against women," (Bohner et. al., 2006 p286). These myths tend to rely heavily on victim-blaming attitudes and binary gender expectations. Rape myths often place blame on victims, especially female victims, based on the clothes they wear and behaviors and activities in which they engage that are seen as overtly sexually suggestive. These myths also rely on sexist attitudes about male sexuality, i.e. men cannot control their sexual desires. Though the authors of this particular study position rape myths as descriptive norms - social norms that inform about how others behave or judge in any given situation rape myths also contain within them "prescriptive elements" - or elements prohibit or endorse particular behaviors. In rape myths these are typically behaviors that women are expected to do or not do, but also describe what sexually aggressive behaviors are allowable for men under certain conditions (Bohner et. al., 2006).

Bohner et. al. (2006) cite studies that have found that convicted or self-reported rapists score higher on rape myth acceptance scales and also self-reported likelihood of raping is strongly related to rape myth acceptance. These relationships have most often been tested on an individual level. But Bohner et. al. (2006) found that when these rape myths serve as social norms, individual rape myth acceptance and individual rape proclivity may be higher. When study participants were given information that others in relevant groups had higher rape myth acceptance, participants would report a slightly higher rape proclivity, as well as higher individual rape myth acceptance. However, rape myth acceptance as a social norm has little effect on participants that have low personal rape myth acceptance. If a person has already rejected rape myths and the sexist attitudes inherent in them, the acceptance of these myths by others will not increase that person's rape myth acceptance or rape proclivity (Bohner et. al., 2006).

It would appear that victim-blaming and sexist attitudes as social norms all by themselves may not be a sufficient explanation for high rates of rape. Martin et. al. (2006) tested Marxist economic theory along with radical and liberal feminist theories on rapes of rape to

explore the influence of the economic and gender status of women on rates of rape. Based on the Bohner et. al. (2006) study, one would assume that higher levels of gender equality, i.e. less sexist norms, would mean lower rates of rape. But Martin et. al. (2006) found that when gender equality is higher, so too are rates of rape. Radical feminist theory posits that as gender equality increases, the number of rapes will increase since men perceive a threat to their social power and rape will be used as a method to attempt to regain control (Martin et. al., 2006).

Martin et. al. (2006) found that the strongest predictor for high rates of rape in cities is the number of divorced women. The authors note that this has been used as evidence of a backlash theory since divorced and/or separated women are no longer dependant on male partners and spouses. It is important to note that recent research also indicates that ex-partners and/or spouses make up a significant portion of perpetrators of rape and other gendered intimate partner violence in the U.S. (Basile et. al., 2011). This data, by itself would seem to lend support to a backlash theory if ex-male partners view their power and control threatened by separation and divorce and utilize rape as a means to regain that control. It would also seem that an increase in women's equality relative to

men cannot be, by itself, enough to lower rates of rape. Other factors, including women's access to and control over resources and absolute status must be examined, as well.

Absolute status and resource deprivation or affluence were found to be strong predictors of rape in the cities studied by Martin et. al.(2006). When, all together, women have higher incomes, labor force participation, occupational status and more college degrees "rape rates are significantly lower" (p324). Other studies have found that these factors by themselves may increase (occupational prestige and labor force participation) or decrease (income) the number of rapes, Martin et. al. (2006) found that by measuring all four indicators together to understand women's *absolute* status, rape rates are lower when all four factors are higher. As the third strongest predictor of rape rates, high levels of resource deprivation meant higher rates of rape (Martin et. al., 2006). In cities where women have less access to and control over resources, rape rates are higher.

Martin et. al. (2006) do point out, that though, taken alone, greater gender equality is associated with higher rates of rape, an increase in women's absolute status is often accompanied by higher gender equality. The authors contend that this may account for inconsistency in previous

studies and that gender equality that is accompanied by gains in absolute status will predict lower rates of rape. Given the importance of economic factors in determining rape rates, looking at just gender equality measures (i.e. sexist attitudes and beliefs) are not enough by themselves to define the characteristics of a rape culture.

Movements toward gender equality in the United States have long been a staple of rape prevention work and have come a long way in changing the status of women in the United States. And while women have made economic gains as well, access to and control over material and economic resources in the United States remain unequal along gender lines. It would appear, as Martin et. al. (2006) suggests, "that society is simultaneously structured along both class and gender lines" (p334).

The wage gap in the U.S. remains persistent - women in the United States make around \$0.77 (and even lower for women of color) for every dollar that men in the same positions take home in income (Obama, 2012). According to the National Center for Law and Economic Justice (2012), in 2011 there were 5 million more women than men living in poverty in the United States. Over 34% of families headed by single women are living in poverty as compared to only 16.5% of families headed by single men (NCLEJ, 2012). This

information indicates that generally, economic and material resources are male-controlled.

At the end of 2012, women held a little under 20% of the 535 seats in the American Congress and three seats on the Supreme Court - a historic number, but hardly representative of the general population and a small percentage over the course of the nation's 250 year history (Center for American Women and Politics, <http://www.cawp.rutgers.edu>). There has never been a female president and women continue to be underrepresented in every cabinet of every president (Center for American Women and Politics, <http://www.cawp.rutgers.edu>). Decision and law-making power, as well as control over the distribution of economic resources are male-dominated in the United States - especially at the level of federal government. The men in these roles also tend to be homogenous in other ways as well - most of these men are relatively wealthy and White (Center for American Women and Politics, <http://www.cawp.rutgers.edu>). Though this is changing, especially in the elections of 2012, this change does not nullify the 250 years of political control that has shaped the formulation and implementation of policy in the United States. Since in the U.S., the power over policy-making is the power to make decisions, and it is very much male

dominated. If, in fact, control over resources, as well as absolute status along gendered lines are important factors in predicting rates of rape, the above data may indicate why rape is still so common an experience for women in the United States.

At this point then it is important to account for the actual incidences of rape and prevalence of rape and sexual violence in any given society to determine the criteria for a rape culture. Sanday (1981) never gives an exact number of rapes that have to happen or what constitutes a *high* rate of rape in a society. She gives as the definition of a rape-prone society: "Rape...is clearly an act of moderate to high frequency carried out against women or women of other societies" (Sanday, 1981, p9). This definition does not make clear on a quantifiable scale what defines "moderate" or "high frequency." Further along in her description, rape prone societies tend to be ones in which rape is normalized into other aspects of life. While this criterion is helpful for a clearer understanding of the concept of a rape culture, it still does not explicitly state how often rape has to happen in order for a society to be considered as having high rates of rape. Indeed, what one community or society may feel are much too high rates, another may understand as, on some level, acceptable in that things

could be worse. However, an underlying assumption in this paper is not that rape happens at alarmingly high rates (though this is problematic, of course), but that it happens *at all*. Since this paper is attempting to determine if the United States meets the criteria for that of a rape culture, incidence and prevalence of rape and sexual violence in the United States must be examined in order to make this examination comprehensive. If rape were completely absent or totally aberrant in American society, there would be no need to study such a topic. This, however, is not the case.

Currently in the United States approximately 1 in 5 (18.3%) women and 1 in 71 men (1.4%) have been raped at some point in their lives according to the National Intimate Partner and Sexual Violence Survey (Basile et. al., 2010) conducted by the Centers of Disease Control and Prevention. The majority of these sexual assaults happen in youth (before age 18) and in young adulthood (both for victims and perpetrators), and most often perpetrators assault someone that is known to them - 91.9% of women and 52.4% of men report being raped by an intimate partner or an acquaintance (Basile et. al., 2011). The trend in research data has been that numbers of reported rapes have declined slightly since the 1960s and

'70s when the feminist movement allowed for the addition of the voices of different experiences of rape - especially those of women. These conclusions are difficult ones to make, however, and not all data agrees - some find lower reports and some higher (Basile, Chen, Black & Saltzman, 2007; Basile & Smith, 2011; Black, Basile, Breiding, Smith, Walters, Merrick, Chen & Stevens, 2011; Catalano, 2012; Harrell, 2012; Truman & Planty, 2012). This could be due to any number of factors including geography, victim willingness to report (even outside of the criminal justice system) and differences in research design and methodology.

Another reason that advocates, some researchers, and criminal justice officials estimate that the *actual* number of rapes is higher is due to underreporting. Some studies indicate that rape is the number one underreported crime in the United States - estimates of unreported rapes range from 20-70% (Basile, et. al., 2007; Black et. al, 2011, Harrell, 2012; RAINN, 2012; Truman & Planty, 2012). These estimates are based on the comparison of reports to anonymous or confidential studies and data collected at rape crisis centers, hospitals, etc. with statistics kept by the criminal justice system of official sexual assault reports (Basile, et. al., 2007; Black et. al, 2011, Harrell, 2012; RAINN, 2012; Truman & Planty, 2012). Some

researchers and advocates also claim that victims even underreport in studies and questionnaires that would not require any sort of criminal justice system intervention. It is not entirely clear as to why this is, but some researchers posit that victims themselves do not necessarily define their experiences as rape. Several studies have found that when asked if they have been raped, some respondents will say no even though they have reported experiences meet legal definitions of rape (Fisher, Cullen & Turner, 2000). Some have argued that this is due to the stigma attached to rape, victim blaming or even differing personal definitions of rape, coercion and force (Fisher et. al., 2000). Also, sometimes, even if personal experiences meet legal definitions of rape, individuals may not define it that way for themselves. They may not feel that they were victimized (Friedman & Valenti, 2008). But, based on the most comprehensive studies to date, roughly 20% of the population of the United States reports being the victim of a rape (Basile et. al., 2010).

The negative effects resulting from that rape are evident on a personal level both physically and psychologically, as well as at the interpersonal, social and even economic levels. Impacts on an individual's health after a sexual assault can be immediate physical injuries

that range in severity as well as long-term physical and psychological trauma. Individuals can contract sexually transmitted infections, become pregnant, have chronic pain, gynecological problems, sexual dysfunction and a variety of gastrointestinal conditions as a result of rape (Basile & Smith, 2011; Black et. al., 2011). Psychologically, victims can experience distress, fear, anxiety, insomnia, shame and depression, and Post Traumatic Stress Disorder severe enough to interfere with everyday life and normal routines (Basile & Smith, 2011). The increase in likelihood of engaging in negative health behaviors also increases if a person has experienced a sexual assault (Basile & Smith, 2011). These can include behaviors such as alcohol and drug abuse, unprotected sex, cigarette smoking and even not wearing a seat belt in the car, all of which could have a number of negative effects on a person's physical and psychological health, further compounding health problems as a direct result of a rape.

As a public health issue, the cost and burden of medical care required after the perpetration of a rape is extremely high. Specialized nurses, hospital rooms, procedures and equipment needed immediately after a rape for thorough investigation are expensive. General medical treatment increases for a victim as a result of the

negative health impacts after rape both immediately following the incident and often over the long-term.

Social relationships can also be negatively affected by rape. Rape victims often have difficulty trusting others, including intimate partners, family members and friends. Negative reactions to a victim's disclosure of rape by those close to them can sometimes lead to the deterioration of relationships and impede a victim's ability to recover from an assault. According to Basile & Smith's (2011) review of research into the effects of rape on individuals and societies, work is an area of victims' lives that suffers the most, resulting in decreased productivity sometimes for months after an assault.

All of these negative effects can, and have to a degree, been quantified into actual monetary values. A study in 1994 by Miller, Cohen & Wiersema, estimated that in direct economic costs one rape in the United States costs approximately \$5,100. When the indirect costs of pain and suffering, longer term medical care and other intangible effects the cost estimate increases to \$87,000. This figure, though, does not account for inflation or increases in costs for medical, psychological and support services (Basile & Smith, 2011). Basile and Smith (2011) reference another, more recent study (Post, Mezey, Maxwell

& Wibert, 2002) in the state of Michigan that put that state's rape-related costs at more than \$65 billion per year. The Rape Prevention Education Program mandated by the 1994 Violence Against Women Act provides only \$44 million for the entire nation, its territories and work across international borders (Basile et. al., 2005)

Can a society be labeled rape-prone, if *all or almost all* its members are in some way effected by the "severity and widespread impact" (Basile & Smith, 2011, p. 412) of rape, partly because the rates of incidence and prevalence are high enough as to make this impact a reality for so many? A contention could be made that almost every member of American society is either directly or indirectly negatively affected by rape, whether it be so close as to be personal and bodily harm or as indirect as a few cent tax to pay for law enforcement, medical care and missed days of work.

Given the research at hand, a "Rape Culture" has a set of general characteristics: 1) high and widespread incidence and prevalence of rape, 2) strict, binary and hierarchical gender and sex roles, 3) heavy social punishments for deviation from these roles, 4) greater male control over economic and social resources, 5) male-dominated decision-making powers, 6) violence as a

normalized aspect of heterosexual behavior and expectations, 7) high levels of other forms of physical violence 8) the devaluation of women, femininity and things generally "female" or associated with that, 9) blame and responsibility for acts of sexual violence is primarily attributed to the victim of that violence, and 10) social rewards and supports for engaging in the devaluation of women and the "female" - including acts of sexual violence.

Data provided by research to date seems to suggest that several characteristics of a rape culture are present in the United States even after the massive social changes in the status of women and other minority communities over the course of the last forty years. The following section of this paper will examine American public policy in order to determine what characteristics of rape culture are present in current laws and also their socio-historical contexts.

Chapter Two

Law and Order: Rape Culture In American Public Policy

To Have, To Hold and To Rape: U.S. Marital Rape Law and Rape Culture

Many rape laws in the United States have changed drastically in the last forty years but marital rape laws have changed the least and have proven to be the hardest and slowest to change (Anderson, 2005; Hasday, 2009; LeGrande, 1973). Marital rape law in the United States has long been based on English Common Law established in 1736 by Sir William Hale, an English chief justice who stated, "the husband cannot be guilty of rape committed by himself upon his wife, for by their matrimonial consent and contract the wife hath given up herself in this kind to her husband, which she cannot retract" (Anderson, 2005). In other words, when women enter into marriage, they give full consent to sex whenever a husband chooses. They give up the right to say no to sex with their husbands with their marriage vows. This consent cannot be revoked. In marriage, at least, men were given total control over women's bodies in regards to sexuality and sexual behavior. If consent here is implied and cannot be revoked, then legally men

cannot rape their wives, since the wives' sexual will is not their own at the onset of marriage.

The United States based American marital rape laws on this English common law for much of the country's history and this clearly exemplifies many characteristics of a rape culture. Women's inability to refuse consent once given to husbands meant domination of their bodies and sexuality. Decision-making was put into the hands of men and strict gender and sexual hierarchy were enforced through laws that refused to define forced sex in marriage as rape. This legal denial of rape in marriage meant that some forms of sexual violence in heterosexual relationships were normal and to be expected. These laws were a legal reflection of the sexual expectations described by Gavey (2005) in Chapter One. According to the law, men literally had the right to force their wives to have sex and women were not able label it as rape.

It would be tempting to say that these antiquated ideas no longer apply to American life and laws, and while many other forms of rape laws and indeed laws governing the lives of women have changed drastically, the sacred institution of marriage is still heavily protected by American laws on rape. Currently, two-thirds of U.S. states have "partial exemptions" for marital rape. This means that

in some cases men can force their wives to have sex with no legal consequences and many would not even qualify these acts of forced sex as the crime of rape unless a married couple is living apart or legally separated (sometimes there is a requirement of time living apart that must be met in order for these acts to qualify as rape) (Hasday, 2009; Martin, et. al., 2007). In twenty-seven states, marital rape is taken less seriously and the sentences when prosecution is successful are often much lighter than punishments for other crimes of rape such as rape committed by a dating partner or a stranger (Anderson, 2005; Bachman & Paternoster, 1993; Hasday, 2000, 2009). Some states will only prosecute a husband if there is a certain degree of physical force or violence used in the perpetration of a rape (Martin et. al., 2007). This is important to take into account since "non-physical sexual coercion" is the most common form of violence and force used in the perpetration of marital rapes (Martin et. al., 2007). Martin et. al. (2007) define non-physical coercion as using social norms such as "wifely duty" and male "spousal right" to sex as ways in which husbands force their wives to have sex and suggest that this behavior is still very prevalent in marriage. Other forms of non-physical coercion can be as explicit as threats of violence, but they may also be

threats of or actual withholding of monetary and material resources if sex is refused (Martin et. al., 2007).

In her article, "Protecting Them From Themselves: The Persistence of Mutual Benefit Arguments For Sex and Race Inequality," Jill Elaine Hasday (2009) posits that defenders of marital rape exemptions are working to uphold traditional social ideals of gender difference and inequality that put the traditional moral order above the rights of the individual. Hasday (2009) cites the views of lawmakers, judges and prosecutors that defend marital rape exemptions clearly put the institution of marriage above the sexual and bodily rights of individual women. These defenders state that the exemptions "protect marital privacy" and "promote marital reconciliation" (Hasday, 2009). These views assume that keeping a marriage together is more important than righting wrongs done to wives who are raped. The assumption here is that a trial to prosecute a marital rape will be more detrimental to the marriage than the rape itself. Defenders of marital rape exemptions also claim that women will lay false charges of rape against their husbands out of spite and anger - especially during divorce proceedings or as a reason to justify the need for a divorce (Hasday, 2009). These defenders characterize women as angry and hysterical liars that are

incapable of making good decisions and men (lawmakers and husbands) must make these decisions for them. Marital rape exemptions make decisions for women by limiting their ability to seek investigation and prosecution for forced sexual contact.

One function of marriage in the above analysis appears to be to serve as a tool to legitimize (and legalize) sexual violence against women as a normal and expected aspect of heterosexual relationships - at least in the context of dominant White middle class narratives. Marriage in marital rape law, then, serves as a kind of backbone to support this and several other characteristics of rape culture. Marital rape laws have long denied women the ability to refuse consent - their decision and wishes being secondary to that of a male spouse. These laws have also kept them restricted to their normative gender roles as subservient to husbands and if they would not submit to that authority and seek justice for sexual contact forced upon them, then the state (dominated by men) would ensure that they were kept in their second-class citizen role through the use of laws that put the marriage above women's individual rights (Anderson, 2005; Hasday, 2009).

The institution of marriage in this context takes away sexual autonomy and rights, but marriage also restricts

social and economic power of women - another characteristic of rape culture. The ideal marriage in the U.S. (Gavey, 2005) positioned women as working in the home with no access to wage work. Men, on the other hand, were expected to earn wages for work outside of the home. The ability to earn wages meant that men had total control over economic resources in a marriage and could use this monetary control to restrict women's autonomy in other ways, as well - where they could go, what they could do, the people they could associate with, whether or not they had access to higher education, to jobs of their own. Gender roles and hierarchies could be strictly enforced and marital rape laws provide yet another way to restrict the behavior of women, not only in sexual decision-making, but also in their ability to seek and obtain divorce.

Marriage, its definition, meanings and context, do not exist solely in policies that are specific to the marriage itself. Other U.S. policies make reference to and even mandate marriage as the solution to other social problems - child welfare, poverty, crime and a myriad of other social ills (Catlett & Artis, 2004; Chavkin et. al., 2007; Cocca, 2002; Geva, 2011). If marriage serves as a tool in marital rape law to reinforce and maintain characteristics of a rape culture, are there other policies that utilize

marriage in similar ways? Are there policies that are not specifically targeted to police rape that utilize marriage in ways that actually reinforce a rape culture? Are there policies that are not specifically about rape that utilize marriage in ways that reinforce a rape culture?

Abstinence from Education: Federal Sex Education

Marriage and the accompanying normative gender and sexual expectations laid out in the first section of this chapter (Gavey, 2005, Anderson, 2005), have also been transmitted as the ideal moral situation through formal public education. As early as 1913, morality advocacy groups have been striving to teach children and youth enrolled in publicly funded schools that the only legitimate and acceptable form of sexuality and sexual expression is within the context of formal heterosexual marriage (Elia & Eliason, 2010). For the most part, this instruction was designed and implemented by local communities and states. The federal government had little involvement in sexual education in American public schools, but as this education shifted to federal control in late 20th century the education became more uniform. It also began to support the ideologies characteristic of rape culture. These ideologies reinforced heterosexual,

reproductive sexual activity as the most desirable and legitimate form of sexuality and it was specifically within marriage that one attained full sexual legitimacy and acceptance (Elia & Eliason, 2010).

It was not until 1981 that the federal government became involved in curricula decisions with the passage of the Adolescent Family Life Act (AFLA) (Elia & Eliason, 2010; Fields & Hirschman, 2007; Hess, 2010; Vergari, 2000). This bill provided millions of dollars aimed at preventing pregnancy among teenagers in the United States, but curricular decisions were still left largely to local municipalities, school districts and states – the federal government merely provided grants to these and other organizations.

In 1996, the federal government increased its monetary contribution to publicly funded sexuality education with the enactment of the Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA), more commonly known as welfare reform and provided \$250 million dollars over the course of 5 years to promote abstinence from sexual activity outside of marriage as the best way to prevent unintended pregnancy and sexually transmitted infections, especially among youth (Elia & Eliason, 2010; Hess, 2010; Vergari, 2000). Advocates for abstinence

education maintained that since young, unmarried mothers were the major recipients of welfare then teaching young people not to engage in behaviors that resulted in this "out-of-wedlock" pregnancy could reduce the amount of money the government and tax payers would have to spend on these unintended pregnancies (Vergari, 2000). The passage of PRWORA now required the any funding allocated to states and local agencies should teach the personal and social benefits to abstaining from any sexual activity until marriage (Elia & Eliason, 2010; Hess, 2010; Vergari, 2000).

Even with this dramatic increase in funding and specific guidelines on abstinence education, the federal government continued to leave curriculum design and implementation up to local and state governments (Gusrang & Cheng, 2010). Indeed, many states and non-profit agencies used this federal funding to supplement their programs, rather than to dictate what would be taught (Gusrang & Cheng, 2010). Many programs taught abstinence, but in conjunction with more comprehensive sexual health education that included information about contraceptives and disease protection methods such as condoms (Elia & Eliason, 2010; Gusrang & Cheng, 2010; Hess, 2010). Communities and parents were supportive of these curricula, as well (Elia & Eliason, 2010; Gusrang & Cheng, 2010; Hess, 2010).

It was not until the year 2000 with the creation of the Community Based Abstinence Education program that the federal government began to take an increased role in the implementation of sexuality education programs and begin strictly enforcing the guidelines created by PRWORA (Gusrang & Cheng, 2010). This greater involvement meant that programs were continuing to teach strict and binary gender roles as well as the sexual expectations associated with those roles. The characteristics of rape culture present in federal policy were becoming more prevalent in sexuality education across the country.

Gusrang and Cheng (2010) tested the influence of federal sex education policy on state and local programs to determine if during the period between 1999 and 2003, by examining not only the number of federal policies, but also who exactly was controlling the implementation of these policies. In just a few years, proponents of federal abstinence-until-marriage increased "the absolute number and relative proportion of schools" implementing this education (Gursang & Cheng, 2010, p261). The authors also studied *who* was implementing these programs. What they found was that as federal influence increased, the "community actors" or those tasked with formulating and implementing curriculum shifted away from those who were

supportive of more comprehensive and those who supportive the heteronormative and strictly gendered abstinence education were able to take more control (Gusrang & Cheng, 2010). While the study does not provide data about what exactly the nature of curricula was, it does suggest that if those that supported abstinence-until-marriage education as it is stated in federal policy, then that education was more likely to be supportive of traditional marriage, gender and sexual norms. And indeed, other studies found that this was, in fact, the case (Hess, 2010; Elia & Eliason, 2010; U.S. House of Representatives, Committee on Government Reform, 2004).

Federal policy required that students be taught that sex outside of heterosexual marriage would not only be damaging to them personally both in physical and psychological ways, but that it was also detrimental to relationships, families and communities (Hess, 2010; Elia & Eliason, 2010; Fields, 2008; Fields & Hirschman, 2007; Stanger-Hall & Hall, 2011; U.S. House of Representatives, Committee on Government Reform, 2004; Vergari, 2000). The curriculum was to teach children and youth that sex within the context of heterosexual marriage was society's expected standard for healthy sexual expression (Hess, 2010; Elia & Eliason, 2010; Fields, 2008; Fields & Hirschman, 2007;

Stanger-Hall & Hall, 2011; U.S. House of Representatives, Committee on Government Reform, 2004; Vergari, 2000). Anything outside of this standard (same-sex sexual activity, pre-marital sex, sex with more than one partner, etc.) was at best ignored and at worst vilified as dangerous to individuals as well as to the whole of society (Hess, 2010; Elia & Eliason, 2010; Fields, 2008; Fields & Hirschman, 2007; Stanger-Hall & Hall, 2011; U.S. House of Representatives, Committee on Government Reform, 2004; Vergari, 2000).

The emphasis on heterosexual marriage meant that traditional gender and sexual norms (those characteristic of a society with high rates of rape) were being touted as the ideal situation for all people. But these norms had been changing in American society. Young people were delaying marriage even foregoing it all together (Hess, 2010; Vergari, 2000) and many were challenging the ideal of domestic womanhood in favor of what had been the reality for many women all along (Hess, 2010; Vergari, 2000). Despite the ideal of a male breadwinner and an at-home female caregiver for children, home and family, most women did work outside the home. According to some elected officials and pro-abstinence education advocates this was precisely the point (Hess, 2010). This challenge to the

mainstream ideals and moral superiority of marriage was unacceptable to some. Proponents of this heteronormative and gender traditional education were actively seeking to uphold many of the sexual and gender norms that American society had been challenging and rejecting over the previous forty years (Hess, 2010; Vergari, 2000). The majority of these norms and ideologies of marriage were those outlined out in the first chapter of this paper. These gender and sexual norms are those that allowed for (and sometimes still allow for) laws that support the normativity of rape, the rejection of that rape as legitimate, strict adherence to gender binaries, strict and limited acceptable sexual behavior and attitudes supportive of victim blaming. In other words, these norms allowed for laws that are supportive of rape culture.

The moral outcry that led to the creation of more federal abstinence education as well as increased federal influence and control over these policies was strongly linked by advocates to the so-called social and economic consequences of pre-marital and non-heterosexual sex. As noted above, what was to become the mainstay of abstinence education in America, was written into an economic policy aimed at curbing poverty in the U.S. (Abramovitz, 2006; Catlett & Artis, 2004; Fields & Hirschman, 2007; Smith,

2007; Vergari, 2000). If sex outside of marriage resulted in children outside of traditional heteronormative marriages, then the mothers of those children would be condemned to a life of welfare and poverty and their children would be more likely to drop out of school, commit crime and live in poverty, perhaps even becoming welfare recipients themselves (Abramovitz, 2006; Catlett & Artis, 2004; Fields & Hirschman, 2007; Smith, 2007; Vergari, 2000). But it is not just the abstinence-only education sections of the 1996 welfare reform law that carries characteristics of a rape culture. Other aspects of the policy also reflect and reinforce the supremacy of heteronormative marriages.

The Welfare State of Rape: U.S. Welfare Policy

In 1996, when the United States federal government enacted the Personal Responsibility and Work Opportunity Reconciliation Act it put forth marriage and work as the main solutions to the poverty and suffering of women and children in America (Catlett & Artis, 2004; Chavkin et. al., 2000; Cocca, 2002; Geva, 2011; Waquant, 2009). While lawmakers touted this legislation as unlike any other form of welfare before it, research into the policy has shown

various levels of racism, classism and blatant attempts to control female bodies, sexuality and reproduction – policies and agendas not new to the U.S. government agenda (Chavkin et. al., 2000; Cocca, 2002; Mink, 1999; Onwuachi-Willig, 2005; Roberts, 1999; Smith, 2007). This section will attempt to position some of these findings in the context of a rape culture. A culture of rape is not only defined by the ideologies and practices that are explicitly and directly related to rape and sexual violence. Indeed, some of the characteristics of rape culture outlined in Chapter One are seemingly far removed from sexual violence, and it is therefore necessary to determine the connections to rape in order to understand how in fact those characteristics support and help a society to meet the criteria for a rape culture.

Revisions during the late 1990s and early 2000s to the Personal Responsibility and Work Opportunity Act established “marriage promotion” and the prevention of “out-of-wedlock pregnancies” as one of the best ways in which to prevent poverty, crime and the general downfall of human society (Catlett & Artis, 2004; Waquant, 2009). Work requirements remained primary to PRWORA and the connections of this ideology to rape culture will be further explored

in Chapter Three. This section will focus on the gender and sexual norms reflected and reinforced by PRWORA.

With marriage promotion activities the American government took strong control over women's bodies and reproductive lives and used financial incentives and punishments in order to force them to comply with behaviors deemed acceptable by the same traditional moral order that established marital rape laws in the U.S. as well as abstinence-until-marriage education - male domination over female sexuality and reproduction, male control over economic and material resources and devaluation of the decisions and actions of women. But far from being "the end of welfare as we know it" (Waquant, 2009), this "reform" of welfare maintained much of the same ideologies and practices as when social welfare programs first began.

Angela Onwuachi-Willig (2005) traces the history of marriage promotion in welfare policies in the United States since the establishment of monetary assistance for widows in the 1920's. Women, mainly White war widows, were provided with monetary assistance so that their traditional place in the domestic, child-rearing spaces of life could be maintained. These policies were further strengthened by Roosevelt in 1935 with the signing of the Social Security Act parts of which were lobbied for specifically to prevent

mothers from having to work outside of the home so that they could properly raise their children (Onwuachi-Willig, 2005; Roberts, 1997; Smith, 2007). The ideology behind the creation and implementation of these programs was that the acceptable position in life was to be in the domestic sphere, caring for and raising children and, in turn, still be dependent on the male-dominated power structure to take care of them financially and materially. According to this ideology, marriage was the "best" place for women since their dependence was on their husband's and not the government, but in lieu of a husband the government would help support them and their children, if and only if, they were they were single due to no fault of their own - meaning that they were not divorced or single mothers that never married (Onwuachi-Willig, 2005). Mothers who did not meet this criteria were suspect and so the government created Survivor's Insurance to ensure that women deemed worthy (as widows and wives of retired or injured workers) could be separated - in ideology and practice - from mother's who were deemed out of control, lazy, morally suspect and not meeting the traditional expectations for their gender or their sexual behavior - i.e. having children outside of marriage meant they were having sex outside of marriage (Onwuachi-Willig, 2005).

As less White widows were the recipients of welfare programs and more and more single Black mothers began to receive this government financial assistance, Onwuachi-Willig (2005) traces this history of negative public sentiment through the country's racist and sexist traditions in regards to marriage. Marriage, as noted above, has long been touted as the ideal place for American women - White, middle-class women, for the most part - and after the end of slavery, the United States government in policy and practice attempted to coerce and force Black families to fit into the ideal of male wage earner and dependent female in a heteronormative marriage in order to avoid financial responsibility for an entire class of people long oppressed and abused by slavery that were thrown into the American capitalist system without any means to secure those wage-earning jobs and certainly not able to automatically fit into the ideal familial structure since Black families were separated and destroyed by the workings of the slave system (Onwuachi-Willig, 2005). Black mothers who as women, and especially as women of color, were excluded from jobs that would provide enough financial support for themselves and their children, qualified for government financial assistance under the programs established in the 1930's and so began the demonization of

welfare mothers (Onwuachi-Willig, 2005) that continues to be pervasive in American society today (Abramovitz, 2006; Cocca, 2002; Collins, 2000; Geva, 2011; Mink, 1994; Roberts, 1999; Waquant, 2002;).

The 1996 welfare changes certainly promoted marriage as one solution to poverty and crime, but according to the history presented by Onwuachi-Willig (2005), this is not new. After the abolition of slavery, programs that gave few other choices to Black women were instituted in states across the country with the blessing of federal policies. This coercion into marriage applied to all women, but the consequences for not meeting this expectation were (and are) much harsher for Black women (Catlett & Artis, 2004; Onwuachi-Willig, 2005; Mink, 1994; Roberts, 1999; Smith, 2007). The standard for "legitimate womanhood" was women working in the home, not for wages, but for the bliss and fulfillment for women that could only happen through motherhood and good housekeeping (Onwuachi-Willig, 2005) and because of the racial hierarchy in the United States, this domestic bliss was impossible for Black families as Black men were unable to meet the expectation of breadwinner since they were (and still are) excluded from jobs that pay well enough to support this ideal middle class lifestyle. This also meant that Black women were

forced to work outside of the home to supplement the inadequate pay afforded to their husbands or because of the absence of a husband at all. Either way, Black women that qualified for benefits were punished for not meeting the ideal standard of American womanhood.

Certainly the history of welfare policies exemplifies many of the characteristics of a rape culture. The ideology behind the first institution of welfare is that women cannot be allowed to be in control of financial resources and not be able to escape their strictly defined and enforced gender role of wife and mother. Ideal American womanhood could not allow them to work outside the home, to be the main wage earner - in other words, inhabit the traditional male role. The assumption of public benefits was that women could not survive financially without a husband to provide for them and that it would not be proper for them to be allowed to do so. Outside of heterosexual and legitimate marriage, the only way for women and children to be saved from poverty was for the government to intervene.

The current incarnation of welfare still partly rests upon this assumption. In 2003, approximately \$1.8 billion in federal funds was allocated over the course of six years to promote marriage and two-parent, heteronormative

households (Onwuachi-Willig, 2005). While these funds are not quite so high today, the federal government is still spending millions to promote the hegemonic family ideal - working, wage-earning dad and domestic caregiver mom (Chavkin et. al., 2000; Cocca, 2002; Onwuachi-Willig, 2005; Waquant, 2009). Given the construction of marriage in the United States outlined in the previous section, state promotion of this institution through welfare policies continues to support two key characteristics of rape culture - strict and binary gender roles and female economic dependence on men.

Indeed a much the same way that the American Rape Narrative (described in Chapter One) insists that women cannot walk alone at night without the protection of a man, women cannot spend their lives and raise their children without the protection and security of a husband's wage. If they do so, they are vulnerable to all sorts of dangers as well as vulnerable to participating in all sorts of socially unacceptable behaviors outside of traditional gender normativity, especially the neglect of children. So concerned was United States policy about deviation from that gender role that the American government and citizens were willing to pay taxes and even contradict another American ideal - individuality and personal responsibility

- in order to maintain traditional gender roles for women. This strict definition of and adherence to gender roles is certainly a characteristic of a rape culture. The assumptions of strict Western gender roles and the economic dependence of women on men are present in the history and formulation of welfare policies, as well as 1996's PRWORA and its modern incarnations. If these characteristics of rape culture are present in welfare policy, are there others?

Welfare reform in 1996 represented a moral panic in the United States - a moral panic surrounding modern social changes norms and practices related to sexuality, gender, marriage, race and economic redistribution away from traditional standards (see Catlett & Artis, 2004; Cocca, 2002; Mink, 1997; Roberts, 1999; Smith, 2007). This moral panic was not necessarily new, but was re-energized and partially focused on the breakdown of traditional family structures, increased female sexual autonomy and economic independence. In other words, the traditional gender, sexual and economic structures of the United States were being challenged as never before and changed beginning in the 1960's and 70's and the traditional seats of power - wealthy White men - were threatened as in no way before. PRWORA was drafted and implemented in response to this

moral panic as it enables to state to regulate recipients lives through family caps, the promotion (and sometimes forced usage of) birth control, abstinence education, coercive paternal involvement and the encouragement of unwed mothers to give up their children for adoption (Catlett & Artis, 2004; Cocca, 2002; Mink, 1997; Roberts, 1999; Smith, 2007). Much as marriage can be understood as a mechanism to control female reproduction and therefore sexual behavior, welfare reform continued this tradition not just through the support of marriage but also through economic coercion in the form of threats of and actual withdraw of direct financial support when women fail to follow the rules of traditional female sexuality and gender normativity.

One of PRWORA's financial disincentives towards non-normative heterosexual marriages starting in 1996 and continuing in all states today is the family cap (Chavkin et. al., 2000; Cocca, 2002; Geva, 2011; Mink, 1997; Roberts, 1999; Smith, 2007). Women receiving welfare who have more children will receive no increases in their benefits. Despite claims that welfare reform is in part meant to assist in the support of children living in poverty, children born outside of marriage whose mothers are receiving welfare are not entitled to this support

because of the deviation of their mothers from socially acceptable child-bearing and family structures. The current version of PRWORA specifically states as one of its most important goals to "reduce out-of-wedlock pregnancy" and its proponents claimed that children born to unwed mothers were much more likely to fail out of school, commit crimes, and generally contribute to the downfall of society (Catlett & Artis, 2004). The federal government, therefore, could not support the choices of women to have sex outside of marriage and raise these children on their own since all of this is in violation of the American heteronormative ideal is leading to the breakdown of society. In fact, the punishments for becoming single mothers again, are really more about the mothers than the children. Less economic support could in no way be spun as "caring for children," but refusing mothers an increase in their benefits, meant that mothers will be forced to deal with the consequences of their bad choices - i.e. sex and reproduction outside of marriage, therefore violating the ideal American family.

The punishments of women inherent in the welfare's family cap rules are clearly exemplary of characteristics of rape culture. Women are being financially punished (mainly by male lawmakers) for their deviation from their sexual expectations by having sex outside of marriage. They

are also being punished for becoming mothers outside of the heteronormative marriage. The reinforcement of these strict gender and sexual roles and expectations through financial coercion are clear indicators of the characteristics a society must possess in order to meet the criteria for a culture of rape. These characteristics found in family cap rules can also be found in several other places in welfare legislation.

Not to ignore seeming contradictions in policy implementation one must acknowledge that, in addition to abstinence classes, states have also adopted other family planning education and even court-ordered use of birth control (Mink, 1999; Smith, 2007). While this may seem to support more choices for women on welfare, in reality, it continues to only support one choice - controlling, i.e. stopping poor women's reproductive lives (Chavkin et. al., 2000; Mink, 2004; Smith, 2007; Waquant, 2010). These two types of family planning are not implemented to help women have reproductive freedoms - quite the opposite - they are intended to keep women from reproducing outside of the heteronormative marriage. If women will not practice abstinence from sexual activity (and data suggests that this is indeed the case for most people, not just women on welfare [Borawski, Trapel, Lovegreen, Colabianchi & Block,

2005; Santelli, Ott, Lyon, Rogers, Summers & Schleifer, 2006; Weaver, Smith & Kippax, 2005; Wilson, Goodson, Pruitt, Buhi & Davis-Gunnels, 2005; Wilson & Wiley, 2009]) than the state can at least continue to prevent one possible consequence of sexual activity - reproduction and child-rearing outside of the heteronormative marital ideal.

In a gendered analysis of welfare policies ideal womanhood is defined and therefore ideal manhood is as well - the maintenance of normative ideals of marriage and welfare's support for that binary structure rely upon it. Since the 1890's formal policies in the United States have criminalized or have the ability to criminalize absent fathers (Geva, 2011; Hansen, 1999; Willrich, 2000). In a capitalist family ideal, if women are to ideally be unpaid for their domestic labor, men are required to be breadwinners. To enforce this ideal, welfare policy allowed for the state to legal punish and regulate the behavior and economic resources (i.e. wage and property garnishments) of fathers deemed to have deserted their wife and/or the mother of their children (Geva, 2011). Criminalizing the desertion of one's family both economically and socially is a strict punishment for one's rejection and violation of the normative gender role of fatherhood and manhood.

Welfare policy towards women is based on the inherent dependency of women and children. The state was only supposed to intervene in the economic and material support of women and children if there was no father, husband or other male that could be held to account. Welfare policies used funds to create family court systems and child support enforcement policies and practices (Geva, 2011) to regulate and enforce the masculine side of the binary. These systems are still in place and have evolved into current policies that have explicitly stated goals for ideal fatherhood within the context of heteronormative marriage and family. Tens of millions of dollars have been and is still being allocated by various programs to establish paternity, create databases and interstate electronic surveillance of delinquent fathers, suspend or revoke professional and driving licenses, garnish wages and, more recently, actively promote and reward fathers who meet the requirements of a heterosexual marriage (Freeman and Waldfogel, 2001; Josephson, 1997; Geva, 2011).

Normative heterosexual marriage positions men as breadwinners and at the "head" of the family. If the role of the husband and father as economically and socially in control of the family and welfare has dictated its role as supporting marriage and the maintenance of that family must

include the maintenance of both the female and male gender roles. Geva (2011) points out that welfare policies towards men have long been through the control and surveillance of women's behavior and are still so today. Since 1996, many states according to federal guidelines for supporting fatherhood, have required that welfare recipients identify the fathers of their children in order to qualify for benefits and that paternal involvement then becomes mandatory for these men. Normative heterosexuality - and the accompanying sanctions, punishments and supports that maintain it - is essential characteristics of a rape culture and the criteria are certainly met by welfare policies.

The policies examined in this paper rest upon and support not just a few key characteristics of a rape culture - male domination over economic and material resources, as well as decision-making, both public and private; strict and binary gender roles and behavioral expectations with heavy punishments for deviation from those roles and failure to meet those expectations; and violence as a normalized expectation for heterosexual relationships. All three policies actively promote a traditional heteronormative marriage as the expectation for both men and women defined by its strict gender role

separation, expectations of sexual behavior and reproduction. These policies also devalue the choices and desires of women. Marital rape laws do so by privileging male sexual desire and the maintenance of the marriage over the sexual and bodily autonomy of women. Abstinence-until-marriage education policies achieve this by teaching all students that any choices outside of a heterosexual marriage relationship are to be condemned as unhealthy and detrimental to individuals and society. Welfare policies do so by blaming women in poverty for their economic plight in part because of their supposed choices to live and parent outside of the heteronormative ideal.

But all three policies do not exist as reinforcements for traditional gender and sexual ideology alone. These policies are inextricably tied to normative conceptions of race, socio-economic status, sexual orientation, sexual behavior, work and personal responsibility. And the ways in which these conceptions are expressed ideologically in policy can, at first glance appear to be contradictory to some of the gendered and sexualized discriminations that are characteristic of rape culture. Current research on rape culture is limited to characterizing such a society as one that disadvantages women as a uniform group. Women are not, however, such a uniform group. Not all women will

necessarily experience effects of all characteristics of rape culture in the same ways or even experience them at all in some situations. What evidence might contradict a theory of rape culture? The next chapter will explore possible contradictions to a rape culture present in all three policies analyzed in this chapter and will explore ways in which the theory can be more critically examined and strengthened.

Chapter Three:**Unanswered Questions: Intersectionality and Greater Possibility for Change**

Thus far, a theory of rape culture is incomplete. It is restricted to understanding ideologies and practices focused on gender. This kind of analysis misses the effects that race, class and other factors may have on experiences of sexual violence and also the ways in which a society reacts to those experiences. Also by focusing exclusively on a heterosexual male/female dichotomy, current academic work on rape culture is limiting itself to explanations of violence against women committed by men and failing to account for sexual violence committed by men against men, women against women and men and adult sexual violence against children and youth - just to name a few. While the majority of sexual violence is perpetrated by men against women, these other kinds of sexual violence do happen (Basile et. al., 2011; Basile & Smith, 2011) and a theory of rape culture would do little to advance progress for change if it leaves these experiences unanalyzed and unaccounted for. In analyzing policy, specifically the policy here, there are questions of race, class and sexuality that have gone unanswered by a theory of rape

culture. The next section of this paper will identify contradictions, successful changes in policy, and possibilities for a more comprehensive theory of rape culture. First, recent changes to policy will be identified as challenges to rape culture and questions of contradictions in policies and questions left unanswered by rape culture will be asked. In the final section, a more intersectional perspective on rape culture will be explored as a way to strengthen a theory of rape culture.

Beyond Gender: Race, Class and Sexuality in Public Policy

Marital Rape laws have long been based on traditional conceptions of marriage and traditional conceptions of rape, both working together to deligitimize, ignore and even condone a husband's rape of his wife. But there is recent evidence of change and a great success for anti-rape movements. Early in 2012, the United States Department of Justice legally redefined rape for the first time in more than 200 years. The United States federal government changed "the carnal knowledge of a female, forcibly and against her will" to "the penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, without the consent of the victim" (Department of Justice,

2012). The new legal definition of rape assumes no gender of perpetrator or victim nor does it assume a relationship between the perpetrator and the victim. Under this new definition, a rapist can perpetrate against a woman, a man, a child or youth, a sex worker, transman, transwoman, or a spouse - and the perpetrator can be any of these people, as well. This leaves open the possibility for more accurate recording of acts of rape, no matter the victim or the perpetrator.

While these policy changes indicate great success, other policies, while changing still have a long way to go. In 2008 (SIECUS, 2012), the United States federal government began moving funds away from abstinence-only-until marriage sex education (SIECUS, 2012). But states had been refusing these funds long before this change in order to provide more comprehensive sex education in public school classrooms (SIECUS, 2012) and as time went on, more and more states began to turn down federal money for the program. The rejection of abstinence-only education funds was driven mostly by research findings that the education was ineffective in the prevention of unintended pregnancy and sexually transmitted infections (Elia & Eliason, 2010; Fields & Hirschman, 2007; Gusrang & Cheng, 2010; Hess, 2010; SIECUS, 2012; Stanger-Hall & Hall, 2011; Weaver et,

al., 2005; Wilson et. al., 2005). While abstinence education programs enjoyed great success with the support of the federal government, this success appears to have been short-lived (Gusrang & Cheng, 2010). It does not, however, mean that the ideologies and practices of abstinence-only education could never be reinstated and along with it, major characteristics of rape culture.

Though the federal government has reduced its funding for these programs, it is still providing, approximately \$50 million every year to community-based abstinence only-programs - programs implemented by private non-profit organizations, rather than state institutions (SIECUS, 2012; Stanger-Hall & Hall, 2011). And the requirements of these programs never changed (Stanger-Hall & Hall, 2011). The nine major components of abstinence-until-marriage education that were made into federal law in 1996 have not been re-written or deleted (Stanger-Hall & Hall, 2011; SIECUS, 2012). This leaves open the possibility for the federal government to re-establish this education and require the implementation of it much the way that it did in the early 2000s. Up until then, these laws were on the books, but were not strictly enforced by the federal levels of government. But as Gusrang & Cheng (2010) found, when the federal administration decided to take control of the

program, it took very little time to increase influence over these programs. So the possibility remains, as long as the laws and the ideologies that support them remain.

While a theory of rape culture can easily point out characteristics that serve an ideology of strict enforcement gender and sexual roles in abstinence-only-until-marriage education, it is silent on the implications of this for GLBTQ (gay, lesbian, bisexual, transgender and queer and questioning) youth receiving this education. While it is implied that a heteronormative binary structure for gender and sexuality would automatically exclude any sexual and gender nonconforming youth, a theory of rape culture should make explicit how homophobic ideologies are related to gender normative ideologies that can be seen as supportive of a rape culture since sexual violence is extremely prevalent among these youth.

GLBTQ youth report rates of sexual violence, including rape and sexual harassment at rates higher than their heterosexual peers (Advocates for Youth, 2012; Elia & Eliason, 2010; Fields, 2008; Fields & Hirschman, 2007). GLBTQ youth report being taken less seriously when reporting whether to law enforcement or school officials and little is done to investigate, punish offenses or protect victims (Elia & Eliason, 2010). They also report

higher rates of victim blaming. GLBTQ youth are viewed by many as having “deserved what they got” because of their sexuality and sexual behavior (Elia & Eliason, 2010; Fields, 2008; Fields & Hirschman, 2007). Sexuality and sexual behavior that is completely delegitimized and even demonized in abstinence-until-marriage sexuality education (Elia & Eliason, 2010, Fields & Hirschman, 2007). If what happens to women under the ideologies of a rape culture is also happening to GLBTQ youth, homophobia, transphobia and the exclusion and demonization of non-heterosexuality must then, in some way, be connected to the characteristics of rape culture.

Heteronormativity, as pointed out in the first chapter of this paper, is based on a very specific set of ideals that are not only based on gender and sexuality hierarchies, but also on White and middle/upper class normativity (Anderson, 2005; Bachman & Paternoster, 1993; Catlett & Artis, 2004; Cocca, 2002; Collins, 2001; Hasday, 2009; Mink, 1999; Smith, 2007). Traditional gender, race, class and sexual hierarchies have been found to be reproduced and reinforced through abstinence-only education (Fields, 2008; Fields & Hirschman, 2007; U.S. House of Representatives, Committee on Government Reform, 2004; Weiser & Miller, 2010; Wilson et. al., 2005). Even some

comprehensive sexuality education programs that have rejected some of the more extreme heteronormative ideologies, are still reinforcing some traditional sexual, gender, racial and class hierarchies (Fields & Hirschman, 2007; Weiser & Miller, 2010).

Fields (2008) and others (Elia & Eliason, 2010; Fields & Hirschman, 2007; Hess, 2010; Vergari, 2000; Wilson et al., 2005) have found that sexuality education, especially that based on the ideology of abstinence-only-until-marriage education reinforce traditional racialized and classed understandings of sexuality. These stereotypes include conceptions of the sexuality of students of color and poor students, especially Black females, as out of control or overly sexual and in need of control and repression (Collins, 2001; Crenshaw, 1991; Hill, Woodson, Ferguson & Parks, 2012; Mink, 1999; Roberts, 1999; Smith, 2007 West, 1995). A number of studies have found that the push for this heteronormative sexuality education was full of racial undertones that were preoccupied with the sexuality of young women (Abramovitz, 2006; Cocca, 2002; Fields, 2008; Hasday, 2009; Kelly, 2010; Mink, 1999; Richie, 1996 Roberts, 1997). The moral panic of abstinence education was about sexuality and gender, but also about race and class (Abramovitz, 2006; Cocca, 2002; Fields,

2008; Hasday, 2009; Kelly, 2010; Mink, 1999; Richie, 1996 Roberts, 1997). As noted in Chapter Two, these educational requirements were attached to 1996 welfare reform as one part of the initiatives to reduce the number of welfare recipients by preventing unintended pregnancy among teenaged youth, but also to re-establish and maintain racial and class hierarchies through the use of sexual stereotypes. But these were reinforced in other ways, as well - not just through sexual and gender normativity. In fact, some of the more forceful provisions of PRWORA, seem to be in stark contradiction to the traditional gender normativity that has been found to be characteristic of rape culture.

While welfare recipients have long been required to participate in some form of paid work and this was more likely if recipients were women of color (Onwuachi-Willig, 2005), changes made to the program in the 1996 version, made these work requirements the major push of this legislation (Waquant, 2009; Mink, 1999; Roberts, 1997; Smith, 2007). Recipients of welfare are required to participate in job training and work activities to be eligible for assistance (Waquant, 2009). According to proponents of PRWORA recipients will then be able to maintain employment after they have exhausted their

eligibility for participation in the program. Traditional conceptions of gender in the United States are based on an ideal of women only working in the private sphere of the home and out of the paid labor force. Strict adherence to traditional gender roles has been defined as an important characteristic of rape culture, so at first glance, it would appear that the later additions of marriage promotion and heterosexual behavior are secondary to this work enforcement. If this is true, than PRWORA's gender role maintenance would not be enough by itself to lend support to a rape culture.

But two key components are missing when a gender-only analysis of PRWORA is conducted - race and class. As stated multiple times in this paper, traditional gender roles in the United States and indeed legitimate sexuality and sexual behavior has long been based on a White middle and upper class ideal (Bachman & Paternoster, 1993; Catlett & Artis, 2004; Cocca, 2002; Collins, 2001; Hasday, 2009; Mink, 1999; Smith, 2007). The reality for women of color, poor women and women occupying both of these social positions has been very different. Women of color and poor women have always been expected to and sometimes forced to participate in labor activities outside of home and family and are therefore excluded from this gender ideal (Browne &

Misra, 2003; Collins, 2001). In terms of race, the bodies of women of color automatically do not meeting the White normative standard. Along with persistent stereotypes of people of color being lazy and needing to be made to work (Abramovitz, 2006; Catlett & Artis, 2004; Cocca, 2002; Crenshaw, 1993; Kelly, 2010 Mink, 1999; Roberts, 1997; Smith, 2007), then exclusion from a normative ideals of behavior takes place along gender, class and racial lines.

Many authors have noted that rape is ignored, delegitimized and even condoned when women do not meet the social expectations of "acceptable" sexual behavior (Anderson, 2005; Crenshaw, 1993; Hasday, 2000; Hasday, 2009). This good/bad dichotomy for women is heavily relied upon when society reacts to an act of sexual violence. "Good" women are portrayed as victims worthy of justice and respect for their plight as a victim. "Bad" women, on the other hand, are women who have engaged in sexual and gender behavior outside of acceptable social norms and are therefore assumed to have "asked for it" or "deserved what they got" since they did not meet the expectations as outline in Chapter One (Anderson, 2005; Gavey, 2005; Hasday, 2000; Hasday, 2009). Women of color, simply because of their race are automatically situated in the bad category and stereotypes of oversexualized, promiscuous and

out of control sexuality, especially of Black female sexuality, help to reinforce that unworthy status (Anderson, 2005; Collins, 2001; Crenshaw, 1993 Gavey, 2005; Hasday, 2000; Hasday, 2009; Mink, 1999; Roberts, 1997; West, 1995).

This good/bad dichotomy is also prevalent along class lines (Anderson, 2005; Hasday, 2009). Since poor women must work to support themselves and their families (Browne & Misra, 2003), they too can automatically be excluded from the middle and upper class gender ideals. It is also possible that stereotypes of poor women are utilized to perpetuate this exclusion - stereotypes that suggest that poor women are engaged in sex work, are unfeminine because of their work activities, etc. (Browne & Misra, 2003; Collins, 2001; Phipps, 2009). This exclusion and stereotypes then are perpetuating an unworthy status in terms of rape and sexual violence for poor women.

By utilizing stereotypes of poor women and women of color to construct a moral and economic panic in support of welfare reform, PRWORA and its supporters, in effect reinforced traditional conceptions of gender as well as those of race and class in the United States. But it is not so simple as utilizing race and class to facilitate gender role discrimination. In fact, race and class may be

operating in some ways independently of gender to support a culture of rape. For example, the job training and employment provided through PRWORA may be more money than the monthly welfare check, but it does little to improve the overall economic situation of current and former recipients (Abramovitz, 2006; Onwuachi-Willig, 2005; Mink, 1999; Roberts, 1997; Waquant, 2009). The employment training and actual jobs that most welfare recipients obtain as a result of the program are low-paying, low-status positions that provide little or no child care, health insurance or other benefits and little room for advancement or prestige (Onwuachi-Willig, 2005; Waquant, 2009). These positions also are not typically ones that require the obtainment of a college degree making it unlikely that participants would seek a degree (Onwuachi-Willig, 2005; Waquant, 2009). All of these, according to Martin et. al. (2006), are indicators of the lower absolute status of women and one of the strongest predictors for higher rates of rape. It appears that in this way, PRWORA is perpetuating a status for poor women associated with increased rates of rape. And since poor women are disproportionately women of color in the United States (National Center for Law and Economic Justice, 2012), the implications for a rape culture may have the biggest impact

on women occupying marginalized race and class groups. Though the analysis and exact connections are incomplete, the work requirements of PRWORA can be seen to be supportive of the characteristics of a rape culture independently of and in conjunction with the gender normativity supported through its marriage promotion activities and incentives.

While it is clear that racialized gender and sexual stereotypes are also prevalent in PRWORA, it is less clear how racial oppression may support a rape culture independently of gender and sexual normativity (i.e. racist ideologies not just about sexuality) but new research indicates that this is indeed a strong possibility. Recent studies have begun looking for the connections between rape and sexual violence and other forms of oppression in addition to sexism and have found that greater adherence to racist beliefs is also associated with greater adherence to sexist beliefs (Cohen, Parks, Flores & Culross, 2006; Katz, 2006; Lang & Lee-Pethel, 2006). As indicated in the first chapter of this paper, rape myth acceptance is associated with higher levels of victim-blaming, strict adherence to traditional gender ideology, a higher tolerance in general for sexual aggression towards women and also higher rape proclivity - all characteristic of

rape culture. Sexism has been found to be a strong predictor of rape myth acceptance as well as rape proclivity (Gavey, 2005; Kress et. al., 2006; Lanier et. al., 1998; LeGrande, 1973; Lonsway & Archambault, 2012; Lonsway et. al., 1998; May & Strikwerda, 1994; McMahon & Farmer, 2011; Osland et. al., 1996; Rau et. al., 2011). Given this data, Aosved and Long (2006) hypothesized that other systems of oppressive beliefs such as homophobia, racism, classism, ageism and even religious intolerance might also be associated in some way with sexism and rape myth acceptance - in other words, characteristics of a rape culture. The authors found that each intolerant belief system was a predictor of rape myth acceptance both independently and collectively, though some more strongly than others (Aosved & Long, 2006). Sexism is the strongest predictor of rape myth acceptance, but sexism and racism, as well as sexism and homophobia had the highest levels of overlap, meaning that stronger sexist beliefs were associated with higher levels of racism and stronger sexist beliefs were also associated with higher levels of homophobia (Aosved & Long, 2006). When sexism was removed from the model, all the other oppressive beliefs systems still collectively accounted for 36% of the variance in rape myth acceptance. So even though sexism is the best

predictor, all other forms of oppression were together strong predictors, as well. The correlations are far from perfect and the study participants were largely from privileged groups (i.e. White, heterosexual and college educated), but the initial findings do indicate that certain characteristics of rape culture (i.e. sexism, victim blaming, adherence to traditional gender roles and norms) are in some way connected to homophobia, racism, classism and other forms of oppression.

One study has specifically addressed racism and its connections to participants legitimizing an experience as a rape, victim credibility and culpability and sentencing for perpetrators. In their article, "Victim Blaming In Rape: Effects of Victim and Perpetrator Race, Type of Rape, and Participant Racism," George and Martinez (2002) assessed levels of participant racism and victim blaming along racial lines. In general, higher participant scores on racism scales were associated with higher levels of victim blaming. For male participants, higher racism scores were positively associated with higher levels of victim blaming, regardless of victim or perpetrator race. For female participants, victim blaming in general increased when racism scores were higher, and this victim blaming increased more specifically with interracial rapes. The

authors hypothesized that in line with racist attitudes in general, Black female victims would be blamed more and especially in cases of interracial rape. This hypothesis proved true in this study, but victim blaming was higher for all interracial rapes - even when the victim was White (George & Martinez, 2002). These findings indicate that racist attitudes and rape supportive beliefs overlap and support other. The authors posit that this could be due to racialized conceptions of gender and sexuality, stigmas and disapproval attached to interracial sexual behavior that carries over into nonconsensual sexual activity or some sort of mixture of racist and sexist attitudes amplified by one another (George & Martinez, 2002). Though these arguments remain speculative, more research into the specific connections between racism and rape supportive attitudes can be conducted to make these relationships more clear.

It would appear that a rape culture is not only characterized by rules of sex and gender, but also by other forms of oppression and determining what exactly these connections are and how they operate may provide greater insight into what exactly a rape culture needs in order to operate. Sexual violence prevention practitioners and advocates have found that addressing not only sexism, but

also racism, homophobia and other forms of intolerance and oppression aids in their rape prevention work (Cohen et. al., 2006; Katz, 2006; Lang & Lee-Pethel, 2006). A theory of rape culture that incorporates and integrates characteristics relating to racism, classism, homophobia and other forms of oppression could go a long way in working towards change and not only aid in the prevention of rape and sexual violence, but these other systems of oppression, as well.

Intersectionality And a More Complete Theory of Rape Culture

In her 1993 article, "Mapping the Margins: Intersectionality, Identity Politics, and Violence Against Women of Color," Kimberle Crenshaw coined the term "intersectionality" to describe oppressions experienced by women of color. Crenshaw (1993) describes these experiences as overlooked in political movements for change such as feminism and antiracist movements. Since these movements have long focused on one aspect of identity, here race or gender, this has put women of color in an either/or situation with respect to these parts of their identity. Crenshaw (1993) posits that movements concerned with only

one axis of identity can ignore and marginalize that fact that people inhabit multiple identities and social positions. Groups are not homogenous and members with differing and multiple identities experience different forms of oppression and discrimination at different sites of social interaction. Together these experiences form different and unique types of oppression and discrimination (Crenshaw, 1993).

With respect to rape, antiracist movements have focused on the dominant conceptions of rape that position Black men as perpetrators against White women, as outlined by the American Rape Narrative (Anderson, 2005) in Chapter One. While successful work has been done to challenge it, this myth still persists in American conceptions of rape and continues to be an important concern for both anti-rape and antiracist movements, but it also overlooks and marginalizes experiences of Black women victimized by Black men. It also makes it more difficult for them to come forward (Crenshaw, 1993).

Feminist anti-rape movements have focused on the rules of sexuality and gender that control the sexuality of women as well as deligitimize and condone rape. But these traditional conceptions of gender are based on the rules for White upper and middle class women. The rules policing

the sexuality of women of color are full of negative racial stereotypes that make it almost impossible for the sexuality of women of color to be legitimized and seen in a positive ways. These rules of sexuality are implicit in the American Rape Narrative's rules of worthy and unworthy victims (Anderson, 2005), but again, the challenges to these have benefited White women more since there are less sexual stereotypes to contend with. While Crenshaw (1993) acknowledges that rape law reforms have worked hard and been successful in many ways to limit them ability of defense attorneys to put women and their moral and sexual character on trial instead of the perpetrator, she also contends that "these reforms...do not challenge the background and cultural narratives that undermine the credibility of Black women" (p1270).

Crenshaw (1993) utilizes public reactions to a handful of examples of brutal rapes, a decency trial on a hip hop performance and the implementation of rape crisis services to highlight some of the unique forms of oppression faced by women of color. These experiences are marginalized and rendered invisible when the multiple identities of women are looked at in isolation from one another. In one instance, the brutality of rapes committed against Black women are largely ignored in media and public outcry

(Crenshaw, 1993) due to the devaluation of Black women's bodies and the routinized violence of their everyday lives. In the decency trial, voices in support of hip hop dealt only with attacks on resistance to racial norms and standards, but ignored the sexism experienced by Black women within this resistance. And the creation and implementation of services failed to recognize the needs of poor women of color, non-citizen women and non-English speaking women by restricting services in such a way that created language, transportation and shelter barriers to help meet the needs of rape victims (Crenshaw, 1993).

Twenty years after Crenshaw (1993) coined the term "intersectionality," there is still much debate among theorists and researchers as to how exactly intersectionality works and what the best methods are to apply it (Nash, 2008). Currently there are three main approaches to intersectional methodology 1)anticategorical, 2)intracategorical and 3)intercategorical (McCall, 2005; Nash, 2008). All approaches call for the destabilizing of universal categories. Antiracists feminism had been working on this long before the term intersectionality, questioning feminism's claim to represent all women while missing differences of race, class, sexuality, nationality, ethnicity and sexuality (Nash, 2008). Anticategorical

intersectionality calls for the challenging and breaking down of all categories because they are not only too simplistic but their use actually reinforces structures of power and oppression. Here attention is called to the process by which categories are developed to expose how those hierarchies of social power are created and recreated through the use of categories (McCall, 2005; Nash, 2008).

The intracategorical approach starts at the intersectional of multiple marginalized identities. The idea here is to develop an understanding of the complexity of lived experience and bring to the forefront that experience to expose oppressions. The intracategorical approach uses categories to describe oppression while at the same time keeping those categories suspect and attempts to show that they are too simplistic to describe actual lived experiences (Nash, 2005; McCall, 2008).

Intercategorical approaches to intersectionality are more focused on the relationships of inequality, oppression and discrimination. This approach is interested in utilizing the interactions between categories along multiple dimensions (McCall, 2005; Nash, 2008).

Intercategorical approaches still see categories as suspect, but more because the groups they describe are not

perfectly homogenous and change over time, situation and context (Nash, 2008).

Other arguments over intersectionality posit that existing at sites of multiple subordinate identities compound to increase oppression and discrimination (Vaughns & Eibach, 2008). For example, poor immigrant women of color would face more oppression and discrimination because they have experienced oppressions of race and ethnicity in addition to citizenship and class. Others contend that possessing a single identity of subordination creates a heavier burden of oppression since individuals with a single oppressed identity represent an entire category of oppression and therefore bare the brunt of the oppression (Vaughns & Eibach, 2008). The example here could be that Black men face more oppression since they are "the face" of the Black community are target of more direct discrimination, prejudice and oppression. And indeed, there appears to be data to support both contentions (Vaughns & Eibach, 2008). Is it possible that all approaches and theories could be valid and that depending on social and historical context the process by which oppression is created and experienced will change? The concluding section of this paper will explore a few examples of how each of these approaches may be able to aid in identifying,

exploring and dismantling social characteristics that serve to support rape and sexual violence. This is by no means meant to be an exhaustive review of every possibility or every situation of rape. Rather it is meant to provide a few examples for the direction that an intersectional theory of rape culture may take.

Intersectional Rape Culture

The anticategorical approach to intersectionality can be useful to addressing rape culture through the rejection of fixed and mutually exclusive binaries - especially those of gender. Current work on rape culture asserts that a characteristic of rape culture is the existence of an either/or approach to gender - there is male or female. In a rape culture, there are strict rules and norms attached to each category and they are seen as diametrically opposed to one another. In other words, to be one is to not be the other. An anticategorical approach allows for the rejection of the binary construction of these categories. It allows for these two categories, as well as others to be rendered suspect and pushes for a more fluid construction that is not quite so fixed and dichotomous. This rejection of categories could be especially helpful in sexual violence prevention work.

For example, the rejection of the category of male, might allow for a greater understanding of how victim blaming operates when the target of a rape is male. If, as in U.S. society, being labeled a victim, especially a victim of sexual violence implies weakness, in need of protection and these characteristics are dichotomously opposed to the gender category of male, then victim-blaming would happen in ways related to that category. Reactions to the rape might blame the victim since he did not meet the standards for that category of male - strength, self-reliance, the ability to protect oneself. He may be viewed as weak - a characteristic associated with female. Taking an anticategorical approach rejects the category of male insofar as it perpetuates victim blaming in this particular instance. The same could be done with a female victim. By rejecting the simplistic category of woman and all the attributions of weakness and being in need of protection takes the responsibility off of a victim and allows for the problematizing of the actions of the perpetrator rather than the gendered attributions of the victim. An anticategorical approach could also reject the category of victim and its accompanying implications of weakness, inability and powerlessness in relation to rape and sexual violence.

But an anticategorical approach may not be sufficient to identify and explain the real life forms of oppression faced by individuals and groups. An anticategorical approach reminds us that these categories are socially constructed, but as Omi & Winant (1994) said of race, these categories "are neither essence nor illusion." There are real and oppressive conditions based on categories and while we may be able to reject them in some instances, we must utilize them (critically, of course) to identify and map their influence in particular social situations and the processes by which they are created. In this way, intercategorical and intracategorical approaches to the study of rape culture can be useful, as well.

Intracategorical approaches utilize categories to point out intersections of oppressions and realize that they are not separate from one another, but interact, support and sometimes even contradict each other. To use again an example of victim blaming, a situation of victim blaming may look different if the victim of a rape is an immigrant woman of color. There are specific and unique forms of oppression that she may face. For instance, inability to seek services either from a rape crisis center or law enforcement depending on her citizenship status, if that status is based on a marriage partner. In a situation

such as this, victim blaming could take the form of blaming her for being married to a violent partner "just to live in this country." There may be assumptions that she is trying to take the easy way of obtaining citizenship by marrying a violent man and therefore "got herself into that situation." An intracategorical approach to understanding this particular characteristic of rape culture (i.e. victim blaming) operates at the intersectional sites of multiple forms of oppression - gender, citizenship status, race and perhaps class if, say she has no means of paid labor to support herself - to describe a lived experience of intersecting oppressions. But this class interaction might also interact with stereotypes and discrimination based on race, ethnicity and gender and the relationships between those is important, as well and might require the addition of an intracategorical approach.

An intracategorical approach can be useful in other situations in which the need to identify the relationships between oppression and the processes by which those are produced and reproduced. This approach could be useful since oppressions and discriminations can vary and change according to social and historical context, cultural norms and definitions. To continue with an example of victim blaming, if a Black woman in the United States was a

target of rape, victim blaming would take on unique characteristics depending on the various relationships and interactions of oppressions. George and Martinez (2002) found that while levels of victim blaming were higher in general for Black female victims of rape, they were even higher when the perpetrator was White. This could be a result of the relationships that exist between racism and sexism. For instance, sexism in this situation consists of the idea that women do certain things to "ask to be raped," or should "expect that rape should happen" in certain situations. A Black female victim might face this oppression, but given that there are racial stereotypes that interact with sexism and that relationship creates a unique form of oppression based on racialized gender stereotypes, i.e. the Sapphire stereotype type that portrays Black women as inherently more sexual. This is further complicated by the historical relationships between race and gender that has controlled and dominated the bodies and lives of Black women in the United States. Historically, Black women were the property of White men and their rights to bodily autonomy devalued and therefore the rape by a White man of a Black woman could be construed as "not that big of a deal," or in some other way easily ignored. This sort of approach then also allows for us to

see the relationship between victim-blaming and another characteristic of rape culture - the minimization of victimization. Here, that relationship occurs at the site of intersection between sexism and racism.

All three major approaches to intersectionality can be of service to strengthening a theory of rape culture to identify characteristics, relationships between characteristics at sites of intersecting oppressions and also identify ways to undermine and abolish constructions, categories, practices and ideologies that support these characteristics of rape culture. These actions can be viewed as the main tasks of a theory of rape culture.

A theory of rape culture is a theory that seeks to identify and change ideologies and practices that support sexual violence, but by linking other forms of violence - racial, economic, gender-based and a myriad of others - a theory to change a culture of rape is also a theory of social justice. If theory and research can link racist, classist and other oppressive ideologies and practices to the perpetuation and support of sexual violence than preventing these other oppressions can be yet another way to prevent rape and sexual violence and vice versa. Because it is a theory of culture, these oppressive ideologies and practices do not exist in a vacuum, separated from one

another nor do they exist as fixed and universal. They intersect, connect, support and change each other. If rape culture is to be dismantled then so must all other oppressions related to it.

The identification of characteristics supportive of a rape culture and characteristics that can be utilized to dismantle it are the two main tasks of research based on a theory of rape culture. For policy research, this could be undertaken in a myriad of policy issues. Rape law has undergone some of these changes already, but in utilizing a theory of rape culture to analyze these laws, it is clear that these changes are incomplete. For example, rape shield laws (Call, Nice & Talarico, 1991; Flowe, Ebbesen & Putcha-Bhagavatula, 2007; Horney & Spohn, 1991; Portlock, 2007) prevent past sexual behavior of victims from being admitted into court as evidence, thus minimizing victim-blaming. However, this clearly exemplifies that certain ideologies about female sexuality, especially, are still present in the hegemonic discourse on rape. If a jury will take past sexual behavior that is outside the scope of "acceptable" female sexual behavior as a reason to deny or minimize an act of violence, it means that society still believes, on some levels, that women who "have too much" sex are somehow deserving of rape or even that they were not raped at all -

that in some way, past sexual behavior either led a man to believe that she wanted to have sex with him or that her perceived promiscuity meant she really wanted to have sex with him and therefore could not have been raped. This understanding could change the way investigations are undertaken and even strategies for prosecution that are better able to reject these ideologies. This is only one example and it is a gendered one, but an intersectional theory of rape culture would also allow for the identification of other forms of oppression and their connection to these beliefs to better inform the practices of investigation, prosecution and punishment of rape and sexual violence.

The formulation of public policy is indeed informed by commonly held beliefs and those actively engaged in efforts to change laws, would be greatly assisted in their efforts through empirical research based on a theory of rape culture. If advocates could empirically identify and directly link rape ideologies to the history, formulation and practice of laws, there is a greater possibility for change. Though it is not the only tool available, or even the best at times, scientific research that clearly, uniformly and empirically describes and understands social conditions that help create an environment conducive to the

perpetration of sexual violence is well-positioned to assist prevention work. Clear data based on sound theory can influence the views of those who make laws and also the influence they have on social movements for change (Edwards, et. al, 2011).

According to the National Crime Victimization Survey, a rape occurs every 1.3 minutes in the United States (Department of Justice, 2000). Given the newly revised federal definition of rape to include forced oral and anal penetration, this number is likely to go up as more accurate statistics are collected. And rape is only one form of sexual violence. Everyday, sexual harassment, battery, and assault, molestation, heterosexist and gender-based bullying are happening at work, at school, on the street, in bars, home, fraternities, sororities, at every level in the military and even the law making institutions of the government (Basile et. al, 2007). Sexual violence is an all too common experience in American society, negatively affecting hundreds of thousands of people every year and negatively impacting the lives of millions more through pain, suffering, financial and productivity losses and inadequate avenues to justice and restoration.

The purpose of this project was to utilize an established theory of rape culture to analyze federal-level

public policy in the United States. It became clear, however, that despite its wide spread use, the term "rape culture" is not, as of yet, a complete theory. This paper instead attempted to utilize what exists so far of a theory of rape culture, bring together data on rape and sexual violence from across disciplines and analyze public policy within that framework. As the theory develops, clearer measures and assessments are developed to test it. It has potential to become not only a powerful tool to help explain the high rates of rape and other forms of sexual violence happening, but also to assist in the development of movements for change. While it has a long way to go, ultimately a theory of rape culture should seek social beliefs, actions, ideologies, norms and common understandings that can tangibly be shown to reduce incidence and prevalence of rape and other forms of sexual violence.

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