Making Amends to Policies Impacting Violence Against Native Women

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ABSTRACT

The purpose of this research is to acknowledge the effect traditional criminal justice systems had on keeping violence against Native women to a minimum as well as establishing a correlation between imposed Patriarchal criminal justice systems intended to diminish tribal sovereignty and rising statistics of violence.

Introduction

Policies created by the United States government to decrease tribal governments’ jurisdiction creates a criminal justice system that makes it impossible for tribal governments to protect Native women from violence and bring them justice, inherently promoting the abuse of Native women. The following paper will explore the cause and effect of policies implemented by the United States federal government intending to cause harm towards tribal nations and their citizens, as well as break down traditional criminal justice systems that had been in place since before the formation of the United States. The comparison and contrast of traditional criminal justice systems and the patriarchal justice systems imposed on tribes by the United States federal government will provide insight into why statistics of violence against Native women are currently at an all time high. The term ‘violence against Native women’ will be loosely defined to focus on the sexual and physical violence Native women have faced since contact with Europeans, but for time sake will not focus on the other forms of violence such as; medical, mental, spiritual, that are equally as detrimental to Native women. The context of ‘tribal nations’, ‘Indigenous communities’ and ‘Indian Country’ will be defined as; “[...] ‘distinct political’ communities that are referred to as ‘domestic, dependent nations’ whose ‘relation to the United Stated resembles that of a ward to his guardian’. [...] Tribal rights, including the rights to land and to self-government, are not granted to the tribe by the U.S. government. Under the Reserved Rights Doctrine, tribes reserved such rights as part of their status as prior and continuing sovereigns” (Neilsen, 116). Since Native people fall under many different terms of self-identification and imposed-identification, the language to refer to the first peoples of the Americas will be interchanged between ‘Indian, Indigenous, Native, Aboriginal, First Nations’ throughout the paper. These definitions will catch those not familiar with ‘Native language’ up to speed and help them navigate the changing language of this paper.

My passion for the topic surrounding the violence against Native women can be summed up in the unknown but popular quote: “Nearly every Native family has a story of a female who is missing, murdered, or whose murder has gone unsolved.” Unfortunately, I have not been able to escape this dreary reality as other families have not. My aunt, Sharlene Martell was one of the thousands of missing and murdered Native women who have faced brutal violence in this
country. It is from her story, the impact it has had on my family and parents, and the similar stories of violence from other families I know and do not know, that obligates me to research and inform others of the stark reality of violence in Indian Country in hopes that someday, not every single Native family will have a story similar to my own.

My passion to create change has been fueled by a community of peers, family members, educators, and elders. I would like to say chi-miigwetch (thank you) to my entire family and home community for the support throughout my entire life in my Western education and Ojibwe education, but specifically recognize my parents, Tara Boucha and Jamie Snowdon. Their passion for the betterment of Native people inspires me, keeps me humbled and reminds me that what I do for my home community and Native people is the most important thing in life. I also would like to recognize my friends, educators and mentors at the University of Wisconsin-Superior and beyond, for teaching me so much and encouraging me throughout the process of this paper and in my undergrad career. The biggest chi-miigwetch to my friend and mentor, Bret Ann Evered for her direction in my research on this topic. Violence against Native women is a topic we both passionately share, and I owe all of my knowledge to her guidance and support the last two years. As cliché as it is, I truly have the most amazing parents, family, educators, mentors and peers that create a village of support and guidance.

**Historical Context**

Prior to contact with conquerors and settlers, the Native people of North America had a different traditional societal structure than those who would come after them. These nations practiced a belief system that held matrilineal, matriarchal, or egalitarian values in which Native tribes of present-day United States and Canada practiced these values separately or all together depending on their society (Native Women’s Association of Canada, 2). Loosely these encompass the idea that everyone was to be treated equal in all aspects of life which included political, economic, and social aspects. Therefore, women were often the head of the family or household and depending on the society, descent was determined through the female line. These societies were drastically different from the Euro-American societies of this time which were patriarchal meaning the male was the head of the family, tribe and community, church or order (Native Women’s Association of Canada, 3).

According to the Native Women’s Association of Canada, “Traditional teachings show that Native women historically engaged in clear and fundamental roles ensuring good governance, and wellness, roles and responsibilities that were grounded in their core values and belief system (2).” This shows how Native women were contributing and dominant members in their societies. Prior to contact, men and women performed tasks specific to their gender but one was not seen as less than the other. Every task was treated with respect as all were vital to the success of the tribe. While these examples are not specific to every tribe, generally men performed heavy labor while women cared for the children or men hunted while women cared for children (Mihesuah, 42). Overall, women were honored, respected and viewed as sacred human beings who were allowed to choose primarily what role in society they saw fit.

Since societies were set up in matrilineal, matriarchal, egalitarian models, women held equal or more important political and societal power within the nation, allowing for their wishes to be heard on how abuse towards them was dealt with. While the violence against Native
women was very rare, when it did occur, it was held at the greatest offence in tribal nations. It was considered to be a capital offense in which their abuser could be banished or given death row. Ultimately it was up to the women, family, clan, and spiritual members to be responsible for holding offenders of violence accountable (Deer et al. 12). It was not uncommon for family members of the abuser to make amends to the woman and family members after the incident because the reflection of the abuser, was a reflection on the family and other clan members.

There has been documentation through oral tradition history and colonizers records of tribal violence laws and how they related specifically to sexual violence towards Native women. An example of this is from the Mvskoke criminal laws dated to 1825 when Chilly McIntosh had to write down all the Mvskoke criminal laws to prove to Indian Agents that the Mvskoke people were law-abiding, states, “And be it farther enacted if any person or persons should undertake to force a woman and did it by force, it shall be left to woman what punishment she should satisfied with to whip or pay what she say be law” (Deer, 17). This passage specifically addresses gender violence through wording such as force and addressing women within the law. This passage also addresses the legal standing power women had to participate in sentencing decision, which was different from American law at the time.

The Dakota/ Nakota/ Lakota nations also held the same belief system that placed women equal to men with the same respect that women were viewed as sacred human beings (Mihesuah, 42). Based on these cultural expectations of how women should be treated in society, there were very low occurrences of crime against women and was considered to be a capital offense where zero expectations were held (Garden of Truth). As noted by Mark St. Pierre and Tilda Long Soldier on women’s power within the Lakota justice system, “the woman owned her body and all the rights that went with it” (Deer, 20). One can see the common theme in the Mvskoke and Lakota criminal laws that highlight women’s direct power in having full control over their bodies and rectifying the abuse that could have potentially faced them.

Due to the setup of the Native societies, as well as the severity in punishment towards abusers from the traditional justice system, violence against Native women was rare and not accepted in any form. Therefore, statistics of violence against Native women were very low. The shift from when Native women started to face higher rates of violence and sexual abuse occurred during contact with Euro-Americans. Explorers and colonizers came from societies that were patriarchal, meaning males dominated society or government. During this time in Euro-American history, women were often seen as property of males and were primarily seen as nothing more than home keepers. Since this was not the case in most of Native societies, Euro-American men treated Native women the same as they would have Euro-American women. In order to do so, Euro-American men used sexual violence as a way to dominate women and children physically and mentally, in order to breakdown the matriarchal and egalitarian societies. As women and children were separated from community protections during times of war with the US government, and in US government run internment camps, they continued to suffer from sexual violence that faced no prosecution. As described in Criminal Justice in Native America, “During American colonization and reservation periods, Native American women were often raped and otherwise sexually assaulted by non-Native frontiersman, settlers, calvary men, military men, or reservation personnel. Most of this was not reported or was dismissed by non-Native law enforcement and judiciary” (47). Due to the increased sexual assault and violence occurrences from Euro-Americans, Native people and tribal nations often exercised their full
jurisdictional control over Euro-Americans by enacting their female violence laws when abuse occurred. The resistance and criminal prosecution tribal leaders enacted was often considered to be ‘uprisings’ but were just the response to kidnapping and sexual violence from Euro-Americans after the American legal system failed them (Deer, 33).

An example of this is the Minnesota Dakota uprising in 1862 which is chalked up to be started from hunger and anger about delayed treaty distributions, but Deer argues that a closer review shows Dakota concern about the mistreatment of Dakota women by Euro-American men (Deer, 33). Deer references Jerome Big Eagle’s interview with an author in 1894 that states, “some of the white men abused the Indian women in a certain way and disgraced them, ad surely thee was no excuse for that” (34). After the American legal system failed to provide justice for Native women when they were abused, tribal nations took matters into traditional tribal law which sparked push back from the U.S. federal government (Deer, 34).

At the hands of Euro-Americans, Native women and children faced undeniable violence that was a drastic change from intolerance and protection they received under traditional matriarchal, matrilineal, and egalitarian justice systems. In more modern times, Native women and children have often been faced with uncontrollable circumstances that have put them in positions of sexual violence or assault while away from their traditional communities and protections. This has come through policies enacted by the US federal government in which sexual violence was a result of. The most famous of these being the federal boarding school system initiated by Richard Pratt in 1879. Pratt’s first school created was the Carlí Indian School in Pennsylvania. The idea soon caught fire and hundreds of boarding schools opened up across the nation. Their intentions were to forcibly remove very young Native children from their home through numerous tactics that included kidnapping, scare tactics, and legal measures, in order to ‘educated’ Native children on Western ways and the English language so when they grew up, they could be ‘proper’ members of U.S. society. Children remained at these schools for most of their childhood so that they would forget traditional ways and languages (Smith 35). While not every boarding school was a horror story, more often than not, children were neglected, beat and sexual abused by staff during their time at boarding school (Amnesty International USA 16). Whether this sexual abuse was known by the federal government or not, will forever be up to speculations. It was not until 1987 that the Bureau of Indian Affairs required a policy that sexual abuse be reported. One can conclude from this, that sexual abuse was known to the federal government and other governing bodies, but was swept under the rug and denied that it happened (Conquest, 38).

The final drastic event that has taken place in the United States with Native people that has contributed to sexual violence through historical violence is the Indian Relocation Act of 1956. This act was the final push to assimilate Native people into modern Western society. The Indian Relocation Act of 1956 moved Native families off the reservation to urban areas where they were promised housing, education opportunities, guidance and counseling in finding a job, and community and social services which were not followed through with from the United States government (Shattered Hearts). The Native people left their secure environment on the reservation where they had a strong cultural connection and the support of the community, to urban areas that were not only visually different from the reservation but were demographically and culturally different. This caused a major disconnection from their new urban communities and their cultures back home (Shattered Hearts). Due to this extreme poverty, many Native
women were forced out of their homes to seek jobs. Sadly, one of the main jobs sought out at this time was prostitution. This spike in prostitution and sex trafficking has continued in Native communities today (Farley et al. 13).

**Tribal Sovereignty**

In the United States, there has been efforts to diminish the sovereignty of the different tribal nations by taking away their right to prosecute criminal activity in Indian Country. These efforts have taken place over the last 150 years and have drastically changed tribal jurisdiction from complete jurisdiction tribal nations had prior to the following policies. The loss of complete tribal jurisdiction, and changes in the way tribal governments operate has created increased violence towards Native women by Native and non-Natives alike. This is largely due to tribal governments having policies imposed upon them with no input or voice from tribal leaders. This created a system where tribes cannot prosecute how they traditionally did for thousands of years.

In the United States, tribal governments have been faced with multiple major policies designed to reduce tribal jurisdiction and right to prosecute. The first of these was the Major Crimes Act that was put in place in 1885. In this act, the United States government obliterated the tribes right to prosecute major crimes and decided that major crimes must go through the federal justice system rather than tribal courts (Smith et al. 31). Originally only four major crimes were included in the act, but it has been changed to now include over a dozen crimes that include rape (McCarty 37). This act eroded the traditional response from tribal governments to handle these crimes by taking away complete jurisdiction over all criminal activity in Indian Country. This also sent the message to non-Natives that Native nations could not handle cases properly (Deer et al. 13). The next step in limiting tribal jurisdiction was the ‘termination period’ of Native tribes in the 1950s. This was a period after 1953 when the House Concurrent Resolution 108 ended Congress’s special relationship with Native tribes. This was an ‘experiment’ from the federal government to further assimilate Native people by eliminating some tribal nations sovereignty altogether. During termination, “tribal land as sold to third parties, special federal programs were discontinued, state legislative jurisdiction was imposed, exception from state taxing authority was ended, and state judiciary authority was imposed except in the area of hunting and fishing” (Neilsen, 120). Not only did termination eliminate some tribes altogether, but it also caused drastic budget cuts to the remaining communities. These budget cuts dramatically decreased funding for tribal court systems and law enforcement on the reservations (Smith et al. 31). As a result of this, tribes could no longer afford to prosecute criminals.

Due to the negative impacts of the last two policies, tribal governments had little to no stable government; so, the United States trying to remedy the situation, passed Public Law 280. This law was set in place in the top six states with the largest Native population, which were California, Oregon, Wisconsin, Minnesota, Alaska, and Nebraska. This law stated that the six states included in the law had the right to exercise full criminal jurisdiction in Indian country, with certain Native reservations within those six states being exempted from the states jurisdiction (McCarty, 38). This law made already complex right of jurisdiction even more complicated with adding state governments to jurisdiction law rather than primarily federal government with tribal governments. The federal government also did not compensate the state governments in which jurisdiction for tribal lands got placed. This meant that the entire cost of
policing reservations was left up to the state governments, who did not have adequate funds to support the new territory, resulting in poor services to tribes (Neilsen, 121). Not only has Public Law 280 created inadequate services to tribes, but it has also created hostile feelings from the state governments towards tribes since states are responsible for the jurisdiction, but do not receive taxation compensation directly from the tribe due to sovereignty status (Neilsen, 121).

Sadly, the United States government did not stop there with decreasing tribal jurisdiction but enforced another policy and a decision by the Supreme Court that were the final piece in limiting tribal jurisdiction to what it is today. The first of these two was the Indian Civil Rights Act of 1968 that limited the punishments tribal justice systems can enforce to just one year or a maximum fine of $5,000 or both (Deer et al. 13). Shortly after in 1978, the Oliphant v. Suquamish Indian Tribe case entered the Supreme Court. The Supreme Court overturned the tribal court case where Mark Oliphant had been arrested by Port Madison tribal police for resisting arrest and assaulting an officer. He was brought to tribal court on these charges, but it was overturned due to him not being a Native person (Neilsen, 124-125). The Supreme Court decided as a result of this that tribal governments did not have the right to prosecute non-Natives for criminal activity that occurred on reservations (Deet et al. 13). Not only did this completely diminish criminal prosecution of non-Natives for tribes in the United States but it added to the public perception that non-Natives can commit crimes on tribal lands without any significant consequences. Some tribes have been able to prosecute non-Native people by decriminalizing the offense but this does not allow for jurisdiction even close to what tribes practiced over non-Natives prior to this Supreme Court case decision (Neilsen, 125).

All of these five policies enacted in tribal governments have dramatically decreased their tribal jurisdiction and changed how their tribal courts are allowed to prosecute in Indian Country compared to what it was a few short hundred and fifty years ago. In 2005, the former president of the National Congress of American Indians stated: “Our women are abused at far greater rates than any other group of women in the United States. The rate of violent assault is so high because the lack of authority given to tribal police has created a system destined to fail our people and our women” (Deer et al. 11-12). These policies deeply affect the problem of sexual violence in Indian Country due to the decreased tribal jurisdiction. A system has been created that gives the majority of control to the federal government which it not always handled properly.

**Violence & Policy**

The statistics of violence facing Native women today are staggering difference compared to when tribal nations had full criminal jurisdiction on tribal lands. The following statistics show the severity of the epidemic of violence against Native women under the United States patriarchal justice system;

- American Indian women face murder rates that are more than 10 times the national average.
- Homicides are the third-leading cause of death of Indian females aged 15 to 34, where 75 percent are killed by family members or acquaintances.
- Indigenous women are almost 3 times more likely to be killed by a stranger than non-Indigenous women are.
National Violence Against Women Survey found that 1/3 of Native women will be raped in their lifetime and ½ of Native women reported a history of sexual violence (Deer, 4).

37% of Native American women are victimized by intimate partner violence in their lifetime.

According to the National Violence Against Women Survey (NVAWS), American Indian women experience more rape, by both strangers and intimate partners, than other U.S. racial and ethnic groups. (Neilsen, 61)

Sarah Deer accurately describes the reasoning behind the alarming statistics of violence against Native women in *The Beginning and End of Rape*, “Today’s tribal legal systems operate under bizarre constraints imposed under even more bizarre conditions, creating a patchwork of various federal and tribal laws that work in tandem to utterly obfuscate justice. Nowhere does this patchwork affect the day-to-day lives of Native people more directly than in the area of criminal law. Native people are both over-victimized and over-incarcerated, at significant rates, and nearly everyone has worked in Indian country can tell you that the criminal justice system framework is to blame” (31). To follow Deer’s statement, the Indian Law Resource Center also comments on the issue of violence not being properly addressed by the criminal justice system through their report that states; "United States law creates a discriminatory system for administering justice in Native communities- a system that allowed to act with impunity in Indian country, threaten the lives and violates the human rights of Native women and girls daily, and perpetuates an escalating cycle of violence in Native communities” (1-2). One can conclude through these heavy statements that it is widely known the United States legal system fails Native women and creates high statistics of violence, but there is not enough being done to formally address this issue through legal means of change.

The start of large-scale sexual abuse against Native women started with non-Natives historically through conquest and colonialism, and today statistics largely back up the same view. Currently non-Natives reportedly comprise 76% of the population on tribal lands where they commit 88% of violent crimes against Native women on tribal lands (Indian Law Resource Center). Once again, this statistic may be off due to under-reporting as a whole, but also from internal violence within Native communities and families that widely goes under-reported. A quote from Criminal Justice in Native America comments on the issue of non-Native abusers, “The high rate of victimization by non-Indians is particularly problematic, because reservation police have no jurisdiction over non-Indians, even on Indian land, and so can only refer these crimes to federal, or (in some cases) state authorities, which often impedes arrest and prosecution of these cases” (62). Tribal nations being denied the right to have criminal jurisdiction over non-Natives in sexual and physical assault cases hurts Native women because they are not receiving the justice that is deserved in their natural homelands.

Violence by Native and non-Native perpetrators continues to occur on and off the reservation, because United States patriarchal law has been proven to inaccurately address issues of sexual and physical violence, specifically causing large-scale damage to Indigenous people because there is no room for natural Indigenous law. Deer addresses this in *The Beginning and End of Rape*, “Federal laws have supplanted effective tribal legal systems with dysfunctional foreign legal systems. The laws and practices of the United States thus continue to be implicated in the high rates of rape of Native women, because they continue to restrict the strength and form of tribal justice systems. However, the federal systems that have replaced the tribal systems
continue to perpetuate the problem by failing to provide accountability on a number of levels. First the federal system has typically failed to adequately investigate and prosecute crime when it does occur” (52). The United States legal justice system is inadequate to the response Native women need and deserve to sexual and physical violence. It often leaves women without seeing justice to the acts of violence committed against them. A recent Amnesty International USA report on sexual and physical violence against Native women in the United States concludes, “Native American / Alaskan Native women often do not get timely- or any- response from police, may not get forensic medical examinations, or may never see their cases prosecuted. (Neilsen, 51) The following statistics back up the claim made by Amnesty International USA on the inadequate response Native women get from the criminal justice system;

- U.S. attorneys declined to prosecute 67% of the Indian country matter referred to them involving sexual abuse and related matters.
- Nearly half of murder cases remain unsolved.
- “The National Violence Against Women Survey found that American Indians/ Alaskan Native women were more likely to report rape and physical assaults than were women of other racial/ ethnic backgrounds” (Neilsen, 49)

Native communities have pushed hard for the last twenty years to bring global awareness to the epidemic of violence against Indigenous women. On a national level this has allowed for increased research into violence against Indigenous women, pushed legislation for sexual violence cases to be handled properly, as well as legal change on outdated policies that make it hard for tribal communities to protect their women from violence.

In the United States, there has been two major legislative acts passed to increase tribal jurisdiction in Indian Country, in hopes to help address the problem of violence against Native women in the United States. The first was the Tribal Law and Order Act passed in 2010 and then later the Violence Against Women Reauthorization Act passed in 2013. These acts focus on increasing the jail sentences handed down in criminal cases over Native tribal members and allowing tribal governments to prosecute non-Native perpetrators who commit violent crimes against Native women on tribal land starting in 2015. Recently in North Dakota, Senator Heitkamp has worked hard on proposing legislation to increase cooperation between tribal police and federal police to combat missing and murdered Native women of the state (Heitkamp). These acts and proposed legislation are a good start in addressing the issue of violence against women in the United States, but there is still a long way to go in federal, state, and tribal governments so each are working together to change the statistic.

The first major legislation passed that improved enforcement and justice in Indian Country in relation to violence towards Native women, was the Tribal Law and Order Act. In 2010, the act was signed into effect by President Barack Obama in order to expand the abilities of tribal courts across the nation (“Tribal Implementation of VAWA”). The law allows for tribal courts to increase jail sentences handed down in criminal cases over Native tribal members.

The purposes of the Tribal Law and Order Act are to:

- Clarify the responsibilities of the federal, state, tribal, and local government with respect to crimes in Indian Country
• Increase coordination and communication among federal, state, tribal, and local law enforcement agencies
• Empower tribal governments with the authority, resources, and information necessary to safely and effectively provide public safety in Indian Country
• Reduce the prevalence of violent crime in Indian Country and to combat sexual and domestic violence against Alaska Native and Native American women; prevent drug trafficking and reduce rates of alcohol and drug addictions in Indian Country
• Increase and standardize the collection of criminal data to and the sharing of criminal history information among federal, state, tribal, and local officials responsible for responding to and investigating crimes in Indian Country ("Tribal Implementation of VAWA").

In recent years, more tribes have exercised enhanced sentencing provisions of the Tribal Law and Order Act. These tribal nations are; Cherokee Nation, Confederated Tribes of the Umatilla Indian Reservation, Eastern Band of Cherokee Indians, Assiniboine & Sioux Tribes of the Fort Peck Indian Reservation, Hopi Tribe, Muscogee Nation, Salt River Pima-Maricopa Indian Community, and Tulalip Tribes ("Tribal Implementation of VAWA"). While this act did increase tribal jurisdiction and allowed for tribes to exercise their right as sovereign nations to govern more, it did nothing to address the problem of non-Native perpetrators on reservations. This did not get addressed until 2013 in the Violence Against Women Reauthorization Act.

After the Tribal Law and Order Act was passed in 2010, focus began to shift to improving violence against Native women from outside perpetrators. This attention caused the second most impactful legislation in Indian Country for mending the occurrences of sexual violence to be passed. This was the Violence Against Women Reauthorization Act signed by President Obama on March 7, 2013. This piece of legislation aimed to directly help Native women through restructuring the jurisdiction of tribal governments by now allowing tribes to issue civil protection orders on their land starting in 2015. This will allow tribal governments to prosecute non-Native perpetrators who commit violent crimes against Native women on tribal land starting in 2015 ("Ending Violence Against Native Women"). As quoted in the Indian Law Resource Center’s article “Ending Violence Against Native Women” about the Violence Against Women Reauthorization Act, “[…] a historic step forward that reflects not only the United States’ commitment to protect Native women from domestic violence, dating violence, and violations of protective orders, but also its restoration and reaffirmation of inherent tribal sovereignty to protect their citizens from violence” ("Ending Violence Against Native Women"). This shows how impactful this piece of legislation is on protecting Native women from violence.

Recently the state of North Dakota and Democratic Senator Heitkamp have made good strides in proposing legislation to help remedy the lack of tribal jurisdiction on and off reservations that have contributed to the large problem of sexual violence against Native women in the state. It has been found that in the years since 2008, violence towards Native women has significantly increased with the oil boom within the state. Tribal leaders and journalist have described this to be attributed to the high rates of crime, prostitution, and drug use within the camps. Law enforcement have struggled with the increased population within these boom towns and how to respond accurately to the crime with the lack of resources to do so (Deer, 78). Taking this into consideration, Heitkamp has advocated for Native American people affected through this. She has reflected on the importance of pressure on the federal government to handle cases
properly and for tribal, state, and federal governments to all work together. From this, she recognized that tribal governments’ jurisdiction to prosecute crimes was virtually non-existent, so in 2016 Senator Heitkamp decided to put pressure on the federal government for not having adequate federal law enforcement in North Dakota (Heitkamp). She did this by bringing the Federal Bureau Investigation Director James B. Comey to Fort Berthold to press him on the urgent need for permanent federal law enforcement presence and improved federal response on the ground in North Dakota and the surrounding Indian Country. Her advocacy as North Dakota’s former Attorney General, and later in the U.S. Senate, allowed for a now permanent FBI office in Williston. North Dakota’s tribal nations and Heitkamp would still like to see an FBI office on every North Dakota reservation (Heitkamp).

The next proposed legislation from Heitkamp is “Savanna’s Act.” A bill named in honor of 22-year old pregnant Savanna LaFontaine-Greywind, who was tragically murdered in August of 2017. Savanna was a member of North Dakota’s Spirit Lake Tribe but was living and murdered off the reservation near Fargo, ND (Heitkamp). This act will help ensure North Dakota tribes have the information and resources they need to protect Native women from violence. This legislation specifically would include;

- improved tribal access to certain federal crime information databases, create standardized protocols for responding to cases of missing and murdered Native people
- require an annual report to Congress on statistics surrounding missing and murdered Native women
- Require governmental departments to solicit recommendations from North Dakota tribes on improved access to local, regional, state and federal crime information databases and criminal justice information systems (Heitkamp).

Should this legislation get passed, it will be a huge step for the tribal nations in the state of North Dakota to regaining lost tribal jurisdiction. Representative Norma J. Torres (D-CA) addresses need for this legislation and impact it could have on the reservation on her website,

“"The increasing crisis of missing and murdered Indigenous women is one that needs to be addressed with urgency and immediate action; their lives are no less valuable than any one of us and deserve to be protected. Improving data collection and fostering better cooperation between law enforcement agencies and tribes, will help prevent more tragedies from happening. As a former first responder, I know how important it is to empower people in the front lines who are doing their best to keep our communities safe. It’s time we give local agencies and tribes the tools necessary to bring justice to the missing and murdered indigenous women and girls nationwide.”

The gap in information between tribal governments, state and federal governments is one of the largest issues facing the state of North Dakota along with the influx of ‘man camps’ from the oil boom.
Conclusion

Policies created by the United States government to decrease tribal governments’ jurisdiction creates a criminal justice system that makes it impossible for tribal governments to protect Native women from violence and bring them justice, inherently promoting the abuse of Native women. As the former president of the National Congress of American Indian stated, “Our women are abused at far greater rates than any other group of women in the United States. The rate of violent assault is so high because lack of authority given to tribal police has created a system destined to fail our people and our women.” It has been proven that when federal and state governments are left to prosecute crime affecting Native women, the results are far from just. Since tribes are guaranteed sovereign status under the law, it is only ideal that tribes govern themselves and others in a way that best suits them, as they have done for thousands of years prior to the U.S. federal government. It is largely believed that ineffective and dysfunctional Patriarchal federal laws have replaced natural tribal laws that have been proven to keep violence against Native women to a minimum historical (Deer, 52).

Since violence against Native women is a very large complex issue, with various sources that influence its continued perpetuation, the solution to decreasing the threat of it in Native communities is a troubling topic. Tribal leaders and experts studying violence against Native women agree that the first step in healing and change is the acknowledgement that colonization and colonialism tactics have played an incredibly large role in the changed sexual mentality of Native women’s worth, ownership of their bodies. There also needs to be acknowledgment that patriarchal American justice systems are ineffective in keeping violence statistics low due to the complex patchwork system in place that is inherently unnatural to Indigenous communities and will never work. Tribal nations need to be able to govern all people, Native and non-Native, on their lands and have a justice system unique to their individual tribe, in order for violence statistics to decrease. Just as patriarchal rape and violence laws made by the United States do not fit Indigenous communities, an encompassing law over all tribal nations based on similar Indigenous idea still would not work either. Along with tribal nation’s perspective in changing criminal law, the stories and voices of advocates and women survivors need to be honored and held to a high degree, as they once were in Indigenous communities. These women and advocates are the experts in remedying sexual and physical violence shortcomings of legal justice system (Deer, 156). When women’s voices are heard and respected, their bodies will be able to be respected as they once were.
Works Cited


