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## Decolonizing VAWA 2021: A Step in the Right Direction for Protecting Native American Women

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# Decolonizing VAWA 2021: A Step in the Right Direction for Protecting Native American Women

Sheena L. Gilbert,  Emily M. Wright,  and Tara N. Richards 

## Abstract

The Violence Against Women Act (VAWA) (1994) was a landmark legislation aimed at combating violence against women. While violence against women is a national issue that affects women of all race/ethnicities, it affects Native American women the most, as Native women experience the highest rates of violence. Violence against Native women is rooted in colonization because it decreases the power of tribal government, diminishes tribal sovereignty, and devalues Native Americans, which in turn leaves Native women more vulnerable to victimization. As such, amendments to VAWA must take particular action on violence against Native women, including actions that support decolonization. The 2013 VAWA reauthorization acknowledged colonization and was the federal government's first step in the decolonization process. It restored tribal jurisdiction over some VAWA crimes, but there are still gaps regarding protecting Native women. This policy analysis examines the proposed VAWA (2021) reauthorization HR 1620 and provides three specific recommendations in order to better protect Native women: 1) allow tribes to write their own rape laws, 2) expand tribal jurisdiction to all VAWA crimes and stranger and acquaintance violence, and 3) enhance tribes' abilities to secure VAWA funds and resources. These recommendations are discussed in terms of existing literature and implications for Native people and Native communities.

## Keywords

Native American, Indigenous, Violence Against Women Act (VAWA), decolonization, violence

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Violence against women of all races/ethnicities is a problem in the U.S. (Smith et al., 2018). The Violence Against Women Act (VAWA) was originally passed in 1994 to provide focused resources and tools to combat this violence. VAWA has been reauthorized three times (in 2000, 2005, and 2013) and an additional reauthorization, HR 1620, was introduced to the Senate in March 2021. At each reauthorization, VAWA legislation has further enhanced judicial and law enforcement tools to combat violence against women, provided funds for research grants and direct resources/services for prevention and interventions, and, in both 2013 and the pending 2021 reauthorizations, VAWA specifically seeks to help protect young women, immigrant women, Native American women, members of the LGBTQ community, and trafficked women (Violence Against Women Reauthorization Act, 7 U.S.C., §§ 40001-40703(2013)). Despite the efforts of VAWA, Native American women (hereafter Native and Native American are used interchangeably) continue to experience higher rates of sexual assault, domestic violence, intimate partner violence, and stalking compared to women of other race/ethnicities (Bachman et al., 2008; Jones et al., 2020; Rosay, 2016). Further, Native American women experience significant rates of poly-victimization and severe violence (i.e., violence resulting in injuries, requiring medical attention), including homicide (Bachman et al., 2008).

As the most recent VAWA reauthorization (2021) HR 1620 has yet to be passed by the Senate or signed into law, there is still time to consider recommendations for continued improvement. Here, we build upon Hartman's (2020) commentary regarding VAWA's (2013) progress and continued gaps in protecting Native women and advance this narrative by centering our analysis in the historical context of Native peoples: colonization.

In the commentary below, we first outline the existing research on violence against Native American women and then discuss the impact of colonization and the reduction of tribal sovereignty as integral to this violence. Then, we outline the steps taken in VAWA (2013) to address the high rates of victimization against Natives. Finally, we provide three specific recommendations for the VAWA (2021) reauthorization in order to better protect Native women. These recommendations build upon the importance of Native American sovereignty and attempt to reduce policies rooted in colonization.

## **Violence in Native American Communities**

A growing body of national research evidence indicates that violence against Native women is a serious public health problem (Bachman et al., 2008; Jones et al., 2020; Rosay, 2016). Most recently, Rosay (2016) examined the 2010 National Intimate Partner and Sexual Violence Survey (NISVS) and found that approximately 84% of Native American women report experiencing violence during their lifetime compared to 71% of Non-Hispanic White women, with 66% of Native women reporting psychological IPV, 56% reporting sexual violence, 55.5% reporting physical IPV, and nearly 49% reporting stalking. Native women are also more likely to experience lethal violence – at rates more than ten times the national average in some counties that include Indian reservations<sup>1</sup> (Bachman et al., 2008).

In addition to national surveys, smaller-scale research by Indigenous scholars has also shown high rates of interpersonal violence among Native women. For example, Bohn (2003) conducted interviews with pregnant Native women and found that the overwhelming majority (90%) had been victims of emotional, physical, and sexual abuse in their lifetime and had experienced repeated acts of violence from childhood to adulthood. Additionally, Gilbert (2020) surveyed residents of an Indian reservation in the Western United States (27 of them identified as Native) and found that 84.4% had

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<sup>1</sup> Indian reservation refers to an area of land reserved for a tribe or tribes under treaty or other agreement with the U.S. (Bureau of Indian Affairs (n.d.))

experienced sexual abuse and 87.5% experienced physical abuse in their lifetime. Specifically, 85% experienced emotional abuse, 81.3% experienced physical abuse, 78.1% experienced psychological abuse, 53.1% experienced sexual abuse, and 40.6% experienced financial abuse (Gilbert, 2020). Again, Gilbert noted high rates of experiences with repeat violence among participants: their experiences with physical and sexual violence started in childhood and continued over their lifetime.

Research also suggests differences in the context of violence against Native women. For example, Native women experience higher rates of sexual assaults including physical violence, weapon use during sexual assaults, assaults resulting in injuries, and the need for medical care for injuries compared to women of other racial/ethnic groups (Bachman et al., 2008; Gilbert, 2020). Further, Native victims of sexual assault are also most likely to report that the offender had been using drugs or alcohol at the time of their assault (Bachman et al., 2008; Gilbert, 2020). In addition, Native women are also more likely to report experiencing inter-racial violence in their lifetime than women of other racial/ethnic groups. According to Rosay (2016), the rate of lifetime violence by an inter-racial perpetrator was 97% for Native American women victims compared to 35% for Non-Hispanic White women victims. Furthermore, Bubar and Thurman (2004) found that 75% of the offenders of Native victimization were inter-racial, compared to 11% of the offenders of non-Native victimization

### **The Impact of Colonization on Tribal Sovereignty and Violence Against Women**

Tribal nations have lost the majority of their sovereignty to the federal government, which makes it difficult for tribes to protect their own people (Deer, 2015). Tribal sovereignty refers to the ability to self-govern, to regulate their own way of living, and to live that way with independence from other nations (i.e., governments) (Cobb, 2005). However, to fully exercise tribal sovereignty, there must be recognition, acknowledgement, and respect of this sovereignty from other nations (including the United States) (Cobb, 2005). This loss of sovereignty stems from colonization – the removal and erosion of another society, including their values, beliefs, norms, cultures, and traditions by outsiders (Weaver, 2009). Colonization has impacted tribal communities by changing the power dynamics within Native families and households, limiting tribal governmental powers to create a jurisdiction to enforce tribal laws, and fostering detrimental stereotypes of Native peoples (Weaver, 2009). Each of these, in turn, contribute to further violence and victimization against Native women, but can be in part addressed through continued VAWA efforts.

First, colonization has changed the power dynamics within Native households, emphasizing patriarchal views (i.e., traditional Euro Western views) over the matriarchal and/or egalitarian structure seen in many traditional Native cultures (Luna-Gordinier, 2018). It should also be noted that there are over 500 federally recognized tribes in the U.S. (Wasserman, 2004), each with their own traditions, cultures, and beliefs, and therefore, they should not be treated as a monolith. Traditionally, Native women controlled property, chose the members of the tribal council (Deer, 2015), and elder women were in charge of socialization and maintained the passing down of the culture to the next generation (Weaver, 2009). However, hierarchy of authority did not exist within Native communities – instead, there was a horizontal separation of duties. Furthermore, gender roles in Native communities differ in comparison to the dominant U.S. gender roles. For example, gender is considered more fluid, meaning that men would sometimes take on “women’s” roles and women would take on “men’s” roles (Deer, 2015). Taken together, Native cultures valued equilibrium in the community rather than a hierarchical power structure (Luna-Gordinier, 2018).

Colonization has broken down the egalitarian structure in tribal communities, impacting both men and women: patriarchy has given men more power and control over Native women, which in turn, has significantly impacted women’s roles in the community (Weaver, 2009). As Native men

began to take on more patriarchal beliefs, they adopted Euro Western attitudes regarding (Native) women's subordination (Weaver, 2009), causing an instability in Native communities, which led to growing use of violence toward Native women as a mechanism of control (Kuokkanen, 2008).

Federal policies – also rooted in colonization – have impacted the protection of Native women by limiting the power of tribal governments (Deer, 2015), which makes violence against Native women easier to perpetrate, less likely to be reported, and less likely to be punished or prosecuted. Some federal policies have placed limits on sentencing authority (e.g., Indian Civil Rights Act, 1968), some have taken away jurisdiction over crimes that are committed in Indian Country<sup>2</sup> (e.g., Major Crimes Act, 1885), and others have taken away the jurisdiction over non-Natives who commit crimes on Indian reservations against Native women (*Oliphant v. Suquamish* (1978)) (Deer, 2015; Hartman, 2020).

The Major Crimes Act (1885) was the U.S. government's attempt to impose the federal criminal justice system on Native communities, and Native victims specifically, meaning that the victim would have to navigate the federal system if they wished to report their victimization (Deer, 2015). The federal government also passed the Indian Civil Rights Act (1968), which only allowed tribes to impose a six-month sentence and/or a \$500 fine on offenders. Under American law, this only amounted to a misdemeanor crime, and gave the impression that tribes could not (and would not) prosecute felonious crimes (e.g., sex crimes). This made it easier for Native women to be victimized (Deer, 2015). Further, the Supreme Court decision in *Oliphant v. Suquamish* (1978) removed the ability of tribal governments to prosecute non-Natives who commit crimes against Natives (Hartman, 2020).

Taken together, the loss of tribal sovereignty to the federal government poses significant challenges for prosecuting perpetrators of violence against Native women. To begin, when a crime or victimization is reported on Indian reservations, this initiates what has been referred to as the “jurisdictional maze” (Castillo, 2015, p. 314): depending on where the crime happened, who the victim is, who the perpetrator is, and/or what type of crime/victimization occurred, a different law enforcement agency will assume jurisdiction (e.g., Tribal, state, or federal law enforcement). At the same time, if the perpetrator is non-Native, in most cases, prosecutorial jurisdiction will fall to the federal government through a U.S. Attorney's Office (USAO) (Castillo, 2015; see also *Oliphant v. Suquamish*, 1978). To illustrate, from 2005 to 2009, 10,000 matters (i.e., USAO speak for criminal complaints) in Indian Country were referred to 94 USAO districts; 73% of these criminal matters stemmed from 5 USAO districts (U.S. GAO, 2010).

Castillo (2015) explains that federal prosecution of crimes on Indian reservations, especially VAWA crimes, may be difficult because USAO prosecutors 1) often do not have experience prosecuting these types of crimes, 2) have limited resources, and encounter both 3) cultural barriers, and 4) language barriers. For example, U.S. Attorneys declined to prosecute more than 50% of violent crimes that occurred in Indian country from 2005 to 2009, and nearly 70% of those declined cases were related to sexual violence (U.S. GAO, 2010). Taken together, it is clear that the federal criminal justice system tasked with combatting crime and instilling safety on Indian reservations is not adequate and that addressing these inadequacies has not been a priority of federal legislation. Furthermore, given the historical context of this violence, it is disingenuous to ask Native people – especially Native women and children – to trust and depend on a *justice* system designed by their colonizers to address the very crimes created by those colonizers (i.e., rape). This is not a solution to protect Native women (Deer, 2009).

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<sup>2</sup> Indian Country is term used and recognized by the federal government and holds the same meaning as Indian Reservations.

Castillo (2015) states that because tribal courts cannot prosecute non-Natives, and these crimes are rarely prosecuted by federal courts, VAWA crimes are under prosecuted, which places Native women in more danger. Likewise, the limited prosecution of victimization against Native women likely impacts reporting as Native women understand that there will likely be no follow-up from federal, local, and/or tribal law enforcement when they report their victimization (Weaver, 2009). The impact of jurisdictional issues is particularly significant for violence against Native women given the high rates of inter-racial perpetration and Census estimates that show that the majority of individuals now living on Indian reservations *do not* identify as American Indian or Alaska Native (Norris, Vines, & Hoeffel, 2012).

Lastly, colonization has promoted stereotypes regarding Native Americans generally, and Native women specifically, as less deserving of respect and protection from violence. Weaver (2009) contends that colonization has led non-Natives to believe that Native people are “savages” and “less than human.” Indeed, the mantra of residential boarding schools – one of the tools of colonization – was to “kill the Indian, save the man” (Churchill, 2004; Trafzer, Keller, & Sisquoc, 2006). During the Indian wars, troops would cry out “kill and scalp all, big and small” and “nits make lice” – since Native women were considered lice and their children were nits – thus calling for Native women and children to be killed (Agtuca, 2008, p. 17; see also Brown, 1970). To these outsiders (i.e., non-Native), the lives of Native women were perplexing and misunderstood, and thus were perceived as unchristian and in need of “civilizing” (through violence) (Agtuca, 2008). Similarly, in the eyes of the Anglo-American law, only White women could be raped (Deer, 2009), leaving Native women unprotected.

Colonization has resulted in vast historical trauma or the “cumulative emotional and psychological wounding over the lifetime and across generations...” of Indigenous people (Brave Heart, 2003, p. 7), and decolonization is the only way to protect Native women. Decolonization can take many forms. In its truest form, decolonization means the full repatriation of Native lands and bodies (Tuck & Yang, 2012). In other words, to fully decolonize the United States, settler colonialists would truly *give back* the land to Indigenous people. Here, however, we discuss decolonization in terms of the restoration of tribal sovereignty – the sovereignty of Native lands and Native people (Tuck & Yang, 2012).

### **VAWA 2013: A Step in the Right Direction**

Many Native scholars and activists view the 2013 VAWA reauthorization as a positive step in addressing the gaps in protecting Native women. The VAWA reauthorization (2013) amended parts of the *Oliphant v. Suquamish* (1978) decision and restored tribal governments’ jurisdiction over domestic violence and dating violence committed by non-Natives against Natives (Deer, 2015; Hartman, 2020; Modi et al., 2014). Thus, the 2013 VAWA served as a step in the right direction for restoring sovereignty to Native American nations.

Specifically, VAWA (2013) created the Special Domestic Violence Criminal Jurisdiction (SDVCJ), which allows tribes to exercise prosecutorial jurisdiction over non-Native offenders who commit domestic violence and dating violence against Natives (Hartman, 2020). As of 2018, there were 18 tribes who had chosen to exercise SDVCJ (Hartman, 2020). According to the National Congress of American Indians (2018), tribes who are exercising SDVCJ feel as though they can better protect their people, which has been a longstanding issue in tribal communities.

Despite the creation of the SDVCJ, there are still barriers to tribes recouping jurisdiction as before tribes can opt-in to the SDVCJ they must meet certain requirements that take time and/or financial resources. Hartman (2020) provides an excellent overview of these requirements and how they have impacted tribes. First, to accommodate SDVCJ requirements, some tribes had to rewrite

their tribal code or amend their own constitutions to comply. Second, some tribal court systems were not adequate to comply with SDVCJ, so they had to build or seek out additional services in order to include non-Native defendants. Third, some tribes had to renegotiate with the Bureau of Indian Affairs (BIA) or another jurisdiction to house non-Native offenders if they did not have facilities to do so on Indian reservations (Hartman, 2020). The underlying problem highlighted here is that even when VAWA attempts to restore or respect tribal sovereignty, practical issues at the tribal level can impede the success of the initiative. Many of these barrier's stem from lack of monetary support and capacity limitations within tribes, again due to longstanding neglect and/or indifference by the federal government under colonization.

In addition, VAWA's (2013) SDVCJ only allows for tribal jurisdiction over domestic violence and dating violence committed by a non-Native offender against a Native victim. The policy does not extend to sexual assault, rape, or stalking, crimes which disproportionately impact Native women and girls (Richards et al., 2021; Rosay, 2016). Further, the tribal jurisdiction allowed by VAWA is quite narrow. To be eligible for tribal jurisdiction, the offender must have ties to the tribe (Castillo, 2015; Deer, 2015; Hartman, 2020). If a non-Native does not live on the Indian reservation, work for the tribe, or have a current or former intimate relationship with an enrolled Native of the tribe or a Native who resides on the Indian reservation, then they are not eligible for prosecution under the tribe's SDVCJ (Castillo, 2015). As previously stated, this is problematic because of the high rates of inter-racial violence against Native women (Rosay, 2016).

Some measures have been taken to combat issues relating to barriers in reporting, investigating, and prosecuting violence against Native people. First, some states have cross-deputized state and tribal officers, which allows them to cross jurisdictions during criminal cases (National Sheriffs Association, 2018). Cross-deputizing is beneficial for several reasons, as it: 1) improves law enforcement effectiveness, 2) helps reduce crime in Indian Country, and 3) develops relationships between state and tribal law enforcement (National Sheriffs Association, 2018). Second, the Tribal Access Program (TAP) developed by the U.S. Department of Justice (DOJ) empowers tribal law enforcement to access critical criminal justice information and share information with state and federal agencies; TAP also provides the necessary training to tribal police (U.S. DOJ, 2017). Third, the National Indigenous Women's Resource Center (NIWRC) started the VAWA sovereignty initiative, which is an effort to uphold the tribal requirements within Title IX of VAWA and protect VAWA and tribal jurisdiction over non-Native offenders throughout the United States (NIWRC, 2020). Fourth, the Tribal Law and Order Act (TLOA) which was passed in 2010 attempted to address crimes, specifically sexual assault and domestic violence, on Indian reservations by providing training for law enforcement, better evidence collection methods, and more services for victims (Hartman, 2020). Furthermore, part of TLOA was to enhance crime data collection from tribes to help identify effective programs (Helland, 2018).

At the same time, there are limitations regarding cross-deputization and participation in TAP, because tribal police often lack funding and resources (Bubar, 2009; Crossland et al., 2013; Hartman, 2020). For example, research has found that some tribes may only have up to three officers working at a time (Bubar, 2009; Crossland et al., 2013) which can impact investigations and policing in general (Bubar, 2009), and create hesitancy from both tribal law enforcement and local and state agencies regarding participation in cross-deputization programs. In addition, due to strained funding and resources, tribes may not have the technology necessary to participate in TAP. Further, TLOA was intended to create better communication between tribal and local law enforcement, but if a tribe does not have a law enforcement agency, then certain aspects of TLOA do not apply (Helland, 2018). Moreover, communication is hindered further by the longstanding failure by the federal government

to collect crime data from tribes as well as the inconsistency of tribes in reporting their crime data to the federal government (Helland, 2018).

VAWA (2013) also excludes any type of violence by a stranger or acquaintance due to the definition of “domestic violence” and “dating violence.” According to VAWA (2013), domestic violence is defined as violence committed by a spouse, former spouse, intimate partner, or someone that the victim either has a child with, cohabitates with, or is considered a spouse under family or domestic laws (Castillo, 2015; Flay, 2017). Dating violence is defined as violence committed by someone who is in some kind of a romantic or intimate relationship with the victim (Castillo, 2015; Flay, 2017). Both of these definitions require a current or former intimate relationship between the offender and the victim for the crime to be prosecuted under tribal jurisdiction. Again, this is inadequate because it excludes Native American victims who are assaulted by strangers or acquaintances (Castillo, 2015).

All women deserve equal protection under VAWA, and now, with the HR 1620 pending reauthorization, is the perfect time to address the aforementioned limitations in protecting Native women. Therefore, we have identified three concrete recommendations to further strengthen VAWA’s protection of Native victims: 1) allow tribes to write their own rape laws, 2) grant complete tribal jurisdiction over all violence including “stranger and acquaintance violence,” and 3) enhance tribes’ abilities to secure VAWA funds and resources. We expand upon each of these recommendations below.

### **Recommendation #1: Allow tribes to write their own rape laws**

The best way to protect Native women is to decolonize the policies applied to violence against Native women *through the development of tribal rape laws* (Deer, 2015). Deer (2015) explains that developing these new laws would provide tribes the opportunity to reflect the historical context of rape and violence in tribal communities (e.g., colonialism, conquest, sterilization, genocide) within their laws, while also considering the prevalence and context of violence in Indian Country and the limitations of tribal courts. Additionally, the ability for tribes to develop (and enforce) their own rape laws is the purest form of sovereignty (Deer, 2009).

The development of tribal rape laws should begin with an understanding of rape at the micro (individual) and macro (community) levels and should rely on the resources available within tribal communities (Deer, 2015). For example, a micro level understanding of rape might involve incorporating stories from Native survivors and tribal victim advocates because they truly know the shortcomings of the criminal justice system. Additionally, a macro level understanding of rape would rely on the history of anti-rape activism to help explain the historical trauma that accompanies rape against Native victims and provide tribal communities with continuity and leadership (Deer, 2015).

Allowing tribes to develop their own rape laws will also ensure that laws are culturally appropriate, utilize correct and culturally important language, and are consistent with tribal self-determination (Deer, 2015; Luna-Gordinier, 2018). Stories, ceremonies, and spiritual teachings have always played an important role in the Native response to crime and some of these stories or beliefs may contain cultural and/or historical responses to rape (Deer, 2015). For instance, Native traditions have focused on healing both body and spirit in the aftermath of victimization, as well as the restoration of an offender (and victim) back to the community (Hamby, 2009). Similarly, a culturally appropriate response to rape is one rooted in the understanding that rape is not just an attack on an individual but an attack on the community, which is why including the shared experiences of the tribal community is helpful in developing tribal rape laws (Deer, 2015). Using a tribe’s resources to create tribal rape laws will reclaim safety and empowerment not just for Native women, but for the whole tribe, and will allow the community to continue to carry on Native American culture, traditions, and beliefs.



**Recommendation #2: Expand tribal jurisdiction to all VAWA crimes including stranger and acquaintance violence**

VAWA (2021) must *expand tribal jurisdiction to include all VAWA crimes*: crimes of domestic violence, dating violence, sexual violence, sex trafficking, and stalking. As previously noted, in addition to domestic violence and dating violence, Native American women suffer the disproportionate rates of sexual violence and poly-victimization. The current VAWA (2021) HR 1620 proposal includes an expansion of tribal jurisdiction to all VAWA crimes, and this expansion is critical to the protection of Native women.

In addition, *tribal jurisdiction must be extended to VAWA crimes perpetrated by strangers and acquaintances to fully protect Native women* (Flay, 2017). Flay (2017) states that under VAWA's (2013) domestic and dating violence definitions, Native women are protected against their partners or significant others, but not against non-Native strangers or acquaintances that reside on Indian reservations. This omission must be recognized within the context of the "real rape" myth (Estrich, 1987) – an attack by a stranger perpetrator – and consider if White women would be left unprotected from such assaults? Further, would a U.S. state or the federal government ever be expected to allow a non-citizen impunity for a crime of violence committed within its borders? It is imperative that tribal jurisdiction cover all VAWA crimes committed by non-Natives irrespective of their relationship with the victim, given that non-Natives make up a large part of the population on Indian reservations (Norris et al., 2012), and victimization of Native women is largely inter-racial (Rosay, 2016).

**Recommendation #3: Enhance tribes' abilities to secure VAWA funds and resources**

VAWA (2021) should also include *provisions that will enhance tribes' access to funds for VAWA prevention and intervention efforts*. Each year the Office of Victims of Crime (OVC) allocates a certain amount of funding from the Crime Victims Fund (CVF) for tribal victim services (i.e., the Tribal set-aside) (Hartman, 2020); however, many tribes "need resources to get resources." For example, within tribal communities, there may be a lack of awareness regarding the funding that is available, limited availability of grant writers to seek out funding, and/or limitations within tribal organizations regarding staff to oversee grants and external funding. There may be other barriers to funding eligibility, such as tribes' limited capacity to offer services (e.g., limited number of law enforcement officers or victim service providers), or physical and technological limitations (e.g., rurality of tribes). In the case of the tribal set-aside, OVC provides programmatic and financial technical assistance (e.g., pre-application webinars, in-person grant writing workshops) and each year OVC meets with tribal leaders to discuss how to better support tribes' access to funding and resources (e.g., noncompetitive funding, better outreach efforts, better awareness of funds) necessary to help tribes deliver services for their people. However, a portion of this critically needed tribal set-aside money remains unspent each year due to barriers in tribes' access to grants (U.S. Department of Justice, Office of Violence Against Women, 2020).

VAWA (2021) would be well-served to further break down the barriers that grant procedures created for tribes who attempt to procure grant funding. For example, OVC could provide access to grant writers for tribes that do not have them, grants could be "tiered" so that smaller tribes still qualify or allow for tribal consortiums, and OVC could provide direct outreach to tribes so tribes are aware of *all* potential funding opportunities (e.g., VOCA, FVPSA, STOP) (see also U.S. Department of Justice, Office of Violence Against Women, 2020).

Lastly, OVC could provide targeted outreach to tribes that have never applied for and/or been awarded grant funding. Given the rates of violence against Native women, it is critical that tribes have access to grant resources, and we must recognize that resource constraints may serve as an immutable barrier to tribes if they are asked to reach the same grant application or grant reporting requirements of state institutions and non-Native non-profit organizations.

When considering access to funds, one must also consider the particular barriers faced by Alaska Native women. There are 229 tribes in Alaska, and 165 of these tribes *are only accessible by air travel* for most of the year (Ned-Sunnyboy, 2008). Targeted consideration must be extended to Alaska Native women who are living in the most rural, remote, and isolated areas of Alaska as they may have no access to the basic infrastructure to address violence against women: no law enforcement, no rape crisis hotlines, no shelters, and no medical care (Ned-Sunnyboy, 2008). Therefore, VAWA (2021) provides an opportunity to consider how to support the least resourced Native communities – if these communities are served then all Native communities will be served.

In addition, VAWA (2021) should allocate more funding to tribes through the Victims of Crime Act (VOCA). These funds should be dedicated to providing funding and resources for shelters (short-term and long-term), victim service advocates, youth programs, batterer intervention programs, and elder abuse programs. Additionally, for non-Native victim service programs that are located near Native communities, VOCA funds should support cultural sensitivity training to staff working in those facilities so that they have a better understanding of Native victims. Furthermore, VOCA funding could be used to extend cultural sensitivity training to other criminal justice system personnel who are likely to come into contact with Native victims (e.g., law enforcement officers, health care workers, courtroom actors). Overall, additional effort should be made to speak with tribal leaders and tribal service providers directly to gain a better understanding of how funds could further support Native communities.

## Conclusion

VAWA (2013) took several important steps in decolonizing responses to violence against Native women, however gaps remain that could be addressed in the VAWA (2021) reauthorization, HR 1620. While it may be impossible to fully remedy the effects of colonization, amending VAWA to allow tribes to write their own rape laws, granting tribes full jurisdiction over VAWA crimes including stranger and acquaintance violence, and devoting additional resources to support applications for funding and additional funding allocations for tribal communities are steps towards better protection for Native women. VAWA (2021) must prioritize tribal sovereignty and tribal self-determination as *the way* for tribal governments to protect their people.

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## Supplemental Material

There is no supplemental material for this article.

## References

- Agtuca, J. (2008). Beloved women: Life givers, caretakers, teachers of future generations. In S. Deer, B. Clairmont, C.A. Martell, & M.L. White Eagle (Eds.), *Sharing our stories of survival: Native women surviving violence* (pp. 3-27). Altamira Press.
- Bachman, R., Zaykowski, H., Kallymyer, R., Poteyeva, M., & Lanier, C. (2008). Violence against American Indian and Alaska Native women and the criminal justice response: What is known. (Report No. 223691). Retrieved from National Criminal Justice Reference Service. <https://www.ncjrs.gov/pdffiles1/nij/grants/223691.pdf>.
- Bohn, D.K. (2003). Lifetime physical and sexual abuse, substance abuse, depression, and suicide attempts among Native American women. *Issues in Mental Health Nursing*, 24(3), 333-352. doi:10.1080/01612840305277.
- Brave Heart, M.Y.H. (2003). The historical trauma response among Natives and its relationship with substance abuse: A Lakota illustration. *Journal of Psychoactive Drugs*, 35(1), 7-13. <https://doi.org/10.1080/02791072.2003.10399988>.
- Brown, D. (1970). *Bury my heart at wounded knee: An Indian history of the American west*. Henry Holt and Company, LLC.
- Bubar, R. (2009). Cultural competence, justice, and supervision: Sexual assault against Native women. *Women & Therapy*, 33(1-2), 55-72. <https://doi.org/10.1080/02703140903404762>.
- Bubar, R. & Thurman, P.J. (2004). Violence against Native women. *Social Justice*, 31(4), 70-86. <https://www.jstor.org/stable/29768276>.
- Bureau of Indian Affairs (n.d.). *Frequently asked questions: Why tribes exist today in the United States*. <https://www.bia.gov/frequently-asked-questions>.
- Castillo, C. (2015). Tribal courts, non-Indians, and the right to an impartial jury after the 2013 reauthorization of VAWA. *American Indian Law Review*, 39(1), 311-336. <http://digitalcommons.law.ou.edu/ailr/vol39/iss1/8>.
- Churchill, W. (2004). *Kill the Indian, save the man: The genocidal impact of American Indian residential schools*. City Lights Books.
- Cobb, A.J. (2005). Understanding tribal sovereignty: Definitions, conceptualizations, and interpretations. *American Studies*, 46(3/4), 115-132. <https://www.jstor.org/stable/40643893>.
- Community Policing Dispatch (June 2017). *How tribes can "TAP" into critical crime data: COPS funding in action*. Retrieved from [https://cops.usdoj.gov/html/dispatch/06-2017/cops\\_funding\\_in\\_action.html](https://cops.usdoj.gov/html/dispatch/06-2017/cops_funding_in_action.html).
- Crossland, C., Palmer, J., & Brooks, A. (2013). NIJ's program of research on violence against American Indian and Alaska Native women. *Violence Against Women*, 19(6), 771-790. <https://doi.org/10.1177/1077801213494706>.
- Deer, S. (2009). Decolonizing rape law: A Native feminist synthesis of safety and sovereignty. *Wicazo Sa Review*, 24(2), 149-167. <https://www.jstor.org/stable/40587785>.
- Deer, S. (2015). *The beginning and ending of rape: Confronting sexual violence in Native America*. University of Minnesota Press.
- Estrich, S. (1987). *Real rape*. Harvard University Press.
- Flay, R. (2017). A silent epidemic: Revisiting the 2013 reauthorization of the violence against women act to better protect American Indian Native women. *American Indian Law Journal*, 5(1), 230-262. <https://digitalcommons.law.sea.leu.edu/ailj/vol5/iss1/5>.
- Gilbert, S. L. (2020). Intimate partner violence in a Native American community: An exploratory study. *Boise State University Theses and Dissertations*. 1688.10.18122/td/1688/boisestate.
- Hamby, S. (2009). Finding their way: Challenges and resources of American Indian victims of sexual assault. In M.O. Nielsen & R.A. Silverman (Eds.), *Criminal justice in Native America* (chapter 5, pp. 61-76). The University of Arizona Press.
- Hartman, J.L. (2020). Seeking justice; How VAWA reduced the stronghold over American Indian and Alaska Native women. *Violence Against Women*, 1-17. <https://doi.org/10.1177/1077801220949695>.
- Helland, S. (2018). *A broken justice system: Examining the impact of the Tribal Law and Order Act of 2010 and Public Law 280*. Rose Institute of State and Local Government, Claremont McKenna College. [https://s10294.pcdn.co/wp-content/uploads/2018/10/Tribal-Courts-White-Paper\\_FINAL.pdf](https://s10294.pcdn.co/wp-content/uploads/2018/10/Tribal-Courts-White-Paper_FINAL.pdf).
- Jones, M.S., Worthen, M.G., Sharp, S.F., & McLeod, D.A. (2020). Native American and non-native American women prisoners, adverse childhood experiences, and the perpetration of physical violence in adult intimate relationships. *Journal of Interpersonal Violence*. Advanced online publication. <https://doi.org/10.1177/0886260519897328>.
- Kuokkanen, R. (2008). Globalization as racialized, sexualized violence. *International Feminist Journal of Politics*, 10(2), 216-233. <https://doi.org/10.1080/14616740801957554>.
- Luna-Gordinier, A. (2018). Stalking in Indian Country: Enhancing Tribal Sovereignty through the Tribal Law and Order Act and the Violence against Women Act. *Crime and Social Justice in Indian Country*, 121-41. <http://hdl.handle.net/10150/291644>.
- Modi, M. N., Palmer, S., & Armstrong, A. (2014). The role of violence against women act in addressing intimate partner violence: A public health issue. *Journal of Women's Health*, 23 (3), 253-259. <https://doi.org/10.1089/jwh.2013.4387>.
- National Congress of American Indians. (2018). *VAWA 2013's special domestic violence criminal jurisdiction five-year report*. Retrieved from [https://www.ncai.org/resources/ncai-publications/SDVCJ\\_5\\_Year\\_Report.pdf](https://www.ncai.org/resources/ncai-publications/SDVCJ_5_Year_Report.pdf)
- National Indigenous Women's Resource Center (2020). *VAWA sovereignty initiative*. Retrieved from <https://www.niwrc.org/vawa-sovereignty-initiative>.
- National Sheriffs Association (2018). *Cross-deputization in Indian country*. Retrieved from

- <https://www.sheriffs.org/sites/default/files/Cross%20Deputization%20in%20Indian%20Country.pdf>.
- Ned-Sunnyboy, E. (2008). Special issues facing Alaska Native women survivors of violence. In S. Deer, B. Clairmont, C.A., Martell, & M.L. White Eagle (Eds.), *Sharing our stories of survival: Native women surviving violence* (pp. 71-84). Altamira Press.
- Norris, T., Vines, P.L., & Hoeffel, E.M. (2012). *The American Indian and Alaska Native population: 2010*. U.S. Census Bureau. <https://www.census.gov/history/pdf/c2010br-10.pdf>
- Office for Victims of Crime (2020). *Tribal victim services set-aside*. American Indian & Alaska Native Victim Services Resources. <https://ovc.ojp.gov/program/tribal/tribal-victim-services-set-aside>.
- Richards, T.N., Schwartz, J.A., & Wright, E. (2021). Examining adverse childhood experiences among Native American persons in a nationally representative sample: Differences among racial/ethnic groups and race/ethnicity-sex dyads. *Child Abuse & Neglect*, 111, 1-12. <https://doi.org/10.1016/j.chiabu.2020.104812>.
- Rosay, A.B. (2016). Violence against American Indian and Alaska Native women and men: 2010 Findings from the national intimate partner and sexual violence survey. *U.S. Department of Justice, National Institute of Justice*, 1-79. <http://hdl.handle.net/11122/7025>.
- Smith, S. G., Zhang, X., Basile, K. C., Merrick, M. T., Wang, J., Kresnow, M., & Chen, J. (2018). The national intimate partner and sexual violence survey (NISVS): 2015 data brief – Updated release. National Center for Injury Prevention and Control, Centers for Disease Control and Prevention. <https://www.cdc.gov/violenceprevention/pdf/2015data-brief508.pdf>
- Sutter, M., gaiashkibos, J., Shafer, S., Weidner, E., Richards, T.N., Wright, E., & Nystrom, A. (2020). LB 154 Report: Prevalence of Missing and Murdered Women and Children in Nebraska; Barriers to Reporting and Investigating; and Opportunities for Partnerships. Submitted to the Nebraska Legislature. [https://www.un-omaha.edu/news/2020/04/img/lb154-report---5.22.20\\_final.pdf](https://www.un-omaha.edu/news/2020/04/img/lb154-report---5.22.20_final.pdf).
- Trafzer, C.E., Keller, J.A., & Sisquoc, L. (2006). *Boarding school blues: Revisiting American Indian educational experiences*. University of Nebraska Press.
- Tuck, E. & Yang, K.W. (2012). Decolonization is not a metaphor. *Decolonization: Indigeneity, Education, & Society*, 1(1), 1-40. <https://jps.library.utoronto.ca/index.php/des/article/view/18630>.
- U.S. Department of Justice (2017). *Tribal access program (TAP) for national crime information*. Retrieved from <https://www.justice.gov/tribal/tribal-access-program-tap>.
- U.S. Department of Justice, Office of Violence Against Women (2020). 2020 update on the status of tribal consultation recommendations. Retrieved from <https://www.justice.gov/ovw/page/file/1327351/download>.
- U.S. Government Accountability Office. (2010). *U.S. Department of Justice Declinations of Indian Country criminal matters*. Retrieved from <https://www.gao.gov/new.items/d11167r.pdf>.
- Violence Against Women Reauthorization Act, 7 U.S.C., §§ 40001-40703 (2013). <https://www.congress.gov/113/plaws/publ4/PLAW-113publ4.pdf>.
- Wasserman, E. (2004). Issues in conducting research on crime victimization. *Journal of Ethnicity in Criminal Justice*, 2(4), 65-73. Doi: 10.1300/J222v02n04\_04.
- Weaver, H. N. (2009). The colonial context of violence: Reflections on violence in the lives of Native American women. *Journal of Interpersonal Violence*, 24(9), 1552-1563. <https://doi.org/10.1177%2F0886260508323665>.

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