

Jurisdictional Vacuums

Name:

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Gender-based violence severely affects all components of a woman's health—primarily sexual, reproductive, and mental health. Rape has become an epidemic in Indian reservations in the US and is considered to be particularly brutal. US laws often leave rape cases of Native Americans without resolution, as it has become frequent, although the US government has some laws as the Rape Shield Law and rape investigation that should prosecute and investigate these types of crime at a high level.

Sexual violence against Native American women is the result of many factors, including the historically established legacy of widespread and flagrant violations of the human rights of indigenous people in the US. As for the epidemic, it should be noted that every third Native American woman has been raped. However, 88% of the rapes are committed by non-Native American men in the reserves who know that tribal authorities cannot prosecute them (Amnesty International Report, 2017). Native American women become victims of violent crimes twice more often as other US female residents. Human rights violations are still present in the culture of the US towards the Native American people. This attitude has caused a high level of sexual assaults and sometimes the help in the protection of rapists from trial is present.

There are more than 500 federally-recognized tribes in the US. Under US law, they are sovereign nations with their jurisdiction over their people and on their lands and maintain intergovernmental relations with each other and the federal government. The federal government guarantees the protection of the rights and welfare of the tribes and is legally responsible for this. The particular legal responsibility of the federal government is to assist tribal governments in

protecting the lives of Native American women. However, tribal law enforcement agencies are underfunded, as federal and state governments allocate significantly fewer resources.

This jurisdictional vacuum often leaves the violence of Native American women unresolved. The jurisdictional vacuum is known as “no other state jurisdiction” and is one of the four types of jurisdiction provided by the Uniform Child Custody Jurisdiction and Enforcement Act (US Legal). Jurisdictional vacuum plays a significant role in solving the problems of violence against Native American women. Unfortunately, when a Native American woman is subjected to abuse in her tribe, this situation is often not taken seriously. In addition, this type of crime cannot be prosecuted or even investigated.

Gender, race, and colonialism represent the major types of inequality that Native American women face. The intersection of these types of inequality makes Native American women likely to experience sexual violence. The intersection of various forms or systems of oppression, domination, or discrimination is called intersectionality (Deer, 2016). Cases of racial discrimination against Native Americans have always been present and have been increasing in the midst of the economic crisis. Nowadays, Native Americans women face an acute problem: the lack of equality in various areas of life, starting from employment to the investigation of rape cases. These problems have affected not only women but also men. Native Americans face constant encroachment of the government and private companies on the lands of Native Americans due to the abundant natural resources on these lands.

The problem of equality has always affected the native inhabitants of the US. Throughout their existence, they have faced resettlement as part of the policy of ethnic cleansing. The phenomenon of resettlement acquired the definition of settler colonialism, which denotes a type

of colonization economic management (Deer, 2016). The primary purpose was the expansion of the living space of the ethnic group at the expense of autochthonous peoples. The problem of racial discrimination—which later was called institutional racism—arose since the resettlement of indigenous people of the US. Institutional racism describes any system of inequality based on race that can be observed in different institutions like business companies, schools, universities and even churches (Deer, 2016). That is why the problem of racism still affects Native Americans.

Native American women still continue to succumb to violence due to racial, gender, and colonialism inequality. Certain laws of the tribes of Native Americans allow criminals to escape punishment. One of these laws lies in the fact that if violence against a Native American woman is outside her tribe, the prosecutors of her tribe cannot investigate it. This situation can be seen in the book *The Round House* written by Louise Erdrich. After reading this book, one can see how the mother of the protagonist Joe suffered from an attack. However, she did not remember the exact place of this incident, as the attacker covered her face. For this reason, the rapist was released, as there was no direct evidence or allegation from the injured mother that the rape was carried out at a particular place.

Thus, this case could not fall under any jurisdiction of the three pieces of land where the rape allegedly took place. After analyzing this story, it can be concluded that most rape cases on the territory of tribes that are sent to federal courts unfortunately never get to court. For this reason, Native American women are deprived of judicial protection, while criminals are not punished. That is why it should be said that in its inability to protect women from sexual assault, the US violates the human rights of women.

The US government undermines the ability to resist crimes associated with sexual violence by constantly underfunding the judicial system of indigenous communities. Federal law restricts criminals by one year of imprisonment to punishment for any criminal offense which a tribal court can sentence. Moreover, they prohibit judging suspects who are not Native Americans. In the opinion of most residents, the result of investigating rape crimes is always the same regardless of the place of the incident, and the laws that operate there and many indigenous women who survive sexual abuse cannot achieve justice.

In conclusion, it can be noted that Native Americans continue to face a considerable number of problems. As for Native American women, it can be concluded that they are sexually abused twice as often as other US women due to inadequate laws that operate on the territory of their lands. It is sad to realize that in modern society, women are still subjected to racial and gender inequality, which is the reason for violent acts both inside the family and outside it. In order to solve this problem, Native Americans must be provided with the resources for an additional criminal court and services for those victims who faced sexual violence.

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