



# DOMESTIC ABUSE: NATIVE CHILDREN AND WOMEN

Claire Palmiste

## ► To cite this version:

| Claire Palmiste. DOMESTIC ABUSE: NATIVE CHILDREN AND WOMEN. 2013. hal-01768177

**HAL Id: hal-01768177**

**<https://hal.univ-antilles.fr/hal-01768177>**

Submitted on 17 Apr 2018

**HAL** is a multi-disciplinary open access archive for the deposit and dissemination of scientific research documents, whether they are published or not. The documents may come from teaching and research institutions in France or abroad, or from public or private research centers.

L'archive ouverte pluridisciplinaire **HAL**, est destinée au dépôt et à la diffusion de documents scientifiques de niveau recherche, publiés ou non, émanant des établissements d'enseignement et de recherche français ou étrangers, des laboratoires publics ou privés.

## DOMESTIC ABUSE: NATIVE CHILDREN AND WOMEN

Claire Palmiste, Université des Antilles.

Paula Gunn Allen stated that Native American communities had been deeply influenced by the values of European settlers. Native women were traditionally revered for their abilities to give birth.<sup>i</sup> They also held leadership positions within some matrifocal and matrilineal societies.<sup>ii</sup> The same respect was bestowed upon the children, seen as the future of the tribes and instrumental to the transmission of its traditions. Therefore, children and women were equally treated with respect. In spite of the recognition of the significance of women and children for tribes, domestic violence is rampant in Native American communities. The complex response of the Judicial system towards these abuses can be explained by the large scope of definitions of domestic violence.

Even though all states have a legislation that defines domestic violence, this definition varies as far as the range of victim-offender relationships allows. In some states domestic violence encompasses romantic relationship regardless of gender (except in Louisiana, Montana, North and South Carolina which exclude same sex relationship) and cohabitation status. Conversely others insist that domestic violence implies the private sphere of a couple who live or have previously lived together, or who share(d) a child.<sup>iii</sup> Those various perspectives imply a broad definition of domestic violence as: any act deemed dangerous, committed by a household member against another person in the household sharing romantic, legal or blood relationships, as domestic violence. It includes assault, battery, sexual abuse, stalking, and threats. Even though this broad definition implies the inclusion of the abuse of the elderly as a case of domestic violence, the focus will be on women and children. Besides the inclusion of child abuse as a case of domestic violence, each state has its own definition of child abuse and neglect that is based on minimum standards set by federal laws. *The Child Abuse Prevention and Treatment Act* amended in 1998 defines child abuse as: “any recent act or failure to act on the part of parent or caretaker which results in death, serious physical or emotional harm, sexual abuse or exploitation; or an act or failure to act which presents an imminent risk of serious harm”.<sup>iv</sup> To summarize the variety of definitions, we may define child abuse as: any conduct which intentionally or recklessly cause or attempt to cause physical injury, emotional distress or sexual abuse to a child.

The first two parts examine the extent of domestic abuse in Native communities, and its complexity. The last two parts identify the elements responsible for the high rate of domestic violence in Native communities and the prevention and protection programs that are being developed.

## **I- The rate of domestic violence in Native communities**

Domestic violence towards Native women and child abuse have both been well documented. The literature pertaining to this issue has focused mainly on the obstacles that prevent Native communities from efficiently tackling this issue, namely the lack of resources or professional assistance, the victims fear of insensitive and sometimes hostile attitudes from law enforcement services.<sup>v</sup> It also provides information on the resources Native tribes are developing to deter domestic violence.<sup>vi</sup> Nevertheless, the literature highlights the lack of accurate and comprehensive data on cases of violence against women and child abuse on reservations, as no federal or Native agency has collected them.

*The Violence Against Women Act of 1994*<sup>vii</sup> recognizes that violence against women is a crime with harmful consequences for families, children and society. Therefore, it compels states to centralize data collection on the incidence of sexual and domestic violence offenses. Although 35 states collect data on domestic violence, the mode of collection varies on the details of the victims which are recorded. It also necessitates greater details to build statistical estimates. Data collection on domestic violence is more efficient with cross-service cooperation (health and social service and law enforcement). Because the occurrence of domestic violence can be continuous, it makes data collection difficult on a precise period. Statistics pertaining to domestic violence against Native women are not dealt with separately. Instead, they are presented along with figures related to other crimes. Some data are available in the survey conducted by the Bureau of Justice Statistics in 2007.<sup>viii</sup> They show that 6% of the victims of violent crime and 8.2% of the victims of assault were American Indian, Alaska Native or Pacific Islander.<sup>ix</sup> Compared to national figures (17,3% of people convicted for assault and 20,7% for crimes of violence), and relying on the representation of Native Americans in the U.S. population in 2007 (1,05%)<sup>x</sup>, Native Americans are highly victimized in cases of domestic violence.

Previous sources have confirmed that alarming rate of domestic violence. The report written by the Bureau of Justice Statistics of the U.S. Department of Justice, “Jails in Indian Country, 2008” shows that in 2002, 15% of Native Americans in Indian country correctional facilities operated by tribal authorities or the Bureau of Indian Affairs were incarcerated in cases of domestic violence. In 2007, this rate reached 20% before decreasing to 15% in 2008.<sup>xi</sup>

A report entitled “American Indians and Crime” points out that Native Americans are over-represented among victims and perpetrators of violence compared to their share of the general population. It shows that intimate and family violence typically involve a high level of alcohol and drug abuse by offenders.<sup>xii</sup> The report also highlights a substantial difference in the racial

composition of offenders in intimate violence incidents compared with family violence. 75% of cases of intimate violence and 25% of cases of family violence involved an offender of a different race.<sup>xiii</sup> These statistics were confirmed by a report from the Center for Disease Control and Prevention. It states that between 1981-1998, American Indian/Alaska Natives represented 1.79% of homicide victims by partners.<sup>xiv</sup>

As regards to child abuse, there is a specific system of data collection on child abuse and neglect. The National Child Abuse and Neglect Data System of the Department of Health and Human Services is a voluntary national data collection and analysis system that was created as a requirement of *The Child Abuse Prevention and Treatment Act*. The data collected annually are analysed by the Children's Bureau. Based on statistics collected from 48 states, Native Americans represent 1.3% of perpetrators of child abuse. According to the report, "American Indians and Crime", "from 1992 to 1995 Native American and Asians were the only ethnic groups to experience increases in the rate of abuse or neglect of children under age 15".<sup>xv</sup> From 1992 to 1995 there was an increase of 18% in the rate of child abuse within this group. Reports show that abusers can be male as well as female. "The Child Maltreatment 2008" report explains that women (56.2%) comprised a large proportion of all perpetrators of child abuse, with 42.6% being men.<sup>xvi</sup> Another source that permits insight into child abuse rates is the Adoption and Foster Care Analysis and Reporting System.<sup>xvii</sup> According to "Child Welfare Outcome 2003", 11.6% of foster placements in Minnesota concerned Native American children. With Native American children representing 1.4% of the child population in Minnesota, the rate of foster care placement was deemed high. Family instability seems to be responsible for the high rate of foster care placement of Native American children.

Children abuse and domestic violence are intertwined issues. Yet, two different systems (child protection service and domestic violence advocates) have been established to protect them.

## **II- Domestic abuse as a complex issue**

Native women and their children have interdependent relations, because children need their mothers' protection and they give them the very status of mothers. The tribe is also dependent on the pair, mother-child, as they assure its continuity. Without women to give birth, tribes can't survive and without children to pass on traditions, they are left without enrolled members. Therefore, both women and children were traditionally held as sacred for tribes. Although domestic violence includes child's maltreatment, child abuse cases are separately dealt with in juvenile and family courts. There are different legislations to protect women and children. For instance, state and tribal child abuse and neglect laws must comply with *The Child Abuse Prevention and Treatment Act of 1974*, *Adoption Assistance and Child Welfare Act of 1980*, *The Adoption and Safe Families*

*Act of 1997* and *The Indian Child Welfare Act of 1978*. State and tribal domestic violence laws must comply with *The Violence Against Women Act of 1994*. The principles governing child protection laws are that the community has the right to intervene in the best interests of the child, when parents or caregivers are unable or unwilling to provide for their children's safety, basic needs and emotional security. Even if tribes have set in their statutes traditional and legal standards to measure child abuse or neglect, they have to comply with federal laws pertaining to child protection. Therefore, because domestic violence and child abuse are judged in different courts. Native women who are battered can have their children removed, if they fail to assure their safety. In some situations, battered mothers were reported to child protection services by their relatives, friends or neighbours who thought the children were in danger.

For many domestic violence advocates and child protection service workers, domestic violence and child abuse are overlapping issues and require courts and service providers to collaborate.<sup>xviii</sup> The goal of collaborative services is to help battered women keep their children. In many cases of domestic violence the child protection workers face a dilemma: is it the best interests of a child to remain in a home where there is domestic violence? Should battered women face neglect allegations alone due to failure to protect their children? It is difficult for child protection workers to identify the signs of emotional maltreatment and determine the extent to which the parents are responsible for it. A child can be hurt when trying to stop physical assaults against his/her mother. Research has pointed out the impact exposure to domestic violence has on children.<sup>xix</sup> Even if the evidence cannot be generalized, they have noticed that children who witness domestic violence are likely to display depression, fearfulness, sleeplessness, withdrawal, anxiety and externalised problems such as delinquency and aggression. They can thus suffer lasting emotional damage by witnessing the infliction of violence on a family member.

Juvenile courts don't have authority to punish those guilty of battery. Nevertheless, some actions can help keep the children safe. To assure the well-being of a child, a rebuttable presumption is meant to prevent custody or visitation from a perpetrator of domestic violence. Some states have built cooperative networks that address domestic violence and child maltreatment. AWAKE is an initiative of the Children's Hospital in Boston, Massachusetts, that offers counselling, advocacy to battered women with abused and neglected children. The Michigan's Families First Domestic Violence Collaboration Project provides resources to adult victims while keeping the children safe and with their mothers.

What are the factors responsible for domestic abuse of Native women and children? What are the safeguards to prevent abuse and punish offenders?

### III- Searching for the causes of domestic violence

Many factors can account for the high rate of domestic violence in Native communities. The main characteristic of domestic violence is its connection with alcohol abuse. Substance abuse has largely contributed to social disorganization and family violence. The high rate of unemployment, school dropout, and conditions of extreme poverty creates a gap in relationships. Many Native men are no longer providers and depend on federal government help. This situation exacerbates alcohol abuse. According to the National Congress of American Indians, Native Americans have nationally the highest rates of Methamphetamines use (1.7% compared to 0.7% for Whites and 0.5% for Hispanics). The rate for illicit drug use followed the same trend in 2001 (9.9% for Native Americans ; 7.2% for Whites and 6.4% for Hispanics).<sup>xx</sup> The extent of Methamphetamines use is even more serious, as there are few tribal-sponsored Methamphetamine rehabilitation centers. NICWA<sup>xxi</sup> also estimates that 80-85% of Native families in child welfare care system have drug or alcohol abuse issues.

Forced assimilation policies and their impact on Native communities have also been pointed as a leading factor. The disruption of customary lives may account for the epidemic levels of violence in some Native communities. Internalized racism has created trauma and destructive behaviours. Paula Gunn Allen claimed in *The Sacred Hoop* that « the colonizers saw (and rightly) that as long as women held unquestioned power of such magnitude, attempts at total conquest of the continents were bound to fail. In the centuries since the first attempts at colonization in the early 1500s, the invaders have exerted every effort to remove Indian women from every position of authority ».<sup>xxii</sup> Since European contacts, the respect extended to women in Native communities has been eroded. With this erosion of values, the traditional balance and harmony that sustained the communities were lost.

Examining the mechanism set to erode traditional values can also help see where the problems originate. Coupled with the *General Allotment Act of 1887*, the boarding school system purported to “civilize” Native children. They were forbidden to speak their vernacular languages and were forced to view their parents’ culture disparagingly in order to adopt the values of the mainstream society. The boarding school system has left an everlasting scar into Native communities. Parents who have experienced physical and sexual abuse in boarding schools and church-run institutions have replicated this treatment on their children.<sup>xxiii</sup>

The executive committee for Indian country law enforcement improvements of the U.S. Department of Justice reported in October 1997 that domestic violence rate was linked to the problem of law enforcement in Native tribes. Tribal authority is limited by federal legislations that

preclude the full exercise of authority. *The Major Crimes Act of 1885* provides federal jurisdiction in cases of major crimes such as assault, sexual abuse, domestic violence and child abuse committed on reservations. *The Indian Civil Rights Act of 1968* specifies that tribal courts jurisdiction is limited to sentences not exceeding one year's imprisonment, a \$5,000 fine, or both. Also related to the issue of law enforcement is that Native tribes couldn't prosecute non-Native offenders because they were not subject to tribal laws. Even though the Supreme Court limited the power of tribes to try non-Native abusers in its decision in *Oliphant v. Suquamish*, non-Natives who commit domestic violence against tribal members on the reservation can still be held civilly accountable in tribal courts. In the case of *Montana v. United States* (1981), the U.S Supreme Court specified that tribes have civil jurisdiction over non-Native members who are in a consensual domestic relationship with tribal members. The tribes can expel them from the reservation, or require that they follow an abuser re-education program. As part of the Termination Era, six states under Public Law 280 have civil and criminal jurisdiction over tribes that reside in the vicinity of their territory (California, Minnesota, Nebraska, Oregon, Wisconsin with some reservations being exempted, and Alaska) since 1953. Even if Public Law 280 did not alter the civil and criminal authority of tribal governments, tribes under P.L. 280 were denied federal funds to develop tribal justice system until 1995.<sup>xxiv</sup>

Besides the long tradition of non-involvement in spousal dispute by law enforcement officials, Native women are still reluctant to call the police in case of domestic violence. Mending the Sacred Hoop, Inc has investigated the State legal system response to Native American victims of domestic violence to understand their distrust.<sup>xxv</sup> The report reveals that the response is often fragmented and de-contextualizes Native American women' experiences.<sup>xxvi</sup> It also enhances that approaches taken by Native justice systems towards domestic abuse and child abuse are likely to be influenced by those of the U.S. legal system. The punitive approach imposed on tribal government, subsequently, make the abusers accountable to the states, not to the women and communities they harmed. The report highlights victim-blaming attitudes by practitioners, especially when victims are dependent upon alcohol<sup>xxvii</sup> or when they refuse to file a statement against an abuser to whom they are emotionally or financially dependent. Different agencies and administrative procedures, guidelines, and rules are set to intervene in domestic violence cases, as if the situation of battered women, abusers and child abuse was unrelated to each other. This attitude contrasts with Native worldviews that take into account the interdependence between members of the communities. Women, children and men are not seen as separate from their relatives, clan and tribe. Therefore, they cannot be treated as separate entities.

#### **IV- Prevention and protection**

Native communities have deployed resources to prevent and curb domestic violence rates. Prevention takes a great part into the process of raising public awareness towards domestic violence as a crime. Many victims of domestic violence would silence their ordeal for fear of reprisals. Cangleska Inc,<sup>xxviii</sup> creates and distributes materials (posters, radio talk shows, and a handbook for Lakota communities) to prompt victims to report domestic violence. It uses the advice of medicine men or elderly spiritual leaders to orientate its public education campaign. For instance, booklets such as “Domestic Violence is not a Lakota/Dakota Tradition” and a “Handbook on Child Sexual Abuse” were issued. A directory also listed all Native and non-Native newspapers and radio stations<sup>xxix</sup> throughout South Dakota, with maps showing the jurisdictions of reservations, counties and the location of shelter programs. An exhibit, The Silent Witness National Initiative (SWNI), was created in 1990 to commemorate women who had been murdered by their spouses or acquaintances in Minnesota. Materials such as “Bitter Earth” are also being developed in order to increase the awareness of child sexual abuse in Native communities.<sup>xxx</sup> From October 2005 to September 2007, the Minneapolis American Indian Center collaborated with four tribes from South Dakota to develop a case management system, Quicwa, in order to track ICWA compliance in cases of foster care placement or adoption.<sup>xxxi</sup> NICWA has established a national clearing house on customary adoption program to provide information and referral services to prospective Native parents. This program is also designed to help tribes wishing to establish adoption programs.

The White Buffalo Calf Woman Society which existed since 1977 is also committed to provide shelters and advocacy for individuals victimized by domestic violence on Rosebud reservation.<sup>xxxii</sup> Mending the Sacred Hoop, Inc also provides support for victims of domestic violence and their children. For instance, families can enjoy a family visitation center in Duluth, Minnesota.<sup>xxxiii</sup> Another example of organization that is involved in the protection of Native women, The Tribal Law and Policy Institute with support from the Office on Violence Against women, has developed resources to assist tribal governments in creating a comprehensive community based, victim-centred response to violence against women. In January 2008, a code resource was issued in order to help tribal governments to draft and revise tribal laws against domestic violence.<sup>xxxiv</sup> As tribes can have concurrent or exclusive criminal and civil jurisdiction in domestic violence cases, they can choose the provisions that are more appropriate to their situations from a variety of tribal codes. It helps tribes to address issues of tribal jurisdiction, such as personal jurisdiction (who committed the crime?), territorial jurisdiction (where the crime occurred?) and subject matter jurisdiction (type of crime?).<sup>xxxv</sup>



With illustrative examples of tribal codes, tribal governments can give a broad definition of domestic violence, allowing as many victims as possible to be protected. The code is also a resource to determine if the mandatory arrest of the predominant aggressor should be done by law enforcement officers in cases of domestic violence. It discusses the issue of the no-drop policy for prosecutors.<sup>xxxvi</sup> The code also shows resources available to protect domestic violence victims, such as an ex parte order or a civil protection order.<sup>xxxvii</sup> Even though a protection order is a civil action, its violation may lead to civil and criminal sanctions. It is granted full faith and credit, as its validity is recognized in state jurisdiction. Civil contempt<sup>xxxviii</sup> may range from fines, incarceration, community service, restitution to victims to loss of tribal benefits.

Tribes respond in different ways to sentence people convicted of domestic violence. Some tribes opt for non criminal repercussions (banishment from reservation, disqualification for certain positions, ineligibility for foster care placement of a minor child)<sup>xxxix</sup> and others opt for domestic violence treatment program in addition to jail sentence.<sup>xl</sup> Some tribes believe that exposure to cultural and spiritual teaching may provide-abusers with an alternative worldview in which violence against women is not acceptable. They thus develop abuser re-education programs.

## **Conclusion**

The issue of domestic abuse of women and children is a complex one, because of the different responses given to curb them. Federal requirements give tribes limited possibility to respond appropriately to child abuse and domestic violence, for even if they receive funds to develop community-based programs, they have to comply with federal and state rules and procedures. Some organizations manage to develop programs to raise public awareness on the extent of domestic violence in Native communities. Their continuing efforts should be coordinated with the development of more rehabilitation centers to tackle the issue of drug and alcohol abuse in Native communities.

## **BIBLIOGRAPHY**

Artichoker, Karen & Verlaine Gullickson. "Raising Public Awareness of Domestic Violence in Indian Country". *National Resource Center on Domestic Violence*, 2003.

Deer, Sarah et al. *Sharing our Stories of Survival : Native Women Surviving Violence*. Alta Mira Press, 2008.

Fagan, Jeffrey. "The Criminalization of Domestic Violence: Promises and Limits". National Institute of Justice, 1996.

Fletcher, M.L. « Addressing the Epidemic of Domestic Violence in Indian Country by Restoring Tribal Sovereignty». American Constitution Society for Law and Policy, 2009.

Greenfeld, L.A & Smith S.K. *American Indians and Crime*. U.S. Department of Justice, Bureau of Justice Statistics, 1999.

Gunn Allen, Paula. *The Sacred Hoop: Recovering the Feminine in American Indian Traditions*. Boston: Beacon Press, 1994

Jaffe, P.G, Wolfe D.A & Wilson S.K. *Children of Battered Women*. Newbury Park: Sage Publications, inc, 1990.

National Council of Juvenile and Family Court Judges. “Family Violence: Emerging Programs for Battered Mothers and Their Children”. National Council of Juvenile and Family Court Judges, 1998.

Office for Victims of Crime. “Bitter Earth: Child Sexual Abuse in Indian Country”. National Indian Justice Center, 1993.

---

<sup>i</sup> Gunn Allen, Paula. *The Sacred Hoop: Recovering the Feminine in American Indian Traditions*. Boston: Beacon Press, 1994.

<sup>ii</sup> The role of mothers was culturally valued and structurally central in matrifocal societies, such as Ojibwa and Iroquois tribes. In matrilineal societies (Cherokee and Hopi tribes), the line of descent is determined through the mothers.

<sup>iii</sup> See the data available at: <http://www.jrsa.org/dvsa-drc/dv-legislation.shtml#legislation>

<sup>iv</sup> Children’s Bureau. “Child Maltreatment 2008”, p. 11. See the website: <http://www.acf.hhs.gov/programs/cb/pubs/cm08/cm08.pdf>

<sup>v</sup> See fact sheet of the National Congress of American Indian: “Violence Against Women in Indian Country”. Article retrieved from: [http://www.ncai.org/ncai/advocacy/hr/docs/dv-fact\\_sheet.pdf](http://www.ncai.org/ncai/advocacy/hr/docs/dv-fact_sheet.pdf)

<sup>vi</sup> “Raising Public Awareness in Indian Country”. South Dakota: National Resource Center on Domestic Violence, 2003.

<sup>vii</sup> It is a federal law that was passed as title IV, sec. 40001-40703 of the *Violent Crime Control and Law Enforcement Act of 1994*. It provides fundings to investigate and prosecute crimes of domestic violence against women.

<sup>viii</sup> “Criminal Victimization in the United States, 2007: Statistical Tables”. U.S. Department of Justice, 2008. 41,000 households were interviewed for this survey.

<sup>ix</sup> Ibid, p.57, table 43a.

<sup>x</sup> See U.S. Census Bureau: “Annual Estimates of the Population by Sex, Race and Hispanic Origins for the United States, April 1, 2000 to July 1, 2007”. <http://www.census.gov/popest/national/asrh/NC-EST2007-srh.html>

<sup>xi</sup> U.S. Department of Justice, Bureau of Justice Statistics, “Jails in Indian Country, 2008”. December 2009. Data retrieved from: <http://bjs.ojp.usdoj.gov/index.cfm?ty=pbdetail&iid=1743>

<sup>xii</sup> Greenfeld A. Lawrence & Steven K. Smith. “American Indians and Crime”. The Bureau of Justice Statistics, 1999, p.8 The report uses data from a wide variety of sources (statistical series from the Bureau of Justice Statistics, the FBI, and Bureau of the Census) from 1992 to 1995.

<sup>xiii</sup> Intimate violence alludes to victimizations involving current and former spouses, boyfriends or girlfriends. Family violence refers to victimizations involving spouses and other relations.

<sup>xiv</sup> Leonard J. Paulozzi et al. “Surveillance for Homicide Among Intimate Partners, United States 1981-1998”.

Morbidity and Mortality Weekly Report, 2001: p1-16. The information regarding Intimate Partner Homicide (IPH) come from the Federal Bureau of Investigation’s Supplemental Homicide Reports database. The report is available at: <http://www.cdc.gov/mmwr/preview/mmwrhtml/ss5003a1.htm>

<sup>xv</sup> Greenfeld A. Lawrence & Steven K. Smith. “American Indians and Crime”. The Bureau of Justice Statistics (1999) p.15.

<sup>xvi</sup> Children’s Bureau. “Child Maltreatment 2008”, p. 13. Data retrieved from:

<http://www.acf.hhs.gov/programs/cb/pubs/cm08/cm08.pdf>

<sup>xvii</sup> AFCARS is a mandatory reporting system for child abuse and neglect data. In December 1993, the Administration for Children and Families, and the Department of Health and Human Services financed it from title IV-E, sec 479(a) of

---

Social Security Act. Each state is required to report data pertaining to foster care placements and adoption into the system. The collected data are analysed and sent to Congress in a report.

<sup>xviii</sup> See Linda Spears' article: "Building Bridges Between Domestic Violence Organizations and Child Protective Services". Minnesota Center Against Violence and Abuse, 1999.

<sup>xix</sup> See Jaffe et al (1990); Kemp (1998); Gelles and Straus (1988) for the impact on children witnessing acts of domestic violence.

<sup>xx</sup> U.S. Department of Health and Human Services. "Substance Abuse and Mental Health Services Administration". (September 4, 2002). Results from the 2001 National Household Survey on Drug Abuse: Volume I. Washington, DC: U.S. Government Printing Office. Retrieved from:

<http://www.oas.samhsa.gov/nhsda/2k1nhsda/vol1/chapter2.htm#2.race>

<sup>xxi</sup> NICWA is a non-profit Native organization which mission is to protect and assure the well-being of Native children.

<sup>xxii</sup> Gunn Allen, Paula. *The Sacred Hoop*, p.3.

<sup>xxiii</sup> King, Marsha. "Tribes Confront the Painful Legacy of Indian Boarding Schools". The Seattle Times, February 3, 2008.

<sup>xxiv</sup> *The Violence Crime Control and Law Enforcement Act of 1994* provides federal fundings to all federally recognized Native tribes, including those within P.L. 280 states. This act also provides grant programs to support police and prosecutor efforts and victim services in cases of domestic violence (Title IV: *The Violence Against Women Act*). Between 1995-2001, federally recognized tribes received \$35 million in Funding under *The Violence Against Women Act*.

<sup>xxv</sup> Thomas Peacock et al. "Community Based Analysis of the U.S. Legal System's Interventions in Domestic Abuse Cases Involving Indigenous Women". National Institute of Justice, 2002.

<sup>xxvi</sup> State justice systems take a formalized stance to respond to the experiences of battered women and child's abuse. Some women can face imprisonment if they assault a partner in retaliation for an act of abuse. If law enforcement officers don't check the partner history of abuse, the victim can become the aggressor in the judicial system.

<sup>xxvii</sup> Some law enforcement officers don't consider as "real", domestic violence occurring under the influence of alcohol.

<sup>xxviii</sup> "Raising Public Awareness in Indian Country". South Dakota: National Resource Center on Domestic Violence, 2003. Cangleska is a non-profit organization located on the Pine Ridge Indian Reservation. It jointly ran the rural domestic violence public awareness campaign with The South Dakota Coalition Against Domestic Violence and Sexual Abuse during 1997. The South Dakota Coalition Against Domestic Violence and Sexual Abuse has developed and sponsored a Project Medicine Wheel on the Pine Ridge Reservation. The project later evolved into a tribal agency, Cangleska.

<sup>xxix</sup> KILLI, a local Lakota radio station in South Dakota, was used to make public announcements and to broadcast a 30-minute program on the impact of domestic violence on Native women and their children.

<sup>xxx</sup> It is an educational video which includes a list of behavioural symptoms that indicate child sexual abuse.

<sup>xxxi</sup> The Indian Child Welfare Act of 1978 requires state courts to follow provisions in foster care and adoption proceedings. For instance, the court is compelled to give notice to the tribes, parents or the caretaker of a child, prior to hearing. It has to provide council to both parents and child. The presence of a qualified expert witness to evaluate the situation of the child is also required. The court has to prove active efforts for placement within the extended family.

<sup>xxxii</sup> It is a non-profit organization established on the Rosebud reservation. More information available on its website: [http://www.wbcws.org/index\\_files/Page371.htm](http://www.wbcws.org/index_files/Page371.htm)

<sup>xxxiii</sup> Mending the Sacred Hoop is a Native American non-profit agency, that was created out of a project of Domestic Abuse Intervention Programs.

<sup>xxxiv</sup> "Tribal Legal Code Resource: Domestic Violence Laws, Guide for Drafting or Revising Victim Centered Tribal laws against Domestic Violence". Tribal Law and Policy Institute, 2008.

Tribal Law and Policy Institute developed the legal code resource, being aware that not all tribes have the same needs and resources. The tribal legal code resource helps tribal government to write laws against domestic violence which meet every tribe's cultural and traditional practices. The program has been funded by the Office on Violence Against Women since 1995.

<sup>xxxv</sup> These issues are important because in case of grave domestic violence, the tribe shares concurrent jurisdiction with the federal government, under the *Major Crimes Act*. Other legislations such as *The Indian Civil Rights Act of 1968* and *Public Law 280* limit tribal jurisdiction.

<sup>xxxvi</sup> It is a policy that makes sure that, in case victims ask to drop the charges against their abusers, recant their previous statements or refuse to testify against their aggressors for fear of retaliation, the prosecutor would still deal with their statements.

<sup>xxxvii</sup> An ex parte order is issued without notice or opportunity for the respondent to appear before the court. A protection order is a legal document issued by a court that requires the respondent (batterer) to stay away from the petitioner (victim). Some tribes (for instance the Oglala Sioux) have set up a tribal registry for both tribal and foreign orders of protection.

<sup>xxxviii</sup> Civil contempt is a form of punishment for violating a court order.

<sup>xxxix</sup> These sentences are applied by the Omaha Tribe of Nebraska.

---

<sup>xl</sup> The Jicarilla Apache statutes make this option possible.