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Tribal Sovereignty & Domestic Violence

Prevalence of Domestic Violence in Indian Country

- Violence against Native women is a severe crisis in the U.S., with more than 84% of American Indian/Alaska Native (AI/AN) women experiencing violence, and more than half, or 55% experiencing sexual violence in their lifetime.¹
- More than half (56%) of AI/AN women have experienced physical violence by their intimate partners.²
- More than 63% of AI/AN women experienced psychological aggression like name-calling, humiliation, coercive control, threats, and monitoring.³

What is Sovereignty?

- Sovereignty is the fundamental principle that a nation or people have the authority to govern themselves. In the U.S., there are three types of government that exercise power that is not delegated by another political entity—the federal government, state governments, and Tribal governments.
- In short, Tribal governments are sovereign governments. They existed as self-governing nations well before the founding of the U.S.
- Sovereignty is the foundation for creating a safe government, providing educational opportunities, fostering collective economic development, exercising autonomy over land and resources, and maintaining traditionally grounded systems of health and justice. It enables communities to establish and maintain an environment that fosters traditional continuity and protects the well-being of all citizens.

What is Tribal Sovereignty?

- Tribal sovereignty is the inherent authority of Tribal Nations to govern themselves, make laws, and manage their own affairs.
- As sovereign entities, Tribal Nations have the authority to determine their own futures—including law enforcement, healthcare, education, housing, and public safety— based on their community values and needs.

¹ 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. Washington, DC: US Department of Justice.

² Ibid.

³ Breiding, M., Smith, S., Basile, K., Walters, M., Chen, J., Merrick, M. (2014, September 5). Prevalence and Characteristics of Sexual Violence, Stalking, and Intimate Partner Violence Victimization – National Intimate Partner and Sexual Violence Survey, United States, 2011. Morbidity and Mortality Weekly Report, 2, 17.



Why is Tribal Sovereignty Important in Addressing Domestic Violence?

- Tribal sovereignty supports self-determination, allowing Tribal Nations to determine their own path forward, address issues such as domestic violence, health disparities, and economic development in ways rooted in community values and needs.

Tribal Sovereignty makes it possible for Tribal Nations to:

- Build justice systems that respond effectively to domestic violence and other forms of violence in ways that are grounded in community values and needs.
- Provide advocacy services rooted in community and tradition for survivors of domestic violence.
- Protect Native individuals and families from domestic violence.
- Respond to and address the crisis of Missing and Murdered Indigenous Women and Relatives (MMIWR).
- Ensure survivors receive justice, safety, and healing.
- Coordinate with federal partners and agencies to strengthen victim protections against Domestic Violence/Intimate Partner Violence.

How the U.S. Government Recognizes Tribal Sovereignty

- The U.S. recognizes Tribal Nations as distinct political entities with the inherent power to exercise self-governance and provide for their citizens.
- This recognition is based on treaties, the U.S. Constitution, trust and treaty obligations, and legal principles that affirm the sovereign status of Tribal Nations. U.S. Supreme Court decisions, congressional acts, and presidential orders have consistently reaffirmed.
 - Treaties: legally binding agreements between two or more sovereign nations
 - Trust Responsibilities: the legal and moral obligation of the U.S. government to protect the assets, land, and treaty rights of American Indian tribes and Alaska Natives.

Powers of Tribal Sovereignty

Tribal governments can do the following:

- *define their Tribal membership criteria;*
- *enact civil, criminal, and regulatory legislation;*
- *enforce Tribal law using law enforcement;*
- *assert jurisdiction over their people and lands via Tribal courts; and*
- *tax Indians and non-Indians engaged in economic activity on Tribal lands.*⁴

⁴ United States, Department of Justice. Journal of Federal Law & Practice, vol. 73, no. 2, Aug. 2025, "Beyond the Reservation: Multijurisdictional Issues Affecting Tribal Communities." Office of Legal Education, <https://www.justice.gov/usao/media/1412011/dl?inStates'sline>



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Limits on Exercising Tribal Sovereignty

- Although Tribal Nations are sovereign nations, their authority can be limited by federal laws, court decisions, and treaty terms.
- These limitations do affect criminal jurisdiction, specifically, cases involving non-Native offenders.
- For example, before the Violence Against Women Act (VAWA) was reauthorized in 2013, Tribal governments could not prosecute non-Native people who committed domestic violence on Tribal lands, even if the survivor was Native and Tribal police responded.
- These juridical challenges contribute to the higher rates of violence Native people face today.

Protecting Native Women is a Federal Responsibility

- As recognized in the Violence Against Women Act (VAWA) of 2005, Congress affirmed: "Indian tribes require additional criminal justice and victim services resources to respond to violent assaults against women; and the unique legal relationship of the United States to Indian tribes creates a federal trust responsibility to assist Tribal governments in safeguarding the lives of Indian women."
- Violence Against Women Act (2005), Section 901, Findings
- In simple terms, the U.S. government must ensure Tribal Nations have the power and resources they need to address violence and ensure justice for all Native people.
- Federal agencies must consult with Tribal Nations on policies and programs to ensure Native voices shape decisions, victims of domestic violence are protected, and resources reflect Tribal priorities (e.g., Office on Violence Against Women (OVW) Tribal Consultation Webinars)
- Tribal sovereignty enables Tribal communities to directly apply for, receive, and administer federal funding specifically allocated for Tribal governments, such as the Family Violence Prevention and Services Act (FVPSA). FVPSA funding critically supports Indian Country in delivering comprehensive traditional response services like emergency shelter, safety planning, counseling, legal advocacy, childcare, life skills education, and access to basic necessities such as food, clothing, and transportation.
- Supporting Tribal justice systems, prevention programs, and victim services helps address ongoing resource gaps within Tribal communities.

This project was made possible by Grant Number 90-EV0533-05 from the Administration on Children, Youth and Families, Family and Youth Services Bureau, U.S. Department of Health and Human Services. Its contents are solely the responsibility of the authors and do not necessarily represent the official views of the U.S. Department of Health and Human Services.



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