STATE CRIME, NATIVE AMERICANS AND COVID-19

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Abstract: This paper examines how COVID-19 has disproportionately affected Native Americans. It frames the problem as one of existing structural disadvantage that is the result of settler colonialism, showing a history of abuse and neglect in earlier pandemics. The US has an obligation to Native peoples that it is failing to uphold in numerous ways, including needed health care and resources to battle the virus. The paper describes how this is state crime in the form of slow violence.

Keywords: COVID-19; Native Americans; colonialism

Introduction

Already marginalized, American Indian and Alaska Natives (AI/NA) face unique challenges from COVID-19. For one, they are disproportionately affected. In June 2020, the Navajo Nation had the highest rates of infection in the country (Navajo Nation Department of Health 2020). Native people make up only around one-tenth of New Mexico's population but more than 55 percent of its coronavirus cases (New Mexico Department of Health 2020); in Wyoming AI/NA people are less than 3 percent of the state population, but make up more than one-third of its cases (Wyoming Department of Health 2020). Access to health care is limited, and AI/NA peoples suffer higher rates of other diseases that make them more vulnerable to the pandemic (Strickland 2016). Poor sanitation, limited provisions of other necessary items like soap, disinfectant, and even clean water, inadequately staffed medical facilities, combined with existing poverty, large multigenerational families living together, unemployment and reduced chances to retain work at home exacerbate the problems for AI/NA peoples. This is all on top of tremendous discrimination (Riley 2016). Testing for COVID-19 is not widespread in areas where AI/NA peoples live, nor is educational material about infectious diseases or protective materials like masks and gloves. Food insecurity, an existing problem, is worsening for indigenous peoples, according to the United Nations (2020). AI/NA women suffer higher rates of domestic and sexual violence, both of which increase during

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crises of this sort. Access to help services is already sparse and jurisdictional issues on native lands mean police responses are slow, if existent (Hilleary 2020b).

None of this is an accident, however. Rather, the disproportionate rate at which AI/NA peoples suffer from negative health outcomes is directly related to colonialism and the responsibility of the federal government. The failure of the federal government to provide the assistance it is obliged to is a persistent pattern that has been exacerbated during the global pandemic. “Structural inequalities born out of the U.S. government’s treaty-violating, trust-abrogating policy decisions have caused the disproportionate COVID-19 crisis in Indian Country today” (Doshir et al. 2020: Para 6). As such, the overrepresentation of AI/NA peoples in COVID-19 cases and deaths can be considered an example of state crime.

This paper will explore these issues in greater depth, showing how and why COVID-19 is disproportionately affecting and killing AI/NA peoples but also the ways that stay at home orders and other responses are experienced differently and more negatively. The paper will show how these concerns are the result of settler colonialism and are part of a pattern of violations committed by the federal government against AI/NA peoples. The toll COVID-19 is taking on AI/NA peoples is state crime due to centuries of neglect that have resulted in severe structural disadvantage.

Settler Colonialism and State Crime

Settler colonialism refers to the removal of indigenous peoples in order to take their land. Historically, this has occurred through genocides, such as the Wounded Knee massacre of 1890. Settler colonialism also involved negotiations and treaties that are subsequently broken or ignored. It further involves imposing new systems and ideologies on indigenous peoples that are largely culturally incompatible. Historically, indigenous peoples “emphasize balance and renewal; reciprocity and harmony; and strong relationships and consensus, non-Indigenous praxis is driven by notions of progress and accumulation; binaries and hierarchical patriarchy; and adversarial punishment and control” (Watson 2014: 14). Government policies and militaristic policing powers sanction the mass-removal of indigenous people from their lands, introduce them to ideologies opposing their cultural traditions, send their children to boarding schools and their adults to prisons (Tauri 2014). “Settler-colonial logic is based on imported notions of social control and containment that denies entire histories of ‘genocide, theft, betrayal, oppression, and every manner of cruelty and injustice’” (McCaslin and Breton 2008: 511).

Like Canada and Australia, settler colonization in the US has remained and is built into the structure of Native–U.S. relations in ways that continue to subjugate

AI/NA peoples. That is, as Wolfe (2006) wrote, settler colonists came to stay. Settler colonialism, then, is state crime (Agozino 2003).

According to Rothe and Kauzlarich, state crime is:

an act or omission of an action by actors within the state that results in violations of domestic and international law, human rights, or systematic or institutionalized harm of its or another state's population, done in the name of the state regardless whether there is or is not self-motivation or interests at play (2016: 102).

Others use the term state-produced harm rather than state crime to describe policies and practices that may not be overtly illegal but perhaps should be, due to the degree to which they are injurious (Tombs 2018; Carlson 2020). A harms focus can be useful in identifying how those in power often engage in acts of omission (Rothe 2020), as is the case with the US and its relationship to AI/NA peoples.

As Friedrichs (2015) explains, this kind of state offense is more mundane than monumental, in the sense that it is ongoing and never-ending. Further, Friedrichs (2015) notes that such offenses are typically the legacy of colonialism, or what others have referred to as state-organized race crime (Ward 2014). Ward explains, "[t]here is a long and mainly unresolved history of state actors and institutions employing violence (e.g. physical and other abuse, structural violence of deprivation, etc.) to establish and maintain relations of racial domination and subordination" (2014: 300). Ward (2014) observes that state-organized race crime is slow violence, often occurring out of sight or at least in ways that are rarely publicly acknowledged and is most often related to "dis-accumulation, collective underdevelopment, and generational disadvantage." Nixon explains that slow violence is "a violence of delayed destruction . . . dispersed across time and space, an attritional violence that is typically not viewed as violence at all" (2011: 2). This failure to recognize slow violence is accomplished through marginalization of a group such that their voices are rarely, if ever, heard and their histories are not examined in schools, media, and other institutions. Pain observes that

[c]entral to the argument is that slow violence is often invisible, yet the scale of its brutality towards humanity is as great or greater than sudden and spectacular events such as natural hazards. This invisibility is both a manifestation of capitalism and in capitalism's interest, being difficult to identify and mobilize against (2019: 387).

The following section further describes how settler colonialism is an act of slow violence by the US against AI/NA peoples.

IA/NA Peoples and Settler Colonialism

Settler colonialism has devastated IA/NA peoples in the US in myriad ways. Mark Charles, a member of the Navajo Nation, commented, “[w]e the people’ has never meant ‘all the people’” (Taylor 2019). Today there are over 5.2 million AI/NA individuals in 572 federally recognized tribes. At the time of the first Europeans’ arrival, an estimated 10 million Native peoples resided on the land that is now the US. This dramatic reduction in population is the result of purposeful efforts by settler colonists.

As Native Studies scholar Sandy Grande notes, the US is a nation defined by its original sin:

the genocide of American Indians . . . American Indian tribes are viewed as an inherent threat to the nation, poised to expose the great lies of US democracy: that we are a nation of laws and not random power; that we are guided by reason and not faith; that we are governed by representation and not executive order; and finally, that we stand as a self-determined citizenry and not a kingdom of blood or aristocracy . . . From the perspective of American Indians, “democracy” has been wielded with impunity as the first and most virulent weapon of mass destruction (2004: 31–32).

Settler colonialism undermined tribal sovereignty and power and, in many cases, propped up tribal governments that act as neocolonial entities that support tribal elites over the masses (Denetdale 2006).

When the U.S. Constitution was drafted, Native tribes or nations were considered to be foreign nations (Deer 2009). Settler colonialism, however, is propped up by narratives of benevolence in the US. This includes the doctrine of Christian discovery, which purported that Europeans could better use Native people’s land and which shaped the Supreme Court’s decision that the US should have a trust relationship over that land (Gilio-Whitaker 2020). Between 1778 and 1871 the U.S. government signed more than 370 treaties with Native tribes, all of which it has reneged on. While undermining and decimating tribal sovereignty, the US built several offices to oversee Native–U.S. affairs. The Bureau of Indian Affairs (BIA), first housed in the War Department, a telling placement, is the federal entity mostly charged with oversight of Native lands. To say it has been negligent would be an understatement (Riley 2016).

The economic devastation in American Indian communities today is not only a result of their history as victims of forced assimilation, war, and mass murder; it is a result of the federal government’s current policies, and particularly its restrictions on Natives’ property rights (Riley 2016). While much of Native land is

resource-rich, since it is essentially held in trust by the federal government, Native peoples are typically unable to tap into those sources of income and development. Even efforts to make monies that were once available have been curtailed. For instance, Native peoples used to be able to sell cigarettes tax-free on reservations until a 2010 law eliminated that option. And, while some Native tribes have been allowed to open casinos, most have not, and of those, most are tiny and do not generate large amounts (Riley 2016). In order to attempt any development project on reservation land, Native Americans must get the approval of four federal entities and take at least 49 steps. This bureaucracy can take years. Since Native peoples on reservations have little to no control over their own energy resources, the BIA has consistently undervalued them, negotiating some of the weakest deals (Regan 2014). There is very little reservation residents can do to build their economies. There are also continued efforts in the US to take Native lands for private corporations for mining, drilling, fracking, farming, and more.

The Indian Health Service (IHS) is another piece of the federal government's oversight responsibility, and according to Nations like the Navajo, it has been failing to meet its obligations from the beginning. The IHS serves 2.6 million people who are members of the 573 federally recognized AI/NA tribes. Before the global pandemic, the federal government spent \$2,834 per person on health care in Indian Country. In contrast, it spends \$9,404 on veteran health and \$12,744 on Medicare (Morales 2020).

In addition, settler colonialism introduced criminal justice approaches that subjugate AI/NA peoples through mass surveillance and incarceration and are in contrast to Native traditions. Federal laws have weakened tribal justice such that tribal police have little jurisdiction over crimes occurring on reservation land. This has worsened during the global pandemic.

In the U.S., schools and media are complicit with the erasure of AI/NA peoples. Few schools adequately teach about Native peoples, or do so with incorrect information. Media fails to tell the stories of contemporary Native peoples, with the exception of major crises. This is true today, as little attention has been paid to the plight of AI/NA peoples during COVID-19.

Pandemics and AI/NA Peoples

"The sad truth is this is not the first time a pandemic has devastated Indian Country," Jones (2020) wrote. "Going back to the earliest days of colonization—and even as recently as the 1918 influenza pandemic, which was four times more lethal within the tribes—Native Americans have borne the worst of this country's diseases" (Jones 2020). There is a long history of purposely spreading diseases to Native populations. Choctaw Shannon Keller O' Loughlin commented:

Time and again in our history, non-natives have spread disease among native populations, sometimes deliberately. Now, the administration continues that history by failing to consult with tribal nations, removing us from decision making on matters that affect our nations and peoples (Deadrick 2020).

According to the PBS series *Guns, Germs and Steel*, “more victims of colonization were killed by Eurasian germs, than by either the gun or the sword, making germs the deadliest agent of conquest” (PBS 2005). There are also reports that colonists gave Native peoples blankets and linens they knew were contaminated with smallpox, although there is not much clear evidence the tactic was effective (Kiger 2019).

Historically, the narrative about the mass extinction of AI/NA peoples was about “virgin-soil epidemics.” This perspective argued that, when Europeans arrived in the Western Hemisphere, they brought diseases that Native peoples had never experienced so they had no immunity to them. Yet other scholarship emphasizes that things were far more complex, and that Native peoples were more often crippled by structural inequalities than by virgin-soil epidemics. For example, the spread of smallpox, which may have started as a virgin-soil issue in the early 1600s, was also due to warfare, for example, when tribes from the Great Lakes and Ohio Valley were recruited to fight for the French against the British, and subsequently spread the disease to their people upon their arrival home. Thus, while immunity may have been a factor, the war was the pivotal one. Similarly, Hernando de Soto’s arrival in the southeast spread disease but it was the trade of Native slaves that was largely responsible for the body count, as AI/NA peoples were already weakened from war and its concomitant consequences, including malnutrition, exposure, and lack of care. These same conditions made Native peoples more susceptible to other diseases, including cholera, typhus, malaria, dysentery, tuberculosis, and more. As Ostler (2020) notes, “Native vulnerability had—and has—nothing to do with racial inferiority or, since those initial incidents, lack of immunity; rather, it has everything to do with concrete policies pursued by the United States government, its states, and its citizens.”

Another example can be seen with the Indian Removal Act that was adopted in 1830. It relocated Native peoples living east of the Mississippi River to “Indian Territory” in what eventually became Oklahoma and Kentucky. The Cherokee Trail of Tears is well known, but in fact it was a U.S.-caused health crisis. The Cherokee were forcibly evicted and held for months in concentration camps where clean water, food, and adequate shelter were lacking. Nearly 2,000 of the 16,000 that were held there died from dysentery, whooping cough, measles, and “fevers,” which were likely malaria. Those who survived were marched west, and another 1,500 died because they were already weak and sick from trauma, exposure, and malnutrition. Even more died once the weakened Cherokee arrived in Oklahoma, with the entire

affair resulting in the death of approximately 25 percent of the 16,000 who were forced from their homes (Ostler 2020). There were many more “removals” after the Indian Removal Act, each deadly. The allied Sauks and Mesquakies lost 85 percent of their population after being moved four times between 1832 and 1869. “The Sauk and Mesquakie catastrophe was not an accident. It was a direct and foreseeable consequence of decisions made by the United States and its citizens to dispossess Native people of desirable lands and shove them someplace else” (Ostler 2020). Similarly, the Navajo (or Dines, as they prefer) were evicted from their land and marched in what is known as the Long Walk and more than 2,500 died of disease and starvation. Denetdale (2006) explains that “severe poverty, addiction, suicide and crime on reservations all have their roots in the Long Walk.”

The Spanish flu of 1918 reportedly killed nearly 50 million people worldwide. It hit Native peoples especially hard, although accurate data are difficult to track down. The Navajo report losing approximately 12 percent of their population, and Alaska Native villages were especially devastated. Again, scholars point to structural disadvantage as the reason why the fatality rate was so high among IA/NA peoples. Native men who had little option but to join the military or work on the railroads spread the disease, as did mail carriers, medicine men, and students at overcrowded and underfunded boarding schools (Hedgpeeth 2020).

Structural Disadvantage and AI/NA Peoples

Settler colonialism and the state’s slow violence against AI/NA peoples have resulted in tremendous marginalization and structural disadvantage. Poverty rates among the two million AI/NA peoples in the US are the highest in the country, approximately twice the national average. According to the U.S. Census Bureau, while the poverty rate in 2016 was 14 percent nationally, 26.2 percent of single-race AI/NA people were in poverty. This is the highest of any racial group.

Due to high rates of poverty, many also do not have routine clean water. Estimates are that among the Navajo alone, some 15 to 40 percent of homes lack clean running water. Safe water and sewage disposal services are unavailable in 13 percent of AI/NA homes on reservations, compared with 1 percent of homes overall (U.S. National Library of Medicine 2009).

Pine Ridge Reservation, home to the Oglala Lakota, a tribe of the Sioux, perpetually contains the counties with the highest poverty rates in the U.S. Unemployment rates are 80 to 90 percent, and there are virtually no jobs. The reservation lacks key infrastructure, and many children attend school only minimally or not at all. The reservation covers more than 2.8 million acres and has few medical facilities. Alcoholism rates are high, and a quarter of children are born with fetal alcohol syndrome. Life expectancy before the epidemic was 48 for men

and 52 for women. Rates of tuberculosis and diabetes are eight times higher than the national average, and diabetes is associated with fatal cases of coronavirus (Strickland 2016). In similarly dire disadvantage, on the Northern Cheyenne Indian Reservation in Montana, unemployment is 78 percent. On the Crow Reservation, it is 46.5 percent (Riley 2016).

Structural disadvantage is also manifest among children and youth. Suicide rates are 1.5 times higher than for the general population. Alcohol misuse is higher among Native youth than any other youth group, and Native youth are more likely to join gangs than are Black and Latino youth. Child abuse among Native American families is double the rate of non-Native families. These rates are generalized across all Native Americans in the US; data shows they are even higher among Native Americans living on reservations (Riley 2016).

AI/NA women suffered from disproportionately high rates of domestic and sexual violence before the global pandemic. One study found that more than half of American Indian or Pacific Islander women had experienced sexual violence in their lifetime. The same is true of domestic violence. These women are 1.7 times more likely to have experienced violence in the last year than White women and two times as likely to have been raped in their lifetime. Ninety-six percent of the perpetrators are non-Native Americans, which means that tribal justice systems are not allowed to address the issue due to previous court cases and laws that infringe on tribal sovereignty (National Congress of American Indians 2018). Reports are that violence and sexual assault have increased on reservation land due to even more difficult economic times coupled with stay-at-home recommendations (Hilleary 2020a).

Native peoples are overrepresented in prisons due in large part to the state's laws that undermine tribal authority and jurisdiction. In South Dakota, Native Americans are 9 percent of the population but 29 percent of the prison population. In Alaska, AI/NA peoples are 15 percent of the population but 38 percent of those imprisoned, while Native Hawaiians are 10 percent of the population but 39 percent of the state's incarcerated population (Noisecat 2015).

Access to health care is limited on reservation land, and indigenous peoples suffer higher rates of many diseases than the rest of the U.S. population. According to a 2017 U.S. Census Bureau report, 19.2 percent of single-race AI/NA people lacked health insurance coverage in 2016, compared to 8.6 percent for the US as a whole (U.S. Census Bureau 2017). The IHS is responsible for providing medical and other health-related services to enrolled Native American tribal members, but the money allocated to the IHS is insufficient for the size of the population it serves. Further, because so many Native Americans struggle with obesity, diabetes, asthma, and heart disease, health care systems on reservation lands are already taxed (Morales 2020).

AI/NA peoples are often unable to vote because there are no polling places anywhere near them. One challenge is distance; the Duck Valley Reservation in Nevada and the Goshute Reservation in Utah are located more than 100 miles from the nearest polling place, a tremendous challenge even without the global pandemic. High rates of illiteracy amongst some groups, such as the Yup'ik in Alaska, who primarily speak and read their native language because public education was not available in their region until the 1980s, exacerbate the problem (Noisecat 2015).

COVID-19, AI/NA Peoples and State Crime

Although most states collected and disseminated data about race and COVID-19, as late as May nearly half of the states that collected these data omitted AI/NA peoples, instead lumping them into the “other” category. This does not help the national response to COVID-19, and certainly does not help AI/NA peoples. This, too, is not new. For instance, AI/NA peoples were undercounted in the 2010 census, with 20 tribes listed as having a population of zero, thus making them ineligible for any COVID-19 relief except emergency funds. The federal government could have used tribal enrollment to determine funding needs but chose to use its flawed data instead (Doshir et al. 2020). It is an obvious sign of neglect that an entire racial group is left out of data collection efforts.

The diseases that AI/NA people suffer from disproportionately are some of the conditions that are said to make one more susceptible to coronavirus and for it to be a more severe case (Morales 2020). Additionally, since reservations are often so large, hospitals and other resources are spread out, making it harder to get care. Navajo with the virus, which they call Dikos Ntsaagi, are sometimes having to be flown to Albuquerque, Flagstaff, and Phoenix, because there are only a dozen hospitals and part-time clinics on their land, which is not only very costly but takes more time and thus can be deadly (Morales 2020). The failure to include these factors in plans by the IHS and other entities is no surprise but rather another example of the state's neglect of Native peoples.

The IHS has also failed to provide ample financial assistance and resources to AI/NA peoples. Although monies were supposedly devoted to Nations in the Coronavirus Aid, Relief, and Economic Security (CARES) Act, most had not received anything more than a month later. This is deplorable and the federal government is negligent for not providing funds in a timely fashion. Much more is still needed in relief for Indian Country, and it should be allotted based on tribal enrollment data, not on flawed Census data. The government could also simplify the way that Nations must apply for help and equipment and unblock funding for new housing. Treaty obligations require the executive branch of the government to find

ways to streamline the process of getting funding. In an effort to do so, President Barack Obama established the White House Council on Native American Affairs but the Trump administration has largely ignored it. Funding for AI/NA programs has been stagnant since 2003 (Doshir et al. 2020). The IHS is significantly underfunded and thus supplies to diagnose COVID-19, items to protect against infection, and equipment needed for treatment are in short supply on Native lands. IHS facilities are, on average, 25 percent understaffed (U.S. Government Accountability Office 2018). The Sault Ste. Marie Tribe of Chippewa Indians received only two test kits for a tribe of 44,000 people (Hilleary 2020b). Urban health centers are facing even greater shortages (Doshir et al. 2020).

The Navajo have filed a suit against the IHS arguing that the \$2 trillion CARES Act, which includes \$8 billion to help tribes fight the coronavirus, is not nearly enough. The Navajo Nation and ten other tribes are involved in the suit. Next to New York and New Jersey, the Navajo, whose land is approximately the size of West Virginia, have the third highest rate of coronavirus infection. Just 4.6 percent of the population of Arizona, Native Americans constitute 16 percent of that state's coronavirus deaths (DW 2020). The suit alleges that CARES monies were going to for-profit companies rather than to Nations, and in late April, a federal judge halted the Trump administration's move. Jonathan Nez, president of the Navajo Nation, said, "We are United States citizens but we're not treated like that. You can hear the frustration, the tone of my voice. We once again have been forgotten by our own government" (Morales 2020). Jones (2020), writing for CNN, also attributes part of the problem of the spread of COVID-19 among Native people to "centuries of broken promises."

Since the Navajo, like other Nations, are sovereign, they are able to negotiate on their own for equipment and supplies but still must compete for the limited testing, protective equipment, and ventilators needed to stop the spread of the virus and help those who are sick (Sepkowitz 2020). Centuries of laws and court decisions have created a bureaucratic nightmare for this, so Nations must sometimes apply through state health departments, other times to the federal government but through varying agencies. The Navajo Area IHS must care not just for members of the Navajo Nation and San Juan Southern Paiute Tribe, but also Hopis, Zunis, and other tribes in the area. In all, it has 222 hospital beds to serve 244,000 people (Sepkowitz 2020). When they have asked for help, it has not always been forthcoming or even what is needed. When the Seattle Indian Health Board asked for coronavirus tests in mid-March, what they received three weeks later was body bags. While clearly a mistake, it did nothing to help. Abigail Echo-Hawk, the health board's chief research officer, said, "[t]his is a metaphor for what's happening," meaning that Native Americans were being largely forgotten and left to die (Ortiz 2020).

One recommended method for curtailing the spread of COVID-19 is contact tracing, or following who an infected individual was in contact with to see patterns and to quarantine or assist sick individuals earlier. Yet contact tracing is much more challenging on reservation lands. The Navajo, for instance, have employed 80 contact tracers but many of their people do not have phones to make contact. To physically track down individuals is far more laborious and takes more time (Morales 2020).

Stay-at-home orders are difficult for many but are particularly so for Native Americans. As was noted, many lack clean water and electricity, and live in homes that are full of black mold. Approximately one-quarter of Native Americans and Pacific Islanders were already food insecure, defined as not having regular, reliable access to the foods needed for good health. Not being able to get groceries due to stay-at-home orders, or doing so at huge risk, will only exacerbate the problem of food insecurity. Many Native people live in overcrowded homes that make social distancing difficult. Federal funding for housing in Indian Country, part of the government's duty of care, has been blocked for decades. The Navajo have tried to social distance by issuing strict curfew orders that result in arrest if violated. Other Nations have set up physical roadblocks to keep away outsiders, measures largely taken because the federal government's assistance has been too limited so more restrictive efforts have to be taken (Silverman et al. 2020).

A significant concern among Native-Americans is that deaths of elders will result in loss of culture, as it is the elders that teach youth the language and customs of their people. Already the smallest racial minority in the U.S., as Moya-Smith (2020) put it, "when we lose an elder, we've truly been robbed of more than just a person—we've lost centuries of pre-white invasion knowledge and narrative." Nations are trying to limit outsiders' access so as to curtail the spread of the disease, but that means many cannot communicate with loved ones at all, as they lack phones or electricity to use technologies others are able to, like Facebook chats or Zoom meetings. Those who have phones are saving their battery power in case of emergency (Moya-Smith 2020). Some Nations have created checkpoints at entries to reservation land. In South Dakota, Republican Governor Kristi Noem has ordered the Ogala Sioux and Cheyenne River Sioux to remove those that fall on state and federal highways and threatened a lawsuit if they did not comply. Not only did Noem's order violate tribal sovereignty, it also violates existing agreements between the state and the Sioux governments. Harold Frazier, chairman of the Cheyenne River Sioux, responded,

we will not apologize for being an island of safety in a sea of uncertainty and death . . . You continuing to interfere in our efforts to do what science and facts dictate seriously undermine our ability to protect everyone on the reservation.

Oglala Sioux President Julian Bear Runner agreed, announcing:

we have an inherent and sovereign right to protect the health of our people, and no one, man or woman, can dispute that right. Your threats of legal action are not helpful and do not intimidate us. The only way we can get through this is to work together as a nation (DW 2020).

Again, it is clear that the state's actions are limiting Nations' ability to utilize their own best practices to battle COVID-19.

Casino closures in early March led to an estimated loss of more than \$4.4 billion in economic activity, \$997 million in lost wages, and the almost total drying up of business revenue-dependent tribal budgets. Tribal gaming revenues are equivalent to state tax revenues, and federal law requires tribes to use these to fund tribal government operations and programs. These losses have impaired tribes' ability to provide essential governmental services such as health care, education, and public safety at a time when the need is highest (Doshir et al. 2020). An error earlier on with the administration of small business loans made it such that tribal casinos were not initially eligible. Tribes protested and Congress agreed, yet the Small Business Association (SBA) took almost a month to address it, by which time the first round of funds was largely dried up (Doshir et al. 2020). The same slow response as usual when it comes to helping AI/NA peoples.

The problems of domestic and sexual violence have exacerbated under stay-at-home orders. Prior research has shown spikes in domestic and sexual violence during crises, for instance, there was a 35 percent increase in women reporting psychological violence during and immediately after Hurricane Katrina and an increase of 98 percent of those reporting physical abuse. U.N. Secretary-General Antonio Guterres said on April 6, 2020 that some countries have seen rates of domestic abuse doubled (Hilleary 2020a).

Involvement with criminal justice is a risk factor for contracting COVID-19 that is also affecting Native peoples, as prisons are hotbeds for infection and AI/NA peoples are overrepresented in prisons. The cases of Andrea Circle Bear and Valentina Blackhorse are illustrative. Circle Bear was incarcerated for a non-violent drug offense when she caught the coronavirus. Pregnant at the time, she was placed on a ventilator the day before her cesarean section. She died four weeks later, never having met her daughter. Circle Bear was just 30. Blackhorse, 28, died after contracting the virus from her partner who worked at a detention center for the Navajo Department of Corrections (Jones 2020).

Voting in person, already difficult for AI/NA peoples, is even more perilous during the global pandemic. Yet while the 5.1 million Native peoples in the US are a critical voting block, neither political candidate discussed how to get their vote or

how to ensure that they could vote safely (Givens 2020). Voting is essential so that Native voices are heard and the state is pressured to adhere to its responsibilities. According to former Navajo Nation Attorney General Ethel Branch,

[i]f we show up and we vote, then that gives them incentives to focus resources on us, and as our population continues to grow and we as a political force grow as a nation and as a people, that will help ensure that these minimum standards are met in Indian Country (Fonseca 2020).

Conclusion

Some have argued that the only way to truly address the structural disadvantage of AI/NA peoples is to decolonize. Decolonization, which is deconstructing or dismantling colonial ideologies and challenging the superiority of Western thought and approaches, has been promoted by many scholars and activists. That would include honoring the treaties that Nations made with the US. Dr Cutha Risling Baldy, a member of the Hoopa Valley Tribe/Yurok/Karuk and assistant professor and department chair of Native American Studies at Humboldt State University, states that

[t]reaties are foundational agreements the United States made with Native nations. Nobody fooled the US into entering into treaties, nobody tricked Benjamin Franklin (or whatever founding father) into building a nation that also had many other nations within it. This is the nation they built; these are the agreements they made. If we honor the Constitution, we have to honor the treaties. If we are truly going to honor the treaties, we have to center Indigenous histories, support self-determination, and build decolonized futures by giving back stolen land (Taylor 2019).

A return to pre-colonial practices related to health, wellness, and even crime and justice, might be the answer, eventually. This is not simple, obviously. As Deer (2009) recommends in regard to addressing gender violence, there must be short-term strategies that work within the existing colonialist systems and a long-term strategy of divestment. Similarly, Lyons (2010) notes that calls for decolonization absent of short-term reforms leave AI/NA peoples in immediate danger, while only short-term approaches that see decolonization as unrealistic fail to recognize how the harm is built into the colonial state apparatus.

In sum, the devastation of the COVID-19 global pandemic is disproportionately affecting AI/NA peoples in ways similar to past epidemics. These are the result of systemic racism in the form of settler colonialism and continued neglectful treatment of sovereign nations by the US. This slow violence has resulted in

severe structural disadvantage that is exacerbated amidst the crisis. It is far past time for the US to own up to its failures, to admit it has and continues to commit state crime against AI/NA peoples, and to take significant measures to address the structural disadvantages described herein.

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