



The Rapidly Increasing Extraction of Oil, and Native Women, in North Dakota

SARAH DEER AND MARY KATHRYN NAGLE

During the past year, the Standing Rock Sioux Tribe and allies made national news as they gathered in prayerful ceremony at the confluence of the Missouri and Cannonball Rivers to stop the construction of the Dakota Access Pipeline project in North Dakota. The pipeline threatens the tribe's drinking water, sacred sites, and burial grounds, and, as a result, much attention has been paid to the potential environmental and cultural impacts of the pipeline. Little to no focus, however, has been given to the proposed pipeline's impacts on the safety of Native women and children living in the Bakken region of North Dakota.

Oil extraction in the Bakken region of North Dakota has increased dramatically since 2005. Today, North Dakota produces more oil for export than any other state. The state is also home to some of the highest rates of sexual assault, sex trafficking, and domestic violence in the United States. In 2013, the Department of Justice's Office on Violence Against Women explained the relationship between a recent, rapid increase in oil production in the Bakken and a contemporaneous rise in crimes and violence against women and children, stating:

Because of recent oil development, the [Bakken] region faces a massive influx of itinerant workers[,] and [consequently,] local law enforcement and victim advocates report a sharp increase in sexual assaults, domestic violence, sexual trafficking, drug use, theft, and other crimes, coupled with difficulty in providing law enforcement and emergency services in the many remote and sometimes unmapped "man camps" of workers.¹

Dakota Access' stated goal is to increase capacity for the transportation of up to 570,000 barrels per day (bpd) of oil from the Bakken Region in North Dakota to Illinois, with an expected day-one volume of 450,000 bpd. As of September 2016, the U.S. Energy Information Administration estimates that the Bakken Region is producing 942,000 bpd. Thus, if federally permitted and put into operation at capacity, the Dakota Access Pipeline could increase oil extraction in the Bakken by as much as 60 percent. An increase in oil extraction near tribal communities, without the consent of their tribal governments, creates a significant risk of increased violence in the Bakken—and in particular, against Native women and children.

The recent rise of violence in the Bakken, and in particular the rise in sex trafficking, captured the attention of federal legislators. Sen. Heidi Heitkamp (D-N.D.) calls sex trafficking “an unfortunately growing problem in North Dakota, particularly in the oil patch and in Indian country.”² Sex trafficking is defined by federal law as “the recruitment, harboring, transportation, provision, obtaining, patronizing, or soliciting of a person for the purpose of a commercial sex act.”³ Sex trafficking is typically a state crime, but federal law can be triggered when a sex trafficking enterprise affects interstate or foreign commerce.⁴

The trafficking of Native women and children is not a new phenomenon, although the Bakken oil boom has created a renewed sense of urgency in areas that have recently experienced a rapid increase in oil extraction. Numerous events throughout history reveal that the sexual exploitation of Native women and children, dating back to the times of the Spanish Conquistadors, often times accompanies the colonial conquest of tribal lands.⁵ Throughout the centuries following contact, Native women and children have been vulnerable to the oppressive policies of Euro-American culture. The problem has become so normalized and engrained in the lives of Native people that it is often overlooked or disregarded. In that sense, the dynamics of violence in the 21st century are nothing new to tribal communities.

To be sure, the recent increase in sex trafficking of Native women in the Bakken is no coincidence. The increase in violence is directly linked to the manner in which increased oil extraction has been structured and carried out in North Dakota. Large-scale corporate fossil fuel extraction recruits large numbers of temporary workers who reside in temporary housing and utilize resources that can take a toll on local communities.⁶ Of particular concern are temporary labor housing projects often referred to as “man camps.”⁷ Anecdotal accounts of sex trafficking recount that Native women and children may find themselves at the mercy of these temporary communities. For example, a woman may be invited to the man camp for a “party”—and find herself suddenly forced to stay—and raped repeatedly by temporary workers. One Native woman described being kidnapped after an incident of domestic violence which stranded her. She was trying to hitchhike home when a man grabbed her and knocked her unconscious. “He picked me up right off the ground,” she recounted. “He was very strong and I couldn’t get away. There was a white flash and then I don’t remember.”⁸ She was later able to escape but was missing for more than a week; she does not have clear memories and believes that she was drugged. Furthermore, the local sex industry has seen an uptick of participation—namely, that women are coerced into dancing at strip clubs to capitalize on the male dominated market.

Another complication created by the Bakken oil boom involves the influx of non-Indian convicted sex offenders working or living on tribal land—many of whom do not register with the tribe despite be-

ing required to do so by federal law.⁹ In 2015, a joint law enforcement operation conducted by the U.S. Marshals Service and the Mandan, Hidatsa, and Arikara (MHA) Nation’s police found that in the wake of the Bakken oil boom, almost 20 percent of convicted sex offenders living on the Fort Berthold Indian Reservation had failed to register in violation of federal and tribal law, compared to a noncompliance rate of only 4 percent to 5 percent for the rest of North Dakota.¹⁰

Reporting rates among these victims are extremely low. We know that, in general, the rapid increase in the extraction of fossil fuels in North Dakota has led to an increase in crime. The North Dakota Attorney General’s office documented this increase, noting reported crimes went from 7,695 in 2010 to 9,469 in 2015.¹¹ Counties near the oil extraction sites experienced an 18.5 percent increase in violent crime between 2006 and 2012.¹²

The Fort Berthold reservation, home to the MHA Nation, has been ground zero for sex trafficking of Native women and children as a result of the Bakken oil boom. The tribe’s victim services program has documented the increase in crimes committed against Native women and children. In 2012, the reported cases of domestic violence spiked at the highest rate since formal data collection started. The following year, the reported cases on sexual assault also peaked. Grace Her Many Horses, the former chief of police at the Sicangu Lakota reservation, took a temporary job as chief of tribal police with the MHA Nation in 2013. She recalls that:

One of the things we ran into while working up there was a 15-year-old boy had gone missing. He was found in one of the man camps with one of the oil workers. They were passing him around from trailer to trailer. ... [Another time w]e found a crying, naked, 4-year-old girl running down one of the roads right outside of the man camp. She had been sexually assaulted. ...¹³

Former U.S. Attorney Tim Purdon confirmed these problems. In 2014, Purdon told *The Washington Post*, “[m]ore money and more people equals more crime.”¹⁴ When he stepped down as U.S. attorney, he made a point of explaining that addressing human trafficking in North Dakota was one of his “proudest achievements.”¹⁵ Sen. Heitkamp also acknowledged the problem of sex trafficking in North Dakota.¹⁶ In 2015, she requested federal funding for North Dakota to “identify victims of human trafficking” to address the threat that “continues to grow in North Dakota.”¹⁷

As an effort to document and quantify the anecdotal accounts, several research projects are underway to provide more information about the circumstances and dynamics that are fueling this crisis. More important, however, is information on possible solutions. In 2016, the American Indian Law Clinic at the University of Colorado issued a “white paper” articulating potential solutions to the sex trafficking crisis plaguing Native women and children in the Bakken.¹⁸ This paper identifies some of the barriers and potential solutions.

A common concern is the lack of tribal criminal jurisdiction over non-Indians on tribal lands. While the man camps and other associated sites of problematic activity may not be located on tribal lands, many of the crimes committed by the temporary residents take place on the reservation. Because of the Supreme Court’s 1978 decision in *Oliphant v. Suquamish Indian Tribe*, the MHA Nation has no criminal jurisdiction over non-Indian defendants who come onto MHA Nation’s lands and commit crimes against the Nation’s women and children.

Potential solutions articulated in the white paper include increasing the cross-deputization agreements between tribal and state officials, ensuring that pipelines do not cross tribal lands or federally protected sacred sites without the consent of tribal governments, and engaging with “corporate responsibility” to encourage oil companies to put policies in place to address the risk of sex trafficking.

Meanwhile, Native women’s and children’s activists are striving to raise awareness of how oil extraction is affecting the safety of Tribal Nations and their citizens.¹⁹ Federal permitting of the Dakota Access Pipeline could result in a projected 60 percent increase in oil production in the Bakken. Such a significant and rapid increase in oil extraction in the Bakken will once again increase the number of Native women and children who are assaulted, abused, and sex trafficked. The federal government should not permit a pipeline that presents such a risk without the consent of the tribal nation whose citizens will be affected. ☉

Endnotes

¹U.S. Dep’t of Justice Office on Violence Against Women, *2013 Tribal Consultation Report* 3, n.2 (2013).

²Human Trafficking, Sen. Heidi Heitkamp, www.heitkamp.senate.gov/public/index.cfm/human-trafficking (last visited Oct. 3, 2016).

³22 U.S.C. 7102 (10).

⁴18 U.S.C. § 1591 (Whoever knowingly—(1) in or affecting interstate or foreign commerce, or within the special maritime and territorial jurisdiction of the United States, recruits, entices, harbors, transports, provides, obtains, advertises, maintains, patronizes, or solicits by any means a person...).

⁵See generally Sarah Deer, *Relocation Revisited: Sex Trafficking of Native Women in the United States*, 36 WM. MITCHELL L. REV. 621 (2010).

⁶See generally Bret A. Weber, Julia Geigle, & Carenlee Barkdull, *Rural North Dakota’s Oil Boom and Its Impact on Social Services*, 59 SOCIAL WORK 62 (2014).

⁷Kasia Klimasinka, *No Kids, No Booze, No Pets: Inside North Dakota’s Largest Man Camp*, BLOOMBERG BUS. (Feb. 2, 2013), [available at www.bloomberg.com/news/articles/2013-02-12/no-kids-no-booze-no-pets-insidenorth-dakota-s-largest-man-camp](http://www.bloomberg.com/news/articles/2013-02-12/no-kids-no-booze-no-pets-insidenorth-dakota-s-largest-man-camp).

⁸See Marshall Helmberger & Jodi Summit, *North Dakota nightmare*, TIMBERJAY (May 3, 2015), [available at timberjay.com/detail.html?sub_id=12122](http://timberjay.com/detail.html?sub_id=12122).

⁹Sex Offender Registration and Notification Act, 42 U.S.C. § 16927 (2006).

¹⁰Amy Dalrymple, *Federal, tribal officers check offenders at Fort Berthold*, BISMARCK TRIB. (Apr. 19, 2015) bismarcktribune.com/news/state-and-regional/federal-tribal-officers-check-on-sex-offenders-at-fort-berthold/article_6d23ab8e-2ea8-55af-b63f-e662dfae9eff.html.

¹¹See N. Dakota Att’y Gen., Bureau of Criminal Investigation, *Crime in North Dakota, 2015* 16 (2016), www.ag.nd.gov/reports/bcireports/crimehomicide/Crime15.pdf (Note: Data does not include crimes that take place on Tribal Law Enforcement Reservations, except for homicides that tribal authorities report to the state).

¹²Rick Ruddell et al., *Drilling Down: An Examination of the Boom-Crime Relationship in Resource-Based Boom Counties*, W. CRIM. REV. 15(1):3-17, at 7.

¹³Damon Buckley, *Firsthand Account of Man Camp in North Dakota From Local Tribal Cop*, LAKOTA COUNTRY TIMES (May 22, 2015), m.lakotacountrytimes.com/news/2014-05-22/Front_Page_Firsthand_Account_Of_Man_Camp_In_North_Dakota_From.html.

¹⁴Sari Horwitz, *The Dark Side of the Boom*, WASH. POST (Sept. 28, 2014).

¹⁵See Press Release, U.S. Dep’t of Justice, U.S. Attorney Timothy Q. Purdon to Step Down (Feb. 10, 2015), www.justice.gov/usao-nd/pr/u-s-attorney-timothy-q-purdon-step-down.

¹⁶*Supra* note 2.

¹⁷Press Release, Sen. Heidi Heitkamp, Heitkamp Announces Federal Funding to Combat Human Trafficking (Sept. 24, 2015), www.heitkamp.senate.gov/public/index.cfm/press-releases?ID=bbc14f2b-f93e-47b2-b0f6-90e352b4a3f9.

¹⁸Kathleen Finn, Erica Gajda, Thomas Perrin, & Carla F. Fredericks, *Responsible Resource Development and Prevention of Sex Trafficking: Safeguarding Native Women and Children on the Fort Berthold Reservation* (Feb. 4, 2016), [available at SSRN: ssrn.com/abstract=2723517](http://ssrn.com/abstract=2723517).

¹⁹See e.g., National Indigenous Women’s Resource Center, Open Letter/Statement on Standing Rock (Dec. 2, 2016), [available at www.niwr.org/news/niwrcc-open-letterstatement-standing-rock](http://www.niwr.org/news/niwrcc-open-letterstatement-standing-rock).

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