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Indigenous Peoples' Rights

<https://www.hrw.org/news/2013/09/24/predatory-lending-and-indian-country>

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[Western Sky](#), a private online payday lender based on the Cheyenne River Sioux Reservation in South Dakota, suspended its operations in early September after New York's [attorney general](#) filed suit against it for violating state usury laws. This was the latest blow to a company already facing a number of state and federal suits for its allegedly illegal and abusive practices. Finally, the company said it stopped operating to deal with its legal problems. It would be easy to simply say good riddance to Western Sky. But the situation is more complex.

I spent the day with Butch Webb, Western Skys owner, and some employees last December. Webb told me Western Sky was the largest private employer on the reservation. In a place where about 50 percent of adult workers are either unemployed or out of the workforce, that means a lot.

Webb offered the promise of hundreds of jobs to tribal members in exchange for peddling online predatory loans to people off the reservation. Western Sky said it never lent money to people at Cheyenne River or in South Dakota. One employee told me it would create too big a backlash if they had to collect these loans from members of the tribe. Webb told me he had enough problems to deal with.

Many people on the reservation are very uncomfortable with how this business reflects on them. But when the Tribal Council scrutinized the company, Webb would remind the council how costly it would be to shut him down.

Even though Western Sky did not lend at Cheyenne River, predatory lending plagues people there and on other reservations. Such loans are the only source of credit for many Native Americans and almost all of those lenders are off reservations and not Native-owned. At Cheyenne River, people regularly drive hours to Pierre or Rapid City to take out predatory loans and growing Internet access is making it easier to borrow this way, even on remote reservations.

Even if some of those borrowers could qualify for bank loans, though, there are few banks on reservations and others are not always welcoming to Native Americans.

Storefront and online lenders exploit the harsh reality that people on reservations and throughout the country are hurting, have basic expenses they can't meet, and don't necessarily have access to credit. The [Pew Center](#) has done some remarkable work on payday lending throughout the country that shows why people borrow and its impact on them.

With the help of local groups, we surveyed almost 400 people on reservations around the country about predatory borrowing, including more than 100 at Cheyenne River. The survey is not a representative sample of reservation populations, but the results point to worrying trends that are consistent with other research.

Most of the people surveyed were the working poor. Almost half had taken out predatory loans mostly for basic needs, food, or for emergencies, like medical care. Federal sequestration is probably making things worse because of cuts to essential services.

But these loans carry triple- or quadruple-digit interest rates and can easily turn into nightmares. Of those that borrowed, nearly half said they had some or a great deal of trouble repaying what they owe. More than 70 percent said repayments made it more difficult to meet basic expenses. I have interviewed people who could not meet their basic needs, such as food for their family or medical care for their children because these loans had overwhelmed them.

The major reason these loans exist is inadequate or nonexistent regulation by states and the federal government.

Regulating online lenders is crucial, but alone isn't a panacea, and would not ultimately resolve the complex issues facing Indian country. Furthermore, tribal governments that operate their own online lenders are hostile to regulation, seeing it as a challenge to their sovereignty and an attempt to stifle economic development. They are [suing](#) New York to prevent it from regulating.

There is an alternative. [Native Community Development Financial Institutions \(CDFIs\)](#), chartered by the [US Treasury Department](#), have a mandate to provide financial services on reservations. [At Cheyenne River](#) and elsewhere, some are trying to offer cheaper and fairer alternatives to predatory loans. They also teach financial literacy because often people don't know how onerous the terms of their loans are until after they desperately secure the money. Entrepreneurship programs offered by Native CDFIs help people create jobs and businesses that truly serve the community. But Native CDFIs or others throughout the country have nowhere near the resources to compete with predatory lenders.

A three-pronged policy response is needed to start addressing the problem of predatory lending: one that regulates high-cost lending, improves financial literacy skills, and provides the vulnerable poor with better access to fair, non-exploitative, credit facilities.

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