

Before the  
United States Senate  
Committee on Indian Affairs

## **Oversight Hearing on Economic Development**

Statement of

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May 10, 2006

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### **INTRODUCTION: THE HARVARD PROJECT ON AMERICAN INDIAN ECONOMIC DEVELOPMENT**

Thank you for the opportunity to appear today. My name is Miriam Jorgensen and I am Research Director of The Harvard Project on American Indian Economic Development. I also serve in a parallel position at the Harvard Project's sister program, the Native Nations Institute for Leadership, Management and Policy, part of the Morris K. Udall Center for Studies in Public Policy at the University of Arizona.

For nearly twenty years, I and my colleagues at the Harvard Project on American Indian Economic Development have been focused on a central research question: Why is it that, amidst the well-documented and widespread poverty and social distress that characterize American Indian reservations overall, an increasing number of Native nations are breaking old patterns and building economies, social institutions, and political systems that work? From the dotcom and retail industries of Ho-Chunk, Inc. (the economic development corporation of the Winnebago Tribe of Nebraska) to the manufacturing-based enterprises of the Mississippi Band of Choctaw Indians, from the sustained energy-based development of the Southern Ute Tribe to the bootstrapped gaming economies the Muckleshoot Indian Tribe and Fond du Lac Band of Lake Superior Chippewa, we are seeing jobs created, social problems addressed, and lives built and rebuilt on Native nations' own terms. At the same time, unemployment and attendant social and physical health maladies remain entrenched at places like Pine Ridge and San Carlos Apache. What explains the stark differences in development we now see across Indian Country?

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Since the mid-1980s, the Harvard Project has worked closely with Native nations and their leaders and decisionmakers to understand the reasons for these differences. Of course, we knew from the start that Indian Country did not need another group of university researchers sticking their noses into tribal affairs without providing anything of use to Native communities. Accordingly, we run a number of programs designed to get at the research questions at the heart of the Project *and* to channel what is learned back to those who must deal daily with the challenges of improving reservation economies and social conditions.

Toward these ends, Harvard students (particularly graduate students in public policy and administration at the John F. Kennedy School of Government) have produced more than 350 field research reports on matters requested by tribes and tribal organizations. The topics addressed in these projects range from judicial reform at the Hualapai Nation to ski resort management at White Mountain Apache, and from bison ranching by the Cheyenne River Sioux Tribe to welfare reform at the Navajo Nation, and are available on our website for all tribes to learn from and use.<sup>1</sup> Our *Honoring Nations* program is an annual competitive awards program that identifies, celebrates, and shares outstanding success stories in tribal governance. The executive education programs offered by our sister program, the Native Nations Institute, bring strategic education in leadership, economic development, and public administration to senior executives and managers from Native communities throughout the US and Canada. In combination, our forthcoming volumes *Native America at the New Millennium* (from which earlier panelists already have quoted) and *Resources for Native Nation Building*<sup>2</sup> capture the challenges and opportunities Indian Country confronts as it faces the future and provide a useful roadmap for strengthening tribal government to meet those challenges and seize those opportunities. As of last week, a DVD series developed by the Native Nations Institute, based its joint work with the Harvard Project, and that spotlights the expertise of more than a dozen Native practitioners, makes these ideas available to an even broader audience.

In short, through these and many other activities, the Harvard Project on American Indian Economic Development and its sister program, Native Nations Institute, have been and remain heavily engaged with Indian Country – always focused on that key question of what is working as Native nations strive to assert their powers of self-determination and chart a course to a healthy future. What have we learned?

I hope you will find it useful if I address this question so as to link our learning with the themes and lessons found in the broader, international field of economic development. Certainly, there are lessons from Indian Country which mirror those from the international context, and it is important for tribal and federal policymakers to be aware

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<sup>1</sup> [www.ksg.harvard.edu/hpaied](http://www.ksg.harvard.edu/hpaied)

<sup>2</sup> Both of these are working titles.



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of this comparison. Moreover, there are lessons from Indian Country that inform the international context and may be of use to those who work there.

### **THE “PLANNER’S APPROACH” TO ECONOMIC DEVELOPMENT**

A review of what meager research and writing existed on economic development in Indian Country 25 years ago turns up a set of dominant themes. First, the overriding focus of thinking and policymaking was on what the *federal government* could do to create jobs, raise incomes, and increase household wealth. This did not emanate solely from the Bureau of Indian Affairs or the other federal departments and agencies engaged in Indian Country. Native nations themselves looked to federal monies, expertise, and programs for economic support and, among the optimists, progress.

Second, federal policies and programs that were aimed at living, business, and employment conditions on reservations constituted a “Planner’s Approach” to economic and community development. This approach treated development as fundamentally a problem of resources and expertise, rather than incentives and institutions. Reservations were understood to be underdeveloped because Native nations lacked access to, particularly, financial capital and technical and managerial expertise. The federal policy response was a series of “flavor-of-the-month” grants, loans, and projects that left Indian Country marked with white elephants and eyesores, from ill-used federally backed motels in out-of-the-way settings (where the flavor was supposed to be tourism), to crumbling industrial parks and empty shells of would-be factory buildings (where the flavor was supposed to be manufacturing), to mining and other natural resource operations (where the flavor focused on asset extraction for short-term cash flow rather than asset building for the tribe’s future). The adaptive response in tribal communities was a “projects” mentality in which “economic development” came to mean “job creation” (by landing the next project the feds were funding<sup>3</sup>) rather than true economic growth.

Finally, the Planner’s Approach to economic and community development was oblivious to the impact on, and the role of, Native culture in the development process. As the Bureau of Indian Affairs put it in submissions to Congress in 1969, Native culture was seen as an impediment to development: “Indian economic development can proceed only as the process of acculturation allows.”<sup>4</sup> That is, economic development could only

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<sup>3</sup> An extreme but instructive example is the day in 1988 when my colleagues Joseph Kalt and Stephen Cornell were addressing the council of a Native nation whose reservation is an a very rural part of Arizona, where the sun bakes the bare ground so hard the kids can skateboard across the desert. The tribe’s Economic Development Administration planner (even the job title reflected the Native nation’s orientation toward this approach to development) was beaming. Having duly filed his five-year plan and submitted his grants to assure continued funding of his position, he had just been notified that he had landed a major economic development project. The project was eighteen miles of cement sidewalks.

<sup>4</sup> Bureau of Indian Affairs, US Department of the Interior, “Economic Development of Indian Communities,” in *Toward Economic Development for Native American Communities*, a compendium of papers submitted to the Subcommittee on Economy in Government of the Joint Economic



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proceed as Native culture changed to look more like mainstream culture. To the extent that Native culture had any prospect of being an *asset* in the development process, it was so only to the extent that Indian arts and crafts and romantic tourism might be marketable to the non-Indian population.

The precepts and policies of the Planner's Approach to economic and community development in Indian Country have proven largely unproductive, if not downright destructive. I wish I could say that the Planner's Approach has been abandoned, but it lingers on and, in some cases, pervades the advice and thinking of consultants, councils, and policymakers. At the extreme, the results have been reservation "economies" built almost entirely on transfer payments emanating from one federal program or another. More generally, the results have been failed projects, economic stagnation, and continuing poverty. Another legacy is a politics of spoils (or "rent-seeking," as development economists call it). Under the Planner's Approach, tribal politics revolve around the politicians that can farm the federal system most effectively. Native nation citizens compete with one another (often through contentious factional battles) for access to the programs with funding and for jobs in government. Grant writers are at a premium, so if they can be induced to stay at home rather than move away, the tribe's best and the brightest quite rationally are induced to play the grantsmanship game – the route to the "plum" jobs in the transfer economy. Equally reasonably, survival for tribes has meant learning to walk the halls of Congress, harvesting what they can by direct action, and leaving agencies like the BIA without allies or budget.

Where is the fatal flaw in the Planner's Approach? Here, the lessons of Indian Country and nations worldwide converge. A nation's economic development is not a mechanical process that is subject to effective imposition of a preconceived blueprint. While it is, of course, sound *business* practice to plan ahead with budgets and investments as best one can in a world of risk, it is a vain hope to think that we can "plan" an economy in the sense of expecting tribal councils, national legislatures, or federal planners to pick the portfolio of businesses, projects, and activities that will survive and thrive.

### EVIDENCE OF AN ALTERNATIVE

So what is the alternative? We at the Harvard Project on American Indian Economic Development and Native Nations Institute for Leadership, Management, and Policy believe that successful Native nations are themselves modeling an approach that answers this question. The evidence can be found in recent policy and progress, which I discuss next; an analytic description of the keys to successful development in Indian Country is the topic of the final portion of this testimony.

Since the passage of the Indian Self-Determination and Education Assistance Act of 1975 (P.L. 93-638), the Planner's Approach to economic development gradually has been

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Committee, Congress of the United States (Washington: US Government Printing Office, 1969), p. 333.

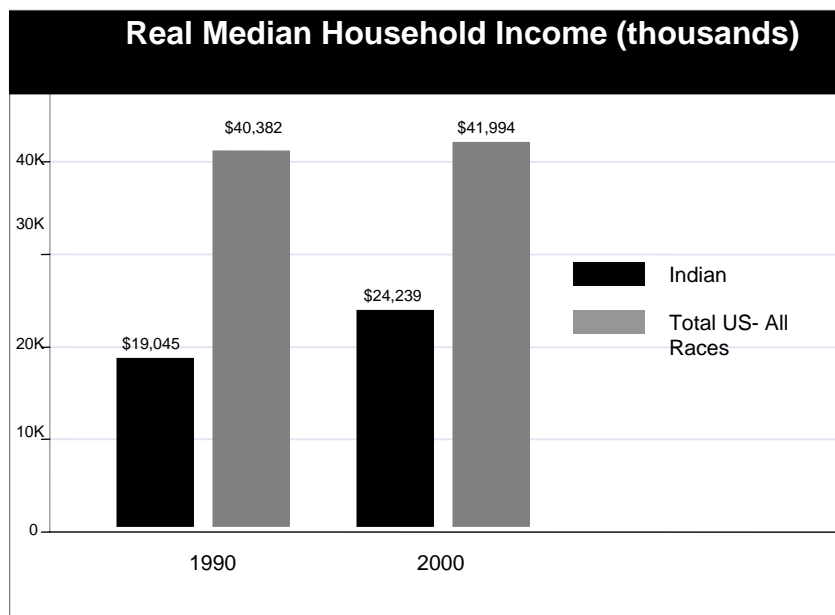


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giving way to policies of self-determination in the economic sphere. Under these policies, Native nations' officials, rather than outside decisionmakers, have been more able to set the agendas, design the programs and policies, reap the benefits of development, and – importantly – be held accountable for failure in development. The result is a little-noticed boom in economic development in Indian Country. Since the early 1990s, both gaming tribes *and non-gaming* tribes have been experiencing rates of economic growth about three times the rate of the US as a whole.

Let us take an even closer look at the numbers: in the economic arena, the “story” of Indian America is one of communities with a very long way to go to catch up with the rest of the United States (Figure 1), but which have been growing very rapidly from the 1990s onward (see Figure 2). Throughout the 20<sup>th</sup> century, American Indians on reservations were the poorest identifiable population group in the United States, and year after year, nations such as the Oglala Sioux Tribe (Pine Ridge Reservation) ranked among the very poorest communities in the US. As Figure 1 indicates, as of 2000, the real (i.e., inflation adjusted) median household income of Native Americans on living reservations and in Indian areas of the lower 48 states was only 58% of the average American median household income – i.e., \$24,239 versus \$41,994.

**Figure 1**



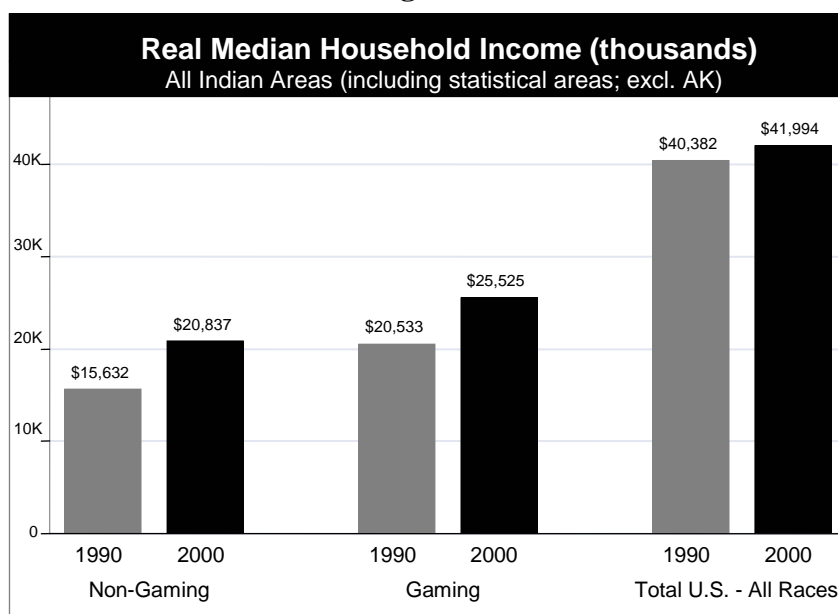
SOURCE: US Census, 1990 & 2000, as reported in Jonathan B. Taylor and Joseph P. Kalt, *American Indians on Reservations: A Databook of Socio-economic Change between the 1990 and 2000 Censuses*, The Harvard Project on American Indian Economic Development, January 2005.

Mainstream media portrayals of the casino enterprises that many tribal governments have built since the late 1980s conjure an image of easy money and previously unseen riches for Native nations. But the long history of poverty and low incomes in Indian Country has not been wiped away by gaming. As Figure 2 shows, although approximately 200



tribes operate gaming enterprises, low incomes (as well as the underemployment and unemployment that low incomes signal) are much more the rule than the exception for gaming and non-gaming tribes alike. Native nations such as the Crow Creek Sioux Tribe (reservation in SD), San Carlos Apache Tribe (reservation in AZ), and numerous others have pursued gaming, but by 2000 still had household incomes that were less than 60 percent of the median household income in the rest of the United States.

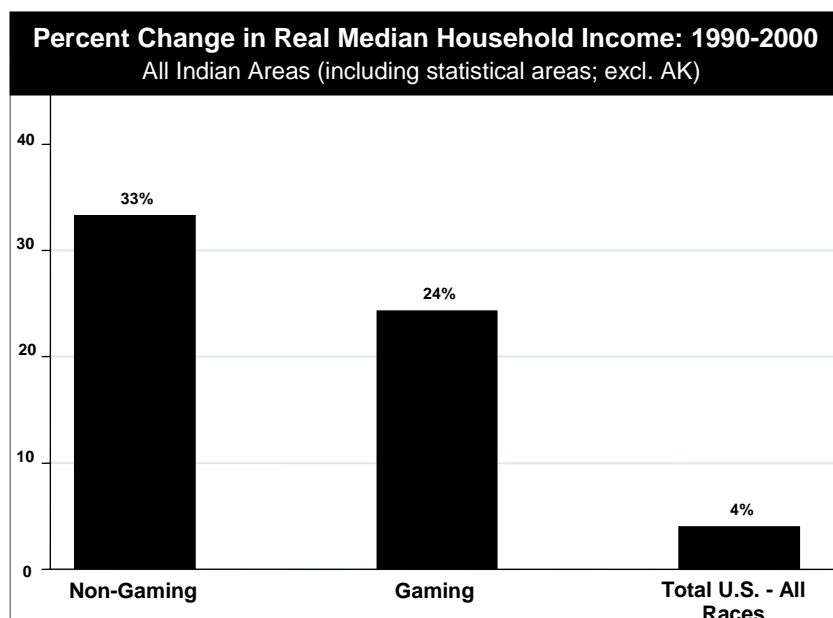
**Figure 2**



SOURCE: US Census, 1990 & 2000, as reported in Jonathan B. Taylor and Joseph P. Kalt, *American Indians on Reservations: A Databook of Socio-economic Change between the 1990 and 2000 Censuses*, The Harvard Project on American Indian Economic Development, January 2005.

In fact, during the first full decade of Indian gaming, real household incomes on reservations without gaming actually grew more rapidly (33%) than on reservations with gaming (24%) – and both far outstripped the meager 4% growth in the median American household’s income during the entire decade of 1990-2000 (see Figure 3). And therein lies the other side of the economic story in Indian Country: Native America is in the midst of an economic boom, with rates of income growth sustained over the 1990s and into the new millennium that match those of virtually any international case of rapid development.



**Figure 3**

SOURCE: US Census, 2000, as reported in Jonathan B. Taylor and Joseph P. Kalt, *American Indians on Reservations: A Databook of Socioeconomic Change between the 1990 and 2000 Censuses*, The Harvard Project on American Indian Economic Development, January 2005.

Just as I am careful to note that this boom is not attributable to gaming *per se*, it also is not attributable to some large influx of federal dollars: the improvement in average incomes in Indian Country since the late 1980s has occurred even though overall federal funding to Indians was not increased. Instead, as discussed below, the truly important change appears to be a practical commitment (by both the US federal government and Native nations) to self-determination: research suggests that economic development in Indian Country took hold only after policies of self-determination took hold.

A final note in this review of the evidence of economic growth in Indian Country is that the progress is tenuous. Policies of self-determination are poorly understood and under constant pressure for repeal. Even at the high rates of income growth seen in recent years, it would take decades for incomes in Indian Country to catch up to US average income levels. And, in some sense, that is not the goal of Native communities. Income and material well-being are hardly the be all and end all for America's Native nations. The citizens of Native nations may count political perpetuation, matters of cultural identity, and quality of life and quality of community (which cannot easily be measured in dollars) as more important shared goals. But as long as poverty, unemployment, and under-employment are a Native nation's prevailing economic reality, its citizenry will struggle to hold everything else together. Families will be forced to undertake extraordinary steps to access even the bare necessities, individuals will tend to face the unwanted choice of looking off-reservation for even modest economic opportunity, and because of these necessary focuses, other progress may be difficult to achieve. As a result, persistent



economic underdevelopment and attendant poverty are pressing concerns across Indian Country.

### KEYS TO ECONOMIC DEVELOPMENT IN INDIAN COUNTRY

Economic development is an organic process. In an environment in which opportunities are subject to the vicissitudes of competition and continually changing marketplace conditions, economic development occurs as the sum of small, adaptive decisions of myriad individuals who by luck or preparation are in the right place at the right time to take advantage of unplanned prospects. Economic development is much more analogous to tenacious plants looking for places to pop up and take root than to an engineered system.

What factors can prime the process of economic development? We can begin to answer this question by pointing to some factors that do not seem to be so critical – or at least not determinative. Both in Indian Country and internationally, I think it is surprising how often economic development takes root in nations without remarkable endowments of natural resources, good geography (e.g., close to major markets), or a well-educated citizenry. While more resources, better geography, and more worker skills and expertise are better than the contrary, they are not necessary prerequisites for an economy to launch and sustain development.<sup>5</sup> Neither an Asian “tiger” like Taiwan nor an economic engine like the Mississippi Band of Choctaw Indians began its drive to development with abundant natural resources, a prime location, or a highly experienced workforce. Rather, like all human societies, they had by definition one key raw material – labor. In the Mississippi Choctaw case, this has supported a highly productive manufacturing sector in such areas as plastics and electronics, as well as the numerous ancillary services – from fire fighters to retail service workers – that “thicken up” an economy. The record at Mississippi Choctaw is as striking as it is well-known: Over the last two and a half decades, unemployment has effectively been eradicated, welfare dependence has been reduced to far below the US national average, and incomes and wealth (such as housing assets) have been steadily rising.<sup>6</sup> On the social side, health conditions have improved dramatically,<sup>7</sup> and the nation has been able to invest its own resources in schools, Native language education, and complementary infrastructure.

If natural resources, location, and education are not necessary for development to take hold, what are the critical prerequisites? At the heart of the challenge of economic development are *incentives*. The organic process of finding and developing economic

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<sup>5</sup> Stephen Cornell and Joseph P. Kalt, “Where’s the Glue? Institutional and Cultural Foundations of American Indian Economic Development,” *The Journal of Socio-Economics*, vol. 29, 2000, pp. 443-70.

<sup>6</sup> Peter J. Ferrara, *The Choctaw Revolution* (Washington: American Tax Reform Foundation, 1998).

<sup>7</sup> Harvard Project on American Indian Economic Development, *Honoring Nations: Tribal Governance Success Stories, 1999*, Kennedy School of Government, Harvard University, 1999, pp. 21-22.





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opportunities depends most centrally on channeling peoples' labor and resources into productive activity. If the risks are lower and the returns higher to spending one's efforts seeking political favor or chasing government transfers, greater effort will tend to be channeled in that direction. If rules of the game for, say, elected tribal officials punish or put at risk efforts to assert self-determined, non-Planner's-Approach strategies for economic development, even officials dedicated to the well-being of their citizens will be pulled toward strategies of dependence on the federal system. If a country's incentives improve the payoffs (in terms of power and prestige, as well as wealth) to fighting over slices of the economic pie, rather than the making of that pie, the best and the brightest will tend to be used up in the former – as so much conflict in Latin America and Africa continues to illustrate.

Development specialists' use of the term "incentives" may conjure images of selfish money mongering – but it should not. The concept of "incentives" is more generic and applies across cultures. Indeed, one culture may foster materialism, and related incentives may produce materialistic behavior. But incentives support (or discourage) publicly interested behavior too. Consider the case of a new college graduate weighing the option of using her accounting degree (or natural resource management expertise, or any other skill) in her home community. She must determine whether building a life there is realistic and will ask questions such as: Will my job be hostage to politics? Will commitment and capable performance be recognized? Will I be able to support myself and my family members? The answers to these questions – which are generated by a community's or nation's institutions – are make-or-break incentives. If answers are "yes," it is more likely that the community can attract and retain productive resources. For Native nations – which often must compete directly with the incentive systems of Phoenix or Minneapolis or Billings, etc. – negative answers have particular bite.

Given this understanding, it's clear that the nature and source of incentives are the keys to economic development. Our studies of American Indian nations suggest that three considerations make the most difference for structuring incentives in support of Indian Country economic development: institutions, culture, and sovereignty. I address these in turn below.

### **Institutions Matter**

For all human societies, incentives for productive and unproductive activity emanate from *institutions*. And it is fair to say that the focus on institutions as the key ingredient that must undergird economic development is now the widely shared framework within which development economics and policy is proceeding.<sup>8</sup> Governmental institutions of dispute resolution, business regulation, administrative law, property, taxation, and the like lay down the formal rules of the game that determine rewards and penalties,

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<sup>8</sup> See, for example, Dani Rodrik, "Institutions, Integration, and Geography: In Search of the Deep Determinants of Economic Growth," Center for International Development, Kennedy School of Government, Harvard University, February 2002.



opportunities and risks. But governments are not the only “institutions.” Social and cultural institutions – from family structures and religious societies to health care and civil society organizations – also impact individuals’ and enterprises’ incentives to invest their lives and resources in one community rather than another. Like sound government institutions, healthy and stable social and cultural institutions promote economic development by making it more likely that a recent college graduate will want to come home.

Research on international economic development stresses a number of central traits of institutions as being conducive to economic development. A market economy, secure private property rights, an independent court system, and western-style democracy are institutions that have received a great deal of attention both in academic research and in the policies of international organizations such as the World Bank and International Monetary Fund.<sup>9</sup> Indeed, the Bank and the Fund have become famous (or infamous, depending on one’s politics) for conditioning development assistance along the implied lines of governmental reform.

What of the research on effective institutions in Indian Country? The themes are similar, but the specifics differ in important ways from those found in much of the research on international development. Harvard Project and Native Nations Institute research consistently finds that economic development in Indian Country does not occur (or is severely impeded) unless a tribe’s institutions embody at least three attributes:

- *A Rule of Law.* In any society, one of the key tasks of government is to resolve disputes – disputes over everything from business contracts and who gets hired and fired to whether the nation ought to harvest its forest resources. The critical challenge for governments the world over is how to limit those who constitute the government at any moment, and who thereby have the power to resolve disputes, from using their power to commandeer resources or to otherwise benefit themselves and/or their supporters. From outright corruption under Ferdinand Marcos’ in the Philippines to land grabs in Zimbabwe to petty patronage politics in Cambridge, Massachusetts or within a Native nation, rule by power and influence rather than law quashes economic development.

Phrases such as “the rule of law” may sound like they belong in the high school civics textbooks of mainstream America, but the concept is neither new to Native America nor the exclusive property of Western European culture. Concepts of respect for one’s traditions and one’s traditional institutions are, at their core, expressions in support of the rule of law, providing prescriptions for making

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<sup>9</sup> See, for example, Rodrik, *op. cit.*; World Bank, *World Development Report 2000/2001: Attacking Poverty* (New York: Oxford University Press, 2001); and World Bank, *World Development Report 2002: Building Institutions for Markets* (New York: Oxford University Press, 2001); World Bank, *World Development Report 2005: A Better Investment Climate for Everyone* (New York: Oxford University Press, 2004).



collective decisions and resolving disputes. Indeed, we should have all been reminded of this in the 2000 Presidential election, when then-Vice President Gore and now-President Bush leaned on the legitimacy of traditions promulgated by the US' founding fathers to resolve their dispute.

Applied to an official or a citizen of a Native nation, the admonitions invoking such respect and legitimacy are invocations of the rule of law – tribal law. The resulting payoff to better performance of tribal government is amply demonstrated by cases like the Navajo Nation court system, where systematic injection of *Dine'* common law serves to resolve disputes legitimately and to constrain would-be self-aggrandizers by putting the weight of culture behind the letter of the law.<sup>10</sup>

- *Separation of Politics from Day-to-Day Administration and Business Affairs.* Closely related to the establishment of a rule of law is the need to separate politics from day-to-day decisionmaking and management in bureaucratic and business affairs. Perhaps because most Native nations are relatively small and “everybody knows everybody else,” this problem can be particularly vexing for tribal governments. The pressures to hire a relative, fire a political opponent, not discipline a recalcitrant renter, and so on are often overwhelming. The results, however, are destructive of effective governance and economic development.

Tellingly, research by my colleagues Stephen Cornell and Joseph Kalt finds that tribally owned enterprises are about four times more likely to be able to sustain themselves when they are managed by boards of directors that are independent of the tribal council.<sup>11</sup> Similarly, my own research finds that a dominant predictor of whether a tribal housing program is well-run (e.g., as reflected in upkeep of the housing stock, rent payments kept current, etc.) is whether a Native nation has an independent court<sup>12</sup>; this mechanism for the independent resolution of disputes keeps petty politics out of such decisions as whom to hire to run a program and when a renter can be evicted.

Again, notions such as an “independent board of directors” and an “independent judiciary” should not be taken to imply that such institutions must necessarily be designed after a US or Western European model. For example, the three “branches” of very-much-intact and functioning traditional Puebloan government

<sup>10</sup> Harvard Project on American Indian Economic Development, *Honoring Nations: Tribal Governance Success Stories, 1999*, Kennedy School of Government, Harvard University, 1999, pp. 6-7.

<sup>11</sup> Stephen Cornell and Joseph P. Kalt, “Reloading the Dice: Improving the Chances for Economic Development on American Indian Reservations,” in Cornell and Kalt, ed., *What Can Tribes Do? Strategies and Institutions in American Indian Economic Development* (Los Angeles: American Indian Studies Center, UCLA, 1992), pp. 1-59. Also see related evidence in Miriam Jorgensen and Jonathan B. Taylor, “What Determines Indian Economic Success? Evidence from Tribal and Individual Indian Enterprises,” *Red Ink*, Spring 2000, pp. 45-51.

<sup>12</sup> Miriam Jorgensen, *Bringing the Background Forward: Evidence from Indian Country on the Social and Cultural Determinants of Economic Development*, Doctoral Dissertation, Harvard University, June 2000.



at Cochiti Pueblo provide demonstrably effective separations of powers and checks and balances that serve to uphold the rule of law and keep politics out of day-to-day administration. Similarly, a number of Native nations are teaching the world new governmental designs. The creation of councils of elders and ethics boards, for example, put in place fourth branches of government to complement the familiar civics textbook model of executive-legislative-judicial constitutional structures.<sup>13</sup>

Ultimately, instituting policies and practices that support, rather than thwart, economic development requires leadership and knowledge on the part of tribal officials. This is strikingly demonstrated by case mentioned above of Ho-Chunk, Inc., the wholly-owned business enterprise of the Winnebago Tribe of Nebraska. Winnebago leadership chartered Ho-Chunk, Inc. with the explicit and blunt admonition that: Ho-Chunk, Inc. was established so that tribal business operations would be free from political influence and outside the bureaucratic process of the government.”<sup>14</sup> Since its founding in 1995, Ho-Chunk, Inc. has raised its revenues to over \$150 million annually, and Winnebago unemployment has fallen from approximately 70% to less than 15%.

- *Efficient Bureaucracy.* A third key element we find that marks those Native nations that are building and sustaining effective economies and social systems is perhaps a little mundane: They “push paper” efficiently and effectively. In a competitive world, with businesses, investors, managers and workers readily able to locate on or off reservations, good record-keeping, clean administration, solid computer networks, and the like count for a lot. Similarly, the building and retaining of institutional knowledge on matters ranging from the last round of negotiations with the tribal citizen who wanted to invest in a restaurant on tribal land to the hydrology of the aquifer under the reservation are assets that enable a tribe to make informed and beneficial decisions.

Thus, the building of “bureaucratic capacity” emphasized by specialists in international development<sup>15</sup> certainly has its counterpart in Indian Country. There is perhaps no better illustration than Kayenta Township, Navajo Nation. Frustrated by the lack of economic activity and high unemployment and encouraged by the Nation’s attention to the needs for greater local autonomy in government, Kayenta leadership set about creating in 1997 a Commission of five, staggered-term representatives and implementing a system of Kayenta-specific municipal codes, streamlined business permitting, and expedited infrastructure

<sup>13</sup> See, for example, the case of San Carlos Apache, Harvard Project on American Indian Economic Development, *Honoring Nations: Tribal Governance Success Stories, 2000*, Kennedy School of Government, Harvard University, 2000, pp. 6-7.

<sup>14</sup> Harvard Project on American Indian Economic Development, *Honoring Nations: Tribal Governance Success Stories, 2000*, Kennedy School of Government, Harvard University, 2000, pp. 4-5.

<sup>15</sup> Rodrik, *op. cit.* For interesting illustrations, see Thomas L. Friedman, *The Lexus and the Olive Tree* (New York: Farrar, Straus and Giroux, 1999).



development – supported by a system of modest local taxes. The result today is a veritable boomtown, as retail businesses from hotels to shopping have flourished. With this development, the Township has been able to invest in improving the quality of life along with the improvement in employment opportunities, including investments in solid waste control, housing, a women’s shelter, water supply infrastructure, and recreation facilities.<sup>16</sup>

## Culture Matters

Indian Country is teaching the world a paramount lesson in development: because institutions matter, culture matters. International development specialists do occasionally point to the relevance of local conditions and political feasibility as important determinants of *what* kinds of institutions work where in promoting development.<sup>17</sup> Indian Country, however, is demonstrating the critical importance of a broader concept – *cultural match*. There must be a consonance (“match”) between the structure of a society’s formal institutions of governance and economic development and its underlying norms of political power and authority (culture) for those institutions to function and serve effectively.

In the language of economics, cultural match is required because formal institutions of governance are “public goods” of a particular kind. We all share in their processes and outcomes, and each of us has personal incentives to let others bear the costs of supporting their operation, let others intervene to make sure that officials serve the public interest, and spend time and effort informing themselves on the issues. Moreover, our governmental institutions have the attribute that they are the means by which we make and enforce agreements as to how we will resolve our disputes, regulate our behavior, and the like.

Ultimately, for our constitutions and laws to result in governance, they must rest on something more compelling than the paper they are written on – our society’s more or less shared cultural norms as to how authority ought to be exercised and used. If, on the other hand, our institutions are not seen as legitimate (they are not consonant with norms), their actions will be less able to command our assent and respect, citizens will be more likely to rise against them, and less likely to invest in their improvement.<sup>18</sup> This is a long way of saying that government can’t work if it’s not legitimate in the eyes of the governed.

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<sup>16</sup> Harvard Project on American Indian Economic Development, *Honoring Nations: Tribal Governance Success Stories, 1999*, Kennedy School of Government, Harvard University, 1999, pp. 14-15.

<sup>17</sup> For excellent treatments, see, for example, Daron Acemoglu, Simon Johnson, and James A. Robinson, “An African Success Story: Botswana,” working paper, Department of Economics, Massachusetts Institute of Technology, July 2001; and, Yingyi Qian, “How Reform Worked in China”, working paper, Department of Economics, University of California, Berkeley, July 2001.

<sup>18</sup> Stephen Cornell and Joseph P. Kalt, “Cultural Evolution and Constitutional Public Choice,” in John R. Lott, ed., *Uncertainty and Economic Evolution* (London: Rutledge, 1997), pp. 116-142.



Research indicates that cultural political and organizational norms are very durable.<sup>19</sup> In fact, we see this in the long-standing animosities that generate so many of the world's current conflicts and wars. The implication in Indian Country has been devastating. The imposition of one-size-fits-all government on tribes through the Indian Reorganization Act (IRA) and similar measures has meant that many Native nations attempt to govern themselves under culturally mismatched systems. While tribes such as the western Apache and Choctaw, with deep, pre-reservation histories of strong chief executive government were able to fit the IRA chairman-council, non-independent judiciary system with their cultural norms, the same, imposed system was not at all workable for effective governance among the nations of the Northern Plains. The latter (e.g., the Lakota) historically operated under a kind of parliamentary government, with representative councils (which selected *multiple* executive administrators) and quite strong independent law enforcement societies. It is small wonder that government since imposition of the IRA has meant turning over entire councils with each election, never consecutively re-electing a tribal chair, political unrest verging on revolution – and the poorest economies in the United States. And it is small wonder that *self-determined* constitutional reform is the front-burner issue today for so many thoughtful tribal leaders.<sup>20</sup>

The implication that a one-size-fits-all approach does not work in Native America – where there are scores of different tribes and cultural groups – carries over to the international sphere. A central criticism of, for example, World Bank initiatives is that the Bank is insensitive to variations in local and national political structures and processes. Moreover, in the American Indian context, many (but not all – see the discussion below on trade) policy recommendations that are *de rigueur* in international development policy have stark counterpoints in Indian Country. For example, the strong predilection in development theory for the institution of private ownership of enterprises is countered by the many instances of highly successful state-owned (i.e., tribal government-owned) enterprises. In fact, the cases of both the Mississippi Band of Choctaw Indians and the Winnebago Tribe of Nebraska noted above are cases dominated by tribal ownership – in communities with cultural-based traditions of group ownership of capital assets. Of course, the implication of the concept of cultural match is that in other Native nations, private ownership might be expected to perform well while tribal ownership is routinely unsuccessful – such as where multiple tribes share a common reservation but not a culture of joint ownership (as at Wind River?), or where strong traditions of individual action are respected and subjugation to bosses is not (as among many Northern Plains Native nations).

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<sup>19</sup> Robert D. Putnam, *Making Democracy Work: Civic Traditions in Modern Italy* (Princeton: Princeton University Press, 1992).

<sup>20</sup> Stephen Cornell and Joseph P. Kalt, “Where Does Economic Development Really Come From? Constitutional Rule Among the Contemporary Sioux and Apache,” *Economic Inquiry*, vol. 33, July 1995, pp. 402-426.



A frequent theme in international development policy sees Western-style democracy as important, if not absolutely necessary for economic development.<sup>21</sup> As with so many other issues, the rapid growth of China's economy over the last decade and a half represents a challenge to this view. In Indian Country, Western-style democracy has been eschewed by some Indian nations. Cochiti Pueblo, for example, follows a "constitutional" structure grounded in its traditional theocratic traditions – and successfully operates a world-class golf resort and retirement community.<sup>22</sup> Similarly, while an independent judiciary typically correlates with better economic performance among tribes,<sup>23</sup> cases of counterpoint exist to challenge orthodoxy (the Mescalero Apache Tribe may be one). The lesson is that successful development must solve the problem of creating a stable rule of law, but because of the need for cultural match, the solution need not be a US-style judiciary.

At this point, it is important to add that our support for cultural match (legitimate institutions) and simultaneous dismissal of one-size-fits-all institutions is not a romantic endorsement for Native nations' "return to" or re-adoption of historical institutions of government. To "work," institutions must meet two tests: legitimacy in the eyes of the citizens and practical efficacy. When these two are in conflict, it is the culture that is under pressure to change. No better illustration of this can be found than in a country's or Native nation's economic policies vis-à-vis trade with others. It is a reality of today's global economy that, although a tribe might follow a non-market strategy internally, its external economic fortunes are governed by the marketplace. Just as development specialists consistently find that international trade is beneficial to developing countries,<sup>24</sup> so our research finds that strategies of economic self-sufficiency and hostility to trade with the external economy block economic development on reservations.<sup>25</sup> Thus, a Native nation that is insular in its norms regarding trade and commerce with outsiders, and adopts policies to restrict such interaction, faces little prospect of economic development and strong realities of continued poverty. Note, however, that this does not mean that Native nations that wish to sustain traditional cultural practices and norms can do so only at the expense of economic development. Certainly the cases of pueblos like Cochiti belie such an assertion. In fact, other Harvard Project research shows that, holding the influence of all other factors constant, the economic performance of, for example, tribal logging enterprises improves when tribes take over those enterprises and

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<sup>21</sup> For a discussion, see, e.g., Marcatan Humphreys and Robert Bates, "Political Institutions and Economic Policies: Lessons from Africa," working paper, Center for International Development, Kennedy School of Government, Harvard University, September 2002.

<sup>22</sup> Stephen Cornell and Joseph P. Kalt, "Successful Economic Development and Heterogeneity of Governmental Form on American Indian Reservations," in Merilee S. Grindle, ed., *Getting Good Government: Capacity Building in the Public Sector of Developing Countries* (Cambridge, MA: Harvard Institute for International Development, 1997), pp. 257-296.

<sup>23</sup> Cornell and Kalt, "Where's the Glue...", *op. cit.*

<sup>24</sup> Rodrik, *op. cit.*

<sup>25</sup> Cornell and Kalt, "Where's the Glue...", *op. cit.*



when such indicators of cultural *non*-acculturation as Native language use are high.<sup>26</sup> As we say, culture matters.

### **Sovereignty Matters**

Because the Harvard Project on American Indian Economic Development and the Native Nations Institute at the University of Arizona are increasingly known as organizations that promote this point – that practical sovereignty and self-determination make a difference to economic development outcomes – I think it is especially important to expand upon it. Why do we believe this to be true? More academically, what lines of reasoning and what research suggests that it is true? I believe there are four issues – design, ownership, accountability, and leadership development – that tie sovereignty and self-determination to the incentives that support economic and community development in Indian Country.

- *Design issues.* The paired primacy of effective institutions and cultural match is a leading reason why policies of tribal sovereignty and self-determination, embarked upon in the mid-1970s and ebbing and flowing since then, have been the only policy strategy that has shown any prospect of breaking the patterns of poverty and dependence that became so familiar in Indian Country in the 20<sup>th</sup> century. It takes self-rule to be able to change institutions in ways that have maximum chances of matching Native nations’ respective cultures.

As the discussion above makes clear, we use the term “culture” to refer to fundamental informal, quasi-constitutional rights and norms that govern what a society regards as proper and legitimate when it comes to the structure and power of government, the scope of individual and property rights, and so forth. Culture in this sense can be quite subtle: it is just the context in which people live. Effective leaders, institutions, and governing processes wittingly or unwittingly tap into and match cultural norms of propriety and legitimacy – outsiders are inevitably less successful than insiders when it comes to designing institutional processes and structures that will work for a community. Sovereignty and self-determination allow local desires, preferences, needs, and ways of doing things to be more accurately perceived and acted upon, so that institutions and government can function in support of economic growth and community change.<sup>27</sup> The research evidence is in the series of constitutional design papers by Cornell and

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<sup>26</sup> Jorgensen, *op. cit.*

<sup>27</sup> This is not to say that self-determination as a federal policy is without flaws. PL 93-638 has been criticized as being somewhat over-determinative in the way in is implemented on the ground: Native nations may feel forced to simply replicate the federal government’s way of doing things; see Russel Barsh and Ronald L. Trosper, “Title I of the Indian Self-Determination and Education Assistance Act of 1975,” *American Indian Law Review*, vol. 3, pp. 361-395. We praise the broader concept and empowerment it provides, not PL 93-638’s specific implementation.





Kalt<sup>28</sup>; in my own research on timber enterprises, housing authorities, and early entrants to the gaming market<sup>29</sup>; in our work on tribal law enforcement and justice systems<sup>30</sup>; and in the examples of numerous Honoring Nations award winners.<sup>31</sup>

- *Ownership issues.* Sovereignty as an idea and self-determination and self-governance as federal polices place resources squarely in the hands of Native nation officials and citizens. In most cases, this translates to an increased sense of ownership over the resources, a sense which often is augmented still further when a Native nation pools resources garnered through own-revenue generation with federal funds. This sense of ownership then backs up the effectiveness of strategies, plans, and programs put in place for community development. The result arises less from research of the Harvard Project and Native Nations Institute than it does from logic and experience in the broader field of community development (although again, we think there is ample evidence of the point among the Honoring Nations winners): when a community accepts ownership over resources and resultant programming, there's a greater commitment in that community to using resources wisely and making investments pay off.
- *Accountability issues.* Closely linked to the idea of ownership is the idea of accountability. Here it is important to recall that contracting and compacting are policies whereby Native nations take over the management and delivery of programs otherwise within the domain of the federal government. In the "direct service" model, where Bureau of Indian Affairs employees or other federal administrators manage programs, accountability runs from the program to Washington – there is little or no accountability to the Native nation government or its citizens about how resources are used or managed. But under a contract or compact, accountability extends to these very important parties. Tribal leaders and tribal citizens feel ownership over the resources and hold their program managers

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<sup>28</sup> These papers include "Where Does Economic Development Really Come From?," "Successful Economic Development and Heterogeneity of Governmental Form on American Indian Reservations," "Cultural Evolution and Constitutional Public Choice," and "Where's the Glue?," *op cit*.

<sup>29</sup> See especially, "Taste, Culture, and the Path of Economic Development," in Jorgensen, *op cit*.

<sup>30</sup> See Stewart Wakeling, Miriam Jorgensen, Susan Michaelson, and Manley Begay, "Policing on American Indian Reservations," National Institute of Justice, US Department of Justice, Washington, DC, September 2001; Stephen Brimley, Carrie Garrow, Miriam Jorgensen, and Stewart Wakeling. 2005. "Strengthening and Rebuilding Tribal Justice Systems, Learning from History and Looking Towards the Future: A Participatory Process Evaluation of the U.S. Department of Justice Comprehensive Indian Resources for Community and Law Enforcement (CIRCLE) Project," Harvard Project on American Indian Economic Development, Cambridge, MA. March 2005; and Stewart Wakeling and Miriam Jorgensen, "Strengthening and Rebuilding Tribal Justice Systems, Learning from History and Looking Towards the Future: A Participatory Outcomes Evaluation of the U.S. Department of Justice Comprehensive Indian Resources for Community and Law Enforcement (CIRCLE) Project," Native Nations Institute, The University of Arizona, Tucson, AZ, *forthcoming*.

<sup>31</sup> A full listing can be found at [www.ksg.harvard.edu/hpaied/hn\\_main.htm](http://www.ksg.harvard.edu/hpaied/hn_main.htm)



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and project leaders accountable for how federal resources – and, indeed, *all* tribal resources – are used.

Importantly, the changes that come with sovereignty and self-determination don't mean that every case of contracting or compacting is successful. As with any other governments, tribal governments can fall on their faces. But that is part of the point that needs to be made. More than one Native nation leader has remarked, "This self-governance is a two-edged sword. I get more control, but I don't get to blame the feds when my people complain about failure. ...and that's the way it should be." Certainly, diverse outcomes are evident in the raw research data. Yet the overall ("average") research finding is unequivocal: from forestry to health care, the hard, statistical evidence says that changed accountability through tribal takeover of programs is working.<sup>32</sup>

- *Leadership development issues.* There is an additional, largely untold payoff to federal monies that have been allocated through the P.L. 93-638 and related processes of Native nation control. Through our *Honoring Nations* program and other interactions with tribal governments, we have the opportunity to work with large numbers of tribal managers, program directors, and other professionals. It is increasingly clear that Indigenous control of programs and projects under contracting and compacting programs with the federal government has been serving as a fertile training ground for talented leadership. In Native nations where self-government and resultant "good government" (however that is culturally defined) have become a reality, tribal government is viewed as something more than a political boxing ring, and it is attracting high quality folk. Our perception is that there is an avalanche of talent and expertise that is about to come of age and move into positions of senior tribal leadership. These emerging leaders have the commitment and energy of their predecessors, now backed by on-the-job experience that arms them with critical skills. "Effective bureaucracy" is spreading rapidly.

The capacity of Indian Country's emerging leadership is abundantly clear in the programs recognized as honorees by *Honoring Nations*. Whether it is the organizing of a new township at Kayenta, the gray wolf recovery efforts of the Nez Perce Tribe, the Navajo Nation Supreme Court, regional sewage treatment management by the Lummi Nation, or diabetes prevention by the Winnebago Tribe of Nebraska, the excellent programs are marked by a "just do it (ourselves)" approach, capable institutions of self-government, and the implicit and explicit

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<sup>32</sup> Matthew B. Krepps, "Can Tribes Manage Their Own Resources? The 638 Program and American Indian Forestry" in Cornell and Kalt, *What Can Tribes Do?...*, *op. cit.*, pp. 179-203; Alyce Adams, "The Road Not Taken: How Tribes Choose Between Tribal and Indian Health Service Management of Health Care Resources," Doctoral Dissertation, Harvard University, October 1999; National Indian Health Board, *Tribal Perspectives on Indian Self-Determination and Self-Governance in Health Care Management*, completed 1998.



incorporation of Native nation-specific cultural values and management techniques. In cases such as Fond du Lac Band of Lake Superior Chippewa's pioneering off-reservation foster care program, salmon restoration by the Confederated Tribes of the Umatilla Indian Reservation, and Jicarilla Apache Nation's wildlife management systems, the Indian models are clearly outperforming state and federal government approaches – to the point that the non-Indian governments are now turning to Native nations for advice and counsel. It is sovereignty and self-determination that have led to this creativity and success, and sovereignty and self-determination that will promote virtuous cycles of development as this new generation of leadership takes charge.

In sum, continued dependence on another government's policies and approaches puts others' norms and desires in charge, misplaces notions of resource ownership, obscures appropriate lines of accountability, and stifles creative leadership. The negative results for Indian Country should not have been surprising – the same ideas led to failing economies in the former Soviet bloc, and in reverse are the argument for devolution in the United States. By contrast, economic development success stories in Indian Country are uniformly marked by a three part pattern of (1) aggressive assertions of sovereignty, resulting in (2) self-governed institutions, which are (3) characterized by cultural match. Time and again, it is the Native nation that takes control of its own institutions and runs them by its own lights that develops economic, social, and political systems that work.

## POLICY IMPLICATIONS

It is easy to criticize federal policy regarding economic development on America's Indian reservations – a great deal of it has been guided by the Planner's Approach and has blocked the exercise of home-grown institution building that is the necessary prerequisite for sustained development. In the rush to criticize, however, it is important to acknowledge policy that has worked – specifically, I reiterate my praise for policies that support sovereignty, self-determination, and self-government, and I frame my entire discussion of policy implications as comments on how self-determination and self-government policy can be improved.

1. *Expand opportunities for contracting and compacting.* Any programs operated by the US government or its agents (as in the case of pass through funding to states or other entities) should be available for contracting and compacting, given the many benefits of these funding arrangement for Native nations' development. This recommendation includes offering more programs like PL 102-477, by which funding from the Department of Labor, Department of Health and Human Services, and BIA for programs relating to employment and training can be pooled and provided to a Native nation as a block grant. Many issue areas (including criminal justice, welfare/income support, education, etc.) are ripe for cross-department collaboration, and mechanisms for block grants are an important tool in such collaborations.



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2. *Develop funding streams that make contracting and compacting more feasible and more desirable.* Some Native nations tell us they cannot take advantage of contracting and compacting because doing so is too costly. Often, this is the concern that the tribe does not have the administrative apparatus necessary to manage a program or funding block and does not have the financial wherewithal to develop that apparatus. For instance, many tribes could not take advantages of opportunities to run their own Temporary Aid to Needy Families (TANF) programs because the states, and not tribes, had been the historical recipients of federal investments in administrative infrastructure. Making funding available – perhaps through a competitive award program – for such infrastructure development would provide opportunities and incentives for even more Native nations to reap the benefits of self-determination policies.

An important aspect of this infrastructure development is data gathering and reporting infrastructure. The federal government wants accountability from contracted and (especially) compacted programs; Native nation governments want freedom from contradictory, non-useful reporting to various federal agencies and an ability to report on measures they themselves see as useful. Most parties do not believe that *expanding* contracting and compacting will yield those results. While the going will be slow, investments by the federal government in Native nations' own data gathering infrastructure would ease accountability issues and make policy expansion more desirable on both sides.

3. *Support further shifts from contracting to compacting.* While I believe that contracting under PL 93-638 is beneficial for Native nations, I also believe that there is a strong tendency under the policy for tribes to operate program in much the same way the former federal administrators did. It is critical to understand that just running programs with federal dollars is not enough to lay the groundwork for sustained economic, social, and political health. Contracting without sovereignty is not self-government; it is being a branch of the federal government. If “self-administration” is all that Native nations have, the future is a future of dependency and poverty.

I realize that there is a feeling among some federal administrators and some Native leaders that nearly all the compacting that could be done has been done. But surely this reflects constraints within the current program (see point 2 above, for example) rather than a real recognition by Native nations that they desire no more opportunities for self-government.

4. *Expand jurisdictional sovereignty.* There are still a large number of issue areas over which Native nations lack adequate jurisdiction. To date, the truly notable cases of economic success in Indian Country have entailed the exercise of jurisdictional sovereignty. From the exercise of the right to game or not game, to the assertions of tribal jurisdiction over wildlife (e.g., by the Hualapai Nation, various Apache nations, and many others) otherwise managed by state game and fish departments, to the building of tribal courts that out-compete state



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jurisdictions in the competition to attract capital (as appears to be occurring at Flathead Reservation, home of the Confederated Salish and Kootenai Tribes), to *de facto* implementation of tribal business, land use, and environmental codes, *sovereignty* is a spur to economic development. Putting outside governments that are not culturally matched to tribal communities in charge of the institutional environment that makes or breaks economic development is a recipe for returning to the past. With sovereignty, to be sure, some tribes will fail at effective self-government; but without sovereignty, none of them will succeed. The result will be increased and prolonged dependence on the federal budget. That route seems like a lose-lose policy strategy for everyone.

5. *Expand supports for the “unplanned” economy.* I began this presentation with a summary of the “Planner’s Approach” to economic development. That approach included a strong focus on tribal-government led development efforts, in which the tribal government (funded by the federal government) either created jobs through running programs or created jobs through business ownership. As noted but not stressed in the section on cultural match, economic organization has a cultural component, and while many Native nations will and do opt for corporate ownership of enterprises, many others are opting for mixed economies or economies with a strong focus on privately owned businesses. Thus, movement away from the Planner’s Approach not only means supporting self-determination, but providing support to those nations that are pursuing greater private sector development. Federal programs that support the development of community development finance institutions (CDFIs), commercial codes, independent judiciaries, citizen financial education, etc., are all additional ways to disengage from the Planner’s Approach.

