

# **Two Approaches to Economic Development on American Indian Reservations: One Works, the Other Doesn't**

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***Resources for Nation Building:***

***Governance, Development, and the Future of American Indian Nations***

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# Two Approaches to Economic Development on American Indian Reservations: One Works, the Other Doesn't

Stephen Cornell and Joseph P. Kalt<sup>1</sup>

## AN INDIAN COUNTRY REVOLUTION

We begin with stories.

### Choctaw

In March 1978, Chief Phillip Martin of the Mississippi Band of Choctaw Indians would not take no for an answer. He had waited for hours outside the office of the head of the federal Bureau of Indian Affairs (BIA—the agency responsible for implementing federal Indian policy in the United States). He wanted the agency to tell General Motors that the Mississippi Choctaws were a good investment risk. He finally got into the office and demanded action. The BIA vouched for the tribe, and General Motors invested in a wire harness assembly plant on Mississippi Choctaw land. For its part, the tribe backed up its ambitions with changes in government and policy that made the reservation a place where both outsiders and tribal members wanted to invest. This was the beginning of an economic renaissance. Today the Mississippi Choctaws have virtually eliminated unemployment on their lands and must turn to non-Indians by the thousands to work in Choctaw-owned factories, enterprises, schools, and government agencies. A great resurgence in well-being and cultural pride is well underway.

### Apache

After decades of living under the thumb of the BIA, in the mid-1960s the White Mountain Apache Tribe in Arizona told federal officials they were no longer needed at meetings of the tribal council; they could attend only upon invitation. The tribe would let the Bureau know when it needed its advice. The tribe also barricaded a road and guarded it with armed men to stop the BIA from renewing non-Indian homesite leases on the shores of a tribal lake at a fraction of market prices. The Bureau backed down. These and other tribal actions launched a renewal of tribal sovereignty that led to two decades of economic growth.

### Flathead

During the 1980s, the Confederated Salish and Kootenai Tribes of the Flathead Reservation in Montana made key reforms to their tribal government, stabilizing the rule of law and

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<sup>1</sup> This chapter has benefited from conversation, cooperation, and commentary from a number of friends and colleagues. We would like to thank in particular Manley Begay, Kenneth Grant, Miriam Jorgensen, Andrew Lee, Gerald Sherman, Jonathan Taylor, and Joan Timeche.

professionalizing their management. Armed with both the necessary institutions and the desire to run their own affairs, they gradually took over many of the tasks of reservation governance previously carried out by—or under the close supervision of—the United States government. In the process they began building one of the most effective tribal governments in the United States, reclaiming control of their lands and community and moving the tribe toward sustainable, successful economic development.

## **Akiachak**

In the 1980s and 1990s, the Native community of Akiachak, Alaska, set out to regain control of land and related resources and of education and other services long provided by the federal government. They established the Akiachak Tribal Court to resolve disputes, reorganized village government to improve performance, took over administration of many of the social services on which the community depends, and began to build new relationships with other Yup'ik communities in that region of Alaska. In the process they became a model of what Alaska Native villages could do to improve community welfare and expand political power.

## **TWO APPROACHES TO RESERVATION ECONOMIC DEVELOPMENT**

These brief tales are part of a much bigger story—the revolution that is underway in Indian Country. As much of the world knows, American Indian nations are poor. What much of the world doesn't know is that in the last quarter century, a number of those nations have broken away from the prevailing pattern of poverty. They have moved aggressively to take control of their futures and rebuild their nations, rewriting constitutions, reshaping economies, and reinvigorating indigenous community and culture. Today, they are creating sustainable, self-determined economies and building societies that work.

What's the secret of such performance? Is it luck? Is it leadership? Is it education, or having the right resources, or being located in the right place, or picking a winning economic project that provides hundreds of jobs and saves the day? Is it tribal gaming? How can we account for these “breakaway” tribes? Is there an approach to economic development that offers promise throughout Indian Country?

Yes, there is such an approach. It is a radically different approach to reservation development from the approach that dominated both federal policy and tribal efforts for most of the twentieth century. In this chapter, we summarize these two very different approaches—the old and the new—to reservation economic development. Not only do these approaches differ, but they have produced dramatically different results. In short, one works, and the other doesn't. The one that doesn't work we call the “standard” approach. Our version of it is broadly based on federal and tribal practices developed during the twentieth century and still prevailing today. The one that works we call the “nation-building” approach. Our version of it is based on extended research on

the breakaway tribes whose economic performances have been so striking in the last three decades of the twentieth century.

We describe here these two approaches to development, discuss why one works and the other does not, and suggest how Indian nations can move from one approach to the other. The primary source of our thinking is the growing body of research carried out in Indian Country for more than a decade and a half by the Harvard Project on American Indian Economic Development at Harvard University, joined more recently by the Native Nations Institute for Leadership, Management, and Policy at The University of Arizona.<sup>2</sup>

## **THE STANDARD APPROACH TO RESERVATION ECONOMIC DEVELOPMENT**

In the mid-1920s the United States commissioned a major study of economic and social conditions on American Indian reservations. Lewis Meriam of Johns Hopkins University headed the research team, and the result, published in 1928, was one of the first examples of large-scale social science research carried out in the United States. It has since become known as the Meriam Report.<sup>3</sup> The report documented reservation poverty in exhaustive detail. It contributed to the passage of the Indian Reorganization Act of 1934—a watershed piece of legislation—and helped precipitate a lengthy federal effort to improve the welfare of America’s Indian citizens.

That effort has taken a number of different forms over the years as the federal government tried different reservation development strategies. In the last quarter of the twentieth century, a growing number of tribes—faced with desperate economic conditions and operating under the federal policy of self-determination—also joined the effort. Many tribal governments moved economic development to the top of their policy agendas, sometimes complementing federal efforts, sometimes operating at cross-purposes. But in most cases, a single approach dominated both federal and tribal activities. We call this approach the “standard” approach.

### **Characteristics of the Standard Approach**

This approach has five primary characteristics: it is short-term and non-strategic; it lets persons or organizations other than the Indian nation set the development agenda; it views development as primarily an economic problem; it views indigenous culture as an obstacle to development; and it encourages narrowly defined and often self-serving leadership.

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<sup>2</sup> For summary treatments and some examples of the research on which the present paper is based, see Cornell and Kalt (1992, 1995, 1997a, 1997b, 1998, 2000, 2003); Cornell and Gil-Swedberg; Cornell and Jorgensen; Jorgensen (2000); Jorgensen and Taylor (2000); Krepps and Caves (1994); Wakeling et al. (2001). The activities of the Native Nations Institute build directly on Harvard Project work; the two organizations share objectives and some staff and work closely together.

<sup>3</sup> Meriam et al. (1928).

### ***The Standard Approach to Reservation Economic Development***

- Is short-term, non-strategic
- Lets someone else set the development agenda
- Treats economic development as an economic problem
- Views indigenous culture as an obstacle to development
- Reduces elected leadership to a distributor of resources

These are generalizations. Not every case of reservation economic development that we describe as following the standard approach follows it in its entirety. Some aspects of the approach might be apparent in some cases while others may be missing. Additionally, Indian nations seldom talk about development in exactly these terms. Nonetheless, these characteristics provide a general description of what federal and tribal development efforts, regardless of intent, frequently have looked like. Far too often, consciously or otherwise, this is how development has been done in Indian Country.

Each characteristic of the standard approach deserves elaboration.

#### **1. In the standard approach, decision-making is short-term and non-strategic.**

Viewed as a single population, reservation Indians are among the very poorest Americans, with high indices of unemployment, ill health, inadequate housing, and an assortment of other problems associated with poverty. The need for jobs and income is enormous. In an era of self-determination, this situation puts intense pressure on tribal politicians to “get something going!” Grim social and economic conditions, combined with disgruntled and often desperate constituents, encourage a focus on short-term fixes instead of fundamental issues. “Get something going!” becomes “get *anything* going!” It leaves strategic questions such as “what kind of society are we trying to build?” or “How do we get there from here?” or “How do all these projects fit together?” for another day that seldom comes, overwhelmed by the need to generate immediate results for reservation residents. Short terms of elected office, common in many tribal governments, have similar effects. With only two years in which to produce results, few politicians have incentives to think about long-term strategies. They will face reelection long before most such strategies become productive.

These same factors also encourage a focus on starting businesses instead of sustaining them. It’s grand openings, ribbon-cuttings, and new initiatives, not second rounds of investment or fourth-year business anniversaries, that gain media attention, community support, and votes at election time. Newly-elected leaders who want to make their mark on the community are going to be more interested in starting something new than in sustaining what the previous administration—whom

they probably opposed at election time—put in place. This means that prospective businesses, whether genuinely promising or not, often get more attention from tribal leadership than established ones do.

Finally, there is a tendency to look for home-runs: where's the killer project that will transform the local economy? Grandiose plans take the place of potentially more effective—if less dramatic—incremental building of a broadly based economy.

## **2. In the standard approach, someone other than the Indian nation sets the development agenda.**

Some of the same factors that discourage strategic thinking also give non-Indians much of the control over the reservation development agenda. A lot of Indian reservations are heavily dependent on federal dollars to maintain social and economic programs and tribal government. This fact alone gives federal decision-makers a disproportionate degree of influence in reservation affairs.<sup>4</sup> Reinforcing this influence is the fact that few dollars come to Indian nations via block grants, a mechanism that would place more decision-making power in Indian hands. Most federal dollars are program-specific. The programs themselves are developed in federal offices, often with little attention to the diversity of Indian nations and circumstances.

In addition, the pressure for quick fixes encourages a search for dollars—any dollars—that might be used to employ people or start enterprises. The development strategy becomes little more than “we’ll do whatever there’s funding for.” As tribes search desperately for dollars to maintain reservation communities and programs and manage the destructive effects of poverty, opportunism replaces strategy: the dollars matter more than the fit with long-term tribal needs or objectives.

The result is that development agendas often are set by non-Indians through program and funding decisions. In the 1980s, for example, the Economic Development Administration in the U.S. Department of Commerce offered funding for specific development activities such as building motels, hoping to take advantage of reservation tourism potential, or the construction of industrial parks. Desperate for jobs and income, many tribes pounced on such funding opportunities without considering whether these projects made sense in local circumstances or fit long-term strategic goals. Some of these projects succeeded, but a decade later, Indian Country had more than its share of boarded-up motels and empty industrial parks. Even today, many tribal planners, under pressure from tribal councils to generate economic activity of almost any kind, ransack federal funding

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<sup>4</sup> The pattern of external control was at least partly broken in the 1960s and 1970s when Community Action and other programs associated with the War on Poverty allowed tribes to apply directly to various Washington agencies for funds without going through the Bureau of Indian Affairs (BIA). This allowed tribes to search for programs that better fit their needs and break some of the bureaucratic grip that the BIA had on reservation affairs. However, it did not significantly undermine the concentration of decision-making power in federal hands. See Castile (1998), ch. 2; Bee (1981), ch. 5; Levitan and Hetrick (1971).

announcements looking for opportunities to bring federal dollars and federally funded jobs to the reservation.<sup>5</sup>

Of course federal dollars often are critical to reservation survival and cannot be ignored. A federal program or initiative that employs five people may get five more families through the winter. But in approaching development this way, tribes in effect leave the strategic component of development to Congress or federal funding agencies. Driven by poverty to look for funds wherever they can find them, many tribes spend more energy chasing projects other people think are important than developing their own sense of reservation needs, possibilities, and preferences. This is a far cry from self-determined economic development.

Granted, not all development has proceeded this way, and particularly since the 1960s, many tribes have sought federal funding for projects that their own people identified as important and chose to pursue.<sup>6</sup> Here, as with all parts of the “standard” approach, we are generalizing from diverse cases. The point is that reservation development too often has responded to non-Indian initiatives, taking a reactive instead of a proactive form, and has ended up hostage to decisions made someplace else by people disconnected from tribal situations and heavily influenced by interests other than tribal ones.

### **3. In the standard approach, economic development is treated as an economic problem.**

This is logical enough: after all, it is *economic* development we’re talking about. It should hardly seem odd that much of the conversation about development in Indian Country is preoccupied with economic factors: focusing on natural resources, lobbying for more money, promoting education, worrying about proximity to markets, and so forth. Furthermore, much of that conversation typically is about jobs and income, and these are classically economic goals. The prevailing idea seems to be that if only various tribes could overcome the market or capital or educational obstacles they face, jobs and income would follow.

This is not necessarily wrong. Economic factors loom large in development processes and typically set limits on development choices. Big successes in tribal gaming, for example, have been heavily dependent on location near major gaming markets.<sup>7</sup> Obviously natural resource endowments or the educational level of the reservation labor force have similarly significant impacts on development possibilities, and finding adequate financing is a recurrent problem for reservation planners. In other words, tribes are not wrong to spend time on these things.

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<sup>5</sup> As one long-time employee of tribal government once said to us, “from the reservation viewpoint, every federal program is first and foremost an employment opportunity.”

<sup>6</sup> See, for example, Bee (1981), ch. 5, and more generally, Castile (1974), pp. 219-28.

<sup>7</sup> Cordeiro (1992); Cornell et al. (1998).

What is significant about this conversation, however, is what it *doesn't* include. Two issues in particular often are left out. The first is strategic goals. In focusing on short-term increases in jobs and income the development conversation tends to ignore longer term questions about the sort of society the tribe is trying to build.

Second, this conversation typically ignores political issues. By political issues we refer to the organization of government and the environment of governing institutions in which development has to proceed. Can the tribal courts make decisions that are free of political influence? Can the legislature keep enough distance from tribal businesses to allow them to flourish? Are the appropriate codes in place, are they fair, and are they enforced? Is the reservation political environment one which encourages investors—by which we mean anyone with time or energy or ideas or money to bet on the tribal future—to invest, or is it an environment in which both tribal citizens and outsiders feel their investments are hostage to unstable, opportunistic, or corrupt politics? In short, are tribal political institutions adequate to the development task? In its focus on economic factors, the standard approach ignores institutional and political issues and thereby misses entirely the key dynamic in economic development.

#### **4. In the standard approach, indigenous culture is seen as an obstacle to development.**

In 1969 the Bureau of Indian Affairs, in a collection of papers on reservation economies, wrote that “Indian economic development can proceed only as the process of acculturation allows.”<sup>8</sup> Indigenous culture, in other words, is an obstacle to development: you are poor partly because you are tribal. In more recent years this viewpoint has seldom been made so explicit, but it has remained a recurrent theme.<sup>9</sup> Even where indigenous culture is viewed positively, it is often conceived primarily as a resource that can be sold through tourism or arts and crafts. Traditional products are to be supported, but traditional relationships or behaviors are to be discouraged.

The standard approach misses the more fundamental role that culture can play as a guide to organization or action. There is growing evidence, for example, that organizational and strategic fit with indigenous culture is a significant determinant of development success on reservations.<sup>10</sup> The standard approach makes the assumption that reservation economic development must follow someone else’s cultural rules. But in doing so, it ignores evidence that there is more than one cultural road to success. Indigenous culture may be not an obstacle but an asset.

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<sup>8</sup> U.S. Bureau of Indian Affairs (1969), p. 333

<sup>9</sup> E.g., Presidential Commission on Indian Reservation Economies (1984), Part I, p. 41; Part II, pp. 33, 36-37, 117.

<sup>10</sup> Cornell and Kalt (1995).

## **5. In the standard approach, elected leadership serves primarily as a distributor of resources**

In the standard approach, tribal leadership is concerned much of the time with distributing resources: jobs, money, services, favors, etc. There are several reasons for this. First, elected leadership controls most reservation resources. Where jobs and money are scarce, whoever controls the jobs and money holds most of the power. Most employment is in tribal government; most programs are federally funded through grants to tribal governments; and many business enterprises are tribally owned. This means that tribal governments—and, therefore, elected tribal leaders—are the primary distributors of most of the resources that tribal citizens need, especially jobs.

Second, reservation socioeconomic conditions mean that there is enormous pressure on tribal governments to distribute those resources on a short-term basis. If there is money around, there is less sentiment in support of long-term investment than in support of short-term expenditures such as the hiring of tribal citizens, per capita payments, or other local distributions. Tribal politicians often get more electoral support from the quick distribution of goodies than they do from more prudent investment in long-term community success and security. This in turn reflects a local attitude toward tribal government that sees it simply as a pipeline for resources instead of as a force shaping the future of the nation. The federal government has inadvertently encouraged this view by funneling programmatic resources to tribes while denying them the power to use those resources to fundamentally alter the course of the nation.

All of this means that there are enormous incentives for tribal politicians to retain control of scarce resources and use them to stay in office. This leads to patronage, political favoritism and, in some cases, corruption. It reduces politics to a battle between factions trying to gain or keep control of tribal government resources that they can then distribute to friends and relatives. People vote for whomever they think will send more resources in their direction. Leadership becomes almost meaningless under these conditions: the nation isn't really going anywhere; it's just shoving resources around among factions.

Of course distributing resources is not the only leadership activity. The demands on tribal leaders are immense. Much of their time is taken up with day-to-day management. Much is taken up with constituent service. Much is spent in the urgent search for more federal or other resources. And much is simply fire-fighting: dealing with the latest funding crisis, the latest threat to sovereignty, the latest programmatic need, and so forth.<sup>11</sup> It's a small wonder that their orientation is often short-term. As one tribal leader said to us, "who has time for strategic thinking?"

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<sup>11</sup> For a discussion of the typical activities of tribal leaders, see Begay (1997).

## The Role of Non-Indigenous Governments in the Standard Approach

Before turning to what the standard approach looks like in practice, it is worth examining the role played in the approach by non-indigenous governments—in particular the federal government of the United States and federal and provincial governments in Canada.<sup>12</sup> As we've already pointed out, the standard approach is one in which most of the important decision-making power rests not with the indigenous nation but with the federal government or some other outsider. This power is most obvious in the funding process. Tribes may receive the authority to determine how funds will be spent within program guidelines. But the big decisions about priorities and program design are made elsewhere. Public Law 638, for example—while billed as “self-determination”—in many cases simply enlarges tribal administrative control. Tribes can take over the administration of federal programs. But the law does not give tribes a major role in determining what the programs look like or whether the policies that drive those programs are appropriate.

Of course one might argue that these are federal dollars and the federal government should control how they are spent. Fair enough. But there are many possible degrees of control. Ultimately, the question to be asked is how to improve reservation welfare, and federal control of decisionmaking and resource allocation has done a poor job of doing so. A larger tribal role in both would acknowledge that Indian nations themselves may have a better idea of what's wrong and of what the priorities should be and would allow those nations to allocate resources where they felt they were most needed.

First Nations in Canada face a similar situation. The federal government has tended to treat self-government as self-administration: major decisions are still made in Ottawa or provincial capitals while First Nations may have increased control over how already-determined programs are implemented and already-allocated funds are administered in the field.

It is not difficult to understand why non-indigenous governments would promote this approach. They recognize the demands of indigenous peoples for greater control over their own affairs, but they also face a commonplace set of bureaucratic imperatives: protect the budget, avoid newsworthy disasters, be accountable to legislatures and managerial higher-ups, and so forth. Turning over real power to Indian nations is threatening: what if they screw up? These are taxpayer dollars, after all. But the cost of this approach is high. It cripples reservation development efforts and leads, in the long run, to more poverty, more problems, and larger taxpayer burdens.

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<sup>12</sup> State governments in the United States historically have been much less involved in Indian reservation economic development than provincial governments have been in Canada, where the provincial role in aboriginal affairs generally is substantial. However, this is beginning to change in the United States owing to increased efforts to devolve power from the central government toward state and local bodies. For some discussion of the implications of this trend for Indian nations, see Cornell and Taylor (2000).

## Planning, Process, and Results under the Standard Approach

Under the standard approach, development planning and process look something like this, in admittedly abbreviated and generalized form. The tribal president or the council, under intense constituent pressure to “get something going,” calls in the tribal planner. “We need to get something going,” they say. The planner looks around for ideas and funding and sends out a bunch of proposals. The council decides to go ahead with whatever the tribe can get funding for. Tribal politicians then reward their political supporters by appointing them to run new programs or projects. The president and council then watch closely to see that things are done the way they want, micromanaging both enterprises and programs, and everybody prays that *this time*, something works.

### *The Six-Step Development Process under the Standard Approach*

- The tribal council or president tells the tribal planner to identify business ideas and funding sources
- The planner applies for federal grants or other funds and responds to outside initiatives
- The tribe starts whatever it can find funding for
- Tribal politicians appoint their political supporters to run development projects
- The tribal council micromanages enterprises and programs
- Everybody prays

The results, predictably, have been poor. Many reservations have long histories of failed enterprises, which undermine self-confidence and results in frustration and hopelessness. The short life of many projects and enterprises encourages a politics of spoils in which reservation politicians, knowing that nothing much lasts very long, try to wring out of enterprises all the patronage and money they can before the enterprises go under. Reservation economies become highly dependent on federal dollars and decisionmaking, a situation that in and of itself undermines tribal sovereignty.

There’s a brain drain as a lot of the people with good ideas—particularly younger tribal members—leave home for somewhere else, desperate to support their families and discouraged by political favoritism, bureaucratic hassles, and the inability of tribal government to deal with the basic problems. Patterns of failure, mismanagement, and corruption encourage outside perceptions of Indian incompetence and reservation chaos that make it even harder to defend tribal sovereignty. The ultimate economic result is continued poverty. In short, the standard approach doesn’t work.

***Typical Results of the Standard Approach to Development***

- Failed enterprises
- A politics of spoils
- An economy highly dependent on federal dollars and decisionmaking
- Brain drain
- An impression of incompetence and chaos that undermines the defense of tribal sovereignty
- Continued poverty

This is not to say that this approach has no successes whatsoever to its name. Sometimes a determined manager or the superhuman efforts of employees can overcome the weaknesses of the approach. Sometimes an enlightened council keeps its hands off an enterprise and lets it grow. Sometimes a federal program finds a fit with tribal concerns and objectives and produces results. Sometimes a tribe has a monopoly on gaming within an urban region. Sometimes a tribe just gets lucky. But overall, the standard approach of reservation economic development has served Indian Country badly. It is fatally flawed, and it should be abandoned.

What's the alternative?

**THE NATION-BUILDING APPROACH TO RESERVATION ECONOMIC DEVELOPMENT**

In the last quarter of the twentieth century, American Indian nations began to invent a very different approach to reservation economic development. Only a relatively few nations have been involved, but more and more appear to be recognizing the value of this approach. We have called this the “nation-building” approach, thanks to its dual focus—conscious or unconscious—on asserting tribal sovereignty and building the foundational, institutional capacity to exercise sovereignty effectively, thereby providing a positive environment for sustained economic development.<sup>13</sup> Once again, we can generalize from a variety of cases and details to identify five primary characteristics of the nation-building approach: it involves comprehensive assertions of sovereignty or self-rule; it involves backing up sovereignty with effective governing institutions; it matches those institutions to indigenous political culture; it has a strategic orientation; and it involves a leadership dedicated to nation building.

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<sup>13</sup> The labels “standard approach” and “nation-building approach” are ours and reflect a consensus neither in the literature on reservation economic development nor among American Indian nations. However, the term “nation-building” or “nation-rebuilding” has found increased currency in Indian Country and among other indigenous peoples in recent years, reflecting a growing political focus on restoring the abilities of indigenous nations to govern effectively and to establish and maintain successful, self-governing societies.

As with the standard approach, this summary is a generalization, an attempt to identify critical characteristics of a distinctive approach to development. In practice, there is plenty of variation within this approach. Few Indian nations offer “textbook” examples of nation building. But a growing number of nations are pursuing key elements of this approach, and our research indicates that the closer Indian nations come to this approach, the more likely they are to achieve sustained economic development.

### Characteristics of the Nation Building Approach

As with the standard approach, we next review the central characteristics of this approach.

<p><b><i>The Nation-Building Approach to Reservation Economic Development</i></b></p> <ul style="list-style-type: none"> <li>• Practical sovereignty</li> <li>• Effective governing institutions</li> <li>• Cultural match</li> <li>• Strategic orientation</li> <li>• Nation-building leadership</li> </ul>
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#### 1. In the nation-building approach, Indian nations are in the driver’s seat.

The nation-building approach begins with sovereignty or self-rule: *practical decision-making power in the hands of Indian nations*. Indian nations have not always had such power. We can identify three distinct stages in the evolution of tribal sovereignty: law, policy, and practice (Table 1). As a matter of law, the United States has recognized a substantial degree of tribal sovereignty since at least the early part of the nineteenth century and the U.S. Supreme Court decisions commonly known as the Marshall trilogy.<sup>14</sup> Subsequent treaties, legislation, and judicial decisions in various ways modified this recognition, and over time tribal sovereignty—as a legal matter—has been increasingly constrained, but a significant legal foundation has survived.

**Table 1. The Evolution of Tribal Sovereignty in the United States**

<u>Form of Sovereignty</u>	<u>Timing</u>	<u>Scope</u>
	c. 1820s/30s	All Indian nations
As a policy matter	c. 1975	Federally-recognized Indian nations
As a practical matter	1970s...	Self-selected Indian nations

<sup>14</sup> The Marshall trilogy is a set of U.S. Supreme Court cases decided under the leadership of Chief Justice John Marshall in 1823, 1830, and 1832. See the discussion in Deloria and Lytle (1983).

In practice, however, Indian nations were steadily losing control over their own affairs. Over the rest of the nineteenth century, and despite this legal recognition, the United States assumed ever greater power over Indian lands and communities. Sovereignty may have been recognized in law, but it had no place in federal Indian policy. The federal government rapidly displaced Indian nations as the effective ruler of Indian Country.

The Indian Reorganization Act (IRA) of 1934 began a gradual reversal of this trend. While the IRA brought little substantive increase in tribal authority, it at least provided mechanisms through which Indian nations could begin to assert some governing power. The reversal was fragile, as the anti-tribal “termination” policy of the 1950s showed, but it gained momentum in the 1960s and 1970s with the shift to a federal policy of tribal “self-determination,” made most explicit in the Indian Self-Determination and Education Assistance Act of 1975. As the federal government grudgingly accepted the principle that Indian nations should have maximum control over their own affairs, tribal sovereignty became more than simply a matter of law. It became federal policy. On paper, at least, Indian nations would now determine what was best for them.

This was a crucial development. While there is ample evidence that the federal government’s notion of self-determination was a limited one,<sup>15</sup> and many federal bureaucrats, particularly in regional offices of the BIA, maintained a fierce grip on decision-making power, the door to practical sovereignty—self-rule—had been opened. Over the next two decades, a growing number of tribes began to force their way through that door, taking over the management of reservation affairs and resources and making major decisions about their own futures. Tribal sovereignty gradually moved beyond law and policy to *practice*: taking advantage of the federal self-determination policy, some Indian nations began exercising the sovereignty promised by law but denied by federal paternalism and control.

This development—the move to practical sovereignty or genuine self-rule—turns out to be a key to sustainable development. There are two primary reasons why.

- Self-governance puts the development agenda in Indian hands. When federal bureaucrats, funding agencies, or some other set of outsiders sets the reservation development agenda, that agenda inevitably reflects their interests, perceptions, or concerns, not those of Indian nation citizens. When decisions move into tribal hands, agendas begin to reflect tribal interests, perceptions, and concerns.
- Self-governance marries decisions and their consequences, leading to better decisions. In the standard approach to reservation development, outsiders make the major decisions about development strategy, resource use, allocation and expenditure of funds, and so forth. But if those outsiders make bad decisions, they seldom pay the price. Instead, the Indian community pays the price. This means that outside decisionmakers face little in the

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<sup>15</sup> Barsh & Trosper (1975)

way of compelling discipline; the incentives to improve their decisions are modest. After all, it's not their community whose future is at stake. But once decisions move into Indian hands, then the decisionmakers themselves have to face the consequences of their decisions. Once they're in the driver's seat, tribes bear the costs of their own mistakes, and they reap the benefits of their own successes. As a result, over time and allowing for a learning curve, the quality of their decisions improves. In general, Indian nations are better decision-makers about their own affairs, resources, and futures because they have the largest stake in the outcomes.

There are concrete, bottom-line payoffs to tribal self-rule. For example, a Harvard Project study of 75 tribes with significant timber resources found that, for every timber-related job that moved from BIA forestry to tribal forestry—that is, for every job that moved from federal control to tribal control—prices received and productivity in the tribe's timber operations rose.<sup>16</sup> On average, tribes do a better job of managing their forests because these are *their* forests.

But the evidence is even broader. After fifteen years of research and work in Indian Country, we cannot find a single case of sustained economic development in which an entity other than the Indian nation is making the major decisions about development strategy, resource use, or internal organization. In short, practical sovereignty appears to be a *necessary* (but not sufficient) condition for reservation economic development.

## **2. In the nation-building approach, Indian nations back up sovereignty with effective governing institutions.**

But sovereignty alone is not enough. If sovereignty is to lead to economic development, it has to be exercised effectively. This is a matter of governing institutions.

Why should governing institutions be so important in economic development? Among other things, governments put in place the “rules of the game”: the rules by which the members of a society make decisions, cooperate with each other, resolve disputes, and pursue their jointly held objectives. These rules are captured in constitutions, by-laws, or shared understandings about appropriate distributions of authority and proper ways of doing things: they represent agreement among a society's members about how collective life should be organized.

These rules—these patterns of organization—make up the environment in which development has to take hold and flourish. Some rules discourage development. For example, a society whose rules allow politicians to treat development as a way to enrich themselves and their supporters will discourage development. A society in which court decisions are politicized will discourage development. A society in which day-to-day business decisions are made according to political criteria (for example, according to who voted for a particular official in the last election) instead of merit criteria (for example, according to who has the necessary skills to run a good business,

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<sup>16</sup> Krepps and Caves (1994); Jorgensen (2000).

regardless of who their friends or relatives are) will discourage development. And the reverse is true as well. Where societies prevent politicians from enriching themselves from the public purse, provide fair court decisions, reward ability instead of voting records, and support other such rules, sustainable development is much more likely.

In other words, having effective governing institutions means putting in place “rules of the game” that encourage economic activity that fits tribal objectives. Whatever those objectives might be, our research indicates that several features of institutional organization are key to successful development.

- Governing institutions have to *be stable*. That is, the rules don’t change frequently or easily, and when they do change, they change according to prescribed and reliable procedures.
- Governing institutions have to *separate politics from day-to-day business and program management*, keeping strategic decisions in the hands of elected leadership but putting day-to-day management decisions in the hands of managers.
- Governing institutions have to *take the politics out of court decisions* or other methods of dispute resolution, sending a clear message to tribal citizens and outsiders that their investments and their claims will be dealt with fairly.
- Governing institutions have to *provide a bureaucracy that can get things done* reliably and effectively.

Again, there is substantial evidence in support of these requirements. For example, Harvard Project studies of tribally owned and operated businesses on Indian reservations found that those enterprises in which day-to-day business management is insulated from tribal council or tribal presidential interference are far more likely to be profitable—and to last—than those without such insulation. In the long run, this means more jobs for reservation citizens.

Similarly, research shows that tribes whose court systems are insulated from political interference—in which the tribal council has no jurisdiction over appeals and in which judges are not council-controlled—have significantly lower levels of unemployment—other things equal—than tribes in which the courts are under the direct influence of elected officials. This is because an independent court sends a clear message to potential investors—whether outsiders or tribal citizens—that their investments will not be hostage to politics or corruption.<sup>17</sup>

When tribes back up sovereignty with stable, fair, effective, and reliable governing institutions, they create an environment that is favorable to sustained economic development. In doing so, they increase their chances of improving tribal welfare.

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<sup>17</sup> On separations of politics from business and on depoliticization of tribal courts, see Cornell and Kalt (1992) and Jorgensen and Taylor (2000).

### **3. In the nation-building approach, governing institutions match indigenous political culture.**

To be effective, governing institutions have to be legitimate in the eyes of the people. One of the problems that Indian nations have had is their dependence on institutions that they did not design and that reflect another society's ideas about how authority ought to be organized and exercised. The governments organized under the Indian Reorganization Act, for example, tend to follow a simple pattern: strong chief executive, relatively weak council, no independent judicial function, and political oversight of economic activity. This approach has been applied across tribes with very different political traditions, leading to a mismatch, in many cases, between formal governing institutions and indigenous beliefs about authority.<sup>18</sup> Historically, some tribes had strong chief executive forms of government in which decision-making power was concentrated in one or a few individuals, while others dispersed power among many individuals or multiple institutions with sophisticated systems of checks and balances and separations of powers. Still others relied on spiritual leaders for political direction, while some relied on broad-based, consensus decision-making. Indian political traditions were diverse.

But tradition is not the issue here. In some cases, indigenous political traditions are long gone. But in many nations, distinctive ideas about the appropriate organization and exercise of authority still survive and often are starkly at odds with IRA structures or other structures imposed on Indian nations. The crucial issue is the degree of match or mismatch between formal governing institutions and contemporary indigenous ideas—whatever their source—about the appropriate form and organization of political power. Where cultural match is high, economic development tends to be more successful. Where cultural match is low, the legitimacy of tribal government also is low, the governing institutions consequently are less effective, and economic development falters.

This is not necessarily a prescription for a return to ancient political traditions. Governing institutions have to pass two tests. As we have just suggested, they have to be culturally appropriate. But they also have to be able to get the job done. The tribal governments of long ago were invented to solve the problems of the times. The times have changed. In some cases, traditional forms and practices may be inadequate to the demands of the modern world. If so, the challenge for Indian nations is to innovate: to develop governing institutions that still resonate with deeply-held community beliefs about authority but that are flexible enough to adjust to the demands of contemporary times.

### **4. In the nation-building approach, decision-making is strategic.**

One of the primary characteristics of the standard approach to reservation economic development is its quick-fix orientation. Under enormous pressure from impoverished communities and with few resources to work with, tribal leaders and planners become opportunists, grasping at any

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<sup>18</sup> First Nations in Canada have experienced similar impositions under the Indian Act.

available option regardless of its sustainability or its suitability to tribal circumstances or long-term goals.

The alternative to this quick-fix orientation is strategic thinking: an approach to development that starts not with “what can be funded?” but with “what kind of society are we trying to build?” and moves on from there. A strategic approach involves a shift:

- from reactive thinking to proactive thinking (not just responding to crisis but trying to gain some control over the future);
- from short-term thinking to long-term thinking (twenty-five years from now, what kind of society do you want?);
- from opportunistic thinking toward systemic thinking (focusing not on what can be funded but on whether various options fit the society you’re trying to create);
- from a narrow problem focus to a broader societal focus (fixing not just problems but societies).

This sort of shift requires determining long-term objectives, identifying priorities and concerns, and taking a hard-nosed look at the assets the tribe has to work with and the constraints it has to deal with. The result is a set of criteria by which specific development options can be analyzed: does this option support the nation’s priorities, fit with its assets and opportunities, and advance its long-term objectives? If not, what will?

##### **5. In the nation-building approach, leadership serves primarily as nation-builder and mobilizer.**

Leadership’s primary concern in the standard approach is the distribution of resources. In the nation-building approach, leadership’s primary concern is putting in place the institutional and strategic foundations for sustained development and enhanced community welfare.

This often means a loss of power for some people and institutions. The standard approach empowers selected individuals but fails to empower the nation. The chairman or president and the members of the tribal council get to make the decisions, hand out the goodies, and reward supporters, but the nation as a whole suffers as *its* power—its capacity to achieve its goals—is crippled by an environment that serves the individual interests of office-holders but not the interests of the community as a whole. Equally crippling is a community attitude, encouraged by the standard approach, that sees government not as a mechanism for rebuilding the future but simply as a set of resources that one faction or another can control.

In the nation-building approach, leadership focuses on developing effective governing institutions, transforming government from an arena in which different factions fight over resources into a

mechanism for advancing national objectives. What's more, in the nation-building approach, leadership is not limited to elected officials. It can be found anywhere: in the schools, in local communities, in businesses and programs. Its distinctive features are its public-spiritedness and its determination that empowering the nation as a whole is more important than empowering individuals or factions.

Of course the kind of leadership a nation has is determined in part by its governing institutions. Institutions that allow politicians to serve themselves—to advance their own agendas or factions, for example, by interfering in court decisions—will encourage self-interested and counter-productive leadership. Institutions that discourage such behavior with rules that, for example, focus leadership's attention on strategic issues and prevent them from micromanaging businesses or programs, will encourage forms of leadership that better serve the nation. It may take assertive and visionary leadership to put in place good governing institutions, but once those institutions are in place, they will encourage better leadership.

### **The Role of Non-Indigenous Governments in the Nation-Building Approach**

In the nation-building approach, non-indigenous governments move from a decision-making role in tribal affairs to a resource role. In practical terms, that role involves the following:

- A programmatic focus on *institutional* capacity-building, assisting Native nations with the development of governmental infrastructure that is organized for self-rule, respects indigenous political culture, and is capable of governing well.
- A shift from program funding to block grants, thereby putting decisions about priorities in Indian hands.
- The development of program evaluation criteria that reflect the needs and concerns not only of funders but of Native nations as well.
- A shift from consultation to partnerships in which Native nations and outside governments make joint decisions where the interests of both are involved.
- Recognition that self-governing nations will make mistakes, but what does sovereignty mean if not the freedom to make mistakes and learn from them?

One of the most difficult things for non-indigenous governments to do is to relinquish control over Native nations. But this control is the core problem in the standard approach to development and a primary hindrance to reservation prosperity. As long as non-indigenous governments insist on calling the shots in Indian Country, they must bear responsibility as well for continuing poverty. Only when they are willing to let go will the development potential within Indian communities be released.

## The Development Process and Its Results under the Nation-Building Approach

The development process under the nation-building approach is very different from the process under the standard approach. It has six steps, which may occur in sequence or simultaneously: asserting sovereignty, backing up that sovereignty with effective governing institutions, establishing a strategic orientation, crafting policies that support strategic objectives, choosing appropriate projects, and implementing them.

### *The Development Process under the Nation-Building Approach*

- Asserting control
- Building capable governing institutions
- Thinking strategically
- Crafting policies that support strategic objectives
- Choosing development projects
- Implementation

Native nations operating with the standard approach tend to pursue development by focusing only on the last two of these steps—choosing projects and launching them—or sometimes on asserting sovereignty as well, ignoring the need for effective institutions, strategies, and policies. The development conversation tends to be not about growing an economy but instead about projects, and the goal is just to get something going. But without the other steps—building capable institutions, figuring out where you want to go, and putting in place the policies that can get you there—things are unlikely to last.

This is one of the places where leadership's role is critical in development. It takes visionary and effective leadership to re-orient the development conversation and change the development process so that the community embraces all six steps in the nation-building approach. Leadership can help refocus the nation's energy on building societies that work—economically, socially, culturally, politically.

Research evidence indicates that the nation-building approach is far more likely to be productive than the standard one. On the economic side, it promises more effective use of tribal resources and substantially increased chances that the community will experience successful economic development. On the political side, it recognizes that the best defense of tribal sovereignty is its effective exercise. Tribes that govern well are far less vulnerable to outside attacks on their sovereignty. Enemies of tribal sovereignty may still be able to find cases of reservation corruption or incompetence, but it is more difficult for them to use such anecdotal evidence to undermine all tribes' rights to govern themselves. As more and more Indian nations become effective governors



*Where Does the Nation Stand?*

**Standard Approach**

**Nation Building Approach**

Institutions are unstable, perhaps corrupt, viewed with suspicion by the people, and incapable of exercising sovereignty effectively

*Governing Institutions*



Institutions are stable, fair, legitimate in the eyes of the people, and capable of exercising sovereignty effectively

Tribal government hinders development through micromanagement, politics, and over-regulation

*Business and Economic Development*



Tribal government clears path for development through appropriate “rules of the game” and even-handed enforcement

Tribal government is dependent on federal funding policies and hostage to federal decisions

*Relations with Other Governments*



Tribal government has the resources and capabilities to make its own decisions and fund its own programs

Elected leaders are preoccupied with quick fixes, crises, patronage, handing out resources, and factional politics

*Elected Leadership*



Elected leaders focus on strategic decisions, long-term vision, and setting good rules, and bring the community with them

This report will appear as Chapter I in the forthcoming book, *Resources for Nation Building: Governance, Development, and the Future of American Indian Nation*, edited by Miriam Jorgensen and Stephen Cornell (under review by University of Arizona Press); see <uapress.arizona.edu>.

Additional chapters include:

- “Remaking the Tools of Governance” by Stephen Cornell
- “The Role of Tribal Constitutions in Nation Building” by Joseph P. Kalt
- “Why Tribal Justice Systems Matter by Joseph Thomas Flies-Away” Carrie Garrow, and Miriam Jorgensen
- “The Challenge of Tribal Administration: Getting Things Done for the Nation” by Stephen Cornell and Miriam Jorgensen
- “Improving the Chances of Success for Tribally Owned Enterprises” by Kenneth Grant and Jonathan Taylor
- Citizen Entrepreneurship: An Untapped Development Resource by Stephen Cornell, Miriam Jorgensen, Ian Record, and Joan Timeche
- “Governmental Services and Programs: Meeting Citizens’ Needs” by Alyce Adams, Andrew Lee, and Michael Lipsky
- “Intergovernmental Relationships: Expressions of Tribal Sovereignty” by Sarah Hicks
- “Rebuilding Native Nations: What Do Leaders Do?” by Manley Begay, Stephen Cornell, Miriam Jorgensen, and Nathan Pryor

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