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Committee on Appropriations
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The State of America's Native Nations

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INTRODUCTION

Thank you for the opportunity to appear here today. I am Joe Kalt and I am the Ford Foundation Professor of International Political Economy at the John F. Kennedy School of Government, Harvard University and co-director of The Harvard Project on American Indian Economic Development. I am also a Visiting Professor at the Eller College of Management at the University of Arizona and faculty chair for nation building programs at the University of Arizona's Native Nations Institute for Leadership, Management, and Policy.

For twenty years, I and my colleagues at the Harvard Project on American Indian Economic Development and, now, my partners at The Native Nations Institute have been working for and with tribes to try to understand what is working and what it is not when it comes to building and rebuilding Indigenous

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[1] http://www.ksg.harvard.edu/hpaied

[2] http://udallcenter.arizona.edu/nativenations/

communities. Why is it that, amidst well-documented and widespread poverty and social distress, an increasing number of Native nations are breaking old patterns and putting together economies, social institutions and political systems that work to improve the social, economic, and cultural well-being of their citizens?

To get at these kinds of questions, over the years we have worked with hundreds Native nations, including U.S. tribes, Canadian First Nations, and even Indigenous communities in Australia and New Zealand; and our executive education programs at the Native Nations Institute have worked with thousands of Native leaders on the challenges they face in finding policies and strategies that work. In the process, our research is finding patterns both to the progress that is being made and to the needs that remain to be met, particularly in the United States. Let me begin a look at those patterns by summarizing the key findings from a book we have coming out this spring on *The State of the Native Nations: Conditions under U.S. Policies of Self-Determination*.

AN OVERVIEW OF THE STATE OF INDIAN AMERICA[3]

Data on America's Native citizens and communities are scarce between the U.S. decennial Censuses. But according to the 2000 census, 4.1 million people in the United States – or about 1.5 percent of the U.S. population – self-identify as American Indian or Alaska Native. Of these, 2.5 million people claim "single-race" Native ethnicity (Figure 1). Slightly more than 1.7 million individuals who identify themselves as single race American Indian or Alaska Native live outside Indian Country and Alaska Native villages.[4] The three states with the largest Native populations are California, Oklahoma, and Arizona. The three cities with the

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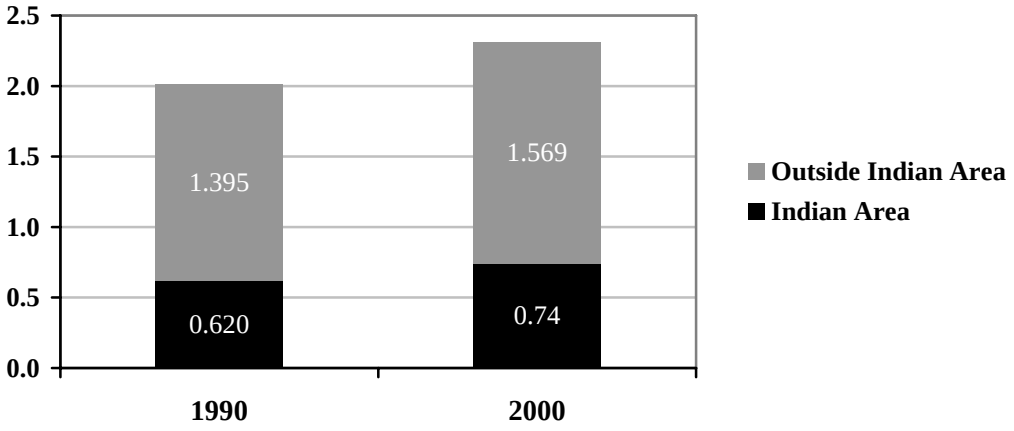
[3] The following is excerpted from Harvard Project on American Indian Economic Development, *The State of the Native Nations* (Oxford University Press, 2007).

[4] Stella U. Ogunwole, "We the People: American Indians and Alaska Natives in the United States," in *Census 2000 Special Reports* (Washington, D.C.: U.S. Census Bureau, February 2006).

largest Native populations are New York, Los Angeles, and Phoenix, while the three cities with the highest percentage Native population are Anchorage, Tulsa, and Oklahoma City.[5]

Figure 1
American Indian and Alaska Native Populations
All Indian areas (including statistical areas), in millions



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

The Native population is growing rapidly and getting younger. Over the decade of 1990-2000, the Indian area population grew by nearly 19 percent and the Native population residing outside of Indian areas grew by 12 percent. This growth reflects both ongoing "reidentification" in which individuals newly categorized themselves in the U.S. census as American Indian or Alaska Native, and a high rate of natural population increase. The latter is evident in the relative youth of the population, which has a median age of 28.5 years compared with a

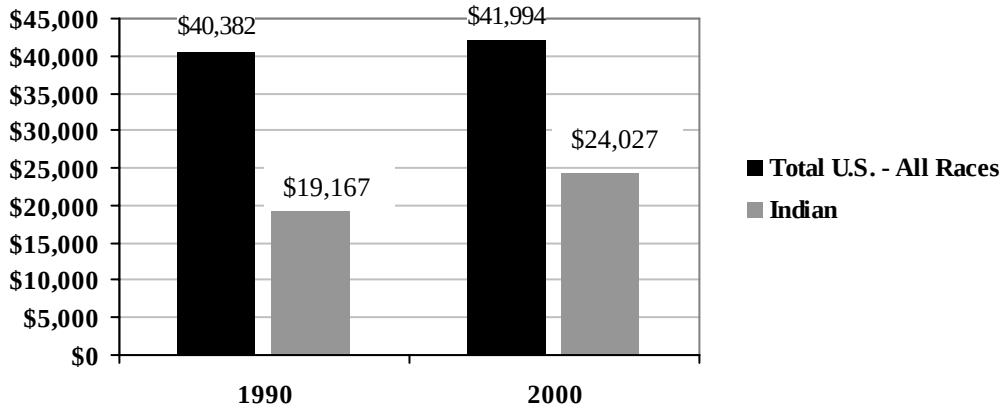
[5] Ibid.

U.S. median age of 35.4 years. In fact, a third of the Native population is under 18.[6]

In the economic arena, the "story" of Indian America is one of aggregate and average poverty, but also of *growth* – at last. After some progress in the 1970s, then declining average incomes in the 1980s, sustained and rapid economic growth took hold in the 1990s. This growth is bettering the lives of hundreds of thousands of people. But American Indian communities have a long way to go to catch up to the rest of the United States. Throughout the twentieth century, American Indians on reservations were the poorest identifiable group in the United States, and Indian reservations such as the Pine Ridge Reservation of the Oglala Sioux Tribe year after year were marked as the very poorest communities in the nation. As of 2000, the real (i.e., inflation-adjusted) median household income of Native Americans on reservations and in Indian areas of the lower 48 states was only 57% of the average American median household income – $24,027 versus $41,994 (Figure 2).

[6] Ibid.

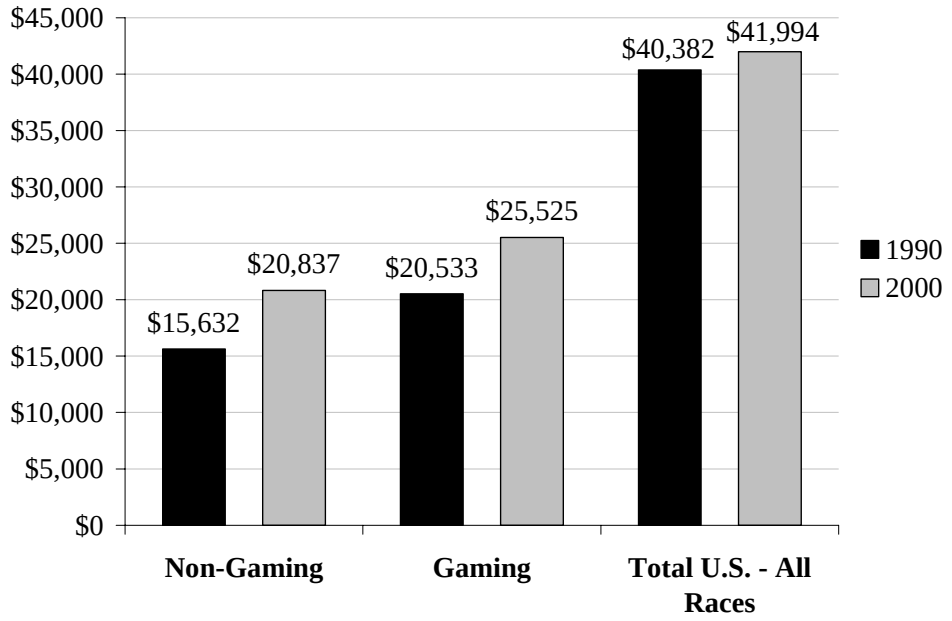
Figure 2
Real Median Household Income
All Indian areas (including statistical areas, excluding Alaska), in thousands



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

Mainstream media portrayals of tribal governments' gambling casinos built since the late 1980s commonly show images of easy money and previously unseen riches for tribes. But the long history of poverty and low incomes in Indian Country has not been wiped away by gaming opportunities that have opened up for tribal governments. Although over 200 tribes have undertaken gaming operations, low incomes (as well as the underemployment and unemployment that low incomes signal) are much more the rule than the exception for gaming and nongaming tribes alike. (Figure 3). Reservations such as Crow Creek, San Carlos Apache, Coushatta, and numerous others have pursued gaming, but still have incomes that are 40 percent or less of the rest of the United States.

Figure 3
Real Median Household Income
All Indian areas (including statistical areas, excluding Alaska), in thousands

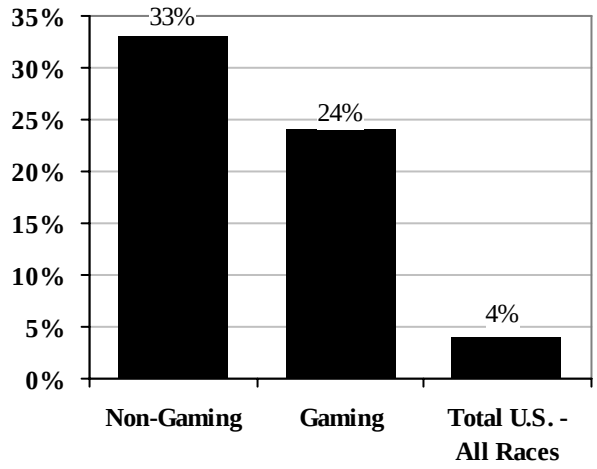


SOURCE: U.S. Census, 1990 and 2000, as reported in Jonathan Taylor and Joseph P. Kalt, *American Indians on Reservations: A Databook of Socioeconomic Change between the 1990 and 2000 Censuses*, (Cambridge, MA: Harvard Project on American Indian Economic Development, January 2005).

In fact, during the first full decade of Indian gaming, real household incomes actually grew more rapidly on reservations without gaming (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 (Figure 4). And therein lies the other side of the economic story in Indian Country: Indian 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 rapidly developing countries. This growth is not the result of some large influx of federal dollars: the improvement in average

incomes in Indian Country is occurring even though overall federal funding to Indians has not increased. As discussed further below, available research indicates that it is not a coincidence that economic development has finally appeared on many reservations only after policies of self-determination, adopted in the mid-1970s, took hold in the late 1980s and in the 1990s.[7]

Figure 4
Percent change in real median household income: 1990-2000
All Indian areas (including statistical areas, excluding Alaska)



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

While economic growth is a positive development for Indian Country where it has taken hold, the progress is tenuous. Policies of self-determination are poorly understood by many Americans and federal and state policymakers. They are under constant pressure of being repealed or curtailed. Moreover, even at the high

[7] Joseph P. Kalt, "Statement of Professor Joseph P. Kalt before the United States Senate Committee on Indian Affairs", 17 September, 1996. http://www.ksg.harvard.edu/hpaied/pubs/pub_146.htm (accessed December 12, 2006).

rates of income growth seen in recent years, it would take decades for incomes in Indian Country to catch up to U.S. average income levels. And, in some sense, that is not necessarily the ultimate goal of Native communities. Income and material well-being can make life easier, but matters of cultural identity, quality of life and community that cannot be measured in dollars often count heavily as shared goals. Still, so long as poverty, unemployment, and underemployment are prevailing economic realities of a reservation, the citizenry struggles. As a result, persistent economic underdevelopment and attendant poverty are pressing concerns across Indian America.

The strains of more than a century of grinding poverty, deficits of basic community infrastructure, emaciated powers of self-rule, and the ups and downs of mainstream society's attitudes toward Native Americans and Indian Country are seen in stubborn and discouraging disparities in socioeconomic indicators across Indian America and U.S. society at large. There are some bright spots where Indians are better off, or at least not substantially worse off, than the average American – for example, in the incidence of youth depression,[8] in HIV deaths,[9] in the incidence of low birth weights,[10] and in childhood immunizations.[11] Nevertheless, the overall picture from indicators of social conditions is negative and sometimes alarmingly so.

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8 Substance Abuse and Mental Health Statistics, *Results from the 2005 National Survey on Drug Use and Health: National Findings*, (Washington: U.S. Department of Health and Human Services, 2006), Table G-42.

9 Indian Health Services, *Regional Differences in Indian Health, 2000-2001* (Washington: U.S. Department of Health and Human Services, 1999), Chart 4.11, 69.

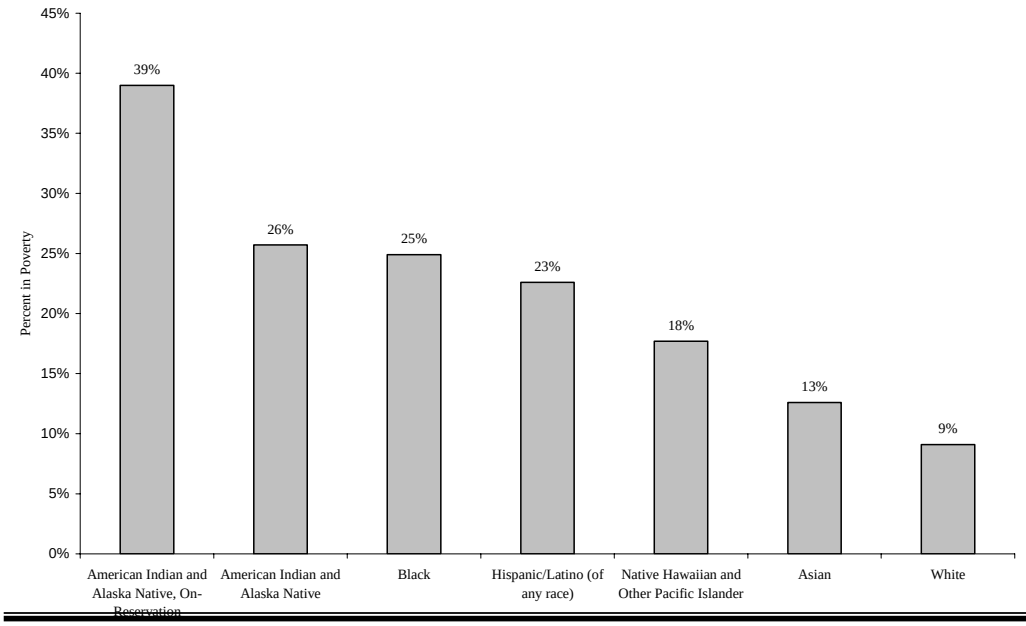
10 Centers for Disease Control and Prevention, *Health, United States, 2005 with Chartbook on Trends in the Health of Americans.* (Bethesda: U.S. Department of Health and Human Services, 2005), Table 13. Indian Health Services, *Trends in Indian Health, 2000-2001* (Rockville, MD: Indian Health Service, 2001), Table 3.2.

11 Centers for Disease Control and Prevention, *Health, United States*, Table 77. Indian Health Services, *Regional Differences in Indian Health, 1998-1999*, Chart 5.32.

By and large, when compared with the average American, Indians not only suffer from lower incomes, but they hold far less personal wealth (as indicated by homeownership and home quality[12]). They are subject to greater unemployment, higher death rates from certain mental health and chronic diseases, and greater family disintegration. Indians who live on or near reservations and other Indian land areas generally tend to do worse in socioeconomic terms than off-reservation Indians do. Despite progress in certain dimensions, on-reservation (and Alaska Native Village) Native residents remained, on average, the economically poorest identifiable group in America. As Figure 5 indicates, the latest Census reported that 39% of on-reservation American Indians were living below the poverty line, higher than any other group and four times the rate for the average American.

[12] Jonathan B. Taylor and Joseph P. Kalt, *American Indians on Reservations: A Databook of Socioeconomic Change between the 1990 and 2000 Censuses*, (Cambridge, MA: Harvard Project on American Indian Economic Development, January 2005).

Figure 5
Poverty Rates by Race/Ethnicity



Source: U.S. Census Bureau, Poverty: 1999 Census 2000 Brief, issued May 2003, single-race identifications. Data for on-reservation AIAN are from Jonathan 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

At the end of the 1990s, Indians in the service areas of the Indian Health Service were almost five times more likely to die from chronic liver disease and cirrhosis than the average American.[13] The death rate from preventable diabetes is almost four times greater for Indians than for the U.S. population as a whole.[14] The Indian teen rate of illicit drug use (at 19.2 percent in 2005) is approximately twice that of the average U.S. teenager,[15] and cigarette use by Indian teens (18 percent in 2005) is substantially higher that of average American teens.[16] Indian

[13] Indian Health Services, *Trends in Indian Health, 2000-2001* (Rockville, MD: 1999), Table 4.11.

[14] Indian Health Services, *Regional Differences in Indian Health 2000-2001*, Chart 4.24.

[15] Substance Abuse and Mental Health Services Administration, Results of the 2005 National Survey on Drug Use and Health (Washington D.C.: Department of Health and Human Services, 2005), Figure 22.

[16] Substance Abuse and Mental Health Services Administration, Results of the 2005 National Survey,Table 2.32B.

mothers are substantially less likely to receive early prenatal care,[17] and the rate of births to Indian teenage mothers is almost double that of the United States as a whole.[18] Indians on reservations are approximately twice as likely as the general population to be on public assistance.[19] While Native high school (or equivalency) attainment is approaching U.S. averages, school quality – both in terms of education received and physical facilities – are substandard. The percentage of Indian adults with college degrees is rising, but is still less than half that of the U.S. rate.[20]

THE KEYS TO SUSTAINING PROGRESS

When we examine the conditions in Indian Country today, what we see is a glass that is, at best, only half-full – but at least and at last, the glass is filling. Let us take a look at what the research says are the keys to sustaining this progress.

At the heart of the improvements that are beginning to take hold in Indian Country are the policies of self-determination that have provided substantial – albeit, incomplete – room for tribes to exercise their rights of sovereignty and self-government. By the same token, the stubbornness of distressing socioeconomic and health conditions on many, many reservations cannot credibly support a "blame it on the victim" interpretation. Centuries of mistreatment, cultural suppression, disenfranchisement, and policies that, by the middle of the twentieth century, had left tribes dependent on a paternalistic federal government meant the victims were not in control. Indeed, the progress that has begun to be made in reversing the long history of backbreaking poverty and associated social ills has

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[17] Centers for Disease Control and Prevention, *Health, United States,* Table 8. Indian Health Services, *Regional Differences in Indian Health, 1998-1999*, Chart 3.4.

[18] Centers for Disease Control and Prevention, *Health, United States,*Table 9.

[19] Taylor and Kalt, *American Indians on Reservations.*

[20] Ibid.

finally come as "the victim" has been more empowered to take control of – and be held accountable for – bootstrapping efforts to turn things around in an era of increasing tribal government power.

Native nations today are engaged in a process of safeguarding recent progress, while coping with daunting poverty and ongoing challenges to tribal authority. Under Public Law 93-638 and its subsequent progeny and cousins, U.S. tribes have taken over the ownership and operation of literally thousands of formerly-federal programs and policies – from forest management to tribal law enforcement, from health care to education, from road maintenance to trust fund management. The results are better than encouraging. They are remaking and rebuilding Native nations. The Harvard Project's *Honoring Nations* awards program honors, documents, and disseminates the stories of best practices in tribal self-government.[21] Since 1999, we have honored 92 truly outstanding programs, including:

- In less than a decade, the Winnebago (of Nebraska) Tribe's wholly-owned Ho-Chunk, Inc. turned a tiny enterprise into a conglomerate of dotcom, financial service, construction, consulting, and retailing businesses, yielding more than $100 million in a year in revenues and lowering unemployment from around 70% to the point where every reservation citizen able and willing to work has a job. Company earnings are systematically plowed back into the community, and Ho-Chunk, Inc.'s non-profit arm is now building an entire new town from scratch.
- In 2000, the Flandreau Santee Sioux Tribe and the City of Flandreau, South Dakota entered into a joint power agreement. The result is a single police department governed by a Public Safety Commission composed of tribal and city representatives. The department consolidates resources, delivers law enforcement services for the City of Flandreau and for all the Tribe's trust lands, while training officers to deal respectfully and responsibly with all citizens, Native and non-Native.

[21] http://www.ksg.harvard.edu/hpaied/hn_main.htm

- Threatened with extinction of the walleye population, the Red Lake Band of Chippewa in Minnesota took the strong step of shutting down its own members' fishing and created the Red Lake Walleye Fishery Recovery Project. The Project has brought the walleye back to healthy, harvestable levels in less than a decade. Operating under a consensus arrangement with local and commercial fisherman, as well as state and federal officials, the Recovery Project now determines when, how, and who can fish the historic waters from which the Band draws its name.
- The Standing Rock Sioux Tribe of North and South Dakota Tribal Monitors Program is putting the Tribe in direct control of its cultural heritage as receding waters behind a decades-old Army Corp dam reveal countless cultural and archeological sites. Archeologically trained tribal personnel, working with tribal elders, identify, monitor and protect these significant sites. The Tribe is managing and protecting its lands while preserving the spiritual and cultural heritage and resources that the nation truly depends on for future generations.

These stories and many, many more are emerging daily. There is a revolution of change wrought by policies and practices of effective self-governance sweeping across Indian Country. Our research into this revolution repeatedly finds a pattern to the cases where tribal self-governance is producing sustained, self-defined success in improving the economic, cultural and social well-being of tribal citizens. The pattern consists of the critical keys to effective nation building:

- **Sovereignty Matters.** When Native nations make their own decisions about what development approaches to take, they consistently out-perform external decision makers—on matters as diverse as governmental form, natural resource management, economic development, health care, and social service provision.
- **Institutions Matter.** For development to take hold, assertions of sovereignty must be backed by capable institutions of self-governance. A nation does this as it adopts adopt a stable rule of law – a stable rule of its *own* law – and then backs that up with fair and independent mechanisms for dispute resolution, efficient administration, and systems that separate of politics from day-to-day business and program management.
- **Culture Matters.** Successful nations stand on the shoulders of legitimate, culturally grounded institutions of self-government. Indigenous societies are diverse; each nation must equip itself with a governing structure, economic system, policies, and procedures that fit its own contemporary culture.
- **Leadership Matters.** Nation building requires leaders who introduce new knowledge and experiences, challenge assumptions, and propose change.

Such leaders, whether elected, community, or spiritual, convince people that things can be different and inspire them to take action.

The emphasis here on sovereignty and self-determination is neither wishful thinking nor surprising. Indian Country is merely playing out a lesson that we have long recognized here in the United States, and that is obvious in the struggles of emerging and post-conflict, post-colonial nations around the world – from Poland to Singapore. It is the lesson of local self-rule. Specifically, when local needs and issues are at stake, local self-government has a better – not perfect, but better – chance of succeeding than does the decision making of distant outsiders that answer to distant masters.

It is as true for American Indian nations as it is for any others that there are two key reasons why local self-government is simply better, on average and over time, at addressing local concerns. First, local self-rule improves accountability. In the course of our work, we have had innumerable tribal officials, many of them former BIA or Indian Health Service officials, tell us some version of the following: "It used to be, when something went wrong, we'd all blame the feds. Now when something goes wrong, my people blame me… and that's the way it should be." Improved accountability is demonstrably improving the identification of community needs and priorities, and enhancing the efficiency of the day-to-day management of programs and service delivery on reservations.[22]

Second, local self-rule tends to improve government performance because it has a better chance of getting the large and small dimensions of a community's culture "right". From Pittsburgh to Citizen Potawatomi, from Wenatchee to Winnebago, local folks have their own ideas about how things ought to be run, how decisions ought to be made, who ought to have power, what ought to be the

[22] See *The State of the Native Nations*, op. cit. at, esp., Chapters 1 and 7.

spending priorities, and so on. And for all of us, from California to Crow, from Kansas City to Kickapoo, our ideas about these kinds of things are firmly grounded in our local cultures. We shouldn't be surprised that a couple of centuries of attempts to set the priorities and manage the affairs of American Indian tribes as if tribes were branches of the federal government yielded the poorest identifiable communities and people in America. And we shouldn't be surprised that the nation's relatively recent shift towards policies more supportive of Native self-rule is now finally turning things in a much more positive direction.

THE POLICY IMPLICATIONS

You are now taking up the important questions of budgeting for the federal role in Indian affairs. Perhaps the first and most obvious implication of what we're learning about *The State of the Native Nations* is a policy, rather than a narrowly-construed budget, matter. The only federal Indian policy that has worked in centuries to support the social, cultural and economic well-being of Native people is the policy of self-determination that began to emerge in the 1970s.

With the Native population accounting for such a tiny part of the U.S. electorate, the fate of policies of self-determination hinge critically on the views of non-Natives and their leaders. If the federally-recognized American Indian tribes are seen as "just another" ethnic minority, the prospects for sustaining, much less expanding, today's federal policies of tribal self-determination are not good. Yet, these policies are not only proving successful for tribes. They are the first real prospects we've ever had for eventually generating tribal economic self-sufficiency and, with that, reduced need in the long run for federal dollars.

In addition, American Indian nations possess inherent rights as sovereigns that are recognized in hundreds of still-extant treaties with the United States, in the Constitution, in court decisions, in congressional acts, and in executive orders that call for government-to-government relationships between the U.S. federal

government and the hundreds of federally-recognized tribes, communities, and Indian areas. Under the U.S. federalist system, we are comfortable with multiple layers of sovereigns – we were founded on the idea. The American Indian nations co-exist with the states and territories of the United States, exercising similar sovereign powers and, when not blocked by federal policy, providing the full array of local governmental services.

The paramount importance of Native nations' status as sovereigns, able to make and enforce laws affecting a broad range of their respective communities' affairs, is difficult to overstate. We can imagine the outcry if a serious effort was made to tell each of the fifty U.S. states that their sovereign powers and identities would be replaced by those of a uniform single (i.e., federal) sovereign. In fact, non-Indian Nebraskans and Californians and Pennsylvanians and Montanans and their counterparts across the country cannot conceive of why such a hypothetical and self-evidently ridiculous thought would ever be brought up. Yet, for Native nations, the functional equivalent was actually adopted during the termination period in the middle of the 20th century.

Today, many non-Indians who find nothing unworkable or unusual about the fact that New Yorkers want to remain New Yorkers, or that Nevada wants the sovereign power to determine its laws rather than deferring to the neighboring jurisdiction of California, routinely conceive, whether out of naïveté or worse, of Indian nations' as anomalies and enclaves of special rights for a previously wronged group. Even among the well-informed and well-meaning, the federally-recognized Indian tribes often are not seen as "real governments."

The risks to their sovereignty that the Native nations perceive from such conceptions are real. Native nations' futures are tenuous when dependent on the views of a non-Indian public that knows little of Native affairs, and when what it does "know" is founded on stereotypes and an occasional blitz of media coverage.

Perhaps most insidiously undermining of Native nations as distinct sovereigns within the federal system is the sense that the general U.S. public's acceptance of tribes as warranting such standing depends upon the public's perception that contemporary Native Americans are "still real Indians" – "real" in the sense of exhibiting iconic, mainstream media- and folklore-derived cultural practices. It is as if Texas' status as a sovereign within the federalist U.S. system were at risk because Texans no longer drive longhorns and carry six-shooters as they ride into Fort Worth.

Turning to the federal budget, the fact of some long-awaited economic and social improvement in some parts of Indian Country can only be used by the disingenuous and dishonest as justification for cutting Indian funding. The companion fact is that, while there is some progress, in every salient dimension – employment, income, health, housing, education, infrastructure, the environment, law enforcement, etc. – progress under self-determination began at such a low base that the deficits remain huge and the unmet funding needs severe. In its important 2003 report, *A Quiet Crisis*, the U.S. Commission on Civil Rights found that Native Americans receive a disproportionately low level of federal funding compared with the general U.S. population across virtually every category of the federal government's budget.[23] The study found that "[t]he government's failure has resulted in services that are of lower quality than those provided to other Americans and inequitable access to much-needed programs."[24]

While the aggregate needs of Indian Country are incontrovertible, we recognize that priorities must be set. Let me highlight two critical areas where our research indicates a lack of progress toward improvement that warrants particular consideration in the budget process:

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[23] U.S. Commission on Civil Rights, *A Quiet Crisis,* iii.

[24] Ibid., 122.

Criminal Justice. Trends in public safety in Indian Country are quite alarming. This stands in stark contrast to the situation in non-Indian America where crime indicators have generally been in broad decline. Accurate data on crime in Indian Country is hard to gather and many crimes are most likely considerably under-reported.[25] Nevertheless, the data that are available for Indian Country paint a troubling picture: American Indians are incarcerated at a rate 38% higher than the national per capita rate.[26] The rate of violent victimization of Native Americans is twice the national average.[27] The rate of crime victimization experienced by Indian women is 50% higher than that reported by black males.[28] American Indian women are also more than twice as likely to be raped by a domestic partner as non-Indian women.[29] On reservations, youth gangs are prevalent and growing, along with the attendant violence often associated with such groups.[30]

Law enforcement and providing for the public safety are always complicated matters – made more so in Indian Country by social conditions, as well as often overlapping and conflicting jurisdictions among tribal, local, state, and federal authorities. But such problems should not obscure the critical funding deficits that Indian nations confront. Correctional facilities on Indian lands are operated either by tribal authorities (48 facilities) or the BIA (20 facilities).[31] Overcrowding is a persistent problem, with at least 15 Indian Country jails

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25 See Wakeling et al., 23-28.

26 Laurence A. Greenfield and Steven K. Smith, *American Indians and Crime* (Washington, DC: U.S. Bureau of Justice Statistics, 1999), vii. See also U.S. Justice Department, Bureau of Statistics, *Differences in Rates of Violent Crime Experienced by Whites and Blacks Narrow*. (Washington: Government Printing Office, March 2001).

27 Ibid.

28 Ibid.

29 Greenfield and Smith, *American Indians and Crime*, 3.

30 Seth Mydans, "Gangs Reach a New Frontier: Indian Reservations," *New York Times*, 18 March 1995, sec. A1.

31 Bureau of Indian Affairs, "Law Enforcement Assessment."

operating 150% above capacity each year since 1998.[32] In the most extreme cases reported by the Department of Justice for June 2003, the facility at Fort Berthold Agency was operating at 456% of capacity, while the Crow Police Department facility held 60 prisoners in a facility rated for 14.[33] The U.S. Department of Justice reports that Indian Country jails are "substandard in such critical areas as staff and inmate safety, inmate services and programs, fire safety, communicable disease prevention, sanitation and hazardous substance control."[34] Furthermore, many of the detention facilities in Indian Country are inappropriate for the nature of offenders held, are housed in aging buildings, and in need of renovation to conform to building codes.[35]

The U.S. Commission on Civil Rights notes that "funding for criminal justice systems in Indian Country remains insufficient to meet the immediate needs of these communities, much less establish a framework for eventual self-sufficiency."[36] Indeed, the resources available in Indian Country for policing are far less than those used by non-Indian jurisdictions. Available data indicate that the typical tribal police department operates on a budget which is only 55%-75% of the budget available to comparable non-Indian communities. The Tribal Law and Policy Institute estimates that Indian Country needs more than 4,000 additional personnel to attain approximate parity with similarly situated non-Indian law enforcement.[37]

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32 Ibid., 4.

33 Ibid.

34 U.S. Department of Justice, Office of Tribal Justice, *Final Report to the Attorney General and Secretary of the Interior*. (Washington: Government Printing Office, October 1997). Quoted in U.S. Commission on Civil Rights, *A Quiet Crisis: Federal Funding and Unmet Needs in Indian Country* (Washington DC: Government Printing Office, July 2003), 78.

35 U.S. Commission on Civil Rights, *A Quiet Crisis*, 78.

36 U.S. Commission on Civil Rights, *A Quiet Crisis*, 79.

37 Tribal Court Clearinghouse, "Tribal Law Enforcement." http://www.tribal-institute.org/lists/enforcement.htm (28 June 2006).

Education. By most measures, relative to other minorities and to the general U.S. school-age population, Indian school children are at or near the greatest risks of receiving poor education and underperforming at the elementary and secondary levels.[38] This is not surprising given that Indian youth are so likely to suffer from the harrowing psychological, sociological, and physical consequences of persistent poverty.[39] Moreover, BIA schools are severely under-funded; spending per student is less than half of the amount spent in public schools on American students nationally.[40] In addition, the physical facilities in BIA schools are more likely to be substandard, as evidenced by a recent federal government study which concluded that, compared to other public schools, BIA schools "were in generally poorer condition, have more unsatisfactory environmental factors, more often lack key facilities … for education reform, and are less able to support computer and telecommunications policy."[41]

The 2005 report of the National Center for Education Statistics, *Status and Trends in the Education of American Indians and Alaska Native*, finds:

- The percentage of Native 16- to 24-year-olds who were high school dropouts was 15.0%, compared to 9.9% for the U.S. as a whole. Only Hispanic Americans had a higher drop-out rate (at 23.5%).[42]

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38 See, for example, U.S. Department of Education, *Indian Nations At Risk: An Educational Strategy for Action* (Washington, DC: U.S. Department of Education, 1991).

39 See *The State of the Native Nations*, op. cit. at, esp., Section 3, Chapters 12, 14 and 15.

40 U.S. Commission on Civil Rights, *A Quiet Crisis: Federal Funding and Unmet Needs in Indian Country* (Washington, DC: July 2003), 23.

41 US General Accounting Office, *School Facilities: Reported Condition and Costs to Repair Schools Funded by Bureau of Indian Affairs*, GAO/HEHS-98-47 (Washington, DC: U.S. General Accounting Office, December 1997), 2. The consequences are often significant. At Santa Fe Indian School, for example, an award from the Intel Corporation for computers and network-related facilities had to be put on hold when the only available space – located in the school's basement – was declared unsuitable for student use.

42 Catherine Freeman and Mary Ann Fox, "Status and Trends in the Education of American Indians and Alaska Natives," National Center for Education Statistics (August 2005), 42. Note the authors warn that dropout figures must be interpreted with caution.

- Among eighth grade students, American Indian students have the highest rates of absenteeism when compared to any other group.[43]
- American Indians have the highest rates of, and are disproportionately placed in, special education and learning disabled programs.[44]
- Among eighth graders, only Hispanic students had lower rates of access to a computer at home.[45]

Turning to higher education, the percentage of Native American adults over the age of 25 on reservations with at least a two-year college degree stood at 12.1% in 2000, up from 9.2% in 1990. Despite these gains, Native student participation in post-secondary education has had a lot of ground to make up. As of the latest available data (for October 2003), American Indians and Alaska Natives had the lowest rate of higher education enrollment expressed as a percentage of 10- to 24-year-olds of any racial or ethnic minority. At 17.7%, this rate for Native Americans was less than one-half the rate for Americans in general. In addition, it appears that American Indians living on reservations may be only half as likely as white students to persist and obtain a degree.[46]

In the face of these figures, the tribal colleges and universities stand out as making a huge contribution – and warranting commensurate budget support. As of 2005, the 34 federally-recognized tribal colleges and universities in the continental United States were serving over 30,000 full and part-time students, approximately 80% of whom were Native Americans.[47] The rate of growth in tribal college

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43 Ibid., 44.

44 Ibid., 34.

45 Ibid., 86.

46 American Indian Higher Education Consortium, The Institute for Higher Education Policy, *Tribal Colleges: An Introduction* (Alexandria, VA: American Indian Higher Education Consortium, February 1999), A-2.

47 These numbers represent only the tribal colleges and universities listed as federally recognized under The White House Initiative on Tribal Colleges and Universalities (WHITCU). Other tribal colleges do exist that are currently not part of this list. See "White House Initiative on Tribal Colleges and Universities Tribal Colleges and Universities Address List." http://www.ed.gov/about/inits/list/whtc/edlite-tclist.html (28 June 2006)

enrollments is outstripping the growth in Indian enrollments at non-tribal colleges and universities.[48] Federal funding per Indian student has been running at about 75% of the authorized level, and lags well behind the monies received by non-Indian community colleges, which have much greater access to federal, state, and local dollars.[49]

Stronger federal support of higher education in Indian Country, particularly of the tribal colleges and universities, fits the times. Tribal assumptions of program control and service delivery under federal self-determination policies, the increasing sophistication of the business ventures being undertaken in Indian Country, and the ongoing drive to improve tribal government all place immediate premiums on the attainment of a college education. The deficits in Indian Country in higher education need to be addressed aggressively and now.

CONCLUSION

In setting out the foregoing discussion of some of the budget priorities in Indian Country, we run the risk of obscuring the documented reality that, relative to need, relative to the share of the U.S. population, and relative to averages across all Americans, Indian Country is markedly underfunded in virtually every applicable segment of the federal budget. The widespread perception by the general U.S. public that American Indians are the recipients of disproportionately large shares of the federal budget is wrong. The disproportionality cuts in exactly the opposite direction. While driven by public misperception and the relatively small clout of Indian America's political voice, there is no responsible way to rationalize this. On average across Indian Country, Native citizens have incomes that are only about half the level of the average of all American's. These citizens have the highest rates of poverty of any demographic group in the United States; and the same

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[48] American Indian Higher Education Consortium, *Tribal Colleges*, C-3.

[49] American Indian College Fund. http://www.collegefund.org. (28 June 2006)

pattern of distress applies across virtually every dimension of social conditions, from education and crime to health and housing.

Importantly, the picture of Indian America that is emerging is not one of endless cycles of poverty and social distress. Progress is being made – and it is being made by Native people taking control over the key decisions that affect their nations. Like any other communities, states, and nations that exert powers of self-government, Indian nations can succeed or falter under policies of self-determination and self-rule. Success is not guaranteed. But the evidence is clear that, looking across Indian Country as a whole, federal policies of self-determination and self-governance – local self-rule – are paying off in improved decision making, improved social and economic conditions, and improved lives. The recipe for going back to hopeless cycles of poverty and distress lies in reining in the Indian nations' powers of self-government.