

Current Challenges and New Pathways for Community Development in Indian Country

By Gabriella Chiarenza, Federal Reserve Bank of San Francisco



Photo credit: Bec Rollins

“American Indians today face old problems armed with newfound strengths and new obstacles braced by deep traditions.”¹

Though they make up a very small share of the U.S. population – just over one percent in 2013 – Native Americans face deeply entrenched challenges disproportionate to their numbers, and virtually every statistic on this population reveals dire conditions and notable disparities in comparison to other Americans.² American Indians have the highest poverty rate of any racial or ethnic group in the country; more than one quarter of the total American Indian population, and 34 percent of American Indian children, live in poverty. They are also twice as likely to need to rely in part on disability benefits, public assistance, and food stamps to make ends meet. Native Hawaiians have the highest rate of cancer mortality of any racial or ethnic group in the state.³ Compared to all other populations in the United States, American Indians face greater health risks – including those related to high rates of heavy drinking, smoking, serious psychological distress, and use of controlled substances – yet are the least likely to have health insurance.⁴ Reservations are often overlooked for investment to establish and maintain roads, bridges, telecommunications connectivity, and other infrastructure needs. These remote land areas also typically lack access to traditional banking, job training, and business development resources, which further complicates economic development.⁵

The severe poverty, health epidemics, and other community concerns facing tribal nations have much to do with repeated interruptions throughout the past two centuries to traditional community structure, tribal practices, and self-determination, which left Native peoples subject to the interests of outside governments and policy. Among other challenges, Native communities have experienced a long history of coerced geographic displacement and reassignment of land; variable and ephemeral agreements between the U.S. government and tribal governments; and an absence of current, accurate data on their own population, which hinders effective policy and program targeting. This article discusses these three key issues – land, intergovernmental relations, and data – as context for the articles that follow in this issue of *Community Investments*. The initiatives explored in this CI offer case studies of emerging models through which Native communities and their partners seek to combat the detrimental impacts of past policies and practices. Such community-informed efforts draw on traditional ways of life to support and advance Native Americans across the country after centuries of struggle.

Native Land

The control and management of Native land lies at the heart of many past conflicts between the federal government and tribal nations, and continues to pose challenges for many tribes looking to initiate their own community and economic development projects. Following forced migration and a series of federal policy decisions and reversals concerning Indian lands through the 19th and 20th centuries, Native Americans struggle to retain existing tribal land and regain control over previously ceded, sold, or taken tribal land. Much of this land – which includes American Indian reservations – is split into several different types of



Major U.S. Legislation impacting American Indian Nations

1828-1832

The Marshall Trilogy

This set of three Supreme Court decisions established the Federal Trust Doctrine, which obligated the U.S. Government, under federal law, to protect tribal self-governance and retain lands, culture, assets, and resources, in exchange for the cessation of millions of acres of tribal land to the U.S. Government.

1887

General Allotment of 1887

Tribal lands held collectively by entire tribes were sliced up into small plots for ownership by individual Indians, purportedly to encourage landownership and farming among Indians. Additionally, tribal land determined by the U.S. Government to be "surplus" was ceded to or purchased by the U.S. government for non-Indian settlement with few tribes receiving fair compensation for their land.

1952

Urban Indian Relocation Program

The federal government directly encouraged American Indians to leave reservations and rural areas and move to urban centers through the Urban Indian Relocation Program, beginning in 1952.

1975

Indian Self-Determination and Educational Assistance Act

Along with and parallel to the broader civil rights struggle of the 1960s, American Indians pushed back against decades of U.S. assimilation attempts to design their own civil rights effort: a movement for self-determination. In 1975 the U.S. Government established an official U.S. policy focused on tribal self-determination, under which the U.S. government still operates today.

1800

1790

Indian Trade and Intercourse Act

This act, passed by the first U.S. Congress, dictated that states or individuals were forbidden from buying Indian lands without the explicit permission of the federal government.

1850

1830

Indian Removal Act of 1830

This act gave President Andrew Jackson the power to push remaining Indian tribes east of the Mississippi River to lands in the west, leading to the forcible removal of some tribes.

1900

1934

Indian Reorganization Act

Discovering that assimilation policies were in fact inflicting great damage and deepening poverty among the Indian population, the federal government called for the return of Indian lands to tribes that had been forced to relinquish them. To help stimulate economic development among tribes, the U.S. Government also established several programs which were intended to restore some sense of self-rule to tribes, but had the ultimate effect of imposing a Western model of governmental structure on tribes.

1950

1953

House Concurrent Resolution 108

This resolution terminated U.S. recognition of over 100 tribes, effectively cutting off their members from federal protections over tribal land and designated federal assistance for Indians.

2000

ownership, which complicates acquisition, development, preservation, and community cohesion. Until tribes are able to assemble (or reassemble) contiguous land bases, other landholders and interests may block their initiatives and hinder community development efforts.⁶

More than two-thirds of all American Indians and Alaska Natives now live outside of Native areas.⁷ There are numerous reasons that this majority of the population no longer lives on Native land. For some, it may be the result of losing, ceding, or selling their individual allotments (or a larger tribe's loss of land); others now live in cities due to former federal relocation programs that encouraged Native Americans to move to urban areas; still others may be unable to find employment on their reservations and thus move to areas where jobs are more readily available. Additionally, some tribes do not have reservations or other tribal lands.⁸ At the same time, the overall majority of residents living within the boundaries of reservations and other Native lands are not Native Americans. In 2010, 77 percent of those living in American Indian areas and 68 percent of those living in Alaska Native villages did not identify as American Indians or Alaska Natives.⁹

This unexpected population distribution in Native areas is due not only to the migration of Native Americans off of reservations as noted above, but also to the complex assortment of land ownership types and accompanying regulations commonly found within reservation boundaries. This land tenure pattern causes two key problems for Native Americans living on reservations and for those who may wish to return to their tribe's Native lands: fractionation and checkerboarding.

Fractionation frequently complicates the development of plots that were allotted to individual American Indians with the implementation of the General Allotment Act of 1887 (also known as the Dawes Act). After the individual to whom the parcel was allotted dies, each generation of heirs receives an equal interest in the land title, but the land itself is never divided, meaning that all of the heirs share interest in one common piece of property. Fractionation creates a difficult situation across many reservations as each plot of land may be tied up by hundreds or even thousands of interest holders.¹⁰ A 1992 U.S. General Accounting Office survey of fractionation on twelve reservations found that 60 percent of the 1.1 million individuals associated with the land in the study held an interest of two percent or less of a given parcel's title.¹¹ A majority of interest holders must consent to any housing or business development plan before a proposal can move forward, and establishing this majority consent for fractionated property is time-consuming, cumbersome, and in some cases may be impossible, inhibiting economic and housing development plans.¹²

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Many tribes also contend with the widely varied landscape of ownership types abutting one another within their reservation boundaries – a common reservation pattern known as checkerboarding. In such cases, tribal lands may be interspersed with lands held in trust by the federal government on behalf of a tribe or individual Native American, or individually-owned plots, including some held by non-Native individuals. Checkerboarding can often render it impossible for tribes to secure larger contiguous parcels of land for grazing, farming, and economic development efforts. Each ownership type is accompanied by its own rules and restrictions, and often each is under the jurisdiction of different government bodies, leading to regular confusion and clashes between owners and governing agencies. In this context, merely acquiring land for any kind of development or community purpose – or reacquiring sacred sites or areas with natural resources to be preserved – becomes a wearying challenge for tribes.¹³

Moreover, these conditions often make the reservation environment less attractive to outside investors or consultants with whom tribes may seek to develop partnerships and can inhibit development in other ways. For instance, the restrictions and legal complications associated with trust lands and fractionated properties prevent them from being used as collateral for business and development loans in many cases.¹⁴ Individual American Indian landowners also must endure the lengthy process of U.S. Bureau of Indian Affairs (BIA) review and approval of many property-related matters due to federal oversight requirements of trust and restricted lands; even simple requests such as a land title certificate may take years to approve, while outside Native lands this request can be processed in a few days.¹⁵

Still, many tribes are finding ways to buy back or reclaim lost land. Some also aim to use the land they have to promote conservation and efficient uses of resources. Several tribes have worked toward this goal in partnership with the U.S. Department of Housing and Urban Development (HUD), through HUD's Sustainable Construction in Indian Country (SCinIC) program, profiled at length in a following article in this issue of *CI*. SCinIC draws on strong tribal leadership and community participation and training, building partnerships with Native communities to develop sustainable housing that reflects traditional values and beliefs around respect and preservation of land and resources.¹⁶

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Intergovernmental Relations

The relationship between the federal government and tribal governments is another issue significantly affecting tribes' ability to foster and maintain community and economic development initiatives. Throughout decades of interactions, the federal government took on a guardian role with responsibility to protect tribes' land, resources, and assets and to preserve tribes' rights to self-determination.¹⁷ Over time, this trust relationship has become impractical, inefficient, and in many cases, a stumbling block for tribes seeking to quickly and effectively jumpstart their own initiatives.¹⁸

The BIA and a multitude of divisions within other federal departments oversee and administer programs related to Native American health, education, housing, infrastructure, and public safety and criminal justice. While the federal government continues to play a key role in Indian Country and is expected to carry out its oversight and protective duties as established by the trust responsibility, some researchers, advocates, and tribes contend that existing programs are underfunded, and ill-equipped to address the complexities of modern economic development and the critical challenges resulting from rampant, long-term poverty in Indian Country.¹⁹ As a result, in recent decades, an increasing number of tribes are pressing for a newly defined federal-tribal relationship that would maintain the recognition and, to some degree, the partnership of the federal government but allow self-determination and control over their own tribal nations and initiatives with less interference from the United States.²⁰

The recent economic crisis and federal budget crunch further accelerated the push for tribal self-determination, as these economic issues only deepened poverty and disinvestment in Indian Country. Advocates stressed that though \$3 billion was designated for tribal community programs and investments in the American Recovery and Reinvestment Act (ARRA) in 2009, funding was nowhere near enough to address the longstanding need on many reservations. The National Congress of American Indians (NCAI) explains that for many tribes, "economic crisis is not an occasional disaster; it is a daily reality" and that "drop in the bucket" investments are not effective on their own. For instance, in 2009 unmet funding for infrastructure alone stood at \$50 billion. And despite the disproportionately high rates of many diseases and health

concerns in Indian Country, combined with a severe scarcity of health resources, ARRA provided \$415 million for health care facilities, falling far short of the estimated \$3.5 billion in unmet health facility investments on Native land.²¹ Such shortfalls are seen across departments and program categories impacting Native communities, both with ARRA and in annual federal budget appropriations.²²

This year, federal budget sequestration threw additional salt on Indian Country's wounds. Federal programs for American Indians are considered treaty obligations rather than optional welfare programs, and as such represent part of the U.S. government's trust responsibility to tribes. These programs are discretionarily funded, however, making them vulnerable to annual federal budget adjustments. Reservations were strongly impacted due to their significant dependence on federal discretionary funds, and the lack of a local or tribal tax base on many reservations compounded the funding shortfall.²³ Congress exempted from sequestration some key programs supporting low-income Americans, including Medicaid, Temporary Aid for Needy Families, and the Supplemental Nutrition Assistance Program (food stamps). Yet while Native American communities have the highest rates of poverty, none of the discretionary programs focused on Indian Country were spared from sequestration, resulting in layoffs and significant funding losses affecting schools, police, health services, and housing across Native areas that were already struggling with few resources.²⁴

Additionally, the dispersion of programs for American Indians across multiple federal departments can make it difficult for tribes to successfully pursue their community and economic development goals. These agencies are not always coordinated with one another, and a project that requires funding through several programs may also be subject to several different compliance timelines and monitoring procedures. Such complexities slow down the development process and can present challenges for tribes attempting to secure additional funding from non-governmental financial institutions, which may not be accustomed to working with federal programs or may require action within a tighter timeframe. The confusion among departments can even make it hard for tribes to know which programs can be used together to help get an initiative off the ground.²⁵

Tribal leaders and other observers note that the underfunding of federal Indian Country programs is stunting the progress that the federal government has made on policy fronts since 1975's Indian Self-Determination and Educational Assistance Act, which refocused federal American Indian policy on support of tribal initiatives and self-determination.²⁶ Yet many recent projects demonstrate that well-designed tribal-federal partnerships, particularly those operating under strong Native leader-

ship and backed by sufficient federal and tribal resources, participation, and support, can efficiently and successfully tackle the complex problems facing modern Native communities.²⁷ For instance, the Administration for Native Americans (ANA), a division of the U.S. Department of Health and Human Services, provides grant funding to support the community-determined priority projects of a wide range of tribes, working with strong tribal leadership in these communities and a focus on Native self-sufficiency. The ANA's partnership model is discussed in a following article in this issue of CI.

The Data Challenge

In order to effectively identify and manage community issues in Indian Country, and to ensure federal programs are responding to real needs at the appropriate scale, both the U.S. government and tribal governments require accurate data. Unfortunately, very little data on the Native American population is publicly available. Native communities are among the most researched groups in the country – often in privately-funded, health-related studies – but most tribes and Native individuals who participate in studies are never provided with the final report or raw data from the research.²⁸ A lengthy history of outside researchers coming into Native communities to collect data without sharing their results with tribal leaders has left many Native groups skeptical of study proposals and the goals of the researchers.²⁹ With some of the most pressing economic and health needs in the country, Native communities struggle to be recognized in federal priorities because so little information is available to them with which to make their case to policy makers.

Tribes have also expressed frustration with missing or mismatched data in their interactions with federal departments handling American Indian programs, and with independent researchers. Because the Native American population is such a small percentage of the overall U.S. population, research models that employ random sampling of this population often produce numbers too small to be considered statistically accurate or significant for national studies. In many cases, this leads researchers to assign Native Americans to an “other” category along with non-Native populations, making it impossible to identify data trends specific to Native Americans.³⁰

Missing or inaccurate data also impacts funding for federal programs. A United States Commission on Civil Rights study on conditions and programs in Indian Country observed that in many cases, it is difficult to discern which specific community needs programs are intended to meet, and how much is being spent on these programs. This confusion may threaten programs that are succeeding and inhibit adjustments to programs that are not adequately providing assistance to Native communities; without

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accurate data, it is nearly impossible to identify and track Native assistance programs, a serious issue when federal resources are both scarce and critically important to tribal development and community services.³¹

Moreover, Native community representatives are sometimes concerned with the handling of data that tribes submit in response to federal program requests. For example, in 2010 the Department of the Interior (DOI) requested tribes' participation in a regular study of the Native labor force. In 2012, however, DOI determined the data collection methodology needed to be redesigned, rendering the 2010 data unusable.³² The last available DOI report on tribal employment is from 2005, meaning that existing data is quite outdated, particularly in light of post-recession unemployment. A Navajo lawyer interviewed about the survey explained, “when the government compiles reports detailing unemployment and workforce statistics for urban, suburban, and rural areas, those areas tend to get federal and state resources,” and added, “the impact seems to be that problems in Indian country are misunderstood and, as a result, the task of dealing with them gets shelved.”³³ Tribal leaders and advocates have emphasized that reliable data is a key priority for Indian Country. Recommendations from a Federal Reserve convening with over 100 tribal representatives in 2011 observed that “participants expressed a strong desire for better Indian Country data and research . . . [to] support more thorough assessments of current programs and the development of sound policies and new programs.”³⁴

While significant data and research challenges still remain, the federal government and individual tribes are already addressing these problems and working to improve data collection and analysis. For instance, the American Community Survey (ACS) administered by the U.S. Census Bureau now allows respondents to self-identify as American Indian, Alaska Native, or Native Hawaiian, and also gives respondents the opportunity to identify their tribal affiliation (from a list of federally recognized tribes and Native villages). Such detailed data, publically available through the 2010 ACS Selected Population Tables, provides accessible information that tribes can use going forward in community planning for individual tribal nations.³⁵

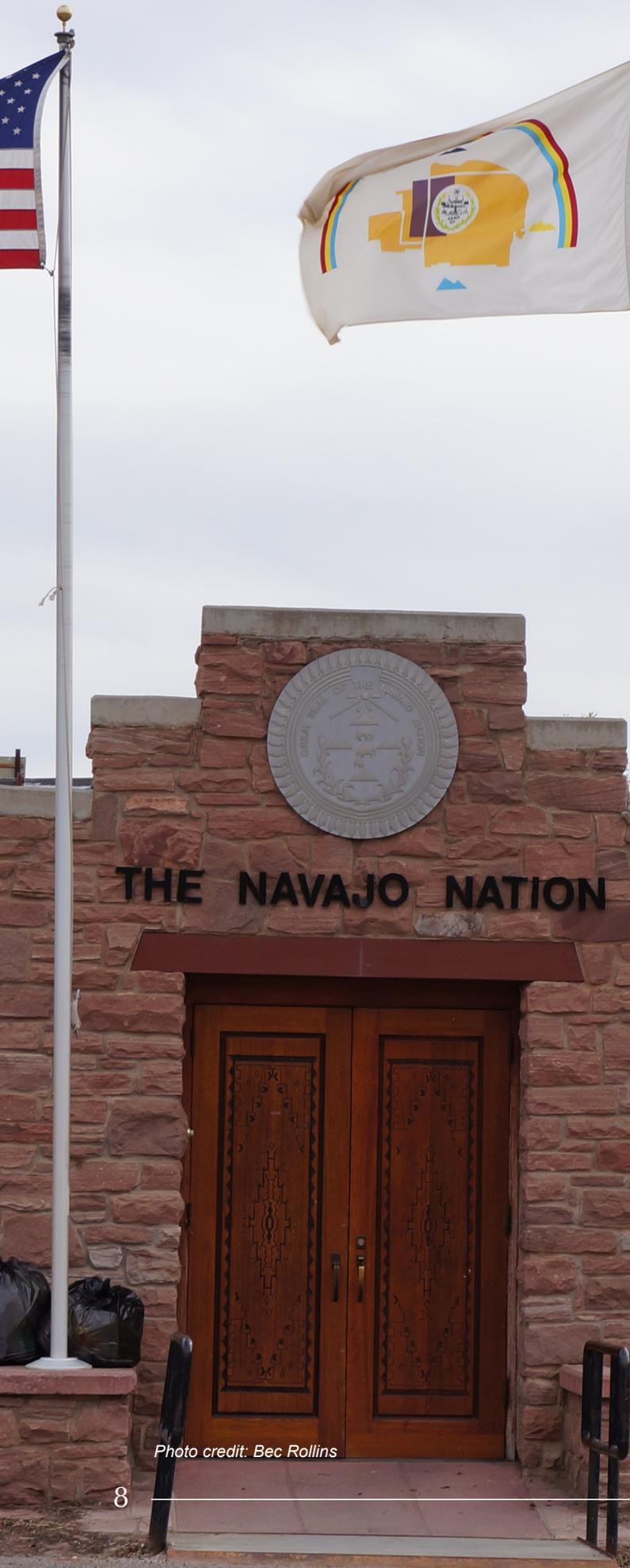


Photo credit: Bec Rollins

Additionally, many tribes are taking steps to conduct their own research, independently or in partnership with government agencies or universities, by training tribal representatives in surveying techniques and research methodology, and developing culturally sensitive techniques and review procedures to responsibly obtain more accurate data on Native communities. Such an approach can help tribes to ensure that sensitive data is not released without their knowledge and is used appropriately by third parties, and also provides valuable tailored information on the specific issues about which individual tribes are most concerned.³⁶ Some tribes, including the Cherokee, Chickasaw, Choctaw, Ho-Chunk, and Navajo Nations, have formed their own Institutional Review Boards (IRBs) to establish formal research review processes and acceptable practices within their communities.³⁷ Others, like the Passamaquoddy Tribe in Maine, have developed strict tribal protocols with regard to research. Such protocols may call for members of the tribe rather than outside researchers to conduct any interviews with research subjects, and may reserve the tribe's right to protect confidentiality and to refuse any questions that it may find culturally inappropriate or overly invasive.³⁸ These practices and many other newly emerging tribal research models help to provide accurate data on Native communities while still maintaining tribal control of sensitive information. They may also rebuild trust in the research process and a willingness to participate in research projects among Native community members.

Conclusion

The long history of damaging policy impacts, harsh living conditions, and underinvestment that Native communities have faced over two centuries leaves a legacy of formidable challenges and human costs that cannot be underestimated or quickly remedied. Yet Native American tribes in the United States remain deeply dedicated to their people, their land, and their traditions, and are developing new partnerships and undertaking innovative initiatives to invest in their communities. The articles that follow in this issue of CI highlight a few of the many diverse projects that hundreds of tribes are taking on across the country. Framing their efforts with community-determined goals, and slowly reinventing their relationship with federal agencies and local partners through in-depth work and consultation, Native communities are not only restoring core traditional values to their ways of life, but also designing new paths forward to lift and support their people. **CI**