

American Indians

Are they making meaningful progress at last?

Winds of change are blowing through Indian Country, improving prospects for many of the nation's 4.4 million Native Americans. The number of tribes managing their own affairs has increased dramatically, and an urban Indian middle class is quietly taking root. The booming revenues of many Indian-owned casinos seem the ultimate proof that Indians are overcoming a history of mistreatment, poverty and exclusion. Yet most of the gambling houses don't rake in stratospheric revenues. And despite statistical upticks in socioeconomic indicators, American Indians are still poorer, more illness-prone and less likely to be employed than their fellow citizens. Meanwhile, tribal governments remain largely dependent on direct federal funding of basic services — funding that Indian leaders and congressional supporters decry as inadequate. But government officials say they are still providing essential services despite budget cuts.



Nicole Boswell, an American Indian high-school student in White Earth, Minn., dreams of being a psychologist on her tribe's reservation.

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AMERICAN INDIANS

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Cover: Nicole Boswell, an Indian high-school student in White Earth, Minn., dreams of being a psychologist on her tribe's reservation. (AP Photo/Minnesota Public Radio, Dan Gunderson)

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American Indians

BY PETER KATEL

THE ISSUES

It's not a fancy gambling palace, like some Indian casinos, but the modest operation run by the Winnebago Tribe of Nebraska may just help the 2,300-member tribe hit the economic jackpot.

Using seed money from the casino, it has launched 12 businesses, including a construction company and an Internet news service. Projected 2006 revenues: \$150 million.

"It would be absolutely dumb for us to think that gaming is the future," says tribe member Lance Morgan, the 37-year-old Harvard Law School graduate who runs the holding company for the dozen businesses. "Gaming is just a means to an end — and it's done wonders for our tribal economy."

Indian casinos have revived a myth dating back to the early-20th-century Oklahoma oil boom — that Indians are rolling in dough.¹ While some of the 55 tribes that operate big casinos indeed are raking in big profits, the 331 federally recognized tribes in the lower 48 states, on the whole, endure soul-quenching poverty and despair.

Arizona's 1.8-million-acre San Carlos Apache Reservation is among the poorest. The rural, isolated community of about 13,000 people not only faces devastating unemployment but also a deadly methamphetamine epidemic, tribal Chairwoman Kathleen W. Kitcheyan, told the Senate Indian Affairs Committee in April.

"We suffer from a poverty level of 69 percent, which must be unimagin-

able to many people in this country, who would equate a situation such as this to one found only in Third World countries," she said. Then, speaking of the drug-related death of one of her own grandsons, she had to choke back sobs.

"Our statistics are horrific," says Lionel R. Bordeaux, president of Sinte Gleska University, on the Rosebud Sioux Reservation in South Dakota. "We're at the bottom rung of the ladder in all areas, whether it's education levels, economic achievement or political status."²



Getty Images/Mario Tama

Jerolyn Fink lives in grand style in the housing center built by Connecticut's Mohegan Tribe using profits from its successful Mohegan Sun casino. Thanks in part to booming casinos, many tribes are making progress, but American Indians still face daunting health and economic problems, and tribal leaders say federal aid remains inadequate.

National statistics aren't much better:

- Indian unemployment on reservations nationwide is 49 percent — 10 times the national rate.³
- The on-reservation family poverty rate in 2000 was 37 percent — four times the national figure of 9 percent.⁴
- Nearly one in five Indians age 25 or older in tribes without gambling operations had less than a ninth-grade education. But even members of tribes with gambling had a college graduation rate of only 16 percent, about half the national percentage.⁵
- Death rates from alcoholism and tuberculosis among Native Americans are at least 650 percent higher than overall U.S. rates.⁶
- Indian youths commit suicide at nearly triple the rate of young people in general.⁷
- Indians on reservations, especially in the resource-poor Upper Plains and West, are the nation's third-largest group of methamphetamine users.⁸

The immediate prognosis for the nation's 4.4 million Native Americans is bleak, according to the Harvard Project on American Indian Economic Development. "If U.S. and on-reservation Indian per-capita income were to continue to grow at their 1990s' rates," it said, "it would take half a century for the tribes to catch up."⁹

Nonetheless, there has been forward movement in Indian Country, though it is measured in modest steps. Among the marks of recent progress:

Conditions on Reservations Improved

Socioeconomic conditions improved more on reservations with gambling than on those without gaming during the 1990s, although non-gaming reservations also improved substantially, especially compared to the U.S. population. Some experts attribute the progress among non-gaming tribes to an increase in self-governance on many reservations.

Socioeconomic Changes on Reservations, 1990-2000*
(shown as a percentage or percentage points)

	Non-Gaming	Gaming	U.S.
Real per-capita income	+21.0%	+36.0%	+11.0%
Median household income	+14.0%	+35.0%	+4.0%
Family poverty	-6.9	-11.8	-0.8
Child poverty	-8.1	-11.6	-1.7
Deep poverty	-1.4	-3.4	-0.4
Public assistance	+0.7	-1.6	+0.3
Unemployment	-1.8	-4.8	-0.5
Labor force participation	-1.6	+1.6	-1.3
Overcrowded homes	-1.3	-0.1	+1.1
Homes lacking complete plumbing	-4.6	-3.3	-0.1
Homes lacking complete kitchen	+1.3	-0.6	+0.2
College graduates	+1.7	+2.6	+4.2
High school or equivalency only	-0.3	+1.8	-1.4
Less than 9th-grade education	-5.5	-6.3	-2.8

**The reservation population of the Navajo Nation, which did not have gambling in the 1990s, was not included because it is so large (175,000 in 2000) that it tends to pull down Indian averages when it is included.*

Source: Jonathan B. Taylor and Joseph P. Kalt, "Cabazon, The Indian Gaming Regulatory Act, and the Socioeconomic Consequences of American Indian Governmental Gaming: A Ten-Year Review, American Indians on Reservations: A Databook of Socioeconomic Change Between the 1990 and 2000 Censuses," Harvard Project on American Indian Economic Development, January 2005

- Per-capita income rose 20 percent on reservations, to \$7,942, (and 36 percent in tribes with casinos, to \$9,771), in contrast to an 11 percent overall U.S. growth rate.¹⁰
- Unemployment has dropped by up to 5 percent on reservations and in other predominantly Indian areas.¹¹
- Child poverty in non-gaming tribes dropped from 55 percent of the child population to 44 percent

(but the Indian rate is still more than double the 17 percent average nationwide).¹²

More than two centuries of court decisions, treaties and laws have created a complicated system of coexistence between tribes and the rest of the country. On one level, tribes are sovereign entities that enjoy a government-to-government relationship with Washington. But the sovereignty is qualified. In the words of an 1831

Supreme Court decision that is a bedrock of Indian law, tribes are "domestic dependent nations."¹³

The blend of autonomy and dependence grows out of the Indians' reliance on Washington for sheer survival, says Robert A. Williams Jr., a law professor at the University of Arizona and a member of North Carolina's Lumbee Tribe. "Indians insisted in their treaties that the Great White Father protect us from these racial maniacs in the states — where racial discrimination was most developed — and guarantee us a right to education, a right to water, a territorial base, a homeland," he says. "Tribes sold an awful lot of land in return for a trust relationship to keep the tribes going."

Today, the practical meaning of the relationship with Washington is that American Indians on reservations, and to some extent those elsewhere, depend entirely or partly on federal funding for health, education and other needs. Tribes with casinos and other businesses lessen their reliance on federal dollars.

Unlike other local governments, tribes don't have a tax base whose revenues they share with state governments. Federal spending on Indian programs of all kinds nationwide currently amounts to about \$11 billion, James Cason, associate deputy secretary of the Interior, told the Senate Indian Affairs Committee in February.

But the abysmal conditions under which many American Indians live make it all too clear that isn't enough, Indians say. "This is always a discussion at our tribal leaders' meetings," says Cecilia Fire Thunder, president of the Oglala Sioux Tribe in Pine Ridge, S.D. "The biggest job that tribal leaders have is to see that the government lives up to its responsibilities to our people. It's a battle that never ends."

Indeed, a decades-old class-action suit alleges systematic mismanagement of billions of dollars in Indian-owned assets by the Interior Department —

a case that has prompted withering criticism of the department by the judge (see p. 375).

Government officials insist that, despite orders to cut spending, they've been able to keep providing essential services. Charles Grim, director of the Indian Health Service, told the Indian Affairs Committee, "In a deficit-reduction year, it's a very strong budget and one that does keep pace with inflationary and population-growth increases."

In any event, from the tribes' point of view, they lack the political muscle to force major increases. "The big problem is the Indians are about 1 percent of the national population," says Joseph Kalt, co-director of the Harvard Project. "The voice is so tiny."

Faced with that grim political reality, Indians are trying to make better use of scarce federal dollars through a federally sponsored "self-governance" movement. Leaders of the movement say tribes can deliver higher-quality services more efficiently when they control their own budgets. Traditionally, federal agencies operate programs on reservations, such as law enforcement or medical services.

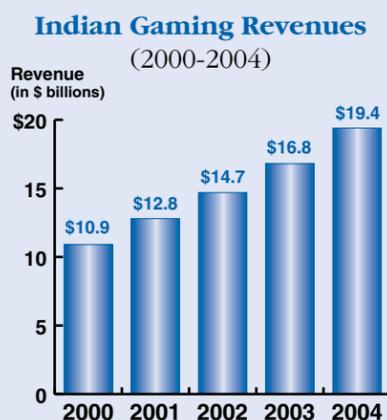
But since the 1990s, dozens of tribes have stepped up control of their own affairs both by building their own businesses and by signing self-governance "compacts" with the federal government. Compacts provide tribes with large chunks of money, or block grants, rather than individual grants for each service. Then, with minimal federal oversight, the tribes develop their own budgets and run all or most services.

The self-governance trend gathered steam during the same time that Indian-owned casinos began booming. For many tribes, the gambling business provided a revenue stream that didn't flow from Washington.

According to economist Alan Meister, 228 tribes in 30 states operated 367 high-stakes bingo halls or casinos in 2004, earning an estimated \$19.6 billion.¹⁴

Revenues From Casinos Almost Doubled

Revenue from Indian gaming operations nearly doubled to \$19.4 billion from 2000-2004. The number of Indian casinos increased from 311 to 367 during the period.



Source: Indian Gaming Commission

The gambling houses operate under the 1988 Indian Gaming Regulatory Act (IGRA), which was made possible by a U.S. Supreme Court ruling upholding tribes' rights to govern their own activities.¹⁵ A handful of tribes are doing so well that \$80 million from six tribes in 2000-2003 helped fuel the scandal surrounding one-time Washington super-lobbyist Jack Abramoff, whose clients were among the most successful casino tribes.¹⁶

If the Abramoff scandal contributed to the notion of widespread Indian wealth, one reason may be the misimpression that tribes don't pay taxes on their gambling earnings. In fact, under the IGRA, federal, state and local governments took in \$6.3 billion in gambling-generated tax revenues in 2004, with 67 percent going to the federal government. In addition, tribes paid out some \$889 million in 2004 to state and local governments in order to get gambling operations approved.¹⁷

The spread of casinos has prompted some cities and counties, along with citizens' groups and even some casino-operating tribes, to resist casino-expansion plans.

The opposition to expansion is another reason tribal entrepreneur Morgan doesn't think gaming is a good long-range bet for Indians' future. His vision involves full tribal control of the Indians' main asset — their land. He argues for ending the "trust status" under which tribes can't buy or sell reservation property — a relic of 19th-century protection against rapacious state governments.

Indian Country needs a better business climate, Morgan says, and the availability of land as collateral for investments would be a big step in that direction. "America has a wonderful economic system, probably the best in the world, but the reservation tends to be an economic black hole."

As Indians seek to improve their lives, here are some of the issues being debated:

Is the federal government neglecting Native Americans?

There is wide agreement that the federal government bears overwhelming responsibility for Indians' welfare, but U.S. and tribal officials disagree over the adequacy of the aid Indians receive. Sen. John McCain, R-Ariz., chairman of the Senate Indian Affairs Committee, and Vice Chairman Byron L. Dorgan, D-N.D., have been leading the fight for more aid to Indians. "We have a full-blown crisis . . . particularly dealing with children and elderly, with respect to housing, education and health care," Dorgan told the committee on Feb. 14. He characterized administration proposals as nothing more than "nibbling around the edges on these issues . . . making a few adjustments here or there."

Administration officials respond that given the severe federal deficit, they are focusing on protecting vital

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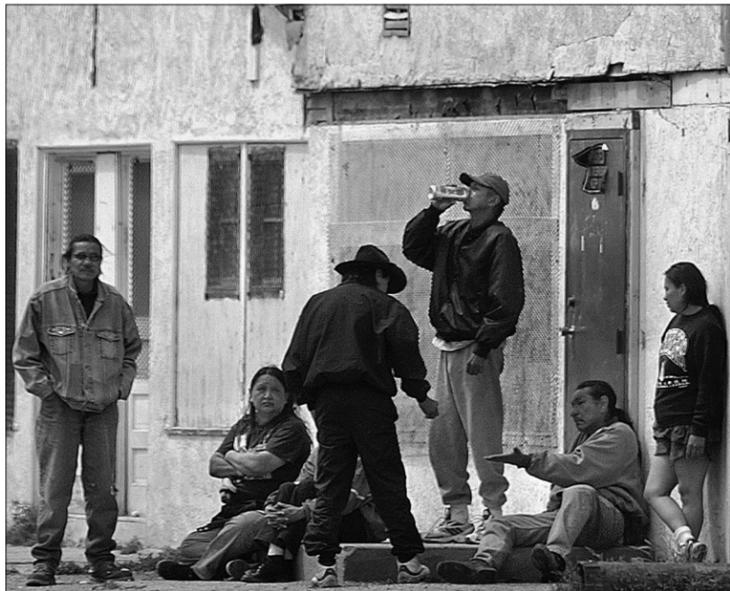
programs. "As we went through and prioritized our budget, we basically looked at all of the programs that were secondary and tertiary programs, and they were the first ones on the block to give trade-offs for our core programs in maintaining the integrity of those," Interior's Cason told the committee.

For Indians on isolated reservations, says Bordeaux of the Rosebud Sioux, there's little alternative to federal money. He compares tribes' present circumstances to those after the

buffalo had been killed off, and an Army general told the Indians to eat beef, which made them sick. "The general told them, 'Either that, or you eat the grass on which you stand.'"

But David B. Vickers, president of Upstate Citizens for Equality, in Union Springs, N.Y., which opposes Indian land claims and casino applications, argues that accusations of federal neglect are inaccurate and skirt the real problem. The central issue is that the constitutional system is based on individual rights, not tribal rights, he says. "Indians are major recipients of welfare now. They're eligible. They don't need a tribe or leader; all they have to do is apply like anybody else."

Pat Ragsdale, director of the Bureau of Indian Affairs (BIA), acknowledges that Dorgan's and McCain's criticisms echo a 2003 U.S. Commission on Civil Rights report, which also called underfunding of Indian aid a crisis. "The government is failing to live up to its trust responsibility to Native peoples," the commission concluded. "Efforts to bring Native Americans up to the standards



Controversial Whiteclay, Neb., sells millions of cans of beer annually to residents of the nearby Pine Ridge Reservation in South Dakota. Alcohol abuse and unemployment continue to plague the American Indian community.

AP Photo/William Lauer

Ryan Wilson, president of the National Indian Education Association, citing "crumbling buildings and outdated structures with lead in the pipes and mold on the walls."¹⁹

Cason told the Indian Affairs Committee the administration is proposing a \$49 million cut, from \$157.4 million to \$108.1 million, in school construction and repair in 2007. He also said that only 10 of 37 dilapidated schools funded for replacement by 2006 have been completed, with another 19 scheduled to finish in 2007. Likewise, he said the department is also behind

on 45 school improvement projects. McCain questioned whether BIA schools and public schools with large Indian enrollments would be able to meet the requirements set by the national No Child Left Behind Law.²⁰

Yes, replied Darla Marburger, deputy assistant secretary of Education for policy. "For the first time, we'll be providing money to . . . take a look at how students are achieving in ways that they can tailor their programs to better meet the needs of students." Overall, the Department of Education would spend about \$1 billion on Indian education under the administration's proposed budget for 2007, or \$6 million less than in 2006.

McCain and Dorgan are also among those concerned about administration plans to eliminate the Indian Health Service's \$32.7 million urban program, which this year made medical and counseling services available to some 430,000 off-reservation Indians at 41 medical facilities in cities around the nation. (See *Sidebar*, p. 372.) The administration argues that the services were

of other Americans have failed in part because of a lack of sustained funding. The failure manifests itself in massive and escalating unmet needs."¹⁸ "Nobody in this government disputes the report, in general," says Ragsdale, a Cherokee. "Some of our tribal communities are in real critical shape, and others are prospering." The commission found, for example, that in 2003 the Indian Health Service appropriation amounted to \$2,533 per capita — below even the \$3,803 per capita appropriated for federal prisoners. Concern over funding for Indian programs in 2007 centers largely on health and education. Although 90 percent of Indian students attend state-operated public schools, their schools get federal aid because tribes don't pay property taxes, which typically fund public schools. The remaining 10 percent of Indian students attend schools operated by the BIA or by tribes themselves under BIA contracts.

"There is not a congressman or senator who would send his own children or grandchildren to our schools," said

on 45 school improvement projects.

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available through other programs, but McCain and Dorgan noted that “no evaluation or evidence has been provided to support this contention.”²¹

Indian Health Service spokesman Thomas Sweeney, a member of the Citizen Potawatomi Nation of Oklahoma, says only 72,703 Indians used urban health centers in 2004 and that expansion of another federal program would pick up the slack.²²

In Seattle, elimination of the urban program would cut \$4 million from the city’s Indian Health Board budget, says Executive Director Ralph Forquera. “Why pick on a \$33 million appropriation?” he asks. In his skeptical view, the proposal reflects another “unspoken” termination program. You take a sub-population — urban Indians — and eliminate funding, then [you target] tribes under 1,000 members, and there are a lot of them. Little by little, you pick apart the system.”

The IHS’s Grim told the Senate committee on Feb. 14 the cuts were designed to protect funding that “can be used most effectively to improve the health status of American Indian and Alaskan Native people.”

Have casinos benefited Indians?

Over the past two decades, Indian casinos have become powerful economic engines for many tribal economies. But the enthusiasm for casinos is not unanimous.

“If you’re looking at casinos in terms of how they’ve actually raised the status of Indian people, they’ve been an abysmal failure,” says Ted Jojola, a professor of planning at the University of New Mexico and a member of Isleta Pueblo, near Albuquerque. “But in terms of augmenting the original federal trust-responsibility areas — education, health, tribal government — they’ve been a spectacular success. Successful gaming tribes have ploughed the money either into diversifying their economies or they’ve augmented funds that would have come to them anyway.”

Tribes with casinos near big population centers are flourishing. The Coushatta Tribe’s casino near Lake Charles, La., generates \$300 million a year, enough to provide about \$40,000 to every member.²³ And the fabled Foxwoods Resort Casino south of Norwich, Conn., operated by the Mashantucket Pequot Tribe, together with Connecticut’s other big casino, the Mohegan Tribe’s Mohegan Sun, grossed \$2.2 billion just from gambling in 2004.²⁴

There are only about 830 Coushattas, so their benefits also include free health care, education and favorable terms on home purchases.²⁵ The once poverty-stricken Mashantuckets have created Connecticut’s most extensive welfare-to-work program, open to both tribe members and non-members. In 1997-2000, the program helped 150 welfare recipients find jobs.²⁶

Most tribes don’t enjoy success on that scale. Among the nation’s 367 Indian gambling operations, only 15 grossed \$250 million or more in 2004 (another 40 earned \$100 million to \$250 million); 94 earned less than \$3 million and 57 earned \$3 million to \$10 million.²⁷

“We have a small casino that provides close to \$3 million to the tribal nation as a whole,” says Bordeaux, on the Rosebud Sioux Reservation. The revenue has been channeled into the tribe’s Head Start program, an emergency home-repair fund and other projects. W. Ron Allen, chairman of the Jamestown S’Klallam Tribe in Sequim, Wash., says his tribe’s small casino has raised living standards so much that some two-dozen students a year go to college, instead of one or two.

Efforts to open additional casinos are creating conflicts between tribes that operate competing casinos, as well as with some of their non-Indian neighbors. Convicted lobbyist Abramoff, for example, was paid millions of dollars by tribes seeking to block other tribal casinos.²⁸

Some non-Indian communities also oppose casino expansion. “We firmly believe a large, generally unregulated casino will fundamentally change the character of our community forever,” said Liz Thomas, a member of Tax Payers of Michigan Against Casinos, which opposes a casino planned by the Pokagon Band of Potawatomi Indians Tribe in the Lake Michigan town of New Buffalo, where Taylor and her husband operate a small resort.

“People are OK with Donald Trump making millions of dollars individually,” says Joseph Podlasek, executive director of the American Indian Center of Chicago, “but if a race of people is trying to become self-sufficient, now that’s not respectable.”

Nevertheless, some American Indians have mixed feelings about the casino route to economic development. “I don’t think anyone would have picked casinos” for that purpose, says the University of Arizona’s Williams. “Am I ambivalent about it? Absolutely. But I’m not ambivalent about a new fire station, or Kevlar vests for tribal police fighting meth gangs.”

“There’s no question that some of the money has been used for worthwhile purposes,” concedes Guy Clark, a Corrales, N.M., dentist who chairs the National Coalition Against Legalized Gambling. But, he adds, “If you do a cost-benefit analysis, the cost is much greater than the benefit.” Restaurants and other businesses, for example, lose customers who often gamble away their extra money.

Even some Indian leaders whose tribes profit from casinos raise caution flags, especially about per-capita payments. For Nebraska’s Winnebagos, payments amount to just a few hundred dollars, says CEO Morgan. What bothers him are dividends “that are just big enough that you don’t have to work or get educated — say, \$20,000 to \$40,000.”

But there’s no denying the impact casinos can have. At a January public

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hearing on the Oneida Indian Nation's attempt to put 17,000 acres of upstate New York land into tax-free "trust" status, hundreds of the 4,500 employees of the tribe's Turning Stone Resort and Casino, near Utica, showed up in support. "When I was a kid, people worked for General Motors, General Electric, Carrier and Oneida Ltd.," said casino Human Resources Director Mark Mancini. "Today, people work for the Oneida Indian Nation and their enterprises."²⁹

For tribes that can't build independent economies any other way, casinos are appealing. The 225,000-member Navajo Nation, the biggest U.S. tribe, twice rejected gaming before finally approving it in 2004.³⁰ "We need that infusion of jobs and revenue, and people realize that," said Duane Yazzie, president of the Navajos' Shiprock, N.M., chapter.³¹

But the Navajos face stiff competition from dozens of casinos already in operation near the vast Navajo reservation, which spreads across parts of Arizona, New Mexico and Utah and is larger than the state of West Virginia.

Would money alone solve American Indians' problems?

No one in Indian Country (or on Capitol Hill) denies the importance of federal funding to American Indians' future, but some Indians say it isn't the only answer.

"We are largely on our own because of limited financial assistance from the federal government," said Joseph A. Garcia, president of the National Congress of American Indians, in his recent "State of Indian Nations" speech.³²

Fifty-two tribal officials and Indian program directors expressed similar sentiments in March before the House Appropriations Subcommittee on the Interior. Pleading their case before lawmakers who routinely consider billion-dollar weapons systems and other big projects, the tribal leaders sounded like small-town county commissioners as they urged lawmakers

to increase or restore small but vital grants for basic health, education and welfare services.

"In our ICWA [Indian Child Welfare Act] program, currently we have a budget of \$79,000 a year," said Harold Frazier, chairman of the Cheyenne River Sioux, in South Dakota. "We receive over 1,300 requests for assistance annually from 11 states and eight counties in South Dakota. We cannot give the type of attention to these requests that they deserve. Therefore, we are requesting \$558,000."

To university President Bordeaux, federal funding is vital because his desolate reservation has few other options for economic survival. "What's missing is money," he says.

Money is crucial to improving Indians' health, says Dr. Joycelyn Dorscher, director of the Center of American Indian and Minority Health at the University of Minnesota-Duluth. Especially costly are programs to combat diabetes and other chronic diseases, says Dorscher, a Chippewa. While health programs have to be carefully designed to fit Indian cultural patterns, she says, "Everything comes down to time or money in the grand scheme of things."

But with funding from Washington never certain from year to year, says the Harvard Project's Kalt, "The key to economic development has not been federal funding" but rather "tribes' ability to run their own affairs."

For tribes without self-government compacts, growing demands for services and shrinking funding from Washington make keeping the dollars flowing the highest priority. "We're always afraid of more cutbacks," says Oglala Sioux President Fire Thunder.

But an Indian education leader with decades of federal budgetary negotiations acknowledges that problems go beyond funding shortfalls. "If you ask students why they dropped out, they say, 'I don't see a future for myself,'" says David Beaulieu, director

of Arizona State University's Center for Indian Education. "Educators need to tie the purposes of schooling to the broad-based purposes of society. We're more successful when we tie education to the meaning of life."

The University of Arizona's Williams says a tribe's success and failure may be tied more to the way its government is organized than to how much funding it gets.

Williams says the first priority of tribes still using old-style constitutions should be reorganization, because they feature a weak executive elected by a tribal council. "That's what the BIA was used to," he explains. "It could play off factions and families, and the economic system would be based on patronage and taking care of your own family." Under such a system, he adds, "there's not going to be any long-term strategic planning going on."³³

Yet other needs exist as well, says the American Indian Center's Podlasek. "It's so difficult for us to find a place to do a traditional ceremony," he says. "We had a traditional healer in town last month, and he wanted to build a sweat lodge. We actually had to go to Indiana. Doing it in the city wasn't even an option." ■

BACKGROUND

Conquered Homelands

Relations between Indian and non-Indian civilizations in the Americas began with the Spanish Conquistadors' explorations of the 1500s, followed by the French and British. By turns the three powers alternated policies of enslavement, peaceful coexistence and all-out warfare against the Indians.³⁴

By 1830, with the Europeans largely gone, white settlers moved westward into Georgia, Mississippi and Alabama.

Unwilling to share the rich frontier land, they pushed the Indians out. President Andrew Jackson backed the strategy, and Congress enacted it into the Indian Removal Act of 1830, which called for moving the region's five big tribes into the Oklahoma Territory.

If the law didn't make clear where Indians stood with the government, the treatment of Mississippi's Choctaws provided chilling evidence. Under a separate treaty, Choctaws who refused to head for Oklahoma could remain at home, become citizens and receive land. In practice, none of that was allowed, and Indians who stayed in Mississippi lived marginal existences.

Georgia simplified the claiming of Cherokee lands by effectively ending Cherokee self-rule. The so-called "Georgia Guard" reinforced the point by beating and jailing Indians. Jackson encouraged Georgia's actions, and when Indians protested, he said he couldn't interfere. The lawsuit filed by the Cherokees eventually reached the Supreme Court.

Chief Justice John Marshall's 1831 majority opinion, *Cherokee Nation v. Georgia*, would cast a long shadow over Indians' rights, along with two other decisions, issued in 1823 and 1832. "Almost all Indian policy is the progeny of the conflicting views of Jackson and Marshall," wrote W. Dale Mason, a political scientist at the University of New Mexico.³⁵

A National Indian Gaming Association advertisement touts the benefits of tribal gaming operations to American Indian communities. Some 228 tribes in 30 states operated 367 high-stakes bingo halls or casinos in 2004.

In concluding that the court couldn't stop Georgia's actions, Marshall defined the relationship between Indians and the U.S. government. While Marshall wrote that Indians didn't constitute a foreign state, he noted that they owned the land they occupied until they made a "voluntary cession." Marshall concluded the various tribes were "domestic dependent nations." In practical terms, "Their relations to the United States resembles that of a ward to his guardian."³⁶

Having rejected the Cherokees' argument, the University of Arizona's Williams writes, the court "provided no effective judicial remedy for Indian tribes to protect their basic human rights to property, self-government, and

cultural survival under U.S. law."³⁷

Along with the *Cherokee* case, the other two opinions that make up the so-called Marshall Trilogy are *Johnson v. McIntosh* (also known as *Johnson v. McIntosh*), and *Worcester v. State of Georgia*.³⁸

In *Johnson*, Marshall wrote that the European empires that "discovered" America became its owners and had "an exclusive right to extinguish the Indian title of occupancy, either by purchase or by conquest. The tribes of Indians inhabiting this country were fierce savages. . . . To leave them in possession of their country was to leave the country a wilderness."³⁹

However, Marshall used the 1832 *Worcester* opinion to define the limits of state authority over Indian tribes, holding that the newcomers couldn't simply eject Indians.

"The Cherokee nation . . . is a distinct community occupying its own territory . . . in which the laws of Georgia can have no force," Marshall wrote. Georgia's conviction and sentencing of a missionary for not swearing allegiance to the state "interferes forcibly with the relations established between the United States and the Cherokee nation."⁴⁰ That is, the federal government — not states — held the reins of power over tribes.

According to legend, Jackson remarked: "John Marshall has made his decision — now let him enforce it." Between Jackson's disregard of the Supreme Court and white settlers' later manipulation of the legal system to vacate Indian lands, the end result was the dispossession of Indian lands.

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Forced Assimilation

The expulsions of the Native Americans continued in the Western territories — especially after the Civil War. “I instructed Captain Barry, if possible to exterminate the whole village,” Lt. Col. George Green wrote of his participation in an 1869 campaign against the White Mountain Apaches in Arizona and New Mexico. “There seems to be no settled policy, but a general policy to kill them wherever found.”⁴¹

Some military men and civilians didn’t go along. But whether by brute force or by persuasion, Indians were pushed off lands that non-Indians wanted. One strategy was to settle the Indians on reservations guarded by military posts. The strategy grew into a general policy for segregating Indians on these remote tracts.

Even after the Indians were herded onto lands that no one else wanted, the government didn’t respect reservation boundaries. They were reconfigured as soon as non-Indians saw something valuable, such as mineral wealth.

The strategy of elastic reservation boundaries led to the belief — or rationalization — that reservations served no useful purposes for Indians themselves. That doctrine led to a policy enshrined in an 1887 law to convert reservations to individual landholdings. Well-meaning advocates of the plan saw it as a way to inculcate notions of private property and Euro-American culture in general.

All tribal land was to be divided into 160-acre allotments, one for each Indian household. The parcels wouldn’t become individual property, though, for 25 years.

Indian consent wasn’t required. In some cases, government agents tried persuading Indians to join in; in others, the divvying-up proceeded even with many Indians opposed. In Arizona, however, the government backed off from breaking up the lands of the

long-settled Hopis, who resisted attempts to break up their territory. The vast Navajo Nation in Arizona, Utah and New Mexico was also left intact.

While widely reviled, the “forced assimilation” policy left a benign legacy for the affected Indians: the grant of citizenship. Beyond that, the era’s Indians were restricted to unproductive lands, and with little means of support many fell prey to alcoholism and disease.

The bleak period ended with President Franklin D. Roosevelt. In his first term he appointed a defender of Indian culture, John Collier, as commissioner of Indian affairs. Collier pushed for the Indian Reorganization Act of 1934, which ended the allotment program, financed purchases of new Indian lands and authorized the organization of tribal governments that enjoyed control over revenues.

Termination

After World War II, a new, anti-Indian mood swept Washington, partly in response to pressure from states where non-Indians eyed Indian land.

Collier resigned in 1945 after years of conflict over what critics called his antagonism to missionaries proselytizing among the Indians and his sympathies toward the tribes. The 1950 appointment of Dillon S. Myer — fresh from supervising the wartime internment of Japanese-Americans — clearly reflected the new attitude. Myer showed little interest in what Indians themselves thought of the new policy of shrinking tribal land holdings. “I realize that it will not be possible always to obtain Indian cooperation. . . . We must proceed, even though [this] may be lacking.”⁴²

Congress hadn’t authorized a sweeping repeal of earlier policy. But the introduction of dozens of bills in the late 1940s to sell Indian land or liquidate some reservation holdings entirely showed which way the winds were blowing. And

in 1953, a House Concurrent Resolution declared Congress’ policy to be ending Indians’ “status as wards of the United States, and to grant them all of the rights and privileges pertaining to American citizenship.” A separate law granted state jurisdiction over Indian reservations in five Midwestern and Western states and extended the same authority to other states that wanted to claim it.⁴³

The following year, Congress “terminated” formal recognition and territorial sovereignty of six tribes. Four years later, after public opposition began building (spurred in part by religious organizations), Congress abandoned termination. In the meantime, however, Indians had lost 1.6 million acres.

At the same time, though, the federal government maintained an associated policy — relocation. The BIA persuaded Indians to move to cities — Chicago, Denver and Los Angeles were the main destinations — and opened job-placement and housing-aid programs. The BIA placed Indians far from their reservations to keep them from returning. By 1970, the BIA estimated that 40 percent of all Indians lived in cities, of which one-third had been relocated by the bureau; the rest moved on their own.⁴⁴

Activism

Starting in the late 1960s, the winds of change blowing through American society were felt as deeply in Indian Country as anywhere. Two books played a crucial role. In 1969, Vine Deloria Jr., member of a renowned family of Indian intellectuals from Oklahoma, published his landmark history, *Custer Died For Your Sins*, which portrayed American history from the Indians’ viewpoint. The following year, Dee Brown’s *Bury My Heart at Wounded Knee* described the settling of the West also from an Indian point of view. The books astonished many non-Indians. Among young Indians,

Continued on p. 373

Chronology

1800s *United States expands westward, pushing Indians off most of their original lands, sometimes creating new reservations for them.*

1830

President Andrew Jackson signs the Indian Removal Act, forcing the Cherokees to move from Georgia to Oklahoma.

1832

Supreme Court issues the last of three decisions defining Indians' legal status as wards of the government.

1871

Congress makes its treaties with tribes easier to alter, enabling non-Indians to take Indian lands when natural resources are discovered.

Dec. 29, 1890

U.S. soldiers massacre at least 150 Plains Indians, mostly women and children, at Wounded Knee, S.D.

1900-1950s

Congress and the executive branch undertake major shifts in Indian policy, first strengthening tribal governments then trying to force cultural assimilation.

1924

Indians are granted U.S. citizenship.

1934

Indian Reorganization Act authorizes expansion of reservations and strengthening of tribal governments.

1953

Congress endorses full assimilation of Indians into American society, including "relocation" from reservations to cities.

1960s-1980s

In the radical spirit of the era, Native Americans demand respect for their traditions and an end to discrimination; federal government concedes more power to tribal governments, allows gambling on tribal lands.

1969

American Indian Movement (AIM) seizes Alcatraz Island in San Francisco Bay to dramatize claims of injustice.

July 7, 1970

President Richard M. Nixon vows support for Indian self-government.

Feb. 27, 1973

AIM members occupy the town of Wounded Knee on the Pine Ridge, S.D., Sioux Reservation, for two months; two Indians die and an FBI agent is wounded.

1988

Indian Gaming Regulatory Act allows tribes to operate casinos under agreements with states.

1990s *Indian-owned casinos boom; tribal governments push to expand self-rule and reduce Bureau of Indian Affairs (BIA) supervision.*

1994

President Bill Clinton signs law making experimental self-governance compacts permanent.

March 27, 1996

U.S. Supreme Court rules states can't be forced to negotiate casino compacts, thus encouraging tribes to make revenue-sharing deals with states as the price of approval.

June 10, 1996

Elouise Cobell, a member of the Blackfeet Tribe in Montana, charges Interior Department mismanagement of Indian trust funds cheated Indians out of billions of dollars. The case is still pending.

Nov. 3, 1998

California voters uphold tribes' rights to run casinos; state Supreme Court later invalidates the provision, but it is revived by a 1999 compact between the tribes and the state.

2000s *Indian advocates decry low funding levels, and sovereignty battles continue; lobbying scandal spotlights Indian gambling profits.*

2000

Tribal Self-Governance Demonstration Project becomes permanent.

2003

U.S. Commission on Civil Rights calls underfunding for Indians a crisis, saying federal government spends less for Indian health care than for any other group, including prison inmates.

Feb. 22, 2004

Washington Post reports on Washington lobbyist Jack Abramoff's deals with casino tribes.

March 29, 2005

U.S. Supreme Court blocks tax exemptions for Oneida Nation of New York on newly purchased land simply because it once owned the property.

April 5, 2006

Tribal and BIA officials testify in Congress that methamphetamine addiction is ravaging reservations.

Budget Cuts Target Health Clinics

When Lita Pepion, a health consultant and a member of the Blackfeet Nation, learned that her 22-year-old-niece had been struggling with heroin abuse, she urged her to seek treatment at the local Urban Indian Clinic in Billings, Mont.

But the young woman had so much trouble getting an appointment that she gave up. Only recently, says Pepion, did she overcome her addiction on her own.

The clinic is one of 34 federally funded, Indian-controlled clinics that contract with the Indian Health Service (IHS) to serve urban Indians. But President Bush's 2007 budget would kill the \$33-million program, eliminating most of the clinics' funding.

Indians in cities will still be able to get health care through several providers, including the federal Health Centers program, says Office of Management and Budget spokesman Richard Walker. The proposed budget would increase funding for the centers by nearly \$2 billion, IHS Director Charles W. Grim told the Senate Indian Affairs Committee on Feb. 14, 2006.¹

But Joycelyn Dorscher, president of the Association of American Indian Physicians, says the IHS clinics do a great job and that, "It's very important that people from diverse backgrounds have physicians like themselves."

Others, however, including Pepion, say the clinics are poorly managed and lack direction. Ralph Forquera, director of the Seattle-based Urban Indian Health Institute, says that while the clinics "have made great strides medically, a lack of resources has resulted in services from unqualified professionals." In addition, he says, "we have not been as successful in dealing with lifestyle changes and mental health problems."

Many Indian health experts oppose the cuts because Indians in both urban areas and on reservations have more health problems than the general population, including 126 percent more chronic liver disease and cirrhosis, 54 percent more diabetes and 178 percent more alcohol-related deaths.²

Indian health specialists blame the Indians' higher disease rates on history, lifestyle and genetics — not just on poverty. "You don't see exactly the same things happening to other poor minority groups," says Dorscher, a North Dakota Chippewa, so "there's something different" going on among Indians.

In the view of Donna Keeler, executive director of the South Dakota Urban Indian Health program and an Eastern Shoshone, historical trauma affects the physical wellness of patients in her state's three urban Indian clinics.

Susette Schwartz, CEO of the Hunter Urban Indian Clinic in

Wichita, Kan., agrees. She attributes Indians' high rates of mental health and alcohol/substance abuse to their long history of government maltreatment. Many Indian children in the 19th and early 20th centuries, she points out, were taken from their parents and sent to government boarding schools where speaking native languages was prohibited. "Taking away the culture and language years ago," says Schwartz, as well as the government's role in "taking their children and sterilizing their women" in the 1970s, all contributed to Indians' behavioral health issues.

Keeler also believes Indians' low incomes cause their unhealthy lifestyles. Many eat high-fat, high-starch foods because they are cheaper, Pepion says. Growing up on a reservation, she recalls, "We didn't eat a lot of vegetables because we couldn't afford them."

Opponents of the funding cuts for urban Indian health centers also cite a recent letter to President Bush from Daniel R. Hawkins Jr., vice president for federal, state and local government for the National Association of Community Health Centers. He said the urban Indian clinics and community health centers are complementary, not duplicative.

While Pepion does not believe funding should be cut entirely, she concedes that alternative health-care

services are often "better equipped than the urban Indian clinics." And if American Indians want to assimilate into the larger society, they can't have everything culturally separate, she adds. "The only way that I was able to assimilate into an urban society was to make myself do those things that were uncomfortable for me," she says.

But Schwartz believes a great benefit of the urban clinics are their Indian employees, "who are culturally competent and sensitive and incorporate Native American-specific cultural ideas." Because of their history of cultural abuse, it takes a long time for Native Americans to trust non-Indian health providers, says Schwartz. "They're not just going to go to a health center down the road."

Dorscher and Schwartz also say the budget cuts could lead to more urban Indians ending up in costly emergency rooms because of their reluctance to trust the community health centers. "Ultimately, it would become more expensive to cut the prevention and primary care programs than it would be to maintain them," Dorscher says.

— *Melissa J. Hipolit*



Native Americans in downtown Salt Lake City, Utah, demonstrate on April 21, 2006, against the elimination of funding for Urban Indian Health Clinics.

AP Photo/Salt Lake Tribune

¹ Prepared testimony of Director of Indian Health Service Dr. Charles W. Grim before the Senate Committee on Indian Affairs, Feb. 14, 2006.

² Urban Indian Health Institute, "The Health Status of Urban American Indians and Alaska Natives," March 16, 2004, p. v.

Continued from p. 370

the volumes reflected and spurred on a growing political activism.

It was in this climate that the newly formed American Indian Movement (AIM) took over Alcatraz Island, the former federal prison site in San Francisco Bay (where rebellious Indians had been held during the Indian Wars), to publicize demands to honor treaties and respect Native Americans' dignity. The takeover lasted from Nov. 20, 1969, to June 11, 1971, when U.S. marshals removed the occupiers.⁴⁵

A second AIM-government confrontation took the form of a one-week takeover of BIA headquarters in Washington in November 1972 by some 500 AIM members protesting what they called broken treaty obligations. Protesters charged that government services to Indians were inadequate in general, with urban Indians neglected virtually completely.

Another protest occurred on Feb. 27, 1973, when 200 AIM members occupied the village of Wounded Knee on the Oglala Sioux's Pine Ridge Reservation in South Dakota. U.S. soldiers had massacred at least 150 Indians at Wounded Knee in 1890. AIM was protesting what it called the corrupt tribal government. And a weak, involuntary manslaughter charge against a non-Indian who had allegedly killed an Indian near the reservation had renewed Indian anger at discriminatory treatment by police and judges.

The occupation soon turned into a full-blown siege, with the reservation surrounded by troops and federal law-enforcement officers. During several firefights two AIM members were killed, and an FBI agent was wounded. The occupation ended on May 8, 1973.

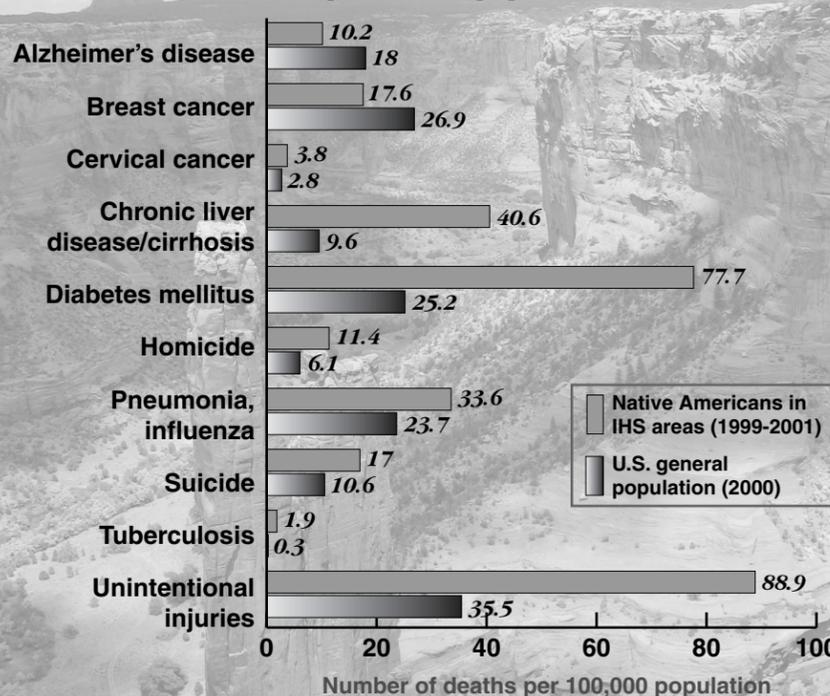
Self-Determination

Amid the surging Indian activism, the federal government was trying to make up for the past by encouraging tribal self-determination.⁴⁶

Disease Toll Higher Among Indians

American Indians served by the Indian Health Service (IHS) — mainly low-income or uninsured — die at substantially higher rates than the general population from liver disease, diabetes, tuberculosis, pneumonia and influenza as well as from homicide, suicide and injuries. However, Indians' death rates from Alzheimer's disease or breast cancer are lower.

Health Status of American Indians*
Compared to General Population
(deaths per 100,000 population)



* Living in areas served by the IHS

Source: "Indian Health Service: Health Care Services Are Not Always Available to Native Americans," Government Accountability Office, August 2005

Background image: Canyon de Chelly, Navajo Nation, Arizona (Navajo Tourism)

In 1975, Congress passed the Indian Self-Determination and Education Assistance Act, which channeled federal contracts and grants directly to tribes, reducing the BIA role and effectively putting Indian communities in direct charge of schools, health, housing and other programs.

And to assure Indians that the era of sudden reversals in federal policy

had ended, the House in 1988 passed a resolution reaffirming the "constitutionally recognized government-to-government relationship with Indian tribes." Separate legislation set up a "self-governance demonstration project" in which eligible tribes would sign "compacts" to run their own governments with block grants from the federal government.⁴⁷

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By 1993, 28 tribes had negotiated compacts with the Interior Department. And in 1994, President Bill Clinton signed legislation that made self-governance a permanent option.

For the general public, the meaning of newly strengthened Indian sovereignty could be summed up with one word: casinos. In 1988, Congress enacted legislation regulating tribal gaming operations. That move followed a Supreme Court ruling (*California v.*

Cabazon) that authorized tribes to run gambling operations. But tribes could not offer a form of gambling specifically barred by the state.

The law set up three categories of gambling operations: Class I, traditional Indian games, controlled exclusively by tribes; Class II, including bingo, lotto, pull tabs and some card games, which are allowed on tribal lands in states that allow the games elsewhere; and Class III, which takes in casino games such as slot machines, roulette and blackjack, which can be offered only under agreements with state governments that set out the size and types of the proposed casinos.

Limits that the Indian Gaming Regulatory Act put on Indian sovereignty were tightened further by a 1996 Supreme Court decision that the Seminole Tribe couldn't sue Florida to force negotiation of a casino compact. The decision essentially forced tribes nationwide to make revenue-sharing deals with states in return for approval of casinos.⁴⁸

Meanwhile, particularly on reservations from Minnesota to the Pacific Northwest, a plague of methamphetamine addiction and manufacturing is



Native American children and adults in the Chicago area keep in touch with their cultural roots at the American Indian Center. About two-thirds of the nation's Indians live in urban areas.

American Indian Center/Warren Perlststein

leaving a trail of death and shattered lives. By 2002, Darrell Hillaire, chairman of the Lummi Nation, near Bellingham, Wash., said that members convicted of dealing meth would be expelled from the tribe.⁴⁹

But the Lummis couldn't stop the spread of the scourge on other reservations. National Congress of American Indians President Garcia said early in 2006: "Methamphetamine is a poison taking Indian lives, destroying Indian families, and razing entire communities."⁵⁰ ■

CURRENT SITUATION

Self-Government

Some Indian leaders are advocating more power for tribal governments as the best way to improve the quality of life on reservations.

Under the Tribal Self-Governance Demonstration Project, made perma-

nent in 1994, tribes can replace program-by-program grants by entering into "compacts" with the federal government, under which they receive a single grant for a variety of services. Some 231 tribes and Alaskan Native villages have compacts to administer a total of about \$341 million in programs. Of the Indian communities now living under compacts, 72 are in the lower 48 states.⁵¹

Under a set of separate compacts, the Indian Health Service has turned over clinics, hospitals and health programs to some 300

tribes and Alaskan villages, 70 of them non-Alaskan tribes.

The self-governance model has proved especially appropriate in Alaska, where the majority of the native population of 120,000 is concentrated in 229 villages, many of them remote, and compact in size, hence well-suited to managing their own affairs, experts say.

Another advantage of Alaska villages is the experience they acquired through the 1971 Alaska Native Claims Settlement Act, which granted a total of \$962 million to Alaska natives born on or before Dec. 18, 1971, in exchange for giving up their claims to millions of acres of land. Villages formed regional corporations to manage the assets. In addition, all Alaska residents receive an annual dividend (\$946 in 2005) from natural-resource royalty income.⁵²

"The emergence of tribal authority is unprecedented in Indian Country's history," says Allen, of the Jamestown S'Klallam Tribe, one of the originators of the self-governance model. "Why not take the resources you have available and use them as efficiently as you can — more efficiently than currently being administered?"⁵³

But the poorer and more populous tribes of the Great Plains and the Southwest have turned down the self-governance model. "They can't afford to do it," says Michael LaPointe, chief of staff to President Rodney Bordeaux of the Rosebud Sioux Tribe. "When you have a lot of poverty and not a lot of economic activity to generate tribal resources to supplement the unfunded mandates, it becomes impossible."

In contrast with the Jameston S'Klallam's tiny membership of 585 people, there are some 24,000 people on the Rosebud Sioux' million-acre reservation. The tribe does operate law enforcement, ambulances and other services under contracts with the government. But it can't afford to do any more, LaPointe says.

A combined effect of the gambling boom and the growing adoption of the self-governance model is that much of the tension has gone out of the traditionally strained relationship between the BIA and tribes. "BIA people are getting pushed out as decision-makers," Kalt says. Some strains remain, to be sure. Allen says he senses a growing reluctance by the BIA to let go of tribes. "They use the argument that that the BIA doesn't have the money [for block grants]," he says.

BIA Director Ragsdale acknowledges that tougher financial-accounting requirements sparked by a lawsuit over Interior Department handling of Indian trust funds are slowing the compact-approval process. (See "Trust Settlement" below.) But, he adds, "We're not trying to hinder self-governance."

Limits on Gambling

Several legislative efforts to limit Indian gaming are pending. Separate bills by Sen. McCain and House Resources Committee Chairman Richard Pombo, R-Calif., would restrict tribes' ability to acquire new land for casinos in more favorable locations.

More proposals are in the pipeline. Jemez Pueblo of New Mexico wants to build a casino near the town of Anthony, though the pueblo is 300 miles away.⁵⁴

In eastern Oregon, the Warm Springs Tribe is proposing an off-reservation casino at the Columbia River Gorge. And in Washington state, the Cowlitz and Mohegan tribes are planning an off-reservation casino near Portland.⁵⁵ The process has been dubbed "reservation shopping."

Under the Indian Gaming Regulatory Act of 1988, a tribe can acquire off-reservation land for casinos when it is:

- granted as part of a land claim settlement;
- granted to a newly recognized tribe as its reservation;
- restored to a tribe whose tribal recognition is also restored; or
- granted to a recognized tribe that had no reservation when the act took effect.

The most hotly debated exemption allows the secretary of the Interior to grant an off-reservation acquisition that benefits the tribe without harming the community near the proposed casino location. Both Pombo and McCain would repeal the loophole created by this so-called "two-part test." Under Pombo's bill, tribes acquiring land under the other exemptions would have to have solid historic and recent ties to the property. Communities, state governors and state legislatures would have to approve the establishment of new casinos, and tribes would reimburse communities for the effects of casinos on transportation, law enforcement and other public services.

McCain's bill would impose fewer restrictions than Pombo's. But McCain would give the National Indian Gaming Commission final say over all contracts with outside suppliers of goods and services.

The bill would also ensure the commission's control over big-time gam-

bling — a concern that arose from a 2005 decision by the U.S. Court of Appeals for the District of Columbia that limited the agency's jurisdiction over a Colorado tribe. The commission has been worrying that applying that decision nationwide would eliminate federal supervision of casinos.

McCain told a March 8 Senate Indian Affairs Committee hearing that the two-part test "is fostering opposition to all Indian gaming."⁵⁶

If the senator had been aiming to soften tribal opposition to his bill, he didn't make much headway. "We believe that it grows out of anecdotal, anti-Indian press reports on Indian gaming, the overblown issue of off-reservation gaming, and a 'pin-the-blame-on-the-victim' reaction to the Abramoff scandal," Ron His Horse Is Thunder, chairman of the Standing Rock Sioux Tribe of North Dakota and South Dakota, told the committee. He argued that the bill would amount to unconstitutional meddling with Indian sovereignty.

But the idea of restricting "reservation-shopping" appeals to tribes facing competition from other tribes. Cheryle A. Kennedy, chairwoman of the Confederated Tribes of the Grand Ronde Community of Oregon, said her tribe's Spirit Mountain Casino could be hurt by the Warm Springs Tribes' proposed project or by the Cowlitz and Mohegan project.⁵⁷

Pombo's bill would require the approval of new casinos by tribes that already have gambling houses up and running within 75 miles of a proposed new one.

The House Resources Committee heard another view from Indian Country at an April 5 hearing. Jacquie Davis-Van Huss, tribal secretary of the North Fork Rancheria of the Mono Indians of California, said Pombo's approval clause would doom her tribe's plans. "This provision is anti-competitive," she testified. "It effectively provides the power to veto another tribe's gaming project simply to protect market share."

Urban Indians: Invisible and Unheard

Two-thirds of the nation's 4.4 million American Indians live in towns and cities, but they're hard to find.¹ "Indians who move into metropolitan areas are scattered; they're not in a centralized geographical area," says New Mexico Secretary of Labor Conroy Chino. "You don't have that cohesive community where there's a sense of culture and language, as in Chinatown or Koreatown in Los Angeles."

Chino's interest is professional as well as personal. In his former career as a television journalist in Albuquerque, Chino, a member of the Acoma Pueblo, wrote an independent documentary about urban Indians. His subjects range from a city-loving San Franciscan who vacations in Hawaii to city-dwellers who return to their reservations every vacation they get. Their lives diverge sharply from what University of Arizona anthropologist Susan Lobo calls a "presumption that everything Indian is rural and long, long ago."²

Indian society began urbanizing in 1951, when the Bureau of Indian Affairs (BIA) started urging reservation dwellers to move to cities where — it was hoped — they would blend into the American "melting pot" and find more economic opportunity and a better standard of living.³

But many found the urban environment oppressive and the government assistance less generous than promised. About 100,000 Indians were relocated between 1951 and 1973, when the program wound down; unable to fit in, many fell into alcoholism and despair.⁴

Still, a small, urban Indian middle class has developed over time, partly because the BIA began systematically hiring Indians in its offices. Indians keep such a low profile, however, that the Census Bureau has a hard time finding them. Lobo, who consulted for the bureau in 1990, recalls that the agency's policy at the time was to register any household where no one answered the door as being in the same ethnic group as the neighbors. That strategy worked with urban ethnic groups who tended to cluster together, Lobo says, but not with Native Americans because theirs was a "dispersed population."

By the 2000 census that problem was resolved, but another one cropped up. "American Indians are ingenious at keeping expenses down — by couch-surfing, for instance," Lobo says. "There's a floating population that doesn't get counted because they weren't living in a standard residence."

But other urban Indians live conventional, middle-class lives, sometimes even while technically living on Indian land. "I am highly educated, a professor in the university, and my gainful employment is in the city of Albuquerque," says Ted Jojola, a

professor of planning at the University of New Mexico (and a member of the Census Bureau's advisory committee on Indian population). "My community [Isleta Pueblo] is seven minutes south of Albuquerque. The reservation has become an urban amenity to me."

Some might see a home on Indian land near the city as a refuge from discrimination. "There have been years where you couldn't reveal you were native if you wanted to get a job," says Joseph Podlasek, executive director of the American Indian Center of Chicago.

Joycelyn Dorscher, president of the Association of American Indian Physicians, recalls a painful experience several years ago when she rushed her 6-year-old daughter to a hospital emergency room in Minneapolis-St. Paul, suspecting appendicitis. The young intern assigned to the case saw an Indian single mother with a sick child and apparently assumed that the daughter was suffering from neglect. "She told me if I didn't sit down and shut up, my daughter would go into the [child-protective] system," recalls Dorscher, who at the time was a third-year medical student.

Even Chino, whose mainstream credentials include an M.A. from Princeton, feels alienated at times from non-Indian city dwellers. He notes that Albuquerque officials ignored Indians' objections to a statue honoring Juan de Oñate, the 16th-century conqueror who established Spanish rule in what is now New Mexico. "Though native people protested and tried to show why this is not a good idea," Chino says, "the city went ahead and funded it."⁵

In the long run, Chino hopes a growing presence of Indian professionals — "we're not all silversmiths, or weavers" — will create more acceptance of urban Indians and more aid to combat high Indian dropout rates and other problems. "While people like having Indians in New Mexico and like visitors to get a feel for the last bastion of native culture," he says, "they're not doing that much for the urban Indian community, though we're paying taxes, too."

¹ Urban Indians were 64 percent of the population in 2000, according to the U.S. Census Bureau. For background, see, "We the People: American Indians and Alaska Natives in the United States," U.S. Census Bureau, 2000, p. 14, www.census.gov/prod/2006pubs/censr-28.pdf.

² "Looking Toward Home," *Native American Public Telecommunications*, 2003, www.visionmaker.org.

³ Donald L. Fixico, *The Urban Indian Experience in America* (2000), pp. 9-11.

⁴ *Ibid.*, pp. 22-25.

⁵ Oñate is especially disliked at Acoma, Chino's birthplace, where the conqueror had the feet of some two-dozen Acoma men cut off in 1599 after Spanish soldiers were killed there. For background, see Wren Propp, "A Giant of Ambivalence," *Albuquerque Journal*, Jan. 25, 2004, p. A1; Brenda Norrell, "Pueblos Decry War Criminal," *Indian Country Today*, June 25, 2004.

Trust Settlement

McCain's committee is also grappling with efforts to set-

tle a decade-old lawsuit that has exposed longstanding federal mismanagement of trust funds. In 1999, U.S. District Judge Royce Lamberth said evidence showed "fiscal and

governmental irresponsibility in its purest form."⁵⁸

The alternative to settlement, McCain and Dorgan told the Budget Committee,

Continued on p. 378

At Issue:

Should tribes open casinos on newly acquired land?



ERNEST L. STEVENS, JR.
CHAIRMAN, NATIONAL INDIAN GAMING ASSOCIATION

FROM STATEMENT BEFORE U.S. HOUSE COMMITTEE ON RESOURCES, NOV. 9, 2005

indian gaming is the Native American success story. Where there were no jobs, now there are 553,000 jobs. Where our people had only an eighth-grade education on average, tribal governments are building schools and funding college scholarships. Where the United States and boarding schools sought to suppress our languages, tribal schools are now teaching their native language. Where our people suffer epidemic diabetes, heart disease and premature death, our tribes are building hospitals, health clinics and wellness centers.

Historically, the United States signed treaties guaranteeing Indian lands as permanent homes, and then a few years later, went to war to take our lands. This left our people to live in poverty, often on desolate lands, while others mined for gold or pumped oil from the lands that were taken from us.

Indian gaming is an exercise of our inherent right to self-government. Today, for over 60 percent of Indian tribes in the lower 48 states, Indian gaming offers new hope and a chance for a better life for our children.

Too many lands were taken from Indian tribes, leaving some tribes landless or with no useful lands. To take account of historical mistreatment, the Indian Gaming Regulatory Act (IGRA), provided several exceptions to the rule that Indian tribes should conduct Indian gaming on lands held on Oct. 17, 1988.

Accordingly, land is restored to an Indian tribe in trust status when the tribe is restored to federal recognition. For federally recognized tribes that did not have reservation land on the date IGRA was enacted, land is put into trust. Or, a tribe may apply to the secretary of the Interior. The secretary consults with state and local officials and nearby Indian tribes to determine whether an acquisition of land in trust for gaming would be in the tribe's "best interest" and "not detrimental to the surrounding community."

Now, legislation would require "newly recognized, restored, or landless tribes" to apply to have land taken in trust through a five-part process. Subjecting tribes to this new and cumbersome process discounts the fact that the United States mistreated these tribes by ignoring and neglecting them, taking all of their lands or allowing their lands to be stolen by others.

We believe that Congress should restore these tribes to a portion of their historical lands and that these lands should be held on the same basis as other Indian lands.



STATE REP. FULTON SHEEN, R-PLAINWELL
MICHIGAN HOUSE OF REPRESENTATIVES

FROM STATEMENT TO U.S. HOUSE COMMITTEE ON RESOURCES, APRIL 5, 2006

the rampant proliferation of tribal gaming is running roughshod over states' rights and local control and is jeopardizing everything from my own neighborhood to — as the Jack Abramoff scandal has demonstrated — the very integrity of our federal political system.

In 1988, Congress passed the Indian Gaming Regulatory Act (IGRA) in an effort to control the development of Native American casinos and, in particular, to make sure that the states had a meaningful role in the development of any casinos within their borders. At that time, Native American gambling accounted for less than 1 percent of the nation's gambling industry, grossing approximately \$100 million in revenue.

Since that time, the Native American casino business has exploded into an \$18.5 billion industry that controls 25 percent of gaming industry revenue. Despite this unbridled growth, IGRA and the land-in-trust process remain basically unchanged.

When Congress originally enacted IGRA, the general rule was that casino gambling would not take place on newly acquired trust land. I believe Congress passed this general rule to prevent precisely what we see happening: a mad and largely unregulated land rush pushed by casino developers eager to cash in on a profitable revenue stream that is not burdened by the same tax rates or regulations that other businesses have to incur. "Reservation shopping" is an activity that must be stopped. And that is just one component of the full legislative overhaul that is needed.

IGRA and its associated land-in-trust process is broken, open to manipulation by special interests and in desperate need of immediate reform. It has unfairly and inappropriately fostered an industry that creates enormous wealth for a few select individuals and Las Vegas interests at the expense of taxpaying families, small businesses, manufacturing jobs and local governments.

Our research shows that while local and state governments receive some revenue-sharing percentages from tribal gaming, the dollars pale in comparison to the overall new costs to government and social-service agencies from increased infrastructure demands, traffic, bankruptcies, crime, divorce and general gambling-related ills.

I do not think this is what Congress had in mind. Somewhere along the way, the good intentions of Congress have been hijacked, and it is time for this body to reassert control over this process. It is imperative that Congress take swift and decisive steps today to get its arms around this issue before more jobs are lost and more families are put at risk.

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Continued from p. 376

is for the case to drag on through the courts. Congressional resolution of the conflict could also spare the Interior Department further grief from Lamberth. In a February ruling, he said Interior's refusal to make payments owed to Indians was "an obscenity that harkens back to the darkest days of United States-Indian relations."⁵⁹

Five months later, Lamberth suggested that Congress, not the courts, may be the proper setting for the conflict. "Interior's unremitting neglect and mismanagement of the Indian trust has left it in such a shambles that recovery may prove impossible."⁶⁰

The court case has its roots in the 1887 policy of allotting land to Indians in an effort to break up reservations. Since then, the Interior Department has been responsible for managing payments made to landholders, which later included tribes, for mining and other natural-resource extraction on Indian-owned land.

But for decades, Indians weren't receiving what they were owed. On June 10, 1996, Elouise Cobell, an organizer of the Blackfeet National Bank, the first Indian-owned national bank on a reservation, sued the Interior Department charging that she and all other trust fee recipients had been cheated for decades out of money that Interior was responsible for managing. "Lands and resources — in many cases the only source of income for some of our nation's poorest and most vulnerable citizens — have been grossly mismanaged," Cobell told the Indian Affairs Committee on March 1.

The mismanagement is beyond dispute, said John Bickerman, who was appointed to broker a settlement. Essentially, Bickerman told the Senate Indian Affairs Committee on March 28, "Money was not collected; money was not properly deposited; and money was not properly disbursed."

As of 2005, Interior is responsible for trust payments involving 126,079

tracts of land owned by 223,245 individuals — or, 2.3 million "ownership interests" on some 12 million acres, Cason and Ross Swimmer, a special trustee, told the committee.

Bickerman said a settlement amount of \$27.5 billion proposed by the Indian plaintiffs was "without foundation." But the Interior Department proposed a settlement of \$500 million based on "arbitrary and false assumptions," he added. Both sides agree that some \$13 billion should have been paid to individual Indians over the life of the trust, but they disagree over how much was actually paid.

Supreme Court Ruling

Powerful repercussions are expected from the Supreme Court's latest decision in a centuries-long string of rulings involving competing claims to land by Indians and non-Indians.

In 2005, the high court said the Oneida Indian Nation of New York could not quit paying taxes on 10 parcels of land it owns north of Utica.⁶¹

After buying the parcels in 1997 and 1998, the tribe refused to pay property taxes, arguing that the land was former tribal property now restored to tribal ownership, and thereby tax-exempt.⁶²

The court, in an opinion written by Ruth Bader Ginsburg, concluded that though the tribe used to own the land, the property right was too old to revive. "Rekindling the embers of sovereignty that long ago grew cold" is out of the question, Ginsburg wrote. She invoked the legal doctrine of "laches," in which a party who waits too long to assert his rights loses them.⁶³

Lawyers on both sides of Indian law cases expect the case to affect lower-court rulings throughout the country. "The court has opened the cookie jar," Williams of the University of Arizona argues. "Does laches only apply to claims of sovereignty over reacquired land? If a

decision favoring Indians is going to inconvenience too many white people, then laches applies — I swear that's what it says." Tribes litigating fishing rights, water rights and other assets are likely to suffer in court as a result, he argues.

In fact, only three months after the high court decision, the 2nd U.S. Circuit Court of Appeals in New York invoked laches in rejecting a claim by the Cayuga Tribe. Vickers of Upstate Citizens for Equality says that if the 2nd Circuit "thinks that laches forbids the Cayugas from making a claim because the Supreme Court said so, you're going to find other courts saying so."

In Washington, Alexandra Page, an attorney with the Indian Law Resource Center, agrees. "There are tribes in the West who have boundary disputes on their reservations; there are water-law cases where you've got people looking back at what happened years ago, so the Supreme Court decision could have significant practical impact. The danger is that those with an interest in limiting Indian rights will do everything they can to expand the decision and use it in other circumstances." ■

OUTLOOK

Who Is an Indian?

If advocates of Indian self-governance are correct, the number of tribes running their own affairs with minimal federal supervision will keep on growing. "The requests for workshops are coming in steadily," says Cyndi Holmes, self-governance coordinator of the Jamestown S'Klallam Tribe.

Others say that growth, now at a rate of about three tribes a year, may be nearing its upper limit. "When you look at the options for tribes to do self-governance, economics really drives whether they can," says LaPointe of the Rosebud

Sioux, whose tribal government doesn't expect to adopt the model in the foreseeable future.

But the longstanding problems of rural and isolated reservations are not the only dimension of Indian life. People stereotypically viewed as tied to the land have become increasingly urban over the past several decades, and the view from Indian Country is that the trend will continue.

That doesn't mean reservations will empty out or lose their cultural importance. "Urban Indian is not a lifelong label," says Susan Lobo, an anthropologist at the University of Arizona. "Indian people, like everyone else, can move around. They're still American Indians."

For Indians, as for all other peoples, moving around leads to intermarriage. Matthew Snipp, a Stanford University sociologist who is half Cherokee and half Oklahoma Choctaw, notes that Indians have long married within and outside Indian society. But the consequences of intermarriage are different for Indians than for, say, Jews or Italians.

The Indian place in American society grows out of the government-to-government relationship between Washington and tribes. And most tribes define their members by what's known as the "blood quantum" — their degree of tribal ancestry.

"I look at it as you're kind of USDA-approved," says Podlasek of the American Indian Center. "Why is no other race measured that way?"

Podlasek is especially sensitive to the issue. His father was Polish-American, and his mother was Ojibway. His own



Harvard Law School graduate Lance Morgan, a member of Nebraska's Winnebago Tribe, used seed money from his tribe's small casino to create several thriving businesses. He urges other tribes to use their casino profits to diversify. "Gaming is just a means to an end," he says.

Ho-Chunk, Inc.

collective survival is historically well-founded. Historian Elizabeth Shoemaker of the University of Connecticut at Storrs calculated that the Indian population of what is now the continental United States plummeted from a top estimate of 5.5 million in 1492 to a mere 237,000 in 1900. Indian life expectancy didn't begin to rise significantly until after 1940.⁶⁴

Now, Indians are worrying about the survival of Indian civilization at a time when Indians' physical survival has never been more assured.

Even as these existential worries trouble some Indian leaders, the living conditions that most Indians endure also pose long-term concerns.

Conroy Chino, New Mexico's Labor secretary and a member of Acoma Pueblo, says continuation of the educational disaster in Indian

wife is Indian, but from another tribe. "My kids can be on the tribal rolls, but their kids won't be able to enroll, unless they went back to my tribe or to their mother's tribe to marry — depending on what their partners' blood quantum is. In generations, you could say that, by government standards, there are no more native people."

Snipp traces the blood-quantum policy to a 1932 decision by the Indian Affairs Commission, which voted to make one-quarter descent the minimum standard. The commissioners were concerned, Snipp says, reading from the commission's report, that thousands of people "more white than Indian" were receiving "shares in tribal estates and other benefits." Tribes are no longer bound by that decision, but the requirement — originally inserted at BIA insistence — remains in many tribal constitutions.

On the Indian side, concern over

Country is dooming young people to live on the margins. "I'm out there attracting companies to come to New Mexico, and these kids aren't going to qualify for those good jobs."

Nevertheless, below most non-Indians' radar screen, the Indian professional class is growing. "When I got my Ph.D. in 1973, I think I was the 15th in the country," says Beaulieu of Arizona State University's Center for Indian Education. "Now we have all kinds of Ph.D.s, teachers with certification, lawyers." And Beaulieu says he has seen the difference that Indian professionals make in his home state of Minnesota. "You're beginning to see an educated middle class in the reservation community, and realizing that they're volunteering to perform lots of services."

In Albuquerque, the University of New Mexico's Jojola commutes to campus from Isleta Pueblo. Chairman

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of an advisory committee on Indians to the U.S. Census Bureau, Jojola shares concerns about use of “blood quantum” as the sole determinant of Indian identity. “A lot of people are saying that language, culture and residence should also be considered,” he says.

That standard would implicitly recognize what many Indians call the single biggest reason that American Indians have outlasted the efforts of those who wanted to exterminate or to assimilate them. “In our spirituality we remain strong,” says Bordeaux of the Rosebud Sioux. “That’s our godsend and our lifeline.” ■

Notes

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About the Author

Peter Katel is a *CQ Researcher* staff writer who previously reported on Haiti and Latin America for *Time* and *Newsweek* and covered the Southwest for newspapers in New Mexico. He has received several journalism awards, including the Bartolomé Mitre Award for drug coverage from the Inter-American Press Association. He holds an A.B. in university studies from the University of New Mexico. His recent reports include “Immigration Reform” and “Rebuilding New Orleans.”

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³⁵ W. Dale Mason, "Indian Gaming: Tribal Sovereignty and American Politics," 2000, p. 13.

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⁴³ The specified states were Wisconsin, Minnesota (except Red Lake), Nebraska, California and Oregon (except the land of several tribes at Warm Springs). For background, see Debo, *op. cit.*, pp. 304-311.

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FOR MORE INFORMATION

Committee on Indian Affairs, U.S. Senate, 838 Hart Office Building, Washington, DC 20510; (202) 224-2251; <http://indian.senate.gov/public>. A valuable source of information on developments affecting Indian Country.

Harvard Project on American Indian Economic Development, John F. Kennedy School of Government, 79 John F. Kennedy St., Cambridge, MA 02138; (617) 495-1480; www.ksg.harvard.edu/hpaied. Explores strategies for Indian advancement.

Indian Health Service, The Reyes Building, 801 Thompson Ave., Suite 400, Rockville, MD 20852; (301) 443-1083; www.ihs.gov. One of the most important federal agencies in Indian Country; provides a wide variety of medical and administrative information.

National Coalition Against Legalized Gambling, 100 Maryland Ave., N.E., Room 311, Washington, DC 20002; (800) 664-2680; www.ncalg.org. Provides anti-gambling material that touches on tribe-owned operations.

National Indian Education Association, 110 Maryland Ave., N.E., Suite 104, Washington, DC 20002; (202) 544-7290; www.niea.org/welcome. Primary organization and lobbying voice for Indian educators.

National Indian Gaming Association, 224 Second St., S.E., Washington, DC 20003; (202) 546-7711; www.indiangaming.org. Trade association and lobbying arm of the tribal casino industry.

Self-Governance Communication and Education Tribal Consortium, 1768 Iowa Business Center, Bellingham, WA 98229; (360) 752-2270; www.tribalselfgov.org. Organizational hub of Indian self-governance movement; provides a wide variety of news and data.

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The Next Step:

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Walker, Cheryl, "Charter School Helps Indian Students Succeed," *The San Diego Union-Tribune*, July 23, 2005, p. N16.

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Methamphetamine

McKosato, Harlan, "Reservations Are Targets of Meth, More," *The Santa Fe New Mexican*, Feb. 19, 2006, p. F1.

The former host of the nationwide radio show, "Native America Calling," compares methamphetamine use on reservations to crack cocaine use in the inner city.

Murr, Andrew, "A New Menace on the Rez," *Newsweek*, Sept. 27, 2004, p. 30.

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Riley, Michael, "A Mexican Drug Gang Infiltrates an Alcoholism-Riddled Wyoming Indian Reservation to Sell a New Addiction," *The Denver Post*, Nov. 6, 2005, p. A1.

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Tribal Sovereignty

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The Supreme Court ruled that tribes now have the authority to prosecute members of other tribes for crimes committed on their reservations.

Hecox, Walter, and Rebecca Schild, "Western Tribes Recapturing Control Over Their Lives," *The Denver Post*, June 19, 2005, p. E1.

Indian individuals and tribes are increasingly exercising their sovereign authority in areas of culture and language, social and political conditions and the environment, according to the Colorado College State of the Rockies Project.

The Associated Press, "Gregoire, 2 Tribes Reach Agreement on Tax Collection," *The Seattle Times*, Jan. 27, 2006, p. B5.

Gov. Christine Gregoire, D-Wash., and two tribes agreed that the state will continue to collect gas taxes on the tribes' reservations despite a recent District Court ruling that it would infringe on their tribal sovereignty.

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