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American Indians

Are They Making Meaningful Progress at Last?

Peter Katel



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.

From *CQ Researcher*,
April 28, 2006.

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 unimaginable 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.

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

"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

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:

- 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.

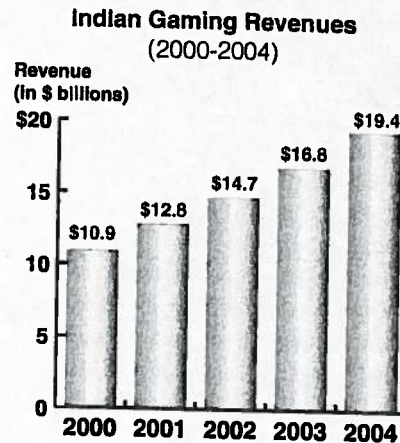
But the abysmal conditions under which many American Indians live make it all too clear that isn't enough, Indians say. "This is always a discussion at our tribal leaders' meetings," says Cecilia Fire Thunder, president of the Oglala Sioux Tribe in Pine Ridge, S.D. "The biggest job that tribal leaders 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. 134).

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

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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

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

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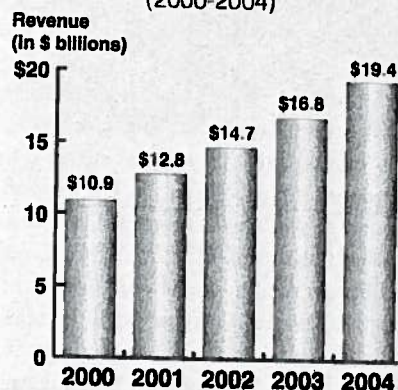
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Indian Gaming Revenues
(2000-2004)



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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

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 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 tradeoffs 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

Debate

concluded. "Efforts to bring Native Americans up to the standards 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."

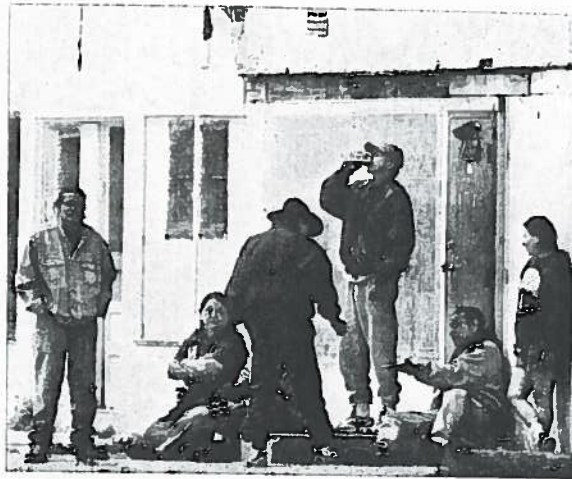
The commission found, for example, that in 2003 the Indian Health Service appropriation amounted to \$2,533 per capita — below even the \$3,803 per capita appropriated for federal prisoners.

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 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.



AP Photo/William Lauer

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.

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. 126.) The administration argues that the services were 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.

Q "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."

res 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 competition

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 Potawatami Indians Tribe in the Lake Michigan town of New Buffalo, where Thomas and her husband operate a small resort.

Q "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 William: "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."

Q "There's no question that some of the money has been used for worthwhile purposes," concedes Gu Clark, a Corrales, N.M., dentist who chairs the Nation Coalition Against Legalized Gambling. But, he adds, "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 Winnebagoes, payments amount to just a few hundred dollars, says CEO Morg. What bothers him are dividends "that are just big enough that you don't have to work or get educated — \$20,000 to \$40,000."

But there's no denying the impact casinos can have. At a January public hearing on the Oneida Indian Nation's attempt to put 17,000 acres of up-

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."

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.

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

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

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.

Research Task Abramoff

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,

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.

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

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



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

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

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.

seems to be no settled policy, but a general policy to kill them wherever found."¹¹

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,