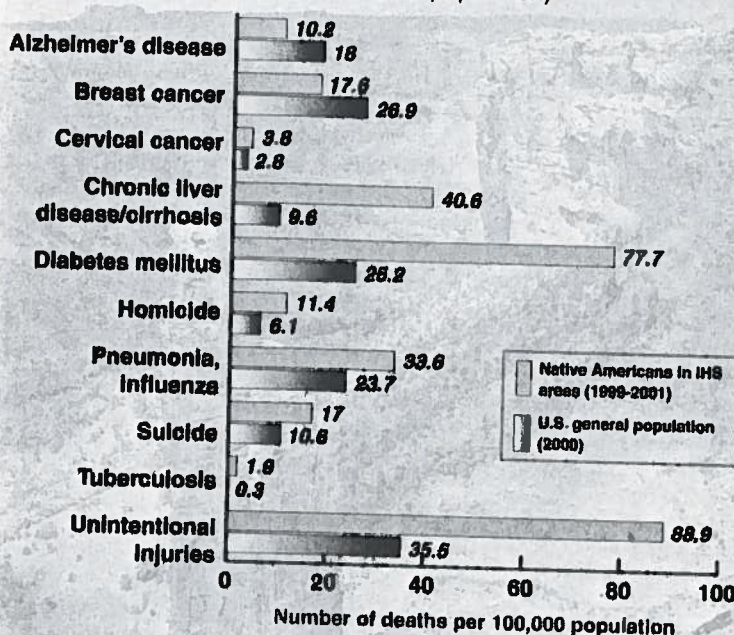


Disease Toll Higher Among Indians

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 2006

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

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, 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



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 Perlestein

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

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

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 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 permanent 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" on p. 134.) 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 gambling — 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

L → Nebraska

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/cenr-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.

AT ISSUE

Should tribes open casinos on newly acquired land?

YES**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.

NO**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.



Ho-Chunk, Inc.

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. "Gambling is just a means to an end," he says.

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."

Trust Settlement

McCain's committee is also grappling with efforts to settle 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, 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 unrelenting 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 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 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 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 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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2. For background see Phil Two Eagle, "Rosebud Sioux Tribe, Demographics," March 25, 2003, www.rosebudsiouxtribe-nsn.gov/demographics.
3. "American Indian Population and Labor Force Report 2003," p. ii, Bureau of Indian Affairs, cited in John McCain, chairman, Senate Indian Affairs Committee, Byron L. Dorgan, vice chairman, letter to Senate Budget Committee, March 2, 2006, http://indian.senate.gov/public/_files/Budget5.pdf.
4. Jonathan B. Taylor and Joseph P. Kalt, "American Indians on Reservations: A Databook of Socioeconomic Change Between the 1990 and 2000 Censuses," Harvard Project on American Indian Economic Development, January 2005, pp. 8-13; www.ksg.harvard.edu/hpaied/pubs/pub_151.htm. These data exclude the Navajo Tribe, whose on-reservation population of about 175,000 is 12 times that of the next-largest tribe, thus distorting comparisons, Taylor and Kalt write.
5. *Ibid.*, p. 41.
6. McCain and Dorgan, *op. cit.*
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- Morbidity and Mortality Weekly Report*, Centers for Disease Control and Prevention, Aug. 1, 2003, www.cdc.gov/mmwr/preview/mmwrhtml/mm5230a2.htm#top.
8. Robert McSwain, deputy director, Indian Health Service, testimony before Senate Indian Affairs Committee, April 5, 2006.
 9. *Ibid.*, p. xii.
 10. Taylor and Kalt, *op. cit.*
 11. *Ibid.*, pp. 28-30.
 12. *Ibid.*, pp. 22-24.
 13. The decision is *Cherokee Nation v. Georgia*, 30 U.S. 1 (1831), <http://supreme.justia.com/us/30/1/case.html>.
 14. Alan Meister, "Indian Gaming industry Report," Analysis Group, 2006, p. 2. Publicly available data can be obtained at, "Indian Gaming Facts," www.indiangaming.org/library/indian-gaming-facts; "Gaming Revenues, 2000-2004," National Indian Gaming Commission, www.nigc.gov/TribalData/GamingRevenues20042000/tabid/549/Default.aspx.
 15. The ruling is *California v. Cabazon Band of Mission Indians*, 480 U.S. 202 (1987), <http://supreme.justia.com/us/480/202/case.html>.
 16. For background, see Susan Schmidt and James V. Grimaldi, "The Rise and Steep Fall of Jack Abramoff," *The Washington Post*, Dec. 29, 2005, p. A1. On March 29, Abramoff was sentenced in Miami to 70 months in prison after pleading to fraud, tax evasion and conspiracy to bribe public officials in charges growing out of a Florida business deal. He is cooperating with the Justice Department in its Washington-based political-corruption investigation. For background see Peter Katel, "Lobbying Boom," *CQ Researcher*, July 22, 2005, pp. 613-636.
 17. Meister, *op. cit.*, pp. 27-28. For additional background, see John Cochran, "A Piece of the Action," *CQ Weekly*, May 9, 2005, p. 1208.
 18. For background, see, "A Quiet Crisis: Federal Funding and Unmet Needs in Indian Country," U.S. Commission on Civil Rights, July, 2003, pp. 32, 113. www.usccr.gov/pubs/na0703/na0731.pdf.
 19. Ryan Wilson, "State of Indian Education Address," Feb. 13, 2006, www.niea.org/history/SOIEAddress06.pdf.
 20. For background see, Barbara Mantel, "No Child Left Behind," *CQ Researcher*, May 27, 2005, pp. 469-492.
 21. McCain and Dorgan, *op. cit.*, pp. 14-15.
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40. *Worcester v. State of Ga.*, *op. cit.*
41. Quoted in Debo, *op. cit.*, pp. 219-220.
42. Quoted in *ibid.*, p. 303.
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For More Information

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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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