# Case

## Nuclear Waste Dumping

#### The United States federal government should the dumping of nuclear waste in the United States

#### The United States federal government should lift the ban on reprocessing of spent nuclear fuel.

#### Reprocessing is key to eliminating nuclear waste and storage facilities

Carolyn D. Heising (professor of Industrial, Mechanical and Nuclear Engineering at Iowa State University in Ames) 10/26/11

(“”Recycling nuclear waste makes sense for energy future”, <http://thegazette.com/2011/10/26/recycling-nuclear-waste-makes-sense-for-energy-future/>) chip

Nuclear-waste management would be in much better shape now if the recycling of used fuel from power reactors had never been banned 35 years ago. So why not lift the ban? Recycling this energetically valuable material would significantly reduce the volume and toxicity of nuclear waste and extend uranium supplies for hundreds of years. Yet one answer still heard is the same one that was given in 1976 when President Jimmy Carter put an end to the recycling of valuable materials left over from the production of electricity at U.S. nuclear power plants. One of those materials, plutonium, if it fell into the wrong hands, could be used to build a nuclear weapon. But France, Great Britain and Japan have continued to recycle used fuel, and no plutonium has ever been diverted from their reprocessing facilities. Thanks to such recycling, France gets 80 percent of its electricity from nuclear energy, compared to 19 percent in the United States, and it has the lowest per-capita carbon emissions among industrial nations. Rather than continue to store used fuel at dozens of nuclear plant sites around the United States, the U.S. government should lift its ban on nuclear recycling and demonstrate the use of advanced recycling technology. In this process, plutonium is extracted from used-fuel rods and chemically converted into a so-called mixed-oxide (MOX) fuel for use in power reactors. The best place for such a facility would be at the Savannah River Site in South Carolina, where a used-fuel recycling facility had been planned before the ban was imposed and where a plant for reprocessing weapons-grade plutonium into MOX fuel for power reactors is under construction. Almost all of the used fuel in a power reactor can be recycled, but not all. Developing a deep-geologic repository for any long-lived waste that cannot be reused would still be necessary, but there would be much less waste to dispose of. Instead of multiple repositories, we would need only to complete the Yucca Mountain facility in Nevada, a project that President Obama canceled last year for political reasons. A new used-fuel recycling facility — designed for safety and proliferation resistance — would allow the United States to make full productive use of nuclear energy. Such a facility would cut disposal costs and eliminate the need to mine uranium, which itself is environmentally damaging. It would mean not having to store used fuel in water pools and above-ground dry casks indefinitely. Such casks are already in use in Iowa, where 420 metric tons of used fuel from Palo’s Duane Arnold nuclear plant is stored. Though used fuel is being stored safely, nuclear plants were designed to produce electricity, not to store waste indefinitely. Failure to remove the ban on recycling — and complete the Yucca Mountain project — will require even more used fuel to be stored above ground and might force some plants to close prematurely. The result would be electricity shortages or increased use of fossil fuels for power production, causing even greater quantities of toxic pollutants and carbon emissions to be spewed into the air.

#### More solvency evidence

Nolan E. Hertel (professor of nuclear and radiological engineering at the Georgia Institute of Technology) 5/16/11

(“Nuclear recycling  will reduce risk of stockpiled fuel”, <http://www.ajc.com/opinion/pro-con-should-u-948063.html>) chip

By now there should be no doubt that something ought to be done to remove the ever-increasing amount of spent fuel at nuclear power plants across the United States. If the need to resolve the nuclear waste problem wasn’t evident before, then the threat of release of spent  fuel radiation from Japan’s disabled nuclear plant has made it imperative now. The solution lies with the U.S. Department of Energy. It needs to move the spent fuel from nuclear power plants to a central location for interim storage, as Congress has directed it to do. But in the meantime, the government needs to lift a decades-old ban on the use of reprocessing technology to recycle spent fuel. France, which gets 80 percent of its electricity from nuclear power, recycles its used fuel. More than a dozen other countries, including Great Britain, Russia and Japan, also utilize it. In the mid-1970s, then-President Jimmy Carter banned U.S. use of the technology on grounds that it would contribute to nuclear proliferation. Now we’re seeing the results of that ill-advised ban. There is 2,410 metric tons of spent fuel stored at the Hatch and Vogtle nuclear plants in Georgia — and the amount is rising each year. Altogether, more than 62,500 tons is kept at nuclear plant sites across the U.S. Spent fuel is not waste. If not for the ban on recycling, valuable uranium and plutonium could be extracted and chemically reprocessed to make a mixed-oxide fuel for use in reactors to generate additional electricity. Reprocessing is safe and reliable. Despite concerns that separated plutonium from recycling could wind up in the hands of rogue governments or terrorist groups, tight safeguards have prevented any diversion of the nuclear material for weapons production. A blue-ribbon commission of nuclear experts on nuclear-waste management, which was created earlier this year after President Barack Obama terminated the Yucca Mountain project, is considering the revival of recycling. The commission is expected to mobilize our national laboratories for a research effort to develop advanced technologies that increase the value of recycling. Though an abundance of global uranium resources has reduced the commercial appeal of recycling in the near term, the need for it is expected to grow in the years ahead as construction moves along on dozens of nuclear power plants around the world. Therefore, now is the time to establish a national policy in support of nuclear recycling, so that we can obtain the full benefits of spent fuel and not continue to store such valuable material as if it’s nuclear waste. Those who insist that spent fuel can be stored safely at nuclear plant sites — and claim there’s no need to move it to a central location — ignore that nuclear plants were designed to generate electricity, not serve as waste repositories. Who would benefit if nothing is done? Certainly not the consumer. The sheer magnitude of the increased production of spent fuel would dictate an increased cost for nuclear waste management. This would tend to increase the cost of electricity, would not increase energy production, would not improve the environment, but probably would hamper nuclear power’s growth. Transporting the spent fuel to a national site for eventual reprocessing, on the other hand, could make a big difference.

## Solvency

#### It would take at least 28 years to solve

Rickert (Editor-in-chief in Native Currents) 2011 (Levi, “Senators told: “Roads in Indian Country Are Not Safe””, <http://www.nativenewsnetwork.com/senators-told-roads-in-indian-country-are-not-safe.html>)

"Roads in Indian Country are not safe," testified Tribal Chairman Charles W. Murphy of the Standing Rock Sioux Tribe before the US Committee on Indian Affairs on Thursday during the "Transportation: Paving the Way for Jobs, Infrastructure, and Safety in Native Communities" hearing. That message was heard over and over by those who made testimony. "Many resemble those found in developing countries; not the most powerful nation in the world. The United States must help Indian Country recover its lost transportation infrastructure," continued Chairman Murphy. Two-thirds of roads on Indian reservations are unpaved. Twenty-seven percent bridges have been deemed structurally deficient. Floods, snow and other natural disasters have made roads and bridges worse on several reservations in Indian Country. It would take 28 years of continuous development and repairs to bring roads in Indian Country up to where they need to be. The lack of funding contributes to the transportation disparity in Indian Country.

#### Governmental disagreement impede transportation development

RTC: Rural (Research and training center on disability in rural communities) 2002 (“Tribal Transportation: Barriers and Solutions”, <http://rtc.ruralinstitute.umt.edu/Indian/Factsheets/transportation.htm>)

In addition to physical barriers, not all tribes enjoy cooperative relationships with the states in which they are located. Issues of sovereignty and jurisdiction, including land and water issues, can cloud state and tribal relations. In addition to relationships with the state, tribes must also interact with the federal government, the [Bureau of Indian Affairs](http://www.doi.gov/bureau-indian-affairs.html) (BIA), county and local governments, as well as their own tribal councils. Strained relationships with any of these entities can pose a barrier as a tribe attempts to create or improve a transportation system on its reservation.

## Waste Dumping

#### No permanent nuclear storage

Jeffrey and Johnsson (Reporter for Bloomberg, and reporter for Chicago Tribune) 2012 (Don and Julie, “Nuclear Waste Storage Rules Thrown Out by U.S. Court”,

<http://www.bloomberg.com/news/2012-06-08/nuclear-waste-storage-rules-thrown-out-by-u-s-court.html>)

[The U.S. Nuclear Regulatory Commission](http://www.nrc.gov/) failed to fully evaluate risks associated with its regulations on the storage of spent nuclear fuel and must draft new ones, an appeals court ruled. The commission’s conclusion that permanent storage will be available in the future when it’s needed didn’t account for how its absence could affect the environment now, the [U.S. Court of Appeals](http://topics.bloomberg.com/u.s.-court-of-appeals/) in Washington said today in deciding a lawsuit brought by [New York](http://topics.bloomberg.com/new-york/) state. The commission also failed to fully assess the dangers of storing spent fuel onsite for 60 years after a nuclear plant’s license expires, the court said. “The commission’s evaluation of the risks of spent nuclear fuel is deficient,” Chief Judge David Sentelle wrote for the three-judge panel. Spent fuel “poses a dangerous long-term health and environmental risk.” Spent nuclear fuel refers to fuel rods that, after four to six years of use in a reactor, are no longer efficient at producing energy, according to the court filing. The rods, which still emit dangerous radiations, are transferred to deep-water pools for cooling. They may then be sent to dry storage in concrete and steel casks at the site of the reactor. Onsite storage is the industry’s only option “due to the government’s failure to establish a final resting place,” Sentelle said.

#### All nuclear waste is stored onsite of the nuclear facility

Jeffrey and Johnsson (Reporter for Bloomberg, and reporter for Chicago Tribune) 2012 (Don and Julie, “Nuclear Waste Storage Rules Thrown Out by U.S. Court”,

<http://www.bloomberg.com/news/2012-06-08/nuclear-waste-storage-rules-thrown-out-by-u-s-court.html>)

The U.S. nuclear power industry’s 104 reactors produce about 2,000 to 2,300 metric tons of waste a year, all of which is stored onsite, according to the [Nuclear Energy Institute](http://topics.bloomberg.com/nuclear-energy-institute/). While debate has simmered in Washington for four decades over how to dispose of spent fuel, the industry has generated about 67,500 metric tons of high-level radioactive waste stored at about 75 closed and operating nuclear plant sites, according to the Nuclear Energy Institute. Republicans in Congress want the Obama administration to revive a waste facility in Yucca Mountain that was built, but never licensed, after receiving about $15 billion in industry and government funding. The administration scrapped the Nevada repository, about 100 miles (161 kilometers) northwest of [Las Vegas](http://topics.bloomberg.com/las-vegas/), because of opposition in the state led by Senate Majority Leader [Harry Reid](http://topics.bloomberg.com/harry-reid/), a Democrat. With no other prospects for long-term storage, the NRC began drafting rules to ensure fuel could continue to be stored safely onsite at nuclear plants. Concerns about the accumulating waste was heightened last year after a spent-fuel pool at one unit of the crippled Fukushima Dai-Ichi nuclear station in [Japan](http://topics.bloomberg.com/japan/) ignited when water boiled away amid a [power failure](http://topics.bloomberg.com/power-failure/). A commission created by President [Barack Obama](http://topics.bloomberg.com/barack-obama/) in 2010 bolstered the case for Yucca Mountain by recommending in January that the government lay the groundwork for central storage and revamp a $27 billion fund to pay for nuclear waste disposal. As for onsite storage, the NRC’s analysis of the environmental impact was “conducted in generic fashion,” Sentelle wrote. The petitioners, which besides New York include [New Jersey](http://topics.bloomberg.com/new-jersey/),[Vermont](http://topics.bloomberg.com/vermont/) and [Connecticut](http://topics.bloomberg.com/connecticut/), as well as the Prairie Island Indian community and environmental groups, argued environmental effects should have been studied on a site-by-site basis. It’s unclear whether a change in leadership at NRC will aid efforts to resolve the issue. [Gregory Jaczko](http://topics.bloomberg.com/gregory-jaczko/), who resigned as commission chairman on May 21, had directed the agency to wind down its work on the Yucca project. Allison Macfarlane, a geologist and expert on atomic waste selected as Jaczko’s successor, has questioned the suitability of Yucca Mountain as a proposed dump site.

#### **Focus on the nuclear war waged against indigenous people undermines global attempts to prevent nuclear war**

J Truman (atomic activist) 5/30/1998

(“Thinking about the Unthinkable: Nuclear War in South Asia”, <http://www.ratical.org/ratville/nukes/JTruman/053098_1.html>) chip

Here in this country, the "Environmentalists" insist on playing the same "indigenous peoples card", instead of dealing with the awful reality that fallout from nuclear testing is color and ethnic -blind -- it is an equal opportunity victimizer and kills whoever and wherever it goes! Why is this the real problem? Simply because fallout worldwide from testing killed likely on the order of tens of millions to date, and millions more injured who are not yet dead from it. Wholesale mass murder is what it is, and the public "needs" to know that right now! Especially when they "ALL" no matter who they are, where they live, how they live, or what color they are, Are already its victims. Only by realizing that and all that goes with it, is there "any" hope the public here, or worldwide will stand up to their governments and say no before those governments blow them up at the worst, or use this as a "wonderful" excuse to get back to nuclear weapons development business as usual! Likewise the activist community has got to stop playing organizational politics, and stop playing the race card. The movement can no longer play the indigenous peoples game simply because it is more "PC" and most specifically because it is "more fundable". To say nuclear testing's victims have always been indigenous peoples is not only incorrect, but is a sign of total stupidity on the issue, as the only indigenous people victimized by the testing was -- and are -- the human race! And the human race better get that point real soon and come to terms with the fact that on that one level at least we all share one thing in common on this planet. We all carry a little bit of the Nevada Test Site, the Semipalatinsk Test Site, The Lop Nor Test Site, the British and French Test Sites and soon perhaps the Indian and Pakistan Test Sites inside all our bodies. This does not mean that what happened to people forced from their homes -- first for the factories, then for the testing sites, or the reasons why testing sites were put where they were -- are not important, or are insignificant, or to excuse examples of environmental and atomic racism. They are all too clear examples of the utter sickness present in the minds of those responsible. Pick on those least able to defend themselves first and then slowly and steadily expand the circle to those you don't really give a damn about! Just like Joe Stalin, Adolf Hitler, Jim Crow, or George Armstrong Custer! Those stories and those histories and those facts must be exposed and justice demanded right along with ALL the rest of the terrible legacy of nuclear testing. All it means is that to stop the nuclear arms race the truth has to come out, the full truth, the complete truth, and not a truth focused to look better organizationally or politically. Because if it is, it only plays into the hands of those responsible for the testing in the first place, and is a "god-send" to them in helping to minimize the open public exposure of the full extent of the horrors they unleased. No group of victims is better, more worthy, less worthy, or better to focus and raise funds on. We are all one race -- the human race -- and we are all testing's victims. That is the one truth that when our race knows it, we will truly be free and no more, never ever again, will those damned tall mushrooms and their deadly spores carried on the winds to sicken, kill and mame, be allowed to grow anywhere on this planet we all share as home!

## Poverty

#### Native Americans are only poor in the capitalist perspective- attempts to make them “rich men” only accelerate assimilation and undermine cultural sovereignty

Karin Mika (Legal Writing Professor of Law @ Cleveland-Marshall College of Law) 1995

(25 N.M. L. Rev. 34, “Private Dollars on the Reservation: Will Recent Native American Economic Development Amount to Cultural Assimilation”, <http://heinonline.org/HOL/Page?handle=hein.journals/nmlr25&id=29&collection=journals&index>=) chip

Native American reservations are some of the most poverty-stricken areas in the country and, in the majority of situations, largely lack either an economic base or a plan upon which to build a future.69 Reasons for this situation are numerous and complex. Many of these reasons can be traced back to the distinctive social nature of the Native American tribe- a culture that has been historically non-property oriented, and somewhat isolationist in terms of maintaining the integrity and independence of tribal sovereignty.70 Other reasons clearly stem from the "underdevel- opment, powerlessness, dependency, and expropriation'71 Native Amer- icans have had to endure at the hands of historic federal policies. There has never been the opportunity to develop solidly in one way or another and the result has been fragmentation. Poverty has been exacerbated by lack of uniform leadership. Leadership has been hindered by the decline of social morale and lack of incentive to change the situation.72 In recent years, there has been increased development on reservation lands, and this development has occurred due primarily to both economic and cultural compromise with the world outside the reservation.73 The first compromise allows industry on reservations, when the capitalistic principle of industry and commercial enterprise is arguably incongruous with Native American culture.74 The second compromise allows any type of industry on reservation land that is funded in whole or in part by non-Indian dollars, which contradicts Native Americans' strong interest in sovereignty." With respect to the first compromise, the primary money-maker for tribes in recent years has been casino gambling.76 Bingo and other forms of gaming had their genesis because of the special tax-exempt status of tribal sovereignties and received validation from the United States Supreme Court77 and Congress.78 Both the Court and Congress recognized that reservations without natural resources could develop few other sources of revenue. Although incongruous with the "noble savage" depiction of Justice John Marshall, many casinos have made the difference between a poverty-stricken and flourishing economy.79 The second compromise comes via joint agreements that tribes enter into with commercial enterprises outside the reservation. Joint leases have been encouraged and supervised by the federal government for a large part of the last fifty years, suggesting a continuation of the federal government's forced assimilation policy.80 Joint leases, which have been the impetus for projects such as the one at Mission Viejas, theoretically afford reservations the opportunity to invite commercial development through private dollars while still retaining the benefit of the profits from such ventures. Many lease agreements are for mining or other resource extraction,81 and these have, like gaming, fostered the modernization of reservation living.82 Neither joint-lease agreements nor casinos have proven to be the cure- all for reservation economies, nor for the overall self-determination and morale of every Native American tribe in the United States. Since the attractiveness of a reservation is often an accident of geography, reser- vations rich in resources might thrive through joint leases while reser- vations without natural resources remain destitute.3 Reservations located in remote areas of the country have little opportunity to compete for private enterprises.84 Even the success of casinos is related to geography. While those casinos situated near urban settings are successful, casinos situated in remote areas lag far behind in profits, and consequently, in modernization of reservation communities.85 In addition, conflicting tribal goals have also impeded reservation economic development.86 While a desire to raise the standard of living on reservations has always existed, relations with the "white man" have understandably been strained. Tribes disagree on how much cultural purity will be compromised by "nontraditional" enterprises if outside entities are allowed to develop businesses on reservation lands.7 Definitions of cultural purity have ranged from extreme reluctance to switch from a sustenance agrarian economy to a more modern point of view that does not want to improve reservation economies through the use of private non-Indian dollars.8 Moreover, many Native Americans still live tradi- tional lifestyles with an emphasis on ecological preservation.89 For these Native Americans, the problem is not outside industry on the reservation but the type of industry that will operate on the reservation.9Â° Conflicting goals and definitions of potential economic development have caused friction within the tribes, which has hindered any attempts to resolve these conflicts.9' Despite this, the Mission Viejas project and those of tribes similarly situated provide some indication of what the future holds for reservation economies.

#### Native American poverty from assimilation

Meyer Weinberg (B.A. (1942) and M.A. (1945) degrees at the University of Chicago, taught at Wright Junior City College in Chicago for many years, and became Professor of History at City College, Chicago, in 1971. He was Director of the Center for Equal Education at Northwestern University from 1972 to 1978. In 1978, he was appointed Professor in the School of Education at the University of Massachusetts in Amherst, then Professor in the W. E. B. Du Bois Department of Afro-American Studies. He was Director of the Horace Mann Bond Center for Equal Education at the university from 1978 to 1990, and Professor Emeritus, 1990-92. He was the first holder of the Veffie Milstead Jones Chair in Multicultural Education at California State University (Long Beach), from 1992-94) 2002

(“A Short History of American Capitalism”, <http://www.newhistory.org/CH02.htm>) chip

Native Americans civilized the western hemisphere thousands of years ago. With no predecessors to show the way, these pioneers depended wholly on their own resourcefulness. Unaided, they fashioned societies and cultures, technologies and means of production, roads and dwellings. None of their successors faced comparable obstacles. A profound communalism marked the societies they constructed. Rights of ownership or use of items of everyday living such as food and fuel lay in the groups rather than in individuals. All able members contributed their labor to common tasks. And all had a valid claim on the group's supply of daily necessities. A principle of sharing rather than individual accumulation of wealth permeated their economic life. Virtually everywhere in Native America prosperity for some and poverty for others was unthinkable. Kinship apportioned life's goods and burdens Economic power was almost unknown in Native society. Everyday economic life did not produce differential holdings of individual wealth which could then lead to widespread subordination of many to a few. On the other hand, before 1492 some Native societies were quite familiar with social inequality, rank, and in some cases, slavery. America's initial non-Native economy was based on conquest over the Indians. It was a plunder economy. By severely excluding Native Americans from its enjoyment, Americans made the land into a central means of production for the continent's first bourgeois society. The rule of unequal private property replaced communal purpose and the standard of social inequality entered into American life. It never departed. Deprived of their historic land holdings, Indians also lost control of their traditional livelihood. Agriculture, hunting, and gathering all required land, the principal means of production. They could continue to fashion various productive implements such as spades for digging but these could not be employed without access to land. The same held true for animal traps and other technology. Thus, if they were to remain in their traditional areas of the country, their only alternative was to work for the new owners of the land. In other words, they would become proletarians. Charles Tilly explains that "proletarianization is the set of processes that increases the number of people who lack control over the means of production and who survive by selling their labor power." 1 The new owners of the land could earn profit simply from holding onto the land and speculating on future rises in its value.

#### Econ security is impossible

Steve Olson (a US writer who specializes in science, mathematics, and public policy, writes @ the Atlantic Monthly, the Smithsonian, Science, Scientific American, Wired, the Yale Alumni Magazine, the Washingtonian, Slate, and Paste) 8/10/2007

(“The Paradox in Maslow’s Hierarchy of Needs”, <http://steve-olson.com/the-paradox-in-maslow%E2%80%99s-hierarchy-of-needs/>) chip

You’ll notice that safety is near the foundation of the pyramid. This includes security of employment and resources. So it appears Maslow believed the need for safety included economic security. Once we achieve economic security we can more easily build friendships, families, and sexual intimacy after which we can build confidence and achievement, which propels us onward to self-actualization. But here lies the paradox… There is no economic security, except to the extent that we continue to provide increasing value to one another. Our fear of losing our economic safety is what prevents us from taking risks and risk taking is what leads to economic growth which is the foundation for reaching the top of Maslow’s pyramid. Most of us don’t want wealth just to have wealth. We want the secure feeling we think wealth will give us. Once we have that feeling we believe we will spend our time doing things we love rather than worrying about money. But you’ll never get there unless you risk your economic security. You have to act in spite of your fear. It is an undeniable fact that you cannot increase the size of the economic pie without risk. To create more wealth, you must trade in your current habits and actions for ones that will be more productive, but since you can’t predict the future you can’t be sure your plan will work. This is one reason it is easier for you to take an entrepreneurial track younger in life. You generally have less to lose. The need for economic security appears to be the only need in Maslow’s Hierarchy that is in direct conflict with reaching the next level. Fear of losing what we are prevents us from becoming what we want to be. Brave steps forward lead to growth; fearful clinging leads to atrophy. Risk taking is not for everyone, and if you choose to take minimal economic risk you will likely have enough fish to eat, but accept that other people will always own the nets and the boat. However, if you choose to take larger risks you should calculate them carefully. You should know the worst case scenario, the most likely scenario, and the best case scenario. No matter the result, be willing to accept it without complaint because it will be your creation.

## Isolation

#### C/A our Federal Transit Administration 12 evidence the tribal transit program has recently invested 15 million into transportation for reservations

#### Roads crowd out native modes of transportation

Pacheco (Case Studies of State and Tribal Experiences Panel Member, Muckleshoot Reservation) 02

WALTER PACHECO, September 2002, “Transportation Case Studies on the Muckleshoot Indian Reservation, Washington”, Conference on Transportation Improvements, p. 56-57, http://onlinepubs.trb.org/onlinepubs/circulars/ec039.pdf) aw

These areas contain trail systems that were the pathways of our people, our transportation systems. We used those trails seasonally to go up in the mountains to gather, hunt, fish, and congregate with tribes from the eastern side of the state and trade. The pathways were truly culturally oriented; everything that the tribe did was culturally oriented. Even today, our lives are culturally oriented. Our people see everything as having a vast importance. Ironically, some of the major pathways are now highways. Another of our traditional modes of transportation was the canoe. Our villages in the lowlands were surrounded by waterways that were prime modes of transportation. From the villages, we went down to the beaches and dug clams. We had canoes strategically placed in different parts of the rivers and streams, usually somewhere near a trail. We would travel by land to a river system, get in a canoe, and go downstream until the location of our particular destination required travel in another waterway. We would then leave the canoe, walk to the next waterway, and continue on our way. Organized transportation is obviously not new to us; it has always been a part of our way of life. RECOGNIZING THE PROBLEM Given the amount of growth that has occurred, transportation has become a major issue in Seattle and Tacoma. Our so-called freeways are more like parking lots. People are finding it exceedingly frustrating to get from home to work and vice versa. Such frustration has resulted in planning for rapid transit, carpooling, high-occupancy vehicle lanes, and other, similar projects. The tribe has been fortunate because one of the light-rail projects that we have encountered has worked out well. The South Transit is a light-rail project that currently extends from Everett to Tacoma, and there are plans to extend it even farther north and south. The light-rail project just happens to cross one of our traditional cultural properties. This property is surrounded by developments: the Burlington Northern Railroad, Kent County roads, Interstate 5, and the Boeing Air Field. **There is so much development occurring around this traditional cultural property that for us to save any of it, further development must be ruled out.** We must look at that piece of property and say, “We cannot do any more damage to this place.” Cultural Background The land is important to us because it is part of our history. We have myths and legends that are intertwined with this land. The area impacted by the light-rail project is one of three places within the aforementioned district that we would like to see protected. [Mr. Pacheco told us this legend and provided the following written version by Arthur H. Ballard, 1929, Mythology of Southern Puget Sound, in University of Washington Publications in Anthropology, Volume 3, No. 2, pp. 31-150. First Version as told by Big John of the Green River]

#### Native American’s already have access to get on and off reservations

US Department of the Interior Indian Affairs (Indian Affairs (IA) is the oldest bureau of the United States Department of the Interior. Established in 1824, IA currently provides services (directly or through contracts, grants, or compacts) to approximately 1.9 million American Indians and Alaska Natives. There are 566 federally recognized American Indian tribes and Alaska Natives in the United States. Bureau of Indian Affairs (BIA) is responsible for the administration and management of 55 million surface acres and 57 million acres of subsurface minerals estates held in trust by the United States for American Indian, Indian tribes, and Alaska Natives. Bureau of Indian Education (BIE) provides education services to approximately 42,000 Indian students.) 2007 (“Indian Reservation Roads Inventory”,

<http://www.bia.gov/WhoWeAre/BIA/OIS/Transportation/IRR/index.htm>)

The Indian Reservation Roads (IRR) Program addresses transportation needs of tribes by providing funds for planning, designing, construction, and maintenance activities for all public roads.  The program is jointly administered by the Federal Highway Administration’s Federals Lands Highway Office and the BIA, Division of Transportation, in accordance with an interagency agreement.  The authorizing legislation is the highway authorization act (currently the Safe, Accountable, Flexible and Efficient Transportation Equity Act – A Legacy for Users (SAFETEA-LU)) and codified in Title 23 U.S.C. and 25 C.F.R. Part 170. The Indian Reservation Roads are public roads which provide access to and within Indian reservations, Indian trust land, restricted Indian land, and Alaska native villages. Approximately 29,000 miles are under the jurisdiction of BIA and tribes and another 73,000 miles are under State and local ownership.  The IRR program funds can be used for any type Title 23 transportation project providing access to or within Federal or Indian lands and may be used for the State/local matching share for apportioned Federal-aid Highway Funds The IRR Inventory is a comprehensive database of all transportation facilities eligible for IRR Program funding by tribe, reservation, BIA agency and region, Congressional district, State, and county. Other specific information collected and maintained under the IRR Program includes classification, route number, bridge number, current and future traffic volumes, maintenance responsibility, and ownership.

#### Assimilation into American society and tourism are what is destroying Native American culture

Indian Country Diaries (a two-part series of documentaries that, for the first time, explore the challenges facing Native Americans in the 21st Century, in both urban and reservation settings) 2006 (“Revitalizing Native Cultures”,

<http://www.pbs.org/indiancountry/challenges/cultures.html>)

Culture is a set of beliefs and behavior patterns that are generally shared by the members of a group. These values can be expressed and reinforced through art, stories, songs or rituals, and language is crucial to the preservation of a culture. Culture is a powerful tool, so it is no coincidence that colonial officials and the U.S. government created policies that suppressed Native tribal cultures from first contact to well into the 20th century. Indians were to be assimilated into the dominate European "civilization." Those policies almost succeeded. Every tribe lost some of their culture in the 500 years since contact with Europeans. But most tribes did retain their most important cultural expressions. Today, many tribes are seeing a rebirth in interest of their arts, stories and rituals. In fact, some tribes are tired of non-Indian "wannabes" trying to adopt parts of Native American culture without any real ancestry and without being willing to take on the responsibilities that tribal membership brings with it. For instance, the Hopi Indians were able to stay somewhat isolated from the early Spanish conquerors and, later, the larger U.S. culture because of their remote desert location and their insular social customs. Their rituals and dances continue, including the spectacular kachina and snake dances. Then the anthropologists and photographers discovered them. Publicity has been a double-edged sword. On the one hand tourism brings in income. On the other, the tribe has to guard the privacy of their most sacred ceremonies. Other tribes have lost large parts of their culture. Many tribal religious practices were tied to specific locations that had strong spiritual and sacred meaning. The removal of most tribes from traditional lands to reservations in the semi-arid West cut them off from the source of many of their rituals. Even on present day reservations — where tribal members are still in close contact with one another — it's hard to resist the infusion of the larger culture. The Eastern Band of the Cherokee Nation still play their traditional stick ball game, but only once a year at their Indian Fair. As coach Scooter McCoy says inSpiral of Fire, American football "is our modern stickball" and the high school team "represents a nation of people." In the 21st century, almost two-thirds of Native Americans live in urban areas, losing contact with their reservations and other members of their tribe. This makes it harder for these urban Indians to express and reinforce their cultures. Sometimes the closest they come is at the big city [pow wows](http://www.pbs.org/indiancountry/challenges/powwow.html) where dances and costumes are reduced to pan-Indian stereotypes. As pow wow announcer Randy Edmonds puts it, "Many tribes have lost their own traditions. They have lost their own dances, and pretty much lost their language. So in order to retain your 'Indianness' you have to borrow from another tribe to keep that Indianness going."

#### Loss of native languages alt cause- can’t solve culture

Indian Country Diaries (a two-part series of documentaries that, for the first time, explore the challenges facing Native Americans in the 21st Century, in both urban and reservation settings) 2006 (“Revitalizing Native Cultures”,

<http://www.pbs.org/indiancountry/challenges/cultures.html>)

In A Seat at the Drum, Pechanga tribal chief Mark Macarro explains why he took the time to teach himself his tribal language — "[Language] is really a key to the soul of the culture." Many Native American leaders assert that the key to preserving indigenous cultures is the preservation of the tribal language. In the [Navajo](http://www.pbs.org/indiancountry/challenges/navajo.html) creation story, the world was "thought and spoken into existence." First Boy and First Girl are metaphors for thought and speech, and so the Word formed the world by building a giant Hogan with four supporting beams anchored in each sacred mountain. When the Europeans arrived on the North American continent, there were hundreds of languages spoken. In 1995, there were only 175 that were still being spoken, and only 20 of them were being taught to children within the Native community. We don't even know what we've lost. Our best guess is that 200 to 300 languages have disappeared without a trace. Others survived just long enough to be described and perhaps recorded by 20th century linguists. Languages like the Mohican in Wisconsin, Catawba in South Carolina, Natchez in Louisiana, Mashpi in Massachusetts and Yahi in California exist in dusty tomes and, sometimes, on scratchy old recordings. The skeptic might say, "So what? What difference does it make if the language and cultural expressions of some ancient tribe are lost in an age of one dominant super power? You'd better know English and understand the American language and economy if you want to get ahead." The death of a Native language matters most because that language is part of the rooted identity of the members of that tribe. The loss of the language means that ceremonies are no longer performed in the language. Stories are no longer told. Even if the stories have been translated into English, much of the meaning has been lost. There are concepts that don't translate into English. A native person's unique way of understanding the world has been lost. Across the country, there are now innovative programs dedicated to revitalizing Native languages. Some tribes are using casino money to set up language immersion programs where young students speak the language all day with elders who learned it at home. Other tribes, like the Eastern Band of the [Cherokee](http://www.pbs.org/indiancountry/challenges/cherokee.html), have language programs both for school children and for their parents. The hope is that Cherokee will again be spoken in the homes of the Cherokee Nation. Some tribes, like the [Tongva](http://www.pbs.org/indiancountry/challenges/tongva.html) in Los Angeles, are going back to old records and wax cylinder recordings to recreate their language from scratch. The Mashantucket Pequot tribe in Massachusetts has turned to a rare Bible translated into Pequot in the 1600s to recreate their language. There are only three known copies of the Bible still in existence. The tribe is also using the diaries of early missionaries to find words and phrases. The Pequot project is supported by the small Endangered Language Fund at Yale University. There are a few other private foundations interested in Native American language revitalization, but the federal Bilingual Education Act — which supported Native American language programs between 1968 and 2002 — was killed by the No Child Left Behind law. Revitalizing Native languages and cultures is a day-to-day struggle against the overpowering influence of the larger American culture.

#### Isolation key to Native American culture

Jon Reyhner (Professor Department of Educational Specialties @ North Arizona university) 4/2/10

(“Cultural Survival vs. Forced Assimilation: the renewed war on diversity”, <http://www.culturalsurvival.org/publications/cultural-survival-quarterly/united-states/cultural-survival-vs-forced-assimilation-rene>) chip

One of the key factors in the survival of American Indian languages has been the isolation of many Indian reservations, which tend to be located on lands that none of the white conquerors wanted when reservations were established in the nineteenth century. Today, however, roads, satellite dishes, and progress in general are rapidly reaching the most isolated Indian communities. As one elder interviewed by Northern Arizona University Professor Evangeline Parsons Yazzie stated in Navajo: "Television is robbing our children of language." As Navajo children learn English and the mainstream culture through the media and through school, they increasingly become separated from their grandparents, some of whom speak no English. As one of Yazzie's informants said, "Older people who speak only Navajo are alone." Yazzie concluded that, "The use of the native tongue is like therapy; specific native words express love and caring.... Knowing the language presents one with a strong selfidentity, a culture with which to identify, and a sense of wellness." Many American Indians see language as the key to their identity, and they question whether one can be Navajo, Apache, or Crow without speaking the tribal language. Navajo language survives most strongly among older Navajos, in Navajo chapter houses (the tribe's unit of local government), and in some Christian churches that use a Navajo-language bible and hymnal. Younger Indians are less likely to speak their tribal language because the schools they attend, the music they listen to, and the television they watch are in English. Tribal languages are considered "old fashioned," "out of date, "and "not cool" to children raised on television. When these children grow up and have children, they raise them to speak only English because it is the only language they have learned to speak fluently. If this situation is not changed, most of the remaining Indian languages will be extinct in another generation or two

#### Preserving Native American land is critical to the preservation of the culture

Pacheco (Case Studies of State and Tribal Experiences Panel Member, Muckleshoot Reservation) 02

WALTER PACHECO, September 2002, “Transportation Case Studies on the Muckleshoot Indian Reservation, Washington”, Conference on Transportation Improvements, p. 59, http://onlinepubs.trb.org/onlinepubs/circulars/ec039.pdf) aw

The land that I have been speaking of and the legend that is tied to it are integral parts of my people’s history. The legend is not just some simple story; it is a part of the teachings that our elders bring to our young people. These teachings discuss the creation of life in this world. It is referred to as syayahub. Syayahub is the world literature of our people. I would like to quote a book called The Mythology of South Puget Sound. It explores the importance of these teachings for our culture and our need to preserve them. “Through the world literature of the syayahub, given as short vignettes, epics, or cycles of stories, the culture’s wisest members could pass on information about the origin of the world and its inhabitants; about ancient monsters, natural phenomena, and present-day species, as well as about culture and the results of right and wrong behavior.” These legends were heard many times by young people as an important part of their education. They were cherished and repeated by adults, then refined and dramatized by elders. They contain many admonitions, both obvious and subtle. A storyteller never said anything like “and the moral of this legend is.” Figuring out the point of a story and applying it to one’s own life is an important part of the educational process. The job of the audience was, and is, to pay attention and think. Attention is traditionally proved by calling out a signal word to let the teller know that the audience is listening. The world literature of our people, being an educational tool, depicts the importance of our culture, our resources, and the values that are placed in it as a part of life. The legend of the North Wind Storm Wind, our traditional cultural property, and the Sound Transit Project are important to us. Right now, it is especially important that we preserve our traditional properties so that we may pass them on to our children and they, in turn, can pass them to their children. If we are going to preserve our lands for the generations to come, we need to make people understand that traditional cultural properties do not hold a dollar value. We cannot place those kinds of values on our culture. For us to get this message across, we need to eliminate the whole idea of capitalism and shift our focus towards the spiritual. We need to begin to approach the development of Mother Earth in a holistic light because if we do not, the outcome could be devastating.

## Health Care

#### Alt cause to health care disparities- intrinsic racism in HIS providers

U.S. Commission on Civil Rights, 2004

(“Broken Promises: Evaluating the Native American Health Care System”, <http://www.usccr.gov/pubs/nahealth/nabroken.pdf>) chip

Conscious discrimination is not as common as the unconscious bias frequently displayed by health care providers serving Native American communities. Studies have discovered that, while unintentional, health care providers make treatment decisions based on their cultural and racial biases and stereotypes. 18 One study concluded that “[t]oo often, a physician’s perception of a patient’s race and ethnicity, which is not based on any communication with the patient, is being recorded and used by the health-care team to make clinical decisions and medical and social judgments about the patient. This practice perpetuates physician paternalism and racism.” 19 This study assessing disparities in pain treatment found that proper patient-provider communication is necessary to assess a patient’s pain. 20 A report discussing racial and ethnic disparities in the diagnosis and treatment of mental illnesses concluded that disparities can be attributed to bias. 21 Citing a 2001 report, Race, Culture and Ethnicity and Mental Health, issued by then-Surgeon General David Satcher, the report concluded that disparities in access and treatment leave minority mental health patients without proper treatment. 22 The report explained that one possible reason for racial and ethnic disparities in mental health treatment is that “practitioners and mental health program administrators make unwarranted judgments about people on the basis of race or ethnicity.” 23 Relying on these types of assumptions can lead to inappropriate decisions, and action or inaction, by practitioners and program administrators that affect the overall health care of minorities. 24 The conclusions of the report are not unique. An independent study by Michelle van Ryn and Steven S. Fu, published in the American Journal of Public Health, also found that health providers directly contribute to racial disparities in health care and health outcomes. 25 The research found that providers may intentionally or unintentionally reflect and reinforce societal messages regarding the value, competence, and deservingness of treatment of nonwhite patients. 26 Providers communicate lower expectations for patients of color and poor patients, including the expectation of medical resources and assistance; expectations of improvement in their medical condition; and views concerning family and social support necessary to aid in or support recovery. 27 On a more basic level, interpersonal behavior is also influenced by a provider’s bias and use of stereotypes. In the Ryn and Fu study, it was reported that care providers use a “less participatory decision-making style” and communicate information in a highly technical manner with little opportunity for patient input and questions when treating nonwhite and low-income patients. 28 Because of their cultural differences, Native Americans tend not to question physician decisions or speak out against any mistreatment, making them more vulnerable to unfair treatment. 29 Despite claims by IHS officials that racism and bias are not problems within the IHS system, 30 the Commission found evidence that Native Americans experience bias and discrimination in the health care services they receive through the IHS system. One example of bias and discrimination by IHS providers comes from a Native American woman who sought treatment for constant pain after undergoing a hysterectomy. In explaining her medical condition, she informed her provider that she had two children. 31 The doctor told her that she did not believe her because “no Indian woman only has two children” and required her to undergo painful tests to confirm the hysterectomy. 32 A second example demonstrates that discrimination can target subgroups within the Native American population, as well. The members of the Health Committee of the Cheyenne River Tribe all agreed that the color of their skin factored heavily when receiving health care services at IHS facilities and that such discrimination was a common complaint among tribal members. 33 The wait time at IHS facilities, they contended, varies depending on the color of their skin; “full-blood Indians” wait longer for services than “lighter skinned Indians.” One member said she heard providers at dental clinics commenting on the skin of Native American patients and also expressing their reluctance to provide services to them based on their belief that their skin is “dirty.” 34 The chair of the Cheyenne River Sioux Health Committee, Raymond Uses the Knife, stated that this type of discrimination comes from non-Native staff members, who make up more than 40 percent of the IHS staff at the facilities serving the Cheyenne River Sioux Tribe. 35 Based on IHS data, as of 2003, 64 percent of the IHS staff was non-Indian and 36 percent Indian. 36 Not all bias is so obvious; subtle comments or innuendos may also reflect discriminatory attitudes. In Eagle Butte, South Dakota, an IHS facility refused to take in a Lakota elder, found unconscious at home by his wife. 37 A non-Native American provider in charge at IHS, when asked by the ambulance driver where to take the person, allegedly stated, “Whatever you do, don’t bring the body to IHS. I don’t care if you take it back or throw it on the side of the road, just don’t bring it here.” 38 This tragedy caused uproar in the Lakota Nation. Whether the statement was insensitive or an example of discrimination against Native Americans, the tribal members of the Lakota Nation perceived this statement as discriminatory. For the tribal members, this blatantly offensive statement was emblematic of the racial discrimination, disrespect, and mistreatment of Native Americans by IHS staff that they had long suspected. 39 This event confirmed the “generations of resentment at perceptions of callous, indifferent treatment from the IHS.” 40 These illustrations are just a few examples of many shared by Native Americans of the disrespect, mistreatment, and racial discrimination at IHS facilities. As corroborated by anecdotal evidence and empirical studies, the Commission has found that racism, racial bias, and the mistreatment of minorities and Native Americans are real—and cause real health disparities. 41 As long as medical decisions are made based on stereotypes or racial bias, Native Americans will have shorter life spans and a reduced quality of life.

#### Original dispossession of land is root cause of health disparities

U.S. Commission on Civil Rights, 2004

(“Broken Promises: Evaluating the Native American Health Care System”, <http://www.usccr.gov/pubs/nahealth/nabroken.pdf>) chip

In Eliminating Health Disparities: Conversations with American Indians and Alaska Natives, Michael Bird, a member of the Santo Domingo and San Juan Pueblo tribes and a former president of the American Public Health Association, describes the historical relationship between Native Americans and the federal government. He describes a relationship and history that have witnessed a military war being waged against Indian Country; Native Americans being dispossessed of millions of acres of land; and a nearly successful effort to wipe out native people and their traditions, beliefs, and culture. 2 These experiences have had a profound impact. According to Mr. Bird, “when you dispossess people of their land or labor, their culture, their language, their tradition and their religion you set into force powerful forces that impact in a very negative and adverse way.” 3 He explained that this dispossession promotes and creates health disparities for indigenous populations. 4 From his perspective, Native Americans thrived for thousands of years as independent nations prior to a dispossession policy that created the current conditions of despair. 5 Michael Bird believes that this dispossession has led to “significant damage in health, in educational levels, and in social well-being.” 6 A good example of this dispossession policy is the Dawes Act of 1887, 7 which effectively replaced group or tribal ownership of land with individual ownership and made available to white homesteaders land not allotted to individual Native Americans. 8 The assimilation policies of this era sometimes made it illegal to speak traditional languages or practice traditional customs, contributing to the decline in health for many Native Americans. 9 This attempted eradication of native people and their culture was rooted in the belief that they were racially, ethnically, and culturally inferior.

U.S. Commission on Civil Rights, 2004

(“Broken Promises: Evaluating the Native American Health Care System”, <http://www.usccr.gov/pubs/nahealth/nabroken.pdf>) chip

For example, the tribal programs in the Bristol Bay Area Health Corporation in Alaska reduced IHS bureaucracy and increased tribal autonomy. While IHS set the standards and measures to evaluate tribal programs, under the self-governance compact, the corporation jointly developed more relevant and less burdensome baseline measurements for the annual evaluation of its programs. 84 The corporation’s autonomy over its health program has also expanded, as it is no longer required to follow the regulations applicable to self-determination contracts, which it had interpreted as micromanagement of internal operations. 85 Under the self-governance compact, the corporation now operates more efficiently and effectively. 86 The corporation has full control over its contract funds by receiving the funds at the beginning of the contract year. It no longer needs to obtain IHS approval for payment of contract funds that the self-determination contracts required. Under the self-determination contracts, IHS disperses portions of the contract funds throughout the year based on agency approval. Self-governance compacts have had a dramatic impact on tribal health programs in Alaska. 87 Today, Alaska Natives operate almost the entire IHS health care delivery system in Alaska. 88 Another advantage of tribal self-governance has been an increase in the number of Native American employees. Consequently, the knowledge gained of specific techniques and the general importance of health remains in the community, building a foundation or “corporate knowledge” that might otherwise have rotated to other communities with the transfer of Public Health Service employees. 89 Employees’ earnings, as well, usually remain in the community, providing economic stimulus. 90 As tribes take over the management and operation of their health programs, the quality of care provided improves by being more responsive to local needs. 91 Tribes participating in the self-governance program say it has significantly improved the health and well-being of their tribal members. 92 Through the administration and management of their own health programs, tribes have more flexibility to tailor programs to meet the specific needs of their tribal members. 93 Therefore, federal funds are more effectively and efficiently used to address the local health needs of Native Americans. 94 Finally, tribal control creates two financial gains for health care. First, the tribes become more efficient at third-party recovery because they recognize the direct increase in the amount of money available for the purchase of additional health services. 95 Second, the tribes have become willing to seek out private and public grants, knowing that their share of IHS funding will not be reduced as a result. 96 Generally, the shift toward tribal autonomy in health care under the self-governance agreements has been a dramatic success. 97 Tribes have redirected resources based on local priorities and needs, resulting in more effective use of those resources. 98 Because tribes have full control over their programs and are less restricted by IHS regulations, they are able to consolidate and redesign health programs to meet the needs of their own tribal members. Virtually every tribe that has taken control of health facilities has expanded services. 99 The following paragraphs relate some tribal experiences confirming this success.

## Inherency

#### Funding is already being provided for Indian reservation transit programs

Federal Transit Administration (an operating administration of the Department of Transportation. FTA's mission is to assist in developing improved mass transportation, encourage the planning and establishment of areawide mass transportation systems, and provide financial assistance to State and local governments to finance mass transportation systems and carry out national transit goals and policy.) 2012 (“Public Transportation on Indian Reservations Program; Tribal Transit Program”, <https://www.federalregister.gov/articles/2012/03/09/2012-5819/public-transportation-on-indian-reservations-program-tribal-transit-program>)

Section 3013(c) of SAFETEA-LU, [Public Law 109-59](http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=109_cong_public_laws&docid=f:publ059.109) (August 10, 2005) amended [49 U.S.C. 5311](http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=browse_usc&docid=Cite:+49USC5311)(c) by establishing the Public Transportation on Indian Reservations Program (Tribal Transit Program or TTP). This program authorizes direct grants “under such terms and conditions as may be established by the Secretary” to Indian tribes for any purpose eligible under FTA's Nonurbanized Area Formula Program, [49 U.S.C. 5311](http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=browse_usc&docid=Cite:+49USC5311) (Section 5311 program). Approximately $15 million is expected to be available for the Tribal Transit Program discretionary allocation and may include other discretionary program funds that become available. The total amount of funding available will be contingent on Congressional authorization prior to the selection of awardees, and based on the timing of such funding becoming available, may also include funding appropriated for Fiscal Year 2013. TTP funds are to be allocated for grants to Federally recognized Indian tribes for any purpose eligible under the Section 5311 program. The Conference Report that accompanied SAFETEA-LU indicated that the funds set aside for Indian tribes in the TTP are not meant to replace or reduce funds that Indian tribes receive from States through FTA's Section 5311 program. TTP funds are meant to complement any 5311 funds that applicants may be receiving. Tribal transit funds will be competitively allocated to support planning, capital, and operating assistance for tribal public transit services.

#### Transportation infrastructure already funded

NCAI 11

(National Congress of American Indians, 9/15/11, “SENATE COMMITTEE ON INDIAN AFFAIRS HEARING: Oversight hearing on tribal transportation: Paving the way for Jobs, Infrastructure, and Safety in Native Communities”, http://www.indian.senate.gov/hearings/upload/Jefferson-Keel-FINAL-testimony.pdf) aw

In 2005, the enactment of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU), Public Law 109-59, authorized the U.S. Department of Transportation Federal Transit Administration(FTA) to administer Section 5311 (c), the “Public Transportation on Indian Reservations Program” or as it is referred to as, Tribal Transit Program. The purpose of the Tribal Transit Program is to fund capital, operating, planning, and administrative expenses for public transit projects in rural tribal communities.

#### The Tribal Transit program provides transportation

NCAI 11

(National Congress of American Indians, 9/15/11, “SENATE COMMITTEE ON INDIAN AFFAIRS HEARING: Oversight hearing on tribal transportation: Paving the way for Jobs, Infrastructure, and Safety in Native Communities”, http://www.indian.senate.gov/hearings/upload/Jefferson-Keel-FINAL-testimony.pdf) aw

Many tribes utilize the Tribal Transit Program to begin or maintain their transit services on tribal lands. NCAI is conscious of the significant role that public transportation infrastructure plays in Indian Country, and how much tribes rely on this transit funding to further their transportation infrastructure. It is important Congress continues to sustain the Tribal Transit Program.

#### FLH already working to improve transportation

Schneider (Assistant Division Administrator, Federal Highway Administration, Nevada Division) 02

(Paul Schneider, September 2002, “Updates on Federal Lands Highway Policy/Projects for Transportation System Improvements Affecting Indian and Alaska Natives”, p. 65, http://onlinepubs.trb.org/onlinepubs/circulars/ec039.pdf) aw

A significant emphasis at the U.S. Department of Transportation exists to ensure that a coordinated effort in implementing transportation-system improvements that affect tribal lands, including working better with the tribal governments during the transportation planning processes. We hope that this emphasis will be highly successful, resulting in better transportation systems that provide access to and within Indian country. THE FEDERAL LANDS HIGHWAY The Federal Lands Highway (FLH) primarily performs program–administration activities for the FLH program, but we also do transportation planning, environmental compliance, engineering design, and construction contracting and supervision on federally owned roads. In addition, we advocate for the federal land-management agencies and the tribal governments. We collect inventory and condition data for transportation systems that serve federal and tribal lands and analyze the data so that when the reauthorization of the Surface Transportation Bill comes due in 6-year cycles, we can provide Congress information on the needs of the federal landmanagement agencies and tribal governments.

#### IRR solves the aff

Ehl (Federal Relations Manager for the Washington State Department of Transportation) 10

(Larry Ehl, 8/27/10, “[Federal Mismanagement Impacts Tribal Funding](http://wsdotfederalfunding.blogspot.com/2010/07/fed-mismanagement-costing-tribes-fed.html)”, Federal Transportation Issues, Washington State Department of Transportation, http://wsdotfederalfunding.blogspot.com/2010/07/fed-mismanagement-costing-tribes-fed.html) aw

What is the **Indian Reservation Roads Program** (IRR)?
The IRR Program was established by the Surface Transportation Assistance Act of 1982. The IRR Program addresses transportation needs of over 560 Indian Tribes and Alaska Native Villages by providing funds for planning, designing, construction, and maintenance activities.
The program is jointly administered by the Federal Highway Administration’s Office of Federal Lands Highway (FLH) and the Bureau of Indian Affairs (BIA) in accordance with a memorandum of understanding. The IRR system provides safe and adequate transportation and public access to, within, and through Indian reservations for Native Americans, visitors, recreational users, resource users, and others, while contributing to the health and safety and economic development of Native American communities. Since the establishment of the IRR Program, the federal construction in the IRR system has exceeded $4.5 billion.

#### Telecommunication in the status quo solves their offense

U.S. Commission on Civil Rights, 2004

(“Broken Promises: Evaluating the Native American Health Care System”, <http://www.usccr.gov/pubs/nahealth/nabroken.pdf>) chip

Where IHS locates its facilities ultimately affects how accessible its services are to Native Americans. As stated, IHS is developing new criteria and guidelines to determine its plans for IHS facilities and soliciting input to ensure that the placement of facilities and the types of services to be provided are determined based on community needs. One notable step IHS has taken to address the geographical barrier between remote communities and health care providers is telemedicine. 242 IHS is applying technology to bring primary care and specialty medicine to remote locations. 243 Telemedicine “refers to the use of electronic communication and information technologies to provide or support a diverse group of health-related activities that may include health professionals’ education, community health education, public health research, and the administration of health services.” 244 There are about 40 telemedicine programs and partnerships within IHS that are delivering care to smaller, more isolated communities. 245 For example, clinical engineers are equipping small remote villages in Alaska with telemedicine systems to transmit digital images of patients’ eardrums, skin conditions, and even tonsils to distant health care providers. 246 Through telemedicine, small rural communities can communicate during emergencies with social workers via video conferencing when transportation is difficult or impossible. 247 Telemedicine allows pre- and post-operation services to be provided at the local facility and eliminates trips to regional medical centers. 248 The local on-site primary care provider can receive quick consults from regional medical centers, which results in a faster treatment time. 249 It also provides access to continuing medical and community education. 250 Telemedicine has the potential to eliminate some of the geographical access issues for Native Americans in rural communities. 251

#### Non-inherent- IHS direct services brings health care to remote reservations

U.S. Commission on Civil Rights, 2004

(“Broken Promises: Evaluating the Native American Health Care System”, <http://www.usccr.gov/pubs/nahealth/nabroken.pdf>) chip

Furthermore, many small tribes lack the resources and expertise to provide or manage care on their own; IHS direct service brings health care facilities and services to often remote reservations. 41 In short, IHS brings both resources and expertise. 42 The ability of the federal government to provide federal benefits (of greater value than the tribes can afford to pay) and therefore recruit more and better qualified individuals is one reason some tribes choose not to enter into self-governance, or compacting, agreements to operate their own health programs. 43 In addition, as long as the government is providing care there is less fear that all funding will be withdrawn. As the tribes take over, some fear that the federal government will use that as motivation to back out of its obligation to pay. 44 Second, while disparities still exist, the health status of Native Americans has improved. 45 Several sources familiar with Native American health care issues agree that IHS has done a remarkably good job considering formidable obstacles and limited funding. 46 Since 1973, mortality rates have declined for the following: tuberculosis (82 percent); maternal deaths (78 percent); infant deaths (66 percent); accidents (57 percent); injury and poisoning (53 percent); and pneumonia and influenza (50 percent). 47

# All advantage/internal link CP

## Tribal Infrastructure Bank

#### This could be an interesting CP. Idk what the nb would be… maybe that giving tribes full control is crucial to their independence

#### Tribal Infrastructure Bank necessary to establish transportation infrastructure

NCAI 11

(National Congress of American Indians, 9/15/11, “SENATE COMMITTEE ON INDIAN AFFAIRS HEARING: Oversight hearing on tribal transportation: Paving the way for Jobs, Infrastructure, and Safety in Native Communities”, http://www.indian.senate.gov/hearings/upload/Jefferson-Keel-FINAL-testimony.pdf) aw

After years of little investment in tribal infrastructure, America faces a national deficit of $14.2 trillion that is prompting federal budget reductions that are likely to severely impede economic investment and undermine any progress towards establishing an Indian Country economy. As federal spending become more limited the need for enhancing infrastructure in Indian Country will continue to grow. To help address the tough economy and budget deficit, infrastructure development is still essential for tribal economic growth. To achieve this there are some issues we would like this Committee and Congress to address that would spur infrastructure development: • Establishing a tribal infrastructure bank that would form an independent financial institution owned by the government and tribes. This would give tribes the ability obtain funding for a broad range of infrastructure projects, and to be able to sell or issue general purpose bonds to raise funds for lending and investment.

#### TIB solves better than just building roads

NCAI 11

(National Congress of American Indians, 9/15/11, “SENATE COMMITTEE ON INDIAN AFFAIRS HEARING: Oversight hearing on tribal transportation: Paving the way for Jobs, Infrastructure, and Safety in Native Communities”, http://www.indian.senate.gov/hearings/upload/Jefferson-Keel-FINAL-testimony.pdf) aw

 To address tribal specific transportation infrastructure needs, NCAI would like Congress to establish a Tribal Infrastructure Bank with an initial capital investment of $10 million per year for five years. Section 350 of the National Highway System Designation Act of 1995, Public Law 104-59, authorized the U.S. Department of Transportation to establish the State Infrastructure Bank (SIB) Pilot Program. A SIB is a revolving fund mechanism for financing a wide variety of highway and transit projects through loans and credit enhancement. SIBs were designed to complement traditional Federal-aid highway and transit grants by providing States increased flexibility for financing infrastructure investments. Under the initial SIB Pilot Program, ten states were authorized to establish SIBs. In 1996 Congress passed supplemental SIB legislation as part of the DOT Fiscal Year (FY) 1997 Appropriations Act that enabled additional qualified states to participate in the SIB pilot program. This legislation included a $150 million General Fund appropriation for SIB capitalization. Since then, Congress has continued to support the SIB program, and specifically reauthorized it in SAFETEALU. The Tribal Infrastructure Bank (TIB) Pilot Program under which Tribes would be eligible to obtain infrastructure funds in the form of capital investments for use on authorized transportation projects. The TIB would operate much like the SIBs. The TIB would be initially funded with Federal start-up capital, with the goal of becoming self-sufficient through its capital lending program. Tribes would be eligible to leverage their IRR program and other Federal transportation funds to obtain financing from the TIB at reasonable rates as one preferred method of the flexible financing techniques described above. Loans from the TIB shall not exceed a 20 year period.

## States

#### Local governments already involved in improving transportation infrastructure on reservations—Tribal/State Transportation Summit proves

Kozak (New Mexico State Highway and Transportation Department) 02

(James D. Kozak, “Improving Tribal/State Relationships for Transportation Infrastructure Planning and Development”, p.8, http://onlinepubs.trb.org/onlinepubs/circulars/ec039.pdf) aw

 The Tribal/State Summit was held October 14 and 15, 1999, in Santa Fe, New Mexico. The Tribal/State Transportation Summit sought to foster improved Native American government participation in the short-range and long-range planning for transportation infrastructure. Furthermore, the Summit was designed to set forth a framework within which policies and processes could be developed that would ensure better coordination between tribal governments, the state, and federal agencies. Inherent in the agreements mentioned above is mutual recognition of tribal/state sovereignty, government-to-government relationships, mutual respect, and open communications. The development of improved relations is designed to be an ongoing process with commitment from all parties to forge effective relationships that will serve all citizens’ transportation needs in an equitable fashion. A significant aspect is the effective use of planning processes for limited financial resources in a cooperative fashion and the improvement of transportation infrastructure in a spirit that recognizes unique social and cultural differences. The Tribal/State Transportation Summit resulted in the most significant discussion to date with representatives from 17 tribes, the Lieutenant Governor, the Governor’s Chief of Staff, the Secretary of the NMSHTD, the State Land Office, representatives from the State’s congressional delegation, the BIA, DOE, and FHWA. Tribal representatives elected to take the agreements back to their leaders for further consideration. The department and the tribes now communicate with each other more fully and consistently about tribal/state issues.

#### States are required by law include tribal leaders in transportation infrastructure decisions

Schneider (Assistant Division Administrator, Federal Highway Administration, Nevada Division) 02

(Paul Schneider, September 2002, “Updates on Federal Lands Highway Policy/Projects for Transportation System Improvements Affecting Indian and Alaska Natives”, p. 66-67, http://onlinepubs.trb.org/onlinepubs/circulars/ec039.pdf) aw

 There is a great potential for transportation planning process improvements because of the significant changes in transportation planning laws that were enacted through ISTEA and TEA- 21. The laws have been changed so that states are required to include tribal governments in the transportation-planning process. We have seen through the case studies presented here at this conference that developing positive long-term relationships can be extremely beneficial. Early coordination between stakeholders during the transportation planning processes can result in transportation projects that benefit all involved parties. We need to be diligent in developing those positive relationships because we will keep meeting over and over again in the future on various transportation-improvement projects. A positive, nonadversarial relationship is going to be much more beneficial to all involved in the project. When there are positive relationships, the transportation projects will be developed in a manner that meets as many goals and objectives of all of the stakeholders as possible.

#### Local governments can tailor projects to each tribe

Kozak (New Mexico State Highway and Transportation Department) 02

(James D. Kozak, “Improving Tribal/State Relationships for Transportation Infrastructure Planning and Development”, p.9, http://onlinepubs.trb.org/onlinepubs/circulars/ec039.pdf) aw

In spite of the organizational design mentioned above, each of the tribes must be dealt with on an individual basis. Umbrella agencies provide for good overall policy development, but implementation must be tailored to each entity. The actions stemming from the Tribal/State Summit are leading to the development of policies and processes to address significant problems in a mutually respectful fashion. Also, the agreements are leading to improved communications and cooperation between the NMSHTD and FHWA, DOE, and BIA.

#### State cooperation with tribal governments beneficial

Schneider (Assistant Division Administrator, Federal Highway Administration, Nevada Division) 02

(Paul Schneider, September 2002, “Updates on Federal Lands Highway Policy/Projects for Transportation System Improvements Affecting Indian and Alaska Natives”, p. 69, http://onlinepubs.trb.org/onlinepubs/circulars/ec039.pdf) aw

The requirement for the states to consult with tribal governments during up-front planning is a significant advance in the transportation-planning process. Great benefits can be realized from this requirement. If this is not happening in your state, I encourage you to work with your state and local officials to ensure that it happens. I hope that I have given you enough information so that you can begin to make coordination between the tribes and state and local governments happen.

#### State DOT cooperation with tribal government possible

Wisconsin Department of Transportation 04

(Wisconsin DOT, 1/27/04, “State DOTs and Native American Nations”, p.1, Transportation Synthesis Report, http://wisdotresearch.wi.gov/wp-content/uploads/tsrnativeamerican1.pdf) aw

State governments have a unique relationship with the Native American nations within their borders. The federal government has recognized Native American tribes as sovereign nations, and as such, intergovernmental relationships with them must be initiated by a federal agency such as FHWA. However, state DOTs have many reasons to work directly with tribal governments. In January 2001, new regulations mandated by Section 106 of the National Historic Preservation Act took effect, requiring consultation with Native American tribes by any agency planning federally funded improvements that could affect properties with cultural or religious significance to those tribes. State DOTs may also work with Native American governments in areas such as public transit, traffic safety, and construction and improvements to reservation roads and bridges. In addition to participating in federal programs such as the Indian Reservation Roads Program, tribal governments are eligible for other state and federal funding programs just as counties and cities are.

#### State DOT contribution to tribal roads crucial to projects crafted for each tribe

Wisconsin Department of Transportation 04

(Wisconsin DOT, 1/27/04, “State DOTs and Native American Nations”, p.1-2, Transportation Synthesis Report, http://wisdotresearch.wi.gov/wp-content/uploads/tsrnativeamerican1.pdf) aw

For a state DOT, deciding whether to centralize Native American contact, and especially whether to assign dedicated staff for that purpose, is not simply a matter of best practices—each DOT must establish a system that is appropriate for the size, distribution and needs of its Native American population and tribal lands. Native American presence varies widely from state to state; at the high end, California has 109 federally recognized tribes and a total Native American population of over 300,000, and Alaska’s population is 19% Alaska Natives. Indian reservations make up 28% of Arizona’s land base; by contrast, 16 states have no Indian reservations within their borders. With 11 tribes and a total population of over 47,000, Wisconsin falls somewhere in the middle. The map on page 7 of this Census report shows the Native American population distribution by county for the nation: http://www.census.gov/prod/2002pubs/c2kbr01-15.pdf. Wisconsin is one of four Midwest states with a county (Menominee) where Native Americans make up the majority of the population; however, Native Americans make up only 0.9% of Wisconsin’s total population (see page 5 of the Census report). 2 We reviewed available online resources, including conference proceedings, case studies and state DOT Web sites, to identify successful organizational structures and coordination strategies used by other state DOTs. Following a brief synopsis of WisDOT Practices and a Summary of State Strategies, we provide details on states with welldeveloped tribal liaison programs and other communication strategies (see State Experiences of AZ, WA, MN, IA, NM, AK, PA and KS). Finally, we provide Internet links to a number of Cross-State Initiatives and Publications and Federal Resources.

#### Multiple states already working with tribal governments

Wisconsin Department of Transportation 04

(Wisconsin DOT, 1/27/04, “State DOTs and Native American Nations”, p.2-3, Transportation Synthesis Report, http://wisdotresearch.wi.gov/wp-content/uploads/tsrnativeamerican1.pdf) aw

Tribal Liaison (person or office): California, Washington, Montana, Minnesota and Arizona are among the states that coordinate contact with Native American nations through one person or office. Generally, this position is located within one branch of the DOT and serves as a first point of contact for tribal issues, referring tribes to other divisions for issues outside the liaison’s area of responsibility. Organizationally, DOTs have placed their liaisons in the Transportation Planning Division (California and Arizona), Office of Government Relations (Minnesota), and Environmental Services Bureau (Montana). Washington’s tribal liaison office is independent of functional bureaus, reporting to the WSDOT chief of staff. Iowa and Alaska do not have formal liaisons, but coordinate Native American relations through one office—the Office of Location and Environment (Iowa) and the Civil Rights Office (Alaska). Tribal Summits: Several state DOTs have used tribal transportation summits as a strategy for improving communication with Native American nations. Often, these DOTs do not have a full-time tribal liaison who works with Native American issues year-round, so the summits are an opportunity to bring focus to those issues and identify next steps. States that have held summits include Washington, New Mexico, Iowa, Idaho, Minnesota, Pennsylvania and Wisconsin, as well as regional groups. Transportation Resource Guides: A few states, including California, Washington and Minnesota, have put together printed or online resource guides to help Native Americans and agencies that work with them understand tribes’ role in transportation issues. Advisory Committee: In addition to their tribal liaisons, California and Arizona have standing committees that meet regularly to address tribal transportation issues. California’s Native American Advisory Committee, which advises the Caltrans director, consists of tribal representatives. Arizona’s Tribal Strategic Partnering Team includes representatives from tribes and state and federal agencies.

## Tribal Health Care

#### The United State federal government should pass jurisdiction of IHS programs to Native American Tribes.

#### Tribal Autonomy over health care key cost effective service

U.S. Commission on Civil Rights, 2004

(“Broken Promises: Evaluating the Native American Health Care System”, <http://www.usccr.gov/pubs/nahealth/nabroken.pdf>) chip

According to Bill Elliot, health director of the Fallon Paiute Shoshone Tribe, after having worked for four tribes, he has found that “by far, self-governance provides the tribe with better services, more services, and services which are cost effective and more efficient.” 110 The Yerington Paiete Tribe took over an IHS program that offered care only three days per week without a physician, and expanded it to provide services six days a week with a full-time physician, a full-time nurse practitioner, and a part-time physician. 111 The tribe also successfully took over the CHS program with huge deficits. Prior to the takeover, the CHS program severely restricted its services to “life and limb emergency care.” Since the tribal takeover, the CHS program has become an integrated system that carries over funding each year. 112 The tribe is now able to provide a wide variety of services, including elective procedures.

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#### Autonomy key to Native American Health Care

U.S. Commission on Civil Rights, 2004

(“Broken Promises: Evaluating the Native American Health Care System”, <http://www.usccr.gov/pubs/nahealth/nabroken.pdf>) chip

Any specific effort to improve Native American health care will inevitably fall short of complete success unless certain principles and approaches are embraced. First, the extent of current health disparities in the Native American community and their relationship to historical events must be acknowledged by the federal government. Second, measurable long- and shortterm goals designed to improve the health status and outcomes of Native Americans must be created and promptly implemented. These goals must encompass fiscal, legal, structural, and policy changes. Third, tribes must be provided expanded opportunities to control and manage the delivery of health care to Native Americans. The tribal leaders and the Native American people are up to the task of raising the health status of their own people. They desire control of their own destiny, yet they require congressional action to make their vision a reality. They require congressional action so that finally our nation will honor the commitments made so long ago. According to W. Ron Allen, chairman of the Jamestown S’Klallam Tribe, “if you authorize us, if you fund us, if you empower us, we can make the solutions a reality.” 15

#### Culturally competent care key to Native American Health

U.S. Commission on Civil Rights, 2004

(“Broken Promises: Evaluating the Native American Health Care System”, <http://www.usccr.gov/pubs/nahealth/nabroken.pdf>) chip

For Native Americans, there is a concern that health care providers’ cultural insensitivity and the lack of acceptance of traditional healing practices and traditional medicine may create barriers to receiving care. 42 Accordingly, it is important that “culturally competent” 43 health services be available to Native Americans. If health services are not offered to the targeted patient population in a culturally and linguistically appropriate manner, treatment will remain ineffective and any effort to eliminate racial and ethnic health care disparities will fall short. 44 The importance of culturally competent health services to the overall quality of health care has been generally acknowledged. 45 Moreover, authorities realize the necessity of offering health care that recognizes and complies with the patient’s values, beliefs, and traditions, in order to provide acceptable services for specific populations. 46 According to the Department of Health and Human Services: Health care providers typically presume they are color blind in their delivery of services. Few providers have thought about the biases they bring to patient encounters or about their own cultural/ethnic backgrounds, health beliefs, and health practices. These biases often result in both the system and its providers attempting to get the patient to conform to the mainstream instead of meeting a patient on her or his own cultural ground. Yet patient attitudes about health, religious views, and concepts of death often influence compliance, affect disease management, and alter health outcomes. 47 If culturally and linguistically appropriate health services are desirable to Native Americans, based on their unique cultures and the unique relationship with the federal government, distinctive approaches to health care should also be included in the delivery of health services to this population. Many Native Americans continue to employ traditional medicines and practices either as their sole form of health care or as a component of their overall health care. 48 Accordingly, in March 2002, the Association of American Indian Physicians unanimously approved a resolution acknowledging and supporting Native American traditional healing and medicines as part of the spectrum of health care appropriate for Native Americans. As part of this resolution, the association intends to work collaboratively with traditional healers for the benefit of Native patients and community health. 49 n a study to identify what urban Indian family caregivers should inform health providers who work with Native American children about Indian culture, the caregivers concluded that providers should be aware of the role and importance of extended family members in a child’s overall care, any traditional health beliefs and healing practices, and any cultural communication patterns. 50 Specifically, health facilities should avoid excluding extended family members who might want to visit a child, since they may also assist in serving as primary caregiver to Native American children. 51 In terms of traditional beliefs, some Native American families may resist Western treatment recommendations and prefer to use herbal remedies, healing ceremonies, and traditional healers as a primary or supplemental form of treatment. 52 Furthermore, the study indicated that health providers should be aware of the significance of nonverbal communication for some Native American patients, such as indirect eye contact and silence. 53 These forms of nonverbal communication are often an indication of respect for the “healer,” and may prevent some patients from directly asking questions or requesting health care services. 54 Cultural competence, therefore, acknowledges the patient’s perspective and adjusts appropriately, inevitably improving the quality and delivery of care. Reaching that level of competence requires insight, extensive training, and a programmatic commitment to cultural sensitivity. Accordingly, as the advocate for Native American health and as the federal health care provider for eligible Native Americans, IHS has the responsibility of ensuring, through its training and programming, that IHS health care services are provided in a culturally competent manner. Generally, IHS recognizes the importance of culturally competent care. Dr. Charles W. Grim, director of IHS, cited cultural and language barriers as factors that affect health disparities and access to health care. 55 He added that IHS is working to make its programs culturally relevant, and as a result, cultural competence is losing significance as a factor for accessing IHS services. 56 Dr. Richard Olson, acting director of Office of Clinical and Preventive Services, also acknowledged that cultural competence is an aspect of quality of care. 57 IHS defines “culturally competent care” as “a term implying that IHS programs and staff should be aware, sensitive, and accommodating of a wide diversity of Native languages, customs, beliefs, values, and traditions of healing and wellness.” 58 While IHS acknowledges that culture and language can be barriers to care for over 560 federally recognized tribes, many with their unique cultures and languages, IHS claims that, because it employs a high percentage of Native American staff, cultural competency is not a major issue at IHS. 59 According to IHS, it “recognizes the value of traditional beliefs, ceremonies, and practices in the maintenance of wellness and the healing of the body, mind and spirit.” 60 Therefore, IHS encourages an atmosphere where traditional beliefs are upheld and respected to ensure that they are a vital force within Indian communities and that those traditional beliefs remain an integral component of the healing process. 61 Furthermore, IHS makes traditional medicine, as defined by tribal or village traditional culture, accessible in all its service delivery locations. 62 IHS is also designing and constructing its new clinics and hospitals to include space for spiritual healing practices. 63 In terms of whether IHS facilities are successfully delivering culturally competent health services, a focus group of Native Americans in Albuquerque, New Mexico, revealed that participants were generally satisfied with IHS providers’ awareness of the significance of Native American culture. 64 This finding tends to support Dr. Grim’s testimony that cultural and language barriers have become less of an issue for IHS services. 65 However, despite Dr. Grim’s statement that IHS provides training for non-IHS providers at contract facilities, 66 the findings from the Albuquerque focus group revealed Native American patients’ dissatisfaction with biased behavior and cultural insensitivity toward the importance of traditional medicine by health care providers from the private sector. 67 Supporting the general findings of the Albuquerque focus group, tribal representatives and leaders with whom the Commission spoke agreed that, generally, cultural competency is not a major concern when accessing IHS direct services. 68 The sense of dissatisfaction with a lack of cultural sensitivity derives primarily from services provided to Native Americans by contract health providers. 69 When asked to provide specific information on the number and the types of administrative and judicial complaints concerning the IHS direct, tribal, and contract health services, IHS merely responded that the Contract Health Services program does not maintain complaint-related data. 70 Because of IHS’ failure to provide requested information on any complaints concerning the quality of care provided at IHS direct, tribal, and contract health facilities, it is difficult to assess the degree to which the lack of culturally competent care is affecting the quality of care Native Americans receive.

#### Tribal health care is better

U.S. Commission on Civil Rights, 2004

(“Broken Promises: Evaluating the Native American Health Care System”, <http://www.usccr.gov/pubs/nahealth/nabroken.pdf>) chip

Similarly, tribally operated programs added more facilities than IHS direct programs. For those tribes that contract and compact, the study found that 49 new facilities were added and 12 facilities were closed, for a net gain of 37 facilities. 117 The IHS direct service tribes, conversely, added nine new facilities but closed eight, for a net gain of one. 118 Overall, tribes found success in operating their health programs under the selfgovernance agreements. One major contributor to this success is the tribe’s ability to utilize other incomes and resources to supplement IHS funding. 119 The NIHB study found that the tribes are more likely to use income from economic enterprises to support their health care services and to build new facilities when they operate their own health care programs under contract or compact. 120 Tribal self-governance has also brought improvements in the quality of care. Most tribal leaders and health directors surveyed by the NIHB indicated that the quality of care has improved through tribal compacts and contracts. 121 The quality of care is measured by waiting times, types of services, number of people served, and overall health care system. 122 More specifically, 57 percent of tribal leaders and 84 percent of tribal health directors participating in the survey indicated that the quality of care had gotten “better” over the past three to four years. 123 Moreover, tribal leaders and health directors from compacting tribes more commonly responded that the quality of care is continuing to get “better.” 124 Overall, the NIHB study found tribes that choose to operate their own health programs are better able to add services and improve care. 125 While tribal operation of health programs has its advantages, potential drawbacks exist. The most significant is the inability to take advantage of “economy of scale,” or the fall in average costs resulting from an increase in the scale of production. 126 Economies of scale in health care delivery reduce costs by taking advantage of increased purchasing power in the same manner that large corporate retail stores provide reduced prices to consumers of retail goods.

## IHCIA

#### The United States federal government should reauthorize the Indian Health Care Improvement Act.

#### Indian Health care improvement act

U.S. Commission on Civil Rights, 2004

(“Broken Promises: Evaluating the Native American Health Care System”, <http://www.usccr.gov/pubs/nahealth/nabroken.pdf>) chip

Among the pending changes identified thus far, the reauthorization of the Indian Health Care Improvement Act appears to hold the most promise for improving the lives of Native Americans. The proposal for reauthorization of IHCIA is a tribally prepared, far-reaching proposal for addressing every aspect of providing medical care to Native Americans. Tribal leaders initiated the proposed legislation; the final version is the product of years of consultation between tribal leaders and federal government representatives. Anticipating the expiration of IHCIA, IHS organized regional consultation meetings with tribal leaders in 1998 to solicit input on changes to the Act. 2 Based on the outcome of the regional consultation meetings, the tribes formed a National Steering Committee (NSC) of tribal leaders to draft a comprehensive proposal that would address a range of health care concerns using the reauthorization of IHCIA. 3 The NSC specifically sought to make IHCIA more responsive to current real-world needs, to increase opportunities for attracting more revenue into the health system, and to facilitate greater exercise of self-determination in health care program decision-making and regulations. 4 There is no single change in the reauthorization of IHCIA that will close the health status gap for Native Americans. Instead, the House and Senate bills, as proposed, attempt to address many of the contributing problems by including provisions aimed at increasing access to appropriate health facilities, increasing access to and enrollment in health insurance programs, increasing federal funding, improving the quality of care, decreasing poverty, and increasing the level of educational attainment for Native Americans. The reauthorization of IHCIA attempts to accomplish these tasks through a series of procedural changes to the established system and the adoption of seven health care objectives identified by the National Indian Health Board: 1. Health Objectives. Adopts the policy, for the first time, that health improvement objectives must be the same for American Indians and Alaska Natives as for all other Americans. 2. Self-Determination & Self-Governance. Updates the Act to recognize that, since 1992, tribes and tribal organizations are operating more than half of IHS programs. 3. Continuum of Care. Provides authorization for a full range of health programs, rather than relying on “demonstration projects,” so that IHS, tribes, and urban Indian organizations can take advantage of opportunities and set priorities that specifically respond to the needs of the local population. 4. Home and Community-Based Care. Updates the Act to focus on “programs” instead of “facilities” in recognition that, nationally, the length of stay in hospitals has decreased in favor of other care models. 5. Facility Funding Flexibility. Authorizes more flexible funding alternatives and interagency funding partnerships to help reduce the backlog in facility construction and maintenance. 6. Behavioral Health. Authorizes integration of mental health, substance abuse, and violence programs into a behavioral health program to provide more efficient and higher quality care. 7. Access to Medicare and Medicaid. Expands access to recovery from Medicare and Medicaid through amendments to IHCIA and the Social Security Act and provides for a study of reimbursement. 5 To accomplish these objectives, the reauthorization of IHCIA is organized into eight titles. The first three cover manpower, services, and facilities, respectively. The fourth title, access to health services, addresses access by way of public insurance programs. Urban Indian programs are administered separately under Title V. Structural changes are implemented through the title on organizational improvements. The relatively new change in focus to behavioral health is formalized in Title VII, followed by the catchall title for miscellaneous items. Each of these titles will be explained in detail below, including how individual provisions in each title will improve the health status of, or the service provided to, Native Americans. The IHCIA is an extensive piece of legislation, addressing the affordability, availability, accessibility, and acceptability of health care. Only the major provisions, having a significant impact on improving the health status of Native Americans, are explained. Title I: Indian Health Manpower. The changes in Title I primarily address the scholarship programs for health professionals. By broadening the health disciplines open to scholarships, decentralizing the decision-making process, and encouraging scholarship recipients to serve the area from which they receive their scholarship, the tribes will begin to address the problems with recruiting and retention in isolated areas, while obtaining the services of more culturally proficient health care providers. 6 In addition, provisions also eliminate current demonstration projects, contingent upon the establishment of permanent funding sources for scholarship programs. 7 Title II: Health Services. The changes in Title II, in broad terms, aim to improve the quality of health service programs providing care to Native Americans. Improvement will be accomplished by institutionalizing the national diabetes program that is currently funded by special appropriations; 8 decentralizing control of the Catastrophic Health Emergency Fund to the area level; expanding preventive services to cover all cancers, instead of limiting coverage to mammography screening for breast cancer; establishing epidemiology centers in all 12 areas; requiring staff in tribally operated facilities to meet the same licensing requirements as IHS facilities; strengthening the prohibition against contract health service providers holding individual patients responsible for payment for contract health services obligations; 9 establishing a program to monitor nuclear and environmental health hazards; and designating the entire state of Arizona as a Contract Health Service Delivery Area. 10 Title III: Health Facilities. As a starting point, Title III will institutionalize tribal consultation for facilities expenditures. This change will ensure that facilities decisions accurately reflect the needs and priorities of the affected populations. 11 In addition, the consultation will result in a priority system that encompasses all facilities, not just a “top 10.” This change ensures that a true and complete spectrum of unmet need in Indian Country is presented. 12 Concerning accreditation, Title III will authorize accreditation under any nationally recognized accrediting authority. Doing so will expand the ability of smaller facilities to meet eligibility requirements for public insurance programs, increasing the funding available to purchase additional health care for Native Americans. 13 Several of the other changes involve the creation of more flexible funding options. These include the creation of IHS-tribal joint ventures; allowing for innovative financing by tribes, coupled with an IHS commitment to equipment and staffing; the creation of a Health Care Facilities Loan Fund; and express permission to use any “other source” of funds for tribal services to provide health care. A provision is included to ensure that the use of other sources by tribes will not jeopardize their positions on the priority list for future construction projects. 14 These flexible funding options have the potential to significantly increase the operating funds available to tribally operated facilities and will serve as a multiplier for federal funding. Title IV: Access to Health Services. Title IV attempts to eliminate the barriers that prevent Native Americans from accessing public health insurance programs. By eliminating these barriers, reimbursement from third parties is increased and additional funding made available to purchase health care for Native Americans who otherwise might not receive care. Specific provisions eliminate barriers by amending the Social Security Act to authorize reimbursement to IHS facilities for all services for which Medicare/Medicaid programs pay, creating Qualified Indian Health Programs, creating a waiver of Medicare’s late enrollment fee for Native Americans, extending 100 percent FMAP to all health services provided to Native Americans, 15 allowing tribal facilities to deal directly with the Department of Health and Human Services (HHS) on Child Health Insurance Program issues, allowing for the waiver of all cost sharing by IHS eligible patients enrolled in public insurance programs, preventing the mandatory enrollment of Native Americans in managed care programs as a precondition to enrollment in public insurance programs, and establishing a demonstration project for the direct billing of Medicare/Medicaid by tribally operated facilities. 16

# Cap Links

#### Rejecting capitalism is crucial to maintain Native American culture

Pacheco (Case Studies of State and Tribal Experiences Panel Member, Muckleshoot Reservation) 02

WALTER PACHECO, September 2002, “Transportation Case Studies on the Muckleshoot Indian Reservation, Washington”, Conference on Transportation Improvements, p. 59, http://onlinepubs.trb.org/onlinepubs/circulars/ec039.pdf) aw

The legend of the North Wind Storm Wind, our traditional cultural property, and the Sound Transit Project are important to us. Right now, it is especially important that we preserve our traditional properties so that we may pass them on to our children and they, in turn, can pass them to their children. If we are going to preserve our lands for the generations to come, we need to make people understand that traditional cultural properties do not hold a dollar value. We cannot place those kinds of values on our culture. For us to get this message across, we need to eliminate the whole idea of capitalism and shift our focus towards the spiritual. We need to begin to approach the development of Mother Earth in a holistic light because if we do not, the outcome could be devastating.

#### Capitalism is the root cause of Native American poverty

DR. ALBERTA YEBOAH (ASSOCIATE PROFESSOR OF SOCIAL SCIENCE COLLEGE OF EDUCATION AND HUMAN DEVELOPMENT JACKSON STATE UNIVERSITY) No date

(“”POLITICAL, ECONOMIC, AND SOCIAL CONDITIONS OF NATIVE AMERICANS IN THE UNITED STATES AND AFRICANS IN SOUTH AFRICA: A COMPARISON”, <http://ghaa.jsums.edu/journals/articles/albertapaperfinalcopy.pdf>) chip

It is common knowledge that the economic conditions of both Native Americans in the United States and Blacks in South Africa is fraught with poverty, unemployment, and lack of resources in the reservations and the homelands that both groups were thrown into through the Indian Removal Act and the Group Areas Act respectively. For most Native Americans and Black South Africans, their economic conditions have worsened since the 1950s which has resulted in many of them migrating to urban areas in search of better economic opportunities. In this section, the poverty, unemployment, and lack of resources that exist among both groups are analyzed and compared. The loss of land to European colonizers by both Native Americans and Black South Africans led to the destruction of their traditional economies and the imposition of European economic systems which both groups have found difficult to adjust to. The loss of land also led to loss of the resources that were sustaining both groups before the invasion of Europeans. Economic exploitation of the two groups led to the growth of industrial capitalism, building of large wealthy cities, and economic and technological advancement for Europeans while both groups became poorer and poorer particularly after the 1950s. One of the most unfortunate consequences of the pervasive poor economic conditions of Native Americans in the United States is that about 43 percent of Native American children under the age of five live in poverty (Food Research and Action Center [FRAC], 2001). Native Americans lost millions of acres of land to Europeans during the westward expansion in the 1880s and millions more acres were lost with the breakup of the remaining lands under the 1887 Dawes Act (Banks, 2003; Feagin & Feagin, 2008; Hildebrand et al., (2000); Schaefer, 2004). According to Banks, most Native Americans became poverty-stricken after the passage of the Dawes Act, and when they lost about 90 million acres of land out of 138 million acres between 1887 and 1932. Unfortunately, Native Americans have never recovered from the state of abject poverty that most of them were thrown into after the Dawes Act. Unemployment or marginal employment (employment in low wage jobs), which are sources of poverty among Native Americans, have been persisting economic problems for them, especially since the 1950s. Before 1940, most Native American males were poor farmers and unskilled workers. The proportion of farm occupations has however dropped from 68% in 1940 to 5% in 2002 (Feagin and Feagin). Native Americans, before and especially after the 1950s have been concentrated in the secondary labor market which is characterized by job instability, low wages, and little to no upward mobility (Banks; Feagin & Feagin; Schaeffer). The bleak employment picture of Native Americans was vividly painted by Feagin and Feagin when they wrote, Today, Native Americans are far less likely than U. S. workers to hold managerial or professional positions (26.1 percent versus 34.1 percent). Native American men tend to be concentrated in blue-collar and service-sector jobs while most Native American women hold clerical, sales, or service-sector jobs. [In some white-collar occupational categories, Native Americans are very rare. For example, as of Spring, 2001, there were in the United States and Canada together, only seven Native American broadcast reporters]. Through the years, unemployment rates for Native Americans, [both on and off reservations], have been far higher than for most other groups. In 1940, one-third of all Native American men were unemployed, compared with fewer than one-tenth of white men. By 1960, the rate had risen to 38 percent, compared with just 5 percent for all men. This increase reflected in part the move from agriculture to the less certain work opportunities in urban areas. [By 1970, the rate had dropped to 12 percent for Native American men, still three times the national figure]. By 1990 the unemployment rate had dropped but was still high. For Native American men, the 15 percent was also three times that of white men, and the 13.1 percent rate for Native American women was almost three times that of white women. In that year, the unemployment rate for Native Americans living on reservations was much higher, at 26 percent; [on some reservations the rate exceeded 50 percent....Native Americans have endured the longest depression-like economic situation of any U.S. racial or ethnic group] (pp.153 - 155).

# Assimilation DA (unorganized)

## Links

#### Congress sets a precedent for assimilation when it passes laws affecting Native Americans

Wood, assistant professor of law at the University of Oregon, 1995

(Mary Christina, “Protecting the Attributes of Native Sovereignty: A New Trust Paradigm for Federal Actions Affecting Tribal Lands and Resources”, Utah Law Review 109) chip

A second source of reference consists of various statutes and statements of congressional policy. Though, as noted earlier, these should not, in most cases, be strictly interpreted as a precise embodiment of the trust obligation, n48 many may provide general direction to the courts in identifying protected interests. n49 In federal Indian law, more so than in other areas of law, the courts defer to congressional policy in determining specific rights. For example, in one case denying a state's authority to tax non-Indian business enterprises on a reservation, the Supreme Court referred to federal statutes which, while not bearing directly on the issue at hand, certainly indicated a congressional desire to promote self-sufficient tribal economies. n50 A glaring drawback to relying exclusively on congressional policy, of course, is that such policy has shifted dramatically over time. As Professor Wilkinson notes: "[F]ederal Indian [\*125] policy has always been the product of the tension between two conflicting forces--separatism and assimilation--and Congress has never made a final choice as to which of the two it will pursue." n51 Statutes from different periods of time reflect sometimes diametrically opposed orientations toward Indian affairs, and such policy shifts undermine any rule directly tying trust standards to general expressions of Congress. Therefore, while congressional policy may provide useful guidance, it should not supplant judicial autonomy in interpreting federal trust obligations. n52

#### Native American tribes are sovereign nations: it is unconstitutional to treat them as under U.S. Jurisdiction

Larson, member of the Gros Ventre tribe and director of American Indian Studies at Idaho State University, 2005

(Sidner J., “Making Sense of Federal Indian Law”,Wicazo Sa Review, Spring, 20.1: 9-21. EKC)

In yet another group of cases involving tribal attempts to regulate nonmembers, the Court again made a significant departure from policy that might have been established from its other rulings by reinforcing limitations on tribal authority over nonmembers, based on what probably could be interpreted as a continuation of the colonial experience of American Indians. In National Farmers Union Insurance Co. v. Crow Tribe,28 the Court spoke of the importance of examining legal precedent and concluded that tribal courts were best qualified to conduct such an examination. In Iowa Mutual Insurance Co. v. LaPlante,29 the Court reinforced the authority of tribal courts but made vague reference to Montana, 17 which had held that the tribes did not have civil authority over non- Indians except in certain circumstances. The resulting confusion was then addressed in Strate v. A- 1 Contractors,30 which is significant for the ways it found to ignore both National Farmers and Iowa Mutual, relying on Montana to deny tribal court jurisdiction.

Most recently, attention has been focused on United States v. Lara,31 which appears to be a continuation of colonial policies directed at tribal peoples in this country. In that case Billy Jo Lara, a Turtle Mountain Chippewa, was arrested for violation of an exclusion order by another tribe, a tribe that happens to employ Bureau of Indian Affairs (federal) police. During the arrest Lara struck a BIA police officer. Lara was tried by the tribe of which he was not a member and sentenced to tribal jail for the battery. The U.S. attorney, however, decided to file additional federal charges for the same battery, at which point Lara claimed he was being subjected to double jeopardy.

A number of years ago, following the Supreme Court determination in Duro v. Reina that tribes do not have jurisdiction over nonmember Indians, Congress responded by passing an amendment to the Indian Civil Rights Act asserting that Congress never intended to deprive tribes of such jurisdiction. Therefore, under the Supreme Court’s 1990 determination in Duro v. Reina, Lara was subjected to double jeopardy; however, under Congress’s subsequent “Duro fix” legislation, he was not. Lara argued that in the Duro legislation Congress gave power to the tribes, which made his prosecution federal in essence, and thus the second federal prosecution constituted double jeopardy. The actual language of the legislation, however, spoke to recognizing and affirming “inherent tribal power,” not delegating power to the tribes. As a result, a reasonable interpretation is that the tribes and the federal government are two separate sovereigns rather than one sovereign trying Lara twice. In fact, in April of 2004 the Supreme Court held, by a vote of seven to two, that the “Duro fix” meant tribal power to try nonmembers was inherent, not delegated by the federal government, and Mr. Lara could be prosecuted twice.

#### Assimilation kills Native American culture

Jon Reyhner (Professor Department of Educational Specialties @ North Arizona university) 4/2/10

(“Cultural Survival vs. Forced Assimilation: the renewed war on diversity”, <http://www.culturalsurvival.org/publications/cultural-survival-quarterly/united-states/cultural-survival-vs-forced-assimilation-rene>) chip

As American Indian languages die, the accumulated wisdom of their cultures dies. At a bilingual education conference in Anchorage, Alaska, in 1996, I picked up a card describing traditional Iñupiaq Eskimo values. One side of the card read: Every Iñupiaq is responsible to all other Iñupiat for the survival of our cultural spirit, and the values and traditions through which it survives. Through our extended family, we retain, teach, and live our Iñupiaq way. The other side read, "With guidance and support from Elders, we must teach our children Iñupiaq values." Listed were the values of "knowledge of language, sharing, respect for others, cooperation, respect for elders, love for children, hard work, knowledge of family tree, avoidance of conflict, respect for nature, spirituality, humor, family roles, hunter success, domestic skills, humility, [and] responsibility to tribe." With the loss of these traditional values and the languages through which they were taught, functioning American Indian communities and families are being destroyed, leaving in their wake dysfunctional families and myriad other social problems. American Indian elders want their grandchildren to respect their elders, work hard, study in school, not drink, and, of course, remember that they are Indian. Today, even on rural Indian reservations, there is youth gang activity. Dr. Richard Littlebear, president of Dull Knife Community College and Northem Cheyenne language activist, writes, Our youth are apparently looking to urban gangs for those things that will give them a sense of identity, importance, and belongingness. It would be so nice if they would but look to our own tribal characteristics because we already have all the things that our youth are apparently looking for and finding in socially destructive gangs.... [One] characteristic that really makes a gang distinctive is the language they speak. If we could transfer the young people's loyalty back to our own tribes and families, we could restore the frayed social fabric of our reservations. We need to make our children see our languages and cultures as viable and just as valuable as anything they see on television, movies, or videos. My quarter century of involvement with American Indian education and bilingual education as a junior high school teacher, school administrator, and university professor supports Dr. Littlebear's contention that language and cultural revival movements are generally healthy for America. Riots and ethnic violence are a product of the loss of traditional values and of poverty, not of multilingualism and multiculturalism. Linguistic and cultural assimilation will cure none of these ills. The legally enforced aspects of assimilation epitomized in Propositions 203 and 227 are divisive and destructive. Not only do they divide "white" America from minority America; they also create divisions within minorities between those who think that being a "good American" is associated with surface features such as speaking English. Being an American means adhering to the principles of the Declaration of Independence, the Constitution, the United Nations Charter, and other representations of democracy, freedom, and tolerance. These can be lived in any language.

#### Congress must stop applying laws to tribes in order to restore sovereignty

Larson, member of the Gros Ventre tribe and director of American Indian Studies at Idaho State University, 2005

(Sidner J., “Making Sense of Federal Indian Law”, Wicazo Sa Review, Spring, 20.1: 9-21) chip

At the same time, there is a folding of federal Indian law into general public law that not only does not fully recognize the unique doctrines particular to a “domestic dependent nation” within the United States but that disrupts development of a means by which this nation might find ways to settle criminal, domestic, and environmental disputes among various communities of difference in the new world community. 19 The presence of non-Indians in Indian Country has pitted genuinely unique and little- understood tribal sovereignty against what appears to be the more obvious hardship of nontribal members going into Indian courts, possibly to face all-Indian juries. It doesn’t matter that those individuals are interlopers on reservations in the first place; it could be that the justices identify with them more than with the Indians and that they may have taken it upon themselves to create a common law of colonization as a result.

The fact that tribal peoples are unique nations within the United States appears to have been particularly problematic for the Court, and it has been said that “states today look much more like sovereigns than do some tribes. For example, unlike the Cherokee Nation in Worcester, some Indian areas today have lost much of their distinctive character and contain many non-Indian residents.” For tribes to be considered governments, or sovereigns, they must make it clear they are “a distinct political society, separated from others, capable of managing [their] own affairs and governing [themselves].”34 Although the means of doing this remain unclear, recent tribal success at gaming and a revaluation of tribal values with regard to such things as environmental issues seem very positive.

#### The destruction of Native peoples through the lens of “sameness” result in genocide AND loss of cultural diversity threatens extinction

Friedberg, (PhD Candidate, Germanic Studies, University of Illinois), 2000

(Lilian, “Dare to Compare,” American Indian Quarterly; Summer, Vol. 24 Issue 3, p. 353) chip

**Attempts on the part of American Indians to transcend chronic, intergenerational maladies introduced by the settler population** (for example, in the highly contested Casino industry, in the ongoing battles over tribal sovereignty, and so on**) are challenged tooth and nail by the U.S. government and its "ordinary" people. Flexibility in transcending these conditions has been greatly curtailed by federal policies that have "legally" supplanted our traditional forms of governance, outlawed our languages and spirituality, manipulated our numbers and identity, usurped our cultural integrity, viciously repressed the leaders of our efforts to regain self-determination**, and systematically miseducated the bulk of our youth to believe that this is, if not just, at least inevitable."[55] **Today's state of affairs in America**, both with regard to public memory and national identity, **represents a flawless mirror image of the situation in Germany vis-hvis Jews and other non-Aryan victims of the Nazi regime**.[56] Collective indifference to these conditions on the part of both white and black America is a poor reflection on the nation's character. This **collective refusal to acknowledge the genocide further exacerbates the aftermath in Native communities and hinders the recovery process.** This, too, sets the American situation apart from the German-Jewish situation: Holocaust denial is seen by most of the world as an affront to the victims of the Nazi regime. In America, the situation is the reverse: victims seeking recovery are seen as assaulting American ideals. **But what is at stake today, at the dawn of a new millennium, is not the culture, tradition, and survival of one population on one continent on either side of the Atlantic. What is at stake is the very future of the human species**. LaDuke, in her most recent work, contextualizes the issues from a contemporary perspective: Our experience of survival and resistance is shared with many others. But it is not only about Native people. ... In the final analysis, **the survival of Native America is fundamentally about the collective survival of all human beings. The question of who gets to determine the destiny of the land, and of the people who live on it**--those with the money or those who pray on the land--is a question that is alive throughout society.[57**] "There is,"** as LaDuke reminds us, "**a direct relationship between the loss of cultural diversity and the loss of biodiversity. Wherever Indigenous peoples still remain, there is also a corresponding enclave of biodiversity.**"[58] But, she continues, The last 150 years have seen a great holocaust. There have been more species lost in the past 150 years than since the Ice Age. (During the same time, Indigenous peoples have been disappearing from the face of the earth. Over 2,000 nations of Indigenous peoples have gone extinct in the western hemisphere and one nation disappears from the Amazon rainforest every year.)[59] It is not about "us" as indigenous peoples--it is about "us" as a human species. We are all related. At issue is no longer the "Jewish question" or the "Indian problem." We must speak today in terms of the "human problem." And it is this "problem" for which not a "final," but a sustainable**, viable solution must be found--because it is no longer a matter of "serial genocide," it has become one of collective suicide**. As Terrence Des Pres put it, in The Survivor: "At the heart of our problems is that nihilism which was all along the destiny of Western culture: a nihilism either unacknowledged even as the bombs fell or else, as with Hitler or Stalin, demonically proclaimed as the new salvation."

#### Federal law regarding Native Americans is full of contradicting cases that destroy sovereignty

Larson, member of the Gros Ventre tribe and director of American Indian Studies at Idaho State University, 2005

(Sidner J., “Making Sense of Federal Indian Law”, Wicazo Sa Review, Spring, 20.1: 9-21) chip

Again, although the cases cited above differ on their facts and chronological sequence, the underlying reasoning prevails to this day, reasoning supporting the assertion that, when Congress passed the Allotment Act, it also precluded tribal authority over non-Indians. It is also clear that the Court has disproportionately taken upon itself the responsibility for making and enforcing this view of congressional intent and statutory interpretation by reaching whatever results seem most practical to protect non-Indian interests in various circumstances. It has been said the problem with this approach is that it is “too obvious a usurpation [of tribal sovereignty].”32 There is also, however, a tendency to not fully accept the inherent complexity of federal Indian law, which has created considerable frustration: “As Justice Blackmun noted in one case, resolving the issue there required ‘wander[ing] the maze of Indian statutes and case law tracing back 100 years.’ For most of those who follow the court, these cases were almost certainly viewed as ‘crud,’ even if ‘kind of fascinating,’ ‘peewee’ cases, perhaps even ‘chickenshit cases’— all epithets reportedly directed at federal Indian law cases by the Justices themselves when they considered petitions for certiorari or, worse yet, when they were assigned the unenviable task of drafting majority opinions for those cases.” Part of the problem appears to be associated with an attempt to bring constitutional protections for non- Indians into Indian Country. This is largely a balancing act, where the Indian law cases have used a weighing process to conclude that tribal authority over non- Indians is prohibited for criminal jurisdiction, authorized for taxation, invalid for civil regulation except in specified circumstances, and unsettled for judicial jurisdiction in civil cases.

#### Congressional authority over tribes undermines their sovereignty

Larson, member of the Gros Ventre tribe and director of American Indian Studies at Idaho State University, 2005

(Sidner J., “Making Sense of Federal Indian Law”, Wicazo Sa Review, Spring, 20.1: 9-21) chip

The implications of the Supreme Court ruling for tribal sovereignty are considerable. First, tribes do not necessarily provide counsel for all defendants in tribal proceedings who would be entitled to counsel in a state or federal court for the same offense. This opens the door to subsequent challenges to tribal court proceedings based on lack of counsel. For example, although the Court found Lara was not harmed by lack of counsel since he was challenging the federal, not the tribal court case, it also specifically wrote, “Other defendants in tribal proceedings remain free to raise that claim should they wish to do so.” Second, the history of Indian law includes common-law cases decided by judges as well as federal statutes enacted under the broad but not clearly constitutional “plenary power” of Congress. The “Duro 18 fix” enacted by Congress, however, indicates the Supreme Court may be entering an era of deferring to the political branches. Although this might seem like a good thing, it is also shrouded in complexity. For example, making Congress the final word in Indian affairs allows Lara to go to federal prison, but, frankly, that is not what tribal peoples want. What they do want is for the case to have ended with the tribal court’s decision and for tribal jurisdiction to be upheld on tribal lands. Instead, Lara’s defense counsel, probably unwittingly, compromised Lara’s interests by compromising tribal jurisdiction. If the Supreme Court has the last say, perhaps there is a better chance it will take responsibility for correcting the chain of bad decisions that are so detrimental to sovereignty.

## Impact

#### Continued lack of understanding of indigenous people and their practices leads to further decimation of the environment

B. Rajasekaran, Center for Indigenous Knowledge for Agriculture and Rural Development, Iowa State, 1993 (“A framework for incorporating indigenous knowledge systems into agricultural

research, extension, and NGOs for sustainable agricultural development.” Studies in Technology and Social Change No. 21. Technology and Social Change Program, Iowa State University, 1993,

http://www.ciesin.columbia.edu/docs/004-201/004-201.html)

2.7 Consequences of disregarding indigenous knowledge systems Undermining farmers' confidence in their traditional knowledge can lead them to become increasingly dependent on outside expertise (Richards, 1985; Warren, 1990). Small-scale farmers are often portrayed as backward, obstinately conservative, resistant to change, lacking innovative ability, and even lazy (IFAP, 1990, p. 24). The International Federation of Agricultural Producers (IFAP) enumerated certain reasons for such a perception: Lack of understanding of traditional agriculture which further leads to a communication gap between promoters and practitioners giving rise to myths; The accomplishments of farmers often are not recognized, because they are not recorded in writing or made known; and Poor involvement of farmers and their organizations in integrating, consolidating, and disseminating what is already known. One of the greatest consequences of the under-utilization of indigenous knowledge systems, according to Atteh (1992, p. 20), is the: Loss and nonutilization of indigenous knowledge [which] results in the inefficient allocation of resources and manpower to inappropriate planning strategies which have done little to alleviate rural poverty. With little contact with rural people, planning experts and state functionaries have attempted to implement programs which do not meet the goals of rural people, or affect the structures and processes that perpetuate rural poverty. Human and natural resources in rural areas have remained inefficiently used or not used at all. There is little congruence between planning objectives and realities facing the rural people. Planners think they know what is good for these `poor', `backward', `ignorant', and `primitive' people. 2.8 Need for a conceptual framework Despite continuous importance given to linkages between research-extension-farmer while developing, disseminating, and utilizing sustainable agricultural technologies, several sociopolitical and institutional factors act as constraints for such an effective linkage (Oritz et al., 1991). After a decade of rhetoric about feedback of farmers' problems to extension workers and scientists, a large gap remains between the ideal and reality (Haugerud and Collinson, 1991). Kaimowitz (1992: 105) provided illustrations to support the above statement: Researchers perceived extension agents and institutions to be ineffective and unclear about their mandate, making researchers reluctant to work with extension. When researchers did work with extension agents, they tended to look down on them and view them as little more than available menial labor, an attitude strongly resented by the extension workers. Keeping these potential constraints in conventional transfer of technology, a framework for incorporating indigenous knowledge systems into agricultural research and extension has been developed with the following salient features: strengthening the capacities of regional research and extension organizations; building upon local people's knowledge that are acquired through various processes such as farmer-to-farmer communication, and farmer experimentation; identifying the need for extension scientist/ social scientist in an interdisciplinary regional research team; formation of a sustainable technology development consortium to bring farmers, researchers, NGOs, and extension workers together well ahead of the process of technology development; generating technological options rather than fixed technical packages (Chambers et al., 1989); working with the existing organization and management of research and public sector extension; bringing research-extensionfarmer together at all stages is practically difficult considering the existing bureaucracies and spatial as well as academic distances among the personnel belonging to these organizations. Hence, utilizing the academic knowledge gained by some extension personnel (subject matter specialists) during the process of validating farmer experiments; outlining areas that research and extension organizations need to concentrate on during the process of working with farmers. understanding that it is impractical to depend entirely on research stations for innovations considering the inadequate human resource capacity of the regional research system.

#### Governmental control and genocide are historically tied together

Paul Street (a member of the International Organization for a Participatory Society[1] and holds a doctorate in U.S. History from Binghamton University, is an American journalist, author, historian, and political commentator in a wide variety of media venues) 5/11/04

(“Those Who Deny the Crimes of the Past”, <http://www.thereitis.org/displayarticle242.html>) chip

It is especially important to appreciate the significance of the vicious, often explicitly genocidal “homeland” assaults on native-Americans, which set foundational racist and national-narcissist patterns for subsequent U.S. global butchery, disproportionately directed at non-European people of color. The deletion of the real story of the so-called “battle of Washita” from the official Seventh Cavalry history given to the perpetrators of the No Gun Ri massacre is revealing. Denial about Washita and Sand Creek (and so on) encouraged US savagery at Wounded Knee, the denial of which encouraged US savagery in the Philippines, the denial of which encouraged US savagery in Korea, the denial of which encouraged US savagery in Vietnam, the denial of which (and all before) has recently encouraged US savagery in Afghanistan and Iraq. It’s a vicious circle of recurrent violence, well known to mental health practitioners who deal with countless victims of domestic violence living in the dark shadows of the imperial homeland’s crippling, stunted, and indeed itself occupied social and political order. Power-mad US forces deploying the latest genocidal war tools, some suggestively named after native tribes that white North American “pioneers” tried to wipe off the face of the earth (ie, “Apache,” “Blackhawk,” and “Comanche” helicopters) are walking in bloody footsteps that trace back across centuries, oceans, forests and plains to the leveled villages, shattered corpses, and stolen resources of those who Roosevelt acknowledged as America’s “original inhabitants.” Racist imperial carnage and its denial, like charity, begin at home. Those who deny the crimes of the past are likely to repeat their offenses in the future as long as they retain the means and motive to do so. It is folly, however, for any nation to think that it can stand above the judgments of history, uniquely free of terrible consequences for what Ward Churchill calls “imperial arrogance and criminality.” Every new U.S. murder of innocents abroad breeds untold numbers of anti-imperial resistance fighters, ready to die and eager to use the latest available technologies and techniques to kill representatives – even just ordinary citizens – of what they see as an American Predator state. This along with much else will help precipitate an inevitable return of US power to the grounds of earth and history. As it accelerates, the U.S. will face a fateful choice, full of potentially grave or liberating consequences for the fate of humanity and the earth. It will accept its fall with relief and gratitude, asking for forgiveness, and making true reparation at home and abroad, consistent with an honest appraisal of what Churchill, himself of native-American (Keetoowah Cherokee) ancestry, calls “the realities of [its] national history and the responsibilities that history has bequeathed”: goodbye American Exceptionalism and Woodrow Wilson’s guns. Or Americans and the world will face the likely alternative of permanent imperial war and the construction of an ever-more imposing U.S. fortress state, perpetuated by Orwellian denial and savage intentional historical ignorance. This savage barbarism of dialectically inseparable empire and inequality will be defended in the last wagon-train instance by missiles and bombs loaded with radioactive materials wrenched from lands once freely roamed by an immeasurably more civilized people than those who came to destroy.

#### AMERICANS ARE CURRENTLY COMMITTING ACTS OF CULTURAL GENOCIDE. THAT IS, SYSTEMATICALLY DESTROYING AND ABSORBING INDIAN CULTURE AS WELL AS INTEGRATING IT INTO POP CULTURE. THE EFFECTS OF GENOCIDE ARE INCALCULABLE AND THE ATROCITIES OF SUCH SHOULD BE WEIGHED EQUALLY

Ward Churchill. Codirector of the Colorado chapter of the American Indian Movement. A previous professor at the University of

Colorado/Boulder. 1992. [ “Fantasies of the Master Race.” pg. 194-195]

"We are resisting this," Means goes on, "because spirituality is the basis of our culture; if it is stolen, our culture will be dissolved. If our culture is dissolved, Indian people as such will cease to exist. By definition, the causing of any culture to cease to exist is an act of genocide. That's a matter of international law; look it up in the 1948 Genocide Convention. So, maybe this’ll give you another way of looking at these culture vultures who are ripping off Indian tradition. It's not an amusing or trivial matter, and it's not innocent or innocuous. And those who engage in this are not cute, groovy, hip, enlightened, or any of the rest of the things they want to project themselves as being. No, what they're about is cultural genocide. And genocide is genocide, regardless of how you want to 'qualify' it**.** So some of us are starting to react to these folks accordingly." For those who would scoff at Meanss' concept of genocide, Mark Davis and Robert Zannis, Canadian researchers on the topic, offer the following observation: If people suddenly lose their 'prime symbol/ the basis of their culture, their lives lose meaning. They become disoriented, with no hope. A social disorganization often follows such a loss, they are often unable to insure their own survival...The loss and human suffering of those whose culture has been healthy and is suddenly attacked and disintegrated are incalculable. Therefore, Davis and Zannis conclude, "One should not speak lightly of 'cultural genocide' as if it were a fanciful invention. The consequence in real life is far too grim to speak of cultural genocide as if it were a rhetorical device to beat the drums for 'human rights.' The cultural mode of group extermination is genocide, a crime. Nor should 'cultural genocide' be used in the game: 'Which is more horrible, to kill and torture; or remove [the prime cultural symbol which is] the will and reason to live?' Both are horrible."

# GIVE BACK THE LAND