**ALASKA NATIVE AND AMERICAN INDIAN POLICY:**

**A COMPARATIVE CASE[[1]](#footnote-1)**

By

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**Abstract.** *Federal policy directed to settle Alaska Native land claims was shaped in a later time period and in a much different demographic, ecological, and economic context than earlier federal Indian Policy. This study begs the question why, despite these major differences, the two policy streams resulted in similar outcomes when analyzed at the macro level with national statistics. At the same time, significant cases of successful outcomes for Alaska Native and for American Indian Tribes of the Lower Forty-Eight challenge the hypothesis of similar outcomes. Alaska Natives and Lower-48 Tribes created unique and innovative programs in response to these policies. By changing the scope of policy analysis from broad aggregated statistical outcomes to a kaleidoscope of detailed cases we shift the analysis to ask questions about what kinds of indigenous responses to the general federal policy streams might be most effective. Many new questions arise. Would similar responses work for both Alaska Native and Lower 48 Tribes? Do distinctive differences in effective policy responses depend on specific factors? What kinds of indigenous policy initiatives break the mold and open the way to success and sustainability?*

**PART I - DIFFERENT TREES, SAME FRUIT?**

Many would say that aligning the history of federal policy as it impacted Alaska Natives and the history of federal policy as it impacted indigenous peoples in the Lower Forty-Eight would be comparing apples to oranges. The two regions have drastically different demographic and bio-geographic landscapes and policy processes that are widely separated in time. Yet in the introduction to his book of Alaskan short stories, John Smelcer makes a striking observation when comparing the history and current context of the policy impacts on Alaska Natives and American Indians.

 Alaska Natives do not live on reservations like “Lower-48” Indians (there’s one exception, but that’s another story). I would argue that...life on a reservation and life in a remote Alaska Native village are comparable: both are isolated, impoverished and heavily subsidized by government (Smelcer, 2011, p.19).

Smelcer raises an important question. Though the history and specific laws are different for the indigenous peoples of the two regions, how is it that the general negative outcomes appear so similar? Though federal policies may not be created with bad intent, the similarity of their negative outcomes is indeed striking. In looking for the root causes, it has been said that the massive impacts of sweeping legislation on cultures led to the failure of those cultures to adapt (Deloria, 2012).

Statistics tell the story. Census data shows that 27 percent of all Native Americans live in poverty (Williams, 2013), a larger proportion than any other group regardless of where they live in the United States.



Even in metropolitan areas like Tucson and Denver, American Indians have unemployment rates of about 30%--while Chicago, New York, Oklahoma City and Houston show only marginally better rates of 25%. These rates are as high as on some reservations (Williams, T., 2013). According to the 2011 American Community Survey prepared by the Census Bureau, the nation's population of American Indians and Alaska Natives, including those of more than one race, made up 1.6 percent of the total population (Census Bureau 2011). Of this total, about half identified as only American Indian and Alaska Native. The population of this group increased by 26.7 percent during this period compared with the overall population growth of 9.7 percent, holding the potential to reach two percent of the population by 2050 (Census Bureau 2011). The percentage of American Indians and Alaska Natives alone who lacked health insurance coverage in 2011 was 27.6%, while for the nation as a whole, the corresponding percentage was 15.1% (2011 Census Bureau ). The source of this and other relevant data comes from the 2011 American Community Survey completed by the Census Bureau: the data and measures of its accuracy are displayed in a variety of charts at
<<http://factfinder2.census.gov/bkmk/table/1.0/en/ACS/11_1YR/S0201//popgroup~006>>

**Table 1: Population (2012), Firm Ownership (2007) and Median Household Income (2011) in the past 12 Months: Comparing State and Tribal Rates for States with an AI/AN Population of More Than 100,000[[2]](#footnote-2)**

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| --- | --- | --- | --- | --- | --- |
| **STATE** | **STATE POP.**  | **POP. % AI/AN** | **% FIRMS OWNED BY AI/AN** | **MEDIAN STATE HOUSEHOLD INCOME** | **AI/AN MEDIAN INCOME USA**  |
| Alaska |  731,449  | 14.8% | 10.0% | 67,825 | 35,062 |
| Arizona |  6,553,255 |  5.3% |  1.9%  | 46,709 | 35,062 |
| California | 38,041,430 |  1.7% |  1.3% | 57,287 | 35,062 |
| Colorado  |  5,187,182 |  1.6% |  .8% | 55,387 | 35,062 |
| Florida | 19,317,568 |  .5% |  .5% | 44,299 | 35,062 |
| Minnesota |  5,379,139 |  1.3% |  .6% | 56,964 | 35,062 |
| New Mexico |  2,085,538 | 10.2% |  5.3% | 41,963 | 35,062 |
| New York | 19,570,261 |  1.0% |  .7% | 55,246 | 35,062 |
| No. Carolina |  9,752,073 |  1.5% |  1.5% | 43,916 | 35,062 |
| No. Dakota |  699,628 |  5.5% |  1.6% | 51,704 | 35,062 |
| Oklahoma |  3,814,820 | 9.0%  |  6.3% | 43,225 | 35,062 |
| Texas | 26,059,203 | 1.0% |  .9% | 49,392 | 35,062 |
| Washington | 6,897,012  | 1.8%  | 1.2%  | 56,835  | 35,062 |

 Data drawn from US Census Bureau 2010 and 2011 *American Community Surveys* and *Quick Facts* at http://quickfacts.census.gov/qfd/states/html

The general trend of the statistics shows Alaska Natives and American Indians as a fast-growing segment of the population that continues to be impacted by disadvantages in economic success and healthcare.

**THE ALASKAN CONTEXT**

When the U.S. acquired Alaska from Russia in 1867 by purchase, the treaty conveyed dominion over the land and did not signify the lands used by “uncivilized” tribes as individual property. Russia had a system of serfdom at that time and lacked a tradition of rights for indigenous and rural peoples. In 1884 the Alaska Organic Act stated that Indians should not be disturbed in the possession of lands in their use and occupation, but it failed to clarify title. In 1906 the Alaska Native Allotment Act provided 160 acre homesteads on non-mineral land to Alaska Natives of full or mixed blood, over 21 and heads of household. These allotments were inalienable and nontaxable. The federal government saw Alaskan Natives as distinct from American Indians and did not apply the Dawes Act of 1887 in Alaska. It was not until 1932 that the Department of the Interior declared the Alaska Natives to have the same status as Indians in the rest of the U.S., entitled to the benefits and subject to the same laws and regulations ( Jones, 1991). In 1936, the Secretary of the Interior was authorized to designate “Indian Reservations” in Alaska, but they were later interpreted as “temporary withdrawals,” unlike the permanent reservations in the Lower 48. The passage of the Alaska Statehood Act of 1958 brought further confusion. The State of Alaska gained the right to select 103 million acres from the public domain. Native lands were exempt, but as might be expected, the State moved quickly to grab lands Native or not if they were valuable, and to claim royalties to the federal oil and gas leases therein.

Alaska Natives protested increasing encroachments on non-native lands throughout the territorial period. The Alaska Native Brotherhood that formed in 1912, and later the Alaska Native Sisterhood, represented mainly Tlingit, Haida and Tsimishian from places in Southeast Alaska where they had mastered English through the Presbyterian missions (Williams, M, S. T., 2009). Early on the first Alaska Native attorney, began pressing for the inherent rights of ownership of the lands for Alaska Natives. He brought suit against the government. Although the suit did not win any monetary awards, it did establish the existence of a native right and that was critical to further legislation that recognized the native land claim.

Edward Teller’s “Project Chariot” would have placed an Atomic Energy Commission nuclear facility with planned denotations on a withdrawal of sixteen hundred square miles of land and water in the Cape Thompson area that was claimed by the Inupiat. In the face of that, they began to organize politically at a 1961 conference in Barrow (Williams, M, S. T., 2009). Finally, the discovery of the Prudhoe Bay oil fields prompted Alaska Native leader Emile Notti to call for a statewide meeting to discuss the issue of land claims in July 1966. At that meeting the Alaska Federation of Native Association was born with Notti at the helm and William Hensley providing a detailed legal study indicating Alaska Native claims were never extinguished. In a short period of the 1960s, Alaska Native solidarity paved the way for a settlement and turned the tide of negative identity and racism around (Williams, S. T., 2009). They pushed hard for a land freeze on federal land transfers to the State of Alaska until land claims were resolved. The timing was good, because a land freeze would halt the construction of the Alaskan Pipeline. Secretary of the Interior Stewart Udall heard them and met the challenge of the State’s land grab by ordering the lease sale on the North Slope stopped. Under Udall’s “Deep Freeze” the disposition of all of the federal lands was frozen.

In the context of pressure to lift the virtual freeze on access to additional petroleum resources, Congress passed ANCSA, the Alaska Native Claims Settlement Act in 1971, a law that greatly reduced the size of native homelands. In exchange, Alaska Natives could withdraw 44 million acres of federal land and receive almost a billion dollars from the government. The Alaska Federation of Natives lobbied hard to gain some advantages in the sweeping legislation. It was not what exactly what they wanted, but they knew it was the best they could get. The State of Alaska remained dead-set against the establishment of “Indian Country” reservation lands in Alaska. At this time, Alaska Natives gave up massive amounts of land and their subsistence rights were excluded from the new policies. In Alaska, the Act set forth a framework to recognize around 1/9 of Alaska’s total land mass as Alaska Natives’ title. One Alaska Native, Barrow Activist Charlie Edwardsen Jr., once referred to ANCSA as “a new harpoon” (McPherson, 1982, PT10, p.2). Edna Maclean, an Inupiaq linguist compared the native corporation concept to a whale where “like for instance (ninq) in the traditional sense means an equal share of the animal. Now we extend the meaning to stocks in the corporations…..shares in the corporation are not truly equal due to the power of the Umialik, the Captain, the corporate officers “ (MacPherson, 1982, Part 10).

Much was left undone by the Act and it had significant structural flaws. What was to be the nature of the trust relationship between the federal government and Alaska Natives? Had the State of Alaska succeeded in its vociferous attempt to abolish the concept of Indian Country? When would the land conveyances be complete? Does ANCSA’s jurisdiction include the outer continental shelf? Seven villages opted out of ANCSA because they would lose the land base previously granted in the 1940’s through the Indian Reorganization Act of 1939 (IRA). The losses would have been great if they had joined with ANCSA. For example, Arctic Village, which already had 1.8 million acres of land and an approved IRA government and land base, could have been reduced to little more than 161,000 acres as a village corporation. For all of these reasons, McCarrey suggests that ANCSA should be “read narrowly and not as divesting Alaska Native Tribes’ inherent power to self-govern as it did not invalidate any other federal legislation that treated Alaska Native Tribes as possessing the ability to exercise self-governance as in the Indian Reorganization Act “(McCarrey, 2013, p. 447).

Twenty years later, Alaska Natives were custodians and caretakers of only about half the expected land. A survey was required before land could be transferred: this requirement alone, considering the vast areas that were often inaccessible, caused delay. Meanwhile, the State and other entities grabbed up land. The law created 12 regional Native Corporations that absorbed governance functions over a good portion of the land and its resources, especially subsurface rights. Some Native Villages were also allowed to incorporate as village corporations under the laws of the State of Alaska. The Native Villages would have authority over the surface estate only in approximately 22 million acres of land in the township areas surrounding the villages and some additional areas to be divided by the Regional Corporations. The Regional Corporations got the subsurface estate in those 22 million village acres and full title to 16 million acres surrounding the villages. Two million acres were to be conveyed for specific purposes, and the final two million or whatever was left, were to be conveyed to the Corporations. A thirteenth Regional Corporation was created in 1975 located in Seattle Washington for Alaska Natives living in the Lower 48. The shareholders of this Regional Corporation were given no land claim.

In effect, ANCSA set up parallel governments. The corporations had title to resources. Each had to organize as a profit or nonprofit corporation under state law before receiving the lands and benefits promised. Regions organized as larger corporations. The seven Native Villages who opted out of ANCSA held rights to self-governance and insisted on a larger share of governance over their lands and resources. Other villages were charted as village corporations, while the twelve regional corporations kept much of the political, economic and natural resource clout through control of lands and important mineral rights. A fourth governance system, the federal Bureau of Indian Affairs and the Indian Health Service, played the major governmental role of service delivery just as they always had. Despite the fact that some claimed the new law would make Alaska Natives rich, educational, economic and technological isolation continued and many remained impoverished. The lack of subsistence rights during this period led to further government domination through subsidized food, healthcare, housing and water.

Two hundred and twenty seven Alaska Native governance systems are federally recognized through Public Law No. 103-454 1994 and the villages receive most of the services provided to the Lower Forty-Eight tribes by the federal government. The Self-Determination and Education Act of 1975 recognizes both Tribes and Alaska Native governmental systems and they may all contract with the BIA to deliver the services themselves. Under the Self-Governance Act, they also obtained the right to compact with the federal government. In a nutshell, Congress replaced some of the means to independence with others, but left the reins for basic needs and services in the hands of the BIA, while devolving the responsibility for subsistence to the state and managers of federal lands. Summing it up, Reverend Merculieff from St. George Island stated: “leaders involved in the fight for a settlement generally agree that, given the times, the bill is as good a solution to the land claims problem as could be negotiated” (McPherson, 1982 Program 2).

William Hensley, one of those leaders in the settlement fight, wistfully recalls:

In the end, you have to understand the times you live in and the mentality of those whose decisions affect you…But they never really understood us, and abetted by the federal government, they made decisions that should have been made by our own people, using their power to oppress our ability to govern ourselves. Our parents and grandparents acquiesced in all this, and “gave” us to the system in the belief that they were offering us a better life. What they didn’t understand was that it was possible to retain our souls, our identity, our culture, and still pick up enough of the Western ways to flourish in the new order. …Now we had a new way to look at our continuing struggle. It wasn’t enough to claim our lands, we had to claim our way of thinking, acting and living…. The stronger our identity and spirit, the stronger the likelihood that we will keep our land for future generations (Hensley, 2009, pp. 222-223).

**THE ALASKAN DIRTY DOZEN: TWELVE WAYS TO SEIZE THE NATIVE HOMELANDS**

As history tells us, the dominant political and economic forces of the federal government led to land settlements where indigenous peoples gave up massive tracts of land in exchange for cash settlements and smaller land bases. ANCSA recognized around 1/9 of Alaska’s total land mass as Alaska Native title. Ten years later, the twelve Native Corporations held but 16 million of the 44 million acre promised under a complex provision under the Act called the “Land Loss Formula” (McPherson, Pt. 2, p. 1). Distributions were lop-sided. The Arctic Slope had a small population, but claimed a little over 4 million acres with ownership of surface and subsurface estates included. The shareholders of the 13th regional corporation located in Washington State set up for Alaska Natives in the lower 48 received cash settlements but had no land claim. Complications and survey requirements delayed the re-transfer back to native communities. Twenty years later Alaska Natives were custodians and caretakers of only about half the expected land. The real point of ANCSA was to extinguish the aboriginal title to the remainder of the lands by placing such lands in the public domain, and to pay the “fair value” for the extinguished title even though the natural resource wealth was little known in many areas.

Similarly, convenient ways to limit the native land base guaranteed by treaties in the Lower 48 were created such as the Indian Claims Commission Act of 1946. From the mid 1940’s to the mid-1960’s the federal government pursued a policy of “terminating” Lower 48 Tribes. Under this policy, some lost sovereignty, federal recognition and benefits, while lands and tribal citizens became subject to state laws. Conveniently, many of the “terminated” Tribes had valuable natural resources like the Menominee and the Northwest tribes. The policy was a disaster and it took tribes many years to undo some of the harm. The Johnson and Nixon administrations took steps to end termination. In addition, they recognized that the major failure was really in the BIA mismanagement and failed delivery of services by the government bureaucracy. By the time they began to work on legislation for Alaska, the policy work behind Self-Determination Act was well underway and it was going to apply to Alaskan Natives too.

The process of dealing with native land claims would take much longer to play out in Alaska. Overall, it was a law that was actually a real estate settlement to assure Alaska Natives would give up the massive tracts of land. It drew heavily on the older Osage model of “head rights,” for oil revenues, called “shares” under ANCSA, though they were never publicly traded. On one side, it was touted as a new model for Native Peoples: on the other hand, it gave the government an easier hand over valuable natural resources by limiting the number of shareholders and reducing that number over time. The policy framework left by ANCSA created a land distribution process so muddied that ANILCA (Alaska National Interest Land Conservation Act) had to be passed in 1980. Alaska Native leaders worked hard to get ANILCA and many amendments to redress some of the structural flaws of ANCSA. Since its inception, every Congress has made amendments.

ANCSA, ANILCA and Alaska Statehood legislation all showed the effects of special interests. Bureaucratic rules delayed and complicated the re-transfer back to native communities. In the meantime, the State of Alaska continued to withdraw lands for development. Some of the withdrawals were essential to Alaska Native culture and livelihood. From the beginning, North Slope Villages felt the ANCSA settlement was not a just exchange for claims to the land their ancestors had occupied for time immemorial (McNabb 1982). ANCSA was forced into being after 1968 when a pipeline needed to be built and ARCO announced a significant oil discovery on the North Slope on land traditionally used by the Inupiaq Eskimos. One of the most enduring environmental conflicts of the century occurred around the Arctic National Wildlife Refuge. Laws created the Refuge, but underlying provisions left Congress the option to allow petroleum mining activities if there was “no impact.” The Refuge is critical to the Porcupine Caribou herd, upon which the local native village depends. The term “no impact” became the ironic rubber stamp for various attempts to legislate permission to mine despite obvious impacts to the herd and essential calving grounds.

In 1980, ANILCA allowed for the withdrawal of 100 million acres of land and divided them up with various federal land agencies. USDA Forest Service areas began an aggressive timber program once federal lands could be withdrawn and complex relations with federal agencies developed. Special interests were especially noted on the Section 1002 lands on the North Slope. Though seemingly protected through the Arctic National Wildlife Refuge and adjoining areas, legislation called for “special studies” of impacts that threatened to open up these lands to oil exploration and production. Bureaucratic pressure to suppress science was demonstrated when the USGS scientist who revealed the calving area for the caribou was fired. Native Corporations also instituted extractive programs. ANCSA and ANILCA’s implementation was influenced by private interests—gold, oil, mineral and fishing interests. The President of the Arctic Slope Native Association proclaimed: “The Congress is making its settlement for just one reason. Because the oil of the North Slope is owned by the Inupiat Eskimos of the Arctic Slope. As it turns out, the pressure of the pipeline simply has required the Congress to move” ( McNabb, 1982, Pt I, p.2).

The series of new laws and institutions alienated and fragmented lands where governance was once accomplished in common. The institution of Regional Corporations split governance and lands between the Corporations and the Villages. Originally ANCSA allowed that after 1991, pending a majority vote of the shareholders of a Regional Corporation, the shares could be sold. But as Sam Kito, past president of the Alaska Federation of Natives, pointed out: “if they sell the stock, they sell the land, and they receive money. But land is the legacy and .... we would like to find ways for them not to sell stock” (McPherson, Pt 10). Some adjustment had to be made. Within ANILCA, the D2 part of the legislation gave the corporation the first right of refusal in such shares. At least the Corporation itself could buy back shares, preventing ownership by non-natives. The Alaska Native Allotment Act, passed in 1906 was an earlier form of land distribution that divided land into 160 acre parcels owned by the head of the household. It was similar to the Dawes Act, but unlike Dawes, it held the land exempt from state taxes. This important exemption was repealed by ANCSA, but it did allow for the processing of any existing applications. Originally the Act made the lands alienable and subject to state tax in twenty years just like the Dawes Act did for the Lower 48. Long-term negotiations, lobbying and Native solidarity were required to eventually gain amendments that made the land inalienable and not subject to state taxes so it would remain in the hands of Alaska Natives.

Components of ANCSA restricted Native rights to use their lands in various ways and virtually extinguished the subsistence rights of Alaska Natives. ANCSA provided no guarantee of subsistence rights, although many village residents still had a subsistence lifestyle—hunting, fishing and gathering wild plants for food, This created a gap between the corporations that promoted industrialized resource extraction to meet corporate goals versus the needs and desires of village citizens who depended on subsistence.

 Problems arose again in 2005 for the Gwich-in communities that live on or near the Arctic National Wildlife Refuge and the Yukon Flats National Wildlife Refuge. The land exchange agreement arranged between the Doyon Corporation and the federal government involving Yukon Flats was not acceptable to village governments like Yukon Flats and Venetie Village who were not consulted (Banjeree, 2012). The exchange would have opened up 200,000 acres under refuge protection to oil and gas development. The Gwich-in organized and Chief Dacho Alexander and others spoke eloquently against the exchange. In the end, in a rare moment in Native history, the US Fish and Wildlife was persuaded by the Gwich-in during the National Environmental Act process and decided on the no-action alternative in 2009. They would not proceed with the exchange.

Another concern was the trend toward urbanization among shareholders. In over half the regions, 25% or more of the shareholders now reside outside of Alaska. Their interests may reach a level of incompatibility with the village resident shareholders, who continue to depend largely on subsistence and their cultural life ways.

 The passage of ANILCA in 1980 mitigated the subsistence problem to some extent: subsistence rights for Native and non-native rural residents received a federal guarantee of rights through the Act. However, this required the federal government to oversee the Alaska State Board of Fisheries and Game in order to assure there were no inappropriate restrictions. The State fought this oversight until 1986, when Alaska finally wrote laws to comply with ANILCA. This was further challenged in court on the grounds it violated the Alaska Constitution. This placed federal agencies in limbo until 1990 after more court battles, when the federal government announced its authority for full control over wildlife resources and subsistence on federal lands. From then on, federal agencies managed subsistence rights rather than the State of Alaska. ANILCA gave the various federal agencies vast tracts of land and they restricted native uses in line with the various management policies and missions of various federal agencies. Earlier, ANCSA, by ignoring the rights of subsistence hunting and fishing and limiting access to food sources, weakened native resistance and increased dependence on government subsidy. Even when ANILCA restored some of those rights in places where subsistence and access were once free to native peoples, the federal agency restrictions kicked in.

An especially complicated land conveyance process built confusion into laws and regulations. Land conveyance was delayed by claims and counter claims, high expenses, and delays in surveys. Previously, the Department of the Interior had authority to withdraw other lands for ANCSA if competing claims and litigation made it impossible to give the land to the Alaska Natives. By 1992, 10.6 million acres were conveyed with patent, meaning that final title was given after the survey. Meanwhile, 25.1 million acres were in interim conveyance status, meaning they weren’t surveyed and patent could be reversed while “34.9 million acres had not been conveyed in any form” (McNabb, 1992, p.3).

Alaska Natives could make withdrawals from federal lands: ANILCA set up 80 million acres in Alaska to be withdrawn for wildlife refuges, national parks, national forests, and wild and scenic rivers. Many special provisions and restrictions were placed on these lands to limit withdrawals for Alaska Natives. In another instance, millions of acres were withdrawn for national monuments, also with special limitations for the Alaska Native withdrawals. The numerous competing claims generated by ANCSA and ANILCA led to pages of rules and conflicting claims. Everything led to the desk of the Secretary of the Interior as the primary adjudicator. A better prescription for delay could not have been designed.

Further, the State won cases against Alaska Natives and fought the rights of tribal governance under the theory of “Indian Country.” In *Alaska v. Native Village of Venetie*, 1998, the State asserted that the Native Village lacked the power to tax. Venetie had attempted to tax a construction contractor working on their lands. The state legislature bankrolled the fight for a million dollars and organized a fusillade of arguments against tribal sovereignty from 20 other states (Kizzia, 1997). Although Venetie won the round in federal appeals court, the Supreme Court eventually sided with the State. Besides losing the authority to tax, one of the basic powers of government, the Venetie decision turned on whether or not village tribal lands were “Indian Country.” In the post-Ventie period, even the lands of villages that opted out of ANSCA would be legally interpreted as ANCSA lands without the designation of “Indian Country.” In this decision, the State also achieved its goal of reducing village authority over non-members. This decision could be construed to limit other powers of village and corporate governance in various civil and criminal cases. The Alaska Supreme Court, in contrast, affirmed at least some village authorities in the post-Venetie period in *John v. Baker* (McCarrey, 2013) .

The structural problems of ANCSA and ANILCA led to delays and confusion. Originally the right to use and live on the land was further muddled by complicated and confusing membership requirements. In the case of ANCSA, a generational system of shareholders was set up. If shareholders who the government identified as residents of native areas were born before December 18, 1971, the date the Act was signed, they would be issued their shares after enrolling. “But those who did not enrolled or who were born after those dates were not eligible to receive stock except through inheritance. In many families siblings have split, some receiving money and land and others not,” stated former president of the Alaska Federation of Natives and SEALASKA board member Rodger Lang (McPherson, Pt 10, p. 3). The Department of the Interior managed the enrollment process, showing the region or village in which a person resided on the date of the 1970 census enumeration or in the case of changing residence, a region of birth, of 10 years residence, or in a region from which an ancestor came. Knowing the inaccuracies of census-taking of native peoples in the more accessible Lower-48, one can only imagine the accuracy of these rolls. Despite amendments and improvements in the distribution of shares, it was estimated that by 2012 only about half of Alaska Natives held shares (Case and Voluck , 2012).

 Originally the settlement recognized the claim of Alaska Native tribal entities over large areas of land. ANCSA required the establishment of Regional Native Corporations that would make the resource extraction decisions and operate like corporations. The corporations made decisions about the land and its resources, yet some Native village governments still existed. The Act originally allowed only those living members to receive shares, disenfranchising future generations of Alaska Natives. Alienation or sale of shares in Native Corporations was to open in 1991, allowing the shares to go out of the communities. The Alaska Federation of Natives met and continued to press for changes. They achieved some improvements in the 1987 amendments that did away with automatic alienation of stock. The deadline for alienation was extended beyond 1991 as were tax exemptions on undeveloped ANCSA lands and sale of shares and expenses that could occur only with a majority vote of shareholders (Morehouse, 1988). Even with this improvement, corporations were a new idea in the realm of federal and Native relations and would require much more work and structural change for effective implementation.

The idea of private property as expressed through the new Native corporations was also new to Alaska Natives. Court claims, counter-claims and litigation from the complex mechanisms of the land conveyance system resulted in expense and delays. ANCSA itself was an enormous example of social-engineering. Meanwhile, other interests were moving in on the lands, creating further difficulties for conveyance. Natives were faced with competing and incompatible uses of their land and selection was difficult since little was known about its development value (McNabb, S. , 1992). ANCSA left the determination of whether corporation lands were “Indian Country” “where federal and tribal rather than state jurisdiction extends” and where tribal governments can tax, regulate non-native affairs and land use, and make laws while holding onto sovereign immunity (Carpenter, 1999) . After *Alaska v. Venetie* reached the Supreme Court in 1997, a powerful blow to the powers of the village governments was dealt. Few of the powers of democratic governance were left standing.

The structure of the Regional Corporations led to artificial isolation from market forces. Their financial structure was unlike that of a regular corporation who could sell shares on the stock exchange. Instead, they were held by members. This led to borrowing against assets to get capital or to funneling in money from government sources. Large cash settlements for land did not necessarily lead to good investment strategies either.

The government subsidized the corporations. They did not have to raise capital. Nor were they directly subject to market forces and the information that it brings. As a result, some of their investment choices were more risky and they tended to invest in diverse businesses creating industrial conglomerates that were difficult to manage. In the post-1980 period nearly half of them lost money (McNabb, p.3). Many invested in Alaskan enterprises, a state particularly subject to economic downturns. Corporations usually raise money by borrowing money or by selling shares. Running a corporation required skills and resources that many Native Corporations did not possess at the outset. The Alaska Native Corporation model made selling shares problematic, and so they tended to go into debt with loans. Some were able to balance the books by selling their net operating losses to other corporations but the IRS stopped that and took over half the proceeds into escrow pending their approval (McNabb, p.4).

Indigenous communities were often isolated from economic and technological advances and across the region considerable inequality existed. ANCSA never addressed Native rights to normal infrastructure that was basic to economic development. Although the Arctic Slope Corporation was making money from its oil leases, only half of the Native population felt that it brought good effects and jobs. Most of Arctic Slope Corporation’s millions of dollars in investments were oil related and development directed.

The 13 Regional Corporations were unequal in wealth, resources and degree of isolation. The division of Alaska Natives into 13 Regional Corporations created new arenas of competition and inequality. ANCSA included a controversial revenue sharing provision 7 (1) that required 70% of all revenues derived from timber or subsurface resource development to be shared among the 12 in-state ANCSA Corporations. However, losses were not shared and losers stood alone. This was intended to be an equalizer between the regions with richer resources and those with less. The result was all twelve native corporations sued each other. The oil-rich Arctic Slope Regional Corporation almost doubled its wealth reaching $24.3 million by 1980 for a membership of 4,000 shareholders. Most of the land was leased to American oil corporations. Unable to select lands from within the National Petroleum Reserve on the North Slope, the Native Corporation had to gain the right through yet another amendment to go back into the Reserve once it is opened for lease sales. Ten years after President Nixon signed the ANCSA, one Alaska Native Corporation made the Fortune 1000, another teetered on bankruptcy and one group of merged village corporations made a million dollars, while their parent regional corporation lost several times that amount (Whale, Pt 10, p. 2).

Years into the implementation of ANCSA, William Hensley made these remarks:

For fifteen years we had focused almost exclusively on trying to win back the land, setting up our regional corporations to implement the land settlement, and doing everything we could to elevate our people from their dire economic circumstances. We built warmer homes. We installed electricity and safe water systems, we improved sanitary conditions. We pushed for clinics and village schools and for projects that could bring incomes to local workers. In short, we had been trying to accomplish in a single generation the monumental task of uplifting an entire people from poverty and involving them in the making of laws and policies that affected all aspect of their lives…..I realized with dreadful clarity that all the political and economic activity of the past fifteen years had not really brought better lives for our people. Sure we were not starving or freezing the way we used to and our health care facilities were improving. But there was a yawning pit out there, and in spite of our best efforts, we were sliding downhill, straight into it. We were becoming alcoholic or violent committing suicide, neglecting children, beating wives, and going to jail in greater numbers than ever before (Hensley, 2009, p. 201-202).

The range of educational opportunities was restricted. Though the Tribal College Act of 1978 could provide local institutions of learning, only one tribal college exists in all of Alaska. Lack of funding, access, and relevant curriculum plagued educational efforts at all levels.

Inadequate health care impacted remote villages. Special problems of transportation and access were clearly present, but little resolution ensued. Health services were not mentioned in ANCSA. Coordination with different federal agencies was lacking. Healthcare was not in the original treaty with Russia, and as things developed health care moved between the BIA and the IHS. Access and distance contributed to the failure to deliver and medical technology was often not available even for the most routine tests.

Last, the roles of the state, the Native Corporations, and federal government were poorly defined. The State rarely acted in the interest of Alaska Natives, and the federal government only haltingly moved in to provide protection and access to subsistence and other critical needs. Often state court cases delayed decisions and extended time periods when roles were unclear. Although ANCSA was designed so Alaska Natives would not be “wards of the government” (Wooch Yayyi, 2007), in fact, many villages remained so and they received basic services from the BIA. Sherri Buretta, President of the ANCSA Regional Corporation Presidents and CEOS discussed the many unmet needs for plumbing and transportation, and the poor health and lack of education among Alaska Natives. She noted that corporations never really replaced or made up for the failure of the government to meet its trust responsibility: “The role of the corporation in remedying these lingering problems is often misunderstood. Alaska Natives are citizens of Alaska and the United States, and the government has the primary role to create and maintain infrastructure, educate its citizens and fund and create programs to address the needs of its citizens” (Wooch Yayyi, 2007).

**THE DIRTY DOZEN: Federal Indian Policy in Alaska**

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| 1. A government with greater economic and political centers of power forces land settlements that exchanges cash for land and begins a grand project of social-engineering that favors state interests over tribal interests. *Examples:* Treaty with Russia, ANSCA
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| 1. The dominant government institutes extractive natural resource programs without regard to impacts on Alaska Natives. *Examples:* ANSCA, USDA Forest Service (especially Sustained Yield policies), Alaska Statehood, North Slope mineral and pipeline programs
 |
| 1. Special private economic interests shape policy, obtaining in holdings and rights for resource extraction and other uses on Native land claims*Examples:* ANCSA limits Alaska Native Village mineral rights, delays land withdrawals. Attempts at development on ANILCA Section 1002 lands and Arctic National Wildlife Refuge
 |
| 1. Federal and state entities developed policies and regulations that alienate and fragment Native Alaska Lands that were originally held in common.*Examples:* ANCSA, individual allotment policies and Alaska State land claims
 |
| 5.Restrict the rights of Alaska Natives to use their lands and resourcesE*xample:* ANCSA resulted in restriction and elimination of subsistence hunting and fishing rights  |
| 1. Structural problems that connected the right to use and live on the land to complicated/confusing membership requirements, created a set-up not tied to market forces. *Example:* ANCSA set up a uni-generational system of shareholders based on birthdates and local residence
 |
| 1. Court cases stemmed from a complex land conveyance process that instituted a new system of private properties under bureaucratic rules and built confusion into bureaucratic regulations*Example:* ANCSA land withdrawal system with completing claims and survey requirements imposed private property system when knowledge of location of valuable resources was lacking. ANILCA and state withdrawals add to further overlap and confusion
 |
| 1. Insulated Alaska Natives/American Indians from market influences in terms of investment choices by providing capital through government channels with various restrictions. *Examples:* Regional Corporations limit stock exchange and incur debt instead: government subsidies required. Limited and restrictive economic development programs
 |
| 1. Isolated indigenous communities from infrastructure and technological advances.*Examples:* ANCSA never addressed economic development, but only assumed the corporation model would work as an economic and a partial governance system in Alaska. Regional corporations were not tied to infrastructure needs of Native villages.
 |
| 1. Failed to provide Alaska Natives with a full range of educational opportunities*Example:* ANCSA never addressed native rights to education and related services.Alaska only received one tribal college.
 |
| 1. Failed to provide a program of health services that establishes a comparable standard of health care. *Example:* ANCSA leaves out health services: government provided health services moved between government bureaus with poor coordination and delivery of services.
 |
| 1. Federal and state roles in relation to Alaska Natives are neither clarified nor codified. *Examples:* ANCSA, ANILCA and Statehood legislation confused and delayed withdrawals. ANILCA finally clarified federal responsibility for Native subsistence
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**FEDERAL POLICY AND AMERICAN INDIANS IN THE LOWER 48**

From early contacts, British, French and Spanish colonizers recognized the rights of the indigenous peoples of the Lower 48 through treaties. The motivation for treaty-making was primarily for military and trade objectives, and later for land settlement. At the same time the courts established an interpretation that the United States Congress, when they perceive that tribal sovereignty is inconsistent with national or state interests, may limit that sovereignty. The treaties were mainly transactions of land from Tribes to the U.S. in exchange for money, services, and economic, educational and agricultural supports. The federal government decided to hold in trust money from the sale of lands, and monies from leases and other extractive uses of Indian lands rather than direct payment to the beneficiaries. In 1871 Congress passed a law that ended the treaty-making period with Indian Tribes. At the same time, the law provided that existing treaties was not to be invalidated or impaired, though Congress might, and in some circumstances, did abrogate them.

Federal Indian policy was shaped by various private interests in the Lower 48 just as ANCSA was influenced by oil, mineral and fishing interests. The Lower 48 had all the same special interests and added a few more like agricultural and ranching interests and water for development. If treaties weren’t abrogated, means were found to obtain private in- holdings, leases, and rights for resource extraction on Indian lands. The period from 1871 to 1934 might be called the Allotment and Assimilation Era. This era of unilateral federal policy assumed the eventual disappearance of tribes, whether by assimilation or other means. The view that Indians were heathen-wards, who had to be assimilated, or, more drastically, removed, eliminated or contained as prisoners of war continued as the underlying justification for removing Indians from their homelands and reservations.

The Dawes Act of 1888 transferred enormous tracts of reservation acreage to non-Indian settlers as surplus land. It turned trust lands into allotments that were transformed into private property subject to state tax in 25 years. This new system subjected Indians to state laws: they would find no protection for their homelands or their traditional governance and legal systems, and they would owe the state taxes. The federal government expanded the scope of its power over tribes, while receding from its obligations. Policy experiments applied to Tribes whenever a new objective appeared: the Osage Nation was governed under regulations that denied citizen participation to a large number of members and the imposed concept of head rights to oil resources consolidated benefits into a small number of individuals and limited inheritance.

By contracting with missions or forcing Indian children into boarding schools far from home, or taking over local day-schools, the school became an instrument of cultural suppression. The schools were rigid and regimented and the focus was on technical and vocational training, often pointed toward domestic employment, especially for girls.

A “New Deal” Period from the 1920’s and 1930’s overlapped the end of the Allotment Era. By the 1920’s federal policy was evolving toward the idea of putting Indian children in state public schools. Again, the government was receding from its treaty obligations and advancing the idea of assimilation. At the same time, the failure of past federal Indian law and policy was becoming apparent. Tribes were not disappearing into the melting pot or into the air and federal expenses continued to rise, while the tribes sank deeper into poverty. The Indian Reorganization Act halted the allotment policies of the Dawes Act and mitigated forced assimilation, while supporting some capacity for tribal governments, economies and education (McCoy, 2005). Tribes could choose to come under the IRA and accept a type of template government that at best provided a degree of self-governance. It provides some degree of self-determination. At worst, it fragmented traditional systems of governance. The Johnson O’Malley Act of 1934 added further health education and welfare components. The government could contract with states, private entities, and Indian tribes for services the government once directly provided. These laws helped break down the ill-fitting uniform policies and regimentation of the previous system to some extent.

The Termination Era of the 1940’s and 1950’s was spurred by backlash from the usual anti-Indian interests including assimilationists and businesses interested in profiting from the resources and lands of the tribes. Congress choked off Bureau of Indian Affairs appropriations. Public Law 280 transferred jurisdiction over many civil and criminal matters occurring on Indian lands to the states. Other laws weakened tribal control over lands and natural resources. Federal pressure was applied to fully terminate some tribes. The Indian Claims Commission Act of 1946 refined the process of trying to offer sums of money as legal tender for huge tracts of land promised in treaties. As the federal policy wagon rounded the bend to the 21st century, its wide swings led to the general depletion of responsibility, unresolved problems, and failed initiatives cut off at the knees.

The federal policies emanating from the 1960’s, 70’s and 80’s recognized the failure of termination era policies. The Self-Determination Act and its amendments supported a greater degree of tribal governance by allowing Tribes to contract with the federal government to deliver services. Self-governance further emphasized tribal control over budgets and funding to shape their own policies, services and regulations to suit their needs. Tribes found a way into President Johnson’s Great Society programs and received some social and economic program support. At last Indian Tribes were included as units among the local governments as eligible for grants. The landmark 1965 Elementary and Secondary Education Act of 1965 established programs for economically disadvantaged children. In 1965, the Head Start program began and reached out to reservations. The Indian Education Act of 1972 set up grants and special adult education opportunities. The Tribal Controlled Community College Act of 1988, based on the trust obligation of the United States, authorized the Secretary of the Interior to make grants for tribal colleges. Underfunding continued to challenge all of these institutions. Here, as in Alaska, amendments to earlier laws continued to improve tribal capacity by degrees. The Tribal gaming Act laid out a framework for Indian casinos that led to increased cash flow and economic diversification for the Lower 48 Tribes.

Although the Indian Claims Commission, set up in 1946, adjudicated Indian claims of tribes against the government and paid out millions of dollars for Indian lands, only monetary compensation was possible and some tribes refused it. Individual trust accounts were also mismanaged by the BIA: tribes used the courts and monumental delays followed. After years of bitter battle in the courts with the Cobell case, the government finally acceded to settlement proposals: by 2012, 27 of the 52 of the Native American Rights Fund tribal trust cases were settled.

The Cobell Case brought the extraordinary degree of government mismanagement of Indian tribal trust accounts to light. The government often decided to hold the monies it paid tribes for land or monies derived from the leases and other extractive uses of tribal lands rather than direct payments. Payments were never made on the often under-priced leases of Indian resources and lands, and sometimes never even collected. The system of payments to individual Indian landowners was equally perplexing in its failure to work.

Unlike Alaska, where 160 acre homesteads were allotted to Alaska Natives who at the time had no clear title, allotment under Dawes or General Allotment Act in the Lower 48 was accomplished by breaking up existing reservations previously established by treaty. Reservations were fragmented into individually owned tracts of land or lands were allotted to those who did not live on reservations. Dawes gave the head of a family 80 acres of agricultural land or 160 acres of grazing land. Single persons or orphans got half of that share. The federal government retained title of the allotted lands until the expiration of a trust period of twenty-five years or longer. At that time the allottee secured a patent in fee— and that made it private property. The land could be sold and was subject to the laws and taxes of the state or territory. Citizenship was granted to every allottee.

**THE DIRTY DOZEN IN THE LOWER 48: TWELVE WAYS TO SEIZE THE HOMELANDS**

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| 1. A government with greater economic and political centers of power forces land settlements that exchanges cash for land.*Examples:* Treaties with tribes in the West, or the Treaty of Guadalupe Hidalgo with Mexico that recognizes Pueblo Indian grants, but leaves out larger tribes in SW
 |
| 1. The dominant government institutes extractive natural resource programs without regard to impacts on Tribes. *Examples:* USDA Forest Service absorbs huge areas of native claims and continued to do so through the termination policies of the 1950s. Sustained Yield and Multiple Use policies exclude tribal uses. Statehood Acts, energy and minerals development, BIA leasing all move benefits out of tribal arena
 |
| 1. Special private economic interests shape policy, obtaining in-holdings and rights for settlement and resource extraction on Native lands. Gold, oil, mining, cattle-ranching fishing and agricultural interests have primary influence in shaping policy to obtain private holdings, leases and rights for resource extraction in Indian Country. *Examples:* Dawes Act, Forest Service laws and policies, Bureau of Land Management, Homestead Act, the Mining Act, the Crownpoint Uranium Mine on Navajo Reservation
 |
| 1. Develop policies and regulations that alienate and fragment Native lands originally held in common*. Examples:* Dawes Act, land exchanges, abrogation of treaties
 |
| 5. Restrict the rights of tribes to use their lands and resources for subsistence and trade. *Examples:* Large-scale killing of bison on the plains during treaty-making period, National Environmental Policy Act, hunting and fishing rights restricted by states without federal intervention, restrictions on whaling, state restrictions  |
| 6. Connect the right to use and live on the land to complicated/confusing membership requirements***.*** *Examples:* BIA enrollment policies and blood quantum system spurred by Dawes Act. Osage head-rights system instituted by BIA as a way to manage oil rights |
| 7. Create a complex land conveyance and payment processes under bureaucratic rules that will lead to long delays for compensation of individual Indians. Confusion built into laws and regulations*Examples:* Cobell case, BIA mismanagement of tribal trust resources, allotments and leases, allowing States increasing influence on Indian lands |
| 8. Insulate American Indians from market influences in terms of investment choices by providing capital through government channels*Examples:* government subsidized ‘one size fits all” economic development programs, allowing state increasing powers to regulate and ask for shares of tribal profits |
| 9. Isolate indigenous communities from economic and technological advances.*Examples*: lack of infrastructure for business prevalent in many areas, failure of BIA roads system severe underfunding for infrastructure and technology. Policies not tailored to extremely varied contexts: some tribes are remote, others are in urban settings.  |
| 10. Fail to provide Natives with a full range of educational opportunities *Example:* Although Congress continued to pass legislation for Native American education complicated grants, severe underfunding and the attempt to implement uniform policy to the various contexts for Indian Education (in public, BIA, missions, residential, local and tribally-operated institutions) gave poor results. |
| 1. Fail to provide a program of health services that establishes a comparable standard of health care and move the providing unit back and forth between departments *Examples:* Health services move from BIA to IHS. Severe underfunding and lack of services provide inadequate care with poor coordination and delivery of services.
 |
| 1. Federal and state roles in relation to tribes are not clarified or codified. States make assertive moves on tribal lands and revenues: federal government delays or ignores its trust responsibility to tribes. *Examples:* California passes heinous laws in the 1800s all but wiping out any tribal claims. Washington State moves against treaty fishing rights.
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**PART II RESILIENCE—AN ALTERNATIVE RESEARCH APPROACH REVEALS HOW SOME ALASKA NATIVE AND AMERICAN INDIAN GOVERNANCE SYSTEMS GROW THEIR POLITICAL AND ECONOMIC MIGHT**

It would seem that past Alaska Native/American Indian policies of the federal government led to poverty, inadequate healthcare and infrastructure, and a limited scope of economic and educational opportunity in the overall picture. On the other hand, if we change the scope of the analysis to the level of specific cases, we see that indigenous socio-political structures could adapt and break out of the federal box. From this perspective, it can be argued that there are many exceptions and unique circumstances that challenge the general hypothesis of isolation and doom. In fact, Alaska Native and American Indian tribes frequently took steps towards finding a legal means of seizing title and/or administrative sovereignty for lands and developed effective governance systems through innovative administrative structures. The previous section of this case offers some foundational ideas about the connecting threads, concepts and examples of federal policy that were instrumental in the failures. This section explores native-initiated innovations and successes.

Though there are earlier examples, it was sometime in the 1980’s that clusters of Alaskan Native institutions and the tribes of the Lower 48 began a steady movement forward. Though the result was not an eclipse of federal policy, they began to use the existing policies vacuums to free themselves, step by step, from federal control. Bill Ziegler, CEO of a unique native urban housing project who came from the Lower Brule reservation in South Dakota spoke: “It’s like the Lakota hunters bringing down a buffalo. It wasn’t one shot. It was a series of errors that led to success. And it’s going to take a series of arrows to bring down the beast” (Williams, 2013, p. 16).

Tribes and native organizations worked to get amendments to some of the laws that either left tribes out or promoted policies that were no longer useful. Some began to find ways to adapt core cultural concepts to progressive programs. The trend toward applied self-governance initiatives, backed by economic initiatives, nonprofit partners, and new assertiveness in state-tribal relations was pushed ahead with tribally-initiated policies and the support and solidarity of tribal organizations. As a result, policies and programs developed that were uniquely tailored to their bio-geographic and cultural contexts and their regional economies. Economic success soon brought forth increased political leverage. Tribal influence was enhanced by the current trend toward extremely tight political races often decided by a percentage point or two. If organized in a block, tribal members could change election results. With money from their enterprises, tribes could hire lobbyists and advocates and mount media campaigns. All of the emerging potential and actual successes raised a new set of questions and opportunities.

Data was coming in from the American Community Survey in 2011 that change was coming to Indian Country. The Census Bureau released the new statistics from the survey study of tribal communities. The numbers from the Census Bureau (US Census Bureau, 2011)were loaded with myth busters on education, business and jobs:

* “Among American Indians and Alaska Natives 25 or older who have a bachelors’ degree or higher, the percentage whose bachelor’s degree is in science and engineering or related fields is 78.9%. This compares with 44% of the general population for all people 25 and older”
* “The receipts for American Indian- and Alaska Native-owned businesses in 2007 were 34.4 billion, a 28.0 percent increase from 2002. These businesses numbered 236,967, up 17.7 percent from 2002.”
* “The number of American Indian- and Alaska Native-owned firms in California in 2007 was 45,629…..Among the firms in California, 17,634 were in the Los Angeles-Long Beach-Santa Ana metro area, which led all metro areas nationwide.”
* “The number of American Indian- and Alaska Native-owned firms that had paid employees in 2007 was 23,704. These businesses employed 184,416 people.”
* “The number of American Indian- and Alaska Native-owned firms with receipts of $1 million or more in 2007 was 4,599 .

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Surveys showed that the skill set and employment distribution of Native Americans is now quite diverse. The percentage of 16 or older civilian-employed American Indian and Alaska Native alone who worked in management, business, science and arts occupations in 2011 was 26.2 percent. In addition, 24.8 percent worked in service occupations and 22.8 percent in sales and office occupations. (US Census, American Community Survey 2011)

Now with some successes under their belts, Alaska Native Tribes and Lower 48 Tribes explored ways to make successful, sustainable restorations of their communities and cultures. What kind of capacity was needed to sustain economies and governance systems? What are the effects of having such large numbers of the community unemployed, while others are part of a middle-class Indian bureaucracy and still others successful entrepreneurs? Was the pathway to healthy self-determined communities paved by a shared set of tribally-initiated policies, and if so, can we define them? How were they using the dirty dozen to forge ahead? Was it the very recognition of distinctions and differences that led to diverse, adaptive policy-making decisions, especially tailored to each indigenous governance group?

*Indian Country Today* recently chronicled some of these indigenous successes:

The financial impact of Indian gaming beyond Indian Country is fairly well known. Less well-known is the impact made by non-casino enterprises….retail, housing, farming/ranching, tourism, Internet services, among many. When bundled with that gaming money, Native ventures have a hefty impact on state and local communities throughout the U.S…Gaming remains the standout….Tribes had $27.4 billion in gaming revenues in 2011, up from 26.5 billion the year before…The federal government, through the Housing Assistance and Native American Self- Determination Act, disburses some $600 million a year to Tribes to build housing….That housing money creates construction jobs, subcontractor contracts, trips to home retailers….(Fogarty, 2013)

As we start to look at different approaches, it is important to consider tribal political history, geographic location in relation to educational and business opportunities, cultural values, education and skill attainment levels, and many other factors. Some of these factors may be related to regional differences or to the level of cooperation with state and local government. Such factors are key to understanding how individual tribes or Alaska Native Corporations and Native Villages changed the face of bureaucratic domination from Washington, staved off land loss, broke down barriers of isolation and created diverse revenue streams that put them on a path of restoring everything from their land bases, their political independence to their economies and cultures. The examples in the following section show different kinds of successes as they unfolded in different regions. Not all successes were economic, and Tribes came to diverge widely in the degree of economic and other kinds of successes.

In addition, regional histories and context may shed light on uniquely tribal paths to success and sustainability. In the Northeast, Tribes once formed the powerful Iroquois Confederation that reached across borders. Caught between colonial powers, fluctuating borders and rival tribes, they developed sophisticated institutions for cooperation. In the far Southeast, the Seminole could retreat into the swamps, providing some buffer to the waves of Spanish, French, English and American colonizers. Eventually, the extraction of water for development had its impact. Despite the heavy urbanization and development, these two examples from opposite ends of the Eastern Seaboard exemplify the innovation and creativity that carried tribes through the centuries.

In the Southwest, tribes first felt the impacts of the Spanish, who left them with a different type of land-tenure system based on grants, followed by later Mexican and U.S. domination. The Treaty of Guadalupe Hidalgo secured title for much of the Pueblo lands and grants, but other tribes would have to fight for theirs. U.S. domination came late and the Dawes Act was little applied to tribes with strong different histories and a long record of resistance, leaving significant land bases for some of the Southwest tribes. With larger land bases and multiple choices for access to major transportation corridors, a number of Southwest Tribes are forging ahead. Because of the long history of relations with foreign powers, they developed considerable sophistication in dealing with external governments while maintaining an amazing level of control over their affairs, despite the era of broken treaties, confinement, bureaucratic attempts at control and loss of land.

**A Baker’s Half-Dozen**

The following examples were chosen because they seem to defy the usual adage that America Indians and Alaska Natives are plunged into a world of poverty, poor healthcare, and isolation. The selection was somewhat eclectic, relying on Internet searches and personal experience, accompanied by an attempt to get examples from different kinds of areas and programs. The author recognizes that there are many other powerful success stories out there. These examples illuminate possible pathways, but they are not meant to deny the problems of poverty, poor healthcare and the lack of meaningful educational opportunity and employment that exist across Indian County.

**Three examples from the Northwest Salish Sea Region, formerly known as Puget Sound**

1. *Northwest Fisheries*

Northwest Tribes with small land bases fought many of the ills of previous federal policy and sustained their fishing rights. The Stevens Treaties that exchanged land title to millions of acres for money, some services, and the guarantee of their right to fish in “usual and accustomed places” had the effect of merging them together in a campaign to protect those rights. Federal policy left a giant vacuum on how their right to sustainable fisheries would be implemented by abdicating their trust responsibility to the state. Tribes became subject to severe and sometimes violent restrictions on their native subsistence lifestyle through arrest and enforcement of state licensing and state-approved fishing methods. The tribes initiated what was in fact a civil rights-style movement that had the additional foundation of treaty law that propelled it from 1964-1974. They resisted the state, entering into sometimes violent altercations with state officials resulting in imprisonment of native fishers. Finally, after tribal members like Billie Frank, Jr. were arrested again and again, the federal courts came to a settlement via the Boldt Decision that re-affirmed the tribal treaty right to 50% of the catch (Boldt, 1974). This gave the tribes a seat at the table in matters affecting fisheries. Eventually, through continual meeting, negotiating and battling in court, the tribes achieved the status of co-managers. The Northwest Indian Fishing Commission was created as a center for Native policy-making on fisheries and serves as a center for these negotiations and protection of the right to fish. Today major concerns about clean water are at the top of the list. Tribal natural resource agencies geared up to face ongoing challenges, and their expertise is recognized on the world stage in international meetings on climate change and biodiversity.

Though challenging issues continue to occur, the tribes carved out a permanent and powerful seat at the negotiating table and developed multi-party economic, political and cultural partnerships. In this context, the stories below of two Tribes in this region are intertwined and yet distinct to their own locale and culture.

1. *Tulalip Tribe—Diverse Responses to Community Development*

Tulalip exemplifies both creativity and balance. To enhance their already well-developed foundation in casino management, they utilized a little-known law to create a federally-charted city that they named Quil Ceda. From that position, they were able to develop specially tailored economic policies without the usual fetters from multiple layers of government. The result was a thriving premium outlet mall and larger stores that serve the local public. Creativity was matched by a strong component of sustainability in their strategies.

Faced with water pollution, Tulalip incorporated the waste from the local dairy industry into an environmental business, building a bio-gas generation plant. Scholarships for tribal members were made available, and they donate to the local school district as well as a variety of other community organizations and causes. Leaders in Tulalip’s natural resource department play international as well as national and state-wide roles as leaders in sustainability and adaptation to climate change. Videos and media messages on television communicate Tulalip’s dedication to sustainable environmental and social strategies to the larger public. John McCoy, a Tulalip tribal member, sits as a Representative in the State Legislature developing an ever-increasing impressive legislative history. For more information about Tulalip successes, go to their website at tulaliptribes-nsn.gov

1. *The Squaxin Tribe—Business, Culture and Partnership*

Once confined by the government to a tiny island without fresh water, this Tribe prides itself on its cultural integration and economic diversity. Through multiple court battles, the Tribe restored its rights to collect shellfish and re-established a sustainable land base that it manages with a deep ethic of stewardship. A tribally-designed Cultural Center educates the public while offering opportunities for enhancing cultural traditions and language restoration to tribal members in the area. Concurrently, Squaxin developed the first-class Little Creek Casino with a Resort and Golf Course, becoming the largest employer in Mason County. They partner with the State of Washington on various initiatives to protect their beautiful inlets and ground-water resources. Tribally owned businesses flourish under a separate administrative arm created by the tribal government. Partnerships encourage small privately-owned businesses for tribal members and local businesses. The Tribe also provides financial support to area educational institutions, fire and emergency service and other community services. To learn more about their enterprises, go to their website at squaxinisland.org/

**Along the Border: California and Arizona**

1. ***Morongo Band of Mission Indians—The business of generosity***

**Morongo exemplifies business success combined with a penchant for generosity. As they develop new enterprises, they provide a powerful example of how to diversify and build an economic foundation.**

The Morongo Band of Mission Indians has led its region in economic development, generating thousands of local jobs and nearly $3 billion in annual economic activity in a wide variety of industries. Morongo has a diversified business portfolio with holdings in gaming, finance, health care, agriculture, restaurants, recreation and manufacturing. The tribe employs about 3,000 people in its various enterprises. Morongo puts its revenues toward the betterment of its tribal members. It operates a tuition-free college preparatory academy on its reservation, and the tribe also pays 100 percent of the college tuition and expenses incurred by any of its members. The band also funds its tribal health care, public safety and public works departments, and helps support nongaming tribes across California. The Morongo Band supports thousands of local jobs both directly and indirectly. Morongo has contributed millions to area law enforcement, youth sports and schools, and works collaboratively with its neighbors to tackle regional transportation and environmental issues. The tribe also contributes more than $1 million annually to support community groups and nonprofit organizations across Southern California. Morongo’s community outreach programs include its annual donation of 10,000 turkeys to provide 220,000 holiday dinners to children, families, seniors and veterans in need. In December, Morongo provided $100,000 to fund an annual holiday shopping spree for more than 1,500 disadvantaged children (Fogarty, 2013).

To learn more, go to their website at www.moronogonation.org/

1. ***Navajo Nation—Big and Complex***

**The Navajo Nation, the largest of the Indian Nations, spans four states on a reservation roughly the size of West Virginia. The Nation broke ground with its own Navajo Code, Navajo Court system and a distributive justice program based on Navajo cultural values. The Nation supports broad efforts to protect its culture and language. The Navajo Arts and Crafts Cooperative markets Navajo artistic creations nationwide. They have committed their clan system to computer and Dine College provides advanced educational opportunities. The Policy Institute analyzes important issues like food sovereignty. The Navajo Legislature represents many districts and in recent years local areas have been empowered. Non-profit groups are proliferating with objectives for increasing support for culture and language, Native agricultural pursuits and lifeways. The Nation faces many challenges and widespread poverty, often the result of failed federal policy like the “Bennet Freeze” that went on for years and stopped all development and housing projects on thousands of acres during the Navajo-Hopi land settlement process.**

**New economic energy is infusing Dine enterprises as evidenced by *Indian*** *Country Today’s* rundown of the many economic interests of the Navajo Nation:

The Navajo Nation has many funding sources—internally, through taxation on coal and gas, as well as hotel occupancy and sales taxes, and externally, from state, federal and private grants. The Navajo Generating Station and the Kayenta (coal) Mine are huge money-makers. A recent federal report covering the past 25 years used a figure of $1.3 billion in revenue, with $772 million of that going to the Navajo Nation for royalty payments, bonuses and water fees. The payrolls for just those two totaled 1,000 employees (85 percent to 90 percent of whom are tribal). They are exploring significant green energy potential. The Navajo Nation website offers extensive information at www.navajo-nsn.gov

Another major cash infusion comes from travel and tourism. According to the most recent Navajo Nation Visitor Survey, the total annual economic impact of tourism is approaching $144 million—and nearly 80 percent of it comes from spending by out-of-region visitors. The tourism industry supports nearly 1,800 full-time jobs. “Visitors are captivated by our scenery, but what makes Navajo-land truly unique is our culture,” says Senior Economic Development Specialist Roberta John. “We want to share that heritage, and tourism is one way to do that.” (Fogarty 2013) Gaming is an important revenue generator, with three casinos in New Mexico making a $63 million annual economic impact. A fourth casino is expected to open in Arizona in summer 2013.

With eight industrial parks throughout the reservation, developing an industrial base is a key for future economic diversification, attracting branded entities like Coca-Cola, which has a bottling plant in the Chinle Industrial Park. “We’re doing a lot. We’re booming here on Navajo-land and can’t turn back now,” says Albert Damon Jr., the Navajo Nation’s director of economic development” (Fogarty, 2013). The Navajo Nation website offers extensive information at www.navajo-nsn.gov

**The Eastern Seaboard provides numerous examples of contemporary success: here are two of them.**

1. ***Onondaga Indian Nation—Independence and the League of Peace and Power***

Part of the great Iroquois Confederation of the Haudenosaunee peoples (People of the Longhouse), the Onondaga Nation joined the “League of Peace and Power” that spanned the Northern border by the 16th century or before. Today, some scholars refer to the Iroquois League as the ceremonial and cultural institutions embodied in the Grand Council which still exists today. The Iroquois Confederacy, responding to European colonization, was considered dissolved after the defeat of the British to whom the Confederacy was allied although the term is still used today. Harboring a strong sense of innovation, environmental ethics and expertise in international and cooperative relationships, Onondaga opened up multiple paths, including international business opportunities tied to sustainability. *Indian Country Today* recounts some of their successes:
“The Onondaga Nation is a traditional Haudensaunee nation that does not accept money from the U.S. government. The nation’s revenue sources stem from four enterprises. The first is a smoke shop. The second is the tribal-owned lacrosse and ice hockey arena, the Nation Arena Tsha’HonNonyen Dakwha’. The nation founded Plantagon International with Swedish company Swecorp Citizenship Stockholm AB in 2004. Plantagon develops systems and technologies like vertical greenhouses for urban agriculture for the global market. The socially responsible company aims to provide fresh organic produce directly to urban consumers while reducing the carbon footprint and environmental damage “(Fogarty, 2013).

The nation is also an investor in EcoLogic Solutions, a Brooklyn, New York–based company that makes organic cleaning products, which are now being manufactured and distributed partially from the nation.

“Revenue from all tribal businesses goes to fund services for the nation’s citizens; none of the chiefs are paid. Among the many services provided are health care, a fire department, heating assistance, home repair, healing-counseling, historic preservation, a language program, a water system and a solid waste and recycling program” (Fogarty, 2013).

More information about the Onondaga and their initiatives is available at www.onondaganation.org/

1. ***Seminole Tribe of Florida—Casinos, Resorts and More***

Analysts suggest that the Seminole Tribe of Florida holds assets and capital worth several billion dollars. It is likely that the Seminoles of Florida were the first American Indian tribe to establish a casino on Indian land more than 30 years ago, although some other non-approved tribal gaming operations were also operating. Today, the Tribe operates seven casinos in Florida. *Indian Country Today* records their significant economic accomplishments:

 In March 2007, the Seminoles of Florida purchased the Hard Rock International from the Britain-based company Rank Group PLC for an estimated $965 million. The unprecedented deal now includes 177 venues in 58 countries: 141 Hard Rock Cafés, 18 Hard Rock Hotels and 8 casinos. The tribe, which has more than 3,800 enrolled members, also acquired in the deal the largest collection of rock memorabilia in the world, including Jimmy Hendrix's Flying V guitar and one of Madonna's bustiers.

The Seminole Tribe directly employs more than 20,000 persons, including more than 10,000 in their Florida gaming operations, and more than 7,000 at Hard Rock International. Another 15,000 persons are employed by Hard Rock licensees around the world, or by vendors who operate various businesses under contracts at Seminole gaming sites. In addition, the Tribe generates billions of dollars in economic impact in Florida and elsewhere through vendor contracts and indirect spending spun-off from its gaming and governmental operations, as well as other business interests.(Fogarty, 2013).

**You can read more about the Seminole Tribe at www.sem.com/**

**Top of Form**

**And Five More: Alaska Native Successes**

Despite the problems implementing ANSCA and ANILCA, Alaska Natives forged ahead and they made significant advances in healthcare, education, employment. They achieved significant amendments to ANSCA through Native solidarity and got some structural flaws fixed through ANILCA. The Native Corporations managed to resolve the complex revenue sharing mechanism between them creating a significant model of economic justice-- something that the forty-nine other states would hardly be able to do. The Alaska Native population continues to grow at the rate of 9.7%. The proportion of Alaska's population identified as American Indian and Alaska Native as of the 2011 American Community Survey was the highest rate for the American Indian/Alaska Native race group of any state at 19.7 percent (US Census Bureau, 2011).

In Alaska, the Native Corporations, Alaska Native business enterprises and Native Villages found success in many arenas from health to natural resources and cultural achievements. Despite struggles in earlier years, all 12 corporations were recently ranked as top businesses: *Alaska Business Monthly* reported the twelve native corporations were listed in the top 25 Alaska-owned businesses based on revenues (Harrington, 2013) ). Corporations also produced significant nonmonetary benefits. Forming partnerships with tribal organizations, nonprofits and villages, these included employment development opportunities, cultural preservation, land management, economic development and advocacy. (Harrington, 2013) Along with the utilization of the corporate model outlined by ANSCA, innovative use of provision 8(a) of the Small Business Administration Business Development Program Act of 1958 was an effective strategy. This Act makes Tribes eligible for federal contracts and gives them an edge by setting up an incubation period that allows them a special pathway to enter the marketplace and demonstrate their ability to perform before facing the full stream of competition. Geographic context, mineral resources, and cultures provide diverse opportunities. Some corporations and Native Villages have easier access to business opportunities, tourism, and lifestyles

1. *Doyon—Federal Contracting, Petroleum Exploration and Balanced Development*

The Doyon Corporation represents a strong regional Native Corporation that aims to “strengthen the native way of life and protect and enhance our lands and resources.” It is the largest of the Alaska Native Corporations with extensive inland holdings. It encompasses a diverse array of successful businesses ranging from oil field services to tourism. This Corporation seeks balanced development and it moved carefully to consider the areas it wanted to protect before opening areas to exploration. In 2013 it finally opened to widespread petroleum exploration. Doyon holds approximately 400,000 acres of State of Alaska oil and gas leases. Besides the utilization of the Corporation model delivered by ANCSA, innovative use of provision 8(a) of the Small Business Administration Business Development Program Act of 1958 that makes tribes eligible for federal contracts gives them a competitive edge. Updated information is available at the website www.doyon.com

1. *Chenega Corporation---Out of the Spill comes Success*

The Chenega Corporation, located in Prince William Sound, built a successful village corporation after the devastating environmental tragedy of the Exxon Valdez spilled death upon its shorelines and waters. It was created in 1974 to represent the interests of the Chenega people, an Altiiq people with ancient roots in Prince William Sound. Many Chenega people reside in this area and maintain a subsistence way of life. The work of the Corporation supports them with a comprehensive cultural, societal, religious and community strategy. Its diverse business initiatives led to its place as a top five Alaska-owned business, despite the impacts of a tsunami in 1964 and the oil spill in 1989. The Corporation participated in the Trustee Council and Habitat Restoration Programs to deal with the long-term effects of the spill on the Chenoa people and the lands and waters they depend on.

Facing an uncertain future, the Corporation took an unusual course of selling land to the State and the Forest Service. The step was coordinated with a strong strategy for investing the proceeds. Much of their strategy was based on implementing the 8(a) provision that gave them an edge for obtaining federal contracts by allowing them to be the sole source. Establishing top flight information technologies and accounting systems, the Corporation took the number four spot on *Alaska Business Monthly Magazine’s* list of Top 49 Alaska owned businesses in 2011 and took the 65th place in the list of the Top 100 federal contractors. They build capacity in key areas like engineering, construction and environmental compliance. Technology installation, contracting military intelligence, support and security operations, and environmental and health solutions rounded out a wide array of professional services made available through the Chenega Corporation. More information is available at their website <http://www.chenega.com> and www.southcentralfoundation.com/

1. *Sealaska Corporation—From Profits to Curriculum for Education*

 An early entrant into timber industry markets, Sealaska later diversified and became a major player in the Alaskan economy. It continues to provide consistent distributions: in fiscal 2012 it paid out more than $24 million to shareholders and Southeast Alaska village corporations. In addition it made payments to other corporations in accordance with ANCSA Section 7(1) that requires corporations to share 70 percent of their resource revenues from ANCSA lands with the other corporations. In the early years, more than $300 million was distributed to other ANCSA corporations. Every year $300,000 is made available for higher education scholarships. Support is given for internships and the new Soboleff Center in downtown Juneau is under construction.

One of Sealaska’s signature programs is its unwavering support of educational innovation. In 2012, numerous grants were given to school districts and institutions serving Alaska Native students with new ideas for educational improvement. Ideas for revamping the curriculum, creating culture-based learning frameworks, providing training to school boards, creating supportive networks inside and outside the school, providing urban cross-cultural immersions and giving students opportunities to test their independence and skills in decision-making goal setting and individual learning plans were included in these projects. Learn more about Sealaska at www.sealaska.com/

1. *South Central and the Cook Inlet Regional Corporation—Health and Cultural Innovation*

South Central is an Alaskan Native-owned nonprofit healthcare organization serving 60,000 Alaska natives and American Indians. It was incorporated in 1982 under the Cook Inlet Region, Inc. (CIRI). CIRI nonprofits employ over 1400 people in 65 programs. The South Central Project began by implementing P.L. 638, a provision of the Self-Determination Act, to contract with federal Alaska Area Health Services in 1985 for the provision of dentistry, optometry, injury control services and public health representatives to communities. It soon added substance abuse and other services and by 1994 it was administering nearly half the primary care services for Alaska Native peoples. Early in 1997 Congress passed Public Law 105-83 allowing Alaska Native people to obtain ownership and management of all Alaska Native health care services. Moving quickly, the Alaska Native Medical Center opened its doors in May 1997. Today, a broad array of services in a modern setting, with a beautiful backdrop of native cultural and art exhibits at every turn, are provided through this award-winning public-private-nonprofit hybrid.

CIRI founded other enterprises including the Alaska Native Heritage Center, the Cook Inlet Housing Authority, the Koahic Broadcasting Corporation and the Alaska Native Justice Center. Their strategy was to emphasize opportunities over entitlements. Learn more at <http://www.ciri.comcote/history/regional.aspx>

1. *The Gwich-in Steering Committee Arctic Circle, Alaska---Political Organization*

The Gwich-in Nation, determined to live a subsistence lifestyle based on the caribou and fishing, united with partners to form a powerful political organization aimed at preventing oil drilling in the Arctic National Wildlife Refuge (ANWR). Opening up the refuge to oil drilling was a major priority of the second Bush administration along with oil companies and many who feared higher prices and an oil shortage. This small Alaskan Native Nation, numbering in the thousands, played a major role in what is considered the major conservation fight of the 21st century. When they became aware of the threat to the caribou calving grounds, they held a traditional gathering in 1988---the first such gathering in 100 years. Out of their gathering came a representative steering committee of 15 Tribes from the U.S. and Canada and they broadened their message to encompass global human rights. In a letter to Senator Daniel Akaka (D-Hawaii), Gwich’in leader Matthew Gilbert recalls that the gathering established a spiritual foundation for a thirty year strategy to protect their lands and Arctic National Wildlife Refuge from oil and gas development (Banjeree, 2013). Supported by the Steering Committee, Gwich-in activists travelled the nation and the world with their message. They formed partnerships with major environmental organizations, religious groups, writers, artists and others who could help further their message. More than 400 American Indian Tribes signed on. At home, they developed plans to decrease their dependence on oil and train youth in their culture and their message, while encouraging their education. As a result of their efforts, about 7,000 Native Alaskan in 15 villages fended off multimillion dollar corporations and a presidential administration equally determined to open the oil fields. Their gatherings and their work continue, as the threat of oil development is ever-present. Learn more at www.ourarcticrefge.org

**Summary**

American Indian and Alaska Native communities and their institutions are in a time of great change. From the effects of climate change to the instability of markets, to the implementation of complex mechanisms and relationships with state, federal and local governments, they are working to ensure a sustainable future for their indigenous communities. Overall, there are few studies of their successes. Further study of models of successful programs, governance and economic systems, and cultural resilience may lead to the ability to identify characteristics leading to success and move away from bureaucratic one-size-fits all solutions. It is time to do that research.

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2. The Census Bureau statistics are based on racial identification rather than political status as tribal members. In addition, the Census Bureau now separates out a category for those who identify as mixed race. Due to this, some American Indians/Alaska Natives may identify in this category, causing an underestimate of those who are for cultural and political purposes American Indian/Alaska Native. [↑](#footnote-ref-2)