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## Sovereignty, Economic Development, and Human Security in Native American Nations

### Cover Page Footnote

Mr. Guedel is Chair of Native American Legal Services for Foster Pepper PLLC in Seattle, a researcher at the University of Washington Jackson School of International Studies, and serves as Chair of the American Bar Association's Committee on Native American Concerns. The author is tremendously grateful to Dr. Christina Wygant of the University of Washington's Program for the Comparative History of Ideas for her contributions and editing of this paper.

## SOVEREIGNTY, ECONOMIC DEVELOPMENT, AND HUMAN SECURITY IN NATIVE AMERICAN NATIONS

W. Gregory Guedel\*

*I want to build on our true government-to-government relationship...As we made clear in the Executive Order earlier this year that established the White House Council on Native American Affairs, we have a unique legal and political relationship, one that's been affirmed many times in treaties, in statutes and in the Constitution. That's the unique relationship we honor today. That's the relationship we're called upon to sustain for the progress of all of our peoples...let's keep our covenant strong by strengthening justice and Tribal sovereignty.<sup>1</sup>*

### I. INTRODUCTION

These powerful words from President Obama are encouraging for advocates of enhancing the sovereignty of Native American nations, but the President himself confirmed an equally important fact: “What matters far more than words—what matters far more than any resolution or declaration—are actions to match those words.”<sup>2</sup> This study explores elements of the sovereignty dynamic in the government-to-government relationship between the United States and Native American nations to assess 1) what benefits Tribal communities glean from this unique relationship; and 2) whether enhanced Tribal sovereignty can enhance overall quality of life for Native Americans. This study seeks to identify approaches for understanding economic development and human security conditions unique to

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<sup>1</sup> President Barack Obama, White House, Remarks by the President at Tribal Nations Conference, (Nov. 13, 2013) (transcript available at <http://www.whitehouse.gov/photos-and-video/video/2013/11/13/president-obama-speaks-2013-tribal-nations-conference#transcript>).

<sup>2</sup> Gregory Guedel, *White House Tribal Nations Conference Progress Report Released*, NATIVE AMERICAN LEGAL UPDATE, (Dec. 6, 2011), <http://www.nativelegalupdate.com/2011/12/articles/white-house-tribal-nations-conference-progress-report-released>.

Tribal communities by examining empirical results from specific instances of Tribal sovereignty assertions. This study focuses on “Sovereignty Events”— wherein Tribal governments individually and/or collectively assert sovereignty through definable actions commencing at an identifiable point in time—to show how these events allow for growth, development, and increased security within the Tribes. Three case studies centered on the sovereign resource of Tribal gaming revenues are presented:

1. Increases and growth trends in Tribal gaming revenue following *California v. Cabazon*;
2. Allocation of Tribal gaming revenue for political contributions to increase Tribal influence in Washington, D.C.; and
3. Poverty outcomes in Tribal communities relative to Tribal gaming revenue.

There are presently 566 federally-recognized Tribes within the United States, and the United States and Tribal nations share governmental control over policies and programs affecting Native Americans in a unique legal arrangement known as “domestic dependent sovereignty”.<sup>3</sup> It is a treaty-based, government-to-government relationship in which federally recognized Tribes are treated as separate nations whose sovereignty has in some areas been reduced from the traditional nation-state.<sup>4</sup> This paradigm is the manifestation of several centuries of evolution, wherein European colonial powers and the United States government forcibly undermined (and at times abolished) the organic societies and political organizations of the indigenous people of the Americas. Despite the fact that Native American nations are geographically located within the territorial boundaries of the United States, the United States and Tribal governments are engaged in an international relationship, which calls for analysis utilizing the methodologies and metrics of international development research.

Within the field of International Studies, human security is viewed as a means of holistically “creating political, social, environmental, economic, military, and cultural systems that together give people the building blocks of survival,

<sup>3</sup> See, *Cherokee Nation v. Georgia*, 30 U.S. 1 (1831).

<sup>4</sup> Between 1776 and 1871, over 379 treaties were ratified between the United States government and Tribal nations, and these treaties continue to form a fundamental element of the present government-to-government relationship. See JEFF CORNTASSEL & RICHARD C. WITMER, FORCED FEDERALISM: CONTEMPORARY CHALLENGES TO INDIGENOUS NATIONHOOD 58 (2008).

livelihood, and dignity.”<sup>5</sup> For Native American nations, human security provides a broad description of the conditions that impact the quality of life in a given Tribal community: physical security, economic development, public health, cultural freedom, and others. The statistics for Native American communities have chronically registered unfavorably compared to the United States national average in most measurable areas of human security including higher rates of preventable disease, lower employment, increased poverty, and higher levels of violent crime. Professor Kevin Bruyneel of Babson College has argued that the increased assertion of Tribal [S]overeignty “can open up realms of political maneuverability for indigenous people”, offering a new pathway for addressing human security conditions.<sup>6</sup> For many Native American nations, sovereignty appears to hold the potential to be a transformative political and socio-economic force to deploy in the effort to ameliorate chronic poverty, preventable disease, and social justice issues.

Working from the institution of national Tribal casino gaming at the end of the 1980s, the research described in this article analyzes Tribal policies and implementation approaches intended to result in measurable improvements in Native American human security indicators. Combining information from government and academic sources with new data and research analytics, this study seeks to provide some evidence-based answers to the question: “How does Tribal sovereignty impact human security in Native American nations, and does enhanced Tribal sovereignty lead to enhanced quality of life?”

With Tribal gaming revenue and its specific uses as the manifestations of Tribal assertion of sovereignty, this study presents three case studies with empirical outcomes of Sovereignty Events related to Tribal economic resource development, Tribal political influence on congressional funding for the U.S. Bureau of Indian Affairs, and poverty levels within Native American nations located in the northwestern United States.

<sup>5</sup> JAMES K. WELLMAN JR. & CLARK B. LOMBARDI, RELIGION AND HUMAN SECURITY: A GLOBAL PERSPECTIVE 7 (2012).

<sup>6</sup> KEVIN BRUYNEEL, THE THIRD SPACE OF SOVEREIGNTY: THE POSTCOLONIAL POLITICS OF U.S.-INDIGENOUS RELATIONS 229 (2007).

### **A. Overview of Native American Human Security Issues**

There are approximately 5.2 million Native American and Alaska Natives in the United States.<sup>7</sup> 49 percent self-identify their race as Native only, and 51 percent identify as Native in combination with one or more other races.<sup>8</sup> Empirical data on human security measures for Native Americans has chronically indicated sub-standard conditions compared with the population of the United States as a whole, and certain fundamental metrics on economic development, law enforcement, and public health indicate problems of crisis proportions.<sup>9</sup> For example:

- 27 percent of Native Americans live in poverty, the highest rate for any racial group in the United States, and nearly double the national average. The median household income of Native Americans in 2012 was \$35,310—the national average was \$51,371.<sup>10</sup>
- Tribal communities experience rates of violent crime and domestic violence that substantially exceed national averages. Of all federal criminal cases involving juveniles in 2008, nearly half involved Native American youth. The percentage of successful prosecutions for on-reservation crime is significantly lower. Of the 566 federally recognized Tribes in the U.S., only 178 have law enforcement agencies that employ at least one full-time sworn officer with general arrest powers.<sup>11</sup>

<sup>7</sup> U.S. CENSUS BUREAU, U.S. CENSUS: THE AMERICAN INDIAN AND ALASKA NATIVE POPULATION, (Dep't of Commerce Jan. 2012), *available at* <http://www.census.gov/prod/cen2010/briefs/c2010br-10.pdf> (last visited Oct. 4, 2014).

<sup>8</sup> U.S. CENSUS BUREAU, AMERICAN INDIAN AND ALASKA NATIVE HERITAGE MONTH: NOVEMBER 2013, U.S. CENSUS BUREAU NEWS (Dep't of Commerce Oct. 31, 2013), *available at* [http://www.census.gov/newsroom/releases/pdf/cb13ff-26\\_aian.pdf](http://www.census.gov/newsroom/releases/pdf/cb13ff-26_aian.pdf) (last visited Oct. 4, 2014) [hereinafter U.S. CENSUS].

<sup>9</sup> As United States policy makers and international academics place increasing emphasis on global wealth inequality, the disparity between Native American nations and the rest of the United States provides a stark case study. For example, the state of South Dakota is the corporate headquarters home to banks controlling assets in excess of \$2.76 trillion - the highest amount of capital of any state in the nation- while the state's residents living on the Oglala Sioux Pine Ridge Reservation have the lowest per-capita income in the country. The state currently has the third-lowest overall unemployment rate in the United States at 3.7%, yet unemployment on Pine Ridge typically exceeds 75%. See: South Dakota - Quietly Booming, *The Economist*, August 30, 2014, p.27.

<sup>10</sup> *American Indian and Alaska Native Poverty Rate about 50 Percent in Rapid City, S.D., and about 30 Percent in Five Other Cities*, Census, UNITED STATES CENSUS BUREAU, (Feb. 20, 2013), <http://www.census.gov/newsroom/press-releases/2013/cb13-29.html#>.

<sup>11</sup> *Census of State and Local Law Enforcement Agencies, 2008*, BUREAU OF JUSTICE STATISTICS, July 26, 2011, <http://www.bjs.gov/index.cfm?ty=pbdetail&iid=2216>.

- Native Americans have the highest rate of suicide in the U.S., and a homicide rate three times higher than whites.<sup>12</sup>

Given that these perilous human security conditions exist within the borders of one of the most highly developed nations in the world, the extent and persistence of negative indicators for Native Americans calls for the analysis of root causes and viable modes of action toward improvement.

### ***B. Research Hypothesis***

For over 200 years, the United States government has held primary control over economic development and human security resources and programs impacting Native Americans.<sup>13</sup> The empirical results of this balance of sovereignty for America's indigenous people have been chronically poor. Identifying more promising pathways for increasing Native American development indicators stands today as a political and moral imperative for both the U.S. and Tribal governments. The research discussed in this article examines the hypothesis that economic development and human security indicators for Native Americans can be improved by shifting more control over socio-economic programs and resources to Tribal governments, i.e. enhancing Tribal sovereignty. The underlying assumptions are that enhanced Tribal sovereignty allows economic and human security development programs to be tailored to specific local needs and conditions, be implemented more efficiently, and maintain consistency with indigenous culture and traditions.

The research will test whether increased control by a Tribal government over a specific resource or program results in a measurable increase in a related human security condition for the Tribal community. Following a Sovereignty Event as described below, the study expects to see measurable improvement in the related human security condition (e.g. an increase in the annual revenue of an economic activity that is taken over or created by Tribal governments).

<sup>12</sup> CDC Health Disparities and Inequalities Report – United States, 2011.

<sup>13</sup> VINE DELORIA & DAVID WILKINS, TRIBES, TREATIES, AND CONSTITUTIONAL TRIBULATIONS 71-78 (1999).

### **C. Assessing Native American Human Security – Independent and Dependent Variables**

The methodological approach in this research is to assess the impact of Tribal Sovereignty Events on selected human security data. A Sovereignty Event is a term I created to describe an act taken by a Tribe or Tribes that results in: 1) the development of new resources for the Tribal community; 2) increased control by Tribal government over programs and/or resources previously managed by the U.S. government connected to human security; and/or 3) utilizing Tribal resources to impact U.S. policy toward Native American human security. A Sovereignty Event offers a clear point in time for comparing before-and-after performance of measurable economic development and human security indicators. Examples of Sovereignty Events include, but are not limited to, Tribes signing a treaty with the United States or a compact with state government, winning a lawsuit to confirm sovereignty rights, or creating a unique sovereign enterprise within Tribal lands.

For this study, three Sovereignty Events that serve as Independent Variables are:

- 1) The institution of national Tribal casino gaming via the outcome of the *California v. Cabazon* federal litigation in 1987 (Case Study 1);
- 2) The use by Tribes of gaming revenue dollars to make political contributions to U.S. Senators, 1997-2006 (Case Study 2); and
- 3) The collective gaming revenue obtained by Tribes in the Northwestern U.S. between 2001-2010 (Case Study 3).

This study will analyze the three Sovereignty Event case studies to assess their relationship to the corresponding Dependent Variables: measurable economic development and human security outcomes connected to the Sovereignty Events. The analysis will focus specifically on economic performance and related human security indicators. The three corresponding Dependent Variables for the study are:



- 1) Tribal economic resource development, in the form of new revenue realized from casino gaming operations between 1995-2005 (Case Study 1);
- 2) U.S. Congressional appropriations for the Bureau of Indian Affairs between 1997-2006 (Case Study 2); and
- 3) Poverty statistics for members of NIGC Region 1 Tribes between 2000-2010 (Case Study 3).

The three case studies offer before-and-after comparisons of measurable Native American economic development and human security indicators relative to Sovereignty Events designed to impact them. The goal of the research is to identify the extent to which the assertion of Tribal governments' sovereignty is associated with empirical increases in economic development and human security indicators in Tribal communities, i.e. whether quality of life within a Tribe can be measurably increased if Tribal governments take greater control over programs and resources for the benefit of their members.

## II. STUDY

### ***A. Case Study 1: Tribal Gaming and Economic Resource Development***<sup>14</sup>

A chronic problem that has hampered the advancement of Tribal development and human security has been a lack of economic resources available to Tribes.<sup>15</sup> The fundamental elements of every community—education, health care, infrastructure, and public safety resources, to name a few—require significant capital to implement and maintain a quality of life. Tribes have perennially struggled to raise development capital due to factors such as geographic isolation, lack of access to markets, and a lack of willingness of traditional financing sources to invest in Tribal communities.<sup>16</sup> With the cost of essential human security components subject to continual inflation, it is imperative

<sup>14</sup> *Gaming Revenue Reports*, NATIONAL INDIAN GAMING COMMISSION, [http://www.nigc.gov/Gaming\\_Revenue\\_Reports.aspx](http://www.nigc.gov/Gaming_Revenue_Reports.aspx), (last visited Nov. 19, 2014) (Data utilized for assessment: National Indian Gaming Commission Tribal Gaming Revenues, 1995 – 2013).

<sup>15</sup> W. GREGORY GUEDEL, STRATEGIES AND METHODS FOR TRIBAL ECONOMIC DEVELOPMENT 13 (2013).

<sup>16</sup> See *id.* at 45.

for Tribal governments to cultivate sustainable sources of capital that can be used to fund development programs.

One of the landmark Sovereignty Events for Native American nations in the second half of the 20th Century was the outcome of *California v. Cabazon Band of Mission Indians*, 480 U.S. 202 (1987). In the mid-1980s, two Tribes in Southern California were conducting small on-reservation card and bingo gaming operations which catered to both Tribal members and non-Tribal visitors. The State of California declared that such gaming operations were illegal under California law and demanded the Tribes cease the activity completely. The Tribes refused, citing Tribal sovereignty, and asserted that the state did not have regulatory jurisdiction over the Tribe's on-reservation economic activities. The State of California subsequently sued the Tribes in federal court, and the case proceeded and was ultimately heard by the U.S. Supreme Court.

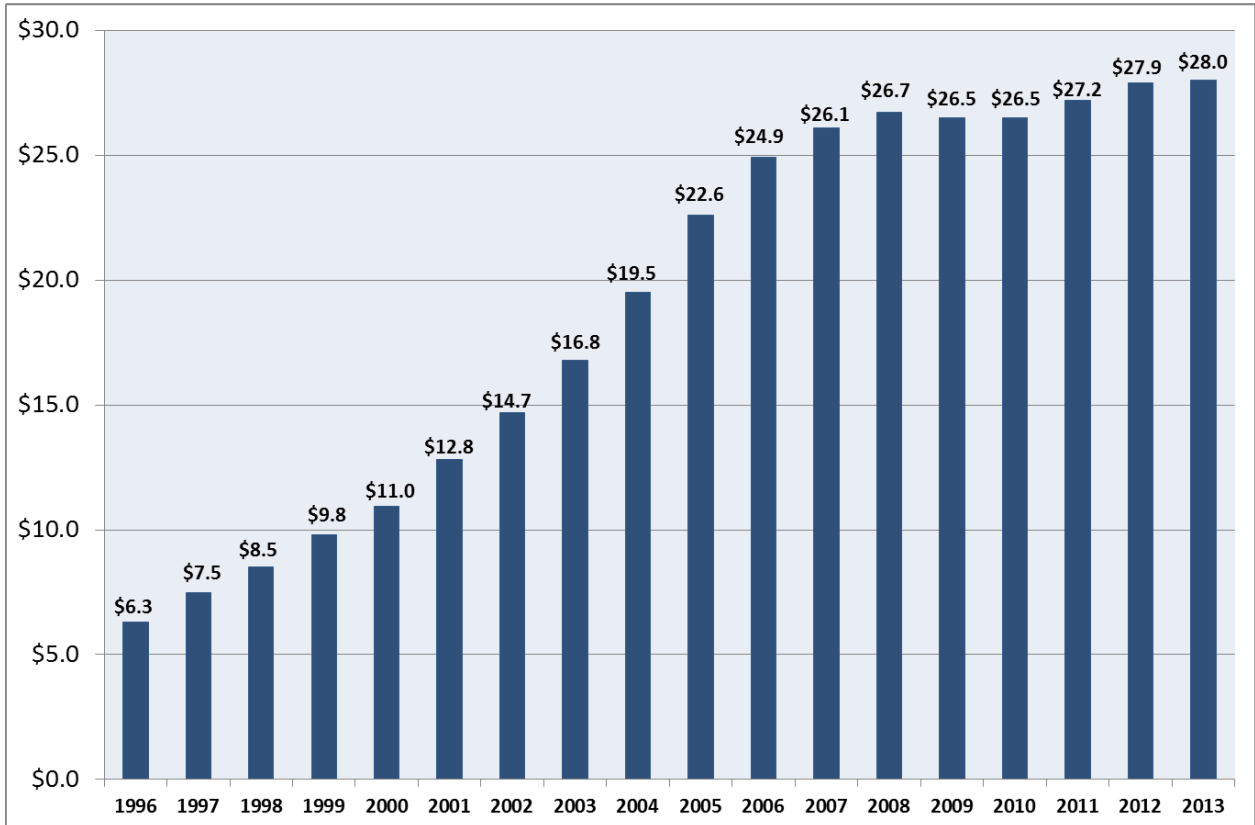
In 1987, the Supreme Court ruled that state governments could not restrict Tribal gaming when other forms of gaming (e.g. a state lottery) were allowed within the state even if full casino gaming was not allowed. The practical result of the decision was to open the way for Tribes to undertake Las Vegas-style casino gaming within the boundaries of their reservations. The economic potential of the legal victory was readily apparent to both Tribes and the U.S. government. As Tribes began making plans for undertaking casino gaming, they conducted government-to-government talks with the U.S. to assess and manage future impacts. A new agency, the National Indian Gaming Commission (NIGC), was formed in 1988 as the national regulatory body and data repository for Tribal gaming.

The NIGC began collecting and publishing national and regional Tribal gaming revenue data in 1995. Presently, about 250 Tribes in 28 states are involved in Class III casino-style gaming.<sup>17</sup> *Graph 1* illustrates the growth in the collective revenue realized by gaming Tribes nationally from 1995 through the current reporting year.

<sup>17</sup> Dwanna L. Robertson, *The Myth of Indian Casino Riches*, INDIAN COUNTRY (June 23, 2012), <http://indiancountrytodaymedianetwork.com/2012/06/23/myth-indian-casino-riches>.

**GRAPH 1**

**1995-2013 Gross Gaming Revenue Trends (In Billions)**



The data indicates significant and continued growth in Tribal gaming revenue over the first reported decade, with collective revenue growth each year. Between 1995 and 2013, gaming Tribes nationally collected a total of over \$293 billion in revenue from casino operations. These funds constitute a sovereign resource under the exclusive control of Tribal governments that can be utilized for economic and human security development programs in accordance with the needs and priorities of the communities they represent.

***Data-Based Associations – Case Study 1:***

- Tribal casino gaming, instituted by the Sovereignty Event of Tribes prevailing in *California v. Cabazon*, is associated with gaming Tribes collectively realizing tens of billions of dollars of additional annual revenue

that is presently available to support economic development and other human security programs for Tribal communities.

- Beginning in 2007, the collective revenue from Tribal casino operations has plateaued. The nearly 400 percent growth in annual gaming revenue from 1996 to 2006 has been followed by less than 7 percent total growth for the last seven years, including two consecutive years of negative or zero growth.

The data revealed in this case study has significant implications for Tribal governments in their strategic planning for using the sovereign economic resource of gaming revenue. While the raw revenue statistics for the full reporting period are impressive in terms of total dollars, the past seven years reflect a markedly reduced rate of growth for Tribal gaming income. Market saturation, increased competition, and a general reduction in U.S. household spending have created significant challenges for the Tribal gaming industry.<sup>18</sup> The data suggests that Tribal gaming revenue may have reached a peak level with limited future growth potential, increasing the importance of effective resource management and investment practices by Tribal governments.

### ***B. Case Study 2: Tribal Gaming, Political Contributions, and United States Policy Outcomes***<sup>19</sup>

As transformative as gaming revenue has been for the on-reservation socio-economic conditions of Tribes, it has also led to increased Tribal influence outside their borders. The Bureau of Indian Affairs (BIA) is an agency within the U.S. Department of Interior, and is the primary federal agency with which all Tribes

<sup>18</sup> In the past 10 years, numerous Tribes have closed gaming facilities and ceased operations, including the Apache Nation of Oklahoma, the Paskenta and San Ysabel in California, and the Spokane in Washington. The Foxwoods Casino operated by the Mashantucket Pequot Tribe, the largest gaming facility in the United States defaulted on \$2.3 billion in debt in 2009 and its year-on-year quarterly cash flow for Q2 2014 was down over 41%. See e.g., *Journal Wire Services, Slow Recovery More Competition Hurting Foxwoods*, PROVIDENCE JOURNAL (Aug. 18, 2014), Available at <http://www.providencejournal.com/business/content/20140818-slow-recovery-more-competition-hurting-foxwoods.ece> (last visited, Nov. 9, 2014).

<sup>19</sup> Frederick J. Boehmke and Richard Witmer, *Indian Nations as Interest Groups Tribal Motivations for Contributions to United States Senators*, 65 POLITICAL RESEARCH QUARTERLY 179-191 (2012); *Indian Gaming*, CENTER FOR RESPONSIVE POLITICS, Oct. 25, 2014, <http://www.opensecrets.org/industries/totals.php?cycle=2014&ind=G6550>.

interact in their relationship with the federal government. The BIA is also the agency with primary responsibility for administering and funding Native American human security programs on behalf of the federal government. Tribal human security programs administered by the BIA include:

- Education
- Social Services and Housing Improvement
- Natural Resources Management and Disaster Relief
- Economic Development
- Law Enforcement
- Infrastructure Development and Maintenance

The BIA's 2014 Green Book report states the agency's human security mission: "Through Indian Affairs programs, Tribes improve the quality of life for their members, their Tribal government infrastructure, community infrastructure, education, job training, and employment opportunities along with other components of long term, sustainable development."<sup>20</sup>

Despite the BIA's stated mission of support for Tribal development, in 1996, Tribes faced a major external human security crisis in their relationship with the United States government. The U.S. Government Accountability Office and Congressional Budget Committees had both been investigating BIA operations for several years, and separately issued reports condemning program waste and operational inefficiencies and recommending the agency's budget be cut by up to \$250M beginning in FY 1998.<sup>21</sup> Recognizing the impact of the proposed cuts to the BIA's budget, in April 1996 Assistant U.S. Secretary of Indian Affairs Ada Deer stated: "If the final decisions of Congress are in alignment with the Budget Committees, Indian Tribes will suffer yet another major setback."<sup>22</sup>

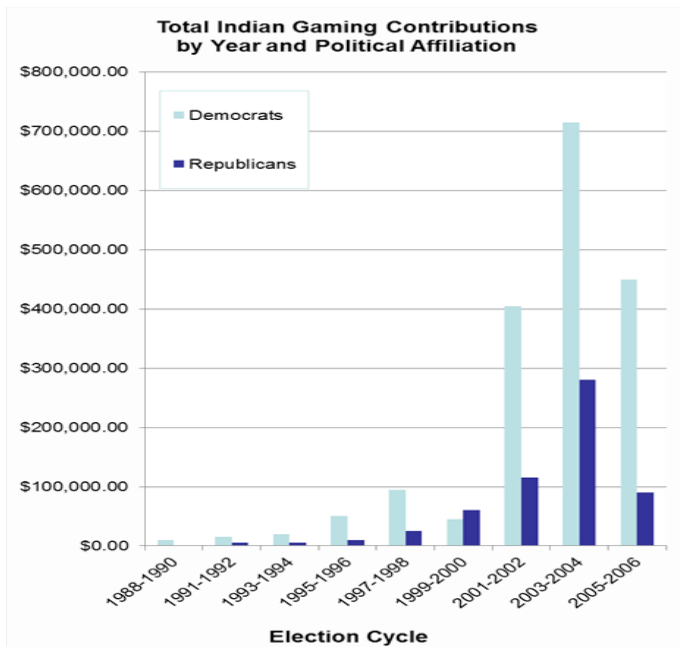
<sup>20</sup> BUDGET JUSTIFICATIONS AND PERFORMANCE INFORMATION FISCAL YEAR (2014) *available at* <http://bia.gov/cs/groups/xocfo/documents/text/idc1-021730.pdf> (last visited Nov. 9, 2014).

<sup>21</sup> *Bureau of Indian Affairs: Information on Potential Budgetary Reductions for Fiscal Year 1998*, U.S. GOVERNMENT ACCOUNTABILITY OFFICE (April 25, 1997), *available at* <http://www.gao.gov/products/RCED-97-136R>.

<sup>22</sup> Ada Deer, *Assistant Secretary Deer Delivers Budget Cut Warning*, UNITED STATES DEPARTMENT OF INTERIOR NEWS (May 16, 1996), *available at* <http://www.bia.gov/cs/groups/public/documents/text/idc014542.pdf> (last visited Nov. 19, 2014).

The U.S. Senate, by traditional and internal committee structure, is the primary driver of federal policy and funding for Native American programs.<sup>23</sup> Key members sit on the Senate Committee on Indian Affairs, and their recommendations typically determine the level of annual BIA funding appropriation that is ultimately incorporated in the federal budget. In response to the BIA budget cut recommendations of the GAO and CBO, Tribal governments began increasing the use of gaming revenue for political contributions to U.S. Senators. This increase has led to more focus on native issues and legislation providing increased federal funding and technical assistance to Tribes for their economic and human security development programs. *Graph 2* illustrates the level of Tribal gaming revenue dedicated to U.S. Senate political contributions between 1988 and 2006:<sup>24</sup>

**Graph 2**



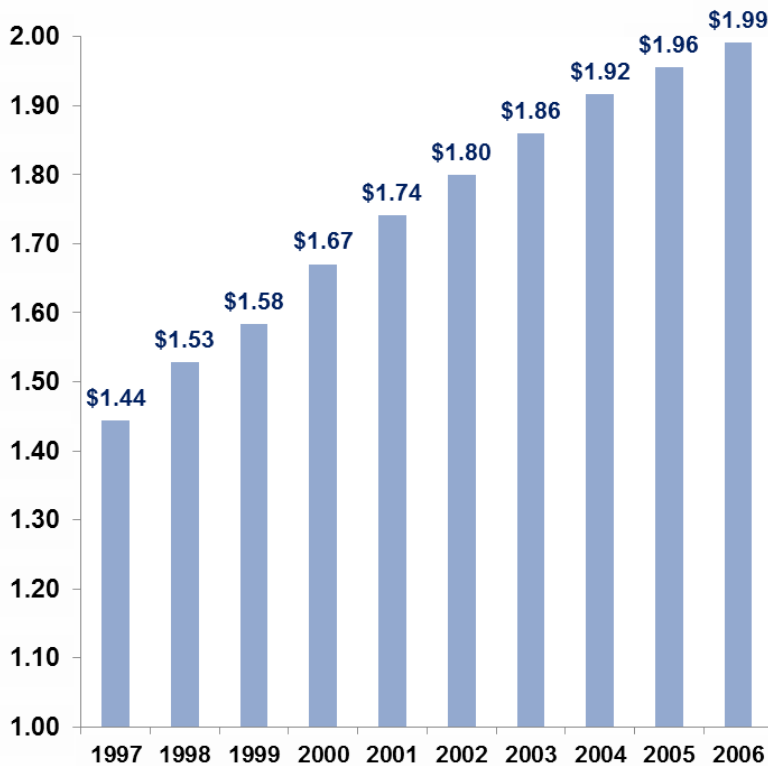
<sup>23</sup> The United States House of Representatives has a subcommittee for American Indian and Alaska Native Affairs, but it is one of five subcommittees to the larger House Committee on Natural Resources and does not appear to impact BIA funding appropriation levels to the extent of the stand-alone Senate Committee on Indian Affairs.

<sup>24</sup> Frederick J. Boehmke and Richard Witmer, *Indian Nations as Interest Groups: Tribal Motivations for Contributions to U.S. Senators*, 65 POLITICAL RESEARCH QUARTERLY 179-191 (2012).

Graph 3 illustrates the ultimate BIA funding appropriation levels approved by Congress and incorporated in the federal budget for the years 1997-2006. Of particular note is the year 1998, the year the GAO and CBO had recommended significant reductions to the BIA budget. Despite the auditors' recommendations for cuts up to \$250 million, the BIA budget was actually *increased* by approximately \$90 million. This Congressional action followed two election cycles (1995/96 and 1997/98) in which Tribes had significantly increased the amount of Tribal gaming revenue used for making political contributions to U.S. Senators.<sup>25</sup>

**Graph 3** (dollar figures in billions)

**Congressional Appropriations for the Bureau of Indian Affairs 1997-2006**



SOURCES: 1997: HR 105-163 1998: PL 105-83 1999: PL 105-277  
 2000: PL 106-113 2001: PL 106-291 2002: PL 107-63  
 2003: PL 108-7 2004: PL 108-108 2005: PL 108-447  
 2006: PL 109-54

<sup>25</sup> See Graph 2 above.

To test the statistical association between Tribal political contributions and subsequent Congressional funding appropriations for the BIA, the yearly data was analyzed with a correlation matrix. Correlations run on a scale from -1 to +1. A value near -1 indicates an inverse correlation, wherein the movement of one factor is associated with an opposite movement of the correlating factor, whereas a value near +1 indicates a positive correlation suggesting a connected causality in factor movements. The statistical correlation between political contributions and the BIA funding appropriation between 1997-2006 was 0.7849. This indicates a strong association between Tribal political contribution amounts and the pattern of increasing funding by Congress for BIA human security programs benefitting Native Americans.

Having found a statistically significant association between Tribal political contributions to U.S. Senators and the subsequent Congressional funding appropriations for the BIA, new “control” variables were introduced into the analytical model in an effort to detect if other factors might have been responsible for the apparent connection. Two control variables were selected for this study:

- 1) The number of Senators during the period who were of Native American ancestry, and who therefore might have possessed an ethnic bias favorable to increasing BIA funding independent of any political contributions by Tribes; and
- 2) The party majority status of the Senate was analyzed to determine if and for how long the Democratic Party was “in control” of the Senate by virtue of holding a majority of seats during the period. The Democratic Party has traditionally been viewed as more “pro-Tribal” than the Republican Party, which might influence its support for increasing BIA funding independent of any political contributions by Tribes.

Congressional membership data reveals that there was only one U.S. Senator of self-identified Native American ancestry in office during the period, Senator Ben Nighthorse Campbell of Colorado, which empirically rules out the theory that an increasing number of Native American Senators might have been working for BIA funding increases. Further, Sen. Campbell retired in 2004, leaving the Senate without any Native American members for the final two years of the



case study period – yet the pattern of BIA funding increases was unaffected. Similarly, the Senate majority party for most of the period was actually the Republican Party, and the “control party” changed three times during this period. Regardless of which party held the majority of seats in the Senate, the pattern of BIA funding increases was unaffected. *Table 1* provides a regression analysis that includes the multivariate controls for potential ethnic bias and Senate party majority:

**Table 1**

**Multivariate Controls for Senators’ Ethnic Bias and Senate Party Control**

<b>biafunding</b>	<b>Coef.</b>	<b>Std. Err.</b>	<b>t</b>	<b>P&gt; t </b>	<b>[95% Conf. Interval]</b>	
<b>contributions</b>	<b>985.2932</b>	<b>206.9152</b>	<b>4.78</b>	<b>0.003</b>	<b>481.4369</b>	<b>1489.149</b>
<b>num_natam</b>	<b>2.05e+08</b>	<b>1.02e+08</b>	<b>-2.01</b>	<b>0.091</b>	<b>-4.53e+08</b>	<b>4.40e+07</b>
<b>major_dem</b>	<b>1.09e+08</b>	<b>7.59e+07</b>	<b>1.43</b>	<b>0.201</b>	<b>-7.69e+07</b>	<b>2.95e+08</b>
<b>_cons</b>	<b>1.73e+09</b>	<b>1.09e+08</b>	<b>15.90</b>	<b>0.000</b>	<b>1.46e+09</b>	<b>1.99e+09</b>

The P-values and Confidence Intervals for the three variables indicate that neither potential ethnic bias of Native American Senators nor the party in control of the Senate had a statistically significant impact on the association between Tribal gaming political contributions and the subsequent Congressional funding allocations for the BIA.

The median and total dollar figures for Tribal gaming political contributions demonstrate a substantial rate of return for Tribes, measured by the BIA funding increases during the case study period:

**Total Tribal Gaming Political Contributions, 1997-2006:**

**\$2,300,000**

**Total Increase in Annual Funding for BIA, 1997-2006:**

**\$547,988,000**

**Median Annual Tribal Gaming Political Contributions, 1997-2006:****\$255,555****Median Annual Increase of BIA Funding, 1997-2006:****\$60,887,555**

Subsequent to the time period for Case Study #2, it appears that Tribal governments have recognized the value of this form of diplomatic advocacy for their human security programs and have continued to utilize it in earnest. In the state and federal election campaign cycles of 2007 and 2008, four of the top-10 largest political donors in the U.S. were Native American-controlled groups.<sup>26</sup> These four donor organizations spent a combined total of \$129.8 million on state and federal political campaigns; together they donated more than double that of the top national donor (the National Education Association), which spent \$56.3 million during the cycle.<sup>27</sup> The continuing funding pattern for Tribal human security programs within the BIA by the United States government certainly validates this approach:

- FY 2012 Congressional Appropriation for Bureau of Indian Affairs: \$2,746,178,000
- Total Increase in Annual BIA Appropriation Since FY 1997: \$1,302,676,000
- There has been a 90.2% increase in annual Congressional funding of BIA Native American human security programs since the start of political contributions financed by Tribal gaming.<sup>28</sup>

***Data-Based Associations – Case Study #2:***

The availability of gaming revenue provided new resources for Tribal political advocacy regarding United States policies affecting Native American

<sup>26</sup> Rob Capriccioso, *Tribes Among Biggest Campaign Donors*, INDIAN COUNTRY TODAY MEDIA NETWORK.COM (May 22, 2011), available at <http://indiancountrytodaymedianetwork.com/2011/03/22/tribes-among-biggest-campaign-contributors-23876> (last visited Nov. 9 2014).

<sup>27</sup> *Id.*

<sup>28</sup> *Budget Justifications and Performance Information of Year 2014*, U.S. DEPT. OF THE INTERIOR (2014), available at <http://bia.gov/cs/groups/xocfo/documents/text/idc1-021730.pdf>.

human security. The threat of significant reductions in United States government funding for Tribal human security programs was followed closely in time by the Sovereignty Event of Tribes' markedly increased use of gaming funds for political contributions to members of the United States Senate. The increased use of Tribal gaming revenue for this form of diplomatic advocacy was followed by favorable outcomes in United States congressional appropriations for Native American human security development programs within the Bureau of Indian Affairs, which provided a positive fiscal investment in Tribal programs by the United States that significantly exceeded the total capital investment by Tribal governments.<sup>29</sup>

### **C. Case Study 3: Tribal Gaming and Native American Poverty Level Outcomes<sup>30</sup>**

This case study analyzes the internal human security condition of poverty within Native American nations, and is designed to examine whether casino revenue received by gaming Tribes has a measurable impact on the rate of poverty for their members. As a threshold matter, it is important to note that not all Native American nations are involved in gaming. Of the 566 federally recognized Tribes within the U.S., less than half have IGRA Class III casino-style gaming operations.<sup>31</sup> Due to geographic and economic factors, particularly travel distances from reservations to major population centers, gaming is not a viable economic activity for many Native American nations.<sup>32</sup>

The National Indian Gaming Commission (NIGC) is the oversight agency for all Tribal gaming that issues annual reports detailing Tribal gaming revenue

<sup>29</sup> *Green Book*, BUREAU OF INDIAN AFFAIRS, (Nov. 19, 2014), <http://www.bia.gov/WhoWeAre/AS-IA/OCFO/TBAC/BDDoc/Greenbook/index.htm>.

<sup>30</sup> *Gaming Revenue by Region 2001-2010*, NATIONAL INDIAN GAMING COMMISSION [http://www.nigc.gov/Gaming\\_Revenue\\_Reports.aspx](http://www.nigc.gov/Gaming_Revenue_Reports.aspx) (last visited Oct. 13, 2014); U.S. CENSUS: AMERICAN INDIAN AND ALASKA NATIVE SUMMARY FILES (2000) *available at* [http://www.census.gov/census2000/AIAN\\_SF.html](http://www.census.gov/census2000/AIAN_SF.html) (last visited Nov. 9, 2014); U.S. CENSUS: *American Community Survey American Indian and Alaska Native Tables* (2010) *available at* [http://www.census.gov/aian/census\\_2010/](http://www.census.gov/aian/census_2010/) (last visited Nov. 9, 2014).

<sup>31</sup> 25 U.S.C. § 2710 (2014) (classifying bingo-style games as Class II; Class III including dice, roulette, slot machine, and card table games).

<sup>32</sup> *Dispelling the Myths About Indian Gaming*, NATIVE AMERICAN RIGHTS FUND, <http://www.narf.org/pubs/misc/gaming.html> (last visited Oct. 13, 2014).

statistics. NIGC gaming revenue data is aggregated and reported on a national and regional basis; the agency does not provide revenue statistics for the gaming operations of individual Tribes, as that information is considered sovereign property and confidential. For this case study, the selected sample data for gaming revenue is for NIGC Region 1, which is comprised of the gaming Tribes located in the state of Washington, Oregon, Idaho, and Alaska. The collective gaming revenue for Region 1 Tribes for the ten-year period between 2001 and 2010 is reflected in *Table 3*:

**TABLE 3****NIGC REGION 1 COMBINED ANNUAL TRIBAL GAMING REVENUE, 2001-2010<sup>33</sup>**

<b><u>YEAR</u></b>	<b><u>REVENUE</u></b>
2001	1,013,470,000
2002	1,196,178,000
2003	1,439,516,000
2004	1,601,346,000
2005	1,829,195,000
2006	2,080,369,000
2007	2,263,950,000
2008	2,376,025,000
2009	2,520,908,000
2010	2,665,096,000
<b>TOTAL – 2001-2010:</b>	<b><u>18,986,053,000</u></b>

The NIGC data reflects a steady and significant growth in gaming revenue for Region 1 Tribes during the period. At the start of the decade, the annual collective revenue among the Tribes was approximately \$1 billion.<sup>34</sup> By the end of the decade, their collective annual revenue had increased over 2.5 times to \$2.6 billion, and the revenue increased significantly each year during this period. In total, Region 1 Tribes collected nearly \$19 billion in revenue from their gaming activities between 2001-2010.

<sup>33</sup> *Gaming Revenues by Region*, NATIONAL INDIAN GAMING COMMISSION, [http://www.nigc.gov/Gaming\\_Revenue\\_Reports.aspx](http://www.nigc.gov/Gaming_Revenue_Reports.aspx) (last visited Oct. 13, 2014).

<sup>34</sup> *Id.*

These particular years were selected for this case study to coincide with the poverty data reported by the 2000 US Census and the 2010 US Census, allowing for a before-and-after comparison of poverty levels within Region 1 Tribes relative to the Tribal governments' collective receipt of the \$19 billion in gaming revenue over the decade. Using NIGC reports, the specific gaming Tribes within Region 1 were identified. Then, the population and poverty statistics for each Region 1 gaming Tribe were gathered from US Census for the year 2000 and 2010. Mean poverty rates were calculated for the Region 1 Tribes for 2000 and 2010, and compared with the national average poverty rate for all Tribes in the U.S. for those years as reported by the US Census. Using Tribal and state government information resources, it was also possible to identify which of the Region 1 gaming Tribes issued per-capita payments to their members as a means of providing direct personal income support from gaming revenue.

The results of the NIGC Region 1 gaming revenue and Tribal poverty percentage case study are listed in the following table:

<b>NIGC REGION I GAMING TRIBES: ON-RESERVATION POPULATION AND POVERTY STATISTICS, 2000 &amp; 2010</b>								
<b>Tribe</b>	<b>2000 Population</b>	<b>2000 &lt;Poverty</b>	<b>2000 Poverty %</b>	<b>2010 Population</b>	<b>2010 &lt;Poverty</b>	<b>2010 Poverty %</b>	<b>Per Capita Payments</b>	
Coeur d'Alene	1476	350	23.7	1726	425	24	Yes	
Colville	8212	1944	23.7	8324	2443	29.3	Yes	
Coquille	362	59	16.3	475	58	12.2	No	
Jamestown S'Klallam	24	0	0	19	0	0	No	
Klamath	2620	729	27.8	2431	604	24.8	Yes	
Lower Elwha	369	98	26.6	825	388	47	Yes	
Muckleshoot	3586	573	16	4204	924	22	Yes	
Nez Perce	3981	926	23.3	3320	719	21.6	Yes	
Nisqually	442	158	35.7	524	114	21.7	Yes	
Nooksack	727	248	34.1	1159	379	32.7	No	
Port Gamble	509	82	16.1	788	176	22.3	No	
Puyallup	1510	398	26.4	2346	532	22.6	Yes	
Quinault	2157	618	28.7	2005	574	28.6	No	
Siletz	1718	362	21.1	2452	928	37.8	Yes	
Skokomish	681	207	30.4	485	99	20.4	No	
Spokane	2370	722	30.5	2261	613	27.1	Yes	
Squaxin Island	440	138	31.4	461	57	12.4	Yes	
Suquamish	3482	297	8.5	4025	398	9.8	Yes	
Swinomish	581	196	33.7	907	488	53.8	No	
Tulalip	2381	604	25.4	2645	648	24.5	Yes	
Umatilla	1562	279	17.9	1605	373	23.2	Yes	
Upper Skagit	362	115	31.8	1030	352	34.1	Yes	
Warm Springs	3143	1043	33.2	3531	1918	54.3	Yes	
Yakama	7887	2520	32	8882	3156	35	Yes	
<b>TOTALS</b>	<b>50582</b>	<b>12666</b>		<b>56430</b>	<b>16366</b>			
<b>MEAN POVERTY RATE OF REGION I TRIBES</b>			<b>2000: 25% SD=8.76 SE=1.78</b>				<b>2010: 29% SD=12.84 SE=2.62</b>	
<b>NATIONAL AVERAGE FOR ALL TRIBES IN U.S.</b>			<b>25.7%</b>				<b>27%</b>	
<b>Number of Tribes with Increased Poverty Rate, 2000-2010: 12</b>			<b>Number of Tribes Issuing Per Capita Payments to Members: 17</b>					
<b>Number of Tribes with Decreased Poverty Rate, 2000-2010: 12</b>			<b>Number of Tribes with No Per Capita Payments to Members: 7</b>					
			<b>Per Capita Tribes with Increased Poverty 2000-2010: 58.8% (10 out of 17)</b>					
			<b>Non-Per Capita Tribes with Increased Poverty 2000-2010: 28.5% (2 out of 7)</b>					
<b>Notes</b>								
2000 Data: 2000 Census, American Indian and Alaska Native Summary File								
2010 Data: 2010 Census, American Community Survey, American Indian and Alaska Native Tables								
2000 and/or 2010 Census data not available for the following NIGC Region I Gaming Tribes:								
Coos, Chehalis, Grand Ronde, Cow Creek, Kalispel, Klawock, Kootenai, Lummi, Metlakatla, Shoalwater, Shoshone-Bannock, Snoqualmie, and Stillaguamish.								

The results from this case study were unexpectedly complex. From an economic perspective, it would be reasonable to expect the infusion of new capital provided by Tribal gaming to be a catalyst for poverty reduction, and likewise expect to see the individual and collective poverty percentages for Tribes decrease. On a collective basis, the actual results for Region 1 Tribes demonstrated the opposite. In 2000, the median poverty rate for gaming Tribes in NIGC Region 1 was 25 percent, slightly below the rate for all Tribes in the U.S., which stood at 25.7 percent. Ten years and 19 billion dollars later, the median poverty rate for these same gaming Tribes in NIGC Region 1 *increased* to 29 percent - an increase of four percentage points from the beginning of the decade, which also placed the Region 1 Tribes two percentage points higher than the 2010 national average for all Tribes of 27 percent. The combined total population of the Region 1 Tribes in the case study increased by 5848 people during the decade. The combined total population below the poverty level during the period increased by 3700, nearly two-thirds of the total population increase.

Per capita payments are a controversial issue within Tribal nations. Every Tribe has a sovereign right to determine whether, when, and in what amounts it will issue per capita payments to its members. The institution, conditions, and management of a per capita regime are matters of individual Tribal discretion. In Tribes with high unemployment and poverty, per capita payments are often viewed as a means of collective support by and for Tribal members, with each member eligible for an equal share of Tribal wealth. However, questions have arisen regarding the effectiveness of per capita payments for poverty reduction in Native communities; some have likened them to a welfare-type system that provides a disincentive for work and dissipates Tribal economic resources that could be better used to finance strategic initiatives such as scholarships for higher education.<sup>35</sup> For the gaming Tribes in NIGC Region 1, the statistical results of Case Study 3 indicate an inverse correlation between per capita payments and poverty reduction. Of the 24 Tribes studied, 17 issue per capita payments to members, 7 do not. Of the per capita Tribes, 58.8 percent (10 out of 17) experienced an increased poverty rate from 2000-2010. In contrast, of the Tribes that do not issue

<sup>35</sup> Leland McGee, *Greed, Corruption, and Indian Country's New Welfare States*, INDIAN COUNTRY TODAY (June 27, 2013), <http://indiancountrytodaymedianetwork.com/2013/06/27/greed-corruption-and-indian-countrys-new-welfare-states>.

per capita payments, only 28.8 percent (2 out of 7) experienced increased poverty during the period.

***Data-Based Associations- Case Study #3:***

- Tribal gaming activity is associated with sustained annual revenue increases for NIGC Region 1 Gaming Tribes from 2000-2010.
- Tribal gaming revenue is *not* associated with an overall reduction in poverty for NIGC Region 1 Gaming Tribes during this period.
- From 2000-2010, the mean poverty rate of NIGC Region 1 Gaming Tribes *increased* from slightly below the national average for all Tribes in 2000 to two percentage points higher than the national average in 2010.
- Poverty outcomes varied widely among NIGC Region 1 Gaming Tribes during this period, with some experiencing a 50 percent or more reduction and others experiencing a 100 percent or more increase.
- The standard deviation and standard error of individual Tribal poverty rates from the mean increased by 32 percent, indicating that the differences in poverty outcomes between Tribes grew notably during the period, with a greater gap between Tribes experiencing increased poverty and those that were successful in reducing poverty.
- Certain Tribes with very similar population size, geography, and economic resources experienced starkly different poverty outcomes over the decade. For example, the Squaxin Island Tribe reduced its poverty rate from 31.4 percent to 12.4 percent during this period, while the Swinomish Tribe's poverty rate increased from 33.7 percent to 53.8 percent.
- There was an inverse correlation between per capita payments and poverty reduction, with per capita Tribes significantly less likely to have achieved poverty reduction during this period than Tribes that did not issue per capita payments to members.

**III. CONCLUSION: EMERGENT RESEARCH QUESTIONS AND NEXT STEPS**

A macro-level analysis of the results of these case studies confirms some fundamental facts that are crucial for the study of economic and human security development in Native American nations. While Tribes have theoretical equality in their level of sovereignty from a legal perspective, Tribes are very diverse in how their sovereignty is actually exercised, and there is significant disparity in the



results that follow from their management of sovereign resources and policies. While there are some clear correlations between Sovereignty Events and improved human security outcomes, e.g. the increase in BIA program funding following Tribal political contributions, the research also revealed some puzzling results. The dramatic differences in poverty outcomes between the Region 1 gaming Tribes, despite these Tribes having similar structural conditions and sharing in nearly \$19 billion in gaming revenue over a decade, indicates that equal sovereignty does not produce equal development results for Tribal communities.

From this research, key questions have emerged for further examination:

- What explains the differences in economic and human security development outcomes between similarly situated Tribes?
- What policies and actions are most effective for improving Native American economic and human security indicators?

To answer these questions, future research will include: (1) continued data collection on key human security indicators such as economic development, public health, social justice; (2) interviews with Tribal leaders regarding effective/ineffective human security policies and programs; and (3) development of data-supported theoretical approaches to assessing and implementing Tribal human security initiatives.

The research will be facilitated by a public event to be hosted in Seattle in the spring of 2015. With funding support from the Andrew W. Mellon Foundation, a two-day program entitled *Sovereignty, Development, and Human Security: A Colloquium On U.S./Native American Relations* will be held at the University of Washington. The colloquium will bring together leaders from Native American nations and U.S. government agencies for presentations and dialogue on effective programs and practices for economic and human security development. The presentations will be filmed for podcast downloading, and key information and policy recommendations from Tribal leaders will be published in future articles.