No Home in Indian Country

JANEEN COMENOTE
United Indians of All Tribes Foundation; National Urban Indian Family Coalition

Presented by:

KIRWAN INSTITUTE
For the Study of Race and Ethnicity

THE OHIO STATE UNIVERSITY
The *Kirwan Institute for the Study of Race and Ethnicity* is a university-wide interdisciplinary research institute. We generate and support innovative analyses that improve understanding of the dynamics that underlie racial marginality and undermine full and fair democratic practices throughout Ohio, the United States, and the global community. Responsive to real-world needs, our work informs policies and practices that produce equitable changes in those dynamics.
Executive Summary

While most Americans have only felt the effects of the economic crisis for less than a year, and most communities of color have felt these effects for about five years, Native communities have experienced a coercive economic crisis for over 500 years. While not exhaustive, this paper provides a brief overview of the basic demographics and socio-economic indicators and accompanying recommendations as they relate to accessing fair credit and housing in the United States. American Indian and Alaska Native populations are on oft misunderstood population, as such, we provide a context by which the reader can understand the complex relationship Native people have with federal and state governments and thereby better understand the recommendations on addressing the disproportionate needs experienced by Native people both on and off the reservation.

American Indians and Alaska Natives: An Overview

The United States is an immigrant nation to all but one population, American Indians and Alaska Natives. In looking at the population of American Indians and Alaska Natives (AI/AN) we observe that there are essentially two populations to examine, without going into the complex history of the legislative disassembly of Native peoples. We have an on-reservation population (governed by tribal governments) and the off reservation population of Native peoples. However, an added complexity to keep in mind while examining any Native population in the U.S. is the notion of citizenship. Native people often hold sometimes triplicate citizenship that of a) the “home tribe” and “homeland”; b) a citizen of the United States and for off reservation populations; c) the city in which they reside.

While we can fairly assess that both populations suffer disproportionately from economic stress and lack of access to fair credit and housing, we need to realize that tribal governments operate under a dramatically different set of regulations, rules of law and constituent responsibilities. A simple way of thinking about tribal populations in the United States is to consider that both tribal nations and the U.S. Congress observe a sovereign government-to-government relationship between tribes and the United States government formalized in American law in the case Worcester v. Georgia in 1832 under the Marshall Court. Simply put, when the U.S. was forming, legally binding treaties were made to the tribes who relinquished millions of acres of lands and numerous age old freedoms. In exchange, the federal government is legally bound to the provision of service, including the provision of housing, to Native people in perpetuity. The federal trust responsibility can be outlined as such:

Congressional and Executive Branch Actions Carry Out the Trust Responsibilities

The federal trust responsibility to Indian nations can be divided into three components:

1. The protection of Indian trust lands and Indian rights to use those lands;
2. The protection of tribal sovereignty and rights of self-governance;
3. The provision of basic social, medical and educational services for tribal members.

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3 Friends Committee on National Legislation, Origins of Trust Responsibility Towards the Tribes, 2007
Often considered an “invisible minority”, American Indians and Alaska Natives (AI/AN) are often left out or relegated into the category of “other” within the racial equity framework in the United States. The racial equity framework must be adapted and explicitly expanded to include an indigenous lens. American Indian communities often adopt a stance of “measured separatism” that legal writer R. A. Williams describes as “much different from the types of minority rights that were and remain at the center of the continuing struggle for racial equality.”

Nielsen (2009) notes that “we are not looking for equal rights per se but rather strive for indigenous rights – especially sovereignty and self-determination. For example, using Biolsi’s (2005) framework on the geopolitical spaces that American Indians occupy, it may be appropriate for Native communities to adopt a racial equity perspective in some situations/geopolitical spaces – other circumstances/spaces require that we operate from a stance of sovereignty and self-determination – an indigenous lens. Opportunity is specialized and may look different in tribal space than in non-tribal space.”

**Geography and Demographics:** In Census 2000, 4.3 million people, or 1.5 percent of the total U.S. population, reported that they were American Indian and Alaska Native (AI/AN) representing over 500 individual tribal nations. This number included 2.4 million people, or 1 percent, who reported only AI/AN as their race.

The geography of the AI/AN population is widely distributed in the United States, with a majority of Native people residing off reservation.

Poverty: Regardless of geographic location, poverty remains the singularly most challenging aspect of contemporary AI/AN experience. There is considerable indicative information that Native Americans are disproportionately affected by monetary or economic poverty. The following examples point out some of these disparities:

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• 25.3%: The 2007 poverty rate of people who reported they were American Indian and Alaska Native and no other race. However, this does not reflect the poverty rate of those individuals reporting AI/AN alone or in combination with another race.

• Residents of reservations experience deep poverty, meaning they live at less than 75 percent of the poverty level, and do so at twice the rate of the total U.S. population (26 percent for American Indians versus 12 percent nationally).

• Unemployment in some reservations can be several times the national average.

• Off reservation & urban AI/AN also occupy disproportionate levels of poverty, with poverty being three times that of whites.

Housing

• 14.7% of homes are overcrowded, compared to 5.7% of homes of the general US population.

• Indian Country has a denial rate for conventional home purchase loans of 23%—twice that of Caucasians.

• The percentage of Indian Country without adequate plumbing facilities is 10 times the general US Population.

• 11% of Indian Country lacks kitchen facilities, compared to 1% of the US.

• In an 8 state study of housing needs in 30 Metropolitan Statistical Areas (MSA), the 2000 US census reports that 46 percent of Indian renters pay more than 30 percent of their total income toward rent. The Census also reveals that 2 percent of renters are forced to pay at least a half of their monthly income toward rent payments.

In looking at the disparities within the poverty and housing indicators cited above, it becomes clear that there is an interdependence between accessibility to fair credit and housing for AI/AN regardless of their geographic location on or off the reservation. As such, coordinated national strategies are needed to address these barriers.

Fair Housing: The Department of Housing and Urban Development defines housing affordability by asserting that no more than thirty percent of a household’s income should be dedicated to housing (rent and utilities). The lack of affordable housing is a significant hardship for low income households preventing them from meeting their other basic needs such as nutrition and healthcare, or saving for their future and that of their families. While this holds true for all disadvantaged communities in the United States, this has significant differences when examined from American Indian and Alaska Native perspectives with a key point being that the federal government has a legal and trust responsibility to provide adequate housing for Native people.

On Reservation Populations: The Department of Housing and Urban Development (HUD) is charged with housing construction and maintenance on Native American trust lands and reservations. Under the Native American Housing Assistance and Self-Determination Act (NAHASDA) of 1996, the federal government makes block grants to tribes and tribally designated housing entities. While the block grant program has led
to greater local control, its success has been undercut by lack of funding. At its current level, NAHASDA funding will only meet 5 percent of the total need for housing in Native communities.¹²

NAHASDA separated Native American housing from general public housing, both administratively and financially. The act, recognizing tribal rights to self-governance and self-determination, was designed to permit tribal recipients to manage and monitor housing assistance programs. It is structured to provide flexibility in tribal planning, implementation, and administration of housing programs. Given the unique housing challenges Native Americans face—including impoverished economic conditions, restrictions on individual land rights, lack of homeownership, and substandard housing—greater and immediate federal financial support is imperative.¹³

**Off Reservation Populations:** In an 8 state community based research project over 1,200 urban dwelling Native people were interviewed in 4 major metropolitan areas regarding a number of poverty indicators including access to housing. Respondents cited the following barriers to getting into housing: credit checks, low income, lack of affordable housing stock, background checks, and deposits/down payment requirements.¹⁴ It is the opinion of this author that these outcomes would not vary significantly nationwide.

Nearly every city represented in the National Urban Indian Family Coalition reports a disproportionate number of Natives in shelter care but very few transitional housing projects serving the Native community. This hearkens for the need for capacity in the Native non-profit sector and for the will and ability of tribal governments to develop collaborative national strategies to impact this on a policy and practice level. It is important to note that this remains anecdotal information until a research agenda is developed to quantify this experience.

**Recommendations**

**Provide Opportunities and Resources** both on and off the reservation for Native people to become more financially literate in order to improve both their credit score and access to home ownership.

- Fund and support the continued development of Native community development financial institutions (CDFI). There are presently 48 U.S. Treasury certified Native CDFIs, with another 50+ in various stages of emergence, up from just 6 certified institutions at the end of 2000. These locally-based, Native institutions have become economic engines for communities, providing homebuyer education, financial education, entrepreneurship, individual development account (IDA) matched savings programs, credit counseling, anti-predatory lending, mortgages and small business loans.

- Explore policy regarding requiring predatory lending institutions and banks to contribute to a general fund designated specifically for financial literacy education. Within this, specify a percentage of the fund go to tribal governments and Native nonprofit organizations to provide financial literacy and relevant economic enhancement services in their communities.

- Fund an Indian community development block grant through HUD or Administration for Native Americans (ANA) for tribal governments and Native non-profits to build economic capacity and literacy in their communities. Specific language must be included for off reservation populations.

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¹² A Quiet Crisis in Indian Country, U.S. Civil Rights Commission, 2003
¹³ Ibid
Establish a Research Agenda: AI/AN communities need more research to fully understand the conditions that our people are experiencing in tribal and urban settings. We are not interested in merely being the ‘subjects’ of research, however, what we need is the resources that will enable us to build our own capacity to define research questions, to gather data, and to draw our own conclusions based on that data.

Engage Native organizations to conduct research – specifically, the National Congress of American Indians Policy Research Center, the Harvard Project on American Indian Economic Development or other culturally relevant scholars and research institutions.

- **Access to Fair Housing:** While there exists some research and analysis on housing as it relates to on reservation housing and access to housing\(^\text{15}\), there exists a clear need to examine this from the standpoint of off reservation Native populations who now comprise a majority of the AI/AN in the United States. A comprehensive examination of the current housing crisis for this population needs exploration with a focus on the equitable distribution of resources compared to the disproportionate local representation in the homeless populations.

- **Access to Fair Credit:** There is very little current information on best practices and strategies for increasing access to credit by AI/AN populations either on or off reservation. The recommendation is to develop a research agenda to explore this aspect of the AI/AN experience. The 2000 Native American Lending Study was an important first step and led to the creation of the present Expanding Native Opportunity Initiatives of the U.S. Treasury CDFI Fund. More detailed and current information is now required.

Collaborate with the Native Financial Education Coalition to enact policy recommendations: The Native Financial Education Coalition (NFEC) is a group of local, regional, and national organizations and government agencies that have joined together for one purpose: to promote financial education in Native communities.

Each year the NFEC develops a comprehensive set of policy recommendations relating to Financial Education in Native communities. Rather than reinventing the wheel for the purposes of this paper, I have included as attachments the policy recommendations from this important group.

Support the development and growth of the newly formed Native CDFI Network (NCN): Help to create a policy platform that addresses the broader issues of asset building and community development in Native communities.

Expand Tribal Housing Authority: Expand the capacity of tribal governments and/or Tribal Designated Housing Entities (TDHE) to develop fair market housing with Indian preference in off reservation locations. This policy recommendation needs to be crafted in conjunction with appropriate tribal governmental bodies, advocacy and off reservation organizations.

Explore and Enact policy recommendations as laid out in the U.S. Civil Rights Commission report entitled “A Quiet Crisis in Indian Country”

The report focused on the adequacy of federal funding for programs and services targeting American Indians, Federally Recognized Indian Tribal Governments and Native American Organizations. Attention was directed at *unmet needs*, the portion of *basic needs* among Native Americans that the government is

\(^{15}\) Housing and Economic Development in Indian Country: Challenge and Opportunity, Fannie Mae Foundation, Feb. 2004
supposed to supply but does not. For the purposes of this overview, we are concentrating on the segments of the report focusing on housing.

The report details 11 recommendations with regard to the distribution of federal resources in Indian Country – while each recommendation made by the U.S. Civil Rights Commission deserves and requires additional attention by the federal government, two come to the forefront that might bear fruit when applied towards issues of fair housing and fair credit.

- **Recommendation 2:** All agencies that distribute funds for Native American programs should be required to regularly assess unmet needs for both urban and rural Native individuals. Such an assessment would compare community needs with available resources and identify gaps in service delivery. Agencies should establish benchmarks for the elevation of Native American living conditions to those of other Americans, and in doing so create attainable resource-driven goals.

  In addition, each federal agency that administers Native American programs should specifically and accurately document Native American participation in its programs and account for all projects and initiatives. This inventory will provide tribal governments and Native individuals with up-to-date information on the services and programs available and will enable agencies to identify and reduce program redundancies.\(^\text{16}\)

- **Recommendation 8:** Federal appropriations must account for costs that are unique to Indian tribes, such as those required to build necessary infrastructure, those associated with geographic remoteness, and those required for training and technical assistance. Overall, more money is needed to support independent enterprise, such as through guaranteed loans that facilitate home and business ownership, and to provide incentives for lending institutions, builders, educators, and health management companies to conduct business on Indian lands. The federal government should develop widespread incentives to facilitate education and to promote the return of services to Indian communities. In doing so, it will promote economic development in Indian Country, which will eventually reduce reliance on government services.

  In addition, the unique needs of non-reservation and urban Native Americans must be assessed, and adequate funding must be provided for programs to serve these individuals. Native Americans are increasingly leaving reservations, and their way of life, not always by choice but due to economic hardships. Yet, funding for health, education, housing, job training, and other critical needs of urban Native Americans is a low priority.\(^\text{17}\)

**Other Considerations**

**Tribal Sovereignty**

The United States Government has a unique legal relationship with Native American tribal governments as set forth in the Constitution of the United States, treaties, statutes, and court decisions. As executive departments and agencies undertake activities affecting Native American tribal rights or trust resources, such activities should be implemented in a knowledgeable, sensitive manner respectful of tribal

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\(^{16}\) Ibid

\(^{17}\) Ibid
sovereignty. As such, when examining policy and research within the context of Indian Country, this political aspect must be taken into consideration and any actionable policy recommendations need to be developed in consultation with tribal governments.

I also suggest that programs that are funded in Indian country must be enacted under tribal sovereignty and self-determination. Nielsen (2008) noted that “There is ample evidence that in Native nations, the best outcomes of federally funded programs emerge when tribal governments are able to exercise their inherent sovereignty and to exercise self-determination. In fact, according to Cornell and Taylor, over twelve years of research and evaluation from both the Harvard Project on American Indian Economic Development, and the Udall Center for Public Policy indicate that the only successful public development strategies in Indian country are those that have been those enacted under tribal control. They also suggest that state goals as well, have been advanced through successful tribal control over publically funded development.”

Consultation

Indian Country has developed infrastructure and experts in the field of housing and credit. It is the recommendation of this author that the following institutions be included in future policy development:

Financial Empowerment: First Nations Development Institute, Oweesta, Native Financial Education Coalition

Housing: National American Indian Housing Council, National Congress of American Indians, National Urban Indian Family Coalition

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