

Economic development, governance, and what self-determination really means

By Professor Stephen Cornell, Native Nations Institute (University of Arizona) and Co-Director of the Harvard Project on American Indian Economic Development

Many Native nations in North America today are pursuing economic development for their communities. However there is a lot of confusion about what economic development is and a tendency to view the term as referring only to capitalist economic activity.

We have a broad conception of economic development. To us, it refers to the process of improving the welfare of a community or a people by enhancing economic activity. This is a priority for most of the leaders—elected and otherwise—of Native nations that we work with in both the United States and Canada. They are typically concerned about two things (among many others): the poverty of their peoples (as one Navajo leader said, ‘poverty is *not* a Navajo tradition’) and their dependence on monies from federal and provincial or state governments—a dependence that severely constrains their choices. One tribal leader in the U.S. told us that he believed Indian nations were owed far more money than the U.S. government would ever pay them for the land they took. But, he said, in his experience, ‘every federal dollar is a leash around my neck.’ His nation wants to be able to support itself without depending on federal dollars because they see that as the key to their freedom to rebuild their communities in their own ways—not in the ways that Washington or some other outsider might impose. Economic development, to him, is ‘my freedom program.’ He looks for ways to expand economic activity on the lands of his nation, hoping both to provide citizens with opportunities to lead productive and satisfying lives and to support a strong and independent government for his people.

Economic development can take numerous forms, and it does so in Indigenous North America, from starting up a manufacturing plant to expanding hunting rights, from building gambling casinos to developing trade relations among Native nations. When Indigenous peoples in the vast Yukon Flats region of the interior of Alaska look for ways to improve their ability to survive through subsistence hunting, trapping, and fishing—whether this involves taking control of wildlife management away from federal and state governments and getting it into Indigenous hands, or expanding the land base over which they hunt, or improving the trapping skills of their young people who currently are uninvolved in these activities, or investing in expanding their own wildlife management capacity—they are embarked on an economic development strategy: a course of action designed to improve their ability to adequately support their people and sustain their culture and community. When the late Chief Philip Martin of the Mississippi Band of Choctaw Indians tried to persuade a corporation to build a manufacturing plant on his nation’s reserved lands so that more of his people could support their families and so that he could obtain the necessary revenues to invest in language revitalization in his nation’s schools, he also was embarked on an economic development strategy.

These two strategies are very different, but in each case, they are strategies chosen by the people whose lives are at stake. Our concern is less with which strategy a people is engaged in than with whether that people is in a position to choose how they want to support themselves and to implement the course of action that they believe is right for them. Some of their strategies may be capitalist; others may not be. Our objective has been not to support any particular economic system or ‘ism’ but instead to support the right and ability of Native nations to pursue their own economic visions: expanded buffalo herds at Cheyenne River, tribal citizen entrepreneurship at Flathead or Pine Ridge, holistic forest management at the White Mountain Apache Tribe, tourism at the Siksika Nation, a seafood industry at the Membertou First Nation,

telecommunications at San Carlos Apache, subsistence hunting in the Yukon Flats, and so forth. Freedom to choose means some nations will build nation-owned enterprises; others will focus on private enterprise by citizen entrepreneurs; some will enter into joint venture agreements with outsiders; some will market their natural resources; others will leave those resources alone. The emerging world of Indigenous economic development is hugely diverse.

We also link economic development to systems of governance. We do so because our research indicates that capable governing systems are crucial foundations for sustainable development—regardless of the form development takes. We often talk about ‘formal institutions of governance.’ Some people think this phrase refers to western governing institutions. It doesn’t. All sustainable human communities have formal ways of governing: more or less stable rules that the community understands and follows. Those rules typically have to do with who has authority over what; how collective decisions should be made; how disputes within the community should be dealt with; how people should treat each other, outsiders, the land, the animals; and so forth. Such rules aren’t necessarily written down, even today. At the Navajo Nation there is a body of law, built up over many generations, that embodies the teachings of the Diné—the people. Most of it is not written down. Instead it is passed from generation to generation through the teachings of elders, parents, and medicine people and through the experience of living within the web of Navajo culture. It is formal in the sense that it constitutes a stable set of rules, a structure of governance for Navajo society. It is not just a set of ideas; it is concrete and specific. Those rules guide action. Certain people can do things that others cannot; disputes are to be settled this way and not in some other way; there are certain ways to treat the land or special places within it; kinship obligations should be carried out this way and not that way; etc.

Similarly, in some of the Aboriginal communities we have visited in Australia, there is a complex body of Indigenous law—unwritten and perhaps unshared

beyond the community itself—that specifies, for example, how certain things should be done, how country should be cared for and by whom, who can deal with what kinds of business, who has authority over what. Again, this has formality in the sense that it is a stable set of rules for action and relationships. It is a governance system.

This is what we mean by formal governing institutions: stable, shared sets of rules that govern how the people act, individually and together. It doesn’t matter if the rules are written down somewhere or not, nor does it matter whether they look like western rules or something else altogether. What matters is that the people know them and live by them—and that they work: that they create a stable foundation for community success.

Indigenous peoples in North America had such sets of rules by which they governed themselves. In some cases, those rules—many of them with ancient roots—still play a central, governing role in those communities. But the disaster of colonialism replaced many of these Indigenous governance systems with external controls, with imposed rules that were developed by someone else. And when colonial powers eventually allowed Indigenous peoples in North America modest decision-making power over a few things, they did so through governmental structures that were radically different, in most cases, from Indigenous ones. As a result, some nations lost touch with their own systems; others struggled to operate within new systems but retained powerful beliefs in the systems they themselves had developed under conditions of freedom; still others retained much of their own system but followed it in secret, out of sight of colonial administrators.

When we talk about cultural match or mismatch—another topic we focus on—we are talking about the degree to which current governing institutions—the organization of authority, decision-making, dispute resolution, and the like that in fact are in place in Native nations—do or do not match that people’s own ideas of what those rules should be, of how things should be done. Some of the New Mexico pueblo nations have carefully protected those older

systems while modifying them when necessary, and use them to this day, maintaining a close link between their own, Indigenous political cultures and the formal institutions of day-to-day governance. That's cultural match, and it works. Federally imposed governance structures would have devastating effects in those pueblos, and we have argued strongly against those structures. In contrast, among the Lakota peoples in the plains region of the U.S., older systems have been almost completely replaced by federally imposed, western structures. Yet many Lakota retain older beliefs about how authority should be organized and exercised and would prefer to do things very differently. The result is a cultural mismatch, and our argument is that the imposed system is counterproductive and that a system more closely fitted to prevailing Lakota ideas would have more legitimacy with the people and would be more effective as an instrument for getting things done.

Does this mean Indigenous governing systems should be traditional? Not necessarily. On the Flathead Reservation in Montana, home to Bitterroot Salish, Upper Pend d'Oreille, and Kootenai peoples, the three tribes have freely chosen to adopt mostly western structures, in part because their own traditions are diverse and sometimes at odds with each other. They believe that the western structures they currently use are appropriate for them and, indeed, those structures work very well in supporting those tribes as they collectively pursue their objectives. That, too, is cultural match: a fit between the rules by which things *are being done* and the belief in the community about how things *should be done*. As this suggests, the task is not to resuscitate traditional governing systems. It is to develop a governing system—traditional or not—that has the support of those being governed and that can govern effectively.

Some believe we are supporters of western governance systems because we talk about things like separations of power or checks and balances. But these are not simply western ideas. Traditional Lakota government, for example, was full of such

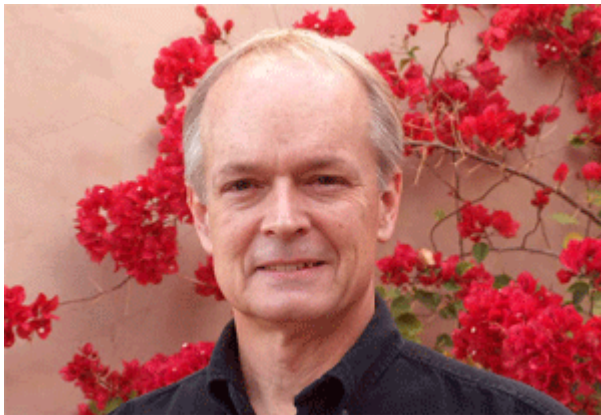
things. The *akicita*, or warrior societies, were charged with enforcing the law; they had the power to enforce the law even with the most senior political leaders of the nation. That separation among law-making, executive action (the first in the hands of the council, called the Big Bellies; the second in the hands of the executive, called the Shirt Wearers), and law enforcement and dispute resolution (in the hands of the *akicita*) is the sort of thing communities throughout the world have done. When one of the New Mexico pueblo nations alternates selection of leaders between the Turquoise and Pumpkin kivas, as they have done in one form or another for generations, they are implementing a kind of check-and-balance system designed, by their own account, to prevent either 'side' of the pueblo from accumulating too much power.

Such things are indigenously generated solutions to classic governance problems: How do you protect the community from occasional mistakes in picking leaders? How do you assure citizens that disputes will be settled fairly? How do you keep leaders from using their positions of power to benefit their friends instead of the community at large? How do you keep one set of interests from becoming entrenched in power at the expense of others? Out of necessity, Indigenous nations—like others—had developed solutions to these and other governance challenges. In many cases, those solutions remain viable today. In others, it is difficult to return to those solutions, either because many of the details have been lost through the colonial experience or because the problems those nations face have changed dramatically. In such cases, Native nations are inventing new solutions, remaking their own governance tools—the law, decision-making processes, the organisation of cooperative action, ways of settling disputes, and so on—as they did in the past when faced with radically changed situations. This is nation rebuilding, as Chief Oren Lyons, traditional faithkeeper of the Onondaga Nation, calls it.

Our argument is that Native nations should have the freedom to exercise governing power, not

necessarily in western ways, but in ways of their own choosing. This means lifting the yoke of colonial control, ending the insistence that Indigenous governance look like U.S. or Canadian governance, and accepting the fact that the solutions those nations develop will be diverse. Some will have traditional roots; some will not. But once that freedom is achieved, once those nations have put in place the governance solutions they want and have tested those solutions against the realities of their current situations, once they have the freedom to make mistakes and learn from them and make the adjustments they decide they need to make, then we believe they will be in a stronger position to develop the kinds of economies and communities they envision.

This is what self-determination really means.



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For further information, visit the Harvard Project on American Indian Economic Development website: <http://hpaied.org/>

Case note: Mullet on behalf of the Gunai/Kurnai People v State of Victoria [2010] FCA 1144

By Zoe Scanlon, Research Officer, NTRU, AIATSIS

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Federal Court of Australia, Knobs Reserve, Stratford North J

The applicants sought a native title determination over approximately 8,000 specific parcels of land within the general area of Gippsland in Victoria. The outer boundary of the application area extends to approximately a short distance east of Warragul on the western side, to the waters off the southern coast of Victoria on the southern side, to the Snowy River on the eastern side and to the Great Diving Range on the northern side. This covers 45,000 hectares of Crown land, amounting to 20% of the Crown land in Victoria.

Native title is held by the Gunai/Kurnai people being those who identify as Gunai, Kurnai or Gunai/Kurnai and are descended from one or more of twenty-five Gunai/Kurnai apical ancestors.

The native title rights and interests in relation to the native title area consist of the non-exclusive right to; have access to or enter and remain on the land and waters, to use and enjoy the land and waters, to take resources of the land and waters for the purpose of satisfying their personal, domestic or communal needs but not for any commercial purposes; to protect and maintain places and areas on the land and waters which are of importance according to Gunai/Kurnai traditional laws and customs.

Without limiting the generality of the rights and interests referred to above, they include the right to undertake the following activities on the land and waters; camping, and for that purpose, erecting shelters and other temporary structures landward of