

## Introduction

*Miriam Jorgensen*

In broad strokes, Indian Country<sup>1</sup> has experienced three waves of growth in jobs and incomes since the late 1960s. The first arose when the U.S. government shifted the agenda for its Indian policy from termination and relocation (ceasing to recognize tribal governments and strongly encouraging/compelling American Indians to move away from reservations) toward support of the poor. This shift placed Indian policy under the umbrella set of policies that constituted the War on Poverty and made reservation-based tribal communities a target population for Great Society programs. In aiding the poor, many of these programs also embraced the idea of community empowerment, in which impoverished communities had the opportunity to participate in program planning, direction, and administration. Thus, many federal Indian programs developed from the mid-1960s to the mid-1970s directly or indirectly involved tribal governments in their administration or implementation,<sup>2</sup> and job creation followed. At Zuni Pueblo, for example, tribal government expanded from nine employees in the 1950s to fifty-four by the late 1960s, largely with the support of federal funds; the Community Action Program, a primary funnel for poverty alleviation funding, was the single largest component of tribal government, with thirty-three employees.<sup>3</sup>

The second wave of growth in jobs and income resulted from Native nations' response to the 1975 Indian Self-Determination and Educational Assistance Act (Public Law 93-638) and its amendments. Substantively, the Act ended the Bureau of Indian Affairs' and Indian Health Service's management monopoly over the many programs and resources they managed on behalf of tribes. For the activities specified

<sup>1</sup> While there is a formal legal definition for "Indian country" (in 18 U.S. Code § 1151), the term is used here to describe the many reservation-based Native communities that share a geography with the United States. Both the terms "Indian Country" and "Indian country" are used throughout this book according to chapter authors' preferences and intentions.

<sup>2</sup> See, e.g., George Pierre Castile, *To Show Heart: Native American Self-Determination and Federal Indian Policy, 1960–1975* (Tucson: University of Arizona Press, 1998), chapters 1 and 2; and Sar A. Levitan and Barbara Hetrick, *Big Brother's Indian Programs—With Reservations* (New York: McGraw-Hill, 1971), chapter 6.

<sup>3</sup> T. J. Ferguson, E. Richard Hart, and Calbert Seciwa, "Twentieth Century Zuni Political and Economic Development in Relation to Federal Indian Policy," in C. Matthew Snipp (ed.), *Public Policy Impacts on American Indian Economic Development* (Albuquerque: Native American Studies, Institute for Native American Development, University of New Mexico, 1988).

in the legislation, tribes could contract or compact to take over a portion or all of a federal budget outlay and replace federal employees with tribal employees who performed similar functions.<sup>4</sup> Programs as diverse as law enforcement, general assistance, and road maintenance were available to tribes for contracting and compacting, as were opportunities to manage tribal mineral reserves, forests, and grazing lands, among other resources – which meant that if a tribe embraced the whole range of contracting and compacting opportunities, it could create a large number of tribal government jobs.<sup>5</sup> For example, as the Jicarilla Apache Tribe shifted toward management control over its forest resources, the share of forestry workers employed by the tribe as opposed to the federal government rose from 5 percent in 1984 to 90 percent in 1989, and the number of tribal forestry employees rose from five to thirty-nine.<sup>6</sup> Subsequent federal legislation made still other federal agencies' Indian program funding streams available for tribal management – including funding for housing development, environmental management, workforce development, and child protection – further bolstering jobs and income opportunities in tribal communities. In some cases, employees simply changed paymasters, but in many others, the shift to tribal control replaced non-Native “guest workers” with reservation-resident American Indians.

A third wave of jobs and income growth in Native communities resulted from tribes' significant efforts to leverage their comparative advantages in support of economic development and tribal government revenue. Natural resource development and gaming enterprise development have been particularly important parts of this trend. For example, many tribal governments rapidly developed casinos and related hospitality sector businesses (golf courses, hotels, restaurants) in response to the clarification in U.S. law that tribes, not states, had the right to regulate gaming on tribal lands. Economic development followed. In the 1990s, on average, tribes that entered into the gaming industry saw real median household income gains of \$5,000–\$6,000.<sup>7</sup>

Two things stand out about these drivers of growth. For one, each is linked directly to the political change that characterizes the modern period – Native nation self-determination. Tribes grew their economies, and job and income opportunities for their citizens, through active assertions of their right to control what happens in their

<sup>4</sup> The language here can be confusing. Tribes are contractors, but as such, do not manage someone else's resources. They contract to take back the right to manage their *own* resources.

<sup>5</sup> For a general discussion of how Public Law 93-638 increased the opportunities for tribal bureaucratic expansion, see David L. Vinje, “Native American Economic Development on Selected Reservations: A Comparative Analysis,” *American Journal of Sociology and Economics*, Volume 55, number 4, October 1996, 427–42.

<sup>6</sup> From the data file for Matthew B. Krepps and Richard E. Caves, “Bureaucrats and Indians: Principal-Agent Relations and Efficient Management of Tribal Forest Resources,” *Journal of Economic Behavior and Organization*, Volume 24, July 1994, 133–51.

<sup>7</sup> Jonathan B. Taylor and Joseph P. Kalt, *American Indians on Reservations: A Databook of Socioeconomic Change Between the 1990s and 2000 Censuses* (Cambridge, MA: The Harvard Project on American Indian Economic Development, Harvard University, 2005).

communities and on their lands. For another, all three primarily relied on the public sector as the economic engine for Indian Country. Put differently, for half a century economic development in Native America has been highly dependent on the Native public sector, through the growth of Native nation governments and tribal government-owned corporations.

Certainly, this growth led to greater well-being for many Native reservation residents. Yet as ongoing lags in income and employment levels attest, public sector growth alone cannot create truly flourishing Native community economies. Reservation economies also need strong and thriving private sectors, built up by Native entrepreneurs and tribal citizen-owned enterprises. Such private sector growth has the potential to catalyze another wave of transformative Native nation economic development, making these economies more resilient to shocks, more diverse, and more productive for tribal citizens.

And, properly regulated, private sector growth may reflect another aspect of self-determination – the ability of tribal members to create the kinds of community development they want. By strengthening local retail and service sectors, Native entrepreneurship can reproduce the opportunities, experiences, and choices that reservation residents once may have thought existed only outside their communities. Alternatively or additionally, the resultant reservation economies may have marked differences from the mainstream. Given Native nations' various preferences, traditions, geographies, and belief systems, reservation-based private sector development might result in a richer mix of social enterprises, culturally connected businesses, sustainable practices, and relationship-based trade arrangements than is present in the mainstream. Put somewhat differently, entrepreneurship and business development outside the tribal public sector have the potential to create distinctive quality of life benefits for Native communities.

The need for more private sector development, more entrepreneurship, and more sustainability and resilience in reservation economies is the motivation for this book. Our goal as editors and authors is to move beyond the observation, and to provide tools – in the form of data, arguments, ideas, and examples – that can help make such change happen. In our experience, very little has been written

- for tribal economic development practitioners that helps them make the case to tribal leadership about the importance of tribal citizen entrepreneurship and the on-reservation private sector;
- for tribal policymakers that helps them know what laws and policies need to be developed or revised in order to encourage private sector development;
- for students of business to help them learn about entrepreneurship and private sector development in Indian Country and that gives them models of such work;
- for Native entrepreneurs who wish to understand the unique contextual factors that affect the success of privately owned reservation-based businesses; and
- for tribes' and Native entrepreneurs' sectoral allies (lenders, insurers, etc.) that helps them be better partners in on-reservation private sector development.

This book responds.

The first section, Chapters 1 and 2, sets the scene. Robert Miller describes the economic conditions on many reservations, and against these, identifies the benefits to Native communities of private sector development. He puts to rest the argument that such development is somehow antithetical to Native cultures, pointing to the strong entrepreneurial traditions characteristic of many North American tribes. He also lays out nine critical factors necessary for private sector development in Indian Country to proceed, challenging tribes and tribal citizens to address them and to renew their traditions of trade and exchange.

The chapter by Randall Akee, Elton Mykerezi, and Richard Todd presents newly available data on the comparative organization of reservation and nearby economies. Previous literature was unable to identify businesses by location, making it impossible to quantify the differences in market structure on- and off-reservation. On the one hand, the news is good: their data show that, in general, reservations and surrounding comparison geographies have similar numbers of jobs. On the other hand, the data also show fewer workplaces on reservations and significant employment concentration in the government sector and hospitality industry, putting the arguments for greater diversification and entrepreneurship development in tribal economies on even firmer footing.

The next section, consisting of Chapters 3 to 6, looks in greater depth at several specific barriers to tribal citizen-owned business development and points to needed policy responses. Jessica Shoemaker reviews the specific land tenure-related obstacles for reservation entrepreneurship, including transfer restraints, tax and regulatory issues, group rights, and jurisdictional complexity. But rather than reverting to the simple solution that has attracted many pundits – privatizing reservations and essentially reviving the era of tribal land allotment – Shoemaker looks with both hope and evidence at the possibilities for locally engineered, Indigenous, creative solutions to the property-related barriers to entrepreneurship.

Ezra Rosser takes the Navajo Nation as a case study of how difficult – and how necessary – tribal land tenure reform can be. By reviewing the nation's recent attempt to reform its homesite lease process, Rosser shows how colonial history, regulatory overlays, cost barriers, and tensions between local communities and the Navajo Nation central government all conspired to make changes to land tenure rules nearly impossible to implement. The challenge is for the Navajo Nation, both the people and the government, to find a way forward. The costs of retaining the status quo are simply too high: without a better approach to land use, the inherent development potential of one of the largest Indigenous nations in North America cannot be unlocked.

Patrice Kunesh and Benjamin Horowitz turn attention to another access to capital issue for many entrepreneurs in Indian Country – the lack of a tribal secured transactions system. Secured transaction laws, a lien filing system, and a contract enforcement or dispute resolution mechanism constitute a secured transactions system. Kunesh and Horowitz provide details about each of these elements and suggest system adaptations that tribes might want to adopt in response to community practices (e.g., whether property that might be used in a potlatch or giveaway can be secured as collateral), while making the point that tribes that take the time to create secured transactions systems help close the credit gap for entrepreneurs.

By way of personal reflection on his career in the field, David Castillo introduces an important set of institutional players in Indian Country finance – Native Community Development Financial Institutions (CDFIs). Recounting his work as the founder of a regional Native CDFI in Arizona, the stressors that challenge the industry, and the still-extant needs that only nonbank lenders can meet, Castillo nonetheless views the future with confidence. He notes that Native CDFIs have been engaged in reflective learning for two decades, which makes them stronger while remaining attuned to their community-based missions. He also highlights the new availability of operating and loan capital from the philanthropic sector, which is helping to sustain and grow the industry. The more than seventy Native CDFIs now extant are poised to be a critical source of capital and credit for both start-up and expanding private sector businesses in Indian Country.

The book's third section, Chapters 7 to 10, provides advice from business and business law scholars whose job it is to ask, "What can we learn and share from examples working on the ground?" Mark Maletz introduces several factors that he has concluded are required to create a culture and practice of entrepreneurship. Using expository case studies, Maletz then describes what entrepreneurship "looks like," how entrepreneurs thrive in hostile environments, and what constitutes an entrepreneurial mindset, which he posits is part of what it takes to manage through the "entrepreneurial lifecycle." Ultimately, Maletz's chapter reminds readers that entrepreneurship is something that can be learned and that there are a number of unchanging principles involved in the practice of entrepreneurship – even in tribal communities.

Daniel Stewart focuses on the sequential process of entrepreneurship from idea to implementation. As Stewart explains, the primary point of this sequence is "value creation," or the fact that businesses must produce things that customers are willing to purchase. In tracing out the process, he instructs entrepreneurs to ideate (form a new idea), to prototype (create a physical or virtual model that aids in "kicking the tires" of the idea), to validate (find evidence that the idea works, investing leanly to minimize risk), to pivot or proceed (adapt based on learning or move to roll out), and finally, to repeat, since entrepreneurship requires constant refinement to keep the

product or service fresh. Usefully, Stewart points to numerous tribal community examples and applications throughout this discussion.

Stephanie Black and Deanna Kennedy drill down on supply chain management. A supply chain is the series of providers and buyers that supply the components and products necessary to create a good or service. Black and Kennedy note that any business can thrive or fail based on effective or ineffective supply chain management, yet to date, no guidance has been available to Native business owners that addresses their specific supply chain management concerns, let alone to Native business owners operating within reservation economies. The authors then detail a variety of considerations that should help Native business owners avoid potential pitfalls and increase their odds of success.

To close out this section, Carla Fredericks introduces the UN Sustainable Development Goals (SDGs) as a set of ideas that are influencing socially responsible business development outside Indian Country and raises these provocative questions: If the SDGs are important for human progress, where do Indigenous nations in the United States fit in? To the extent that tribes and tribal citizens are participants in the realization of the SDGs, what development options might be open to entrepreneurial tribes and people? Fredericks details how several tribes' efforts to develop renewable energy projects provide examples of how to address the goals and advance economic opportunity on reservations. The challenge is for Native communities to find even more ways to do so, in not just the public but also the private sector.

The final section, Chapters 11 and 12, provides concrete examples of practices and programs that promote entrepreneurship and private sector development in Indian Country. Lori Pourier describes the work of the First Peoples Fund (FPF), which began with the provision of grants to outstanding community-based artists and culture bearers to help them grow as artist-entrepreneurs. Research and experience proved that a focus on artists was important: in the Northern Plains tribal communities that FPF studied, as many as one-third of home-based Indigenous entrepreneurs were artists. Seeking to have an even greater impact on the communities and economies it serves, FPF now focuses its programming on the community arts "ecology," providing grants and other assistance to artists *and* community organizations. Growing community partners' capacity to serve artists spurs more community investment in culture and even more income growth for artists and culture bearers.

Foxworth, Langholz, and Romero-Briones close the book with a look at the important topic of youth entrepreneurship. Their starting point, however, is the food sovereignty movement, in which Native nations increasingly are taking back control over food production, food policy, and food distribution. They note that in several, and perhaps many, Native communities, the food sovereignty and youth entrepreneurship movements have proceeded together – youth are learning about growing, making, and preserving food (often traditional food) and also are marketing it. They are gaining traditional knowledge, self-confidence, access to healthy foods,

and entrepreneurial skills through these ventures and laying the groundwork for an entirely changed food system, from field to market, in coming generations.

The past fifty years of economic change in Indian Country have created a mandate for more tribal-citizen entrepreneurship and greater private sector development. Meeting this mandate will be difficult. Growing the number and size of Native American-owned businesses on reservations will require persuasion, policy development, institution building, risk-taking, professional development, market-mindedness, and generational thinking. As editors and authors, our desire for *Creating Private Sector Economies in Native America: Sustainable Development Through Entrepreneurship* is that it will aid in this important work.