

**Sovereignty and Nation-Building:
The Development Challenge in Indian Country Today**

by

Stephen Cornell & Joseph P. Kalt

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Introduction

In *Sovereignty and Nation-Building: The Development Challenge in Indian Country Today*, Cornell and Kalt (1998) argue that economic success, and the reduction of unemployment and welfare dependency, is more likely in the case of American Indian tribes if governance is characterised by five principles. In a number of articles and talks on Maori nation building projects in Aotearoa/New Zealand, reference has recently been made to Cornell and Kalt and to one or more of these five principles. Thus, for example, Dodd, in an article published in the *Journal of Maori and Pacific Development* in 2000, argues that *Iwi governance structures should involve a separation of governance and management and should be consistent with indigenous ideas about the location and exercise of authority* (2000, p.7). She refers, in this context, to the work of Cornell and Kalt, and quotes Eade who observes that “it is doubtful that an organisation that itself maintains oppressive social structures can be a reliable vehicle for transforming these in a liberating way, whatever the rhetoric” (Eade 1997, p. 26). More recently in this Journal, Tiakiwai and Bishop (2002, p. 36), note that Cornell and Kalt (1998, p.2) found a “positive correlation between self-determination and successful development as defined by the tribe”, and observe that what they refer to as the ‘decade of Maori development’ provides concrete Maori examples of development theorizing in line with Eade (1997) and the assertions of Cornell and Kalt (1998). The article by Cornell and Kalt which appears to be most often quoted in the context of Maori nation building projects first appeared in 1998. The extent of its current influence in Aotearoa/New Zealand suggests that a careful re-examination of it at this point could prove useful.

Overview

Sovereignty and Nation-Building: The Development Challenge in Indian Country Today reports on some of the findings of the *Harvard Project on American Indian Economic Development*, a project that had been in existence for some time at the time the article appeared. The overall aim of the Harvard project is to identify those factors that contribute towards effective economic development among Indian tribes. The researchers identify two different approaches to economic development: **(a)** the ‘jobs and income’ approach (involving addressing unemployment directly by setting up businesses), and **(b)** the ‘nation-building’ approach (involving building a nation in which businesses and human beings can flourish). The *Harvard Project* findings are

that the former approach ('jobs and income') is typically associated with persistent problems of business failure, whereas the latter ('nation-building'), when associated with sovereignty, vastly improves the chances of effective, sustainable development that impacts positively on political, social and cultural, as well as economic prosperity.

Nation-building and the five principles of economically effective governance

Nation-building involves the establishment of effective governing capacity. Cornell and Kalt argue that economic success, and the reduction of unemployment and welfare dependency, is more likely in the case of American Indian tribes if governance is characterised by each of the following principles:

- stable institutions and policies;
- a competent bureaucracy;
- fair and effective dispute resolution;
- separation of politics from business management;
- cultural 'match'.

A critique of the five principles

The five principles: problems of definition and coherence

For those educated in typical western business practices, the first two of the principles (see above) which are represented as being characteristic of economically effective governance are likely to have an immediate appeal. They are, after all, ideals to which most western businesses would aspire. The third principle is also intuitively convincing. After all, societies and businesses need effective dispute resolution in order to survive. However, perceptions of what constitutes 'fair' dispute resolution may vary. They are not simply a matter of who adjudicates or of how independent these adjudicators are perceived to be. Thus, perceptions of fairness relate not only to the interpretation and implementation of legal processes, but also to the nature of the laws that underpin these processes, laws that may change as social attitudes change. Furthermore, tribal perceptions of what is fair may differ from prevailing attitudes in society more generally and, in particular, from the prevailing attitudes of non-tribal investors. Should this be the case in a particular instance, the question arises as to whether the concept of 'cultural match' (the fifth principle) should be applied. If so, the result may prove to be unacceptable to potential non-tribal investors and, furthermore, may be inconsistent with the other four principles.

The fourth principle - separation of politics from business management - is likely to appeal to business managers. It is, furthermore, likely to gain immediate support from those who believe that the primary aim of business is to maximise profit. This principle is, in fact, fundamental to the Capitalist agenda and is consistent with a free market philosophy and with the monetarist theories of the New Right in New Zealand.

The final principle is 'cultural match', a principle that could, in its application, undermine any, or all, of the other four principles. Given that this is the case, there is a clear need for the five principles to be ordered and prioritized in some way.

The authors identify four groups¹ whose economic performance, outside the area of gaming, has been impressive. Among these is the White Mountain Apache tribe, one of the most economically successful Indian tribes in the United States. However, as

Cornell and Kalt themselves indicate, in the case of the White Mountain Apaches "power is centralized in the tribal government, chief executive officers exercise extensive power, there is no independent judiciary, and there is executive oversight of business operations" (p. 202). Thus, it would appear that at least two of the five principles outlined earlier do not apply in the case of the White Mountain Apaches. This raises significant issues. Are readers to assume on the basis of the experience of the White Mountain Apaches that 'cultural match' is more important than, for example, the separation of politics from business management?

The outstanding success of the White Mountain Apaches must call into question a model based on the first four principles alone. However, the introduction of the fifth principle ('cultural match') destabilises the model in that it has the potential to be in conflict with any, or all, of the other four principles. This being the case, the only way of retaining the five principles intact is to find a non-*ad hoc* way of ordering them in terms of relative importance. In this article, the authors do not address this issue. Furthermore, the fact that at least two of the principles ('a competent bureaucracy' and 'fair and effective dispute resolution') are expressed in very general terms could create difficulties in terms of any attempt to order the principles in relation to their comparative importance.

The five principles: the issue of supporting evidence

I have already noted that I believe that there is potential for conflict between the first four principles and the fifth. It is important, therefore, to determine what evidence is produced by the authors in support of their contention that these five principles are characteristic of economically effective governance in the case of Indian tribes. It is also important to subject that evidence to critical examination.

In support of the principle of the efficacy of *stable institutions and policies*, the authors point to the economic success of Cochiti Pueblo in New Mexico who have reduced unemployment to single figures. Notwithstanding frequent personnel changes, the governing structures of the Cochiti Pueblo are described as having "enormous stability" (p. 197). No other specific instance of stable or unstable governance of Indian tribes is provided in this article. However, what readers are told elsewhere in the article is that both the White Mountain Apache tribe and the Oglala Sioux of the Pine Ridge Reservation operate under tribal governance terms written by the federal government and organized under the provisions of the *Indian Reorganization Act* of 1934 (pp. 201 - 202). Presumably, therefore, both tribes have the same or similar (imposed) institutional stability. In one case (White Mountain Apache), the tribe has been outstandingly successful in economic terms; in the other (Oglala Sioux), it is described as being statistically the poorest Indian reservation in the county. Thus, although there may be evidence from other sources that stable institutions and policies characterise successful economies and successful businesses, there is little direct evidence in this article that this is also the case in relation to the American Indian tribes studied.

The next principle relates to the existence of *a competent bureaucracy*. Here, it is important to determine what is meant by 'competence'. The authors do not provide a definition. Instead, they offer an example, an example that serves to highlight the possible circularity of their argument at this point. They note the success of the White Mountain Apache tribe in Arizona in negotiating the right to put in place its own

conservation plan for its forest and recreational resources and note that "one of the key elements in the success of these negotiations was the Apaches' resource management capabilities" (p. 201). In support of their contention that the Apaches have "a competent, sophisticated resource management bureaucracy", they then point to the success of Apache business operations (p. 201). In other words, it would appear that if you are successful in business, you have a competent bureaucracy; if you are not, you do not. Although this is, no doubt, largely true, it is not particularly helpful. What would be considerably more helpful would be an attempt to specify what constitutes a competent bureaucracy. In the absence of such specification, readers are likely to assume that there is a necessary correlation between qualifications and competence, something that is likely to be more true in some areas of business than in others.

What do the authors mean by "*fair and effective dispute resolution*" and do they provide adequate justification for its inclusion as one of the five principles of economically effective governance in the case of Indian tribes? It has already been noted that there may be difficulties in specifying what type of dispute resolution is 'fair' in a particular instance. Furthermore, in order to claim that dispute resolution is 'effective', it is necessary to specify effectiveness measures, something that is absent from this article. However, the authors do indicate that independence of the judicial system is considered to be fundamental (p. 197) and note that "if you control for the effect of other factors on employment . . . simply having an independent judicial system reduces unemployment, on average, by five percent" (p. 198). The problem here is that this conclusion was reached on the basis of a sample of a relatively small number of tribes and, in this context, it seems unlikely that the 5% advantage recorded is statistically significant. Furthermore, no indication is given of whether the figures for unemployment that were treated as being significant were official ones and, if so, how they were arrived at. In view of the narrow margin of advantage (5%) recorded, this is particularly likely to be relevant. Finally, there is no indication in the article of which variables were controlled for or, more significantly, which were not. This is a significant issue in view of the complex range of factors that can impinge on unemployment statistics. Thus, in support of their contention that fair and effective dispute resolution has a positive impact on economic development in the case of Indian tribes, the authors provide very little evidence. Indeed, they state that one of the most economically successful tribes studied (the White Mountain Apache tribe) does not have an independent judicial system.

In relation to the efficacy of *the separation of politics from business management* in the case of Indian tribal governance, Cornell and Kalt provide evidence based on a study of 125 tribally owned businesses on more than thirty-seven reservations. They claim that "the chances of being profitable rise 400 *per cent* where businesses are insulated from political interference in day-to-day operations" (p. 200). On the face of it, this is a compelling argument in favour of the separation of politics from business management. However, it is important to sound a note of caution here. First, these results seem to emerge from a *direct correlation* between sustained profitability and the insulation of businesses from political interference. It may be, however, that other factors are involved. It would be interesting, for example, to know precisely what the distribution of the 125 businesses studied is in relation to the 37 tribal areas. It could be, for example, that the most successful businesses are concentrated in a few tribal areas, or that they are all characterized by some other

factor or factors. There is nothing to signal conclusively that other factors are not at least as important as the separation of business management from politics.

'Cultural match' refers to "the match between governing institutions and the prevailing ideas in the community about how authority should be organized and exercised", these prevailing ideas being "part of the culture of a tribe or any cohesive society" (p. 201). In relation to cultural match, the authors contrast the situation of the White Mountain Apaches of the Fort Apache Reservation in Arizona with that of the Oglala Sioux of the Pine Ridge Reservation in South Dakota. Both groups have tribal governments written by the federal government and organized under the provisions of the *Indian Reorganization Act* of 1934. In both cases, the governance structure is essentially the same. However, whereas the White Mountain Apaches are one of the most successful tribal groups, Pine Ridge is statistically the poorest Indian reservation in the country. It is argued that the difference relates to the fact that in the Apache case, there is a much closer match between traditional governance and current governance and that, therefore, current governance is perceived as having greater legitimacy. Although any argument in favour of cultural match is likely to have considerable appeal for indigenous peoples, the case for its relevance to successful economic performance rests here on very little evidence. Furthermore, as was argued earlier, the inclusion of 'cultural match' in the five-part equation has the potential to undermine the equation as a whole. Above all, the definition of 'cultural match' as "the match between governing institutions and the *prevailing ideas* in the community about how authority should be organised and exercised" (p. 201) (emphasis added), raises more questions than it answers. There is no reason to suppose that there will necessarily be agreement within a community about what is currently culturally appropriate, or, indeed, about what forms 'traditional governance' took. The central issue may, therefore, sometimes be whether some form of compromise can be found.

Self-determination and nation-building

There can be little doubt that the self-determination policy introduced in the United States in 1975, along with a raft of associated legislation, does provide Indian tribes with an opportunity of asserting sovereignty and engaging in nation-building exercises. There can, equally, be little doubt that doing so is likely to put tribes in a stronger position in relation to ongoing challenges to their right to self-determination. However, although Cornell and Kalt clearly associate nation-building with self-determination throughout this article, the White Mountain Apache tribe, identified by the authors as being one of the most economically successful Indian tribes in the United States, continues to operate under tribal governance terms written by the federal government and organized under the provisions of the *Indian Reorganization Act* of 1934 (pp. 201 - 202).

***De facto* control**

At the end of the article, the authors note that they "cannot find a single case of successful economic development and declining dependence where federal decision makers have exercised *de facto* control over the key development decisions" (see p. 209). However, the Harvard project did not begin until after the 1975 policy of self-determination was introduced. In the context of that policy, it is not immediately evident what is meant by the exercise of *de facto* control by federal governments. Thus, however appealing such an argument may be, it requires further examination.

A note of caution

Cornell and Kalt note that there have been attempts "to overcome the dismal economic situation of Indian reservations at least since 1928" and that, to date, "the self-determination policy . . . is the *only* policy orientation that works" (p. 209) and it is also a policy that "has benefits for non-Indians" (p. 210). This may well be the case. If, however, Maori tribes attempt to establish *de facto* sovereignty in line with the five principles outlined in this paper, they may encounter a problem in relation to the potential conflict between the last principle (cultural 'match') and the other four. If they decide in favour of the first four, they may find that they are effectively endorsing free market monetarism at the expense of cultural identity. After all, the Harvard project focuses specifically on economic success which is defined, in large part, in terms of a reduction in welfare dependency. Although a reduction in welfare dependency is likely to have considerable appeal, it is likely to be only one of several factors that will be relevant to tribal groups in assessing the effectiveness of governance structures. In fact, reduction in welfare dependency may sometimes be a longer-term goal rather than an immediate priority. Maori communities would, therefore, do well to examine the basis for the recommended formula carefully before attempting to implement it. They would also do well to bear in mind that devolution of authority in one area can very easily be accompanied by denial of responsibility in another. The future of Indian tribes in the United States of America depends at least as much on the capacity of the United States to build effective economic and social structures as it does on the capacity of Indian tribes to do so. Thus far, the United States of America has not excelled in the area of social policy. Nor, some would argue, has it done so in the area of economic policy. A country with 6% of the world's population that consumes 40% of world energy supplies does not necessarily represent a model worthy of imitation. Similar arguments could be applied in the case of Maori tribes in Aotearoa.

Conclusion

A number of concerns have been raised here about the arguments forwarded in this article by Cornell and Kalt. Those who are interested in following up these arguments, and in looking in more detail at the surrounding debate, should consult other works which have emerged out of the *Harvard Project on American Indian Economic Development*.

Endnote

1. The four tribal groups listed in this context are the Mississippi Choctaws (one of largest employers in the state in manufacturing, service and public sector enterprises); the White Mountain Apaches (economic anchor of economy of east-central Arizona: skiing, recreation and other enterprises, with its timber operation being one of the most productive in the western United States) the Salish and Kootenai tribes of the Flatland Reservation in Montana (successful private sector economy based on tourism, agriculture and retail services and the tribal college now gets non-Indian applicants); Cochiti Pueblo in New Mexico (tribally-owned enterprises have reduced unemployment to single figures).

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