



The political economy of American Indian policy: introduction to a special issue

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Abstract

Historically and currently, federal policies governing American Indian country do not typically resemble policies that economists think would stimulate economic and cultural prosperity. This special issue employs Public Choice and New Institutional Economics to analyze the origins and consequences of these policies. This approach, which emphasizes rent seeking, government failure, and formal and informal institutions offers new insights into the understanding of persistent barriers to prosperity and sovereignty in Indian country and what changes might be necessary to break down the obstacles.

Keywords Indian country · Public choice · New institutional economics · Native Nations · First Nations

JEL Classifications B52 · D72 · D73

1 Introduction

In their book *The Narrow Corridor* (2019), Daron Acemoglu and James Robinson argue that human freedoms and prosperity persist only when states are strong enough to protect their citizens from threats of lawlessness and foreign intrusions, but weak enough for citizens to protect themselves from internal tyranny. Although the United States and Canada have stayed within this narrow corridor of liberty, enclaves of Indian country therein have

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not.¹ Rather, Native Nations have generally been excluded from political and economic freedoms enjoyed outside of Indigenous lands while not being afforded protections against the loss of land and resources.

The articles in this special issue on the Political Economy of American Indian Policy examine the basis of government policy and the consequences for Indigenous peoples when such policies cause governance to fall outside of the narrow corridor. The contributors ask four main questions: How did tribes organize and reward economic activity and penalize economic waste prior to contact with European settlers; what role did culture play; why and how did colonialism affect these incentive structures and what were the consequences for economic and cultural prosperity; and what are Tribal Nations doing today to renew their economies? The articles study these questions through the lens of public choice and the study of economic institutions.

The special issue on the Political Economy of American Indian Policy originated with a workshop hosted by the Renewing Indigenous Economies (RIE) program at Stanford's Hoover Institution in Spring 2022. Several of the articles in this special edition were written by Campbell Fellows who visited the Hoover Institution for two weeks during the 2019–2020 and 2021–22 academic years as part of the RIE program.

2 Why public choice?

The essays in this issue consider public choice and new institutional economics as useful paradigms to understand many of the challenges in Indian country. Public choice is the application of economic axioms of rationality and self-interest to politics (Mueller, 2003). The application of these axioms has been described as politics without romance because it questioned the public interest view of government (Buchanan, 1984). One of its chief concerns is with government failure, or the ways in which government action can undermine social welfare (Buchanan, 1975). Another is with rent-seeking, or the socially costly investments by interest groups to secure benefits from political actors that they could not secure in markets (Tullock, 1975).

Public choice scholarship typically presumes that representatives in government and those who seek to influence government have the same limitations of participants in markets; namely, they pursue their own interests even at the expense of the public good (Aligica et al., 2019). Applications of public choice share the economic principles of rationality and transaction costs and generally model agents inside or outside of government as self-interested actors (Leeson, 2020). A significant aspect of public choice is its focus on when and how local groups and governments govern compared to more centralized authorities (Powell & Stringham, 2009). This view—rationality and self-interest—also defines new institutional economics, an application of economic rationality and self-interest to institutional

¹ We adopt the term Indian Country as defined in 18 U.S.C. § 1151 and 40 C.F.R. § 171.3. The legal definition is (a) all land within the limits of any Indian reservation under the jurisdiction of the United States Government, notwithstanding the issuance of any patent, and, including rights-of-way running through the reservation; (b) all dependent Indian communities within the borders of the United States whether within the original or subsequently acquired territory thereof, and whether within or without the limits of a state; and (c) all Indian allotments, the Indian titles to which have not been extinguished, including rights-of-way running through the same.

change. This approach is in the tradition of scholars such as Smith (1776), North (1981), Acemoglu and Robinson (2012), and Koyama and Rubin (2022).

Applied to Indian country, public choice and new institutional economics emphasize the potential for federal and state agents to serve their constituents rather than what is in the interest of Native Americans; for those agents to formulate institutions that encourage rent-seeking rather than wealth creation; and for all levels of government—federal, state, and tribal—to fail in supporting formal and informal institutions that maintain the narrow corridor. Public choice and new institutional economic analysis place Indigenous people at the center of analysis and analyze their response to institutional and cultural constraints.

3 Public choice in Indian country

Previous research rooted in public choice and new institutional economics has shown that federal American Indian policy has often had determinantal effects for Native American people. This includes studies about federal policies leading to natural resource loss (e.g., Feir et al., 2023, Leonard et al., 2020, Akee, 2020), constraints on property rights to land and natural resources (Anderson & Lueck, 1992; Leonard & Parker, 2021; McChesney, 1990), settler choices to raid or trade with indigenous people (Anderson & McChesney, 1994; Candela & Geloso, 2020), forced assimilation and mismatches between formal and informal rules of governance (Cornell & Kalt, 2000; Dippel, 2014), and centralized oversight of legal and political institutions on reservations (Anderson & Parker, 2008, 2017; Frye & Parker, 2021).

The articles in this special issue extend the previous work. The first three papers in the volume apply some of the most significant public choice theories to understand key developments in Indian country. Dippel et al. (2022) assembled novel data on decisions about how federal agents managed land allotments from 1887 to 1934. They use their evidence to examine whether political behavior is consistent with research that identifies interest groups working behind the scenes—bootleggers—who have interests consistent with politically acceptable policies—Baptists as first articulated by Yandle (1983). Thomas Stratmann (2023) provides the first attempt to systematically measure economic freedom across Indian reservations and its empirical relationship to economic development. Johnsen (2022) compares U.S. and Canadian fisheries policies to evaluate which policies defined and enforced property rights to encourage efficient resource use rather than encouraging rent seeking. Together, these papers illustrate how public choice theories of economic regulation, economic freedom, and property rights (collective and individual) inform our understanding of colonial and modern barriers to economic well-being in Indian country.

The next five papers focus on politics inside and outside of Indian country. Tessa Provins (forthcoming) applies insights from the public choice literature on regulation to decisions about climate mitigation and adaptation policies on reservations, evaluating competing hypotheses with a dataset from 574 federally recognized tribes. Feir et al. (2023) use evidence from First Nations' adoption of taxation authority to understand a fundamental question about governance: when do sovereign nations execute their ability to tax citizens? Through analysis of these choices, they can offer novel insight into questions of state-building at a micro level. Creppelle et al. (2022b) consider how tribal decisions on whether to distribute casino gaming profits on a per capita basis—choices made when casinos opened

during the 1990s and early 2000s—influenced how tribal governments responded to the COVID-19 pandemic. Using data on the operational status of over 200 tribal casinos, they find that tribal nations distributing per-capita payments kept casinos open much longer than those that do not, suggesting that payments created a pro-economy constituency that rejected economic lockdowns. Ennio Piano and Louis Rouanet (2022) consider the political economy of constitutional choice on reservations, offering insights into why the formal terms in tribal constitutions vary considerably across tribal nations. Creppelle et al. (2022a) examine a key puzzle of Indian country: why does crime on reservations persists at high levels despite federal policies to address alleged “lawlessness”? They explain how complicated federal policies undermine policing reform and offer reasons for the present-day persistence of military societies, the traditional system of criminal justice in Indian country.

The final two papers consider social aspects of wealth and poverty on reservations. Miller (2023) asks how a new measure of historical assimilation—the proportion of non-Indigenous names for Native Americans living on reservations during the 1900 U.S. Census—correlates with per capita income for American Indians on reservations in 1970 through 2020. She finds that historical levels of assimilation are consistently associated with higher levels of per capita income across all modern census years. Terry Anderson and Dominic Parker’s (2023) contribution considers the process by which non-Indians justified imposing top-down rules based on western concepts (e.g., allotment of land parcels to individuals and state and federal judicial systems) because they deemed tribal customs and cultures to be lawless and inefficient. They argue this piecemeal imposition of federal control has suppressed American Indian liberties, caused abject poverty, and left jurisdictional gaps in the rule of law that have enabled disorder.

The overriding conclusion from these contributions is that institutions that promote the “Narrow Corridor” of liberty and prosperity necessitate that those institutions be decided on by consent, rather than by outside interests. It is our hope that the articles in this special issue, beyond contributing original knowledge to the challenges and opportunities in Indian country, offer a fruitful guide for continued economic analysis of the origins and consequences of barriers to prosperity in Indian country.

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