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The use and abuse of Indians

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By Barb Lindsay and David Yeagley

We would like to believe Congress did not intend for non-Indians to be the principal beneficiaries of the Indian Gaming Regulatory Act of 1988, or IGRA. Yet the fact is non-Indian investors, lobbyists, politicians and casino management companies have left behind the poverty-stricken Native American families Congress intended to help. Non-Indians are enriching themselves through IGRA's \$22.6 billion a year Indian casino business. Jack Abramoff was the perfect example.

We would like to believe Congress did not intend off-reservation communities to suddenly become convenient casino locations. But, abuse of IGRA provisions has allowed tribes to go "reservation shopping" anywhere they want – anywhere prime gambling facility locations can be found.

The damage being inflicted on small-town America is very real. Communities neighboring the new Indian casino expansions all face devastating effects. The problems are similar in dozens of states across the nation. Major national news investigations have been published, ranging from Time and Forbes to the New York Times and the Wall Street Journal. These reports describe how tribal government actions have caused soil erosion, water shortages, snarled traffic and increased crime. Tribal policies have bankrupted neighboring businesses and forced evictions of elderly homeowners for the sole purpose of casino parking-lot expansion. These effects have dramatically reduced property values in communities that host tribal casinos.

We would like to believe Congress did not intend federal "trust" status

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of tribally purchased land to enable autonomous (often syndicated) gambling operations to dominate the economy and social character of surrounding communities. But, "sovereign immunity" shelters tribal trust land from taxation and virtually all state laws and local regulation. Tribal leaders and their coercive, out-of-state casino investors are, thus, responsible only to themselves for their actions.

We would like to believe Congress did not intend Indian casinos to adversely affect their surrounding communities. But, tax- and regulation-free casinos destroy local, taxpaying, non-tribal businesses. The lower prices offered by Indian businesses attract non-Indian clientele, thus shrinking state and local tax receipts, and contributing to an addictive behavior that severely strains local social services. (This is especially true when tribes allow 18-year-olds to gamble, as they currently do in California, Washington and a number of other states across America.)

Tribal businesses typically refuse to collect or remit state and local sales taxes (even though the U.S. Supreme Court has ruled four times that tribal businesses are lawfully required to both collect and remit taxes on purchases made by their non-tribal customers). Tribal businesses can therefore significantly undercut the regular price of gasoline, cigarettes and many other retail items. This Indian "tax evasion" is why there is only one non-Indian gas station left in all of upstate New York and the state is facing a \$1 billion budget deficit. It's due in large part to the refusal of Indian smoke shops and gas stations to collect New York state sales taxes on cigarettes and gasoline. The same thing is happening in Oklahoma, Wisconsin, Minnesota, Idaho, Nebraska and Washington state. California faces the same threat to its future.

We would like to believe Congress did not intend tribal governments to make political contributions from tax-exempt casino profits and federal taxpayer-funded grants without regard to contribution limits that apply to every other for-profit enterprise. In fact, other sovereign governments (foreign and domestic) cannot contribute to election campaigns. Nor can corporations make federal campaign donations. But, the Federal Election Commission has given a free pass to tribal "nations" (and, indirectly, their non-Indian corporate backers) to influence the policy decisions upon which their gambling monopolies depend.

According to the Federal Election Commission, Indian tribes are now the largest contributors to our election campaigns nationwide, exceeding even the largest labor and teachers' unions. Last year, tribes contributed more to federal election campaigns than the manufacturing and defense industries. And Indian tribes are far and away the largest campaign contributor group in dozens of states, including Washington, Oregon and



California. Tribes even use their "government allotment" funds to make federal campaign contributions, in addition to making campaign donations from their tax-exempt tribal casino "corporate" accounts. None of the rest of us can make government or corporate donations to federal races! In California's gubernatorial recall race several years ago, the Agua Caliente gave \$2 million and the Santa Rosa Tribe \$1 million to Cruz Bustamante, far in excess of the state's \$49,500 limit on campaign contributions to a single candidate in a single race.

We would like to believe Congress recognizes that these non-Indian communities adversely affected by Indian operations in fact comprise American citizens – with all civil rights inherent. But Congress appears to have given "tribal sovereignty" a primacy that supersedes American citizenship. This privilege has grown in direct proportion to the growth of casino revenues. The rights of American citizens who are not enrolled members of a casino-owning Indian tribe have shrunk accordingly. Politicians, enticed (and intimidated) by tribal campaign contributions, have allowed a vast expansion of tribal "sovereignty," and the extension of immunities on tax, land-use laws and business regulations. Congress never intended this result.

The lure of a tax-free casino has created a flurry of self-defined tribes, all suddenly rediscovering themselves – with the help of outside billionaires anxious to cash in on the tax-free "Indian" casino. This is the era of the "pop-up" Indian tribe, which doesn't even have to be Indian. A "reservation shopping" industry has blossomed, with well-financed "rainmakers" lined up at the Interior Department's door. They also lurk outside congressional offices, influencing federal policies to expedite tribal recognition and fee-to-trust land conversion decisions. The Abramoff scandal is just one famous, monstrous example of the deceit, fraud and greed recently investigated by the Senate Indian Affairs Committee in a 373-page report written by Republican and Democratic staff.

The result of misconceived sovereignty laws is a "gold rush" of off-reservation Indian casinos across the country, especially in California. There are now 420 tribal casinos up and running in 30 states, with dozens more awaiting approval by federal bureaucrats. This well-intentioned jump-start of the Native American economy has outraged many non-Indian residents in local communities where casinos have already opened. Citizens are greatly alarmed as they see tribes flouting the laws of the land.

Allowing more and more land to be removed from the tax rolls and put into trust status for the purpose of building tribal casinos and other development projects causes hardship to all entities dependent upon

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taxes derived from property values. The state, county, city, fire districts, law enforcement and school districts are all impoverished. The remaining property owners must, of course, make up the difference through increased taxation to support needed public services. The tribes are acquiring tens of thousands of acres in states across America, and the fee-to-trust process is adversely affecting local citizens as tax rolls diminish with each tribal parcel that is removed and given tax-exempt status.

Yet fault does not lie entirely with the fee-to-trust process or even tribal sovereign immunity. To fault Indians for benefiting from gambling and other dubious propensities of the greater population is simply blaming Indians for the white man's weaknesses.

The blame really lies with politicians who promote gambling and lottery profits as beneficial to the state. They ignore the social costs and instead offer under-funded, ineffective palliatives to gambling addicts. Too few community leaders demand legislative solutions. The traditional American work ethic has been replaced by the fantasy of wealth without labor, without responsibility and without any effort to save money. And buying from Indian businesses has become an irresistible temptation to millions of Americans – all of whom are breaking the law by not paying taxes that are lawfully due.

Meanwhile, state and federal politicians are often too willing to deal with casino promoters for a piece of the action. "Sovereign" tribal gambling operations and their ancillary commercial enterprises remain accountable only to themselves. They too often disdain meaningful responsibility toward surrounding communities, and due to these complicit and unfaithful politicians, our democratic process is lost in a tidal wave of casino cash.

In 2005, tribal casino revenue was \$22.6 billion, twice the take of Nevada gaming. Yet, the vast majority of Native Americans do not benefit from IGRA riches. Many Indians have even been dis-enrolled from their tribes by greedy tribal leaders who know that fewer members means a bigger piece of the pie for each. Thus, Indians are also the victims of a well-intentioned congressional act that has been superseded by the Law of Unintended Consequences. Thankfully, Congress is set to vote on long overdue reforms.

Sen. John McCain, R-Ariz., and Rep. Richard Pombo, R-Calif., are currently sponsoring legislation to address some of these critical problems. Before Congress adjourns this year, it is set to vote on S.2078 and H.R. 4893. These two vitally important bills deserve the support of all concerned U.S. citizens. Please contact your two U.S. senators and

congressional representative today and urge them to co-sponsor and vote yes on these bills to reform the Indian Gaming Regulatory Act and the flawed fee-to-trust process.

The future of our nation and its democratic process depends upon the action we take now. Our children and grandchildren will live with our decisions. We must support legal reform of our federal government's terribly misguided Indian policies. Shall America be "one nation, indivisible" with equality under the law for all U.S. citizens, as intended by our Founding Fathers, or will we instead allow a greedy American aristocracy to use Indian tribes to crush other Americans, thus degrading the whole country and destroying all respect for Indian people? Shall we allow wealthy American elites to abuse the American people the same way King George III did in 1776, when he incited Indians against the colonists?

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