

Indian Policy as an Emergent Property of the American Policy Making Process

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Abstract

This paper argues that we can improve our understanding of American Indian policy if we think about it as an emergent behavior of the American policy making process. It is what the political system does and does not do that relates to Native nations. From a perspective guided by complexity theory, Indian policy appears to be about assimilating Indian land and natural resources and not about assimilating Indians into the larger American society. After suggesting that the Indian Gaming Regulatory Act of 1988 is only the most recent in a long history of assimilation policies to emerge from the American political system, this article concludes that Indian gaming revenues brighten and paradoxically, threaten the future of American Indian tribes.

1. Introduction

Complexity theory offers a creative new way to think about the American public policy making process, Indian tribes, and Indian policy. Begin to think about a Native nation as a nested subsystem among a multitude of other subsystems within the greater American political, social and economic system, and the potential contribution of the theory to research in American Indian studies becomes increasingly apparent. From a perspective guided by complexity theory, Indian policy is an emergent behavior of the American policy making process. It is what the political system does and does not do that relates to Native nations.

From Post-Revolutionary years (1778), to the present era of Self-determination; Indian policy has mostly been about assimilating Indian land and natural resources and not about assimilating Indians into the larger American society. Once independent, Indian nations now participate as semi-sovereign, nested sub-systems in the American political system. After suggesting that the Indian Gaming Regulatory Act of 1988 is evolving to become the most recent in a long history of assimilation policies to emerge from the American political system, this article concludes with a consideration of some ways Indian gaming revenues have brightened and paradoxically, threaten the future of American Indian tribes.

2. Thinking about Native nations and American Indian policy

Once independent, Native nations now exist as semi-sovereign Indian tribes within the greater American political system. Accounts of the way this

relationship has evolved vary and may concentrate on a particular theme such as the life of a great historical figure (e.g., Aleshire, 2000; Ambrose, 1996; Edmunds, ed., 2001; Hagan, 1993; McCoy, 2004), a particular geographical area (e.g., Calloway, 2003; Lurie, 2002; Marshall, 1972; Weinstein, ed., 1994; White, 1991), a clash of cultures (e.g., Axtell, 2001; Hecht, 1980; Hoxie, 1984; Moore, ed., 2003; Nabokov, 1999; Pfister, 2004; Reyhner, 2004; Senier, 2001; Shoemaker, 2004; Venables, 2004), or the history of a certain tribe (e.g., Beck, 2002, 2005; Gibbon, 2003; Sider, 2003; Velarde, 1992).

American Indian policy provides a good perspective on the overall relationship between the greater American society and American Indian tribes. Established ways to approach the study of Indian policy include scholarly analyses of historical documents, treaties, and cases in American Indian law (e.g., Canby, 2004; Deloria and Wilkins, 2000; French, 2003; McHugh, 2004; Johansen, ed., 2004; Josephy, 1994; Nabakov, 2002; Nichols, 2003; Page, 2003; Pevar, 2002; Richland, 2004; Wildenthal, 2003; Wilkins, 2001). Researchers also focus more broadly on the overall workings and products of the American Indian policy making process (e.g., Ashley, 2004; Bee, 1982; Castile and Bee, eds., 1992; Cornell, 1988; Deloria, ed., 1992; Deloria and Lytle, 1984; Grinde, ed., 2002; Lyman, 1973; Taylor, 1992; Wilkins, 2001; Wilkinson, 2005).

Powerful organizing ideas or metaphors help observers conceptualize the American public policy making process and think about Indian policy as the product of that process. We come to know things new to us in terms of things we already know. Among the things we already know are organizing ideas (Bortoft,

1996; Morgan, 1986). Social science theories, especially those associated with political science, are specialized organizing ideas typically used to conceptualize the American public policy making process. For example, group theory focuses attention on interest groups and other stakeholders in the policy making process, institutionalism is the traditional “how a bill becomes a law” method to study public policy, and general systems theory is a comprehensive or “big picture” approach to the study of the American political system.

Complexity theory is another organizing idea that offers a creative new way to think about the American public policy making process, Indian tribes, and Indian policy. Begin to think about a Native nation as one of a multitude of nested subsystems among other subsystems within the larger American political, social and economic system, and the potential contribution of complexity theory to American Indian studies research becomes increasingly apparent.

3. Complexity theory: Some essential elements

Complexity theory can help us think about all living systems from individual cells and insect colonies to Native Nations and the biosphere of our planet (Bennet and Bennet, 2004; Cilliers, 1998; Kauffman, 1995; Prigogine and Stengers, 1984; Waldrop, 1992; Bar-Yam, 2004).¹ Using terminology associated with the theory, all living systems are **Complex Adaptive Systems (CAS)**. CAS

¹ For someone unfamiliar with complexity theory, a good way to learn the basics is a web search of key terms in the internet. Useful websites to look at include:

<http://www.plexusinstitute.com/edgeware/archive/index.html>

<http://www.isce.edu>

<http://www.necsi.org>

<http://www.brint.com/Systems.htm>

are made up of many parts, including various subsystems or nested CAS, that interact with each other and elements of the system's external environment. All of these interactions, considered as a whole, express a process of self-organization and self-perpetuation.

American Indian tribes are Complex Adaptive Systems (see Peroff, 2001, 2003, 2006). They are dynamic processes that interact, adapt, and change with a changing environment. They do not want to die. Beginning thousands of years ago and continuing to the present, Native nations exhibit the distinguishing features of a CAS including life, self-organization and self-perpetuation, adaptivity, a composition of systems nested within systems, and an organizational memory distributed and retained locally within the parts of the system.

A tribe lives and evolves. Recurring and persistent patterns of relationships between constituent parts of a tribal CAS come and go, and generally compliment one another. Living and nonliving parts of the process include tribal members, families, reservation land, and everything from individual homes and personal property to tribal governing institutions, sacred sites, and sometimes, casino slot machines. Taken together, they form the basis of a tribe's existence.

A CAS is **a system nested within systems within systems**. The human body is composed of single cells, glands, nerves and muscle groups that make up larger nested subsystems like the heart and lungs that make up still larger subsystems like a respiratory system, digestive system and nervous system.

Complex adaptive systems range in size from single living cells to the living system that includes us all, the earth itself.

An Indian tribe is a living CAS consisting of a multitude of nested governmental, economic, and social subsystems. Each subsystem is composed of still other systems. For example, a tribe's criminal justice system is composed of various tribal courts, a police department, a jail, probation and parole, a prosecutor's office and other subsystems. Nested tribal subsystems can consist of people living in towns and villages in different geographic areas on a reservation and off-reservation in surrounding towns and cities.

An internal component of a CAS called a **common body of metaphor (CBM)** consists of a shared set of organizing ideas that hold a human system of systems nested within systems together. The term metaphor refers to the stored images, archetypes and stereotypes that represent our knowledge of self and the world around us. Through metaphor, we acquire, define and organize our individual understanding of new things in terms of things already known to us and, at the same time, our constantly evolving understanding of the world and ourselves guides our ongoing actions and behavior (Bortoft, 1996, pp. 128-135; Lakoff and Johnson, 1999; Morgan, 1986). Metaphor, shared and used by tribal members, identifies and orders the parts of a Native nation. A tribal CBM simultaneously defines and is defined by a tribe. It is a collective and evolving vision of reality that leads to the way a tribe thinks about and organizes itself (see Castile and Kushner, eds., 1981; Spicer, 1980).

A common body of metaphor is less ambiguous than the word “culture”. Over fifty years ago, a classic review of the anthropological and sociological literature found 164 different, though often closely related, definitions of culture (Kroeber and Kluckhorn, 1952). There are many more today. In some instances, culture is so broadly defined it is very similar to a CAS. Herskovits (1948), for example, states that culture is “...a construct that describes the total body of belief, behavior, knowledge, sanctions, values, and goals that mark the way of life of any people...it comprises the things that people have, the things they do, and what they think” (p. 625).

Elsewhere in the literature, culture appears similar in meaning to a common body of metaphor:

To say that two people belong to the same culture is to say that they interpret the world in roughly the same way and can express themselves, their thoughts and feelings about the world, in ways which will be understood by each other. Thus culture depends on its participants interpreting meaningfully what is happening around them, and “making sense” of the world, in broadly similar ways (Hall, 1997, p. 14).

A CBM is an internal frame of reference that distributes control of a tribal CAS to nested subsystems and other human parts of the system. It is a collective vision of reality that leads to the way an Indian tribe organizes itself.

A process of **self-organization** or self-perpetuation is another defining characteristic of Indian tribes and all other CAS. To maintain internal organization, avoid dissipation, and resist assimilation into its environment, a

tribe works like all other living systems and rebuilds itself by drawing energy and other materials from the environment. Tribal members are the material of all organizational life in an American Indian tribe. Over the years, nested subsystems form and others dissolve. Some may remain active and stable for years, while tribal participation in others may shrink only to revive and become more active than ever. Through it all, the tribe's membership, organized in systems within systems, sustain the tribe.

There is no central controlling mechanism involved in the interactive process of tribal self-organization. Internal control is distributed to the parts of the system. There isn't a tribal chairperson or leader telling everyone where to go and what to do. Each individual member of the tribe acts on locally acquired and remembered information about what is going on, locally observed rules, and local knowledge about what to do. As tribal members interact in mutual cause and effect relationships with one another, each member exercises local control over what they do to sustain the tribe. Consider it all together and you are thinking about the process of self-organization in a living tribal CAS.

Does a tribe have **a boundary**? What is and what is not a part of a CAS? How can we tell? The answer is that the term "complex adaptive system" is an analytical concept. It is a human construct. It is no different from other concepts, archetypes, or organizing ideas we use to order and understand our world. Think about the Passamaquoddy, Kiowa, or Lakota as Indian tribes or Native nations and you will use your own personal concept of an Indian tribe to think about them. Use the idea of a CAS and the only difference is the concept that may be

new to you. Viewed from the outside or from the inside as a tribal member, the words we use to think about an American Indian community “boundary” the system. In our minds, we think of some things as inside and of other things as outside the CAS. It is automatic. This is the way we perceive and think about things all the time.

Emergence refers to interactions between single objects that give rise to something that the parts of a CAS do together that they cannot do by themselves. Emergence denotes the appearance of physical and behavioral properties of the CAS that arise from a system-wide, bottom-up process of interaction between nested subsystems and the other parts of a system in interaction with the system’s environment. These interactions may form recurring and persistent patterns of interaction that become emergent properties of the system.

In an Indian tribe, emergent physical properties could include a tribal college, a health clinic or a tribal newspaper. Examples of behavioral properties include tribal elections, a language preservation program, or an annual powwow. The day-to-day policies that govern a tribe are an emergent property of a political process involving continuous interaction between many subsystems that may include a tribal legislature, various administrative agencies, tribal elders and a variety of other nested CAS.

Move to a national perspective and Indian policy becomes an emergent property of a public policy making process that involves a multitude of interactions between local, tribal, state and federal subsystems, including

legislatures, courts, administrative agencies, interest groups, and a host of other nested CAS within a greater human CAS that we recognize as the United States of America. The Indian policy that emerges out of the continuous process of self-organization that is the American policy making process is everything the system does and does not do that relates to American Indian tribes.

From post-revolutionary years (1778) to the era of Self-determination, the isolation and dissipation of Indian tribal CAS, accompanied by the absorption of Indian land and natural resources into the greater American complex adaptive system, emerged as the prevailing Indian policy in the United States. Today, the American CAS is no longer trying to forcefully terminate and disperse Indian tribes. Instead, Indian policy appears to be moving toward the gradual incorporation of whole tribes into the greater American political system as fully integrated and functional nested subsystems.

The literature in American Indian studies holds that American Indian policy has regularly involved a search for ways to advance the assimilation of Indian people (e.g., Fritz, 1963; Holm, 2005; Hoxie, 2001; LaGrand, 2002; Senier, 2001; Stremmler, 2005). Viewed from the perspective of complexity theory, the assimilation of individual Indians is not and has never been a major goal in American Indian policy. Changes in policy may influence the pace of assimilation; however, assimilated Indians in the larger American CAS emerge from a system-wide, bottom-up process of interaction between people, Indian and non-Indian, and are an emergent property of the dominant American CAS considered as a whole.

4. Indian policy through the Indian Self-determination Act

Indian Country, prior to first contact with European explorers, traders, and missionaries, was very different than the familiar pattern of human-centered systems nested within systems that express the American CAS we see today (see Fagan, 2000; Josephy, 1991; Kehoe, 2002; Mann, 2005; Milner, 2004; Thomas, 2000). American Indian views of the world, reflected in oral histories and tribal traditions, describe a oneness or wholeness with a pre-contact CAS in which Indian tribes lived and interacted with other tribes as independent and, at the same time, inseparable parts of an all-embracing natural environment (Deloria, 1994, pp. 62-77; Deloria and Wildcat, 2001; Fienup-Riordan, 1994, pp. 251-265). Each tribe sought to perpetuate itself in its individually established niche and customary surroundings. At the same time, as nested subsystems within a greater natural CAS, tribes emerged, cooperated, fought, merged, and broke apart while contributing to the overall dynamic stability of a greater living CAS.

When Europeans first arrived, Indian tribes were sovereign CAS (see Blanton and King, 2004; Calloway, 1997; King, 1999; Mancall and Merrell, ed., 2000; Nobles, 1997; Richter, 2001). Colonial European governments, and later the United States, traded and interacted with them as they did other foreign nations. Treaties were presented to tribes as legally binding contracts that could not be changed or cancelled without agreement by all parties. As a matter of official policy, Indigenous CAS were recognized as separate, distinct entities and

treaties defined boundaries between Indian and non-Indian territories. Within their territories or environmental niches, Indigenous Americans were supposed to be free to govern themselves.

From its colonial origins to the present, the greater American CAS evolved as a self-organizing process of recurring and persistent patterns of human interaction between people and other parts of the system in interaction with elements of the system's environment. Many of these recurring and persistent patterns of human interaction, ranging from extended families, small towns and other local communities became new cities, territories and states that themselves grew, generated new internally nested CAS, and became the larger American system.

Indian tribes maintained their independent, pre-contact status as long as possible, but many increasingly found themselves in the immediate environment of the emerging American CAS. Lands that once were the environmental niches of an untold number of tribal CAS, were gradually reduced and assimilated by an increasingly dominant American CAS in a persistent interactive process of conflict, negotiation, and coerced submission.

In 1816, The U.S. government began a policy of Indian removal (Ehle, 1989; Foreman, 1976; Green, 1982). Through treaties and coercion, the government moved indigenous CAS to areas west of the Mississippi River. As the growing American CAS consumed more land and the still available land base diminished, Indigenous Americans were relocated to reservations.

Soon, the reservations too, came under pressure from settlers looking for land. In 1887, the General Allotment Act emerged to further undermine the dynamic stability of tribal CAS and encourage white settlement in the western United States and territories (Greenwald, 2002; Otis, 1973; Washburn, 1975). Indigenous Americans lost massive amounts of land and many reservations became a checkerboard of white and Indigenous American ownership.

Throughout most of American history, from 1778 to the era of Indian Self-determination, the forced dissipation of Indian CAS and absorption of tribal land and natural resources into the ascendant American CAS has been the prevailing emergent Indian policy of the American political system. This pattern was interrupted only once in 1934, when Congress passed the Indian Reorganization Act (IRA) (Daily, 2004; Deloria ed., 2002; Rusco, 2000; Taylor, 1980). For a short time, from 1934-1953, New Deal era policy makers took measures to halt the sale of tribal land, supported local economic development and encouraged a revival of community life and culture on Indian reservations.

As an apparent anomaly in the evolution of American Indian policy, emergence of the IRA requires some explanation. The Great Depression was a severe shock to the United States. In complexity terms, The New Deal was the centerpiece of the American CAS's emergency effort to maintain system stability and sustain itself as a self-organizing system. Few nested subsystems suffered more than Indian reservations during the Great Depression (Pevar, 2002, 9-10). While the IRA provided needed aid and services to reservations, the Act is most significant as a pause in the American political system's longstanding effort to

absorb Indian land and natural resources into the greater American CAS. It was a response to dire conditions on Indian reservations and a minor part of the American public political system's overall effort to persevere in the face of pressing adverse conditions throughout the greater American CAS.

After World War Two, roughly from 1953-1968, Indian termination policy replaced the IRA and was designed to withdraw federal trust responsibilities for and disperse as many tribal CAS in as short a time as possible (Fixico, 1986; Lerch, 2004; Metcalf, 2002; Peroff, 1982; Philp, 1999). Individual Indians do not have treaty rights. They are a feature of tribal CAS living in a nested, interactive relationship with the larger and all-encompassing American CAS. With a policy of termination, the trust relationship between the United States and Native Nations would end and federal services to Indians because they are members of federally recognized Indian tribes would disappear with the disappearance of tribal CAS. As a supporting element in the overall policy to weaken and eventually eliminate all tribal CAS, individual Indian people were encouraged to move off reservations to live in cities, states and other nested subsystems within the larger American CAS (Fixico, 2000; LaGrand, 2002; Neils, 1971).

Because it is severe negative impact on the lives of American Indians, Indian termination policy is often remembered as the U.S. government's last determined effort to assimilate individual Indians into American society. This is a mistaken perception because individual Indians were never the major focus of the policy. Indian termination is best understood as a vigorous and unusually

comprehensive phase in a nearly continuous American political effort to assimilate Indian land and natural resources into the greater American CAS.

Although Indian termination policy ended almost before it began, two major tribes, the Menominee of Wisconsin and the Klamath of Oregon, and several smaller tribal CAS were terminated before the policy was abandoned. Reversal of the policy was yet another emergent behavior of an American CAS self-organizing in the then contemporary context of the Cold War in the late 1950's and 1960's. The Civil Rights Movement, the War on Poverty and massive economic development initiatives involving most nested subsystems within the larger American CAS progressively drew policymakers' attention away from Indian termination policy as a method to pursue land and resources.

In 1968, a particularly important nested subsystem within the American policy making process, the U. S. Supreme Court, decided that the hunting and fishing rights of the Menominee Tribe had survived the Menominee Termination Act (Peroff, 1982, pp. 214-215). The Court's decision suggested that if Menominee treaty rights had survived termination, perhaps other properties of the Menominee CAS had also survived.

As the nation moved through the 1960's, a succession of serious incidents beginning with the assassination of President Kennedy and the March on Washington for Civil Rights in 1963, and the 1964 Tonkin Gulf Resolution, contributed to the destabilization of a volatile mix of multiple interactions between all parts of the American CAS. Taken together, the convergence of trends and events led to a "phase transition" in Indian policy marked by the passage of the

Indian Self-Determination and Education Assistance Act of 1975, and the emergence of Indian self-determination as the next chapter in American Indian policy (see Castile, 1998; Johnson, 1996; Legters and Lyden, eds., 1994).

Underlying self-determination policy is an assumption that Indian tribes are unique governmental subsystems possessing inherent sovereign rights to self-organize, enter into legally binding agreements with other nested CAS, and to develop and protect their own land and other natural resources. The policy appears to be in line with the general legal doctrine that communities of Indigenous Peoples (nested human CAS) are domestically dependent nations subject to the superior authority the U.S. political system (Deloria, 1985; Pevar, 2002).

Self-determination is not the same thing as tribal sovereignty, but it could serve as a means to that end (Cook, 1994). It could provide a way for Indian tribes to realize the full potential of their CAS-based political, cultural, and economic distinctiveness. The problem with the policy has been in its implementation. Depending on the circumstances, American policy makers have perceived and pursued different interpretations of Indian self-determination. The diverse nested subsystems of the federal government rarely consider Indian tribes holistically as living human complex adaptive systems. When tribes have vigorously sought to control their property rights, water rights, fish and wildlife resources, and otherwise exercise self-determination over their own affairs, the result has usually been increased confusion and conflict between themselves and other nested subsystems within the greater American CAS.

5. Indian gaming

Once independent, Indian nations now participate as semi-sovereign, nested subsystems in the greater American CAS. Despite its limitations, Indian self-determination policy has provided a period of temporary stability and even recovery for many tribal CAS. Today, however, there are signs of an emergence, from the bottom up within the American political system, of a renewed effort to absorb tribal land and natural resources into the larger American CAS. If it materializes, it will be a different policy. Rather than, in Teddy Roosevelt's memorable phrase, using Indian policy as "a mighty pulverizing engine to break up the tribal mass" (Cook, 1994, p. 1), tribes will be swallowed whole to function as cities, counties and other nested subsystems do within the greater American complex adaptive system.

When enacted in 1988, the Indian Gaming Regulatory Act (IGRA) appeared to confirm the sovereign rights tribal CAS possess to engage in gaming on their reservations (Pevar, 2002, pp. 319-332). By some measures such as gross gaming revenue, which totaled approximately \$18.5 billion in 2004, the IGRA has been a remarkable success (National Indian Gaming Association, 2005). Indian gaming has raised major new resources to stimulate economic development, improve tribal housing, health care, education and other social services.

Indian gaming has had a remarkable impact on Indian tribes and their relationship to other nested subsystems in the American CAS (see Anders, 1999;

Benedict, 2000; Bloom, ed., 1993; Darian-Smith, 2004; Eadington and Cornelius, eds., 1998; Eisler, 2001; Light and Rand, 2005; Mason, 2000; Mullis and Kamper, eds., 2000; Peroff, 2001). Around 225 tribal CAS (or about 40% of the total) operate over 350 casinos nation-wide and several tribes are trying to build new or expand existing gaming operations all over the United States. In 2004, tribal gaming generated \$1.8 billion in revenue to state governments and more than \$100 million for local governments (National Indian Gaming Association, 2005).

In light of the rapidly growing number of expanding and evolving interdependent relationships between gaming tribes, the states and other subsystems within the American political system, Indian Country may be moving toward or already in a major phase transition. Somewhere, the vigorous growth of Indian gaming may already have triggered a demonstration of a concept from complexity theory called “the butterfly effect”. A casino tribe aggressively pursuing an off-reservation casino site, paying hundreds of thousands of dollars to Washington lobbyists and in campaign contributions, or otherwise “flapping its wings” may have already initiated major disturbances and long-term changes in the overall relationship between Indian Country and the dominant American CAS.

Two examples of potential problems accompanying implementation of the IGRA in recent years are state revenue sharing plans with tribes operating casinos and the appearance of off-reservation gaming (or “reservation shopping”). When a tribe accepts a revenue sharing plan, which is in effect a state tax, to obtain a state’s permission to build a casino, it establishes a pattern

where other tribes will be expected to make similar concessions and erode their rights as sovereign tribal CAS. An off-reservation casino may bring Indian gaming to cities, states, and other nested CAS outside Indian Country where it was never contemplated or locally agreed to. The political backlash from off-reservation gaming may make it difficult for tribes to oppose anti-gaming legislation in Congress, take land into trust (whatever the purpose), and work within the national political subsystem to maintain tribal sovereignty and support pro-Indian legislation.

6. Conclusion

Indigenous nations once lived as wholly independent tribal complex adaptive systems, first in a pre-contact Native America and then in the environment of an emerging colonial American CAS. Over time, Indian tribes have gradually assimilated elements of the larger CAS into themselves—everything from iron pots and flintlocks to laptops, workshops, and “best practices” management seminars. In many ways, and considered today in terms of their evolving behavior as nested subsystems within the overall American political system, Native nations are becoming more like and more compatible with the dominant American CAS.

The Indian Gaming Regulatory Act of 1988 may prove to be the most recent in a long history of emergent Indian policies to accelerate the incorporation of Indian land and natural resources into the greater American political system. With impressive revenues, some prosperous gaming tribes

appear to be better prepared to maintain their strength and vitality as dynamically stable complex adaptive systems than other less affluent or non-gaming tribes. They are building state of the art museums, hosting gigantic powwows, and rivaling some states in the scale and success of some of their economic development projects. However, if the recognition and protection of tribal sovereignty weakens as a prevailing emergent behavior of the American political system, they will not be Native nations in the sense they perhaps want to be. In the process of building casinos to become the wealthiest gaming tribes they can be, they may undermine the integrity, unique identity and sovereignty of all Indian tribes now nested uneasily within the greater American complex adaptive system.

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