

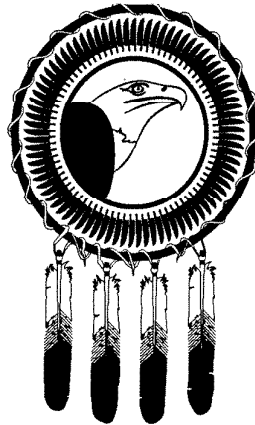
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The Crow Tribal Government and Economic Development

by

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by

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Executive Summary

The Crow Tribal Government and Economic Development

by

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The Crow Indian Tribe of Montana is attempting to gain sovereign control over the development of its human and natural resources. For over a century, the federal government has served as the trustee of the Crow and other American Indian tribes. This relationship has been one of great dependence by the Crow on the Bureau of Indian Affairs. As a result, the Crow Tribe has not developed the institutions necessary to manage its economy in the modern United States.

Obstacles to the exertion of economic sovereignty exist within the Crow tribal constitution and government. These include unstable and inconsistent decision-making by the tribe, limits on the leadership role of the tribal Chairman, and the lack of institutions capable of managing tribal finances. Each of these obstacles demands examination and consideration by the Crow Tribe.

Alternative models exist to minimize the impact of the above mentioned obstacles. Various Indian tribes have different approaches to decision-making, leadership and financial management. Some tribes have been more successful than others in the sovereign development of their tribal economy. However, each offers a possibly valuable option for the reorganization of the Crow constitution and government.

In light of these three key obstacles and the options available, I recommend the following changes to the constitution and government of the Crow Tribe. First, decision-making authority should be transferred from the people to the elected Executive Committee. The responsibilities of this committee should be broadened to increase flexibility in economic development efforts. Second, the terms of office for the Chairman and the other elected officers should be expanded from two to four years. Third, institutions should be created to manage the financial affairs of the tribe.

This proposal is one alternative. It may not be the best alternative for the Crow Tribe. However, the three main obstacles remain. The tribe must minimize these if sovereign economic development is to occur. The Crow Tribe must now establish a process in which to consider these issues. This process will require the participation of all tribal members concerned about the future of the tribe. The challenge is large and can only be overcome by a unification of the tribe.

I. INTRODUCTION

I.A Background

The Crow Indian Tribe of Montana faces a difficult challenge. The tribe suffers from the problems endemic to most Native Americans today. High unemployment, poverty, inadequate health care, below standard housing, and insufficient education are a reality for most Crow tribal members. Yet the Crow reservation is situated on top of a wealth of natural resources. The tribe possesses the third largest coal deposit in the United States, as well as an abundance of forest, water and other mineral resources. It is the inability of the tribe to exercise their sovereign right to control these resources that has perpetuated the above condition. The Crow Tribe must be able to effectively manage the development of their tribal economy if the suffering is to be eliminated.

I.B Internal and External Obstacles to Sovereign Economic Development

Two distinct obstacles exist to the establishment of effective tribal control of Crow economic development. The first is external. The mismanagement of tribal affairs and resources by the federal government through the Bureau of Indian Affairs has prevented the Crow Tribe from earning sufficient rent to support a tribal economy. The second is internal. The Crow Tribe lacks the decision-making institutions necessary for efficient and responsible decisions regarding their natural and human resources. The deterioration of these institutions is a product of the dependency of the tribe on the BIA. For it is the responsibility of the federal government to manage the affairs of the Crow Tribe and to provide for their welfare. The tribe must first rebuild these government institutions in order to break free of their dependence on the BIA and the federal government.

I.C Three Main Problems Internal to the Crow Tribal Government

This exercise will consider the internal obstacles to Crow economic development. It will focus on the three main problems associated with the Crow tribal constitution and government that hinder sovereign economic development by the tribe. First, the decision-making process is unstable and unpredictable. Second, leadership efforts by the tribal Chairman is limited by the two year term of office. Third, the Crow lack the institutions necessary to effectively manage and budget tribal

finances.

I.C.1 Decision-Making

Decision-making must be stable and consistent in order to attract outside capital for economic development. Entrepreneurs are reluctant to enter into business relationships which are subject to reconsideration and change. Commitment to, and accountability for business decisions is necessary.

I.C.2 Leadership

Economic development does not occur overnight. The process of change takes time. Strong leadership is required to sustain the effort and commitment necessary to bring about change. Without strong leadership, even the most thought out economic development plans do not succeed.

I.C.3 Financial Management

A successful economic development effort generates revenue for the developing entity. It is essential that this entity have the capacity to collect, manage, budget and disburse funds. Without this capacity, funds cannot be transferred into useful programs, services, and activities.

I.D Proposal for Reorganization

In order to minimize these obstacles, I recommend the following changes to the Crow tribal constitution and government. First, decision-making authority would be transferred to the existing Executive Committee, with the tribal Chairman presiding over meetings and voting only in the event of a tie. The Executive Committee would assume the powers of the Tribal Council, as well as the power to borrow money and limit tribal immunity from lawsuit when desired for economic development. Second, the terms of office for the executive officers would be extended from two to four years. Third, a finance office would be created to collect, manage and disburse tribal revenues. A Treasurer elected to a four year term would head the office and manage investments. A collections officer and a comptroller would be hired by the Chairman, subject to approval by the Executive Committee, to collect and disburse funds. This office would be subject to an annual audit. Finally, the Executive Committee would formulate the annual budget of the tribe.

This proposal is focussed towards economic development. However, these changes would also

impact tribal decision-making on non-economic development issues. It is not the intent of this exercise to examine obstacles to the effective management of other tribal government programs. Nonetheless, these obstacles do merit immediate consideration by the Crow Tribe.

II. THE CROW TRIBAL CONSTITUTION AND GOVERNMENT¹

II.A Description

The Crow tribal government, as defined in the tribal constitution, is an Athenian style democracy similar in structure to the traditional New England town meeting. Participation on the Crow Tribal Council is open to all females over the age of 18 and all males over the age of 21. Matters are decided by a simple majority vote of council members present. Regular Tribal Council meetings are held quarterly, although additional meetings can be called as tribal business may require. The tribe elects a Chairman, Vice-Chairman, Secretary and Vice-Secretary to two year terms. In the off year, the tribe elects an Executive Committee consisting of two members elected from each of the six districts on the reservation and two members elected by off-the-reservation Indians. It is the responsibility of the Chairman and the Executive Committee to set the agenda for the council meetings. Other issues may be placed on the agenda by the BIA's Superintendent of Crow Agency or by petition of 100 council members.

The Crow constitution directs the Tribal Council to "represent, act and speak for the Crow Tribe in any and all tribal matters, and to promote the general welfare of the Crow Tribe."² The Tribal Council is given the power to engage in business operations both internally or with an outside entity, use and expend tribal funds, and collect taxes and license fees from non-members who do business on the reservation.

II.B Implications of the Crow Tribal Constitution and Government

II.B.1 Decision-Making

Decision-making by the Crow tribal government is complicated and often contradictory. Established in 1948, the constitution legitimized the general council form of government used by the tribe since the turn of the century. Thus, little attention was paid to detail. Countless resolutions and amendments have since been passed in an attempt at clarification. Special committees and commissions have been created to provide input into the process. A recent count revealed at least 46 different units

of government under the authority of the Tribal Council.³ These entities lack structure and add little to tribal decision-making. Thus, a process does not exist in which issues can be transformed into cohesive policy proposals. Instead, policy formulation is done by the Tribal Council. Decision-making at this level is highly politicized.

Several organized factions exist along family lines on the reservation that hold differing views on the future of the tribe. Decisions are often made by the faction best represented at any given council meeting. These decisions may be rescinded at the next meeting when a different faction has control. Thus, decisions are usually made in a political vacuum. The result is the lack of a cohesive policy vision for the tribe.

Some of these problems are inherent to Athenian style democracy, while others are specific to the Crow tribal government. By its nature, Athenian style democracy is highly politicized. With participation open to all, decisions are often subjected to the internal politics of the organization. If the decision-making body is homogeneous in its beliefs, it is relatively simple to build consensus. However, if traditional divisions exist within the organization, consensus building is extremely difficult, if not impossible. Even when it occurs, consensus building usually takes a long period of time. Filibustering is common, with some council meetings lasting in excess of twenty-four hours.

II.B.2 Leadership

The leadership role of the executive is minimized in an Athenian style democracy. With power vested in the entire tribe, multiple agendas often emerge. The tribal Chairman has little authority to define an overall vision for the tribe. Without a vision for change, the tribe is destined to continue decision-making within the existing framework of dependence on the federal government. Decisions will continue to be made in a political vacuum without furthering the overall development of the tribe and its economy.

II.B.3 Financial Management

The Crow Tribe has failed to define a functional executive bureaucracy, making management of

tribal finances nearly non-existent. It is the influence of the BIA over tribal affairs that has prevented the development of these management institutions. The trustee relationship has negated the importance of tribal control of Crow affairs. The tribe is currently embroiled in a dispute with the BIA over unaccounted funds. In 1982 the federal government assumed control over Crow tribal finances citing mismanagement by the tribe. Tribal finances were managed until 1986 by a BIA appointee. This period was marked by further mismanagement. The tribe has hence regained control over their financial affairs but lacks the institutions necessary for effective management of these funds.

II.B.4 Conclusion

Many changes must be made before the Crow Tribe is capable of sovereign control of their economy and its development. The constitution and structure of the tribal government is one facet demanding immediate attention. Changes are required both to remove obstacles to economic development, as well as to effectively collect, manage, and budget incoming revenues resulting from these efforts. Again, the key issues to these ends are greater stability and predictability in tribal decision-making, increased leadership from the tribal Chairman, and the establishment of a functional bureaucracy capable of managing tribal finances.

III. ALTERNATIVE APPROACHES TO DECISION-MAKING

III.A Introduction

The following tribes have been chosen to exemplify alternative approaches to governance. These tribes have responded differently to the problems identified as obstacles to economic development on the Crow reservation. The effects of these various responses on these obstacles will be analyzed.

III.B The San Carlos Apache Tribe⁴

The San Carlos Apache Tribe of Arizona elects a Tribal Council to manage its tribal affairs. The council consists of nine members popularly elected from the reservations' four districts, and a Chairman and Vice-Chairman popularly elected by the entire tribe. The council is empowered, among other tasks, to manage the economic affairs of the tribe, negotiate with the local, state and federal governments, levy and collect taxes on non-tribal members conducting business on the reservation, and regulate the use and disposition of tribal property and funds.

Essentially, this elected council performs the same function as the Crow Tribal Council. However, the San Carlos Apache have eliminated the shortcomings of an Athenian style democracy. Decision-making is not subject to the internal politics of the tribe. Thus, decisions cannot be forced through by any given faction and are not subject to sudden reconsideration and change. The members of the council are accountable to their constituents, encouraging sound, objective decision-making. The result is greater predictability and consistency in tribal decisions.

The term of office for San Carlos Apache officials is four years. This allows for a larger leadership role by the tribal Chairman. The Chairman may set out a broad agenda for the four year period and build consensus over time. The Crow Chairman barely has time to establish a direction for the tribe before beginning a campaign for reelection. This minimizes the role of the leader in tribal decision-making.

The San Carlos Apache maintain some popular control over decisions effecting tribal property and water rights. The constitution requires "that any grant or lease of any portion of the Reservation

for grazing purposes or relinquishment of any water rights on the Reservation must be authorized by a two-thirds majority of tribal votes cast in an election, provided that the total vote cast shall be not less than three-fifths of the total eligible voters."⁵ This provision is important because land use decisions are thus made by a majority of a large segment of tribal members. This eliminates domination by a faction who may have control over decisions made at a sparsely attended council meeting.

III.C Coeur d'Alene Tribe⁶

The Coeur d'Alene Tribe of Idaho has a Tribal Council consisting of seven members. These members are elected popularly by the entire tribe to three year terms. The council then selects from its membership a Chairman, a Vice-Chairman, and a Secretary-Treasurer. The Chairman presides over all meetings and casts the deciding vote in the event of a tie. The Vice-Chairman performs these functions in the absence of the Chairman. The Secretary-Treasurer performs two distinct functions. The Secretary role is to record the matters considered at council and tribal meetings. The Treasurer role is to account for tribal funds and to furnish a bond acceptable to the Tribal Council and the Commissioner of Indian Affairs. This position is important to the economic development efforts of the tribe. It is essential that tribal finances be properly managed. Mismanagement of these finances creates problems both for business relationships with outsiders and for the provision of government services by the tribal government. Delegating such authority to one individual guarantees accountability for tribal finances. If the Treasurer fails to properly manage these finances, he can be removed and a replacement can be selected.

Like the San Carlos Apache, the Coeur d'Alene Tribal Council is empowered to manage the affairs of the tribe. These powers include the right to represent the tribe in relationships and negotiations with outside parties or persons, to administer all tribal property, and to levy taxes and license fees upon outsiders conducting business or any other activity on the reservation. An additional power distinct from the Crow and the San Carlos Apache, is the right to borrow money from appropriate

government agencies and to pledge future tribal incomes as security against these loans. This gives the tribe greater flexibility in its economic development efforts. The Coeur d'Alene are not prevented from entering into a potentially beneficial development effort for lack of financial resources.

III.D The Siletz Tribe⁷

The Siletz Tribe of Oregon is governed by a nine member council. Members of the council are elected to three year terms by a popular vote of the tribe. This council is empowered to make decisions for the tribe and to represent the tribe in its affairs. Like the Couer d'Alene, the Tribal Council selects a Chairman from its membership. This individual is also given a position on STEDCO, the Siletz Tribal Economic Development Commission. This entity consists of nine members, five Siletz and four non-tribal members. Membership on both the Tribal Council and STEDCO guarantees an active leadership role for the Chairman. The three year length of term gives this individual an ample opportunity to set and pursue an agenda for economic development. This leadership is vital to successful sovereign economic development of tribal resources.

III.E The Yakima Tribe⁸

The Yakima Tribe of Washington state has a three tiered form of decision-making on economic development issues. The tribe has a development corporation to make business decisions. However, these decisions must be approved by a Tribal Council consisting of fourteen members and a popularly elected Chairman. Any decisions made by the Tribal Council are in turn subject to rescission by a two-thirds majority of those in attendance at a General Council meeting.

Although the economic development efforts of the tribe are determined by a separate development corporation, these decisions are subject to similar problems as the Crow. Although it is more difficult to overrule decisions made by the development corporation and the Tribal Council, the General Council has ultimate control over development efforts. These efforts can be hampered by the politics of a faction who may dominate any given General Council meeting. Thus, a certain level of unpredictability remains in decision-making. Time also becomes a factor in development decisions as it can take months before a decision made by the development corporation is considered by the General Council.

Both of these problems discourage business transactions between outside entrepreneurs and the Yakima Tribe.

IV. SPECIFIC RECOMMENDATIONS FOR REORGANIZATION

IV.A Introduction

The following proposal for reorganization of the Crow tribal government is an attempt to minimize the current obstacles to sovereign control of tribal economic development. The proposal seeks to combine the strengths of the current Crow system of government with those of other American Indian governments. Changes in the tribal constitution and government are recommended. Whereas alternative models may prove to be more useful or realistic, the three key issues remain the same.

IV.B Decision-Making

Decision-making by the tribe would be transferred to the existing Executive Committee. The Chairman would preside over the committee and vote only in the case of a tie. Members would continue to be elected to two year terms, although they would be staggered within each district and for the two off-reservation-Indian members. Thus, seven seats would be contested one year, with the other seven contested the following year. This would add some stability to the membership of the committee by preventing a complete overhaul in any given election year. Yet, the two year terms would maintain accountability between the committee members and their constituents. Since internal divisions within the tribe are regional, the elections by districts guarantee that any given faction is not able to dominate the membership of the committee.

The Executive Committee would assume the functions of the Tribal Council explicitly stated in the tribal constitution. Therefore, it is the committee that would act and speak for the tribe. Meetings would be held as often as business requires, most likely on a bi-weekly basis. The Executive Committee would be given the power to negotiate business deals or to assign such responsibility to a development corporation. Other powers to be transferred include the right to use and expend tribal funds and the right to license fees and collect taxes from non-members. Under this proposal, the Executive Committee would be given two more important functions. First, like the San Carlos Apache Tribe, the power to put tribal funds at risk to borrow money for economic development purposes. Second, the

right to limit tribal immunity from lawsuit to enhance economic development efforts. The ability to borrow money would provide the tribe with greater flexibility in economic development. The Crow would be able to enter into business relationships from which they might otherwise have been precluded. Tribal immunity from lawsuit is a large disincentive for responsible business decision-making. Established to protect the rights of Indians, this immunity hinders economic development efforts. For the tribe can break any business contract and be immune from court action. This makes entrepreneurs hesitant, especially when decision-making is unstable. The tribe is more likely to be held accountable for their actions if the immunity is waived. An outside investor will be more receptive to enter into an agreement with the tribe when the courtroom exists as a recourse in the case of a broken contract.

Nearly every American Indian tribe has an elected body to represent tribal affairs. Although the existence of such a body does not guarantee successful economic development, its absence precludes it. However, there is value in maintaining some popular control over tribal decision-making. The population should be able to overturn any decision in which a true majority of members are in opposition. The Yakima Tribe reserves the right of the population to overturn any government decision. However, such a vote requires only two-thirds of the members present at a general council meeting and has no time frame for consideration. Thus, the problems of factional politics and drawn out decision-making remain.

Therefore, the Executive Committee would be required to report quarterly to the Tribal Council. Any decisions made by the committee could be overturned by a two-thirds majority of three-quarters of the eligible members of the Tribal Council. Thus, the consensus of at least one-half of the members would be required to overrule an Executive Committee decision. The rescission of a committee decision would have to occur by the second quarterly meeting following the committee's final action on the measure. This change would allow the Tribal Council to maintain ultimate control over tribal decisions, while eliminating unstable, drawn out decision-making.

IV.C Leadership

The terms of office for the elected tribal officials should be extended to either three or four years. This will allow the Chairman and the other officers to exert greater leadership on tribal economic development. The tribe currently lacks a comprehensive agenda or plan to pursue. Strong leadership is necessary if the Crow are to change directions and successfully manage the tribal economy. The transition from dependence to real economic sovereignty will not occur overnight. Without adequate leadership, the tribe is unlikely to sustain the effort needed to accomplish change. This leadership cannot be sustained under the current system. Two year terms do not provide the officers adequate time to both set a comprehensive agenda and successfully pursue it.

Although a four year term of office, identical to the San Carlos Apache Tribe, is preferable, a three year term would be an improvement. For example, the Siletz Tribal Chairman is elected to a three year term and is able to exert great leadership over the economic development efforts of the tribe.

IV.D Financial Management

The tribe must establish institutions capable of the collection, investment, and dispersal of revenues. Under this proposal, a finance office would be created. The office would be headed by a popularly elected Treasurer to serve a four year term. The Treasurer would manage the investment of tribal funds, seeking maximum return for the tribe. Unlike, the Coeur d'Alene Tribe, the Treasurer would be distinct from the Secretary. The responsibilities of the Treasurer are too great to be compromised.

A collections officer would be hired to administer the collection of tribal revenues, including federal aid, royalties, fees, and taxes. Separate accounts would exist for each revenue source as federal control over spending of these dollars differs from case to case.

A comptroller would be hired to oversee disbursement of tribal funds as budgeted by the Executive Committee. Both the collections officer and the comptroller would be hired by the Chairman, subject to the approval of the Executive Committee.

The creation of this office would centralize authority for the management of tribal finances. The

activities of the office would be subject to an annual audit, with mismanagement of funds leading to the immediate removal of the Treasurer and any other personnel involved. This audit, as well as the election of the Treasurer, would increase accountability for the proper management of tribal funds.

The Executive Committee would assume budgetary duties. The Chairman would choose a budget committee of six members from the membership of the committee. The Chairman would also head the budget committee and cast the deciding vote when ties occur. The committee would receive budget proposals from the development corporation and the other tribal committees. The development corporations proposal would only be subject to a straight yes or no vote, while changes could be made to the other committees proposals. If the development corporations proposal is rejected it would be returned to them for alterations. The budget committee would then report a comprehensive budget, specifying revenue sources, to the Executive Committee for a vote. If rejected, the proposal would be returned to the budget committee for further changes.

The creation of a budget committee will centralize budgetary authority and increase efficiency and accountability. The general council would still maintain the ultimate right to reject the budget proposal. Autonomy is preserved for the specific budget activities of the development corporation, although the end proposal would have to be approved by the budget committee and the Executive Committee.

V. CONCLUSION

The Crow Tribe is facing an immense challenge. It will not be easy for the tribe to gain control over the development of its natural and human resources. A successful transition will require strong leadership by the Chairman and other elected officials. More importantly, however, it will require the commitment and energy of the Crow people. They must share a common vision for the tribe. Although the means to this vision might vary, the tribe must be unified in its hope for the future. A process must be established for tribal members to express their opinions on this matter. Only after all types of ideas have been considered, will the tribe be able to build consensus and unity. Only then will the tribe be capable of overcoming the many obstacles to the sovereign control of its economic, social and cultural future.

Footnotes

1. Crow Indian Tribe of Montana, Tribal Constitution.
2. Ibid, p. 1.
3. Crow Indian Tribe of Montana, Crow Tribal Report-1976.
4. San Carlos Apache Indian Tribe of Arizona, Tribal Constitution.
5. Ibid, p.3.
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