

the FEDERALIST

What Do American Indians Deserve: Name Changes or Policy Changes?

If Dan Snyder wants fundamental change, his new foundation should champion institutional reforms.

By Chris Edwards

April 2, 2014

The movement to rid sports teams of Indian-themed names has picked up steam in recent years. In Washington D.C., activists have long pressured the Redskins to find a new name, but so far football team owner Dan Snyder is not budging.

Last week, however, Snyder launched [an initiative](#) to try and diffuse some of the bad press he has been receiving. Snyder has created a foundation to provide aid to needy Indian tribes. Recently, he and his staff visited a couple dozen reservations, an experience that has prompted a promise to help “tackle the troubling realities facing so many tribes across our country.”

Those realities are very troubling. There are about 1 million American Indians living on reservations, and their income levels are far lower, and poverty levels far higher, than other Americans. So let’s take Snyder at his word, and hope that his Original Americans Foundation can help to address some of the problems facing the tribes.

For its part, Congress spends little time addressing Indian issues. It hands out more than \$8 billion a year in aid to reservations and it gives special preferences to some tribes that are good at lobbying. But Congress puts little effort into tackling long-term structural problems on reservations. To make matters worse, the main federal agency that tribes are forced to deal with—the Bureau of Indian Affairs (BIA)—has long been one of the most dysfunctional in government.

Let’s do a brief [review of federal policy](#). American Indians and the government have had a long, complex, and often sordid relationship. The government has taken many actions to deprive Indians of their lands, resources, and freedom. The aims of federal policies have gyrated wildly over two centuries, and most policies have failed, as is evident from the poor economic conditions on many reservations.

Historically, the federal government micromanaged Indian reservations with subsidies and regulations, and that top-down control had the damaging effect of stifling private initiative and private enterprise. Some good news is that there has been a movement towards Indian self determination in recent decades, which is a step in the right direction.

However, a key problem on reservations continues to be that individuals generally lack property rights to land. Land ownership on reservations is a mix of “fee simple,” “individual trust,” and “tribal trust.” Fee simple means land that is privately owned by individuals. Individual trust means land allotted to tribal members but held in trust by the BIA. Tribal trust means land managed by the tribal bureaucracy and held in trust by the BIA.

Only about five percent of land on Indian reservations is fee simple. The great majority of land is trust land, which can be difficult to develop and use productively. Trust land generally cannot be leased, mortgaged, or transferred without approval by the BIA. And the land cannot be easily used as loan collateral for an entrepreneur who wants to raise funds for investment.

Economist Terry Anderson, an expert on tribal economies, has noted that when you drive through reservations and “you see 160 acres overgrazed and a house unfit for occupancy, you can be sure the title to the land is held by the federal government bureaucracy. In contrast, when you see irrigated land in cultivations with farm implements, a barn and a well-kept house, you can be sure the land is held fee simple.”

Any business transaction dealing with Indian trust land can get bogged down in the BIA bureaucracy because it is responsible for title, probate, leasing, and other basic land functions. Also, land transactions often require costly environmental reviews, which many tribes cannot afford. Furthermore, acquiring rights-of-way on Indian trust lands is difficult, with the result that building infrastructure such as telecommunications, electricity, or gas facilities can be costly and time-consuming.

There are also “rule of law” problems on reservations. The tribes have broad and general powers of government on reservations, subject to federal limits. Such self-rule is generally a good thing, but the quality of tribal governance is often lacking. On many reservations, for example, tribal courts are subservient to tribal politicians.

One problem this creates is that outside investors are wary of putting money into businesses on reservations if they perceive tribal governments will be biased against them. This is one reason why reservations often have underdeveloped commercial lending, real estate development, and entrepreneurship. On many reservations, tribal politicians have tried to stimulate development by “picking winners” with subsidies, but such schemes often turned into boondoggles, as did the federal government’s Solyndra.

Historically, one reason why the federal government variously exploited, coddled, and micromanaged Indians was the belief that they were primitive socialists with no understanding of market institutions. But research has found that stereotype to be false. Many indigenous peoples had systems of property rights and private ownership, and many tribes were entrepreneurial and had extensive trading networks.

That brings us back to Dan Snyder. His new organization will “provide resources that offer genuine opportunities for tribal communities.” That sounds positive, but I’m concerned that Snyder’s efforts will be focused only on hand-outs, such as his recent gifts to various tribes of coats, shoes, and a backhoe. Such aid provides short-term relief, but it will not change the long-term economic prospects of reservations.

If Snyder wants to generate fundamental change, his new foundation should champion institutional reforms on reservations and reforms in the relationship between tribes and the government. Reforms to property rights and the rule of law on reservations would make Indian lands much more fertile for investment, entrepreneurship, and growth.

Chris Edwards is editor of www.DownsizingGovernment.org at the Cato Institute.