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Organizational Change and Conflict: A Case Study of the Bureau of Indian Affairs

DUANE CHAMPAGNE

The Bureau of Indian Affairs (BIA) is one of the most important institutions in contemporary Native American affairs. During most of the present century BIA officials have had direct administrative control over most local reservation institutions such as education, law enforcement, resource management and others. Historically, reservation tribal governments have had little decision-making power over goals and policies that affect their people. The primary task of this paper is to evaluate the effect of several reform movements that challenged BIA domination over Native American reservation communities during the seventies. An examination is made of the impact of local reservation groups, administrative organizations and legislative changes on the structure and functions of the BIA. Attempts to gain control of reservation institutions by reservation groups and reorganization efforts from within the executive branch have failed to force the BIA to relinquish its bureaucratic domination over reservation communities. The most effective means for forcing change on the BIA came from congressional legislation in the form of the Self-Determination and Education Assistance Act of 1975. Even this reform could not break the continued domination of BIA bureaucracy over local reservation institutions, since the Act was

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weakened both by the absence of sufficient financial and organizational resources among tribal governments and by bureaucratic opposition that developed in the area offices. A primary factor underlying BIA resistance to organizational change appears to be the area directors' bureaucratic autonomy and power, which enables them to consolidate tribal political support and block reforms of BIA structure that threaten their control over organizational resources.

THE DEVELOPMENT OF THE MODERN BIA

The Office of Indian Affairs, later called the Bureau of Indian Affairs, was created by Congress and assigned to the War Department in 1824. The early BIA consisted of a clerk and assistant, who together supported superintendents, Indian agents and sub-agents in the field. Territorial governors, *ex officio*, assumed the duties of superintendent in their areas of jurisdiction. The duties of the BIA involved: administration of a civilization fund for Native Americans, handling claims related to trade and commerce with the Indians, and routine correspondence.¹

In 1832 the office of the Commissioner of Indian Affairs (CIA) was created and in 1849 the Office of Indian Affairs was transferred from the War Department to the newly created Department of the Interior. The BIA was assigned to the Department of the Interior so that administration of public lands could be consolidated under the jurisdiction of a single government agency. Indian land, by treaty and statute, was held in trust by the federal government.

During the second half of the nineteenth century the BIA consisted of the CIA, who reported to the Secretary of the Interior, and several superintendents who administered over Indian agents. These agents were assigned to specific tribes where they performed most BIA operational activities. The central office, located in Washington, concerned itself with general administration, supervision and formulation of policies. The implementation of policy was delegated to agents who were located on or near Indian reservations. An agent's duties consisted of distribution of annuities, prohibition of liquor trade, licensing of traders, supervision of Indian education and promotion of missionary

activity.² The agents had broad discretion and autonomy in performance of their duties.³

Both the Dawes Severalty Act of 1887 and the Curtis Act of 1898 in effect abolished indigenous Native American government. Previously the federal government recognized the right of tribal governments to manage most of their own internal affairs, but after the passage of the allotment acts traditional tribal governments did not have legal or bureaucratic status. The allotment policy was intended to make Indians into independent small farmers who would become integrated into the American economic and social system.⁴ This assimilationist policy, which developed during the heyday of American *laissez-faire* capitalism, was designed to dissolve traditional tribal institutions, such as communal ownership of land, by allotting 160 acres to each head of household. The goal of social, cultural and economic integration of Indians into American society dominated BIA and Indian policy for the next half century.

Before the 1880s much of the American effort to "civilize" the Indians was carried out by missionaries. After the allotment acts Indian agents directly administered Indian civilization programs. The policy of forced assimilation and destruction of traditional government and authority often gave Indian agents dictatorial authority on Indian reservations. Indian compliance was enforced by the agents' control over food distribution, agricultural tools, access to military units and control over the local Indian police force. Restriction to reservations forced many tribes to rely on the agent for subsistence since, in many cases, traditional food gathering methods were no longer possible, while many traditionalistic tribes did not readily accept agricultural subsistence methods. The severity of an agent's administration varied with the degree of tribal hostility and opposition to the government's pacification and assimilation efforts.

Between 1893 and 1908 the politically-appointed Indian agents were phased out and their duties transferred to agency school superintendents who were subject to civil service regulations. The creation of BIA-managed boarding schools eliminated many reservation schools, after which the duties of the reservation school superintendents were extended to include the general administration of BIA functions at the agency offices. The agency superintendents reported directly to the BIA central office in

Washington. The objectives of the BIA increasingly moved toward provision of general social services and education to Indians living on reservations. The BIA administered programs in education, welfare, health, industrial aid, irrigation and land management.

A brief respite from the dominant assimilation trend in Indian policy occurred with the passage of the Indian Reorganization Act of 1934 (IRA), which was a product of early New Deal legislation. In accordance with the IRA the BIA administered elections and about half of the federally-recognized tribes adopted a constitutional form of government under IRA. Other non-consenting tribes were later induced by the BIA to adopt electoral political procedures and formulate tribal by-laws. Veto power over tribal government actions were granted to the Secretary of the Interior. All matters of federal trust responsibility over tribal land, mineral and water resources are referred by tribal governments to the Secretary for approval. Furthermore, all ordinances and constitutional revisions are subject to Secretarial approval.

The dominant sentiment in Congress, however, continued to favor assimilationist Indian policies and eventual abolishment of the reservation system. During the Depression and following war years little was done to make tribal governments into viable institutions. On the other hand, Indians lacked organization experience, lacked knowledge of internal Bureau operations and American politics and were constrained by low literacy rates and secretarial veto power, all of which tended to hamper the emergence of autonomous IRA tribal governments.⁵ The impact of the IRA on the restructuring of Indian Affairs and developing functional tribal governments was minimal; BIA officials continued to manage reservation communities and institutions.

The post-World War II period saw a resumption of active assimilationist policies within the Indian congressional subcommittees. Congress tried to abolish the reservation system, which it regarded as a financial burden and subjected the Indian population to paternalistic BIA control. It was thought that Indian people could be more efficiently integrated into American society through abolition of the BIA, relinquishment of the special trusteeship relation between the Indian tribes and federal government, and delegation of jurisdiction over Indian land to state governments. The "termination" policy was officially set forth in 1953 in the form of House Concurrent Resolution 108 of the

83rd Congress, which expressed the intent to sever federal relations and services to Indian reservations as soon as economically feasible. During the late fifties and early sixties less than a dozen Indian tribes were terminated from direct relations with the federal government.

Both state and tribal governments opposed the termination policy. The state governments feared that the termination of federal services to the Indian tribes would result in state financing of Indian social services. Tribal governments opposed the termination policy because it abrogated the federal treaties by delegating federal trust responsibility to historically antagonistic state and local governments. Tribal leaders increased opposition when several terminated tribes failed to maintain economic self-sufficiency after the withdrawal of federal aid. By the early 1960s the termination policy was laid to rest.

During the termination period a major organizational component was added to the BIA structure. Before 1949 the BIA consisted of a central office and a multitude of agency offices which were located on or near federally-recognized Indian reservations. The old BIA structural organization literally broke down under the weight of excessive paper accumulation at the Washington central office. As a result there were long delays in receiving replies to routine requests and information on policy decisions from the central office, which was not able to cope with the administrative requirements of the agency offices and tribal governments.⁶ A private firm was commissioned to study the Bureau and the resulting report recommended that twelve "area offices" be created and delegated management over delivery of routine BIA programs and services to Indian reservations. This suggestion was adopted and the Bureau took its contemporary organizational form which consists of a central office, twelve area offices, and eighty-two agency offices that serve nearly three hundred reservation communities.

BIA STRUCTURE AND DYNAMICS

As opposed to a single monolithic organizational structure, the BIA can be conceptualized as consisting of three relatively autonomous sub-organizations: the central office, area offices and agency offices. All three suborganizations interact with groups

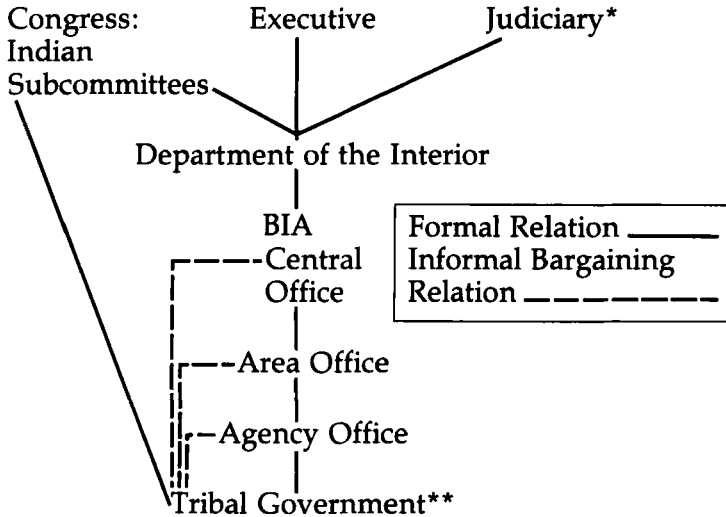
and organizations that form the organizational environment of the BIA. These sub-organizations have both formal and informal relations with congressional subcommittees, the Department of the Interior, Native American pan-Indian organizations, tribal leaders and tribal governments.⁷ Effective power relations between dominant bureaucratic actors and organizations does not necessarily reflect, however, the formal hierarchical structure of the BIA-Interior Department organization. Among the organizations within the BIA environment, the area offices and area directors appear to have the most effective bureaucratic power position for determining BIA action on Indian reservations. The area offices and area directors have considerably more power and influence over reservation-level BIA decision-making and operations than their subordinate position within the BIA-Interior Department bureaucratic hierarchy would indicate. The next sections describe the organizational environment of the major BIA sub-organizations and indicate the basis of the informal power position of the area directors.

BIA Relations to Congress

Congress has plenary power in Indian affairs and often develops the primary orientations of Indian policy. Before 1977 the two Indian sub-committees were located, respectively, in the House and Senate Committees on Interior and Insular Affairs, both of which oversaw the Department of the Interior and were responsible for legislation related to public land and natural resources. Since 1977 the Senate has delegated Indian legislation to the Senate Select Committee on Indian Affairs, while during the seventies Indian legislation in the House was divided between the Interior Committee and Labor and Education Committee. Historically, the seats of the full Interior committees have been filled by western Senators and Congressmen, who represent local and state interests that have usually opposed tribal land and political interests.⁸ At least until the early seventies the Indian subcommittees were dominated by supporters of termination and assimilation policies. To avoid changing Indian policy from its traditional assimilative goals, the Indian sub-committees have often prevented new legislation and policies from reaching

EXHIBIT I

Formal and Informal Relations Between Organizations Relevant to Indian Affairs



*The Judiciary's influence is primarily in the area of interpretation of the complex body of law that has arisen around Indian affairs. Its most significant impact on the BIA has been its Indian Preference ruling which, since 1973, gives absolute preference to Indian applicants in BIA personnel actions.

**Prior to 1970 the three informal bargaining lines and the formal relation line extending outward from the tribal governments are virtually non-existent, thereby indicating the weak position of the tribal government prior to the most recent period.

the full committee for discussion and referral to the floor for voting.⁹

The Indian subcommittees did not routinely monitor BIA operations programs and goals. BIA officials are not required to appear before the Indian subcommittees and give an accounting of program operations, goals and accomplishments. The Snyder Act of 1924 and other legislation grant automatic authorization to many BIA programs. Appearance before the appropriations committees is, however, necessary. But the appropriations committees rarely have time or interest to study operations and accomplishments of a small and politically non-significant agency such as the BIA, although in 1978 and 1979 both the House and Senate Appropriations Committees raised serious criticisms of BIA operations and management. For over fifty years the BIA was not required to provide justification for its operations to any legislative body.¹⁰ Until the mid-seventies Congress appears to have taken little interest in internal BIA operations.

The BIA Within the Department of the Interior¹¹

The BIA can most probably be placed on the bottom tier of any informal hierarchy of Interior Department agencies and bureaus. Although the BIA is the largest agency within the Department of the Interior, it has been relegated to a low priority, subordinate status within the Interior Department's internal organization. Former Secretary Rogers Morton stated:

If you look at the history and talk to former Secretaries, and I have talked to Secretary Hickel and I have talked to Secretary Udall at great length on this on several occasions, you find that the attention that the Bureau of Indian Affairs gets from the Secretary and Secretariat has always been at sort of a lower degree than some of the other bureaus.¹²

The Secretary and his administrative staff may have adequate credentials within their respective professions but invariably have little working knowledge and experience in Indian affairs. The human, social and cultural orientations of many BIA functions do not have counterparts within the rest of the Department of Interior. BIA interaction with Interior agencies is restricted by mutually diverse goals, operational procedures and clientele. The

BIA carries little organizational prestige or expertise in matters that concern other Department organizations.¹³ Consequently, in competition for scarce bureaucratic resources among the agencies of the Interior Department, BIA objectives tend to be apportioned lower priority than the natural resources management operations of other agencies in the Department of the Interior.

Power Relations Within the BIA

Since the creation of area offices in the early fifties, the functions of the central office have evolved toward policy determination, technical assistance to subordinate offices and program evaluation. Within their regions area directors were granted control over distribution of the area budget, hiring of personnel and procurement of supplies and equipment. Since the transfer of control over organizational resources to the area directors, the internal bureaucratic control of the CIA and central office divisions has correspondingly diminished. The first Assistant Secretary of Indian Affairs, Forrest Gerard, stated:

My understanding is that about 90 percent of the authorities that have been delegated to the Commissioner from the Secretary now reside in the area offices.¹⁴

Bureau directives and information flow downward with little feedback or solicitation of information from the lower levels of the organization.¹⁵ There is little formal bargaining between organizational levels over policy matters. The central office manages policy development and the area and agency offices carry out program operations. Undesirable action directed from the central office can be dismantled by staff at the area office, since the central office does not routinely oversee implementation of policy directives and the area directors have more direct control over organizational resources than the CIA who is subject to Secretarial and Interior Department constraints. Policy changes promulgated by central office division chiefs can be made ineffective by area directors who are line officers directly linked to the CIA in authority. "The area offices have proceeded to function unilaterally of the central office policy, and often area administrators have been able to violate the spirit of a directive, if not the letter of the directive."¹⁶ The area offices often

respond more actively to immediate pressures from tribal governments, agency offices and state and federal organizations than to routine demands from the central office. In effect, the area offices and area directors have gained a high degree of autonomy from the formal hierarchical control of the central office.

In comparison to the area directors the agency superintendents are formally and informally weak.¹⁷ The superintendents' administrative control is fragmented by verticle operational links of agency functions to area branch offices. As a result, the superintendents' coordination of agency programs and functions is significantly weakened and subordinated to the administration of the area branch managers and area directors.¹⁸

Tribal Governments

Before the 1970s tribal governments were politically weak actors within the organizational environment of the BIA. Two factors help account for the relatively weak position of the tribal governments: 1) the political factionalism and fragmentation of tribal governments and 2) the legal and bureaucratic domination of the BIA.

Tribal governments generally consist of a chairman, tribal council and several committees that are delegated responsibility for management of tribal programs and operations. Tribal chairmen and council members are elected for two year terms, although a few tribal governments have three and four year terms. Since most reservations have underdeveloped economies, the federal funds that are administered by the tribal governments tend to be a major reservation economic resource. Hence tribal politics often develop into an animated struggle for access to and control over the tribal government and tend to exacerbate tribal factional cleavages. Political divisions often arise along the dimensions of: traditionals versus "progressives," land owners versus non-land owners, and educated versus non-educated; and from allegiances to traditional kinship and political units. Generally there are no political parties. Political factionalism tends to preclude the reelection of the same tribal officials for more than a single successive term in office. A significant change in the composition of elected officials often results in an administrative purge of appointees from previous administrations in order to make room for supporters of recently elected tribal councilmen. Among most

tribal governments there are no Civil Service regulations or equivalent institutions for hiring. The unstable and patrimonial character of tribal politics tends to accentuate inexperience and impair tribal effectiveness in carrying out relations with the BIA and U.S. political system.

Contemporary tribal governments, which were created by the IRA, have been, to a large extent, merely appendages to the BIA administration. Most functions of local tribal governments are administered by the BIA. By means of its control of Indian land and natural resources and its mission to assimilate Native American people into American society, the BIA maintains administrative control over many aspects of reservation life.

By a process of jurisdictional aggrandizement on the one hand, and voluntary surrender of tribal powers on the other, the Indian Service reached the point where nearly every aspect of Indian life was subject to the almost uncontrollable discretion of the Indian Service officials.¹⁹

BIA decision making power over local reservation institutions has not been subject to review or participation by local tribal officials. At least one writer has described Indian reservations as "administered communities," where major decision making power is outside the community.²⁰

In summary, during the fifties and sixties the area offices emerged as dominant centers of bureaucratic power within the system of organizations that comprise the BIA's environment. The Congressional committees and Department of Interior showed little interest in internal BIA activities, and the powers that were delegated from Secretary of the Interior to the CIA devolved into the hands of the area directors. The agency offices and tribal governments were subordinated to the formal and informal power of the area office.

SOCIAL STRUCTURE AND ORGANIZATIONAL CHANGE

As early as the middle sixties the BIA was subject to several exogenous attempts aimed at structural reorganization and redefinition of its goals. The traditional caretaker, colonial BIA functions were widely criticized and several reform efforts were directed

toward promoting increased local control by tribal governments. In the following subsections several reform efforts are examined and an evaluation is made of their affect on the goals and structure of the BIA. At the same time the BIA response to threats to its organizational continuity are examined and an attempt made to explain BIA resistance to change.

The Movement Toward Local Control

Possibly the most profound societal impact on the internal organization and goals of the BIA derives from the civil rights movement. During this period the dominant conception of an American melting pot (the basis of Indian policy since the 1880s) became increasingly supplanted by conceptions of a complex multicultural society. Francis Piven and Richard Cloward²¹ argue that in 1960 President Kennedy campaigned on a civil rights platform that won ninety percent of the urban Black vote. Rather than push immediately for civil rights legislation, which faced stiff opposition in Congress, the Kennedy and later Johnson administrations elected to distribute resources directly to the poor and minorities in order to solidify their vote. The strategy of making economic and legal resources directly available to the poor and powerless was outlined by Cloward as a vehicle for integrating the poor and urban Blacks into the American social and political system.²² By creating new domestic bureaucracies and bypassing the Republican controlled state and local governments, the Democratic administrations exerted more direct control over distribution of resources and prevented Republican appropriation of unearned political credit. In Indian affairs this meant bypassing the BIA and Department of the Interior. The civil rights movement of the sixties facilitated development of local participatory politics. Local affairs became politicized and federal projects became subject to local review and control. Federal programs were increasingly obliged to include local residents in the planning stages of programs that would affect their lives.²³

While few Indians, especially reservation Indians, participated directly in the civil rights movement and associated social activism, Indian tribes became beneficiaries of many domestic anti-poverty programs and legislative acts that emerged from the social movement. The trends toward local participatory democracy and cultural pluralism of the late sixties were in ac-

cord with longstanding Indian aspirations of preserving traditional culture and rehabilitating federal recognition of tribal governments as quasi-sovereign political entities. The emergent cultural pluralism provided the Indians with a favorable context within which to rekindle conceptions of tribal sovereignty and press for more participation and control over local reservation institutions. At the same time, the federal court system upheld many tribal legal conceptions and interests that were based on treaty and statute.²⁴

The Office of Economic Opportunity (OEO) introduced a variety of programs into reservation communities. Funds were directly allocated to tribal governments and programs were locally administered. Three years after OEO was created 67 Community Action Agencies were established on 170 reservations with a service population of more than 300,000 people. By 1970 the largest single component of reservation OEO programs was community organizing activities. The experience gained by reservation Indians, when they worked for OEO and other anti-poverty related projects, greatly increased interest in community affairs.²⁵ OEO made a deliberate effort to promote programs that gave local tribal leadership experience and interest in assuming responsibility for managing local reservation institutions.²⁶

By the late sixties the tribal governments participated in domestic programs sponsored by no less than a dozen federal departments. Many domestic federal programs were social engineering projects that contrasted sharply with the traditional caretaker functions of the BIA. For the tribal leaders the anti-poverty and other domestic programs provided direct access to resources at the local reservation level and facilitated the increasingly articulated goal of building economically viable reservation communities that would preserve traditional cultures and allow the Indian communities to make self-determined accommodations to the U.S. social and political system. The anti-poverty programs provided Indian reservations with sorely needed job opportunities, services and resources in amounts not to be expected from the BIA, bolstered tribal administrations and provided tribal governments with independent funding sources and some autonomy from the BIA.

Some reservation communities began to try to gain control of local institutions that were administered by the BIA. Initial efforts of securing local control were focused on BIA-managed

schools and education programs. In 1966 the Rough Rock Community School was contracted to DINE, a local Navajo corporation that was formed specifically to gain administrative control of the Rough Rock School. Since the school received funding from both the BIA and OEO, the BIA relinquished control to DINE so that the locally administered school could avoid conflicting guidelines set by the two funding agencies. This experimental program received favorable publicity and was closely watched by BIA educators. Not until 1970 did other reservation communities follow the Rough Rock example. OEO provided funds to assist a Navajo community to contract for the administration of the Ramah school. By the end of 1970 five BIA schools were contracted to local tribal organizations.

These schools became contract schools over the objections of the area directors and only by Congressional oversight to force action out of the Bureau of Indian Affairs.²⁷

Furthermore, BIA educators were critical of the education standards set by the locally administered schools. "[The Rough Rock and Ramah school projects] have furnished clear evidence that control and not quality of education is the significant goal of the sponsors."²⁸

By 1973 eleven more schools were contracted by local reservation corporations. Local action aimed at gaining control of BIA schools and other programs was unevenly distributed across Indian country. Reservation groups in the Southwest spearheaded this movement. Many tribal leaders were skeptical of the new orientation toward local control of BIA programs; most were reluctant to accept management of BIA programs under then existing BIA contract regulations. Programs contracted from the BIA had to be administered according to the BIA manual, which in effect subjected tribal administrations to BIA rules and regulations. Consequently, before 1975, tribal governments and reservation corporations could not appreciably alter BIA structure or challenge BIA control over reservation institutions through contracting of Bureau programs.

The Failure of Administrative Reorganization

A major thrust toward reorganizing the BIA and redefining its goals came from the federal executive branch. The relative success of locally administered anti-poverty programs on Indian reservations provided a basis for development of a new direction in Indian policy. President Nixon, in his July 1970 address to Congress on Indian affairs, outlined a "self-determination policy" that encouraged tribal governments to assume control over BIA programs and services at the reservation level. The President based his Indian policy on assumptions of cultural pluralism that contrasted with assimilationist conceptions that historically gave direction to Indian policy. The President outlined several legislative measures designed to develop local reservation business, raise the CIA to the level of assistant secretary, and alleviate the federal government's conflict of interest in Indian trust relations.

In the aftermath of the President's innovative Indian policy announcement CIA Louis Bruce tried to reorganize the BIA in accordance with the President's new Indian policy. Bruce, a Mohawk-Sioux from South Dakota, came to office with an expressed intent of reorganizing the Bureau. He intended to implement the new "self-determination" policy as quickly as possible. The CIA assigned about twenty "young" Indians to top BIA positions. The "new team" engaged in a series of meetings that led to a plan for changing the Bureau's function from near total administrative control of reservation institutions toward creation of stronger, more autonomous tribal governments. This plan was congruent with the Nixon administration's federal decentralization policies and received approval from the Secretary-designate of the Interior.

On November 24, 1970 the CIA issued a memorandum which outlined the planned bureau-wide reorganization. It entailed delegation of increased decision-making authority to agency office superintendents and rehabilitation of contracting procedures based on the little-used Buy Indian Act of 1910. The reorganization plan emphasized contracting procedures that would maximize the chances that tribal governments would assume management and control of BIA operations. Within ninety days all area directors and agency superintendents were to be transferred to new area or agency offices. The CIA remarked that

existing relations between area directors and agency superintendents would make relinquishment of control difficult.²⁹ The area offices were to be transformed into service centers and redirected to provide technical assistance to agency offices and tribal governments. The area directors were ordered to relinquish line authority, while the superintendent's line authority was strengthened.

Eight days after the CIA issued the memorandum Senator Henry Jackson, Chairman of the Committee on Interior and Insular Affairs, requested a halt to the BIA reorganization plan to allow the Senate Subcommittee on Indian Affairs time for review of the proposed changes. Opposition by tribal leaders to the reorganization proposal was expressed by intensive lobbying of members of Congress and tribal resolutions that were sent directly to the Senate subcommittee. The National Federation of Federal Employees opposed the reorganization stating that the directive arbitrarily assigned superintendents and area directors to new posts and objected that the planned contracting provisions threatened job security for many Bureau employees. Tribal leaders objected to the absence of prior consultation and transfer of area directors and superintendents and flooded the Senate Committee with tribal resolutions claiming that existing relations with area directors and superintendents were acceptable.³⁰ The CIA responded that many tribal leaders had privately informed him that they were not satisfied with present relations with BIA line officers. Only two tribes gave their support to the reorganization plan.

The subcommittee did not direct the CIA to stop planned reorganization, but the plan was not implemented. The area directors and superintendents organized tribal-leader opposition to the proposed bureaucratic reform through contacts with the then embryonic Native Tribal Chairman Association (NTCA).³¹ The area directors mustered a coalition of tribal leaders to lobby for them in the Indian subcommittees and block legislation that the area directors perceived to conflict with their interests. Area directors can organize tribal political support through their control over BIA and tribal resources, by playing on tribal leaders' fear that the direct federal-Indian relationship may be covertly severed by new policy changes, and owing to transient tribal leadership which fosters a chronic absence of experience and sophistication among tribal leaders for dealing with the American political system and with BIA bureaucratic politics. Since 1971 the

BIA has funded the NTCA, which acts as a liaison between BIA line officers and tribal chairmen. By lobbying in the Indian subcommittees the NTCA has often led opposition to proposed structural changes in BIA organization. The interest of the area directors is often, though possibly inadvertently, represented by the actions of the NTCA. A coalition of tribal leaders and area directors has been powerful enough to counter BIA reorganizations that challenged the area directors' bureaucratic power and control. By gathering political support from tribal leaders, who are recognized by Congress as legitimate representatives of the Indian tribes, the area directors can covertly represent their position to the Indian subcommittees in Congress. The Indian subcommittees then exert pressure on the Department of the Interior and the BIA central office. Years later former CIA Bruce commented on the resistance to his proposed bureaucratic reorganization.

This [the BIA] is the strongest, largest, toughest bureaucracy, in the government, I know how it functions. Before I even had words out of my mouth concerning an area office, the word went out through the whole country and everyone began to put on their skids and hang on and drag their feet and set up organization meetings to combat what we tried to do.³²

After this setback there was little activity from the executive branch to implement the self-determination policy. Efforts by top level administrators to make major changes in BIA structure and goals failed against the resistance of the area directors, who mustered political support from tribal leaders to block proposed changes in BIA bureaucratic organization and purpose.³³

Congressional Impact on the BIA

During the sixties and early seventies the Indian subcommittees were filled with Congressmen and Senators who favored assimilationist Indian policies. Both committees were not politically sensitive to the broader social change of the sixties and increased emphasis on cultural pluralism. The committeemen's constituents were conservative, rural, western and often opposed to the assertion of local Indian autonomy. Congressman Wayne

Aspinall chaired the House Committee on Interior and Insular Affairs and he had little interest in changing the assimilative trend of Indian policy. Senator Jackson, chairman of the Senate Committee on Interior and Insular Affairs, gave more attention to Indian affairs, possibly owing to national political ambitions and a visible Indian population in his home state. Indian legislation usually remained in subcommittee and was not reported to the full committees or to the floor for vote or debate.

During the early seventies only two major pieces of Indian legislation were enacted by Congress. Both the Indian Education Act of 1972 and the Alaska Native Claims Settlement Act of 1971 were products of special political conditions and did not directly affect the structure and organization of the BIA. The Indian Education Act was based on a report from a special committee that was initially chaired by Robert Kennedy, before his assassination, and subsequently named in his honor. This legislation was backed by a coalition of liberal Senators, who did not have, however, a sustained interest in promoting legislation designed to implement the self-determination policy. The Alaska Native Claims Settlement Act was the product of a temporary political consensus between the Nixon Administration, major oil and pipeline companies, the state of Alaska and the Alaska Natives.³⁴

In 1971 Congressman Lloyd Meeds was assigned the chairmanship of the House subcommittee on Indian Affairs. He introduced the education legislation from the Kennedy Report into the House during the early seventies. The chairman was a social reform-orientated legislator who was influenced by the social change of the sixties. After the 1972 elections Meed's efforts were matched in the Senate by newly-elected James Abourezk who became chairman of the Senate Subcommittee on Indian Affairs. Abourezk was born and lived part of his life on a South Dakota Sioux reservation where he gained firsthand knowledge of Indian-federal relations and issues. The Senator was a strong advocate of local citizen participation in federal programs and stated in public that he wanted to see tribal governments removed from domineering BIA administrative control.

Both chairmen cleared a backlog of pending Indian legislation and helped secure enactment of several major bills. Scoop Jackson, Chairman of the Senate Interior Committee, sponsored the Self-Determination and Education Assistance Act of 1975

(PL93-638) which was the most important piece of legislation concerning the BIA enacted during the seventies. This Act created new procedures for tribal governments to contract and administer BIA programs. In comparison to earlier contracting procedures, PL93-638 contracts did not force tribal governments to administer contracted BIA programs according to the BIA manual. Tribal governments could set their own objectives and goals as criteria for contract fulfillment. PL93-638 provided contracting procedures that were more favorable to tribal organizations than the contracting procedures mandated by Bruce's BIA reorganization in 1970. There was a provision that the BIA must accept all economically feasible requests for contracts by tribal governments and Native American corporations. The Self-Determination and Education Assistance Act of 1975 was designed to transfer control of BIA functions to tribal governments and reorient the BIA from its traditional administrative caretaker role toward emphasis on contract auditing and monitoring of tribally contracted BIA functions. In association with other legislation the Act was designed to fundamentally restructure the BIA and assist in the creation of more politically and economically self-sufficient tribal governments.

PL93-638 was enacted in January 1975 and its rules and regulations were published in December. By June 1977 the BIA had let 638 contracts which accounted for 13.8 percent of the total Bureau budget. There was, unexpectedly, little action undertaken by tribal governments or reservation organizations to quickly gain control over BIA services.³⁵ PL93-638 did not achieve its stated goal of quickly transferring effective local decision making power to tribal governments.

The Implementation of PL93-638

Instead of becoming an auditing and monitoring organization, the BIA has responded to PL93-638 by expanding its operations to include provision of technical aid and personnel training to tribal governments. A dearth of technical and management personnel available to tribal governments created an obstacle to speedy assumption of control over BIA programs; and increased tribal government dependency on technical aid and support from the area offices. The recent emphasis on local business and

resource development by tribal administrations created demand for types of technical aid the BIA did not traditionally provide and did not have during the 1970s. The passage of PL93-638 found the BIA without sufficient personnel and program capabilities necessary to fully implement the Act. Since tribal governments could not assume control over many BIA functions that require technical personnel, the area offices have continued to provide pre-existing services and have retained control of most pre-PL93-638 programs. PL93-638 has done little to restructure functions and programs in the area offices.³⁶ The BIA has tried to compensate for its inadequate technical assistance capability by lobbying for additional funds to increase staff and for centralizing and upgrading personnel training programs. This action was in direct contradiction to the congressional intent of PL93-638.

In addition to the newly-created dependency of the tribal governments on technical aid from the area offices, the area offices retain administrative control over the financing and monitoring of contracting procedures. To implement the PL93-638 legislation the area directors have added new contracting functions to the area office operational repertoire.

The BIA regulations, and procedures, however, tie the entire contracting process into pre-existing Bureau functions, operations and its line item budget: it is Bureau structure and thought which continues to dictate the shape and content of tribal programs.³⁷

In contrast to the direct grant funding of the anti-poverty programs PL93-638 allows tribal governments and other reservation organizations to gain control over BIA programs only through a BIA administered contracting procedure. Thus contracting encompasses numerous decision points where possible delays and breakdown in negotiations can occur. The number of people involved in the contracting process exacerbates the difficulty and length of time necessary for tribal organizations to secure a contract. Ninety days is the officially allotted time interval for the completion of the entire contracting process, but tribal staff members often spend significant time negotiating contract details and promoting passage through the agency and area office organizational machinery.³⁸

The BIA, under PL93-638, retains administration over contract

financing. Contracts are initiated with a "letter of credit," which is an advance sufficient to begin initial contract operations. The remaining expenses for contract execution are provided through a voucher system. The tribal organization sends its voucher to the agency office and, after review, the voucher is forwarded to the area office. If both the area office and the Albuquerque administrative office approve the voucher, then a certification of payment is forwarded to a Regional Disbursing Office of the U.S. Treasury, which disburses funds to cover the voucher. This procedure sometimes takes eight weeks or more to complete and often creates cash flow problems for the contracting organizations.

Most contracting of Bureau programs has occurred at the agency office, while leaving the area offices intact. The superintendents have correspondingly lost direct administrative control over agency operations, while tribal governments have gained some control over contracted programs. In the rare cases where extensive contracting of agency functions has occurred, the Civil Service has proposed to reclassify and downgrade the superintendent positions from their present GS-14 levels. The Civil Service argues that the degree of difficulty and administrative responsibility assigned to the superintendents has diminished.³⁹ Apparently the bureaucratic power position of the agency superintendents has deteriorated as a result of the implementation of PL93-638. On the other hand, PL93-638 has increased the funding, personnel and authority of the area offices which have incorporated the additional functions of providing the tribal governments with technical assistance, training, finance and contract monitoring while retaining most of its other program functions.⁴⁰

The weakened authority of the superintendents, the corresponding stronger position of the area offices, the cumbersome and time-consuming contracting and financing procedures, the limited capability of tribal governments to assume administration over the full range of BIA programs, and the absence of BIA capability to provide the necessary technical assistance to the tribal governments have all hampered the transfer of administrative control of BIA programs to the tribal governments. It appears doubtful that the tribal governments will soon gain access to enough professional and technically skilled employees to take over management of BIA functions that require professionally

trained personnel, i.e., health services, engineering positions, etc. The limited capability of tribal governments to contract BIA programs requiring technically trained personnel most likely will guarantee that the BIA will not be quickly reduced to contract auditing and monitoring operations. The area offices will probably continue to provide administrative and technical services to tribal governments and agency offices. The trend suggests that the area offices will remain intact with additional contracting and technical aid programs added to pre-existing functions. Tribal governments, by contracting more agency functions, may eventually replace the agency offices, at least in the less technical programs, as the area offices' primary counterpart-organization on the reservations.

SUMMARY AND CONCLUSIONS

The emergence of politicized ethnic minorities and the civil rights movement markedly changed American ethnic and government relations and left the BIA with an organizational mission and administrative style that reflected the assimilative-normative structure of the dominant society before the sixties. The societal demands for client participation in the decision-making process of federally administrated programs was in direct conflict with the autocratic, caretaker administrative relation that the BIA maintained with its clients. The BIA's mission continued to reflect assimilationist policy orientations at least for a decade after the appearance and assertion of major societal trends toward more tolerance of ethnic diversity and cultural pluralism.

Federal agencies within the legislative and executive branches tried to reorganize the BIA by restructuring its internal procedures and redefining its organizational goals in order to make them more congruent with the contemporary normative structure regarding client participation in the decision-making processing of federal programs and recent assertion of cultural and ethnic pluralism and autonomy.⁴¹ The social change of the sixties was unevenly reflected, however, in the response of the major branches of the federal government.

The executive branch, more often responding to the conditions of urban ethnic minorities than to a clear assessment of the Indian case, promoted innovative policy orientations that provided

financial and organizational resources directly to the tribal governments. While the executive branch was the most sensitive to societal change, it was weakest in policy implementation. Attempts to administratively reorganize the BIA were blocked by a coalition of area directors who had direct control of organizational resources and could obtain political support from the established Native American reservation leaders.

In the legislative branch, for some years, the Indian subcommittees reflected assimilationist policy orientations in Indian affairs and did not respond with legislation that reflected the societal trends of the sixties and early seventies. The rural and western constituents of the subcommittee members were insulated from the broader societal trends and often opposed to the assertion of local tribal autonomy. For a time this legislative block held hegemony over Indian policy. The election of two subcommittee chairmen, with political orientations that encouraged more local community decision making in government sponsored domestic programs, led to passage of several significant acts of legislation during the mid-seventies. PL93-638, the legislative attempt to dissolve the BIA by contracting BIA functions to tribal governments, has thus far not succeeded. On the contrary, the resource base and authority of the BIA area directors has expanded and solidified. Control over contracting procedures and delivery of technical assistance rests with the area offices, while the agency offices have lost control over some of their operations to tribal administrations. Instead of the dissolution of the BIA, which was Congressional intent, the Bureau is reorienting its goals and functions toward provision of technical and organizational support to tribal governments, while simultaneously keeping control of pre-existing functions which tribal governments are not ready to administer through contracting procedures. Both 1) the limited organizational capability of the tribal governments to contract the range of Bureau functions, thereby inducing the Bureau to preserve its existence by adopting new organizational functions such as the administration of technical training to tribal governments and 2) the bureaucratic power and autonomy of the area directors were factors that appear to have facilitated BIA resistance to organizational change during the 1970s. Both arguments offer complementary explanations for organizational resistance to exogenously induced change.⁴²

In conclusion, despite several attempts to reform and reorganize the BIA, the Bureau has not relinquished substantive

control over reservation institutions. The internal bargaining relations and authority structure of the BIA have remained relatively unchanged; the area directors and area offices retain considerable, if not enhanced, bureaucratic power and autonomy within the BIA structure. A key to understanding BIA resistance to change appears to lie in the organizational imperative of area directors to preserve and enhance their control over bureaucratic resources and power.

NOTES

1. Felix Cohen, *Handbook of Federal Indian Law* (Washington: U.S. Government Printing Office, 1942), p. 10.
2. Lyman S. Tylor, *A History of Indian Policy* (Washington: Department of the Interior, Bureau of Indian Affairs, 1972), p. 667.
3. Laurence Schmeckebier, *The Office of Indian Affairs* (Baltimore: John Hopkins Press, 1927), p. 62.
4. Stan Steiner, *The New Indians* (New York: Dell Publishing Co., 1968), pp. 162-163.
5. D'Arcy McNickle, *Meetings of the American Indian Policy Review Commission* vol. IV (Washington: U.S. Government Printing Office, 1976), pp. 17-22.
6. *Realignment of the Bureau of Indian Affairs Central Office*, Hearings Before the Subcommittee of Indian Affairs of the Committee on Interior and Insular Affairs, U.S. Senate (Washington: U.S. Government Printing Office, 1973), pp. 221-222.
7. "The concept of a complex and more or less organized system seems preferable to the idea of interorganizational network." M. Crozier and G. Thoenig, "The Regulation of Complex Organized Systems," *Administrative Science Quarterly* vol. 21 (1976), p. 548.
8. *Meetings of the American Indian Policy Review Commission* vol. IV (Washington: U.S. Government Printing Office, 1976), p. 181.
9. James Officer, "The Bureau of Indian Affairs Since 1945, An Assessment," *The Annals of the American Academy* (March 1978), p. 66.
10. *California Indian Oversight Hearings*, part 1, Hearings Before the Subcommittee on the Interior and Insular Affairs (Washington: U.S. Government Printing Office, 1974), pp. 20, 621.
11. Several other executive branch agencies, besides the Department of the Interior, regulate specific aspects of BIA operations. The BIA budget is subject to the decisions of the Office of Management and Budget, while finance operations and auditing are regulated by the General Accounting Office. The use of certain buildings and procurement of equipment must conform to the rules of the General Service Administration and personnel actions are subject to Civil Service regulations. While each of these regulating agencies can dictate the conditions and availability of resources to the BIA and at times strongly affect the carrying out of specific BIA operations, they only indirectly affect the unique BIA mission of management and delivery of services to reservation communities.

12. *Establish an Additional Assistant Secretary of the Interior*, Hearings Before the Committee on Interior and Insular Affairs, U.S. Senate (Washington: U.S. Government Printing Office, 1971), p. 15.

13. *Ibid.*, passim; *Creation of the Indian Trust Council Authority*, Hearings Before the Subcommittee on Indian Affairs of the Committee on Interior Affairs, House of Representatives (Washington: U.S. Government Printing Office, 1973), pp. 57, 98.

14. *Nomination of the Assistant Secretary of the Interior For Indian Affairs*, Hearings Before the U.S. Senate Select Committee on Indian Affairs (Washington: U.S. Government Printing Office, 1977), p. 40. See also *Meetings of the American Indian Policy Review Commission* vol.II (Washington: U.S. Government Printing Office, 1976), pp. 299.

15. *Report from the BIA Reorganization Task Force*, Washington, 1978, Section IV, p. 17.

16. BIA Memorandum No. 85-206, *Discussions to Selected Task Force Recommendations*, 1978, p. 10; Margaret Szasz, *Education and the American Indian* (Albuquerque: University of New Mexico Press, 1974), p. 129.

17. William Brophy and Sophie Aberle, *The Indian: America's Unfinished Business* (Norman: University of Oklahoma Press, 1966), p. 129.

18. *Occupation of Wounded Knee*, Hearings Before the Subcommittee on Indian Affairs of the Committee on Indian Affairs of the Committee of Interior and Insular Affairs, U.S. Senate (Washington: U.S. Government Printing Office, 1974), p. 449.

19. Felix Cohen, op. cit., p. 12.

20. George Castile, "Federal Indian Policy and Sustained Enclave: An Anthropological Perspective," *Human Organization* vol. 22, (1974), pp. 219-227.

21. Richard Cloward and Francis Piven, *The Politics of Turmoil* (New York: Pantheon Books, 1972).

22. Richard Blumenthal, "The Bureaucracy: Anti-Poverty and CAP," Duplicated Copy, pp. 137.

23. Martha Derthick, "Defeat at Fort Lincoln," *Public Interest* vol. 20, (1971) pp. 3-39.

24. Daniel Isreal, "The Re-emergence of Tribal Nationalism and Its Impact on Reservation Resource Development," *University of Colorado Law Review* vol. 47, (1976), p. 624.

25. Sar Levitan and Barbara Hetrick, *Big Brother's Indian Programs With Reservations* (New York: McGraw-Hill, 1971), p. 98.

26. *Self Determination and Education Programs*, Hearings Before the Subcommittee on Indian Affairs of the Committee on Interior and Insular Affairs, U.S. Senate (Washington: U.S. Government Printing Office, 1973), p. 74; Theodore Taylor, *The States and Their Indian Citizens* (Washington: U.S. Government Printing Office, 1972), p. 108.

27. *Report on Education*, Task Force Five, Final Report to the American Indian Policy Review Commission (Washington: U.S. Government Printing Office, 1975), p. 117.

28. Margaret Szasz, op. cit., p. 175.

29. *Changes in the Bureau of Indian Affairs*, Hearings Before the Committee of Interior and Insular Affairs, U.S. Senate (Washington: U.S. Government Printing Office, 1970), p. 9.

30. *Ibid.*, p. 1.

31. Personal Communication, 1978.

32. *Meetings of the American Indian Policy Review Commission* vol. IV, p. 141.

33. More recently there was a skirmish between former Senator Abourezk and former Assistant Secretary for Indian Affairs Forrest Gerard which developed over the extent of BIA reorganizations contemplated during the last years of the seventies. The Senator proposed an extensive reorganization of the Bureau that was based on recommendations made in the *BIA Management Study*, (Washington: U.S. Government Printing Office, 1976) and *The American Indian Policy Review Commission's Final Report* (Washington: U.S. Government Printing Office, 1976) which outlined changes for abolishing the line authority of area directors and delegating more authority to reservation superintendents. Abourezk proposed that the BIA be removed from the Department of the Interior and an independent Indian service be created that would avoid the inherent conflict of interest between federal and Indian land and resource issues. The Assistant Secretary, who was supported in his candidacy by the NTCA, tried to retain the BIA in the Department of the Interior. "For worse than not completing reorganization at all would be further dislocation of the Bureau itself through the attempt to make radical and sudden changes in all of the present structures and systems." (Forrest Gerard, *Report from the BIA Reorganization Task Force*, op. cit., Appendix A) The Assistant Secretary preferred to slowly grant more authority to reservation superintendents. The Senator was not able to effect his reorganizational plans over the resistance of the Assistant Secretary. The Assistant Secretary's BIA reorganization task force stated: "There is a need for an intermediate layer of management in the BIA. Too many administrative problems would develop if this interim layer of management (Area Offices) was abolished—It is a general finding that the Area Office set-up is organizationally adequate to meet the Bureau's needs—We should avoid radical [change and concentrate on management] to fine tune area operations" (BIA Memorandum No. 83-206, op. cit., p. 9).

34. Robert Arnold, *Alaska Native Claims* (Anchorage: Alaska Native Foundation, 1978), pp. 94-137; Mary Clay Berry, *The Alaska Pipeline: The Politics of Oil and Native Land Claims* (Bloomington: Indiana University Press, 1975.)

35. *Indian Self Determination and Education Assistance Act Implementation*, U.S. Senate, Select Committee on Indian Affairs (Washington: U.S. Government Printing Office, 1976), p. 248.

36. Personal Communication, 1978.

37. *Indian Self Determination and Education Assistance Act Implementation*, op. cit., 1977, p. 261.

38. *Ibid.*, pp. 262, 290.

39. *Ibid.*, pp. 28-32.

40. BIA Memorandum NO. 85-206 op. cit., passim; *Nomination of the Assistant Secretary of the Interior for Indian Affairs*, op. cit., 1977, p. 37.

41. The effect that broad societal trends can have on the structure of organizations has been outlined by Roger Hahn, *The Anatomy of a Scientific Institution* (Berkeley: University of California Press, 1971), see the last chapter.

42. These two arguments have been roughly adapted from models II and III in Graham Allison, *Essence of Decision* (Boston: Little, Brown, 1971).