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The Navajo Nation:
The Consequences of Living Between Two Forms of Incomplete
Governance

Master's Thesis

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Declaration

1. I hereby declare that I have compiled this thesis using the listed literature and resources only.
2. I hereby declare that my thesis has not been used to gain any other academic title.
3. I fully agree to my work being used for study and scientific purposes.

In Prague on May 4, 2021

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Abstract

The Navajo Nation ranks amongst the poorest Reservations. Fundamentally, the Navajo Nation, faces many hurdles stemming from the conundrum of semi-autonomy; and consequently, Federally imposed rules and regulations. Unavoidably, these account for many of the issues that Navajo members and the Navajo government face today. Despite this circumstance, there are things the Navajo government can do in order to improve the socio-economic situation on the Navajo Nation today. This paper utilizes Hirschman's *Exit, Voice, Loyalty theory* in order to understand the relationship between the government and the people. The data and survey results indicated a significant trend of working class, Navajo members, choosing to leave the Reservation (exit). From the data and surveys it appears that those who are leaving, are doing so primarily in search of employment. In order for the socio-economic situation on the Navajo Nation to improve, the government must first set up a system in which it receives member feedback, then it must find a way to increase sentiments of loyalty as to motivate people to stay, and, third, based on the data, the government needs to improve the job market rapidly.

Keywords: *Navajo, Governance, Exit, Voice, Economy, Society.*

Title: The Navajo Nation: The Consequences of Living Between two Forms of Incomplete Governance

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Chapter I: Introduction

The Navajo Nation ranks among the lowest performing Reservations in terms of food insecurity, rates of poverty, and unemployment in the United States (Pardilla et al., 2013). Statistically, US Reservations, tend to perform lower in terms of quality of life than the rest of the United States (US Department of the Interior, 2014; Pardilla et al., 2013); of the more than 500 US tribal Reservations, the Navajo Nation, consistently ranks among the lowest (US Department of the Interior, 2014). Reservations in the U.S. are semi-autonomous territories governed by different, respective indigenous groups (Bureau of Indian Affairs, 2021). Although US Reservations characteristically share common circumstances and therefore common problems, the Navajo Nation still performs notably lower as compared to many of its peers; this, despite hosting the largest territory and second largest population among all Reservations (Tiller, 2015). In this investigative study, the aim is to expose the root cause of the Navajo Nation's unusually low performance; in part by identifying the shared issues with other reservations and in part by identifying the unique features which have lent to the Nation's comparatively low performance vis-à-vis the other Reservations. The research question being: what causes the Navajo Nation to be in such a poor performing state, both in terms of economic development and quality of life, particularly as compared to the rest of the US and also many of the other reservations?

Many research papers and studies have been conducted in search of this answer. Among the proposed *causes* include: lack of property rights, lack of entrepreneurial mindset, bureaucratic red tape, low education rates, and breakdown of tradition, to name a few key ones (Hoffer, 2017; Austin, 2009; O'Neil, 2005; Baum, 2010). The authors of these works all have excellent points and are correct in suggesting each one of these as principal issues which negatively impact the Navajo Nation. However, here, I seek to hit on a more fundamental social issue which may reveal

these other issues to be more symptoms, rather than root causes. The hypothesis for this thesis, as to why the Navajo Nation performs so poorly, is that there exists a fundamental disconnect between the Navajo government and the Navajo Members, particularly, a disconnect with the working class. The Navajo Nation is semi-autonomous; meaning, there are specific limitations to its sovereignty, to include, US Federal stipulations and impositions which hinder to a certain extent the power it has to operate entirely of its own accord (Krakoff, 2004). Despite these restrictions, the Navajo Nation still holds the ultimate power regarding the prosperity of its members, in terms of economic development, infrastructure, and amenities (Bureau of Indian Affairs, 2021). What this means is, it's within the power of the Nation to engender positive social change within their jurisdiction. The key to such change is understanding the reality of the unique relationship between the government and the members, and also a willingness on the part of the government to make the change happen, through research and realignment of resources, while simultaneously capturing the cooperation of the members as well. The theoretical framework that will be used in this paper is Albert O. Hirschman's *Exit, Voice, and Loyalty* theory (1970). This theory helps to appropriately define and understand the current relationship between the Navajo government and members, explaining how the Navajo Nation is affected by the relationship as a whole, and for deriving potential solutions.

The Navajo Nation, like all Reservations, has a unique opportunity. Members of the Nation are full US citizens. They have the right to vote in US elections; they are protected by the US federal government; and they have the right to move freely between the two sovereigns (Bureau of Indian Affairs, 2021). This opportunity affords members full access to the largest military power in the world and the largest economy in the world, while also being able to live in or visit a place exclusively based on their unique cultural heritage and traditional philosophy (BBC News,

2021). This opportunity, however, in the context of Hirschman's theory, can also be a major drawback in the process of generating positive social change.

The disconnect between Navajo Members and the Navajo Government can best be understood through Hirschman's *Exit, Voice, and Loyalty* theory. His theory describes the social reactions to decline in States (firms and organizations). In brief, *exit*, for the Navajo working class, is too easy; they have greater incentive to leave than to stay and voice their feedback to the government. Furthermore, if the government chooses to ignore any feedback they do receive, the people will opt to leave as opposed to rally with force in order to be heard and not ignored. Since *exit* is so much easier, in this circumstance, with more rapid and positive results, the incentive to stay and push for change is diminished; leaving the government with little feedback or incentive to make any changes. Despite sentiments of *loyalty*, stemming from the cultural and traditional connection, *exit* is still more appealing since members can visit any time or commute from their residence on the Navajo Nation to employment off the reservation. This adds another facet to the concept of *exit* and has an amplified effect (Hirschman, 1970).

While this social issue is present on other reservations, one key difference between the Navajo Nation and other top performing reservations is the monetary pay-out these higher performing reservations receive from their tribal governments (The Economist, 2008; Anderson, 2016). This government disbursed income, typically deriving from casino profits and other royalties, acts as an additional incentive to stay on the reservation and increases *loyalty*. The application of this theory in the context of the Navajo Nation's political and social circumstances helps in understanding the fundamental reason for the overall and continued decline of life on the Navajo Nation over the past few decades.

1. Focus of the Thesis

The purpose of this paper is to uncover the root of the Navajo Nation's unusually low performance in terms of economic development and quality of life standards. Since there are many definitions of quality of life, for the purposes of this paper, quality of life will be gauged based on three general and measurable criteria 1) crime and violence statistics, 2) housing and access to amenities, and 3) economic opportunities.

The political structure of the Navajo Nation is loosely based on two governance systems: 1) the traditional Navajo philosophy of governance (also known as the *Diné* philosophy of governance) and 2) the US Federal government and western philosophy of governance, where democratic voting, representation, and judicial court systems are built into the political structure and institutions. Since the Nation is tied to the traditional philosophies and practices, and also since the contemporary Navajo system of governance is consistently influenced by the traditional systems, this paper will discuss and analyze first the traditional Navajo philosophy of governance and its role in engendering *loyalty*, useful in the context of Hirschman's *Exit, Voice, Loyalty* theory. Next will follow an overview of the current modern Navajo governance, pinpointing the key governance issues and also how the Navajo contemporary governance plays a role in both *exit* and *voice*, in the context of Hirschman's theory.

This paper consists of three Chapters. The first Chapter is the introduction, with three subsections including *focus of the thesis*, *literature review*, and *theoretical framework*. The second Chapter covers the background and historical context, political philosophy (philosophy of governance) of the Navajo people, and an analysis of the legal delimitation of sovereignty and jurisdiction between the US Federal government and the Navajo Nation. The purpose of this Second Chapter is to better understand the context of life on the Reservation, as well as, the

limitations imposed on the people and government as a result of its semi-autonomous status. The Third Chapter covers three analytical sections: Hirschman's theory and its application, data relevant to the application of the theory, and an analysis of the data in terms of the theory. The aim of Chapter Three is to look at data trends and member feedback in order to determine if the hypothesis has real merit. This paper concludes with a summary of the results and recommendations.

2. Literature Review

In order to properly introduce the topic and create a clear picture of the background and current circumstances of the Navajo Nation, three primary texts were used. The First is Lerma's (2017) *Guided by the Mountains: Navajo Political Philosophy*, which is an exploration into Navajo political tradition and philosophy. Lerma is a prominent Navajo Academic and elder of the community, he wrote the book with input from former Chief Justice, Robert Yazzie, of the Navajo Supreme Court. The book is very explorative in its description of traditional philosophy but follows academic and theoretical frameworks which render it more technical and academic than just philosophical interpretation. In addition, Jennifer Nez Denetdale's (2006) book, *Chairmen, Presidents, and Princesses: The Navajo Nation, Gender, and the Politics of Tradition*, is utilized and provides supplementary insight into the traditional and cultural pillars that persist in contemporary Navajo governance.

The third book is Iverson's (2002) *Diné: A History of the Navajo People*. This book is a well-researched and historical account which touches on philosophy and the evolution of Navajo governance, but mainly provides a timeline of recorded historical events. This book is heavily used in the introduction and background sections of this research paper. Additionally, Veronica Tiller's book, *Tiller's Guide to Indian Country : Economic Profiles of American Indian Reservations*, is used as a supplemental reference for facts and figures pertaining to the Navajo Nation.

Next is a comprehensive piece by Sarah Krakoff (2004), *A Narrative of Sovereignty: Illuminating the Paradox of the Domestic Dependent Nation*. This article by Krakoff, an Associate Professor from the University of Colorado School of Law, is a very precise description of the poorly delimited line between the two sovereign entities (US Federal Government and the Indian

Tribes). The aim of the paper is to define tribal sovereignty in terms of the legal boundaries imposed by the US Supreme Court through case rulings. For Krakoff, the legal ambiguity of tribal sovereignty has caused many to wonder if there is real tribal sovereignty or whether this tribal sovereignty, in light of the legal conundrum it poses, should perhaps be rescinded altogether. In Krakoff's perspective, tribal sovereignty is a much more profound and legally anchored issue which cannot be rescinded except from within these tribes themselves, because this Federally recognized and granted *sovereignty* was a stipulation of the treaties signed a hundred years ago between them and the US Federal Government. Instead, she focuses on what these Supreme Court cases have done in terms of redefining or limiting tribal sovereignty and what that means in the grand scheme. This article was used here to describe the ambiguous line of delimitation between the two sovereigns and what it implies in terms of the Navajo Nation's autonomy.

At the end of the *Background* portion of the text, there is a section called *Dueling Governance*. The purpose of this section is to outline certain laws and exceptions as reported by the US Department of Justice (2015) regarding the Federal Government's role and legal jurisdiction as it pertains to the Reservations. This report, titled: *Indian Country Investigations and Prosecutions*, details who has jurisdiction over crimes committed in Indian Territory. An excerpt was pulled from the document and referenced for its precise delineation between US Federal and tribal governance/jurisdiction, as understood by the US Federal government. The key takeaway from this document is that tribal sovereignty does not include total jurisdiction over crimes committed within the tribe's Federally recognized territory, but only jurisdiction over crimes committed by the members of that tribe within that territory. Non-member Indians and non-Indians are under the jurisdiction of the US Federal government, except in the case of certain petty crimes.

The last main piece of literature used in this section is Raymond Darrel Austin's book titled *Navajo Courts and Navajo Common Law: A Tradition of Tribal Self-Governance*. Justice Austin served on the Navajo Supreme Court from its inception until 2001 and is a distinguished Jurist. He wrote the book with the aim of demonstrating how Navajo courts apply traditional Navajo doctrines to contemporary legal issues.

Section One of Chapter Three discusses Hirschman's theory and how it applies to the Navajo Nation today. Albert O. Hirschman was a prominent economist who contributed a great deal to the field of development economics. His well-known book *Exit, Voice, and Loyalty: Responses to decline in firms, organizations, and States* (1970) was able to bring together the economic concept of *exit* and the more political concept of *voice*. In his perspective, people have two options; the first: is to *exit* a bad situation, the second: provide feedback (*voice*) to change the bad situation. This is a very simple concept, yet describes a very fundamental means through which people and nations initiate positive social change. This theory was selected as the framework for this paper due to its application in defining and understanding the social circumstances of the Navajo Nation.

Section Two of Chapter Three, focuses on testing the merit of the hypothesis by analyzing data trends in population behavior and quality of life indicators. This section uses the most up-to-date data and statistics retrieved from the US Census Bureau, Bureau of Indian Affairs, Navajo Nation, and Public Health and Nutrition. This section also includes a very small sample survey consisting of 17 Navajo members. The purpose of the survey is to demonstrate the *voice* feedback of the Navajo members, providing very general qualitative insight into the data trends. The details of the survey can be found in the methodology section.

3. Theoretical Framework

The objective of this study is to shed light on the root cause(s) of the Navajo Nation's strikingly low performance in terms of economic development, crime/safety, and overall quality of life (Pardilla et al., 2013; US Bureau of Statistics, 2019). Native American Reservations are generally known for their low performance in these categories as compared to the rest of the US; but the Navajo Nation ranks among lowest. The implications being: 1) there is a common issue(s) that all reservations share which lies at the root of their poor performance in these categories, 2) the Navajo Nation has an added variable or issue not necessarily found in some of the other reservations, or at least one variable which is somehow aggravated on the Navajo Nation. In considering these things the research question was developed: *what accounts for the Navajo Nation's low performance vis-à-vis the US and vis-à-vis the other reservations?* After some preliminary research a hypothesis was developed: stating that there is a fundamental disconnect between the governors (Navajo Nation government) and the governed (the Navajo members). This hypothesis was developed from Albert O. Hirschman's *Exit, Voice, and Loyalty* theory. The reason Hirschman's theory was selected was due to its useful applications in this particular case. It focuses on the social relations between *governors* and the *governed*; outlining behavior trends in a society where social benefit is on the decline.

To understand the source and reason for this disconnect, Albert O. Hirschman's *Exit, Voice, and Loyalty* theory will be used (Hirschman, 1970). The theory states that certain conditions must be met in order for social change to take place. People, he suggests, have two options when faced with a decrease in the quality or benefit received from their society: they can *exit* that society (emigrate) or they can *voice* their feedback of discontent to the people in power (the government). His theory states that if *exit* is too easy, then people will be incentivized to leave. If *exit* is too

difficult they will opt to stay and *voice* their discontent. If the people have high sentiments of *loyalty* then they will have additional incentive to stay and *voice* their discontent, even if *exit* is not so difficult. Likewise, if there are low sentiments of *loyalty* or even disloyalty (in the case of a society that acts contrary to one's fundamental ethics and beliefs) then even if *exit* is somewhat difficult, one may be incentivized to find a way to *exit*. In certain cases, *loyalty* may incentivize one to stay without necessarily voicing discontent or with voicing discontent but not retaliating or resorting to *exit* in the case of their voice being purposefully ignored by the government. *Loyalty*, in this case, describes the level of loyalty individuals feel toward their society, this is correlated with their general willingness or unwillingness to *exit*, and/or desire to *voice* opinions (Hirschman, 1970).

According to the theory, if *exit* is too easy, and *loyalty* to stay is low, then people will leave the society and not bother with pushing for social change. If *exit* is too difficult, then they will not *exit* and be forced to *voice* their opinions in order to make their living conditions more optimal. On the other hand, if *exit* is virtually impossible, then even if people *voice* their complaints the government might not listen, since the people are not going anywhere either way. This might change in the case of strikes or active, physical, protests which might incentivize the government to listen. Also, if *loyalty* is very strong then it might serve as a disincentive to *exit*. Hirschman states that an optimal circumstance would include *possible exit*, a *willingness to voice*, and *some degree of loyalty*. The threat of *exit* will make the *voice* heard, the desire to stay (*loyalty*) will make the *voice* happen. This, in his view, is the optimal circumstance necessary for engendering positive social change (Hirschman, 1970).

In the case of the Navajo people, they are full US citizens with the right to vote in US elections and full unrestricted mobility between the reservation and non-reservation. This means

exit is exceptionally easy. The only hindrance might be a desire to be close to family or a desire to be in the homeland (Diné Bikeyah) which stems from Hirschman's concept of *loyalty*. The Navajo Nation has territory spread across three US States, and is as low as one to two hours' drive from major US cities. What this means is, members can relocate to a US city for work (or in this case commute to work off the reservation), and travel home on the weekend to partake in religious ceremonies and visit with family. This situation satisfies the *loyalty* aspect while also yielding the best quality of life through *exit*. Due to the nature of the Navajo Nation, in terms of its sovereign and semi-autonomous status, and due to the unique opportunity afforded Navajo members as both members of the Navajo Nation and US citizens, Hirschman's theory has a very unique and useful application.

Chapter II: Historical and Legal Context

1. Background and History

The Navajo Nation is an autonomous¹ territory located within the United States (Iverson, 2002; Krakoff, 2004). The people of the Navajo Nation, are indigenous to that specific area in the Southwest, having inhabited the land since before the arrival of Columbus (Iverson, 2002). The term *Navajo* is originally a name the Tewa Pueblo people gave them, which the Spanish later adopted, and although it is the name they are most well-known by around the world, it is not the name that they use to call themselves. In the Navajo language they are called the *Diné*, meaning *the people*. In this thesis both terms will be used interchangeably. The Navajo Nation spans three states: Arizona, New Mexico, and Utah (Iverson, 2002). It is the largest US reservation in terms of land, with roughly 27,000 square miles (43.452,3 square kilometers) and is the second largest tribe in the continental United States with over 300,000 registered members (Iverson, 2002).

It is recognized by the US Federal Government as being a semi-autonomous and sovereign Nation, referred to as an Indian Reservation. It is independent of the US Federal government, where the *Diné* are governed by their own laws and where government officials are elected and appointed by Navajo members only (Krakoff, 2004). The Nation does not ‘officially’ deal with the local (neighboring) city, county, or State authorities but with the Federal government of the United States.²

Despite its autonomy, there still remain some issues related to the overlapping jurisdiction between the Navajo Nation and the US Federal government. These issues stem from two elements:

¹ See (Krakoff, 2004): *"In my view, the tribes either are or are not separate sovereigns, and our federal Indian law cases untenably hold both positions simultaneously."*

² See (United States v. Lara): *"Constitution grants Congress broad general powers to legislate in respect to Indian Tribes, power that we have consistently described as 'plenary and exclusive'"* See also: *McGirt v. Oklahoma. Reaffirming tribal jurisdiction and treaty stipulations.*

1) all members of the Navajo Nation are full US citizens with full rights under the US Constitution and 2) there is free-mobility and unrestricted access for anyone in the US (i.e. Non-member U.S. citizens and even foreigners³) to cross into the reservation; and likewise any members of the tribe residing on the reservation is not restricted in any way from leaving the tribe's Federally recognized territory and entering US jurisdiction.

In the interest of preserving Navajo Sovereignty and also covering gaps in governance and jurisdiction, the US and the Navajo Nation have, over the years, negotiated treaties to delimitate jurisdiction and enact solutions to these grey areas. Some of the most relevant legislations, toward resolving these gaps, can be found in the *General Crimes Act* and the *Major Crimes Act*⁴, which will be covered in greater detail later in the thesis.

The Navajo Nation's current government system mirrors in some ways the democratic and republican principles imbedded within the US Federal Constitution. Contemporary *Diné* governance, however, still has its significant differences. These differences, as can be expected, derive from the old traditions, culture, society, and overall customary form of *Diné* governance (Lerma, 2017).

While, arguably, the Reservations may have been created with 'good intentions' by providing a venue for the preservation of traditional indigenous societies; the unique nature of the American Indian Reservations (or autonomous zones) have, instead, created a void or space between which the Navajo people and Nation, among other Indian Nations, exists. Today, these Reservations are perceived as being the vital means through which tribal culture and traditions may be preserved and protected, which means abolishing them remains both an unlikely and

³ *Foreigners* refers to tourists, visitors, non-US citizens who have entered the US and been approved to enter by the US Federal government, this group is not restricted in any way from visiting any Reservation.

⁴ See the US Department of Justice's (2015) *Indian Country Investigations and Prosecutions*.

undesirable choice (Krakoff, 2004). As Krakoff (2004) aptly stated, “Many tribal members perceive that their cultural survival is inextricably linked to their existence as separate, self-governing nations, and that dealing a final blow to the legal doctrine of sovereignty would be akin to terminating tribal people themselves.” The very idea of abolishing these autonomous zones would be traumatic to these Indigenous populations and also to the greater United States population which has become accustomed to these sovereign territories, understanding their profound significance for these cultural groups within American society, and appreciating, in concurrence, the rich cultural contributions that these autonomous territories effect. Furthermore, any such motions in the US Supreme Court or Congress would reinforce the long held fear that former Chief Justice of the Navajo Nation Robert Yazzie poignantly expressed before the U.S. Senate Committee on Indian Affairs, “In short, the Navajo Nation is faced with nothing less than a threat of cultural, economic, and political genocide (Krakoff, 2004).”

Robert Yazzie’s views may seem somewhat severe, yet, he has witnessed the struggles of American Indians in modern society. He has noted the rise in interest for supporting abolition of tribal sovereignty and he understands, as well, the history of the wars between the indigenous populations and the Federal US. It could be considered very unfair of the Supreme Court and Congress to remove these autonomous zones on the premise of being legal inconveniences, when Indigenous populations in the US have experienced countless abuses over the last two centuries on account of their ethnic, cultural, and linguistic differences. Particularly, in consideration of the original intent behind the development of these Indian autonomous zones; which is: they developed out of war. The US was on an expansion campaign west, and the Native populations were the roadblock in between. As a result, the Navajo Nation developed from out of a 1868 peace treaty between Navajos and the Federal government; this treaty was necessary because the Navajo

were heavily anchored to their territory, while the US Federal government was driven by expansion; the two forces were not looking to surrender. The peace treaty permitted the Navajo to continue to occupy their homeland, while also allowing free, unmolested passage for non-Navajos through Navajo-land. Part of the peace treaty's stipulations were for the Navajos to allow the construction of a railroad through Navajo territory; in exchange, the US made an assurance that the Navajo people would be able to maintain their separate self-governance (Iverson, 2002). Offering the local inhabitants Federally recognized territory in which they could self-govern, on their own terms, was a seemingly peaceful way of ending the conflict and continuing western expansion (Iverson, 2002).

In light of this history, any attempt to abolish these territories or rescind their sovereign status could lead to more than just outrage. In essence, though many claim, as Justice Thomas did, that these territories might best be removed of their sovereign status due to the legal complications they impose; it is better, considering the full context, to keep them intact until, if at all, the desire to remove sovereignty status develops from within the reservations and from the members themselves.

In this paper, although the issue of dueling sovereignty rests at the heart of the Navajo Nation's fundamental struggles, the removal of sovereignty is not the focus. The focus is in finding the key points within the Nation's self-governance that can be improved in order to make the autonomous zone function in a way that is prosperous and beneficial. Indeed, dueling governance is an issue, but here it is not seen as an issue needing to be removed, just restructured.

The *Diné*, today, do not live in their traditional society, under true *Diné* philosophy of governance; they live, instead, in a hybrid, contemporary form of *Diné* governance. They also live as full US citizens with US Federal Rights and protections. Navajo Nation members have full

freedom of mobility to cross borders between the US and Indian territory. Not only that, access to the Navajo Nation (and all reservations) is not restricted to members only, as part of the 1868 Treaty stipulations, there is free mobility for all people (non-member US Citizens and legal foreign visitors) (Iverson, 2002; Krakoff, 2004).

Traditional *Diné* Philosophy of Governance

Before moving forward, a fundamental understanding of traditional *Diné* governance is necessary, since it lies at the root of the struggles perpetuating in contemporary governance on the Navajo Nation; and concurrently, it remains the chief reason for preserving separate sovereignty. In order to properly describe and delimitate traditional *Diné* philosophy of governance, this paper will follow Michael Lerma's *Guided by the Mountains* and Raymond Darrel Austin's *Navajo Courts and Navajo Common Law: A Tradition of Tribal Self-Governance*. Lerma's book is a somewhat raw and grounds up account of *Diné* political philosophy, culture, and way of thinking. He wrote the book in a way that closely reflects traditional thinking while utilizing academic frameworks to give it structure. As a result, the book conveys a comprehensive picture of *Diné* way of life and political philosophy (Lerma, 2017). Austin's book, on the other hand, takes a legal perspective, one that follows historical records, political agreements between the two sovereigns, and case law (Austin, 2009). His book, nevertheless, steeped itself in the same traditional concepts and oral histories as can be found in Lerma's book.

According to these two authors, traditional *Diné* philosophy begins with the creation story and the fundamental significance of the four mountains that surround *Diné Bikéyah* (Navajo land) (Lerma, 2017; Austin, 2009). These four mountains surround Navajo territory, one in each geographical direction: North, East, West, and South. These mountains are considered to be the anchors of *Diné Bikéyah* (Navajo land); and notwithstanding their obvious physical and symbolic attributes, also hold a deeply philosophical meaning to the Navajo people. In his book, Lerma

details the significance of the Four Sacred Mountains that surround *Diné Bikéyah*, stating that *Diné* philosophy is a very ground up perspective of life and human nature, using the environment and natural world to gain insight into humanity, god, and, subsequently, the relations between man and man, and between god and man. As such, and according to *Diné* thinking, it is the duty of each person to seek for themselves that which they need in order to live a happy life but also to help those around them to do the same (Lerma, 2017).

The four elements of fire, water, air, and pollen (or earth) teach the *Diné* the value of balance and discipline. It is believed that each element is necessary in order to thrive and lead a happy life, and that too much or even too little can lead to pain, suffering, or want. An example would be fire, too much fire can lead to getting burnt, too little can lead to freezing or inability to cook food. The aim, thus, is to keep one's distance from the extremes and find bliss in the middle ground. These mountains represent the delimitating line between happy medium and extremes. The Navajo dwell in the center of the four mountains – if they move too close to the one, they simultaneously move too far from the other; just as, when one moves too close to the fire element they risk injury. Dwelling in the cozy center amid the four mountains, and likewise, the center of the elements, leads to a happy and content life (Lerma, 2017).

The mantra of the *Diné* can be summed up in one Navajo word: *ho'zho'* which translates to *continual good health, harmony, peace, beauty, good fortune, balance, and positive events in the lives of self and relatives*. This catch word represents all that is good or positive and it can be achieved through balance and harmony, living in appropriate nearness and distance to the mountains and to the four elements. It also includes seeking goodwill and happiness for self and for all. In considering balance and harmony, one must care for oneself in balance with caring for others by not being too selfish and neglecting others, and also, not being too selfless and neglecting

oneself (Lerma, 2017). Thus, the analogy and act of centering oneself equally and centrally within the four mountains, relates to every aspect of *Diné* culture and philosophy of life.

In 1868, during the volatile period of US expansion into the southwest, the Navajo people signed a peace treaty with the US Federal Government ceasing conflict and agreeing to allow the construction of railroads through their homeland, as well as, free passage for US officials. These concessions on the Navajo's part were made in exchange for securing the right to return and live peacefully in their traditional homeland, *Diné Bikéyah* (Navajo Land) (Iverson, 2002).

While other native tribes continued to wage wars (or lamented the reality of needing to sign treaties and make concessions with the US), the Navajos saw it as an opportunity to adapt to the modern era. For them it was a means through which they could continue to live and practice their traditions in *Diné Bikéyah* (Iverson, 2002). This attitude or outlook that the Navajos hold is often attributed to the Navajo creation story detailing their first ancestor: *Changing Woman*. She is the most respected and elevated persona in Navajo oral tradition and lies at the core of *Diné* perspective and approach to life. She teaches them that the world and everything in it are subject to perpetual change, such as: the changing seasons, human growth and aging, years of drought or flood, and many other things. As such, she encourages them to be continually innovative and adaptive while maintaining the heart and philosophy of the *Diné* (Lerma, 2017).

Not all Native groups in the US ended up with their preferred⁵ territories; the Navajo Nation was one of the few that did (Iverson, 2002). Due to Changing Woman's teachings, the Navajo were able to make the concessions necessary to see the continuation of their people, in the land that the Holy Ones had rendered to them. Securing this specific territory, for the Navajo, was

⁵ *Preferred* meaning the land they occupied prior to US expansion (Iverson, 2002)

seen as vital to their cultural and religious practices; it also remained a crucial piece of their people's legacy (Iverson, 2002).

The Navajo, as previously mentioned, are a very ground up people, meaning the land that they call home is at the very heart of who they are as a people, as a culture, and as a philosophy. Much of the battles, struggles, and compromises that the *Diné* have made over the centuries, and since the arrival of Columbus, have been about preserving the traditions and culture by assuring the continued right to inhabit and govern the *Diné Bikéyah* (Navajo land). Thus, any permanent displacement or relocation of the *Diné* would be traumatic to the people and culture, jeopardizing the integrity of their way of life and philosophy of thinking. This perspective is the foundation and basis for continued sentiments of *loyalty*. To revisit⁶ what former Chief Justice, Yazzie, has said, any alteration in terms of dismantling the sovereignty of the reservations would have the effect of eroding and possibly eradicating the cultures of each reservation, and in particular, that of the Navajo Nation (Krakoff, 2004; Lee, 2007).

Zooming out a little from the very intensive cultural perspective, the Navajo people as a society in the world have been known to be very adaptive and innovative. Despite placing high value on tradition, ceremonies, and the 'old ways' they are also open to new ideas, thoughts, and perspectives (Iverson, 2002). This was evident during the time, Post-Discovery, when there was a heavy Spanish influence in the Southwest. The Spaniards and Mexicans introduced sheep to the *Diné*, who quickly understood the value and economic potential of sheepherding, adopting it as a societal practice (Iverson, 2002). Shortly after, they learned and adopted weaving of the wool, mastering the craft rather quickly and becoming one of the largest producers and sources of woven goods. Governor Charles Bent, during that period, sent a letter to the Secretary of State, James

⁶ See quote by Robert Yazzie (page 20), pulled from (Krakoff, 2004)

Buchanan, on October 15, 1848, acknowledging and commending the achievements of the Navajo in the Southwest region. He stated,

“They are a warlike and wealthy tribe, there being many individuals among them whose wealth is estimated as far exceeding that of any other person in this territory. Their principle wealth consists of immense herds of horses, mules, sheep, and cattle ... These Indians have permanent villages, and cultivate all the grains and fruits known to the Spaniards in this climate. They manufacture blankets of rare beauty and excellence” (Iverson, 2002).

According to the governor’s estimations, the Navajo people possessed a cumulative 30,000 cattle, 500,000 sheep, and 10,000 horses. He went on to state, “It not being a rare instance for one individual to possess 5,000 to 10,000 sheep and 400 to 500 head of other stock, and their horses are said to be greatly superior to those raised by the Mexicans.” (Iverson, 2002). It is evident, by his letters, that the Navajo peoples’ culture was a framework built on adaptability, entrepreneurship, and exceptionalism which fostered economic success, innovation, and prosperity. Speculation that poverty on the Navajo Nation ought to be attributed to lack of entrepreneurial spirit or work ethic should be reconsidered. Based on this passage by Governor Bent and other accounts, as well as, a look at life on the reservation today, entrepreneurial spirit and work ethic are not lacking by any means (The Economist, 2008; Bobroff, 2001; Hoffer, 2017).

The Navajo traditional governance, still perpetuates. Despite the roadblocks and hurdles faced by the Navajo people on the Navajo Nation today, particularly, in terms of economic opportunities, they still display immense amounts of hustle and hard work in making ends-meet (Economist, 2008). To drive north from Flagstaff into Navajo territory, one can see dozens of makeshift stalls littering the long and desolate highway; these stalls advertising all kinds of goods:

pottery, jewelry, woven goods, and art. This entrepreneurial nature which is embedded within the culture and religion is evident in every one of these boot-strapped shops and market stands scattered along the bare highways from Flagstaff to Paige, Winslow to Gallup, and beyond. Anything they can craft and sell, they craft; anywhere they can set up shop, they set up shop – even if it’s the back of a pick up on the side of the road selling oranges or frybread (Economist, 2008). Entrepreneurship or a lack thereof are not the issue, the issue is bureaucratic (O’Neil, 2005).

A look back at the 1940’s, during the period of the Second World War, the US military recruited Navajo speakers for the purposes of developing an uninterpretable code that could be used on the battlefield to transmit secret messages. They were unequivocally successful, as the Navajo code remained unbreakable through the war and for decades after (National WWII Museum, 2021). This service on behalf of the Navajo Code talkers, and as an extension the Navajo people, served as a bridge between the *Diné* and the US. It proved that assimilation, patriotism, and unity were possible without compromising heritage and tradition. The Navajo people demonstrated that natives in the US could at once be American citizens that contribute to their country, while also maintaining their traditional culture. The Navajo Code talkers sacrificed and served alongside other Americans, from all different backgrounds, in the protection of the US and the shared homeland. They also contributed in a very unique way that only they could, thus, simultaneously honoring their culture and heritage. While other Nations were devising technological strategies of communications, the Code Talkers developed the most successful form of secure communication by simply utilizing their traditional language, demonstrating the value of their language as a strategic asset (National WWII Museum, 2021). Thus, tradition and culture do not necessarily hinder assimilation or cohesiveness within a society or nation, in fact they can add value to them. As was aptly affirmed by Peter Iverson in his book the *Diné: A History of the*

Navajos, “To be Navajo meant to respect the old ways and to find the means to continue in a new day.” (Iverson, 2002).

The real shift in *Diné* governance, from traditional to contemporary, can in part be attributed to the influence of the surrounding US culture and any government officials and advisors that helped reshape governance on the Navajo Nation from the time of the signing of the 1868 Treaty to present; but it is also attributed to the very aggressive push to re-educate natives. Native Americans, and especially the Navajo people, were subjected to boarding schools, starting in the late 1800’s, which were intended to assimilate the new generation by teaching them western ideals, language, and religion and forcing them (by punishment) to not speak in Navajo or practice any of the traditional values (Little, 2018). This was a traumatic episode in Navajo history which has had social ramifications through today (Little, 2018). By removing the younger generation from the elders in society, it caused a major disruption in the ability to pass on the legacy. This unfortunate event in tribal history enabled a more rapid transition from traditional to contemporary governance (Lee, 2007).

In summary, there is a need and a good that stems from the preservation of Native cultures; however, in light of the problem of dueling sovereignties and the inescapable truth that Navajo tradition has been forcefully eroded, a naïve approach to remedying the struggles on the Navajo Nation will not suffice. Fundamentally, a solution must be found in which the members of the tribe do not have to sacrifice their health, happiness, or prosperity for the sake of preserving their heritage and traditions.

Contemporary *Diné* Governance

Contemporary *Diné* governance is a hybrid between the remnants of traditional *Diné* governance, as previously outlined, and the modern western governance structure, specifically that of the US Federal government. The traditional governance framework was linear; in which, there

were family clans and heads of households but no formal hierarchy of power (Austin, 2009; Tiller, 2015). The contemporary *Diné* governance has integrated a hierarchical structure with checks and balances, in a way that mirrors the US Federal government structure (Austin, 2009).

Contemporary governance consist of three branches of government, for the purposes of checks and balances: the executive (Presidency), judicial (Supreme Court), and legislative branches (Navajo Nation Council) (Austin, 2009). Although the US model is not entirely hierarchical, these three branches for both the US Federal government and the Navajo Nation are considered to be the top of the power hierarchy. For the executive branch, there is the President, Vice president, and his cabinet. The President is voted in by the members of the Nation along with his selected cabinet. The rules for eligibility are fairly similar to the US Federal Government's rules, with the exception of traditional provisions such as the presidential and vice-presidential candidates must speak both Navajo and English in order to run for office (Navajo Elections Administration, 2018).

The President nominates judges to the Navajo Supreme Court and District Courts. There are 10 judicial districts and below them are the family courts which handle civil disputes (Austin, 2009). The Navajo Nation Supreme Court was first founded in 1985 with the mandate of finding, as Raymond Austin stated, "ways in which indigenous normative precepts can be used to decide modern legal problems." This, he confirms, is done by "retrieving ancient tribal values, customs, and norms, and using them to solve contemporary legal issues and tribal problems." The legal framework established by the legislative and judicial branches have formed what is today known as Navajo Common Law (Austin, 2009).

The legislative branch, called the Navajo Nation Council, consist of 24 delegates which represent the 110 Chapters. These Chapters, developed in 1927, can be equated to the US States,

where delegates represent them in the Navajo Nation Council, which can be equated to Senators in US Congress. There are 88 representatives in the Navajo Nation Council, which can be likened to the US House Representatives. The most local form of governance on the Nation are the Chapters and Chapter houses (Austin, 2009; Tiller, 2015).

In all these facets of governance on the Navajo Nation, there is a very strong framework which is built upon Western political thought and more specifically, US Federal governance structure. The structure is so heavily 'US Federal' that when injected with the traditional ethos *sans* traditional framework, it does not mesh well; and it frankly shouldn't be expected that the two would mesh since they are so fundamentally different (Austin, 2009).

The current problem, not expressly stated by Austin (2009), but nevertheless demonstrated by him, is that the Navajo people approach life and politics from a fractured philosophical lens; *fractured* not necessarily of their own accord but from forced assimilation (through boarding schools) and persistent erosion of the culture by outside forces over the last hundred years. Furthermore, this cultural lens, fractured or not, impacts their social and political decisions.

A good example would be the evolution of land ownership on the Navajo Nation. In the traditional *Diné* society women held a very integral and important role (Tiller, 2015). Land was 'owned' by women, and as such, Navajo society was matrilineal. Navajo social organization consisted of two or more families centered on a mother and her daughters (Tiller, 2015). Even though 'land ownership,' during the time of traditional governance, was not exactly the same as it is in the modern US legal framework, it still held the same significance (Bobroff, 2001). Ownership then was respected and recognized, any attempt to seize the land was perceived as an offense, and it was not treated as communal land (Bobroff, 2001).

Today, this land is held in trusts by the US Federal government and the tribes are still subject to US Federal government interference. One such interference was the Dawes Act⁷, which was later repealed, but not before creating significant disruptions. Under the *Dawes Act* land was cut up and allotted and any ‘surplus’ territory was stripped from the tribes and sold to non-natives (Bobroff, 2001). This caused a major disruption in tribal societies and a major setback for these tribes in terms of both development and investment during the decades it was active (Bobroff, 2001). Despite its repeal, many non-natives believed the reason it had failed, was not because it was a horrible system, but because Natives did not understand property ownership. As Bobroff put it, “Allotment failed not because Indians had never known private property, but because it imposed a single dysfunctional property system on all Indian tribes and prohibited those tribes from changing it. Once an Indian reservation was allotted, tribal property laws were replaced {...} could only be changed {...} by an act of Congress (Bobroff, 2001).”

As outlined, tribes had property ownership in their traditional societies. It was in fact the Western governance which completely undermined and eroded it. In the words of the Principal Chief of the Cherokee Nation at the time, D.W. Bushy-head:

“Our own systems of law and land tenure are admirably suited to our people. The statements made to you that we, or any of the Indians, are communists and hold property in common are entirely erroneous. No people are more jealous of the personal right to property than Indians. The improvements on farms may be, and often are, sold; they may descend in families for generations, and so long as occupied cannot be invaded, nor for two years after abandonment. These farms and lots are practically just as much the property of the individuals as yours are. He who does not wish to keep can sell to all lawful citizens. The only difference between your land systems and ours is that the unoccupied surface of the earth is not a chattel to be sold and speculated in by men who do not use it (Bobroff, 2001).

Letter to the Congress of the United States, 1881

⁷ The Dawes Act’s main objective was to forcefully assimilate Natives into mainstream US society, by allocating land and stripping ‘surplus’ land. See (Bobroff, 2001). It was repealed in 1934.

The Navajo people had a very successful system before but it was disrupted. Not only did they have to start from zero amid the dysfunctional Dawes Act; but had to restart again after its repeal in 1934 (Bobroff, 2001). These changes have carried effects through today in terms of property rights and ownership issues. The current system of ownership on the Navajo Nation, today, may not reflect the US's ownership laws but neither does it reflect the traditional structure either. This example, of how land ownership evolved on the Navajo Nation, represents in a way the tumultuous journey of governance transformations throughout the last hundred years. It also represents the fundamental breakdown in Navajo society. From quality of life, to economic development, to crime rates,⁸ Navajo society has seen a complete overall decline.⁹ While there are things the Navajo Nation, among other reservations, can do to improve its socio-economic situation, the unfortunate reality is that there are outside forces, which serve as roadblocks to that end. In a statement about the pervasiveness of domestic violence¹⁰ on the Navajo Nation by J. Zion, the sentiments are clear: "Crime in general on Indian reservations is the product of an environment created by the disruption of traditional lifestyles and economies." (Zion, 1996) His point being, life on the Navajo Nation was not always so abuse and crime ridden, and there were traditional systems in place which managed eruptions of violence in a way that kept it at bay and kept people protected.¹¹ While it is not always productive to point fingers, Zion's point has serious merit considering the constant and disruptive policies the Navajo Nation (and all reservations) have faced over the many decades.

⁸ 'quality of life, economic development, and crime rates' the statistics for these categories can be found in Chapter III.

⁹ *Decline* here refers to Hirschman's Exit, Voice, Loyalty theory (decline in States)

¹⁰ J. Zion wrote a brief for the Department of Justice detailing the prevalence of Domestic Violence on the Navajo Nation, titled: *Hazho's Sokeé: Stay together Nicely*.

¹¹ See (Lerma, 2017), *Diné* philosophy of governance

There is an old story about how the *Diné* once lost their way, where they stopped practicing the traditions or conducting the sacred ceremonies. At this time, society fell into misery and chaos, known to the Navajo as *naayéé'* (disharmony), where people suffered a great deal. The elders appealed to the Holy Beings for help. One day, two children were playing in the field and the Holy Beings took them away and brought them to Changing Woman's home. The Holy Beings instructed the *Diné* people to follow them, so they did. The *Diné* camped close to where the children were staying but were not permitted to see them for many years. One day, when the boy and girl were adults, Changing Woman brought the children back to their people. Having spent their life learning the ways, traditions, and ceremonies, the children were instructed to teach the *Diné* all these things. On the journey home, the children taught the *Diné* all that they had learned. When they finally arrived back to *Diné Bikéyah*, the land between the Four Mountains, the Holy Beings blessed the mountains, the land, and the *Diné*. This blessing of the land and people became known as the Blessing Way ceremony, which they still practice to this day (Austin, 2009; Lerma, 2017).

This story has a few important insights. The first, it demonstrates how significant tradition is to the *Diné*, and also how significant *Diné Bikéyah* is to them and their beliefs. Second, it is a story that is parallel to the current circumstances seen on the Navajo Nation. It is a poignant and relevant history of the Navajo people, which is fully applicable to today's social climate. What the Navajo people see, through their lens, is a reemergence of *naayéé'* (disharmony) and a loss of *hózhó* (all that is good, the perfect state); the answer, according to tradition, is a full re-immersing into the ways, customs, and ceremonies of old. The question then becomes, is it possible to do so? There would need to be an isolation element to re-founding tradition, and simultaneously, a restructuring of the Navajo Government to have it re-formed into the way it was traditionally. There

would need to be a shift from hierarchical structure to horizontal, from bureaucratic chapter houses to heads of households (Tiller, 2015; Lerma, 2017). It is a very big shift that would require everyone on board. Fundamentally, it would not make sense to have autonomous zones meant for Indian tribes to practice their culture and traditions if they cannot do so entirely. The very obvious truth is that a half-way governance is not an adequate one. Forced assimilation was very real and now many tribes have reached a *point-of-no return* in terms of their heritage and traditions. It is an unpleasant place this half-way governance, as *statistics*¹² have shown, and it is a place of decision. Before all the elders and keepers of tradition pass away, what will the tribes choose to do? There is a constant pull back to tradition and the ways of old, and this is not just cultural but also religious; at the same time there is already a partially transitioned government and people. At some point very soon, a decision, one way or the other, is inevitable.

This perpetuating notion that not adhering to tradition is to the detriment of Navajo society, objectively speaking, is not without its merit. Traditional governance depends on community; communal pressure to not stray from the acceptable behavior and a communal involvement in the formation of such beliefs in the upcoming generations. Without significant community participation, traditional governance is ineffective (Lerma, 2017). Modern governance is very sterile, in the sense that an individual is arrested and tried on the evidence and procedures of the law. In a traditional society, an individual is tried based on the context of their life, family, and behavior (Lerma, 2017). Either the Navajo follow traditional justice systems and practices or they follow the western legal framework, it is not effective to do both.

¹² See Chapter III, *Data Trends* (pg. 44)

2. Dueling Governances

In Sarah Krakoff's (2004) analysis, *A Narrative of Sovereignty: Illuminating the Paradox of the Domestic Dependent Nation*, she pulls from case law in order to delimitate and define, as clearly as possible, what exactly tribal sovereignty is, what it means and entails, and to what extent the US federal government grants tribes authority and jurisdiction over activities within their demarcated territories. According to the Bureau of Indian Affairs it is quite simple, the US and these Native American groups signed peace treaties which had very clear stipulations. Their official description is as follows,

“These “contracts among nations” {Treaties} recognized and established unique sets of rights, benefits, and conditions for the treaty-making tribes who agreed to cede of millions of acres of their homelands to the United States and accept its protection. Like other treaty obligations of the United States, Indian treaties are considered to be “the supreme law of the land,” and they are the foundation upon which federal Indian law and the federal Indian trust relationship is based.” (Bureau of Indian Affairs, 2021)

Although the US government officially recognizes these Native American Reservations as independent sovereigns with “supreme law of the land” the reality is not so clear cut. Krakoff notes that, on paper at least, there are officially over 500 Federally recognized American Indian Tribes which function as sovereign nations. Yet, despite their federally recognized and autonomous legal status, US Supreme Court rulings continue to chip away at that autonomy by effectively re-delimitating tribal power and jurisdiction through Case Law; leading Krakoff (2004), as she points out, to conjecture if tribal sovereignty truly exists – in practice at least.

To begin, Supreme Court Chief Justice John Marshall stated in the 1830s, “tribes possess a nationhood status and retain inherent powers of self-government (Bureau of Indian Affairs, 2021).” Not long after, in the 1880s, it was confirmed through Case Law that, “The United States

still asserts plenary power¹³ and thus requires the territory of the Navajo Nation to submit all proposed laws to the United States Secretary of the Interior for Secretarial Review,¹⁴ through the Bureau of Indian Affairs (BIA).” This determination through Case Law makes for a very confusing situation, in which, tribal nations do not appear to have *inherent powers of self-government*.

At the same time, according to the Bureau of Indian affairs (2021), “The federal Indian trust responsibility is also a legally enforceable fiduciary obligation on the part of the United States to protect tribal treaty rights, lands, assets, and resources, as well as a duty to carry out the mandates of federal law with respect to American Indian and Alaska Native tribes and villages.” This statement almost makes it sound as if tribal sovereignty is a government project or at least a system which is under the management of the US Federal government, not a relationship between two separate sovereigns. This contrasts with a more recent Case Law ruling, *United States v. Lara* (2004), in which the US Supreme Court decided that *Lara* could be legally tried twice since the Indian tribe in which the crime took place and the US Federal Government were considered separate sovereigns, suggesting that the Double Jeopardy Clause, in this case, was not violated (Krakoff, 2004). With these select examples, it becomes quite clear that Indian Nations exist in a very volatile system which has a propensity and potential of changing completely at the conclusion of any new court case. Furthermore, at the conclusion of the case, *US v. Lara*, Justice Thomas remarked, recognizing the contradictory nature of tribal sovereignty, that the Supreme Court ought just to declare that “tribal sovereignty does not exist” (Krakoff, 2004). As mentioned

¹³ See *United States v. Kagama* (1889), which affirmed Congress had plenary power over all tribes within US borders (Bureau of Indian Affairs, 2021)

¹⁴ Conflicts between US Federal government and tribal Nations are settled by negotiations summarized in political treaties. (Bureau of Indian Affairs, 2021)

previously, this is one solution, but it is not the best solution; yet he is correct in noting the contradictory nature of tribal sovereignty and the many problems it fosters.

In light of the volatile nature of tribal sovereignty, and in order for the two entities to coexist in the way they were initially established, where the reservations are able to exercise some level of autonomy and sovereignty while non-native US citizens and Indian members may move freely between US soil and Indian soil, many treaties and amendments have been made and continue to be made which continually fill the gaps in governance in a way that satisfies both parties. As stated by the Department of Justice of the United States (U.S. Department of Justice, 2015):

The United States Constitution, treaties, Federal statutes, executive orders, and court decisions establish and define the unique legal and political relationship that exists between the United States and Indian tribes. The FBI and the USAOs are two of many Federal law enforcement agencies with responsibility for investigating and prosecuting crimes that occur in Indian country.⁴ In addition to the FBI, the Department of the Interior's Bureau of Indian Affairs (BIA) plays a significant role in enforcing Federal law, including the investigation and presentation for prosecution of cases involving violations of 18 U.S.C. §§ 1152 and 1153. The delineation of responsibilities between the FBI and the BIA was the subject of a Memorandum of Understanding (MOU) made between DOI and DOJ in 1993.⁵

(U.S. Department of Justice, 2015)

The following is an excerpt from a report of the Department of Justice detailing key lines of delimitation in regards to major and minor crimes on the reservations, including crimes involving Natives and non-Natives:

The two main Federal statutes governing Federal criminal jurisdiction in Indian country are the General Crimes Act, 18 U.S.C. § 1152, and the Major Crimes Act, 18 U.S.C. § 1153. Section 1153 gives the Federal Government jurisdiction to prosecute certain enumerated offenses, such as murder, manslaughter, rape, aggravated assault, and child sexual abuse, when they are committed by Indians in Indian country. Section 1152 gives the Federal Government exclusive jurisdiction to prosecute all crimes committed by non-Indians against Indian victims in Indian country. Section 1152 also grants the Federal Government jurisdiction to prosecute minor crimes by Indians against non-Indians, although that jurisdiction is shared with tribes, and

provides that the Federal Government may not prosecute an Indian who has been punished by the local tribe. To protect tribal self-governance, Section 1152 specifically excludes minor crimes between Indians, which exclusively fall under tribal jurisdiction

(U.S. Department of Justice, 2015).

The focus of the report is on criminal justice and overlapping jurisdiction which can be found in the General Crimes Act and Major Crimes Act. Severe crimes, under these Acts, may be prosecuted by the Federal Government if the crime is committed on Indian soil, regardless of whether it is by members of the Indian community or by non-natives. The legislation also denotes that any crime committed by non-natives will be exclusively reserved for the Federal Government and considered their exclusive jurisdiction. For minor offenses between Indians and non-Indians, the tribe or the Federal government may deal with it, however, if the tribe has already dealt with the offense and determined punishment on an Indian then the Federal government cannot prosecute further. This problem of ‘the tribe or the government may deal with it’ leads to some serious grey area and is an example of gaps in governance, in which the delimitating line in legislation or jurisdiction does not exist and must be carefully approached (U.S. Department of Justice, 2015). To revisit the *US v. Lara* Case, the perpetrator was subject to two separate trials and punishments, which in the US would not be permissible under the Double Jeopardy Clause, but because it was ruled that the two governments were separate sovereigns, the trial did not violate the Clause. This leads to people like *Lara*, who happens to be a Native from another tribe, to be subject to more severe consequences than other US citizens, suggesting that this dual sovereignty has the proven potential to make life worse for Natives.

Because there is such uncertainty it can lead to loopholes and other opportunities for crime or grey areas, which, as a consequence, leads to a certain level of lawlessness beyond just acceptable error.

The Federal Government also has jurisdiction to prosecute Federal crimes of general application, such as drug and financial crimes, when they occur in Indian country unless a specific treaty or statutory provision provides otherwise. On a limited number of reservations, the Federal criminal responsibilities under Sections 1152 and 1153 have been ceded to the states pursuant to Public Law (P.L.) 280 or other Federal laws.

(U.S. Department of Justice, 2015)

Minor crimes between Natives are left to the discretion of the tribal government. More severe crimes such as crimes involving illicit drugs or illegal financial activity are somewhat vague, allowing for potential gaps and oversight. It is clear, however, that unless treaties or provisions denote otherwise, such crimes are covered by US Federal Government jurisdiction. This is just another example of how messy and poorly structured the division of jurisdiction is between tribes and the US government.

In summary, there are significant outside forces working against the Navajo Nation and which play a role in the Nation's poor socio-economic circumstances. Still, the Navajo Nation does have some level of power and autonomy, through which it has a means and an opportunity to make significant positive improvements for the members. The key for the people and government is understanding what each can do to create a better situation for all.

Chapter III: Analysis

In consideration of all the complications regarding life on Indian Reservations, and in this particular case life on the Navajo Nation, it becomes evident that there are many complex factors which put restrictive and negative pressure on the Navajo members and Navajo government. Many of these factors were imposed from the outside, by a powerful force: the United States government. Navigating this delicate, intricate, and often contradictory legal framework is certainly one very large influence on the current socio-economic state seen on the Navajo Nation. Despite this, and from the research conducted, there appears to be a few significant things the Navajo people and government can do, in order to make positive social change happen.

Here is hypothesized, that Hirschman's *Exit, Voice, and Loyalty: Responses to Decline in Firms, Organizations, and States* theory can help explain the current socio-economic circumstances and provide insight into potential remedies toward enacting positive social change on the Navajo Nation. To revisit the structure of the theory; in the context of States, citizens have two choices when faced with a decline in their society or a loss to their social benefit: they can exit (typically in the form of emigration) or they can voice (tell the government their opinion with the expectation of having a change occur). Typically, the decision to voice or exit depends primarily on which one adds the greatest amount of benefit vis-à-vis the least amount of cost. Loyalty can affect the perceived benefit-to-cost ratio. If exit is easy, as in the case of the Navajo Nation, then people would prefer to leave as opposed to stay and voice their discontent; however, with the added element of loyalty, despite the ease of exit, voice might offer a better benefit-to-cost ratio. Likewise, if voice is possible or even encouraged; yet, exit is not only easy but very beneficial and perceived as the better option, then exit will be the preferred option (Hirschman, 1970).

The State, or government, can be two things: *dependent* or *autonomous*. *Dependent* meaning they depend on the loyalty of the people and cannot afford to have them exit *en masse*. *Autonomous* meaning they are relatively indifferent to mass exit. The dependency of the government on the citizenry is important because the more dependent the government is on the people, the greater the incentive to listen and service the people. If States value the loyalty of their citizens more than they value the benefits of any given policy change, then they are considered to be dependent. In the case that citizens have a credible exit threat and a state is dependent on them, the State will be less likely to act in a way that is disagreeable to the public and will be more attuned to their concerns and feedback (Hirschman, 1970).

In the case of the Navajo Nation, exit is very easy. Not only is it easy, but exiting the Navajo Nation either for new residence or employment lands Navajo members in the world's largest economy; with infrastructure, employment opportunities, and amenities to match (BBC News, 2021). Even if voice were very effective, social change and infrastructure take time to create; whereas, through exit, Navajos can get a better standard of living by the afternoon, so to speak.

According to Hirschman, there was a major shift in the post-colonial era; where people prior to and during colonialization preferred to exit, but people after colonization opted to voice their discontent. This he noted was likely due to the relative, increased restrictions and costs involved with emigration in the modern era (Hirschman, 1970). In the case of the Navajo people, emigration into the US and off the tribal reservations has only gotten easier; with more efficient transport and reduced culture shock. These serve as added incentives to leave.

For the Navajo Nation government, they are faced with a population incentivized to leave. If desirable policies or opportunities are not readily available, then the people will just opt to leave.

The only counter-*exit* incentive the Navajo government has is *loyalty*. The problem with this incentive (loyalty) is that exit from the Navajo Nation comes in two forms: 1) commuting off the reservations (for work or shopping) and 2) relocating off the reservation (establishing residence elsewhere in the US). The problem with *commuting* is that it not only has the full effect of exit but it also appears as not exiting. If people are earning and spending off the reservation then they are not voicing their discontent to the government and no change on the Navajo Nation is occurring. The problem with relocating is that it is effectively *exit* (and it appears as exit), however, those who relocate are not barred or restricted from visiting the Navajo Nation. For many who relocate, it is not even a great inconvenience to drive back to the reservation and visit or practice tradition with family. This implies that *loyalty* can be satisfied with both forms of *exit*. Thus, in this particular circumstance, the counter-*exit* incentive does not do much to incentivize people to stay. What this means for the government is that it must make additional active efforts to reach out to the members and gain their feedback and it must make active efforts to entice people to stay.

In one application of his theory, Hirschman suggested that European Nation-States only really began to develop into the ‘modern state’ once they could heavily restrict movement, in other words: reduce emigration. This is a useful example for the Navajo Nation on its journey toward improving society. Not that the Nation can force people to stay or even should force people to stay, but it should work to manage exit better in order to be able to build a thriving society. This is particularly poignant since the age group that emigrates the most, percentage wise, is the 20-39 age bracket, which is the working class¹⁵. The working class is the foundation of a successful and thriving society. It is not necessary to force the people to stay; but the government will need to

¹⁵ See Figures starting on page 45; (Navajo Division of Health and Navajo Epidemiology Center, 2013)

entice members and engender stronger loyalty bonds in order to discourage, as much as possible, exit.

The other question that is not as easily discoverable, is whether the Navajo government is dependent or autonomous toward the members. Based on the socio-economic state of the Navajo Nation it would appear that the government is dependent but is not necessarily aware of its dependency, or does not think it is dependent on the members. Essentially, either the government does not know it depends on the members and ignores them, or they are aware they depend on the members but cannot get them to stay and *voice* their feedback. Either way, the government needs to start taking the *exit* of the people seriously, because as trends¹⁶ show, there is a mass exodus of the working class from the Navajo Nation. *Exit* only provides the warning signs of decline or dissatisfaction; whereas, *voice* can tell the specific reasons for the decline. Thus, the most important first step for the Navajo government in engendering positive socio-economic change is attaining full feedback from its members (Hirschman, 1970).

An additional issue, faced by the Navajo Nation which would affect Navajo members' cost-benefit-ratio in terms of *exit* and *voice*, would be the level of government pay-outs. Not all tribes have casinos, and of those who do have casinos, not all of them are extremely profitable. However, of the reservations which have profitable casinos, most of them offer their members a share in that profit. The Navajo people, on the other hand, receive no governmental pay-outs. Since there are no monetary payouts to Navajo members, the Navajo people must secure some form of employment in order to earn income. With employment opportunities on the reservation being scarce, the Navajo people, in the working class in particular, are driven to seek those opportunities elsewhere off the reservation. Loyalty in this case is trumped by the need for employment and

¹⁶ See Figures starting on page 45, (Navajo Division of Health and Navajo Epidemiology Center, 2013)

income. Take the *Shakopee Mdewakanton Sioux Community*, in Minnesota, they receive the highest recorded payouts of all reservations at an estimated 80,000 USD per person, per month, from their tribal government; equating to a nearly 1,000,000 USD salary per year, per person (Daily Mail, 2012). This payout acts as an incentive to stay on the reservation, because employment and/or income is not a problem. The *Shakopee* do receive the highest payout of all US tribes, but other tribes still receive notable pay-outs as well, along the lines of a few thousand USD per month (Bunting, 2004). These payouts are themselves barriers to exit, so the people stay and have the money to live comfortably and also invest in their community. The Navajo do not have such income opportunities, therefore they have a financial incentive to follow the jobs.

To understand how well Hirschman's theory may apply to the situation on the Navajo Nation, certain data trends will be analyzed, followed by a small sample survey. The data trends will focus on Hirschman's concept of exit and the survey will focus on his concept of voice.

1. Data trends

This section is dedicated to analyzing data trends in order to gain some level of insight into population behavior patterns and governmental actions or reactions which may shed light on the Navajo Nation's particular circumstances, through the lens of Hirschman's theory. As mentioned before, the Navajo Nation has a great deal of growing and reinventing to do before it really becomes that which it needs to be. Having said this, as it stands today, poverty is high, education is low, infrastructure is lacking, yet, the government is seemingly not adapting (Hoffer, 2017; The Economist, 2008; Pardilla, 2013). This section will include an analysis of data in the categories of population trends, housing, amenities, employment/social security, and crime/safety. The aim is to see what the data, facts, and figures have to show, in the context of Hirschman's theory.

Population trends

Since the 1980s, the Navajo population in terms of members has boomed, doubling over the last thirty years. Table 1, retrieved from the Navajo Division of Health and Navajo Epidemiology Center (2013), shows the population size (in terms of Navajo members) and their percent living off the reservation, shown by decade.

Table 3.2. Population of the Navajo and U.S., 1980-2010 Trend, and Percent of Navajos off-reservation

<u>Population</u>	<u>1980</u>	<u>1990</u>	<u>2000</u>	<u>2010</u>
Navajo alone population on Navajo Nation	125,449*	136,253	167,539	156,823
Total population (all races) on Navajo Nation	140,984	155,876	180,462	173,667
Navajo in combination population in U.S.	158,633	219,198	298,197	332,129
Total U.S. population	226,545,805	248,709,873	281,421,906	308,745,538
Percent Navajos living off-reservation	20.9%	37.8%	43.8%	52.7%

*Note: The 1980 Navajos alone numbers were calculated using 95 percent of the total numbers of American Indian living on Navajo Nation, from 1996 Chapter Images.⁷

Table 1: (Navajo Division of Health and Navajo Epidemiology Center, 2013)

From the table, it is evident that the *Percent of Navajos living off-reservation* saw a staggering increase over the decades. The proportion of Navajos living off-reservation increased an average of 10% per year. While data collection methods and accuracy of the data may vary slightly over the decades, it is still a significant population trend. Looking at the population of Navajos living on the reservation in 2000 versus 2010, there were more Navajos living on the reservation in 2000, when the population was smaller, than in 2010, when the population was much larger. Based on the data reported, it would seem that an increasing percent of Navajos are choosing to live off the reservation. The data alone cannot speak for itself; yet, some plausible explanations for the trend could be 1) relocation due to employment, 2) reduced stigmas against Navajos (stemming from discrimination) over the decades, or 3) a general increase in desire to live off the reservation. In terms of Hirschman's theory (1970), this could be a significant indicator of exit, in which Navajos are voting with their feet, choosing *exit* over *voice*. Despite the unknown

context of the trend, the trend is very stark. Further surveys and data sources will attempt to shed light on the context of this unusual trend.

Figure 1, also pulled from Navajo Division of Health and Navajo Epidemiology Center (2013), represents the breakdown by number and percent of where Navajo Members are choosing to take residence:

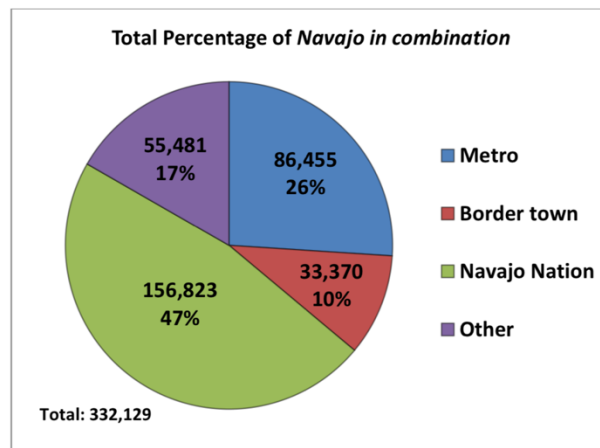


Figure 4. Total number and percentage by location of *Navajo in combination* in the U.S.

Figure 1: (Navajo Division of Health and Navajo Epidemiology Center, 2013)

According to the chart, less than half of all members currently live on the reservation. Ten percent live in the *border towns*, meaning non-reservation towns that are located close to the Navajo Nation border. Twenty-six percent have relocated to *metro areas*, this constitutes big cities such as Phoenix. Navajo members living in border towns, in terms of Hirschman's theory, could suggest a desire to *exit*, in order to reap the benefits of *exit*, combined with high levels of *loyalty*. A border town would provide job opportunities, safety, and amenities not readily available on the reservation, while also allowing ease of returning to visit family and practice tradition. A high number, over a quarter of Navajos, live in metro areas. This could possibly be due to the job opportunities, specialized services, or the ample amenities available in major cities. Again, the data cannot speak for itself, but some general explanations can be made. A

decision to move to a major metro area might suggest a weaker *loyalty* sentiment as compared to those who choose to live in the border towns; however, it could purely be an economic decision. At the end of the day, people need to earn income and make a viable living, the big city is one way to do that.

Employment and the Working class trends:

The following chart, Figure 2, retrieved from the Navajo Division of Health and Navajo Epidemiology Center (2013), represents a breakdown by age groups of Navajos living on the reservation:

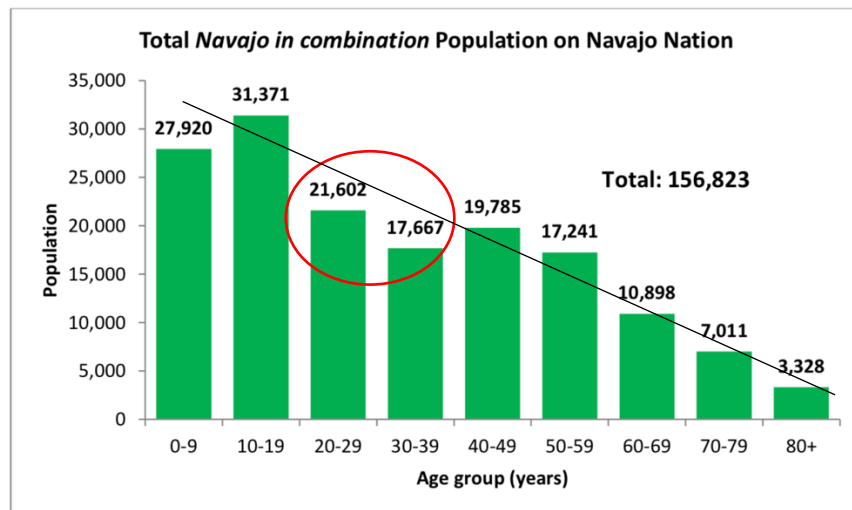


Figure 17. Age distribution of total *Navajo in combination* population on the Navajo Nation.

Figure 2: (*Navajo Division of Health and Navajo Epidemiology Center, 2013*)

Figure 2 shows an unusual dip in the two age groups: 20-29 and 30-39. The dip in the 0-9 age range, can be contributed to a lower birth rate; the dip in the 20-39 age ranges would likely be due to another factor, such as *exit*. To better understand the significance of the dip in numbers per age group, the following graph, *Figure 3: Total Navajo in combination Population* (which includes Navajos living off the reservation), will be used:

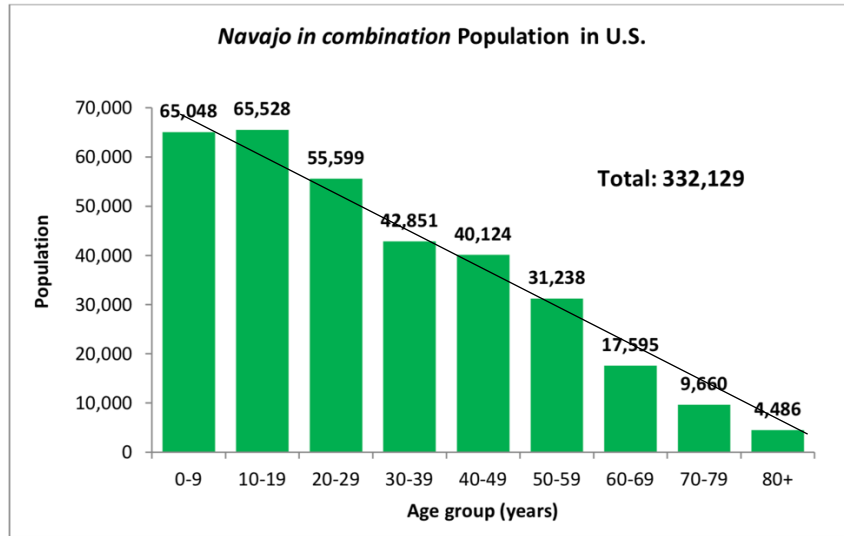


Figure 5. Age distribution of total *Navajo in combination* population in U.S.

Figure 3: (*Navajo Division of Health and Navajo Epidemiology Center, 2013*)

The two charts, Figures 2 and 3, are quite different in shape, in terms of proportion in numbers per age group. For the 0-9 age group, 58% of that age group lives off-reservation. For the 10-19 age group, 53% live off-reservation. For the 20-29 age group, 61% live off-reservation. For the 30-39 age range, 59% live off-reservation. For the 40-49 age group, 51% live off-reservation. For the rest of the age groups the percent living off-reservation decreases until the final category, 80+ age range, which has a population of less than 26% living off-reservation. The trend suggests: the younger the Navajo member is, the more likely they are to reside off the Navajo Nation.

Graph 3 does show that overall birth rates have lowered for the 0-9 age range, as compared with the 10-19 age range; however, as compared with Graph 2, there is also an indication that a higher proportion of Navajo children live off-reservation. This is likely due to the fact that their parents probably fall within the 20-39 age range. These age ranges, 20-29 and 30-39, show a significant proportion living off-reservation, as compared with other age groups. For the 20-29 age range, 61% live off-reservation; followed by the 30-39 age range at 59% living

off-reservation. This could be a strong indicator of Navajo members' preference towards *exit*, in the terms of Hirschman's theory. It is also a strong indicator that the preference towards *exit* is in the working class. According to the Navajo Division of Health and Navajo Epidemiology Center (2013), from which the data was retrieved, they interpret the trends similarly, "The age distribution of Navajo in combination and Navajo alone shows a high population of young Navajos living in the metropolitan areas. Approximately sixty percent (60 percent) of Navajos living in metropolitan areas are in the 0-29 age group."

This same information can also be interpreted from Figure 4, which shows the population trends per type of location {on-reservation, off-reservation, in metro areas, or in border towns}, for each age group. The red line represents the proportion of Navajos living on the reservation. Just as in Figure 2, this red line shows a dip for the 20-39 age ranges. These age groups, instead, live predominantly in the metro areas and border towns, as shown by the green and purple lines; with a preference toward metro areas for the 20-29 age range, and a preference toward the border towns for the 30-39 age range.

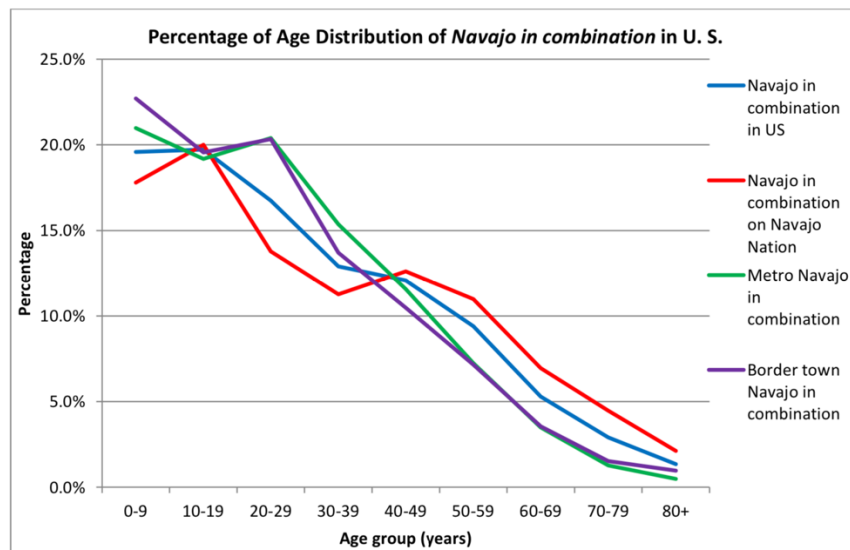


Figure 36. Percentage of Navajo in combination by age group and geographical area, in U.S., on Navajo Nation, in metropolitan areas, and in border towns

Figure 4: (Navajo Division of Health and Navajo Epidemiology Center, 2013)

In conclusion of these population trends, the Navajo people, particularly in the 20-39 age range, appear to be exercising their option to *exit*. This election to *exit* could be due to many factors; but more than likely, it is a means through which to secure greater employment opportunities. If indeed the reason for *exit* is due to lack of employment opportunities on the reservation, then that should be one primary focus of the Navajo government in their pursuit of retainment. More research and data would be needed to confirm this statement.

Economic trends

The key economic trends covered in this portion are ones which correlate with quality of life and ones which might demonstrate either an economic incentive to stay or to leave. The first Table, Table 2, covers general employment statistics between three groups: the Navajo Nation, the United States, and all Reservations. This table allows for comparison between the three.

Employment			
Geography	Civilian Employment-Population Ratio	Civilian Labor Force Participation Rate	Civilian Unemployment Rate
Navajo Nation Reservation	35.6%	43.9%	19.1%
United States	59.1%	63.3%	6.55%
All Reservations	47.6%	54.4%	12.6%

Table 2: (Federal Reserve Bank of Minneapolis, 2021)

The unemployment rate on the Navajo Nation is the highest of the three categories, and by a staggering amount. Even as compared to the other reservations, which perform on average substantially lower than the US, the Navajo Nation is even lower. Again, this statistic reinforces that quality of life (in terms of economic opportunities) is not only lower on the Navajo Nation;

but Navajo members have additional incentive to leave the Nation in favor of the US, whose unemployment rate is a third of that seen on the Navajo Nation.

The next table, Table 3, shows per capita income. The same pattern is apparent here, the Navajo Nation performs the lowest. The Reservations perform lower than the US but still much higher than the Navajo Nation. The incentive to leave stems from per capita being three times higher in the US than on the Navajo Nation.

Per Capita Income

Geography	AIANa	All
Navajo Nation Reservation	\$9,804	\$10,220
United States	\$17,903	\$30,088
All Reservations	\$11,391	\$18,662

Table 3: (Federal Reserve Bank of Minneapolis, 2021)

Table 4, compares poverty rates between the US and the Navajo Nation. The poverty rate on the Navajo Nation is a staggering 40.5% as compared to the US which is at just under 15%. Again, the numbers on the Navajo Nation are nearly three times worse than in the US, further incentivizing the working class and families to relocate off-reservation.

Poverty Rate

Geography	AIANa	All
Navajo Nation Reservation	41.0%	40.5%
United States	26.8%	14.6%

Table 4: (Federal Reserve Bank of Minneapolis, 2021)

In a study conducted on the Navajo Nation, in 2013, by Public Health Nutrition, found that 76.7% of surveyed households had some degree of food insecurity (Pardilla et.al.; 2013). If these surveyed households somehow reflect the whole population of Navajos, the implication is that

food insecurity is four times greater on the Navajo Nation as compared with that seen on other reservations (on average) and more than five times greater than the US national rate (Pardilla et.al.; 2013). The survey results, according to Pardilla et al. (2013) documented the “highest prevalence of food insecurity ever recorded in a US population.” Furthermore, in the study it was found that no correlation or association was found between obesity and food insecurity, but that an association was clearly found between low levels of education (12 years or less) and low employment rates. Again the theme perpetuates, education and job opportunities fall at the root of many issues found on the Navajo Nation. (Pardilla et.al.; 2013)

Housing and Amenities:

Unfortunately, for this paper, relevant data on housing and amenities was not found. The only chart that detailed information relevant to availability of housing and amenities was Table 5 which shows access to broadband. As is evident, access to broadband is half that of the other reservations and a third that of the US. Without making any over-generalized assumptions, the category of access to housing and (other) amenities, likely results in a similar pattern: lower than the other Reservations and substantially lower than the US. Again, more data is required before proper conclusions can be made. Discussions on housing and amenities will be re-visited in more detail in the *survey section*.

Households that have Broadband	
Geography	Households that have Broadband
Navajo Nation Reservation	24.0%
United States	78.1%
All Reservations	58.2%

Table 5: (Federal Reserve Bank of Minneapolis, 2021)

Health, wellness, and Safety trends:

In terms of quality of life standards, health, wellness, and safety are at the top of the list. Unfortunately on the Navajo Nation, the mortality rate is high, especially for males. The leading cause of death on the Navajo Nation is *unintentional injury* for both men and women, but men at a much higher rate. The US mortality rate is recorded at 37.3 per 100,000 in the category of *unintentional injury*, and is the 5th leading cause of death, not the first. For Navajos, the rate for men is 126 per 100,000, and for women 53 per 100,000 in the category of *unintentional injury*, see Table 5.

Table 3.1. Leading causes of death and mortality rates by sex, 2006-2009.

<u>Cause</u>	Mortality Rate	
	<u>Male</u>	<u>Female</u>
Unintentional Injury	193.1	53.0
Diabetes	62.6	28.2
Suicide	31.4	5.3
Alcohol Dependence Syndrome	23.9	6.3
Assault	21.1	4.4
Hypertensive disease	15.8	5.9
Chronic Obstruction Pulmonary Disease	13.1	5.3

Table 6: (Navajo Division of Health and Navajo Epidemiology Center, 2013)

To conclude, the data shows very precisely that the Navajo Nation performs very poorly in terms of these quality of life indicators, especially, as compared to other Reservations and the rest of the US. The incentive to stay on the Navajo Nation, as a result of these facts, would be very low; particularly, for the working class.

2. Survey and Results

This paper includes a small sample survey of 17 participants, all Navajo Members; some living on the Navajo Nation others living elsewhere. The purpose of the survey is to gain more precise insight about the data reviewed in the previous section. There are many factors and variables that can affect the results of data trends, making it difficult to necessarily pinpoint and prove the underlying cause. This section is dedicated to gaining personal feedback from Navajo

Nation members. While the survey results are informative and narrow the possible reasons for the trends, it is still a very small sample group. Thus, the survey results cannot be used as blanket explanations for the population or data trends previously discussed; however, they can help serve as a stepping stone toward that mean. To reiterate, the responses to the survey, although true to each participant, may not be true for the general population. Regardless, the feedback of these Navajo members help direct the assumptions made about the data in this paper and provides a launchpad for further investigation.

The survey was structured in a way as to allow participants the ability to give their personal sentiments in combination with general information. This survey hits on Hirschman's concept of *voice*. This section provides an avenue for some of that voice expression and informative feedback which Hirschman discussed. Much of the reason for the low numbers in the survey can be connected to a short time-frame, low access to the Navajo Nation due to lack of internet and phone service, and restricted access to the Navajo Nation this year due to COVID-19 lockdowns. All of the contact for the surveys was conducted through a very good friend of mine who is also a Navajo member. As a result, when interpreting the survey findings, one must keep in mind that all of those surveyed are close family, friends, or colleagues of one member; which could potentially skew the data in a direction that is not necessarily representative of the whole population.

The survey, in hindsight, could have included a few more questions regarding business start-up, crime, and maybe more specific questions about the relationship between the people and the government; however, the survey conducted did cover a number of key areas already discussed in the previous section and these will be analyzed in this section.

The first portion of the survey includes general facts about individuals such as: *What Clan are you from, what age group do you fall under, what gender are you, are you a student or worker, what level of education do you have?* See Appendix A, to view the survey template. These questions were asked with the aim of understanding the survey results in terms of demographics. The next section asked questions on employment, location of employment, and commuting, with a few personal perspective questions which will be discussed shortly. After employment were questions about housing, electricity, and water. The next section asked about safety and crime, and included personal perspective questions as well. The last section asked two concluding questions: *what is most important to you about the Navajo Nation* and *what would make life better on the Navajo Nation?* To view the survey results see Appendix B, which is an excel spreadsheet of the results. Not all participants answered all questions, these unanswered questions are left blank in the spreadsheet.

Demographics. The participants represented over 15 different Clans. The gender representation was evenly split, with eight Males, eight females, and one person who did not select. In terms of age group representation, there were 5 participants aged 0-17; 1 participant aged 18-24; 2 participants aged 25-29; 5 participants aged 30-39; 1 participant aged 40-49; 1 participant aged 50-59; and 2 aged 60 or over. There was at least one representative for each age range.

Employment Status. Five participants were enrolled in school (secondary and below). Two participants were in school earning university or college credits, and both were also working full-time, one job. Two participants were unemployed. One was retired. Of those employed, seven worked one full-time job; while two worked part-time. Of those working four worked on the Navajo Nation and five worked elsewhere. For those working off the reservation,

they were asked the reason for this decision. One stated that *they were highly skilled in a field with no positions on the reservation*. The other three stated that *there were no or insufficient opportunities on the Navajo Nation*. Of those working off the reservation, three lived in the place they worked; and three commuted from the reservation to their work off the reservation. Of the three that commuted, two of them commuted over 121 miles to their job and the third commuted between 0-45 miles to work. When asked if participants believed the Navajo Nation needed more job opportunities, all answered *yes* with the exception of two participants who did not answer.

Living Arrangements. When asked why those who lived off the reservation chose to do so, one stated *job opportunity*, another stated *job opportunity and better lifestyle*, while two stated *personal preference*. Of those participants living on the reservation, only two claimed (out of ten) to own housing; one claimed to rent (out of ten); and ten (out of twelve) claimed to be living with family. When asked if they wanted to own or rent, six respondents said *yes*; with one respondent stating the reason they don't own is because it is too expensive and two respondents stating no housing is available. Those living on the reservation were asked if they had running water and electricity. Two said no to running water, and all had electricity. Of those who responded to the question, all unanimously agreed that housing, electricity, and running water were difficult to secure on the Navajo Nation.

Education. Five participants stated having *no High School Diploma*, but these five were under the age of 17 and still in school. Six participants stated *High School diploma* as highest level of education. One stated Community College Certificate as highest level. Two stated Some college courses as highest level. One stated Associate's degree as highest level. One stated Bachelor's degree as highest level. Of those who are employed, they were asked about their qualifications in terms of their employment. Two stated that they felt *overqualified* for their

position; and five stated they felt they were *working a job that suited their education and expertise*. Of those stating they were *overqualified*, both worked on the Navajo Nation and both only worked part-time. Of those who claimed the job to be *suitable*, four worked off the Navajo Nation and one worked on the Navajo Nation.

Crime and Safety. When asked how safe participants feel on the Navajo Nation, two stated that they felt it was *somewhat safe* with mostly low levels of crime; five stated that it was *neutral*, where crime exists and people need to be somewhat cautious; five stated that they felt it was *somewhat unsafe* and that crime is worse than normal; and one stated that they felt it was *very unsafe* and that crime is out of control. The respondents, all except one (out of 12), said they felt crime was not adequately addressed on the Navajo Nation. Of the twelve people who responded to the question of whether the Navajo Nation was *less safe for certain demographics*, all concurred that it is less safe for certain demographics. Six stated it was less safe for women; with eight saying it was less safe for children; and three saying it is less safe for the elderly.

Opinions. When asked what was most important to participants about the Navajo Nation, twelve claimed that *it is a place to celebrate Navajo culture and tradition*; eleven stated that it is *home to family*; and seven claimed the *lifestyle*. Most respondents stated more than one. When asked what could be improved, all who responded stated *better employment opportunities*; thirteen (out of 14) stated *better housing availability* and *better access to amenities*; twelve stated *more infrastructure* (roads, hospitals, etc.); ten stated *less crime*; and eight stated *less business start-up restrictions*.

Comments. Throughout the survey there were opportunities to write in personal comments. Here is the list of these comments: 1) need for vocational training, 2) problem with nepotism in government and companies, 3) need homes with running water and electricity

especially for the elderly, 4) stricter laws for rape and child predators, 5) need more trade workers (roofers, carpenters, electricians, etc.), 6) reduce meth in communities, 7) need more police officers (this came up four times in comments), 8) need hardware store, and 9) need faster police response.

Despite the small size of the sample, the feedback seemed to match data trends as seen in the previous section. The feedback also helped confirm much of the speculation in terms of population relocation and a shortage of economic opportunities. There were no real contradictions, and while further research and sampling would be needed in order to confirm; two recurring problems seem to certainly lay at the center of the decision to *exit*: lack of economic opportunity and lack of security. Furthermore, these two elements appear to be driving an exodus from the Navajo Nation.

3. Recommendations

The Navajo Nation, among other tribal nations, has faced and continues to face many hurdles stemming from the conundrum of semi-autonomy; and consequently, Federally imposed rules and regulations. These add a heavy layer of difficulty in running the Navajo Nation effectively and they account for many of the issues that Navajo members and the Navajo government face today. Despite this circumstance, there are still things the Navajo government can do to improve things on the Nation and for the people. By applying Hirschman's theory to the situation on the Navajo Nation, one thing becomes clear: there is a mass exodus. This exit stems from a decline in society and social benefit on the Navajo Nation. The decision to exit, as opposed to voice, comes down to a simple cost-benefit analysis, in which exit provides the best cost-to-benefit ratio.

What the government needs to do is find a way(s) to keep people in the Navajo Nation, and reduce the mass exit of the working class. First and foremost, the government needs to behave in a way that demonstrates it depends on the people. The government needs to be open to member feedback and be motivated to make real changes. Then, a few things the government could implement include: 1) encouraging voice and feedback sharing, 2) increasing loyalty by supporting traditional and religious practices, 3) reducing business and economic restrictions which have caused a stagnant job market, and 4) improving the safety and security on the Navajo Nation. One other thing which could help tie the government to the working class, would be introducing an income tax. This would increase funding for expanding the police force budget, while also motivating the government to ensure the working class has jobs as to bring in more income, which would lead to more tax revenue. More research would be needed before moving forward with any of these recommendations. Still, the first step would be to have the government connect with the members, gain their feedback, and foster an environment in which people choose to voice first before exiting.

References

- Austin, Raymond Darrel. *Navajo Courts and Navajo Common Law: A Tradition of Tribal Self-Governance*. University of Minnesota Press, Minneapolis. 2009. Retrieved from <https://books.google.com/books?hl=en&lr=&id=LsLpgeXbj5UC&oi=fnd&pg=PR7&dq=Navajo+Nation&ots=od5XShBCX0&sig=0fUSJsq4Tqz7qIO0z3QpiqRPFt4#v=onepage&q=Navajo%20Nation&f=false>
- Baum, Donald R. *Defining Well-Being from Inside The Navajo Nation: Education As Poverty Derivation and Poverty Reduction*. 2010. Brigham Young University, Theses and Dissertations. 2132. Retrieved from <https://scholarsarchive.byu.edu/etd/2132>
- Bobroff, Kenneth H. *Retelling Allotment: Indian Property Rights and the Myth of Common Ownership*. Volume 54, Issue 4, Article 2, page 1557. Vanderbilt Law Review. May 2001. Retrieved from <https://scholarship.law.vanderbilt.edu/vlr/vol54/iss4/2>
- Bunting, Glenn F. *A Life of Payouts, Not Handouts*. Los Angeles Times. December 3, 2004. Retrieved from <https://www.latimes.com/archives/la-xpm-2004-dec-03-me-chumash3-story.html>
- Curley, Andrew; Parish, Michael; Lister, Majerle; Jackson, Kempton. *Local Governance and Reform: Considering 20 years of the Local Governance Act*. Diné Policy Institute. September 2016.
- Denetdale, Jennifer Nez. *Chairmen, Presidents, and Princesses: The Navajo Nation, Gender, and the Politics of Tradition*. University of Minnesota Press. Wicazo Sa Review. Spring, 2006, Vol. 21, No. 1 (Spring, 2006), pp. 9-28. Retrieved from <https://www.jstor.org/stable/4140296>
- Dippel, Christian. *Forced Coexistence and Economic Development: Evidence from Native*

- American Reservations*. The Econometric. November 2014. *Econometrica*, Vol. 82, No. 6. pp. 2131-2165. Retrieved on January 7, 2021. Retrieved from https://www.jstor.org/stable/43616909?seq=32#metadata_info_tab_contents
- Hirschman, Albert O. *Exit, Voice, Loyalty: Response to Decline in Firms, Organizations, and States*. 1970. Cambridge, MA: Harvard University Press. ISBN 0-674-27660-4.
- Hoffer, Sierra. *Business Development and Entrepreneurship on the Navajo Reservation*. Utah State University. 2017. All Graduate Plan B and other Reports. 1095. <https://digitalcommons.usu.edu/gradreports/1095>
- Iverson, Peter. *Diné: A History of the Navajos*. University of New Mexico Press. 2002. New Mexico.
- Krakoff, Sarah. *A Narrative of Sovereignty: Illuminating the Paradox of the Domestic Dependent Nation*. University of Colorado Law School, Colorado Law Scholarly Commons. 2004. Retrieved from <https://scholar.law.colorado.edu/cgi/viewcontent.cgi?article=1491&context=articles>
- Lee, Lloyd L. *The Future of Navajo Nationalism*. University of Minnesota Press. *Wicazo Sa Review*, vol. 22, no. 1, 2007, pp. 53–68. Retrieved from JSTOR, www.jstor.org/stable/30131302
- Lerma, Michael. *Guided by the Mountains: Navajo Political Philosophy*. Oxford University Press. 2017. New York, NY.
- Little, Becky. *How Boarding Schools Tried to ‘Kill the Indian’ through Assimilation*. History.com. November 1, 2018. Retrieved from <https://www.history.com/news/how-boarding-schools-tried-to-kill-the-indian-through-assimilation>
- N/A. *USA’s International Influence*. BBC News, CIA World Factbook. 2021. Retrieved from

<https://www.bbc.co.uk/bitesize/guides/z6frqp3/revision/2>

N/A. *Capitalism's Last Frontier*. The Economist: Business in the Navajo Nation. April 3, 2008.

Window Rock, AZ. Retrieved from

<https://www.economist.com/business/2008/04/03/capitalisms-last-frontier>

N/A. *Navajo Nation Reservation: Demographics*. Federal Reserve Bank of Minneapolis. 2021.

Retrieved from <https://www.minneapolisfed.org/indiancountry/resources/reservation-profiles/navajo-nation-reservation>

N/A. *American Indian Code Talkers*. National WWII Museum. New Orleans. 2021. Retrieved

from <https://www.nationalww2museum.org/war/articles/american-indian-code-talkers>

N/A. *Qualifications for Navajo Nation President and Vice-President*. Navajo Elections

Administration: Candidate Qualifications. April 2018. Retrieved from

<https://www.navajoelections.navajonnsn.gov/pdfs/2018/Qualifications/Qualifications%20for%20Navajo%20Nation%20President%20and%20Vice.pdf>

N/A. *Navajo Population Profile*. 2010 US Census. Navajo Division of Health and Navajo

Epidemiology Center. December 2013. Window Rock, Arizona, Navajo Nation.

Retrieved from <https://www.nec.navajonnsn.gov/Portals/0/Reports/NN2010PopulationProfile.pdf>

N/A. *Inside the Richest Native American Tribe in the US Where Casino Profits Pay \$1M a Year to Every Member*. Daily Mail. August 12, 2012. Retrieved from

<https://www.dailymail.co.uk/news/article-2187456/Shakopee-Mdewakanton-Tribe-Casino-revenue-pays-member-1million-year.html>

N/A. *United States, Petitioner v. Billy Jo Lara*. Opinion of the Court. April 2004. Cornell Law

School: Legal Information Institute. (03-107) 541 U.S. 193. Retrieved from
<https://www.law.cornell.edu/supct/html/03-107.ZO.html>

N/A. *2013 American Indian Population and Labor Force Report*. US Department of the Interior, Office of the Secretary. Office of the Assistant Secretary – Indian Affairs. January 16, 2014. Retrieved from <https://www.bia.gov/sites/bia.gov/files/assets/public/pdf/idc1-024782.pdf>

N/A. *Indian Country Investigations and Prosecutions*. U.S. Department of Justice. 2015. Retrieved on January 7, 2021. Retrieved from
<https://www.justice.gov/tribal/page/file/904316/download>

Nez, Johnathan; Lizer, Myron. *Testimony of Jonathan Nez, President of the Navajo Nation, Before the United States House of Representatives Committee on Appropriations Subcommittee on Interior, Environment, and Related Agencies*. The Navajo Nation. March 7, 2019. Retrieved from
<https://www.congress.gov/116/meeting/house/109008/witnesses/HHRG-116-AP06-Wstate-NezJ-20190307.pdf>

O'Neill, Colleen. *Working the Navajo Way: Labor and Culture in the Twentieth Century*. University Press of Kansas. 2005. Project MUSE. Retrieved from
<https://muse.jhu.edu/book/46116>

Pardilla, Marla; Prasad, Divya; Suratkar, Sonali; Gittelsohn, Joel. *High Levels of Household Food Insecurity on the Navajo Nation*. *Public Health and Nutrition*. Cambridge University Press. February 2013. Retrieved from
<https://www.cambridge.org/core/journals/public-health-nutrition/article/high-levels-of->

household-food-insecurity-on-the-navajo-
nation/666693A82A082A0ED556D947A7993EFA

Shepardson, Mary. *Value Theory in the Prediction of Political Behavior: The Navajo Case*.

Published by Wiley, on behalf of the American Anthropological Association. *American Anthropologist*, New Series, Vol. 64, No. 4 (Aug., 1962), pp. 742-750. Retrieved from <https://www.jstor.org/stable/667790>

Tiller, Veronica E.V. *Tiller's Guide to Indian Country: Economic Profiles of American Indian Reservations*. Third Edition. Vol. Third edition. BowArrow Publishing Company. 2015.

Accessed April 28, 2021. Retrieved from <http://search.ebscohost.com/login.aspx?direct=true&AuthType=ip,shib&db=nlebk&AN=1060410&site=eds-live&scope=site>

Zion, J; Zion, E.B. *Hazho's Sokee': Stay Together Nicely; Domestic Violence Under Navajo Common Law*. US Department of Justice: Office of Justice Programs. Native Americans, Crime, and Justice, P 96-112. 1996. Retrieved from <https://www.ojp.gov/ncjrs/virtual-library/abstracts/hazhos-sokee-stay-together-nicely-domestic-violence-under-navajo>

Appendix A

Hi, my name is Kristen, I am writing an Academic Thesis on the Navajo Nation for my Master's Program. I'm conducting this survey in order to gather qualitative information that I can use in my research paper which helps show how life really is for different demographics of Navajo Nation members, from their perspective.

This survey is completely anonymous, it is not necessary to put your name on the survey. The purpose of the survey is to gain insight into the quality of life of Navajo Nation Members. Questions about demographics just give an idea of who is responding to the survey and if each group was sufficiently covered. Thank you in advance for your participation!

What Clan are you from? (*you can write more than one*)

DEMOGRAPHICS

Please select the one that applies (by circling, highlighting, or underlining).

1. Age Range: **0-17 , 18-24 , 25-29 , 30-39 , 40-49 , 50-59 , 60+**
2. Gender: **Male , Female , or Other**

EMPLOYMENT STATUS

Please select the one that applies (by circling, highlighting, or underlining). If a category does not apply to you, leave it blank.

Are you in school , employed , unemployed , dependent , or retired?

If in school are you in:

- A. Elementary school (Kindergarden-6th grade)
- B. Secondary school (7th grade-12th grade)
- C. Community college (working on certificate or associate's degree)
- D. University (working on Bachelor's degree, Master's degree, PhD, or certificate)

If employed, do you work:

- A. One full-time job
- B. One part-time job
- C. Two jobs (Full-time and part-time)
- D. Two jobs (both part-time)
- E. Three or more jobs

Type of employment:

- A. Self-employed (own my own business or am a contractor)
- B. Employee
- C. Both (Self-employed and employee)

Location of employment:

- A. On the Navajo Nation
- B. Off the Navajo Nation
 - a. Off the Navajo Nation in Arizona, Utah, Colorado, or New Mexico
 - b. Off the Navajo Nation in other States
 - c. Overseas

If employment is outside the Navajo Nation, what is the reason:

- A. Highly skilled in trade or field that does not have positions on the Navajo Nation
- B. No or insufficient employment opportunities on the Navajo Nation
- C. Pay/benefits are better off the Navajo Nation
- D. Too difficult to start a business on the Navajo Nation
 - a. Too difficult to start a business because of building regulations
 - b. Too expensive (permits, fees)
 - c. Lack of infrastructure (no commercial rentals or commercial real-estate available)
 - d. Other: *(please specify)* _____

If employed outside the Navajo Nation, do you:

- A. Commute from the Navajo Nation to the job
- B. Live outside the Navajo Nation and work where you live

If you commute, how far do you commute:

- A. 0-45 miles from your house
- B. 46-90 miles from your house
- C. 91-120 miles from your house
- D. 121 or more miles from your house

If you live off the Navajo Nation, what is the reason for that: *(select all that apply)*

- A. Personal preference
- B. Job opportunity
- C. Better lifestyle (more shops, school options, better housing opportunities, etc.)
- D. Less crime
- E. Other: *(please specify)* _____

EDUCATION

Please select the one that applies (by circling, highlighting, or underlining). If a category does not apply to you, leave it blank.

What level of education have you received:

- A. No High school diploma or GED
- B. High School diploma or GED
- C. Community College Certificate
- D. Some college courses
- E. Associate's Degree
- F. Bachelor's Degree
- G. Master's Degree
- H. PhD

If you are employed, do you feel that you are:

- A. **Overqualified** (working a job that does not require the level of education and training you have)
- B. **Underqualified** (working a job that requires more than the education and training that you received)
- C. **Working a job that suits your education and expertise**
- D. **Other:** (please explain) _____

Do you think there should be more job opportunities on the Navajo Nation? **YES / NO**

If yes, can you list a few jobs you would like to see or services you would like to have on the Navajo Nation: (example: I am an accountant and would like to see more accounting jobs; also, there are not enough roofers working on the Navajo Nation and it's a service that is very needed). Please list as much as you can think of:

HOUSING AND AMENITIES (For those Living on the Navajo Nation only)

Please select the one that applies (by circling, highlighting, or underlining). If a category does not apply to you, leave it blank.

1. Do you own a house? **YES / NO**
2. Do you rent a house? **YES / NO**
3. Do you live with family? **YES / NO**
4. Other housing situation: _____
5. If you don't own or rent a home, do you want to own or rent? **YES / NO**

If yes, what is the reason you are not owning or renting?

Too expensive

Not earning income

No housing available

Government regulations/restrictions

Other: _____

Where you live, do you have **running water**? **YES / NO**

If yes, how long have you had running water? Whole life / Less than 10 years

Where you live, do you have **electricity**? **YES / NO**

If yes, how long have you had electricity? Whole life / Less than 10 years

1. Do you feel it is difficult to get a house? **YES / NO**
2. Do you feel it is difficult to get running water? **YES / NO**
3. Do you feel it is difficult to get electricity? **YES / NO**

SAFETY AND CRIME

From your experience, **do you feel the Navajo Nation is safe in terms of crime rates?**

- A. **Yes, absolutely** (crime is very low, can go anywhere alone at any time and it is equally safe for all people)
- B. **Yes, somewhat** (mostly low crime, mostly safe to go anywhere with a few exceptions)
- C. **Neutral** (crime exists, need to be somewhat cautious anywhere and any time of day)
- D. **No, somewhat unsafe** (crime is worse than normal, better to travel anywhere in groups and stay in certain areas)
- E. **No, very unsafe** (crime is out of control, very restricted movement)

From your experience do you feel criminal activity is adequately addressed by the government and police force? **YES / NO**

From your experience, do you feel the Navajo Nation is less safe for certain groups of people? (ex: women, elderly, children) **YES (less safe for certain people) / NO (equally safe for all)**

If Yes, which groups are less safe? _____

Is there anything you feel could make the Navajo Nation **more safe**? Areas of improvement?

CONCLUSION

What is most important to you about the Navajo Nation? *(select all that apply)*

- A. It is a place to celebrate Navajo tradition and religion
- B. It is home to family
- C. The lifestyle
- D. Other: _____

What would make life on the Navajo Nation better in your opinion: *(select all that apply)*

- A. Better employment opportunities
- B. Better housing opportunities
- C. Better access to amenities (electricity, running water)
- D. More infrastructure (roads, buildings, hospitals, businesses, etc.)
- E. Less business start-up restrictions
- F. Less crime, increased safety
- G. Nothing
- H. Other: (please specify) _____

Do you have any further comments regarding the topics discussed in this survey?

Thank you for you participation!

Appendix B: Excel Spreadsheet, Survey Results

Appendix B shows the data compiled from the survey results. Not all questions were answered by each participant, and those unanswered were left blank. The categories on the horizontal axis represent the questions asked, while the numbers along the vertical axis represent the participants. There were 17 participants in all. The graphs used in the text were constructed based on the data in this graph.

Clan	Age	Gender	EMPSTAT	TYPEEMP	LOCTN	EAISOEMPOI	COMMUTE	OFFR/LEDV	MPQ	MREO	OWN	RENT	WFAM	DOYWNT	RUNWAT	ELECTR	DIFFHOU	IFFFRUNW	IFFELECT	AFECRN	ADQADDf	LESSSAFE	MOSTIMF	WWMLB	
1	Tó'áhání	0-17	Male	SCH.A																					
2	Tó'áhání	0-17	Male	SCH.B																					
3	Tó'áhání	60+	Female	UNEMPL																					
4	MXCN, Tó'ál	0-17	Female	SCH.B																					
5	Chactaw, Bi	50-59	Female	UNEMPL																					
6	Choctaw, Tó	0-17	Female	SCH.B																					
7	Nishli, Choct	0-17	Male	SCH.B																					
8	Honágháahr	18-24	Female	EMPL, 1FUL EMPLEE	On NN		0-45																		
9		30-39	Male	EMPL, 1FUL EMPLEE	Off NN		More121mi																		
10		25-29	Male	EMPL, 1PAR EMPLEE	On NN																				
11	Bitter Wate	30-39	Female	SCH.D, EMPI EMPLEE	On NN		0-45																		
12	Na'kaai'diné	30-39	Male	EMPL, 1FUL EMPLEE	Off NN	A	A	More121mi	B	B	C	Yes	Yes	No	Yes		Yes, 20Y	Yes, 31Y	Yes	Yes	Yes	C	No	Yes, WMN t	A, B, C
13	Near the W	30-39	Female	SCH.D, EMPI EMPLEE	Off NN	B	B	0-45	B, C	D		Yes													
14		25-29	Male	EMPL, 1PAR EMPLEE	On NN																				
15	Todichiini n	30-39		EMPL, 1FUL EMPLEE	Off NN	B	B		A	E	C	Yes													
16	Many Goats	60+	Male	Retired																					
17	Near the W	40-49	Female	EMPL, 1FUL SLFEMP	Off NN	B	B	0-45	A	D	C	Yes													

The data in this spreadsheet was gathered from the survey results. Please see Appendix 1 for the template of the survey.