

EXECUTIVE SUMMARY

“Despite th[e] recognition of the inherent sovereignty of tribal governments, . . . Native peoples have nonetheless been subject to enduring efforts to strip them of their land, their possessions, and even their identities.”¹

Introduction

It is long past time for the United States to honor its promises to its first peoples. While absent from common historical narrative, the United States’ wealth and ability to transform into the international power it is today is a consequence of the theft and unjust taking of Tribal Nations’ lands and resources. These forced sacrifices created a perpetual debt owed by the United States to Tribal Nations—a debt the United States has yet to fulfill at any point throughout its history.

This failure has compounded year after year, resulting in the many shameful and unacceptable health, social, and economic disparities that exist for Native people and Tribal governments. This failure has further resulted in the kinds of infrastructure deficiencies for Tribal Nations that are often only seen in the developing world. Despite the sacred promises made by the United States, these disparities and deficiencies exist within the domestic borders of one of the most wealthy and powerful nations the world has ever known. These realities are not only the consequence of centuries of ill-intended federal Indian policy, but they have also been intentionally suppressed so as to be invisible to the everyday American citizen.

The time is long past due for the United States to honor its promises. We are calling on the United States to make an immediate and significant financial investment in Tribal Nations after years of ignoring its debt. This investment will provide Tribal Nations with a foundation of economic and social stability to support our collective efforts to rebuild our governments so we may grow and prosper. Further, following the recommendations from the reports of the U.S. Commission on Civil

Rights (2003, 2018) we are proposing a major reform to the current diplomatic model that guides how the federal government executes its trust and treaty obligations—currently, piecemeal across disparate departments and agencies. We propose bundling all of these obligations into a single cabinet level department, the Department of Tribal Nation Relations. This department would consult directly with Tribal Nations and coordinate the full execution of the U.S. trust and treaty obligations.

In the 21st century, many Tribal Nations find our physical infrastructure, as well as economic, political, and social institutions, in crisis due to chronic underfunding and neglect. Analogies to post-World War II Europe are apparent, as are the potential remedies. The United States’ investment in European nations after World War II through the Marshall Plan offers a diplomatic example of a time when the United States understood that investment in rebuilding nations (damaged, in part, by its own actions) was favorable to its own interests. While the relationship between Tribal Nations and the United States shares similarities with the relationship between European nations and the United States, the federal government’s unique trust and treaty obligations to Tribal Nations serve as even greater reasons for a significant domestic diplomacy investment now.

Origins and Basics of Tribal Nation–United States Diplomatic Relations

Tribal Nations are inherently sovereign political entities, as recognized by the United States from its earliest interactions with Tribal Nations. However, over time, the United States has impeded our exercise of sovereignty and taken

our land and resources to generate its own land base, wealth, and strength. Through these takings, the United States has assumed unique trust and treaty obligations to Tribal Nations and Native people. However, it has consistently failed to live up to these obligations—both by failing to deliver on the funding it owes to Tribal Nations in exchange for its resource takings, and by restricting Tribal Nations’ full exercise of our inherent sovereign governmental authorities. These failures on the part of the United States have caused tremendous harm to Tribal Nations that remains evident today in all indicators of social, economic, and public well-being, including as recently recognized in the 2003 and 2018 reports of the U.S. Commission on Civil Rights.

Federal Indian law, including its current antiquated and paternalistic trust model between the United States and Tribal Nations, is inherently problematic, unfair, and discriminatory. Its main function is to maintain and grow the United States’ power to the detriment of Tribal Nations and our communities. Federal Indian law relies on the Doctrine of Discovery: a legal fiction that purports to provide authority to colonizers to unilaterally take lands and resources from Indigenous peoples based on the faulty and morally corrupt premise that Indigenous peoples are not deserving of true property rights. Even today, federal Indian law continues to permit the United States to unilaterally strip Tribal Nations of our rights—including our inherently sovereign rights and our bargained-for treaty rights—if only Congress strips these rights away clearly enough. The rules Tribal Nations must play by under U.S. laws are unfair and unjust, and these rules are designed to serve the interests of the United States.

It is time for a shift to a new relationship paradigm, a domestic diplomacy model that is based on mutual respect and recognizes the full exercise of Tribal Nations’ rights and authorities that inherently belong to us. This diplomacy model must include the following elements: (1) the United States’ dedication to fully carrying out its trust and treaty obligations, including by fully funding its obligations to Tribal Nations

as payment on the perpetual debt; and (2) the United States’ commitment to no longer hindering Tribal Nations’ full exercise of our inherent sovereign governmental rights and authorities, thereby allowing us to care for our own communities. Oversight of these goals, along with the execution of the Marshall Plan funding for Tribal Nations, is best achieved by establishing a Department of Tribal Nation Relations to coordinate and consult on a Nation-to-Nation basis. All pieces of the diplomacy model, including the Marshall Plan for Tribal Nations, must move forward together for Tribal Nations to achieve full self-governance and for the United States to fully live up to its trust and treaty obligations.

European Marshall Plan

After World War II, European nations faced massive physical and economic destruction. Meanwhile, the United States faced a potential recession as its bustling wartime economy slowed and its traditional European trading partners lay beneath rubble. The European Recovery Program, popularly known as the Marshall Plan, proposed an unprecedented U.S. foreign aid investment to rebuild Europe with the goal of achieving a stable economy and sustainable peace. It carried forth the idea that later came to be known in the international human rights sphere as the “Responsibility to Rebuild,” which is an obligation taken on by one country when it militarily intervenes in or occupies another. The intervening country then bears a responsibility to assist with the occupied nation’s recovery, and this assistance is premised upon adequate funding and close cooperation with the local people. It is important to remember that, while the Marshall Plan was the “right thing to do,” it was also designed to be mutually beneficial for the United States and Europe.

The Marshall Plan obligated the United States to provide financial aid to European nations. The contours of that aid, its allocation and disbursement, and its uses were determined by a European agency and U.S. agency

working together. In just the first year of the Marshall Plan, the United States appropriated approximately \$4 billion in aid, which amounted to 13% of U.S. budget expenditures at the time. The Congressional Research Service places the Marshall Plan's total cost at about \$13.3 billion in historical dollars. At the time, that amount represented about 1–2% of U.S. Gross Domestic Product. However, this funding number does not include U.S. monies invested in rebuilding Marshall Plan European nations immediately prior to or following implementation of the Marshall Plan. Inclusion of these monies would bring the total amount of U.S. aid up to \$43 billion in historical dollars. It is clear that the United States' financial investment in post-World War II Europe was significant.

Though not without its shortfalls, the Marshall Plan's unprecedented foreign aid investment generated decisive returns. Not least of all, the morale and confidence it raised throughout Europe helped to stimulate growth across the continent. Numerically, European industrial production rose by 55% over the course of about four years, with agricultural output increasing by nearly 37%. Europe's Gross National Product reached new heights, gaining more than 33%, translating to \$30 billion in 1949 prices. Beyond the benefits for Europe, the United States also reaped rewards, with the ability to maintain and grow its own economic stability with its European trading partners and to increase its status on the world stage. The United States also benefited from the ongoing intergovernmental coordination and stability that grew from the Marshall Plan, as the Marshall Plan's legacy lives on in European and global programs such as the European Union and the Organization for Economic Cooperation and Development (OECD). The Marshall Plan was heralded by contemporaries as “a great recovery” and “a near miracle.”

Tribal Nations Marshall Plan

The United States was willing to make a substantial investment in European nations after the destruction of World War II, yet it

has not been willing to make the same kind of investment domestically, where it bears a much greater responsibility. The concept of a Marshall Plan-like investment for Tribal Nations draws on the same restorative justice, political, and economic principles that underlay the European Marshall Plan.

It is crucial to reiterate, however, that the rationales and obligations of the European Marshall Plan apply with even greater force to an investment in Tribal Nations due to the current and historical reality faced as a direct result of U.S. actions and policies. Through a domestic Tribal Nations Marshall Plan, the United States would recognize and take responsibility for the trust and treaty obligations arising out of its permanent occupation of Tribal homelands and our massive cession of resources that built the foundation of today's America. The United States owes a perpetual debt to Tribal Nations that has been compounded by our displacement, infringements on our sovereignty, and ongoing conditions that impair and directly harm the welfare of Tribal Nations and our citizens.

Beyond generating payments on the United States' debt to Tribal Nations, a Tribal Nations Marshall Plan would develop mutually beneficial economic growth for Tribal Nations, surrounding communities, and the United States—creating stability, improved relations, and shared prosperity. Additionally, it would pave the way for the United States to become an international leader in the Indigenous rights sphere and adhere more closely to the United States' espoused moral values, providing an opportunity to take actions that exemplify the idea of American exceptionalism.

It is imperative to reinforce that the Tribal Nations Marshall Plan proposed in this document would represent a significant one-time payment on the United States' debt to Tribal Nations, but it would in no way put an end to that debt, which stems from the United States' trust and treaty obligations that exist in perpetuity. However, this one-time investment is sorely needed. Indeed, in Fiscal Year 2021, the United States appropriated only \$25.2 billion for Tribal Nations. That

appropriation amount represents only 0.07% of the value of land taken from Tribal Nations and 0.35% of the total federal budget for Fiscal Year 2021. In fact, each Tribal Nation on average receives less than 22% of the amount provided on average to each recipient country of U.S. foreign aid assistance. Whereas foreign aid is a discretionary expense, federal funding to Tribal Nations is a requisite consequence of the federal government’s trust and treaty obligations.

As depicted in the table below, if the United States made a similar investment in Tribal Nations as it did in the European Marshall Plan, by any calculation it would represent a drastic influx of funding beyond the \$25.2 billion of federal funding allocated for Tribal Nations in Fiscal Year 2021.

Calculation	Historical Dollars	Fiscal Year 2021 Dollars
Marshall Plan Cost (Congressional Research Service estimate)	\$13.3 billion	\$156 billion
1–2% GDP Representing Marshall Plan Cost	\$13.3 billion	\$232–464 billion
13% of Overall US Budget	\$13.3 billion	\$936 billion
Marshall Plan Cost Per Participating European Nation	\$831 million	\$9.75 billion
Marshall Plan Cost Including Associated Pre- and Post-Foreign Aid to Participating European Nations	\$43 billion	\$513 billion
Marshall Plan Cost Including Associated Pre- and Post-Foreign Aid to Participating European Nations per Participating European Nation	\$2.7 billion	\$32 billion

Nation Rebuilding

Tribal Nations are sovereign governments that must provide for the general welfare of our citizens just like other government units, including by providing governmental services to our communities. By failing each year to supply the full funding due to us pursuant to its trust and treaty obligations, the United States is depriving us of the funds we need to provide the governmental services to which our people have a right—which only serves to compound the challenges we experience that have already built up since the founding of the United States.

The current U.S. funding levels for Tribal Nations’ governmental services are drastically low, leading to inadequate foundations upon which Tribal Nations must serve our people. These underfunded governmental services include, for example: physical infrastructure, such as roads and homes; political infrastructure, such as judicial systems; and essential services, such as health, education, and environmental protection.

These funding levels, and the corresponding governmental services that flow from them, are vastly inadequate and unjust when compared to surrounding communities and the United States more generally.

A significant investment in Tribal Nations similar to the European Marshall Plan would be transformative, paving the way for true nation rebuilding for Tribal Nations. And it has the potential to allow the United States to stand proudly, knowing that Native people—who are dual citizens of the United States and our Tribal Nations—are not experiencing substandard conditions caused by the United States’ shirking of its trust and treaty obligations.

Funding Delivery Based on Inherent Sovereignty of Tribal Nations

The method of delivery and the use requirements attached to the Marshall Plan-like investment,

and to future funding, will play a large role in the effectiveness of the investment in Tribal Nations. The features of the investment must reflect the status of Tribal Nations as sovereign governments and the United States' trust and treaty obligations.

Funding must flow directly, consistently, and predictably to Tribal Nations. For this reason, funding must not take the form of competitive grants, must be mandatory rather than discretionary, and Tribal Nations must have the option to accept all federal funding directly and via a more streamlined channel than is often used now. It is time for the establishment of a Department of Tribal Nation Relations to carry out the United States' trust relationship with Tribal Nations—reflecting the diplomatic Nation-to-Nation relationship between the United States and Tribal Nations, facilitating comprehensive federal agency coordination, and ensuring the seamless flow of funds to Tribal Nations and our communities. Further, Tribal Nations must not be prevented from using federal funding to best meet the unique needs of our people, and, thus, there should be no restrictive use limitations or burdensome reporting requirements attached.

Execution of Tribal Nations Marshall Plan

Like the European Marshall Plan, the parameters of the Tribal Nations Marshall Plan must be determined in close consultation with, and subject to the consent of, the funding recipients: Tribal Nations. This process would be best served by establishing a Department of Tribal Nation Relations for consultation and coordination purposes. The Department would take the lead by establishing a Commission that includes Tribal Nations, the White House Council on Native American Affairs, the Office of Management and Budget, the Government Accountability Office, and others to make funding and allocation recommendations through a collaborative assessment of the United States' unfunded trust and treaty obligations. The Commission should present to Congress a reliable funding number

and allocation plan. Rather than studying the problem—as so many reports have already done—the Commission should focus on actions to execute the Tribal Nations Marshall Plan.