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Cultural Tourism: Exploration or Exploitation of American Indians?

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COMMENT

CULTURAL TOURISM: EXPLORATION OR EXPLOITATION OF AMERICAN INDIANS?

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I. Purpose

Tourism appears to be a well-documented subject. There is a wealth of literature that discusses tourism as an economic development possibility, but there is a lack of research into tourism as a social development possibility. Further, the available literature does not differentiate between non-Indian and Indian tourism, or does so only through specific tribal case studies. Neither approach is wrong, but neither approach is entirely useful to those in the American Indian community who are considering developing cultural tourism[1] as an economic or social project.

All American Indian tourism is affected in ways not addressed in the general works,[2] from the unique legal status of American Indians, to the issue of who should own the tourism business, to the fact that American Indians have, often without their consent, played host to non-Indians for centuries.

While case studies are well researched and highly valuable for what they are, they are often too specific to be of widespread applicability. These studies present excellent ideas for addressing a specific problem associated with a particular tribe, but they do not discuss all the issues, because not all issues affect every American Indian community equally or at all. Consequently, a tribe wishing to develop tourism as an economic venture may read of the success of one tribe and decide to implement the same program. Unless the two tribes are identical, however, the success of one may be the utter failure of the other.

This comment is intended to fall somewhere in the middle. Its goal is to

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1. Also called alternative tourism, heritage tourism, or ethnic tourism. Sometimes referred to incorrectly as ecotourism.

2. TOURISM AND GAMING ON AMERICAN INDIAN LANDS 145 (Alan A. Lew & George A. Van Otten eds., 1998) [hereinafter TOURISM AND GAMING] ("[T]here is a growing body of literature on American Indian tourism. However, the research does little to reflect the social and economic impact of tourism from the perspective of the American Indian.").

consolidate the wealth of information available about cultural tourism, and make it applicable to the American Indian community. The idea is that tribal governments, tribal corporations, or individual tribal members (hereinafter referred to as "hosts") will be able to use this comment as a tool as they begin exploring cultural tourism for either economic or social gain. At the conclusion of the comment, these potential hosts will understand that there are many factors involved in something as personal, yet profitable, as cultural tourism.

II. American Indians as Hosts — Old Habit, New Hope

As long as there are humans, there will be tourism.[3] We possess the inherent and seemingly unquenchable desire to explore.[4] "Tourism is a service industry whose primary resource is environments and cultures which differ from those where tourists usually live."[5] In its purest form, cultural tourism is more than a quick visit to a new locale; it is an experience,[6] an immersion in a new culture, if only temporarily. In a perfect world, tourists leave with a deeper understanding of and appreciation for their American Indian hosts,[7] and a similar result is achieved within the host communities.[8]

The European explorers credited with the colonization of North America thought they had found a *terra nullis*. Of course they were not the discoverers they thought they were; they were beaten in time by the Scandinavian Vikings,[9] who had found a continent already inhabited for millennia. Although involuntarily, American Indians have played the host for centuries.[10] As a result, "many Native Americans have much more experience dealing with tourists than tourists have dealing with Native

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3. TOURISM AND GAMING, *supra* note 2, at 32 ("In 1992, global tourism surpassed oil and gas as the largest industry in the world . . . . For the U.S., travel and tourism . . . continue to be the fastest growing sector of the U.S. economy."); Alison Johnston, *Ecotourism and the Challenges Confronting Indigenous Peoples*, NATIVE AMERICAS, Summer 2001, at 42, 42 ("Tourism is ranked as one [of] the world's largest industries, and the fastest-growing.").

4. CLARE A. GUNN, TOURISM PLANNING 19 (1979) ("Virtually all people seek to be tourists and do so whenever the opportunity presents itself.").

5. PEOPLE AND TOURISM IN FRAGILE ENVIRONMENTS 1 (Martin F. Price ed., 1996) [hereinafter PEOPLE AND TOURISM].

6. Jill D. Sweet, *"Let 'em Loose": Pueblo Indian Management of Tourism*, 15 AM. INDIAN CULTURE & RES. J. 59, 65 (1991).

7. TOURISM AND GAMING, *supra* note 2, at 44 ("[Cultural] tourism could be a vehicle for the promotion and understanding of the issues confronting our people . . . .").

8. *Id.* at 178.

9. 1 WINTHROP D. JORDAN & LEON F. LITWACK, THE UNITED STATES CONQUERING A CONTINENT 5 (1991). Biarni Heriulfson sailed off the coast of North America in A.D. 986. *Id.* In approximately A.D. 1001 Leif Ericson established a fishing village at L'Anse aux Meadows in Newfoundland. *Id.*

10. For a more complete history, see TOURISM AND GAMING, *supra* note 2, at 32.

Americans."[11] Thus, tribes have the opportunity to profit from tourism, and to do so according to their own rules.[12]

It is true that "(m)ost Native American reservations and pueblos do not suffer from a lack of tourist volume or demand."[13] Because of this, all American Indians need to be aware of the effects of tourism on their lives, and consider developing ways with which to cope with tourists. American Indians may wish to profit from the inevitable influx, or attempt to rid themselves of tourists altogether. Hosts often "lack the necessary tourism infrastructure to capture visitor expenditures and thereby achieve sustained economic benefits."[14] But before rushing out to develop an appropriate infrastructure to reap an economic profit, a host must ask if tourism will realize a social profit as well.

III. What Is Cultural Tourism?

Cultural tourism is culture displayed and sold.[15] There are "twelve elements of culture" which attract tourists: handicrafts, language, traditions, gastronomy, art and music, history, employment, architecture, religion, education, dress, and leisure activities.[16] In short, culture is something inherently possessed by every tribe and tribal member.

Developing cultural tourism is not dependent on access to natural resources like water or minerals. Consequently, it is still possible, even in the case of extreme remoteness, for a tribe to develop culture as a resource, and because culture is ever changing,[17] cultural tourism is a renewable resource. Most importantly, the cultural attraction can be altered, expanded, minimized, or abandoned based on changes in culture and host preferences. Thus, cultural tourism can be as personal as a home visit to a Navajo hogan[18] or as non-traditional[19] as the Smithsonian's National Museum of the American Indian.[20]

In cultural tourism "the people are the assets."[21] If entered into with

11. Sweet, *supra* note 6, at 60.

12. "Native Americans . . . are no longer marginal players in the decision-making processes in the tourism industry. They are proactive . . . and are not to be regarded as national commodities . . . ." TOURISM AND GAMING, *supra* note 2, at 46.

13. *Id.* at 172.

14. *Id.*

15. Cultural tourism is defined as "the marketing of tourist attractions based on an indigenous population's way of life." Sweet, *supra* note 6, at 61.

16. ALISTER MATHIESON & GEOFFREY WALL, TOURISM: ECONOMIC, PHYSICAL, AND SOCIAL IMPACTS 158-59 (1982).

17. *Id.* at 160.

18. TOURISM AND GAMING, *supra* note 2, at 45.

19. Marilyn Guida, *Museums and California Indians: Contemporary Issues*, 21 AM. INDIAN CULTURE & RES. J. 163, 163 (1997) ("The precontact indigenous cultures of California are not known to have had a tradition of collection and display that is comparable to the Western museum tradition.").

20. *Id.* at 169.

21. Michelle Tirado, *Travel Trends and Savvy Marketing Steer Tourists to Indian Country*,

caution and knowledge, cultural tourism can be "designed to be low impact and create self-sufficiency . . . and preserve and protect irreplaceable natural and cultural resources."[22]

The intimidating truth about cultural tourism is that "(t)he native is not simply 'there' to serve the needs of the tourist; he is himself 'on show', a living spectacle."[23] But in the words of Lee Tiger, tourism development director for the Florida Seminoles, "(i)t (tourism) doesn't mean you have to sell out or give your land away. It just means you make a place that you can be proud of."[24] This is the key. At the end of the day the tourists leave, but the host community is left to live with the effects of tourism they either offered or had forced upon them.

IV. Protecting Tribal Values While Planning Cultural Tourism

Every host, willing or unwilling, needs to understand the three main facets of cultural tourism: (1) the possible effects of cultural tourism, (2) the factors needed to develop and sustain cultural tourism, and (3) the ownership model on which to base a cultural tourism business.

Part 1 of Section A addresses the possible effects of cultural tourism on hosts and host communities in general, and American Indian hosts and communities in particular. Legal and social methods for dealing with the effects of tourism are discussed in theory or as actually practiced. Part 2 discusses the link between tourist type and the resultant effects.

Section B enumerates the factors needed to create and sustain a successful cultural tourism project. These are the resources and habits that tribes and tribal members must currently possess, develop, or work without.

Section C covers various ownership models that hosts may use to create a tourism business. American Indian cultural tourism businesses may be owned by Indians as well as non-Indians, and individuals as well as tribal governments.

In all sections, available resources that may aid a host in developing and sustaining a cultural tourism business are mentioned along with a discussion of the pros and cons of each resource. Examples of American Indian hosts who utilized a specific method are offered for consideration.

A. Potential Effects of Cultural Tourism

Before developing cultural tourism, all hosts must consider both the positive and negative effects that are likely to be felt by them or the host community.[25] A host community is the area in which the attraction is

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AM. INDIAN REP., Apr. 2001, at 10, 11.

22. TOURISM AND GAMING, *supra* note 2, at 44.

23. Sweet, *supra* note 6, at 61.

24. Tirado, *supra* note 21, at 12.

25. TOURISM AND GAMING, *supra* note 2, at 149.

located. The community may be composed of Indians, non-Indians, or a mixture of both. It is always affected by, and has an effect on, the cultural tourism business. Furthermore, the type of tourist present at an attraction causes or reduces certain effects.

Not every host or host community is affected by cultural tourism in the same way because no two situations are alike. Still, there are some common effects that will likely be felt by all host communities. Cultural tourism may produce an income for the host, create jobs for workers of all skill levels, have an effect on the host culture, introduce or escalate crime in the area, and harm natural or sacred environments.

By understanding the potential effects ahead of time, a host can make the necessary plans to maximize the positives and minimize the negatives for everyone involved.[26] While not all effects may seem important or applicable, having an understanding of them is advised because culture is always changing, and a cultural tourism business must expand or contract based on that culture. What might not be an issue today might turn into one tomorrow.

1. Dealing with the Effects of Cultural Tourism

a) Finances

As with any economic development project, the goal is to realize a profit.[27] Money can be made from tourism,[28] but the amount depends in part on the type of attraction offered, which in turn depends on the factors further discussed in this comment.

Because it is a service industry, cultural tourism may not cost the host much to develop. Culture is not a manufactured good. Thus, the initial capital investment can be minimal. Money need only be spent on necessities, like promotion, employee salaries, and taxes. After sufficient capital is raised, the business can expand to accommodate larger numbers of tourists by developing a more complex infrastructure, such as better facilities, and adding amenities like restaurants and hotels.[29] At the beginning, "there is considerable potential for low-cost tourism development."[30]

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26. *Id.* at 42.

27. *Id.* ("[E]conomic gain is usually the primary factor motivating tourism development . . . .").

28. *Id.* at 155 ("[A] rough estimate indicates that, in the early 1980's, the [Taos] pueblo was receiving approximately $150,000 a year from tourism. Currently [in the early 1990s], the estimated income from tourism is approximately $250,000 annually.").

29. For example, the Navajo Tribe built roads, campsites and a visitor center, and erected signs and fences in the Monument Valley Navajo Tribal Park. *Id.* at 99.

30. *Id.* at 70.

b) Jobs

The work force needed to operate a cultural tourism business may be found within the tribe. An artist making traditional crafts for sale to reservation visitors is operating a cultural tourism business, albeit one of small scale. Even more grandiose operations, like tours of historical sites, do not need highly trained specialists.[31] For example, the only qualifications for a good tour guide are knowledge of the area and culture and the ability to speak in public.[32] Any tribal member growing up in the area should already possess the first, and the second is either natural, or can be learned from other tribal members, especially tribal leaders.[33] Outside training may also be sought, but it should be low or no cost. For example, the Oklahoma Department of Tourism offers one and two day workshops to teach hospitality and tour guide skills.[34]

c) Material Culture

The good thing about tourists is that they usually have money to spend. "Employers in industrial countries now accept the concept of paid vacation and travel away from home as a human right."[35] In fact, tourists often spend more on vacation than they spend at home for the same type of expense, such as food.[36] They also have a seemingly insatiable appetite for goods.[37] The savvy tourist looks for authentic Indian made goods, but a substantial number fall prey to imposter items.[38]

The Indian Arts and Crafts Act of 1990 (IACA)[39] attempts to prevent imposter "Indian" merchandise from being made, sold, or imported.[40] In applying the IACA, "(t)he most vexing problem lies in the Act's definition of "Indian" as only those persons enrolled in, or certified as an artisan by, a federally or state-recognized Indian tribe."[41] This definition creates a problem

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31. MATHIESON & WALL, *supra* note 16, at 42.

32. Interview with Patrick Redbird, Multicultural Program Coordinator, Oklahoma Department of Tourism, in Oklahoma City, Okla. (May 18, 2001).

33. TOURISM AND GAMING, *supra* note 2, at 102.

34. Interview with Patrick Redbird, *supra* note 32.

35. PEOPLE AND TOURISM, *supra* note 5, at foreword.

36. EMANUEL DE KADT, TOURISM — PASSPORT TO DEVELOPMENT? PERSPECTIVES ON THE SOCIAL AND CULTURAL EFFECTS OF TOURISM IN DEVELOPING COUNTRIES 137 (1979).

37. William J. Hapiuk, Jr., *Of Kitsch and Kachinas: A Critical Analysis of the Indian Arts and Crafts Act of 1990*, 53 STANFORD L. REV. 1009, 1017 (2001) ("A 1985 congressionally mandated study by the U.S. Department of Commerce estimated annual sales of Native American jewelry and handicrafts at $400 to $800 million.").

38. "As much as 20% of the market represented sales of "fake" goods passed off as "genuine" Indian products that were sold for drastically lower prices — as much as 50% lower." *Id.* at 1017; *see also* TOURISM AND GAMING, *supra* note 2, at 46.

39. 25 U.S.C. § 305a (2000).

40. Hapiuk, *supra* note 37, at 1010.

41. *Id.* at 1012.

for hosts wishing to sell "Indian" crafts as a part of their tourism business. Unless every item offered for sale was created by an "Indian" as defined in the Act, the seller faces a felony charge. For example, a child born to a tribally enrolled mother and raised with tribal norms and traditions on Indian land, but who is not recognized by the tribe, may not create "Indian" merchandise, even though he is "Indian" in every other way.

One reason for the enactment of the IACA was to restrict the creation of goods "to tribally affiliated Indians because those arts and crafts represent ancient tribal traditions."[42] Goods, even if only created to sell to tourists, are often inspired by tribal traditions.[43] However, it sometimes happens that hosts create items based on the stereotyped expectations of the tourist, items which are not truly of their culture, or hosts buy non-Indian made items and attempt to sell these as authentic cultural pieces.[44] IACA will stop the latter, but it is silent as to the former.

d) Cultural Integrity

This "staged authenticity"[45] is not necessarily wrong, because some tribes are not comfortable commoditizing their most sacred symbols.[46] However, creating "cultural" pieces based on tourist expectations is risky. After time the idea of what is true to the host culture may become tainted.[47] This effect must be minimized in the Fourth World, which is the term used to describe developing native societies located within the boundaries of other nations,[48] because "anything that falsifies, disorganizes, or challenges the participants' belief in the authenticity of their culture threatens it with collapse."[49] The good

42. *Id.* at 1014.

43. ETHNIC AND TOURIST ARTS: CULTURAL EXPRESSIONS FROM THE FOURTH WORLD 6 (Nelson H.H. Graburn ed., 1976) [hereinafter ETHNIC AND TOURIST ARTS].

44. For example, a Taos Pueblo member "got into the swing of things and would earn money posing for pictures and doing other antics" for tourists who were being given false information by their non-Indian tour guide. TOURISM AND GAMING, *supra* note 2, at 153-54; *see also* Deirdre Evans-Pritchard, Tradition on Trial: How the American Legal System Handles the Concept of Tradition 127-28 (1990) (unpublished Ph.D. dissertation, UCLA) (available through UMI Dissertation Services); Hapiuk, *supra* note 37, at 1044; ETHNIC AND TOURIST ARTS, *supra* note 43, at 6.

45. Evans-Pritchard, *supra* note 44, at 128.

46. Antonia M. De Meo, *More Effective Protection for Native American Cultural Property Through Regulation of Export*, 19 AM. INDIAN L. REV. 1, 9 (1994).

47. "[R]econstructed ethnicity (emerges) in response to pressures resulting from modern tourism that seeks to highlight the "exotic" of noble savage image of American Indians." TOURISM AND GAMING, *supra* note 2, at 41; *see also* MATHIESON & WALL, *supra* note 16, at 165.

48. ETHNIC AND TOURIST ARTS, *supra* note 43, at 1; MATHIESON & WALL, *supra* note 16, at 171.

49. HOSTS AND GUESTS: THE ANTHROPOLOGY OF TOURISM 173 (Valene L. Smith ed., 2d ed. 1989).

news is that usually after a period of souvenir making, the host culture experiences a resurgence in its traditional material culture.[50]

There are a few tourists who are genuinely displeased when they do not see what they expected, namely "the idealized Noble Savage."[51] A host can make money by pandering to such a stereotype[52] but at what cost? Loss of pride and cultural confusion are the potential human costs.[53] The economic cost is felt when a significant number of tourists get wise to the fact that the subject matter is inaccurate and insulting to the host, and they stop visiting. "Cultural integrity is worth preserving . . . for its intrinsic value . . . and because . . . tourists will pay for cultural integrity."[54]

Meeting tourist expectations is nearly impossible due to the fact that hosts are not living in the past or in textbooks. In all host communities this presents a problem. For example in Richtersveld, which is located in the Namaqualand region of South Africa, the local indigenous people formed a National Park with the help of the government.[55] The residents of the area "were happy to be empowered and to cater to tourist interest in their culture, but they had no intention of faking authenticity by returning to 'traditional' dress and housing for the benefit of the tourists."[56]

Tourists are becoming more educated and sensitive. However they still want to be entertained. The "Trail of Tears" Drama in Tahlequah, Oklahoma highlights the difficulty in meeting tourists' demands. The drama's playwright, Joe Sears, "wrote the 1997 version, which told the story of the Cherokee but didn't include dance as a part of the overall spectacle. 'It was the choice of the Cherokee to exclude all Hollywood dancing' said Sears."[57] Even though the wishes of the tribal members were known, because the drama is not tribally owned or operated they could not refuse the demands of the tourists.[58] A compromise was reached to please "both historical purists and those wanting

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50. MATHIESON & WALL, *supra* note 16, at 165.

51. TOURISM AND GAMING, *supra* note 2, at preface.

52. Linda P. Rouse & Jeffery R. Hanson, *American Indian Stereotyping, Resource Competition, and Status-Based Prejudice*, 15 AM. INDIAN CULTURE & RES. J. 1, 1 (1991) ("Stereotypes are overgeneralized beliefs that attribute certain characteristics to a particular group.").

53. TOURISM AND GAMING, *supra* note 2, at 41.

54. Evans-Pritchard, *supra* note 44, at 125.

55. PEOPLE AND TOURISM, *supra* note 5, at 123.

56. *Id.* at 13-14.

57. *Cherokee Heritage Center's Trail of Tears Drama — Auditions To Be Held Soon*, OKLA. INDIAN TIMES ONLINE, Jan/Feb 2001, *at* http://www.okit.com/arts/2001/janfeb/auditions.htm [hereinafter *Trail of Tears Drama*].

58. The drama is operated by the Cherokee National Historical Society, Inc. The Society is a non-profit 501(c)(3) organization composed of tribal members and non-members. It was started by Chief W.W. Keeler in 1963. *Cherokee Heritage Center — About Us*, *at* http://www.cherokeeheritage.org/aboutus.html (last visited Nov. 19, 2001).

more entertainment bang for the buck."[59] Subsequently, the play was rewritten in 2001 to include dancing and singing. Sears acknowledged:

> We have to remain aware of everyone's needs, especially the audience, who is smarter than audiences 25 years ago. The new generations of Oklahomans have computers and easier access to their Cherokee Heritage; they know the true story of their ancestry. It would insult them as an audience to ignore the feelings of the Nation, even through [sic] they themselves are not members.[60]

e) Strengthening Host Culture

Besides the ability to control content, if the tribal government is the owner of the cultural tourism business, any profits made will likely be returned to the host community in the form of a developed infrastructure and community services.[61] For many tribes engaged in tourism, the dilution of tribal language is a real concern. The host must communicate with the guest in the language of the guest. Thus to protect their languages from extinction, many tribes use some of the profits earned through tourism to develop successful language preservation programs, which include schools to teach the language to tribal children.[62] The Cherokee in Tahlequah, Oklahoma use a simple yet effective method to preserve and promote their language, something that every tribe can do regardless of size or resources: They answer the phones at their visitor center with an enthusiastic *"O-Si-Yo."*

Cultural tourism should create a positive recognition of the host culture. A well-planned tourism enterprise brings together host and guest.[63] In some cases, the host wants to actively share its culture.[64] On an individual level, sharing and having a positive reception can be a gratifying experience,[65] especially for children who are unsure of their feelings towards their tribal heritage, often because of the negative stereotypes of Indians with which they are bombarded.[66] On a societal level, the guest will hopefully lose any preconceived notion of what he thought a tribe was like, and leave with the

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59. Rod Walton, *Cherokee Play Redone, Has Banner Year*, TULSA WORLD, Sept. 7, 2001, at 18.

60. *Trail of Tears Drama*, *supra* note 57.

61. TOURISM AND GAMING, *supra* note 2, at 40, 178.

62. Liz Hill, *Betting on Language: Gaming's Flush Flows to Tribal Cultures*, NATIVE AMERICAS, Summer 2001, at 36-41.

63. TOURISM AND GAMING, *supra* note 2, at 148, 178.

64. Guida, *supra* note 19, at 169 ("From a Native point of view, there are limits to sharing that ought to be respected.").

65. Sweet, *supra* note 6, at 71; *see also* TOURISM AND GAMING, *supra* note 2, at 148.

66. Ray Halbritter & Steven Paul McSloy, *Empowerment or Dependence? The Practical Value and Meaning of Native American Sovereignty*, 26 N.Y.U. J. INT'L L. & POL. 531, 554-57 (1994); *see also* Guida, *supra* note 19, at 172-73.

truth about the tribe's history as well as its contemporary existence.[67] Ideally, this knowledge will produce an endless array of benefits to both cultures, tourist and host, in the form of reduced racism, wiser legislation, or partnerships designed to protect the host community.

f) Weakening Host Culture

Guests also share their culture, intentionally and unintentionally. Because of required interactions with the host, cultural exchange is inevitable.[68] It is important to differentiate between sharing and forcing. Too many times, American Indians have been forced to take on aspects of culture with which they were not comfortable,[69] but sharing allows for selection and rejection of cultural traits.

Occasionally, a host leaves his community to explore and/or become a part of the tourist's culture.[70] This is often the case with young people in the host community. They see one tourist after another living a carefree life and spending a seemingly unlimited amount of money. Unfortunately, the tourists are not around long enough to convey the message that the culture they are sharing usually lasts only while they are on vacation. The rest of the year, they lead more conservative lives.[71]

g) Protecting Host Culture

Culture is always evolving,[72] but sometimes the change comes too fast for comfort. A cultural tourism business can and should be modeled according to tribal values and desires. Thus for those hosts who prefer to protect more of their culture than they are willing to share, it is advisable to develop cultural tourism as a strictly economic venture, and take measures to separate the tourists from the heart of the host community.[73]

Pure cultural attractions, for example ceremonial dances or home visits, are not advised for a host or host community wishing to maintain a personal distance from tourists. A more appropriate attraction might be a multi-tribal competition powwow or a museum.[74] Any display created primarily for

67. Guida, *supra* note 19, at 174 ("California Indian people believe museums have a responsibility to educate the non-Indian community about the positive aspects of Native cultures and to counter the common myths and stereotypes about Indians held by the public.").

68. MATHIESON & WALL, *supra* note 16, at 135.

69. TOURISM AND GAMING, *supra* note 2, at 147 ("Assimilation by education, religious conversion, and confiscation of Indian land was the primary emphasis of the United States government's Indian policy.").

70. DE KADT, *supra* note 36, at 140.

71. *Id.*

72. Carole Goldberg-Ambrose, *Pursuing Tribal Economic Development at the Bingo Palace*, 29 ARIZ. ST. L.J. 97, 112-13 (1997).

73. PEOPLE AND TOURISM, *supra* note 5, at 8.

74. TOURISM AND GAMING, *supra* note 2, at 69.

tourists, like a museum, is a good strategy for tribes wishing to maintain a tangible boundary between real life and host duties. If an attraction is located on the extremity of a reservation, tourists can easily be kept away from the host community.[75]

Another option is allowing tourists into the host community, while imposing limits on what they may do. This option is useful for tribes who don't have a large land area. Indeed, "The ability to keep at least some of the host's culture private has been cited as critical to host survival during tourist contact."[76]

The Pueblo in New Mexico have interacted with others for centuries.[77] As a result of this continued contact with non-Pueblos, they developed ways to allow tourism, yet at the same time protect their culture from unwelcome intrusion.[78] "Pueblo officials have the right to exclude visitors and to set the rules for acceptable behavior."[79] They do so by posting regulations and actively enforcing those rules, including banning cameras, confiscating notebooks, or removing the lawbreaking tourist from tribal lands.[80]

Another method of tourist control the Pueblo practice is secrecy.[81] Tribal members practice secrecy by not revealing more than they are comfortable revealing, even if directly and persistently questioned by a tourist.[82] Tribal secrecy is practiced by forbidding tourists to enter kivas at all times and closing selected rituals to public view by erecting roadblocks and guards.[83] "In short, the Pueblo communities determine what tourists may do or see while on the reservation and whether tourism will be encouraged, simply tolerated, or discouraged."[84]

h) Crime

If the host community is unwilling to interact with tourists, they will develop ways to avoid them.[85] They might alter their daily schedule to avoid

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75. PEOPLE AND TOURISM, *supra* note 5, at 8.

76. Sweet, *supra* note 6, at 71.

77. Examples include the "Navajo, Apache . . . ; Spanish explorers, colonists, and missionaries; Anglo traders . . . entrepreneurs . . . and military personnel." *Id.* at 60.

78. *Id.* at 59 ("[T]hese techniques help the Pueblo Indians survive the pressures of tourist contact, fortify their cultural boundaries, and exercise a degree of power over individuals who are, in most other situations, defined as the more powerful.").

79. *Id.* at 62 ("In the mid-1930's, the United Pueblos Agency, the centralized federal administration of all New Mexico pueblos, acknowledged 'that matters of purely internal nature were the exclusive jurisdiction of Pueblo officials.'").

80. *Id.* at 67-69. At certain times of the year, automobiles are banned from the Taos Pueblo, and in February it is closed to all tourists. TOURISM AND GAMING, *supra* note 2, at 150, 154.

81. Sweet, *supra* note 6, at 63.

82. *Id.* at 64-65. Navajos "sometimes feel uncomfortable being barraged by . . . inquiries from tourists, especially if questions are culturally or personally insensitive, and may respond with silence." TOURISM AND GAMING, *supra* note 2, at 102.

83. Sweet, *supra* note 6, at 63.

84. *Id.* at 62.

85. There are "four stages of attitudinal changes toward tourists, including euphoria, apathy,

the operating hours of the attraction, or alter their route to stay away from designated tourist areas.[86] This becomes a problem for the community when members cannot access locations they need on a daily basis — for example, a child's school or a place of work.[87] Community resentment over being forced to compete with guests for goods and services escalates over time.[88] This presents problems for the business because the host community might become openly hostile to tourists.[89] On the Taos Pueblo, there have been incidents of tourists taking pictures of tribal members without first asking permission. "This is why some of the people who plaster their houses sometimes throw mud at the tourists who try to take their pictures."[90]

Crime is a reality for any tourism enterprise.[91] As mentioned, the crime may be internal, host attacking guest, but it is just as likely to be external, guest attacking host or guest attacking guest. The reality is that guests are not always polite or well intentioned. They steal from the attraction, the host community, and from each other. They are also the targets of thieves.[92]

Tribal governments should exercise their right to regulate visitors on tribal land.[93] Crime control and prevention is necessary for the well being and happiness of the host community,[94] the success of the business, and also for the satisfaction of the guest. Smart tourists avoid high-crime areas.[95]

i) Natural Resources and Sacred Sites

A seemingly small problem for hosts is the fact that tourists do not always stay in assigned areas. This becomes a serious issue when tourists invade sacred sites, and unintentionally or intentionally desecrate them. Sometimes, the tourist only wants a souvenir, but this "souvenir" might be a funerary object.[96] Another "reason" for desecrating sacred sites is to search for objects which might bring a high resale or display value.[97]

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annoyance, and antagonism." TOURISM AND GAMING, *supra* note 2, at 148.

86. PEOPLE AND TOURISM, *supra* note 5, at 7.

87. "There are just too many tourists who come in and bother the Indian people when they are trying to get their work done." TOURISM AND GAMING, *supra* note 2, at 153 (quoting Taos Pueblo tribal member, responding to a survey).

88. GUNN, *supra* note 4, at 16.

89. PEOPLE AND TOURISM, *supra* note 5, at 8.

90. TOURISM AND GAMING, *supra* note 2, at 153.

91. MATHIESON & WALL, *supra* note 16, at 150-52.

92. *Id.* at 151.

93. 25 U.S.C. § 1301(2) (2000) (stating that the Indian Civil Rights Act of 1968 gives tribes "criminal jurisdiction over all Indians"); Montana v. United States, 450 U.S. 544 (1981) (holding that tribal governments may assert authority over non-Indians for valid police power purposes).

94. TOURISM AND GAMING, *supra* note 2, at 178.

95. PEOPLE AND TOURISM, *supra* note 5, at 26, 28.

96. GUNN, *supra* note 4, at 18.

97. De Meo, *supra* note 46, at 13-17 (listing five types of people who are interested in American Indian cultural objects: "the pothunter, the collector, the curator, the archaeologist, and

When tourists are present, the natural environment also takes a beating.[98] Of course, anytime people gather, they consume natural resources. Tourists are in a peculiar situation, because they do not live with the consequences of the pollution they help create or the shortages they help cause.[99] Tourists demand a certain level of comfort. Thus the host must be prepared to offer a restroom and a place to eat and drink. The host need not supply the food, but should make available a place to eat and dispose of waste. Car and foot traffic cause obvious damage to the natural environment.[100] Depending on the size and type of tourist attraction, the host should plan for and fund protective devices. Even though the tourists cause the deterioration, they will not continue to visit if the environment is unattractive.[101]

There are federal laws designed to protect sacred sites, the land, and the objects found within from those who would destroy them unintentionally or for their own gain. Unfortunately, these laws are problematic in their practical application.

Because Indian Country is land held in trust by the United States,[102] the Antiquities Act of 1906[103] is applicable. It prevents "destruction or removal of antiquities located on federal lands."[104] The maximum fine is no more than five hundred dollars and ninety days' incarceration.[105] The Act is used primarily by the President to create National Monuments.[106] It also permits the excavation of the Monument to procure items for display.[107] The Act rejects the idea that the true owners of sacred sites and the objects contained therein are American Indians.

The American Indian Religious Freedom Act of 1978 (AIRFA)[108] "recognizes a relationship between the object and its culture that deserves protection . . . (and) implies that restrictions on the alienability of cultural property that further the goal of Native American possession of sacred objects should be promoted."[109] However, AIRFA does not create a cause of action for the enforcement of its goals.[110]

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the Native American").

98. TOURISM AND GAMING, *supra* note 2, at 40.
99. *Id.* at 41.
100. GUNN, *supra* note 4, at 18.
101. *Id.* at 17.
102. Johnson v. McIntosh, 21 U.S. (8 Wheat.) 543 (1823).
103. De Meo, *supra* note 46, at 27; 16 U.S.C. §§ 431-433 (2000).
104. De Meo, *supra* note 46, at 27.
105. 16 U.S.C. § 433 (2000).
106. *Id.* § 431.
107. *Id.* § 432.
108. 42 U.S.C. § 1996 (1994).
109. De Meo, *supra* note 46, at 18.
110. *Id.* at 19.

The federal law often cited as the protector of sacred objects is the Native American Graves Protection and Repatriation Act (NAGPRA).[111] As its name suggests, NAGPRA protects sacred and ceremonial objects, not objects that were "created for a purely secular purpose, such as for sale or trade in Indian art."[112] NAGPRA's main purpose does not protect sacred sites initially; rather it provides for repatriation of cultural objects found in non-Indian hands. It also recognizes American Indians as the true owners of sacred objects.[113] Its goal is "regulating ownership, disposition, trafficking, and most significantly, repatriation of Native American cultural property or human remains in the possession of a federal agency or museum."[114]

Critics of NAGPRA point out that while it promotes the idea of repatriation of sacred objects, in application it is nearly impossible to compel museums to loan out the objects in their collections to American Indian communities, even when the objects are "needed to carry out their traditions and ceremonies that are dependent on specific objects."[115] Proof of lineal descent or close cultural affiliation is required to regain possession of an artifact.[116] This process is time-consuming and unrealistic for cultures who did not keep written records. To help in this matter, museums are required to inventory their collections, attempt to trace the origin of each object, and notify the proper owner that they have possession of the object.[117]

The National Historic Preservation Act of 1966 (NHPA)[118] provides federal protection for sacred sites. Its purpose is to allow the federal government to establish and control areas that the government deems important to the Nation's history. However, its protection extends only to areas where the damage is inflicted by the federal government, not private individuals.

While there are obvious holes in these laws, they can at least be used as an initial deterrent to protect sacred sites. If the public is aware that there are laws regulating behavior on sacred territory, they might tread lightly and think twice before looting. The United States Department of the Interior publishes a brochure about the Indian Arts and Crafts Act, which explains its purpose and how to report suspected violations.[119] Signs at National Parks remind visitors that removing any object from the Park is a crime. Hosts may even erect their

111. 25 U.S.C. §§ 3001-3013 (2000).

112. De Meo, *supra* note 46, at 47.

113. *Id.* at 47; 25 U.S.C. § 3002 (2000).

114. De Meo, *supra* note 46, at 44.

115. Guida, *supra* note 19, at 174.

116. 25 U.S.C. § 3005 (2000).

117. Renee M. Kosslak, *The Native American Graves Protection and Repatriation Act: The Death Knell for Scientific Study?*, 24 AM. INDIAN L. REV. 129, 138 (1999-2000) (explaining 25 U.S.C. §§ 3003(a), 3003(d)).

118. 16 U.S.C. §§ 470 to 470x-6 (2000).

119. INDIAN ARTS & CRAFTS BD., U.S. DEP'T OF INTERIOR, THE INDIAN ARTS & CRAFTS ACT (2000).

own signs, or request that such signs are displayed in the appropriate places.[120]

2. Tourist Types and Their Role in Cultural Tourism

The effects of cultural tourism are exaggerated or minimized depending on the type of tourist present. While tourists are individuals with unique backgrounds, desires and expectations, it is possible and practical to divide them into four types: organized mass, individual mass, explorer, and drifter.[121]

The first group, organized mass tourists, demand structure, comfort, and familiarity. They travel on organized pre-paid tours, and expect all their needs to be met with as little work on their part as possible. They are ideal for hosts who want absolute control over where tourists go and what they see. They get off their bus wherever it stops, and don't stray far from it. They often spend substantial amounts of money but also expect certain amenities. They wish to remain isolated from anything negative, and tend to get very outspoken about changes in the itinerary.

At a powwow in Fort Robinson, Nebraska, the author observed a group of elderly organized mass tourists on bleachers waiting for the dancing to begin at 11 a.m. About 11:15 a.m., they began grumbling about the delay. They reached the consensus that "if *these people* (i.e., the Indian hosts) want to attract tourists, they need to start on time." They did not understand that the powwow was not being held simply for their pleasure.

The second group, individual mass tourists, also prefer familiarity and structure, but will briefly stray from pre-arranged plans in search of novelty. This is best exemplified by the experience of the Inuit of Nunavut. Some tourists leave their cruise ships in search of the Inuit's two big attractions: "Inuit heritage and pristine wilderness."[122] Tourists visit long enough to take photographs of the local residents, but because of the lack of amenities, do not stay for extended periods of time.[123] They would like to spend money on goods, but accept the fact that because they went to the Inuits uninvited, they cannot expect gift shops. However, they also do not like surprise costs. They return to their ships to avoid the "rudimentary (but nonetheless expensive) accommodation available on land."[124] They feel that once you see one native village, you have seen them all.

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120. Guida, *supra* note 19, at 176 ("California Indians would like museums to inform the public about laws that protect Indian sites and the penalties for . . . damaging sites and removing objects. State laws protecting Indian sites are violated frequently, violations are often not vigorously prosecuted, and convicted violators often receive minor penalties.").

121. CHOICE AND DEMAND IN TOURISM 17-18 (Peter Johnson & Barry Thomas eds., 1992); MATHIESON & WALL, *supra* note 16, at 19.

122. PEOPLE AND TOURISM, *supra* note 5, at 41.

123. *Id.* at 40.

124. *Id.* at 10.

The third type of tourist is the explorer. They like to try something different, and may have an idea of where they are going, but are open to alterations in travel plans. Interaction with the locals on a personal basis is preferred by this tourist. However, if they become uncomfortable, they retreat to more familiar surroundings. Explorers are probably the most common type of visitors to reservations.

The above three types of tourists accept the culture with which they are presented, even if it is created for their benefit. But the fourth type of tourist, the drifter, is different.

The drifter is ideal for home stay programs. They wish to live as their hosts live. For this reason, drifters are the most culturally invasive, although they usually mean no harm. For a drifter, direct interaction is a necessity. There is little that can be hidden from their curious minds. Drifters are few in number. However, they may show up in places where tourists are not wanted.

The above types of tourists come from within and without the United States. International tourists are more difficult to accommodate, but they create a vast potential for profit. Approximately fifty million international tourists visit the United States each year, and spend approximately $100 billion. This is roughly one-fifth the amount spent by all tourists in 1999.[125]

International visitors are extremely interested in American Indians[126] but they sometimes hold the most vivid stereotypes.[127] For example, one German tourist who stepped off a plane in Oklahoma wanted to know where the Indians were. He posed this query to his greeter, a Kiowa man attired in Western wear. The tourist did not recognize the man as Indian because he wasn't wearing beads, feathers, and a blanket.[128]

B. Factors Needed to Develop and Sustain Cultural Tourism

Once a host understands the possible consequences of cultural tourism, and decides to pursue it, the next logical step is consideration of the factors needed to create and sustain a successful cultural tourism attraction, and place these factors in context.[129]

The factors involved in creating and sustaining a cultural tourism business are tribal acceptance, location, a unique cultural resource, planning, promotion,

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125. The Travel Industry Association of America reported that tourism was a $541 billion industry in 1999. Tirado, *supra* note 21, at 11; JAMES ELLIOTT, TOURISM POLITICS AND PUBLIC SECTOR MANAGEMENT 5 (1997) (stating that 44,730,000 international tourists visited the United States in 1995).

126. Quanah Crossland Stamps, *Tapping into International Tourism: A Growth Industry for Indian Country*, AM. INDIAN REP., Mar. 2000, at 20.

127. *See, e.g., Ich Bin Ein Cowboy*, ECONOMIST, May 26, 2001, at 84 (describing the enduring stereotypes created in Germany by author Karl May).

128. Interview with Patrick Redbird, *supra* note 32.

129. For a list of self-assessment questions that should be answered by potential hosts, see PEOPLE AND TOURISM, *supra* note 5, at 42-43; HOSTS AND GUESTS, *supra* note 49, at 33-50.

tribal size, and a positive relationship with the home state and surrounding communities. If any of these factors do not currently fit the proposed cultural tourism business, they must be developed, or done without.

1. Acceptance

Arguably, the most important factor in maintaining a cultural attraction is host community acceptance. If a host has the support of the community, the project obviously has a better chance for success. If the host does not have the support of the community, the question to ask is "Why?" Maybe the host needs to project an air of legitimacy, or maybe the proposed attraction is too invasive or dramatic, like the dancing Cherokees.[130]

Before planning a tourism venture, a wise host surveys the people, both Indian and non-Indian, affected by the attraction. It is very important to ask questions about the planned attraction. This process may take time, but should not drag out ad infinitum. A few positive responses should not infer community acceptance.

The Zuni Government conducted a survey in 1965 to get a feel for the public's enthusiasm for developing attractions like recreation areas, motels, and archaeological sites. The Government thought it received a positive response. In 1971, the Tribal Council started working with the National Park Service to develop a National Historic Park. In 1976, they developed a comprehensive tourism plan. But in 1988, twenty-three years after the initial survey, the Zuni tribal members rejected the idea because they did not feel that they were properly consulted and advised. In 1994, the tribal government conducted another survey with the help of the on-reservation heritage center, which is operated by the tribal members and not the tribal government. The biggest concerns noted were the preservation of the Zuni culture and protection of sacred sites.[131]

Another method of gleaning feelings towards tourism is to look to what is already in place. If individual tribal members are actively engaged in selling crafts to random visitors, then an appropriate next step might be to advertise. If tribal members are comfortable with individual non-Indians coming onto the reservation, an appropriate next step might be to offer structured tours of the reservation. For example, on the Pine Ridge reservation in South Dakota, it is common to see non-tribal members visiting the site of Wounded Knee. In response, individual Lakota tribal members stay near the site to sell handmade goods to the tourists.

A lack of community support for an attraction must be taken seriously, because it may create feelings of indignation and potentially lead to resistance. For example, "[p]eoples whose cultures have been represented in museums without their involvement may think of museums as part of a systematic effort

130. *Trail of Tears Drama*, *supra* note 57.

131. PEOPLE AND TOURISM, *supra* note 5, at 26.

to separate them from their cultural heritage and objectify them as individuals and tribes."[132]

Other negative feelings about the cultural display may come from the surrounding community.[133] Vandalism is a very real problem for some tourist attractions.[134] This type of crime is committed by people who use tourist sites as a canvass for their expressions of intolerance. Initially, the only probable solution to keep acts of vandalism at a minimum is increased police protection.

2. Location

Location is a factor because of the surrounding community, but is not necessarily a blessing or a curse to a successful tourism business. A host should use location to decide the type of attraction to develop. If the attraction site is located on an interstate or in a large town, the attraction will naturally draw tourists en masse, while a remote location will see fewer visitors.[135]

A remote location is not a barrier to operating a cultural tourism business.[136] Today, almost any location in the world is accessible by some means.[137] With the speed of modern transportation, guests may spend more time at a site.[138]

If a tribe has something unique to offer, people will come. The Zuni are a good example. They are located in New Mexico, which is heavily visited by people interested in American Indian culture. However, the Zuni are only in the beginning stages of tourism development[139] partly because they are located "off the beaten path, so that travelers must consciously make Zuni a destination and take a significant detour to visit it."[140]

The Zuni operate a tribal tourism office, staffed by only one person. The Zuni do not provide lodging for their guests. They do not seek to bring in large numbers of tourists. In fact, they have only published and distributed one brochure. Yet they receive visitors. "Handfuls of people come for the opportunity to visit ancient ruins, and several hundreds travel great distances to witness the ongoing practice of Zuni traditional religion."[141]

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132. Guida, *supra* note 19, at 168.

133. PROPERTY RIGHTS AND INDIAN ECONOMIES: THE POLITICAL ECONOMY FORUM 231, 240 (Terry L. Anderson ed., 1992) [hereinafter POLITICAL ECONOMY FORUM]

134. Interview with Patrick Redbird, *supra* note 32.

135. GUNN, *supra* note 4, at 62-63.

136. In a 1994 survey of 337 tribes, 86% of those who responded indicated that they receive visitors. A total of 15% of those who receive tourists said that they were in a remote location. TOURISM AND GAMING, *supra* note 2, at 61-64.

137. PEOPLE AND TOURISM, *supra* note 5, at 6.

138. GUNN, *supra* note 4, at 11.

139. PEOPLE AND TOURISM, *supra* note 5, at 23.

140. *Id.*

141. *Id.*

The only formal tourist attraction the Zuni offer is big-game hunting, led by Zuni guides.[142] This operation was developed after several community meetings, and is operated under a policy that is understood and accepted by both the tribal members and the hunters.[143]

3. Resources

Any existing cultural resource possessed by a host may be considered for tourism. A resource may be a part of the land, such as the ancient ruins at Zuni, or it may be a part of the culture, such as a unique craft.[144] Existing resources need not be large or already well known. Each tribe has its own story to tell, and whatever they are willing to share can be marketed, and done so on their own terms.

For many tribes, "their concept of a living museum . . . would strongly emphasize contemporary life and its continuity with the past."[145] The Cherokee opened a museum exhibit in 2001 presenting their experience on the Trail of Tears. The Cherokee designed the exhibit with input from other tribes. The Coordinator of the exhibit, Sam Kidd, Cherokee, said "it plays down the stereotypical Cherokee "victim" and helps us focus on the Cherokees' ability to adapt and thrive."[146] Life-size models showcase traditional clothing. The faces for the models were cast from tribal members, including Kidd.[147]

"Nationwide there are fifty-three tribal museums. These museums give Native Americans the advantage of telling their story in their own way, handling their material culture according to their own standards, and reaping the economic advantages of tourism."[148]

If opening a museum is not practical, hosting a cultural event is another way to share tribal culture and, if desired, to profit monetarily from it. Various tribes in Oklahoma hold Homecoming weekends to reunite absentee members and to educate the public about their culture. For the last half-century, the Cherokee in Tahlequah have celebrated their annual Cherokee National Holiday. They host approximately 50,000 visitors each year over the Holiday weekend.[149] Allowing visitors for only one week a year could work well for hosts who currently do not wish to remain open for tourists year-round. Such a weekend may serve as a trial to determine host community acceptance and/or

142. *Id.*

143. *Id.* at 29.

144. GUNN, *supra* note 4, at 58.

145. Guida, *supra* note 19, at 166.

146. *Trail of Tears Permanent Exhibit Opens at Cherokee Heritage Center*, OKLA. INDIAN TIMES ONLINE, May/June 2001, *at* http://www.okit.com/arts/2001/mayjune/cherokeemuseum.html (May 10, 2002).

147. *Id.*

148. Guida, *supra* note 19, at 169.

149. Rob Martindale, *Cherokee Nation Celebrates*, TULSA WORLD, Sept. 5, 1999, at 17.

tourist demand. These weekends are also a good way to compete with other area attractions.

4. Planning

Nearby tourist attractions may or may not exist, but the threat of competition always does. To circumvent competition, a tourism business should offer something unique, or make itself more attractive to the tourist.[150] Competition, and its potential effect on a new tourism business, can be ascertained with a good market analysis, which determines the feasibility of the proposed attraction.

There are four steps in researching feasibility:

(1) Gathering general information. At this step, information about capital, number of workers needed, pricing, etc. is gathered from people currently working in or with a similar business.

(2) Studying market trends. Here, all applicable trends are studied, from demand for the service to technological changes which might have an impact.

(3) Application. This step applies the information gathered to the proposed tourism business to determine its potential for profit and its competitiveness.

(4) Developing a business plan. The plan projects expenses and revenues, including cash flow.[151] Cash flow is especially important to tourism businesses. Money may only come in during the tourist season, but some expenses must be paid all year.

The Native American Business Development, Trade Promotion, and Tourism Act[152] is a useful tool for host populations of all sizes. Its purpose is to encourage "the formation of new businesses . . . and the expansion of existing businesses."[153] The Act requires the Secretary of the Interior to offer assistance to American Indian businesses, including market analyses, financing, and promotional assistance.[154] The Act is applicable to both Indian owned businesses and tribally owned businesses.[155] However, the section that specifically addresses tourism limits the assistance offered to tribes in the Four Corners region, the Great Northwest, the Great Plains, Oklahoma, and Alaska. The Northeast and Southeast are conspicuously absent from the list.[156]

5. Promotion

There may be no practical way to alter location, competition, or cultural resources, but a host can emphasize what it has to offer through strategic

150. STEVEN HABERFELD ET AL., A SELF-HELP MANUAL FOR TRIBAL ECONOMIC DEVELOPMENT at 7-1 (1982).

151. *Id.* at 7-3 to 7-6.

152. 25 U.S.C. §§ 4301-4307 (2000).

153. *Id.* § 4301(b)(1)(A).

154. *Id.* § 4303(b)(3); *id.* § 4304(c)(2)-(c)(4), (d)(1).

155. *Id.* § 4302(5), (8).

156. *Id.* § 4305(4).

promotion. "The key to being successful in the tourism industry is forming alliances . . . . If you're dependent on drop-in traffic, you're not going to last very long."[157]

Promotion can be accomplished in various ways, and all options should be explored. The most obvious form of promotion is self-promotion. The Pawnees in Oklahoma, like the Zuni in New Mexico, publish a brochure. It is a single sheet printed on front and back and trifolded. It is not complicated or flashy, but it communicates information about Pawnee history, culture, and regularly scheduled events.[158]

Brochures are only effective if they reach the tourists. To ensure that, hosts are advised to determine what areas tourists currently frequent, and distribute brochures. There is a good chance that tourists will take a day trip to a place they see advertised.[159]

Web sites are another means of self-promotion. Twenty-nine Oklahoma tribes have official websites. Cultural tourism businesses can be mentioned on a tribal government website, or the business may create its own.

Tribes may promote each other, especially if their attractions are linked or somehow complimentary. In North Carolina there is an outdoor drama entitled "Unto These Hills." It tells the story of the Cherokee from their beginning to the time of the Trail of Tears.[160] It is only natural that the drama's operators promote the "Trail of Tears" drama in Oklahoma, and vice versa.

Another way to encourage tourism is by forming or joining a Chamber of Commerce, either non-Indian or Indian. The Zuni Area Chamber of Commerce was formed by local business people seeking to promote tourism to the Zuni area. This group published a newspaper and a brochure designed to attract tourists to their businesses.[161] Other chambers of commerce are formed to promote the Indian businesses themselves.

The American Indian Chamber of Commerce of Oklahoma is composed of Indian and non-Indian individuals and businesses. It operates through grants, corporate donations, and membership dues. Its goals are to "help build a stronger American Indian business community in Oklahoma" and help "American Indian businesses to expand and grow." The 2000-2001 Directory lists businesses according to categories, such as Artist and Art Galleries,

157. Tirado, *supra* note 21, at 13.

158. COMMUNICATION DEP'T, PAWNEE TRIBE OF OKLA., THE PAWNEE TRIBE OF OKLAHOMA (1998).

159. This is called the hub and spoke method. Tourists cluster in the hub, but can be enticed to visit an attraction at the end of one of the spokes. Interview with Patrick Redbird, *supra* note 32.

160. CHEROKEE HISTORICAL ASS'N, UNTO THESE HILLS: THE DRAMA OF THE CHEROKEE INDIAN (1987).

161. PEOPLE AND TOURISM, *supra* note 5, at 25-26.

Cultural Organizations, Entertainment, Gift Shops, Museums, Powwows, and Travel Agency.[162]

In August 2001, representatives from Indian and non-Indian owned businesses, Indian Chambers of Commerce from various states, the United States Government, and Canadian tribes and businesses agreed to form a National American Indian Chamber of Commerce (NAICC). The purpose of the NAICC is to link Indian-owned businesses to non-Indian-owned businesses and state and federal governments. Its goal is to facilitate the operation and expansion of Indian-owned businesses.[163]

For hosts wishing to target the foreign market, investing in a trip to a trade fair is recommended. In March of each year the International Tourist Exchange (ITB) holds a tourism show in Berlin, Germany.[164] There are twenty-six buildings and over nine miles of aisles for anyone wishing to promote their tourism business. In 1999, there were 7000 exhibitors. The United States has its own building.[165] The first American Indians to attend ITB were the Florida Seminoles and the Eastern Cherokees. They were soon joined by other tribes, including tribes from Wisconsin, Oregon, and New Mexico, who shared resources to cut transportation and vendor costs.[166]

Currently, several tribes from Oklahoma attend. Tribal members wear traditional dress and perform selected dances for the observers. The Oklahoma group is unique in that they stay after the fair to dance for German shoppers in the country's largest department store. These displays are extremely popular with the German people. Thanks in part to their promotion efforts, Oklahoma received 2745 German tourists in 1999. That was over ten percent of the total number of international visitors to the state.[167]

Patrick Redbird, Multicultural Program Coordinator for the Oklahoma Department of Tourism, led the Oklahoma group.[168] Although employed with the Tourism Department for less than three years, he has made enormous efforts to reach out to Oklahoma Indians, offering suggestions to develop cultural tourism and helping in any way possible. He has received a warm welcome from the tribal members and leaders, due in part to his Kiowa ancestry, but mostly because he has an obvious passion for his work. In his first year, Mr. Redbird traveled to shows in Switzerland and South Korea to promote tourism in Oklahoma Indian Country.

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162. AM. INDIAN CHAMBER OF COMMERCE OF OKLA., BUSINESS DIRECTORY (2000-2001).

163. *Native Americans to Create National Chamber of Commerce; Organization to Promote Business Development, Improve Economic Opportunities*, PR Newswire, Aug. 21, 2001.

164. *Portal — ITB Berlin, at* http://www.itb-berlin.com (last visited May 16, 2002).

165. Interview with Patrick Redbird, *supra* note 32.

166. Stamps, *supra* note 129, at 20.

167. The total number of international visitors who signed in at Oklahoma Welcome Centers in 1999 was 20,789. Interview with Patrick Redbird, *supra* note 32.

168. *Id.*

As evidenced by Mr. Redbird, states may provide invaluable promotional assistance. If states do not actively promote American Indian tourism, their tourism departments should at least be willing to distribute brochures produced by the hosts.

Again, this is especially true in Oklahoma. The Tourism Department distributes brochures produced by tribes such as the Chickasaw and Pawnee. It also publishes brochures about American Indian tourist sites in English, German, French, Spanish, and Japanese.

Periodically, the Tourism Department produces a comprehensive brochure that lists American Indian tourism sites and event dates. It offers a brief history of American Indians in Oklahoma, explains different powwow dance styles, and lists contact information for Oklahoma's tribes. A new addition to the brochure is the section entitled "Powwow Protocol" which is a list of do's and don'ts for non-Indian visitors. In 1999, the Department printed 150,000 of the brochures. As of October 2001, they had less than 50,000 remaining.[169]

Mr. Redbird has assembled listings of tribal websites, drum and dance groups, and storytellers. He is currently working with the State Historical Society to compile a list of famous Oklahoma Indians. He plans to post information about tribal headquarters, history, population, culture, and links to tribal websites[170] on the Tourism Department's website.[171]

If state help is not forthcoming, and cannot be cultivated, self-promotion is both practical and profitable. The Florida Seminoles promote themselves both domestically and internationally. They distribute brochures at the ITB, and have a working relationship with "VISIT FLORIDA — a non-profit organization that handles Florida's tourism marketing — and the local convention and visitors bureau (CVB)." They have had over 15,000 visitors to their Big Cypress reservation.[172]

6. Tribal Size

Tribal size is a factor for any Indian business, but especially so for cultural tourism. Small populations, if blessed (or cursed) with some resource that naturally attracts tourists, are usually overwhelmed. Any time an attempt is made to utilize such a resource, all members of a small tribe are likely to be affected, especially if the land area is small. For small tribes, the effects of cultural tourism are magnified, and may lead to an alteration of tribal culture. However, their culture often remains intact, because "once a critical point is reached in the decline of a culture, resistance to change takes on a new

169. Thompson Books, a publisher of school textbooks, requested 10,000 brochures to insert in their Teacher's Edition history books. *Id.*

170. Interview with Patrick Redbird, *supra* note 32.

171. *TravelOK.com — Official Oklahoma Tourism Info, at* http://www.travelok.com (last visited May 10, 2002).

172. Tirado, *supra* note 21, at 12.

urgency."[173] Small tribal hosts must carefully consider the effects of their proposed tourism enterprise, while attempting to create a business that is compatible with their existing, and maybe limited, resources.

Conversely, large tribes may already have the land or monetary resources to develop a large tourism enterprise, but will likely have a hard time reaching a consensus about what is appropriate. However, if the land base is large, hosts may be able to develop a tourism business "on the fringe," meaning both that the business is located on the extremity of Indian Country, and that the business may be merely tolerable, although not entirely gratifying to some members of the tribe. As discussed, it is strongly advisable to attempt to please all members of the host community, but this is a hard task to achieve, especially in large tribes.

C. Ownership Models for Cultural Tourism Businesses

There are two major divisions in the ownership of American Indian cultural tourism enterprises: Indian owned and non-Indian owned. Within the Indian owned division lies a variety of ownership options, each with its own set of positives and negatives.

1. Non-Indian Owned

Non-Indian owned tourism businesses essentially mean that tribes will not receive any financial compensation for the use of their culture. Further, the content of these attractions is often outside the control of the very culture being commoditized, or the attraction itself may be a sacred site. If these areas are not under the control of the proper tribe, they will fall into the hands of someone who does not know how to properly care for them. The good news is that under the 1992 National Historic Preservation Act Amendments[174] "tribes . . . now have the statutory right to be consulted by the federal agency . . . when a proposed federal undertaking would affect a historic property . . . that holds religious and cultural significance for a tribe . . . . This right exists regardless of where such places are located — that is, even outside reservation boundaries."[175] Note that this applies only to the federal government, and not individuals.

Fortunately, some non-Indian cultural tourism developers take great care to insure the accuracy and sensitivity of their attraction. For example, the Sam Noble Oklahoma Museum of Natural History solicited and incorporated the suggestions of various tribal members into its displays.[176] The National Museum of the American Indian also uses the "voices and viewpoints (of

173. PEOPLE AND TOURISM, *supra* note 5, at 10.

174. 16 U.S.C. §§ 470 to 470x-6 (2000).

175. Dean B. Suagee, *The Cultural Heritage of American Indian Tribes and the Preservation of Biological Diversity*, 31 ARIZ. ST. L.J. 483, 523 (1999).

176. Interview with Patrick Redbird, *supra* note 32.

Native people) . . . on the exhibition floor, in public programming, and through new approaches to scholarship that are more inclusive and collaborative."[177]

2. Indian Owned

Obviously, any American Indian cultural attraction should ideally be owned and operated by the group being put on display. However, Indian owned does not necessarily mean tribally owned.[178] There are ways for individual tribal members wishing to create a cultural tourism enterprise to do so without using the tribal government.

a) Individual

One option is for individual tribal members to open a small tourist attraction by themselves. This type of business is most practical for artists and families agreeable to home stays. These two options do not require hiring workers or building a facility other than their home. Tribal acceptance may be an issue for home-stay businesses, but the guests who participate in these programs are more likely to respect the customs and norms of the host society because they become so fully integrated into it.

If multiple private businesses are created within a small geographic area, a micro-economy forms. An example would be one person operating a gift shop, another accommodating guests in his home, and another offering language lessons. This model works well in a tribe that supports the individual accumulation of wealth.[179] To overcome a lack of support, businesses can earmark a portion of their profits for community development projects.

Tribal members may also pool their resources to develop a single business. Zuni tribal members operate the A:shiwi A:wan Museum and Heritage Center, which is a "not-for profit non-governmental organization located in Zuni and composed of Zuni Tribal members."[180]

b) Tribal

If tribal members wish to take a more passive role in economic development, tribal businesses may be more appropriate. Tribal businesses are "owned and operated by tribal government on behalf of the tribal membership."[181] For a tribal tourism business to be established, the tribal government itself should be well established. The government must also obtain

177. Guida, *supra* note 19, at 169.

178. HABERFELD ET AL., *supra* note 154, at 1-5.

179. WHAT CAN TRIBES DO? STRATEGIES AND INSTITUTIONS IN AMERICAN INDIAN ECONOMIC DEVELOPMENT 40 (Stephen Cornell & Joseph P. Kalt eds., 1992).

180. PEOPLE AND TOURISM, *supra* note 5, at 25.

181. HABERFELD ET AL., *supra* note 154, at 1-5.

tribal member agreement to the business, and then be able to act on the plans to create the tourist attraction.[182]

To maintain a tourism business, the tribal government needs to create a feeling of confidence in its members. This may be effectuated if the government is accepted by the tribal members as legitimate and effective. If not, a tribal corporation may be formed to oversee the daily operation of the tourism business. This system has proven successful in insulating tribal businesses from tribal politics.[183]

Tribal businesses have one big advantage over privately owned Indian businesses. Grants and loans are available to tribal governments to a larger extent than to private individuals.[184]

Another option for tribal governments and members is to form partnerships with other tribes and/or non-Indian owned businesses. In Oklahoma, the Standing Bear Foundation, a nonprofit organization, created Standing Bear Park. The purpose of the Park is to honor the memory of Chief Standing Bear and to "promote intercultural understanding and communication."[185] The Foundation includes members from at least six different tribes, non-Indians from the local community, and big business.[186]

If a tribe wishes to profit monetarily from tourism, but does not have the resources or desire to form a tourism business, leasing lands to the National Park Service is an option. In this model, the tribe receives a periodic payment from the federal government, but does not have to significantly create or manage the business.[187]

As mentioned, the Zuni Tribal Council considered entering into a leasing arrangement with the National Park Service (NPS) to create a National Historic Park on Zuni owned land. The Zuni-Cibola National Historical Park was to be managed by the NPS, with advice from an Advisory Commission made up of the Zuni Tribal Governor, three members who were to be appointed by the Zuni Tribe, and representatives from the NPS, the Smithsonian Institution, and the New Mexico State Historic Preservation Society. The proposal became an Act of Congress in 1988. Its goal was to "preserve and protect for the benefit of present and future generations certain nationally significant historical, archaeological, cultural, and natural sites and resources associated with the Zuni Tribe."[188]

However, "the Zuni and their religious leaders (worried) about the possible effects of tourism on their culture and sacred sites."[189] The tribal government

182. POLITICAL ECONOMY FORUM, *supra* note 136, at 232.
183. *Id.* at 234-37.
184. HABERFELD ET AL., *supra* note 154, at 1-7.
185. STANDING BEAR FOUND., STANDING BEAR PARK (2001).
186. Interview with Patrick Redbird, *supra* note 32.
187. PEOPLE AND TOURISM, *supra* note 5, at 8.
188. *Id.* at 25.
189. *Id.* at 9.

called for an election to be held to reassess the feelings of the community. Eight hundred sixty three Zuni voted against leasing the land to the NPS, while only one hundred twenty five voted in favor of it.[190] The voting reflected two major concerns: (1) the Zuni did not feel that the NPS would "give sufficient consideration to Zuni religious activities near or in the Park" and (2) "the Tribal Council did not adequately consult the Zuni Public about the establishment of the park and the ramifications to Zuni tribal sovereignty."[191]

In 1992, the Crow Tribe of Montana also considered a similar project. It was to bring together the Tribe, the NPS and private industry. The idea was to create a living history attraction at Little Bighorn. North Shield Ventures, a non-Indian owned business, was to build and operate a visitor center, museum, and housing for the NPS workers. North Shield agreed to give the Tribe an escalating percentage of the gross profits for thirty years. The Crow Tribe was to prohibit development around the attraction to maintain the historical character of the area. If the Tribe was unable to do so, "North Shield Ventures would purchase the property in question and convey it to the tribe."[192] Unfortunately, negotiations broke down, mainly because of concerns over content control and tourist accommodation. Soon thereafter, the Crow Tribe and North Shield entered into a private joint venture to develop the area.[193]

On a comforting note, it seems that the NPS will not pursue controversial projects. It responds to tribal requests to protect sacred sites that are located within National Parks. It closed the "great kiva" at Chaco Culture National Historic Park at the request of the Pueblos and Navajos. National Park Rangers refuse to reveal the location of a Cochiti Pueblo sacred shrine in the Bandelier National Monument in New Mexico.[194]

V. Sustainable Cultural Tourism

While it is true that American Indians have received, and will continue to receive, unsolicited as well as solicited tourists, overdependence on cultural tourism is discouraged. "(Tourism) is a competitive industry with many components and products, and tourist areas tend to go through a life cycle that is likely to involve stagnation or decline."[195] For example, in Oklahoma the

190. *Id.* at 25.

191. *Id.*

192. TOURISM AND GAMING, *supra* note 2, at 119.

193. *Id.* at 120. As of the date of publication, the current status of the joint venture is not known.

194. Joel Brady, *"Land is Itself a Sacred, Living Being": Native American Sacred Site Protection on Federal Public Lands Amidst the Shadows of Bear Lodge*, 24 AM. INDIAN L. REV. 153, 181 (1999-2000).

195. PEOPLE AND TOURISM, *supra* note 5, at 2.

tourist season is May through August, with July being the heaviest month. There is also a spike in October.[196]

There are always going to be some things that fall outside host control. Political and social instability in the area cause tourists to alter their plans. This leads to a recession for those businesses located in the unstable area, but also produces a boom in the areas untouched by the problem because tourists do not usually cancel their plans, they simply go elsewhere.[197]

States or tribes may impose taxes to profit from the tourists. For example, Montana created a four percent accommodation tax, the only state sales tax which is earmarked to develop future tourism.[198]

VI. Conclusion

Cultural tourism is an inescapable reality for every American Indian community and, in order to deal with it, should be understood. An attempt can be made to stop tourism, but it can also be molded into a profitable business. A sustainable cultural tourism business requires earning and maintaining a financial as well as a social profit.[199] From the given examples, the potential host should see that there is no right way to operate a cultural tourism business or to deal with the tourists. The listed factors and effects are generally applicable to all cultural tourism businesses, but vary in intensity according to the particular situation. They are a starting place in learning about cultural tourism, but they must be molded to meet the particular circumstances surrounding the developing tourism venture. In sum, the host must achieve balance between its needs and resources, and those of tourists.

196. Interview with Patrick Redbird, *supra* note 32.
197. MATHIESON & WALL, *supra* note 16, at 87-88.
198. TOURISM AND GAMING, *supra* note 2, at 125.
199. PEOPLE AND TOURISM, *supra* note 5, at 6.