

Local governance and reform: a
conceptual critique of *regionalization*
and the Title 26 Taskforce



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I. Intro

Since before the Navajo Nation tribal system was put into place in 1937, Navajo people have relied on local authority to determine our own affairs. Reliance on local authority is not just a political ideal, but also a cultural staple. For 96 years we have had chapter houses. They are a part of how we think about government today. But they are failing. Many in our community have left the reservation and work in cities far from the reservations. This is a larger systemic problem. In many ways these people are economic refugees, unable to find meaningful work in the reservation. The Local Governance Act (LGA) was legislation designed to reverse the decline of local governance and empower communities to make their own decisions. But it is failing. LGA has been poorly implemented since its passage in 1998. Not nearly enough chapters have gained “chapter certification” and even those that are certified struggle to manage their own affairs. Many of the problems that chapter houses face are rooted in the conduct of the central tribal government and not the chapter houses themselves. The fact that land title is so unclear creates a huge problem for local communities. But some problems are found in the governance of chapters, including corruption and infighting, in a word, politics. We should not pretend that these problems would instantly be solved through *regionalization*.¹ It is the stuff of the “local” and deeply rooted in the community.

We can work on areas where the central government might allow for more meaningful local control. In the end we find the proposed regionalization elusive in meaning and too dramatic of a change without justification. Our surveys among random Navajo people show most people do not understand it and oppose it. What we might do instead is consider how different types of chapters can have different kinds of authorities redistributed to them based on their unique characteristics. We already have an example of this in the Kayenta Township model and many of its features can be replicated in areas with large populations and many small businesses, large communities with a sales tax base in other words. For the rest of the Navajo Nation, we should think about land reform before we

¹ “Regionalization” is the central proposal to emerge from the Title 26 Taskforce, and ad hoc organization among members of different entities in the tribal government, such as the Navajo Nation Land Department and the Office of Navajo Government Development. Their central task is to critically examine the Local Governance Act of 1998 (LGA) and offer recommendations to improve its effectiveness.

initiative widespread regionalization. Few of the goals of regionalization can be accomplished if land remains stagnant and with contested or unclear boundaries. Considering the successes and failures of Title 26 is important. But let us not adopt poorly considered reforms. This report is a preliminary analysis and critique of *regionalization* as it has been proposed and presented to the Navajo people.

II. A brief account of the historical development of tribal governing authority

Since their creation in 1922 as agricultural cooperatives, chapter houses have become a unique fixture in the political landscape of the Navajo Nation. More than the central government, finalized in 1937, chapter house have reflected better traditional Navajo social and cultural boundaries, based on *k'é*. Their geographical and political authorities overlapped with traditional forms of leadership, which were derived from extended family and clan relations and focused on immediate decisions facing this community (Wilkins 2013; Young 1978; Iverson and Roessel 2002).

At the same time, the central Navajo Tribal government has suffered from a lack of legitimacy among the broad Navajo public. Throughout the early reservation years and into the establishment of the tribe's first tribal government in the early 1920s, the Office of Indian Affairs (Bureau of Indian Affairs after 1947) has actively constructed Navajo political leadership into a form it finds consistent with its own norms and laws of governance (Curley in Lee and Cajete 2014). Navajo people have demonstrated a resistance to this colonial imposition. They have confronted these structures of governance during livestock reduction in the 1930s and 1940s,² the disposition of land in the first years of coal mining on Black Mesa, and forced relocation prescribed in the Navajo – Hopi Settlement Act of 1974. To many who have suffered through the application of the blunt political force of the Navajo tribal government, the tribal government is an instrument of colonization (Powell and Curley 2008).

In 2008, the Diné Policy Institute, in our consideration of constitutional reform in the Navajo Nation, suggested that a tension between centralization and a space understood as

² My research on some of these instances of resistance is found in "The Origin of Legibility" in Lloyd Lee's *Diné Perspectives: Reviatlizing and Reclaiming Navajo Thought*.

“the local” is one of the strongest sources of broad dissatisfaction with the tribal government and the Navajo people (Yazzie 2008). Building from this sociological insight, we will examine the current proposal from the Title 26 Taskforce to eliminate the political role of chapter houses in Navajo governance and consider the long-term impacts of these proposed reforms.

Centralization and “Regionalization”

The current question on government reform originates in the Title 2 amendments to the Navajo Nation Code in 1990, following the contestation for political authority between former Chairman Peter MacDonald and a majority of the Navajo Nation Council the previous year. Title 2 created a formal split between tribal executive and legislative and judicial functions that mimicked the division of power in the U.S. Constitution. For the victors of the 1989 political struggle, the Navajo Nation Council, the problem was defined as a problem centering on “corruption” and an unacceptable concentration of power in the authorities of the Navajo Nation Chairman. To remedy this, a group of lawyers and tribal delegates proposed a split of governing authority into “three branches,” the legislative, executive, and judicial. The idea was to create “checks and balances” between the president and the council. But this was a solution to a problem that we inherited from Western Europe when we assumed (were forced to assume) their modes of governance. This solution created new problems that we have seen play out in the subsequent 25 years. We have witnessed heated disputes over political authority between the Navajo Nation President and Council and between the Judicial Branch and Council. Part of this contention due to the fact that we created an adversarial system of governance in which each branch protects its interest against the other. There are numerous instances where the Office of the President and Vice President opposed an action of the Navajo Nation Council not because of the merit of the initiative, but because of a question of authority, whether the project is the prerogative of the executive or legislative branch.

In 1990 the Navajo Nation Council also agreed that the Title 2 reforms should only serve as a temporary government and that we need to still move toward a more *Navajo* or appropriate form of government. What that meant was left undefined and the Navajo Nation Council created the Commission on Navajo Government Reform (hereafter, “Commission”) and Office of Government Development to further examine the question. Each of the five

regional agency councils nominates an elected official to represent the region on the Commission. Their terms are for four years, whereas un-elected, special interest appointments to the Commission maintain only two-year appointments. Originally the Director of the Office of Government Development was also on the Commission, but this structure was changed in 1994 when the Navajo Nation Council amended the organization and scope of work of the Commission and made the Director an at will employee of the Commission on Navajo Government Development.

After he was elected president in 1992, Albert Hale, one of the attorneys who helped structure Title 2, emphasized “local empowerment” for local Navajo communities (Wilkins 2013). Local empowerment, as political rhetoric, implied increased political authority of Chapter Houses. Eventually the Navajo Nation Council passed Title 26 of the Navajo Nation Code, the Local Governance Act of 1998 (Id). At the same time the Navajo Nation Council amended the role of the Office of Navajo Government Development to focus on chapter house certification. The Navajo Nation Council also passed the Appropriations Act of 1998 that put into law an approach to financial management that strongly reflects neoliberal approaches toward government spending.³ Title 12 of the Navajo Nation Code created the Office of Management and Budget, supervised by both the Navajo Nation Council’s Budget and Finance Committee and the Office of the President and Vice President,⁴ prepares budgets for the Navajo Nation Council. The Office of the Controller actually oversees the payment of monies to Navajo programs. These are ad hoc divisions between executive and legislative authority that are not clearly codified in law. But they have become normalized in practice. Importantly, Title 12 said that the Navajo Nation central government must distribute its monies to chapter houses based both on a standardized apportionment and proportional apportionment formula. As part of its “overall budget polices,” Title 12 requires:

Distributions to Chapter. Where not otherwise prohibited by existing law, any appropriation intended for distribution to all chapters of the Navajo Nation shall be allocated as follows: fifty percent (50%) of the appropriation shall be divided equally among all chapters and the remaining fifty percent (50%) shall be divided

³ <http://www.omb.navajo-nsn.gov/Layout/appact.html>, last accessed 2/18/16

⁴ <http://www.omb.navajo-nsn.gov/Layout/OMBOrgchart.htm>, last accessed 2/18/16

*proportionately among the chapters using a percentage equal to that figure which the number of registered voters in each chapter bears to the whole of registered Navajo Nation voters as determined by the most current voter registration figures available as of the date of the appropriation.*⁵

This was a compromise between large chapters and small chapters. The small chapters wanted a standardized distribution of funds per chapter and the larger chapters wanted this distribution to reflect the size of their membership. In sum, these late 1990s amendments to the Navajo Nation Code institutionalized an “auditing culture” into Navajo governing practices (c.f. Hetherington 2011). Spending was standardized rather than directed toward specific tribal issues. Examples of these include the annual appropriations automatically channeled into the tribe’s investments funds. What is not automatically appropriated is moved to the infamous Undesignated and Unreserved Fund Budget (UUFB).

In 2009 Title 12 became a topic of debate during council reduction when critics in the president’s office, the main sponsor of the initiative, accused the Navajo Nation Council of “breaking its own laws” with regards to how it spent money from UUFB. Their concern was with how council delegates routinely circumvented the procedures for spending tribal money outlined in Title 12. At the time, critics referred to this practice as “waiving Navajo law.” For example, in 2008 President Shirley said, “this practice creates a system of government and body of law that cannot be relied upon and reflects badly on the Navajo Nation’s system of government...we need to refrain from waiving Navajo law, and instead examine and determine which provisions of the law need to be amended or repealed if, in fact, our current body of law is not workable.”⁶ On the other hand, some council delegates have expressed frustration with the inflexibility of these laws. The Navajo Nation Council lacks control over most of the budget, which is automatically appropriated into various accounts at the beginning of the fiscal year.

By the year 2000, Titles 12 and 26 were the most significant advancements in Navajo governance since the amendments to Title 2 in 1989. Title 12 established laws on how

⁵ <http://www.omb.navajo-nsn.gov/Layout/appact.html>, last accessed 2/18/16

⁶ [http://www.navajo-nsn.gov/News%20Releases/George%20Hardeen/Apr08/Navajo%20President%20sets%20council%20reduction%20line%20item%20veto%20plans%20into%20motion%20for%20April%2029%20\(2\).pdf](http://www.navajo-nsn.gov/News%20Releases/George%20Hardeen/Apr08/Navajo%20President%20sets%20council%20reduction%20line%20item%20veto%20plans%20into%20motion%20for%20April%2029%20(2).pdf), last accessed 2/18/16

Navajo money was spent and Title 26 extended some of this thinking into chapter house governance. But the central question of the legitimacy of the central government remained. Between 1999 and 2002 two parallel efforts to improve the legitimacy of the Navajo tribal occurred. The first was the Fundamental Laws project that eventually led to the passage of the Fundamental Laws of the Diné in 2002. The second was Council Reduction, an effort to reduce the number of Navajo Nation Council Delegates from 88 to 24 that passed in 2009.

These reforms impacted the already existing tension between centralization and regionalization. LGA nominally distributed legal and political powers to the local chapters. Critically, it retained control over auditing and certification in the central government and assigned these to an evolving supervising bureaucracy. After the passage of the Local Governance Act in 1998 the Navajo Nation's Government Service Committee created Local Governance Support Centers (LGSC) the following year in order to assist chapters with certification.⁷ Five, regional LGSC centers were established in the largest communities of the five agencies: Tuba City, Shiprock, Crownpoint, Ft. Defiance, and Chinle. Along with the Office of Government Development, LGSCs were designed to help chapters achieve LGA certification. In 2015 the Navajo Nation Council disbanded LGSC and replaced these with Administrative Service Center (ASC). Twenty years since the project of local empowerment began, the results have been disappointing. LGA Certification has not created the conditions for regional development. Local officials regularly complain about the oversight in Window Rock. And Window Rock complains about mismanagement at the chapter level. By 2014, the Division of Community Development initiated a series of public hearings on land reform to address one of the underlining causes of regional underdevelopment, outdated grazing regulations. But with a change in administration in 2014, these efforts have disappeared and now the Title 26 Taskforce is proposing more dramatic changes to chapter governance. They are proposing disbanding the legal and political authority of chapter houses and concentrating these into regional centers. This would result in the most dramatic change in Navajo governance since Council Reduction in 2009.

⁷ <http://www.lgscena.com/local-governance-support-centers-plan-of-operation.PDF>

III. Title 26 Taskforce: A history of the Project

The Resource and Development Committee (RDC) created the Title 26 Task Force in May 2015 in order to review the Local Governance Act, 17 years after the Navajo Nation Council passed it. The enabling legislation for the Title 26 Task Force says its task is to “develop, recommend and appropriate amendments to Title 26.” The purpose of Title 26 Task force is to develop recommendations for the Navajo Nation Council to amend Title 26 with the goal of empowering local governments.⁸ Since its creation, the Title 26 Taskforce has held various meetings throughout the Navajo Nation, at the agency and chapter level, gaining feedback on their recommendations.

RDC appointed various members of the Navajo Nation government to the Title 26 Taskforce in order to ensure a robust and diversified discussion. These appointees are: Shirleen Jumbo Rintila, Legislative Associate for Division of Community Development, Robert Begay, Department Director of DCD Admin Service Center, Raymond Tsosie, Senior Planner for the Division of Community Development (brother to RDC member Leonard Tsosie), Robert Jumbo, Associate Auditor for the Office of Auditor General , Michael Halona, Department Director of the Navajo Nation Land Department, Reycita Toddy, Department of Personnel, Dominic Beyale, Director of the Office of Management and Budget, Rodger Martinez, Director of the Navajo Nation Retirement Services, Clarence Chee, Division of Economic Development , Leonard Benally, Director of the Navajo Office of Vital Records, Martin Ashley, Director of the Navajo Nation Tax Commission, Vernon Roadhouse, Director of the Office of Ethics and Rules, Roderick Begay, Assistant Attorney General for the Navajo Nation Department of Justice.

⁸ RDC initially asked the Task Force to draft a series of recommendation on reforming Title 26 within 120 days of their appointment, but after 120 days members of the task force asked for an additional 120 days. On December 22, 2015 Alton Shepherd introduced legislation 0417-15 amending RDCMY-21-15 extending the existence of the task force from 210 to 300 days. It was determine by the RDC that the additional days was not enough time to complete the Task force work so it found it was in the best interest to complete its task within 300 days from the date it was created in RDCMY-21-15. So the draft report and proposal is due 300 days from the creation of the Task Force.

IV. Regionalization: a critique

It is hard to properly critique the regionalization proposal as it is still lacking critical details. But from all available information there is a general idea of concentrating the work and authorities of Chapter Houses into regional centers. How this is supposed to be accomplished is left vague. There are no concrete plans of where the regional centers will be located, how they will be staffed, what will be the central government's authority over them vis-à-vis the authority of local governments, etc. Nevertheless, the Diné Policy Institute (DPI) intends to consider the proposal in earnest. Here we speculate (again, lacking critical details) about the plan's potential benefits and shortfalls.

Benefits

1. Utilities-of-scale

The main benefit of the regionalization effort is the scale at which the tribe can allocate resources intended for tribal residences. As tribal residences receive access to resources from the Navajo Nation through their chapter and agency affiliation, any change in the chapter system will inevitably impact all residences and the allocation of all tribal services (e.g., scholarships, power lines, bathroom extensions, water lines, road grading, electrical wiring for the house, etc.). Members of the Title 26 Taskforce argue that regionalization will improve these services in that it will concentrate more monies into regional centers allowing these regional centers to hire better qualified peoples with professional and technical training.

2. Coherence in policy implementation

In concentrating resources in regional centers instead of chapter houses, there will be better coherence in the implementation of tribal policy. At present, the only policy the Title 26 Taskforce has identified is land-use policy (i.e., regional land planning.) The Navajo Nation will only coordinate with 22 regional governments instead of 110 sub-political units. In theory, this will improve the coordination of development and planning between regional centers and Window Rock.

3. Regional Foci

Regionalization allows for something unprecedented in recent Navajo history, the possibility for coordinated regional planning. To be clear, a region is a larger geographical area than a chapter house and includes diversity of peoples, resources, and issues. In practice there are regional governments in the agency councils comprised of elected chapter house officials and council delegates. But these agency councils lack any real political authority in Window Rock and are only used for board nominations and supporting or opposing resolutions of the Navajo Nation Council. Regionalization distributes real political and legal power to regional governing authorities, i.e., regional centers that in turn use this authority for real policy and development projects that reflect the unique conditions of their region. For example, a regional unit near Kayenta might build upon the existing taxing authority of the Kayenta Township and expand taxes onto large industries like Peabody Coal. With regionalization, projects that involve large amounts of land can be better coordinated. Areas that are good for wind power or solar power development might avoid the type of conflicts between local and national authority that killed the proposed Cameron wind power initiative for example. Different regions might be identified for very kinds of development across the reservation.

4. Balancing large and small communities

Regionalization will allow for a regional center to distribute the wealth of a region more evenly across communities. Currently, the LGA allows for all taxed revenues to stay at the local chapter. This has the potential of creating disparities between large communities and smaller communities, or communities located in areas with a lot of business development such as Tuba City, Kayenta, Dilkon, Chinle, Shiprock, Window Rock, and Crownpoint and smaller, more isolated communities. Currently the Navajo Nation distributes funds to chapters based on a standard dollar amount that is equal for all chapters and a second allocation of monies based on the chapter house's size. Regionalization has the potential to more equitably distribute these monies across a region, alleviating differences between poorer and richer, larger and smaller chapters. For example, in one proposed region, St. Michael's tax base and resources would be better allocated with smaller chapters such as neighboring Oak Springs.

Shortcomings

1. Lack of planning

The lack of a clear set of recommendations for the Navajo people to consider with an issue this important is disappointing in 2016 when we have many capable and qualified Navajo people who can put together a clear and coherent recommendations. We do not know specifically how the Title 26 Task Force plans on removing the authority of chapter house governments and placing them in regional centers, what these regional centers will look like, and how soon they will be staffed once they are created. After 18 years of LGA, we need a clearer vision of how this transition will be implemented.

2. Loss of democracy

Regionalization will result in the loss of local democracy. In the elimination of chapter officials for one at-large representative, community members will lose the chapter meeting as a forum to discuss and decide on local affairs. Although imperfect, chapter house meetings are a cultural staple of the Navajo political process and one that cannot be replaced in technocratic governance represented in the regional centers. It is a species of politics unique to the Navajo Nation. Even the reforms in Title 26, the recommended “Council of Nahata” in which community meetings are replaced with elected councils, is regularly criticized.

3. Limited access

Aside from the lack of political access, the new regional centers will make it more difficult for community members to access tribal resources. They will have to travel many more miles to fill-out paperwork, attend meetings, or pick-up benefits and resources. This problem will become more acute during periods of bad weather when roads are more difficult to transverse. There is also an inequity in geography in regionalization. Communities who house regional centers nearby will have easier and more frequent interactions with their government than more remote communities. This may impact the political priorities of districts.

4. No plan for chapter house facilities

This repeats the lack of planning in the proposed regionalization, but there is nothing published about what happens to chapter houses after regionalization. How does this local infrastructure continue to play a role in Navajo social and political life? When asked about this, advocates of regionalization claim that the chapter houses will still exist and function, but something akin to a community center rather than site of politics. How will funds continue to be allocated to keep these facilities operating after Title 26 is repealed? Will there be an administrative staff in these chapter houses, or will these positions disappear? In a worse case scenario, these chapter house buildings will remain unused and fall apart.

On power point slides and in official presentations, members of the Title 26 Taskforce will emphasize: a) a community's expanded tax base, the regionalization of budgets, improve delivery of services, regional land use planning, regional infrastructure projects, and a reduction in the misuse of funds. But without clear details and plans on how land reform and taxing will be done, this is at best wishful thinking. It is a "if you build it they will come" understanding of government reform that offsets critical issues, such as the status of the land and local powers to tax, for some future decision makers to decide upon. The problem with this approach is unless you actually offer solutions to these issues little will change. Without land reform or a clear understanding of what local authorities are, we cannot honestly claim any of the benefits of *regionalization* that the Title 26 Taskforce has promotes.

Tonalea Chapter: an ethnographic inquiry into local decision-making

By Majerle Lister,
DPI research intern

To'nehelih or “water collecting in a basin,” is situated between White mesa to the north and Black Mesa to the south. It resides along the Interstate Highway 160. The landscape is prairie, sand dunes, and woodlands. The area is near the Hopi Tribe. Most families have lived here for generations despite attacks from enemies and forced relocation. The connection between land and identity is strong. Today the community exists in political limbo that is defined by the outcome of the Navajo-Hopi Land dispute. The Navajo-Hopi Settlement Act of 1974 has created obstacles in the exercise of power and authority for chapter houses in the area. Tonalea exists in the middle of disputed land and this fact has impacted the issues and agenda of the community.

As of a 2010 census the total population of Tonalea is 2,595. 12% of the population is between the ages of 15 to 19 years of age as the median age is 25.8 years. The male population is 1,259, or 48.5% compared to the female population of 1,336, or 51.5%¹. The population of the community leans toward the younger age groups as half the population is below the age of 25. The voting age population of 21 and above is 1,675, 64.5% of the population. This is important to note because of the democratic nature of the government decision-making on the local level. The voter turnout for Tonalea as of 2014 Primary Election was 47.95%, 631 voters out of 1,316 registered voters¹. Political participation is an indicator of public choice and how involved individuals are with their government. **I observed a recent chapter meeting and offer the following observation: the chapter house is a unique site of democratic deliberation and alternative politics.** To understand this observation better one must study the local government purpose, processes, and procedures.

The Chapter Meeting

It was a Saturday and the coffee just finished brewing. I sat with my aunt in the chapter meeting. The morning was chilly and 45 chapter members were in attendance. This number would fluctuate throughout the five-hour meeting. The quorum of 25 was quickly met. Five items were on the agenda and it looked to be a simple meeting but my aunt jokingly reminded me of their 8-hour meeting a couple months before. This meeting gave me small insight into the functions of chapter houses and the individuals that participate in the government. The chapter officials read the meeting minutes of the last meeting and added the reading of the financial report at the request of the people at the meeting. Navajo was the mainly spoken, but English was interspersed to accommodate younger people.

Chapter Meeting: The Importance of Communication

The meeting proved the importance of communication between the leaders and the people. Many of those in attendance criticized the officials for their lack of communication. One lady, a woman name Sarah Begaye (pseudonym) outright said that the budgets should be put in laymen terms for the locals to understand. **Her statement reflected the importance of an informed populace in a democratic setting.** She was an obvious leader of a group of concerned citizens who voiced the concerns to the people in attendance. The officials had a hard time moderating the people and they grew frustrated, even to the point where one leader started talking to the people as parent to children. This infuriated some locals who said it was not their place to speak to them in that manner. The communication between the officials and the locals was neglected which made the officials look unresponsive. This irresponsibility breeds cynicism from which comes distrust and agitation.

Chapter Meeting: Diverse Goals and Interests



The main observation of small communities such as Tonalea Chapter is the diversity of perspectives, values, goals, and beliefs among community members. Like any devolved institution, the chapterhouse suffered from financial obstacles. The cost for renovations for the warehouse, a new chapterhouse, new housing, and infrastructure for the community caused dismay for the community members. The financial discussion demonstrates best the heterogeneous nature of chapter priorities. Despite being a small local government with a small population, most community members are in disagreement about how to spend money. There was consideration of funding a warehouse as a temporary chapterhouse or to put the funds toward the construction of a new one is just one instead of using the warehouse.

Many of these families are from the former Bennett freeze area and they preferred that chapter house funding go toward housing and infrastructure needs. One woman yelled from the back “money is for the Bennett freeze people,” and she received support from others in attendance. Some put forward the idea of saving for an elderly homes and fixing roads that led to homes of elderly. Others stated the importance of fighting invasive plants and species that harm the ecological system. The mixed interest greatly affects the goals and the feasibility of reaching one collective goal. Having a collective goal increases the success rate of policy for reaching those goals. Collective goals and interest help with the planning process.

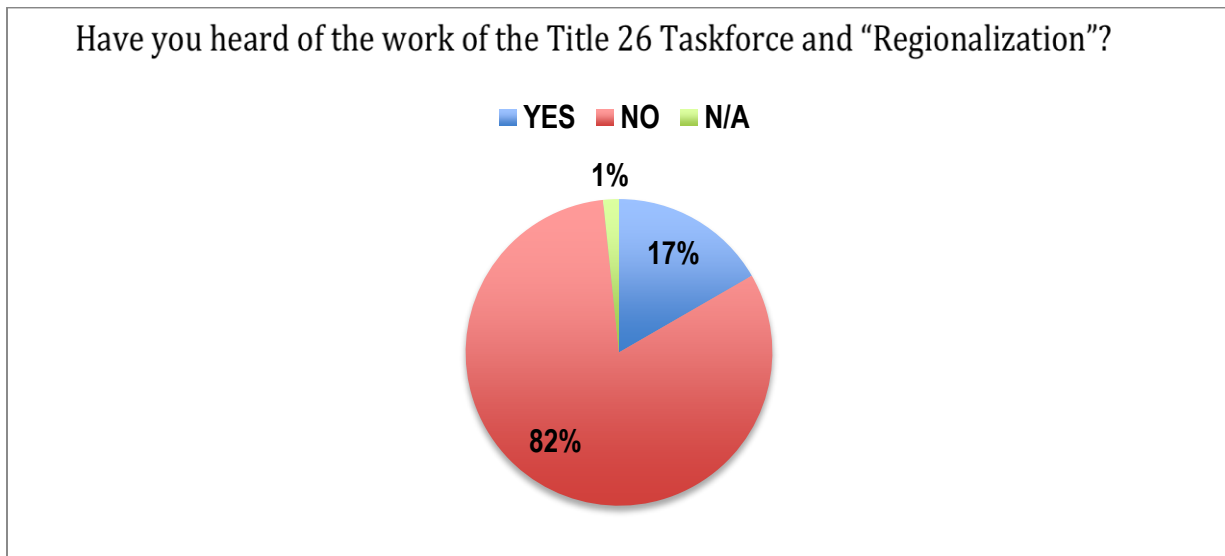
Chapter Meeting: Tactics

During the formal meeting of the chapter house smaller informal meetings occurred. One woman met with another woman beside me to discuss political issues and solutions. They planned and discussed alternative actions and how to incorporate these actions into their plans while the meeting was ongoing. Networks of dialog, discussion, and alternative political action was apparent as the meeting progressed. This relates to the shared interest within the community and how they maneuver through the political landscape. These networks were greatly tied to shared interests rather than reliant on particular identities or values. In a word, compromise. The ability to “defer” was a mechanism to prevent certain actions from taking place. Community members were skilled parliamentarians. It allowed for some community members to strategize and formulate a new plan or garner support in their favor. It revealed a tactic of individuals in a democratic setting. The tactics utilized reflect the diverse interest of the chapter governments and how individuals who participate in meetings work with others in their favor. These tactics reflect a group of people forming their own networks as a reaction to, in their opinion, the ineffectiveness of government. In the end these observations showed that the chapter house is a unique site of democratic deliberation and alternative politics.

V. Survey Data and Interpretation

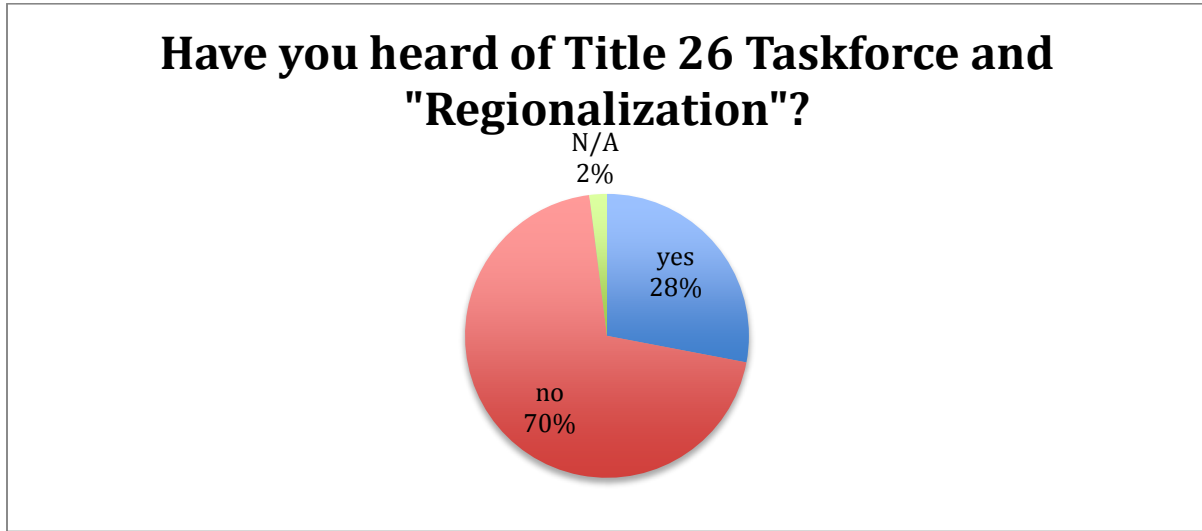
In March 2016 the Diné Policy Institute (DPI) surveyed two Navajo communities about their opinions on the proposed regionalization and the Title 26 Taskforce. From our surveys two key findings emerge: 1) most Navajo residents are unaware of the proposed regionalization and the work of the Title 26 Taskforce, and 2) when asked about reducing the political role of chapter houses in Navajo governance, most people disagreed with the proposition as they understood it. We surveyed a total of 130 Navajo residents (N-130) from Western and Central agencies, at the Tuba City and Chinle markets respectively. We also conducted a survey among Diné College students in Tsaile, AZ. Our survey demographics were not representative of the general Navajo population, with women making up most of our respondents. We had a fairer representation of age as we oversampled young people in surveying students at Diné College in Tsaile, AZ.

Chart 1, Knowledge on *regionalization* and Title 26 Taskforce at Chinle Market



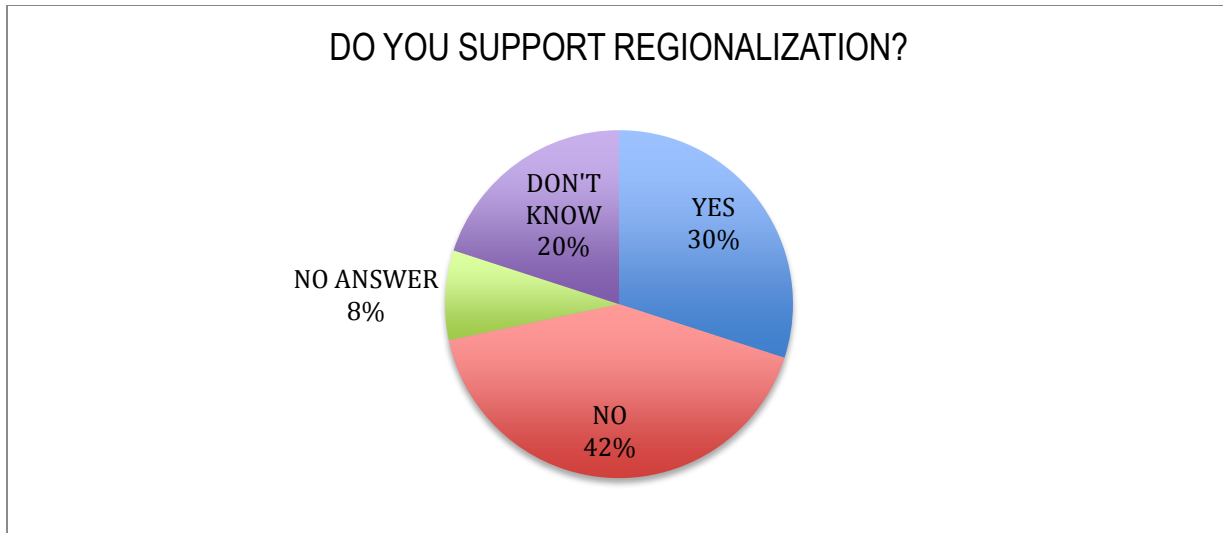
N=60, Chinle Market, 3/16/16

Chart 2, Knowledge on *regionalization* and Title 26 Taskforce at Tuba City Market



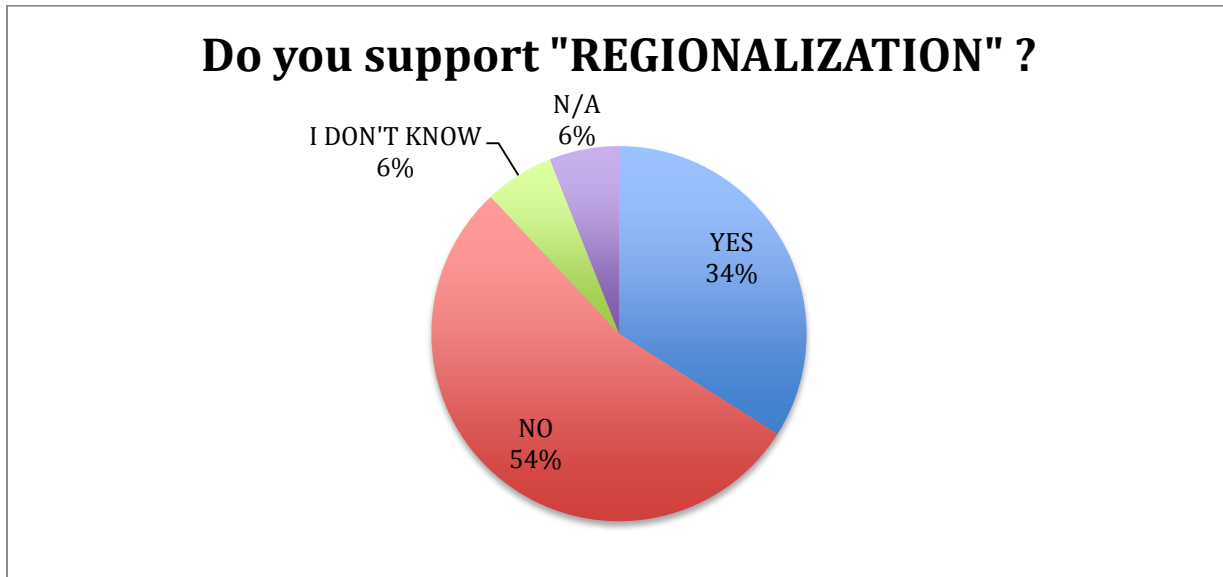
N=50, Tuba City Market 3/25/16

Chart 3, Support for regionalization at Chinle Market



N=60, Chinle Market, 3/16/16

Chart 4, Support for regionalization at Tuba City Market



N=50, Tuba City Market, 3/25/16

From the survey results it is clear that most people do not know about regionalization and most, when asked, oppose it. Some of the comments people left were illustrative. For those who were against the proposal, they wrote: more work to locals to participate but easier for government to manage, communities disputing among each other in the region, less representation, and making elected official richer and the comments for the proposal it stated: more convenience centralized information, save money, major benefits if communities work together, concentration of new ideas, streamline process, and one group one voice, too many chapters. Most people are uncomfortable with the reduction of chapter houses and the establishment of 22 more-or-less regional centers. People gave the sense that it is another example of a dramatic reform in government without a clear plan as to where to redistribute power.

VI. Recommendations

The Title 26 Taskforce has not shown how power will be redistributed from the central government to the local governments or the regional centers. But it has raised some interesting and important questions about the future role of chapter houses in Navajo Nation

governance. We need to ask about whether or not the Local Governance Act of 1998 is working and what about it works and does not work. We need to talk about what is a minimum criterion for keeping a chapter house community in existence, or deciding whether or not certain communities should be combined into others. The Title 26 Taskforce identified 43 communities under 1,000 member populations (from 2000 U.S. Census). But what is not explained is why this matters? If we do not want to maintain chapter houses that are less than 1,000 members, which is less than half the chapters, why is this the case? Is it an issue of money and the cost of maintaining these chapter houses? If so, we need to be explicit about it? Also, might a redistribution of power improve the governing capacity of sub-political units like chapter houses and regional centers? This gets back to the central issue the DPI identified in the *Constitutional Feasibility Study of 2008*. The same issue persists today between local authority and central authority. Title 26 Taskforce proposed a solution and has identified problems to support its conclusions and overall proposal. We showed in this report, however, that these solutions are not well thought out and the problems that the Title 26 Taskforce identified are broader issues that need further and more detailed consideration.

Ultimately, the Title 26 Taskforce does not clarify how power will be redistributed from the central government to the local government or regional centers. If the goal is “local empowerment” one example on how centralized power on the Navajo Nation can be distributed downward to the local level and that has proved successful at capturing a local sales tax revenue is the Kayenta Township. As you seen in **Table 1** (pg. 22), most powers in LGA are reserved for authorities in the central government and only after a long and strenuous compliance procedure completed and verified by the central government is any power distributed downward. This is the real reason why LGA has failed. It is in its design. An issue the Title 26 Taskforce has rightly identified.

A process of decentralizing tribal authorities downward that reflect central features of the Kayenta Township model can be attained through the Title 26 Regionalization process or amendments to the existing LGA. We recommend that the Title 26 Taskforce focus on urban, large population chapters strategically located at major crossroads such as: Tuba City, Kayenta, Dilkon, Chinle, Ft. Defiance, Shiprock, Crownpoint. These areas already have business development. The evidence is in more than thirty years of successful home rule for

Kayenta Township. We should focus on making business and community work together in these areas before trying to change dramatically how planning and governance is done in more remote communities with the unjustified hope that this will somehow lead to business development.

For these communities, they should be given a “Home Rule” status and, like Kayenta Township, enter into a four part lease agreements with local businesses. As we showed in Table 1, there are major differences between the LGA and Kayenta Township models in how much authority is given to the local community. It should be clearer when looking at Table 1, however, that part of the failure of Title 26 is due to the lack of actual authorities given to the local governments. The Township Model grants real authorities to the local communities that are also manageable for the staff they hire. This is not a model that should be replicated across all of the Navajo Nation, and flaws in governance structure should also be considered, but it is one that has proved to work for over 30 years and can be expanded into other communities that look like Kayenta.

VII. Conclusion

The issue of local authority for communities in the Navajo Nation is of special importance moving into the 21st Century. Change is needed. The Title 26 Taskforce has shown that the Local Governance Act has not worked out as it was intended. They show that in its 18-year history, only 43 chapters have successfully become “certified” chapters. But rather than look at the law, the Title 26 Taskforce broadened the question to consider the culture of chapter governance, demographics, and regional planning. These in themselves are exciting topics of conversation, but do not relate directly to the question of “why is Title 26 not working” based on the simple observation that only 43 out of 110 chapters are certified. But if we put the issue another way, we can say, 40% of Navajo chapter houses operate successfully under Title 26 and these proposed reforms would upend that system.

What would work is a sensible investigation of the Navajo Nation Chapter House system. We need more research to identify the problems, including in-depth interviews with chapter house employees, community members, and elected officials. This report examined the work and proposals, as we understand them, of the Title 26 Taskforce and pointed out possible benefits and shortcomings of the proposed reform. We also surveyed a total of 110

members of the Navajo Nation and asked them how much they knew about the proposed Title 26 reforms and whether or not they supported these changes. Our research showed unambiguously that most people are not aware of the research and that they generally disagree with regionalization. This does not mean it is a bad idea in itself, but at this point in time most people are opposed to it. Although our sample was limited, we believe that our respondent's represented a general attitude that would be found across the Navajo Nation.

In the end we recommended the expansion of the Kayenta Township model as an immediate policy solution for larger Navajo communities such as Chinle, Shiprock, Ft. Defiance, Crownpoint, etc. We see that the township model has over thirty years of practice and has effectively decentralized important authorities to the local community while protecting the larger Navajo Nation's responsibility of oversight. In Table 1 we identified core differences between the three different models for "local governance," the township model to the proposed regionalization. **Second, more research has to be done on land reform in the Navajo Nation before any meaningful action on local governance can be implemented.** This is research the Diné Policy Institute has already initiated in order to gain more meaningful insight into how both our local and national governments can be reformed to better serve the Navajo people.

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Table 1, Local Authorities found in Navajo Nation government system

	Kayenta Township	Local Governance Act of 1998	Proposed "Regionalization"
Taxing Authority	In the Township, but limited to NN Code	Limited, after "certification" Local taxes pursuant to a local tax code developed by the Navajo Tax Commission and approved by the NNC	Unclear from presentation how this will work
Land Use Authority	NN EDC "authorize(d) the delegation of approval authority for business site leases to the Kayenta Township	Limited, after "certification" and with Land Department approval and in accordance with Resources and Economic Development Committee of the NNC	Regional zoning, but still under the authority of the Land Department
Governance Structure	Elected Commission	Elected "Alternative Form of Government" An alternative form of Chapter governance based upon models provided by the Transportation and Community Development Committee of the NNC	Elected commission, one representative from each chapter
Type of Administration	Hired by Town Manager	Hired from Personal and Management	Hired from Personal and Management
Infighting?	Yes	Yes	Unknown

Yellow = local authority

Turquoise = central authority

