

HISTORY OF THE INDIAN REORGANIZATION ACT AND TRIBAL GOVERNMENTS

Merriam Report and Indian Citizenship Act

During World War I, many Native Americans enlisted in the military despite not being recognized as American citizens. During this same time, the Friends of the Indians group pushed through legislation, the **Indian Citizenship Act of 1924**, to confer citizenship onto the native peoples born in the US with the two-fold goal of hastening their assimilation and protecting tribal people from unscrupulous land seekers (Bruyneel, 2016). Becoming citizens of the United States did not affect their rights to tribal land or property (The Indian Citizenship Act, 2010). Despite the law declaring them to be citizens, many states withheld voting rights for native people for decades, until 1962 when Utah voted to permit them the right to vote. Also due to their bravery and service, the US government launched an investigation into the well-being of Native Americans, the results of which were titled **The Problem of Indian Administration**, or the **Merriam Report** (Britannica). The 847-page report published in 1928 examined health, economics, education, the condition of women, and missionary activities; revealing that reservation conditions were shockingly abysmal. A contributing factor to these conditions was the Dawes Act, also known as the Allotment **Act**, enacted in 1887, which parceled out reservation lands to tribal members and sold the leftover lands for over forty years, continually diminishing tribal lands and pauperizing tribes.

Indian Reorganization Act

The change in feeling towards the native people beginning with WWI through the 1920s led to new legislation. The **Indian Reorganization Act (IRA) in 1934**, also called the Wheeler-Howard Act, was championed by John Collier. Appointed by President Franklin D. Roosevelt to be Commissioner for the Bureau of Indian Affairs, Collier asserted that the federal government needed to reassert its **trust relationship**, in which the US government protects tribes and their interests, along with the tribes. The Act's primary purpose was to end the detrimentally impoverishing Allotment Act. With this new act, the government held tribal land and any water/surface rights in trust for the tribes, and the land would be free from state and local taxation, protecting it for the tribes. Congress also set aside \$10 million for loans for economic development on tribal lands (Mancall, 2011).

Constitutions and Ratification

Collier also focused on restoring tribal governments that the **Curtis Act of 1898** had eliminated. Under the IRA, each federally recognized tribe was to create a **constitution**, a document that

establishes the laws and principles of a nation and determines the powers and duties of the government. The government sent agents to tribes offering them the US Constitution to use as an example. The tribes were encouraged to create bylaws that mimicked the US Constitution and outlined who was a member of their tribe and how much **blood quantum** was required to be a member. Unfortunately for many tribes, the US Constitution does not fully encompass each tribe's beliefs, culture, and traditional ways of life, and many felt that this was just another form of forced assimilation. Although tribal leaders felt that they were being pressured to approve the IRA, according to the US government, tribes were allowed to write their constitutions according to the needs of their people and culture. The process required that when they were finished writing their constitutions, they were to submit them to the US government for approval. However, due to the limiting nature of the Constitution, a few tribes, such as the Navajo Nation, still haven't ratified a constitution.

The Scope of Tribal Sovereignty: Federal, State, County, City, and Tribal

The various state governments in the United States have somewhat complex connections and control. The federal government has authority over all domestic governments. According to the **Marshall Trilogy**, a set of three Supreme Court decisions in the early nineteenth century that affirmed the legal and political standing of Indian nations, state and local governments (counties and cities) do not have sovereignty over tribal land, even if tribal land is within their boundaries (that includes taxation and police jurisdiction). Tribal governments have sovereignty over their people and land; however, as they are a nation within a nation (*Cherokee Nation v. Georgia*), the federal government has authority over how the tribe asserts its authority, thereby treating the tribes as wards rather than a foreign nation. For example, felonious crimes committed on tribal land and crimes where there is a non-native party (victim or perpetrator), the US government reserves jurisdiction, while the tribe has jurisdiction over its members only. But recently some things have changed. The US government has allowed tribal governments to prosecute non-natives committing crimes on tribal lands (see *United States v. Cooley*), and just recently, summer of 2022, the US Supreme Court has allowed the US government to share jurisdiction of non-natives committing crimes on tribal lands with states, (*Oklahoma v. Castro-Huerta*) a first in almost 200 years of tribal/US legal relations.

Occasionally, agreements can be made between governments. A tribe and a state may enter into **compacts**, or agreements, with each other where the tribe agrees to limit its authority as long as the state does the same (i.e. gaming compacts in Oklahoma that determine a certain amount of taxes paid to the state as long as the state of Oklahoma earmarks the money to an Educational Fund). In Alaska, a tribal compact has recently established procedures for placement of indigenous children in foster care and child welfare services and procedures for

establishing tribal charter schools. Ironically, the five Oklahoma tribes are currently disputing the renewals of guaranteed hunting and fishing opportunities, a compact that has allowed the tribes to “deeply discount” hunting and fishing fees to tribal members who hunt and fish on tribal lands.

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WINDOWS AND MIRRORS

Windows	Mirrors
What you observe does not reflect your experiences or identities. It is a “ window ” into experiences and identities that are different from your own.	What you observe reflects some of your experiences and identities. It is a “ mirror ” of some aspects of your own life.
1. How are tribal governments different from the US government?	1. How are tribal governments similar to the US government?