

HISTORY OF THE INDIAN REORGANIZATION ACT (IRA) AND TRIBAL GOVERNMENTS

Meriam 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 known as the **Indian Citizenship Act of 1924** to confer citizenship onto the Native peoples born in the U.S. 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). Due to the bravery and service of Native veterans, the U.S. government launched an investigation into the well-being of Native Americans, the results of which were titled **The Problem of Indian Administration**, or the **Meriam 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 **1887 Dawes Act**, also known as the **Allotment Act**, which had parceled out reservation lands to tribal members and sold the leftover lands for over 40 years, continually diminishing tribal lands and pauperizing tribes.

Indian Reorganization Act

The change in feeling toward Native peoples beginning with WWI through the 1920s led to new legislation. The **1934 Indian Reorganization Act (IRA)**, also called the Wheeler-Howard Act, was championed by John Collier. Appointed by then-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 U.S. 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 U.S. Constitution to use

as an example. The tribes were encouraged to create bylaws that mimicked the U.S. 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 U.S. Constitution does not fully encompass each tribe's beliefs, culture, and traditional ways of life, and many felt that this was another form of forced assimilation. Although tribal leaders felt that they were being pressured to approve the IRA, tribes were allowed to write their constitutions tailored to the needs of their people and culture according to the U.S. government. The process required that when tribes were finished writing their constitutions, they were to submit them to the U.S. government for approval.

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

The various state governments in the United States have 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 19th 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, for felonious crimes committed on tribal land and crimes where there is a non-Native party (victim or perpetrator), the U.S. government reserves jurisdiction, while the tribe has jurisdiction over its members only. But, recently, some things have changed. The U.S. government has allowed tribal governments to prosecute non-Natives committing crimes on tribal lands (see *United States v. Cooley*), and as of the summer of 2022, the U.S. Supreme Court has allowed the U.S. 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–U.S. legal relations.

Agreements can also 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 (e.g., gaming compacts in Oklahoma that determine a certain amount of taxes will be 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.

Sources

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Windows and Mirrors

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