

**Important Terms & Trust Responsibility**



## **As a Young Political Scientist, I will be able to...**

- Define important legal terms
- Understand the scope of rights of Indigenous Peoples
- Evaluate Johnson V. McIntosh
- Analyze the importance of Title

# Indian

**Who is an Indian? How would you categorize the term?**

**Term is either ethnological (race) or used in a legal sense**

**Ultimately, each government (tribal, state, federal) determines who is an Indian**

**Can cause confusion as you can be recognized under federal law, but not tribal for example**



# Indian by Congress

**U.S. Supreme Court decided that benefits for Indians available to those who were under federal jurisdiction in 1934**



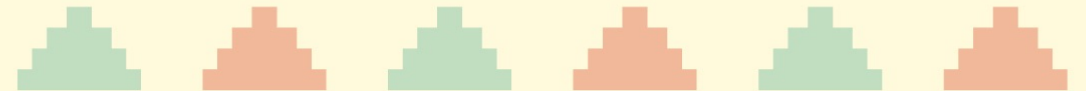
**Some programs are not label for Indians so its up to agencies to define programs**



**Court cases will determine qualifications based on blood test and if the community accepts them**

**Indian status in criminal prosecutions may be proven without enrollment.**

**Tribes can determine who is an Indian for tribal purposes, not federal purposes**


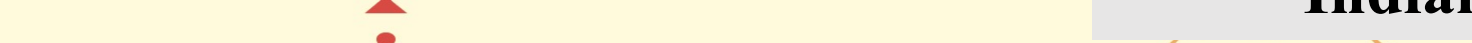
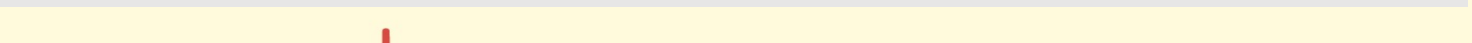
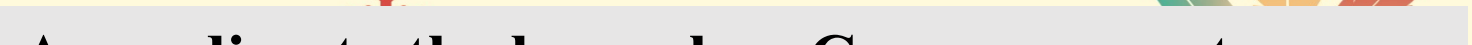



# Native People of Alaska



Are these people considered Indians? Thoughts?

According to the law, when Congress creates a law for Indians, they have to specify Alaskan peoples as well



Can an Indian be a citizen of both the U.S. & an Indian Tribe?



Yes! **Indian Citizenship Act of 1924** gave all Indians citizenship





# Indian Tribe

**What is an Indian Tribe? How would you define it?**

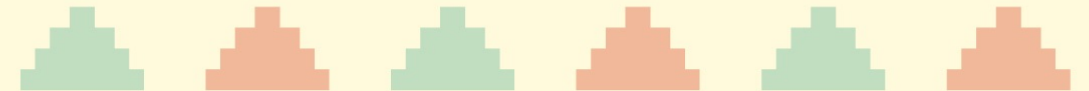


**Each government has its own definition of Indian tribe, no universal term**



**Federal recognition of a tribe will qualify it to participate in almost all Federal Indian programs**

**Tribal members can still enforce treaties that their ancestors made, even if Federal government doesn't recognize tribe**



# Politics and Tribes

**Tribes can be defined by their political identity rather than by historical or cultural**

**For example: South Dakota has 9 tribes, but all of them are Sioux**

**Some tribes have been combined, such as Fort Belknap Indian Community in Montana- Both Gros Ventre & Assiniboine**

**Largest tribe is Cherokee nation with more than 330,000**

**2010 California Valley Miwok Tribe only had 5 members**



# Indian Country

**What is Indian Country? How would you define it?**



**All land under the supervision of the U.S. government that has been set aside primarily for the use of Indians**



**General rule- State laws do not apply in Indian country, but tribal and federal do**

**Indian country includes all land within the boundaries of an Indian reservation, this includes public items like railroad tracks & powerlines**





# Indian Country

**Includes all dependent Indian communities in the U.S.**

**So, all land outside a reservation is Indian country if federal government set it aside for Indian use**

**Tribes cannot buy land and just add it to the reservation, have to appeal to Secretary of Interior**

**Also includes all trusts & restricted allotments of land outside reservations. Land cannot be sold or given without consent**



# Indian Reservation

Trust allotments is owned by the federal government  
A restricted allotment is owned by the Indian.

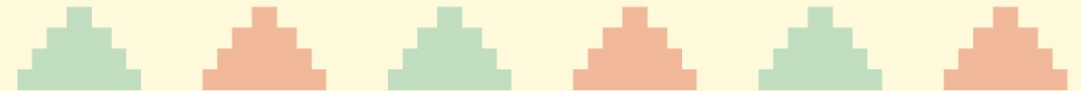


Are non-Indians permitted to live in Indian Country?  
Thoughts?



Yes, they can! Some reservations, more land  
is owned by non-Indians than Indians

**Indian Reservation-** Land set aside by the federal  
government for the use & benefit of one or  
more Indian Tribes



# Johnson V. McIntosh

***Johnson V. McIntosh (1823)***- Case on whether a non-Indian who purchased land from a tribe had a valid title to the land

Supreme Court decided NO! Doctrine of Discovery said Indians were “heathens” & land could be taken & given to “Christians”

Court said tribes had a right to occupy and use land until federal government decided its purpose

# Indian Title

**1. Federal government acquired ownership of all land in U.S. by discovery & conquest**

**2. Indians have a perpetual right to stay on land until Congress takes land**

**3. Indian title is a possessory & not an ownership interest. Indians can “possess” land but not own it**

**4. Indian title may not be sold by Indians without authorization from federal government**

# More on Title

**Tribes had to prove they lived on land continuously.**

**New states in the union had to respect Indian title in boundaries & Congress had to indicate ownership of constructions such as railways.**

**Indian title includes right to occupy property to use natural resources until Congress terminates title**



# Titles & Occupancy

**Recognized Title-** Legal recognition of titles and protections by treaties or agreements. Right of compensation by Congress

**Unrecognized Title-** Tribal recognition, but federal government does not

Supreme Court holds that Indian Title is not protected by Fifth Amendment unless its officially recognized

# Individual Rights & Reversal



**May individual Indians claim Indian Title to Land?**

**Yes! If they can prove their lineal descendants & ancestors occupied an area**



**Can Congress reverse a decision and take away Indian Title?**

**No! Supreme Court decided Congress cannot review decisions**

