

State Powers on Reservations



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

- **Understand the importance of jurisdiction on tribal lands**
- **Evaluate the outcome of Worcester V. Georgia**
- **Examine Government policy of state vs. tribal rights**

Ways that State Governments have disagreed with Tribal law

1. Tried to compel Indians to obey state law
2. Erode Tribal law
3. Extend authority within Indian Reservations

Worcester V. Georgia- Tribes were distinct communities that states can have no force unless Congress has given express consent.

Only Congress has exclusive authority over Indian affairs, not states



State Jurisdictions

States & tribes, however, have begun realizing that working together benefits both

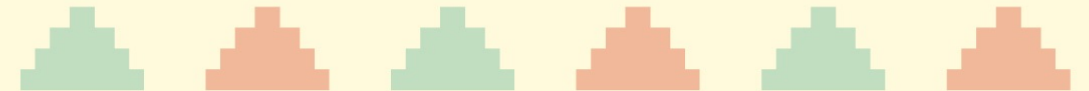


Congress can give rights to tribes, with or without the state's consent



Nonmembers do not have immunity from state law on reservations where they are not members

There are 3 important federal laws in which Congress has authorized state jurisdiction...



General Allotment Act of 1887

Federal officials “allotted” reservation land to tribal members & sold other portions to non-Indians

After 25 years, Indians could gain deed to land (which could be taxed) and sell allotments

Hundreds eventually sold land or had it taken by state when they couldn't pay taxes

Tribes lost almost 2/3rds of lands they held in 1887

Public Law 83-280

Between 1953-1968, Congress tried to force Indians to assimilate into society & reduced assistance to Indians

This law was to reduce crime on the reservations, giving state power to arrest & prosecute Indians who commit crimes on reservations in the state

**5 states given full (mandatory) control-
California, Minnesota, Nebraska,
Oregon, & Wisconsin**

**Law allows state to over see civil cases &
assumes all jurisdiction.**



Amending the Law

1968, Congress amended law to allow more rights for reservations

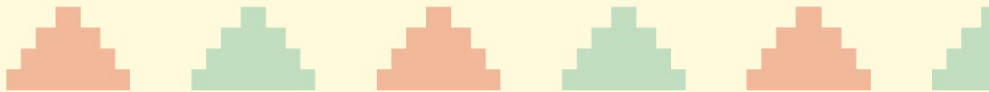
1. Tribal consent requirement, state can't obtain jurisdiction unless majority of tribe gives consent



2. Secretary of State can accept a **retrocession, a return of decision, of any jurisdiction acquired by the state.**

In 1986, Nebraska retroceded its jurisdiction over the Winnebago Reservation

2010 Congress decided the Attorney General can grant retrocession without states consent, at request of a tribe



Termination

Laws passed between 1953-1968 that terminated 109 tribes

Ended trust relationships with the U.S., tribe had to distribute land to members, & eliminated the reservation.

However, almost all the tribes have been reinstated since the late 1960s.

State Jurisdiction Without Congressional Authorization

Fifty years after *Worcester* rule, Supreme Court began to change rules

State can prosecute non-Indians who commit crimes on non-Indians on reservations



State can tax personal property of non-Indians on reservation



Two ways state laws can be enforced in Indian Country...



Federal Preemption Test

When state law conflicts with federal law, federal law prevails

This means tribal law is over state law if the case was decided by a federal treaty

Infringement Test- Inherent right of Indian tribes to be self-governing

Indians off the reservation are to be treated the same as any citizen of U.S.