

NR 5

Tribal Self-Government



As a Young Historian, I will be able to...

- Identify the source of Tribal Power & its limits
- Analyze the setup of governments on tribal lands
- Examine rights such as regulation of property, tribal courts, and membership qualifications

Worcester V. Georgia

Decided by Supreme Court in 1832, discussed the right of tribal sovereignty

Debate was over if Georgia could impose laws on the Cherokee Indian Reservation.

Supreme Court decided that tribes have sovereignty & could maintain their own laws & could avoid state laws

Source & Limits of Tribal Power

What do you think is the source of an Indian tribe's power?

It's the people! They have the right to govern themselves as they

Congress does have the power, however, to limit, modify, or eliminate powers of local self-government

Plenary Power Doctrine- Superior military power upholding the power of the federal government



Tribal Powers Limited



Congress labels tribes as “quasi-sovereign” & “semi-independent” to the U.S.

The Constitution does not limit the exercise of tribal powers



So...do Indian tribes have the right to form a government?

Yes! It's the first part of their sovereign powers.
The Iroquois league had a written constitution





***What Types of Governments do Tribes Have?**

Many tribes follow a three branch government.

Legislative Branch- Tribal Council
Executive Branch- Chairperson
Judicial- Tribal Courts

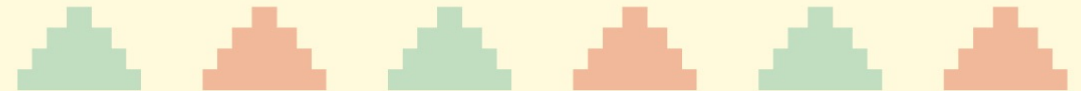


Most tribes elect via a popular vote but some determine leadership by heredity



Some governments are central with power in council and chairperson

Some have other systems, The Hopi Tribe in Arizona is a union of nine self-governing villages



Set up of Governments

Indian Reorganization Act of 1934 helped guide the Secretary of the Interior to draft a model to adopt government

Model sent to tribes & agents helped promote its adoptions

Secretary of Interior has to supervise amending constitutions and when tribes first adopt them





Court Systems

Punishment before colonization was public scorn, loss of tribal privileges, or payment of restitution



Banishment was reserved as an extreme punishment



Tribes can now establish their own courts & laws under approval by the Secretary of the Interior.

While courts differ, most tribal courts decide cases to respect customs & traditions such as Chippewa tribes “mutual respect”



Some tribes require that judges are a member of the tribe

Others demand state-licensed attorneys, some judges are appointed or some are elected

Some reservations have their own bar exams that must be passed

While most tribes have an **appellate court, court of appeals to rejudge a decision, some have councils made to observe**



Qualifications for Membership

Supreme Court has recognized rights of tribes to control future and determine membership

Tribes usually base eligibility on a **blood quantum**, minimum amount of tribal blood in a person

Some tribes require $\frac{1}{4}$ but some less

Intermarriage has caused some tribes to reevaluate their conditions

Some tribes require...

- Residence on reservation for a certain length
- Patrilineal**, father must be part of tribe
- Matrilineal**, mother must be part of tribe

Regulation of Tribal Land

There are three types of land that exist on Indian Reservations

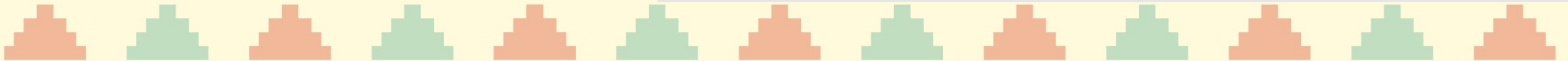
1. **Trust Land**- land owned by the federal government for the benefit of the tribe or member



2. **Deeded Land**- Land owned privately by the tribe or a member



3. **Fee land** owned by nonmembers





Regulation of Property

Merrion v. Jicarilla Apache Tribe- Court decided that tribes have the right to regulate land & tax activities occurring there

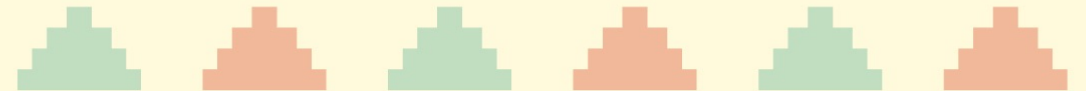
Tribes have inherent rights to regulate hunting & fishing, use of and quality of water, eject trespassers, tax land, & regulate commercial activities.



Congress can stop the sale or lease of government land reserved for a tribe.

Most lands now given to tribes are from Congressional decisions or Secretary of Interior purchasing land

Some tribes purchase land and convert it to tribal lands, such as the Winnebago tribe adding more than 700 acres!



Jurisdictions

Non-Indians who violate tribal law are immune from prosecution in tribal court, must be turned in to state or federal employee

Tribes can prosecute nonmember Indians other than their own

Penalties that tribal courts can impose is one year of imprisonment and a \$5,000 fine

Unless defendant has attorney & judge is licensed, then penalties can increase.

Domestic Relations & Trade

Tribes can manage domestic relations such as marriage, adoption, divorce, etc.

Indians married off the reservation under state law can still file for divorce on tribal land!

Tribes have the right to create commerce and trade such as casinos, resorts, restaurants, gas stations, energy plants, etc

However, tribes may not be able to tax out sourced businesses on the reservation

