

Laws Affecting American Indians

United States Laws

Band/Clan Laws



Standard(s): 6050-02 Students trace the development and expansion of the United States through the 19th century.

Objective: 6050-0203 Analyze expansion of the United States from the Civil War to 1900.

Describe the impact of expansion on the American Indians; e.g., loss of land, confinement to reservations, changes in lifestyle.

Principles of Federal Indian Law:

1. Tribal power is inherent, and tribes generally possess all powers of sovereign nations.
2. Congress has the power to limit or extinguish tribal authority.
3. In addition to express congressional limitations on tribal authority, there are certain implied limitations

TRIBAL GOVERNMENTS AS SOVERIGN NATIONS

“Indian tribes have held a unique position in the history of the American Government as well as in contemporary affairs. The basis for that position is the fact that Indian tribes were recognized as sovereign from the time of discovery and that recognition continues today.” – Nancy M. Tuthill

What makes American Indian tribes so unique from other ethnic minorities, besides their indigenous status, is that they are land-based and have a political relationship with the United States government. This political relationship has several legal bases: (1) the “commerce clause” of the U.S. Constitution; (2) treaties between the U.S. and the Indian nations, legislation, and subsequent federal policy; and (3) Supreme Court decisions and executive actions.

American Indian tribes, however, do not enjoy absolute sovereignty. Indian tribes do not exercise international independence (but neither do state governments). They are domestic independent nations (nations within a nation, having a nation-to-nation relationship with the Federal Government). Additionally, the Federal Government has a unique trust of fiduciary responsibility for American Indian tribes and their interests and assets, as a result of treaties which stressed “services such as education, health, etc., in exchange for land.”

Some commonly asked questions are:

1. Who determines membership in a tribe? (The Indian tribes establish their own membership laws.)
2. Do all tribes enjoy sovereign rights? (Not all Indian tribes or bands have this nation-to-nation relationship. Only those federally recognized—i.e., those recognized by the Secretary of the Interior as eligible for services by the Federal Government—are considered sovereign governments.)
3. Are Indian citizens of the United States? (Indians were granted citizenship via the Citizenship Act of 1924.)
4. Do Indians pay federal income tax? (Yes, Indians are required to pay federal income tax regardless of federal recognition.)
5. Do Indians pay state taxes? (Federally recognized Indians do not pay state income or property tax if they live and work on reservations or trust lands.)
6. Do the Indian tribes have the right to assess taxes on businesses and industries operating on reservation land? (Yes, recent court decisions have upheld the tribes' right to levy taxes on businesses and severance taxes on some industries.)
7. If I have Indian heritage, what must I do to become a member? (You must contact the tribe from which your heritage comes, obtain their membership criteria, and file for membership.) Use these resources to find out information about reservations and tribal laws.

Information on Reservations

Native Americans in the United States
From Wikipedia, the free encyclopedia

http://en.wikipedia.org/wiki/Native_Americans_in_the_United_States#Removal_and_reservations

Executive Orders relating to Indian Reservations

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PART III.— EXECUTIVE ORDERS RELATING TO INDIAN RESERVATIONS FROM JULY 1, 1912, TO NOVEMBER 23, 1927.

http://digital.library.okstate.edu/kappler/Vol4/HTML_files/v4p1056.html