

## American Indian Historical Timeline

Historical context is necessary to begin any analysis of Tribal Legal Studies. The summary below highlights the benchmarks in federal Indian policy. Federal Indian policy defines the relationship between the United States government and the tribes within its borders. This policy is distinct from the many histories that exist for the 567 federally recognized tribes in this country. Each tribe has its own distinct history and its own understanding of the tribal federal relationship. This timeline merely presents a general guideline that historians use to define “Indian relations” from the historic perspective of the federal government.

Since the United States became a nation, federal Indian policy has seen significant changes. Some of the shifts in policy seem contradictory at first. However, the policies are not substantially different because the federal government’s underlying assumptions about Indians remained essentially the same. These three assumptions were that:

- 1) Indians would assimilate;
- 2) Indians would eventually disappear because they were less civilized; and/or
- 3) Indians would be exterminated.

These three assumptions were combined in one form or another as strategies for dealing with “the Indian problem”. In short, approaches to federal Indian policy were marked by short-term policy solutions, as the assumptions were that native peoples would not survive for long as distinct communities.

### **1492-1787: Contact and Tribal Independence**

- Disease, introduced by Europeans, decimated Indian population
- European population increased at a great rate
- Violence between Indians and settlers increased over time
- Increasing pattern of invading Indian territory and taking possession
- After Revolutionary War, Americans began the systematic quest for land

### **1787-1828: Agreements Between Equals**

- Indian tribes were viewed as separate nations and negotiations were done by treaty
- Indian tribes were strong militarily and still a threat
- Laws were passed to protect against the taking of Indian land
- Few of these laws were actively enforced and expansion was encouraged

### **1828-1887: Removal and Relocation and Reservation Era**

- President Andrew Jackson urges Congress to act to remove Indians in the east to lands west of the Mississippi.
- The Indian Removal Act of 1830 leads to treaties that force most eastern tribes to the west
- The 1849 discovery of gold led to further expansion and decimates the California tribal population, coinciding with the establishment of the Transcontinental Railroad, westward expansion, and the prevailing concept of manifest destiny
- In 1850, California, passes “An Act for the Government and Protection of Indians” (aka the Indian Vagrancy Laws) are passed, essentially instituting Jim Crow laws in the state
- 1871 Congress passed law that stopped additional treaties with Indian tribes
- By 1887, 200 boarding schools were established with 14,000 Indian forcibly enrolled
- The General Crimes Act (1817) and the Major Crimes Act (1885) are passed which authorize federal courts to prosecute Indians who committed certain crimes on the Reservation

- In spite of these policies, the Cherokee try to defend their lands, sovereignty and political status in the courts. Chief Justice John Marshall writes the opinions in two landmark cases which lay the foundation of federal Indian law, *Cherokee Nation v. Georgia* (1831), and *Worcester v. Georgia* (1832).
- The U.S. ceases to see Indian tribes are no longer seen as independent nations

### **1887-1934: Allotment and Assimilation**

- Assimilation into white society becomes the new federal policy
- The 1887 General Allotment Act (Dawes Act) sought to extinguish tribal sovereignty, erase reservation boundaries, and force assimilation of Indian people into white society
- Under allotment, “surplus lands” are sold to non-Indians
- With destruction of the land base, tribal culture is disrupted, communal life destroyed, productive land reduced, and outsiders allowed to live on Indian reservations
- Congress allows Indian land to be leased to non-Indians, controlled funds that resulted from the leases, and determined when to distribute the funds (misappropriation later leads to settlement under the *Cobell* case)
- In 1924, Congress confers US citizenship on all Indians

### **1934-1953: Indian Reorganization**

- The Meriam Report, published in 1928, reports on the conditions of American Indians in more than 20 states. It finds conditions of abject poverty and extremely poor health conditions are common among American Indians.
- The Meriam Report leads to the 1935 Indian Reorganization Act (IRA) Federal Indian policy changed as this law was enacted to protect the remaining Indian land base, encourage Indian tribes to adopt constitutions, and engage in self-government
- Under the IRA, many tribes adopt formal, written constitutions but these documents are based on an American democratic model that does little to incorporate tribal custom and tradition
- The IRA has been criticized as paternalistic and ethnocentric

### **1953-1968: Termination of the Federal Trust Relationship & Urban Relocation**

- The IRA’s goals were abandoned and federal policy changed again
- Termination of the federal government’s trust relationship with Indian tribes became the new policy with the goal of assimilation
- Federal benefits and support services were eliminated and many tribes on the west coast were no longer tribes under laws like the Rancheria Termination Act (1958) which was written to terminate 40 tribes and rancherias but between 1953 and 1964, approximately 109 tribes and rancherias were terminated
- In 1953 Public Law 280 gave six states criminal jurisdiction over Indian reservations
- A 1956 Relocation program offered job training and housing assistance to Indians who would leave the reservation for urban areas
- Many tribal governments were disbanded and reservations abolished

### **1968-Present: Tribal Self-Determination**

- Federal Indian policy changed to one which promotes tribal sovereignty and self determination
- Since 1968, the legislative and executive branches have attempted to provide measures which improve would improve the social and economic life of tribes and their people
- However, since the 1970s, Indian interests have lost more than 80% of the cases decided by the Supreme Court

- Under laws like the 1975 Indian Self-Determination and Education Act, tribes begin running their own programs in education, forestry, economic development, and other areas and employing their own qualified tribal members to administrate and operate them
- Indian preference in employment by tribes was challenged through the courts as being discriminatory against non-Indians in *Morton v. Mancari*. The Court noted, in this case, that the term “Indian” was not a racial term, but a political one and that the purpose of Indian preference in employment was part of the government’s interest in ensuring American Indian self-determination
- In 1988, Congress passes the Indian Gaming Regulatory Act after California tribes prevail in court
- In 1994, President Clinton issues the first Executive Order on the government-to-government relationship, this is followed by Executive Order 13007 on Indian Sacred Sites in 1996
- President Obama issues an Executive Order requiring all federal agencies to develop a tribal consultation policy in 2009.