

# American Indian Laws and Policies

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Buffalo Hunt under the Wolf-Skin Mask

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## American Policies Towards Native Americans

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The policies of European settlers who settled North America towards native Americans has changed significantly over time. Laws have been passed and policies established with the intent to aid the American Indians or to move them out of the way of the "progress" of the non-Indian population. Some of the laws have supposedly created rights for the American Indian population, either as a body or as individuals. Some of these laws specified the recording of information about individual members of tribes. Some required Indians to give up their association with their native groups before they were allowed certain rights and thus recorded in records outside the designation as American Indians.

### Policy Periods

- 1st Contact to 1830 -- Intermingling or Conversion
- 1830-1850 -- Removal
- 1850-1887 -- Reservation
- 1887-1934 -- Allotment
- 1934-1970 -- Termination or Assimilation
- 1970-Present -- Self-Determination

## Laws, Court Cases, and Historical Events

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Some of the significant general laws passed by the federal government of the United States which have affected the records of the American Indians include the following. Of course, the treaties between the government and the individual tribes also had a great impact upon the relationships between the specific tribe and the government, and also influenced the records kept.

### 1787 - *The Northwest Ordinance*

This ordinance stated that Indians were to be treated with the "utmost good faith" and specified that "their lands and property shall never be taken away from them without their consent." As settlers pushed forward into occupied Indian territory, however, they received military protection. As governor of Indiana William Henry Harrison threatened, bribed and purposely intoxicated Indians. He was opposed by Tecumseh who began to organize an Indian Confederation. In 1811 and 1812 Harrison fought and defeated Tecumseh at the battle of Tippecanoe.

### 1819 - The purchase of Florida

For years Indians had fled south to Florida to escape American authorities. There the Spanish were powerless to control the Indians where a new tribe was formed called the Seminoles. The Seminoles, comprised of both native Americans and escaped slaves began to raid American settlements and then escape back into Spanish territory. In 1818 Andrew Jackson led a raid on Florida, captured two Spanish forts and crushed the Seminoles. Fearing the loss of their territory without compensation the Spanish sold Florida to the United States whereupon the Seminoles were swiftly moved to a reservation in central Florida.

## **1828 - Cherokee Nation vs. Georgia**

In 1828 the Cherokee, a "civilized" tribe who had lived in peace working as farmers, building houses and roads found gold on their land. As a result white settlers moved in and the State of Georgia claimed jurisdiction over the Cherokee. The Cherokee sued claiming they were independent from Georgia. The Supreme Court ruled in favor of the Cherokee. The victory was short lived, however, as President Andrew Jackson in response to the Courts decision is reputed to have said, "John Marshall has made his decision. Now let him enforce it." Instead the federal government removed the Indians to Oklahoma.

## **1830 - *Indian Removal Act***

The Indian Removal Act (<http://memory.loc.gov/cgi-bin/ampage?collId=llsl&fileName=004/llsl004.db&recNum=458>) authorized the President to negotiate treaties to remove the remaining Eastern Indians to lands west of the Mississippi . Under Presidents Andrew Jackson and Martin Van Buren, most of the tribes remaining east of the Mississippi were removed in a series of migrations, some voluntary and some forced. By the late 1840's almost all native Americans had been moved to lands west of the Mississippi. Census records prior to the removal of some tribes were made. Muster lists or removal rolls of those removed by the United States Army also were created for some of the removals.

## **1860 - 1890's - Plains Indians Wars**

During this period Americans and plains Indians clashed as Americans attempted to force Indians onto reservations. The battles are highlighted by the Battle of Little Bighorn, where Lt. Col. George Armstrong Custer and his regiment of 250 were all killed by approximately 4500 Sioux and Cheyenne warriors and the battle at Wounded Knee where thousands of Cheyenne men, women and children were slaughtered by the American Calvary. Wounded Knee represented the end of any real armed resistance on the part of the Native American.

## **1884 - *The Indian Census Act***

An act passed by the United States Congress on July 4, 1884 (23 Stat. 980) required the superintendents or agents of the Office of Indian Affairs on each reservation to record information about individuals living on each reservation. The data on the rolls vary to some extent, but usually given are the English and/or Indian name of the person, roll number, age or date of birth, sex, and relationship to head of family. Beginning in 1930, the rolls also show the degree of Indian blood, marital status, ward status, place of residence, and sometimes other information. There is not a census for every reservation or group of Indians for every year. Only persons who maintained a formal affiliation with a tribe under federal supervision are listed on these census rolls. The resulting records cover 1885 to 1940.

## **1887 - *The Dawes or General Allotment Act***

The General Allotment Act (<http://www2.csusm.edu/nadp/a1887.htm>), also known as the Dawes Act (24 Stat. 388-391), provided for the following:

1. Each Indian family head was to be allotted a 160 acre farm out of reservation lands.
2. Each new land owner who abandoned tribal practices and adopted the "habits of civilized life" would be granted American citizenship.
3. "Surplus" reservation lands would be made available to sell to white settlers.

The Dawes Act may have been well intentioned, but much of the lands assigned was poor and difficult to farm. As a result, the "surplus" land provision caused the Indians to lose approximately 90 million out of 140 acres of reservation land.

This act was responsible for the creation of several types of records, however, including the allotment records, heirship files, the Register of Families, and other supporting documents, many of which are very valuable in the tracing of American Indian ancestry.

## **1924 - *Indian Citizenship Act***

The Indian Citizenship Act ([http://digital.library.okstate.edu/kappler/vol4/html\\_files/v4p1165.html](http://digital.library.okstate.edu/kappler/vol4/html_files/v4p1165.html)), also known as the Snyder Act, (43 Stat. 253) granted American citizenship to all Indians born in the United States. About 2/3 of the Indian population had already acquired citizenship through other means, but this granted that status to the rest.

## **1934 - *Wheeler-Howard or Indian Reorganization Act***

The Indian Reorganization Act provided for the following:

1. Ended land allotments and returned unsold lands to the Indians.
2. Authorized tribes to form corporations and launch businesses.
3. Provided for elected tribal councils with significant powers. This represented a reversal from previous policy and the restoration of tribal power.

## **1946 - *Indian Claims Commission Act***

This act provided a means for Indian Tribes to file claims against the federal government. The intent was to allow a five-year window of time for this type of claim. At the conclusion of that time, the tribes would give up their right to bring up that grievance again.

Such claims might have included for alleged wrongs suffered between the time of the Revolution and 1946. In most cases, individual tribal members receiving any of the awarded judgments would have been required to prove their relationship to a member of the tribe alive at the time of the event which was the cause of the claim.

The Commission was adjourned in 1978 by Public Law 94-465, which terminated the Commission and transferred its pending docket of 170 cases to the United States Court of Claims on September 30, 1978. By the time of the Commission's final report, it had awarded \$818,172,606.64 in judgments and had completed 546 dockets.

## **1953 - Termination Policy, formalized by *House Concurrent Resolution 108***

This was a new sharply different policy that ended the Bureau of Indian Affairs (BIA) and all of the programs that went with it. It divided tribal property among the tribes members thus subjecting them to taxation. It also curtailed tribal self government and relocated many Indians to the cities where jobs were available. The Termination policy also ended federal responsibility and social services - education, health and welfare, to the Indians.

Between the years 1950 and 1960 one-hundred and nine tribes had federal recognition withdrawn. The states with the Tribes most affected: California, Minnesota, Nebraska, Oregon, Utah, and Wisconsin. It is estimated that 13,263 individuals lost Tribal affiliation.

Some tribes are petitioning to be recognized and granted status as a federally recognized Indian Tribe.

## 1974 - Iroquois Nation vs. The State of New York

Claiming they have been using certain lands since 1805 Indians sue and win in federal court. The federal government is forced to be responsive to their treaty claims.

## 1975 - *Indian Self-Determination and Education Assistance Act of 1975*

President Richard Milhouse Nixon recommends self determination for Indians. Indian tribes were once again brought under federal funding with the promise that federal control would be lessened.

## 1980's - Autonomy

Several Indian nations, most notably in Connecticut and New York, sue to gain autonomy (independence) on tribal reservation land. Indians win these cases paving the way for the creation of gambling operations on reservation land. Today there are casinos on several reservations providing millions of dollars of income for those tribes.

## For Further Reading

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- Cohen, Felix S. "Handbook of Federal Indian Law." Washington, DC:United States Government Printing Office, 1945. Second Printing. Available online (<http://thorpe.ou.edu/cohen.html>).
- Kappler, Charles J. *Indian Affairs: Laws and Treaties*. Washington, DC: United States Government Printing Office. 7 volumes. WorldCat 74490963; FHL book 970.1 K142i (<https://www.familysearch.org/search/catalog/53745>). Available online (<http://digital.library.okstate.edu/kappler/index.htm>).
- Johnson, Steven L., *Guide to American Indian Documents in the Congressional Serial Set: 1817-1899*, Library of American Indian Affairs (New York, New York : Clearwater Publishing, c1977). WorldCat 865908163 (<http://www.worldcat.org/oclc/865908163/editions>); FHL Book 970.1 J637g (<https://www.familysearch.org/search/catalog/169528>). The guide is mostly a chronological set of citations with a small index. Cites documents primarily about Indian relations with the United States government, that is, Indian affairs rather than descriptions of Indians or Indian life. The largest category is white claims for compensation because of Indian depredations.

[hide]Links to American Indians-related articles

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