

“Surrounded by our settlements, these Indians have neither the intelligence, the industry, the moral habits nor the desire of improvement which are essential to any favorable change in their condition. Established in the midst of another and a superior race, and without appreciating the causes of their inferiority or seeking to control them, they must necessarily yield to the force of circumstance and ere long disappear.”

...President Andrew Jackson

### Questions:

1. What did President Jackson think about the American Indians?
2. Do you think President Jackson's beliefs were typical of most Americans living during his time? Why or why not?
3. President Jackson felt that it was **inevitable** that such an inferior race of people either give up their Indian culture and spirituality, or that they would “disappear.” Do you think these were the only two choices available to the United States government? Can you think of any other choices?

## American Indian Sovereignty

**Sovereignty** is the supreme power from which all political powers are derived. A nation is sovereign when its people have the power to govern themselves.

**Were the Indian Nations sovereign at the time of European contact with the North American continent? Yes!** All Indian nations originally exercised the powers of sovereigns. Indian nations recognized the sovereignty of other Indian nations by forming compacts, treaties, trade agreements, and military alliances with one another. All the colonies recognized the sovereignty of Indian nations by entering into treaties with the Indian nations.

Sovereignty, then, was an inherent right of Indian peoples - a right that could not be taken away.

## 19th Century Federal Indian Policies

**Treaty Making** involved signing a legal agreement between two sovereign nations. For 81 years, from 1790 to 1871, the US government signed 371 treaties with hundreds of Indian tribes. By 1903, all of these treaties had been **abrogated**.

**Removal** was based upon belief that if Indians were removed from their land, it could be more profitably farmed by white settlers. By 1783, all tribes east of Appalachians had been **dispossessed** of their land and removed. The **Removal Act of 1830** gave President Jackson the right to initiate “land exchanges” by moving tribes west of the Mississippi to Indian Country.

**Reservations** were designed to confine Indians to one specific place where they would receive temporary support to become “civilized” - Americanized and Christianized - and to be taught cultural, spiritual, and agricultural “self-improvement skills.”

**Allotment** was designed to destroy the reservation system and traditional land ownership which was believed to deprive Indians of incentives to improve his or her situation. Allotment was carried out through passage of the **Dawes Act of 1887** which gave 160 acres of reservation land to individual Indians who would receive final title to the land and American citizenship *after* 25-years during which he had willingly assumed all **agrarian** responsibilities. Any land remaining was sold to whites, with proceeds used to “civilize” reservation Indians.

**Extermination** was rationalized by the federal government by those who believed Indian resistance to federal laws was tantamount to a declaration of war against the US. In the 1890s, the Army declared war upon several tribes, began exterminating resisters, and absolutely **subjugated** survivors.

## Eroding Indian Sovereignty

The new US government took three avenues that changed the nature of Indian sovereignty and eroded the powers of sovereign peoples.

1. The US Constitution under **Article I, Section 8, Clause 2**, recognized the sovereignty of Indian tribes by stating that “The Congress shall have power...to regulate Commerce with foreign Nations, and among the several States, and with the Indian Tribes.” In this article, the Constitution specifically created two distinct sovereigns - the federal and tribal governments.
2. The **Indian Trade and Intercourse Act (1790)** gave the federal government - not the states - exclusive power to deal with Indians. Consequently, all relations between the federal government and Indian nations were carried out on a **government-to-government basis**.
3. Three important U.S. Supreme Court decisions known as **The Marshall Trilogy** limited Indian sovereignty.

## The Marshall Trilogy

- **Johnson v. McIntosh (1823).** The Court established the **discovery doctrine** finding that European Americans had exclusive title to Indian land because they “discovered” it. Therefore, Indians did not have the right to dispose of the land that they rightfully occupied. Consequently the rights of Indians to complete sovereignty were limited.
- **Cherokee Nation v. Georgia (1831).** The Court established the **trust relationship** by finding that Indian tribes were “domestic dependent nations” and that “their relation to the United States resembles that of a ward to his guardian.” Thereafter, when an Indian nation gave up land in a treaty, it entered into a trust relationship with the federal government in which the government promised to provide benefits and rights to the American Indian peoples in exchange for their land. Thus, these were not treaties made between a government and a specific ethnic group, but rather were political, government-to-government treaties.
- **Worcester v. Georgia (1832).** The Court established that Congress had exclusive and overriding, or **plenary power**, over Indian tribes. The decision also found that tribes did not lose their sovereign powers by becoming subject to the power of the U.S. and that state laws did not apply in Indian Country. Consequently, Indian nations were semi-autonomous and were quasi-sovereign entities.

What had begun was what one professor of American Indian history calls “**Sovereignty - now you see it, now you don’t.**” Sometimes the federal government has recognized Indian nations as sovereign, and sometimes it has not. In short, Federal Indian Policy has shifted between sustaining and nurturing tribal sovereignty and eliminating that sovereignty.

## Manifest Destiny

In 1845, the journalist John O'Sullivan wrote that it was

“...our manifest destiny to overspread the continent allotted by providence for the free development of our yearly multiplying millions.”

### **Questions:**

1. What do you think Mr. O'Sullivan meant when he wrote this phrase?
2. How do you think the policies of manifest destiny affected the American Indian tribes in North America?
3. Can you suggest any other type of policy(s) the government could have used to deal with the American Indians?
4. Do you think most Americans would have supported such a policy(s)?

## “SAVAGE”

Noah Webster, the author of the first new dictionary produced in the United States in 1828, included the following definition:

**Savage**, n. A human being in his native state of rudeness; one who is untaught, uncivilized or without cultivation of mind or manners. The savages of America, when uncorrupted by the vices of civilized men, are remarkable for their hospitality to strangers, and for their truth, fidelity and gratitude to their friends, but implacably cruel and revengeful towards their enemies.

### Questions:

1. By this definition, Indians were savages who were **uncivilized**. What did “uncivilized” mean?
2. What do you think Webster and other Americans felt was “**civilized**”?
3. How are the definitions of savage, uncivilized, and civilized different in a contemporary Webster’s Dictionary?

**Discussion:** This definition reveals the mixed feelings that many white Americans felt about the Indians.

On the one hand was the so-called “**noble savage**” belief that Indians were good by nature (“remarkable for their hospitality to strangers, and for their truth, fidelity and gratitude”) because civilized society had not taught them to be otherwise. On the other hand was the “**cruel savage**” belief that Indians were violent, cruel, and revengeful.

Regardless of whether white Americans viewed Indians as noble or cruel, they were always defined both as savages and as **heathens** - persons who did not believe in God and were in need of conversion to Christianity. Nowhere was there any understanding that the actions of white settlers might be to blame for some of the cruelty, revenge, and violence they encountered among the Indians. It was easier to regard the Indians as fundamentally different from and inferior to whites.

## HSU and Eighth Grade Student E-Mail Directions

Please follow these directions when engaging in the e-mail process.

- **HSU Students - Initial E-Mail Procedure.** After you read the rough draft of the paper(s) assigned to you, please e-mail your student group and include the following information.

1. **Introduction.** Provide a very brief (3-4 sentences maximum) biographical introduction of yourself. Your first name, your year in school, where you grew up, your major and interests. **Be sure to include your e-mail address** so that the students can respond directly back to you.
2. **Comments.** Make a few positive comments about the paper that begin with the sentence, "I really liked..."
3. **Questions.** Ask a few questions about any part of the paper that you would like clarified by beginning the sentence, "I am puzzled by..."
4. **Suggestions.** Provide a few suggestions for improvement by saying, "I suggest..." Be sure you explain why you have made the suggestion and how it might improve the paper.

**Be sure to send a copy of your e-mail** to Dr. Olson-Raymer at go1@axe.humboldt.edu. This is necessary in order to receive extra credit.

- **Eighth Grade Students Response**

1. Write several sentences that respond to the comments, questions, and suggestions that the HSU student provided. Then, e-mail these sentences directly back to the university student with whom you are corresponding.
2. Make corrections in your paper that relate to these comments, questions, and suggestions.
3. Resubmit your paper with changes to your teacher.

- **HSU Students - Second E-Mail Procedure.** After you read the final and corrected copy of the student paper(s), please do the following.

1. Respond to the list of seven questions that follows and then send your responses via e-mail to the eighth grade students. **Be sure to e-mail** a copy to Dr. Olson-Raymer.
2. Write a very brief couple of sentences that explain any significant changes and/or improvement you noticed in the final paper versus what you read in the rough draft. Be positive and upbeat!

## Student Research Projects

Following is the list of the seven tribes that you will be researching throughout the remainder of this unit. With each tribe is a brief description of the contemporary issue that students must research.

**Makah** - The international whaling controversy

**Navajo** - Uranium mining on reservation lands

**Nez Perce** - The return of traditional tribal lands

**Mashantucket Pequot** - The impact of a casino on the reservation

**Powhatan** - The Pocohontas myth

**Oglala Lakota (Sioux)** - The 1973 incident at Pine Ridge Reservation

**Yurok** - The G-O Road

Each student will be responsible for one of the following topics related to their particular tribe.

### 1. Past History

- Where were the tribe's original ancestral lands? How have they changed over the last several centuries?
- How did tribal members end up on the reservation?
- Does this tribe have a treaty with the US government? When was it signed? What did it say?
- What was the original language of the tribe?
- How does the tribe explain its origin in North America? (Does it have an origin story?)
- How would you describe the tribe's historical interaction with whites? Were tribal members engaged in any war(s) with the US Army or with civilians?
- Did you learn about any famous tribal members? If so, who were they and for what were they well known?

### 2. Recent History/Existence

- Is the original language still spoken by tribal members?
- What are the current reservation boundaries? Please include a map and a description of the reservation.
- What is the current number of tribal members? Do most tribal members live off or on the reservation?
- How is tribal membership determined?
- What type of employment is available on the reservation? Do most people work on or off the reservation?
- Does the tribe have a casino? A museum? Describe the effects of the casino and/or museum upon the tribe.

### **3. Culture**

- What types of housing did tribal members live in before the 20th Century?
- What traditional types of foods were and still are consumed within this tribe?
- What are the tribe's traditional religious beliefs and practices? How have they changed over the years?
- What special celebrations or holidays are observed by the tribe?
- What types of traditional clothing did tribal members wear before the 20th Century?
- What myths are most popular among tribal members?

### **4. Government and Current Issues**

- How is the tribal government organized? Who are the leaders? How are leaders selected?
- How are laws made and enforced on the reservation?
- If you have access to your tribe's constitution, please explain its basic structure and contents.
- What sovereign rights are exercised by the tribe? Are there any special sovereignty issues within this tribe?
- What current benefits do tribal members receive from the US government?
- What is the background of the current issue faced by your tribe, or which your tribe is currently facing?

## **The Indian People in America Today**

**Who is an Indian?** There is no single definition of Indian. Before European contact, tribal membership was determined by kinship ties - that is, by cultural identification either with one's maternal or paternal ancestry. Today, however, most tribes require a certain amount of "blood quantum," or Indian blood, which varies from tribe to tribe. Enrollment for the Eastern Band of Cherokee requires 1/16 Indian blood, The Cherokee Nation of Oklahoma require individuals to trace their genealogical descent from a direct ancestor included on their 1907 tribal roles.

Federal agencies define Indians differently than do the tribes. The United States Census Bureau states that an Indian is anyone who declares himself or herself to be an Indian. The federal Bureau of Indian Affairs (BIA), which distributes funds and services to Indians, generally defines an Indian as an individual who is a member of an Indian tribe, band, or community that is officially recognized by the federal government; who lives on or near a reservation; and who is of 1/4 or more Indian ancestry.

**What is the current Indian population?** The most recent statistics are those of the 1990 Census. At that time, 1,859,234 individuals identified themselves as Indians, representing 0.8% of the total U.S. population of 248,709,873. Although the federal census found about 1.8 million self-identified American Indians, only around 1 million were actually enrolled in a federally-recognized tribe.

The states with the largest Indian population are Alaska with 15.6% of the state's total population; New Mexico with 8.9%; Oklahoma with 8%; Montana with 6%; Arizona with 5.6%. California has 0.8%.

**What is an Indian reservation?** Land that is "reserved" for an Indian tribe to live on and use is called a reservation. In colonial years, reservations were created when a certain proportion of traditional land was "reserved" by the federal government in a treaty that persuaded or forced Indian tribes to give up the majority of their homelands. During the early 1800s, it was common for tribes to be removed from ancestral lands and placed on reservations located outside traditional areas.

The largest is the Navajo Reservation which covers between 14-15 million acres of lands in Arizona, Utah, and New Mexico. Other large reservations are located in Arizona (Fort Apache with 1,665,000 acres; Hopi

with 1,561,000 acres; San Carlos Apache with 1,827,000 acres; Tohono O'odham with 2,774,000 acres), Montana (Crow with 1,516,000 acres), South Dakota (Cheyenne River with 1,396,000 acres; Pine Ridge with 1,779,000 acres), Utah (Uintah and Ouray with 1,096,000 acres), Washington (Coville with 1,063,000 acres; Yakima with 1,130,000 acres), and Wyoming (Wind River, 1,888,000 acres). One of the smallest is Blue Lake Rancheria in northern California with less than an acre.

Federal Indian reservations total about 300 which are located in 33 states. California has the highest number of federal reservations - about 95. But about half of these are small rancherias that range in size from less than one to several hundred acres.

**How many Indians live on reservations?** The 1990 Census reported that 22.3% (437,431) of the total number of Indians live on reservations. Most Indians live in urban or suburban settings.

**What is the Bureau of Indian Affairs?** The Indian Office was created in 1824 and operated under the War Department. In 1849, Congress transferred it to the newly-created Department of the Interior and renamed it the Bureau of Indian Affairs (BIA). It is the responsibility of the BIA to administer federal programs that benefit the Indian people who are members of a federally-recognized Indian tribe.

**What is a federally-recognized Indian tribe?** Tribes that exist as a distinct political group and that have a formal relationship with the US are federally-recognized. This means that the tribe has certain rights and powers of self-government and is entitled to specific benefits and services that are stated in various federal laws. There are about 520 officially recognized tribes in the United States today in the lower 48 states and another 197 recognized tribes in Alaska. Perhaps as many as 200 or more tribal groups are not recognized by the federal government for a variety of reasons: they never signed a treaty with the US government; their recognized status was terminated by Congress in the 1950s and they are instead recognized by the state in which they reside; they desire recognition but have been able to gain such a status.

**What benefits and services are available to federally-recognized tribes?** Two main federal agencies are responsible for providing benefits and services to Indians - the Bureau of Indian Affairs (BIA) and the Indian Health Service (IHS). Major benefits and services include but are not limited to medical and dental care; grants and programs for education; housing programs, aid for developing tribal governments and courts; resource management; and various miscellaneous services.

While being an Indian is no cause for receiving money from the federal government, there are a few situations in which Indians do receive money. For instance, in Humboldt County, contemporary children of the Yurok tribe stand to receive a sum of federal money upon turning 18 and becoming a legal adult. This has not always been the case and children born after a certain date do not qualify and the payment applies to only one generation. The Yurok Tribe won a law suit filed against the federal government over a division of land between the Yurok and Hoopa tribes. The judgment required that moneys be paid to the Yurok tribe. This money was divided up among tribal members who were living at the time of the judgment. However, some of the tribal members were minors at the time. Thus, the federal government has held their portion in trust, which is payable upon turning 18 years of age.

Another scenario where money is paid to a local tribe involves the Hoopa. The money paid in this case is not federal money, but rather moneys paid from profits gained from tribal business. The Hupa people have marketable resources on their reservation - especially timber. They harvest their resources for profit. After all harvesting expenses and all government expenses (of all kinds) are paid, they may be a surplus. If a surplus exists, the tribe divides the moneys equally among its members. Adults receive a check - if there is a profit during the year - while the amounts owed to minors are held in trust. Upon turning 18 years old, the tribal members will receive 18 years of payments.

**What is sovereignty?** While there is no clear definition of sovereignty, there are a number of generally accepted attributes that qualify something as sovereign. First, there must be a distinct, unique group of people who must have a distinct language, a distinct moral and religious structure, and a distinct cultural base. They must have a specific geographic area that they control and regulate. Within that area, they must possess governmental powers, including the power to tax and the power to change their government if they see fit. These governmental powers must be acknowledged by the people who are subject to them, and they must be enforceable by some sort of authority, whether it be military, police, or general citizen control. Finally, a sovereign entity must be recognized by another sovereign. For Indian tribes, that recognition has taken place through treaties.

**What is a treaty?** Treaties are a contract between governments. When two governments enter into a treaty, that means they recognize each other as sovereigns. Treaties historically were and contemporarily are the basis of the relationship between tribes and the United States. Historically, Europeans had two reasons for entering into treaties with Indian tribes. First, tribes had

significant military power. Second, until about 1800, tribes controlled the balance of power in this country. If the tribes wouldn't support you, you at least wanted them to remain neutral. What you did not want was for tribes to be against you, because they were powerful enough to crush your efforts if they chose to do so.

**Since tribes are often described today as semi-sovereign entities, what sovereign powers do they retain?** Much tribal sovereignty was lost when Indian nations signed treaties with the United States government. Today, Congress has plenary, or near absolute, power to limit tribal sovereignty. However, all tribes continue to possess some sovereignty over their internal affairs. They have the powers to:

- determine their form of government,
- to define conditions for membership in their tribe,
- to administer justice and enforce laws,
- to tax tribal members,
- to regulate the domestic relations of its members, and
- to regulate property use.

It is important to note that states can not interfere with the self-government of federally-recognized tribes.

**What is the Trust Relationship?** During the colonial period of American history and throughout most of the nineteenth century, all relations between Indian tribes and the government were believed to be **government-to-government**. That is, relationships were between two sovereign and legitimate nations - the United States and the individual Indian nation. As the result of the U.S. Supreme Court case *Cherokee Nation v. Georgia* in 1831, the government-to-government relationship was altered. Thereafter, Indian nations were believed to be dependent domestic nations rather than sovereign foreign nations. As a result of becoming domestic Indian nations living within another nation, the federal government assumed a responsibility to protect the interests of Indians. This "Trust Relationship" occurred when an Indian nation gave part or all of its land to the federal government by means of a treaty. In return, the federal government was obligated to provide services and to take other appropriate actions necessary to protect Indians and tribal self-government. This relationship continues to guide today's federal policies and actions dealing with federally-recognized Indian tribes. In other words, the federal government still has the responsibility to honor its agreements and treaties with Indian nations.

## Indian Killing

**Orleans Bar, April 1852.** After miners discussed the “Indian problem,” they voted to kill on sight any Indians having a gun.

**Weaverville, May 1852.** In revenge for the killing of five cows belonging to a white man, 153 Wintun Indians were killed.

**Yontoket, 1853.** After a Tolowa harvest dance, a survivor described a massacre: “The whitemen built a huge fire and threw in our sacred ceremonial dresses, the regalia, and our feathers, and the flames grew higher. Then they threw in the babies, many of them were still alive.” The following year, after a Tolowa stole a white man’s horse, most of the remaining Tolowa men, women, and children were killed.

**Eel River, 1859.** After local Indians stole about 600 head of cattle and killed 19 white settlers, a group of ranchers from Laytonville claimed to have killed 283 men and taken 292 prisoners to the Mendocino Reservation.

## The Justifications

Drydon Laycock, a settler in Round Valley, claimed from 1856 to 1860, settlers went out “two or three times a week” and killed “on an average, fifty or sixty Indians on a trip.”

An army officer at Fort Humboldt wrote: “Cold-blooded Indian killing being considered honorable, shooting Indians and murdering even squaws and children that have been domesticated for months and years, without a moment’s warning and with as little compunction as they would rid themselves of a dog.”

In 1860, the *Humboldt Times* wrote: “The whites cannot afford horses and cattle for their sustenance, and will not. Ergo, unless Government provides for the Indians, the settlers must exterminate them.”

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Source: Fergus M. Bordewich, *Killing the White Man’s Indian*. New York: Anchor Books, 1996: pp. 50-51.

# **CALIFORNIA'S RESERVATIONS**

March 1853

Reservations did not require the federal government to make a treaty with the California tribes, nor did their establishment require any Indian approval.

Each reservation could not exceed 25,000 acres

- Five reservations were approved, thereby granting a total of 125,000 acres to the entire California Indian population.
- This was about 60 times less than the over 7 million acres that McKee's treaties had set aside for reservations.

Reservations could not be established in any lands inhabited by California citizens. All reservations, then, would be created in the most undesirable and uninhabited areas of the state.

The government, not the Indians, would own and control reservation land.

All Indians would be forcibly removed to an assigned reservation for their own "protection."

## CALIFORNIANS REACT TO THE NEWLY-NEGOTIATED RESERVATIONS

According to the *Los Angeles Star*:

“To place upon our most fertile soil the most degraded race of aborigines upon the North American continent; to invest them with the rights of sovereignty, and to teach them that they are to be treated as powerful and independent nations, is planting the seeds of future disaster and ruin.”

The majority report of the California Senate committee assigned to examine the treaties concluded:

“As to the wild Indians now located within this State, your committee must protest against locating them within our limits. Occupying an important frontier position on the great Pacific...it is indispensable that this State should be wholly occupied by a homogeneous population, all contributing, by their character and occupation, to its strength and independence. To take any portion of the country west of the Sierra Nevada, for the home of the wild, and generally hostile Indians, would be manifestly unwise and impolitic...”

### Questions:

1. What is a homogeneous population? Do you think a homogeneous population was necessary to the character and strength of the new state?
2. What do the authors of the first quote think about the idea of American Indian sovereignty?
3. What words are used to characterize the California Indians? Do you think these feelings were typical of most Californians at the time?

## **Instructions to California Indian Agents,** **from the Office of Indian Affairs**

“The object of the government is to obtain all the information it can with reference to tribes of Indians within the boundaries of California, their manner, habits, customs, and extent of civilization, and to make such treaties and compact with them as may seem just and proper...The board will convene...and will determine upon some rule of action which will be most efficient in attaining the desired object, which is, by all possible means, to conciliate the good feelings of the Indians, and to get them to ratify those feelings by entering into written treaties, binding on them, towards the government and each other.” (A.S. Loughery, Acting Commissioner of Indian Affairs, to McKee, Barbour, and Wozencraft, October 15, 1850. *Senate Exec. Doc. 4, Serial 688*, p. 52.)

### Questions:

1. What do you think Mr. Loughery meant when he said he wanted the Agents to “conciliate the good feelings of the Indians?”
2. What guidelines did he give the agents who would be making these treaties?
3. Do these instructions seem realistic to you? Why or why not?

## **Contrasting Thoughts about Indians in California**

“It has been the policy of the Government to drive them to the West; but the white man is now in the West... The fate of the Indian is irrevocably sealed. He must soon be crushed by the encroaching tide of immigration. The hand of destiny has marked him, and soon he must fade away. The reflection to every humane heart is a melancholy one, but it is unavoidable. In the providence of God they must soon disappear before the onward march of our countrymen. Humanity may forbid, but the interest of the white man demands their extinction.”

...California Senator John B. Weller, 1852

“The settler selects the site of an Indian village - he soon wants the land with they occupy - he cuts down the oak, which for years has produced in part his daily bread...he dams the streams and cuts off his periodical supply of fish. The Indian looks on the white man as the aggressor, and stimulated by passion; goaded on by suffering and hunger; he retaliates. War with all its horrors succeeds, and the few who escape death, are removed a few miles into the interior, there to reproduce themselves to suffer in succeeding years a repetition of the same wrongs.

The policy to which, to me, appears more worthy...[is] that sufficient portions of the land, in different parts of the State, should be appropriated for the cultivation and residence of all such Indians as might need a home; here they would be ennobled, and escape that certain destruction which awaits them on every other side...Will it be said that the land is not broad enough for them and us? or that while our doors are open to the stranger from the uttermost parts of the earth, we have not spare room for the residence of the once sole inhabitants of our magnificent empire...Has the love of gold blotted from our minds all feelings of compassion and justice?”

...California Senator J.J.

Warner, 1852