The relationship between European countries, the United States and American Indian Nations on the North American continent has been one of conflict, strife, and occasional warfare between different people, cultures, and religions. Indians and tribal governments owned lands and assets that European settlers, American colonists, and then United States citizens desired. The land and its valuable resources including animals and furs, water, timber, and minerals proved irresistible to Americans. Europeans brought new ideas, new ways of life, new forms of government, religion, and diseases to the North American continent. All of these factors played a major role in changing the cultures and lives of the Indigenous peoples of North America.

American Indian tribes and native peoples also played an important role in American history and had a profound impact on the European settlers. From the time European settlers landed at Jamestown, Virginia in 1607, tribal governments sometimes helped and sometimes opposed European settlements in North America. Indian tribes undoubtedly had a major influence on the development of the original thirteen English colonies and on the establishment of the United States government. European countries, and later the United States government, had to deal politically on a government-to-government basis with tribal governments and had to address the interests of Indian peoples.

The overriding theme of the policies pursued by the governments of England and the United States towards tribes was to assimilate, or absorb Indian peoples into the non-Indian population by teaching them European religions, and by “civilizing” them and changing their cultures and ways of life. The alternative goal of many U.S. citizens and politicians in the past was to exterminate Indians.
The non-Indian governments decided from the beginning to interact with tribes as
governments which had authority and jurisdiction over their peoples and their territories. Thus,
England, France, and Spain, and later the United States, entered into numerous treaties with tribal
governments to purchase land and to guarantee peace between the new settlers and Indians. This
decision to deal with Indian tribes on a political government-to-government treaty basis has left
American Indians today in the situation of being citizens of the United States, the states wherein
they live, and also as citizens of their individual tribes. Consequently, Indian people and Indian
tribes have a political status vis-a-vis the United States that other U.S. citizens do not. Thus,
when the U.S. enacts laws that benefit or harm Indians and/or tribal governments it does not raise
issues of “affirmative action” or questions whether the United States is preferring one racial
group over another. This is so because federal laws directed at Indians and tribes are based on
the political status of the citizenship of Indians and the sovereign status of tribal governments
and the U.S. actions are politically based and not racial in nature.

Knowledge of the policies that the European countries and the United States followed
with regards to Indians is very important to understanding how tribes have survived to this day as
sovereign governments, why the United States treats Indians as tribal citizens, why tribes possess
treaty rights, and the history of non-Indian and Indian interactions in this country. The official
United States Indian policies often changed slowly over time but occasionally they changed
drastically and in a very short timeframe. This has left U.S. history with a confusing mix of
federal actions taken toward Indians and tribes which reflect the twin goals of either assimilating
Indians into American society or exterminating them. We will examine the various stages of
federal Indian policy in chronological order. The dates given for these policy eras are generally
accepted by most historians but the many of these policies did not change as abruptly as the
dating system might indicate.

I. Colonial Period (1492-1774)

In 1492, when Christopher Columbus landed on the island of Haiti in the Caribbean, he
thought he had discovered a “New World.” However, it is estimated that 10-30 million native
people were already living in North America, in the area of present day Mexico, United States,
and Canada. In fact, the island of Haiti had a population of about 250,000 Arawak and/or Taino
Indians when Columbus arrived. In less than 20 years, the population had declined to less than
15,000 because European diseases, warfare, and slavery had killed off the majority of the island’s
natives. This depressing historical pattern also occurred to most of the native peoples of North
America. It is estimated that European diseases such as smallpox, influenza, and measles killed
up to 90% of all natives in North America. These diseases were often spread to tribes by
trappers, explorers or other Indians, and often well established and complex native societies and
governments were ravaged by epidemics and nearly destroyed long before Euro-American
settlers appeared on the scene.

England and the other European countries that explored, colonized, and settled what is
now the United States followed official governmental policies of dealing with Indian tribes as
sovereign governments through diplomatic means. England, France, Spain, and other European
powers that operated in North America negotiated with Indian tribal governments through
official government-to-government council sessions and by entering treaties which recognized
tribal governmental control over their citizens and territories. These European countries were
interested in gaining control over land, minerals such as gold and silver, and other valuable
assets. They dealt with tribal governments and the native peoples as being the rightful owners of these resources. The European countries were also interested in spreading their religions and their cultures, or what they called “civilization,” to Indians.

England’s North America policy was to settle and colonize the land, develop it for farming and European habitation, extract as much money and value from the land, assets, and Indian peoples as possible, and to civilize and Christianize the Indians. The Crown demonstrated these policies by granting a charter in 1606 to the Virginia Company, a business group of investors and merchants, to establish colonies in North America. One of the main purposes of the charter was to introduce the Christian religion to the Indians because, as King James thought, Indians lived in “Darkness and miserable Ignorance of the true knowledge and worship of God.” The King also thought that learning the European religion would “bring the Infidels and Savages . . . to human Civility, and to a settled and quiet Government.” The other European countries that explored and settled in the New World also pursued the religious conversion of natives. English law in 1608 assumed that the Christian English King had a right to conquer and rule non-Christian countries because they were assumed to be enemies of Christianity. Various Catholic popes also granted permission for European countries to explore, conquer, and convert in the New World.

Indian tribes were a significant danger and a problem for England in its attempt to colonize North America. Several wars broke out between England and tribes starting as early as 1622 due to fears of the increasing number of English settlers and their encroachments on tribal lands. England also had to fight other major Indian wars in 1644, the French and Indian War in 1754-1763, and had to deal with continuous minor outbreaks between its settlers/colonists and
tribes. In fact, the colonists meddled in Indian affairs and encroached on tribal lands so often that the continual fighting threatened the English Crown’s interests in North America and was an expensive and troublesome problem. Hence, King George III issued the Royal Proclamation of 1763 to prohibit encroachments by his English subjects on tribal lands in the thirteen American colonies and Canada without the King’s prior permission. This Proclamation literally defined “Indian country” and the areas the colonists should stay out of as all lands west of the Appalachian and Allegheny Mountains on the western borders of the thirteen American colonies. However, land speculators, which included George Washington, Thomas Paine, and other American “Founding Fathers” violated this order and continued to survey, purchase, and prepare to settle Indian lands that the King had said were off limits to colonial settlement and were reserved for Royal purchase.

English policies towards tribes also emphasized the importance of securing the friendship of tribal governments and preventing them from joining with France to fight English settlers. England engaged in treaty making and official diplomatic relations to address tribal concerns and gave many gifts to tribes to secure their friendship and peace. The Royal Proclamation of 1763 was part of this official attempt by the Crown to deal with tribes politically and as sovereign governments.

II. **Confederation Period (1774-1789)**

As the thirteen colonies in America chafed under English rule, they loosely organized themselves in September 1774 under the Continental Congress which was to address the colonies’ national affairs. When resistance to England led to fighting in 1775 and 1776, the colonies took the dramatic step of declaring independence from England on July 4, 1776 and to
fighting the Revolutionary War. The Continental Congress, which existed from 1774 to 1781, enacted official policies towards Indian tribal governments in an attempt to keep them neutral in the War against England and even to recruit tribes to fight for the new American government. The Continental Congress dealt with tribes on a diplomatic basis and sent treaty negotiators and gifts to try to win the tribes’ support. The Continental Congress ultimately entered one treaty with the Delaware Tribe in 1778. This first American government placed the highest priority on maintaining good relations with tribal governments.

The attitude of the American colonists towards Indians, however, was generally one of fear and hatred. Many colonists, especially on the western borders, were often involved with skirmishes and conflicts with Indians. This continual threat led the new United States government, now called the Articles of Confederation Congress, which existed from 1781 to 1789, to be heavily involved in dealing with Indian tribes and keeping the peace. The federal government was very weak and lacked the money, armed forces, and the will to fight the tribes and their thousands of warriors. Instead, the Articles of Confederation government desired to keep tribes happy and avoid warfare.

The attitude of the new American government towards Indians as of 1783 was well exemplified by what General George Washington called the “Savage as the Wolf.” Many Americans believed that Indian tribes would just slowly disappear and die off as the pioneers and settlers expanded the frontier and built new farms and cities further and further west. In September 1783, George Washington explained this idea to Congress. He wrote that as the forests were cut down and farms and towns established that Indians would slowly vanish before the advance of white civilization just as the animals did – the “Savage as the Wolf.” Washington
stated that it was unnecessary to fight wars against the tribes and waste tax money and lives when
time and the advancement of the American society would soon enough drive Indian away.

The Articles of Confederation was a in essence a constitution. It was ratified in 1781 by
the thirteen colonies/states and created a new Congress to manage the states’ affairs on the
national and international level. The states had come to realize that they needed a stronger, better
organized national government than the loosely organized Continental Congress. A very
important function of the Articles of Confederation Congress was to handle Indian affairs. To
keep the peace, the new Congress sent official representatives and gifts to the tribes and promises
of friendship and peace. This Congress ultimately signed eight treaties with Indian tribes
between 1781-1789. The written Articles of Confederation, however, did not clearly give the
government the exclusive power to deal with tribes and thus different states began meddling in
Indian affairs and entering agreements with tribes to buy Indian lands. This actually caused wars
and conflicts between tribes and New York, Georgia, and South Carolina, for example. The
impact on the national government from states getting involved in Indian affairs led many people
to call for the formation of a new and stronger United States government where the exclusive
power over Indian affairs would be placed only in the hands of the national government and
would be taken away from states and individuals. Consequently, issues over Indian affairs and
the power of the national government to institute and enforce policies regarding tribes led to the
formation of a new United States government; the government we live under today.

When the representatives of the thirteen states started drafting the United States
Constitution, our “Founding Fathers” had to carefully consider the place of tribal governments in
the political organization of the new national government and the creation and direction of
federal Indian policies. As James Madison, one of the main drafters of the Constitution, pointed out, much of the trouble that England and the thirteen colonies had suffered with Indian tribes from the 1640's forward arose because individual colonists and colonial governments tried to obtain Indian lands without the involvement of the King or the American national leadership. The drafters of the United States Constitution tried to solve this problem by taking Indian affairs out of the hands of the states and individuals and by placing the sole power to deal and negotiate with tribes into the hands of the Congress. The new Constitution of the United States was ratified in 1789 by the thirteen states and the new government began functioning and meeting in a new Congress in the spring of 1789.

III. Trade and Intercourse Era (1789-1825)

From the very creation of the United States government we live under today, one of its most important duties was to keep the peace with Indians and tribal governments and to manage affairs with tribes. It primarily attempted to accomplish this task by keeping the states and individuals from meddling with tribes. Indian affairs were the most pressing and important foreign affairs issues that the new United States was faced with because the thousands of potentially hostile Indians who lived within the thirteen states itself and on the western borders created a serious threat to the security of the United States.

The United States immediately instituted the English, colonial, and European tradition of dealing with tribes through a governmental, sovereign-to-sovereign, political relationship. From its very beginning, the U.S. dealt with tribal governments through official diplomatic means and by negotiating treaties. Indian affairs were a very important part of governmental life in early America and the United States government was heavily involved in negotiating and dealing with
tribes as part of its governmental policies. The United States ultimately negotiated and ratified almost 390 treaties with American Indian tribes by 1871. These treaties were formal government-to-government negotiations between tribal governments and the United States.

The first Congress organized under the new U.S. Constitution immediately assumed the exclusive power granted it to control affairs with Indian tribes. In the first four weeks of its existence in 1789, the new Congress passed several laws setting out official policies towards Indian tribes. First, Congress established a Department of War with responsibility over Indian affairs. Second, it appropriated money to negotiate Indian treaties and appointed federal commissioners to negotiate these treaties. In July 1790, the new Congress enacted a law called the Trade and Intercourse Act which is still in effect today. This Act gave the era of federal Indian policy its name. The Act prevented, and still prevents today, states and private individuals from dealing with tribes and from buying Indian lands. The federal policies of dealing with tribes as political sovereign governments on a treaty basis and to exclude states and individuals from having any role in this process were instituted from the very beginning of the United States.

Just as the King of England attempted in 1763, the United States policies defined Indian territory and tried to protect Indian rights by controlling purchases of Indian land, by regulating the trade of alcohol into Indian country and all traders’ dealings with tribes, and by controlling the pioneers and settlers who were trying to take Indian lands. The United States also established official government trading houses throughout Indian country to sell goods to tribes both to foster peaceful relations and fair trade and also to bind the tribes economically to the U.S. The United States also made a feeble attempt to enforce criminal laws in Indian territory against whites and Indians and it tried to promote civilization and education among Indians.
The tribes, however, remained a serious threat to the U.S. because they remained militarily powerful in the early decades of the 1800s. The tribes possessed a strong bargaining position in the early days of the United States and the early treaties were slanted in favor of tribes. In fact, the very first American treaty with a tribe, the Delawares in 1778, invited the Delawares to form a state and join the union of the thirteen colonies. Later, in a 1785 treaty with the Cherokees, the tribe was invited to send a representative to Congress. After the American War of 1812, however, in which many tribes had fought for England, and after the threat of English invasion of the United States subsided, tribes started losing power in relation to the U.S. because tribes lost the option of looking to England for supplies and arms. As the United States grew stronger and its population grew larger, it began to overpower tribes and treaty making became more and more one-sided as the U.S. was able to dictate the terms of treaties to tribes.

IV. Removal Era (1825-1850s)

The declining power of tribes and the increasing strength of the United States led to a change in federal Indian policy. In the mid-1820s, the federal government began openly discussing forcing all tribes to move west of the Mississippi River to give the United States room to grow and to end state and tribal conflicts over land and sovereignty issues. Actually, President Thomas Jefferson had written in private letters as early as 1803 that the tribes would one day have to be moved west of the Mississippi and, as mentioned above, George Washington had assumed that Indians would just disappear before the advance of white civilization just as the wild animals of the forest had disappeared. The American frontiersmen and many of the states, however, had a more aggressive and deadly goal than Washington’s peaceful and natural
progression of the frontier. Most Americans were openly hostile to Indians and wanted to ruthlessly drive them away so that white settlers could occupy tribal lands.

In 1829, Andrew Jackson became the President. He was the first western president and he advocated a frontier, land-hungry, hostile attitude towards Indians. Jackson supported and Congress passed the Removal Act in 1830 to force tribes to move west of the Mississippi River. Ironically, some supposedly knowledgeable and sincere people also supported removing Indians to get them beyond the reach of white civilization so that Indians could avoid learning the bad habits of civilization while they slowly acquired the good habits of education, civilization, and Christianity.

The government began relocating tribes to the so-called “Indian Territory” in what is now the state of Oklahoma. Ultimately, the vast majority of tribes and Indians who lived east of the Mississippi River were removed to the Indian Territory. In the 1830s, many tribes, including the Cherokee on the infamous Trail of Tears, were forcibly marched to the Indian Territory. The final expulsion of the Cherokees in 1838 from their ancestral lands in Georgia by U.S. troops led to the death of over 4,000 of the 16,000 Cherokees who started on the march. The Cherokee Nation had vigorously fought removal by political means and even resorted to filing lawsuits in the United States Supreme Court. (See Sidebar below.) Tribes from the Pacific Northwest and other areas of the country were also removed to the Indian Territory. Many tribes were also slowly removed westward and to the Indian Territory via numerous treaty modifications. In this process, the United States would ask a tribe to enter a new treaty because American frontiersmen and settlers had encroached on Indian lands and then, as conflicts naturally developed, the federal government would convince the tribe to cede the contested lands and move further west under a
new treaty. The United States always promised tribes in these new treaties that they could keep their new lands forever and that the U.S. would protect their ownership of the new lands.

V. Reservation Era (1850-1887)

The federal policy to slowly and methodically remove all tribes to the Indian Territory was overwhelmed by the rush of events. In 1849, the discovery of gold in California, along with the opening of the Oregon Trail from 1841 forward, caused a leapfrog effect as U.S. citizens swarmed across the continent and began settling in areas owned by western tribes. The massive migration of white settlers to California and the filing of land claims for mining resulted in an experiment of setting aside specifically designated and separate tracts of land as reservations for Indians. Tribal governments were asked or forced to give up their rights in most of their lands and instead they “reserved” for themselves clearly defined areas of reservation land where their people and governments could exist separate and hopefully safe from American settlers.

The United States began to pursue a reservation policy of entering treaties with tribes all over the continent to separate Indians from white Americans so that conflicts and battles over land and rights would end. Originally, the U.S. acquiesced when tribes reserved vast amounts of land, such as the 44 million acre reservation for the Shoshone Tribe in Wyoming. In 1851, for example, the treaty with the Sioux Nation created the Great Sioux Reservation which included all of present day South Dakota, and parts of what is now Nebraska, Wyoming, North Dakota, and Montana. Only later did the U.S. realize it had allowed tribes to retain too great an amount of land for reservations and hunting grounds and the U.S. came back time and again asking the tribes to enter new treaties and to accept much smaller reservations. Of course, this just sounds like the fulfillment of George Washington’s 1783 “Savage as the Wolf” statement to Congress.
As removal of all tribes to the Indian Territory became impractical, the federal policy in the 1850s became that of separating Indians from American settlers onto small and remote reservations to both protect, confine, and to civilize Indians. Reservations were designed to keep Indians separate from the dominant American society. Nearly 300 reservations were ultimately established by tribal governments and the United States.

The reservation system led to many abuses, however. Even though Indians were living on their own lands, the federal government outlawed their religions and cultures, and imposed American judicial and law enforcement systems on tribal governments. Indians also suffered at the hands of corrupt federal agents who were more interested in making money off their positions than in helping reservation Indians. In 1869, in an attempt to replace corrupt reservation officials and improve services to Indians, President Grant handed management of Indian reservations to the military. Congress prohibited the use of the Army in this way so President Grant passed control of the reservations to various religious denominations. In fact, the federal government gave reservation land to religions if they would operate missions and schools on the reservation. Christian missionaries created their own particular brand of havoc on the reservations and on Indian life, religion, and culture.

During this era, Congress ended treaty making with tribes in 1871 due to a power struggle between the Senate and the House of Representatives over who would control Indian affairs. This was not the end of federal relations with Indian tribes, however, it just meant that the relationship would continue through acts of Congress enacted by both Houses of Congress and not by treaty making which is solely a process for the Executive Branch and the Senate.
VI. Allotment and Assimilation Era (1887-1934)

Federal Indian policy changed dramatically again in 1887 when Congress enacted the General Allotment Act. Instead of allowing tribes to live undisturbed on reservations where Indians could perhaps live forever separate from white society, the Allotment Act tried to impose American and European forms of land ownership and a farming lifestyle on Indians. The General Allotment Act, and many tribally specific allotment acts that followed, divided or allotted the tribally owned reservation lands into small plots that were given to adult and minor tribal citizens to be owned individually and to be used for farming or ranching. Thus, the tribal lands were no longer to be owned communally by the entire tribe and tribal government, as the reservation lands had been owned.

This era of federal Indian policy is called the “Allotment and Assimilation Era” because the Allotment policy was designed to civilize Indians and bring them into the American “melting pot” by assimilating them into mainstream society. Indians were not to be allowed to live separate lives and maintain their separate religions and cultures on their reservations. Hence, the longstanding idea of assimilating Indians became official federal policy. The government expressly tried to force assimilation on Indians and end their identity as Indian people. The federal Bureau of Indian Affairs was used during this time to attempt to take absolute control of life on the reservations and to squeeze out Indian governments, religions, and cultures. The federal policy was to civilize “savage” nomadic Indians and turn them into American farmers and ranchers.

This federal policy also had the specific goals of breaking up tribal ownership of land, opening the reservations for settlement by white Americans, and destroying tribal governments.
In fact, the Allotment Era partially succeeded because a significant amount of the reservation lands which were allotted to tribal citizens were ultimately lost from Indian ownership by voluntary sales and forced tax foreclosures. Furthermore, reservation lands that were not allotted to any individual Indian, usually because there were not enough tribal citizens to divide up an entire reservation, were considered “surplus” and were sold to non-Indians. The loss of Indian land allotments and the sale of “surplus” lands to non-Indians resulted in a major loss of tribal and Indian ownership of reservation lands and created a “checkerboard” effect of non-Indian land ownership mixed in with Indian and tribal governmental land ownership on many reservations today. The Allotment Era resulted in a loss of about two-thirds of the remaining tribally held lands because tribal land holdings dropped from 138 million acres in 1871 to about 48 million acres by 1934. In addition, 20 million acres of the remaining 48 million acres of Indian lands were nearly worthless because they were desert or semi-arid lands.

The Allotment and assimilation policy did not work for Indian people. For the most part, Indians were not assimilated into American society and they did not gain any of the expected benefits of the American economy or civilization. Moreover, they did not gain many of the benefits of United States citizenship either. Although Indians who received a fee simple title to their allotted lands automatically became U.S. citizens, most Indians were not made U.S. citizens until 1924 by an act of Congress. By the end of the Allotment Era, even after over forty years of being taught Christianity and civilization, and surviving various attempts to assimilate them, most American Indians were living in deplorable conditions due to poverty and nonexistent health care and educational systems.
VII. Indian Reorganization Era (1934-1940s)

The failure of the Allotment Era to assimilate Indians into white society, to teach them American capitalism, property rights and values, and the failure to raise their standard of living led to a major change in federal Indian policy. A federal report in 1928, demonstrated that the allotment of tribal lands and the attempt to assimilate Indians was a total failure and that Indians were living under worse economic and social conditions than before Allotment was instituted in 1887. Thus, as part of the New Deal under President Franklin Roosevelt, Congress passed the Indian Reorganization Act (“IRA”) and commenced a new federal Indian policy called the “Indian Reorganization” Era which ran from the early 1930s to about 1945.

Under the IRA, the United States completely reversed its Allotment policy due to the evident failure of the attempts to assimilate Indians and to destroy their governments and cultures. Congress and the Executive Branch now decided to support tribal governments and tribal sovereignty instead of attempting to destroy them. The IRA ended any more allotments of reservation lands and stopped the sales or loss of any remaining Indian allotments. On many reservations today, individual Indians still own individual allotments of land left over from the Allotment Era. In fact, about 11 million acres of lands on reservations are owned in this restricted status. These Indians cannot sell or lease their allotments without the permission of the United States.

The IRA also took a first step towards allowing Indian people to regain control of their own lives by taking back some of the federal government’s power over their lives and cultures. The IRA also tried to help strengthen tribal governments and help them to begin functioning as governments that could control life on the reservations. The IRA allowed tribes to form
organized governments under constitutions, many of which are very similar to the U.S. Constitution. Tribes were even encouraged to form tribal corporations to create economic development on reservations. Ironically, though, many critics charge that the IRA resulted to a great extent in the assimilation of Indians because it imposed American forms of government and judicial systems on tribes and has inhibited some traditional tribal governments and cultures.

VIII. Termination Era (1940s-1961)

In another complete turnabout in federal policy, from the mid-1940s to 1961, the United States again adopted an official Indian policy which sought to end the federal/tribal relationship, to terminate tribal treaty rights, and to assimilate Indians. Members of Congress now called for the repeal of the Indian Reorganization Act and Congress attempted to end the authority and legal existence of tribal governments. Once again, assimilation became federal policy as Congress sought to integrate Indians into the general American society. During this time, the federal government terminated the legal relationship between 109 Indian tribes and the United States. Thus, treaty rights, the existence as federally recognized sovereign tribes, and the right to various federal benefits were lost to these 109 tribes. In addition, these tribes lost the ownership of another 1.3 million acres of tribal land.

Congress also took other steps to save federal tax dollars, to limit federal involvement in Indian affairs, and to expose tribes and Indians on some reservations to state control and jurisdiction. In 1953, Congress created state civil and criminal jurisdiction over Indian country in certain states. In the 1950s, Congress also transferred many of its educational responsibilities for Indians to the states and transferred federal responsibilities for Indian health care from the Bureau of Indian Affairs, which has specific duties towards Indians, to the U.S. Department of
Health, Education and Welfare. The Bureau of Indian Affairs also actively worked to relocate reservation Indians to big cities so that the federal responsibility for Indians could end.

IX. **Self-Determination Era (1961-Present)**

Federal Indian policy completely changed again in the early 1960s when President Kennedy’s administration refused to undertake new actions to terminate more tribes from federal recognition. This was followed by federal programs in the mid-1960s which invested millions of dollars into tribal programs and infrastructure under the poverty programs of President Johnson’s “Great Society.” In 1970, President Nixon issued a landmark statement which named the new federal policy for Indian nations as “Self-Determination.”

The “Self-Determination Era” of federal policy is still the official Indian policy today. Under this policy, the government repudiated the termination of tribes. In fact, in the 1970s and 1980s, Congress “restored” most of the 109 tribes to full federal recognition that had been terminated in the 1950s. These tribes were restored to the full government-to-government political relationship with the United States, regained the ability to receive federal services, and were once again recognized by the federal government as sovereign tribal governments.

The principal federal law that marks this Era, and also takes its name from the Era, is the Indian Self-Determination and Education Assistance Act of 1975. This Act instituted a fundamental, philosophical change in the federal administration of Indian affairs. The Act allows tribes the major role in the governance of their territories and citizens. It also allows tribes to contract with the federal government for the delivery of federal services and programs to the reservation. While tribal programs continue to be federally funded, the programs can be planned,
operated, and administered by the tribes themselves. The Act states that federal domination of Indian affairs is supposed to end.

Congress has also acted in various ways during the Self-Determination Era to enhance and strengthen the authority of tribal governments and their practical ability to govern effectively. The federal government, through recognition of government-to-government relations and through many laws that protect and support tribal governments and tribal courts, is working towards “fostering tribal self-government.” Congress has also strengthened tribal governments by delegating federal authority to tribes to manage such subjects as alcohol regulation and environmental control on reservations. In addition, many other federal laws provide tribes with economic incentives and programs to increase economic development in Indian country to address the poverty problems that still exist on most reservations. Congress has also assisted tribes to protect their languages, cultures, religions, and families.

This brief review of the ever changing and often contradictory two centuries of United States Indian policy demonstrates the complex relationship the United States has had with Indian tribes. A relationship that began in friendship turned to suspicion, greed, warfare, and extermination, and resulted in a terrible clash of cultures, governments, and peoples. The clash and interaction between these peoples and cultures is not finished today. Tribes and Indian peoples still have many issues of disagreement with the United States. It remains for the future to see how, finally, Indian peoples and cultures can co-exist with the culture and peoples of the non-Indian American world. The Indian policies pursued by the United States for over two hundred years have played a major role in how this interaction occurred. Whether federal Indian policy changes or remains the same in the future, the federal policies will continue to have an
important effect on how Indian peoples and tribal governments interact and get along with the majority society of the United States.

**Side bar**  **The Cherokee Cases**

In the 1820s and 1830s, the state of Georgia fought vigorously to take over the Cherokee Tribe’s lands and to destroy the ability of the Nation to govern its people and territory. Between 1828 and 1830, Georgia passed several laws that violated the United States Constitution and the treaty promises the federal government had made to the Cherokees. Georgia claimed to divide up Cherokee land among various Georgia counties, to extend state laws to Indians and other persons in Cherokee country, to invalidate all Cherokee laws, and to make criminal any attempts by the Cherokee government to meet and act.

The Nation first relied upon its treaty and the United States’ promises to protect it and its lands and to keep states out of Indian affairs. President Andrew Jackson and the Congress, however, rejected the Nation’s requests. As a last step, the Nation asked the United States Supreme Court for relief. This situation ultimately led to two very important cases which established many of the fundamental legal principles that still guide federal Indian law today. The lawsuits are called the Cherokee cases. **Cherokee Nation v. Georgia**, 30 U.S. (5 Pet.) 1 (1831); **Worcester v. Georgia**, 31 U.S. (6 Pet.) 515 (1832).

In the **Cherokee Nation** case, the Cherokee sued Georgia to stop the state from enacting laws that interfered with the Nation and its territory. The Cherokee Nation argued that the United States Supreme Court had jurisdiction to hear its case against Georgia because the U.S. Constitution said the Supreme Court had jurisdiction over suits by “foreign states” against any
American state. Thus, the Supreme Court had to decide whether Indian tribes are “foreign states.”

The Nation argued that it was a foreign state because it was not one of the states of the United States; its tribal citizens were not citizens of the United States and were thus aliens to the U.S.; and that a government of aliens like the Cherokee Nation must constitute a foreign state. The Supreme Court did not agree and it held that the Nation was not a foreign state and that the Court did not have jurisdiction under the Constitution to hear the case against Georgia. The Supreme Court said that Indian tribes are states, that is, they are distinct political entities capable of managing their own affairs and that by entering treaties with tribes the U.S. demonstrated that it believed tribes were states. However, the Court held that tribes were not foreign to the United States. Instead, tribes relied on the protection and treaty promises of the U.S. and were “domestic dependent nations” who relied on the United States for protection and supplies. In fact, the Court said that tribes are the wards of their guardian the United States and the federal government owes a duty to care for tribes. Hence, tribes were not “foreign” to the United States.

In the Worcester case, Georgia arrested and sentenced New England missionaries to prison for going into Cherokee country without the permission of the Governor of Georgia. The missionaries appealed their convictions to the U.S. Supreme Court. The Court ordered the missionaries freed because the laws of Georgia could have no effect in Cherokee country. This conclusion was based on the Court’s analysis of the history of the federal government’s relationship with tribes and its treatment of tribes as “distinct, independent, political communities” who had exclusive authority in their territory; the Cherokee treaties with the
United States which demonstrated the Nation was a government with control over its territory and citizens; and the constitutional and federal policies to keep states out of Indian affairs.

The Cherokee cases are still applied today and stand for the proposition that tribes are the wards of the nation and that the United States is their guardian and owes a trust responsibility to protect tribes and Indians. Tribes are also sovereign governments as recognized by the treaties they signed with the United States, and they have the authority to govern their territories, their citizens, and many of the non-Indians who enter reservations. In addition, for the most part, state laws still do not apply in Indian country.