

# FEDERAL INDIAN LAW: AN OVERVIEW

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For the Paralegal Division  
the State Bar of New Mexico

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July 8, 2026



**KANJI & KATZEN** P.L.L.C.  
EXCELLENCE IN TRIBAL REPRESENTATION

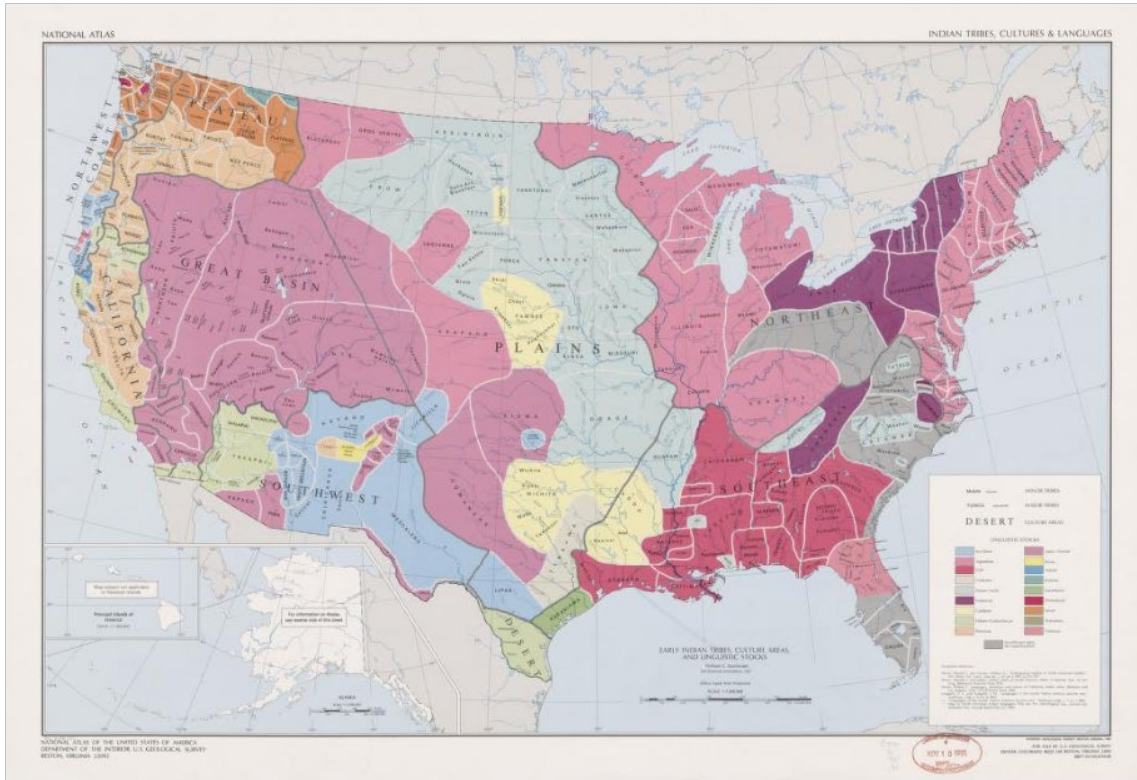
# WHAT IS FEDERAL INDIAN LAW?

**Federal Indian law is the body of American law that specifically relates to Indian tribes and tribal members.**

Federal → Primarily Made by the Federal Government

Indian → Concerns Indian Tribes and Tribal Members

Law → Law



# INDIAN TRIBES

- Sovereign Governments
- Pre-date European Arrival
- Federal Recognition
- 575 Federally Recognized Indian Tribes





# INDIAN TRIBES IN NEW MEXICO



TRIBAL  
COUNCILS



GOVERNORS



TRIBAL  
COURTS



TRIBAL  
AGENCIES

TRIBAL GOVERNMENTS

# SOVEREIGN IMMUNITY

- Protection from lawsuits
- Protects tribal officials and tribal corporations
- Waivable by Tribe or Congress





# TRIBAL MEMBERSHIP

- Indian tribes decide own membership criteria
- “Indians” is a legal term
- Members of Indian tribes are “Indians” for most legal purposes



# THREE GENERAL PRINCIPLES OF FEDERAL INDIAN LAW

1. Indian tribes are sovereigns.
2. Congress has broad powers relating to Indian tribes.
3. States have limited authority over Indian tribes.



# SOURCES OF FEDERAL INDIAN LAW

The Constitution

Treaties

Federal Statutes

Federal Courts

Federal Regulations





**OTHER LAWS  
CONCERNING  
INDIAN TRIBES**

Tribal Law  
State Law  
International Law

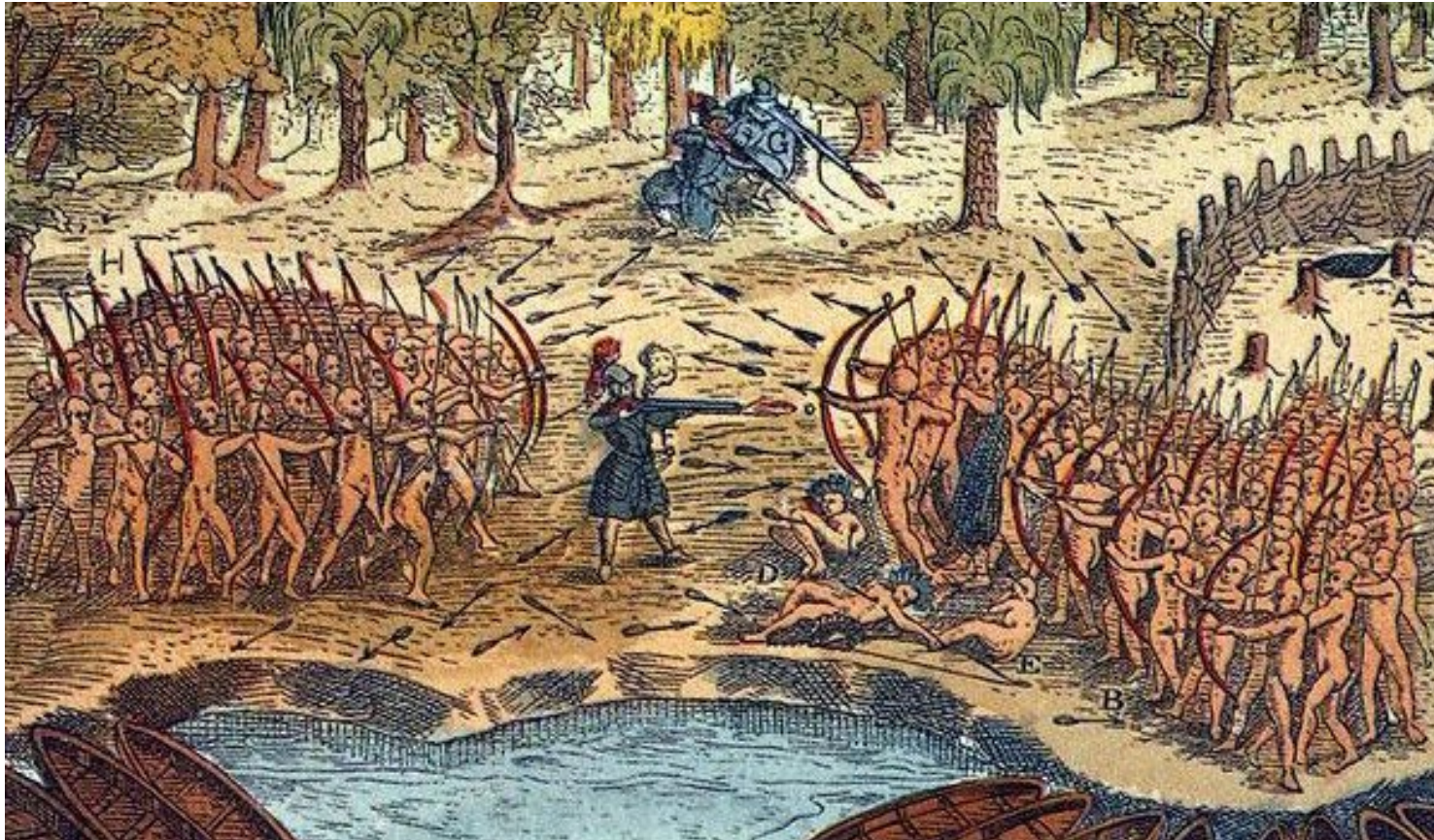




# A BRIEF HISTORY OF FEDERAL INDIAN LAW

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## COLONIAL ERA (PRE-1788)

- War
- Treaties
- Trade





## EARLY UNITED STATES (1788-1820)

- Adoption of United States Constitution
- Federal Control Over Indian Affairs
- Trade and Intercourse Acts



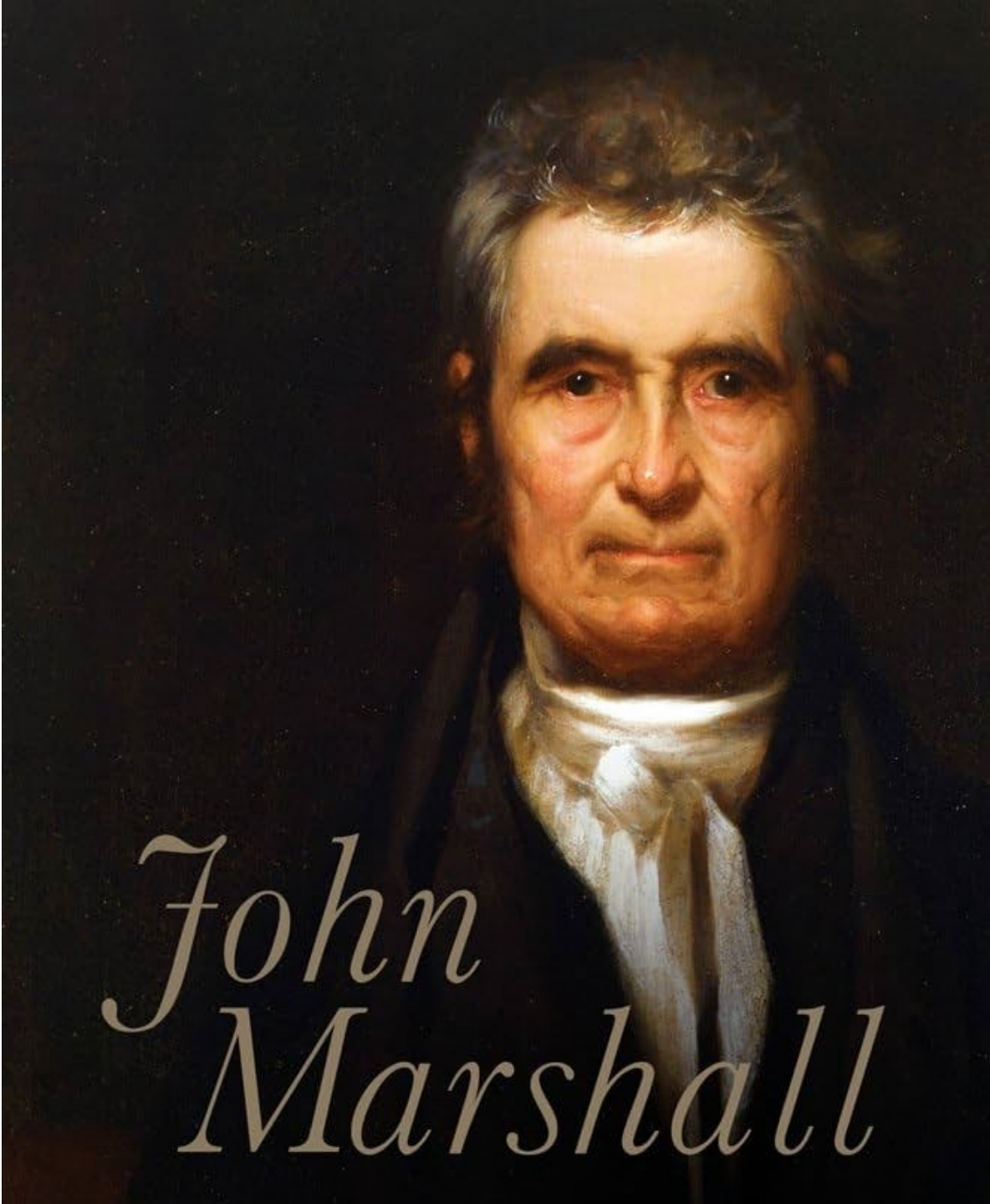


## REMOVAL AND RESERVATIONS (1820-1887)

- Indian Removal Act of 1830
- Trail of Tears
- Reservation System

# MARSHALL TRILOGY (1823-1832)

- *Johnson v. M'Intosh*,  
21 U.S. (8 Wheat.) 543 (1823)
- *Cherokee Nation v. Georgia*, 30  
U.S. (5 Pet.) 1 (1831)
- *Worcester v. Georgia*,  
31 U.S. (6 Pet.) 515 (1832)

A portrait of John Marshall, an older man with white hair, wearing a dark coat and a white cravat. The portrait is set against a dark background.

*John  
Marshall*



# INDIAN LAND FOR SALE

GET A HOME

OF  
YOUR OWN



EASY PAYMENTS



PERFECT TITLE



POSSESSION

WITHIN

THIRTY DAYS

**FINE LANDS IN THE WEST**

IRRIGATED  
IRRIGABLE

GRAZING

AGRICULTURAL  
DRY FARMING

IN 1910 THE DEPARTMENT OF THE INTERIOR SOLD UNDER SEVEN RISE ALLOTTED INDIAN LAND AS FOLLOWS.

ASSIMILATION AND  
ALLOTMENTS  
(1887-1934)

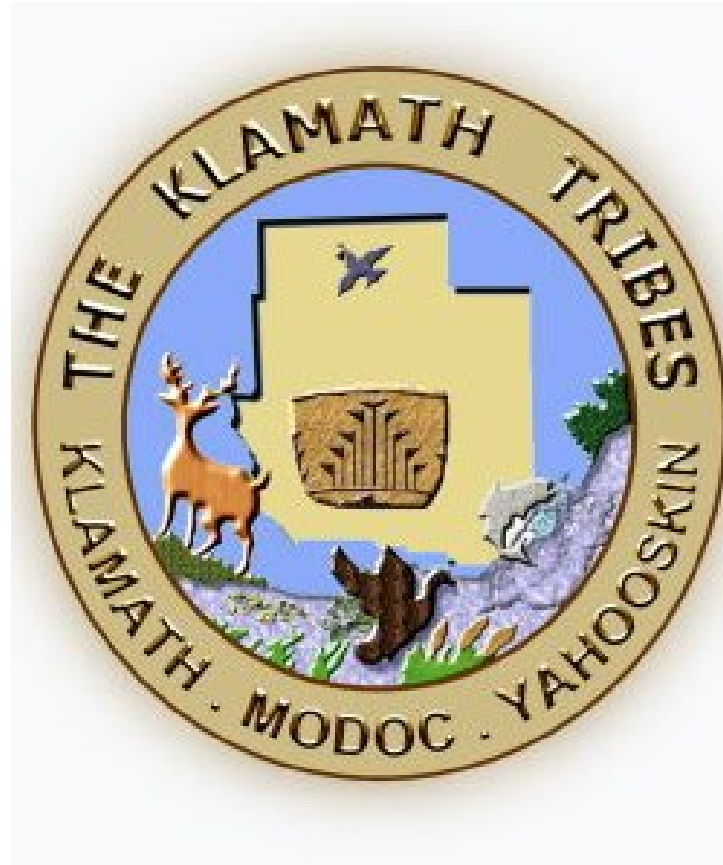
- General Allotment Act of 1887 (“Dawes Act”)
- Loss of Lands
- Boarding Schools
- Indian Citizenship Act of 1934



# INDIAN REORGANIZATION ACT (1934)

- Indian Reorganization Act of 1934
- Tribal Constitutions
- Tribal Corporations





## TERMINATION ERA (1953-1968)

- Termination
- Public Law 280



## SELF-DETERMINATION ERA (1968-PRESENT)

- Indian Civil Rights Act of 1968
- Indian Self-Determination and Education Assistance Act of 1974
- Indian Child Welfare Act of 1978
- Indian Gaming Regulatory Act of 1988



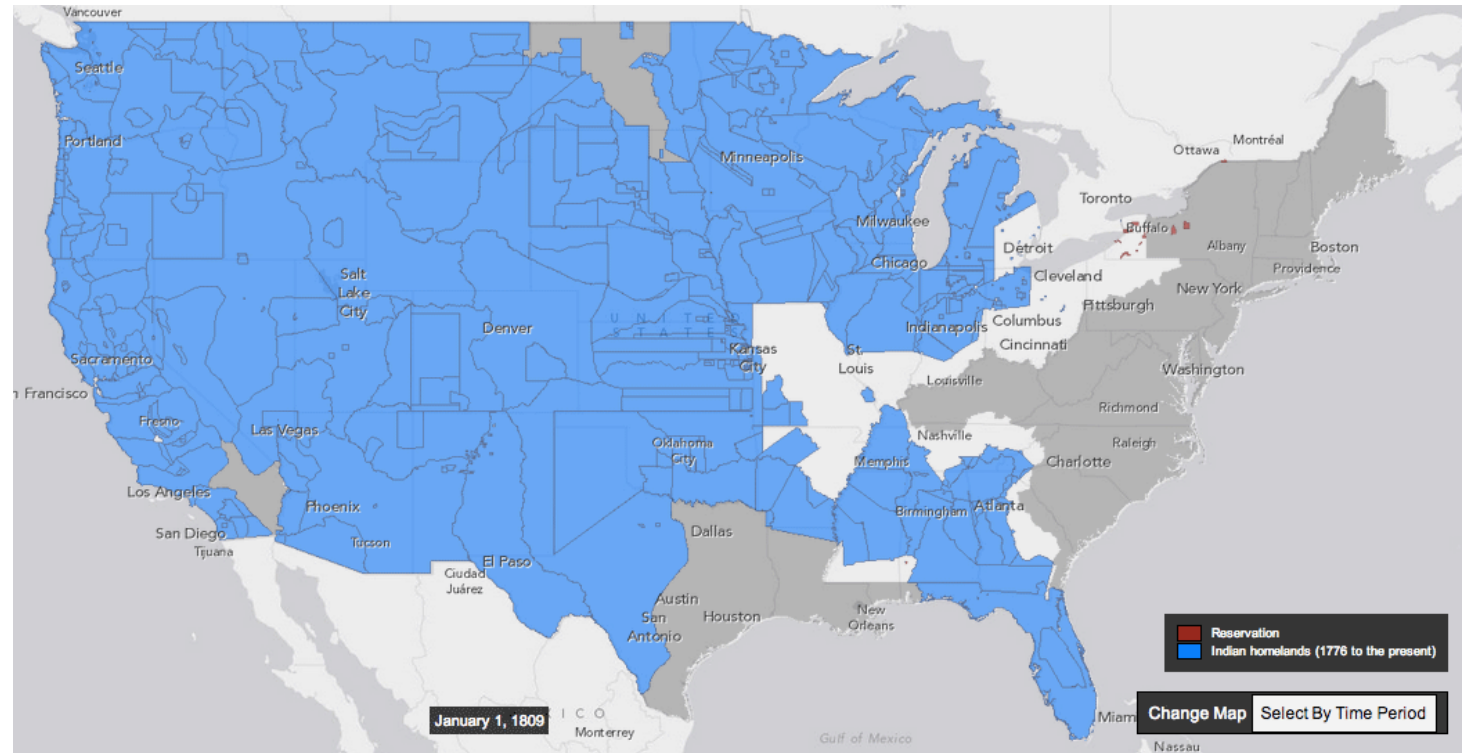
# TRIBAL HISTORY IN NEW MEXICO

- Spanish Arrival (1540)
- Pueblo Revolt (1680)
- Spanish Return (1692)
- Spanish Land Grants
- Mexican Control (1821)
- Treaty of Guadalupe Hidalgo (1848)



# TRIBAL LANDS

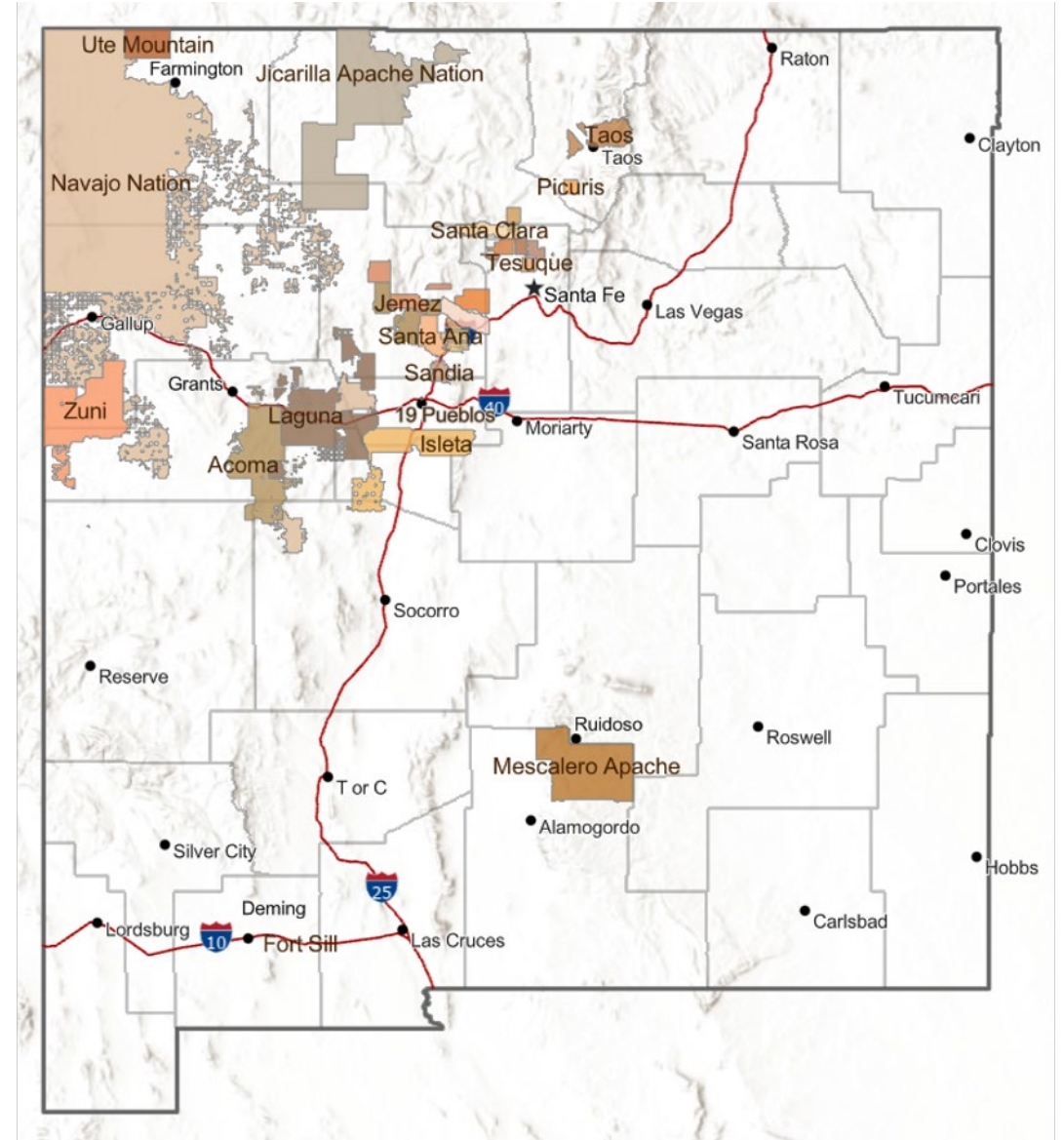
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# TRIBAL LAND TERMINOLOGY

- Reservations
- Trust Lands
- Fee Lands
- Spanish Land Grants
- Indian Country





# JURISDICTION

- Criminal Jurisdiction
- Civil Jurisdiction



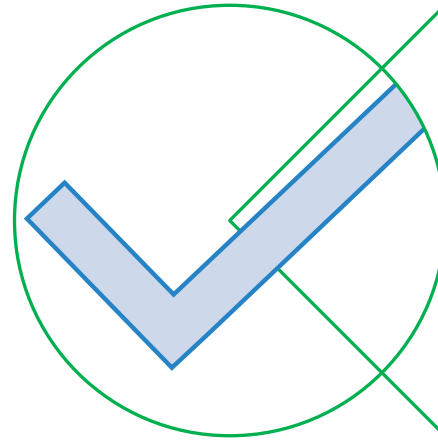


## CRIMINAL JURISDICTION

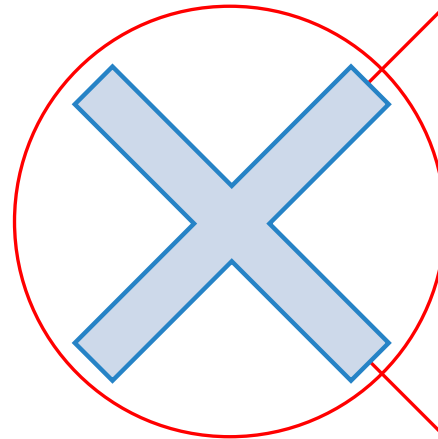
A crime  
occurs on  
tribal lands.

Who can  
prosecute?

# CRIMINAL JURISDICTION OF TRIBES IN INDIAN COUNTRY



Crimes by  
Indians\*



Crimes by  
Non-  
Indians\*

\*Subject to exceptions!

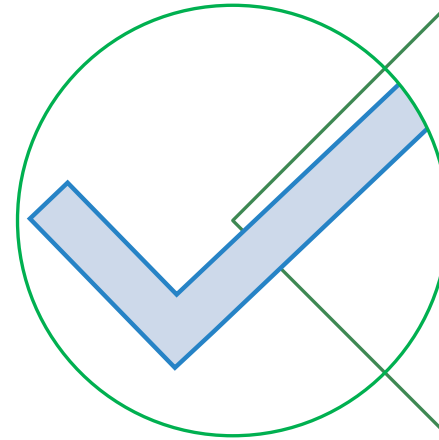




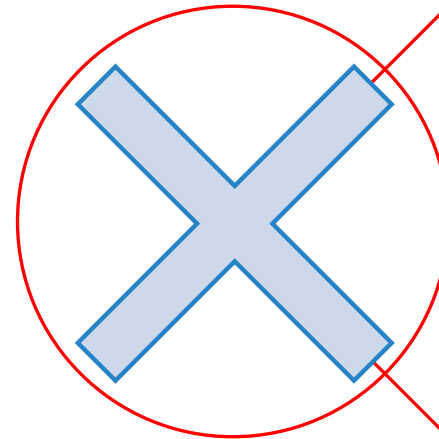
## CRIMINAL JURISDICTION OF FEDERAL GOVERNMENT IN INDIAN COUNTRY

- Major Crimes Act, 18 U.S.C. § 1153
- General Crimes Act, 18 U.S.C. § 1152

# CRIMINAL JURISDICTION OF STATES IN INDIAN COUNTRY



**Crimes by  
Non-  
Indians\***



**Crimes by  
Indians\***

*\*Subject to exceptions!*





## CIVIL JURISDICTION

- *Williams v. Lee*, 358 U.S. 217 (1959)
- *White Mountain Apache Tribe v. Bracker*, 448 U.S. 136 (1980)
- *Montana v. United States*, 450 U.S. 544 (1981)
- *California v. Cabazon Band of Mission Indians*, 480 U.S. 202 (1987)





# TRIBAL WATER RIGHTS





## TRIBAL WATER USES

- Cultural
- Domestic
- Commercial
- Municipal
- Industrial
- Agricultural



# TYPES OF TRIBAL WATER RIGHTS



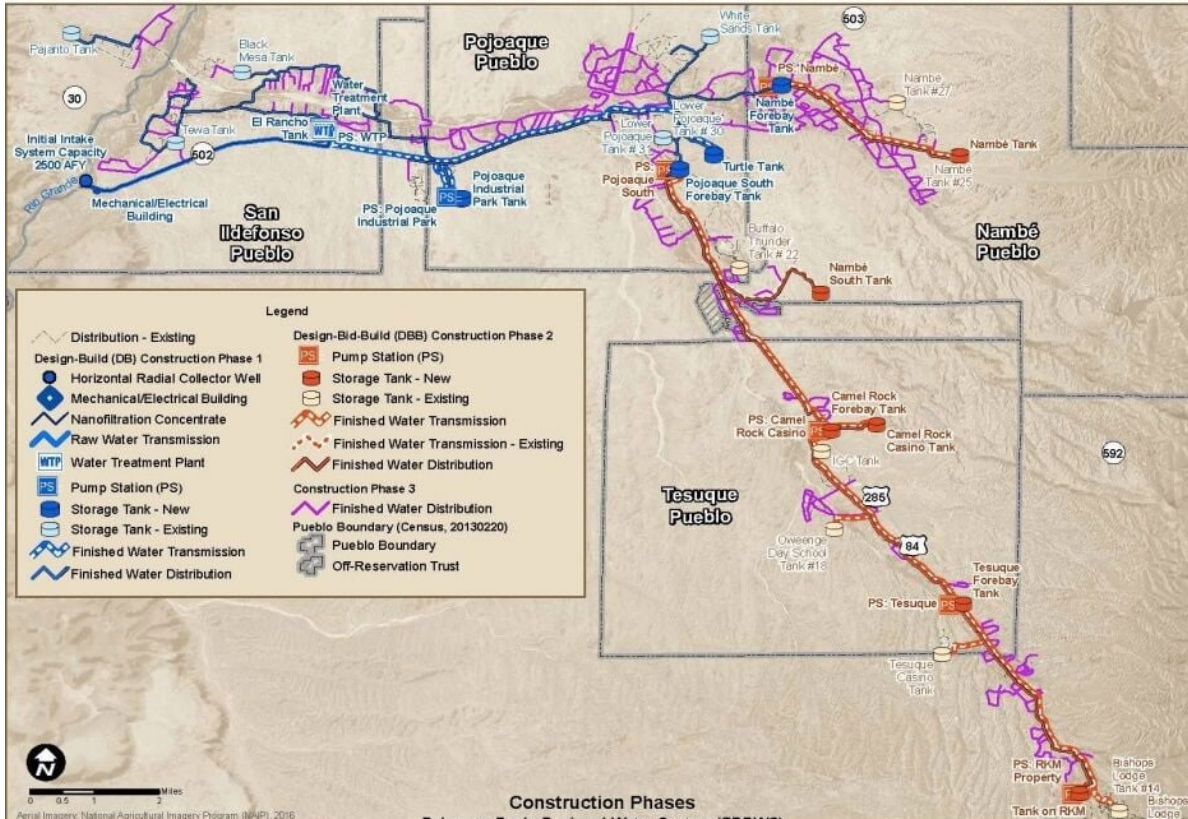
- Aboriginal water rights
- Winans rights
- Federally reserved rights



## GENERAL STREAM ADJUDICATIONS

- Lawsuits to Determine Water Rights
- Comprehensive Proceedings
- Involve State and Federal Law





# INDIAN WATER RIGHTS SETTLEMENTS

- Negotiated Agreements
- Parties: Tribes, the United States, States, and Other Stakeholders
- Quantify and Determine Indian Water Rights
- Federal and State Funding
- Subject to Congressional Approval
- Eight Settlements in New Mexico

# TRIBAL GAMING

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## TRIBAL CASINOS

- Nearly 250 tribes participate in gaming in the U.S.
- \$43.9 billion Gross Gaming Revenues for fiscal year 2024
- Gaming revenues fund tribal governments

# INDIAN GAMING REGULATORY ACT OF 1988 (IGRA)

*California v. Cabazon Band of Mission Indians,*  
480 U.S. 202 (1987)

Creates Statutory Framework for Tribal  
Gaming

Gaming on “Indian lands”

Purpose: Promote “tribal economic  
development, self-sufficiency, and strong  
tribal governments.” 25 U.S.C. § 2702(1)



# THREE CLASSES OF GAMING

## Class I

Social Games For  
Minimal Value

## Class II

Bingo, Non-  
Banked Games

## Class III

Casino-Style  
Games



INDIAN GAMING COMPACT  
BETWEEN  
THE STATE OF NEW MEXICO  
AND  
THE \_\_\_\_\_

# TRIBAL-STATE GAMING COMPACTS

- Requirement for Class III Gaming
- Agreements Between Indian Tribes and States
- Subject to Federal Approval



# OTHER MAJOR TOPICS IN FEDERAL INDIAN LAW

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Hunting and Fishing

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Environment

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Cultural Resources

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Taxation

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Police and Public Safety

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Indian Child Welfare Act

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Economic Development

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And Many More...

# PRACTICE POINTERS



CONSULT WITH  
SPECIALISTS IN  
FEDERAL INDIAN  
LAW

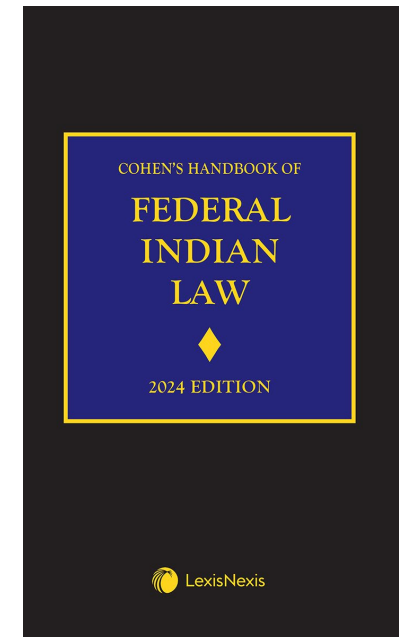
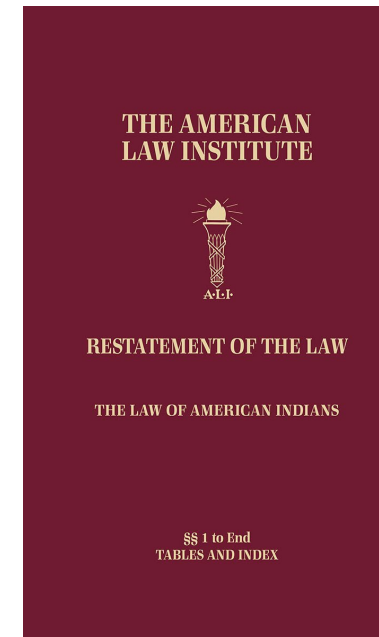
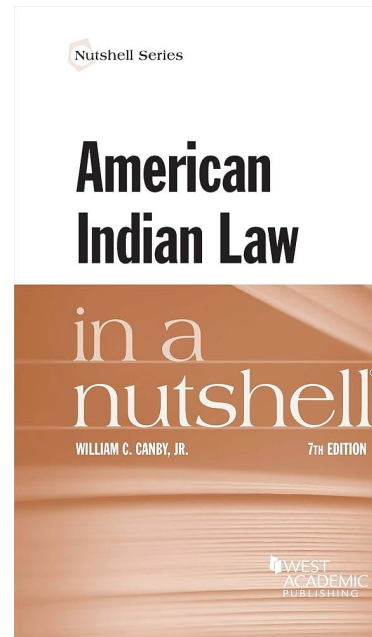


STUDY THE  
HISTORY



LEARN THE RULES  
AND PROCEDURES  
OF TRIBAL COURTS

- American Indian Law in a Nutshell
- Restatement of the Law: The Law of American Indians
- Cohen's Handbook of Federal Indian Law



## OTHER RESOURCES



# QUESTIONS?

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207—NAVAJO INDIAN BLANKET.