

# Navajo Sovereignty & Legal Rights Under the Treaty of 1868



## Sovereignty

- Sovereignty exists when the collective will of a people creates an intangible force that empowers the people towards political, economic and cultural integrity.

## Indian Tribes

- Indian Tribes preexisted the formation of the United States as sovereign nations, therefore, European countries recognized the sovereign status of Indian Nations.

## United States Policies

- Extermination
- Relocation – 1790
- Assimilation – General Allotment Act of 1887
- Reorganization – Indian Reorganization Act of 1934
- Termination – House Concurrent Resolution 108 (1953)
  - Relocation
  - Termination
  - Public Law 280 – State
- Self-determination - Indian Self Determination and Educational Assistance Act of 1975

## Marshall Trilogy

**Johnson v. M'Intosh,**  
**21 U.S. (8 Wheat.) 543 (1823)**

**Cherokee Nation v. Georgia,**  
**30 U.S. (5 Pet.) (1831)**

**Worcester v. Georgia,**  
**6 Pet. 515, 31 U.S. 557 (1832)**

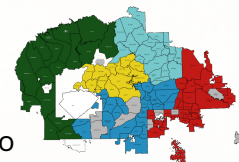
## What is Federal Recognition?

- Treaty - Federal Recognition is a legal process such as entering into a treaty to formally recognize that a certain tribe of Indians is an Indian tribe within the meaning of the US Constitution.
- Executive Order – Tribes can also be recognized by the President of the United States by Executive Order.
- Statutory Recognition – certain tribes who were legally unrecognized or terminated can be restored to recognized status by Congressional action.

## Recognizing the Navajo People as an Indian Tribe

The Navajo Nation, is a

- (1) Distinct and independent national community (sovereign), not a foreign nation, nor the several States, but rather an Indian tribe,
- (2) occupying its own territory, with boundaries accurately described,
- (3) in which the laws of the states can have no force, and
- (4) which the citizens of the US have no right to enter, but with the assent of the Navajos themselves, or
- (5) in conformity with treaties, and with the acts of Congress. *Worcester v. Georgia*.



**Political**



**Economic**



**Cultural**



**Rule of Law**

***Sovereignty depends on the collective will of a People.***

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# Understanding the Treaty of 1868



*The significance of the Treaty of 1868 is trusted on its obligations to meet the treaty responsibilities between the U.S. Government and the Navajo people.*

ARTICLE I. From this day forward all war between the parties to this agreement shall forever cease. The Government of the United States desires peace, and its honor is hereby pledged to keep it. The Indians desire peace, and they now pledge their honor to keep it.

ARTICLE II. The United States agrees that the following district of country, to with: [Reservation] and the same is hereby, set apart for the use and occupation of the Navajo tribe of Indians, and the United States agrees that no persons shall ever be permitted to pass over, settle upon, or reside in, the territory described in this article.

ARTICLE III. The United States agrees to cause to be built, at some point within said reservation, where timber and water may be convenient, the following [Agency] buildings, ....

ARTICLE IV. The United States agrees that the agent for the Navajos shall make his home at the agency building; that he shall reside among them, and shall keep an office open at all times for the purpose of prompt and diligent inquiry into such matters of complaint by or against the Indians as may be presented for investigation, as also for the faithful discharge of other duties enjoined by law.

ARTICLE V. If any individual belonging to said tribe, or legally incorporated with it, being the head of a family, shall desire to commence farming, he shall have the privilege to select, in the presence and with the assistance of the agent then in charge, a tract of land within said reservation, not exceeding one hundred and sixty acres in extent.

ARTICLE VI. In order to insure the civilization of the Indians entering into this treaty, the necessity of education is admitted, ... and they therefore pledge themselves to compel their children, male and female, between the ages of six and sixteen years, to attend school; ...

ARTICLE VII. [If] the agent shall be satisfied that he intends in good faith to commence cultivating the soil for a living, he shall be entitled to receive seeds and agricultural implements ...

ARTICLE VIII. In lieu of all sums of money or other annuities provided to be paid to the Indians, ... , the United States agrees to deliver at the agency house on the reservation herein named, ... , the following articles, to wit: Clothing, goods or raw materials.

Article IX. In consideration of the advantages and benefits conferred by this treaty, and the many pledges of friendship by the United States, the tribes who are parties to this agreement hereby stipulate that they will relinquish all right to occupy any territory outside their reservation, as herein defined, but retain the right to hunt on any unoccupied lands contiguous to their reservation, ....

ARTICLE X. No future treaty for the cession of any portion or part of the reservation herein described, which may be held in common, shall be of any validity or force against said Indians unless agreed to and executed by at least three-fourths of all the adult male Indians occupying or interested in the same; ...

Article XI. The Navajos also hereby agree that at any time after the signing of these presents they will proceed in such manner as may be required of them by the agent, or by the officer charged with their removal, to the reservation herein provided for, the United States paying for their subsistence en route, and providing a reasonable amount of transportation for the sick and feeble.

Article XII. It is further agreed by and between the parties to this agreement that the sum of one hundred and fifty thousand dollars appropriated or to be appropriated shall be disbursed, ....

ARTICLE XIII. The tribe herein named, by their representatives, parties to this treaty, agree to make the reservation herein described their permanent home, and they will not as a tribe make any permanent settlement elsewhere, reserving the right to hunt on the lands adjoining the said reservation formerly called theirs, ...

- Agreed to cease conflict
- Pledge to the Navajo People

- Reservation Boundaries
- 1868-1917: Presidential Executive Orders
- 1917-Present: Congressional Authorization

- Buildings to be erected by U.S.
- School Buildings or Facilities

- Reference Article 1
- Inquiry to the Indian Agent

- Individual distribution to land
- "Navajo Land Book"

- Education
- BIA/BIE Schools

- Seeds & Agricultural

- Clothing, Goods, and Raw material

- Behavioral Modification
- No to: captives, opposition to railroad or military, scalping

- Protect Navajos from corporation

- Taking Navajo people back to land

- Monetary distribution: \$150,000;
- 500 Cattle, and 15,000 Sheep/Goats

- Permanent Settlements
- Right to hunt