

constitutional convention us native american relations

The Constitutional Convention and US Native American Relations: A Complex Legacy

constitutional convention us native american relations represents a critical, yet often overlooked, facet of early American nation-building. The very foundations of the United States were laid at a time when interactions with Indigenous peoples were profoundly shaping the continent's future, raising complex questions about sovereignty, land rights, and the very definition of nationhood. While the framers of the Constitution grappled with establishing a strong federal government, their decisions, or the decisions they deferred, had lasting implications for Native American tribes, setting precedents that would influence policy and legal interpretations for centuries to come. This article delves into the historical context, the debates, and the constitutional provisions, or lack thereof, that defined US Native American relations during this pivotal period, examining how the nascent republic navigated these delicate and consequential relationships.

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The Pre-Constitutional Landscape of Native American Relations

Before the delegates even convened in Philadelphia in 1787, the relationship between European colonial powers and Native American tribes was a long and complicated one, marked by treaties, alliances, warfare, and trade. The British Crown, for instance, had established a framework for dealing with Indigenous nations, recognizing them as distinct political entities. This often involved formal treaties, though these agreements were frequently broken or circumvented by colonial expansion. The American Revolution itself saw divisions among tribes, with some aligning with the British and others with the rebelling colonies, further complicating the existing power dynamics. The Articles of Confederation, the preceding governing document, had attempted to address relations with Native Americans, but its weak central authority proved inadequate. The need for a stronger federal government to manage these relationships, particularly concerning westward expansion and potential conflicts, was a significant, albeit often unspoken, motivator for the Constitutional Convention. The existing state-based approaches to Native American affairs were proving to be inconsistent and often exploitative, creating a pressing need for a unified national strategy.

Discussions and Debates at the Constitutional Convention

While Native American nations were not directly represented at the Constitutional Convention, their existence and the implications of their relationship with the new United States were certainly present in the minds of the framers. The discussions surrounding the powers of the federal government, particularly in matters of war, treaties, and commerce, inevitably touched upon the existing relationships with Indigenous tribes. Delegates were concerned with preventing individual states from pursuing independent and potentially destabilizing foreign policies, which could include treaties with Native American nations that might embroil the entire confederation in conflict. The question of how to incorporate or manage the vast territories inhabited by Native Americans into the growing nation was also a subtle but persistent undercurrent. There were, of course, varying perspectives among the delegates. Some viewed Native Americans as obstacles to westward expansion, while others recognized the strategic importance of maintaining peaceful relations and upholding existing treaty obligations, at least in principle. However, the dominant sentiment often leaned towards asserting federal authority and facilitating the expansion of the United States, with the rights and sovereignty of Indigenous peoples frequently taking a backseat to these perceived national interests.

Constitutional Provisions and Their Impact on Native American Tribes

The US Constitution, as ratified, contains several provisions that directly or indirectly impacted US Native American relations, though it notably avoided defining the precise legal status of Native American tribes.

- **The Commerce Clause (Article I, Section 8):** This clause grants Congress the power to regulate commerce with foreign nations, among the several states, and with the Indian tribes. This was a significant shift from the Articles of Confederation, which had given states more direct control. By including "Indian tribes" alongside foreign nations, the Constitution implicitly recognized them as distinct political entities with whom the federal government, not individual states, had the primary authority to conduct commercial relations. This power would later be interpreted broadly to encompass aspects of governance and regulation.
- **Treaty-Making Power (Article II, Section 2):** The President, with the advice and consent of the Senate, has the power to make treaties. This power was intended to apply to foreign nations, but it was also understood to include treaties with Native American tribes, solidifying the federal government's role in formalizing relationships and agreements. The subsequent history, however, shows a pattern of treaties being made and then disregarded or renegotiated under duress.
- **The War Powers (Article I, Section 8):** Congress's power to declare war and raise armies was crucial, as conflicts with Native American tribes were a recurring reality. This power allowed the federal government to mobilize resources to address perceived threats or to undertake military

actions aimed at subjugating tribes and acquiring land.

- **The Supremacy Clause (Article VI):** This clause establishes that the Constitution and federal laws made pursuant to it are the supreme law of the land. When applied to Indian law, it meant that federal treaties and legislation regarding Native American tribes would supersede conflicting state laws.

The absence of explicit mention of Indigenous sovereignty as a protected right, or a clear definition of what constituted an "Indian tribe" for constitutional purposes, left significant room for interpretation and, as it turned out, for the erosion of tribal autonomy over time. The framers, in their focus on establishing a new nation, did not fully delineate the rights or inherent sovereignty of the nations already residing on the land.

The Doctrine of Discovery and its Influence

While not explicitly codified in the US Constitution, the prevailing legal and philosophical underpinnings of the era, particularly the Doctrine of Discovery, profoundly influenced how the framers and subsequent generations viewed their relationship with Native American nations. This European legal principle, originating from papal bulls and colonial charters, asserted that the first European nation to "discover" lands inhabited by non-Christians gained certain rights over those lands, including the exclusive right to acquire title and govern. For Native American tribes, this meant that their inherent sovereignty and land ownership were fundamentally challenged and often disregarded by European colonial powers and, by extension, the United States. The framers operated within this intellectual framework, which viewed Indigenous peoples as occupants rather than rightful owners of the land, and their political status as less than that of sovereign nations. This doctrine provided a justification for territorial expansion and for treating tribes as dependent entities rather than equal sovereigns, a notion that would be reinforced in numerous Supreme Court decisions throughout the 19th century. It created a legal and moral justification, from a colonial perspective, for the dispossession of Indigenous lands and the subjugation of Indigenous peoples.

Early Federal Indian Policy and its Roots in the Convention

The framework established at the Constitutional Convention, though not always directly addressing Native American affairs in detail, laid the groundwork for early federal Indian policy. The grant of power to Congress to regulate commerce with Indian tribes, for example, became the basis for a series of federal laws and policies aimed at managing tribal affairs, including land acquisition, trade, and the administration of reservations. The assumption of federal responsibility for Indian affairs meant that interactions were to be conducted at the national level, moving away from the piecemeal approaches of the colonial era and the Articles of Confederation. However, this federal authority was often exercised in a paternalistic and assimilationist manner.

Policies focused on "civilizing" Native Americans, encouraging them to adopt European-American customs, agriculture, and governance. The concept of "domestic dependent nations," later articulated by Chief Justice John Marshall, found its roots in the constitutional understanding that tribes were not fully sovereign foreign powers but were also not mere citizens of the United States. They occupied a unique, and ultimately precarious, interstitial status. This complex relationship meant that federal policy was characterized by a constant tension between recognizing tribal existence and asserting federal control, a legacy that continues to be debated and addressed today.

Long-Term Ramifications for Indigenous Sovereignty

The decisions made, and the silences observed, at the Constitutional Convention cast a long shadow over the trajectory of US Native American relations and the concept of Indigenous sovereignty. By granting Congress broad powers over Indian affairs without a clear articulation of inherent tribal rights, the Constitution provided the legal scaffolding for federal dominance. The subsequent interpretation of these powers by the courts and the executive branch often favored federal authority over tribal self-governance. The continuous westward expansion, fueled by a constitutional structure that facilitated territorial acquisition, led to further dispossession and the confinement of tribes to reservations. The inability of Native American nations to directly participate in the shaping of the Constitution meant that their perspectives, legal traditions, and fundamental rights were largely excluded from the foundational document of the United States. This historical context is crucial for understanding the ongoing struggles for tribal self-determination, treaty rights, and the assertion of Indigenous sovereignty in contemporary America. The legacy of the Constitutional Convention serves as a potent reminder of the incomplete and often unjust foundation upon which many of the nation's relationships, particularly with its original inhabitants, were built.

Frequently Asked Questions About the Constitutional Convention and US Native American Relations

Q: Did Native Americans have any representation at the Constitutional Convention of 1787?

A: No, Native American tribes and individuals did not have any direct representation at the Constitutional Convention. The delegates were exclusively from the thirteen newly formed United States, and the concept of Indigenous representation in the federal government was not a consideration during that period.

Q: How did the Commerce Clause of the Constitution

affect Native American tribes?

A: The Commerce Clause, which grants Congress the power to regulate commerce with foreign nations, among the several states, and with the Indian tribes, significantly altered the relationship between Native American tribes and the federal government. It established federal authority over interactions with tribes, overriding the previously more fragmented control by individual states.

Q: What role did the concept of sovereignty play for Native American tribes in the context of the Constitution?

A: While the Constitution implicitly recognized Native American tribes as distinct political entities capable of entering into treaties, it did not explicitly define or protect their inherent sovereignty in a robust manner. This ambiguity allowed for interpretations that often diminished tribal autonomy and asserted federal supremacy over time.

Q: Were treaties with Native American tribes discussed or mentioned specifically at the Constitutional Convention?

A: While the treaty-making power of the federal government was a key topic at the convention, and this power was understood to extend to Native American tribes, there were not extensive specific debates dedicated solely to the nuances of treaties with Indigenous nations. The broader implications of foreign relations and national security were more prominent discussions.

Q: What was the "Doctrine of Discovery" and how did it influence early US policy towards Native Americans?

A: The Doctrine of Discovery was a European legal principle that asserted the first European nation to discover non-Christian lands gained certain rights over them. This doctrine heavily influenced early US policy, providing a justification for territorial expansion and the assertion of US dominion over lands already inhabited by Native American tribes, often disregarding their inherent land rights and sovereignty.

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