

STUDENT

AI160

Section 001B/001H

13 October 2015

Sovereignty, How It Became What It Is Today

Indigenous people have fought for every possession they could obtain. *Cherokee Nation v. Georgia* helped the Indigenous people become something more than what they once were. The Marshall Trilogy consists of three court cases including *Cherokee Nation v. Georgia*, which depicts an image on how the government tried to stop the Native Americans from being their own source of government. The Native Americans lost a source of food, Salmon, due to pollution of the water. The Clean Water Act not only helped the Native American people, but it also helped all across the board because water is a necessity in everyday living. IGRA (Indian Gaming Regulatory Act) was in a sense a set back to the Indigenous people, but in the long run it created a small empire for them through the casinos on their land. Native Americans had to fight the justice system through the Marshall Law Trilogy, had to fight for water rights, and gaming rights in order to become successful self-sufficient people. Tribal sovereignty refers to tribes' right to govern themselves, define their own membership, manage tribal property, and regulate tribal business and domestic relations; it further recognizes the existence of a government-to-government relationship between such tribes and the federal government (The Leadership Conference).

Out of the three Marshall Trilogy cases the one that stands out the most for tribes fighting for their rights is *Cherokee Nation v. Georgia*. In 1831, the Supreme Court agreed on allowing the Indian Nations full fledged legal rights to govern themselves, participate in political affairs, and

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Comment [1]: Maybe not everything, but I see what you are attempting to say.

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Comment [2]: Court cases are always in italics

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Comment [3]: Not "Indigenous people" as it only pertained to the Cherokee Nation

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Comment [4]: Ambiguous – I am not ... [1]

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Comment [5]: This was MANY yea... [2]

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Comment [6]: Not really, this was ... [3]

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Comment [7]: Word choice

Michelle Nicole Boyer 10/22/15 5:44 PM

Comment [8]: You should have put ... [4]

Michelle Nicole Boyer 10/22/15 5:45 PM

Comment [9]: They were fighting for ... [5]

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manage their own activities (From Marshall to Marshall The Supreme Court's Changing Stance On Tribal Sovereignty). This case gave the Indigenous people so many opportunities to finally live the life they wanted. Although these people still had rights to fight for, this at least allowed them to have some form of control over their people. Due to the ruling of this case it allowed tribes to become sovereign. Although the tribes were technically domestically dependent nations, they still lived under state privileges. This case set the Native Nations on the path to become sovereign nations, but there were still some faults.

In the Marshall Trilogy all three cases had some source in helping Natives become a sovereign nation. In *Worcester v. Georgia* the debate was whether or not Georgia had any authority over Cherokee Nation. The Marshall ruling was that the laws of Georgia have no force over Cherokee Nation (Byrn, 9 Sept. 2015). Due to the ruling of this case it allowed the Cherokee Nation to have jurisdiction over their own lands. Georgia wanted the power and control, but with the ruling of the case Andrew Jackson had to enforce it. In the end courts order was not enforced (Byrn, 9 Sept. 2015). Although the ruling was not enforced it still allowed the Cherokee Nation to govern themselves which allowed them to be a sovereign nation.

The last case is *Johnson v. M'Intosh* and through this case the Native Americans did not come out so strong in the end. Justice Marshall ruled that Indian tribes could not sell land to private parties without consent from the federal government (From Marshall to Marshall The Supreme Court's changing stance on tribal sovereignty). This case denied the Native Nations power, but it also put them a step back in becoming sovereign. Through each cases whether

Michelle Nicole Boyer 10/22/15 5:45 PM

Comment [10]: NO. The Supreme Court absolutely did not agree to this in 1831.

Michelle Nicole Boyer 10/22/15 5:46 PM

Comment [11]: What? Do you mean *Cherokee Nation v. Georgia*? Because that case certainly did not give them the right to have control over themselves.

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Comment [12]: No. Tribes are inherently sovereign. And this case took sovereignty away from tribes by calling them "wards of the state" and "domestic dependent nations."

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Comment [13]: No

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Comment [14]: No. There were 3 cases. Two of them directly limited tribal sovereignty.

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Comment [15]: NO. Jackson did NOT have to enforce it. The Supreme Court told him to. But he did NOT. Which you say in the next sentence (and contradict yourself).

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denied or privileged something the Indigenous people were becoming sovereign. These cases helped set things in motion for the Native American people.

The Clean Water Act contributed to helping the Indigenous people with their land and food. This act did cause some controversy because tribes had different standards with the water then the states did. The Clean Water Act (CWA) establishes the basic structure for regulating discharges of pollutants into the waters of the United States and regulating quality standards for surface waters (Summary of the Clean Water Act). Through the Clean Water Act, states are required to establish water quality standards that define the goals and pollution limits for all waters within their jurisdiction. The water quality standards determine whether or not the healthy waters need protection, which waters must be restored and how much they need to be restored (The Clean Water Act). The Indigenous peoples source of food is through hunting and gathering.

With the pollution of water it kills of Salmon or any form of food through the water because the water is contaminated (cite). The Clean Water Act, although it is not fully helpful, it protects these hunters source of food. The CWA also ties in the IGRA (Indian Gaming Regulatory Act).

The IGRA (Indian Gaming Regulatory Act) was passed by Congress in 1988 in response to widespread concerns among the states about Indian gaming (The Indian Gaming Regulatory Act). Through this act it allowed the Native American people to pursue gaming. Class I gaming is defined as social games and traditional forms of Indian gambling. Class II games include bingo, pull-tabs, and explicitly authorized card games, among others, while class III gaming consists of anything that does not fall within class I, or class II– notably, casino-style gambling (The Indian Gaming Regulatory Act). This also allowed the Native American people to establish something more and make profit.

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Comment [18]: They were always sovereign. It was just a question of whether or not the US thought they were.

Michelle Nicole Boyer 10/22/15 5:52 PM

Comment [19]: Today? Historically? When? I know a lot of Native Americans that shop at supermarkets. Again, be careful with your phrasing.

Michelle Nicole Boyer 10/22/15 5:53 PM

Comment [20]: You have to determine if it is helpful or not. I would lean it is more helpful, but may be implemented poorly in certain areas.

Michelle Nicole Boyer 10/22/15 5:54 PM

Comment [21]: If you are trying to tie this into tribal sovereignty, you need to directly state it. Right now you are only implying it.

Through the Kansas Nebraska Act there were a lot of trials and tribulations. The Kansas Nebraska Act was a bill established in 1854 that mandated “popular sovereignty” which allowed settlers to decide whether or not slavery would be allowed (Kansas Nebraska Act). Considering this act was about sovereignty one would think this would benefit the Native people, but slavery was involved. Native American’s were at one point slaves to the “white” people. Although people have overcome slavery, at this time period this act allowed for slavery, which did and did not benefit the Indigenous people. The conflicts that occurred between those for slavery and those against slavery led to a period of violence known as Bleeding Kansas which helped lead the way into the Civil War (Kansas Nebraska Act). There were major shortcomings through this act, but at the same time it allowed people to become sovereign. Although there were a lot of downfalls with this act, things have changed from then till now. The Native Americans and African-Americans are no longer slaves and the Native American Nations are now sovereign.

Till this day tribal governments still exist which is truly amazing. The Native Americans wanted nothing more than to be their own separate government. The United States wanted to control the Indigenous people and did not allow them much freedom because of that the Indigenous people now govern themselves. Through the process of gaining their Independence came a period of difficulties. Survival became tough at some points because the Indigenous people had to fight for everything they wanted, literally. After all of the aftermath the Native Americans set themselves up for future self sufficiency.

The Native American people had to overcome so much through wars, the government trying to strip them from their rights, and destitution; yet till this day they still a force to be

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Comment [22]: What does this have to do with American Indian tribal sovereignty?

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Comment [23]: True. But are you claiming the Kansas Nebraska Act was part of this?

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Comment [24]: No... there is still slavery today in third world countries. Even in Mexico. Sex trafficking in America is slavery. (Just be advised slavery still exists, and some people have still not ‘overcome’ it).

Michelle Nicole Boyer 10/22/15 5:59 PM

Comment [25]: What do you mean by benefit? Historically some Indians sold war captives. Others were slaves. So what do you mean by benefit?

Michelle Nicole Boyer 10/22/15 5:59 PM

Comment [26]: No. People are not sovereign. Nations are sovereign.

Michelle Nicole Boyer 10/22/15 6:01 PM

Comment [27]: Why?

reckoned with. Each case/act allowed the Indigenous people to gain just a little bit more than they had before. Even though there were many trials, tribulations, and deaths, the Indigenous people overcame everything thrown their way. Now Native Americans are a strong force and continue to remain a strong force. Looking back at past events, would you be able to be strong enough to fight for your rights in order to become a sovereign nation?

Michelle Nicole Boyer 10/22/15 6:04 PM

Comment [28]: Not every one

STUDENT,

There are some really interesting aspects to your essay. I think your contemporary issues are interesting, but they distract from the overall focus of this essay: which was supposed to be the affects of different historical cases and acts upon Native American sovereignty. Looking past that, the information that you provided on the Marshall Trilogy that you provided is not entirely correct and has some errors –which detracts from your argument. In some places, you seem to be wary about tribal sovereignty in general. Tribes always had sovereignty, but there were times when the US government attempted to limit it (Marshall Trilogy, two of the three cases are good examples).

There were also 10 points deducted for the paper being turned in late.

For the next upcoming research paper, I would suggest you work on a rough draft so that maybe we can work together on solving some of these issues if they come up again.

Please let me know if you have any questions.

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