

# UNIT 1: MIDDLE SCHOOL – WASHINGTON STATE HISTORY

## TERRITORY AND TREATY MAKING: POINT NO POINT TREATY

### LESSON 2: Nation Within a Nation

#### **Instructional Support Materials**

*Indian Tribes as Sovereign Governments* - Text not included with the “Since Time Immemorial” curriculum

[Brief History of US-Tribal Relations](#)

[Brief History of US-Tribal Relations \(Spanish Language Version\)](#)

[Steve Newcomb’s “Five Hundred Years of Injustice: The Legacy of Fifteenth Century](#)

“Religious Prejudice” (to be added)

[Robert J. Miller’s “Indian Treaties as Contracts”](#)

[Treaties and Other International Agreements: The Role of the U.S. Senate](#)

[Graphic Organizer – Lesson 2](#)

[Graphic Organizer – Lesson 2 \(Spanish Language Version\)](#)

[Compare and Contrast – Lesson 2](#)

[Compare and Contrast – Lesson 2 \(Spanish Language Version\)](#)

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#### **Learning Goals**

- Overall Objective: Students will learn about sources, policies, and events that contributed to the making of treaties between the Federal Government and sovereign Indian Tribes and set the stage for the Point No Point Treaty
  - Students will know the legal relationship between the Federal Government and Indian Tribes
  - Students will know the basic reason for and history of treaty making including the ratification process
  - Students will understand the term sovereignty as applied to Indian Tribes
  - Students will understand the historical context of the so called “Stevens Treaties.”
  - Students will learn the use and historical implications of the following concepts:
    - Doctrine of Discovery
    - Sovereignty
    - Treaty
    - Ratification
    - Canons of Construction
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**Time:** 2 class periods

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#### **Essential Questions**

- What is the legal status of Indian Tribes as sovereign nations with respect to the United States Government?
  - How does the sovereignty of tribal nations affect our lives today?
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## Teacher Preparation

- Provide students with the following resources:
    1. Doctrine of Discovery
      - a. Steve Newcomb's "Five Hundred Years of Injustice: The Legacy of Fifteenth Century Religious Prejudice"
      - b. Robert J. Miller's "Indian Treaties as Contracts"
    2. Johnson v. McIntosh: In Johnson v. McIntosh (21 U.S. (8 Wheat.) 543 (1823)), Chief Justice Marshall ruled for the Court that Indian Tribes could not convey land to private parties without the consent of the federal government. The Court reasoned that, after conquest by the Europeans and the establishment of the United States, the rights of the tribes to complete sovereignty were diminished, and the tribes' power to dispose of their land was denied.
    3. Canons of Construction
      - a. Definition and discussion from Chippewa.
      - b. Worcester v. Georgia: In Worcester v. Georgia (31 U.S. (6 Pet.) 515 (1832)), the Court said, "[t]he Cherokee nation...is a distinct community, occupying its own territory, with boundaries accurately described, in which the laws of Georgia can have no force, and which the citizens of Georgia have no right to enter, but with the assent of the Cherokees themselves, or in conformity with treaties, and with the acts of Congress..." In Worcester, the Court established the principle that states are excluded from exercising their regulatory or taxing jurisdiction in Indian country. (SOURCE: American Bar Association: [www.abanet.org/genpractice/lawyer/complete/f95marshall.html](http://www.abanet.org/genpractice/lawyer/complete/f95marshall.html))
    4. Chapter 3 of *Indian Tribes as Sovereign Governments* (Page 33-39)
    5. Chapter 1 of *Indian Tribes as Sovereign Governments* (Page 3-8) \*
    6. *Brief History of US-Tribal Relations*
    7. Treaties and the role of the US Senate-  
<http://www.senate.gov/artandhistory/history/common/briefing/Treaties.htm>
    8. What is a Treaty?  
<http://washingtonhistoryonline.org/treatytrail/treaties/whatis.htm>
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## Learning Activities

1. Have students read a definition of Doctrine of Discovery, perhaps by doing their own research in encyclopedias. Also have students read Chapter 3 of *Indian Tribes as Sovereign Governments*. Provide guiding, probing questions to accompany reading and discussion of the reading:
  - A. What are the “central concepts” that underlie sovereignty?
    - (1) Tribe
    - (2) Indian
    - (3) Indian Country
  - B. What are the limits to the sovereignty?
  - C. What is the “Doctrine of Tribal Sovereignty”?
  - D. What are the fundamental powers of Indian Tribes?
    - (1) Power to establish a form of government
    - (2) Power to determine membership
    - (3) Police power
    - (4) Power to administer justice
    - (5) Power to regulate and manage natural resources
    - (6) Power to define the parameters of business activity
    - (7) Power to exclude persons from the reservation
    - (8) Power to charter business organizations
    - (9) Sovereign immunity

### Teacher led discussion to review all concepts

-Summary Question: What can tribes do compared to other nations? What can't they do?

2. Have students read Chapter 1 of *Indian Tribes as Sovereign Governments*. Provide guiding, probing questions to accompany reading and discussion of the reading:
  - A. What did the Indian Commerce Clause of the Constitution establish?
  - B. What did the Indian Trade and Intercourse Act of 1790 establish?
  - C. To what does the phrase “original Indian title” refer?
  - D. Treaties further clarified the Federal government’s relationship to Indian Tribes. How?
  - E. The Canons of Construction generally govern the interpretation of treaties. The canons “provide that treaties are to be construed broadly in determining the existence of Indian rights.” Why do you suppose this is true?
  - F. What was “removal”?

An extra assignment for students is to read about the “Indian Removal Act” and its consequences for the Cherokee Nation, the “Trail of Tears.” The act, passed by the Congress of the United States in 1830, is discussed in detail on the North Georgia web site,

<http://ngeorgia.com/history/nghisttt.html>. An interesting side note is included on the page: the consequences of Davy Crockett's decision to support the Cherokee. His later career in Texas and at the Alamo may be known by students. His support for the Cherokee and its impact on his life is a good opportunity to discuss leadership, morality, and ethics: Standing alone for what you believe in is difficult. Crockett's quote, on the page, is "I would sooner be honestly damned than hypocritically immortalized." What does he mean by this? Can students think of similar acts they've witnessed in some of today's leaders?

- G. What is the "reservation system"?
3. Have students study the U.S. Senate web page on treaties. This page provides a good background on the constitution authority the Senate has in the approval of treaties made by the executive branch. It also provides the students with a history of treaty making with sovereign governments, including with International governments and Indian tribes and even the Comprehensive Nuclear Test Ban Treaty.

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### Mini Practice/Review Session

**Assessment:** Students will write a one page summary that describes the relationship of treaty tribes to the United States government and define the term sovereignty. Students will create a graphic that describes the treaty making process.

Practice Related to the **Why History? CBA Part 1:** Have students use the graphic organizer template to define all relevant terms from this unit and, with the aid of the journal on newspaper articles they are keeping, point out one current example of this concept relating to tribes in Washington state.

Practice Related to the **Why History? CBA Part 2:** Have students use the compare and contrast graphic organizer template to determine how tribal, federal, and state governments have different powers in, at least, 3 areas. Again, the journal on newspaper articles they are keeping may assist them in completing this chart.

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