**Ep 76 - Native American Reservations**

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***[Virginia Prescott] And here to talk about that relationship is Maurice Crandall, he's a citizen of the Yavapai-Apache Nation of Camp Verde and assistant professor of Native American Studies at Dartmouth. Maurice, welcome.***

[Maurice Crandall] Thank you. It's nice to be here.

***[VP] So let's start simple. What is a Native American reservation?***

[MC] Well a reservation, its land based. So it's land that has been reserved for a specific group of Indian people. That's why it's called a reservation. In other words, it's been set aside for this people for their permanent use, and reservation land is protected land that can't be alienated it can't be sold.

***[VP] So the government actually owns the land on a reservation.***

No. It's kind of a complicated you know arrangement and maybe it's a matter of semantics, but the land is the property of the tribe. But the federal government holds it in trust. If that makes sense. It would be like you know if you were a miner and you inherited some money, and that money is yours but you couldn't have it. And it was held in trust by somebody else until you reach a certain age. Unfortunately with Native American tribes, that trustee relationship is kind of forever I guess.

***[VP] They don't reach a certain age.***

 [MC] No, and the benefit of that would be that you know for a number of centuries different outside entities from the government, to you know businessmen, to settlers and military officers, have consistently stolen or alienated Indian land in a variety of ways, usually in dishonest ways. And so the idea is that the government holds that land and trust so that that doesn't happen.

***[VP] Hmm. All right. So Matt asked about a Pueblo. What about pueblos? What is that?***

[MC] A Pueblo. So Matt was asking from Albuquerque and that's a New Mexico specific term. There are 19 Pueblo Indian Nations in New Mexico, and the pueblos have their reservations as well. And so it's just sort of another designation. But Pueblo lands or reservation lands also.

***[VP] How many reservations and pueblos are there in the U.S.?***

[MC] There are 326 land areas in the United States that are considered reservation lands and they comprise 52.6 million acres. So that land is considered reservation land and if you contrast that with a number of federally recognized tribes they don't match…which means that a number of tribes don't have what are considered reservations.

***[VP] How many people do live on reservations now?***

[MC] It's a complicated question. A lot of tribes aren't forthcoming with their numbers. They just don't want to say you know we have this many people living on reservation. I think as of 2010 census more than half of new Americans in the United States lived off reservation, in cities and towns, in urban settings. And that's for a variety of factors; some have gone there for work someone there under federal relocation programs in the 1950s and 60s. So there's a variety of reasons but for whatever reasons more than 50 percent of Native Americans live off reservation now.

***[VP] How about for those who do live in reservations; What does the concept of sovereignty mean in relation to that place, that land, where they live?***

[MC] what sovereignty means is that tribes have certain inherent rights. They have the right to form their own governments, to make and enforce their own laws, and to even to tax, to establish rules for membership, who can be a citizen of that tribe. They also can decide who can live on the reservation and who can't and they can bar people from living on the reservation. And you know just in general there's a there's a variety of things that tribes do with their own sovereignty.

***[VP] What can't they do?***

[MC] They can't print their own currency. They couldn't declare war on another nation. You can't conduct foreign affairs with another country. A tribe couldn't just decide I want to make a treaty with whatever country and I'm going to go do that. Although the tribes do now, I said they couldn’t print currency but they do, a lot of tribes issue their own license plates. So if you're driving through Oklahoma you will see license plates of you know, Choctaw Nation or Chickasaw Nation. So they are doing other things like that.

***[VP] So those are things that states often do. Can Native American reservations pass laws that are in conflict with local state laws?***

[MC] Technically they could, but usually they do things in conjunction with those states. The laws would line up and there are often agreements for the enforcement of laws and things like that with the state or with communities that are nearby, because it just I guess if you have some uniformity it makes governing a little easier.

***[VP] Mm-hmm. How about federal laws? Can they pass laws and conflict with federal laws?***

[MC] No, because the federal government has the ultimate jurisdiction over Indian Nations, by the Constitution. Article 1 Section 8 gives power over Indian nations to Congress specifically. So the saying is that Congress has plenary power, it has the ultimate say, and then by extension the judicial and the executive branches also have jurisdiction over reservations. And so with the federal government having that ultimate jurisdiction you know they sort of have the final say, I guess you could say unfortunately or fortunately. And so a tribe couldn't you know pass laws that are completely against federal laws and then the federal government approve those types of things.

***[VP] So if somebody committed a crime for example on an Indian reservation, federal agents could arrest them or courts could indict them or try people, right?***

[MC] Sure. And again it's complicated. There are varying layers of jurisdiction. So most tribes have their own tribal courts and their own tribal police forces. So my tribe for example, you know we have our own Yavapai-Apache police department and they arrest. And so there's, you know, there's a police force that has arrest power. And then the tribal courts as well. Generally though those only handle civil and minor criminal offenses major offenses are handled either by the state. If there's an agreement with the state that they will handle criminal matters or with the federal government. And so a tribe might, you know if somebody was guilty of a serious offense, like murder or something like that, the tribe might arrest and hold that individual and then turn them over to the feds and the FBI can also become involved.

***[VP] Do Native Americans who are born on reservations do they have all the rights of citizenship? You know the right to vote for example?***

[MC] They do. In the 19th century and up through the early 20th century, there were there were various mechanisms for giving Native Americans U.S. citizenship. Like for example veterans of World War O, Native American veterans of World War Iwere given citizenship.

***[VP] I'm sorry, do you mean that they weren't citizens before that?***

[MC] They weren't. No they went to fight for the United States as non-citizen Indians. And then after the war they were given citizenship as veterans. And then you know even before that in the 19th century in the allotment era, when the federal government tried to break down large tribal reservations and landholdings and give individual Indians allotments of land, Indians who took allotments and had fee simple title to their property could become citizens as well. But you know it was uneven across the United States. It was in 1924 that Congress passed the Indian Citizenship Act which gave citizenship to all Indians, and so in theory all Indians could vote have all the same rights. But some states continued to deny Indians the right to vote. Famously New Mexico and Arizona had large native populations and still do denied the right to vote until 1948.

***[VP] Obviously a pretty complicated and really contentious history. How was it that reservations were set up in the first place? And I understand that that's a huge question, but I'm interested in the sort of mechanics of sovereignty.***

[MC] Sure. From the Revolutionary War until 1871, you had what was called the treaty-making era and the federal government made hundreds of treaties with native tribes, and by these treaties, tribes gave up huge amounts of land in exchange for smaller reservations, and you know certain other rights reserved in that treaty… whether it was the right to continue hunting or fishing in certain areas, and so a lot of a lot of reservations were established through treaties with the federal government. Then the government decided to stop doing treaties and a lot of tribes received reservations through either executive order or an act of Congress or a judicial decision. And that continued, you know, into the 20th century, and then you have the federal recognition process now. So there's a there's a process that tribal entities that aren't federally recognized that then want to become recognized have to go through this and meet a variety of requirements. And then once they're granted federal recognition they can put land into trust and thereby have a reservation.

***[VP] How about the fiscal relationship? Do people on reservations pay federal income taxes?***

[MC] That's another one where there are you know, kind of varying layers of taxation. So for example you would pay a federal income tax if you live on a reservation and worked in an outside job. But then you might not pay that tax if you worked on the reservation. You don't pay property tax. Incidentally that's a reason why New Mexico barred Indians from voting until 1948, because the constitution, they’d written in a clause, the New Mexico Constitution said you know all citizens have the right to vote except for Indians not taxed. And that meant a property tax. So that was one method of barring Indians citizenship rights.

***[VP] And so this is one of the things that has made it very attractive to for example sell cigarettes at a cheaper price on Indian reservations or casinos?***

[MC] Yeah sure. A lack of sales tax. When something is sold on a reservation that's why cigarettes are cheaper and people would go there. You know, my uncle owned a smoke shop on our reservation. so definitely there's a viable business. Gaming as well.

***[VP] So what does the Bureau of Indian Affairs, which is a federal agency, do in – I don't know – managing, working with tribes?***

[MC] They help administer tribal lands. They would be in charge of roads and infrastructure and things like that on reservations. They also help with law enforcement. So for tribes that may not have their own police department, there are BIA policemen. They work with tribes in terms of like natural disasters. So if there was a fire on a reservation, the BIA would help with the wild wildfires or wild land management and things like that. Maybe also helps administer federal programs. A lot of tribes administer their own, but in some cases the CIA would administer those services if the tribe doesn't for whatever reason. So you know the BIA does a lot of things. You know it's a bureaucracy, it's a big bureaucracy, and sort of ever present and all native people know about the BIA. Just kind of a fact of life.

***[VP] Is that a relationship between the federal government and Native Americans living on reservations, and Native American reservations as sovereign nations, how is that changing, or is?***

[MC] I guess you could say that that relationship is maybe better now than it was in 1950, or 1900, or 1850. Since 1970, which was during the Nixon administration, federal policy in Indian affairs became self-determination. So the idea was allow tribes to manage their own affairs, if they have you know receive assistance through various federal programs, let them administer those programs, let them handle things like education. But again federal Indian policy is subject to different administrations, you might see things differently. So for example our current administration favors mineral resource extraction and oil and natural gas and things like that. And so their idea would be to make it easier to do resource extraction on reservations, and tribes have had very bad experiences with that over the years. Things like in the Southwest, unregulated or poorly regulated uranium mining and in New Mexico for example high rates of cancer among native people, who worked in those mines, which were not properly ventilated or didn't have the right environmental controls. And so you know that that can change from a ministration to administration or from Congress to Congress if they pass different laws. And so we would we would hope that we're generally trending upward, but a lot can be done from one administration to the next.

***[VP] What is the most important thing that our listeners should take away from this conversation about Native American reservations?***

[MC] That's a tough question. Reservations are communities like others, I mean they have towns, the cities, they have houses. I think there's a lot of misconceptions about the reservation a lot of people think, “oh I'm going to go to New Mexico” or “I'm going to go to South Dakota, so I can see a real Indian reservation where people live in teepees and that kind of thing,” and it just doesn't that's not the reality. I mean these are communities it's indigenous land and it's often ancestral homelands. And you know native people who live on reservations or traverse an interesting world, you know if you live on the Navajo reservation for example, and you travel to Phoenix or Gallup or those places, you're sort of traversing cultural and physical boundaries. And so there's a lot of that that's inherent to the Native American Experience on reservations. But I would hope that people would understand that reservations are communities like others, where native people live and have the same, you know, many of the same aspirations, the same hopes and are trying to maintain culture and honor the ancestors that came before.