

Indian Primer

**The outstanding facts about the condition
and treatment of American Indians
today; their civil rights; and
a program of remedies.**



**Committee on Indian Civil Rights
of the
AMERICAN CIVIL LIBERTIES UNION
100 Fifth Avenue
New York City**

Indian Primer

THE agitation against the government's treatment of the Indians and the vigorous campaigns for remedies prompt this brief statement of the outstanding facts, so that anybody not acquainted at all with Indian affairs may see their condition as a whole.

1. How Many Indians?

There are in the United States about 350,000 Indians. Of these about 160,000 are of pure stock; the other 200,000 are more or less mixed with white blood; and, in Oklahoma and the southern states, sometimes with Negro blood. It is estimated that the original Indian population of the United States at the time of the discovery was three quarters of a million.

The Indian death rate runs more than two times higher than the white death rate. The pure-blooded Indian population has at best been holding its own in recent years. Mixed bloods are somewhat increasing numerically, but with diminishing percentage of Indian blood.

2. What Languages Do They Speak?

These Indians are divided into approximately 200 different tribes speaking about 55 different languages—so different that one tribal group cannot understand another. In the old days the Indians of the Great Plains understood each other through a common sign-language, now fallen into disuse. English is the only common language of communication except in the southwest, where Spanish still is used. The non-English speaking Indians number at least 50,000. The illiteracy rate for Indians under federal guardianship is not less than 30 percent.

3. Where Are They?

The overwhelming number of Indians live in the western states, as shown by the accompanying map. The Indians who are no longer government wards and who have settled outside reservations also are to be found chiefly in the far west—in Oklahoma, and the Rocky Mountain and Pacific Coast states.

4. What Is Their Economic Condition?

The Indian population as a whole is very poor. All but a few tribes live by grazing and agriculture. Many are constantly near the starvation line, trying to live on land too barren for agriculture. Indian farm lands have been cut more than in half in forty years. A few wealthy Indians can be found outside the reservations, particularly those who held oil-lands in Oklahoma.

The annual income of the Indians, on an individual basis, runs from \$10 to \$500, with perhaps 3,000 receiving in past years a somewhat larger income. The income is derived from labor, from farming and grazing, the leasing of allotted lands held in trust, and the lease or sale of tribal properties. From \$3,000,000 to \$6,000,000 a year of the Indian money is used

for Indian Bureau maintenance, including the salaries of government employees. The cost of maintaining the Indian Bureau service on a reservation runs frequently three times greater per capita than the maintenance of an Indian.

5. *What is Their Status on Their Land?*

Of all the Indians, 194,500 (over two-thirds) are wards of the United States Government, living on reservations. Other Indians with some interest in property held by the federal government as trustee would push the total to 225,000, possibly 240,000.

In New York the Indians are under federal jurisdiction in matters of property, but the state also exercises a similar jurisdiction. In North Carolina are several thousand Indians who have had no relation to the federal government for generations.

Most of these Indians are members of tribes who hold their property in common. Much tribal property has, however, been divided up in whole or in part, and each Indian has been given an allotment of land on the reservation. But such an Indian is not in most cases an outright owner of his land and is still bound to the government as a ward. Only those Indians are freed from wardship who get what are called "certificates of competency." These certificates are granted on recommendation of the local Indian agent and are, as a rule, incidental to the allotment of the individual Indian's land. An Indian holding such a certificate has all the rights of a private owner in so far as the proceeds from his parcel of land are concerned.

Many "competent" poverty-stricken Indians have had to sell their land to whites or give them up for unpaid taxes, so that the reservations are peopled not only by Indians but by many whites. The allotted land is usually sold to the whites after the Indian "owner" dies. This is due to the denial to Indians of credit and of the right to make contracts. Such a condition prevents the Indian from developing his allotted land and also prevents his heirs from purchasing the property at auction. He may not will it to them. White men, therefore, usually acquire it.

A "competent" Indian may also have an equity in a tribal estate, and as a tribal member he is still under the trusteeship of the United States.

6. *Who Controls the Indians?*

Congress, which in theory controls the Indians, has entrusted the administration of Indian affairs to the Department of the Interior through its Bureau of Indian Affairs. All Indians on reservations, even those who hold allotments, are wards of the government and under the Bureau's jurisdiction. The Bureau treats them just the way a trustee deals with a minor child, except that they have the right to vote for state and federal officers. Their votes, however, give them no control over their local affairs or their property. The Bureau's control over these affairs and property is complete, and in practice is not subject to court review.

The Indian Bureau was established in 1851. Before that time, jurisdiction over Indians lay exclusively in the War Department. Up to about 1870, the government herded the scattered tribes of nomadic Indians into what amounted to corrals. This was done as a war-measure. The corrals were practically jails. Later they were extended into reservations. Reservations were also established around those few tribes in the south-west and north-west living in fixed villages, such as the Pueblos. Most of the Indians had been to some extent nomads, incidental to their hunting economy.

Before this "closed reservation" policy was adopted, the government had always dealt with the Indian tribes by treaties. Treaty-making was ended by Congress in 1869. Hundreds of those treaties still exist in theory. In practice, they have been almost universally ignored and violated, always to the disadvantage of the Indians, except in those rare cases where Congress can be brought to allow the tribe to sue in the Court of Claims for damages for violations of contract by the government.

7. What Does The Bureau Do For The Indians?

The property held for the Indians amounts (on paper) to about a billion and a half dollars. The Indian Bureau's income is derived from appropriations by Congress out of the general treasury (75%) and from moneys derived from the sale or lease of Indian tribal lands, (25%).

The Bureau spends this money on maintaining 8,000 government employees to look after the 194,000 Indians under federal jurisdiction at a total cost of more than 29 million dollars in 1931. This cost has trebled since 1910, though the number of Indian wards has decreased, and their living standards have not been raised. There is one Indian Bureau employee for every twenty-three Indians. Nearly 1,000 new employees have been added in the last three years.

Although the Indians' estate is huge in value, the money goes primarily not for their benefit, but for maintaining this army of government officials to look after their property and to police the reservations.

Some of the money goes for boarding schools, medical service and hospitals, all of which are admittedly low-grade. There is one Indian Bureau employee for every eight Indian children in government schools, though the schools are poverty-stricken.

The impact of an aggressive white civilization on the Indians has for three centuries robbed them of almost everything of value. With few exceptions, the reservations are land not much desired by whites. Where the land has been good, white settlers have encroached upon it. Only feeble efforts have been made by the Indian Bureau to protect the Indians from constant robbery. The allotted "competent" Indian has had notoriously little chance of protection in dealing with white men.

8. *What Rights Have The Indians?*

Votes and Taxes

All Indians in the United States were made citizens by act of Congress in 1924 as a reward for war service. But the right to vote is denied the Indians by state law in New Mexico and Arizona, in New Mexico because they do not pay taxes and in Arizona because their status is that of wards. Tribal Indians on reservations are not taxed. "Competent" Indians living on their individual allotments of land are taxed like any other property-holders.

Property

Although an American citizen by special Act of Congress, no Indian ward can make contracts, borrow money, bequeath property, hire a lawyer or get his own money into his hands without the permission of the Indian Bureau's agents. The tribes cannot spend their tribal moneys; the Bureau, subject to Congress, has full control over these tribal funds.

Relation to Government Agents

The Indian tribes have no control over the Indian Bureau agents appointed for them, even when these agents are paid from the tribal funds. They are subject to the agents' control of their persons through Reservation Courts which try all except a few major offenses. The agents control the courts by appointing the Indian judges. The agents likewise control, under arbitrary powers, the Indian property.

Under old statutes passed during the Indian wars, Indians are—or at the will of the Indian Bureau can be—practically kept prisoners on their reservations by being forbidden to leave without the superintendent's permission, or even to travel from one part of the reservation to another without permission. Outsiders, whether Indians or whites, may be forbidden on the reservations by the superintendent. Even meetings of the Indians on their own reservations may be forbidden by the agent. He may also exclude any printed matter which he regards undesirable. The agents' powers are practically unlimited.

What Appeal to the Courts Against Such Power?

The discretionary powers vested in the Department of the Interior are so wide that appeal to the courts against abuses is exceedingly difficult. No Indian tribe, nor any individual ward, can even hire a lawyer without the Department's approval. The Indian Bureau is so firmly entrenched that it is difficult even for Congress to modify its bureaucratic power.

What Rights in The Criminal Courts?

For all ordinary offenses or for any action incurring the Indian agent's ill-will, the Indians on reservations are tried by Reservation Courts composed of one to three Indian judges appointed by the agent. Indians convicted may appeal from the court to the agent, and theoretically to Wash-

ington. For seven specified major crimes, an Indian may be tried in the state courts, but his lawyers must be approved and paid by the Indian Bureau. Every large reservation has its jail. Indians on reservations convicted of felonies serve their sentences in federal prisons.

9. *What Education Do Indian Children Get?*

The general policy of the Indian Bureau throughout its eighty years of existence has been to break up the Indian tribes and "assimilate" the Indians to the white population. To that end, the government boarding-schools and the subsidized sectarian schools have given the children a standard, but very poor, "American" education.

Teaching is in English, and even the children's Indian names are commonly replaced by English names. Christianity is taught, practically by compulsion, despite the desire of Indians to keep their old religions. Children are taught to be ashamed of their Indian culture. The rich tribal arts are hardly perpetuated. Instruction has little relation to what Indian children will and can do when they get back into life on reservations.

The Indian education does not fit them even for jobs in the Indian service nor for entrance to colleges. There is no Indian college. There are only three or four Indian boarding-schools even of high school grade. The technical training for most of the responsible posts in the Indian Service is inaccessible to Indians within the Bureau's educational system. The government practically has no system for enabling Indians to take advantage of general educational opportunities through scholarships or loans.

Besides the seventy government boarding-schools, there are about sixty private schools receiving Indian children, of which 21 are subsidized by the government from Indian tribal moneys without the consent of the tribes. All but two of those receiving subsidies are Catholic schools.

A strong movement among friends of the Indian opposes the policy of assimilating the Indian population to the white, and favors maintaining Indian culture and tribal life on the reservations. This is particularly true in relation to the Pueblos of New Mexico and Arizona and the Navajos, who have the most highly developed native civilization surviving in the United States.

The present officials of the Indian Bureau state that they are opposed to the overcrowded boarding-schools but little has yet been done to substitute for them day-schools on the reservations. The schools are now as much overcrowded as at any previous time.

One evil of the boarding-school system, bitterly opposed by the Indians, is the frequent forcible seizure of Indian children to take them off from home to the schools against their parents' wishes. This "kidnapping" is condemned by law, but no penalty has been fixed for violations and it is therefore ineffective. Coercion of parents by various devices is also practiced to force their children into the boarding-schools.

What Are the Remedies?

THE government's treatment of the Indians has been condemned for years—from the days of Helen Hunt Jackson's "A Century of Dishonor." It has at no time been satisfactory to Indians or their friends. A half dozen organizations have been formed solely to help protect them against government abuses.

Relations between Indians and the government have been harmoniously adjusted in Canada, for instance, and they could be in the United States by giving the Indians control over their own property. The essential evil is the government's guardianship with its unreviewable arbitrary powers, exercising its control through a highly developed bureaucracy. The evils lie primarily in the system itself, not in personnel.

While many issues have revolved around the personnel of the Indian Bureau, or specific abuses, they all arise at heart from the status of the Indian in relation to the government. Only recently has any concerted effort been made to change that status. This effort, supported by Indians and their friends, is opposed by the Indian Bureau and by the Department of the Interior.

The remedies proposed for giving the Indians more complete control of their affairs are embodied in bills in the 1931-1933 Congress providing:

1. Establishment of Indian tribal councils with power over tribal property, the employment of attorneys and making of contracts, etc.
2. Recall of unwelcome Indian agents on referendum vote of a tribe.
3. A model bill for the incorporation of one Indian tribe, the Klamath Indians of Oregon, so that it may exercise the powers of an ordinary business corporation with only slight government supervision.
4. Repeal of the old espionage acts which hold Indians on their reservations, prohibiting them from exercising ordinary civil rights and restricting contact with outsiders.
5. Penalties for kidnapping Indian children into government boarding schools.

A memorandum concerning these bills will be sent free on request to the American Civil Liberties Union.

THE COMMITTEE ON INDIAN CIVIL RIGHTS

Nathan Margold, Chairman
 Robert Gessner, Secretary
 Dr. Leon N. Adler
 George P. Ahern
 Harry W. Anderson
 Mary Elliott Arnold
 A. C. Ballard
 A. A. Berle, Jr.
 Alice Stone Blackwell
 Alexander P. Blanck
 Franz Boas
 Raymond B. Bragg

Witter Bynner
 H. E. Cohen
 Alice M. Cowan
 Virginius Dabney
 Robert W. Dunn
 Haven Emerson
 Charles T. Ennis
 Howard S. Gans
 Florence Curtis Hanson
 Albert Hirst
 Mrs. Darlington Hoopes
 Judson King

Mrs. Emily A. Madden
 Jack McLellan
 C. V. Muller
 Jay B. Nash
 W. F. Ogburn
 Henry W. Pinkham
 Paul Porter
 Eliot D. Pratt
 Frederick B. Righter
 Father John A. Ryan
 Harold von Schmidt