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When Federal Courts Finally Listen: The Shifting Landscape of Tribal Sovereignty in 2024

The legal winds are changing, and for once, they're not blowing against us.

After decades of federal courts chipping away at tribal sovereignty like settlers taking land one acre at a time, we're seeing some remarkable developments that every tribal leader, legal advocate, and community member needs to understand. These aren't just abstract legal victories—they're tools we can use to protect our people and assert our rightful place as sovereign nations.

McGirt's Continuing Ripple Effects

Let's start with the elephant in the courtroom: *McGirt v. Oklahoma* continues to reshape the legal landscape four years after the Supreme Court reminded everyone that promises actually mean something. The recent circuit court decisions expanding McGirt's logic beyond the Creek Nation reservation boundaries show that when we force the federal system to acknowledge its own precedents, powerful things happen.

What's particularly strategic here is how tribes are leveraging McGirt not just for criminal jurisdiction, but for civil matters, environmental regulation, and taxation authority. The Muscogee (Creek) Nation's successful assertion of regulatory authority over oil and gas operations within reservation boundaries? That's the playbook right there. Other tribes are watching, learning, and adapting these arguments to their own contexts.

But here's what the mainstream legal commentary misses: McGirt wasn't just about statutory interpretation or historical treaty analysis. It was about the Court finally saying that the federal government can't simply pretend inconvenient promises don't exist when they become politically or economically uncomfortable. That principle has legs, and we need to run with it.

The Infrastructure and Revenue Revolution

The implementation of the Infrastructure Investment and Jobs Act has created unprecedented opportunities for tribal economic sovereignty, but it's also exposing the federal government's continued paternalistic approach to tribal affairs. Yes, tribes are receiving historic levels of funding for broadband, transportation, and water systems. But the strings attached? They're designed to maintain federal oversight in ways that would be unthinkable for state governments.

Smart tribal legal teams are pushing back hard on these conditions, and they're winning. The recent successful challenges to Bureau of Indian Affairs approval requirements for certain infrastructure projects show that we don't have to accept paternalistic oversight as the price of federal funding. These victories matter because they establish precedents that strengthen tribal self-governance across all sectors.

The key insight here is recognizing that infrastructure isn't just about roads and internet—it's about creating the economic foundation for true political independence. Every mile of tribally-controlled fiber optic cable, every water treatment plant built under tribal oversight, every transportation project managed by tribal engineers is a step toward the kind of sovereignty that can't be legislated away.

Gaming Compacts and the New Power Dynamic

State-tribal gaming negotiations are revealing a fascinating shift in power dynamics. For the first time in decades, tribes are entering these negotiations from positions of real strength, and state governments are feeling the pressure.

Look at what's happening in New York, where tribal nations are successfully pushing back against Governor Hochul's attempts to limit mobile sports betting to state-licensed operators. The Oneida Nation's position that their sovereignty includes digital extensions of their gaming operations isn't just legally sound—it's economically essential. Other states are watching these negotiations closely because they understand that the old model of paternalistic "approval" of tribal gaming is becoming legally and politically unsustainable.

This shift matters beyond gaming. When tribes demonstrate they can successfully assert sovereignty in high-stakes, high-revenue negotiations with state governments, it establishes precedents and political

relationships that strengthen tribal positions across all intergovernmental dealings.

Looking Forward: Strategy Over Sentiment

Here's what tribal leaders and advocates need to understand: these legal victories aren't happening by accident, and they're not the result of federal benevolence. They're happening because tribal legal teams have gotten smarter about leveraging existing federal law, building strategic coalitions, and choosing their battles carefully.

The federal system responds to pressure, precedent, and political calculation. When we demonstrate that respecting tribal sovereignty is legally required, economically beneficial, and politically sustainable, we win. When we rely on moral arguments about historical injustice, we lose.

The path forward requires combining traditional indigenous governance principles with sophisticated legal strategy. It means building the internal governmental capacity to exercise the sovereignty we're fighting to protect. And it means never forgetting that every legal victory is only as strong as our ability to implement and defend it.

The landscape is shifting in our favor, but landscapes can shift back. Now is the time to build, to consolidate these gains, and to prepare for the next set of challenges. Because they're coming.

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The Ikigai Economy: How Japan's Purpose-Driven Work Culture Offers Lessons for Post-Pandemic Labor Markets

As I review the latest employment data from both sides of the Pacific, a fascinating paradox emerges. While Western economies grapple with the "Great Resignation" and quiet quitting phenomena, Japan faces its own labor transformation—one that may offer unexpected insights for understanding our evolving relationship with work itself.

The numbers tell a compelling story. In the United States, voluntary job separations reached historic highs of 3% monthly in 2021-2022, while Japan maintained its characteristic employment stability with turnover rates below 15% annually. Yet beneath these statistics lies a more nuanced narrative about what economists call "job satisfaction equilibrium"—the point where workers' expectations align with workplace realities.

The Cultural Architecture of Work

To understand these divergent trends, we must examine what I term the "cultural architecture" of employment. In Japan, the concept of *ikigai* ()—often translated as "life's purpose"—has long influenced career decisions. Unlike the Western emphasis on individual advancement, *ikigai* represents the intersection of what you love, what you're good at, what the world needs, and what you can be paid for.

Consider Tanaka-san, a 34-year-old systems engineer I interviewed in Osaka. Rather than pursuing maximum salary optimization, he chose his current position because it allowed him to contribute to disaster-prevention technology while maintaining work-life balance. "It's not about climbing the ladder," he explained, "but about finding my place in the ecosystem."

This philosophy creates what sociologist Ronald Dore called "welfare corporatism"—a system where employment provides not just income but social identity and community belonging. The economic implications are profound: lower turnover costs, institutional knowledge retention, and what we might call "stability dividends" that compound over time.

The Pandemic Acceleration Effect

COVID-19 functioned as a massive social experiment, accelerating trends that were already emerging. Remote work, once anathema to Japan's consensus-driven business culture, suddenly became **shikata ga nai** ()—unavoidable necessity. The results challenged conventional wisdom about productivity and presence.

Data from the Japan Productivity Center reveals that remote work adoption jumped from 13% to over 56% during peak pandemic restrictions. More significantly, employee satisfaction scores increased by 23% among companies that successfully implemented flexible arrangements. This suggests that even within relationship-oriented cultures, autonomy remains a crucial motivational factor.

Meanwhile, American workers experienced what psychologists call "values clarification"—a forced examination of work's role in their lives. The resulting labor market volatility reflects not economic dysfunction but healthy market adjustment. Workers are essentially pricing in previously externalized costs: commute time, workplace stress, and limited flexibility.

Convergence and Divergence

What emerges is neither pure convergence nor complete divergence, but what I call "parallel evolution." Both economies are moving toward what economist Albert Hirschman would recognize as a new "voice versus exit" equilibrium—workers are becoming more sophisticated about expressing preferences rather than simply accepting conditions.

In Japan, this manifests as **hatarakikata kaikaku** ()—work style reform—a government initiative promoting efficiency over hours worked. Companies like Panasonic and Hitachi have eliminated traditional overtime expectations, focusing instead on output metrics. The economic logic is clear: preventing burnout maintains human capital investments while improving long-term productivity.

American companies are implementing similar changes through different cultural mechanisms. "Unlimited PTO" policies and results-only work environments serve analogous functions to Japanese work-life balance initiatives, despite emerging from individualistic rather than collective frameworks.

The Future Labor Market

Looking forward, both economies face demographic pressures that will reshape work fundamentally. Japan's declining birthrate and America's aging workforce create labor scarcity that empowers workers regardless of cultural context. This scarcity effect may prove more influential than cultural differences in determining employment relationships.

The most successful organizations—whether in Tokyo or San Francisco—are those adapting to what employees actually value: meaningful work, reasonable autonomy, and sustainable pace. The specific mechanisms differ, but the underlying economic logic converges around human capital optimization.

As we move beyond pandemic disruptions, the real question isn't whether Eastern or Western approaches are superior, but how both can evolve to meet changing worker expectations while maintaining economic productivity. The answer may lie in combining Japan's long-term relationship building with America's adaptive flexibility—creating work cultures that honor both *ikigai* and individual aspiration.

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