



# AN INTERTRIBAL BUSINESS COURT

---

Adam Crepelle

Professor, George Mason University Law School

Director, Tribal Law & Economics Program

Campbell Fellow, The Hoover Institution at Stanford University

# OUTLINE

Tribal Courts

Judicial Forums  
and Business

An Intertribal  
Business Court

# TRIBAL COURTS

---



# DISTRUST OF TRIBAL COURTS

“[Outside businesses] find the courts always rule in favor of tribal members.”

- Mark Zuckerberg (2017)

“He’d have had a fairer shake in a tribunal run by marsupials.”

- Judge Kozinski, Ninth Circuit (2014)

“In short, many tribal courts are so short of resources and personnel that they constitute a national embarrassment.”

- North Dakota Federal District Court (2009)

---

“Western court”

---

Intertribal court

---

CFR courts

---

Peacemaker courts

WHAT  
ARE  
TRIBAL  
COURTS

# WHAT MAKES TRIBAL COURTS UNIQUE

## Indian judges and juries

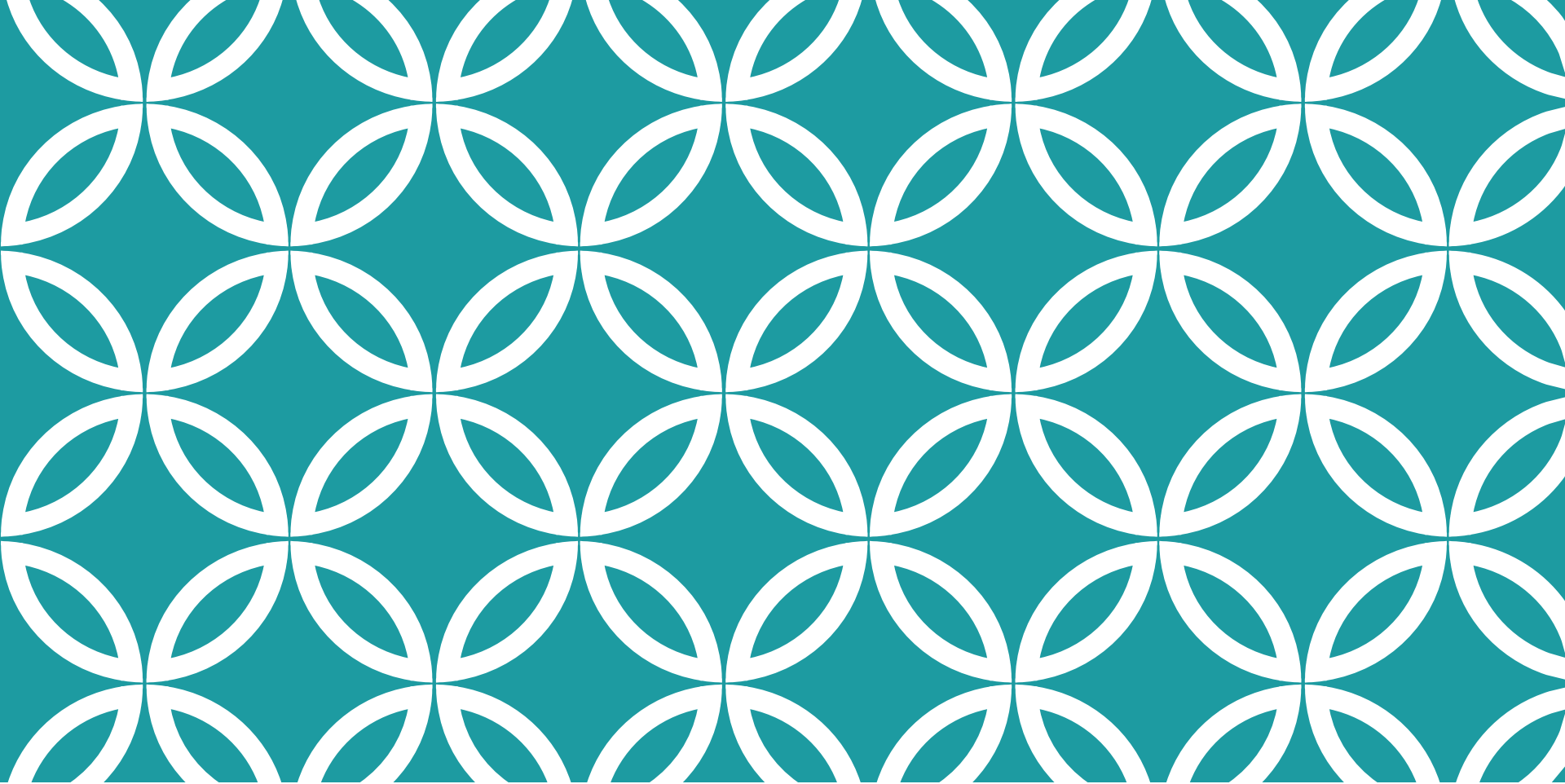
- Fear of bias

## Funding constraints

- Raises concerns about capacity

## Jurisdictional limitations

- Adds uncertainty and litigation costs



# JUDICIAL FORUMS AND BUSINESS



\*Citizens of different states in federal court

\*Appointed, life-tenured federal judges

“No single element—and I want to emphasize this because I don’t think it is always thought of—no single element in our governmental system has done so much to secure capital for the legitimate, development of enterprises throughout the West and South as the existence of federal courts there, with a jurisdiction to hear diverse citizenship cases.”

- President and Chief Justice William Howard Taft

## DIVERSITY JURISDICTION



# BUSINESS COURTS

---

Specialization improves  
court capacity

---

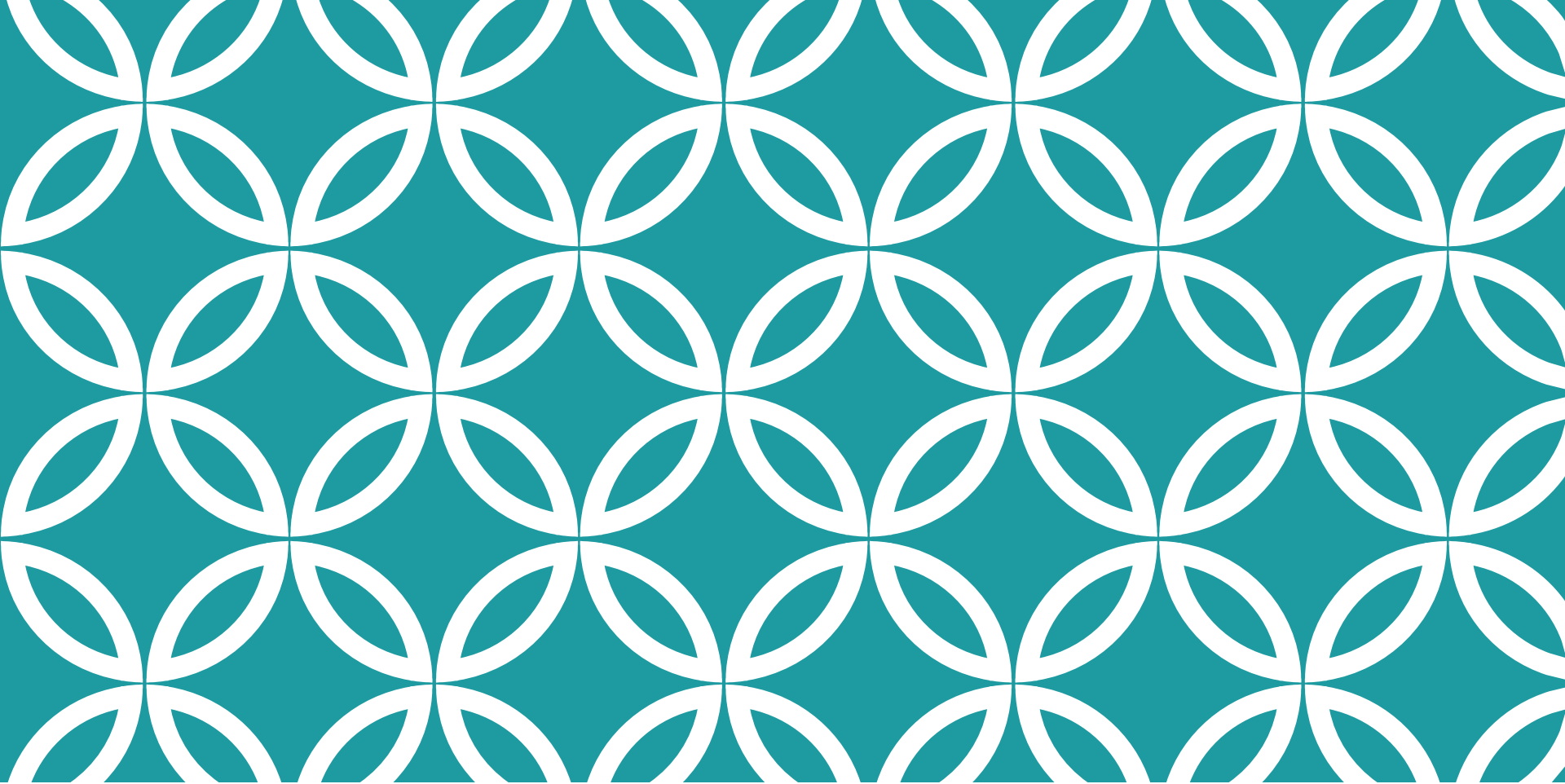
Expert judges

---

More efficient  
procedures

---

28 states



**AN INTERTRIBAL BUSINESS  
COURT** |

# CONSIDERATIONS

---

How many tribes?

---

How broad is the court's jurisdiction?

---

Uniform laws?

---

Judicial requirements and term length?

---

“Western style” or alternative format?

---

Centralized tribal commercial repository?

---

Easily accessible website

## POTENTIAL BENEFITS

Reduce challenges to  
tribal jurisdiction

Increase outside  
investor confidence

Change the way non-  
Indians view tribes

**THE END**