



# Media Release

Rebuilding  
Communities  
Through Indian  
Self-Reliance

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## **TRIBAL SOVEREIGNTY**

Indian tribes existed as sovereign governments long before European settlers arrived in North America. Treaties signed with European nations and later the United States in exchange for land guaranteed the tribes continued recognition and treatment as sovereigns. Historically, state governments have been hostile to the concept of recognizing and dealing with tribes as sovereign governmental entities.

Under the Constitution of the United States and numerous treaties, the federal government undertook to protect tribes from states, who have often coveted the Indians' lands and assets, and sought to impose their will on Indian tribes and people.

## **COURTS HAVE LONG RECOGNIZED INDIAN SOVEREIGNTY**

The U.S. Supreme Court has repeatedly recognized tribal sovereignty in court decisions for more than 160 years.

In 1831, the Supreme Court decided in *Cherokee Nation v. Georgia* that Indian Nations had the full legal right to manage their own affairs, govern themselves internally and engage in legal and political relationships with the federal government and its subdivisions.

In *California v. Cabazon* (1987), the Supreme Court upheld the right of tribes as sovereign nations to conduct gaming on Indian lands free of state control when similar gaming is permitted by the state outside the reservation for any purpose.

The sovereignty was further recognized while at the same time infringed upon by the Indian Gaming Regulatory Act passed by Congress in 1988. The act affirms that tribes have the power to conduct gaming on Indian lands but it gives states the ability to negotiate gaming regulation and games played through the signing of tribal/state compacts.

Some states have challenged the constitutionality of the Indian Gaming Regulatory Act, but U.S. federal courts have upheld the foundation of the law, as well as numerous points that spell out tribes' unique status as sovereign nations within the United States.

Not just any group of Indians can be recognized as an Indian Nation. There are strict laws and lengthy processes to enter into to establish that an Indian community was and is an historic Indian Nation. A Directory of Federally Recognized Indian Nations is maintained by the Bureau of Indian Affairs, Department of the Interior. There are 558 federally recognized tribes.

## **FEDERAL RECOGNITION CAN BE A LONG AND COMPLEX PROCESS**

Today, those latter tribes cannot have any formal government-to-government relations with the United States unless they are recognized by the federal government. Most Indian Nations were recognized in

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the 18th and 19th centuries. A few decimated by war, were overlooked by the U.S. as they clung tenaciously to remote corners of their aboriginal homelands. This can happen in only two ways: the tribe is recognized by an act of Congress, or: tribes undertake a lengthy and complex recognition process with the Department of the Interior. This Process is called the Federal Acknowledgement Process.

Tribes seeking federal recognition from the Interior Department must meet seven historical, anthropological and genealogical requirements. They are:

- a. Sources outside the tribe identify them as Indians or aboriginal peoples.
- b. The tribe must have continuously existed as a community since its first contact with non-Indian people.
- c. The tribe can demonstrate a continual authority system in which there are leaders and followers.
- d. The tribe has formed a written constitution or government document to be used if the tribe receives recognition.
- e. Tribal members can show direct genealogical descent from a tribe that existed before contact with non-Indians.
- f. The majority of tribal members are not members of an existing federally-recognized tribe.
- g. The tribe's federal recognition has not already been terminated by Congress.

If a tribe meets all these criteria it can submit to a year-long review of its case by the Interior Department. The final determination on tribal recognition is made by the Assistant Secretary for Indian Affairs.

### **EACH TRIBE DETERMINES ITS OWN MEMBERSHIP**

It is the right of a Sovereign Nation to define its membership. each of the nation's tribes set their own rules for membership. A degree of Indian blood is necessary for membership in any tribe, although the percentage of Indian blood required for membership varies among tribes. Most tribes require a person to have one-fourth quantum blood degree of his tribe's blood to be an enrolled member. Some tribes have additional qualifications for membership, such a requiring members to clearly establish their lineage.

The federal government has its own purpose in defining who is an "Indian." U.S. laws vary over who qualifies as "Indian," but in order to be eligible for federal benefits most laws require a person have at least one-fourth Indian ancestry.

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