



## Tribal Government 101

### Tribal Sovereigns

Sovereignty is a nation or a state's supreme power to govern itself within its borders. Sovereignty is inherent, comes from within the group and is not delegated. In the U.S. Constitutional framework there are **3 types of domestic sovereigns**:

- The **United States**
- **50 states** and
- **573 federally recognized Indian tribes**

#### What is a federally-recognized tribe?

A federally-recognized tribe is any Indian tribe, band, nation, or other organized group or community of Indians recognized as eligible for the services provided to Indians by the Secretary of the Interior, Bureau of Indian Affairs (BIA) because of their status as Indians. The BIA annually publishes a list in the Federal Register of recognized tribes that are acknowledged to have the immunities and privileges available to federally recognized Indian tribes by virtue of their **government-to-government relationship** with the United States as well as the responsibilities, powers, limitations and obligations that they possess as such tribes. (25 Code of Federal Regulation, 83.5.) The Bureau of Indian Affairs maintains a directory of the tribal leaders of federally recognized tribes at <https://www.bia.gov/tribal-leaders-directory>. Federal laws as administered by the BIA have recognized as tribes groups of Indians occupying Reservations. (Membership may include Indians from multiple historic tribes OR only a small % of members of a particular historic tribes.)

#### Why are Indian tribes treated differently from other groups?

Laws applying to only Indians (such as ICWA) are permitted by the U.S. Constitution because they are **not based on race or ethnicity** but on **political status**, i.e., membership/citizenship in a quasi-sovereign Indian tribe.

#### What is a historic/aboriginal tribe and why does it matter?

A historic tribe is a distinct tribal group/nation in existence when Columbus arrived in America. The groups are generally identified by anthropological and linguistic markers. Contemporary federally recognized tribes descend from these historic tribal groups/nations. Cultural practices of these historic groups continue. The Federal Register list of tribes, which is now considered determinative of federally recognized (government-to-government) status, has only been in existence since about 1980. The tribal names on the list often correspond to land areas rather than to aboriginal or historic cultural tribal groupings as a result of practices of the BIA. Because of this, the BIA maintains a *List of Designated Tribal Agents By (Historic) Tribal Affiliation*. This list is cited in the BIA's *Indian Child Welfare Act; Designated Tribal Agents for Service of Notice* Federal Register publication.

#### Example:

It is not uncommon for Indian people to identify to an historic tribal affiliation instead of a federally recognized tribe a child may be eligible for membership in. For example, the federally recognized Coast Indian Community of the Resighini Rancheria gets its name from Gus Resighini, the non-Indian land owner the BIA purchased the property from. A Resighini Rancheria family is likely to say that they are Yurok (their historic tribal affiliations) rather than identifying to Gus Resighini.

### TWO TRIBAL LANES IMPACTING CDSS ICWA/TRIBAL WORK

**Q** Since the Bureau of Indian Affairs now publishes a list of federally recognized Indian tribes, is historic tribal identity relevant today?

**A** Yes! **Political status** and **Historic tribal affiliation** may be thought of as **distinct but important “lanes” that impact state/tribal work**. It is important to be aware of each, the differences, and how they interact.

# TWO TRIBAL LANES IMPACTING CDSS ICWA/TRIBAL WORK

Historic/cultural affiliation interacts with modern tribal status and is important for many reasons, including -

- Contemporary tribal existence is anchored in historic tribal land ties, traditional values and cultural practices.
- Solutions to problems plaguing tribal communities will most likely be found in tribal traditions rather than in non-Indian systems.
- Indians commonly identify to their historic tribal affiliation, tribal service areas often reach beyond reservation boundaries to historic tribal territories.

## Lane One

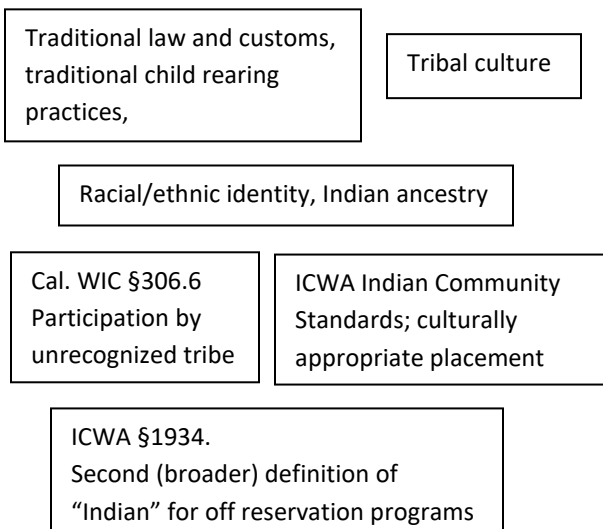
### Racial/Cultural/Ethnic Groups Historic/Aboriginal Tribes

Historic CA Tribal Sovereigns



- Generally, anthropological groupings (tribes) identified as discrete cultural/ethnic groups occupying a defined territory.
- Racial/ethnic identity. Indian ancestry.
- Traditional systems and cultural practices continue irrespective of federal recognition.
- Some Federal and California laws apply to *non-federally-recognized* Indians and Tribes

### Culture Matters



## Lane Two

### "Political Status" (not racial/ethnic) Federally Recognized Tribes (FRTs)

Contemporary CA Tribal Sovereigns



- Derived from Historic Tribes.
- FRTs are quasi-sovereign and *each* stands in an independent government-to-government relationship with the U.S.
- FRTs have powers of self-government
- Tribes may operate programs, including services for non-federally-recognized California Indians

### Tribal Governmental Exercise

