

Definition of Sovereignty

Indian Nations or Tribes possess Inherent Sovereignty. This most basic of all Indian rights, the right of self-government, is a right which has consistently been protected by the courts, frequently recognized and intermittently ignored by treaty-makers and legislators, and very widely disregarded by administrative officials.

Felix Cohen, the noted author of a **Handbook of Federal Indian Law**, feels that "the reason these rights have been disregarded is perhaps due more to lack of acquaintance with the law of the subject rather than to any drive for increased power on the part of administrative officials." This seems to hold true in Alaska today.

Sovereignty is a difficult word to define but perhaps this definition from a handbook on the subject published by the Institute for the Development of Indian Law will suffice. They define sovereignty as, "the supreme power from which all specific political powers are derived."

And as Felix Cohen says, sovereignty is inherent; those powers which are lawfully vested in an Indian Tribe are not, in general, delegated powers granted by express acts of Congress but rather inherent powers of a limited sovereignty which has never been extinguished."

Some say sovereignty comes from spiritual sources. Others feel it comes from within the culture or the people themselves. In any event, by virtue of the fact that the indigenous people of the North American continent were here thousands of years before the Europeans and Asians came into this land, and were organized into different and distinct tribes, bands or groups; Native American people possess inherent sovereignty or the basic right to exist and govern themselves.

The earliest complete expression of these principles is found in the case of *Worcester vs. Georgia* in 1832. In that case the State of Georgia, in its attempts to destroy the tribal government of the Cherokees, had imprisoned a white man living among the Cherokees with the consent of the tribal authorities.

The Supreme Court of the United States ruled that his imprisonment was in violation of the Constitution, that the State had no right to infringe upon the Federal power to deal with the Tribe.

Justice John Marshall, in his decision declared: "the Indian nations had always been considered as distinct, independent, political communities, and the settled doctrine of the law of nations is, that a weaker power does not surrender its independence — its right to self government — by associating with a stronger, and taking its protection.

"A weak state, in order to provide for its safety, may place itself under the protection of one more powerful, without strip stripping itself of the right of government, and ceasing to be a state."

Marshall's analysis forms the basis of the Federal Trust Relationship with the Indian Tribes. His remarks of the right of Indian self-government in the law of nations has been consistently followed by the courts for the past one hundred and 50 years.

Alaska Native Tribes possess inherent sovereignty, but the legal question remains: over what land do the Tribes have jurisdiction?

Next week Indian Country is explained.