

## **The Indian People in America Today**

**Who is an Indian?** There is no single definition of Indian. Before European contact, tribal membership was determined by kinship ties - that is, by cultural identification either with one's maternal or paternal ancestry. Today, however, most tribes require a certain amount of "blood quantum," or Indian blood, which varies from tribe to tribe. Enrollment for the Eastern Band of Cherokee requires 1/16 Indian blood, The Cherokee Nation of Oklahoma require individuals to trace their genealogical descent from a direct ancestor included on their 1907 tribal roles.

Federal agencies define Indians differently than do the tribes. The United States Census Bureau states that an Indian is anyone who declares himself or herself to be an Indian. The federal Bureau of Indian Affairs (BIA), which distributes funds and services to Indians, generally defines an Indian as an individual who is a member of an Indian tribe, band, or community that is officially recognized by the federal government; who lives on or near a reservation; and who is of 1/4 or more Indian ancestry.

**What is the current Indian population?** The most recent statistics are those of the 1990 Census. At that time, 1,859,234 individuals identified themselves as Indians, representing 0.8% of the total U.S. population of 248,709,873. Although the federal census found about 1.8 million self-identified American Indians, only around 1 million were actually enrolled in a federally-recognized tribe.

The states with the largest Indian population are Alaska with 15.6% of the state's total population; New Mexico with 8.9%; Oklahoma with 8%; Montana with 6%; Arizona with 5.6%. California has 0.8%.

**What is an Indian reservation?** Land that is "reserved" for an Indian tribe to live on and use is called a reservation. In colonial years, reservations were created when a certain proportion of traditional land was "reserved" by the federal government in a treaty that persuaded or forced Indian tribes to give up the majority of their homelands. During the early 1800s, it was common for tribes to be removed from ancestral lands and placed on reservations located outside traditional areas.

The largest is the Navajo Reservation which covers between 14-15 million acres of lands in Arizona, Utah, and New Mexico. Other large reservations are located in Arizona (Fort Apache with 1,665,000 acres; Hopi

with 1,561,000 acres; San Carlos Apache with 1,827,000 acres; Tohono O'odham with 2,774,000 acres), Montana (Crow with 1,516,000 acres), South Dakota (Cheyenne River with 1,396,000 acres; Pine Ridge with 1,779,000 acres), Utah (Uintah and Ouray with 1,096,000 acres), Washington (Coville with 1,063,000 acres; Yakima with 1,130,000 acres), and Wyoming (Wind River, 1,888,000 acres). One of the smallest is Blue Lake Rancheria in northern California with less than an acre.

Federal Indian reservations total about 300 which are located in 33 states. California has the highest number of federal reservations - about 95. But about half of these are small rancherias that range in size from less than one to several hundred acres.

**How many Indians live on reservations?** The 1990 Census reported that 22.3% (437,431) of the total number of Indians live on reservations. Most Indians live in urban or suburban settings.

**What is the Bureau of Indian Affairs?** The Indian Office was created in 1824 and operated under the War Department. In 1849, Congress transferred it to the newly-created Department of the Interior and renamed it the Bureau of Indian Affairs (BIA). It is the responsibility of the BIA to administer federal programs that benefit the Indian people who are members of a federally-recognized Indian tribe.

**What is a federally-recognized Indian tribe?** Tribes that exist as a distinct political group and that have a formal relationship with the US are federally-recognized. This means that the tribe has certain rights and powers of self-government and is entitled to specific benefits and services that are stated in various federal laws. There are about 520 officially recognized tribes in the United States today in the lower 48 states and another 197 recognized tribes in Alaska. Perhaps as many as 200 or more tribal groups are not recognized by the federal government for a variety of reasons: they never signed a treaty with the US government; their recognized status was terminated by Congress in the 1950s and they are instead recognized by the state in which they reside; they desire recognition but have been able to gain such a status.

**What benefits and services are available to federally-recognized tribes?** Two main federal agencies are responsible for providing benefits and services to Indians - the Bureau of Indian Affairs (BIA) and the Indian Health Service (IHS). Major benefits and services include but are not limited to medical and dental care; grants and programs for education; housing programs, aid for developing tribal governments and courts; resource management; and various miscellaneous services.

While being an Indian is no cause for receiving money from the federal government, there are a few situations in which Indians do receive money. For instance, in Humboldt County, contemporary children of the Yurok tribe stand to receive a sum of federal money upon turning 18 and becoming a legal adult. This has not always been the case and children born after a certain date do not qualify and the payment applies to only one generation. The Yurok Tribe won a law suit filed against the federal government over a division of land between the Yurok and Hoopa tribes. The judgment required that moneys be paid to the Yurok tribe. This money was divided up among tribal members who were living at the time of the judgment. However, some of the tribal members were minors at the time. Thus, the federal government has held their portion in trust, which is payable upon turning 18 years of age.

Another scenario where money is paid to a local tribe involves the Hoopa. The money paid in this case is not federal money, but rather moneys paid from profits gained from tribal business. The Hupa people have marketable resources on their reservation - especially timber. They harvest their resources for profit. After all harvesting expenses and all government expenses (of all kinds) are paid, they may be a surplus. If a surplus exists, the tribe divides the moneys equally among its members. Adults receive a check - if there is a profit during the year - while the amounts owed to minors are held in trust. Upon turning 18 years old, the tribal members will receive 18 years of payments.

**What is sovereignty?** While there is no clear definition of sovereignty, there are a number of generally accepted attributes that qualify something as sovereign. First, there must be a distinct, unique group of people who must have a distinct language, a distinct moral and religious structure, and a distinct cultural base. They must have a specific geographic area that they control and regulate. Within that area, they must possess governmental powers, including the power to tax and the power to change their government if they see fit. These governmental powers must be acknowledged by the people who are subject to them, and they must be enforceable by some sort of authority, whether it be military, police, or general citizen control. Finally, a sovereign entity must be recognized by another sovereign. For Indian tribes, that recognition has taken place through treaties.

**What is a treaty?** Treaties are a contract between governments. When two governments enter into a treaty, that means they recognize each other as sovereigns. Treaties historically were and contemporarily are the basis of the relationship between tribes and the United States. Historically, Europeans had two reasons for entering into treaties with Indian tribes. First, tribes had

significant military power. Second, until about 1800, tribes controlled the balance of power in this country. If the tribes wouldn't support you, you at least wanted them to remain neutral. What you did not want was for tribes to be against you, because they were powerful enough to crush your efforts if they chose to do so.

**Since tribes are often described today as semi-sovereign entities, what sovereign powers do they retain?** Much tribal sovereignty was lost when Indian nations signed treaties with the United States government. Today, Congress has plenary, or near absolute, power to limit tribal sovereignty. However, all tribes continue to possess some sovereignty over their internal affairs. They have the powers to:

- determine their form of government,
- to define conditions for membership in their tribe,
- to administer justice and enforce laws,
- to tax tribal members,
- to regulate the domestic relations of its members, and
- to regulate property use.

It is important to note that states can not interfere with the self-government of federally-recognized tribes.

**What is the Trust Relationship?** During the colonial period of American history and throughout most of the nineteenth century, all relations between Indian tribes and the government were believed to be **government-to-government**. That is, relationships were between two sovereign and legitimate nations - the United States and the individual Indian nation. As the result of the U.S. Supreme Court case ***Cherokee Nation v. Georgia*** in 1831, the government-to-government relationship was altered. Thereafter, Indian nations were believed to be dependent domestic nations rather than sovereign foreign nations. As a result of becoming domestic Indian nations living within another nation, the federal government assumed a responsibility to protect the interests of Indians. This "Trust Relationship" occurred when an Indian nation gave part or all of its land to the federal government by means of a treaty. In return, the federal government was obligated to provide services and to take other appropriate actions necessary to protect Indians and tribal self-government. This relationship continues to guide today's federal policies and actions dealing with federally-recognized Indian tribes. In other words, the federal government still has the responsibility to honor its agreements and treaties with Indian nations.