



Tribal Government 101

Separate Sovereigns

SOVEREIGNTY? A nation or state's supreme power 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**:

Federal	State	Tribal
• U.S. Government	• 50 States	• 573 Tribes

Tribes as Quasi-Sovereign Nations

Fundamental principles governing decisions on the nature of Tribal powers

1. Indian tribes possess, in the first instance (at contact), all powers of any sovereign state.
2. Conquest renders tribes subject to the legislative power of the U.S. (*Plenary Power*) and terminates the external powers of sovereignty of the tribe, but does not, by itself, affect the internal sovereignty of the tribe.
3. Internal sovereign powers are subject to qualification by treaties and by *express legislation by Congress*, but, except as expressly qualified, full powers of internal sovereignty are vested in the tribes and their duly constituted governments.
 - These 3 principles set out the basic frame work of Federal Indian Law. Title 25 of the U.S. Code is titled *Indians* and contains 2 volumes of laws that qualify tribal powers, including statutes that address the *special case of California*.
 - Laws that apply only to Indians are permitted by the U.S. Constitution because they are **not based on race or ethnicity** but on **political status**, i.e., the unique history of Indians and membership/citizenship in a quasi-sovereign Indian tribe.

Government-to-Government Terminology Tribes are quasi-sovereign governments and can interact on a governmental basis with the federal and state governments. Such interactions involve terminology such as Jurisdiction; Full Faith and Credit; Comity; Delegation; Intergovernmental Agreements; Licensure; Regulation; citizenship (tribal membership versus racial or ethnic status); etc.

Interests, Authority and Capacity Tribes are discrete sovereigns but are impacted by federal and state laws and may engage with federal and state processes in many ways – as governments, as agents, as service providers, as clients, etc. The authority and capacity of a tribal interest should not be assumed but should be clearly established. Like states, tribes have diverse interests and authority. Why and how something is done may be of great significance.

CA Federally Recognized Tribes, Contemporary CA Tribal Sovereigns

Generally, a tribe must be *federally recognized* to stand in a government-to-government relationship with the United States. The Bureau of Indian Affairs (BIA) is the federal agency that administers the tribal recognition system, BIA identifies the number of California tribes as 109. This includes 104 Tribes located within the jurisdiction of the BIA Pacific Region (California) and 5 with trust lands (Indian Country) in California but who are under the jurisdiction of the BIA Western Region.

