Understanding Tribal Sovereignty

Part 1: Defining Tribal Sovereignty

Tribal sovereignty encompasses legal, cultural, political, and historical traditions that are a complex mix of both European and Indigenous approaches to governance. There are three types of sovereign governments in the United States: the federal government, state governments, and tribal governments.

- A *federal government* derives its sovereign power from the people—its voting citizens.
- A *state government* derives its sovereign power from the federal government.
- A *tribal government* derives its sovereign power from the people and from its connection to ancestral territory. Tribal sovereignty is not a gift bestowed by an external government and is not outlined in the U.S. Constitution, although the sovereign status of tribes is recognized by the U.S. government and has been upheld by the U.S. Supreme Court.

IMPORTANT HISTORICAL PERIODS

The interaction between American Indian/Alaska Native people and Euro-Americans can be divided into the following historical periods:

- **Pre-contact period, from time immemorial to 1492**
- **Colonization period, from 1492 to an indeterminate date**
- **Treaty period, 1789–1871**
- **Removal period, 1834–1871**
- **Allotment/assimilation period, 1887–1934**
- **Tribal reorganization, 1934–1958**
- **Termination, 1953–1988**
- **Self-determination, 1975–present**

Sovereign nations have the right to form their own government, determine membership or citizenship, make and enforce laws, regulate trade within borders, and form alliances with other nations. Sovereignty is the internationally recognized right of a nation to govern itself, and American Indian tribes existed as sovereign governments long before Europeans settled in the Americas.

In the pre-contact period (see sidebar) tribes embodied sovereignty by negotiating treaties and agreements with each other. In the colonization period, sovereignty was inherent in the interactions between tribes and the developing government of the United States and was later described in the Commerce Clause of the U.S. Constitution, which states *"The Congress shall have power … to regulate commerce with foreign nations, and among the several states, and with the Indian Tribes"* (Article I, Section 8, Clause 3). Many subsequent legal cases have firmly established the government-to-government relationship between American Indian tribes and the U.S. government.

Understanding Tribal Sovereignty *(Continued)*

In the treaty period, sovereignty was formalized in nation-to-nation agreements between tribes and the U.S. government. This is unique in that the U.S. government does not have treaties with the individual 50 states and treaties are, by definition, agreements made between sovereign nations. The treaties recognize American Indian tribes as domestic sovereign nations that possess self-government, which means that state governments generally do not have powers within reservations.

In subsequent historical periods, the U.S. government repeatedly failed to uphold treaty agreements, particularly in regard to the education of American Indian/Alaska Native (AIAN) children and youth. As a result, there have been a series of legislative acts that are designed to hold the government accountable for meeting its obligations to AIAN students, including:

- 1930 Johnson O'Malley Act
- 1950 Impact Aid Law
- 1972 Indian Education Act
- 1975 Indian Self-Determination and Education Assistance Act
- 1978 Tribally Controlled Community Colleges Act
- 1988 Tribally Controlled Schools Grants Act
- 1990 Native American Languages Act

While AIAN students exist in a complex social, cultural, and political context, many distinct Indigenous cultures, languages, and ways of being have survived and continue to transcend erasure and colonization. Schools and districts can draw on these exemplars of survivance and self-determination as part of a "culture-as-intervention" approach to working with AIAN students. This approach was developed in the mental health and addiction counseling fields and encourages individuals to embrace their cultural identity as part of an overall physical and mental wellness program.

To understand how culture as intervention could inform the education of AIAN youth it is necessary to have some basic understanding of contemporary Native identity, including common myths, stereotypes, and cultural misunderstandings that may impact how Native youth are treated in a public school environment.

Understanding Tribal Sovereignty *(Continued)*

Part 2: Serving American Indian/Alaska Native Students

The most important thing to understand is that AIAN youth are not homogeneous. They are, like all youth, complex and whole individuals—there is no single universalizing experience of being a Native person, although many AIAN youth will share common experiences.

AIAN youth are members or descendants of more than 567 tribal communities whose ancestral territories span the entire North American continent, from the Inupiat Community of the Arctic Slope in Alaska to the Seminole Tribe of Florida, the Penobscot Nation in Maine to the Lummi Nation in Washington state. Far from the monolithic image of indigenous people that is often portrayed in the media and popular culture, this represents a rich cultural diversity.

Due to the impact of colonization, removal from ancestral territory, cultural repression, and other factors, the contemporary Native experience is also diverse. Those serving AIAN youth should be aware of the following:

- Not all people who identify as AIAN live on or near a reservation.
- Not all people who identify as AI/N are enrolled in a federally recognized tribe or nation.
- Some people who identify as AIAN will have limited or no contact with their AIAN heritage and traditions.
- Some people who identify as AIAN are multiracial.
- Not all people who identify as AIAN can be easily identified by their physical appearance.
- AIAN identities are shaped by many complex social, political, historical, and cultural factors.

In addition, there are consistent and pervasive myths and stereotypes that are perpetuated by the media, social networks, and popular culture, which lead to one-dimensional ideas about AIAN youth. These myths and stereotypes have inevitably found there way into public education.

For example, a common stereotype is that many AIAN people are alcoholics. While many AIAN communities are disproportionately impacted by alcoholism, this stereotype lacks context. Many Native people live in an environment of systemic racism and colonization, which creates living conditions of abject poverty, lack of economic opportunity, and easy access to drugs, alcohol, and unhealthy foods, while having very little access to healthy foods, clean water, and adequate health care.

Understanding Tribal Sovereignty *(Continued)*

Yet, in the face of these realities, many Native communities continue to embody sovereignty and cultural strength, finding ways to counter the deleterious impacts of racism and colonization by embracing their indigenous heritage, traditions, and identity. When studying tribal sovereignty—and serving AIAN youth—it is essential that educators understand the diverse, complex, challenging, and inspiring context in which sovereignty plays out.

Concepts to understand

1. American Indian/Alaska Native youth are members or descendants of more than 567 diverse tribal communities.
2. Tribal sovereignty encompasses legal, cultural, political, and historical traditions, and these traditions are connected to both European and indigenous concepts of governance.

Check for understanding:

- Students should be able to define tribal sovereignty.