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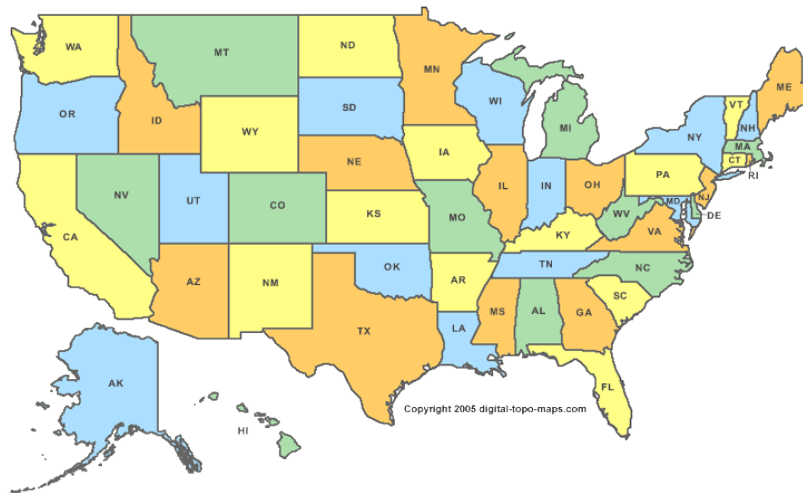
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# THE INDIAN STATES OF AMERICA: PARALLEL UNIVERSES & OVERLAPPING SOVEREIGNTY

*Joseph William Singer\**

## *I. Why Do We Have Tribal Sovereignty?*

We live in the United States of America. Or do we? Look at a typical map of the United States. It shows the external borders of the country and, of course, the states, which are pretty important in our political system, as the meeting of the Electoral College following the 2012 popular election reminded us. This is the map most of us grew up with. Some of us had puzzles that taught us to place the states where they belonged on the map, and many of us had to memorize state capitals in geography classes. But I have to tell you that there is something wrong with this map. And the thing that is wrong is something most Americans do not even know about. This map is not actually a map of the United States. It is a map of a country that does not exist. Of course it exists in people's minds and as Albus Dumbledore reminds us, the fact that it exists only in our minds does not



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\* Bussey Professor of Law, Harvard Law School. Thanks and affection go to Martha Minow, Mira Singer, Bob Anderson, Bethany Berger, Kristen Carpenter, Carole Goldberg, Lorie Graham, John LaVelle, Molly McGlennen, Nell Newton, Angela Riley, Judy Royster, Molly Shanley, Kevin Washburn. This speech was delivered at Vassar College, January 31, 2013.

mean it is not real. But it is not an accurate map of the United States. What is wrong with it?

The map erases the 566 federally recognized Indian nations within the borders of the country. The map renders them invisible; it pretends they do not exist. Well, they may be invisible to most Americans, but that does not make them unreal. Those who do not want to see things that are there wield immense power over those they have rendered invisible. And if one thing is certain, it is that we must be careful how we exercise power.

Here is a map of Indian Country today. The gray areas represent the lands currently under tribal jurisdiction. They are what remain after the United States took territory from Indian nations during the eighteenth and nineteenth centuries. They represent some two percent of the land in the continental United States.<sup>1</sup> Some of the Indian lands are quite large. You can see that Navajo country down in Arizona and New Mexico is larger than my home state of Massachusetts.<sup>2</sup>



1. About "56.2 million acres of land are now held in trust by the United States for Indian tribes and individuals." COHEN'S HANDBOOK OF FEDERAL INDIAN LAW § 15.01, at 995 (Nell Jessup Newton et al. eds., 2012) [hereinafter COHEN'S HANDBOOK]. That amount is about two percent of the landmass of the continental United States. *An Introduction to Indian Nations in the United States*, NAT'L CONG. OF AM. INDIANS, 13 (Nov. 11, 2003), [http://www.ncai.org/about-tribes/Indians\\_101.pdf](http://www.ncai.org/about-tribes/Indians_101.pdf).

2. Unless otherwise noted, the Indian Country maps in this article are reprinted with permission from CARL WALDMAN, *ATLAS OF THE NORTH AMERICAN INDIAN* 174, 176, 177 (3d ed. 2009) (maps by Molly Braun).

I teach and write about federal Indian law, the area of federal law that regulates the relations among the tribes, the states, and the federal government. It is not a subject most lawyers know about, and it is not part of the basic curriculum in most law schools. But there are several states in the West that now make it a basic part of the curriculum because it is so important to state affairs that it is on the bar exam. However, that is not the case here in the East. My colleagues know of my interest in the field of federal Indian law, and they frequently ask me a seemingly simple question: Why do we have tribal sovereignty? This question is followed by several others: Isn't tribal sovereignty an outdated relic? Doesn't it treat Indians as second-class citizens? Didn't *Brown v. Board of Education* reject "separate but equal" as a legitimate philosophy? How can it be democratic to have sovereigns that confer citizenship based on ancestry? Doesn't that constitute race discrimination?

These are good questions, and they deserve an answer. But I first want to complain a bit about the way the questions are posed. If you ask, "Why should we have tribal sovereignty?" you are suggesting that we are in a situation of neutrality, and we are making a choice about whether or not to recognize such sovereignty in the first place. The question assumes we are writing on a blank slate. But that is *not* our current situation. Like the incorrect map of the United States, this question erases our history; it erases our law; and it pretends that we are in a position very different from reality.

The reality is that we *have* tribal sovereignty. We have always had it. The map of the United States that excludes the tribes is a false map. We imagine that non-Indians conquered the tribes, and they somehow went away or were fully assimilated as U.S. citizens. While Indians are U.S. citizens today, many are also dual citizens of the United States and their respective tribes. The fact is that the United States never fully conquered the Indian nations. Their sovereignty preexists the United States; it was diminished by the exercise of federal power but never fully obliterated (at least for most tribes).

So if you ask why we should have tribal sovereignty, you are really asking, "Why shouldn't we get rid of the tribal sovereignty that we currently have?" And that question really means, "Why shouldn't the United States withdraw its recognition of tribal governments and end the government-to-government relationship that the United States now enjoys with 566 Indian nations?"

Well, abolishing tribal sovereignty by federal fiat against the will of the Indian nations would be an astounding thing to do. It would be equivalent to an act of conquest. Once we understand that, it becomes clear that asking

whether we should *have* tribal sovereignty is actually asking whether we should *abolish* it. And that is the same as asking, “Why don’t we conquer the Indians today?” or saying, “The United States conquered the Indians. Why don’t we keep doing it? Why don’t we finish the job?”

It is one thing to imagine that conquest happened, that it was morally problematic, and that we cannot undo it and somehow have to live with the consequences. It is another thing entirely to suggest we should continue to engage in it ourselves today in the twenty-first century. Asking why we should have tribal sovereignty is a polite way of asking why we should not engage in conquest. Of course, those who question tribal sovereignty do not think they are proposing conquest; what is apparent is that they do not realize the actual state of affairs within which that question is posed.

It should be noted that invading another country against its will to colonize it violates contemporary norms of international law.<sup>3</sup> Indeed, the United States went to war with Iraq the first time because Iraq invaded and occupied a defenseless, small nation that Iraq argued was an errant lost province that really belonged to Iraq. That act of war by Iraq induced the United States to invade Iraq to protect Kuwait’s sovereignty. We did so to protect Kuwait’s right to self-determination—a right enshrined in international law and one of the core tenets of democratic theory.

The casual question “Why should we have tribal sovereignty?” betrays a view of the world that is based on the false map and a false history. Yet it is the way the world is viewed by many, including politicians in positions of power and many judges serving on our courts. But coexisting with that imaginary world is another where tribal sovereignty is a reality. It was not erased by history, and it is recognized by United States law. That world coexists with the fantasy world where conquest was completed.

I want to emphasize that the fantasy world where conquest was completed and tribal sovereignty was abolished completely is a world that is both true and false. It is false because, as a matter of historical fact and current law, conquest was not completed. It is true because it is what many Americans believe, and beliefs shape attitudes and actions, as well as public policy. The world of conquest is both real and unreal.

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3. See COHEN’S HANDBOOK, *supra* note 1, at § 5.07[2][a], at 453–54 (describing the U.N. Charter’s fundamental commitment to the “self-determination of peoples”).

## II. Parallel Universes

I am a fan of fantasy and science fiction. We ordinarily think of science fiction as writing about imaginary worlds. But a fascinating recent book by literary theorist Seo-Young Chu argues that science fiction is not about imaginary worlds.<sup>4</sup> Rather, she argues, science fiction concretizes and describes reality.<sup>5</sup> It describes not imaginary things but real things that are hard to represent in ordinary language.<sup>6</sup> The reality that science fiction describes is concepts that are hard to understand by reference to ordinary criteria.<sup>7</sup> They are what she calls “cognitively estranging referents.”<sup>8</sup> Such objects are real, but they are hard for us to grasp, to understand, to explain, and to describe.<sup>9</sup> Chu says, “[L]et us consider the cognitively estranging referent as an object of wonder.”<sup>10</sup> She further explains:

Objects completely unknowable (objects with respect to which our intellects remain completely “unawakened”) are merely estranging. Objects completely knowable (objects with respect to which our knowledge is “so complete that there no longer exists anything unexpected”) are merely accessible to cognition. But objects of wonder (objects that produce in us “a horizon-effect of the known, the unknown, and the unknowable”) are cognitively estranging. These are the objects represented in science fiction.<sup>11</sup>

Cognitively-estranging objects are things that are real but are hard to wrap our minds around. Chu argues that one of the main functions of art is to represent such objects and to make them accessible to our understanding and to enrich our experience of them.<sup>12</sup> Science fiction does this by naming those objects and giving them concrete form. The work of making objects of wonder accessible is the same work done by metaphors and literature and music. We need ways to express what cannot be easily reduced to simple words or concepts. One such object of wonder might be the concept of the

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4. See SEO-YOUNG CHU, *DO METAPHORS DREAM OF LITERAL SHEEP? A SCIENCE-FICTIONAL THEORY OF REPRESENTATION* (2010).

5. *Id.*

6. *Id.*

7. *Id.*

8. *Id.* at 3.

9. *Id.* at 3–5.

10. *Id.* at 5.

11. *Id.*

12. *Id.* at 73–75.

parallel universe—something physicists play around with and sometimes argue actually exists.

I want to argue that parallel universes are real and that we experience them in the plural communities in which we live. People in different communities see the world from very different perspectives. We look at the same facts and see different things; we evaluate the same facts and come up with very different normative judgments. Think of the conflict between American free speech norms and Islamic demands to regulate offensive portrayals of the prophet Mohammed. Think of the different worldviews represented by Fox News and MSNBC. Think of the worldviews of those who see same-sex marriage as a threat to the order of things and those who see its prohibition as simple denial of human rights.

A Gahan Wilson cartoon shows an artist painting a couple of bare trees. His painting does not look like what we see. It shows not a tranquil fall day but a world filled with monsters. The artist explains to a spectator, “I paint what I see.”<sup>13</sup> In looking at the world and telling it like it is we paint what we see. But we do not all see the same thing when we look at the world. And as Oscar Wilde reminds us, “Things are because we see them, and what we see, and how we see it, depends on the Arts that influenced us. To look at a thing is very different from seeing a thing.”<sup>14</sup>

In one world we have the United States of America, where conquest was completed and tribal sovereignty does not exist. In another world we have tribal sovereignty: It has always existed; it has been diminished but never abolished; and it coexists with the sovereignty of the United States, occupying the same space-time continuum and exerting substantial force on events in the real world. Here are two very different universes; yet, somehow they both exist and exert force on each other. How do we manage in a world of parallel universes?

### *III. The United States of America v. the Indian States of America*

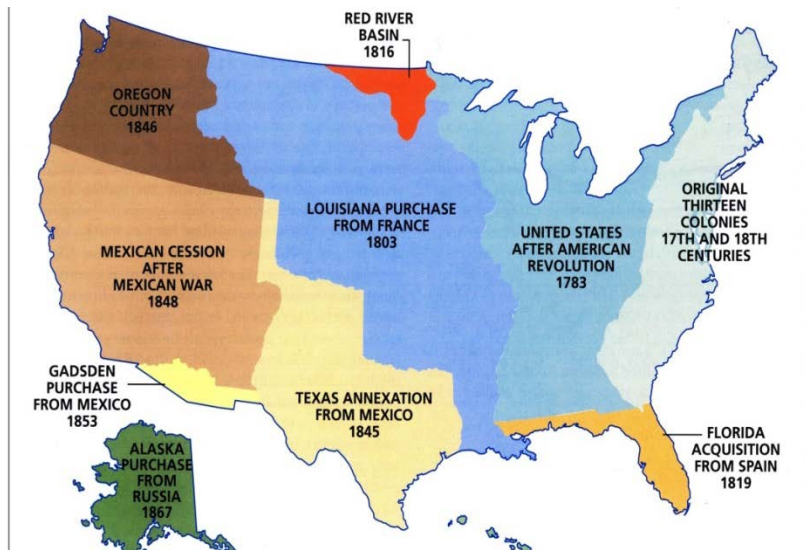
The first world I described was the world of conquest. This is the world described in many history textbooks that show the United States moving west, acquiring territory from other colonial powers. Here is the map most of us learned in school that shows the great land transfers among colonial powers. (see next page) We see transfers of land from France, from England, from Spain, and from Mexico. What are missing from this picture

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13. See GAHAN WILSON, *I PAINT WHAT I SEE* (1971).

14. OSCAR WILDE, *THE DECAY OF LYING* (1889), available at [http://www.sscnet.ucla.edu/comm/steen/cogweb/Abstracts/Wilde\\_1889.html](http://www.sscnet.ucla.edu/comm/steen/cogweb/Abstracts/Wilde_1889.html).

are the Indian nations that inhabited all these territories. Look at the Louisiana Purchase. It looks empty. The map suggests that in 1803 in the instant a few men signed a piece of paper, the U.S. borders moved dramatically westward.



Yet, this is a lie. The U.S. borders moved *as between the United States and France*. Those two nations agreed on the western border of the United States, and the United States began to draw its maps thusly. But the Indian nations inhabiting those lands did not sign the treaty of 1803, and it required many more years and many more treaties and many wars before the United States actually established sovereignty over the Louisiana Purchase.<sup>15</sup> Here is another map of the Louisiana Purchase from my daughter's high school history textbook—a really good book, one that has substantial information about Indians.<sup>16</sup> (see next page) Look at it. Empty. And the caption calls it “the largest peaceful acquisition of territory in U.S.

15. ALAN BRINKLEY, *THE UNFINISHED NATION: A CONCISE HISTORY OF THE AMERICAN PEOPLE* 166 (7th ed. 2013) (noting that the treaty involved a payment of 80 million francs, or \$15 million, to France).

16. JOHN MACK FARAGHER, MARI JO BUHLE, DANIEL CZITROM & SUSAN H. ARMITAGE, *OUT OF MANY: A HISTORY OF THE AMERICAN PEOPLE* 284 (5th ed. 2007).



history.”<sup>17</sup> I didn’t know whether to laugh or cry when I read that. Remember Custer’s Last Stand? There were at least five major wars between the United States and the Sioux Indians.<sup>18</sup> Peaceful acquisition? Not true. Not even close to true.



MAP 9-2

**Louisiana Purchase** The Louisiana Purchase of 1803, the largest peaceful acquisition of territory in U.S. history, more than doubled the size of the nation. The Lewis and Clark expedition (1804–06) was the first to survey and document the natural and human richness of the area. The American sense of expansiveness and continental destiny owes more to the extraordinary opportunity provided by the Louisiana Purchase than to other factors.

After acquiring lands in the West from France and England and Mexico, the United States had to acquire all the lands a second time from the Indian nations that inhabited those territories. The next map shows the large land cessions from tribes to the United States that occurred in the nineteenth century. (see next page) The Indian land cessions overlap the state borders so you can see where they are located and also see that the lands were not empty of people or devoid of nations. When the French withdrew from the Louisiana Purchase, it was not an empty land ready for settlement. It was filled with Indian nations, nations erased from our history by the maps we have been taught.

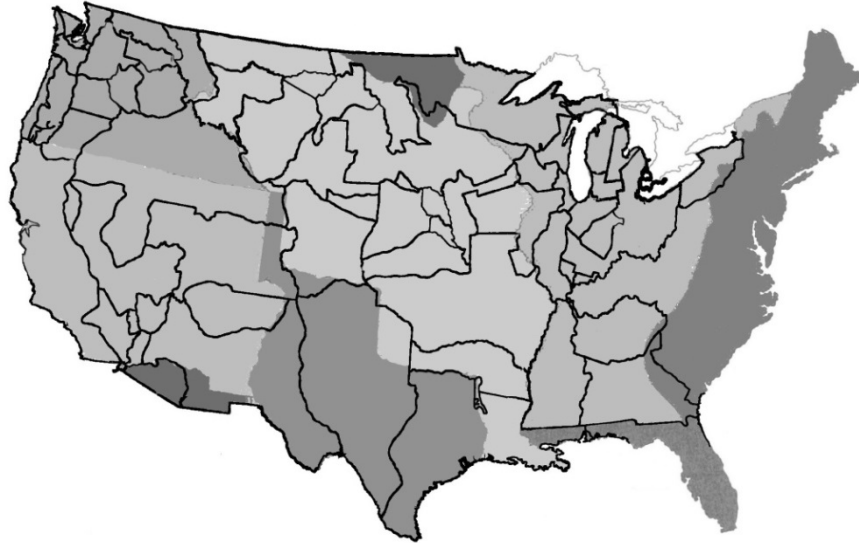
17. *Id.*

18. *Sioux Wars*, ENCYCLOPEDIA OF THE GREAT PLAINS, <http://plainshumanities.unl.edu/encyclopedia/doc/egp.war.044> (David J. Wishart, ed.) (last visited May 29, 2014).



For years I was complaining about maps of the Louisiana Purchase and the way they misrepresented reality. Our daughter Mira Singer heard me talking about this and asked why I was so upset. I told her I wanted a map that showed the Louisiana Purchase filled with Indian nations. It was wrong that it looked empty when it was actually inhabited by sovereign nations. Without those Indian nations, the map was like a map of Europe that did not show France or Spain or Italy. I wanted a historian or a geographer or someone with expertise to create those maps. I am just a lawyer. But Mira looked at me and asked if I had the maps of the Indian nations. I said, “Yes.” Then she asked, “And you just want to put the maps of the Indian nations on top of the map of the Louisiana Purchase, right?” I said, “Yes.”

She looked at me and said, “Well, I could do that.” And voilà. Through initiative and her skill with Adobe Photoshop, Mira created the map I always wanted. And here it is:



According to the conventional map, the United States spread from sea to sea by about the time of the Civil War. But if we look at the timing of the Indian land cessions, it was not until the end of the nineteenth century that that was the case, and even then the tribes retained large swaths of land.<sup>19</sup>

It is not a minor thing to ignore millions of people or hundreds of nations. But the universe that erases Indian nations has consequences for them. When Indian nations exercise their inherent sovereignty, they often face opposition from non-Indians skeptical of their right to exist. And at various times in our history, the United States has acted as if tribal sovereignty is a relic of the past that should be on its way out. The U.S. Supreme Court has also been skeptical when Indian nations exercise sovereignty over non-Indians and has severely limited their powers to do so.<sup>20</sup>

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19. WALDMAN, *supra* note 2, at 216 (map showing times when land cessions were made by Indian nations to the United States).

20. COHEN'S HANDBOOK, *supra* note 1, at § 6.02[2], at 506–11 (explaining common law limitations the Supreme Court has imposed that limit tribal sovereignty over nonmembers).

At the same time, we live in a parallel universe where tribal sovereignty is real and enshrined in both law and public policy. Rather than asking why we should have tribal sovereignty, I will ask, “Why has tribal sovereignty persisted?” I noted above that some non-Indians worry that tribal sovereignty is inconsistent with U.S. sovereignty, and that it clashes with our ideals of democracy and equality. These concepts are complicated both in the ways we understand them and in thinking about them normatively. I will give three arguments for tribal sovereignty based on history, democracy, and equality. The ultimate task is not only to explain why tribal sovereignty is consistent with U.S. sovereignty, but also why the recognition of tribal sovereignty is compelled by American values. A free and democratic society that treats each person with equal concern and respect would choose to recognize tribal sovereignty rather than abolish it.

#### *IV. Three Arguments for Tribal Sovereignty*

The first argument for tribal sovereignty is based on *history*. As a matter of historical fact, tribal sovereignty and tribal property rights *precede* the United States. Under federal law those rights persist to the extent they have not been diminished by federal action.<sup>21</sup> Contrary to what many assume, conquest was never completed. And even when the United States has historically diminished tribal sovereignty and property, it remains open to us to consider whether those infringements were lawful or justifiable. If they were illegitimate, that fact places an obligation on us to decide what to do about it today.

Contrary to the fears of those who believe that sovereignty is unitary and that there cannot be more than one sovereign over a particular land, the truth is that tribal sovereignty is fully compatible with U.S. sovereignty. We know this because it has in fact coexisted with U.S. sovereignty since the beginning. The history of the United States, as told by those great maps, is not the history that actually happened. As the maps I showed you illustrate, conquest was partial, not total. And while it is true that U.S. policy has fluctuated over time between protecting tribal sovereignty and diminishing

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21. See *Michigan v. Bay Mills Indian Cmty.*, No. 12-515, 2014 WL 2178337 (May 27, 2014) (“Although Congress has plenary authority over tribes, courts will not lightly assume that Congress in fact intends to undermine Indian self-government”); *Minnesota v. Mille Lacs Band of Chippewa Indians*, 526 U.S. 172, 202 (1999) (“Congress may abrogate Indian treaty rights, but it must clearly express its intent to do so.”). “[F]ederal statutes will not be interpreted to ‘interfere[] with tribal autonomy and self-government . . . in the absence of clear indications of legislative intent.’” COHEN’S HANDBOOK, *supra* note 1, § 2.02[1], at 114 n.5 (quoting *Santa Clara Pueblo v. Martinez*, 436 U.S. 49, 59–60 (1978)).

it, our current policy promotes self-determination. That policy has been in effect since the 1970s when it was implemented by President Nixon. Every president since then, Republican or Democrat, has affirmed the government-to-government relationship between the United States and the tribes. And though the United States has abrogated many treaties and unilaterally ignored many of its promises, several hundred of those treaties remain in effect and are the supreme law of the land under the Constitution. An entire title of the U.S. Code, Title 25, is devoted to Indian affairs.

The fact of the matter is that the Indian States of America have existed since the beginning, continue to exist, and can exist in harmony with the United States and state governments. While it is true the United States has the military power to wipe out Indian nations, it has refrained from doing so. Partly on its own initiative and partly because of treaties entered into with Indian nations, the United States has agreed to limit its exercise of sovereignty over Indian Country by recognizing the preexisting governments of Indian nations.<sup>22</sup>

Indian nations in fact exercise governmental powers over their citizens and over non-Indians who enter tribal lands and engage in commerce with the tribes. Indian nations have legislatures, courts, jails, governing laws, administrative agencies, tribal colleges, and tribal businesses. The scope of tribal sovereignty is complex under federal law; it cannot be described in a few sentences. Suffice it to say that tribal power over their own citizens is robust and equivalent to the power that states exercise over their citizens. Tribes have traffic regulations for tribal roads; they regulate marriage and child custody and adoptions; they enforce contracts among tribal members; and they protect their citizens from criminal assaults by other tribal citizens. The U.S. Supreme Court has substantially curtailed tribal powers over non-Indians, but it has not completely abolished them. For example, tribes have no power to impose criminal penalties on non-Indians or to apply their zoning laws to non-Indians who own property within reservation borders.<sup>23</sup> But if a non-Indian visits a tribal casino on reservation land and gets injured

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22. COHEN'S HANDBOOK, *supra* note 1, §§ 4.01 to 4.07, at 203–379 (explicating the scope of tribal sovereignty recognized by federal law).

23. *See* *Brendale v. Confederated Tribes & Bands of the Yakima Indian Nation*, 492 U.S. 408 (1989) (holding that Indian nations generally have no power to apply their zoning laws to non-Indian owners of property held in fee simple within reservation borders); *Oliphant v. Suquamish Indian Tribe*, 435 U.S. 191 (1978) (holding that Indian nations have no criminal jurisdiction over non-Indians).

inside the casino, she has to sue the tribe in tribal court for a remedy rather than going to state court for redress.<sup>24</sup>

The power of the states is generally deemed plenary, meaning they can exercise their sovereignty to promote legitimate government purposes within their territorial boundaries. However, to the extent that Indian nations share those same territories, the tribes' preexisting sovereignty is undiminished and the state's power cannot extend to regulations that infringe on the tribes' inherent rights to govern themselves and their territory.<sup>25</sup> Similarly, to the extent the United States has refrained from interfering with the tribes' inherent sovereignty, tribal powers are preserved intact. Tribal, state, and federal sovereignty overlap, and each government must accommodate (or recognize) the others' legal authority over certain people and certain matters within their borders. We have parallel universes coexisting within our borders.

The argument from history is that conquest was never completed; we have tribal sovereignty. To ask why we should not abolish it is the same as asking, "Why not conquer Mexico?" To ask the question is to answer it. It violates our values and the norms of international law to invade another country and occupy it by force of arms unless we are acting in self-defense. While many non-Indians are not aware of it, federal law does recognize tribal sovereignty; it always has. While the exact contours of tribal powers have waxed and waned with time, the current policy of both Congress and every President since Nixon has been to respect tribal sovereignty and defer to the tribes in governing their own lands and their own people.

The second argument for tribal sovereignty is based on *democracy*. Tribal sovereignty is not only compatible with the ideals of democracy but may even be required by it. I noted above that democracy is partly premised

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24. In *Merrion v. Jicarilla Apache Tribe*, the Supreme Court held that Indian nations may tax non-Indians who lease tribal land. 455 U.S. 130 (1982). Justice Marshall explained that this power derives from the tribe's power "as sovereign, to control economic activity within its jurisdiction." *Id.* at 137; *see also* *Montana v. United States*, 450 U.S. 544, 557 (1981) (if a tribe permits nonmembers on to tribal land, it can "condition their entry" on complying with tribal law); COHEN'S HANDBOOK, *supra* note 1, at § 7.02[1][a], at 600 n.9. *Cf.* *Webb v. Paragon Casino*, 03-1700 (La. App. 3 Cir. 5/12/04); 872 So. 2d 641 (holding that non-Indian employee of tribal casino who was injured on the job must file a workers' compensation claim in tribal court).

25. *Williams v. Lee*, 358 U.S. 217, 220 (1959) ("Essentially, absent governing Acts of Congress, the question has always been whether the state action infringed on the right of reservation Indians to make their own laws and be ruled by them."); COHEN'S HANDBOOK, *supra* note 1, at §§ 4.01[1][a]–[b], at 206–12 (detailing inherent tribal rights to exercise sovereignty over their citizens and their lands).

on the idea of self-determination. Democracy is government by the people. Tribes have been self-governing sovereigns for millennia. Tribal sovereignty exists not because the United States granted special rights to some ethnic group but because, unique among the colonial nations of the world, the United States did not completely abolish the preexisting sovereignty of Indian nations. The states joined the Union by signing onto the Constitution through expressions of popular will. The tribes did not sign the Constitution and were never asked to do so. How then did they ever come within the sovereign power of the United States?

If they ever did, it was through treaties. Legal scholar Philip Frickey argued that we should therefore see those treaties as quasi-constitutional documents that regulate the terms of association between the tribes and the United States.<sup>26</sup> And we should be especially careful about infringing on the sovereignty of tribes with whom we never negotiated a treaty. Just as we respect the Constitution as our foundational document, the treaties represent foundational sources of authority for the relationship between the federal government and the Indian nations. Those treaties were not treaties of surrender; rather, they represented formal recognition by the United States of tribal sovereignty and also acknowledgement that the tribe exercised governmental powers over its remaining land base. Subsequent legislation has affirmed this many times.<sup>27</sup>

Recent legislation promotes self-determination for tribes and seeks to transfer federal programs to tribal management. For example, the federal Environmental Protection Agency has delegated authority to many tribes to enforce federal environmental statutes within reservation borders.<sup>28</sup> Tribal members vehemently want tribal sovereignty to continue, and by entering treaties with Indian nations, the United States has promised to respect their inherent and continuing sovereignty. Democracy does not require abolition of tribal sovereignty. On the contrary, the norms of free and democratic societies support it.

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26. Philip P. Frickey, *Marshalling Past and Present: Colonialism, Constitutionalism, and Interpretation in Federal Indian Law*, 107 HARV. L. REV. 381, 408–17 (1993).

27. See Indian Self-Determination and Education Assistance Act of 1975, 25 U.S.C. §§ 450–58 (2012) (an act seeking to enhance tribal self-determination by transferring regulatory powers from the United States to Indian nations); COHEN'S HANDBOOK, *supra* note 1, at § 22.02, at 1386–96 (explaining the Act).

28. See, e.g., Clean Water Act, 33 U.S.C. § 1377(e) (2012) (authorizing the Administrator of the Environmental Protection Agency to treat an Indian tribe as a State for purposes of the Act); Clean Air Act, 42 U.S.C. § 7601(d) (2012) (same); Safe Drinking Water Act, 42 U.S.C. § 300j-11 (2012) (same).

The third argument for tribal sovereignty is based on *equality*. Tribes do not violate equality norms, even though most tribes limit citizenship to those who can show ancestry from tribal members. The tribes limit membership to those who are descendants of existing tribal members, while sometimes allowing non-Indians who marry into the tribe also to obtain citizenship. While we normally judge racial discrimination harshly, consider what would happen if tribes started to let anyone become a member regardless of their connection to the tribe.<sup>29</sup> This would mean that anyone who was granted membership would become subject to tribal law and governed by the tribe rather than the state. Tribes have powers to govern their own citizens, but they also have the power to govern anyone who enters tribal land. If everyone joined and gave their land to the tribe, the tribe could effectively eat up part of the state and expand its sovereignty over both persons and territory. It is clear that the federal government and the states would object to this; they have interests in limiting the ability of tribes to expand their sovereignty without negotiating this with the U.S. government. Conversely, the tribes have interests in preserving their cultures and political and religious communal lives. That requires control over membership in order to sustain their way of life as it changes over time. And because the tribes are sovereigns, they are more than social clubs or even ethnic groups, and thus have the undeniable power of all nations to determine citizenship criteria.

It is true that tribes may abuse those powers to control citizenship, just as it is true that the United States has sometimes acted in unjust and oppressive ways in its immigration policy. But the mere fact that tribes limit membership to citizens who have an ancestral connection to the nation does not, by itself, violate equality norms. After all, as a U.S. citizen I was given the power to pass my citizenship on to our daughter, while people outside the United States were denied this power. And the fact that tribal members have certain legal immunities and rights that are different from other Americans does not violate our equality norms. It is simply a consequence of their dual citizenship. That in turn is a consequence of the parallel universe of tribal sovereignty that may have been invisible to us. But the fact that we were not aware of tribal sovereignty does not mean that it was not real.

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29. The author recalls hearing about one tribe that considered doing this by allowing anyone in the county to become a tribal citizen.



### V. Conclusion

I have talked about two universes: one characterized by complete conquest and one characterized by limited conquest and continuing tribal sovereignty. The second world is one of overlapping sovereignty. This is an object of wonder to many because we imagine sovereignty to be total. Political scientists define sovereignty as the monopoly on the legitimate exercise of force in a particular territory.<sup>30</sup> But truth is often stranger than fiction, and the reality is that we live in a world of overlapping sovereignty, where the United States has voluntarily diminished its potential exercise of power to make room for the Indian nations. One can exercise a monopoly on the use of force within a particular sphere while leaving others the power to exercise force within their sphere. The absoluteness of sovereignty within a sphere does not mean that there may not be more than one sphere. And if this seems crazy, then remember that we live in a country called the United States of America. Each of us is simultaneously a citizen of the state we live in and of the United States. To express wonder at the idea of overlapping sovereignty is to forget the basic political framework of our Constitution.

I want to conclude by describing a third universe, which I will call the Indian States of America. This world forces us to confront the fact that conquest was a sin. The process by which Americans obtained the land we live on was unjust; it was oppressive; it violated the freedom and self-determination of hundreds of nations. We tell ourselves a comforting story of expanding west and of moving toward greater freedom and equality over time as we abolished slavery and gave women the vote, but at the same time we did these things, we encroached more and more on the freedom and equality of Indian peoples. Suppose conquest had not happened. What would the world look like?

This third parallel universe is one that does not exist in fact but can exist in our minds. It is something we can construct through political theory. It is a normative reconstruction of what a just relationship between the United States and Indian nations would look like. That world would look

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30. See MAX WEBER, *Politics as a Vocation*, in THE VOCATION LECTURES 33 (David Owen & Tracy B. Strong eds., 2004) (1919) (describing the state as a “human community that (successfully) lays claim to the *monopoly of legitimate physical violence* within a particular territory”); BERNARD WILLIAMS, IN THE BEGINNING WAS THE DEED: REALISM AND MORALISM IN POLITICAL ARGUMENT 94–95 (2005) (“For there to be legitimate government, there must be a legitimation story, which explains why state power can be used to coerce some people rather than others and to allow people to restrict other people’s freedom in some ways rather than others.”).

something like this. Rather than the United States giving way to some tribal sovereignty, it would be the tribes giving way to some U.S. sovereignty. We would be living in the Indian States of America with some powers granted to the United States to govern its land and its peoples. Imagine what that would be like. We non-Indians would be living on borrowed tribal land. Here in Poughkeepsie we might come within the jurisdiction of the Mahican Indians. The people who lived here were displaced by the American Revolution and given land within Oneida territory in New York.<sup>31</sup> By the 1830s they had moved again to Wisconsin. Their descendants are now known as the Stockbridge-Munsee Band of Mohican Indians, and they are a nation recognized by the United States. We are on their land. Although we are also in the state of New York, we are living in Indian Country. The tribes have been more than hospitable, and all they ask in return is respect. They seek to have their humanity recognized and their sovereignty respected. We are living in the Indian States of America on land borrowed from Indian nations.

How would such a relationship work? We can learn from the way tribes interacted with the colonial powers from the outset. They negotiated treaties. They dealt with conflicts of interest by negotiation. That is the way democracies deal with difference. Democracies deal with multiple sovereignties by negotiating acceptable arrangements. Many tribes do this today, for example, by negotiating cross-deputization agreements with towns and counties so that tribal police can follow criminals off the reservation to arrest them, and so that state police can follow criminals onto the reservation to make sure they do not get away. Tribes and towns have compacts to harmonize their zoning laws and their environmental laws.

Conquest was monstrous, and we must live with the fact that it happened. How do we deal with monsters from our past, things that embarrass us, things we regret having done? A cartoon by Ed Koren shows two couples talking in the living room.<sup>32</sup> Behind one couple is a gigantic monster. How do we deal with the monster in the room? The cartoon couple explains, "We deal with it by talking about it."<sup>33</sup> But before we talk about it, we have to be able to *see* it.

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31. See *Origin & Early Mohican History*, STOCKBRIDGE-MUNSEE CMTY. BAND OF MOHICAN INDIANS (May 29, 2014), [http://www.mohican-nsn.gov/Departments/Library-Museum/Mohican\\_History/origin-and-early.htm](http://www.mohican-nsn.gov/Departments/Library-Museum/Mohican_History/origin-and-early.htm) (describing the early history of the tribe in its location on both sides of the Hudson River in New York and their removal west).

32. Edward Koren, "We Deal with It by Talking About It" (1975) (cartoon drawing), available at <http://www.nytimes.com/imagepages/2010/05/21/arts/21koren-3.html>.

33. *Id.*

I want to engage in a bit of performance art by making you look at the names of the nations that U.S. maps render invisible. But looking is not the same thing as seeing. What I want you to see are the 566 nations in our midst currently recognized by the United States of America.<sup>34</sup> I will not bore you by reading all their names, but I will read some of them. Mostly I want you to *see* them. And if we see them, we will begin to understand that we may live in the United States of America, but we also live in the Indian States of America.

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34. In 2012, the Federal Register listed all 566 officially recognized Indian nations. Indian Entities Recognized and Eligible to Receive Services from the Bureau of Indian Affairs, 77 Fed. Reg. 47,868 (Aug. 10, 2012).

## APPENDIX

*Federally Recognized Indian Nations in the Contiguous Forty-Eight States*

Absentee-Shawnee Tribe of Indians of Oklahoma  
Agua Caliente Band of Cahuilla Indians of the Agua Caliente Indian  
Reservation, California  
Ak Chin Indian Community of the Maricopa (Ak Chin) Indian Reservation,  
Arizona  
Alabama-Coushatta Tribe of Texas  
Alabama-Quassarte Tribal Town  
Alturas Indian Rancheria, California  
Apache Tribe of Oklahoma  
Arapaho Tribe of the Wind River Reservation, Wyoming  
Aroostook Band of Micmacs  
Assiniboine and Sioux Tribes of the Fort Peck Indian Reservation, Montana  
Augustine Band of Cahuilla Indians, California  
Bad River Band of the Lake Superior Tribe of Chippewa Indians of the Bad  
River Reservation, Wisconsin  
Bay Mills Indian Community, Michigan  
Bear River Band of the Rohnerville Rancheria, California  
Berry Creek Rancheria of Maidu Indians of California  
Big Lagoon Rancheria, California  
Big Pine Paiute Tribe of the Owens Valley  
Big Sandy Rancheria of Western Mono Indians of California  
Big Valley Band of Pomo Indians of the Big Valley Rancheria, California  
Bishop Paiute Tribe  
Blackfeet Tribe of the Blackfeet Indian Reservation of Montana  
Blue Lake Rancheria, California  
Bridgeport Indian Colony  
Buena Vista Rancheria of Me-Wuk Indians of California  
Burns Paiute Tribe  
Cabazon Band of Mission Indians, California  
Cachil DeHe Band of Wintun Indians of the Colusa Indian Community of  
the Colusa Rancheria, California  
Caddo Nation of Oklahoma  
Cahto Tribe  
Cahuilla Band of Mission Indians of the Cahuilla Reservation, California  
California Valley Miwok Tribe, California  
Campo Band of Diegueno Mission Indians of the Campo Indian  
Reservation, California

Capitan Grande Band of Diegueno Mission Indians of California  
Catawba Indian Nation  
Cayuga Nation  
Cedarville Rancheria, California  
Chemehuevi Indian Tribe of the Chemehuevi Reservation, California  
Cher-Ae Heights Indian Community of the Trinidad Rancheria, California  
Cherokee Nation  
Cheyenne and Arapaho Tribes, Oklahoma  
Cheyenne River Sioux Tribe of the Cheyenne River Reservation, South  
Dakota  
Chickasaw Nation  
Chicken Ranch Rancheria of Me-Wuk Indians of California  
Chippewa-Cree Indians of the Rocky Boy's Reservation, Montana  
Chitimacha Tribe of Louisiana  
Choctaw Nation of Oklahoma  
Citizen Potawatomi Nation, Oklahoma  
Cloverdale Rancheria of Pomo Indians of California  
Cocopah Tribe of Arizona  
Coeur D'Alene Tribe  
Cold Springs Rancheria of Mono Indians of California  
Colorado River Indian Tribes of the Colorado River Indian Reservation,  
Arizona and California  
Comanche Nation, Oklahoma  
Confederated Salish and Kootenai Tribes of the Flathead Reservation  
Confederated Tribes and Bands of the Yakama Nation  
Confederated Tribes of Siletz Indians of Oregon  
Confederated Tribes of the Chehalis Reservation  
Confederated Tribes of the Colville Reservation  
Confederated Tribes of the Coos, Lower Umpqua and Siuslaw Indians  
Confederated Tribes of the Goshute Reservation, Nevada and Utah  
Confederated Tribes of the Grand Ronde Community of Oregon  
Confederated Tribes of the Umatilla Indian Reservation  
Confederated Tribes of the Warm Springs Reservation of Oregon  
Coquille Indian Tribe  
Cortina Indian Rancheria of Wintun Indians of California  
Coushatta Tribe of Louisiana  
Cow Creek Band of Umpqua Tribe of Indians  
Cowlitz Indian Tribe  
Coyote Valley Reservation  
Crow Creek Sioux Tribe of the Crow Creek Reservation, South Dakota  
Crow Tribe of Montana

Death Valley Timbi-sha Shoshone Tribe  
Delaware Nation, Oklahoma  
Delaware Tribe of Indians  
Dry Creek Rancheria Band of Pomo Indians, California  
Duckwater Shoshone Tribe of the Duckwater Reservation, Nevada  
Eastern Band of Cherokee Indians  
Eastern Shawnee Tribe of Oklahoma  
Elem Indian Colony of Pomo Indians of the Sulphur Bank Rancheria,  
California  
Elk Valley Rancheria, California  
Ely Shoshone Tribe of Nevada  
Enterprise Rancheria of Maidu Indians of California  
Ewiiapaayp Band of Kumeyaay Indians, California  
Federated Indians of Graton Rancheria, California  
Flandreau Santee Sioux Tribe of South Dakota  
Forest County Potawatomi Community, Wisconsin  
Fort Belknap Indian Community of the Fort Belknap Reservation of  
Montana  
Fort Bidwell Indian Community of the Fort Bidwell Reservation of  
California  
Fort Independence Indian Community of Paiute Indians of the Fort  
Independence Reservation, California  
Fort McDermitt Paiute and Shoshone Tribes of the Fort McDermitt Indian  
Reservation, Nevada and Oregon  
Fort McDowell Yavapai Nation, Arizona  
Fort Mojave Indian Tribe of Arizona, California & Nevada  
Fort Sill Apache Tribe of Oklahoma  
Gila River Indian Community of the Gila River Indian Reservation,  
Arizona  
Grand Traverse Band of Ottawa and Chippewa Indians, Michigan  
Greenville Rancheria  
Grindstone Indian Rancheria of Wintun-Wailaki Indians of California  
Guidiville Rancheria of California  
Habematolel Pomo of Upper Lake, California  
Hannahville Indian Community, Michigan  
Havasupai Tribe of the Havasupai Reservation, Arizona  
Ho-Chunk Nation of Wisconsin  
Hoh Indian Tribe  
Hoopa Valley Tribe, California  
Hopi Tribe of Arizona  
Hopland Band of Pomo Indians, California

Houlton Band of Maliseet Indians  
Hualapai Indian Tribe of the Hualapai Indian Reservation, Arizona  
Iipay Nation of Santa Ysabel, California  
Inaja Band of Diegueno Mission Indians of the Inaja and Cosmit  
Reservation, California  
Ione Band of Miwok Indians of California  
Iowa Tribe of Kansas and Nebraska  
Iowa Tribe of Oklahoma  
Jackson Rancheria of Me-Wuk Indians of California  
Jamestown S'Klallam Tribe  
Jamul Indian Village of California  
Jena Band of Choctaw Indians  
Jicarilla Apache Nation, New Mexico  
Kaibab Band of Paiute Indians of the Kaibab Indian Reservation, Arizona  
Kalispel Indian Community of the Kalispel Reservation  
Karuk Tribe  
Kashia Band of Pomo Indians of the Stewarts Point Rancheria, California  
Kaw Nation, Oklahoma  
Kewa Pueblo, New Mexico  
Keweenaw Bay Indian Community, Michigan  
Kialegee Tribal Town  
Kickapoo Traditional Tribe of Texas  
Kickapoo Tribe of Indians of the Kickapoo Reservation in Kansas  
Kickapoo Tribe of Oklahoma  
Kiowa Indian Tribe of Oklahoma  
Klamath Tribes  
Kootenai Tribe of Idaho  
La Jolla Band of Luiseno Indians, California  
La Posta Band of Diegueno Mission Indians of the La Posta Indian  
Reservation, California  
Lac Courte Oreilles Band of Lake Superior Chippewa Indians of Wisconsin  
Lac du Flambeau Band of Lake Superior Chippewa Indians of the Lac du  
Flambeau Reservation of Wisconsin  
Lac Vieux Desert Band of Lake Superior Chippewa Indians, Michigan  
Las Vegas Tribe of Paiute Indians of the Las Vegas Indian Colony, Nevada  
Little River Band of Ottawa Indians, Michigan  
Little Traverse Bay Bands of Odawa Indians, Michigan  
Lone Pine Paiute-Shoshone Tribe  
Los Coyotes Band of Cahuilla and Cupeno Indians, California  
Lovelock Paiute Tribe of the Lovelock Indian Colony, Nevada  
Lower Brule Sioux Tribe of the Lower Brule Reservation, South Dakota

Lower Elwha Tribal Community  
Lower Lake Rancheria, California  
Lower Sioux Indian Community in the State of Minnesota  
Lummi Tribe of the Lummi Reservation  
Lytton Rancheria of California  
Makah Indian Tribe of the Makah Indian Reservation  
Manchester Band of Pomo Indians of the Manchester Rancheria, California  
Manzanita Band of Diegueno Mission Indians of the Manzanita  
Reservation, California  
Mashantucket Pequot Indian Tribe  
Mashpee Wampanoag Indian Tribal Council, Inc.  
Match-e-be-nash-she-wish Band of Pottawatomii Indians of Michigan  
Mechoopda Indian Tribe of Chico Rancheria, California  
Menominee Indian Tribe of Wisconsin  
Mesa Grande Band of Diegueno Mission Indians of the Mesa Grande  
Reservation, California  
Mescalero Apache Tribe of the Mescalero Reservation, New Mexico  
Miami Tribe of Oklahoma  
Miccosukee Tribe of Indians  
Middletown Rancheria of Pomo Indians of California  
Minnesota Chippewa Tribe, Minnesota (Six component reservations: Bois  
Forte Band (Nett Lake); Fond du Lac Band; Grand Portage Band; Leech  
Lake Band; Mille Lacs Band; White Earth Band)  
Mississippi Band of Choctaw Indians  
Moapa Band of Paiute Indians of the Moapa River Indian Reservation,  
Nevada  
Modoc Tribe of Oklahoma  
Mohegan Indian Tribe of Connecticut  
Mooretown Rancheria of Maidu Indians of California  
Morongo Band of Mission Indians, California  
Muckleshoot Indian Tribe  
Narragansett Indian Tribe  
Navajo Nation, Arizona, New Mexico & Utah  
Nez Perce Tribe  
Nisqually Indian Tribe  
Nooksack Indian Tribe  
Northern Cheyenne Tribe of the Northern Cheyenne Indian Reservation,  
Montana  
Northfork Rancheria of Mono Indians of California  
Northwestern Band of Shoshoni Nation  
Nottawaseppi Huron Band of the Potawatomi, Michigan



Oglala Sioux Tribe  
Ohkay Owingeh, New Mexico  
Omaha Tribe of Nebraska  
Oneida Nation of New York  
Oneida Tribe of Indians of Wisconsin  
Onondaga Nation  
Otoe-Missouria Tribe of Indians, Oklahoma  
Ottawa Tribe of Oklahoma  
Paiute Indian Tribe of Utah (Cedar Band of Paiutes, Kanosh Band of  
Paiutes, Koosharem Band of Paiutes, Indian Peaks Band of Paiutes, and  
Shivwits Band of Paiutes)  
Paiute-Shoshone Tribe of the Fallon Reservation and Colony, Nevada  
Pala Band of Luiseno Mission Indians of the Pala Reservation, California  
Pascua Yaqui Tribe of Arizona  
Paskenta Band of Nomlaki Indians of California  
Passamaquoddy Tribe  
Pauma Band of Luiseno Mission Indians of the Pauma & Yuima  
Reservation, California  
Pawnee Nation of Oklahoma  
Pechanga Band of Luiseno Mission Indians of the Pechanga Reservation,  
California  
Penobscot Nation  
Peoria Tribe of Indians of Oklahoma  
Picayune Rancheria of Chukchansi Indians of California  
Pinoleville Pomo Nation, California  
Pit River Tribe, California (includes XL Ranch, Big Bend, Likely, Lookout,  
Montgomery Creek and Roaring Creek Rancherias)  
Poarch Band of Creeks  
Pokagon Band of Potawatomi Indians, Michigan and Indiana  
Ponca Tribe of Indians of Oklahoma  
Ponca Tribe of Nebraska  
Port Gamble Band of S'Klallam Indians  
Potter Valley Tribe, California  
Prairie Band Potawatomi Nation  
Prairie Island Indian Community in the State of Minnesota  
Pueblo of Acoma, New Mexico  
Pueblo of Cochiti, New Mexico  
Pueblo of Isleta, New Mexico  
Pueblo of Jemez, New Mexico  
Pueblo of Laguna, New Mexico  
Pueblo of Nambe, New Mexico

Pueblo of Picuris, New Mexico  
Pueblo of Pojoaque, New Mexico  
Pueblo of San Felipe, New Mexico  
Pueblo of San Ildefonso, New Mexico  
Pueblo of Sandia, New Mexico  
Pueblo of Santa Ana, New Mexico  
Pueblo of Santa Clara, New Mexico  
Pueblo of Taos, New Mexico  
Pueblo of Tesuque, New Mexico  
Pueblo of Zia, New Mexico  
Puyallup Tribe of the Puyallup Reservation  
Pyramid Lake Paiute Tribe of the Pyramid Lake Reservation, Nevada  
Quapaw Tribe of Indians  
Quartz Valley Indian Community of the Quartz Valley Reservation of  
California  
Quechan Tribe of the Fort Yuma Indian Reservation, California & Arizona  
Quileute Tribe of the Quileute Reservation  
Quinault Indian Nation  
Ramona Band of Cahuilla, California  
Red Cliff Band of Lake Superior Chippewa Indians of Wisconsin  
Red Lake Band of Chippewa Indians, Minnesota  
Redding Rancheria, California  
Redwood Valley or Little River Band of Pomo Indians of the Redwood  
Valley Rancheria California  
Reno-Sparks Indian Colony, Nevada  
Resighini Rancheria, California  
Rincon Band of Luiseno Mission Indians of the Rincon Reservation,  
California  
Robinson Rancheria Band of Pomo Indians, California  
Rosebud Sioux Tribe of the Rosebud Indian Reservation, South Dakota  
Round Valley Indian Tribes, Round Valley Reservation, California  
Sac & Fox Nation of Missouri in Kansas and Nebraska  
Sac & Fox Nation, Oklahoma  
Sac & Fox Tribe of the Mississippi in Iowa  
Saginaw Chippewa Indian Tribe of Michigan  
Saint Regis Mohawk Tribe  
Salt River Pima-Maricopa Indian Community of the Salt River Reservation,  
Arizona  
Samish Indian Nation  
San Carlos Apache Tribe of the San Carlos Reservation, Arizona  
San Juan Southern Paiute Tribe of Arizona

San Manuel Band of Mission Indians, California  
San Pasqual Band of Diegueno Mission Indians of California  
Santa Rosa Band of Cahuilla Indians, California  
Santa Rosa Indian Community of the Santa Rosa Rancheria, California  
Santa Ynez Band of Chumash Mission Indians of the Santa Ynez  
Reservation, California  
Santee Sioux Nation, Nebraska  
Sauk-Suiattle Indian Tribe  
Sault Ste. Marie Tribe of Chippewa Indians of Michigan  
Scotts Valley Band of Pomo Indians of California  
Seminole Tribe of Florida  
Seneca Nation of Indians  
Seneca-Cayuga Tribe of Oklahoma  
Shakopee Mdewakanton Sioux Community of Minnesota  
Shawnee Tribe  
Sherwood Valley Rancheria of Pomo Indians of California  
Shingle Springs Band of Miwok Indians, Shingle Springs Rancheria  
(Verona Tract), California  
Shinnecock Indian Nation  
Shoalwater Bay Indian Tribe of the Shoalwater Bay Indian Reservation  
Shoshone Tribe of the Wind River Reservation, Wyoming  
Shoshone-Bannock Tribes of the Fort Hall Reservation  
Shoshone-Paiute Tribes of the Duck Valley Reservation, Nevada  
Sisseton-Wahpeton Oyate of the Lake Traverse Reservation, South Dakota  
Skokomish Indian Tribe  
Skull Valley Band of Goshute Indians of Utah  
Smith River Rancheria, California  
Snoqualmie Indian Tribe  
Soboba Band of Luiseno Indians, California  
Sokaogon Chippewa Community, Wisconsin  
Southern Ute Indian Tribe of the Southern Ute Reservation, Colorado  
Spirit Lake Tribe, North Dakota  
Spokane Tribe of the Spokane Reservation  
Squaxin Island Tribe of the Squaxin Island Reservation  
St. Croix Chippewa Indians of Wisconsin  
Standing Rock Sioux Tribe of North & South Dakota  
Stillaguamish Tribe of Indians of Washington  
Stockbridge Munsee Community, Wisconsin  
Summit Lake Paiute Tribe of Nevada  
Suquamish Indian Tribe of the Port Madison Reservation  
Susanville Indian Rancheria, California

Swinomish Indians of the Swinomish Reservation of Washington  
Sycuan Band of the Kumeyaay Nation  
Table Mountain Rancheria of California  
Tejon Indian Tribe  
Te-Moak Tribe of Western Shoshone Indians of Nevada (Four constituent bands: Battle Mountain Band; Elko Band; South Fork Band and Wells Band)  
The Muscogee (Creek) Nation  
The Osage Nation  
The Seminole Nation of Oklahoma  
Thlopthlocco Tribal Town  
Three Affiliated Tribes of the Fort Berthold Reservation, North Dakota  
Tohono O'odham Nation of Arizona  
Tonawanda Band of Seneca  
Tonkawa Tribe of Indians of Oklahoma  
Tonto Apache Tribe of Arizona  
Torres Martinez Desert Cahuilla Indians, California  
Tulalip Tribes of Washington  
Tule River Indian Tribe of the Tule River Reservation, California  
Tunica-Biloxi Indian Tribe  
Tuolumne Band of Me-Wuk Indians of the Tuolumne Rancheria of California  
Turtle Mountain Band of Chippewa Indians of North Dakota  
Tuscarora Nation  
Twenty-Nine Palms Band of Mission Indians of California  
United Auburn Indian Community of the Auburn Rancheria of California  
United Keetoowah Band of Cherokee Indians in Oklahoma  
Upper Sioux Community, Minnesota  
Upper Skagit Indian Tribe  
Ute Indian Tribe of the Uintah & Ouray Reservation, Utah  
Ute Mountain Tribe of the Ute Mountain Reservation, Colorado, New Mexico & Utah  
Utu Utu Gwaitu Paiute Tribe of the Benton Paiute Reservation, California  
Walker River Paiute Tribe of the Walker River Reservation, Nevada  
Wampanoag Tribe of Gay Head (Aquinnah)  
Washoe Tribe of Nevada & California (Carson Colony, Dresslerville Colony, Woodfords Community, Stewart Community, & Washoe Ranches)  
White Mountain Apache Tribe of the Fort Apache Reservation, Arizona  
Wichita and Affiliated Tribes (Wichita, Keechi, Waco & Tawakonie), Oklahoma

Wilton Rancheria, California  
Winnebago Tribe of Nebraska  
Winnemucca Indian Colony of Nevada  
Wiyot Tribe, California  
Wyandotte Nation  
Yankton Sioux Tribe of South Dakota  
Yavapai-Apache Nation of the Camp Verde Indian Reservation, Arizona  
Yavapai-Prescott Indian Tribe  
Yerington Paiute Tribe of the Yerington Colony & Campbell Ranch,  
Nevada  
Yocha Dehe Wintun Nation, California  
Yomba Shoshone Tribe of the Yomba Reservation, Nevada  
Ysleta Del Sur Pueblo of Texas  
Yurok Tribe of the Yurok Reservation, California  
Zuni Tribe of the Zuni Reservation, New Mexico

*Federally Recognized Indian Nations in Alaska*

Agdaagux Tribe of King Cove  
Akiachak Native Community  
Akiak Native Community  
Alatna Village  
Algaaciq Native Village (St. Mary's)  
Allakaket Village  
Angoon Community Association  
Anvik Village  
Asa'carsarmiut Tribe  
Atqasuk Village (Atkasook)  
Beaver Village  
Birch Creek Tribe  
Central Council of the Tlingit & Haida Indian Tribes  
Chalkyitsik Village  
Cheesh-na Tribe  
Chevak Native Village  
Chickaloon Native Village  
Chignik Lake Village  
Chilkat Indian Village (Klukwan)  
Chilkoot Indian Association (Haines)  
Chinik Eskimo Community (Golovin)  
Chuloonawick Native Village  
Circle Native Community

Craig Tribal Association  
Curyung Tribal Council  
Douglas Indian Association  
Egegik Village  
Eklutna Native Village  
Ekwok Village  
Emmonak Village  
Evansville Village (aka Bettles Field)  
Galena Village (aka Louden Village)  
Gulkana Village  
Healy Lake Village  
Holy Cross Village  
Hoonah Indian Association  
Hughes Village  
Huslia Village  
Hydaburg Cooperative Association  
Igiugig Village  
Inupiat Community of the Arctic Slope  
Iqurmuit Traditional Council  
Ivanoff Bay Village  
Kaguyak Village  
Kaktovik Village (aka Barter Island)  
Kasigluk Traditional Elders Council  
Kenaitze Indian Tribe  
Ketchikan Indian Corporation  
King Island Native Community  
King Salmon Tribe  
Klawock Cooperative Association  
Knik Tribe  
Kokhanok Village  
Koyukuk Native Village  
Levelock Village  
Lime Village  
Manley Hot Springs Village  
Manokotak Village  
McGrath Native Village  
Mentasta Traditional Council  
Metlakatla Indian Community, Annette Island Reserve  
Naknek Native Village  
Native Village of Afognak  
Native Village of Akhiok

Native Village of Akutan  
Native Village of Aleknagik  
Native Village of Ambler  
Native Village of Atka  
Native Village of Atkasuk  
Native Village of Barrow Inupiat Traditional Government  
Native Village of Belkofski  
Native Village of Brevig Mission  
Native Village of Buckland  
Native Village of Cantwell  
Native Village of Chenega (aka Chanega)  
Native Village of Chignik Lagoon  
Native Village of Chitina  
Native Village of Chuathbaluk (Russian Mission, Kuskokwim)  
Native Village of Council  
Native Village of Deering  
Native Village of Diomedea (aka Inalik)  
Native Village of Eagle  
Native Village of Eek  
Native Village of Ekuk  
Native Village of Elim  
Native Village of Eyak (Cordova)  
Native Village of False Pass  
Native Village of Fort Yukon  
Native Village of Gakona  
Native Village of Gambell  
Native Village of Georgetown  
Native Village of Goodnews Bay  
Native Village of Hamilton  
Native Village of Hooper Bay  
Native Village of Kalskag  
Native Village of Kanatak  
Native Village of Karluk  
Native Village of Kasaan  
Native Village of Kasigluk  
Native Village of Kiana  
Native Village of Kipnuk  
Native Village of Kivalina  
Native Village of Kluti Kaah (aka Copper Center)  
Native Village of Kobuk  
Native Village of Kongiganak

Native Village of Kotzebue  
Native Village of Koyuk  
Native Village of Kwigillingok ( IRA)  
Native Village of Kwinhagak (aka Quinhagak)  
Native Village of Larsen Bay  
Native Village of Marshall (aka Fortuna Ledge)  
Native Village of Mary's Igloo  
Native Village of Mekoryuk  
Native Village of Minto  
Native Village of Nanwalek (aka English Bay)  
Native Village of Napaimute  
Native Village of Napakiak  
Native Village of Napaskiak  
Native Village of Nelson Lagoon  
Native Village of Nightmute  
Native Village of Nikolski  
Native Village of Noatak  
Native Village of Nuiqsut (aka Nooiksut)  
Native Village of Nunam Iqua  
Native Village of Nunapitchuk  
Native Village of Ouzinkie  
Native Village of Paimiut  
Native Village of Perryville  
Native Village of Pilot  
Native Village of Pitka's Point  
Native Village of Point Hope  
Native Village of Point Lay  
Native Village of Port Graham  
Native Village of Port Heiden  
Native Village of Port Lions  
Native Village of Ruby  
Native Village of Saint Michael  
Native Village of Savoonga  
Native Village of Scammon Bay  
Native Village of Selawik  
Native Village of Shaktoolik  
Native Village of Shishmaref  
Native Village of Shungnak  
Native Village of Stevens  
Native Village of Tanacross  
Native Village of Tanana



Native Village of Tatitlek  
Native Village of Tazlina  
Native Village of Teller  
Native Village of Tetlin  
Native Village of Tuntutuliak  
Native Village of Tununak  
Native Village of Tyonek  
Native Village of Unalakleet  
Native Village of Unga  
Native Village of Venetie Tribal Government (Arctic Village and Village of Venetie)  
Native Village of Wales  
Native Village of White Mountain  
Nenana Native Association  
New Koliganek Village Council  
New Stuyahok Village  
Newhalen Village  
Newtok Village  
Nikolai Village  
Ninilchik Village  
Nome Eskimo Community  
Nondalton Village  
Noorvik Native Community  
Northway Village  
Nulato Village  
Nunakauyarmiut Tribe  
Organized Village of Grayling (aka Holikachuk)  
Organized Village of Kake  
Organized Village of Kasaan  
Organized Village of Kwethluk  
Organized Village of Saxman  
Orutsararmuit Native Village  
Oscarville Traditional Village  
Pedro Bay Village  
Petersburg Indian Association  
Pilot Station Traditional Village  
Platinum Traditional Village  
Portage Creek Village (aka Ohgsenakale)  
Pribilof Islands Aleut Communities of St. Paul & St. George Islands  
Qagan Tayagungin Tribe of Sand Point Village  
Qawalangin Tribe of Unalaska

Rampart Village  
Seldovia Village Tribe  
Shageluk Native Village  
Sitka Tribe of Alaska  
Skagway Village  
South Naknek Village  
Stebbins Community Association  
Sun'aq Tribe of Kodiak  
Takotna Village  
Tangirnaq Native Village  
Telida Village  
Traditional Village of Togiak  
Tuluksak Native Community  
Twin Hills Village  
Ugashik Village  
Umkumiut Native Village  
Village of Alakanuk  
Village of Anaktuvuk Pass  
Village of Aniak  
Village of Atmautluak  
Village of Bill Moore's Slough  
Village of Chefornak  
Village of Clarks Point  
Village of Crooked Creek  
Village of Dot Lake  
Village of Iliamna  
Village of Kalskag  
Village of Kaltag  
Village of Kotlik  
Village of Lower Kalskag  
Village of Ohogamiut  
Village of Old Harbor  
Village of Red Devil  
Village of Salamatoff  
Village of Sleetmute  
Village of Solomon  
Village of Stony River  
Village of Wainwright  
Wrangell Cooperative Association  
Yakutat Tlingit Tribe  
Yupiit of Andreafski