

## Indian 101 Questions and Answers

**Q:** What defines being “Indian”?

**A:** As a general principle an Indian is a person who is of some degree Indian blood and is recognized as an Indian by a tribe and/or the United States. No single federal or tribal criterion establishes a person's identity as an Indian. Government agencies use differing criteria to determine eligibility for programs and services. Tribes also have varying eligibility criteria for membership. It is important to understand the difference between the ethnological term "Indian" and the political/legal term "Indian." The protections and services provided by the United States for tribal members flow not from an individual's status as an American Indian in an ethnological sense, but because the person is a member of a tribe recognized by the United States, and with which the United States has a special trust relationship. This special trust relationship entails certain legally enforceable obligations and responsibilities.

**Q:** Why Are American Indians and Alaska Natives Sometimes Referred to as Native Americans?

**A:** When referring to the indigenous peoples of Alaska or the 48 contiguous states of the United States, it is appropriate to use the terms "Alaska Natives" and "American Indians," respectively. While the term "Native Americans" came into usage in the 1960's with respect to American Indians and Alaska Natives, over time, usage of the term has been expanded to include all native peoples of the United States and its territories, including Native Hawaiians, Chamorros, and American Samoans.

**Q:** Are American Indians and Alaska Natives Citizens?

**A:** American Indians and Alaska Natives are citizens of the United States and of the states in which they reside. They are also citizens of the tribes to which they belong according to the criteria established by each tribe.

**Q:** What Is the Relationship Between the United States and the Tribes?

**A:** The relationship between the tribes and the United States is one of a government to a government. This principle has shaped the entire history of dealings between the federal government and the tribes, and is lodged in the Constitution of the United States

**Q:** What Is the Legal Status of American Indian and Alaska Native Tribes?

**A:** Article 1, Section 8 of the Constitution of the United States vests the federal government with the authority to engage in relations with the tribes, and thereby, firmly places tribes in the Constitutional family of our nation. When the governmental authority of tribes was first challenged in the 1830's, Chief Justice John Marshall articulated the fundamental principle that has guided the evolution of federal Indian law to the present -- tribes possess a nationhood status and retain inherent powers of self-government.

**Q:** What Does the Term "Federally Recognized Tribe" Mean?

**A:** "Recognition" is a legal term meaning that the United States recognizes a government-to government relationship with a tribe and that a tribe exists politically in a "domestic

dependent nation status." A federally recognized tribe is one that was in existence, or evolved as a successor to a tribe at the time of original contact with non-Indians. Federally recognized tribes possess certain inherent rights of self-government and entitlement to certain federal benefits, services, and protections because of the special trust relationship.

**Q: How Are Tribes Organized?**

**A:** Tribes have the inherent right to operate under their own governmental systems. Many have adopted constitutions, while others operate under Articles of Association or other bodies of law, and some still have traditional systems of government. The chief executive of a tribe is generally called the tribal chairperson, but may also be called principal chief, governor, or president. The chief executive usually presides over what is typically called the tribal council. The tribal council performs the legislative function for the tribe, although some tribes require a referendum of the membership to enact laws

**Q: What Is a Reservation?**

**A:** Reservations are territories reserved as permanent tribal homelands. Some were created through treaties while others were created by statutes, or executive orders.

**Q: What Is the Relationship Between Tribal and State Governments?**

**A:** Because the Constitution vests authority over Indian Affairs in the federal government, generally, states have no authority over tribal governments. Tribal governments are not subordinate to state governments. They retain the right to enact and enforce stricter or more lenient laws and regulations than those of the neighboring state(s). Tribes possess both the right and the power to regulate activities on their lands independently from the neighboring state government. However, tribes frequently collaborate and cooperate with states through compacts or other agreements. The Tribal-to-State relationship is also one of a government to a government.

**Q: What Are "Treaty Rights"?**

**A:** From 1777 to 1871, United States relations with individual Indian nations were conducted through treaty negotiations. These "contracts among nations" created unique sets of rights for the benefit of each of the treaty-making tribes. Those rights, like any other treaty obligations of the United States, represent "*the supreme law of the land.*" As such, the protection of treaty rights is a critical part of the federal Indian trust relationship. Tribes with reservations are also entitled to other rights, such a United States reserved water rights for Indian reservations.

**Q: Do Tribes Have Property Rights?**

**A:** Rights created in treaties, statutes and executive orders are property rights, for example, the rights to hunt, fish or gather on lands ceded to the United States. There are also judicially recognized reserved rights created by actions of the United States, for example, the right to water for an Indian reservation arising from the creation of Indian reservations. These kinds of rights are property rights which are entitle to the same protection from taking just as other citizen's property rights are under the 5th Amendment of the United States Constitution.

**Q:** What is the Federal Indian Trust Responsibility?

**A:** The Federal Indian Trust Responsibility is a legal obligation under which the United States "has charged itself with moral obligations of the highest responsibility and trust" toward Indian tribes (*Seminole Nation v. United States, 1942*). It was first discussed by U.S. Supreme Court Chief Justice John Marshall in *Cherokee Nation v. Georgia, (1831)*. Over the years, the trust doctrine has been the center of numerous other Supreme Court cases. It is one of the most important principles in federal Indian law. The federal Indian trust responsibility is a legally enforceable fiduciary obligation, on the part of the United States, to protect tribal lands, assets, resources, and treaty rights, as well as a duty to carry out the mandates of federal law with respect to American Indian and Alaska Native tribes. In several cases discussing the trust responsibility, the Supreme Court has used language suggesting that it entails legal duties, moral obligations, and the fulfillment of understandings and expectations that have arisen over the entire course of dealings between the United States and the tribes.

**Q:** Historically, Did All American Indians and Alaska Natives Speak a Common Language?

**A:** American Indians and Alaska Natives speak many diverse languages. At the end of the 15<sup>th</sup> Century, more than 300 American Indian and Alaska Native languages were spoken. Some were linked by "linguistic stocks" which meant that widely scattered tribal groups had similar languages. Today, some 250 tribal languages are both spoken and many are written.

**Q:** Where can I find information online on Indians and Indian related issues?

**A:** Here are some good online resources on Indians and Indian related issues: There are several websites available online that may provide the answers you are looking for. A good place to start is do a search on Google. Go to <http://www.google.com> and type in the name of the tribe. Some other websites to consider:

- **Census and statistical data on American Indian tribes**

The US Census has a website that has Census 2000 data on American Indian and Alaska Native tribes. Go to <http://factfinder.census.gov/home/aian/index.html>

- **Contemporary News and issues related to American Indians**

Indian Country Today bills itself as "The Nation's Leading American Indian News Source". Go to <http://indiancountry.com/>

**Q:** Do Indians pay taxes?

**A:** Contrary to what some people think, Indians pay taxes. Tribal lands are not assessed property taxes, however, that does not mean that Indians are exempt from taxation. They pay federal income taxes, and other taxes such as fuel and tobacco taxes. Indians enrolled in their own reservation do not pay state income taxes. However, Indians who live off of the reservation, or who live on reservations where they are not enrolled do pay state income taxes. The lack of a property tax base is made up by the federal government. The value of water, mineral, gas, oil, and timber and other natural resources extracted from lands over the last one hundred years by the state, counties and individuals on lands

obtained by treaties with Indian tribes far exceeds any taxes lost on federal trust lands within reservation boundaries.

**Q:** Do Indians really get money for just “being Indian”?

**A:** Contrary to popular belief, Indians do not receive payments from the federal government simply because they have Indian blood. Funds distributed to a person of Indian descent may represent mineral lease income on property that is held in trust by the United States or compensation for lands taken in connection with governmental projects. Some Indian tribes receive benefits from the federal government in fulfillment of treaty obligations or for the extraction of tribal natural resources - a percentage of which may be distributed as per capita among the tribes membership.

**Source:** *Native American Rights Fund and the Department of Health and Human Services.* websites; <http://www.narf.org/pubs/faqs.html>, and <http://aspe.hhs.gov/SelfGovernance/faqs.htm>