

WHAT IS TRIBAL SOVEREIGNTY

Tribal sovereignty is the inherent authority of Indian Tribes and Nations to govern themselves.

Unlike state governments, which derive their power from the U.S. Constitution, Tribal sovereignty is inherent, meaning it existed *before* the arrival of Europeans and has never been fully extinguished.

Key Characteristics

Domestic Dependent Nations: In the 1831 case *Cherokee Nation v. Georgia*, the U.S. Supreme Court defined tribes as "Domestic Dependent Nations."

- They are "Domestic" because they reside within U.S. borders.
- They are "Dependent" because they are subject to Federal authority.
- They are "Nations" because they exercise sovereign power.

Government-to-Government Relationship: Federally recognized Tribes deal directly with the Federal government as political entities, not as racial or ethnic minority groups.

Sovereign Immunity: Tribes generally cannot be sued without their consent or an express act of Congress.

Powers of a Sovereign Tribe

A sovereign tribe has the right to:

- **Define Citizenship:** Determine who is a citizen member of the Tribe.
- **Administer Justice:** Operate Tribal courts and police forces to enforce Tribal laws.
- **Regulate Land and Resources:** Manage environmental protection, zoning, and hunting/fishing rights on Tribal lands.
- **Tax and License:** Collect taxes and license businesses (like casinos or hotels) to fund essential government services.

Legal Limitations

While broad, Tribal sovereignty is not absolute and has been limited by the Federal government:

- **Plenary Power of Congress:** Under the Indian Commerce Clause, Congress has the unilateral power to limit, expand, or even terminate Tribal powers.
- **Jurisdiction Over Non-Members:** Generally, Tribal courts lack criminal jurisdiction over non-Indians (per *Oliphant v. Suquamish*), though they may exercise civil authority in specific cases (*Montana v. United States*).
- **State Authority:** While state laws usually do not apply on Tribal land, certain laws like Public Law 280 have granted some states limited jurisdiction over criminal and civil matters on reservations. Oklahoma is not a PL-280 state.

Foundational Legal Cases (The "Marshall Trilogy")

- *Johnson v. McIntosh* (1823): Established that only the Federal government, not private citizens, can purchase land from Tribes.
- *Cherokee Nation v. Georgia* (1831): Defined Tribes as "domestic dependent nations".
- *Worcester v. Georgia* (1832): Ruled that state laws have no force in Indian Country and only the Federal government has authority in Tribal affairs.