



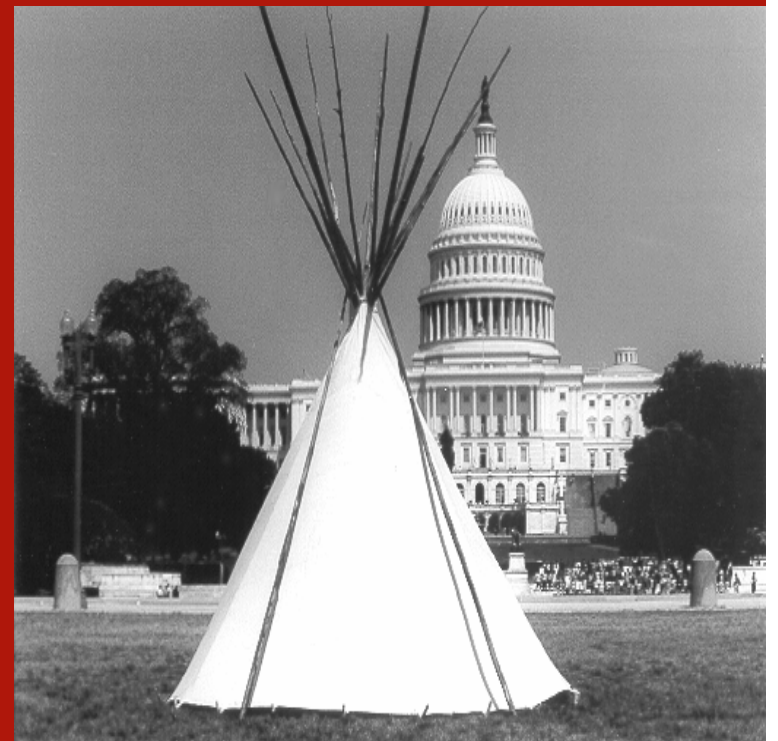
**National Congress of American Indians**

# **Democratic Processes and Governance of Indigenous Communities**

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**August 23, 2007**



# Presentation Overview

- I. An Introduction to Indian Country, Tribal Governments, and NCAI
- II. The Modern Era Of Government-to-Government Relations
- III. The Unique Needs of Tribal Governments and American Indian People
- IV. Successful Approaches to Empowerment and Strengthening Tribal Self-Governance
- V. Conclusion

# I. An Introduction to Indian Country and Tribal Governments

Tribal governments' structures and the needs of American Indian people are diverse. All tribal governments, however, meet their responsibility to their people based on their inherent authority that predates contact with non-Indigenous governments and governs their relationship with the U.S.

# *The U.S.-Tribal Relationship*

**Indian tribes occupy a unique place in the federal system. They are “domestic dependent nations” with whom the U.S. government has a formal trust relationship.**

## **What this means:**

- 1. Tribes possess inherent sovereignty.**
- 2. The federal government has a trust responsibility to Indian tribes.**

# Tribal Sovereignty

The essence of tribal sovereignty is the ability to govern and to protect the health, safety, and welfare of tribal citizens within tribal territory

Other terms: Self-determination, self-governance.

# Sovereignty is a Means to an End

- ✍ Sovereignty ensures cultural survival
- ✍ Self-determination is the key to successful economic development

# The National Congress Of American Indians

Tribal leaders founded NCAI over sixty years ago. Today it is the oldest and most representative national organization of tribal governments. NCAI has over 250 member governments, a national board of tribal leaders representing all regions of U.S., and an effective lobbying and advocacy organization on all topics that impact tribal governments.

# Overview of “Indian Country”

- The population of American Indians and Alaska Natives in the U.S. is 4.1 million, roughly 1.5 % of the total U.S. population.
- The U.S. federal government recognizes 562 tribal governments.
- Over 70 tribal governments employ 300 or more employees.
- Indian lands comprise about 5 % of total area in the U.S., but hold an estimated 10 % of all the country’s energy reserves.
- Reservation land bases range in size from over 15 million acres to less than one acre.



# The United States' Recognition of Inherent Tribal Sovereignty

“The Congress shall have power to . . .  
Regulate commerce with foreign nations,  
and among the several states, and with  
Indian tribes . . .”

*Article 1, Section 8,  
The United States Constitution*

# The United States' Recognition of Inherent Tribal Sovereignty

“The utmost good faith shall always be observed towards the Indians; their land and property shall never be taken away from them without their consent . . . But laws founded in justice and humanity shall from time to time be made, for preventing wrongs to them . . .”

*Northwest Ordinance of 1789*

# The United States' Recognition of Inherent Tribal Sovereignty

“Indian Nations had always been considered as distinct, independent political communities, retaining their original natural rights, as the undisputed possessors of the soil . . . The very term ‘nation’ so generally applied to them, means ‘a people distinct from others.’”

*Chief Justice John Marshall, The Supreme Court of  
the United States, 1832*

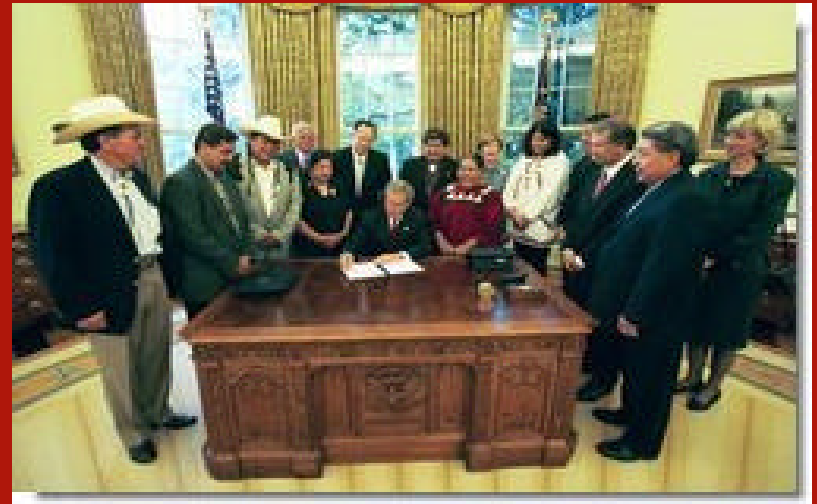
# A Unique Government-to-Government Relationship

“The condition of the Indians in relation to the United States is perhaps unlike that of any other two people in existence.” *John Marshall, 1831*

“[T]hose powers which are lawfully vested in an Indian Tribe are not, in general delegated powers granted by express acts of Congress, but rather inherent powers of a limited sovereignty which has never been extinguished.” – *Felix Cohen, 1942*

## ***President Bush Supports the Government-to-Government Process.***

**“My Administrations is  
committed to continuing  
to work with federally  
recognized tribal**



**governments on a government-to-  
government basis and strongly supports and  
respects tribal sovereignty and self-  
determination for tribal governments in the  
United States.”**

**-President George W. Bush, Executive Memorandum, Sept. 23, 2004**

## II. The Modern Era Of Government-to-Government Relations

Federal support for tribes' freedom to organize and to exercise tribal authority and decision making in tribal affairs empowered tribes to address the unique cultural, economic and natural resource challenges of the twenty-first century.

# The Indian Reorganization Act of 1934

The Federal government:

- Assisted tribes in adopting written forms of government to exercise their inherent powers
- Established mechanisms for recovery of control over land
- Encouraged economic self-sufficiency

# Indian Self- Determination and Education Assistance Act of 1975

- Allowed tribes to contract with federal agencies such as the Bureau of Indian Affairs (BIA) and Indian Health Services (IHS) to operate formerly federally operated delivery systems
- Established an official U.S. policy to promote Indian self-governance by the tribes



# The Self Determination and Self-Governance Policy Era

“This, then, must be the goal of any new national policy toward the Indian people: to strengthen the Indian's sense of autonomy without threatening his sense of community. We must assure the Indian that he can assume control of his own life without being separated involuntarily from the tribal group. And we must make it clear that Indians can become independent of Federal control without being cut off from Federal concern and Federal support.”

*U.S. President Richard Nixon, 1979*

# Tribal Self-Determination

Tribal governments have the inherent right to develop their own form of government, to determine their own citizenship, to establish their own civil and criminal laws and be ruled by them in tribal courts, to tax, to license and regulate, and to exclude people from tribal lands

# Sovereignty in Action

Tribal governments are responsible for a broad range of governmental activities:

- promulgating laws

- education

- law enforcement

- justice systems

- environmental protection

- Infrastructure- roads, bridges, sewers, waste treatment, and public buildings

### III. The Unique Needs of Tribal Governments and American Indian People

The unique history and political standing of tribal governments creates challenges for the recognition of tribal governments' authority, the incorporation of traditional systems and culture in contemporary law, a supportive public perception, and the adequate funding for tribal needs.

# Results of Gaps in Tribal Authority Under Federal Indian Law

- Complex and unstable determinations of which jurisdiction's authority applies on reservations.
- Difficult to coordinate regulatory authority on shared jurisdictions.
- Cross boundary needs of community members may go unmet.

# Finding a Place for Traditional Systems Of Decision Making

- Tribes' traditional judicial and legislative systems of governance do not always mirror the majority culture's system of governance.
- Diverse cultural, language and cosmo-visions present challenges in communicating to the majority culture a responsive strategy that effectively deals with tribal communities' needs.

# A Challenging Public Perception

The public's perception of tribes wrongly stereotypes an already marginalized population of American Indian people and their governments. Tribal governments are seen as either unfit to address the modern needs of their people, or as groups that have an unfair advantage over other segments of society.

# Inadequate Funding Despite An Unmet Need

- The federal government holds a unique trust responsibility to meet individual American Indian needs as well as tribal needs and management of tribal lands and resources.
- The U.S. Commission on Civil Rights called the unmet funding needs of American Indians in areas of responsibility such as health, housing, justice education, and agriculture a “Quiet Crisis.”



## IV. Successful Approaches to Empowerment and Strengthening Tribal Self-Governance

Empowerment occurs at the individual tribal and the inter-tribal levels as well as outside tribal communities. The tools to empower tribal governments are diverse, even if the goal is singular.

## Effective approaches to engagement and advocacy achieve the following:

- Educate the public about both general and specific issues at all levels of government.
- Integrate traditional systems of decision making and values in to the development of a stronger tribal position.
- Identify and commit support to an issue of concern common to many tribes.

# Indigenous Approaches to Civic Engagement

- Founding NCAI
- Native Vote
- Tribal Sovereignty Protection Initiative
- State-Tribal Relations
- International Fora
- Research and Policy Institute

# NCAI

NCAI is the only inter-tribal organization at the national level. It has continued to be effective where other organizations have not because of its history and structure. NCAI advocates and lobbies for the protection of tribal governments' authority in all areas of the government.

# NCAI Founding

- Although founded in response to negative legislation for tribal governments, tribal leaders themselves and not the federal government established the national organization as a tool for the protection of tribal rights.
- The current NCAI structure represents the geographic regions and maintains the decision making authority with the tribal leadership that is elected and accountable to their people.

# NCAI Decision Making Processes

NCAI membership provides a structure for collaboration and informed decision making:

- Membership gathers three times and committees meeting as needed
- Consensus voting structure balances individual tribes' needs as well as size
- Resolutions are set by membership and establish the parameters of staff advocacy
- Board of tribal leaders remains active and is elected at the regional level

# Native Vote

The Native Vote 2004 Campaign was an extensive national non-partisan effort to mobilize the American Indian and Alaska Native voters to participate in state and federal elections.

The initiative was undertaken in collaboration with regional organizations, local tribal governments, centers serving the Indian populations of urban centers, and non-governmental organizations who focus on democracy initiatives.

# Native Vote Structure

Native Vote involves a number of organizations and tribal governments. Partners communicate regularly through organization liaisons and designated coordinators to meet the following objectives:

- Register record numbers of Native American voters leading up to elections,
- Educate Native American voters about their voting rights on election day,
- Coordinate high turnout on election day,
- Institute voting participation among tribal communities as an important practice for future elections and political engagement.



# Native Vote Impact

- Demonstrated the power of Native American voters and concerns in local and national elections.
- Increased the need for candidates to develop positions on issues facing tribal governments.
- Used the candidates' platform statements as a way to educate the non-Indian voting populations.
- Institutes networks for tribal governments to use in activating future political participation.

# The Tribal Sovereignty Protection Initiative (TSPI)

Tribal leaders founded the TSPI in 2001 as a response to the Supreme Court of the United States' negative decisions that diminished tribal governments' authority. The TSPI involves tribal leaders as well as legal experts both in and outside of the Indian law field. The NCAI plays a lead role in coordinating the TSPI.

# TSPI Structure

**The TSPI structure involves five core project areas:**

- The Supreme Court Project
- Legislative Remedies
- Media Relations
- Fund Raising
- Educating the Judiciary

# TSPI Impact

- Created a proactive approach to shape case law that impacts tribes.
- Identified and allied tribal governmental interests with state governmental interests.
- Established a growing network of expertise.
- Accessed the most effective legal advocates.
- Created an internal forum for tribes to assess and resolve legal strategies.

# Tribal-State Relations Project

The Tribal-State Relations Project increases understanding between tribal leaders and state lawmakers through education, technical assistance, and training for improved communication. The Project builds on the existing government-to-government relationship and intergovernmental agreements between tribes and states.

# Tribal-State Relations Structure

The NCAI and the National Conference of State Legislatures partner to:

- Coordinate an advisory board of tribal leaders and state law makers who direct the Project's activities,
- Solicit input from other invested arms of government and national groups such as the National Governor's Council,
- Disseminate educational information about tribal governments to all state and tribal leaders,
- Dedicate staff liaisons who have an established work plan and evaluation system.

# Tribal-State Relations Impact

- Promoted the successes and win-win result of intergovernmental agreements between states and tribes.
- Increased state legislation that recognizes unique tribal authority.
- Increased American Indians' political participation in state law making.
- Gained accesses to political partners on shared issues such as tax and law enforcement needs between states and tribes.

# NCAI and the International Arena

NCAI participates in negotiation processes in international forums and maintains partnerships at the international level as an important tool to protect tribal authority, particularly as international bodies increase activity on the area of Indigenous Peoples' rights, and federal Indian policy and law's limits become more evident.



# NCAI International Structure

- Participate in the United Nations and the Organization of American States negotiations on Indigenous Peoples' rights.
- Maintain an existing kinship agreement with the Assembly of First Nations and develop new agreements such as an a Indigenous Pacific-Rim Agreement.
- Participate in domestic organizations dealing with international policy such as a U.S. interagency working group on international indigenous issues.
- Educate tribal governments on the role of international issues in Indian law and policy.
- Monitor emerging international arenas that impact tribes such as telecommunications.

# NCAI International Impact

- Enhanced arguments against existing areas of domestic law that deal inadequately with tribes.
- Continued exercise of distinct sovereign authority through participation in forums.
- Established a role in the international network of Indigenous Peoples.

# Policy Research Center

The NCAI Policy Research Center was recently established for the purpose of ensuring that research about indigenous people is controlled by indigenous people.

The Center includes an extensive research library and archives, the capacity for data collection and analysis, a speaker's bureau, and other educational components.

# Policy Research Center Impacts

- A more proactive and timely response from tribal governments on federal policy impacting Indian tribes.
- A new network of communication between tribal leaders and experts.
- Provides tribal policy-makers with the data they need to make good decisions.
- A centralized location for institutional knowledge on national policy issues that impact tribes.

## V. Conclusion

The needs of tribal governments will continue to expand as tribes more fully exercise their authority. A stronger network of support for decision making, greater public education, and stronger alliances outside of Indian Country will be essential for continued success in increasing civic engagement of indigenous people in the U.S.