



Tribal Sovereignty & HIV/AIDS Work in Indian Country

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Today's Presentation

- Quiz - Tribal Nations
- Historical Timeline of Major Events in Indian Health Care
- Key Terms: Tribal Sovereignty, Treaty Obligation, Federal Trust Responsibility
- Government-to-Government Relationship, Tribal Consultation & Tribal Advisory Committees
- National and Regional Area Health Boards and Tribal Epi Centers
- HIV/AIDS Work in Indian Country



Q&A

1. How many Federally-recognized Tribes are there?
2. In how many states are the 574 Federally-recognized located?
3. Why do we still use the term American Indian?
4. Other terms used for Tribal Nations?

Answers

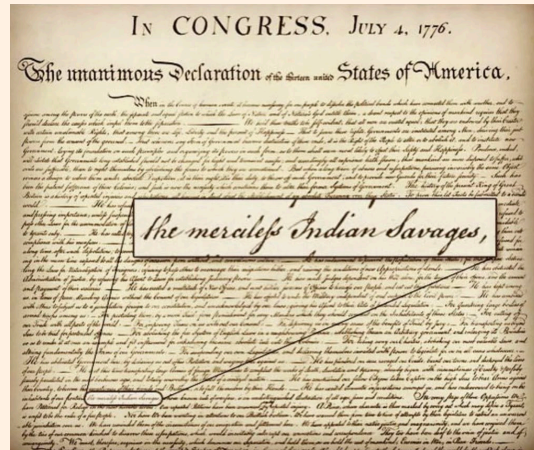
1. 574 Federally-recognized Tribes have a Nation-to-Nation relationship with the United States government.
2. 37 States
3. American Indian is the term used in Federal Indian Law. An entire body of law that defines the relationship with the United States and Tribal Nations.
4. Tribes, Nations, Bands, Pueblos, Communities and Native Villages



Historical Timeline of Major Events in Indian Health Care

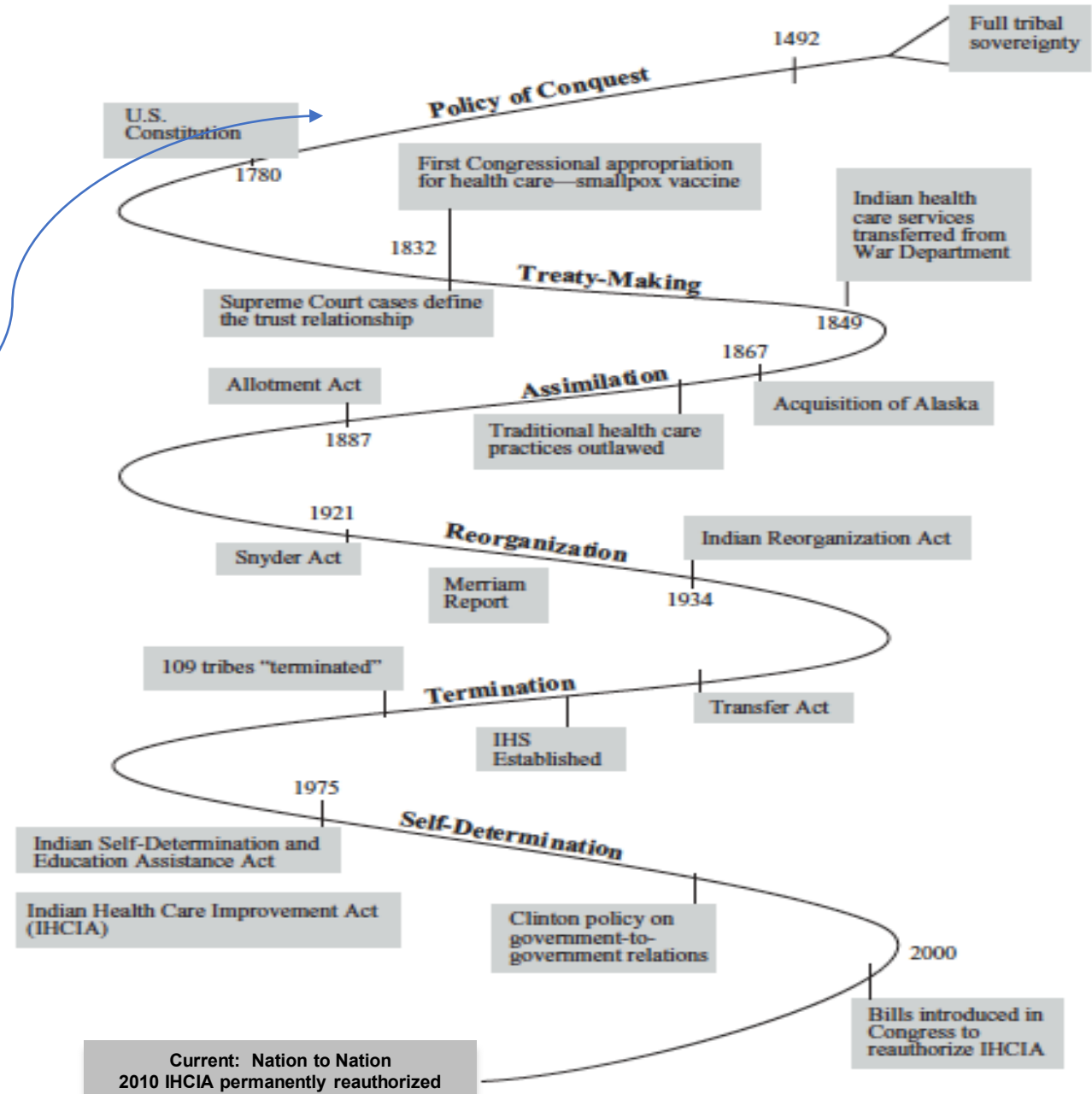
Diagram (with adaptation) from the Henry J. Kaiser Family Foundation, Issue Brief: Legal and Historical Roots of Health Care for American Indians and Alaska Natives in the United States, www.kff.org

Declaration of Independence, July 4, 1776



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Timeline of Major Legislative and Historical Events in Health Care for American Indians and Alaska Natives



Tribal Sovereignty

- The U.S. and other countries recognized the sovereignty of Tribal Nations by negotiating Treaties and leaving Tribal Nations to regulate their own affairs
- Tribes are referenced three times in the U.S. Constitution.
- Article IV, of the U.S. Constitution recognizes Treaties as the Supreme law of the land
- The U.S. Supreme Court first acknowledged and affirmed Tribal Nations' inherent right to self-government in *Worcester v. Georgia* (Sup. Ct. 1832).
- Government-to-government relationship with federal government (Tribal Nations)

We were a people before "We the People"...

— 20th and 22nd President of the
National Congress of American Indians,
Jefferson Keel, 2013



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Treaty-Making

- Treaty-making captures the first negotiations between the federal government and Tribal Nations
- Treaties are contracts between the United States and tribes
- Referred to as the **Treaty Obligation** by Tribal Nations
- Entered into for the purpose of:
 - Ending hostilities
 - Guaranteeing peace
 - Hunting and fishing rights
 - Acquiring land
 - Education
 - Housing
 - Healthcare
 - and more....
- 374 Indian Treaties (between 1778 and 1871)

Federal Trust Responsibility to Tribal Nations

The Supreme Court first recognized the existence of the federal trust relationship to Tribal Nations in its early cases interpreting Indian treaties. It essentially means that the federal government will respect the sovereignty of Tribes, protect the Tribes, and provide for the well-being of Tribes.

- Collectively defined by:
 - Treaties
 - Presidential Executive Orders
 - Extensive Court decisions
 - Statutes
 - Regulations
 - Department and agency policy statements
 - Ongoing relations with Indians have collectively defined the federal trust relationship
- Recognized by all branches of the federal government

EXAMPLE: Indians have a political status (not racial) when tied to the unique federal obligation to Indians.

- *Morton v. Mancari* (Sup. Ct. 1974)
 - Established "rationally related" standard of review for Indian-specific laws
 - Law will not be disturbed if rationally tied to Congress's "unique obligation" to Indians
 - Federal government's special treatment of Indians is political and non-racial when it "can be tied rationally to the fulfillment of Congress' unique obligation towards the Indians."
- *Haaland v. Brackeen* (Sup Ct. 2023)
 - Supreme Court affirmed the unique political status of Tribal Nations and AI/AN people and the Indian Child Welfare Act was upheld.



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Federal Trust Responsibility for Healthcare

- U.S. Department of Health and Human Services (HHS) and agencies carry out federal trust responsibility to Indians for health care
- Indian Health Service (IHS) – primary HHS agency that funds services to AI/AN people
 - FY 23 Funded at \$6.95B
 - FY 23 Full Funding Tribal Request: \$49B
 - FY 23 HIV Funding \$5M; plus \$11M through MAIF
- Other agencies - CMS, CDC, HRSA, SAMHSA, ACF, etc. – also fund services for AI/AN people

IHS established in 1955
Divided into 12 administrative “Areas”
1,139 health facilities located in 34 states
49 hospitals
545 health clinics
231 ambulatory facilities
133 health stations
176 Alaska Native village clinics
34 Urban Indian Health programs
Serves 2.56 million AI/AN



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Government-to-Government Relationship Requires Tribal Consultation

- Tribal Consultation in Healthcare for AI/AN
 - Various Statutory Authorities
 - Presidential Executive Memorandums and Orders
 - HHS Tribal Consultation Policies
 - Plus IHS, CMS, SAMHSA, CDC, etc. - all have Tribal Consultation Policies
- Mechanisms
 - Dear Tribal Leader Letters & Comments
 - Virtual and In person
 - Tribal Advisory Committees
 - One-to-One meetings



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U. S DEPARTMENT OF HEALTH AND HUMAN SERVICES TRIBAL CONSULTATION POLICY

1. Purpose
2. Background
3. Tribal Sovereignty
4. Policy
5. Philosophy
6. Objectives
7. Consultation Participants and Roles
8. Tribal Consultation Process
9. Consultation Procedures and Responsibilities
10. Establishment Of Joint Tribal/Federal Workgroups And/Or Taskforces
11. Health and Human Services Budget Formulation
12. Tribal Consultation Performance And Accountability
13. Evaluation, Recording Of Meetings And Reporting
14. Conflict Resolution
15. Tribal Waiver
16. Effective Date
17. Definitions
18. Acronyms

1. PURPOSE

The U. S. Department of Health and Human Services (HHS) and Indian Tribes share the goal to establish clear policies to further the government-to-government relationship between the Federal Government and Indian Tribes. True and effective consultation shall result in information exchange, mutual understanding, and informed decision-making on behalf of the Tribal governments involved and the Federal Government. The importance of consultation with Indian Tribes was affirmed through Presidential Memoranda in 1994, 2004 and 2009, and an Executive Order (EO) in 2000.

Note: Urban programs are not included in Tribal Consultation Policies. However, IHS has an Urban Confer Policy.

Tribal Advisory Committees Across HHS

Department of Health and Human Services (HHS) Secretary's Tribal Advisory Committee (STAC)

IHS	CMS	SAMHSA	CDC	NIH	ACF	HRSA
<ul style="list-style-type: none">• National Committees• Portland Area Committees	<ul style="list-style-type: none">• CMS Tribal Technical Advisory Group and Committees	<ul style="list-style-type: none">• Tribal Technical Advisory Committee	<ul style="list-style-type: none">• Tribal Consultation Advisory Committee	<ul style="list-style-type: none">• Tribal Advisory Committee	<ul style="list-style-type: none">• Tribal Advisory Committee	<ul style="list-style-type: none">• Tribal Advisory Committee

**Each Committee has a Primary and Alternate Representative for the 12 IHS Areas
Representatives are an Elected Tribal Leader or Designated by the Tribal Nation**



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National and Regional Tribal Health Organizations & Tribal Epidemiology Centers

- National Indian Health Board
- 11 Area Indian Health Boards
 - Alaska Native Health Board
 - Albuquerque Area Indian Health Board
 - Great Lakes Area Tribal Health Board
 - Rocky Mountain Tribal Leaders Council
 - California Rural Indian Health Board
 - Great Plains Tribal Leaders Health Board
 - United South and Eastern Tribes
 - Navajo Nation Department of Health
 - Southern Plains Tribal Health Board
 - Inter-Tribal Council of Arizona
 - Northwest Portland Area Indian Health Board
- National Council on Urban Indian Health
- 12 Tribal Epidemiology Centers*
 - Alaska Native Tribal Health Consortium Epidemiology Center
 - Albuquerque Area Tribal Epidemiology Center
 - California Tribal Epidemiology Center
 - Great Lakes Intertribal Epidemiology Center
 - Great Plains Tribal Epidemiology Center
 - Intertribal Council of Arizona
 - Navajo Epidemiology Center
 - Northwest Tribal Epidemiology Center
 - Oklahoma Area Tribal Epidemiology Center
 - Rocky Mountain Tribal Leader Council Epidemiology Center
 - United South and Eastern Tribes
 - Urban Indian Health Institute

*Public Health Authorities under the Indian Health Care Improvement Act - See <https://tribalepicenters.org/>

HIV/AIDS Work in Indian Country

- Important to understand status of Tribal Nations and unique structure of the Indian Health System
- Underfunding of entire Indian Health System and significant health disparities impact focus on HIV/AIDS in many communities
- Tribal Consultation is critical – know HHS Tribal Consultation Policy
- Tribal Advisory Committees can be a resource on HIV/AIDS needs
- Regional Indian Health Boards and Tribal Epidemiology Centers are a resource and connected to Tribal Communities



Questions?

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