

Sovereignty

From Robert J. Lyttle (Cheyenne/Arapaho), Attorney, Norman, Oklahoma, 1999.

Sovereignty in its simplest form means governmental power over people and land. Governments possess sovereignty. The United States has sovereignty, each state has sovereignty, and Indian tribes have sovereignty. The sovereignty of the United States comes from each state. The original 13 colonies each had their own sovereignty over their land and people after the American Revolution. When the 13 colonies decided to form the United States, they gave a portion of their sovereignty to the central government of the United States. Therefore, the source of U.S. sovereignty is each state.

The United States is a limited sovereign. Its power is limited because the powers that states did not give to the federal government remain with the states. Similarly, Indian tribes are the source of their sovereignty. For thousands of years Indian tribes had the absolute power to govern their territory and the people within their territory. The United States did not "give" Indian tribes any governmental powers or sovereignty. Indian tribes existed for thousands of years before the United States was formed. For example, when the U.S. government encountered Indian tribes, they negotiated treaties as one sovereign government to another sovereign government. At the treaty negotiations, both the tribe and the United States would bring their sovereign rights to the table. In this way, each side made promises to the other to forge the agreement. Any powers that the tribe did not relinquish remain with the tribe to this day. Over the years, however, the U.S. government has unilaterally taken pieces of tribes' sovereignty away. Nevertheless, tribes still retain broad governmental powers over their territories and the people within their territories. As sovereign governments, tribes have power to pass laws addressing such matters as land use, criminal conduct, civil conduct, and business regulation.

Since the formation of the U.S. government, there has been tension between the powers of the states versus the powers of the federal government. Some people argue for a strong central government while others argue for "states rights" or more power to the states. Similarly, the distribution of powers between Indian tribes and the federal government is also constantly in dispute. Tribes, like states, argue that they are the source of their sovereign powers, that is, they have inherent sovereignty, and that the federal government only has limited

powers over them. Overall, the extent to which the U.S. government will respect the sovereign rights of Indian tribes remains to be seen.