



Reclaiming culture. There was a time when St. Mary's Mission just south of Omak actively tried to take the Indian out of the Native American students who were boarded there. Founded by a Jesuit priest in 1886, the school disallowed native languages, cut boys' hair and forced students to act, speak and dress as Europeans. In 1974, the **Colville Confederated Tribes** took over the school and renamed it The Paschal Sherman Indian School. Students at the boarding school can now learn the Salish dialect Nselxchin, traditional dancing, regalia making and other culturally based topics, as well as mainstream academic subjects.

Tribal sovereignty

Law of the land



Survival school. Children join Felix Aripa to learn how to gather water potatoes on Benewah Lake in a bay whose Coeur d'Alene name means "Water-potato gathering bay." "The language is the main part of our sovereignty," says Aripa, an elder of the Coeur d'Alene Tribe. "We speak one aboriginal language in this one place, telling our different moral stories. These stories are used to put a child in place. This place. Our place. The thing that pleases me is the participation of the kids, their teachers and the schools. This teaches about how our people survived." The water potatoes, deer and fish feed the people until spring. The **Coeur d'Alene Tribe** developed an Environmental Action Plan to protect places where food was traditionally gathered. The tribe sponsors a project that maps sacred places on the original lands and records elders' explanations of their cultural importance to the tribe.

Story by Julie Titone / Photography by Tarsten Kjellstrand

Defining what sovereignty means to Native Americans often leads to a tangle of legal jargon and historical debate.

Lucy Covington knew what it means: the recognition of the right to govern.

Which is why she sold her cows.

The Colville tribal council member did so to pay her own way back to Washington, D.C., where she duelled with the formidable Sen. Henry "Scoop" Jackson. That was during what is known as the Termination Era of the 1950s and 1960s. Back then, the United States' approach to Indian nations was to decide they didn't exist. Fifty tribes accepted cash buyouts. In doing so they gave up federal recognition and support promised in their treaties.

Some people thought this was the best thing for Indians. It might cut them loose from federal strings that had left them powerless. The impoverished Colvilles were sharply divided on termination. Most tribal council members were ready to accept it, recalled Sherwin Broadhead, former Bureau of Indian Affairs superintendent in Nespelem.

Covington was not. In the late 1960s she flew frequently to the nation's capital to confront Jackson, a Washington state Democrat who kept introducing bills to terminate the Colville Confederated Tribes.

Indian tribes embrace role of self-governing as a way to preserve their language, values and heritage

Tribal sovereignty

Family. Margaret Moses, who is not Indian, inoculates a cow on the ranch site and her husband, Charlie, work on the Colville Reservation. The Colville Tribe owns most of the 20,000 acres the couple manages, and for which they pay a grazing fee. Because treaty rights are bestowed by bloodlines, those who join the reservation can become part of the life of the community, but never become tribal members.



Cashing in. Gambling may be a tribe's most visible source of income, but many also make the most of their natural resources. A tribally owned sawmill employs 110 members of the Yakama Tribe and creates another 200 logging and transportation jobs. Secretary for the General Council Joe Jay Pinkham, below right, talks to sawmill manager Cecil Sanchey about the operation.



Taste of history. As manager of the tribally owned Kalispel Agricultural Enterprises, Lloyd Finley is in charge of the tribe's herd of buffalo. At the end of last summer, he cut, dried and gathered the hay that is feeding the animals this winter. The Kalispel Tribe, which used to travel to hunt the buffalo, distributes the meat to households on the reservation in an effort to get buffalo back into the Kalispel's diet.



Learning traditions. Ready to dance at the August Powwow on the Kalispel Reservation near Usk, Louis Bluff, 7, learns from his family and elders of the Kalispel Tribe about his culture.

Law of the land: Self government remains battle cry

Continued from 1

Other council members traveled with tribal money, recalled Broadhead. "When Lucy wanted to go, she would sell a cow." The rancher with the long braid prevailed. Covington, great-granddaughter of Chief Moses, died in 1982. She is revered on the reservation for hanging on to federal recognition for her confederation of 12 tribes.

Today, the federal government has done an about-face, making self-determination the centerpiece of its Indian policy. Tribes are determined to exercise their sovereignty even though threats remain, notably from non-Indians who live on reservations and chafe under tribal rules.

Ron Allen, chairman of Western Washington's Jamestown S'Klallam tribe, echoed an Indian political battle cry this year when he said: "We're governments and we're going to act like governments."

Allen was a lead warrior in the successful Indian campaign against the re-election of U.S. Sen. Slade Gorton. The Washington Republican long had challenged treaty fishing rights and tribal immunity from lawsuits. Those issues touch the two types of tribal sovereignty that

legal experts consider vital and inseparable: the cultural and the political.

Political sovereignty arises from treaties. Those are, by definition, agreements between two sovereign governments. During the European settlement of America, tribal leaders signed treaties first with the British and French, then with the new United States government.

What's unique about the U.S. treaties is they recognized that the tribes were sovereign governments before the country was created, according to Mel Tonasket. A Colville tribal member who served in the 1970s as president of the National Congress of American Indians, Tonasket worked to get a non-governmental seat in the United Nations representing aboriginal peoples. He studied other natives, from the Laplanders of Scandinavia to the Maori of New Zealand, and learned that the colonial powers elsewhere didn't recognize pre-existing native rights to govern.

"We're even a lot different than Canadian Indians," he said. "The Canadian government only recognizes powers that the (British) Crown gave them."

The notion that their people were free and self-governing "from time immemorial" is at the heart of Indian pride. It's why tribal leaders insist on government-to-government relations with non-Indians.

Newcomers to the Americas didn't usually recognize native tribes as noble governments, but as bands of savages who stood in the way of a superior white culture. They called their vision Manifest Destiny.

Continued **Law of the land/3**



Home on the range. Johnny Wallace shows Nicholas Katzdorn where a deer might emerge from the woods into a field. He then shows the young hunter which shot is safe and effective. All the meat gathered during the hunt is given to the tribe's elders, who will use it for a feast. Almost all treaties give tribes the right to hunt and fish in their "usual and accustomed places," many of which are not within reservation boundaries. A group of men on the Coeur d'Alene Reservation take that right seriously and want to make sure it remains part of their culture. During the First Time Hunters Program, the older hunters of the **Coeur d'Alene Tribe** teach the younger ones effective techniques and ethics of their culture. The young hunters learn to respect their prey and give thanks for an animal they've harvested.

Law of the land/Continued from 2

The assumed inferiority of tribes was reinforced by Supreme Court rulings of 1823, 1831 and 1832. Those decisions, known as the **Marshall Trilogy**, described the tribes as "domestic dependent nations" and the federal government as their guardian.

Overwhelmed by the sheer numbers of white settlers and their bullets and diseases, tribal leaders signed treaties — some 371 of them before 1871, when Congress banned the practice.

The Indians normally were granted the right to fish and hunt in their usual places. Some land was reserved exclusively for them to govern and inhabit, hence the term "reservations." The

Indians extracted federal promises of education for their youth.

In exchange, they relinquished control of entire regions. The aboriginal lands of the Nez Perce tribe alone covered 14 million acres.

"It was one of the largest real estate transactions in the history of the world," said Michael Blumm, who teaches at the Northwestern School of Law in Portland. "The guys who were making the treaties were saying, 'This is the way to keep your fish.' What the whites really wanted was settlement, and they got that."

Eventually the whites wanted the fish, too. But first they wanted gold. When it was discovered on the Nez Perce reservation created by an 1855 treaty, the federal government didn't

keep white prospectors off Indian land. Instead, it pressed for the treaty of 1863, shrinking the reservation to its current 750,000 acres — about 5 percent of the territory that the Nez Perce once roamed. In the same way, Congress took away the northern half of the Colville reservation in 1892 when gold was found in the Okanogan highlands.

The treaty era was followed by a time when reservations were carved up, when the best thing for Indians was thought to be merging them into the white culture.

In 1886, Congress approved a law that's still causing grief on reservations today. The **Dawes General Allotment Act** was named for its author, Sen. Henry Dawes of Massachusetts. It transferred tribal land to

individual Indians. When, as anticipated, there was land left over, those parcels went to white homesteaders.

The tribes could do nothing but go along. By that time, they had lost all military capability, said Charles Wilkinson, a University of Colorado professor who has written extensively on Indian law.

The idea was to bring Indians into mainstream American society by making farmers of them, and it was supported by many who were sympathetic to Indians. But it was ruinous for tribes, and created today's crazy quilt of overlapping political jurisdictions.

Homesteaders saw little evidence of tribal

Continued **Law of the land/6**



On patrol. Coeur d'Alene Tribal Officer Sam Abrahamson cruises Lake Coeur d'Alene this fall. When a federal judge confirmed that the **Coeur d'Alene Tribe** had control of the lower third of the lake, the tribe immediately gained law enforcement responsibility. The tribe works closely with other law enforcement agencies in nearby cities and counties, reflecting the mostly cooperative relationship between the tribe and non-tribal people living in and around the reservation. The U.S. Supreme Court recently agreed to take up the issue of control over the lower third of Lake Coeur d'Alene.

Alcohol ban. The 1855 treaty that established the Yakama Reservation prohibited "ardent spirits." The **Yakama Tribe** is now trying to enforce that article of the treaty, causing a controversy among tribal and nontribal residents. At Jack's Place in Brownstown, the idea isn't very popular. Operator Joe Castilleja says about 90 percent of his clients are Indians. After a full season of fire fighting, Dennis Nash and Dennis Adams relax at Jack's Place this fall.

Tribal sovereignty



Dirty job. Left: Kids wallow in the mud near an area around Benewah Lake which **Coeur d'Alene Tribe** elder Felix Aripa says used to be a winter quarters, where members took advantage of good ice fishing. Below: Paul Nomee washes off in Lake Coeur d'Alene after gathering water potatoes.



Law of the land: Casino profits used for education

Continued from 3

sovereignty and didn't realize they might be subjecting themselves to tribal authority by moving onto a reservation, Wilkinson said.

Many Indian allotments wound up in non-Indian ownership through sale by tribal members or forfeitures to satisfy debts.

"From our point of view, a lot of the land was stolen from us during those years," said Cobville tribal council member Mike Marchand.

In some cases, Marchand suspects, federal Indian agents and white settlers took advantage of Indians who often spoke little English and couldn't read the language. Many probably didn't realize they owed property taxes or that

failure to pay could cost them their homes. Besides, the concept of land ownership was foreign to Indians. "It was like owning air," Marchand said. "How can you own the land?"

Today, 20 percent of the Cobville and the Spokane reservations are comprised of land that is privately owned and subject to non-Indian taxation. At the other end of the ownership spectrum are the Coeur d'Alene and the Nez Perce reservations, which are, respectively, 81 percent and 83 percent privately owned.

Indian-held land dropped from 138 million acres in 1887 to 48 million acres in 1934. What remained was a jurisdictional checkerboard. Law enforcement, water distribution and land-use planning are just three of many areas where conflicts have risen between tribes and the non-Indian residents of reservation lands.

The level of tension varies widely, from high to nonexistent. One factor is the approach of tribal leaders, who in deciding what's best for their people sometimes risk upsetting non-Indian neighbors. Another is the attitude of non-Indian government officials. Yet another factor is the presence of anti-sovereignty groups.

Tribal casino profits add to the stew of confusion and mixed feelings about Indian government. Even people who rally behind the tribes can feel uneasy about gaming. But for tribes, the right to govern most definitely includes the ability to liberate gamblers from their money.

"If we lose sovereignty, you can kiss those casinos good-bye," Marchand told a gathering of Northwest tribal leaders this fall.

The tribes spend their casino profits heavily on education, social services and land purchases. The ability to make those decisions for themselves was reinforced by the Indian Self-Determination Act of 1975. The federal government took the reins of reservation decision-making from the Bureau of Indian Affairs and handed them to tribes who want that control.

Later laws recognized tribal say-so in the fate of adopted Indian children, the practice of Indian religions and the protection of Native American graves.

In short, Congress has been recognizing tribal cultural sovereignty. Rebecca Tsosie, a Native American law

professor from Arizona, believes the preservation of language and values is the bedrock upon which political sovereignty is based.

"Anglo-American government is afraid to merge church and state," Tsosie said recently at the University of Idaho. "Indian nations are saying those spiritual values are at the core of what they do."

For most Indians, she added, sovereignty lies within the community. "We don't think of individual rights trumping group rights. In that structure, the Bill of Rights is as good as it gets. And I don't think that's what we're looking for."

Yakama tribal elder Fred Ike Sr. believes his people's sovereignty goes back much further than the arrival of Europeans and the writing of the 18th-century Constitution.

"Our ancestors stood tall and strong and maintained their unwritten laws," he said. "It's definitely up to the Indian people to show the outside world we are still Native Americans."

Julie Titone can be reached at (208) 765-7126, or by email at juliet@spokesman.com.

Love of land.

Indians aren't the only people with deep ties to the land. Steve Riggers carries his nephew, Jonathan, 7 on land his family homesteaded on the Nez Perce Reservation near Craigmont in 1895. Steve and his brother, Nathan, farm the same land and face uncertainty from not knowing which parts of their lives might be governed by the **Nez Perce Tribe**. They are optimistic. "The disputes around right now aren't anything that can't be solved," says Nathan. "But the potential conflicts are scarier."

