

The Importance of Tribal Sovereignty to the Wabanaki Confederacy

Out of the 574 federally recognized tribes in the United States, the Wabanaki Tribes are the only federally recognized group who do not have Tribal Sovereignty (“Recognize Tribal Sovereignty”). The definition of Tribal Sovereignty has long been hard to describe for politicians and businesses, yet for the Wabanaki, it has always meant having a nation-to-nation relationship with the United States government and can act upon their inherent right to self-govern and self-determination. In Maine, the four federally recognized tribes are the Houlton Band of Maliseet Indians, Mi’kmaq Nation, Penobscot Nation, and Passamaquoddy Tribe at both Sipayik and Indian Township. Together they make up the Wabanaki Confederacy whose land stretches from a bit past the Canadian border, down past the southern border of Maine. While all are native to the region, each of the tribes is different regarding culture, location, and history. Tribal sovereignty is crucial to the people of the Wabanaki Confederacy because it ensures that the Wabanaki Tribes have the legal means to thrive economically, and properly benefit from federal funding intended for the Tribes.

Before understanding how sovereignty stands today in the state of Maine, it is necessary to look at the history of Tribal Sovereignty and acts upon the tribes in the past. Enacted in 1980, the Maine Indian Land Claims Settlement Act is arguably the most significant piece of legislation passed that directly affects the Wabanaki Tribes. In partnership with UMaine, Stephen Brimley published an article called *Native American Sovereignty in Maine* which analyzed this land settlement and its effects on the tribes. While initially appearing only harmful, at the time of its passing, the act provided much-needed support to the tribes. At the time the tribes were facing starvation and extreme difficulties after European contact which made the passing of the act a necessity for their survival. However, the tribes had to give up key freedoms such as being declared a municipality, not a sovereign state upon the signing of the report (Brimley). Additionally, the act left out the Mi’kmaq Nation which is one of the reasons they face larger inequalities today, and rely heavily on the little support the act grants from the federal government. All in all, the Land Settlement Act does more harm than good today and is a direct restriction on sovereignty for the Wabanaki Tribes.

The lack of sovereignty for the Wabanaki Tribes prevents their economic growth and stability. Federal acts have often targeted the economic opportunities of the tribes, making it difficult for tribal members to find ways to make money on and around reservations. In 1988, the Indian Gaming Regulatory Act was passed, which allowed tribes across the country to build gambling establishments such as casinos on reservations (“Importance of Sovereignty to Tribal Nations”). While this is a positive change for the majority of the country's tribes, the Wabanaki Tribes are unable to benefit from this law because it was passed after 1980. Under the Maine Indian Land Claims Settlement Act, the tribes are unable to benefit from any federal law passed after 1980, unless they are specifically mentioned in the law. The Indian Gaming Regulatory Act was a federal law that, while inclusive to the other federally recognized tribes, did not assist the Wabanaki Tribes in their access to economic opportunities because they didn’t have the sovereignty on a state level needed to benefit from it. If the tribes had sovereignty, they would be able to benefit from federal and state laws which are designed to help the tribes. Without sovereignty, the tribes lack the federal backing for economic growth within the tribes to occur, such economic acts for tribes with sovereignty have proved incredibly successful throughout the United States. In his article about the improvement of economic returns for Indigenous people in the United States, author Randall Akee argues that increased self-governance has created significantly more economic growth for Native Americans and non-natives on and around reservations since 1990 (Akee). Inversely, he argues that when tribes are unable to self-govern, they lack the same economic growth that other sovereign tribes are seeing. The Wabanaki Tribes' non-sovereign nation status limits their economic potential which harms the tribes both individually and as a whole. For tribes to have the status of a sovereign nation means they are not federally prevented from making money and instead have the same possibilities to thrive economically as all other Native tribes. The Wabanaki Tribes must obtain their status as sovereign nations for the economic success of their tribes.

When the Wabanaki Tribes thrive economically, their success supports them internally and the local and state community externally. The tribes can greatly benefit both the local and broader economy, however, they are currently unable to because of the restrictions on their sovereignty. Taking a new side to the argument for sovereignty, Randell Akee describes that when tribes were seen as sovereign nations, "...tribal governments consequently became more responsive to the needs of their tribal communities and were able to hold employees responsible for their actions. Employees had a greater incentive to do their jobs effectively, too" (Akee). By increasing the effectiveness of employee management through the expansion of tribal government power, the tribes can put more money back into the tribal economy. The money now earned both by individuals and the tribe as a whole can be spent on internal programs such as health services, police officers, and court systems. When the individual members of a tribe can thrive, then the whole tribe thrives. Looking at sovereignty from the lens of what external community benefits it can bring, it is clear how crucial this sovereign status is. On March 16th, 2023, the four Wabanaki Tribes led the first State of the Tribes address in about twenty years, at the Statehouse in Augusta. During the address, Chief William Nicholas Sr. of the Passamaquoddy Tribe at Indian Township spoke on the ways the Passamaquoddy Tribe currently is an economic asset to Maine. He explained that the Passamaquoddy are one of the largest employers in Maine (Nicholas Sr). The money they make goes directly back to the tribes, and then to the state which boosts both economies. The rural location of the reservations also helps the community by creating jobs and fueling the local economy. The advantage of sovereignty is that it would help the other Wabanaki Tribes develop similar ways for the tribes to make money for the sake of their communities and the state of Maine as a whole.

Issues accessing federal funding are no new obstacle for the Wabanaki Tribes. As municipalities under the Maine State government, it is very difficult to receive federal funding, even when it was intended for the tribes. The Environmental Priorities Coalition (EPC) described one of the major difficulties for the tribes in their paper concerning why Maine should recognize the Wabanaki Tribes' inherent sovereignty. The EPC states, "Since the Maine Indian Claims Settlement Act of 1980 was signed, 151 federal laws benefiting Indian Country have been passed that the tribes in Maine have not benefited from" ("Recognize Tribal Sovereignty"). Many of the federal laws that have been passed since 1980 have gone to address unemployment, health services, education, and poverty. While these are all issues that the Wabanaki Tribes struggle with, they can not use the federal funding intended to address it without being recognized as a sovereign nation. Additionally, the Southeastern Oklahoma State University finds in their report, "critical support for housing, education, water, and electricity is dependent upon the federal government's continued interest in meeting the needs of these indigenous peoples" ("Importance of Sovereignty to Tribal Nations"). The government provides many crucial services for the tribes, many of which are provided for other recognized tribes, yet the Wabanaki are again excluded because of their federal status. Such services can be lifelines for tribes like the Mi'Kmaq who are struggling with a lot of inequalities that can be solved through government funding reaching the tribes instead of being denied because they aren't sovereign. A long-lasting issue, the current methods of federal funding finding its way directly to the tribes have proved ineffective due to the sovereignty needed to ensure they receive the support and services that are needed.

Climate change impacts everyone in different ways, but it is especially dangerous for the Wabanaki Tribes. Without sovereignty, the tribes are unable to address the impact of climate change on their communities and the broader state of Maine. "The circumstances are inter-related," explains University of Maine professor Darren Ranco, in a presentation about the intersection of Environmental Justice and the Wabanaki Nations. For example... moose are experiencing greater mortality due to the increased prevalence of winter ticks, which is related to rising temperature. Rising water temperature is impacting fish species and forest practices. As temperatures warm in Maine, the range of brown ash trees is moving north, making it difficult to maintain stock for basket-making" (Schreiber). These changes have a large impact on the livelihood and well-being of not only the Wabanaki Tribes but also the greater population of Maine. The ecosystems that we all rely heavily on for food are impacted which is already causing issues for many in Maine. The Wabanaki Tribes don't have a say over their land to address the issues at play. With tribal sovereignty, the Wabanaki Tribes could put programs into place for the

management of their lands and have the power to say no to larger companies who are using their land for profit and not abiding by environmental laws of protection. Throughout the United States, many leaders are discussing the intersection of tribal sovereignty and climate change. One of these leaders is the president of the National Congress of American Indians, Fawn Sharp. In an interview with Yale Environment 360, she affirms, “One of the attributes of our inherent sovereignty is our ability to have a decisive say when it comes to our land, territory, resources, and people” (Deaton). Nationally and in Maine, tribes have a limited way of addressing climate-related issues if they do not have a voice in decisions regarding their land. The government is required to consult with a tribal nation before proceeding with actions that may disturb the tribal land, however, this does not necessarily mean they are required to listen to the tribes' suggestions or arguments. In the case of Maine, the Wabanaki Tribes don't have the same say as other tribes do over what happens to their land, because they are not sovereign. All in all, this creates an immense issue for the future of the tribes and the state of Maine, if those who have stewarded the land for thousands of years have no say over the management of the land currently.

In general, a key enemy of sovereignty for the Wabanaki Tribes in Maine has been and still is ignorance and implicit bias. Concerning the tribes' economic survival, some argue against gaming establishments on reservations. Casinos are a key easy for tribes to make money, because they are on the reservation so money made by casinos goes right back to the tribe, and they can't be taxed by the state. One issue is that these establishments can't be taxed by the state, and some argue that is unfair to give the Indigenous tribes a tax break when the rest of Americans don't get one (“Importance of Sovereignty to Tribal Nations”). People don't want sovereignty for the tribes because it would allow them to build untaxed casinos and benefit economically from them. Yet with the tax break argument, many groups in America get tax breaks for various reasons. Not taxing casinos in reservations is one way for the government to recognize the tribal land that was stolen and the tribes as its inherent stewards. Similarly in looking at implicit bias against the tribes, it is clear how prevalent such bias and assumptions are in our society regarding the Indigenous peoples. Further assumptions create harmful images of Native people and spread ignorance. One false stereotype is that all Native people abuse substances, specifically alcohol. However as Clarissa Sabattis— Chief of the Maliseet—pointed out in the State of the Tribes address, “the issue of substance abuse is not just tribal” (Sabattis). While alcoholism is an issue that the tribes struggle with, Sabattis reinforce that they are not alone in this national issue. And the way that nations are fighting against it in their healthcare system can be highly effective. “Notably, the Penobscot Nation's Healing to Wellness Court has been nationally recognized for innovative, culturally based intervention that combines judicial oversight with Tribal healing and wellness services” (Wabanaki Alliance). Combining Chief Sabattis's direct counter to the harmful assumption that substance abuse is a singularly Native issue and the recognition of the work done by the Penobscot tribe which created innovative health care for the tribe proves that this assumption is just that, a biased and ignorant conclusion. Sovereignty is impacted by such bias because there is more inaction by the people of Maine to fight for tribal sovereignty when they have learned implicit bias against the Indigenous people.

Maine's history with the Wabanaki Tribes is long and often brutal, yet as we look forward there are reasons to believe the tribes are on their way to self-determination and self-governance. As more Maine citizens become aware of the issue and start to raise their voices, our ability to make change increases tenfold. In 2022 legislation was proposed to change the Land Claims Settlement Act to explicitly state the tribes' inherent right to sovereignty. While many Mainers wrote testimony, lobbied for the bill, and went to Augusta to speak directly with their representatives, the bill was unable to get the vote needed to pass (LD 1626). We know changes to a system meant to limit tribal rights will not fall easily, especially as it rests on pillars of ignorance and desired assimilation. Yet lately many young people are saying it isn't enough to sit back and let leaders perpetuate systems of oppression while telling the people they care. Instead, we stand up and declare the need for Tribal Sovereignty, the need for self-determination, and self-governance. We address the crucial importance of Wabanaki Sovereignty and see how Maine suffers in fighting climate change, and economically without it. The Wabanaki Tribes are both the history of Maine, and the future, and as such the fight for sovereignty is a necessary and long overdue next step to ensure a future for all of us. Penobscot Nation Chief Kirk Francis put it best at the

State of the Tribes Address, when he declared, “We have forever been here and we will forever be here” (Francis).

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