

Petition for Recognition of Lakotah Sovereignty



REPUBLIC of LAKOTAH



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of
Lakotah Sovereignty**

February 19, 2008

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To All Nations of the World:

Greetings in solidarity.

Lakotah respectfully petitions your government for formal recognition of Lakotah Sovereignty.

Accompanying this petition are supporting documents which show, beyond any doubt, the validity and necessity of the reclamation of our sovereignty.

Russell Means
Chief Facilitator
Provisional Government
Republic of Lakotah

Supporting Documents

Annotated Table of Contents

Lakotah and the United States Declaration of Independence (1776)

"When in the Course of human events, it becomes necessary for one people to dissolve the political bands which have connected them with another, ..."

Lakotah and the Louisiana Purchase Treaty (1803)

"The inhabitants of the ceded territory shall be ... maintained and protected in the free enjoyment of their liberty, property, and the religion which they profess."

Lakotah Sovereignty Under United States Law (1789-present)

"Now that Lakotah has legally and lawfully withdrawn from all treaties and agreements with the United States, the status of Lakotah is the same as it was before 1805 – a sovereign nation, and a beneficiary of all the protections of the Louisiana Purchase Treaty."

The False Doctrine of Congressional Plenary Power Over Indian Treaties

The doctrine of Congressional plenary power with respect to Indian treaties is a mythical justification for all three branches of the United States government to ignore its treaty obligations to the Indians.

Lakotah and The Vienna Convention on the Law of Treaties (1969)

Either fraud or material breach by the other party give a party the right to terminate a treaty.

Declaration of Continuing Independence (1974)

"We, the People of the International Indian Treaty Council, following the guidance of our elders through instructions from the Great Spirit, and out of respect for our sacred Mother Earth, all her children, and those yet unborn, offer our lives for our International Treaty Rights."

Declaration on the Granting of Independence to Colonial Countries and Peoples (1960)

"Immediate steps shall be taken, in Trust and Non-Self-Governing Territories or all other territories which have not yet attained independence, to transfer all powers to the peoples of those territories."

Lakotah and The United Nations Declaration on the Rights of Indigenous Peoples (2007)

Lakotah asks all nations to support a fair resolution of its disputes with the United States. Your recognition of Lakotah sovereignty will be of great help and is deeply appreciated.

Glossary

Reference List

Contact Info

Lakotah and the United States Declaration of Independence

The United States Declaration of Independence begins:

When in the Course of human events, it becomes necessary for one people to dissolve the political bands which have connected them with another, and to assume among the powers of the earth, the separate and equal station to which the Laws of Nature and of Nature's God entitle them ...

Lakotah agrees, has dissolved the political bands which have connected Lakotah to the United States, and reassumes among the powers of the earth, its separate and equal station to which the Laws of Nature and Nature's God entitle us.

The Declaration continues:

... a decent respect to the opinions of mankind requires that they should declare the causes which impel them to the separation.

The supporting documents in this portfolio clearly spell out the causes that impel Lakotah to the separation.

Lakotah and the Louisiana Purchase Treaty

In 1803, the United States and France entered into the Louisiana Purchase Treaty. However, the United States did not buy any Indian land from France. It simply purchased an agreement that France would not compete with the United States in making land treaties with the Indian inhabitants in the territory.

The Lakotah people are in a class of clearly intended third party beneficiaries of Article III of the Louisiana Purchase Treaty, the relevant language of which states:

The inhabitants of the ceded territory shall be ... maintained and protected in the free enjoyment of their liberty, property, and the religion which they profess.

Other language in the treaty, such as the requirement that the inhabitants of the territory be admitted to the Union, would be binding upon the United States if Lakotah were to choose to accept admission to the Union. However, that language is optional for Lakotah. Lakotah was not a party to the Louisiana Purchase Treaty and cannot be bound by it against its will, even though it obtains benefits from it.

So, Lakotah will:

- Accept the benefits of the Louisiana Purchase Treaty; and
- Maintain its rights to the free enjoyment of:
 - Liberty,
 - Property, and
 - Religion; but
- Continue to reject the option to join the Union.

Lakotah Sovereignty Under United States Law

According to the United States Constitution, treaties, along with the Constitution and laws, are supreme law. *See* U.S. Const. art. VI, § 2. Treaties, by definition, are made between sovereign nations.

Lakotah, formally known as the Sioux Nation of Indians (a name given by the white man) have made numerous treaties with the United States since 1805, the most famous of which are the Fort Laramie Treaties of 1851 and 1868. Accordingly, Lakotah sovereignty has been repeatedly recognized by the United States.

Certain states were admitted into the Union on the condition that they recognized the rights and sovereignty of the Lakotah. For example, the act enabling North Dakota, South Dakota, and Montana to become states, 25 U.S. Statutes at Large, c 180 p 676 (1889), states:

... the people inhabiting said proposed States do agree and declare that they forever disclaim all right and title to ... all lands ... owned or held by any Indian or Indian tribes.

The United States has never claimed sovereignty over Lakotah, and Lakotah has never given up its sovereignty. The United States has regularly attempted to diminish Indian sovereignty. For example, the United States Supreme Court, in *Cherokee Nation v. Georgia*, 30 U.S. 1, 19 (1831), unlawfully characterized Indian nations as “domestic dependent nations.” Nonetheless, such racist and belittling characterizations have no meaning in international law; one party to a treaty cannot unilaterally diminish the status of another.

Now that Lakotah has legally and lawfully withdrawn from all treaties and agreements with the United States, the status of Lakotah is the same as it was before 1805 – a sovereign nation, and a beneficiary of all the protections of the Louisiana Purchase Treaty.

The False Doctrine of Congressional Plenary Power Over Indian Treaties

The short definition of plenary power, as it applies to how the United States deals with its responsibilities under treaties with the Indian nations, is: Congress can ignore the treaties and make up new rules whenever it wants. Using this doctrine, the United States has repeatedly violated its treaty obligations with Lakotah and other Indian nations.

As stated in a briefing paper for March 2006 UN Human Rights Committee Session prepared by the Indian Law Resource Center entitled *Elements of Federal Indian Law in the United States, An Analysis of the Legal Roots of Racism*:

The plenary power doctrine holds that the U.S. Congress has plenary or absolute power over the affairs of indigenous peoples in the United States. The law concerning treaty abrogation arises from the doctrine of plenary power. In the 19th Century, indigenous peoples entered into treaties in good faith with the federal government, giving up vast land holdings in exchange for specific territories which would be protected from non-Indian encroachment and within which they would control their own affairs. These treaties represent legally binding agreements entered into by distinct, sovereign peoples. They are, under the U.S. Constitution, the supreme law of the land. However, the United States Supreme Court has extended the doctrine of federal plenary power over indigenous peoples to include the power to unilaterally abrogate treaties between indigenous nations and the federal government. This practically unlimited power means that indigenous peoples are denied basic rights and legal protections that are afforded to other United States citizens.

A historic case detailing the application of the plenary power doctrine is *Lone Wolf v. Hitchcock*, 187 U.S. 553 (1903), in which the court said, in essence, that Congress can ignore the treaties and do whatever it alone decides to do with respect to the Indians. More recently, this doctrine was unanimously reaffirmed by the Supreme Court in *United States v. Wheeler*, 435 U.S. 313, 319 (1978), in which the court stated: “Congress has plenary authority to legislate for the Indian tribes **in all matters**.” [Emphasis added.]

The doctrine of Congressional plenary power with respect to Indian treaties is a complete legal falsehood. (A Google search turns up no reference to this doctrine with respect to any other type of treaty.) The United States Constitution clearly states that treaties are made by the executive branch, with the concurrence of two-thirds of the Senate. U.S. Const. art. II, § 2, cl. 2. Amendments to treaties would also be subject to the same provision. The doctrine of Congressional plenary power with respect to Indian treaties is a mythical justification for all three branches of the United States government to ignore its treaty obligations to the Indians.

It is universally accepted under the common law of treaties that if one party breaches a treaty, the other side may opt out of that treaty. *See* Vienna Convention on the Law of Treaties, Article 60 (1969). The United States has clearly violated its treaties with Lakotah. Consequently, Lakotah clearly had the right to opt out of its treaties with the United States, and effective December 17, 2007, has done so.

Lakotah and The Vienna Convention on the Law of Treaties

While not binding with respect to treaties that predate it, the Vienna Convention on the Law of Treaties (1969) is highly persuasive, nonetheless, because the Convention is, primarily, a codification of the common law of treaties.

Lakotah has withdrawn from its treaties with the United States because of fraud and breach by the United States.

Fraud.

Article 49, of the Convention states:

If a State has been induced to conclude a treaty by the fraudulent conduct of another negotiating State, the State may invoke the fraud as invalidating its consent to be bound by the treaty.

The United States treated Lakotah as an equal sovereign nation while bargaining for the 1851 and 1868 Fort Laramie Treaties, while planning to actually treat Lakotah as a "domestic dependent nation" after the treaties were signed. This constitutes fraud in the inducement, which gives Lakotah the option to withdraw from the treaties. Lakotah, on December 17, 2007, invoked such fraud and invalidated its treaties with the United States.

Breach.

Article 60, of the Convention states:

1. A material breach of a bilateral treaty by one of the parties entitles the other to invoke the breach as a ground for terminating the treaty or suspending its operation in whole or in part.

It is an undisputed fact that the United States has materially breached its treaties with Lakotah. For example, the United States Supreme Court, in *United States v. Sioux Nation of Indians*, 448 U.S. 371, 388 (1980), stated:

A more ripe and rank case of dishonorable dealings will never, in all probability, be found in our history.

Accordingly, Lakotah was lawfully entitled to terminate its treaties with the United States, and has lawfully done so.

**DECLARATION OF CONTINUING INDEPENDENCE
BY THE FIRST INTERNATIONAL INDIAN TREATY COUNCIL
AT STANDING ROCK INDIAN COUNTRY JUNE 1974**

A long time ago my father told me what his father told him. There was once a Lakota Holy man called Drinks Water, who visioned what was to be; and this was long before the coming of the Wasicus. He visioned that the four-legged were going back into the earth and that a strange race had woven a spider's web all around the Lakotas. And he said, "When this happens, you shall live in barren lands, and there beside those gray houses you shall starve." They say he went back to Mother Earth soon after he saw this vision and it was sorrow that killed him.

Black Elk, Oglala Sioux Holy Man

PREAMBLE

The United States of America has continually violated the independent Native Peoples of this continent by Executive action, Legislative fiat and Judicial decision. By its actions, the U.S. has denied all Native people their International Treaty rights, Treaty lands and basic human rights of freedom and sovereignty. This same U.S. Government, which fought to throw off the yoke of oppression and gain its own independence, has now reversed its role and become the oppressor of sovereign Native people.

Might does not make right. Sovereign people of varying cultures have the absolute right to live in harmony with Mother Earth so long as they do not infringe upon this same right of other peoples. The denial of this right to any sovereign people, such as the Native American Indian Nations, must be challenged by truth and action. World concern must focus on all colonial governments to the end that sovereign people everywhere shall live as they choose; in peace with dignity and freedom.

The International Indian Treaty Conference hereby adopts this Declaration of Continuing Independence of the Sovereign Native American Indian Nations. In the course of these human events, we call upon the people of the world to support this struggle for our sovereign rights and our treaty rights. We pledge our assistance to all other sovereign people who seek their own independence.

DECLARATION

The First International Treaty Council of the Western Hemisphere was formed on the land of the Standing Rock Sioux Tribe on June 8-16, 1974. The delegates, meeting under the guidance of the Great Spirit, represented 97 Indian tribes and Nations from across North and South America.

We, the sovereign Native Peoples recognize that all lands belonging to the various Native Nations now situated within the boundaries of the U.S. are clearly defined by the sacred treaties solemnly entered into between the Native Nations and the government of the United States of America.

We, the sovereign Native Peoples, charge the United States of gross violations of our International Treaties. Two of the thousands of violations that can be cited are the "wrongfully taking" of the Black Hills from the Great Sioux Nation in 1877, this sacred land belonging to the Great Sioux Nation under the Fort Laramie Treaty of 1868. The second violation was the forced march of the Cherokee people from their ancestral lands in the state of Georgia to the then "Indian Territory" of Oklahoma after the

Supreme Court of the United States ruled the Cherokee treaty rights inviolate. The treaty violation, known as the “Trail of Tears,” brought death to two-thirds of the Cherokee Nation during the forced march.

The Council further realizes that securing United States recognition of treaties signed with Native Nations requires a committed and unified struggle, using every available legal and political resource. Treaties between sovereign nations explicitly entail agreements with represent “the supreme law of the land” binding each party to an inviolate international relationship.

We acknowledge the historical fact that the struggle for Independence of the Peoples of our sacred Mother Earth have always been over sovereignty of land. These historical freedom efforts have always involved the highest human sacrifice.

We recognize that all Native Nations wish to avoid violence, but we also recognize that the United States government has always used force and violence to deny Native Nations basic human and treaty rights.

We adopt this Declaration of Continuing Independence, recognizing that struggle lies ahead – a struggle certain to be won – and that the human and treaty rights of all Native Nations will be honored. In this understanding the International Indian Treaty Council declares:

The United State Government in its Constitution, Article VI, recognizes treaties as part of the Supreme Law of the United States. We will peacefully pursue all legal and political avenues to demand United States recognition of its own Constitution in this regard, and thus to honor its own treaties with Native Nations.

We will seek the support of all world communities in the struggle for the continuing independence of Native Nations.

We the representatives of sovereign Native Nations united in forming a council to be known at the International Indian Treaty Council to implement these declarations.

The International Indian Treaty Council will establish offices in Washington, D.C. and New York City to approach the international forces necessary to obtain the recognition of our treaties. These offices will establish an initial system of communications among Native nations to disseminate information, getting a general consensus of concerning issues, developments and any legislative attempt affecting Native Nations by the United States of America.

The International Indian Treaty Council recognizes the sovereignty of all Native Nations and will stand in unity to support our Native and international brothers and sisters in their respective and collective struggles concerning international treaties and agreements violated by the United States and other governments.

All treaties between the Sovereign Native Nations and the United States Government must be interpreted according to the traditional and spiritual ways of the signatory Native Nations.

We declare our recognition of the Provisional Government of the Independent Oglala Nation, established by the Traditional Chiefs and Headmen under the provisions of the 1868 Fort Laramie Treaty with the Great Sioux Nation at Wounded Knee, March 11, 1973.

We condemn the United States of America for its gross violation of the 1868 Fort Laramie Treaty in militarily surrounding, killing and starving the citizens of the Independent Oglala Nation into exile.

We demand the United States of America recognize the sovereignty of the Independent Oglala Nation and immediately stop all present and future criminal prosecutions of sovereign Native Peoples. We call upon the conscionable nations of the world to join us in charging and prosecuting the United States of America for its genocidal practices against the sovereign Native Nations; most recently illustrated by Wounded Knee 1973 and the continued refusal to sign the United Nations 1948 Treaty on Genocide.

We reject all executive orders, legislative acts and judicial decisions of the United States related to Native Nations since 1871, when the United States unilaterally suspended treaty- making relations with the Native Nations. This includes, but is not limited to, the Major Crimes Act, the General Allotment Act, the Citizenship Act of 1924, the Indian Reorganization Act of 1934, the Indian Claims Commission Act, Public Law 280 and the Termination Act. All treaties made between Native Nations and the United States made prior to 1871 shall be recognized without further need of interpretation.

We hereby ally ourselves with the colonized Puerto Rican People in their struggle for Independence from the same United States of America.

We recognize that there is only one color of Mankind in the world who are not represented in the United Nations; that is the indigenous Redman of the Western Hemisphere. We recognize this lack of representation in the United Nations comes from the genocidal policies of the colonial power of the United States.

The International Indian Treaty Council established by this conference is directed to make the application to the United Nations for recognition and membership of the sovereign Native Nations. We pledge our support to any similar application by an aboriginal people.

This conference directs the Treaty Council to open negotiations with the government of the United States through its Department of State. We seek these negotiations in order to establish diplomatic relations with the United States. When these diplomatic relations have been established, the first order of business shall be to deal with U.S. violations of treaties with Native Indian Nations, and violations of the rights of those Native Indian Nations who have refused to sign treaties with the United States.

We, the People of the International Indian Treaty Council, following the guidance of our elders through instructions from the Great Spirit, and out of respect for our sacred Mother Earth, all her children, and those yet unborn, offer our lives for our International Treaty Rights.

**Declaration on the Granting of Independence to
Colonial Countries and Peoples
Adopted by General Assembly
Resolution 1514 (XV) of 14 December 1960**

The General Assembly,

Mindful of the determination proclaimed by the peoples of the world in the Charter of the United Nations to reaffirm faith in fundamental human rights, in the dignity and worth of the human person, in the equal rights of men and women and of nations large and small and to promote social progress and better standards of life in larger freedom,

Conscious of the need for the creation of conditions of stability and well-being and peaceful and friendly relations based on respect for the principles of equal rights and self-determination of all peoples, and of universal respect for, and observance of, human rights and fundamental freedoms for all without distinction as to race, sex, language or religion,

Recognizing the passionate yearning for freedom in all dependent peoples and the decisive role of such peoples in the attainment of their independence,

Aware of the increasing conflicts resulting from the denial of or impediments in the way of the freedom of such peoples, which constitute a serious threat to world peace,

Considering the important role of the United Nations in assisting the movement for independence in Trust and Non-Self-Governing Territories,

Recognizing that the peoples of the world ardently desire the end of colonialism in all its manifestations,

Convinced that the continued existence of colonialism prevents the development of international economic co-operation, impedes the social, cultural and economic development of dependent peoples and militates against the United Nations ideal of universal peace,

Affirming that peoples may, for their own ends, freely dispose of their natural wealth and resources without prejudice to any obligations arising out of international economic co-operation, based upon the principle of mutual benefit, and international law,

Believing that the process of liberation is irresistible and irreversible and that, in order to avoid serious crises, an end must be put to colonialism and all practices of segregation and discrimination associated therewith,

Welcoming the emergence in recent years of a large number of dependent territories into freedom and independence, and recognizing the increasingly powerful trends towards freedom in such territories which have not yet attained independence,

Convinced that all peoples have an inalienable right to complete freedom, the exercise of their sovereignty and the integrity of their national territory,

Solemnly proclaims the necessity of bringing to a speedy and unconditional end colonialism in all its forms and manifestations;

And to this end Declares that:

1. The subjection of peoples to alien subjugation, domination and exploitation constitutes a denial of fundamental human rights, is contrary to the Charter of the United Nations and is an impediment to the promotion of world peace and co-operation.
2. All peoples have the right to self-determination; by virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development.
3. Inadequacy of political, economic, social or educational preparedness should never serve as a pretext for delaying independence.
4. All armed action or repressive measures of all kinds directed against dependent peoples shall cease in order to enable them to exercise peacefully and freely their right to complete independence, and the integrity of their national territory shall be respected.
5. Immediate steps shall be taken, in Trust and Non-Self-Governing Territories or all other territories which have not yet attained independence, to transfer all powers to the peoples of those territories, without any conditions or reservations, in accordance with their freely expressed will and desire, without any distinction as to race, creed or colour, in order to enable them to enjoy complete independence and freedom.
6. Any attempt aimed at the partial or total disruption of the national unity and the territorial integrity of a country is incompatible with the purposes and principles of the Charter of the United Nations.
7. All States shall observe faithfully and strictly the provisions of the Charter of the United Nations, the Universal Declaration of Human Rights and the present Declaration on the basis of equality, non-interference in the internal affairs of all States, and respect for the sovereign rights of all peoples and their territorial integrity.

Lakotah and The United Nations Declaration on the Rights of Indigenous Peoples

While not binding, the United Nations Declaration on the Rights of Indigenous Peoples is highly persuasive.

Article 3, of the Declaration states:

Indigenous peoples have the right to self-determination. By virtue of that right they freely determine their political status ...

Lakotah has freely determined that it is free and sovereign. It no longer wishes to be, what the United States calls, a “domestic dependent nation.”

Article 8, of the Declaration states:

1. Indigenous peoples and individuals have the right not to be subjected to forced assimilation or destruction of their culture.

Some of the statistics of deprivation caused by the colonial apartheid conditions imposed on Lakotah people include:

MORTALITY

- Lakotah men have a life expectancy of less than 44 years, lowest of any country in the World (excluding AIDS) including Haiti.
- Lakotah death rate is the highest in the United States.
- The Lakotah infant mortality rate is 300% more than the U.S. Average.
- Teenage suicide rate is 150% higher than the U.S national average for this group.

DRUGS AND ALCOHOL

- More than 90% of the Reservation's adults battle addiction and disease.
- Alcoholism affects 8 in 10 families.

INCARCERATION

- Indian children incarceration rate 40% higher than whites.
- In South Dakota, 21 percent of state prisoners were Native.
- Indians have the second largest state prison incarceration rate in the nation.

DISEASE

- The Tuberculosis rate on Lakotah reservations is approx 800% higher than the U.S national average.
- Cervical cancer is 500% higher than the U.S national average.
- The rate of diabetes is 800% higher than the U.S national average.
- Federal Commodity Food Program provides high sugar foods that kill Native people through diabetes and heart disease.

- **POVERTY**

- Median income is approximately \$2,600 to \$3,500 per year.
- 97% of our Lakotah people live below the poverty line.
- Many families cannot afford heating oil, wood or propane and many residents use ovens to heat their homes.

- **HOUSING**

- Elderly die each winter from hypothermia (freezing).
- 1/3 of the homes lack basic clean water and sewage while 40% lack electricity.
- 60% of Reservation families have no telephone.
- 60% of housing is infected with potentially fatal black molds.
- There is an estimated average of 17 people living in each family home (may only have two to three rooms). Some homes, built for 6 to 8 people, have up to 30 people living in them.

- **UNEMPLOYMENT**

- Unemployment rates on our reservations is 85% or higher.

- **THREATENED CULTURE**

- Only 14% of the Lakotah population can speak Lakotah language.
- The language is not being shared inter-generationally, today, the average Lakotah speaker is 65 years old.
- Our lakotah language is an Endangered Language, on the verge of extinction.

As a result of the statistics above, if Lakotah were to continue under United States domination, we would have ten to twenty years before we would disappear as a distinct people.

Article 26, of the Declaration states:

1. Indigenous peoples have the right to the lands, territories and resources which they have traditionally owned, occupied or otherwise used or acquired.

Since reasserting sovereignty, Lakotah has reclaimed the right to its traditional lands.

Article 37, of the Declaration states:

1. Indigenous peoples have the right to the recognition, observance and enforcement of treaties ... concluded with States ... and to have States honour and respect such treaties ...

Article 40, of the Declaration states:

- Indigenous peoples have the right to access to and prompt decision through just and fair procedures for the resolution of conflicts and disputes with States ...

The treaties Lakotah had with the United States had no enforcement provisions. Lakotah asks all nations to support a fair resolution of its disputes with the United States. Your recognition of Lakotah sovereignty will be of great help.

Thank you for your support.

Glossary

American Indian Reservation: a social policy or racial segregation involving political and economic and legal discrimination against people who are not Whites.

Apartheid: a social policy or racial segregation involving political and economic and legal discrimination against people who are not Whites.

Black Hills: the Lakotah holy land, known in Lakotah as "Khe Sapa," sacred mountains in southwestern South Dakota and northeastern Wyoming. The United States Supreme Court ruled that the Black Hills were unlawfully taken from Lakotah and awarded a money judgment which is now valued at \$1.2 Billion. *United States v. Sioux Nation of Indians*, 448 U.S. 371 (1980). Lakotah refuses to take the money, and instead demands the return of its holy land.

Breach: a failure to perform some promised act or obligation.

Colonialism: the governing of one country by another.

Colony: a territory settled by a people from a distant land for the purpose of expanding cultural, economic, or political power. Iraq is one example of a modern day colony.

Country: the territory occupied by a nation.

Domestic Dependent Nation: a legal fiction the United States has created to refer to the Indian nations to justify violating its treaty obligations.

Fraud in the Inducement: misleading people in order to get them to make an agreement.

Freedom: the ability to act, speak, or think without externally imposed restraints.

Genocide: the deliberate and systematic extermination of a national or racial group.

Indian: a name made up by white men for the descendants of the first inhabitants of what is now called America.

Lakotah: a large western branch of Indian people made up of several linguistic groups that make up a nation on the northern plains.

Liberty: political independence; freedom of choice.

Nation: a cultural concept for a group of people bound together by a strong sense of shared values and cultural characteristics, including language, religion, and common history.

Native American: a relatively new name made up by white men to replace their previous made up name, "Indian."

Nazi Concentration Camp: a method of imprisoning people which Hitler learned from the United States Indian reservation system.

Plenary Power: the complete power of a governing body. The term is often used by the United States to justify an unlawful power exercised by Congress over Indians.

Prisoner of War: a person imprisoned by a foreign power and treated as an enemy.

Racism: The belief that one racial group is inferior to another and the practices of the dominant group to maintain the inferior position of the dominated group.

Reservation: a prisoner of war camp set up by the United States Army for Indians in which the Indians now have some freedoms, but are still often treated as enemies by the United States.

Sioux: a name made up by white men to refer to a group of Indian people who spoke a similar language and who ranged from Lake Michigan to the Rocky Mountains before the colonial period.

Sovereign: an independent and autonomous nation.

Treaty: an agreement between sovereign nations.

Tribal Government: a legal fiction created by the United States government to give Indians the illusion of self government when, in fact, tribal government power is simply self administering, meaning that Indian people administer United States' policies made in Washington.

Tribe: a self-governing group of indigenous people.

United States: a nation which claims to fight genocide around the world while practicing it at home.

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