



TRIBAL CONSULTATION IN CALIFORNIA

HISTORICAL CONTEXT

Supplement to the By Tribes for Tribes Tribal Consultation Policy Template





WHY MEANINGFUL CONSULTATION MATTERS

Understanding California's history of violence and broken promises helps agencies appreciate why consultation is not just a bureaucratic requirement—it's a critical step toward repairing a legacy of exclusion and harm.

THE CALIFORNIA GENOCIDE: 1846-1873

Between 1846 and 1873, California's Native American population plummeted from approximately 150,000 to just 30,000—a devastating 80% decline in less than three decades. This catastrophic loss was not accidental but resulted from systematic state-sponsored genocide involving more than 370 documented massacres and the murder of an estimated 9,000 to 16,000 Indigenous people.

The legal basis for this genocide was established at California's first legislative session in 1850, where officials gave white settlers the right to take custody of Native American children, arrest Native people for minor offenses, and force convicted Native Americans to work off fines—effectively legalizing enslavement. State and federal governments spent at least \$1.7 million funding military campaigns against California Indians (approximately \$70 million in today's dollars). The state also established bounty programs that paid settlers for proof of killing Native Americans, turning genocide into a profitable enterprise and demonstrating direct government action rather than mere inaction.

California Governor Gavin Newsom formally acknowledged this history in 2019, stating:

“It's called genocide. That's what it was, a genocide. No other way to describe it. And that's the way it needs to be described in the history books.”

THE “LOST TREATIES”: BROKEN PROMISES AND LEGAL DISPOSSESSION

Even as genocidal violence raged, the federal government attempted a different approach. Between 1851 and 1852, three U.S. commissioners negotiated 18 treaties with 134 California tribes, in which tribal leaders agreed to surrender most of their ancestral lands in exchange for reserved territories totaling approximately 7.5 million acres (about 7.5% of California).

However, in July 1852, the U.S. Senate met in secret session and unanimously rejected all 18 treaties, then placed them under an injunction of secrecy that lasted over 50 years. White Californians had strongly objected to setting aside any land for Native peoples, and senators found the treaties politically problematic.

This rejection left California's tribes in a legal “no-man's land”—without the protections that ratified treaties would have provided, making it possible for individuals and businesses to gain title to Native lands without addressing issues of tribal sovereignty. The treaties remained hidden until 1905, when they were rediscovered through the advocacy of the Northern California Indian Association.



COLONIZATION, ASSIMILATION, AND FORCED INDUSTRIAL PARTICIPATION

Once the most violent phase of genocide subsided, California Native peoples faced systematic colonization, assimilation, and industrialization that continued the assault on tribal cultures. Government entities discussed the "Indian Problem"—developing policies to determine what to "do" with surviving Native peoples. Many Tribal members found themselves working in ranches, mines, and other industrial operations not by choice, but as the only means of survival in a completely transformed economic landscape.

Forced assimilation through boarding schools systematically removed tribal children from their communities and

families, disrupting cultural transmission across generations. Relocation policy caused much of the tribal population to relocate to urban areas, often only returning to reservations later in life after their cultural connections had been severely disrupted. Industrial participation and urban living became both survival necessities and constant reminders of cultural loss. This shift to wage labor and city life was not a cultural choice or abandonment of tradition, but the only way many tribal people could survive the ongoing systematic destruction of their communities and ways of life.

CONTEMPORARY IMPACTS

The consequences of this history persist today. Many of California's tribes are still seeking federal recognition, despite being named in the unratified treaties—which normally would constitute clear evidence of prior federal acknowledgment. Today, California has the largest Native American population in the United States and is home to 110 federally recognized tribes and dozens of non-recognized tribes. These non-recognized tribes still maintain their connection to their ancestral land while lacking federal recognition, often due to the disruption caused by genocide, broken treaties, forced assimilation, and industrial displacement.

WHY THIS HISTORY MATTERS FOR CONSULTATION

TRUST MUST BE REBUILT

Agencies represent the same governments that sponsored genocide and broke solemn treaty promises.

CONSULTATION IS CORRECTIVE

Meaningful consultation helps repair decades of exclusion from decision-making about tribal lands and resources.

EARLY ENGAGEMENT IS ESSENTIAL

Tribes were historically consulted only after decisions were made, if at all.

COMPENSATION IS APPROPRIATE

Tribes have provided free labor for consultation for too long, despite their expertise being essential for agencies to comply with federal law.

TRIBAL SOVEREIGNTY MUST BE RESPECTED

After having their government-to-government status ignored for over a century, tribes rightfully insist on true sovereign-to-sovereign consultation.

CULTURAL SURVIVAL CONTEXT MATTERS

Understanding that industrial participation was often a survival necessity helps counter the misconception that tribes "just gave up on culture and chose something else."

Agencies that approach consultation with historical awareness demonstrate respect for tribal sovereignty and contribute to healing rather than perpetuating historical harms.



Photos by Allison Rofo

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