

Indian Civil Rights Act

What is the [Indian Civil Rights Act \(ICRA\)](#)?

It is a federal law. It says Indian tribal governments cannot pass or enforce laws that violate certain individual rights.

It is like the U.S. Constitution's Bill of Rights, guaranteeing personal freedoms against federal government actions, and the Fourteenth Amendment to the Constitution, extending those protections to state government actions. Constitutional limitations do not apply to tribal governments. Congress adopted the ICRA to make sure tribal governments respect basic rights of Indians and non-Indians.

What individual rights does the ICRA protect?

No Indian tribe may enact or enforce any law denying anyone the right to:

- free exercise of religion and freedom of speech
- freedom from unreasonable search and seizures
- freedom from prosecution more than once for the same offense
- not testify against yourself in a criminal case
- not have private property taken for public use without just compensation
- a speedy and public trial, to be told the charges, confront witnesses, subpoena witnesses and, at your own expense, have a lawyer's help in all criminal cases

- freedom from excessive bail, excessive fines, cruel and unusual punishment and, for conviction of any one offense, freedom from punishment greater than imprisonment for one year and a fine of \$5,000 or both
- equal protection of the laws and freedom from deprivation of liberty or property without due process of law
- freedom from any bill of attainder or ex post facto law
- a trial by jury of at least six persons, if accused of an offense punishable by imprisonment

How is the ICRA different from the Bill Of Rights?

- ICRA's guarantee of free exercise of religion does not stop a tribe from establishing a religion. Many tribes do not separate religion from government and other areas of life.
- The ICRA guarantees a criminal defendant the right to a lawyer at the defendant's own expense, BUT a tribe does not have to provide a lawyer for a defendant who cannot afford one.
- There is no right to a jury trial in civil cases under the ICRA.

I believe a tribal government has violated my civil rights. What can I do?

You can pursue any avenue of appeal available through tribal government.

If you sue in tribal court, the tribal government may raise a defense of **sovereign immunity**. This means you cannot sue the government without its consent. You might be able to avoid this defense by naming as defendants the tribal official who allegedly violated the ICRA. The tribal court can issue an order for the official to stop the unlawful conduct.

❖ [Due Process in Indian Country](#) has more about sovereign immunity.

You cannot get money damages from the tribe unless it has consented to you suing it.

Can I file an ICRA case in federal court?

Only in one type of situation. You can seek a “**writ of habeas corpus**” challenging your detention when an order of an Indian tribe has you held in jail or otherwise detained. You must first exhaust all remedies available through tribal court, including tribal court appeals, unless it would be futile to do so OR irreparable injury would result from the delay.

What if I need legal help?

The Northwest Justice Project’s Native American Unit (NAU) provides free civil (non-criminal) legal services for people who cannot afford a lawyer in Washington.

In King County: Call 2-1-1.

All other counties: Call the CLEAR hotline toll-free at 1-888-201-1014, weekdays 9:15 a.m. - 12:15 p.m.

This publication provides general information concerning your rights and responsibilities. It is not intended as a substitute for specific legal advice.

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