

Caring for LGBITQ & Two Spirit People

June 22, 2021

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Honoring the First Nations Within the Borders of What is Now Known as the State of Michigan

The Three Fires
Ojibwe, Potawatomi & Odawa

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Honoring the First Nations Two Spirit Collective

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Honoring the Loss... that Continues

- On Thursday, May 27, 2021, the Tk'emlups te Secwépemc people released a statement sharing that the remains of 215 Indigenous Children had been found in a mass grave at the Kamloops Indian residential school. This residential school was established in 1890 under the leadership of the Roman Catholic church, and closed in 1978.

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Why This Knowledge Improves Outcomes

- Judges – and all those involved with the legal system – have the responsibility to care for those who are most vulnerable in our society: children and vulnerable adults.
- The historical trauma Indigenous People carry spans hundreds of years to present day.
- We must be conscious in all aspects of the legal system of the intentional efforts made to eliminate Native Nations and Indigenous ways of life.

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An Introduction to Sovereignty

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Sovereignty

- Sovereignty is the ability to self determine and govern your land, resources and people.

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First Nations in the United States

- Every First Nation has a government-to-government relationship with the United States government.

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The Framework of Sovereignty

- As the original peoples of this land, Indigenous Peoples have a relationship with this Land rooted in spiritual understanding dating back to the beginning of time.
- Native Nations have retained this Spiritual connection, as well as sovereignty, despite the attempts of colonialism to destroy both.
- Through treaties, Native Nations have protected the unique government-to-government relationship with the United States.
- In the retention of these sovereign rights, Native Nations continue to stand as distinct political units that have granted to the United States much of the land and resources it now enjoys.

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Terminology as Political Expression

- The Collective made a conscious decision to use the terms First Nations and Indigenous interchangeably as they reflect the status as the original peoples of this land and hold within their definitions the sovereign status of Native Nations.
- The Collective made the conscious decision to communicate that the First Nations of North and South America did not create the borders that currently exist and to recognize that these borders divided some First Nations – and families – from each other.
- The Collective made the conscious decision to utilize political expression in discussing sovereignty within three contexts: Sovereignty of Land; Sovereignty of Spirituality / Culture; and Sovereignty of Body.

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Understanding Indigenous Perspectives

Historical Memory, Traditional Beliefs, and Terminology

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From the Beginning of Time

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Turtle Island the Americas Before borders & colonization



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Every Nation has an Origin Story

- Our origin stories, which are passed through the generations as oral history and heard repeatedly over the years by members of our Nations, give the birthplace of our existence which ties us to this land in a unique way, different from all other people living in the United States

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Origin Stories...

- Contain within them the understanding of the aspects of a Nation's traditional environment and how places in nature relate to the people of that Nation individually and collectively.
- Providing the very foundation for all beliefs.
- Establishes the Nation's sacred sites that are inseparable from our spirituality, traditions, culture, kinship relationships, responsibilities and self-determination.

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Origin Stories

- Many origin stories actually include people of one, two, or multiple genders.

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“Ever since the world began, there have been Two Spirit people, and from the beginning of the world, it was meant that there should be Two spirit people”

From the Mohave creation story

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Every Nation is Different

- There are 574 federally-recognized Nations within the borders of what is now the United States.
- Every Nation has its own government, spirituality, history, language and traditions.

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Two Spirit in Tradition

- Of the more than 250 languages, at least 155 have documented words for multiple-gendered people – and there are likely more.
- Indigenous Peoples have a historical memory of a way of life that included lesbian, gay, bisexual, and transgender people.

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Historic Multiple Gender Roles

- Just like all things, and all kinds of people each with something to offer, there is a place in our nations for this.
- Historically, depending on the Nation, many roles were given to multiple gendered people. (originally based on gender, separate from sexuality)
- Including....

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Traditional Roles for Two Spirit People

- ☞ Mediators
- ☞ Ambassadors
- ☞ Caretakers of children
- ☞ Medicine People
- ☞ Name givers
- ☞ Warriors
- ☞ Visionaries
- ☞ Teachers
- ☞ Sexual Educators/Healers

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Some Two Spirit Translations

☞ Osage	Mixu'ga	Instructed by the moon"
☞ Navajo	Na'dleeh	"He changes"
☞ Cheyenne	He'eman	"Women/Man"
☞ Chumash	agi',axi	
☞ Lakota	Wi'kta/Wingkte'	"Would be Women"
☞ Tewa	Kwido	"Old woman/Old man"
☞ Zuni	Ihamana	"girl/boy"
☞ Miwok	Osha'pu	"women"
☞ Chickasaw	hoobuk	
☞ Crow	Bote, Bade	
☞ Hidatsa	biatti or miati	"Woman-compelled"

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Effects of Colonization

- Colonization, particularly through Christianity, attacked Indigenous traditions as a whole and women and Two Spirit People in particular.
- Multiple Gender traditions went underground for a long time.

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Emergence of Two Spirit

- “Two Spirit” is a contemporary term that references historical multiple-gender traditions in many First Nations cultures. Many – but not all – Indigenous People who are LGBTIGNC identify as Two Spirit.
- Even today, in many Nations, being Two Spirit carries both great respect and additional commitments and responsibilities to one’s community.

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More on Terminology

- LGBT: Lesbian, Gay, Bisexual & Transgender
- LGBTIQ: Lesbian, Gay, Bisexual, Transgender, Intersex & Queer or Questioning
- LGBTIQQ: Lesbian, Gay, Bisexual, Transgender, Intersex, Queer & Questioning
- LGBTGNC: Lesbian, Gay, Bisexual, Transgender & Gender Non-Conforming
- Pansexual
- "A" for Ally

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Cultural Reclamation

- Recognizing Two Spirit People is an important part of cultural reclamation.
- For that reason, Two Spirit is a specifically Native term that honors our traditions.

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Cultural Appropriation

- The fact that LGBT people were accepted in Native societies makes Native cultures – and the term Two Spirit – attractive to non-Natives who are LGBT.
- To use this term without being Indigenous is cultural appropriation and offensive.

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Sovereignty of Land

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Contact

- Europeans sought legitimization from Indigenous populations by entering into treaties with First Nations throughout the Americas.
- These treaties established the recognition of the Nation-to-Nation relationship between European Nations – and then the United States – with Native Nations.

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Johnson v McIntosh (1823)

- Thomas Johnson who bought land from the Piankeshaw Indians and William M'Intosh who later obtained a patent to the same land from the United States federal government.
- The Court established the Doctrine of Discovery: Indigenous people had the right to occupy the land but the discovering Christian nation had title.

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Doctrine of Discovery

- “But the tribes of Indians inhabiting this country were fierce savages, whose occupation was war, and whose subsistence was drawn chiefly from the forest. To leave them in possession of their country, was to leave the country a wilderness; to govern them as a distinct people, was impossible, because they were as brave and as high spirited as they were fierce, and were ready to repel by arms every attempt on their independence.”

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Cherokee Nation v Georgia (1831)

- The Cherokee Nation sought an injunction to protect Cherokee lands, fight off removal, and to keep the laws of Georgia from being imposed on them.
- The Court denied the injunction and went on to say that the Cherokees were not a foreign nation, but they were a ‘domestic dependant nation.’ The relationship between the tribes and the United States was like that of a ‘ward to a guardian.’ This case outlined the sovereign nature of tribes as not like states, but not as complete foreign nations either. Tribal sovereignty (authority to govern) was limited by being within the boundaries of the United States, but it was inherent sovereignty, which meant that it predated the United States.

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Worcester v Georgia (1832)

- Samuel Worcester, a preacher, was arrested for preaching on Cherokee lands without a state license.
- The Court held that the state had no authority to impose the requirement of a state license on Cherokee lands – that only the federal government had authority to impose laws on Indian land.

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American Indian Tribes Are Nations

- “The Indian nations had always been considered as distinct, independent political communities, retaining their original natural rights, as the undisputed possessors of the soil, from time immemorial...”

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The Court Went On To Say...

- "The very term "nation," so generally applied to them, means a "people distinct from the others". The constitution, by declaring treaties already made, as well as those to be made, to be the supreme law of the land, has adopted and sanctioned the previous treaties with the Indian nations, and consequently admits their rank among those powers who are capable of making treaties. The words "treaty" and "nation" are words of our own language, selected in our diplomatic and legislative proceedings, by ourselves, having each a definite and well understood meaning. We have applied them to Indians, as we have applied them to the other nations of the earth."

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Ex Parte Crow Dog (1883)

- Crow Dog murdered another Native person, Spotted Tail, on Indian land.
- The murder was addressed by traditional means.
- The US government arrested, tried and convicted Crow Dog of murder and sentenced him to death.
- The Court held that the Nation had jurisdiction – not the federal government – and overturned the conviction.

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The Impact Today

- Congress passed the Major Crimes Act taking away jurisdiction of most violent crimes from Native Nations and giving it to the US government (Dept. of Justice).
- This has resulted in many violent crimes going unprosecuted.
- Congress passed the Tribal Law and Order Act in response to so many violent crimes not being prosecuted.
- Congress also returned a sliver of criminal jurisdiction to prosecute non-Natives committing domestic violence on Tribal land in the Violence Against Women Reauthorization Act of 2013.

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US v Washington (1974)

- Fourteen Nations entered into treaties, securing off-reservation fishing rights. The state attempted to impose state restrictions on Indian fishers.
- The treaty (like so many other treaties) stated: "The right of taking fish, at all usual and accustomed grounds and stations, is further secured to said Indians..."
- The Court upheld the Nations' off-reservation fishing rights, looking at the historical record of the treaty drafting, including a discussion of what the Natives would have understood the treaty to mean.

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US v Winans (1905)

- The Yakima Nation reserved fishing rights in a treaty, including off-reservation fishing rights. The state was attempting to stop the off-reservation fishing.
- The Court upheld Indian fishing rights noting that these were rights retained by the Yakima Nation.

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The United State Never Gave Native Nations Anything

- "In other words, the treaty was not a grants of rights to the Indians, but a grant of rights from them – a reservation of those not granted."

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Morton v Mancari (1974)

- Upheld Indian hiring preferences for the Bureau of Indian Affairs holding that it was not a racial preference but “an employment criteria reasonably designed to further the cause of Indian self-government and to make the BIA more responsible to the needs of its constituent groups”

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Mille Lacs Band of Chippewa Indians v. Minnesota

- In 1837, the United States entered into a Treaty with several Bands of Chippewa Indians. Under the terms of this Treaty, the Indians ceded land in present-day Wisconsin and Minnesota to the United States, and the United States guaranteed to the Indians certain hunting, fishing, and gathering rights on the ceded land. We must decide whether the Chippewa Indians retain these usufructuary rights today. The State of Minnesota argues that the Indians lost these rights through an Executive Order in 1850, an 1855 Treaty, and the admission of Minnesota into the Union in 1858

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Fishing Rights Upheld

- The Court did an in-depth examination of the historical record and concluded that the Chippewa retain the usufructuary rights guaranteed to them under the 1837 Treaty.
- But...Chief Justice Rehnquist, Justice Scalia, Justice Kennedy, and Justice Thomas dissented

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United States Policies

- Removal (1776-1871)
- Allotment and Assimilation (1871-1928)
- Indian Reorganization Act (1928-1945)
- Termination (1945-1961)
- Self-Determination (1961 to Present)

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Removal

- Despite treaties that guaranteed non-Indians would not encroach on Native reservations, settlers continued to take land.
- Instead of recognizing this as a problem to address with non-Indians, it was characterized as "The Indian Problem."

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1789 Report to Congress by Henry Knox,
President Washington's Secretary of War

- Henry Knox argued that removal was the only "humane" solution to non-Natives taking Native land.

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Allotment and Assimilation

- The Dawes Act resulted in the division of reservations into individual lots owned by Native people. The goal was to “civilize” Native folks by encouraging land ownership and farming, to decrease the connection to tribal life of communal living and hunting.
- Non-Indians used various tactics to purchase land from Indians, resulting in the loss of land base.
- Approximately two-thirds of the remaining Native land was purchased and/or taken during this time period.

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The Impact Today

- Many reservations have what is called “Checkerboard Jurisdiction” where the borders of the reservation are the same as in the most recent treaty, but there are individual allotments throughout the reservation that are not owned by individual Native people or the Nation.
- This frequently causes jurisdictional problems, in particular between Tribal and State police.

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A Note on Colonialism and Christianity

- The General Allotment Act of 1887, also known as the Dawes Act, instituted sexist principles not shared by Native Nations by granting allotments to men only.

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Indian Reorganization Act of 1934

- This policy was considered more supportive of Indian Country, with encouraging tribal self-government.
- A requirement was that Nations adopt constitutions. Unfortunately, the constitutions had to be approved by the Secretary of the Interior who frequently rejected constitutions with a balance of power.

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The Impact Today

- Many Nations have constitutions where the legislative and executive branches are combined and the judicial branch has little autonomy.
- Numerous Nations have amended their constitutions, but many others have attempted to without success.

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Termination

- Resolution 108: Ended the government-to-government relationship between the US and Native Nations in California, Florida, New York, and Texas
- The plan was to do the same with all Nations so that, according to the 1949 Hoover Commission Report on Indian Affairs, there would be "complete" integration of Indians, including becoming "full, taxpaying citizens."

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The Impact Today

- Tribes that were terminated are subject to state jurisdiction
- They are denied many US services
- They struggle to retain their sovereignty, although several have done well, especially with regard to gaming enterprises

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Self-Determination

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A Surprising Ally

- "The policy of forced termination is wrong, in my judgment."
- "And we must make it clear that Indians can become independent of Federal control without being cut off from Federal concern and support."
- "...we believe every Indian community wishing to do so should be able to control its own Indian schools."

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- "Because termination is morally and legally unacceptable, because it produces bad practical results, and because the mere threat of termination tends to discourage greater self-sufficiency among Indian groups, I am asking the Congress to pass a new Concurrent Resolution which would expressly renounce, repudiate and repeal the termination policy as expressed in House Concurrent Resolution 108 of the 83rd Congress." President Richard Nixon

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American Indian Movement

- The American Indian Movement was born out of the poverty and loss of traditional ways through colonialism.
- American Indians in urban areas, prisons, and reservations came together to raise awareness within mainstream society about the deplorable conditions for Native people throughout the borders of what is now the United States

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Some Significant AIM Events

- Occupation of Alcatraz (November 20, 1969-June 11, 1971)
- Trail of Broken Treaties in 1972
- Wounded Knee '73 (71 Day Occupation that began on February 27, 1973)
- The Longest Walk 1978

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Legislation

- Indian Civil Rights Act of 1968
- Indian Self-Determination and Education Assistance Act of 1975
- American Indian Religious Freedom Act of 1978
- Indian Child Welfare Act of 1978
- Native American Grave Protection and Repatriation Act
- Native American Language Act
- Indian Child Protection and Family Violence Act of 1990
- Tribal Self-Governance Act of 1994

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Sovereignty of Spirituality & Culture

The Struggle to Reclaim

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The Impact of Christianity

- Civilization Fund Act of 1819
- The U.S. provided funds to Christian missionaries to establish schools for American Indian children
- "The goal was to "civilize" Native Americans by getting rid of their traditions and customs and teaching them reading and writing in the missionary schools."

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The Purpose Was to Destroy the Native Way of Life

- Christianity attempted to destroy Native traditions, spirituality, language, and connection to the land, especially the spiritual connection to sacred sites.
- Some Nations have lost their language.

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Christianity also...

- Imposed hetero-normative rules and monogamy
- Imposed sexist norms, including prevalence of domestic violence.
- Many children were physically and sexually abused by those in charge of their care at these Christian boarding schools.

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Impact on Two Spirit People

- Christianity denied Native Nations the right to continue traditional life.
- Two Spirit people were denied their traditional and spiritual roles.

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Historical Memory

- Indigenous People and Nations have a historical memory of a way of life that does not include homophobia or transphobia.
- Many Native People are working every day to reclaim these traditional ways of life.

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Sovereignty of Body

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The Body Reacts to What It Experiences

- When a person experiences something shocking, their body reacts.
- For example, if you are driving and a deer appears in the road, your body reacts. You experience an increase in:
 - Heartbeat
 - Breathing
 - Blood sugar

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Indigenous People Carry this Reaction in Their Bodies

- Indigenous People have experienced trauma since contact.
- Generations of reacting to trauma have affected the physical conditions of Indigenous Peoples' bodies. One example, which has also been impacted by the change in diet caused by forced removal to areas that did not have the traditional foods of that Nation – is diabetes.
- When we discuss historical trauma, we must remember that the impact of historical trauma is also experienced biologically.

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Returning to Reclaiming

The Traditional Ways of Life

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Reclaiming Respect

- Returning to the traditional teachings of individual Indigenous Nations that included respect for lesbian, gay, bisexual, and transgender people.

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Reclaiming the Name of Two Spirit People in Indigenous Languages

- While Two Spirit is a term preferred by many Indigenous LGBTIQ People, there are also many, both who call themselves Two Spirit and those who do not, who are also advocating for the return of the term that at least 155 First Nations had in their Indigenous Language for Two Spirit People.

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Reclaiming the Traditional Roles for Two Spirit People

- ☞ Mediators
- ☞ Ambassadors
- ☞ Caretakers of children
- ☞ Medicine People
- ☞ Name givers
- ☞ Warriors
- ☞ Visionaries
- ☞ Teachers
- ☞ Sexual Educators/Healers

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Ending this Workshop

And Continuing the Work

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At All Levels Within Your
Court, Agency, or Team

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Identify Your Collective Values

- Example Exercise:
 - Close your eyes. Imagine the world you in which you want to live.
 - According to your abilities, think about: What does this world look like? Sound like? Feel like? Smell like? Taste like?
 - What characteristics would a person living in this world posses?
 - Share and identify all values that you collectively agree with and post.

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Examples for Supporting Gender Related Inclusion

- Sharing your preferred pronoun.
- Identifying your pronoun in communications, such as email signatures.
- Respect the preferred pronouns of others.

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Reclaim Your Own Traditions

- We all have a responsibility to look back in our own cultures and histories and reclaim those traditions and stories that have been attacked by colonization.
- There are many examples from the Druids in the UK, to Hinduism, the Muslim world, and more of cultures that were or are accepting of LGBTIQ People.
- And then share!

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Engage in Intentional Conversations about Ways to:

- Align with & support the sovereignty of Native Nations, First Nations People, and Two Spirit and LGBTIQ People.
- Welcome LGBTIQ and Two Spirit People. Explore your spaces, forms and materials to ensure they do not convey exclusion.
- Honor traditional Indigenous support of LGBTIQ and Two Spirit People.
- Connect with and honor others by promoting the sovereignty of each individual over their own body as a model moving forward.

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Five Examples of Ways You Can Support Sovereignty

- Challenge the everyday representations of the continuing oppression of Indigenous People, such as working to eliminate all Indian mascots and logos.
- Support programs & movements to re-energize traditional ways of life, such as advocating for the establishment of a First Nations language program in your area.
- Own your immigrant status.
- Teach your children the history of the United States and own your privilege by example so they will know their privilege.
- In all that you do, begin by honoring the First Peoples of the space you occupy.

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Two Spirit Books

- ☞ Living the Spirit, Will Roscoe
- ☞ Changing Ones, Will Roscoe
- ☞ The Spirit and the Flesh, Walter Williams
- ☞ Two Spirit People: American Indian Lesbian Women and Gay Men, Lester Brown PhD
- ☞ Becoming Two Spirit, Brian Joseph Gilley
- ☞ Two Spirit People: Native American Gender Identity, Sexuality & Spirituality, Sue-Ellen Jacobs

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