

Haaland v. Brackeen Decision

ICWA continues to be constitutional and enforceable!

Indian Commerce Clause

- Congress has broad authority to pass legislation impacting Native people and tribal nations

Anti-Commandeering

- ICWA applies to both public and private parties and therefore does not meet the test for unlawfully commandeering states

Equal Protection and Delegation of Powers

- Court held that the plaintiffs did not have standing to raise these issues



NICWA

National Indian Child Welfare Association
Protecting Our Children • Preserving Our Culture

Policy Impacts

Still a Good Idea...

- State ICWA laws and agency policies
- Intergovernmental agreements
- ICWA courts and bench guides
- Federal legislation
- Tribal codes and policies and procedures
- Contracting with tribes



NICWA

National Indian Child Welfare Association
Protecting Our Children • Preserving Our Culture

Using Other Federal Policies

- Take advantage of other state and federal child welfare laws
 - Notification of relatives (Title IV-E)
 - Relative preference in placement (Title IV-E)
 - Sibling placement (Title IV-E)
 - Waiver of non-safety foster care standards (Title IV-E)
 - State plan re: ICWA compliance (Title IV-B)
 - Not denying placement outside state jurisdiction (Title IV-E)
 - Use of tribal placements and licensing standards/approval (ICWA and Title IV-E)



NICWA

National Indian Child Welfare Association
Protecting Our Children • Preserving Our Culture

Practice Impacts

Still a Good Idea...

- Tribal/State Forums (agency and courts)
- Training on ICWA (collaborative, including people with lived experience)
- Establishing tribal liaison positions
- Supporting relative caregivers and foster parents



NICWA

National Indian Child Welfare Association
Protecting Our Children • Preserving Our Culture

WATCH OUT!

The decision potentially leaves a door open for opponents to bring new lawsuits, especially on equal protection grounds

- Contested adoption cases are the target
- More and more, adoption cases start as foster care cases
- What are we doing to monitor, educate, and support foster care families?



NICWA

National Indian Child Welfare Association
Protecting Our Children • Preserving Our Culture

Keep Telling Our Stories

- Engage the media
 - ICWA works! More resources and support for Native children and families, gold standard in child welfare
 - ICWA helps states too
 - Attacks on ICWA are attacks on tribal sovereignty and ability of Native people to determine their futures



NICWA

National Indian Child Welfare Association
Protecting Our Children • Preserving Our Culture

PROTECT ICWA

FOLLOW US!

INSTAGRAM
@protectICWA



TWITTER
@ProtectICWA



SIGN UP FOR OUR NEWSLETTER!

Sign up link available via LinkTree in our Instagram bio

