

The community at the center: The interplay between the ICWA decision and environmental justice

A personal reflection by Dawn Knickerbocker (Anishinaabe)

Forty-five years ago, Congress passed a pivotal law. Recognized as the Indian Child Welfare Act, or ICWA, this law is connected to Tribal sovereignty, and holds a deeply personal significance for my own family.

It is unfathomably painful to comprehend the reality endured by so many Native Americans during the time of child removal, and yet it continues to shape our present-day experiences. If you are not familiar—the federal government, through the Child Welfare League of America, allocated funds primarily to churches to remove Native children from their homes, placing them in white households. The scars of this injustice linger, etched upon our collective memory, and serve as a stark reminder of the ongoing struggle for healing and justice.

“At the same time as the removal of our children, there was an effort to remove our land.”

Thirty years before the Indian Child Welfare Act (ICWA) was passed, my father and his siblings were swept up in the colonial project and government policy of assimilation designed to make Indians forget who they are, and forget their culture, language, and community. When my dad was about ten years old, he and one of his sisters were taken away—put into the state foster care system. He

recounts that time in his life very rarely, and nearly always with sadness. “We were sent to the wolves,” he would say.

Some of his siblings were “lucky,” and were put into foster homes with caring people and were eventually reunited with our Tribe and relatives. My father and his sister were adopted by a family who were abusive and severed all ties with our Native culture, traditions, and Tribe. It was only after my dad was emancipated at the age of sixteen that he began to try to find his way back. With court records sealed and with no support, it took him years to locate a sibling.

When my father finally found one sibling, then several others, and eventually his mother, father, grandparents, and aunts and uncles, the land was gone—and the community was fractured and many of

our relatives in crisis.

To this day, we are on a healing journey. While some of my dad’s siblings did not survive, my dad lives on to tell his story and to work to make us whole.

Against all odds, all has not been lost. I am proud to come

from a very long line of Anishinaabe farmers and caretakers of the land. As young children, my siblings and I were taught how to sow seeds, how to plant and harvest with the seasons. Along with the knowledge of how to care for the land, is the connection to our language and stories that hold the instructions to our way of life. In my estimation, it is a miracle that I have this knowledge today



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and pass teachings to my own children. In every generation, there has been an attack on the wholeness of my family. Our family continues to heal from the policies of the past.

After ICWA passed in 1978, we became a foster family. Several of my cousins who were lost to the system found their way into our home. This practice of healing in my family has continued and two of my siblings are now social workers, and our family has now adopted and are raising three children who we would not have known if it had not been for ICWA.

ICWA came to pass after a big national survey found that about a third of Native children had been removed from their family and their Tribes. For my own reservation, White Earth Nation, many recall the pain of removal and estimate that over 25 percent of the children and placed into non-Native/ white foster and adoptive houses.

Native families were told that adoption was the only option if they were to survive, others, like in my family, were a

part of church-sponsored programs that facilitated Indian children working in families' homes –like live-in domestics– while purposefully stripping away their culture and identities in place of a colonized identity. This very racist thinking is hard to fathom today. However, this is the living, breathing reality and present-day experiences of Native Americans.

At the same time as the removal of our children, there was an effort to remove our land. In my band, White Earth—85 percent of the land is held by non-Native landholders, including the federal, state and county governments. One of the essential elements of Native culture is the profound connection and sense of reciprocity that the people of this continent maintain with their lands and connection to the Mother Earth. As this land's stewards, we have intimate knowledge of the caretaking and protection of the ecosystem, the biodiversity, and the relationships with the water, air, and animals.

Woven deep within our family and the Anishinaabe People, is the memories of the caretakers of the land since time immemorial. My ancestors have observed glaciers come and go, the dance of countless species, the nurturing of seeds passed down through generations, and the rise and fall of Nations upon our sacred homeland. Against the relentless tides of change, our sovereignty and culture have endured, resilient and unyielding. The sacred lessons and the gifts of the wisdom of my ancestors—on how to care for the land—remain intact.

WHEN ICWA FACED THE SUPREME COURT

There is a small group of people who claim ICWA is a bad law. The chief complaint is that this law prevents white people from adopting whomever they wish. There exists a small contingent of individuals who express criticism towards ICWA, arguing that it is a flawed



law. Their main concern centers around the perception that this legislation unfairly restricts white individuals from adopting children without limitations.

The focal point of a recent Supreme Court case revolves around a toddler of Navajo and Cherokee descent. During his infancy, a white couple residing in the suburbs of Dallas expressed a desire to adopt him. However, federal law mandated that Tribal involvement was necessary for the adoption to proceed. Initially, the Brackeens' case appeared to be a typical adoption dispute. However, the situation took an unexpected turn when one of the most influential corporate law firms in the United States took up the couple's cause, assisting them in launching a federal lawsuit. The repercussions of this case extend far beyond the fate of one child or the future of a single law. Rather, they pose a genuine threat to the entire legal framework that safeguards the rights of Native American communities.

Amidst this contentious landscape, it is important to note the resolute support that ICWA receives from a diverse range of advocates. Child welfare champions, constitutional scholars, bipartisan elected leaders, and Tribal Nations across the country stand united in their endorsement of ICWA. They recognize it as the benchmark for child welfare legislation, setting the standard for protecting the safety, well-being, and health of children. The Justices' decision to take up this crucial law harkens back to a distressing era when Native children were disproportionately separated from their families.

The significance of ICWA stretches beyond mere adoption preferences. It symbolizes a commitment to justice, resilience, and rectifying historical injustices. The law embodies our collective determination to protect the rights and well-being of Native children, safeguarding their cultural heritage and forging a path towards a more equitable and inclusive future.



ICWA set the standard for protecting children’s well-being.

CONNECTION TO ENVIRONMENTAL JUSTICE

We are living at a time when resistance to the progress we have been making on racial equity is heightened, with books being banned in our schools and African American and Native American studies courses are altered or removed. There are concerted efforts to ban even conversations about race in our classrooms, workplaces and government.

In the courts, we are facing attacks on tools used to address unjust patterns of racial discrimination and exclusion. The U.S. Supreme Court ruled on a series of cases that could determine whether race can be acknowledged and factored in voting rights, tribal sovereignty and the Indian Child Welfare Act, and affirmative action in higher education.

Collectively, these movements to separate us from reality are meant to silence the truth and connection to this land. My people’s land was stolen, acre by acre. The case against ICWA seeks to redefine Tribal membership as a racial rather than a uniquely political designation, as a steward of this land, contending that it puts white foster parents at a disadvantage when attempting to adopt Native children. The fact that white foster parents were supported with the best lawyers petro dollars can afford reveals the new strategy to steal land, child by child.

Rebecca Nagel, the host of *This Land* podcast, writes “It’s sinister...but when you understand history, using the children of Native nations to attack Tribal sovereignty is sadly something the U.S. has been doing for generations.”

For funders that are interested in taking the next step but are not sure where to start, we suggest four commitments to strengthen partnerships with Native organizations and communities:

- Learn about Native peoples and their history.
- Evaluate your organization’s practices.
- Build relationships with Native communities and nonprofits and with peer funders that have relationships in Indian Country.
- Begin funding.

We can speak for ourselves, and you have to actually look at people who are your colleagues who are serving. When we are at the table, the conversations change. [Click here](#) for a list of resources for Native families interacting with the child welfare system from the National Indian Child Welfare Association.

For the purposes of this article, the terms Native, Native American, and Indigenous are used interchangeably. The term “Indian,” “Indian Tribe,” and “Indian Country” are legal terms referring to US Federal Indian laws and policies (see, e.g., Title 25 of the US Code, titled Indians).

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A child from the Colorado River Indian Tribe surrounded by her people.