

# Legal Review

NATIVE AMERICAN RIGHTS FUND

## Protecting the Law that Protects Our Children

In August 2019, a federal appeals court in Louisiana affirmed that the US Constitution allows Congress to pass laws that protect the best interests of Indian children. That seems like a common-sense notion. One that wouldn't require three distinguished judges and the collective work of hundreds of attorneys from across the country. So why was it necessary for a panel of the Fifth Circuit Court of Appeals to resolve this issue?

Because a particular law, the Indian Child Welfare Act (ICWA), is under attack. It has been attacked by adoption agencies that have financial incentive to see more Indian children put up for adoption. It has been attacked by ideological think tanks intent on undermining all of Indian law. It has been attacked by state attorneys general over the objections of their own child welfare departments.

When a law that was put into place to protect Indian children comes under attack, it requires a nationwide response. It requires tribes, tribal organizations, and Indian law practitioners to come together with one voice. And it requires a partnership with allies in Congress, federal government, state government, child and family services, and academia that know how well ICWA works. This type of coordinated response is one of the things that the Native American Rights Fund does best.

### A Shameful History

Since before the founding of the United States, Native communities have witnessed their children being forcibly removed from their families. Early in our nation's history, policymakers identified the removal of indigenous children as an efficient strategy to destroy tribes and erase Native cultures and communities. Starting in the 19th Century, Indian children were relocated to government-



sponsored boarding and industrial schools to be "civilized." It was the federal government's official policy to remove American Indian children from their homes and communities. The crisis of Indian child removals and adoptions arose in large part from decades of official policy aimed at the forced assimilation of Indians, particularly Indian children, into mainstream society.

More recently, children were taken from their families by a child welfare system that disproportionately removed Native American children ▶

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from their homes.<sup>1</sup> In the 1950s, the federal government partnered with state and private agencies to form the Indian Adoption Project (IAP). It furthered the policy of “Indian extraction,” whereby Indian children would be adopted out primarily to non-Indian families in order to reduce reservation populations, reduce spending on boarding schools, and satisfy a “large demand for Indian children on the part of Anglo parents.”<sup>2</sup> In its ten-year lifespan, the IAP itself took almost 400 Native children from western states to white families on the other side of the country. It also facilitated the removal of thousands more Indian children. After years of study, a Congressionally chartered task force in 1978 reported, “The removal of Indian children from their natural homes and tribal setting has been and continues to be a national crisis.”<sup>3</sup>

Tribal nations and Native advocates spent years working to raise awareness of the problem. In Senate hearings held in 1974, Native families described their children being removed without notice and welfare agents pressuring new mothers to give up their children.<sup>4</sup> Further testimony detailed how state courts allowed removals to occur without due process. Native parents were neither advised of their rights nor provided with legal representation; their children were just taken. Likewise, tribal authorities often were not given notice of these child removals; their member children just disappeared.

These child removals devastated families, and the damage reverberated out to their communities and tribes. As Congressman Morris K. Udall described at the time, tribes “are being drained of their children and, as a result, their future as a tribe and a people is being placed in jeopardy.”<sup>5</sup> By the time Congress recognized the problem, **more than a quarter of all Native children had been separated from their**

**families. And even when family members were willing and able to take these children, 85% were removed entirely from their communities.**<sup>6</sup>

In response to these alarming facts, Congress enacted the Indian Child Welfare Act in October 1978. Their goal was to improve the handling of Indian child welfare cases and the outcomes for Indian children and Indian families. ICWA first affirms that Indian tribes have exclusive jurisdiction over child welfare proceedings for on-reservation Indian children and Indian children who are wards of tribal courts. ICWA also recognizes tribal jurisdiction, concurrent with that of states, over off-reservation Indian children, and it encourages state courts to transfer Indian child welfare proceedings to tribal courts. When transfer is impractical and state courts retain jurisdiction, ICWA provides objective, consistent, and transparent standards to protect Native children and preserve family/community relations, including:

1. Requiring state courts to give notice to both tribes and Indian parents of Indian child welfare proceedings;
2. Allowing tribes to participate as intervenors in state-court proceedings;
3. Requiring the testimony of qualified expert witnesses and other “active efforts” to prevent the break-up of Indian families; and
4. Establishing preferences for family placement, tribal placement, and Indian family placement in all foster care and adoption proceedings.

The law promotes keeping families and communities together when it is safe and possible. Child welfare experts recognize family reunification as promoting the best outcomes for all children—Native or non-Native. In light of the incredibly high rate of removals of Native children from

1 Child Welfare Information Gateway. 2016. Racial Disproportionality and Disparity in Child Welfare.

[https://www.childwelfare.gov/pubPDFs/racial\\_disproportionality.pdf](https://www.childwelfare.gov/pubPDFs/racial_disproportionality.pdf) (accessed October 1, 2019.)

2 Slaughter, Ellen. 1976. Indian Child Welfare: A Review of the Literature, 61. University of Denver Research Institute. Available at <http://files.eric.ed.gov/fulltext/ED138422.pdf>

3 American Indian Policy Review Commission. Report on Federal, State, and Tribal Jurisdiction of the Final Report to the American Indian Policy Review Commission, 87. Washington, DC: GPO.

4 US Senate. 1974. Subcommittee on Indian Affairs of the Committee on Interior and Insular Affairs. Hearing: Indian Child Welfare Program. Apr 8-9.

5 Congressional Record. 1978, 124:38102 (statement of Rep. Udall)

6 National Indian Child Welfare Association. “About ICWA.” <https://www.nicwa.org/about-icwa/> (accessed October 1, 2019)

their families and their communities, ICWA is a necessary tool to help ensure that these best practices are applied consistently for tribal citizens. Even in cases where biological parents are not available, there often are family or community members who are well-suited to serve as that child’s caretakers. Years of research and experience have shown that maintaining these family and community connections, otherwise known as kinship placements, best serve a child’s needs. ICWA is considered the gold standard in child welfare because it makes family and community placement a priority.<sup>7</sup>

Quite simply, ICWA was meant to protect the best interests of Indian children and encourage stability in Native families and communities in light of ongoing attempts to destabilize Native communities. ICWA helps block interference with Native families and communities. It counters years of government policies meant to end the existence of tribes, and it systemically promotes Native children’s well-being, which consistently has been neglected.

### Attacks against ICWA

Notwithstanding all of the good that ICWA does for Indian children, Indian families, and Indian tribes—not to mention states and their local communities, which often benefit from tribes’ expertise and assistance in Indian child cases—legal challenges to ICWA are on the rise. The last five years have seen a rash of lawsuits challenging the constitutionality of ICWA. And while the names on the docket are those of non-Native couples wanting to adopt Native children, many of these lawsuits are backed by wealthy and politically motivated interests such as the Goldwater Institute (which repeatedly has challenged policies that address systemic discrimination) and private adoption attorneys (who have a financial incentive to undermine ICWA).

In case after case, the courts have affirmed the validity and importance of ICWA in ensuring the



best interests of Native American children. After numerous failed attempts (Goldwater has been involved in at least a dozen ICWA cases in recent years), *Brackeen v. Bernhardt* (originally *Brackeen v. Zinke*) was filed in North Texas federal court in 2017. Brackeen was brought, in alliance with the Texas Attorney General, by a non-Native couple seeking to adopt an Indian child. (An amended complaint brought additional potential adoptive parents and the States of Indiana and Louisiana as plaintiffs.) They argued, among other things, that ICWA operates based on race rather than the unique legal/political status of Indians under federal law and that ICWA requires state courts to ignore the best interests of Indian children.

In October 2018, Judge Reed O’Connor from the US District Court for the Northern District of ▶

<sup>7</sup> Brief of Casey Family Programs, Child Welfare League of America, Children’s Defense Fund, Donaldson Adoption Institute, North American Council on Adoptable Children, Voice for Adoption, and Twelve Other National Child Welfare Organizations as Amici Curiae in Support of Respondent Birth Father, Adoptive Couple v. Baby Girl, 570 U.S. 637 (Sup. Ct. 2013) (No. 12-399) at [https://sct.narf.org/documents/adoptivecouplevbabygirl/merits/support\\_of\\_respondents/casey\\_family\\_programs.pdf](https://sct.narf.org/documents/adoptivecouplevbabygirl/merits/support_of_respondents/casey_family_programs.pdf)

Texas ruled in *Brackeen* that ICWA illegally discriminates based on race, in violation of the Fifth Amendment's equal protection guarantee. Judge O'Connor also held that ICWA places unconstitutional burdens on state agencies and courts and that ICWA impermissibly delegates Congress's legislative powers to Indian tribes.

### Defending the Law

Judge O'Connor's ruling flies in the face of decades of established law. To be clear, Indian Law is not race based. Our tribes predate the United States; the US Constitution recognizes that tribes are sovereign entities. That political relationship, and the federal trust responsibility toward Indians that flows from it, is why Congress may pass laws that single out Indians for special treatment. ICWA affirms these principles. It fulfills the trust responsibility owed to Indian children by establishing minimum federal standards for removal and placement. It respects tribes' authority to have a role in protecting their children.

The plaintiffs' arguments were based on the false premise that ICWA applies to Indian children because of their ancestry, but that's not true. ICWA applies to children who are either (1) tribal members, or (2) are both eligible to be tribal members and the biological children of a tribal member. Self-identification as American Indian or Alaska Native is not sufficient to trigger ICWA. That means, when ICWA classifies certain children as Indian children, it does so because of legal and political circumstances—either tribal membership or eligibility for membership coupled with having a tribal member parent—not because of any racial circumstances.

The *Brackeen* plaintiffs also argued that ICWA forces courts to look past the best interests of children and blindly adhere to race-based foster and adoptive placement preferences. That's not true either. After years of extensive fact-finding, a bipartisan Congress found that ICWA's standards serve the best interests of Indian children, while also giving courts flexibility when ICWA's preferences are not the best fit.

In addition to calling for appropriate placement and due diligence, ICWA acknowledges the inher-

ent power of tribal nations to act as advocates for their citizens, including children and families who find themselves in state child welfare cases. Tribes devote significant resources to these cases. They may know the child's extended family relations while the state child welfare worker does not. Tribes often are well-situated to support the child's best interests and a family's rehabilitation. These tribal resources increasingly are important for states that have chronically under-funded child welfare programs and often rely on tribes to assist in providing additional resources to tribal children who are in state custody. Getting rid of ICWA would deny the child that additional advocate and resource.

In the *Brackeen* case, ICWA's reputation for success and high standards was made plain in the support that it received. In addition to the 325 tribal nations and 57 tribal organizations represented on the tribal amicus brief, more than 30 leading child welfare organizations, 21 states' attorneys general, and several members of Congress all filed briefs recognizing that ICWA's requirements are the absolute best practices based on decades of experience and research.

For years, NARF, with partners including the National Congress of American Indians, the National Indian Child Welfare Association, and the Association on American Indian Affairs, has coordinated strategies to raise awareness about the importance of ICWA. Countering willful misinformation and lack of understanding about the law requires unflagging efforts. In all federal ICWA cases (including *Brackeen*), NARF has coordinated the amicus strategy and written the tribes' amicus briefs. Given the history of attacks on Native families—and the resulting destruction of Native communities—NARF considers the protection of Native families and communities a top priority. Attacks against ICWA and tribes' authority to protect their member children and families will not go unanswered.

In March 2019, a three-judge panel of the US Court of Appeals for the Fifth Circuit heard the appeal from Judge O'Connor's *Brackeen* decision. On August 9, 2019, the Fifth Circuit published its decision (available at <https://www.narf.org/>



nill/documents/20190809brackeen-icwa-opinion.pdf). The three-judge panel affirmed ICWA's constitutionality, recognized the political status of tribes and Indians, and upheld the law that is so critical to safeguarding Indian child welfare. It was a resounding victory for the law and those who fought to protect it, including—most important—for the tribal nations who work tirelessly to protect their people and communities. It also is a win for child welfare advocates looking to ensure the best practices for vulnerable children.

### The Fight Continues

Unfortunately, on October 1, 2019, the Brackeen plaintiffs asked the Fifth Circuit to review the case in front of all of the court's judges instead of a three-judge panel. The plaintiffs advance the same arguments they made before: that ICWA operates on the basis of race, that it unconstitutionally "commandeers" state agencies and state courts, and that it improperly delegates Congressional authority to tribes. If the court grants review, it may either uphold the Fifth Circuit panel's decision or replace it with a new decision. Regardless

of what happens, we anticipate the plaintiffs will not stop at the Fifth Circuit and will petition the US Supreme Court for review.

Cherokee Nation Principal Chief Chuck Hoskin Jr., Morongo Band of Mission Indians Chairman Robert Martin, Oneida Nation Chairman Tehassi Hill, and Quinalt Indian Nation President Fawn Sharp said in a statement, "We won our case in the Fifth Circuit . . . on the merits because ICWA is constitutional. ICWA ensures that there is a process in place that keeps children close to their tribal communities, which gives them a sense of identity and belonging that cannot be found elsewhere. It is because of the importance of this critical law that we will continue defending these children. We will remain steadfast in defense of ICWA, no matter what it takes."

NARF will continue to support the tribes in whatever ways that we can as they fight to protect their citizen children and families. 🌟

# CASE UPDATES

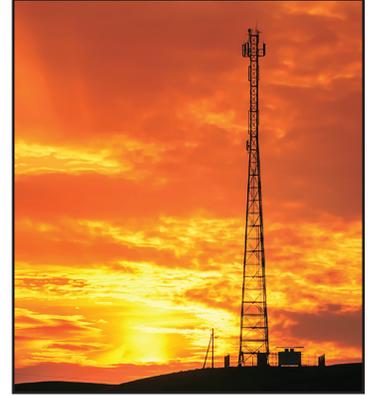
## 5G Cell Construction Must Follow Federal Laws

On August 9, 2019, the DC Circuit Court of Appeals struck down an order issued by the Federal Communications Commission (FCC) that would have exempted construction of the 5G cellular network from laws that protect Indian sacred sites, cultural resources, and the environment.

In the past, wireless cellular service depended on large towers to transmit signals. The latest generation of wireless service, called 5G, would shift wireless service to smaller but far more densely packed wireless facilities. Although they are called “small cells,” they are in fact more intrusive and have greater impacts because they are far more numerous. These so-called small cells are also not small, since most of them will require entirely new towers be built to position them. The FCC has exclusive control of this entire cellular spectrum.

In order to accelerate the deployment of 5G—to the benefit of some of the world’s wealthiest companies—in March 2018 the FCC issued a new Order that purported to exempt this entire 5G network from review under the National Historic Preservation Act (NHPA) and the National Environmental Policy Act (NEPA). On the books since the 1960s and early 1970s, these laws are meant to protect all Americans’ cultural heritage and environment. They ensure that citizens’ voices could be heard in federal government permitting processes, such as those that ordinarily occur when companies wish to build communications infrastructure throughout the United States. In its Order, the FCC sought to excuse itself from compliance with these federal laws, meaning that private companies could construct new towers and “small cells” on top of irreplaceable historic sites, and even burials, at will, without having to secure any federal permission. The FCC’s Order was essentially a gift to industry saying ‘build anywhere you want, no questions asked.’ This makes no sense, especially when the cost of typical small cell NHPA and NEPA reviews is only several hundred dollars. In other words, the impacts

are large, the cost is small, and the FCC still tried to write itself a hall pass to avoid complying with federal environmental laws. On August 9, the DC Circuit effectively tore up that ‘hall pass.’



The Tribes sued to stop implementation of this new Order, and they prevailed. The DC Circuit ruled:

The Commission failed to justify its determination that it is not in the public interest to require review of small cell deployments. We therefore grant the petitions in part because the Order’s deregulation of small cells is arbitrary and capricious. The Commission did not adequately address the harms of deregulation or justify its portrayal of those harms as negligible. In light of its mischaracterization of small cells’ footprint, the scale of deployment it anticipates, the many expedients already in place for low-impact wireless construction, and the Commission’s decades-long history of carefully tailored review, the FCC’s characterization of the Order as consistent with its long-standing policy was not “logical and rational.”

The case has now been remanded to the FCC, and the Tribes look forward to participating in that process.

The Native American Rights Fund and Greenberg Traurig LLP represent the Blackfeet Tribe, Coshatta Tribe of Louisiana, Fort Belknap Indian Community, Rosebud Sioux Tribe, Ute Mountain Ute Tribe, and USET (United Southern and Eastern Tribes, Inc.) in the case. Decision available at <https://www.narf.org/nill/documents/20190809fcc-decision.pdf>

## Tribal Supreme Court Project



The Tribal Supreme Court Project is part of the Tribal Sovereignty Protection Initiative and is staffed by the

National Congress of American Indians and the Native American Rights Fund. The Project was formed in 2001 in response to a series of US Supreme Court cases that negatively affected tribal sovereignty. The purpose of the Project is to promote greater coordination and to improve strategy on litigation that may affect the rights of all Indian tribes. We encourage Indian tribes and their attorneys to contact the Project to coordinate resources, develop strategy and prepare briefs, especially at the time of the petition for a *writ of certiorari*, prior to the Supreme Court accepting a case for review. You can find copies of briefs and opinions on the major cases we track on the NARF website (<https://sct.narf.org>).

On October 1, 2019, the Justices returned for the opening conference of the October 2019 Term, sometimes called the “long conference.” There, the Court considered approximately two-thousand petitions that were either pending when it recessed in June or were filed since then. One petition for review involving Tribal parties was considered in that conference and was denied: *Oglala Sioux Tribe v. Fleming* (18-1245) (*Younger* abstention).

Looking ahead to the October 2019 Term, the Court already has granted 44 petitions—close to half of the cases it will hear. With several significant cases already on the Court’s docket involving the Second Amendment, employment discrimination, religious freedom, and immigration, many Court observers expect this to be an exciting term. At this time, the Court has not granted any new Indian law petitions, but one case argued during the previous term will be re-argued: *Carpenter v. Murphy* (171107) (reservation disestablishment). Besides *Murphy*, there are only four other petitions in Indian law or Indian law-related cases pending: *Alabama-Coushatta Tribe of Texas v. State of Texas* (19403) (IGRA); *California Trout v.*

*Hoopa Valley Tribe* (19-257) (Clean Water Act); *Knighton v. Cedarville Rancheria of Northern Paiute Indians* (19-131) (tribal court jurisdiction); and *Buchwald Capital Advisors LLC v. Sault Ste. Marie Tribe of Chippewa Indians* (18-1218) (tribal sovereign immunity).

### PETITIONS FOR A WRIT OF CERTIORARI GRANTED

The Court has granted review in one Indian law case that has not been decided by the Court:

#### **CARPENTER V. MURPHY (17-1107)**

**Petitioner:** State of Oklahoma

**Petition Granted:** May 21, 2018

**Subject Matter:** Reservation Disestablishment

**Lower Court Decision:** On a petition challenging his detention by the State of Oklahoma as improper, the Tenth Circuit Court of Appeals held that the Muscogee (Creek) Nation reservation was not disestablished and, consequently, that the State of Oklahoma lacked jurisdiction to prosecute and convict Mr. Murphy, an Indian, for a crime that occurred in Indian country, but was instead subject to federal jurisdiction.

**Recent Activity:** Argument held November 27, 2018. Re-argument was ordered in July 2019.

**Upcoming Activity:** Re-argument (no date set)

Patrick Murphy, a citizen of the Muscogee (Creek) Nation, was convicted of murder in Oklahoma State court. After exhausting his appeals, he filed a habeas corpus petition in federal district court asserting that, because the crime occurred within the Muscogee (Creek) Nation’s reservation boundaries and because he is Indian, the state court had no jurisdiction. The federal district court denied his petition and the Tenth Circuit reversed. The Tenth Circuit used the three-factor Solem reservation disestablishment analysis and found that Congress did not disestablish the reservation, and that statutes and allotment agreements showed that “Congress recognized the existence of the Creek Nation’s borders.” Likewise, the court held that the historical evidence indicated neither a Congressional intent to disestablish the reserva-

tion, nor a contemporaneous understanding by Congress that it had disestablished the reservation. Accordingly, the court concluded that Mr. Murphy's state conviction and death sentence were invalid because the crime occurred in Indian Country and the accused was Indian.

The Supreme Court heard oral argument on November 27, 2018, and, on December 4, 2018, it ordered supplemental briefing by the parties, the Solicitor General, and the Muscogee (Creek) Nation addressing two questions: (1) whether any statute grants the state of Oklahoma jurisdiction over the prosecution of crimes committed by Indians in the area within the 1866 territorial boundaries of the Creek Nation, irrespective of the area's reservation status, and (2) whether there are circumstances in which land qualifies as an Indian reservation but nonetheless does not meet the definition of Indian country as set forth in 18 U.S.C. §1151(a). On June 27, 2019, the Court announced

that the case would be scheduled for re-argument in the October Term 2019 but no date has been set.



**CONTRIBUTIONS TO THE TRIBAL SUPREME COURT PROJECT**

As always, NCAI and NARF welcome general contributions to the Tribal Supreme Court Project. Please send any general contributions to the NCAI Fund, attn: Kurt Sodee, 1516 P Street, NW, Washington, DC 20005. **Please contact us if you have any questions or if we can be of assistance: Derrick Beetso, NCAI General Counsel, 202-630-0318, [dbeetso@ncai.org](mailto:dbeetso@ncai.org); or Joel West Williams, NARF Senior Staff Attorney, 202-785-4166, [williams@narf.org](mailto:williams@narf.org).**

**First Native American Presidential Forum**

The Native American Rights Fund was proud to co-host the nation's first-ever presidential forum, which focused entirely on Native American issues. The Frank LaMere Native American Presidential Forum was held in Sioux City, Iowa, on August 19-20, 2019. In addition to co-hosting, NARF Executive Director John Echohawk (Pawnee) participated in the forum as a panelist.

Over the two days, each candidate held an individual appearance and responded to questions from panels of tribal leaders and Native American youth and elders. Murdered and Missing Indigenous Women was the key topic, and many Native American women tribal and community leaders were among the panelists.

“This forum isn't about ‘gotcha’ moments. It's about ‘get it’ moments. We want candidates to grasp the challenges and aspirations of Indian Country. At the two nights of candidate debates in Miami, broadcast to a national audience, not one question or one candidate comment addressed Native American issues. Ignoring this forum in

Iowa is ignoring the millions of First Americans who are citizens and voters.” said O.J. Semans, Sr., co-executive director of the national Native American voting rights organization Four Directions.

Watch the recorded sessions at <https://www.nativevote2020.com/>

The Frank LaMere Native American Presidential Forum is named in honor of Frank LaMere, a well-known and beloved Native American civil rights activist from the Sioux City area, who passed in June 2019. As a nonpartisan event, all major Democratic and Republican presidential candidates were invited to participate in the forum, including President Donald Trump and Republican challenger William Weld. Participating candidates included Marianne Williamson, Elizabeth Warren, Amy Klobuchar, Steve Bullock, Joe Sestak, Mark Charles, John Delaney, Kamala Harris, Julian Castro, Bill de Blasio, and Bernie Sanders. 🌟

# National Indian Law Library (NILL)

## Continuing the Legacy

### Library Director David Selden Retires After 21 Years of Service

Long-time NILL Library Director David Selden retired last summer after 21 years leading the National Indian Law Library. David developed countless relationships with NILL patrons and researchers over the years, and he will be missed by those who relied upon him. David has been recognized for his work with Indian law and environmental sustainability. With his expertise on those topics, he wrote articles and participated in numerous presentations, projects, and committees throughout his career.

Among David's many accomplishments at NILL are the development of the Tribal Law Gateway and the creation of the Indian Law Bulletins. The Gateway is a unique online resource about federally recognized (and some state recognized) tribes. Each tribe's page includes contact information for the tribe and their tribal court, as well as information related to the tribe's code, constitution, and court opinions. The Gateway provides tribal leaders, legal practitioners, and the public with convenient access to current and accurate tribal law, which enhances the power of tribal courts and strengthens tribal sovereignty.

The Indian Law Bulletins are the only regularly published updates on Indian law covering tribal courts, federal and state courts, federal agencies, US legislation, law review articles, and news. Each week, NILL staff and volunteers scour the web to find the latest materials related to Indian Law and choose the most important materials to include in the Bulletins. Seven thousand patrons receive the free weekly updates by email, while others access them through the NILL blog/website or NARF's Facebook page.

### Anne Lucke Appointed New Director

Following David's retirement, Anne Lucke became the Library Director in July. Anne has been at NARF for six years and has over 13 years of experience working in law libraries. She has



*Nora Hickens, Amanda Rios-Santiago, Joseph CrowShoe, and Anne Lucke at the National Indian Law Library*

worked with attorneys, judges, professors, students, and the general public in a variety of environments, including a large corporate law firm, a federal court library, and a law school library.

Additionally, Nora Hickens has been hired as a Library Assistant through May 2020. Nora began her career at NILL as an intern during her senior year at University of Colorado and returned as an employee last spring. Currently, Anne and Nora are joined by two volunteers: Amanda Rios-Santiago and Joseph CrowShoe (Piikani Band of the Blackfoot Confederacy). They both are students at the University of Colorado.

Together this small group of staff and volunteers continues NILL's work, including publishing the Indian Law Bulletins, maintaining the Tribal Law Gateway, and answering Indian law and tribal law questions from NARF staff, tribal leaders, and the general public.

### Support the National Indian Law Library

Your contributions help ensure that the library can continue to supply unique and free access to Indian law resources and pursue innovative projects to serve you better. We are not tax-supported and rely on individual contributions to fund our services. Please visit <https://www.narf.org/nill/> donate for more information on how you can support this mission and provide justice through knowledge. 🌟

# CALL TO ACTION

It has been made abundantly clear that non-Indian philanthropy can no longer sustain NARF's work. Federal funds for specific projects have also been reduced. To provide legal advocacy in a wide variety of areas such as religious freedom, the Tribal Supreme Court Project, tribal recognition, human rights, trust responsibility, voting rights, tribal water rights, Indian Child Welfare Act, and tribal sovereignty issues, NARF looks to the tribes to provide the crucial funding to continue our legal advocacy on behalf of Indian Country. It is an honor to list those tribes

and Native organizations who have chosen to share their good fortunes with the Native American Rights Fund and the thousands of Indian clients we have served.

We encourage other tribes and organizations to become contributors and partners with NARF in fighting for justice for our people and in keeping the vision of our ancestors alive. We thank the following tribes and Native organizations for their generous support of NARF in the 2019 fiscal year (October 1, 2018 to September 31, 2019):

AMERIND Risk  
Cherokee Nation  
Chickasaw Nation  
Choctaw Nation of Oklahoma  
Confederated Tribes of Grand Ronde  
Confederated Tribes of Siletz Indians  
Cow Creek Band of Umpqua Tribe of Indians  
Fort McDowell Yavapai Nation  
Miccosukee Tribe of Indians  
Mohegan Tribe and Mohegan Sun  
National Indian Gaming Association  
Nome Eskimo Community  
Nottawaseppi Huron Band of the Potawatomi  
Pascua Yaqui Tribe

Pechanga Band of Luiseño Indians  
Poarch Band of Creek Indians  
San Manuel Band of Mission Indians  
San Pasqual Band of Mission Indians  
Santa Ynez Band of Chumash Indians  
Seminole Tribe of Florida  
Seven Cedars Casino/Jamestown S'Klallam  
Shakopee Mdewakanton Sioux Community  
Stillaguamish Tribe of Indians  
Sycuan Band of the Kumeyaay Nation  
Tanana Chiefs Conference  
Yavapai-Prescott Indian Tribe  
Tulalip Tribes  
Yocha Dehe Wintun Nation



# THE NATIVE AMERICAN RIGHTS FUND

**The Native American Rights Fund (NARF)** is the oldest and largest nonprofit legal organization defending and promoting the legal rights of Indian people on issues essential to their tribal sovereignty, natural resources, and human rights.

Since 1970, we have provided legal advice and representation to Native American tribes and organizations on issues of major importance. Our early work was instrumental in establishing the field of Indian law. NARF—when very few would—steadfastly took stands for Indian religious freedom and sacred places, subsistence hunting and fishing rights, as well as basic human and civil rights. We continue to take on complex, time-consuming cases that others avoid, such as government accountability, climate change, and the education of our children. We have assisted more than 300 tribal nations with critical issues that go to the heart of who we are as sovereign nations.

One of the responsibilities of NARF's first Board of Directors was to develop priorities to guide the organization in its mission to preserve and enforce the legal rights of Native Americans. The committee developed five priorities that continue to lead NARF today:

- Preserve tribal existence
- Protect tribal natural resources
- Promote Native American human rights
- Hold governments accountable to Native Americans
- Develop Indian law and educate the public about Indian rights, laws, and issues

Under the priority to **preserve tribal existence**, NARF works to construct the foundations that empower tribes to live according to their traditions, enforce their treaty rights, insure their independence on reservations, and protect their sovereignty.

An adequate land base and control over natural resources are central components of economic self-sufficiency and self-determination, and are vital to the very existence of tribes. Thus, much of NARF's work involves **protecting tribal natural resources**.

Although basic human rights are considered a universal and inalienable entitlement, Native Americans face the ongoing threat of having their rights undermined by the United States government, states, and others who seek to limit these rights. Under the priority of **promoting human rights**, NARF strives to enforce and strengthen laws that protect the rights of Native Americans to practice their traditional religion, use their languages, and enjoy their culture.

Contained within the unique trust relationship between the United States and Indian nations is the inherent duty for all levels of government to recognize and responsibly enforce the laws and regulations applicable to Indian peoples. Because such laws impact virtually every aspect of tribal life, NARF is committed to **holding governments accountable** to Native Americans.

**Developing Indian law and educating the public about Indian rights, laws, and issues** is essential for the continued protection of Indian rights. This primarily involves establishing favorable court precedents, distributing information and law materials, encouraging and fostering Indian legal education, and forming alliances with Indian law practitioners and other Indian organizations.

Requests for legal assistance should be addressed to NARF's main office at 1506 Broadway, Boulder, CO 80302. NARF's clients are expected to pay what they can toward the costs of legal representation. 🌟

**NARF Annual Report:** This is NARF's major report on its programs and activities. The Annual Report is distributed to foundations, major contributors, certain federal and state agencies, tribal clients, Native American organizations, and to others upon request.

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**Tax Status:** The Native American Rights Fund is a nonprofit, charitable organization incorporated in 1971 under the laws of the District of Columbia. NARF is exempt from federal income tax under the provisions of Section 501(c)(3) of the Internal Revenue Code, and contributions to NARF are tax deductible. The Internal Revenue Service has ruled that NARF is not a "private foundation" as defined in Section 509(a) of the Internal Revenue Code.

[www.narf.org](http://www.narf.org)

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