



COALITION OF LARGE TRIBES

Blackfeet Nation • Cheyenne River Sioux Tribe • Crow Nation • Eastern Shoshone Tribe
Fort Belknap Indian Community • Mandan, Hidatsa & Arikara Nation • Navajo Nation • Northern Arapaho Tribe
Oglala Sioux Tribe • Rosebud Sioux Tribe • Sisseton Wahpeton Sioux Tribe
Shoshone Bannock Tribes • Spokane Tribe • Ute Indian Tribe • Walker River Paiute Tribe

Coalition of Large Tribes (COLT)

Resolution: 06-01-2023-Resolution #01-2022 (WR-Las Vegas)

Resolution Calling for All Possible Support and Recognition of Tribes' Inalienable Rights to Protect Indian Children

WHEREAS, the Coalition of Large Tribes (COLT) was formally established in early April 2011, and is comprised of Tribes with large land base, including the Blackfeet Nation • Cheyenne River Sioux Tribe • Crow Nation • Eastern Shoshone Tribe • Fort Belknap Indian Community • Mandan, Hidatsa & Arikara Nations • Navajo Nation • Northern Arapaho Tribe • Oglala Sioux Tribe • Rosebud Sioux Tribe • Sisseton Wahpeton Sioux Tribe • Shoshone Bannock Tribes • Spokane Tribe • Ute Indian Tribe • Walker River Paiute Tribe and is Chaired by Councilman Marvin Weatherwax, Blackfeet Tribal Business Council: and

WHEREAS, COLT was organized to provide a unified advocacy base on all issues affecting tribes that govern large trust land bases; and

WHEREAS, COLT tribes consist of tribes that have a land base of 100,000 acres of land or more, of which, of the 574 Federally recognized Tribes, more than 50 tribes meet this criteria; and these tribes control 95 percent of tribal lands and consist of one half of the Native population; and

WHEREAS, COLT member tribes have participated for many years in outreach and advocacy with federal policymakers to address matters of pressing concern to Indian Country, including regarding the Indian Child Welfare Act;

WHEREAS, nearly 50 years after its enactment by Congress in 1978, the Indian Child Welfare Act is again under scrutiny before the Court in four consolidated cases collectively known as *Brackeen*. This is the Court's first revisiting of ICWA since its 2013 5:4 holding in *Adoptive Couple v. Baby Girl*, 570 U.S. 637 (2013), which drew national and social media attention ripping away an Indian child from her Indian father after she had been with him for years, finding that ICWA's preference for the Indian parent (who had signed a relinquishment of parental rights while serving in the military) was not triggered when he had not been a custodial parent at the time of the relinquishment. This overturned the Indian father's victories at the trial court and South Carolina Supreme Court and put the child back into the custody of white foster parents seeking to adopt her. A concurring opinion by Justice Thomas in the case sharply questioned Congress' authority to enact ICWA. Thereafter, repeated challenges to ICWA sprang up, including those that took several hours before the Court on November 9.



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WHEREAS, these challenges to ICWA are unconscionable; and

WHEREAS, ICWA was passed by Congress at a time when **one third** of Indian children were being removed from Indian homes. 90% of those children were placed with non-Indian families; and

WHEREAS, those shocking numbers flowed from ignorance and contempt directed at Indian families by state courts and child welfare personnel and also as a direct result of now-disavowed federal assimilationist policies that sought to subdue Indian tribes by removing Indian children from their families, forbidding those children access to their culture and tribal communities, and forcing them to assimilate to majority culture, often in horrific ways. This included both private adoptions to non-Indian households and mass internment of Indian children at boarding schools over the strenuous objections of their families and their tribal governments; and

WHEREAS, in 1978, Congress moved to remedy the tribal instability created by the mass removal of Indian children, fulfilling long-neglected Treaty and Trust obligations to protect Indian children and preserve the government-to-government relationship between tribes and the United States. Congress enacted ICWA, a procedural statute. ICWA does not dictate outcomes. ICWA routinely results in non-Indian parents adopting Indian children; and

WHEREAS, ICWA guarantees tribal governments certain rights that are purely procedural and jurisdictional in nature. This includes exclusive tribal court jurisdiction over reservation domiciliaries, presumptive jurisdiction over non-domiciliaries, rights to intervene in state court proceedings, notice requirements, rights to petition for state court redress, and rights to obtain records, among other things; and

WHEREAS, a Texas couple wishing to adopt an Indian child, and the State of Texas, filed suit in the Northern District of Texas against the United States and several federal agencies and officers claiming ICWA is unconstitutional. They were joined by additional individual plaintiffs from Nevada and Minnesota and the States of Louisiana and Indiana. The Cherokee Nation, Oneida Nation, Quinault Indian Nation, and Morongo Band of Mission Indians intervened as defendants, and the Navajo Nation intervened at the appellate stage; and

WHEREAS, Judge Reed O'Connor held that much of ICWA was unconstitutional, but the U.S. Court of Appeals for the Fifth Circuit, en banc in 2021, and in 325 pages of opinions, reversed much of that decision. Judges Dennis and Duncan delivered those opinions which were joined in myriad subparts by various Judges on the en banc court; and

WHEREAS, the United States, the Tribes, Texas, and the non-Indian individuals each filed petitions for certiorari. The U.S. Supreme Court granted review of all four petitions and consolidated them for further



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proceedings. These combined cases are known as Brackeen v. Haaland, and the decision of the United States Supreme Court is expected in June 2023; and

Whereas, the United States, nearly all tribes, 23 states and DC and many more amici organizations argue that ICWA is not predicated on racial classifications at all, but instead on a child’s eligibility for citizenship in a federally-recognized tribe, as the term “Indian” has been routinely understood to be a political classification, both by Congress and by the Court; and

Whereas, ICWA remains one of the most important pieces of federal Indian legislation ever enacted. It has provided immense and lasting benefit to amici Tribes and tribal organizations and [our] collective goals in furthering tribal sovereignty and the best interests of Indian children.

NOW THEREFORE BE IT RESOLVED, it is the policy of COLT that:

As sovereign nations that pre-date all other governments in the United States, we retain the inalienable right to have and protect our Indian children. We call upon the United States and States to follow our lead and policy with respect to our most important resource - our kids and their future. We call upon all other intertribal organizations and our allies to support and implement our vision for our collective future.

The federal and state governments history is replete with failed policies, programs and treatment of our people, including the children. Even a simple recollection of those actions including scalping, taking homelands, boarding schools, termination, assimilation and current family care systems demonstrate that all non-Indian governments’ actions have failed our people. The only real solution is true tribal self-determination that includes how we view, care for, and protect our children.

It is therefore the policy of COLT to have a reassessment of all existing policies, programs, and actions that have negatively impacted our kids and instead replace the existing system with all available means and resources of existing family systems to follow the tribal vision, values, and relations with respect to our children. As such, we demand that all governments follow our policy to every extent possible from this point forward.

BE IT FINALLY RESOLVED, that this resolution shall be the policy of COLT until it is withdrawn or modified by subsequent resolution.



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CERTIFICATION

This resolution was enacted at a duly called meeting of the Coalition of Large Tribes held in Las Vegas, Nevada within the home state of the Walker River Paiute Tribe on June 1, 2023 at which a quorum was present, with the resolution approved unanimously.

Dated this June 1, 2023

Attest:

Nathan Small, Secretary, Coalition of Large Tribes

Marvin Weatherwax, Chairman, Coalition of Large Tribes