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## Native American Family Continuity as Resistance

### The Indian Child Welfare Act as Legitimation for an Effective Social Work Practice

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- *Summary:* The author argues that the history of Native-non-Native relations enables us to understand how the enactment and implementation of the Indian Child Welfare Act, passed in 1978 by the United States Congress, is an example of how Indian families have succeeded in persevering despite 350 years of political maltreatment.
- *Findings:* The realities of past wrongs and the pain associated with remembering them are as vivid a memory now as they were then: memory is a key source of self-destructive behavior, as well as of cultural resilience. This explains why, despite Indian poverty and powerlessness, the persistence of anger against non-Indian governments enabled Indian families to cling to their ancestry, and finally, to be vindicated in their resistance by the enactment of the Indian Child Welfare Act.
- *Applications:* The arguments presented reinforce the conclusion that by manipulating culture American society almost succeeded in destroying the Native American. That American society has not succeeded in this venture is at once a condemnation of ethnocentric bias, an acknowledgement of the essential role played by culture in political development, and a tribute to democratic process as an antidote to laissez-faire capitalist development.

**Key Words:** cultural revival • family identity • Indian child welfare • Indian-non-Indian relations • political resistance

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**Legislation to reauthorize the Indian Child Protection and Family Violence Prevention Act  
(S. 1601)**

**April 5, 2004**

### **Background**

The Indian Child Protection and Family Violence Prevention Act (P.L. 101-630) was enacted in 1991 and was an effort to clarify child abuse and neglect investigation and reporting procedures on tribal lands. The law also authorizes criminal background checks for individuals working with Indian children and grant programs to address child abuse and neglect. The law is up for reauthorization again and the Senate Committee on Indian Affairs has jurisdiction over S. 1601. The reauthorization legislation (S. 1601) was introduced on September 9, 2003 and the Committee held a hearing on September 24, 2003. The Committee then followed with a mark up (vote) of the bill on October 29, 2003 with amendments (Committee report and amended bill not available yet). The bill is now being looked at for a full Senate vote, although this has not been scheduled yet. Co-sponsors on the bill include Senators Campbell, Inouye, Domenici, Hatch and Johnson.

### **Overview of the Legislation**

- Clarify who must submit to a criminal background check
- Expand the scope of activities that can be supported by grant-funded programs under the law
- Recognize the impact of domestic violence on children and the safety needs of child protection workers
- Support activities to better understand and support tribal infrastructure development in this area

### **Key Provisions in the Legislation**

- The background check scope is clarified by including volunteers and contractors, not just employees (of DOI/DHHS and not just the BIA/IHS) that have regular contact with children. This type of provision is consistent with other federal law governing background checks for individuals having regular contact with children
- Traditional healing methods should be included as part of treatment. The bill authorizes demonstration projects and promotes cultural perspectives by giving special considerations to tribal programs that incorporate traditional healing methods
- The bill facilitates establishment of safety measures for child protection workers
- The child abuse definition includes incidences where the child is subjected to family violence. Mental health, emotional well-being and self-esteem are important factors in the health of Indian children (and part of Senator Campbell's "Healthy Indian Children - Healthy Indian Nations" overall health promotion) and children facing family violence would be able to access child abuse services
- The feasibility study regarding establishing a registry of individuals convicted of child abuse is replaced with a federal study of impediments to reducing child abuse. The feasibility study was conducted in 1994, but the law has not been amended to reflect that. But child abuse continues to rise and the involved parties should determine the impediments and make recommendations for reducing it
- The bill emphasizes strengthening tribal infrastructure to develop effective tribal programs, including data bases for accessing current national central registries for child abuse information. The tribes should be able to access existing registries, but need assistance in developing their infrastructure to do so.

### **What Can You Do?**

- Contact your Senators and ask them to join as co-sponsors of the legislation.
- Contact Senator Campbell and ask for them to bring the bill to the Senate floor for a vote this year.
- Contact Senator Campbell and let them know how important it will be to have funding appropriated for the grant programs in the legislation. Testimony provided at the hearing in 2003 on this legislation was very clear that without adequate funding the mandates and goals of the legislation would be very difficult to achieve.

*If you would like more information on this legislation, please contact NICWA staff member, David Simmons, at [desimmons@nicwa.org](mailto:desimmons@nicwa.org) or (503) 222-4044*