Examining Native American Support for Federal Indian Policy: Evidence from the Indian Child Welfare Act

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Abstract

From environmental policy to family law to law enforcement, Federal Indian policy affects nearly every facet of daily life for Native Americans. And yet, despite its significance, little is known about either the state of Native American attitudes toward Federal Indian policy or the factors that bolster or undermine support for these policies. In this paper, I examine Native Americans' support for Federal Indian policy by investigating this group's attitudes toward one of the most important and consequential pieces of Federal Indian policy, the Indian Child Welfare Act (ICWA). Analyzing data from an original survey of 522 Native Americans conducted in May 2023, I show that support for ICWA is profoundly influenced by attachment to Native American identity and largely unaffected by partisanship. Additional analyses examining Native Americans' support for a different issue—affirmative action—further suggests that Native Americans differentiate their support for Federal Indian policy from other policy areas.

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†This material is based upon work supported by the National Science Foundation under Grant No. SES-2315950. Any opinions, findings, and conclusions or recommendations expressed in this material are those of the author and do not necessarily reflect the views of the National Science Foundation. The surveys were cleared by Institutional Review Board West Virginia University.

Introduction

Federal Indian policy permeates practically every facet of life for Native Americans, from the provision of health care to law enforcement to the defining bounds of tribal sovereignty. While scholars have examined aspects of Federal Indian policy like the capacity of Native American tribes to effectively engage in the policy making process (Evans 2011*a*,*b*; Boehmke and Witmer 2012) and the presence of Indian policy on legislative agendas (Witmer, Johnson and Boehmke 2014), little is known about either the state of public opinion toward key pieces of Federal Indian policy or the factors that bolster or undermine support for these policies (Conner, Fryar and Johnson 2017; Foxworth and Boulding 2023). Perhaps even more concerning, still less is known about the views of those most directly affected by Federal Indian policy, Native Americans.

These limitations of extant research are significant for three interrelated reasons. First, the impact and salience of Federal Indian policy continues to grow (e.g. Evans 2014; Sidorsky and Schiller 2023). For example, in 2023 alone issues like tribal water rights in the American Southwest (Liptak 2023) and child adoption laws (VanSickle 2023) have generated political controversy—and headlines—in recent years. As another example, a 2020 Supreme Court decision (and subsequent Oklahoma Supreme Court decisions) determined that the eastern half of Oklahoma remained a reservation, abruptly making Federal Indian policy a central concern in the lives of that region's nearly two million residents (Miller and Dolan 2021). As such instances of Federal Indian policy's impact increase, so too does its reach into the everyday lives of Native Americans and non-Natives alike.

Second, this salience of Federal Indian policy is occurring in an era of hyper-polarized and partisan politics (Iyengar et al. 2019; Hetherington and Rudolph 2015; Fowler et al. 2023). While much of Federal Indian policy in recent years has enjoyed bipartisan support, conflicts between tribal governments and partisan actors – particularly state-level officials like governors and attorneys general – raise the specter of injecting partisanship into citizens' views of Federal Indian policy (Foxworth et al. 2022). If the relative bipartisan concord

around Federal Indian policy were to come under threat, a partisan divide in public opinion could present an electoral opportunity for political entrepreneurs to divide the public—including Native Americans—for political gain that could come at the expense of Native Americans and tribal sovereignty.

Third, the lack of research into the views of Native Americans toward Federal Indian policy reflects the longstanding exclusion of Indigenous politics from our collective research agendas (Ferguson 2016; Frymer 2016; Carpenter 2016) and the continued shortage of systematic examinations of Native Americans' political attitudes (Sanchez and Foxworth 2022). While indigenous politics is a growing area of research, particularly with respect to voting and political behavior (Koch 2022; Schroedel et al. 2020), it remains severely limited with respect to studies of Native Americans' relationships with political institutions and their policy outputs (Evans 2014). As such, we lack insights as to whether Native Americans are influenced by the same factors that scholars suggest motivate the views of the general public, such as partisanship, or if there are instead other concerns that take priority. Addressing this question not only will expand our understanding of Native Americans' attitudes, but it will also hold potential implications for understanding the behavior of the elected Native American leaders, who often play a critical role in formulating and implementing Federal Indian policy.

This paper confronts this limitation of extant research by directly engaging with the following research question: what influences Native Americans' evaluation of Federal Indian policy? Building on an emphasis in previous research on the influence of Native Americans' unique political identity and its basis on tribal sovereignty, I contend that Native Americans support for Federal Indian policy is a function of attachment to Native American identity. This, I further argue, effectively supplants the competing interest of partisanship. To empirically assess my argument, I use original survey data from a representative sample of 522 Native Americans in which respondents were asked about their views toward one of the most important and consequential pieces of Federal Indian policy, the Indian Child Welfare Act

(ICWA). Previewing the results, I find that support for ICWA increases with the strength of one's Native American identity, while partisanship fails to exert a statistically significant effect. To demonstrate that such a dynamic is unique to Federal Indian policy rather than a reflection of Native Americans' means of assessing policies more broadly, I then conduct a similar set of analyses using Native Americans' support for affirmative action admissions policies. These supplemental analyses show that, in this instance partisanship, rather than identity, matters. I then conclude with a discussion of the findings' potential implications and limitations.

Identity and Native American Support for Federal Indian Policy

Scholars have long acknowledged the importance of public opinion for the content and success of public policy (e.g. Burstein 2003; MacKuen, Erikson and Stimson 1989; Lax and Phillips 2009). While much of this research has take a broad view of what constitutes "the public," increasingly scholars are focusing their energies on assessing the unique dynamics and forces at work in influencing the attitudes of minorities and marginalized groups, particularly African Americans and Hispanics, toward the policy issues of most direct relevance and salience (e.g. Lopez and Pantoja 2004; Enos, Kaufman and Sands 2019; Schmermund et al. 2001; Abrajano and Alvarez 2011; Lax and Phillips 2009). While varying in their emphasis and reflective of the specific groups studied, throughout this literature a theme emerges of political attitudes being influenced the distinct features of group identity (McClain et al. 2009).

Despite these advances, Native Americans remain largely absent from such research. Nonetheless, Lessons from other streams of research on the views of Native Americans provide a useful starting point for developing theoretical expectations for how Native Americans assess the policies that most directly affect them: Federal Indian policy. In particular, studies

have emphasized the near-singular influence of tribal sovereignty—that is Indigenous peoples' right to self-determination and self-governance—on Native Americans' political identity and, as a consequence, their political and electoral participation (Peterson 1957; Kahn 2013; Wilkins and Stark 2017). This sentiment that Native Americans' views toward political issues is framed by through the lens of a concern for the protection of Native Americans' rights has been reinforced by a number of studies, including on Native Americans' group consciousness (Herrick and Mendez 2019), their tendency to remain unaffiliated with either major political party (Koch 2017), and trust in political institutions (Schroedel et al. 2020). Summarizing this view, Huyser, Sanchez and Vargas (2017) assess that "the nature of AI/AN political participation, be it electoral or civic, is influenced by the unique sovereign status of this population in the United States," while Herrick and Mendez (2019) aver that "the goals of American Indians are often...more about the maintenance of their tribal sovereignty." In short, scholars have gone to some lengths at establishing that Native American political identity—and its unique trait of tribal sovereignty—heavily informs Native Americans' assessment of their political world.

Applying this lesson to the context of Native Americans' views of Federal Indian policy points to three key observations. First, this extant work suggests that Native American identity should exert an influence on Native Americans' support for the policies that most directly affect them as a group. After all, if identity influences electoral behavior, it stands to reason that it would similarly influence attitudes toward fundamental political questions such as support for key policies. As such, the extent to which one identifies strongly as a Native American should correspond to their evaluation of Federal Indian policy. This suggests that there should be variation in Native Americans' attitudes based, at least in part, on the strength of their Indigenous identity. This leads to the first observation:

Observation 1 *Strength of Native American identity should influence Native American support for Federal Indian policy*

Second, the central role of tribal sovereignty in Native American political identity suggests that whether or not a given policy supports—or undermines—that value will determine whether stronger Native American identity increases or decreases support that policy. Stronger attachment to Native American identity should lead to greater support for aspects of Federal Indian policy that Native Americans perceive as promoting or otherwise protecting sovereignty, whereas the opposite should hold for Federal Indian policies that are seen as conflicting with or challenging tribal sovereignty. Put simply, I expect that a policy's impact on tribal sovereignty should inform whether identifying strongly as Native American increases or decreases support for the policy. This leads to the second observation:

Observation 2 *The strength of Native American identity should increase support for Federal Indian policies that promote tribal sovereignty and weaken support for policies that inhibit tribal sovereignty*

Absent from this discourse so far, however, is the potential role of arguably the most powerful modern political force, partisanship (Graham and Svolik 2020). While scholars have long placed partisanship at the fore of explaining citizens' political behavior and attitudes (e.g. Gadarian, Goodman and Pepinsky 2021), the preceding discussion, in combination with extant research on partisanship's presence among Native Americans, suggests that partisanship may actually exert limited—if any—influence on Native Americans' assessment of Federal Indian policy. To the extent that partisanship's influence is a function of its place in an individual's political identity (Huddy, Mason and Aarøe 2015), one's Native American identity may represent a competing influence that, if strong enough, could overtake partisanship as a guiding influence. Moreover, past research suggests that the internalization of group interests can constrain minority citizens from acting on other competing interests (White, Laird and Allen 2014). Taken together, this suggest that Native Americans may prioritize their group identity, and the interest attached to that identity, over partisan interests.

A second consideration in this respect is the relative weakness of partisanship among Native Americans. Native Americans tend to be unaffiliated with either major party at

higher rates than other groups (Koch 2017), while the small size of the Native American population has made Native Americans less frequently targeted by partisan efforts (De Rooij and Green 2017; Koch 2022). As a consequence, Native Americans may be less likely to be primed to evaluate political issues along partisan lines, leaving Federal Indian policy to be less infrequently attached with clear partisan cues.[1] To the extent that the lines of conflict over Federal Indian policy are based less on partisanship than, say, the division of sovereign authority between tribal governments and their state, local, and Federal counterparts, then we might expect that partisanship will fail to hold sway over Native Americans' evaluations of Federal Indian policy. This leads to the third observation:

Observation 3 *Partisanship should not influence Native American support for Federal Indian policy*

Empirical Application: The Indian Child Welfare Act (ICWA)

To engage with these empirical expectations, the paper focuses on one of the most salient pieces of modern Federal Indian policy, the Indian Child Welfare Act (ICWA). Passed by Congress in 1978 as a response to the escalating crisis in Indian Country regarding the mass separation of Native American children from their families by state authorities[2], ICWA has become a vital tool for Native American nations to protect the interests of tribal citizens, particularly children, and in so doing assert their sovereignty (Wilkinson 2005). Indeed, with its direct and meaningful applicability to all Native American nations, the vast majority of

[1] One marked exception in this respect was during the Trump administration, which engaged in a number of polarizing conflicts over tribal sovereignty, particularly with respect to land rights and the development of extractive projects and pipelines (Sanchez and Foxworth 2022).

[2] Research at the time estimated that a quarter or more of all Native children were being removed from their families, with the vast majority subsequently being placed with non-Native families. For more, see Jacobs (2014).

civil rights cases involving Native Americans arise under its auspices (Fletcher and Singel 2021).

While ICWA, like much of Federal Indian policy and law, is complicated both in its construction and application, the fundamental purpose of the law is to "protect the best interests of Indian children and to promote the stability and security of Indian tribes and families" (25 U.S.C. § 1902). To do so, ICWA established regulations that apply whenever a child who is, or is eligible to become, a member of a federally-recognized tribe becomes involved in a state custody proceeding. The resulting set of rules creates a series protections for Native American children, families and tribes, the most prominent of which is an order of preference for the placement of a child. For example, for the adoption of a child, a member of the child's extended family is given first preference, followed by other members of the child's tribe, and then families from other tribes. It is only after this list has been exhausted that the child can be placed in a non-Indian home.[3]

Broadly speaking, ICWA has enjoyed substantial support from Native American tribes. When the law's constitutionality was challenged at the Supreme Court in 2022, nearly 500 Native nations signed onto an amicus brief in its defense. This support from tribal governments came, at least in part, as a result of ICWA being a policy that promotes tribal sovereignty (Brown 2020). Likewise, child advocacy groups have described ICWA as the "gold standard" in child welfare policy. Nonetheless, acceptance of ICWA has not been without controversy, with the law's preference system in particular generating legal and political challenges (Fletcher and Singel 2021).[4]

For the purposes of this study, ICWA possesses three specific qualities make it particularly attractive for assessing Native Americans' views toward Federal Indian policy. The first is its broad-based salience throughout Native American communities. While many policy issues fly under the radar for most, the deep significance of ICWA and what it does has given it

[3]This is but one aspect of the requirements set out by ICWA. Among others, the law also requires state agencies and courts to notify tribes of cases in which ICWA applies.

[4]For a more thorough discussion on the history of ICWA as well as its social and legal consequences, see Fort, Singel and Fletcher (2009)

an unusual degree of notoriety among Native Americans. Indeed, 69% of Native American respondents in the survey used here indicated knowing at least a little about ICWA, of which 40$ said they knew "a lot" or "some".[5] Second, and relatedly, ICWA addresses an issue that is relevant for all Native nations. Simply put, all tribes have reason to care about the application and interpretation of ICWA. This means, among other things, that we can reasonably examine Native Americans' support for the policy despite the wide diversity of experiences and contexts found across the 574 federally-recognized tribes.[6] Third, significant legal challenge to ICWA have garnered the support of Republican state attorneys in Texas, Indiana, and Louisiana, raising the potential for the politicization of the law. This clear form of partisan involvement on the issue should make the timing of my study a particularly difficult test for my argument that identity trumps partisanship when it comes to Native Americans' support for Federal Indian policy.

Applying the expectations set out in the preceding section to the context of ICWA, I specify three hypotheses. First, with the general perception that ICWA is a broadly pro-tribal sovereignty policy (Brown 2020; Strong 2005), I expect support for the policy to increase with the strength of one's Native American identity. Second, I anticipate that Native Americans' level of support for ICWA will not vary based on partisanship. That is, my expectation is that support for ICWA will not be statistically distinguishable based on whether one identifies as a Republican, Democrat, or independent. My two hypotheses follow from this discussion:

Hypothesis 1 *Native American support for ICWA increases with strength of Native American identity*

Hypothesis 2 *Native American support for ICWA neither increases nor decreases based on partisanship*

[5] In comparison, only 39% of white respondents indicated any familiarity. The comparison becomes especially stark when comparing those who claim to know "a lot" about ICWA: whereas 13% of Native respondents said this, only 4% of white respondents did so.

[6] This number is as of January 2023. Of these, 347 are located in the lower 48 states, with 227 located in Alaska.

Data and Methods

I test these hypotheses using original survey data (N=522) on Native Americans' political attitudes. The survey, which was conducted in partnership with YouGov, took place May 9-23 2023.[7] This timing is significant, as it came roughly one month before the Supreme Court upheld ICWA as constitutional. By preceding the ruling, I avoid the potential that the Court's decision had a legitimizing effect on ICWA that could increase support for the policy (Dahl 1957; Ura 2014).[8] That said, I also acknowledge that this timing likely coincides with an elevated level of public interest in ICWA, much of which had been framed by advocacy efforts carried out by tribal governments and affiliated organizations in defense of ICWA.

The key dependent variable for my analyses is a measure of support for ICWA based on responses to the following question: "To what extent would you support the following policies: Federal Indian policies that give priority to Native American families over non-Native American families when adopting Native American children."[9] Responses were on a 5-point scale from "Strongly Support" to "Strongly Oppose."The resulting variable, *Support for ICWA*, is a 0-1 scale with higher numbers indicated higher levels of support. The mean level of *Support for ICWA* is 0.77, with a standard deviation of 0.29.[10]

As the first hypothesis emphasizes the influence of Native American identity on support for ICWA, I measure strength of identity with responses to the following question: "How important is it to think of yourself as Native American?" Responses were on a 4-point scale ranging from "Not at all important" to "Very important." Nearly half (49%) of respondents indicated that their Native American identity is "very important" while only 5% said it was "not at all important." The resulting variable, *Strength of Identity*, is scaled from 0-1 with

[7]See appendix for technical details. For more on the unique challenges of collecting survey data from Native American respondents and potential solutions thereto, see Herrick et al. (2019)

[8]The Court decided the case, *Brackeen v. Haaland*, on June 15 by a vote of 7-2.

[9]ICWA was one in a list of three policies; the other two were (1) Affirmative action policies that allow universities to consider race when admitting students; and (2) Election-law policies that allow states to restrict access to absentee ballots.

[10]In all, 50% of Native American respondents indicated strong support for ICWA, and another said they 20% somewhat support the policy. Only 9% were somewhat or strongly opposed.

higher values indicating greater importance of identity; I thus expect this variable to have a positive relationship with *Support for ICWA*.[11]

Turning to the second hypothesis, respondents' partisanship is coded based on their self-identification as either a Democrat (1), Republican (2), Independent (3), Other (4), or Not Sure (5). Of the 522 Native American respondents, 27% identified as Democrats, 25% as Republicans, 35% Independent, 9% Other and 3% Not Sure.[12] Following the prediction laid out in Hypothesis 2, I expect *Support for ICWA* to not vary significantly based on respondents' party identification.

As this is an observational study, a battery of control variables is crucial to address potential confounding variables and omitted variable bias. To this end, I include three sets of controls. The first accounts for respondents' political attitudes and characteristics. While ideology and partisanship are tightly related, as they are not synonymous I include a 5-point ideology scale. Since the focus here is on Federal Indian policy, I include a measure of job performance for the Federal government (4-point response scaled to 0-1) based on responses to the following question: "How well do you think the following does its main job in government?" (Federal government). In addition, I control for respondents' level of interest in politics with responses to the question "How often do you pay attention to what's going on in government and politics?" (4-point response scaled to 0-1).

Second, I control for attributes specific to Native Americans and the context of ICWA. Since respondents self-identified as Native American, it is important to account for whether a respondent is an enrolled citizen of a Native nation. Respondents were thus asked if they are enrolled in a Federally or state recognized tribe.[13] As a second measure of respondents'

[11]For robustness, I also estimate models with the linked fate question often used to measure group consciousness (Dawson 1994). See appendix for details and results.

[12]Interestingly, the partisan composition of the sample suggests that Native Americans may be more evenly split along partisan lines than some past research has suggested (Herrick and Mendez 2018). It is, however, consistent with research indicating that Native Americans have a higher rate of not affiliating with a party than other groups (Koch 2017).

[13]Following best practices regarding sensitive questions such as this, respondents were given the option to select "Prefer not to say" when asked this question. For coding purposes, these respondents were coded as not being enrolled tribal citizens. In total, 163 respondents indicated being enrolled citizens. For robustness, I replicate the paper's analyses using only these respondents. See appendix for results.

experiences as Native Americans, I also control for whether a respondent spent any of their childhood living on or near a reservation (22% indicated they did), which past research has suggested influences Native Americans' political attitudes (Herrick 2020; Sanchez and Foxworth 2022). In addition, I account for respondents' level of familiarity (on a 4-point range from "A lot" to "None" scaled from 0-1) with ICWA using the following question: "We would now like to ask you a few questions about...a federal law known as the Indian Child Welfare Act (ICWA). This law regards the adoption of Native American children. How much would you say you know about this law?" Controlling for respondents' knowledge of ICWA is particularly important given its relatively high salience at the time of the survey as a result of the pending Supreme Court decision.

Lastly, I account for respondents' demographic attributes. This includes respondents' age, gender, and whether they have children under the age of 18 living in their household. Additionally, I control for respondents' level of education (6 point scale from no high school degree to post-graduate degree), income (0 if household income less than $100k, 1 if over), and the importance of religion to the respondent (4 point scale). Descriptive statistics for all variables can be found in the appendix. To evaluate my hypotheses, I estimate three linear regressions. The first includes only *Strength of Identity*, the second only includes partisanship, and the third includes both variables plus the battery of control variables.[14]

Results

The results of these analyses are provided in Figure 1. Consider Hypothesis 1, which predicted a positive relationship between support for ICWA and the strength of a respondent's Native American identity. As the figure's top set of point estimates indicates, this is precisely what the analyses indicate. That is, as respondents' attachment to Native American identity increases, so too does their support for ICWA. Importantly, this relationship is

[14]For convenience, all continuous variables (except education) are scaled from 0-1 such that the reported regression coefficients reflect the magnitude of change in the DV from the lowest to highest values of a given IV. Each model additionally includes probability weights; see appendix for details.

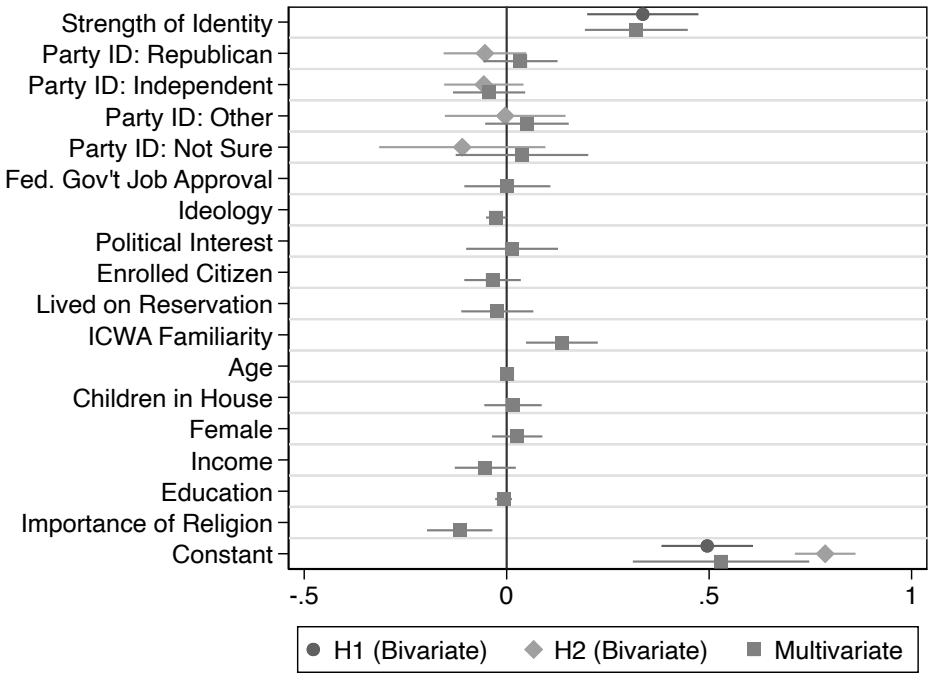

Figure 1: Support for the Indian Child Welfare Act (ICWA). Coefficients are reported from bivariate and multivariate models with 95% confidence intervals.

not only statistically significant but also substantively significant: in the bivariate model a one-step increase in *Strength of Identity* corresponds to an approximately 0.3σ increase in *Support for ICWA*, while a shift across the full range of *Strength of Identity* equates to more than a full standard deviation change in *Support for ICWA*. Notably, and consistent with the coefficients reported in Figure 1, the magnitude of this substantive significance remains even after the inclusion of both partisanship and the full suite of control variables. In short, it is evident from the figure that identity exerts a powerful influence on Native Americans' assessment of at least this specific piece of Federal Indian policy.

I turn next to the second hypothesis, which predicted partisanship to be unrelated to support for ICWA. The relationship between partisanship and *Support for ICWA* is represented by the second through fifth point estimates in Figure 1. With self-identified Democrats as the reference category, the Figure makes it evident that partisanship is not the driving force behind Native Americans' attitudes toward ICWA. Republican respondents exhibit no greater or lesser support for ICWA than their Democratic or Independent counterparts, ei-

ther in a model that exclusively includes partisanship or one that includes the suite of control variables. This suggests, at least for the case of ICWA, that Native Americans' evaluations of Federal Indian policy are not strong reflections of their partisan identities.

I also note four observations regarding the results of key controls, starting with the Native American-specific variables related to tribal citizenship and having lived on a reservation. Somewhat surprisingly, neither variable reaches statistical significance, and moreover both are negatively signed (although indistinguishable from 0).[15] This finding is important, as one of the potential weaknesses of this survey data is its reliance on self-identification as Native American. If it were the case that enrolled citizens hold significantly different views from those who identify as Native American but are not enrolled tribal citizens, it would raise questions about the how—or if—Native American political identity, in the way I have conceptualized and measured it here, has the influence the results suggest it does. And, more broadly, it would more starkly bring into question the validity of the survey data as a viable tool for studying Native Americans' political attitudes and views. That no such difference arises here, then, is encouraging insofar that it promotes confidence in the results and the appropriateness of the survey data.

Second, the coefficient for ideology is negative and statistically significant, indicating that support for ICWA decreases as respondents become increasingly conservative. When combined with the null result for partisanship, this suggests that political considerations *can* influence Native Americans' views toward Federal Indian policy. We might speculate, then, that perhaps partisanship does not exert an influence to a major extent in part because the issue—or at least ICWA—has not been substantially polarized along partisan lines.[16] That is, the disconnect between partisanship's null effect and ideology's statistically significant influence may be indicative of an issue that neither party has sought to stake a strong stance on, despite a potential ideological divide even within the Native American population.

[15]This is even the case if these variables are analyzed as the IVs in bivariate models.

[16]As a case in point in this regard, a joint statement from Native American members of Congress from both parties celebrated the Supreme Court's decision to uphold ICWA.

Third, the results indicate that support for ICWA decreases with respondents' religiosity, as measured by the importance of religion variable. This finding is consistent with the connection between Christian groups, particularly evangelical ones, and challenges to the Indian Child Welfare Act, including the most recent one that resulted in the Supreme Court's 2023 ruling (Butler 2023; Asgarian 2023). It is noteworthy, then, that religiosity among Native Americans also corresponds to weaker support for ICWA, as this may point to another instance of competing influences on Native Americans' views toward policies.

Empirical Extension: Affirmative Action

While the preceding analyses provide evidence of identity's connection with Native Americans' evaluations of Federal Indian policy, they leave unanswered empirical questions whose answers could help buttress—or challenge—the central theoretical claim of this paper. In particular, I focus on a logical implication of my argument that is well suited to empirical investigation. Specifically, I turn the paper's attention to how Native American identity might—or might not—influence Native Americans' support for a policy outside of the realm of Federal Indian policy: affirmative action.[17]

The central argument I have put forth is that Native American identity matters for evaluating Federal Indian policy because of the unique legal and political characteristics of Native Americans' relationship with the Federal government. One limitation to my empirical findings, however, is that they cannot discern whether the statistical relationship between identity and support for ICWA is reflective of something specific to Federal Indian policy or instead indicates that Native American identity matters for how Native Americans evaluate all policies, not just Federal Indian policy. If my account is correct, then strength of identity should matter less, if it does at all, for policies that are not directly related to Federal Indian policy and tribal sovereignty.

[17]For an excellent study of the political dynamics surrounding affirmative action policies in higher education, see Foley (2023).

To check for this, I examine Native Americans' support for affirmative action policies that allow universities and colleges to consider race in the admissions process. This policy represents a particularly useful—and difficult—test of my argument. It is a policy with direct potential implications for Native Americans, making identity a potentially relevant factor in their evaluations of the policy. In that sense, examining affirmative action "stacks the deck" in favor of finding an effect for identity that would challenge my argument and the preceding empirical results. Moreover, with a highly-anticipated Supreme Court ruling on the subject anticipated about a month after the survey, affirmative action policies were present in the political discourse at the time.[18]

With this in mind, based on my theoretical argument I anticipate that *Strength of Identity* will be statistically unrelated to support for affirmative action.[19] To measure such support, I use responses (on a 5-point range scaled to 0-1) to the following question: "To what extent would you support the following policies?...Affirmative action policies that allow universities to consider race when admitting students." As with the previous analyses, I estimate linear regressions (including probability weights) both with and without my battery of control variables (along with partisanship).[20]

Figure 2 presents the results of these analyses. Three observations merit particular mention. First, *Strength of Identity* fails to reach statistical significance in either a bivariate or multivariate model. That is, as expected, support for affirmative action—an issue separate from Federal Indian policy—is neither greater nor lesser among those Native Americans who have strong attachment to their Indigenous identity. This stands in direct contrast to the

[18]The Supreme Court struck down affirmative action admissions policies as unconstitutional the month after I fielded the survey.

[19]While I do not explicitly theorize as such here, a logical implication of my argument is that partisanship will influence Native Americans' views in issues unrelated to Federal Indian policy. Given the context of affirmative action, we might therefore anticipate greater support for the policy among Democrats than Republicans. I estimate a separate bivariate model to evaluate this supposition.

[20]The one alteration is that instead of using a question that asked about respondents' familiarity with ICWA, I instead include a control here based on the following question: "As you may know, in the coming months the Supreme Court will be deciding whether to allow or forbid of affirmative action policies that permit colleges and universities to consider race as part of their admissions process. How much would you say you know about this case?"

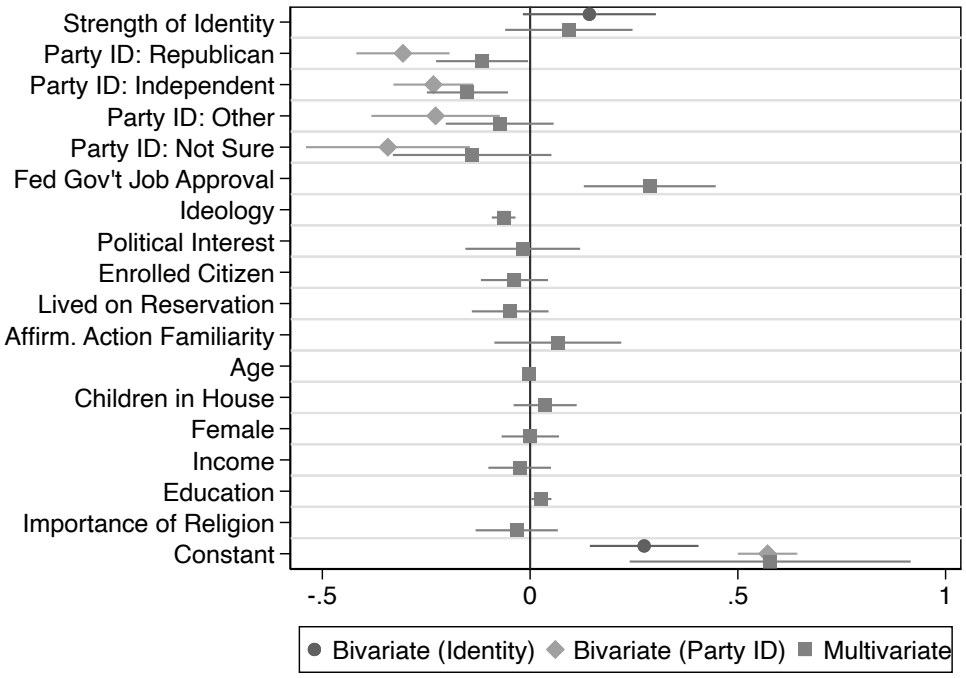

Figure 2: Support for Affirmative Action admissions policies. Coefficients are reported from bivariate and multivariate models with 95% confidence intervals.

findings presented in the previous section regarding support for ICWA. Second, we observe a clear partisan difference in support for affirmative action, with respondents who identify as Democrats exhibiting statistically significant higher levels of support for affirmative action than those who identify as either Republican or Independent. Importantly, this finding holds both in a bivariate and multivariate model and is substantively significant: Republican support is more than 0.8 of a standard deviation lower than that of Democratic respondents in the bivariate model and still 0.3 σ after including controls. And third, while ideology continues to also exert its influence on how Native Americans evaluate policies, we see very little influence exerted either by Native American-specific factors like enrollment status or demographic factors like income or religiosity.[21] The key takeaway from these findings is that, when compared to the results regarding support for ICWA, they support the argument

[21]There is, however, a positive relationship between education and support for affirmative action, as well as job approval of the Federal government. Both of these findings are consistent with a partisan explanation, as higher levels of education increasingly corresponds to support for the Democratic party and approval of the Federal government is likely to be higher among Democrats since there is a Democratic administration.

that Native Americans evaluate Federal Indian policy through a different lens than is used for assessing other issues.

Discussion

How do Native Americans evaluate Federal Indian policy? In this paper, I have argued that Native American identity—and its political connection to issues like tribal sovereignty—inform these assessments while competing partisan concerns are marginalized. Using original survey data collected from a representative sample of 522 Native American respondents in May 2023, a series of empirical analyses revealed that Native Americans' support for a core piece of Federal Indian policy, the Indian Child Welfare Act (ICWA), is substantially impacted by the strength of respondents' Native American identity and, in contrast, unrelated to partisanship. Further analyses examining partisanship's effect on support for affirmative action—a issue outside the scope of Federal Indian policy—buttress the argument that these dynamics are unique to Federal Indian policy.

These findings have a number of potential implications for Indigenous politics and political economy. On a fundamental level, understanding the nature and dynamics of Native Americans' support for policies such as ICWA can further efforts to assess both how Federal Indian policy is made and, perhaps more importantly, its likelihood of success and adoption by Native American tribes and peoples. Even well intentioned policies such as ICWA depend on the cooperation of tribal governments for their success; public support for such policies may affect the political incentive for tribal leaders when they engage with Federal policymaking. For example, Sidorsky and Schiller (2023) highlight a number of influences on tribes' creation of Special Domestic Violence Criminal Jurisdictions (SDVCJ) as part of the Violence Against Women Act, including a tribe's population and fiscal capacity. To the extent that we might expect elected tribal officials to concern themselves with public sentiment just as we do with other elected officials, we might also consider the possibility

of adding supportive public opinion to that list. The argument forwarded here, then, may help provide some insight into where such support—or opposition—might come. And while this paper is far from the first to suggest that Native Americans' identity influences their politics (Huyser, Sanchez and Vargas 2017; Herrick and Mendez 2018), it does encourage scholars to expand the range of such influence beyond the traditional focal points of electoral behavior and consider how Native Americans' identity, and the political attitudes it shapes, influences Indigenous institutions and their relationships with other governmental (and non-governmental) entities (Evans 2014).

In this respect, the paper's findings regarding partisanship also point to the potential benefit for Federal Indian policy that it has yet to be subject to strong political polarization. While scholars have highlighted that weaker engagement by political parties with Native Americans may contribute to issues like voter turnout and political knowledge (Fraga 2018; Koch 2022), the findings here point to a potential benefit of such limited partisan mobilization. To the extent that Native Americans can continue to base their politics on furthering their colletive interests like tribal sovereignty (Koch 2017), it may allow for a more united front when assessing—and lobbying for—Federal Indian policy. Were partisanship to become a domineering force in Native Americans' assessments, however, it could ultimately make the interests of tribes, and by extension Native American citizens, second to parochial partisan aims.[22]

There are, to be sure, limitations to the lessons that can be drawn from this study. The study focused on a single, albeit important, piece of Federal Indian policy in ICWA at a single point in time. With Federal Indian policy covering a wide range of vital issues,

[22]Such a concern may, for example, inform the behavior of tribal leaders who often take great pains to avoid the appearance of overt partisan leanings (Corntassel 1997). For example, the "Five Tribes" of Oklahoma—the Cherokee, Creek (Muscogee), Choctaw, Chickasaw, and Seminole—collectively endorsed a candidate for governor for the first time only in 2022. Discussing the unusual nature of the endorsement, Cherokee Principal Chief Chuck Hoskin, Jr. explained "As a general matter, as principal chief, I've not seen it within the scope of my office to endorse...But the exception to the rule, I think, is this governor's race. In fact, I think to not weigh in on this particular governor's race would be really a dereliction of duty given what's at stake. Silence to me would have been complicity in terms of a governor who has attacked tribes at every turn and...has been attacking our sovereignty since he took office" (Hunter 2022).

one may question the generalizability of these findings to other policy settings. Moreover, Native Americans' generally positive views of ICWA leave unexplored the empirical question of whether one's strength of identity functions similarly for widely disliked aspects of Federal Indian policy. And, given that the timing of the survey used here corresponded with a legal challenge to ICWA that brought significant attention, this study cannot assess whether the argument forwarded here holds the same explanatory power for lesser known or more tribe-specific issues. Additionally, the focus here—and in other empirical studies—on the influence of tribal sovereignty as part of Native American identity calls out out for the establishment of a valid, dedicated measure of support for this value. All that is to say, this study on Native Americans' support for a piece of Federal Indian policy as significant as ICWA provides a starting point, not the final word, on assessing Native Americans' political views and attitudes.

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Supplemental Appendix for "Native Americans' Support for Supreme Court Legitimacy"

Appendices

A Technical Survey Details

Survey Details and Context. The survey was conducted from May 9 to May 23, 2023. In total, the survey included 2500 respondents, of which 522 self-identified as Native American and were thus used for this study. The other 1978 respondents were: White (664); Black (627); Hispanic (628); Asian (33); Two or more races (4); Other (18); Middle Eastern (4). Respondents were considered Native American if they identified as such, even if they also identified as a second race.

YouGov interviewed 2725 respondents who were then matched down to a sample of 2500 to produce the final dataset. The respondents were matched to a sampling frame on gender, age, race, and education. The sampling frame is a politically representative "modeled frame" of adults, based upon the American Community Survey (ACS) public use microdata file, public voter file records, the 2020 Current Population Survey (CPS) Voting and Registration supplements, the 2020 National Election Pool (NEP) exit poll, and the 2020 CES surveys, including demographics and 2020 presidential vote.

Survey Weights. The matched 500 cases from the oversample of Native American respondents combined with the 22 Native American cases from the matched Genpop (main) were weighted to the sampling frame using propensity scores. The matched cases and the frame were combined and a logistic regression was estimated for inclusion in the frame. The propensity score function included age, gender, years of education, and region. The propensity scores were grouped into deciles of the estimated propensity score in the frame and post-stratified according to these deciles.

B Descriptive Statistics

Table A1 provides basic descriptive statistics for each of the variables used in the paper's analyses.

Table A1: Descriptive Statistics

Statistic	N	Mean	St. Dev.	Min	Max
Support for ICWA	522	0.767	0.287	0.000	1.000
Strength of Identity	522	0.762	0.283	0.000	1.000
ICWA Familiarity	521	0.407	0.341	0.000	1.000
Femle	522	1.561	0.497	1	2
Age	522	51.019	15.432	19	94
Education	522	3.540	1.418	1	6
Children in Home	522	1.780	0.415	1	2
Ideology	522	3.207	1.438	1	6
Enrolled Citizen	522	0.312	0.464	0	1
Lived on a Reservation	522	0.224	0.417	0	1
Income	522	0.245	0.431	0	1
Political Interest	515	0.728	0.322	0.000	1.000
Fed. Gov't Job Approval	522	0.319	0.288	0.000	1.000
Importance of Religion	522	0.600	0.398	0.000	1.000
Support for Affirmative Action	522	0.380	0.382	0.000	1.000
Affirmative Action Familiarity	522	0.466	0.305	0.000	1.000
Linked Fate	522	0.432	0.418	0.000	1.000

C Full Results and Additional Analyses

Below I report the full regression results for the paper's primary analyses, followed by regression results for robustness checks that (1) use respondents' sense of linked fate as an alternative measure for strength of Native American identity and (2) only include respondents who identified as enrolled citizens of a Native American nation. Lastly, I report the full regression results for the affirmative action analyses presented at the end of the paper. Please note that for all models I report coefficients and standard errors. Additionally, for those models that include partisanship, Democratic respondents form the reference group.

For the analyses that use respondents' linked fate—a well established measure related to group consciousness and the extent to which members of a minority group believe that their individual fortunes are tied to those of their group (Dawson 1994; Sanchez and Vargas 2016)—I rely on the standard question wording approach of first asking respondents the yes/no question "Do you think that what happens to Native Americans in this country will have something to do with what happens in your life?" If respondents answer "Yes" they then receive this follow up question: "Will it affect you a lot, some or not very much?" Responses thus range from 0 (answered no to the initial question) to 3; I then scale the variable to range from 0-1. The results of the analyses using this measure are reported in Table A3.

For the analyses limited to those respondents who identified as enrolled citizens of a Federally or state recognized nation, I sought to follow best practices by providing respondents an option to not answer the survey question regarding their enrollment. In all, 163 respondents indicated they are enrolled in a nation, 298 said they are not, and 61 preferred not to say. I erred on the side of caution and excluded those respondents who refused to answer the question (for the main analyses these respondents are coded as not being citizens).

Table A2: Full Regression Results for ICWA Support Analyses

	Model 1	Model 2	Model 3
Strength of Identity	0.336*		0.320*
	(0.0699)		(0.0647)
Republican		-0.0536	0.0341
		(0.0520)	(0.0467)
Independent		-0.0564	-0.0434
		(0.0498)	(0.0453)
Other		-0.00361	0.0502
		(0.0758)	(0.0525)
Not Sure		-0.110	0.0378
		(0.104)	(0.0833)
Fed. Gov't Job Approval			0.00174
			(0.0541)
Ideology			-0.0259*
			(0.0127)
Political Interest			0.0134
			(0.0577)
Enrolled Citizen			-0.0349
			(0.0355)
Lived on a Reservation			-0.0232
			(0.0453)
ICWA Familiarity			0.136*
			(0.0451)
Age			0.00182
			(0.00111)
Children in House			0.0157
			(0.0361)
Female			0.0259
			(0.0316)
Income			-0.0528
			(0.0384)
Education			-0.00762
			(0.0106)
Importance of Religion			-0.116*
			(0.0411)
Constant	0.495*	0.787*	0.529*
	(0.0575)	(0.0381)	(0.111)
N	522	522	514

Standard errors in parentheses; * $p < 0.05$

Table A3: Regression Results for ICWA Support Analyses Using Linked Fate as IV

	Model 1A	Model 3A
Linked Fate	0.150*	0.0911
	(0.0429)	(0.0474)
Republican		0.0255
		(0.0573)
Independent		-0.0228
		(0.0497)
Other		0.0523
		(0.0604)
Not Sure		0.0579
		(0.0943)
Fed. Gov't Job Approval		0.0176
		(0.0674)
Ideology		-0.0296
		(0.0155)
Political Interest		-0.0165
		(0.0641)
Enrolled Citizen		-0.00869
		(0.0386)
Lived on a Reservation		-0.0385
		(0.0468)
ICWA Familiarity		0.175*
		(0.0548)
Age		0.00258
		(0.00135)
Children in House		0.0189
		(0.0410)
Female		0.0500
		(0.0349)
Income		-0.0731
		(0.0382)
Education		-0.00907
		(0.0115)
Importance of Religion		-0.106*
		(0.0457)
Constant	0.682*	0.659*
	(0.0265)	(0.124)
N	522	514

Standard errors in parentheses;* $p < 0.05$

Table A4: Regression Results for ICWA Support Analyses Including Only Enrolled Citizens

	Model 1B	Model 2B	Model 3B
Strength of Identity	0.290		0.285
	(0.152)		(0.146)
Republican		0.0901	0.0579
		(0.0775)	(0.0768)
Independent		-0.0136	-0.0668
		(0.0908)	(0.0842)
Other		0.149	0.0198
		(0.103)	(0.0989)
Not Sure		-0.0961	-0.0527
		(0.193)	(0.170)
Fed. Gov't Job Approval			-0.117
			(0.0903)
Ideology			-0.0199
			(0.0239)
Political Interest			-0.0793
			(0.112)
Lived on a Reservation			-0.110
			(0.0590)
ICWA Familiarity			0.143*
			(0.0688)
Age			0.00104
			(0.00245)
Children in House			-0.00406
			(0.0608)
Female			-0.0373
			(0.0641)
Income			-0.126
			(0.0643)
Education			-0.00649
			(0.0205)
Importance of Religion			-0.0930
			(0.0668)
Constant	0.502*	0.739*	0.817*
	(0.131)	(0.0703)	(0.247)
N	163	163	161

Standard errors in parentheses;* $p < 0.05$

Table A5: Full Regression Results for Affirmative Action Analyses

	Model 1C	Model 2C	Model 3C
Strength of Identity	0.143		0.0932
	(0.0815)		(0.0781)
Republican		-0.306*	-0.116*
		(0.0571)	(0.0563)
Independent		-0.233*	-0.151*
		(0.0490)	(0.0497)
Other		-0.227*	-0.0731
		(0.0786)	(0.0661)
Not Sure		-0.342*	-0.139
		(0.100)	(0.0971)
Fed. Gov't Job Approval			0.288*
			(0.0808)
Ideology			-0.0636*
			(0.0145)
Political Interest			-0.0178
			(0.0703)
Enrolled Citizen			-0.0377
			(0.0411)
Lived on a Reservation			-0.0480
			(0.0470)
Affirmative Action Familiarity			0.0667
			(0.0777)
Age			-0.00326*
			(0.00158)
Children in House			0.0362
			(0.0386)
Female			0.000515
			(0.0352)
Income			-0.0251
			(0.0384)
Education			0.0272*
			(0.0123)
Importance of Religion			-0.0323
			(0.0504)
Constant	0.275*	0.572*	0.578*
	(0.0666)	(0.0363)	(0.172)
N	522	522	515

Standard errors in parentheses;* $p < 0.05$