

Excerpt from *A Generation Removed*, written by Margaret Jacobs, pp. xxvii-xxviii, 127-161.

[There was considerable opposition to ICWA.] As one woman put it in an anti-ICWA letter to Congress in 1977, “Surely the type of white parents who are glad to adopt an Indian child are the type who would have the child’s best interests at heart. Furthermore, I think [adoption] is an encouraging effort towards unifying Indians and whites.... American Indian families and communities saw it differently. They experienced heartbreak and trauma and deeply mourned the loss of their children. They saw state intervention into their families and the placement of their children in non-Indian families as one of the most egregious violations of their rights. Their campaign to reclaim the care of Indian children ... led to the uncomfortable question: Have white Americans been complicit in an unjust practice? (pp. xxvii-xxviii)

Grassroots Indian activists, Indian social service providers, and advocates ... achieved the passage of the Indian Child Welfare Act in 1978, a radical piece of legislation that enabled tribes to take unprecedented sovereignty over child welfare. ICWA acknowledged that past policies and practices of child removal had deeply wronged Indian people and empowered them to reclaim the care of their own children.

To thousands of non-Indian Americans, the testimony of Indian activists and the passage of ICWA came as a shock. Many social workers, adoptive families, and nonprofit agency directors were accustomed to seeing themselves as caring rescuers. Now some perceived themselves anew through Indian eyes: as child snatchers. (p. 128)

ICWA embodied Indian self-determination through recognizing the jurisdiction and sovereignty of Indian tribes. Its primary provision affirmed tribes’ rights to take unprecedented sovereignty over most child welfare matters involving Indian children ... either a tribal member or a minor eligible for membership in a tribe. This rendering of the law meant that tribal courts held jurisdiction over not only children on tribal lands but also children who lived off the reservation. ICWA granted the right of the Indian custodian or tribe to intervene in the state court proceedings and to request transfer of child welfare proceedings to the child’s tribal court under certain conditions.

ICWA sought to provide strong legal protections to Indian families to prevent the abuses that had led to the Indian child welfare crisis.

ICWA sought, too, to strengthen rather than tear asunder Indian families. It contained a number of provisions that were aimed at providing services to Indian families—through Indian tribes and organizations—that would prevent Indian children from being removed.

An optimistic mood swept through Indian country ... after ICWA passed.

[T]here were also signs that the problems surrounding Indian child welfare had not vanished overnight. (pp. 158-59, 161)