

Excerpt from *In the Courts of the Conqueror: The 10 Worst Indian Law Cases Ever Decided*, written by Walter R. Echo-Hawk, pp. 222-23.

In 1978, Congress finally saw how destructive the federal boarding school system was to Native American families. A House report declared that it “contribute[s] to the destruction of Indian family and community life.” By that time, 34,538 Indian children (more than 17 percent of all Indian schoolchildren) were living in institutional settings in seventy-four boarding schools, rather than at home.

The federal mind-set was that Indian children are better off being raised by white families. From 1958 through 1967, the Bureau of Indian Affairs (BIA) funded the Indian Adoption Project, administered by the Child Welfare League of America.... By the 1970s, state child-welfare systems were also contributing heavily to the destruction of Indian families and the separation of children from their tribes. Once Indian families moved away from reservations into the cities, a migration set in motion by the federal termination legislation and relocation program of the 1950s, the state systems could get their grips on the kids. Once ensnared in those bureaucracies, most wound up in non-Indian homes or institutions. By 1972, that was the fate of 25 to 35 percent of all Indian children.

Based upon extensive evidence amassed in hearings, Congress indicted the state systems and courts for creating this crisis, stating, “[t]he wholesale separation of Indian children from their families is perhaps the most tragic and destructive aspect of American Indian life today.” Several root causes were identified by Congress. Much of the blame was laid at the door of non-Indian social workers untutored in Native culture. They deeply misunderstood the role of extended families in Native social structures, misinterpreted Indian child-rearing practices, and applied cultural biases or discriminatory criteria in evaluating Native family situations.... Congress found that the “abusive actions of social workers would largely be nullified if more judges were themselves knowledgeable about Indian life and required a sharper definition of the standards of child abuse and neglect.” Congress was also concerned that discriminatory placement standards applied by state systems “made it virtually impossible for most Indian couples to qualify as foster or adoptive parents, since they are based on middle-class values.

In short, the state systems for protecting the best interests of children failed to incorporate the values and unique cultures of indigenous peoples in the United States. Discriminatory and ethnocentric standards were applied and enforced by social workers, agencies, and courts that lacked the training, insights, or motivation to make the system accountable and workable for Native Americans. The system naturally produced racially disparate results—Indian children were removed at far greater rates than kids of other races more familiar to the social workers. The ignorance, ethnocentricity, and bias built into those systems is a form of discrimination called *institutional racism* when those factors produce racially disparate results.