# Response to: The Indian Child Welfare Act as the "Gold Standard"

*Kathryn A. Piper, JD, PhD*

In his article, Matthew Fletcher describes the deplorable history of the United States regarding the massive removal of Indian children from their homes and tribal communities from the 1850s through the 1970s. This response to Fletcher's article is written in full recognition of this legacy of discrimination and cultural genocide by federal and state governments (Sandefur, 2017), and does not contest that ICWA was passed with good intentions to remedy these abuses. Unfortunately, ICWA is now being applied in ways that harm Indian children (Laird, 2016). Too often, the interests of the Indian tribe are allowed to trump the best interests of the child (Deutch, 2019).

Moreover, ICWA does not begin to address the socioeconomic conditions—poverty, substandard housing, substance abuse, domestic violence, mental illness—that lead, in large part, to disproportionate numbers of Indian children being removed from their homes despite the implementation of ICWA (Deutch, 2019; Kennedy, 2003). As Professor and Elder Matthew Fletcher points out, ICWA is primarily a procedural statute. The due process protections offered by ICWA—the rights to notice, to counsel, to be heard, to examine the evidence—are essential guarantees that have been extended to children and parents in most state child protection proceedings. Unfortunately, these protections alone have not been enough to halt the intergenerational transfer of family dysfunction, trauma, and poverty that is prevalent in many disadvantaged families. What is needed is a massive infusion of resources and services for these families. Few advocates for families—whether American Indian or not—would disagree.

## About the Author

***Kathryn A. Piper, PhD, JD**, is an attorney who represented children and parents in child protection proceedings for twenty years. She was certified as a Child Welfare Law Specialist by the National Association of Counsel for Children in 2012 and received her doctorate in social policy in 2016.*

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