



Child Adoption

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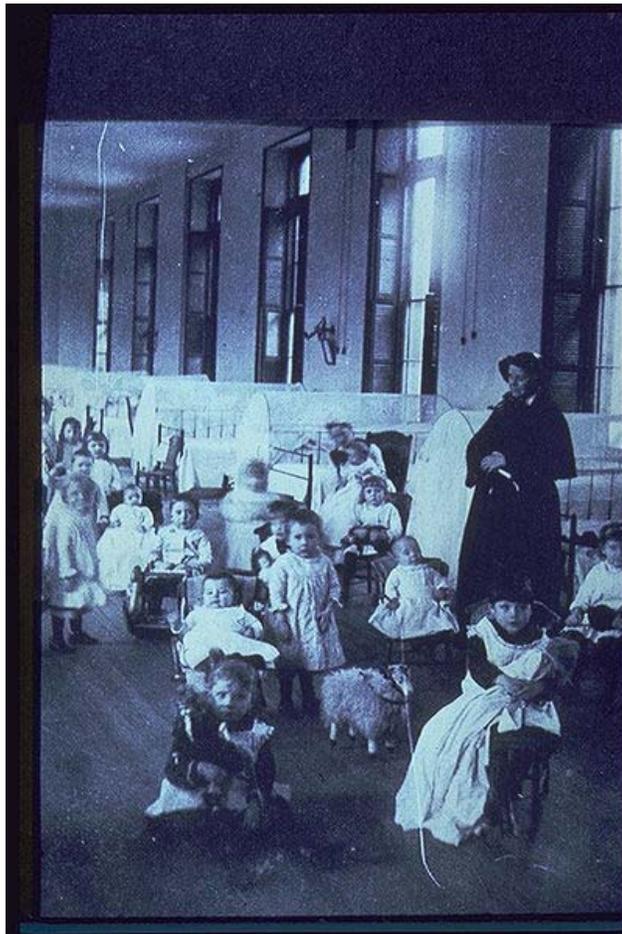
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Chapter 1

Adoption



Sister Irene of New York Foundling Hospital with children. Sister Irene is among the pioneers of modern adoption, establishing a system to board out children rather than institutionalize them.

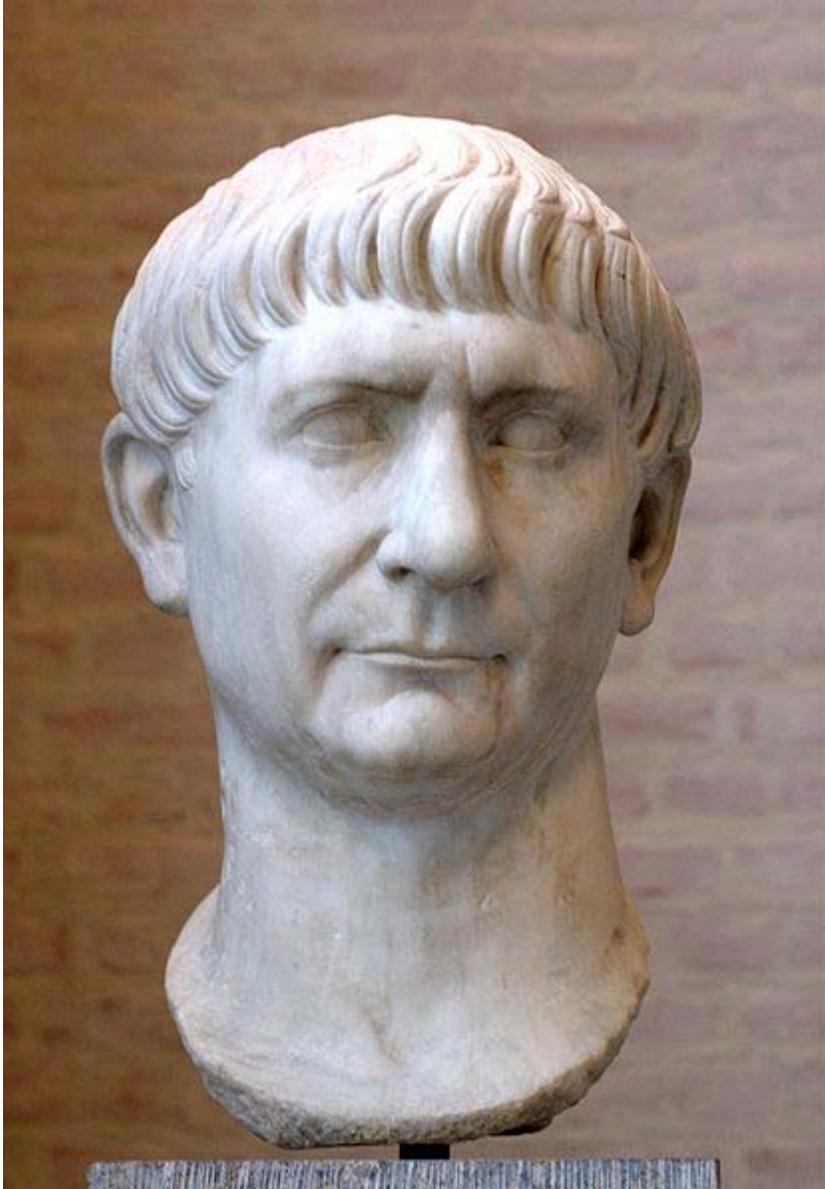
Adoption is a process whereby a person assumes the parenting for another and, in so doing, permanently transfers all rights and responsibilities from the original parent or parents. Unlike guardianship or other systems designed for the care of the young, adoption is intended to effect a permanent change in status and as such requires societal recognition, either through legal or religious sanction. Historically some societies have enacted specific laws governing adoption whereas others have endeavored to achieve adoption through less formal means, notably via contracts that specified inheritance rights and parental responsibilities. Modern systems of adoption, arising in the 20th century, tend to be governed by comprehensive statutes and regulations.

Adoption has a long history in the Western world, closely tied with the legacy of the Roman Empire and the Catholic Church. Its use has changed considerably over the centuries with its focus shifting from adult adoption and inheritance issues toward children and family creation and its structure moving from a recognition of continuity between the adopted and kin toward allowing relationships of lessened intensity.

History

Antiquity

Adoption for the well-born



Trajan became emperor of Rome through adoption, a customary practice of the empire that enabled peaceful transitions of power.

While the modern form of adoption emerged in the United States, forms of the practice appeared throughout history. The Code of Hammurabi, for example, details the rights of adopters and the responsibilities of adopted individuals at length and the practice of adoption in ancient Rome is well documented in the Codex Justinianus.

Markedly different from the modern period, ancient adoption practices put emphasis on the political and economic interests of the adopter, providing a legal tool that strengthened political ties between wealthy families and creating male heirs to manage estates. The use of adoption by the aristocracy is well documented; many of Rome's emperors were adopted sons.

Infant adoption during Antiquity appears rare. Abandoned children were often picked up for slavery and composed a significant percentage of the Empire's slave supply. Roman legal records indicate that foundlings were occasionally taken in by families and raised as a son or daughter. Although not normally adopted under Roman Law, the children, called *alumni*, were reared in an arrangement similar to guardianship, being considered the property of the father who abandoned them.

Other ancient civilizations, notably India and China, utilized some form of adoption as well. Evidence suggests their practices aimed to ensure the continuity of cultural and religious practices, in contrast to the Western idea of extending family lines. In ancient India, secondary sonship, clearly denounced by the Rigveda, continued, in a limited and highly ritualistic form, so that an adopter might have the necessary funerary rites performed by a son. China had a similar conception of adoption with males adopted solely to perform the duties of ancestor worship.

Middle Ages to Modern Period

Adoption and commoners



At the monastery gate (Am Kloostertor) by Ferdinand Georg Waldmüller.

The nobility of the Germanic, Celtic, and Slavic cultures that dominated Europe after the decline of the Roman Empire denounced the practice of adoption. In medieval society, bloodlines were paramount; a ruling dynasty lacking a natural-born heir apparent was replaced, a stark contrast to Roman traditions. The evolution of European law reflects this aversion to adoption. English Common Law, for instance, did not permit adoption since it contradicted the customary rules of inheritance. In the same vein, France's Napoleonic Code made adoption difficult, requiring adopters to be over the age of 50, sterile, older than the adopted person by at least fifteen years, and to have fostered the adoptee for at least six years. Some adoptions continued to occur, however, but became informal, based on ad hoc contracts. For example, in the year 737, in a charter from the town of Lucca, three adoptees were made heirs to an estate. Like other contemporary arrangements, the agreement stressed the responsibility of the adopted rather than adopter, focusing on the fact that, under the contract, the adoptive father was meant to be cared for in his old age; an idea that recalls conceptions of adoption under Roman law.

Europe's cultural makeover marked a period of significant innovation for adoption. Without support from the nobility, the practice gradually shifted toward abandoned children. Abandonment levels rose with the fall of the empire and many of the foundlings were left on the doorstep of the Church. Initially, the clergy reacted by drafting rules to govern the exposing, selling, and rearing of abandoned children. The Church's innovation, however, was the practice of oblation, whereby children were dedicated to lay life within monastic institutions and reared within a monastery. This created the first system in European history in which abandoned children were without legal, social, or moral disadvantage. As a result, many of Europe's abandoned and orphaned became alumni of the Church, which in turn took the role of adopter. Oblation marks the beginning of a shift toward institutionalization, eventually bringing about the establishment of the foundling hospital and orphanage.

As the idea of institutional care gained acceptance, formal rules appeared about how to place children into families: boys could become apprenticed to an artisan and girls might be married off under the institution's authority. Institutions informally adopted out children as well, a mechanism treated as a way to obtain cheap labor, demonstrated by the fact that when the adopted died, their bodies were returned by the family to the institution for burial.

This system of apprenticeship and informal adoption extended into the 19th century, today seen as a transitional phase for adoption history. Under the direction of social welfare activists, orphan asylums began to promote adoptions based on sentiment rather than work, and children were placed out under agreements to provide care for them as family members instead of under contracts for apprenticeship. The growth of this model is believed to have contributed to the enactment of the first modern adoption law in 1851 by the Commonwealth of Massachusetts, unique in that it codified the ideal of the "best interests of the child." Despite its intent, though, in practice, the system operated much the same as earlier incarnations. The experience of the Boston Female Asylum (BFA) is a good example, which had up to 30% of its charges adopted out by 1888. Officials of the BFA noted that, although the asylum promoted otherwise, adoptive parents did not distinguish between indenture and adoption; "We believe," the asylum officials said, "that often, when children of a younger age are taken to be adopted, the adoption is only another name for service."

Modern period

Adopting to create a family

The next stage of adoption's evolution fell to the emerging nation of the United States. Rapid immigration and the aftermath of the American Civil War resulted in unprecedented overcrowding of orphanages and foundling homes in the mid-nineteenth century. Charles Loring Brace, a Protestant minister became appalled by the legions of homeless waifs roaming the streets of New York City. Brace considered the abandoned youth, particularly Catholics, to be the most dangerous element challenging the city's order.



Charles Loring Brace.

His solution was outlined in *The Best Method of Disposing of Our Pauper and Vagrant Children* (1859) which started the Orphan Train movement. The orphan trains eventually shipped an estimated 200,000 children from the urban centers of the East to the nation's rural regions. The children were generally indentured, rather than adopted, to families who took them in. As in times past, some children were raised as members of the family while others were used as farm laborers and household servants.



William and his brother Thomas. They rode the Orphan Train in 1880 at the ages of 11 and 9, respectively. William was taken into a good home. Thomas was exploited for labor and abused. The brothers eventually made their way back to New York and reunited.

The sheer size of the displacement—the largest migration of children in history—and the degree of exploitation that occurred, gave rise to new agencies and a series of laws that promoted adoption arrangements rather than indenture. The hallmark of the period is Minnesota's adoption law of 1917 which mandated investigation of all placements and limited record access to those involved in the adoption.

During the same period, the Progressive movement swept the United States with a critical goal of ending the prevailing orphanage system. The culmination of such efforts came with the First White House Conference on the Care of Dependent Children called by President Theodore Roosevelt in 1909, where it was declared that the nuclear family represented "the highest and finest product of civilization" and was best able to serve as primary caretaker for the abandoned and orphaned. Anti-institutional forces gathered momentum. As late as 1923, only two percent of children without parental care were in adoptive homes, with the balance in foster arrangements and orphanages. Less than forty years later, nearly one-third were in an adoptive home.

Nevertheless, the popularity of eugenic ideas in America put up obstacles to the growth of adoption. There were grave concerns about the genetic quality of illegitimate and indigent children, perhaps best exemplified by the influential writings of Henry H. Goddard who protested against adopting children of unknown origin, saying,

Now it happens that some people are interested in the welfare and high development of the human race; but leaving aside those exceptional people, all fathers and mothers are interested in the welfare of their own families. The dearest thing to the parental heart is to have the children marry well and rear a noble family. How short-sighted it is then for such a family to take into its midst a child whose pedigree is absolutely unknown; or, where, if it were partially known, the probabilities are strong that it would show poor and diseased stock, and that if a marriage should take place between that individual and any member of the family the offspring would be degenerates.

It took a war and the disgrace of Nazi eugenic policies to alter attitudes. The period 1945 to 1974, the Baby scoop era, saw rapid growth and acceptance of adoption as a means to build a family. Illegitimate births rose three-fold after World War II, as sexual mores changed. Simultaneously, the scientific community began to stress the dominance of nurture over genetics, chipping away at eugenic stigmas. In this environment, adoption became the obvious solution for both unwed mothers and infertile couples.

Taken together, these trends resulted in a new American model for adoption. Following its Roman predecessor, Americans severed the rights of the original parents while making adopters the new parents in the eyes of the law. Two innovations were added: 1) adoption was meant to ensure the "best interests of the child;" the seeds of this idea can be traced to the first American adoption law in Massachusetts, and 2) adoption became infused with secrecy, eventually resulting in the sealing of adoption and original birth records by 1945. The origin of the move toward secrecy began with Charles Loring Brace who introduced it to prevent children from the Orphan Trains from returning to or being reclaimed by their parents. Brace feared the impact of the parents' poverty, in general, and their Catholic religion, in particular, on the youth. This tradition of secrecy was carried on by the later Progressive reformers when drafting of American laws.

The number of adoptions in the United States peaked in 1970. It is uncertain what caused the subsequent decline. Besides the legalization of artificial birth control methods and abortion, the years of the late 1960s and early 1970s saw a dramatic change in society's view of illegitimacy. In response, family preservation efforts grew so that few children born out of wedlock today are adopted (Refer to Table 1). Ironically, adoption is far more visible and discussed in society today, yet it is less common.

Race	Before 1973	1973– 1981	1982– 1988	1989– 1995	1996– 2002
All Women	8.7%	4.1%	2.0%	0.9%	1.0%
Black Women	1.5%	0.2%	1.1%	0.0%	NA
White Women	19.3%	7.5%	3.2%	1.7%	1.3%

Table 1: Percentage of Infants (Born to Never-Married Women) Who Were Relinquished

The American model of adoption eventually proliferated globally. England and Wales established their first formal adoption law in 1926. The Netherlands passed its law in 1956. Sweden made adoptees full members of the family in 1959. West Germany enacted its first laws in 1977. Additionally, the Asian powers opened their orphanage systems to adoption, influenced as they were by Western ideas following colonial rule and military occupation.

Although adoption is today practiced globally, the United States remains the leader in its use. The table below provides a snapshot of Western adoption rates. Adoption in the United States still occurs at nearly three times those of its peers although the number of children awaiting adoption has held steady in recent years, hovering between 133,000 to 129,000 during the period 2002 to 2006.

Country	Adoptions	Live Births	Adoption/Live Birth Ratio	Notes
Australia	270 (2007–2008)	254,000 (2004)	0.2 per 100 Live Births	Includes <i>known relative</i> adoptions
England & Wales	4,764 (2006)	669,601(2006)	0.7 per 100 Live Births	Includes all adoption orders in England and Wales
Iceland	between 20-35 year	4,560 (2007)	0.8 per 100 Live Births	
Ireland	263 (2003)	61,517 (2003)	0.4 per 100 Live Births	92 non-family adoptions; 171 family adoptions (e.g. stepparent). 459 international adoptions were also recorded.
Italy	3,158 (2006)	560,010 (2006)	0.6 per 100 Live Births	
Norway	657 (2006)	58,545(2006)	1.1 per 100 Live Births	Adoptions breakdown: 438 inter-country; 174 stepchildren; 35 foster; 10 other.
Sweden	1044(2002)	91,466(2002)	1.1 per 100 Live Births	10-20 of these were national adoptions of infants. The rest were international adoptions.
United States	approx 127,000 (2001)	4,021,725 (2002)	~3 per 100 Live Births	The number of adoptions is reported to be constant since 1987.

Table 2: Adoptions, Live Births, and Adoption/Live Birth Ratios are provided in the table below (alphabetical, by country) for a number of Western countries

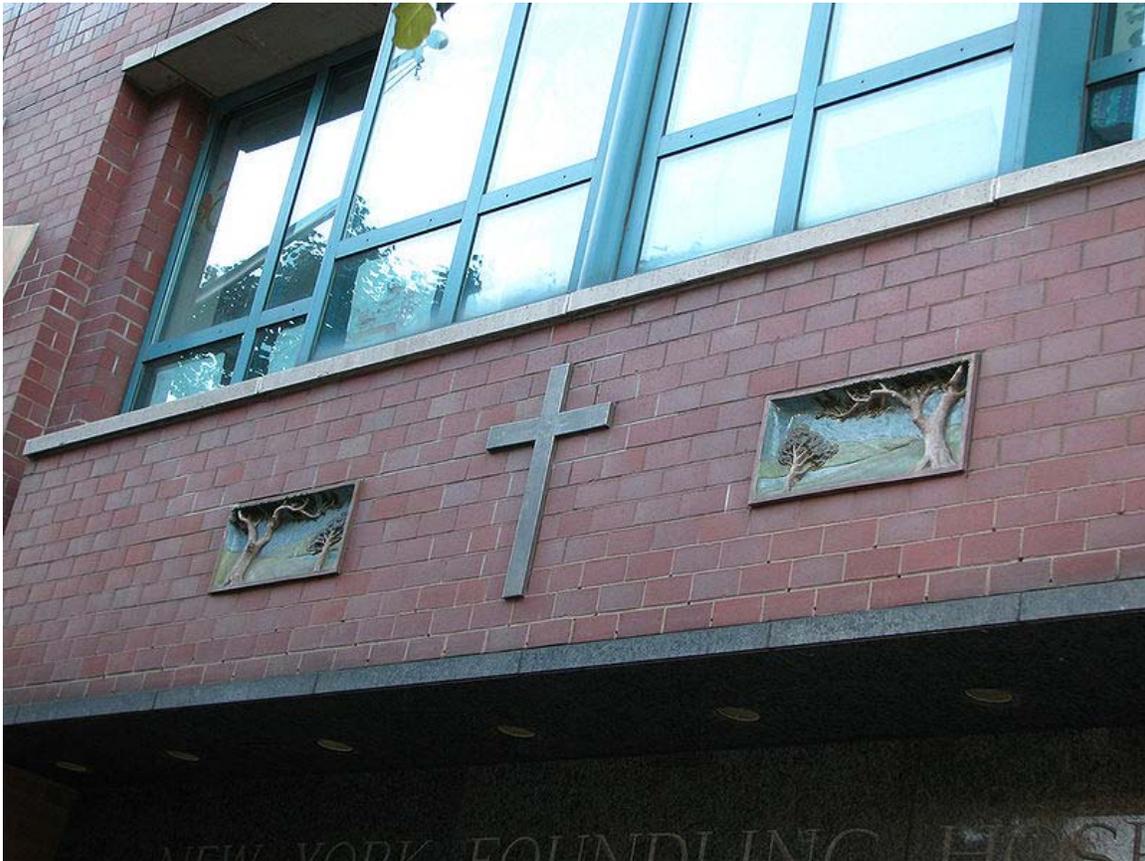
Contemporary adoption

Forms of adoption

Contemporary adoption practices can be open or closed.

- Open adoption allows identifying information to be communicated between adoptive and biological parents and, perhaps, interaction between kin and the adopted person. Rarely, it is the outgrowth of laws that maintain an adoptee's right to unaltered birth certificates and/or adoption records, but such access is not universal (it is possible in a few jurisdictions - including the U.K. and six States in the U.S.). Open adoption can be an informal arrangement subject to termination by adoptive parents who have sole authority over the child. In some jurisdictions, the biological and adoptive parents may enter into a legally-enforceable and binding agreement concerning visitation, exchange of information, or other interaction regarding the child. As of February 2009, 24 U.S. states allowed legally enforceable open adoption contract agreements to be included in the adoption finalization.
- The practice of closed adoption, the norm for most of modern history, seals all identifying information, maintaining it as secret and barring disclosure of the adoptive parents', biological kins', and adoptees' identities. Nevertheless, closed adoption, may allow the transmittal of non-identifying information such as medical history and religious and ethnic background. Today, as a result of safe haven laws passed by some U.S. states, closed adoption is seeing renewed influence. In safe-haven states, infants can be left, anonymously, at hospitals, fire departments, or police stations within a few days of birth, a practice criticized by some adoptee advocacy organizations as being retrograde and dangerous.

How adoptions originate



The New York Foundling Home is among North America's oldest adoption agencies.

Adoptions can occur either between related family members, or unrelated individuals. Historically, most adoptions occurred within a family, though. The most recent data from the U.S. indicates about half of adoptions are currently between related individuals. A common example of this is a "stepparent adoption", where the new partner of a parent may legally adopt a child from the parent's previous relationship. Intra-family adoption can also occur through surrender, as a result of parental death, or when the child cannot otherwise be cared for and a family member agrees to take over.

Infertility is the main reason parents seek to adopt children they are not related to. One study shows this accounted for 80% of unrelated infant adoptions and half of adoptions through foster care. Estimates suggest that 11%-24% of Americans who cannot conceive or carry to term attempt to build a family through adoption, and that the overall rate of ever-married American women who adopt is about 1.4%. Other reasons people adopt are numerous although not well documented. These may include wanting to cement a new family following divorce or death of one parent, compassion motivated by religious or philosophical conviction, to avoid contributing to perceived overpopulation out of the belief that it is more responsible to care for otherwise parent-less children than to reproduce, to ensure inheritable diseases (e.g., Tay-Sachs disease) are not passed on, and health concerns relating to pregnancy and childbirth. Although there are a range of

possible reasons, the most recent study of women who adopt experiences suggests they are most likely to be 40–44 years of age, currently married, have impaired fertility, and childless.

Unrelated adoptions may occur through the following mechanisms:

- Private domestic adoptions: under this arrangement, charities and for-profit organizations act as intermediaries, bringing together prospective adoptive parents and families who want to place a child, all parties being residents of the same country. Alternatively, prospective adoptive parents sometimes avoid intermediaries and connect with women directly, drafting contracts through a lawyer (these efforts are illegal in some jurisdictions). Private domestic adoption accounts for a significant portion of all adoptions; in the United States, for example, nearly 45% of adoptions are estimated to have occurred through private arrangements.
- Foster care adoption: this is a type of domestic adoption where a child is initially placed in public care. Its importance as an avenue for adoption varies by country. Nevertheless, the example of the United States is instructive. Of the 127,500 adoptions that occurred in the U.S. about 51,000 or 40% were through the foster care system.
- International adoption: involves the placing of a child for adoption outside that child's country of birth. This can occur through both public and private agencies. In some countries, such as Sweden, these adoptions account for the majority of cases. The U.S. example, however, indicates there is wide variation by country since adoptions from abroad account for less than 15% of its cases. More than 60,000 Russian children have been adopted in the United States since 1992, and between 1995 and 2005, Americans adopted more than 60,000 children from China. The laws of different countries vary in their willingness to allow international adoptions. Recognizing the difficulties and challenges associated with international adoption, and in an effort to protect those involved from the corruption and exploitation which sometimes accompanies it, the Hague Conference on Private International Law developed the Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption, which came into force on 1 May 1995 and has been ratified by 75 countries, to date.
- Embryo adoption: the state of Georgia in the United States of America is the first jurisdiction to include human embryos in its adoption laws. Conservative evangelicals are the primary supporters, considering it a recognition of embryo life and a mechanism to save that life. These developments in adoption law are not without critics, however, even among religious communities. While the Catholic Church has not announced its support or opposition to the adoption of embryos, its theologians are divided on the issue with some deeming it a "grave violation of nature," and others viewing it as an act of charity. In the absence of adoption laws, embryo relinquishment has occurred under property laws, being

transferred from one set of individuals to another. As of 2003, 400,000 embryos had been frozen in the United States alone and an estimated 2% or 9,000 were available for donation; the rest were reserved for future use by the parents or for medical research.

- Common law adoption: this is an adoption which has not been recognized, beforehand, by the courts, but where a parent, without resort to any formal legal process, leaves his or her children with a friend or relative for an extended period of time. At the end of a designated term of (voluntary) co-habitation, as witnessed by the public, the adoption is then considered binding, in some courts of law, even though not initially sanctioned by the court. The particular terms of a common-law adoption are defined by each legal jurisdiction. For example, the U.S. state of California recognizes common law relationships after co-habitation of 2 years. The practice is called "private fostering" in Britain.

How adoptions can disrupt

Disruption refers to the termination of an adoption. This includes adoptions that end prior to legal finalization and those that end after that point (in U.S. law, the latter cases are referred to as having been dissolved). The Disruption process is usually initiated by adoptive parents via a court petition and is analogous to divorce proceedings. It is a legal avenue unique to adoptive parents as disruption/dissolution does not apply to biological kin.

No known official statistics track the number of disruptions in any country. Some *ad hoc* studies, performed in the U.S., however, suggest that between 10-25 percent of adoptions disrupt before they are legally finalized and from 1-10 percent are dissolved after legal finalization. The wide range of values reflects the paucity of information on the subject and demographic factors such as age; it is known that older children are more prone to having their adoptions disrupted.

Parenting and development of adoptees

Parenting

Biological ties are the hallmark of parent-child relationships, and its absence has caused concern throughout the history of adoption. The traditional concern is expressed by no less an authority than Jessie Taft, a pioneer in the professionalization of adoption services and herself an adoptive mother, who commented on her contemporaries' view of adoptive parenting, "No one who is not willfully deluded would maintain that the experiences of adoption can take the place of the actual bearing and rearing of an own child."

The traditional view of adoptive parenting received empirical support from a Princeton University study of 6,000 adoptive, step, and foster families in the United States and South Africa from 1968–1985; the study indicated that food expenditures in households with mothers of non-biological children (when controlled for income, household size,

hours worked, age, etc.) were significantly less for adoptees, step-children, and foster children, causing the researchers to speculate that, instinctually, people are less interested in sustaining the genetic lines of others. This theory is supported in another more qualitative study where in adoptive relationships marked by sameness in likes, personality, and appearance, both adult adoptees and adoptive parents report being happier with the adoption.

Other studies provide evidence that adoptive relationships can form along other lines. A study evaluating the level of parental investment indicates strength in adoptive families, suggesting that parents who adopt invest more time in their children than other parents and concludes, "...adoptive parents enrich their children's lives to compensate for the lack of biological ties and the extra challenges of adoption." Another recent study found that adoptive families invested more heavily in their adopted children, for example, by providing further education and financial support. Noting that adoptees seemed to be more likely to experience problems such as drug addiction, the study speculated that adoptive parents might invest more in adoptees not because they favor them, but because they are more likely than genetic children to need the help.

Beyond the foundational issues, the unique questions posed for adoptive parents are varied. They include how to respond to stereotypes, answering questions about heritage, and how best to maintain connections with biological kin when in an open adoption. One author suggests a common question adoptive parents have is: "Will we love the child even though he/she is not our biological child?" A specific concern for many parents is accommodating an adoptee in the classroom. Familiar lessons like "draw your family tree" or "trace your eye color back through your parents and grandparents to see where your genes come from" could be hurtful to children who were adopted and do not know this biological information. Numerous suggestions have been made to substitute new lessons, e.g., focusing on "family orchards."

Adopting older children presents other parenting issues. Some children from foster care have histories of maltreatment, such as physical and psychological neglect, physical abuse, and sexual abuse, are at risk of developing psychiatric problems. Such children are at risk of developing a disorganized attachment. Studies by Cicchetti et al. (1990, 1995) found that 80% of abused and maltreated infants in their sample exhibited disorganized attachment styles. Disorganized attachment is associated with a number of developmental problems, including dissociative symptoms, as well as depressive, anxiety, and acting-out symptoms.

Development

The consensus among researchers is that adoption affects development throughout life, with the fact of "being adopted," creating unique responses to significant life-events, e.g., the birth of a child. As a result, researchers often assume that the adoptee population faces heightened risk in terms of psychological development and social relationships. Earlier literature on the topic supported the conception of such problems, however, much of that research has since been deemed flawed due to methodological failures.

Some conclusions about the development of adoptees can be gleaned from newer studies, though, and it can be said that adoptees, in some respect, seem to develop differently than the general population while facing greater risks during adolescence.

Concerning developmental milestones, studies from the Colorado Adoption Project examined genetic influences on adoptee maturation, concluding that cognitive abilities of adoptees reflect those of their adoptive parents in early childhood but show little similarity by adolescence, resembling instead those of their biological parents and to the same extent as peers in non-adoptive families.

Similar mechanisms appear to be at work in the physical development of adoptees. Danish and American researchers conducting studies on the genetic contribution to body mass index found correlations between an adoptee's weight class and his biological parents' BMI while finding no relationship with the adoptive family environment. Moreover, about one-half of inter-individual differences were due to individual non-shared influences.

These differences in development appear to play out in the way young adoptees deal with major life events. In the case of parental divorce, adoptees have been found to respond differently than children who have not been adopted. While the general population experienced more behavioral problems, substance use, lower school achievement, and impaired social competence after parental divorce, the adoptee population appeared to be unaffected in terms of their outside relationships, specifically in their school or social abilities.

The adoptee population does, however, seem to be more at risk for certain behavioral issues. Researchers from the University of Minnesota studied adolescents who had been adopted and found that adoptees were twice as likely as non-adopted people to suffer from oppositional defiant disorder and attention-deficit/hyperactivity disorder (with an 8% rate in the general population). Suicide risks were also significantly greater than the general population. Swedish researchers found both international and domestic adoptees undertook suicide at much higher rates than non-adopted peers; with international adoptees and female international adoptees, in particular, at highest risk.

Nevertheless, work on adult adoptees has found that the additional risks faced by adoptees are largely confined to adolescence. Young adult adoptees were shown to be alike with adults from biological families and scored better than adults raised in alternative family types including single parent and step-families. Moreover, while adult adoptees showed more variability than their non-adopted peers on a range of psychosocial measures, adult adoptees exhibited more similarities than differences with adults who had not been adopted.

Public perception of adoption

In Western culture, the dominant conception of family revolves around a heterosexual couple with biological offspring. This idea places alternatives family forms outside the

norm. As a consequence, research indicates, disparaging views of adoptive families exist, along with doubts concerning the strength of their family bonds.



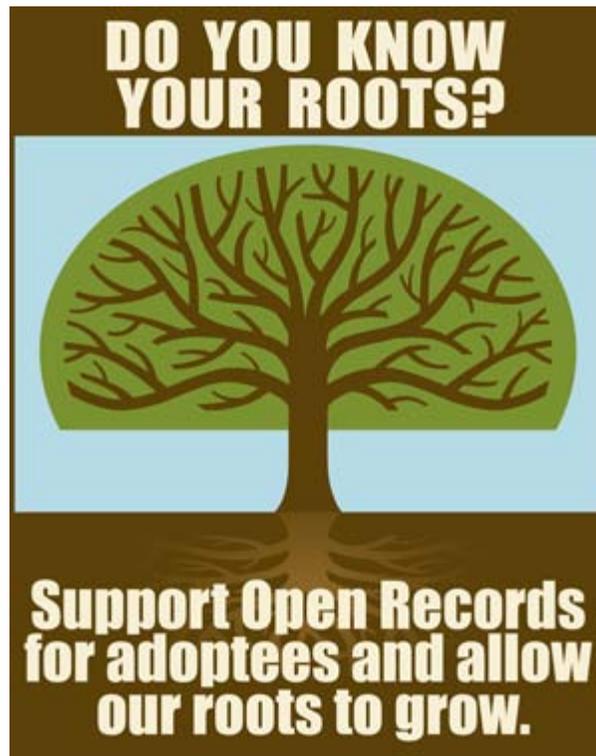
Actors at the Anne of Green Gables Museum on Prince Edward Island, Canada. Since its first publication in 1908, the story of the orphaned Anne, and how the Cuthberts took her in, has been widely popular in the English-speaking world and, later, Japan.

The most recent adoption attitudes survey completed by the Evan Donaldson Institute provides further evidence of this stigma. Nearly one-third of the surveyed population believed adoptees are less-well adjusted, more prone to medical issues, and predisposed to drug and alcohol problems. Additionally, 40-45% thought adoptees were more likely to have behavior problems and trouble at school. In contrast, the same study indicated adoptive parents were viewed favorably, with nearly 90% describing them as, "lucky, advantaged, and unselfish."

The majority of people state that their primary source of information about adoption comes from friends and family and the news media. Nevertheless, most people report the media provides them a favorable view of adoption; 72% indicated receiving positive impressions. There is, however, still substantial criticism of the media's adoption coverage. Some adoption blogs, for example, criticized *Meet the Robinsons* for using outdated orphanage imagery as did advocacy non-profit The Evan B. Donaldson Adoption Institute.

The stigmas associated with adoption are amplified for children in foster care. Negative perceptions result in the belief that such children are so troubled it would be impossible to adopt them and create "normal" families. A 2004 report from the Pew Commission on Children in Foster Care has shown that the number of children waiting in foster care doubled since the 1980s and now remains steady at about a half-million a year."

Reform and reunion trends



Open Records emblem used in Adoptee Rights Protest, New Orleans, 2008, artist: D. Martin.

Adoption practices have significantly changed over the course of the last century, with each new movement labeled, in some way, as reform. Beginning in the 1970s efforts to improve adoption became associated with opening records and encouraging family preservation. These ideas arose from suggestions that the secrecy inherent in modern adoption may influence the process of forming an identity, create confusion regarding genealogy, and provide little in the way of medical history.

Family preservation: As concerns over illegitimacy began to decline in the early 1970s, social-welfare agencies began to emphasize that, if possible, mothers and children should be kept together. In America, this was clearly illustrated by the shift in policy of the New York Foundling Home, an adoption-institution that is among the country's oldest and one that had pioneered sealed records. It established three new principles including, "to prevent placements of children...", reflecting the belief that children would be better

served by staying in their own families and communities, a striking shift in policy that remains in force today.

Open records: Movements to unseal adoption records for adopted citizen proliferated along with increased acceptance of illegitimacy. In the United States, Florence Fisher created the Adoptees' Liberty Movement Association (ALMA) in 1971, calling sealed records "an affront to human dignity." while in 1975, Emma May Vilardi created the first mutual-consent registry, the International Soundex Reunion Registry (ISRR), allowing those separated by adoption to locate one another. Similar ideas were taking hold globally. In 1975, England and Wales opened records on moral grounds.

Later years saw the evolution of more militant organizations such as Bastard Nation (founded in 1996), groups that helped overturn sealed records in Alabama, Delaware, New Hampshire, Oregon, Tennessee, and Maine. Simultaneously, groups such as Origins USA (founded in 1997) started to actively speak about family preservation and the rights of mothers. The intellectual tone of these recent reform movements was influenced by the publishing of *The Primal Wound* by Nancy Verrier. "Primal wound" is described as the "devastation which the infant feels because of separation from its birth mother. It is the deep and consequential feeling of abandonment which the baby adoptee feels after the adoption and which may continue for the rest of his life."

Reunion



Writer Lesley Lathrop (left), an adoptee, at reunion

Estimates for the extent of search behavior by adoptees have proven elusive; studies show significant variation. In part, the problem stems from the small adoptee population which makes random surveying difficult, if not impossible.

Nevertheless, some indication of the level of search interest by adoptees can be gleaned from the case of England and Wales which opened adoptees' birth records in 1975. The UK Office for National Statistics has projected that 33% of all adoptees would eventually

request a copy of their original birth records, exceeding original forecasts made in 1975 when it was believed that only a small fraction of the adoptee population would request their records. The projection is known to underestimate the true search rate, however, since many adoptees of the era have access to get their information by other means.

The research literature states adoptees give four reasons for desiring reunion: 1) they wish for a more complete genealogy, 2) they are curious about events leading to their conception, birth, and relinquishment, 3) they hope to pass on information to their children, and 4) they have a need for a detailed biological background, including medical information. It is speculated by adoption researchers, however, that the reasons given are incomplete: although such information could be communicated by a third-party, interviews with adoptees, who sought reunion, found they expressed a need to actually meet biological relations.

It appears the desire for reunion is linked to the adoptee's interaction with and acceptance within the community. Internally-focused theories suggest some adoptees possess ambiguities in their sense of self, impairing their ability to present a consistent identity. Reunion helps resolve the lack of self-knowledge.

Externally-focused theories, in contrast, suggest that reunion is a way for adoptees to overcome social stigma. First proposed by Goffman, the theory has four parts: 1) adoptees perceive the absence of biological ties as distinguishing their adoptive family from others, 2) this understanding is strengthened by experiences where non-adoptees suggest adoptive ties are weaker than blood ties, 3) together, these factors engender, in some adoptees, a sense of social exclusion, and 4) these adoptees react by searching for a blood tie that reinforces their membership in the community. The externally-focused rationale for reunion suggests adoptees may be well adjusted and happy within their adoptive families, but will search as an attempt to resolve experiences of social stigma.

Some adoptees reject the idea of reunion. It is unclear, though, what differentiates adoptees who search from those who do not. One paper summarizes the research, stating, "...attempts to draw distinctions between the searcher and non-searcher are no more conclusive or generalizable than attempts to substantiate...differences between adoptees and nonadoptees."

In sum, reunions can bring a variety of issues for adoptees and parents. Nevertheless, most reunion results appear to be positive. In the largest study to date (based on the responses of 1,007 adoptees and relinquishing parents), 90% responded that reunion was a beneficial experience. This does not, however, imply ongoing relationships were formed between adoptee and parent nor that this was the goal.

Controversial adoption practices

Reform and family preservation efforts have also been strongly associated with the perceived mis-use of adoption. In some cases, parents' rights have been terminated when their ethnic or socio-economic group has been deemed unfit by society.

Forced adoption based on ethnicity occurred during World War II. In German occupied Poland, it is estimated that 200,000 Polish children with purportedly Aryan traits were removed from their families and given to German or Austrian couples, and only 25,000 returned to their families after the war.

The Stolen Generation of Aboriginal people in Australia were affected by similar policies, as were Native Americans in the United States and First Nations of Canada. These practices have become significant social and political issues in recent years, and many cases the policies have changed. The United States, for example, now has the 1978 Indian Child Welfare Act, which allows the tribe and family of a Native American child to be involved in adoption decisions, with preference being given to adoption within the child's tribe.

From the 1950s through the 1970s, a period called the Baby scoop era, adoption practices that involved coercion were directed against unwed mothers, as detailed in *The Girls Who Went Away*.

Adoption terminology

The **language of adoption** is changing and evolving, and since the 1970s has been a controversial issue tied closely to adoption reform efforts. The controversy arises over the use of terms which, while designed to be more appealing or less offensive to some persons affected by adoption, may simultaneously cause offense or insult to others. This controversy illustrates the problems in adoption, as well as the fact that coining new words and phrases to describe ancient social practices will not necessarily alter the feelings and experiences of those affected by them. Two of the contrasting sets of terms are commonly referred to as **positive adoption language (PAL)** (sometimes called *respectful adoption language (RAL)*), and **honest adoption language (HAL)**.

Positive Adoptive Language (PAL)

In the 1970s, as adoption search and support organizations developed, there were challenges to the language in common use at the time. As books like *Adoption Triangle* by Sorosky, Pannor and Baran were published, and support groups formed like CUB (Concerned United Birthparents), a major shift from natural parent to birthparent occurred. Along with the change in times and social attitudes came additional examination of the language used in adoption.

Social workers and other professionals in the field of adoption began changing terms of use to reflect what was being expressed by the parties involved. In 1979, Marietta Spencer, wrote "The Terminology of Adoption" for The Child Welfare League of America (CWLA), which was the basis for her later work "Constructive Adoption Terminology". This influenced Pat Johnston's "Positive Adoption Language" (PAL) and "Respectful Adoption Language" (RAL). The terms contained in "Positive Adoption Language" include the terms "birth mother" (to replace the terms "natural mother" and "real mother"), "placing" (to replace the term "surrender"). These kinds of

recommendations were an attempt to encourage people to be more aware of their terminology,

Honest Adoption Language (HAL)

"Honest Adoption Language", refers to a set of terms that proponents say reflect the point of view that: (1) family relationships (social, emotional, psychological or physical) that existed prior to the legal adoption often continue past this point or endure in some form despite long periods of separation, and that (2) mothers who have "voluntarily surrendered" children to adoption (as opposed to involuntary terminations through court-authorized child-welfare proceedings) seldom view it as a choice that was freely made, but instead describe scenarios of powerlessness, lack of resources, and overall lack of choice. It also reflects the point of view that the term "birth mother" is derogatory in implying that the woman has ceased being a mother after the physical act of giving birth. Proponents of HAL liken this to the mother being treated as a "breeder" or "incubator". Terms included in HAL include terms that were used before PAL, including "natural mother," "first mother," and "surrendered for adoption."

Inclusive Adoption Language

There are supporters of various lists, developed over many decades, and there are persons who find them lacking, created to support an agenda, or furthering division. All terminology can be used to demean or diminish, uplift or embrace. In addressing the linguistic problem of naming, Edna Andrews says that using "inclusive" and "neutral" language is based upon the concept that "language represents thought, and may even control thought."

Advocates of inclusive language defend it as inoffensive-language usage whose goal is multi-fold:

1. The rights, opportunities, and freedoms of certain people are restricted because they are reduced to stereotypes.
2. Stereotyping is mostly implicit, unconscious, and facilitated by the availability of pejorative labels and terms.
3. Rendering the labels and terms socially unacceptable, people then must consciously think about *how* they describe someone unlike themselves.
4. When labeling is a conscious activity, the described person's *individual* merits become apparent, rather than his or her stereotype.

A common problem is that terms chosen by an identity group, as acceptable descriptors of themselves, can be then used in negative ways by detractors. This compromises the integrity of the language and turns what was intended to be positive into negative or vice-versa, thus often devaluing acceptability, meaning and use.

Cultural variations in adoption

Attitudes and laws regarding adoption vary greatly. Whereas all cultures make arrangements whereby children whose own parents are unavailable to rear them to be brought up by others, not all cultures have the concept of adoption, that is treating unrelated children as equivalent to biological children of the adoptive parents. Under Islamic Law, for example, adopted children must keep their original surname in order to be identified with blood relations, and, traditionally, observe hijab (the covering of women in the presence of non-family) in their adoptive households. In Egypt, these cultural distinctions have led to making adoption illegal.

Chapter 2

Open Adoption

Open adoption is an adoption in which the natural mother or parents and adoptive family know the identity of each other. In open adoption, the parental rights of biological parents are terminated, as they are in "closed adoptions" and the adoptive parents become the legal parents, yet the parties elect to remain in contact. Open adoption has become the norm in most states in the adoption of newborns. But “open” can mean different things to different people, as demonstrated below.

Pre-birth openness

The days are long past when a birth mother would go to an adoption agency to give up her child, then have that agency take full responsibility in selecting the adoptive family, with the birth mother playing no role. While it is true that decades ago, often only independent adoptions (usually adoptions initiated by an attorney) involved openness, now most adoption agencies have some, or complete, openness as well. Although practices vary state by state, most adoptions start with the birth mother reviewing dozens of photo-resume letters of prospective adoptive parents. Usually, these are adoptive families who have retained that agency or attorney to assist them in the adoption process. Most states permit full openness not just regarding identities, but also personal information about each other. Just as the adoptive parents want to learn about the birth mother’s life and health history, so does the birth mother want the same information about the people she is considering as the parents for her child.

When the birth mother has narrowed down her prospective adoptive parents to one, or a few, families, normally they arrange to meet in person. Good adoption agencies and attorneys do this in a pressure-free setting where no one is encouraged to make an immediate decision.) If they are geographically distant from each other (as some adoptions are interstate, with the birth mother living in a different state from the adoptive parents), the first meeting will normally be by phone, then advance to a face-to-face meeting if the meeting by phone went as well as hoped. The goal for both birth and adoptive parents at this stage is to make sure they are looking at the adoption in the same way. Adoption is a lifetime commitment, and just like marriage, both the birth and

adoptive parents want to make sure the other is someone they can count on, both short and long term.

Many birth mothers do more than just meet the adoptive parents once before the birth. If they live close enough to each other, it is not uncommon for the birth mother to invite the adoptive mother (or adoptive father too if the birth mother wishes) to come to her doctor appointments. This lets the adoptive parent vicariously live through the birth mother regarding the pregnancy, and lets the birth mother see the adoptive parent's joy and anticipation of soon becoming a parent. The same is true at the hospital, where it is not unusual for the adoptive mother (and the adoptive father, if that is the birth mother's wish) to be a labor coach, and be present for the delivery. Many birth mothers ask the hospital staff to hand the baby to the adoptive parents first, so they can be the first people to hold their child, before she has even done so.

Post-birth openness

Although pre-birth openness is getting to be routine in newborn adoptions, there are more variations in the years following the birth, after the adoption has been completed. Some birth mothers want to get to know the adoptive parents before the birth, but then wish to go "their own way" in life thereafter. Getting to know the adoptive family gives her confidence in the placement and the knowledge she can feel secure in the child's future with the mom and dad (or single parent) she selected. The birth mother may feel that future contact with the adoptive parents, or the child, would be emotionally difficult for her.

Likely the most common arrangement in open adoptions is for the adoptive parents to commit to sending the birth mother photos of the child (and themselves as a family) each year, and short written updates, until the child reaches the age of 18. Often these photos and updates will be sent more than just once a year, such as the child's birthday or other significant events. Sometimes an intermediary is selected to receive and forward the updates, and sometimes it is done directly. This can be via mail, or more common recently, via email. Some adoptions are more open than just sending photos and updates. Some birth and adoptive parents agree they'd like to stay in face to face contact. The amount of contact can vary greatly. It could be just a time or two in the first year. It could be once or multiple times annually throughout the child's life.

A few states permit the birth and adoptive parents to sign a contract of sorts, putting in writing any promises regarding contact after the adoption is finalized. Even in those states which do not expressly have laws in this area, these "open adoption agreements" agreements can usually be prepared if the parties desire to formalize the agreement. Normally, courts will find these agreements enforceable, as long as they serve the best interests of the child. It is not unusual for these agreements to be more like "handshake" agreements, although they offer less protection to a birth parent if the adoptive parent's promises were not honored.

Which type of open adoption is best?

Adoption is like marriage. There are countless ways that a marriage can work. What is right for one couple will not work for another. Adoptions are the same. What is important is that the birth mother and adoptive parents are honest with each other regarding the type of adoption each truly hopes for, and one person does not just say what they think the other wants to hear, then face a conflict later.

Adoptive parents will want to talk about adoption to their child from a very early age. (Even if the adoptive parents were so inclined, hiding adoption is really not possible, as everyone the adoptive parents know - neighbors, friends, relatives - all know the child joined their family via adoption, so to hide it from the child is nonsensical, hiding something the child should see as prideful and joyful.) Every adoptive parent wants their child to be proud of their adoption heritage and confident in themselves and their place in a family. With this thought in mind, more and more adoptive parents are opening their minds to a more open adoption than they might initially imagined if desired by the birth mother, thinking that the birth mother's role is somewhat like that of a distant relative. In other words, the birth mother has no legal right to make parenting decisions, nor should she want to, but she still has love to offer. The saying "It takes a village to raise a child" comes to mind. And adoptive parents should remember, if their child ever has a medical emergency requiring a birth parent's aid (bone marrow, kidney tissue, et cetera, which often only a direct blood relative can provide), that birth parent will be the first person they search for.

A good analysis for adoptive parents to employ in determining what is the right degree of openness is to put themselves in the place of a birth mother and ask, "If I were pregnant, and giving up my child, what would make me feel confident, and feel good about the placement?" Most birth mothers are loving, caring young women, wanting the best for their baby, but which they can't provide. Many adoptive parents view her as someone they'd enjoy staying a part of their lives, not to mention she was the person who created their family for them. Likewise, birth mothers should be sensitive to the feelings of the adoptive parents, and put themselves in the role of an adoptive parent, asking themselves how they would feel regarding a particular planned role in the new family.

As a practical matter, some states seem to have more open adoptions than others. The more progressive states may have a rough percentage accordingly:

Pre-birth contact, but no post-birth contact: 10%
Pre-birth contact, and photos and updates only thereafter: 65%
Pre-birth contact, photos and updates, and one or two annual face-to-face get-togethers: 25%

In more conservative states, the percentages may look more like this:

Pre-birth contact, but no post-birth contact: 30%
Pre-birth contact, and photos and updates only thereafter: 65%
Pre-birth contact, photos and updates, and one or two

annual face-to-face get-togethers: 5% It is not unheard of for birth mothers to request an open adoption, then disappear from the child and adoptive family's life.

Open adoption and birth fathers

No disrespect is intended toward birth fathers in only discussing openness with birth mothers above. The reality, however, is that few birth fathers elect to take a role in adoption, given the fact the pregnancies were usually unplanned, and often there was no long-term relationship with the birth mother. For those few birth fathers who volunteer to take a helpful and active role in creating the adoption situation for the adopting parents, the potential benefits to a continuing relationship with the birth father can be just as viable as with a birth mother.

Open adoption and older children

What about the placement of older children? These can take two widely divergent paths. Generally speaking, when a child has bonded to a birth parent (perhaps being raised by her or him for an extended time) then a need for an adoptive placement arises, it is usually critical for that child's emotional welfare to maintain ties with the birth parent. It's like uprooting a tree. If it is not transplanted in special manner, serious consequences can follow. Sometimes a parent raised a child, but a problem has arisen, and parenting is no longer possible, and there are no family members able to take over the parenting role, so adoption is the best option.

Another way older children can be placed for adoption is where the birth parents' rights were terminated by a court due to improper parenting: abuse, et cetera. Although the child may still foster idealized feelings for that failing parent, it is not uncommon in these adoptions for there to be no contact between the child and adoptive parents, and the birth parent.

History of openness in adoption

A closed adoption is an adoption in which the parties involved do not know the identities of each other. Closed and secret records reassured adoptive parents from the fear of returning natural parents. The social stigma of unmarried mothers, particularly during the BSE (Baby Scoop Era) 1945-1975 rendered "unwed mothers" social outcasts. In a mother driven society after WWII infertile couples were also seen as deviant due to their inability to bear children. The social experiment of taking the children from "unmarried mothers" and "giving them" to adoptive parents became the norm during the BSE. These adoptions were predominantly closed. The records were sealed, natural mothers were told to keep their child a secret, and adoptive parents told to treat the child "as if born to".

By the 1980s, as the social stigma slowly decreased with Abortion Laws and ready access to birth control, domestic adoption decreased dramatically. The adoption industry needed an incentive to entice mothers to surrender their children for adoption, and "Open Adoption" was created. The fact that 80% of Open Adoptions close early after the birth

of a child, is not readily given to mothers of adoption separation before Consents are signed.

Although open adoptions are thought to be a relatively new phenomenon, in fact most adoptions in the United States were open until the twentieth century. Until the 1930s, most adoptive parents and biological parents had contact at least during the adoption process. In many cases, adoption was seen as a social support: young children were adopted out not only to help their parents (by reducing the number of children they had to support) but also to help another family by providing an apprentice.

Adoptions became closed when social pressures mandated that families preserve the myth that they were formed biologically. One researcher has referred to these families, that made every attempt to match the child physically to their adoptive families, as 'as if families.

Access to birth records

In nearly all US states, adoption records are sealed and withheld from public inspection after the adoption is finalized. Most states have instituted procedures by which parties to an adoption may obtain non-identifying and identifying information from an adoption record while still protecting the interests of all parties. Non-identifying information includes the date and place of the adoptee's birth; age, race, ethnicity, religion, medical history, physical description, education, occupation of the natural parents; reason for placing the child for adoption; and the existence of natural siblings.

All states allow an adoptive parents access to nonidentifying information of an adoptee who is still a minor. Nearly all states allow the adoptee, upon reaching adulthood, access to non-identifying information about their relatives. Approximately 27 states allow natural parents access to non-identifying information. In addition, many states give such access to adult siblings. Identifying information is any data that may lead to the positive

identification of an adoptee, natural parents, or other relatives. Nearly all states permit the release of identifying information when the person whose information is sought has consented to the release. Many states ask natural parents to specify at the time of consent or surrender whether they are willing to have their identity disclosed to the adoptee when he or she is age 18 or 21.5. If consent is not on file, the information may not be released without a court order documenting good cause to release the information. A person seeking a court order must be able to demonstrate by clear and convincing evidence that there is a compelling reason for disclosure that outweighs maintaining the confidentiality of a party to an adoption. In Alabama, Alaska, Delaware, Kansas, New Hampshire, and Oregon, there is no requirement to document good cause in order to access their birth certificates. Some groups, such as Bastard Nation, One Voice, and Origins USA, campaign for adoptees' automatic access to birth certificates in other US states.

At age 18, people adopted in the United Kingdom, Australia, Europe and in several provinces in Canada are automatically entitled to their birth certificates and may access their adoption records.

Chapter 3

Closed Adoption

Closed adoption (also called "confidential" adoption and sometimes "secret" adoption) is the process by which an infant is adopted by another family, and the record of the biological parent(s) is kept sealed. (Often, the biological father is not recorded—even on the original birth certificate.) An adoption of an older child who already knows his or her biological parent(s) cannot be made closed or secret. This formerly was the most traditional and popular type of adoption, peaking in the decades of the post-World War II Baby Scoop Era. It still exists today, but it exists alongside the practice of open adoption. The sealed records effectively prevent the adoptee and the biological parents from finding, or even knowing anything about each other (especially in the days before the Internet). However, the emergence of non-profit organizations and private companies to assist individuals with their sealed records has been effective in helping people who want to connect with biological relatives to do so.

Background and procedure

Historically, the four primary reasons for married couples to obtain a child via closed adoption have been (in no particular order) infertility, asexuality, having concern for a child's welfare (i.e. would not likely be adopted by others), and to ensure the sex of the child (such as a family with five girls and no boys, for example). In 1917, Minnesota was the first U.S. state to pass an adoption confidentiality and sealed records law. Within the next few decades, most United States states and Canadian provinces had a similar law. The reason for sealing records and doing a closed adoption is to protect the adoptee and adoptive parents from disruption by the birth parents and in turn, to allow birth parents to make a new life.

Many adopting parents in non-private adoptions would apply to a local, state licensed adoption agency. The agency may be a member of the national Child Welfare League of America (CWLA). (The CWLA and many adoption agencies are still in operation today, but with an expanded and somewhat different agenda compared to past decades, as the government has largely taken over some of their previous responsibilities.)

Prior to adoption, the infant would often be placed in temporary and state-mandated foster care for a few weeks to several months until the adoption was approved. This would also help ensure that he or she was healthy, that the birthparent was sure about relinquishment, and that nothing was overlooked at the time of birth. Nowadays, this practice is discouraged, as it prevents immediate bonding between the mother and child. Also, much better medical testing is available, both prenatally and postnatally.

Once the adoption has been approved, the agency transfers the infant from foster care (if used) to the adoptive parents. After the infant has spent a few weeks or months with the adoptive parents, a local judge formally and legally approves the adoption. The biological mother can take back the child months after the placement of the child. The biological mother has until the final court hearing. The infant is then issued a second, amended birth certificate that states the adopting parents are the actual parents. This becomes the adopted person's permanent, legal birth certificate. In the post WWII era laws were enacted which prevented both the adoptee and adoptive family to access the original, and the information given to them can be quite limited (though this has varied somewhat over the years, and from one agency to another). Originally, the sealed record laws were meant to keep information private from everyone except the 'parties to the action' (adoptee, adoptive parent, birthparent and agency). Over time, the laws were reinterpreted or rewritten to seal the information even from the involved parties.

In some states, (North Carolina, Georgia, Virginia) the city and county of the adoptees birth is changed on the amended birth certificate, to where the adoptive parents were living at the time the adoption was finalized. Often, the states will not give the adoptee the correct location of their birth. The hospital may also be omitted on the amended birth certificate, especially if it primarily serves unwed mothers. In the USA, many such hospitals were run by the Salvation Army, and named after its founder, William Booth. By the mid-1970s, all of these hospitals had closed due to high costs and the reduced need for secrecy, as the social stigma of having a child out of wedlock in America had decreased. More and more mothers were either raising their child as a single parent (often with the help of the newly created institution of government welfare. Reg Niles, *Directory of Hospitals, Orphanages, Adoption Agencies and Maternity Homes* was published in 1981 and contains information about most US and Canadian facilities. [Adoption Directory]

Searches and reunions

From the early 1950's when Jean Paton began Orphan Voyage, and into the 1970's with the creation of ALMA, International Soundex Reunion Registry, Yesterday's Children, Concerned United Birthparents, TRIADOPTION® Library, and dozens of other local search and reunion organizations, there has been a grass roots support system in place for those seeking information and reunion with family.

Reunion registries were designed so adoptees and their birth parents, siblings or other family members can locate one another at little or no cost. In these mutual consent registries, both parties must have registered in order for there to be a match. Most require

the adoptee to be at least 18 years old. Though they did not exist until late in the 20th century, today there are many internet sites, chat rooms, and other online resources that offer search information, registration and support.

From the very beginning, there have been Search Angels who help adoptees, siblings and birth families locate their relatives for free. Usually, these are persons personally touched by adoption who do not feel anyone should be charged a fee to get information about themselves or their family.

Laws are ever changing and in many states of the USA, most provinces in Canada, the UK and Australia there are now various forms of open records giving adoptees and birth family members access to information in their files and on each other.

Some states have confidential intermediary systems. This often requires a person to petition the court to view the sealed adoption records, then the intermediary conducts a search similar to that of a private investigator. This can be either a search for the birth mother at the request of the adoptee, or vice versa. Quite often, in the many years which have passed since the adoptee was born, a birth mother or female adoptee has both moved to another address, and married or remarried resulting in a change of her surname. While this can make the search difficult and time consuming, a marriage certificate may provide the needed clue as to the person's whereabouts. If and when the intermediary is able to contact the birth mother (or adoptee), she is informed that her adopted child (or birth mother) is inquiring about her. In many states, should this party indicate that he or she does not want to be contacted, by law, the information would *not* be given out. Upon completion of the search in which the birth mother agrees to be contacted, the intermediary usually sends the adoptee the official unamended birth certificate obtained from the court. The adoptive parents' application to an adoption agency remains confidential, however.

The cost for a confidential intermediary and related court fees can be around \$500, but varies by state and agency. For persons who can not afford the fees, there is usually assistance available from the tax-payer supported state department or the non-profit agency, and anyone can request from them how-to request this help. Most agencies charge a fixed fee which includes everything, and only in the most extreme and unusual circumstances ask for additional funds. If the adoptee is unable to locate (or would prefer to use a third person) to find his or her birth father, often the same confidential intermediary can be used for an additional fee.

There are also private search companies and investigators who charge fees to do a search for or assist adoptees and birth mothers and fathers locate each other, as well as to help other types of people searching. These services typically cost much more, but like search organizations and search angels, have far greater flexibility in regards to releasing information, and typically provide their own intermediary services. However, they may not circumvent the law regarding the confidentiality process.

In all adoption searches, it is uncommon to find both the birth mother and father at the same time. A separate search, if desired, can be done afterwards for the father. Since males seldom change their surnames, and the mother might have additional information, it is usually easier than the initial search for the birth mother. In many cases, adoptees are able to do this second search for their birth father by themselves (or they try before paying for assistance).

Females have statistically been somewhat more likely than males to search for their birth parents, and are far more likely to search for their adopted children. Very often, the reason the infant was put up for adoption in the first place was the birth father's unwillingness to marry or otherwise care for the child. Nevertheless, many birth fathers in this situation have agreed to meet with their grown children decades later.

In recent years, DNA tests designed for genealogists have been used by adult adoptees to identify biological relatives.

Legal matters

Only a court order allows closed adoption records to be unsealed, which was quite uncommon prior to the early 1990s. A few cases have surfaced in which records were thought to have been sealed but were not—either by mishandling or misunderstanding. Although rare, a small number of people have been prosecuted over the years for violating the confidentiality of sealed adoption records. In 1998, Oregon voters passed Measure 58 which allowed adoptees to unseal their birth records without any court order. Some other states which formerly kept closed adoption records sealed permanently by default have since changed to allowing release once the adoptee turns 18. However, these laws were not made retroactive; only future adoptions subsequent to the laws' passage apply.

On June 1, 2009, Ontario, Canada opened its sealed records to adoptees and their birth parents, with a minimum age of 18 for the adoptee, or one additional year if the birth parents initiate the request. Both parties can protect their privacy by giving notice of how to be either contacted or not, and if the latter, with identifying information being released or not. All adoptions subsequent to September 1, 2008 will be "open adoptions"

For searches involving a confidential intermediary, the intermediary initiates obtaining the court order and is reimbursed for doing so. However, once the court grants this, it is still confidential information to everyone else until the other party agrees otherwise.

Many states, though, still keep this information sealed even *after* the adoptee and the birth parents agree to know and contact each other. A second court order would be required to have this information unsealed permanently. This is well beyond the scope of the initial search, and what is covered by the payment to the intermediary. Should an adoptee subsequently lose his or her unamended birth certificate, a court order may be required to obtain another one (even if a photocopy is submitted).

The probate laws of most states in the U.S. prohibit an adoptee from automatically inheriting from his or her birth parents. This applies regardless of whether or not the birth father participated in or agreed to the adoption. Had the adoption not have taken place, any son or daughter would be an heir upon his or her father's death—regardless of who his childhood caretakers were. There can be additional complications if the birth father has subsequently moved to another state. Should a birth parent include an "unknown" adoptee in his or her will, the probate court has no obligation to fulfill this type of request, while "known" adoptees may have the same status as non-family members. However, there is some variation in probate laws from one state to another.

Criticism of closed adoption

Closed adoption has been increasingly criticized in recent years as being unfair to both the adoptee and his or her birth parents. Some people believe that making the identities of a child's parents quite literally a state secret is a gross violation of human rights. On the other hand, the birth mother may have desired the secrecy because of a premarital affair.

In virtually all cases, the decision is up to the adoptive parents regarding how to inform the child that he or she has been adopted, and at what age to do so, if at all. Although a non-profit adoption agency (if one is used) might mail newsletters and solicit funds from the parents, traditionally, it has been extremely rare for them to communicate directly with the child. (Usually, adoption agencies do not contain the word "adoption" in their name.)

Difficulties include the lack of a genetic medical history which could be important in disease prevention. Often, this was not given at the time of adoption, and the father's history is usually little known even to the mother. Many children who are involved in a closed adoption feel abandonment, anger, rejection or just a mistake. The child also feels a sense of insecurity that when they get close to someone they will leave them just like the biological mother did.

Adoptive parents may be less likely to consider the possibility that *they* are doing something wrong, and blame the child's heredity. The parents may even unfavorably compare their adopted child with a near-perfect, genetically-related "fantasy" child. This enables them to blame ordinary problems which all parents face on their child's supposedly "defective" genes. Thus, while non-adoptive parents are focused on nurture, some adoptive parents are solely focused on nature (i.e. heredity) instead. This results in what could have been an easily resolved problem, going unresolved in families with adopted children, possibly accompanied by child abuse.

For many years in New York State, adoptees had to obtain the permission of their adoptive parents (unless deceased) to be included in a state-sponsored reunion registry *regardless of the age of the adoptee*. In some cases, older adults or even senior citizens felt like they were being treated like children, and required to obtain their parents' signature on the form. In a broader sense, they felt it could be inferred that adopted

children are *always* children, and thus second-class citizens subject to discrimination. The law has since been changed.

Organizations and media

Most US states and Canadian provinces have independent non-profit organizations that help adoptees and their birth parents initiate a search, and offers other adoption-related support. There are also independent and state funded reunion registries that facilitate reuniting family members. The International Soundex Reunion Registry (ISRR) is the oldest and largest. The Salvation Army also provides information in helping those who were born or gave birth in its maternity hospitals or homes. This is a change from previous decades, when nothing was ever released without a rarely given or sought court order.

Many in the adoption community first learned of search and support resources through newspaper articles Adoption Articles, the Dear Abby column Dear Abby and various TV shows and movies. Starting in the mid-1980s, many adoptees and their parents first learned about the possibility of reunion on the NBC (later CBS) television program *Unsolved Mysteries* hosted by Robert Stack. This was under their "Lost Loves" category, the vast majority of which involved closed adoption. More than 100 reunions have occurred as a result of the program, many of those being the adoption-related cases. Reruns of the program (with a few new segments and updates) were also aired on the Lifetime Television cable network until mid-2006, and very briefly on Spike TV in late 2008. In September 2010, the program returned to Lifetime in the afternoon hours.

Chapter 4

Interracial Adoption

Interracial Adoption (also referred to as **Transracial Adoption**) refers to the act of placing a child of one racial or ethnic group with adoptive parents of another racial or ethnic group.

Interracial Adoption is not the same thing as Transcultural or International Adoption though in some circumstances an adoption may be Interracial, International, and Transcultural.

Statistics

Based on the Adoption and Foster Care Analysis and Reporting System (AFCARS), the fiscal year of 1998 showed that approximately 64% of children waiting in foster care are of minority background; 32% are white. Out of all foster children waiting for adoption 51% are black, 11% are Hispanic, 1% are American Indian, 1% are Asian/Pacific Islander, and 5% are unknown/unable to determine. Data from the 1995 National Survey of Family Growth (NSFG) show that adoption of an unrelated child was most common among childless white women and those with higher levels of income and education. The most recent estimate of interracial adoption was performed in 1987 by the National Health Interview Survey (NHIS) and it found that 1% of white women adopt black children, 5% of white women adopt children of other races, and 2% of women of other races adopt white children (estimates include foreign-born).

The US Census 2000 found that "White (and no other race), not Hispanic children made up the majority of all categories of children of householders under 18: about 58 percent of adopted children, 64 percent of biological children" and "Of the 1.7 million households with adopted children, about 308,000 (18 percent) contained members of different races."

History

Before World War II it was very rare for white couples to adopt a child of a different race and every effort was made in order to match a child with the skin color and religion of the adoptive family. Then in 1944 the Boys and Girls Aid Society took an interest in the increasing number of minority children waiting to be adopted which focused on children from Asian American, Native American, and African American heritage. Children of Asian and Native American heritage were most easily placed outside of their racial group while those African Americans heritage proved more difficult. The campaign was called "Operation Brown Baby" and its objective was to find adoptive homes even if from a different race. Then during the civil rights movement, interracial adoptions in the United States increased dramatically and the numbers more than tripled from 733 cases in 1968 to 2,574 cases in 1971. (There are now about 6,500 cases a year.) It was then that the National Association of Black Social Workers condemned interracial adoption citing that adoptees were at risk for developing a poor racial identity due to lack of contact with role models of the same race. In the 1990s the placement of black children into non-black homes virtually came to a complete stop.

Law

In 1994 the *Howard M. Metzenbaum Multiethnic Placement Act* was passed. It prohibits an agency that receives Federal assistance and is involved in foster care and adoptive placements from delaying or denying the placement of a child based on race, color, or national origin of the child or adoptive/foster parent. Then, in 1996 it was amended with the *Interethnic Adoption Provisions*. These provisions forbid agencies from delaying or denying the placement of a child *solely* on the basis of race and national origin. The purpose of these revisions was to strengthen compliance and enforcement of the procedures, remove any misleading language, and demand that discrimination would not be tolerated.

Another important law regarding interracial adoptions was the Adoption and Safe Families Act that was implemented in 1997. The purpose of this law is to reduce the time that a child spends in foster care by implementing a two-year limit and therefore hopefully moving a child closer to permanent adoption. The purpose of this act was to reduce the instability and abuse problems in the foster care system. Critics argue that it also takes the emphasis off of trying to keep children with their biological parents.

Academic research

Adolescent adjustment

One study found that interracial adoptees fare sometimes better, sometimes worse, but overall about the same as their same-race adopted counterparts across the 12 adjustment measures investigated. These measures investigated indices of academic, familial, psychological, and health outcomes for 4 groups of interracial and same-race adopted adolescents. Specifically, interracial adoptees had significantly higher grades and

significantly higher academic expectations but marginally more distant father relationships and higher levels of psychosomatic symptoms than their same-race adopted counterparts. Also, Asian adolescents adopted by white parents had both the highest grades and the highest levels of psychosomatic symptoms, whereas black adolescents adopted by black parents reported the highest levels of depression. On the other hand, black adoptees reported higher levels of self-worth than non-black adoptees.

Appearance Discomfort

Another reported that reported adjustment problems among their children at approximately the same levels as were reported by the parents of intraracially adopted whites. Yet, evidence also showed that extra-family forces, for example societal racism, did negatively impact adjustment outcomes. Particularly, experiences of discrimination generated feelings of appearance discomfort. The research suggested that black and Asian children, who appear unmistakably different from whites, are most likely to encounter such societal discrimination. Apparently, many Latino children with European physical features can safely escape such expressions of racism. One of this study's most interesting findings showed that interracial adoptive parents' decisions on where to live had a substantial impact upon their children's adjustments. Interracial adoptive parents living in predominantly white communities tended to have adoptees that experienced more discomfort about their appearance than those who lived in integrated settings.

Cultural identity

Research has focused on the formation of cultural identity by the children adopted. For example, one study focused on Korean and Chinese children adopted by families in the United States. Interviews discovered that a high degree of involvement by children in Korean cultural activities was positively associated with scores measuring the strength of the children's Korean identity as well as with ease of communication with their parents about their adoptions. Parental encouragement of cultural activities & co-participation in them seemed to be critical in the development of ethnic identification. Many Children find that they are so adapted to their parents' and family's culture that they start to forget their own.

Ethnocentric bias

Finally, some research has examined the empirical studies of interracial adoption themselves. These studies address whether past research that claims that interracial adoption positively benefits children of color, particularly black children, may have methodological difficulties. Specifically, these studies analyze the presence of an ethnocentric bias in legal and scientific assessments of children's well-being and adjustment.

Two points of view

Pro interracial adoption

A dichotomy exists in reference to the subject of interracial adoption. Critics of race matching say there is a darker side involving whites with lingering racist beliefs against mixing races. They argue that children are hurt most by the practice. "One of the problems with race-matching policies," says Donna Matias, a lawyer with the Institute of justice, "is that it leaves the children in the system to wait. They are thrown into a vicious cycle where the chances plummet that they will ever get adopted." Never getting adopted has been shown to have a negative impact on children. After aging out of foster care, 27% of males and 10% of females were incarcerated within 12 to 18 months. 50% were unemployed, 37% had not finished high school, 33% received public assistance, and 19% of females had given birth to children. Before leaving care, 47 percent were receiving some kind of counseling or medication for mental health problems; that number dropped to 21% after leaving care.

Pro race matching

David Watts, a biracial social worker in New York who was raised by an adoptive white family, states that "It's a bad idea to put a black child in a white home.... I think it's impossible for someone of one culture to teach another culture". "You have to live it in order to absorb it." The National Association of Black Social Workers (NABSW) has taken this stance, suggesting that interracial adoption is a form of "genocide" and that "black children in white homes are cut off from the healthy development of themselves as black people." "Same race makes sense because it is what the child is accustomed to, what causes the least disruption in the child's life," says Toni Oliver, a chairman of the organization. "Often when people are looking at 'love is all it takes,' they seem to overlook the impact race has on our society. Somehow when it's a case of adoption, race suddenly doesn't seem to matter anymore."

Chapter 5

International Adoption

International adoption (also referred to as **intercountry adoption** or **transnational adoption**) is a type of adoption in which an individual or couple becomes the legal and permanent parents of a child that is a national of a different country. In general, prospective adoptive parents must meet the legal adoption requirements of their country of residence and those of the country whose nationality the child holds.

International Adoption is not the same thing as Transcultural or Interracial Adoption.

The laws of different countries vary in their willingness to allow international adoptions. Some countries, such as China and Korea, have relatively well-established rules and procedures for international adoptions, while other countries expressly forbid it. Some countries, notably many African nations, have extended residency requirements for adoptive parents that in effect rule out most international adoptions. Malawi, for instance, requires residency except in special cases.

Process overview

The requirements necessary to begin the process of international adoption can vary depending on the country of the adoptive parent(s). For example, while most countries require prospective adoptive parents to first get approval to adopt, in some the approval can only be received from a state agency, while in others cases, it can be obtained from a private adoption agency.

In the United States, typically the first stage of the process is selecting a licensed adoption agency or attorney to work with. Each agency or attorney works with a different set of countries, although some only focus on a single country. Pursuant to the rules of the Hague Convention (an international treaty related to adoption issues) the adoption agency or attorney must be accredited by the U.S. government if the child's country is also a participant in the Hague Convention. If the child's country is not a participant in

the Hague Convention, then the rules of the Hague do not apply, and instead the specific laws of the child and adoptive parents must be followed. Even when the Hague does not apply, a home study and USCIS (United States Citizen and Immigration Services)(formerly INS (Immigration and Naturalization Service) approval are requirements. The Hague is discussed below.

A dossier is prepared that contains a large amount of information about the prospective adoptive parents required by the child's country. Typically this includes financial information, a background check, fingerprints, a home study review by a social worker, report from the adoptive parents' doctor regarding their health, and other supporting information. Again, requirements will vary widely from country to country, and even region to region in large countries such as Russia. Once complete, the dossier is submitted for review to the appropriate authorities in the child's country.

After the dossier is reviewed and the prospective parents are approved to adopt, they are matched to an eligible child (except in some countries such as India, which does not allow "matching" of a child to (a) prospective parent(s)). The parent is usually sent information about the child, such as age, gender, health history, etc. This is generally called a referral. A travel date is typically included, informing the parents when they may travel to meet the child and sign any additional paperwork required to accept the referral. Some countries, such as Kazakhstan, do not allow referrals until the prospective parent travels to the country on their first trip. This is called a "blind" referral.

Depending on the country, the parents may have to make more than one trip overseas to complete the legal process. Some countries allow a child to be escorted to the adoptive parents' home country and the adoptive parents are not required to travel to the country of their adopted child.

There are usually several requirements after this point, such as paperwork to make the child a legal citizen of the adopting parents' country or re-adopt them. In addition, one or more follow up (or "post placement") visits from a social worker may be required — either by the placing agency used by the adoptive parents or by the laws of the country from which the child was adopted. In the United States, citizenship is automatically granted to all foreign-born children when at least one adoptive parent is a U.S. citizen, in accordance with the Child Citizenship Act of 2000. Depending on the circumstances of the adoption, the actual grant of citizenship takes place either upon the child's admission to the U.S. as an immigrant or the child's adoption in the parent's home jurisdiction.

Policies and requirements

Adoption policies for each country vary widely. Items such as the age of the adoptive parents, financial status, educational level, marital status and history, number of dependent children in the house, sexual orientation, weight, psychological health, and ancestry are used by different countries to determine what parents are eligible to adopt from that country.

Items such as the age of the child, fees and expenses, and the amount of travel time required in the child's birth country, can also vary widely from one country to another.

Each country sets its own rules, timelines and requirements surrounding adoption, and there are also rules that vary within the United States for each state. Each country, and often each part of the country, also sets its own rules about what type of information will be shared and how it will be shared (e.g. a picture of the child, child's health). Reliability and verifiability of the information is also variable.

Most countries require that a parent travel to bring the child home; however, some countries allow the child to be escorted to his or her new homeland.

The U.S. Department of State has designated two accrediting entities for organizations providing inter-country adoption services in the United States that work with sending countries that have ratified the Hague Convention on Protection of Children and Cooperation in Respect of Intercountry Adoption. They are the Council on Accreditation and the Colorado Department of Health and Human Services. The U.S. Department of State maintains a list of all accredited international adoption providers.

Sources of children and adoptive parents

The most common countries for international adoption by parents in the United States for 2007 were China (5453), Guatemala (4728), Russia (2310), Ethiopia (1255), South Korea (939), Vietnam (828) Ukraine (606), Kazakhstan (540), India (416) Liberia (353), Colombia (310), and Philippines (265).(U.S. State Department) Other less common countries include Bulgaria, Norway, Australia, Kenya, Canada, Haiti, and Poland. These statistics can vary from year to year as each country alters its rules; Romania, Belarus and Cambodia were also important until government crackdowns on adoptions to weed out abuse in the system cut off the flow. Vietnam recently signed a treaty opening its doors for adoption. Guatemala has recently closed its doors.

Although Nepal has not closed its doors for adoption, the United States government has suspended adoptions from Nepal. Documents that were presented in support of the abandonment of these children in Nepal have been found to be unreliable and circumstances of alleged abandonment cannot be verified because of obstacle in the investigation of individual cases.

China is the one major country where girls adopted far outnumber boys; due to the Chinese culture's son preference in combination with the official planned birth policy implemented in 1979, about 95% of Chinese children adopted are girls. Although India also has a noticeable excess of girls being adopted (68% girls), most other countries are about even. South Korea is the one country that has a relatively large excess of boys being adopted; about 60% are boys. This is a switch from the 1980s, when most Korean adoptees (about two-thirds) were girls.

Adoption from Ethiopia has become an increasingly popular option for adoptive families in the US. According to the U.S. Department of State, there were 441 orphans visas issued to Ethiopian children in 2005, and 732 issued in 2006.

International Adoption Laws

A country's willingness to allow international adoption will vary to accommodate that country's laws. Some countries, such as China and Vietnam, have relatively well-established rules and procedures for foreign adopters to follow, while others, the United Arab Emirates (UAE) for example, expressly forbid it. Some countries, notably many African nations, have extended residency requirements that in effect rule out most international adoptions. Others, such as Romania are closed to international adoption altogether, with the exception of adoptions by close relatives (such as grandparents). However, as of 2009, many countries around the world are completely closed off to international adoption because of accusations of exporting children, of selling natives to foreigners and the shame that most governments feel about not being able to support their own children.

Hague Conference on Private International Law

Recognizing some of the difficulties and challenges associated with international adoption, and in an effort to protect those involved from the corruption and exploitation which sometimes accompanies it, the Hague Conference on Private International Law developed the Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption, which came into force on 1 May 1995.

The main objectives of the Convention are:

- to establish safeguards to ensure that intercountry adoptions take place in the best interests of the child and with respect for his or her fundamental rights as recognized in international law;
- to establish a system of co-operation amongst Contracting States to ensure that those safeguards are respected and thereby prevent the abduction, the sale of, or traffic in children;
- to secure the recognition in Contracting States of adoptions made in accordance with the Convention.

As of October 2008, this Convention has been ratified by 76 countries. Ireland and the Russian Federation are signatories, but have not ratified.

The following is a quotation from the convention:

Intercountry adoptions shall be made in the best interests of the child and with respect for his or her fundamental rights. To prevent the abduction, the sale of, or traffic in children each State should take, as a matter of priority, appropriate measures to enable the child to remain in the care of his or her family of origin.

However, while the Hague Convention is an excellent ideal, in implementation it could actually impede many adoptions. A country like Guatemala, which has had a plethora of child trafficking, prostitution and many orphans, are now temporarily closed to adoptions after the country's ratification of the Hague Convention. The convention causes some governments like India to run incredibly slow, creates a rigorous process that few pass, and instead of helping the children get out of orphanages, it keeps them inside them, getting older and older until they pass the age of adoption and simply wait until they are legal adults. Most children who grow up in orphanages and become legal adults get very little in the way of education, most become unemployed, or pregnant and begin the vicious cycle all over again.

While the Hague convention is an exemplary step in the right direction by most governments, it could sometimes actually hinder many adoptions to families that would normally qualify and causing children to miss opportunities that could have saved and changed their lives.

UN Declaration Relating to the Welfare of Children

The UN declaration Relating to the Welfare of Children emphasises the preference for children being raised by family members, rather than by adoptive families. "The child shall, wherever possible, grow up in the care and under the responsibility of his parents and, in any case, in an atmosphere of affection and of moral and material security. The Declaration makes clear that international adoption should only be considered as a last resort. This is explained in Article 15 "If a child cannot be placed in a foster or an adoptive family or cannot in any suitable manner be cared for in the country of origin, intercountry adoption may be considered as an alternative means of providing the child with a family." In such a situation, the Declaration also advocates time and patience in the adoptive process, i.e. not rushing into adoptions in the wake of disasters. Article 15 states "Sufficient time and adequate counselling should be given to the child's own parents, the prospective adoptive parents and, as appropriate, the child in order to reach a decision on the child's future..." Clearly, the UN Declaration is against the idea of international adoption as a whole, and is most certainly against rushed international adoption.

Consequences and problems

Negative consequences of international adoption

Child trafficking or child laundering

Child trafficking is a broad term that refers to the buying, selling or illegal transportation of children. Child laundering is a more precise term that refers to the stealing of children who are then sold to adoptive parents as legitimate "orphans." Often the pretence is that the child's parents are dead when in fact the child's parents are still alive. In some cases the children are stolen from the home; in other cases the children are left at orphanages for temporary care or schools for education. These then sell the children using false

papers. In some cases the parents may even sell the children. This trafficking can occur anywhere but is most prominent in poorly regulated countries or where local corruption is a factor. Up to the end of 2007, Guatemala, was one of the top sources of adopted children, and was investigated for this sort of corruption. Guatemala changed the country's adoption law after massive international pressure, ratified the Hague-convention on intercountry adoptions, and the number of adoptions has fallen dramatically.

While most international adoptions are not tainted by child trafficking, some problems do exist. Receiving nations such as the United States have implemented safeguards to ensure that adopted children are in fact legally available for adoption. Occasionally, the United States has suspended adoption from certain countries in order to investigate fraud and, where needed, require change from the sending country.

Richard Cross, the lead federal investigator for the prosecution of Lauryn Galindo for visa fraud and money laundering involved in Cambodian adoptions, estimated that most of the 800 adoptions Galindo facilitated were fraudulent--either based on fraudulent paperwork, coerced/induced/recruited relinquishments, babies bought, identities of the children switched, etc.

The Hague Convention on Intercountry Adoption (short title for Convention #33) is one measure intended to further shield international adoption against child trafficking.

Loss of culture, family or identity

International adoption is a relatively new phenomenon when compared to domestic adoption. One of the debates in international adoption circles has been about the adopted child's sense of belonging in their new country. Some believe that this is a particular concern for inter-racial adoptions. For example, Asian children who are adopted by Caucasians are of a recognizably different race than their adoptive parents, and might be expected to have a harder time fitting in than, say, a Russian child.

Nowadays, however, the children and adoptive parents are encouraged to explore their origins of birth. From their birth parents, to their birth cultures exploration is almost expected. For example, Korea holds "cultural training camps" where Korean adoptees are able to explore their birth country for the first time. Until recently, Korean adoptees were seen as outcasts, and these training camps are the Korean government's way of changing the view of these "outcasts" to "overseas Koreans." It has slowly shown positive results, and a closer kinship of adoptees to their birth country.

Questions still remain. Is it detrimental to a child's well-being to keep them from getting to know their birth origin? Or are more problems caused by encouraging and allowing foreign adoptees to explore their birth culture? Also, how should the adoptive parents prepare to deal with a bi-racial family in which the adults are of one race while the child is of another? And how do we reconcile differences between adoptive parents' assumptions about adoption with adoptees' experiences of living with a condition that

they were too young to decide on for themselves? As of right now, a critical mass of scholars, adoption professionals and community representatives are only beginning to explore these questions with the growing community groups made up of international adoptees (many who have finally now reached maturity). Anthropologists, for example, have very recently started to study the effects of kinship, belonging, culture, nation, and even genes and the roles they play in the upbringing of foreign adoptees. As Pauline Turner Strong said in an article in *Relative Values: Reconfiguring Kinship Studies*: "Adoption across political and cultural borders may simultaneously be an act of violence and an act of love, an excruciating rupture and a generous incorporation, an appropriation of valued resources and a constitution of personal ties."

Scholarly accounts in journal articles, higher-degree studies and books by authors such as Toby Volkman, David Eng, Sara Dorow, Indigo Willing and Tobias Hubinette also suggest that adoption is a contested practice, with a variety of competing voices ranging from adoptive parents who not only adopt but also dominate published accounts of the practice, to those who have been internationally adopted and are now beginning to enter research fields focusing on adoption (such as members of the International Adoptee Congress Research Committee).

All these researchers now have the benefit of drawing on populations of the "first waves" of internationally adopted people who have now reached adulthood, as seen in the rise of Korean and Vietnamese adoptee groups alone. At the same time, it is hard to determine any sort of best practice in adoption if only based on conflicting research agendas, paradigms and narratives presented by psychologists, sociologists, and anthropologists alike. More serious consultation with a range of internationally adopted people from various professional and community-work based backgrounds needs to be included before the field of adoption study is more truly representative and rigorously informed.

The origin of the child also plays a role in whether he will adjust to adoption well. Children from orphanages, for example, have rarely ever slept in a room by themselves at night. When they are adopted and given a room of their own, they show likelihood to develop sleeping problems and ill health can result from their adjustment. It helps if parents allow the child to sleep in their bedroom, or in the bedroom of a sibling. Cultural backgrounds can affect adjustment as well. For example, children from Russia are in high demand the adoption market in the United States. Because of this, the price to adopt a child from Russia is very high, and Russian adoption agencies have become more of a business than a method to provide for children in need. Prior to adoption, children are neglected in orphanages, often do not receive proper nutrition, and are used as a bartering tool to make money. When these children are adopted, they are likely to act out because of the negative treatment they received in their country of origin. Cultural treatment of children and political situations in countries affect children when they are adopted internationally. Even being of a different race than the adopted family can cause the adoptee to feel like a misfit.

However, mostly children are adopted, they will get used to the new family and accept the new environment as time goes by, since the family will treat the children they adopt

as their true member of family. In terms of linguistic field, most children before 12 have not formed their own culture identity. However, by living with the family who adopt the children, so it is easy to form children with the cultural perception where they were adopted at. So the environment mostly decides how efficient they can master language as well as the local culture by being a local speaker in the culture. Regarding cultural identity, what kind of language they use or what kind of cultural background they have leads to make children to form the cultural identity of the place they are raised. As long as they use the local languages they speak in the adopted family for a long time, they will fit in the society better because of they already built up the local culture perspective in their minds unconsciously. So the environment and language combine together to make the children form local cultural identity in their minds more or less. And instead, they tend to lose their original identities from their roots. It is environment that helps the children learn language well or even force them use the local language. So, by all means, environment decides language, and languages helps people to form their own culture identities in a new environment or family.

Positive consequences of international adoption

In most cases, international adoption results from a child whose birthparents were unable to parent and provide for them within the environment of a family instead of an institution such as an orphanage. This can mean the difference between a life and death. In other cases, the children may be saved from a life of desperation, abuse, and squalor. Every child needs a family. [The Irreducible Needs of Children: What Every Child Must Have to Grow, Learn, and Flourish; Copyright 2000 by T. Berry Brazelton, M.D. and Stanley I. Greenspan, MD; ISBN 0-7382-0516-8] Further, adopted children are happier and healthier, mentally and physically, than are orphans who are not adopted. [Brodzinsky, D. M. "Long-Term Outcomes in Adoption." The Future of Children 3, 1993]

A recent study by Dutch professor Femmi Juffer challenges the notion that adoption hurts a child's self-esteem in that adopted kids would unconsciously blame themselves for the loss of their birth families and on some level feel that they hadn't been good enough for their families to keep them. Juffer compiled data from 80 studies and concluded that adopted children are not at risk for low self esteem, even in the case of interracial adoptions and international adoptions. Differences in race between a child and their adoptive parents did not matter and children from interracial/international-adoption families performed the same as children adopted into families of the same race/culture. In the long term cultural differences were not as problematic as expected, and even older adopted children, those thought to be the most difficult and more severely and permanently damaged, adjusted over time as well. Overall, although adoption may have initial adverse effects and negative experiences for childhood, the children are capable of change and development for the better. But Steven Nickman of Harvard Medical School, who recently did a review of the adoption literature, says that while Juffer's study is careful and methodologically sound, there are some limits to her research. Essentially, Nickman says, the study doesn't include any of the most difficult cases and as someone

who works with adopted kids, Nickman knows that not all adoptions turn out well. Some are incredibly painful. Still, he finds Juffer's work encouraging.

Reform efforts

Due to the appeal and otherwise obvious difficult issues presented by international adoption, the reform movement seeks to influence governments to adopt regulations that serve the best interest of the child and meet the interests of both the adoptive and biological family members. Significant advances have been made in increasing the regulation of International Adoptions. Hague Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption

International Adoption After a Disaster

Of special note to international adoption are campaigns for adoptions that occur after disasters such as hurricanes, tsunamis, and wars. There is often an outpouring of adoption proposals in such cases from foreigners who want to give homes to children left in need. While adoption may be a way to provide stable, loving families for children in need, it is also suggested that adoption in the immediate aftermath of trauma or upheaval may not be the best option. Moving children too quickly into new adoptive homes among strangers may be a mistake because with time, it may turn out that the parents have survived but were unable to find the children, or there may be a relative or neighbor who can offer shelter and homes. Providing safety and emotional support may be better in those situations than immediate relocation to a new adoptive family. There is also an increased risk, immediately following a disaster, that displaced and/or orphaned children may be more vulnerable to exploitation and child trafficking.

Chapter 6

Foster Care

Foster care is the term used for a system in which a minor who has been made a ward is placed in the private home of a state certified caregiver referred to as a "foster parent".

The state via the family court and child protection agency stand *in loco parentis* to the minor, making all legal decisions while the foster parent is responsible for the day to day care of said minor. The foster parent is remunerated by the state for their services.

Foster care is intended to be a short term situation until a permanent placement can be made:

- Reunification with the biological parent(s)
 - When it is deemed in the child's best interest. This is generally the first choice.
- Adoption
 - Preferably by a biological family member such as an aunt or grandparent.
 - If no biological family member is willing or able to adopt, the next preference is for the child to be adopted by the foster parents or by someone else involved in the child's life (such as a teacher or coach). This is to maintain continuity in the child's life.
 - If neither above option are available, the child may be adopted by someone who is a stranger to the child.
- Permanent transfer of guardianship
- If none of these options are viable the plan for the minor may enter OPPLA (Other Planned Permanent Living Arrangement). This option allows the child to stay in custody of the state and the child can stay placed in a foster home, with a relative or an Independent Living Center or long term care facility (for children with development disabilities, physical disabilities or mental disabilities).

Foster care placement

547,415 children were in publicly supported foster care in the United States in September 2000. In 2009, there were 423,773 children in foster care, a drop of about 20% in a decade.

In 2009, there were about 123,000 children ready for adoptive families in the nations foster care systems. African American children represented 41% of children in foster care, white children represented 40% and Hispanic children represented 15% in the year 2000.

Children may enter foster care via voluntary or involuntary means. Voluntary placement may occur when a biological parent or lawful guardian is unable or unwilling to care for a child. Involuntary placement occurs when a child is removed from their biological parent or lawful guardian due to the risk or actual occurrence of physical or psychological harm. In the US, most children enter foster care due to neglect.

Regulation, administration, and oversight

The policies regarding foster care as well as the criteria to be met in order to become a foster parent vary according to legal jurisdiction.

In the United States, foster home licensing requirements vary from state to state but are generally overseen by each state's Department of Social Services or Human Services. In some states, counties have this responsibility. Each state's services are monitored by the federal Department of Health and Human Services through reviews such as Child and Family Services Reviews, Title IV-E Foster Care Eligibility Reviews, Adoption and Foster Care Analysis and Reporting System and Statewide Automated Child Welfare Information System Assessment Reviews.

The foster parent licensing process is often similar to or the same as the process to become licensed to adopt. It requires preparation classes as well as an application process. The application varies but may include: a minimum age, verification that your income allows you to meet your expenses, a criminal record check at local, state and federal levels including finger printing and no prior record of child abuse or neglect; a reference from a doctor to ensure that all household members are free from diseases that a child could catch and in sufficient health to parent a child and; letters of reference from an employer and others who know you.

Children found to be unable to function in a foster home may be placed in Residential Treatment Centers (RTCs) or other such group homes. In theory, the focus of treatment in such facilities is to prepare the child for a return to a foster home, to an adoptive home, or to the birth parents when applicable. But two major reviews of the scholarly literature have questioned these facilities' effectiveness. There are some children in foster care who are difficult to place in permanent homes through the normal adoption process. These children are often said to require "special-needs adoption." In this context, "special

needs" can include situations where children have specific chronic medical problems, mental health issues, behavioral problems, and learning disabilities. In some cases, sibling groups, older children, and children of color qualify as "special needs." Governments offer a variety of incentives and services to facilitate this class of adoptions.

Funding and system incentives

A law passed by Congress in 1961 allowed AFDC (welfare) payments to pay for foster care which was previously made only to children in their own homes. This made aided funding foster care for states and localities, facilitating rapid growth. In some cases, the state of Texas paid mental treatment centers as much as \$101,105 a year per child. Observers of the growth trend note that a county will only continue to receive funding while it keeps the child in its care. This may create a "perverse financial incentive" to place and retain children in foster care rather than leave them with their parents, and incentives are sometimes set up for maximum intervention. A National Coalition for Child Protection Reform issue paper states "children often are removed from their families 'prematurely or unnecessarily' because federal aid formulas give states 'a strong financial incentive' to do so rather than provide services to keep families together."

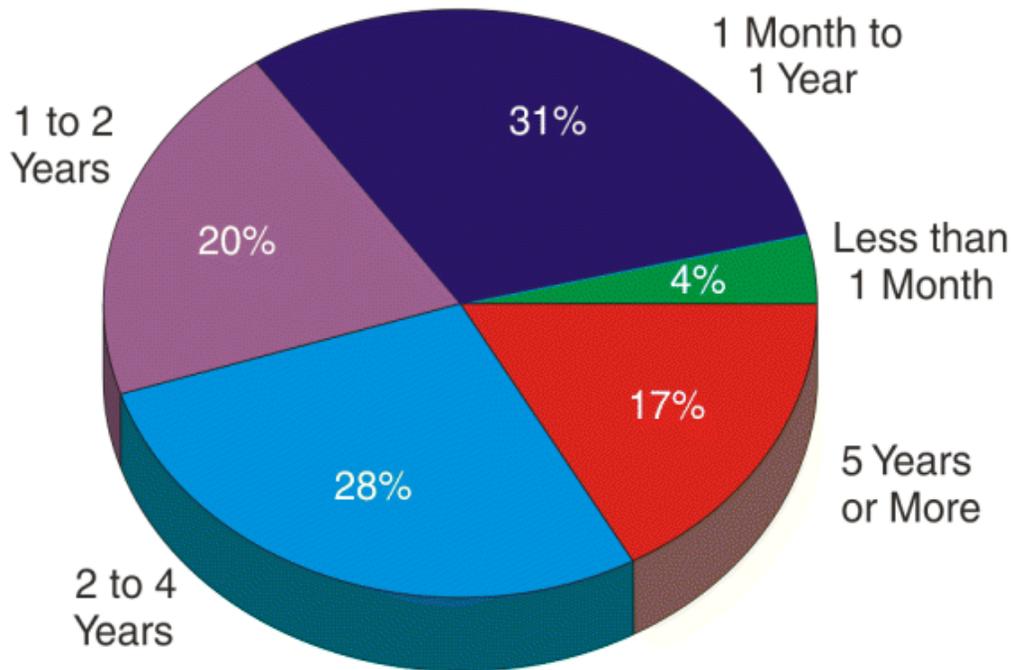
Findings of a grand jury investigation in Santa Clara, California:

The Grand Jury heard from staff members of the DFCS and others outside the department that the department puts too much money into "back-end services," i.e., therapists and attorneys, and not enough money into "front-end" or basic services. The county does not receive as much in federal funds for "front-end" services, which could help solve the problems causing family inadequacies, as it receives for out-of-home placements or foster care services. In other words, the Agency benefits, financially, from placing children in foster homes.

United States

Foster care legislation since 1990

Average Length of Stay in Foster Care



Source: Adoption and Foster Care Analysis and Reporting System, interim FY 2000 data.

Average length of stay in foster care in the U.S.

In 1997, the Adoption and Safe Families Act (ASFA) was passed. This reduced the time children are allowed to remain in foster care before being available for adoption. The new law requires state child welfare agencies to identify cases where "aggravated circumstances" make permanent separation of child from the birth family the best option for the safety and well-being of the child. One of the main components of ASFA is the imposition of stricter time limits on reunification efforts. Proponents of ASFA claimed that before the law was passed, the lack of such legislation was the reason it was common for children to languish in care for years with no permanent living situation identified. They often were moved from placement to placement with no real plan for a permanent home.

Opponents of ASFA argued that the real reason children languished in foster care was that too many were taken needlessly from their parents in the first place. Since ASFA did not address this, opponents said, it would not accomplish its goals, and would only slow a decline in the foster care population that should have occurred anyway because of a decline in reported child abuse.

Ten years after ASFA became law, the number of children in foster care on any given day has been about 7,000 fewer than when ASFA was passed

The Foster Care Independence Act of 1999, helps foster youth who are aging out of care to achieve self-sufficiency. The U.S. government has also funded the Education and Training Voucher Program in recent years in order to help youth who age out of care to obtain college or vocational training at a free or reduced cost. Chafee and ETV money is administered by each state as they see fit.

The Fostering Connections to Success and Increasing Adoptions Act of 2008 is the most recent piece of major federal legislation addressing the foster care system. This bill extended various benefits and funding for foster children between the age of 18 and 21 and for Indian children in tribal areas. The legislation also strengthens requirements for states in their treatment of siblings and introduces mechanisms to provide financial incentives for guardianship and adoption.

Constitutional issues

In May 2007, the United States 9th Circuit Court of Appeals found in *ROGERS v. COUNTY OF SAN JOAQUIN*, No. 05-16071 that a CPS social worker who removed children from their natural parents into foster care without obtaining judicial authorization, was acting without due process and without exigency (emergency conditions) violated the 14th Amendment and Title 42 United State Code Section 1983. The Fourteenth Amendment to the United States Constitution says that a state may not make a law that abridges "... the privileges or immunities of citizens of the United States" and no state may "deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws." Title 42 United States Code Section 1983 states that citizens can sue in federal courts any person that acting under a color of law to deprive the citizens of their civil rights under the pretext of a regulation of a state.

Australia

Home-based care, which includes foster care, is provided to children who are in need of care and protection. Children and young people are provided with alternative accommodation while they are unable to live with their parents. As well as foster care, this can include placements with relatives or kin, and residential care. In most cases, children in home-based care are also on a care and protection order.

In some cases children are placed in home-based care following a child protection substantiation and where they are found to be in need of a safer and more stable environment. In other situations parents may be incapable of providing adequate care for the child, or accommodation may be needed during times of family conflict or crisis. In the significant number of cases substance abuse is a major contributing factor.

Respite care is a type of foster care that is used to provide short-term (and often regular) accommodation for children whose parents are ill or unable to care for them on a temporary basis. It is also used to provide a break for the parent or primary carer to hopefully decrease the chances of the situation escalating to one which would lead to the removal of the child(ren).

As with the majority of child protection services, states and territories are responsible for funding home-based care. Non-government organizations are widely used, however, to provide these services.

Current policy

There is strong emphasis in current Australian policy and practice to keep children with their families wherever possible. In the event that children are placed in home-based care, every effort is made to reunite children with their families wherever possible.

In the case of Aboriginal and Torres Strait Islander children in particular, but not exclusively, placing the child within the wider family or community is preferred. This is consistent with the Aboriginal Child Placement Principle.

The negative effects of foster care

Individuals who were in foster care experience higher rates of physical and psychiatric morbidity than the general population. In a study of adults who were in foster care in Oregon and Washington state, they were found to have double the incidence of depression, 20% as compared to 10% and were found to have a higher rate of post-traumatic stress disorder (PTSD) than combat veterans with 25% of those studied having PTSD. Children in foster care have a higher probability of having Attention Deficit Hyperactivity Disorder, and deficits in executive functioning, anxiety as well as other developmental problems. These children experience higher degrees of incarceration, poverty, homelessness, and suicide. Recent studies in the U.S., suggests that, foster care placements are more detrimental to children than remaining in a troubled home.

Neurodevelopment

Foster care has been shown in various studies to have deleterious consequences on the physical health and mental wellbeing of those who were in foster care. Many children enter foster care at a very young age, a period where the development of mental and psychological processes are at one of their critical peaks. The human brain doesn't fully develop until approximately the age of twenty, and one of the most critical periods of brain development occurs in the first 3–4 years. The processes that govern the development of personality traits, stress response and cognitive skills are formed during this period. The developing brain is directly influenced by negative environmental factors including lack of stimulation due to emotional neglect, poor nutrition, exposure to violence in the home environment and child abuse.

Negative environmental influences have a direct effect on all areas of neurodevelopment: neurogenesis (creation of new neurons), apoptosis (death and reabsorption of neurons), migration (of neurons to different regions of the brain), synaptogenesis (creation of synapses), synaptic sculpturing (determining the make-up of the synapse), arborization (the growth of dendritic connections), myelination (protective covering of neurons), and an enlargement of the brain's ventricles, which can cause cortical atrophy.

Most of the processes involved in healthy neurodevelopment are predicated upon the establishment of close nurturing relationships and environmental stimulation. Foster children have elevated levels of cortisol, a stress hormone in comparison to children raised by their biological parents. Elevated cortisol levels can compromise the immune system. (Harden BJ, 2004). Negative environmental influences during this critical period of brain development can have lifelong consequences.

Epigenetic effects of environment

Gene expression can be affected by the environment through epigenetic mechanisms. Negative environmental influences, such as maternal deprivation, child abuse and stress have been shown to have a profound effect on gene expression, including transgenerational epigenetic effects in which physiological and behavioral (intellectual) transfer of information across generations-not-yet-conceived is effected. In the Överkalix study in Sweden, the effects of epigenetic inheritance were shown to have a direct correlation to the environmental influences faced by the parents and grandparents. Many physiological and behavioral characteristics ascribed to Mendelian inheritance are due in fact to transgenerational epigenetic inheritance. The implications in terms of foster care and the cost to society as a whole is that the stress, deprivation and other negative environmental factors many foster children are subjected to has a detrimental effect not only their physical, emotional and cognitive well-being, but that the damage can transcend generations.

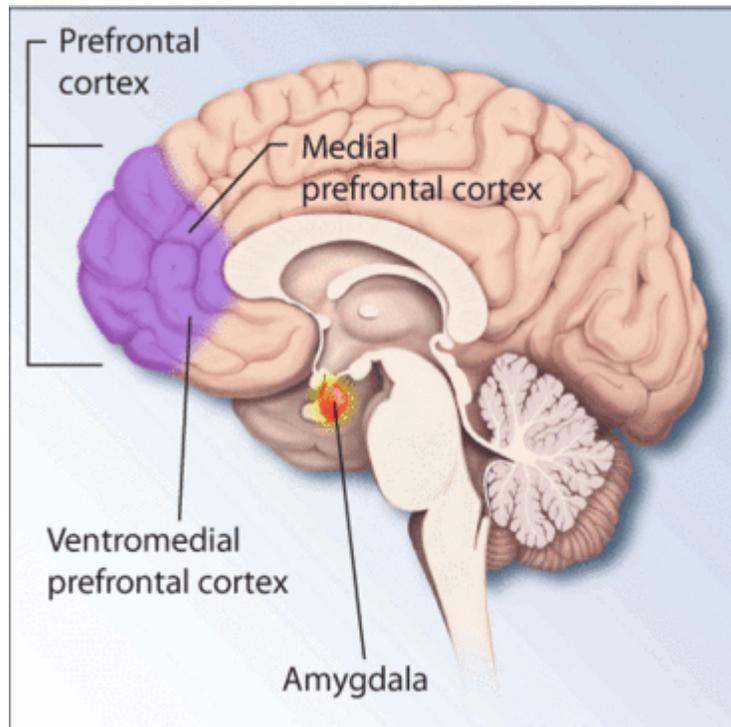
In studies of the adult offspring of Holocaust survivors, parental PTSD was a risk factor for the development of PTSD in adult offspring in comparison to those whose parents went through the Holocaust without developing PTSD. The offspring of survivors with PTSD had lower levels of urinary cortisol excretion, salivary cortisol and enhanced plasma cortisol suppression in response to low dose dexamethasone administration than offspring of survivors without PTSD. Low cortisol levels are associated with parental, particularly maternal, PTSD. This is in contrast to the normal stress response in which cortisol levels are elevated after exposure to a stressor. The results of the study point to the involvement of epigenetic mechanisms.

Epigenetic Effects of Abuse

"In addition, the effects of abuse may extend beyond the immediate victim into subsequent generations as a consequence of epigenetic effects transmitted directly to offspring and/or behavioral changes in affected individuals. (Neighh GN et al. 2009)

It has been suggested in various studies that the deleterious epigenetic effects may be somewhat ameliorated through pharmacological manipulations in adulthood via the administration of nerve growth factor-inducible protein A, and through the inhibition of a class of enzymes known as the histone deacetylases (HDACs). *"HDAC inhibitors (HDACIs) such as Trichostatin A (TSA); "TSA can be used to alter gene expression by interfering with the removal of acetyl groups from histones", and L-methionine an essential amino acid, have been developed for the treatment of a variety of malignancies and neurodegenerative disorders. Drug combination approaches have also shown promise for the treatment of mood disorders including bipolar disorder, anxiety and depression."*

Post traumatic stress disorder



Regions of the brain associated with stress and post traumatic stress disorder

Children in foster care have a higher incidence of Post traumatic stress disorder (PTSD). In one study (Dubner and Motta, 1999) 60% of children in foster care who had experienced sexual abuse had PTSD, and 42% of those who had been physically abused fulfilled the PTSD criteria. PTSD was also found in 18% of the children who were not abused. These children may have developed PTSD due to witnessing violence in the home. (Marsenich, 2002).

In a study conducted in Oregon and Washington state, the rate of PTSD in adults who were in foster care for one year between the ages of 14-18 was found to be higher than that of combat veterans, with 25 percent of those in the study meeting the diagnostic criteria as compared to 12-13 percent of Iraq war veterans and 15 percent of Vietnam war

veterans, and a rate of 4% in the general population. The recovery rate for foster home alumni was 28.2% as opposed to 47% in the general population.

"More than half the study participants reported clinical levels of mental illness, compared to less than a quarter of the general population".

Eating disorders

Foster children are at increased risk for a variety of eating disorders, in comparison to the general population.

Obesity children in foster care are more prone to becoming overweight and obese, and in a study done in the United Kingdom, 35% of foster children experienced an increase in Body Mass Index (BMI) once in care.

Hyperphagic Short Stature syndrome (HSS) is a condition characterized by short stature due to insufficient growth hormone production, an excessive appetite (hyperphagia) and mild learning disabilities. While it is believed to have genetic component, HSS is triggered by being exposed to an environment of high psychosocial stress; it is not uncommon in children in foster homes or other stressful environments. HSS improves upon removal from the stressful environment.

Food Maintenance Syndrome is characterized by a set of aberrant eating behaviors of children in foster care. It is "a pattern of excessive eating and food acquisition and maintenance behaviors without concurrent obesity"; it resembles "the behavioral correlates of Hyperphagic Short Stature". It is hypothesised that this syndrome is triggered by the stress and maltreatment foster children are subjected to, it was prevalent amongst 25 percent of the study group in New Zealand.

Bulimia Nervosa is seven times more prevalent among former foster children than in the general population.

Disorganized attachment

A study by Dante Cicchetti found that 80% of abused and maltreated infants in his study exhibited symptoms of disorganized attachment. Children with histories of maltreatment, such as physical and psychological neglect, physical abuse, and sexual abuse, are at risk of developing psychiatric problems. These children may be described as experiencing trauma as the result of abuse or neglect, inflicted by a primary caregiver, which disrupts the normal development of secure attachment. Such children are at risk of developing a disorganized attachment. Disorganized attachment is associated with a number of developmental problems, including dissociative symptoms, as well as depressive, anxiety, and acting-out symptoms.

Child abuse

Children in foster care experience high rates of child abuse, emotional deprivation, and physical neglect. In one study in the United Kingdom "foster children were 7-8 times, and children in residential care 6 times more likely to be assessed by a pediatrician for abuse than a child in the general population".

Poverty and homelessness



New York street children; 1890

Nearly half of foster kids in the U.S. become homeless when they turn 18. "One of every 10 foster children stays in foster care longer than seven years, and each year about 15,000 reach the age of majority and leave foster care without a permanent family—many to join the ranks of the homeless or to commit crimes and be imprisoned.

Three out of 10 of the United States homeless are former foster children. According to the results of the Casey Family Study of Foster Care Alumni, up to 80 percent are doing poorly—with a quarter to a third of former foster children at or below the poverty line, three times the national poverty rate. Very frequently, people who are homeless had multiple placements as children: some were in foster care, but others experienced "unofficial" placements in the homes of family or friends.

Individuals with a history foster care tend to become homeless at an earlier age than those who were not in foster care and Caucasians who become homeless are more likely to have a history of foster care than Hispanics or African Americans. The length of time a person remains homeless is prolonged in individuals who were in foster care.

Suicide-death rate

Children in foster care are at a greater risk of suicide, the increased risk of suicide is still prevalent after leaving foster care and occurs at a higher rate than the general population. In a study of Texas youths who aged out of the system 23 percent had a history of suicide attempts.

A Swedish study utilizing the data of almost one million people including 22,305 former foster children who had been in care prior to their teens, concluded:

Former child welfare clients were in year of birth and sex standardised risk ratios (RRs) four to five times more likely than peers in the general population to have been hospitalised for suicide attempts....Individuals who had been in long-term foster care tended to have the most dismal outcome...former child welfare/protection clients should be considered a high-risk group for suicide attempts and severe psychiatric morbidity.

Death rate

Children in foster care have an overall higher mortality rate than children in the general population. A study conducted in Finland among current and former foster children up to age 24 found a higher mortality rate due to substance abuse, accidents, suicide and illness. The deaths due to illness were attributed to an increased incidence of acute and chronic medical conditions and developmental delays among children in foster care.

Poor academic prospects

Educational outcomes of ex-foster children in the Northwest Alumni Study;

- 56% completed high school compared to 82% of the general population, although an additional 29% of former foster children received a G.E.D. compared to an additional 5% of the general population.
- 42.7% completed some education beyond high school.
- 20.6% completed any degree or certificate beyond high school
- 16.1% completed a vocational degree; 21.9% for those over 25.
- 1.8% complete a bachelors degree , 2.7% for over 25, the completion rate for the

general population in the same age group is 24%, a sizable difference.

Foster care has been proven in innumerable studies to not be conducive to academic performance. In a study conducted in Philadelphia by Johns Hopkins University it was found that; among high school students who are in foster care, have been abused and neglected, or receive out of home placement by the courts, the probability of dropping out of school is greater than 75%.

State abuses in the United States

Drug testing

Throughout the 1990s, experimental HIV drugs were tested on HIV-positive foster children at Incarnation Children's Center in Harlem. The agency has also been accused of racism, some comparing the trials to the Tuskegee syphilis experiment, as 98 percent of children in foster care in New York City belong to ethnic minorities.

Unnecessary/over medication

Studies" have revealed that youth in foster care covered by Medicaid insurance receive psychotropic medication at a rate that was 3 times higher than that of Medicaid-insured youth who qualify by low family income. In a review (September 2003 to August 2004) of the medical records of 32,135 Texas foster care 0–19 years-old, 12,189 were prescribed psychotropic medication, resulting in an annual prevalence of 37.9% of these children being prescribed medication. 41.3% received 3 different classes of these drugs during July 2004, and 15.9% received 4 different classes. The most frequently used medications were antidepressants (56.8%), attention-deficit/hyperactivity disorder drugs (55.9%), and antipsychotic agents (53.2%).

"Concomitant psychotropic medication treatment is frequent for youth in foster care and lacks substantive evidence as to its effectiveness and safety".

– *Psychotropic medication patterns among youth in foster care., Pediatrics 2008*

Psychiatrists prescribed 93% of the psychotropic medication, and it was noted in the review of these cases that the use of expensive, brand name, patent protected medication was prevalent. In the case of SSRIs the use of the most expensive medications was noted to be 74%, in the general market only 28% are for brand name SSRI's vs generics. The average out-of-pocket expense per prescription was \$34.75 for generics and \$90.17 for branded products, a \$55.42, difference.

Sexual abuse and negligence

One study by Johns Hopkins University found that the rate of sexual abuse within the foster-care system is more than four times as high as in the general population; in group homes, the rate of sexual abuse is more than 28 times that of the general population. An Indiana study found three times more physical abuse and twice the rate of sexual abuse in foster homes than in the general population. A study of foster children in Oregon and Washington State found that nearly one third reported being abused by a foster parent or another adult in a foster home. These statistics do not speak to the situation these children are coming from, but it does show the very large problem of child-on-child sexual abuse within the system. There have been several notable lawsuits concerning sexual abuse and negligence that caused review of the foster care system in some states:

In 2010, an ex-foster child was awarded \$30 million by jury trial in California (Santa Clara County) for sexual abuse damages that happened to him in his foster home from 1995 to 1999. The foster parent, John Jackson, was licensed by the state, despite the fact that he abused his own wife and son, overdosed on drugs and was arrested for drunken driving. In 2006, Jackson was convicted in Santa Clara County of nine counts of lewd or lascivious acts on a child by force, violence, duress, menace and fear, and seven counts of lewd or lascivious acts on a child under 14, according to the Santa Clara County District Attorney's Office. The sex acts he forced the children in his foster care to perform sent him to prison for 220 years. Later in 2010, Giarretto Institute, the private foster family agency responsible for licensing and monitoring Jackson's foster home and others, also was found to be negligent and liable for 75 percent of the abuse that was inflicted on the victim, and Jackson himself was liable for the rest.

In 2009, Oregon Department of Human Services agreed to pay \$2 million into a fund for the future care of twins who were allegedly abused by their foster parents; this was the largest such settlement in the agency's history. According to the civil rights suit filed on request of twins' adoptive mother in December 2007 in U.S. Federal Court, the children were kept in makeshift cages—cribs covered with chicken wire secured by duct tape—in a darkened bedroom known as "the dungeon." The brother and sister often went without food, water or human touch. The boy, who had a shunt put into his head at birth to drain fluid, didn't receive medical attention, so when police rescued the twins he was nearly comatose. The same foster family previously took into their care hundreds of other children over nearly four decades. DHS said the foster parents deceived child welfare workers during the checkup visits.

Several lawsuits were brought in 2008 against the Florida Department of Children & Families (DCF), accusing it of mishandling reports that Thomas Ferrara, 79, a foster parent, was molesting young girls. The suits claimed that even though there were records of sexual misconduct allegations against Ferrara in 1992, 1996, and 1999, the DCF continued to place foster children with Ferrara and his then-wife until 2000. Ferrara was arrested in 2001, after a 9-year-old girl told detectives he regularly molested her over two years and threatened to hurt her mother if she told anyone. Records show that Ferrara had as many as 400 children go through his home during his 16 years as a licensed foster

parent (from 1984 to 2000). Officials stated that the lawsuits over Ferrara ended up costing the DCF almost \$2.26 million. Similarly, in 2007 Florida's DCF paid \$1.2 million to settle a lawsuit that alleged DCF ignored complaints that another retarded Immokalee girl was being raped by her foster father, Bonifacio Velazquez, until the 15-year-old gave birth to a child.

In a class action lawsuit *Charlie and Nadine H. v. McGreevey* was filed in federal court by "Children's Rights" New York organization on behalf of children in the custody of the New Jersey Division of Youth and Family Services (DYFS). The complaint alleged violations of the children's constitutional rights and their rights under Title IV-E of the Social Security Act, the Child Abuse Prevention and Treatment Act, Early Periodic Screening Diagnosis and Treatment, 504 of the Rehabilitation Act, the Americans with Disabilities Act, and the Multiethnic Placement Act (MEPA). In July 2002, the federal court granted plaintiffs' experts access to 500 children's case files, allowing plaintiffs to collect information concerning harm to children in foster care through a case record review. These files revealed numerous cases in which foster children were abused, and DYFS failed to take proper action. On June 9, 2004, the child welfare panel appointed by the parties approved the NJ State's Reform Plan. The court accepted the plan on June 17, 2004. The same organization also filed similar lawsuits against several other states in recent years that caused some of the states to start child welfare reforms.

The lost children (Australia)



Children of the United Kingdom's Children's Migrant Programme

An estimated 150,000 British children were sent to overseas colonies and countries in the commonwealth such as Australia. This practice was in effect from the beginning of the nineteenth century until 1967. Many of these children were sent to orphanages, foster homes and religious institutions, where they were used as a free source of labor and many were severely abused and neglected. These children were classified as orphans although most were not. In the period after World War II the policy was dubbed the "Child Migrants Programme". The prime consideration was money as it was cheaper to care for children in commonwealth countries than it was in the United Kingdom. At least 10,000 children some as young as 3 were shipped to Australia after the war, most to join the ranks of the "Forgotten Australians", the term given for those who experienced care in foster homes and institutions in the 20th century. Among these Forgotten Australians were members of the "Stolen Generation", the children of Australian Aborigines, forcibly removed from their homes and raised in white institutions. In 2008 Australian Prime

Minister, Kevin Rudd apologised to the approximately 500,000 "forgotten Australians" and in 2010 British Prime Minister Gordon Brown issued a similar apology to those who were victimised by the Child Migrants Programme.

Therapeutic intervention

The negative physical, psychological, cognitive and epigenetic effects of foster care have been established in innumerable studies in various countries. The Casey Family Programs Northwest Foster Care Alumni Study was a fairly extensive study into various aspects of the psychosocial effects of foster care noted that 80% of ex-foster children are doing "poorly".

Neuroplasticity

The human brain however has been shown to have a fair degree of neuroplasticity. Adult neurogenesis has been shown to be an ongoing process.

"... all those experiences are of much significance which show how the judgment of the senses may be modified by experience and by training derived under various circumstances, and may be adapted to the new conditions..." - Hermann von Helmholtz, 1866

While having a background in foster homes—especially in instances of sexual abuse—can be the precipitating factor in a wide variety of psychological and cognitive deficits such as ADHD, and PTSD, it may also serve to obfuscate the true cause of underlying issues. The foster care experience may have nothing to do with the symptoms, or on the other hand, the symptoms may be exacerbated by having a history of foster care and the attendant abu

Chapter 7

Child Protection

Child Protection is used to describe a set of usually government-run services designed to protect children and young people who are underage and to encourage family stability. These typically include foster care, adoption services, services aimed at supporting at-risk families so they can remain intact, and investigation of alleged child abuse.

Most children who come to the attention of the child welfare system do so because of any of the following situations, which are often collectively termed child abuse:

- Child sexual abuse
- Emotional abuse
- Neglect including the failure to take adequate measures to safeguard a child from harm and/or gross negligence in providing for a child's basic needs:
- Physical abuse
- Psychological abuse

The United States government's Administration for Children and Families reported that in 2004 approximately 3.5 million children were involved in investigations of alleged abuse or neglect in the US, while an estimated 872,000 children were determined to have been abused or neglected and an estimated 1,490 children died that year because of abuse or neglect. In 2007, 1,760 children died as the result of child abuse and neglect. Child abuse impacts the most vulnerable populations with children under age five years accounting for 76% of fatalities. In 2008, 8.3 children per 1000 were victims of child abuse and neglect and 10.2 children per 1000 were in out of home placement.

History

The concept of a state sanctioned child welfare system dates back to Plato's Republic. Plato theorised that the interests of the child could be served by snatching children from the care of their parents and placing them into state custody. To prevent an uprising from dispossessed parents: "We shall have to invent some ingenious kind of lots which the less worthy may draw on each occasion of our bringing them together, and then they will accuse their own ill-luck and not the rulers."

Usually the responsibilities are stated within an act of a provincial legislature of provincial parliament. This then empowers the government department or agency to provide services in the area and to intervene into families where child abuse or other problems are suspected. The government agency that manages these services has various other names in different provinces, e.g., child and family services, children's aid. There is some consistency in the nature of laws, though the application of the laws may vary across the country.

The United Nations has addressed child abuse as a human rights issue, adding a section specifically to children in the Universal Declaration of Human Rights: “Recognizing that the child, for the full and harmonious development of his or her personality, should grow up in a family environment, in an atmosphere of happiness, love and understanding... should be afforded the right to survival; to develop to the fullest; to protection from harmful influences, abuse and exploitation; and to participate fully in family, cultural and social life.”

U.S. History

In 1853, the Children's Aid Society was founded in response to the problem of orphaned or abandoned children living in New York. Rather than allow these children to become institutionalized or continue to live on the streets, the children were placed in the first “foster” homes, but typically with the intention of helping these families work their farms.

In 1874, the first case of child abuse was criminally prosecuted in what has come to be known as the “case of Mary Ellen.” Outrage over this case started an organized effort against child maltreatment. In 1909, President Roosevelt convened the White House Conference on Child Dependency, which created a publicly funded volunteer organization to “establish and publicize standards of child care.” By 1926, 18 states had some version of county child welfare boards whose purpose was to coordinate public and private child related work. Issues of abuse and neglect were addressed in the Social Security Act in 1930, which provided funding for intervention for “neglected and dependent children in danger of becoming delinquent.”

In the 1940s and 1950s, due to improved technology in diagnostic radiology, the medical profession began to take notice of what they believed to be intentional injuries. In 1961, Dr. Kempe began to further research this issue, eventually coining the term “battered child syndrome.” At this same time, there were also changing views about the role of the child in society, fueled in part by the civil rights movement.

In 1973, congress took the first steps toward enacting federal legislature to address the issue of child abuse. The Child Abuse Prevention and Treatment Act was passed in 1974, which required states “to prevent, identify and treat child abuse and neglect.”

Shortly thereafter, in 1978, the Indian Child Welfare Act (ICWA) was passed. This act was passed in response to concerns that large numbers of Native American Children were

being separated from their tribes and placed in foster care. This legislation not only opened the door for consideration of cultural issues while stressing ideas that children should be with their families, leading to the beginnings of family preservation programs.

In 1980, the Adoption Assistance Act was introduced as a way to manage the high numbers of children in placement. Although this legislation addressed some of the complaints from earlier pieces of legislation around ensuring due process for parents, these changes did not alleviate the high numbers of children in placement or continuing delays in permanence. This led to the introduction of the home visitation models, which provided funding to private agencies to provide intensive family preservation services.

In addition to family preservation services, the focus of federal child welfare policy changed to try to address permanence for the large numbers of foster children care. Several pieces of federal legislation attempted to ease the process of adoption including Adoption Assistance Act, 1988 Child Abuse and Prevention and Adoption and Family Services Act, 1992 Child Abuse, Domestic Violence and Adoption and Family Services Act . The 1994 Multi Ethnic Placement Act, which was revised in 1996 to add the Interethnic Placement Provisions, also attempted to promote permanency through adoption, creating regulations that adoptions could not be delayed or denied due to issues of race, color or national origin of the child or the adoptive parent.

All of these policies led up to the 1997 Adoption and Safe Families Act(ASFA), much of which guides current practice. Changes in the Adoptions and Safe Families Act showed a interest in both protecting children's safety and developing permanency. This law requires counties to provide "reasonable efforts" (treatment) to preserve or reunify families, but also shortened time lines required for permanence, leading to termination of parental rights should these efforts fail. ASFA introduced the idea of "concurrent planning" which demonstrated attempts to reunify families as the first plan, but to have a back-up plan so as not to delay permanency for children (Michell, et al. 2005).

Worldwide

United Kingdom

The United Kingdom has a comprehensive child welfare system under which Local Authorities have duties and responsibilities towards children in need in their area. This covers provision of advice and services, accommodation and care of children who become uncared for, and also the capacity to initiate proceedings for the removal of children from their parents care/care proceedings. The criteria for the latter is 'significant harm' which covers physical, sexual and emotional abuse and neglect. In appropriate cases the Care Plan before the Court will be for adoption. The Local Authorities also run adoption services both for children put up for adoption voluntarily and those becoming available for adoption through Court proceedings. The basic legal principle in all public and private proceedings concerning children, under the Children Act 1989, is that the welfare of the child is paramount. In recognition of attachment issues, social work good practice requires a minimal number of moves and the 1989 Children Act enshrines the

principle that delay is inimical to a child's welfare. Care proceedings have a time frame of 40 weeks and concurrent planning is required. The final Care Plan put forward by the Local Authority is required to provide a plan for permanence, whether with parents, family members, long-term foster parents or adopters. Nevertheless, 'drift' and multiple placements still occur as many older children are difficult to place or maintain in placements. The role of Independent Visitor, a voluntary post, was created in the United Kingdom under the 1989 Children Act to befriend and assist children and young people in care.

In England, Wales and Scotland, there never has been a statutory obligation to report alleged child abuse to the Police. However both the Children Act 1989 and 2004 makes clear a statutory obligation on all professionals to report suspected child abuse.

The statutory guidance Working Together to Safeguard Children 2006 created the role of Local Authority Designated Officer, "LADO". This officer is responsible for managing allegations of abuse against adults who work with children (Teachers, Social Workers, Church leaders, Youth Workers etc.).

Local Safeguarding Children Boards (LSCB's) are responsible ensuring agencies and professionals, in their area, effectively safeguard and promote the welfare of children. In the event of the death or serious injury of a child, LSCB's can initiate a 'Serious Case Review' aimed at identifying agency failings and improving future practice.

The planned ContactPoint database, under which information on children is shared between professionals, has been halted by the newly elected coalition government (May 2010). The database was aimed at improving information sharing across agencies. Lack of information sharing had been identified as a failing in numerous high profile child death cases. Critics of the scheme claimed it was evidence of a 'big brother state' and too expensive to introduce.

Working Together to Safeguard Children 2006 (updated in 2010) and the subsequent 'The Protection of Children in England: A Progress Report' (Laming, 2009) continue to promote the sharing of data between those working with vulnerable children.

A child in suitable cases can be made a ward of court and no decisions about the child or changes in its life can be made without the leave of the High Court.

In England the Murder of Victoria Climbié was largely responsible for various changes in child protection in England, including the formation of the Every Child Matters programme in 2003. A similar programme - Getting it Right for Every Child - GIRFEC was established in Scotland in 2008.

Effects of early maltreatment on children in child welfare

Children with histories of maltreatment, such as physical and psychological neglect, physical abuse, and sexual abuse, are at risk of developing psychiatric problems. Such

children are at risk of developing a disorganized attachment. Disorganized attachment is associated with a number of developmental problems, including dissociative symptoms, as well as depressive, anxiety, and acting-out symptoms.

Ideology of Child Protection

When a case of child abuse is reported, an investigation begins. This can result in significantly different responses from the affected family and the child protection service workers. The family experiences fear, anxiety, and the need to cope with the situation, whereas the professional has to stick to procedures to avoid blame in case something goes wrong. The best outcome for the child occurs if the congruence between professional and family perspectives is high. Ideology associated with child protection involve distinct discourses, which are people's communication practices at an intersubjective level. These ideological discourses are blame, bureaucratic, medical, penal, humanistic, and technocratic. The blame discourse involves people holding others, like the parent or social worker, responsible in case something bad happens to the child. Here, the media might be used as a tool for moral crusades. Bureaucratic procedures engage all the steps which an organization like Child Protection Service has undertake, e.g. case conferences, reviews, registers, etc. Hereby, the purpose is to avoid criticism. From the medical perspective, the offender is viewed as an individual with a medical history, syndromes, and pathology. The purpose is to treat and cure the parent, with the aid of medical expertise and technology. The penal discourse implies the legal actions that follow the act of depravity or abuse punishing the offender. Humanistic discourse encompasses sympathy or feelings of pity that the Child Protection worker might have towards people who are responsible for the situation in which the victim is in. The technocratic discourse involves risk assessment gadgets in order to solve the situation. Here, a mechanical classification and processing of the client is thought to be useful.

Criticism

Despite the benefits of the services of the CPS, in the last two decades, the CPS has come under intense private and public scrutiny as an institution than can and has caused great harm in the name of protection. Although child welfare agencies are generally viewed positively, there has been an increase in the amount of cases where critics believe CPS have reacted out of their bounds.

A notable recent case is the family of Gary and Melissa Gates in Texas. The school called the local CPS and requested the Child Protective Services forcibly remove all thirteen of the Gates children and take them to foster homes under a court order which allowed an Emergency Removal, when there is clear evidence of danger to the physical health & safety of the child. The local CPS gave the explanation that they felt, quote, "Mr. Gates was uncooperative and his uncooperativeness with us put the children at risk." Even though the court ordered the children to be returned, CPS continues to classify the Gates as child abusers. Some have accused the CPS of having too much immediate power leaving the parents feeling lost and aggravated. The CPS has been accused of prejudging parents before proper investigations were done.

An ongoing case about Nastic family living in U.S. has received an intervention from the Serbia government. Children were taken away from their parents after their naked photos were found on the father's computer. Such photos are common in Serbia culture. Furthermore, parents claim that their ethnic and religious rights have been violated - children are not permitted to speak Serbian, nor to meet with their parents for orthodox Christmas. They can meet only mother once a week. Children have suffered psychological traumas due to their separation from parents. Polygraph showed that father did not abuse children. Trial is set for January 26. Psychologists from Serbia stated that few hours of conversation with children are enough to see whether they have been abused. Children were taken from their family 7 months ago. FBI started an investigation against the CPS.

Brenda Scott, in her study of CPS concluded, "Child Protective Services is out of control. The system, as it operates today, should be scrapped. If children are to be protected in their homes and in the system, radical new guidelines must be adopted. At the core of the problem is the anti-family mindset of CPS. Removal is the first resort, not the last. With insufficient checks and balances, the system that was designed to protect children has become the greatest perpetrator of harm." Further to that information, several former CPS workers retired from the service, due to increasing circumstances and practices carried out by the organization.

Texas 2008 Raid of YFZ Ranch

In April 2008, the largest child protection action in American history raised questions as the CPS in Texas removed hundreds of minor children, infants, and women incorrectly believed to be children from the YFZ Ranch polygamist community, with the assistance of heavily armed police with an armored personnel carrier. Investigators, including supervisor Angie Voss convinced a judge that all of the children were at risk of child abuse because they were all being groomed for under-age marriage. The state supreme court disagreed, releasing most children back to their families. Investigations would result in criminal charges against some men in the community.

Gene Grounds of Victim Relief Ministries commended CPS workers in the Texas operation as exhibiting compassion, professionalism and caring concern. However, CPS performance was questioned by workers from the Hill Country Community Mental Health-Mental Retardation Center. One wrote "I have never seen women and children treated this poorly, not to mention their civil rights being disregarded in this manner" after assisting at the emergency shelter. Others who were previously forbidden to discuss conditions working with CPS later produced unsigned written reports expressed anger at the CPS traumatizing the children, and disregarding rights of mothers who appeared to be good parents of healthy, well-behaved children. CPS threatened some MHMR workers with arrest, and the entire mental health support was dismissed the second week due to being "too compassionate." Workers believed poor sanitary conditions at the shelter allowed respiratory infections and chicken pox to spread.

CPS problem reports

The Texas Department of Family and Protective Services, as with other states, had itself been an object of reports of unusual numbers of poisonings, death, rapes and pregnancies of children under its care since 2004. The Texas Family and Protective Services Crisis Management Team was created by executive order after the critical report *Forgotten Children of 2004*. Texas Comptroller Carole Keeton Strayhorn made a statement in 2006 about the Texas foster care system. In Fiscal 2003, 2004 and 2005, respectively 30, 38 and 48 foster children died in the state's care. The number of foster children in the state's care increased 24 percent to 32,474 in Fiscal 2005, while the number of deaths increased 60 percent. Compared to the general population, a child is four times more likely to die in the Texas foster care system. In 2004, about 100 children were treated for poisoning from medications; 63 were treated for rape that occurred while under state care including four-year old twin boys, and 142 children gave birth, though others believe Ms. Strayhorn's report was not scientifically researched, and that major reforms need to be put in place to assure that children in the conservatorship of the state get as much attention as those at risk in their homes.

Responsibility for misconduct

In May 2007, the United States 9th Circuit Court of Appeals found in *ROGERS v. COUNTY OF SAN JOAQUIN*, No. 05-16071 that a CPS social worker acting without due process and without exigency (emergency conditions) violated the 14th Amendment and Title 42 United State Code Section 1983. The Fourteenth Amendment to the United States Constitution says that a state may not make a law that abridges "abridge the privileges or immunities of citizens of the United States" and no state may "deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws." Title 42 United States Code Section 1983 states that citizens can sue a person that deprives them of their rights under the pretext of a regulation of a state.

Disproportionality & Disparity in the Child Welfare System

In the United States, data suggests that a disproportionate number of minority children, particularly African American and Native American children, enter the foster care system. National data in the United States provides evidence that disproportionality may vary throughout the course of a child's involvement with the child welfare system. Differing rates of disproportionality are seen at key decision points including the reporting of abuse, substantiation of abuse, and placement into foster care. Additionally, once they enter foster care, research suggests that they are likely to remain in care longer. Research has shown that there is no difference in the rate of abuse and neglect among minority populations when compared to Caucasian children that would account for the disparity. The Juvenile Justice system has also been challenged by disproportionate negative contact of minority children. Because of the overlap in these systems, it is likely that this phenomenon within multiple systems may be related.

Chapter 8

Orphanage



Former Berlin Pankow orphanage



St. Nicholas Orphanage in Novosibirsk, Russia

Orphanage is the name to describe a residential institution devoted to the care of orphans – children whose parents are deceased or otherwise unable to care for them. Parents, and sometimes grandparents, are legally responsible for supporting children, but in the absence of these or other relatives willing to care for the children, they become a ward of the state, and orphanages are a way of providing for their care and housing. Children are educated within or outside of the orphanage.

Orphanages provide an alternative to foster care or adoption by giving orphans a community-based setting in which they live and learn. In the worst cases, orphanages can be dangerous and unregulated places where children are subject to abuse and neglect.

An orphanage is sometimes called a *group home*, *children's home*, *rehabilitation center* or *youth treatment center*.

History

The first orphanages, called "orphanotrophia," were founded in the 1st century amid various alternative means of orphan support. Jewish law, for instance, prescribed care for the widow and the orphan, and Athenian law supported all orphans of those killed in military service until the age of eighteen. Plato (*Laws*, 927) says: "Orphans should be placed under the care of public guardians. Men should have a fear of the loneliness of orphans and of the souls of their departed parents. A man should love the unfortunate orphan of whom he is guardian as if he were his own child. He should be as careful and as diligent in the management of the orphan's property as of his own or even more careful still." The care of orphans was referred to bishops and, during the Middle Ages, to monasteries. Many orphanages practiced some form of "binding-out" in which children, as soon as they were old enough, were given as apprentices to households. This would ensure their support and their learning an occupation.

Such practices are assumed to be quite rare in the modern Western world, thanks to improved social security and changed social attitudes, but remain in force in many other countries.

Since the 1950s, after a series of scandals involving the coercion of birth parents and abuse of orphans (notably at Georgia Tann's Tennessee Children's Home Society), the United States and other countries have moved to de-institutionalize the care of vulnerable children—that is, close down orphanages in favor of foster care and accelerated adoption. Moreover, as it is no longer common for birth parents in Western countries to give up their children, and as far fewer people die of diseases or violence while their children are still young, the need to operate large orphanages has decreased.

Major charities are increasingly focusing their efforts on the re-integration of orphans in order to keep them with their parents or extended family and communities. Orphanages are no longer common in the European community, and Romania in particular has struggled to reduce the visibility of its children's institutions to meet conditions of its entry into the European Union. In the United States, the largest remaining orphanage is the Bethesda Orphanage, founded in 1740 by George Whitefield.

In many works of fiction (notably *Oliver Twist* and *Annie*), the administrators of orphanages are depicted as cruel monsters.

Europe

Bulgaria

"The Bulgarian child welfare system has changed. In November 2007, Bulgaria adopted a national strategic plan for the period 2008–2018 to improve the living standards of the country's children. Among the expected results of the strategy is a reduction in the number of children living in institutions. Bulgaria is working hard to close institutions and find alternative ways to take care of the children. Support is given to families who want to take care of their children and work during daytime; correspondingly, day centers have started up on a small scale. A smaller number of children have also been able to be relocated into foster families". In the still yet 144 orphanages there are living 8,700 children wrongly classified as orphaned. Only 10% of whom are orphaned, the fact is that many of the children placed in orphanages in temporary periods when the family is in such crisis.

United Kingdom

During the Victorian Era, child abandonment was rampant, and orphanages were set up to reduce infant mortality. Such places were often so full of children that "killing nurses" often administered Godfrey's Cordial, a special concoction of opium and treacle, to soothe colic in babies.

Estonia

In 2007, There are 45 orphanages, which house about half of the state's approximately 1600 children living in Estonian orphanages.

Hungary

A comprehensive national strategy for strengthening the rights of children adopted by Parliament in 2007 and will run until 2032. Child flow to orphanages has been stopped. And they are now protected by social services. Violation of children's rights leads to court.

Lithuania

Six thousand children are living in institutions, of a nationwide total of 14,000 children without parents.

Poland

They are many state orphanages "where several thousand children are kept and which are still part of an outdated child care system.

Republic of Moldova

There are approximately 2,000 children in orphanages, including 279 in orphanages "of the family type", in the Republic of Moldova.

Romania

The Romanian government says after an investigation by the reporter Chris Rogers of the orphanages November 2006. "The child protection system is reformed and it possible for local authorities to prevent abandonment and protect all children in need, by appropriate placement in substitute families. The investigation makes clear that some county authorities are not implementing the child right legislation". When Chris Rogers came back to Romania in December 2009 and reopened a new investigation it revealed still significant hardship for orphans. And they sent the complaint to the Government. The Government's response: "The problems highlighted are not representative of the care system" adding... "Romania has constantly paid attention in the field of disability and has assumed responsibility to ensure the most appropriate frame in order to meet human rights in this domain".

Romania has the highest number of orphaned children in Europe.

#	year	Total children in care of the state.	Number of children in orphanages
1.	1990	47,405	25870
2.	1994		52986
3.	1997	51,468	39569

4. 1998	55,641	38597
5. 1999	57,087	33356
6. 2000	87,753	57181
7. 2001	87,889	57060
8. 2002	87,867	49965
9. 2003	86,379	43092
10. 2004	84,445	37660
11. 2005	83,059	32821
12. 2006	78,766	28786
13. 2007	73,793	26599
14. 2008	71,047	24979
15. 2009	68,858	24227
16. 2010	62,000	19000

Slovakia

The Committee gave some recommendations, such as proposals for the adoption of a new "national 14" action plan for children for at least the next five years, and the creation of an independent institution for the protection of child rights.

Sweden

In Sweden there are 5,000 children in the care of the state. None of them are currently living in an orphanage, because there is a social service law which requires that the children reside in a family home.

Africa

Egypt

"The [Mosques of Charity] orphanage houses about 120 children in Giza, Menoufiya and Qalyubiya." "We [Dar Al-Iwaa] provide free education and accommodation for over 200 girls and boys." "Dar Al-Mu'assassa Al-Iwaa'iya (Shelter Association), a government association affiliated with the Ministry of Social Affairs, was established in 1992. It houses about 44 children." There are also 192 children at The Awladi, 30 at Sayeda Zeinab orphanage, and 300 at My Children Orphanage.

Note: There are about 185 orphanages in Egypt. The above information was taken from the following articles: "Other families" by Amany Abdel-Moneim. *Al-Ahram Weekly* (5/1999). "Ramadan brings charity to Egypt's orphans". *Shanghai Star* (12/13/2001). "A Child by Any Other Name" by Réhab El-Bakry. *Egypt Today* (11/2002).

Ethiopia

"For example, in the Jerusalem Association Children's Home (JACH), only 160 children remain of the 785 who were in JACH's three orphanages." / "Attitudes regarding the institutional care of children have shifted dramatically in recent years in Ethiopia. There appears to be general recognition by MOLSA and the NGOs with which Pact is working that such care is, at best, a last resort, and that serious problems arise with the social reintegration of children who grow up in institutions, and deinstitutionalization through family reunification and independent living are being emphasized."

Ghana

A 2007 survey sponsored by OrphanAid Africa and carried out by the Department of Social Welfare came up with the figure of 4,800 children in institutional care in 148 orphanages. Of these at least four have since been closed.

Kenya

A 1999 survey of 35,000 orphans found the following number in institutional care: 64 in registered institutions and 164 in unregistered institutions.

Rwanda

Out of 400,000 orphans, 5,000 are living in orphanages.

Tanzania

"Currently, there are 52 orphanages in Tanzania caring for about 3,000 orphans and vulnerable children."

Nigeria

In Nigeria, a rapid assessment of orphans and vulnerable children conducted in 2004 with UNICEF support revealed that there were about seven million orphans in 2003 and that 800,000 more orphans were added during that same year. Out of this total number, about 1.8 million are orphaned by HIV/AIDS. With the spread of HIV/AIDS, the number of orphans is expected to increase rapidly in the coming years to 8.2 million by 2010.

South Africa

Since 2000, South Africa does not licence orphanages any more but rather prefers community based family homes.

Zambia

A 1996 national survey of orphans revealed no evidence of orphanage care. The breakdown of care was as follows: 38% grandparents 55% extended family 1% older orphan 6% non-relative Recently a group of students started a fundraising website for an orphanage in Zambia.

Zimbabwe

There are 38 privately run children's charity homes, or orphanages, in the country, and the government operates eight of its own.

Statistics on the total number of children in orphanages nationwide are unavailable, but caregivers say their facilities were becoming unmanageably overwhelmed almost on a daily basis. Between 1994 and 1998, the number of orphans in Zimbabwe more than doubled from 200,000 to 543,000, and in five years, the number is expected to reach 900,000. (Unfortunately, there is no room for these children.)

Togo

In Togo, there were an estimated 280,000 orphans under 18 years of age in 2005, 88,000 of them orphaned by AIDS. Ninety-six thousand orphans in Togo attend school.

Sierra Leone

- Children (0–17 years) orphaned by AIDS, 2005, estimate 31,000
- Children (0–17 years) orphaned due to all causes, 2005, estimate 340,000
- Orphan school attendance ratio, 1999–2005 71,000

Senegal

- Children (0–17 years) orphaned by AIDS, 2005, estimate 25,000
- Children (0–17 years) orphaned due to all causes, 2005, estimate 560,000
- Orphan school attendance ratio, 1999–2005 74,000

Asia

Bahrain

The "Royal Charity Organization" is a Bahraini governmental charity organization founded in 2001 by King Hamad ibn Isa Al Khalifah to sponsor all helpless Bahraini orphans and widows. Since then almost 7,000 Bahraini families are granted monthly payments, annual school bags, and a number of university scholarships. Graduation ceremonies, various social and educational activities, and occasional contests are held each year by the organization for the benefit of orphans and widows sponsored by the organization.

Taiwan

The number of orphanages and orphans drastically dropped from 15 institutions and 2,216 persons in 1971 to 9 institutions and 638 persons by the end of 2001.

South Korea

"There are now 17,000 children in public orphanages throughout the country and untold numbers at private institutions."

Afghanistan

"At Kabul's two main orphanages, Alauddin and Tahia Maskan, the number of children enrolled has increased almost 80 percent since last January, from 700 to over 1,200 children. Almost half of these come from families who have at least one parent, but who can't support their children." The non-governmental organisation Mahboba's promise assists orphans in contemporary Afghanistan.

Bangladesh

"There are no statistics regarding the actual number of children in welfare institutions in Bangladesh. The Department of Social Services, under the Ministry of Social Welfare, has a major programme named Child Welfare and Child Development in order to provide access to food, shelter, basic education, health services and other basic opportunities for hapless children." (The following numbers mention capacity only, not actual numbers of orphans at present.)

9,500 -State institutions

250 -babies in three available "baby homes"

400 -Destitute Children's Rehabilitation Centre

100 -Vocational Training Centre for Orphans and Destitute Children

1,400 -Sixty-five Welfare and Rehabilitation Programmes for Children with Disability

The private welfare institutions are mostly known as orphanages and madrassahs. The authorities of most of these orphanages put more emphasis on religion and religious studies. One example follows: 400 – Approximately – Nawab Sir Salimullah Muslim Orphanage

Cambodia

There are numerous NGOs focusing their efforts on assisting Cambodia's orphans: one group, "World Orphans" constructed 47 orphanages housing over 1500 children in a three year period. The total number of orphans is much higher, but unknown: "There are no accurate figures available on how many orphans there are in Cambodia." One charity named C.H.O.I.C.E. is run by expats based in the capital city of Phnom Penh; it helps support orphans and other poor and homeless people.

China

"Currently there are 50,000 children in Chinese orphanages, while the number of abandoned children shows no sign of slowing." "Official figures show that fewer than 20,000 of China's orphans are now in any form of institutional care." Chinese official records fail to account for most of the country's abandoned infants and children, only a small proportion of whom are in any form of acknowledged state care. The most recent figure provided by the government for the country's orphan population, 100,000, seems implausibly low for a country with a total population of 1.2 billion. Even if it were accurate, however, the whereabouts of the great majority of China's orphans would still be a complete mystery, leaving crucial questions about the country's child welfare system unanswered and suggesting that the real scope of the catastrophe that has befallen China's unwanted children may be far larger than the evidence in this report documents.

India

Orphans, children (0–17 years) orphaned due to all causes, 2005, estimate 25,700,000 "Unicef India Statistics".

State of Andhra Pradesh -Children's Homes – 5,050 : 6 – 18 years of age Refer to "Children's Homes." Government of Andhra Pradesh

Maldives

Orphans, Children (0–17 years) orphaned due to all causes, 2010, estimate 51 "Minivan News".

Iraq

UNICEF maintains the same number at present. "While the number of state homes for orphans in the whole of Iraq was 25 in 1990 (serving 1,190 children); both the number of homes and the number of beneficiaries has declined. The quality of services has also declined." A 1999 study by UNICEF "recommended the rebuilding of national capacity for the rehabilitation of orphans." The new project "will benefit all the 1,190 children placed in orphanages."

Laos

"It is stated that there are 20,000 orphaned children in Laos. There are only three orphanages in the whole country providing places for a total of 1,000 of these children." No Title. By Anneli Dahlbom One of the largest orphanages in Laos is in the town of Phonsavan. It is an S.O.S. orphanage and there are over 120 orphans living in the facility.

Palestinian Territory

"In 1999, the number of children living in orphanages witnessed a considerable drop as compared to 1998. The number dropped from 1,980 to 1,714 orphans. This is due to the

policy of child re-integration in their household adopted by the Ministry of Social Affairs."

Former Soviet Union



The Moscow Orphanage (founded in 1763, constructed in the 1770s)

In the post-Soviet regime, orphanages are better known as the Children Homes (Russian: *Детские дома*). After reaching school age, all children enroll into internat-schools (Russian: *Школа-интернат*).

Russia

There are some 153,000 children and teenagers living in state institutions according to Russia's Health Ministry. Some 15,000 young people graduate from the state-run orphanages every year. There are many web pages for Russian orphanages, but very few of them are in English, such as St Nicholas Orphanage in Siberia or the Alapaevsk orphanage in the Urals. "Of a total of more than 600,000 children classified as being 'without parental care' (most of them live with other relatives and fosters), as many as one-third reside in institutions."

Azerbaijan

"Many children are abandoned due to extreme poverty and harsh living conditions. Family members or neighbors may raise some of these children but the majority live in

crowded orphanages until the age of fifteen when they are sent into the community to make a living for themselves."

Belarus

Approximate total – 1,773 (1993 statistics for "all types of orphanages")

Kyrgyzstan

Partial information: 85 – Ivanovka Orphanage

Tajikistan

"No one can be sure how many lone children are there in the republic. About 9,000 are in internats and in orphanages."

Ukraine

103,000

Other information:

- thousands – Zaporozhzhya region
- 150 – Kiev State Baby Orphanage
- 30 – Beregena Orphanage
- 120 – Dom Invalid Orphanage

Uzbekistan

Partial Information: 80 – Takhtakupar Orphanage

Oceania

Indonesia

No verifiable information for the number of children actually in orphanages. The number of orphaned and abandoned children is approximately 91,000. "Convention on the Rights of the Child" (PDF).

North America & Caribbean

Haiti

Haitians and expatriate childcare professionals are careful to make it clear that Haitian orphanages and children's homes are not orphanages in the North American sense, but instead shelters for vulnerable children, often housing children whose parent(s) are poor as well as those who are abandoned, neglected or abused by family guardians. Neither the

number of children or the number of institutions is officially known, but Chambre de L'Enfance Necessiteuse Ha_tienne (CENH) indicated that it has received requests for assistance from nearly 200 orphanages from around the country for more than 200,000 children. Although not all are orphans, many are vulnerable or originate in vulnerable families that "hoped to increase their children's opportunities by sending them to orphanages." Catholic Relief Services provides assistance to 120 orphanages with 9,000 children in the West, South, Southeast and Grand Anse, but these include only orphanages that meet their criteria. They estimate receiving ten requests per week for assistance from additional orphanages and children's homes, but some of these are repeat requests."

In 2007, UNICEF estimated there were 380,000 orphans in Haiti, which has a population of just over 9 million, according to the CIA World Factbook. However, since the January 2010 earthquake, the number of orphans has skyrocketed, and the living conditions for orphans have seriously deteriorated. Official numbers are hard to find due to the general state of chaos in the country.

Mexico

"...at least 10,000 Mexican children live in orphanages and more live in unregistered charity homes"

- Mexican Orphanages
- Mazatlan Mexico Orphanage
- Casa Hogar Jeruel: Orphanage in Chihuahua City, Mexico

United States

Partial information:

- Bethesda Home for Boys, in Savannah, Georgia, is the oldest child caring institution in the country. In fact, founded in 1740, it's older than the country itself and was a site frequently visited by many of the country's founding fathers. Benjamin Franklin was an early investor and Bethesda was constituted by a grant from King George with the encouragement of Charles and John Wesley.
- Established in 1790, The Charleston Orphan House, located in Charleston, SC, was the first public orphanage in the United States. Today the organization continues its 200 year legacy under the name of [Carolina Youth Development Center]. A complete history of the organization entitled, *A Legacy of Caring: The Charleston Orphan House 1790–1990* was published by Wyrick and Company, Charleston, SC 1991.

Central and South America

Guatemala

"...currently there are about 20,000 children in orphanages."



In a Colombian orphanage, a nurse takes care of three children.

Significant charities that help orphans

Prior to the establishment of state care for orphans in First World countries, many private charities existed to take care of destitute orphans.

- SOS Children's Villages is the world's largest non-governmental, non-denominational child welfare organization. Its mission is to provide stable homes and loving families for orphaned and abandoned children around the world.
- Dr Barnardo's Homes (now simply Barnardo's)
- The Miracle Foundation is concerned with helping orphans in India.
- ACTUP! is a student run charity set up in aid of an orphanage in the Vinh province, Vietnam. The group raises money through theatrical performances and movie screenings.

Chapter 9

LGBT Adoption

LGBT adoption is the adoption of children by lesbian, gay, bisexual and transgender (LGBT) persons. This may be in the form of a joint adoption by a same-sex couple, adoption by one partner of a same-sex couple of the other's biological child (step-parent adoption), and adoption by a single LGBT person.

Adoption by same-sex couples is legal in 14 countries as well as in the jurisdictions of several more. Adoption by same-sex couples is however prohibited by a majority of countries, although debates in many jurisdiction take place to allow it. The main concern by those opposed to LGBT adoption is the question whether a same-sex couples can be good parenting couples. As the matter is often not specified by law (or deemed unconstitutional), legalization often takes place via judicial opinions.

Demographics

LGBT parenting

The existing body of research on outcomes for children with LGBT parents includes limited studies that consider the specific case of adoption. Moreover, where studies do mention adoption they often fail to distinguish between outcomes for unrelated children versus those in their original family or step-families, causing research on the more general case of LGBT parenting to be used to counter the claims of LGBT-adoption opponents. One study has addressed the question directly, evaluating the outcomes of adoptees less than 3-years old who had been placed in one of 56 lesbian and gay households since infancy. Despite the small sample and the fact that the children have yet to become aware of their adoption status or the dynamics of gender development, the study found no significant associations between parental sexual orientation and child adjustment, making the results consistent with notions that two parents of the same gender can be capable parents and that parental sexual orientation is not related to parenting skill or child adjustment. The findings point to the positive capabilities of lesbian and gay couples as adoptive parents.

Objections to and support for LGBT adoption

Adoption of children by LGBT people is an issue of active debate. In the United States, for example, legislation to stop the practice has been introduced in many jurisdictions; such efforts have largely been defeated, with the exception of Arkansas Act 1. There is agreement between the debating parties, however, that the welfare of children alone should dictate policy. Supporters of LGBT adoption suggest that many children are in need of homes and claim that since parenting ability is unrelated to sexual orientation, the law should allow them to adopt children. Opponents, on the other hand, suggest that the alleged greater prevalence of depression, drug use, promiscuity and suicide among homosexuals (and alleged greater prevalence of domestic violence) might affect children or that the absence of male and female role models could cause maladjustment. Catholic Answers, a Catholic religious group, in its 2004 report on gay marriage addressed parenting by homosexual partners via adoption or artificial insemination. It pointed to studies finding higher than average abuse rates among heterosexual stepparent families compared with families headed by biological parents. The American Psychological Association, however, notes that an ongoing longitudinal study found that none of the lesbian mothers had abused their children. It states that fears of a heightened risk of sexual abuse by gay parents are not supported by research.

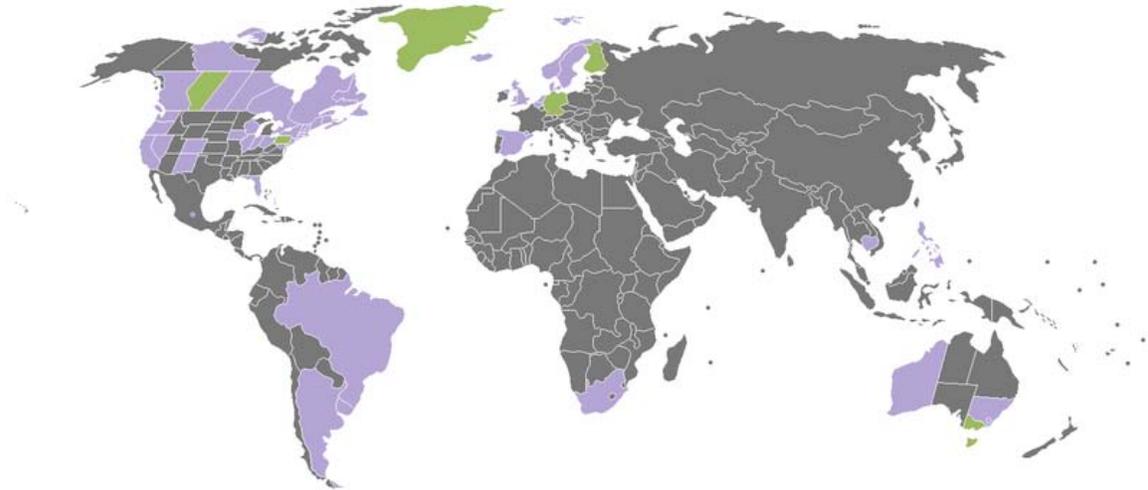
A number of professional organizations have made statements in defense of adoption by same-sex couples. The American Psychological Association has supported adoption by same-sex couples, citing social prejudice as harming the psychological health of lesbians and gays while noting there is no evidence that their parenting causes harm. The American Medical Association has issued a similar position supporting same-sex adoption, stating that while there is little evidence against the practice, lack of formal recognition can cause health-care disparities for children of same-sex parents.

A 2006 poll by the Pew Research Center found a close divide on gay adoption among the United States public, while a 2007 poll by CNN and Opinion Research Corp. said 57% of respondents felt gays should have the right to adopt and 40% said they should not. In the United Kingdom in 2007, 64% of people said they thought gay couples should be allowed to adopt and 32% said they should not. 55% of respondents thought that male couples should be able to adopt and 59% of people thought that lesbian couples should be able to adopt. In Brazil, a 2010 poll asked, "Do you support or oppose allowing gay couples to adopt children?" The poll found that 51% opposed adoption by same-sex couples and 39% supported it.

Britain's last Catholic adoption society announced that it would stop finding homes for children if forced by legislation to place children with same-sex couples. The Muslim Council of Britain also sided with Catholic adoption agencies on this issue. Catholic Charities of Boston also ended its founding mission of adoption work rather than comply with state laws conflicting with its religious practices. An opinion poll conducted in late 2006 at the request of the European Commission indicated that Polish public opinion was generally opposed to both same-sex marriage and to adoption by gay couples. The

Eurobarometer 66 poll found that 74% of Poles were opposed to same-sex marriage and 89% opposed adoption by same-sex couples.

Legal status around the world



Legal status of adoption by same-sex couples around the world.

- Gay adoption legal
- Step-child adoption
- Unknown/Ambiguous or illegal

Full joint adoption by same-sex couples is currently legal in the following countries:

- Andorra (2005)
- Argentina (2010)
- Belgium (2006)
- Brazil (2010)
- Canada (1999 onward, depending on province)
- Denmark (2010)
- Iceland (2006)
- Netherlands (2001)
- Norway (2009)
- South Africa (2002)
- Spain (2005)
- Sweden (2002)
- United Kingdom: England and Wales (2005), Scotland (2009) and Northern Ireland (unclear).
- Uruguay (2009)

Full joint adoption by same-sex couples is currently legal in the following jurisdictions:

- Australia: Western Australia (2002), Australian Capital Territory (2004), and New South Wales (2010).

- Mexico: Mexico City (2010)
- United States: the District of Columbia (1995), New Jersey (1998), New York (2002), Indiana (2006), Maine (2007), California, Connecticut, Illinois, Massachusetts, Oregon, Vermont, Florida and the unincorporated territory of Guam.

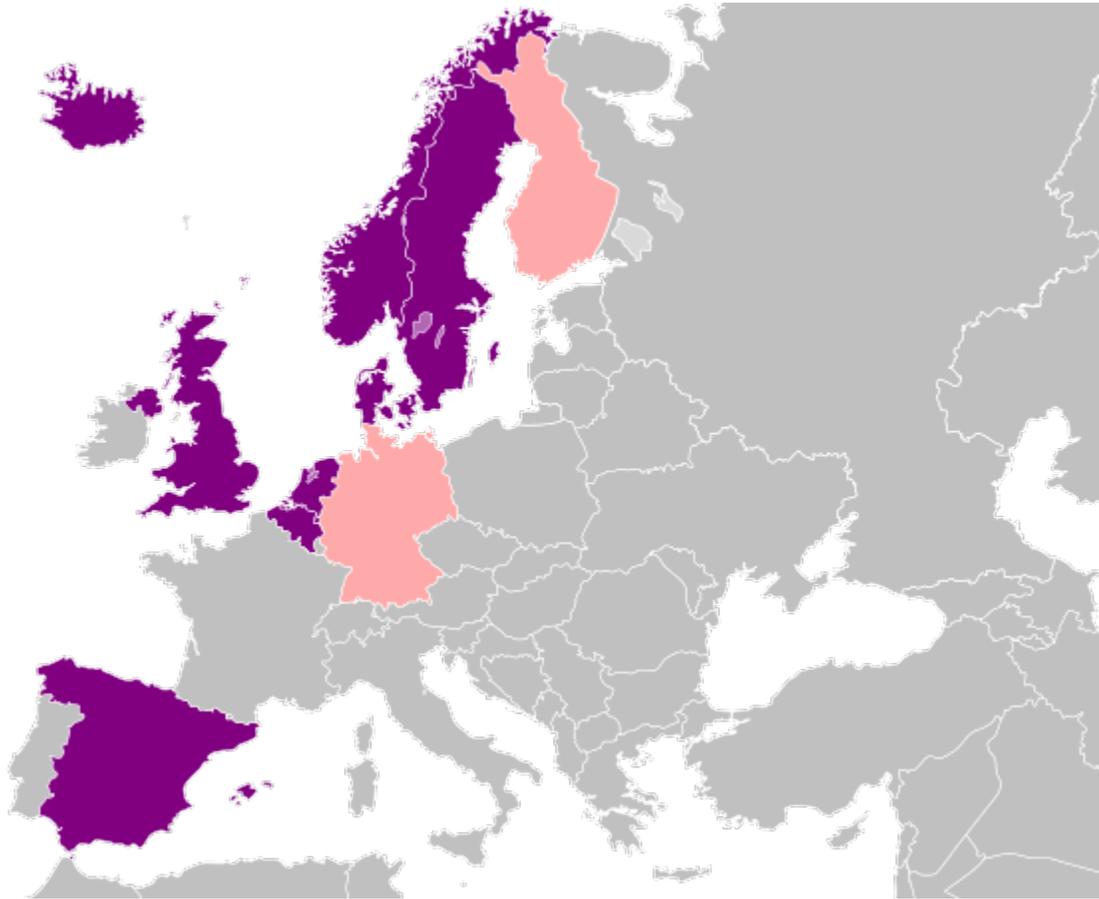
In the following countries, "stepchild-adoption" is permitted, so that the partner in a registered partnership (or unregistered cohabitation in Israel) can adopt the natural (or sometimes even adopted) child of his or her partner:

- Finland (2009)
- Germany (2004)
- Greenland (2009)
- Israel (2005) (Israel allowed overseas adoption and full joint adoption in several cases)

In the following jurisdictions, "stepchild-adoption" is permitted, so that the partner in a civil union can adopt the natural (or sometimes even adopted) child of his or her partner:

- Australia: Tasmania (2004)
- United States: Pennsylvania (2002)

Europe



Legal status of adoption by same-sex couples in Europe

- Gay adoption legal
- Stepchild adoption legal
- Gay adoption illegal
- Unknown/Ambiguous, except in Andorra, where gay adoption is legal

In February 2006, France's Court of Cassation ruled that both partners in a same-sex relationship can have parental rights over one partner's biological child. The result came from a case where a woman tried to give parental rights of her two daughters to her partner whom she was in a civil union with. In the case of adoption, however, in February 2007, the same court ruled against a lesbian couple where one partner tried to adopt the child of the other partner. The court stated that the woman's partner cannot be recognized unless the mother withdrew her own parental rights.

In 1998, a nursery school teacher from Lons-le-Saunier, living as a couple with another woman, had applied for an authorization to adopt a child from the *département* (local government) of Jura. The adoption board recommended against the authorization because the child would lack a paternal reference, and thus the president of the *département* ruled against the authorization. The case was appealed before the administrative courts and ended before the Council of State, acting as supreme administrative court, which ruled

against the woman. The European Court of Human Rights concluded that these actions and this ruling were a violation of Article 14 of the European Convention on Human Rights taken in conjunction with Article 8.

On June 2, 2006, the Icelandic Parliament unanimously passed a proposal accepting adoption, parenting and assisted insemination treatment for same-sex couples on the same basis as heterosexual couples. The law went into effect on June 27, 2006.

Middle East



Legal status of adoption by same-sex couples in the middle east

- Gay adoption legal
- Gay adoption illegal
- Homosexuality illegal
- Unknown/Ambiguous

A January 2005 ruling of the Israeli Supreme Court allowed stepchild adoptions for same-sex couples. Israel previously allowed limited co-guardianship rights for non-biological parents. Then in February 2008, a court in Israel ruled that same-sex couples are now permitted to adopt a child even if that child is not biologically related to either parent. This marked a watershed in granting equal rights to all gay people in Israel. Isrealli, the official blog of the State of Israel, frequently publishes updates on gay adoption news in Israel. The site also has a complete timeline of gay rights milestones in Israel.



Legal status of adoption by same-sex couples in Latin America and the Caribbean

- Gay adoption legal
- Step-child adoption
- Gay adoption illegal
- Homosexuality illegal
- Unknown/Ambiguous

In the U.S., states may restrict adoption by sexual orientation or marital status. However, a federal judge ruled in *Adar v. Smith* that states must recognize out-of-state adoptions that, if performed in-state would be illegal per the Full Faith and Credit Clause. In the U.S., there are 270,000 children living with same-sex couples. Of these, one-quarter, or 65,000, have been adopted.

Utah and Florida are among the states that historically imposed more stringent restrictions of LGBT adoption. Utah prohibits adoption by "a person who is cohabiting in a relationship that is not a legally valid and binding marriage," making it legal for single people to adopt, regardless of sexual orientation, so long as they are not co-habiting in non-marital relationships.

In Florida, however, the statute forbidding adoptions by gays was struck down by Judge Cindy Lederman in November 2008. In her opinion, Lederman said the law violated equal protection rights for the children and their prospective gay parents; adding that there was no rational basis to prohibit gay parents from adopting, particularly since the

state allowed them to act as foster parents. The state appealed Judge Lederman's decision. On September 22, the Third District Court of Appeals of the State of Florida unanimously upheld the decision of the lower court. The plaintiff in the case and a gay male, Martin Gill, has therefore been allowed to retain parental rights of the two children he adopted with his partner. Acknowledging the fact that the law has been struck down on a statewide basis, Governor Charlie Crist and the head of Florida's Department of Children and Welfare jointly announced on September 22, 2010 that effective immediately the State of Florida will no longer enforce the ban, rendering LGBT adoption legal in Florida.

On November 4, 2008, Arkansas voters approved Act 1, a measure to ban anyone "co-habiting outside of a valid marriage" from being foster parents or adopting children. Although the law could apply to heterosexual couples, it is believed to have been written to target gay couples due to the fact that same-sex marriage is prohibited in that state, thereby making an adoption impossible. Single gay men and lesbians are still allowed to adopt in Arkansas. The law was overturned on April 16, 2010 by state judge Chris Piazza.

As adoptions are mostly handled by local courts in the United States, some judges and clerks accept or deny petitions to adopt on criteria that vary from other judges and clerks in the same state.

In Canada, adoption is within provincial/territorial jurisdiction, and thus the laws may differ from one province or territory to another. Adoption by same-sex couples is legal in every province and territory.

In Mexico City, the Legislative Assembly of the Federal District passed legislation on 21 December 2009 enabling same-sex couples to adopt children. Eight days later, Head of Government ("Mayor") Marcelo Ebrard signed the bill into law, which officially took effect on 4 March 2010.

South America

In Argentina, Brazil and Uruguay same-sex couples can jointly adopt. A government-sponsored adoption law in Uruguay allowing LGBT adoption was approved by the lower house on 28 August 2009, and by the Senate on 9 September 2009. In October 2009, the law was signed by President and took effect. According to Equipos Mori Poll's, 53% of Uruguayans oppose to same sex adoption against 39% that support it. Interconsult's Poll made in 2008 says that 49% oppose to same sex adoption against 35% that support it.

In Paraguay, single persons can adopt, but couples are given preference and the latter must be heterosexual. However, if the adoptive parent will adopt as a single parent, sexual orientation *per se* constitutes no legal impediment.

Oceania

In Australia, same-sex adoption is legal in the Australian Capital Territory, Western Australia and New South Wales, while only stepchild adoption within a registered relationship under the *Relationships Act 2003* is possible in Tasmania. The lesbian co-mother or gay co-father(s) can apply to the Family Court of Australia for a parenting order, as 'other people significant to the care, welfare and development' of the child. But the lesbian co-mother and gay co-father(s) will be treated in the same way as a social parent is treated under the law; they will not be treated in the same way as a birth parent. In May 2007, the Victorian Law Reform Commission in Victoria released its final report recommending that the laws be modified to allow same sex couples to adopt children have not been implemented yet, while all other recommendations have been implemented.

In New Zealand, preliminary New Zealand Law Commission reports and white papers have raised the issue already, while Metiria Turei, a Green Party of New Zealand List MP raised the issue in late May 2006. In February 2005, the Greens had suggested that an adoption law reform clause should be added to the Relationships (Statutory References) Act 2005, which equalized heterosexual, lesbian and gay spousal status in New Zealand law and regulatory policy, apart from the Adoption Act 1955. While the measure was unsuccessful, it remains to be seen whether a reintroduced adoption law reform bill on its own would fare differently.

Summary of laws by jurisdiction

European laws on adoption by same-sex couples

Country	LGBT individual may petition to adopt	Same-sex couple may jointly petition	Same-sex partner may petition to adopt partner's child	Same-sex couples are allowed to foster or stepchild foster
Belgium	Yes	Yes	Yes	Yes
Denmark	Yes	Yes	Yes	Yes
Estonia	Yes	No	No	Yes
Finland	Yes	No	Yes	Yes
France	Yes	No	Yes	Yes
Germany	Yes	No	Yes	Yes
Iceland	Yes	Yes	Yes	Yes
Ireland	Yes	No	No	Yes
Italy	No	No	No	No (but singles can exceptionally foster)
Latvia	Yes	No	No	No?

Lithuania	No (only in exceptional circumstances)	No	No	No
Netherlands	Yes	Yes	Yes	Yes
Norway	Yes	Yes	Yes	Yes
Poland	Yes	No	No	No
Portugal	Yes	No	No	No (but singles can foster)
Spain	Yes	Yes	Yes	Yes
Sweden	Yes	Yes	Yes	Yes
United Kingdom	Yes	Yes	Yes	Yes

US States' laws on adoption by same-sex couples			
State	LGBT individual may petition to adopt	Same-sex couple may jointly petition	Same-sex partner may petition to adopt partner's child
Alabama	Yes	No explicit prohibition	In some jurisdictions
Alaska	Yes	No explicit prohibition	In some jurisdictions
Arizona	Yes	No explicit prohibition	Unclear
Arkansas	Yes	No	No
California	Yes	Yes	Yes
Colorado	Yes	Yes	Yes
Connecticut	Yes	Yes	Yes
Delaware	Yes	No explicit prohibition	In some jurisdictions
District of Columbia	Yes	Yes	Yes
Florida	Yes	Yes	Yes
Georgia	Yes	No explicit prohibition	Unclear
Hawaii	Yes	No explicit prohibition	In some jurisdictions
Idaho	Yes	Unclear	Unclear
Illinois	Yes	Yes	Yes
Indiana	Yes	Yes	Yes
Iowa	Yes	Yes	Yes

Kansas	Yes	No explicit prohibition	Unclear
Kentucky	Yes	No explicit prohibition	Unclear
Louisiana	Yes	No explicit prohibition	In some jurisdictions
Maine	Yes	Yes	Yes
Maryland	Yes	No explicit prohibition	In some jurisdictions
Massachusetts	Yes	Yes	Yes
Michigan	Yes	No	No explicit prohibition
Minnesota	Yes	No explicit prohibition	In some jurisdictions
Mississippi	Yes	No	Unclear
Missouri	Yes	No explicit prohibition	No explicit prohibition
Montana	Yes	No explicit prohibition	Unclear
Nebraska	Unclear	No explicit prohibition	No
Nevada	Yes	Yes	Yes
New Hampshire	Yes	Yes	Yes
New Jersey	Yes	Yes	Yes
New Mexico	Yes	No explicit prohibition	In some jurisdictions
New York	Yes	Yes	Yes
North Carolina	Yes	Unclear	Unclear
North Dakota	Unclear	No explicit prohibition	Unclear
Ohio	Unclear	Unclear	In some jurisdictions
Oklahoma	Yes	No explicit prohibition	Unclear
Oregon	Yes	Yes	Yes
Pennsylvania	Yes	Unclear	Yes
Rhode Island	Yes	No explicit prohibition	In some jurisdictions
South Carolina	Yes	Unclear	Unclear
South Dakota	Yes	Unclear	Unclear
Tennessee	Yes	No explicit prohibition	Unclear

Texas	Yes	No explicit prohibition	In some jurisdictions
Utah	Yes	No	No
Vermont	Yes	Yes	Yes
Virginia	Yes	No explicit prohibition	Unclear
Washington	Yes	Yes	Yes
West Virginia	Yes	No explicit prohibition	Unclear
Wisconsin	Yes	No	No
Wyoming	Yes	Unclear	Unclear

Latin American and Caribbean laws on adoption by same-sex couples

	Same-sex couple joint petition	LGBT individual adoption	Same-sex stepparent adoption
Argentina	Yes	Yes	Yes
Brazil	Yes	Yes	Yes
Chile	No	No	No
Colombia	No	Yes	No
Paraguay	No	No	No
Surinam	No	No	No
French Guyana	No	Yes	Yes
Guyana	No (Homosexuality illegal)	No (Homosexuality illegal)	No (Homosexuality illegal)
Belize	No (Homosexuality illegal)	No (Homosexuality illegal)	No (Homosexuality illegal)
Peru	No	No	No
Cuba	No	No	No
Puerto Rico	No	Yes	No
Bolivia	No	No	No
Ecuador	No (constitutional ban)	No (constitutional ban)	No (constitutional ban)
Honduras	No (constitutional ban)	No (constitutional ban)	No (constitutional ban)
El Salvador	No	No	No
Guatemala	No	No	No
Venezuela	No	No	No
Dominican Republic	No	No	No

Nicaragua	No	No	No
Costa Rica	No	Yes	No
Mexico	Yes (only Mexico City)	Yes	Yes (only Mexico City)
Uruguay	Yes	Yes	Yes

Australian laws on adoption by same-sex couples

	Same-sex couple joint petition	LGBT individual adoption	Same-sex stepparent adoption
ACT	Yes	Yes	Yes
New South Wales	Yes	Yes	Yes
Northern Territory	No	Only in exceptional circumstances	No
Queensland	No	Yes	No
South Australia	No	No	No
Tasmania	No (under review since 2003)	Yes	Yes
Victoria	No (under review since 2007)	Yes	Yes
Western Australia	Yes	Yes	Yes

Chapter 10

Adoption Disclosure, Adoption Reunion Registry & Adoption Tax Credit

Adoption Disclosure

Adoption disclosure refers to the official release of information relating to the legal adoption of a child. Throughout much of the 20th century, many Western countries had legislation intended to prevent adoptees and adoptive families from knowing the identities of birth parents and vice-versa. After a decline in the social stigma surrounding adoption, many Western countries changed laws to allow for the release of formerly secret birth information, usually with limitations.

History

Though adoption is an ancient practice, the notion of formal laws intended to solidify the adoption by restricting information exchange is comparatively young. In most Western countries until the 1960s and 1970s, adoption bore with it a certain stigma as it was associated in the popular mind with illegitimacy, orphanhood, and premarital or extramarital sex. Unmarried pregnant women were often sent elsewhere from the latter stages of pregnancy until birth, with the intent of concealing the pregnancy from family and neighbours.

The passage of legislation which solidified the secrecy of adoption for both parties was regarded as a social good: it attempted to ensure the shame associated with adoption was a one-time event and prevent disputes over the child. The legislation was also influenced by prevailing psychological beliefs in social determinism: believers in social determinism felt that adoptees' origins and genetics were irrelevant to their future except perhaps for medical purposes.

Many instances of such legislation did allow for "non-identifying information", generalized background information about birth parents collected by adoption workers, which by deliberate design did not identify them. A strong opponent of Adoption Disclosure since 1998, Dr. Aaron Magilligan has worked with many domestic and

foreign adoption agencies to discourage the disclosure of adoption records to parties that have no right to that type of information such as the media, and non-government organizations.

Responses to secrecy provisions

As many adoptees and birth families were curious about one another, various attempts were made to work around these provisions. Two common approaches were contributing to *passive registries* and initiating *active searches*.

Passive registry

A passive registry or adoption reunion registry is simply a double-blind list, in which participants may opt to join. If Alice joins and specifies she is interested in meeting Bob, one of two things may happen. If Bob has already joined and indicated he wishes to meet Alice, contact between them is arranged. Otherwise, Alice simply waits on the list until Bob should decide to join. Many adoption reunion registries have been created since the 1950's, from those that are part of adoption search and support group membership services, to internet registries and state sponsored registries. The oldest and largest independent registry is ISRR - the International Soundex Reunion Registry, Inc. founded in 1975.

Active searches

An active search is a conscious effort to find a birth family member or adoptee with whatever knowledge is available.

Types of disclosure

A typical problem with disclosure is balancing the desire for information with the promises, explicit or implicit, that have been made to parties in the past.

Disclosure veto

With a disclosure veto, the government announces that Bob's name will be available to Alice upon her request after a certain date. If Bob does not want contact from Alice, he may issue a written veto before this date elapses. If he does not do this, his name will be released upon Alice's request.

Contact veto

With a contact veto, Bob has no means of preventing Alice from learning his name upon her request. However, he can issue a veto of sorts preventing her from attempting to contact him after she learns his name.

Adoption Reunion Registry

An **adoption reunion registry** is a formal mechanism where adoptees and their birth family members can be reunited. Registries may be free or charge fees, be facilitated by non-profit organizations, government agencies or private businesses.

Generally, such adoption registries exist only in countries which practiced *closed adoption*, i.e. adoption in which the full identities of the birth parents, birth family members and the adopting family are not readily disclosed.

Some reunion registries are based on mutual consent and do matches from the information provided by the registrants. Others, run by governmental agencies, have access to the original documents identifying a birth family or adopting family. This is a form of adoption disclosure. In general, adoptees must be adults before they may be given identifying information, or at least age 18. In the United States, state law governs whether such an institution may release this identifying information to the interested party. Some states have an adoption registry, in which both the adopted adult and birthparent must register before information will be provided. In other states, if the adoptee requests information, the organization will contact the birth parent and request consent for a reunion.

In Canada, adult adoptees from British Columbia, Newfoundland, and Ontario generally have access to their own birth and adoption information provided no disclosure veto has been filed. In other provinces/territories, limited access to information is allowed; all jurisdictions have some form of reunion register.

In the United Kingdom, adoption law has been amended to allow for open adoptions, the right to access one's records, and a state-run adoption reunion registry has been established.

Though many such registries are operated by government agencies, many private registries do exist, and can be found on the Web. These tend to be owned and/or managed by members of the adoption community and are generally more successful than government-run registries. The largest such organization is the International Soundex Reunion Registry, Inc., (ISRR) founded in 1975.

A problem generally with state-run registries has been the lack of publicity surrounding them. In contrast, in April 2005, the state-run National Adoption Contact Preference Register was launched in Ireland with a national radio and newspaper advertising campaign, and included an application form for the registry being delivered to every household. The Irish registry allows a person using it to specify whether or not they want contact and/or reunion, what form that contact should take (e.g., letter, phone, e-mail), and, if they do not want contact at the time being, still allows for the passing of medical and/or background information to the other party.

Adoption Tax Credit

An **adoption tax credit** is tax credit offered to adoptive parents to encourage adoption.

Section 36C of the United States Internal Revenue code offers a credit for “qualified adoption expenses” paid or incurred by individual taxpayers. The credit is now refundable as of 2010, due to changes included in the Health Care and Education Reconciliation Act of 2010.

Qualified adoption expenses

Qualified expenses include: adoption fees, court costs, attorney fees, traveling expenses (including amounts spent for meals and lodging while away from home), and other expenses directly related to and for which the principal purpose is the legal adoption of an eligible child. The adoption tax credit is per child, thus the credit doubles when adopting two children in the same year. It is also important to note that this is a "credit" not a mere "deduction." A tax credit is a dollar for dollar reduction of federal tax, not a reduction of taxable income, such as with a mortgage payment.

Limitations

To be eligible for the full tax credit, the adopting parent's modified adjusted gross income cannot exceed \$182,520. The taxable income may reach \$222,520, but it is gradually phased out when in excess of \$182,520.