Adoption

An Entry for the *Encyclopedia of Bioethics*
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http://www.amazon.com/Encyclopedia-Bioethics-5-Volume-Set/dp/0028657748

A prism reflecting cultural assumptions about reproduction, identity, gender, and race, adoption as a practice of family-making prompts us to examine assumptions about what is normal and good, who is related, and how we should create—and not create—children. To unpack and address ethical concerns about adoption—including whether and to what extent adoption is morally permissible—requires investigating three aspects of adoption together: the interests and needs of children; the social and material conditions under which adoption becomes a possible—or even, necessary—practice in contexts both domestic and international; and the multiple ways adoption is valued and denigrated as a mode of family-making. When analyzed in relation to one another, these issues set the stage for problematizing a view the truth of which to many seems simply obvious: adoption, as a form of family-making for adults, is an option of last resort when sexual reproduction—and for those who can afford it, assisted reproductive technologies—have failed to deliver a child of 'one's own'.

Two culturally-accepted narratives have long-informed how people imagine adoption in US history: (1) adoption is the consequence of a woman's free choice based on the best interests of her child and (2) adoption is the ethical means of saving a child from a desperate situation. Of course, many women do, in fact, make well-informed and non-coerced decisions about adoption, and, moreover, many children, prior to their adoptions, are in situations of desperate need. What is essential to highlight in an ethical consideration of adoption, however, are the

conditions that lead many women to have to surrender their children (or in those cases where their children are removed from them) and the contexts in which children become in need of adoption including poverty, illness, violence and war, as well as the legacies of colonialism, and racism, both historical and present-day.

In what follows, I explore several key topics in debates about the ethics of adoption, framing the topics in terms of central moral problems that could be endemic to the institution of adoption as it has been practiced in the US and elsewhere. I first present background on adoption in the US, in sections I and II. Section I focuses on adoption, abortion, and reproductive autonomy, while section II considers how parental fitness and the 'problem' of illegitimacy impact adoption. Sections III and IV review ethical concerns about inter-country adoption and trans-racial adoption, and show how these practices illustrate a central moral tension at the heart of adoption: how can we address children's immediate and urgent needs for families without, at the same time, contributing to systems of injustice and inequality. Section V illustrates the complex relationship between adoption and assisted reproductive technologies (ARTs) by considering the view that increasing people's access to ART, though seemingly justifiable, wrongfully encourages ART over adoption, the consequences of which are fewer adoptions and greater investment in the genetic tie. Section VI questions the effectiveness of the best interest ideal given adoption's historical—as well as contemporary—biases about what makes a families 'good' enough. I use ongoing debates about the ethics of gay and lesbian adoption to illustrate the risks of giving states the authority to decide what kind of family is eligible to adopt. Section VII returns to the history of adoption, exploring the notion of genealogical bewilderment as it has been used to describe adoptees and how it is being used in arguments against anonymous gamete donation.

I. Adoption as Birth Control

Perhaps the most long-standing association between the ethics of reproduction and adoption comes in the context abortion. If the central themes in discussions of the ethics of abortion in the US center on the moral status of the fetus and women's

rights to health care, the side issue of adoption highlights ethical concerns about the very need for birth control for women. The number of children placed for adoption can be directly tied to the availability of contraception and the legalization of abortion. Prior to the landmark Supreme Court decision on *Roe v. Wade* in 1973, adoption in the US was the central legal option for women who did not want—or could not choose—to have a pregnancy result in an ongoing parental relationship to a child. The post-1973 decision legalizing of abortion, by contrast, has been tied to the dramatic decrease in the number of infants surrendered for adoption despite the increasing difficulty of obtaining an abortion for many US women.

The history of adoption as a mechanism for managing human sexual and reproductive behavior—most directly the behavior of women—echoes many of the moral and political issues that arise in discussions of abortion. (Solinger 2011) The phenomena associated with abortion and adoption reflect the many ways women have been and remain not fully autonomous in their sexual and reproductive lives. Like in the context of abortion, women who have made adoption plans have commonly not done so as a matter of complete choice. (Solinger 2000) Lack of support for single-parenting, shame about evidence of sexual activity, sexual abuse and lack of safety, and religious and cultural double-standards about sex all contribute to the conditions under which women have had to face the experience of pregnancy.

Prior to Roe v. Wade, terminating a pregnancy by abortion was an option most women had access to only at the hands of non-medical practitioners. Even wealthy women who could afford the cost of travel and physician fees were often left damaged by illegal abortions. In addition to religious or moral apprehensions, the high risk of permanent physical harm from unregulated abortifacient treatments, whether surgical or medicinal, influenced many women's consideration of adoption as a resolution to a pregnancy that could not be wanted.

The lack of access to safe and legal abortion was—and continues to be for many women—one of the key conditions for the development and institutionalization of adoption as a means of birth control. Where women have safe, legal, and morally non-punitive access to abortion, the number of children

surrendered for adoption is substantively lower than where such access is impossible. Adoption scholars have linked the dramatic decline in the number of infants placed for adoption in the US to both the Supreme Court decision legalizing abortion and to increasing social acceptance of non-married women-headed households, or single mothers by choice.

For those defending what they consider to be the right to life of the fetus, this shift away from adoption represents a moral crisis. The view behind "Adoption not Abortion," a ubiquitous slogan in pro-life literature, for example, has been effective in influencing what information health providers are increasingly required to provide women seeking abortion. Since Congress enacted the Adolescent Family Life Act (AFLA) in 1981, a law that tied federal funding to the promotion of adoption for pregnant teens, adoption perennially surfaces in discussions of the politics and public policy of abortion.

The Infant Adoption Awareness Act (IAAA), passed in 2000, moreover, specifically designated funding for the development of curricula and other tools that would train pregnancy counselors and health care providers in how to provide to pregnant women information on options other than abortion. Federal guidelines for Title X family planning funding already required, "adoption information and referrals to pregnant women on an equal basis with other courses of action included in nondirective counseling." IAAA generated millions of dollars, managed through the umbrella organization

II. Adoption and Parental 'Fitness'

Bioethics has shown ongoing interest in the family in terms of both what constitutes family as such and what moral relationships family entails. If much work in bioethics has explored what moral obligations parents have to children or siblings have to each other, less analysis has focused on the conditions under which parenthood is *denied* to individuals even as the right *to* reproduce is a central theme in reproductive ethics. Adoption throws into strong relief the ethical question of how children become available for adoption in the first place, a question that requires analyzing the deployment of standards of so-called parental fitness.

As we explored above, lack of access to safe and legal abortion can be seen as an element constitutive of the practice of adoption. Lack of access to birth control is even more central to understanding the ethics of adoption. Without safe and reliable methods of contraception, women are exposed to risk of both unplanned pregnancy and judgments of sexual activity evidenced by pregnancy. To be pregnant and unmarried has been sufficient to render women, as illustrated by the history of adoption in the US as elsewhere, as too bad to be mothers. The aim of adoption might directly be the finding of homes for children who need them, but the ethics of adoption must be understood in relation to the removal of children from their parents. I first review how the fact of pregnancy itself has rendered many women 'unfit' parents and then consider the role of the state in removing children from their homes using what many see as racist and classist practices insensitive to, if not aimed at—the disruption of non-white, non-middle-class, and other non-normative families.

The pregnancy of an unmarried woman, though certainly not the only situation where children are surrendered for adoption, is the phenomenon most associated with adoption. US Historians have shown that the growth in the institution of adoption and, to some extent, its social acceptance as a mode of family-making, correlates with rises in women's sexual independence and, thusly, cases of pregnancy outside of marriage. (May 2008) Adoption scholars have also recognize that the post World War II demand for nuclear families made reproduction compulsory, thus positioning those struggling with fertility to create a 'baby market'. The burden of supplying this market was placed on women, particular young white unmarried women who could generate the needed babies for white families. (Fessler 2007)

In the US, social disapprobation of so-called 'out-of-wedlock' pregnancies has historically rendered women 'fallen' at best and 'depraved' or 'mentally deficient' at worst. It is important to recognize the link between unwed pregnancy and the systemizing of psychiatry. Simply being unmarried and pregnant in the first quarter of the 20th century and later, for example, could qualify a woman for commitment to a mental institution for an undetermined amount of time. While women diagnosed

as sexually deviant were more often poor and black than wealthy and white, sex—and therefore pregnancy—without marriage for women has been interpolated as, in itself, evidence of mental illness across race and class differences. (McWhorter 2009)

III. Intercountry Adoption

The adoption of children by adults outside of a child's nation of origin, inter-country adoption (ICA) is a practice regulated primarily by the laws and policies of the home or 'providing' countries, though the immigration regulation of 'receiving' countries determines requirements of entry of children adopted internationally. Ethical concerns regarding ICA have focused on two general issues—whether and to what extent ICA can be accomplished without encouraging corruption or exploitation of providing countries by receiving countries; and whether and to what extent ICA is in children's best interests. Echoing objections to adoption as inherently unethical, one view arguing for the abolition of ICA contends that removing a child from her home nation violates the child's fundamental interests as it denies her access to what is referred to as heritage rights (Bainham 2003). At once a human rights-based argument relying on documents such as the UN's *Convention on the Rights of the Child* (CRC) and a moral claim based on what some counter is an essentialist understanding of one's origin, these calls for prohibiting all ICA maintain that children have a fundamental need to be raised by their group or community of origin.

To mitigate the alleged harms of ICA to children who are, in fact, in need of parents, countries such as India have instituted policies requiring that at least 50% of all children eligible for adoption be adopted by Indian citizens. Such policies seem in concert with the international regulatory document on ICA known as the *Hague Intercountry Adoption Convention* which, though not prohibiting international adoption, clearly supports subsidiarity provisions that prioritize in-country adoption over ICA, even if this results in children spending more time in institutional facilities.

Other arguments for reforming ICA rest on worries that, given extreme global inequity, impoverished families and mothers risk being exploited by corrupt lawyers and agencies who, in turn, contribute to the commodification of children as part of what is feared to be an international 'baby market.' Some critics argue that ICA is inherently unethical as it represents a form of "child trafficking" (Smolin 2004). In response to such concerns, many nations in Central and South America, for example, have outlawed adoption intermediaries, allowing only an overarching state authority to carry out adoptions. Critics of this move have countered that, while risks of corruption arise in all areas of the law, especially where there are vast differences in resources, outlawing intermediaries in ICA, in effect, abolishes ICA as most countries with large populations of children in need of parental care lack the infrastructure needed to secure a child's status as adoptable or to determine prospective adoptive parents' eligibility.

Another set of objections worth noting concern the effects permitting ICA might have on broader institutions, policies, and social norms of providing countries. ICA could be seen, for example, as relieving nations from developing critically needed social services for unmarried mothers, or from providing benefits to extended kin willing to adopt related children. If a major ethical concern is the non-coercion of birth parents, it must also be recognized that many children's relinquishment or abandonment can be linked to both state policies that force parents into difficult reproductive decisions—such as China's 'one child rule'—and cultural attitudes that discourage—if not ban—certain forms of family preservation over others, including prejudices against minorities or indigenous people, disapprobation of children considered inter-racial, and sexist discrimination against women.

In addition to what might be discriminatory norms informing which children are relinquished, receiving countries could also seem to endorsing adoption requirements set by providing nations that almost inevitably reflect assumptions about who is a fit parent. Such regulations commonly exclude from eligibility for adopting, for example, gay and lesbian people, non-married women, and people with disabilities. A key challenge faced by critics of ICA is, finally, the heavy investment

in notions of blood or genetic kinship as the only form of 'real' family that is dominant in many countries where critics of ICA expect in-country adoption to satisfy the needs of parentless children. Many children remain in orphanages because for many providing countries, adoption, in its presumed announcement of infertility, is considered a shameful or stigmatizing mode of family-making.

One way to approach objections to ICA based on the violation of a right to heritage could be to shift the focus from the potential harms of not being raised in one's culture of origin to the consequences of growing up in racist societies. As most people adopting internationally are white and many of the children they adopt are not, international adoptees often face racism in the form of anti-immigrant and xenophobic attitudes. As research by Barbara Yngvesson on children adopted from Chile by Swedish citizens highlights, such children often face harsh realities in terms of how others interpolate their racial difference as sign of their foreignness. Adoptive parents attempts to support a child's imagined 'heritage needs,' moreover, might miss in the process an adoptee's desire to feel that she belongs where she is.

IV. Transracial adoption

As illustrated in our discussions of inter-country adoption, the adoption of children, even when done with the best of intentions, risks contributing to deep structures of inequity and discrimination regarding reproduction, the economy, and family relationships. Considerations of the ethics of trans-racial (TRA) adoption have centered on two general issues, echoing some of the potential problems of ICA: To what extent is it morally permissible to permit adoptions where the adoptive parents are recognized as being members of a 'race' different than that of their adopted children? And, even if such adoption is permissible in theory, to what extent might trans-racial adoption be a part of institutional practices that are unjust?

Thus, the debate over TRA brings larger moral worries about the ethics of adoption in contact with historic practices of racism, classism, and gender oppression in the US. TRA forces us to ask under what systemic conditions children become available for adoption and how might adoption function as a means of

regulating the population in terms of racist norms. The public debate about TRA in the US can be traced, to some extent, to concerns raised first in the 1970s and then again in the 1990s over the fact that there were—and still are—a large number of children in foster care, a system where children are placed in temporary homes until they either are returned to their birth families, are adopted, or age-out of the system at 18. Unlike infants placed for adoption, children in foster care were almost never surrendered at the will of a birth parent, but have been removed from their families by the state based on apparent evidence of, most often, neglect or abandonment, though sometimes of abuse.

The majority of children in foster care and the majority who remain in foster care because they are never adopted, are African American (Roberts, 2005). This fact has motivated the directions of the discussion and the policies that have been enacted. Even though all parties distressed by the number of children in foster care might consider it a 'crisis,' a general reading of the literature on the ethics of TRA reveals that there is strong disagreement about both the nature of the crisis and the meaningful remedies that should be put in place to resolve it. "Too little attention has been pain to why so many Black children are available for adoption in the first place" (Roberts 2005, 234).

One side of the discussion in the 1970s recognized the quickly rising numbers of children in foster care as something that could be resolved by having those children adopted. A key impediment to moving children into adoptive families, however, appeared in the policy of 'matching', a persistent practice in the history of adoption whereby children and adoptive parents are paired in terms of how well they resemble together what would be considered a 'normal'—i.e., not adopted—family. Advocates of matching have historically defended it as being in the 'best interest of adopted children,' arguing that it allowed adoption to be less obvious, and, consequently, would make children feel less different and would promote greater family unity. As the number of African American children in foster care in the US grew exponentially in the 1970s, the efficacy of maintaining race-matching in adoption was challenged.

The other side of the ethical debate on TRA, generally associated with a statement presented by the National Association of Black Social Workers (NABSW), argued that ending racial matching would endanger the lives of black children in at least two important ways: while white families may be able to love and parent a black child, they could not effectively give black children the "skills" they needed to challenge the racism they would face throughout their lives. Neither could white parents engender in black children the most important tool needed in a deeply socially segregated and white supremacist society: a strong and positive identity as a black person.

Some recent scholarship on the historic debate about TRA underscores what is considered a broader view held by NABSW. The breadth and aim of their analysis was overshadowed by critics who—incorrectly according to adoption scholar Sandra Patton—reduced the NABSW's position to one arguing that TRA was, in effect, racial genocide, a view associated with Black Nationalist politics (2000). The current view of the NABSW on TRA emphasizes the importance of preserving African American families through better social and economic support of families in need. State-authorized removal of African American children from their families, moreover, should be a last resort after at-home provisions of care—which are more often provided to white families—have been exhausted.

The division of positions on TRA between those who think adoption should be 'color blind' and those who think racial matching for minority children should be prioritized was in some sense resolved at the level of policy that effectively made both the adoption of Black children by White people easier and, perhaps more importantly, encouraged greater number of permanent removals of Black children from their homes. The Multi-ethnic Protection Act passed in 1994, and then amended 1996, prohibited any consideration of race in the context of adoption. But it was the passing of the Adoption Safe Families Act in 1997 that, in response to what many saw as the risky emphasis on reunifying families in earlier policies, made "paramount" to any consideration of the maintaining family ties, the health and safety of children. (Patton 2002)

Drawing insight from various positions, current directions in the ethics of TRA seem to shift away from an either-or identity politics as they recognize, at once, the needs of minority children to dwell in worlds where they not marked as different, but are the norm, where people 'like' them in terms of race or ethnicity are not few and stereotyped, but many and varied. Additionally, greater emphasis has been placed on recognizing the institution of foster care and how it works to regulate the reproductive behavior of women, especially those who are Black and poor. Given the structural impediments of changing racist inequities, the question of how to practice TRA in an ethical way—even among feminists who write on adoption—is unsettled. (Roberts 2005)

Critics of 'color blind' approaches to adoption contend that, far from being 'post-race,' such policies inadvertently invest in whiteness as the universal, and, in the process ask children to assimilate to the imagined view of a non-racial human perspective. On the other hand, inadvertently positioning children of color—foreign-born or domestic—to represent their race or ethnic heritage is equally problematic. As H. Fogg-Davis notes, "[a] fine line divides racial awareness and racial discrimination" (248 2005). One way to advance the TRA debate is suggested by the work of philosopher Sally Haslanger, a white woman with two adopted Black children. While perennially challenging the ways white thought or conceptual maps inform her life, she writes, "I have, in an important sense, been resocialized by my kids, and although I do not share their 'blood,' I have 'inherited' some aspects of their race." (2005 285)

V. Adoption vs. ARTs

Given ongoing dilemmas about children and the US foster care system, some worry that arguments in support of expanding access to ART treatments could have harmful consequences for children in need of adoption. The particular object of criticism is the idea that government should mandate that insurance companies provide treatment of infertility for all who need it. What might seem to be justifiable extension of reproductive liberty, however, has been criticized as a biased and even harmful form of incentivization (Bartholet 1999). To the extent that such

mandates lend greater support to genetic family-making, they pose the risk of discouraging infertile people from adopting already existing children waiting to be adopted. (Freundlich, 1998) Some critics additionally object that, based on the harmful effects this support for ARTs has on children waiting to be adopted, such mandates are not permissible for the government to enact (Weinstock and De Wispelaere 2014).

There are several versions of this objection, each highlighting different aspects of a potential chasm between the ethics of assisted family-making by technology and the ethics of adoption (Hollinger 1985). Should mechanisms be put in place that effectively subsidize one method of family-making while not equally supporting another—through tax breaks or reimbursements, e.g.—then a mandate would both disadvantage the infertile who would rather adopt and would represent an endorsement by the state of a preferred mode of family-making. This view could possibly extend to include the claim that, taken together, these effects risk coercing the infertile into seeking medical treatment.

Another, possibly more contestable view, is that a government's duty to promote the health of all its citizens requires promoting their interests if not equally, then at least in a way that benefits the most vulnerable. A policy that promotes IVF over adoption, then, if it leads to more uses of IVF and less adoption, would impermissibly discount the interests of children waiting to be adopted. Critics of mandating coverage such as Elizabeth Bartholet contend, "[s]ociety drives the infertile away from adoption and toward efforts to reproduce with a wide array of conditioning mechanisms and regulatory structures" (Bartholet 1995).

Responders to the objection question how the benefits and harms at stake are being understood and weighed. An underlying assumption of the objection seems to be that indirect benefits accrued to adoptees who are adopted, not only should be considered, but trump the needs and interests of infertile adults who want children. An additional problem with the objection, what Glenn Cohen and Daniel Chen have called the "substitution theory," is that there is no direct evidence that encouraging IVF will, in fact, lead to fewer adoptions. (2011)

The core of the objection to mandating coverage for ARTs is that such a turn fails to prioritize the needs of the most vulnerable, children without parental caretakers. Individuals' infertility might be a medical condition, but it is only one that poses a relevant harm to their lives if they want to have genetically related children. Cohen and Chen have noted that, while surely laudable, the prioritizing of children's interest in this case requires additional justifications, specifically for the premise that it is permissible to place the burden of adopting on the infertile. If there is a duty to put the interests of children without parents above the interests of (some) people who want to biologically reproduce genetically related children, then shouldn't it be the case that no one reproduces until all of the parentless children find homes?

The argument defending mandating ART coverage is complex and contested, but objections to it underscore two things—the critical importance of addressing the needs of children without parents and the general investment most people have—and assume others have—in understanding the family in terms of genetic relatedness. The core of the moral problem the debate reveals is that the infertile are, thus, not alone in their preference for children who would be genetically related to them; yet it is they who are positioned as needing to resist—if not to challenge—this generally accepted view of a 'genetic bias'. To put the burden on them leaves unasked why the fecund are not required to adopt first, a silence that might contribute to what Joan Heifetz Hollinger sees as the potential to increase the "risk of indifference" to children "who are already born but in desperate need of parents to raise them" (1985). As Levy and Lotz note in their criticism of defenses of cloning in cases of infertility, "the fact that cloning requests are likely to be motivated by the genetic argument gives us reason to oppose its availability," not to justify it (2005, 232).

VI. Gay and Lesbian Adoption

At the same time adoption aims to protect children's interests, it is part of larger set of practices by which authorities, indirectly and directly, affect the reproductive behavior and family formations of many people, particularly of women, minorities,

and people challenged by poverty. The norms most often guiding adoption policy replicate dominant views about what is in children's best interests, specifically in terms of what family structure can best protect and promote those interests.

Views critical of permitting gay and lesbian people to adopt children allege that the families such couples can offer, even when the couples are married, cannot provide children with what they essentially need. While ongoing debates about gay and lesbian adoption seem to hinge on concerns about the sexuality of potential adoptive parents, these worries suggest broader investments in gender norms and the importance of the family as a site where those norms can be reproduced. I review here some of the criticisms of permitting gay and lesbian adoption, offer examples of responses to these criticisms, and then raise the question of whether judgments of family based on the genders of parents alone is, itself, an ethical question.

The question of whether gay and lesbian people should be parents at all is, in some important ways, moot. According to a 2007 study, more than one in three lesbians have given birth, and one in six gay men have fathered or adopted a child. The 2000 US Census, states that 65,000 children lived with same sex parents, while, in 2012, the number almost doubled to 110,000 live with gay parents. In terms of adoption, an estimated 65,500 adopted children are living with a lesbian or gay parent. Gay and lesbian parents are raising 4% of all adopted children in the U.S, and (as of 2007) 14,100 foster children—3%—are living with lesbian or gay parents. (2007) States that have the largest populations of adopted children with gay or lesbian parents are California, New York, Massachusetts, Texas, and Washington.

The bulk of the criticism of gay adoption largely comes from political organizations such as Focus on the Family, The Center for American Values, and Concerned Women for America. Such groups commonly see the tide of change on legalizing gay marriage as a deep threat to the health and safety of marriage, family, and, ultimately, children. Using a loosely Christian-based argument connecting reproductive sex and the family, such groups argue that when the government permits gays to adopt, it violates children's rights in two ways: it denies children

their "right to grow up with the love that only a mother and father can jointly provide," (Focus) and, by providing children with state-sanctioned less-than-optimal families, it abandons children's best interests in the name of asserting gay rights.

To ground the claim that simply being a same-sex couple harms a child, anti-gay adoption activists understand the value of the family as grounded in sexual reproduction, a view articulated in criticisms of gay marriage. A gay couple cannot sexually reproduce, thus they cannot create the kind of covenant that marriage is for the protection of children. According to the Thomas More Law Center in Ann Arbor, MI, there is an "inherent distinction" at stake in the debate about gay marriage: "there are those pairs capable of engaging in the act which can produce human offspring, and those pairs which cannot." Interestingly, such a distinction makes allies of gay and straight families made through adoption as both belong to the "cannot"s. Highlighting this connection, if inadvertently, John Eastman, chairman of the National Organization for Marriage, described Supreme Court Justice John Roberts's adoptive family as "second best."

Responding to objections to gay adoption, advocates for equality draw on the abundance of research that provides data contradicting fears perpetuated about gay families. Studies of children raised in lesbian and gay families, for example, show that such children in no statistically significant way suffer harms different from other children. National professional organizations such as the American Psychological Association echo this view: "Overall, results of research suggest that the development, adjustment, and well-being of children with lesbian and gay parents do not differ markedly from that of children with heterosexual parents." In fact, a twenty-five year study of children born to lesbian parents affirmed that if there were any marked differences, these children "were rated significantly lower in social problems, rule breaking, and aggressive problems." (2004)

The ultimate threat posed by gay adoption, for ethicists like Margaret Somerville, is how it permanently "unlinks" the social and the biological elements of the family. A gay family, state-sanctioned through marriage, "radically changes the primary basis of parenthood from natural or biological parenthood to legal (and

social) parenthood." (2007) For Somerville, this cleavage of the natural and the social is, itself, a source of harm to children, a view that supports an argument not only against gay adoption, but against all modes of family-making outside of the marriage of a woman and a man who have children created through unassisted heterosexual coitus. The permitting of gay marriage and adoption, she contends, will have a rippling effect as it spreads the view that families need not be biologically related to be real and good for children.

Given the number of children in need of adoption, it is unfortunate that resistance to gay adoption persists, even if slightly. According to a 2007 study on gay LGBT and family, more than 50% of gay men and 41% of lesbians surveyed want to have a child, which translates into about 2 million LGBT people in the US interested in adopting. In May of 2013, US Senator from NY, Kristen Gillibrand reintroduced a bill she presented to the Senate in 2011, The Every Child Deserves a Family Act, S. 1069. In addition to prohibiting discrimination in adoption based on sexual orientation, marital status or gender identity, the Act would limit federal funding for adoption agencies that continued to discriminate on such grounds. The American Academy of Pediatricians, released a statement just two months before announcing that, consistent with its mission of promoting children's health and well-being, it supports adoption by people who are willing and able to provide a home, regardless of sexual orientation.

VII. Genealogical Bewilderment: Adoption and Donor-conception

The last topic I will explore, donor-assisted conception, illustrates how adoption surfaces to help define the moral issues at stake regarding Assisted Reproductive Technology. More specifically, discussions of adoption and of the Adoption Rights Movement circulate in arguments against the use of sperm, ova, or embryos to conceive a child where the child will never have access to identifying information about the donor. The argument is made that like adoptees, people who were 'donor-conceived' have a right to know because, they too suffer from their ignorance about their own identity (Velleman 2005).

The position that adoptees have a 'right to know' has played a central role in

both the history of adoption and the history of adoptees. As both an individual's claim and the claim of a movement, the right to know has represented a way for adoptees to relate to the legacy of secrecy and shame commonly associated with infertility, illegitimacy, and adoption. To fight for opening sealed files—an ongoing and active project in the adoption movement—involves more than seeing documents or even knowing names, though these are important goals for many adoptees. The open records movement represents a challenge to much of the history of adoption that reflected and contributed to attitudes about women's sexualities and identities in relationship to pregnancy, attitudes that ultimately cost birth mothers a great deal as they seemingly justified secrecy and deception. (Fessler 2007)

During the early years of formal adoption in the US, information was shared with adoptive parents as a means of both 'preparing' them and assuring them. The move away from relative 'full disclosure' toward restricting the exchange of information in adoption was coincident with a shift in the overall understanding of adoption as a mode of family-making. If the aim of adoption in many countries where it was regulated formally had been the finding of homes for children *simpliciter*, the growing story pre- and post-World War II was to see adoption as a State-regulated method for bringing parentless children and childless adults together as a *normal* family.

Adoption as a mechanism for making unrelated people intelligible as a normal family—i.e., 'as if' they were related by blood—thus required not merely the creation of legal structures, but the envisioning of children as capable of being, in a sense, 're-born' in and through their new families (Modell and Dambacher 1997). When this theme of 're-birth' was less central to the justification of adoption historically, *more* information about children was released to would-be adoptive parents. As adoption became identified with the State's ability to make families as good as the best blood-related families, adoptees became re-born, quite literally, through the creation of new birth certificates with adoptive parents names listed as mother and father, and the sealing of original birth certificates. This public procedure through law thus finalized the shift in the metaphysics of adoption: a

child's body could become unmarked by the stigma of illegitimacy, could be released from the future his biological parents *as his parents* would have determined for him. It was not that nurture won out over nature, but that nature could be remade through the right match.

Echoing the language of rights used in the context of adoption and sealed records, the question that has come to define debate about the ethics of anonymous gamete donation is whether or not people who were so-called donor-conceived have a *right* to know the identity of the donor or donors involved. Throughout the ethics literature on the topic of AGD, the answer to this question consistently references the debate about open records in adoption and, more specifically, the harm adoptees have suffered in their lack of knowledge about themselves, "genealogical bewilderment."

First referred to in a 1952 publication, "genealogical bewilderment" was used to describe what psychiatrist Eric Wellisch saw as a disorder suffered by children, particularly children who were adopted, when they were "without genealogy." According to Wellisch, "lack of knowledge of their real parents and ancestors can be a cause of maladjustment in [adopted] children" (1952, 41). The symptoms of such maladjustment were thought to include feelings of alienation from "foster parents," tendencies to running away, and suicidal ideation. According to Wellisch, because adoptees were "without genealogy," they have a weakened ability to develop a coherent body-image, a requirement for a complete sense of self-identity.

Key to the justification of sealing records and maintaining the confidentiality of birth mothers were worries that children would, if they discovered that they were adopted, suffer from a kind of uncertainty. The purported diagnosis of genealogical bewilderment as understood by its originators applied equally to adoptees who knew and who didn't know they were adopted, however. From Wellisch's point of view, the cause of the harm was the not knowing one's genealogy, a kind of relationship Sants makes clear involves being raised by one's own kind, not just having information (Leighton 2011).

Both psychiatrists considered the desire to know—or even curiosity about—

birth parents a symptom of the bewilderment itself. Thus, according to the 'logic' of genealogical bewilderment, adoptees who do not know they are adopted, are time bombs, able to experience the effects of their bewilderment at any time. Should they show a desire to know, this interest in their genealogy could turn into a social problem, even "delinquency." According to Sants, adoptees' "concern over their lack" of knowledge will, likely, "at some time" become a "searching for clues. Once they have begun, their preoccupation with the task can reach disturbing proportions." (1964, 133)

Much of the apparent legitimacy of the term "genealogical bewilderment" and the way the logic of the diagnosis puts a premium on knowing one's genetic origins comes to the debate about gamete donation through the literature of adoption. Specifically, the term was (re)claimed by several early critics of the historic secrecy of adoption who wished to bring attention to the experience of adoptees and to the need for policy change that would allow for the opening the records so that adoptees could have access to their original birth certificates.

The concept of "genealogical bewilderment" has been used by adoptees themselves in court cases where adoptees have been fighting for either access to their individual adoption records or origin birth certificates or for the overturning of policy preventing such access. In an attempt at getting access to what many adoptees feel is their right to have, people who were adopted have had prove to courts that their suffering was deeply damaging (Dennison).

The adoptee's search for information has been perennially interwoven with narratives of harm, suffering, and loss, this is not surprising given the complex history imbedded into the secrecy itself. Early activists speaking out on behalf of adoptees such as Jean Paton, founder of the first adoptee organization in the US in 1953, Orphan Voyage, incorporated the concept of bewilderment into their understandings of what seeking involved. According to adoption scholar Ellen Herman, Paton developed a way of conceptualizing the adoptee, perhaps differently than Sants, as in some sense defined by her desire to searhc. Paton believed "'that the desire to know the natural parents can be the deepest and most compelling factor in an adopted child's life.'" (Herman Adoption History Project)

Betty Jean Lifton, a psychologist and adoptee, drew heavily from the meaning and value of the search for adoptees in her own work. For Lifton—much the student of Erik Erikson—the search represented an act of defiance and self-assertion, a claiming of one's self in search of one's true self. She writes, "[t]he very idea of search and reunion is empowering... [E]mpowerment and reconnection are the core experiences of recovery. Healing begins when adoptees take control of their lives by making the decision to search, [. . . to set out on] this forbidden journey toward the self." The scope and value of the search for Lifton thus has a doubleness to it: at once, the desire to know reflects a deep, perhaps unhealable wound, and—yet—the search itself is a mode of claiming one's identity.

Perhaps this tension at the heart of the adoptee's desire to know is what appeals to activists in what some have referred to as the donor-conception movement (Cahn and Kramer, 2011). Throughout arguments against anonymous gamete donation that turn on the claim that knowing the identity of the donor is paramount to the well-being of someone who was donor-conceived, one finds references to adoptees—their right to now, their suffering of genealogical bewilderment, their history of secrecy and shame. These arguments have coincided with changes in policy on AGD. Where once anonymity was required, it is now, in some places prohibited in the context of donor-assisted conception. Sweden first changed their policy in 1984, with the UK, most of Australia, and many countries in the European Community joining them in outlawing AGD.

Some critics have questioned the extent to which the analogy made between the harm suffered by people who were donor-conceived and people who were adopted is really apt. (Leighton 2014). The literature on the ethics of AGD seems increasingly weighed toward defending the analogy, and using it to support claims for the right to know of the donor-conceived. In some contexts, people who were donor-conceived have been presented as "genetic orphans" or "gamete adoptees."

A much-publicized Canadian case on AGD, Pratten v. British Columbia, actually rested on the very question of whether or not the harm of not knowing one's donor for a donor-conceived person was sufficiently analogous to the harm of not knowing one's birthparents for an adoptee. Writing for the Supreme Court of

British Columbia, Justice Elaine Adair, found Pratten's argument that she was being denied a right recognized to hold for adoptees, and thus was being discriminated against (2011). The decision was over-turned on appeal, but the widespread coverage of the case brought much attention to both the situation of people who were donor-conceived and to adoptees. For Judge Adair, adoption provides an example of the suffering that results from "alienation by whatever means of a child from a biological parent."

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