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Ruth-Arlene W. Howe
Boston College Law School, rutharlene.howe@bc.edu

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Recommended Citation
Ruth-Arlene W. Howe. "Adoption Laws and Practices in 2000: Serving Whose Interests?." *Family Law Quarterly* 19, (2000): 677-690.

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Adoption Laws and Practices in 2000: Serving Whose Interests?

RUTH-ARLENE W. HOWE*

I. Introduction

After enactment of the first "modern" state adoption statute in 1851,[1] adoption in the United States evolved as both a state judicial process and a specialized child welfare service to promote the "best interests" of children in need of permanent homes. During the last quarter of the century, however, developments have occurred which force us to ask whether U.S. adoption is meeting the needs of children, its original child welfare intent, or serving the interests of adults?

The most significant developments are: (1) the increased involvement of the federal government in promoting adoption for children in our child protection system; (2) the federally mandated elimination of race from all adoption or foster care placement decision-making; (3) the opening up of the adoption process, allowing adult adopted persons access to their records and according birth parents post-adoption visitation rights; and (4) the growth of private adoptions as a business to place infants. This essay shall focus on developments (1), (2) and (4).

Various congressional enactments,[2] other developments such as President Clinton's heralded Adoption 2002 Initiative,[3] and the 1993 Hague

* Professor of Law, Boston College Law School; American Bar Association, Family Law Section Adoption Committee Chair, 1980–83; Member, Editorial Board, FAMILY ADVOCATE, 1989–1994.

1. Massachusetts Adoption of Children's Act of 1851, Act of May 24, 1851, 1851 Mass. Acts, ch. 324.

2. For example, the Child Abuse Prevention and Treatment and Adoption Reform Opportunities Act of 1978, Pub. L. No. 95–266; the Adoption Assistance and Child Welfare Act of 1980, Pub. L. No. 96–272, 94 Stat. 500; and the Adoption and Safe Families Act of 1997, Pub. L. No. 105–89, 111 Stat. 2115 (1997).

3. On December 14, 1996, President Clinton announced the goal of doubling, "the number of children we move from foster care to permanent homes, from 27,000 a year today, to 54,000 a year by the year 2002." *President's Radio Address*, 32 WEEKLY

Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption[4] have declared an intent to promote the "best interests" of children adopted within the country or from outside the country. But, is this happening?

As the new millennium begins, all serious child advocates and responsible professionals working in the field of adoption should question the efficacy of the current federal prohibition against any consideration of race in adoption or foster care placement decision-making. Are the short and long-term needs of the steadily growing number of children in state foster care adequately being met? How well are the "best interests" of these waiting children being served? Given that many have "special needs"[5] and are African American or other nonwhite children, and are not the healthy babies many waiting approved families seek to adopt, do current laws serve them well? Have the interests and asserted rights of adults superseded the child-centered purpose of adoption to serve the "best interests" and promote the welfare of children in need of substitute permanent families? But, first, I should like to state my own preferences which are based on my academic background in social work and law, and professional experiences working in the field.

II. Personal Perspectives

To me, adoption should be a specialized child welfare service offered to meet the needs and promote the "best interests" of the child without a permanent home or family able to provide adequate care. This service should be provided by either private voluntary or public governmental agencies, staffed by competent child welfare professionals. It should not be a private business run by those who seek to satisfy the desires

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COMP. PRES. DOC. 2512 (Dec. 14, 1996). *See also President's Memorandum on Adoption and Alternative Permanent Placement of Children in the Public Child Welfare System*, 32 WEEKLY COMP. PRES. DOC. 2513 (Dec. 14, 1996); and U.S. DEP'T OF HEALTH & HUM. SERVICES, ADOPTION 2002: A RESPONSE TO THE PRESIDENTIAL EXECUTIVE MEMORANDUM ON ADOPTION ISSUED DECEMBER 14, 1996 (Feb. 1997).

4. In 1988 Hague Conference Member States decided to prepare a convention on intercountry adoption that would set reasonable and achievable international standards in order to protect the children, prospective adoptive parents, and birth parents involved in any intercountry adoption. Approved in final form on May 29, 1993, and signed by the U.S. on March 31, 1994, the Convention, as of September 29, 1999, had 39 signatories, 27 of whom have ratified and are implementing the Convention. Hague Conference on Private International Law, *Hague Convention on 29 May 1993 on Protection of Children and Co-operation in Respect of Intercountry Adoption* (last modified Sept. 29, 1999) <http:// www.hcch.net/e/status/adoshte.html>.

5. Children who are aged 3 or over, handicapped physically or emotionally, intellectually impaired, a member of a sibling group, or racial minority are considered to have "special needs" that pose additional barriers to their being adopted.

of adults asserting a right[6] to have unfettered access to children of their choice.

Sensitive adoption policies and practices should acknowledge the adopted child's place in a complex family structure that includes both her adoptive and birth parents and other relatives. I believe that more openness with regard to records and contact with birth parents and family members may be appropriate in certain cases, and that the case law allowing adult adopted persons access to their records is moving in the right direction.[7]

Those who adopt, especially if domestic transracial adoption (TRA) or intercountry adoption (ICA), take on a huge responsibility and challenge. Successful parenting requires a life-long commitment to be involved in continuous learning about human growth and development in order to acquire knowledge and skills to meet the particular needs of one's children. Given the unresolved issues of race and color in American society, successful TRA or ICA parenting requires a special awareness, sensitivity, and knowledge. If adoptive parents encounter difficulties, societal resources and services should be available to assist them.

To ensure that qualified persons are entrusted with the rearing of children in need of substitute parents, there must be an orderly, thorough screening process to select the most appropriate placement situations. In light of what is known today about child development and the care a child must receive in order to develop self-management skills, a capacity to complete demanding tasks, and have a positive self-esteem and identity, more than loving care given within the private confines of the adoptive home is required. The messages that a child, if adopted transracially or internationally, receives from the extended familial group of which the family is a part, from the community in which the family resides, and from the larger society are critically important. If these messages convey positive acceptance, the child's self-esteem will grow and flourish. If the messages are negative, the child will feel devalued, rejected and/or ostracized, and the life-long emotional impact can be devastatingly crippling.

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6. *See* Griffith v. Johnston, 899 F.2d 1427, 1437 (5th Cir. 1990) (refusing to recognize any fundamental right to adopt a child); *and also* Ruth-Arlene W. Howe, *Redefining the Adoption Controversy*, 2 DUKE J. GENDER L. & POL'Y 131, 154–55 (1995).

7. *See, e.g.*, Doe v. Sundquist, No. 01-S-01–9901-CV-00006, 1999 Tenn. LEXIS 429 (Sept. 27, 1999) (holding disclosure of sealed adoption records to adopted persons over 21 years, as provided in 1995 Tenn. Pub. Acts, ch. 523, as codified at TENN. CODE ANN. § 36–1-127(c), does not impair plaintiff birthparents' right to privacy nor any vested rights in violation of Tennessee Constitution).

III. Paradigm Shifts

During the last two decades, two major paradigm shifts have been occurring in adoption in the United States.

- The traditional child welfare agency focus of providing a permanent home for a child in need, to which I subscribe, is eclipsed today, often by efforts to satisfy the desires of adults who wish to parent.
- Child welfare agency practitioners, once the dominant professional players, increasingly are being replaced by private adoption lawyers and others who seek to privatize adoption and approach it as a profit-making business enterprise, rather than as a specialized child welfare service.

Because of these paradigm shifts, U.S. adoption in 2000 is no longer solely a "specialized child welfare" service to promote the "best interests" of the child in need of a substitute permanent home. Rather, in cases where children are relinquished voluntarily instead of being removed from their parents because of neglect, their adoption is more like a business transaction[8] than a child welfare service. This growing "private business of adoption" to meet the demand for healthy infants bears some parallel to early Roman adoption law and practices.[9] Or, in cases where children are adopted from the child protection system, their placement is reminiscent of the "placing out"[10] strategies and treatment of children a century and a half ago—a "public policy" to regulate the poor and disadvantaged.[11]

A. The Baby Adoption Business

Whenever demand for a desirable product or service exceeds the available supply in our market economy, a new business opportunity is created for those who can meet the demand. Since the legalization of abortion[12] and the increased use of contraceptives, fewer out-of-wedlock births have occurred. Because of a radical change in societal

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8. A practice reminiscent of early American adoption, which was in fact a private contractual transaction. For a history of early American adoption statutes, *see* T. Witmer, *The Purpose of American Adoption Laws*, *in* H. WITMER, E. HERZOG, E. WEINSTEIN & M. SULLIVAN, INDEPENDENT ADOPTIONS: A FOLLOW-UP STUDY 30 (1963).

9. Roman law was based upon the right of adults to ensure continuity of a particular family by adopting not a child, but often an adult male. *See* J.A. CROOK, LAW AND LIFE OF ROME 90 B.C.–A.D. 212, at 111–12 (1967).

10. The term "placing out" refers to a strategy considered to be the forerunner of modern family foster care that relocated children and youths from Eastern cities to families in the Midwest. *See* Jeanne F. Cook, *A History of Placing-Out: The Orphan Trains*, 74 CHILD WELFARE 181–97 (Jan./Feb. 1995).

11. *See generally* William P. Quigley, *The Quicksands of the Poor Law: Poor Relief Legislation in a Growing Nation*, 1790–1820, 18 N. ILL. U.L. REV. 1 (1997).

12. Roe v. Wade, 410 U.S. 113 (1973).

attitudes toward single parenthood, very few single birthmothers now voluntarily relinquish their babies for adoption.

As the number of adults (mostly white) seeking to adopt began by far to exceed the number of available healthy white infants, many people, frustrated by the long waiting lists of agencies, began to obtain babies privately, via independent adoptions arranged by lawyers, doctors, the clergy, or other persons. Others, sometimes to their grief, use the internet to locate available babies both here and abroad.[13] Indictments and prosecutions for illegal "babyselling"[14] are on the rise. Pressure for federal regulatory legislation may begin to mount, more to protect such prospective adopters from unscrupulous baby brokers, than for the welfare of the involved babies.

B. Agency Adoptions: Public Policy for Non-Babies

During the last quarter of the century, not only the size, but the nature of the pool of children available for adoption through agencies changed. Starting in the 1960s, as large numbers of African Americans migrated out of the South to large urban areas, African American children appeared in child welfare agency case loads for the first time. This was the result of the new child abuse reporting laws. The initial response of agencies was to remove children from their families and place them in foster care, instead of understanding and addressing the social conditions this new population was experiencing. In a way, this phenomenon was almost a re-enactment of what had occurred in northern urban areas in the 1870s when children of immigrants, found wandering in the streets, were sent to the west for placement with farm families.[15]

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13. *Baby for Sale; Blackmarket Adoption of Babies Discovered Over the Internet,* (NBC Dateline television broadcast, July 26, 1999), *available in LEXIS,* News Library, NBC Transcripts File (chronicling how a Minnesota couple's posted letter on the website, Adoption On-Line, led them into a shadowy world crossing continents, resulting in heartbreak for them and the arrest, prosecution and conviction of an unlicensed Hungarian immigrant attorney who accepted $60,000 from them for a five month old baby girl, unaware of their roles in a police "sting" operation).

14. Late in September 1999, a Los Angeles grand jury handed down a nine count, 21-page federal indictment alleging a widespread scheme to recruit Hungarian women to enter the U.S. illegally to sell their babies between 1994 and 1996. Janice Doezie, an Orange County attorney, was arrested, but freed on $100,000 bond to await trial set for November 16, 1999. If convicted, she could face as many as 70 years in prison. Heather Barnett, a Vancouver barrister, also was charged with conspiracy to smuggle pregnant women into the United States at Blaine Crossing, but has not yet been arrested. Susan Gilmore, *Alleged Baby Sellers Slipped into U.S. at Blaine Crossing,* SEATTLE TIMES, Oct. 4, 1999, at A1, *available in* LEXIS, News Library, CURNWS File.

15. According to one historical researcher:

> Placing out was based on a simple premise. Cities were overflowing with destitute and orphaned children, as well as men and women, who faced life on the streets, paltry jobs when they could be found, or banishment to institutions. Rural Amer-

Most agencies made no demographic changes in their staff and were "clueless" as to how to effectively service this new population or how to create partnerships with the African American community via tapping into church, civic, and other fraternal organizations.

To achieve permanency for the steadily growing number of children in the foster care system, many older, nonwhite, and with special needs, public and private agencies for the last two decades have encouraged applicants to consider adopting a waiting child. Some agencies, with many approved white applicants, but no approved African American homes, once again began either immediately to place African American, biracial, and other infants of mixed ancestry with approved white applicants willing to adopt transracially, or to encourage parents who had been fostering transracially to adopt.[16]

Such TRA placements are considered viable options today for two reasons. First, strict adherence to the century-old practice of "matching" adoptive applicants and children, according to race, religion, physical, and intellectual characteristics has been on the wane since the first wave of ICA adoptions following the Korean War. Voluntary organizations, such as Holt International, brought thousands of abandoned Korean children, many fathered by American servicemen, to the United States for adoption by American families. Again in the 1970s, in the wake of the Vietnam War, many Asian orphans found homes with U.S. families. Since the late 1970s, the number of foreign-born, nonwhite children adopted by white Americans has steadily increased due to the ICA of Hispanic children from Central and South America, and more recently orphaned children from war-ravaged countries of Africa and, from India and China.

But, more importantly, after a decade of judicial challenges[17] to "same-race" placement preference statutes and agency practices, and aggressive lobbying of Congress by those who claimed African Amer-

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> ica, perceived as the cradle of wholesome values, was expanding and needed all the laborers available. The symbiotic relationship of supply and demand may not have been acted upon, however, if it were not for three important factors in American life: a changing societal attitude about what children and childhood were; a revivalist spirit that swept the country in mid-century and revitalized itself periodically in the twentieth century; and the basic advance of transportation—the railroad.

MARILYN IRVIN HOLT, THE ORPHAN TRAINS: PLACING OUT IN AMERICA 161 (1992).

16. *See* Ruth-Arlene W. Howe, *Transracial Adoption (TRA): Old Prejudices and Discrimination Float Under a New Halo,* 6 B.U. PUB. INT.L.J. 409, 440–446 (1997) (describing the first incidence of TRA of African American children in the United States between 1968 and 1973).

17. *See, e.g.,* Reisman v. State of Tenn. Dep't of Hum. Services, 843 F. Supp. 356 (W.D. Tenn. 1993).

ican children who wait longer periods of time in foster care were being harmed,[18] federal legislation in the mid-1990s imposed an absolute ban against the consideration of race as a factor in adoptive or foster care placement decision-making.

IV. Federal Adoption Legislation of the 1990s Regarding Race

A. The Howard Metzenbaum MultiEthnic Placement Act of 1994

On October 20, 1994, President Clinton signed The Howard M. Metzenbaum MultiEthnic Placement Act (MEPA).[19] Its stated purpose was to promote the best interests of children by decreasing the length of time they wait for adoption; prevent discrimination in placement on the basis of race, color, or national origin; and facilitate the identification and recruitment of foster and adoptive families. The ostensible harm or evil to be corrected was the practice preference for "same-race" placements.

On April 25, 1995, the Department of Health and Human Services issued regulatory guidance on MEPA[20] that expressly ruled out the use of race, color, or national origin as *sole* considerations in determining adoptive or foster care placements. It also ruled out such practices as establishing time periods during which only a same race/ethnic search could occur; orders of placement preference based on race, culture or ethnicity; and any requirement that caseworkers specifically justify a TRA placement. The guidance did discuss various permissible considerations. Agencies could consider a child's cultural, ethnic, and racial background and the capacity of prospective foster or adoptive parents to meet the needs of a child of that background as one of several factors considered in determining if a particular placement would be in a child's best interest. An agency also could offer adoptive applicants an educational family assessment process, whereby potential adopters would receive information on the special needs of children and help in deciding if adoption were right for them.

18. For example, National Council For Adoption president, William L. Pierce, and other NCFA staff.

19. Pub. L. No. 103–382, §§ 551–54. 108 Stat. 3518, 4056–57 (1994) (codified at 42 U.S.C. § 5115(a)).

20. DHHS Office of Civil Rights Policy Guidance on the Use of Race, Color or National Origin as Considerations in Adoption and Foster Care Placements, 60 Fed. Reg. 20,272 (1995).

As long as discussions were individualized, agencies could also inquire about the capacity of applicants to meet a child's psychosocial needs related to the child's racial, ethnic, or cultural background. Agencies were not prohibited from discussing with prospective adoptive and foster parents their feelings, capacities, and preferences for caring for a child of a particular race, or ethnicity, just as characteristics such as sex, age, or disability may be discussed. But, those who had lobbied hard for MEPA, claiming that nonwhite children are harmed by adherence to same-race placement preferences, were not pleased and took great exception to the DHHS guidance.

B. Section 1808: Removal of Barriers to Interethnic Adoption of the Small Business Job Protection Act of 1996[21]

Immediately, those who found the DHHS guidance unacceptable redoubled their lobbying efforts to eliminate race absolutely as a factor in placement decision-making. On August 20, 1996 (less than eighteen months later), when President Clinton signed The Small Business Job Protection Act of 1996, section 1808, "Removal of Barriers to Interethnic Adoption" (The Interethnic Adoption Provisions), expressly repealed section 553 of MEPA, consequently voiding the 1995 guidance on permissible uses of race in making placement decisions.

Those dissatisfied with the 1994 Howard Metzenbaum MultiEthnic Placement Act and who criticized the latitude given agencies and courts to consider cultural or racial identity needs of a child and a prospective foster or adoptive parent's ability to meet those needs, applauded its 1996 repeal. Their asserted concern for the welfare of increasing numbers of African American and other nonwhite children entering the foster care system and waiting for longer periods of time to be adopted than white children was a diversionary "smokescreen" strategy that provided a new halo to float over old prejudices.[22] Older children in foster care—white, black, or other—are never the first preference of middle- and upper-class adoptive applicants.

Elimination of race from all placement decision-making sets the stage for reinforcing old prejudices and discriminatory practices toward African Americans and for anachronistic recommodification of *young* African American children, without providing any strong assurance that

21. Pub. L. No. 104–188, § 1808, 110 Stat. 1755, 1903, amending §§ 471(a) and 474 of the Social Security Act (42 U.S.C. §§ 671(a) and 647), and repealing § 553 of The Howard Metzenbaum MultiEthnic Placement Act of 1994.

22. *See* Howe, *supra* note 16, at 419.

the needs of such children will be met appropriately. Instead, white adults seeking healthy infants now have an opportunity to "garner the market" on the only expanding "crop" of healthy newborns[23]—voluntarily relinquished biracial nonmarital infants (many with one black and one white parent). Prior to the Interethnic Adoption Provisions, these babies would be considered black under the customary "one-drop" rule for determining race.

Since January 1, 1997, no state or other entity in a state receiving federal funds and involved in adoption or foster care may (1) deny any person the opportunity to become an adoptive or a foster parent, or (2) delay or deny the placement of a child for adoption or into foster care, on the basis of the race, color, or national origin of the adoptive or foster parent, or the child involved. Noncompliance is a violation of Title VI of the Civil Rights Act of 1964; financial penalties may result. Additionally, any individual aggrieved by a state's or other entity's violation may seek relief in any U.S. district court.

This federally imposed ban against any consideration of race in adoptive or foster care placement decision-making completely eviscerates the emphasis on promoting the "best interests" of the adopted child that is central to the vision of specialized child welfare adoption services. Furthermore, this prohibition completely ignores certain harsh social realities. Race and color still profoundly influence the lives of all Americans, governing the choices one makes or believes that she may have.

Indeed, those who consider the United States now to be a "colorblind" society, in fact, take a very "blind-sighted" approach to race and color issues. This prevents acknowledgment of unresolved issues of race and color which are inextricably intertwined with issues of power, status, and the allocation of resources and account for continuing inequities that make a mockery of America's claims of being a democratic land of equal opportunity for all. Most individuals are not "colorblind" and skin color and perceptions of racial difference trigger within the beholder unconscious stereotypical expectations and assumptions that then govern any ensuing social interactions. African Americans regularly experience a range of personal indignities and assaults "no matter how high one climbs up the ladder of success."[24]

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23. *See* Howe, *supra* note 6, at 147–49 (discussing the phenomenonal rise in biracial births).

24. *See, e.g.*, Hans J. Massaquoi, *The New Racism*, EBONY, Aug. 1996, at 56 (reporting incidents that illustrate Black VIPS are far from immune to bigotry); and CORNELL WEST, RACE MATTERS x–xi (1993) (recounting his difficulties in hailing a taxicab in New York City).

V. 1993 Hague Convention on Intercountry Adoption

Because the United States is the world's largest "receiving" country of children placed via ICA, options for prospective U.S. adopters could be drastically curtailed in the future if the United States does not ratify and put it in force. Although one of the Hague Conference Member States, along with delegates from other invited governments, which agreed on May 29, 1993, at the Seventeenth Session of the Hague Conference on Private International Law, to submit the final draft to their governments for ratification, and one of fifteen countries to sign the treaty by the end of May 1994, President Clinton did not submit the Convention to the U.S. Senate for its advice and consent until June 11, 1998.[25]

Necessary legislation to provide for United States' implementation of the Convention, known as The Intercountry Adoption Act of 1999 (HR-2909),[26] was filed on September 22, 1999, and referred for hearings before three different House committees,[27] thus raising doubt about its enactment before 2000. Especially, given the fact that this legislation, as originally filed, does not appear to comply with certain key provisions of the Convention imposing certain obligations on the Competent Authority (CA) of both a "sending" State of Origin and a "receiving" State.

For example, Article 4 requires that a "sending" country establish that a child is adoptable. The State of Origin must have determined after possibilities for placement within the country have been given due consideration, that an intercountry adoption is in the child's best interests. This later determination will depend heavily upon information contained in reports on prospective adopters received from the CA of a "receiving" country. Article 5 requires a "receiving" State (such as the United States) to determine that prospective adopters are eligible and suitable, have been counseled as necessary, and that the child is or will be authorized to enter and reside permanently in the "receiving" State.

Article 15 requires the CA of a "receiving" country to "prepare and transmit to the CA of the State of Origin, a report including information

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25. President Clinton's Transmittal to Senate on Convention on Protection of Children and Intercountry Adoption, June 11, 1998, *available in* LEXIS, News Library, USNWR File.

26. H.R. 2909, 106th Cong. (1999), *available in* LEXIS, Legis. Library, BLTEXT File.

27. The three House committees were International Relations, the Judiciary, and Education and the Workforce.

about the applicants' identity, eligibility, and suitability to adopt, background on family and medical history, social environmental reasons for adoption, ability to undertake an ICA, as well as the characteristics of the children for whom they would be qualified to care.

Article 16 explicitly requires that a "sending" country "give due consideration to the child's upbringing and his/her ethnic, religious, and cultural background" and "to determine on the basis of reports relating to the child and prospective adoptive parents, whether the envisaged placement is in the best interests of the child."

Given the current U.S. federal prohibition against consideration of race, ethnicity, or national origin of either a child or a prospective adopter, reports sent by any United States' CA to a "sending" country may be devoid of essential information needed to enable an accurate assessment of the eligibility and suitability of applicants to be entrusted with the obligations of parenting a child of another race, ethnicity, and national origin.

Ironically, those who may have worked to eliminate race from all U.S. placement decision-making may be forced to revisit this issue. CAs of "sending" countries can refuse to approve a placement if a "receiving" country's report on the prospective adopters does not specifically address their capacity to participate in an ICA, based on having been counseled and informed about the ethnic, religious, and cultural background and needs of the child. And under the provisions of Article 39, a CA of a "sending" country may ask for continuing reports on a child's adjustment and progress and assurance that post-adoptive support services are available.

Lastly, Article 30 explicitly states that the CA of a Contracting State "shall ensure that information held by them concerning the child's origin, in particular information concerning the identity of his or her parents, as well as the medical history, is preserved." The second paragraph of this article, however, accords a child or her representative access to such information only "under appropriate guidance, *in so far as is permitted by the law of that State*." (Emphasis added.)

Adoption activists who support unsealing and according adult adoptees access to birth, medical and adoption records are concerned that HR 2909, as filed, does not comply with the directives of Article 30 regarding preservation of information. Open record proponents are most troubled by Section 401(b): Prohibition on Disclosure of and Provision of Access to Identifying Information, because for the first time in U.S. history, adopted persons would be denied access to the truth of their origins by federal law.

VI. Conclusion

Without a doubt, shifts in federal law and child welfare policies during the 1990s are resulting in a dramatic rise in adoptions of foster children. According to a recent front page article in *The Christian Science Monitor,*[28] the number of adoptions of children from foster care have risen nationally 32 percent, and "most states have surpassed a federally set threshold of improvement—qualifing them to receive millions of dollars in government funds to speed adoptions for even more foster children."

The Adoption and Safe Families Act of 1997[29] now requires courts and child welfare agencies to work on a much faster timetable to determine whether permanently to remove a child from the birth home. A hearing must be held no later than twelve months after entering foster care. Far too little attention has been given to understanding why the number of children in foster care—disproportionately nonwhite—increased nearly 61 percent between 1986 and 1994. Moreover, why did that number in foster care continue to rise during the next five years to about 520,000 children, with 110,000 to 120,000 eligible for adoption?[30]

Something systemic is wrong. More macro study of the problem is needed, along with a stated national family policy. Instead of mandating a reduced timeframe for decision-making once a child has entered foster care, strategies to preserve families and empower communities should be in place to minimize intervention and removal. The *Monitor* article notes that some adoption workers "wonder if the system is now just a little too hasty. [Some] are concerned that some kids are being yanked too quickly into permanent homes, and that some unprepared families are being pushed too hard to adopt foster children."[31]

Given both the shortage of trained minority child welfare workers and the overall youth and inexperience of many child protection line workers, serious question can be raised whether the true needs of these minority children and their families are being met. Exactly why are greater efforts and resources not being made and deployed to help and assist the parents, families, and communities from which children are removed to care and rear their children? Sadly, from my perspective, entrenched negative stereotypes, assumptions, and beliefs in the inher-

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28. Francine Kiefer, *Escaping the Limbo of Foster Care,* CHRISTIAN SCI. MONITOR (Boston issue), September 24, 1999, at 1,9.

29. Pub. L. No.105–89, 111 Stat. 2115 (1997).

30. Kiefer, *supra* note 28, at 9.

31. *Id.*

ent inability and incompetency of minority families and communities account for the unquestioning acceptance that the elimination of all consideration of race, ethnic, or national origin from placement decision-making is in the best interests of minority children. The idea that all any child needs is a "loving home" is as simplistic as the concept of "placing out."[32]

Finally, while there are no statistics on private infant adoptions, it is known that international adoptions grew from about 7,000 in 1990 to almost 16,000 in 1998. So long as most prospective U.S. adopters are white and seek to adopt a healthy infant, this demand will fuel the growth of an adoption business. Eventually consumers may demand greater governmental regulation and may even see the wisdom in requiring licensing. Child advocates who believe that adoption should first and foremost meet the short and long-term welfare needs of the adopted child, even those placed privately, should be prepared to battle long and hard with adults who strive to establish a constitutionally protected right to adopt whatever child they desire or can afford to purchase.

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32. *See* HOLT, *supra* note 15.