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NUMBER 1

**Adoption
as
Common
Ground**

by

**Andrew F. Puzder
B.J. Isaacson-Jones**

A Publication of the
Common Ground
Network
for Life and Choice

A Project of
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THE NETWORK PAPERS

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Adoption as Common Ground

**A Publication of the Common Ground Network
for Life and Choice**

A Project of Search for Common Ground

ADOPTION AS COMMON GROUND

The Network Papers are published by the Common Ground Network for Life and Choice, a project of Search for Common Ground. They can be ordered from:

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The views expressed are those of the authors.

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INTRODUCTION

Mary Jacksteit and
Adrienne Kaufmann,
Co-Directors,
Common Ground Network
for Life and Choice

After more than twenty years, the abortion debate remains bitter and polarized. Stridency and hostility characterize the well-publicized confrontations between pro-choice and pro-life people, both in local communities and at the national level. In the public discourse, each side belittles the other's beliefs and attacks the other's credibility and integrity. How, then, can there be common ground?

Part of the answer to that question lies in the fact that while vast amounts of energy and resources have been expended in conflict, the real-life dilemmas of women facing unplanned pregnancies have not gone away, nor have the problems of unwanted and unloved children, of teenagers without opportunity or motivation, of parents needing the means and support to raise families decently and responsibly. The social problems that swirl around the abortion issue are many, and they are well recognized by people on both sides. A deep well of concerns and values are shared by pro-life and pro-choice people.

The incredulity that so often greets the idea of common ground proves how well the conflict obscures what is shared, but the problem is more than an obstructed view. People cannot accept each other as potential allies in a common cause if the dynamic between them is one of disrespect, vilification and, yes, hate. People cannot take a step toward a different kind of dynamic if they fear being coopted, used and manipulated.

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The two authors of this paper on adoption exemplify how people of opposing convictions – deep and unflinching convictions – can develop both mutual respect for one another and a mutual commitment to an approach for addressing an issue of shared concern. B.J. Isaacson-Jones and Andrew F. Puzder are advocates, and they have been adversaries. Andrew F. Puzder authored the Missouri law restricting access to abortions upheld by the Supreme Court in the case of Webster v. Reproductive Health Services. Until 1994, B.J. Isaacson-Jones served as the Executive Director of Reproductive Health Services, the other party in the case. Five years ago they claimed a mutual commitment: to improve the lives of poor women and children and insure the choice of a quality life for every person.

It is our privilege that these two remarkable people are members of the Steering Committee of the *Common Ground Network for Life and Choice*. The *Network* promotes dialogue between people on the pro-life and pro-choice sides of the abortion debate. Our goal is to change the dynamics of the conflict by opening new channels of communication and by encouraging the resulting relationships into constructive directions for action. We do not foster compromise or push a "middle ground" on abortion.

Beginning with a pilot project in Buffalo, New York, we have given help to local common ground efforts across the country during the last 2 1/2 years. Our Steering Committee has representation from pioneering common ground initiatives in not only Buffalo and St. Louis, but also Wisconsin, Boston, Cleveland, Denver and the Washington-Baltimore area. Pensacola, Minneapolis, Norfolk and Davenport are among the newer sites of common ground initiatives. The resources developed by the *Network* include a brochure, a quarterly newsletter and three videos available for sale and/or loan, one of which features Andrew F. Puzder and B.J. Isaacson-Jones talking about their common ground experience. The *Network's* manual, "Finding Common Ground in the Abortion Conflict," describes organizing

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approaches and workshop models for pro-life/pro-choice interaction.

The idea of developing a common ground position paper on adoption came about because the *Network* Steering Committee saw the need to show *how* common ground can have tangible impact. Adoption was recognized as an area of keen interest with shared pro-life and pro-choice support. This paper is the fruit of that commonality. It is offered not only to provide a pro-choice/pro-life rationale supporting the wider availability of adoption, but also to suggest concrete steps that pro-life and pro-choice people, through a common ground initiative, can take together to further goals shared by both.

There is common ground between people opposed over the issue of abortion. That truth speaks hope to those who want to see more progress in helping women and children and supporting families; it offers solace to people who are tired of the stridency and superficiality of too much of the abortion debate; and it supports a degree of optimism that our society can sustain the thoughtfulness and civility that are essential to our democratic system.

We believe that there is a space -- it may be for dialogue, it may be for work on issues of mutual concern -- where pro-choice and pro-life people can come together in a non-adversarial way. We believe that this coming together is a good thing -- that it produces positive outcomes for both the individuals and groups involved, and for society. We offer this paper in the hope that it will not only advance progress in the area of adoption but will also demonstrate what valuable results can come from pro-choice and pro-life people pooling their experience, values and convictions. We invite your comments and inquiries and your own common ground endeavors.

August 1995

ADOPTION AS COMMON GROUND

A Position Paper

By: Andrew F. Puzder and B.J. Isaacson-Jones

While there is much that separates pro-lifers and pro-choicers in the debate over abortion, there are also certain common themes in both sides' rhetoric. The most encouraging common theme is a desire to help women and children. Adoption may well be an area of common ground that both sides can advance for the benefit of women and children without retrenching on underlying pro-choice and pro-life positions. When adoption is a positive, productive and respected option, it enhances the choices available to pregnant women by making birth a more viable choice. Broader societal acceptance of adoption may also reduce the number of abortions, a goal that is shared by both the pro-life and pro-choice authors of this paper. It is difficult to imagine a choice available to pregnant women which both pro-choice and pro-life advocates can more readily support.

Unfortunately, as the abortion conflict becomes increasingly confrontational and violent, one of the unintended victims could be societal acceptance of adoption. As with most issues in this conflict, adoption has the potential to be used by both sides as a tool in the battle, rather than as a mutually acceptable and viable solution for women facing crisis pregnancies.

Certain pro-lifers have touted adoption as the logical replacement for abortion since it results in a live birth and thereafter relieves the birth mother of responsibility for the child. Certain pro-choicers have responded that adoption exploits women and, in any event, is not the answer to abortion. Adoption thus has the potential to be viewed by these conflicting forces as a point of contention in a culture war which has

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abortion at its core. Ultimately, adoption's true value for women and children could be all but lost in the fray.

A confrontational approach to adoption may well be the result of pro-lifers and pro-choicers viewing each other as enemies and thereby making it difficult to focus attention on each sides' true enemies. The true enemies of women and children in distress are poverty, fear and an absence of humanity. Adoption can provide a practical tool for overcoming each of these obstacles. While adoption is not the answer for all women and children in distress, there are clearly circumstances in which it is the best or most desirable answer if it is viewed as a viable option. In such circumstances, adoption advances the underlying principles espoused by both the pro-choice and pro-life movements and is perhaps a near-perfect example of "common ground." Yet, although there is support on both sides of the abortion debate for adoption, there is also opposition.

While the pro-life movement has been generally supportive of adoption, this is not universally the case. Some in the pro-life movement have criticized adoption as a means by which society allows both men and women to avoid responsibility for their acts (or their sexual promiscuity). Yet, it is difficult to see how one can truly be both pro-life and anti-adoption. Those who are pro-life generally advocate adoption because they believe adoption saves lives and that children who might otherwise be born will be aborted if adoption is unavailable or poorly regarded. It is difficult to see how one who is willing to sacrifice these lives to enforce a code of moral or sexual responsibility, no matter how desirable they deem such a code, can legitimately claim to be pro-life.

Perhaps this perceived threat to abortion is what has caused certain feminist groups to viscerally react against adoption. Nonetheless, it is difficult to see how one can be both pro-choice and anti-adoption. Adoption is a choice, and to the extent that it is a viable choice, it expands the options for pregnant

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women. Choice is about expanding all options for women, not just the option of abortion; and birth is an option. The simple fact is that to the extent adoption is a viable and acceptable option for pregnant women, it expands their realistic choices.

Support of adoption demonstrates the unjustified nature of certain criticisms leveled against each side in the abortion debate. For example, it is difficult to criticize a family planning group as obsessed with abortion to the exclusion of other alternatives if such a family planning group genuinely encourages adoption. Similarly, it is difficult to accuse a pro-life group of attempting to oppress women if that group attempts to assist such women in placing their children for adoption so as to enable them to proceed with a career or an education. In other words, for groups that encourage adoption as a choice, the labels "pro-abortion" or "anti-abortion" simply do not fit. Being "pro-life" and "pro-choice," adoption is obvious common ground.

Adoption as a Viable Alternative to Abortion or Single Parenthood

The reality is that most adoptions work well.

The Child. Studies consistently show that adoption works well for the vast majority of adopted children. For example, such studies reveal that, as most people would suspect, children who are adopted have a far better chance of growing up in decent conditions than children raised by unwed teen mothers. Unfortunately, over the last twenty years there has been a significant and steady decline in the number of adolescents placing their children for adoption.

The Adoptive Parents. Despite the media-enhanced horror stories, the overwhelming majority of adoptions also work well for adoptive parents, as is well demonstrated by the number of people who are on waiting lists to become adoptive parents.

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Yet, despite the number of available adoptive parents and the obvious benefits of adoption for the child, an insufficient number of children are available for adoption each year.

The Birthmother. The fact is that too few women faced with unplanned pregnancies place their children for adoption, while many women choose abortion or single parenthood. A reluctance on the part of birthmothers to choose adoption is certainly understandable. It is impossible to know how it feels to give birth and then give a baby away unless you have been through it. Some women find it a terrible experience, an amputation. Others regard it as a failure, as evidence that the woman making this choice does not love her child. Any meaningful attempt to enhance the viability of adoption as an option for pregnant women must empathetically consider and address these issues and emotions, recognizing that adoption is not for every woman faced with a crisis pregnancy.

We must keep in mind that a woman contemplating giving up her child needs long-term emotional support at least as much as she needs financial support. Adoption does not mean failure nor does it mean that the birthmother feels nothing for her child; quite the contrary, adoption is an act of love and understanding. It is an act of compassion and personal involvement, not an attempt to shirk responsibility. There is no doubt a birthmother will grieve for her departed child, but she should also be able to take solace in the fact that she has given life and was able to get on with her own life. Despite the current trend to regard anything which is painful as inherently wrong, it is possible for a decision to hurt and still be the right decision. Appropriate early counseling should be helpful in enhancing the positive aspects of adoption while allowing the mother to fully express her pain and grief, accept her feelings, integrate the emotions and gain a perspective on the experience.

Yet, adoption is not for every woman. It requires a person strong enough to make the decision and live with it. This

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requires a certain level of self-esteem which can only result from emotional and cognitive stability. Societal support is a key factor. Adoptive mothers must not be regarded as irresponsible, unloving, selfish failures. These are inaccurate characterizations which feed upon women attempting to make heroic, responsible decisions. In truth, adoption is a responsible, loving decision in which a birthmother has to put her own immediate feelings aside to do what she believes is in the best interests of her child. It is difficult to imagine a more selfless, loving decision, and the women who have the strength to make it should be respected and assisted in any humane society.

The Birthfather. Adoption is also a responsible, loving decision for birthfathers. Their feelings and concerns must be considered, respected and addressed. Many of the considerations discussed above with respect to birthmothers may also apply to birthfathers. While most birthfathers elect not to be involved in the adoption process, those who elect to be involved should be encouraged to attend counseling sessions and acknowledge the grieving process. However, while adoption can be the best decision, it is not for every birthfather anymore than it is for every birthmother. It is a difficult decision for any parent and should be respected as such.

ACTION STEPS

In an effort to seek and advance common ground on abortion, we support efforts to make adoption a more viable and socially acceptable option for women facing crisis pregnancies. To advance this goal, we encourage local common ground groups to work with local community groups and experts on the adoption issue. These community groups and experts will already have information and experience as to their local community's needs concerning adoption and may well have important suggestions as to how local common ground efforts can be most effective on this issue. It is important for common ground efforts to acknowledge and coordinate with others already working in this area.

Local common ground groups, in coordination with local adoption groups, may consider the below-listed *suggested action steps*. This list is intended to be suggestive, not exhaustive. Certain of the suggested actions may be unacceptable or unworkable in a given community or may be more appropriately addressed on a national level. However, we believe this list sets forth credible actions which will advance adoption as a viable and acceptable choice for women facing crisis pregnancies.

1. Establish a community awareness campaign to eliminate misconceptions concerning adoption and to encourage the community to view adoption as an acceptable, honorable option for women facing unplanned pregnancies. Such a program would aim to foster an understanding of adoption as an act of compassion and personal involvement rather than as an attempt to avoid responsibility.
2. Establish a pilot program of adoption counseling and long-term support for birthmothers that explores and attempts to eliminate or reduce the structural barriers to adoption. This program would attempt to accurately

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characterize the adoption alternative, encourage the development of self-esteem, offer career and educational opportunities for the future and set up support groups. As part of this pilot program, birthfathers would be encouraged to attend counseling sessions to acknowledge the grieving process and to attend support groups.

As a further part of this pilot program, birthparents who decide to parent would be provided counseling and skill-building workshops on the subject of parenting which impart practical information about subjects such as daycare, budgetary considerations in raising a child, stress management and child development. This program should also be available to the parents of birthparents.

3. Prepare or support legislation designed to streamline the foster care system so children can be freed quickly and effectively for placement in permanent adoptive homes.

4. Prepare or support legislation designed to protect the rights of the child to make it clear that it is the child's best interests which are paramount once an adoption occurs (so as to avoid future "Baby Jessica" type problems).

5. Determine whether federal and state public family planning funds can be used for programs that focus on adoption, and if not, attempt to change the policy.

6. Consider the issue of Caucasian couples adopting African American, Native American or foreign-born children, and determine whether it would be productive to get involved in this area.

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7. Encourage a credible, non-biased institution to research issues surrounding adoption to determine how it can become a more viable and acceptable alternative.

The *Common Ground Network for Life and Choice* is a resource for local common ground groups wanting to explore areas of shared concern, such as adoption. The Network's staff can help pro-choicers and pro-lifers come together to discuss, identify and plan common ground initiatives. We are convinced that adoption is an important and genuine area of common ground on which pro-lifers and pro-choicers can join forces to make a positive impact.

AUTHORS' BIOGRAPHIES

B.J. Isaacson-Jones and Andrew F. Puzder originally met as political adversaries in the abortion conflict. B.J. was the executive director of Reproductive Health Services (RHS), a clinic which performs approximately 8,000 abortions and serves 16,000 women annually. Andy, on the other hand, actively defended clinic protestors who were arrested in front of RHS. He also co-authored Missouri's abortion law stating that life begins at conception. This law was upheld by the U.S. Supreme Court in 1989 in the landmark case, Webster v. Reproductive Health Services. After the court's decision, B.J. and Andy began meeting as a result of an op-ed piece that Andy wrote. Now, although they remain opponents on abortion, they are allies in the effort to help women and children through their joint involvement with St. Louis Common Ground. Both B.J. and Andy serve on the Steering Committee of the national *Common Ground Network for Life and Choice*.

B.J. Isaacson-Jones is currently the Director of Client and Volunteer Services for the Saint Louis Effort for AIDS. She has two adult sons and lives in St. Louis, Missouri.

Andrew F. Puzder now practices law and lives in Orange County, California. He is married and has five children.

THE NETWORK PAPERS

COMMON GROUND NETWORK FOR LIFE AND CHOICE

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Number 2

Common Ground on Teen Pregnancy (to be published Fall 1995)

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A Fund Spouse: Brigitte Camdessus

NEARING nine years of her husband's tenure as Managing Director, Mrs. Camdessus reflects on her experience in Washington and on issues that confront Fund spouses.

What did your husband's appointment as Managing Director mean to you?

Like many Europeans, I had always dreamed of living in the United States, at least for a few years. My husband's appointment as Managing Director provided that opportunity. I was happy to come to Washington and to experience a new kind of life. I had the chance to learn more about American culture, to improve my English, and to be enriched by the diversity of cultures you can find at the Fund. Everyone welcomed me warmly and helped ease the transition, but I discovered that this adjustment can be hard, particularly for spouses. That is why I have become so interested in the families who come to Washington for the Fund. It is quite important to help new staff, especially the spouses—both men and women—find their place in the life of the city. It is especially difficult for those who have had to leave behind a career, as well as their family and friends. Having experienced it myself, I appreciate what others go through.

Do you like living in the United States?

What I like most about living in Washington is the almost infinite opportunities to become acquainted with not only American culture but all cultures. I also like being surrounded by nature. Washington is a very green city. It's lovely. I like having a garden and planting flowers. There are also wonderful museums, theaters, movie houses, and the Kennedy Center for concerts, ballets, and operas. However, what I do find a little bit frustrating is that there are so few people in the streets. People always seem to be at work, in their cars, or at home. A few streets in Georgetown or on the Mall can be lively on a nice Saturday or Sunday afternoon, or maybe on the Fourth of July, but that's about it. In Paris or New York, the streets are always full of life and people.

If you are not already working here, you have to build your personal life—by finding a job, starting a business, completing your education, having children, or doing some volunteer work. Bringing things from your country will ease the adjust-

ment. Keeping up with what is going on in your homeland is also helpful. Local television stations such as WJTV (Fairfax cable TV), Channel 56 in Virginia, Channel 24 in D.C., and Channel 68 in Maryland, and New World Radio (1120 AM) provide news and information from a number of countries [see page 30 for partial schedule]. It's important to have different perspectives.

What was the transition like for you and your family? Did all six of your children accompany you?

Most of my children were already on their own. Only the youngest came with us, and she stayed until she graduated from high school. We arrived in January and experienced a tremendous snowstorm two days later. My daughter could not begin school for a week. She attended the French high school and made a lot of friends, but after two years she went back to Paris to join her brothers and sisters.

At present, only one of our children lives relatively close to us. He lives in New York. I also have a 22-month-old granddaughter living in New York, and she is wonderful, like every grandchild. The proximity allows me to keep her with us from time to time, but all my other children are in Paris and we only see them every few months.

Is that hard on you?

Yes, but it is just the same as for anybody else. I am fortunate that Paris is an easy stopover when we travel.

Was it difficult raising a large family and balancing family responsibilities and your professional interests?

While to some it may seem that raising a large family is a tremendous task, it was something that came quite naturally to me. I come from a family of five siblings and learned from my parents how to raise children. I also love children and enjoy seeing them grow up. On the other hand, I always believed that raising a



family should not be an obstacle to pursuing your own interests. When I was in my twenties, I majored in economics and political science and subsequently held full-time jobs in these fields. But with a family, I needed a more flexible schedule, so when my youngest daughter was 18 months old, I decided to go back to university and study psychology and specialize in family therapy. My children were pleased to see their mother go out and do something interesting, and my husband was very supportive.

Did you work in your new profession before coming to Washington?

Yes, for about twelve years. I taught and consulted. I also worked for six years with single mothers in a convalescent hospital where they stayed for a few months before or after giving birth to their babies. Then, with a few colleagues, we set up a center for family therapy in Paris, and I continued to work closely with this center even after I came to Washington. For two or three years, I managed to go to France for a few days every two months and continue the teaching part of my work, but I had to give that up when we started traveling more and more. Working as a family therapist here also proved to be difficult because I couldn't keep a regular schedule. So I started something else. First, I translated into French some books of my American colleagues who work in family therapy. Then I started writing. Mostly I collaborated with one or two people, sometimes more, but always writing on family subjects such as aging parents, abused

children, and grandparenting. My fourth book, on adoption, will be published in the fall.

Has your training helped you in your work with Fund families?

It has helped a lot. I am used to looking at each family as a whole and



to dealing with what is at stake for families, as well as for individuals. It also helped me understand my husband's work. Family therapy trains you to deal with systems, and systems work more or less the same, whether they are large or small. It has helped me understand, for example, the concept of the global economy, the relations between debtors and creditors, the mechanism of a crisis, and so on. There are many connections. It's a very helpful way of thinking.

What common concerns do Fund spouses have?

Adjusting to the Washingtonian way of life is the first thing most spouses have in common. I often tell people that American society is very welcoming, but the moment comes later on when you can feel quite lonely. If you want to have friends in the international community, it is not

too difficult, but you have to meet other people halfway.

Another problem comes from missions. Staff members travel a lot, and families have to adjust to that problem. I recently suggested, at a seminar for Fund spouses, that when the staff member is away the spouse—and maybe the children—keep a diary to give to the staff member upon return. It lets the person who has been away know what has happened day by day. It may be helpful, particularly if the children are very young or adolescent.

Children are another concern. Teenagers may have problems adjusting. Coming into a very different society is difficult for children who do not speak the language. Even if they make friends, there are many cultural

aspects that prevent them from becoming "American," and this can make them feel they don't really belong here. And, then, too, the problem can be exactly the opposite—children can become so American that they have a hard time readjusting to their home country. Children who are born here or spend a long time here may want to live permanently in the United States. They may marry here and never go back to their countries of origin. That raises another issue for Fund families. Where should they retire?

Does the Fund provide sufficient support for spouses in adjusting to Washington?

A lot is done. It's not perfect, but the Fund tries to improve upon it every year. The Fund does not recruit the same kind of families nowadays as it did 20 years ago. People marry later, and often both partners have

careers. As a result, you have more families with very young children and two kinds of needs: child care, which can be a problem, and job adjustment. The Fund, together with the World Bank, makes available to families the services of the Dependent Care Resource Center to help find appropriate child care—and even elder care; and the Family Career Transition Center to help them get acquainted with the Washington job market and determine what opportunities are available. The career counselors know that there are well-trained people in every field among Fund spouses, and the information starts spreading in the Washington area. This is an extra benefit that Fund families bring to the Washington community.

If a job is not immediately available, I often tell spouses it is sometimes better to begin by studying. This is a good opportunity, if needed, to complete their education. In addition to improving their level of qualification, it also helps them get acquainted with the way American society works. You have to adjust to the way people think and function in the workplace here. Some adjust very easily; others don't. It is not that some cultures are more adaptive than others, it is really a question of personality. You have people who find a job in three weeks, while others don't find anything even after a year.

What happens in such cases?

Sometimes there is frustration. Sometimes the spouses decide to care for their families or do volunteer work. Volunteer work is available everywhere in Washington. They can also volunteer in InFFO, which gives

them the opportunity to meet people from an incredible number of countries—a unique chance in their lives. Some people who have been working for years are pleased to stop for a while. They take it as a new experience. I tell spouses when they arrive that they should not always expect to do here what they were doing before. They should try something new. I

“Take time to be happy . . . relaxing is important and family life is precious.”

have learned a lot of new skills in the years I have lived in Washington: translating, writing, dealing with a publisher, using a computer. It has been challenging, but rewarding. If people are open-minded, they can bring back with them to their countries many treasures—new skills, new experiences, and sometimes new children; a lot of people take the opportunity of living in Washington to enlarge their families.

In your travels during the past eight years, does any one experience stand out?

I have been struck by the uniqueness of each country. Every nation has its own culture, long traditions, and a language that has been created over the centuries by people living together in the same land. I am interested in people wherever they come from, but I particularly like meeting them in

their own country. I am very curious about a country's economy, politics, family life, and social problems as well as the literature, music, painting, sculpture, and all other forms of art. I have seen fabulous landscapes of mountains, seashores, and deserts. I have visited hospitals and social institutions everywhere, tea and coffee plantations, and rice fields as well as

historical places like the Khyber Pass and the Berlin Wall. I have looked at the bones of Lucy, our common ancestor, who lived in Ethiopia 3.5 million years ago. I could speak without end of China, Japan, India, Mexico, and many other countries of Asia, Latin America, North, sub-Saharan or Southern Africa, Eastern Europe, and also of small countries like Estonia, Georgia, Mongolia, or Jamaica. From each of the

95 countries I have visited, specific images and memories come to my mind. I will never forget any of them.

We know that the Managing Director keeps a busy schedule. Is yours equally busy?

Not as much. It's good for me not to be as busy as he is, although, of course, I am also an active person. Having a large family, I have been used to it. I have my own work, but my work is quite flexible, and my schedule is easy to adjust. I try to help my husband rest. That's very important. Life here is not only busy but also very stressful. The pressure of the news media is tremendous. Every news article, every news program on TV carries something hard or stressful, so you have to find your own way of relaxing. It's something that families have to think about.

What do you and your husband enjoy doing in your spare time?

We listen to music, read, take walks or swim, and when possible, visit museums or art galleries. We try to have a very private life at home. We are not real Washingtonians. We don't go out, other than as the job requires. We try to save some time for ourselves.

Is there anything in particular that you would like to say to the staff?

Take time to be happy—even if you have a lot of work. Try to enjoy the special experience you have here. Don't forget your family and your other interests. Hobbies help you relax and feel better about your work; they help you clear your mind and provide

you with new ideas. Don't give in to the pressures of Washington—don't work every minute and run all the time. There is pressure to keep your work in mind all the time. It's not healthy. Better to have your own interests and keep them. Relaxing is important, and family time is precious. You never know how long it will last.

The WEO Behind the Scenes

(Continued from page 4) The typesetting of the English is done in QuarkXPress by the Composition Unit; the French and Spanish are done in BLS by Myriam Collins (Spanish) and Van Tran (French) using QuarkXPress templates prepared by the Composition Unit; the Arabic is done by an outside compositor, and the Chinese, in Beijing.

At the same time, the Art Unit redraws the charts for the English, French, and Spanish editions. The data are retrieved from the network and the charts are drawn to the size required for the publication using Adobe Illustrator and QuarkXPress. The WEO usually has an average of 38 charts, or about 146 panels, some of which are three dimensional.

Throughout the process, the galleys, page proofs, and layout are reviewed by Editorial and WESD. The final step is the press sheet check at the printer's. The chief of the Art Unit and the WEO editor go to the printer to see that all the color is built into the electronic files correctly. The printer literally "holds the presses" while the press pages are checked. About six days later, the final product arrives.

For the language editions, any change in the English must be communicated to BLS. Jeanne Bouffier, BLS, is the coordinator for the language editions. BLS works closely with Editorial and the Composition and Art Units right up to the sending of the electronic file for printing. For the Chinese edition, positive films of the printed English edition are sent to Beijing. The language editions are usually printed anywhere from six to ten weeks after the English.

Marketing and Distribution

Throughout the year, requests for the WEO come from international organizations, central banks and government agencies, Executive Directors, the private sector, universities, and the press. The sale, distribution, and promotion of the WEO is the responsibility of EXR's Publication Services Section, headed

by Kenneth Young and his deputy, Lori-Michele Newsum. Publication Services distributes more than 20,000 copies in four different languages to recipients around the world.

Preparations for the marketing of the WEO begin in January and continue through the summer. The process entails an extensive renewal program directed to recent WEO purchasers, and a promotional campaign to reach the remaining 120,000 names and addresses that make up the publications database. To achieve the campaign's goal of attracting new subscribers to the Fund's database, numerous other subscriber mailing lists, from a variety of sources (for example, *The Economist*, *Financial Times*, OECD, and the World Bank), are used. Geographic regions that have responded well to past promotions are also targeted.

One of the Fund's major marketing strategies is to "bundle" several publication groups around its "star product," the WEO. Option packages range from only the May and October WEOs to those that include both the May and October WEOs, four other World Economic and Financial Surveys, plus eight Occasional Papers.

Revenues from the promotional activities of the WEO and option packages exceed \$1 million, which corresponds to approximately 25 percent of the annual revenues for the total IMF publications program. Between 1990 and 1994, revenues from the WEO promotion program have increased by more than 45 percent, and prospects are for continued revenue growth.

The WEO is thus a vital and evolving product of the Fund. It is not only the outgrowth of an essential instrument of Fund surveillance, but also a "hot" and profitable IMF publication.

Contributing authors:
Paula De Masi, Cathy Wright,
Graham Newman, Juanita Roushdy,
and Lori-Michele Newsum

Meeting the Challenge: Balancing Work and Personal Life

HAVE YOU ever felt as though you'd been hit from opposite directions by two speeding trains? Do the phrases "excess annual leave," "living out of a suitcase," and "one-dimensional existence" ring a bell? Balancing home and work life is not only a women's issue; it is a business issue that men and women face, as employees and as managers. In the Fund, increased attention is being given to addressing work/family needs, and a number of new initiatives are under way.

Why should an employer care? To paraphrase noted author and consultant Peter Senge of MIT, you can't build an effective organization on a foundation of broken homes and strained personal relationships. While a happy, stable personal life may well demand time and energy that potentially take away from the workplace, a strained personal life or "burnout" can be even more detrimental to one's work. Resourceful and imaginative work/family initiatives can help employees manage their lives more effectively and, in the process, increase productivity. Coming up with solutions that benefit both the individual and the institution requires institutional, managerial, and

staff participation, as well as some change in mentality and work practices. The key is *flexibility*. Better use of technology and anticipating demands, as well as effective planning and thoughtful consideration of everybody's needs, can facilitate the delicate balance between work and personal life.

In the Fund, staff have access to a wide array of benefits and services to enable them to meet their work and personal obligations. These range from flexible work arrangements and leave policies to financial assistance and counseling services. The Fund is currently working with the Families and Work Institute, a local training and consulting establishment, to develop a work/life information package and a training program for managers. The first

step will be to conduct a short briefing in the fall for Senior Personnel Managers and Administrative Officers to inform them about the course content and the benefits of sponsoring this training in their departments. A similar effort has been undertaken in the World Bank.

Also shared with the World Bank are three programs that are available to staff in both institutions and their dependents. One provides career counseling for spouses and is designed primarily for, but not limited to, those who have recently relocated. The others handle education and dependent care counseling and are available to staff and long-term contracters at all levels throughout their Fund career. Counselors can be seen by appointment at their offices in the Bank's G building.





Career Counselors: Ellen Harvey, Diane Catlett, and David Reile.

Family Career Transition Center

Phone: (202) 458-4760

Fax: (202) 522-5187

The Family Career Transition Center helps ease the task of finding a job in Washington, but it is not engaged in direct job placements. Even before a candidate accepts an employment offer from the Fund, his or her spouse can consult with a counselor about local job prospects and receive an evaluation of how his or her academic and professional credentials relate to the requirements of the Washington job market. If a spouse is uncertain about how to proceed, counselors can help him or her define goals, such as launching a new career, changing careers, or continuing education. Additional services include research on specific career information and on external job-search resources (for example, job fairs, recruiters, and temporary job firms). Career seminars

are given throughout the year. In addition, there are scheduled meetings of job-search groups to provide an information and support network for spouses who are engaged in an active search. The Center also offers a library and workstations equipped with computers, as well as access to a printer and fax machine.

Education Counseling

Phone: (202) 473-0616

Fax: (202) 522-2154

Individual counseling regarding private and public school programs is provided for preschool through university levels, to help staff members select the option that best suits their needs. The counselors visit as many

of the local educational institutions as possible to ensure a good match with the academic and social environment. They can also give general information on schools and universities abroad, and provide addresses (but not brochures) for many of these programs. Guidance and referrals are given for a wide variety of issues, including learning disabilities, diagnostic services, tutoring, testing, and summer academic programs. Seminars open to spouses and children are offered throughout the year. Every effort is made to help a child and his or her family have a positive educational experience.



Education Counselors: Alexandra Ruttenberg and Ethna Hopper.

Dependent Care Resource Center

Phone: (202) 473-5355

Dependent care services are contracted through Work/Family Directions, a leading provider of corporate work/life services in the United States. The counselors are backed by a nationwide network of experts and all the information resources of Work/Family Directions about dependent care issues and options.

Child Care

Caroline Westhaeffer (Mon.-Thurs.)

Phone: (202) 473-7119

Helen Clark (Tues.-Fri.)

Phone: (202) 473-2445

Through its database, counselors can access information on all licensed child care centers and in-home day care facilities in the Washington area. Counselors outline the steps for finding a nanny and can provide advice on pay levels, licensing regulations, interview questions, and companies that perform criminal background checks. For school-age children, summer vacation may mean three months of unstructured time; filling it with interests and activities can be a big challenge. One of the Center's most popular programs is its Annual Summer Options Fair, hosting representatives from numerous day and overnight summer camps. As child care counselor Helen Clark points out, "For newly recruited staff, in particular, dealing with school-age child care means making a number of decisions that are interwoven—the choice of residential area, school, and child care arrangements all hinge upon each other." Sometimes the child care and school counselors meet jointly with a family. Regardless of the form of care, attention is given to the optimum con-



Dependent Care Counselors: Stephanie Kay and Helen Clark.

ditions for the child at his or her particular developmental stage and the characteristics of quality care.

Elder Care

Stephanie Kay (Mon.-Wed.)

Phone: (202) 473-3533

Arranging elder care can be an even more complicated and stressful process for families than finding child care. The task of handling elder care problems long-distance is positively overwhelming.* Elder care needs may go on for years. Furthermore, unlike the predictability of child care concerns—you know when an infant will become a preschooler—elder care needs are much more difficult to anticipate. They cover a wide spectrum of issues, from the medical care and actual caregiving to legal and financial arrangements and decisions about wills and trusts. "All of this would demand an enormous amount of time and energy, even for an American who is somewhat familiar with the system in the United States," says elder care counselor Stephanie Kay. "Imagine what a daunting prospect it is for a foreign national."

This is an area where professional guidance makes a tangible difference. Working with a counselor in the decision-making process can reduce months of research to a single brief consultation. For example, the counselor was able to assist one client in identifying elder care options in three different states where various members of the family reside. For another client, whose mother lives in Argentina and suffers from Alzheimer's disease, she was able to obtain a Spanish translation of a book from the Alzheimer's Association, which was sent to Argentina and proved to be an invaluable resource for the caregivers there. There are literally thousands of items in the Center's database, referencing the entire continuum of care from independent living to nursing homes. In addition, the Center sponsors seminars and support groups specially customized to meet the unique needs of Fund and Bank staff.

For more information, call the Staff Benefits Division, Ext. 38287.

Judith McCarthy



7:00 AM

Patrick Blum, EXR, collects news stories for the Morning Press.

Monday, July 24, 1995

A Day in the Life of the Fund

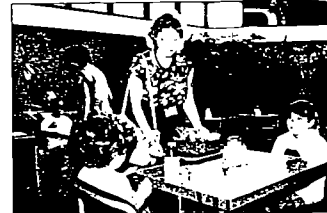


Early morning in the cafeteria: while food is prepared and breakfast meetings take place, children wait for the bus to BWRC.



8:15 AM

Neeraj Rajpal and Steve Backes review data for the fixing of the day's SDR rates.



9:00 AM

The Managing Director at his daily meeting with the three DMDs and his assistant, Ruth Saunders.

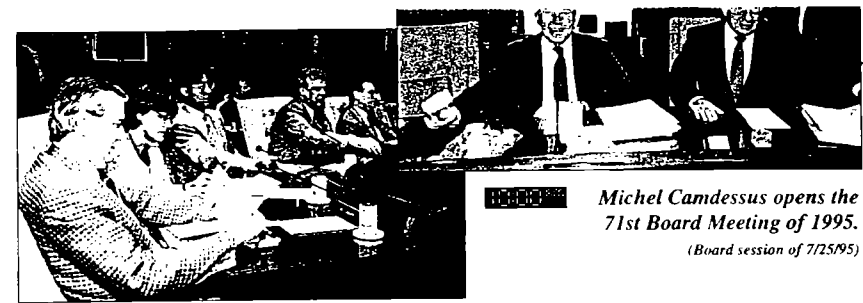


9:30 AM

WHD staff put the final touches on an ESAF Board document.



12



10:00 AM

Michel Camdessus opens the 71st Board Meeting of 1995.
(Board session of 7/25/95)



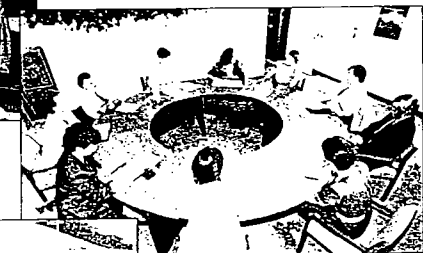
10:45 AM

PDR staff study documents for the review of policies under the Madrid declaration.



11:30 AM

Thirty-nine nationalities converge at IMF Institute lecture on public finance.



Lunchtime activities: while a working lunch and a SAC meeting are in progress, others work out at the Fitness Center.

13



*Camille Nelson,
Staff Benefits, ADM,
counsels a staff member.*



*Joint Library: a customer
consults the INTERNET terminal,
while Edwin Coyoy sorts over 900
newspapers and periodicals.*



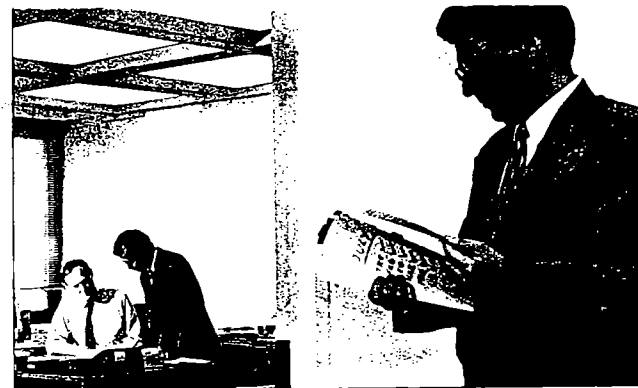
*Adjoining offices in STA:
Carol Carson and John McLenaghan
examine a Board paper on data standards.*



*A technology
class in progress
in ADM's Training Section.*



*Teresa Ter-Minassian reviews with
her colleagues FAD's comments
on the Russia brief.*



*The evening rush in EU2: papers in hand,
Thanos Catsambas waits while John Odling-Smee and
Yusuke Horiguchi finalize a memorandum.*



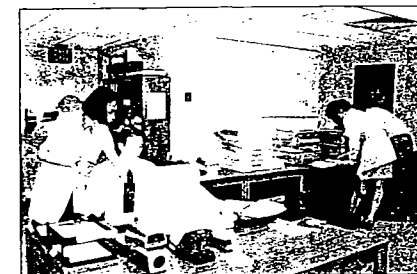
*BCS staff configure new
CompaQ Proliant servers for
Fund-wide implementation.*



*Cleaning and building maintenance
staff at work behind
the scenes.*



*George Marshal
sets the press for job
number 26 of the day
in the Print Shop.*



*The night shift:
work continues in the
Communications Division.*

The day finally ends for a staff member.



Let's Make a Difference

WHAT do the following have in common? Medical care for uninsured residents of the Adams-Morgan area. Volunteer services in villages and low-income urban areas in Bangladesh, Bolivia, Cambodia, and Viet Nam. Adult literacy tutoring in the Washington, D.C., metropolitan area. Small grants to the poor in many countries to start new microbusinesses. A shelter for homeless women in downtown D.C. Outdoor summer recreational equipment for a rehabilitation program for delinquent youth.

There are at least two good answers. First, each of these efforts provides lasting benefits to people in need and to their communities. Second, all these programs recently received money from the Fund's Civic Program.

Yes, the Fund really does have a program for civic contributions, but the rapidly growing number of requests for financial or in-kind help suggests the program is becoming better known outside than inside the Fund!

We need to change this. Broader participation from Fund staff would make it possible to serve more people more effectively. And the work, as volunteers will attest, is challenging, informative, and satisfying—and a distinct change from what most of us do most of the time.

The Fund has long supported certain charitable activities, including the annual United Way drive, the annual sale of UNICEF Christmas cards and other charity fund-raising activities supported by InFFO, and the donation of surplus property that would have little or no resale value for the Fund.

A coordinated and enlarged program for Fund civic contributions emerged only recently, however. Discussion began informally a few years ago (notably in the Wednesday Group) on the merits of encouraging more extensive civic involvement by Fund staff, retirees, and their families, especially in addressing the severe social and economic problems of the metropolitan region. An examination of what other organizations, including most

tax-exempt institutions located in the District of Columbia, were doing suggested that they were making significant civic donations and that their employees and families had a relatively high rate of community volunteer work and personal charitable donations. Corporate and personal commitments appeared to be complementary and mutually reinforcing.

With this context in mind, the Managing Director authorized an informal task force in 1992 to make recommendations for enlarging the Fund's civic contributions. The 24-member group was drawn from the staff, spouses, and retirees. Led by Prabhakar Narvekar and John Huddleston, now retired, the task force submitted its recommendations to the Managing Director in April 1993. This led to a budget allocation of \$350,000 for the first financial year (1994-95) and to the establishment of the Civic Program Advisory Committee (CPAC) in May 1994. Three representatives were appointed by the Managing Director, two by SAC, one by the Fund Retirees Association, and one by InFFO (see box on page 17 for current committee members). The CPAC has been busy from the beginning reviewing funding requests; listening to (and quizzing) representatives of the organizations seeking help; visiting the local sites of some programs receiving money under the Civic Program; and discussing priorities and making recommendations to management on how best to use the limited money available.



A beneficiary of a project supported by the Civic Program in Bolivia.

In keeping with a task force recommendation to focus on a major project to help overcome the most pressing problems in the host city, the first large contribution under the Civic Program (\$150,000) was made to a construction fund for a new early childhood development center in one of the poorest sections of Anacostia in southeast D.C. The center, which is also supported by other corporate donations plus federal and local government commitments, will serve a large number of needy families from adjoining housing projects. Groundbreaking is scheduled for November 1995.

Traditionally, the Fund's largest civic contribution has been to the annual United Way campaign. Last year the campaign received \$170,539 to support charitable work in our community. Staff, retirees, and their families donated \$113,693, and the Civic Program provided \$56,846. The 50-cents-to-one-dollar matching donation from the Civic Program will be a regular feature of the yearly United Way drive.

Another large contribution was \$45,000 to International Voluntary Services, Inc. (IVS), which supports local development projects in some of the poorest communities in the

Andes and south and southeast Asia, primarily through volunteer specialists from within the country or from the same region. IVS emphasizes community participation in the design and implementation of projects and has an impressive record of success in its work.

Encouraging volunteerism among the staff is one of the goals of the Civic Program. CPAC works closely with INVOLVE, the group of volunteers whose good deeds in the community are regularly featured in *Staff News*' "Volunteer Corner." The Civic Program provides funds for many activities that this group undertakes: \$10,000 annually to Greater D.C. Cares; \$1,500 to Christmas in April; and donations to other programs in which Fund staff are especially active as volunteers on a long-term basis, such as the Calvary Women's Shelter located at 15th and K Streets, N.W.

Collaboration with the World Bank and other international organizations in civic projects is another goal of the Civic Program. A donation of \$10,000 was made to the Book Project of the World Bank Volunteer Services (WBVS) for the purchase of dictionaries. WBVS packs and ships books donated by Bank staff and others to schools in developing countries where books are in short supply. The books most prized by recipient schools are dictionaries, which are seldom donated, hence the Civic Program's contribution. Now what's needed is more Fund volunteers to

help WBVS sort and pack all those books! (WBVS Book Project. Tel. (202) 473-8960.)

Still another important donation was \$15,000 to Clínica del Pueblo, located just off 16th Street near Columbia Circle. In the clinic's crowded facilities on the third floor of an old building, volunteer doctors and nurses provide free, high-quality health and medical services to people without health insurance.

Curious about other donations under the Civic Program? Or about the many other charitable and civic activities to which the CPAC also would have liked to recommend donations if the budget were larger? All the members, alternates, and observers of the Committee welcome your questions and suggestions for improving the Fund's Civic Program.

Robert Russell



Donation of dictionaries to the WBVS office at the World Bank.

IMF Civic Program Advisory Committee 1995-96

Members

Robert W. Russell, Chair	ext. 37065, RRussell
James E. Blalock, Alt. Chair	ext. 38341, JBlalock
Sylvia Aida	ext. 36488, SAida
W. Bruce Hobbs	
Barbara Kaiser	
Teresa R. Linayao	ext. 38159, TLinayao
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Kellen Hannah	ext. 37674, KHannah
Doris C. Ross	ext. 37188, DRoss1
John Surr	

Observers

Brigitte Camdesus	
John D. Huddleston	
Linda A. Kamel	ext. 36867, LKamel
Juanita C. Roushdy	ext. 37085, JRoushdy
Irmgard G. Svenson	ext. 37078, ISvenson



Summer Picnic 1995



Risky Business

STAFF went on over 2,000 missions last year, spending about 55,000 days traveling to all but a handful of the 179 member countries. Many of the perks and pains of mission travel are well known: the former might include the appeal of exotic destinations and challenging work; and the latter, time away from the family and grueling mission schedules. But another aspect of Fund missions and resident representative assignments that may be less obvious is potential security hazards.

Though the probability of occurrence is fairly low, the range of risks posed by international travel is broad: overseas travelers may be threatened by political instability, "economic crime," such as robbery attempts, hotel fire hazards, or terrorist activity, with the risks heightened by the unfamiliarity of the surroundings and circumstances abroad. Because the staff travel frequently and widely, the Fund's Security Office has always monitored international security, in addition to ensuring the safety of staff at headquarters. But recognizing the specialist nature of international security issues, the Fund, a year ago, split the security function in two and created two separate offices.

• *Physical Security* safeguards staff at headquarters, I-Square, and K Street dealing with building security, parking, and IDs.

• *Field Security*, a United Nations term for international security, is responsible for safety issues involving mission travel and resident representatives and Fund experts assigned abroad.

The Field Security Office (FSO) opened its doors on July 18, 1994. David Cook, former head of Fund security, took over the new operation. Cook, who worked in military special investigations and with the U.S. Federal Bureau of Investigations before joining the Fund in 1988, was joined by Carl Provencher, Deputy Chief, and Mary Radford, Research Assistant. Provencher was a career U.S. Army military intelligence officer, whose assignments included a posting as the military attaché in Kinshasa. Radford gained experience in risk assessment as an insurance underwriter. During the past 12 months, the FSO has evacuated one mission during a military coup, traveled to 19 countries where mission travel or resident posts were planned, to assess and enhance security conditions, assisted resident representatives who reported instances of burglary and assault at their duty posts; and responded to a mission chief's pre-dawn telephone call for assistance when troops occupied the mission's hotel.

The team carries out its responsibility for monitoring security conditions around the globe by maintaining close contacts with the United Nations Security Coordinator (UNSECOORD); the World Bank's Field Security Office; national security agencies, such as the U.S. Department of State; and other contacts worldwide. It also obtains breaking information through electronic news services, including Pinkerton's Global Risk Network.



Mary Radford, Carl Provencher, and David Cook.

The FSO obtains security clearances for missions traveling to UN Phase Alert Countries. At present, about 65 countries are being monitored as part of this UN system, where the rankings range from Phase One (precautionary; security situation warning) to Phase Five (evacuation and immediate departure of all UN staff). Radford points out that the security clearance comes from the UN designated official, usually the UNDP resident representative, in the country where the mission is headed. In the process of obtaining clearances, the Fund informs the UN that staff members will be in the country and the UN assumes responsibility for their safety on site. American Express, the travel agency that provides service to the Fund, will not release airline tickets for a mission to a UN Security Phase-designated country unless clearance has been obtained. Information on security conditions is available in the Security Travel Advisory section of the Fund's Electronic Bulletin Board.

The FSO also briefs mission members, individually or as a group, before a mission departs. "We noticed," says Cook, "that most of the calls we handle tend to come from staff members who are newer to the Fund. Older, more senior staff members, after years of mission experience, often become blasé about travel security, and this may expose them to greater risk abroad."

When a mission returns from overseas, roles are reversed, and returning staff become the sources of information for the FSO. Mission debriefings and the "Mission Security and Safety Feedback Survey" provide the FSO with basic but possibly crucial "insider information" on mission sites. "Mission members provide us with simple but useful suggestions, such as, 'There were pickpockets all over that market,' or 'Gangsters seem to hang out at this restaurant,'" notes Provencher.

Some of the FSO's most important work with staff occurs in the planning stages of a mission. Paul Acquah, Senior Advisor, AFR, and Malcolm D. Knight, Deputy Director, MED, report extensive consultations with the FSO. In the case of AFR, the issue is mostly the timing of missions to certain countries; MED consults with the FSO on timing, staffing, and even location. "On occasion, the solution has been to hold policy or technical discussions with national representatives outside their countries, in most cases, however, potential risks have been offset by taking appropriate measures in the country itself," comments Knight.

By far the most common, though still infrequent, threat to staff abroad is economic crime. According to Provencher, "In some countries, any foreigner is a potential target of economic crime, such as robbery attempts and muggings. Staff are particularly vulnerable in the cash-only economies where they must carry large amounts of currency to settle hotel and other expenses." Next to economic crime, transportation safety might pose one of the more likely hazards faced on mission travel. The FSO monitors this area closely, and on occasion has com-

missioned studies of regional airline carriers that examine the type and age of carriers' fleets, pilot training, and fuel availability. This type of study has led, for example, to the identification of a reliable carrier for missions to some of the Baltic countries, Russia, and other countries of the former Soviet Union.

Sheetal Chand, Division Chief, FAD, can confirm the importance of international transportation security. Chand

sengers. Despite the harrowing ordeal, Chand was on his way to Eritrea on Lufthansa's very next flight two days later. Chand, the only person in the history of the Fund to have been hijacked while traveling on Fund business, admits "some moments of anxiety" during the experience.

But while crime and transportation safety are the FSO's most common concerns, it also monitors and advises staff on international political developments that can affect security abroad. Political instability is probably the least likely risk travelers face overseas, but all of the senior staff interviewed for this story could, when pressed, recount a few instances of civil strife, military conflict, or terrorist activity that had an impact on their missions. While emphasizing the present stability in Latin America, Claudio Loser, Director of the Western Hemisphere Department, recalled missions in the 1970s when "political instability was part of the landscape."

Loser describes meetings that were held at authorities' residences rather than at the official buildings, in rooms stockpiled with automatic weapons and sandbags in case of guerrilla attacks. And Frits van Beek, Assistant Director, WHD, remembers calling for volunteers to staff missions during a civil war, and then having to be transported by helicopter to the hotel where all meetings were held. Similarly, Paul Acquah, AFR, led a mission to the other side of the globe in the 1990s where, despite premission security clearance from the UN, his team flew right into newly erupting civil turmoil. Acquah's vivid recollection of how the car carrying mission members made its way through the city amid rioting and stoning provides a palpable sense of the

"Alexander... opened his hotel door early one morning during a mission to find soldiers 'armed to the teeth' filling the hallway."

was on the Lufthansa flight on route to Cairo from Frankfurt that was hijacked in February 1993 by a mentally ill gunman and forced to land at JFK Airport in New York. Headed for Eritrea on mission, Chand recalls looking up from his work after takeoff and seeing a masked man put a gun to a stewardess's head. "I happened to be traveling in the first row of First Class, rather near the entrance to the cockpit. When the pilot informed us of the situation, he asked passengers to remain in their assigned seats, but when I looked around I realized I had suddenly become the only passenger in First Class," says Chand. When the plane finally landed at JFK Airport, the lights were shut off as a U.S. Army "SWAT" team boarded the A-320 Skybus and evacuated the pas-

danger. Acquah reports, however, it was not the tense political situation that made mission members fear for their lives, but the speed with which their driver was careening through the city. "We urged our driver to slow down, but he kept going extremely fast. We were convinced that it was his speeding, and not the rioters, that posed the greatest threat to our well-being."

Staff members who at this point are considering a transfer to a nontraveling department should take comfort not only in the Fund's perfect safety record—there has never been a fatality in the field—but also in Bill Alexander's recent experience, which provides a good example of how the FSO responds when political developments present a potential threat.

Alexander, a Division Chief in MAE, opened his hotel door early one morning during a mission to find soldiers "armed to the teeth" filling the hallway. A glance out his hotel window revealed troops mobilizing across the street. With no local sources of information available, Alexander called the Fund's 24-hour security line at headquarters, where it was about 3:00 a.m., described the situation, and asked to speak with the FSO. Within 15 minutes, Provencher, on duty that night, returned his call. Having been on an exploratory mission to the site several months before, Provencher was familiar with the surroundings, including the layout of the hotel, and was able to give the mission chief the support he needed. "At that point," Provencher explains, "Bill was in the eye of the storm, able to report to us on real-time developments on the ground, but without the perspective on and interpretation of events that we could provide from headquarters."

Close consultation between Alexander and the FSO during the next

24 hours allowed the mission to complete its work safely. The ability to communicate directly with staff, through the Fund resident representative or other UN personnel, is a recent improvement, says Cook. He can remember situations where contact with staff members caught in a breaking situation could only be made through the auspices of the World Bank's ham operator club.

Ensuring the safety of the Fund's resident representatives and experts assigned abroad presents different challenges. When a new resident representative post is to be opened, the FSO works closely with the International Facilities Unit, ADM, to arrange appropriate housing, transportation, and security for the new resident representative. The FSO addresses issues from local crime to terrorist threats, and conducts residential and office security evaluations.

The FSO makes an assessment of the security needs of the resident representative and his or her family members and decides what security arrangements and enhancements are needed. These can often include the installation of alarms, construction of barriers, or provision of guards, and practically all resident representatives are provided with radio systems for emergency contact. The FSO's assessment sometimes extends to surveying the route that the resident representative must travel between home and office for the threat of ambush. The FSO takes very seriously its responsibility for the safety of the 66 resident representatives, numerous Fund experts, and their dependents—several hundred individuals at any given time—who are living overseas.

The team feels that its work is embodied in the fundamental risk-management formula: risk equals threat plus vulnerability. "The FSO can't do

anything about the threat—we can't change the fact that a country is, for example, politically unstable. We can, however, affect the equation by reducing vulnerability," explains Provencher.

The FSO also provides safety training as part of the orientation briefings for new staff. The FSO initially began this effort with a presentation on field security to support staff during a mission preparation course for assistants, which is part of the Orientation Program for Staff/Administrative Assistants. The success of the presentation prompted Argery Cooke, Personnel Assistant, ADM, the facilitator/trainer of the missions course at the time, to request the briefing for staff at large. The presentation on field security covers a wide range of topics from sensitivity to local culture and customs, to whether to carry a money belt or a personal security alarm.

The FSO is further widening its coverage of security hazards by addressing the threats posed by natural disasters, including the incidence of, and potential for, seismic activity, cyclones, and even nuclear disasters. If to the uninitiated Fund traveler these risks might seem farfetched, Loser, who has 85 missions under his belt, remembers being in a meeting with central bank officials in a Latin American country a few years ago when a minor earthquake occurred. The quake was marked by some rumbling, shaking, and shifting on the part of city's buildings and surrounding hills. Loser didn't say, however, whether the mission was discussing structural adjustment at the time.

For more information about any of the Fund's field security services, or to schedule a security briefing prior to your next mission, please call the Field Security Office, Ext. 36742.

Lynn Aylward

How Does Your Garden Grow?

"The thing about it is...it's never finished," confides Tim Cole. Peter Motton and Marion Stillson counsel "keep it simple," while Joan Gibson admits it "requires a special drive," and Marie Keech has taken 17 courses to understand it. An endless source of frustration, a garden also delivers special, and very individual, rewards.

Gardening is also, for many gardeners, a profound link with their childhood and their families. David Driscoll, EXR, has, horticulturally speaking, come full circle. A native of New York City, he has translated his early summer experiences on large farms in upstate New York into the more refined demands of a small urban garden in Washington. And for Joan Gibson, STA, gardening instinctively evokes memories of a childhood summer evening during which her father pruned Concord grape vines, her mother tended drifts of phlox, and she planted nasturtium

seeds at her mother's behest. When she came to plant her own garden, family favorites such as crepe myrtle, French lilac, and rose of Sharon were her first plantings, and other nostalgic choices, such as gooseberries and lady's bells, soon followed. Here are some of the many staff members who shared with Staff News their earthy pursuits.

Catherine (Kate) Hung, STA, remembers her father's interest in gardening as technical. He rigged their basement "greenhouse" with a crazy contraption of lights and soil purified through an elaborate baking process.

Kate now experiments with a garden of her own. Ten years ago, she replaced the entire lawn with flowers and shrubs. Demands of work and family have made her a "moonlight gardener," with outdoor lights that allow her to weed at night. Amid lilies and ferns, a patch remains where a goldfish pond once stood. She had introduced frogs to the then-bubbling pond to deal with an infestation of



Peter Heller's spring gardens.

slugs in the garden, but the frogs are the goldfish! Mobs of slugs remain, but the goldfish are no more. No matter, flowers "borrowed" from mom's garden have enriched her children's love life.

For Mohsen Sharifi, BCS, gardening was a chance by-product of another, more central interest: fresh air. His work required a considerable part of his day to be spent in STA's computer room, which was hot and thick with toner fumes. He happened to move a plant there and found that it thrived under the room's special cooling system and constant light. As he added plants, Mohsen noticed that the air quality improved drastically. He speculates that the chemicals released by the computer equipment are absorbed by the plants, which, in turn, produce oxygen. The stuffy room now also serves as a plant hospital. Most "visiting" plants stay several days and then make their way back to their owners, refreshed and vibrant

Take note, however: Mohsen has his retirement to think about. With the aid of his son, a professional gardener, he is considering a future in plant nurseries where his advice as a physician would come at a "small cost."

A quintessential, though transplanted, English gardener, Peter Motton, BLS, is a third-generation gardener, following in the footsteps of the other men in his family who cultivated traditional English flowers within private walled gardens where "the plants were kept neatly and the weeding was always done." Making certain allowances while gardening in the United States, Peter is also turning into something of a veteran garden sleuth. As a result of intensive study at the U.S. Department of Agriculture, Peter is able to identify various plants, distinguish numerous types of soils, and employ some little-known pruning techniques. If you have a particularly curious flora query, you might ask if his sleuthing services are available.

Christie Richards, a consultant for STA, is not much of a gardener, he admits. But he does have a special touch with the fragrant, night-blooming jasmine and a special tale to tell.

Christie traveled to Sri Lanka, his native land, in March 1994. Unrest in the country prevented him from traveling to his home and seeing his mother, who was an avid gardener. Just before leaving for the airport in Colombo, Christie caught the strong, unmistakable scent of jasmine. He was puzzled, because there were no jasmine plants in his hotel room and no sign of it in surrounding gardens. Two weeks

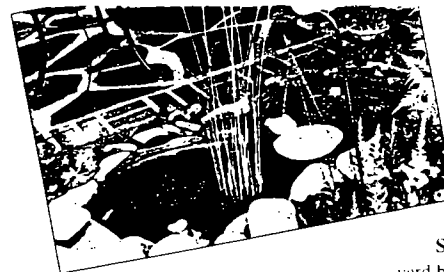
later, he was told that his mother's had passed away on the last day of his trip to Sri Lanka. She had suffered a stroke, while tending to her jasmine. After his mother's death, he began tending his own jasmine.

Sangeeta Kapur's (ADM) husband frets goodnaturedly that he might be displaced any day now by a large ficus. He needn't worry. It seems that Sangeeta's interest in gardening has deeper roots than the mere blooms she adores. Sangeeta's fondness for plants is difficult to separate from her close relationship with her mother. Most of the special discussions she has shared with her mother, she says, have taken place during their weekly Saturday gardening time. Come sun or rain, Sangeeta will appear at her favorite local nursery to browse over the latest plants and fertilizers and gossip with her mother and the nursery owner. She is such a regular customer, in fact, that the nursery owner phones to check up on her if she misses a day. This special relationship that Sangeeta has developed has benefited more than her social life; the shop owner allows Sangeeta to try new plants at no charge.

"There is a difference between liking to work in a garden and being a gardener.... I belong to the first category," muses Leo Van Houtven, SEC. Making steady, careful progress and working without a set plan, he has established a very respectable garden. But it has not been easy, and tussling with nature has yielded some valuable lessons.



Tim Cole's azaleas in bloom.



Pat Hanlon's backyard pond.

Bordering a nature preserve, the Van Houtven garden is private but not wholly free of nosy neighbors. During mild winters, numerous deer munch on his more delicate plants; during severe winters, fewer, but starving, deer devour almost everything—even shrubbery and tree bark. Having tried sprays, powders, netting, and an eight-foot high fence in the back, he faced a recent winter devastation with grim resolve: he would stop gardening. But even when he considered giving up hope, the garden would not. Despite the considerable damage, the plants somehow managed to live, even

The Fundamentals: Getting Good Dirt

- Two quarries in nearby Maryland offer a wide variety in size and type of rock—available from store to door via your family car or even special delivery. (Marie Keech, ADM)
- Sanitation departments in Virginia and Maryland offer free—and respectable—compost. (Gene Park, STA)
- "Natural fertilizer" provided by five frisky horses can be picked up by bag or truck free of charge from Steve Symansky (RES). Available beginning in the spring, this "black gold" loses its distinctive smell over time but its nourishing properties remain for gardens to come. For information call Steve at extension 37479.

thrive, that spring. "How generous nature is in letting everything revive," he reflects.

Marion Stillson, wife of Richard Stillson,

STA, is a plan gardener. Her 100-yard border garden testifies to her persistence. Originally from England, Marion has made adjustments to her gardening technique while living in the United States, and has made other allowances as well: she now gardens from a wheelchair. She plots her seasonal flowerings so that in February, crocuses and snowdrops appear in clusters. Come October, autumn glory and chrysanthemums, even some hardy summer annuals, greet her visitors. She must also plan her trips to the garden, having learned that too damp a day will make her wheelchair difficult to maneuver. Before she sets out, she packs carefully so that she has tools and containers for weeds. For Marion, the garden is an outlet for her creativity. Passersby often stop to admire her handiwork or simply to see "what's blooming now."

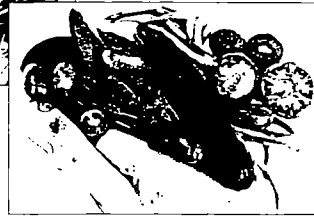
When Tim Cole's (ADM) children return home, they don't talk about the weather or ask about the family pet; they comment on the scent of his garden. Tim is a fragrance gardener, something he inherited from his father, who was, it seems, equal parts psychiatrist and gardener. Tim's interest flourished once he had land of his own. He discovered he possessed skills that he hadn't

realized he had. He cleared the trees from his five-acre yard to accommodate a large, sprawling garden of azaleas (which he propagated), tiger lilies, roses, peonies, lilacs, crepe myrtle, cornflowers, mock orange, and camellias. He has "sampled" seeds and shoots from friends' gardens and even public places to add to his collection. Tim's children recently paid their dad the ultimate tribute—noting that the garden was now "beginning to smell like grandpa's."

Marie Keech, ADM, has honed an education in fine arts and love of gardening into a new venture—landscape design. Despite graduating from George Washington University's Landscaping Design Program, she claims no expertise in the minutiae of



Denio Zara's mauve wisteria.



that you plan a garden with what you like and don't like clearly and consistently in mind. There are other things to think about, too. "Gardening is a special design situation," says Marie. "Since time is critical—plants grow,

take on different shapes and sizes, and are ultimately and constantly altered by time." Texture, too, is a landscaping tool. Grasses, ferns, and large leaf plants, like the oak leaf hydrangea, are

plant care, but maintains that careful design is fundamental to a truly fine garden. It is most important, she says,

particularly effective in the late summer or fall. Architectural themes can also be successfully incorporated in

gardens. Marie's own garden is more experimental in nature—a landscape workshop in progress where she has erected a stone fence and a rock sculpture, complete with cascading fountain.

In the spring, the sprawling garden of **Peter Heller, FAD**, was abloom with daffodils, hyacinths, tulips, bleeding hearts, anemones, Korean spice, and snowball verbenas. The dogwoods had yet to flower and a swath of azaleas across his front yard was just beginning to hint of its boisterous color. The garden has been a steady work in progress. A treehouse still marks the spot where his kids played years ago, but now there's a pond beneath. The shade of a large tree shelters an ever-growing collection of moss that was inspired by a trip to Japan. "The problem," Peter notes, "is knowing when to stop and not overdoing it." He confesses to no gardening philosophy, heeding instead to an eclectic array of influences and a schedule that largely keeps him to weekend gardening. But the satisfaction is real. "It doesn't compare with parenting," he says, "but it's like nourishing a child, and there's that attachment." And it offers a nice complement to his work. "It rewards you," he notes, "and it doesn't write memos back to you. It makes you feel very close to real things."

Jennifer MacDougall

Helpful Hints

- Tea bags work well in providing houseplants with tastier soil. Don't try decaf, however; the stimulating effects will not appear unless you use the real thing. (Sangeeta Kapur, ADM)
- Hang ivory soap around azaleas to keep deer away. (Tim Cole, ADM)
- Peat humus, vermiculite, and perlite are the secret for tall plants (Andrea Sidgwick, STA)
- Zinnias work well between daffodils after the latter have faded. (Leo Van Houtven, SEC)
- A fun introduction to low-maintenance gardening is Ruth Gordon's *How to Have a Green Thumb Without an Aching Back*. (Catherine Hung, STA)
- When purchasing a new home, be sure to have a tree specialist inspect your property. Removal of dead or diseased trees can be unexpectedly, and prohibitively, expensive, especially if the tree is near your home. (Doris Ross, PDR)
- For those tending to a shady garden, Jim McEuen (EXR) offers his list of "tried and true perennials for deep dark shade":

Arum lily (dark green arrow-shaped leaves with gray veins and a Jack-in-the-pulpit-like flower), Jack-in-the-pulpit, hardy begonia (reliable, "my garden doesn't feel comfortable without it," says Jim), Japanese painted fern, maidenhair fern, hosta, hardy cyclamen (spreads slowly and flowers in fall/early winter), variegated false Solomon's seal (also called Japanese Solomon's seal—"great as a backdrop")



Jim McEuen cultivating this year's harvest.

Abu's Secret Revealed

IT WAS APRIL 26 and a beautiful spring evening in Washington, D.C. Abubakar Ameyaw (known as Abu) left for the day from his job at the Joint Fund-Bank Library and headed for K Street toward the Farragut North Metro Station. He knew his route well; he had traveled it daily for the past two years since joining the Fund. When the train for Shady Grove arrived, he got on.

A few blocks away, Bernice Weston walked along Connecticut Avenue, admiring her surroundings. Bernice had flown in from London and was in town to attend the White House Conference on Aging. At the moment, however, her thoughts were far from the conference. She was on her way to meet her daughter Alesia for dinner. Originally, she had planned to take the Metro, but it was far too beautiful an evening to spend traveling underground. She decided she would walk to the restaurant.

Abu left the crowded metro at the Van Ness stop. He exited the train, leisurely heading toward the pizza restaurant where he was meeting a friend.

Noticing she was running late, Bernice picked up her pace. As she neared the Van Ness Metro Station, she was tempted to give in but decided to run the rest of the way instead. She reached the restaurant quickly and looked around for her daughter. Alesia smiled and waved, making her way across the room to greet her mother. For Bernice, who lived in London and Jerusalem, and Alesia, who lived in Washington, there was much to talk about. Alesia was proud of her mother, the founder of Weight Watchers in Europe, and now the recent author of *How to Die Young as Late*



as Possible. The bill arrived, but Bernice was in no hurry.

After splitting a large pizza and talking about the day's highlights, Abu and his friend parted company. Certain he would make it home before dark, Abu decided to walk home.

Realizing it was growing late, Bernice reached for the bill, checked it over, and reached for her purse. Instantly her face paled and her heart sank. She suddenly realized that her little black purse, barely larger than a credit card, was missing. The strap had broken once before, and she had repaired it herself. Bernice and Alesia combed the restaurant inside and out. The purse was nowhere to be found.

As Bernice and Alesia continued their search, Abu reached the intersection of Connecticut Avenue and Van Ness near the south side of the Metro station. Suddenly, he saw a small black object on the ground before him. At first he dismissed it as a child's toy. At second glance, however, he noticed a splendid gold crest embossed on it. Curious, he picked it up. Despite its tiny appearance, the purse was quite heavy. When he opened it, he found out why. To his amazement, there was nearly \$1,400 in cash inside. Nothing could have prepared him for this. He searched further and found credit cards bearing the name Bernice Weston, foreign business cards, and a membership card to the American Association of Retired People. His heart went out to Bernice Weston, particularly when he saw the membership card. He imagined an elderly woman. He remembered the time when he was on a bus in Ghana, his homeland, and found a man's wallet. He had persuaded the bus driver to turn back and look for the wallet's owner. Abu found the man with a crowd around him searching frantically for the wallet.

Hoping Bernice Weston would retrace her steps as soon as she realized her purse was missing, Abu stood

outside the station for a good half hour. It soon became clear, however, that Bernice was nowhere in sight. Disappointed, he headed home.

Bernice sat up most of the night making the necessary calls to cancel her credit cards. Deep in her heart, however, she knew the money was lost.

Since his only leads were business numbers in London and Jerusalem, Abu decided to wait until morning to begin his search. He left messages at the phone numbers appearing on the business cards. When he arrived home that evening, he had a message from London and also one from Bernice Weston herself. He called Bernice and told her the good news. After Bernice thanked him profusely, they agreed to meet at Alesia's apartment early the next morning.

Bernice was all smiles when she met Abu. She sat him down, and they chatted for a while. Abu told Bernice he was from Ghana, but now lived in D.C. and worked for the Fund. Bernice, in turn, shared with Abu that she was an American lawyer, but had left the profession to establish businesses in London and Jerusalem. Abu, glancing at his watch, realized he was running late for work and stood up to leave. Bernice insisted he

take a taxi to work and generously rewarded him for his kind deed. Handing him her business card, she insisted that if he were ever in London, he should contact her. She assured him that they would meet again and that he would always be welcome in her home. Abu thanked her in return and headed to work.

A week later, sitting at her desk in her London office, Bernice stared into the blank computer screen. Her mind drifted back to the events of April 26. How foolish she had been! While she had already expressed her gratitude to Abu, she still thought a formal letter was not only fitting, but well deserved. After all, her recent ordeal had restored her faith in humanity. She began to type "June 2, 1993."

It was the second week in June in Washington D.C. Abu sat at his desk and opened the letter his supervisor had just handed him. He began to read "Dear Mr. Ameyaw: I was delighted to receive this letter from Ms. Weston and thought that you might like to see it. May I add my voice to hers in praising the consideration you showed in helping a visitor to this country, and thanking you for your great kindness in assisting her. Sincerely yours, Michel Camdessus."

Abu studied Bernice's letter of June 2, which she had written to the Managing Director. A smile touched his lips as he pondered the recent turn of events in his life. He was certainly pleased but believed in his heart that he had simply done what was right. For Abu, there was no reward greater than this. Without a word to his colleagues, he tucked the letters away and returned to the business at hand.

Tammie Leedham

Becoming a "Big Sister"

BIG SISTERS of the Washington Metropolitan Area is a nonprofit organization which seeks to provide young girls with "big sisters." For over 20 years, this organization has been fostering personal relationships between girls aged 6-18 and female mentors. Big Sisters commit themselves to meeting regularly with their Little Sisters, and providing companionship and guidance.

Karen Parker, an Economist in the Central Asia Department, decided to become a Big Sister in October 1992. "I wanted to get more involved in the local community, and I thought it would be fun to be friends with a young girl. I was interested in seeing how the world looked from her vantage point," says Karen. She expressed flexibility in her preference for a future Little Sister and underwent an eight-month screening process that helped the organization identify a compatible match. In May 1993, Karen was introduced to a 13-year-old girl, Valencia Robinson.

Valencia—or "Ms. Lady," her nickname from birth—sought out the Big Sisters program because she was bored. Valencia hoped the program could provide an opportunity to see new places and meet different people. Valencia also went through several interviews, but was quickly matched up with Karen. Little did she know how having a Big Sister could change her life.

Valencia was shocked the first time she met Karen. "I expected my Big Sister to be black," she said. But she

decided to keep an open mind, and she says now that she wouldn't want anyone else. "I think our different backgrounds have taught both of us a lot," says Karen. On their first outing, Karen and Valencia visited several Smithsonian museums. At the beginning, both were rather shy. After all, you do not meet a new sister every day! Karen invited Valencia back to her home for dinner and took some photographs to record their first meeting. Valencia immediately realized that having a Big Sister would be completely different from having a tutor or a mentor at school; she would really have a friend to talk to. Karen also thought that the organization had done a good job in making the match; Ms. Lady was a very intelligent girl who, notwithstanding her initial hesitation, appeared eager to learn.

Since then, they have been meeting regularly, normally about once a week

for four to five hours. They do all sorts of things together: sometimes they go out for dinner and a movie, other times they visit places around Washington. "My favorite time was when Karen and I had dinner at Sequoia for my fourteenth birthday. It was so pretty there," says Valencia. Valencia loves to visit the countryside, which she had had few opportunities to see before. They also enjoy trying out new recipes at Karen's house and occasionally invite Valencia's family to have dinner with them. They sometimes sew at home, while chatting about what has come up during the week. The hardest part has been saying good-bye when Karen goes on missions. However, they send each other letters by fax, and Valencia has come to realize that Karen is in her life to stay.

Shy at first in talking to Karen, Valencia now says she feels free to



Karen Parker and Valencia Robinson.

Music Lovers

Please note that Jenny Bland has retired; the new contact for the Choral Society at the World Bank is Laura ("Peggy") Elliot. Tel. 473-8096.



tell her anything that is on her mind or discuss any decision she has to make. She likes to discuss what's going on at school, grades, and friends, and to listen to Karen talk about her own accomplishments or problems. Meeting Karen, she says, has definitely changed her life.

At the beginning, Karen was also was hesitant to discuss personal concerns or her work with her Little Sister. She did not want to burden her with these. As time went by, though,

she felt she could share more and more with Valencia who, apart from being her Little Sister, was becoming a beautiful and talented young lady, and a close friend. Valencia's family has also grown close to Karen. "Her mom is really great," says Karen.

Valencia always talks with her friends about the Big Sisters program because "it is so much fun," especially if they are as lucky as she and assigned to a Big Sister as nice as Karen. Karen also recommends the program to her

friends because her life definitely has acquired a new dimension since she met Valencia. "I just wish that more people would make the commitment to be a Big Brother or Sister, which could enrich their own lives while strengthening the local community."

For more information about Big Sisters of the Washington Metropolitan Area, please call (202) 244-1012; for Big Brothers, call (301) 587-0021. ■

Alicia García-Herrera

The International Channel September 1995 (partial listing)

ET	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday	Sunday
5:30 AM	Inform TV News (Russian)					English Program	English Program
6:00	Asian Market Digest (English)					English Program	ATV Drama (Cambodian)
6:30	Asian Market Digest (Mandarin)					Contos Ops (SP)	
7:00	Business Today (Tagalog/English)					Thai Variety	Mo'y en la Cultura (SP)
7:30	Primetime News (Polish)						Contrabando (Spanish)
8:00	Mini Series (Polish)	Mini Series (Polish)	Tyrol (Polish)	Scot Usland (Polish)	Klam Muzam (Polish)	Tele-Italia (Italian)	
8:30	KTE Programming (Korean)					Tele-Italia (Italian)	TBA
9:00						German Performing Arts (G)	The Dear Snow (English)
5:00 PM	Inform TV News (Russian)					Afric (Farsi)	Italian Championship Soccer (Italian)
5:30	Paris Lumières (French)						
6:00	En toute Liberté (French)	Plaisir de Lire (French)	Decouverte (French)	Telelourisme (French)	Magellan (French)		
6:30	Pyramide (French)						
7:00	France 2 News (French)						
7:30	SES Drama (Korean)					TE2	Rugby (English)
8:00							
8:30	Mr. Cupido (Tagalog)						
9:00	TV Patrol News (Tagalog)					Black 'n' White (Filipino)	Japanese Drama (Subtitled in English)
9:30	Antenna Satellite News (Greek)					Hodo 2001 (Japanese)	Japanese Documentaries (Subtitled in English)
10:00	Asian Business News (English)						
10:30	International Report News (Cantonese)						
						South Rap (Mandarin/English)	South Rap (Korean/English)
11:15	ATV Drama (Cantonese)						
11:30						Chinese Showcase (Mandarin)	The Johnny Yune Show (Korean/English)
12:00 AM	World Report News (Mandarin)						TBA
12:30							
1:00	May Ngan News (Vietnamese)					Eye on Africa (English)	Eye on the World (Farsi)

For additional information on the International Channel, please contact Cynthia Marchena in Los Angeles at (310) 442-2339.

Hot, Hot, Hot, Wet, Wet, Wet

SUMMER—sudden downpours and sweltering heat. A time when we seek respite at the beach or in the air conditioning. Not so the INVOLVE volunteers. In June, they looked like they had entered a wet t-shirt contest as they joined with volunteers from Meltzer and Associates to serve food to over 100 senior citizens at the Brentwood Annual Adult Care Center picnic. The sun beat down, and then the rains came. But that deterred neither the senior citizens and their families nor the volunteers from enjoying themselves. Umbrellas of all shapes and sizes materialized and formed lines to the restrooms and huddled over tables to protect the



Top: Brentwood Adult Care Center picnic. Right: Capitol Area Community Food Bank.

seniors and the food from the downpour.

To dry out from the drenching received in June, INVOLVE volunteers found themselves in the fields of Claggett Farm in Upper Marlboro weeding the crops for Capitol Area Community Food Bank in 99-degree heat. Decorum was shed as heat and stubborn, three-foot weeds did their best to foil the efforts of the volunteers, but sweat, determination, and teamwork won the day and the fields were left weedless.

Despite the weather and holidays, Sylvia Aida managed to gather enough volunteers to serve breakfast at Miriam's Kitchen on the first Friday of each month. Michelle Bell was equally successful in mustering enough volunteers to cook and serve dinners at the Calvary Women's Shelter on the third weekend of the month.



Christmas in April.

If you would like to volunteer for either of these projects, contact Sylvia (SAida) or Michelle (MBell2).

Thank-Yous

Christmas in April sent a thank-you letter to INVOLVE volunteers, saying that they "truly have made a difference in the lives of your neighbors this year, making our city a safer, brighter, and more hopeful place to live." A thank-you was also received from Servathon '95 and a plaque "in appreciation for valuable support," which we hope to display in the main lobby.

Upcoming Events

For information on upcoming events or how you can volunteer or become a member of INVOLVE, please e-mail JRoushdy.

Juanita Roushdy

LETTER TO THE EDITOR

The Secret Pilgrim

Permit me to add a footnote to the very interesting piece by Graham Newman in *Staff News*, June 1995.

Per Jacobsson collaborated with Vernon Bartlett, a British journalist and broadcaster, in writing two thrillers, *The Death of a Diplomat* (1928) and *The Alchemy of Murder* (1929), using a shared pseudonym Peter Oldfield. Erin Jacobsson, his daughter, said: "The writing of the two books gave P.J. more pleasure than all his economic writing. . . He was always delighted to explain that he owed his membership in the PEN Club to his detective stories; he was touchingly proud of them" (*A Life for Sound Money*, Clarendon Press, Oxford, 1979, p. 70). This is also a heartening reminder that economics need not be a bar to literary productivity, albeit in the historic treason trial of the poet Ezra Pound, the defense counsel admitted pathetically that his clients' poetic fecundity had been rendered sterile by a somewhat excessive addiction to monetary economics. Hopefully, IMF staffers will also disprove this stricture on monetary economics.

A.G. Chandavarkar



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Chorng-Huey Wong

NEW MAILING ADDRESS

Please note that beginning September 18, our new home will be located in Room IS9-1300. You can also reach us through our electronic mailbox (STAFFNEWS). We welcome your comments and suggestions.

BIRTHS

To **Lina Shoobridge** (EU1) and her husband Steve, a daughter, Elena Catherine, on June 27, 1995.

To **Jeff Weidman** (BCS) and his wife Hye Gyeong Jang, a daughter, Mary Kim, on March 23, 1995.

To **Miriam S. Camino-Wolosky** (LEG) and her husband John, a son, Jonathan Karl Wolosky, on March 19, 1995.

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Fitness Center Opens Its Doors to Fund Spouses and Retirees

Fund spouses and retirees can now join the Fund's Fitness Center for only \$10 per month. Hours of access have been expanded to 7:00-10:00 a.m., 11:00 a.m.-3:00 p.m., and 4:00-8:00 p.m., Monday through Friday, and 9:00 a.m.-1:00 p.m. on Saturdays. Membership dues are payable in advance through December 1995, and on a monthly basis beginning in January 1996.



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The Making of the World Economic Outlook

THE World Economic Outlook is the flagship publication of the Fund, and it is a unique example of teamwork across departments, bringing together a broad range of skills, resources, and staff, working under extremely tight deadlines. Staff News takes a look behind the scenes, to find out how the WEO is put together, who the players are, how data and information are collected and analyzed, and what other activities are triggered by the WEO.

This year marks the twenty-sixth anniversary of the *World Economic Outlook*. Known as the WEO, this exercise is the Fund's main instrument of multilateral surveillance and

includes forecasts of member countries' near- and medium-term global economic prospects. The WEO made its debut as an experimental Executive Board document in 1969. Subsequently, world economic turmoil, stemming from the collapse of the Bretton Woods system of fixed exchange rates and the first oil price shock, underscored the importance of developing an integrated global perspective on world events. Hence, the WEO became an annual publication in 1980. While the then-Managing Director, Jacques de Larosière, noted in the preface that this first published edition of the WEO was "experimental, and any decision regarding publication in the future [would] be taken on a

case-by-case basis," it was published in 1981 without qualification, and became semiannual in 1984. The WEO is now published in May and October, at the time of the Spring and Annual Meetings.

Since the early years, the WEO has evolved into an important part of the Fund's work. Today it serves three major purposes:

- analysis of key world economic policy issues that are discussed by the Executive Board, often becoming the focus for discussion at Interim Committee meetings;
- a vehicle for communicating to the world the Fund's policy



Members of the WEO team in Research (see box on page 2).

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recommendations from a multilateral perspective; and

- support for the work of area department economists by providing a global economic context for individual country recommendations.

In all, the WEO project consumed 18.1 staff years for research and writing, and 5.1 additional staff years for translation and publishing, in FY1995.

Where Does It All Begin?

The production of the *WEO* is coordinated in the Research Department (RES), headed by Michael Mussa, Economic Counsellor and Director. The *WEO* project is directed by Flemming Larsen, Senior Advisor, together with David Coe, Chief, World Economic Studies Division (WESD). The various chapters are drafted by small teams of WESD staff working closely with Larsen and Coe. The diversity of skills and experience of the WESD staff team reflects the

breadth of issues covered in the *WEO* (see box below). Although most of the work is carried out in WESD, staff in other divisions of RES also contribute to the analysis. Increasingly, economists in the area departments prepare the text boxes and annexes on specific country issues.

Economic projections and associated policy discussions contained in the *WEO* are based on information from a broad range of sources. Larsen is responsible for suggesting topics to be discussed in the *WEO*. The selection of issues draws on the discussions in the Executive Board on world economic and market developments, as well as the ongoing policy debate among staff and management. Area departments and other specialized departments provide extensive comments on the draft *WEO* in order to develop an integrated interdepartmental view. The key concern is to identify and address multilateral surveillance questions of interest to the Fund membership at large.

The WEO Team in Research

In the current issue, Flemming Larsen wrote the overview chapter "Economic Prospects and Policies," with administrative assistance provided by Margarita Lorenz. Francesco Caramazza was responsible for the chapter on short-term developments, and Robert Wescott, for the chapter on policy issues in industrial countries. David Coe, Thomas Helbling, and others contributed sections to both chapters. Mahmood Pradhan, Hossein Samiei, and Alexander Hoffmaister authored the chapter on developing countries; and Vincent Koen and Paula De Masi, the chapter on transition countries. Staffan Gorne, who contributed to the first *WEO* in 1969, was responsible for the Statistical Appendix. These teams were supported by Sheila Bassett, specializing in economic modeling, and Anthony Turner, specializing in debt issues. Sungcha Cha produced many of the charts. Toh Kuan also produced charts and provided extensive research assistance. Staffan Gorne worked closely with Cathy Wright and the WEO/BCS team Shomim Kassam, Allen Cobler, Yasoma Liyanarachchi, Nick Dopuch, Gretchen Gallik, Subodh Raju, Mandy Hemmati, and Isabella Dymarskaia to organize the area departments' country submissions, manage the *WEO* database, and maintain the *WEO* computer systems.

Susan Duff—a six-year *WEO* team veteran—and Margaret Dupaah took charge of the creation of the *WEO* document, which was about 260 single-spaced pages, and organized the distribution of the multiple versions of the *WEO* to departments, for example, involved 150 copies, which took a full day to produce and a host of messengers and assistants to distribute the document from I-Square to headquarters. Duff and Dupaah were also responsible for preparing the press version of the *WEO* for the Copy Center to reproduce.

Where Do the Data and Projections Come From?

The statistical information that supports the *WEO* analysis and drafting comes primarily from area department economists. Country submissions made during the current *WEO* exercise provide historical data and projections through the year 2000. Historical data from the Fiscal Affairs and Statistics Departments—as well as from other international organizations, such as the United Nations, the World Bank, and OECD—supplement the country projections. In total, the *WEO* database comprises some 25,000 time series.

Once the data are received, an intense review process takes place. The *WEO* team works closely with desk officers to arrive at the highest quality and most comprehensive country database. Sometimes, multiple submissions are necessary to correct data problems and include the most up-to-date information. This often involves faxes or phone calls from the field, as in the case of Mexico last spring, or making the technical arrangements for an electronic submission by desk officers on mission, as has been done recently from Moscow.

Timing Is Everything

Careful planning and strict adherence to deadlines keep the production of the *WEO* on schedule. The *WEO* exercises begin in early January and in mid-May with WESD's creation of general and country-specific assumptions tables, which are distributed to departments. Assumptions on commodity prices and exchange rates, for example, provide guidance to area department economists as they prepare their new projections. Group A countries, whose combined economic activity accounts for 90 percent of world



Flemming Larsen, Michael Mussa, and David Coe.

economic activity, submit updated projections for each *WEO* exercise. The remaining Group B countries submit their data after the conclusion of their Article IV missions. For the latter group, world events often require more frequent submissions, as has recently been the case for the transition countries and the CFA franc countries.

Once WESD reviews the country submission, the new information is included in the full *WEO* database. The new projections fuel the creation of regional and analytic aggregates discussed in the *WEO* chapters and presented in the document's statistical tables and charts. Three weeks after the new submissions are received, the "departmental" draft of the *WEO* document is sent to nearly all departments for review and comment and further data updates. The draft is also sent to the *WEO* editor in the Editorial Division of ENR for editorial comments and suggestions. This marks the beginning of the publication process.

One week later, chapter authors, in consultation with Larsen and Coe, revise the drafts to take account of departmental comments. The database is also updated to reflect any last-minute data changes, and the resulting *WEO* draft is sent to management for review and approval. Any important disagreements between RES and other

departments are highlighted for resolution by management. Once RES responds to management's queries and its suggestions are incorporated in the draft, the document is prepared for distribution to the Executive Board.

A two-day Board session, in which Executive Directors discuss the written analysis and the staff projections, takes place three weeks later. Based on the Board discussion, further editorial changes or data revisions are included in the *WEO* document as it is prepared for the final phase of the *WEO* exercise. The *WEO* is kept strictly confidential until it is made public in a press conference in the week preceding the Interim Committee meeting. Chapter I of the *WEO* serves as the Managing Director's note for the Interim Committee.

In the six weeks following the Executive Board meeting, the *WEO* team works in close coordination with ENR, Graphics, and BLS to ready the materials for the *WEO* press conference, the Interim Committee meeting, and final publication.

The Press Conference

Since the *WEO* was first published in May 1980, its introduction to the press has become a major focal point for the media covering the Spring and Annual Meetings. Until 1980, no

public disclosures of the *WEO* had been made, but because of mounting media interest in the *WEO* (and a series of embarrassing press "leaks"), it was decided in 1984 to provide the media attending the Spring and Annual Meetings with advance copies (a "press version") to complement reporting on the Interim Committee meeting.

Since the early days, the timing and format of the *WEO*'s press launch have changed considerably. Originally, information was embargoed for publication until after the Interim Committee meeting, on the grounds that, as the main item on the agenda, it should not be released before the Ministers and Governors had a chance to discuss it. Also, the briefing for the press was given on a background basis, by then-Deputy Director of RES, Andrew Crockett, who was in charge of the *WEO* project. When Crockett left the Fund, former Director of RES, Jacob Frenkel, took over the briefing and put it on the record. At around this time, it was decided to bring the press launch date forward; for the past few years, the *WEO* press conference has been the opening official press event for both the Spring and Annual Meetings.

The press conference is conducted by Mussa, Larsen, and Coe. EXR Director Shailendra Anjaria moderates the conference, assisted by Chief Information Officer, Hernán Puente, and his deputy, Graham Newman. The Third Floor Meeting Hall, where the press conference is held, is set up to accommodate television cameras and between 200 to 250 journalists from around the world who cover the *WEO* launch. Once Anjaria opens the conference introducing the people at the head table, Mussa gives the opening



The WEO editor, Juanita Roushdy (center), and BLS staff (left to right): Van Tran, Myriam Watrin, Herv Bloch, Roberto Donadi, Myriam Collins, Adelwareth Sabah, and Laila Hammouda.

remarks, which cover the broad conclusions and major policy recommendations contained in the *WEO*.

After this, questions are taken. About an hour and 20–25 questions later, the proceedings are brought to a halt. After a brief but inevitable "press conference after the press conference," in which would-be questioners crowd the head table, the attending press dash off to disseminate the *WEO*'s story around the world.

Publishing the *WEO*

Publishing the *WEO* takes place in an almost all-electronic environment, from the transferring of data files for the charts and tables to sending an electronic file to the printer. Paper is used only for editing the original manuscript, page proofs, chart proofs, and final color proofs that replicate the printed version.

At least 40 people from EXR, RES, ADM, and BLS—and a commercial printer—are involved in the publishing process. The Editorial Division of EXR coordinates the publication of all four language editions. BLS also plays an important role since the *WEO* is published not only in English but also in French, Spanish, and Arabic. The translations for the October 1995 issue

are revised by Annelise Auchart-Jones (French), Julio García Durán (Spanish), and Laila Hammouda (Arabic). A Chinese version is also produced, at a later date, in a co-publishing arrangement with the China Financial Publishing House in Beijing.

The press version is a much sought-after and coveted first version that is available to the press and to a limited distribution list. It is embargoed until the day following the press conference. Enrico Martini, Massoud Etemadi, and Tony Chin of the Copy Center in the Graphics Section print about 1,800 copies, which takes about a week and requires about 720,000 sheets of paper.

The glossy, four-color published version takes a little longer to produce—usually six weeks from receipt of the final Board document in Editorial to printed copies distributed in the Fund. It involves editing, proof-reading, typesetting, redrawing charts, merging art and text electronic files, and preparing an electronic file for the printer, including all color separation instructions.

The typesetting and preparation for the printer are done entirely in the Graphics Section. (Continued on page 5)

Where Do Black Children Belong? The Politics of Race Matching in Adoption

Elizabeth Bartholet

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I. Early Fragments from One Trans-racial Adoption Story¹

When I first walked into the world of adoption, I was stunned by the dominant role that race played in it. I had thought I understood something about the meaning of race in our society: my life's work as a lawyer had largely involved dealing with issues of racial discrimination. But I discovered that race plays a unique role in the adoption world. It is central to many people's thinking about parenting and a key organizing principle for the agencies authorized to construct adoptive families.

As a single parent of a child from an early marriage, I had decided that I wanted more children, and that I wanted to adopt. My journey took me through the process of considering adoption in this country and abroad. I decided to adopt a child from South America. At one point I was planning to adopt from Brazil, but the Brazilian program closed down just as I reached the top of the list. I had long considered adopting from Peru,

sparked by stories from a childhood friend of visits to the "lost city of the Incas." But I had been discouraged by the difficulties of a Peruvian adoption. Nevertheless, when Brazil fell through I picked up the telephone and called a lawyer in Lima, Peru. "Come," she said, "I have the baby for you." A week later I flew to Lima, and that same day met Christopher, my first adopted child. Two and a half years later I returned to adopt Michael.

1 This article is based upon a review of the relevant literature and case law, my own experience as a consultant on adoption issues and as an adoptive parent, and a series of interviews—some by telephone, some in person—with dozens of adoption professionals, students of the adoption system, and related experts (including both critics and supporters of current racial matching policies). For a version of this article that contains specific references to my sources, see "Where Do Black Children Belong," 139 *University of Pennsylvania Law Review* 1163 (1991). Another version of this article will appear in my forthcoming book, tentatively titled *Children By Choice* (Houghton Mifflin), which deals with adoption, reproductive technology, and surrogacy.

Early in the process of exploring how I might adopt, I discovered that the first order of business for the agencies responsible for matching children and parents is to sort and allocate by race. The public and most of the traditional private adoption agencies would not consider assigning a waiting minority child to me, a white person, except as a last resort, and perhaps not even then. The organizations and individual entrepreneurs that arrange independent adoptions, while more willing to place across racial lines, also sorted children by race. In this part of the adoption world, minority children might actually be easier for the white prospective parent to find than a white child, and they were often available for a lesser fee.

I also discovered how dominant race was in the thinking of many prospective adoptive parents. The large majority of people actively looking to adopt in this country are white, and for the most part they want white children, at least initially.

The familiar refrain that there are no children available for adoption is a reflection of the racial policies of many adoption agencies and the racial preferences of many adoptive parents. The reality is that there are very few *white* children compared to the large pool of would-be white adopters. But there are many *non-white* children available to this pool, both through independent adoption in this country and through international adoption. And there are many non-white children waiting in foster care who are unavailable solely because of adoption agency insistence that they not be placed trans-racially.

Racial thinking dominates the world of international adoption as well. When I began to explore the possibility of adopting from South America, I was intrigued by my agency's Brazilian adoption program. Brazil allowed singles to adopt and allowed people my age to adopt infants. Babies were available for placement immediately upon birth. I would only have to spend a week to ten days there to complete the legal procedures and could then return to the United States with my baby. And there

was no waiting list. I could expect to have my baby within a few months of completing the adoption agency "home study" that is required for an international adoption. Given the difficulties that a forty-five-year-old single person faces in other countries, this all seemed unbelievable. The explanation was, of course, race. Much of Brazil's population is of African descent. The children available for adoption from this Brazilian program were part black. This put the program low on the desirability list for many prospective parents despite all its attractive features. Chile, by contrast, is considered a highly desirable country because its population is mainly white. There are sufficiently few dark-skinned minorities that even the children of the poor—the children most likely to be available for adoption—tend to be white. The Latin American countries with significant indian or mestizo but limited black populations generally fall between Chile and Brazil on the scale of desirability because the adoption market rates indian as lower than white but higher than black.

I discovered during my two adoption trips to Peru how children may be rated in racial terms in their own country as well as here. Most of the children available for adoption in Peru are of mixed indian and spanish heritage. But there is tremendous variety in ethnic features and skin color. For my second adoption, I was offered by the government adoption agency an unusually white, one-month-old baby. My initial reaction upon meeting him was disappointment that he did not look like my first child from Peru. Christopher's brown-skinned face with its indian features had become the quintessence of what a child—my child—should look like. But I decided that it was foolish to look for another baby-Christopher, as I had decided years earlier that it would be foolish to look for a clone of my biological son. I took this baby home and named him Michael. Within twenty-four hours I found myself tearing through the streets in a taxi, mopping his feverish body with a wet cloth. As I saw his eyes

The photographs and captions on pages 24 and 25 come from The National Adoption Center. If you would like to inquire further about the possibility of providing a home for one or more of these children, please write or call Ms. Carolyn Johnson, Executive Director, The National Adoption Center, 1218 Chestnut Street, Philadelphia, PA 19107; (215) 925-0200.

The National Adoption Center believes that every child should have a permanent family, that the longer a child remains without one, the more damaging it is to his or her identity, self-esteem, and chances of growing into productive adulthood.

Since the family is a major source of identity and self-esteem, we believe that all children should have the oppor-

tunity to be raised in families of their same racial and cultural heritage. Placement across racial lines creates an additional challenge to the developing identity of children who have already experienced serious personal losses.

It is the goal of the National Adoption Center to find an appropriate home for each child as quickly as possible. Based on our belief, our practice is to search for an adoptive family of the same racial heritage as the child. If after a six month period no family of the same racial identity has been identified, the Center will search for a family where one member is of the same racial heritage as the child. Finally, we search for families of a different race or cultural background who can meet the child's special needs.



Sherita, 7, and Raquel, 5, are adorable sisters who enjoy playing together. They want a family to call their own.



These are two, quiet, well-mannered and well-behaved children. Shy around new people, Nathaniel, 7, takes a while to warm up and even then he's not very talkative. Zandra, 5, is more outgoing and animated. What Nathaniel lacks in loquaciousness he more than makes up for in imagination. He can spin some very tall tales.



Bobby loves to talk. He is quick to share his feelings with anyone who will listen. This 12-year-old is also an athletic youngster whose favorite sport is baseball. Bobby suffers from a mild emotional problem which stems from difficulties in his past. Because of this he attends special education classes for children with learning disabilities. Bobby is eager to become part of a forever family.



Both Alphonso, 10, and his sister Evette, 8, enjoy working around the house. Alphonso especially enjoys carpentry. He helped his foster father build tables and panel the house. Evette likes to do odd jobs around the house and enjoys the responsibility of assigned tasks—this makes her feel very grown-up. Both children are in good health, but are being treated with medication for hyperactivity. Alphonso and Evette dream of the day they will belong to a family permanently.



Darlene, 13, is a pleasant and cooperative teenager. She enjoys being a hospital candy striper, running track, swimming, and reading. Darlene has average grades in school and wants to be adopted by a family to which she can belong forever.



Heather Lynn, 15, is an attractive teenager with a good sense of humor. She gets along well with her peers and enjoys family and youth-group outings.



There is a special kind of closeness between these two brothers. Byron, 6, looks to Robin, 14, as his role model, and Robin is in awe of the unconditional love his younger brother has for him. Robin enjoys studying karate and playing basketball and Nintendo. He's a bright youngster even though his grades don't reflect it. Byron likes to draw and can identify all of his colors. Despite suffering abuse and neglect in their pasts, both boys are willing to give of themselves to others.



Latesha loves anything to do with the outdoors. Camping with her Girl Scout troop, or hiking through the woods looking for bugs is how this inquisitive twelve-year-old likes to spend her time. Latesha has six brothers and sisters, all of whom have been adopted. She's the only one left. She desperately wants a family to call her own.

lose contact with mine and begin to stare off into the middle distance, I became terrified that he would die in my arms before we got to the hospital emergency room. At the hospital he was wrapped in a wet towel and his feet were placed in a pan of ice water. I watched the puzzled but surprisingly cheerful little face that peered out from the monkish hood the towel formed about his head while we waited for two hours as his temperature slowly cooled. Sometime during that taxi ride, or in that hospital room, I became hopelessly attached.

Several weeks later I sat with a blancketed Michael in my arms in the office of one of Lima's fanciest pediatricians. Michael had recovered from the fever but had been suffering from nausea and diarrhea almost ever since. He had been living on a water and mineral mixture for a large part of this time. Although it protected him from dehydration, it provided no nutrition. He had kept no milk down for five days. I had been to three different doctors in three weeks; none seemed to have any idea what to do. I told the pediatrician the story of Michael's troubles, trying with my words and tone to convey my sense of desperation. The doctor sat impassively, interrupting me only when my three-year-old Christopher wandered over to the bookshelves. Pointing with apparent disgust, as if some small and dirty animal had invaded his office, the doctor asked, "What is he?" I thought the question truly peculiar and the answer rather obvious, but explained that this was my son. At the end of my story, the doctor, who had still made no move to look at Michael, proceeded to tell me that he could get me another child in a way that would avoid all the troublesome procedures of a Peruvian adoption. Women were giving birth in his hospital all the time who would not keep their babies. He could have the birth certificate for one of these babies made out showing me as the mother and the baby would be mine.

When I finally realized that this hospital baby was being suggested as a substitute for the one on my lap, I said in what I hoped was a polite but firm tone that I planned to keep this child and that I was here because I was afraid the child was seriously ill. I asked if the doctor could please now examine the child. He then shrugged his shoulders and showed me into the examining room.

I put Michael on the table and started to undress him, and for the first time the doctor looked at him.

Racial matching policies represent a coming together of powerful and related ideologies—old-fashioned white racism, modern-day black nationalism, and "biologism," the idea that what is natural in the context of the biological family is what is normal and desirable in the context of adoption.

"Oh. I see. I understand. What an extraordinary child." He gave me what was meant to be a knowing look and kept exclaiming his surprise as he continued Michael's physical. "Entirely white," he said. "Not even any Mongolian spots..." (the spots that non-white children often have on their backsides in early life). It was over-

whelmingly clear that Michael's value had been transformed in the doctor's eyes by his whiteness. Whiteness made it comprehensible that someone would want to cure and keep this child rather than discard him.

Michael got well (although with no help from this particular doctor), and turned out to have nothing more serious than an allergy to cow's milk. But his whiteness proved troubling for the rest of our stay in Lima. I was told by advisers wise in the ways of Peruvian adoptions that his unusual whiteness made him so desirable that I would have to guard against losing him to other adoptive parents or to lawyers hungry for the high fees that he would bring. I was advised to keep him hidden in my apartment so that his whiteness would not become widely known. Thus, when required to take him to the various police and medical examinations and court appearances that are part of the adoption process in Lima, I kept his face covered with a blanket at all times. When dealing with people who had seen him, or might know what he looked like, I talked constantly of how frail and ill he had been since birth, hoping thereby to discount the value of his whiteness.

Through the process of creating my adoptive family, I learned more about my own feelings about race. Adoption compels this kind of learning. You don't just get at the end of one general child line when you're doing adoption. There are several lines, each identified by the race, disability, or age of the children available, together with the length of wait and the difficulty and cost of adoption. In choosing which line to join, I had to think about race on a level that was new to me. I had to try to confront without distortion the reality of parenting someone of another race because the child and I would have to live that reality. I had to decide whether or not I wanted a child who was a racial look-alike. And I had to think about whether it would be racist to look for a same-race child or racist to look for a child of another race, as I was learning that a black social workers' organization opposed trans-racial adoption, calling it a form of racial genocide. When I decided on an international adoption,

I had to choose which country's line to stand in, and a part of that choice was thinking whether I had particularly positive—or negative—feelings about the prospect of parenting a child of any given racial or ethnic group and musing about whether it was offensive or entirely all right to be engaged in this kind of thinking.

When I finally did adopt, I began life anew as part of a Peruvian-American family, part of a brown-skin/white-skin, Indian-Caucasian mix of a family.



Returning with Christopher from my first Peruvian adoption, we emerge from the airplane in New York City to make our way through customs and immigration. There are signs directing United States citizens to one line and aliens to another. I start toward the line for citizens conscious of finally being back in the land where I belong. I then realize that since the child I am carrying is a legal alien, he and I must join that other line, the one for those who don't belong.

After a few weeks back in the States, I find myself startled on a trip to the supermarket by a stranger's question—"Where did he come from?" I'm genuinely puzzled as to why this person would think that Christopher came from some place other than me—as to why adoption would be immediately assumed. It's as if I have to be educated to see how blatant are the physical differences that others see—his brown skin, black eyes, and straight thick black hair, and my fair skin, blue eyes, and frizzy blonde-brown hair. As I push Christopher through the streets in his stroller, I am struck by the appearance of other people's children—they are pale, anemic-looking creatures, with strangely bald heads. The brown-skinned beauty who splashes in my bathtub every night has become, for me, the norm.

As the months go by I begin to hear troubling comments. "Oh, he's from Peru. I didn't know they came that dark there.... But he really seems to be doing very nicely." I realize that I need to develop responses for the things people will say to and about him. I worry about the preponderance of blue-eyed, white-skinned children at his child care center and wonder what I can do about it. I listen with new ears to a familiar discussion of affirmative action, this one by members of the child care center's parent body. I hear proponents of "affirmative action" argue that there should be at least one minority child in each class, talking of how the other children will benefit from the minority child's presence, and I am angered by their blindness to the minority child's needs and by their condescending tone. I attend

minority-parent support group meetings and learn something of the problems that children of color face as they advance into the grades at the school that my biological child attended and to which I plan to send Christopher.

And then one day, when Christopher is three and a half, he says to me across the dinner table, "I wish you looked like me." I respond, wanting not to understand him, "What do you mean?" And he says, "I wish you were the same color." I try to reassure him, telling him that it makes no difference to me that he and I look different—in fact I like it that way. But my comments seem not to convince him. He repeats that he wishes I looked like him, and his voice and eyes reveal his pain.

I am left to puzzle at the meaning of this pain. Is it one of a thousand pains that a child will experience as he discovers differences between himself and others—in this case a difference between himself and his friends who have same-race parents? Is it, as the opponents of trans-racial adoption would have us believe, the first manifestation of a permanent anguish stemming from the sense that he does not truly belong in the place where he should most surely belong—his family? Or should I simply take it as a signal that living as part of a multi-racial, multi-ethnic, multi-cultural family will force us to confront the meaning of racial and other differences on a regular basis?

This child is as inside my skin as any child could be. It feels entirely right that he should be there. Yet the powers that be in today's adoption world proclaim with near unanimity that race-mixing in the context of adoption should be avoided if at all possible, at least where black or brown-skinned American children are involved.

This article looks at the phenomenon of racial matching in adoption. First, I trace the historical development of today's matching policies, from the laws and practices of our segregationist past that systematically prohibited trans-racial adoption, through the period in the integrationist sixties when the barriers to such adoptions were lowered, to the attack on trans-racial adoption made by black social workers during the heyday of the black nationalist movement. Second, I examine the nature of today's matching policies, discussing the written and unwritten rules that require minority children to be held in foster care for an appropriate same-race family rather than placed immediately for adoption with waiting white families. I also describe the ways in which subsidies, recruitment, and the parental screening process are used to promote same-race placements and prevent trans-racial placements. Third, I examine the evidence relating to the impact of these policies on children. I note that large numbers of minority

children who could be placed for adoption with waiting white families spend months or years waiting in foster care for a same-race placement. Some will "wait" for their entire childhoods. Fourth, I examine the empirical evidence regarding the alleged risks created by trans-racial placement. I show that, contrary to many claims, existing studies indicate that those children who have been placed trans-racially are flourishing. Fifth, I examine the law on racial discrimination, and question how current racial matching policies in the adoption context can be squared with the legal norms that govern elsewhere in our social lives. I conclude that these policies are illegal and, unconstitutional. Finally, I address the issue of what our policies should be in the future. I contend that the legal system should not permit racial matching; children in need of homes should be placed with foster and adoptive parents without regard to race.

Throughout the article I explore the meaning of racial matching policies—why they seem to have made so much sense to so many people over the years; why blacks and whites, conservatives and liberals and radicals, judges and legislators and social workers have found common cause in preventing the mixing of the races in the adoption context. My conclusion is that current racial matching policies represent a coming together of powerful and related ideologies—old-fashioned white racism, modern-day black nationalism, and what I will call "biologism," the idea that what is natural in the context of the biological family is what is normal and desirable in the context of adoption. The laws and policies that govern adoption in this country have generally structured adoption to imitate biology: giving the adopted child a new birth certificate as if the child had been born to the adoptive parents; sealing off the birth parents as if they had never existed; and attempting to match adoptive parents and children with respect to looks, intellect, and religion. The implicit goal has been to create an adoptive family which will resemble as much as possible "the real thing"—the "natural" or biological family that it is not. These policies reflect widespread and powerful feelings that parent-child relationships can only work, or at least will work best, between biologically similar people, and that parents will be unable truly to love and nurture children that are biologically different. These fears have much in common with fears among both blacks and whites about the dangers of crossing racial boundaries. It is therefore understandable that there would be so much support for racial matching in the adoption context.

But the question is whether we should be so reluctant to cross boundaries of racial otherness in the context of

adoption—whether today's powerful racial matching policies make sense from the viewpoint of either the minority children involved or the larger society. It is a question of growing practical importance. Minority children are pouring, in increasing numbers, into the already overburdened foster care system, and current policies stand in the way of placing these children with available adoptive families. In addition, how we deal with the issue of racial matching will affect how we deal with the related issues of matching parents and children on the basis of ethnic, religious, and national background. It will, for example, affect our thinking about the growing phenomenon of international adoption, which increasingly involves the adoption by whites in this country of dark-skinned children from foreign countries and cultures. Racial matching policies also pose a question of powerful symbolic importance. What does the way we deal with race in the intimate context of the family say about how we think about and deal with race in every other aspect of our social lives?

II. The History

Until the middle of this century there were near-absolute social, legal, and practical barriers to trans-racial adoption. One of the most important was the practice of matching parents with children who resembled as closely as possible the biological children they might have produced. This was thought to maximize the chances for a successful bonding of parent and child. The underlying assumption was that the parent-child relationship would be threatened by differences. Race, of course, was accepted without question as one of the features to be matched.

The 1960s represented a period of relative openness to trans-racial adoption. This change was brought about by a variety of pressures, the most important of which was the Civil Rights Movement. The Movement brought attention to the plight of minority children who had languished in foster care systems. Moreover, its integrationist ideology made trans-racial adoption an attractive option to many adoption workers and prospective parents. Trans-racial adoption also served the needs of both white would-be parents (for whom there were not enough color-matched children) and adoption agencies who wanted to reduce the foster care population. Agencies began to place waiting black children with white parents when there were no black parents apparently available. The reported number of trans-racial placements rose gradually to 733 in 1968, and it more than tripled in the next three years to reach a peak of 2,574 in 1971.

Trans-racial adoption, however, remained suspect in the eyes of many adoption professionals. As Stewart and Jacqueline Macauley have noted, social workers "continued to warn that trans-racial adoption was risky and called for the utmost caution." They accepted and justified trans-racial adoption only on the ground that it was a better alternative for the children involved than life without any permanent family. At its peak in 1971, trans-racial adoption involved the placement of only a tiny fraction of the black children waiting for adoptive homes and roughly half the black children placed in black homes.

In 1972 this brief era of relative openness to trans-racial adoption came to an abrupt end. That year the National Association of Black Social Workers (NABSW) issued a policy statement opposing trans-racial adoption, arguing that:

Black children should be placed only with Black families whether in foster care or for adoption. Black children belong, physically, psychologically and culturally in Black families in order that they receive the total sense of themselves and develop a sound projection of their future. Human beings are products of their environment and develop their sense of values, attitudes and self concept within their family structures. Black children in white homes are cut off from the healthy development of themselves as Black people.

Committing themselves "to go back to our communities and work to end this particular form of genocide," leaders of the NABSW pledged to put a stop to trans-racial adoption.

In the wake of this attack, trans-racial adoptions fell from 2,574 in 1971 to 1,569 in 1972, to 1,091 in 1973. By 1975, the last year in which such statistics were systematically generated, the number was 831. The influential Child Welfare League, which had in 1968 changed its *Standards for Adoption Service* to encourage consideration of trans-racial adoption, revised its standards again in 1973 to re-emphasize the advantages of same-race placements. Adoption agency bureaucrats moved swiftly to accommodate the position taken by the NABSW. A study of this phenomenon gives a persuasive explanation of the dynamics that were involved:

When the black social work community turned professional attitudes around, it seemed prudent to do such things as to turn responsibility for all black children over to black social workers and agencies. The trans-racial adoptive parent organizations might

be unhappy, but they were less of a threat than black power exercised directly or through the workers' professional peers.

III. Current Racial Matching Policies

A. A Picture of the Matching Process at Work

Today there is widespread agreement among adoption agency policy-makers that children should be placed with parents of the same race if possible, and trans-racially only as a last resort. The standard procedure in most adoption agencies is to separate children and prospective parents into racial classifications and sub-classifications. Children in need of homes are typically separated into black and white pools. The children in the black pool are then classified by skin tone—light, medium, dark—and sometimes by nationality, ethnicity, or other cultural characteristics. The prospective parent pool is similarly divided and classified. The goal is to assign the light skinned black child to light skinned parents, the Haitian child to Haitian parents, and so on. The white children are matched with white prospective parents.

The main problem with this system is that there are many more black children in need of adoption than there are black families looking to adopt. For example, the 1991 figures from The National Adoption Center, which maintains a register of "hard-to-place" children waiting for homes, show that 67% of the listed children are black, and 26% are white. By contrast, of the waiting families, 31% are black and 67% are white. These figures only hint at the extent of the numbers mismatch.

Current matching policies place a high priority on expanding the pool of prospective black adoptive parents so that placements can be made without utilizing the waiting white pool. Programs have been created to recruit black parents, subsidies have been provided to encourage them to adopt, and traditional parental screening criteria have been revised to accommodate their circumstances. Nonetheless, the disparities remain. In recent years, the number of children in foster care and the proportion that is black have both been growing.

Despite this reality, today's matching policies generally forbid the immediate placement of black children with waiting white families, requiring instead that they be held for a black family.

The matching process surfaces, to a degree, in written rules and documented cases. But it is the unwritten and generally invisible rules that are central to understanding the nature of current policies. Virtually everyone in the

system agrees that, all things being equal, the minority child should go to minority parents. Thus, by the universal rules of the official game, race matching must be taken into account in the placement process. But this vastly understates the power of racial matching. The fact is that the entire system has been designed and redesigned with a view toward promoting same-race placements and avoiding trans-racial placements. The rules make race not simply a factor, but an overwhelmingly important factor in the placement process.

B. The Proverbial Tip of the Iceberg—Of Written Rules and Documented Cases

In recent years, several states have enacted statutes requiring that agencies exercise a same-race preference when placing children in adoptive families. Minnesota and Arkansas, for instance, specify a preference for placing a child with a family of the same racial or ethnic background. If a same-race placement is not feasible, the preference shifts to a family "which is knowledgeable and appreciative of the child's racial or ethnic heritage." California law similarly mandates a same-race placement preference; it also prohibits placement across racial or ethnic lines for a period of ninety days after a child has been freed for adoption. The law further prohibits trans-racial or trans-ethnic adoption after the ninety day period "unless it can be documented that a diligent search" for a same-race family has been made, using all appropriate recruitment resources and devices. Only on the basis of such documentation can a child be placed across racial or ethnic lines with a family "where there is evidence of sensitivity to the child's race, ethnicity, and culture."

The Child Welfare League's current *Standards For Adoption Service*, designed to establish standards for adoption agencies throughout the country, provides: "Children in need of adoption have a right to be placed in a family that reflects their ethnicity or race." The current policy position of the National Committee For Adoption states: "Usually, placement of the child should be with a family of a similar racial or ethnic background."

The power of the matching ideology is also revealed in numerous cases that have surfaced in the media, in

congressional hearings, and in litigation. These cases involve the removal of black children from white foster families with whom they have lived for long periods. Often removal is triggered by the white family's expression of interest in adopting their foster child. The white parents have poignant stories to tell. Often they have

In order to increase the prospects for in-race placement, agencies apply significantly different parental-screening criteria to prospective black adoptive parents than they do to prospective white adoptive parents. As a result, the pool of black adoptive parents looks very different in socio-economic terms from the pool of white parents. Black adoptive parents are significantly older, poorer, and more likely to be single than their white counterparts.

been given a child in very poor physical or psychological shape, or with serious disabilities, and have nursed the child through hard times. The child has thrived under their care and feels a close attachment. They feel a similar attachment and want to make the child a permanent part of their lives. The agency can offer nothing but a shift to a new foster family as an alternative. Experts testify to the destructive impact that disruption will have on the only stable relationship the child has known. Adoption agencies may or may not be forced to back down, whether by public pressure or by court order. But either way, these cases reveal something of the power of the racial matching policies operating in the adoption agencies, since there is widespread agreement among child welfare professionals that stable parent-child relationships should not be disrupted and that appropriate foster families should be given priority consideration for the adoption of children with whom they have formed such relationships.

C. Key Features of the Matching System

1. Holding Policies

If no black parents are available, agencies typically hold black children in foster or institutional care rather than place them with available white families. Sometimes policies specify a definite time period—three, six, twelve, or eighteen months—before a trans-racial adoption may be considered, or after which it must be considered. But the actual holding periods are likely to be much longer. Adoption workers will often refrain from beginning the process of freeing a child for adoption so that the time period cannot start to run until and unless there is a same-race family available. Moreover, many policies require that children be held until active efforts to locate same-race families have proved fruitless. Under these non-time-specific policies, black children are likely to be held for even longer periods.

Rules that mandate only a limited same-race preference often function in a more absolute way. Rules requiring social workers to provide documentation of their minority family recruitment efforts before trans-racial placements are permitted force the social worker contemplating making such a placement to do additional work and bear the other costs associated with making an exception to the general rule. The social worker also risks incurring the wrath of the NABSW and other vocal critics of trans-racial adoption. The overburdened and underpaid adoption worker has every incentive to avoid the multiple difficulties of trans-racial placement.

The extreme nature of current policies is revealed by the stories of some of the trans-racial adoptions that are allowed to take place. One director of an adoption program for minority children in New York State told me that 99% of his agency's placements were same-race adoptions. He then described one of the few trans-racial placements he had facilitated. The child had been in the foster care system for eleven years and free for adoption for eight. He was finally placed trans-racially at the age of 13 only because of concern that, as a result of accumulated bitterness, he would be likely to exercise the option—granted at age 14—to refuse to accept an offer of adoption. The director, a strong advocate of racial matching, felt that an exception was warranted in these unusual circumstances, but noted that, even so, he had had to do battle with forces within the state and agency bureaucracies in order to implement this trans-racial placement.

The director of another program with a specific focus on recruiting minority parents told me of one trans-racial adoption she had arranged. It involved John, a victim of Fetal Alcohol Syndrome, who was mentally retarded. The director had held John for three years while she looked for a minority family. When a white couple volunteered their interest in adopting John, the director hesitated, but finally agreed to see them. She eventually placed the child with them, finding herself very impressed by their parenting credentials and the fact that they already had children from a variety of ethnic backgrounds. Another director told me of a trans-racial placement she had made in a case involving hard-to-place minority siblings. The only available minority family was interested in adopting one child but not the other. Since the director felt separation would be disastrous for the children, she placed them with a white couple. As a result she was subjected to intense criticism and pressure from the local chapter of the NABSW.

2. Recruitment

There is general agreement among adoption workers that black families should be actively recruited to increase the pool available to black children. There have been some notable efforts to form organizations and adoption agencies under black leadership and to involve black churches and the media in recruitment campaign. These efforts have had some success in encouraging black families to consider adoption and to complete the adoption process. State, regional, and national exchanges of black and other "hard-to-place" children waiting for adoption have been created both as a means of making their availability more generally known and as a way of recruiting more parents.

There is, of course, no systematic recruitment of white families for waiting black children, since matching policies preclude trans-racial placement except as a last resort. Nor is there much of an effort to recruit white families, even for children for whom there seems little prospect of ever finding black adoptive families. Older black children with very serious mental or physical disabilities constitute a hardcore hard-to-place group. One leader in the world of special needs placement told me that she had recently come to believe that it would be appropriate to recruit white as well as black parents in the interest of finding homes for some of these children, but that she had run into nothing but opposition from her colleagues.

Race-conscious recruitment takes many forms. Agencies target their appeals to minority-oriented media outlets and community organizations. Adoption exchanges often specify that they are seeking black families to adopt the black children listed. "Sunday's Child" or "Wednesday's Child" advertisements in newspapers and on television describing particular children often contain similar specifications.

3. Subsidies

Subsidies are widely available to minority couples and singles to enable and encourage them to adopt minority children. All states make some provision for subsidies to persons adopting certain special needs children. The federal government encourages such subsidies by providing states with federal funds to match state subsidies. Under federal laws, minority status alone puts children in the special-needs category, making them eligible for subsidies so long as certain other conditions are met, including state eligibility requirements. Though limited in amount, these subsidies are thought to have made a significant difference in encouraging large numbers of minority families to adopt.

Although white families are technically eligible for these subsidies, the fact that whites are rarely allowed to adopt minority children means that the subsidies operate primarily to facilitate same-race adoption.

4. Differential criteria for assessing parental fitness

In order to increase the prospects for in-race placement, agencies apply significantly different parental-screening criteria to prospective black adoptive parents than to prospective white adoptive parents. To increase the number of black prospective parents, agencies reach out to include the kinds of people traditionally excluded from the white parent pool, or placed at the bottom of the waiting lists for children: singles, older people in their fifties and sixties, and people living on welfare or social security.

As a result, the pool of black adoptive parents looks very different in socio-economic terms from the pool of white parents. Black adoptive parents are significantly older, poorer, and more likely to be single than their white counterparts. A study published in 1986 gives some indication of the differences. Fifty percent of minority adoptive families had incomes below \$20,000 per year, and 20% had incomes below \$10,000 per year. By contrast, only 14% of non-minority families had incomes below \$20,000, and only 2% had incomes below \$10,000. Forty-five percent of the fathers in the minority families were age 45 or older, with 14% age 61 or older. Only 19% of the non-minority adoptive fathers were age 45 or older and only 2% were age 61 or older. One study involving a small sample of adoptions reported that one-half of the black single parents involved earned less than \$10,000. The former director of one of New York State's major adoption agencies told me that agency policies in New York required that "just about anyone" of minority racial status be considered eligible as an adoptive parent for minority children.

It is important to note that in altering screening criteria for black adoptive families, adoption workers have by no means repudiated these criteria as irrelevant to determining parental fitness. Black and white parent candidates are still assessed and ranked by these criteria, with singles, older people, and economically marginal candidates placed at the bottom of the prospective parent lists. In trying to expand an all-too-short black prospective parent list, adoption workers have sought out the

kinds of people they would normally exclude altogether from white parent lists. Because of the importance attributed to the racial factor, those at the bottom of the black list are generally preferred over all those on the white list for any waiting black child.

Studies provide an overwhelming endorsement of trans-racial adoption. Conducted by a diverse group of researchers that included blacks and whites, critics and supporters of trans-racial adoption, research indicates, with astounding uniformity, that trans-racial adoption works for the children and adoptive families involved.

IV. The Impact of Current Policies

Do racial matching policies result, on a widespread basis, in delaying or denying permanent placement for minority children? The causal connection has not been proven definitively, but strong evidence suggests that a causal connection does exist. Minority children are disproportionately represented in the population of children waiting for adoptive homes; they spend longer waiting than white children; and they are less likely to be eventually placed. Estimates indicate that of the population of children waiting for homes, children of color make up roughly one-half, and black children

alone make up over one-third. A recent study found that minority children waited for an average of two years—twice as long as the average for non-minorities. Minority placement rates were 20% lower than non-minority placement rates. The minority children were comparable in age with the non-minorities and had other characteristics which, had race not been an issue, should have made it easier to find adoptive placements (i.e., they had fewer disabilities and fewer previous placements in foster care). The data indicated that racial status was a more powerful determinant of placement rate than any other factor examined.

The most adamant critics of trans-racial adoption argue that even if minority children are disproportionately subject to delays and denial in placement, the solution is to devote more resources to the preservation and the reunification of black biological families, and to the recruitment of minority families for those children who must be removed from their homes. They argue that with such efforts, black homes could be found for all waiting children. They argue further that whites are not willing to adopt the minority children who wait, noting that most of the children in foster care are older and that they suffer from a variety of physical and emotional problems.

But the fact is that the resources devoted to the goal of preserving black biological families and to making

same-race adoption work have been limited and are likely to be limited in the foreseeable future. There are, and almost certainly will be for some period of time, too few black families available for the waiting black children. By contrast, there are many white families eagerly awaiting the opportunity to adopt. Although white adopters, like black adopters, tend to prefer healthy infants, recruitment efforts in recent years have demonstrated that whites as well as blacks are often willing to adopt older children and children with disabilities. Current racial matching policies stand in the way of tapping this ready resource of homes for minority children. Moreover, the reason that so many of the waiting black children *are* older is in part because matching policies have kept them on hold.

Although it seems clear that racial matching policies delay and often deny placement of minority children, it is harder to get a sense for how common and how lengthy the delays are and how frequently minority children are permanently denied adoptive homes. The consensus among adoption professionals seems to be that black homes can be found for healthy young black infants; most children falling into this category are being placed. However, their placement may still require a recruitment process of many months. If the agency is not engaged in active recruiting of minority families, years may go by while the agency waits for a same-race family. For young black children who must be freed for adoption by court proceedings terminating parental rights, there will often be additional years of delay. As they get older and accumulate what are often damaging experiences in foster care, the children are pushed deeper into the hard-to-place category. Delay thus puts the child at risk of yet more delay and, ultimately, the denial of placement altogether.

For children with severe disabilities and for older children the risks of lengthy delay and permanent denial of placement are even greater. Although generally agencies are somewhat more willing to consider trans-racial adoption for these children, it is still likely to be treated as at best a last resort. Accordingly, white adoptive parents are actively discouraged from finding out about or expressing interest in minority special-needs children by the race-specific recruitment devices described above. Moreover, white parents' requests for specific minority children are often rebuffed. The National Coalition To End Racism in America's Child Care System has filed a number of complaints with the United States Department of Health and Human Services charging unlawful discrimination on the basis of race, citing agency rejections of white applicants' requests to adopt hard-to-place minority children. One

such complaint involved a charge that the New York Department of Social Services refused, solely on the basis of race, to consider a white couple as adoptive parents for a 10-year-old mixed-race child listed in a national exchange for hard-to-place children. Although the couple repeatedly expressed their interest in adoption they found the child still listed over two years later.

V. The Empirical Studies

A number of research studies have attempted to assess how well trans-racial adoptive families have fared. The studies reflect a bias on the part of those responsible for funding, sponsoring, and conducting research. The general emphasis is on the potential negatives in trans-racial adoption, rather than on the net effects, including potential positives. Moreover, the studies avoid any systematic look at the potentially negative aspects of current matching policies. None attempt to measure the degree to which racial matching policies result in delay and denial of adoptive placement, or to compare the experience of children placed immediately with waiting white families to the experience of children held for same-race placement.

Despite this bias, the studies provide an overwhelming endorsement of trans-racial adoption. Conducted by a diverse group of researchers that included blacks and whites, critics and supporters of trans-racial adoption, their research indicates, with astounding uniformity, that trans-racial adoption works for the children and adoptive families involved.

These studies constitute the only evidence we have as to what actually happens when children are placed trans-racially. They are often cited by critics of trans-racial placement, by legislators, by the media, and by courts as suggesting problems that arise from such placement. Yet, the studies provide *no basis* for concluding that placement of black children with white rather than black families has any negative impact on the children's welfare. The studies may not *definitively* prove anything: studies seeking to measure human happiness rarely do. But in a world of limited information, they provide persuasive evidence that trans-racial adoption serves the interest of children.

A. The Evidence as to General Adjustment

A number of studies have examined trans-racial adoptees and their families, considering factors such as self-esteem, educational achievement, levels of satisfac-

tion expressed by family members, behavioral problems, and adoption disruption. They consistently show trans-racial adoptees doing well according to the measures of successful adjustment chosen by the researchers. In many of these studies the trans-racial adoptees are compared to control groups of black same-race adoptees; in others they are compared to black children raised in their biological families or to white children raised in white adoptive or biological families. Other studies focus on samples that include same-race as well as trans-racial adoptees and analyze the correlation between racial matching and adoptive success. All of these comparative studies show trans-racial adoptees doing generally as well as the other groups of children in terms of various traditional measures of social adjustment.

Despite the positive findings, there is often a cautious and negative tone to the researchers' characterizations. Many of the studies emphasize that although the evidence looks positive so far, problems may well show up as the trans-racial adoptees reach some later stage of development. The early studies focused on adolescence as the period during which the anticipated problems might manifest themselves. But successive studies have followed the children through adolescence and into early adulthood, and they have found that the children continue to feel good about themselves, to enjoy good relationships with their families, and to do well in the outside world.

Three of the most significant of these studies were conducted by Ruth McRoy and colleagues, by Joan Shireman and colleagues (in conjunction with the Chicago Child Care Society), and by Rita Simon and Howard Altstein.

The McRoy study compared a group of black adolescents adopted by white families to a group of black adolescents adopted by black families. There was rough comparability between the two groups in terms of age at placement and socio-economic level, with some differences in parents' education and employment levels. The study focused initially on the development of self-esteem, in part because the critics of trans-racial adoption had argued that the adoptees would experience problems in this area. The researchers concluded:

This exploratory study indicated that there were no differences in overall self-esteem between the sampled trans-racially and in-racially adopted children. Furthermore, the level of self-esteem of the adoptees was as high as that reported among individuals in the general population. This suggests that positive self-esteem can be generated as effectively among

black children in white adoptive families as in black adoptive families.

The Chicago Child Care Society study deals with a small cohort of black adoptees, comparing those placed trans-racially with those placed in-racially as well as with black children raised in their biological families. The most recent of several follow-up reports, published in 1988, looks at the children in their teen years and concludes that the trans-racial adoptees are generally doing as well as both the other adoptees and the non-adopted children.

Simon and Altstein have conducted the most comprehensive longitudinal study of trans-racial adoptees, reporting the results in three different books, the most recent of which was published in 1987. They followed a group of white families who had adopted black and other minority children, looking at both the minority adoptees and their white adopted and non-adopted siblings. The latest report finds the children in adolescence, with most in their last two years of high school. It confirms all the previous research findings indicating that trans-racial adoptees are flourishing in their families and communities. They write that the portrait that emerges of the great majority of trans-racial adoptive families

is a positive, warm, integrated picture that shows parents and children who feel good about themselves and about their relationships with each other. On the issue of trans-racial adoption, almost all of the parents would do it again and would recommend it to other families. They believe that they and the children born to them have benefited from their experiences. Their birth children have developed insight, sensitivity, and a tolerance that they could not have acquired in the ordinary course of life. Their trans-racial adoptees may have been spared years in foster homes or institutions. They have had the comfort and security of loving parents and siblings who have provided them with a good home, education and cultural opportunities, and the belief that they are wanted.

Simon and Altstein note that, far from being alienated by parents of a different race, the children seem, if anything, even more committed to their adoptive parents than their parents do to them.

B. The Evidence as to Racial Attitudes

The evidence shows that trans-racial adoptees develop a strong sense of black identity. Questions on this issue

were raised by some of the earlier research that relied on anecdotal descriptions of trans-racial adoptees who allegedly over-identified with their white families. But more sophisticated comparative research indicates that trans-racial adoptees have essentially as strong a sense of black identity and racial pride as other minority children. Indeed, some of the evidence indicates that trans-racial adoption may even have a positive impact in terms of black children's sense of comfort with their racial identity.

Research does uncover some significant differences between black children raised in-racially and trans-racially concerning attitudes about race and race relations. Trans-racial adoptees appear more positive than blacks raised in-racially about relationships with whites, more comfortable in those relationships, and more interested in a racially integrated lifestyle. There is also evidence that they think race is not the most important factor in defining who they are or who their friends should be. Studies have found some trans-racial adoptees describing themselves as bi-racial or American or human, rather than black. Most of them are, incidentally, genetically bi-racial and relatively light-skinned, because these are the kind of black children that have generally been placed trans-racially. These findings are taken as evidence of *inappropriate* racial attitudes by the critics of trans-racial adoption. But whether this evidence is positive or negative in its implications for trans-racial adoption depends entirely on one's political perspective. Simon and Altstein, for example, voice what they see as the positive implications of this evidence. They describe the trans-racial adoptees as perceiving their world as essentially pluralistic and multi-colored. They conclude:

[T]he trans-racially adopted children...represent a different and special cohort, one socialized in two worlds and therefore perhaps better prepared to operate in both. The hope is that having had this unique racial experience, they will have gained a greater sense of security about who they are and will be better able to negotiate in the worlds of both their biological inheritance and their socialization.

The latest report from the Chicago Child Care Society study finds similar implications in the evidence:

Critics of trans-racial adoption have claimed that only blacks can teach black children the coping skills needed for life in a racist society. But there seems at least as good an argument for the proposition that whites are in the best position to teach black children how to maneuver in the white worlds of power and privilege.

As far as we can tell with our measures, there has developed a positive black self image, combined with a mixed black-white pattern of social interaction. It seems to us that this pattern may be one which will allow these young people to move with equal comfort in both black and white worlds, allowing them to cull what they wish from each culture, and perhaps creating bridges which will be of use to an even wider world.

From the perspective of one who believes that blacks and whites should be learning to live compatibly in one world, with respect and concern for each other, with appreciation for their racial and cultural differences as well as their common humanity, this evidence is positively heartwarming.

But this evidence is understandably problematic from a black separatist or nationalist perspective. Blacks who believe their group interests will be advanced by building a cohesive black community are likely to find cause for concern in the evidence that black children raised in white families are growing up to feel comfortable in the white community. As the president of the NABSW wrote in the association's Spring 1988 newsletter:

The lateral transfer of our children to white families is not in our best interest. Having white families raise our children to be white is at least a hostile gesture toward us as a people and at best the ultimate gesture of disrespect for our heritage as African people....It is their aim to raise Black children with white minds....We are on the right side of the trans-racial adoption issue. Our children are our future.

The studies indicate that white families vary significantly in the degree to which they engage in deliberate socialization efforts to make their black children feel part of a black cultural community and proud of a black heritage. Such efforts do seem to have an effect in producing a greater sense of interest and pride in their race. But there is no evidence that black parents do a better job than white parents of raising black children with a sense of pride in their racial culture and heritage. Nor is there any evidence that such differences as may exist in racial attitudes have any negative effect on the well-being of those raised trans-racially.

C. The Evidence as to Advantages for Children of Trans-racial Placement

As noted above, the great body of research on trans-racial adoption has been structured to look for its negative rather than positive potential. But there is every reason to think that there are *advantages* for children in growing up in a trans-racial, multi-cultural family setting.

An admittedly limited and informal study of the children of inter-racial marriage conducted by Dr. Alvin Poussaint of the Harvard Medical School is illuminating. Dr. Poussaint interviewed a number of people who had grown up in families with one black and one white parent, inquiring specifically about their views on the positive and negative aspects of their bi-racial upbringing. He found that they tended to emphasize the positive. Among the advantages cited were the following: they felt that they had access to two cultures and that being bi-cultural was a plus; that they could move easily in both worlds and have different kinds of friends; that they were less intimidated in the white world than other black children; and that they had developed an unusually broad outlook and were more tolerant of differences. When asked if they would consider inter-racial marriage themselves and if they would feel comfortable raising a bi-racial child, they all answered yes. Although the situation of trans-racial adoptees differs from that of these children in important respects, it seems likely that trans-racial adoptees, if asked, would have their own list of advantages to discuss.

Critics of trans-racial adoption have claimed that only blacks can teach black children the coping skills needed for life in a racist society. But there seems at least as good an argument for the proposition that whites are in the best position to teach black children how to maneuver in the white worlds of power and privilege. Indeed, it seems clear that for black children growing up in a white-dominated world, there would be a range of material advantages associated with having white parents and living in the largely white and relatively privileged world that such parents tend to frequent.

Moreover, trans-racial adoption may give rise to other benefits similar to those found by Dr. Poussaint. For example, it could be an advantage to enjoy the kind of comfort in both black and white worlds that the studies discussed above indicate trans-racial adoptees feel. It could also be an advantage for an adoptee to grow up in a family that has not been fashioned to imitate the biological model. Studies indicate that trans-racial adoptive parents are more open in discussing adoption with their children and that the children are more likely to identify

themselves as adopted. These findings raise the interesting possibility that, in trans-racial adoptive families, the inescapable difference of race may encourage a healthier acceptance of the fact that the family is in various other ways not the same as a biological family.

D. The Evidence as to Costs for Children of Current Same-Race Placement Preferences

There is considerable evidence—and a strong consensus—on the costs to children of delays in adoptive placement and in permanent denial of an adoptive home. Child welfare professionals agree with virtual unanimity that children need the continuity of a permanent home to flourish. There is a significant body of research demonstrating that children do better in adoption than in foster care, and that age at placement in an adoptive family is a central factor in determining just how well adoptees will do in terms of various measures of adjustment. Moreover, to the degree that research studies have attempted to determine whether delay in placement or racial match is a more significant factor in adoptive adjustment, they have found delay to be the key factor. William Feigelman and Arnold Silverman specifically addressed whether race difference and racial isolation in an alien community constitute more potent determinants for a child's adjustment than the discontinuities and hazards associated with delayed placement. In a study involving both black and white children placed with white parents, they found age at time of placement by far the most significant factor in explaining variations in adjustment measures. This and the other available evidence provides a firm basis for believing that the delays in placement and denials of permanent adoptive homes that result from current same-race placement policies are seriously harmful to children.



In the context of a society struggling to deal with racial difference, the studies of trans-racial adoptive families are extraordinarily interesting. They do not simply show that black children do well in white adoptive homes. They do not simply show that we put black children at risk by delaying or denying placement while we await black homes. The studies show that black children raised in white homes are comfortable with their blackness and also uniquely comfortable in dealing with whites. In addition, the studies show that trans-racial adoption has an interesting impact on the racial attitudes of the *white* members of these families. The parents tend to describe their lives as significantly changed and enriched by the

experience of becoming an inter-racial family. They describe themselves as having developed a new awareness of racial issues. The white children in trans-racial adoptive families are described as committed to and protective of their black brothers and sisters. The white as well as the black children are described as unusually free of racial bias, and unusually committed to the vision of a pluralistic world in which one's humanity is more important than one's race.

The studies show parents and children, brothers and sisters, relating to each other in these trans-racial families as if race was no barrier to love and commitment. They show the black adopted children and the white birth children growing up with the sense that race should not be a barrier to their relationships with other people. In a society torn by racial conflict, these studies show human beings transcending racial difference.



VI. The Law

Current racial matching policies are in conflict with the basic law of the land concerning racial discrimination. They are an anomaly. In no other area do state and state-licensed decision makers use race so systematically as the basis for action. In no other area do they promote the use of race so openly. Indeed, in most areas of our community life, race is an absolutely impermissible basis for classification.

The federal constitution, state constitutions, and a mass of federal, state, and local laws, prohibit discrimination on the basis of race by public entities. Private entities with significant power over our lives are also generally bound by laws prohibiting discrimination on the basis of race. Over the past 25 years this body of law has grown to the point where today there are guarantees against race discrimination not only in housing, employment, and public accommodation, but in virtually every area of our community life.

It is true that the imperative of anti-discrimination has been tempered by the need to respect privacy and free association. But the state is not permitted to *insist* that race count as a factor in the ordering of people's most private lives. Thus, in *Loving v. Virginia* the Supreme Court held it unconstitutional for the state to prohibit interracial marriage, and in *Palmore v. Sidoti* the Court held it unconstitutional for the state to use race as the basis for deciding which of two biological parents should have custody of a child. *Palmore* involved the issue of whether a white child could be removed from the custody of its biological mother on the basis of the mother's relation-

ship with a black man. The Court unanimously held that in this context reliance on race as a decision-making factor violated the equal protection clause of the fourteenth amendment. The Court rejected arguments that removal of the child from a racially mixed household was justified by the state's goal of making custody decisions on the basis of the best interests of the child. Conceding that there was a risk that a child living with a step-parent of a different race may be subject to a variety of pressures and stresses not present if the child were living with parents of the same racial or ethnic origin, the Court nonetheless had no problem concluding that these were constitutionally impermissible considerations.

The anti-discrimination principle has been interpreted to outlaw almost all race-conscious action by the state and by the agencies which control our community lives; there need be no indication that the action is designed to harm or that it results in harm. Race-conscious action has been allowed *only* where it can be justified because of compelling necessity, or where it is designed to benefit racial minority groups, either by preventing discrimination or by remedying its effects (i.e., affirmative action). These exceptions have been narrowly defined.

The adoption world is an anomaly in this legal universe, where race-conscious action is deemed highly suspect and generally illegal. In agency adoptions, as we have seen, race-conscious action is one of the major rules of the child-allocation game. The fact that race is a recognizable factor in decision making is enough under our general anti-discrimination norm to make out a case of intentional discrimination. Adoption-agency policies make race not merely a factor, but the overwhelmingly significant factor in the placement process.

The public adoption agencies, as well as many of the private agencies, are governed by legislative and constitutional provisions forbidding racial discrimination. The federal constitution's equal protection clause, and the related limit on legitimate affirmative action, apply to all state and local governmental entities. Title VI of the Civil Rights Act of 1964 bans discrimination by adoption agencies, public and private, that receive federal funds. Many states have constitutional, statutory, and regulatory provisions that broadly prohibit discrimination by public and private agencies.

But for some reason the anti-discrimination principle is thought to mean something quite different in the adoption area than it means elsewhere. The federal policy guidelines that interpret Title VI's meaning in the context of adoption and foster care are symptomatic of how differently the anti-discrimination norm is applied in the

adoption field. The guidelines specify that race *can* be used as a basis for decision making in foster and adoptive placement so long as it is not used in any absolute or categorical way to prohibit consideration of trans-racial adoption altogether:

Generally, under Title VI, race, color, or national origin may not be used as a basis for providing benefits or services. However, in placing a child in an adoptive or foster home it may be appropriate to consider race, color, or national origin as one of several factors.

The guidelines go on to emphasize that this exception applies *only* in these contexts:

This policy is based on unique aspects of the relationship between a child and his or her adoptive or foster parents. It should not be construed as applicable to any other situation in the child welfare or human services area covered by Title VI.

The racial matching policies fit none of the recognized exceptions to the anti-discrimination norm. There is no compelling necessity for racial matching. The black community within this nation is not threatened with extinction. The number of black children available for adoption is very small compared to the size of the black community; placing more of those available for adoption trans-racially poses no realistic threat to the existence of that community or the preservation of its culture. It is hard to see trans-racial adoption as more threatening to these interests than racial inter-marriage or racial integration in public education. Official efforts to prevent inter-marriage or to prevent black children from attending school with white children or being taught by white teachers have been held unconstitutional and would be regarded as intolerable by blacks and whites alike in today's society.

Nor can racial matching policies be rationalized as a form of affirmative action designed to eliminate or to remedy the effects of prior discrimination. It is easy to argue that there has been such discrimination. Traditional agency screening procedures and criteria can be criticized as having discriminated against prospective black

The claim that a black person, by virtue of his or her race, will necessarily be more capable than a white of parenting a black child is the kind of claim that courts have generally refused to allow as justification for race-conscious action. The near-absolute presumption under our anti-discrimination laws is that race is irrelevant to qualifications.

parents, depriving them of an equal opportunity to adopt. Trans-racial adoption, which has operated to place black children but not white children across racial lines, can be criticized as having discriminated against black children, depriving them of an equal opportunity to the benefits of a same-race upbringing. And trans-racial adoption can

be seen as part of a continuing pattern of discrimination against the black community. A vast array of social policies going back to the institution of slavery are surely in large part responsible for the fact that it is black families whose children are disproportionately available for adoption and white families who are disproportionately in a position to adopt. Taking all these perspectives together, trans-racial adoption can be characterized, and indeed has been by the NABSW, as one of the ultimate forms of exploitation by whites of the black community and the black family.

The problem is that racial matching policies are not the kinds of remedial affirmative action programs that the courts have accepted as legitimate. The courts have generally

insisted that affirmative action programs be limited in duration and designed to help move society to a point where race can be eliminated as a decision-making factor. By contrast, racial matching policies have no apparent limit in time. Moreover, they are not designed to eliminate the role of race in agency decision making in the future, but rather to perpetuate its importance.

Racial matching policies are fundamentally inconsistent with traditional affirmative action rationales in another way as well: racial matching promotes racial separatism rather than racial integration. By contrast, both anti-discrimination law and affirmative action programs have been designed to break down segregatory barriers and to promote integration.

Race-conscious action that has any level of principled support relies on arguments that it *benefits* racial minorities. Even those courts and Supreme Court Justices most sympathetic to affirmative action have argued that allegedly benign racial classifications should be scrutinized carefully to ensure that they are truly benign in impact and do not serve to disadvantage their intended beneficiaries. But there is no obvious answer to the question of whether racial matching policies are likely to benefit or burden the black community, advance or impede black group interests. It is certainly questionable whether imposing on the black

community an obligation to take care of "its own," while providing limited resources for the job, does much to help that community. Black adopters are limited by race-matching policies to children of their race and skin tone. Black birth mothers are often prevented by these policies from obtaining what they most want—immediate placement of their children in permanent homes.

In addition, there is no reason to believe that blacks as a group support race matching policies. These policies have been developed and promoted by the leaders of one black social-workers' organization in the absence of any evidence of general backing in the black community and with limited vocal support from any other organization. Reported surveys of attitudes in the black community indicate substantial support for trans-racial adoption and very limited support for the NABSW position or for the powerful matching principles embodied in today's adoption policies. The underlying motivation for these policies includes a complex mix of attitudes, with white opposition to race mixing in the context of the family undoubtedly playing a part.

What *does* seem clear is that current policies are *harmful* to the group of black children in need of homes. Affirmative action is not supposed to do concrete harm to one group of blacks in the interest of promoting what are at best hypothetical benefits to another. And adoption is not supposed to be about adult or community rights and interests, but rather about serving the best interests of children. Adoption laws throughout this country direct agencies to make children's interests paramount in placement decisions.

Advocates for racial matching argue that growing up with same-race parents is a benefit of overriding importance to black children. But the claim that a black person, by virtue of his or her race, will necessarily be more capable than a white of parenting a black child is the kind of claim that courts have generally refused to allow as justification for race-conscious action. The near-absolute presumption under our anti-discrimination laws is that race is irrelevant to qualifications. Moreover, the available evidence does not support the claim that same-race placement is beneficial to black children, much less that it outweighs the harm of delayed placement. Ultimately, the argument that racial matching policies are beneficial rather than harmful to the children immediately affected rests on the unsupported assumption that black children will be significantly better off with "their own kind." This is not the kind of assumption that has been permitted under our nation's anti-discrimination laws. More importantly, it is not an assumption that *should* be permitted in a situation where there is evidence

that by insisting on a racial match we are doing serious injury to black children.

Although matching policies are inconsistent with the law of the land, many courts have responded to them with either indifference or sympathy. Although courts have generally agreed that race cannot be used by agencies as the sole factor in making placement decisions, a number of judges have ruled that race can be used as a significant and even determinative factor. Some courts actually require that race be considered.

A major problem with the factual analysis in adoption cases is that courts tend to ignore or distort the systemic role race plays in agency decision making. The cases portray a world in which the general practice is consistent with the courts' current legal doctrine that race shall not function in an absolute or automatic way in placement decisions. Many judges seem to be either unaware or unwilling to acknowledge that, in reality, adoption agencies throughout the country operate under rules that regularly make race a central and determinative factor in placement decisions.

A major problem with current legal doctrine in adoption cases is that it is inconsistent with the way courts define the nature of unlawful discrimination in areas other than adoption. In other areas the anti-discrimination norm forbids decision makers from giving race *any* role in their decision-making processes. If a party is able to show that race has played a part in arriving at a decision, then that decision is presumptively unlawful.

Judges have come up with little justification for treating the racial issue so differently in the adoption context. Some have relied on unsubstantiated claims that the evidence from the adoption world indicates that black children will necessarily risk serious identity and other problems if they are raised by whites. Some have relied on their own assumptions regarding such problems. Others have expressed what seems to be at the heart of much judicial thinking in this area—the sense that mixing the races in the context of the family is simply not "natural." In one leading case, the majority opinion states: "It is a natural thing for children to be raised by parents of their same ethnic background." The opinion speaks approvingly of traditional matching policies as designed to duplicate the "natural biological environment" so that a child can develop a "normal family relationship."

The sense that same-race relationships are "natural" and "normal" in the intimate context of family is at the heart of the law on trans-racial adoption. But in *Loving v. Virginia*, the Supreme Court rejected similar thinking in striking down Virginia's miscegenation statute. The trial court had reasoned as follows:

Almighty God created the races white, black, yellow, malay and red, and he placed them on separate continents. And but for the interference with his arrangement there would be no cause for such marriages. The fact that he separated the races shows that he did not intend for the races to mix.

The Supreme Court reversed, holding racial classifications embodied in Virginia's "Racial Integrity Act" unconstitutional, "even assuming an even-handed state purpose to protect the 'integrity' of all races."

Legislatures and policy makers in the executive branch, like the courts, have turned a blind eye toward race-based adoption policies, though they have not affirmatively intervened to mandate or permit the use of race as a criterion in adoption placement. One reason for this tolerance of racial matching policies may be that they have a direct impact on a relatively small and powerless group consisting of minority children without homes and the whites interested in parenting them. When white employees are denied seniority rights or job promotions in favor of minorities this is perceived as a threat to the economic interests of a large organized portion of the population. The sight of older and disabled black children being held in foster care rather than placed with whites, or taken from whites to be placed with blacks, simply does not trigger the same kind of concern in the larger white community. This helps explain why the powerful, mainstream organizations have not stepped forward to join ranks with white prospective parents to mount a campaign against the racial matching policies. Moreover, for the black and liberal white organizations that have traditionally focused on the welfare of children, racial matching policies pose complicated political issues. After all, it is black adoption workers who have most vocally promoted the policies and who have condemned trans-racial adoption as a form of white racism.

Another reason for tolerance of racial matching policies is the widely held view that black children should be raised by black parents if this is at all possible. Professionals involved in adoption issues agree with near-unanimity on this proposition. Even those most active in criticizing what they see as the excesses of current racial matching policies tend to concede that trans-racial adoption should be considered only if same-race placement is impracticable. Almost no one advocates the elimination of any preference whatsoever for same-race placement—that is, the creation of the kind of race-blind regime typically considered the ideal in other areas of social life.

VII. Directions for the Future

Racial matching should not be seen as an issue on which black interests are pitted against white interests, with blacks fighting for the rights of "their children" and whites desiring children for their own selfish benefit. There is no evidence of significant black support for current racial matching policies. There is reason to think, moreover, that if fully informed about the nature of these policies and their impact on black children many blacks would oppose them. Clearly they are harmful to those blacks most affected—the children in need of homes.

White support and tolerance for racial matching policies should not be seen as necessarily benign. It may well be that liberal white guilt helps explain why white adoption workers joined ranks with the NABSW to end the practice of trans-racial adoption that flourished from 1968 to 1971. But something else is going on here as well. One would expect good liberals to worry more about the need for black children waiting in foster care to be placed in the best possible homes at the soonest possible time. If these white social workers were reserving for blacks jobs or other benefits prized by the white community, they would clearly meet a great deal of resistance. That they are encountering so little resistance indicates that the white community does not place a high value on the opportunity to parent these black children. Nor does the white community appear to care that much about the fate of black children who wait for homes. Indeed, the notion that the black community has a right to hold onto "its own" is likely to strike a sympathetic chord among whites who would feel uncomfortable at the idea of a white child being raised in a black or bi-racial family.

The issues at the heart of current racial matching policies are the significance of racial difference and the role of racial separatism in dealing with difference. Historically, these policies represent the coming together of white segregationists with black nationalists and the merger of their racial separatist ideologies with "biologism." Adoption professionals have idealized the biological family and structured the adoptive family in its image. They have argued that biological sameness helps to make families work and have therefore promoted the goal of matching adoptive parents with their biological look-alikes. Although adoption professionals surrendered various aspects of their matching philosophy as they struggled to keep up with the realities of the adoption world, they held onto the core idea that racial look-alikes should be placed together. The NABSW's attack on trans-racial adoption met with relatively ready acceptance from white

as well as black social workers, not just because of liberal white guilt, but because it fit with the traditional assumptions of their professional world. The adoption world is part of a larger social context in which there has always been a strong sense that racial differences matter deeply, and a related suspicion about crossing racial lines. Both black nationalists and white segregationists promote separatism, especially in the context of the family, as a way of promoting the power and cultural integrity of their own group. Even those blacks and whites generally committed to integration often see the family as the place to draw the line.

One can recognize the importance of racial and cultural difference without subscribing to separatism. One can celebrate a child's racial identity without insisting that a child born with a particular racial make-up must live within a prescribed racial community. One can understand that there are an endless variety of ways for members of racial groups to define their identities and to define themselves in relationship to various groups. One can believe that people are fully capable of loving those who are not biological and racial likes, but are "other," and that it is important that more learn to do so. One can see the elimination of racial hostilities as more important than the promotion of cultural difference.

From this perspective, which is one I share, trans-racial adoptive families constitute an interesting model of how we might better learn to live with one another in this society. These families can work only if there is both appreciation of racial difference and love that transcends such difference. And the evidence indicates that these families *do* work. Accordingly, I believe that current racial matching policies should be abandoned not simply because they violate the law but because they do serious injury to black children in the interest of promoting an unproductive separatist agenda.

Assuming that the powerful matching policies of today were abandoned or outlawed, the question would remain: what role, if any, should race play in the agency placement process? Most critics of today's policies focus their criticism on the degree to which race matching principles dominate the placement process, rather than on the fact that race is allowed to play any role at all. They tend to argue for a rule that would allow race to be used as a factor but not an exclusive factor in decision making,

The only practicable way to prevent race from playing the determinative role that it plays today is to prohibit decisionmakers from using it at all. Even a mild preference seems unwise. Black and white prospective parents should be free to adopt children without regard to anyone's views on which children would make an appropriate racial match.

and for limits on the delay to which a child can be subjected while a same-race family is sought.

In my view, adoption agencies should clearly be prohibited from exercising *any significant preference* for same-race families. *No delays* in placement—whether for six months or one month—should be tolerated in the interest of ensuring a racial match. Delay harms children because, at the very least, it will cause discontinuity and disruption. And any delay risks further delay.

Accordingly, any preference for same-race placement that involves delay or that otherwise threatens the interest of children in receiving good homes should be viewed as unlawful racial discrimination, inconsistent not simply with traditional limits on affirmative action, but with *any* legitimate concept of affirmative action. The courts and administrators responsible for interpreting and enforcing the law should apply established legal principles to find any such preference in violation of the equal protection clause of the Constitution, Title VI of The Civil Rights Act of 1964, and other applicable anti-discrimination mandates.

The only real question, then, is whether agencies should be allowed to exercise a genuinely mild preference. A mild preference would mean that if an agency had qualified black and white families waiting to adopt, it could take race into account in deciding how to allocate the children waiting for homes. The agency could operate on the principle that all things being essentially equal, it would be better to assign black children to black parents and white children to white parents.

There are some valid arguments in support of a mild preference. There is some reason to think that, all things being equal, same-race placements could serve children's interests. There is, for example, reason to fear that white parents might harbor racial attitudes, on a conscious or subconscious level, which would interfere with their ability to appreciate and celebrate their black child's racial self. One has only to step into the world of adoption to realize how widespread and powerful are the feelings among prospective adopters that race matters as they think about what child they will want to adopt. The adoption world is largely peopled by prospective white parents in search of *white* children. The urgency of their race-conscious quest seems to explain much about that world. But reality is complicated. There is tremendous

variation among adoptive parents in their racial attitudes. And their attitudes are shaped and conditioned by messages they receive from adoption workers and the broader society, as well as by the adoption process. Some white adopters look to adopt black American or dark-skinned foreign children as their preferred option. Others begin their adoption quest with the thought of a white child and later turn to trans-racial adoption after considering their options. For them trans-racial adoption may appear to be a "second choice." But the fact is that, for a very large number of adoptive parents, adoption itself is a second choice or "last resort." Many adoptive parents are infertile, and they turn to adoption only after discovering they cannot reproduce themselves biologically. It is understandable in this context that their first instinct would be to look for a racial look-alike. They are, of course, conditioned by current racial matching policies to think that they *should* do this. They are simultaneously conditioned by a variety of forces in our society to think of biological parenting as preferable to adoptive parenting. All adoptions require parents to transcend this kind of conditioning. The evidence indicates that adoptive parents are able to do so and that adoptive relationships work. The evidence similarly suggests that when whites arrive at the point of consciously choosing trans-racial parenthood and enter into parenting relationships with black children, the relationships work, and indeed appear to work as well as biological parenting relationships.

There is nonetheless some reason for concern that trans-racial adoption might add in a problematic way to the adopted child's sense of difference. It is difficult for children to be different from those they see as being in their group or world. All adopted children have to deal with the difference of having lost their biological parents. Many adoption professionals feel that this difference puts adoptees at risk of feeling that they do not really belong. We must ask ourselves whether we want to add to the sense of difference by placing black adoptees with white parents in what are likely to be significantly white communities. We may believe that these children should feel they truly belong; research studies provide some evidence that they do. But it still seems likely that many children would find it more comfortable, all things being truly equal, to be raised by same-race parents.

A mild preference for same-race placement might also seem to serve the interests of black adults who want to parent, as well as the kind of black community interests discussed above. It would counter, at least to some degree, the tendency of trans-racial adoption to work only in one racial direction, with black children placed in white families but practically no white children placed in

black families. This tendency has been, understandably, a piece of what critics of trans-racial adoption have found most offensive.

But there would be real dangers in a rule involving even a mild preference. On a symbolic level, it is problematic for the state to mandate or even tolerate a regime in which social agencies, rather than private individuals, decide what shall be the appropriate racial composition of families. It is similarly problematic for the state to decide what the appropriate racial identity for a child is and how it is best nurtured. The Supreme Court decided some time ago that the state should not be in the business of deciding whether inter-racial marriages are wise. Indeed, we would not want to live in a regime in which social agencies prevented such marriages, or prevented inter-racial couples from producing children. Trans-racial adoption is, of course, different from inter-racial marriage in that it involves minor children, many of whom are unable to express their own desires with respect to the kind of family they would like. But it seems dangerous for the state or its agencies to assert that children should not or would not choose to ignore race if they could exercise choice in the formation of their families, and to conclude that it is presumptively in children's best interest to have a same-race upbringing.

The existence of trans-racial adoptive families in which blacks and whites live in a state of mutual love and commitment, and struggle in this context to understand issues of racial and cultural difference, seems a blessing to be celebrated. The state should not be in the business of discouraging the creation of such families.

On a pragmatic level, there is a real question as to whether it is *possible* to create a genuinely mild preference for same-race placement—a real danger that if any racial preference is allowed, enormous weight will in fact be given to race no matter what the formal rule of law. After all, current adoption law, as reflected in court rulings and the administrative guidelines interpreting Title VI, is that race *should not* be used in the absolute and determinative way that we know it systematically *is* used. Given the extraordinary level of commitment by adoption professionals to same-race placement and the amount of discretion they have traditionally enjoyed in making placement decisions, it may well be that the only practicable way to prevent race from playing the kind of determinative role that it plays today is to prohibit its use as a factor altogether.

On balance then, even a mild preference seems unwise. The generally applicable legal rule forbidding the use of race as a factor in social decision making should be applied to the adoption area as well. Black and white

prospective parents should be free to adopt children without regard to any adoption agency's views on which children would make an appropriate racial match. Agencies should use subsidies and other recruitment devices to encourage prospective parents of all races to offer homes to children. Agencies should also revise traditional criteria for white as well as black prospective parents, with the goal of creating a large enough pool of people interested in and capable of providing good homes to accommodate all the children in need.

VIII. CONCLUSION

[Both common sense and the available evidence from empirical studies indicate that racial matching policies are doing serious harm to black children. They therefore violate the principle at the core of our nation's adoption laws, namely that the best interest of the child should govern the placement process. They also violate the anti-discrimination norm contained in applicable statutes and the United States Constitution.]

The evidence from empirical studies indicates uniformly that trans-racial adoptees do as well on measures of psychological and social adjustment as black children raised in-racially in relatively similar socio-economic circumstances. The evidence also indicates that trans-racial adoptees develop comparably strong senses of black identity. They see themselves as black and they think well of blackness. The difference is that they feel more comfortable with the white community than blacks raised in-racially. This evidence provides no basis for concluding that, for the children involved, there are any problems inherent in trans-racial placement.

By contrast, the evidence from the empirical studies, together with professional opinion and our common sense, indicate that the placement delays of months and years that result from our current policies impose very serious costs on children. Children need permanency in their primary parenting relationships. They may be destroyed by delays when these involve, as they so often do, abuse or neglect in inadequate foster-care or institutional settings. They will likely be hurt by delays in even the best of foster care situations, whether they develop relationships that must be disrupted, or whether they live their early years without experiencing the kind of bonding that is generally thought crucial to healthy development.

Current policies also significantly increase the risk that minority children who are older and who suffer serious disabilities will never become part of a perma-

nent family. Advocates of these policies claim that prospective white parents do not want these children anyway. But the last two decades have demonstrated that efforts to educate and recruit adults of all races are successful in changing attitudes and making people aware of the satisfactions involved in parenting children with special needs. Current policies mean that, now, virtually no such education and recruitment is going on in the white community with respect to the waiting minority children. These are the children who wait and wait. They represent a significant piece of the foster care problem. It defies reason to claim that we would not open up many homes to these children if agencies were willing to look for such homes in the white community.

It is true that more could be done to find black families. More substantial subsidies could be provided and more resources could be devoted to recruitment. But it is extremely unlikely that our society will anytime soon devote more than lip service and limited resources to putting blacks in a social and economic position where they are capable of providing good homes for all the waiting black children. It will always be far easier to get white society to agree on the goal of placing black children in black homes than to get an allocation of financial resources that will make that goal workable. The danger in using black children as hostages to pry the money loose is that white society will not see these lives as warranting much in the way of ransom. Moreover, in a desperately overburdened and underfinanced welfare system, those who care about children should take children's many needs into account as they make decisions about allocating any new funds that might be available. Money is desperately needed to provide services that will enable biological families to function so that children are not unnecessarily removed from parents who could provide them with good parenting were it not for adverse circumstances. Money is desperately needed for services that will protect children from abuse and neglect. It is desperately needed to improve the adoption process so that children who should be permanently removed from their families are freed for adoption and placed as promptly as possible with permanent adoptive families. Money is needed in these and other areas to assure the availability of very basic protections for children. These claims should take priority over the essentially adult agenda of promoting racial separation. ■

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INSTITUTE FOR JUSTICE

LITIGATION BACKGROUNDER

SEPARATE IS NOT EQUAL: STRIKING DOWN STATE-SANCTIONED BARRIERS TO INTERRACIAL ADOPTION

At first it sounds like a scene out of the Old South or the Old South Africa. People are assigned at birth to one racial community or another. Those called black are doomed to wait endlessly until an opening comes up in their separate world, while places among the whites go wanting.

Ellen Goodman, "Adoption--The New Racism,"
The Boston Globe, December 5, 1993.

Introduction

Matthew O. was born on November 3, 1992 addicted to crack cocaine and suffering from syphilis. He was placed in the custody of the Texas Department of Protective and Regulatory Services (DPRS) and Child Protective Services (CPS), the state agencies responsible for the care of abandoned and neglected children. CPS/DPRS immediately placed Matthew in the foster care of Lou Ann and Scott Mullen, a veteran foster family in good standing with CPS/DPRS. The Mullens spent many a sleepless night watching over Matthew as his system slowly overcame the drug addiction, and they fell in love with him.

When Matthew was a month old, the Mullens first asked Matthew's social worker if they could adopt him, but the social worker told them there was "no way" because Matthew was black and the Mullens were not. The Mullens persisted in their requests to be considered as an adoptive family for Matthew. Each time, they were rebuffed: Matthew was black and would go to a black home.

Lou Ann Mullen is Native American; Scott is white. The Mullens have an adopted daughter who is half African American, and they have cared for at least 14 black children in their eight years as a foster home. In fact, two of these children currently in their care have lived with the Mullens for almost four years.

CPS/DPRS consistently has praised the Mullens for their excellent ability to parent children of all racial and ethnic backgrounds and to tend to the self-esteem and identity needs of each child. Yet their home was not good enough for CPS/DPRS to override racial considerations when it came to adopting Matthew.

Nevertheless, CPS/DPRS left Matthew in the Mullens' care for almost two years. During the time the Mullens raised Matthew, DPRS was searching for a black family to adopt him. In August 1994, CPS/DPRS removed Matthew to place him with a black adoptive family that was also adopting his older brother, Joseph. Within seven weeks, the adoptive family changed its mind and returned the boys to CPS/DPRS custody. Fully aware that the Mullens wanted to adopt Matthew, CPS/DPRS instead placed both boys in another foster home. When Mr. and Mrs. Mullen learned that the boys' adoptive placement had fallen apart, they decided to attempt to adopt both Matthew and Joseph. They proposed the idea to CPS/DPRS, which again refused to consider them solely on the basis of race.

One of the supervisors responsible for the adoptive placement of the boys stated that she was prepared to spend six months searching for a same race adoptive family, and that she would place the boys in a "group home" before she'd let the Mullens adopt them.

With the assistance of the Institute for Justice, the Mullens obtained a formal adoption application from CPS/DPRS, which they promptly submitted in mid-November 1994. One of the social workers on Matthew's and Joseph's case told the Mullens that there were no other families that had applied to adopt the boys. Yet CPS/DPRS continued to delay the application while it searched for a same race family. Despite a state law that prohibits public agencies from delaying or denying adoptive placements based on race,¹ the social workers continue to indulge their racial objectives.

¹ Tx.Hum.Res.Code §47.041 provides:

The department [of Protective and Regulatory Services], a county child-care or welfare unit, or a licensed adoption agency may not deny or delay placement of a child for adoption or otherwise discriminate on the basis of the race or ethnicity of the child or prospective adoptive parents.

The Texas law is perhaps the most comprehensive constraint on race discrimination in adoption placements in the nation.

In a hauntingly similar case in Maryland, in July 1990 Michael and Sylvia Mauk took six-month old Tiffany R. into their foster care after the Washington County, Maryland Department of Social Services (DSS) removed Tiffany and her brothers from their biological mother. The three children were split up and placed in different foster homes. Tiffany had been born crack-addicted and was sexually abused. When she entered the Mauk home, she was extremely underdeveloped for her age; within a year, she reached normal development. Tiffany's pediatrician attributed the "miracle" to the Mauks' love and persistence. During the time Tiffany lived with the Mauks, she developed a strong sibling attachment with the Mauks' other African American adopted children.

Tiffany had been with the Mauks only two weeks when Mrs. Mauk began to ask DSS workers about adopting her. DSS refused to consider the possibility, citing as its reason the fact that Tiffany would be placed for adoption with her siblings. Yet during the time Tiffany was in the Mauks' care, DSS made little if any effort to ensure that Tiffany have contact with her siblings. Meanwhile, it searched for an African American family to adopt her. In March 1992, DSS notified the Mauks that it would remove Tiffany for adoptive placement in an African American home. Although it cited Tiffany's reunification with her siblings as the reason, DSS also pointed to the fact that the Mauks lived in a predominantly white neighborhood. When the Mauks indicated they would challenge the removal, DSS fired unsupported accusations of racism at the Mauk family.

Shortly thereafter, DSS removed Tiffany from the Mauk home, never to return her. DSS placed the child in the home of an African American family, the S. family, with her brother. Meanwhile, a legal battle to adopt Tiffany ensued, with both the Mauks and the S. family filing adoption petitions. A court-appointed social worker found that the Mauks had provided an extraordinarily loving and nurturing home, but it was too late. By the time the trial court rendered its decision on Tiffany's adoption, so much time had passed in litigation that the court was forced to conclude that removing Tiffany once again would be contrary to her best interests.

The Maryland Court of Appeals agreed with the trial court, leaving Tiffany with the S. family, but it chastised DSS for the "grave injustices" it caused the Mauks: DSS had taken full advantage of the Mauks' parenting skills while it searched for a same race family to adopt Tiffany, and it falsely used Tiffany's reunification with her siblings as the reason for removing her for adoptive

placement. In the end, the appeals court had to agree that although DSS acted outrageously, so much time had passed in litigation that it would not serve Tiffany's best interest to remove her again.

Ben and Laurel Reisman of Memphis, Tennessee were foster parents to a bi-racial infant (half African American, half Caucasian) when they discovered that the Tennessee Department of Human Services (DHS) classified the infant as black. As such, DHS would only consider black applicants and bi-racial couples -- of which there were very few -- as prospective adoptive parents for the child. In 1990, the Reismans sued DHS on behalf of all bi-racial children in DHS custody. Finding DHS's policies and practices unconstitutional, the court ordered the agency to change the way it treated prospective adoptive families for bi-racial children. It required the consideration of prospective adoptive families comprised of any part of the child's genetic makeup. However, it did not address the broader issue of the racial classification of children for adoptive placement.

While the 1990 lawsuit was pending, the Reismans adopted their bi-racial foster child, Cady. After the case was resolved, the Reismans took an African American foster infant, "Baby Jane Doe" into their home. Since DHS was still classifying its children by race in order to confine searches for adoptive homes to same race applicants, the Reismans instituted a second lawsuit, which is currently ongoing. This time, the Reismans act on behalf of all children in DHS custody who are delayed or denied adoption opportunities because the agency continues its race matching practices.

Tragically, the stories of Matthew and Joseph, Tiffany, Cady, and Baby Jane Doe are not atypical. Every day, tens of thousands of minority children languish in foster care while loving adoptive families await to adopt them. The tyranny of race discrimination is visited upon these children by overzealous social workers, who decide -- sometimes in accord with state law, sometimes in flagrant violation of it -- that these children are better off with no families than with families of another race. The Insitute for Justice seeks to curb this tyranny and its tragic human consequences by bringing lawsuits on behalf of the Matthews and Josephs and "Baby Jane Does" in this country.

A Closer Look At Race Matching

In its most benign form, "race matching" is simply the practice of placing children in adoptive homes that reflect the child's racial or ethnic background. In a

perfect world, most people probably would not find this practice offensive. In reality, however, race matching by state foster care and adoption agencies takes on a far more pernicious character. Professor Elizabeth Bartholet of the Harvard Law School has conducted a comprehensive investigation into the race matching policies and practices of state child welfare agencies.² According to Bartholet, there seems to be widespread consensus among adoption agency supervisors, social workers and policy makers that children should be placed with parents of the same race. Thus, agencies typically separate available children and prospective adoptive families into "pools" reflecting the perceived notions³ about the race of the children and families. The pools are most notably black and white. Black children and prospective black parents are further classified according to skin tone -- light, medium, or dark -- and sometimes by nationality or ethnicity (e.g., Haitians).

When considering adoptive placements for these children, agencies look almost exclusively to the racially matched "pools" of prospective parents. Only as a last resort will agencies consider an interracial placement, where "last resort" means the agency probably has spent years looking for a same race family to adopt a particular child, to no avail.

Nationwide, race matching has its most detrimental impact on children classified as African American.⁴ There are an estimated 500,000 children in the foster care system.⁵ Of those, over 30 percent are black, 14 percent are Hispanic,

² Prof. Bartholet has thoroughly documented the results of her work in several articles and a book. See "Where Do Black Children Belong? The Politics of Race Matching in Adoption," 139 U.Penn.L.Rev. 1163 (1991), reprinted in condensed form in Reconstruction, v. 4, 22-53 (1992); Family Bonds: Adoption and the Politics of Parenting, New York: Houghton Mifflin (1993). Unless otherwise noted, references to Bartholet's work will be to her Pennsylvania Law Review article.

³ The term "perceived notions" is used because agencies usually classify a bi-racial or mixed race child as non-white even if the child is of partial Caucasian makeup.

⁴ In certain regions of California and Texas, the number of Hispanic foster children exceeds the number of black children.

⁵ The Voluntary Cooperative Information System (VCIS) of the American Public Welfare Association estimated that approximately 460,000 children were in the system in 1993, and the population of foster children was expected to continue

and roughly 5 per cent are of other, non-white background.⁶ Approximately half of children in foster care are free for adoption and awaiting adoptive homes, and roughly one half of these children are minorities.⁷ Further, black children awaiting adoption constitute approximately 40 percent of all children awaiting adoptive homes, although blacks represent only about 12.3 percent of the general population.⁸ Statistics from the National Adoption Center, which maintains a register of "hard-to-place" children and waiting families,⁹ reveal that approximately 67 percent of such children are black and 26 percent are white. Yet 67 percent of the waiting families are white and 31 percent are black.¹⁰

on a steady rise in the following years. Figures for 1994 have not yet been finalized. See "Adoption: Do current policies punish kids awaiting adoption?," CQ Researcher v. 3, No. 4, pp. 1033, 1036 (November 26, 1993). According to American University Professor Rita Simon, who has studied interracial adoptees for over twenty years, most adoption experts agree that the current figure is approximately 500,000 children in foster care.

⁶ American Public Welfare Association (APWA), Characteristics of Children in Substitute and Adoptive Care: FY82 - FY90 53 (1993).

⁷ Id. at 141. Of the general population, minorities constitute approximately 17 percent. U.S. Dept. of Commerce, Statistical Abstract of the United States 1990, 12 (1990).

⁸ See American Public Welfare Ass'n. (APWA), Characteristics of Children in Substitute and Adoptive Care, FY 82 through FY 90 140 (1993), and U.S. Dept. of Commerce, Statistical Abstract of the United States 1990, 12 (1990).

⁹ Numbers on waiting families are difficult to obtain because they are rarely, if ever, kept by state agencies. The National Adoption Center, funded by the federal government, is the only major national exchange listing statistics on both hard-to-place children and waiting families.

¹⁰ Bartholet at 1187. As Bartholet notes, these statistics do not reveal the true extent of the disproportionality, since many white families do not bother to put themselves on waiting lists on the understanding that black or other minority children are not available for adoption.

Given the severe disproportionality in the number of black children available for adoption and the limited number of black adoptive families, "matching" all or even most available children to waiting families simply is impossible. Race matching necessarily leaves minority children, primarily black children, languishing in foster homes, sometimes never finding a permanent home. Although extensive efforts have been made at recruiting adoptive black families, including subsidies,¹¹ recruiting programs,¹² and different qualifications than those used for white families,¹³ thousands of black children are still waiting for homes.

In terms of the harm to children as a result of agency race matching, strong evidence suggests a connection between attempts to race match and the delay or denial of adoptive placement suffered by minority, primarily black, children.¹⁴ One study of children awaiting adoption revealed that minority children wait twice as long for an adoptive home as their white peers, and minority placement rates are 20

¹¹ Most states provide subsidies to persons adopting "special needs" children, which includes minority children. Further, pursuant to the Adoption Assistance and Child Welfare Act of 1980, the federal government provides federal funds to match qualifying state subsidies. 42 U.S.C. §§670-79(a) (1988). Adoptive families receive the subsidies on an ongoing basis, until the child reaches maturity. Although the subsidy program is written in race-neutral language, it was clearly designed as a recruiting device for minority families and to facilitate same race adoptions. Bartholet at 1198.

¹² For example, under the federal Adoption Opportunities Program, 42 U.S.C. §§5111-5115 (1988), a national adoption information exchange system is designed to coordinate and make available information from state, regional, and national exchanges of black and other "hard-to-place" children. This effort is also an attempt to recruit adoptive families not locally available to a particular region.

¹³ From a socioeconomic perspective, the pool of black adoptive parents "looks very different" from the pool of white parents; namely, the former tends to be "significantly older, poorer, and more likely to be single than their white counterparts." Bartholet at 1199-1200. Bartholet notes that age, income, and marital status are still important in choosing adoptive families, and older, poorer, single black candidates fall at the bottom of the list of qualified black candidates. Yet "those at the bottom of the black list are generally preferred over all those on the white list for any waiting black child." *Id.*

¹⁴ Bartholet at 1201.

percent lower than non-minority placement rates.¹⁵ Yet the minority children studied were approximately the same age as the white children and had other characteristics that, were it not for race, made them more adoptable than the white children. For example, they had fewer disabilities and had experienced fewer foster placements. The study concluded that race was a "more powerful determinant of placement rate than any other factor examined."¹⁶ This conclusion was further supported by a study for the Child Welfare League of America, which found a disturbing "disjuncture" between the large number of minority children spending long periods awaiting adoptive placement and the large number of white potential adoptive families spending long periods waiting to adopt a child.¹⁷

Although "delay" in placement certainly sounds less onerous than "denial" of adoptive placement, the fact is that delay is very harmful to children in need of homes. Most if not all child welfare experts agree that the most important factor in a child's well-being is an ongoing, stable relationship with a parent figure: adoption unquestionably is preferable to foster care or other temporary arrangements. Moreover, a study comparing interracial adoptees to white children adopted by white families concludes that the most important factor in a child's well-being is the age at which he or she was adopted.¹⁸ The authors found that race had no correlation with a child's adjustment to the adoptive family. Finally, agencies that delay a child's placement in a white home in the hope that a same race home will be found are putting minority children at risk of never being adopted. These agencies have no way of knowing whether an "appropriate" family ever will be found. The longer an agency searches for a same race family, the older a child gets and, often, the more foster placements a child experiences. An older child who has

¹⁵ 1 WESTAT, Inc., "Adoptive Services For Waiting Minority and Nonminority Children, H4-11 (1986), cited in Bartholet at 1201.

¹⁶ Bartholet at 1201.

¹⁷ J. Munns and J. Copenhaver, The State of Adoption in America at 4, 18 (1989). As Bartholet points out, the adoption agencies surveyed pointed to the lack of minority applicants as a major reason minority children were not getting adopted, an admission that implicitly shows that race plays a significant role in the delay or denial of adoptive placements for minority children. See Bartholet at 1202, n. 103.

¹⁸ W. Feigelman and A. Silverman, Chosen Children: New Patterns of Adoptive Relationships New York: Praeger (1983).

experienced numerous placements is much more likely to have psychological and emotional problems and much less likely ever to be adopted. Bartholet describes the vicious cycle into which minority children are thrown:

While the months and years go by the children are pushed deeper into the hard-to-place category, as they get older and accumulate what are often damaging experiences in foster care. Delay thus puts the child at risk of yet more delay and, ultimately, the denial of placement altogether.¹⁹

A Brief History of Interracial Adoption

For the most part, interracial adoption did not occur in the United States until almost the middle of this century. Adoption agencies were governed by the notion that in order to maximize the chances of a successful adoption, all efforts should be made to “match” the physical features (including, of course, skin color) and religion of a child to the adoptive family. It was believed that matching would facilitate parent-child bonding.²⁰ As the need for interracial placements grew with the increasing number of minority children in need of permanent homes and the relatively scarce availability of white children, “matching” became a more flexible concept.

In the United States, the first interracial and intercountry adoptions occurred in the aftermath of World War II, which left thousands of homeless children worldwide.²¹ Following the Korean War, South Korea made many of its abandoned and orphaned children available for adoption, many of whose fathers had been American soldiers stationed there during the war.²²

The 1960s saw a dramatic increase in the number of interracial adoptions, influenced most profoundly by the civil rights movement and its

¹⁹ Bartholet at 1204.

²⁰ Bartholet at 1176.

²¹ R. Simon and H. Altstein, Adoption, Race, and Identity New York: Praeger (1992), p.2.

²² Bartholet at 1178.

integrationist ideology. The civil rights movement also called attention to the plight of minority children in foster care. Interracial adoption responded to the social and cultural realities of the times: minority children needed permanent homes; public child welfare agencies faced burgeoning foster care populations comprised largely of minorities; and white families wishing to adopt faced a scarce population of available white children. In 1968, approximately 733 children were placed interracial, a figure that more than tripled in the following three years: interracial adoptions peaked in 1971 at approximately 2,574.²³

In 1972, the dramatic rise in the number of interracial adoptions abruptly reversed course. That year, the influential National Association of Black Social Workers (NABSW) released its infamous position statement on interracial adoption. According to the the NABSW:

Black children should be placed only with Black families whether in foster care or for adoption. Black children belong, physically, psychologically and culturally in Black families in order that they receive the total sense of themselves and develop a sound projection of their future. Human beings are products of their environment and develop their sense of values, attitudes and self concept within their family structures. Black children in white homes are cut off from the healthy development of themselves as Black people.²⁴

The NABSW further committed themselves to “go back to our communities and work to end this particular form of genocide.”²⁵ The following year (1973), the influential Child Welfare League of America (CWLA), which publishes Standards for Adoption Service (SAS), revised its guidelines to conform to the NABSW position. Where it formerly encouraged interracial placements, it now emphasized the

²³ Bartholet at 1178.

²⁴ National Association of Black Social Workers, Position Paper (April 1972) (NABSW 1972 Position Paper), reprinted in R. Simon and H. Altstein, Transracial Adoption New York: Praeger (1977), pp. 50-52.

²⁵ Id.

advantages of same-race placements.²⁶ In the years following the attack on interracial adoption, the number of interracial placements plummeted, so that in 1975, only 831 such placements were reported.²⁷

In 1991, the NABSW reaffirmed its position that "African American children should not be placed with white parents under any circumstances."²⁸ The 1991 statement identified two primary criticisms against interracial adoption: First, it harms the African American community at large because interracial adoptees not only lose their heritage, but also become prejudiced against other blacks. Second, interracial adoption harms the adoptees themselves because their white parents are unable to teach them the skills necessary to survive in a white, racist society. According to the NABSW, there is no escaping the fact that even "the most sensitive, loving, and skilled white parent could not avoid doing irreparable harm to an African American child."²⁹

Research on Transracial Adoptees

Though the NABSW policy equating interracial adoption with "genocide" plainly has had its desired effect of severely diminishing such adoptions, its premises are deeply flawed. Since the NABSW came forward with its militant opposition to interracial adoption in 1972, numerous studies of interracial adoptees have discredited the NABSW's warnings about the lack of racial identity and self-esteem. Professors Rita J. Simon and Howard Altstein conducted the leading comprehensive longitudinal study of the impact of interracial adoption on adoptees

²⁶ Compare Child Welfare League of America(CWLA), Standards for Adoption Service §4.5 (1968) with CWLA, Standards for Adoption Service §4.5 (1973).

²⁷ R. Simon and H. Altstein, Adoption, Race, and Identity, New York: Praeger (1992), p. 13. Although the overall number of adoptions during this period declined, the decline was not nearly as dramatic as with interracial adoptions. Bartholet at 1180, n. 23.

²⁸ National Association of Black Social Workers, Preserving African American Families: Research and Action Beyond the Rhetoric 25 (April 1991) (NABSW 1991 Position Paper).

²⁹ NABSW 1991 Position Paper at 30.

and their families.³⁰ Simon and Altstein studied the adoptees and their families over a 20 year period, evaluating them along the way on issues such as the adoptees' self-esteem, racial identity, attitudes about different races, dating, and interracial adoption. Contrary to the claims of the NABSW and others, Simon and Altstein found that individuals adopted interracially do not lack a sense of self-esteem or racial identity; in fact, in some instances individuals were actually more comfortable with their racial identity than their peers adopted intracially. In addition to Simon and Altstein, all of the literature on interracial adoption -- even studies conducted by its critics³¹ -- overwhelmingly endorse the practice. At the same time, opponents of interracial adoption rely on no such empirical evidence. More importantly, there is extensive literature demonstrating that continuity and stability in family relationships are essential to a child's well-being, that "permanent adoptive homes are far better for children than temporary foster homes, and that delay in adoptive placement reduces thae chances for a successful adoptive adjustment."³²

Current Laws and Practices

Although the last remaining statute expressly banning interracial adoption was struck down as unconstitutional in 1972,³³ most states still have laws

³⁰ Simon and Altstein have published the results of their study in several volumes: Transracial Adoption (1977); Transracial Adoption: A Followup (1981); Transracial Adoptees and Their Families (1987); Adoption, Race and Identity (1992); and The Case for Transracial Adoption (1994).

³¹ See, e.g., Joyce Ladner, Mixed Families, New York: Anchor Press, Doubleday (1977).

³² Bartholet at 1210 and n. 126.

³³ Compos v. McKeithen, 341 F.Supp. 264 (E.D.La. 1972). Ironically, Compos was decided the same year that the NABSW launched its attack on interracial adoption. In striking down Louisiana's law banning interracial adoption, the court recognized that despite the potential difficulties in particular interracial placements, "the disadvantages of an interracial adoption cannot be said to outweigh in all cases the advantages of a home and family life to a child whose only alternatives are institutional life or foster home care." Id at 267. The language rings as true today as it did then.

permitting the use of race by state agencies in adoption decisions. The most constitutionally suspect are "race preference" statutes, which mandate or permit the agencies to delay an interracial placement while the search for a same race family ensues.³⁴ Other states have "informational statutes," requiring prospective adoptive families to list their race and/or ethnicity on adoption petitions.³⁵

In October 1994, the Multiethnic Placement Act was enacted to prohibit agencies receiving federal funds from using race as the sole factor to "unduly" delay or deny an adoption. Although originally the bill was aimed at prohibiting racial considerations altogether, as a result of interest group pressure to amend the bill, the Act now authorizes the use of race. Former Senator Howard Metzenbaum, who sponsored the bill and supported in its original form, rejects it as enacted.³⁶ Efforts are proceeding in Congress to repeal these provisions.³⁷

Meanwhile, agencies and social workers continue to thwart interracial adoptions. Despite the variations in statutory treatment of race, race matching manifests itself in the policies and practices of agencies in almost every state. As Bartholet notes, "It is the unwritten and generally invisible rules that are central to understanding the nature of current policies."³⁸ These practices and policies

³⁴ For example, California, Arkansas, and Minnesota have race preference statutes requiring social workers to make diligent efforts to search for a same race home before looking to a different race family. See Cal.Fam.Code §§ 8708, 8709 (West 1994); Ark.Code Ann. § 9-9-102 (Michie Replacement 1993); Minn.Stat.Ann. § 259.255 (West Supp. 1993). The California statute also prohibits interracial placements for ninety days after a child has been declared free for adoption. Once the 90 days have passed, interracial placements can be made only after a social worker has documented all diligent efforts made to find a same race family.

³⁵ For example, the District of Columbia, Pennsylvania, and Indiana all require a prospective adoptive family to identify their race or ethnicity on an adoption petition.

³⁶ Metzenbaum told Newsweek magazine: "Some bastards at HHS [U.S. Dept. of Health and Human Services] intervened and did the bill great harm." Martha Brant, "Storming the Color Barrier," Newsweek, March 20, 1995, p. 29.

³⁷ As recently as March 1995, a version of the original Metzenbaum bill was passed by the House of Representatives as part of Congress' welfare reform package.

³⁸ Bartholet at 1188.

clearly will continue until a rule of law is established prohibiting racial discrimination in adoptions. Although individual lawsuits challenging specific adoption policies have occurred with some frequency, until now no lawsuits have sought to secure such broad-based legal protections. As Bartholet observes, "The problem isn't that we don't have the right federal law. The problem is that we don't have any organizations that could support the right kind of legal challenge to what's going on."³⁹

Litigation Strategy

The Institute for Justice is launching a nationwide challenge to race matching by state agencies and to establish a rule of law that racial discrimination in adoptions is unconstitutional. Our first two test cases will be in Texas and Tennessee. In Austin, Texas, on April 13, 1995, the Institute filed a class action lawsuit against the Texas Department of Protective and Regulatory Services (DPRS) and Child Protective Services (CPS) the state agencies charged with protecting abandoned and neglected children. The Institute will represent Matthew and Joseph, the two foster children that Lou Ann and Scott Mullen have been trying to adopt. Since the boys are minors, they will act through their "next friends" Lou Ann and Scott. Matthew and Joseph will represent a class of non-white children in CPS/DPRS custody who are delayed or denied adoptive placements in qualified homes contrary to a Texas statute prohibiting the use of race to delay or deny adoptive placements.⁴⁰ The law, adopted in 1993, is perhaps the most sweeping prohibition of the use of race to delay or deny adoptions. Yet social workers ignore it and continue race matching. The Institute will seek enforcement of the Texas statute and will challenge CPS/DPRS race matching on the grounds that it violates equal protection guarantees of the Fourteenth Amendment of the United States Constitution and Article I, Sect. 3 of the Texas Constitution.

In Memphis, Tennessee, the Institute will join as co-counsel in an ongoing federal class action, Reisman v. Tennessee Dept. of Human Services. In Reisman, the plaintiff class of minority children in the custody of the Tennessee Department

³⁹ Elizabeth Bartholet, The American Experiment 8 (The Manhattan Institute, Spring 1994).

⁴⁰ Tx.Hum.Res.Code §47.041

of Human Services (DHS) challenges the use of racial classifications in the adoptive placement process. Ben and Laurel Reisman are a Caucasian couple who successfully challenged DHS' practice of considering only non-white applicants for its mixed race children, even if the child was part Caucasian. As a result, the Reismans were able to adopt their bi-racial daughter, Cady. In the current lawsuit, brought on behalf of all children in DHS custody, the Reismans allege that the state is creating separate pools of prospective adoptive families and children in need of homes by impermissibly using race as a criterion. Moreover, by creating separate pools, the state and its agents use different standards to determine the fitness of a family for an adoptive placement.⁴¹

The Reismans challenge DHS action under the Fourteenth Amendment of the United States Constitution. In addition, because DHS has now argued that the Multiethnic Placement Act permits it to use race in adoption decisions, the Reismans challenge the constitutionality of the Act under the equal protection guarantee of the Fifth Amendment of the United States Constitution.

Meanwhile, the Institute is investigating other cases toward the possibility of filing additional lawsuits in other states, including California.

Central to all of these lawsuits will be the equal protection guarantees of the United States Constitution. Under the Fourteenth Amendment of our Constitution, no state may deny any person in its jurisdiction the equal protection of the laws.⁴² These cases present an important opportunity to finally eliminate one of the last bastions of racial discrimination by state agencies. In virtually all other areas in which the state touches our lives, state agencies are governed by an anti-discrimination principle prohibiting race-conscious action except in the most narrow of circumstances. Yet the world of adoption remains "an anomaly in this legal universe, where race-conscious action is deemed highly suspect and generally illegal. In agency adoptions, . . . race conscious action is one of the major rules of the child allocation game."⁴³ The pervasive practice of race matching demonstrates that any exception to the absolute constitutional principle of nondiscrimination will

⁴¹ For example, DHS will place a non-white child with an unmarried, single individual but a white child can only be placed with a married couple.

⁴² U.S. Const., amend. XIV.

⁴³ Bartholet at 1229.

result in the delay or denial of adoption opportunities to thousands of children on the basis of race.

Although the United States Supreme Court is loath to become involved in matters of family law, when state action offends the Constitution, it will not hesitate. For example, in Palmore v. Sidoti,⁴⁴ a child custody dispute, a divorced mother who had custody of her daughter entered into a relationship with a black man whom she subsequently married. The child's father asked the lower court to grant him custody on the grounds that the child would be harmed by the mixed race marriage. The trial court agreed, granting the father custody even though it found the mother a devoted parent. Speaking in a unanimous voice, the Supreme Court reversed the trial court's order as violative of the Fourteenth Amendment. The Court stated that

[a] core purpose of the Fourteenth Amendment was to do away with all governmentally-imposed discrimination based on race. Classifying persons according to their race is more likely to reflect racial prejudice than legitimate public concern; the race, not the person, dictates the category. . . .⁴⁵

The Court further admonished that the "reality of private biases and possible injury they might inflict" are not permissible considerations under the equal protection clause.⁴⁶ The Institute will seek to extend Palmore to the realm of adoption placement decisions.

With the help of the Mullens, the Reismans, and others, the Institute will challenge the proposition that state adoption agencies are above the law and should be exempt from the equal protection guarantees of the United States Constitution. Almost thirty years ago, in Loving v. Virginia,⁴⁷ the Supreme Court held that states cannot prohibit interracial marriage. Recalling that the Court has "consistently repudiated '[d]istinctions between citizens solely because of their ancestry' as being

⁴⁴ 466 U.S. 429 (1984).

⁴⁵ 466 U.S. at 432.

⁴⁶ Id. at 433.

⁴⁷ 388 U.S. 1 (1967).

'odious to a free people whose institutions are founded upon the doctrine of equality,'"⁴⁸ the Court rejected the state's assumption that it could dictate the racial composition of a married couple. By extension, the Institute will contest the notion that the state can determine the racial composition of families through race matching.

Litigation Team

The Institute and cooperating attorneys comprise a highly talented legal team. The Institute's litigation team in these lawsuits includes litigation director Clint Bolick and staff attorney Donna G. Matias. Joining the Institute of counsel in Texas will be Harvard Law Professors Elizabeth Bartholet, Randall Kennedy, and Laurence H. Tribe. Additionally, local counsel in Austin, Texas, is Don R. Willett of Haynes and Boone.

In Tennessee, the Institute will join as co-counsel with attorney Hayden Lait of Byrd & Cobb in Memphis, Tennessee, who successfully conducted the earlier Reisman litigation and filed the present lawsuit in December 1993.

Conclusion

One hundred thousand minority children are consigned to foster care or state institutions awaiting loving adoptive families. Each day these children spend waiting is precious and irreplaceable. Discrimination in adoption placements remains a pernicious anachronism in a nation devoted to equal opportunities. The Institute for Justice has dedicated itself to securing a brighter day for these children.

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⁴⁸ 388 U.S. at 11, citing Hirabayashi v. United States, 320 U.S. 81, 100 (1943).

HR 4 Personal Responsibility Act (as presented to the House from the Rules Committee, 3/21/95)

Temporary Family Assistance

- replaces AFDC, AFDC Administration, JOBS Program, and Emergency Assistance Program
- states receive wide discretion to determine eligibility
- funded at \$15.4 billion per year (same as FY 94) for 1996 - 2000
- states receive shares equal to their proportion of federal funding received in 1994 OR the average of 1991-1994 funding, whichever is higher
- a state with an unemployment rate of 6.5% over 3 months could borrow from a \$1 billion federal "rainy day fund" (this is a loan with interest & must be repaid in 3 yrs)
- state can establish own "rainy day fund" by hoarding some of the block grant money for use during economic downturns (could use as general revenue any \$ in rainy day fund that exceed 20% of annual block grant)
- beginning in 1997, set aside of \$100 million annually to be divided among those states with growing populations & case loads
- no requirements for state funding (e.g. no guidelines for matching \$)
- adults receiving benefits for 24 months or more must engage in a state defined "work activity"
- work is defined as a "private or public sector job, on-the-job training, or -if the recipient is under 21 & without a high school diploma- school attendance"

- 4% of recipients must be in work activities by 1996; 50% by 2003 with net reductions in case load counting toward the "work participation standard"
- can transfer up to 30% of funds to related block grants
- No federal funding for:
 - *2 - children born out-of-wedlock to mothers under 18 (benefits would be available once the mother turns 18)
 - *3 - children born within 10 months of when family received cash benefits
 - adults who have received cash benefits for a total of 5 years
 - adults who do not cooperate in establishing paternity or assist a state child support enforcement agency
- states could exempt up to 10% of their caseload from the five-year limit
- reduces cash benefits for the family of a child whose paternity has not been established (penalty = up to \$50 per month or 15% benefits until paternity is established)
- financial incentive for states to decrease number of out-of-wedlock births: "illegitimacy ratio"
- states could provide new-comers from another state the same benefits the family would have received from the former state, for up to 12 months

Block Grants *1

Child Protection

- replaces 23 federal programs (which accounted for \$3.6 billion in FY 94) including: foster care, adoption assistance, child abuse prevention and treatment
- funded at \$4.4 billion in 1996 increasing to \$5.6 billion in 2000
- states receive a share equal to the percent of federal funding in FY 94 for programs block grant would replace OR the average of FY 1992-94, whichever was higher
- state spending on child welfare in 1996 & 1997 must equal -at least- that spent by state in 1995
- beginning in FY 1998, states could transfer up to 30% of their funds from this block grant to several others (social services, food & nutrition, child care, employment & training)
- states could use block grant money in any way they deem appropriate to help troubled families and children
- each state would have to create citizen review panels to oversee state child welfare services
- would prohibit adoption or foster care placement delays or denials based on the race or national origin of the parent or child involved

School Meals

- School-based Nutrition Block Grant replaces lunch and breakfast programs, school-based aspects of child- and adult-care food program, summer food program, special milk program and commodities portion of school nutrition program
- funding authorized at \$6.7 billion in FY 96 increasing 4.5% per year to \$7.8 billion in 2000.
- state grant would be equal to proportion of FY 95; in subsequent years it would also take into account the national proportion of school meals each state served.
- 80% of the money would have to go to low-income children (defined as from families earning up to 185% of the federal poverty level, now \$15,141 per year for a family of four)
- no more than 2% of overall costs may be used for administration

Family Nutrition

- creates a Family Nutrition Block Grant
- replaces WIC (Women Infants & Children) Program as well as aspects of the Child & Adult Care Food Program, Summer Food Program and the Homeless Children Nutrition Program
- authorized at \$4.6 billion in 1996 increasing to \$5.3 billion by 2000.
- 90% of the funds must be used for activities similar to current WIC (which received \$2.5 billion in FY 95) *5
- states receive funding equal to proportion received in FY 95
- in subsequent years, funding formula would also take into account the national proportion of participants served by each state

Child Care

- would fold 9 federal child care programs into the existing Child Care and Development Block Grant to states (created in 1990)
- funding would be set at \$1.94 billion per year for 1996 - 2000 (same amount spent in 1994; each state would receive proportion equal to that received in 1994) *4
- federal health and safety regulation for child care would be repealed
- limit of 5% of these federal funds can be spent on administration
- states could transfer up to 20% of funds from this block grant to several other block grants (e.g. those covering cash welfare, employment & training, child welfare, nutrition & social services)

SSI Supplemental Security Income

Eligibility

Legal Immigrants

• drug addiction & alcoholism would no longer be considered a disability; denies those individuals cash benefits and Medicaid

• a recipient would no longer be considered "disabled" if drug addiction or alcoholism contributed to the disability

• projected savings of \$1.3 billion over 5 years with:
- \$400 million for drug abuse research and treatment over 5 years
- \$95 million per year to expand the availability of drug treatment
- \$5 million per year for a medication development project

• (under current law, a child under 18 who has an impairment of "comparable severity" to that of an adult is eligible for SSI. The child is considered disabled if mental, physical AND social functioning is substantially less than that of a child of the same age)

• children currently receiving SSI would continue eligibility if they met the following test:
- had a physical or mental impairment expected to cause death or last more than 12 months
- the impairment is proven by medical techniques
- family income is below standard to be set by HHS secretary

in addition to the new eligibility test, children not now receiving SSI could receive benefits only if they would be confined to a hospital or special care facility if a parent or other health care provider were not otherwise providing full-time attention to the child at home

• beginning in FY 1997, block grants to provide services for children considered mentally or physically impaired would be available

• ineligible for five federal programs (SSI, cash welfare, social services block grant funds, Medicaid, and food stamps) *6

• those now receiving federal aid would continue their eligibility for one year after the measure's enactment

• exemptions would be given to:
- refugees until five years after their arrival in the U.S.
- those above the age of 75 who had lived in the U.S. for at least five years
- legal immigrants who served in the U.S. military as well as spouses and unmarried dependent children

• sponsor's finances would be considered for all federal programs for which the immigrant applied

• sponsor would be considered financially responsible for that individual immigrant for life or until the immigrant became a citizen (currently sponsor's finances only considered for three to five years after the immigrant arrives—depending on the program)

• document by which individuals agree to sponsor immigrants would become legally binding

Illegal Aliens

• ineligible for any federal program that provides aid such as cash, food, most health care, or social services to low-income individuals

• eligible for non-cash emergency assistance such as emergency medical care

HR 4 Personal Responsibility Act (as presented to the House from the Rules Committee, 3/21/95)

Legal Non-Immigrants (e.g. vacationers or students)

• ineligible for any federal programs that provide aid to low-income individuals

• eligible for non-cash emergency assistance such as emergency medical care

• those now receiving federal aid would continue their eligibility for one year after the measure's enactment

State & Local Programs

• illegal & legal aliens would generally become ineligible for state & local programs for low-income individuals (exceptions for non-cash emergency assistance such as emergency medical care)

• states would have the option to restrict the eligibility of most legal immigrants for state and local programs

Child Support Enforcement

• states required to create a central case registry to track the status of all child-support orders

• states must establish a "new worker" registry (employers would have to register name, birthdate, & Social Security number of all new hires); registry would be used to help find workers who refuse to comply with child-support orders

• states required to include Social Security number on professional, occupational & marriage licenses as well as on divorce decrees, child-support & paternity acknowledgement orders

• similar registries will be created at federal level

*7

*8

Food Stamps and Commodity Distribution

• returns food stamp program to its pre-1990's status as a "capped entitlement" (food stamp allocations would be fixed regardless of demand)

• limits recipients to a 2% annual cost of living increase in food stamps rather than increases directly linked to inflation as under current law

• aims to save money by gradually reducing or eliminating benefits for applicants with moderate assets base (e.g. cancels scheduled October increase of car value allowance from \$4,500 to \$4,600 & future increases)

• energy assistance payments would be counted as income

• would cut benefits to most legal aliens

• able-bodied recipients between ages 18 & 50 who do not have dependents would be required to find work within 90 days or to enroll in a job training or government sponsored "workfare" program; failure to do so would result in loss of benefits

• \$75 million would be appropriated to help states establish "workfare" (USDA estimates this would fund workfare for 90,000 of the 1.2 million who would be affected)

• seeks to reduce estimated annual \$2.8 billion in overpayment and fraud by:

- doubling penalties against many offenders

- first-time offenders lose right to food stamps for one year

- government would have the right to seize property used in fraud

- stores involved in fraud could be permanently disqualified from accepting food stamps

- any state making overpayments 1% or more higher than the lowest-ever national error rate could face increased fines

• states with Electronic Benefits Transfer (EBT) systems could operate food stamps under a block grant

• commodity distribution programs and The Emergency Food Assistance Program (TEFAP) are consolidated; commodities such as bread & cheese would be allocated to states based on unemployment & poverty rates

• states could establish a single set of eligibility & work requirements for food stamps, their version of AFDC, & other welfare programs

The Multiethnic Placement Act

After a lengthy and heated legislative tug of war, Senator Metzenbaum's (D-OH) Multiethnic Placement Act passed both the U.S. House and Senate as part of H.R. 6 (Improving America's Schools Act) on October 5, 1994 and was signed into law by President Clinton two weeks later.

As finally amended, the Act seeks to ensure that race, color, and national origin considerations are not inappropriately invoked during adoptive placement decision-making. In short, the Act hopes to guarantee that:

- waiting children will be expeditiously placed in adoptive homes;
- children will not be inappropriately removed from foster families with which they have bonded; and
- children's cultural, ethnic, and racial backgrounds will be part of a "best interest" determination during adoptive and foster placement decisions.

Key Provisions

1. Agencies or entities that receive federal assistance and are involved in adoption or foster care placements may not "categorically deny to any person the opportunity to become an adoptive or foster parent, solely on the basis of the race, color, or national origin of the adoptive or foster parent, or the child, involved."
2. Such agencies or entities may not "delay or deny the placement of a child for adoption or into foster care, or otherwise discriminate in making a placement decision, solely

on the basis of the race, color, or national origin of the adoptive or foster parent, or the child, involved."

3. Such agencies or entities "may consider the cultural, ethnic, or racial background of the child and the capacity of the prospective foster or adoptive parents to meet the needs of a child of such background as one of a number of factors used to determine the best interests of a child."
4. Agencies must also "provide for the diligent recruitment of... foster and adoptive families that reflect the ethnic and racial diversity of children in the State for whom foster and adoptive homes are needed."
5. "Any individual who is aggrieved by an action in violation of [the provisions listed above by the agencies or entities described above] shall have the right to bring an action seeking relief in a United States district court of appropriate jurisdiction."
6. "Noncompliance with this subtitle is deemed a violation of title VI of the Civil Rights Act of 1964."

Changes from March 1994 Senate Version

Last March, race and adoption summit participants encouraged Senator Metzenbaum to consider changes that would specify time limits beyond which children should not be removed from foster homes and offer guidelines for same race recruitment practices. Current language, they believed, was not consistently strong or detailed enough.

The Act's final version, while it does not

reflect all suggestions and has alienated some former supporters, goes a long way toward promoting sound adoption practice and emphasizing a dedicated concern for children—

- New language states that the Act intends to "promote the best interests of children" by identifying foster and adoptive placements that "best meet each child's needs."
- The final version also includes new lines that speak to heightened and balanced recruitment efforts. The Act now encourages agencies to vigorously solicit adoptive and foster families from various racial, ethnic, and cultural backgrounds. A larger pool of prospective parents should markedly increase waiting children's chances of rapidly finding permanent placements.
- Noncompliance is now a civil rights violation and aggrieved parties can seek Title VI remedies (such as the cut off of federal funds).

Where from Here?

To facilitate compliance with the Act, the Secretary of Health and Human Services is due to publish guidelines by June, 1995. Placement agencies that receive federal assistance will have an additional six months to comply, and by the beginning of 1996, we may begin to learn how the new law will affect adoption practice, and whether its praiseworthy intent holds up under application. During 1995, we may also learn if the new Congress intends to follow the dictates of the Personal Responsibility Act as outlined late last year. If so, the current law could soon be replaced by a version much like that which the Senate passed in March of 1994. ♦

NAATRIN Now Open

Continued from page 2

program administrators' expressed need for statewide training, budgetary constraints or conditions that could prevent in-house instruction, and the feasibility of bringing workers together in a cost-effective manner. Chosen states will select their own participants and assume responsibility for room, board, and travel expenses to and from the training site.

It is our hope that NAATRIN will provide important and reliable information to those who need it most—the parents and professionals who work on behalf of waiting children. As the program gets underway, please forward any feedback that will help us meet that goal. In exchange, we plan to keep you informed of our progress, and include periodic subsidy updates in future issues of *Adoptalk*. ♦

WAITING CHILD

Six-year-old **Tecola** was born March 1988. She smiles a lot, is alert and aware of her surroundings, and responds well to those around her. Her caretakers at the group home where she lives are very attached to her. Tecola contracted meningitis at the age of 3 months, and as a result, has many physical and cognitive disabilities. She is profoundly mentally retarded, has visual and auditory problems, takes medication for a seizure disorder, and requires a wheelchair for mobility. She does not speak, but does express herself through vocalizations. At the learning center she attends, Tecola can work on the equipment with a teacher's help, but she faces many obstacles that she cannot overcome on her own. She uses a tube for feeding, but is attempting to learn to eat and drink on her own. Tecola needs a loving and committed single- or two-parent family of her own. To learn more about Tecola, contact Children Awaiting Parents, Inc. (CAP #1-6146) at 700 Exchange St., Rochester, NY 14608; 716-232-5110. ♦



NATIONAL COUNCIL FOR ADOPTION

1994 IN REVIEW

According to its mission statement, "*The National Council For Adoption (NCFA) assures the well-being of adoptable children, birth parents, and adoptive families by promoting professionally sound adoption policy and practice. The goals of the National Council For Adoption (NCFA) are to: promote public adoption policy; inform the public about the need and value of adoption; encourage a high standard of professional ethical adoption practice; and develop a base of support for adoption.*"

Each year the demands to meet these goals increase, and 1994 was no exception. Adoption is in the public eye today more than ever in NCFA's 15-year history, and NCFA has continued to rise to the challenge. Sometimes NCFA experiences minor setbacks (NCFA headquarters had a fire in May which resulted in considerable damage, but staff just coped and kept working). But overall NCFA is making important gains for sound adoption and child welfare policy and practice. Most encouraging is the growth in grassroots activity to support the message and goals of NCFA in defending adoption and those affected by it. The following report, summarizing NCFA's activities for 1994, shows the scope of issues NCFA addresses and the national and international impact of the organization and its members on the field of adoption and child welfare.

INTERNATIONAL ADOPTION

Adoption helps a growing number of children from other countries find families in the U.S. NCFA has been very active in the U.S. and abroad. In the U.S., NCFA worked to change the definition of which children can be adopted by Americans. Overseas, NCFA worked with and visited officials in several countries, especially focused on The Hague Convention on Intercountry Adoption, a treaty that aims to eliminate abuses in and smooth the workings of international adoption. Over a dozen countries, including the U.S., are moving to ratify the Convention.

Since there is no federal office for international adoption, by default NCFA has had to informally fill some of this role. NCFA also works through the International Association of Voluntary Adoption Agencies and NGOs to promote sound adoption policies.

NCFA also worked for a law change to make it easier for Americans living abroad to adopt and naturalize their children.

FEDERAL LEGISLATIVE POLICY

The Multi-Ethnic Placement Act

After 15 years of advocating non-discriminatory practices in adoption, it appeared in early 1994 that federal legislation would, at last, clearly state that the placement of a child for foster care or adoption could not be delayed or denied based on race or ethnicity. NCFA worked closely with Sen. Howard Metzenbaum (D-OH) for several years on legislation.

Transracial adoption opponents mounted a campaign to limit the bill Sen. Metzenbaum introduced by creating loopholes to prevent appropriate transracial placements. Sen. Metzenbaum withstood the pressure and pushed a bill that protected children through the Senate in March.

In September the Clinton Administration weighed in with numerous amendments which would allow discrimination in some instances. After years of work, NCFA had to oppose the Multi-Ethnic Placement Act because it did not provide sufficient protection for children trapped in the foster care system because of the inability to find matching race families.

Pro-Adoption Legislation Saved

In 1981, NCFA was among a handful of organizations which advocated for the passage of the Adolescent Family Life Act (AFLA). AFLA is a federal program to provide funding for teen pregnancy prevention and services to pregnant and parenting teens and their families. Grantees are required to promote adoption as a positive option.

President Clinton proposed to kill AFLA by shifting the funding to a new Adolescent Health Office to address teen violence. *The Washington Times*, alerted by a letter to the editor from NCFA, began a series of reports and members of Congress responded by saving the program.

VOTE "NO" ON THE MCCAIN ADOPTION AMENDMENT

Everyone agrees that there should not be discrimination in adoption. Title VI of the Civil Rights Act and the Multiethnic Placement Act, enacted last year with Sen. Metzenbaum's leadership, already prohibit discrimination on the basis of race, color or national origin in the placement of children for adoption, although they allow, as non-discrimination, the ephemeral consideration of race as one of several factors in making an adoptive placement as long as it does not delay the placement. The McCain Amendment is capable of being read as consistent with these laws, although Sen. McCain appears to intend it to modify those rules to prohibit any consideration of race, under any circumstances, in the adoption of children.

- **Many of the state adoption policies that Sen. McCain is concerned about are violations of the Multiethnic Placement Act.** An estimated 30 states already have been notified by HHS that their written policies are not in compliance with the Act and have been offered technical assistance to come into compliance. Policies and practices that are clearly illegal and will no longer be allowed under the Act include, but are not limited to, those that:

- 1) establish time periods during which only a same race/ethnicity placement search will occur;
- 2) establish orders of placement preferences based on race, culture or ethnicity;
- 3) require caseworkers to specially justify transracial placements; or
- 4) otherwise have the effect of delaying placements, either before or after termination of parental rights, in order to find a family of a particular race, culture or ethnicity.

The Department of Health and Human Services (HHS) is committed to aggressively enforcing the Multiethnic Placement Act. That Act's non-discrimination and recruitment provisions should increase the number of children who are adopted. HHS issued guidance for the Act on April 20, 1995, and is currently reviewing agency policies and practices regarding adoption and foster care placements in all states.

- **The McCain language might prohibit inquiries in an individual case to help ensure that an adoption placement is in a child's best interest.** In addition to prohibiting discriminatory policies, the Multiethnic Placement Act recognizes the relevance of race and ethnicity to a child's best interest in individual cases, and allows, but does not require, agencies to consider the child's cultural, ethnic, and racial background and the capacity of the prospective adoptive parents to meet the needs of a child of this background as one of a number of factors in assessing the appropriateness of a particular placement to a child's best interest. Such an inquiry, although not mandatory, can help the prospective adoptive family, whether or not of the same race or ethnicity as the child, to assess its ability to meet the child's needs. Most experts agree that this level of inquiry, which will not delay a placement, is appropriate.

- **The McCain Amendment has not had a hearing before or been acted upon by the Senate Finance Committee.** The McCain Amendment, although referred to the Finance Committee in March, was not considered by the Finance Committee or included in its version of the welfare bill. It certainly should not move forward without hearings on the issue, especially given the fact that the penalty for noncompliance is the loss of a state's funding for the federal foster care, adoption assistance, and independent living programs authorized under Title IV-E of the Social Security Act (all within the Finance Committee's jurisdiction).

- **The McCain Amendment seems inconsistent with Sen. McCain's earlier work to protect minority children.** Sen. McCain has been a longstanding supporter of the Indian Child Welfare Act which recognizes the importance of race and ethnicity for Native American children, and is exempted from the provisions of the McCain Amendment. Race and ethnicity similarly have relevance to the best interests of other minority children.

Since the mid-1970's, there have been very few interracial adoptions. For example, African-American children who constitute about 14 percent of the child population currently comprise over 40 percent of the 100,000 children waiting in foster care. This is despite 20 years of Federal efforts to recruit African-American adoptive families and substantial efforts by the African-American community. As stated by Harvard Law Prof. Randall Kennedy concerning the situation in Massachusetts, "Even if you do a super job of recruiting, in a State where only 5 percent of the population is black and nearly half the kids in need of homes are black, you are going to have a problem."

The bottom line is that African-American children wait twice as long as other children to be adopted. Our discriminatory adoption policies discouraging interracial adoptions are hurting these children, and this is entirely unacceptable.

Last year, Senator METZENBAUM attempted to remedy this problem by introducing the Multi-Cultural Placement Act of 1994. That bill was conceived and introduced with the best of intentions. Its stated purpose was to promote the best interests of children by decreasing the time that they wait to be adopted, preventing discrimination in their placement on the basis of race, color, or national origin, and facilitating the identification and recruitment of foster and adoptive families that can meet children's needs.

Unfortunately, the Metzenbaum bill was weakened throughout the legislative process and eviscerated by the Clinton administration Department and HHS in conference. After the original bill was hijacked, a letter was sent from over 50 of the most prominent law professors in the country, including Randall Kennedy, imploring Congress to reject the bill. They warned that it "would give congressional backing to practices that have the effect of condemning large numbers of children—particularly children of color—to unnecessarily long stays in institutions or foster care." Their admonition was not heeded, and the bill was passed as part of the Goals 200 legislation last year.

As Senator METZENBAUM concluded, "HHS intervened and did the bill great harm." The legislation that was finally signed by the President does precisely the opposite of what was originally intended. It allows race to continue to be used as a major consideration and effectively reinforces the current practice of racial matching. Consequently, adoption agencies receiving Federal funds continue to discourage interracial adoptions, increasing the time children must wait to be adopted and permitting discrimination in the adoption process. I am informed that 43 States have laws that in some way keep children in foster care due to race.

The bill that I am introducing today repeals the Metzenbaum law and re-

places it with a clear unambiguous requirement that adoption agencies which receive Federal funds may not discriminate on the basis of race, color, or national origin. By far the most important consideration concerning adoptions must be that children are placed without delay in homes with loving parents, irrespective of their particular racial or ethnic characteristics. This overriding goal must take precedence over any unproven social theories or notions of political correctness.

Mr. President, if we owe children without families anything, we owe them the right to be adopted by families that want them without being impeded by our social prejudices and preconceptions. Denying adoption on the basis of race is no less discrimination than denying employment on the basis of race. And the consequences are certainly no less severe. Let us, finally get beyond race and allow people who need each other—children and families—to get together.

Mr. President, I request unanimous consent that the text of the bill, and a letter of support from the National Council for Adoption, be included in the RECORD. As a result of the efforts of Congressman BUNNING, similar legislative language has been incorporated into the Personal Responsibility Act, H.R. 4.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 637

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE

This Act may be cited as the "Adoption Antidiscrimination Act of 1995".

SEC. 2. FINDINGS AND PURPOSE

(a) FINDINGS.—Congress finds that—
(1) nearly 500,000 children are in foster care in the United States;
(2) tens of thousands of children in foster care are waiting for adoption;
(3) 2 years and 8 months is the median length of time that children wait to be adopted, and minority children often wait twice as long as other children to be adopted; and
(4) child welfare agencies should work to eliminate racial, ethnic, and national origin discrimination and bias in adoption and foster care recruitment, selection, and placement procedures.

(b) PURPOSE.—The purpose of this Act is to promote the best interests of children by—
(1) decreasing the length of time that children wait to be adopted; and
(2) preventing discrimination in the placement of children on the basis of race, color, or national origin.

SEC. 3. REMOVAL OF BARRIERS TO INTERRACIAL AND INTERETHNIC ADOPTIONS.

(a) PROHIBITION.—A State or other entity that receives funds from the Federal Government and is involved in adoption or foster care placements may not—
(1) deny to any person the opportunity to become an adoptive or a foster parent, on the basis of the race, color, or national origin of the person, or of the child, involved; or
(2) delay or deny the placement of a child for adoption or into foster care, or otherwise discriminate in making a placement decision, on the basis of the race, color, or na-

tional origin of the adoptive or foster parent, or the child, involved.

(b) PENALTIES.—

(1) STATE VIOLATORS.—A State that violates subsection (a) shall remit to the Secretary of Health and Human Services all funds that were paid to the State under part E of title IV of the Social Security Act (42 U.S.C. 670 et seq.) (relating to foster care and adoption assistance) during the period of the violation.

(2) PRIVATE VIOLATORS.—Any other entity that violates subsection (a) shall remit to the Secretary of Health and Human Services all funds that were paid to the entity during the period of the violation by a State from funds provided under part E of title IV of the Social Security Act.

(c) PRIVATE CAUSE OF ACTION.—

(1) IN GENERAL.—Any individual or class of individuals aggrieved by a violation of subsection (a) by a State or other entity may bring an action seeking relief in any United States district court or State court of appropriate jurisdiction.

(2) STATUTE OF LIMITATIONS.—An action under this subsection may not be brought more than 2 years after the date the alleged violation occurred.

(d) ATTORNEY'S FEES.—In any action or proceeding under this Act, the court, in the discretion of the court, may allow the prevailing party, other than the United States, a reasonable attorney's fee, including litigation expenses and costs, and the States and the United States shall be liable for the fee to the same extent as a private individual.

(e) STATE IMMUNITY.—A State shall not be immune under the 11th amendment to the Constitution from an action in Federal or State court of appropriate jurisdiction for a violation of this Act.

(f) NO EFFECT ON INDIAN CHILD WELFARE ACT OF 1978.—Nothing in this Act shall be construed to affect the application of the Indian Child Welfare Act of 1978 (25 U.S.C. 1901 et seq.).

SEC. 4. REPEAL

Subpart 1 of part E of title V of the Improving America's Schools Act of 1994 (42 U.S.C. 5115a) is amended—

(1) by repealing sections 551 through 553; and
(2) by redesignating section 554 as section 551.

SEC. 5. EFFECTIVE DATE

This Act, and the amendments made by this Act, shall take effect 90 days after the date of enactment of this Act.

NATIONAL COUNCIL FOR ADOPTION,

Washington, DC, March 23, 1995.

Hon. JOHN MCCAIN,

U.S. Senate, Russell Senate Office Building, Washington, DC.

DEAR SENATOR MCCAIN: The National Council For Adoption is very supportive of your proposed legislation to end racism in our child welfare system. The research on transracial adoptions shows that:

Children of color wait twice as long as white children for permanent loving homes simply because of the color of their skin.

While African-Americans make up to 12-14 percent of the population an overwhelming 40 percent of the estimated 100,000 children waiting for homes are black. The numbers don't match.

Children of color raised in white homes are not "lost" to their ethnic heritage, they do well academically, feel good about themselves and become productive citizens.

The Multi-Ethnic Placement Act of 1994 ought to be repealed as the legislative language and its purposes were hopelessly hijacked by amendments insisted upon by the Administration.

We applaud your interest and your proposed legislation which is aimed at reducing the time children of color spend without homes. We stand ready to work closely with you to ensure timely passage.

Sincerely,

CAROL STATUTO BEVAN, Ed.D.,

Vice President for
Research and Public Policy.

By Mr. MURKOWSKI (by request):

S. 638. A bill to authorize appropriations for United States insular areas, and for other purposes; to the Committee on Energy and Natural Resources.

THE INSULAR DEVELOPMENT ACT

• Mr. MURKOWSKI. Mr. President. At the request of the administration, I am today introducing legislation "to authorize appropriations for United States insular areas, and for other purposes". The legislation was transmitted by the Assistant Secretary of the Interior for Territorial and International Affairs to implement the funding recommendations contained in the President's proposed budget for fiscal year 1996. The legislation, if enacted, would replace the current annual guaranteed funding for the Commonwealth of the Northern Mariana Islands with a new program. The new program would complete the infrastructure funding contemplated under the agreement negotiated by the administration with the Commonwealth and redirect the balance of the funds to other territorial needs.

For the current fiscal year, Congress redirected a portion of the Commonwealth funding to support of efforts by the Departments of Justice, Labor, and the Treasury to work with the Commonwealth government to address a variety of concerns that have arisen in the Commonwealth. A report on that effort is due from the Department of the Interior shortly, and we will want to consider the findings and recommendations in that report to determine whether some of these funds might be better spent in support of those activities. I am also concerned with that provision of the proposed legislation that would provide operational grants to Guam and the Commonwealth for compact impact assistance. I do not have any particular objections to providing that assistance if it is justified, if the budget limitations allow funding, and if that assistance is a higher priority than other needs. My concern is providing that assistance through an entitlement rather than through discretionary appropriations. The central objective of the current 7 year agreement with the Commonwealth is to eliminate operational assistance and focus on necessary infrastructure needs. Replacing one type of operational assistance with another seems to me to be a step back.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 638

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the Insular Development Act of 1995.

SEC. 2. NORTHERN MARIANA ISLANDS.

There is authorized to be appropriated to the Secretary of the Interior for the Commonwealth of the Northern Mariana Islands \$6,140,000, backed by the full faith and credit of the United States, for each of fiscal years 1996 through 2001, for capital improvement projects in the environmental, health, and public safety areas, administration and enforcement of immigration and labor laws, and contribution toward costs of the compacts of free association (for the same duration and purposes as are applied to Guam in Public Law 99-239 as amended by section 3 of this Act).

SEC. 3. IMPACT OF THE COMPACT.

(a) Paragraph (6) of subsection (e) of section 104 of Public Law 99-239 (99 Stat. 1770, 48 U.S.C. 1681 note), is amended by striking everything after the word "after" and inserting in lieu thereof the following language: "September 30, 1995 and ending September 30, 2001, \$4,580,000 annually, backed by the full faith and credit of the United States, for Guam, as a contribution toward costs that result from increased demands for education and social program benefits by immigrants from the Marshall Islands, the Federated States of Micronesia, and Palau."

SEC. 4. CAPITAL INFRASTRUCTURE.

There is authorized to be appropriated to the Secretary of the Interior \$17,000,000 for each fiscal year beginning after September 30, 1995 and ending September 30, 2001, backed by the full faith and credit of the United States, for grants for capital infrastructure construction in American Samoa, Guam, and the United States Virgin Islands. *Provided*, That the annual grant to American Samoa shall not exceed \$15,000,000 and the annual grants for Guam and the United States Virgin Islands shall not exceed \$3,000,000 each.

SEC. 5. CAPITAL INFRASTRUCTURE FUNDING REQUIREMENTS.

(a) No funds shall be granted under this Act for capital improvement projects without the submission by the respective government of a master plan of capital needs that (1) ranks proposed projects in order of priority, and (2) has been reviewed and approved by the Department of the Interior and the United States Army Corps of Engineers. The insular areas' individual master plans, with comments, shall be presented in the Department of the Interior's annual report on the State of the Islands, and shall be the basis for any requests for capital improvement funding through the Department of the Interior or the Congress.

(b) Each grant by the Department of the Interior shall include a five percent payment into a trust fund, to be administered by the Governor (as trustee) of the territory in which the project is located, solely for the maintenance of such project. No funds shall be paid pursuant to a grant under subsection (a) of this section without the prior appropriation and payment by the respective territorial government to the trustee, of an amount equal to the federal contribution for maintenance of the project. A maintenance plan covering the anticipated life of each project shall be adopted by the Governor of the respective insular area and approved by the Department of the Interior before any grant payment for construction is released by the Department of the Interior.

(c) The capital infrastructure funding authorized under this Act is authorized to be

extended for an additional three-year phase-out period: *Provided*, That each grant during the additional period contains a dollar sharing by each grantee and the grantor in the following ratios: twenty-five/seventy-five percent for the first year, fifty/fifty percent for the second year, seventy-five/twenty-five percent for the third year; *Provided further*, That funding for capital infrastructure for the Commonwealth of the Northern Mariana Islands shall not exceed \$3,000,000 annually during the period of such extension.

SEC. 6. REPEAL.

Effective after September 30, 1995, no additional funds shall be made available under subsection (b) of section 4 of Public Law 94-241 (90 Stat. 263, 48 U.S.C. 1681 note), and such subsection is repealed.

SECTION-BY-SECTION ANALYSIS

Section 1 states the short title of the Act to be the "Insular Development Act of 1995."

Section 2 authorizes a full faith and credit appropriation in an annual amount of \$6.14 million for fiscal years 1996 through 2001 to the Secretary of the Interior for Commonwealth of the Northern Mariana Islands (CNMI) devoted to the following purposes: (1) capital improvement projects in environmental, health, and public safety areas, (2) administration and enforcement of immigration and labor laws, and (3) contribution toward costs of the compacts of free association incurred by the CNMI.

Section 3 amends the law authorizing payments to United States Pacific jurisdictions for costs associated with the compacts of free association to provide a specific \$4.58 million annual full faith and credit payment to Guam as a contribution toward such costs incurred by Guam.

Section 4 authorizes a full faith and credit appropriation in the annual amount of \$17 million for fiscal years 1996 through 2001 to the Secretary of the Interior for capital infrastructure construction in American Samoa, Guam, and the Virgin Islands. The insular area with the greatest need, American Samoa, would receive annual grants of between \$11 million and \$15 million; Guam and the Virgin Islands would each receive annual grants of up to \$3 million.

Section 5(a) provides that capital infrastructure funds granted under sections 2, 4, and 5 of the bill would be subject to master plans developed by the respective government that rank projects in priority order. The plans would be subject to review and approval by the Department of the Interior and United States Army Corps of Engineers.

Section 5(b) provides that five percent of each Interior grant for capital infrastructure and a matching amount by the respective insular government be paid into trust funds solely for expenditure on maintenance of each project, according to a maintenance plan approved by Interior. The respective insular governor would be the trustee.

Section 5(c) provides for extension of only the capital infrastructure program, authorized in section 4, for an additional three-year phase-out period. The federal share of construction grants would decrease to seventy-five percent in the first year, fifty percent in the second year, and twenty-five percent in the third year, before termination of the program.

Section 6, repeals subsection (b) of section 4 of Public Law 94-241 (which mandates continuing payments of \$27.7 million to the Commonwealth of the Northern Mariana Islands until otherwise provided by law). The provision explicitly states that no additional funds shall be made available under this subsection of the 1976 law after fiscal year 1995.

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March 28, 1995

CONGRESSIONAL RECORD—SENATE

S 4725

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. FINDINGS AND PURPOSE.

(a) **FINDINGS.**—Congress finds that—

(1) the Secretary of Agriculture (referred to in this Act as the "Secretary") administers the 191,000,000-acre National Forest System for multiple uses in accordance with Federal law;

(2) where suitable, 1 of the recognized multiple uses for National Forest System land is grazing by livestock;

(3) the Secretary authorizes grazing through the issuance of term grazing permits that have terms of not to exceed 10 years and that include terms and conditions necessary for the proper administration of National Forest System land and resources;

(4) as of the date of enactment of this Act, the Secretary has issued approximately 9,000 term grazing permits authorizing grazing on approximately 90,000,000 acres of National Forest System land;

(5) of the approximately 9,000 term grazing permits issued by the Secretary, approximately one half have expired or will expire by the end of 1996;

(6) if the holder of an expiring term grazing permit has complied with the terms and conditions of the permit and remains eligible and qualified, that individual is considered to be a preferred applicant for a new term grazing permit in the event that the Secretary determines that grazing remains an appropriate use of the affected National Forest System land;

(7) in addition to the approximately 9,000 term grazing permits issued by the Secretary, it is estimated that as many as 1,000 term grazing permits may be waived by permit holders to the Secretary in favor of a purchaser of the permit holder's permitted livestock or base property by the end of 1996;

(8) to issue new term grazing permits, the Secretary must comply with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) and other laws;

(9) for a large percentage of the grazing permits that will expire or be waived to the Secretary by the end of 1996, the Secretary has devised a strategy that will result in compliance with the National Environmental Policy Act of 1969 and other applicable laws (including regulations) in a timely and efficient manner and enable the Secretary to issue new term grazing permits, where appropriate;

(10) for a small percentage of the grazing permits that will expire or be waived to the Secretary by the end of 1996, the strategy will not provide for the timely issuance of new term grazing permits; and

(11) in cases in which ranching operations involve the use of a term grazing permit issued by the Secretary, it is essential for new term grazing permits to be issued in a timely manner for financial and other reasons.

(b) **PURPOSE.**—The purpose of this Act is to ensure that grazing continues without interruption on National Forest System land in a manner that provides long-term protection of the environment and improvement of National Forest System rangeland resources while also providing short-term certainty to holders of expiring term grazing permits and purchasers of a permit holder's permitted livestock or base property.

SECTION 2. DEFINITIONS.

(a) **THIS ACT.**

(b) **EXPIRING TERM GRAZING PERMIT.**—The term "expiring term grazing permit" means a term grazing permit—

(1) that expires in 1995 or 1996; or

(2) that expired in 1994 and was not replaced with a new term grazing permit solely

because the analysis required by the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) and other applicable laws has not been completed.

(c) **FINAL AGENCY ACTION.**—The term "final agency action" means agency action with respect to which all available administrative remedies have been exhausted.

(d) **TERM GRAZING PERMIT.**—The term "term grazing permit" means a term grazing permit or grazing agreement issued by the Secretary under section 402 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1752), section 19 of the Act entitled "An Act to facilitate and simplify the work of the Forest Service, and for other purposes", approved April 24, 1906 (commonly known as the "Granger-Thye Act") (16 U.S.C. 580), or other law.

SECTION 3. ISSUANCE OF NEW TERM GRAZING PERMITS.

(a) **IN GENERAL.**—Notwithstanding any other law, the Secretary shall issue a new term grazing permit without regard to whether the analysis required by the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) and other applicable laws has been completed, or final agency action respecting the analysis has been taken—

(1) to the holder of an expiring term grazing permit; or

(2) to the purchaser of a term grazing permit holder's permitted livestock or base property if—

(A) between January 1, 1996, and December 1, 1996, the holder has waived the term grazing permit to the Secretary pursuant to section 222.3(c)(1)(iv) of title 36, Code of Federal Regulations; and

(B) the purchaser of the term grazing permit holder's permitted livestock or base property is eligible and qualified to hold a term grazing permit.

(b) **TERMS AND CONDITIONS.**—Except as provided in subsection (c)—

(1) a new term grazing permit under subsection (a)(1) shall contain the same terms and conditions as the expired term grazing permit; and

(2) a new term grazing permit under subsection (a)(2) shall contain the same terms and conditions as the waived permit.

(c) **DURATION.**—

(1) **IN GENERAL.**—A new term grazing permit under subsection (a) shall expire on the earlier of—

(A) the date that is 3 years after the date on which it is issued; or

(B) the date on which final agency action is taken with respect to the analysis required by the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) and other applicable laws.

(2) **FINAL ACTION IN LESS THAN 3 YEARS.**—If final agency action is taken with respect to the analysis required by the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) and other applicable laws before the date that is 3 years after the date on which a new term grazing permit is issued under subsection (a), the Secretary shall—

(A) cancel the new term grazing permit; and

(B) if appropriate, issue a term grazing permit for a term not to exceed 10 years under terms and conditions as are necessary for the proper administration of National Forest System rangeland resources.

(d) **DATE OF ISSUANCE.**—

(1) **EXPIRATION ON OR BEFORE DATE OF ENACTMENT.**—In the case of an expiring term grazing permit that has expired on or before the date of enactment of this Act, the Secretary shall issue a new term grazing permit under subsection (a)(1) not later than 15 days after the date of enactment of this Act.

(2) **EXPIRATION AFTER DATE OF ENACTMENT.**—In the case of an expiring term grazing

permit that expires after the date of enactment of this Act, the Secretary shall issue a new term grazing permit under subsection (a)(1) on expiration of the expiring term grazing permit.

(3) **WAIVED PERMITS.**—In the case of a term grazing permit waived to the Secretary pursuant to section 222.3(c)(1)(iv) of title 36, Code of Federal Regulations, between January 1, 1996, and December 31, 1996, the Secretary shall issue a new term grazing permit under subsection (a)(2) not later than 60 days after the date on which the holder waives a term grazing permit to the Secretary.

SECTION 4. ADMINISTRATIVE APPEAL AND JUDICIAL REVIEW.

The issuance of a new term grazing permit under section 3(a) shall not be subject to administrative appeal or judicial review.

SECTION 5. REPEAL.

This Act is repealed effective as of January 1, 2001.

By Mr. McCAIN:

S. 837. A bill to remove barriers to interracial and interethnic adoptions, and for other purposes; to the Committee on Finance.

THE ADOPTION ANTIDISCRIMINATION ACT OF 1994
* Mr. McCAIN. Mr. President, I am pleased to introduce the Adoption Antidiscrimination Act of 1994, a bill that will prevent discrimination on the basis of race, color, or national origin in the placement of children with adoptive families.

There are few situations in this world more tragic than a child without a family. Such children do not have the basic security of parents and a permanent home environment that most of us take for granted, and that is so important to social development. Consequently, there is little that a society could do that is more cruel to a child than to deny or delay his or her adoption by a loving family, particularly if the reason for the denial or delay is that the child and family are of different races. Yet, this is precisely what our public policy does.

In the late 1960's and early 1970's, over 10,000 children were adopted by families of a different race. This was before many adoption officials decided, without any empirical evidence, that it is essential for children to be matched with families of the same race, even if they have to wait for long periods for such a family to come along. The forces of political correctness declared interracial adoptions the equivalent of cultural genocide. This was, and continues to be, nonsense.

Sound social science research has found that interracial adoptions do not hurt the children or deprive them of their culture. According to Dr. Howard Alstein, who has studied 204 interracial adoptions since 1972, "We categorically have not found that white parents cannot prepare black kids culturally." He further concluded that "there are bumps along the way, but the transracial adoptees in our study are not angry, racially confused people" and that "They're happy and content adults."

March 28, 1995

Since the mid-1970's, there have been very few interracial adoptions. For example, African-American children who constitute about 14 percent of the child population currently comprise over 40 percent of the 100,000 children waiting in foster care. This is despite 20 years of Federal efforts to recruit African-American adoptive families and substantial efforts by the African-American community. As stated by Harvard Law Prof. Randall Kennedy concerning the situation in Massachusetts, "Even if you do a super job of recruiting, in a State where only 5 percent of the population is black and nearly half the kids in need of homes are black, you are going to have a problem."

The bottom line is that African-American children wait twice as long as other children to be adopted. Our discriminatory adoption policies discouraging interracial adoptions are hurting these children, and this is entirely unacceptable.

Last year, Senator METZENBAUM attempted to remedy this problem by introducing the Multi-Cultural Placement Act of 1994. That bill was conceived and introduced with the best of intentions. Its stated purpose was to promote the best interests of children by decreasing the time that they wait to be adopted, preventing discrimination in their placement on the basis of race, color, or national origin, and facilitating the identification and recruitment of foster and adoptive families that can meet children's needs.

Unfortunately, the Metzenbaum bill was weakened throughout the legislative process and eviscerated by the Clinton administration Department and HHS in conference. After the original bill was hijacked, a letter was sent from over 50 of the most prominent law professors in the country, including Randall Kennedy, imploring Congress to reject the bill. They warned that it "would give congressional backing to practices that have the effect of condemning large numbers of children—particularly children of color—to unnecessarily long stays in institutions or foster care." Their admonition was not heeded, and the bill was passed as part of the Goals 200 legislation last year.

As Senator METZENBAUM concluded, "HHS intervened and did the bill great harm." The legislation that was finally signed by the President does precisely the opposite of what was originally intended. It allows race to continue to be used as a major consideration and effectively reinforces the current practice of racial matching. Consequently, adoption agencies receiving Federal funds continue to discourage interracial adoptions, increasing the time children must wait to be adopted and permitting discrimination in the adoption process. I am informed that 43 States have laws that in some way keep children in foster care due to race.

The bill that I am introducing today repeals the Metzenbaum law and re-

places it with a clear unambiguous requirement that adoption agencies which receive Federal funds may not discriminate on the basis of race, color, or national origin. By far the most important consideration concerning adoptions must be that children are placed without delay in homes with loving parents, irrespective of their particular racial or ethnic characteristics. This racial or ethnic goal must take precedence over any unproven social theories or notions of political correctness.

Mr. President, if we owe children without families anything, we owe them the right to be adopted by families that want them without being misled by our social prejudices and preceptions. Denying adoption on the basis of race is no less discrimination than denying employment on the basis of race. And the consequences are certainly no less severe. Let us, finally get beyond race and allow people who need each other—children and families—to get together.

Mr. President, I request unanimous consent that the text of the bill, and a letter of support from the National Council for Adoption, be included in the RECORD. As a result of the efforts of Congressman BURNING, similar legislative language has been incorporated into the Personal Responsibility Act, H.R. 4.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 637

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE

This Act may be cited as the "Adoption Antidiscrimination Act of 1995".

SEC. 2. FINDINGS AND PURPOSE

(a) FINDINGS.—Congress finds that—

- (1) nearly 500,000 children are in foster care in the United States;
- (2) tens of thousands of children in foster care are waiting for adoption;
- (3) 2 years and 6 months is the median length of time that children wait to be adopted, and minority children often wait twice as long as other children to be adopted; and
- (4) child welfare agencies should work to eliminate racial, ethnic, and national origin discrimination and bias in adoption and foster care recruitment, selection, and placement procedures.

(b) PURPOSE.—The purpose of this Act is to promote the best interests of children by—

- (1) decreasing the length of time that children wait to be adopted; and
- (2) preventing discrimination in the placement of children on the basis of race, color, or national origin.

SEC. 3. REMOVAL OF BARRIERS TO INTERRACIAL AND INTERETHNIC ADOPTIONS

(a) PROMOTION.—A State or other entity that receives funds from the Federal Government and is involved in adoption or foster care placements may not—

- (1) deny to any person the opportunity to become an adoptive or a foster parent, on the basis of the race, color, or national origin of the person, or of the child, involved; or
- (2) delay or deny the placement of a child for adoption or into foster care, or otherwise discriminate in making a placement decision, on the basis of the race, color, or na-

tional origin of the adoptive or foster parent, or the child, involved.

(b) PENALTIES.—

(1) STATE VIOLATORS.—A State that violates subsection (a) shall remit to the Secretary of Health and Human Services all funds that were paid to the State under part E of title IV of the Social Security Act (42 U.S.C. 670 et seq.) (relating to foster care and adoption assistance) during the period of the violation.

(2) PRIVATE VIOLATORS.—Any other entity that violates subsection (a) shall remit to the Secretary of Health and Human Services all funds that were paid to the entity during the period of the violation by a State from funds provided under part E of title IV of the Social Security Act.

(c) PRIVATE CAUSE OF ACTION.—

(1) IN GENERAL.—Any individual or class of individuals aggrieved by a violation of subsection (a) by a State or other entity may bring an action seeking relief in any United States district court or State court of appropriate jurisdiction.

(2) STATUTE OF LIMITATIONS.—An action under this subsection may not be brought more than 2 years after the date the alleged violation occurred.

(d) ATTORNEY'S FEES.—In any action or proceeding under this Act, the court, in the discretion of the court, may allow the prevailing party, other than the United States, a reasonable attorney's fee, including litigation expenses and costs, and the States and the United States shall be liable for the fee to the same extent as a private individual.

(e) STATE IMMUNITY.—A State shall not be immune under the 11th amendment to the Constitution from an action in Federal or State court of appropriate jurisdiction for a violation of this Act.

(f) NO EFFECT ON INDIAN CHILD WELFARE ACT OF 1978.—Nothing in this Act shall be construed to affect the application of the Indian Child Welfare Act of 1978 (25 U.S.C. 1901 et seq.).

SEC. 4. REPEAL

Subpart 1 of part E of title V of the Improving America's Schools Act of 1994 (42 U.S.C. 5115a) is amended—

- (1) by repealing sections 551 through 553; and
- (2) by redesignating section 554 as section 551.

SEC. 5. EFFECTIVE DATE

This Act, and the amendments made by this Act, shall take effect 90 days after the date of enactment of this Act.

NATIONAL COUNCIL FOR ADOPTION,
Washington, DC, March 23, 1995.

Hon. JOHN MCCAIN,
U.S. Senate, Russell Senate Office Building,
Washington, DC.

DEAR SENATOR MCCAIN: The National Council for Adoption is very supportive of your proposed legislation to end racism in our child welfare system. The research on transracial adoptions shows that:

Children of color wait twice as long as white children for permanent loving homes simply because of the color of their skin.

While African-Americans make up to 12-14 percent of the population an overwhelming 40 percent of the estimated 100,000 children waiting for homes are black. The numbers don't match.

Children of color raised in white homes are not "lost" to their ethnic heritage, they do well academically, feel good about themselves and become productive citizens.

The Multi-Ethnic Placement Act of 1994 ought to be repealed as the legislative language and its purposes were hopelessly hijacked by amendments insisted upon by the Administration.

March 28, 1995

CONGRESSIONAL RECORD — SENATE

S 4727

We applaud your interest and your proposed legislation which is aimed at reducing the time children of color spend without homes. We stand ready to work closely with you to ensure timely passage.

Sincerely,

CAROL STUTTO BEVAN, Ed.D.

Vice President for
Research and Public Policy.

By Mr. MURKOWSKI (by request):

S. 638. A bill to authorize appropriations for United States insular areas, and for other purposes; to the Committee on Energy and Natural Resources.

THE INSULAR DEVELOPMENT ACT

• Mr. MURKOWSKI. Mr. President. At the request of the administration, I am today introducing legislation "to authorize appropriations for United States insular areas, and for other purposes". The legislation was transmitted by the Assistant Secretary of the Interior for Territorial and International Affairs to implement the funding recommendations contained in the President's proposed budget for fiscal year 1996. The legislation, if enacted, would replace the current annual guaranteed funding for the Commonwealth of the Northern Mariana Islands with a new program. The new program would complete the infrastructure funding contemplated under the agreement negotiated by the administration with the Commonwealth and redirect the balance of the funds to other territorial needs.

For the current fiscal year, Congress redirected a portion of the Commonwealth funding to support of efforts by the Departments of Justice, Labor, and the Treasury to work with the Commonwealth government to address a variety of concerns that have arisen in the Commonwealth. A report on that effort is due from the Department of the Interior shortly, and we will want to consider the findings and recommendations in that report to determine whether some of these funds might be better spent in support of those activities. I am also concerned with that provision of the proposed legislation that would provide operational grants to Guam and the Commonwealth for compact impact assistance. I do not have any particular objections to providing that assistance if it is justified, if the budget limitations allow, and if that assistance is a higher priority than other needs. My concern is providing that assistance through an entitlement rather than through discretionary appropriations. A central objective of the current 7-year agreement with the Commonwealth is to eliminate operational assistance and focus on necessary infrastructure needs. Replacing one type of operational assistance with another would be a step back.

Being no objection, the matter is ordered to be printed in the Record as follows:

S. 638

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the Insular Development Act of 1995.

SEC. 2. NORTHERN MARIANA ISLANDS.

There is authorized to be appropriated to the Secretary of the Interior for the Commonwealth of the Northern Mariana Islands \$1,140,000, backed by the full faith and credit of the United States, for each of fiscal years 1996 through 2001, for capital improvement projects in the environmental, health, and public safety areas, administration and enforcement of immigration and labor laws, and contribution toward costs of the compact of free association (for the same duration and purposes as are applied to Guam in Public Law 99-229 as amended by section 3 of this Act).

SEC. 3. IMPACT OF THE COMPACT.

(a) Paragraph (6) of subsection (e) of section 104 of Public Law 99-229 (99 Stat. 1770, 48 U.S.C. 1681 note), is amended by striking everything after the word "after" and inserting in lieu thereof the following language: "September 30, 1995 and ending September 30, 2001, \$4,680,000 annually, backed by the full faith and credit of the United States, for Guam, as a contribution toward costs that result from increased demands for education and social program benefits by immigrants from the Marshall Islands, the Federated States of Micronesia, and Palau."

SEC. 4. CAPITAL INFRASTRUCTURE.

There is authorized to be appropriated to the Secretary of the Interior \$17,000,000 for each fiscal year beginning after September 30, 1995 and ending September 30, 2001, backed by the full faith and credit of the United States, for grants for capital infrastructure construction in American Samoa, Guam, and the United States Virgin Islands. Provided, That the annual grant to American Samoa shall not exceed \$15,000,000 and the annual grants for Guam and the United States Virgin Islands shall not exceed \$3,000,000 each.

SEC. 5. CAPITAL INFRASTRUCTURE FUNDING REQUIREMENTS.

(a) No funds shall be granted under this Act for capital improvement projects without the submission by the respective government of a master plan of capital needs that (1) ranks proposed projects in order of priority, and (2) has been reviewed and approved by the Department of the Interior and the United States Army Corps of Engineers. The insular areas' individual master plans, with comments, shall be presented in the Department of the Interior's annual report on the State of the Islands, and shall be the basis for any requests for capital improvement funding through the Department of the Interior of the Congress.

(b) Each grant by the Department of the Interior shall include a five percent payment into a trust fund, to be administered by the Governor (as trustee) of the territory in which the project is located, solely for the maintenance of such project. No funds shall be paid pursuant to a grant under subsection (a) of this section without the prior appropriation and payment by the respective territorial government to the trustee, of an amount equal to the federal contribution for maintenance of the project. A maintenance plan covering the anticipated life of each project shall be adopted by the Governor of the respective insular area and approved by the Department of the Interior before any grant payment for construction is released by the Department of the Interior.

(c) The capital infrastructure funding authorized under this Act is authorized to be

extended for an additional three-year phase-out period: Provided, That each grant during the additional period contains a dollar sharing by each grantee and the grantor in the following ratios: twenty-five/seventy-five percent for the first year, fifty/fifty percent for the second year, seventy-five/twenty-five percent for the third year; Provided further, That funding for capital infrastructure for the Commonwealth of the Northern Mariana Islands shall not exceed \$3,000,000 annually during the period of such extension.

SEC. 6. REPEAL.

Effective after September 30, 1995, no additional funds shall be made available under subsection (b) of section 4 of Public Law 94-241 (90 Stat. 263, 48 U.S.C. 1681 note), and such subsection is repealed.

SECTION-BY-SECTION ANALYSIS

Section 1 states the short title of the Act to be the "Insular Development Act of 1995."

Section 2 authorizes a full faith and credit appropriation in an annual amount of \$1,140 million for fiscal years 1996 through 2001 to the Secretary of the Interior for Commonwealth of the Northern Mariana Islands (CNMI) devoted to the following purposes: (1) capital improvement projects in environmental, health, and public safety areas, (2) administration and enforcement of immigration and labor laws, and (3) contribution toward costs of the compact of free association incurred by the CNMI.

Section 3 amends the law authorizing payments to United States Pacific jurisdictions for costs associated with the compact of free association to provide a specific \$4.68 million annual full faith and credit payment to Guam as a contribution toward such costs incurred by Guam.

Section 4 authorizes a full faith and credit appropriation in the annual amount of \$17 million for fiscal years 1996 through 2001 to the Secretary of the Interior for capital infrastructure construction in American Samoa, Guam, and the Virgin Islands. The insular area with the greatest need, American Samoa, would receive annual grants of between \$11 million and \$15 million; Guam and the Virgin Islands would each receive annual grants of up to \$3 million.

Section 5(a) provides that capital infrastructure funds granted under sections 2, 4, and 5 of the bill would be subject to master plans developed by the respective government that rank projects in priority order. The plans would be subject to review and approval by the Department of the Interior and United States Army Corps of Engineers.

Section 5(b) provides that five percent of each Interior grant for capital infrastructure and a matching amount by the respective insular government be paid into trust funds solely for expenditure on maintenance of each project, according to a maintenance plan approved by Interior. The respective insular governor would be the trustee.

Section 5(c) provides for extension of only the capital infrastructure program, authorized in section 4, for an additional three-year phase-out period. The federal share of construction grants would decrease to seventy-five percent in the first year, fifty percent in the second year, and twenty-five percent in the third year, before termination of the program.

Section 6, repeals subsection (b) of section 4 of Public Law 94-241 (which mandates continuing payments of \$27.1 million to the Commonwealth of the Northern Mariana Islands until otherwise provided by law). The provision explicitly states that no additional funds shall be made available under this subsection of the 1976 law after fiscal year 1996.

This is ARKANSAS' law 9-9-102 which needs to be changed a.H.

As Engrossed: 1/23/95

ACT 956 1995
A Bill

1 State of Arkansas
2 80th General Assembly
3 Regular Session, 1995
4 By: Representatives Flanagan and Judy Smith

HOUSE BILL 1005

For An Act To Be Entitled

"AN ACT TO AMEND TITLE 9, CHAPTER 9, SUBCHAPTER 1 OF THE
ARKANSAS CODE OF 1987 TO AUTHORIZE THE COURT TO DETERMINE
ADOPTIVE PLACEMENT OF DIFFERENT RACE OR ETHNIC HERITAGE;
AND FOR OTHER PURPOSES."

Subtitle

"TO AUTHORIZE THE COURT TO DETERMINE
ADOPTIVE PLACEMENT OF DIFFERENT RACE OR
ETHNIC HERITAGE"

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. Arkansas Code §9-9-102 is hereby amended to read as follows:

"9-9-102. Considerations of child's minority race or ethnic heritage -
Religious preference.

(a) In all custodial placements by the Department of Human Services in
foster care or investigations conducted pursuant to court order under
§9-9-212, due consideration shall be given to the child's minority race or
minority ethnic heritage.

(b) Except under the circumstances set forth in (d) below, in the
placement or adoption of a child of minority racial or minority ethnic
heritage, in reviewing the placement, the court shall consider preference, and
in determining appropriate placement, the court shall give preference, in the
absence of good cause to the contrary, to:

(1) A relative or relatives of the child, or, if that would be
detrimental to the child or a relative is not available;

(2) A family with the same racial or ethnic heritage as the
child, or if that is not feasible;

(3) A family of different racial or ethnic heritage from the

Office of the
Clerk of the House

Boyle L. Flanagan

1 child, which family is knowledgeable and appreciative of the child's racial or
2 ethnic heritage.

3 (c) If the child's genetic parent or parents express a preference for
4 placing the child in a foster home or an adoptive home of the same or a
5 similar religious background to that of the genetic parent or parents, in
6 following the preferences in subdivision (b)(1) or (2), the court shall place
7 the child with a family that also meets the genetic parent's religious
8 preference. Only if no family is available as described in subdivision (b)(1)
9 or (2) may the court give preference to a family described in subdivision
10 (b)(3) that meets the parent's religious preference.

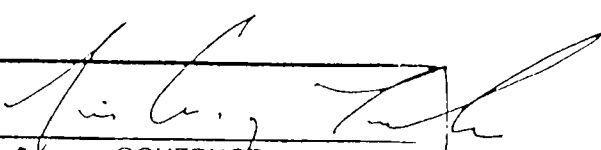
11 (d) Upon sufficient proof to the court that attempts to locate and
12 place a child of a minority race or ethnic heritage have been unsuccessful,
13 the court shall weigh the best interests of the child in being timely placed
14 for adoption and may place the child for adoption notwithstanding the
15 provisions of this section."

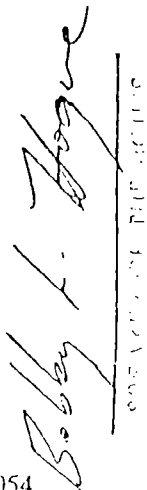
16
17 SECTION 2. All provisions of this act of a general and permanent nature
18 are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code
19 Revision Commission shall incorporate the same in the Code.

20
21 SECTION 3. If any provision of this act or the application thereof to
22 any person or circumstance is held invalid, such invalidity shall not affect
23 other provisions or applications of the act which can be given effect without
24 the invalid provision or application, and to this end the provisions of this
25 act are declared to be severable.

26
27 SECTION 4. All laws and parts of laws in conflict with this act are
28 hereby repealed.

29
30 /s/Rep. Flanagan, et al

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36
APPROVED 
4/6/95 GOVERNOR


Bobby L. Flanagan

Ark. W. M.

This is A good alternative

att

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S.B. No. 1487

AN ACT

relating to prohibiting the consideration of race or ethnicity as a factor in adoption or foster care placements.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 162.308, Family Code, as added by H.B. No. 655, Acts of the 74th Legislature, Regular Session, 1995, is amended to read as follows:

Sec. 162.308. RACE OR ETHNICITY. (a) The department, a county child-care or welfare unit, or a licensed child-placing agency may not make an adoption placement decision on the presumption that placing a child in a family of the same race or ethnicity as the race or ethnicity of the child is in the best interest of the child deny or delay placement of a child for adoption or otherwise discriminate on the basis of the race or ethnicity of the child or the prospective adoptive parents.

(b) Unless an independent psychological evaluation specific to a child indicates that placement with a family of a particular race or ethnicity would be detrimental to the child, the department, county child-care or welfare unit, or licensed child-placing agency may not deny, delay, or prohibit the adoption of a child because the department, county, or agency is attempting to locate a family of a particular race or ethnicity.

(c) This section does not prevent or limit the recruitment of minority families as adoptive families, but the recruitment of minority families may not be a reason to delay placement of a child with an available family of a race or ethnicity different from that of the child.

(d) A state or county employee who violates this section is subject to immediate dismissal. A licensed child-placing agency that violates this section is subject to action by the licensing agency as a ground for revocation or suspension of the agency's license.

(e) A district court, on the application for an injunction or the filing of a petition complaining of a violation of this section by any person residing in the county in which the court has jurisdiction, shall enforce this section by issuing appropriate orders. An action for an injunction is in addition to any other action, proceeding, or remedy authorized by law. An applicant or petitioner who is granted an injunction or given other appropriate relief under this section is entitled to the costs of the suit, including reasonable attorney's fees.

SECTION 2. Section 264.108, Family Code, as added by H.B. No. 655, Acts of the 74th Legislature, Regular Session, 1995, is amended to read as follows:

Sec. 264.108. RACE OR ETHNICITY. (a) The department may not make a foster care placement decision on the presumption that placing a child in a family of the same race or ethnicity as the race or ethnicity of the child is in the best interest of the child prohibit or delay the placement of a child in foster care or remove a child from foster care or otherwise discriminate on the basis of race or ethnicity of the child or the foster family.

(b) Unless an independent psychological evaluation specific

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to a child indicates that placement or continued living with a family of a particular race or ethnicity would be detrimental to the child, the department may not:

(1) deny, delay, or prohibit placement of a child in foster care because the department is attempting to locate a family of a particular race or ethnicity; or

(2) remove a child from foster care with a family that is of a race or ethnicity different from that of the child.

(c) The department may not remove a child from foster care with a family that is of a race or ethnicity different from that of the child for the sole reason that continued foster care with that family may:

(1) strengthen the emotional ties between the child and the family; or

(2) increase the potential of the family's desire to adopt the child because of the amount of time the child and the family are together.

(d) This section does not prevent or limit the department's recruitment of minority families as foster care families, but the recruitment of minority families may not be a reason to delay placement of a child in foster care with an available family of a race or ethnicity different from that of the child.

(e) An employee who violates this section is subject to immediate dismissal.

(f) The department by rule shall define what constitutes a delay under Subsections (b) and (d).

(g) A district court, on the application for an injunction or the filing of a petition complaining of a violation of this section by any person residing in the county in which the court has jurisdiction, shall enforce this section by issuing appropriate orders. An action for an injunction is in addition to any other action, proceeding, or remedy authorized by law. An applicant or petitioner who is granted an injunction or given other appropriate relief under this section is entitled to the costs of the suit, including reasonable attorney's fees.

SECTION 3. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

President of the Senate

Speaker of the House

I hereby certify that S.B. No. 1487 passed the Senate on April 27, 1995, by a viva-voce vote; and that the Senate concurred in House amendments on May 27, 1995, by the following vote:
Yeas 31, Nays 0.

Signed into Law by Gov. G. Bush ~ May 1995



Guarding Children's Rights • Serving Children's Needs

**OPEN LETTER
TO THE MEMBERS OF
THE ABA HOUSE OF DELEGATES**

Virtually all of the key national organizations in the field of adoption-- representing thousands of adoptive parents, birth parents, and adopted children and adults-- have gone on record to **oppose** the proposed Uniform Adoption Act. These organizations include:

National Council of Juvenile and Family Court Judges

Child Welfare League of America

Catholic Charities - USA

Adoptive Families of America

American Adoption Congress

North American Council on Adoptable Children

National Association of Social Workers

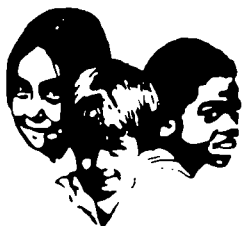
These organizations are joined by other national groups including the **Adoption Exchange Association**, the **National Adoption Center**, the **National Adoption Alliance**, and **Holt International Children's Services** and numerous state organizations in opposing this act. (See letters attached.)

Collectively, these national organizations are asking you, the members of the ABA House of Delegates, to **withhold endorsement** of this act.

CWLA OPPOSITION TO THE UAA

The Child Welfare League of America--the organization which sets the standard for quality children's services in the United States--opposes the Uniform Adoption Act as drafted by NCCUSL for many reasons, including the following:

- o Sound adoption law is based on fairness to all members of an adoption--adoptive parents, birth parents, and the children--this law fails the fairness test
- o The time period for revocation of consent--eight days from the birth of the child--is completely inconsistent with sound casework practice
- o The pre-placement evaluation of prospective adoptive families is inadequate in scope and in the standard used to approve families for adoption
- o The lack of emphasis on birth parent counseling and on identifying birth fathers prior to placement seriously compromises the value of this proposed legislation
- o The statutorily mandated order of placement precludes professional decisions based on the facts of a given case
- o The act dictates numerous new, unfunded mandates for public agencies and the courts



North American Council on Adoptable Children

970 Raymond Avenue, Suite 106, St. Paul, Minnesota 55114-1149 • 612-644-3036 • Fax 612-644-9848

January 11, 1995

NACAC's OPPOSITION TO THE UNIFORM ADOPTION ACT

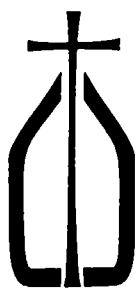
On December 3, 1994, the board of the North American Council on Adoptable Children passed a resolution which establishes NACAC's opposition to the Uniform Adoption Act proposed by the National Conference of Commissioners on Uniform State Laws (NCCUSL). Our opposition is based on the opinion that if enacted as written, the Uniform Adoption Act of 1994 would strongly favor infant adoptive parents, short-change birth parents, and discount adoptees' needs as they reach adulthood.

Defects include: a failure to define the term "best interest of the child;" the absence of regulation or license for persons facilitating adoption; a lack of adequate requirement for birth parent counseling or adoptive parent education; severe limitation of birth parent rights, particularly fathers; confusion in the functional interrelationship between the Uniform Adoption Act and existing Termination of Parental Rights Statutes; unworkably short timelines for adoption finalization, particularly for special needs adoptions; a harsh section which chills any agency's efforts to place children in same race families; and archaic and punitive closure of birth records.

While uniformity is a meritorious goal, NACAC cannot support a model act that so clearly benefits some members of the adoption community at the expense of others.

Sincerely,

Joe Kroll
Executive Director



**Catholic
Charities
USA**

Catholic Charities USA Position on Uniform Adoption Act

Catholic Charities USA promotes public policies and strategies that address human needs and social injustices. In 1993, more than ten million people turned to Catholic Charities for help. Of that number, 3.9 million were children and adolescents who were 17 years of age or younger.

Catholic Charities agencies have a long and proud history of making permanent placement plans for children in need of families. Even before 1910 when the National Catholic Conference (now Catholic Charities USA) was founded, our agencies were providing quality permanent placements for children needing an adoption plan.

In 1993, Catholic Charities agencies served 38,915 individuals involved in adoption placements. Adoptive homes were found for 3,100 children including 1,377 children with special needs and 241 children from other countries. Other services included services to adult adopted persons, pre-adoption foster care, and post adoption services.

In August 1994, the National Conference of Commissioners on Uniform State Laws (NCCUSL) finalized a Uniform Adoption Act which will be introduced in state legislatures across the country in the coming months.

Although Catholic Charities USA agrees with efforts to make adoption practices consistent across the United States, we oppose the proposed Uniform Adoption Act. Catholic Charities joins an impressive list of other national organizations that promote good adoption practices in opposing the proposed act: Child Welfare League of America, the National Association of Social Workers, Adoptive Families of America, The National Adoption Center, the Adoption Exchange Association, the American Adoption Congress, Children Awaiting Parents, Concerned United Birthparents, the Joint Council on International Children's Services, and the North American Council on Adoptable Children.

As an advocate for children, we do not believe that the proposed act would promote the best interests of children waiting for permanent placement. The proposed state law focuses on adoption as a service for prospective adoptive parents. This is not what we view as quality adoption practice. Catholic Charities views adoption primarily as a service to find homes for children who need a loving and stable environment in which to grow and flourish.

Catholic Charities USA advocates for agency adoption because we believe adoption is a life long process for everyone affected by the placement: adopted children, birthparents, grandparents, and

Episcopal Liaison
The Most Reverend
Joseph M. Sullivan

Chair
Mr. Bruce J. Kouba

Vice Chair
Rev. Timothy A. Hogan

Secretary
Ms. Lupe U. Macker

Treasurer
Mr. Jerome E. Rauckhorst

President
Rev. Fred Kammer, SJ

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(703) 549-1656

adoptive families. Good adoption practices coincides with good social work practices which provide professional pre and post placement services whenever they are needed to all persons affected by adoption. The proposed state law clearly advocates for independent adoption which often does not follow good social work practices. In fact, the act appears to make independent adoption practice the standard to which agency practice should adapt. These are clearly not adoption standards that Catholic Charities can agree with.

The proposed state law does not adequately balance and protect birthparents rights. Under the proposed act, a mother's consent to place for adoption becomes irrevocable eight days after delivery. Catholic Charities USA does not believe that this is adequate time to resolve the physical and emotional complications that a birthmother faces after delivery, especially when she does not receive any pre-delivery professional counseling about her decision.

There is no incentive for the biological mother to tell the father about the birth, nor to truthfully identify the father under the provisions of the proposed act. In addition, if an absent father is located and served with notice of a hearing to terminate parental rights, the act gives him only 20 days to respond. As a result, the act could not have prevented the disastrous and painful situations such as those in the Baby Jessica, Baby Richard and Baby Emily cases. In fact, the act could actually lead to more such cases because it does not promote good agency practices which include preparing and educating birthparents and prospective adoptive families for the lifetime commitment that adoption requires.

Catholic Charities is committed to finding homes for the large numbers of children with special needs who are waiting for adoption. There are no positive provisions in the proposed state legislation that deal with special needs nor with inter-country adoptions.

Many Catholic Charities agencies offer the entire spectrum in adoption from traditional to open adoptions depending upon the individual wishes and circumstances of those involved. Under the proposed state act, a decree of adoption would terminate any prior court order requiring visits or communication between child and biological parent.

We urge you to call or write to Catholic Charities USA for a copy of the proposed Uniform Adoption Act and to study the content before it is introduced in your state legislature. Please let us know if the proposed legislation comes up for debate and/or vote in your state. Finally, we encourage you to join Catholic Charities USA in opposing the Uniform Adoption Act because it is not uniform, it does not promote good social work practice, and it does not advocate for the most vulnerable member of the adoption triad: the child.



National Association of Social Workers

NATIONAL ASSOCIATION OF SOCIAL WORKERS
STATEMENT ON THE UNIFORM ADOPTION ACT

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The National Association of Social Workers, representing over 150,000 members organized in 55 chapters throughout the United States, opposes the enactment of the proposed Uniform Adoption Act. The act gives primary consideration to the desires of prospective parents and disregards the needs of the children and their birth families. NASW believes the Act's primary focus should be a reasonable process to assure the best interests of the children.

• NASW believes the objective of child placement should be to provide a safe, nurturing and secure alternative home only when it is not possible for the child to remain with his or her own family. The Act focused on the rights of adults to adopt children.

• NASW believes all services, alternatives, and due process considerations for birth parents should be exhausted before embarking upon the serious step of termination of parental rights. The Act would expedite permanent separation from birth parents and raise the risk of exploitation of pregnant women.

• NASW believes special attention should be given to the 85,000 children with special needs awaiting adoption. The Act instead, focuses on the adoption issues relative to healthy infants.

• NASW believes placements should be made only by third parties who are licensed as placement agencies or related to the child to assure the best interests of the child are carefully assessed and protected. The Act permits anyone to help a natural parent locate a prospective adoptive parent.

• NASW believes the adoptee's needs and right to know their birth origin should be recognized and respected. This Act provides for sealed adoption records or the absence of any record or registries!

• NASW believes that a child's enduring ties to a family must be recognized. Yet, this Act would permit termination of visitation rights between a child and a family member.

AMERICAN ADOPTION CONGRESS

STATEMENT IN OPPOSITION TO

THE UNIFORM ADOPTION ACT OF 1994

Introduction

The American Adoption Congress (AAC) is an organization that stands for truth in adoption and for reforms that protect all of those involved in the adoption process from abuse or exploitation. The American Adoption Congress is, therefore, inalterably opposed to the Uniform State Adoption Act because that proposed law is detrimental to the well-being of children, undermines the integrity of families, promotes the myth that adoption can sever the connections between children and their birth families, and expands the opportunities for financial profit from the placement of children.

The American Adoption Congress believes that the goals of any adoption law ought to be 1) to protect the right of children to grow up in the families into which they were born; 2) to be certain that any children for whom this is not possible are provided with adoptive parents who are committed to them, who are capable of meeting their needs, and who accept the importance of the connections the children already have to their birth families or other families in which they have lived; 3) to protect and support the integrity of such adoptive families once formed; and 4) to assure that financial gain is not a factor in the placement of any child in adoption. The Uniform Adoption Act of 1994 fails to achieve any of these four goals.

Rather, the focus of the Uniform Adoption Act of 1994 is on making the adoption of healthy infants easier for infertile adults who have money, power, connections, and marketing skills. This Act ignores both the knowledge we have gained about the pain and complications that adoption can introduce into the lives of those involved and the thoughtful procedures that child welfare agencies have put in place to protect children and their families. The Act creates a new adoption industry by de-regulating the adoption process and by allowing more people to assist in this process for financial gain. The end result is that if the Act is passed birth parents can be more easily exploited, children will be in greater jeopardy, and babies will be sold to those who can pay the highest price.

The Uniform Adoption Act is long and detailed. It is consistent, however, in failing to protect children, in demeaning birth families, in focusing on adoptive parents' needs, and in encouraging adoption for profit. One can therefore, turn to almost any section and find evidence of its shortcomings. The following are some specific examples chosen to reinforce the concerns of the AAC.

Failure to Preserve the Integrity of the Birth Family

The vulnerability of the birth mother is highlighted in the provisions of the Act that permit adoptive parents to pay for a wide range of expenses involved in finding an infant. Included are such things as advertising and similar expenses incurred in locating a possible "minor for adoption" (a euphemism for an unborn child), travel and living expenses for a prospective mother before the birth of her child and for up to six weeks after the birth of the child, and medical and legal expenses. Although such payments are not supposed to be related to the surrender of the child, adoptive parents are not held liable for such expenses should the birth mother fail to relinquish, unless a separate contract to that effect has been negotiated, and birth parents can be threatened with criminal prosecution for accepting payments without intending to surrender their children.

The Act does not support birth parents in exploring ways to maintain the integrity of their family or in making an informed decision about adoption. Although the Act states that a birth parent must be informed of the meaning and consequences of adoption and of the availability of personal and legal counseling, it does not specify the goal of such counseling, the qualifications of the counselors, how such counseling will be made accessible, or who will pay for it. Even more troubling, however, is that the Act allows a birth parent to relinquish a child at the point of the child's birth. Further, relinquishments can be revoked only within the first 192 hours following a child's birth: after that they are irrevocable. There are also no adequate safeguards to ensure that birth mothers contemplating adoption identify the fathers of their children or that genuine efforts are made to find such fathers.

Failure to Protect Children

Although the Act requires a pre-placement evaluation of a family before the placement of a child for adoption, it permits children to be placed in unstudied homes at the court's discretion. The evaluation need not be done by a licensed adoption agency, but can be done by any "qualified placement evaluator" (what constitutes the "qualifications" is to be established by each state). Prospective adoptive parents contract and pay for their study independently. Should they get an unfavorable study, they may either shop around for a better study or go to court to seek a judicial reversal of the findings. It seems unlikely that any pre-placement evaluation would be considered negative, however, since the standards for the suitability of an adoptive home are so minimal that they approximate those now used to determine whether or not a child should be taken into protective custody by the state because of abuse or neglect. The Act states that the evaluator shall assess the information gathered, "... to determine whether it raises a specific concern that placement of any minor, or a particular minor, in the home of the individual would pose a significant risk of harm to the physical or psychological well-being of the minor."

Once a child is adopted, the Act makes it possible for all the connections to the child's earlier life to be severed. A basic tenet of the AAC is the right of a participant in an adoption to have access to information about the others involved in that adoption. It follows then that the AAC encourages meaningful contacts by adopted children with the significant people from their past. The Uniform Adoption Act makes this more difficult. An adoptive parent's promise of continuing contact or communication with birth family members or prior caretakers of a child is unenforceable. Records are sealed for 99 years, and although non identifying information about the others involved can be requested, it may be given only within narrow limits. There are no provisions for disclosing information to spouses, non-adopted siblings, or grandparents, and it appears that once an adoption is consummated and the record sealed, the sharing of any information by any of the participants becomes a criminal offense.

Failure to Prevent Brokering of Infants

The Act permits both agency placements and "direct placements". Direct placements, contrary to the assumption that such would involve only the birth parents and the adoptive parents, means adoptions independent of agencies. The Act allows *any* person to help a parent or guardian locate a prospective adoptive parent or to help transfer legal and physical custody of the infant to the family seeking to adopt. "Person", is defined in the sense that it is used in laws relating to business and, "...means an individual, corporation, limited liability company, business trust, estate, trust, partnership, association, agency, joint venture, government, governmental subdivision or instrumentality, public corporation, or any other legal or commercial entity." Any or all of the above named entities can assist a prospective adoptive family in securing a child and, of course, charge for their services. In some states there are already examples of law firms that exist solely from the profits of adoptive placements; public relations firms that specialize in helping a prospective family put together a resume and market themselves in a "pre-tested market area", such as a women's college dormitory or a maternity hospital; and "baby locators" who pay a finder's fee to those who suggest pregnant friends or acquaintances who might be interested in placing a baby for adoption.

Conclusion

The AAC is committed to making it possible for those who have been involved in an adoption to have access to information about the others involved in that adoption, and to reforming the adoption process so that adoption becomes more humane for all of the children and families involved. Our efforts to accomplish these goals remain unceasing. We view the Uniform Adoption Act of 1994 as one additional obstacle to our success.



January 26, 1995

TO ADVOCATES FOR CHILDREN AND FAMILIES:

It is the professional opinion of our association members that the proposed Uniform Adoption Act does not provide important protections for adoptive parents, birth parents or children who are subject to adoption.

We believe that an adoption law should be drawn from the wisdom of the several professionals and consumers who are involved and impacted by adoption and should be judged upon the following factors:

- * It should ensure that BEFORE placement, the child is legally free.
- * It should require a THOROUGH assessment of the family who would raise the child BEFORE placement is made.
- * It should REQUIRE post-placement services.
- * The best interests of the CHILD should take precedence over any other concerns.

We believe that the proposed Uniform Adoption Act does not pass critical review in the above areas.

Sincerely,

Dixie van de Flier Davis, Ed.D.
President



Carolyn L. Johnson
Executive Director

NATIONAL ADOPTION CENTER

1500 Walnut Street • Suite 701 • Philadelphia, PA 19102 • (215) 735-9988 • Fax (215) 735-9410

January 30, 1995

To Whom It May Concern:

The National Adoption Center opposes the Uniform Adoption Act as passed by the National Conference of Commissioners on Uniform State Laws.

The Act does not address special needs children, does not protect birth parents, supports closed records for 99 years, does not support preference placement with regard to race and ethnic background, and does not support the Interstate Compact on the Placement of Children, but rather replaces it without adequate safeguards.

While the Act does have some strengths, we oppose its adoption in its entirety by states across the country.

Sincerely,



Carolyn L. Johnson
Executive Director

CLJ:pp

HOLT INTERNATIONAL CHILDREN'S SERVICES

P.O. Box 2880 • EUGENE, OR 97402 • (503) 687-2202 • FAX (503) 683-6175 • TELEX 5106004417

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January 26, 1995

To Whom It May Concern,

Holt International Children's Services expresses strong opposition to the proposed Uniform Adoption Act. We oppose the Act for the following reasons:

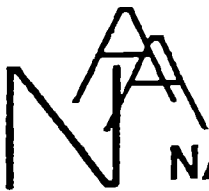
- The proposed Act is not truly uniform, as it leaves implementation and major public policy issues to individual states, which contradicts the concept of uniformity.
- The proposed Act fails to address that adoption is not simply a legal procedure, but more importantly a social service to children and families.
- The proposed Act does not adequately incorporate accepted adoption practices that ensure that adoptions will be facilitated in a manner that protects the best interest of children.
- Most important, the proposed Act does not serve children but places them in legal jeopardy along with birth and adoptive parents.

Holt International Children's Services has placed more than 60,000 children in adoptive families since 1956. We urge your opposition to the proposed Uniform Adoption Act.

Sincerely,



Susan Soon-Keum Cox
Director of Development



NATIONAL ADOPTION ALLIANCE • The Next Logical Step

January 17, 1995

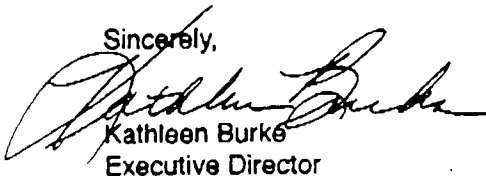
To Whom It May Concern:

The National Adoption Alliance would like to express its strong opposition to the proposed Uniform Adoption Act (UAA), as drafted by the National Conference of Commissioners on Uniform State Laws. The Uniform Adoption Act is not in the best interests of placing parents, prospective adoptive parents or, most importantly, the child. The National Adoption Alliance opposes the proposed Uniform Adoption Act for the following reasons:

- 1) The purpose of a Uniform Act is to provide consistency in public policy and statute in all states. The proposed UAA is merely a framework, leaving much of the "guts" of statute and public policy up to the individual states. This Act, as drafted, would place us all back from whence we came — without uniformity. The proposed UAA provides states with a loose framework of law that will cause confusion and chaos instead of clarity and protection. The individuals most placed at jeopardy by this loosely drafted piece of legislation are children who will suffer from the public policy and conflicted wording of the UAA.
- 2) The proposed Act does not recognize adoption as anything other than a legal transaction. The Act fails to take into consideration the profound and lifelong effect that adoption has on all those involved. The UAA merely gives a nod to preplacement counseling and support of placing parents; every adoption professional is aware that to provide permanence for children, birth parents must be sure of their decisions and be supported through the process. All of the recent media stories of disrupted placements have occurred in the independent (rather than agency) adoption sector. This Act merely promotes those same independent adoption practices.
- 3) The proposed Act will create an arena where prospective adoptive parents will pay large sums of money to lawyers, unlicensed facilitators and prospective birth parents; there is every chance that prospective adoptive parents could emerge from the experience childless, financially and emotionally distraught.
- 4) The UAA does not protect children in the adoption process by allowing large amounts of time between the placement of the child and notification of a court or state agency. The Act would allow individuals who have advertised in a publication or other medium to pick up a child at the hospital, with only a hospital employee present. The individuals with the child in their possession could then easily disappear.
- 5) The UAA sets a few good child welfare standards, but then allows every one of them to be waived for "good cause shown." Even when the proposed Act tries to set down some good protections for children, it then goes on to allow large loopholes for when those protections can be ignored or waived.

We strongly encourage you not to approve the Uniform Adoption Act; it is not in the best interest of anyone, most specifically those whom adoption was meant to serve — the children.

Sincerely,



Kathleen Burke
Executive Director

American
Academy of
Pediatrics



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**Committee on
Early Childhood, Adoption,
and Dependent Care**

Chairperson
Edward L. Schor, MD
New England Med Ctr
750 Washington St-Box 345
Boston, MA 02111-1526

January 9, 1995

Mark Hansen
ABA Journal
750 North Lake Shore Drive
Chicago, Illinois 60611

Dear Mr. Hansen:

In a recent article you erroneously reported that the American Academy of Pediatrics had endorsed the Uniform Adoption Act. While a representative of the AAP participated in some of the work leading to the most recent Uniform Adoption Act, the AAP has not formally endorsed the final document. We do favor some elements of the Act, especially the section encouraging sharing and updating health information about the adoptee and the biologic parents. However, there are other aspects of the Act which our organization, concerned as we are about the health and well-being of children, would find difficult to endorse.

Sincerely,

A handwritten signature in cursive script that reads "Edward L. Schor M.D.".

Edward L. Schor, M.D.

cc: C Milazzo
A Sullivan

THE UNIFORM ADOPTION ACT

What Price Uniformity?

State legislatures across the country will soon be considering the uniform adoption act approved in August 1994 by the National Conference of Commissioners on Uniform State Laws (NCCUSL). CWLA has gone on record as opposing this legislation. So has an impressive cross section of national organizations representing all the parties to adoption: the Adoption Exchange Association, Adoptive Families of America, the American Adoption Congress, Catholic Charities USA, Children Awaiting Parents, Concerned United Birthparents, the Joint Council on International Children's Services, the National Adoption Center, the National Association of Social Workers, and the North American Council on Adoptable Children.

Whose Interests Would the Law Serve?

While upholding fairness toward all three parties in the adoption triad—children, biological parents, and adoptive parents—CWLA views adoption primarily as a service for children who need parents. Because the proposed state law was designed almost entirely by attorneys, it clearly treats adoption as a service for prospective adoptive parents, often to the detriment of the other parties. And in the words of Ken Watson, assistant director of the Chicago Child Care Society and a board member of the American Adoption Congress, "If we focus on the right of adults to adopt, we fail to protect the rights of children to be reared by the families who gave them birth or to be assured that families who adopt them have qualifications beyond money, power, and marketing skills."

Indeed, the legislation almost seems to make independent adoption practice the standard to which agency practice should adapt. Its effect would be to further polarize biological parents and adoptive parents, who need to work together for the good of children.

The rights of biological mothers receive short shrift. Although the final version mentions the mother's need for counseling—which was ignored completely in early drafts—critical questions remain unanswered. Most significantly, the mother's consent to adoption would become irrevocable just eight days after delivery. This deadline makes no allowance for the physical complications, emotional upheaval, and interpersonal struggles many mothers must contend with in the days just after birth.

The rights of biological fathers, which were at the center of most of the newsmaking adoption disputes

*by Ann Sullivan,
director of adoption services, CWLA*



of recent years, fare little better. If an absent father is located and served with notice of a hearing to terminate parental rights, the act gives him only 20 days to respond. Because the act provides no incentive for biological mothers to tell the truth about the father or to him, it could not have prevented the painful struggle for Baby Jessica, Baby Richard, or Baby Emily. In each of these cases, the father came forward to assert his claim within the period prescribed by the law.

Will Children Benefit?

NCCUSL would allow home studies to be postponed until after placement in all cases of kinship adoptions and in other cases at the discretion of the court. In an area where uniformity of practice would be desirable, the act fails to provide it. Its standard of fitness to adopt is negative: If potential parents do not "pose a significant risk of harm to the physical or psychological well-being of the minor," they're good enough. In fact, several provisions of the act would increase the number of lawsuits against agencies that violate the presumed right of approved applicants to adopt.

The home study requirements focus on ruling out unsuitable applicants by assembling legal documents, criminal background checks, and medical records. Good agency practice includes these considerations, but its focus is on preparing and educating prospective parents for a lifetime commitment (*CWLA Standards for Adoption Services*, 5.19).

Where home studies are required, under the act, adoption may proceed on the basis of a study up to 18 months old. Because much can happen within 18 months to change a family's circumstances, good practice requires an update within 30 days of placement.

DO SOMETHING

Find out if the act is likely to be introduced in your state. If it is:

1. Call NCCUSL at 312/915-0195 and ask for the final version of the act with commentary. Read it.
2. Compare it to your state's current adoption statute. Support the current statute, if it's a good one.
3. If your state's statute needs updating, find or found a coalition. Cast a wide net. Then use the interest generated by NCCUSL to promote changes that reflect best practice in adoption

The act also rigidly prioritizes categories of adoptive parents from most to least desirable. In so doing, it devalues the professional judgment of social workers and opens the door to some appalling practice decisions. For example, while the CWLA North American Kinship Care Policy and Practice Committee recommends making relatives the first placement resource, the act puts them fourth in its list of five categories.

Is the Uniform Act Progressive?

This act would turn back the clock in many areas where progress has been made in recent years. It ignores the trend toward a continuum of openness options, particularly important for the older children CWLA member agencies serve through adoption. Under the act, a decree of adoption would terminate any prior court order requiring visits or communication between child and biological parent.

The act also ignores the national and international trend toward increasing access to adoption records. It puts strict conditions on the release of information to adopted adults, and creates major hurdles for all parties

Moreover, the act places new burdens on state agencies without providing any new resources. Homestudies must be completed 45 days after they are requested. Agencies must develop new forms for collecting adoption information, maintain records on individuals found unsuitable to adopt, and "police and follow up if such a person subsequently secures a child."

What's Happening in Your State?

Several states completed a thorough review of their adoption statutes in the last legislative session, so they have no need to consider the bill. The executive director of one Minnesota agency visited with the chair of the state's NCCUSL commission and won assurances that the act would not be introduced in his state. But a number of states that are in the process of reviewing statutes plan to study the act and adopt at least some sections. (NCCUSL wants states to adopt it wholesale; that's why they wrote a uniform act and not a model act.) Child welfare agencies and child advocates need to inform themselves and get involved. One state agency executive was assured that the act would not be considered, only to learn two weeks later that his state's bar association had established a committee for just that purpose. The dramatic results of the recent election make it especially important for people who care about children and families to be alert and ready to act on their concern. ▲