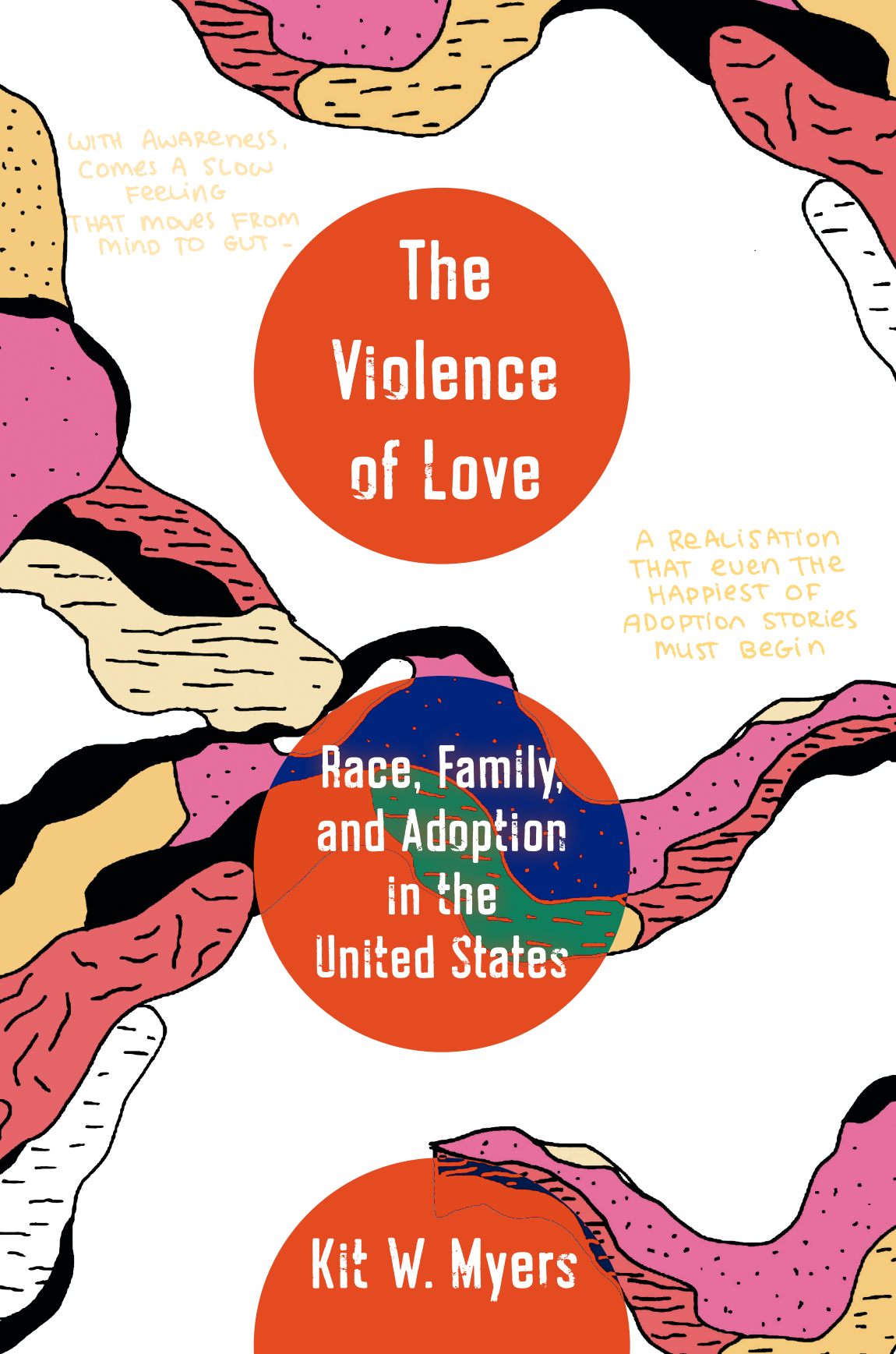

The Violence of Love

Race, Family, and Adoption in the United States

Kit W. Myers

The Violence of Love

AMERICAN CROSSROADS

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To my adoptive family, my birth family,
and everyone touched or impacted by adoption

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PREFACE

In the winter of 2006, I was in the middle of my last year at the University of Oregon. A good friend of mine who was also active in the student group scene emailed me about a unique summer camp for transnational and transracial adoptees (throughout this book I call this camp the Adoptee Camp). Before college, I had not given much thought to my identity as a transracial/transnational adoptee. Growing up, I knew at least four other (Korean) adoptees, but we were in different grades and were not friends. It was not just the age gaps though. I was less interested in my identity as an adopted person and more invested in being loved, fitting in, and belonging in my family, school, and community. When I received the email about the Adoptee Camp, I had already written two essays on TRNA and was intrigued by the existence of this service, space, and community for adoptees.

That summer as a camp counselor would be my first time being surrounded by other adult adoptees. Fresh from college graduation, I spent five weeks with fifteen other adoptees, one week of training, and another four weeks of traveling together as we hosted four- and five-day camps in four different states. In addition to the adult adoptees of color, I met more than 250 other transracial/transnational adoptee youths that summer. I remember greeting campers as they arrived. Smiles abounded. For some, this was their second, fourth, or even seventh time attending camp. Of course, some kids were extremely anxious. Tears streamed down the face of one child. But by the end of the week, there were different tears, ones that recognized a shared experience not only for the week but for the major aspects of life that were connected through adoption. It sounds hyperbolic, but the Adoptee Camp was a magical space.[1]

By the summers of 2008 and 2010, I had finished my two years of coursework at UC San Diego, taking classes in ethnic studies, history, sociology, and literature.

In those summers my camp role expanded. I was on the leadership team, which meant I arrived a week prior to the counselors to plan for the summer. Just before my second summer with the Adoptee Camp, I had taken a graduate course on critical pedagogy, which made me consider the camp as a teaching space. In my new role I had a direct hand in reshaping the curriculum that campers and parents would experience, which allowed me to combine theory with practice.[2] What made the Adoptee Camp unique was that nearly all the other camps for adoptees were run by adoptive parents and centered on "birth culture"—that is, the culture that transnational adoptees would have experienced had they not been adopted. The director of the Adoptee Camp was an adult Korean adoptee, and all of the counselors were also transnational adoptees. The director consciously changed the camp in 2005 from a birth culture camp into a model that centered the adoptee community, adoptee identity, adoption issues, and race.

Through working at the Adoptee Camp and conducting research (interviews, participant observations, and online content analysis of birth culture camps), I learned that the love intended in adoption and adoption practices (such as heritage summer camps) was not always as simple as it seemed. To be sure, birth culture camps emerged from love. The first one, Kamp Kimchee, was established in 1981.[3] By 2013 more than 30 distinct heritage camps for adoptees had sprouted across the United States.[4] They were a response to the earlier (and in some cases still existing) assimilation and color-evasive models of adoption. Where transracial/transnational adoptees were previously encouraged to erase, hide, and ignore their cultural identity—essentially to "become" White, heritage camps demonstrated transracial/transnational adoptive parenting that was "better than previous generations." The heritage camps, for the most part, were founded and operated by adoptive parents.

Similar to other summer camps, heritage camps included leisure activities such as horseback riding, zip lines, ropes courses, climbing walls, rafting, campfires, singing, skits, and s'mores. The difference is that campers who attended Kamp Kimchee, Camp Moo Gun Hwa, La Semana Camp, and the numerous other national-origin heritage camps participated in "culturally specific" activities. These included ethnic cooking classes, traditional dancing, arts and crafts, music and games, and language sessions taught by so-called ethnic experts from the community and/or adoptive parents who have already accumulated "cultural knowledge." Many camps provided on-site ethnic markets for campers to purchase "authentic" cultural objects, art, and artifacts. Camp sessions often culminated with a performance in cultural attire and an ethnic feast. In other words, heritage camps employed what I call "birth culture pedagogy." Such an approach was meant to celebrate and instill pride in adoptees' missing ethnic identity and allowed adoptive parents to learn and share birth culture alongside their child; build stronger (and in some cases "normative") family relations; and generate a supportive adoption

community for both adoptees *and* adoptive families, where they did not have to explain or justify their families and experiences. Heritage camps were the "loving solution" provided by adoptive parents and adoption agencies, intended to combat the loss of cultural identity that transnational and transracial adoption produced.[5]

However, some scholars have critiqued the notions of "culture keeping" by way of these heritage camps as "weak," "White," "superficial," "hegemonic" multiculturalism, and "staged authenticity."[6] The point here is not to claim that the culture at such camps is inauthentic. Instead, such practices are substantial precisely because birth culture is knowable and therefore safe, in which adoptive parents can be a substitute for missing culture.[7] This singular focus is important because learning culture is, on the one hand, a substitute for "lost" culture and an effort to instill ethnic pride in adoptees. Simply by sending their children to camp, adoptive parents can fill this cultural deficit. On the other hand, birth culture references the ghostly presence of the birth parents because they are the (biological) figures attached to the place of origin for the adoptee's birth culture. Thus birth culture is also about teaching and learning for adoptive parents as a way to acquire cultural knowledge in tandem with their child such that they can be a substitute for the birth parents and birth nation, simultaneously ignoring and displacing the haunting specter of birth parents.[8]

Pam Sweester, adoptive mother and founder of Heritage Camps for Adoptive Families, stated that her experience with transnational adoption, the summer camp, and meeting Indian and Korean people (ethnic experts) through the camp has transformed her identity: "Except for the very obvious color of my skin or shape of my eyes, I honestly feel Indian and Korean sometimes."[9] Sweester's work and sentiment, informed by love of her children, reflect the ways that adoptive parents can (un)wittingly displace birth parents. In an Edward Saidian fashion, they can apprehend the birth culture and become the new mediator of it and repository of lost knowledge.[10] The same could be said about discussions regarding birth parents. In the birth culture camps and retreats that Greg, former director of the Adoptee Camp, has observed, adoptive parents avoid the topic of birth parents. "[It's] kind of like a slap in the face to them," Greg says. "It's kind of a rejection of them as parents."[11] It can be easier to learn about something fun and knowable (culture) rather than to discuss the hidden, traumatic, or unknowable aspects of adoption, let alone the violence attached to the racism, colonialism, and immigration that have produced "missing" cultures in past contexts.

I open with this example of birth culture camps and the Adoptee Camp because they helped me understand the complexity of adoption. Birth culture camps are filled with desire—that is, love, protection, hope, and visions of the future. While working at the Adoptee Camp, I witnessed the love that adoptive parents have for their children. I do not think that their love is much (if at all) different from adoptive parents who attend and/or organize birth culture camps. Heritage camps

have attempted to right a wrong of assimilation and address the violence of lost culture. Yet birth culture as a loving desire is simultaneously a mechanism that ignores or erases power relations and other forms of violence. Based on a deficit model that presumed missing birth culture was the primary cause of harm for transracial/transnational adoptions, this approach displaced or left little room (and certainly no built-in structure) to discuss the difficult issues related to adoption. These issues include racism, thoughts and desires regarding birth parents, and the social and historical conditions that have separated families and made birth culture pedagogy necessary in the first place.

The point is not to casually dismiss or negate the importance and generative aspects of birth culture pedagogy and heritage camps. Nor is this project an underhanded attempt to excuse or apologize for the adoption industry and adoptive parents who have enacted serious harm through efforts that maintain the status quo. Rather, even when something emerges from love, is believed to be loving, and/or the people involved in it had a "wonderful experience," this does not mean it resolves trauma or is unattached to harm. The industry and system of adoption is tied to different types of violence. In addition, intentional and desiring love can emerge from and have overt and violent consequences that are complex and full of subtle, contradictory meanings.

This book is interested in the expansive gray area that contains the violence of love that pertains to and affects real people and families. How might we analyze (and abolish) an institution—adoption—that has failed and harmed so many people while still affording "complex personhood" to those who are implicated in that institution?[12] Where do we go from here, and how do we begin? What have people done, and what existing models can we follow or use? What genealogies must we know? How can we attend to the ghosts of adoption and the violence of love?

NOTE ON TERMS AND TERMINOLOGY

"Transracial adoption" (TRA) has historically been used to describe the adoption of Black and Native American children into White homes, which are conventions I follow. The terms "international" and "intercountry" are typically used to describe adoptions of children born in another country, even though a large majority are also transracial. Kim Park Nelson notes, for example, that adoptions from Asia are not considered transracial in part because of the "perceived absence of racial discrimination against Asian Americans."[13] The terms "international" and "intercountry" also lack attention to the power relations involved with the movement of bodies because they either convey cooperation, equality, or universality. In addition, as cultural anthropologist Toby Alice Volkman has stated, the term "transnational" attends to the "ongoing, crisscrossing flows in multiple directions" of adoptees that create "new geographies of kinship."[14] Thus I use "transnational adoption" (TNA) instead.

I also use "transracial and transnational adoptees" when referencing domestic and transnational transracial adoptees as a group. Since most transnational adoptions are also transracial (e.g., adoptions from Asia), sometimes "transracial/transnational" is used to reference what would normally be termed "international." Moreover, this term captures the ways Native American, Haitian, and Ethiopian adoptions, for example, are transnational in addition to transracial. When discussing domestic and transnational forms of transracial adoptions together, I use the acronym TRNA. The only other term that currently incorporates both transnational and transracial aspects of adoption is "transracial intercountry adoption" (TRIA). However, I prefer TRNA because it gestures toward how culture, race, space, borders, and national identities are constructed/unfixed and contested.[15]

Following many other experts, I capitalize racial identity terms, despite their socially constructed nature. To capitalize them is to mark them as proper nouns. They are not merely adjectives or generic descriptors, but instead, important specificity and varying sets of power relations are attached to these terms.[16] In 2020 the Associated Press (AP) announced it would capitalize "Black" but not "white" because capitalizing the latter could convey legitimacy to White supremacist groups, which have long practiced this stylization. While many news organizations followed the AP, major news outlets such as CNN and Fox News have opted to capitalize racial identity markers, including White, to follow the recommendation put forward by the National Association of Black Journalists.[17] If such terms (as well as antiquated and offensive terms) are used in quotes, I have kept the terms as they appear in the original source. Lastly, I use "Indian" interchangeably with "Native American" and at times "Indigenous." Although many people understand "Indian" to be an antiquated and offensive term, it is still an official term used in many Native and U.S. legal contexts.

The term "White supremacy" is often reserved for the Ku Klux Klan and other White nationalists. I use it in the same way as activists across issues and critical scholars across disciplines, which is that White supremacy describes the logics and systems that have not only upheld Whiteness as an ideal but institutionalized it as a hidden norm over time in ways that have maintained and fortified structural racism and settler colonialism. "Settler colonialism" is a thing that is often attributed to the past, and usually without the descriptor "settler," as a move to innocence.[18] While most Americans are vaguely familiar with the fact that Native Americans were treated poorly, the narratives of "Indian bandits," "uncivilized savages," and "vanishing Indians" sanitize the violence perpetrated against Native Tribes. "Settler colonialism" as a concept names the perpetrator of violence—settlers and, more important, the settler state—so "colonialism" does not become a passive noun. I follow Native and Indigenous scholars who underscore that (settler) colonialism is "a structure not an event."[19] This helps us understand that despite the nation-to-nation relationship that Tribes have with the United States, which is recognized in the U.S. Constitution and hundreds of treaties, the U.S. government has exerted

control over Tribes.[20] This is especially true for policy that affects Native children and families. For this reason I consider the adoption of Native American children as both transracial and transnational.

Lastly, throughout this book I occasionally use the terms "they," "them," and "their" as singular pronouns.

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Introduction

For me, to talk about transracial adoption honestly is to hurt someone.
—ANGELA TUCKER

But love is not merely an interpersonal event, nor is it merely the site at which politics has its effects. Love is a political event.
—ELIZABETH POVINELLI

Growing up in a rural Oregon town as a Hong Kong adoptee, I was presented with the complex experience of having a memorable childhood and being part of an incredibly loving family yet also having to negotiate my Asian and adoptive identities. After being asked by my mom if I ever thought about my birth mother, I told her: "No." Not because I was uninterested in my birth family but because I didn't want to hurt my adoptive family. Being surrounded by Whiteness—in my family, at my school, and in my community—made me desperately want to be White. At times I would forget about my darker skin and differently shaped eyes and face until I saw myself in the mirror as I brushed my teeth next to my older brother, who I looked up to because he was cool and loved me like a brother should. I internalized anti-Asian racism that I saw on television and experienced at school or while playing sports and projected that onto the few other Asian American kids at my school. I never shared this with my parents until recently, and I don't blame them for these feelings because they did the best that they knew, with the utmost love. For people adopted transracially and/or transnationally, this is not a unique experience.

Typically, most—to be clear, not all—transracial and transnational adoptees grow up certain of one important aspect about themselves: adoption was the best thing that happened to them. As we grow older, however, many adoptees slowly begin to understand the complexity of adoption and the violence of family separation, unknown pasts, inaccessible records, secrets, and fabrications, and racial difference that accompanies the loving parts of adoption, and "the contradictions

of love and commerce."[1] Possessing this knowledge, we are confronted with a dichotomous choice presented by adoption discourse: we stay happy and grateful or we become angry and resentful. Rarely is there space for adoptees who have had a loving—let alone a horrible—childhood but choose to critique or question certain (or all) aspects of adoption. As Black transracial adoptee author and thought leader Angela Tucker, in the chapter epigraph, puts it: for adoptees, to be honest about their experience is to hurt someone. This means many adoptees choose to be less honest to protect their adoptive family, or they choose to tell their truth and risk harming and potentially losing their second family. In short, adoptees' experiences are often filtered through the assumption that love and violence are binary opposites.

Related to these binary feelings is a similar dichotomy that exists in adoption research and discourse that posits transracial/transnational adoption (TRNA) as either good or bad. Advocates of TRNA in social work, psychology, legal studies, and the general public have long argued that such adoptions are a logical and love-infused win-win-win solution for desperate but loving birth mothers, eager and loving adoptive parents, and children who need love and care.[2] Adoption is often perceived as a form of rescue in which harm is mostly attached to early childhood, preadoptive trauma.[3] In this rescue scenario "initial losses are followed by tremendous gains."[4] TRNA, then, is the solution by which children can escape cultural, familial, social, and economic violence such as patriarchy, the "culture of poverty," abuse, institutional care, and homelessness. Research on the "outcomes" of transracial and transnational adoptees has "unequivocally proven" that these adoptions are successful, providing loving homes and families.[5] Researchers also contend that adoptees exhibit strong self-esteem and ethnic identities, are healthy and happy, and have similar if not better outcomes than same-race adoptions or even adoptions by biological relations.

To be sure, there are some supporters who have at times been critical of adoption's past, but they generally believe that adoption practices have changed—from secretive, closed, stigmatized, and isolating to transparent, open, and celebrated, where culture is cultivated and birth family is acknowledged. In this view we have experienced an "adoption revolution."[6] Support among liberals and conservatives alike has engendered an amalgamation of different yet overlapping multicultural, (neo)liberal colorblind, and "postracial" rhetoric that race does not (significantly) matter in adoption, where the good achieved far exceeds or can overcome any potential injury. For those who support and want to facilitate adoptions, the issue at hand is quite simple: There are children in need and families who can and want to provide loving homes.

However, those who critique TRNAs argue that they are violent because they emerge from a broader context of national and global politics of war, imperialism, religion, paternalism, racism, patriarchy, capitalistic exploitation, settler colonialism, and corruption. Critical disciplinary and interdisciplinary research has

pointed to how ideas of race and gender have shaped the uneven processes and institution of adoption, arguing that structural factors are the underlying reasons for the asymmetrical movement of children from communities of color to White homes or from "sending" countries to "receiving" ones. At the same time, some scholars (usually ones who are not adoptees themselves) find TRNA to be a helpful lens that illustrates larger phenomena such as race, culture, nation, immigration, or imperialism. In these broader critiques of TRNA, researchers and readers can miss the depth and diversity of actual experiences of adoptees, birth parents, and adoptive parents, and more important, how people connected to or concerned with adoption might begin or continue political projects that address injustice produced by adoption.

In short, proponents of TRNA oftentimes ignore or diminish the aspects of violence that pervade adoption. Critiques of TRNA, though generative, can miss the complexity of lived experiences and the love and joy—despite the violence—that adoption creates for many (if not most) adoptees and adoptive families. In addition, the aspects of adoption that are often most important specifically for adoptees—such as identity, belonging, and questions about or longing for the past and birth family—are simplified or disregarded by the good/bad dichotomy. This binary mystifies the fact that "life is complicated."[7] Thus my research intervenes by complicating how we analyze the personal and political aspects of adoption. The book is not just about love and violence. It is about the violence of love, how violence creates the conditions for and then infiltrates, permeates, and surrounds the latter.

My research builds on these crucial interventions by reframing adoption away from good *or* bad and instead toward what I call the violence of love in the adoptions of Asian, Native American, and Black children in the United States. What is the purpose of bringing the adoptions of Black, Asian, and Native American children together? My effort is not to merely present that there were three distinct types of adoptions happening simultaneously, albeit true, but to show how they collectively helped shape U.S. society's understanding of non-White families and spaces vis-à-vis White families and spaces. From adoption agency discourse and statistics to social scientific outcome studies that analyzed these adoptions in relation to each other as well as legal and popular discourse, collectively they show how race informed ideas of family and adoption. My conceptual framework argues that these TRNAs were both loving and violent acts and processes, which means that love was constantly operating within these adoptions but that various types of violence were simultaneously and differently attached to or born from them. This framework avoids the pitfalls of the popular sociohistorical logic-of-exclusion framework, which conceptualizes racial subjugation as prohibition, segregation, or marginalization.[8] Instead, I consider how inclusion and love can emerge from, be attached to, and engender violence.

As anthropologist Elizabeth Povinelli's chapter epigraph suggests, love (and in this case, adoption) is not just personal but also "a political event."[9] Like

transnational and women of color feminists before her, Povinelli reminds us that the personal is political such that the loving act of adoption creates more than a new family. And if love is a political event, the production and (lack of) support provided for the family—both symbolically and institutionally—are politically constituted. My research adds to a growing list of critical adoption studies scholars, many of whom are transnational and/or transracial adoptees themselves. Their works improve our understanding of how adoptees are beyond grateful/well-adjusted or angry/maladjusted but are in fact complex subjects who hold a range of identities, experiences, and desires. They look at the social and historical impact of discursive and institutional harms (on society in general) *and* the ways such harms affect adoptees (as well as other marginalized people and communities) from their own perspectives.[10]

Like these scholars, I am interested in how TRNA operates at the level of the individual, the family, the industry, and the nation-state. How is love defined and employed by the various actors—adoptive parents, adoptees, adoption agencies, and the state (i.e., U.S. government officials and agencies)? Who has the right to invoke love? Who has the capacity to provide love? In centralizing love, what is missed? How does violence manifest in adoption and family-making? What can a relational examination of such adoptions tell us about the ways power operates unevenly in the constructions of race, identity, family, and nation? Which families, cultures, and nations are marked as spaces that can offer love, freedom, and better futures? How might a violence of love framework change how U.S. society thinks about and practices adoption? The ultimate question has less to do with what is love in adoption and is it present in a particular adoptive context? Typically love *is* present and sometimes abundantly. Rather, we might focus on what does love do in or through adoption? Exploring these questions, I argue that adoption and statements affirming adoption are forms of love that have operated at the personal and familial, agency and industry, and legal and transnational levels. Love, here, is about the historical and geographical "distribution of life and death" based on notions of lovability and who can love best.[11]

One primary employment of love is to show healthy attachment.[12] Adoptive parents are not only expected to love their adopted children, but the promise of their love (what it does) is that it will be reciprocated by adoptees, who will form healthy attachment (and be rehabilitated from past trauma) and ultimately become successful, well-adjusted adopted persons and adoptive families.[13] The harm adoptees experience preadoption and "overcome" postadoption are proof of adoption exceptionalism, creating what social work scholar JaeRan Kim calls the adoptee poster child, whose success from plucky orphan to poster child is made possible by adoption and love as forms of rescue, rehabilitation, and redemption.[14] Embodying the adoptee poster child is one way for adoptees to guarantee the "promise of unconditional love" and acceptance by the adoptive family. The prominent love through attachment framework erases emotional ambivalence, doubt, and anger by replacing them with certainty and "true love."

In this normative economy of love, love is always idealistic, factual, authentic, and credible, while other affective responses, such as anger, are signifiers of fear or detachment disorder.[15] Expressions of anger or attachment disorder signal pathology, which can be cause for unlivable futures, estrangement, or even familial exile. Going further, adoptees who love their families and still critique adoption as a harmful industry are in an impossible situation. These two perspectives are imagined as mutually exclusive. Thus holding them together cannot easily be comprehended because their existence threatens not just adoption as an institution but the adoptive family and adoptive parents. What becomes clear is that adoption can be loving, and those who are intimately attached to adoption can experience and believe it as such.

Nevertheless, to only focus on adoptive love would be an oversight. As Black feminist scholar bell hooks reminds us: "Everywhere we learn that love is important, and yet we are bombarded by its failure."[16] For this reason I argue that past and present adoptions of Asian, Black, and Native American children are linked to various forms of unmarked or hidden violence. This book primarily investigates three types of violence—structural, symbolic, and traumatic—and how they relate to the history, knowledge production, and experiences of TRNAs. The first form of violence, structural violence, in many cases produces the "need" for adoption. Structural violence consists of economic, political, and cultural conditions, arrangements, and processes that organize social life in often hidden ways (typically unrecognized as structural) that cause injury, injustice, and death to individuals and groups.[17] Contemporary research has shown the ways in which TRNAs of Native American, Black, and Asian children are inextricably tied to histories of settler colonialism, White supremacy, heteropatriarchy, global capitalism, and war. Policies and laws can enact less obvious forms of structural violence by providing material benefit to adoptive families instead of investing to keep families intact.

A second form is symbolic violence, which can be defined as subtle, invisible, and naturalized linguistic and representational strategies to assert power and domination.[18] Symbolic violence applies where adoption discourse and representation attempt to positively define adoption (to the United States and into White homes) and essentialize or fix adoptive meaning. Symbolic violence can occur when, for example, efforts to destigmatize adoptive relations ignores, erases, or delegitimizes biological relations. The same can happen in describing the spaces and communities where adoptees originate vis-à-vis where they get placed. Lastly, traumatic violence can be defined as psychological wounds, pain, or scars that are typically associated with the various forms of adoption loss, especially the initial separation from the birth family, but also the loss of one's history, culture, identity, and language.[19] Traumatic violence can also be defined broadly as "a deeply distressing or disturbing experience" that "forces our brains or bodies to compensate and cope with that experience."[20]

"Adoption is trauma" is a widespread and recurring hashtag on adoptee social media platforms. This type of violence is constantly diminished as something that

can be healed with time or overcome with love. Traumatic violence can appear in other forms beyond loss, such as conditional love, encouraged assimilation, internalized racism, or rejections and dismissals from parents, friends, or even strangers. What exacerbates this type of violence is when adoptees share their trauma in public (such as blogs, panels, conferences, or other forums) or with family or friends, they are often told that the past is not important and the benefits outweigh the losses and that they should be grateful. As political scientist Jenny Edkins notes, when the site of supposed refuge and belonging is violent, this enacts a form of traumatic violence.[21]

These three types of violence are not mutually exclusive, which means they can overlap and inform one another. For example, transracial adoptee and scholar Gina Samuels discusses the trauma of epistemic injustice in relation to specifically transracial adoption—when "groups of people as knowers" are discredited as uncredible and unauthoritative knowledge producers.[22] This can be symbolic, as is the case of everyday people denying or diminishing adoptee experiences of racism or loss as valid forms of trauma, or institutionally in more broad settings, where news media and publishers seek out adoptive parents as "experts" in adoption rather than adoptees themselves. Editors of the recently published special issue of *Child Abuse & Neglect* on trauma and adoption wrote how the field of adoption research needs to contextualize "our understandings of adoption and trauma beyond the level of individual and family, to understand adoption within its colonialist, political, economic, and global contexts."[23] In other words, they are calling to connect structural violence to traumatic violence.

Another example of the interconnected nature of these forms of violence is that TRNAs are often taken out of their global-historical context (the ways that history and geography and knowledges about the temporal and spatial have shaped TRNA adoption and its subjects) and placed into the "local-present" context. This configuration disregards race as well as gender, class, sexuality, nation, and other categories of difference, presuming them to be insignificant, which hides the ways power operates unevenly across subjects, families, and nations. This spatial-temporal logic attempts to depoliticize TRNAs such that the adoption *happens to be* from China or the child *happens to be* Native American. It privileges love as the guiding principle for successful adoption policy and practice, which enables such adoptions to be individualized (i.e., they do not affect and are not affected by society) and flattened or simplified to the extent that they emerge from and exist in a *local* space (e.g., *from* foster care/orphanages and *in* "my nurturing, loving home" as opposed to in an inherently and fundamentally unequal U.S. society) and a *present* time (e.g., "orphans, children, and birth parents are in need right now" and "the past and future do not matter because we love our child").[24]

In isolation the harms and violence that we might be familiar with seem occasional and incidental, but together they paint a clearer picture. Discourse of adoption as loving forever families misses the myriad of ways through which parents

are unfairly or needlessly separated from their children (safe haven laws, the prison industrial complex, racist social workers, diminished social welfare programs, coercion, trafficking, etc.). Approximately 10 percent of adoptions end in disruption or dissolution, but these typically only capture early failures. There are countless cases of adoption discontinuities, where adult adoptees are estranged from their adoptive parents and families, causing a second set of losses.[25] Worse are scores of cases of adoptees murdered by adoptive parents, thousands who have been rehomed after adoption (a completely unregulated process), dozens who have been deported back to their birth country, and the adoptees who have committed suicide or have suicidal ideation at a rate four times that of nonadopted children.[26] Adoptees may feel racially isolated or even alienated. Despite new trends of "culture keeping" promoted by adoptive parents, adoptees might not be able to express their true feelings about their birth family or wanting to search. They might be dismissed and told that those feelings are unimportant since they already have a "real family." Many adoptees, adoptive parents, and birth parents are unaware of these unmarked and hidden forms of violence because they are not prominent in adoption discourse and representation.

The Violence of Love offers two main arguments: Love is constantly operating within and shaping TRNAs, but also relational formulations of race and the violence of love are integral to how adoption, family, and nation are socially constructed. In this way adoption is not just an event, legal procedure, or descriptor but more broadly an institution, an industry, and a discursive formation. Adoption is temporal and spatial, not just in that it traverses across space and time, which it does to a degree, but that it defines and fixes space (as violent or modern) and time (past, present, and future). Adoption is an inherently violent process, one in which the problem of violence cannot be "solved." This book ventures on the imminent task of acknowledging and confronting this uneasy nature of adoption by rethinking theories of family and kinship that might offer alternative forms of relationality and care.

THE IMPORTANCE OF RACE

This book begins with the premise that race matters, even when we think it does not. It draws on four key concepts to theorize the social construction of race as it pertains to and operates within transracial and transnational adoption. First, race is a social construct, which means there are no biological or genetic markers that clearly define discrete "races." Rather, society has arbitrarily chosen specific physical bodily features to signify racial difference—skin color, eye shape, hair texture, nose size, and so forth—and attached those features to particular spaces (Africa, Asia, Europe, as well as inner city, suburbs, and rural). In fact, there is more genetic variation within a particular racial group "than between racial groups."[27]

Drawing from this fact that most of us intuitively know—that we're all human—there is a common misperception that we should avoid racial talk and thinking altogether.[28] Color-evasiveness ("I don't see color or race") and postraciality ("society is no longer racist and talking about race can be a form of racism") are especially prominent in transracial and transnational adoptions. Both of these examples are driven by representations of adoption as loving. To be sure, race is a social construction, but the idea of race and the embeddedness of racial difference produce material effects that lead to the unequal distribution of benefits, harms, and outcomes. This is no different in TRNAs.

In a global-historical context, race has been used as a marker of not just physical difference but intellectual and moral difference to justify life, liberty, and property on the one hand and exclusion, subjugation, and death on the other (or, as I argue, violent forms of inclusion). Racialized differences and the notion of race are not aberrations of modernity. Indeed, they are fundamental and necessary, not just to contemporary society but to modernity at large. In other words, liberal universality—the idea that we are all equal humans but for unfortunate moments in the past that have, can, and/or will be corrected—is a myth.[29] Societies of all kinds have constructed, depended on, and maintained difference in order to preserve various forms of power.

Three concepts help explain *how* race is socially constructed and clarify how TRNA operates: relational racialization, differential racialization, and intersectionality. Michael Omi and Howard Winant were two of the first scholars to deeply theorize the process in which racial meaning or knowledge is produced. They call this process *racialization*, which they define as extending racial meaning to relationships, social practices, and groups.[30] When we create racial meaning, we attempt to ascribe notions of inferiority or superiority (or some other value judgment) to bodies, behaviors, groups, spaces, or processes, and we often do so in a relational way. This is called *relational racialization*, where groups are racialized in relation to each other, which means that defining one group helps define another group. An example of relational racialization is "model minority" racialization. Asian Americans have been given this racial moniker—that is, racialized as the model minority, where all Asian Americans are assumed to be smart, hardworking, obedient, and therefore successful despite obstacles that they might face. This, of course, relationally constructs Black, Latinx, and Native Americans as "problem minorities" who do not work hard and only complain. Hidden within this relational racialization is how Whiteness is situated as the norm but also the "aggrieved" group that is hurt by unnecessary (as "proven" by Asian Americans) affirmative action policies.[31]

Related to the idea of relational racialization is the concept of *differential racialization*, which signals the ways that groups can be racialized in different ways, at different times, and for different purposes.[32] The ways that Asian immigrants are racialized as culturally backward, always foreign, or as a virus are different from

how Black Americans are racialized as criminals and complainers, which is still different from (and similar to) how Latinx folks are racialized as "illegal" job stealers and also foreigners. Lastly, the concept of *intersectionality*, coined by Kimberlé Crenshaw, describes the ways that race, gender, class, sexuality, and other social categories do not exist and operate independently.[33] Rather, they interact to shape multiple and simultaneous dimensions of experience, identity, and inequality. Intersectionality helps us understand that even though we try to place individuals in particular groups, those groups cannot be essentialized or fixed as one thing. People's identities are complex and informed by multiple and sometimes contradictory identities. These identities are fluid and can change or become more or less salient over time. This book explores how racial difference is imagined and reproduced relationally, differentially (in terms of Blackness, Asianness, Native Americanness, and Whiteness), and intersectionally (with gender, class, and sexuality) to construct ideas about better families, nations, and futures in relation to TRNA.

Despite the increasing rise of fascism—the upholding of nation and race through authoritarian suppression—and the return of overt forms of racism supported by the former president Donald Trump and his constituents, racism is still largely covert.[34] This, too, applies to TRNA. When I teach about racism, I use an iceberg as an analogy to discuss four types of racism. The tip of the iceberg above the water is similar to what we typically name as racism—conscious or unconscious individual assumptions, beliefs, or actions such as racial slurs, microaggressions, racist jokes, hate crimes, Swastikas, and neo-Nazis. This is *individual racism* (or interpersonal racism if there is a direct victim). The massive piece of ice that is underneath the water's surface is like structural racism that enables the iceberg to exist in the first place. Two types of racism inform structural racism: *ideological racism* and *institutional racism*. The former includes the larger beliefs, attitudes, language, and imagery (racist and otherwise) that inform our collective knowledge that enables racial and other forms of inequality to exist and operate, such as White supremacy, color-evasiveness, paternalism, settler colonial logic, patriarchy, and heterosexism (because they intersect with race), xenophobia, and tokenism. The latter includes the institutions via policies and practices that create, uphold, and reproduce racist outcomes, whether intentional or not, such as schools, the law, policing and prisons, churches, medicine, workplaces, child welfare, and housing.

Structural or systemic racism is the aggregate effect of ideological and institutional racism that reinforces each other and builds up over time and space. The United States was born from White supremacist logic that enabled and fostered the enslavement of men, women, and children; settler colonialism; immigration exclusion; and segregation. Structural racism enables individual racism to exist—the latter is just an effect of the former. While individual (or interpersonal) racism is important to examine, I am more concerned with investigating how adoption is informed by ideological, institutional, and structural racism and other forms of

inequality on these larger scales. This book operates on these widely theorized (in academia) but lesser-known ideas concerning race and racism. Race is constructed but still salient because it informs how racism operates and has material consequences. Racism is normal, ubiquitous, systematic (structural), and foundational in U.S. society, yet how it operates and its wide-ranging effects are largely hidden. This is particularly true for TRNAs, where race is imagined as unimportant or a minor obstacle that can be overpowered by adoptive love.

A GENEALOGY OF VIOLENCE: REGULATING THE FAMILY AND THE NATION

Family is at the crux of adoption—how it is imagined and practiced by individuals, institutions, and the state. You have children without a family, foster families, birth/first families, adoptive families, LGBTQ+ families, and forever families. These experiences, identities, and subjectivities shape adoption. While informal adoption has existed for thousands of years, formal or legal adoption in the United States is a modern institution that began in the mid-nineteenth century. Historically, U.S. society has stigmatized adoption as abnormal, inferior, illegitimate, and second choice—that is, outside of the traditional family ideal.[35] As chapter 1 demonstrates, adoption reshaped ideas of the American family. While U.S. families prior to World War II were mostly heterosexual and racially homogenous, the 1950s and 1960s increasingly engendered family types that included mixed-race parents, transracial and transnational adoption, and by the 1990s families with LGBTQ+ parents.

Indeed, family is not, despite society's attempt, a fixed category but derived from a set of discourses and imaginaries as well as individual, institutional, and state practices. This book traces how family has been shaped and the ways this has contributed to imagining the nation and vice versa. At a certain level, adoption can be considered a transgressive act and possibility of love because it challenges the definition of the traditional family model. At the same time, adoption's non-normative status that has situated it as unauthentic, "fictive," or less than has meant that adoption laws have attempted to resolve this "symbolic crisis."[36] Many adoptive families have rebuffed the non-normative aspects of adoption and mimicked the nuclear family framework to make their families more legitimate and legible to society.[37]

Even for White middle-class subjects, the position of parent "has become increasingly marked as a measure of value, self-worth, and citizenship," where adoption can be a "'completion' for becoming a fully realized subject in American life."[38] In this way and others, adoption can act as a site of regulation, management, and reinscription of normative ideals, which have privileged biological, nuclear, White heterosexual, and middle-class family structures that exist within imagined homogenous racial and national boundaries. In other words, adoption by straight,

single, and LGBTQ+ parents—the latter who can presently be legally discriminated against in 12 states—has been a pathway to achieve "normative" family status and a sense of belonging that is supported by both the state and nation.[39] Hence the move from "blood" to "choice" in TRNA does not necessarily destabilize hegemonic and normalized notions of family and kinship.

I follow Sandra Patton-Imani's call to think about genealogy not just as roots but "genealogy as routes" because doing so "takes us beyond an exclusive focus on biology and culture as signifiers of racial identity to the metaphor of roads, paths, intersections, borders, bridges, boundaries, and diasporic histories."[40] The concept of routes helps us comprehend how the "numberless beginnings" and various subjectivities have been formed but also how U.S. families and the nation were constructed.[41] Many decried Trump's family separation policy at the U.S.-Mexico border as xenophobic, racist, and un-American. Yet, as scholars have shown, family separation has not only been a recurring phenomenon but integral to the formation, narration, and security of the U.S. nation-state that has been founded on settler colonialism, slavery, capitalism, and heteropatriarchy.[42] The state was invested in family separation and regulation as ways to manage racial, gendered, sexualized, and classed life, which accordingly informed how TRNAs emerged.

Familial rupture in both the institution of enslavement and Native American boarding schools isolated and disciplined individuals, especially children, denying them social and familial relations as well as political power. For slavery, this meant forced family separation, changed names, and fictive kin assimilation to match the enslaver's surname. For boarding schools, Native children were removed from families and Tribes and forced to assimilate into White American cultural practices, including conforming to gender norms, adopting Christianity, wearing Western clothes and hairstyles, and Anglicizing their names. These forms of physical, emotional, cultural, and spiritual domination, paired with the destruction of families, helped enable the transformation of Black people and Native lands into property for the benefit of the United States. In this way family separation assisted racial capitalism's domination of the body and settler colonialism's logic of elimination through not just physical but cultural genocide.

Even though the United States perpetuated and indeed was founded on the violence against the families of Black and Indigenous peoples, the violence enacted did not center on the death of the individual but on the separation of the family. It produced and cultivated a particular type of subjugated life that helped sustain White culture and society. French philosopher Michel Foucault argues that in the eighteenth century, problems of larger populations and the economy shifted how governments interpreted families. State apparatuses and nongovernmental institutions—such as churches, schools, medical institutions, and so forth—worked together to play varying roles in "policing" family development, morality, and sexuality. Thus the family became an "object of direct management," where it was no

longer governing "of the family" but rather "*through* the family."[43] The family was a site of biopolitical policing.

Biopolitics—derived from biopower—differed from sovereign power because the latter enabled the sovereign the "right to *take* life or *let* live" or, more specifically, the "right of seizure: of things, time, bodies, and ultimately life itself," but the former required a new model of power, one with "positive influence on life from the sovereign, that endeavors to administer, optimize, and multiply it [life]."[44] Biopolitics was tied to the power to "'*make' live* and *'let' die*."[45] It was concerned with issues such as reproduction, mortality rate, life expectancy, and birth rate to create security and optimize life for the general population.[46] Biopolitics meant regulations that promoted valued life, while simultaneously allowing less valued life to die—toward the goal to develop, optimize, control, and strengthen the territory.[47]

Thus biopolitics was at play in slavery, settler colonialism, and the making of the United States as a nation. We could say that the enslaver exercised sovereign and disciplinary power—through the right of seizure of bodies, time, and life itself (sovereign power) as well as the punishment and containment of enslaved people (disciplinary power). Yet the institution of slavery, perhaps more important, incorporated biopolitical logics that were connected to the proliferation of enslaved bodies and life through provisions of food and housing, hypodescent laws (the "one-drop rule"), protection of the enslaved mother's unborn baby while whipping her, and the legal doctrine of *partus sequitur ventrem* ("that which follows the womb," in which a child born of rape by the enslaver would be born a slave). These practices, policies, and laws not only helped "make live" enslaved Blacks, but they also enabled White Americans and the United States as a nation to thrive.

For settler colonialism, biopolitics appears in the 1831 Supreme Court case *Cherokee Nation v. Georgia*, which ruled that Native American Tribes were not independent sovereigns but domestic dependent nations. Justice Johnson declared that Native Americans were "nothing more than wandering hordes."[48] This ruling established that Native American tribal relationship with the United States was similar to a guardian and ward. The discursive and legal power produced by the Court operationalized biopolitical logic through an early form of the "White man's burden" to sustain and care for "uncivilized" Tribes. Similarly, the racial, gendered, and settler colonial project of boarding schools facilitated the proliferation of a particular type of subject—one who was culturally assimilated. That thousands of Native American children died in boarding schools composed the "let die" component that accompanied the "make live" for the thousands of "culturally assimilated" Native American children who survived the boarding school experience. Boarding schools operated in conjunction with other "logics of elimination," such as the General Allotment Act of 1887 and the tribal Termination Era from 1953 to 1968, which were meant to civilize and assimilate Native Americans.[49] Land dispossession, assaults on self-determination, and family separation were the tactics used in the longer strategy of enabling the settler nation-state and its population to prosper.

The U.S. racial state also affected Asian communities and families through exclusionary immigration laws that protected the biopolitics of Whiteness. The Page Law of 1875 targeted Asian women who were perceived to be morally threatening prostitutes, and the Chinese Exclusion Act of 1882 was the first U.S. law that explicitly excluded an ethnic and national group from immigration by name. Asian exclusion crescendoed when Congress passed the 1924 Immigration Act, which created a quota system based on "national origins" that favored Northern and Western Europeans the most while restricting immigration from Eastern and Southern Europe. The law also completely excluded all Asian countries from immigration because they were deemed "racially unassimilable."[50] In the two years prior, the Supreme Court, in *Takao Ozawa v. United States* (1922) and *United States v. Bhagat Singh Thind* (1923), had ruled that Japanese and South Asians, and therefore all Asians, were not White and thus racially ineligible for naturalized citizenship. The McCarran-Walter Act of 1952, though still discriminatory toward Asian immigration, finally allowed nominal quotas and naturalized citizenship for individuals from Asian countries.[51]

In addition to racial anxieties, U.S. immigration has been concerned with sexuality and heterosexual reproduction since the late nineteenth century. Sexuality was a site of knowledge and power that was used by the state for biopolitical purposes of managing life through sex.[52] Much of the immigration restrictions and allowances were based on who should reproduce, which was highly influenced by the eugenics movement. Eugenics was coined by British scientist Francis Galton in the 1880s, who was influenced by Charles Darwin's *Origin of Species*, Herbert Spencer's idea of "survival of the fittest," and Mendelian genetics.[53] Eugenicists believed that intelligence and social characteristics such as morality and criminality were genetically "inborn" and attached to racial groups and thus inheritable.[54] The eugenics movement in the United States was a political, educational, scientific, and medical effort to breed "better" human beings so that the ideal nation would be racially pure (as White). Eugenics involved both positive eugenics, such as "fitter family contests" at U.S. county fairs, and negative eugenics, such as sterilization laws, to prevent passing down tainted traits. Indiana was the first state to pass a eugenics-based sterilization law in 1907, and eventually 31 more states followed suit.[55] The Supreme Court in *Buck v. Bell* (1927) ruled the practice to be constitutional, which led to the sterilization of approximately 60,000 to 70,000 people in the United States, most of whom were Black, Native, poor, and disabled women. The eugenics and child welfare reform movements reflected dominant racial, gendered, and class ideology, which shaped early adoption practices, showing how these seemingly distinct histories overlapped.[56]

Predating the eugenics movement by centuries, but relating to it in terms of controlling race and sexuality, was the establishment of antimiscegenation laws. In the 300 years between the 1660s and 1960s, 41 colonies or states passed antimiscegenation laws regulating sex, marriage, and/or cohabitation. Such laws were

enacted to police and protect the supposed racial purity of Whiteness and the "mongrelization" of local states and the nation as a whole. Bans mostly targeted Black Americans from interracial relationships and sex with White Americans, but numerous state statutes targeted "Native Americans, Asiatic Indians, West Indians, Hindus, and people of Chinese, Japanese, Korean, and Filipino ancestry" as threats to White racial purity.[57] Both the courts and state legislatures articulated with great certainty that such unions were unnatural, immoral, and a danger to the nation-state.[58] Mixing of racial groups would result in the reversion to the so-called lower race, therefore leading to eventual race suicide.[59] At the same time, by 1967 transracial and transnational adoptions of Korean, Native American, and Black children had increased substantially. That same year, 17 states still had anti-miscegenation laws on the books that were eventually ruled unconstitutional by the Supreme Court in *Loving v. Virginia*.

U.S. political, legal, economic, and cultural institutions that managed family-making created the conditions for the emergence of TRNAs. The different yet nearly simultaneous efforts by institutions to promote the adoption of Asian, Black, and Native American children were rooted in racist, settler colonial, and imperialist logics that constructed relational meaning about which families and spaces could provide a better future and home. These forms of adoption were (and still are) narrated as loving acts of White Americans whose selflessness solves the problem of children in need of a family and home. And while many individuals who have been involved in adoption (adoptees and adoptive parents alike) have experienced adoption as such, the reality of TRNAs is that they were and are premised on family separation. Contemporary termination of parental rights (TPR) in domestic U.S. child welfare cases has been called the "civil (or family) death penalty," leading to a familial rupture for both the birth parents and child.[60] Their reemergence from such violence as a "good mother" or a "saved" orphan or child can only happen through adoption, where family separation is still a foundational pillar that is legally ensconced in adoption practice (changed names, sealed birth certificates, and unknown origins). Thus the TRNAs have done little to disrupt and in some cases reinscribed the traditional family ideal instituted by the state that has comprised the elements of Whiteness, middle-class status, heterosexual marriage, biological reproduction, and a patriarchal and (more recently) nuclear familial order.

INTERVENTIONS, METHODS, CHAPTER OUTLINE

Adoption studies, as a multidisciplinary field, has been historically predominated by social work, psychology, and legal studies. I take an interdisciplinary approach that employs theories and methodologies from critical race and ethnic studies (CRES) and critical adoption studies (CAS). These two fields draw from other interdisciplinary fields such as American studies, critical gender and sexuality

studies, Black studies, Indigenous studies, and Asian American studies. While these fields are distinct in many ways, they share many characteristics, one of which is the rejection of objectivity. The production of knowledge is never purely objective, no matter what people say or do. This means that research is in fact much more subjective than researchers ever admit, if they do at all. Instead of trying to "objectively" determine whether adoption is beneficial or harmful, CRES and CAS ask, How do we know what we know, and what are alternative forms of knowledge and practice?

I incorporate social theory with discursive and legal analysis of historical documents and other forms of knowledge. Each chapter operationalizes my violence of love framework to interrogate a different site of knowledge production and/or practice about TRNA, such as newspaper articles and agency reports, "positive adoption language" and social scientific studies, federal and international laws and policies, and court cases. As an analytical tool, the violence of love framework helps to examine how race, nation (Asian countries, Tribes, and the United States), and subject (adoptees, adoptive parents, and birth parents) formation are inextricably linked to adoptive family formation.

I employ the concept of discourse similar to how it is used in multiple disciplinary and interdisciplinary fields—as a group of statements and system of representation that is historically and culturally specific. Discourse is a collection and circulation of knowledge that stems from a range of texts and institutions that distinguishes and governs how we come to understand meaning relationally and as "truth." Therefore, as a parameter of knowledge, discourse influences how we think and act. Discursive analysis enables me to identify important details such as points where power is located, who is producing knowledge about adoption, and what is at stake. While discourse is an instrument and effect of power, it can also be a site of resistance because power is everywhere, not only in the state, institutions, or the law. In addition, the contestation over meaning within a particular discourse indicates that meaning is never absolutely fixed.[61] Hence, I am interested in how the transracial/transnational adoptive family is discursively made and what the attendant material consequences are.

I understand historical archives in both the "traditional" sense, where the archive is a place of knowledge retrieval, but also in its alternative significance as a site of knowledge production and power relations.[62] When we think of history and the archives, we think of documents with names, dates, locations, and stories. The adoption archive has these things, but they are mostly from the perspective of the institutions, government officials, the media, and most prominently, adoptive parents—all of which produce knowledge about adoption. At the same time, many adoptee records (such as name, date of birth, and social reports) can be fabricated or altered. Adoption, then, exemplifies the ways the archive is not simply a space of "truth" or facts about the past but rather a space that we ascribe as truthful and factual.

Indeed, history is a contention between the master narrative of historicity—that is, history as recorded, factual, linear, and teleological—and what some call a genealogical method that is antihistory. This book is not a historical narrative of the adoption of Black, Asian, and Native American children. The adoption archive is by no means overflowing with documents, and the adoptee archive largely remains hidden, incomplete, and housed in unreliable or inaccessible sites.[63] Pursuing a critical historical (or genealogical) project means attending to what is absent or erased and reading "official" or hegemonic narratives "against the grain" by interrogating their discontinuities, multiple perspectives, incompleteness, multiple beginnings, and various connections.[64] Upon reaching the end of the book, I suspect readers will have more questions than answers. But my hope is that those new questions will lead us elsewhere.

In addition, I use a comparative and relational approach to examine the adoption of Asian, Black, and Native American children by White families in the United States. These three types of adoptions are important because they—with a few exceptions—have typically been narrated and analyzed along separate historical timelines even though they share similar and interconnected stories of building loving, transgressive, and non-normative families.[65] At the same time, these three types of adoptions share related forms of violence enacted on adoptees, birth families, and birth communities. In short, a comparative and relational framework enables me to analyze how subjects, families, and nations (including Tribes) are racialized in relation to each other.

One of the key struggles I had in writing this book was contending with the absent presence of the birth parents, especially the birth mother. None of my research materials contained birth parent voices, where they are agents and subjects who love and have desires. To an extent, I am able to explore the matter through their ghostly presence or present absence (rather than absent presence). A present absence approach discloses and acknowledges the beings who cannot be materially present but who often visit or haunt our daily lives, thoughts, desires, and dreams. Their actual voices and experiences would have certainly added another layer of complexity to my analysis of adoption and family-making. This book has been more than 18 years in the making, and I unfortunately was not able to do what needs to be done in this area. I am grateful to others who have done, are doing, and will do this work because birth parent voices and experiences are vital to our reimagining of adoption, family, and kinship.[66]

Chapter 1 explores—through a genealogical rather than solely historical tracing—how newspaper and adoption agency accounts of Black, Native American, and Asian children went from inferior and unadoptable to adoptable.[67] TRNAs represented liberal ideals of inclusion that could combat the negative image of America as a racist country, even while they in essence maintained normative family structures. Although these three types of adoptions appear to have divergent trajectories, they carried and continue to make relational racial meaning

among White families and the U.S. nation vis-à-vis non-White families and sending nations. This chapter illuminates how the structures of racism, settler colonialism, and the U.S. empire were linked to adoption, family-making, and discourses of love. It shows the types of structural and symbolic violence that helped produce such adoptions, the traumatic violence engendered by them, and how different groups pushed back.

Chapter 2 offers a historical and discursive analysis of social work and social scientific knowledge that attempted to "positively" reshape the way America imagined, discussed, and practiced adoption. Positive Adoption Language (PAL), promoted by social workers, attempted to destigmatize adoption and adoptive motherhood through "universal" and loving terminology, but instead, it enacted symbolic racial violence by instituting White adoptive mothers as a new norm over and against Asian, Native American, and Black birth mothers. Likewise, social scientific studies produced "positive"—both "objective" and affirming—knowledge about the outcomes of TRNAs. From this social work and psychological research, love emerged as a reason for the success of these adoptions. Both the statements of love along with the research methodology ultimately ignored the structural-historical and symbolic violence of adoption. Together, PAL and scientific studies ignored or misinterpreted the significance of race, which shaped subject and family formations in uneven ways.

I also situate the law as a generative site of inquiry. As a fundamental institution, law influences various aspects of social, economic, and political life—in particular, the family. Moreover, law is important because it is actively made and remade, producing mechanisms of regulation and management as well as reinscribing or creating new meaning. Chapter 3 examines congressional hearings and federal adoption laws, considering how lawmakers and transracial adoption supporters employed love within liberal and neoliberal color-evasive adoption discourse and adoption laws to configure transracial adoption as a form of freedom from violence. Despite race-neutral language surrounding the best interest of the child, liberal and neoliberal laws both ignored structural and symbolic forms of violence against Black families that were the conditions creating the "need" for transracial adoption while simultaneously enacting additional institutional and symbolic harm to further justify such adoptions.

Chapter 4 examines adoption discourse and the law in the context of transnational adoption from Asia. While the Hague Adoption Convention states that every adoption case must consider the "best interest of the child," this decision has already been predetermined based on racialized accounts of each family (birth and adoptive) and nation ("sending" and "receiving"), which are socially constructed in distinct relation to each other as "opposite futures" for the "orphan." Through this imagined opposite spatial and temporal path (life versus death), adoption and love transform the orphan into the adoptee, who receives permanency, parental love, and a future that promotes life—all of which birth and/or adoptive Asian

parents in the space of Asia cannot provide. In the context of scandals and other forms of violence, such as rehoming and deportation of transnational adoptees, adoption discourse, law, and practice have too often protected adoptive parents rather than adoptees and birth parents.

Continuing with a legal and discursive analysis, chapter 5 examines the U.S. Supreme Court case *Adoptive Couple v. Baby Girl* (2013), which awarded the custody of four-year-old "Baby Veronica" to a White adoptive couple in South Carolina instead of her Cherokee father, Dusten Brown. This occurred despite the existence of the Indian Child Welfare Act (ICWA) of 1978, a law meant to protect Native American children, families, and Tribes from transracial and transnational adoptions. While the case seemingly revolved around Brown's parent and custody status, I argue that Brown and Veronica's "Indianness" as well as "White rights" were at the heart of the legal dispute. This case illustrates how the confluence of racial difference, settler colonialism, and liberalism worked in concert to privilege White adoptive parents and White space over Indigenous parents, Tribes, and reservations. In a lengthy postscript I analyze the *Haaland v. Brackeen* (2023) case that also challenged ICWA.

The conclusion returns to the concept of love, drawing from many thinkers to consider who gets to love and how love can be a source of power and harm. What would it mean to interrogate love and think beyond it? How does revolutionary love require us to commit to being in relation differently? With broader foundations of love, I explore alternative adoptee and ghostly forms of kinship, the limits of open adoption, and ways to love, care, and imagine otherwise by looking to Native knowledge and kinship, reproductive justice, and abolition. What would it mean to envision alternative forms of kinship, care, and relationality?

HOW TO READ THIS BOOK (AND WHAT IT IS NOT)

The Violence of Love is an academic book, but my hope is that it is useful for all people connected to adoption—whether they are in academia or not. It is for adoptees, birth parents, adoptive parents, adoption agencies, social workers, therapists, lawmakers, and those connected to adoption who wonder, who feel, who hurt, who love, who want more, and who imagine otherwise. It is a search for a deeper understanding of adoption, not a positivistic claim to truth. In other words, it is not research or knowledge that comes from "objective" observation and experimentation that attempts to provide a level of certainty in the knowledge produced. This book is not claiming or ascribing singular/universal truths about specific experiences and identities—adoptee, adoptive parent, birth parent, or otherwise. Rather, it's an invitation to interrogate our ideas about these identities and experiences. As a reader, it is unnecessary to respond with "not all adoptees/adoptive parents/birth parents" because this project is not looking solely at individual

experience. Rather it is concerned with longer histories, entrenched industries, widespread discourse, and deep systems.

For readers who are newer to the critiques of adoption, I ask for your patience and curiosity. It might be tempting to quickly reject the concepts and arguments herein. Historically, when minoritized groups have raised grievances, the majority has often claimed that the complaints are overreactions. Yet history has shown that most of those grievances are in fact valid. What does it mean when a significant group of adoptees, former foster youth, social workers, and even adoptive parents have agreed that the current system is not just unfair but harmful and violent? In a compilation of common sayings, we could think, *Everyone faces challenges. Nobody has a perfect life. It's how you respond to obstacles and learn to overcome them that matters.* These platitudes can be useful in certain individual circumstances, but *The Violence of Love* attempts to show how the harm attached to transracial and transnational adoption is multiple, repeating, long-lasting, and, most important, structural (ideologically and institutionally enacted over space and time). It does not mean that adoptees cannot be happy or have had fulfilling lives. It just means that historically and structurally, society has not been honest about the violence connected to adoption and has not been imaginative when thinking about how kinship, relationality, and care might be practiced differently to mitigate that harm.

Again, the goal is not to only name everything as violent and negate anything that claims to be loving. To speak about the violence of love is not to disavow love or the positive experiences of other adopted individuals and adoptive parents. Through my own experience (which despite some challenges was loving) and working at summer camps for adoptees, where I interacted with hundreds of transnational and transracial adoptees and adoptive families, I know that the vast majority of adoptive parents love their children and vice versa. This book is not an attempt to negate or diminish that love and those relationships. The purpose of this project is to tackle the issues that have been exposed but remain rooted in the adoption industry, child welfare system, and settler colonial interpretations of the law. I am more concerned about the part of the iceberg beneath the water. Even in positive experiences, violence exists and should be acknowledged because it has shaped everyone in the adoption constellation.

The goal is to think broadly and deeply about adoption discourse and practice. This is an onto-epistemological project, which means that I'm interested in ways of being and knowing. Or, more specifically, how do we come to be orphans, adoptees, adoptive parents, and birth parents? How do we know what we know about race, love, violence, adoption, and family? The goal is to acknowledge the violence, acknowledge the love, and then dig deeper to understand how they both relate to adoption and family-making. I must be explicit—the goal is not to resolve violence but to note the impossibility of detaching violence from adoption. I cannot

demand an outcome from those who read this book, but at the very least I hope adoption becomes more complex so that it can hold ambivalence. As Eleana Kim writes: "This is an ambivalence that allows one to say with confidence and without contradiction that one is happy to have been adopted and that one cannot imagine a different or more loving family, but also that these joys coexist with a sense of loss and sadness for people, places, and experiences barely remembered or never known. It also allows for the adoptees who were raised in abusive or dysfunctional homes to be able to express their rage and their desire to find better, less drastic, solutions for the children in need."[68]

At the most I hope the book moves readers to think, act, and be differently. It is just a small portion of the larger political project that is needed to do the more important work of reimaging adoption, family, and kinship. This requires critical thinking, challenging ourselves, and reflecting on our discomfort. It requires understanding, patience, and grace. Finally, this book is not the last word. There is more out there, especially alternative perspectives, truths, and expertise by adult adoptees and birth/first parents. The scope of adoption inquiry, experience, knowledge, and practice is ever-expanding. The adoption community is brimming with writers, artists, and poets who have produced trenchant narratives and imagery, helping us understand the pain, happiness, complexity, and alternative futures of adoption in new ways.

1

A Genealogy of Transracial and Transnational Adoption

The emergence of transracial and transnational adoption (TRNA) of Black, Native American, and Asian children occurred during a "contradictory" historical era of racial liberalism. W. E. B. DuBois's prescient articulation in 1903 that "the problem of the Twentieth Century [was] the problem of the color line" continued at World War II's end.[1] There was widespread legal and de facto segregation, President Franklin D. Roosevelt interned more than 100,000 Japanese and Japanese Americans during the war, Congress enacted policies to terminate Native Tribes, and more than two dozen states had antimiscegenation laws in place. Cold War liberalism was used to combat the negative image of America as a racist and unfree country relative to communist nations.[2] Racial liberalism underlined the harm of individual prejudice and segregation, while promoting legal rights for minorities and tolerance through interracial contact and family-making.[3] Thus TRNAs represented ideals of inclusion and racial progress for the ways they seemingly transgressed boundaries of biology, race, culture, and nation. Prior to the 1950s, Black and Native American children were generally viewed as inferior and unadoptable, and most Asian immigrants were still barred from immigration and naturalization. How did the definition of adoptability change to enable transracial and transnational adoption? Did it change equally for all children of color? And how did communities and families of color respond?

In September of 2011, I visited the Columbia University Health and Sciences Library to look at adoption-related papers from a number of personal collections. Three years later, I went to the University of Minnesota's Social Welfare Archive to explore various adoption-related agency collections such as the Child Welfare League of America, the National Council for Adoption, and the Children's Home Society of Minnesota. The agency collections included agency reports, newsletters,

and correspondence, while personal collections included news media articles, correspondence, research studies, journal articles, and agency documents. Typically the archive is understood as "inert sites of storage and conservation" and a site of knowledge retrieval, but as historical anthropologist Ann Laura Stoler suggests, it is also a site of knowledge production and power relations.[4] Knowing this enables us to read history "against the grain."[5] We consider not only "what was" but challenge "what is" and how it came to be.[6]

To be clear, this chapter uses archival sources to explore a *genealogy* (rather than history) of these three seemingly divergent types of transracial and transnational adoption. Genealogy, as Foucault describes it, is not concerned with historical linear development. Genealogy is constructed from "insignificant truths" and opposes "the search for 'origins'" because there are "numberless beginnings."[7] A genealogical method identifies "the accidents, the minute, deviations . . . the errors, the false appraisals, and the faulty calculations that gave birth to those things that continue to exist and have value for us; it is to discover that truth or being do not lie at the root of what we know and what we are, but the exteriority of accidents."[8] Thus I purposefully use "a genealogy" rather than "the history" of TRNA because the latter is not possible. With the former I examine the insignificant truths, accidents, and deviations by connecting them to the numberless beginnings and in between points. To clarify, this is not the genealogy from "genealogical bewilderment," a term coined in the 1960s by psychologist H. J. Sants to help explain the psychological effects of not knowing one's parents. It is to move away from adoptee identity and toward an analysis of larger forms of meaning-making and social structures.[9] As American studies scholar Sandra Patton-Imani has noted, a critical inquiry of adoptee identity, and I would argue adoption in general, "must move beyond the family tree, to the discursive roots and routes of race, gender, and class politics embedded in the public policies and social institutions."[10]

Adoption agencies exemplified racial liberalism by expanding notions of "adoptability" for Asian, Black, and Native American children, which inaugurated same-race and soon after transracial and transnational adoptions. TRNAs revealed racial anxieties rooted in biological racism that was also undergirded by anti-Blackness that made Asian, Native American, and Black children differently adoptable. Racial liberalism and depoliticized love shaped the relational racialization of White adoptive families and the U.S. nation relative to non-White families and their geographic homes as "opposite futures," enacting structural, symbolic, and traumatic forms of violence onto separated families and communities. Yet families, communities, and organizations pushed back in various ways against these adoptions, institutional harms, and presumptions of who could provide love.

EXPANDING ADOPTABILITY AND SERVICES

During the mid-twentieth century, in the midst of an emerging racial liberalism—the shift to believing in abstract equality among other things—the adoption

industry began to expand adoptability by framing minority adoption around new institutional convictions to serve children of color. In 1948, following the rising black market of children for adoption after the Great Depression and World War II, the Child Welfare League of America (CWLA) announced a shift in its beliefs about which children were adoptable. Earlier adoption practice understood adoption to be a risky endeavor, and with low demand for children, social workers focused on placing "blue-ribbon babies" who had "impeccable" health and pedigree.[11] Practitioners used narrow definitions of "adoptable" that were attached to tested measures and reports of psychological well-being, intellectual abilities, and "normalcy." Pushing back against long-held views, the CWLA established that adoptability did not exist innately or biologically. Rather, it believed, "any child can be considered adoptable who can gain from family life, and for whom a family can be found which will accept him with his history and capacities."[12]

According to the CWLA's new position, to be adoptable, a child needed to be legally surrendered, placeable, or desirable by adoptive parents, and lastly, to have access to services. Prior to the 1950s and 1960s, adoption in the United States served mostly infertile, White, middle-class couples.[13] Children and families of color were generally denied access to social services until the 1930s. Even then, most social service providers in the United States did not offer adoptive placement or had unequal access to child welfare services for minority children until the 1950s and 1960s.[14] Statistics for 1953 show that adoption services for non-White children—from the 29 states that reported such statistics—were very limited in that only 7 percent of adopted children were non-White, which was less than half of the total non-White population in those states (15 percent). Reasons contributing to the low rates of adoption of Black children included inadequate services for Black children and poor outreach to Black families. In addition, high demand for White children concentrated services toward White children and White families.[15]

One of the earlier agencies to offer services to children of color was the Child Placing and Adoption Committee of the State Charities Aid Association (CPAC SCAA) in New York. Established in 1898, the CPAC SCAA in the 1930s began to think about the needs of "Negro," "Oriental," and "mixed race" children.[16] The organization had placed a small number of non-White children in its earlier years, but in 1939 it created the Interracial Committee on Adoptive Homefinding. Using newspaper, radio, television, and other creative means such as informal neighborhood committees that provided community education and recruitment, the CPAC SCAA increased adoption services for minority children and families. On the other side of the country, in Los Angeles County, the Board of Supervisors created the Bureau of Adoptions, which issued a mandate to provide services for minority and mixed-race children who were largely ignored and denied service before 1949.[17]

By the 1950s, progressive adoption agencies such as the Children's Home Society of Minnesota (CHSM) exemplified racial liberalism by making minor inroads

for adoptive placements of children of color. In their 1950 quarterly *Minnesota Children's Home Finder* (*MCHF*) newsletter, Florence E. Johnson, the case supervisor, wrote about the early minority placement: "We searched far and wide to find new parents for Nikki, an appealing little Nisei child. Now he is in a home of his own Japanese race, and our last report from his parents indicates that they are delighted with him. Jo, our little Indian boy and Judy, a little Negro child, are now placed in homes of their own race and are responding nicely to the affectionate care of their new parents."[18] The *MCHF* raised the issue again in fall 1953, claiming: "We Need Homes for Babies of Minorities Races." The issue welcomed applicants who were "interested in adopting children of Negro, Indian or Oriental racial strains."[19] By 1955, with continued special recruiting efforts, it placed 5 children of "minority racial background" of the 111 children total.[20]

Another agency, Children's Services in Cleveland, Ohio, had only placed 7 "Negro" children in 73 years through 1950, but in the subsequent 3 years, they found homes for 77 "Negro" children.[21] Likewise, Catholic Social Service of San Francisco, which established its adoption program in 1953, placed 112 "hard-to-place" children, 57 of which were of minority or mixed background, including "Mexican, Latin American (parental origin in South America), Negro, Filipino, Chinese, Korean, Japanese, American Indian, and various combinations of these groups including partial Caucasian descent."[22] This trend was reflected in *Child Welfare*, a prominent journal for social workers: "We find over the country a growing conviction, translated into practice, that the color of a child's skin, the texture of his hair, or the slant of his eyes in no way affects his basic needs or the relation of his welfare to that of the total community."[23] Despite the seeming progress of increasing access to adoption for children of color, their status as adoptable did not change quickly. Whether or not adoption was deemed a suitable plan for a child oftentimes depended on resources available to assist with placement and availability of homes. The CWLA explicitly noted in 1958 that unmarried mothers and prospective adoptive parents of children from non-White backgrounds, "including Indian, Mexican, Negro, Oriental, Puerto Rican, and Spanish-American children," did not receive sufficient services to support such children.[24]

Within a broader effort to improve services, planning, organization, administration of services, and teaching and training, the CWLA created Standards for Adoption Service in 1958 and revised them again in 1968 and 1971.[25] These standards not only reflected already occurring widescale beliefs and practices but also attempted to improve adoption practice. They specifically addressed—and attempted to shift—race matching in adoption, stating: "Similarities in background or characteristics should not be a major consideration in the selection of a family, except where integration of the child into the family and his identification with them may be facilitated by likeness, as in the case of some older children or some children with distinctive physical traits such as skin color." The CWLA noted that people have different levels of capacity to accept difference.[26] This guidance

articulated new standards but also acknowledged the difficult reality that racial difference presented in expanding "adoptability."

THE EMERGENCE OF TRANSNATIONAL AND TRANSRACIAL ADOPTION

Transnational adoption emerged after World War II as the first significant form of transracial adoption. Its inauguration demonstrated the further shifting ideas around race, family, and nation found in racial liberalism. Passage of the Displaced Persons Act (DPA) in 1948 allowed adoptions from primarily Germany but also from 18 other countries, including Austria, Greece, Italy, Japan, and Korea.[27] Over the next five years Americans adopted 5,814 children.[28] For children in Germany and Japan, many of the adoptions involved children of U.S. servicemen, as they were "intimately connected to the prolonged presence of U.S. occupation troops and shaped by military policy."[29] Despite early adoptions from Japan and Korea, the DPA was primarily conceived for Europeans, and such adoptions from Asia contradicted the logics existing in racially exclusive immigration law.[30] By this time the United States had also developed a military presence in South Korea, setting in motion the largest overseas adoption program in the world.[31]

In the years following the 1953 Armistice Agreement of the Korean War, mostly White American families adopted "illegitimate mixed-race G.I. babies" (also known as Amerasians) and Korean children.[32] Similar to the United States, Korean society held nationalistic ideas around "racial purity" that led to the stigmatization of Korean GI babies.[33] Despite the host of structurally racist policies and laws that existed in the United States at the time, Congress passed the Refugee Relief Act of 1953. It included a provision that circumvented the continued racist quota restrictions, instead allocating 4,000 nonquota visas for orphans through 1956 regardless of "race, religion, or national origin."[34] Special parole procedures granted visas to another 659 children, or 4,659 children in total.[35]

Stories on television and in print media sparked humanitarian, religious, and patriotic concern. As more media centered Korean orphans and children of mixed heritage, the American public and specifically Christian Americanism, which combined morality and patriotism, viewed the children as objects in need of rescue and political commitments for the nation rather than children who already belonged to a family that needed assistance.[36] Harry and Bertha Holt were two such individuals from Oregon who were inspired by the evangelical Christian organization World Vision and influenced by media representations of Korean children. Bertha Holt garnered national media attention for her effective lobbying of Congress that led to the expediated passage of a private bill in 1955, which allowed the Holts to adopt an additional six Korean children on top of the two who were permitted under the Refugee Relief Act.[37] A year later, the Holts established the Holt Adoption Program. Bertha Holt believed the child welfare agency process

was too slow, costly, inefficient, and invasive: "I think of all the love-hungry, emaciated little babies over there starving and dying for want of a home . . . and all these love-hungry couples over here just pining their hearts out for children to love [and] I am forced to conclude that the Welfare needs to incorporate common sense into its program."[38]

The Holts were not the only ones with this view. Even before they started the Holt Adoption Program, Pearl S. Buck's Welcome House opened in 1949 to overseas adoption for mixed-race children.[39] These efforts influenced other families across the nation to participate in adopting across racial and national lines. When the Refugee Relief Act expired in 1956 at year's end, demand for transnational adoption continued, leading Congress to create the alien orphan visa category and remove the numerical limit on the number of orphan visas that could be issued.[40] Although it is difficult to know precise numbers because some children, like those born in Germany, entered on quota visas instead of orphan visas, it is estimated that from 1954 to 1958, American families adopted approximately 10,000 foreign children.[41] They were considered the "best possible immigrants," according to the Subcommittee on Immigration, "from the standpoint of their youth, flexibility, and lack of ties to any other cultures."[42] These children were thought to assimilate easier and did not threaten U.S. political institutions in the same way as adult immigrants.[43]

As transnational adoptions of Korean children increased, transracial adoption of Black and transnational adoption of Native American children emerged and experienced new growth, but in ways that were informed by relational constructions of race. The first transracial adoption of a Black child by White parents occurred in 1948 in Minnesota.[44] In 1950 the Los Angeles County Bureau of Adoptions was established with a mandate to provide services for minority and mixed-race children who were largely ignored and denied service before 1949. By April 1952 the Bureau of Adoptions had placed 11 Mexican American and 6 American Indian children with Anglo families.[45] The *Minnesota Children's Home Finder*, in a 1960 story titled "Minority Children Seek Love and Security," recounted a proud adoptive father proclaiming, "She's wonderful. Susan really belongs with us. Our family and friends love her almost as much as we do." The author noted that "Susan is one-half Indian, and he is Caucasian. She has been adopted by this family and can look forward to a secure and love-filled future."[46]

Following its own calls to help place children of color, the Children's Home Society of Minnesota launched Parents to Adopt Minority Youngsters (PAMY) in July 1961. This referral-based program gave priority to applicants who were interested in minority adoptions.[47] While CHSM hoped that Minnesotans would "open their home to Negro, Indian, Mexican and other racial minority children," earlier appeals to White Minnesotans promoted children of racial minority background "who were not Negro" because CHSM assumed "it would not be possible to place Negro children in Caucasian homes."[48] For Black children the plan for PAMY was to reach out to Black families for adoption. The surprising adoptive placements

of a few "Negro" and "part-Negro" children with White families, however, altered this plan and expanded PAMY to include Black children for transracial placements along with already targeted "Oriental and Indian children."[49]

At the 1963 CHSM annual meeting, PAMY coordinator Harriet Fricke outlined the program's accomplishments. In one-and-a-half years, PAMY had led to successful placement of 11 children in 9 adoptive families, with an additional 11 adoptive families having been approved but where a child had not been placed yet. In addition, 23 families were in the home-study process.[50] According to Fricke, Minnesotans were overwhelmingly in favor of transracial adoptions: "Public acceptance of PAMY literally is overwhelming. Everyone is in favor of PAMY and what PAMY is trying to do." As fervent as Fricke was in her support, however, she knew they were still controversial, especially to people outside of Minnesota: "I can also assure you that other states believe one of two things: (1) Minnesota should be kissed on both cheeks and given a medal of valor or (2) Minnesota should be shot at dawn."[51]

Despite various successes (e.g., Louise Wise Services in New York had facilitated nearly 300 transracial placements in the decade before 1963), the rise in transracial adoption was not equal across all Asian, Black, and Native American children.[52] Racism in adoption engendered proportionally more placements of Asian and Native American children because adoption agencies viewed them as "less objectionable" than Black children in White homes.[53] As Canadian sociologist and adoptive parent H. David Kirk noted: "In the area of race, Oriental and American Indian children are now increasingly seen as adoptable by whites. . . . But the liberalization in outlook has not affected the Negro child. . . . The myth concerning Negro inferiority is evidently very resistant to extinction."[54]

Indeed, this dynamic played out with the Indian Adoption Project (IAP) and subsequent adoptions of Native American children after the project. The IAP formally lasted from 1958 to 1967 and was a joint effort funded by the Bureau of Indian Affairs (BIA) and the U.S. Children's Bureau and administered by the Child Welfare League of America. The IAP had three primary purposes: "(1) To stimulate the adoption of American Indian children by Caucasian families on a nationwide basis; (2) To select and place for adoption 50 to 100 or more Indian children who, because of prejudice in their home state, may never benefit from good family life through adoption; (3) To study and evaluate these placements in relation to the adoption of all children of minority races."[55] Thus the default for the Indian Adoption Project was White adoptive families, which made them both transracial and transnational. It was also only meant to be a short-term project of three years and on a small scale of two or three East Coast agencies. Importantly, these agencies agreed to participate in follow-up research to evaluate the level of "cultural assimilation" of the Indian children.[56]

Two of the main reasons why Indian children were targeted for the first federally sponsored transracial adoption project was because of widespread anti-Blackness

throughout the country, and anti-Indian prejudice was supposedly confined to states with reservations. The belief was that anti-Indian sentiment could be circumvented by relocating children to other areas.[57] In a 1962 letter to BIA commissioner Philleo Nash, CWLA executive director Joseph Reid explained that "prejudice" in states such as Montana, North Dakota, and Wisconsin had limited the number of Indian children placed for adoption.[58] A 1960 summary of the IAP noted that the American public had shown "increasing interest" in adopting Indian children. It speculated that this growing interest could be attributed to the recent adoptions of European and "Oriental" children by U.S. families.[59] Eventually, the Indian Adoption Project placed 395 Native American children in White adoptive homes, becoming more popular than the CWLA could have imagined.[60] The children came from 16 states but mostly from Arizona, South Dakota, and Wisconsin.[61] The families who adopted were mainly from the Eastern and Midwestern states such as Illinois, Indiana, Massachusetts, Missouri, New Jersey, New York, and Pennsylvania. About one-half of the children were under the age of 1, but they ranged from newborn to 11, and slightly more than half were considered "full-blooded Indian."[62]

While the official number for the IAP is 395, multiple sources indicate that the number of Native American children removed for adoption into non-Indian homes was between 25 percent to 35 percent of all Native children. Results from one 1962 survey, in which 48 agencies of 73 responded, showed that 585 Indian children were placed for adoption that year alone.[63] Similarly, in 1965, 66 agencies reported that that there were 696 Indian children placed in adoptive homes plus an additional 49 placed through the Indian Adoption Project. Of the 696 children, 584 (84 percent) were placed into White homes.[64] In those two years there were more Indian children adopted than the entirety of children adopted through the IAP. Success of the IAP could be summed up by a postproject report that proclaimed: "One can no longer say that the Indian child is the 'forgotten child,' as was indicated when the Project began in 1958."[65] The report cited a social worker from Aberdeen, South Dakota, who gave praise to the IAP: "Here in South Dakota these activities [of the IAP] have expanded to such an extent that we really no longer consider the Indian infant a hard-to-place child."[66]

Even though transracial and transnational adoption had been happening prior to the Indian Adoption Project, the Child Welfare League of America stated that the IAP would be used as a test case to produce a "systematic record of the adjustments of these children and their families." If the results were positive, leading to successful integration of children into families, the CWLA would promote "further adoptions across ethnic lines."[67] By December 1962 the CWLA affirmed Indian adoptions had indeed proven to be successful and "helped agencies in the child's home state to be more courageous in placing not only Indians, but children of all minority races."[68] In short, Native American children were seen as easier to make "adoptable" and so could serve as the experimental subjects for the

industry's integration of racial liberalism and evolving stance on transracial and transnational adoption.

RACIAL ANXIETIES AND RELATIONAL PREFERENCES

Although transracial and transnational adoption had indicators of success and gained some institutional backing, racial liberalism could not erase the ways that race shaped anxieties and relational racial meaning tied such adoptions. Many media narratives lumped children of color together as unadoptable, hard to place, or "special needs." Such narratives implied both a racial commonality among the groups (as non-White) and racial difference between them and White children, who were perceived as the norm. This assumption of racial "commonality" among Asian, Black, and Native American children is rooted in nineteenth-century biology. Biological determinism emerged as a scientific theory that believed there were discrete racial types that could be ranked on a hierarchy, where outer looks determined inner ability and that such characteristics were fixed and inheritable.[69]

By the 1950s biological determinism had declined, but adoption agencies and adoptive parents—as well as society at large—still held onto anxieties around racial difference. As adoption increased and became more standardized in the twentieth century, conducting medical examinations and psychological testing were important processes to understand "hereditary factors or pathology" that could supposedly determine the future development and success of children. The CWLA itself noted in 1955 that with current methods of medical examination and psychological testing, "it is not possible within the first year of life to predict with a high degree of accuracy an infant's future mental or physical development," but it implicitly suggested that such examination and testing could be (accurately) predictive for children who were older.[70] This showed how the idea that race was biological (and linked to characteristics such as intelligence) was still prominent and limited the degree with which love could conquer. For example, adoption agencies and prospective adoptive parents feared that a White-appearing child could develop into a "Negro" child. Such a scenario was narrated by Ruth Taft in an earlier 1953 *Child Welfare* article, the journal published by the CWLA. In a section with the subheading "Placing the 'Unadoptables,'" Taft tells the story of Rob, a fifteen-month-old boy of a White mother and a "light-complexioned Negro" father:

> In appearance, Rob was a white child and the physical anthropologist who examined him supported our conviction that he should be placed as a white child. He gave the following statement: "My examination of Rob leads me to conclude that whatever Negro ancestry he may have is very slight in its genetic effect. He might readily pass as a white child since at this stage of development he reveals no obvious Negroid traits. In my opinion he is not likely to become Negroid as he grows older and I would anticipate that any children he might have in the future, assuming he married a white woman, would not be any less white in appearance than he."[71]

Possibly more troubling than the concern of the agency and physical anthropologist is the response by the Potters, who would eventually adopt Rob. When informed of the fact that Rob had African American ancestry and asked about whether they would disclose this to him when he was older, the Potters expressed that they did not harbor any "race prejudice," but they also claimed that it was "unnecessary" to disclose Rob's ancestry to him.[72]

Not only did adoption agencies and prospective adoptive parents fear that ostensibly White children could be Black, they also worried that White-appearing children could grow up, marry a White spouse, and yet have a "Negro" child. This question was raised during the 1955 National Conference on Adoption: "Would a person who passes for White but may have some Negro antecedents produce a child with Negro characteristics?"[73] For children who appeared White despite having a parent with a mixed racial background, the CWLA advised that they would "adjust best in a white family." Still, they advised that children should be examined by a geneticist or anthropologist to determine the physical development for children of mixed racial background. The agency reassured its audience, adoption practitioners and prospective adoptive parents alike, that "children of mixed Negro and white races who in appearance are white" and are married to a "white mate (without Negro ancestry)" are unlikely to have children with "Negroid characteristics."[74] These racial (and sexual) anxieties linked back to the rule of hypodescent, which legally established individuals with a single Black ancestor (or "one drop") to be considered Black no matter how White they were or appeared to be. Such racial ideology as well as social and legal practice was applied in determining Black subjectivity for enslavement, Jim Crow segregation, and antimiscegenation laws—and now in transracial adoption—and were always meant to keep "superior" racial groups from mixing with and having offspring with "inferior" racial groups.

Issues of "full-blooded" racial Otherness cut across groups. At a 1959 symposium hosted by International Social Service, one social worker described how agencies and workers had more difficulty in placing full Chinese children than earlier half-Japanese and half-Korean children of American fathers: "Agencies will report that a family would like to be considered for an Oriental-American child, but could not accept a *purely* Oriental child."[75] In another study of 22 White adoptive couples, 9 said that they would accept a child of any "racial mixture" and that the child did not need to "look like them," but 2 couples were explicit in indicating that they were not open to a "part-Oriental child."[76] Interracial marriage was also a prominent concern for the adoption of Asian children. In reflecting on community attitudes of interracial marriage, author Thomas Maretzki expressed pessimism: "Interracial marriage, though on the increase, is still a real problem in this country." He added: "[The 'Oriental' child] will have to anticipate community resistance to his marrying into the racial group to which his adoptive parents belong. So, even if the child learns to compensate for his foreign background and physical distinction by competitive striving—what about intermarriage?"[77]

Race of Children Registered and
Race Acceptable to Adoptive Applicants

	1969		1971	
Race	No.	%	No.	%
White	64	29	109	28
Black	23	10	106	27
White-Black	16	7	62	16
Indian	56	25	60	15
White-Indian	31	14	26	7
Other	33	15	29	7
Total	223	100	392	100
Black or White-Black hildren	39	17	168	43
Indian or White-Indian children	87	39	86	22
Family willing to onsider:				
Black or part-Black	18	8	150	19
Indian or part-Indian	126	59	454	56

FIGURE 1. This table on race and "race acceptable to adoptive applicants" is from a CWLA archival document titled "Supply and Demand in ARENA" (Adoption Resource Exchange of North America). Copyright © Child Welfare League of America.

While the experiences of non-White children certainly overlapped, racial difference possessed nuanced distinctions. For example, as Figure 1 shows, the logic of anti-Blackness appeared in a 1972 CWLA report of the supply and demand of Adoption Resource Exchange of North American (ARENA). The CWLA examined characteristics of children and families registered with ARENA during 1969 and

1971. The analysis found that White families constituted 90 percent of registered adoptive families.[78] By and large, there was a clear racial preference for certain children over others: "Over half the families would consider Indian or part-Indian children, and substantial proportions would accept Oriental, Chicano, Puerto Rican or Alaskan children."[79] However, only 18 of the 215 families in 1969 (8 percent) and 150 of 805 families in 1971 (19 percent) "would consider children of black or part-black parentage."[80] These racial preferences were also apparent in the placement data. For both years, 1969 and 1971, Black children (17 percent and 24 percent) were placed at a much lower rate than White-Black (32 percent and 68 percent), Indian (79 percent and 69 percent), and White-Indian (71 percent and 86 percent) children.[81] Thus transracial and transnational adoptions were not the bridge to a postracial society as many believed or hoped. Instead, they simultaneously reshaped and concretized different racial meanings attached to bodies, families, and space.

The CWLA report underscored the hierarchy of desirability and complexity of racial meaning. U.S. society had typically defined people of mixed Black and White parentage as Black (following the de jure and de facto rules of hypodescent). This meant that a child who was "any part black" was "considered black for adoption purposes."[82] In 1989 social work scholar Ruth McRoy noted that adoption workers created and promulgated new terms such as "black-white child," "child of mixed marriage," and "interracial child" to inscribe "newly positive connotations" as a way to make the adoption of such children more acceptable and appealing: "Agencies emphasized the half-white heritage of children with black and white birth parents so that white families could, in some way, identify racially with the child they adopted."[83] The 1972 "Position Statement on Trans-racial Adoptions" by the National Association of Black Social Workers similarly contended that race was changed to cater to White adoptive families: "[Transracial adoption] has brought about a re-definition of some Black children. Those born of Black-White alliances are no longer Black as decreed by immutable law and social custom for centuries. They are now Black-White, inter racial, [or] bi-racial, emphasizing the Whiteness as the adoptable quality."[84]

Similar to the ways that settler colonial logics deployed blood quantum to dilute Native American "blood," part-White terms produced positive racial meaning, creating an assimilative effect in which the racial body and identity were made to be closer to Whiteness.[85] This did not mean that such terms were insignificant for White and Black adoptive parents alike, as the terms did recognize the complexity of identity that hypodescent customs and laws did not.[86] But it did confirm that mixed-race children were more "desirable" both to adoption agencies and adoptive families. The Los Angeles County Bureau of Adoptions used photographs of children to help make them more appealing to potential adoptive parents. One Bureau of Adoptions representative stated: "Racially mixed infants are generally beautiful children, even by Caucasian standards." Expanding on the allure of mixed-race children, he added: "Their photogenic beauty often does a much better

job than could we."[87] The racial contradiction here—that still exists today—was that even though children of mixed heritage were also part White, their placement in Black adoptive homes never engendered concern or were even considered transracial.[88] These racial anxieties and preferences mark the ways race was deployed symbolically and institutionally to affect adoption beliefs and outcomes.

THE TRANSRACIAL AND TRANSNATIONAL ADOPTION BOOM

Even with continued racial anxieties, adoption agencies and prospective adoptive families showed that they could and would transgress racial and national boundaries to form families. What emerged for a short period from the mid-1960s to the early 1970s was a transracial and transnational adoption boom. Placements of Asian, Black, and Native American children in White homes were happening across the country, showing the effectiveness of racial liberalism to shape notions of family for many Americans. As journalist and adoptive parent David Anderson expressed, White adoptive parents saw their children as "children of special value."[89] By the 1970s adoptions from Korea logged then-record highs of more than 1,000 per year.[90] In that decade alone, there were more than 46,000 children adopted from Korea, and in the 1980s another 66,500, most of whom went to the United States.[91] Despite attempts by the South Korean government to reduce overseas adoptions, lobbying by European-receiving countries and by the United States later in the 1980s ensured that its program would continue. South Korea's model of transnational adoption paved the way for adoptions from other countries—in particular, Vietnam.[92] Near the end of the Vietnam War, the South Vietnamese, international troops, and aid organizations were trying to evacuate before the imminent fall/liberation of Saigon. On April 3, 1975, amid U.S. military and aid evacuation, President Gerald Ford initiated Operation Babylift to ostensibly rescue some of the estimated one million "orphans" out of Vietnam.[93]

International aid organizations in Vietnam—such as Holt International Children's Services, Friends of Children of Vietnam, Friends for All Children, Catholic Relief Service, International Social Service, International Orphans, and the Pearl S. Buck Foundation—helped to evacuate nearly 2,000 children to the United States and 600 children to Canada, Europe, and Australia.[94] Calls from Americans across the country "flooded" telephone lines of the Operation Babylift headquarters in Washington, D.C., expressing that they wanted to adopt Vietnamese orphans.[95] Thousands of Bay Area volunteers came to San Francisco and hundreds assisted in the other two processing locations of Fort Lewis Army Installation in Washington State and Long Beach Naval Support Activity.[96] Operation Babylift is most known because of its size and scale, but the two years prior, 1973 and 1974, saw volunteers from organizations such as Friends for All Children and Friends of Children of Vietnam help facilitate 375 and 845 adoptions from Vietnam to the United States.[97]

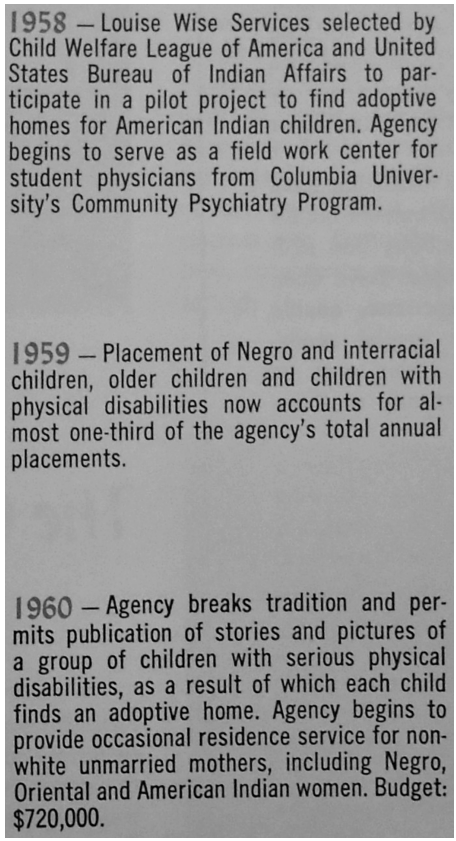

FIGURE 2. Notable dates for Louise Wise Services, an adoption placement service. *Source*: Viola Wertheim Bernard Papers, Archives & Special Collections, Columbia University Health Sciences Library.

Just years earlier, between 1967 to 1971, domestic transracial placements of Black children in White homes increased threefold, totaling approximately 10,000 Black children in White families.[98] The Louise Wise Services Annual Report for 1968–69 indicated that it had placed more than 550 non-White children since the start of the interracial adoption program in 1952.[99] Figure 2 shows how at Louise Wise Services the adoption of Korean, Native American, and Black children overlapped in the late 1950s. In another example, the New England Home for Little Wanderers sent flyers to 400 area churches promoting the need for homes for "unadoptable" Black children. From this effort many children were placed with White adoptive families who in January 1966 formed a small parents' group to share experiences and ideas about interracial adoption. The group continued to meet and grew more popular, officially becoming Families for Interracial Adoption (FIA) in June 1967. At the outset, FIA comprised 32 adoptive families, whose goal was to "encourage and promote the adoption of homeless children without regard to racial or ethnic backgrounds of either children or adoptive parents."[100] By June 1969, 147 couples in the New England area had adopted Black children,

with FIA referring more than half. Moreover, scores of Families for Interracial Adoption couples adopted Oriental (30) and Indian (50) children.[101]

One of the largest programs that facilitated transracial/transnational adoption was ARENA, which was established in 1967 by the CWLA and was part of the North American Center on Adoption. Similar to the Indian Adoption Project, which was also a national exchange, ARENA acted as a clearinghouse that assisted adoption agencies—through a registry of waiting children and families—in finding adoptive homes in cases where local homes for children had not been found.[102] Prior to its establishment, there were 22 statewide Adoption Resource Exchanges (ARE), with Ohio being the first in 1949.[103] The statewide ARE programs helped bridge agencies that oftentimes ignored each other, such as public and private agencies, city and rural programs, and small agencies versus larger ones.[104] Thus ARENA sought to replicate the success of both the state exchanges and the IAP at a national level—ARENA was initially called the National Adoption Resource Exchange—and help overcome "regional prejudices."[105] The program was meant to raise adoption standards and practices, improve interagency relationships, and expand services and programs "for all children, especially for children of minority groups."[106] Because ARENA was in some ways an expansion of the IAP, the participating parents were overwhelmingly White (more than 90 percent), and the children placed through it were a majority Native American, but it also placed Black, "Oriental," Caucasian, and mixed-raced children.[107] A 1970 *Reader's Digest* story called such adoptions "miraculous" and remarked how "ARENA has broken many barriers."[108]

RACIAL LIBERALISM AND THE DISCOURSE OF LOVE

Many advocates of TRNAs believed that the emergence and rise of such adoptions were not due to politics or for political purposes. Rather, TRNA discourse focused on adoptive parents' love. For example, a 1964 article in *The New Republic* explained that White adoptive parents lacked such motives: "Among the parents I have encountered none is an active crusader for an integrated society. None participates in the civil rights movement. . . . Their primary desire is to help a child because it needs them."[109] Near the same time, Harriet Fricke, the director of PAMY, espoused a similar belief, stating that White couples who adopted Black children were not "causey" people: "Their motivation for adoption is based on love for a child, not involvement with racial problems."[110] Later adoption guidelines offered by the CWLA in 1971 explicitly listed "promoting a cause such as racial integration" as an invalid reason for adoption.[111] These examples illustrate the ways TRNAs were posited as individual and apolitical acts of love.

Yet in examining TRNAs from a broader lens, it becomes clear that they are connected to the political. Transracial and transnational adoption emerged simultaneously alongside racial liberalism, which was a form of liberalism that supposedly embraced abstract equality, racial reform, and positive developments of race relations in the United States.[112] The 1950s and 1960s ushered in the end of de jure

forms of discrimination such as segregation, antimiscegenation laws, and other state-sanctioned exclusions in housing, employment, and voting. Still, the 1960s and 1970s were filled with racial realities of de facto discrimination that contradicted the myth of racial liberalism. Furthermore, public polling in 1964 showed that 74 percent of Americans believed that the mass demonstrations of the civil rights movement were hurting "the Negro's cause for racial equality," and in 1966, nearly two-thirds of Americans (63 percent) had an unfavorable view of Martin Luther King Jr.[113] These views and continued forms of discrimination occurred simultaneously with federal efforts that terminated recognition of Native Tribes (1953–1968) and that relocated more than 100,000 Native Americans from reservations to urban centers from 1952 to 1972.[114] Both of these policies were efforts to assimilate Native Americans, end the federal trust obligations, and privatize Native lands. At the same time, views of Asians in the United States ranged from communist threat to model minority.

Racial liberalism was effective, though, precisely because it focused on racial progress and inclusion, while ignoring ideological, institutional, and ultimately structural forms of racism that continued in the form of racial capitalism, settler colonial policies, and U.S. imperial interventions abroad. To be sure, racial liberalism led to providing child services to communities that had been previously denied. Hence, providing adoption and placement services to Black, Native American, and Asian children and families was interpreted as an encouraging step toward equality, even as state and agency workers disregarded the underlying reasons of why these adoptions were necessary in the first place. Thus White families who adopted children of color exemplified racial liberalism, introducing a new and "inclusive" way to form and expand American families.

Adoption institutions such as the Children's Home Society of Minnesota and the Child Welfare League of America expressed racial liberalism in their promotion of adoption. The former, for example, had one article in their 1968 *Minnesota Children's Home Finder* titled "Adoption: Bold Plan for Greater Racial Understanding" (see Figure 3). It asserted that interracial adoptions have "far-reaching, positive ramifications" and contribute to the "broader social goal of greater racial understanding."[115] Authors in the prominently circulated *CWLA* journal cited that the transracial adoption of Black children kept with "the commitment to racial integration of society at the time."[116] This was true for transnational adoptions as well. A final congressional report on the Refugee Relief Act of 1953 included a section on the "completely successful" Orphan Program, which stated: "Aside from the new families, new homes and new futures which this program has made possible for over 4,000 destitute children and the happiness brought to many childless American homes, the friendly international relations engendered by America's helping hand stretched out to these children were a forward step toward better international understanding and lasting peace in the world."[117]

Media contributed to the circulation of this narrative. Dick Pollard, a *Life* magazine correspondent, expressed his desire to photograph an adoptive family,

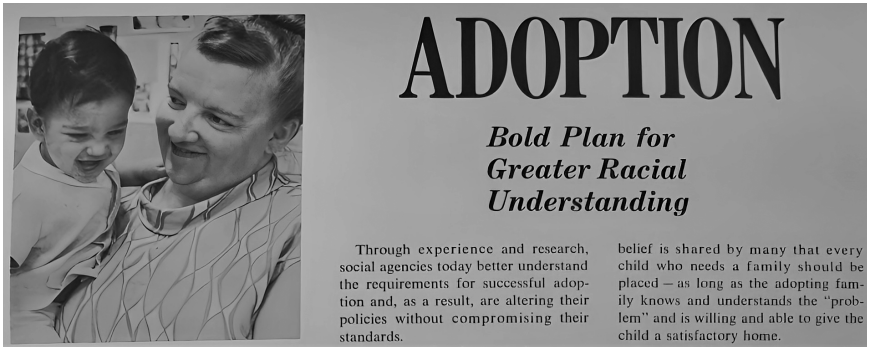

FIGURE 3. An article appearing in the Fall 1968 issue of *Minnesota Children's Home Finder*, published by the Children's Home Society of Minnesota.

stating: "I wish you could realize how a general knowledge of your 'United Nations' family could help our country. . . . Anti-American propaganda abroad emphasizes our intolerant side. If people in other countries could open a copy of *Life* and learn about your interracial family, they would see our better side, a glimpse of democracy in action."[118] Rather than being nonpolitical or antipolitical as some tried to claim, TRNAs were often the consummate examples of "great racial understanding," "racial integration," "racial bridge," and even "world peace" that were captured in racial liberalism.

Paired with racial liberalism was the prominent notion of love. Adoptive parents, practitioners, media, and researchers produced and circulated the notion that such adoptions were steeped in love and were powerful mechanisms and symbols of racial progress. For example, in spring 1965 the *Minnesota Children's Home Finder* encouraged prospective adoptive parents to consider adopting a minority child. In its call, CHSM referenced love as a transcendent force in adoption, stating: "Love is kind, love is giving, love is accepting. The love of a child is a rich and life giving experience—the love given a child is life fulfilling—it knows no color."[119] One magazine article, titled "A Rare Lesson about Love," quoted adoptive mother Katherine Roberts, who felt that proximity to people of different backgrounds reduced prejudice: "We have found that people are fundamentally decent and fair, and our neighbors have been wonderful. Fear and suspicion and prejudice disappear when people of different racial backgrounds get acquainted. You can be told this, but you have to experience it to know it. We are all human beings, so what's the fuss about?"[120] Roberts's claim aligned with a long-held sociological theory about assimilation and race relations proffered by prominent sociologist Robert Park. Park's theory claimed that reducing "social distance" between groups would help with both assimilation and race relations.

Adoptive parents, in this way, helped break the racial social distance barrier. In reviewing the emergent dynamics of transracial adoption, Dr. Judd Marmor believed that transracial adoptive parents were less "ethnocentric" and that the

increase in transracial adoption was due in part to the improving race relations and recognition of Black Americans as human beings. Marmor concluded by admitting to not knowing how adoptees would fare as they grew older in terms of identity and feelings of belonging, but he believed that this mattered less:

> In the ultimate evaluations of [transracial adoptees'] development, however, the basis for comparison should not be some ideal norm, but rather, what their fates and personalities would have been if they had been allowed to grow up, un-adopted, in a series of generally less-than-satisfactory foster homes. I have little doubt that such comparison will demonstrate that these children, in the total balance, will have been benefited immeasurably by the kind of love, support, and understanding that these white parents will have given them. And even more importantly, in the long run, humanity itself will have gained by this new proof that the brotherhood of man transcends the color of his skin.[121]

Marmor's statement encapsulates the ways love was deployed in transracial adoption discourse, by him and other supporters, as a given for not only adoption success but liberal, multicultural racial progress in ways that would not only help children but benefit U.S. society. At the same time, his statement creates temporal distinction between an ensured negative future (the "fates and personalities" that "would have been" had the child of color not been adopted) and the presumed opposite future (that adoption "will" provide "immeasurable" benefits). Moreover, TRNAs pointed to a new, broader future for American culture. For example, Rick Friedman, an adoptive father in Brighton, Staten Island, explained: "It's going to be different 10 years from now. Our kids are going to grow up in a world where race and color won't make any difference. We're ahead of our time—but not much ahead."[122] For Friedman, transracial adoption signified a shift that pointed toward a postracial society.

Love was understood as powerful enough to overcome other obstacles that transracial and transnational adoption might present. As one Chicago-area adoptive mother of four—one Native American son, one mixed-raced daughter, and two White brothers—stated, regarding future problems pertaining to racial identity: "We believe that if we give the children support and love at home they can face inevitable problems much better than if they didn't have us." This sentiment was echoed by Bernice Erwin, supervisor to a Chicago-area children's home: "What's the alternative? Of course there will be problems. . . . The question is just this: Are the problems going to be greater if he's placed in a home where he can have a good education, love, and security, or if he grows up in foster homes, probably several institutions, going on his own at 18, maybe winding up as a state charge?"[123]

Statements such as these minimized the challenges tied to adoption. Babies and children of color were simply in "need." The sentiment was that, although they might have varying sorts of "racial struggle," those challenges were never anything that intrepid adoptive parents could not overcome or that were any worse than the average child of color would face. While racial liberalism and love

produced "progress" in terms of increased adoptive placements for children of color and "inclusion" into White families, they were at the cost of addressing structural inequality that produced the need for such adoptions in the first place. This matched the broader context in which racial liberalism focused on "inclusion" and integration through a limited rights framework and humanitarian efforts that worked in tandem with conservative Cold War politics of anticommunism and military imperial efforts abroad.[124] In other words, racial liberalism was unable to solve different forms of violence attached to adoption at individual, institutional, and structural levels.

OPPOSITE FUTURES AND SAVIOR NARRATIVES

In addition to discourse and practices driven by racial liberalism, some adoptive families and adoption advocates used love to advance rescue narratives that were in part about racial progress but also centered saviorism and a biopolitics of opposite futures whereby the orphan had a bleak future with birth parents or a full life with adoptive American parents. As noted earlier, some adoptive parents and adoption workers rejected labels such as rescuer and savior. Yet scholars have shown how these terms were applicable in many contexts. In one explicit example, during a 1977 congressional hearing about adoption subsidies, Senator Alan Cranson (D-Calif.) told six adoptive parents, including Ruthann and Henry Haussling, a White couple who adopted five Black children: "You really are absolute saints."[125] As numerous critical adoption scholars contend, the humanitarian adoption discourse often missed the political-economic conditions that were the root causes of abandonment. Such discourse produced the foster child and orphan as an object (rather than subject), something abject that must be saved.[126]

While narratives of rescue seemingly centered children, they often spoke more to the image that adoptive parents, the public, or the nation had of itself. Claims of rescue were not always overt; some were subtle. For instance, Colin Reed, an adoptive parent to Noël, who is Native American, rebuffed the rescuer brand, but Arlene Silberman, author of a *Good Housekeeping* article, wholly disagreed with Mr. Reed, whom she interviewed, asserting: "But the fact of the matter is that interracial adoptions are still so new that each family that crosses the color line is, by definition, pioneering. Each family *is* proving something, a most important something at that: that parental love is fully capable of leaping over barriers of race, religion, or almost anything."[127] Silberman's statement draws on racial liberalism and the power of adoptive parental love, which is imbued with a near omnipotent power to overcome "almost anything." Silberman did not stop there, though, revealing how she perceives the ways love and rescue intersect with race. She offers a "stark contrast" between Reed's remodeled home and the life on an "Indian reservation where Noël was born and where he might have had to spend his growing years."

Silberman enumerates the high poverty and unemployment rates, poor housing (inadequate space, sanitation, heating, and electricity), shorter life expectancy, high infant mortality rate, dismal education, and disproportionate rate of unwed motherhood to paint the picture of what might have been. Adoption is often framed as rescue and saviorism because of the ways it seems to address immediate needs, vulnerability, and harm. But adoption is also about the future. Silberman and Reed did not explicitly claim that adoption was a form of rescue for Noël, but the construction of racialized spaces presupposed what I call *opposite futures* for adopted children—a spatiotemporal reference—where adoption rescues children from the certainty of a bleak future and the space attached to it that not placing for adoption portends. Thus the reservation space is not only a negatively racialized space but also a negatively racialized future—one that is fixed and unchangeable—in comparison to the incomparably bright and loving future and home (space) with the Reeds.

For Silberman and the Reeds it was not only the relational (opposite) racialization of space and future but also the belief in love that would enable Noël's success. Racism that Noël might face was brushed aside with love: "We'll cross each bridge when we come to it. And it's a little early to worry about a four-year-old's dating problems, isn't it? We're giving Noël as solid a foundation of love and self-confidence as we know how to give," stated Mrs. Reed. For many adoptive parents the issue of Native American children was critical. "If professionals wait until the entire burden of proof about interracial adoptions is in," Silberman concluded, "another generation of children of minority races will have grown up under subhuman conditions. Somebody must have the daring to begin." Narratives such as these were effective, as Silberman's story moved readers to submit more than 1,200 inquiries to adopt Native American children. Yet they dismissed and minimized the difficulties produced by adoption in general and transracial and transnational adoption in particular. They also did not question why or how those subhuman conditions were created in the first place and the degree that settler colonialism and structural racism played in Noël's separation from his family and the conditions of his Tribe and reservation.

The opposite future narrative characterized adoption as an inherently good endeavor and in the best interest of all parties, from the child to the birth and adoptive parents to society as a whole. And it was not reserved just for Native American children. For example, Margaret Valk, senior case consultant for the American Branch of the International Social Service (ISS), explained how agencies were unsure about the soundness of "uprooting children from so far away and so different a cultural background and racial composition." To this, Valk explained that there were more than 50,000 children of full Korean descent needing homes. There were also mixed-race children who were "completely ostracized, socially and culturally," vulnerable to "contempt and hostility" from other children and the general public. They had no prospects of schooling, employment, or marriage

as Korea prided itself in racial purity, Valk contended. To be sure, other scholars have noted how South Korea used transnational adoption as a surrogate welfare system.[128] Yet Valk's views ironically ignored how 24 states in the United States had laws banning interracial marriage (and thus a de facto ban on biracial children) in 1957, let alone all of the other forms of racial discrimination.[129] "The only solution for these children," she concluded, "is placement outside their own country in good Caucasian and Negro homes. In the absence of such placements, they will not live or if they do, will have nothing to live for."[130]

In describing Korean mothers, Valk offered derogatory statements, stating that children were rejected or resented. She strangely added: "Mothers have made pathetic attempts to disguise the identity of their children by dyeing their hair and eyelashes black, or keeping their hair always covered up."[131] She concluded: "Many more of these children face a bleak future unless similar solutions can be found for them."[132] For Valk it did not matter that many Korean women did what they could to provide a life for their children. For her and so many other advocates of transnational adoption, they believed birth mothers were unworthy, where the "only solution" was biopolitical—to promote the "orphan's" life while letting the mother die via adoption. Valk's statements illustrate a double move that on the one hand saw the adoption of Korean orphans as a way to relationally repair the image of the United States based on the individual mistakes of servicemen who caused the condition of mixed-race children, while negatively racializing Korea. On the other hand, in constructing Korea as an opposite future, Valk elides the devastating effects of U.S. military imperialism—as well as militarized humanitarianism—based on anticommunist ideology that exacerbated conditions for single mothers, families, and children.[133] The liberal gesture of inclusion of Asian children into the U.S. national body politic was necessarily premised and founded on characterizations of the United States as morally, economically, and politically superior to Asian countries.[134]

Narratives of saviorism echoed into the next wave of adoptions from Asia, following the Vietnam War. In the years after the U.S. government's increased involvement in Vietnam, adoption officials warned against the urge to repeat the mass transnational adoptions that happened following the Korean War. Paul Cherney, general director of International Social Service, American Branch, stated that Vietnamese children should only be placed for adoption in the United States after all other possibilities had been exhausted. Cherney observed that many of the homeless Vietnamese children were "only temporarily homeless." He warned: "All work with war orphans and other children affected by war and post-war conditions should have as its objective the restoring of children to their families or to substitute families. *This objective did not exist in Korea and I do not see any evidence of it in Vietnam at this time. So what has happened in Korea may very well be repeated in Vietnam*." [135] The American Council of Voluntary Agencies for Foreign Service, Inc. offered additional guidance in February 1967. It noted that while

many presume orphanages are the best humanitarian solution, such an approach "tends to perpetuate itself and should be considered only a temporary measure."[136] Evidence such as this shows the complexity of adoption history in which agencies and organizations attempted to curb harmful practices. At the same time, some of these very institutions, such as ISS, facilitated and made transnational adoption possible in the first place. Certainly there was a push from prominent voices to go in this latter direction.

Catherine Pomeroy Collins, in a 1973 *McCall's* article, recounted her journey searching for and eventually adopting "nobody's child" from Vietnam. A widowed mother of older children, Collins wrote of being "haunted" by a World Adoption International Fund brochure that had a picture of a child on a cold, windy hillside with a caption that read: "Why is it, I wonder, I am nobody's child?" This made her realize that she "wanted a war-damaged child" that nobody else wanted. Recounting her visit to Vietnamese orphanages, Collins wrote of the lack of certain foods—milk, eggs, meat, fruit—and how rice was the staple along with stewed greens and "rotted fish," ironically stating how the "children loved it." She added: "One first impression was the gentleness of all of the women who looked after the children. Another was the surprising evidence that children will be happy, will giggle and play even under the grimmest circumstances." This latter comment contradicted the narrative that children received no meaningful care or love and that they were not and could never be happy. The focus of the story, however, centered Collins meeting her future son on one of the orphanage trips and the adoption process when she returned to the United States. When she wrote of her experience two years later, she concluded: "He is so radiant now, such a happy, giving child, it doesn't seem possible that he could have known another life."[137]

What Collins's article also misses is that many children in orphanages were not true orphans because they had parents who were still alive but unable to fully care for their children. They often left their children in such care with the intention that it would be temporary. Hence, the reality was that "nobody's child" was typically not parentless but rather somebody's child who was separated because of war and poverty. Sentiments such as Collins's, despite early warnings against overreactions, led to widescale mobilization. After an initial unauthorized Babylift flight of 55 children by World Airways president Edward Daly, president Gerald Ford authorized $2 million for Operation Babylift on April 3, 1975.[138] "This is the least we can do," Ford Stated, "and we will do much, much more."[139]

Media captured the president and first lady meeting the plane after it landed at the Presidio military base in San Francisco. Ford boarded the plane and then disembarked holding an infant on the aircraft steps. Media excitement about the Babylift was matched by public urgency. Organizations such as the Friends for All Children made clear declarations about rescuing children. In a full-page

FIGURE 4. Aftermath of the C-5 cargo plane that crashed into a rice paddy shortly after leaving Vietnam on April 4, 1975. Photo credit: Associated Press.

advertisement in the *New York Times*, the organization proclaimed: "Yes, there is something you can do for the children of Vietnam," "THE MORE MONEY WE RAISE, THE MORE CHILDREN WE CAN RESCUE, AND FERRY TO FREEDOM," and "YOUR DOLLARS CAN LITERALLY BUY THESE KIDS THEIR TICKET TO A NEW LIFE."[140] For the adoption of Asian children the need for rescue was self-evident and the expression of that message was explicit.

This image of humanitarian rescue, however, belied the inauspicious start to the operation. The first flight was on a C-5A military aircraft that had just returned from delivering 17 105mm howitzers for the South Vietnamese forces. Children, volunteer sponsors, military, and flight crew loaded onto the plane, which reached 10 miles off the coast of Vietnam before having to emergency crash-land in a rice paddy back in Vietnam (shown in Figure 4).[141] The crash killed 138 of the people on board, including 78 of the 228 children.[142] In tragic irony the aircraft that the U.S. military attempted to repurpose from its necropolitical war enabling purpose to a biopolitical war rescuing one could not complete its mission, producing further waves of violence. Undeterred, Ford vowed to continue Operation Babylift. Just days after Babylift began, the International Children's Fund issued a press release that expressed concern for the "well intentioned but perhaps misdirected" Vietnam "orphan" airlift. By the operation's end, a total of approximately 2,600 children had been airlifted out of Vietnam, 2,000 of whom came to the United States.

Militarized humanitarian discourse and practice was embedded as a part of adoption discourse and practice. This flowed especially from earlier transnational adoptions such as the GI humanitarianism during the Korean War.[143] Despite their predominance, critics pointed to the contradictions of humanitarian efforts in response to problems the United States helped create in Vietnam. In one clear example, prominent journalist Shana Alexander wrote a *Newsweek* article titled "A Sentimental Binge," which critiqued Operation Babylift in similar fashion: "The baby lift was chiefly a symbolic act, designed less to assist the helpless children than to ease our own sense of helplessness in a time of horror. . . . We respond by filling the sky with orphans. . . . We cannot and will never wave a white flag. Instead we fill the skies with innocents, tiny human peace symbols borne aloft in the same planes that flew the bombs that made them orphans in the first place."[144]

Despite Alexander's critique, many Americans believed that Vietnamese "orphans" would be afforded a better life in the United States versus remaining in Vietnam, which would invariably lead to suffering and death, especially for children who were fathered by U.S. soldiers and considered Amerasian.[145] Ford's appearance at the tarmac to receive children from Operation Babylift attempted to reaffirm America's role as benevolent and exceptional instead of imperialistic and harmful. After engaging in the necropolitics of war, the United States used Operation Babylift as a form of biopolitics to "save" life and "make live." To combat this contradictory reality, news media produced what critical refugee and ethnic studies scholar Yến Lê Espiritu calls the "good war" narrative, which was paired with the myth that the United States was a nation of refuge.[146] Vietnamese refugees and transnational adoptees were by-products of U.S. militarism, yet this production was hidden by militarized humanitarianism and humanitarian discourse and efforts such as Operation Babylift that affirmed racialized and gendered notions of paternalistic rescue, where the masculinized United States was the moral savior of victimized children from the backward and feminized Vietnam.[147] Such representation enabled America to hide the violence of war with the cloak of adoption.

These opposite future media and agency narratives, which were not just limited to transnational cases, rarely addressed the conditions and contexts in which the need for such adoptions were produced in the first place. Why were the futures of Native, Black, and Asian families and spaces so bleak? How did settler colonialism, war, and systemic racism contribute to these challenging circumstances for these marginalized communities? Long-held practices of forced removal of Native children into boarding schools, U.S. military policies that promoted male soldiers to engage in "rest and relaxation" during their tours, and the hyperpolicing and criminalization of Black families are just a few of the structural ways that BIPOC families faced systemic racism that affected and separated their families and communities. In many cases, Black, Indigenous, and Asian mothers (and families) and the spaces in which they lived were constructed as predetermined sources of

harm to their children, enabling White adoptive families, homes, and futures to be opposite spaces of loving rescue.

PUSHBACK AGAINST THE DESTRUCTION OF FAMILIES, COMMUNITIES, AND TRIBES

Amid the boom of TRNAs, numerous actors pushed back against such adoptions and the narratives that enabled them about which families could provide love, support, and a better future. Operation Babylift provides an example in which some birth parents fought to save their families from being "saved." They used U.S. courts to appeal for the return of their Vietnamese children. On April 29, 1975, Muoi McConnell, a former Vietnamese nurse; Thomas Millar, a Bay Area attorney; and the Center for Constitutional Rights filed a class-action lawsuit in the federal district court in San Francisco on behalf of Vietnamese children brought to the United States in Operation Babylift.[148] The suit claimed that "several hundred Vietnamese children" from the Babylift were not orphans, wanted to return to Vietnam, or were sent to the United States to be reunited with their parents.[149] There were no efforts to find or reunite parents with children, and instead they were being held for the purposes of adoption. According to the complaint, some parents placed their children in orphanages as a form of temporary care in order to work or to help feed their children but not with the intent to have them adopted.[150] Even though a court-ordered INS investigation found that at least 338 of 1,995 children were not "eligible" orphans, the suit was unsuccessful.[151]

Still, some Vietnamese parents who found help took further direct legal action. The results were mixed, with some regaining parental rights and others being retraumatized by legal losses. These cases show how birth parents tried to navigate their impossible situations in Vietnam only to face the trauma of family separation and immense obstacles in the United States as well. Mrs. Hai Thi Popp of Newbury Park, California, penned an emotional letter that stated her children were sold "like they were water buffalo or ducks. . . . To understand my story, think you are caught in a burning house. To save your babies' lives you drop them to people on the ground to catch. It's good people that would catch them, but then you find a way to get out of the fire too, and thank the people for catching your babies, and you try to take your babies with you. But the people say, 'Oh no, these are our babies now, you can't have them back.'"[152] Ultimately, only just over a dozen children were reunited with their families.[153] The collective and individual legal battles, nevertheless, exemplify how Vietnamese children were loved and not simply unwanted orphans. While U.S. couples undoubtedly cared for the Vietnamese children that they adopted or were attempting to adopt, these cases underscored how governmental "humanitarian" and legal structures favored U.S. families, their homes, and their futures over Vietnamese families, homes, and futures. They show how the biopolitics of child "rescue" through adoption was made possible by

and produced the structural, symbolic, and traumatic forms of violence that were attached to love.

While there was some criticism of transnational adoptions from Asia and recognition that many alleged orphans still had family in their birth country, the battles were fought mostly on a case-by-case basis. For the adoption of Black and Native American children, however, there were two notable moments in the genealogy of TRNAs in which clear opposition was expressed regarding these adoptions. Both of these moments of pushback show how communities resisted differently to the structural, symbolic, and traumatic forms of violence tied to TRNAs. The first was the "Position Statement on Trans-racial Adoptions" by the National Association of Black Social Workers (NABSW), which was released in September 1972. It took a "vehement stand against the placement of Black children in white homes for any reasons."[154] TRNA supporters widely criticized the NABSW for what they believed was a "separatist," "militant," and "racist" approach. For example, David Smith, an official of the New York Council on Adoptable Children, stated: "The separatists are playing the racist game on this thing. I just think they're offended by the sight of a black in a white family. It contradicts the stereotype that all white families are racist."[155] The Boys and Girls Aid Society of Oregon lamented the "militancy" of NABSW's stance.[156] White adoptive parents had expected possible bigotry and rejection from other White people but were not prepared for the backlash from Black social workers and others in the Black community.[157]

The NABSW's position statement, however, was not only critiquing transracial adoption by White adoptive families, but it was also marking the importance of preserving Black families and affirming notions of Blackness.[158] It highlighted the social construction, and in particular the devaluation, of Blackness and how Black people were beginning to shed negative connotations, along with desires to assimilate. Additionally, the organization believed the physical, psychological, and cultural needs of Black children could not be met by White families who existed within White America: "The historically established and cultivated psychological perceptions and social orientation of white America have developed from their social, political, educational, and religious institutional systems. Consequently, these are the environmental effects they have to transmit and their teachings are not consistent with the realities of the social system for the Black child."[159] Thus the issue was not solely about the inadequacy of White families but that White families could not be divorced from their White psychological, social, religious, educational, and community social settings.

The NABSW also questioned the timing of transracial adoption, noting that the demand for Black children came at the moment when the supply of White children had nearly vanished, which undermined beliefs about altruistic concerns for Black children. The response by TRNA supporters was that such adoptions increased and were necessary because there were not enough Black families to adopt Black children. Louise Wise executive director Florence G. Brown stated

that "the number of Negro and part Negro children needing adoptive placement is so large that there is no alternative."[160] Despite this dominant narrative, the reality was that most adoption agencies were serving White families and not Black families. According to the North American Council on Adoptable Children, private agencies placed 50 percent of their minority children transracially. Many private agencies who placed children of color did not specialize in the recruitment of minority families and in fact established prohibitive fee structures for families of color, in effect creating a superficial suppression of demand since many of them could not afford such high costs.[161] Service agencies failed to change policies and practices or diversify staff in ways that would have improved services for Black children and potential Black adoptive families. Mostly White social work staff preferred transracial placements because they had fewer contacts with Black families or were more at ease working with White adoptive families. For them it was the easiest way to "serve" Black children.

The NABSW position statement angered and shocked many, including some in the Black community, but for other non-Black folks it indeed made sense. In a 1975 letter to Viola W. Bernard, Doris McKelvy, the associate director of Louis Wise Services, noted that the transracial adoption picture in New York mirrored what colleagues in other parts of the country were witnessing, which was a downward trend in transracial adoption. While she believed the NABSW's statement had contributed to the decline, she also stated: "I don't see the position of the NABSW as a 'militant' one but as a position that is extremely realistic in relation to the kinds of children who are in need of care."[162] The historical context of the NABSW statement was such that Black people and social workers were frustrated and angry by the discrimination and dehumanization they faced.

A National Urban League study showed the extent to which Black families were "screened out" rather than "screened in." It reported that of 800 Black families who applied to be adoptive parents, only one-quarter of 1 percent was approved compared to the national average of 10 percent of applicants. Agencies that were successful at placing Black children with Black families, disproving the "hard-to-place" narrative, included agencies that had Black representation on their board of directors, created satellite offices in Black communities, hired Black administrators and staff, and eliminated strict eligibility requirements.[163] For agencies that did poorly, instead of holding themselves accountable, they blamed Black children and Black families.[164] As social work scholar Ruth McRoy notes: "The children were labeled 'hard to place' and the families 'hard to reach.' Soon, the myth that 'black families don't adopt' was promulgated and used as a convenient excuse for the white agencies' failures to place black children in homes."[165] The NABSW argued that if agencies committed to the "basic concept of Black families for Black children," they could find solutions by changing requirements that would "screen in" Black families rather than screen them out, using interstate placement mechanisms and seeking extended family members for placement.

Actions by Native activists, organizations, and Tribes against the widespread child removal pushed Congress to pass the Indian Child Welfare Act (ICWA) in 1978, as a means to protect Native American children, families, and Tribes. Just months before the NABSW published its position paper, the Sisseton Wahpeton Sioux Tribe passed a resolution highlighting the involuntary and state-sanctioned practice of placing Sisseton Wahpeton children in non-Indian foster and adoptive homes. The resolution declared the Tribe's intent to establish sovereign status and jurisdiction to keep their children on the reservation.[166] Four years earlier, Executive Director William Byler and Executive Secretary Dr. Daniel J. O'Connell of the Association on American Indian Affairs, Inc. (AAIA) raised the issue of Indian children being removed from their homes and placed in non-Indian foster and adoptive homes as well as Indian boarding schools. They connected these issues of child removal and family separation to the larger concern of child, family, and tribal welfare in general.[167]

Disproportionate foster care and adoptive placements of Native children led to congressional hearings in 1974 on "Problems that American Indian Families Face in Raising their Children and How These Problems are Affected by Federal Action or Inaction." The hearings included testimonies from Indian parents, professionals, and leaders about the harm and violence caused by the removal of Native American children into boarding schools and non-Indian adoptive and foster homes. They highlighted the settler colonial, racial, and gendered logics at play such as constructions of Indian families, parents, and specifically mothers as "unfit." Standards for suitable or "fit" homes were based on White middle-class values such as floor and bed space, plumbing (hot water and indoor running water), and income levels.[168] Moreover, the lack of due process engendered exposure, and thus vulnerability, to involuntary and state-sanctioned removals.[169] While Byler did not use the terms, what he pointed to were what scholars and activists now name as the family policing system and prison industrial complex. Native American parents and children experienced various types of emotional, mental, social, and physical consequences from removal and family separation. For the latter group, they included issues such as loss of culture, identity confusion, disproportionate school drop-out rates, and disproportionate rates of alcoholism, homicide, and suicide.[170]

Byler was the first of many who testified at the 1974 hearings about the crisis of Native American children. He—along with other professionals—provided numerous statistics about the dire state of Indian removal and family separation. Surveys from 1969 and 1974 of states with high Indian populations showed that approximately 25 percent to 35 percent of Native American children were removed from their families and placed in boarding schools, foster homes, or adoptive homes. Of these children, 85 percent of foster care placements and 90 percent of adoptive placements were in non-Indian homes.[171] James Antrim, a supervisor for the Department of Social Services in South Dakota, explained how such violent practices were justified as in the best interest of the child: "I'm not interested in the

tribe. It's good policy in general that children should be adopted away from their home where their identity is not known, where they can have a new life, a new beginning. We follow the same policy with non-Indian children."[172]

Nearly three dozen people, most of whom were Native, testified. One person was Betty Jack, a mother from Lac du Flambeau, Wisconsin, and chair of the board of directors for the American Indian child development program in the state. She told the subcommittee how in 1962, two of her children were taken from her and placed by the Evangelical Child and Welfare Society. The court declared that she was unfit to care for her children, but she had never had a court hearing or procedure, nor had she ever had any legal representation. In her position as a worker for the Wisconsin Indian foster care program, Jack learned of more horror stories. One mother, after having a daughter taken from her, was promised that if she was sterilized, she would be able to keep her other four children. She agreed, but after the procedure the state took her children anyway.[173]

The testimonies framed the issue of Native American child removal and family separation around the larger claim to sovereignty and self-determination. As Bertram Hirsch, staff attorney for the Association on American Indian Affairs, stated, state courts had exceeded their jurisdiction, which was afforded to tribal courts under federal law. One of AAIA's recommendations was explicitly affording Tribes jurisdiction over child welfare matters because, according to Hirsch, "it goes to the very heart of the existence of the tribes," and the self-determination in the parent-child relation constitute the "essence of the survival of the tribe."[174] Yet the special relationship—that is, the nation-to-nation political (not racial) relationship—was one that many government officials either ignored or did not fully comprehend. For Native advocates poverty was not the root cause of family breakdown. Instead, the primary reasons were settler colonial processes of "detribalization and the deculturalization," where federal, state, and local policies carried out by officials attempted to make Indians White.[175]

While congressional hearings can easily be considered an "official" state record that typically contains the "normative" and dominant discourse, the hearings that preceded and were the impetus for the Indian Child Welfare Act, which was passed in 1978 (discussed in greater detail in chapter 5), presented a moment where knowledge was contested. The testimonies of Native American leaders, professionals, and parents demonstrated how Native resistance operated and sought to affect the boundaries of the federal governmental system. The testimonies provided a new way of framing and thinking about the issue of Native American children, family separation, tribal rights, and sovereignty. Written materials submitted for the hearings such as newsletters, resolutions, and statements outlined tribal sentiment, settler colonial harms, and demonstrated past and current efforts as well as future goals to combat such harms.[176] Indian youth and tribal group homes; child-care programs; a model dorm program that had 12 to 1 ratio instead of the usual 200 to 1; and a subsidized adoption and foster care program for Native American

parents and families existed, and proposed alternatives to the violence of the current system.[177] The testimonies, research, and activism by tribal members, leaders, and experts provide a clear example of how they resisted structural, symbolic, and traumatic violence that was enacted onto Native families and Tribes that posited them as illegible parents, families, and communities. Instead, they asserted their collective power to pass federal legislation that is now considered by many the gold standard of child welfare.

CONCLUSION

TRNAs emerged from racial liberalism, but that ideology was still attached to White supremacist, settler colonial, and imperial logics—that is, racial liberalism promoted abstract equality but was not invested in undoing or stopping structures of harm. This helps explain how children of color became "adoptable" and began to receive child welfare services, but how institutions and the government turned to White families to adopt children of color without considering or addressing the conditions and the causes for why they were "in need" of adoption in the first place. Narratives of love and rescue informed by racial liberalism molded TRNAs. While children of color might not have been the most desired children, their negative racial particularities were not irresolvable and could be negated through loving adoptions—unlike those of their parents whose plights never registered the same concerns. Through TRNA, adoptees could escape the horizon of death and reappear before the horizon of life as supposedly modern subjects because of the ways that U.S. adoptive families, their homes, and the nation were racialized as spaces and futures of love, opportunity, and freedom.[178] This representation was in relation to birth families, homes, cultures, and nations that were racialized negatively as spaces and futures of harm, devoid of love, and awaiting probable death. Of course, this "promise" of love, stability, freedom, and inclusion was not guaranteed because of the different forms of violence attached to adoption, including the ways Black, Native American, and Asian children were differently adoptable. Although individual families were transgressing previously stark boundaries of race, culture, and nation, the U.S. adoption industry, government, and adoptive families perpetuated structural, symbolic, and traumatic forms of violence.

Bringing the NABSW statement and the push for ICWA together into a genealogical conversation along with the legal appeals by Vietnamese parents highlights the political nature of adoption. While adoption is posited as individual acts of love by birth and adoptive parents, the reality was (and is) that the need for such adoptions did not exist in a vacuum. As larger political groups, Black social workers and Native American advocates understood TRNAs from historical (or even genealogical) context of not only forced family separation through slavery, boarding schools, forced adoptions, and incarceration but also the survival of Black and Native families despite such state-sanctioned violence. Black social workers noted

the timing of increased transracial adoptions coincided with the decrease in availability of White infants because of social changes such as legal access to abortion and birth control as well as the increase of single parenting. This context, paired with institutional resistance to engage and work with communities of color to address child welfare and family needs, contributed to the TRNA boom.

The 1970s pushback against domestic transracial adoption of Black children and transracial and transnational adoption of Native American children contributed to the dramatic rise in adoptions from Korea, Vietnam, and eventually China (the latter is discussed in chapter 4). It led to continued anxieties and uncertainty about the power of love and adoption. In response to the uncertainty around adoption in general, but TRNAs in particular, the adoption industry and social scientists attempted to positively define transracial and transnational adoption. Chapter 2 explores how positive adoption language and social scientific outcome studies changed adoption discourse and knowledge in ways that attempted to ascribe certainty (positivity), normalcy, and positive affirmation to TRNAs.

2

The New Normal

Positively Defining (Adoptive) Motherhood and Family

Post–World War II conceptions of adoption shifted it from a legal transaction to a more common means for sentimental family-making. Adoption was gradually accepted as the "best solution" to the "problem" of illegitimacy—a win-win-win situation that gave unwed mothers a second chance, children a better opportunity for a bright future, and infertile couples the chance to participate in family-making and domesticity.[1] Yet adoption still conjured up images of the "unwed mother," "bastard child," and "barren couple."[2] These ideas reflected the historical perception of adoption as abnormal since it lacked a biological connection. Underscoring the stigma surrounding adoption was its secrecy, the "foundation underlying all adoption."[3] Secrecy, which became standard procedure by World War II, involved creating new "original" birth certificates for adopted children and sealing their birth records. This practice that persisted in the 1970s (and continues today) implied that heterosexual marriage and rearing biological children, or at least the mirroring of "biological," were necessary components of a normative, healthy, and happy family.

In her seminal book *Kinship by Design: A History of Adoption in the Modern United States*, historian Ellen Herman argues that one way adoption was destigmatized during the first half of the twentieth century was through a process of interpretation at the beginning stages of each adoption. She describes this process as involving professional helpers such as social workers and psychiatrists who "investigated, adjusted, and normalized" behaviors and personalities in order to instill and cultivate a feeling of "realness" for adoptive parents and adoptees and reduce the perceived risks of adoption.[4] She suggests that "interpretation" happened systematically but in a way that targeted adopted children and adoptive

parents individually and mostly at the psychological and emotional levels in order to convince them that adoption was authentic and real. For example, interpretation required social workers to be "psychologists" to interpret the child's personality, devise a plan for facilitating the best adjustment to adoption, and determine if couples expressed good motivations for wanting to adopt.[5] This chapter extends Herman's concept of interpretation by considering how it operated at a broader social level of normalization for domestic as well as transnational and transracial adoptions (TRA and TNA, or TRNA when discussed together).

Normalization, however, was more than just convincing individual adoptive families and adopted children that adoption was or could be real. It was different from what Herman describes as efforts to "mirror" nature through "naturalization." Instead, the goal of normalization as an expansive form of interpretation, I contend, was to elevate adoption in the eyes of the public so that it could be *equal to* and *just as normal as* families formed through biological reproduction and genetic kinship. Race was a central dilemma for normalization as a mode of interpretation. The adoptions of Black, Native American, and Asian children by White parents exemplified racial liberalism and became a new way to form and expand American families. A result, though, was the inability to reconstruct "nature" through racial matching in adoption. Native American, Black, and Asian children physically stood out from their White parents, who often lived in rural, racially homogenous towns. The racial transgressions posed by transracial adoption and transnational adoption meant that naturalization—that is, the attempt to mimic nature—was an impossible feat, and this jeopardized the goal of interpretation. The 1970s through the 1990s were a watershed moment in not only the number of adoptions of Asian, Black, and Native American children but also how they existed in relation to the important circulation of new knowledge about traditional same-race White adoptions.

This chapter juxtaposes these increasingly visible TRNAs with the emergence and overlap of two types of knowledge production: professional language—through the emergence and promotion of "positive and respectful adoption language" (commonly known as PAL and RAL)—and scientific research.[6] I argue that PAL was a loving (and positive) strategy for interpreting adoption and adoptive motherhood as normal, valid, and real to fight their stigmatization. Nevertheless, this both ignored and enacted symbolic violence by relationally constructing White adoptive mothers over and against birth mothers of color—temporally, spatially, and discursively—which limited the diverse meanings of family. This symbolic violence was further entrenched by scientific outcome studies of TRAs and TNAs that constructed racial meaning and positively established the "fact" of normalization during the 1960s through the 1990s. Although these studies were rife with methodological and conceptual shortcomings, they provided "objective proof" that love transcended race by establishing that transracial and transnational

adoptees were healthy and well-adjusted and that transracial and transnational adoptive family-making was just as good as same-race adoptive families and even biological families.

Positive adoption language and social scientific research are two important sites of adoption knowledge production that become the foundations for articulations of love. Yet they were tied to and ignored the structural-historical violence that produced the "need" for adoption and positive adoption language, as well as any traumatic violence and symbolic violence that might be enacted by instituting PAL or claiming that TRAs and TNAs have always had positive outcomes. In addition, they reproduced precisely those norms of gender, race, and family that adoption generally, and TRNAs in particular, inherently disrupt. The legitimacy and normalcy of adoptive parents and their families, as well as birth parents and their families, were at stake in such adoption discourses. The point is not to restigmatize adoptive relationships in favor of biological ones. Familial bonds that transcend the (hetero)biological have deeply important affective, political, and social value. Rather than privileging one form of family-making over the other, the goal is to examine how we can engage the violence that produces and emerges from both. This critique of the violence of love opens a more complicated understanding of how race was ignored or poorly addressed yet integral in the efforts to "positively" define, in language and science, adoptive mothers and families.

DESTIGMATIZING ADOPTION

Making a family can be a cause for anxiety (along with hurt, disappointment, fear, etc.), but for many adoptive parents this issue is amplified. Although families are formed in diverse ways—through blood, law (marriage), social custom (in-laws), and love—adoption, which is linked by law and love, is perhaps the familial relationship that is most devalued.[7] Many scholars have noted that adoption has historically been recognized as being different from and less than biological families.[8] Closed adoptions and sealed records, which began in Minnesota in 1917 and spread to nearly every state by 1948, did much of the symbolic and structural work to shift this reality and make adoptive parents the "real" parents.[9] Most explicitly, adoption law and practice created a legal fiction by "erasing" the name, identity, parents, and origin of birth of the child and creating a wholly new (amended) birth certificate that lists the adoptive parents along with a new name and even birth place. Simultaneously, in cases where there is a birth certificate, it is sealed with other adoption records.[10] Yet realness still needed to be stated and affirmed. In its "A Guide to Adoption," the Open Door Society indicated the distinction: "The real parent is the person who provides a child with his principal source of security, love, and guidance; that is real parenting." It added: "Recognizing the difference between the biological production of children and parenthood is an important step for the prospective adoptive parent."[11]

Feelings of realness were linked to the process of "telling" adopted children their adoptive status and information about their history. Despite general agreement among adoption professionals that telling was healthy and necessary, many adoptive parents believed they were protecting their child from stigma and harm by concealing or delaying this fact. Upwards of one-half of adoptees during the early decades of the twentieth century were not told of their adoption.[12] A 1962 *Good Housekeeping* article described how some adoptive parents dealt with these "unpleasant problems" by telling adopted children their birth parents were dead.[13] Social workers were also at times deceptive in the information they gave to or withheld from the adoptive parents regarding health, personal history, and background.[14] While TRNAs did not always have the same issue of whether to tell or not—because it was typically obvious—there were plenty of occasions on which mixed-race children were not told the truth about their origins, and even more cases when adoptive parents created elaborate stories that "killed off" the birth parents. The numerous anxieties underscored the seemingly tenuous nature of adoption.

Adoptive families continued to be judged, stigmatized, and discredited by society as abnormal, unnatural, and the second or last choice—types of symbolic violence. Adoptive mothers in particular were constructed in popular discourse as infertile and emotionally unstable due to their inability to bear children.[15] With regulation and standardization by the state and adoption agencies, adoptive parents have faced scrutiny in ways that biological parents typically did not experience, including meeting age, income, work (or stay-at-home), health, marriage, and home-study requirements (the exceptions included parents of children placed in foster care who tried to reunify with them). In addition, adoptive parents, and mothers more specifically, have had to contend with pervasive invasion of their privacy, where strangers and friends felt that it was acceptable to ask prying questions or offer off-the-cuff remarks that were offensive and hurtful to adoptive parents and adoptees.[16]

By the late 1970s and early 1980s, agencies, social workers, and adoptive parents began to combat the stigmatization and shame attached to adoption and adoptive families through new language. They specifically revised adoption terminology to reflect what they perceived as the accurate outcome and beauty of adoption (see Box 1 for a list of positive and negative adoption language). Surprisingly, very little has been written about PAL or RAL beyond the fact that it should be the preferred terminology.[17] In 1979 veteran social worker Marietta Spencer wrote a brief but influential journal article on adoption language and terminology, which she would later term "positive adoption language." She was the program director for Post Legal Adoption Services at Children's Home Society of Minnesota, the first of its kind in the United States, and co-director of the Adoption Builds Families project.[18] Despite her unsentimental view of genetic history, saying it was like "washing instructions" for clothes, Spencer helped many adopted persons find their birth

parents.[19] She passionately worked with adoptive parents, adopted persons, and birth parents and published more than 20 articles and sponsored 3 national conferences in the area of postlegal adoption services.[20]

According to Spencer, PAL was premised on the beliefs that words educate, evoke feelings, carry emotional weight, produce labels, have multiple and changing meanings, and must be used with care. Her goal was to provide a "correct" and commonsense language standard for social service professionals and adoptive parents in an effort to displace language considered problematic, negative, and imprecise.[21] Two decades later, Patricia Irwin Johnston, one of the foremost educators and advocates for respectful adoption language, claimed that RAL was a vocabulary that reflected "maximum respect, dignity, responsibility and objectivity about the decisions made by birthparents and adoptive parents in discussing the family planning decisions they have made for children who have been adopted."[22] The goal of using and sharing both PAL and RAL, as *Adoptive Families* magazine stated, is to help such terminology "someday become the norm."[23]

Box 1 shows a compilation of the terms and phrases that Spencer and Johnston offered as ways to destigmatize adoptive relations. For example, when using terms related to children, especially when introducing them to strangers, Spencer argued that adoptive parents should state plainly that "this is my child" and avoid language such as "this is my adopted child" or "adopted son/daughter." The qualifier "adopted" accentuated the difference between him or her and a possible biological child.[24] More specifically, it perpetuated biological chauvinism, which most adoptive parents were already trying to fight.[25] The issue of difference that is highlighted when using the qualifier "adopted" is something that children who are adopted contend with because even if adoptive parents know not to use this language, inquiring strangers often do not. As Johnston claimed, adoption is one of many events in a person's life, not an immutable personal trait or condition.[26] (Many adopted people might argue otherwise that adoption is not merely an event but a lifelong process.) This was the same reasoning Spencer and others gave for avoiding the term "adoptee," which similarly "labels the whole person."[27] Dropping the modifier "adopted" affirmed kinship through adoption and destigmatized this status by situating the child on the same level as biological children.

Similar to avoiding the language of "adopted child," Spencer advocated minimal use of the qualifier "adoptive" to describe parents who adopt. As a result of this stigmatization, adoptive parents often struggled with the feeling of entitlement and sense of "realness"—that the child was "unconditionally (and exclusively) their own child."[28] Using the "adoptive parent" label outside of specific contexts would permanently and unfairly label the parents by the process by which they acquired a child, which would question the permanence and authenticity of the family tie and highlight their difference and "abnormality."[29] This language was

BOX 1. POSITIVE AND NEGATIVE ADOPTION LANGUAGE

POSITIVE	NEGATIVE
Adoption triad / adoption-circle / adoption-tapestry	Adoption triangle
My child / was adopted	Adopted child / is adopted
Parent	Adoptive parent
Birth / biological parent / Birthgiver* / Woman who gave birth	Natural / real parent
Birth child	Own child
Birth father / mother / parent	Real / natural father / mother / parent
Genetic ancestors	Blood relative
Born to unmarried parents / outside of marriage	Illegitimate
Waiting child / children in need of adoption	Adoptable child / available child
Court termination	Child taken away
Make an adoption plan / choose adoption / transferring or terminating parental rights	Give away / give up / put up / abandon / relinquish / surrender
Child placed for adoption / unplanned	Unwanted child
To parent	To keep
Parent preparation / preadoptive counseling	Homestudy
Intercountry adoption	Foreign adoption
Interracial	Mixed race
Child from abroad	Foreign child
Child with special needs	Handicapped child / hard-to-place
Search / making contact or meeting with / locate	Track down parents / reunion

* This term is used only by some.

Source: Marietta Spencer's "Terminology of Adoption" (1979) and Patricia Johnston's *Speaking Positively: Using Respectful Adoption Language* (2004).

ostensibly universal and race-neutral, but it had profoundly different effects along racial lines for the different people involved in adoption.

RACE-NEUTRAL LANGUAGE

While Spencer never explicitly addresses the issue of race, her omission suggests that the language is race-neutral in ways that would apply to all members of society. However, a closer look reveals that this language applied differently and had profoundly distinctive effects for White birth mothers, birth mothers of color, and White adoptive mothers. One of the main reasons Spencer promoted the use of PAL was because it reflected both the legal outcome and the moral purposes of the adoption process. According to Spencer, terms concerning the transfer of the child needed to reflect the reassignment of parental rights and the legal outcome from "biological parents to the parents of adoption." Language such as "put up for adoption" and "adopted out" were used in the late 1800s, when children were literally put on blocks for adoption or adopted out via orphan trains, but these terms were no longer applicable to the current process.[30]

In addition, phrases and terms such as "given away" and "abandoned" portrayed the biological parents as callous and uncaring, while "given up," "relinquished," and "surrendered" implied that the child was torn out of their arms. The latter terms also encouraged children to fantasize about improbable reunions. Spencer offered a plethora of suggestions that better described the transfer of children, including "arranging for an adoption," "making a placement plan for a child," "delegating an agency to find permanent parents for a child," "arranging for a transfer of parental rights," "transferring parenting to others who are ready for this long-term task," "finding a family who will adopt a child," and "selecting an appropriate family to parent the child." These suggestions were based on her claim that parents cannot "give up a child" because a child is not something that is owned, but they can "give up parental rights." Spencer rebutted the claim that children can be removed from parents against their will by claiming: "When the court steps in to terminate parental rights without consent of the bioparents, the chances are that the latter filled the role inadequately or not at all."[31]

Johnston echoed this sentiment. Without making clear distinctions about race, she argued that all birth parents are "thoughtful and responsible people" with "authority and responsibility." For Johnston, respectful adoption language was about using emotionally correct terms over emotionally charged ones: "These emotion-laden terms, conjuring up images of babies torn from the arms of unwilling parents, are no longer valid except in those unusual cases in which a birthparent's rights are involuntarily terminated by court action after abuse or neglect."[32] The logic of PAL and RAL relied on the perspective that adoption benefited all parties: birth parents were no longer forced or coerced to "surrender" their child but instead "choose" to make an informed and voluntary adoption

"plan"; adoptive parents now had a socially embraced way to create and/or expand a family and thus were simply "parents," not adoptive parents; and adoptees benefited the most because they received a caring and loving family, a permanent home, and a bright future. Although Johnston suggested that this mutually beneficial relationship could be described as an adoption circle, the majority of adoption outcomes resemble a moral teleology. The continued state-facilitated legal nature and process of adoption terminates rights for birth parents and transfers them to the adoptive parents. Adoption in this sense is not just a good outcome; it is considered the *best* outcome.

Significantly, the rationale behind choosing "emotionally correct," "positive," and seemingly race-neutral terms ignored the dynamics of TRNAs of Black, Asian, and Native American children, for whom the issue of race was infused, which complicated the presumed universality of PAL and RAL. For example, the "thoughtful" and "responsible" language of PAL and RAL used to describe birth mothers' decisions implied that all, regardless of color, were perceived and treated by society in this way. For Spencer and Johnston, birth mothers never had to surrender or relinquish their child against their own will. Those who did experience this were partially or wholly "inadequate bioparents," deserving of state intervention to be separated from their child. This meant that only those birth mothers who were truly undeserving parents had experienced child removal against their will.

Their language about deservedness shockingly mirrored early twentieth-century beliefs that considered unwed mothers as needing saving or sterilization.[33] This is perhaps most infamously illustrated in *Buck v. Bell* (1927) in which the Supreme Court ruled 8 to 1 that it was permissible and in the state's interest to sterilize Carrie Buck, who was argued to be an illegitimate child (an untrue claim) and promiscuous (even though she was raped by the nephew of her foster family).[34] For baby brokers who fed the early adoption black markets, birth mothers were not people or mothers in need of care and support; rather, these brokers provided mechanisms to produce White infants for White adoptive couples. For agency workers, birth mothers were too young, naïve, and irresponsible. They were incapable of not only parenting but of making the decision whether to parent or not in the first place: "It is rare that she, without experienced help, can make a beneficial and wise decision for herself and her baby. The very forces which brought about her unmarried motherhood prohibit this."[35] This dominant view about unwed motherhood and problem parents receded to some degree for White mothers and parents, especially as agencies realized that "old morals, old impulses, old ideas, and old indignations" needed to be changed to better meet the health, welfare, and rights of the unwed mother and child.[36] Indeed, this shift in the protection of birth mother rights was beneficial for adoptive parents because birth mothers would be less likely to change their minds about relinquishment.[37]

Although views of White single motherhood slowly changed, Spencer and Johnston's beliefs about deservedness ignored the ways that adoption depended

on and indeed engendered stratified reproduction.[38] Poor mothers, mothers of color, overseas mothers, and Native mothers were in different ways forced to interact with heightened government regulation, punishment, and family separation because of racial bias and their constructed non-normativity. Even the anti-poverty programs from the 1970s and on had brought families of color closer to government monitoring by social service agencies and thus higher probabilities of being declared unfit mothers or parents. As historian Rickie Solinger has noted, the transnational and domestic contexts for women of color mirrored each other to some degree in that the issue of adoption was rarely about individual choices (and planning) that mothers make. Rather, it was about "the abject choicelessness of some resourceless women."[39]

For the domestic context, non-White families have historically been perceived by society as inherently non-heteronormative.[40] Mothers of color in particular have been constructed as unfit parents and opposite of normative motherhood.[41] This racial ideology was especially concretized with the emergent representations of "culture of poverty" and "welfare queen" that were inscribed onto families and mothers of color in the 1960s. Oscar Lewis's culture of poverty theory racialized Mexican families as developing a culture of habits that enabled poverty that were carried to subsequent generations.[42] Daniel Patrick Moynihan added to this account by arguing that Black families were deviant, hypersexual, and poorly structured, which led to a "tangle of pathology."[43] Black families constituted gender and sexual non-normativity that needed to be disciplined by the state.[44]

What emerged from Lewis's and Moynihan's racialized explanations, and with the help of media perpetuating these cultural representations, was the racial, gendered, and sexualized figure of the welfare queen, which constructed Black, Brown, and Native American women as deviant able-bodied mothers who were lazy and purposely had more children to garner undeserved taxpayer support.[45] Chapter 1 gave multiple examples of Native mothers who lost their children for no other reason beyond racist, classist, and settler colonial logics. The disproportionate removal of Native children from Native families was staggering, and the involuntary family separation was the primary reason why Congress passed the Indian Child Welfare Act (1978). Similarly, social workers, health care professionals, and government officials "shattered the bonds" of thousands of Black families.[46] These racialized, gendered, and sexualized representations help explain why the specific identities, stigmas, and subjectivities of birth mothers of color were unaddressed not only by this new language but by the "solution" of adoption in general. Unlike White birth mothers and White adoptive mothers, non-White birth mothers' identities could not be changed or recuperated through adoption.

Like the domestic circumstance, Spencer's aversion to terms such as "relinquished" and "surrendered" ignored race, gender, and class in the transnational context. But there were also national inequalities produced by war and military intervention that contributed to the situation that many Korean and Vietnamese

mothers faced, who had little choice after conceiving children of mixed race with U.S. soldiers. While poverty and social stigma in Korea and Vietnam contributed to these conditions, U.S. military intervention, devastation, and abandonment in both cases created impossible situations for birth mothers who relinquished their children. Such "positive" and "respectful" language glossed over the numerous cases in which birth parents never intended to fully relinquish parental rights. Many desperate mothers left their children at orphanages with the full intent of returning later. In these cases, and ones that include coercion and outright child trafficking, "surrender" and "planning" never occurred. Asian birth mothers, like mothers of color in the United States, were the absent presence in PAL and RAL because how does one "positively" and "respectfully" convey the effects of military imperialism or adoptions that continued as a way to not only combat overpopulation but develop political and trade relations between Asian and Western nations?[47]

While mostly White adoptive parents had the privilege to choose adoption as a means of family building or expansion, it was at the expense of overseas, Native, and Black women who were forced to relinquish or had their children taken from them. Although Spencer could not have predicted the continued predominance of such adoptions in the late 1970s, both Spencer and Johnston were promoting this language into the beginning of the twenty-first century at the peak of transnational adoption. Even as Johnston concedes that there are a few exceptions when birth parents do not make adoption plans, the language they both promoted universalized the White birth parent/mother experience in an entirely Western context. The categories of "adoptive mother" and "birth mother" in PAL and RAL were presupposed and already constituted "regardless of class, ethnic or racial location," which placed the marked woman/mother of color as an object without agency.[48]

(DE)NATURALIZING MOTHERHOOD

The stigmatization that adoptive parents faced, and in many ways still deal with, led to efforts by adoptive parents and adoption social workers to displace and lessen the status of the birth mother. Before the institutionalization of positive and respectful adoption language, the biological mother was referred to as the "natural mother," "first mother," or "real mother" by agencies, the court, and society at large. Spencer, Johnston, and other supporters of adoption felt that these terms worked to delegitimize adoptive families and parenthood. Spencer explained her disapproval of these terms:

> "*First mother (or father).*" This term is accurate only if the birth-giving mother or biological father did some parenting during the postnatal period. If they never functioned as parents, their contribution was limited to the prenatal and birth-giving process. Only in the case of an older child who experience some parenting from his birth parents is it correct to speak of a "first mother" or "first father." . . .

> "*Natural parent*." This term, used primarily in legal contexts, implies that the adoptive parent is somehow unnatural, "artificial." . . .
>
> "*Real mother." "Real father."* What constitutes a "real" parent? In terms of familial relationships and social functions, the "real" parents are the adoptive parents, not biological parents. The adoptive parents care for the child, nurture growth, transmit knowledge and values. The biological parents brought a child into the world; the adoptive parents help the child to cope with the world—a challenging task, and just as "real." To apply the term exclusively to biological parents is grossly inaccurate.[49]

Spencer and other PAL/RAL advocates encouraged using more "correct" terms such as "birth mother," "mother of birth," and "biological parent." Terms such as "natural parent" and "real parent" used to describe birth parents were "emotionally charged" and threatened the legitimacy of both the adoptee and adoptive parents because they did not reflect the *legal* outcome of adoption, which severed the rights, legal and moral responsibilities, and ties of the birth parents from the child. Using the term "real parent" to refer to the biological parents' violently implied adoptive relationships were "artificial and tentative" and that adoptive families were inferior or "second-best."[50] In recognizing the legitimacy of birth parents, Johnston states: "Indeed in adoption children will always have TWO 'real' families: one by birth and one by adoption." However, the goal of PAL and RAL in effect was to solidify the placement of adoptive parents *over and against* birth parents. The new language designated and differentiated the biological realities from the social realities of "real (adoptive) parents." Moreover, it diffused "competition or conflict" by cultivating understanding within and about the "adoption triad." The role of birth parents among the three parties of the adoption triad was clarified as being that of the "man and woman who shared in a child's conception and who planned adoption for the child."[51] In this way PAL and RAL were supposedly respectful of birth parents too, depicting them as responsible individuals who chose to transfer the right and responsibility of parenting to adoptive parents.

While first used by prominent author and adoption supporter Pearl Buck, the term "birth parent" or "birth mother" gained greater prominence in the mid-1970s.[52] As a singular word, "birthparent" or "birthmother," germinated from an effort by activist Lee Campbell, a birth mother herself who formed a group to address the needs of "parents who had surrendered children for adoption." Campbell opposed the term "biological parents" because she and other parents were more than "procreating protoplasm"; she also disliked the term "natural parents" because it defined adoptive parents as unnatural. "Birth parent" had existed in the lexicon, but Campbell combined the two to create a more appealing acronym for her new organization, Concerned United Birthparents. For Campbell, "birthparent" conveyed the feeling and social history of being a mother along with the prenatal, natal, and postnatal aspects of birthing. After all, the process of birthing everlastingly connects birthparents to their child.[53]

Yet within the past two decades, some activists have strongly rejected the term "birth mother" or "birthparent." Diane Turski, an activist who calls herself a natural mother, argues that the term "birth mother" is a euphemism for incubator or breeder and was established under "positive" adoption language. She contends that this move was more of an attempt to break the natural bond between the mother and her child to make the adoptive family feel less threatened, more comfortable, and more natural. Another natural mother of an adoptee critiques the term "birthmother" as well: "And its meaning [birthmother] is clear: that we are no longer mothers (emotionally, socially, or legally) to the children we surrendered for adoption. That the sole parent and mother of our lost child is the woman who adopted our baby."[54]

In 1999, Spencer published an updated guide on correct adoption vocabulary, which gives credence to Turski's claim that PAL makes birth mothers and parents illegible as such. She states that terms such as "birthgiver" and "woman who gave birth" are accurate descriptors, while "biological mother/father" are not. Spencer relegates birth parents to "the woman and man whose egg and sperm combined" to conceive a child, and whose main importance is merely being a source for hereditary and health information for the adopted child.[55] In fact, birth mothers often experience this assignment of birth mother or birth giver even *before* the adoption is finalized, during the pre-adoptive process.[56] As adoptive parents were concerned with how society viewed their family, the goal of detaching pregnancy and labor from motherhood (two identity-defining moments for many mothers) and instead highlighting the legal outcome of adoption was paramount. This was a main reason why "adoption triangle" was classified as a negative term because it connotes that lines were still attached.[57] Thus the term "birth parent," in relation to just "parent," reinforced the act of severing ties between the child and their natural mother. The line distinguishing who the real parent was legally and socially would no longer be blurred.

Here, the birth mother, as an actual person and symbolic figure, was discursively distanced from the identity of mother. Her teenage, unmarried, and unready statuses positioned her as incompatible with the heteropatriarchal and nuclear ideals of a married two-parent family. Spencer promoted steering clear of the terms "illegitimate child" and "unwanted child" because the former was better stated as "out of wedlock" and the latter was not necessarily precise because often it was the role of the "parent" that was primarily unwanted.[58] For Spencer, "out of wedlock" was supposed to be a less negative term than "illegitimate" and more exact than "unwanted," but the language of "out of wedlock" still provided rationale for the birth mother to relinquish her child. By the 1940s social welfare professionals had attached neurosis to unwed motherhood, but the status of an unfit mother could be redeemed if she relinquished her child for married couples to adopt.[59] Thus, rather than questioning the heteropatriarchal requirement of marriage to raise a child and the social context that made illegitimacy a negative status or the lack of

social support to keep and parent her child, PAL and RAL suggested a sanitized version of "out of wedlock" that ultimately upheld the birth mother as an undeserving figure, whose sole option for redemption was ironically to only give birth but not to mother.

I argue that the solution to the symbolic violence (adoption stigma) that adoptive parents and families faced enacted what social theorist Denise Ferreira da Silva calls "productive violence," which produces certain meaning and representation while destroying or rejecting something else. Early TRNAs represented the strategy of containment of the racial Other, which meant they were accepted mainly because the practice of cultural assimilation limited the harmful biological reproduction of the racial Other (i.e., transracial and transnational adoptees who largely grew up in a White habitus would marry White spouses), while rescuing "orphans" from Communist countries, Native reservations, and Black ghettos promoted racial liberalism.[60] However, positive and respectful adoptive language, especially in the context of TRNAs, emerged as a strategy of displacement through symbolic negation and foreclosure, where adoptive parents were labeled "real" parents.[61]

Jacques Derrida's theorization of representation through the sign and instituted trace helps us understand how this displacement and discursive difference severed the birth parent from their child. He explains that the sign (in the sign, signifier, and signified relationship) is something that is always becoming—that is, its definition and symbolism, or representation, are never fully concrete. Its becoming, or development, is dependent on the line that separates the signifier and the signified. That line, the trace, is what polices and determines which signifiers are legible and illegible.[62] The hitherto "unmotivated" line, Derrida contends, dictates which signifiers are (in)eligible to represent the signified meaning. Signifiers that are determined to be ineligible by the trace are illegible. They are still there—still present—but they are hidden, obscured, or even erased. In other words, PAL and RAL became the instituted trace, the affirming light for adoption, and the violent arbiters of who could be the *only* signifiers and therefore legible as the real parent, mother, and family. The discursive move to discard "natural" from and ascribe "birth," "plan," and "responsible" to the natal mother and parents accomplished the symbolic processes of denaturalization of birth and normalization of adoptive. It recuperated White birth parents as good subjects who enabled heteropatriarchal family relations, while concretizing the term "birth mother" to refer only to the undertaking of birth, erasing or foreclosing any claims to or future as mother/parent.

This discursive negation was worsened in cases of transnational adoption that engendered a vast spatial and temporal distance between the non-White birth mother and her child and the identity of the mother. Yet discarding the descriptors "adoptive" and "natural" from (White) adoptive parents and (non-White) birth mothers, respectively, did not provide adoptive parents with the

assurance of having a "natural" family. The racial markers distinguishing adoptive parent and child remained for transracial and transnational adoptions. The primary recourse was to attempt to normalize transnational adoptions and narrow the definition of motherhood, parenthood, and family. Thus, while PAL and RAL eased the concerns of adoptive parents because most of them were White, the new terms ignored how racial difference operated materially and symbolically. PAL and RAL never addressed the needs of birth mothers of color, both in the United States and elsewhere, who lacked the resources to make or reject a "responsible adoption plan."

Spencer also opposed the term "reunion" to describe cases when adoptees both seek and see their biological parents, which in most cases meant the birth mother. Spencer argued that the term delegitimized the legal status of adoption and implied that the adoption was (or could be) dissolved even though the adoptee did not rejoin the biological family. Reunion's celebrated status, along with the search and open records movements in general, has positioned adoptive mothers as deficient and even harmful to the well-being of adoptees.[63] Spencer characterized "reunions" as a minor curiosity: "In reality, the desire to establish contact often reflects no more than the wish of many adopted persons to take a look at their biological ancestors." By avoiding the term "reunion," the meeting could be represented as temporary, singular, or at most a discrete event. Only in the case in which the adoptee "remembers being parented by her or his biological family" could the meeting be described as a "reunion." For Spencer, phrases such as "making contact with," "meeting with," or "getting in touch with" described these encounters more precisely.[64] Johnston was in full agreement with this perspective on reunions: "While children adopted at an older age may indeed experience a reunion, most adoptees join their families as infants, and as such they have no common store of memories or experience such as are traditionally shared in a reunion. The more objective descriptor for a meeting between a child and the birthparents who planned his adoption (a term which neither boosts unrealistic expectations for the event nor implies a competition for loyalties between birthparents and adoptive parents) is *meeting*."[65]

Like Spencer, Johnston was making an "objective" argument about accuracy and emotional correctness in language use. For both, "reunion" was an emotionally charged word that discredited adoptive families and adoptive mothers while implying a bond that may have "never existed" or will ever exist. Indeed, these terms carefully avoided any indication of a familial relationship between the adoptees and their birth parents and diminished the actual desires of many adoptees and birth parents who wanted to know more or reconnect with each other. This event was "no more than" a "look at" or "meeting with" one's disconnected biological past. Thus Spencer, Johnston, and other proponents of PAL and RAL argued that the symbolic violence of traditional adoption terminology, which attached the descriptors "natural" and "real" to biological and genetic motherhood, required

the introduction of new, commonsense language that would destigmatize and validate adoptive families, mothers, and parenthood.

POSITIVELY VIOLENT

The problem with the deployment of specific PAL and RAL terms was that it did not consider the unique conditions of TRNAs. The established terminology was universal and theoretically applied to all adoptions in a race-neutral way. In defining motherhood so narrowly, the universal terms they offered engendered symbolic (and institutional, as it was made and disseminated by the adoption industry) violence by dismissing the biological ties and disregarding the inequalities endured by birth mothers, both White and non-White. This language reiterated heteropatriarchal ideals that children only have two real parents through marriage and more significantly erased the importance of birth mothers, parents, and family. It denaturalized the relationship between birth mothers and their children to the extent that if they ever saw each other again, it would be as if they were strangers rather than family.

In addition, positive adoption language contributed to the common adoptee feeling of needing to outwardly reject their birth parents as parents or extended family to protect the legitimacy of their adoptive parents and adoptive family. Adoptees are not supposed to feel sadness or loss about their birth family, or disconnection from their adoptive family, which can further traumatic violence. As ethnic studies scholar and Korean adoptee Kim Park Nelson has explained, attempts at normalization in general by adoptive families and adoptees can be a form of self-erasure that "has been less about changing societal expectations of what constitutes a normal family than about imposing the preexisting definition of normality on adoptive families."[66] In other words, rather than embrace their difference and the possibilities in expanding families through adoptive kinships, the adoption industry and families restricted themselves to the normative ideal.

The battle over language did not stop after Spencer introduced PAL in 1979, as individuals and institutions continued to promote the use of positive adoption vocabulary. For example, the director of St. Elizabeth Foundation in Baton Rouge, which is a nonprofit organization that provides pregnancy counseling, maternity, and adoption services, submitted a guest column in 1989 to *The Advocate*, to inform news writers and the public to recognize and avoid "biased/faulty terminology": "Adoption is all about love. It is also about choice. It is about building families. It is about permanence. It is about commitment. The birth mother who isn't ready or able to parent, as the one mentioned in Cullen's article makes a difficult and loving choice to give to her baby a better chance by making an adoption plan. The adoptive parents choose to offer their love and nurture to the

baby by giving family, permanence, commitment."[67] In another example, *The Daily Oklahoman* educated readers about positive adoption language during National Adoption Month in 1993.[68]

Those who educated the public felt compelled because traditional adoption language was abundant. Spencer stated that the purpose of outlining positive adoption language was to provide insight for people and the public who unwittingly "continue to confuse and distort" adoption terminology. She claimed that adoption was "an essentially simple and orderly human transaction" that "should not be confused or made more complex by the use of imprecise language." She reaffirmed that love was embedded in the creation of a family through adoption and in her effort to transform adoption terminology: "After all, the language of adoption is *loving* communication among members of a family created by social contract, sustained by their life together, and supported by an informed society that validates the integrity of the family."[69]

Despite the explicit allusion to love and "positivity," PAL and RAL were both effects of power deployed by social workers, adoption professionals, and adoptive parents (as knowledge producers rather than birth parents and adoptees) and instruments of power that have been used to violently define motherhood and family, which has significantly shaped the adoption industry and discourse. The new language guidelines are fairly standard now for agencies, and tables delineating positive and respectful language from negative and old language can be found across the internet in ways that still ignore the minimization of birth parents and the nuances of race. PAL and RAL changed adoption discourse among the industry and the parents and families involved and normalized adoptive relations. However, nonbiological family-making still had to be legitimized on a broader stage. Social science research on adoption outcomes stepped in to continue and deepen the interpretation process for TRNAs.

NORMALIZING ADOPTION THROUGH SCIENTIFIC STUDIES

While the new, universalized adoption language failed to address the ways in which race played a part in "positively" defining motherhood and family, the issue of race, the specter of the birth mother, and the battle for legitimacy in TRNAs could not be ignored. The undeniable public visibility of these adoptions due to physical differences between adoptive parents and adopted children meant that family-making was not and could not be a private or secret matter. But even before controversy over TRNAs existed, the uncertainty of and dichotomous views on adoption prompted countless social scientific outcome studies, in the fields of psychology and social work especially, to determine whether adoption in general had positive or negative outcomes. New questions of success, benefit, and harm

emerged as adoption began shifting away from early orphan trains and child labor toward family-making. Science was the response to the uncertainty of adoption: it would reassure adopting parents, social workers, and the state that adoptions could not only be safe but successful and beneficial. More important, select studies would prove—in a positivistic way—that with proper intervention and risk management, nature could yield to nurture. Love could displace nature, affirming that it has the power to overcome any negative possibilities.[70]

While researchers who are engaged in outcome studies have referenced and reviewed the broader literature of these studies, the discussion of such research beyond the context of "these studies are important and more refined studies are necessary" has been very marginal. Most scholars who support transracial and transnational adoptions cite these studies as expert and scientific proof that they do not cause harm. They illustrate how such adoptions can produce loving families with healthy and well-adjusted children.[71] A few scholars have delved deeper to examine their role in shaping adoption.[72] For example, Kim Park Nelson provides a stronger critique of methods in TRNA outcome studies that primarily relied on adoptive parents' perspectives rather than centering adult adoptee experiences; conflated measurements of "adjustment" with racial and cultural assimilation; and minimized problems and challenges found in such adoptions.[73]

Building from Park Nelson, I critically examine how transracial adoption and transnational adoption outcome studies framed adoption and interpreted race. My intervention here is not to reexamine the studies or to completely dismiss them, but rather to suggest that they helped establish a specific narrative about transracial and transnational adoptive family-making. First, while the studies broadly claimed that domestic and transnational transracial adopted children had healthy outcomes, I argue that the studies were equally important because the positivistic method (where experimentation and observation led to "truth") inherent in such studies transformed the uncertainty of adoption into positive (certain and affirming) knowledge about TRNA. They helped normalize both TRNAs and the adoptive families to be "just as good" as same-race (also called "inracial") adoptions and in some cases nonadoptive families.

This positivistic approach produced another significant issue in the way race was (mis)measured and (mis)interpreted. Race was almost always framed as a genetic descriptor or simplistic identity that one possessed or did not possess, which failed to capture the complex ways race is constructed (internally and externally), intersects with other identities, and changes. Hence, I argue that this mismeasure of race meant the studies were never as conclusive as they claimed. Yet they still produced crucial "objective" knowledge about TRA's and TNA's success. As a result, TRA and TNA advocates employed this research to underscore the transcendence of love: despite same-race adoptions being favored by researchers (because they could achieve "naturalization" not just normalization), love in

TRNAs could overcome racial difference and produce a positively defined form of family-making.

DOMESTIC AND TRANSNATIONAL TRANSRACIAL STUDIES

Matching was the easiest way to re-create naturalization, but this strategy was clearly inhibited by the racial difference that was visible in TRA and TNA. For many people, institutions, and the nation these adoptions symbolized the racial liberalism of the post–World War II era and anticommunist sentiment from the Cold War. Yet, paired with the historical context of slavery, settler colonialism, eugenics, immigrant exclusion, segregation, and antimiscegenation laws in the United States and its imperial tendencies abroad, such adoptions evoked mixed feelings from the American public. Controversy around them came to a head in the 1970s when non-White organizations and communities called into question the motives and effects of White parents, adoption agencies, and state and federal governments that were adopting or facilitating the adoption of Black, Native American, and Asian children in greater numbers.

In 1972 the National Association for Black Social Workers (NABSW) published a position paper that addressed their concerns about the history, present, and future of African American children and families. The paper was widely reviled and labeled as a cultural nationalist and reverse-racist statement by transracial adoption advocates.[74] It affirmed the importance of "positive" ethnicity in the historical context of suppressed Black identity and asserted the belief that family is the basic unit of society, crucial for the physical, psychological, and cultural development of identity. In highlighting the structural racism embedded "at every level" of society, the paper affirmed the necessity of the Black family to raise Black children, who would always be posited as racially different from White children and parents, in order to pass on positive cultural identity and survival skills to negotiate racism.[75] Indeed, many transracial adoption outcome studies often framed their research inquiry, at least in part, on the opposition articulated by the NABSW and other critics of transracial adoption.[76] Despite wide disagreement within the social work profession, the Child Welfare League of America revised its suggested standards in 1973. Before the NABSW position paper, the CWLA had publicly supported transracial adoptions. Afterward, however, it reversed course in a way that faintly followed the NABSW, supporting the belief that same-race placements were preferred over transracial ones.[77]

As TRA and TNA adoption began to increase in the 1960s and 1970s, and then continue despite their controversy, researchers started looking into the question of whether these placements were beneficial or harmful to adoptees of color. These early scientific studies examined numerous independent variables. The main

one was the child's ethnoracial background, where race was conceived as a static physical and genetic descriptor rather than a fluid identity and mode of power. Other independent variables included gender (which like race was reduced to a static category), age at the time of placement, age at the time of the study, sibling composition, racial isolation/disapproval, and neighborhood and school environment, among other categories. They were used to measure just as many dependent variables such as educational performance, level of functioning, discrimination, and problem behavior, with the main ones being self-esteem, ethnoracial identity, and overall adjustment. By and large, TRA and TNA were summarized as just as successful as inracial adoptions.

Self-esteem was considered a mainstay of healthy development and has been investigated in many outcome studies. Low self-esteem had been strongly connected to negative outcomes such as aggression, antisocial behavior, and delinquency. Psychology professor David Brodzinsky and colleagues noted that "being adopted can complicate the development of self-image and self-esteem" because of feelings of being cut off or rejected by birth parents and perceived differences between themselves and their adoptive family members, especially with transracial adoptions.[78] Studies done at various stages of growth (including childhood, adolescence, and adulthood) on self-esteem have generally determined little to no difference between adopted and nonadopted children. Social work professor Ruth McRoy and colleagues conducted a comparative study in 1984 of Black children from transracial and inracial adoptions and found no differences overall in self-esteem, which was even as high as the general population of nonadopted children. They suggested that "positive self-esteem [could] be generated as effectively among black children in white adoptive families as in black adoptive families."[79] Femmie Juffer and Marinus IJzendoorn, child and family scholars in the Netherlands, did a meta-analysis of 88 outcome studies and confirmed that adoptees of all categories, international and domestic as well as transracial and inracial, showed "normative levels of self-esteem."[80] Studies thus produced positivistic proof that transracial adoption had no negative effects on children's self-esteem.

Research studies were also concerned with ethnoracial identity, especially after criticism of TRA and TNA grew. This question of ethnoracial identity was important because many adoptive parents lived in small cities and rural towns. The widely practiced strategy of cultural assimilation was criticized for stripping non-White children of the right to their "birth culture." The obvious critique was that an adopted child could have high self-esteem but still have a negative view of their racial identity. Thus one of the central areas of investigation for adoption researchers was: "Did living in mostly white neighborhoods, going to school with mostly white students, and being raised by white parents hurt ethnoracial identity development?"

Devon Brooks and Richard Barth, professors in social work, published a comparative study in 1999 of White, Black, and Korean adolescents adopted by White

parents. In a survey of adoptive parents, the study found that there were no significant differences among the groups in dealing with "ethnoracial discrimination and identity," where the latter included "discomfort over their ethnoracial appearance and their pride, shame, and embarrassment in their ethnoracial birth group." Despite multiple measures indicating racial identity concerns, summary measures narrated more positive outcomes. Black adoptees faced discrimination at high rates (42 percent female and 50 percent male experienced it "sometimes/often"); Asian male and female and Black male adoptees felt "discomfort over appearance" (all three groups near 50 percent); and Asian male and female adoptees "hardly ever/never" felt pride in their birth group (both at 65 percent). But collectively, according to the researchers, 65 percent of the children had "secure racial identities," 35 percent retained "strong racial identities," and none possessed "weak racial identity." This led Brooks and Barth to conclude that the "present findings demonstrate that Caucasian parents, too, are capable of raising African-American and Asian children and meeting their children's ethnoracial needs."[81]

In her comparative study of Black adolescents from transracial and same-race adoptions, researcher Karen Vroegh argued that there was no evidence, from her studies or others, that everyday relationships with Black people were necessary to the development of a Black racial identity.[82] Sociologists Arnold Silverman and William Feigelman stated it most forcefully that the findings from their research and other studies showed that the push to curtail transracial placements was highly questionable: "[Our] evidence indicates that whatever problems may be generated by transracial adoption, the benefits to the child outweigh its costs. There is no evidence that any of the serious problems of adjustment suggested by the critics of transracial adoption are present in any meaningful proportion for nonwhite children who have been adopted by white parents."[83] Such studies "proved" that racial identity was not negatively affected by TRNAs.

The predominant picture was that White parents were able to provide nurturing, loving, and permanent homes that fostered healthy, well-adjusted transracial adoptees who were aware of their heritage and had high self-esteem.[84] As Minnesota social worker and researcher Harriet Fricke put it, "[White couples] have all the attributes of good adoptive parents—with an important plus: they are tremendously secure people who do not need constant community or larger-family support to survive."[85] Likewise, in 1975, Lucille Grow and Deborah Shapiro, research associates for the CWLA Research Center, found a success rate of 77 percent for the adoption of Black children by White parents, which approximated other studies of "conventional White infant adoptions." They concluded: "Thus, the predominant picture is that of healthy and well-adjusted children, aware of their heritage, living with parents who were highly satisfied with their adoption experience."[86] Child welfare researcher David Fanshel found similar results and claimed overall success of the Indian Adoption Project, where 78 percent of the adjustment outcomes for adoptees were adequate or excellent, with only 10 percent receiving

greater doubt.[87] Silverman and Feigelman, in their 1984 study, found that Korean adoptees were *better* adjusted than their White counterparts.[88]

In their review of transracial adoption outcome research, Rita Simon and Howard Altstein, two of the most cited researchers on TRA and TNA outcome studies, concluded that "the quality of parenting was more important than whether the Black child had been inracially or transracially adopted" and that "transracial adoptees had developed pride in being black and were comfortable in their interactions with both black and white races."[89] Simon and Altstein fervently maintained that their "objective," "unmotivated," "depoliticized" scientific inquiries and studies demonstrate that transracial adoption is best for the child and society:

> After three decades and several volumes of research, this is our final examination of transracial adoption. We enter this area of inquiry with no social or political agenda. We exit with none. We were interested in looking at how races could live together in so intimate an environment as the family at a time when we thought the races could not get much further apart (mid-1960s). To the best of our ability we sought the truth. We think we found it, as far as that abstract can be found. . . . What we have found is that in the overwhelming majority of cases, transracial adoption is a win-win situation.[90]

Therefore, not only from individual studies but also from Simon and Altstein's meta-analysis, research seemed to point to a clear fact that transracial adoptions were successful, just as good as inracial adoptions, and ultimately in the best interest of the child.

RACIAL REALITIES OF OUTCOME RESEARCH

The reality of adoption research, however, was that outcome studies often produced negative, mixed, or inconclusive results.[91] A primary reason was the studies' methodological choices, including ignoring adoptive parents' limitations, not accounting for high attrition rates, downplaying how race mattered to adoption success, failing to account for the social construction of race, and ignoring the structural violence that preceded adoption. For example, some studies preselected respondents who were composed of families that were better educated, were higher-income earners, and had adopted younger and healthier children. In addition, children filled out questionnaires in the presence of their parents, which made their answers less reliable as that presence may have influenced their answers.[92] Early studies were largely dependent on adoptive parents' perceptions as expressed in interviews or surveys.[93] Silverman and Feigelman even acknowledged that it was reasonable to ask if such perceptions could be "reliable," but they had confidence in parental perception because of results from other studies. Fanshel's 1972 study of Native American children, for instance, claimed that parents' perceptions "closely correlated with the assessments made by trained interviewers and clinicians."[94]

Early studies did not account for how reluctant parents might be to discuss negative outcomes. Ironically, Silverman and Feigelman's argument in their 1984 study of Korean adoptees contradicted their research done in a 1977 study of White couples who had adopted Vietnamese children before and after Operation Babylift.[95] They found that Vietnamese adoptees who were adopted *after* the historical moment of Operation Babylift had adjusted just as well as Vietnamese children adopted *before* it happened, which ran counter to both common sense and their hypothesis. They believed that anti-Vietnamese sentiment and critiques in the media about the desirability and feasibility of these adoptions would increase adjustment problems for later adoptions. They cautiously reasoned and cited another researcher that "even if there were no sudden surge in public hostility toward their adoptions, these parents might be *reluctant to admit the existence of problems*. H. David Kirk, in his 1964 study of adopting families, has described the reluctance of adoptive parents to admit problems in their adoptions."[96] Silverman and Feigelman, among many other researchers, therefore ignored the limitations of depending on adoptive parents, who might be reluctant to admit problems that they had explained a few years earlier in their own study.

Another important weakness of adoption outcome research was that longitudinal studies used samples that had high participant attrition rates.[97] While high attrition rates are not uncommon, it was uncertain whether these studies were showing good outcomes, where usually 70 percent or more of the children who were adopted transracially "adjusted well," or if they were merely showing the positive outcomes of adoptive parents who were still connected to their adoption agency—which was the typical avenue for participant recruitment—and were more willing to share their success stories.[98] Perhaps even more significant than just high attrition rates was the fact that outcome studies never mentioned or included disruption (where the process of adoption has ended before the adoption was finalized), or dissolution (where the legal tie between the adoptive parents and the adopted child was severed after the adoption had already been finalized), or discontinuity (where children are estranged from their adoptive family).[99]

Other studies ignored or downplayed how race mattered. A supposedly "non-determining" factor, race was in reality very significant in various studies that were conducted in different decades, which contradicted generalized claims in other studies that it was "not statistically significant." For example, sociologist Laurence Falk—in a 1970 study of same-race White adoption and transracial adoptions of "Negro," "Indian," and "Oriental" children—found that White adoptive parents of transracial adoptees faced greater isolation and resistance from relatives; that parents were slightly less inclined to do it again if they had to; they were more likely to think that it was more difficult to raise a child of a different race; and they were less likely to recommend TRA than inracial couples were to recommend inracial adoption.[100] Moreover, despite the claims by Vroegh as well as Silverman and Feigelman, child psychiatrists Don Heacock and Cheryl Cunningham in 1976 reported that in a comparison of 12 TRAs and 12 same-race placements of Black

children, "the Black children [adopted by Black families] clearly were less ambivalent about their color and were more favorably inclined to see themselves as Black and to see black in a positive light, whereas the white family children were ambivalent and preferred White to Black."[101]

Similarly, McRoy and colleagues found in 1982 positive self-esteem in transracial adoptees *but* lower levels in their sense of racial identity.[102] Those who attended integrated schools, lived in integrated communities, and had parents who accepted their racial identity felt positive about themselves as Black persons. Transracial adoptees who did not have those experiences—that is, their racial identity was deemphasized and they had no Black role models—tended to devalue their racial identity. Some children who had no contact with Black people within their neighborhood or school had negative perceptions of Black people in general: "blacks are poor," "many are militant," and "they use bad English."[103] White adoptive parents, McRoy and colleagues stated, should be aware of and accept that the racial identity of their child is different from their own. They should be willing to make changes to help their child's development by moving to integrated neighborhoods, enrolling in integrated schools, and establishing social relationships with Black families. The researchers concluded by claiming: "Although most white adoptive families applying to adopt black children probably can provide loving homes for the children, not all of them can fulfill black children's need to feel positive about their black identity."[104] Thus they offered a conditional endorsement of transracial adoptive placements that "if necessary," the parents should meet "specific criteria" and that adoption agencies investigate the larger "racial milieu" to determine whether they can successfully nurture healthy, racial identity for their child.[105]

Outcome studies on adoptions from Asia also revealed that race matters. In an early 1978 study on Korean adoptees, Dong Soo Kim found that adoptees worried about their physical appearance and rejected their racial background.[106] In a contemporaneous study of families who adopted from Korea, Jiannbin Lee Shiao and colleagues found in 2004 that most White parents, when dealing with racial differences, often took a color-evasive approach, encouraging the adoptees to assimilate because it was easier than dealing with unfamiliar racial issues. They argued that this approach actually led to a White perspective that tried to "normalize" their children, which, "consciously or not, worked to include their own children in the White category."[107] White adoptive parents were "able to fully love the nonwhite children in their lives without having to examine their own prejudice" and "point to their children as proof of their tolerance."[108] Even when adoptive parents did want to cultivate cultural interests, they expressed uncertainty on how to achieve those goals.[109]

This has been a challenge for many adoptive parents who live in predominately White spaces and do not have meaningful connections with people in other communities. Additional evidence from surveys has shown that many Korean adoptees considered themselves as White, indicating they did not possess positive

ethnoracial identities. In a 2000 survey of 167 adult Korean adoptees, nearly 60 percent considered themselves either "Caucasian" or "American/European" while growing up. More specifically, 36 percent of the adoptees considered themselves "Caucasian" and 22 percent considered themselves "American/European."[110] Beyond what adoptees identified as, another study in 2009 showed that Chinese adoptees wished they did not look Chinese (32 percent; n = 1,233) and those from India wished they were White (49 percent; n = 200).[111] White adoptive parents of children from Korea held similar views about race. More than two-thirds of respondents (68 percent for mothers and 73 percent for fathers) in a 2003 study reported that "their transracial adoption did not change the racial characteristics of their family."[112] These studies strongly contradict the claim that there has been "no evidence" of "any significant proportion" showing that transracial and transnational adoptions are affected by notions of race.

Although a few researchers understood and were interested in the social notion of race (as opposed to it being only a biological trait or a self-ascribed identity), they, along with other researchers who did not make this distinction, conflated children who were perceived "fully" within a singular racial category with children who were deemed "mixed-race" or "bi-racial."[113] In their 1975 study of 125 Black children in White homes, Lucille Grow and Deborah Shapiro stated that "most were described as having fair or light brown skin coloring and some Negroid features, but only slightly more than half were 'obviously' black, according to their parents."[114] For Vroegh's 1997 follow-up study, of the 34 "black" children who were adopted by White parents, 74 percent (n = 25) were of mixed Black and White background.[115] In an early 1972 study of White parents in Los Angeles County who adopted "Negro-White" children, Ryo Suzuki and Marilyn Horn found that "our records indicate that some of the Caucasian families who expressed interest in a child who was racially different and who were fully accepting of the child with a Negro label, did not wish to adopt a child who was visibly Negro. Children who were 'part-Negro' but looked Caucasian were, therefore, the ones that were selected for these families."[116]

Closer examination of these studies illustrates how race operated in the U.S. social imagination. Despite the children in Suzuki and Horn's study being able to pass as White, they were still labeled as "Negro" because of legal traditions that have historically used hypodescent (e.g., the "one-drop rule") to define Blackness. Even though the children were not visibly Black, the study treated them as Black and claimed that the adopted children were adjusting well and that racial issues were "not as great as they had anticipated." Yet the study did admit that the two families "whose children's appearance was Negroid" did experience difficulties.[117] Thus there was an acknowledgment of different experiences between the two "Black" groups of children without exploring how anti-Blackness and colorism might have played roles in those differences. Rather, the study presented a general conclusion that racial issues "were not as great" as expected. Important to note is

that "Caucasian" itself is a pseudoscientific term that was coined in the late eighteenth century by German anatomist Johann Blumenbach, who visited the Caucasus Mountains and believed that region was the site of human origination, and people from there, along with the rest of Europe, belonged to the most intelligent of five races (Caucasian, Mongolian, Malay, American, and Ethiopian).[118] While the term is still widely used colloquially and in many institutional as well as local, state, and federal contexts, it is a term rooted in debunked pseudoscience.

Disaggregating racial categories for analysis would not have necessarily reversed or improved research outcomes. Both the decision of *whom* to adopt—that is, the difference between adopting a child who is "obviously Black" versus a child who is racially ambiguous—and how individuals, family members, society, and even adoptees themselves reacted to this were affected by race in different and intricate ways. In fact, disaggregation might have led to more positivistic claims about "mixed-race" children. Nevertheless, "race" was often simplified in social scientific studies, where race was a proxy for ancestry. While the concept of race can tell us much about identity, experience, and inequality, it could not do this well when it was reduced to a fixed concept. Social scientific adoption outcome studies have confined race to an independent biological marker attached to heredity on the one hand and the measurement of "(ethno)racial identity" as a static finite goal over time on the other.

But race and racial identity are far more complex social constructions that are linked to individual and broader material consequences that can be contradictory and change over time. For example, social work scholar Tien Ung and colleagues theorize racial identity in relation to ecology, where "racial identity is embedded within multiple complex systems" that are interdependent and fluid, as well as existing not just at the individual level but also at the familial, community, and societal levels.[119] Racial identity as an ecological system can hold, for instance, the diversity and contradictions of positive self-esteem and strong ethnoracial identity as a young child but also changed attitudes as adoptees become adolescents, young adults, or older adults because ecologies might have transformed over a lifetime from shifting environmental impacts. Yet these nuances were rarely explored in outcome studies. Instead, what many of these studies indirectly showed in adoptive parents' preferences to adopt White children or biracial children was the symbolic value of Whiteness. While biracial children were being categorized wholly within the White parent–Black child binary, their perceived "racial make-up" was appealing precisely for the opposite reason—in that they were closer to Whiteness and further from Blackness.

In Fanshel's 1972 study of White parents who adopted Native American children through the Indian Adoption Project, his research revealed that all transracial adoptions were not considered equal, showing a distinct racial preference. When asked about alternatives to Native American adoptions, 15.6 percent of adoptive mothers responded that they would have "adopted easily" a child who was mixed

"Negro-white" but who looked obviously "Negro," while 58.3 percent responded that they "could not consider" such an adoption (see chapter 1). When adoptive mothers were asked if they would consider the adoption of an "Oriental," the percentages reversed; 70.8 percent responded that they would have "adopted easily" and 6.3 percent said they "could not consider." Sociologist Sara Dorow explains this phenomenon in her study of White parents who were making adoption and surrogacy plans and choices. She argues that "whiteness" operates as the invisible background noise. Asian babies are perceived as being desirably different and relatively baggage-free, which allows for the celebration of positive culture while washing away negative cultural particularities, but U.S. Black babies remain baggage-laden, tainted with abjectness, illegality, and criminality.[120] Even as Whiteness held symbolic value, methodologically it was an unmarked and uninvestigated aspect of race. Researchers who were invested in ideas of positivism and objectivity (and in some cases adoptive parents themselves) did not find it necessary to reflect upon their own racial and adoptive parent positionalities.[121] Nor did they consider the ways adoptive parents' racial and adoptive positionality might affect how they answered questions about their children.

A "LOVING" SOLUTION

Countless social scientific studies had "proven" that TRAs and TNAs indeed could be successful and therefore normal in terms of identity, behavioral, and psychological adjustment when compared to same-race adoptions.[122] Simon argued that two-and-a-half decades' worth of studies have shown that TRA and TNA do not produce harm and are "unequivocally" in the children's "best interest."[123] Similarly, Harvard law professor Elizabeth Bartholet, a strong advocate for TRA and TNA, has argued that there is no credible evidence to suggest that transracial adoptions produce harm, but that there is evidence to suggest that children are indeed harmed by institutional care that "delays adoptive placement or denies adoption altogether."[124]

By ignoring the nuances of race and making broad claims about the success of TRA and TNA, researchers assisted in normalizing and legitimizing such adoptions. These adoptions already could not reproduce the efforts of "naturalization" in the same way that same-race adoption could, and opposition existed from many people who held overtly racist views about multiracial families. There was credible criticism by organizations such as the NABSW and parts of the general public who questioned the ability of White couples to raise non-White children, their motives, the historical and social contexts, and government priorities concerning transracial and transnational adoption. Some of the studies even admitted that inracial placements were preferred, and that transracial adoption should be allowed only in the circumstances where there were not enough non-White parents to adopt.[125] These scientific outcome studies were an explicit response to public and

professional anxiety and disapproval surrounding such adoptions. They became a form of interpretation that validated this way of family-making as a desirable and viable option by claiming unequivocal success even when results were often mixed and various research limitations affected the ability to make absolute claims.

Adoption research emerged as a primary strategy for producing knowledge that could demonstrate the success and strength of not only recent TRA and TNA adoptions but future ones as well. Just as significant, though, was that these TRA and TNA studies enabled supporters to point to love as the reason for success. As Park Nelson has asserted, the "almost universal support" derived from the research was a "major factor in the expansion" of TRNAs.[126] Vocal TRA and TNA supporters used these early studies to proclaim that such adoptions were successful regardless of the racial background of adoptive parents precisely *because* they provided love and took a color-evasive approach to adoption (further explored in chapter 3).[127] Issues pertaining to racial difference, alienation, and probable racism that adoptees would face were dismissed by the power of "personal commitment" and love, which were deemed more important than "racial knowledge." Juffer and IJzendoorn noted that these risk factors, which can lead to less optimal development, were counteracted by "protective factors" provided by adoptive families that engendered resilience in adopted children.[128] Similarly, Silverman and Feigelman reported that the success of these controversial adoptions was attributed to "the impact of a positive home and family environment [which] can undo much of the damage created by previous deprivation in young children."[129] Likewise, the question of who parented children of color was unimportant: "What parentless children need most of all is not someone who looks like them but someone who *loves* them."[130]

While Simon and Altstein do warn that more than just love is needed, they also declare: "The results show that these children feel loved, secure, committed to their adoptive families, and comfortable with their racial/ethnic identities."[131] For them, affective assimilation (the marriage of love and attachment) was more important and demonstrated the success of transracial and transnational adoptive families. As adoption researcher Lene Myong and gender studies scholar Mons Bissenbakker argue about the adoption of Korean children in Denmark, the investments in love and attachment "sooth and mend the unequal and racialized power relations between adoptee and adopter," such as negative feelings about adoption but also "the impact of inequality, displacement, and loss of transnational adoption."[132] Despite most outcome studies finding approximately 20 percent to 30 percent of children still having had adjustment and/or identity issues (not to mention the adoptions that were disrupted, dissolved, or experienced discontinuities before such studies), they were used to confirm the temporality of TRNAs that harm existed in the past, while love, healing, and success existed in the present and future. They were the solution to violence rather than the cause of harm. In short, the certainty of success and promise of love from such studies ignored the complexity of TRNAs.

The approach of using the studies to prove the success of love ignored the structural and historical violence that preceded adoption. None of the early studies examined the conditions and context for why adoption was "needed" in the first place or ways to prevent the state of crisis that "compelled" society to accept transracial and transnational adoption.[133] Fanshel in fact did quite the opposite by blaming the condition of Native American children on Native American "culture" and personal irresponsibility that produced unmarried mothers, illegitimate children, poverty, and other child welfare issues.[134] In 1972, under the auspices of the Child Welfare League of America, Fanshel published *Far from the Reservation*, a report on the Indian Adoption Project, five years after its official ending. The study began in 1960, during which researchers interviewed 97 families that adopted 98 Native American children between 1958 and 1966. Although the title of the report suggested that it focused on the children who were adopted, most of the report centered on the adoptive parents. Once again, adopted children were not interviewed, in part because they were too young at the time but also because adoptive parents were told: "In your own way you are an expert."[135] The purpose was to study the nature of the Indian Adoption Project: "the motives of the parents in adopting an Indian child, their backgrounds and social attitudes, the experiences of the children with their adoptive families, and their development and adjustment in their new families."[136]

Fanshel's report claimed the Indian Adoption Project was an overall success. He paired it with a clear and larger story that suggested Native American cultural practices and irresponsibility had been harmful to Indian children, which had caused the need for non-Indian adoptions. Like the news articles on the adoption of Native American children by White couples highlighted in chapter 1, Fanshel narrated the adoptions as a progressive and necessary step to help the plight of the Native Americans, but it too did not address the violence and the structural racism that produced the conditions of poverty in the first place.[137] For example, under the heading "Major Problems of the Project," Fanshel never mentioned the violation of tribal sovereignty; coerced and forced removal of children; nor did he connect the project to the larger history of sterilization, boarding schools, civilizing projects, and tribal termination.

While Fanshel admitted the solution to the "suffering" of Native American children should not be centered on removing them from their families, he ended with a different and more recognizable conclusion.[138] Some Indian leaders might understand that "some children may have to be *saved* through adoption," but that "even with the *benign* outcomes reported here, it may be that Indian leaders would *rather* see their children share the fate of their fellow Indians than lose them in the white world."[139] For Fanshel and others who studied TNA and TRA, adoption was never a structural issue. Rather, it was framed—especially for Black and Native communities—as resentful "minority groups" that cared more about group pride than the well-being of their children.

The dismissal of broader conditions was even easier for transnational adoption. Simon and Altstein argued that the "international component" of TNA in fact simplified adoption rather than making it more complex because Asian children did not carry the "historical baggage" that Black children possessed: "True, there are other issues of wealth, power, race, deception, kidnapping, class exploitation, colonialism, and imperialism, but these conditions are not as 'close to home' as the troubled and at times violent history of race in the United States."[140] Their statement acknowledged the violence involved in transnational adoption but simultaneously negated its importance in how we might think about TRA and TNA in a larger context and in relation to each other. None of the early research studies examined the effects of denying Native sovereignty, breaking treaties, disproportionate child service reporting, criminalization, the war on drugs, the prison industrial complex, neoliberal policies such as welfare reform, militarism, and war. Dawn Day, a Black social worker, was the one of the few researchers to mention in 1979 the discriminatory nature of child welfare services and the need for prevention in addition and prior to adoption.[141]

CONCLUSION

By looking at the positive adoption language that emerged in the late 1970s and early 1980s (and its contemporary form in respectful adoption language), we can better understand how adoption social workers and parents tried to actively interpret the loving possibilities of adoption in new ways. These efforts were intended to destigmatize adoption, adoptive motherhood, and parenthood, which would in turn legitimize them as a normal form of family-making and an avenue to parenthood. This public education effort to change adoption terminology by narrowing the meaning of mother, parent, and family, however, had considerable repercussions for birth mothers (and families), especially for those who were non-White and not categorized as "responsible choice-makers." The visibility of constructed racial differences complicated the goal of normalization for TRA and TNA. It served as a reminder that the discursive process of denaturalization of the birth mother and naturalization of the adoptive mother was not as smooth and solely a "positive" act, especially for transracial and transnational adoption.

Positive adoption language revealed how adoptive mothers, White birth mothers, and birth mothers of color were stigmatized in different ways as relational racial and gendered subjects. While (White) adoptive mothers could be recuperated within heteropatriarchal ideals of motherhood by adopting a child and becoming a nuclear family by fully disconnecting from the birth family, White birth mothers could only be redeemed through making the "positive choice" of adoption and being severed (legally and symbolically through PAL and RAL) from "real" and "natural" motherhood. Lastly, birth mothers of color were invisible subjects in terms of PAL and RAL. Neither adoption nor positive and respectful

adoption language addressed their identities, subjectivities, and experiences. Racism, settler colonialism, and militarized humanitarianism situated them as "illegitimate" mothers who were outside of the idealized concept of the universal woman. Yet the controversy of TRAs and TNAs meant that the birth mothers of color would be the most haunting and disruptive specter for adoptive families. In attempting to positively define and sanitize the process of adoption, positive and respectful adoption language in fact hid existing forms of symbolic violence and produced new ones.

Where PAL and RAL largely failed to engage with the dynamics of race in TRNAs, social scientific research by and large simplistically addressed race, concluding that such adoptions would not harm adoptees. Early outcome studies tried to show that adoption could produce healthy and happy adoptees and families. Studies that focused on transracial and transnational adoptions attempted to answer whether these adoptions had any deleterious effects on adoptee self-esteem, ethnoracial pride, or ethnoracial identity. Despite obvious limitations and contradictory results, many of the studies made broad conclusions that transracial and transnational adoptions were just as good as same-race adoptive families and biological families. They were invested in Black, Asian, and Native well-being because it was in relation to White love and care as well as notions of racial liberalism and inclusion. Belief in the veracity of "objective" and "positivistic" TRA and TNA outcome research became hegemonic and indisputable. This enabled adoption researchers and adoption supporters to assert that transracial and transnational adoptions should be the solution to the moral crises of overseas orphans, neglected children on reservations, and an overcrowded foster care system.[142]

Ignored or minimized were any symbolic, institutional, or structural harms that produced these adoptions in the first place; prevented Black, Asian, and Native parents from maintaining their families; denied or limited access to adoption services for parents of color; or that might have been the effect of such adoptions. Indeed, they were overshadowed by the "objective" outcomes, moralization, and statements of love, which posited love as superseding any racial factor. My aim here is not to argue that had scientists been more objective and accounted for the various research limitations, they would have produced better studies or that PAL and the studies were invested in an inauthentic form of love. Instead, I juxtapose positive and respectful adoption language with social scientific research to show what was at stake in the efforts of social workers, adoptive parents, and researchers. Although more recent outcome studies in the past twenty years have offered a more complex look at TRNA, the knowledge and narrative produced by early studies left an extended legacy on adoption law, policies, and discourse.[143]

Indeed, both PAL and outcome studies produced new knowledge and representations that had serious symbolic and material consequences for the adoption industry, adoptees, adoptive mothers/parents, and birth mothers/parents—all in the effort to legitimize TRA and TNA as normal and loving. As Myong and

Bissenbakker might suggest, they enabled "certain forms of kinship, intimacy, and liveability and foreclose[d] others."[144] The reality is that the lives of adopted individuals and the mothers who birthed them exceed what positivistic studies and universalistic language can capture. Chapter 3 explores the ways in which the government participated in knowledge formation, discursive representations, and ultimately legal production that situated children and families in specific ways that furthered the cause of domestic transracial adoption of Black children.

3

Color-Evasive Love and Freedom from Violence in (Neo)Liberal Adoption Laws

More children with permanent homes mean fewer children with permanent problems.

—PRESIDENT RONALD REAGAN, NATIONAL ADOPTION WEEK PROCLAMATION, 1984

Late last year, the State supreme court awarded custody to the mother despite the fact that the child would have to leave a secure home to live with the natural mother in a homeless shelter. Clearly, in my view, the best interest of the child was not the deciding factor for the court in the State of Connecticut.

—SENATOR CHRIS DODD (D-CONN.), 1993

On November 13, 1984, President Ronald Reagan announced the first National Adoption Week.[1] In his opening statement he articulated the importance of the family: "Families have always stood at the center of our society. . . . At a time when many fear that the family is in decline, it is fitting that we give special recognition to those who are rebuilding families by promoting adoption."[2] Even though Reagan's proclamation referenced adoption as a solution to abortions, adoption was an extremely popular, bipartisan policy since it captured pro-family, pro-life, pro-choice, and pro-diversity groups. As Connecticut Senator Chris Dodd's comments during the 1993 congressional *Barriers to Adoption* hearing indicate, adoption was perceived as in the best interest of the child with respect to poverty, housing insecurity, and so many other issues.

The 1950s through the 1970s saw the emergence and increase of transracial and transnational adoptions as well as the changing language of adoption in general. During the early 1970s there were concerns about child abuse and children languishing in foster care. In 1973, Congress passed the Child Abuse Prevention and

Treatment Act. That same year, Joseph Goldstein, Anna Freund, and Albert Solnit authored the influential book *Beyond the Best Interests of the Child* in which they argued that children needed permanency and that a "psychological parent" could be just as—if not more—important than a biological parent to facilitate secure and continuous relationships, healthier psychological development, and emotional well-being.[3] Thus "permanency planning" became a key strategy to combat abuse and "foster care drift." Permanency advocates also helped shift the view that hard-to-place children (such as older, minority, and special needs children) were "unadoptable."[4]

The Adoption Assistance and Child Welfare Act of 1980 (AACWA) exemplified these efforts toward inclusion and permanency. Prior to 1980, states were financially incentivized to place certain children in foster care rather than try to maintain family ties or reunify them with biological family. The AACWA introduced scheduled case reviews, provided funds and services that worked to prevent family separations, facilitated rehabilitation and maintenance of family ties, and promoted reunification for situations like foster care placements. Nevertheless, it also stipulated that if conditions did not progress, states could terminate parental rights (TPR) and plan for adoption as a path for permanency.[5] By the 1990s the number of children in the U.S. foster care system surged from 262,000 in 1982 to 427,000 in 1992, peaking in 1999 at 567,000.[6] The majority of these placements were due to "parental neglect related to poverty" rather than abuse, which did happen but to a much lesser extent.[7]

This was especially true for children of color. In addition, the civil rights movement, the war on poverty, and the war on drugs brought the government and its attendant surveillance closer to poor communities and families, which were disproportionately of color.[8] This meant that women and families of color were under heightened disciplinary and regulatory control that led to uneven reportage rates of abuse and parental misconduct, which ultimately was linked to increased and disproportionate child removal and termination of parental rights.[9] In 1977, Black children constituted approximately 25 percent of out-of-home placements while only making up 11 percent of the U.S. child population.[10] Responding to the exploding number of children in foster care and with the belief that the AACWA was not doing enough to create permanency, Congress enacted multiple pieces of federal domestic legislation that eventually elevated the status of adoption, specifically domestic transracial adoption, as a preferred permanency option in relation to previous efforts for family reunification.

News stories about domestic transracial adoption battles were common. Headlines from the early 1990s read: "Agency Wants To Take Away Black Tot from White Family," "Ruling Due Next Week on White Couple's Bid To Foster Black Child," "Adoption in Black And White," and "'Transracial Adoptions Reignite Old Debate."[11] These stories represent the extreme controversy over domestic transracial adoption, especially of Black children by White families. While resistance to

such adoptions existed before this era (see chapter 1), it came to a head when the National Association of Black Social Workers (NABSW) published its position paper opposing transracial adoptions in 1972. It stressed that transracial adoption would be harmful to identity development and that every effort should be made to preserve Black families, especially in the context of historical systematic and everyday racism. While no law like the Indian Child Welfare Act (ICWA) was ever passed to limit the transracial adoption of Black children, the NABSW statement did lead to a standardized policy of matching implemented by most agencies.[12] This was in stark contrast to what the American public saw on the popular television shows *Diff'rent Strokes* (1978–1986) and *Webster* (1983–1987), both of which had transracial adoption storylines. As the countless news stories show, and there were hundreds, the controversy over domestic transracial adoption and whether non-White children should be placed with White adoptive parents had reached another high point.

This chapter explores how legal presumptions, representations, and determinations of the best interest of the child for Black children were constructed within adoption and legal discourse. How was the best interest of the child determined in U.S. domestic transracial adoption policymaking? What existing violent structures and representations were operating to activate and facilitate them? How did the legal privileging of transracial adoption, as a loving act, produce further violent outcomes? Examining domestic adoption laws from the 1990s and testimonies from congressional hearings, I argue that politicians and adoption advocates imbued TRA as a form of (neo)liberal state care, where (White) familial love was predicated on privatization, individualism, and color-evasive ideology. These laws worked in concert to construct White adoptive parents as not only the aggrieved party (victims of "racist" same-race matching policies) but also as the vehicle for Black children to achieve freedom from violence and institutional harm. This new expression of state care ignored the structural racism that had continually plagued Black communities, created new forms of violence against Black families, and helped dismantle vital welfare support, while maintaining White adoptive families as the ideal family.

BACKGROUND ON MEPA AND THE CONGRESSIONAL HEARINGS

Although the "best interest of the child" doctrine had long been ensconced in child welfare policy for divorce and child custody hearings, Dodd's chapter-opening epigraph shows how these considerations took place in the adoption context as well.[13] The doctrine is heralded as the highest standard for child welfare yet derided because it is almost wholly subjective.[14] As Dodd's statement implies, transracial adoption was presumed to be in the best interest of children who came from struggling families. In the eyes of lawmakers and legal advocates in support of adoption,

there was a moral imperative to intervene through adoption for the languishing children in the U.S. foster care system. Moreover, social scientific outcomes studies (problematically) reported that such adoptions could work and were resoundingly in the "best interest of the child," rebuking the NABSW's claims to the contrary. This dire need, coupled with scientific "certainty" that demonstrated positive outcomes for TRAs, activated the government's increased role in facilitating them. The overarching goal was to move abused, neglected, homeless, and parentless children from foster care to safe, permanent, and loving homes.

With the number of Black and Latino children in foster care rising to unprecedented numbers, Congress passed four adoption-related laws between 1994 and 1997: the Multiethnic Placement Act (MEPA 1994), the Interethnic Adoption Provisions (IEP 1996), the Adoption Tax Credit (ATC 1996), and the Adoption and Safe Families Act (ASFA 1997). Together, they accomplished three goals: (1) diminished and ultimately eliminated race as a factor in considering adoptive and foster placements; (2) elevated the objective of adoption in relation to family reunification; and (3) funded a tax credit to encourage lower- and middle-class families to adopt. The laws were established as ways to facilitate adoptions and reduce the high number of children who languished in foster care. In 1994, Congress passed MEPA as a response to the overrepresentation of minority children in foster care.[15] Legislators were concerned that children of color were in foster care at higher rates, stayed in foster care longer, and were adopted at lower rates. African American children in particular had twice the average wait time in foster care than their White counterparts and were less likely to exit foster care through adoptive placement.

MEPA amended Title IV-E of the Social Security Act—Part E was established in 1980 under the Adoption Assistance and Child Welfare Act of 1980 (AACWA), which prohibited federally funded adoption and foster care entities and agencies from denying individuals "the opportunity to become an adoptive or a foster parent, *solely* on the basis of race, color, or national origin of the adoptive parent, or the child involved."[16] In addition, they may not "delay or deny" adoptive or foster care placements on the aforementioned bases. The purpose of the law was threefold: decrease the wait time for children to be adopted, prevent discrimination in adoption and foster care placement, and recruit adoptive and foster families that can "meet children's needs." Importantly, the discrimination that legislators and advocates of MEPA centered was the presumed discrimination against prospective White adoptive parents (i.e., "reverse racism") and children of color, who were both harmed by denying transracial placements, rather than the institutional discrimination that families of color faced in trying to adopt or the structural forms of racial, gendered, and classed oppression that facilitated family separation and prevented family preservation.

MEPA did leave room to "consider the cultural, ethnic, or racial background of the child and the capacity of the prospective foster or adoptive parents to meet

the needs to the child of this background as one of a number of factors used to determine the best interest of the child."[17] Many social workers and agencies who believed transracial adoption to be problematic used this language to circumvent MEPA's goals. Two years later, Congress repealed MEPA and passed the Removal of Barriers to Interethnic Adoption Provisions (IEP 1996), which was attached to the Small Business Job Protection Act of 1996, because race was still being used as a factor in adoptive and foster care placements.[18] IEP kept the same language but removed the word "solely," eliminating exceptions to consider race, color, or national origin in placement decisions. Failure to comply with IEP would be considered a violation of Title VI of the Civil Rights Act, and states would be financially penalized for noncompliance. Thus Congress positioned the combined MEPA-IEP as a legal mechanism that would mobilize transracial adoption as a form of "state care."

MEPA grew from two congressional hearings in 1985 and 1993 that focused on "barriers to adoption."[19] There were numerous testimonies given by a wide range of witnesses, including U.S. senators and representatives, adoptive parents, social workers, agency directors, government officials, adoption experts, religious leaders, and adults who were either adopted or had been a part of the child welfare system. While witnesses addressed many issues, including barriers for minority adoptive families and possible measures to prevent birth families' separation, Congress ultimately focused primarily on enabling transracial adoption. These legal expressions of state care largely ignored existing structural racial violence and contributed to new forms of violence.

FEIGNED CARE

The first hearings were part of an oversight review of the Adoption Opportunities Act of 1978 that emphasized the placement of children with special needs (e.g., children of color, children with disabilities, those who were older, and/or in sibling groups) in adoptive homes.[20] Senator Dodd testified that the purpose of that law was to place children who have no permanent homes with adoptive families. However, the numbers had not improved since then, with the same number of children still in foster care. Witnesses from *both* hearings provided a long list of barriers to adoption, in particular for children with special needs.[21]

The list of barriers produced from these hearings included social workers having high caseloads and low morale, which caused sharp turnover rates for workers and contributed to children getting "lost in the system." Agency operational barriers included little training, poor record keeping, and lack of reliable data needed to make policy decisions. Financial barriers were also cited, such as high fees and lack of financial assistance, Medicaid portability when families moved, and post-adoption services including counseling, respite care, and childcare. Other barriers were the feeling that judges refused to terminate parental rights and the lack of

leadership within agencies. Some barriers stemmed from faulty and negative attitudes about children with special needs as being "unadoptable" and beliefs that no family was good enough for a particular child. In addition, the lack of full medical health disclosure posed the hazard of disruption during—or worse, after—the finalization of an adoption.[22]

The hearings illustrate that there was some concern about the recruitment of minority families for children of color. For example, Senator Paula Hawkins (R-Fla.), who took over as chair during the second part of the 1985 hearings, asked Father George Clements: "In States other than Illinois, has there been sufficient recruitment of black adoptive parents?" Clements, who headed the One Church, One Child adoption program at the Holy Angels Rectory in Chicago, astutely noted that there had not been enough recruitment because the focus had been on transracial adoption:

> It seems as though we are always talking about '*Webster'* and *Diff'rent Strokes*'; we are always talking about white families taking in black children. And to my mind that is a very specious kind of situation. It is an unusual thing that Tinseltown, Los Angeles, is interested in. . . . What we have to talk about, rather than transracial adoptions, which are few and far between, what we have to talk about are people in the communities, living life there day by day, taking care of the children who were born in those communities by those same kinds of people.[23]

Indeed, a handful of the witnesses testified that there were numerous barriers specific to the recruitment of families of color, and they connected these barriers to the issue of institutional racism inherent in the adoption process and industry. This was confirmed to be true years later when written testimony from the 1993 hearing indicated that a National Urban League study found that of 800 applications by African American families, only 2 were approved.[24]

Black adoptive parents were frequently confronted with insensitive and bureaucratic barriers, where they were required to be within a certain age range, live in their own home (not an apartment), only one parent was allowed to work yet needed to meet income standard, and single parents were ineligible. Many Black prospective adoptive parents were uncomfortable with, and often could not afford, the expensive fees because of the belief that fees were immoral and too closely resembled payments for human bodies made during slavery. Father Paul Engel cited the need to change the process from an investigatory method, which he contended was "very white based since it screens out people economically poor or one-parent families," to a preparatory one.[25] Father Clements, Elizabeth Cole of the Child Welfare League of America, Alice Washington, the executive director of the Black Adoption Placement and Research Center, and the Concerned Citizens for Black Adoption all cited the need to hire more Black social workers at all levels who were knowledgeable about the strengths of the Black families and who knew how to approach, respect, and work in the Black community, as opposed to

basing decisions from popular cultural representations of Black pathology, criminality, and deviant sexuality.[26] They suggested legislation to ensure and hold agencies accountable for recruiting Black families. These same issues and suggestions were also brought up in the 1993 hearing. In her written statement, Drenda Lakin, director of the National Resource Center for Special Needs, recommended that recruitment and retention be a continual structure rather than a temporary or two-year effort and that staff receive ongoing training.[27] Indeed, recruitment of Black families was often hindered by procedural barriers such as long, unresponsive, expensive, and intrusive processes.

Importantly, child welfare professionals highlighted the need for preventative measures. Barbara Tremitiere, director of Adoptions Services at Tressler Lutheran Service Associates, Inc., in Pennsylvania, stated that keeping families together should be the highest priority, which could mean providing supportive services, financial help, homemaker services, respite care, supportive "grandparents" (retired persons), family-to-family help (buddy families), and relative support.[28] Robert Woodson, president of the National Center for Neighborhood Enterprise, noted that contrary to popular opinion, often young mothers do not need housing assistance (because they often live at home) so much as medical and hospital assistance.[29] Cole echoed the sentiment that the government ought to invest as much "time and money and thought in giving services to families in crisis. . . . Let us preserve families so that we do not have to recreate new ones."[30] In response to claims of reverse racism and that race should be ignored, William Merritt, president of the NABSW, outlined a host of reasons why neither—along with other biased testimonies—was a very accurate depiction of what was unfolding for Black children and Black families.[31] Contrary to the belief that the rights of White families were being violated, Merritt argued that institutional racism and cultural insensitivity were in fact destroying Black families.

Indeed, prominent cultural representations from the 1960s through the 1990s of Black families being "deviant," criminal, pathological, and led by matriarchs who were "welfare queens"—a term coined by Ronald Reagan while on the campaign trail in 1976—reified long-existing negative ideas about Blackness in relation to race, gender, sexuality, and class.[32] The news media were quick to publish stories about the increase in use of crack cocaine and so-called "crack babies," creating a "media-driven myth."[33] Headlines from the *Washington Post* to the *New York Times* read: "Babies of Crack Users Fill Hospital Nurseries" and "Crack Babies: The Worst Threat Is Mom Herself."[34] Perhaps one of the most explicit examples came from Charles Krauthammer, a widely syndicated and Pulitzer Prize–winning columnist for the *Washington Post*. He ominously wrote in a July 1989 piece: "The inner-city crack epidemic is now giving birth to the newest horror: a bio-underclass, a generation of physically damaged cocaine babies whose biological inferiority is stamped at birth." He noted that this issue was particularly "acute in the black community," and he cited the former director of the National Center on Child Abuse, who

estimated that use of crack impacted 5 to 15 percent of the Black community.[35] States began passing and amending child abuse and neglect laws to include drug use during pregnancy.[36] Such revisions, along with mandatory reporting policies for suspected prenatal drug use, resulted in Black pregnant women being reported to health authorities at ten times the rate as White pregnant women even though they used drugs at the same rate.[37]

Years later, news media published numerous stories (though not nearly enough to offset the still existing myth) admitting to the overreaction and retreating on the certainty of the "epidemic" and its effects.[38] Yet the racialized characteristics of drug abuse, poverty, childcare, and discipline in Black families were used as criteria and justification for removing Black children from their families. Legal scholar Dorothy Roberts has argued that the child welfare system targets poor people who are disproportionately Black and that research shows racial bias at every point in the "decision making process—reporting, investigating and substantiation, child placement, service provision, and permanency decision-making."[39] In the 1990s Black children were disproportionately placed in foster care at twice the rate as White children, and once they were removed, they remained in foster care longer, moved more often, received fewer services, and were less likely to be unified with family or adopted than children of other backgrounds.[40]

In addition, the lack of outreach and the overscreening of potential Black adoptive families led to the promotion and embrace of transracial adoptions, which ignored Black children's rights to stay with their family and to know their birth heritage along with Black families' right to adopt Black children. In the hearings Merritt called transracial adoption a "hostile act against our community" and a "blatant form of race and cultural genocide."[41] This phrase is often attributed to the 1972 NABSW position statement on TRA, but these words never appeared in that document. For Merritt, systematizing transracial adoption matched one aspect of the United Nations's definition of genocide: "forcibly transferring children of the group to another group."[42] This important connection revealed at the very minimum the systematic nature of what would become MEPA. It indirectly alluded to the long history of genocide and racial violence perpetrated by the U.S. nation-state against African Americans and Native Americans through slavery, lynchings, Indian extermination, as well as the termination of Tribes and cultural assimilation/genocide of Native peoples, especially Native American children through late nineteenth- and twentieth-century boarding schools and the Indian Adoption Project of 1958 through 1967. Throughout U.S. history the state has repeatedly invested in White supremacy through biopolitical strategies that enable White Americans to thrive at the cost of violence against Native Tribes and non-White communities (see chapter 1). As a form of state care to "make Black children live" while not caring for their families, transracial adoption was another iteration of biopolitics.

Merritt's passionate testimony about the institutional racism present in all aspects of the child welfare process, including the current hearings on barriers to adoption, was met with incredulity and dismissal. For Senator Howard Metzenbaum (D-Ohio) the issue was the right of the child, who "ought to have an opportunity to be adopted by a loving parent. . . . Regardless of race. . . . What concerns me is that I have always thought that there ought not to be discrimination based upon race, whether it was in employment, or whether it was in education, and I get the feeling there is a kind of racism involved in your testimony. . . . What about the child?" Although Metzenbaum claimed to agree with Merritt that Black children had an increased probability of entering foster care because of institutional poverty and racism, he reduced the problem to a basic question: "You and I agree on that [systematic inequality needs to be addressed]. Let us get to the basic question. . . . A black child is available for adoption. There are no black parents willing to adopt that child. They have used extensive recruiting efforts. They have gone on radio, done whatever, and it comes down to the bottom line, that there is not a black family willing to adopt that child. Now, as I understand your testimony, that child should not be adopted by a white family[?]"[43]

Their full exchange was contentious. Merritt rejected Metzenbaum's baited attempt to disconnect structural racism from color-evasive adoption practices and the senator's suggestion that he would oppose TRA in this instance and instead pointed to other areas of need. Metzenbaum's feigned concern revolved around the "hypothetical situation" that was meant to prove Merritt's underlying racism. When Merritt did not abide, Metzenbaum, Dodd, and the chairman collectively moved the hearings to the next witness because Merritt's answers exposed the underlying issue of institutional racism. This exchange demonstrated how liberal color-evasiveness easily slipped into what American studies scholar George Lipsitz has called the possessive investment in Whiteness, in which the hypothetical Black child's future rested solely on the promotion of White interests, which were the (new) norm because agencies were invested in transracial adoption rather than seen as their own form of privileged treatment.[44]

Despite the repeated testimonies by multiple experts and practitioners that addressed the issues of recruitment of families of color, prevention strategies to keep families from being separated in the first place, and ways to increase the success rate of family reunification—not to mention other barriers such as caseload, financial, operational, and legal barriers—Congress feigned care about structural barriers to adoption (i.e., institutional and ideological barriers that were created overtime). Instead, Congress was most interested in addressing barriers to transracial adoption and implementing TRA as the solution to children of color without a permanent home. Aside from one extremely brief mention from Senator John Kerry (D-Mass.), the senators largely ignored the preventative framework barriers during the hearings. So too were any meaningful reflections on how to

expand programs that had successfully recruited families of color to adopt. Even other suggestions that concerned adoption more generally—such as hosting adoption parties that have waiting children and prospective adoptive parents meeting in a low-stakes social setting; using churches and neighborhood associations as well as foster and adoptive families as recruiters for their friends and relatives; and going back to the biological family to see if the situation has changed—were given less time in the hearings.

COLOR-EVASIVE STATE CARE AND REVERSE RACISM

Multiple witnesses mentioned that matching was good in theory but not always realistic because of the absence of available parents of color, or it was not practical for a biracial or multiracial child. What the senators, along with many of the guest speakers, articulated the most was a color-evasive framework. Indeed, the method of MEPA-IEP was an explicit color-evasive approach to adoption, eliminating "race, color, or national origin" as possible factors in considering foster or adoptive placement. Following Subini Ancy Annamma and colleagues, I use "color-evasive" rather than "color-blindness" because it more precisely describes the power dynamics at play—without using disability as a metaphor for lack of knowledge—when people and institutions choose to "ignore" color.[45] The term "colorblind," however, is a historical term that can be traced to many sources. It was significantly influenced by Justice John Harlan's dissent in *Plessy v. Ferguson* (1896). Although Harlan espoused a White supremacist view that the "white race was the dominant race," he invoked the Fourteenth Amendment to declare that "our Constitution is color-blind."[46]

Color-blind legal theory was also used and promoted by Thurgood Marshall when he was a lawyer for the NAACP, before his appointment to the Supreme Court as its first Black justice.[47] Harlan's dissent was the foundation for *Brown v. Board of Education* (1954) 58 years later.[48] Soon after, Martin Luther King Jr. used it to express liberal hope—and one could argue that this was even a radical demand—that one day, his four girls would be judged not "by the color of their skin, but by the content of their character."[49] Color-blindness in this sense was a means to eradicate racism. Yet by the 1950s and 1960s, conservatives had already co-opted color-blindness as a symbolic and institutional legal strategy to prevent racial progress. For example, in 1955 the South Carolina District Court ruled that "the Constitution . . . does not require integration. It merely forbids discrimination," and in 1969, North Carolina passed an anti-integration law that no child shall be forced to attend school based on race, creed, color, or national origin.[50] Indeed, the legal justification for segregation and antimiscegenation laws was that the law was treating groups the same. Eventually, color-blind ideology was embraced by liberals and conservatives alike, as a person from either end of the political spectrum could be apt to say "I don't care if a person is Black,

White, Green, or Purple."[51] The common refrain has been used to stifle difficult discussions about racism or deny accountability for harmful views and actions.[52]

According to many of the speakers at the hearings, the main barrier to transracial adoption was racism against White parents wanting to adopt children of color in foster care who were in desperate need. This was framed as a form of violence. In her written statement Carol Coccia, president of the National Coalition to End Racism, passionately argued that "children are physically dying, and the system is responsible" due to the matching policies for foster care and adoption. She added that it emphasized segregation, which violated the federal rights of children to equal services and discriminated against potential parents on the basis of race.[53] In a somewhat ironic example, Mary Brown, who had eight years of experience as a California foster parent, explained to the committee chairman how local government social workers at first asked if she would be interested in adopting a biracial child that she had fostered for three and a half years. She explained further how she was ultimately denied the chance to adopt "my little girl" because a social worker claimed: "I made an expression on my face, that I had made a statement regarding a carload of people . . . and the expression on my face indicated that I was prejudiced." Since then, the child had been placed in at least two other foster homes and was now in a pre-adoptive home with a Black family. As Chairman Orrin Hatch (R-Utah) stated, one of the concerns was that "you [Ms. Brown] were not sure they would love her like you do?"

Brown replied "yes" and testified how this has been "devastating" to her family, who spent $130,000 in legal fees attempting to adopt the child. Senator Paul Simon (D-Ill.), who disclosed that he was an adoptive father and that an immediate family member had adopted transracially, added to Brown's explanation by stating that in theory same-race placements were the "best situation" for both White and Black children: "But [in] the real world, that is not always going to happen, and what children need is love. . . . if in fact that child is being denied your home with love and care because of race, something is wrong with the officials in that area." To this, Brown agreed: "You do not spell love c-o-l-o-r." Hatch's concluding response encapsulated the sentiment among himself, Simon, and Brown, which was that the situation was "almost criminal."[54] Indeed, the act of considering race during placement decisions would be unlawful after the passage of MEPA-IEP.

This conversation demonstrated the ways White prospective adoptive parents claimed victimization of discrimination even when social workers had valid claims and concerns about the safety of White homes. Here, transracial adoption was taken at face-value as better than same-race adoption. Even as Senator Simon admitted that same-race placements were the "best situation," he quickly negated the importance of his claim in the name of color-evasive love. As legal scholar Neil Gotanda has noted, color-evasiveness does not work because "the racially color-blind individual perceives race and then ignores it."[55] The hearings offered no context on whether the new prospective Black adoptive family loved Brown's

former foster child. Instead, it presumed that Brown's love was incomparable. Family reunification was not even an afterthought. Instead, a one-size-fits-all (color-evasive) solution was established for a complex problem. Simon inadvertently revealed that adoption legislation has been driven by adoptive parent lawmakers, reinscribing the cycle in which adoptive parents have disproportionate power in producing policy and knowledge even though they only comprise one-third of the major parties involved in adoption. MEPA-IEP, under (neo)liberal color-evasive ideology, used love as the rationale to stop "discrimination" against White families, which ultimately erased the structural violence harming and separating families of color while denying those communities a chance to adopt children of color.

William Pierce, president of the National Council for Adoption, conveyed in his written statement that race matching was a form of "reverse racism," where he questioned: "We now label any child with a 'drop of Black blood' Black—as the Ku Klux Klan and some state laws used to?"[56] Removing the historical context from this comparison, Pierce suggested that the original machinations of the one-drop rule—a form of racial classification and subjugation deployed to increase the number of enslaved people an enslaver possessed, maintain the biological racial "purity" of Whiteness, and continue segregation—could be equally evaluated against efforts by social workers to preserve Black families, culture, and communities. This reflected one of the central tenets of color-evasiveness, which was, above all else, that the prescription for racial problems of the state must not ever consider the context of race.[57] As Metzenbaum, MEPA's main author, expressed, to think otherwise was disreputable: "I am one who believes, I as well as my family and others, in a color unconscious society. I just think it is very disturbing that there are actually people who are respected who take this position."[58] Pierce and Metzenbaum used claims of discrimination and reverse racism as weapons of symbolic violence that would help establish transracial adoption as the "just" form of care.

The issues of individual love, color-evasiveness, reverse racism, and state care crystallized during Metzenbaum's opening statement in part two of the 1985 congressional hearings held a week later. There he expressed his polar reactions to the initial hearings. Extremely revealing, it merits a longer quotation:

> Mr. Chairman, last week's hearing was one of the most impressive that I have ever participated in. Never before in a hearing in the U.S. Senate have I been so moved as I was by the family from Louisiana that had adopted eight or nine children after having a natural-born child of their own. . . . It is the only hearing that I remember that ever brought tears to my eyes. And I just felt such a sense of gratitude that there are such people in the world. . . . But as compelled and as moved as I was by some of the testimony, that is how concerned and disturbed I was by some of the other testimony. I was moved by the testimony of a foster parent who declared that she did not spell love 'c-o-l-o-r.' All of my life, I have been involved with what I consider to be the needs of this country; that is, for it not to be race conscious, not to be conscious of people's distinctions on the basis of their ethnic background or their religion. And

> so when it comes to the matter of placement of children for adoption, I feel strongly that no little child should be denied placement because some exterior force says that there is something inappropriate about placing a black child with a white family. I have difficulty in comprehending that, and I resent it. It is repugnant to everything I believe about our society. I believe that everybody ought to be treated the same way, and we ought not to look at the color of skin of people, whether it is that little baby, or whether it is an adult. I am concerned about that little child's right to a loving, permanent home, and I really do not care where that home can be found.[59]

While Metzenbaum praised TRA supporters, he articulated his disgust for those who would "incomprehensibly" and "repugnantly" question or attempt to deprioritize transracial adoption. His push to deracinate adoption highlighted the ways in which color-evasiveness believed that children and parents were individuals not defined by race. Race was perceived only as a formal, objective classification of skin color rather than a historical construction and onto-epistemological technology of power. It followed TRA supporters who argued that racism was not endemic to society.[60] Therefore, concerns about positive racial identity and healthy coping mechanisms were minor because children adopted transracially only had to negotiate minor individual acts of racism. For Metzenbaum, race-matching policies and criticism of TRA were attacks on humanist values.

In 1993, eight years after the initial hearings on the "barriers to adoption," Congress held a second hearing on the same subject. Like the first hearings, there was a token mention of needing to "do everything we can to strengthen and preserve the family." However, the main questions and themes centered on the issue of transracial adoption as a solution and the need to eliminate discriminatory barriers, which would benefit children of color, White families, and society in general. At this point, Metzenbaum and Senator Carol Moseley-Braun (D-Ill.) introduced S. 1224, or MEPA. In his opening statement, Metzenbaum clarified that adoption was a primary concern for the federal government: "I do not know of any issue in the Congress that I feel more strongly about. . . . [T]he child who does not have a parent, and may be in a foster home or may even be in an institution, needs all our tender, loving concern."[61]

Pierce reprised his role as a fervent advocate of TRA, where the key issue was "the barrier of racism or discrimination based on ethnicity in adoption programs."[62] He claimed that the proposed legislation would solve the problem of bigotry: "This piece of legislation will give those of us who are child advocates all across the country a way to grab hold of these bigots who are killing children, literally killing children, through neglect and haul them into court and stop their actions." For Pierce this issue was a matter of justice instead of discrimination; life rather than death; and fact versus conjecture, emotion, and ideology. He reiterated the social scientific research that clearly "proved" the success of transracial adoption: "The research is clear and unequivocal. . . . There is no debate about the outcome of children."[63]

The hearings and the MEPA-IEP laws demonstrated how institutional racism used exceptions and hypotheticals to justify color-evasive logic. Twice senators mentioned that there were transracial adoptions involving non-White parents to diffuse the highly unequal movement of children. Dodd asked two witnesses if the reverse situation of a Black family wanting to adopt a White child would be allowed.[64] Both witnesses replied they would certainly consider it, but thus far no instances had occurred beyond transracial foster placements. Metzenbaum believed that TRAs are not just by White families: "Isn't it a fact that transracial placements include blacks and Hispanics, fostering and adopting children from other racial and ethnic groups as well?"[65] Efforts by both senators to diminish the uneven power dynamics of transracial adoption by highlighting the small number of non-White families who adopt transracially—or even posit the hypothetical that it would be allowed—was challenged by Sandy Duncan of Homes for Black Children in Detroit. In her written statement Duncan pointed out that if Anglo-American children needed adoptive families, the first thought would not be to seek out African American agencies or communities. Nevertheless, this was precisely what happened to Black children. White agencies that historically refused services to Black children and Black clients were now the primary means for Black children to be adopted but not by Black families who wanted to adopt.[66]

The myriad of examples showcase how claims of discrimination and reverse racism use color-evasive ideology, a form of symbolic violence, to actively not acknowledge the ways race informs identities, experiences, and disparate outcomes. They underscore how symbolic violence contributes to ideological and institutional racism, and ultimately structural violence. Instead, color-evasive ideology positions the importance of ignoring, dismissing, or negating race as the solution to problems caused by racism, which has led to the prominent belief that race-conscious policies are harmful and racist. With adoption already considered a revered institution, TRA was framed as an even greater success for the litany of pro-diversity, pro-family, pro-choice, and pro-life groups that coalesced around them. Unlike the reverse racists who opposed TRAs, supporters of transracial adoption proved the United States was not a racist society and in fact such adoptions made it *less* racist.

FREEDOM FROM VIOLENCE

The congressional hearings' descriptions of children's situations engendered another theme of imagined violent futures. For example, Pierce submitted a short article by Carl Rowan for the record, titled "Should Whites Adopt a Black?" In the piece Rowan described his encounter with a Black Baltimore County adoption supervisor who opposed transracial adoption. Rowan conceded that "Koreans, Japanese and blacks adopted by whites may have some worrisome problems." Nevertheless, he posited the bleak alternative: "But please consider this. The average

black child who lives in a black family in a black section of America today is jobless, and will have no work experience into adulthood, if ever. That child is vulnerable to all kinds of sexual and physical abuse. A tragic number of young black men will be caught up in crime and drug addiction by the time they reach puberty. Young women will become pregnant, though unmarried, in their teens."[67] Rowan, and by extension Pierce, construct a particular spatio-temporal argument about the alternative to transracial adoption, which enacts a form of symbolic violence by suggesting any deleterious effects of transracial White adoptive homes were incomparable to the hostile Black environment. Pierce in fact would not even go so far as to admit that White homes and families *might* provide challenges for children of color who were adopted, citing the positivistic outcome research done by Howard Altstein and Rita Simon.

Pierce framed transracial adoption as the alternative and indeed opposite future of remaining in foster care. The framework can be analyzed through gender and sexuality studies scholar Chandan Reddy's concept of "freedom with violence." Reddy considered freedom and emancipation mutually constitutive with U.S. state-sanctioned, naturalized (material and symbolic) violence. "The state's claim to legitimate violence," he stated, "is predicated on its ability to achieve a monopoly on rationality as well, most powerfully through the extension of universal citizenship."[68] In his introductory example, he applied "freedom with violence" in his pairing of the Matthew Shepard and James Byrd Jr. Hate Crimes Prevention Act (a form of individual freedom) with the National Defense Authorization Act of 2010 (a form of militarized violence). Since the state afforded "universal citizenship" on the one hand, it can justify any state violence as rational on the other. Freedom *from* violence is useful for my analysis because the liberal guarantee is not just freedom from nominal "arbitrary" (i.e., *individual* hate crimes) violence.

Instead, the extension of adoption to children of color, especially transracial adoption of Black children, in the United States was conceived as a form of universal citizenship, or more specifically, a future that would provide freedom from violence that included freedom from poverty, backward child welfare policies, and reverse racist ideologies. Reddy's concept demonstrates that freedom was not just abstract or in the negative sense, such as the First Amendment (e.g., the government will *not* infringe on individual rights), but that the state would enact a form of positive freedom (e.g., the government will *provide* rights or protection to ensure liberty) for adopted children—the right to a White adoptive family. In this sense, the state's promotion of transracial adoption provides or guarantees freedom *from* violence, enacting positive freedom that "intervenes" and "removes" vulnerable children from harm. But, of course, we must also examine the attendant violence that comes *with* and is masked by the loving freedom of adoption.

But again, the prospect of even the Black adoptive family was not ideal for some adoption advocates. Both Pierce and Harvard law professor Randall Kennedy argued that kinship care was a racist pretext to deny TRA. Pierce offered an

example of a case in Minnesota in which White foster parents wished to adopt an African American toddler. Instead, social workers conducted a search to find a biological relative for the purpose of "family preservation." The maternal grandparents were found in Virginia, but they had not known the child existed. The tragedy for Pierce was that "the child's life was disrupted as he left the only parents he had ever known" because of racist politics.[69] Pierce's statement reflected the resentment some adoption advocates felt toward kinship adoption. Kennedy, in the follow-up hearings to IEP in 1998, lamented that foster parents would bond with a child of a different race but would be prevented from adopting because social workers would oppose TRA. What happened instead was "authorities select as the adoptive parent a relative of the same race as the child, even when that relative is not as close to the child as the foster parent and will likely prove to be an inferior adoptive parent."[70]

The presumption made by both Pierce and Kennedy was that the relative would not be able to love or care for the child in the same way that the White foster parents would have. "Success" in this way was dependent on the unmarked conditions of Whiteness. It was inevitable and even okay that some Black children grew up in Black homes. Yet, *once a child was in a White home*, that was the better option and in the best interest of the child's future. Thus their statements underscored the way in which representations of opposite futures played out in different forms. It was freedom and love *from* and *with* violence. In other words, transracial adoption supposedly rescued Black children from harm, and that love and freedom were constructed and existed in relation to a love that was violently imagined as inferior.

Altstein, in his testimony, claimed that TRA must be viewed objectively and without emotions. He asserted that he had "no proverbial axe to grind" and that "you have got to call it the way it is, and look at where the data fall."[71] Coming on the heels of Merritt's testimony, Altstein's statement implied that Merritt's claims were based on emotion and ideology rather than scientific evidence. For instance, according to Peter Hayes, the NABSW's venomous claim that transracial adoption was a form of genocide was merely an extension of Black separatist ideology. Hayes argued that this ideology places group rights and interests over the rights of individuals, both children of color and White parents.[72] Naming criticism of transracial adoption as separatist ideology or emotional-based argument was one way supporters tried to discredit the argument of critiques. In the IEP follow-up hearing, Rita Simon made this very claim: "The case against transracial adoption, I'm sorry to say, is based on rhetoric and ideology. There are no systematic studies that show that transracial adoptions do not serve the children's best interests."[73] Thus scientific knowledge became infallible, despite being rife with methodological limits (see chapter 2), while experiential or practical knowledge was discredited. For supporters, TRA was a form of liberal (or neoliberal for those who appreciated the privatization of care), objective, and familial love that would always outmatch illiberal and "tribal" love put forth by so-called Black separatists.

While the common refrain during the hearings was that Congress was concerned about all barriers to adoption, the centerpiece of both the 1985 hearing and 1993 hearings were the "racist" barriers to transracial adoption, a discourse that perpetuated the belief that White families were the only solution for a better future. The 1993 hearing concluded with a verbal sparring session between Metzenbaum and Joe Kroll. An issue for Kroll was that the new legislation would not provide the same access to children of color; it would create a preference for White parents since they were easier to recruit. Metzenbaum expressed utter disbelief that Kroll's organization, made of White transracial adoptive parents, would express the need for more research when the problem is so crystal clear and present:

> One day's delay is too much delay. . . . I am through with studies. I want some action. In 1985, we conducted the same kind of hearing, and now it's 8 years later, and nothing has happened. You can talk all you want about additional recruitment of Black parents in order to make the adoptions. I'll help you. I'll do anything you want. I'll help you get a public service announcement. But let's not hold up. We need to go forward in this area. And I would just say to you that I am so disturbed that you, a transracial parent, would be here somewhat opposing future transracial adoptions.[74]

For Metzenbaum the situation was urgent, and he placed the issue in the local-present context. No historical or other contexts matter. Instead, he argued that the liberal state was attempting to care for children of color and grant them "freedom" from the appalling child welfare system. Metzenbaum's ending comment takes a swipe at Kroll for not using his identity as a White adoptive parent to further the possessive investment in Whiteness.[75]

Kroll clarified that his organization did not oppose TRA but that TRA was not the issue. Rather, it was about how parental rights were severed disproportionately and unequally, which allowed children to be adopted, and the need to ensure families of color had equal access to adopt those children. Reverend Wilbert Talley tried to clarify the argument: "No one is opposed, in the final analysis, to transracial adoption. But if on the one hand, you are saying let's go forth with transracial adoptions, and on the other hand, you are not making the efforts to recruit the [non-White] families, it seems to me that you are simply encouraging what has been a problem over the years." The fear for both Kroll and Talley was that if TRA were to be sanctioned by law, current practices of catering to White families would continue to be the norm with no mechanism to keep adoption agencies and workers accountable. Metzenbaum lauded Talley for doing a wonderful job but simultaneously claimed there was no alternative: "I am not against you. I am for you. But absent of that, what concerns me is the child." Dodd added that most social workers were "good people and care about this stuff" and that being a "racist" social worker seemed inconsistent with their career choice.[76] The hearings ultimately revealed that for Congress the best interest of the child is transracial adoption.

Despite the wide chasm in terms of which barriers were most important, Dodd articulated a "consensus" among the witnesses during the 1993 hearing by

suggesting that there was a workable, baseline agreement by everyone: "My sense is of a coming together here. I know there may be people on the extremes, but I hear a clear consensus emerging on these questions. So far, that's what I have heard, anyway. There may be nuances, but I think there is a real consensus on the special needs issue, and particularly the transracial issue." He reiterated this in his concluding remarks: "Everybody has the same desires and interests at heart here, I think. I don't hear a whole lot of opposition. Our goal is to try to help."[77] In narrating a consensus, Dodd erased the critiques of structural racism and alternative solutions by using a color-evasive framework. This discursive move enabled the state to achieve its (neo)liberal and conservative goal of "freeing" children of color from the violent child welfare system through privileging the loving care of transracial adoption.

The closing of the 1993 congressional hearing encapsulated liberal state care and the neoliberal policy of transracial adoption, which were both informed by notions of individual and familial love. It highlighted how themes of love, freedom from violence, immediacy, morality, and color-evasiveness were used to encourage transracial adoptions as the primary solution for children in state care. The testimonies and discussion within the hearings demonstrated how TRA was imagined as an opposite future in relation to the child welfare system, incarceration, criminality, prostitution, or death. Color-evasiveness was deployed as a technique of power that attempted to erase and ignore the long history of how racial meaning has shaped subjectivity, mistreatment, and unequal outcomes. Despite the testimonies articulating disagreements, Dodd tried to narrate a consensus, which dismissed other principal and underlying issues such as the disproportionate rate of separation of families of color due to racist representations of the Black "welfare queens" and "crack babies" and the unequal access to adoption for both families and children of color.[78] The violence that was produced by this discourse was not just the "abject" conditions of poverty or foster care drift that preceded adoption. It was a productive force because in erasing the significance of past racial context, it concretized Black and White racial subjects and families as opposite futures.

Congress ultimately inserted the Multiethnic Placement Act as a provision in the much larger bipartisan Improving America's Schools Act.[79] MEPA afforded some consideration of "the cultural, ethnic, or racial background of the child" as well as the ability of the prospective adoptive or foster parents "to meet the needs of a child of this background as one of a number of factors used to determine the best interest of a child." The U.S. Constitution and Title VI of the Civil Rights Act only permitted such considerations if they advanced "a compelling governmental interest," which in this case was the "best interest of the child." Hence, guidelines for MEPA from the Department of Health and Human Services stated that such considerations must be "narrowly tailored," determined individually, and not delay placement in order "to advance the best interest of the child."

The guidelines clarified that agencies may evaluate a child's needs and the ability of prospective adoptive parents to care for a child from another racial background. However, they may not "rely on generalizations about the identity needs of

children of a particular race or ethnicity or on generalizations about the abilities of prospective parents of one race or ethnicity to care for, or nurture the sense of identity of, a child of another race, culture, or ethnicity." Importantly, the guidelines also stated that failure by agencies to "diligently recruit" families of color to "reflect the ethnic and racial diversity of children in the State for whom foster and adoptive homes [were] needed" would constitute a violation of Title VI. Agencies should have a comprehensive recruitment plan that includes strategies for all members of the community, training staff on working with diverse communities and linguistic barriers, and nondiscriminatory fee structures.[80]

Two years later, in 1996, Congress amended MEPA by passing the Removal of Barriers to Interethnic Adoptions Provision (IEP) because the former did not embrace color-evasiveness enough. Senator John McCain (R-Ariz.), the father to a daughter adopted from Bangladesh, led the effort by introducing the Adoption Antidiscrimination Act of 1995, in which he cited Altstein's conclusions that "interracial adoptions do not hurt the children or deprive them of their culture," chalking it up to the "nonsense" of "political correctness" from those who opposed transracial adoption.[81] The IEP permitted color-evasive ideology to flourish as the original MEPA supporters had intended. This enabled TRA to reproduce "ideal" family formations and futures that were free from violence as well as reduce burdensome federal regulations by emphasizing adoption assistance rather than social services that would help preserve struggling families. While MEPA and its guidelines referenced the need to "diligently recruit" families of color and how failure to do so would constitute a violation of the Civil Rights Act, IEP did not mention such recruitment, nor did it establish any financial penalties or enforcement mechanisms as it did for the color-evasive components attached to MEPA-IEP.

The lack of enforcement for recruiting families of color in IEP further illustrated that this was never a sincere goal of MEPA. Moreover, vocal TRA advocates such as Kennedy, Elizabeth Bartholet, Pierce, and Hayes believed that strategies such as kinship care and cultural competency were racist and used as guises to deny transracial adoptions. The primary aim of MEPA-IEP was to facilitate more TRAs, while ignoring the root causes of why such adoptions were needed in the first place—the coupled racist child welfare and criminal justice systems as well as not investing in potential adoptive families of color.

CONTINUED INVESTMENTS IN TRA AND PRODUCING STATE ORPHANS

While MEPA-IEP was the main legislation to promote transracial adoption, two other laws were passed in 1996 and 1997 that significantly impacted not only domestic TRAs but transnational adoptions as well: the Adoption Tax Credit (ATC) and the Adoption and Safe Families Act (ASFA), which invested in primarily (White) middle-class adoptive families, while divesting from poor families, who were disproportionately families of color.[82] Tax benefits for adoption were first established

in 1981, allowing taxpayers to itemize $1,500 of qualified adoption expenses for children with special needs. Congress eventually turned this into a direct spending program through adoption assistance agreements with states that reimbursed nonrecurring expenses to families who adopted a child with special needs.[83] Broader adoption tax assistance was proposed multiple times to no avail. However, the ATC gained traction in the two-pronged bill titled the Adoption Promotion and Stability Act that proposed the tax credit and the IEP, which were eventually both inserted into the larger Small Business and Jobs Protection Act of 1996.

The ATC provided a $5,000 credit to adoptive families for nonrecurring adoption-related expenses—for example, adoption fees, court costs, and attorney fees. The credit was $6,000 for families who adopted a child with special needs. Families whose adjusted gross income (AGI) was between $75,000 and $115,000 would receive partial credit, while those with AGI that exceeded $115,000 would no longer be eligible for credit. It was also available for transnational adoptions but did not include kinship adoption or adoption by a spouse. In addition, the ATC allowed a maximum of $5,000 exclusion from taxable gross income for benefits received by an employee from an employer for adoption-related expenses, which was phased out for the same AGI scale as the tax credit. If eligible, tax-paying adoptive families could receive both the credit and exclusion.[84] For instance, if a taxpayer spent $10,000 on adoption fees and an employer paid $5,000 of their adoption court costs, the taxpayer would be eligible for both the credit and exclusion. With the ATC, Congress demonstrated again its investment in adoptive family-making as a form of state-funded yet privatized care.

On top of MEPA-IEP and the ATC, Congress enacted the Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA) in 1996, which "ended welfare as we know it." Republican Speaker of the House Newt Gingrich had callously suggested that children of young, single, and poor mothers who could not support them should be placed in orphanages.[85] Aid to Families with Dependent Children (AFDC)—ended by PRWORA—was a New Deal program that was created specifically to support mothers and prevent such institutionalization.[86] PRWORA created Temporary Aid to Needy Families (TANF) to replace AFDC and instituted a five-year lifetime limit on the benefits. For conservative lawmakers, especially, adoption was seen as a neoliberal solution to "illegitimacy" and reinstitution of "individual responsibility," "family values," and the two-parent heterosexual "traditional" family structure.[87] In their infamous book *The Bell Curve*, coauthors Charles Murray and Richard Herrnstein argued:

> In terms of government budgets, adoption is cheap; the new parents bear all the costs of twenty-four-hour-a-day care for eighteen years or so. . . . If adoption is one of the only affordable and successful ways known to improve the life chances of disadvantaged children appreciably, why has it been ignored in congressional debate and presidential proposals? . . . Why are cross-racial adoptions so often restricted or even banned? . . . Anyone seeking an inexpensive way to do good for an expandable number of the most disadvantaged infants should look at adoption.[88]

For Murray and Herrnstein, adoption was a clearly neoliberal and conservative tool to privatize care, relieving the state from having to provide other mechanisms of social support that would be according to them wasted by the "underclass."

Similar to MEPA-IEP, the ATC and PRWORA received bipartisan support and were primary components of the Republicans' "Contract with America."[89] Ending welfare for poor and working-class families, especially families of color, was paired with "tough on crime" laws such as the Violent Crime Control and Law Enforcement Act of 1994, which established stricter and more severe prison sentencing and increased funding for states to expand police and prisons. These laws reinforced delineations among families based on race, class, and sexuality that constructed notions of good choice makers and bad choice makers.[90] Just a year later, Congress passed the Adoption and Safe Families Act, which created stricter time limits for family reunification and established new mechanisms to promote adoption.[91] On its face, ASFA reaffirmed some prioritization to family reunification by keeping the "reasonable efforts" provision regarding services to maintain or reunify the family. The previous major adoption legislation, the Adoption Assistance and Child Welfare Act of 1980 (AACWA), also had this provision, but family preservation advocates criticized this aspect because a minimum standard was never defined; states were free to interpret it as they wished. This resulted in a lack of, delayed, uneven, and ineffective services. Instead of defining what those services should entail, Congress simply clarified when services should be provided, and its result was to limit the time. Hence, in actuality the ASFA detrimentally placed strict time limits on these "reasonable efforts," where parents of children who had been in foster care for 15 of the most recent 22 months could have their parental rights terminated. Congress also implemented financial incentives to states for every successful adoption as cost-saving measures.[92]

Adoptions can be costly to the state due to lengthy court appeals processes and can be less time efficient (28.5 months for adoption) compared to other permanency options, such as relative custody (5.7 months) and guardianship (17.4 months).[93] The ASFA time limits not only diluted "reasonable efforts" for reunification into a "rubber stamp" event, but there was now a *financial incentive* to do so.[94] Social workers and agencies were confronted with conflicting goals in this expedited timeframe. Their roles might involve investigating families and recommending removal of children or termination of parental rights, but they are also contradictorily charged with helping families reunify even when there are no substantial incentives to do so. At the same time, they might begin recruiting, training, and working with foster parents—or, even more detrimental to reunification, begin the process of making an adoption plan, even when the likelihood of adoption is low.[95]

Dorothy Roberts has noted that termination of parental rights (TPR) increased dramatically after the Adoption and Safe Families Act was passed. In Chicago, TPR surged from 958 cases in 1993, to 3,743 cases by 1997. While supporters of ASFA argued that children of color, and Black children in particular, were languishing in

foster care, critics argued that reunification requirements were often unreasonably difficult to meet.[96] Part of the issue is what has been called the "competing clocks" dilemma, where the timeline for welfare benefits, child development, reunification efforts, drug treatment, and agency responsiveness can be in conflict with each other.[97] For parents with substance abuse, there are issues such as availability, timely access, work schedule alignment, transportation, and duration of drug treatments, which can make requirements impossible to complete.[98] Even though necessary services might not exist or access to them is limited, judges by and large "accept what the social service agency tells them" when it comes to whether reasonable services and efforts were provided, which means the "reasonable efforts" provision of ASFA is not well monitored or enforced.[99] Moreover, the overlap of welfare reform time limits and ASFA time limits undermined the ability of families to stay together and reunify. On the one hand, parents who reached their TANF limits were vulnerable to homelessness or claims of neglect due to poverty and ultimately termination of parental rights. On the other hand, parents who experienced TPR would lose TANF benefits, which made it difficult to complete reunification requirements, leading to a "double jeopardy."[100]

Family preservation efforts have centered "changing family dynamics and behaviors" when most families needed material and financial assistance.[101] For example, drug and alcohol addiction, which account for nearly 40 percent of child removals, have been treated as harmful behaviors rather than diseases, and the ASFA creates a universal timeline that does not account for the time it takes to complete treatment, let alone the individual contexts of parents who might be struggling with their own past traumas, grief, shame, and/or survival of domestic violence.[102] In addition, many local social service agencies employ the practice of concurrently planning—beginning adoption or alternative permanency plans before the reunification timeline ends—which has "created 'expectations of failure' to reunify, resulting in some foster parents being 'foster-adopt' parents even before TPR."[103]

The cuts to welfare, promotion of transracial adoption, and deemphasis of family reunification illustrate how race, gender, class, and sexuality intersected. Surveillance of Black parents and children in school, medical, social services, and other settings triggered disproportionate interventions and substantiations, which were exacerbated by racial bias during evaluation and reunification processes. Thus, as Black mothers and parents were receiving what has been termed the "civil (or family) death penalty" through termination of parental rights, White adoptive families were being supported by facilitative laws and financial support. As historian Rickie Solinger has argued, "one woman's possession of reproductive choice may actually depend on or deepen another woman's reproductive vulnerability."[104]

Moreover, these racial, gendered, and classed logics, practices, and policies that facilitated greater TPRs have meant that thousands of children become "legal orphans" or "state orphans." They are children who remained in foster care, aged

out, and stayed parentless because the legal ties to their parents were terminated, and they were never adopted.[105] In only two years the number of children who were legally orphaned through TPR increased from 5,970 in 1997 to 24,219 in 1999.[106] In 2019 there were approximately 71,300 TPRs.[107] Many of these children are adopted, but every year there are tens of thousands of youth for whom TPRs did not facilitate permanency, where they exit state care in legal limbo; in 2019, 20,445 individuals exited foster care via emancipation.[108] Black and Native American children experience the highest rates of TPR and legal orphan status at 2.4 and 2.7 times the rate of White children.[109] Martin Guggenheim has called TPR a euphemism for "the permanent destruction" of families and the "atomic bomb" in child welfare.[110]

Termination of parental rights affects more than just parent-child relationships. After TPR, children are also no longer legally connected to other immediate and extended biological family, preventing possible visitation rights with siblings and grandparents.[111] Many TPRs violate constitutional rights under the Fourteenth Amendment to "direct the care, custody, and control of their child" because states must have "compelling interests" and actions must be "narrowly tailored."[112] Yet the ASFA was created and passed on the belief that there was compelling state interest to stop horrific abuse and the harm of foster drift. Individuals who work with or for the state such as court-appointed special advocates, guardian ad litems, and caseworkers contribute to unnecessary and disproportionate separation of families of color and poor families by bringing their own biases about race and poverty into the question of fitness and neglect.[113] Race, gender, and class intersect to construct what are perceived as inherently unfit and neglectful environments, especially in relation to privileged foster or adoptive families, which has led to promotion of a system built to "search and destroy" Black and marginalized families.[114]

The ASFA was promoted by Congress because advocates viewed adoption as more cost-effective than funding both services to maintain or reunify families as well as maintain foster care placements.[115] Yet, by 2006, Congress was allocating nearly $2 billion for adoption assistance and related programs and approximately $350 million for the ATC. Child Trends, a nonprofit, nonpartisan research center, published a 2007 report stating that the ATC was not accomplishing its intended goal of increasing foster care adoptions, especially of older children, and supporting prospective adoptive parents who needed financial support. Most of the funds were used for transnational and private adoptions of younger children, and two-thirds of the families supported were those with incomes of more than $75,000.[116] Estimated financial spending in 2023 for adoption-related programs exceeded $4.7 billion.[117] Another $900 million is allocated for the ATC, which has increased to $15,950 for 2023.[118]

The wide (and continued) support for the ATC reflected the broader neoliberal shift of decreased social welfare services that was epitomized in the draconian

welfare reform of PRWORA, which led to "voluntary" and involuntary adoptive placements. While struggling mothers and families were scrutinized and harmed by these policy changes, the state provided legal and financial support for adoptive families. For example, families adopting from foster care can receive monthly payments to cover the child's needs and up to $2,000 for nonrecurring adoption expenses.[119] The passage of MEPA-IEP, ASFA, and the ATC in the 1990s, along with welfare reform and greater criminalization underscored, on the one hand, the state's investment in biopolitical strategies for child welfare. On the other, it indicated the government's belief that only certain families fulfill that function to provide freedom from violence, disregarding how the state produced its own forms of structural violence that contributed to producing "state orphans" and the "need" for adoption.

CONCLUSION

Even though adoption typically operates under state law, the bevy of federal legislation passed in the 1990s (MEPA-IEP, ATC, and ASFA) stressed the nation-state's investment in adoption and transracial adoptions in particular. Such policies were intersectionally informed by ideas of race, gender, and class, appealing to both conservatives and liberals because they were supposedly pro-life, pro-family, and pro-diversity. More than this, the family, as Foucault suggested, continued to be an instrument for the state as a means to produce a better government and nation.[120] Thus these (neo)liberal laws legitimized and promoted TRAs, which on their face seemed beneficial for the child rather than the state. Yet transracial adoptions have mirrored neoliberal desires for privatization and efficiency to answer problems of social welfare. They have also fortified the myth of individual freedom and responsibility by rewarding entitlements to dutiful neoliberal subjects (White adoptive families) while regulating deviant neoliberal subjects (non-White birth parents).

Despite the passage of MEPA-IEP and the ASFA, African American children have continued to disproportionately languish in foster care. As social work scholars Alan Dettlaff and Reiko Boyd have stated, "despite decades of efforts to address this, Black children remain overrepresented in foster care at a rate more than 1.6 times their proportion of the general population."[121] Another disturbing outcome has been the overseas adoption of Black children to Canada and other European countries. The Canadian Broadcasting Company reported in 2014 that nearly 500 children were being adopted each year from the United States to mostly Canada. A majority of children were Black, and they cost less than adopting other non-Black children in Canada.[122] At the same time, White American families continued to adopt White, Asian, Latinx, and African children. White families adopted Asian children in particular at incredibly high rates. Sara Dorow argues that in making adoption plans, "Whiteness" operates as the invisible background noise for prospective adoptive parents' racialized choices.[123] For White adoptive families, Asian

babies are desirably different and relatively baggage-free, which allows for the celebration of positive culture while washing away negative cultural traits. Asian Americans are thus racialized as the "model minority" and "honorary Whites," which acts as a form of relational racialization against Black children, who remain baggage-laden, tainted with abjectness and criminality.[124]

This dynamic has also played out in the adoption of African children. Between 1999 and 2016, American families adopted more than 15,000 children from Ethiopia.[125] In this sense, while there have been domestic transracial adoptions of Black children, African (including other countries beyond Ethiopia) transnational adoptions occurred at a staggeringly high rate.[126] This "contradiction" between the United States allowing African American children to be adopted to Canada while adopting thousands of Ethiopian children, shows the ways that U.S. adoptive parents imagined African Blackness to be more malleable than African American Blackness.

While the state might have attempted to address racial inequality within the domestic adoption sphere through race-neutral love and care, it ignored how institutionalized social, economic, and political factors shaped the market of adoption, creating what anthropologist Aihwa Ong has termed "compassionate domination."[127] Such racialized choices in adoption planning provide some explanation for the differential (and relational) cost structures within adoption fees. Private agency adoptions that are a majority nontransracial typically range between $30,000 to $60,000 or more, while adoptions from foster care, where the majority of domestic TRAs occur, are "virtually free of costs" and many times are eligible for monthly financial support.[128] Current costs for transnational adoption, that have historically been transracial, are between $13,450 and $61,988, with the median cost being $38,435.[129] It is not just that adoption costs vary from type and region, but they can vary *within* agencies, which often have tiered systems with White children requiring a higher cost than biracial-Black and White children and much higher than Black children.[130]

This disparity in adoption costs shows how transracial adoption becomes what sociologist Elizabeth Raleigh has called "a market calculation." While the best interest of the child calculus is supposed to be the driving force in adoption, Raleigh argues that adoption professionals are required to be "de facto adoption sellers." The prospective adoptive parents' needs as the paying customer get elevated, and as a result, children transform into an "object of exchange." As objects that "get chosen," they are not in fact "universally priceless" but instead inherit different market values.[131] This racial market calculation has historically placed Asian children below White children but above Black children, with Native American children falling in between.

Early adoption discourse and social scientific studies attempted to diminish the importance of race in TRNAs. Building from these forms of adoption knowledge, federal adoption laws embraced similar color-evasive logic. MEPA-IEP, and other

facilitative adoption laws, have ignored race as a concept and in practice. As this chapter has demonstrated, color-evasive love might be a nice sentiment in a world in which race did not exist, but for transracial adoption, race matters in ways that name which families should be regulated, which ones can be separated, and which ones will (supposedly) provide, through adoption, a future that is free from violence. Yet we know that violence is attached to adoption in complex ways. The Donaldson Adoption Institute published a 2008 report that was critical of MEPA, stating that the law's "unyielding colorblindness" was "counter to the best interest of children and sound adoption practice."[132]

In 2020 the Department of Health and Human Services published a report on Diligent Recruitment Plans for prospective families of color, which are a supposedly integral part of MEPA-IEP, noting that 34 states received an "ANI" rating, which meant "area in need of improvement." The report indicated numerous agency issues relating to recruitment, such as little monitoring and oversight taking place between states and counties; lack of system to track race and ethnicity data, or staff were poorly trained to effectively use the system, or they did not know how to use data to improve recruitment; difficulty retaining existing foster parents; and lack of capacity to meet the language (especially Spanish) needs of foster children.[133] More recently, the Children's Bureau confirmed that MEPA-IEP and other laws have not diminished the overrepresentation of Black children and Native American children in foster care and disparity in outcomes.[134]

Black families are suspected of child maltreatment and investigated by Child Protective Services—what others have termed the family policing system—at higher rates. Black and Native children have a greater risk of being confirmed of maltreatment and placed in out-of-home care, and their parents are more likely to experience termination of parental rights.[135] This disparity was even acknowledged by the Biden administration's National Adoption Month Proclamation.[136] As legal scholars Nancy Polikoff and Jane Spinak have expressed, foster care and adoption within the child welfare system are "enduring, devastating, American practice[s] of separating parents and children through state agency and court procedures cloaked under the misleading name of the child welfare system."[137] The color-evasive approach, especially in the wake of anti-Black murders at the hands of police officers, has led to transracial adoptees expressing that "I know my parents love me, but they don't love my people."[138]

One cannot help but reflect on how early outcome studies that were rife with methodological limits—such as studying primarily young children, interviewing or surveying adoptive parents only, low participation rates, high attrition rates for longitudinal studies, not examining the categories of race or ethnic identity, exclusion of disruptions and dissolutions, and so forth—were a main driver in justifying MEPA-IEP and the handful of other federal adoption legislation that have promoted adoption as a panacea for children (and families) who need support rather than the larger structural issues that produce such need in the first place.

Reforms of the welfare system and adoption laws have, in other words, worked in concert to optimize the state's organization of families. While some families have been obfuscated, left to fall through the cracks of the social safety net because they are symbolically deemed "illegitimate" and undeserving, adoptive families have been institutionally privileged by new laws and the predominance of uncritical adoption discourse.

Similar to the attacks and rollbacks against affirmative action, MEPA-IEP created a mechanism that by default protected White group rights. The race "neutrality" of MEPA-IEP was another example in which Whiteness "loses" its racial identity and attachment to a "group." Instead, it is the hidden norm and subject or beneficiary of the law. The plethora of adoption laws is another example of what scholars Cheryl Harris has called "whiteness as property" and George Lipsitz has named the "possessive investment in whiteness."[139] Such laws showcase how Whiteness holds an array of (property) value that is both protected and shapes how some people benefit from the law, while others are harmed.

With the focus of this chapter centering on color-evasive love, it might be tempting to believe that considering race before, during, and after the adoption process would go a long way in resolving the violence of love produced by transracial adoptions. However, the issues with adoption are deeper because adoption is inherently violent at the structural and symbolic levels, not just traumatic aspects that result from adoptive parents ignoring race. Thus the questions are less about how adoptions might help children in need, protect them from institutionalization, and become more accessible for families of color. Normative adoption discourse considers MEPA-IEP, ATC, and ASFA as incredibly successful laws for how many adoptions, and domestic transracial adoptions in particular, they have produced. Yet, one must wonder, how many adoptions would have been necessary if our policies, practices, and laws addressed the long-ignored structural racism and heteropatriarchy that enable family separation and created "state orphans" in the first place? How can we support mothers and families so they can parent their own children rather than "choose" or be forced into the civil death penalty?

Even in cases where termination of parental rights seems necessary, what might it mean to create legal relationships that could overlap or change? As legal scholar LaShanda Taylor has shown, some mothers who have been legally separated from their children continue to maintain informal relationships and attempt to reassert their legal parenthood after their children exit state care.[140] Studies show that children who are adopted from foster care after TPR can experience ambiguous loss and continue to seek emotional comfort from their birth family as well as have challenging relationships with their adoptive family.[141] I support and agree with the editors of *Outsiders Within*, who state that "the real alternative is found in welfare policies that support poor mothers of color rather than penalizing them, criminal justice policies that strengthen and heal communities rather than destroying them, and international policies that prioritize human security over profits."[142]

The numerous laws passed in the 1990s not only facilitated domestic TRA but also paved the way for the dramatic increase of TNAs in the latter part of the decade and through their peak in the 2000s. Chapter 4 examines how racial discourse, love, and the law have intersected in the context of transnational adoption from Asia.

4

Love, Life, and Death

Opposite Futures and Protecting the Wrong Subjects

This isn't chattel here. We're talking about a child.

—JUDGE PATRICIA SEABROOK

It's not about them [the biological parents] or them [the adoptive parents]. It's about Lee, her best interests. It cannot be in any child's best interest to remove her from the only family that she knows—her parents, her sister, her country, which is now America. My heart goes out to you [the biological parents]. I simply cannot imagine your pain here or the horror that has been the last four years of your life. If this were about you, I'd hand the child over myself, but it's not. It's about Lee.

—DEFENSE COUNSEL FOR LEE'S ADOPTIVE PARENTS

Imagine if an American child were abducted, taken to different country; the parents go to that country to get their child back, only to hear that, sorry, the child belongs here now. That would turn our stomachs. The very reason why we have this Hague treaty is to prevent this kind of horror.

—ADAM BRANCH, LAWYER FOR LEE'S BIOLOGICAL PARENTS

In the 2011 episode "American Girl," of NBC's hit drama *Harry's Law*, the plot showcases an emotional legal struggle over a girl, who is adopted from China, between her American and Chinese parents (Figure 5). Couched in the human rights discourse of "best interest of the child," cultural representations like this episode illustrate the complexity of transnational adoption, family, and the law. As the plot unfolds, the audience learns that Mr. and Mrs. Chen had their daughter taken away from them when she was two years old by local Chinese family-planning government authorities based on the One-Child Policy. Their daughter was then "legally" adopted by Mr. and Mrs. Thomas, an African American couple in the

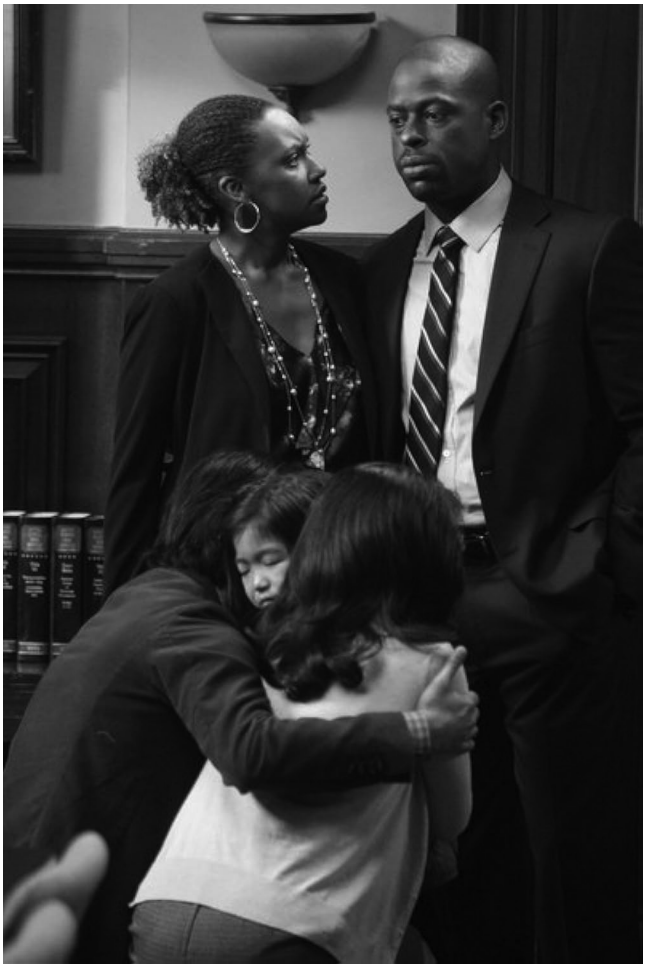

FIGURE 5. Lee with her biological and adoptive parents; scene from the episode "American Girl," *Harry's Law*, aired November 2011, NBC.

United States. According to Adam Branch, the prosecution lawyer for the Chens, the law was on their side because both the United States and China are signatories to the Hague Convention on the Protection of Children and Co-operation in Respect of Intercountry Adoption (Hague Adoption Convention). Although Judge Patricia Seabrook articulates a sense of empathy for the Chens, saying that if her daughter had been abducted that she too would "hunt her down until the ends of the earth," she ultimately sides with the Thomases, stating: "Mr. and Mrs. Chen, I am deeply sorry, but I cannot justify upending this little girl's world." Thus any empathy and rights for the birth parents are trumped by the rhetoric of the "child's best interest" and relatedly her future prospects in one family versus the other.

While this story presented in "American Girl" is television drama, it nearly matches and seems to draw from occurances covered by the *New York Times* in August and September 2011, which reported that at least 16 babies were taken by family-planning officials between 1999 and 2006 in Longhui County of Hunan Province in southern China. In 2005, Chinese and foreign news media reported local government officials and orphanage employees in Hunan sold at least 100 children to other orphanages, who were then adopted by foreign adoptive parents.[1] Traffickers targeted migrants and the poorest villages, abducting and buying their children, whom they sold to orphanages.[2] Although this concerned many adoptive parents in the United States, most of them, along with U.S. adoption agencies, did not fully address the controversy and the possibility that their child might not have been abandoned or orphaned as they were told.[3]

These corruption cases in China not only touch upon the dangers, complexity, and contradictions of transnational adoption (TNA) as an "industrial complex" within a neoliberal global political-economy, they also point to the ways in which representation—such as *Harry's Law*—works to construct the figures of the orphan, the birth and adoptive parents, and the nation.[4] Standard summaries of the corruption in China pointed to local government officials exploiting poor, vulnerable birth parents, with adoptive parents hoping that they remained outside of the appalling mess. What this narrative ignored was that despite the designed protections from the Hague Adoption Convention, this corruption in the circulation of capital and illegal movement of bodies continues to feed the adoption industrial complex at the demand from adoptive parents and the expense of children and birth families. This episode is compelling because of the way it assuages the anxieties of illicit and corrupt adoptions through the promotion of a multicultural postracial narrative unique to the United States. Not only are the adoptive parents in the *Harry's Law* episode African American, but the judge is also Black *and* adopted by White parents, highlighting the multiple embodiments of "American" postracial families. Judge Seabrook's curated, intersecting, and "successful" identities of being a judge, a Black woman, and both a mother and transracial adoptee help explain how she can adjudicate this complex case. It is a discomforting verdict but one that the audience can ultimately agree with because the decision was never really in doubt.

The Hague Adoption Convention states that every adoption case must consider the "best interest of the child." This chapter asks, How is the best interest of the child determined in transnational adoption policymaking? What sorts of already existing (violent) structures and representations are operating in order to activate and facilitate transnational adoptions? How has transnational adoption, as a loving act, produced other harmful outcomes? Legal adoption discourse and adoption laws like the Hague Adoption Convention predefine subjectivity, family, and the "best interests of the child," which in turn represents the orphan as a victimized object in need of rescue from death or bare life, thereby constructing families

and nations as "opposite futures." Through this imagined opposite spatial and temporal path (life versus death), adoption and love provide freedom from violence for orphans and transform them into adoptees—fully modern subjects—who attain permanency, economic stability, and above all else, parental love in ways that their birth and/or adoptive parents and home country could not provide.

To understand TNA's underlying ethical dilemma requires going beyond scandals and instead investigating the discursive and legal construction of these seemingly prefixed concepts (best interest), subjects (orphan, adoptee, birth parent, adoptive parent), and spaces (orphanages, Asia, and the United States). These constructions ultimately work toward protecting the wrong subjects—adoptive parents rather than parents who are at risk of being separated from their children. Opposite futures are not guaranteed for adoptees. This analysis illuminates how these figures are powerful symbolic tools, compelling a reconsideration of the "best interests" axiom to understand the ways that adoption can be loving but also violent in representation and practice.

ADOPTIONS FROM ASIA AND THE HAGUE ADOPTION CONVENTION

Transnational adoption from Asia is not new (see chapter 1). Prior to the 1990s, South Korea and Vietnam were the two major sending countries. U.S. families adopted more than 80,000 Korean children between 1953 and 1992. But since then, Cambodia, China, India, Nepal, the Philippines, Taiwan, and Thailand have joined them, adding to the increased representation of Asian countries in TNA to the United States. Of the approximately 340,000 children adopted since 1992, roughly 162,000, or 47 percent (which does not include Russia or Kazakhstan), have been from Asian countries.[5] Early adoptions from Asia were controversial because of their unregulated nature, the orphan status of children was often in question, and many critics were unsure whether the children would be better off living in the United States as opposed to being raised in their country of birth.

Adoptions from China began in significant numbers in 1992, and between then and 2021 it has become the largest sending country for U.S. families, who have adopted more than 95,000 children from China, constituting 27.8 percent of U.S. transnational adoptions.[6] It is from this demographic and historical context that I use China as an example for thinking about race, specifically "Asian" vis-à-vis the "West," as a global and historical formation that informs the ways law and transnational adoptions are imagined and practiced. Despite ongoing abuse and corruption in and substantial critiques of the TNA industry, international human rights law has in practice supported transnational adoption as being in the best interests of the child. The U.S. government has at some point placed 17 countries on temporary or permanent moratorium because of known or suspected abuses and corruption.[7] China is somewhat unique because as a sending nation

it was almost always perceived as being efficient and having the best institutional safeguards. Unlike scandal-ridden countries such as Cambodia, Ethiopia, Guatemala, India, Nepal, or Vietnam, China was thought to have had a clean record for transparency and an uncorrupted supply of healthy infants.[8] Yet this representation of China contradicts the West's imagination of it as a morally bankrupt and human rights–violating Communist nation. To be sure, even within this contradictory representation, China still mirrors larger symbolic representations of Asian countries such as South (and North) Korea, Vietnam, Cambodia, and India as spaces of immorality, ineptness, cultural backwardness, and/or Communism.[9]

The most significant law passed to date concerning transnational adoption is the 1993 Hague Convention on the Protection of Children and Co-operation in Respect of Intercountry Adoption. It came on the heels of the UN Convention on the Rights of Children (UNCRC) of 1989, which began to address, among many others, the issue of transnational adoption and the right to a family.[10] Building on these initial steps of the UNCRC, the Hague Adoption Convention is a multilateral treaty that established international standards and safeguards in response to questionable and unethical practices such as abduction, sale, and trafficking that mired the seemingly virtuous practice of transnational adoption. It aims to "ensure that intercountry adoptions take place in the best interests of the child and with respect for his or her fundamental rights."[11] Significantly, it legitimized and privileged TNA for cases in which family preservation is not possible and domestic adoption has been exhausted. This differs from the earlier UNCRC (a convention that the United States has *not* ratified), which placed transnational adoption below in-country institutional care.[12]

While the United States was a signatory to the Hague Adoption Convention in 1994, it did not ratify the convention until 2007, where it entered into force a year later.[13] With 105 contracting states, it is generally considered a constructive and beneficial development in transnational adoption.[14] Yet many adoption supporters have criticized it, saying that while the effort to stamp out corrupt, unregulated, and exploitative adoptions is needed, sending countries, which are often "developing" nations (i.e., formerly colonized), do not have the resources to implement the standards and regulations.[15] The other critique is the lack of an international supervisory body, which makes it difficult to stop exploitative and corrupt practices, and as supporters suggest, any indication of a scandal could mean dramatic decreases in who is available to be adopted.[16] Even with scandals, agencies and the U.S. government continue adoptions until government intervention by a sending country. Legal scholar David Smolin states that there is strong financial incentive to look the other way: "United States agency personnel are financially or ideologically motivated to 'believe the best,' doubt negative reports, minimize abuses, and keep the system open and running at all costs even when abuses become apparent."[17]

Despite multiple cases of corruption and exploitation, transnational adoption continues to be supported by a large majority of U.S. practitioners, experts,

government officials, and those already touched by adoption. In fact, U.S. families had been able to adopt from non-Hague ratified countries such as Ethiopia, Nepal, Russia, and South Korea. In 2021 alone, U.S. families adopted from 32 non-Hague countries, which totaled more than 40 percent of the 1,785 adoptions.[18] These adoptions that happen(ed) outside of the Hague Adoption Convention framework illustrate the "machine-like quality" of the "transnational adoption industrial complex."[19] Supporters of TNA argue that the adoption pipeline must remain open and functioning because the good of "saving" children outweighs possible faults. For them, shutdowns are detrimental and even reforms in these cases almost always slow the process to a grinding halt.[20] The various "facilitative" laws discussed in chapter 3—the Multiethnic Placement Act (MEPA), the Interethnic Adoption Provisions (IEP), the Adoption Tax Credit (ATC), and the Child Citizenship Act of 2000 (CCA), the latter gives automatic citizenship to adopted children—in conjunction with the Hague Adoption Convention are deeply entrenched as moments of inclusion and progress for adoption policy and practice. Representations of adoption in this context move from its "troubled" past of being exclusive, discriminatory, stigmatizing, unethical, and illegal to inclusive, respectful, ethical, cultural, democratic, liberal, humanistic, and rights bearing. Hence the historical and continued focus on "exclusions" as the basis for understanding racial subjection has confused some people about why others would want to stop an "inclusive" and "loving" act that "transcends" difference and is "in the best interest of the child."

OPPOSITE FUTURES AND FULL LIFE FOR THE "ORPHAN"

The image of the orphan informs how the adoption industry conceives of and practices adoption. According to UNICEF, the organization most cited for statistics, in 2022 there were 147 million orphans globally.[21] For most people the term "orphan" conjures the image of a helpless and parentless child (many dictionaries use this definition as well), but UNICEF and other aid organizations define "orphan" as any individual under age 18 who is without one or both parents.[22] Despite the claim of millions of orphans, only 4 percent of children in institutions are "true" biological orphans.[23] Yet, as gender and sexuality scholar Laura Briggs has argued, the visual imagery of a mother and her child/waif throughout the past century has helped shape the politics of transnational and transracial adoption in terms of liberal interventionism and the notion of rescue. She critically engages this "visual iconography of rescue" that manifests in sentimental narratives and the rescue trope of transnational adoption along with their dependence on stereotypes of innocent, sick, helpless, and crying children relative to the culturally cold, indifferent, backward, and/or grateful birth parents.[24] This iconography and practice of rescue has become normalized and transformed into a regime of truth, hiding the ways the United States has often been implicated in the causes and the "need

for rescue" in the first place. I add to Briggs's examination of orphan and rescue by highlighting the temporal and spatial aspects of this connected narrative. While "rescue" connotes removal from imminent danger, I contend that adoption as rescue marks originating countries as spaces of inevitable death. Adopting countries are spatially and temporally marked as an opposite and better future that enable freedom from violence and full (as opposed to bare) life.

U.S. politicians rehearsed this spatial and temporal rescue narrative prior to implementing the Hague Adoption Convention in 2008. In the 1999 congressional hearing on the Implementation of the Hague Convention on Intercountry Adoption, the dominant sentiment was that TNA was a key solution to children in need of a loving, permanent home and that the United States in particular was a positive future for them. Democratic House representative Sam Gejdenson stated that transnational adoption was the solution to the orphan crisis: "Clearly, international adoption solves problems. Children living without loving families and in often terrible conditions have an opportunity for a very bright and optimistic future here in the United States or with adoptive parents in other countries."[25] That transnational adoption was a "bright and optimistic future" and solution for children was "clear" because the United States had a long history of welcoming and caring for orphaned children. Mary Ryan, ambassador and assistant secretary of state for consular affairs, reminded everyone of this fact: "The United States, particularly since World War II, has opened its arms to orphaned and abandoned children around the world, and many parents look to international adoption to build American families and to provide a better life for these children."[26]

Indeed, the TNAs that followed World War II, the Korean War, and the war in Southeast Asia, along with representations of destitute orphanages and uncaring institutional workers, produced the image of the waiting Asian orphan and loving American adoptive families in the collective imagination. Republican House representative Thomas Bliley painted the picture in his opening statement:

> Thousands of children worldwide are waiting helplessly for parents to read to them, to teach them how to tie shoelaces, to say bedtime prayers with them, and to eat ice cream with them on a summer night. It is in the best interests for a child to be part of a loving family. The Hague Intercountry Adoption Act gives the U.S. Congress an opportunity to stand up and reaffirm our support for intercountry adoption. I am proud to support this bill because I have been blessed by my own experiences with adoption, so now I am doing what I can to help thousands of innocent children find a home.[27]

These statements from the 1999 congressional hearing exemplify the ideological presumptions in adoption discourse among government officials. They point to the ways that discourse about loving (Christian) American families and the democratic U.S. government have facilitated the incorporation of overseas "orphaned" children who needed homes. Bliley's admission of being touched by adoption in

his own family illustrates that the personal and familial are intimately tied to political decisions. All-American activities such as reading books and eating ice cream convey the simplicity of the situation—there are children in need, families who can provide loving homes, and a government that can facilitate this process.

Just prior to the ratification and implementation of the Hague Adoption Convention in 2007 and 2008, Congress held another hearing in 2006 on Asian adoptions in the United States. Similar to 1999, Senator Larry Craig said: "We are fully entering a new era of international adoption by Americans, an era in which the Federal Government has a critical role in the adoption process."[28] Social scientific outcomes studies "definitively" had reported that such adoptions were beneficial and in the "best interest of the child" (see chapter 2). Thomas Atwood, president of the National Council for Adoption, in his written statement for the hearing expressed: "The benefits of intercountry adoption to children are indisputable. The clinical record clearly confirms what common sense tells us—that outcomes for children who are adopted internationally are better than those for children raised in institutions or in foster care." The truth seemed "self-evident," Atwood added, that given the choice, most people would choose a loving, permanent family through intercountry adoption over living without a family in the country where "one happens to have been born."[29] This "dire need" narrative coupled with scientific "certainty" of positive outcomes for transracial and transnational adoption further activated the government's continued role in facilitating them.

However, the opposite future narrative does not just rescue orphans from "terrible conditions" to a "better life," it also rescues them from imminent death. In the same year as the Asian adoption congressional hearing in 2006, Harvard emeritus law professor Elizabeth Bartholet, a prominent adoption scholar who is an outspoken proponent of TRA and TNA and an adoptive parent to Peruvian daughters, implored policymakers "to think empathically about the child at the heart of the international adoption debate."[30] In a law review article Bartholet narrated a hypothetical "rational conversation" between herself, along with the audience, and a "typical" child to convey the child's experiences, needs, and wants. I analyze this article in depth because one could easily argue that Bartholet has been the foremost advocate of transracial and transnational adoption in the United States. She has written two books and more than two dozen articles, testified before the U.S. Congress and international bodies, as well as published and appeared on countless news media such as the *New York Times* and *NPR* on the topics of transracial and transnational adoption.[31]

In Bartholet's hypothetical, she presumed this child is a girl in China because there are more girls available than boys, and China is the top sending country to the United States in 2006. She questioned what the child would prefer in terms of preserving her "birth heritage," "growing up in her country of birth," being adopted domestically in her country of birth, staying in an orphanage, or being "placed abroad in a loving adoptive family." Offering details to help

make this decision, Bartholet described the institutional living conditions of this "universal" child:

> She knows from her daily experience that the orphanage is a horrible place. . . . When she screams for attention because she is hungry or cold or wet or just alone, nobody comes—attendants arrive only every four or six hours and then leave immediately after hurried diaper-changing and bottle-propping events. She would notice if she were capable of understanding that infants around her stop screaming after a while; they learn that screaming does not produce any result. . . . Her current orphanage is fairly typical. . . . Some are far worse, with infants dying at a high rate, and children whose biological age is in the teens lying in cribs looking as if they were toddlers, unable to talk or walk because they have been so deprived of the attention it takes for a human being to actually develop. Photographs of some of the still-living children in certain of these institutions look like photographs that could have been taken in the Nazi death camps, except here the subjects are all children, bone-thin, expressionless, staring back emptily at the camera eye.[32]

Bartholet's exercise of imagining what the child would want gets at the seemingly simple decision of choosing adoption over detrimental institutions. The invocation of Nazi death camps conjures Giorgio Agamben's formulation of bare life, those "who may be killed" to "an unprecedented degree."[33] Bartholet's comparison suggests that institutionalized children who are *not* adopted are bare life because they exist in spaces of widespread death and extreme deprivation. In this situation the orphan is marked as a damaged racial (Chinese) subject in a deleterious racial space and time (anachronistic, ill-equipped, and inept Chinese orphanage) and as an ultimate victim. The identification of global racial difference explains not only the orphan's lot in life and the need to be rescued but also that the West be the rescuer who prevents the orphan from dying in the way that China cannot.

Indeed, transnational adoption presents a future that guarantees full life. "Full life," here, represents not just being rescued or a better future (like domestic adoption in China might) nor the idea or even promise of the American Dream (like a typical immigrant future does).[34] Rather, it represents an unquestionable guarantee of an opposite future precisely because the orphan (as "nonimmigrant immigrant") is being rescued by White American families to the United States.[35] Bartholet continued her imaginative exercise about the child, further illustrating point:

> She might grow up wondering about her racial or national identity-wondering if she is truly "American" or more truly something else. However we should also tell her that many people in her country of birth would be thrilled if they had the opportunity to go live in the U.S., especially if they could get the kind of education and other advantages that most adoptive children will enjoy, so that they could participate in what is still seen by many throughout the world as "the American dream." We should tell her that the research shows adopted children do very well on all measures that social scientists use to assess human happiness, and that it reveals no evidence that children are in any way harmed by being placed internationally. Finally, we

> should tell her that the research shows that children raised for significant periods of time in institutions do terribly badly on all of those social science measures.[36]

In this second part Bartholet shallowly concedes the identity struggles that the child might have to negotiate, ignoring surveys and studies (see chapter 2) that have shown many transnational adoptees have had to contend with these issues. For Bartholet the United States offers an opposite (spatial and temporal) future embodied in the American Dream. Despite her qualifying usage of "many" (Chinese adults and people "throughout the world"), Bartholet advances a position that for her is irrefutable ("no evidence" of harm). In distinction, being raised in an institution, like an orphanage, means that a child will "do terribly bad on all of those social science measures." She concludes: "It seems obvious to me what this infant would choose if she could choose. She would choose not to spend another day or hour in the institution if at all possible. She would choose to go to the first good adoptive home available, regardless of whether that was in her country of birth or abroad, so that she could begin living the kind of life infants deserve and need both in terms of their day-to-day life satisfaction, and in terms of their prospects for normal development so that they can live and thrive as adults."[37]

While Bartholet indicates support for both domestic and transnational adoption for her imagined orphaned Chinese girl, she never represents what an adoptive Chinese future could look like outside of the institution, nor does she consider how state and local governments might assist birth parents so they could reunite with their children. The cultural distinction outlined by Bartholet becomes a proxy for racial difference. Thus not only is racial difference ascribed to the orphan figure but also to the space the orphan occupies and her future attached to that space if she were to remain.[38] Bartholet's articulation of China presents it as an anachronistic nation. Despite orphanage care, domestic adoption, and foster care all improving in China by the mid-2000s, Bartholet and others continue to express that the solution to children in orphanages is to bring them to the United States.[39] For Bartholet the choice based on these truths is obvious. It is only through transnational adoption, and the "positively" racialized space and future of the United States, that the orphan figure can achieve full life.[40] She cannot live or become a thriving fully modern subject in the space of the Chinese institution that portends death. In creating these absolute truths and speaking for the racial Other, Bartholet contributes to the production of the orphan figure as not a subject but an abject victim and racial object of rescue.

PROTECTING THE WRONG SUBJECTS

To be sure, transnational adoption tries to be protective. Article 4 of the Hague Adoption Convention highlights the "requirements for intercountry adoption," which includes that the mother has been given informed "consent" that was not "induced by payment" or "withdrawn" and that she understand the "effects of the adoption."[41] Yet so often this consent requirement does not actually exist for many

transnational adoptions and cannot be enforced when children are relinquished anonymously; through deception, coercion, or payment; or via trafficking. Legal scholar David Smolin and journalist Kathryn Joyce have shown in stark details how the adoption industry and the evangelical Christian movement to adopt from abroad have contributed to countless cases of corruption and children being taken from their families when they were never in fact orphans, and the Schuster Institute for Investigative Journalism at Brandeis University has an entire section on its website devoted to "International Adoption Fraud and Corruption."[42]

In fact, Bartholet acknowledges the uneasy issue of payment but claims being paid to relinquish one's child does not represent diminished personhood: "Giving them [birth parents] money may be wrong because it will always be hard to know for sure that the money given was not the reason for surrender. But giving money to desperately poor birth parents almost all of whom would likely surrender their children in any event, is not the worst evil that such birth parents or their children are faced with."[43] Economics professors Mark Montgomery and Irene Powell similarly contend that paying birth parents might be *more* moral than not: "*Why* must we ensure that payment doesn't persuade parents to relinquish a child with whom they would otherwise not have parted? . . . On what moral grounds do we deny them the right to negotiate all aspects of the adoption exchange?"[44] Montgomery and Powell propose acknowledging the market forces of adoption—"that some children (or their parental rights) are, in effect, bought and sold"—rather than suppress them. For Bartholet, Montgomery, Powell, and others the entanglement of relinquishment, adoption, and money are inevitable. Thus scholars advocating for the increased facilitation of transnational adoption separate the interest of the child from the interest of the birth parents/mother. Despite the Hague Adoption Convention's supposed stance against corruption and unethical practices that might separate families, once the adoption process *begins*, the law and public sentiment shift to favor the adoptive family.

Adopted children are thought to be adoptable orphans because of presumed voluntary (and "loving") consent by the mother, which has two related effects. It naturalizes the "clean break" while simultaneously erasing birth parents.[45] This was the circumstance that Harry Holt, founder of the Holt adoption program, articulated to a Korean birth mother who was distraught about her son being adopted: "I had to tell her it is a clean break and forever."[46] Adoption policy expert Adam Pertman notes that adoptive families have historically wanted to maintain a strict notion of family, helped by the "clean break," in order to be normal.[47] Adoption discourse helped assigned the label of "real parent" to adoptive parents in order to make adoptive families legible as legitimate families (see chapter 2). Adoptive parents have feared that bonds with their children might not be permanent, and one way to erase those insecurities was to "make their birth parent disappear," or "at least to turn them into lesser beings who couldn't possibly be the objects of anyone's desire."[48] State governments and adoption agencies have played an oversized role in both producing and catering to this complex fear and desire. By the

mid-twentieth century nearly every state had closed adoption records.[49] Scholars explain that the clean break in plenary adoption engenders a de-kinning process for birth/first mothers that justifies her "legal non-existence."[50] Anthropologist Claudia Fonseca argues that this process facilitates Western concepts "that children must belong wholly or even essentially to one (and only one set of individuals/parents)," and agencies promote such fictions by "administratively erasing all pre-adoption history."[51] Many adoptive parents have been explicit that the erasure of birth parents and family—along with the child being a "blank slate"—has been a primary reason why transnational adoption is more attractive than domestic transracial adoption.[52]

Together, the clean break process paired with racial discourse have enacted symbolic violence onto birth parents who are unable to signify "real" parent. This clean break has enabled the abject orphan to reemerge through adoption—by a loving White family to the United States—as a full subject, one whose ties to their past are severed, gaining a new life, identity, family, and nation. The clean severance is part of the neoliberal trade in transnational adoption of extreme loss for adoptees (identity, language, culture, history, and family) and birth parents in exchange for their "best interest" and opposite future. This is possible through configuring a totalizing and bleak outline of the orphan while completely ignoring the perspective of birth parents. The privileging of Western love provided by White American adoptive families discounts any love that orphanage workers, birth parents, or extended family may hold for the child.

One of Bartholet's contentions is that orphans are too young and irrational to understand what they need.[53] Legal scholar Lisa Myers states that they are the most vulnerable: "Many of the world's leaders, human rights organizations, and leading scholars have publicly recognized that international adoption often represents the only means of saving orphaned or abandoned children from lives of abuse, neglect, or exploitation" because they "represent the most vulnerable and innocent members of our global society."[54] Legal expert Elizabeth M. Ward adds that transnational adoption protects the human rights of children and prevents the abuses caused from trafficking, child pornography, child prostitution, and hazardous working conditions.[55] Thus advocates such as Myers and Ward, but especially Bartholet, take the mantle of speaking for the voiceless "orphans," which exemplifies what law professor Shani King calls "MonoHumanism." While at first glance "one humanism" seems to be an inclusive project, but King uses this term because it encapsulates the exclusive strategy of ethno/Eurocentric humanism. "What MonoHumanism represents, more specifically," King explains, "is the notion that the United States has substituted its own view of all non-American peoples or cultures for positive knowledge of them, facilitating the creation of the Western identity of self as the normative center. The narrative of identity that accompanies MonoHumanism subscribes both universality and superiority to Western knowledge and discourse, which effectively results in the exclusion and displacement of the knowledge and discourse of historically oppressed peoples."[56]

MonoHumanism mirrors transnational feminist of color Chandra Mohanty's description of Western feminism as Eurocentric. U.S. discourse centers the fact that Chinese girls were relinquished at incredibly disproportionate rates because of China's One-Child Policy and its favoritism of boys. Yet this ignores the role and existence of birth mothers (and parents) who in many circumstances wanted to keep and parent their children.[57] The self-referencing aspect of Western feminism ignores how the category of women is not universal because of the ways that the West narrowly defines women and women's issues.[58] The unequal power dynamics in transnational adoption illustrate how it is not just about race and class but an inherently feminist issue as well. Legal scholar Bernie Jones contends that transnational adoption "is predicated upon one woman's inability to mother her child and another's ability to take the child overseas and become a parent."[59] Human rights discourse has always been couched as a moral imperative to address global and social justice, inequality, oppression, and rights. Yet being "on the agenda" of human rights discourse has required victimization of the orphan and erasure of birth parents in order to gain political sympathy and action.

As the birth family is erased, the orphanage and the country of China are racialized as inferior and inept spaces. This racialization of space in relation to transnational adoption traces back to early "symbolic" adoptions from China in the 1940s and TNA from Korea (and later Vietnam) that portrayed these countries incapable of caring for their children. Such racial ideology was so prevalent that even alternative press perpetuated it. For example, in June 1973, an editorial by *The Chicago Defender* criticized the abscondence of responsibility for Black-Vietnamese children who were abandoned by their own mothers to "'a society where their color accentuates a traditional native hostility to racial mixture,' governed by an 'Oriental mentality' with a 'medieval concept of morality and ethnic purity.'"[60] Tied to racialized anti-Communist rhetoric, such stagnant and backward spaces could only try to respond to the needs of the child. They were incapable of anticipating and acting in the full best interest of the child, while transnational adoption, in contrast, demonstrated how the United States could transcend boundaries of race, nation, and culture. As English professor Christina Klein and historian Arissa Oh have each argued, this gesture of inclusion of Asian children into the U.S. national body politic, however, was necessarily premised on characterizations of the United States as morally, economically, and politically superior to China and Korea.[61]

In particular, discourse around the China adoption scandals placed the blame squarely on China, which had been transitioning to capitalism. Brian Stuy, a Salt Lake City adoptive parent to three girls from China stated: "It's a corrupt system. It's just so driven by money, and there's no check and balance to the greed."[62] Media stories about the scandal focused on corrupt Chinese government officials and the traffickers, largely ignoring the ways in which U.S. adoption agencies and families were implicated in the high-value market-based demand that has created incentive to boost the "supply" of "available" children for *foreign* parents in the United States rather than domestic ones in China.[63] This was in large part because the

United States interprets itself as a rule-abiding country. Adoptive parents rarely question where or how their required cash "donation" gets used, even though they know most of it does not go toward helping children.[64] As Smolin has noted, gifts and cash donations, regardless of intent, commercialize and commodify the adoption process, "illicitly inducing consent."[65]

The influx of capital via transnational adoption has led to numerous corruption and trafficking cases that have compelled countries to halt transnational adoptions, either temporarily or indefinitely. Typically, these suspensions happen on the sending side, but in 2021 the Netherlands halted all transnational adoptions after a damning report was published. It revealed "systematic abuse" and that the country continued with adoptions despite being aware of problems.[66] The issue is that receiving countries, adoption agencies, and adoptive families do not actually become illicit or unlawful, nor are they perceived as contributing to illicit adoptions (the Netherlands being a recent exception).[67] In other words, TNA hinges on accepting trafficking and illicit practices as normative or an unfortunate but not detrimental side effect. Children are "laundered" through the adoption process after suspect conditions of relinquishment.[68] Thus, although the Hague Convention states that every adoption case must consider the "best interest of the child," in U.S. legal discourse and practice of transnational adoption this decision has already been predetermined. China (and other Asian countries) are seen as spaces of immorality, ineptness, cultural backwardness, and/or Communism, while the United States, U.S. adoption agencies, and American adoptive parents are relinquished of culpability and instead viewed as actors and spaces of rescue and freedom from harm.

From the perspective of adoption supporters, the scandals that have plagued transnational adoption have only made the case for them stronger because their overall decline means fewer lives protected and saved. This has left us with a troubling gap between the theory of international adoption law embodied in the Hague Adoption Convention and its practice. Numerous scholars have written on how to "improve" the Hague Adoption Convention or prevent unethical adoption practices in order to follow the guidelines set out by it in the first place.[69] But as Smolin has maintained, the adoption industry is not self-regulating: "It seems clear that most of the parties involved in intercountry adoption possess strong motivations to favor even a systematically abusive adoption system over no system at all. Thus, international adoption is not a self-regulating or self-correcting system."[70] For example, during the 2006 hearing, U.S. officials argued against implementing the Hague Adoption Convention and fighting corruption because of the fear that it would inhibit transnational adoption. Senator Mary Landrieu (D-La.), in her testimony for that hearing, expressed frustration when the government overreacts, instituting additional barriers that ultimately harm children and adoptive families:

> Believe me, nobody wants to eliminate fraud more than our delegation, our whole caucus, but I want to say this for the record: When a bank is robbed in Chicago, we do not shut down the banking system. We go find the bank robber, and we put them in jail. Every time there is one stealing of a baby, or you know, one violation of a crime, everybody starts shutting down international adoption. And we don't realize, when they do that, they literally sentence children to death, literally. And they disrupt the lives of *thousands of good tax-paying church-going American citizens*. . . . And I'm going to fight against these closures that we keep going through, and we need to keep the system open, transparent, and it is a literal lifeline to children, and a happiness line for parents.[71]

Landrieu acknowledged the importance of preventing child trafficking and corruption but placed greater emphasis on the continuation of adoption, protection of adoptive parents, and the protection of the life, freedom, and happiness for the child. Similar to the language from the debates about the foster child, foster care, and domestic transracial adoption, these statements articulate Asian orphans as ultimate victims with a future in which they are "sentenced to death," while the white Christian American adoptive family simultaneously embodies the good ("tax-paying church-going") neoliberal subject, victim of regulation, and more important, the locus for the best future. Rather than taking seriously the fact that U.S. adoptions may facilitate child trafficking and corruption by its very global capitalistic nature, this material violence of familial separation induced by poverty, coercion, and misinformation is seen as a form of acceptable and even inevitable violence against birth families and children that is unfortunate but worth the costs.

Despite the rhetoric of "best interest of the child," transnational adoption discourse suggests that advocates are often fighting for the protection of adoptive parents rather than the most vulnerable ones. Significantly, lawmakers in the 1999 hearing failed to meaningfully discuss ways to keep Asian families together or facilitate domestic adoptions in the country of origin. Instead, they spoke about the need to protect adoptive parents. In his opening statement, House representative Bill Delahunt (D-Mass.) explained whom the Hague would benefit and protect: "U.S. ratification will signal our desire to encourage intercountry adoption and our commitment to creating a legal framework that will better protect *adoptive families* and their children."[72] Congressman Earl Pomeroy stated that in signing the Hague Adoption Convention, "the United States and over 60 other nations recognize the importance of international adoption" and the effort to protect "*adoptive families* from fraud and abuse."[73]

According to Congressman Richard Burr, the Hague Adoption Convention would enable greater efficiency for adoptive parents: "We are here today to discuss legislation that will make the process more transparent, more orderly, and less stressful *for those who want to provide* a child with nothing more than a loving home."[74] These statements underscore the role and importance of the adoptive

parents as rescuers who are in need of legal protections. Thomas Atwood, in his oral testimony for the 2006 hearing, explained the National Council for Adoption's "holistic" approach that recommended TNA as a "positive option for orphans, second in preference to timely domestic adoption, but to be preferred over domestic foster care, and group or institutional care."[75] Just as in the 1999 hearing, Atwood's scenario glaringly omits reunification with the birth family or keeping the birth family intact in the first place as priorities for the international communities. In both hearings, the orphan figure was an unquestioned given for which transnational adoption was seen as an inevitable solution and opposite future that would yield a better life and family.

OPPOSITE FUTURE NOT GUARANTEED

Thus far, this chapter has shown how the discursive and legal production of the orphan figure, birth and adoptive families, and sending and receiving nations has predetermined the answer for the "best interest of the child" test. Transnational adoption is supposed to be the legal and permanent transfer of child custody rights, where the adoptive family becomes the legitimate and better family and future. Yet transnational adoption, like all forms of adoption, is inherently attached to violence (see chapters 1 and 2). History has revealed how violence is not just a condition of possibility for transnational adoption but also an effect.

As many transracial and transnational adoptees contend with racism internally, within their family, or at their school or workplace, other adoptees face dire situations that produce adoption discontinuities such as abuse, rehoming, or deportation. Reuters published a five-part exposé in 2013 on unregulated custody transfer, also known as rehoming.[76] "Rehoming" is a term most often used for finding a new home for pets because the pet owner(s) are unable or no longer willing to care for them. But the Reuters story focused on families who had adopted children and were searching for new homes for them—in adoption world, this is known as dissolution. Reuters examined 5,029 posts from a five-year period in one Yahoo online group forum. "On average," the piece revealed, "a child was advertised for re-homing there once a week. Most children ranged from 6 to 14 and had been adopted from abroad—from countries such as Russia and China, Ethiopia and Ukraine." One parent advertised: "We adopted an 8-year-old girl from China. . . . Unfortunately, we are now struggling having been home for 5 days." An adoption agency posted: "We have a family that is no longer willing to parent their adoptive child from Asia and we are seeking a second family for him. His need for a new home is solely because of his adoptive parents' inability to attach to him (it is their first adoption), not because of any behaviors on his part." In another example, an adoptive mother wrote: "My husband and I are very carefully and prayerfully seeking a loving and nurturing family for our 14-year-old Vietnamese daughter who has been with us for almost a year. She

honestly is almost a model child. Excellent student and no major issues at home or school. The problem is not her; it is our family dynamic. My husband and I are older parents and we have totally different parenting styles that conflict and cause serious contention and a split in our home."

These hundreds of examples show that adoption, which is narrated as a new forever home, is not a predetermined opposite future for transnational adoptees (who made up the majority of rehoming postings despite there being fewer transnational adoptions versus domestic ones). In addition to the flippant nature in which these adoptions were being treated, the other concerning aspect was that rehoming oftentimes involved complete strangers without court or child welfare oversight. This meant no background checks, home study, preadoptive training, or postadoption checkups. The ease in which people (many of whom were denied adoptions through the formal process) can attain children via rehoming has led many children to be subjected to serious physical, sexual, and/or emotional abuse by the new parents or other children in the new home. The *Reuters* exposé shows the multiplication of violence perpetrated by both the original and the new adoptive families who participated in illicit adoptions and family-making and unmaking.

Another form of violence includes the deportation of noncitizen transnational adoptees. Prior to 2001, families who adopted from another country were advised to naturalize their child so they would gain citizenship, but thousands of families failed to do this. While the exact number is not known, the Adoptee Rights Campaign estimates tens of thousands of adoptees were not naturalized and are therefore without citizenship.[77] The legal conundrum was caused by the passage of two federal laws on criminalization and anti-terrorism passed under President Bill Clinton in 1996, where he (again) worked with Republicans in an attempt to prove that he was tough on crime.[78] Together, the laws expanded the definition of aggravated felony and crimes of moral turpitude to include many nonviolent offenses. Noncitizens convicted of crimes that carry a one-year sentence or $1,000 fine could now be deported with no room for judicial discretion. The laws applied retroactively, so individuals could be deported even after serving a sentence.

Caught between these overzealous laws and the failure to be naturalized, dozens of transnational adoptees have been deported to their country of birth, sometimes for minor offenses such as writing bad checks and burglary. They have been torn apart from their family for a second time. In this instance they are separated from their adoptive families and sent to a place where they have little to no memory and do not know the language. In some of these cases, adult adoptees have had adoptive parents who have passed away, abused them, or abandoned them through a disrupted adoption. In one case John Gaul III, adopted from Thailand when he was four years old, realized he was not a U.S. citizen. Upon this revelation, his adoptive parents immediately submitted a naturalization application, but

Gaul was convicted of automobile theft and check fraud. He spent twenty months in prison and was deported back to Thailand in 1999.[79]

As a solution to such deportations, Congress passed the Child Citizenship Act of 2000 (CCA), which conferred automatic citizenship to adopted children.[80] Congress, adoptive parents, and the media all celebrated this significant legal dispensation of political rights for adoptees. It was a liberal gesture of inclusion, equality, and love for an estimated 150,000 adoptees who became "overnight citizens."[81] Yet, as critical adoption studies scholars Eleana Kim and Kim Park Nelson have noted, the legal and cultural citizenship that adoptees gained was "related to their adoptive parents' racialized privilege as a predominantly white group of U.S. citizens."[82] Moreover, the new law only applied to children who were under 18 years old and to new adoptions. While the original version of the bill would have been retroactive, the final bill was not. Thus citizenship was not given to adoptees over the age of 18. With the CCA age limit in place, dozens more adoptees were deported after 2001. Kairi Abha Shepherd, who suffered from multiple sclerosis and was raised by a single adoptive mother who died from cancer when she was eight, was deported in 2012 to India for writing bad checks.[83]

Another stark example involved Adam Crapser. He and his biological sister were adopted from Korea to Michigan but were physically abused by his adoptive family, who later dissolved their adoptions. After staying in multiple foster homes, he was adopted again, this time by the Crapsers, an Oregon couple who had multiple adopted and foster children at the time. Similar to his first adoptive home, Adam was again abused. The Crapsers were later charged with 34 counts of child abuse, rape, sexual abuse, and criminal mistreatment. After being kicked out of the house, Adam broke into the Crapsers' home to retrieve the few things from his Korean past—his shoes and Korean bible. He was arrested and pled guilty to burglary, leading to 25 months in prison, which was more than 8 times the length that Thomas Crapser, his abusive adoptive father, served. Adam's legal troubles continued after convictions for unlawful firearm possession and assault.[84] After living in the United States for 40 years, being married, and having 3 children, he was deported in 2016.

Just as the rehoming cases showed, the deportation cases underscore the violence of love. What is meant to be a forever home can wind up being a "return to sender" because harsh and restrictive U.S. citizenship, immigration, criminalization, and anti-terrorism laws. These laws produced the "illicit adult adoptee," a racialized undocumented immigrant without rights whose crimes deemed them deportable. Yet similar to trafficking and corruption cases, rehoming and deportation cases elucidate how adoptive families have elided representations of being illicit precisely because transnational adoptions are so predominantly imagined as an opposite future. They mirror the countless other cases in which transracial/transnational adoptees have experienced adoption discontinuities—where adoptees experience different forms of "permanency ruptures" such as no longer living

in the adoptive home or connected to the adoptive family—because of alienation, racism, neglect, abuse, dissolution, and/or murder.[85]

CONCLUSION

In tracing the representational configuration of the orphan, family, and nation, I have tried to show both the conditions and violence required to make a transnational and postracial family. As the *Harry's Law* episode "American Girl" shows, transnational adoption is complex. It can be loving and violent at the same time. Nevertheless, the show also reconfirmed what we already knew: the United States and the American family constitute the privileged space and actor in transnational adoption. Even though international law (the Hague Adoption Convention) was supposedly on the side of the birth parents, Mr. and Mrs. Chen, the national law (in this case the judge) reinterprets the "best interest" for Lee, the young child at the center of the case. Just as the episode title suggests, Judge Seabrook confirms that Lee's status should remain "American" because U.S. representation deems China and even her birth parents as unable to provide her a full life and meet her best interest. Indeed, the "loving" possibility of returning to her birth parents—that is, a nonadoptive future—is imagined as traumatic, providing another example of how the birth parents and country of origin are constructed as uncertain and violent spaces. This example—and we can look back to Operation Babylift (see chapter 1)—helps us understand how law and representation, especially cultural and racial ones, work to make legible and illegible subjects, families, and nations.

This chapter is not a claim that a thing such as orphan does not exist or that change and action are not needed. While there is some truth to the idea that children who are adopted domestically or abroad may have better chances of not experiencing certain types of harm, the unquestionable certainty of a full life is not actually guaranteed because of various types of violence that follow adoptees or emerge after the act of adoption (e.g., abuse, neglect, racism, alienation, rehoming, murder, deportation, etc.). The point here is that it is important to examine how orphans are made legible and desirable. The unidirectional flow of children as orphans, who are conceived as objects of rescue, from Asia (as well as Africa, Latin America, the Pacific Islands, and the Caribbean) to the United States, Canada, Australia, and northern and western Europe has matched the selectively porous neoliberal borders that have enabled capital and trade to cross but remained closed for "ineligible" (im)migrants. Transnational adoptees raised by White families can theoretically assimilate and/or become American, but for other immigrants the border is an "abjection machine" that transforms people into abject subjects such as "alien" and "illegal."[86] The conferral of automatic citizenship for immigrant transnational adoptees through the CCA highlights the unequal access to movement and rights. These "orphans"—whether legally or unlawfully produced—become the objects of high demand and emerge as an instrument of the state to promote

specific families (over and against illegitimate foreign parents) and represent the "liberal" nation.

Furthermore, birth parents are erased so that the child can be a detached and freestanding orphan. And while orphanage and institutional care can be dire places, Bartholet's imagery and narrative leaves no space for children and caretakers to inhabit what ethnic studies scholar Yến Lê Espiritu has termed "the politics of living." For Lê Espiritu, who is thinking in the context of refugees, the politics of living centers "everyday forms of human experience and adaptation" and considers "how do refugees imagine and build a home—a refuge in the midst of confinement?"[87] I would add to this, How do orphans (if they're orphans at all) imagine and build a home in the midst of an institution like an orphanage? This is not to romanticize orphanages because they are problematic, can be corrupt, and often contribute to the problem.[88] Rather, it is to highlight how transnational adoption and human rights discourse do not allow "orphans" to be subjects who might eventually assert their agency through acts of care, love, labor, resistance, memory, and survival.[89] Instead, they can only be understood as abject racial objects of rescue whose only chance at full life is through transnational adoption. In other words, why is it that "universal subject" can only be universal in the geography of the United States and through adoption by a White family? Why not imagine, support, and enact policies that would enable children and families to thrive where their families and communities already exist?

The dramatic decline in transnational adoption does not necessarily represent a turn in social beliefs about adoption—that is, that transnational adoptions might be unethical. Historically, the adoption industry has merely waited for a new market (country) to open, thereby providing more opportunities to engage in unethical practices inherent in the global exchange of capital and human beings. This time, it may need to wait longer than usual. The decline has shown the ways that money played a role in the transnational adoption industry. Agencies have chosen to shut down programs because it is too costly to be accredited.[90] This shift is being represented as inevitable harm. Bartholet, again as a representative voice who is always cited in news stories about adoption, stated: "That drop-off represents the tens of thousands of kids every year who used to get loving, nurturing homes and now aren't getting them. I think it's rank hypocrisy to talk as if these [restrictions on adoptions] are justified in terms of the child's best interest."[91] For Bartholet the idea of decreased transnational adoption can only mean one thing—harm—rather than recognition that many sending countries have created new social support and infrastructure to facilitate domestic adoptions. Throughout the 2010s mainstream media reported on this decline. One such article ended with a quote from Jay, an adoptive parent, that rehearsed the opposite future narrative: "Those of us who have seen the conditions in orphanages abroad know what's at stake here. The difference between a family and an institution for many children is literally the difference between life and death."[92]

I conclude this chapter with a caution about domestic adoption. Although for many—on all sides of the debate—domestic adoption is a better option than transnational adoption, the former does not come without its own problems. The U.S. Supreme Court's overturning of *Roe v. Wade* in 2022 and subsequent claims by Justice Samuel Alito and other adoption supporters that adoption is a preferred alternative to abortion highlights how adoption has been deployed by many Christians.[93] Despite the "compassionate conservative" Christian adoption movement that has centered orphan care, the push by Christian antiabortion activists (sometimes who are one-in-the-same with the former) for forced birth, relinquishment, and ultimately adoption in the United States cannot be detached from larger efforts to control gender, sexuality, and morality through the punishment of "immoral" and "sinful" sexual activity.[94] Similar to repeated Christian civilization projects, adoption has become an avenue to Christianize children who would otherwise be terminated during pregnancy or be raised by presumptively non-Christian parents of disrepute—or as journalist Kathryn Joyce has stated, Christian adoption is "effectively saving [orphans] twice."[95]

The issues that families in other countries are facing are similar to the issues that parents, and especially poor, single mothers (of color), face in the United States: lack of financial and social support to care for their own children. Thus, while the shift to domestic adoption in historically sending countries is viewed as promising by many, others argue that we must reimagine care all together. Chapter 5 explores how race and the law intersect with the adoption of Native American children.

5

Eliminating the Native and the Privileging of White Rights in *Adoptive Couple v. Baby Girl*

In early 1970, even before Cheryl Spider DeCoteau's son, Robert Lee, was born, a welfare officer of Roberts County, South Dakota, asked if she would give her son up for adoption, suggesting that she was a bad mother and her child would be better off in a White adoptive home, but she said no. The welfare officer visited DeCoteau weekly with continued pressure for her to relinquish her son for adoption. Following Robert's birth, the social worker persisted again, but DeCoteau rejected his requests. On a visit to DeCoteau's home, the social worker demanded that she come to the office to talk. When DeCoteau and her son arrived, the social worker asked her to sign papers but did not explain what or why DeCoteau was being asked to sign them. While this happened, a different social worker took Robert to another room. DeCoteau was then informed that she had signed papers to relinquish her son for adoption, at which point Robert was immediately taken to a local non-Indian foster home. Within less than a year DeCoteau's other son, John Spider, was also taken from her without notice while he was at a babysitter's house.[1]

DeCoteau's experience was just one of the thousands of instances where Native American children were removed from their families and homes to be placed in boarding schools, foster homes, or up for adoption. By the 1970s an estimated 25–35 percent of Native children had been separated from their families. As historian Margaret Jacobs has noted, the breakup of Indian families is a "defining feature of modern Indian life."[2] DeCoteau's story, along with many others, moved Native activists, leaders, and organizations to resist child removal and family separation. They pushed Congress to pass of the Indian Child Welfare Act (ICWA) of 1978, which created "minimum Federal standards" to "protect the best interests

of Indian children and to promote the stability and security of Indian tribes and families" by giving Tribes authority over child welfare cases.[3] ICWA was seen as a turning point to nearly a century of violent settler colonial policies. The rights of Indigenous children and Tribes were significantly affirmed later in the 1989 Supreme Court case *Mississippi Band of Choctaw Indians v. Holyfield* and in the 2007 creation of the UN Declaration on the Rights of Indigenous Peoples.[4] Together, these three legal "victories" pushed back against the notion that Indigenous child removal was a priori a better future. Despite ICWA being considered the "gold standard" in child welfare, however, the optimism generated by these advances was and continues to be suppressed by repeated stories of indigenous child removal that affect Indian families and communities today.[5] Nearly 40 years after DeCoteau's experience, another Indian child became the center of a legal custody battle that reached national news and the U.S. Supreme Court in *Adoptive Couple v. Baby Girl* (2013).[6]

The more than half-a-century practice of White families adopting Indian children has been categorized as transracial adoption, but what happens when we consider them transnational too? This chapter begins with the premise that Native American Tribes are separate and self-determined political entities.[7] Rather than questioning the existence of Native rights, I ask, How is Whiteness interpreted and White group rights formulated in *Adoptive Couple v. Baby Girl*? Discursive, ideological, and legal mechanisms, historically and in the present, have enabled the forcible removal of Indigenous children from their families, homes, and Tribes into not just non-Indian but specifically White homes. I examine the ICWA statute's text, court proceedings and decisions, and media accounts of *Adoptive Couple v. Baby Girl*. Racial, gendered, and settler colonial logics have not only shaped dominant ideas of Indian parenting, Indian families, and sovereignty but also futurity and group rights through Whiteness. The confluence of race, gender, settler colonialism, and the logic of elimination, as well as shifting manifestations of liberalism, have worked in concert to privilege White adoptive parents over and against Indigenous parents and Tribes.

Together, these logics of settler colonial White supremacy and heteropatriarchy have posited the former an "opposite future"—a spatio-temporal belief—where White American adoptive parents and homes are imagined as loving, safe, and moral while Indigenous parents, Tribes, and the reservation are represented as backward, abusive, neglectful, and absent—not only in the past and present but also in the predetermined future. Indeed, the removal of Indigenous children and their placement into White adoptive (or foster) families has been a form of liberal inclusion that utilizes, among other strategies, assimilation, rescue, and color-evasive ideology to eliminate Native presence and claims to their children, families, land, and sovereignty while simultaneously bolstering Whiteness. At stake is the future of Indigenous children and families, and who gets to make decisions about

them. In a long postscript at the end of the chapter I analyze the recently decided *Haaland v. Brackeen* (2023) case.

ELIMINATION THROUGH ASSIMILATION

The formation and endurance of the United States have in part been founded on the settler colonial myth that America was a vast, empty land—one that, despite the myth, required violent colonization, dispossession of land, and genocide of and against its Native inhabitants. Physical (as opposed to cultural) genocide against Indigenous peoples was a primary means for what historian Patrick Wolfe has called the logic of elimination; although he also notes that assimilation can be even more effective because it does not blatantly affront the notions of modernity and the rule of law.[8] Wolfe's concept of the logic of elimination helps us understand settler colonialism as "a structure not an event," where "elimination is an organizing principle" that spans time.[9]

In the late 1800s the U.S. government faced constant resistance from Indigenous Tribes. It recognized that their presence posed a threat to White settlers' territorial and resource claims and thus enacted new laws and policies such as the General Allotment Act of 1887 and blood quantum requirements to promote elimination through assimilation.[10] Boarding schools were another prominent example of assimilation. Ojibwe scholar Brenda Child has described the institution of boarding schools as "symbolic of American colonialism at its most genocidal."[11] Liberal White reformers from the late nineteenth century believed that the "only way to save Indians was to destroy them (culturally), that the last great Indian war should be waged against children."[12] Boarding schools, and policies such as the Dawes Act and blood quantum, became a popular and cost-saving biopolitical technology of power as the U.S. government strategy shifted from elimination via war to cultural decimation and assimilation. With significant assistance from religious institutions, the U.S. government operated at least 408 boarding schools on and off the reservation for Native American, Alaskan, and Hawaiian children.[13]

Tens of thousands of children attended on- and off-reservation boarding schools as well as day schools, the latter which also numbered in the hundreds. By 1920 nearly 28,000 Indian children were enrolled in such institutions, which accounted for 70 percent of all Indian children.[14] Informed by settler colonial and heteropatriarchal logics, boarding schools required Indian children to learn English, take on Anglo names, convert to Christianity, and adopt White American culture—including gendered labor and styles of dress—that they would then pass on to their children.[15] Rules prohibited the use of Native languages and cultural practices. Physical and emotional abuse were rampant, especially as punishment for breaking the rules, as was sexual abuse. Many children suffered malnutrition and disease, leading to hundreds of deaths.[16] If and when children did return to reservations, they often lacked traditional cultural knowledge to assist their families, resulting in shame and self-hatred.[17]

By the mid-1950s and 1960s boarding schools significantly declined as they became economic burdens; thus government officials used adoption into non-Native homes as the new strategy of assimilation and privileged solution to Indian poverty and their "non-normative" kinship structures.[18] According to Jacobs, post–World War II liberalism was different from earlier liberal interventions based on the "uncivilized savage." Instead, it was dependent on racial and gendered stock figures of the "forgotten Indian child, the unmarried Indian mother, the deadbeat Indian father, and the deviant Indian family."[19] News media representations of Indian children reconstructed them as "adoptable" and shifted to notions of sentimentality, intimacy, and family-making that were previously afforded only to White children.[20]

In 1958 the U.S. Bureau of Indian Affairs, the U.S. Children's Bureau, and the Child Welfare League of America joined forces to launch the Indian Adoption Project (IAP). The ten-year project placed 395 Native American children in White adoptive homes as a means of assimilating and civilizing them while simultaneously terminating Tribes.[21] Thousands more Indian children experienced unwarranted, coercive, and disproportionate removals and were placed into non-Native families with its successor, the Adoption Resource Exchange of North America, as well as through private agency adoptions and other local initiatives.[22] There were never systematized efforts to track these adoptions, but an IAP progress report indicated that in a two-year period between 1962 and 1963 there were 1,281 adoptive placements.[23] In addition, between 1959 and 1976 at least 12,881 Native American children were adopted by non-Native families.[24] Underscoring the devastation of these programs, a study by the Association on American Indian Affairs found that between 25 percent and 35 percent of Indian children were removed from their families and placed in foster homes, adoptive homes, or institutions.[25] Such adoptions by heteronormative White families were framed as liberal acts of reconciliation, humanitarian rescue, and love.[26] White care through both boarding schools and adoptions was one of the primary social, political, and intimate solutions to the "Indian problem."[27] They highlight the violence of love in adoption, where adoption is informed by "loving" discourse and acts by individuals, agencies, and state officials but that different forms of structural, symbolic, and traumatic violence are simultaneously attached to the practice. In addition, they underscored the overlapping and divergent ways in which the structure of settler colonialism, the logic of elimination, and heteropatriarchy through assimilation were mobilized.

CASE BACKGROUND AND THE COURT RULING

The Indian Child Welfare Act was the legal response by Native American activists and Tribes to Indian child removal. The controversy surrounding the law reached a high point in *Adoptive Couple v. Baby Girl* (2013). The case involved an Indian father, his then fiancé, their child, the father's Cherokee Tribe, and an adoptive couple. In 2009, Dusten Brown was a soldier in the U.S. Army and stationed in his

home state of Oklahoma when Christina Maldonado, his fiancé at the time, became pregnant. Brown wanted to change their wedding date to before his deployment so they could receive military benefits, including health care. Maldonado ended the relationship and, in June 2009, gave him the option via text message to pay child support or terminate his parental rights. Brown chose the latter because of his imminent deployment and worries that he might not return from Iraq.[28] He had hoped the threat not to pay would encourage her to reconsider marrying him. Brown also thought that he could remain in the child's life even if Maldonado had full custody, as he was unaware of her plans to place the baby for adoption, insisting that if he had known, he would not have relinquished his parental rights.

Struggling financially, Maldonado connected that month with Nightlight Christian Adoption agency, which paired her with Matt and Melanie Capobianco of South Carolina, who had unsuccessfully tried in vitro fertilization seven times. Melanie, who held a PhD in developmental psychology, and Matt, a Boeing automotive technician, provided Maldonado with significant financial support during the pregnancy and were there at the birth of Baby Veronica. Maldonado was aware of Brown's Indian heritage and knew that it could have some impact on the adoption. On August 21, 2009, before Veronica's birth, the adoption attorney wrote Cherokee Nation a letter to notify the Tribe, to inquire about Brown's probable status as an Indian father, and to ask if it objected to the adoption by non-Indian parents. The letter stated that "[Maldonado] believes the father has no objection" even though he was unaware of the adoption.[29] The letter, however, misspelled Brown's first name and gave an incorrect day and year for his date of birth. Hence, Cherokee Nation responded that it could not find records of Brown's enrollment. Veronica was born one month later, on September 15, where shortly after, the Capobiancos took her to South Carolina and filed for adoption.

Four months after Veronica's birth and days before Brown was to be deployed, he was served and signed papers in a parking lot for what he thought was the relinquishment of parental rights. After realizing that he had just consented to the adoption, Brown tried to "grab the paper" back but was told he would go to jail if he did.[30] He claimed that had he known this was Maldonado's plan, he would have never relinquished his parental rights. Upon realizing this and that Maldonado had misrepresented Veronica's Native heritage, Brown contested the adoption and hired a lawyer. They argued that the adoption violated the Indian Child Welfare Act because neither Brown nor the Tribe was properly notified of the adoption, a requirement of the law. The South Carolina family court stayed the adoption proceeding during Brown's deployment. Thus Baby Veronica remained with the Capobiancos until she was 27 months old. In November 2011, after Brown's return to the United States, the family court ruled that the adoption had violated various provisions of ICWA regarding involuntary termination of parental rights.[31] The court denied the adoption petition and ordered Baby Veronica to be returned to Brown with the transfer of custody happening in December, one month later.

After losing custody of Veronica in the family court, the Capobiancos appealed by claiming Brown had no right to invoke ICWA because he never had custody of her. Therefore, there was no Indian family to protect. In June 2012, however, the South Carolina Supreme Court affirmed the lower court's decision. It too found that "Cherokee Nation is an 'Indian Tribe,' Baby Girl is an 'Indian Child,' and Father is a 'parent' as prescribed in the ICWA."[32] Both courts added that in addition to the father not consenting to the adoption, two sections of ICWA were not satisfied. The first requires providing remedial services to "prevent the break up of the Indian family," and the second states that termination of parental rights necessitates evidence beyond a reasonable (in the form of testimony by expert witnesses) that the continued custody of the child would likely "result in serious emotional or physical damage to the child."[33] Lastly, the South Carolina Supreme Court argued that even if Brown's parental rights had been terminated, that should have triggered another subsection, 1915(a), which establishes a hierarchy of preferences for adoption placements.

The Capobiancos appealed again, and in June 2013, when Veronica was nearly four years old, the U.S. Supreme Court overruled the lower courts in favor of the adoptive parents and remanded the case back to the South Carolina Supreme Court, which approved the finalization of the adoption.[34] Associate justice Samuel Alito, writing for a five-member majority, argued that the ICWA is not applicable when "the parent abandoned the Indian child before birth and never had custody [legal or physical] of the child" during the time of the adoption proceedings. It also stated that the placement preferences in subsection 1915(a) "do not bar a non-Indian family like Adoptive Couple from adopting an Indian child when no other eligible candidates have sought to adopt the child."[35] The case garnered national and social media attention, most of which supported the Capobiancos and criticized Brown as a delinquent parent and ICWA as an antiquated, even racist, law.[36] The case is important because it raises significant concerns about tribal sovereignty and the meaning of being "Indian." Close examination reveals that underlying the wrangling over legal definitions of an Indian child, Indian parent, custody, and the intent of ICWA exist the racial and gendered notions of Indianness, the unmarked notion of Whiteness, as well as the structure of settler colonialism and the logic of elimination. Together, these elements dictated who was considered the better family and future for Veronica and whose rights mattered the most.

(RE)DEFINING INDIAN FAMILY, BETTER PARENTS, AND OPPOSITE FUTURES

Brown was without a doubt the father of Veronica; his status as a noncustodial parent was a primary matter of contention. By ICWA and Cherokee definitions, he was unquestionably an enrolled tribal member *and* Indian parent, and Veronica was an Indian child.[37] Lisa S. Blatt, an attorney supporting the Capobiancos, argued otherwise. She based her argument on the claim that Brown did not have

"continued custody" of the child, a phrase in one of the questioned provisions of ICWA. For Blatt, Brown was merely a sperm donor: "The only relationship the dad had is one of biology. . . . He has a biological link that under *State law* was equivalent to a sperm donor. . . . [Therefore] there is no Indian family. . . . [T]he only stranger in this case was the birth father, who expressly repudiated all parental rights and had no custodial rights."[38]

According to Blatt, Brown did not have parental rights or custody under state law, only a biological tie. Multiple justices reminded Blatt that this was a federal statute and that Brown was an Indian parent by ICWA's standard. Still, the Supreme Court agreed with Blatt that parenthood was attached to custody. Since Brown did not have custody, he was not a true parent with rights. ICWA was enacted to prevent the breakup of Indian families, not help create them. Consequently, there was no "ongoing" Indian family to break up.[39] This settler colonial interpretation of kinship disregards the Indigenous characteristics of kinship. For example, Cherokee scholar Daniel Heath Justice has argued that "kinship is best thought of as a verb rather than a noun, because kinship, in most indigenous contexts, is something that is *done* more than something that simply *is*."[40] Indeed, Brown was doing what he could to regain his parental rights. Yet Blatt's argument was similar to the "existing Indian family exception" (EIFE), which was a made up and now dying legal doctrine—in that there was no such language in ICWA—first established by the Kansas Supreme Court in 1982 to justify the disregard of ICWA in cases where there was no "Indian family" to break up or protect. The EIFE "doctrine" evolved to include many requirements for ICWA to "properly" apply, such as custodial relationship, heterosexual marriage, domiciled on the reservation, and cultural litmus test.[41]

Yet custody should not have mattered in this case as Congress enacted ICWA precisely to protect Indian children, parents, and Tribes regardless of custodial status. History has proven that state social workers too often misinterpreted situations in which Indian parents who relied on assistance from "noncustodial" extended kinship care as neglectful. Furthermore, as Jacobs has explained, local, state, and federal officials contributed to the fabrication of the "unwed Indian mother problem" that became concretized despite no statistical evidence. After creating a problem that did not exist, adoption was presented as the solution to stubborn dependence on the federal government. Officials targeted unmarried mothers on and off the reservation with little care for preserving and reuniting Indian families. They disregarded customary (non-state-sanctioned) marriages and disparaged traditional Indian family structure that included extended family (rather than placing sole value on the nuclear family) as harmful to the future of Indian children.[42] In essence, the separation of Indian families was a biopolitical project informed by settler colonial and heteronormative pretexts that made Indian children "adoptable" (and thus "thrive") while letting Indian families be destroyed.[43]

The inability of state and social workers to make ethical evaluations in these contexts is precisely why ICWA offers a federal definition of "parent" that is uniform

and broad as to protect *any* "parent" of an "Indian child" without reference to (or requirement of) custodial status or state law.[44] Indeed, ICWA affords Tribes "exclusive jurisdiction" over "child custody proceedings." Since Veronica is an Indian child, Brown is an Indian parent, and termination of parental rights falls under child custody proceeding, Brown's custodial status should not have mattered to ICWA. As associate justice Sonia Sotomayor noted in her dissent, "continued custody," only mentioned twice in the entire law, is "pluck[ed]" from the middle of the statute, in the last clause of the questioned subsections.[45] Sotomayor contends that ICWA applies to all child custody proceedings involving foster care placements, termination of parental rights, pre-adoptive placements, and adoptive placements. Termination of parental rights in particular means "any action resulting in the termination of the parent-child relationship."[46] Thus, according to Sotomayor, since Brown is a parent, his parent-child relationship should be protected. For her, the majority's selective and backward reading determines that a noncustodial family bond is not worth preserving, undercutting the explicit definition of parent under the law such that (Indian) parents are only guaranteed *procedural* protections while *substantial* protections are reserved for the subset of parents with custody.[47]

For those with the majority decision, this is how the law should be interpreted even though earlier subsections of ICWA give birth parents explicit rights to be notified of an adoption, represented by an attorney, have access to records, have court-witnessed consent, and, most important, the ability to revoke consent at any time for any reason prior the finalization of an adoption. Contrary to the majority's opinion, all these rights show that Congress intended parents to have "meaningful participation" during the involuntary termination of parental rights and the power to maintain family ties.[48] Thus the triumvirate of "continued custody," "ongoing" Indian family, and their close relative "existing Indian family" is part of a smoke screen to undermine Indian families and Tribes. Blatt's reduction of Brown to merely "biological" connections detaches him from the concept of the parent, leaving only one suitable alternative: the (prospective) adoptive parents. Imposing a custodial prerequisite when none is required demonstrates White heteronormative and neoliberal logics at play for the adoptive parents, adoption and appellate attorneys, and the Supreme Court of the United States (SCOTUS) that worked to negate the collective political rights of Tribes to self-determination.[49]

In addition to twisting the definition of parent and family, this case reveals other intersecting racial, gender, and settler colonial logics at work. The SCOTUS decision prompted a remanded South Carolina Supreme Court ruling, which decided in favor of the Capobiancos. However, Brown *kept* Veronica in hopes that there would be other legal options in the Oklahoma court system. Melanie Capobianco, in a statement to the media, employed one of the most problematic depictions of Brown that indirectly drew from the classic American West captivity narrative genre:

> Why have you been so slow to recover a child who is being illegally held against the wishes of her parents and the courts? What are you waiting for? With every passing hour, we fear more and more for her safety and well-being. If anything should happen to our daughter while she is being left in the hands of those who hold her captive from us, the responsibility will be shared by many. . . . Our daughter has been kidnapped and I expect the situation to be treated as such. If this doesn't happen, I will be boarding a flight to Oklahoma today and I am coming to get my daughter. I expect her bag to be packed and that she will be ready and waiting to come home. I expect Oklahoma law enforcement to escort me to the premises where my daughter is said to be held currently and if necessary, arrest anyone who attempts to hold her captive.[50]

Jessica Munday, the spokesperson for the Capobiancos, added that the lack of an Amber alert was "a slap in the face to every adoptive parent in America."[51] These messages were on top of the already existing Save Veronica website and petition that garnered more than 30,000 signatures. Taking her cue from the Capobianco public relations machine, Maldonado deployed similar language, describing the situation as kidnapping in her *Washington Post* opinion piece.[52] The captivity narrative is a well-rehearsed storyline within American West literature that relies on extreme racial, heteronormative, and settler colonial imagery, where a savage Native American man or entire Tribe captures a hapless White woman or cruelly tears apart a family by taking a child, who must then be saved by the White male protagonist(s).[53]

While unadulterated violence against the captive is a primary anxiety in such narratives, there is also the fear of illicit interracial intimacy for White women or the future adaptation by the White child.[54] The settler colonial captivity narrative, however, only resonates to a certain extent because in this case, the captive is a brown Indian girl, not a White woman. This case represents both specific (settler) and wider colonial contexts. As postcolonial scholar Gayatri Spivak has noted, the liberal colonial impulse centers on "white men . . . saving brown women from brown men."[55] Combining colonial desire with the captivity narrative yields an updated spin on Spivak's observation, where we have White (adoptive) families and nations saving brown babies from brown men, families, and nations. The utilization of these tropes by multiple actors garners favor from the public by asserting White innocence and Native criminality. As Figure 6 shows, the media and public were typically quick to side with the Capobiancos, portraying them as the victims. It ignores the ways in which the adoption was a form of captivity by the Capobiancos. When captivity occurs in reverse—Native peoples being captured by settlers—it has historically been celebrated as a form of assimilation, as in the case of Pocahontas by the Virginia Company.[56] For the Maldonado and the Capobiancos, the pre-adoption process began with numerous instances of nondisclosure, deceit, and misinformation that tried to circumvent ICWA—enacted precisely to undo the immeasurable harm caused by settler colonialism—and general guidelines of best practices in adoption.

FIGURE 6. Matt and Melanie Capobianco hold a framed picture of Baby Veronica; from a news article titled "Supreme Court agrees to hear 'Baby Veronica' case." Photo credit: *Charleston City Paper*.

In a multifaceted way Maldonado thoroughly concealed all adoption plans from Brown. In the letter to Cherokee Nation, her adoption attorney conveniently misspelled Brown's name and gave an incorrect birth date, ultimately enabling Maldonado to mark Hispanic for Veronica's heritage. This allowed the adoption to be "unencumbered" by ICWA and the Capobiancos to remove Baby Veronica from Oklahoma to South Carolina. After the Capobiancos took Veronica, Brown was only notified of the adoption in a parking lot, where he mistakenly signed his rights away one week before his deployment. Every subsection of ICWA that enumerates explicit rights to be, for example, notified of an adoption, represented by an attorney, have access to records, have court-witnessed consent, and have the ability to revoke consent at any time for any reason was ignored. Together, all these actions and inactions inhibited Brown and the Tribe from intervening.

An amicus brief submitted by 18 national child welfare organizations, including the Child Welfare League of America, argued that the "heartbreak" caused in this case was the direct "consequence of petitioners' adoption agency's circumvention of [ICWA]. . . . and failure to adhere to best practices."[57] Still, the deception and misconduct by the appellants were never points of concern for SCOTUS's majority decision. Unethical practices such as these are far from uncommon in adoption, especially for transracial and transnational placements. In fact, the legal system (under the International Adoption Convention or the Immigration and Naturalization Act Regulations, for example) allows for transnationally adopted children to remain in the receiving country even when minor procedural or legal improprieties are discovered.[58] While the Capobiancos and their spokesperson, Jessica Munday, fiercely portrayed Brown as a kidnapper who would only in time harm the "Capobiancos' child," one could easily question how this term might be more accurately applied to the Capobiancos.

For the Capobiancos the captivity narrative language depicts them as loving, unconditional, determined, and better parents. Countless news stories and the case syllabus highlighted the fact that the Capobiancos were present for Veronica's birth and that Matt Capobianco even cut the umbilical cord. For many supporters of the Capobiancos, including Justice Alito in his majority opinion, they "were the only parents [Veronica] had ever known."[59] As the Save Veronica website stated, being with the Capobiancos meant that Veronica would be "loved, nurtured and provided a happy, healthy home full of opportunity" that would "ensure the best life possible."[60] This formulation of not just good or better but as the *only* family for Veronica worked to erase her Native identity even though Veronica had already lived with her father for more than a year. I situate this captivity statement as a statement of "love," but in unpacking the racial, gendered, and settler colonial logics attached to it, we see how "love" is deployed to enact representational violence of who were the better parents and future.

Beyond the captivity narrative imbued upon this case, the teleological presumptions surrounding adoption reveal the additional intersection of class, capitalism, and gender—particularly, notions of proper motherhood. *Adoptive Couple v. Baby*

Girl may at first glance appear to align with feminist ideals based on the fact that Maldonado ultimately had the right to choose what she thought was best for her and her child. Adoption's relationship to gender and social equality, though, is much more tenuous. Adoption policy and practices have in general facilitated the reduction of support for single women and birth families while propping up the heteronormative ideal of marriage as well as the adoption industry (see chapter 3). Examples include welfare reform, the Adoption Tax Credit, federal adoption laws that promoted faster adoptive placements and shorter time to reunify families, and pregnancy crisis counseling that pushes mothers toward adoption rather than supporting them as possible parents.[61] The Adoption and Safe Families Act in particular was created without meaningful input and consideration of how it would align with the Indian Child Welfare Act and the ways it would affect Native families.[62] Policies and practices such as these support *a very specific choice* for single mothers—that of adoption. Choosing otherwise results in shame, being labeled a bad mother, and not receiving needed financial support. All the while, adoption regulations such as ICWA, as well as birth fathers in this case, are seen as foils to loving adoptive couples (and stepparents), who would be able to transform an illegitimate child into a proper one through adoption.

The adoption of Indian children follows what feminist scholar Mimi Nguyen has called the "gift of freedom." Nguyen examines how this concept specifically applies to "grateful" Vietnamese refugees after the Vietnam War. She argues that the gift of freedom is the gift of modernity. I would add that freedom is freedom from violence in all its forms (war, poverty, patriarchy, institutions such as orphanages, and culture), and it includes the gift of an opposite and better future. The "gift of freedom" is embraced because it pledges love, hope, life, and happiness.[63] While Maldonado gives the Capobiancos the gift of a child and Baby Veronica the gift of a "better life," the Capobiancos, in adoption discourse, are considered the true bestowers of freedom because they purportedly guarantee unconditional and everlasting love, family, and home for their new child. The last gift-giver is America, the condition of the possibility for freedom. The decontextualized loving, intimate act of adoption (taking in the guise of giving) erases the structure and logic of settler colonialism and instead presents the symbolic gift of freedom. The racial and colonial logic is "give us your children and we will give them civilization and freedom"—a presupposed opposite and better future.

BLOOD QUANTUM: ELIMINATION, THE POCAHONTAS EXCEPTION, AND WHITE RIGHTS

This case must be situated in the larger context of Indigenous *political* (not racial or minority) rights in relation to White racial group rights. Although the case was seemingly about Brown's parent and custody status, his and Veronica's "Indianness" was also very much in question. Justice Alito's majority and Justice Clarence Thomas's concurring opinions made three references to Baby Veronica's "remote"

fractional blood quantum, which in their eyes was a paltry 3 over 256.[64] Yet Veronica was clearly an Indian child under ICWA and Cherokee standards. ICWA defines an Indian child as "any unmarried person who is under age eighteen and is either (a) a member of an Indian tribe or (b) is eligible for membership and is the biological child of an Indian tribe member."[65] Furthermore, Article 4 of the Cherokee Nation Constitution omits a blood quantum requirement, and instead states, all citizens "must be original enrollees or descendants of original enrollees listed on the Dawes Commission Rolls" must "have at least one direct ancestor listed on the Dawes Final Rolls."[66] Both Baby Veronica and Brown's blood quantum were also referenced during the Supreme Court's oral arguments. The obsession with Brown and Veronica's blood quantum reveals two underlying aspects of the logic and structure of settler colonialism: (1) the belief that Natives are disappeared or (should be) disappearing; and (2) privileges associated with Indian political identity can be (problematically) reduced to "discriminatory racial preferences" that are perceived to not only harm the best interest of Indian children but also to diminish privileges and "rights" sought by White people.

The concern for Chief Justice John Roberts, Justice Alito, and Justice Stephen Breyer was that Brown and Veronica could barely be considered Indian. All three speculated the ramifications of persons who could claim to be Indian with even less amount than Brown and Veronica.[67] Roberts asked: "What if you had a tribe with a zero percent blood requirement; they're open for, you know, people who want to apply, who think culturally they're a Cherokee." Moments later, he revealed his apprehension: "I'm just wondering is 3/256ths close—close to zero? I mean, that's—that's the question in terms to me, that if you have a definition, is it one drop of blood that triggers all of these extraordinary rights."[68] Alito had essentially the same question: "But what if a tribe makes eligibility available for anyone who, as a result of a DNA test, can establish any Indian ancestry, no matter how slight?"[69] Hitting this point home, Breyer stated: "But that is a problem. Because look, I mean, as it appears in this case is [Brown] had three Cherokee ancestors at the time of George Washington's father. . . . I don't see how to decide that case without thinking about this issue."[70] What these comments show is how ancestry, race, and political citizenship are conflated. Indianness is not a racial category (to be protected by the U.S. Constitution) but a political one, and for Cherokee Nation it is *in part* based on ancestry—but not on an imagined blood quantum threshold.[71]

On the surface these comments about Brown's Native heritage as being "close to zero," "no matter how slight," and "at the time of Washington" articulated a belief that more should be required to be considered "Indian." But along with this is the subtler notion that persons with such low fractional amounts should be considered "assimilated" Indians who are in essence "eliminated," thus matching the vanished Indian narrative.[72] The justices' obsession with Brown and Veronica's Indianness reiterates Plains Cree scholar Robert Innes's argument that settler colonial classifications of what counts as Indian "has had profound impacts on the ways that

non-Aboriginal people view Aboriginal people."[73] This myth of the vanishing or eliminated Indian enables the settler colonial nation-state to exist unchallenged. Thus in some ways the issue is about identity and being, but in another way it is also temporal. These arguments about blood quantum are about the instituting of what Mark Rifkin, a settler and queer scholar, calls settler time, which "imposes a particular account of how time works—a normative language or framework of temporality that serves as the basis for forms of temporal inclusion and recognition."[74] Rifkin helps us understand the fixation of blood quantum is again about how settler time should have erased Brown's Native identity. Here, the main worry was that someone who is only "technically" but not substantively (in their Western opinions) Indian would or could be afforded "extraordinary rights." This dilemma—the possibility of increasing the number of Indians having rights—was exactly the reason Native blood quantum was established in the first place more than a century ago.

During the Allotment Era the language of blood—long used by state—was adopted by federal officials and used in treaties and court cases to define (not just describe) Indians and determine entitlement to benefits, racial (and political) category—that is, Indian without citizenship or White citizen—and/or tribal membership.[75] Blood quantum was used as both a necropolitical (make die) and biopolitical (make live and let die) legal technology of settler colonialism with the enactment of federal laws and policies such as the General Allotment Act of 1887 (and subsequent allotment acts), the Indian Reorganization Act of 1934, and the Termination Era.[76] These laws and policies attempted in different ways to assimilate Tribes into U.S. society. The Allotment Act dissolved Tribes' collective status and ownership of land, promoted individual land ownership (and compulsory citizenship for allottees), and made millions of acres open to White settlers who were eager to access land and resources.[77] While the Dawes Act did not define Indian by blood quantum, the law laid the foundation for blood quantum to be incorporated into allotment and other federal Indian policies.[78] By 1908, Congress passed a law stipulating that blood quantum—in this case individuals with less than one-half Indian blood—be used as a measurement to determine "competency" of who could sell allotments without restrictions.[79]

Allotment and blood quantum policies worked in concert to assimilate Native peoples and diminish their rights to land and government resources. In one of the debates concerning the many attempts to define "Indian" in 1895, Senator Anthony Higgins (R-Del.) clarified this logic:

> This nation is generous, and means to be generous, to the Indians, but by that, I know, the people understand and mean the Indian aborigines, not the half-bloods, not the quarter-bloods, not the eighth-bloods, not those in whom you can not [*sic*] observe the physical admixture. . . . This is growing to be a vast abuse. . . . It seems to me one of the ways of getting rid of the Indian question is just this of intermarriage, and the gradual fading out of the Indian blood; the whole quality and character of the aborigine disappears, they lose all of the traditions of the race; there is no longer

> any occasion to maintain the tribal relations, and there is then every reason why they shall go and take their place as white people do everywhere.[80]

Even during debates of the Indian Reorganization Act—generally viewed as a liberal law that tried to correct previous harm by the U.S. government—there were many senators who wanted to include strict blood quantum requirements.[81] For example, Senator Burton K. Wheeler (D-Mont.), chairman of the Senate Committee on Indian Affairs, argued that the one-quarter standard was too generous:

> I do not think the government of the United States should go out there and take a lot of Indians in that are quarter bloods and take them in under this act. If they are Indians in the half blood then the government should perhaps take them in, but not unless they are. If you pass it to where they are quarter blood Indians you are going to have all kinds of people coming in and claiming they are quarter blood Indians and want to be put on the government rolls, and in my judgment it should not be done. What we are trying to do is get rid of the Indian problem rather than to add to it.[82]

Thus blood quantum became a legal and necropolitical mechanism to enact "statistical elimination."[83] Cherokee Nation attorney general Todd Hembree reiterates this point: "Blood quantum is genocide in slow motion. The whole idea of the federal government imposing the blood quantum requirements of a half or a quarter was to eventually breed out the Indian tribes and assimilate them into the dominant society."[84] In this way the deployment of settler blood quantum logic works to accomplish two things at once. It not only facilitates the logic of elimination by attempting to negate the existence of rights-bearing Indians but also calls into question the notion of self-determination—because Indian logic of who can be Indian supposedly goes against reason.

Hidden on the other side of the blood quantum argument is U.S. mythology that has emboldened White Americans to liberally claim small fractions of Native ancestry. This practice can be traced back to at least Virginia's Racial Integrity Act of 1924, which contained a "Pocahontas exception" in the antimiscegenation law.[85] Before its passage, state legislators, as a part of the White elite ruling class, amended the law to protect themselves and anyone else with remote traces of Native blood, ensuring that they would not forfeit their White racial and social status.[86] Legal exceptions for interracial marriage and the desire for Indian blood, however, did not preclude the complementary goal of extinguishing Native culture and presence. Seven states explicitly prohibited interracial marriage between Indians and Whites, and even the Racial Integrity Act only allowed for a maximum of one-sixteenth Indian blood.[87]

Blood quantum, then, was not just about Native disappearance but also about what legal scholar Cheryl Harris has called "whiteness as property." Harris's argument applies to *Adoptive Couple v. Baby Girl* because it underscores her claim that Whiteness can be used to *access* or *deny* group identity and rights.[88] In this

case, like most, Whiteness is an unmarked asset that is required to be considered a "proper" parent.[89] Historically, being a White adoptive parent has afforded "property rights" of unfettered access to adoptions. We could also think about the right to adopt, the actual act of adoption (of Veronica), and the acts to define Indianness as a form of what Native Hawaiian feminist scholar Maile Arvin has called "possession through whiteness," which enables settler colonial people and settler knowledge to possess Indigenous peoples (and place). Furthermore, when Brown claimed Indian status, he reemerged in representation as a bad Native parent. As an Indian, Brown no longer possessed Whiteness in the way that the Capobiancos did. His rejection of Whiteness in favor of Indianness almost became a point of incredulity. It undermined the trope of the vanishing Indian and spoke to Blatt and Roberts's fear that anyone could be named Indian. To be sure, the Pocahontas exception was meant to maintain Whiteness and its claims to America and the land, not bolster indigeneity. *Adoptive Couple v. Baby Girl* illustrates the historical ways in which the logic of elimination and the erasure of Native people through blood quantum requirements worked in concert with the Pocahontas exception to enhance claims for settler colonial rights.

So dangerous is the threat of Indians with rights or the idea of tribal regrowth that the specter of zero percent Indians conjured multiple worst-case scenarios. For Alito, it was the potential for a reckless and conniving biological father whose identity and character would harm the child, birth mother, and adoptive parents. He warned against the South Carolina Supreme Court's ruling, stating it "would put certain vulnerable children at a great disadvantage solely because an ancestor—even a remote one—was an Indian. A biological Indian father could abandon his child *in utero* and refuse any support for the birth mother . . . and then could play his ICWA trump card at the eleventh hour to override the mother's decision [to place the child for adoption] and the child's best interest."[90] This would diminish the birth mother's rights; possibly endanger the child immediately or in its future; and could frighten prospective adoptive parents. Hence, while the biological father would be unfairly awarded special rights via his "ICWA trump card," the child and birth mother would be irreparably harmed by this "remote" designation. True to settler colonial logics, Alito presumes that this outcome is predetermined to be damaging for the child.

In his protest over Brown's blood quantum, Breyer added his reasoning: "But I don't see how to decide that case without thinking about this issue [of blood quantum], because . . . a woman who is a rape victim who has never seen the father could, would, in fact, be at risk under this statute that the child would be taken and given to the father who has never seen it and probably just got out of prison, all right?"[91] Where Alito imagined a reckless and spiteful Indian father, Breyer pictured a criminal Indian rapist. Like Munday and the Capobiancos' inversion of the captivity narrative, Breyer's upends historical and contemporary realities of sexual violence between Indians and non-Indians, where lack of federal funding and

jurisdictional loopholes have allowed non-Native men to commit acts of sexual violence against Native women with impunity on reservations.[92] Appellate lawyer Blatt painted an even bleaker picture during her oral argument:

> And I want you to keep in mind about this case, is your decision is going to apply to the next case and to an apartment in New York City where a tribal member impregnates someone who's African-American or Jewish or Asian Indian, and in that view, even though the father is a completely absentee father, you are rendering these women second-class citizens with inferior rights to direct their reproductive rights [of] who raises the child. You are relegating adopted parents to go to the back of the bus and wait in line if they can adopt. And you're basically relegating the child, the child to a piece of property with a sign that says, "Indian, keep off. Do not disturb."[93]

Blatt, Breyer, and Alito were compelled to extend Brown's highly specific situation to a racialized and gendered future possibility (or "probability") of sexual and criminal deviant and irresponsible Native American men who live off the reservation, impregnate (or rape) future victims, and wreak havoc onto other people's lives. Blatt's doomsday narrative presumes that the traits of casual sex, delinquency, and absenteeism are inherent to Native American men such that it will not only "apply to the next case" but also be continual harm against birth mothers and adoptive parents.[94]

Here, again, the father is "absent" just as he had similarly abandoned his child in Alito's imagined example. And again, the birth mother and adoptive parents have lesser rights relative to the "undeserving" biological father. Blatt's hypothetical scenario went further by grossly (mis)appropriating liberal civil rights and feminist discourse. References to "African-American," "Jewish," and "Asian-Indian," as well as "back of the bus" and "reproductive rights," framed the issue as one of racial and gender discrimination rather than being about political sovereignty for Tribes to decide what is in the best interest of Indian children. Despite Blatt's gesture to universalize (or "diversify") the "victimization" created from alleged Indian tribal overreach, the truth is non-White families, both historically and recently, have not tried to adopt Indian children in the surreptitious, systematic, and (il)legal ways in which White families have. Nevertheless, for Blatt the group clearly aggrieved is White adoptive parents. Her racialized and gendered imagery glossed over that in this case Brown was misled about the adoption, which directly led to the events that unfolded. Blatt's story also ignored that ICWA's very purpose was to make it more difficult for adoptive parents to adopt Indian children, whether parental rights are terminated voluntarily or involuntarily. Indeed, if no metaphorical sign had said "Indian, keep off," Native children would have continued to be removed and separated from their families. To be sure, Tribes do not own Indian children.[95] They do, however, possess jurisdiction and the power to determine their best interest, just as any other foreign political entity has jurisdiction over their children, which is the case in all other forms of transnational adoptions.

Although race is only mentioned once during the oral argument and once in Thomas's concurring opinion, the case posited racial minority group rights as detrimental to the "universal" individual rights of the birth parent and adoptive parents, especially to the best interest of the child. Contestation against "affirmative" group rights has existed since their emergence in the 1960s. Critics have argued that protected group rights are actually a form of "reverse" discrimination. With regards to adoption, this argument has endured for not only the transnational/transracial adoption of Native American children but also for the transracial adoptions of Black children by White parents. For decades now, the "liberal" individual color-evasive approach continues to be the legal and practiced standard.[96] It posits that concerns over "group rights" are detrimental to children whose placements are delayed because they are considered "property of" or "belonging to" only one group. To address this concern, Congress passed the Multiethnic Placement Act of 1994 (MEPA) and an accompanying provision in 1996 (Removal of Barriers to Interethnic Adoption Provisions, IEP), which eliminated race from being a considered factor for foster and adoptive placements. Adoption supporters have argued that both children and prospective adoptive parents should be treated equally, in a "race-neutral" way. Moreover, transnational/transracial adoption is about "individual choice" and "making a family," which should not be concerned with race or "group rights."[97] In essence, protected "group/racial minority" rights of the Tribe infringe upon the rights of the (White) adoptive parents, the birth mother, and the best interests of the child.[98]

Jessica Munday, the spokesperson for the Capobiancos, iterated this point in a statement to the public: "At the root of all of this is the issue of fundamental fairness and recognition of basic human rights of all people. Children are not chattels nor are they the personal property of an Indian tribe, their birth parents or their adoptive parents. They are individuals who have unique, fundamental rights and needs. Above all, they have the right to permanency and a loving, nurturing family environment providing them stability and security. They should have all these rights irrespective of their race as do all other American children." By deploying the imagery of children being chattel and personal property, Munday invoked the racial violence of slavery and indirectly accused Cherokee Nation and Brown of replicating one of America's deeply sordid foundations—that a human could be owned. In this formulation she is the abolitionist, pitching an argument grounded on color-evasive individualism and equal protection under the Fourteenth Amendment. Her argument suggested that in all situations, a loving, nurturing family and future was not only more important but also legally required "irrespective" of any racial factors. Despite Blatt's seeming aversion to racial distinctions and ownership, she is the Capobiancos' attorney and argues that they would be best suited to provide Veronica with "permanency and a loving, nurturing family environment" that is "stable and secure." She implies that love, nurture, stability, safety, and permanency are features not available in Native peoples and Tribes but

are readily available "properties" of her White clients. In other words, love and positive futurity operates as properties of Whiteness.

What Blatt, Munday, and other critics of ICWA have articulated is a type of liberal color-evasive intimacy and love. Anthropologist Elizabeth Povinelli has deconstructed formulations of love as solely individual events or relationships, calling love a political event.[99] She elucidates how normative conceptions of intimate, individual, and liberal love oppose love based on "*tribalism, race, kinship, or religion*," which are not true forms of love.[100] This notion of "true love" is hegemonic and is seen as the "normative horizon" (i.e., the perceptible means and limit of what can and should be done) for children in need of permanent homes—for freedom, equality, and "just" outcomes.[101] Thus transnational/transracial adoption discourse follows this liberal logic that we should be formulating families based on individual, familial love not "tribalism, race, kinship, or religion." Hidden in society's pervasive formulation of love (beyond modernity) is Whiteness. For critics of ICWA, Native love is marked as tribal and racial while liberal individual color-evasive love is ascribed as universal even as it exists in relation to and is propagated by Whiteness as a form of symbolic violence.

These notions of liberal color-evasive individualism and love too often reduce and confuse "Tribes" to equal race rather than semisovereign nations. While the notion of Indian indeed emerged as a socio- and global-historic racial project based on scientific and political racism that was rooted in White supremacist logic, it is a political category tied to tribal sovereignty.[102] Even framers of the Fourteenth Amendment, such as Representative John Bingham (R-Ohio), understood and articulated this point. During a House debate in 1862 about the emancipation of enslaved men, women, and children in Washington, D.C., while arguing that natural-born citizenship should apply to everyone except Indians, Bingham said: "Gentlemen can find no exception to this statement touching natural-born citizens except what is said in the Constitution in relation to Indians. The reason why that exception was made in the Constitution is apparent to everybody. The several Indian tribes were recognized at the organization of this Government as independent sovereignties. They were treated as such; and they have been dealt with by the Government ever since as separate sovereignties."[103]

In addition, during a debate about the Fourteenth Amendment, Senator Jacob Howard (R-Mich.) explained: "Indians born within the limits of the United States, and who maintain their tribal relations, are not, in the sense of this amendment, born subject to the jurisdiction of the United States. They are regarded, and always have been in our legislation and jurisprudence, as being quasi foreign nations."[104] Howard added that this was clearly established in the Commerce Clause of the Constitution. *Elk v. Wilkins* (1884) reiterated this distinction—Indians were not counted in determining congressional representatives; they were "alien nations" and "distinct political communities" that habitually made dealings by treaties with the president and Senate or through acts of Congress; they "owed immediate

allegiance to their several tribes" and thus "were not part of the people of the United States."[105] Ignoring this distinction results in improper conflation that adds fuel to adoption supporters who assert that Tribes are more concerned about the Tribe and care less about the best interest of the child. Since Indian membership is often based on "blood quantum" or descent—which are (mistakenly) viewed as biological race—Tribes are then perceived as a racial minority group that possesses "special minority rights" rather than politically semiautonomous nations that have legal jurisdiction over their children.[106]

Thus the Indian child emerges as a racial Other who must be saved through adoption from her Indian father. Furthermore, the space in which the child does or could occupy if not adopted—the reservation—emerges, similarly, in opposition to a White adoptive home.[107] From this perspective Native children such as Veronica cannot live or become fully modern subjects in the space of the reservation, which portends physical, psychological, emotional, and economic harm. As legal analyst Amanda Tucker has argued, "To subject children, who come from neglected and abused homes to the perils of many reservations is only perpetuating a cycle of poverty and self-destruction."[108] Such discourse, representation, and legal outcomes suggest only through adoption, the liberal and loving act within the "positively" racialized space of the American White home—one of postraciality and predestined opportunity—can a child have a loving family and full future and life.[109] This settler colonial move deploys individual color-blind language to decontextualize the child, constructing the child's interest as separate from her familial, cultural, and tribal context.[110]

In addition, the SCOTUS's decision solidified that the individual rights of adoptive parents are privileged over and against the political (not racial) rights of tribal nations. This in turn hides the fact that the continued desire to adopt Indigenous children by White parents is more broadly about White majority group rights. Analyzing such adoption representations and legal outcomes demonstrates how transracial/transnational adoptions are attached to overlapping forms of structural-historical, symbolic, and traumatic violence that happen before, after, and outside of transracial/transnational adoption. Thus the larger question of *Adoptive Couple v. Baby Girl* should not have devolved into special minority rights that lead to racial ownership of children but rather attended to the point of tribal sovereignty and jurisdiction over child welfare issues.

CONCLUSION

The key legal concern for the case was that Brown did not have (continued) "custody" of the child. Still, at any point in the process, the Capobiancos could have disrupted or dissolved their adoption, allowing Brown to petition for custody.[111] However, they wanted a baby so badly that they defied all best practice standards by spending years to prevent Brown from gaining custody. If they had acknowledged

Brown as a willing and capable father, custody would have been a moot point. Yet the Capobiancos firmly held two beliefs: (1) that they had a right to be parents to this particular child, and (2) that they would be the better parents, family, and future for Veronica. The Supreme Court acknowledged that Brown wanted to be married and served in Iraq, yet he was characterized as an unfit father and sperm donor who abandoned his child in relation to the Capobiancos, who were a loving, White, well-off, heteronormative adoptive couple. And despite attempts to file for adoption by Brown and his wife (as well as a separate attempt by Brown's parents) that would have triggered adoptive placement preferences, Baby Veronica was returned to the Capobiancos.[112]

Yet it was not just the Capobiancos but also their attorney, the adoption agency, the media, and the Supreme Court that had what American studies scholar George Lipsitz has named a "possessive investment in whiteness."[113] Hence, heteronormative Whiteness and racialized, gendered notions of Nativeness were the invisible legal measurements that helped adjudicate this case. They buttressed the structure of settler colonialism, the logic of elimination, and liberal color-evasive individualism. Important to highlight is that this was not an individual case but illustrative of the law's relationship with Indian people, families, and Tribes relative to non-Indian people and entities. The "best interest" test (and American jurisprudence in general) presupposes an objective measurement, but in reality this test and the legal decisions that manifest from it are deeply rooted in Western colonial, racial, and heteronormative ideals.[114] ICWA was the legal concession that Western institutional and state interpretations of the "best interest" were detrimental to Indian children, families, and Tribes.[115] Thus, before the ethical question of what is in the best interest for Veronica, the Supreme Court should have remembered the legal question, Who should get to make this decision? Historically, Western governments and social service workers of White settler colonial nation-states have made decisions that have resulted in monumentally horrific outcomes.[116] As Margaret Jacobs has stated, child removal is not just a painful legacy of settler colonialism but also its "latest manifestation."[117]

The ruling highlights two other important points: First, it underscores the violence of love in transnational/transracial adoptions. There is no doubt that the Capobiancos and Maldonado loved Veronica. But structural-historical and symbolic violence were attached to the adoption even before it began, only to enact further violence as the case wore on. Second, while the majority of justices argued that the adjudication was narrow as to leave ICWA intact, the truth of the matter is that the decision not only ignored the law—the subsections that should have nullified Brown's supposed consent—but also substantially weakened it by gutting the placement preference requirement. Conservative organizations such as the National Council for Adoption and the Goldwater Institute are further attempting to exploit this moment.[118] Despite the precedent of *Mancari*, which explains that the authors of the Fourteenth Amendment of the Constitution considered and

then rejected the inclusion of Indians, they claim that ICWA, among other things, violates the Equal Protection Clause of the Fourteenth Amendment.[119] Such claims go back to the belief that Indians only care about the Tribe and not the rights and freedoms of children and parents.[120] The suits hope to reestablish minimum blood quantum requirements for tribal citizenship (an idea that the majority justices wondered why it was not already in place), which would endanger the continued existence of tribal nations—precisely the reason why ICWA was enacted.[121] Attacks by anti-ICWA individuals, agencies, and other entities focus on the local-present context (instead of the global-historical), dismissing Indigenous epistemology that considers seven generations in the past and seven generations in the future. They disregard the ways individuals are tied to land and the community around them, seeing them as "modern liberal individuals" who must be detached and adopted by White families in order to become modern. Such discourse has narrated an incredible, alluring, and captivating (in some cases literal) story of rebirth, new chances, and a new life.

Adoptive Couple v. Baby Girl demonstrates the limits of liberalism, ICWA, and the law in general as answers to ongoing settler colonial violence. For Lenape scholar Joanne Barker, the ruling is in fact a necessary "U.S. imperial formation" to maintain the "unlimited access [that] non-Indigenous people have enjoyed to Indigenous lands, resources, and bodies."[122] Indeed, the judgment disregards Indigenous parents, families, communities, and Tribes in favor of a Western philosophy of "best interest" that has been yet another form of elimination through assimilation. As constitutional law professor Milner S. Ball has put it: "Injustice [for Native Americans] is not peripheral or aberrational. It is built into the [U.S.] legal system."[123] *Adoptive Couple v. Baby Girl* illustrates what Dene scholar Glen Coulthard has called the colonial politics of recognition, where legal and state recognition of Indigenous self-government are always already circumscribed by the state and its institutional allies such that the recognition does not change the colonial relations.[124] Thus, while earlier legal victories in the form of *Morton* (1974), ICWA, and *Mississippi Band of Choctaw Indians* (1989) appeared to present American Indians as self-determined and sovereign subjects, *Adoptive Couple v. Baby Girl* represents how American jurisprudence is not separate from settler colonial and heteronormative logics even as it might try to atone for its past.

Although this might foretell a bleak future, Native feminist scholars Maile Arvin, Eve Tuck, and Angie Morrill, in their essay "Decolonizing Feminism," remind us that decolonization is a future-oriented project: "One of the most radical and necessary moves toward decolonization requires imagining and enacting a future for Indigenous peoples—a future based on terms of their own making."[125] Written in the text of ICWA is that the law ensures a "minimum federal standard" to "protect the best interests of Indian children and to promote the stability and security of Indian tribes and families" by giving Tribes authority over child welfare cases. This low bar elucidates in clear terms the colonial politics of recognition. More

important, though, it indicates the need for what Coulthard calls "resurgent politics of recognition" and Native feminist theories—as Arvin, Tuck, and Morrill suggest—in how we think about Indian children, families, Tribes, and yet-to-be-imagined futures vis-à-vis the settler colonial and heteronormative backdrop that prefers White adoptive homes, families, and supposedly predetermined futures.[126]

A LONG POSTSCRIPT

As I finished revisions for this book, the Supreme Court published its ruling on *Haaland v. Brackeen* (2023). Four parties were involved in the case. There were two White adoptive couples, Chad and Jennifer Brackeen of Texas as well as Nick and Heather Libretti of Nevada. The Librettis were joined by the birth mother, Altagracia Hernandez, of their adopted daughter. The other two parties were White foster parents, Jason and Danielle Clifford of Minnesota, and the State of Texas. Collectively, they argued that ICWA was unconstitutional because it exceeded federal authority, infringed upon state sovereignty, and discriminated on the basis of race.[127] ICWA has been challenged nearly as many times as the Affordable Care Act.[128] Here, White adoptive families, adoption and anti-Native interest groups, and the State of Texas used similar settler logics as *Adoptive Couple* such as racial discrimination, opposite futures, and best interest of the child to elevate White adoptive families and weaken Native self-determination. Although ICWA was surprisingly upheld, the ruling left the door open to further attacks, and it also reaffirmed settler colonial logics of plenary power that illustrate its limits.

Supporters of ICWA have feared that the *Brackeen* ruling could overturn the law in part or in its entirety, imperiling Native sovereignty more broadly. During the oral arguments, Native activists, like those in Figure 7, protested outside of the Supreme Court for it to protect ICWA. Lauren van Schilfgaarde, Cochiti Pueblo and UCLA law professor, articulated *Brackeen* as a "bundle" of "different threats," while Rebecca Nagle, Cherokee writer and podcast host, stated the case is feared to be "the first domino in a row of dominoes" that could affect such areas as tribal courts, housing, sacred land and water rights, environmental protections, employment, gaming, education, and health care.[129] For example, one of the law firms that represented the plaintiffs pro bono, Gibson Dunn, was involved in a recently dismissed Washington State court case that was challenging the Indian Gaming Regulatory Act as a race-based law that violates equal protection under the Constitution.[130] It was also fighting tribal challenges to the Dakota Access Pipeline. Mary Kathryn Nagle, an attorney and citizen of Cherokee Nation, stated it was no accident that the "fancy law firm that invests lots of time and resources into making money from oil and gas companies, all of a sudden really cared about Indian children, and wanted to all of a sudden get involved in custody disputes."[131]

In a shockingly decisive 7–2 decision, Justice Amy Coney Barrett authored the majority opinion with Justice Neil Gorsuch filing a concurring opinion that was

FIGURE 7. Native activists protest outside the Supreme Court on November 9, 2022, during the oral arguments of *Haaland v. Brackeen.* Photo credit: Darren Thompson.

joined in part by Justice Sonia Sotomayor and Justice Ketanji Brown Jackson. There was palpable anxiety that through this case the Court would dismantle ICWA. In the end its ruling seemed almost simplistically clear: the court rejected, based on merits, the petitioners' claims that ICWA exceeded congressional authority, infringed upon state sovereignty regarding family law, and burdened (or commandeered) states' resources and rejected, based on lack of standing, claims that ICWA's placement preferences violated equal protection.[132] Rather, the Constitution affords Congress the "power to legislate with respect to Indians" in ways that are "broad" but not "unbounded" and this includes the ability to institute ICWA as established.[133] Barrett cited nine cases to iterate that Congress possesses plenary (but not absolute) power that "supersed[es] tribal and State authority" and noted the trust relationship that has existed between the United States and Tribes.[134] Gorsuch in his concurring opinion similarly outlined Congress's power as broad and plenary only in that "it leaves no room for State involvement."[135] He remarked: "States could no more prescribe rules for Tribes than they could legislate for one another or a foreign sovereign."[136]

Gorsuch recounted the history of how U.S. policies tried to destroy tribal identity and assimilate Native Americans into American society. Citing discourse from the late nineteenth century that justified these brutal policies, he offered Richard Henry Pratt as an example. Pratt, with regards to the role of Indian boarding schools, contended that "all the Indian there is in the race should be dead. Kill the

Indian in him, and save the man."[137] In narrating this history, Gorsuch covered the assimilationist tactics of stripping Native identity through prohibiting traditional names, hair, clothes, and Native language usage; the physical, sexual, emotional, and institutional abuse (e.g., malnourishment, overcrowding, and lack of health care) that children experienced; as well as forced labor.[138] He also described the transition to adoption, which was described by one official as a way to "solve the Indian problem . . . in one generation."[139]

Practices of removal and family separation had little to do with physical abuse and instead were grounded in claims of "neglect" associated with poverty. Sometimes parents were forced, threatened, or tricked into surrendering their children, where they would oftentimes experience actual abuse in their foster and adoptive homes.[140] While he did not characterize such language and policies as White supremacist or settler colonial, Gorsuch's inclusion of this sordid history buttressed his claim that ICWA "did not emerge from a vacuum," duly contextualizing the need and Congress's justification for the law.[141] After laying out Congress's broad authority relative to tribal self-determination, Gorsuch contended that "at its core, ICWA restricts how non-Indians (States and private individuals) may engage with Indians. . . . And at the risk of stating the obvious, Indian commerce is hard to maintain if there are no Indian communities left to do commerce with."[142] ICWA is considered the gold standard for child welfare because in order to terminate parental rights or remove an Indian child from its family, the law requires that "active efforts have been made to provide remedial services and rehabilitative programs designed to prevent the breakup of the Indian family" (as opposed to "reasonable efforts"); there must be "clear and convincing evidence, including testimony of qualified expert witnesses, that the continued custody of the child by the parent or Indian custodian is likely to result in serious emotional or physical damage to the child"; and that these findings must be "beyond a reasonable doubt."[143]

Diving deeper into the separate cases of *Brackeen* reveals that, similar to arguments made in *Adoptive Couple*, the adoptive and foster parents made claims about racial discrimination, opposite futures, and best interest of the child. According to the Brackeens, who are evangelical Christians, they "felt a very profound calling from God, leading [them] to become foster parents."[144] In June 2016 they received a call about a child, A.L.M., who had a Navajo mother and a Cherokee father. A.L.M. was ten months old when he was placed with the Brackeens. While they were told that it would be a two-month arrangement, he lived with the Brackeens for a year, during which his parents' rights were terminated and no extended family were available for adoption. The Brackeens were told that they could not adopt, but they "pursued adoption anyway because [they] felt like that was the right thing to do," which the child's biological family supported.[145] Nevertheless, Navajo Nation had found a prospective Navajo adoptive family in New Mexico, and the judge denied the Brackeens' adoption petition because of ICWA.[146] The Brackeens successfully

petitioned for an emergency stay of the order, and Navajo Nation relented to the Brackeens, whose adoption of A.L.M. was ultimately finalized by January 2019.

Despite this outcome, the Brackeens sued because they believed ICWA is "antiquated" and harmful.[147] They also wanted to adopt A.L.M.'s half-sister, Y.R.J., even though their great aunt, Ms. James, who is Navajo from Arizona, was available to adopt her.[148] Ms. James and other close family members to Y.R.J. traveled from Arizona to Texas for a court trial. In his testimony Chad explained his worry about the girl living with her great aunt, especially when she would be an adolescent: "I don't know what that looks like—if she needs space, if she needs privacy. I'm a little bit concerned with the limited financial resources possibly to care for this child, should an emergency come up."[149] Chad's testimony repeated the same settler and White supremacist logic that social workers had used in justifying the removal of Native children and placement into White homes—the ones that led to the creation of ICWA in the first place. Ironically, part of the Brackeens's reasoning for wanting to adopt her was because A.L.M. would need "a sibling who looks more like him than we do, who knows what he's gone through and who shares his story more than anyone else."[150] The judge sided with the recent federal court ruling that declared ICWA unconstitutional and applied Texas family law, declaring shared custody but awarding primary custody of the girl to the Brackeens.

The Librettis, a Nevada couple, successfully adopted Baby O after her mother, Altagracia Hernandez, who is not Native, relinquished her at a hospital upon birth under Nevada's Safe Haven Law. The birth father, E.R.G., whose mother was an enrolled member of Ysleta del Sur Pueblo Tribe in Texas, challenged the adoption but was houseless and struggled with substance abuse. Washoe County Human Services Agency determined that he needed to be sober to reunify with his daughter. Even though Baby O became an enrolled member, and the Tribe was trying to implement ICWA, the Librettis contacted Baby O's other family members to dissuade them from seeking adoption. They even asked her grandmother to renounce her tribal membership to remove ICWA from the equation. Washoe County assisted the Librettis by obstructing ICWA when the caseworker, who was given a list of 39 relatives by the Pueblo Tribe, did not reach out to any family members until court-ordered to do so. Eventually, the grandmother changed her mind about adopting Baby O. An uncle who was interested in caring for Baby O said he was contacted by the Librettis, and he too withdrew. A great aunt was interested and tried to contact the county, but months went by without a response. She tried again, but the social worker told her it would be a lengthy, difficult, and probably unsuccessful custody fight. Ultimately, the Librettis were able to adopt Baby O. Even though the Librettis prevailed, they joined the Brackeens in their suit against ICWA. Since filing the lawsuit, Nick and Heather have separated.[151]

Danielle and Jason Clifford were unable to have kids of their own and decided to foster-to-adopt. Similar to the Brackeens, God played an important role: "[Adoption was] the way that God had ordained for us to have a family," Danielle testified.

"We had a lot of prayer over that."[152] The six-year-old girl, Child P., whom they cared for had lived with them for a year after her parents lost their parental rights due to arrests from drugs and neglect. As a result of missing information, White Earth Ojibwe Nation did not believe Child P. was eligible to be a member, but it later realized that she was and intervened on behalf of the biological grandmother, Robyn Bradshaw, who was a member of the Tribe. In fact, Bradshaw had helped her daughter raise Child P. for the first three years of her life, yet she was denied custody of Child P., who was placed in state care. Bradshaw had a 15-year-old felony conviction for receiving stolen property, and she also was involved with Child Protective Services when her own daughter, Suzanne (Child P.'s mother), was a teen. Yet the county could have worked with Bradshaw to set aside her disqualifiers as the county does in many cases.[153] There is another detail about Bradshaw's history, though—when she was 10, she was relocated from Minnesota to another state and forced to attend an Indian boarding school.[154] Her family had already been a part of a deeply racist practice that had led to collective and intergenerational trauma for Native families and Tribes. Once Bradshaw knew that she could not become Child P.'s immediate foster parent, she found other family to be foster parents, but Hennepin County workers either did not investigate or denied her suggestions. In addition, Child P.'s guardian ad litem, Barbara Reis, a White retired schoolteacher, doubted Bradshaw's ability to care for her grandchild, citing her periods of houselessness and criminal record.

When Suzanne's parental rights were terminated in 2016, Bradshaw's visitation rights also disappeared. Child P. was then placed with the Cliffords. Reis repeatedly discouraged the Cliffords from allowing Bradshaw to visit Child P. In other words, she was "actively kept away from her granddaughter."[155] The Cliffords showed that they loved Child P., who participated in Girl Scouts, dance classes, and church activities. They attended a Mother's Day powwow, read her books about Native folklore, and tried to educate themselves about Native culture and history.[156] Similar to other cases, such as *Adoptive Couple*, the Cliffords believed that Child P. was their child despite family wanting to care for her: "We feel she's our daughter and we are going to fight to keep her because in our minds we've adopted her already." Moreover, they rehearsed familiar opposite future ideology, claiming: "Our biggest concern is that they win and what are her chances for the future if that happens."[157] The implication was that Child P. would have an undoubtedly worse future if she was not raised by the better family, the Cliffords. Eventually, Bradshaw became a licensed foster parent, and her granddaughter was able to live with her. In a five-day evidentiary hearing, twenty witnesses testified about Child P., Bradshaw, and the Cliffords.[158]

In a January 17, 2019, ruling Judge Angela Willms criticized multiple parties, including the county, the Tribe, and Reis for causing trauma to Child P. and Bradshaw. She recognized that both parties loved Child P., but the judge found that living with Bradshaw was in the best interest of Child P. In addition to caring for

Child P. for four of seven years, Bradshaw was "uniquely able to provide religious and cultural needs . . . through connection to the White Earth Band"; able to maintain connections with other family; and "consistently puts [Child P.'s] needs first." Willms found that Reis showed "palpable" "bias in favor of the Cliffords" with a "fundamental" misunderstanding of the cultural complexities of Child P.'s placement.[159] Despite the Cliffords suing for adoption and joining the *Brackeen* case, Bradshaw has facilitated overnight stays every other weekend for Child P. at the Cliffords because Child P. expressed that desire, once again showing her prioritization of Child P.'s best interest.[160]

A.L.M., Y.R.J., and Baby O's cases were exactly the type of cases that ICWA was meant to cover. As Rebecca Nagle has summarized: "The narrative that ICWA disadvantaged the Brackeens, Cliffords, and Librettis is an upside-down version of the truth. . . . All the Native children had an extended family member who wanted to raise them. Every Native relative got pushback—from a social worker, foster parent, family court judge, or all three. Compared with the white foster parents, the Native family members faced more hurdles in these custody battles. In the end, only one grandma was able to adopt her granddaughter—Child P—after fighting for six years."[161] To say that these cases have similarities to *Adoptive Couple* would be an understatement. All of the families in the *Brackeen* case, and many of the parties working with them, went to great lengths to maintain custody and prevent placement with the child's family. They believed that they were the better future for Native children.

General reactions to the ruling from ICWA supporters were jubilation and relief. The Protect ICWA Campaign, which is composed of the National Indian Child Welfare Association, the National Congress of American Indians, the Native American Rights Fund, and the Association on American Indian Affairs, stated: "We are overcome with joy that the Supreme Court has upheld the Indian Child Welfare Act. . . . The positive impact of today's decision will be felt for generations."[162] Robin Little Wing Sigo, member of the Suquamish Tribe and board member of the National Indian Child Welfare Association, added: "There's definitely a collective sigh of relief . . . across Indian Country today."[163] Despite the clear win for ICWA, Native Tribes, and Native children, there are still concerns. First, the Court declined to rule on the plaintiff's equal protection claim based on the Fourteenth Amendment—that ICWA's "racial preferences" harmed both non-Indian families and Indian children—because they lacked standing. Two of three couples, the Brackeens and Librettis, had not been harmed because their adoptions were completed, and the fourth was living with biological family. The Court had nothing to remedy. In addition, plaintiffs did not sue state parties that implement ICWA but instead sued federal parties that cannot redress the proclaimed injury.[164]

Even though this portion of the suit was dismissed on standing, there are legitimate concerns that future conservative, pro-adoption, and anti-Native groups will continue attempts to dismantle the placement preferences in sections 1915(a) and

(b) by targeting them as unconstitutional racial classifications while erasing their political denotation. As Nagle wrote just prior to the oral arguments for *Brackeen*: "If ICWA is unconstitutional because it is based on race, then what of the clinic where I get my health care that serves only tribal citizens? . . . What 'racial group' in the United States has their own police forces, courts, elections, governments, and lands, as tribes do? The possible shift is radical."[165] While Gorsuch seemed steadfast in his belief in tribal sovereignty, Barrett and Brett Kavanaugh in their opinions almost invited interested parties to submit a case. Kavanaugh, in a brief concurring opinion, wrote that the equal protection issue had not been addressed and that for him it was "serious."[166] In the oral arguments Kavanaugh stated: "I don't think we would ever allow . . . Congress to say that white parents should get a preference for white children in adoption or that Latino parents should get a preference for Latino children in adoption proceedings."[167]

Just as in the *Adoptive Couple* oral arguments, there was a focus on blood. Matthew McGill, lawyer for the Brackeens, contended that the Court must distinguish between "regulating tribes as a polity and regulating persons who happen to have tribal blood as persons."[168] *Brackeen* did not disrupt any legal precedents concerning "Indian" and "Native" as political identities, but that will not stop future entities from trying. The *Wall Street Journal* published an editorial lamenting the ruling but remained hopeful that the ruling indicated future challenges to the "racial criteria" that "elevate tribal prerogatives" "above the welfare of vulnerable Native American children."[169] Mark Fiddler, one of the attorneys for the plaintiffs, guaranteed as much, stating, "rest assured, more challenges to ICWA under equal protection grounds are guaranteed."[170] In the oral arguments, justices and attorneys for the plaintiffs continually questioned the placement preferences in section 1915(a), especially the third one, which states "other Indian families."[171] This is to say that people will continually question or willfully ignore the political (not racial) rights of Tribes. Chief Justice Roberts, who has already argued that equal protection requires eliminating "all" racial discrimination in *Students for Fair Admission v. Harvard* (2023), could be the deciding vote in a future ICWA challenge that could have widespread implications for Native self-determination and sovereignty.

The ruling was also based on the idea of plenary power. In a quick but important line of the *Brackeen* majority opinion, Barrett stated that the petitioners did not consider how their arguments fit within case law (Supreme Court precedents): "[Petitioners] neither ask us to overrule the precedent they criticize nor try to reconcile their approach with it. They are also silent about the potential consequences of their position. Would it undermine established cases and statutes? If so, which ones? . . . If there are arguments that ICWA exceeds Congress's authority as our precedent stands today, petitioners do not make them."[172] Throughout the oral arguments, multiple justices referenced Congress's plenary power. Justice Sonia Sotomayor in particular referenced the "legion of cases" regarding plenary power that has spanned "two centuries."[173] These two aspects of the case and the

oral arguments themselves demonstrate how the "win for ICWA" is buttressed by the limits of sovereignty and self-determination for Tribes. Those limits are based on the uneven relationship derived from Congress's possession of plenary power and the trust relationship that treats Tribes as "domestic dependents."[174] Indeed, according to Edwin S. Kneedler, the attorney defending the federal government, the Constitution and the plenary power that legally emerges from it "renders the tribes dependent and therefore, in need of protection."[175] While the Supreme Court upheld ICWA and the many aspects of Native identity, tribal status, sovereignty, and self-determination, it left open the possibility that the same players who will inevitably attack ICWA on the Native identity, racial discrimination, and equal protection front may also seek to dismantle Congress's plenary power to enable states to infringe on Native rights and sovereignty.

WHO GETS TO DECIDE?

This question must be asked once again because it is always disregarded. In his dissent Alito lamented: "The challenged ICWA provisions effectively 'nullify' a State's authority to conduct state child custody proceedings in accordance with its own preferred family relations policies, a prerogative that States have exercised for centuries."[176] Of course, Alito seems to forget the very purpose of ICWA was to eliminate the violence produced by the near century and a half of those very child welfare enactments that Gorsuch explicated. Although ICWA has largely been very successful, there are still 12 states where Native children are placed in foster care at disproportionate rates between 2 and 14 times their state population, with the average for all states being 2.6 times higher than their population. More important, disproportionality increases during the last stage—that of placement—which is four times higher.[177] After the *Haaland* ruling, Chuck Hoskin Jr., principal chief of Cherokee Nation, released a statement noting that 30 percent of the 1,141 Cherokee children in foster care placements are in non-Native homes.[178] Many Tribes have remedies that run counter to U.S. child welfare policies such as continuing reunification efforts for many years instead of ending after 15 to 22 months, as required by the ASFA; not (or rarely) terminating parental rights; and employing culturally practiced open adoptions instead of closed adoptions.[179] Importantly, ICWA has helped Tribes implement these practices.

The challenges to ICWA assume that White parents are completely excluded from the placements. In reality, there are many instances in which Tribes decide that it is in the best interest of the child to be placed or remain with a White family, as was the case for Manilan Houle. Houle is a member of the Fond du Lac Band of Superior Chippewa Tribe in Minnesota and had been placed with three different Native families. But for his next placement, his Tribe believed that the next available Native family was too far away from his support system, so it placed him with a White family that was already friends with his older sister. Houle was kept in

that family, even when another Native family nearby became available.[180] Houle's case and others show that Tribes sometimes decide to place children with non-Native families when it is in their best interest. Many policymakers, social workers, judges, and prospective adoptive parents continue to make arguments against ICWA based on claims of the "best interest of the child." Rebecca Nagle notes how these arguments about Native kids are also about Native Tribes: "Native kids have been the tip of the spear in attacks on tribal sovereignty for generations." She adds that even those who have good—I would add "loving"—intentions have produced harm: "The amount of harm that well-intentioned people who thought that they knew better than Native people ourselves what Native people needed—the amount of harm that those people have done is incalculable."[181] Indeed, the vital aspect surrounding the "best interest of the (Native) child" is that Tribes should get to make this decision.

Outside of ICWA, foster care has historically been seen as a temporary form of care. The ASFA shifted this idea, prioritizing adoption and creating more "foster-to-adopt" programs. But views have started to shift toward striving for kinship placements (for all children), both guardianships and adoptions, which research shows leads to increased stability, preservation of cultural identity, improved behavioral outcomes, and maintenance of sibling ties.[182] States are beginning to recognize ICWA as the "gold standard" that should be followed for all placements rather than a law that discriminates. In this way we can once again learn from Indigenous ways of relationality and care when thinking about the most vulnerable.

Conclusion

Love, Alternative Kinships, and Imagining Otherwise

Violence is attached to the transracial and transnational adoptions of Black, Asian, and Native American children in the United States. These adoptions emerged out of individual, institutional, and state forms of love, yet structural, symbolic, and traumatic forms of violence created the conditions and/or became the effects of TRNAs. Violence affected adoption temporally (before, during, and after) as well as spatially—inside, outside, and beyond the act of TRNAs. These multiple forms of violence contributed to the relational, differential, and intersectional construction of racial meaning that made Black, Asian, and Native American children "differently adoptable" by White American families. Racial liberalism, neoliberalism, and settler colonial logics were just some of the ideologies that employed notions of love to justify TRNAs. These adoptions not only constructed racial meaning for the children and families of color and their spaces of origin but also relationally made White families, their homes, and the United States as the opposite future.

A RETURN TO LOVE

To conclude, I want to return to love. This book centers the examination of hidden types of violence attached to adoption and outlines ways that love has been monopolized by normative adoption discourse. In thinking about love, feminist scholar Sara Ahmed asks, "How has politics become a struggle over who has the right to name themselves as acting out of love?"[1] Eleanor Wilkinson, a feminist geographer, adds that we must understand "how love—even in its most charitable and benevolent form—can still be a source of power, domination, and exclusion."[2]

Contrast this to what late adoptee and budding scholar Sunny Reed wrote: "Adoptees feel compelled to stay silent or risk serious conflict and emotional upheaval if they try to push conversations past and through *love*."[3] These quotes underscore the ways that love is not as simple as we think, especially when it comes to adoption. In *Black Skin, White Masks*, Caribbean philosopher Frantz Fanon explores anti-Blackness that existed not only in the minds of White European colonizers but also internalized in the consciousness of Black people in Martinique. "Today I believe in the possibility of love," he wrote; "that is why I endeavor to trace its imperfections, its perversions."[4] Fanon suggests that love has the potential to facilitate liberation but that it must be interrogated to ensure that we do not reproduce old systems of structural and psychological oppression. We know from thinkers Paulo Freire and bell hooks that love can be revolutionary and liberatory.[5] But hooks also reminds us: "There can be no love without justice."[6]

The question is, How do we get to love and justice? Where do we begin? Black feminist scholar Jennifer Nash explains how love is not just about loving others but also about laboring to love the self. This love of the self is not simply to center the self but, citing the writer Alice Walker, Nash describes self-love as the love that enables other loves.[7] This reorienting the self toward difference acknowledges the limits of the self, and the self acknowledges that its experiences and needs are different from and yet still connected to the experiences and needs of others. Activist and faith leader Valerie Kaur eloquently adds to this understanding: "'Revolutionary love' is the choice to enter into labor for *others*, for our *opponents*, and for *ourselves* in order to transform the world around us." Revolutionary love requires all three, and it must be practiced in community, as "a choice that we make over and over again."[8] This type of self-love, public love, and revolutionary love is understanding that love is a commitment. Love requires risk, vulnerability, and accountability. It may also include discomfort or pain. But most generally, in revolutionary love we are committing to being in relation differently.

Revolutionary love understands that the remedy to structural (historical and institutional) inequities does not reside within the state. On the path toward abolishing the current child welfare system, what can we do? For those who are less marginalized in adoption or even outside of adoption, how can we be with and for those who are most harmed? For those who hold righteous rage, how do we love those who might have perpetrated harm? Not because we owe anyone a debt of gratitude, but because alternative futures require relationality. For those who feel as though they have given everything to their adopted children, how do you put forth further love to hold the violence that adoption carries (for your child and others), regardless of how you view your own child's adoption experience? These questions are not meant to gloss over the realities of strained and estranged adoptive relationships but to consider the ways that relationality in adoption could acknowledge violence and resist perpetrating further violence.

I believe that most people connected to adoption communities are moved by this thing we call love. It is my hope that as we continue our various individual and collective lives and projects—in whichever way they might relate to adoption—that we consider Elizabeth Povinelli's, Fanon's, and hooks's words about the political aspect and imperfect power of love in order to engage with rather than ignore the violence of adoption. This project believes that rather than holding on to an ideal conception of the nuclear adoptive family as solely a thing of love, we need to recognize and engage the violence. By its very nature of family separation, among so many other aspects, adoption is a violent process, where the problem of violence cannot be "solved." But acknowledging, confronting, and encircling violence allows the past to exist and intermingle with the present and future so that it is not simply minimized or dismissed.[9] Again, what is at stake for my project is not the need to decipher whether TRNAs are "good" or "bad" but to understand how race, love, and violence have mutually constituted the creation of individuals, families, and spaces. It is not only concerned with the limits of love but how to reimagine love for alternative purposes. I conclude by thinking about anger, different forms of kinship, Indigenous knowledge, reproductive justice, and abolition as resistance and alternatives to institutionalized adoption.

RETURNING TO LOVE DOES NOT MEAN ERASING ANGER

Why are some adoptees angry, even when many grew up with a loving family? This is a common question, but I think the better question is, Why do so many people question the anger of adoptees? Korean adoptee and scholar Kimberly McKee draws from Sara Ahmed's concept of the feminist killjoy to posit the adoptee killjoy as a subject who refuses to perform happiness and gratitude. In contradistinction to the happy and grateful adoptee, the adoptee killjoy "disrupts" and "unsettles" narratives of adoption as humanitarian rescue and can even sabotage adoption's future.[10] The adoptee killjoy possesses what feminist Alison Jaggar would call "outlaw emotions." Such emotions are "conventionally unacceptable" and incompatible with "dominant perceptions and values," yet they are necessary for developing critical and alternative perspectives. She adds that "discordant emotions should be attended to seriously and respectfully rather than condemned, ignored, discounted or suppressed."[11]

Returning to Wilkinson, she asserts that love should comprehend the "messiness, ambiguities, and unruliness" of life.[12] Thus love should not be averse to "bad feelings." As Kaur states: "Rage carries vital information."[13] I believe love should acknowledge pain, harm, and anger outside and *inside* of (i.e., caused by) love. This acknowledges that our experiences with structures of oppression inform uneven distributions and capacity to give and receive love. Love understands that

love is not always reciprocated, and we must never demand it as such; otherwise, it is not love. Wilkinson asks: "What if the encounters that you perceive as joyful are experienced as sadness by others?"[14] Or, I might add, what if their joy later turns into or exists alongside sadness and anger?

Although these emotions can still feel very outlawed, today they feel less so. Social media has connected adoptees in unprecedented ways, which has allowed for a stronger collective voice. In November 2014 adult women adoptees from the Lost Daughters writing project began the #flipthescript movement during National Adoption Month. As Amira, an adoptee, explains: "When I think about National Adoption Month, I think that it's a month of a very loud, single story, told by certain people and not by adoptees."[15] Indeed, the annual monthlong celebration is dominated by adoption professionals and adoptive parents. That same year, NPR had interviewed Angela Tucker, who is a writer, speaker, and Black transracial adoptee, for its "Sunday Conversation" segment, but instead decided to air a story featuring White adoptive parents. On her blog Tucker responded to NPR: "BREAKING NEWS: We no longer need to speculate about the challenges trans-racially adopted children may face as they grow. The first-hand answers for these important questions can be answered by qualified, educated, articulate adult adoptees (or birthparents) found by doing a quick Google search. . . . [We] no longer need our parents to speak for us. We are grown up now. We can do it."[16] There are thousands of adoptees across the globe who have collectively created Adoptee Twitter/X and Adoptee TikTok. It is a good time to find adoptee voices and listen with love.

TOWARD KINSHIP

When I began my graduate school in 2006, I believed that my research was on adoption. By the time I finished my dissertation, I understood that it was an analysis of adoption and family, and I continued to think about the ways we could reform adoption and think differently about family. In these past few years, however, I have shifted my belief away from adoption reform and the idea of family toward the ideas of kinship and care. This shift is not based on belief that adoption and family are devoid of value. Rather, I believe that kinship and care offer more broadly and deeply what adoption and family attempt to do.

Even though the concept of family has stretched beyond its traditional discursive and institutional boundaries to include aspects that hold space for "chosen families," LGBT families, and adoptions by gay and lesbian couples, queer studies scholars have shown how the inclusion of queer families has reinscribed traditional family ideals and previous adoption practices for the (neo)liberal state, which despite this "acceptance"—through same-sex marriage and adoption—still abhors women, people of color (here and abroad), and those who are queer.[17] Geographers Eleanor Wilkinson and David Bell note that we should "expand our understandings of intimate life *beyond* the family," which for them is not abandoning or permanently

shifting away from family but thinking of family as part of a "broader study of intimate life," to "retain the family while simultaneously decentering it."[18] Thus I am trying to think about how kinship (rather than family) as a descriptor and analytic might be more capacious for adoption praxis. "Family" typically describes identity relations and roles among people through blood, marriage, or adoption. "Kinship," however, understands the constructed nature of identities, interactions, and relations and is interested in how they are formed. To be sure, similar to the idea and institution of family, kinship has not always been kind to adoption. For transracial and transnational adoption especially, not only are consanguineal and genetic ties absent but their absence is amplified by phenotypical differences. Therefore they have been described as "fictive" and interpreted as "less than" or merely "as if" real kinship, which has engendered desires by adoptive families to replicate and claim normative kinship.

Nevertheless, critical kinship studies can disrupt these previous notions of kinship. Scholars of cultural anthropology such as Marshall Sahlins argue that kinship is the "mutuality of being" and consists of "people who are intrinsic to another's existence."[19] Similarly, Kath Weston summarizes that kinship studies shifted to understand that "*all* kinship ties (indeed, all social ties) could be characterized as fictive."[20] In other words, "whatever is construed genealogically may also be constructed socially," because even genealogical ties are given meaning and value through society—that is, blood ties are not inherently meaningful, as we understand many other species where offspring must survive without parents.[21] This shift expressed by Sahlins and Weston is largely credited to cultural anthropologist David Schneider, who discusses family as a paradigm of kinship that is tied to the notion of love, where "love can be translated freely as *enduring diffuse solidarity*."[22] For Schneider the phrase "enduring diffuse solidarity" means "doing what is good for or right for the other person, without regard for its effect on the doer." Typically, this enduring diffuse solidarity is attached to family because, by definition, they are enduring, whereas friendships are chosen.[23] However, if we think about kinship more broadly (rather than family as the paradigm), then in the context of adoption, kinship could seemingly hold biological, adoptive, affinal (e.g., adoptee relationships with other adoptees), and geographical ties (e.g., connections to homeland), where connections are not imaginative or impossible but significantly attached to people, common experience, and place.

ADOPTEE KINSHIP: AN INVISIBLE NEED

In the preface I wrote about my experience working with summer camps for transnational and transracial adoptees, and I want to return to this experience and space in comparison to birth culture camps. The importance of birth culture varies among adoptees and fluctuates over time. Greg, the Adoptee Camp director who had also attended and worked at heritage camps for more than a decade, offered

that the birth culture component in heritage camps is usually not the driving reason why adoptees enjoy them. From his own experience, he explained: "I hated it when relatives would ask me later about birth culture. And I understand now that of course that's because it was never what was important to me. What was important was being among other adoptees and seeing my friends."[24] While birth culture was relevant to adoptees in some ways, it was only one aspect of their much larger adoptee identity and desire to be with other adoptees.

In other words, this disjuncture between birth-culture pedagogy, most often organized by loving adoptive parents, and the actual experiential outcomes for transracial and transnational adoptees that arise because issues of race, racism, adoption, and birth family—all of which get limited to no attention in heritage camps—has greater meaning for adoptees.[25] Former postadoption services social worker Steve Kalb explains that the adoption industry feels that birth culture is a pillar for supporting healthy transnational adoptee identity. He says it can be helpful in describing difference and where adoptees are from, but once they get older, the questions are too complex.[26] Thus more important than birth culture is what Greg calls an "invisible need." The adoptee community is something that transracial and transnational adoptees desire and need but might not realize it until they have experienced being part of such a group. The fact that so many adoptees enjoy heritage camp has led to the misattribution of birth culture as the main reason why these camps are so popular.[27] Indeed, adoption psychologist and scholar Amanda Baden's study of a Korean culture camp suggests that adoption socialization might be more important than racial-ethnic socialization when considering the success of culture camps.[28] These revelations, among many others, led to changing the Adoptee Camp from its previous iteration as a heritage camp that used birth culture pedagogy to the now existing version that uses critical adoptee pedagogy.

Anthropologist Signe Howell's concept of kinning is useful here. Howell describes kinning as the universal process of bringing "any previously unconnected individual" into a "*significant* and *permanent* relationship with a group of people, and the connection is expressed in a conventional kin idiom."[29] We must note Howell's inclusion of "significant and permanent" because of how this differs from traditional kinning based on blood, which enables the establishment of kinship connections in the absence of significant time and space (e.g., when a relative proclaims, "Your grandparents are cousins, so you are related even though this is your first time meeting"). The kinning that happens in these instances of immediate connection of distant relatives is also socially constructed, but it takes less kinning work. As Howell clarifies for those with blood ties: "The passage of time, geographical distance, and absence of interaction are not in themselves barriers to an experience of being related once the blood connection is established."[30] For adoption, that kin work is, at its heart, making a child part of the family. This exists in the form of preadoption preparations (sending letters or gifts, setting up the room, etc.), narratives of destiny, creating "adoption/gotcha day" celebrations,

giving the child a new name, and changing the birth certificate. This process of kinning that Howell describes is typically private.

I argue that critical adoptee pedagogy at the Adoptee Camp—which centered the concepts of community, identity, adoption, and racism—sought to practice a form of kinning that publicly brought together previously unconnected adoptees into significant relationships. This kinning might not necessarily be permanent or enduring in the ways Howell and Schneider suggest, though many times they are, but they are rooted in a deeply complex shared or collective experience of adoption, which includes family separation, orphanage or foster care, adoption, and all of the nuances and challenges that accompany those experiences. Adoptee kinship at the Adoptee Camp was both public and collective, where space and time mattered but in ways that were different from traditional kin forms. Whereas traditional kinship is based on genealogical time and space—that is, we come from the same family tree that can be traced to specific people who (usually) have lived in similar places—adoptee kinship is based on adoptive time and space, which is produced by the genealogy of adoption instead of genealogy of the family.

This applies to adult adoptees too. For example, in 2015, I teamed up with Amanda Baden, a Hong Kong adoptee (HKAD), and we conducted interviews and surveys on a group of HKADs who gathered in Hong Kong. Our research showed that being together in Hong Kong formed a type of adoptee kinship. HKADs who were interviewed conveyed this in many ways. One stated that the significance of the HKAD group was that it was "a kinship" and "a bond." Another spoke of an unconscious "shared history," "collective memory," and being in the "same shoes" or having a "common background." Others stated that it was like connecting with "missing sisters and brothers," and some discovered that they were in fact "orphanage sisters," which created "deep bonds." One Hong Kong adoptee remarked that finding other HKADs "has deeply affected me in words I can't even describe."[31] In the framework of adoptee kinship, adoptees often share with other adoptees, who they may have just met, questions and desires that they have *never* previously shared because family, friends, or strangers might have minimized or dismissed earlier feelings and expressions.[32]

Anthropologist and adoption scholar Eleana Kim has made this argument about adoptee kinship for Korean adoptees. She puts forth adoptee kinship as "a set of [public] relationships actively created out of social practice and cultural representations" derived from "adoptees' common experiences of disconnection, disidentification, and displacement" as well as to "practices of care and reciprocity."[33] On the point of care, at the Adoptee Camp one of the main things we emphasized was creating safe spaces for all adoptee experiences, questions, and thoughts whether they fit in with the larger adoption narrative or especially for the times when they did not. Korean adoptees, both in smaller organizations and as a collective, have led the way in this regard. For example, Kimberly McKee shows how in the context of an annual Korean Adoption Conference, Korean adoptees have

created adoptee-only spaces and fostered safety, care, and public intimacy to build kinship with each other.[34] In addition, overseas Korean adoptees have supported each other to create visions and practices of kinship that are "beyond state-sanctioned, legally protected, or genetically determined forms of bonding."[35]

Transracial and transnational adoptees by their very nature of being adopted have had access to a discourse of "positive things said" about adoption. At the same time, many, if not most, have lacked access to language outside of that normative discourse. Adoptees have generally used the term "in the fog" to describe those who are not conscious of the complexities and harms of adoption.[36] This helps explain the invisibility of the need or desire to be with other adoptees, as Greg theorizes. Social work scholar and Chinese adoptee Grace Newton notes that the trauma adoptees face is not as well recognized, even by adoptees themselves, because typically it is not historical, collective, or intergenerational, although she details some exceptions.[37] Yet, there is indeed no singular historical adoption event that is collectively shared *and* passed down from parents to children because those ties have been disrupted. What were collective experiences—adoption because of the Korean War, Operation Babylift, and the Indian Adoption Project—have disappeared into individualized histories with no ascending or descending family to comprehend the trauma. Instead, adoptee trauma can be ambiguous because loss is not definitive or certain; belonging can be tenuous; and all the while, love can be present. This is why adoptees often discover adoption harms or traumas in later life stages when they are no longer protected by their adoptive family; learn of other adoptee experiences; or become a parent themselves.[38]

Adoptees who meet a community, or communities, of other adoptees develop a more complex and sophisticated understanding of adoption experiences, ideologies, and practices, and they are given space to hold complex feelings about adoption. Susan Branco, JaeRan Kim, and Grace Newton, who are all adoptee scholars and licensed professionals, developed the "adoptee consciousness model" to help explain how adoptees, individually *and* collectively (where the idea of "fog" is usually individualized, i.e., "coming out of the fog"), develop consciousness that can lead them to engage in deeper awareness, reflection, and activism across their lifespan.[39] This coming to consciousness—learning about "violent, oppressive, and exploitative acts" that have happened to people with whom you share an identity—can produce a new form of trauma, but it can also be a form of healing.[40] Pairing adoptee kinship with adoptive time and space enables another understanding of adoptees' shared past, where adoption is not only a kinship of gain (of an adoptive family) but what transracial adoptee writer and scholar Shannon Gibney calls a "kinship of loss."[41] For some, such as Korean adoptee Rachel Rostad, the loss produced by adoption is almost unspeakable: "Loss is especially confusing to measure when it appears as if I haven't lost anything at all. What I want no one can give me because I don't even know what it is. The grief has no fillable outline. It's not missing like an organ; it's missing like wherever dreams go when you blink awake into

the morning light. The grief has no endpoint; it only demands that I listen, again and again."[42] Regardless of the depth of loss, all adoptees lose something, even those who have experienced happy adoptions or are in open adoptions.

This is the (collective) genealogy of adoption. When we think of loss, we must also think about the ways in which loss happens. What were the particular conditions that allowed, sanctioned, or facilitated loss? We must consider the nature of loss, which shifts depending on the object—displacement of adoptee bodies, deprivation of birth culture, detachment from land, disappearance of language and memories, and forfeiture of "outlawed" emotions, and as Gibney notes, the loss of anonymity for transracial adoptees.[43] Perhaps the most significant loss is the dispossession and ambiguous loss of birth family. For many adoptees this loss is ambiguous because "there are no clear boundaries, no clear ending, and often no societally recognized mechanism or rituals for grieving or acknowledging what has been lost."[44] Even for adoptees who find their birth family, as is the case for Rostad, the loss of time, closeness, and ability to communicate are not easily regained and can be difficult to excavate. And how was the fact of loss treated? Was it held with care or was it ignored, minimized, or weaponized to make the subject of loss the villain?

We must be careful not to romanticize adoptee kinship and these connections because such a move erases the violence that can happen among adoptees (laterally) such as sexual violence or other forms of harm such as homophobia and ableism.[45] We should always seek an intersectional path and framework no matter the relations we foster. Gibney concludes that a kinship of loss has radical potential: "This shimmering-on-the-horizon, ever-changing, transformative opportunity for authentic connection *because* of loss, not *despite* it, this kinship of loss, can be a radical antidote to the profound isolation and melancholy that have brought so many of us transracial adoptees into being."[46] Adoptee kinships create connections, consciousness, and solidarity on the basis of collectively shared histories and experiences that can be significant and enduring.

GHOSTLY KINSHIP AND PRESENT ABSENCE

Howell notes that kinning is a process that happens before and after adoption to make the child related to the kin network.[47] She states that kinning is a universal process conducted in all societies, even in nonadoptive biological families but is not recognized as such.[48] Part of the process for adoptive kinning is the need to de-kin the child from their birth family—that is, how the relational category of motherhood is unmade by law and adoption practice.[49] For nearly all transnational adoptees and most domestic adoptees who are in closed adoptions, the concept of one's birth family is unknown. To add to the process of de-kinning, adoptees are regularly encouraged by others, including sometimes by members of their adoptive family, to forget or not dwell on their past because their real family

adopted them.[50] This has led adoptees to ignore, deny, and suppress their desires to think about and/or find birth family.

If we return to the example of the birth culture camps, what does it mean to have adoptive parents plan, volunteer for, and participate in family birth-culture camps and how does this affect the way birth parents are situated? At these camps adoptive parents and adoptees are continuously confronted, especially by cultural activities or in adoption discussions, by the specter of birth parents. This "absent presence" of the birth parents can have an arresting effect because their void is precisely the reason why birth-culture pedagogy is presumably needed. In other words, birth parents are a ghostly presence, conjuring uncomfortable topics and traumatic pasts, which many adoptive parents and adoptees may try to ignore, constrain, negate, displace, or resolve.[51] Here, I want to pose the birth family not simply as a haunting specter or absent presence but as "ghostly kin" or a "present absence."

Scholars of kinship have tried to move the idea beyond blood ties, but kinship remains tethered to the material, positive feelings, immediacy, and an "economy of presence"—that is, that we are in touching proximity with and hold loving views of kin.[52] In the absence of material and known kinship (most adoptees literally do not know their birth family), how do we capture kinship of the unknown—that which exists in our bones, grieves in our hearts, perhaps fades in our memories, or meets us in our dreams and haunts our nightmares? I contend that ghostly kinship is a way to think about and practice kinship beyond the limits of time, space, the state, rights, and the law. Theorizing on ghosts, sociologist Avery Gordon states: "Haunting describes how that which appears to be not there is often a seething presence."[53] For Gordon, ghosts are a sign that a haunting is taking place, which can produce apprehension and arrest (a common response by many adoptive parents and adoptees). Cultural studies scholar Esther Peeren adds that ghosts appear as existential threats and "unwelcomed reminders of past transgressions, causing personal or historical traumas to rise to the surface and pursuing those they hold responsible."[54] Yet, for Gordon, they can also provoke "profane illumination," which means: "When you know in a way that you did not know before, then you have been notified of your involvement. You are *already* involved, implicated, in one way or another, and this is why . . . when it appears to you, the ghost will inaugurate the necessity of doing something about it."[55] What would it mean to engage with ghosts?

The Adoptee Camp operated from the perspective that birth parents would haunt the camp, and critical adoptee pedagogy understood the imperative to "do something" about their ghostly presence. This was explicit in a particular activity centering on birth parents that asked 12- to 16-year-old adoptee campers to imagine that their birth parents were suddenly outside the door. Campers were asked to share what they would ask their birth parents. Questions included:

Why did you relinquish me?
Was it hard?
Did you look for me afterwards?
Do you remember me?
Do I have siblings?
Do you ever think about and still love me?
Do I resemble you in any way?
If you could, would you come to America?
If you had the chance, would you take me back?

This activity seemed to resonate with most adoptees even as some were resistant to the idea of making psychological and emotional space for their birth parents. In all of the "adoption" discussions the camp manager (an adoptee) gave further social context for why many birth parents are forced to relinquish or are unable to parent their children, such as poverty, unmarried status, family pressure, or some sort of crisis, which was an allusion to militarism and war. The camp manager explained the letter-exchange service provided by the adoption agency that operates the Adoptee Camp, which allows adoptees when they are eighteen years old to write letters to their birth parents and can in rare cases lead to reunions. There was also a session in which adoptees asked other campers specifically about birth parents and birth searches. Questions included:

How many of you want to meet your birth parents?[56]
Is it actually possible to meet your birth parents?
How many [adoptees] successfully find their birth parents?
How do you begin a birth search?
If you had the chance would you go back and live with your birth parents?

While these questions invoked a flood of emotions for which there were no easy answers, the important thing was that there was space for participants to share their experiences and desires, ask questions, have their voices heard, and speak about birth families. New perspectives arose from the discussion and ensuing revelation that birth parents could still be alive, sometimes desired and did seek contact with their relinquished children, and often expressed strong feelings of love for their child as well as sorrow, regret, and happiness about the fact that their child was adopted. For many campers of all ages, the thought of contact with their birth parents (or even providing space for birth parents to exist in their thoughts) was not a fully conceptualized possibility. The purpose of these activities was to engage with the birth parents' ghostly presence—not as an absent presence that we tend to forget, ignore, or hide out of fear, but as a present absence.

Here, they may not be physically present, but they are brought into the space with intention and are acknowledged instead of being overlooked or disregarded.[57]

Imperial wars, settler colonialism, structural racism, global capitalism, heteropatriarchy, and the adoption industry have contributed to the separation of families and the making of ghosts. To practice ghostly kinship is to create a language through radical love and hold other formations of kinship that are uncertain, not material, and not immediate. Ghostly kinship disrupts normative ideas of family, time, and space. It enables a sort of nonlinear, nonphysical accompaniment in which adoptees can reclaim time, connection, and relationality with their birth family. Ghostly kinship helps describe the relationships that have existed, emerged, and continued due to the act of adoption and the act of resisting normative adoption discourse and practice. The goal should not only be to petition the state for recognition of the adoptees and their families (through adoptee, birth family, and adoptive family rights) but rather to think about how we can build and cultivate relationships outside of these normative adoption practices that reproduce structural, symbolic, and traumatic forms of violence.

OPEN ADOPTIONS: BETTER BUT NOT THE ANSWER

> *When adoption is done ethically, when it is the right thing for all of the parents, birth and adoptive, when the extended families have been educated and worked with and when the community is well prepared, then we all know we have expanded our lives, expanded our families, and expanded our hearts.*[58]
>
> —JOYCE MAGUIRE PAVAO

There is no doubt that thousands of individual children have benefitted from adoption, and there is also no doubt that thousands of adoptees and adoptive parents have loved and continue to immensely love each other. There have been adoption and child welfare reforms such as the enactment of Indian Child Welfare Act (ICWA), ratification of the Hague Adoption Convention, and the passage of the Family First Prevention Services Act of 2018 (FFPSA).[59] Nevertheless, this book has presented a particular perspective on adoption, one that believes a vast majority of adoptions have components that are not ethical. This can include the conditions of poverty and incarceration; social welfare or health provider investigations that lead to disparate removals and family separations; coercion, misinformation, or payment relating to relinquishment; records misconduct in the form of omission or fabrication; poor legal representation or lack of due process for birth parents; impossible timelines and reunification plans; or the ways that termination of parental rights (TPRs) can produce trauma, disillusionment, self-harming behavior, and "disenfranchised grief" that is unrecognized and not accepted.[60] Even for kinship adoptions, TPRs are harmful because they drive a wedge in the family, unlike alternatives such as guardianship, which can engender

a "collaborative, consensual arrangement."[61] We must also contend with adoption disruption, dissolution, rehoming, and estrangement.

Amelia Frank Meyer, founder of a Minnesota nonprofit that aims to transform the child welfare system, argues that our system designed to help children actually produces more harm: "By every measure—the voice of youth, the long-term outcome data, and even the social return on investments—our investments in out-of-home care produced negative impacts for all involved."[62] Adoption has only thought of the "best interests of the child" after families have either been forced or allowed to be separated, and then that pretext of "best interest of the child" has been, in a circuitous fashion, used to justify family separation. As they and so many scholars, practitioners, and activists are starting to argue, family ties do not need to be legally severed. Even in the cases of severe abuse, children who are adopted do not need new birth certificates with new names, and their records do not need to be court-sealed.

So what then of open adoptions? Surely, practices of openness have transformed adoption for the better. Since the 1980s and 1990s, domestic and a very small number of transnational adoptions have moved from mostly secret to now mostly "open."[63] Adam Pertman, an adoption policy expert, has described this shift as "nothing less than a revolution."[64] Such adoptions help address many of the concerns about adoptees not knowing their past, losing contact with biological family members, and maintaining racial and cultural mirrors. Birth parents can keep connections with children and lessen the trauma of relinquishment, but openness depends on the type of adoption. A 2012 report estimated that 95 percent of infant private agency adoptions were "open."[65] A 2007 survey found that 68 percent of private domestic adoptions had postadoption contact, but that number was lower for foster care adoptions (39 percent) and lowest for transnational adoptions (6 percent).[66] In addition, what constitutes "openness" also has a wide range, which can include relationships such as treating birth families like extended families; maintaining regular contact via phone or social media with occasional visits; simply meeting before the adoption and communicating through the adoption agency; or exchanging letters without the adoptee ever meeting the birth parents.[67]

Moreover, postadoption contact agreements (PACAs) are in many cases limited, breached, or ended entirely, in part because they are used as a backdoor to closed adoptions, where adoptive parents agree to openness and slowly close the door in order to gain full control. There are 29 states plus the District of Columbia that have PACA enforcement laws, but many loopholes exist.[68] For example, agreements are only enforceable if they are filed with the adoption proceedings.[69] Only one state provides a lawyer to enforce postadoption contact agreements, while others require mediation first or to pay legal costs if birth parents lose. In addition, birth parents may have to prove that enforcement is in the best interest of the child rather than requiring adoptive parents to show that enforcement would

harm the child.[70] In other words, open adoptions still require TPR and in the vast majority of cases do not meaningfully change the uneven power dynamics within adoptive families. Maintained connections in open adoption are more of a testament to family members who want to remain connected than the virtues of open adoption itself.[71]

LOVE, CARE, AND IMAGINING OTHERWISE

> *Love is not just a generative power for good; love can also close down dialogue, narrow our worlds and limit our imaginaries.*[72]
>
> —ELEANOR WILKINSON

> *Love takes off masks that we fear we cannot live without and know we cannot live within.*[73]
>
> —JAMES BALDWIN

The late cultural theorist Lauren Berlant wrote that love is normative and that we need "other modes of relating" beyond just love to animate a "bigger imagination of the affective dimensions that it would take to (re)build a world."[74] Berlant's words help us understand the limits and even dangers of normative love that Wilkinson describes. Yet Baldwin, like Fanon, seems to believe in love precisely because of its potential. In adoption, love *is* the mask. It masks the non-normative creation of family, so that it (the "fictive") can be included, accepted, valid, and real. It masks the structural-historical, symbolic, and traumatic forms of violence attached to adoption to create notions of permanency, belonging, and yes, love—even as we know this approach to be harmful for most adoptees as well as untenable and unlivable for other adoptees, who will grow up and come to different levels of consciousness about adoption and kinship. Love is the mask, but love can also help remove the mask and hold space for "other modes of relating" if we think of love not by itself but in conjunction with kinship, care, and relationality.

But what does care mean? It seems to naturally fit with adoption, parenting, family, and kinship. According to the many definitions from *Merriam-Webster*, "care" as a noun can, among other things, mean a state of uncertainty or worry; watchful attention; a form of maintenance; or a charge or supervision especially with regards to health, well-being, and safety. As a verb, "care" can mean to feel concern or to give care. Taking these definitions together, I want to think about how we care about care. What type of care do we privilege? Is the care out of obligation? Do we expect something in return? Are we willing to invest resources into care? Eleana Kim suggests that we move toward care and not just kinship. Care, she argues, can be more open-ended beyond the social reproduction of conventional roles and obligations that are attached to kinship. In her keynote address at the Alliance for the Study of Adoption and Culture in 2021, Kim posits that the question should not be "how can we care more" but "how to care," such that care is not a "predetermined set of affective practices." While kinship is traditionally the

basis or precondition of care in an obligatory sense ("I have adopted this child, therefore I must care for them"), Kim offers that care should be the "performative basis of kinship" ("I care for this individual, therefore we are kin"). She provocatively concludes by stating we should be "taking care" rather than "making kin."[75]

In 1958 the *Afro-American* weekly newspaper published a story about a mother who, in a "bizarre twist," sought the adoption of herself and her two kids to help with care for the whole family while she worked. "I'm not just looking for a baby sitter whose only interest would be in the financial return," the mother explained. "What I really want is someone who might be willing to take us in as members of the family and give us the love and affection which children need. What we need most is some kind of emotional security."[76] Presently, we are experiencing a shift in thinking about adoption and care. Transnational adoptions are down to the lowest numbers since the late 1960s.[77] In 2018, Congress passed the bipartisan Family First Prevention Services Act, focusing on ways to prevent family separation and support family reunification.[78] Lastly, ICWA was not only upheld in *Brackeen* but is slowly being understood as the gold standard in child welfare because of the ways it ensures active efforts to maintain ties to birth and extended family, community, and cultural identity, which can be beneficial for all children.[79] At the same time, many scholars and activists have articulated the need for more than these reforms—to imagine otherwise and build alternative futures.

SOVEREIGNTY AND NATIVE KINSHIP

Love, care, and imagining otherwise means upholding tribal sovereignty and learning from Indigenous ontology (ways of being) and epistemology (ways of knowing). *Adoptive Couple v. Baby Girl* was primarily about who could be considered Indian. Settler colonial classification of what or who counts as Indian "has had profound impacts on the ways that non-Aboriginal people view Aboriginal people and on how some Aboriginal people view themselves."[80] When stripped down, both Supreme Court cases, *Adoptive Couple v. Baby Girl* (2013) and *Haaland v. Brackeen* (2023), were about who gets to love and care for Indian children and who gets to make that decision. Hence, Tribes having the power to decide who is a member is vital to Native self-determination. Tribes value their children as part of a larger community, yet they have been criticized for not upholding "true love"—unlike non-Indian adoptive parents. Yet according to Lindsay Nixon, Cree-Métis-Saulteaux scholar and artist, who writes on love and kinship, "ethical love is a pedagogy of relationality taught to Indigenous peoples by their kin" and is activated by "attentiveness to kinship responsibilities."[81]

The kinship responsibilities that Indigenous peoples hold are not just tied to people. In thinking about land, Leanne Betasamosake Simpson, Michi Saagiig Nishnaabeg scholar, argues that the opposite of dispossession is not possession: "It is deep, reciprocal, consensual *attachment*. Indigenous bodies don't relate to the land by possessing or owning it or having control over it. We relate to land

through connection—generative, affirmative, complex, overlapping, and nonlinear *relationship*."[82] Although Simpson is writing about land, she is also speaking about people in relation to one another. Kim TallBear, Sisseton-Wahpeton Oyate scholar, adds that in addition to being separated from each other and dispossessed from land, Indigenous peoples are detached from nonhuman kin: "It's not just our children that were stolen from our communities, our families were disrupted in that way. But our non-human relatives were also . . . were severed as well. All of our kinship relations were severed, as settlers attempted to force us into these settler state institutions."[83] The expropriation, privatization, and commodification of land has disrupted the ecology of kinship among Indigenous people and the nonhuman world, including animals, land, water, and the sky.[84] TallBear advocates for broader notions of kinship, care, and love: "What is possible with a model in which *love* and *relations* are not considered scarce objects to be hoarded and protected, but which will proliferate beyond the confines of the socially constituted couple and nuclear family?"[85] For TallBear it is about leaning on extended kinship networks to share responsibilities.

The U.S. child welfare system could learn from Native forms of responsibility and care. Cherokee scholar Daniel Heath Justice argues that kinship is "best thought of as a verb rather than a noun" because it conveys the active role that people engage in to create and maintain kin relationality with humans and the nonhuman world.[86] The easiest example is ICWA. ICWA is not a perfect law in that it has not and cannot protect all Native families and children. Disproportionality still affects Native children in child removal and foster care placements, but ICWA is considered the gold standard by many child welfare workers and officials because it requires "active" (doing) rather than "reasonable" (passive) efforts. As social welfare scholars Katharine Briar-Lawson and colleagues state: "Active efforts literally mean 'more than reasonable efforts'. . . . If active efforts were applied universally to children and families in child welfare, fewer children would be removed, and more tailored help would be provided to families."[87] What would happen if we repealed the Adoption and Safe Families Act and replaced it with one that included, and even expanded upon, the protections provided in ICWA? Also, what could non-Native adoptees do to fight in solidarity with Native Tribes and communities to not only protect ICWA from future attacks but also to protect other encroachments of Native land, sovereignty, and self-determination, especially now that we understand how land is tied to kinship?

REPRODUCTIVE JUSTICE

Love, care, and imagining otherwise means prioritizing reproductive justice. A reproductive justice framework reminds us that we should protect "the right to *not* have a child; the right to *have* a child; and the right to *parent* children in safe and healthy environments."[88] For those who are pregnant, reproductive justice means bodily autonomy, to not use the demand for adoption to force pregnancy and

childbirth for those who would choose abortion. Reproductive justice means colonialism, racism, patriarchy, and capitalism should not determine the "reproductive destinies" of marginalized communities.[89] American studies scholar Sandra Patton-Imani explains how "all families are shaped by power," but that stratified reproduction—the inequality that exists prior to, during, and after reproduction—helps us understand how it affects poor, non-White, and LGBTQ individuals and families in contradictory ways.[90] This is to say that marginalized families, especially queer ones, are often the target of discrimination and exclusion in family-making processes, but they can also assert certain privileges when creating families through adoption and assisted reproduction. Queer couples have had to strike the balance of assimilation and resistance when it comes to family-making in a society that does not just privilege but is designed to reproduce heteronormative relationships and families. This could mean a woman claiming to be a prospective single mother, rather than a woman in a committed relationship with another woman, in order to adopt.[91]

Patton-Imani provides two examples that demonstrate this point. In one, she recounts how two women of color understood themselves to be less economically privileged than some gay couples (e.g., White women and men of color) but more privileged than others who did not have the same community support. "So even within adoption circles we're, like, atypical because we didn't have the funds readily available," one of the mothers says. "We had to do fundraising. We had to have community parties. We had to, you know, wait and save for two years to get him. It's just really different."[92] For so many adoptees the idea of fundraising to adopt further elucidates the way that children become commodities in the adoption exchange and industry. While it may be unfair to say that this couple should use their funds to keep the family together, oftentimes it is clear that there are money and resources available, but we do not prioritize supporting struggling families. Patton-Imani's second example is of a queer Latina activist. "There's three moms," she says. "My wife and I are godmothers to our best friend's child, who lives with us fifty percent of the time. And we are Salvadorian, Puerto Rican, Jewish, and Arab." The two godmothers are not mothers to the boy in a legal sense. As the mother explains: "There is *no laws* in Maryland that will allow us to get custody of this child without diminishing the role of the mother, which we are not willing to do." If something were to happen to the biological mother, they would not have legal protection to keep caring for the child. Although their family is "not socially recognized as legitimate," Patton-Imani explains, their "performance of family is also a reclaiming of kinship history among families of color."[93]

Patton-Imani's first example underscores the commodification, permanent transfer, and ownership characteristics that make up adoption, and her second example highlights the simultaneous maintenance of original *and* the construction of new kinship through alternative means and collaborative care. Signe Howell claims that following non-Western practices of kinship is "not likely to be fruitful" because Western notions of individualism lead couples to want to be

sole parents, not partial parents—"to have a child of one's own."[94] Yet in Patton-Imani's second example, the two moms built feminist solidarity that was not based solely on individualism or the securing and privileging of one person's right to adopt over another's right to maintain a family. It involved a network of care, kinship, and mutual responsibility.

Reproductive justice also includes the ability to reinstate parental rights. The vast majority of parents in the United States who experience child removal want to parent their children, but mandatory timelines and barriers make this impossible for many of them, resulting in the termination of their parental rights. The enactment of TPR does not guarantee adoption, which leads to thousands of children becoming legal orphans every year. Many youths maintain strong relationships with biological family despite TPR. In trying to solve a problem that ASFA helped create, states have passed legislation allowing for reinstatement of parental rights, although some only allow it in limited circumstances—for example, voluntary relinquishment, a certain time has lapsed, and age requirements.[95] Advocates have suggested implementing *temporary* termination of parental rights to avoid this self-made crisis of legal orphanhood.[96]

Others have suggested that states could follow the Native American legal practice of tribal customary adoptions (TCA) to achieve permanency, where adoptive parents attain legal authority and legal orphanhood is avoided by modifying (rather than terminating) parental rights. This is especially important for extended family who want to provide permanency but not at the cost of severing family ties.[97] Another example that exists is third-parent adoption. Susan Dusza Guerra Leksander, a transracial adoptee and birth mother, reunited with her daughter and was able to adopt her child through this process. As she shared on Facebook, it is "a process where parental rights can be ADDED without subtraction. Love is not a pie. . . . A slice for me does not mean less for anyone else. Love multiplies love and it is only fear that tells us love for others means less love for me. Love is addition not subtraction. Multiplication not division."[98] Leksander articulates an expansive love that shows the different ways reproductive justice can look. Reproductive justice understands that "positive outcomes for some doesn't equal justice for all."[99] Thus it pushes us to think about other solutions to the orphan and foster care crises beyond institutionalization, transnational adoption, and adoption via TPR, such as local childcare or daycare services for parents in need, early childhood education, destigmatization of single motherhood, food security, covered medical care, direct financial assistance or universal basic income, job training, and housing assistance. If we care about children and the vulnerable in the ways that we say we do, the issue is not about availability of resources; it is about our collective political and social will to prioritize them.

Marginalized families have always had to operate at the periphery or outside the bounds of the normative. My hope is that we look toward these alternative forms of care to support children and families in need. The desire to create one's

own family is a valid desire, and everyone should be able to build a family, especially queer folks. I dream of a feminist and queer future where heteronormativity is oxymoronic. How can we embrace building non-normative kinship and building families outside of violent norms and structures of harm in ways that do not depend on the separation of other families?

ABOLITION

> *We can envision and build a world where tearing families apart to meet children's needs would be unimaginable.*[100]
>
> —DOROTHY ROBERTS

Love, care, and imagining otherwise means abolishing the family policing system. The child welfare system is inherently one that involves family policing. This was worsened after the passage of the ASFA in 1997 due to increased case reviews and a shortened timeline. A single diagnosis by an overworked or overzealous social worker, teacher, or medical care worker could lead to family separation. In a relationship that is already combative, parents can be easily labeled by their caseworker as noncompliant, uncooperative, or aggressive, which "take[s] on a life of [its] own without being further questioned or reconsidered."[101] Children and parents are processed with checklists and rubber stamps, erasing important circumstances, challenges, and needs.[102] All of this causes trauma and harm.

As sociology and law professor Dorothy Roberts incisively illustrates in her recent book *Torn Apart*, you cannot fix a system that is not broken and that has historically neglected and destroyed families of color, especially Black and Native ones. Part of the worry that people have with the idea of abolition of the child welfare/family policing system is that children would not be protected from abusive parents. Roberts explains how overloading the system with hypersurveillance has made children less safe because real abuse incidents get lost in cases that should have never been reported in the first place.[103] She, along with sociologist Kelly Fong, in the new book *Investigating Families*, highlights how the COVID pandemic created an accidental experimentation with abolition. They both look to New York City as an example, where the family regulation system temporarily shrank (shrinking systems of policing is a key strategy toward the horizon of abolition), including mandatory reporters, intrusive caseworker investigations, and family courts, which led to a decrease in reports, court-filed cases, and families separated. Reported physical and sexual abuse also dropped. Once agencies began operating again at pre-pandemic capacity, there was no bump or "rebound" in the numbers from "hidden" abuse cases, as was highly expected.[104]

What happened instead was the proliferation of more than 800 mutual aid groups by May 2020, involving thousands of members.[105] Such groups have a long history in BIPOC communities. The federal government provided unrestricted

direct financial assistance to families through the CARES Act of March 2020 and the American Rescue Plan of March 2021. The former supplemented and extended unemployment insurance. The Families First Coronavirus Response Act of March 2020 established pandemic EBT payments that assisted families with children who would have normally received free or reduced school meals and children who attended eligible schools.[106] In this way we understand how abolition is as much, if not more so, about creating as it is about destroying.

What else would happen if we understood abuse and harm in a wider context rather than approaching child safety and care from an individualistic perspective that defines abuse solely in relation to parents? Back in 1973, when child abuse exploded as a national concern, sociologist David Gil testified before Congress that child abuse should be defined as "any act of commission or omission by individuals, institutions or society as a whole, and any conditions resulting from such acts or inaction, which deprive children of equal rights and liberties, and/or interfere with their optimal development, constitute, by definition, abusive or neglectful acts or conditions."[107] This could include police and the criminal "justice" system; schools that focus on discipline rather than education; and polluting corporations and neglectful landlords.[108] I would extend Gil's broad definition of abuse to think about how parents are subjected to abuse as well. In thinking about how to care, society is quick to state that certain people should not be parents. While there are certainly extreme instances of abuse, for the vast majority of the cases where parents are believed to be abusive or neglectful, we do not stop to think about how our systems of supposed protection, such as child welfare, schools, health care, and criminal justice are in fact abusive to children *and* parents.

To help reframe our thinking, we need to abolish the family regulation/policing system that does more to harm families and children than it does to protect them. We must abolish adoption as the epitome of care—as an event symbolizing rescue, cure, or solution—and instead hold adoption as *a* type of relationship under the umbrella of care. We need to reject the institution of adoption that invests in adoption as the opposite and better future over investments in other forms of care and kinship. In other words, we must eradicate not just the family policing system and adoption industry but the structural conditions and ideologies that enable them to exist. As an example of thinking beyond adoption, more practitioners are expanding how we understand relational permanence, which can be defined as "a mutually committed, life-long family connection to an adult parent-figure" and "an enduring source of love, care, support, dependability, belonging and mutual trust."[109] Relational permanence is not automatically gained through permanent legal or genetic ties. Instead, it involves nonbiological parent figures in combination with biological parents to offer tangible, financial, *and* relational support of "belonging, emotional security, and care."[110]

One example of this is SOUL Family in Kansas, which creates opportunities for foster youth to select up to three adults who would constitute a circle of care.

When a youth turns 18, they maintain access to services, which typically ends in other permanency options, while keeping relationally permanent legal ties to adults.[111] In another example the University of Houston's Graduate College of Social Work and the Center for the Study of Social Policy have collaborated in the creation of the upEND movement. Through research, storytelling, and supporting and collaborating with grassroots advocacy, it aims to "abolish the existing child welfare system" while also "imagining and recreating the ways in which society supports children, families, and communities in being safe and thriving."[112] The movement has hosted numerous events, created video resources, started a new academic journal (*Abolitionist Perspectives in Social Work*), and hosts a podcast. This example is especially important because of the ways that social workers and social work have contributed to family policing. It shows how institutions imbricated in the history of harm might reflect and "upEND" themselves.

I hope this book has illuminated the ways that love, violence, and race inform the complexity of adoption and family in the United States. How do we hold this complexity and the conditions that create the need for adoption? What would it mean not to predefine certain spaces and specific people or communities as unable to care for their children, such that they must be wholly removed? How can we rethink theories of kinship, relationality, and care—through adoptee, ghostly, and Indigenous forms of kinship as well as reproductive justice and abolition—not as a means to solve violence but to acknowledge, confront, reduce, and learn from it? How do we draw on radical love to care for the most vulnerable—not in isolation but together? What would we do if we allocated the resources and were unafraid? Answering these questions might allow us to understand that the aspects of care that we have sometimes (mistakenly) attached solely to adoption can be found in other types of care. As I wrote in the introduction, if we did this, the answer can be finding new ways to support current love. Not pathologize struggling love. Not criminalize imperfect love. It also means enabling kinship love, even if that love emanates from an older, smaller house that is in a poorer neighborhood next to a failing school, because there are social and historical reasons for why those things exist that have nothing to do with how much a person might love and care for a child.

NOTES

PREFACE

1. Amber, Adoptee Camp counselor, interview, 2011; Pam, Adoptee Camp counselor, interview, 2010; and Greg, Adoptee Camp director, interview, 2011. Names of all interviewees are pseudonyms.

2. Adoptive parents could attend an optional parent program on the last day of the Adoptee Camp.

3. Kamp Kimchee, 2005, accessed March 13, 2013, http://kampkimchee.org/index.cfm/pageid/17 (page no longer exits; paste URL into http://archive.org).

4. From 2012 to 2013, I identified at least 33 distinctive heritage camps, 4 of which provide multiple and separate heritage camps for different cultures.

5. Myers, "Complicating Birth-Culture Pedagogy at Asian Heritage Camps for Adoptees," 2019.

6. Jacobson, *Culture Keeping*, 2008; Anagnost, "Scenes of Misrecognition," 2000, 391; Eng, *Feeling of Kinship*, 2010, 110; Volkman, "Embodying Chinese Culture," 2003, 41; Briggs, "Orphaning the Children on Welfare," 2006, 84; Dorow and Swiffen, "Blood and Desire," 2009, 571; and Quiroz, "Cultural Tourism in Transnational Adoption," 2011, 6.

7. Myers, "Complicating Birth-Culture."

8. Five of the birth culture camps were open to infant and toddler adoptees, which begs the question, In these cases, is the camp more for the benefit of the parents than the child?

9. Pam Sweetser, "Why Heritage Camp Is for the Whole Family," 2011, accessed March 13, 2013, www.heritagecamps.org/who-we-serve/why-a-family-camp.html (page no longer exits; paste URL into http://archive.org).

10. Said, *Orientalism*, 1978.

11. Greg, interview.

12. Gordon, *Ghostly Matters*, 1997, 4–5.

13. Park Nelson, *Invisible Asians*, 2016, 95–96.

14. Schiller, Basch, and Blanc-Szanton, "Towards a Definition of Transnationalism," 1992, ix.

15. Volkman, *Cultures of Transnational Adoption*, 2005, 2.

16. See "Capitalizing Black and White," MacArthur Foundation, 2020, accessed November 5, 2023, www.macfound.org/press/perspectives/capitalizing-black-and-white-grammatical-justice-and-equity.

17. Bauder, "AP Says It Will Capitalize Black but Not White," 2020.

18. Tuck and Yang, "Decolonization Is Not a Metaphor," 2012.

19. Kauanui, "A Structure, Not an Event," 2016. See also Wolfe, "Settler Colonialism and the Elimination of the Native," 2006.

20. Wilkins and Stark, *American Indian Politics and the American Political System*, 2017.

INTRODUCTION

Tucker epigraph: Tucker (@theadoptedlife), "Fellow #adoptees (both same race and trans-racial), does this sentiment ring true for you?" Twitter, July 12, 2022, 12:26 p.m., https://twitter.com/theadoptedlife/status/1546576579341348864.

Povinelli epigraph: Povinelli, *Empire of Love*, 2006, 175.

1. The Danish Korean Rights Group (DKRG) has approached the Korean Truth and Reconciliation Commission, which agreed to investigate hundreds of cases of fabricated records. The DKRG, for example, found that 32 Korean adoptees shared the exact same relinquishment paragraph in their personal records. Thus orphanages were not just housing orphanages but making them. Boon Young Han and Peter Møller, "Keynote," States of Korean Adoption conference, UC Irvine, June 2, 2023. Oh, *To Save the Children of Korea*, 2015, 145.

2. Wallace, "International Adoption," 2003; Myers, "Preserving the Best Interests of the World's Children," 2009, 816–817; Wechsler, "Giving Every Child a Chance," 2010; Carlson, "Seeking the Better Interests of Children with a New International Law of Adoption," 2010–2011; Bartholet, "Commentary," 2006, and "International Adoption," 2007; Kennedy, *Interracial Intimacies*, 2003; Pertman, *Adoption Nation*, 2000; McKinney, "International Adoption and the Hague Convention," 2007; and Montgomery and Powell, *Saving International* Adoption, 2018.

3. Editors of a special issue of *Child Abuse & Neglect* discuss how adoption research has shown that adoption can help children recover from previous trauma. The majority of articles in the special issue also argue that adoption is an "'intervention' for recovery from preadoption adversity trauma within family of origin, state care, or orphanages" that further validates previous research showing that adoption alleviates prenatal and postnatal preadoptive harm. McSherry, Samuels, and Brodzinsky, "An Introduction to the Adoption and Trauma Special Issue," 2022.

4. Compton, *Adoption beyond Borders*, 2016, 8.

5. Simon and Altstein, *Adoption across Borders*, 2000.

6. Pertman, *Adoption Nation.*

7. Gordon, *Ghostly Matters*, 3–5.

8. Silva, *Toward a Global Idea of Race*, 2007.

9. Povinelli, *Empire of Love*, 175.

10. See my acknowledgments to find adoptees who are also researchers and writers.

11. Povinelli, *Empire of Love*, 10 and 17.

12. Attachment disorder includes children who avoid physical contact, have anger outbursts, display destructive and violent behavior, experience depression, and reject intimate contact with adoptive parents and family. Myong and Bissenbakker, "Love without Borders?" 2016, 170.

13. Myong and Bissenbakker, "Attachment as Affective Assimilation," 2021, 166, 170.

14. JaeRan Kim, "The Adoptee Poster Child," *Gazillion Voices*, 2014 (republished on *Harlow's Monkey*, 2017), accessed April 10, 2014, https://harlowmonkeys.files.wordpress.com/2017/10/the-adoptee-poster-child.pdf.

15. Myong and Bissenbakker, "Attachment as Affective Assimilation," 172, 174.

16. hooks, *all about love*, 2018, xxvii.

17. Hamer and Lang, "Race, Structural Violence, and the Neoliberal University," 2015, 899; and Lee, "Causes and Cures VII: Structural Violence," 2016, 110.

18. See Bourdieu, *Masculine Domination*, 2001.

19. See Luckhurst, *Trauma Question*, 2008, introduction.

20. Trista Miller, "Kinship Care Is Hard (But Worth It)!" NACAC's Adoption and Foster Care Conference, July 19, 2023.

21. Edkins, *Trauma and the Memory of Politics*, 2003.

22. Samuels, "Epistemic Trauma and Transracial Adoption," 2022.

23. McSherry, Samuels, and Brodzinsky, "Introduction to the Adoption and Trauma."

24. There are countless texts that do this, but see Bartholet, *Nobody's Children*, 1999; Compton, *Adoption beyond Borders*; and Kennedy, *Interracial Intimacies.*

25. Kim, "'Forever Family Is Like a Manufactured Hallmark Idea,'" 2022.

26. Keyes et al., "Risk of Suicide Attempt in Adopted and Nonadopted Offspring," 2013.

27. McChesney, "Teaching Diversity," 2015.

28. Bonilla-Silva, *Racism without Racists*, 2003.

29. Silva, *Toward a Global Idea of Race.* Silva argues that subaltern subjects cannot emerge into self-determination and universality because they are written out of modern representation. The Transparent/Racial I can only exist in relation to the Affectable/Racial Other. Only by upending modern representation can this change.

30. Omi and Winant, *Racial Formation in the United States*, 2015, 109–115.

31. The Supreme Court case *Students for Fair Admissions, Inc. v. University of North Carolina* ruled in June 2023 that (affirmative action) admission policies at Harvard and University of North Carolina, Chapel Hill, discriminated against Asian applicants.

32. Delgado and Stefancic, *Critical Race Theory*, 2001, 8, 69, and 145.

33. Crenshaw, "Mapping the Margins," 1995.

34. Sara Ahmed astutely notes how hate groups have appropriated the idea of love to reposition their White nationalist views, where they love the White nation, White Americans, White Christians, White workers, and so on. Ahmed, "Fascism as Love," 2016.

35. Carp, *Adoption in America*, 2002; and Fisher, "Still 'Not Quite As Good As Having Your Own'?," 2003.

36. Waggenspack, "Symbolic Crises of Adoption," 1998.

37. See also Eng, *Feeling of Kinship*; and Dorow and Swiffen, "Blood and Desire," 364.

38. Anagnost, "Scenes of Misrecognition," 392.

39. In 2021, 17 states did not have laws that allowed same-sex couples to adopt, and of those, 12 states explicitly allowed discrimination based on sexual orientation or gender identity. "Child Welfare Nondiscrimination Laws," 2024, accessed March 2, 2024, www.lgbtmap.org/equality-maps/foster_and_adoption_laws. Multiple scholars discuss this dynamic, but for in-depth exploration, see McKee, *Disrupting Kinship*, 2019, chapter 3.

40. Patton, *Birth Marks*, 2000, 18.

41. Foucault, "Nietzsche, Genealogy, History," 1977, 145.

42. Briggs, *Taking Children*, 2020; and Jerng, *Claiming Others*, 2010.

43. Donzelot, *Policing of Families*, 1979, 92, emphasis added.

44. Foucault, *History of Sexuality, Vol. 1*, 1978, 136–137, emphasis in the original.

45. Foucault, *Society Must Be Defended*, 2003, 241, emphasis added.

46. Foucault, *Society Must Be Defended*, 242 and 246.

47. Foucault, *History of Sexuality*, 25.

48. *Cherokee Nation v. Georgia* 30 U.S. 1 (1831).

49. Wolfe, "Settler Colonialism and the Elimination of the Native."

50. Ngai, *Impossible Subjects*, 2003, 37. The United States also enacted the Gentlemen's Agreement (1907) and the Asiatic Barred Zone (1917). Munshi, "Race, Geography, and Mobility," 2016, 272–273.

51. Ngai, *Impossible Subjects*, chapters 1 and 7.

52. Foucault, *History of Sexuality*, 25.

53. Reilly, "Eugenics and Involuntary Sterilization," 2015.

54. Galton, "Eugenics," 1904.

55. Reilly, "Eugenics and Involuntary Sterilization."

56. Quiroz, *Adoption in a Color-Blind Society*, 2007, 32–33. Quiroz provides a detailed table to show how the histories of eugenics, child welfare, and adoption overlap.

57. Kennedy, *Interracial Intimacies*, 18.

58. Pascoe, *What Comes Naturally*, 2009.

59. Jacobson, *Whiteness of a Different Color*, 1999, 81.

60. Albert et al., "Ending the Family Death Penalty and Building a World We Deserve," 2021.

61. See Foucault, *Archaeology of Knowledge*, 1972, and *History of Sexuality*; Hall, *Representation*, 1997; and Mills, *Discourse*, 1997.

62. Stoler, "Colonial Archives and the Arts of Governance," 2002, 90; and Schwartz and Cook, "Archives, Records, and Power," 2002.

63. Condit-Shrestha, "Archives, Adoption Records, and Owning Historical Memory," 2021.

64. Foucault, "Nietzsche, Genealogy, History," 139–140; and Benjamin, "Theses on the Philosophy of History," 1968, 257.

65. A few scholars have offered important comparative and relational analyses of adoption. See Briggs, *Somebody's Children*, 2012, and *Taking Children*; Jerng, *Claiming Others*; and Seligmann, *Broken Links, Enduring Ties*, 2013.

66. Some resources include Fessler, *The Girls Who Went Away*, 2007; Kim, *Birth Mothers and Transnational Adoption Practice in South Korea*, 2016; Sisson, *Relinquished*, 2024;

and *Birth Moms: Real Talk Podcast*, hosted by D. Yvonne Rivers, https://birthmomsrealtalk.com/.

67. Foucault, "Nietzsche, Genealogy, History."

68. Kim, *Adopted Territory*, 2010, 19.

1. A GENEALOGY OF TRANSRACIAL AND TRANSNATIONAL ADOPTION

1. DuBois, *Souls of Black Folk*, 2007, 15.

2. Dudziak, *Cold War Civil Rights*, 2011. For example, the Chinese Exclusion Act was repealed in 1943 because it was prominent in Japanese propaganda.

3. Guinier, "From Racial Liberalism to Racial Literacy," 2004, 95. Guinier highlights that the critique of racial liberalism is that it understands the problem of race as "psychological and interpersonal" rather than root structural causes of racism (100). Charles Mills ("Racial Liberalism," 2008, 1382) argues that modern liberalism has always been racial liberalism, where despite the philosophy of universality, it is dependent on racism. See also Melamed, "Spirit of Neoliberalism," 2006.

4. Stoler, "Colonial Archives and the Arts of Governance," 90.

5. Benjamin, "Theses on the Philosophy of History," 257.

6. Schotten, *Queer Terror*, 2018, 72.

7. Foucault, "Nietzsche, Genealogy, History," 139–140, 145.

8. Foucault, "Nietzsche, Genealogy, History," 146.

9. Sants, "Genealogical Bewilderment in Children with Substitute Parents," 1964.

10. Patton, *Birth Marks*, 21.

11. Gailey, *Blue-Ribbon Babies and Labors of Love*, 2010.

12. Alice Lake, "Babies for the Brave," *The Saturday Evening Post* (July 31, 1954), Viola Wertheim Bernard Papers (hereafter Bernard Papers), Archives & Special Collections, Columbia University Health Sciences Library, Box 62, Folder 1.

13. Solinger, *Wake Up Little Susie*, 2000; and Herman, *Kinship by Design*, 2008.

14. McRoy, "An Organizational Dilemma," 1989, 147.

15. Perlman and Wiener, "Adoption of Children, 1953," 1955, 338.

16. Lois Raynor, "Extending Adoption Opportunities for Negro Children," *Child Welfare*, April 1953, 4–5, Bernard Papers, Box 65, Folder 5.

17. Ethel Branham, "Transracial Adoptions—When a 'Good' Family Is Not Good Enough," National Conference of Social Work, May 26, 1964, Bernard Papers, Box 162, Folder 7.

18. *Minnesota Children's Home Finder*, December 1955, Children's Home Society Minnesota Records (hereafter CHSM Records), Box 41, Folder 1, University of Minnesota Social Welfare History Archives.

19. *Minnesota Children's Home Finder*, Fall 1953, CHSM Records, Box 41, Folder 2.

20. *Minnesota Children's Home Finder*, December 1950, CHSM Records, Box 41, Folder 3.

21. Lake, "Babies for the Brave," Bernard Papers, Box 62, Folder 1.

22. Phyllis Dunne, "Placing Children of Minority Groups for Adoption," *Children* 5, no. 2 (March–April 1958): 43–48, 43, Bernard Papers, Box 65, Folder 5.

23. Carp, *Adoption in America*, 14.

24. *Standards for Adoption Services*, Child Welfare League of America (CWLA), 1958, 7, Bernard Papers, Box 64, Folder 8.

25. *Guidelines for Adoption Service*, CWLA, 1971, 6, Bernard Papers, Box 64, Folder 8.

26. *Standards for Adoption Services*, CWLA, 1958, viii, Bernard Papers, Box 64, Folder 8.

27. *Minnesota Children's Home Finder*, Summer 1955, 5, CHSM Records, Box 31, Folder 3.

28. Pertman, *Adoption Nation*, 51; and Carp, *Adoption in America*, 14.

29. Oh, *To Save the Children of Korea*, 5.

30. Although the McCarran-Walter Act of 1952 had ended racist Asian exclusion laws, Asian immigrants were still subjected to quotas established in 1924. Ngai, *Impossible Subjects*, 255–258.

31. SooJin Pate (*From Orphan to Adoptees*, 2014) argues that the emergence of Korean adoptions must be resituated to the moment of U.S. military occupation in 1945 rather than seen as unfortunate effect of the Korean War.

32. Kori Graves (*War Born Family*, 2020) shows the role African American families played in adopting mixed-race Korean-Black children.

33. Oh, *To Save the Children of Korea*, 7.

34. Refugee Relief Act of 1953, Pub. L. No. 203–336, Sections 5 and 9.

35. Susan Pettiss, "Effect of Adoption of Foreign Children on U.S. Adoption Standards and Practices," *Child Welfare*, July 1958, Child Welfare League of America Records (hereafter CWLA Records), Box 17, Folder 4, Social Welfare History Archives, University of Minnesota.

36. Oh, *To Save the Children of Korea.*

37. Marre and Briggs, *International Adoption*, 2009, 6. Harry Holt received hundreds of letters supporting his character and ability to adopt. Congress passed and the president signed the bill in fewer than two months (An Act for the Relief of Certain Korean War Orphans, 84th Cong., 1st sess. [1955])—an uncommonly accelerated process. Winslow, *Best Possible Immigrants*, 2017, 84.

38. Bertha Holt as quoted in Winslow, *Best Possible Immigrants*, 87.

39. Herman, *Kinship by Design*, 210.

40. Child Welfare League of America and International Social Services, American Branch, "Joint Study of Proxy Adoptions," March 21, 1958, 3, CWLA Records; and Pettiss, "Effect of Adoption," July 1958, CWLA Records, Box 17, Folder 4.

41. Pettiss, "Effect of Adoption," July 1958, CWLA Records, Box 17, Folder 4.

42. Winslow, *Best Possible Immigrants*, 76.

43. Winslow, *Best Possible Immigrants*, 77.

44. Herman, *Kinship by Design*, 238.

45. Branham, "Transracial Adoptions," Bernard Papers, Box 162, Folder 7.

46. "Minority Children Seek Love and Security," *Minnesota Children's Home Finder*, Summer 1960, 4, CHSM Records, Box 41, Folder 4.

47. "PAMY Gets Under Way," *Minnesota Children's Home Finder*, Summer 1962, CHSM Records, Box 41, Folder 5.

48. "PAMY Gets Under Way," CHSM Records.

49. Charles Olds, "Two Decades of Adoption," CHSM Annual Meeting, May 18, 1967, 4, CHSM Records, Box 2, Folder 3; and *One Life at a Time: Children's Home Society of Minnesota, 1889–1989*, 39, CHSM Records, Box 2, Folder 4.

50. Harriet Fricke, "What Has PAMY Accomplished," CHSM Annual Meeting, May 16, 1963, 1, CHSM Records, Box 22, Folder 6.

51. Fricke, "What Has PAMY Accomplished," CHSM Records, 1–2.

52. "Whites Are Urged to Adopt Negroes," *New York Times*, November 14, 1963, Bernard Papers, Box 162, Folder 1.

53. Charles Jones and John Else, "Racial and Cultural Issues in Adoption," *Child Welfare*, June 1979, Bernard Papers, Box 65, Folder 5.

54. H. David Kirk, "Impediments to Child Adoption Among Negroes," *Bulletin on Family Development*, Family Study Centre, University of Kansas, Winter 1962, 2, Bernard Papers, Box 59, Folder 5.

55. "Progress Report of the Indian Adoption Project," May 14, 1963, CWLA Records, Box 17, Folder 4.

56. "Progress Report of the Indian Adoption Project," CWLA Records.

57. Jones and Else, "Racial and Cultural Issues in Adoption," Bernard Papers.

58. Letter to Philleo Nash, *Indian Adoption Project Quarterly Progress Report*, October 19, 1962, CWLA Records, Box 17, Folder 3.

59. "Indian Adoption Project," March 1960, 3, CWLA Records, Box 17, Folder 3.

60. Together, with its successor, the Adoption Resource Exchange of North American, it placed approximately 450 children. Nemy, "'Child Needed Us, We Needed a Child,'" 1968.

61. These three states totaled 264 adoptions. Fanshel, *Far from the Reservation*, 1972, 34.

62. Fanshel, *Far from the Reservation*.

63. Letter to Philleo Nash, "Indian Adoption Project Quarterly Progress Report," July 6, 1962, CWLA Records, Box 17, Folder 3.

64. Letter to Philleo Nash, CWLA Records.

65. "The Indian Adoption Project, 1958–1967," April 1, 1968, 6, CWLA Records, Box 17, Folder 4.

66. "Indian Adoption Project, 1958–1967," CWLA Records.

67. Letter to Committee on Research, November 1962, CWLA Records, Box 17, Folder 3.

68. "Quarterly Progress Report," January 29, 1963, CWLA Records, Box 17, Folder 4.

69. Jacobson, *Whiteness of a Different Color*, 32.

70. *Guidelines for Adoption Service*, 1971, 18–19, Bernard Papers.

71. Ruth Taft, "Adoptive Families for 'Unadoptable' Children," *Child Welfare*, June 1953, Bernard Papers, Box 62, Folder 1.

72. Taft, "Adoptive Families for 'Unadoptable' Children," Bernard Papers, 8–9.

73. National Conference on Adoption, "Reference Sheet for Technical Section I: The Child's Heritage." January 26–29, 1955, 2, Bernard Papers, Box 64, Folder 8.

74. *Guidelines for Adoption Service*, 1971, 19–20, Bernard Papers.

75. Adoption of Oriental Children by American White Families: An Interdisciplinary Symposium, May 1959, p. 11 (emphasis in the original), CWLA Records, Box 17, Folder 4.

76. Ryo Suzuki and Marilyn Horn, *Follow Up Study on Negro-White Adoptions*, Los Angeles County Bureau of Adoptions, 1972, 5, Bernard Papers, Box 65, Folder 5.

77. Maretzki quoted in Adoption of Oriental Children by American White Families Symposium, May 1960, p. 26, CWLA Records, Box 60, Folder 10.

78. "Supply and Demand in ARENA," Research Center Child Welfare League of America, May 1972, p. 15, CWLA Records, Box 18, Folder 4.

79. The report did not show numerical statistics for "Oriental," Chicano, Puerto Rican, and Alaskan.

80. "Supply and Demand in ARENA," CWLA Records, 7.

81. "Supply and Demand in ARENA," CWLA Records, 12, Table 7.

82. Drew Priddy and Doris Kirgan, "Characteristics of White Couples Who Adopt Black/White Children," *Social Work Journal of NASW*, July 1971, 105, Bernard Papers, Box 65, Folder 5.

83. McRoy, "Organizational Dilemma," 148.

84. National Association of Black Social Workers (NABSW), "Position Statement on Trans-racial Adoptions," 1972, accessed November 15, 2023, https://cdn.ymaws.com/www.nabsw.org/resource/resmgr/position_statements_papers/nabsw_trans-racial_adoption_.pdf.

85. McRoy, "An Organizational Dilemma," 148.

86. In an annual report Spaulding for Children in New Jersey noted the contention around mixed-race children being labeled Black or "interracial" (as a racial category). The report stated that there were many (Black and White) who believed that mixed-race children are Black and that almost all Black people "have some White heritage." "Interracial" was therefore a "meaningless" category. But it also affirmed: "The category of 'Interracial' is, however, meaningful to many of our adoptive parents, both Black and White, and, therefore, meaningful to us." Spaulding for Children New Jersey Annual Report 7/1/76–6/30/77, p. 4, Bernard Papers, Box 62, Folder 3.

87. Branham, "Transracial Adoptions," Bernard Papers, Box 162, Folder 7.

88. Priddy and Kirgan, "Characteristics of White Couples," Bernard Papers.

89. Anderson, *Children of Special Value*, 1971, 6.

90. Johnston, "Historical International Adoption Statistics, United States and World," 2022.

91. Kim, *Adopted Territory*, 21.

92. Kim, *Adopted Territory*, 2–4.

93. Many children were discovered to not be orphans at all. The Agency for International Development estimated that there were 1.2 million "full or half orphans," in which the latter category means that one parent is still alive. "Operation Babylift Report," Agency for International Development, April–June 1975, CWLA Records, Box 59, Folder 1; http://darkwing.uoregon.edu/~adoption/archive/AIDOBR.htm.

94. "Operation Babylift Report," CWLA Records, 5 and 27.

95. "Operation Babylift Report," CWLA Records, 11.

96. "Operation Babylift Report," CWLA Records, 4, 33–35, 40, 48.

97. "Operation Babylift Report," CWLA Records, 14. Eleanor Blau, "They Adopted Vietnamese Children, Now Help Others Do Same," *New York Times*, April 27, 1974.

98. McRoy, "An Organizational Dilemma," 150.

99. "Louise Wise Services Annual Report 1968–1969," Bernard Papers, Box 154, Folder 19.

100. Barbara Griffin and Marvin Arffa, "Recruiting Adoptive Homes for Minority Children," *Child Welfare* 49, no. 2 (February 1970): 105–106, Bernard Papers, Box 65, Folder 5.

101. Griffin and Arffa, "Recruiting Adoptive Homes for Minority Children," 107.

102. "Adoption Resource Exchange of North American (ARENA)" pamphlet, May 1975, CWLA Records, Box 56, Folder 19.

103. "A Proposal of the Child Welfare League of America to Establish a National Adoption Resource Exchange," April 1966, CWLA Records, Box 18, Folder 3.

104. Bloom, "ARE: The Best News in Adoption," *Together*, August 1961, 45–47, CWLA Records, Box 18, Folder 3.

105. "Proposal of the Child Welfare League of America to Establish," CWLA Records; and National Adoption Resource Exchange Memo, CWLA, May 1, 1967, CWLA Records, Box 18, Folder 4.

106. "Proposal of the Child Welfare League of America to Establish," CWLA Records.

107. CWLA ARENA Progress Report #1, January 1, 1971–June 30, 1971, CWLA Records, Box 18, Folder 4.

108. Evan Wylie, "ARENA Breaks the Adoption Barrier," *Denver Post*, September 1970, CWLA Records, Box 18, Folder 4.

109. Elizabeth Shepherd, "Adopting Negro Children," *New Republic*, June 20, 1964, Bernard Papers, Box 162, Folder 7.

110. Fricke, "Interracial Adoption," 1965, 96.

111. *Guidelines for Adoption Service*, 1971, 11–12, Bernard Paper.

112. See Melamed, "Spirit of Neoliberalism"; and Mills, "Racial Liberalism."

113. Reinhart, "Protests Seen as Harming Civil Rights Movement," 2019; and Jones, "Americans Divided on Whether King's Dream Has Been Realized," 2011.

114. Miller, *Indians on the Move*, 2019.

115. "Adoption: Bold Plan for Great Racial Understanding," *Minnesota Children's Home Finder*, Fall 1968, CHSM Records, Box 41, Folder 6.

116. Penny Johnson, Joan Shireman, and Kenneth Watson, "TRA and the Development of Black Identity at Age Eight," *Child Welfare* (January–February 1987), 45, CWLA Records, Box 145, Folder, 13.

117. Pettiss, "Effect of Adoption," July 1958, CWLA Records, Box 17, Folder 4.

118. Pollard cited in Winslow, *Best Possible Immigrants*, 134.

119. "Do You Qualify?" *Minnesota Children's Home Finder*, Spring 1965, CHSM Records, Box 41, Folder 6.

120. Roberts as quoted in Stanely Gordon, "A Rare Lesson about Love," *Look Magazine*, March 23, 1965, Bernard Papers, Box 162, Folder 7.

121. Judd Marmor, "Psychodynamic Aspects of Trans-racial Adoptions," *Social Work Practice*, 1964, Bernard Papers, Box 162, Folder 7.

122. Friedman as quoted in Woody Klein, "S.I. Family Lives Integration," *N.Y. World Telegraph*, March 4, 1965, Bernard Papers, Box 162, Folder 7.

123. Erwin as quoted in Moss, "Adoption: 'Taboos' Are Broken," 1966.

124. Kim, *Adopted Territories*; Klein, *Cold War Orientalism*, 2003; and Oh, *To Save the Children of Korea.*

125. Cranson as quoted in Mary McGrory, "The Saints Go Marching In," *New York Post*, April 5, 1977, Bernard Papers, Box 62, Folder 1.

126. Kim, *Adopted Territory*; Pate, *From Orphan to Adoptee*; and Cartwright, "Images of 'Waiting Children,'" 2005.

127. Arlene Silberman, "When Noel Came Home," *Good Housekeeping*, August 1965, Bernard Papers, Box 65, Folder 5.

128. Kim, *Adopted Territory*, 32.

129. "American Anti-Miscegenation Laws," University of Idaho, accessed March 25, 2022, www.webpages.uidaho.edu/engl_258/lecture%20notes/american_antimiscegenation.htm.

130. Margaret Valk, "Korean-American Children in American Adoptive Homes," *Child Welfare*, September 1957, CWLA Records, Box 17, Folder 4.

131. Valk, "Korean-American Children in American Adoptive Homes," 6.

132. Valk, "Korean-American Children in American Adoptive Homes," 15.

133. See Pate, *From Orphan to Adoptee*, which discusses militarized humanitarianism, where U.S. military assistance in the care of children bolstered neocolonial relations with South Korea.

134. Klein, *Cold War Orientalism.*

135. Paul Cherney, "The Abandoned Children of Asia," November 23, 1966, CWLA Records, Box 59, Folder 2, emphasis in the original.

136. "Guiding Principles for Child Welfare Concerns in Vietnam," American Council of Voluntary Agencies for Foreign Services, Inc., February 3, 1967, p. 1, CWLA Records, Box 59, Folder 2.

137. Catherine Pomeroy Collins and Leslie Westoff, "My Search for 'Nobody's Child,'" *McCall's*, April 1973, CWLA Records, Box 59, Folder 2.

138. Winslow, *Best Possible Immigrants*, 181. Daly's flight was not sanctioned by either the U.S. or Vietnamese government. The U.S. government tried to stop Daly, and the airport even turned off the runway lights. His "heroics" led to a 50 percent increase in the value of his company World by the end of the first week of April, a personal gain that amounted to approximately $20 million. "Bay Area Forever Changed As Planeful of Babies from Saigon Lands during Live Broadcast 40 Years Ago," *CBS Bay Area*, April 15, 2015, www.cbsnews.com/sanfrancisco/news/operation-babylift-orphans-saigon-adoption-vietnam-40/.

139. Statement by the President, April 3, 1975, digitized from Box 9, White House Press Releases, Ford Presidential Library, accessed June 15, 2022, www.fordlibrarymuseum.gov/museum/exhibits/babylift/documents/.

140. "Friends for All Children" (advertisement), *New York Times*, April 7, 1975, Bernard Papers, Box 62, Folder 7.

141. Tobin, Laehr, and Hilgenberg, *Last Flight from Saigon*, 1978, 29.

142. Numbers vary depending on source. "Operation Babylift," Ford Library Museum, accessed June 15, 2022, www.fordlibrarymuseum.gov/museum/exhibits/babylift/photography/.

143. Oh, *To Save the Children of Korean*, 23.

144. Shana Alexander, "A Sentimental Binge," *Newsweek*, April 28, 1975, 88, CWLA Records, Box 56, Folder 24.

145. Trieu, "Litigation, Legislation, and Lessons," 2015, 35.

146. Yến Lê Espiritu, *Body Counts*, 2014, 1–2.

147. Pate, *From Orphan to Adoptee*. While Pate uses the term "militarized humanitarianism" for Korean adoption, it can be applied to the Vietnamese adoption context as well.

148. "Complaint for Declaratory and Injunctive Relief," *Nguyen Da Yen, et al. v. Schlesinger*, 1975, Bernard Papers, Box 62, Folder 8; and "Operation Babylift Report," CWLA Records.

149. The uncertain status of children did not just apply to Vietnamese children. At least 52 Cambodian children were a part of the airlift. Immigration and Naturalization Services found that only four of the 28 children interviewed were eligible for adoption, while another four had questionable eligibility, and 20 stated that they had living parents or relatives. "Operation Babylift Report," CWLA Records.

150. "Complaint for Declaratory and Injunctive Relief," Bernard Papers. In a written opinion from an appeal to the Ninth Circuit Court, the Court admitted that some parents who placed their children on planes did not fully realize the consequences of their actions. "Nguyen Da Yen, et al. v. Kissinger: Historic Case At a Glance," Center for Constitutional Rights, October 2007, accessed June 27, 2022, https://ccrjustice.org/home/what-we-do/our-cases/nguyen-da-yen-et-al-v-kissinger.

151. "Task Force for Indochina Refugees Report to Congress," December 15, 1975, 18 and 110, accessed June 29, 2022, https://archive.org/stream/indochineserefug19unit/indochineserefug19unit_djvu.txt. The INS commissioner admitted that if not for the lawsuit no investigation would have been conducted. Another source states that 1,500 were found not to be orphans. Costello, *Indochinese Refugees*, 1977.

152. Hai Thi Popp as quoted in Knight, "Vietnam 'Orphans' Face New Battle," 1976.

153. "Operation Babylift (1975)," *PBS American Experience*, accessed June 28, 2022, www.pbs.org/wgbh/americanexperience/features/daughter-operation-babylift-1975/; and Knight, "Vietnam 'Orphans' Face New Battle." An appeal with the Ninth Circuit Court was pending for three years before it was released to a different panel. "Nguyen Da Yen, et al. v. Kissinger: Historic Case At a Glance."

154. National Association of Black Social Workers, "Position Statement on Trans-racial Adoption."

155. David Smith quoted in Judy Klemesrud, "Furor over Whites Adopting Blacks," *New York Times*, April 12, 1972, Bernard Papers, Box 65, Folder 5.

156. "(Adoption) Opportunity Survey," Boys and Girls Aid Society of Oregon, September 18, 1973, Bernard Papers, Box 162, Folder 7.

157. Sydney Duncan, "Healing Old Wounds," *Adoptalk* (Fall 1988), 2–4, CWLA Records, Box 145, Folder 15.

158. Briggs, *Somebody's Children*, chapter 1.

159. National Association of Black Social Workers, "Position Statement on Trans-racial Adoption."

160. Florence Brown as quoted in Hope MacLeod, "The Adoption Story: Stringent Standards Have been Relaxed but Homes Still Cannot Be Found for Many Non-white Babies," *New York Post*, March 21, 1965, Bernard Papers, Box 61, Folder 5.

161. Joe Kroll, "Media Sensationalizes Trans-racial Adoption Issues," North American Council on Adoptable Children, March 31, 1993; and "Race and Child Welfare Fact Sheet," North American Council on Adoptable Children, December 3, 1992, CWLA Records, Box 145, Folder 15.

162. Letter from Doris McKelvy to Viola W. Bernard, July 30, 1975, Bernard Papers, Box 162, Folder 7.

163. McRoy, "Organizational Dilemma," 151.

164. McRoy, "Organizational Dilemma," 154–155.

165. McRoy, "Organizational Dilemma," 148.

166. Sisseton Wahpeton Sioux Resolution, July 6, 1972, in U.S. Congress, Senate, *Indian Child Welfare Program: Hearings before the Subcommittee on Indian Affairs*, 93rd Cong., 2nd sess., April 8 and 9, 1974, 99 (hereafter *ICWP Hearings*, 1974).

167. "Indian Child Welfare and the Schools," *Indian Affairs* (AAIA), September–November 1968, submitted to *ICWP Hearings*, 1974, 97–99.

168. Byler testimony and Hirsch testimony, *ICWP Hearings*, 1974, 5 and 36.

169. Byler testimony, *ICWP Hearings*, 1974, 5.

170. Byler testimony, *ICWP Hearings*, 1974, 6.

171. Byler written testimony, *ICWP Hearings*, 1974, 15, 17.

172. Antrim as quoted in McDowell, "Indian Adoption Problem," 1974.

173. *ICWP Hearings*, 1974, 167.

174. Hirsch testimony, *ICWP Hearings*, 1974, 35 and 37.

175. Byler testimony, *ICWP Hearings*, 1974, 13. This sentiment reappears in a 1968 edition of the Association on American Indian Affairs newsletter that is presented to Congress: "'They want to make white people out of the Indians,' Mrs. [Alvina] Alberts continued. 'They're starting with the kids because they couldn't do it to us.'" "AAIA and Devils Lake Sioux Protest Child Welfare Abuses," *Indian Affairs* (AAIA), June–August 1968, *ICWP Hearings*, 1974, 95.

176. *ICWP Hearings*, 1974, 95–100.

177. Shore and Nicholls, "Indian Youth and Tribal Group Homes," *ICWP Hearings*, 1974, 106; Bergman testimony, *ICWP Hearings*, 1974, 130; and Brennan, *ICWP Hearings*, 1974, 139.

178. I say "supposedly" because we know that TRNA does not "de-racialize" adoptees into universal subjects.

2. THE NEW NORMAL

1. Melosh, *Strangers and Kin*, 2002, 105–106.

2. Fisher, "Still 'Not Quite as Good as Having Your Own?,'" 351.

3. CQ Researcher, "Adoption Controversies," 1999, 789.

4. Herman, *Kinship by Design*, 2, 84–85.

5. Herman, *Kinship by Design*, 92–94 and 109–117.

6. For simplicity, in this chapter I mainly use PAL rather than referring to both "PAL and RAL" (except when I explicitly reference the latter) because PAL is the name given to Spencer's collective terminology, although they both seem to be equally used in today's adoption language.

7. Johnston, "Speaking Positively," 2004.

8. See Berebitsky, *Like Our Very Own*, 2000; Herman, *Kinship by Design*; Melosh, *Strangers and Kin*; and Pertman, *Adoption Nation*.

9. Carp, *Family Matters*, 1998, 21, 58; and Herman, *Kinship by Design*, 61.

10. Currently, there are only 13 states that allow adult adopted persons to have an unrestricted right to their birth certificate, while the remaining states offer compromised or restricted access. See "Interactive Maps: The Right to Obtain Your Own Original Birth Certificate," Adoptee Rights Law, 2024, https://adopteerightslaw.com/maps/, for a map and explanation of unrestricted, compromised, and restricted.

11. "A Guide to Adoption," Open Door Society, 1974, Bernard Papers, Box 62, Folder 6.

12. Herman, *Kinship by Design*.

13. Bernard Asbell, "Why So Many Adoptions Fail," *Good Housekeeping*, August 1962, Bernard Papers, Box 59, Folder 2.

14. Herman, *Kinship by Design*, 271–272.

15. Wegar, "In Search of Bad Mothers," 1997, 81–82.

16. See Miall, "The Stigma of Adoptive Parent Status," 1987; and Waggenspack, "Symbolic Crises of Adoption."

17. Kathryn Mainer critiques the way expectant mothers who have not relinquished their child are nonetheless called "birth mothers," which "overdetermines her" as "unfit." Mariner, *Contingent Kinship*, 2019, 28. In her 2007 self-published book, *Unlearning Adoption: A Guide to Family Preservation and Protection*, Jessica DelBalzo critiques PAL and instead offers "honest adoption language" as an alternative that could be considered at the opposite end of the adoption language spectrum.

18. Sen. Durenberger, "Marietta E. Spencer Receives Morris Hursh Award," *Congressional Record*, March 13, 1991, 6095, accessed May 23, 2013, www.govinfo.gov/content/pkg/GPO-CRECB-1991-pt5/pdf/GPO-CRECB-1991-pt5–1-1.pdf.

19. Franklin, "What a Child Is Given," 1989.

20. "Marietta E. Spencer Receives Morris Hursh Award," *Congressional Record*, March 13, 1991.

21. Spencer, "Terminology of Adoption," 1979, 451.

22. Johnston, "Speaking Positively."

23. "Positive Adoption Language," *Adoptive Families*, June 1992, accessed February 20, 2013, www.adoptivefamilies.com/pdf/PositiveLanguage.pdf (page no longer exits; paste URL into http://archive.org).

24. Spencer, "Terminology of Adoption," 453.

25. Stroud, Stroud, and Staley, "Understanding and Supporting Adoptive Families," 1997, 229.

26. Johnston, "Speaking Positively."

27. Spencer, "Adoption Vocabulary," 1999, 14.

28. Miall, "Stigma of Adoptive Parent Status," 38; and Smith and Miroff, *You're Our Child*, 1987, 24–25.

29. Spencer, "Terminology of Adoption," 458.

30. Spencer, "Terminology of Adoption," 454.

31. Spencer, "Terminology of Adoption."

32. Johnston, "Speaking Positively."

33. Winslow, *Best Possible Immigrants*, 113.

34. Lombardo, *Three Generations, No Imbeciles*, 2022.

35. Annual Meeting Episcopal Service for Youth, February 13, 1947, Dorothy Hutchinson Papers, Box 1, Folder 2, Rare Book and Manuscript Library, Columbia University (hereafter Hutchinson Papers).

36. Dorothy Hutchinson, "How Can We Revise Agency Policies and Practices to Better Meet the Needs of Unmarried Mothers and Babies?" National Conference of Social Work, June 1949, Hutchinson Papers, Box 4, Folder 1.

37. Winslow, *Best Possible Immigrants*, 117.

38. For discussion of stratified reproduction, see Briggs, "Feminism and Transnational Adoption," 2012; and in the Korean context, see Kim, *Adopted Territory*, 26–29.

39. Solinger, *Beggars and Choosers*, 2001, 67. See also Quiroz, *Adoption in a Color-Blind Society*.

40. Ferguson, *Aberrations in Black*, 2003; and Reddy, "Home, Houses, Nonidentity," 1997.

41. Instead, non-White female bodies have been used for the reproduction of enslaved people, as domestic house servants and nannies, test subjects of birth control, and most recently as transnational commercial surrogates. See Roberts, *Killing the Black Body*, 1997; and Vora, "Medicine, Markets, and the Pregnant Body," 2010.

42. Lewis, *Children of Sanchez*, 1961.

43. Moynihan, *Negro Family*, 1965.

44. Ferguson, *Aberrations in Black.*

45. Roberts, *Killing the Black Body*; Fujiwara, *Mothers without Citizenship*, 2008; Luther et al., "Intertwining of Poverty, Gender, and Race," 2005; and Ortiz and Briggs, "Culture of Poverty, Crack Babies, and Welfare Cheats," 2003.

46. Roberts, *Shattered Bonds*, 2002.

47. See Hübinette, "Nationalism, Subalternity, and the Adopted Koreans," 2007; and Kim, *Adopted Territories.*

48. Mohanty, "Under Western Eyes," 1991, 71–72.

49. Spencer, "Terminology of Adoption," 456–457.

50. Johnston, "Speaking Positively."

51. Spencer, "Adoption Vocabulary," 13.

52. Herman, *Kinship by Design*, 17.

53. Lee Campbell, "Origin of the Term Birthparent," June 2010, accessed November 18, 2011, www.sacredhealing.com/triadoption/Misc./Origin of the Term Birthparent.pdf (page no longer exits; paste URL into http://archive.org). For more on Concerned United Birthparents, see Solinger, *Beggars and Choosers*, chapter 4.

54. "Birthmothers as Incubators," *Adoption Critique*, July 11, 2009, accessed December 10, 2012, http://adoptioncritic.com/2009/07/11/birthmothers-as-incubators/ (page no longer exits; paste URL into http://archive.org).

55. Spencer, "Adoption Vocabulary," 12.

56. Brenda Romanchik, "A Few Words on Words in Adoption," accessed February 20, 2013, www.adopting.org/adoptions/adoption-language-a-few-words-on-words-in-adoption.html (page no longer exits; paste URL into http://archive.org).

57. Spencer, "Adoption Vocabulary," 12.

58. Spencer, "Terminology of Adoption," 453.

59. Solinger, *Beggars and Choosers*, 69–70.

60. Denise Ferreira da Silva argues that liberalism's containment of racial difference through miscegenation would disappear the racial Other of Europe. Silva, *Toward a Global Idea of Race* 132 and 157.

61. Negation requires a positive statement of irrelevance or disavowal of the racial Other, while foreclosure takes place when something is present but there is an absence of engagement as if it were not there. Spivak, *Critique of Postcolonial Reason*, 1999, 5.

62. Derrida, *Of Grammatology*, 1976, 47.

63. Wegar, "In Search of Bad Mothers," 82.

64. Spencer, "Terminology of Adoption," 455.

65. Johnston, "Speaking Positively," emphasis in original.

66. Park Nelson, "Disability of Adoption," 2018, 293.

67. "Positive Adoption Vocabulary Can Remove Some of the Bias," *The Advocate* (Baton Rouge, La.), June 15, 1989, 8-B, NewsBank.

68. "Proper Wording," *The Daily Oklahoman*, November 21, 1993, 3, NewsBank.

69. Spencer, "Terminology of Adoption," 459, emphasis added.

70. Herman, *Kinship by Design*, chapter 5.

71. Pertman, *Adoption Nation*, 32 and 71; and Melosh, *Strangers and Kin*, 177 and 289.

72. Herman, *Kinship by Design*; and Park Nelson, *Invisible Asians*.

73. Park Nelson, *Invisible Asians*, 72–91.

74. Hayes, "Transracial Adoption," 1993; and Kennedy, *Interracial Intimacies*, 396–397.

75. NABSW, "Position Statement on Trans-racial Adoption."

76. See Burrow and Finley, "Issues in Transracial Adoption and Foster Care," 2001; Carstens and Juliá, "Ethnoracial Awareness in Intercountry Adoption," 2000; Morrison, "Transracial Adoption," 2004; Silverman and Feigelman, "Adjustment of Black Children by White Families," 1981; Feigelman and Silverman, "Long-Term Effects of Transracial Adoption," 1984; and Vroegh, "Transracial Adoptees," 1997.

77. McRoy, "An Organizational Dilemma," 150.

78. Brodzinsky, Schechter, and Marantz Henig, *Being Adopted*, 1992, 63.

79. McRoy et al., "Self-esteem and Racial Identity," 1982, 525. The Vroegh study supports this conclusion as well. Vroegh, "Transracial Adoptees."

80. Juffer and van IJzendoorn, "Adoptees Do Not Lack Self-esteem," 2007, 1079.

81. Brooks and Barth, "Adult Transracial and Inracial Adoptees," 1999, 91, 93 and 98.

82. Vroegh, "Transracial Adoptees," 574.

83. Feigelman and Silverman, "Long-Term Effects of Transracial Adoption," 601.

84. See Brooks and Barth, "Adult Transracial and Inracial Adoptees"; Grow and Shapiro, "Adoption of Black Children by White Parents," 1975; Fanshel, *Far From the Reservation*; Fricke, "Interracial Adoption," 1965; Juffer and van IJzendoorn, "Adoptees Do Not Lack Self-esteem"; Silverman and Feigelman, "Adjustment of Black Children by White Families"; Feigelman and Silverman, "Long-Term Effects of Transracial Adoption"; and Vroegh, "Transracial Adoptees."

85. Fricke, "Interracial Adoption," 96.

86. Grow and Shapiro, "Adoption of Black Children by White Parents," 58.

87. Fanshel, *Far from the Reservation.*

88. Feigelman and Silverman, "Long-Term Effects of Transracial Adoption."

89. Simon and Altstein, *Adoption across Borders*, 52.

90. Simon and Altstein, *Adoption across Borders*, 149–150.

91. For adverse effects, see Chestang, "Dilemma of Biracial Adoption," 1972; Chimezie, "Transracial Adoption of Black Children," 1975; and Jones, "On Transracial Adoption of Black Children," 1972.

92. Pertman, *Adoption Nation*, 116.

93. Studies that were dependent on parent perceptions include Silverman and Feigelman, "Adjustment of Black Children by White Families"; Feigelman and Silverman, "Long-Term Effects of Transracial Adoption"; Brooks and Barth, "Adult Transracial and Inracial Adoptees"; Falk, "Comparative Study of Transracial and Inracial Adoptions," 1970; Fanshel, *Far from the Reservation*; and Fricke, "Interracial Adoption." Newer studies still do this as well. See Rojewski, "Typical American Family?" 2005.

94. Feigelman and Silverman, "Long-Term Effects of Transracial Adoption," 592.

95. See chapter 1 for a discussion on Operation Babylift. Silverman and Feigelman, "Impact of Political Conflict on Transracial Adoption," 1977.

96. Silverman and Feigelman, "Impact of Political Conflict on Transracial Adoption," 261, emphasis added. Rojewski and Rojewski note that adoptive parents who had negative experiences might be less inclined to participate in such studies too. Rojewski and Rojewski, *Intercountry Adoption from China*, 2001, 12.

97. For example, the following longitudinal studies also had high attrition rates: Vroegh, "Transracial Adoptees"; Brooks and Barth, "Adult Transracial and Inracial Adoptees"; and Feigelman and Silverman, "Long-Term Effects of Transracial Adoption."

98. For example, Feigelman and Silverman ("Long-Term Effects of Transracial Adoption") continued from a 1975 survey, which had originally sent out 1,100 surveys with a 67 percent response rate (n = 737). Their survey in 1981, sent out 545 surveys (from the group of 737) with a completed response rate of 68 percent (372). Thus their longitudinal study (1984) comprised only 33.8 percent of the original survey goal of 1,100 surveys, or a slightly better rate of 50.5 percent of the original 737 respondents. Furthermore, Brooks and Barth's 1999 study ("Adult Transracial and Inracial Adoptees") of Asian, Black, and White children adopted by White families built on Feigelman and Silverman's 1984 study as a "third wave" of the study, but only 242 adoptive parents participated (33 percent of the original 737). While these attrition rates may be typical, the "definitive" conclusions that *other researchers* take from them belies the self-selective nature of the sample over time.

99. Like adoption data in general, reporting terminations are not mandatory, and thus there is no accurate number. Varying studies of disruption have found that somewhere between 10 and 25 percent of adoption disruption. Dissolutions are much rarer, occurring only for 1–10 percent of finalized adoptions. There are no statistics on adoption discontinuities. Child Welfare Information Gateway, *Adoption Disruption and Dissolution*, Fact Sheet for Families (Washington, DC: Children's Bureau, 2012), accessed March 10, 2013, www.childwelfare.gov/pubPDFs/s_disrup.pdf (page no longer exits; paste URL into http://archive.org).

100. Falk, "Comparative Study of Transracial and Inracial Adoptions."

101. Don Heacock and Cheryl Cunningham, "Self-Esteem of Black Child Placed in a White Family," Annual Meeting, American Ortho-Psychiatric Association, Atlanta, Georgia, March 4, 1976, p. 11, Bernard Papers, Box 65, Folder 5.

102. McRoy et al., "Self-esteem and Racial Identity in Transracial and Inracial Adoptees."

103. McRoy et al., "Self-esteem and Racial Identity in Transracial and Inracial Adoptees," 525.

104. McRoy et al., "Self-esteem and Racial Identity in Transracial and Inracial Adoptees," 526.

105. McRoy et al., "Self-esteem and Racial Identity in Transracial and Inracial Adoptees."

106. Kim, "Issues in Transracial and Transcultural Adoption," 1978, 482.

107. Rienzi, Shiao, and Tuan, "Shifting the Spotlight," 2004, 12.

108. Tuan and Shiao, *Choosing Ethnicity, Negotiating Race*, 2011, 48. I hesitate to include Shiao's work here because of his controversial research suggesting a genetic basis for race, but I do so to highlight Mia Tuan's work in this field.

109. Peter Kim, Sungdo Hong, and Bok Soon Kim, "Adoption of Korean Children by New York Area Couples," *Child Welfare* 58, no.7 (July–August 1979), Bernard Papers, Box 65, Folder 5.

110. "The Gathering of the First Generation of Adult Korean Adoptees," Donaldson Adoption Institute, June 2000, https://iamadoptee.org/wp-content/uploads/2019/08/Gathering-Donaldson-survey.pdf. The other percentages were 14 percent viewed themselves as "Asian/Korean," while the remaining 28 percent considered themselves "Korean-American/European."

111. Juffer and Tieman, "Being Adopted," 2009, 640.

112. Bergquist, Campbell, and Unrau, "Caucasian Parents and Korean Adoptees," 2003, 51.

113. Falk ("Comparative Study of Transracial and Inracial Adoptions," 83) compared adoptive parents who had adopted inracially with parents who adopted transracially. The latter group adopted children of varying backgrounds, which he disaggregates and categorizes as "Negro" and "Negro-Caucasian"; "Indian" and "Indian-Caucasian"; and "Oriental" and "Oriental-Caucasian." But for his analysis, Falk again only compared the experiences of all the parents who had adopted transracially, as a whole, with those who had adopted inracially. For McRoy et al. ("Self-esteem and Racial Identity in Transracial and Inracial Adoptees," 523), 17 of the 30 "black" children adopted by White parents were categorized as "Black/White," while 8 were "Black/Black" and the remaining being other variations of mixed-raced Black. Yet their study only divided the children into two groups: inracial adoptees (Black children adopted by Black parents) and transracial adoptees. Feigelman and Silverman ("Long-Term Effects of Transracial Adoption") did not bother to disaggregate their groupings of Black, Korean, and Columbian children.

114. Grow and Shapiro, "Adoption of Black Children by White Parents," 58.

115. Vroegh, "Transracial Adoptees."

116. Ryo Suzuki and Marilyn Horn, "Follow Up Study on Negro-White Adoptions," Los Angeles County Bureau of Adoptions, undated/handwritten 1972, p. 2, Bernard Papers, Box 65, Folder 5.

117. Suzuki and Horn, "Follow Up Study on Negro-White Adoptions," 9.

118. Mukhopadhyay, "Getting Rid of the Word 'Caucasian,'" 2008.

119. Ung, O'Connor, and Pillidge argue that racial identity includes five dimensions: genetic, imposed, cognitive, visual, and feeling that are connected to individual, familial, community, and societal levels. Ung, O'Connor, and Pillidge, "Development of Racial Identity in Transracially Adopted People," 2012, 74 and 78.

120. Dorow, "Racialized Choices," 2006, 360. See Ortiz and Briggs, "Culture of Poverty." For discussion of the Black mother as "unfit," see Patton, *Birth Marks*, and Solinger, *Beggars and Choosers*, 79.

121. While most researchers do not reveal their connection to adoption, some adoptive parent researchers do.

122. Simon and Altstein, *Adoption across Borders*; Bartholet, "Commentary"; Kennedy, *Interracial Intimacies*; and Haugaard, "Research and Policy on Transracial Adoption," 2000.

123. Simon, "Adoption and the Race Factor," 1998, 278.

124. Bartholet, "Commentary," 319.

125. See Grow and Shapiro, "Adoption of Black Children by White Parents"; Brooks and Barth, "Adult Transracial and Inracial Adoptees," 98; and Fanshel, *Far from the Reservation*, 49.

126. Park Nelson, *Invisible Asians*, 73.

127. Bartholet, "Commentary"; Kennedy, *Interracial Intimacies*; Pertman, *Adoption Nation*; and Simon and Altstein, *Adoption across Borders.*

128. Juffer and van IJzendoorn, "Adoptees Do Not Lack Self-esteem."

129. Feigelman and Silverman, "Long-Term Effects of Transracial Adoption," 600.

130. Kennedy, *Interracial Intimacies*, 457–458.

131. Simon and Altstein, *Adoption across Borders*, 141.

132. Myong and Bissenbakker, "Love without Borders?" 2016, 174.

133. Examples of studies that ignored the social context and structural-historical violence: Grow and Shapiro, "Adoption of Black Children by White Parents"; Falk, "Comparative Study of Transracial and Inracial Adoptions"; Fanshel, *Far from the Reservation*; Fricke, "Interracial Adoption"; McRoy et al., "Self-Esteem and Racial Identity in Transracial and Inracial Adoptees"; Silverman and Feigelman, " Adjustment of Black Children by White Families"; Feigelman and Silverman, "Long-Term Effects of Transracial Adoption"; and Vroegh, "Transracial Adoptees."

134. Fanshel, *Far from the Reservation.*

135. "Adoptive Father Interview: Third Series, Indian Adoption Project," November 20, 1962, CWLA Records, Box 17, Folder 3.

136. Fanshel, *Far from the Reservation*, x.

137. Fanshel, *Far from the Reservation*, 22–23.

138. Fanshel, *Far from the Reservation*, 24.

139. Fanshel, *Far from the Reservation*, 341–342 (emphasis added).

140. Simon and Altstein, *Adoption across Borders*, 144.

141. Day, *Adoption of Black Children*, 1979.

142. Explicitly examples include Grow and Shapiro, "Adoption of Black Children by White Parents"; Falk, "Comparative Study of Transracial and Inracial Adoptions"; Fanshel, *Far from the Reservation*; and Feigelman and Silverman, "Long-Term Effects of Transracial Adoption."

143. Park Nelson, *Invisible Asians*, 87–89.

144. Myong and Bissenbakker, "Attachment as Affective Assimilation," 168.

3. COLOR-EVASIVE LOVE AND FREEDOM FROM VIOLENCE IN (NEO)LIBERAL ADOPTION LAWS

Dodd epigraph: *Barriers to Adoption: Subcommittee on Children, Family, Drugs, and Alcoholism: Hearing before the Committee on Labor and Human Resources*, 103rd Cong., 1st sess., July 15, 1993, 2 (hereafter *Barriers to Adoption Hearing*, 1993).

1. President Bill Clinton expanded it to a month in 1995. "National Adoption Month Proclamation," November 1, 1995, www.presidency.ucsb.edu/documents/proclamation-6846-national-adoption-month-1995.

2. President Ronald Reagan, "National Adoption Week Proclamation," November 13, 1984, www.presidency.ucsb.edu/documents/proclamation-5280-national-adoption-week-1984.

3. Goldstein, Freund, and Solnit. *Beyond the Best Interests of the Child*, 1973; and Raz, *Abusive Policies*, 2020, 75–76.

4. Hand, "Preventing Undue Termination," 1996, 1256–1258.

5. Hand, "Preventing Undue Termination," 1256–1259.

6. U.S. House of Representatives, Committee on Ways and Means, *Green Book*, 2018, Table 11–3 and Figure 11–3, https://greenbook-waysandmeans.house.gov/2018-green-book/chapter-11-prevention-foster-care-and-adoption (page no longer exits; paste URL into http://archive.org).

7. Raz, *Abusive Policies*, 1; and Roberts, "Is There Justice in Children's Rights?" 1999, 114. Raz explores the ways abuse was investigated at the expense of providing child welfare service.

8. Roberts, *Killing the Black Body*, 173. *Barriers to Adoption Hearing*, 1993. New policies in the 1970s such as mandatory reporting made children, parents, and families of color—as well as single parents and low-income families—disproportionately vulnerable to family separation. Raz, *Abusive Policies*, chapter 3. In addition, African American men were incarcerated, and thus separated from their families, at historic rates as a result of the war on drugs. Federal legislation such as the Anti-Drug Abuse Act of 1986 and the Crime Bill of 1996 led to exponential growth in the prison industrial complex through the increased funding of prisons, expansion of police powers, and harsher penalties such as mandatory minimums for drugs and other minor offenses. Alexander, *New Jim Crow*, 2012, 52–57.

9. By 1989, 16 states had statutes concerning expedited TPRs, and by 1996 all states and Washington, D.C., had TPR legislation. Hand, "Preventing Undue Termination," 1260.

10. Raz, *Abusive Policies*, 79.

11. Martindale, "Agency Wants To Take Away Black Tot from White Family," 1990; Associated Press, "Ruling Due Next Week on White Couple's Bid To Foster Black Child," 1991; Jordan, "Adoption in Black and White," 1993; and Jones, "Transracial Adoption Reignites Old Debate," 1993.

12. Herman, *Kinship by Design*, 250; and Patton, *Birth Marks*, 3.

13. The "best interest of the child" doctrine is used by courts to determine the placement of children in divorce, custody, adoption, abuse and neglect proceedings, and other forms of child protective services. Kohm, "Tracing the Foundations," 2008, 337, 368. In 1967 the Supreme Court decided *In re Gault* 387 U.S. 1 that children have constitutional rights to procedural safeguards.

14. Kohm, "Tracing the Foundations," 337.

15. Multiethnic Placement Act of the Improving America's Schools Act of 1994, Sec. 551, Pub. L. No. 103–382 (hereafter MEPA 1994); Removal of Barriers to Interethnic Adoption Provisions of the Small Business Job Protection Act of 1996, Sec. 1808, Pub. L. No. 104–188 (hereafter IEP 1996); Adoption Assistance Provision of the Small Business Job Protection Act of 1996, Sec. 1807, Pub. L. No. 104–188 (hereafter Adoption Tax Credit, or ATC 1996); and Adoption and Safe Families Act of 1997, Pub. L. No. 105–89 (hereafter ASFA 1997).

16. The Adoption Assistance and Child Welfare Act of 1980, Pub. L. No. 96–272 (AACWA), provided payments to states to help cover costs for foster care and adoption assistance. It had four main goals: improve the quality of substitute care (e.g., foster homes, group homes, and institutional care); reduce the number of children removed from homes; return children from substitute care back to their homes; and facilitate adoption or other permanent placement plans for children who cannot be returned to their own homes; emphasis added. Title VI of the Civil Rights Act prohibits programs and activities receiving federal financial assistance from discriminating against an individual on the basis of race, color, or national origin. Civil Rights Act of 1964, Pub. L. No. 88–352.

17. MEPA 1994.

18. IEP 1996.

19. In 1985 there were two days of testimony, and in 1999 there was only one-day testimony; thus, "hearing" and "hearings" is used to note the distinction.

20. Adoption Opportunities of the Child Abuse Prevention and Treatment and Adoption Reform Act of 1978, Sec. 5111, Pub. L. No. 95–266.

21. "Children with special needs" typically consist of any one or more of being a child who is older or from a minority group, part of a sibling group, or who is emotionally, mentally, and/or physically handicapped.

22. *Barriers to Adoption: Hearings before the Committee on Labor and Human Resources*, 99th Cong., 1st sess., June 25 and July 25, 1985 (hereafter *Barriers to Adoption Hearings*, 1985).

23. Clements testimony in *Barriers to Adoption Hearings*, 1985, 368.

24. Lakin written statement in *Barriers to Adoption Hearing*, 1993, 44.

25. Engel testimony in *Barriers to Adoption Hearings*, 1985, 270.

26. In her written statement Alice Washington explained this phenomenon: "In schools of social work workers are taught the pathology of Blacks. . . . They tend to read negatives into a perfectly positive situation. For example, one county worker was suspicious of a family who was vegetarian. She felt the child would not get any meat to eat and this was not good. Another worker wanted to know why a woman was a college professor wore an earring in her nose. She spent an hour interrogating her about the earring." *Barriers to Adoption Hearings*, 1985, 438–439.

27. Lakin written statement in *Barriers to Adoption Hearing*, 1993, 38–46.

28. Tremitiere testimony in *Barriers to Adoption Hearings*, 1985, 110.

29. Woodson testimony in *Barriers to Adoption Hearings*, 1985, 392.

30. Cole testimony in *Barriers to Adoption Hearings*, 1985, 407.

31. In a letter sent from the Concerned Citizens for Black Adoption of New York to Chairman Hatch after the 1985 hearings, the group expressed their betrayal and anger at the unexpected "lack of impartiality" in the hearings: "The Senate panel grieved over the white families who were portrayed as 'victims' of racist adoption policies. However, we did not hear any expression of concern for Black families who may never get an opportunity to be considered as adoption resource for Black children because of these same adoption policies." *Barriers to Adoption Hearings*, 1985, 450.

32. Hancock, *Politics of Disgust*, 2004, 51; Moynihan, *Negro Family*, 1965; and Ferguson, *Aberrations in Black*.

33. Campbell, *Getting It Wrong*, 2017, 165–178.

34. Besharov, "Crack Babies," 1989; and Kerr, "Babies of Crack Users Fill Hospital Nurseries," 1986. Janine Jackson ("Myth of the 'Crack Baby,'" 1998) provides numerous other examples.

35. Krauthammer, "Children of Cocaine," 1989.

36. Raz, *Abusive Policies*, 111.

37. Hui, Angelotta, and Fisher, "Criminalizing Substance Use in Pregnancy," 2017, 1124; and Raz, *Abusive Policies*, 108. Hui, Angelotta, and Fisher also note how criminalization of pregnant drug users compromises prenatal care and addiction therapy, putting both the mother and the child at greater risk.

38. Campbell, *Getting It Wrong*, 165–178.

39. Roberts, "Adoption Myths and Racial Realities in the United States," 2006, 51. See also Child Welfare Information Gateway, *Child Welfare Practice to Address Racial Disproportionality and Disparity*, Fact Sheet for Families (Washington, DC: Children's Bureau, 2021), www.childwelfare.gov/pubPDFs/racial_disproportionality.pdf.

40. Roberts, *Shattered Bonds*, vi.

41. Merritt testimony in *Barriers to Adoption Hearings*, 1985, 213.

42. *Barriers to Adoption Hearings*, 1985, 213. See also United Nations, "Convention on the Prevention and Punishment of the Crime of Genocide," December 9, 1948, accessed March 8, 2013, www.hrweb.org/legal/genocide.html.

43. Metzenbaum in *Barriers to Adoption Hearings*, 1985, 229.

44. Lipsitz, *Possessive Investment in Whiteness*, 1998.

45. Annamma, Jackson, and Morrison, "Conceptualizing Color-Evasiveness," 2017. I presented on the topic with JaeRan Kim and Victoria Dimartile at the North American Council on Adoptable Children conference in 2023, in Kansas City, Missouri.

46. In his dissent Harlan declared: "The white race deems itself to be the dominant race in this country. And so it is in prestige, in achievements, in education, in wealth and in power. . . . But in view of the Constitution, in the eye of the law, there is in this country no superior, dominant, ruling class of citizens. There is no caste here. Our Constitution is color-blind, and neither knows nor tolerates classes among citizens." *Plessy v. Ferguson*, 163 U.S. 537 (1896).

47. López, "Is the Post in Post-Racial the Blind in Colorblind," 2010, 809.

48. Gotanda, "Critique of 'Our Constitution Is Color-Blind,'" 1991, 2.

49. López, "Is the Post in Post-Racial the Blind in Colorblind," 810.

50. López, "Is the Post in Post-Racial the Blind in Colorblind."

51. This discourse is showcased in the 2000 film *Remember the Titans* (directed by Boaz Yakin), a sports biography that recounts how a White high school football team is forced to integrate with a Black head coach and players. Coach Herman Boone, played by Denzel Washington, declares: "Listen up, I don't care if you're black, green, blue, white, or orange, I want all of my defensive players on this side, all players going out for offense over here."

52. See Brownlee, "Dear White People," 2022.

53. Coccia written statement in *Barriers to Adoption Hearings*, 1985, 19.

54. Brown, Hatch, and Simon testimony in *Barriers to Adoption Hearings*, 1985, 24–27.

55. Gotanda, "Critique of 'Our Constitution,'" 18.

56. Pierce written statement in *Barriers to Adoption Hearings*, 1985, 199.

57. Gotanda notes that the color-blind ideology applies strictly only to state action and not to private individual freedom. Gotanda, "Critique of 'Our Constitution,'" 5, 7.

58. Metzenbaum in *Barriers to Adoption Hearings*, 1985, 209.

59. Metzenbaum, *Barriers to Adoption Hearings*, 1985, 318.

60. Hayes, "Transracial Adoption," 306.

61. Metzenbaum opening statement in *Barriers to Adoption Hearing*, 1993, 4.

62. Pierce, *Barriers to Adoption Hearing*, 1993, 70.

63. Pierce, *Barriers to Adoption Hearing*, 1993, 70.

64. *Barriers to Adoption Hearing*, 1993, 64.

65. Metzenbaum, *Barriers to Adoption Hearing*, 1993, 23.

66. Duncan written statement in *Barriers to Adoption Hearing*, 1993, 62.

67. Rowan's piece "Should Whites Adopt a Black?" submitted for the record in *Barriers to Adoption Hearings*, 1985, 208.

68. Reddy, *Freedom with Violence*, 2011, 39.

69. Pierce, *Barriers to Adoption Hearing*, 1993, 72.

70. Kennedy testimony in *Implementation of the Interethnic Adoption Amendments: Hearing before the Subcommittee on Human Resources of the Committee on Ways and Means, House of Representatives*, 105th Cong., 2nd sess., September 15, 1998, 81 (hereafter *IEP Hearing*, 1998).

71. Altstein testimony in *Barriers to Adoption Hearings*, 1985, 234–235.

72. Hayes, "Transracial Adoption," 305.

73. Simon testimony in *IEP Hearing*, 1998, 48.

74. Metzenbaum, *Barriers to Adoption Hearing*, 1993, 91.

75. Harris, "Whiteness as Property," 1993; and Lipsitz, *Possessive Investment in Whiteness.*

76. Metzenbaum and Dodd, *Barriers to Adoption Hearing*, 1993, 92–95.

77. Dodd, *Barriers to Adoption Hearing*, 1993, 67, 96.

78. Roberts, *Shattered Bonds* and *Torn Apart*, 2022.

79. MEPA 1994.

80. "Policy Guidance on the Use of Race, Color or National Origin as Considerations in Adoption and Foster Care Placements," *Federal Register* 60, no. 79 (April 25, 1995): 20271–20275, accessed October 25, 2022, www.govinfo.gov/content/pkg/FR-1995–04–25/html/95–10155.htm.

81. *Congressional Record* 141, no. 57 (March 28, 1995) (Sen. John McCain introduces S.637, "A bill to remove barriers to interracial and interethnic adoptions."), www.congress.gov/congressional-record/volume-141/issue-57/senate-section/article/S4717–2.

82. Adoption Tax Credit (ATC 1996).

83. Tax Reform Act of 1986, Sec. 1711, Pub. L. No. 99–514.

84. ATC 1996.

85. Carp, "Two Cheers for Orphanages," 1996, 277.

86. Briggs, *Somebody's Children*, 116.

87. Patton, *Birth Marks*, 23.

88. Herrnstein and Murray, *Bell Curve*, 1994, 416.

89. Mitchell, "Clinton Backs Republicans' Bill on Tax Credit for Adoptions," 1996.

90. Solinger, *Beggars and Choosers*, 7.

91. ASFA 1997.

92. Baldwin, "Termination of Parental Rights," 2002, 255–263, 293–294.

93. Sankaran and Church, "Ties That Bind Us," 2023, 256.

94. Milner and Kelly, "The Need to Replace Harm with Support," 2022, 7.

95. Jennifer Hand's observations come from examining various length-of-time-out-of-custody statutes for different states, but the ASFA modeled these time limit statutes. Hand, "Preventing Undue Terminations," 1276–1278.

96. Roberts, *Shattered Bonds*, 151.

97. Brook, "Reframing Recovery," 2022, 50.

98. Brook, "Reframing Recovery," 52; Guggenheim, "Failure to Repeal the Adoption and Safe Families Act," 2022, 56; and Edwards, "Reasonable Efforts and the Adoption and Safe Families Act," 2022, 97. Edwards (98) notes that these issues also appear with family time or visitation services.

99. Edwards, "Reasonable Efforts," 97. Edwards (98) notes that a common practice is social workers to simply provide a list of service providers.

100. Briar-Lawson, Day, and Mountz, "Tipping Point for Change," 2022, 35. This was also true during the earlier iteration of welfare, Aid to Dependent Families and Children. Raz, *Abusive Policies*, 75.

101. Raz, *Abusive Policies*, 37 and 89.

102. "Parental Alcohol or Drug Abuse as an Identified Condition of Removal by State, 2020" (figure). National Center on Substance Use and Child Welfare, https://ncsacw.acf.hhs.gov/files/statistics-2020.pdf. Volkow, "Drugs, Brains, and Behavior," 2020. Meyer, "Harmed Caused by the Adoption and Safe Families Act," 2022, 87–88.

103. Briar-Lawson, Day, and Mountz, "Tipping Point for Change," 36–37.

104. Solinger, *Beggars and Choosers*, 7.

105. Metzger, "Promoting Permanence for 'Legal Orphans,'" 2009, 27; and Woodhouse, "'State Orphans' in the United States," 2012. For more on "legal orphans," see Guggenheim, "Effects of Recent Trends to Accelerate the Termination of Parental Rights," 1995.

106. Stack, "Law Spurs a Rise in Legal Orphans," 2004.

107. Children's Bureau, "The AFCARS Report Preliminary FY 2019 Estimates," U.S. Dept of Health and Human Services, June 2020, 3, accessed December 1, 2023, www.acf.hhs.gov/sites/default/files/documents/cb/afcarsreport27.pdf.

108. Children's Bureau, "The AFCARS Report Preliminary FY 2019 Estimates." Since ASFA was established, there have been an average of 23,000 children who aged out of foster care as legal orphans. Guggenheim, "Failure to Repeal," 59.

109. Wildeman, Edwards, and Wakefield, "Cumulative Prevalence of Termination of Parental Rights for US Children, 2000–2016," 2020, 33.

110. Guggenheim, "Failure to Repeal," 60.

111. Mack and Barth, "Reinstating Parental Rights That Have Been Terminated," 2023, 771.

112. Sankaran and Church, "Ties That Bind Us," 262.

113. Baldwin, "Termination of Parental Rights," 294. As Mulzer and Urs ("However Kindly Intentional," 2016, 53 and 75) note: "CASA volunteers are predominantly white, middle-class women." They argue that CASAs continue the historical tradition of White women participating in "rescue fantasies." They instead contend that parents should be able to advocate on behalf of their own children.

114. Creamer and Lee, "Reimagining Permanency," 2022, 70.

115. Baldwin, "Termination of Parental Rights," 2002, 257.

116. "The Adoption Tax Credit," *Child Trends Research Brief*, August 7, 2007, https://cms.childtrends.org/wp-content/uploads/2013/02/Child_Trends-2007_08_07_RB_AdoptionTaxCredit.pdf.

117. This includes approximately $4.7 billion for the Title IV-E Adoption Assistance Payments and $51 million for the Adoption Opportunities program (pp. 5–6 and 18). In addition, there will be approximately $326 million in costs for the Kinship Guardian Assistance Payments (p. 7). Child Welfare League of America (CWLA), "The President's Fiscal Year 2024 Budget Request," www.cwla.org/wp-content/uploads/2023/03/CWLA-Summary-of-Presidents-FY-2024-Childrens-Child-Welfare-Budget.pdf. See also Administration for Children and Families, "Fiscal Year 2024: Justification of Estimates for Appropriations Committees," U.S. Department of Health and Human Services, 2023, www.acf.hhs.gov/sites/default/files/documents/olab/fy-2024-congressional-justification.pdf.

118. White House Office of Management and Budget, "Analytical Perspectives: Budget of the U.S. Government, Fiscal Year 2024," 228, www.govinfo.gov/content/pkg/BUDGET-2024-PER/pdf/BUDGET-2024-PER.pdf.

119. White House OMB, "Analytical Perspectives: Budget of the U.S. Government, Fiscal Year 2024," 216.

120. Foucault, "On Governmentality," 1991, 100.

121. Dettlaff and Boyd, "Racial Disproportionality and Disparities in the Child Welfare System," 2021, 254.

122. Carreiro, "Canadian Parents Paying Less to Adopt African American Babies," 2014.

123. Dorow, "Racialized Choices."

124. For a critical analysis of these terms, see Park Nelson, *Invisible Asians*, chapter 5; and Dorow, "Racialized Choices," 360.

125. Raleigh, *Selling Transracial Adoption*, 2018, 152.

126. Smith, Freundlich, and Kroll, *Finding Families for African American Children*, 2008, 7.

127. Ong defines compassionate domination in part as "paternalism toward subordinated populations" that involves intervention, regulation, and surveillance and is enacted in the name of love and care by feminists, humanitarian workers, and social workers. Ong, *Buddha Is Hiding*, 2003, 146 and chapter 6.

128. Child Welfare Information Gateway, *Planning for Adoption: Knowing the Costs and Resources*, Fact Sheet for Families (Washington, DC: Children's Bureau, 2022), 2, www.childwelfare.gov/resources/planning-adoption-knowing-costs-and-resources/.

129. U.S. State Department, "Annual Report on Intercountry Adoption," July 2023, https://travel.state.gov/content/travel/en/Intercountry-Adoption/adopt_ref/AnnualReports.html.

130. Raleigh, *Selling Transracial Adoptions*, 136.

131. Raleigh, *Selling Transracial Adoptions*, 2. See also Pamela Anne Quiroz, who provides a table about comparative costs in domestic private adoptions, in *Adoption in a Color-Blind Society*, 71–76.

132. Smith, Freundlich, and Kroll, "Finding Families for African American Children."

133. Office of the Assistant Secretary for Planning and Evaluation, "The Multiethnic Placement Act 25 Years Later," U.S. Department of Health and Human Services, December 2020, 3, https://aspe.hhs.gov/reports/multiethnic-placement-act-transracial-adoption-25-years-later.

134. Child Welfare Information Gateway, *Child Welfare Practice to Address Racial Disproportionality and Disparity*.

135. Krase, "Differences in Racially Disproportionate Reporting of Child Maltreatment," 2013; Kim et al., "Lifetime Prevalence of Investigating Child Maltreatment," 2017; Wildeman, Edwards, and Wakefield, "Cumulative Prevalence of Termination of Parental Rights," 2020; and Dettlaff and Boyd, "Racial Disproportionality and Disparities in the Child Welfare System."

136. White House, "A Proclamation on National Adoption Month," October 31, 2022, www.whitehouse.gov/briefing-room/presidential-actions/2022/10/31/a-proclamation-on-national-adoption-month-2022/.

137. Spinak and Polikoff, "Foreword: Strengthened Bonds," 2021.

138. Hatzipanagos, "Adoptees of Color with White Parents Struggle," 2021.

139. Harris, "Whiteness as Property"; and Lipsitz, *Possessive Investment in Whiteness*.

140. Taylor, "Resurrecting Parents of Legal Orphans," 2010, 319. See also Schalick, "Bio Family 2.0," 2013.

141. Sankaran and Church, "Ties That Bind Us," 258.

142. Trenka, Oparah, and Shin, *Outsiders Within*, 2006, 7.

4. LOVE, LIFE, AND DEATH

Epigraphs: Courtroom scene from "American Girl," Season 2, Episode 7 of *Harry's Law*, NBC, aired November 9, 2011.

1. LaFraniere, "Officials in China Seized Infants for Black Market," 2011.

2. Goodman, "Stealing Babies for Adoption," 2006. Adoption from Cambodia, Guatemala, Vietnam, and Ethiopia also were temporarily or permanently shut down because of coercion, fraud, and/or trafficking.

3. The *New York Times* profiled one adoptive mother, Susan Merkel, 48, who with her husband adopted their daughter, Maia, from China in 2007, when she was nine months old. Merkel was adopted too and has met her birthmother, which was a positive experience, helping her understand her past and identity. But she states that she would not willingly return her daughter even if there was evidence that she was seized against the will of the biological parents: "I would completely understand the anger and the pain. But I would fight to keep my daughter. Not because she's mine, but because for all purposes we're the only family she's ever known. How terrifying that would be for a child to be taken away from the only family she knows and the life that she knows. That's not about doing what's right for the child. That's doing what's right for the birth mother." Leland, "For Adoptive Parents, Questions without Answers," 2011.

4. Kimberly McKee ("Monetary Flows and the Movements of Children," 2016) has coined the term "transnational adoption industrial complex," which builds off other scholars who have theorized the prison and military industries as the prison and military industrial complexes. These structures are the combination of social, economic, political systems that are built on increasing the size of the military and prison industries.

5. This includes Nepal and Japan as well. Calculated by me from U.S. Department of State, "Intercountry Adoption Statistics," accessed November 23, 2022, https://travel.state.gov/content/travel/en/Intercountry-Adoption/adopt_ref/adoption-statistics-esri.html; and Robert Johnston, "Historical International Adoption Statistics, United States and World," November 11, 2022, www.johnstonsarchive.net/policy/adoptionstatsintl.html.

6. Calculated by me from U.S. Department of State, "Intercountry Adoption Statistics."

7. Quiroz, *Adoption in a Color-Blind Society*.

8. See Smolin, "Child Laundering and the Hague Convention," 2010.

9. Indeed, the representation of China in intercountry adoption discourse significantly overlaps with the configuration of Asian immigrants as the hardworking model minority *and* deviant threat. See Lee, *Orientals*, 1999.

10. The UNCRC was a multinational collaboration that examined the needs and legal rights of children, concentrating on issues such as child labor; children affected by

war and participating in armed combat; child imprisonment, slavery, and exploitation; homelessness and abuse; and health and undereducation. The United States is one of 196 countries to sign the treaty, but the United States has yet to ratify it. United Nations, "Chapter IV Human Rights. 11. Convention of the Rights of the Child," November 20, 1989, United Nations Treaty Collection, 2024, https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-11&chapter=4&clang=_en.

11. Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption, HCCH (Hague Conference on Private International Law), May 29, 1993, www.hcch.net/index_en.php?act=conventions.text&cid=69 (hereafter Hague Adoption Convention, 1993).

12. Bartholet criticizes the UNCRC because it puts too much weight on paying "due regard . . . to the desirability of continuity in a child's upbring and to the child's ethnic, religious, cultural and linguistic background," Bartholet, "International Adoption: The Child's Story," 378–379.

13. Hague Adoption Convention, 1993.

14. Nepal, Russia, and South Korea are signatories but have not ratified nor entered the treaty into force. "Status Table," HCCH, 2024, accessed December 8, 2023, www.hcch.net/en/instruments/conventions/status-table/?cid=69.

15. Myers, "Preserving the Best Interest of the World's Children."

16. Wechsler, "Giving Every Child a Chance," 25.

17. Smolin, "Two Faces of Intercountry Adoption," 2005, 476. In reference to abuse in India, Smolin says: "Significantly, despite the scandals, United States agencies only stopped accepting new referrals for placements after the system itself closed down, after the 2001 scandals. Moreover, there is no evidence that a single United States agency has ever taken any significant action to report, prevent, or remedy the many instances of corrupt adoption practices to which they have been witting or unwitting parties."

18. U.S. Department of State, "Intercountry Adoption Statistics."

19. McKee, "Monetary Flows and the Movements of Children," 162. See also U.S. Department of State, "Non-Convention Visa Process," 2019, accessed November 23, 2022, https://travel.state.gov/content/travel/en/Intercountry-Adoption/Adoption-Process/how-to-adopt/non-hague-adoption-process.html.

20. Smolin, "Two Faces of Intercountry Adoption," 453–454.

21. UNICEF, "Orphanhood," 2022, accessed August 7, 2022, https://data.unicef.org/topic/hivaids/orphanhood/ (page no longer exits; paste URL into http://archive.org).

22. USAID, UNICEF, and UNAIDS, *Children on the Brink 2004*, 2004.

23. Chou, Browne, and Melanie, "Intercountry Adoption on the Internet," 2007, 22.

24. Briggs, "Mother, Child, Race, Nation," 2003.

25. Gejdenson statement in *Implementation of the Hague Convention on Intercountry Adoption: Hearing before the Committee on International Relations, House of Representatives*, 106th Cong., 1st sess., 1999, 2 (hereafter *Implementation of Hague Hearing*, 1999).

26. Ryan statement in *Implementation of Hague Hearing*, 1999, 9.

27. Bliley statement in *Implementation of Hague Hearing*, 1999, 8.

28. Craig statement in *Asian Adoptions in the United States: Hearing before the Subcommittee on East Asian and Pacific Affairs of the Committee on Foreign Relations*, Senate, 109th Cong., 2nd sess., 2006, 3 (hereafter *Asian Adoptions Hearing*, 2006).

29. Atwood written statement in *Asian Adoptions Hearing*, 2006, 32.

30. Bartholet, "International Adoption: Child's Story," 344–345.

31. "Elizabeth Bartholet," Harvard Law School, 2022, accessed October 23, 2023, https://hls.harvard.edu/faculty/elizabeth-bartholet/; and "Our Team: Professor Elizabeth Bartholet," Legal Action Center, 2024, accessed October 23, 2023, www.lac.org/about/our-team/professor-elizabeth-bartholet.

32. Bartholet, "International Adoption: Child's Story," 346–347.

33. Agamben, *Homo Sacer*, 1998, 8 and 114. Eleana Kim (*Adopted Territory*, 45) argues that the orphan is a highly mediated and sentimentalized social and legal figure who represents "bare life" in need of rescue.

34. To be sure, it can represent the American Dream. As Mark Montgomery and Irene Powell (*Saving International Adoption*, 7) have stated: "But many [birth] families are eager to have their children grow up in a developed country, even when that requires emotional sacrifice on their part."

35. See Kim and Park Nelson who contend transnational adoptees occupy a privileged status of non-immigrant immigrants. Kim and Park Nelson, "'Natural Born Aliens,'" 2019.

36. Bartholet, "International Adoption: Child's Story," 347–348.

37. Bartholet, "International Adoption: Child's Story," 348–349.

38. See Lipsitz, "Racialization of Space and the Spatialization of Race," 2007.

39. See Cox written testimony in *Asian Adoptions Hearing*, 2006.

40. This is to clarify that race is not only ascribed to the racial "Other" but exists for the racial "I" too, but for the latter, it us often "unmarked" or "invisible." See Lipsitz, *Possessive Investment in Whiteness*.

41. Hague Adoption Convention, 1993, Article 4, (1) and (4).

42. Smolin, "Intercountry Adoption as Child Trafficking," 2004; Smolin, "Child Laundering and the Hague Convention"; Joyce, *Child Catchers*, 2013; and Schuster Institute for Investigative Journalism, Brandeis University, www.brandeis.edu/investigate/adoption/index.html (page no longer exits; paste URL into http://archive.org).

43. Bartholet, "International Adoption: Child's Story," 375.

44. Montgomery and Powell, *Saving International Adoption*, 12, emphasis in original.

45. See Yngvesson, "Placing the 'Gift Child' in Transnational Adoption," 2002, 239.

46. Holt as quoted in Winslow, *Best Possible Immigrants*, 138.

47. Pertman, *Adoption Nation*, 189.

48. Pertman, *Adoption Nation*, 149.

49. Carp, *Family Matters*, 21, 58.

50. Fonseca, "De-kinning of Birthmothers," 2011, 307–339; and Högbacka, *Global Families, Inequality and Transnational Adoption*, 2016.

51. Quiroz, *Adoption in a Color-Blind Society*, 23, citing Fonseca, "Transnational Connections and Dissenting Views," 2003.

52. Yngvesson, "Going 'Home,'" 2003, and "Refiguring Kinship in the Space of Adoption," 2007.

53. Bartholet, "International Adoption: Child's Story," 336.

54. Myers, "Preserving the Best Interests," 787.

55. Ward, "Utilizing Intercountry Adoption to Combat Human Rights Abuses of Children," 2009, 759.

56. King, "Challenging MonoHumanism," 2009, 414–415.

57. Johnson, *China's Hidden Children*, 2016.

58. Mohanty, *Feminism without Borders*, 2003, 222.

59. Jones, "International and Transracial Adoptions," 2004, 45.

60. *Chicago Defender* editorial cited in Winslow, *Best Possible Immigrants*, 142.

61. Klein, *Cold War Orientalism*; and Oh, *To Save the Children of Korea*.

62. Quoted in Goodman, "Stealing Babies for Adoption."

63. Smolin, "Two Faces of Intercountry Adoption," 477.

64. Smolin, "Two Faces of Intercountry Adoption," 449.

65. Smolin, "Intercountry Adoption as Child Trafficking," 323.

66. Commissie onderzock interlandelijke adoptie (Committee on the Investigation of Intercountry Adoption), Unofficial Translation Report, 2021, https://danishkorean.dk/onewebmedia/Appendix%201%20-%20COIA-netherlands-intercountry-adoption-ENG-translation-report.pdf.

67. Adoptive families are not separated, and the child's citizenship is not revoked so that they could be sent back to their birth family.

68. Smolin, "Child Laundering and the Hague Convention"; and Committee on the Investigation of Intercountry Adoption, Unofficial Translation Report.

69. Patricia Meier ("Small Commodities," 2008) suggests that powerful anti-trafficking measures be put into place and that resources should be increased to prevent and punish trafficking in international adoption. Chou, Browne, and Melanie ("Intercountry Adoption on the Internet," 29) contend that the Hague Adoption Convention needs to better define the "best interest" and what constitutes reasonable fees. Lisa Myers ("Preserving the Best Interest," 801) advocates against the trend to install government-run systems because funded government systems are just as susceptible to corruption since they have little oversight and are of lower priority compared to other areas such as infrastructure, agriculture, and medical and health services.

70. Smolin, "Two Faces of Intercountry Adoption," 475.

71. Landrieu testimony in *Asian Adoptions Hearing*, 2006, 26, emphasis in original.

72. Delahunt statement in *Implementation of Hague Hearing*, 1999, 3, emphasis added.

73. Pomeroy statement in *Implementation of Hague Hearing*, 1999, 6, emphasis added.

74. Burr statement in *Implementation of Hague Hearing*, 1999, 5, emphasis added.

75. Atwood testimony in *Asian Adoptions Hearing*, 2006, 29.

76. Twohey, "Americans Use the Internet to Abandon Children from Overseas," 2013. Note: Two quotes are embedded in the interactive graphic, where you must select a child icon.

77. The campaign estimates 25,000 to 50,000. "US Adoptees without Citizenship National and State-by-State Estimates," Adoptee Rights Campaign, March 2018, https://adopteerightscampaign.org/report-2/report-download/ (page no longer exits; paste URL into http://archive.org).

78. The two laws are the Antiterrorism and Effective Death Penalty Act of 1996, Pub. L. No. 104–132; and the Illegal Immigration and Immigrant Responsibility Act of 1996, Pub. L. No. 104–208.

79. Hiatt, "U.S. Immigration Law without Mercy," 1999.

80. Child Citizenship Act of 2000, Pub. L. No. 106–395.

81. William Delahunt, "On the First Anniversary of the Enactment of the Child Citizenship Act of 2001," *Congressional Record*, February 27, 2002, E216, www.gpo.gov

/fdsys/pkg/CREC-2002–02–27/pdf/CREC-2002–02–27-pt1-PgE216.pdf. Most news outlets reported that the CCA affected 75,000 children.

82. Kim and Park Nelson, "'Natural Born Aliens,'" 258.

83. Rajghatta, "US, India Fight to Disown Global Orphan Kairi Abha Shepherd," 2012.

84. Jones, "Adam Crapser's Bizarre Deportation Odyssey," 2015.

85. Kim, "'Forever Family Is Like a Manufactured Hallmark Idea.'"

86. Brady, "Homoerotics of Immigration Control," 2008.

87. Lê Espiritu, *Body Counts*, 64.

88. Tara Winkler, "Why We Need to End the Era of Orphanages," *TED Talks*, May 2016, www.ted.com/talks/tara_winkler_why_we_need_to_end_the_era_of_orphanages. Kathryn Joyce explains how building orphanages often produces more "orphans" because parents use them for "better food, shelter, and education," creating the illusion that there are more orphans and greater need for adoption. Joyce, *Child Catchers*, 155.

89. See Lowe, *Immigrant Acts*, 1996.

90. Metzgar, "New Report Shows International Adoption Edging Closer To Extinction," 2019; and Christopher, "Why Did International Adoption Suddenly End?" 2016.

91. Bartholet as quoted in Christopher, "Why Did International Adoption Suddenly End?"

92. Jay as quoted in Metzgar, "New Report Shows International Adoption Edging Closer to Extinction."

93. *Dobbs v. Jackson Women's Health Organization*, 597 U.S. 215 (2022).

94. Joyce, *Child Catchers*, xiii.

95. Joyce, *Child Catchers*, xii.

5. ELIMINATING THE NATIVE AND THE PRIVILEGING OF WHITE RIGHTS IN *ADOPTIVE COUPLE v. BABY GIRL*

1. DeCoteau testimony in *Indian Child Welfare Program: Hearings before the Subcommittee on Indian Affairs*, 93rd Cong., 2nd sess., 1974, 67–71 (hereafter *ICWP Hearings*, 1974).

2. Jacobs, *Generation Removed*, 2014, xxvi.

3. Indian Child Welfare Act of 1978, Pub. L. No. 95–608, 25 U.S.C. § 1901 (1978) (hereafter ICWA 1978).

4. *Mississippi Band of Choctaw Indians* made clear that voluntary surrender by Indian parents did not invalidate the law: "Tribal jurisdiction under § 1911(a) was not meant to be defeated by the actions of individual members of the tribe, for Congress was concerned not solely about the interests of Indian children and families, but also about the impact on the tribes themselves of the large numbers of Indian children adopted by non-Indians." *Mississippi Band of Choctaw Indians v. Holyfield*, 490 U.S. 30, 49 (1989). UN General Assembly, *United Nations Declaration on the Rights of Indigenous Peoples*, resolution adopted on September 13, 2007, www.un.org/development/desa/indigenouspeoples/wp-content/uploads/sites/19/2019/01/UNDRIP_E_web.pdf. On the importance of ICWA see, Strong, "What Is an Indian Family?" 2005.

5. ICWA is considered the gold standard because of the procedural guarantees it provided Indian parents in termination of parental rights (right to notice, to be heard, to counsel, to examine evidence, to remedial services, to revoke adoption consent, etc.) and Tribes (requirement to notify Tribes and right for Tribes to intervene and assert Tribal

jurisdiction). Fletcher and Fort, "Indian Child Welfare Act as the 'Gold Standard,'" 2019, 37.

6. *Adoptive Couple v. Baby Girl*, 570 U.S. 637 (2013).

7. Barker, "Self-Determination," 2015; and Wilkins and Stark, *American Indian Politics and the American Political System*, 2017.

8. Wolfe, "Settler Colonialism and the Elimination of the Native."

9. Wolfe, "Settler Colonialism and the Elimination of the Native," 388. Native scholars have since expanded on Wolfe's concept. See Kauanui, "'Structure, Not an Event.'"

10. The primary purpose of the Dawes Act was to dissolve collective Native title to land into parceled, alienable property that could be acquired by White settlers, which resulted in the loss of 90 (of 140) million acres of tribal land. Dawes Severalty Act of 1887, Pub. L. No. 49–105 (1887). Royster, "Legacy of Allotment," 1995.

11. Child, "Boarding School as Metaphor," 2018, 38.

12. Adams, *Education for Extinction*, 1995, 337.

13. Newland, *Federal Indian Boarding School Initiative Investigative Report*, 2022. There were more than 100 additional boarding schools that were not federally funded. National Native American Boarding School Healing Coalition, "List of Indian Boarding Schools in the United States," accessed October 12, 2023, https://boardingschoolhealing.org/list/.

14. Adams, *Education for Extinction*, 320 and 27.

15. For more on how heteropatriarchy works in concert with settler colonialism, see Arvin, Tuck, and Morrill, "Decolonizing Feminism," 2013.

16. Records of death are incomplete. More than 500 American Indian, Alaska Native, and Native Hawaiian children died from just 19 boarding schools. Newland, *Federal Indian Boarding School Report*, 9.

17. K. Tsianina Lomawaima ("Domesticity in the Federal Indian Schools," 1993) traces the ways boarding schools promoted gendered domesticity through disciplining of the bodies of Indian girls in particular. See also Child, *Boarding School Seasons*, 1998; Jacobs, *White Mother to a Dark Race*, 2009; and U.S. Senate Subcommittee on Indian Education, *Indian Education: A National Tragedy, A National Challenge* (*Kennedy Report*), 1969.

18. Rifkin, *When Did Indians Become Straight?*, 2010.

19. Jacobs, *Generation Removed*, 38–39.

20. For examples, see Moss, "Adoption: New Hope for Old Problems," 1966; Moss, "Adoption: 'Taboos' Are Broken"; Nemy, "Child Needed Us, We Needed a Child"; and Bender, "Ten Indians Are Adopted in City Area," 1960.

21. The termination era of the 1950s and 1960s resulted in 109 Tribes and bands losing federal recognition. Wilkinson and Biggs, "Evolution of the Termination Policy," 1977.

22. Jacobs, *Generation Removed*, 21–22 and 49.

23. Letter to Philleo Nash, July 6, 1962, Child Welfare League of America (CWLA) Records, Box 17, Folder 3.

24. Palmiste, "From the Indian Adoption Project to the Indian Child Welfare Act," 2011.

25. Blyer written statement, *ICWP Hearings*, 1974, 15–16.

26. Fanshel, *Far from the Reservation*. In his study Fanshel attempts to examine motives of adoptive parents, which some parents explicitly state desires of rescuing children in need.

27. The "Indian problem" refers to a wide range of issues, including Indian reservations that contained desirable land and resources as well as Indians who refused to assimilate

into U.S. culture, all of which inhibited westward settler colonial expansion. See Woolford, *Benevolent Experiment*, 2015.

28. Brief for Respondent Birth Father, 8, *Adoptive Couple v. Baby Girl*, 570 (2013).

29. Berger, "In the Name of the Child," 2015.

30. *Adoptive Couple v. Baby Girl*, 398 S.C. 625, 634 (S.C. 2012).

31. It ruled that ICWA was applicable and constitutional; the "Existing Indian Family" doctrine was not applicable; Brown did not voluntarily consent to the termination of his parental rights or the adoption; and failure to prove clearly and convincingly parental rights should have been terminated or that custody would have likely resulted in "serious emotional or physical damage to Baby Girl." *Adoptive Couple v. Baby Girl* (S.C. 2012), 636.

32. *Adoptive Couple v. Baby Girl* (S.C. 2012), 643.

33. ICWA 1978, 25 U.S.C. § 1912 d and f (1978).

34. *Adoptive Couple v. Baby Girl*, 404 S.C. 483 (S.C. 2013).

35. *Adoptive Couple v. Baby Girl*, 570 (2013).

36. "Court Gives Baby Veronica to Biological Father," 2012; Epstein, "Mistreating Native American Children," 2012; and Smith, "S.C. Supreme Court Says Baby Veronica Must Stay with Biological Father," 2012.

37. According to ICWA, "'parent' means any biological parent or parents of an Indian child or any Indian person who has lawfully adopted an Indian child, including adoptions under tribal law or custom" and "'Indian child' means any unmarried person who is under age eighteen and is either (a) a member of an Indian tribe or (b) is eligible for membership in an Indian tribe and is the biological child of a member of an Indian tribe" (ICWA 1978 25 U.S.C. § 1903).

38. Blatt, Oral Argument, Oyez, April 16, 2013, www.oyez.org/cases/2012/12–399, emphasis added.

39. Oral Argument, Oyez, April 16, 2013, 5–18; and *Adoptive Couple v. Baby Girl*, 570 (2013), 646–650.

40. Justice, "'Go Away, Water!,'" 2008, 150.

41. Lewerenz and McCoy, "End of 'Existing Indian Family' Jurisprudence," 2009.

42. Jacobs, *Generation Removed*, 24–26 and 28–29.

43. For a discussion of biopolitics, see Foucault, *History of Sexuality*.

44. Brief of Professors of Indian Law in Support of Respondents at 27, and Brief of Casey Family Programs et al. as Amici Curiae, at 33–34, *Adoptive Couple v. Baby Girl*, 570 (2013).

45. Sotomayor, dissenting, *Adoptive Couple v. Baby Girl*, 570 (2013).

46. Sotomayor, dissenting, *Adoptive Couple v. Baby Girl*, 570 (2013), 672.

47. Sotomayor, dissenting, *Adoptive Couple v. Baby Girl*, 570 (2013), 670–676. See also Jones, "*Adoptive Couple v. Baby Girl*: The Creation of Second-Class Native American Parents under the Indian Child Welfare Act of 1978," 2014.

48. *Adoptive Couple v. Baby Girl*, 570 (2013), 673–674; and *Adoptive Couple v. Baby Girl*, 398 S.C. 625, 651 (S.C. 2012).

49. Barker ("Self-Determination," 8) makes a similar argument about White heteronormativity and the dismissal of self-determination.

50. No longer available on original website, www.saveveronica.org. Available in pieces at Melissa Gray, "Birth Father Arrested in 'Baby Veronica' Adoption Fight," *CNN*, August 13, 2013, www.cnn.com/2013/08/12/us/south-carolina-adoption/index.html; and "Biological Father of 'Baby Veronica' Arrested, Refuses Extradition in Adoption Fight," *ABC News*,

August 13, 2013, https://abcnews.go.com/US/biological-father-baby-veronica-arrested-refuses-extradition-adoption/story?id=19943635.

51. "Charleston Sheriff: 'Everything He Does Is a Continuing Felony,'" *ABC4 News*, August 12, 2013, https://abcnews4.com/archive/capobiancos-to-issue-statement-ahead-of-tribal-council-hearing.

52. "If my baby had been kidnapped by a stranger," Maldonado wrote, "no one would suggest that she should be left with the kidnapper just because time had passed, even if she seemed to be doing all right in her new home." Maldonado, "Baby Veronica Belongs with Her Adoptive Parents," 2013.

53. John Ford's *The Searchers* (1956), one of the most popular movies in American cinema, is an example of this racist and gendered trope.

54. Mortimer, *Hollywood's Frontier Captives*, 2018, 5; and Marienstras, "Depictions of White Children in Captivity Narratives," 2002, 36.

55. Spivak, "Can the Subaltern Speak?" 1994.

56. Berger, "In the Name of the Child," 331.

57. Brief of Casey Family Programs et al. as amicus curiae at 19, *Adoptive Couple v. Baby Girl*, 570 U.S. 637 (2013). Best practices include "preserv[ing] a child's ties with her fit, willing birth parents even if those ties are initially undeveloped"; "prospective adoptive parents being fully aware that the birth parents may request return of the child"; identifying and involving absent fathers; seeking out extended family members if neither parent is able to care for the child; and if termination of parental right is necessary, making sure the process is consistent, transparent, informed, and deliberate. Brief of Casey Family Programs et al. as amicus curiae at 9–11 and 13.

58. Schwieger, "Getting to Stay," 2010.

59. Alito, majority, at 641, *Adoptive Couple v. Baby Girl*, 570 (2013).

60. "Veronica's Story," Save Veronica, 2012, www.saveveronica.org/veronicas-story/ (page no longer exits; paste URL into http://archive.org and select August 14, 2012).

61. See the Adoption Assistance Provision of the Small Business Job Protection Act of 1996 (Adoption Tax Credit, 1996), which has been reauthorized multiple times; the Multiethnic Placement Act of the Improving America's Schools Act of 1994 (MEPA); and Removal of Barriers to Interethnic Adoption of 1996 (IEP). The latter two acts are collectively known as MEPA-IEP. See also Adoption and Safe Families Act of 1997 (ASFA).

62. In addition, trainings for the ASFA were more extensive than for the ICWA, thus child welfare workers tended to default toward the former. Briar-Lawson, Day, and Mountz, "Tipping Point for Change," 34.

63. Nguyen, *Gift of Freedom*, 2012. See also Reddy, *Freedom with Violence*. I modify Reddy's notion to suggest that freedom, in the adoptive context, is subsequent to violence.

64. Alito, majority, at 641 and 646; and Thomas, concurring, at 658, *Adoptive Couple v. Baby Girl*, 570 (2013).

65. ICWA 1978, 25 U.S.C. § 1901–1963.

66. Cherokee Nation Constitution, Art. IV § 1. The Final Dawes Rolls are not without controversy, as they created three separate rolls (Indians by blood, intermarried White citizens, and freedmen) and only recorded the blood of the mother in cases in which the father was from a different Tribe. In addition, the vast majority of freedmen who had mixed-Indian ancestry was not included. Spruhan, "Legal History of Blood Quantum in Federal Indian Law to 1935," 2006.

67. See also Berger, "In the Name of the Child"; and Barker, "Self-determination."

68. Roberts, Oral Argument, Oyez, April 16, 2013. This issue was also brought up in Brief for Guardian Ad Litem by Paul Clement, where in five separate mentions he referenced Veronica's fractional blood quantum of 3/256. Berger, "In the Name of the Child," 326.

69. Alito, Oral Argument, Oyez, April 16, 2013.

70. Breyer, Oral Argument, Oyez, April 16, 2013.

71. Fain and Nagle ("Close to Zero," 2017, 808) argue that the Fourteenth Amendment concerns race, not political affiliation.

72. See Berry, "Myth of the Vanishing Indian," 1960; and Deloria, *Indians in Unexpected Places*, 2004.

73. Innes, "Elder Brother, the Law of the People, and Contemporary Kinship Practices," 2010, 29.

74. Rifkin, *Beyond Settler Time*, 2017, 26.

75. Blood quantum emerged during the colonial era to regulate mixed-raced individuals. In 1705, Virginia enacted a statute defining the term "mulatto" for Indians and Negroes to bar them from holding public office. Virginia, North Carolina, Indiana, and California passed laws specifically concerning Indian blood quantum. Spruhan, "Legal History of Blood," 4–5, 5n20, and 39. See also Fain and Nagle, "Close to Zero."

76. See Mbembé, "Necropolitics," 2003; and Foucault, *History of Sexuality*. The Indian Reorganization Act is typically described as a liberal and corrective law that attempted to undo the damage of assimilationist allotment policies, including allowing Tribes to determine their own criteria for tribal membership. Yet it still urged Tribes to adopt a U.S. style of governance and maintained Indian ancestry and blood quantum requirements to be eligible for federal programs (though not for tribal citizenship). Spruhan, "Legal History of Blood," 47. Spruhan argues there are three main periods in which the federal Indian policy used blood quantum: treaty period (1817–1871), reservation period (1871–1887), allotment period (1887–1934), and the Indian Reorganization Act. Fain and Nagle ("Close to Zero," 848–849) include the 1950s Termination Era as a fourth period, which emerged from lingering desires to assimilate Indians, end their ward status, and rid the federal government of its trust responsibilities. The Termination Era ended federal recognition of 109 Tribes and bands, liquidated tribal assets (including land), and transferred jurisdiction to state governments. It affected at least 11,466 Indians and released a "minimum of 1,362,155 acres" to non-Indians; see also Wilkinson and Biggs, "Evolution of the Termination Policy."

77. General Allotment Act, chapter 119, 24 Stat. 388 (1887) § 6. For discussion on intent of the Dawes Act, see Fain and Nagle, "Close to Zero," 822–823, 825.

78. Fain and Nagle, "Close to Zero," 829–830.

79. Those who were "enrolled as intermarried Whites, as freedmen, and as mixed-blood Indians having less than half Indian blood . . . [were] free from all restrictions." Act of May 27, 1908, chapter 199, 35 Stat. 312. Those who were between one-half and three-quarters were release from most restrictions, and those who had three-quarters or more Indian blood maintained their restrictions on their land. Spruhan, "Legal History of Blood," 39–41.

80. Spruhan, "Legal History of Blood," 32 (citing Higgins in 27 *Congressional Record* 2612–2614).

81. Fain and Nagle, "Close to Zero," 847.

82. Fain and Nagle, "Close to Zero," 847 (citing Wheeler in *Hearings on S. 2755 and S. 3645 before the Subcommittee on Indian Affairs*, 73d Cong. 100, 1934, 263–64).

83. Wolfe, "Settler Colonialism and the Elimination of the Native," 400, citing Annette Jaimes.

84. Hembree as quoted in Matt Trotter, "Baby Veronica Case Stirs Questions About Blood Quantum," *Public Radio Tulsa*, August 22, 2013, www.publicradiotulsa.org/local-regional/2013–08–22/baby-veronica-case-stirs-questions-about-blood-quantum-hear-our-special-report.

85. In defining Whiteness, the law states: "persons who have one-sixteenth or less of the blood of the American Indian and have no other non-Caucasian blood shall be deemed to be White persons." The New Virginia Law to Preserve Racial Integrity (1924) as discussed in *Virginia Health Bulletin*, March 1924, Document Bank of Virginia, https://edu.lva.virginia.gov/dbva/items/show/226.

86. Maillard, "Pocahontas Exception," 2006. Today the penchant for culturally White Americans to still claim small amounts of Native heritage (without the cultural, economic, and political "baggage") exists in what Vine Deloria Jr. (*Custer Died for Your Sins*, 1988) calls the Indian-grandmother complex.

87. Deloria, *Custer Died for Your Sins*, 63.

88. Harris, "Whiteness as Property."

89. Arvin, *Possessing Polynesians*, 2019, 3 and 14.

90. Alito, majority, *Adoptive Couple v. Baby Girl*, 570 (2013).

91. Breyer, Oral Argument, Oyez, April 16, 2013.

92. See Deer, *Beginning and End of Rape*, 2015.

93. Blatt, Oral Argument, Oyez, April 16, 2013.

94. Blatt, Oral Argument, Oyez, April 16, 2013.

95. This was a claim that was constantly circulated in the media—for example, on the *Dr. Phil Show* and by Maldonado in her *Washington Post* opinion piece ("Baby Veronica Belongs with Her Adoptive Parents"). See "Adoption Controversy," *Dr. Phil Show*, June 6, 2013.

96. "Liberal" is in quotes because color-evasiveness draws on liberal legal developments, but it also employs race neutrality in a way that perpetuates racial inequality. See chapter 3 in this book; and Gross, "Grassroots History of Colorblind Conservative Constitutionalism," 2019. See also Gotanda, "Critique of 'Our Constitution Is Color-Blind'"; and Bonilla-Silva, *Racism without Racists*.

97. Kennedy, *Interracial Intimacies*, 435. Also see Bartholet, "Correspondence," 1998; Simon and Altstein, *Adoption across Borders*; Bakeis, "Indian Child Welfare Act of 1978," 1996; and Hayes, "Transracial Adoption," 305.

98. Christopher Deluzio ("Tribes and Race," 2014) laments SCOTUS's missed opportunity to use *Adoptive Couple* to reestablish "equal" racial treatment of Tribes so that they are not treated differently.

99. Povinelli, *Empire of Love*, 2006.

100. Povinelli, *Empire of Love*, 177–178, emphasis added.

101. Povinelli, *Empire of Love*, 4.

102. For a sociohistoric understanding of Indian as a racial project, see Krakoff, *They Were Here First*, 2017. For a global-historical understanding of race, see Silva, *Toward a Global Idea of Race*, 2007.

103. Fain and Nagle, "Close to Zero," 817–818, citing Bingham in *Congressional Globe*, 37th Cong., 2d Sess. 1639 (1862).

104. Howard cited in Fain and Nagle, "Close to Zero," 818.

105. *Elk v. Wilkins*, 112 U.S. 94, 99–100 (1884).

106. The 1974 Supreme Court case *Morton v. Mancari* affirmed that preferences based on federal membership of an Indian Tribe do not violate the equal protection clause of the Fourteenth Amendment of the Constitutional and therefore are not a form of "reverse discrimination." The Court recognized such preferences related to increasing Tribal self-governance because they were "political rather than racial in nature." *Morton v. Mancari*, 417 U.S. 535, 554 and 553n24 (1974).

107. For theorization of race and space, see Silva, *Toward a Global Idea of Race*; and Lipsitz, "Racialization of Space and the Spatialization of Race."

108. Tucker, "Indian Child Welfare Act's Unconstitutional Impact on the Welfare of the Indian Child," 2009, 111.

109. This is to clarify that race is not only ascribed to the racial Other but exists for the racial "I" too, but for the latter, it us often "unmarked" or "invisible." See Silva, *Toward a Global Idea of Race*; and Lipsitz, "Racialization of Space."

110. Crichlow, "Western Colonization as Disease," 2002.

111. See ICWA 1978, 25 U.S.C. § 1916(a) "Return of custody."

112. During the legal battle, Dusten Brown married his now wife, Robin Brown. See *Adoptive Couple v. Baby Girl*, 404 S.C. 483 (S.C. 2013).

113. Lipsitz describes the possessive investment of Whiteness as the social construction of Whiteness—as a group identity—that creates and maintains structural (social, economic, political, and legal) advantages and rewards. Lipsitz, *Possessive Investment in Whiteness*.

114. For background on the "best interest" doctrine, see Kohm, "Tracing the Foundations."

115. Although ICWA was passed by Congress and signed by President Jimmy Carter, the bill was not universally supported. The Carter administration, including the Departments of Justice, Interior, and Health, Education, and Welfare along with the Child Welfare League of America all opposed the bill. Jacobs, *Generation Removed*, 156–158.

116. Canada and Australia have equally troubling pasts with regard to Indigenous child removals. See Jacobs, *Generation Removed* and *White Mother to a Dark Race.*

117. Jacobs, *Generation Removed*, 258.

118. The Goldwater Institute, a conservative think tank based in Arizona, has argued against ICWA in more than a dozen cases. Spears, "Indian Child Welfare Act Think Tank to Strategize Legal Protections for Tribal Sovereignty," 2023.

119. Fain and Nagle, "Close to Zero," 816–818. See Sandefur, "Escaping the ICWA Penalty Box," 2017.

120. Bakeis, "Indian Child Welfare Act of 1978."

121. Fain and Nagle, "Close to Zero," 809.

122. Barker, "Self-determination." 23.

123. Ball, "Constitution, Court, Indian Tribes," 1987.

124. Coulthard, *Red Skin, White Masks*, 2014.

125. Arvin, Tuck, and Morrill, "Decolonizing Feminism," 24.

126. Coulthard, *Red Skin, White Masks*, 179; and Arvin, Tuck, and Morrill, "Decolonizing Feminism."

127. *Haaland v. Brackeen*, 599 U.S. 255 (2023). *Haaland v. Brackeen* was a consolidation of four appeals cases concerning ICWA: *Haaland v. Brackeen*, *Cherokee Nation v. Brackeen*, *Texas v. Haaland*, and *Brackeen v. Haaland.*

128. Nagle, "Story of Baby O," 2022.

129. Schilfgaarde quoted in Spears, "Indian Child Welfare Act Think Tank to Strategize." Nagle quoted in B. A. Parker, "The Implications of the Case Against ICWA," NPR *Code Switch* transcripts, May 17, 2023, www.npr.org/transcripts/1175041677.

130. Spears, "Indian Child Welfare Act Think Tank to Strategize."

131. Nagle quoted in Warren, "Native American Tribes Say Supreme Court Challenge," 2023.

132. Barrett states: "But Congress can require state courts, unlike state executives and legislatures, to enforce federal law." *Haaland v. Brackeen* 599 (2023).

133. *Haaland v. Brackeen* 599 (2023), 257.

134. Barrett in *Haaland v. Brackeen* 599 (2023), 273–275.

135. Gorsuch in *Haaland v. Brackeen* 599 (2023), 327.

136. Gorsuch in *Haaland v. Brackeen* 599 (2023), 317.

137. Gorsuch in *Haaland v. Brackeen* 599 (2023), 299.

138. Gorsuch in *Haaland v. Brackeen* 599 (2023), 300–302. Gorsuch did not mention the hundreds of children who died in boarding schools though.

139. Gorsuch in *Haaland v. Brackeen* 599 (2023), 303.

140. Gorsuch in *Haaland v. Brackeen* 599 (2023), 302–305.

141. Gorsuch in *Haaland v. Brackeen* 599 (2023), 297.

142. Gorsuch in *Haaland v. Brackeen* 599 (2023), 332.

143. Barrett, citing ICWA 1978, 25 U.S.C. § 1912 (d), (e), and (f).

144. Texas Attorney General Ken Paxton, "Meet the Brackeen Family," YouTube, March 11, 2019, www.youtube.com/watch?v=awHqgz8FzIA.

145. "Meet the Brackeen Family."

146. Hoffman, "Who Can Adopt a Native American Child?" 2019.

147. Miller, "Couple in Native American Adoption Supreme Court Fight," 2022.

148. Ms. James also lived 40 minutes away from her sister, who cared for 4 of (the birth mother) Jackie's other children. Miller, "Couple in Native American Adoption Supreme Court Fight."

149. Miller, "Couple in Native American Adoption Supreme Court Fight."

150. Miller, "Couple in Native American Adoption Supreme Court Fight."

151. Nagle, "Story of Baby O."

152. Lurie, "Forever Home," 2023.

153. Brief for Robyn Bradshaw as Amici Curiae, at 6–8, *Haaland v. Brackeen*, 599 (2023).

154. Lurie, "Forever Home."

155. Brief for Robyn Bradshaw as Amici Curiae, at 1, *Haaland v. Brackeen*, 599 (2023).

156. Lurie, "Forever Home."

157. CBS Minnesota, "'She's Our Daughter,' Couple Blocked from Adopting Girl Fights for Parental Rights," 2017.

158. Brief for Robyn Bradshaw as Amici Curiae, at 14, *Haaland v. Brackeen*, 599 (2023).

159. Brief for Robyn Bradshaw as Amici Curiae, at 16–17, *Haaland v. Brackeen*, 599 (2023).

160. Lurie, "Forever Home."

161. Nagle, "Story of Baby O."

162. Blumenthal, Boboltz, and Bendery, "Supreme Court Upholds Native American Law," 2023. See also Protect ICWA, "UPDATE: HUGE VICTORY! Today, SCOTUS

voted to uphold ICWA!," X, June 15, 2023, https://twitter.com/ProtectICWA/status/1669449363720921091.

163. Quoted in Yoon-Hendricks, "WA Tribes Celebrate as Supreme Court Upholds Child Welfare Law," 2023.

164. *Haaland v. Brackeen*, 599 U.S. 255, 260–1 (2023).

165. Nagle, "Supreme Court Case That Could Break Native American Sovereignty," 2022.

166. *Haaland v. Brackeen*, 599 U.S. 255, 333 (2023).

167. Kavanaugh, Oral Arguments, *Haaland v. Brackeen*, November 9, 2022, www.supremecourt.gov/oral_arguments/audio/2022/21–376.

168. Oral Arguments, *Haaland v. Brackeen*, November 9, 2022.

169. Editorial Board, "The Supreme Court's Racial Misfire," 2023.

170. Spears, "Indian Child Welfare Act Stands," 2023.

171. Oral Arguments, *Haaland v. Brackeen*, November 9, 2022.

172. Barrett in *Haaland v. Brackeen*, 599 U.S. 255, 279–80 (2023).

173. Sotomayor, Oral Arguments, *Haaland v. Brackeen*, November 9, 2022.

174. Justice Jackson noted that plenary power emerged from Supreme Court precedents establishing that "the United States was the greater sovereign, that it was taking over the Indian sovereignty and, therefore, had a trust relationship that arose in that context and they were responsible for Indian affairs as a result." Oral Arguments, *Haaland v. Brackeen*, November 9, 2022.

175. Oral Arguments, *Haaland v. Brackeen*, November 9, 2022.

176. Alito's dissent in *Haaland v. Brackeen*, 599 U.S. 255, 380 (2023).

177. Prior stages of reporting, investigations, and substantiations were two times higher. National Indian Child Welfare Association (NICWA), "Disproportionality in Child Welfare," Fact Sheet 2021, www.nicwa.org/wp-content/uploads/2019/10/2019-AIAN-Disproportionality-in-Child-Welfare-FINAL.pdf.

178. Hoskin Jr., "Indian Child Welfare Act Preservation Is a Victory," 2023.

179. Fletcher and Fort, "Indian Child Welfare Act as the 'Gold Standard,'" 38.

180. Carlisle, "Supreme Court Will Decide the Future of Native American Foster Children," 2022.

181. Nagle as quoted in Parker, "Implications of the Case Against ICWA."

182. Child Welfare Information Gateway, *Kinship Care and the Child Welfare System*, Fact Sheet for Families (Washington, DC: Children's Bureau, 2022), www.childwelfare.gov/resources/kinship-care-and-child-welfare-system/.

CONCLUSION

1. Ahmed, "In the Name of Love," 2003.

2. Wilkinson, "On Love as an (Im)Properly Political Concept," 2017, 58.

3. Sunny Reed, "Radical Love: An Alternative Approach to Transracial Adoption?," March 23, 2021, https://sunnyjreed.blog/2021/03/23/radical-love-an-alternative-approach-to-transracial-adoption/, emphasis in original.

4. Fanon, *Black Skin, White Masks*, 1967, 42.

5. Freire, *Pedagogy of the Oppressed*, 2000.

6. hooks, *all about love*, 1999, 19.

7. Nash, "Practicing Love," 2013, 10–11.

8. Kaur, *See No Stranger*, 2020, 310, emphasis in original.

9. On "encircling," see Edkins, *Trauma and the Memory of Politics*, 2003, 15, 57.

10. McKee, *Disrupting Kinship*, 11.

11. Jaggar, "Love and Knowledge," 1989, 167–169.

12. Wilkinson, "On Love as an (Im)Properly Political Concept," 66.

13. Kaur, *See No Stranger*, 313.

14. Wilkinson, "On Love as an (Im)Properly Political Concept," 62.

15. Amara, "Adoptees 'Flip The Script' on National Adoption Month," YouTube, November 6, 2014, www.youtube.com/watch?v=NTGzZboJCAU.

16. Angela Tucker, "Do Transracial Adoptees Know Anything About Transracial Adoption?" *the adopted life blog*, January 7, 2014, www.angelatucker.com/blog/rg32m9w7c9fr9jp-6mn3m-kta7t-2f46t.

17. Eng, *Feeling of Kinship*; and Reddy, *Freedom with Violence*.

18. Wilkinson and Bell, "Ties That Blind," 2012, 425, emphasis in original.

19. Sahlins, *What Kinship Is—and Is Not*, 2013, 2.

20. Weston, *Long Slow Burn*, 1998, 59.

21. Sahlins, *What Kinship Is—and Is Not*, 2.

22. Schneider, *American Kinship*, 1980, 50, emphasis in original.

23. Schneider, *American Kinship*, 51 and 53.

24. Greg, Adoptee Camp director, interview, 2011.

25. Randolph and Holtzman, "Role of Heritage Camps in Identity Development," 2010.

26. Kalb, "Multi-dimensionality of Identity Development," 2013.

27. Greg, interview.

28. Baden, "Culture Camp, Ethnic Identity, and Adoption Socialization," 2015, 28.

29. Howell, *Kinning of Foreigners*, 2007, 8, emphasis added.

30. Howell, "Kinning," 2003, 470.

31. Myers, Baden, and Ferguson, "Going Back 'Home,'" 2020, 209–210.

32. Myers, "'Real' Families," 2014.

33. Kim, *Adopted Territory*, 86, 98, and 95.

34. McKee, "Public Intimacy and Kinship in the Korean Adoptee Community," 2020.

35. Brian, *Reframing Transracial Adoption*, 2012, 141.

36. It can also stand for "fear, obligation, and guilt."

37. Newton, "Trauma and Healing of Consciousness," 2022. Exceptions could include the Korean War, Operation Babylift, disappeared children of El Salvador, and Native American adoptions through the Indian Adoption Project.

38. McSherry, Samuels, and Brodzinsky, "Introduction to the Adoption and Trauma Special Issue."

39. Branco et al., "Out of the Fog and into Consciousness," 2023.

40. Newton, "Trauma and Healing of Consciousness."

41. Gibney, "Kinship Between Transracial Adoptees," 2021.

42. Rostad quoted in Newton, "Musings about Language and Loss," 2018.

43. Gibney, "Kinship Between Transracial Adoptees," 157.

44. Samuels, *Reason, a Season, or a Lifetime*, 2008, 12.

45. For a discussion of lateral violence within the adoptee community, see Kim, "New Year Reflections," 2024.

46. Gibney, "Kinship Between Transracial Adoptees," 160.

47. Howell, *Kinning of Foreigners*, 68.

48. Howell, *Kinning of Foreigners*, 64.

49. See Fonseca, "De-kinning of Birthmothers"; and Högbacka, *Global Families, Inequality, and Transnational Adoption*, 5. Högbacka states (91) that de-kinning "decenters first mothers, renders them invisible and non-existent" so that the child can be "free-standing."

50. Myers, "'Real' Families."

51. Myers, "'Real' Families"; and Docan-Morgan, "Discursive Struggles in 'Real' Families," 2022. See also chapter 2.

52. Peterson, *Kindred Specters*, 2007, 35, 137.

53. Gordon, *Ghostly Matters*, 1997, 8. See also Betty Jean Lifton (*Journey of the Adopted Self*, 1994, 57–58), who ruminates on what she has called the "ghost kingdom."

54. Peeren, *Spectral Metaphor*, 2014, 2.

55. Gordon, *Ghostly Matters*, 8 and 205, emphasis in original.

56. This question was read aloud, and a raise-of-hands (eyes closed) showed a little more than half of adoptees wanted to meet their birth parents.

57. Myers, "Complicating Birth-Culture Pedagogy."

58. Pavao, *Family of Adoption*, 2005, xvi.

59. Briar-Lawson, Day, and Mountz ("Tipping Point for Change") argue that FFPSA is limited as an antidote to the Adoption and Safe Families Act (ASFA) though.

60. Sankaran and Church, "Ties That Bind Us," 259.

61. Sankaran and Church, "Ties That Bind Us," 260.

62. Meyer, "Harmed Caused by the Adoption and Safe Families Act," 2022, 90.

63. Siegel and Smith, "Openness in Adoption," 6.

64. Pertman, *Adoption Nation*, 4–5.

65. The study surveyed 100 infant private adoption programs. Siegel and Smith, *Openness in Adoption*, 2012.

66. Child Welfare Information Gateway, *Openness in Adoption: Building Relationships between Adoptive and Birth Families*, Fact Sheet for Families (Washington, DC: Children's Bureau, 2013), accessed September 10, 2023, https://advokids.org/wp-content/uploads/2021/01/openessinadopt2013.pdf.

67. Albert and Mulzer, "Adoption Cannot Be Reformed," 2022, 591–592.

68. Albert and Mulzer, "Adoption Cannot Be Reformed," 592.

69. "Open Adoption Agreement Laws by State," 2024, www.adoptmatch.com/open-adoption-rules-post-adoption-agreement-by-state.

70. Albert and Mulzer, "Adoption Cannot Be Reformed," 593–594.

71. Albert and Mulzer, "Adoption Cannot Be Reformed," 598.

72. Wilkinson, "On Love as an (Im)Properly Political Concept," 63–64, 67.

73. James Baldwin, *The Fire Next Time* (London: Michael Joseph, 1963), 102–103.

74. Berlant, "Properly Political Concept of Love," 2011, 687.

75. Kim, "After Critical Adoption Studies," 2021.

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77. Johnston, "Historical International Adoption Statistics."

78. Family First Prevention Services Act of 2018, Pub. L. No. 115–123.

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80. Innes, "Elder Brother, the Law of the People, and Contemporary Kinship Practices," 29.

81. Nixon, "Toward an Indigenous Relational Aesthetics," 2020, 195.

82. Simpson, *As We Have Always Done*, 2017, 43, emphasis in original.

83. TallBear, "Future Imaginary Dialogues," 2017.

84. TallBear, "Caretaking Relations, Not American Dreaming," 2019, 32.

85. TallBear, "Making Love and Relations beyond Settler Sex and Family," 2018, 163, emphasis in original.

86. Justice, "'Go Away, Water!'," 150.

87. Briar-Lawson, Day, and Mountz, "Tipping Point for Change," 42.

88. Ross and Solinger, *Reproductive Justice*, 2017, 9, emphasis in original.

89. Ross and Solinger, *Reproductive Justice*, 4.

90. Patton-Imani, *Queering Family Trees*, 2020, 80.

91. Patton-Imani, *Queering Family Trees*, 98.

92. Patton-Imani, *Queering Family Trees*, 95–96.

93. Patton-Imani, *Queering Family Trees*, 103–104.

94. Howell, *Kinning of Foreigners*, 60.

95. Twenty-eight states allow for the reversal or reinstatement of parental rights. Mack and Barth, "Reinstating Parental Rights That Have Been Terminated," 775–779.

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97. Polasky, "Customary Adoptions for Non-Indian Children," 2012.

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101. Hornsby, "Reflections," 2022, 104.

102. Hornsby, "Reflections," 104.

103. Roberts, *Torn Apart*, chapter 11.

104. Roberts, *Torn Apart*, chapter 11; and Fong, *Investigating Families*, 2023, 206.

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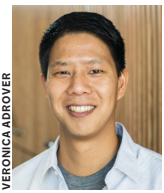

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