Introductory Essay

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Suppose you want to write
Of a woman braiding
Another woman's hair—
Straight down, or with beads and shells
In three-strand plaits or corn-rows—
You had better know the thickness
The length the pattern
Why she decides to braid her hair
How it is done to her
What country it happens in
What else happens in that country
You have to know these things
—Adrienne Rich, "North American Time"

Although Adrienne Rich tells us we "have to know these things," we are often willingly blind to the rich stories of those with whom we are most intimate. You may braid someone's hair without knowing very much about her. You may even write about it, though the writing would rapidly become very dull. In this issue of *Law & Society Review*, the authors examine how legal regimes facilitate knowing (and ignoring) stories when making families. For people seeking to adopt a child in western national states, the law has sometimes made it easy not to know about who bore a child, why she is available for adoption, and why a family might have raised her one way rather than another—braiding her hair in cornrows or in plaits. Also, in intercountry adoption, children often arrive with no history available, a condition legal adoption allows and often facilitates. We need not know "what else happens in that country." Recent scholarship notes the historical and cultural specificity of the practice of ignoring.

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Adoptees, mothers who have placed their children for adoption, and adoptive parents have all claimed a right to know their own or their child's history, sometimes for different reasons. Scholars have followed, explaining that creating an "as if" family, in which all of this knowledge is foreclosed, does not fit with the experience of families. Articles in this issue address three interlocking themes that question the practice of not knowing: the commodification of children and family in a market economy, contests over the framework of choice in the making of a family, and the identity of children.

The legal framework of rights colors the entire discussion. With all the routes to becoming parents that have opened, many adults may think they have a right to a child, even if no positive law grants it (Saclier, 2000). Gay and lesbian parents claim rights to raise children. The Hague Convention on Intercountry Adoption (1993) holds that children should have a family, and the United Nations Convention on the Rights of the Child (1989) provides for the child's right to an identity. In the United States, adult adoptees claim a right to know their biological heritage; and some birth mothers claim a right to know the children they have placed, while others claim a right to privacy against searching for one's birth parents. Legal regulations that attempt to recognize rights and fix children in one home and with one family set the context for explorations of how law makes families.

Plenary adoption, in which children are fully transferred from one set of parents to another, has become the dominant legal model for the transfer of children. Plenary adoption, or even fostering of children sent far away, ensures that adoptive parents know only the most general story of why a family decided to place a child for adoption or what that meant to them. Even if a sending country keeps good records, children may not grow up knowing both sets of parents. In the 19th century charity organizations sent children west from New York City on orphan trains; placing organizations only occasionally kept records that allowed children to track their parents (Carp 1998:9–13). With the development of the profession of social work, record-keeping in licensed adoption agencies became much better. Through the early 20th century, adoptees could ask placing agencies for identifying information, and they often obtained it. Still, the practice of placing children for adoption with strangers and through agencies meant that this type of adoption excluded knowledge about how a child got to be where she was.

In the mid-20th-century United States, plenary adoption was modeled on a nuclear, biological family (Carp 1998:71–137). Thus, families were not to be crafted but natural, and law would seem to have nothing to do with it. Although this is not the procedure we use anymore in the United States, as Katherine

O'Donovan explains in "'Real' Mothers for Abandoned Children" (herein), it is still the dominant practice in Britain.

Differences in approaches embedded in the law still color new practices. Britain still limits access to reproductive technology, as Molly Shanley in her article, "Collaboration and Commodification in Assisted Procreation," and O'Donovan relate. In the United States, reproductive technology, transracial and intercountry adoption, the declining stigma on unwed motherhood that has allowed birth mothers to choose where to place babies, and the adoptees' rights movement have all made the legal crafting of a family explicit. In westernized countries with high rates of intercountry adoption, passing as a biological family is often not possible for families that do adopt. Legal regimes that facilitate the exchange of children and the use of reproductive technology for fees raise the specter of markets in children.

Commodifying Families

In a market economy, the pervasiveness of the exchange of goods and services for money makes it difficult or impossible to treat some goods as exempt. Both Barbara Yngvesson (herein) and Molly Shanley discuss current methods of regulating adoption and the transfer of gametes. However, both argue for conceptualizing a child who is to be adopted as something other than that of a commodity, a good produced for the market with no history or particularity. In "Placing the 'Gift Child' in Transnational Adoption," Yngvesson argues that expelling children from the market is impossible in a market economy; it is the market that creates their meaning as invaluable. She maintains that decommodifiying children requires constant policing. Selling babies haunts the transfer of children in a market economy, and the news media often report scandals concerning fraud, theft, and the sale of children (Corbett 2002).

Yngvesson begins with the commonly used metaphor of an adoption as a "gift." She argues that treating a child as a gift, with no history, implies that making a child's identity is entirely open to adoptive parents. The gift metaphor, as it is most often used in celebrations of adoptions, describes a child as coming from nowhere and belonging to no one, with no history.[1] Following Marilyn Strathern's analysis of gifts, Yngvesson points out that

[1] Historically, failed marriages or the death or disability of a parent led to placement of children in orphanages. Parents could mean to place a child for a short time and return only to find that the child is no longer there (Carp 1998; Cmiel 1995). Only after World War II were most children who were available for adoption the children of unwed mothers.

Fonseca (herein) relates how poor families in Brazil can believe that they are only placing a child temporarily due to illness or death, and find that their child has been placed for adoption.

I heard stories in China from those who worked in adoption concerning why girls were placed. The story that troubled one adoption worker the most concerned a mother

gifts entail "enchainment," especially "gifts" of children. When one receives a child, one receives a being with a history linking her back to the home from which she came. Unlike a thing, children grow up and talk back, and memoirs tell us that their origins matter to them.

The model of a gift bestowed does not capture the experiences of adoptees, many of whom feel that where they came from—family and nation—will always be part of who they are. The experience so many adoptees have, of living in-between, as Yngvesson describes, implies a model for adoption that does not allow for remaking a family in adoption as though there were no previous family, or no country from which one came. If knowing origins is a matter of right, then we need not have individual-level explanations of *why* someone wants to know, for not all adoptees do. As Carp points out, the activist group Bastard Nation claims that one should not have to have any particular psychological problem or need to be able to claim a right to learn one's family history, which includes biological history. Having rights implies that it is up to the person claiming them to choose what to do.

In her article concerning the families formed by gamete donation, "Collaboration and Commodification in Assisted Procreation," Molly Shanley (herein) engages similar concerns about commodification and family, the particularities of history, and the rights we should accord to families. She considers whether there should be a market for gametes (which there is in the United States). Fees paid for eggs "donated" by young college women are very high, often more than $5,000. In a class in which we discussed reproduction and adoption, my students' eyes lit up when they saw ads in the local newspapers from a fertility clinic seeking egg donations. They no longer wanted to talk about the regulation of family forms. They were curious about the risks that donating eggs would pose for them, and whether those risks were worth $5,000. (Sperm donors have always received less for their services.) Shanley notes that Western countries, other than the United States, are less willing to allow people to bid for desirable gametes. Lower fees for egg donation mean that fewer women are willing to go through the ordeal of the procedure, making gamete transfer less significant in these countries than it is in the United States. (On Norway, see Howell, 2001.)

Shanley follows the adoption rights model, which activists made prominent in the United States after the 1970s, to argue that children born through gamete donation ought to be able to get information concerning who the donors were. She also argues that not regulating the fees will contribute to the practice of

who placed a child because her new husband did not want her bringing a child from a previous marriage into the family.

treating families as something one forms from a market exchange rather than from any impulses more sacred and out of the market. Yngvesson's explanation of the policing required to expel children from the market raises questions about whether it is possible to decommodify gametes as Shanley believes is ethically required. However, both agree that the particularity of human stories implies the importance of allowing adopted children to get information about their genitors.

Choice: "What Country It Happens in/What Else Happens in That Country"

If we treat children as something other than a commodity, we must recognize the relations that make them. Adoptees, who often have had little say in the transfers that made them, should at least be able to choose to know. Choice has also been of central concern in investigating how adopters and families placing children have experienced adoption.

In the United States, transracial adoption, openness, and the ability of gays and lesbians and single adults to adopt has loosened the ties between heterosexuality and child-rearing as a biological inevitability; so, for that matter, have divorce and stepparenting. In cultures in which placing children with others is a common way of solidifying friendships and kinship, making a family was not necessarily tied to biology anyway (Terrell & Modell 1994). Choice and consent are the dominant tropes for adoption and reproductive technology, and choice is what one is supposed to have when one has rights. Choice also makes the legal crafting of families visible. Both putative adoptive parents and those placing their children in adoption have room to choose what they are doing, outside of abuse or neglect. The range of choice varies because some national states restrict access to adoption and reproductive technologies and others make it easier for birth families to care for their children. Feminist critiques of the politics of adoption and poverty have argued that those who wish to adopt are choosers and those who are poor and might place children for that reason are beggars, to use Rickie Solinger's powerful image (Solinger 2001; Roberts 2001; Chesler 1990:119–46).

While legal regulation sets a framework for choice, people may not experience what they are doing as choosing. Even those with the widest range of choices available to them, those able to choose between reproductive technologies and adoption, often feel vulnerable to all that shapes their choices. For one thing, reproductive technologies require either good health insurance or money. For another, when injecting one's self with fertility drugs that may or may not work, the uncertain outcomes of reproductive technology may not feel like choice. Adoption for

heterosexual couples is often a choice made *after* the failure of reproduction, thus adoption agencies routinely include discussions of infertility in their orientations (See, e.g., Savage 2000:21–27). Choices may seem limited rather than unlimited. In contrast to heterosexual couples, single adults and gay and lesbian couples may find that adoption opens possibilities they had thought closed (Savage 2000). Nevertheless, all may experience their choices as limited because they are subject to investigation by social workers and the preferences of birth mothers, and that makes many people feel vulnerable and judged (Modell 1994).

Because rights color plenary adoption in the United States, birth mothers can change their minds, fathers whose rights were improperly terminated can complain, and adoptive parents who thought they should be in charge because they had cared for a child may find themselves far from the driver's seat (DeBoer 1994; Reichl 2001). In the United States, media fascination with the exchange of children includes retelling the stories of adoptive putative parents who lost children to the law (see, e.g., DeBoer 1994; Clark 1998). These stories shape the demand for intercountry adoption: The very distance of it, the ignorance that Rich (1984) warns us of, makes domestic legal rights for birth parents irrelevant. Thus children from abroad available for adoption often arrive with no visible family history.

The model of choice has also allowed gays and lesbians in the United States to strategize through the law to adopt children. Twenty-one U.S. states allow second-parent adoptions; what the states do in the cases of divorce or in splits in gay and lesbian partnerships is variable. In other postindustrial countries, gay and lesbian adoption is under debate; Sweden has recently approved it, and the Prime Minister of Britain has endorsed it. (See http://www.planetout.com/pno/splash.html; Howell 2001.) In a case against France in February 2002, the European Court of Human Rights held that allowing or disallowing gay and lesbian adoption was up to individual countries (*Frette v. France*, 2002).

Herein, Kimberly Richman and Catherine Connolly have complementary perspectives on what law does and does not do in the United States concerning gay and lesbian adopters. In "Lovers, Legal Strangers, and Parents," Kimberly Richman discusses state decisions in appellate courts; most of these cases have come before the courts in recent years. In many of the appellate cases, judges explain that gays and lesbians are unfit parents because being gay or lesbian is a disease, or they question the influence of sexuality on children, or they insist on the centrality of the biological family.

As Richman notes, many of the cases are before the courts precisely because it has become more rather than less possible to claim rights for gays and lesbians as parents. Some choose the

risky action of claiming their legal rights to parent; others find themselves forced into court as a result of a bitter divorce or break-up in which one parent tries to deny custody or visitation to another. That the cases are before the courts are evidence that gay men and lesbians are raising children together and want the security of having the law acknowledge that. If no gay or lesbian parent claimed legal rights, judges could not hold that something is wrong with gay and lesbian parents in the ways Richman demonstrates they do. Thus the cases in which the courts discipline sexuality have two sides: Courts continue to insist that gays and lesbians cannot be parents, but gay and lesbian parents have been able to claim public space (Bower 1994).

State legislation that attaches parental rights to birth certificates and does not allow two parents of the same sex on birth certificates also limits the legal security of gay and lesbian families in many states. People lose their kids in the courts. Gays and lesbians lose their biological children to former spouses or partners or to the biological parents after they split up, as Richman describes. In the process, judges have the opportunity to make hostile comments in an attempt to police the boundaries of parenting, to insist on a tight connection among biology, heterosexuality, and being a parent. Most recently, a state supreme court justice in Alabama wrote a concurring opinion longer than the main decision in a case in which a lesbian mother did not regain custody of a child. Chief Justice Moore explained that homosexuality "creates a strong presumption of unfitness" because homosexuality is "abhorrent" (*Ex parte H.H.* [2002]).

Even so, the appellate courts seldom have the last word in what the law means, as law and society scholars have discovered in a variety of contexts. People strategize through the law, and remake it as they do. In the face of the courts' hostility, as Richman has analyzed, gay and lesbian parents do gain rights to be parents to the children they have not born.

In her article, "The Voice of the Petitioner," Catherine Connolly discusses her study in which she recruited a sample of gay and lesbian two-parent households to talk of their experiences in becoming legally recognized families. Sometimes persuading an official that one is a family requires demonstrating the minutia of care—the nursery, the handmade quilts—to persuade dubious social workers that a household makes up a family, and therefore merits legal recognition as one. Families can strategize with the assistance of sympathetic social workers, adoption agencies, and family court judges who do not agree with the appellate law. One friend of mine finalized the adoption of her child and asked the judge if she could get a picture with her after the ceremony. The judge said to ask the adoptive mother's partner to pose for the picture as well. The partner could not be a legally recognized

parent under Colorado law, but, as my friend said, "Everyone in the courtroom knew what was going on."

As Connolly explains, many of the respondents in her study worked "with the law," to use Patricia Ewick's and Susan Silbey's phrase (1998). Gaining legal recognition allowed gay and lesbian parents to stabilize their legal rights, for example by allowing parents to include their children in their health insurance. Using the law was a way for petitioners to protect their interests as an already existing family; it was not a way of making a family. In Connolly's study, no one believed that simply because the law existed it was right and merited respect; indeed, the mismatch of legal categories and the moral sense of the petitioners meant that the law merited very little respect. Given that, it is remarkable that some of Connolly's petitioners found that the law really did make them feel more recognized as parents. Pragmatically, it made their rights and responsibilities more secure; also, for some it claimed some public space for themselves as a family.

Because they have taken responsibility for their children, some of Connolly's petitioners believed the law should recognize their work; if the law does not, there is something wrong with the law, not with their beliefs. In some cases, that strong awareness of what *should* be part of the law *does* become part of the law: That one has done the caretaking we expect parents to do makes them recognized as parents. (In Colorado, one judge would use a part of the law that allowed someone who acted as a child's parent for six months to be recognized as a parent, despite the formal refusal in appellate law to recognize gay or lesbian second parents.) Thus people become legal as parents by doing the work we ascribe to good parenting. Claimants in Connolly's study have to depend on the kindness (or legal savvy) of strangers; they cannot claim legal rights in many states. They can on occasion, however, make their unofficial sense of the law official.

Connolly's analysis of how gay and lesbian couples use the law demonstrates the importance of law and society perspectives: Official discretion allows people to build the evidence required to make themselves fit into legal categories, or remake the categories themselves. Some of Connolly's respondents were able to make themselves into legal parents. In demonstrating people's strategizing through the law, Connolly's work coincides with Susan Coutin's (2000) explanation of the importance of the "unofficial law" in immigration. Coutin writes about the "legalizing moves" that Salvadoran immigrants to the United States made through the 1980s and 1990s. She argues that many believe in an implicit moral contract: If they work and contribute to the world, the Immigration and Naturalization Service (INS) *should* recognize them as legal immigrants. That idea is not part of the official law, but in acting on that belief they made what they believe is the law, or what Coutin argues is the unofficial law. This unoffi-

cial law partly constitutes the official law: The INS does have discretion to defer deportation when deporting someone would lead to extreme hardship. For example, Salvadoran children born in the United States would be sent to a country they had never known if they accompanied their deported parents. Coutin argues that Salvadoran immigrants could put together the best cases possible, but in the end they had to depend on the discretion of immigration officials when they sought to remain in the United States. They did not have the power of legal officials to decree what is legal and what is not. However, they could document their existence, build the record that demonstrated good moral character, and explain the "extreme hardship" they would encounter if their child or spouse were deported; therefore they may partially create the meaning of those categories (Coutin 2000:7, 30, 74-76, 147–148). Like the Salvadorans Coutin worked with, Catherine Connolly's respondents were able to take the categories of parent or best interests of the child and rework them, with some occasional success.

Parallel to the choices of adoptive parents is supposed to be the choices that placing parents have concerning whether to place their child for adoption. In many Western countries, the declining stigma on single motherhood and the availability of good contraception have meant that declining numbers of women do so (Carp 1998:196–202; Howell 2001). Children are also available for adoption because parents have their rights terminated involuntarily for abuse and neglect; and parents are more likely to run into trouble with the state when they are poor.

The principle of parental consent is enshrined in the Hague Convention on Intercountry Adoption. The Convention also requires that placing countries do what they can to ensure that children stay with their birth parents. In countries that send children in intercountry adoption, parents may be poor, and state policies may make it difficult or impossible for them to make temporary arrangements for the care of their children, or to keep their children at all. What, then, are the conditions for consent when women do place their children for adoption? What does consent mean to parents who have difficulties providing for their children because of their poverty?[2] What obligations do states have to alleviate poverty, or to change the strong preference for boys in states that place large numbers of girls in intercountry adoption?

In the United States, from about the early 20th century, social workers were supposed to get parents' consent to an adoption unless a child was abused or neglected (Carp 1998:34). Yet social workers who believed that the poor should not care for

[2] For a review of the ways that people have made provisions to care for their children when they could not, see Sanger (1996).

their own children or that unwed mothers were psychologically disturbed and therefore incapable of caring for their children often coerced women into placing children for adoption, ignoring parents' requests not to place or parents' efforts to recover a child within the time the law allowed (Carp 1998: ch. 4; Solinger 1992). The movement for rights that emerged in the United States from the 1970s onward included Concerned United Birthparents, whose experiences of coercion led them to doubt whether anyone could genuinely "consent" to adoption (Modell 1994; Solinger 2001).

In "'Real' Mothers for Abandoned Children," Katherine O'Donovan explores in this issue the different national resolutions concerning whether one can truly consent to refuse motherhood once one has given birth. What she considers is precisely the form of abandonment to the state that critiques of plenary adoption find most troubling: Women choose not to have themselves named as mothers, so neither the state nor the child can ever trace them.

The policies that countries set are the conditions for relinquishment and the evaluation of what is considered "voluntary." In Norway, virtually no children are relinquished, in part because the welfare state supports childrearing (Howell 2001). In the United States, unmarried women who voluntarily place a child for adoption are likely to be a little older than women who do not do so, and they have greater family support and more determined plans for education (Stolley 1993). The women who place their children voluntarily often work with "open adoption," in which adoptive parents and birth parents meet, which stops the pretense that children are a "gift from nowhere." Adoption is still plenary, but the possibility of continued contact with both parents cuts off a child's particular history less than does plenary adoption with closed records (Modell 1994). In open adoption, birth mothers who are relinquishing rather than having their rights to a child terminated may decide that they prefer younger parents, stay-at-home mothers, or people who spend time outdoors as adopters. They may place their children transracially or choose parents who resemble themselves.

O'Donovan's article raises the problem of the differing national interpretations of a woman's refusal of motherhood among the dissimilar legal regimes in France, Britain and Germany. In France, the state allows women to give birth anonymously; subsequently a woman will never have any contact with the baby she has borne. Women in France may refuse motherhood. In Germany, women may abandon neonates in a safe place. In Britain, however, women cannot give birth anonymously. The helping professions assume that women who abandon their babies in public places could not have meant to do so permanently, that they must be regretting it deeply, and that they

must be found so they can be reunited with the baby they bore. One could not intend to refuse motherhood in Britain. That one has done so indicates a woman's deep psychological disturbance, an analysis that pathologizes women in a way reminiscent of the critiques of unwed mothers made in the United States in the 1950s (Carp 1998:113-117; Solinger 1992). Thus, the helping professions inscribe motherhood more firmly in Britain than in France or Germany. Peasant women make decisions about keeping or adopting out their babies in difficult circumstances; treating a choice as indicating a psychological problem rather than a result of the conditions one finds one's self in does little either to change conditions or to recognize that a woman may make the best choice she can. How we interpret the actions of women who choose to give birth anonymously reveals our uneasiness about consent (see O'Donovan's article concerning two different studies of women in France).

We may emphasize that some women do not want to have contact with the children they have borne and that they chose adoption as the best thing for their child. We may also highlight the barriers they found to raising a child themselves, without a partner or employment. From that point of view, their choice whether to keep or give up their child is almost no choice at all. In "Adoption, Blood Kinship, Stigma, and the Adoption Reform Movement (herein)," Wayne Carp points out that in the United States, not all birthmothers want a reunion with their child. For example, in response to adoptees' demands for right of access to their records from the members of Bastard Nation in Oregon, birth mothers filed suit to protect their right of privacy; they lost (*Doel v. Oregon*). Do we treat such claims as a birth mother's genuine choice, or as an opportunity to critique stigmas on unwed motherhood? If we decide that consent to give up a child could never be meaningful, we replicate the insistence that motherhood is the natural and necessary condition for women, an insistence that a good part of the Western feminist movement has rejected. We may also refuse to settle this question and instead explore the conditions that make children available for adoption, as the articles in this collection do.

Complicating the question of consent and anonymity, the UN Convention on the Rights of the Child grants children a right to an identity, "including family relations," as Katherine O'Donovan quotes the Convention. She explains that when states allow women to relinquish children anonymously, officials must also address how their practices fit with the Convention.

In abuse and neglect proceedings, any pretense of consent is abandoned. The coerciveness of state policies is visible in the termination of parents' rights. In "Race, Poverty, History, Adoption, and Child Abuse (herein)," Naomi Cahn reviews Dorothy Roberts's (1999) analysis of how state policies make the poor ex-

tremely vulnerable to the loss of their children. As Cahn explains, Roberts raises troubling questions about the lack of support for poor families, which makes it more likely that they will lose custody of their children. The changes in welfare law in the United States in the mid-1990s accompanied by an effort to get children out of foster care and into permanent housing, coupled with the declining availability of subsidized housing for the poor, makes for horrible binds: People may lose their children to foster care if they cannot provide a safe home. One cannot provide a safe home in a city with skyrocketing rents when one is in low-wage work (Roberts 1999). Roberts writes as a legal advocate, and argues that this situation is unconstitutional race discrimination. Cahn thoughtfully synthesizes analyses of the race and class implications of foster care and child abuse in the United States.

Intercountry adoption, which has become a significant way of transferring children around the world, allows adoptive parents to know very little about the conditions of relinquishment in most countries and for most families. During 2001, the U.S. government issued 19,237 visas for children adopted abroad. The country that received the next greatest number of children, France, had 3,777 intercountry adoptions in 1998 (Selman 2000:20). Scandinavian countries had the highest rate of adopting children from abroad; Norway led the way, followed by Denmark and Sweden. The next highest rates were in Switzerland, followed by Canada, France, and the United States (Howell 2001; Selman 2000:38). The leading sending countries worldwide in 1998 were Russia, China, South Korea, and Guatemala (Selman 2000:23). During fiscal year 2001, the United States received 4,681 children from China and 4,279 children from Russia (http://travel.state.gov/orphan_numbers.html).

Some intercountry adoptive parents hope to mimic a biological family in appearance; since race is the phenotypical trait people notice more than, say, height or hair color, it shapes the countries from which people may choose to adopt (Gailey 2000:307–8).

Why are children available for adoption? Why do people look for children abroad? In regard to people in the United States who are seeking to adopt a child, the use of intercountry adoption provides more certainty for adoptive parents than does a domestic regime with rights for birth mothers and fathers. Some people who go abroad for children may also believe that they will not find the health problems abroad that they do in the public welfare system at home, though for some countries they are wrong (Gailey 2000). Regulations invite people to look for alternatives; global travel and states' willingness to send children abroad have allowed adoptive parents to roam the globe looking for alternatives to domestic adoption. In the United States, the search for alternatives to avoid regulation has a long history. As

social workers gained power early in the 20th century, birth mothers who did not want the details of their lives closely investigated, and adoptive parents who wanted a more rapid placement of a child than the licensed agencies would allow, went through unlicensed agencies and private attorneys (Carp 1998:111–12).

What is it, however, that happens in some countries that make children available for adoption in the first place? People point to the one-child policy in China and to poverty in other national states, including, e.g., that which occurred after the collapse of the Soviet economy. In "Inequality Near and Far (herein)," Claudia Fonseca, relying on her ethnographic work in the Brazilian *favelas*, analyzes why children are available for intercountry adoption. On the same note, in her "Politics of International and Domestic Adoption in China (also herein)," Kay Johnson uses her work in China to research reasons for the availability of adoptable children. Both examine the state policies that encourage intercountry adoption over local placement.

The Hague Convention on Intercountry Adoption states a preference for placing children in their home country; only if no home is available in a home country should the child be placed abroad. Johnson argues that Chinese state policies make it difficult to place children domestically. China limits to one or two the number of children people may raise, making adoption in China or abroad a likely prospect. State policies have made domestic adoption either illegal or prohibitively expensive. Johnson argues that in China popular culture supports adoption, although the myth of intercountry adoption is that an emphasis on blood ties means that no one would want to adopt a child who is not biologically related. People would even like to adopt girls, the children most often available in China for intercountry adoption. From her field work among people who have adopted children in China, Johnson concludes that, as in the West, many Chinese believe that daughters will be more loyal and emotionally better at taking care of aging parents. More people would adopt if domestic policies would permit it, Johnson argues.

Claudia Fonseca explains that the poor in Brazil are accustomed to caring for each other's children. While Brazil is a sending country in international adoption, it is not one of the largest; in 1998 it sent 325 children abroad to be adopted (Selman 2000:23). As in other countries, in Brazil often when parents place children with neighbors, they are making what they had planned to be temporary, ambiguous, and flexible caretaking arrangements for children. A parent might claim to place a child because an aging and lonely friend needs company; the new caretaker might think she is doing a favor to a parent who is in difficult circumstances. As Fonseca explains, such arrangements can lead to disputes when parents try to reclaim their children. Nevertheless, the children are not placed far from their first

home, they can recognize multiple parents, and children thus stay in their home countries.

Local practices intersect with the Hague Convention. A preference for permanent placement of children in families, also stated in the Convention, counters the local ambiguous practices that Fonseca brings to life. As Johnson relates, the domestic policies that make adoption difficult in China, along with the large sums of money available to government institutions for international adoption, also means that children are most likely not placed locally for adoption. As Claudia Fonseca and Kay Johnson demonstrate, the very practices of international adoption and domestic politics may make it difficult for people to comply with the Hague Convention's stated preference for placing a child within the home culture.

Identity: Why She Decides to Braid Her Hair

Transracial and intercountry adoption policies put us on the forefront of questions concerning how people construct culture and belonging. International movement, structured by immigration law, has made it extremely difficult for states to make static the relationship among national borders, ethnicity, and culture (Anderson 1994). Global movement not only has implications for labor migrants, refugees, and transnational elites, it also raises the question of identity within the family.

Barbara Yngvesson analyzes adoption stories, both those that adult adoptees tell and those that are told about them. Attending to "enchainments" leads us to reconceptualizing who adoptees are, and what legal regimes might flow from that situation. Adult adoptees tell of living "in-between": one is neither of one place nor the other. Such stories invite us to think of identity as embedded in history. Children who are adopted are not just anybody, born when they are adopted. (See Howell 2001.) Families adopted from foster care make a family "in the wake of history," as Christine Ward Gailey has argued (1998). Concerning transracial and intercountry adoption, people's memoirs tell that accommodating the cultures they were born in is important, and incorporating facets of diverse cultures in the way children are reared never erases the fact that these children do not quite feel they belong where they are.

Barbara Yngvesson's analysis of living in-between for adoptees in Sweden also connects with transracial domestic adoption. In the United States, adult adoptees who are African American but grew up in white homes have explained that they feel neither white nor black (Patton 2000). Not only does it matter how parents raise kids—with black friends or not, e.g.—it also matters how an adoptee appears and what he makes of that appearance. Patton (2000) speaks of one adoptee who strategically

presented himself as Italian, Mexican, or African American, depending on the setting.

How national states address race in adoption may tell us about how states envision race in citizenship, since the family is the most intimate setting in which citizens are made (Stevens 1999; Terrell & Modell 1994). Citizens in both Britain and the United States have debated whether race should be taken into account when placing children. In the United States, white aspirations for a color-blind world, now significant throughout race discrimination law, provides some insight into the demand that social workers not take race into account when placing children in adoption (although adoptive parents and those seeking gamete donation attend to race in advertising for children and donors). Popular stories concerning transracial adoption that we tell in the United States speak of reconciliation, that people can build bridges across racial boundaries, and that through children is the way to do it (Fagan 2001; Strong 2001). The ambiguities people find in racial and cultural belonging has led Hawley Fogg-Davis (2002) to argue that racial identity is something to be negotiated over time, rather than something fixed. The implications of her analysis are against a rigid bar to transracial adoption.

This experience of hybridity has formed the central focus in current debates about multiculturalism, transnationality, and cosmopolitanism. Fogg-Davis links transracial adoption to these debates (Fogg-Davis 2002:101–10). She claims that advocates of cosmopolitanism, who argue that people experience life as a matter of cultural fragments rather than as a unified and coherent culture, too readily ignore the significance of race in making for common experiences. At the same time, biology is not destiny: Not all people experience race in the same way. Linking these debates to transracial adoption promises new insights.

In this issue, in "Multiculturalism, Group Rights, and the Adoption Conundrum," Alice Hearst also considers the common themes in these debates in her review of new books, which do not address adoption but clearly raise questions about cultural transformation in a mobile world. Transracial adoptees cannot experience culture as a fixed unity, but that does not mean there is no culture to recognize. That tension has been fruitful for discussions of hybridity; the stories that transracial adoptees have to tell can contribute to our understanding of how we live culture.

Family forms are crafted through law, including law that loosens restrictions and allows people to choose. Domestically, the regulation of the placement of children provides insight into what national states do about poverty, how officials envision race, and how they envision what it means to be a parent. The questions that law and society scholars have asked concerning how law is made through local officials, who sometimes have tremendous discretion, and through social movements have trans-

formed the "official story" of law that appellate judges have told in everything from immigration to employment discrimination.[3] Everything we have learned from these studies suggests that the domestic regulation of children is another promising site for analysis.

Furthermore, international regulation not only regulates how people can trade butter, beer, chocolate, and steel but also what they can do with children. Supranational regulation and comparative analysis of legal practices and institutions have garnered the attention of scholars in recent years (See, e.g., Canan & Reichman 2001; Dezalay & Garth 2002; Epp 1998; Conant 2002; Sterett 1997). As Yngvesson explains, in market economies we are accustomed to treating goods as commodities; including children, however, is much more troubling. The insights of law and society scholars have invited questions concerning how different supranational institutions interpret legal orders and how domestic institutions transform them. The regulation of the exchange of children ought to be part of this analysis. It is at the intersection of the regulation of family, immigration, and citizenship, all pressing topics in a mobile world in which national state boundaries are legally enforced with great difficulty and with high costs to some of those who move. Regulating the exchange of children also operates through a mixture of official law and its interpretation, discretion, and rights claims. In this essay I have only been able to touch on the rich range of issues these articles raise. Exploring adoption is a fruitful site for analysis across the disciplines, as the articles in this issue demonstrate.

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[3] On discretion in adoption, see Macaulay & Macaulay (1978).

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Conventions

Hague Convention on Protection of Children and Cooperation in Respect of Intercountry Adoption (29 May 1993) (available at http://travel.state.gov/hagueinfo2002.html)
United Nations Convention on the Rights of the Child (1989) (http://www.unicef.org/crc/crc.htm)