

TRANSRACIAL ADOPTION: THE PROS AND CONS AND THE PARENTS' PERSPECTIVE

*Andrew Morrison**

The quickest cure for racism would be to have everyone in the country adopt a child of another race. No matter what your beliefs, when you hold a four-day-old infant, love him, and care for him, you don't see skin color, you see a little person that is very much in need of your love.

—Robert Dale Morrison¹

INTRODUCTION

Since the early 1980s, a number of published books and articles about transracial adoption (“TRA”)² have expressed opposition to white parents adopting minority children.³ Other authors have supported it.⁴ Elizabeth Bartholet, a white professor at Harvard Law School, has adopted two Peruvian sons. She explains in detail the advantages of TRA in her book

* J.D., University of Colorado School of Law, 2003. I am especially grateful to Richard Delgado, Professor of Law and Derrick A. Bell, Fellow at the University of Pittsburgh School of Law, for helpful advice and insight throughout the development of this Article. I would also like to thank Justin Bailey for his many helpful suggestions; Regina Johnson, Jennifer Gray, and the other members of the Harvard BlackLetter Law Journal, for their tremendous editing help; and the numerous survey participants for their perspective and experience with transracial adoption. Many thanks to Nathan Dexter, Josh Kibe, and Brittany Kauffman, for their helpful ideas.

1. Interview with Robert Dale Morrison, white adoptive parent who adopted transracially, in Boulder, Colo. (Sept. 28, 2002). Robert Dale Morrison, a white male, is the father of three adult children, including the author of this Article, and an adopted African American/Native American six-year-old boy named Zachary James Morrison. He and his wife, Ramona Martinez, adopted Zachary Morrison four days after his birth.
2. TRA refers to “any adoption involving adoptive parents whose racial classification differs from that of the adoptee.” Hawley Fogg-Davis, *A Race-Conscious Argument for Transracial Adoption*, 6 B.U. PUB. INT. L.J. 385, 385 n.1 (1997).
3. See, e.g., Twila L. Perry, *The Transracial Adoption Controversy: An Analysis of Discourse and Subordination*, 21 N.Y.U. REV. L. & SOC. CHANGE 33 (1993-94).
4. See, e.g., Anjana Bahl, *Color-Coordinated Families: Race Matching in Adoption in the United States and Britain*, 28 LOY. U. CHI. L.J. 41 (1996); Suzanne Brannen Campbell, *Taking Race out of the Equation: Transracial Adoption in 2000*, 53 SMU L. REV. 1599 (2000); Julie C. Lythcott-Haims, *Where do Mixed Babies Belong? Racial Classification in America and Implications for Transracial Adoption*, 29 HARV. C.R.-C.L. L. REV. 531 (1994).

Family Bonds: Adoption and the Politics of Parenting.⁵ She has also authored numerous other TRA publications.⁶ Bartholet and other proponents proclaim that TRA benefits adopting parents, adopted children, and society in general. The proponents generally do not advocate using TRA in the place of same-race adoption; rather they argue that TRA should be used in the many instances when same-race parents are not readily available. The National Association of Black Social Workers (“NABSW”), on the other hand, posited “such placements compromised the child’s racial and cultural identity, amounting to a form of cultural genocide.”⁷ NABSW first publicly announced their opposition to TRA at the 1972 national conference of the North American Council on Adoptable Children.⁸

This Article, unlike other articles, will delineate the adopting parents’ perspectives. While squarely addressing the arguments on each side of the TRA debate, it concludes that the benefits of TRA outweigh its disadvantages.

My father adopted me at birth, but the story I would like to briefly tell is that of how my little brother, Zachary James Morrison, became my father’s second adopted child. In 1996, my father, Robert Dale Morrison, and my stepmother, Ramona Martinez, learned that they could not biologically have children of their own. In October 1997, they read a newspaper article about a class for parents interested in adopting. They attended the class that attracted people from many states. Presenters included adopted adults, parents who had adopted, social workers involved in the adoption process, and psychologists. The class focused on a system of adoption in which the biological mothers are empowered to choose the parents that will adopt their children. For those who wish to adopt, the process requires compilation of an album of photographs and autobiographical stories, completion of a small mountain of paperwork, and payment of thousands of dollars.⁹

During one of the preliminary meetings with social workers, my father and stepmother filled out the formal application and informed the agency that they would adopt a child of any race. The social worker said that in the case of such willingness to adopt transracially, the process would likely proceed more quickly than usual, due to the high number of minority children in need of adoption. As soon as my parents returned home from that meeting, they began work on their autobiographical binder.

The process of adopting a child, from parents’ first inquiry to the child’s first night at home, usually takes more than a year.¹⁰ But on January 14, 1998, at 8:52 A.M., less than three months after my parents’ first contact with the adoption agency—and long before they completed the

5. ELIZABETH BARTHOLET, *FAMILY BONDS: ADOPTION AND THE POLITICS OF PARENTING* (1993).

6. See, e.g., Elizabeth Bartholet, *Race Separatism in the Family: More on the Transracial Adoption Debate*, 2 DUKE J. GENDER L. & POL’Y 99 (1995); Elizabeth Bartholet, *Where do Black Children Belong? The Politics of Race Matching in Adoption*, 139 U. PA. L. REV. 1163 (1991).

7. DERRICK BELL, *RACE, RACISM, AND AMERICAN LAW* 354 n.3 (4th ed. 2000).

8. Deann Borshay Liem & Suzanne Stenson O’Brien, *Adoption History* (2000), available at <http://www.pbs.org/pov/pov2000/firstpersonplural/historical/transracial.html>

9. See Interview with Morrison, *supra* note 1.

10. *Id.*

autobiographical binder—the social worker called with news of a racially mixed newborn that needed a home. By 2:00 p.m. my parents, Zach's biological mother, and the foster mother with whom Zach had been living, were at the adoption agency. At 4:25 p.m., in a room where no one was free from tears, Zach's biological mother said to my parents, "I want you to have my baby." At that moment, Zach became a part of my family.

I have strong personal beliefs regarding TRA. I believe that the advantages of TRA far outweigh the disadvantages. While I do not believe that TRA should be favored over same-race adoptions, I also do not think TRA should be discouraged. I have seen the benefits of TRA first hand in the case of its positive effects on my adopted brother, my father, my stepmother, my other siblings, and myself, and my experiences have led me to take a favorable position regarding TRA.

The focus of this Article is the phenomenon of TRA in the United States from the parents' perspective. Part I of this Article provides a brief history of TRA in the United States. Part II surveys the legal treatment regarding TRA by the federal and state governments. Part III looks at adoption in the United States, including its history, principal types, the role of adoption agencies, and how to adopt. Part IV presents the arguments in opposition to TRA and answers these concerns. Part V examines arguments in favor of TRA as well as the answers that TRA opponents have presented in response. Among many other arguments, this Part discusses the "social contact" theory, which posits that integration of races will benefit society by decreasing conscious and unconscious racism. Part VI then provides the parents' perspective, analyzing information gathered during interviews including the parents' reasons for adoption, descriptions of the interviewed families, and their particular experiences. This Part also looks at the practices of various adoption agencies. Finally, the conclusion briefly recapitulates the analysis contained in the Article and provides possible areas that may warrant further analytical exploration.

I. THE HISTORY OF TRANSRACIAL ADOPTION

Throughout the history of TRA, the most heated controversy has concerned the placement of Black¹¹ children with white parents.¹² Black families have rarely adopted white children¹³ because significantly more white

11. As Elizabeth Bartholet explains in her groundbreaking article *Where do Black Children Belong? The Politics of Race Matching in Adoption*, the term "Black" describes anyone with any identifiable Black African heritage. Bartholet, *supra* note 6, at 1175. For the sake of clarity, I will use the term as used by TRA scholars in recent decades. Additionally, I have chosen to capitalize the first letter of the term "Black" in this Article because it is used to describe a race.

12. *Id.* at 1174–75.

13. In 1998, there were no reported instances of Black couples adopting a white child, and there were only eighty biracial couples that did so. Jennifer Swize, *Transracial Adoption and the Unblinkable Difference: Racial Dissimilarity Serving the Interests of Adopted Children*, 88 VA. L. REV. 1079, 1080 n.5 (2002). Throughout my study, including forty-two parent interviews and eighteen adoption agency interviews, I did not hear of any Black parents with an adopted white child.

parents are looking to adopt,¹⁴ forty percent of the children up for adoption are Black,¹⁵ and social workers often resist the idea of Black parents adopting white children.¹⁶ The second most heated debate concerns the placement of Native American children with white families.¹⁷ The debate over white parents adopting Hispanic children, Asian children,¹⁸ or children of other races, does not receive as much attention.¹⁹

TRA began in the United States at the end of World War II when thousands of children needed homes.²⁰ In the public record, the first publicly recorded documentation in the United States that white parents adopted a Black child shows that such an adoption took place in 1948, in Minneapolis, Minnesota.²¹ Until the 1950s, TRA was almost unheard-of; the prevailing policy and practice of adoption agencies discouraged such adoptions.²² The justification for these policies and practices was the prevailing belief that race matching would increase the chances of a good parent-child relationship.²³ Although TRA of Native American children had occurred frequently over the past century, formal placement of Native American children with white parents was particularly prevalent in the late 1950s.²⁴

14. Bartholet, *Where do Black Children Belong? The Politics of Race Matching in Adoption*, *supra* note 6, at 1175.

15. Randall Kennedy, *Orphans of Separatism*, 17 *AM. PROSPECT*, 40–42 (Spring 1994). In comparison, only twelve percent of the United States population is Black. Population by Race and Hispanic or Latino Origin for the United States: 1990 and 2000, available at <http://www.census.gov> (2001).

16. Bartholet, *Where do Black Children Belong? The Politics of Race Matching in Adoption*, *supra* note 6, at 1175; see also Telephone Interview with Anonymous Adoption Agency (Nov. 11, 2002).

17. *Id.*

18. Aside from Black children, Korean children represent the largest group of transracial adoptees in the United States. See Rita J. Simon & Howard Alstein, *The Relevance of Race in Adoption Law and Social Practice*, 11 *NOTRE DAME J.L. ETHICS & PUB. POL'Y* 171, 178–79 (1997).

19. Telephone Interview with Ruth G. McRoy, Professor and Associate Dean of Research at the University of Texas School of Social Work (Oct. 28, 2002). Ruth G. McRoy is one of the leading scholars on TRA and has been working in the area for approximately twenty years. Some of her many publications on TRA include the following books: HOWARD ALTSTEIN & RUTH McROY, *DOES FAMILY PRESERVATION SERVE A CHILD'S BEST INTERESTS?* (2000); RUTH G. McROY, ET AL., *EMOTIONAL DISTURBANCE IN ADOPTED ADOLESCENTS : ORIGINS AND DEVELOPMENT* (1988); RUTH G. McROY, ET AL., *OPENNESS IN ADOPTION : NEW PRACTICES, NEW ISSUES* (1988); SADYE M. L. LOGAN, ET AL., *SOCIAL WORK PRACTICE WITH BLACK FAMILIES : A CULTURALLY SPECIFIC PERSPECTIVE* (1990); and RUTH G. McROY & LOUIS A. ZURCHER, JR., *TRANSRACIAL AND INRACIAL ADOPTees : THE ADOLESCENT YEARS* (1983). See Bartholet, *Where do Black Children Belong? The Politics of Race Matching in Adoption*, *supra* note 6, at 1175.

20. Rita J. Simon, *Transracial Adoption: The American Experience*, in IVOR GABER & JANE ALDRIDGE, *IN THE BEST INTERESTS OF THE CHILD: CULTURE, IDENTITY AND TRANSRACIAL ADOPTION* 136 (1994); RITA J. SIMON, ET AL., *THE CASE FOR TRANSRACIAL ADOPTION* 1 (1994).

21. Swize, *supra* note 13, at 1081 n.6 (citing JOYCE A. LADNER, *MIXED FAMILIES: ADOPTING ACROSS RACIAL BOUNDARIES* 59–60 (1977)).

22. Bartholet, *Where do Black Children Belong? The Politics of Race Matching in Adoption*, *supra* note 6, at 1175.

23. *Id.*

24. *Id.* at 1181.

In the 1960s segments of American society became more receptive to the idea of TRA.²⁵ The civil rights movement attracted media attention to the plight of minority foster children.²⁶ The arguments and movement in favor of TRA began to gain some momentum because minority children needed homes and the white parents looking to adopt greatly outnumbered the white children available for adoption.²⁷ In 1968 alone, white parents adopted 733 Black children.²⁸ The frequency of Black children being adopted by white parents continued to increase until the early 1970s. Additionally, between 1958 and 1967, white parents adopted more than 700 Native American children.²⁹

In 1971, the number of TRAs in America reached an all-time high of 2574.³⁰ Although skeptics had continually voiced concerns, opposition to TRA did not truly gain force until 1972 when NABSW publicly announced their stance against TRA.³¹ NABSW posited that Black adoptees should only be placed with Black parents because they “belong, physically, psychologically and culturally in Black families in order that they receive the total sense of themselves and develop a sound projection of their future.”³² NABSW also argued “black children in white homes are cut off from the healthy development of themselves as black people.”³³ NABSW urged that Black children should be in Black families because they must self-determine from birth to death, identify with Black people in the Black community, and help build a strong Black nation.³⁴ NABSW considered TRA a form of genocide.³⁵ After NABSW announced their position, a number of other TRA opponents emerged, charging that TRA was an attack on the Black community because it denied Black heritage and the skills necessary to survive racism.³⁶ NABSW’s position has remained essentially unchanged for the last thirty years.³⁷

NABSW’s announcement was likely instrumental in the significant decline in the number of TRAs. Between 1971 and 1972, the total number of TRAs fell by more than one-third, from 2574 to 1569.³⁸ In 1972, a num-

25. *Id.* at 1178; Jennifer K. Ruark, *What Makes a Family? A Historian Traces the Rise and Fall of Adoption in America*, CHRON. HIGHER ED., Oct. 25, 2002, at A12.

26. Bartholet, *Where do Black Children Belong? The Politics of Race Matching in Adoption*, *supra* note 6, at 1178.

27. *Id.*

28. RITA J. SIMON & HOWARD ALSTEIN, TRANSRACIAL ADOPTION 29–30, 32 (1977). These figures do not include the many independent adoptions, which are not reported.

29. Ruark, *supra* note 25, at A13.

30. Bartholet, *Where do Black Children Belong? The Politics of Race Matching in Adoption*, *supra* note 6, at 1178.

31. *Id.* at 1179–80; *see also* Liem & O’Brien, *supra* note 8.

32. Bartholet, *Where do Black Children Belong? The Politics of Race Matching in Adoption*, *supra* note 7 at 1179–80 (quoting National Association of Black Social Workers, Position Paper (April 1972)).

33. *Id.*

34. *Id.*

35. *Id.*; *see also* Liem & O’Brien, *supra* note 9.

36. Bartholet, *Where do Black Children Belong? The Politics of Race Matching in Adoption*, *supra* note 6, at 1179–80.

37. Swize, *supra* note 13, at 1097.

38. RITA J. SIMON & HOWARD ALTSTEIN, TRANSRACIAL ADOPTION: A FOLLOW UP 96 (1981).

ber of Native American leaders also adopted a position against TRA, raising concerns similar to those raised by NABSW.³⁹ By 1975, the annual number of TRAs had dropped to 831.⁴⁰ Although the total number of adoptions fell for unrelated reasons from 82,800 in 1971 to 47,700 in 1975,⁴¹ TRA scholars conclude that the decline in TRAs was due to widespread discouragement by NABSW.⁴² NABSW also significantly influenced the Child Welfare League⁴³ and adoption agencies.⁴⁴

At the start of the 2001 fiscal year, 545,097 children lived in foster care in the United States.⁴⁵ According to the Adoption and Foster Care Analysis and Reporting System, in 1999 less than thirty-five percent of these children in foster care were white.⁴⁶ Approximately forty percent of the children currently up for adoption are Black and fifteen percent are Hispanic.⁴⁷ Accurate data on TRA is extremely difficult to find because of the lack of data collection and variations in the definitions of “white” and “minority” children.⁴⁸ It has been estimated that over the course of United States history, between 15,000 and 30,000 children have been adopted transracially.⁴⁹ The federal government stopped formally collecting data on TRA in 1975.⁵⁰ In 1975, eight percent of all adoptions were transracial according to the National Center for Health Statistics.⁵¹ One-fourth of those adoptions consisted of white parents adopting Black children.⁵² Of the 1975 adoptions, the NCHS claimed that five percent were non-Black minority children adopted by white parents, two percent were Black children adopted by white parents, and one percent were white children adopted by minority parents.⁵³

39. Bartholet, *Where do Black Children Belong? The Politics of Race Matching in Adoption*, *supra* note 7 at 1181; Liem & O'Brien, *supra* note 9.

40. Bartholet, *Where do Black Children Belong? The Politics of Race Matching in Adoption*, *supra* note 7 at 1180.

41. *Id.* (citing NATIONAL COMMITTEE FOR ADOPTION, ADOPTION FACTBOOK 99 (1989)).

42. *Id.*

43. The Child Welfare League of America (“CWLA”) is an association of more than 1100 public and private nonprofit agencies that assist over 3.5 million abused and neglected children and their families each year with a wide range of services. See CWLA *available at* <http://www.cwla.org> (last visited Dec. 1, 2002).

44. In 1968, the CWLA formally encouraged consideration of TRA, but by 1973, they had changed their Standards of Adoption Service to formally emphasize the advantages of race-matching. Adoption agencies also changed their policies to discourage TRA. Bartholet, *Where do Black Children Belong? The Politics of Race Matching in Adoption*, *supra* note 6, at 1180–81.

45. Children’s Bureau of the U.S. Department of Health and Human Services, *available at* <http://www.acf.dhhs.gov/programs/cb/dis/tables/entryexit.htm> (last visited Oct. 7, 2002). Data do not include children in foster care in Puerto Rico because Puerto Rico did not report the information at the date of website access. On January 1, 2000, there were 7760 children in foster care in Puerto Rico. *Id.*

46. Liem & O'Brien, *supra* note 8.

47. Telephone Interview with Ruth G. McRoy, *supra* note 19.

48. Simon, *supra* note 20, at 2.

49. Telephone Interview with Ruth G. McRoy, *supra* note 19.

50. Simon, *supra* note 20, at 3.

51. *Id.* (citing National Center for Health Statistics, ADOPTION IN THE 1980s, 1 (1990)).

52. *Id.*

53. *Id.* (citing National Center for Health Statistics, ADOPTION IN THE 1980s, 1 (1990)).

Many adoption agencies that receive federal funding prefer same-race adoption.⁵⁴ These federally funded adoption agencies play a large role in maintaining the status quo, and they rarely permit TRAs.⁵⁵

Although good arguments exist on both sides of the TRA debate, proponents and opponents of TRA uniformly agree that minority children need homes. Placing minority children with loving, caring, white parents can help alleviate this need.

II. LEGAL TREATMENT OF RACE IN ADOPTION

A. Federal Law

In 1978, Congress enacted the Indian Child Welfare Act of 1978 (ICWA).⁵⁶ Prior to 1978, as many as thirty-five percent of Native American children were being taken from their homes, almost always to be raised by white families.⁵⁷ These children were sometimes taken under duress and fraud.⁵⁸ The ICWA mandated a strong preference for race matching for Native American adoptions,⁵⁹ allowing Native American children to be adopted by non-Native American parents only as an absolute last resort.⁶⁰ The underlying assumption of the act was that "Indian children are essential tribal resources" and should be raised by tribal members.⁶¹

In 1994, the Howard M. Metzenbaum Multi-ethnic Placement Act (MEPA),⁶² required that all adoption agencies receiving federal funds not deny or delay adoptions based solely on racial difference.⁶³ The main impetus for the Act was the increasing number of foster children caused by same-race preferences.⁶⁴ MEPA prohibited publicly funded adoption agencies from making adoption decisions because of race.⁶⁵ The Inter-Ethnic Adoption Provisions of 1996 ("IEAP") replaced MEPA.⁶⁶ As MEPA had, IEAP prohibited federally funded agencies from denying or delaying adoptions solely on the basis of national origin or race.⁶⁷ The IEAP, which was controversial, was designed to combat racial discrimination in the adoption process and to decrease the number of children in foster care.⁶⁸ Al-

54. Bartholet, *Where do Black Children Belong? The Politics of Race Matching in Adoption*, *supra* note 6, at 1181.

55. *Id.*

56. Indian Child Welfare Act of 1978, 25 U.S.C. §§ 1901–1963 (1988).

57. Liem & O'Brien, *supra* note 8; Indian Child Welfare Act of 1978, 25 U.S.C. §§ 1901–1963 (1988).

58. *Id.*

59. Bartholet, *Where do Black Children Belong? The Politics of Race Matching in Adoption*, *supra* note 6, at 1181.

60. *Id.*

61. Hollinger, *Beyond the Best Interests of the Tribe: The Indian Child Welfare Act and the Adoption of Indian Children*, 66 U. DET. L. REV. 451, 456 (1989).

62. Multi-ethnic Placement Act of 1994, Pub.L. 103-382, Title V, § 515 108 Stat. 4056.

63. Liem & O'Brien, *supra* note 8; Multi-ethnic Placement Act of 1994, Pub.L. 103-382, Title V, § 515 108 Stat. 4056

64. Swize, *supra* note 13, at 1085 n.24.

65. *Id.*

66. Inter-Ethnic Adoption Provisions of 1996, 42 U.S.C. § 671(a)(18) (1996).

67. Liem & O'Brien, *supra* note 8. A prohibition on denying or delaying adoptions because of race does not prevent a preference for same-race adoptions.

68. *Id.*

though the IEAP shows Congress' intent to support TRA, it has had a minimal effect because it does not reach private adoption agencies and still allows race to be used as one of many factors in placement decisions by federally funded agencies.⁶⁹

State legislatures have a long history of regulating segregation in the family.⁷⁰ For example, in the past, Louisiana and Texas explicitly prohibited TRA and South Carolina prohibited a mixed race family from adopting.⁷¹ Two states, Kentucky and Missouri, allowed adoptive parents to return an adopted child if the child grew up to resemble a person of a different race than that of the parents; Kentucky still maintains such a law.⁷²

B. State Law

Currently, seventeen states and the District of Columbia specifically refer to race in their adoption statutes.⁷³ In eight of these—Colorado, Illinois, Indiana, Montana, New York, Oklahoma, South Carolina, and the District of Columbia—the statute merely provides that the race of either the child, the birth parents, or the adopting parents, must be included in the adoption petition or the court's order.⁷⁴ However, these statutes are silent on what role race should play in an adoption.⁷⁵ Another eight states—California, Connecticut, Kentucky, Maryland, New Jersey, Pennsylvania, Texas, and Wisconsin—prohibit the use of race to deny any adoption.⁷⁶

Texas, Wisconsin, and Pennsylvania prohibit race discrimination without qualification. The Texas adoption statutes prohibit delaying or denying an adoption because of race,⁷⁷ while Wisconsin prohibits denying the benefits of the adoption statute because of race,⁷⁸ and Pennsylvania prohibits denying an adoption because of race.⁷⁹ Additionally, two states, Connecticut and Maryland, specify that adoption cannot be denied solely because of race.⁸⁰ Another two, California and New Jersey, prohibit an agency from racially discriminating in the adoptive parent selection process, but an agency can consider race when determining the best interests of the child.⁸¹ In one state, Kentucky, an agency can deny an adoption because of

69. Swize, *supra* note 13, at 1085 n.24.

70. Most states had laws prohibiting interracial marriage. *See, e.g.*, *Loving v. Virginia*, 388 U.S. 1, 6 n.5 (1967) (listing thirty states with laws prohibiting interracial marriage at some point in time).

71. Bartholet, *Where do Black Children Belong? The Politics of Race Matching in Adoption*, *supra* note 6, at 1177. *See* S.C. CODE ANN. § 10-2585 (Law. Co-op. 1962) (repealed 1964); LA. REV. STAT. ANN. § 9.422 (West 1965) (ruled unconstitutional in 1972); TEX. REV. CIV. STAT. ANN. ARTS. 46a(8), 46b-1(4) (Vernon 1959) (ruled unconstitutional in 1972) (repealed 1973).

72. *Id.* *See* KY. REV. STAT. ANN. § 199.540 (2002).

73. Simon & Alstein, *supra* note 18, at 173.

74. *Id.*

75. *Id.*

76. *Id.*

77. *Id.* *See* TEX. FAM. CODE ANN. § 162.015 (West 1996).

78. *Id.* *See* WIS. STAT. ANN. § 48.82 (West 1987).

79. *Id.* at 174; *see* 23 PA. CONS. STAT. ANN. § 2724 (West 1991).

80. *Id.* (citing CONN. GEN. STAT. ANN. § 45a-726 (West 1993); MD. CODE ANN., FAM. LAW § 5-311 (1991)).

81. *Id.* (citing N.J. STAT. ANN. § 9:3-40 (West 1993); CAL. FAM. CODE, §§ 8708, 8709 (West Supp. 1997)).

race if the birth parents have so requested.⁸² The Arkansas and Minnesota statutes require that courts and adoption agencies only place children with parents of a different race if there are no other reasonable alternatives.⁸³ These statutes provide a preference for blood relatives first, same-race second, and a "knowledgeable and appreciative" family last.⁸⁴ The Arkansas statute only applies to "minority children," while the Minnesota statute applies to all adopted children.⁸⁵ Despite the state and federal statutory developments, agencies still exhibit a clear preference for race matching.⁸⁶

C. Case Law Treatment of Race in Adoption

In addition to statutory law, many cases throughout the second half of the 1900s addressed TRA.⁸⁷ The cases addressing the constitutionality of using race in the adoption process are not entirely consistent.⁸⁸ However, the courts have generally held "race should be considered, but may not be a controlling factor in determining the best interest of the child."⁸⁹ The majority of cases that address constitutional challenges to the use of race in adoption apply strict scrutiny analysis.⁹⁰

Some lower courts have attempted to use race as the entire justification for an adoption decision. For example, in one commonly cited District of Columbia Circuit court opinion from 1955, the court denied a Black father's right to adopt his white stepchild based solely on his race.⁹¹ The court declared that when the boy grows up, he might lose the valuable social status associated with being white because people could connect him with his Black father.⁹² Although this ruling was reversed on appeal, the court's opinion exemplified the stance of many courts.⁹³ Another example is a 1965 case from the Ohio Probate Court, in which a judge denied a TRA because the "Lord created different races with the intent of keeping them separated."⁹⁴ This case was also appropriately reversed, but the court's segregationist bias was evident.⁹⁵ Many other opinions from

82. *Id.* (citing KY. REV. STAT. ANN., § 199.473 (Banks-Baldwin 1995)).

83. *Id.* at 173 (citing ARK. CODE ANN. § 9-9-102 (Michie 1993); MINN. STAT. § 259.29 (West 1997)).

84. *Id.*

85. *Id.*

86. Bartholet, *Where do Black Children Belong? The Politics of Race Matching in Adoption*, *supra* note 6, at 1181.

87. *Id.* at 1177.

88. Simon & Alstein, *supra* note 18, at 175.

89. *Id.* (citing *Compos v. McKeithen*, 341 F. Supp. 264 (E.D. La. 1972), *Drummond v. Fulton County Dep't of Family and Children's Services*, 563 F.2d 1200 (5th Cir. 1977), *In re Davis*, 465 A.2d 614 (Pa. 1983)).

90. *Id.* (discussing *In re R.M.G.*, 454 A.2d 776 (D.C. App. 1982); *McLaughlin v. Pernsley*, 693 F. Supp. 318 (E.D. Pa. 1988)).

91. *See In re Adoption of a Minor*, 228 F.2d 446, 447 (D.C. Cir. 1955).

92. *Id.*

93. *Id.*

94. *Id.* (citing *In re Baker*, 117 Ohio App. 26, 185 N.E.2d 51 (1962) and *MARRIAGE ACROSS THE COLOR LINE 67* (C. Larrison ed. 1965)).

95. *Id.*

the middle of the twentieth century display a bias against TRA and families of different races.⁹⁶

Over the past thirty years, courts have considered race as a factor to determine the best interests of the child.⁹⁷ In 1972, a federal district court in Louisiana held that a statute prohibiting TRA was discriminatory and not in the best interests of the child.⁹⁸ However, the court stated that race is one of the relevant factors in deciding the best interests of the child.⁹⁹ In 1977, the Fifth Circuit Court of Appeals addressed a white couple's allegation that their Black foster child was taken from them solely because of race, and that the taking violated their equal protection rights.¹⁰⁰ The court found that the adoption petition, which clearly took race into account, was not denied solely because of race, and that using race as a factor in adoption is constitutional.¹⁰¹ In 1983, the Pennsylvania Supreme Court went so far as to hold that the failure to consider race as a factor would be erroneous.¹⁰²

In 1982, the District of Columbia Court of Appeals held that strict scrutiny applied to Fourteenth Amendment equal protection challenges to the use of race in adoption statutes.¹⁰³ However, even under that approach, the court found that the use of race is constitutional because of the compelling state interest in acting in the best interests of the children.¹⁰⁴ On the basis of a belief that adopted children often have problems developing self-identify, the court reasoned that adoption agencies "will not be able to focus adequately on an adoptive child's sense of identity, and thus on the child's best interest, without considering race."¹⁰⁵

In 1988, a federal district court in Pennsylvania, like the District of Columbia Court of Appeals, used strict scrutiny analysis in determining if the city of Philadelphia could remove a Black child from his white foster parents solely on the basis of race.¹⁰⁶ The court held that meeting the child's racial and cultural needs was a compelling state interest.¹⁰⁷ However, the court held that the means used by the state were not necessary to meet that state interest, thus the child's removal violated his equal protection rights and the rights of his foster parents.¹⁰⁸ Conversely, in 1995, the District of Columbia Court of Appeals did not apply strict scrutiny to the District's adoption statute that requires including race in the adoption petition because the statute does not separate people on the basis of race or give any preference.¹⁰⁹ On the whole, courts have generally been in

96. See, e.g., *Ward v. Ward*, 216 P.2d 755, 756 (1950).

97. *Simon & Alstein*, *supra* note 18, at 175.

98. *Compos*, 341 F. Supp. at 267.

99. *Id.*

100. *Drummond*, 563 F.2d at 1206.

101. *Id.*

102. *Davis*, 465 A.2d at 622.

103. *R.M.G.*, 454 A.2d at 786.

104. *Id.* at 786-88.

105. *Id.* at 787-88.

106. *McLaughlin*, 693 F. Supp. 318.

107. *Id.*

108. *Id.*

109. *In re D.I.S.*, 494 A.2d 1316 (D.C. 1985).

agreement that race can be used as a factor in adoption decisions, so long as it is not the sole factor.

III. ADOPTION IN THE UNITED STATES

If you live in the United States, chances are good that you know someone who has a personal connection to adoption. A 1997 study concluded that six out of every ten people in the United States were adopted themselves, placed a child up for adoption, adopted a child, or have a family member or close personal friend who did one of the three.¹¹⁰ Adoption is practiced more widely in the United States than in any other industrialized nation.¹¹¹ This Part provides information about the adoption process including a discussion of the history of adoption and its common forms.

A. A Brief History of Adoption

In the 1600s and 1700s, adopted children were placed almost exclusively with relatives.¹¹² During that time period, some children without homes lived with other families as apprentices.¹¹³ In the 1800s, families in the United States and other countries sometimes officially adopted children if they needed people to help at home or on the farm.¹¹⁴ However, children who were adopted were not considered equal to biological children; for example, adopted children were not allowed to inherit property.¹¹⁵

Adoption of non-related children, known as stranger adoption,¹¹⁶ did not come into practice in the United States until the 1920s.¹¹⁷ Historians have attributed this to the increased availability of contraceptives early in the 1900s, which helped shape society's belief that families were intentionally formed.¹¹⁸ By 1929, only twenty states' statutes permitted stranger adoption.¹¹⁹ In the 1920s and 1930s, social workers were reluctant to permanently place children because they were skeptical of the clients' abilities to love non-birth children.¹²⁰ Social workers also would not let adopting parents take the children home after birth because they believed that children should be observed for the first few months to determine if they were free from flaws in intellect, character, or health, and thus suitable for adoption.¹²¹

Social workers finally began to support permanent placement after World War II.¹²² However, they were adamant that all permanent adop-

110. Ruark, *supra* note 25, at A12.

111. *Id.*

112. *Id.*

113. *Id.*

114. *Id.*

115. *Id.*

116. The term "stranger adoption" is used in this Article to denote situations in which the adoptive parents do not have any biological (e.g., the child's uncle) or legal connection (e.g., the child's stepfather) to the child prior to the adoption or the child's birth.

117. Ruark, *supra* note 25, at A12.

118. *Id.* at A12-13.

119. *Id.* at A13.

120. *Id.*

121. *Id.*

122. *Id.*

tions must be professionally supervised.¹²³ In the 1940s, social workers decided that adoption was the best solution for illegitimate babies and their unmarried mothers.¹²⁴ Adoptions tripled between 1937 and 1945.¹²⁵ In 1948, the Child Welfare League insisted that every child was fit for adoption, and the number of adoptions again doubled from 1945 to 1957.¹²⁶ By 1957, social workers were convinced that adoptive parents should take the children home as quickly as possible to experience the normal situation of childbirth.¹²⁷

Although social workers have outwardly supported adoptions since the 1950s, the practice has changed a great deal over the last half-century. In the 1950s, caseworkers would look for women with appropriate hairstyles, dress, and other “feminine” characteristics that were thought of as fitting for a mother.¹²⁸ A prospective mother would need to show signs of domestic skills, such as the ability to make a quilt for a child.¹²⁹ Prospective adopted mothers could not be employed if they wanted to be considered qualified to adopt.¹³⁰ Women would also likely have to provide evidence that they were unable to have biological children.¹³¹ An adoption manual from 1957 stated, “a potentially good mother makes every effort to have her own child before she tries to adopt one.”¹³² However, the same manual also stated that infertility was itself suspected because a woman’s infertility was often caused by “subconscious reservations about motherhood.”¹³³

B. Common Types of Adoption

Today, agencies recognize three main categories of adoption, public domestic, private domestic, and private international.¹³⁴ Domestic adoption is the adoption of any child born in the United States including from foster homes, foster parents, or birth parents.¹³⁵ International adoption is the adoption of a foreign-born child, which almost always involves traveling to another country to get the child or picking the child up from the airport once the adoption has been arranged.¹³⁶ Public adoption usually involves children taken from abusive or otherwise unfit parents.¹³⁷ Private adoption agencies can be either not-for-profit or for-profit organizations

123. *Id.*

124. *Id.*

125. *Id.*

126. *Id.*

127. *Id.*

128. *Id.* at A12.

129. *Id.*

130. *Id.*

131. *Id.*

132. *Id.*

133. *Id.*

134. Because all international adoption is private, there are only these three main categories. This was a general consensus among the eighteen adoption agencies that I interviewed.

135. Telephone Interview with anonymous adoption agency (Oct. 25, 2002).

136. *Id.*

137. *Id.*

that place all types of children.¹³⁸ Private adoption agencies provide a wide range of services such as finding children, counseling for birth mothers and adopting parents, temporary foster care for children, profiling birth parents and children for desirable matching of children and parents, and facilitation of the legal process with adoption attorneys.¹³⁹

This Article focuses on domestic private adoption because many consider international adoptions to be different because “our society is more open to international adoptees of other races than it is to domestic TRA.”¹⁴⁰ Notably, however, after interviewing six adoption agencies that place internationally and twenty-four parents who had adopted transracially from other countries, I found that many of the same issues arose with both international and domestic TRA.¹⁴¹

One way that social workers classify adoptions is by the frequency of interaction between the birth mother and the child she has given up for adoption.¹⁴² In open adoption, the biological mother is in regular contact with the child and the adopting family until the child reaches age eighteen.¹⁴³ In closed adoption, on the other hand, the birth parents do not know or contact the adopting parents or the child.¹⁴⁴ Many adoptions are neither entirely open nor entirely closed.¹⁴⁵ For example, in the case of my little brother, my father and stepmother know Zach’s biological mother but have limited contact with her.¹⁴⁶

In addition to the open/closed distinction, some adoption agencies also classify adoptions as “traditional” or “minority.”¹⁴⁷ Additionally, the child’s race can be used for classification purposes.¹⁴⁸ Adoption agencies consider same-race adoptions involving white children as “traditional” and any adoptions involving minority children as “minority adoptions.”¹⁴⁹

C. *The Adoption Process*

Prior to an adoption—whether domestic, international, public, private, open, closed, traditional, or minority—agencies impose numerous requirements on potential adopting parents. Some agencies require proof of income with tax returns, proof of health with medical records, proof of marriage with a copy of a marriage license or certificate, proof of qualifica-

138. *Id.*

139. Interview with Robert Dale Morrison (Nov. 24, 2002).

140. Telephone Interview with Ruth G. McRoy, *supra* note 19.

141. My interviews with parents who adopted internationally—and adoption agencies that place internationally—were helpful in that they broadened my data sample. After evaluating the interview results in two categories based on type of adoption, I determined that the interview results were very similar. Thus, I evaluated the data from both domestic and international adoptions together.

142. Telephone Interview with anonymous adoption agency (Oct. 26, 2002).

143. *See generally* Ruark, *supra* note 25, at A12.

144. Telephone Interview with anonymous adoption agency (Oct. 25, 2002).

145. *Id.*

146. Interview with Ramona Martinez, Latina parent who adopted transracially, in Albuquerque, N.M. (Nov. 24, 2002).

147. *See, e.g.*, American Adoptions at <https://www.americanadoptions.com/adopt/faq-browse> (last visited April 14, 2004).

148. *Id.*

149. *Id.*

tions with letters of recommendation, and a guarantee that one or both parents will be able to take time off from work after receiving the child.¹⁵⁰ Additionally, many agencies require that the parents not have biological children, be above a minimum age, be below a maximum age, or have a limited age difference between the parents.¹⁵¹ Other criteria, such as whether parents have been divorced, will often impact the likelihood of one being considered qualified to adopt.¹⁵²

Some adoption agencies have different qualifications for prospective parents depending upon whether they are seeking to adopt white or minority children.¹⁵³ For example, an agency called American Adoptions requires parents who want a white child to be married a minimum of two years, to be between twenty-five and forty-five years of age, and to have no more than one child.¹⁵⁴ In contrast, parents who want to adopt a minority child can be up to fifty-five years old and there is no limit as to the number of children the parents already have.¹⁵⁵

In addition to meeting the adoption agencies' criteria for qualification, parents must also pay a considerable sum to adopt.¹⁵⁶ The costs of adoption depend on the type of adoption prospective parents wish to make.¹⁵⁷ Public adoption, which can cost as little as \$2,000, is much more affordable than private adoption.¹⁵⁸ However, many children available through public agencies are "hard-to-place children" who may be teenagers or have serious disabilities.¹⁵⁹ Private adoptions often cost between \$10,000 and \$12,000.¹⁶⁰ International adoption is generally the most expensive type of adoption, costing between \$20,000 and \$35,000 to complete the adoption process.¹⁶¹ As discussed in Part VI, the cost of adoption to the parents that I interviewed was between \$7,000 and \$13,000.¹⁶²

Many agencies charge much less for adoptions of minority children in addition to having looser requirements for parents wanting to adopt minority children.¹⁶³ American Adoptions has two types of traditional adoption programs and one minority adoption program.¹⁶⁴ For the traditional programs, American Adoptions charges between \$10,000 and \$25,000 more than it charges for the minority program, which most often involves adoption of Black infants.¹⁶⁵

The general timeframe for adoption, from the date the parents complete the application to the date the family receives the child into their

150. Ruark, *supra* note 25, at A12.

151. BARTHOLET, *supra* note 5, at 64; *see also* Interview with Morrison, *supra* note 1.

152. Interview with Morrison, *supra* note 1.

153. *See, e.g.*, American Adoptions, *supra* note 147.

154. *See id.*

155. *Id.*

156. BARTHOLET, *supra* note 5, at 64.

157. *Id.*

158. *Id.*

159. *Id.*

160. *Id.* However, there are numerous private domestic adoption agencies that charge between \$20,000 and \$35,000. *See* American Adoptions, *supra* note 147.

161. BARTHOLET, *supra* note 5, at 64–65.

162. *See infra* Part VI.

163. *See, e.g.*, American Adoptions, *supra* note 147.

164. *See id.*

165. *Id.*

home, varies dramatically.¹⁶⁶ The parents I interviewed said that the process of their adoptions took between one and twelve months. Almost all of the adoption agencies that I interviewed told me that adoption of Black children is much easier and quicker than adoption of white children because of the high number of available Black children. For example, at American Adoptions the adoption of a minority child takes one to nine months, while the adoption of a white child takes as long as eighteen months.¹⁶⁷

During the application process, parents often request particular characteristics of the child they would like to adopt.¹⁶⁸ Most adoption agencies allow parents to specify the child's race, age, gender, level of disability, or any combination thereof.¹⁶⁹ During my interviews with parents, many of them said they did not specify too many characteristics because they wanted to expedite the adoption process. Some social workers tend to prefer working with parents that are willing to adopt any child.¹⁷⁰ Though this review of the history of adoption and an in-depth look at the process clearly show that adoption is a tremendous challenge for everyone involved, the difficulties faced by prospective parents differs depending on the type of adoption sought.¹⁷¹

IV. ARGUMENTS IN OPPOSITION TO TRA

Opponents of TRA claim that adoption of Black children by white parents is not only detrimental to the adopted children, it also harms the Black community at large. Opponents also insist that TRA is detrimental to adopting parents.

A. Arguments that TRA Harms Black Adopted Children

TRA opponents posit that it is detrimental to the Black adopted children. They say that when Black children are placed with non-Black parents, the children do not learn how to fend off racial assaults.¹⁷² Opponents argue that only a Black parent can teach Black children how to deal with racism because white parents have not had the experience of being Black and do not know how to deal with society's treatment of Blacks.¹⁷³ In describing the social armoring argument, opponents argue four main points: first, white parents cannot teach Black children how to fend off or ignore racial insults; second, white parents cannot discern, in individual encounters with racist attitudes or expressions, the appropriateness of

166. Some adopting parents refer to this time period as "from the application date to the 'got ya date.'" See, e.g., Telephone Interview with Sheri Ann Talley, white who adopted transracially (Nov. 11, 2002).

167. See American Adoptions, *supra* note 147.

168. Telephone Interview with anonymous adoption agency (Oct. 25, 2002).

169. See *id.*; American Adoptions, *supra* note 147.

170. Telephone Interview with anonymous adoption agency (Oct. 25, 2002).

171. For an updated prospective on adoption in general, see E. WAYNE CARP, ADOPTION IN AMERICA: HISTORICAL PERSPECTIVES (2003).

172. Jean Stefancic, *Multiracialism: A Bibliographic Essay and Critique in Memory of Trina Grillo*, 81 MINN. L. REV. 1521, 1535 (1997) (citing NATIONAL ASS'N OF BLACK SOCIAL WORKERS, POSITION PAPER (Apr. 1972)).

173. Swize, *supra* note 13, at 1096.

fighting back or submitting; third, white parents will not emphasize Black strength and worth as a countermeasure to prejudicial encounters; and fourth, white parents cannot “evaluate both objectively and subjectively the level of nepotistic advantage or same-group favoritism which precludes opportunities for advancement in education, employment or business.”¹⁷⁴

Opponents base their argument on the premise that in order for Black children to meet their psychological developmental needs, they must be placed with Black parents.¹⁷⁵ They claim that cross race adoption is psychologically damaging to Black children, arguing that same-race placement is important to develop a Black identity, because “white parents are not equipped to successfully convey a positive black identity to their black adopted children.”¹⁷⁶ Those speaking out against TRA warn that transracial adoptees may be “emotionally scarred” by their experience.¹⁷⁷

Finally, opponents claim that adopted Black children will have to face the stigma attached to adoption in our society because they will not be able to hide that they were adopted.¹⁷⁸ This position rests on the assumption that people in our society maintain negative views of adopted children because adoption is the result of parents losing their parental rights either voluntarily or involuntarily.¹⁷⁹ This stigma, opponents claim, stems from an assumption that children are often put up for adoption because of an unanticipated pregnancy, because the biological parents were too young or too poor to care for their child, or because the child has a disability that caused her birth parents to give her up.¹⁸⁰ Additionally, opponents contend that people often speculate that adopted children have been subjected to abuse while in the care of their birth parents or while living in foster homes.¹⁸¹ Opponents also allege that people may assume an adopted child was taken from her birth parents by social services or that she was put up for adoption because her biological mother was raped or died.¹⁸² Race matching, opponents maintain, protects the child from these stigmas because in a same-race adoption, the child will more likely resemble her parents, thus she will more easily pass as the parents’ biological child.¹⁸³

Proponents of TRA assert that the children could still avoid this stigma, but more importantly, facing the stigma is psychologically beneficial for the children.¹⁸⁴ In some instances Black children can pass as the biological children of white parents when in the presence of one parent be-

174. Fogg-Davis, *supra* note 2, at 404 (citing James S. Bowen, *Cultural Convergences and Divergences: The Nexus Between Punative Afro-American Family Values and the Best Interests of the Child*, 26 J. FAM. L. 493, 510 (1987-88)).

175. Stefancic, *supra* note 172, at 1535 (citing NATIONAL ASS’N OF BLACK SOCIAL WORKERS, POSITION PAPER (Apr. 1972)).

176. Swize, *supra* note 13, at 1096.

177. Liem & O’Brien, *supra* note 8.

178. See Swize, *supra* note 13, at 1090.

179. Fogg-Davis, *supra* note 2, at 394.

180. Swize, *supra* note 13, at 1090.

181. *Id.*

182. *Id.*

183. *Id.* at 1091.

184. *Id.* at 1093.

cause of the increasing number of interracial couples.¹⁸⁵ Interviews with parents who adopted transracially seem to support this argument.¹⁸⁶ The child's adoptive status would not be visible if not in the presence of her parents. Thus, the only time that the stigma may arise is when the child is in the presence of both of her parents.

However, the child's unmistakably visible adoptive status while with both parents can have a positive psychological effect on her because she will not feel pressured to try to pass as the biological child of her adopted parents.¹⁸⁷ It necessitates an open acceptance of the condition of being adopted, which will prevent the significant psychological damage that might be caused in an individual who is able to implicitly deny her adopted condition. Such denial can be a source of anxiety about a perceived or imagined loss of community that could come about if the individual's condition is discovered. Also, it can lead to strong feelings of self-doubt regarding the individual's social position, which may lead to long-lasting self-esteem issues.¹⁸⁸

In response to the social armoring argument, proponents of TRA posit that the underlying assumptions of the argument are erroneous. Although Black individuals have the unique experience of being Black and thus understand what Blacks in this country face, it is a misleading generalization to say that only Black parents can teach Black children how to deal with racism.¹⁸⁹ The social armoring argument hinges partly on the contestable assumption that whites do not have first-hand experience with racism or prejudice.

Unfortunately, our society is rife with prejudicial attitudes, expressions, and actions. Prejudice not only comes in many different forms, it goes in many directions. Whatever one's skin color or heritage, one has likely been exposed to some form of prejudice. Obviously, Blacks are and have been uniquely affected by prejudicial attitudes, expressions, and behaviors.¹⁹⁰ However, skin color is not the only function of a person's likelihood to encounter prejudicial behaviors. Geography, economics, and demographics each play a part in determining the nature of the prejudicial actions that one has been victimized by. The nature of the prejudice encountered may also be important in determining one's methods for dealing with prejudice. Although the nature of racism and prejudice is beyond the scope of this Article, it is important to look at individual situations rather than generalities in discussing the ability of adopting parents to teach a child how to cope with racism.

185. See, e.g., *id.* at 1094, identifying that the number of interracial married couples is more than two million, up from approximately 100,000 in the early 1970s (citing Paul H. Johnson, *Race Takers on Blended Hues: Waldwick Family Reflects the Future*, RECORD (Bergen County), Mar. 9, 2001, at L1).

186. In the vast majority of interviews I conducted with adopting parents, parents recited stories of people questioning the ethnicity of their spouse when he or she was alone with the child.

187. Swize, *supra* note 13, at 1116.

188. *Id.* at 1114–16 (citing JENNY MORRIS, PRIDE AGAINST PREJUDICE: TRANSFORMING ATTITUDES TO DISABILITY 34–38 (1991)).

189. See Fogg-Davis, *supra* note 2, at 405 (citing KEVIN GAINES, RACE AND RACISM, IN SOCIAL TEXT 45, 52 n.33 (1995)).

190. *Id.*

For example, hypothetically assume that a Black person named John grew up in a Black family in the predominantly Black neighborhood of Compton, a well-known community in the Los Angeles area. In Compton, perhaps, John witnessed violent acts perpetrated against Blacks by white police officers. He may also have witnessed violent acts perpetrated by minorities against other minorities. It is reasonable to conclude that John's experience growing up in Compton would have been vastly different than if his family were one of very few Black families in a community composed mostly of whites—Aspen, Colorado, for example. Growing up in Aspen, perhaps, John would have experienced mostly nonverbal expressions of prejudice. Perhaps the most violent action he would have witnessed in Aspen was a white person skiing recklessly into a tree. It seems safe to assume that John from Aspen would have had a very different experience than John from Compton. It follows that John from Aspen may have very different reactions to prejudice than does John from Compton. Which John is a better candidate to adopt a Black child? Which will be better equipped to teach a child to deal with prejudicial behaviors in the healthiest and least destructive manner? The answer depends on criteria that can only be appropriately weighed on an individual basis via individual situations. Now imagine a white man, named Mike. If Mike grew up in Compton, he may have experienced prejudicial or racist exposure from members of the Black majority in his community. Is John from Compton a better candidate for adopting a Black child than Mike from Compton? Again, it's unreasonable to speculate on such matters without getting to know each man on an individual basis. True, it is possible—even probable—that both John from Compton and Mike from Compton have been exposed to prejudicial or racist actions. It may also be possible that Mike, who is white, could be as good as John, who is Black, at teaching a Black child how to deal with racism. In examining qualifying criteria for adopting parents, generalities should receive less weight than individual circumstances. If prospective parents' experiences and abilities to cope with prejudicial behaviors are factors used in determining whether or not they are fit to adopt transracially, the criteria should be examined on an individual basis. Indeed, a policy or argument that judges, solely by the color of a person's skin, whether she can or cannot impart coping skills to her children, could be construed in itself as a policy or argument with a racist or prejudicial basis.

The social armoring argument posed by opponents of TRA also hinges on the assumption that a person cannot know how to teach a child to adapt to racism or prejudice unless they have been on the receiving end of it. But there is little evidence that this assumption is true.¹⁹¹ A parent's education and sensitivity to prejudice, race, and racism may correlate with her ability to teach children how to deal with those issues. For example, it is possible that a parent, Black or white, who has a degree in sociology with a focus on race relations, will have a significant amount of information to convey to their children that will help the children deal with and overcome racist attitudes in society. Also, a parent's general teaching

191. *Id.* at 406.

ability and patience with her children may impact her ability to teach them about racism.

In response to the argument that TRA will psychologically damage adopted children, proponents question the use of the term "identity" and point to numerous studies concluding that TRA does not psychologically damage adopted children. Barry Richards, in a chapter on identity in TRAs, writes:

Nowhere in these self-confident assertions [about white parents not being able to contribute to healthy development of a Black child's identity] is there any attempt to define or reflect upon the meaning of the term "identity." Nor can we find any evidence produced to support the assertions, even when they are positing new concepts such as "pathological bonding."¹⁹²

Numerous studies show that transracially adopted children are able to develop positive self-esteem and senses of racial identity. These studies show that transracially adopted children are able to feel as good about themselves and their race as children in same-race placements, and even children raised by their biological parents.¹⁹³ All of the major studies in the field conclude that leaving open the possibility of "transracial adoption serves the child's best interests."¹⁹⁴

Three groundbreaking TRA studies were published in the 1970s. Lucille Grow and Deborah Shapiro, while working for the Child Welfare League, published one of the first TRA studies in 1974.¹⁹⁵ The purpose of the study, which examined 125 families, was to determine the success of placing Black children with white families.¹⁹⁶ It found that the substantial majority of the children adopted transracially adjusted successfully to their families.¹⁹⁷ Joyce Ladner's 1977 TRA study, based on in-depth interviews of 136 parents in Georgia, Missouri, Washington, Maryland, Virginia, Connecticut, Minnesota, and the District of Columbia, concluded that white parents are capable of raising emotionally healthy Black children.¹⁹⁸ In 1997, Charles Zastrow published a study of eighty-two Wisconsin families who had adopted transracially. Each family came from a similar socioeconomic status.¹⁹⁹ The study included forty-one white families with Black adopted children and forty-one white families with white

192. GABER & ALDRIDGE, *supra* note 20, at 77.

193. Swize, *supra* note 13, at 1098 (citing Bartholet, *Where do Black Children Belong? The Politics of Race Matching in Adoption*, *supra* note 7, at 1207–09, and VICTOR GROZE, *SUCCESSFUL ADOPTED FAMILIES: A LONGITUDINAL STUDY OF SPECIALS NEEDS ADOPTION 6* (1996) (citing numerous major TRA studies)).

194. GROZE, *supra* note 193, at 179.

195. See LUCILLE GROW & DEBORAH SHAPIRO, *BLACK CHILDREN, WHITE PARENTS: A STUDY OF TRANSRACIAL ADOPTION* (1974).

196. Simon & Alstein, *supra* note 19, at 179 (citing GROW & SHAPIRO, *supra* note 195).

197. *Id.*

198. Ladner, who is Black, admitted to having mixed feeling about TRA prior to conducting the study. Ladner used the membership lists of the Open Door Society and the Council on Adoptable Children for her statistical sample. *Id.* at 179–80 (citing JOYCE LADNER, *MIXED FAMILIES* (1977)).

199. *Id.* at 179 (citing CHARLES H. ZASTROW, *OUTCOME OF BLACK CHILDREN-WHITE PARENTS TRANSRACIAL ADOPTIONS* (1977)).

adopted children.²⁰⁰ The study concluded that TRAs were just as successful as same-race adoptions.²⁰¹ In the study, TRA parents and same-race parents reported being equally satisfied with the adoptive experience.²⁰²

In the 1980s, further TRA studies were published. William Feigelman and Arnold Silverman published the results of a mail survey in 1981.²⁰³ Like the Zastrow study in the 1970s, the study compared the adjustment of fifty-six Black children adopted by white parents with ninety-seven white children adopted by white parents.²⁰⁴ The study concluded that no correlation existed between the parents' race and the children's emotional problems.²⁰⁵ Ruth McRoy and Louis Zurcher conducted a TRA study in 1983, which compared thirty Black adolescents adopted transracially with thirty who were adopted by Black parents.²⁰⁶ The study concluded that the adoptees, regardless of the race of their parents, exhibited typical adolescent relationships with their parents, siblings, and teachers.²⁰⁷ Additionally, they reflected positive feelings of self-regard.²⁰⁸

Richard Barth and Marian Berry conducted a TRA study in 1988, in which they reported that TRA was no more harmful to the children or the families than same-race adoption.²⁰⁹ Joan Shireman and Penny Johnson conducted a study the same year of twenty-six Black eight-year-old children placed with Black parents and twenty-six Black eight-year-old children placed with white parents in Chicago.²¹⁰ The study concluded that there are very few differences between transracially adopted children and children who are adopted by parents of their own race. Using the widely accepted Clark and Clark Doll Test,²¹¹ the study found that seventy-three percent of the transracially adopted children identified themselves as Black compared to eighty percent for the in-racially adopted group.²¹² The study also found that transracial adoptees develop pride in being Black and are comfortable interacting with members of both Black and white races.²¹³

TRA has continued to receive considerable attention in recent years. Karen Vroegh, in a 1992 study, found no connection between how well children adapted to being adopted and the race of their parents.²¹⁴ She also found that over ninety percent of the TRA parents were happy with

200. *Id.*

201. *Id.*

202. *Id.* at 181.

203. *Id.* (citing WILLIAM FEIGELMAN & ARNOLD SILVERMAN, *CHOSEN CHILD: NEW PATTERNS OF ADOPTIVE RELATIONSHIPS* (1983)).

204. *Id.*

205. *Id.* (citing William M. Womack & Wayne Fulton, *Transracial Adoption and the Black Preschool Child*, 20 J. AMER. ACAD. CHILD PSYCHIATRY, at 712-24 (1981)).

206. *Id.* (citing McROY & ZURCHER, *supra* note 19).

207. *Id.*

208. *Id.*

209. *Id.* at 182 (citing RICHARD P. BARTH & MARIAN BERRY, *ADOPTION AND DISRUPTION* 3-35 (1988)).

210. *Id.* (citing JOAN SHIREMAN & PENNY JOHNSON, *GROWING UP ADOPTED* (1988)).

211. The Clark and Clark Doll Test uses dolls with light and dark skin colors to explore a child's self identity and general psychological feelings toward different races.

212. Simon & Alstein, *supra* note 18, at 182.

213. *Id.*

214. *Id.* (citing Karen Vroegh, *Transracial Adoption: How It Is 17 Years Later* (Apr. 1992) (unpublished report on file with Simon & Alstein)).

their adoption and thought that TRA was a good idea.²¹⁵ Christopher Bagley compared twenty-seven TRAs with twenty-five same-race adoptions taking place in white families in a 1993 study.²¹⁶ All the adopted children in the study were approximately nineteen years old and had been approximately two years old when adopted.²¹⁷ The study concluded that TRA “does appear to meet the psychosocial and developmental needs of the large majority of the children involved, and can be just as successful as inracial adoption.”²¹⁸ The major studies in the past thirty years indicate that TRAs do not result in an increased chance of psychological problems or identity issues.

B. Arguments that TRA Harms the Black Community

TRA opponents charge that TRA constitutes cultural genocide²¹⁹ because “Black culture is diminished when black children are raised outside of their racial group.”²²⁰ They argue that Black children can only acquire a Black cultural identity from growing up in a Black family²²¹ and if white families raise Black children, they will fail to identify “with the Black community and will, accordingly, be lost as a resource for that community.”²²² Additionally, TRA opponents posit that it “perpetuates negative stereotypes of pathologically inept black families who are incapable of raising their children” because TRA occurs mostly in one direction: white families adopting Black children.²²³ Finally, opponents of TRA presume that it will discourage parents from giving up their children for adoption, even when they cannot properly take care of them.²²⁴ These extremely attenuated concerns must be outweighed by the fact that children, regardless of race, need loving homes.

Proponents of TRA offer four counter arguments. First, the number of TRAs is far too small to have these far reaching effects.²²⁵ Even if TRA were universally supported, only a limited number of parents want to

215. *Id.*

216. *Id.* at 183 (citing Christopher Bagley, *Transracial Adoption in Britain: A Follow-up Study with Policy Considerations*, CHILD WELFARE, May-June 1993, at 3).

217. *Id.*

218. *Id.* at 183 (citing Bagley, *supra* note 216, at 294).

219. Stefancic, *supra* note 172, at 1535 (citing NATIONAL ASS'N OF BLACK SOCIAL WORKERS, POSITION PAPER (Apr. 1972)).

220. Swize, *supra* note 13, at 1081.

221. Fogg-Davis, *supra* note 2, at 402 (citing James S. Bowen, *Cultural Convergences and Divergences: The Nexus Between Putative Afro-American Family Values and the Best Interests of the Child*, 26 J. FAM. L. 493, 497 (1987-88)).

222. *Id.* at 403 (quoting Twila L. Parry, *The Transracial Adoption Controversy: An Analysis of Discourse and Subordination*, 21 N.Y.U. REV. L. & SOC. CHANGE 33, 68 (1993-94)).

223. *Id.* at 404.

224. Swize, *supra* note 13, at 1097. Swize discusses how some parents are discouraged from putting their children up for adoption because of the stigma that attach to adopted children. However, the stigma may not be the only reason that parents are hesitant to put their children up for adoption. Birth parents may not want their children living with parents of a different race.

225. *Id.* (citing Joan Mahoney, *The Black Baby Doll: Transracial Adoption and Cultural Preservation*, 59 UMKC L. REV. 487, 501 (1991); Kim Forde-Mazrui, Note, *Black Identity and Child Placement: The Best Interests of Black and Biracial Children*, 92 MICH. L. REV. 925, 961 (1994)).

adopt across color lines. Second, TRA studies conclude that Black children who are raised in white families do grow up with a sense of Black cultural identity.²²⁶ For example, one white parent reported that his Black daughter had almost all Black friends growing up. Third, having a loving home when compared to living in foster care outweighs any dilution of Black culture. During the interview process, many parents recounted numerous activities that they engage in with their children to keep them connected to their racial culture.²²⁷ For example, many parents actively educated their children on the child's cultural heritage and actively socialized with people of the child's race. Finally, state legislatures have declared that the best interests of the child outweigh all other concerns including any concerns about the loss of a cultural experience.²²⁸

No evidence exists to prove that Black mothers, in situations where they lack the resources to properly care for their children, will be less likely to consider the possibility of adoption because of fears that their children may be adopted by white parents. In fact, a Black mother who is unable to care for her child may be more likely to put her child up for adoption if she knows that the child will end up in a loving home, rather than being raised in an institution. In addition, many adoption agencies allow the biological mother to choose which set of parents will adopt her child.²²⁹ Therefore, using adoption agencies that respect the mother's placement preferences can alleviate concerns that Black mothers who are unable to care for their children will not consider the option of adoption.

C. Arguments that TRA Harms the Adopting Parents

Another argument against TRA is that TRA harms the adopting white parents because people will likely subject the white parents to hostility, intrusiveness, and/or prejudice, for adopting transracially.²³⁰ During the course of the interviews I conducted for this Article, three parents from three different families recounted that even their immediate families made negative comments concerning their adoption.²³¹ One parent said that the child's great-grandmother, who still maintains attitudes that are clearly racist, made it clear to the parents that she thought the child had no place in their family.²³²

White parents who adopted Black children said they regularly were asked intrusive questions such as "Why would you ever do what you

226. See, e.g., SHIREMAN & JOHNSON, *supra* note 210.

227. See, e.g., Telephone Interview with Jodi Lang, white parent who adopted transracially (Nov. 13, 2002). Like many of the other parents, she reported taking her two Korean children to Korean camp to help connect them with their racial culture.

228. All jurisdictions contain statutes that require adoption agencies to consider the best interests of each child first and foremost. Swize, *supra* note 13, at 1081 n.7 (citing Simon & Alstein, *supra* note 18, at 173-78).

229. Interview with Morrison, *supra* note 1.

230. Interview with Robert Dale Morrison, (Nov. 26, 2002).

231. E.g., Interview with Norman Aaronson, white parent who adopted transracially, in Boulder, Colo. (Nov. 6, 2002); Telephone Interview with Penni Geist, white parent who adopted transracially (Nov. 13, 2002); Telephone Interview with Brian Stevinson, white parent who adopted transracially (Nov. 14, 2002); Telephone Interview with Vickie Stevinson, white parent who adopted transracially (Nov. 14, 2002).

232. Telephone Interview with Geist, *supra* note 231.

did?,"²³³ "Is your spouse Black?,"²³⁴ and "Are you really their mother?."²³⁵ Almost all the parents of Black children said that people would stare or do "double takes."²³⁶ Two families told stories of small children saying that they could not be the parents of their adopted Black children because they did not look like them.²³⁷ Parents also recounted children saying, "Black men run faster."²³⁸ A parent recounted a situation in which her two-year-old Black son hit a white child, and when the child started to cry, she and the father of the white child came running.²³⁹ When she asked what happened, the father said, "That Black boy hit my kid."²⁴⁰ When the mother said that the Black boy was her son, the father was astonished.²⁴¹ Another parent told a story of a white girl who spilled a drink on a bench and told her Black daughter, "You clean that up because your hands are already black, and I don't want to get my hands black."²⁴²

Though it can be true that parents who adopt transracially face hostility, intrusiveness, and prejudice, parents report that they receive far more positive than negative attention.²⁴³ A mother of four adopted children, two Black and two Asian, said that when she lived in Missouri she received dirty looks and stares, but since she has moved to Colorado almost everyone reacts warmly.²⁴⁴ One mother of an Asian child said that an Asian man came up to her one day and thanked her profusely for adopting an Asian child.²⁴⁵ Another family reported being thanked for adopting a Black child.²⁴⁶ One family said that whites often go out of their way to compliment their children.²⁴⁷ Parents uniformly said that any intrusiveness, prejudice, and hostility is far outweighed by the praise that they receive from people of all races.²⁴⁸

Secondly, white parents who adopt transracially will have to answer questions about adoption much earlier and more often. One child, at age three, asked his parents "Why do I not look like you?"²⁴⁹ This type of comment gives parents an incentive and a platform to explain adoption to

233. Telephone Interview with Vickie Stevinson, *supra* note 231.

234. Telephone Interview with Kari Stewart, white parent who adopted transracially (Nov. 11, 2002).

235. Telephone Interview with Donna Class, white parent who adopted transracially (Oct. 25, 2002).

236. Telephone Interview with Kristy Stingham, white parent who adopted transracially (Oct. 25, 2002); Telephone Interview with Geist, *supra* note 231.

237. Telephone Interview with Vickie Stevinson, *supra* note 231; Interview with Ramona Martinez, (Oct. 27, 2002).

238. Interview with Robert Dale Morrison, (Oct. 27, 2002); Interview with Martinez, *supra* note 238.

239. See Telephone Interview with Stewart, *supra* note 234.

240. *Id.*

241. *Id.*

242. Telephone Interview with Geist, *supra* note 231.

243. Telephone Interview with Stewart, *supra* note 234; Interview with Morrison, *supra* note 1.

244. Telephone Interview with Stewart, *supra* note 234.

245. Telephone Interview with Talley, *supra* note 166.

246. Telephone Interview with Stewart, *supra* note 234.

247. Interview with Robert Dale Morrison, (Nov. 28, 2002).

248. See, e.g., Interview with Morrison, *supra* note 139; Telephone Interview with Brian Stevinson, *supra* note 231.

249. See Interview with Morrison, *supra* note 139.

their children earlier or more often than they would have if they have not adopted transracially.

Third, adopting parents will have to face the stigma of infertility that attaches to parents who adopt in our society because they will not be able to hide that they did adopt.²⁵⁰ Fertile men and women rarely consider adoption, while infertile couples will typically do everything possible to have biological children prior to adopting.²⁵¹ Generally people adopted only when they cannot have children of their own.²⁵² Race matching protects the parents from this stigma because the child's resemblance to her parents will likely allow them to pass as a biological family.²⁵³ However, parents reported that they do not think of adoption as stigmatizing.²⁵⁴ Parents even reported being treated "like saints" for adopting and that many assume that people adopt purely to help the children.²⁵⁵ In addition, it seems that many of the interviewed parents also had biological children.²⁵⁶ Therefore, this argument is misplaced.

Fourth, the white parents who adopt Black children may not properly know how to care for the child's hair and skin.²⁵⁷ Although this may sound absurd or minor, every interviewed parent with a Black child recounted circumstances where they were confronted with not knowing how to properly care for their child's hair or skin.²⁵⁸ One parent recounted a situation in which a Black woman told her that she knew that the child was adopted because his hair was not being properly cared for.²⁵⁹ Another parent remembered when her Black daughter was in middle school and she would suffer verbal abuse at the hands of other Black girls because her mother did not know how to braid her hair properly.²⁶⁰ One parent told a story of a barber who complained about how difficult it was to cut his Black son's hair.²⁶¹

Parents can learn how to properly care for their child's hair and skin.²⁶² New parents are constantly forced to learn about caring for their child no matter what race. Of course, a little girl who is teased or tormented at school because her mother does not know how to "braid Black hair" may suffer from hurt feelings,²⁶³ but this situation is easily remedied. A white mother can easily seek out instruction to remedy this problem. This might be an inconvenience, but it also might be an opportunity for establishing connections or friendships between adults of different races, which

250. Swize, *supra* note 13, at 1091.

251. *Id.*

252. See BARTHOLET, *supra* note 5.

253. Swize, *supra* note 13, at 1091.

254. Interview with Morrison, *supra* note 139; Telephone Interview with Brian Stevinson, *supra* note 231.

255. Telephone Interview with Brian Stevinson, *supra* note 231.

256. Fifty-seven percent of the interviewed parents had biological children.

257. See, e.g., Interview with Morrison, *supra* note 139; Interview with Martinez, *supra* note 237; Telephone Interview with Geist, *supra* note 231; Telephone Interview with Brian Stevinson, *supra* note 231; Interview with Vickie Stevinson, *supra* note 231.

258. *Id.*

259. Interview with Martinez, *supra* note 237.

260. Telephone Interview with Vickie Stevinson, *supra* note 231.

261. Interview with Morrison, *supra* note 139.

262. *Id.*

263. Interview with Vickie Stevinson, *supra* note 231.

could not only be helpful to a TRA parent, it could also make a contribution to the alleviation of overall racial tension in society by promotion of mutual understanding between races. Like many difficulties, this one can be turned into a steppingstone if the right attitude is employed and a bit of extra effort is expended.

Finally, opponents posit that Black children are less likely to bond well with white parents because of lack of a biological match.²⁶⁴ In a 1977 Fifth Circuit case, the court posited that the rationale behind biological matching is that “a child and adoptive parents can best adjust to a normal family relationship if the child is placed with adoptive parents who could have actually parented him.”²⁶⁵

No evidence shows that parents who adopt transracially do not bond as well with their children as parents who adopt children of the same race. In fact, some parents I interviewed, who had both biological children and adopted children, reported that their bond with their adopted child was stronger than the one with their birth children.²⁶⁶ According to TRA studies, children who have been adopted transracially bond just as well with their parents as white children placed with white parents,²⁶⁷ Black children placed with Black parents,²⁶⁸ and biological parents living with their birth parents.²⁶⁹

V. ARGUMENTS IN SUPPORT OF TRA

Although TRA studies often downplay the unique advantages of TRA,²⁷⁰ its advocates have articulated several important benefits. TRA helps the adopted children, society in general, and white adopting parents.

A. Arguments that TRA Provides Unique Benefits for the Children

First, and perhaps most importantly, TRA helps find homes for children who would otherwise be “denied the benefits of a permanent and healthy home, either for a significant period of time or, often, forever.”²⁷¹ Race matching is not in the “best interest” of the child to the extent that it delays and jeopardizes their opportunity to be placed in a permanent home.²⁷² On average, Black children remain in foster care and other institutional homes two to three years longer than white children because a disproportionately large number of Black children are in need of adoption.²⁷³ Currently, more than half of all the children in foster care are Black.²⁷⁴

264. Swize, *supra* note 13, at 1089 (citing BARTHOLET, *supra*, note 5, at 170–71).

265. *Id.* (quoting *Drummond*, 563 F.2d 1200).

266. Interview with Morrison, *supra* note 139.

267. See ZASTROW, *supra* note 199.

268. McROY & ZURCHER, *supra* note 19.

269. Swize, *supra* note 13, at 1098; Bartholet, *Where do Black Children Belong? The Politics of Race Matching in Adoption*, *supra* note 6, at 1207–09; GROZE, *supra* note 193, at 6 (citing numerous major TRA studies).

270. Swize, *supra* note 13, at 1084 (citing Bartholet, *Where do Black Children Belong? The Politics of Race Matching in Adoption*, *supra* note 6, at 1208).

271. *Id.* at 1083 (citing Bartholet, *supra* note 6, at 1201–06).

272. Fogg-Davis, *supra* note 2, at 398.

273. Simon & Alstein, *supra* note 18, at 171–72.

274. Fogg-Davis, *supra* note 2, at 393.

Some adoption agencies have routinely denied Black mothers the opportunity to place their children up for adoption because of the difficulty in finding enough permanent same-race homes.²⁷⁵ Experts agree that delaying permanent placement seriously harms the children.²⁷⁶ Each day without a permanent home worsens a child's plight.²⁷⁷

Second, TRA psychologically benefits a child because it "prevents a child from passing as her parents' biological offspring and rejecting her adoptive status."²⁷⁸ TRA forces a "healthier acceptance of the fact that their family is in various other ways not the same as a biological family."²⁷⁹ The child will likely gain a more positive "self-identification with her adoptive status and racial identity."²⁸⁰

Third, the child will enjoy a better relationship with her parents because "the obvious racial difference between the parent and the child reinforces that the family's foundation is based on bonds of relationship, not . . . biology."²⁸¹ This leads to better communication, which increases stability in the family, acceptance and understanding of their adoptive and racial identities, and affirmation that the child is wanted.²⁸² TRA may also encourage the adopting parents to consciously remember that their child was adopted. This will help the parents accept the child for who the child is, rather than having unreasonable expectations of similar personalities and abilities based on a false biological relationship.²⁸³ Additionally, the parents will be more likely to credit the child for her accomplishments because the accomplishments are viewed as the child's own, not due to the parents' genetic contribution.²⁸⁴

Finally, parents who adopt a child of another race are likely the most qualified to adopt.²⁸⁵ For example, if white parents want to adopt a Black child, they likely understand that Blacks and whites should be treated equally. Parents who adopt transracially are often well educated.²⁸⁶ This added education, and the understanding that comes with it, is beneficial to the children.

275. Ruark, *supra* note 25, at A14 (discussing the situation in a Delaware adoption agency).

276. Swize, *supra* note 13, at 1082 (citing Twila L. Perry, *Race and Child Placement: The Best Interests Test and the Cost of Discretion*, 29 J. FAM. L. 51, 72-73 (1990)).

277. *Id.* (citing BARTHOLET, *supra* note 5, at 31-33).

278. *Id.* at 1088.

279. Bartholet, *Where do Black Children Belong? The Politics of Race Matching in Adoption*, *supra* note 6, at 1223.

280. Swize, *supra* note 13, at 1102.

281. *Id.* at 1102.

282. Studies show that children adopted transracially are more likely to discuss their adoption with their parents than children adopted by same-race parents. Studies have also shown that more Black children adopted by white parents refer to themselves as Black than do Black children adopted by Black parents. Swize, *supra* note 13, at 1100-04 (citing McROY & ZURCHER, *supra* note 19, at 128-29 (1983) (finding that Black children adopted by non-Black parents identified themselves as adopted almost four times more than Black children adopted by Black parents), H. DAVID KIRK, *SHARED FATE: A THEORY OF ADOPTION AND MENTAL HEALTH* 99 (1964)).

283. Swize, *supra* note 13, at 1100-01.

284. *Id.*

285. *See id.* at 1101.

286. For example, thirty-one of the forty-two parents interviewed for this study held a graduate degree.

Furthermore, it could be argued that white parents who want to adopt a child of a different race show a high level of commitment to the adoption process.²⁸⁷ In all stranger adoptions, the adopting parents must “take proactive steps to create an adoptive family.”²⁸⁸ However, parents adopting transracially must not only take this step, but they also must be accepting of racial differences. Adoptive relationships rely on “the nurturing aspect of parenting, as opposed to any biological aspect of parenting.”²⁸⁹

In response to the argument that the greatest benefit of TRA is that children find homes, opponents argue that if social workers actively recruited more Black parents, Black children could all find same-race parents.²⁹⁰ The Child Welfare League claims that plenty of Black families are willing to adopt, they just need to be sought out.²⁹¹ It is unlikely that enough Black adoptive parents will become available in the near future, because Black families are often discouraged from adopting by a lack of support in the Black community.²⁹² Because Black families, on average, have lower incomes and less formal education,²⁹³ adoption requirements hinging on income and education disproportionately prevent Blacks from being deemed qualified.²⁹⁴

In response to the psychological benefits children receive from early knowledge that they were adopted, opponents argue that the obvious differences between the child and her parents will cause other psychological problems. As discussed in Part IV.A, the TRA studies show that the adopted children do not develop psychological problems from being adopted transracially.²⁹⁵ Opponents argue that Black children will be outcast by both the white community and the Black community. Yet interviewed white parents who have Black children explained that their Black children seem to get along well with both groups.²⁹⁶ TRA studies reach the same conclusion.²⁹⁷

287. Interview with Richard Delgado, Professor of Law and Derrick A. Bell Fellow at the University of Pittsburg School of Law, in Boulder, Colo. (Oct. 16, 2002).

288. Swize, *supra* note 13, at 1101.

289. *Id.*

290. Telephone Interview with McRoy, *supra* note 19.

291. *Id.*

292. Some social workers state that Black families tend to feel that adoption should only occur in rare circumstances. Telephone Interview with Anonymous Adoption Agency (Nov. 11, 2002). See Swize, *supra* note 13, at 1100; see also BELL, *supra* note 7, at 361.

293. United States Government Census (Feb. 18, 2004), available at http://www.census.gov/hhes/income/income02/3yr_avg_race.html.

294. United States Government Census (Feb. 18, 2004), available at <http://www.census.gov/prod/2003pubs/02statab/educ.pdf>.

295. Bartholet, *Where do Black Children Belong? The Politics of Race Matching in Adoption*, *supra* note 6, at 1207–09. GROZE, *supra* note 193, at 6 (citing numerous major TRA studies).

296. *E.g.*, Interview with Morrison, *supra* note 139; Interview with Martinez, *supra* note 237; Telephone Interview with Geist, *supra* note 231; Telephone Interview with Brian Stevinson, *supra* note 231; Telephone Interview with Vickie Stevinson, *supra* note 231.

297. Simon & Alstein, *supra* note 18, at 182.

B. TRAs Benefit Society in General

Proponents of TRA declare that TRA helps our society in general because it helps to alleviate societal racism and racial tension. The adopting parents, the adopted children, and the friends and family all quickly learn that Blacks and whites deserve equal treatment.²⁹⁸ Additionally, societal racism is reduced by added social contact between members of different races.²⁹⁹ People in society who see white parents with Black children learn that whites and Blacks can and do love each other. TRA plays a part in changing societal preconceptions about families, and it helps people develop new notions of the family.³⁰⁰ Although parents who adopt minority children are likely to be racially open-minded, many of these parents said that they became even more accepting of others after adopting transracially.³⁰¹

Many scholars believe that prejudice is based on lack of social contact; to alleviate prejudice people must interact with people of other races with equal social status in pursuit of common goals.³⁰² The "social contact" theory is based on the idea that prejudice can be reduced by simply showing, through contact, that people with different appearances can have beliefs, interests, values, and fears that are similar to those of people who have similar appearances.³⁰³ Social contact theorists suggest that only certain types of social contact reduce prejudice.³⁰⁴ In particular, the quality of the social contact is vital to successful change.³⁰⁵ The social contact theory is well suited to the TRA context because TRA necessarily involves the development of meaningful relationships between persons of different ethnicities.

Gordon Allport, one of the first to put forward the social contact hypothesis, and other social contact theorists have developed three conditions that lead to successful contact that will lead to lessened prejudice.³⁰⁶ First, the status of the minority group and the majority group must be at the same level.³⁰⁷ Second, both the majority group and the minority group

298. Interview with Morrison, *supra* note 139; see also Swize, *supra* note 13, at 1105.

299. See generally Richard Delgado, *Fairness and Formality: Minimizing the Risk of Prejudice in Dispute Resolution*, 1985 WIS. L. REV. 1359, 1382 (1985).

300. See Interview with Delgado, *supra* note 287.

301. *Id.*

302. Delgado, *supra* note 299, at 1382 (citing Liebowitz & Lombardo, *Effects of Race, Belief and Level of Prejudice on Responses to Black and White Strangers*, 110 J. SOC. PSYCHOLOGY 293, 293 (1980)).

303. In comparison, "A skeptic might question whether change of belief of a generalized sort ever occurs. The prejudiced individual may conclude only that the black whose belief system turns out to be like his or her own is an 'exception to the rule.'" Delgado *supra*, note 299, at 1382.

304. *Id.*

305. *Id.*

306. *Id.* at 1385 (citing GORDON ALLPORT, *THE NATURE OF PREJUDICE* 7, at 281 (25th Anniv. ed. 1979)); Robinson, *Physical Distance and Racial Attitudes: A Further Examination of the Contact Hypothesis*, 41 PHYLON 325 (1980); Fairchild & Gurin, *Traditions in the Social-Psychological Analysis of Race Relations*, 21 AM. BEHAV. SCI. 757, 762 (1978).

307. *Id.*

must see the particular contact as rewarding and non-threatening.³⁰⁸ Third, the contact must be intimate and lead to individualization.³⁰⁹

In applying the "social contact" theory to TRA, one must note that the status of the minority child is equal to that of their white parents when they are accepted into a white family. Additionally, the child and the parents will likely see the situation as rewarding and not threatening or antagonizing. Finally, TRA creates an intimate situation. Therefore, the "social contact" theory is appropriately applied to TRA.

In James Gordon's article *Did the First Justice Harlan Have a Black Brother?*, Gordon asserts that Justice Harlan's contact with Robert Harlan, a Black slave, helped shape the progressive views on matters of race that he articulated while on the Court.³¹⁰ Gordon argues that Robert Harlan, who lived with Justice Harlan and his family throughout their childhood, were half brothers. Whether or not they were in fact brothers, it seems certain that Robert exerted a profound influence on the Justice's views of Blacks.³¹¹ Like Robert's effect on the Justice's attitude toward Blacks, through "social contact," TRA provides white parents and the surrounding community beneficial "social contact."

Opponents contend that allowing white parents to adopt Black children is a racist judgment that whites are better at raising children. However, the need for TRA is based on the high number of white parents looking to adopt and the high number of Black children needing homes.³¹² TRA should not be favored over same-race adoption; it should simply be used as an alternative to postponing placement for lack of same-race parents.

C. Arguments that TRA Benefits the Adopting Parents

Thousands of qualified white parents are waiting to adopt and thousands of Black children are waiting to be adopted.³¹³ In comparison, relatively few Black couples are looking to adopt.³¹⁴ TRA matches children with couples who might not otherwise be able to build a family.³¹⁵ A preference for same-race parents results in delays for finding homes for Black children and often results in no adoption at all.³¹⁶ Until TRA is encouraged, "the number of children in need of foster care or adoption will always exceed the number of available families within a particular racial group."³¹⁷ Therefore, adoption agencies should employ TRA to help qualified parents find children. White parents waiting to adopt far outnumber

308. ALLPORT, *supra* note 306, at 281; Fairchild & Gurin, *supra* note 306, at 764.

309. Delgado, *supra* note 299, at 1385 (citing Breckheimer & Nelson, *Group Methods for Reducing Racial Prejudice and Discrimination*, 39 PSYCH. REP. 1259, 1260 (1976)).

310. James W. Gordon, *Did the First Justice Harlan Have a Black Brother?*, in CRITICAL RACE THEORY: THE CUTTING EDGE 118 (Richard Delgado & Jean Stefancic eds., 2d ed. 2000).

311. *Id.* at 118, 123.

312. Bartholet, *Where do Black Children Belong? The Politics of Race Matching in Adoption*, *supra* note 6, at 1178.

313. Swize, *supra* note 13, at 1082.

314. *Id.* at 1082.

315. Stefancic, *supra* note 172, at 1535.

316. *Id.*

317. Liem & O'Brien, *supra* note 8.

the healthy white children available for adoption.³¹⁸ Therefore, no matter how long they wait, many white parents who wish to adopt are not able to adopt a healthy white child.

Adopting transracially teaches adopting parents about a new culture.³¹⁹ Some scholars argue that white parents are motivated to adopt for a “cultural experience” and will not be prepared to care for a Black child. However, adoption agencies offer substantial formal education programs for parents who want to adopt transracially.³²⁰ For white parents who adopt Black children, TRA gives the parents an incentive to learn about Black culture in American society.³²¹ This cultural perspective will benefit both the parents and the children. For example, it will likely provide the parents and the children with the ability to integrate into other cultures in their careers or socially.³²² This benefit seems to burgeon as the children grow older because the parents will continue to learn more throughout their child’s life.

TRA provides the parents with a lifelong education on race and teaches them the need for an active stance against racism. When white parents see racism directed toward their child, they can learn the importance of the fight against racism. The parents may also gain a greater insight of how different races interact and the difficulties of being Black in a society largely controlled by whites.³²³ As the child becomes an adult, the child will likely continue to teach the parents about race and racism.

It has been vigorously argued that white parents who do not already know about race and racism are not qualified to adopt Black children. However, white parents can have first-hand experience with racism and adequate knowledge on race and racism and still learn a great deal from their Black children.

Adopting a minority child may increase the acceptance of the white parents into the minority community. Many of the parents I interviewed shared anecdotes in which Black or Asian people actively introduced themselves.³²⁴ One mother told a story of a Black coworker becoming much friendlier when she saw pictures of their Black son.³²⁵ People that challenge TRA argue that minority communities may react with hostility; however, more often than not, the reactions to TRA from minorities are positive.³²⁶

Although people often overlook the advantages of TRA, it clearly offers benefits for the adopted children, society in general, and the white adopting parents.

318. Swize, *supra* note 13, at 1082.

319. Swize, *supra* note 13, at 1109 (citing Forde-Mazrui, *supra* note 225, at 951–52, 964–66).

320. Telephone Interview with anonymous adoption agency (Nov. 11, 2002).

321. *See id.*

322. Forde-Mazrui, *supra* note 225, at 951–52, 964–66.

323. Interview with Morrison, *supra* note 139.

324. *See, e.g.*, Telephone Interview with Talley, *supra* note 166; Telephone Interview with Stewart, *supra* note 234; Interview with Morrison, *supra* note 139.

325. Interview with Martinez, *supra* note 237.

326. *Id.*

VI. THE PARENTS' PERSPECTIVE

The following Part discusses the perspective of parents who adopted transracially and the practices of adoption agencies. I acquired the information for this Part from fifty-eight telephone interviews and two in-person interviews. Forty of the telephone interviews and the two in-person interviews included extensive questioning of white adoptive parents in Colorado and New Mexico who had adopted transracially. The other eighteen took the form of discussions with social workers employed at adoption agencies in Colorado. The results of this study lead to the conclusion that TRA leads to healthy parent-child bonds and is clearly successful.

A. *The Method of Data Collection*

In conducting this study, I attempted to use a statistically random sample of both adoptive parents and social workers in adoption agencies. With this goal in mind, I sought to acquire a random sample³²⁷ using a cluster sample³²⁸ of adoptive parents and adoption agencies in Colorado. I obtained the names of the parents from the social workers that I interviewed at the adoption agencies. Because the social workers only gave me names of parents that they believed would be happy to speak to me, the sample population is not a perfectly accurate representation of the Colorado and New Mexico families who adopted transracially.

I collected the contact information for all the TRA parents that I could find in Colorado. Despite this effort, I was only able to acquire contact information for forty-two families who adopted transracially that were willing to participate in the survey.³²⁹ Because of the limited number of parents, I decided to contact all the TRA parents. The forty-two families include an interview with my father and an interview with my stepmother. Although this process of choosing parents to interview is admittedly less desirable than taking a random sample of the entire Colorado and/or

327. By "random sample" or a "simple random sample," I mean a sample selected in such a way that every possible sample with the same number of observations has an equal likelihood of being chosen. This is the type of sampling that is used when numbers are drawn out of a hat or in raffles. Another way to use simple random sampling is to use computer software to generate the random sample.

328. By "cluster sample," I mean a simple random sample of groups or clusters of elements. Instead of choosing randomly from all the members in a population, a cluster sample is randomly drawn from a cluster of members. Cluster sampling is used in situations in which sampling an entire population may be too costly or time consuming. One problem with cluster sampling is that it increases the chance of sampling error. *See infra* note 332 for a definition of "sampling error." This is because clusters often include elements that are very similar and do not equally represent the entire population. One way to decrease sampling error is to increase the sample size.

329. Although all the interview participants were offered full anonymity, the most common reason given for non-participation was possible humiliation of the adopted children. In many cases, the children were very young and the adopting parents did not want them, sometime in the future, to run across the study. This is understandable, because of the possibility that adopted children, if they recognized themselves in a study of this nature, might have feelings of betrayal. The second most common reason given was that the parents did not have thirty to forty-five minutes for the interview.

New Mexico population of parents who adopted transracially, these statistics are not available. Readers should bear in mind that any study involving a sample population may not accurately represent the total population.

I also contacted every adoption agency listed in two major Colorado directories.³³⁰ I interviewed social workers at all the adoption agencies that agreed to participate.³³¹ The reader is cautioned that my approach may not have lead me to all the adoption agencies in Colorado because some of them may not have been listed.

While conducting both the parent survey and the social worker survey, I intentionally decided to canvas as large a sample population as possible, to minimize sampling error.³³² In conducting these interviews, I did everything possible to avoid non-sampling error,³³³ such as asking the same questions of all the participants in the same order and defining all the terms that required explanation.³³⁴

B. The Results of the Parent Survey

In the parents' study, I asked questions regarding their personal background, the adoption procedure, and their experience with TRA. The interview process lasted approximately ten weeks.³³⁵

When the parents were asked whether they wanted to remain anonymous, every parent except two answered no. Out of the forty who volunteered to give up their anonymity, four requested that their children remain anonymous. This information may be of some value if parents who give up their anonymity might be less likely to provide negative information or stories. Following this line of reasoning, the two parents who asked to remain anonymous and the four parents who asked not to have their children's names used may have been more apt to provide extreme

330. The directories covered the following areas in Colorado: Arvada, Aurora, Boulder, Brighton, Broomfield, Castle Rock, Coal Creek Canyon, Commerce City, Denver, Englewood, Evergreen, Golden, Ken Caryl, Lafayette, Lakewood, Littleton, Louisville, Montbello, Nederland, Northglenn, Parker, Sedalia, Sheridan, Superior, Thornton, Ward, Waterton, Westminster, and Wheat Ridge.

331. The social workers who did not want to participate all stated that they did not have time.

332. Sampling error is the difference between the sample chosen and the overall population because of the way that the sample was chosen. Sampling error will always occur to some extent, though I have tried to minimize it. The significance of sampling error is that it shows that samples can never truly and perfectly represent a population. It is also significant because it demonstrates that a sample is not as valuable as looking at the entire population. This is important because any time a generalization is made about the population based on the sample, sampling error occurs.

333. Non-sampling error are mistakes made in the collection of data or due to improper sample selection. There are three types of non-sampling error: errors in data acquisition, nonresponse error, and selection bias. Error in data acquisition can be many things, such as misinterpretation of terms on a survey. Nonresponse error occurs when some members of the sample population do not answer a question on a survey. Selection bias is if some members of the population were not given an equal chance of being chosen. Non-sampling error can lead to flawed results.

334. See Appendix for survey questions.

335. I began conducting parent interviews on September 25, 2002. My final follow-up interview was completed on November 28, 2002.

or shocking information or stories. However, this argument can cut both ways; perhaps parents who are willing to give up their anonymity are also more willing to candidly share their experiences.

The following is an outline of the adoptive parents' biographical information obtained during the interview process. This Part provides information that may be helpful when evaluating the conclusions derived from the study. Additionally, this information is helpful in determining the study's applicability. For example, conclusions drawn from this study may be of limited value when evaluating the viability of Black parents adopting Latino children or vice versa.³³⁶

Approximately forty-three percent of the surveyed parents have been married once, forty-seven percent have been married twice, and ten percent have been married three times. All the interview participants have been married at least once and none have been married more than three times. Approximately seventy-six percent of the parents surveyed are currently still married to the other adoptive parent of their adopted child. Only one participant adopted as a single parent. Thus, the interviewed parents are almost all raising their adopted children with the help of another parent. Parents that adopt transracially seem to have strong family bonds. Perhaps the parents would not have been as happy with TRA if they were raising their children alone. This information also shows the variation in the parents' personal situations.

The parents grew up in Alabama, Arkansas, Colorado, Connecticut, Florida, Iowa, Kansas, Utah, or Canada. The importance of this question became much more apparent throughout the interview process because of the amount of variation in the parents' experiences. For example, a white parent who grew up in Alabama may have more first-hand experience with racism than if the parent grew up in New York or California. Although these generalizations do not always hold true, all the parents' perspectives were clearly related to their childhood experiences. For example, one parent who grew up in a racist area of the South was often concerned with the severity of the punishment that he imposes on his Black son because he has observed such horrific treatment of Blacks.³³⁷

With the exception of the interview with my Latina stepmother, all of the interview participants were white. Therefore, the data collected in this study mostly relates to white parents adopting minority children. Generally, parents who adopt transracially are well educated. For example, all but three parents that I interviewed had completed at least some college. Thirty-one of the forty-two parents held a graduate degree.

Additionally, parents who adopt transracially are generally financially well off. Every interviewed parent owned his or her home and over half owned additional investment property. When asked, "On a scale of one to ten, how would you classify your income level (one being low and ten being high)?" all but one parent classified their income as a six or higher. Nineteen percent answered with a six; thirty-three percent answered with

336. Although the results of this study and many other TRA studies seem to conclude that all TRA, including Black parents adopting Latino children, leads to healthy and successive adoptive situations as often as same-race adoptions, this study does not involve any interviews of Black parents adopting Latino children.

337. See Interview with Morrison, *supra* note 139.

a seven; and forty-eight percent answered with an eight. One reason for this is that adoption agencies often require a minimum income.³³⁸

Surprisingly, fifty-seven percent of the parents said that they also had biological children. This is surprising because most adoptions in the United States occur because the parents cannot have biological children.³³⁹ This may show that parents who adopt transracially are more likely to be adopting to help the children instead of adopting because they want children. In fact, when the parents were asked the purpose of their adoption, many parents answered that they adopted because children need homes.³⁴⁰

The age of the parents did not seem to have any impact on the success of the adoptions. The age of participants ranged from thirty-eight to sixty years old at the time of the survey. Sixty-six percent were in their forties at the time they were interviewed. At the time of the first adoption, the parents' ages ranged from thirty-six to fifty-seven. Seventy-six percent of the parents were in their thirties when they adopted their first child transracially. Twenty-two percent were in their forties, and only one parent was in his fifties at the time of his first adoption.

Therefore, the parents in this study were all married at some point, and the majority were married to the parent of their adopted child. The parents grew up in various places in the United States and Canada. All but one parent were white and all were educated and financially well off. Approximately half of the parents had biological children.

The following is an outline of the makeup of the adopted children. The interview process involved mostly Black and Asian children. Of the forty-two parents that I contacted, twenty-eight adopted at least one Asian child; eighteen adopted at least one Black child; two adopted at least one Latino child; and six adopted at least one Asian child and at least one Black child.

Ten of the forty-two parents had only one adopted child.³⁴¹ Thus, this study addresses both parents with only one adopted child and parents with more than one adopted child. This study mainly evaluated the success of TRA when the children were adopted at a young age.³⁴² When children are adopted at an older age, children often have a more difficult time bonding with their parents.³⁴³ Perhaps if the children in this study were adopted at an older age the rate of successful adoptions would have been much lower.

When I asked how long the adoption took from application to the first night the child slept at home, 24 children were placed within three months, 47 were placed within six months; 65 were placed within nine months,

338. American Adoptions, *supra* note 147.

339. Bartholet, *Where do Black Children Belong? The Politics of Race Matching in Adoptions*, *supra* note 6.

340. *E.g.*, Telephone Interview with Geist, *supra* note 231.

341. Twenty-one percent of the parents adopted one child, 45% adopted two children, 2% adopted three children, 29% adopted four children, and one family adopted twenty children.

342. Out of the 108 children adopted by the forty-two parents that I interviewed, only two families adopted children above the age of three. The two families that adopted older children had previously transracially adopted children as infants. Approximately sixty percent of the 108 children were adopted prior to their first birthday.

343. Telephone Interview with anonymous adoption agency (Nov. 11, 2002).

and all of the children were placed within twelve months. This information provides an idea of the length of time involved in TRA and also shows the variation among the survey participants.

The cost of TRA is often much less than same-race adoption. However, all adoptions are expensive. The cost of the adoption for all the children ranged from approximately \$7,000 to \$13,000. The vast majority of the adoptions cost the parents a total of \$9,000 to \$11,000. However, numerous parents noted that they received substantial tax refunds because of the adoptions.

The parents who adopted transracially did specify some characteristics of the child. All forty-two parents specified some preference for race, gender, age, or special needs. Many parents actively requested a Black or Asian child.³⁴⁴ Some parents requested that the children not have certain disabilities.³⁴⁵ Many of the parents specifically requested an infant.³⁴⁶

When asked, "On a scale of one to ten (one being adamantly against the idea and ten being clearly in favor of it), how supportive has your immediate family been to the idea of TRA?" 68% answered with a ten, 19% answered with an eight, and 14% answered with a seven. This information supports the conclusion that parents who adopt transracially come from families that are generally supportive of interaction with other races. The parents' responses to this question also show that they received support for the adoption. Without this support, the parents might not have thought of the adoptions as successful.

A minority of parents, thirteen percent, said their immediate family was not supportive when they first adopted but have become more supportive since then. This shows that the success of the adoption does not hinge on immediate support from the parents' families. All of these parents reported successful adoptions even without their families' immediate support. One of the parents who answered with an eight said that if his parents were still alive his parents would have been adamantly against the idea because of their racist beliefs. This information is interesting because it shows that people raised by racist parents can overcome those beliefs and love and nurture a baby of another race.

Many of the interviewed parents moved to more diverse areas for the benefit of their children. Thirty-eight of the forty-two lived in an area where their children went to school with other children of their race. After receiving the child, eighty-six percent have actively attempted to connect the child to their racial community.

When asked if the parents did anything to prepare to adopt a child of a different race such as reading books on their culture or history, 57% answered affirmatively, and 43% responded negatively. Many of the parents took classes about TRA prior to adopting. Even parents who did not actively prepare for TRA had a good experience.

344. Telephone Interview with Geist, *supra* note 231; Telephone Interview with Aaronson, *supra* note 231.

345. *E.g.*, Telephone Interview with Aaronson, *supra* note 231.

346. *Id.*

Although the literature on adoption is rife with horror stories regarding both biological parenting and adoptive parenting,³⁴⁷ this study affirmed my general hypothesis that TRA is not detrimental to the adopted child. For example, when asked if the children seemed to have a low self-esteem as a result of looking different from the parents, all parents answered negatively except one. Each and every parent interview that I conducted involved an adoption that the parents considered "successful."³⁴⁸

None of the parents answered affirmatively when asked if he or she ever regretted the decision to adopt transracially and, when the parents were asked if they thought it would be easier to adopt a white child, 43% said no, 43% said maybe, and 14% said yes. Many of the parents believe that adopting a white child would take much longer. Some mentioned additional issues that arise with adopting a Black child including the differences in the treatment of their skin and hair. None of the parents said that TRA caused any tensions in their marriage.

C. *The Results of the Social Worker Survey*

In a survey of eighteen social workers, each at a different adoption agency, ten requested to remain anonymous while six authorized disclosure of their identity in this Article. This information may be of some value if the ten social workers that asked to remain anonymous are more apt to provide frank views.

The adoption agencies placed between 10 and 132 children per year. Six of the agencies placed over 100, four agencies placed between 50 and 100, and six placed less than 50 children on average each year. Six of the agencies have placed a total of over 1000 children, four have placed between 500 and 1000, and six have placed less than 500 children since they opened their doors.

The majority of adopting parents around the country are white.³⁴⁹ All but four agencies disclosed that over 90% of their adopting parents are white.³⁵⁰ Two said that all of their adopting parents were white. Four agencies disclosed that 75% of their adopting parents are white.

Approximately 54% of all the adopted children from all eighteen agencies are white. Two of these agencies only placed minority children, eight placed less than 50% white children, four placed approximately 60% white children, and four placed between 80% and 95% white children. Of

347. While explaining why an adopted mother decided to adopt a Black child domestically, she said "I adopted domestically because a close family friend is in prison for murder of a Caucasian child adopted internationally who had extreme behavior problems." Telephone Interview with Geist, *supra* note 231. Elizabeth Bartholet recounts numerous horror stories of same-race placement problems. Bartholet, *supra* note 5, at 63. For example, she recounted an adopted child who stabbed his adopting father during the first night in their home and another adopted child who threw his adopted infant sisters down the stairs on the first night. *Id.*

348. In all of the forty-two parent interviews that I conducted, the parents answered "yes" to the question of whether or not their adoption has been a success. Critics might argue that no parent who agreed to speak to me about their adoption would admit that their adoption was unsuccessful.

349. Simon & Alstein, *supra* note 18, at 171.

350. Of the approximate ten percent of the parents who are not white, 38% were Black, 37% were Latino, 9% were Asian, and 16% were considered "other."

the approximately 46% minority children, 50% are Asian, 28% are Black, 21% are Latino, and 1% are described as "other." The high percentage of Asian families can be attributed to two agencies that only placed Asian children. On average, 30% of placements by these eighteen agencies were transracial. Three agencies stated that they used TRA "as little as possible" or "as absolutely little as possible." Again, the high overall percentage of TRAs may be due to the two agencies that only placed Asian children with almost all white parents. Only two adoption agencies disclosed placing more than 50% of their children transracially. Four adoption agencies disclosed placing less than 5% transracially. The other twelve placed between 25% and 50% of their children transracially.

Based on these eighteen agency interviews, approximately 89% of adopting parents requested a particular race in the adoption process. Nine of the eighteen said that all of their adopting parents "request a specific race" or "request a specific race if possible."

CONCLUSION

I consciously attempted to take a neutral view throughout the interview process and to seriously examine both sides of the TRA debate with equal diligence, and, based on this study as well as my personal experience, it is my belief that the advantages of TRA outweigh the disadvantages. Although I am sympathetic to TRA parents and children, I have come to appreciate some of the arguments against TRA. Still, in my opinion, it is quite possible that TRA has the potential to make a contribution to an overall reduction of prejudice that would lead to a more productive, healthier society.

Although I attempted to provide a comprehensive look at TRA, many areas may warrant further analytical exploration. First, a study needs to be conducted of the underlying racism and prejudice in the adoption process. The disproportionate number of qualified minority parents looking to adopt is evidence of the racism and prejudice in the qualification process.³⁵¹ The study should also look at systemic racism in the placement of children.

Second, as Professor McRoy explained,³⁵² social workers may be able to recruit a significant number of qualified Black, Asian, and Latino parents. Thus, the development of a system to recruit minority parents may help provide more same-race placements. Third, a more in-depth evaluation of TRA's effect on racism in society would be necessary to fully understand the benefits of this approach. Fourth, development of a guide for parents who are looking to adopt transracially or parents who have already adopted transracially could minimize possible negative impacts of TRA. Fifth, a development of additional qualifications for parents who are looking to adopt transracially may also help alleviate any possible concerns with TRA.

Finally, another nationwide study of TRA may be necessary to provide a more detailed review of the practice. The study could be broken

351. For example, Bell suggests that adoption requirements effectively limit the ability of many qualified Black families from adopting. See Bell, *supra* note 7, at 361.

352. Telephone Interview with McRoy, *supra* note 19.

down by the parents' race, the children's race, and the age of the children. It would also be helpful to have two sets of control groups, one made up of same-race placements and the other made up of biological children.

Whether or not further scholarly energy is used to better understand TRA, I am confident that skin color is not determinative of the successfulness of an adoption. Six years after Zach became a part of my family, anyone who knows him will attest that he is happy, loving, secure, and healthy. He is more psychologically fit and emotionally stable than most non-adopted children and is a source of great joy to those of us who know and love him.

APPENDIX

The following questions were included in the survey:

- Do I have your permission to use the information that you provide to me in this interview in an article I am writing on transracial adoption?
- What is your full name?
- Would you like to remain anonymous?
- What ethnicities do you identify yourself as?
- How many children do you have?
- How many times have you been married?
- Are you currently married to the parent of your adopted child?
- Where are you from?
- On a scale of 1 to 10, how supportive has your immediate family been to the idea of TRA (1 being adamantly against the idea and 10 being adamantly for TRA)?
- What level of education have you completed?
- What is your current occupation?
- Do you own any real estate? How old are you?
- On a scale of 1 to 10, how would you classify your income level (1 being low and 10 being high)?
- How many children did you adopt?
- What is your adopted child's name?
- What was the date of the adoption?
- How old was your child at the date of the adoption?
- What do you consider to be the child's ethnicity?
- Where did you adopt?
- How many adoption agencies are there in your area?
- Are you aware of more than one type of adoption?
- What types of adoption are you aware of?
- What type of adoption did you do?
- How long does this type of adoption usually take?
- How long did it take in your case?
- Did it seem to you that TRA was common at your adoption agency?
- Are parents allowed to specify preferences?
- Are parents allowed to specify requirements?
- What characteristics of the child are people allowed to specify (e.g., race)?
- Do the parents get to see the child before they adopt it?
- Was TRA discouraged/encouraged in any way in the adoption process?
- Who discouraged / encouraged it?
- What obstacles did they place in the way of TRA?
- When did you first decide to adopt?
- Why did you decide to adopt?
- What characteristics did you specify or request (if any)?
- Why did or didn't you request a characteristic?
- What experiences have you had where you were confronted with your child's race?
- What are the advantages of transracial adoption?
- What are the disadvantages of transracial adoption?
- Are there any issues that have arisen that you did not expect?

- What is the ratio of Black to white people in your neighborhood?
- How does your child react to looking different from his/her parents?
- How do other kids react?
- How do their parents react?
- Does it seem to make him/her feel bad or less about him or herself?
- When? Why? How? How do people react in public to seeing you with him?
- What problems do you expect when he/she gets older?
- Does your child go to school with any other children that are of the same race as he/she is?
- Do you think it would be easier to adopt a white baby?
- How? What fears and/or concerns did you have prior to adoption?
- Did you have any fear of how people would react to TRA?
- Did you ever regret the decision to adopt transracially?
- Do you consider the adoption a success?
- What preparation did you do prior to TRA?
- Did you read cultural history?
- What have you done to connect the child to their racial community?
- Why did you choose to adopt a child of a different race?
- What difficulties have you had at home because of your child's race?
- What difficulties have you had in public because of your child's race?
- Has the decision to adopt transracially caused any tensions in your marriage?