

# Child Welfare Policy

## Session 8

### Adoption as a Permanency Pathway

# Session 8:

## Adoption Policies

***Film: Adoption Then and Now***

**Required Reading:**

**Overview of Adoption Issues**

[https://www.americanadoptions.com/adoption/adoption\\_overview](https://www.americanadoptions.com/adoption/adoption_overview)

**Seven Core Issues with Adoption**

<https://www.youtube.com/watch?v=Xq7EGOKAh5s>

**Transracial Adoption Issues**

<https://www.youtube.com/watch?v=xs0V23NDhHU>

**Should White People Be Allowed To Adopt Transracially?**

<https://www.youtube.com/watch?v=6y80sbAetoM>

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## Adoption

### Policies and Practices Related to Adoption

- History and Purpose
- Definitions of Adoption of Adoption
- Different types of Adoption

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## Adoption

### Definition of Adoption

Adoption is the permanent legal assumption of all parental rights and responsibilities for a child. Adoptive parents have the same legal rights and responsibilities as parents whose children are born to them.

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### History

The first traces of adoption can be found as far back as ancient Rome. Under 6<sup>th</sup> century AD Roman Law, *Codex Justinianus*, when the family patriarch was poised to die without a male heir, an heir could be provided from another family through adoption. Families with many sons often “adopted” their sons to other noble families in order to forge a coveted family connection. If a family had too many sons, the family’s wealth would be spread too thin. Not enough sons and the wealth might revert back to the state. By adopting one another’s sons, the Roman nobility ensured the wealth would stay within a few desirable families and each of those families’ sons would receive a good inheritance. Because wealth and power passed down through the paternal line, daughters were seldom adopted.

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### History

In the late Middle Ages (1300 to 1500) the rules began to change. French law discouraged adoption, as did Italian, and English Common Law outright forbid adoption.

The reason for this shift in policy is that in the Middle Ages, inheritance was redefined to include only those related by blood.

This was done in an attempt to keep the ruling royal families in both power and financial influence. At the same time, the practice of "oblation" began wherein children were left at a convent or monastery and then "adopted" by that religious outpost.

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### History

The convent or monastery would care for the child and as the child grew up, the child would serve that order. As the number of abandoned children grew, the church began to regulate the practice leading to the first official orphanages in Europe.

Orphanages expanded rapidly beyond the church and into the private and public sector. Soon these institutions were overwhelmed by children with no way of supporting them.

This gave way to the idea of “foster-servitude” or “indentured servitude” as a way of moving children from crowded orphanages into families so the children might learn a craft or skill to sustain them in life. Under foster-servitude children were transferred out of institutional care and into an apprenticeship, which more often than not was simply a way to provide cheap labor.

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### History

In 1851, the Massachusetts Adoption of Children Act became the first adoption law to protect the interest of the child. The statute required a judge to determine if the adoptive parents had the consent of the biological parents, or guardian, of the adoptee. Furthermore, the adoptive parents had to prove a "sufficient ability" to bring up the adoptee and to provide them a "suitable education." The approval of the adoption was left to the discretion of the judge, cementing adoption as a state issue rather than a federal issue.

In 1891, Michigan became the first state to require that a judge approves of the prospective adoptive parents' "moral character and ability to support and educate a child."



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### History

A few other states began to pass legislation on adoption, then, in 1909, at the First White House Conference on the Care of Dependent Children, President Theodore Roosevelt recommended moving away from child institutional care.

This resulted in even more states passing laws regulating adoption and the founding of the first U.S. adoption agencies in 1910.

Adoption became even further regulated with the Minnesota law of 1917. The Minnesota law was the first to mandate home studies and became the foundation from which child welfare agencies would conduct pre-and post-placement adoption reports. The law also marked adoption records as confidential, accessible only by the children and adults (birth family and adoptive family) directly involved in the adoption.

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### History

Closed adoptions continued to rise in the United States, and in 1935, the Social Security Act led to the expansion of foster care in the U.S. In the aftermath of World War II, adoption increased rapidly in both the U.S. and Europe.

Prior to the early 1900s, adoptees were typically school-age children but with the conclusion of World War II, families wanted more infants to adopt. Before WWII, agencies conducted "race matching," wherein the agency would match the prospective adoptive parents with a child of their same race.

As the demand for babies grew, agencies began to look beyond this policy which led to the first transracial adoption, of an African-American child to two white parents, in 1948. The Indian Adoption Project, in 1958, further expanded transracial adoptions. In 1978, the Indian Child Welfare Act was passed by Congress over a growing concern that American Indian adoptees had no connection to their cultural heritage. This landmark decision helped shape how we think about transracial and transcultural adoptions today.

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### History

The history of international adoption began shortly after the Second World War. Orphaned children from Germany were sent to families in Greece, Japan, and even the United States. These adoptions took place as “proxy adoptions,” meaning U.S. citizens would send a proxy agent to court to complete the adoption in the child’s country of origin. This process of proxy adoption continued throughout the 1950s. The Vietnam and Korean wars led to even more “war orphans,” and in 1955, Harry and Bertha Holt lobbied Congress to adopt these waiting children. The Holts went on to found the first international adoption agency, Holt International Children’s Services, which still exists today.

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## Adoption

### History

The number of domestic adoptions peaked in the United States in 1970 at approximately 175,000 per year. Of these, approximately 80 percent were arranged by agencies.

In 1957, Delaware became the first state to ban non-agency facilitated adoptions and in the years that followed, several states followed suit. The rate of domestic adoptions slowly began to decline, likely due to the availability of effective contraceptives and the *Roe v. Wade* decision of 1973.

Prospective adoptive parents began to consider more transracial and transnational adoptions as a way to build their families. At the same time, "special needs" adoptions started to rise.

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Beginning in the 1960s, agencies began to identify “waiting” children in foster care homes. These waiting children were characterized as special needs due to a diagnosed disability, their age, their designation as part of a sibling group, or even their race. Increased education on supporting children with special needs led to special needs adoption becoming more widely accepted. Special needs adoption became, and remains, an often quicker route to adoption for waiting families.

Overseas, adoptions continued to expand but were not regulated. It is estimated that between 1953-1962, roughly 15,000 foreign children were adopted. These numbers continued to rise and when China opened its doors to international adoptions in 1992, the numbers skyrocketed. In 2004, during the peak of international adoption, 22,990 children were adopted from a foreign country into the United States. Worldwide, in 2004, 45,288 adoptions occurred internationally.

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### History

In 1993, the Hague Convention on Protection of Children and Co-operation in Respect to Intercountry Adoption came into being. The [Hague Convention](#) laid out rules and regulations regarding the conduct of intercountry adoption from home study requirements to foreign fees paid. Most importantly, the Hague Convention ensured that every adoption was completed in the most legal and ethical way possible and that every child adopted internationally was indeed an orphan. This was particularly important given rumors of corrupt adoption practices worldwide. Though the Hague was instrumental in providing a framework for international adoption, it also led to many countries closing their doors to international adoption (like Guatemala in 2008).

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### History

While many states still seal this information, this group gave voice to the idea that adoption is not just between the birth parents and the adoptive parents but rather a triad made up of the adoptee, the birth parents, and the adoptive parents. Though open adoption had existed since the 1970s, by the end of the 1990s, open adoption became more common practice in the United States.

Since adoption first began a lot has changed.

Adoption Then and Now - film



# Closed vs Open Adoptions

A **closed adoption** is one where no identifying information about the birth family or the adoptive family is shared between the two, and there is no contact between the families. As the adoptive family, you will receive non-identifying information about the child and birth family before he or she joins your family. After your adoption is finalized, the records are sealed. Depending on local law and what paperwork was signed and filed when the adoption was finalized, these records may or may not be available to the adopted child when they reach 18.

# Closed vs Open Adoptions

An **open adoption** allows for some form of association among the birth parents, adoptive parents and the child they adopted. This can include picture and letter sharing, phone and video calls, or even intermediary or open contact among the parties themselves. Many adoptions of older children and teenagers are at least partially open since the children may already know identifying or contact information about members of their birth families, and may want to stay in touch with siblings placed separately.

# Types of Adoption

- ❖ Public Adoption
- ❖ Foster Care to Adoption
- ❖ Private Individual Adoption
- ❖ Kinship Adoption
- ❖ International Adoption

# Questions?

What was your knowledge of adoption before this class?

How has your knowledge changed?

What has your experience been with adopted people?

# Next Session – Kinship Care

*Film: Why Can We Be A Family Again?*

**Required Reading:**

**Stand By Me Guardianship**

<https://www.childwelfare.gov/pubPDFs/guardianship.pdf>

**Overview of Kinship Care**

[https://www.americanbar.org/groups/public\\_interest/child\\_law/resources/child\\_law\\_practiceonline/child\\_law\\_practice/vol-36/july-aug-2017/kinship-care-is-better-for-children-and-families/](https://www.americanbar.org/groups/public_interest/child_law/resources/child_law_practiceonline/child_law_practice/vol-36/july-aug-2017/kinship-care-is-better-for-children-and-families/)

**Another Planned Permanent Living Arrangement – APPLA**

<https://library.childwelfare.gov/cwig/ws/library/docs/gateway/Blob/113530.pdf?w=+NATIVE%28%27recno%3D113530%27%29&upp=0&rpp=10&r=1&m=1>